GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

DECEMBER 5, 2000

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The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:45 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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| ROBERT N. SOCKWELL | Vice Chairperson |
| RODNEY L. MOULDEN | Board Member |
| ANN RENSHAW | Board Member |

ZONING COMMISSION MEMBER PRESENT:

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| CAROL J. MITTEN | Commissioner |
| JOHN G. PARSONS | Commissioner |

NATIONAL CAPITAL PLANNING COMMISSION MEMBER PRESENT:

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| WILLIAM LAWSON | Commissioner |

OFFICE OF ZONING STAFF PRESENT:

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

OTHER COMMISSION STAFF PRESENT:

Toyed Bello, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

Marie Sansone, Esq.
Mary Nagelhout, Esq.

C-O-N-T-E-N-T-S


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(9:45 a.m.)

CHAIRPERSON REID: Good morning. Welcome to the December 5th meeting of the Board of Zoning Adjustment of the District of Columbia. The meeting will please come to order. Mr. Hart.

MR. HART: Good morning, Madam Chair and Members of the Board. The first item on the agenda is the minutes and their approval. There are four minutes to be approved, and I will have to go through them again individually.

The first public hearing minutes are for November 8th, and Chairperson Reid, Mr. Sockwell, and Mr. Moulden, and Ms. Mitten were present.

COMMISSIONER MITTEN: I would like to offer a correction prior to voting on the minutes of November 8th. On page 2, under Case Number 16637, under the items that were requested before a final order, number 2 is actually a final landscaping grating plan.

CHAIRPERSON REID: Okay. And if there are no other corrections, are there any motions?

COMMISSIONER MITTEN: I move for approval of the November 8th, 2000 minutes as corrected.

CHAIRPERSON REID: I second. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

CHAIRPERSON REID: All right. Mr. Hart.

MR. HART: The staff will record the vote as four to zero to approve the minutes, with Ms. Mitten, Ms. Sheila Cross-Reid, as amended.

For the minutes of November 14th, the members here were Ms. Reid, Mr. Sockwell, Ms. Renshaw, and as far as Mr. Moulden, and Mr. Holman, both of them were not here, and I contacted them for their proxies, and they voted by proxy.

COMMISSIONER MITTEN: I move for approval of the minutes of November 14th.

VICE CHAIRPERSON SOCKWELL: Seconded.

CHAIRPERSON REID: All in favor?

(A chorus of ayes.)

MR. HART: The staff will record the vote as five to zero. Mr. Holman called in his proxy, and Mr. Hood has not called in his proxy, although he indicated he would. So the vote is 5 to 1. Mr. Sockwell, and Ms. Renshaw, and Mr. Holman is not present and not voting.

VICE CHAIRPERSON SOCKWELL: When you say 5 to 1, you mean five, zero, and one.

MR. HART: That's right. That's exactly right. Pardon. November 21st, Mrs. Reid, Mr. Sockwell, Mr. Moulden, and Mr. Parsons.

BOARD MEMBER RENSHAW: On the 21st or 28th?

MR. HART: The 21st.

CHAIRPERSON REID: Okay. Any motions?

VICE CHAIRPERSON SOCKWELL: So moved.

BOARD MEMBER MOULDEN: Seconded.

MR. HART: Okay. The vote here is four to zero, and Mr. Sockwell and Mr. Moulden, with a proxy from Mr. John Parsons.

And November 28th, Mr. Sockwell, Mr. Moulden, and Mr. Hood.

CHAIRPERSON REID: The 28th?

MR. HART: Madam Chair, there is a problem here. Mr. Hood, who had indicated that he would have had a proxy in by this morning or today, has not submitted a proxy. And at that meeting, we had three members.

CHAIRPERSON REID: Did you just say Mr. Moulden, Mr. Hart?

MR. HART: No, Ms. Renshaw, Mr. Sockwell, and Mr. Hood.

CHAIRPERSON REID: Right.

MR. HART: Those three members. We don't a vote from Mr. Hood.

CHAIRPERSON REID: Well, why don't we just table this until this afternoon, the beginning of the afternoon session, and in the meantime, someone can call him and get a proxy from him, and then we will just finish it at that time.

MR. HART: Very well. The first case this morning is Case Number 15613, the Application of Nidal Sukhtian, as amended, pursuant to 11 DCMR, Section 3103.2, for a variance from the minimum lot occupancy requirement, Section 532, a variance from the minimum area required as residential recreation space, Subsection 533.4, and a variance to allow residential recreation space on a roof deck with dimensions of less than 25 feet, Subsection 533.8, for construction of a four-unit apartment house in an SP-1 District, at premises 1622 18th Street, N.W. And that is in Square 134, Lot 164.

In a letter dated September 8, 2000, the applicant requested modification of plans for BZA, Order Number 15613. The revised plans reflecting the requested modifications were submitted to the D.C. Department of Consumer and Regulatory Affairs on May 11, 2000.

A letter of opposition was filed by Richard B. Nettler, Esquire, on behalf of Drs. Sylvia Tetrault and Harvey Teinberg, owners of the condominium units directly affected by the proposed modification.

The hearing dates were January 22nd and June 17th, 1992. The decision dates were March 4th, April 8th, July 29th, September 2nd, and October 7th, 1992.

The board members then were Susan Morgan Hinton, Betty King, and Sheila Cross Reid.

The motion for modification was submitted to the

Board at its October 3, 2000 public meeting. The Board requested additional information from the Applicant, which included a detailed narrative of the proposed modification, including the justification for the Board's approval, as well as address the need for a waiver for filing outside the six-month period for filing for a modification.

Advisory Neighborhood Commission 2B is to submit comments on the proposal. The applicant's application is to be served on the ANC, and if appropriate, other parties, by November 15, 2000.

The Board moved to give its decision at its December 5th, 2000 public meeting. The vote was at that time Mr. Moulden, Mr. Sockwell, Ms. Renshaw, and Ms. Reid, to approve, and Ms. Mitten abstained in opposition.

The Applicant was to serve the ANC by November 15th, 2000. Responses were due to the Board by November 28th, 2000. It is before you, Madam Chair.

CHAIRPERSON REID: Thank you, Mr. Hart. Okay. Board Members, this case is before us and open for discussion. Basically, what we are going to be dealing with is the request for the modification, and the basis for the request, and whether or not we feel that the request or the application was filed in a timely manner, which is predicated upon a letter of opposition from Mr. Nettler on behalf of the opposition, which alleges that the application was not filed in a timely manner.

So why don't we take it up one at a time. Now, also, I should say that we did have a letter from the ANC which is to be afforded great weight, and which they are in favor of the application for the modification.

And the modification itself, the request for the modification itself, if I am not mistaken in reading it, wasn't very clear, and we can kind of muddle through it, is actually for less relief than what they had originally asked for.

So, what is before us is those two issues; and whether or not we want to consider this case based on its merits, and come to some conclusion as to what would be the best procedure to take.

COMMISSIONER MITTEN: Madam Chair, I think on the first point, the issue about the filing of the application, I think it is clear from what we can tell from the application and the things that have been said by the -- or the things that are in the record, is that the application wasn't complete when it was filed.

But since I am not familiar with the practices of DCRA, I don't feel at this point that I am qualified to say whether the filing was done in a timely way, because it is not clear to me that the application needs to be complete. So I would need some more information about the practices of DCRA to answer that.

CHAIRPERSON REID: All right. Ms. Mitten, you said

that the application -- that it is clear that the application was not complete. Can you defend that position?

COMMISSIONER MITTEN: Well, there is attachments to -- there is Exhibit Number 78, which is a letter from Mr. Nettler to this Board, dated September 13th, and it includes a list of additional information that was requested from the applicant from each of the different departments, I guess, or whatever that review the building permit application for things that were not included.

So that is the basis for my statement that it was not complete, and that it really is a pretty extensive list of information.

CHAIRPERSON REID: But where --

COMMISSIONER MITTEN: Here, I will hand you my copy.

CHAIRPERSON REID: I'm sorry, you mean this?

MS. PRUITT: And the subsequent page.

CHAIRPERSON REID: I'm sorry. You know what? This was not in my packet.

COMMISSIONER MITTEN: I think this is from the original packet that we had when we took up this case the first time. So this is from that packet.

CHAIRPERSON REID: The November 15th letter?

COMMISSIONER MITTEN: No, this is -- no, I was referring to the September 13th letter.

CHAIRPERSON REID: Oh.

MS. PRUITT: Ms. Reid, that was from your package that you had before you for a decision on October 3rd.

CHAIRPERSON REID: Okay. I see what you are saying. Now, I have a couple of things. One is that before us is the request for the modification, which is predicated upon a request having been filed timely.

Now, first of all, let us waive the rule, and let us take up a vote as to the waiver of the rules, because from what I understand from corporation counsel, there was a six month period of time after the order was issued wherein the modifications, the request for modifications, should have been submitted to us.

And that was not done, and so for us to even take up this particular case, this request, a motion -- first we have to waive the rules. So can I get a motion to that extent, and then we can proceed.

BOARD MEMBER RENSHAW: I so move.

COMMISSIONER MITTEN: Second.

CHAIRPERSON REID: Okay. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

CHAIRPERSON REID: Okay. Now, having done that, we move to was the modification, the request for modification,

submitted within a timely fashion, meaning that it was prior to the 14th of May, 2000.

Now, Mrs. Mitten is contending that based upon what has been submitted by Mr. Nettler that it was not complete. Is that correct?

COMMISSIONER MITTEN: Yes, that's correct.

CHAIRPERSON REID: So what you are saying is that there is some question being raised. I mean, we can't just accept on its own volition that it was not done.

COMMISSIONER MITTEN: Well, I guess the -- if Mr. Nettler had just declared it incomplete, that would be one thing. But I think we have actual evidence in the record that it was not complete because of these additional things that were being requested.

CHAIRPERSON REID: Okay. Then we go to -- I suppose this is why there has been a request for a DCRA representative to come here this morning so that we could get a clarification as to what in fact is "completeness" for one thing.

The other thing is that corporation counsel has informed us that the regulations stipulate that the applicant had to -- and I would like for you to speak on this, please, Ms. Sansone.

For the applicant to comply with the regulations, the applicant has to submit the application and the plans -- is that what it says -- briefly, or does it go into any more

extensive language as to what would then have to be contained therein?

MS. SANSONE: Madam Chair, the pertinent regulations are in 3130, and in the very first subsection under that regulation, it merely states that within the two years following the issuance and the final date of the board's order, the plans for the erection or alteration of the building must be filed with DCRA for purposes of securing a building permit.

And the regulation does not provide any further detail as to what that might -- what the scope of those plans might mean.

CHAIRPERSON REID: Okay. Then if in fact the application was made, and I think we have it in our records that the application was submitted on the 12th of May, two days prior to the May 14th expiration date, and that there are plans attached thereto, does that then comply with what the regulations require?

MS. SANSONE: Madam Chair, that would be for the Board to determine, whether what was been filed satisfies this regulation. But we can tell from the request for modification that has been filed that an application was filed prior to the expiration of the two year period, and it was accompanied by a set of plans, which the applicant now seeks to modify.

CHAIRPERSON REID: Okay. But my question is if the regulation stipulates simply that it should be filed in a timely fashion, and that there be plans attached thereto, is there any

further information that or could be required by the board over and above that requirement?

MS. SANSONE: Madam Chair, that would be the Board's prerogative to interpret this regulation, but the plain language of the regulation simply says that the plans must be filed for purposes of securing the permit.

And it would now be up to the board to interpret what that actually means, and whether it appears from the materials that the applicant has provided whether that satisfies that requirement. That is the issue that is before the Board.

CHAIRPERSON REID: Okay. Let me hear from the other Board Members.

VICE CHAIRPERSON SOCKWELL: Madam Chair, based upon my quick review, and re-review of the documentation supplied regarding the filing for the building permit, there were elements of the application which were not filled out.

There were deficiencies in the items filed as reviews had taken place to determine those deficiencies, reviews by the D.C. Permit Office reviewers.

However, I believe that it is the prerogative of the Department of Consumer and Regulatory Affairs' staff to determine whether or not deficiencies in filed sets of plans, and/or applications, are of such a nature that that application or those plans would not only be referred for corrections, but would also be rejected and the application thrown out.

I do not believe that on a regular basis that DCRA does that, and it would be perhaps prudent to get the input from the DCRA representative based upon his observations, although his authority rests primarily with the zoning review.

And that zoning review would not have taken place at the time of filing, but would have even at the most cursory zoning review, would have taken place after the drawings were placed in DCRA's hands, and the permit fee or filing fee paid.

CHAIRPERSON REID: Mr. Sockwell, I'm sorry, but what did you say?

VICE CHAIRPERSON SOCKWELL: I said that we should ask Mr. Bello what he thinks.

CHAIRPERSON REID: Thank you.

(Laughter.)

CHAIRPERSON REID: Thank you, Mr. Sockwell. Okay. Well, what we have to do is to waive our rules to allow testimony from Mr. Toyeo Bello, a representative from DCRA, to enlighten us as to what is customary procedures as to the completeness of an application, and what would be construed as it being complete, number one.

And, number two, if in fact the application as submitted was not complete, is it common or unusual for DCRA to request additional information or input for clarity, or to make sure that the department has sufficient information so as to be able to issue the building permit in this instance.

Are there any other things that you would like to speak on?

COMMISSIONER MITTEN: Well, I guess a very narrow point, which is that when an application is submitted, if it has deficiencies in it, but the fee is paid, and there is at least sufficient information in the application to identify the property and so forth, and is that -- once it is accepted, is that considered filed, or is it in some pre-filing state until the additional information is provided. I guess that is what I would like to know.

