GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

NOVEMBER 28, 2000

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Vice Chairperson
ANN RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Chairperson

OFFICE OF ZONING STAFF PRESENT:

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

OTHER AGENCY STAFF PRESENT:

John Moore,	Office of Planning
Maxine Brown-Roberts	

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

AGENDA ITEM	PAGE
PRELIMINARY MATTERS	5
APPLICATION OF PAUL AND ELAINE ANDERSON CASE NO. 16627 ANC-5A	7
ROBERT HENRY	14
APPLICATION OF ALLIANCE FRANCAIS CASE NO. 16631 ANC-1D	28
MR. VAN DER KEMP	29
APPLICATION OF DAVID POMERANTZ AND SHERYL FLOYD: CASE NO. 16628	25
DAVID POMERANTZ	46
FERNANDO ALBAN	48
RECESS	
PRELIMINARY MATTERS	55
APPLICATION OF FT. CHAPLIN PARK AND NEXTEL COMMUNICATIONS CASE NO. 16635 ANC-7D	
ROBERT COOPER	68

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

AGENDA ITEM PAGE

APPLICATION OF MEDHANE ALEM ERITREAN ORTHODOX CHURCH
CASE NO. 16332

GLADYS HICKS 102
FATHER DALREN 102
GABRECHRISTOS DAGNEW 107
BERHANE YITBAREK 113
JAMES SMITH 116
MEHARI TEWOLDE 122
WALDEMARIA MEZGHEBE 131
ADRION FENTY 176
LYDIA ASEFA 194
AUDREY NWANZE 214
GEORGE NWANZE 218
LEROY FYKES 223

APPLICATION OF EVA BRANDLER
CASE NO. 16633

NAOMI ADELMAN 269
MAXINE BROWN-ROBERTS 271
MICHAEL FINN 274
WILLIAM BRANDLER 285

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

(10:17 a.m.)

VICE CHAIRPERSON SOCKWELL: Good morning. The hearing will please come to order. This is the November 28th public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Robert N. Sockwell, Vice Chair, sitting in for Sheila Cross-Reid, the Chairperson. Joining me today is Ann Renshaw to my left. And representing the Zoning Commission is Anthony Hood.

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

Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right.

The order of procedure for special exceptions and variances is (1) statement and witnesses of the applicant; (2) government reports including Office of Planning, Department of Public Works, et al.; (3) report of the Advisory Neighborhood Commission; (4) parties or persons in support; (5) parties or persons in opposition; (6) closing remarks by the applicant.

Cross examination of witnesses is permitted by the applicant or parties. The ANC within which the property is

located is automatically a party in the case.

The record will be closed at the conclusion of each case, except for any materials specifically requested by the Board. And the Staff will specify at the end of the hearing exactly what is expected.

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

Please turn off all beepers and cell phones, or set them to vibrate only, at this time, so as not to disrupt these proceedings. The Board will now consider any preliminary matters.

Preliminary matters are those which relate to whether a case will, or should, be heard today as such -- such as requests for postponement, continuance, or withdrawal, or whether proper and adequate notice of the hearing has been given.

If you are not prepared to go forward with a case today, or if you believe that the Board should not proceed, now is the time to raise such a matter. Does the Staff have any preliminary matters?

MS. BAILEY: Madam Chair -- Mr. -- Mr. Chairman, yes, we do, excuse me. For each of the cases this morning, there is a preliminary matter. And the first one is Application No. 16627, Paul and Elaine Anderson. Is there anyone here by that

case? Please come to the table.

The preliminary matter with this case, Mr. Chairman, has to do with whether -- well, two things: the ANC -- ANC-5A is requesting that the hearing be postponed for a later date. The single member District Commissioner has not had a change to hold a hearing in the neighborhood on this particular application. That's one matter.

The second matter is we have two letters from the Zoning Administrator. And there -- it appears as if the way it's advertised is not currently how it's being recommended to go forward.

So, those are the two matters, preliminary matters, that needs (sic) to be discussed this morning.

VICE CHAIRPERSON SOCKWELL: All right, I guess we should take the two preliminary matters --

COMMISSIONER HOOD: Mr. Chairman -- you all can have a seat. Mr. Chairman, if you don't mind, I would like to do a disclosure.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

COMMISSIONER HOOD: While I -- (cough) excuse me -- the former owner of this property is a neighbor of mine. I have not even discussed this with him, didn't notice it was going to be coming up until I saw the sign, and also until I was able to read my packet. That would not have any bearing on my participation in this case.

VICE CHAIRPERSON SOCKWELL: Thank you, Mr. Hood. Do any of the Board members object to Mr. Hood's participation?

UNIDENTIFIED SPEAKER: I do not.

VICE CHAIRPERSON SOCKWELL: Thank you. With regard to the request to postpone on this case, we have a letter from the Advisory Neighborhood Commission?

MS. BAILEY: Yes, sir, we do. It's Exhibit No. 22 of your record. Pardon?

MEMBER RENSHAW: Mr. Vice-Chair, it is dated November 13th, and it's signed by Norma Broadnax, who is the Chairperson of ANC-5A. And she is requesting an extension of the hearing scheduled for November 28th.

According to ANC procedures, we have to hold a single-member District 5A(09) properly noticed public meeting to get the will of the community. There is not enough time to hold a properly noticed public meeting on this issue. And again, that's Exhibit No. 22.

VICE CHAIRPERSON SOCKWELL: Thank you. Is there someone from the ANC here?

MR. HENRY: No.

SECRETARY PRUITT: Mr. Chairman, just for point of information, Staff referred this to the ANC on September 28th, of 19 -- of the year 2000.

VICE CHAIRPERSON SOCKWELL: Okay, and that was the date of our mailing?

SECRETARY PRUITT: Correct. That's the date we mailed out to the ANC overall, the single-member district, the Councilperson -- and the Councilperson, and of course, the people within 200 feet. So, all of those mailings go at the same time.

VICE CHAIRPERSON SOCKWELL: Okay, and we've confirmed the ANC received the mailing at --

SECRETARY PRUITT: Well, we didn't get a return message. And I've -- I didn't get a return notice. And I have tried to call, but unfortunately, you can't always get through to ANCs.

VICE CHAIRPERSON SOCKWELL: Uh-huh. Well, normally, we like to give the Advisory Neighborhood Commission the opportunity to review applications and present them before a public forum and respond with either an acceptance, objections, or comments on the applicant's proposals.

Apparently, at this point, we don't have -- we haven't had an ANC meeting, and they're requesting additional time.

SECRETARY PRUITT: Mr. Sockwell, I will note that the letter is from the single-member district --

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: -- which will not get great weight even if they have their meeting. It's only the overall ANC.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

COMMISSIONER HOOD: But the --

SECRETARY PRUITT: However --

COMMISSIONER HOOD: -- this letter is from the Chairperson.

SECRETARY PRUITT: However, I thought it was -- it's not single-member district?

COMMISSIONER HOOD: No, this is from the Chairperson.

SECRETARY PRUITT: I understand.

COMMISSIONER HOOD: This is from --

SECRETARY PRUITT: Thank you.

COMMISSIONER HOOD: -- a district person. I don't want to say it's dysfunctional, but it's not participating.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: I stand corrected then. Then, this would be a great weight.

VICE CHAIRPERSON SOCKWELL: Yeah, because -- yeah, in fact, I think in some other descriptions that I've read on this case, the single-member district representative may have been inactive for a period of time.

Board members, do you have any thoughts on this?

MEMBER RENSHAW: Mr. Vice Chair, I would like to give great weight to ANC 5A if there has been some difficulty with a single-member district to being duly represented. I think that the SMD deserves a bit of extra time to try to hold this

community meeting. After all, they are the affected parties.

And perhaps, a postponement for a month would not be untoward.

VICE CHAIRPERSON SOCKWELL: It seems to me that with the single-member district in the affected -- in the area that's immediately affected by the project not being active, as it has been stated in some documentation, that it leaves the immediate community without its most effective voice.

And in not having that effective voice, the larger ANC-5A may not have had the impetus to meet on the proposal, not being prompted by the single-member district representative.

And on those -- under those circumstances, it may be a disservice to the community not to allow the Advisory Neighborhood Commission an opportunity to review this case because the circumstances are somewhat different from typical.

And I would -- I would want for us to reschedule this case to a date certain, at the most appropriate available time if -- if my Board members -- yes?

SECRETARY PRUITT: Excuse me, Mr. Chair; may I make a suggestion? One other thing you may want to consider is having the hearing and leaving the record open for the ANC report to come in.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: The reason I state that is that, as you know, our agenda is really very full. And we probably

would not be able to hear this again until March.

VICE CHAIRPERSON SOCKWELL: All right. And that would probably do significant harm to the applicant based on information that has been provided. Board members, do you think that if we -- if we hear the case and allow the Advisory Neighborhood Commission an opportunity to come in with their report and -- and findings, we could vote on the case at a later date?

SECRETARY PRUITT: Vote on a later date.

MEMBER RENSHAW: Mr. Vice Chair, I would agree to hear the case, but I will not vote on the case until the AND-5A has made its determination after holding a community meeting in the affected area.

VICE CHAIRPERSON SOCKWELL: Okay.

COMMISSIONER HOOD: I would also like to weigh in on that. I think I heard you right, Mr. (sic) Renshaw, that you would wait until the ANC weighs in.

MEMBER RENSHAW: Yes.

COMMISSIONER HOOD: I would agree because of the issues. I do have some issues, and I would ask Staff to make sure that I'm sitting on this case. Again, like I said, I don't have any weighs in or out on it, and I did notice those even before since I saw it.

But I think there are some issues that need to be brought out, and I would like to hear from the community first.

MR. HENRY: Mr. Chairman?

VICE CHAIRPERSON SOCKWELL: Yes?

MR. HENRY: May we be heard?

VICE CHAIRPERSON SOCKWELL: Yeah -- yes, you may.

MR. HENRY: Yes, Bobby Henry, appearing on behalf of the owners, Mr. Paul and Ms. Elaine Anderson. Mr. Chairman, we had notified Ms. Bailey this morning, upon learning of the ANC's request for a continuance of this matter, we consent to that -- that continuance. We are not here in opposition to that.

So, we want to make that real clear to this Board, simply because we are not trying to slip into the community under the cover of night. We want to go in; we want to be welcomed within the community.

And I think when the Board gets a full opportunity to hear from the members of the community, they will see the positive reception that we have, in fact, received.

With regards to the meeting, we knew that they could not have the meeting, and we want to be present. We've had contact with Ms. Broadnax regarding her meeting, and we will be there. And hopefully, we will be able to present a unified front when we come back before this Board.

It would not be our preference to open the record today since the ANC is not here, and we do not have the opportunity to ask questions should, you know, we not be on one accord with regards to their report.

Accordingly, we would ask this body to consider the fact that we are agreeing to the continuance on behalf of the ANC so that they may weigh in, and that this Board possibly give consideration to scheduling an earlier date, if not within 30 days, maybe within the middle toward the latter part of January, which would be about 60 days away.

We would certainly in -- in favor of that, Mr. Chairman.

VICE CHAIRPERSON SOCKWELL: The timing of the hearing is based upon the availability within our very tight schedule to add cases to the docket. It is not currently apparent that we have any space in the month of January. And yet, the possibility is that in the month of February, something could drop out that we don't know about at this point in time, and cases do.

But the most likely available date is apparently March, early March, of 2001. And that would be the only date that we could establish as a date certain, hoping, perhaps, that should something drop out of the schedule that we could, perhaps, reschedule you to an earlier date.

But that would be the only thing that I can think of.

SECRETARY PRUITT: Mr. Chair, we unfortunately could not reschedule them to an earlier date because then, that would require us to re-notice everybody.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: We can continue to a date certain from here. If we don't continue it from a date certain from here, then we have to re-notice -- we have to do another 40 days and re-notice the whole community again. That's why --

VICE CHAIRPERSON SOCKWELL: But --

SECRETARY PRUITT: -- we usually do it to a date certain. And it unfortunately makes it, on --

VICE CHAIRPERSON SOCKWELL: Okay, Ms. Pruitt --

SECRETARY PRUITT: -- these days when people --

VICE CHAIRPERSON SOCKWELL: -- let me ask you a question.

SECRETARY PRUITT: -- fall out, that means we can't --

VICE CHAIRPERSON SOCKWELL: Yeah, okay. Let me --

SECRETARY PRUITT: -- have it --

VICE CHAIRPERSON SOCKWELL: Let me ask you a question. From -- from my impression, this case is not an extraordinarily long case. I don't see anything in this that would make it a half-day or a particularly long case, even -- even with ANC input.

And the fact that we do have an Office of Planning report, there are not a lot of people here. Now, admittedly after the ANC meeting, there might be more people coming on one

side or the other.

But is there a date that you think we might squeeze it in?

SECRETARY PRUITT: I am looking at your calendar now in January. On the second, aside from the huge deliberation you have, you have four cases in the afternoon. On the ninth, you have two cases in the morning and three cases in the afternoon.

VICE CHAIRPERSON SOCKWELL: What are the two morning cases? Are they -- do they look like they're --

MEMBER RENSHAW: Mr. Vice Chair?

VICE CHAIRPERSON SOCKWELL: -- maybe -- yes?

MEMBER RENSHAW: Mr. Vice Chair, if I may just interject; most of the ANCs throughout the City are not meeting in December. An exception, of course, is ANC-3G, which means -- is going to meet in December.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MEMBER RENSHAW: Do we know the meeting date of 5A? In other words, you have to -- we should give them time to bring this matter up at a regularly scheduled meeting of the ANC in January or in February.

VICE CHAIRPERSON SOCKWELL: That's a good point, Ms. --

MEMBER RENSHAW: And I don't know what the meeting date is.

COMMISSIONER HOOD: Their meeting date is the fourth Wednesday of each month. And that brings -- that's a good point.

UNIDENTIFIED SPEAKER: Which makes it Christmas.

COMMISSIONER HOOD: Yeah, that's a good point.

MS. BAILEY: Mrs. Renshaw, if I'm not mistaken, there's going to be, in this particular SMD area, a new Advisory Neighborhood Commission I think has been re-elected -- has been elected, and has not been sworn in. And I think that happens --

UNIDENTIFIED SPEAKER: January first.

MS. BAILEY: -- January, so --

MEMBER RENSHAW: Early January, they --

MS. BAILEY: Okay.

MEMBER RENSHAW: -- we are all sworn in.

MS. BAILEY: Oh, there would probably be a need to be sometime after that person has had a chance to be sworn in and get acclimated to the --

MEMBER RENSHAW: And Mr. Hood said that 5A meets on the last Wednesday of the month?