VICE CHAIRPERSON SOCKWELL: Ms. Mitten, maybe I can answer that question unofficially, only by saying that my experience --

CHAIRPERSON REID: No, no, no. But now that we have Mr. Bello here, let's let him answer it, because your experience and what Mr. Bello may give us may be a little bit different. So let's let him speak, and then if in fact --

VICE CHAIRPERSON SOCKWELL: Well, maybe I can support, or object, or rebut, because Mr. Bello's responsibilities again are zoning and not building permits.

CHAIRPERSON REID: Well, Mr. Bello is the one who was requested to be here, correct? Do we have the right person?

COMMISSIONER MITTEN: I had asked that somebody from DCRA be here to respond to those kinds of questions.

CHAIRPERSON REID: Mrs. Pruitt, is Mr. Bello the

correct person?

MS. PRUITT: He is one of the people who would review it. So he was the person that we were able to get in touch with at such short notice.

CHAIRPERSON REID: Mr. Sockwell, are you saying that perhaps someone who is in the building commission or department, or section?

VICE CHAIRPERSON SOCKWELL: Well, let me just say this briefly. When applications are accepted at DCRA's building permit office, they are reviewed by a structural engineer before they are accepted for filing.

The Zoning Division doe snot see the drawings until after they have been accepted for filing by another official, who is usually, customarily, an engineer; and occasionally different people will do it. I don't know if Mr. Bello does that intake or not.

CHAIRPERSON REID: Well, let's find out.

VICE CHAIRPERSON SOCKWELL: So let's ask him.

CHAIRPERSON REID: I mean, he is here, and obviously Mr. Bello does work there, and if I am not mistaken, he functions in a capacity of authority there. And as such, I am sure that if he doesn't or is not able to answer the question, he can refer us to the correct period. So can we have him to come up.

Now, again, this is an instance where the Board has

taken an exceptional step in having some input from -- or having testimony put on the record during a board meeting. So why don't we take a vote to waive the rules to allow this.

VICE CHAIRPERSON SOCKWELL: I move we waive the rules

BOARD MEMBER RENSHAW: I second.

CHAIRPERSON REID: Okay. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Okay. Mr. Bello.

MR. BELLO: Good morning, Madam Chair.

CHAIRPERSON REID: Good morning. You heard the concerns that we are raising, and so we would just like you to -- and not giving any testimony as for this case and this particular application, but just generally the procedures of DCRA in regard to the acceptance of an application, and particularly as it is germane to the completeness or non-completeness, or whatever.

COMMISSIONER MITTEN: Madam Chair, if I could just interrupt with Mr. Sockwell's point.

CHAIRPERSON REID: Sure.

COMMISSIONER MITTEN: Which is what Mr. Bello could speak possibly to as a threshold question to whether or not he feels qualified, given his function in the office, and whether he feels qualified to answer these questions for us.

MR. BELLO: Absolutely, I do, yes.

CHAIRPERSON REID: All right. Thank you. Now you

can proceed.

MR. BELLO: Well, there are some basic information that you need in order to file an application, and one is a completed building permit application, a set of three D.C. surveyors plans, and four sets of blueprints.

Now, the intake person can make a determination whether an application is insufficient or not to be accepted for filing, which is basically a judgment call as to the sufficiency of that application and the information provided.

But once an application is filed and accepted for filing, then it is considered to be in the process for review.

COMMISSIONER MITTEN: Is an indication of whether or not it has been accepted that they took the person's money? Is that an indication?

MR. BELLO: An indication is that, yes, when the filing fee is accepted from the applicant.

COMMISSIONER MITTEN: And if they were going to reject it, they wouldn't take their money?

MR. BELLO: Absolutely not.

COMMISSIONER MITTEN: Okay.

CHAIRPERSON REID: I'm sorry, but what did you ask again?

COMMISSIONER MITTEN: I just asked him whether or not the acceptance of the filing fee would be an indication that the application had been accepted with whatever deficiencies that

it had, and he said yes.

CHAIRPERSON REID: Okay. Well, then, Mr. Bello --

MS. PRUITT: Madam Chair, Mr. Bello is only here to talk about procedures.

CHAIRPERSON REID: Momentarily, I forgot to ask him. But let me just ask him if in general if in fact there is an application that has been signed off on, and the fee has been accepted, you are saying that would then constitute as far as DCRA is concerned a completed application?

MR. BELLO: That's correct.

CHAIRPERSON REID: Would that preclude DCRA asking for anything in addition even if they signed off on it?

MR. BELLO: No, that's not unusual. Any number of applications may have deficiencies and that would generate a correction notice.

CHAIRPERSON REID: Okay. Are there any further questions?

BOARD MEMBER RENSHAW: Yes. Yes, I have a question for Mr. Bello. If indeed an application is deficient, and yet the intake person has accepted the money, and it starts its way through the process, when those deficiencies are corrected, does that mean that if a case comes before the BZA that the corrected application would come to us or just the initial application? Do you understand?

MR. BELLO: No.

BOARD MEMBER RENSHAW: In other words, are the corrections made on the initial application or is a subsequent application put through? There is only one application.

MR. BELLO: A construction permit application, that's correct, and there is a central filing system, and each discipline gets a shot at the review of that application.

And a notice for correction is generated, depending on the deficiencies that each discipline determines is germane to that application.

CHAIRPERSON REID: Is that germane to this case?

VICE CHAIRPERSON SOCKWELL: I think that the only --

CHAIRPERSON REID: Excuse me, but is that germane to this case, Ms. Renshaw?

BOARD MEMBER RENSHAW: We are talking about whether or not this application has been fully filled out, and whether there are deficiencies in the application.

CHAIRPERSON REID: No.

BOARD MEMBER RENSHAW: Yes, we are.

CHAIRPERSON REID: No, the question that Mr. Bello just answered was that once it is signed off on and the fee is accepted, then it is considered to be filed.

BOARD MEMBER RENSHAW: But that doesn't say that there are not deficiencies that have to be corrected, even though it has been accepted for filing, correct?

MR. BELLO: That is correct.

CHAIRPERSON REID: Okay.

VICE CHAIRPERSON SOCKWELL: Mr. Bello, generally from the standpoint of zoning, if an application is filed without the plats, or some aspect of the zoning review requirement having been met, is it the policy of DCRA to allow those elements to be filed at a later date, or let's say added to the file at a later date?

MR. BELLO: Well, that is a recent flexibility in the process, which has been allowed as a customer service --

CHAIRPERSON REID: I had asked that question, Mr. Sockwell, the same question.

VICE CHAIRPERSON SOCKWELL: But I was making it specific to the zoning responsibilities that Mr. Bello would have as the acting zoning administrator.

CHAIRPERSON REID: Okay. All right. Now can we move forward on this case? Are there any other questions for Mr. Bello?

(No audible response.)

CHAIRPERSON REID: All right. Thank you very much, Mr. Bello.

MR. BELLO: You're welcome.

CHAIRPERSON REID: Any further discussion? Can we have a motion?

COMMISSIONER MITTEN: Well, I will move that we

proceed with the request for modification, because the --

CHAIRPERSON REID: By proceed does that mean that you approve --

COMMISSIONER MITTEN: That we proceed to consider the request for modification, because the applicant has complied with the requirement to file for a building permit application within two years of the order.

CHAIRPERSON REID: Okay. And is there a second?

VICE CHAIRPERSON SOCKWELL: I second.

CHAIRPERSON REID: All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

COMMISSIONER MITTEN: And, Madam Chair, I would just like to thank the board and thank Mr. Bello again for coming down, because this departure from our normal procedure allowed me to make an informed vote on this matter, and I really appreciate it.

CHAIRPERSON REID: All right. The next item on the agenda, please, Mr. Hart.

MS. PRUITT: Excuse me, Madam Chair, are you going to vote on the modification itself? You voted on it to waive the six month filing, and Mrs. Mitten voted -- the motion was that you determine that it was filed timely so that you can look at the modification, which is a request from Section 533.8, I believe.

Yes, 533.8.

CHAIRPERSON REID: Okay. I'm sorry, but I thought that we were voting on them and that they were the same; that they were timely filed, and that we --

MS. PRUITT: I believe that she just put it up for discussion.

COMMISSIONER MITTEN: What I believe I said was that we consider the request for modification because the applicant had filed timely.

CHAIRPERSON REID: Okay. Right. Then we are moving now to the motion itself; is that what you are saying?

COMMISSIONER MITTEN: Well, the request for modification itself.

CHAIRPERSON REID: Isn't that a motion? The motion for the request for modification.

COMMISSIONER MITTEN: Ms. Pruitt would have to speak to that specifically.

MS. PRUITT: I believe that Ms. Mitten is pulling this up for discussion. Do you want her to put a motion on the floor prior to any discussion, or sometimes you do discussion and then make a motion.

CHAIRPERSON REID: It really doesn't matter. I mean, right now we are going to take up the issue of the motion -- of the request for modification.

MS. PRUITT: Correct. And now you are discussing

that issue.

CHAIRPERSON REID: Okay. All right then. Board Members.

COMMISSIONER MITTEN: Madam Chair, as closely as I can figure out from all of the things that are in the record, what I believe this breaks down to is that there are a number of modifications being made in the project, but they don't relate to the variances that were granted.

Apart from the issue that is addressed in number one of the -- which is Exhibit Number 83, which is a submission by Dudley Canady, which I guess speaks to some of the issues that have been raised.

And the change that is being requested is that the residential recreation space is being provided on the roof of a one-story garage at the rear, and it is proposed to be 262 square feet, and formerly it had been 234 square feet.

And so this would be an increase in the amount of residential recreation space, and there had been a variance granted for the initial 234 square feet. So this is somewhat less of a variance.

So that is the only issue that I could identify that would modify the original order. And I don't have any objection to what has been proposed.

CHAIRPERSON REID: Does anyone have any objection, and if not, can we get a motion?

COMMISSIONER MITTEN: I move for approval of the request for modification of plans in Application Number 15613 as represented by the November 8th, 2000 letter from Dudley Canady to this board.

CHAIRPERSON REID: Okay. Second. All in favor?

(A chorus of ayes.)

BOARD MEMBER RENSHAW: Do you have a second?

CHAIRPERSON REID: I seconded.

BOARD MEMBER RENSHAW: Oh, okay.

MR. HART: The staff will record the vote as five to zero to approve the request for modification of the plans.

BOARD MEMBER RENSHAW: Madam Chair, do we need to at this time to put into the record the fact that we did receive a letter from the Chair of ANC-2B.

MS. PRUITT: No, I requested that.

BOARD MEMBER RENSHAW: We requested it, but do we have to read it into the record?

CHAIRPERSON REID: I mentioned in my opening remarks that we had received a letter from the ANC, and that the ANC letter was in favor of this application, and they would be afforded great weight to which they are entitled.

MS. PRUITT: But once it is actually in the file, it is considered in the record, whether it is read on the transcript or not.

CHAIRPERSON REID: Okay. Thank you, Ms. Renshaw.

(Brief Pause.)

CHAIRPERSON REID: The next item, please, Mr. Hart.

MR. HART: Application Number 16622, of Sasha Bruce Youthwork, Incorporated, pursuant to 11 DCMR 3104.1, for a special exception under Subsection 335.1, to continue the operation of a youth residential care home facility for five additional residents, for a total of 15 residents and rotating staff, in an R-4 District at premises 1022 Maryland Avenue, Northeast, and that is in Square 961, Lot 8.

The hearing dates were October 17th and October 24th, 2000. The board members were Ms. Sheila Cross Reid, Mr. Sockwell, Ms. Renshaw, Mr. Moulden, and Ms. Mitten.

The Board requested that the following items be submitted by November 17th, 2000, for a proposed decision at its December 5, 2000 public meeting.

The items are to develop criteria for establishing a Community Liaison Program; to provide evidence to the Board that the current trash storage and trash collection would be improved; and discuss actions that the facility could take to make sure that the children are not disruptive to the community. For example, moving the basketball court.

CHAIRPERSON REID: Okay. Board Members, in this instance, as you will recall, this was the application where there was a party in opposition who spoke of some issues regarding the Sasha Bruce House for noise, or unattractive trash receptacle, and

noise from the students, or from the clients who reside there.

And I think that we asked that the Sasha Bruce House make some modifications to try to avert some of the adverse impact that was reported to us, and what they did -- one thing they did was to put a fence in the back of the Sasha Bruce House so that they could try to contain more of the facility.

And also they moved the basketball court from over on the residential side, or from the residential side to the front so that they could try to defuse some of the noise.

They also increased the trash pickup per week to three times per week, and also the trash around the perimeter of the house be picked up by the staff and by the clients there.

And they included for us a copy of the plans -- I'm sorry, the rules that they have put forth for the people who live in the house, as well as the chores that have to be done by different persons, as far as cleanliness is concerned, and trying to keep the facility as neat as possible.

And also that they -- we told them that it would be a good idea to formulate a community liaison so that they could assess any problems that may be arising, and to be able to ameliorate those issues before they became too large.

And I think in my opinion that it appears that they have put forth the effort to try to do all they can to demonstrate that they intend to be good neighbors, and that they would like to coexist with their community in a very or good neighborly fashion.

If there is no further discussion regarding this, I would move that we approve the application.

VICE CHAIRPERSON SOCKWELL: Madam Chair, I would like to make known that we did receive a letter in opposition to the increase from the council member of Ward 6, Sharon Ambrose, and that letter is dated November 8th, 2000.

CHAIRPERSON REID: Okay.

VICE CHAIRPERSON SOCKWELL: It seems to be based on the information provided to Council Member Ambrose by her constituents as referenced in paragraph 3.

BOARD MEMBER RENSHAW: Madam Chair, we have received a letter from Joshua Halpern of 515 - 10th Street, Northeast. It was in the material given to us today.

And he said that while objecting to an increase in the number of shelter beds from 10 to 15, I and others agree that the shelter should continue to exist at its present level because of the recognized need which it serves.

And then it ends by saying that your immediate approval of the application would short-circuit this dialogue with the community. Immediate BZA approval would remove the necessity of Sasha Bruce working with its neighbors. I would ask you to delay approval for a period of six months pending only a report from the liaison committee at that time.

CHAIRPERSON REID: I'm sorry, but I don't have that letter.

BOARD MEMBER RENSHAW: That was a letter in our packet. We just got it.

CHAIRPERSON REID: Oh. Joshua Halpern. He is the person who appeared as a party?

BOARD MEMBER RENSHAW: I think so.

CHAIRPERSON REID: All right. Now, there are two things about this. Initially, Mr. Halpern was granted party status because he alleged to us that he was -- that he was particularly affected by the granting of the application, and more so than the rest of the people in this neighborhood.

And then later after he was granted party status, we determined that in looking at the map that in effect that he really wasn't, because his property faced 10th Street, and he was removed from it.

And not only that, but it wasn't -- he was not -- there was not anything that made him really particularly aggrieved, or more aggrieved than anyone else. So, I don't think that his representation to us on that particular day was particularly straight-forth, or forthwith I should say, or forthright, whatever the case might be.

I have questions about that. And I think if I am not mistaken that Mr. Schauer of the Capital Hill Restoration Society was not opposed to it. Is that correct? He came to testify, and typically he appeared and has many times appeared as the voice and the heart of the Capital Hill.

I think that the facility is very worth while and very needed. I think that what they are trying to accomplish is a very difficult task, because anytime you have residents who have any type of -- I don't want to say abnormal, but any kind of irregular, or any departure from what is considered to be mainstream is always alarmed.

But nonetheless what struck me was that I didn't see in the instances where clients, these 14 and 16 year olds, had done anything that was to be construed as being so horrible as not to be able to able to exist there.

I didn't see where there had been any violence or any felonies, or anything of that nature, and it just seemed to be a facility where provisions were being made for runaway kids to have a place to stay for a while.

And I didn't see anything in that situation there that would convince me that they were a detriment or any type of threat to the community. Had there been a roomful of people or more people coming in saying that they had a problem with it, I think I would have been more swayed.

But in this instance, I still would recommend approval of the application.

BOARD MEMBER MOULDEN: Madam Chair, in reference to Sharon Ambrose's letter concerning that the Sasha Bruce people work with the community to address some concerns they have about this facility.

I think Sasha Bruce has agreed to establish a community liaison committee that will address these problems, and an increase from 10 to 15, if there are problems, I don't think five more will have a great impact.

And if there are problems, I think that these are things that the community and Sasha Bruce can work out, whether it is 10 or 15. As you indicated, we have not seen any major negative impacts from the existing facility. So I would like to make a motion that we --

CHAIRPERSON REID: Well, I moved, and you can second.

BOARD MEMBER MOULDEN: Okay. I second that motion then.

CHAIRPERSON REID: Any further discussion?

VICE CHAIRPERSON SOCKWELL: Madam Chair, it does seem that the Sasha Bruce House, while oriented towards its internal functions, may have neglected to pay as much attention to its exterior features and the impact of outside activities on its adjacent neighbors.

But I did not see the Sasha Bruce House as being purposefully disconnected with the community in which it resides. I would be I think considerate of perhaps giving a time limit on the approval to bring them back at a reasonable period or within a reasonable period of time to see if the implementation of their changes as stated is continued. And even perhaps their

relationship with the community significantly improved as a result.

BOARD MEMBER RENSHAW: I would agree, Madam Chair, with Mr. Sockwell's interpretation, and I do feel that the Board should hold great hope for this community dialogue between Sasha Bruce and the neighborhood, the immediate neighborhood.

But I would hope that we would call them back within a period of time, a reasonable period of time, to check on the progress and give the community an opportunity to endorse what has happened over the months, or to suggest further corrections.

CHAIRPERSON REID: Mr. Sockwell just said that, Ms. Renshaw.

BOARD MEMBER RENSHAW: I know.

BOARD MEMBER MOULDEN: What kind of time frame are we considering? Is it one year, or two years, or six months?

CHAIRPERSON REID: No, wait a minute. Be mindful of the fact that this is a non-profit entity, and they don't have too many funds, and so let's be reasonable.

I mean, there is no sense in granting them the ability to operate, and then hamper them as far as them getting funding, or getting funds that they need to be able to exist.

VICE CHAIRPERSON SOCKWELL: I agree with you that the issue of bringing them back once they have been approved for an increase in the number of residents could present a problem to them.

But again there has to be a continued sensitivity to the impact of such facilities on the community.

CHAIRPERSON REID: Okay. What time frame?

VICE CHAIRPERSON SOCKWELL: I would think that a three year period would be reasonable, and would certainly give them pause to consider the long term impacts of not creating a relationship with the community, because it will affect their funding.

CHAIRPERSON REID: Yes. Well, I was thinking more five years as being something that would allow them to be able to get their funding, and also I think that the establishment of the community liaison committee would help to defuse the problem areas, if any were to develop.

Now, let's understand this clearly. There is no way possible that there will never be a problem with a kid dropping some trash out in front, or someone may not make noise.

I think that in any given community, particularly in the City, you are going to have that problem where you have children, any kind of children, that you are going to have some situations.

But what we are talking about are those instances where it is excessive and that it is detrimental to the community. I think that as such that five years would not be --

BOARD MEMBER RENSHAW: Madam Chair, I would go in the other direction, and suggest two years, because I think that

the relationship with this, and through this community liaison committee, is very new.

It has to be supported, and I feel that if the BZA gives an extended period, and I feel five years is an extended period, then there is every opportunity for this committee to fall through the facts to not be worked as it should.

And I feel that with a shorter time period that there is that much more energy behind keeping it afloat.

CHAIRPERSON REID: Mr. Moulden, I will hear from you now.

BOARD MEMBER MOULDEN: I will say for a period of two years also, because I think the shorter the time frame, this will help to put emphasis on establishing this community's liaison.

With the shorter time frame, this will sort of force Sasha and the community to come together, and if there is any issues, we will find them out early, and maybe we can resolve it.

CHAIRPERSON REID: My only concern about that again is that their funding -- you see, these charitable organizations have to get their funding, and their funding will be predicated upon what happens here today, as well as the fact that they have to pay again.

They asked for a waiver of fees, and they will have to pay again to come back before us. I think that two years is

just too short a period of time.

BOARD MEMBER MOULDEN: Well, did they give us a time frame that is based on funding? Do you know that?

CHAIRPERSON REID: I don't know exactly, but I am sure that if they are getting a grant, and a grant is for a certain period of time, and they only have BZA approval for two years, and the grant may be for 4 or 5 years. So that is going to cause a problem.

BOARD MEMBER RENSHAW: Or the funding could be on a one year basis. We don't know.

VICE CHAIRPERSON SOCKWELL: Well, Madam Chair, funding aside, let me say that it would take or it will take a certain period of time, and maybe only a period of several months, for the Sasha Bruce House to bring in the additional people that they have proposed.

I felt that three years would allow them to fully assess the impact on their own operation of having the additional people, and would allow them to modify their procedures in order to absorb this 50 percent increase into the facility.

It would also allow them to come to some norm during that increase period, and I felt that three years was reasonable for that to all take place, and for the community to get a pretty good sense of how it was going to work in the long term.

And I think you have to give enough time for these

things to actually settle in. And five years, I think, is too long because it gives the organization an opportunity to forget that it has a responsibility.

I think that three years will be pretty much right in line with them having come to grips with their new occupant load.

CHAIRPERSON REID: Okay. Mr. Sockwell, I would be willing to align with you with the three years given your position, and the fact that we have two board members who are saying two years. Is there a possibility of a compromise the other way other than two years by one of you?

BOARD MEMBER MOULDEN: It doesn't matter to me with one year added on. I will go with the three years.

CHAIRPERSON REID: Okay.

BOARD MEMBER RENSHAW: I'm sorry, but I didn't year what Mr. Moulden said.

BOARD MEMBER MOULDEN: I said one year added on doesn't make that much difference to me. So I will go three years.

BOARD MEMBER RENSHAW: Well, I just want to say that it might make a great deal of difference to the neighborhood, and I know that when a period of time is set out, if it is a short span of time, it keeps everyone in focus.

It keeps everyone together in the corral so to speak. When you start out years, and a third year is an out year

to me. That is just that much more room for more, shall we say, leeway on the front end, and then hassle on the back end when it is time to come back before the BZA.

So I am still of a mind to try to persuade this board that two years is more appropriate.

CHAIRPERSON REID: All right. Let's take a vote.

VICE CHAIRPERSON SOCKWELL: Before we vote -- and this won't take more than a second.

CHAIRPERSON REID: We need to move on. We have two other very big cases.

VICE CHAIRPERSON SOCKWELL: Please, Madam Chair. I may be able to sway Ms. Renshaw.

CHAIRPERSON REID: All right.

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, when the Sasha Bruce House has to reapply, it will be before the expiration of the three year time period. They will be in the process of getting back before this board during the second year.

I believe that the three years is appropriate, and I believe that under the circumstances that they will not have an opportunity to fall through the cracks as you had stated earlier, or forget their responsibilities to the community.

On that basis, I am firmly for three years, and I would want you to understand the fact that three years is not 36 months, but it is two years plus, and then the time that it takes for them to prepare to come before us again.

BOARD MEMBER RENSHAW: I heard you.

CHAIRPERSON REID: Okay. The motion is on the floor for approval and seconded by Mr. Moulden. And my motion, or I would amend my motion. Well, I didn't even give a term. I would say for five years, and also we need to -- I'm sorry.

I would say for three years, and we also need to attach some other conditions to it as well to better ensure that the Sasha Bruce House operates in a cooperative manner as possible with the community. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

BOARD MEMBER RENSHAW: Aye, as two years is more appropriate.

MR. HART: The staff will record the vote as 3 to 1.

CHAIRPERSON REID: No. Wait a minute.

BOARD MEMBER RENSHAW: Three to one.

MR. HART: The vote is 3 to 1 to approve the --

CHAIRPERSON REID: I thought that Ms. Renshaw said aye.

VICE CHAIRPERSON SOCKWELL: No, she said aye to two years.

BOARD MEMBER RENSHAW: No, I said no to three.

CHAIRPERSON REID: Excuse me. Let's go back again, because I don't want or --

BOARD MEMBER RENSHAW: I said in response to the vote, I said no, as two years is more appropriate. So I am against the three year term.

CHAIRPERSON REID: But that is not what was on the floor. What was on the floor was three years.

BOARD MEMBER RENSHAW: Right, and I said no to that, because two years is more appropriate.

CHAIRPERSON REID: Okay. So it is 3 to 1, to 1.

MR. HART: The staff will record the vote as 3 to 1 to approve this order for three years. Ms. Reid made the motion, and seconded by Mr. Moulden, and Ms. Mitten was not present and did not vote.

CHAIRPERSON REID: Ms. Mitten was not here? Why did she leave?

MR. HART: She needed some additional information, and she wanted to read the original transcript, which has not come in yet.

CHAIRPERSON REID: So what was her vote, an abstention?

MS. BAILEY: Mr. Hart, could you turn your mike on, please.

MS. PRUITT: Not present and not voting.

CHAIRPERSON REID: Okay. Not present and not voting. Thank you.

MS. PRUITT: Madam Chair, I would suggest that we

break for a little while. We are still waiting for Mr. Lawson, and I just checked and he has yet to arrive.

MS. SANSONE: Excuse me, but I believe the board wanted to work on the conditions to this order, or do you wish to defer that?

CHAIRPERSON REID: No, no. I just said that we needed to add conditions. You know, like days of operation, which would be -- well --

VICE CHAIRPERSON SOCKWELL: They are open 24 hours.

CHAIRPERSON REID: So they are 24 hours? Okay. They did indicate that they would have trash collection three times a week, and that is for 15 clients?

VICE CHAIRPERSON SOCKWELL: Yes, 15 residents.

CHAIRPERSON REID: And what about staff?

VICE CHAIRPERSON SOCKWELL: The staff, as required.

BOARD MEMBER RENSHAW: There is a limit on staff.

CHAIRPERSON REID: Staffing as required through the regular licensing regulations?

VICE CHAIRPERSON SOCKWELL: Yes. They had already erected the fence. And I think we should also include the community liaison. It has been established, but that it be continued, and that it meet bimonthly, or how often?

VICE CHAIRPERSON SOCKWELL: Bi-monthly.

CHAIRPERSON REID: Bimonthly meetings of the community liaison.

BOARD MEMBER RENSHAW: And that the Sasha Bruce House should take the responsibility of noticing the community regarding these meetings.

CHAIRPERSON REID: Okay.

MS. PRUITT: I'm sorry, Ms. Renshaw, but could you say that again? I missed it.

BOARD MEMBER RENSHAW: That Sasha Bruce should take the responsibility of noticing the community regarding these meetings.

CHAIRPERSON REID: And what about parking? As required by license, or should we say best efforts to mitigating any parking problems in the area?

MS. PRUITT: The concern would be what would be the enforcement mechanism and best efforts makes it difficult.

CHAIRPERSON REID: All right. Well, they have to comply with their parking requirements as prescribed by the zoning regulations. I don't know what that is.

MS. PRUITT: Well, they would have to do that anyway.

CHAIRPERSON REID: Okay. Well, then I can't think of any other conditions. The rules that they have set forth, maybe we could say something in regard to that, and that they continue to -- I don't want to say enforce, but continue to be governed by the rules?

MS. SANSONE: Perhaps implement?

CHAIRPERSON REID: Continue to implement? Well, they have already implemented the rules, and so we want to make sure that they continue to comply with the rules that they have implemented.

BOARD MEMBER MOULDEN: Or maintain.

CHAIRPERSON REID: Or maintain the rules that they have implemented.

BOARD MEMBER MOULDEN: Sasha Bruce has house rules that have been established, and so we can say that they maintain and build upon existing house rules.

CHAIRPERSON REID: Okay. Is there anything else, Board Members?