COMMISSIONER HOOD: Right, the fourth Wednesday of the month.

SECRETARY PRUITT: Which happens to --

VICE CHAIRPERSON SOCKWELL: Well --

SECRETARY PRUITT: -- be the 27th of January -- of December. And then, if you move it to --

VICE CHAIRPERSON SOCKWELL: They're not -- they're not going to be meeting in December.

VICE CHAIRPERSON SOCKWELL: Okay, my feeling is --

SECRETARY PRUITT: -- or the 24th of February.

VICE CHAIRPERSON SOCKWELL: My feeling is that if an ANC meeting is properly noticed, then regardless the impact of the newly-elected Single Member District Commissioner, the public would be invited to a meeting.

And that meeting would take place with a quorum of the Advisory Neighborhood Commissioners, and would include those affected parties within the community.

So, I don't think that we need to wait for the ANC Commissioner to be installed, but we certainly do -- have decided to wait until an ANC meeting is held. If that meeting is not held until January, then it definitely throws the months of January out for this hearing.

So, I would suggest that it looks like February, sometime in February, would be the only available time for this. And if that is not possible, then we would have to schedule it for the earliest meeting in March, which would be what date?

SECRETARY PRUITT: March -- March 6th, I think we could squeeze it on there.

VICE CHAIRPERSON SOCKWELL: Which would be the first -- the first week of March?

SECRETARY PRUITT: Yes. There are quite a few --

VICE CHAIRPERSON SOCKWELL: Which -- which, in reality, is probably about four weeks after -- a little more than four weeks after the ANC meeting, five weeks after the ANC meeting. Likely, the ANC would take a week to prepare its report.

So, you would be about a month beyond the ANC's response window, which isn't so bad when you look at it in that context. When you look at it as of today, it's a long time.

COMMISSIONER HOOD: Mr. -- Mr. Chair?

VICE CHAIRPERSON SOCKWELL: Yes?

COMMISSIONER HOOD: I would just add -- I'm going to ask Ms. Williams (sic) if we could look at a time in February, Mr. Chair, if that's okay, and try and squeeze them in, because I heard Ms. Williams (sic) say "squeeze them in in March."

And it seems that you had two cases in the -- in the morning of the hearing date on -- in February. That may be more adequate because I listened to what you said. You said "squeeze them in in March."

SECRETARY PRUITT: I guess the only concern is if they're not meeting until the third -- the fourth --

UNIDENTIFIED SPEAKER: Wednesday.

SECRETARY PRUITT: -- Wednesday in February --

COMMISSIONER HOOD: January, January.

SECRETARY PRUITT: Oh, in January, okay, then we may be able to put them in --

COMMISSIONER HOOD: In February.

SECRETARY PRUITT: Well, it's a week earlier, the 27th.

COMMISSIONER HOOD: In February?

SECRETARY PRUITT: Yeah, it's one week earlier.

VICE CHAIRPERSON SOCKWELL: Well, I think that the applicant will probably appreciate anything we can do. So, shall we continue with the approval of -- my fellow Board members, we can continue this case until a date certain, which would be February the --

SECRETARY PRUITT: Twenty-seventh.

VICE CHAIRPERSON SOCKWELL: -- 27th.

COMMISSIONER HOOD: Do you want a motion, Mr. Chair, or you just --

VICE CHAIRPERSON SOCKWELL: Yeah, I move -- go ahead, please.

COMMISSIONER HOOD: I make a motion that we continue Application No. 16627 until February the 27th.

MEMBER RENSHAW: Second.

VICE CHAIRPERSON SOCKWELL: All in favor?

MEMBER RENSHAW: Aye.

COMMISSIONER HOOD: Aye

VICE CHAIRPERSON SOCKWELL: Opposed?

(No audible response.)

VICE CHAIRPERSON SOCKWELL: I guess not.

MS. BAILEY: The Staff will record the vote as three 'til -- three to zero, to postpone the hearing until February 27th; motion made by Mr. Hood, seconded by Mrs. Renshaw; Mr. Sockwell to vote in favor of it; Mrs. Sheila Cross-Reid and Rodney Moulden not present, not voting.

MR. HENRY: Mr. Chair?

VICE CHAIRPERSON SOCKWELL: Yes?

MR. HENRY: Would that be on the a.m. docket or the --

VICE CHAIRPERSON SOCKWELL: It -- yes, it would be --

MR. HENRY: -- the p.m. docket?

VICE CHAIRPERSON SOCKWELL: -- the a.m. MR. HENRY: Mr. Chair, would we also be addressing the second issue that was brought up?

MS. BAILEY: I'm sorry --

VICE CHAIRPERSON SOCKWELL: Yeah.

MS. BAILEY: -- yes. That was my mistake, Mr. Chairman. There are two cases today where we have received referral letters, two referral letters. But this was not one of them, so that was my mistake. And I --

VICE CHAIRPERSON SOCKWELL: Okay.

MS. BAILEY: -- apologize.

VICE CHAIRPERSON SOCKWELL: All right, and your name again, sir?

MR. HENRY: Bobby Henry.

VICE CHAIRPERSON SOCKWELL: Bobby Henry?

MR. HENRY: Bobby Henry.

MEMBER RENSHAW: Mr. Vice Chair, I'd like to ask if Staff would be sure to write Ms. Broadnax and inform the ANC of this continuance and the date on which the ANC should have a report back to the BZA?

VICE CHAIRPERSON SOCKWELL: All right, then I guess that we'll see you on the 27th of February.

MR. HENRY: Mr. Chairman, thank you for your time, and committee members.

VICE CHAIRPERSON SOCKWELL: Thank you, Mr. Henry and Andersons.

MS. BAILEY: The next preliminary matter, Mr. Chairman, has to do with Application No. 16628, David Pomerantz and Shirley (sic) Floyd. Would you please come forward?

While they're coming forward, the affidavit opposing on this case, Mr. Chairman, was only received this morning. And maybe the applicant can explain why the affidavit was only filed this morning on this case.

MR. ALBAN: Fernando --

MEMBER RENSHAW: Sir --

COMMISSIONER HOOD: Turn your mic on.

MEMBER RENSHAW: -- turn on your microphone, please.

MR. ALBAN: Fernando Alban, General Contractor. I'm sorry for the delay. I mailed in an -- the affidavit on Friday, express mail. And I just got caught up in the Thanksgiving holidays, and I didn't count my days properly.

I have my receipt here that I mailed it on Friday, but I understand that -- that copy was never found. So, I brought a duplicate copy this morning.

SECRETARY PRUITT: Let me see the file.

VICE CHAIRPERSON SOCKWELL: I'm sorry?

SECRETARY PRUITT: Let me see the file, please, sir.

MR. ALBAN: The copy, I gave it to the lady in the office.

SECRETARY PRUITT: Okay.

MR. ALBAN: And I think it's the one -- it's the one you have on-hand right now.

SECRETARY PRUITT: Can we get a copy of this?

MR. ALBAN: It is a notarized -- it is a notarized copy. It is a duplicate.

MS. BAILEY: Sir, I'm assuming that the property was posted on time. Was it posted 15 days prior --

MR. ALBAN: Yes, it was, ma'am.

MS. BAILEY: -- to today?

MR. ALBAN: On the affidavit, it states -- I believe I put the date down as the 7th. I don't remember exactly

what the date was that I put down there. But there was plenty of time, 15 days.

VICE CHAIRPERSON SOCKWELL: 11/7 is the date on the affidavit.

MR. ALBAN: Yeah, there's plenty of time for the 15 days. I just didn't take the holidays into account.

VICE CHAIRPERSON SOCKWELL: Well, aside from your not having gotten it into us in time, it has been posted for a 15-day period, which I assume we can -- I assume we can waive the rules to accept the affidavit as complete.

SECRETARY PRUITT: Right, all we would need to do is waive the filing time.

VICE CHAIRPERSON SOCKWELL: The filing -- the filing time. Is there any objection to that?

COMMISSIONER HOOD: No objection.

MEMBER RENSHAW: No, no objection.

VICE CHAIRPERSON SOCKWELL: All right. Then, I move we waive the filing time for the affidavit of posting for Application 16628 to admit that to the record.

COMMISSIONER HOOD: Second.

VICE CHAIRPERSON SOCKWELL: All in favor?

MEMBER RENSHAW: Aye.

COMMISSIONER HOOD: Aye.

VICE CHAIRPERSON SOCKWELL: Opposed?

(No audible response.)

MS. BAILEY: You may --

VICE CHAIRPERSON SOCKWELL: All right.

MS. BAILEY: I'm going to call another -- please have a seat, and we'll call you when the case -- when we're ready.

VICE CHAIRPERSON SOCKWELL: Yeah.

MR. ALBAN: Thank you.

MS. BAILEY: The last preliminary matter, Mr. Chairman, has to do with Application No. 16631, Alliance Francaise. Would the persons here associated with that case please come forward?

Mr. Chairman, there is a request from ANC-1D to postpone the hearing on this case. And hopefully, I'm speaking correctly this time. We do have two letters from the Zoning Administrator concerning this project.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: And, Mr. Chair, this project actually is -- as Ms. Bailey says, there's two letters. And the unfortunate thing is that -- that first, it was advertised as a special exception.

We received a second letter from the ZA indicating it needed a variance. And of course, you know, the tests for those two are very different and it's a different standard. So, that causes a little bit more complexity to this whole issue.

VICE CHAIRPERSON SOCKWELL: Uh-huh. Have--

MR. VAN DER KEMP: Do you want to talk to --

VICE CHAIRPERSON SOCKWELL: Yeah, have you prepared your case on the basis of special exception or variance requirements?

MR. VAN DER KEMP: I would like to --

VICE CHAIRPERSON SOCKWELL: Press that -- yeah.

MR. VAN DER KEMP: My understanding is that we have prepared this on the basis of the variance requirement, as we learned later on.

VICE CHAIRPERSON SOCKWELL: And your name, sir?

MR. VAN DER KEMP: My name is Frank Van Der Kemp. I'm the Vice President of Alliance Francaise.

VICE CHAIRPERSON SOCKWELL: Okay. Well, I think then the question remains -- I think that you're prepared to go forward, regardless. So, the question, I think, is now limited to whether or not we should grant a continuance based on the ANC-1D request. Is that --

SECRETARY PRUITT: Another alternative may be similar to the first -- well, yeah, to the first case: (1) go forward with the hearing today; allow the ANC to comment later. And then, I would also suggest because the relief was very different, that you may consider that the applicant re-post the property with the correct variance relief --

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: -- noted, and leave the record

open so that people can comment.

VICE CHAIRPERSON SOCKWELL: Okay. So, the property was posted for a special exception relief?

MR. VAN DER KEMP: As far as -- this was done on the 2nd of --

VICE CHAIRPERSON SOCKWELL: What does the affidavit say?

MR. VAN DER KEMP: -- November.

VICE CHAIRPERSON SOCKWELL: Does Staff have the folder for 16631?

MR. VAN DER KEMP: Here we go. On -- yeah, the date of the posting was 11/2/2000.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: The question is, sir, what did the posting say?

MR. VAN DER KEMP: The -- I don't know. There are pictures of it in the -- in the --

SECRETARY PRUITT: When you came down here, somebody filled out that orange placard for you?

MR. VAN DER KEMP: Yes.

SECRETARY PRUITT: Then, I would suggest -- I believe, Mr. Chair, that it was probably filled out -- I'm sorry, when did you pick it up?

UNIDENTIFIED SPEAKER: November.

MR. VAN DER KEMP: November 2nd, I think.

UNIDENTIFIED SPEAKER: -- it was posted.

SECRETARY PRUITT: Okay.

MR. VAN DER KEMP: It was posted November 2nd, so I assume that it was --

VICE CHAIRPERSON SOCKWELL: It was posted for a special exception.

SECRETARY PRUITT: Right. And the reason I indicate it is that is what our office initially was told that it was -- should be advertised as.

VICE CHAIRPERSON SOCKWELL: So, that's an exception to an existing --

SECRETARY PRUITT: Accessory.

VICE CHAIRPERSON SOCKWELL: -- private, single-family --

COMMISSIONER HOOD: And it should have been posted as a variance?

SECRETARY PRUITT: Correct. What happened was we -- you know, this was referred to the ZA, and we received a letter from the ZA indicating there was a special exception.

The applicant brought in all their information and followed the procedure just as normal. And then, actually within the last few days, just before Thanksgiving I believe, is when we got a revised letter.

Let's see, the first letter came in November -- I'm sorry; the first letter came in on June 11th, and that's Exhibit

No. 5. Then, we received, on November 7th -- actually, this didn't come directly to -- well, it came to us on November 27th, which indicated that it was a variance, which was yesterday.

I had been in contact with Mr. Bella, who is the Zoning -- acting Zoning Administrator, the previous week, but we didn't have anything in writing. And it was only after, I believe he spoke with Mr. Johnson, I believe, of --

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: -- OP that they discovered that maybe the right relief was not cited. So, it was not the applicant's fault or -- I mean, they've certainly done what they're supposed to --

VICE CHAIRPERSON SOCKWELL: Well --

SECRETARY PRUITT: -- and followed the procedures.

VICE CHAIRPERSON SOCKWELL: -- it is --

SECRETARY PRUITT: It's unfortunate.

VICE CHAIRPERSON SOCKWELL: Because the tests for a variance are more stringent than those for a special exception, it would seem that the community, in the absence of an ANC meeting, would have had -- at least knowledgeable members of the community would have had less feeling that they could respond effectively in opposition, should there be opposition, to the proposal.

It should have been noticed properly. I believe that we need to re-notice this -- this application as a variance,

which in itself, should give the Advisory Neighborhood Commission more time to set a meeting and -- and review the proposal.

So, it would be my feeling that we have to have the proper notice in this case, and that the property should be re-noticed.

COMMISSIONER HOOD: Mr. Chair, is that a motion?

VICE CHAIRPERSON SOCKWELL: That is my motion.

COMMISSIONER HOOD: Okay, I'll second that motion.

VICE CHAIRPERSON SOCKWELL: Any discussion on the --

MEMBER RENSHAW: Mr. Vice Chair, I'd just like to notice, the D.C. Office of Zoning have (sic) to give the applicant a -- another receipt. The receipt, which is Exhibit A, speaks to a special exception. And would --

VICE CHAIRPERSON SOCKWELL: Yeah, the -- the ZA can --

MEMBER RENSHAW: -- Zoning have to --

VICE CHAIRPERSON SOCKWELL: They can -- they can amend --

MEMBER RENSHAW: -- to clarify that?

VICE CHAIRPERSON SOCKWELL: Yeah, they need to amend that so that the record is clear. I agree that you would take your receipts back to the DCRA Zoning --

SECRETARY PRUITT: The receipt comes to us.