VICE CHAIRPERSON SOCKWELL: Just to reiterate that they would -- and this is from Sharon Ambrose's letter, that they would be sure to continuously work to mitigate any vermin that might be harbored around their trash.

And it says statedly the storage of garbage leading to a rat harborage problem had been one of the issues raised by the community, and I think that kind of mitigation --

CHAIRPERSON REID: Well, that was raised in the hearing, and one thing was that they had taken steps to remove some of the trash, and they now have trash removal three times a week, plus within their rules and their chores, they are now requiring that trash be picked up around the perimeter.

And also the issue came up as to the rats not being

discriminating as to whose trash it was, and where the rats came from in that neighborhood. In other words, they contended that the rats were not necessarily generated from the Sasha Bruce House. They were just kind of like neighborhood rats.

VICE CHAIRPERSON SOCKWELL: Right. But the question would be that since the rats will move toward their external storage areas that they would make sure to keep a mitigation program in force.

CHAIRPERSON REID: Yes. That was included in the trash removal program and within the chores and things that they had indicated.

VICE CHAIRPERSON SOCKWELL: Yes, but what I am saying is that those are things that have to be done professionally by an exterminator, as opposed to things at the residence, or BFI would have anything to do with --

CHAIRPERSON REID: Oh, are you saying extermination

VICE CHAIRPERSON SOCKWELL: Extermination. As needed?

VICE CHAIRPERSON SOCKWELL: As needed.

CHAIRPERSON REID: You are looking quizzical, Ms. Pruitt. How do we accomplish the objective that Mr. Sockwell is putting forth here?

VICE CHAIRPERSON SOCKWELL: All they have to do is have a rotary inspection of their area, and keep poison bait on their property in the vicinity of their trash dumpsters.

MS. PRUITT: I guess my concern is having poison bate on their property with their children, and I don't know from a licensing end, which is not in our jurisdiction, if that could cause them problems.

VICE CHAIRPERSON SOCKWELL: Well, remember that these aren't toddlers that are there.

MS. PRUITT: I understand that.

VICE CHAIRPERSON SOCKWELL: And this is in the trash area. And the thing is that if the kids get bitten by a rat, it would be just about as bad as --

CHAIRPERSON REID: Well, let's not beat this to death. But let's just simply say vermin abatement as needed.

MS. PRUITT: Okay.

VICE CHAIRPERSON SOCKWELL: That's all.

CHAIRPERSON REID: All right. We have two other cases this morning. However, Mr. Lawson from NCPC has not yet arrived, and so we are going to take a short recess. And then we will continue the hearing this morning as soon as he comes.

(Whereupon, the meeting was recessed at 10:50 a.m., and was again called to order at 11:07 a.m.)

CHAIRPERSON REID: All right. The meeting will come to order. Mr. Hart, please call the next item on the agenda.

MR. HART: The next item on the agenda is Application Number 16620, the Application of the Embassy of the Republic of Azerbaijan, pursuant to Section 206 of the Foreign

Missions Act, and 11 DCMR of the Zoning Regulations of the District of Columbia, to locate a new chancery in an R-1-A District at the premises at 2741 - 34th Street, Northwest, at Square 2122, Lot 27.

The hearing dates for this case were October 17th and October 24th, 2000. The board members of the case are Ms. Sheila Cross Reid, Mr. Robert Sockwell, Mr. Rodney Moulden, Mr. Parsons, and Mr. William Lawson.

The Board requested that the following items be submitted for a proposed decision at its December 5, 2000 public meeting.

One is findings of fact from the applicant and the ANC; and a revised map from the traffic consultant. These submissions were due by November 27th, 2000. The case is before you, Madam Chair.

CHAIRPERSON REID: Okay. Thank you, Mr. Hart. First of all, I think what we need to do, Board Members, is to address the issue that had -- there is a motion to dismiss the Office of Planning report, because it was not timely filed.

And we said that we would take it up after we had heard the case. And my understanding in this instance is that the Office of Planning represents or is the delegated agent of the mayor, and the municipal interests is one of the six criteria that must be applied in the decision for Foreign Missions/BZA cases.

And as such, my understanding is that it is not within our purview to dismiss the Office of Planning report as the delegated agent of the mayor. And I would like to hear some further comment, or if not, we can just basically move forward.

BOARD MEMBER RENSHAW: Madam Chair, I would recommend that we move forward.

CHAIRPERSON REID: Okay. Then the motion was to dismiss the Office of Planning report. So, I guess I would make a motion to deny that motion to dismiss the Office of Planning report.

BOARD MEMBER RENSHAW: Second.

CHAIRPERSON REID: Any further discussion? If not, all in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

MR. PARSONS: Madam Chairman, I should state for the record that I have reviewed the transcript of the October 17th hearing, and you probably recall that I was not present. So I am fully conversant with the record.

CHAIRPERSON REID: Okay. Thank you, Mr. Parsons. All right. Now, before the Board Members today is the case for the chancery for the Republic of Azerbaijan, and my understanding is that we actually have two -- it is a two-fold type of decision to make.

And Ms. Pruitt, or actually, Ms. Sansone, would that be two votes?

MS. SANSONE: Madam Chair, it probably would work best to handle it as two votes, the first one being whether the proposed location is within an acceptable area; and if the board were to find that it was not acceptable, the application would be disapproved.

If the board finds that it is acceptable, then the board should go on to evaluate the application according to the six part criteria that we are familiar with from other cases.

CHAIRPERSON REID: All right. So basically it has to pass the first -- we have to get through the first hurdle in order to even go to the second hurdle.

MS. SANSONE: That's correct.

CHAIRPERSON REID: All right. Okay. Board Members, we are open to discussion.

COMMISSIONER PARSONS: Madam Chair, perhaps if I could maybe frame the discussion. If you will remember at our last meeting, there were some issues raised about planning assumptions, and the criteria for determining an acceptable area.

I just want to reiterate some points that I tried to make at the last meeting, because we have before us two planning analyses; one by the National Capital Planning Commission, and one by the Office of Planning.

And I wanted to reiterate the point that I don't think there is a right or wrong issue in those analyses, and I think it is an individual issue for Board Members to decide which analysis they want to look at.

But there is also an overriding issue that ought to be taken into consideration, and that is the act itself, and the Foreign Missions Act itself, and its interpretation.

The planning analysis of NCPC follows the guidelines that we use in the comprehensive plan that we have used in developing the 20 year plan, and that have been on the books for 20 years.

But I should emphasize that it is a guideline, and it is a guideline based on planning guidelines, and that in and of itself are not laws or criteria that should either govern specifically an overlay.

They are guidelines for the planners to use to determine an overlay to help again guide the decisions of the

board of -- the FMBZA. Likewise, I would offer or argue that the DCOP analysis should be viewed in that same context, and a guideline based on certain planning assumptions or their review.

And in our case, or in the case of the National Capital Planning Commission, we looked at the usage on the area or the square, and the pivotal issue was whether or not The Vatican Embassy or facility is totally residential, partially residential, or what.

And we used for our planning assumption a 50-50 ratio, with no better information than what we had at the time, which then resulted in an overall ratio of at least one-third non-residential use for the area, which is consistent with again our guideline for considering a parcel in the overlay, the D-overlay.

The Office of Planning did a walk through of one floor, and made some assumptions about -- as I understand it, assumptions about the upper floors, and came up with a different ratio.

If you look at strict adherence to the Act, those ratios are not necessarily relevant. In other words, the Act -- and I am paraphrasing it, because I am an architect and not a lawyer, and so I can't -- and I don't specifically recall what is in the Act.

But if I recall correctly, the Act states that if there is a non-residential or non-suitable -- well, I can't remember the term that they used. Well, a non-residential

presence on an area, that area can be considered acceptable for location of a foreign mission, subject to disapproval by the BZA.

So I think it is up to us individually to review both planning analyses. Neither one is right nor wrong. It is different. And to draw our own conclusions.

I tried to look at it, and I even tried to take off my commission hat and review both criteria, and whether it is one-third, one-sixth, two-thirds, or whatever the ratio is --

CHAIRPERSON REID: One-third, two-thirds.

COMMISSIONER PARSON: Yes, pardon me. Well, if there is a non-residential presence, and I feel personally that the area is an acceptable area.

CHAIRPERSON REID: Okay. Thank you, Mr. Lawson. This is a very difficult case, in that what we have to try to do is try to judge what was meant by the regulations when it says that the Foreign Missions Act provides for the chancery -- and I am reading it from the pertinent part, but an area determined on the basis of existing use, which include office or institutional uses, including, but not limited to, any area zoned mixed use for a diplomatic or special purpose, subject to disapproval by the board in accordance with certain criteria.

And my question then becomes this. When it says including but not limited to, that kind of opens up a vast area to be considered under this particular statute or act.

And then you go to looking at the one-third, two-

thirds test, and then you have various professional entities, and in this case it is the Office of Planning, saying that it is one thing; and then you have the NCPC saying it is another thing.

And then us being asked to garner what in fact is the -- what in fact is the actual situation. Now, if I understand correctly, this goes to the square in which the particular property that the instant application is located, and whether or not that particular square is one-third non-residential, and two-thirds residential.

And what seems to be the tilting factor was The Vatican property, the apostolic litigation building, and the whole question as to whether or not it is residential, or if it is actual institutional or commercial.

And this went to determining that in the building, in their chancery, there are some aspects of it that are -- of course, it is business and residential. And then you take a measuring stick and determine how much of it is residential and how much of it is commercial or institutional.

And my question became -- and maybe some board members can help me with understanding this. If you have a chancery, and it has been designated as a chancery use, and you have in that chancery use staff people who sometimes or live there, then does that change the use from a chancery use.

COMMISSIONER PARSONS: I would argue that it does not.I struggled with this case just as much as you have, believe

me.

CHAIRPERSON REID: And you have far more experience than I do.

COMMISSIONER PARSONS: But there are 10 parcels in this square, and five of them are vacant. Only two of them, including this application, are single family residential. And the remainder, those lots that are in use, are either owned by The Vatican, or Finland.

I mean, they are institutional in nature, and they are not an apartment building as has been reported, and to start to split floor by floor into The Vatican's use, which could change very easily. It hasn't been since 1939.

But they could change that to an office component very easily. So to go into a floor by floor analysis of an institutional use to determine how it is being used I think is quite exceptional.

It was certainly not what we did in the original zoning diplomatic overlay for sure, is to analyze floor by floor what the institution was using it for, and whether it was a college or university, or whatever it was.

I do not remember such an analysis. To me, clearly this feels like a diplomatic area, and I don't see the potential for a domino effect to occur here. Not that that was used by the citizens.

But the fear, of course, is that there will be an

effect on the community that will take this small pocket of R-1-A, which exists to the west of 34th Street, and slowly turn it into the circumstance that we have in Shared and Kalorama. I don't see that happening here.

I think the structures are smaller than the kind that we have experienced in Shared and Kalorama. Certainly the subject structure is 2 to 3 times the square footage I think. Well, I shouldn't guess. They appear to be larger.

It appears to be much larger to me than the other structures in the neighborhood. I would also -- the opposition is calling to our attention Case Number 48820, which was the Government of Taiwan in the late '80s.

And we decided to disapprove that. We concluded that an area -- that the area in question was not diplomatic in nature, and there was a very similar case, if you look at it from a pure zoning perspective.

It was SP'd and backed up by R-1. It is the same kind of situation. So they are urging us to conclude the same thing the board did at that time, and I think the best answer to these things is on a case by case basis, especially these kinds of determinations. So I would urge our favorable consideration of this being an appropriate area.

CHAIRPERSON REID: Okay. That you, Mr. Parsons. Any other comments?

VICE CHAIRPERSON SOCKWELL: From the standpoint of

the specific location of the proposed property, if one looks at it as a site issue, aside from the other specifics about percentages of this and that, this particular property does not by the proposed use land-lock any residential property that might be between it and the next accepted chancery use.

It also is the last piece of property on that block or square. It is bordered on one side by a park, which will continue to be a park, and the property across the street from it on 34th Street that is addressed, I think, 2732, I think does lock in between two chancery uses and two residential uses.

That would not be the case with this particular property before us today. As well, the two properties at the corner of 34th and Fulton, which are residential, face Fulton Street and not the proposed site.

So in context with the location of other residential and chancery properties, and the impact of this proposed site on those residential properties that are most approximate to it, I believe that the impact would be very slight.

And I believe that the acceptance of this site would not in any way create a domino effect within the neighborhood. I believe that this would be, if favorably acted upon, a very slight change to the relationship that the other residential properties have to themselves and to any other -- and to the chancery use that might be put there.

CHAIRPERSON REID: Thank you, Mr. Sockwell. Ms.

Renshaw.

BOARD MEMBER RENSHAW: Yes. Madam Chair, I want to say again that I am an officer in an organization which deals with senior level diplomats and their families. And I am very acquainted with the international concerns in this city and our dealings abroad.

But I am also mindful that we neighbors in Washington guard our neighborhoods, and I see this as just one more step in the erosion of an R-1-A district, and an erosion of a neighborhood that ANC-3C wants to protect, and the immediate abutters want to protect.

And I want to speak on their behalf today. I am sensitive to the fact that the ambassador, the embassy, wants this as its office home. The neighbors have stated that they would welcome the ambassador as a resident at that location.

But what the residents have stated is that they disapprove an office location at that spot, and I can sympathize with their concerns, because it does change or further change the character of the neighborhood and of the street.

And while we have been told that the parking will be directed to Fulton Street, and that the embassy is not going to ask for diplomatic parking in front of the building. There will be parking in front of the building. And the --

CHAIRPERSON REID: Ms. Renshaw, excuse me.

BOARD MEMBER RENSHAW: I am not finished, Madam

Chair. I am not finished, please.

CHAIRPERSON REID: Before we go into that, the first test that we are dealing with is only a matter of whether or not we feel --

BOARD MEMBER RENSHAW: It is suitable.