COMMISSIONER HOOD: Oh, the receipt comes to you?

Oh, I'm sorry; excuse me.

SECRETARY PRUITT: The receipt was based on the first ZA's letter.

VICE CHAIRPERSON SOCKWELL: Okay, so that was our receipt? I'm sorry, excuse me.

SECRETARY PRUITT: Yes. And Mr. Chair --

COMMISSIONER HOOD: Does the ZA have --

VICE CHAIRPERSON SOCKWELL: From the -- from the -- from your filing for BZA action, it needs to be corrected to reflect that it is a variance request --

MR. VAN DER KEMP: All right.

VICE CHAIRPERSON SOCKWELL: -- and not a special exception request.

COMMISSIONER HOOD: Does the Zoning Administrator now have it correct for what relief they're supposed to --

SECRETARY PRUITT: We certainly hope so. That's one of the questions we asked.

COMMISSIONER HOOD: We would have to have them come back, and then we go back to a special exception because --

SECRETARY PRUITT: Exactly. That -- Mr. Chairman, I guess one of the questions I do have is, your -- you -- you are -- you are voting on a continuance; is that correct?

MEMBER RENSHAW: No.

VICE CHAIRPERSON SOCKWELL: We're voting on a re-notice.

MEMBER RENSHAW: A re-notice.

SECRETARY PRUITT: Re-notice. Does that include a continuance or just to re-notice? Are you just doing -- are you separating them out?

VICE CHAIRPERSON SOCKWELL: Well, I think that -- that we should have a continuance and a re-notice.

SECRETARY PRUITT: Okay, and that's all I needed to be clear.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: That's all I wanted so that I could get it clear.

VICE CHAIRPERSON SOCKWELL: So, assume that to be a continuance and a re-notice.

SECRETARY PRUITT: Okay.

COMMISSIONER HOOD: We still have to take the vote, Mr. Chair.

VICE CHAIRPERSON SOCKWELL: Yes, right, so -- yes?

MR. VAN DER KEMP: Mr. Chairman, if I may, the ANC, the local ANC, will have a hearing on December 19th. They did not have any in November, and that's why we did not participate then.

But we plan to present our project formally then, although we did present our project to them at the premises. And they visited and they saw the plans and everything at the beginning of November.

VICE CHAIRPERSON SOCKWELL: At the beginning of when?

MR. VAN DER KEMP: Of November.

VICE CHAIRPERSON SOCKWELL: But it was not an official Advisory Neighborhood Commission meeting?

MR. VAN DER KEMP: No, it was not an official. However, officials of the Advisory Neighborhood Commission were present then. They came to see the --

VICE CHAIRPERSON SOCKWELL: I see, all right.

MR. VAN DER KEMP: -- project, and we gave them a set up plans. And they apologized for the meeting not to have been held in November.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MR. VAN DER KEMP: But the next one is December 19th.

VICE CHAIRPERSON SOCKWELL: Uh-huh. Well, the other thing that is necessary is that the

-- for the Advisory Neighborhood Commission to properly respond, they need to respond to the relief requested, as opposed to an improper notice of the relief requested.

So, the question is, what would be the date certain that we can continue you to? And as you are aware, the schedule is very tight. And this may push you to the March 6th date --

MR. VAN DER KEMP: Okay.

VICE CHAIRPERSON SOCKWELL: -- which is

unfortunately the only date that I know we didn't squeeze anything into. (Laughter.) Staff?

SECRETARY PRUITT: That is -- that is -- that date is available. You only have one case, so far, scheduled for that date, and that's the Cyber Hotel.

VICE CHAIRPERSON SOCKWELL: Okay. If -- if you -- we can't --

SECRETARY PRUITT: Because I know --

VICE CHAIRPERSON SOCKWELL: -- we can't offer you an earlier date. March 6th would have to be it.

MR. VAN DER KEMP: So be it. Morning or afternoon, if I may ask?

VICE CHAIRPERSON SOCKWELL: Ms. Pruitt?

SECRETARY PRUITT: It would be in the morning. No, I'm sorry, it would be in the afternoon because in the morning, we have a meeting.

MR. VAN DER KEMP: So --

SECRETARY PRUITT: So, it would be the second case in the afternoon at 1:00, March 6th.

MR. ZEYDLER: Excuse me, is there anything that we should do?

SECRETARY PRUITT: I would suggest that you re-post the property, just as you did this time but with -- and we can give you the correct language for a variance.

MR. VAN DER KEMP: So, we need to come back with

the --

SECRETARY PRUITT: And just put the orange signs back up.

VICE CHAIRPERSON SOCKWELL: And -- and another affidavit of posting.

SECRETARY PRUITT: Right.

MR. VAN DER KEMP: We need to come back to your office with our paperwork stuff and everything?

SECRETARY PRUITT: No, all you need to do is come back. We will help you fill out the orange sign --

MR. VAN DER KEMP: All right.

VICE CHAIRPERSON SOCKWELL: And you can bring your receipt back --

SECRETARY PRUITT: Bring your receipt, and we will correct that because it --

MR. VAN DER KEMP: All right.

SECRETARY PRUITT: -- it gets -- it's in the receipt book, so we would correct both your original and our copy.

MR. ZEYDLER: And then, the affidavit --

SECRETARY PRUITT: And then, yes, you will need -- on the 6th appearance, what, five days prior to that, you need to get the affidavit of posting into our office.

But you need to post the property at least 15 days before the 6th.

MR. ZEYDLER: Before the 6th.

MR. VAN DER KEMP: Okay.

SECRETARY PRUITT: But you could post it earlier. I mean, it just -- it only helps; it doesn't hurt.

MR. VAN DER KEMP: Do we need also to send you photographs of the sign?

SECRETARY PRUITT: Just an affidavit of posting.

MR. VAN DER KEMP: All right.

SECRETARY PRUITT: And then, our office will do the rest.

VICE CHAIRPERSON SOCKWELL: Okay.

MS. SANSONE: Mr. Chairman, I might add, I was noticing in regards to this question about the receipt, the regulations provide a lesser fee for a variance. It's only $800, as opposed to the $1,200 that was paid for the special exception.

So, one of the things that should be done is a processing of a refund --

VICE CHAIRPERSON SOCKWELL: All right.

MS. SANSONE: -- of $400.

VICE CHAIRPERSON SOCKWELL: And I believe that that is possible since it was an improperly --

MS. SANSONE: Yes, the regulations authorize a refund where an application is incorrectly filed at the direction of the Zoning Administrator.

VICE CHAIRPERSON SOCKWELL: So, there is some light

at that tunnel.

(Laughter.)

MS. SANSONE: It may take you a while to get it back, but we will work very diligently to do so.

VICE CHAIRPERSON SOCKWELL: And you'll probably have your decision before you have your money back, but --

SECRETARY PRUITT: Motion on the floor, sir?

VICE CHAIRPERSON SOCKWELL: Yes, I move -- the motion was to continue --

SECRETARY PRUITT: Continue to March?

VICE CHAIRPERSON SOCKWELL: -- the case until March the 6th, the date certain, afternoon session, and that the property will be re-posted for the appropriate 15-day time. And a new affidavit of posting will be submitted.

COMMISSIONER HOOD: I'll second -- second the motion.

VICE CHAIRPERSON SOCKWELL: All in favor?

MEMBER RENSHAW: Aye.

VICE CHAIRPERSON SOCKWELL: Aye. Opposed?

(No audible response.)

MR. ZEYDLER: One more question.

VICE CHAIRPERSON SOCKWELL: Yes?

MR. ZEYDLER: The ANC, if they would -- who would advise him that there is this change in the --

VICE CHAIRPERSON SOCKWELL: The Office of Zoning --

MR. ZEYDLER: Well, the meeting, though, December 19th --

VICE CHAIRPERSON SOCKWELL: Yes.

MR. ZEYDLER: -- will they know that they're --

VICE CHAIRPERSON SOCKWELL: Well, you will make arrangements with the Advisory Neighborhood Commission to present your project at their next meeting.

UNIDENTIFIED SPEAKER: That's correct.

VICE CHAIRPERSON SOCKWELL: And you need to do that quickly because they need to get it on the agenda.

UNIDENTIFIED SPEAKER: Yes.

VICE CHAIRPERSON SOCKWELL: And we will notify, the Office of Zoning will notify, the Advisory Neighborhood Commission of the change in schedule for the hearing.

MR. VAN DER KEMP: Okay, very good.

MR. ZEYDLER: But also changing in the variance --

VICE CHAIRPERSON SOCKWELL: And --

MR. ZEYDLER: -- variance versus the --

VICE CHAIRPERSON SOCKWELL: Well, it will -- it will state in the letter the relief requested, I believe. And as well, your posting is going to show --

MR. ZEYDLER: But shouldn't they know before the meeting on December that they have to address this differently

VICE CHAIRPERSON SOCKWELL: Well, you're going to arrange to see them, are you not?

MR. VAN DER KEMP: Yes, we are.

VICE CHAIRPERSON SOCKWELL: You're going to tell them, aren't you?

MR. VAN DER KEMP: Okay.

VICE CHAIRPERSON SOCKWELL: Okay.

MR. ZEYDLER: Yeah, okay.

SECRETARY PRUITT: Sir -- sir, if you would call us afterwards, we can give you the information about the variance and the actual copy of the letter that came to us from Mr. Bella so that you can take it with you --

MR. ZEYDLER: All right.

SECRETARY PRUITT: -- and you'll know exactly what relief is being requested.

MR. ZEYDLER: Okay.

VICE CHAIRPERSON SOCKWELL: All right, well --

MR. VAN DER KEMP: Thank you very much.

VICE CHAIRPERSON SOCKWELL: Thank you very much and we apologize for --

MR. VAN DER KEMP: I thank you for your time, and I thank you very much.

(Pause.)

MS. BAILEY: Mr. Chairman, are you ready for the case of the morning?

VICE CHAIRPERSON SOCKWELL: Yes, I think so.

MS. BAILEY: Applicant -- Application No. 16628 of

David Pomerantz and Shirley -- Sheryl Floyd, pursuant to 11 DCMR 3102.3, for a variance under Section 43.2 from the allowable percentage of non-occupancy limitation for the proposed construction of an accessory garage in an R-2 district, premises 3419 Porter Street, N.W.

The property is located in Square 2064 on Lot 83. Please stand to take the oath. Please stand to take the oath and raise your right hand.

WHEREUPON,

SHERYL FLOYD

DAVID POMERANTZ

FERNANDO ALBAN

WERE CALLED AS WITNESSES BY THE BOARD AND, HAVING BEEN DULY SWORN, WERE EXAMINED AND TESTIFIED AS FOLLOWS:

MS. BAILEY: Members of the Board, we do not have an Office of Planning report, nor do we have an ANC report on this project. This is ANC-3C. The applicant is proposing -- the applicant's request concerns the construction of a garage, a parking garage.

And we do have a letter of referral from the Zoning Administrator. The case is now ready to go forward.

VICE CHAIRPERSON SOCKWELL: All right. Have the applicants been sworn in?

MS. BAILEY: Yes, they have, sir.

VICE CHAIRPERSON SOCKWELL: Okay. All right, you

may proceed with your case.

MR. POMERANTZ: My name is David Pomerantz, and this is my wife, Sheryl Floyd. And you've heard from our general contractor, Mr. Alban, and we thank you for hearing our petition today to -- for a variance of Section 403.2, the allowable lot occupancy percentage.

We are asking for that variance in order to replace our garage. Our situation presents some peculiar and exceptional practical difficulties. Let me briefly explain.

Our existing garage is in a pretty bad state of disrepair. The walls are even listing to one side. In 1998, we began trying to fix the garage. In talking with a number of contractors, we learned that the best solution for us is to tear down the existing garage, including the foundation, and -- and replace it.

At that point, I came to the -- to the Building and Land Regulations to -- informally, with plat in hand, trying to see if this was something that we could do.

That's when I learned that the existing garage, along with the house, already occupies more of the land than the allowable percentage. But because it was built long enough ago, we are grandfathered.

It was explained to us that in order to keep that grandfather status, we would have to find a way to replace the garage, while maintaining some portion of it, say the roof.

We, then, went to a number of contractors, asking if that was something they could do. And they all -- the three we got bids from all emphatically said they would not proceed under those circumstances. It wasn't safe, and they would not assume the risk.

And -- and that's why it's -- those are the practical difficulties we have in -- in replacing the garage without a variance.

I'd like to make two, small, additional points. We have posted the notice of this public hearing, and spoken to many of our neighbors about our plans, and we know of no opposition.

In addition, the relief that we're seeking would not cause any substantial change in -- or -- or detriment to the public good. We're not seeking any major changes in the appearance of the garage, or really a major change in the amount of lot occupancy.

You can see from our plans, the only thing we're doing is, in that regard, is adding a foot more space to the opening to make parking a little bit easier.

In all other respects, we're merely trying to replace the look and feel of the existing garage, and we can't do that without a variance. So, we thank you for your kind attention. And if you have any questions, we'd be glad to help answer them.

VICE CHAIRPERSON SOCKWELL: Board members, or shall

I start? Mr. Alban?

MR. ALBAN: Yes?

VICE CHAIRPERSON SOCKWELL: What is the structure of the roof of the garage?

MR. ALBAN: It's a frame structure, two-by-sixes, I believe.

VICE CHAIRPERSON SOCKWELL: So, is the roof a multiple of trusses, or is it -- it's a --

MR. ALBAN: They're not trusses; they're A-framed collar beams.

VICE CHAIRPERSON SOCKWELL: Okay. And you felt that it would not be possible, or not be practical?

MR. ALBAN: Not be possible because there was enough water damage that some of the members were weakened. I have a picture if you'd like to see it.

VICE CHAIRPERSON SOCKWELL: I would like for you to submit any additional photographs through Staff that we can look at. That way, please.

MR. ALBAN: You can see on the upper gable how the water has seeped through the siding on the side. And it's -- you know, quite a few of the members were deteriorated that way.

VICE CHAIRPERSON SOCKWELL: I will say one thing; that either -- either Mr. Pomerantz or Ms. Floyd are not respectful of their Toyota or --

(Laughter) -- or they're very brave individuals because of the

level of collapse that appears to be on its way with your -- with your ancient structure here.

And I can see that with the roof structure in very bad repair, water damage, etcetera, that it would be highly unlikely that a contractor could successfully, or guarantee success, in maintaining the roof and putting another structure underneath it, because it looks like it's pretty well tied together for dear life, as opposed to the normal situation.