CHAIRPERSON REID: -- it is suitable, and that --

BOARD MEMBER RENSHAW: And I am explaining some of the reasons why I feel that this is not suitable.

CHAIRPERSON REID: Based on the one-third, two-thirds test.

BOARD MEMBER RENSHAW: And based on the one-third, two-thirds test, I have considered that, and I still feel that the area should be maintained as an R-1-A area, and that it is not suitable for an office setup as an ambassador's home. Yes, definitely, but not for an office.

CHAIRPERSON REID: Okay. Thank you. I'm sorry, but I thought that you were going into other areas.

BOARD MEMBER RENSHAW: I was also explaining that with office matters comes the parking, and the parking will be in front of the building. There is no way around it, and that factored into my decision that I would prefer that this be maintained as a residence, and not as an office.

CHAIRPERSON REID: Thank you. All right. Board Members, can I have a motion, please, as to the first matter before us.

COMMISSIONER LAWSON: Madam Chair, I move that the proposed chancery location be considered, or that this site be considered an acceptable area for the location of a chancery.

CHAIRPERSON REID: Okay. Thank you.

VICE CHAIRPERSON SOCKWELL: I will second the motion.

CHAIRPERSON REID: Okay. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

BOARD MEMBER RENSHAW: Opposed.

CHAIRPERSON REID: Mr. Hart, are you reading the vote, please?

MR. HART: The staff will record the vote as 4 to 1 that the area is acceptable; motion made by Mr. Lawson, and seconded by Mr. Sockwell, and opposed by Ms. Renshaw.

CHAIRPERSON REID: Okay. Then we go now to the second part, which is the determination as to whether or not we not disapprove the application for the chancery of the Embassy of the Republic of Azerbaijan, and in so determining, we apply the six criteria under the Foreign Missions Act.

Okay. Let's see. The first of which criterion is the international obligation of the United States. Could I have a motion, or do you want to discuss it first, and then make a motion?

MR. PARSONS: A motion on each one of these?

CHAIRPERSON REID: No, no, a motion on the application, predicated upon the criteria of the Foreign Missions Act.

MR. PARSONS: I guess it is our practice to go through the six criteria.

CHAIRPERSON REID: So do you want to go through that before making a motion?

MR. PARSONS: Yes, it is up to you.

CHAIRPERSON REID: Okay. Well, we can go through them. Let's do that then if you want to. Okay. The international obligation of the United States.

I feel that given the reciprocal nature of the relationship with this particular mission, and in their country, the State Department has presented to us the basis for a recommendation that this application be approved.

There appears to be compelling reasons that are germane to the reciprocity that is to be maintained; the idea of reciprocity will be maintained between the two nations.

And that there appears to have been quite a bit of concessions that were made on the part of Azerbaijan in their country to accommodate the mission of the United States there, which were in my opinion rather exceptional.

And I feel that as such, this particular criteria, number one, in regard to international obligation of the United States has been met.

MR. PARSONS: I would agree, Madam Chairman. But I would just state that we make sure that we reference in our order the October 6th letter from the State Department, which summarized what you had said.

CHAIRPERSON REID: Thank you. Any other comments on this particular criteria?

VICE CHAIRPERSON SOCKWELL: Madam Chair, while I am willing to accept the theory that the reciprocity issue has been very significantly acted upon by the Azerbaijan government, I would state for the record that we understand that in the United States, as opposed to in Azerbaijan, the freedom to make choices that might not be in the best interests of immediate neighbors to a proposed facility might not be the same.

And that we must take into consideration the differences between our government and international governments, or governments of foreign countries when we think in terms of what was done there, and what could or could not have been done here.

CHAIRPERSON REID: Okay. Thank you, Mr. Sockwell. Ms. Renshaw.

BOARD MEMBER RENSHAW: Yes. Madam Chair, just to point out that the provision of adequate and secure facilities for foreign missions in the Nation's Capital, the government of the United States makes incredible efforts to provide for adequate and secure facilities for foreign missions.

And that I don't want to have the implication that

this section of the city as a proposed chancery for the Embassy of Azerbaijan is the only safe and secure place within the District of Columbia.

CHAIRPERSON REID: I was going to say, Ms. Renshaw, that that is Item Number 4, as it pertains to security, and we have not gotten there yet.

BOARD MEMBER RENSHAW: The statement stands.

CHAIRPERSON REID: Mr. Lawson.

COMMISSIONER LAWSON: Madam Chair, I do agree with your assessment, and that it seems to me that this application favorably passes the criteria number one, and that in particular that if you compare the accommodations that the Government of Azerbaijan has afforded us in their country, and in turn the criteria that the Government of Azerbaijan has agreed to, to meet on this site.

So I think there isn't an obligation that we have to move forward, and I think that this application does fully meet the first criteria.

CHAIRPERSON REID: Thank you, Mr. Lawson. Now, the second one is historic preservation, and this one is moot, because this is not in an historic district.

The third one, adequacy of parking; it is my understanding that there are going to be 4 to 5 employees, and there will be about four cars, and seven parking spaces on site, which seems to be sufficient.

My understanding is that there is not going to be a lot of activity at the facility because they have two mini-vans which were to car pool the 4 to 5 employees to and from work.

Most of the business would be conducted between the diplomatic community and the visits seems to be very minuscule. In addition, there seems to be adequate parking on the street. We had a report from Mr. George, who was an expert traffic analyst, who concluded that there would not be any adverse parking conditions.

And he showed by each block surrounding the embassy the amount of parking spaces that were available during the day, and they seemed to be more than sufficient. So I don't think there is a problem in that regard. Any other comments about parking?

VICE CHAIRPERSON SOCKWELL: No.

MR. PARSONS: I would only add that the extraordinary condition that they have agreed to regarding parties is limited to -- that is, social events, should be restricted to 50 invitees, and no more than four times a year. which I think is very u unusual, and may set a good standard for the future.

I don't mean the numbers, but the concept of restricting these kinds of events.

CHAIRPERSON REID: I think that is something that they proffered to this board.

MR. PARSONS: Yes.

CHAIRPERSON REID: It was not something that we asked them to do, which is very noble of them.

MR. PARSONS: Right.

CHAIRPERSON REID: As well as the fact that they also have an agreement with another mission to -- which one?

MS. PRUITT: The Belgium Mission.

CHAIRPERSON REID: With the Belgium Mission, to arrange to have cars parked there when they do have these activities to further mitigate any problem that may arise as a result of parking when they do have these four affairs during the year.

MR. PARSONS: And they will not be requesting diplomatic parking restriction in front of their facility. Rather, they will use the driveway for deliveries and pickups.

CHAIRPERSON REID: Okay. All right. Thank you. Security. Obviously, we are all aware of the fact that any foreign missions in this country, and here in Washington, is going to be afforded the normal and regular precautionary security that is customary for any embassy or chancery here.

And from the testimony from the representative of the Secretary of State, there did not appear to be any problems with the security, and that the area would be most adequately protected.

So I didn't think that there would be any problem in that regard. Are there any comments?

(No audible response.)

CHAIRPERSON REID: All right. then we move now to Number 5, the municipal interests. Now, that is something that causes a little bit of a problem, in that the Office of Planning at first had a problem with this application, and said in pertinent parts that -- basically what they are saying is that there is more of the location of the chancery on that particular site, which we have already voted on as being appropriate.

But if I am not mistaken, they had then gone ahead and recommended approval, and that we not disapprove with the inclusion of certain conditions in the -- excuse me?

BOARD MEMBER RENSHAW: The Office of Planning recommended denial of the application, and on page 2 of its report of October 17th, stated that if the board chose to approve, then it would be subject to the following conditions.

But OP did recommend denial, and one of the reasons was that it was contrary to the goals of the District of Columbia's comprehensive plan.

CHAIRPERSON REID: I'm sorry, Ms. Renshaw. I had a problem with that, because when I asked for clarification from the Office of Planning for just that reason, because they talked about denial, and then they talked about conditions.

BOARD MEMBER RENSHAW: Yes.

CHAIRPERSON REID: Now, Ms. Sansone, here is my problem. I thought that they had reversed it, and then -- and

maybe I misunderstood, and then put conditions in. But they are doing both, denying and putting in conditions?

MS. SANSONE: Madam Chair, my understanding of the report is that they recommended denial on the basis of the location. And then they also recommended denial on the basis of the six criteria.

And then they went on to say that if the board determined that the request should be approved, it should be approved subject to a number of conditions that they have proposed.

CHAIRPERSON REID: Okay. I'm sorry. I somehow misunderstood that. So we are clear. All right. Then that is the position of the Office of Planning, which is the designated agent of the Mayor, that they would recommend that it be disapproved, with conditions.

BOARD MEMBER RENSHAW: Disapproved.

CHAIRPERSON REID: I said disapproved, but with conditions.

MS. SANSONE: But if the board decided not to accept their recommendation and decided to approve or to not disapprove the application, then the OP is proposing certain conditions.

CHAIRPERSON REID: They are recommending to disapprove, period. And then when we go to conditions, they would like to be included in the conditions if it is not disapproved.

MS. SANSONE: If the board does not accept OP's recommendation.

VICE CHAIRPERSON SOCKWELL: I think we might just interpret it to be that upon approval by this board, the Office of Planning would establish conditions that they feel would limit to the best of their ability the negative impacts of such an approval on the community.

COMMISSIONER LAWSON: Madam Chair, if I may respond?

CHAIRPERSON REID: Sure, go ahead.

COMMISSIONER LAWSON: I would suggest perhaps a little step further in regarding the DCOP report. I think at this point, having accepted the first point, and contrary to the Mayor's recommendation, we could address the municipal interest to a degree by adopting and incorporating the conditions that are laid out by the DCOP.

And I think there were eight conditions, and which the applicant has already agreed to do. So I think that there is a degree to which we can address the municipal interests by adopting those eight conditions as a part of our consideration.

MR. PARSONS: There are seven.

COMMISSIONER LAWSON: So, seven.

MR. PARSONS: I would call the board's attention to the draft order that was prepared by the applicant on page 15, where they have offered eight conditions, which go beyond those,

and not in number, but in substance as well.

And they go beyond those that were in the OP's report. For instance, you have already referenced off-street parking, or off-site parking for the Belgium or for special events, which will be provided by the Belgium Chancery.

That was not part of OP's suggestions. So I think there is a stronger set of conditions on page 15 of their draft order that we ought to be using.

CHAIRPERSON REID: Yes, they go over and above what was drafted by OP.

MR. PARSONS: They do. And what these conditions do is in my estimate or in my judgment preserve the residential quality of the neighborhood; the lack of change, the simple brass plaque that is being placed on the building, and the national flag, of course.

But there are no changes in antennae, or lighting, and those kinds of things that would in other circumstances signal a chancery will not be done here.

CHAIRPERSON REID: Okay. Thank you very much. Then we would move now to the Federal interests, and it is my view that the Federal interests to the largest degree parallels the international interests as to the importance of the reciprocal relationship between the Embassy of Azerbaijan here in the United States, and in particular it specified the necessity due to the great interests and concerns about security around the world that

the Embassy in Abu Baku had a buffer.

And I think that buffer was a hundred feet around the embassy, which was accommodated by the Government of Azerbaijan, and then when you look at what is being asked of the United States with regard to their embassy here, it pales in comparison.

And as such I feel that that criteria has been met, given the fact that as Mr. Parsons just enumerated for us in part that the conditions that they imposed on themselves as a mandate for them being able to locate their particular mission in that location.

Are there any other questions or any other discussion about that particular criteria?

MR. PARSONS: No, Madam Chair. I would just somewhat reiterate some of your points in a broader sense. I think that the Department of State at the October 17th hearing articulated their position very clearly, and stated emphatically the interests of the Federal Government in accommodating the government of Azerbaijan, and we should accept that as a matter of record, and accept the weight of that interest.

CHAIRPERSON REID: Okay. Thank you, Mr. Lawson. Mr. Sockwell.

VICE CHAIRPERSON SOCKWELL: The only statement I want to make is that we should keep in mind that the Federal interests as expressed by the Department of State is intended to

be the national interests of all of us as American citizens.

And that it is merely an outgrowth of policy established by our position as voting members of the population.

CHAIRPERSON REID: Thank you. Thank you very much. I think that then concludes the six criterion which we utilize in the Foreign Missions Board of Zoning Adjustment to assess or to make determinations as to our position in regard to this application.

And there is one other aspect that I do want to mention, and that is that as it pertains to the ANC, which was opposed to the application, and the basis of their concern it appeared was primarily as it pertained to the appropriateness of the mission in that particular site, or in that location.

They felt that it was not consistent with the comprehensive plan, and their interpretation of such, and that there would be adverse impact, as it was perceived as adverse impact with regard to parking, or noise, or traffic, at this particular site. Is there any further discussion at this time?

(No audible response.)

CHAIRPERSON REID: Okay. Can I have a motion?

MR. PARSONS: Madam Chair, I move that we approve or do not disapprove the application, and would include in that motion the eight conditions contained on page 15 of the draft order.

CHAIRPERSON REID: All right.

MR. PARSONS: I second.

VICE CHAIRPERSON SOCKWELL: And I would suggest that we add the condition from the Office of Planning Report which was not included in the Azerbaijan conditions, which is a complete set of as-built site plans showing the building exterior and grounds will become a part of this approval.

CHAIRPERSON REID: Okay. Thank you very much. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

BOARD MEMBER RENSHAW: Opposed.

MR. HART: The staff will record the vote as 4 to 1, not to disapprove this application. The order will include the conditions as submitted by the applicant, and the condition as indicated by Mr. Sockwell included in the Office of Planning report.

CHAIRPERSON REID: Ms. Pruitt, I have just a question. In regard to condition number seven --

MS. PRUITT: Which one?