Basically, what I see is that the Zoning Administrator has the authority to grant up to two percent area variations. Your request apparently is for seven percent more lot occupancy than would be allowed under the ordinance, which means that the variance that you're asking for is five percent more than what could have been handled internally by the Zoning Administrator under one area of your relief.

The other is that for non-conforming uses and what-not, they cannot be enlarged. And if they come down, then you have to go back to the conforming requirements, which I assume would -- it means your garage would have to get smaller.

MR. POMERANTZ: Right.

VICE CHAIRPERSON SOCKWELL: And what you're asking for is a garage that is somewhat larger than the existing structure; is that correct?

My understanding, having read the material, the garage you're asking for is an additional, what, 100 square feet?

Or, actually, it's less than 100 square feet more. Mr. Alban, maybe you can answer that.

MR. ALBAN: The increase is one foot in width, and the length of the garage is 19 feet. So, we're asking for an additional 19 square feet to what is currently there.

VICE CHAIRPERSON SOCKWELL: And you think that's pretty reasonable?

MR. ALBAN: Since they can't open the car door when they're in the garage, I think so.

VICE CHAIRPERSON SOCKWELL: I would tend to agree with you. I think that there is -- I think the extreme circumstance with regard to your property is that the garage, itself, is not reusable, not restorable.

And under the strict requirements of the ordinance, you would not be able to guarantee that it would -- that the roof could not be maintained without collapsing if you tried to raise it, which would make it an impractical expense to try to support the roof, to have it collapse, and then have to go through the whole process of starting from scratch again.

It would be my feeling that you would meet the requirements for a variance, and that there is obviously no adverse impact. There are no neighbors in opposition. Do you have an ANC report? No, there is no ANC report.

And we did get letters of support from your neighbor at 3410 and at 3418 Porter. I guess 3410 Quebec Street,

yeah, and your neighbor on Porter Street, right.

I don't see any reason why we cannot approve this.

MEMBER RENSHAW: Mr. Vice Chair?

VICE CHAIRPERSON SOCKWELL: Fellow Board members?

MEMBER RENSHAW: Mr. Vice Chair, I would just like to make the point that I commend the applicants for tending to their garage. There are too many homes in the upper Northwest where garages are falling apart.

If you are an alley walker because of a dog, you notice the number of homes that have dilapidated garages looking in just about the condition as the applicant. And I commend them for paying attention to their garage space, and also reclaiming an area where their car can be parked off the street.

So, that's -- that is a value to the neighborhood.

VICE CHAIRPERSON SOCKWELL: Thank you, Ms. Renshaw. It also appears that the garage structure being proposed is essentially compatible in materials and in design to the previously existing structure so that it will not present a marked change to what was there before, aside from quality, convenience, utility --

(Laughter.)

VICE CHAIRPERSON SOCKWELL: -- and longevity.

COMMISSIONER HOOD: So, with that, Mr. Chair, if it's in order, I make a motion that we approve Application No. 16628 for all the reasons that are already in the record stated

above for the relief of a variance under Section 43.2.

MEMBER RENSHAW: Second.

VICE CHAIRPERSON SOCKWELL: Any discussion?

(No audible response.)

VICE CHAIRPERSON SOCKWELL: All in favor?

MEMBER RENSHAW: Aye.

VICE CHAIRPERSON SOCKWELL: Aye. Opposed?

(No audible response.)

VICE CHAIRPERSON SOCKWELL: Your -- you have received a bench decision from this Board, and your Order will be available in about ten days. Staff, any --

MS. BAILEY: Just to call the vote, Mr. Chairman.

VICE CHAIRPERSON SOCKWELL: Yes, record the vote.

MR. BRANDLER: Motion is made by Mr. Hood to approve, seconded by Mrs. Renshaw. Mr. Sockwell is in favor; Mrs. Sheila Cross-Reid and Mr. Moulden are not present, summary order, bench decision.

VICE CHAIRPERSON SOCKWELL: Thank you.

MR. POMERANTZ: Thank you very much.

MS. FLOYD: Thank you.

VICE CHAIRPERSON SOCKWELL: Enjoy it. That concludes the morning session. We will now --

(Whereupon, the proceedings went off the record at 11:11 a.m., and resumed at 1:13 p.m.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:13 p.m.)

VICE CHAIRPERSON SOCKWELL: Good afternoon. The hearing will please come to order. Good afternoon, ladies and gentlemen. This is the November 28th, year 2000, public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Robert N. Sockwell, Vice Chairperson acting for the Chairperson, Shiela Cross-Reid, who is not here today. Joining me today is Ann Renshaw to my left, and from the Zoning Commission, Anthony Hood to my right.

Copies of today's hearing agenda are available to you. They are located to my left near the door. All persons planning to testify either in favor of, or in opposition, are to fill out two witness cards.

These cards are located on each end of the table in front of us. Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right.

The order of procedure for special exceptions and variances is (1) statement and witnesses of the applicant; (2) government reports including Office of Planning, Department of Public Works, etcetera; (3) report of the Advisory Neighborhood Commission; (4) parties or persons in support; (5) parties or persons in opposition; and (6) closing remarks by the applicant.

Cross examination of witnesses is permitted by the applicant or parties. The ANC within which the property is

located is automatically a party in the case.

The record will be closed at the conclusion of each case, except for any materials specifically requested by the Board. And the staff will specify at the end of the hearing what is expected.

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

Please turn off all beepers and cell phones, or set them to vibrate at this time, so as not to disrupt these proceedings. The Board will make every effort to conclude the public hearing as near as possible to 6:00 p.m. If the afternoon cases are not completed at 6:00 p.m., the Board will assess whether it can complete the pending case, or cases, remaining on the agenda.

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

If you are not prepared to go forward with a case today, or if you believe that the Board should not proceed, now is the time to raise such a matter. Does the Staff have any preliminary matters?

MS. BAILEY: Mr. Chairman, yes, we do. The first is dealing with Application No. 16633, Eva Brandler. Is that person or the applicants here for that case, Eva Brandler, Application No. 16633. Would you please come forward?

Mr. Chairman, there were two notices on this project from the -- from the Zoning Administrator's Office. They're Exhibits No. 5 and No. 19. It was initially advertised for one thing, and we ended up with another type -- with another type of relief, a lesser type of relief. That issue needs to be resolved prior to the case being heard today.

VICE CHAIRPERSON SOCKWELL: All right, I have No. 5 and No. 19.

SECRETARY PRUITT: Mr. Chair, they're both for variances.

VICE CHAIRPERSON SOCKWELL: Right.

SECRETARY PRUITT: It's just the subsections changed.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: So, essentially, the case was advertised for a variance. The standard was the same; it's just a different subsection. I believe Staff believes you can amend the application and still go forward with this hearing today.

VICE CHAIRPERSON SOCKWELL: Well, I have my own interpretation of what was and was not correct in the way the case was brought forward. So, I want to compare with Staff's

analysis. So, Ms. Pruitt, if you want to elaborate on your --

SECRETARY PRUITT: We actually did not actually analyze -- analyze, excuse me -- this. We did receive a call from the Zoning Administrator indicating the first letter stated June 28, 2000. The second letter is dated November 7th.

As you know, there has been some changes in the ZA's Office over this time. And when we asked for an explanation as to why -- what -- what warranted the change, I was not able to get that.

It's very uncomfortable for Staff to make an interpretation, since that is the ZA's position, and we do usually go with that. Unfortunately, it has caused problems before, and particularly this applicant and one earlier.

VICE CHAIRPERSON SOCKWELL: Uh-huh. I am looking for a copy of --

UNIDENTIFIED SPEAKER: Nineteen.

VICE CHAIRPERSON SOCKWELL: -- 19. Never mind; I've got it.

SECRETARY PRUITT: One deals with a nonconforming -- the first one was in reference to non -- enlargements and additions to nonconforming structures. And then, the one that was cited on November 7th --

VICE CHAIRPERSON SOCKWELL: Right, November 7th agrees with my analysis.

SECRETARY PRUITT: Okay, so that's --

VICE CHAIRPERSON SOCKWELL: Yes. The Zoning Administrator's initial statement was that the relief would be from 2001.3(B) and (C), which deals with enlarging or adding to existing nonconforming structures, which was not the case.

This was an internal modification, which would have been a change of use within the nonconforming structure, which complies -- which is lawful under 2000.4, but is, in this case, relief requested from 2002.3 as per the November 7th restatement of the zoning variance request needed or relief needed.

Okay, so, because both were variances, the likelihood of inadequate notice is not there. So, I would say that we could go forward with this -- with the Zoning Administrator's restatement if the applicant is aware of the change and what that means.

MEMBER RENSHAW: Mr. Vice Chair, may I ask the Chair if number two on Exhibit 5, dated June 28, 2000, is still part of this application, the variance from Section 2101.1, the required number of parking spaces in the R1-B zone?

VICE CHAIRPERSON SOCKWELL: Actually, Ms. Renshaw, I did look at that as well. And under Section 2101.1, this property, as a residential property used for an apartment, would not fall under the defined parking requirements for such uses because those uses are not allowed in the R1(B) zone.

They fall -- it would fall under the last and most loose definition, which is "other uses," which requires one

parking space per 600 gross square feet of floor area or cellar area.

MEMBER RENSHAW: Why --

VICE CHAIRPERSON SOCKWELL: And I believe that that would still be binding under Section 2101.1.

MEMBER RENSHAW: I'm just wondering why the Zoning Administrator did not reference that in his November 7th, 2000 memorandum to the BZA.

VICE CHAIRPERSON SOCKWELL: Probably because he -- if you look at the specific wording of number two in the June 28th letter, it states, "Variance from Section 2101.1, the required number of parking spaces in the R1(B) zone."

And that is pretty loose, but it's -- it's generally correct because it falls under a general statement of parking requirements for those properties and uses and districts not so defined specifically in the section. So, I would say that it's correct.

MEMBER RENSHAW: All right, so we are taking into consideration number two --

VICE CHAIRPERSON SOCKWELL: Yes.

MEMBER RENSHAW: -- of the June 28th, 2000 --

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MEMBER RENSHAW: -- Zoning Administrator's memorandum to the Board?

VICE CHAIRPERSON SOCKWELL: Yes.

MEMBER RENSHAW: Thank you.

SECRETARY PRUITT: Excuse me, Mr. Chair, I'm confused. You are or are not?

VICE CHAIRPERSON SOCKWELL: We are; we would. The two -- the two relief requests are valid. The November 7th letter corrects number one from June 28th.

Number two from June 28th, which I had to look at pretty hard, is actually correct in that it falls under a catch-all category at the end of the specified parking requirements of the table in 2101.

SECRETARY PRUITT: Okay, I just wanted it to be clear for the record.

VICE CHAIRPERSON SOCKWELL: Yes.

SECRETARY PRUITT: Thank you.

VICE CHAIRPERSON SOCKWELL: Okay, any other questions on this one, Board members? Do we feel that we can go forward with this?

MEMBER RENSHAW: Uh-huh.

COMMISSIONER HOOD: Do we need a motion or --

VICE CHAIRPERSON SOCKWELL: Yes.

COMMISSIONER HOOD: I make a motion that we just -- we proceed with Case No. 16633.

VICE CHAIRPERSON SOCKWELL: I second the motion. All in favor?

MEMBER RENSHAW: Aye.

VICE CHAIRPERSON SOCKWELL: Aye.

MS. BAILEY: Staff will record the vote as three to zero to proceed with hearing this case, motion made by Mr. Hood; seconded by Mr. Sockwell; Mrs. Renshaw in agreement.

The last preliminary -- thank you; you may be --

VICE CHAIRPERSON SOCKWELL: Yes, you gentlemen can --

MS. BAILEY: -- seated.

VICE CHAIRPERSON SOCKWELL: -- step back to the audience. Thank you.

MS. BAILEY: The last preliminary matter, Board members, has to do with the last case of the afternoon, 16 -- Application No. 16635 for Chaplin Park -- for Chaplin Park. The applicant in this case is requesting that the hearing be postponed.

We do have a letter from the ANC, which -- we do have a letter from the ANC.

SECRETARY PRUITT: The letter from the ANC is in your supplemental package that you got this morning. It's also in agreement with the request for postponement.

VICE CHAIRPERSON SOCKWELL: Yes, there's a letter dated --

MEMBER RENSHAW: October 28th.

VICE CHAIRPERSON SOCKWELL: -- 27th of October -- well, I -- the --

MEMBER RENSHAW: The 27th of, I'm sorry.

VICE CHAIRPERSON SOCKWELL: -- 27 October. Would you like to read it, Ms. Renshaw?

MEMBER RENSHAW: Sure.

VICE CHAIRPERSON SOCKWELL: Thank you.

MS. BAILEY: I was a little confused with the ANC letter, Mr. Chairman, because the project is advertised for ANC-7A. However, this letter is coming from ANC-7D. So, maybe the applicant, in addressing the reasons for postponement, can also clarify the correct ANC, if he knows.

MEMBER RENSHAW: Well, let's read into the record the ANC-7D communication from Michael Cresee, 7001 Secretary, and it states, "Please accept this letter as my notification to your office that Advisory Neighborhood Commission-7D has no problem with a request for a continuance of BZA Application 16635, Jackson & Campbell, P.C., for client number 140024.1, from November 28th, 2000, to December 5, 2000.

Chairman Delano Foster - 7D is in support of this decision, and provides a phone number if we need to clarify or verify this aspect of the case.

SECRETARY PRUITT: Mr. Chair, just so -- to add some information to this to help you, Staff called ANC-1 -- excuse me, 7A, and left a voice message --

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: -- requesting them -- informing

them of the request for a continuance and asking them to comment. We have not heard back from them. I have left two messages there.

I also called Mr. Cresee, who I spoke to verbally, and then asked him to send us a written confirmation.

COMMISSIONER HOOD: Ms. -- Ms. Pruitt, if I can just ask, is this -- this is in 7A?

SECRETARY PRUITT: No, it's actually in 7D.

COMMISSIONER HOOD: It's in 7B?

SECRETARY PRUITT: Yes, when you look in the file.

VICE CHAIRPERSON SOCKWELL: You said 7B, as in --

SECRETARY PRUITT: "D" as in dog.

VICE CHAIRPERSON SOCKWELL: "D".

MEMBER RENSHAW: "D" as in dog.

VICE CHAIRPERSON SOCKWELL: Okay.

COMMISSIONER HOOD: So, apparently, it abuts 7A?

SECRETARY PRUITT: Yes.

COMMISSIONER HOOD: Okay, that's the reason, okay.

SECRETARY PRUITT: Uh-huh.

COMMISSIONER HOOD: So, 7D was in favor of --

SECRETARY PRUITT: Yes, that's who the letter -- 7D is the -- what you got a letter from them.