CHAIRPERSON REID: The one that pertained that office street parking be provided by the Belgium Chancery.

MS. PRUITT: Are you talking about in the applicant's --

CHAIRPERSON REID: In the order.

MS. PRUITT: Yes.

COMMISSIONER LAWSON: Yes, in the order, page 15.

CHAIRPERSON REID: Yes, in the proposed order. We had asked for it and didn't receive it, or I don't remember seeing it, but the agreement with the Belgium Chancery in regards to the parking for off-street parking during their activities?

MS. PRUITT: No, we have not received that yet. I can check on that.

CHAIRPERSON REID: Well, I think I would ask for that. I would like to have that in the files. All right. Thank you very much. That concludes that particular application. We move now to the next item on the agenda.

MR. HART: Application Number 16566, the Application of Georgetown University, pursuant to 11 DCMR 3104.1. ANC-2E for a special exception for the review and approval of the University Campus Plan, years 2000-2010, under Section 210 in the R-3 and C-1 Districts at the premises bounded by lower Archbold Parkway to the west, and National Park Service along the Chesapeake and Ohio Canal and Canal Road to the south, 35th Street, N Street to 36th Streets, and 36th Street to P Street to the east, and Reservoir Road to the north.

Square 1222, Lots 62, 801 and 802 , Square 1223, Lots 85, 86, 804, 805, 807 to 810, 812, 815, 821, 824, 826, 827, 831,843, 846, 847, 852, 853, 855 and 857; Square 1226, Lots 91, 94 to 101, 104, 105, 803, 804, 806, and 811 to 815; Square 1248, Lots 122 to 125, 150 to 157, 800 to 802, 804 to 806, 829 to 831, 834

and 835. Square 1321, Lots 815 through 817.

The hearing dates were June 13th, July 18, 2000; and the decision dates were September 5 and today, December 5th.

The board members were Ms. Sheila Cross Reid, Robert Sockwell, Ms. Anne Renshaw, Mr. Robert Moulden, and Mr. Herbert Franklin.

The decision date was scheduled for the Board's September 5th, 2000 public meeting. At the September 5th, 2000 public meeting, the Board decided that additional information and time were needed before making a decision.

The record was left open only for the additional information requested by the board. At the November 8th, 2000 meeting, the Board ruled that the Campus Plan shall be valid for a period of 10 years, until December 31, 2010. Madam Chair, the case is before you.

CHAIRPERSON REID: Thank you, Mr. Hart. We were today going to basically -- we had already decided on this case, and we were to go over conditions today, and to vote on the conditions.

And what we are trying to do now is to -- we just got them, and so we have to --

BOARD MEMBER RENSHAW: Madam Chair, could we take a moment and look over this material that we have received from the corporation counsel's office?

CHAIRPERSON REID: Right. I think if they will

bear with us, and give us a moment, because we did not receive it until as we were coming in this morning, and we need to kind of take a few minutes to look over it. Thank you.

CHAIRPERSON REID: Is Mr. Franklin present?

MR. HART: No, Madam Chair, he is not.

(Whereupon, a recess was taken at 11:59 a.m., and the meeting was resumed at 12:22 p.m.)

CHAIRPERSON REID: The meeting will come to order. We have already taken the vote, and the application has been approved for a 10 year term, and we now go to the conditions.

BOARD MEMBER RENSHAW: Madam Chair, is it appropriate at this time to make a motion to reconsider the 10 year term, or would you prefer to have this motion at the end after talking about conditions?

CHAIRPERSON REID: We can have it -- well, what do you think? You think at the end?

(Discussion off the record.)

BOARD MEMBER MOULDEN: I think since we originally approved the 10 year, and we want to get into the conditions, maybe we ought to do the conditions first, and then go back and do the considerations.

BOARD MEMBER RENSHAW: I would accept that.

CHAIRPERSON REID: Well, okay. Let's go over the conditions as they have been proffered to us. The first condition is the applicant's proposed campus plan. What we can do is just

go over the conditions. Now, if in fact there is something that you want to discuss, then we will come back to that one, okay?

And I will just read it. Number 1 is the applicant's proposed campus plan is proposed for a term of 10 years.

Number 2, the applicant shall not increase undergraduate enrollment above the cap of 5,627, and adopted by the Board as part of the 1990 campus plan, until the southwest quadrant project is completed and occupied. The cap shall apply to traditional undergraduate students; that is, undergraduate students who require housing. Number 3, the Board shall not consider any -- did I hear something?

BOARD MEMBER RENSHAW: Yes, I do.

CHAIRPERSON REID: Well, we will come back. We will come back.

BOARD MEMBER RENSHAW: Oh.

CHAIRPERSON REID: I am reading all of them, and any one that you want to discuss further, we will come back to only those.

BOARD MEMBER RENSHAW: All right.

CHAIRPERSON REID: The board shall not consider an application to increase undergraduate enrollment above the cap before December 31st of the year 2005. Any future requests by the applicant to increase its undergraduate enrollment shall include information indicating whether additional on-campus housing shall

be provided, and demonstrating the effectiveness of the off-campus student affairs program.

The off-campus student affairs program implemented and enforced by the applicant shall specify that off-campus housing is a privilege that can be revoked due to student misconduct, whether a violation occurs on or off-campus.

A. The applicant shall ensure that the off-campus student affairs program is fully funded and staffed, and shall obtain the endorsement of the university's of directors for the program, and its implementation.

B. The off-campus student affairs program shall specify the measures that the University President shall undertake immediately upon receiving a complaint regarding a student's misconduct to resolve any objectionable behavior pending the university's investigation of the company.

C. The off-campus student affairs program shall conduct at least annually a community education workshop that is mandatory for all students living off-campus.

D. The off-campus student affairs program shall adopt and enforce a student code of conduct, and the student code of conduct shall clearly describe appropriate fairness of behavior and delineate misconduct and the causes involved of the code, and specify that sanctions shall be imposed for violations, particularly with respect to the consequence of repeat violations.

Now, in regard to that one, I have a question, and

we would ask that Georgetown University supply us with fines for the various violations, penalties and fines. Did we get that?

MS. PRUITT: Yes. Yes, Madam Chair. It was in this large package here that you reviewed.

CHAIRPERSON REID: No, it was not in that package.

MS. PRUITT: Yes, it was.

CHAIRPERSON REID: No, it wasn't, and that's why at the last meeting as I was going through that large package, I stipulated that while it did say that fines would be imposed, it did not specify exactly what the amount was for what violation, unless I missed it.

MS. PRUITT: And let me go back and review quickly if I can.

CHAIRPERSON REID: We will come back to that. All right. The applicant shall distribute copies of the code of conduct to students at least annually, and shall request that students certify in writing that they agree to adhere to the code.

Six, the code of student conduct shall provide that once the complaint is received concerning student's off-campus conduct, the university officer

-- that is, the vice president for student affairs, assistant dean for off-campus student affairs, shall determine whether probable cause exists to bring the complaint before a hearing board, thereby relieving the original complainant of ways of pursue the matter.

Seven, the applicant shall maintain a telephone hot-line to receive complaints concerning student misconduct. The hot-line shall be staffed 24 hours per day by university personnel, who will be responsive to each complaint received.

Eight, when the applicant, upon investigation of the complaint, or by any other means, receives evidence of a violation of sanitation or housing regulations involving effective student living, in on or off-campus residents, the campus shall report the violation to the Department of Consumer Regulatory Affairs, DPW, or other agency as appropriate.

The applicant shall monitor and enforce any reported violations to determine whether if necessary inspections have occurred, and whether fines have been issued and paid.

The applicant shall ensure that complaints are heard by hearing boards comprising two students and two faculty members, reflecting the University's recognition of the seriousness of the complaint and about serious misconduct. And, number 10 -- and Mr. Sockwell, can you continue to read that, please.

VICE CHAIRPERSON SOCKWELL: The applicant shall make publicly available data indicating the number and types of complaints received concerning student misconduct, and the outcome of each complaint, including whether sanctions were imposed and whether any fines were paid.

The applicant shall also report this information to

the Office of Planning, the Zoning Administrator, ANC-2E, the Alliance for Local Living, and other interested community organizations that request the information.

Number 11. The applicant shall report a violation of the code of conduct to the parents or guardians of the violator to the extent permitted by law.

Number 12. The applicant shall avoid scheduling events that attract visitors to the campus during the peak traffic times of 7:00 a.m. to 9:00 a.m., and 4:00 p.m. to 7:00 p.m.

The applicant shall employ campus personnel as necessary to direct visitors to campus parking areas, and to ensure a smooth flow of traffic into and out of the campus.

(a) All weekday and evening performances at the Performing Arts Center expected to draw more than 100 visitors shall begin no earlier than 7:00 p.m.

(b) Athletic events at Harbin Field expected to draw over 100 visitors shall begin before 4:00 p.m. or after 7:00 p.m.

Number 13. The Performing Arts Center, Harbin Field, and McDonough Arena, shall be used for purposes related to the university or the community, and not for events whose primary purpose is revenue generation.

Number 14. The helipad shall be used only for medically necessary purposes, and the applicant shall provide periodic reports regarding the helipad, including credible

evidence of medical necessity associated with its use to ANC-2A, the Alliance for Local Living, and other community organizations that request the information.

Number 15. The applicant shall maintain an accurate record of license plate numbers of cars kept by students. The applicant shall direct the students to register their cars in the District of Columbia or obtain a reciprocity sticker, and shall consult with the D.C. Department of Motor Vehicles to determine whether such registration is completed, or such stickers are obtained.

The applicant shall withhold parking privileges to students who do not comply with the D.C. registration or reciprocity requirements. Failure to register student cars in the District or obtain reciprocity stickers, shall constitute a violation of the code of student conduct.

Number 16. The applicant shall maintain the parking cap of 4,080 off-street parking spaces within the campus boundary as adopted in the 1990 campus plan to avoid encouraging additional cars on campus.

Number 17. The applicant shall enhance its transportation management program.

(a) to promote greater transit usage, including increased ridership of the GUTS bus service.

(b) to provide additional parking in satellite locations linked to the campus by shuttle bus.

(c) to work with the community, Medstar, and the Department of Public Works as part of a cooperative team effort to look at mitigation strategies for Reservoir Road.

Number 18. The applicant shall include in all future applications for further processing of the campus plan the following information.

(a) Actual enrollment of traditional undergrad students as of 30 days prior to the hearing date, including documentation and an explanation of the methods and assumptions used in the calculation.

(b) A progress report on the implementation and operation of the off-campus student affairs program, including information on the number of complaints received concerning student misconduct, reported violations and outcomes, including what sanctions were imposed, and fines paid, if any.

(c) The number of off-street parking spaces within campus boundaries as of 30 days prior to the hearing date, including documentation, and an explanation of the methods and assumptions used in the calculation.

And (d), a status report on the transportation management program. And it ends with if you have any questions about this matter, please call.

CHAIRPERSON REID: All right. Board Members, in regard to any of these 18 conditions, are there any others that you feel should be included herein? Ms. Nagelhout, did you also

include here those that were proffered to us by the ANC?

MS. NAGELHOUT: I read all the -- everything that was filed in the case, and incorporated the final positions that I found of the ANC.

CHAIRPERSON REID: Okay. So that was incorporated herein?

MS. NAGELHOUT: Yes.

CHAIRPERSON REID: All right. Board Members, are there items that you want further discussion on, and if so, please so indicate and we wi ll do so.

BOARD MEMBER RENSHAW: Number 1, Number 2, and Madam Chair, did you get the appropriate answer to your question about fines and penalties as they relate to various conditions?

CHAIRPERSON REID: Ms. Pruitt was looking for it for me.

MS. PRUITT: Both myself and the applicant can't find it now, but we do know that it is in here. We can leave the record open for that, but I believe it is under the Code of Conduct.

CHAIRPERSON REID: Well, doesn't the applicant know? Could she not just briefly tell you what they are? Such as the first violation, what, and the second violation, and third violation, and at what point are we talking about dismissal, or --

MS. PRUITT: About the monetary amount?

CHAIRPERSON REID: Yes. Remember that dismissal

was the last thing that was supposed to be shown there.

MS. PRUITT: Right. They have information on those four.

(Brief Pause.)

MS. PRUITT: Excuse me, Ms. Reid, but we weren't able to ascertain all of it right off, but we do know that there is a $30 fine for trash violations, for a violation of any trash conduct that is put forward.

CHAIRPERSON REID: Well, it's not -- it was not delineated by the actual violation. It was per violation, I think, that we talked about, such as first violation, a scale of the violations.

MS. PRUITT: Right.

CHAIRPERSON REID: But with regard to what it was, if it was noise, drunkenness, trash.

MS. PRUITT: Exactly. I would just indicate that a noise violation, a house that has a noise violation, for the first offense, it would be $150.

CHAIRPERSON REID: No, no. That becomes too convoluted, no matter what the violation is.

MS. PRUITT: It is not broken down that way then. There are different monetary amounts for different violations. It is not that simple. But you did also ask about dismissal, and that is in there, where a student can be dismissed for repeated violations, or if the violation is very serious in nature. So it

is discretionary.

I mean, if the person has 50 small violations, but they have one major one, they can be dismissed. So it is not necessarily a number, but the magnitude.

CHAIRPERSON REID: I can understand that. Certainly that makes a lot of sense.

MS. PRUITT: And as I said --

CHAIRPERSON REID: But nonetheless, before the order is issued, we --

MS. PRUITT: Yes, we can go back through the file, and of course you get to review the draft order.

CHAIRPERSON REID: Exactly. But we wanted to see some teeth here, and simply to say that you will be fined, you know, that doesn't really mean a lot unless they know what they are looking at as far as fines are concerned. And I think that it included the notification of parents at some point.

MS. PRUITT: Yes.

CHAIRPERSON REID: And also by the way, we asked for copies of the letter that was --

MS. PRUITT: The contract?