VICE CHAIRPERSON SOCKWELL: So, we notified 7A and 7D?

SECRETARY PRUITT: Yes, as a courtesy, we -- if

it's adjacent and very close to a site, we will notify the adjacent ANC.

VICE CHAIRPERSON SOCKWELL: And you said you contacted -- you tried to contact --

SECRETARY PRUITT: I called twice, yes.

VICE CHAIRPERSON SOCKWELL: -- 7 -- 7D?

SECRETARY PRUITT: 7A.

VICE CHAIRPERSON SOCKWELL: 7A?

SECRETARY PRUITT: And left voice messages with them.

COMMISSIONER HOOD: And the gentleman in front of us, I believe, is Mr. Cresee?

SECRETARY PRUITT: No, he's actually Mr. Campbell, the applicant.

MR. COOPER: No, Cooper.

SECRETARY PRUITT: Cooper, excuse me.

COMMISSIONER HOOD: It's Cooper; I'm sorry.

SECRETARY PRUITT: -- of Campbell & Jackson -- Jackson Campbell.

MR. COOPER: Jackson & Campbell.

SECRETARY PRUITT: There are too many of them today.

VICE CHAIRPERSON SOCKWELL: I'm sure neither Mr. Jackson nor Mr. Campbell will know that we have put their names backwards.

All right, this -- this case has some significant issues with regard to the placement of antennas on buildings, which is a particularly hot item within the District of Columbia.

I would think that if there was an opportunity to resolve certain issues with the community which might gain support from the Advisory Neighborhood Commission, that the applicant would want to make sure of that.

And certainly, this Board would be willing to see the ANC involved and -- and fully informed of the proposed application.

Is there any reason for us to believe that there is a lack of timeliness in this ANC issue in terms of have we allowed enough time for the ANC to have reviewed this? This is strictly a --

SECRETARY PRUITT: Yes, this was referred out in our normal -- at least 40 days in advance.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: I believe Mr. Cooper had been in contact, based on his letter, with the ANC. So, they were aware of it. We were just writing -- waiting for written confirmation.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MR. COOPER: If I may, Ms. Pruitt is absolutely -- Robert Cooper from Jackson & Campbell

on behalf of the applicant, which is actually Nextel Communications and Fort Chaplin Park L.P., which is the owners of

the apartment building on East Capitol Street.

We've been in touch with the ANC for a couple of months now. Prior to the elections, we attempted to set up an appointment with them to present our case and get their full support, or at least get comment from them if they were not in support, to see if there were some compromises that we could make for the applications -- the antennas to be palatable.

We had tentatively set up an appointment with them for the second week in November, and they also agreed to this continuance. That would give them time to have met and -- and gotten a letter down, a timely letter down, to the Board of Zoning Adjustment. Unfortunately, despite my numerous telephone calls and letters to Mr. Cresee, I did not receive any return phone calls, nor did we ever receive this letter from him until apparently last night. I believe someone said October 27th. It was actually November 27th.

This letter just came in from Mr. Cresee consenting to the continuance. We've been attempting to, and I know the staff here had been attempting to, reach Mr. Cresee for quite some time.

So, we have not yet been able to present our case to the ANC. In my verbal communication with him and the review of the application, he said he didn't have any problems with it. But of course, I'd rather that be in writing, and I'd also rather actually make a full presentation.

The thought was we could move it to the 5th. That would give us enough time for them for them to meet with us and get their letter down here. The 5th is also -- an opening on the 5th because of the Toller case, which I am presenting, has been postponed from that, the date of the 5th.

So, an opening -- Ms. Kress agreed there was an opening available. We have not yet been able to meet with ANC. So, it's been posted; everyone has been notified that the hearing is set for the 5th, but we have not yet been able to meet with the ANC.

VICE CHAIRPERSON SOCKWELL: But the ANC meeting, you said, you had scheduled for -- originally for the second week of this month?

MR. COOPER: Of November.

VICE CHAIRPERSON SOCKWELL: Yeah.

MR. COOPER: But we never heard back from Mr. Cresee with the date, time, and place. And I don't even know if they actually had the meeting, which would have been the Tuesday after Election Day, if I'm not mistaken, was their ANC meeting day.

Despite my numerous phone calls to him, the messages on his voice mail, I never got a return phone call. We were prepared to meet with them, but we didn't know where to go, or what time, and if, in fact, they actually met.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MR. COOPER: So, this is actually the first communication that we've gotten back from them, other than my initial telephone calls with Mr. Cresee.

VICE CHAIRPERSON SOCKWELL: So, you -- when was the last time you spoke with Mr. Cresee?

MR. COOPER: Over a month ago.

VICE CHAIRPERSON SOCKWELL: Now --

MR. COOPER: Well, approximately a month ago; it was approximately a month ago.

VICE CHAIRPERSON SOCKWELL: Okay. Now, if you -- if you knew that the Advisory Neighborhood Commission was to meet on, let's say, the 14th of November, it seems to me that if you thought you were going to be on the agenda, or felt you needed to be, that you would have been in contact with the Advisory Neighborhood Commission on a regular basis to make that that happened.

MR. COOPER: I was --

VICE CHAIRPERSON SOCKWELL: And --

MR. COOPER: -- Mr. Sockwell. I attempted -- I made numerous phone calls to him --

VICE CHAIRPERSON SOCKWELL: And you're saying --

MR. COOPER: -- and left messages.

VICE CHAIRPERSON SOCKWELL: -- during that time period, he did not respond at all?

MR. COOPER: Never -- never returned any of my

phone calls. I even had Staff here call, and also the Office of Planning made phone calls during that same time period to try to reach him.

And again, I didn't know anything about this letter. It's dated October 27th, but it didn't get faxed into here until last night.

VICE CHAIRPERSON SOCKWELL: And Staff -- and Staff can confirm that those calls were made, okay. Then, I suppose that we have had a breakdown of our local neighborhood organization with regard to your case. And it would probably be prudent to continue it to a date certain to at least give the opportunity for the Advisory Neighborhood Commission to meet.

Now, when is their next scheduled meeting?

MR. COOPER: I'm not certain. I believe he said it was on the second Tuesday of each month, but --

VICE CHAIRPERSON SOCKWELL: Which would put it outside of the date that you're requesting.

MR. COOPER: Exactly.

VICE CHAIRPERSON SOCKWELL: And therefore --

MR. COOPER: And Ms. Kress informed me that earliest possible date for us was a follow, would be sometime in February, probably now March. And we, obviously, didn't want to wait that late either.

But we would like -- I would prefer to actually make the presentation to the ANC before we come here to you all.

I mean, it makes sense -- it makes sense.

VICE CHAIRPERSON SOCKWELL: Yeah, it seems to me that that would be the proper way to go. It also is apparent that even if the ANC could schedule a special meeting for the purpose of reviewing your project, it would not likely fall before the time that you would be coming back.

MR. COOPER: Exactly.

VICE CHAIRPERSON SOCKWELL: So, we're probably looking at a continuance that would not bring you back before us before the middle of March. And the reason for that is this morning, we did some squeezing to put some cases in that needed to be continued. And they absorbed the open space or semi-open space that we were using.

So, I don't know what to tell you, except that we're -- we're, right now, caught without a reasonably short return for you.

COMMISSIONER HOOD: And also, Mr. Chair, if I can just add, Mr. Cooper, that may allow you some time, if you have any outstanding issues with the community, that may -- may be able to close the gap some. If you come back, I believe, the first -- Ms. Pruitt, the first meeting date in March?

SECRETARY PRUITT: It's -- yeah --

COMMISSIONER HOOD: Mr. Chair, that's --

VICE CHAIRPERSON SOCKWELL: We were looking at March 6th for the --

SECRETARY PRUITT: Well, I guess --

VICE CHAIRPERSON SOCKWELL: And I don't know whether you can stick --

SECRETARY PRUITT: -- we've already continued one case to March 6th.

VICE CHAIRPERSON SOCKWELL: Right.

SECRETARY PRUITT: We also have a Cyber Hotel on that particular day. I'm not suer how controversial --

VICE CHAIRPERSON SOCKWELL: And I'm not sure Mr. Cooper would want to be against a Cyber Hotel --

SECRETARY PRUITT: Right.

VICE CHAIRPERSON SOCKWELL: -- on the same date.

MR. COOPER: I would prefer not to.

SECRETARY PRUITT: So, then, we can put you on for the 13th.

MR. COOPER: Wait, can't I do this? It's currently set for December 5th. Well, the request had been made to move it to the 5th. Ms. Kress had said it was fine for the 5th, and we've advertised for the 5th.

The community is made -- has been made aware. The posters have been placed. Can I do this; if I can meet with the ANC this week, because now we've gotten some communication from Mr. Kress (sic), so I know he's (sic) still an elected Advisory Neighborhood Commissioner, and perhaps set up something this week with the ANC -- and I've already spoken with the Office of

Planning about our proposal, and they're in their final review of it -- and come back on the 5th and report to back to you -- if we've done what we need to do with the ANC, and they are in agreement with it, and the Office of Planning has been satisfied, then I would be prepared to go forward on the 5th.

If not, then obviously I am pushed -- I am forced to be pushed back to March --

SECRETARY PRUITT: Thirteenth.

MR. COOPER: -- 13th. I'd prefer not to, but it doesn't seem like I have much of a choice in the date, the outside date. But at least the 5th is still within our window. I mean, it gives me a week. I may still be able to get the ANC to sit down and -- and meet with us.

COMMISSIONER HOOD: Mr. Cooper, you're optimistic that you can do now what you've tried to do in a month, in a week.

MR. COOPER: I -- I agree. I agree. But I've got to be here on the 5th anyway because of the other case that's being continued. I've got to come down here on the 5th anyway.

So, I would like to leave this on the calendar, if I may. You know, if, for some miracle, we're able to meet with ANC this week and get their consent, you know, like I said, the other -- all the other parties have already been -- have already reviewed the proposal.

MEMBER RENSHAW: Mr. Cooper, Mr Chair -- Vice

Chair, I'd like to address this question of a special ANC meeting. A special ANC meeting would have to be duly advertised to the community. And it looks like since the ANC meets on the second Tuesday of the month, they'd be meeting on December the 12th. Is that correct?

MR. COOPER: Yes, I understand that it would be --

MEMBER RENSHAW: And these matters have to be voted on in a public meeting. The ANCs are not allowed to vote privately on matters such as this.

And so, if the ANC can call -- if it feels it can bring together the community in that short a period of time, the request can be made. But I would imagine that the ANC is going to let you know that it would have to be brought up at its duly-recognized public meeting of December the 12th, if indeed it is meeting in December.

MR. COOPER: Correct.

SECRETARY PRUITT: Excuse me, Mr. Vice Chair, may I make a suggestion? And if this is a -- if the applicant doesn't mind, this may be one situation where we can go forward with the hearing because the public notice is -- is notified about it. The applicant is ready.

Leave the record open so that the ANC can have their duly-noticed meeting, and then you can make a decision in January at your next hearing.

And if they don't meet in February -- in December,

then it would push it to February. But at least you would have the hearing out of the way. This would sort of make both --

MR. COOPER: Good enough.

SECRETARY PRUITT: -- ends -- I mean, it would, I think, accommodate both parties.

VICE CHAIRPERSON SOCKWELL: That seems to be a fairly reasonable alternative. It would also give you time to, if necessary and if possible, to get letters of support from individual members of the community most affected, adjacent neighbors, etcetera, if that's something you would want to do.

So, it would at least put your schedule a little bit more close to what you had wanted it to be.

MR. COOPER: And again, if it looks as if that's completely unworkable within the next several days, and then we will just -- you know, I'll be here on the 5th anyway, and I will report back to the Board.

And then, you know, we'll just prepare to put the whole case on, on the 13th, after we've met with the ANC if it comes to that.

VICE CHAIRPERSON SOCKWELL: Well, I think --

COMMISSIONER HOOD: Mr. --

VICE CHAIRPERSON SOCKWELL: Go ahead.

COMMISSIONER HOOD: Mr. Chair, I'm just concerned about procedure. I don't know -- I don't sit on BZA enough to know exactly how you do it. But I know the cases that we did

earlier, we negated to proceed in that manner without at least affording the applicant and the ANCs an opportunity.

In being consistent, I would be totally against that last recommendation. But if my colleagues do desire, then I will yield to -- to their experience here on the Board on Zoning Adjustment.

VICE CHAIRPERSON SOCKWELL: Well, if -- if we allow the applicant to put his case on, on the 5th, and the Advisory Neighborhood Commission has not had a chance to meet, then we would -- we could -- we could decide not to vote on the case at that time, await the results of the Advisory Neighborhood Commission, and schedule a public meeting to discuss that late arriving data and -- and vote at that time.

COMMISSIONER HOOD: Well, I understand we're trying to be accommodating. But then, we -- we exclude the ability to be able to come down and have cross examination. I don't even know if controversial or anything, so --

VICE CHAIRPERSON SOCKWELL: Uh-huh, uh-huh.

COMMISSIONER HOOD: -- I'm just throwing this out there because I'm not that familiar. But I'm just saying if we exclude testimony from both sides, where we needed to have everyone sitting here in the same room, and -- and all on the same page, cross examinations excluded and everything. So --

VICE CHAIRPERSON SOCKWELL: Well, we could do it this way: we could break the case into two components. We could

hear the applicant's case if -- because our dates are so tight, we might be able to squeeze half the case into one date, do you think, Ms. Pruitt?

SECRETARY PRUITT: (No audible response.)

VICE CHAIRPERSON SOCKWELL: You don't think we can do that?

SECRETARY PRUITT: I would recommend either we do it on the 5th or you move it to the 13th. VICE CHAIRPERSON SOCKWELL: Of March?

SECRETARY PRUITT: Of March, yeah. It's just, when you bifurcate a case like this, it makes it very difficult to keep track of. And I think it does just -- the discontinuity makes it hard for both the Board members and --

VICE CHAIRPERSON SOCKWELL: You see, the only reason I suggested it is because this case didn't seem to have a great deal of community opposition. It appears that it is lacking only the formal response of the Advisory Neighborhood Commission.

And I don't think that it would be a long duration case. And that's why I thought maybe we could work it a little bit differently.

SECRETARY PRUITT: I understand your concern.

VICE CHAIRPERSON SOCKWELL: I mean, it does not appear to be a contested case, in the traditional sense.

COMMISSIONER HOOD: Well, in that case, Mr. Chair,

unless hearing from Board Member Renshaw, I will yield to my Board members.

MEMBER RENSHAW: Mr. Vice Chair, I am not in favor of putting the -- the cart in front of the horse here. I believe the matter has to go before the ANC at a duly-publicized public meeting with enough notice to the community so that the community can come together with the applicant and hear the parameters of the case.

And then, everyone is notified of the hearing date before the BZA, and everyone comes to, or as many who are interested in coming to, the session, that is the proper way to proceed.

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw -- I'm sorry.

SECRETARY PRUITT: I'm sorry; just for point of information, this office referred this case to the ANC on August 21st of this year.

VICE CHAIRPERSON SOCKWELL: So, the ANC has been given a great deal of advance notice.

SECRETARY PRUITT: Yes. I just wanted to let you know when --

VICE CHAIRPERSON SOCKWELL: As well, we do have I guess an affidavit of posting.

MS. BAILEY: No, we have not received an affidavit of posting. We --

VICE CHAIRPERSON SOCKWELL: I thought Mr. Cooper --

SECRETARY PRUITT: I think that Mr. Cooper said he has it.

MR. COOPER: Yes, I have it with me right now, photographs.

VICE CHAIRPERSON SOCKWELL: You know, that's supposed to already be in our file, isn't it?

MR. COOPER: Five days?

SECRETARY PRUITT: Yes, it is. It's -- I think Mr. Cooper was, after talking with Ms. Kress, kind of assuming that this was probably getting continued, even though we had informed him that the Board makes that decision.

MR. COOPER: I had to -- had to post it for the 5th, and so I was going to -- not the 28th. Otherwise, there was going to be confusion in the community again about whether --

VICE CHAIRPERSON SOCKWELL: So, you posted the property for a hearing --

MR. COOPER: For the -- for the 5th. That was what the Staff told me to post it as, yes.

VICE CHAIRPERSON SOCKWELL: So, Staff -- Staff told you -- well, that's not proper procedure because the continuation of a public hearing is not a guarantee. It is a request that is acted upon by the Board.

And it probably -- because it was done that way -- it was done that way, but it should not have been done without

knowing that you were going to get your -- your continuance. That's putting the cart before the horse.

MR. COOPER: Granted. I wasn't -- I'm not familiar with that part of the procedure, and I -- I made the inquiry several times before I posted because I wanted to make sure we were doing the right thing with the -- with the posting.

So, I posted it for the 5th, and I've got the photograph to show that it was posted for the 5th --

VICE CHAIRPERSON SOCKWELL: Okay.

MR. COOPER: -- at the appropriate time for the hearing on the 5th. And --

VICE CHAIRPERSON SOCKWELL: All right. So -- so, the thing is it's going to have to be -- if we're going to continue it, it looks like my Board members prefer that we push this back into March.

MR. COOPER: If I -- if I may, with all due respect, it seems to me -- I understand that there's the -- the procedure to make a presentation to the ANC, and that this Board gives the ANC great weight.

But even if I had presented it to the ANC and they didn't send a letter down here, that should not have prevented me from going forward with my case.

Likewise, if I -- if I don't present because they don't have a meeting, or they cancel their meetings, that should not prevent an applicant from proceeding forward with his or her

case.

I don't recall the Board -- the Zoning Regulations requiring, as a matter of law, that the applicant necessarily meet with the ANC at a certain time prior to the hearing.

I don't -- I think it should make an effort to do that, but the --

VICE CHAIRPERSON SOCKWELL: There's nothing that says that the Advisory Neighborhood Commission has to report on an application, right. The Advisory Neighborhood Commission is automatically a party to a case --

MR. COOPER: Correct.

VICE CHAIRPERSON SOCKWELL: -- and in certain situations, the ANC does not respond at all.

MR. COOPER: Correct.

VICE CHAIRPERSON SOCKWELL: And in this case, the reasoning that I believe Ms. Renshaw is using is that the issues involved are particularly significant issues with regard to this city and antennas in general, if not in particular --

MR. COOPER: Correct.

VICE CHAIRPERSON SOCKWELL: -- and that she wants to make sure that the Advisory Neighborhood Commission has its opportunity to be heard, to cross examine, to be cross examined, etcetera.

While I personally do not think that this particular case has shown itself to be one with a great deal of

community involvement up to this point; there doesn't seem to be a big outcry against it, I would be more willing to see the case handled expeditiously.

Our schedule is just so tight that we don't have -- we just don't have a lot of area to play around with in terms of time. Your scheduled for the 5th.

I would -- I would be willing -- I mean, if the Advisory Neighborhood Commission has had as much time to respond as it has, and that includes phone calls from the applicant, from the Office of Zoning, and from the Office of Planning, and they have not responded effectively, I would be willing to hear the case on the 5th, leave the record open for the Advisory Neighborhood Commission's input, and hold a public meeting session to make the decision at a later date.

COMMISSIONER HOOD: Mr. Chairman, I would be in agreement with that, as long as we make sure that the next couple of days of this week, that our staff also tries to ensure that the ANC is notified because I just have problems with not being able to cross examine.

But again, I will yield to your discretion.

SECRETARY PRUITT: Mr. Hood, what we can do is one call, and write the ANC and indicate that the hearing will go forward, and the record will be left open. And we can give a time certain so that they know when a report needs to be in, if you'd like. MEMBER RENSHAW: We haven't voted on

that.

VICE CHAIRPERSON SOCKWELL: Yeah, and that's -- that's what I would like to move. We have not, and I am not -- I have not made a motion yet. If you'll give me a chance, Ms. Renshaw, you will get --

MEMBER RENSHAW: Very good.

VICE CHAIRPERSON SOCKWELL: -- your motion.

MEMBER RENSHAW: Fine.

VICE CHAIRPERSON SOCKWELL: So, I move that we continue this hearing, this case, until December 5th, at which time the applicant will present, and any others, aside from the ANC. The record will be left open for a period of -- how long -- however long is necessary for the ANC to hold a valid --

SECRETARY PRUITT: Well, the next available decision date would be January 2nd.

VICE CHAIRPERSON SOCKWELL: Okay, so we could keep the record open -- is the ANC going to have its -- have its meeting this month? We don't know?

MR. COOPER: I don't even know if they had one in November.

SECRETARY PRUITT: Well, that's one thing Staff can inquire about. And then, hopefully, if it is -- if they do have a meeting, then we can, you know, put it -- make it as close as possible to the end of December, giving them some grace period. And then --

VICE CHAIRPERSON SOCKWELL: Well, why don't we just do this; we'll hold the hearing on December 5th, if -- if a motion is passed. And we will deal with the ANC situation on the 5th, at which time we will know more about the ANC's potential meeting schedule.

SECRETARY PRUITT: So, we'll know how long to leave the record open at that point.

VICE CHAIRPERSON SOCKWELL: Exactly, yes. And I -- I so move. Do I have a second?

COMMISSIONER HOOD: I have a question.

VICE CHAIRPERSON SOCKWELL: Why don't you second, and then you can discuss?

COMMISSIONER HOOD: I don't really want to second because --

VICE CHAIRPERSON SOCKWELL: Okay.

COMMISSIONER HOOD: -- because I have some unreadiness (sic).

VICE CHAIRPERSON SOCKWELL: All right.

COMMISSIONER HOOD: I'll let the motion --

VICE CHAIRPERSON SOCKWELL: All right. Well, then, I'll withdraw the motion, and we'll continue to discuss it.

COMMISSIONER HOOD: Right, I wanted to hear from Mrs. Renshaw, Board Member Renshaw. I think you were getting ready to speak before we started a motion.

MEMBER RENSHAW: Yes, I wanted to mention at this

point that I am not convinced that the ANC and the community has really grappled with this issue, not having a presentation by the applicant.

And it is easy, in the rush of the season, through a difficult election period, to put matters aside. And I am not -- I do not know whether this ANC, 7D, is a vigorous ANC, or whether it has had problems filling some of the seats, whereby there would not be a quorum for some of the meetings.

And so, therefore, I would like to --

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, may I --

MEMBER RENSHAW: Yes?

VICE CHAIRPERSON SOCKWELL: -- ask a question? We generally don't raise the issue about whether ANCs are vigorous or not. This is the first time this has been raised in some time. And I would like to know the justification for raising it about ANC-7D.

MEMBER RENSHAW: Because we -- it has been stated that the BZA made attempts in August to reach out to the ANC. And therefore, that argument has been presented to this Board that that has been sufficient time for the ANC to recognize the issue and to react to the issue, either by not doing anything at all or by holding a public meeting.

However, I am not certain -- I don't know whether this ANC has been running successfully and efficiently, or whether it has been rather dormant. And therefore, the community

has not been well-served with an aggressive, active ANC.

These issues regarding antennas are very important to the community. They're very sensitive issues. And I think, therefore, that the community has -- has to be given a nudge to react to this kind of an application.

And if the nudge is by going back to the ANC and saying, "We have a continuance here, and it's going to be at this date, but the ANC has a chance, one last chance, to have a public hearing," in advance of this coming before the Board, I think that's the proper way to handle it; rather than hearing the case, running back to the ANC and saying, "Hey, we've heard part of the case, or almost all of the case. Sorry you weren't there. You can read the record, but you can also throw in your comments."

VICE CHAIRPERSON SOCKWELL: All right, thank you. Ms. Renshaw, just one quick question before you -- Ms. Pruitt?

SECRETARY PRUITT: Yes?

VICE CHAIRPERSON SOCKWELL: Which ANCs have been noticed?

SECRETARY PRUITT: Both 7A and D.

VICE CHAIRPERSON SOCKWELL: All right. And neither 7A nor 7D responded in a reasonable period of time?

SECRETARY PRUITT: No, we got no response from either one. And as I said, I called Mr. Cresee yesterday again to try to get some confirmation based on the letter from Mr. Cooper.

VICE CHAIRPERSON SOCKWELL: I would be somewhat unwilling to want to push this hearing back so far when we have two ANCs noticed, and neither one has responded, because now we would be putting ourselves in a situation to await the pleasure of the Advisory Neighborhood Commission.

And while we have -- it's obvious that these two Advisory Neighborhood Single-Member Districts have been contacted as early as August, the fact that they haven't responded, while it certainly poses issues with regards to the ANC itself in that area,, I'm not sure that we should hold the applicant hostage over the Advisory Neighborhood Commission's failure to respond.

COMMISSIONER HOOD: Mr. Vice Chair, if I could just add, I think this was dealt with in August. And I will say this, and I've said this before, if anybody wants to get something through in this City, the best time to do it is in August, because ANCs usually -- and Commissioner Renshaw -- I mean, Board Member Renshaw, you can correct me if I'm incorrect.

People who volunteer usually take a break in August. And I will say that they did have sufficient time. But from this Board Member's perspective, I believe that if they're able to -- and I understand it's not contested, from what I have in front of me.

But if we're able to deal with all of it in March, cross examination and whatever else, then I'm more inclined to leaning towards that. And again, Mr. Chair, I hate to put you

out there on a motion and it fails --

VICE CHAIRPERSON SOCKWELL: It's not a problem.

COMMISSIONER HOOD: -- having been there myself sometimes, I know how it goes. So --

VICE CHAIRPERSON SOCKWELL: It's not a problem.

COMMISSIONER HOOD: -- what I will say is that I think we need proceed cautiously, because sometime -- because of rushing, I'd rather for us to err -- if we're going to make an error, let's err on the side of caution.

We don't always need to rush when people tell us, "We need to do this," and push and push. Sometimes, that gets us into the trouble that -- that comes to bear. So, those are my comments

VICE CHAIRPERSON SOCKWELL: Well, I understand the direction that you're taking. I somewhat disagree in this particular case because of the particular application -- the status of the application from the standpoint of its lack of seeming controversy with the community, but -- or seeming lack of controversy in the community.

But if the Board wishes to postpone this hearing until the 13th of March, then I request a motion on that.

MR. COOPER: If I may, one last time --

VICE CHAIRPERSON SOCKWELL: You need to turn on your mic.

MR. COOPER: If I may, one last time; the community

was notified in August. I spoke with the Commissioner in September, October. The community was notified of a hearing date today. And perhaps Ms. Vice Chair could ask if anyone in the audience here today, regardless of an ANC meeting -- notices went out to everyone in the community.

The property has been placarded. If anyone is here today, then perhaps we should -- perhaps we could hear from that person. But my --

VICE CHAIRPERSON SOCKWELL: We cannot accept testimony --

MR. COOPER: Not necessarily --

VICE CHAIRPERSON SOCKWELL: -- prior to calling a case.

MR. COOPER: Not necessarily testimony. Perhaps they can weigh in on this decision -- this discussion we're having right now about the continuance. But my suspicion is that no one is here. It has nothing to do with whether the ANC had a meeting or not.

I used to be an ANC Commissioner and people wouldn't show up for those meetings either. So, you know --

VICE CHAIRPERSON SOCKWELL: Well, we can -- we can certainly handle the one issue. Is there anyone here from the ANC regarding this case? Is there anyone here from the community regarding this case?

(No audible response.)

COMMISSIONER HOOD: Let me just -- is the case -- is this case contested? Do we know of any?

SECRETARY PRUITT: By -- all BZA cases, except for foreign missions, are considered contested. Whether or not there's a lot of opposition, I don't believe there is based on what's in the record.

MR. COOPER: I checked the record as of yesterday, and there was nothing in the file.

COMMISSIONER HOOD: Well, Mr. Chair, if -- if that will -- I will yield to -- I don't like doing this, but I will yield to your discretion. And if you put the motion back up, see what happens between now and December the 5th -- which I can tell you, Mr. Cooper, it's not going to happen.

I already know that. So, I mean, we -- that part of it, we can alleviate. But if we can ask Staff to reiterate and see what they could do to help to see if that can happen, and then I guess we'll just look at it again on the 5th.

VICE CHAIRPERSON SOCKWELL: Yeah, I mean, I -- that's -- I would prefer, under these circumstances of a limited opposition case, to -- we don't know anything Ms. Renshaw, period.

COMMISSIONER HOOD: But Board Member Renshaw --

VICE CHAIRPERSON SOCKWELL: But the point is that when you -- it appears that there is a distinction being made about this community and its interests. Regardless of the ANC's

involvement, when there are opponents to a case, the opponents come forward.

When there are particular supporters of a case, very often, those come forward as well. No one has come forward today on either side. And is that to say that a residential community, especially zoned as such with apartments and what-not, that has certainly enough residents to have the infrastructure sufficient to have someone come out, if that community has not appeared, then at least we have that as some basis for a level of interest, regardless of the ANC's involvement.

COMMISSIONER HOOD: Let me just also add that they have agreed to the continuance of December the 5th, the ANC did. So, I guess I would be inclined to go ahead and move in that direction. So --

VICE CHAIRPERSON SOCKWELL: I mean, the ANC did respond on their letterhead. And I mean, we're acting like they don't exist.