CHAIRPERSON REID: Yes. In other words --

MS. PRUITT: I believe that was submitted.

CHAIRPERSON REID: Okay. Then can you pull it out. It was something about -- we wanted to make sure that there was parental involvement if in fact their child was misbehaving or

causing some problems, and that the parents would be involved at a point.

I mean, I am not specifying what that point is, but whatever the letter is that would so indicate a procedure, an automatic procedure, that if this happens that this is the letter that would go out to the parents, and for them to be notified as to what the violation was, and what the penalty was, and so forth and so on.

MS. PRUITT: They have a section here that parents have been notified of changes to --

CHAIRPERSON REID: What section is that?

MS. PRUITT: It is page 7 of this long document, which is sort of an executive summary.

CHAIRPERSON REID: All right.

MS. PRUITT: Do you have that?

CHAIRPERSON REID: Yes. Page 7?

MS. PRUITT: Yes.

CHAIRPERSON REID: Which one?

MS. PRUITT: It is the middle section.

CHAIRPERSON REID: Yes, we saw this. That is what stimulated my question as to how, or what is the notification. We asked for a draft.

MS. PRUITT: So you want to know how they are going to notify, either through a letter, or whatever, and you would like to see a draft of that? I am not sure.

CHAIRPERSON REID: Well, it says notification to parents occurs that is permissible by law. And I don't know what the heck that means.

MS. PRUITT: Well, that's one of the things that I believe corporation counsel is talking about.

MS. SANSONE: Ms. Reid, there are Federal Privacy Laws, and also Department of Education regulations that I am not very familiar with. But they can't just disclose everything about a student, even to the parents. There is some ability to disclose drug or alcohol use by students under the age of 21.

But any student who gets a noise violation or something like that, that information cannot necessarily be relayed to the parents if a student is over 18, or actually any student, I think, at the university.

That is something the school knows much better than I do, and they have a policy on that already that takes into account the student's privacy rights.

CHAIRPERSON REID: Well, that's interesting. I was not aware of that, I guess. So it says to the extent permissible by law, and I guess there are categories that they cannot be notified?

MS. PRUITT: And I would defer to Mary on this. These are legal interpretations of Federal Law that I am not really that versed on. But I believe like a drinking violation, if the drinking age is 21, or is it 18 or 21?

MS. SANSONE: From what I understand, drinking for students under 21, and drug use for all students. I mean, drug use is illegal. Those types of illegalities can be reported.

CHAIRPERSON REID: Can be reported?

MS. SANSONE: Yes.

CHAIRPERSON REID: So you are referring to issues that --

MS. PRUITT: Like a noise violation and the person is over 18.

CHAIRPERSON REID: So a misdemeanor can be? So like public drunkenness or drug use and things like that?

MS. PRUITT: Yes, can be reported.

CHAIRPERSON REID: But then what cannot?

MS. PRUITT: A noise violation. If you are an 18 year old and living in the community, and you had a noise violation, the police would not automatically call your patents because you are a legal adult.

CHAIRPERSON REID: And even if it was something that was recurring?

MS. PRUITT: And that's why the Federal statute privacy issues would come in, and I am actually as I said not versed in that.

CHAIRPERSON REID: If a person conducted themselves in such a way so as to be a nuisance to the community, I can understand one time. But if it was something that was a

reoccurring situation, the parents can't get involved in that?

MS. PRUITT: I can't answer that because I don't know the law.

VICE CHAIRPERSON SOCKWELL: Madam Chair, it might be an issue regarding who is responsible for the students tuition. A student could be self-reliant, and therefore there would not be any particular impact.

CHAIRPERSON REID: Right. Absolutely. I think I am speaking more of the students who are not independent, and obviously students who are independent are on their own, for whatever reason. Let me explain to you where I am going with this.

VICE CHAIRPERSON SOCKWELL: Oh, I know where you are going.

CHAIRPERSON REID: You do?

VICE CHAIRPERSON SOCKWELL: Yes.

CHAIRPERSON REID: Okay. Tell me.

VICE CHAIRPERSON SOCKWELL: I think what you are trying to do is to put a -- you want the imp act of their actions to go back to responsible family members who might have influence on the student's behavior.

CHAIRPERSON REID: Right. Especially if they are paying the tuition, and they are not aware of the fact that their child might be coming to college for the first time, 18 or 19 years old, and acting in ways that are not becoming to a person of

their -- you know, in other words, unacceptable behavior.

VICE CHAIRPERSON SOCKWELL: Yes, and I think where we may be falling into a deep hole is that as an adult, by law, a student would not necessarily be considered a dependent under the statutes which would govern now they might be treated, or whether their parents might be notified.

And under the circumstances, it might be prudent to put in something that the responsible parties or parents be notified if the student is -- I mean, there is no way of knowing if a student is paying his own tuition, or whether he is on his own, and what not.

In most cases the students are being funded by some source, even if they are on scholarship.

CHAIRPERSON REID: Exactly.

VICE CHAIRPERSON SOCKWELL: And even the scholarship issuing organization might take issue with behavior that is considered aberrant or unacceptable. And how one puts that into some context where a reporting mechanism then becomes valid across the broad spectrum of student types is something that the university might have to do, but I am not sure that we can get there.

CHAIRPERSON REID: I think what we are looking for is a stick, so that if anybody or the entity responsible for the tuition, should it be parents or a scholarship entity, if students are made aware of the fact that they may jeopardize their

scholarship or their funding if they are acting in a manner that is considered to be a nuisance, or considered to be an aberration, and deemed to be improper in society clearly.

And we are not talking about choir boys. We are talking about not reeking havoc on your community.

VICE CHAIRPERSON SOCKWELL: But I think that perhaps in this situation, because we are more traditionally -- we are dealing with young adults rather than old children, we may have to fall back on the disciplinary committee issue, or the disciplinary committee responsibility, as opposed to the parental issue.

That where students are under the age of statutory adulthood, that parents or guardians would be contacted. Otherwise, the disciplinary committee and a student's permit record of such activity would be maintained at the university. And that is probably the only thing that we can look forward to.

CHAIRPERSON REID: Yes, but it appears to me that what the mechanism they are putting in place now, and additional staff people that they have hired to, I guess, address these issues, then I am sure that they would have a record.

And this is not to rule out the financial aid that any students receive, and so many violations would then perhaps somehow jeopardize the financial aid.

I mean, there are different ways that you can have some influence on the manner in which a student conducts

themselves in the community, or to dissuade them from acting in a way that would require some concern for the neighborhood or the community.

VICE CHAIRPERSON SOCKWELL: I think the extent permitted by law is really a catchall phrase that perhaps allows --

CHAIRPERSON REID: No, I don't think that covers enough.

VICE CHAIRPERSON SOCKWELL: Well, the point is that it can't specify classes of individuals, and I think that is what you are trying to get to. The student population as a class of individuals is different from adult versus non-adult classes of individuals.

And the law would allow or perhaps require certain reporting at a certain point. And there again, I can give you some example; that the person paying the student's tuition might be notified as a matter of course, or a parent might be notified as a matter of course.

Because that would be the person, or those would be the persons that the student puts down on some form as persons to contact in the event of certain emergencies, and certain circumstances taking place.

CHAIRPERSON REID: Or how they are being financed, and the school would or should know that.

VICE CHAIRPERSON SOCKWELL: Yes, or whatever, and

so the student would be aware that the person to be notified in the case of an emergency would be notified in case of this kind of activity as well.

MS. PRUITT: Well, they actually have if you look on page 5 under their new code of conduct, under disciplinary probation, it says that their parents will be notified, which is by phone, and then a conference is set up between the parents and the Office of the Associate Dean. So a phone call and then a meeting with the university.

VICE CHAIRPERSON SOCKWELL: Yes, and it should be parents or guardians.

MS. PRUITT: And I think that is the university's way of trying to --

CHAIRPERSON REID: Also, I think to put into the code of conduct as well something regarding something about repeated violations, or at a certain point the student could jeopardize their source of financing, be it by scholarship or financial aid.

VICE CHAIRPERSON SOCKWELL: Chronic offenders?

CHAIRPERSON REID: Chronic offenders, or something of that nature. And I don't know if it is permissible. I am just saying that perhaps that this might be another way of controlling the behavior of repeat offenders.

MS. SANSONE: Mrs. Reid.

CHAIRPERSON REID: Yes.

MS. SANSONE: The Federal Privacy Rights from my very limited understanding does not -- you have certain privacy rights, and your educational records are private, regardless of how you behave, and they cannot be disclosed without the student's consent.

But in a thing like scholarships, when I was in school, and I had a scholarship, I had to reapply every year. And you have to show your transcript. You disclose your educational records in an attempt to get or keep a scholarship.

That disclosure in educational -- I mean, the code of conduct stuff would be recorded as part of your educational records.

CHAIRPERSON REID: Oh, I see. It would be done inadvertently?

MS. SANSONE: You would be disclosing that as part of your record, and what the student chooses to disclose is a separate issue from what the school is legally allowed to tell about a student.

VICE CHAIRPERSON SOCKWELL: But a student would never disclose a conduct issue if the funding agency organization is looking for transcripts.

MS. SANSONE: But that would be a part of your transcript.

CHAIRPERSON REID: But that would be a part of the transcript?

MS. SANSONE: If it is, if it is part of your educational record, and you choose to disclose it, but that is a separate issue.

VICE CHAIRPERSON SOCKWELL: Let me just say this. If one submitted transcripts for a job, the transcript would not come from the university with anything on it but courses and grades.

It would not be expected to come with any psychological testing or any other issues that had nothing to do with academic standing.

MS. SANSONE: If you got suspended or expelled, that certainly would be indicated on your transcript.

VICE CHAIRPERSON SOCKWELL: Yes, but that would still probably stop at the termination point, where it says the student ceased to be enrolled, or may have been terminated, or whatever. I am not sure to what extent even that that a university would want to disclose, because they are liable for the same things that businesses are liable for.

CHAIRPERSON REID: Well, what would happen would be is that he student would have to sign a disclosure allowing the information to be disclosed in order to be in compliance with the Federal law; is that not correct?

MS. SANSONE: We are talking about the school's compliance with Federal laws, and --

CHAIRPERSON REID: I am saying that except for --

well, I'm saying that if I were enrolled, and I wanted to have my records sent, I would have to have a disclosure in which I would agree to have this disclosed.

MS. SANSONE: The student can choose to disclose anything the students wants. It is the student's records. The student -- you know, if the employer asks have you ever appeared before a conduct board and the answer is yes, you have to say yes. But the school is not doing the disclosure. The student is.

CHAIRPERSON REID: Well, I know that this is getting more convoluted than what we wanted it to, but I think that they get the gist of what we are trying to attempt to do, which is to further ensure that the behavior has some other types of constraints, which by virtue of its existence will dissuade students from acting in an improper manner.

Okay. Now, where were we? Oh, I know. It was determined which one needed to be discussed, and that was the one that I had, and as long as I can get the information prior to the order going out, I will be satisfied. Were there any ones that you had?

VICE CHAIRPERSON SOCKWELL: Madam Chair, could we put into the conditions that off-campus student housing, where more than one citation is issued per semester, would be posted? Not the names of the students, but the addresses of the off-campus housing would be posted as public notice of repeat violations on campus?

CHAIRPERSON REID: Are you asking me?

VICE CHAIRPERSON SOCKWELL: Yes, because it would be --

CHAIRPERSON REID: I don't know.

VICE CHAIRPERSON SOCKWELL: You want the students to be responsible, and you publish the addresses of off-campus housing that has been cited, and then the students can work towards policing themselves.

CHAIRPERSON REID: Well, I have no objections to that, and that could also be utilized in the context of having peer pressure among their fellow students.

VICE CHAIRPERSON SOCKWELL: Exactly. That's exactly what I was talking about.

CHAIRPERSON REID: And that it is known that they had a problem and it is reflecting on the entire school, and as such, perhaps with the tribunal that they are going to establish with the student -- what is it?

VICE CHAIRPERSON SOCKWELL: That it will be posted on campus and published in the student newspaper.

CHAIRPERSON REID: Yes, perhaps that would also go to dissuade the improper behavior.

VICE CHAIRPERSON SOCKWELL: Exactly.

CHAIRPERSON REID: And what we are speaking of at this point are things that are more pro active so that it happens before there is a problem, and based on the fact that there are

these perimeters, if you will, that they will be operating within, and they know how to conduct themselves, because they know that if they do not, then there are certain consequences that they will have to contend with.

MS. PRUITT: And we can also do some research to find out how the privacy act would impact that, because that is off campus.

CHAIRPERSON REID: Okay. Further discussion?

BOARD MEMBER RENSHAW: Yes, Madam Chair. I had listed some of the conditions that I would just like to make a comment about on 1 and 2.

CHAIRPERSON REID: Let's start with one.

BOARD MEMBER RENSHAW: All right. As far as number one, it has to do with the applicant's proposed campus plan is approved for a term of 10 years, and I would like to propose a reconsideration based on the extensive public criticism by the Board of Georgetown University's handling of the off-campus student behavior.

Plus the substantial organized neighborhood opposition to a 10 year plan, and I want to make the comment that Georgetown University has made overtures to remedy numerous off-campus student problems.

However, until the university documents concrete results, the BZA should reduce the campus term limit to eight years, the period actually proposed by the university back in

August. In advancing a eight year time frame, the university acknowledged that its -- and I use Mr. Sockwell's term -- economic engine, would not be unduly compromised.

CHAIRPERSON REID: Is that a motion?

BOARD MEMBER RENSHAW: I am moving that the BZA reconsider its vote of a 10 year campus plan. That seems overly generous given the disapproval of Georgetown University voiced by the members of the board, and urge a term of 8 years instead.

CHAIRPERSON REID: Okay. Is there a second?

(No audible response.)

CHAIRPERSON REID: Okay. The motion fails for lack of a second.