MEMBER RENSHAW: Oh, we read it into the record, so they do exist.

VICE CHAIRPERSON SOCKWELL: But we're acting as if they don't exist.

MEMBER RENSHAW: Well, we are being -- we are being protective of the community. This is a very technical issue. It doesn't surprise me --

VICE CHAIRPERSON SOCKWELL: This is not a technical

issue.

MEMBER RENSHAW: -- me -- it is a --

VICE CHAIRPERSON SOCKWELL: This is -- this is strictly an issue --

MEMBER RENSHAW: -- it is a -- it is a technical issue --

VICE CHAIRPERSON SOCKWELL: -- of visibility --

MEMBER RENSHAW: It is also --

VICE CHAIRPERSON SOCKWELL: The antenna regulations are not technical regulations in that sense. This is not that kind of an issue.

MEMBER RENSHAW: Perhaps they see it as such.

COMMISSIONER HOOD: Well, with that, Mr. Chair, I make motion to grant the ANC and the applicant what they ask for, for December the 5th, Case No. 16635.

VICE CHAIRPERSON SOCKWELL: I second the motion. Additional discussion?

(No audible response.)

VICE CHAIRPERSON SOCKWELL: All in favor?

COMMISSIONER HOOD: Aye.

VICE CHAIRPERSON SOCKWELL: Aye. Opposed?

MEMBER RENSHAW: Opposed.

COMMISSIONER HOOD: We need to record --

VICE CHAIRPERSON SOCKWELL: Will you record the vote?

MS. BAILEY: The vote is recorded as two to one; motion made by Mr. Sockwell; section -- seconded by Mr. Hood; Mrs. Renshaw is opposed to the motion.

VICE CHAIRPERSON SOCKWELL: Yeah, the motion was -- was made by Mr. Hood.

MS. BAILEY: The motion made by Mr. Hood, seconded by --

VICE CHAIRPERSON SOCKWELL: Seconded by Sockwell.

MS. BAILEY: -- Mr. Sockwell, opposed by Mrs. Renshaw --

VICE CHAIRPERSON SOCKWELL: Yes.

MS. BAILEY: The motion fails.

SECRETARY PRUITT: No -- oh, yes, it does.

VICE CHAIRPERSON SOCKWELL: Uh-huh, it fails.

SECRETARY PRUITT: Excuse me.

VICE CHAIRPERSON SOCKWELL: It fails. Well, then, we have but one other --

COMMISSIONER HOOD: So, we have March the 6th.

VICE CHAIRPERSON SOCKWELL: Yeah, back on March the 13th.

COMMISSIONER HOOD: March the 13th, then. With that, I'll make another motion that we continue the case until March the 13th, Case No. 16632 (sic).

MEMBER RENSHAW: Second --

VICE CHAIRPERSON SOCKWELL: No, I'll second the

motion.

MEMBER RENSHAW: (Laughter.)

MR. COOPER: The case -- excuse me, the case is 16635, not 32.

COMMISSIONER HOOD: Oh, I'm sorry. I've moved onto the next case. I had already moved on.

MR. COOPER: Thank you, because at least it's gone forward.

COMMISSIONER HOOD: Case No. 16635.

VICE CHAIRPERSON SOCKWELL: And I'll second that motion. All in favor?

MEMBER RENSHAW: Aye.

COMMISSIONER HOOD: Aye.

VICE CHAIRPERSON SOCKWELL: Aye.

MS. BAILEY: The motion is passed to schedule this hearing from March the -- I lost my date here -- 13th; motion made by Mr. Hood, seconded by both Mrs. Renshaw and Mr. Sockwell.

SECRETARY PRUITT: And that would be the morning agenda?

VICE CHAIRPERSON SOCKWELL: Uh-huh. Mr. Cooper, you may tell you client that you have served them well. I'm sorry we couldn't help you.

Are there any other preliminary matters?

MS. BAILEY: Staff has none, Mr. Chairman.

VICE CHAIRPERSON SOCKWELL: Then please call the first

case of the afternoon.

MS. BAILEY: Application No. 16632 of Medhane Alem Eritrean Orthodox Church, pursuant to 11 DCMR 3103.2 for a variance from the parking requirements under Subsection 2101.1, for the proposed conversion of an existing structure to be used as a church, seating 120 persons, in a C-1 district, at premises 4700 14th Street, N.W.

The property is located in Square 2706, Lot 54. All those persons wishing to testify in this case, would you please stand? All those wishing to testify, please stand and raise your right hand.

WHEREUPON,

GLADYS HICKS

FATHER DALREN

GABRECHRISTOS DAGNEW

WERE CALLED AS WITNESSES BY THE BOARD AND, HAVING BEEN DULY SWORN, WERE EXAMINED AND TESTIFIED AS FOLLOWS:

ALL: I do.

MS. BAILEY: Thank you. Mr. Chairman, the property was properly posted, and the affidavit is on file. We do not have a request for party status in this case. We do have reports from the Office of Planning that's recommending approval.

We also have a report from ANC-4C, and the ANC is in opposition to the project. We do have a Zoning Administrator's referral letter. And the case is now ready to go

forward.

VICE CHAIRPERSON SOCKWELL: Thank you. You may proceed.

MS. HICKS: Okay, for the record, my name is Gladys Hicks. And for this case, I'd like to acknowledge Father Dalren. He is the priest for the Eritrean Medhane Church. He is here on behalf of his congregation. Also, there are other church members here.

Okay, this is Board of Zoning Adjustment Case No. 16632. The street address is 4700 14th Street, N.W. The lot number is 54 in square 2706. It is zoned C-1, commercial.

The premises is an existing one-story structure. It was first built in -- first part -- half of it was constructed in 1922. The second part, which made it cover almost 100 percent of the lot, was constructed in 1935.

So, as I said, the lot covers 100 percent of the lot. The cross streets are Crittendon Street and 14th Street. And to the west side of the -- of the lot is a 15-foot wide public alley.

Starting in the R-1A and R-1B residential zones, under Section 201.1 of the D.C. Zoning Regulations, churches are permitted as a matter of right. A church is also permitted in the lesser restrictive C-1 commercial zone.

Under Board of Zoning Adjustment Case No. 16632, the church is requesting a variance from Section 2101.1, the

Schedule of Off-Street Parking Requirements, in order to locate in the C-1 commercial zone.

Under Section 2101.1, one off-street parking space is required for every ten seats of occupancy in the main sanctuary. And this is whether there are -- whether the church membership fully covers those seats or not. You would have to place seats -- this is a policy made by Mr. Botner. He was the -- a former Zoning Administrator.

Either you put seats in the main sanctuary for the total capacity that can be used for -- under the D.C. Building and get counted for that off-street parking, or also you have to -- the Zoning Office would assess parking based on one parking space for every seven square feet standable, usable for standing, capacity in the main sanctuary.

So, this case has been calculated on a one off-street parking space for every ten seats.

VICE CHAIRPERSON SOCKWELL: And you missed a part of that, which is that in the situation where benches are provided --

MS. HICKS: Yes, where -- where --

VICE CHAIRPERSON SOCKWELL: -- or in this case, pews --

MS. HICKS: -- benches are provided, or pews, the calculations could be done based on one -- one parking space required for each 18 inches of benches or a pew.

VICE CHAIRPERSON SOCKWELL: And have you measured those benches, based on the plans that were submitted?

MS. HICKS: It is my understanding that the calculations were done by the -- by Mr. Numbing, who is no longer -- he was the Chief of the Review Branch. And I don't know what calculation he worked it out. He just specified one parking space for every ten seats.

VICE CHAIRPERSON SOCKWELL: Uh-huh, based -- based on the number of pews provided and the size of those pews, it's approximately 105 seats.

MS. HICKS: Which would require 10.5, and you round it off to the next whole number, which would be 11 parking spaces. The -- they calculated it to work out to be 12 parking spaces that's required.

The -- I would like to go on record and state that the existing church has 50 adult members, and that 30 members are stated on page two of the Office of Planning report to the Board of Zoning Adjustment.

So, even though they are charged more parking spaces than the adult current population, if they only had 50 -- a 50-member church, normally you would -- one for ten would be five parking spaces required.

But the -- because of past cases with churches, the Zoning Office -- Office -- the Board -- the Zoning Administrator's Office set the policy to be more stringent on

churches when calculating in the parking. So, it's 12 that's required.

VICE CHAIRPERSON SOCKWELL: I would submit that it's 11, but it's only the difference of one space --

MS. HICKS: Okay.

VICE CHAIRPERSON SOCKWELL: -- because one of the pews is restricted by a protrusion of the wall, so it does not meet the same size requirement as the others.

MS. HICKS: Okay.

VICE CHAIRPERSON SOCKWELL: Go ahead.

MS. HICKS: Thank you. On November the 14th of the year 2000, the case was discussed at a formal meeting at -- with the AN -- Advisory Neighborhood Commissioner. There were six members present.

The first resolution had two people abstaining, one nay, and three persons for -- that were for the resolution. That first resolution, we have copies of it, was against the conversion of the building into a church. It states that the church would cause additional parking problems on Crittendon and other neighboring streets.

And the second item was converting the building into a church would not be consistent with the community's desire to reestablish a retail corridor.

The second -- this resolution was voted down. The second resolution had been submitted to the Board of Zoning

Adjustment. There were four votes to deny the church location there for the off-street variance and one against, and one person abstained, all of them voting.

I have with me today Mr. Dagnew and Mr. Berhane Yitbarek, Mr. Jim Smith, Mr. Tewolde, and Mr. Welde, who will testify on behalf of the Medhane Alem Eritrean Orthodox Church.

This is a church which has members from the D.C. Metropolitan area, Virginia, Maryland, and the District of Columbia. In addition, because it is an orthodox church, it is a little unique in that most of the members do not drive on Sunday. They walk or take public transportation.

Those who live too far to walk and to take public transportation are given permission by the priest to drive. The maximum number of cars that are estimated to be driven on a Sunday will be nine.

I'd like for Mr. Dagnew to -- could you please state your name and -- for the record and your residence, where you live, and your occupation?

MR. DAGNEW: My name is Gabrechristos Dagnew.

MS. HICKS: Okay. What is your relationship to the church?

MR. DAGNEW: I am active member for the last ten years here in D.C.

MS. HICKS: Could you -- could we go back to question number one, and state where you live?

MR. DAGNEW: I live in my own house, number 129 Cold Spring Place, Alexandria, Virginia, 22306.

MS. HICKS: And could you also state your professional occupation?

MR. DAGNEW: I work -- I'm an accountant. I work for the Department of State. And at the same time, I help the church. I am an accountant of the church.

MS. HICKS: Okay, how many years have you been a member of the church?

MR. DAGNEW: Since I was 15. It is 56 years now since I have joined the church. I am 71 now.

MS. HICKS: Could you give us a brief history of the church, and also the age of the religion?

MR. DAGNEW: It is one of the original and oldest churches in the world. When the disciples was killed, 318 popes came around -- they gathered together, and they established religious holidays, fasting days and rules. The church was one by then.

Rome quarreled with Athens and broke away in the name of Catholic Church, and the church split into two. To make it worse, Martin Luther quarreled with Rome and broke away in the name of the Lutheran Church, and the church split into three.

Now, a church split from the Lutheran Church, but our church is still the same original church.

MS. HICKS: And approximately what year was it

established?

MR. DAGNEW: It was established in 47. Our forefathers accepted Jesus Christ 47 A.D.

MS. HICKS: Okay, thank you. How are your religious services conducted?

MR. DAGNEW: Our religious services are conducted with a unique hymn, which was never find in this -- on this earth. It was given by the Holy Spirit, one holy man. He went to school and stayed seven years. He could not learn anything. He was kicked out from the school, and he was crying.

And he went back to his mother. Then, his mother -- then, his uncle told him, "You wasted seven years here. Go back and help your mother." So, when he was going, crying, crying, crying; then he sat down under the tree and he saw an insect climbing six times. Then, the insect failed six times; the seventh time, went through, succeeded.

Then he said, "This tiny creature is" --

VICE CHAIRPERSON SOCKWELL: Mr. Eclam (sic), if you don't mind, what I think Ms. Hicks wants you to describe with regard to the services is the format of your service, the time, the type of activities that the service entails, and the days that you might be using the church for services, something a little bit more directly related to the use of the building.

MS. HICKS: Okay, that -- that's my next question. How is this church unique?

MR. DAGNEW: It is unique because we use the language Geez, G-E-E-Z, and you don't find it anywhere else in the world.

MS. HICKS: Okay, how many members are in your church worldwide?

MR. DAGNEW: About 2 million.

MS. HICKS: Okay, how many churches serve that population?

MR. DAGNEW: About -- we have 7,500 church back home.

MS. HICKS: Okay, how many churches do yo have in the United States?

MR. DAGNEW: We have 15 church in the United States.

MS. HICKS: Okay. And when was your current congregation formed in the District of Columbia?

MR. DAGNEW: In 1990.

MS. HICKS: Okay. At what rented locations have you worshipped?

MR. DAGNEW: Right now?

MS. HICKS: Yes.

MR. DAGNEW: Right now, we are on the 16th Street.

COMMISSIONER HOOD: Mr. Chair, if you could ask --

MR. MEZGHEBE: Universalist Methodist.

VICE CHAIRPERSON SOCKWELL: Which church?

MR. DAGNEW: 18 --

MR. MEZGHEBE: Universalist Methodist Church.

VICE CHAIRPERSON SOCKWELL: Okay.

MR. DAGNEW: The building is 1810 16th Street.

COMMISSIONER HOOD: Mr. Chair, I know all this is interesting, and I'm willing to hear it. But also, we -- we want to make sure that we stay focused on --

VICE CHAIRPERSON SOCKWELL: Yeah, I'm trying to --

COMMISSIONER HOOD: Okay.

MS. HICKS: I've -- I've finished on this -- on this phase.

COMMISSIONER HOOD: Okay, because we're here for the use of variance of parking.

MS. HICKS: Yes, I understand.

VICE CHAIRPERSON SOCKWELL: Yeah.

MS. HICKS: The rest of it will be brief.

COMMISSIONER HOOD: I mean, while I'm interested in the history -- now, don't get me --

MS. HICKS: We just wanted to make sure that it was not characterized as a pop-up, store-front church, and we wanted to qualify it as a -- as a well-established religion, because that has been questioned in the past through the Zoning Administrator's Office.

We used to see a little bit of everything come through.