VICE CHAIRPERSON SOCKWELL: I will second the motion to give to an opportunity for discussion.

CHAIRPERSON REID: Mrs. Renshaw has already objected, and Mr. Sockwell, do you have some discussion, further discussion?

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, would you give a briefly more detailed --

CHAIRPERSON REID: Mr. Sockwell, it is not in the best interests of this board to elongate a case just sheerly for the purpose of discussion. Mrs. Renshaw has already given her position, and now you have seconded.

VICE CHAIRPERSON SOCKWELL: All right.

CHAIRPERSON REID: Now, can we move on, please.

VICE CHAIRPERSON SOCKWELL: If you do not wish to have the motion discussed, then we can move for a vote, Madam Chair. Thank you.

CHAIRPERSON REID: All in favor?

BOARD MEMBER RENSHAW: Aye.

CHAIRPERSON REID: Opposed?

(A chorus of ayes.)

CHAIRPERSON REID: All right. The second one -- I'm sorry, but which one is the next one that you had?

BOARD MEMBER RENSHAW: Number 2. I wanted to clarify whether or not the cap of 5,627 included the vacancies -- I understand them to be 111 -- under the 1990 cap. Is that inclusive of those vacancies or exclusive?

MS. PRUITT: Can you repeat that, please?

BOARD MEMBER RENSHAW: The number two states that the applicant shall not increase undergraduate enrollment above the cap of 5,627 students, adopted by the board as part of the 1990 campus plan until the southwest quadrangle project is completed and occupied.

I would like to know if the cap includes the vacancies, or excludes the vacancies.

MS. PRUITT: Yes, it does. It does include the 111.

BOARD MEMBER RENSHAW: All right.

CHAIRPERSON REID: Also in that one, I failed to

note that it was supposed to also stipulate that the enrollment increase of 39 students per year for a 10 year period, with the agreement by the university to delay the phasing in of these students until after the southwest quad is in place.

And that is what had been agreed upon by the ANC, to have that wording put in this condition, and so we need to make sure that is included. Now, Mrs. Renshaw, does that answer your question?

BOARD MEMBER RENSHAW: Yes.

CHAIRPERSON REID: All right. The next one.

BOARD MEMBER RENSHAW: Number 7 on page 4. The applicant shall maintain a telephone hot line to receive complaints regarding student misconduct. The hotline shall be staffed 24 hours per day by the university personnel who will be responsive to each complaint received.

Just to insert that it is 24 hours a day, seven days per week, and it is on a 24/7 basis. That is consistent with what Mr. Franklin suggested.

CHAIRPERSON REID: Oh, I see. You want to make sure that it is seven days a week.

BOARD MEMBER RENSHAW: Seven days a week, and that it be understood that there be no recordings.

CHAIRPERSON REID: All right.

BOARD MEMBER RENSHAW: All right.

CHAIRPERSON REID: No -- oh, oh, I see. And it

says by university personnel.

BOARD MEMBER RENSHAW: Yes. Well, the university personnel could turn on a recording, but the emphasis here should be the fact that there is a live body on staff 24-7.

CHAIRPERSON REID: Okay. Why don't we add then live university personnel?

BOARD MEMBER RENSHAW: Very live.

CHAIRPERSON REID: Okay. Next.

BOARD MEMBER RENSHAW: Number 10. I was curious. This one has to do with the applicant shall make publicly available data indicating the numbers and types of complaints received. And the question is when and to whom.

We have got to report the information to the Office of Planning, Zoning Administrator, 2-E. So that takes care of to whom. But what is the time frame that we are asking them to make this information publicly available? Is it on a quarterly basis, or on a monthly basis?

CHAIRPERSON REID: I think that goes to the issue that was raised by Mr. Sockwell, and he was saying making it public, and he was saying to add it in, and I guess we kind of didn't pick up that as being reflected in this particular condition.

MS. PRUITT: Well, the board has a choice. It can make it quarterly or --

CHAIRPERSON REID: No, no, no. I was just saying

that Mr. Sockwell had said earlier to add another condition, but I think the condition that he was speaking of can be herein.

VICE CHAIRPERSON SOCKWELL: It can be added to this. This is not exactly what I had in mind.

MS. PRUITT: But with Ms. Renshaw's issue, my understanding is that it is different.

CHAIRPERSON REID: Yes, it is. I was just making a point that that goes also to the one that he had raised, that perhaps it could be contained within this one if it is amended.

VICE CHAIRPERSON SOCKWELL: Yes, making public and publishing are two different things. Making public would just require them to have such information available at an office. Publishing it would make it a public display for all to see.

CHAIRPERSON REID: Well, with the available data, are you saying through publishing where?

VICE CHAIRPERSON SOCKWELL: Publishing by posting on campus, and publishing in the newspaper the address.

CHAIRPERSON REID: The campus newspaper?

VICE CHAIRPERSON SOCKWELL: The campus newspaper, yes, the student newspaper, the addresses of all -- and I would want to make that group houses, where more than one complaint is received in any given semester, and that such publication should be immediate.

BOARD MEMBER RENSHAW: And that is the same for the student misconduct?

CHAIRPERSON REID: Well, in that instance, Ms. Renshaw, would that not be whenever the student newspaper comes out?

VICE CHAIRPERSON SOCKWELL: Yes.

BOARD MEMBER RENSHAW: I think that is a good idea.

CHAIRPERSON REID: And how often does the student newspaper come out?

VICE CHAIRPERSON SOCKWELL: Probably monthly.

BOARD MEMBER RENSHAW: Weekly.

VICE CHAIRPERSON SOCKWELL: Biweekly or something. I don't know.

CHAIRPERSON REID: If you could get the answer, please, Ms. Pruitt.

MS. PRUITT: Twice a week.

BOARD MEMBER RENSHAW: Very good.

CHAIRPERSON REID: Okay.

BOARD MEMBER RENSHAW: That's it.

(Discussion off the record.)

VICE CHAIRPERSON SOCKWELL: And there is nothing that would keep the university from publishing if it is a twice weekly publication, there is no schedule on this earth --

BOARD MEMBER RENSHAW: It is a student paper.

VICE CHAIRPERSON SOCKWELL: Well, it is a student issue. The student newspaper or student association I would assume --

MS. PRUITT: It is not a part of the university.

VICE CHAIRPERSON SOCKWELL: Well, the student association --

MS. PRUITT: It is not to be part of the university. It is independent of the university.

CHAIRPERSON REID: The newspaper is?

MS. PRUITT: Yes.

VICE CHAIRPERSON SOCKWELL: The university could request that the student newspaper publish it. There is no way the university can say that it can't be done. If they don't ask, they don't find out.

CHAIRPERSON REID: Mr. Sockwell, they didn't say that it couldn't be done.

VICE CHAIRPERSON SOCKWELL: Yes, they did. They specifically said in conversation that was not part of the record.

CHAIRPERSON REID: All right. Thank you. Now we have that, and that also takes care of your concerns about the when.

BOARD MEMBER RENSHAW: Right.

CHAIRPERSON REID: And do you have another one?

BOARD MEMBER RENSHAW: Yes, number 14. The helipad shall be used only for medical necessary purposes. The applicant shall provide periodic reports. What are periodic reports? Quarterly? Monthly? How about monthly, because it has been said about what, 12 a week?

MS. PRUITT: A month.

BOARD MEMBER RENSHAW: So 12 a month.

VICE CHAIRPERSON SOCKWELL: Madam Chair, I believe monthly would be reasonable.

CHAIRPERSON REID: Monthly?

BOARD MEMBER RENSHAW: Monthly.

CHAIRPERSON REID: I have no problem with that.

BOARD MEMBER RENSHAW: Okay. And Number 15, where the applicant shall maintain an accurate record of the license plate numbers of cars kept by students. Who keeps this information? Who reviews it? It is not clear.

CHAIRPERSON REID: Well, I mean, as long as they do it, we don't have to go into who has the responsibility for it. It is whoever they assign.

BOARD MEMBER RENSHAW: Well, I think it should be a little bit more specific than that when it comes to the auto --

CHAIRPERSON REID: The registrar? You mean the Office of the Registrar? How about that? The applicant shall maintain through the Registrar's Office.

BOARD MEMBER RENSHAW: Yes.

CHAIRPERSON REID: Okay. The next one?

BOARD MEMBER RENSHAW: Number 16. The applicant shall maintain a parking cap of 4,080 off-street parking spaces within the campus boundary as adopted in the 1990 campus plan to avoid encouraging additional cars on campus.

But here is the issue that we are trying to discourage, an abundance of cars in the neighborhood, and so therein lies the problem. If you have got the cap of 4,080 off-street parking spaces within the campus, that's going to throw additional cars into the community.

MS. PRUITT: Ms. Renshaw, I don't know if condition number 17 helps address some of that, in the sense that the transportation management program promotes greater transit. So there are alternative means of getting --

BOARD MEMBER RENSHAW: It doesn't --

CHAIRPERSON REID: Well, what hours would you want?

BOARD MEMBER RENSHAW: Well, I am wanting the BZA to recognize the fact that by insisting through this condition of maintaining the parking cap on campus, additional cars may go -- have to be parked on neighborhood streets.

Now, they are going to be -- that campus cap is at 5,627, including the 111 vacancies. I don't know whether additional undergraduate students are going to be living off-campus, and therefore there will be more cars in the neighborhood streets or in the back alleys.

VICE CHAIRPERSON SOCKWELL: I would change, Madam Chair, the statement to state that the applicant shall at no time provide less than the parking cap.

BOARD MEMBER RENSHAW: Okay.

CHAIRPERSON REID: Okay.

VICE CHAIRPERSON SOCKWELL: That way it would encourage the university to provide more than the 4,080 should they find space, even temporarily, to do so.

BOARD MEMBER RENSHAW: And by the applicant through the Office of Registrar, maintaining a record of these license plate numbers, the university will have a better feel as to how many cars are going to be on campus, or --

VICE CHAIRPERSON SOCKWELL: And the last three words in that I would change, and the word "on" to "off" there, so that the thing would now read that the applicant shall at no time provide less than the parking cap of 4,080 off-street parking spaces within the campus boundary as adopted, da, da, da, to avoid encouraging additional cars off-campus.

BOARD MEMBER RENSHAW: Good.

CHAIRPERSON REID: Okay.

BOARD MEMBER RENSHAW: And that completes the comments that I have.

CHAIRPERSON REID: All right. Then can I have a motion to approve the conditions, with the amendments as we have stipulated in our proceedings? Ms. Pruitt, do you have them all?

MS. PRUITT: No, I was being distracted. I was looking through here, because I was not here in the beginning. Did you address the issue concerning the request for additional students, the 389?

CHAIRPERSON REID: Which one was that?

MS. PRUITT: I don't see it here, and that's why I am trying to -- well, the 5,627 was the listed cap for '90.

CHAIRPERSON REID: Number 2?

MS. PRUITT: Number 2 deals with the existing cap, and I don't see quickly here --

MS. NAGELHOUT: Look at Number 3.

MS. PRUITT: Okay. As you recall, the last time when we met after you got the tenure, we had sort of three alternatives in reference to the cap that you were looking at. One was proposed by Mr. Franklin that after five years the university comes back and then the board will determine if they will increase the population.

There was another one that stated that after five years the board would -- I mean, the university could increase their population, and that increase could go up to 389.

CHAIRPERSON REID: Wait a minute. Are you referring to the undergraduate enrollment cap?

MS. PRUITT: Yes, that they are proposing the additional. The existing is 562, or 5627.

CHAIRPERSON REID: It says or we included that the enrollment increase be 39 students per year or a 10 year period, with agreement by the university to delay the phasing in of these students until after the southwest quad is in place.

MS. PRUITT: I don't see that in the conditions here.

CHAIRPERSON REID: Well, that's what we -- well, maybe you weren't here, but --

MS. PRUITT: That's what I was trying to double-check.

CHAIRPERSON REID: Well, that is what we had just gone over and included, and --

MS. PRUITT: And that's all that I wanted to verify.

CHAIRPERSON REID: -- lift it from what the ANC had supported.

MS. PRUITT: Right. Okay. I just wanted to double-check it.

VICE CHAIRPERSON SOCKWELL: As long as the board is bound into the process of approval, it should not be a problem. And in number 3, the second word is board, and that's us, and that's when, and that will be then.

CHAIRPERSON REID: Okay. So now the other amendments that we went through, especially the ones that had been raised by Ms. Renshaw, and we had agreed to those changes, have been amended now as part of the conditions, and we can now vote on the conditions as amended. So can I have a motion to that?

VICE CHAIRPERSON SOCKWELL: I move that we accept and approve the conditions as amended by this board today.

BOARD MEMBER MOULDEN: I second.

CHAIRPERSON REID: All right. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

MR. HART: The staff will record the vote as four to zero to approve the conditions as amended, on a motion seconded by Mr. Sockwell and seconded by Mr. Moulden.

CHAIRPERSON REID: And that would then conclude this morning's session. Again, I would like to commend the staff for its fine work it has been doing, and particularly in regard to the internet access and the utilization of the office to make the zoning records and the zoning data more accessible to more people, the website.

And all the kudos to the director and her staff who spearheaded that, and again I would like to commend our great staff on all the work that they have done in making sure that this phenomenal work load is facilitated as well as it could be done under the circumstances. So thank you very much.

MR. HART: Madam Chair, before you go off, just a real quick thing here and to go back to the minutes. Mr. Hood called in, and at this point it is November 28th, Mr. Sockwell, Mr. Moulden, and Mr. Hood. And he has sent in his proxy agreeing to approve the minutes.

CHAIRPERSON REID: All right. Okay. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: And I wasn't here. Opposed?

(No audible response.)

CHAIRPERSON REID: Okay.

MR. HART: Thank you.

CHAIRPERSON REID: Obviously the morning session went over, and so we will be back at approximately 1:30 or 1:35. Thank you very much. This meeting is concluded.

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