VICE CHAIRPERSON SOCKWELL: Ms. Hicks, if you would try to keep the issue germane to the type of zoning relief requested and the justifications and supporting documentation regarding the use of the facility, its potential impact upon the surrounding neighborhood, I think that would go a long way to --

MS HICKS: Okay, and I think it will help --

VICE CHAIRPERSON SOCKWELL: -- getting us further along.

MS. HICKS: -- also help to speed the case along. So, that will be what we're doing next. Mr. Berhane Yitbarek will be the next witness. For the record, could you please give your name, address, and your professional occupation?

MR. YITBAREK: My name is Berhane Yitbarek. I reside at 8504 16th Street, Apartment 703, Silver Spring, Maryland. I'm an electrical engineer. I work for the National Institutes of Health.

MS. HICKS: Are you a member of the church?

MR. YITBAREK: Yes, I am the member of the church.

MS. HICKS: Okay, are you an officer of the church?

MR. YITBAREK: Yes, I am also a Secretary of the church.

MS. HICKS: When did the church purchase 4700 14th Street, N.W.?

MR. YITBAREK: We purchased the church on December 1999.

MS. HICKS: How much did you purchase -- what was the purchase price?

MR. YITBAREK: A hundred-forty-thousand dollars.

MS. HICKS: Okay, do you have a current mortgage on the church?

MR. YITBAREK: Yes, we do.

MS. HICKS: Okay. What were you told by the former owner of the building about the use of the property as a church?

MR. YITBAREK: The former owner and the real estate agent told us the building can be used as a church.

MS. HICKS: Did you receive a preliminary report from an engineer regarding the use of the property as a church?

MR. YITBAREK: Yes, we hired a building engineer to do a feasibility study. He contacted DCRA and the fire marshals and gave us a report on the base of the information he received from DCRA and the fire marshals, saying that the building can be used as a church.

MS. HICKS: Okay. For the record, do you have a copy of that preliminary report that you could submit to the Board?

MR. YITBAREK: Yes, I have the report here.

MS. HICKS: Okay, could you pass out copies? Were you asked to provide architectural plans and a building permit application?

MR. YITBAREK: Yes, we provide an architectural

plan to DCRA to get a permit of renovation.

MS. HICKS: Okay. When did you find out that you had an off-street parking problem?

MR. YITBAREK: We found out that we have an off-street parking problem after we submitted an architectural drawing to get the renovation permit. DCRA told us, "You need at least two parking space," and we replied, "We have more than two parking space. We have a parking space for six to seven cars in just on the lot."

And they told us that, "The lot is not yours. The lot belongs to the public," but that's not what they told the building engineer. You can see that from the report we just passed out.

MS. HICKS: Okay, our next witness is Mr. Jim Smith and Mr. Permits. For the record, could you please give your name, street address, and occupation?

MR. SMITH: Yes, my name is James F. Smith, known as "Jim Smith". I live at Number Six Logan Circle, N.W., Washington D.C., 20005, and I am representing the church today as a land-use consultant.

MS. HICKS: Okay. Could you tell us about your involvement with the church and its own street -- off-street parking --

MR. SMITH: Certainly.

MS. HICKS: -- issue?

MR. SMITH: I got involved by the church, by one of the members of the church, who is a good friend of mine when they went down to DCRA and talked to Swann Mack, which is a Zoning Reviewer on staff, who told them that, because they had an average of 30 people that came to the church, they had to provide three off-street parking spaces.

So, we discovered that -- when I talked to Ms. Mack, that the -- and I went to the Surveyor's Office to confirm it -- that the lot, the building on the lot, occupies 97 percent of it, and that the space that's in front of the church on the corner of 14th and Crittendon is actually pubic space.

Most of the property north of Florida Avenue, in many cases, has the private property go out to the edge of the sidewalk. But in this particular sector of the city, they have the face-on line of the buildings as being the property line.

And there is a parking area, an area known as parking in Department of Public Works language, which is adjacent to the sidewalk between the building line and the sidewalk, known as parking.

We discovered that we had to submit a package through a filing process to go before the Zoning Reviewer, Edgar Nunley, who was the Chief, at that time, of the Zoning Enforcement Branch, who eventually got to look at the case.

And I had several conversations with him about it. And he told me that what Mr. Sockwell and Ms. Hicks had a

discussion about a little earlier today, that there would have to be a decision on either 18 inches of benches or seven square foot per person, and four moveable seats, in a church, per the D.C. Code.

Whereupon, he came out with -- I believe he told me originally it was 11 and a half spaces. So, I had a discussion with him, and said, "Well, we can't have a half space, so we should probably go for 12 spaces."

So, that's the way the memorandum was written up to be forwarded to you all as having 12 off-street parking spaces. This is the only requirement that the Zoning Administrator's Office made of this case.

Since churches are allowed in this zone as a matter of right, the only issue before us today is the question of off-street parking at this site.

MS. HICKS: Okay, would you explain the architectural layout?

MR. SMITH: Do you have a hand-held mic? No, I'll just -- if you'll trade places with me?

VICE CHAIRPERSON SOCKWELL: Mr. Smith, would you prefer to use the laser pointer? Oh, you have one, very good.

MR. SMITH: We have our toys. Yes, I have a graphic here that shows the church. I'm going to move it a little bit closer so I can point to it as well as --

MS. BAILEY: Mr. Smith, are copies of that -- those

materials in the file?

MR. SMITH: Yes, ma'am. If they're not, I have copies, that I'll get to you, of everything that I have.

This is the building that is existing. There was an addition made, as Ms. Hicks said, after 1922 in the back part. But you can't tell where it was made. For some reason, they were miraculously able to find the same type of face brick, which I've never seen before, ever.

And the current condition of the church when I saw it about two months ago was a shell. It's not currently a church. The current Certificate of Occupancy is a store, like a convenience store. We have a copy of the Certificate of Occupancy submitted for the record in your file jacket.

The building has one floor above grade. It's at grade at the front of the building. And Crittendon Street is out here, and 14th Street is on this side. So, the building is sited at the corner of 14th and Crittendon Street, N.W.

The condition of the building was pretty bad. It had a single story with about a 12 and a half foot ceiling. It had an old lay-in ceiling, just like the one here.

But because of severe roof leaks, it caved in almost all over the place. And the electricity was not working when I saw the building. We had to use flashlights in the building.

The floor was pretty rotten and almost ready to

collapse. There is a cellar underneath the building, that's a six-foot-one-inch height, which can not be used for human occupancy. So, we did not count that in our calculations, and the church has no plans for the use of this lower facility. They're only interested in the main floor, which is the plan that we see here.

The church -- this is a picture of the floor plan that they're proposing. Because of their religion, they have to face the east when they pray, so that the current main entrance of the building is a corner door, which you can see in a photograph. But unfortunately, that's on the east side of the building.

So, what they propose doing is putting a new door in right here so that it's behind the pews so that if someone is praying in the church, they won't cause disruptions to the congregation.

So, they would cut a new door; it's a double-door in this side so that the people facing the east would not be interrupted. There is currently a bay window in the front, which would be made into an altar for the church, so that the ceremonial part of the service occurs up here in the front.

There are two bathrooms proposed. There were actually, originally, two bathrooms back there that were existing, but they weren't usable. They were completely broken down and falling apart.

So, what they planned on doing is to slightly enlarge those bathrooms to make them handicap accessible.

There are some features to note about this religion and this church with this floor plan. Please note that there are no kitchens in this church; there is no other program that this church has. It is simply a place to worship.

There are no feeding programs for the congregation, nor anyone else. There's not even a provision for coffee in the church sanctuary.

What they plan on doing with the church is to put in a -- because of limited funds, is to put in a new suspended ceiling, much like the one in this hall that we have now; carpeting on the floor, much the same as you have now; and some pews to hold the congregants in their worship service.

This is an elevation plan of the inside of the building that the engineer drew, showing some modified windows. They will have some round tops, instead of square tops like this. And then, this is the front door that is -- would remain for a fire egress only, but not for a ceremonial or otherwise interest to be used, which is on the corner of 14th and Crittendon.

In a few minutes, there's another gentleman, who drew this nice rendering down here of what the outside will look at, will testify about that phase of the project.

It's designed to hold between 105 and 115 people, depending on how you measure the pews, and five staff members, so

that the calculations we have are between 11 and 12 off-street parking spaces are required.

At any rate, the Zoning Administrator has advertised -- and also, the Board of Zoning Adjustment therefore, for 12 off-street parking spaces.

MS. HICKS: Okay, the next person to testify will be Mr. Tewolde. Could you state your name, address, and occupation for the record, please?

MR. TEWOLDE: My name is Mehari Tewolde.

MS. HICKS: Okay.

MR. TEWOLDE: My name is Mehari Tewolde. I live 3223 Woodbridge Place, N.W., Washington, D.C. 20010.

MS. HICKS: Okay, could you state your professional occupation?

MR. TEWOLDE: I am a computer teacher at St. Benedict the Moor, Washington, D.C.

MS. HICKS: Okay. Are you a church member?

MR. TEWOLDE: Yes, I am.

MS. HICKS: Are you an officer of the church?

MR. TEWOLDE: Actually, I am a deacon of the church.

MS. HICKS: Okay, could you explain the proposed work that would be done on the exterior of the building?

MR. TEWOLDE: As you can see, this is the picture, the one that we see at the present. I should not call it bad

building; I should call it ugly building, okay? That's why I made this, in order to show you that the exterior building for the future.

So, we're going to have this new windows, flat on the Crittendon Street. We're going to have a double-door with a glass doors. And I think the building, like I say, looks ugly; so it needs to be washed.

MS. HICKS: Can you explain the building's orientation?

MR. TEWOLDE: Yes. Okay, this is the 14th Street, and this is Crittendon, N.W.

MS. HICKS: Okay. Can you explain what will happen with the closed landscaping on the green strip?

MR. TEWOLDE: Well, when we bought the building, as they all mentioned that, we were told that we were going to have parking on this side. Since we don't have any parking now, we changed it. The landscaping is going to be with nice flowers in order to look good, plus grasses.

MS. HICKS: Okay. Will anyone be at the church daily?

MR. TEWOLDE: Yes, our pastor, David Occolum, the man who has a special hat, is going to be every -- from Monday through Saturday.

MS. HICKS: Okay, what hours will the church be occupied daily?

MR. TEWOLDE: In the morning from 9:00 a.m. to -- from Monday through Saturday from 7:00 -- 9:00 a.m. to 5:00 p.m.

VICE CHAIRPERSON SOCKWELL: Sir, may I ask a question? You said something about parking. You thought that there was going to be parking in the side of the building when it was purchased?

MS. HICKS: Yes, that's true.

VICE CHAIRPERSON SOCKWELL: And if you would elaborate on that particular issue?

MS. HICKS: We have an additional plan. There is a green strip to the side of the building.

VICE CHAIRPERSON SOCKWELL: Which is parking by D.C. Government's --

MS. HICKS: It's public space. They found out --

VICE CHAIRPERSON SOCKWELL: But it's called parking by D.C. Government; it's not sidewalk?

MS. HICKS: It's not sidewalk; it's --

VICE CHAIRPERSON SOCKWELL: If it's not sidewalk, it has to be parking, by definition, which, of course, doesn't have anything to do with cars.

MS. HICKS: Well, it's owned by public space. And they -- they thought it was part of their public -- their private property, once they bought the church.

VICE CHAIRPERSON SOCKWELL: Uh-huh, but it is -- it is, therefore, public area called parking that is behind the

public sidewalk?

MS. HICKS: That's right, yes.

MR. SMITH: That's correct. That's right. And if I could refer the Board to the report from the engineer they hired to -- to do the plans and check out the feasibility, he mentioned that they were under the impression at that time, erroneously as we all know, that that area does not belong to this lot.

Although if one did not know and drove by and looked at it, would get the impression that perhaps that does, somehow, belong to that lot.

VICE CHAIRPERSON SOCKWELL: But the lot -- I mean, the description of the property was the deed description for the sale of it --

MR. SMITH: Exactly.

VICE CHAIRPERSON SOCKWELL: -- and was not represented as being part of the building lot by the real estate agent, I assume?

MR. SMITH: I wasn't there.

MR. TEWOLDE: What?

MR. SMITH: Did the -- his question was, did the building -- real estate agent or the owner represent to you that that was parking for that building?

MR. YITBAREK: Yes. No, what they told us, if you look up -- up on Crittendon Street -- if you look up on

Crittendon Street, it looks -- it's a straight -- the gardens in front of the houses is straight. Then when it comes to our building, it's in a little bit.

So, we assumed that -- everybody assumed it's a parking space. The owner told us we -- we can park here, and the real estate agent told us we can park here. Even the building engineer, when he went down to DCRA, they told him that property belongs to us. You can see it on that report.

He mentioned it we -- six to seven cars can be parked there.

VICE CHAIRPERSON SOCKWELL: Well, I think that the issue that you may have in purchasing the property is one of having been misled as to what constituted your lot. But at the same time, there had to have been a building survey; there had to have been title work and deed descriptions of the size of the land and the building on it.

And I am hopeful that it was not unknown to the purchasers, especially having the assistance of people with engineering degrees, one way or another, that it was -- it shouldn't have been unknown that that property that was adjacent did not belong to the building.

MR. YITBAREK: Yeah, what happened is, because of the hardship we had, we've been moving from one church to another church. They told -- some church, you know -- like, we do incense like the Catholics. So, the church we rented before they

told us, "Don't do this," you know, there's a lot of rules when you are in somebody else's house.

So, what our wish was just to get a building. And the church we were, they told us by this day, you have to move because we have to do renovation. And most of the church on 16th Street, they didn't have a parking. And we never told -- to tell you the truth, we never told about parking when we bought that building.

The only thing we told was here is the building we find so we can have our own space so we can pray our way.

VICE CHAIRPERSON SOCKWELL: Uh-huh. But I am concerned that you may have been misled into a purchase thinking that it contained amenities that it did not have. And that would be an issue that you should -- that you might consider taking up with someone at some point, because it may be that you based your purchase price on -- on issues that were not property issues, but were public space issues.

But anyway, continue; we'll -- we'll go forward.

MR. SMITH: If I can just follow up on that? The report that we handed out to the Board from -- that says "Future home of Medhane Alem Eritrean Orthodox Church," was in September of '99, and they didn't purchase it until December of '99.

And they used the engineering report as a basis for moving forward, that this was a feasible project. So, you're right. There were some misunderstandings on the part of the

applicant for not being informed about what was public parking, or what was public space, and what was private space.

But at any rate, I think they used the basis of the report that we handed out to you as making their decision to enter into this real estate purchase.

MS. HICKS: I'd like to continue with Mr. Tewolde. I'd like to continue with Mr. Tewolde. What date do you worship on?

MR. TEWOLDE: Every Sunday.

MS. HICKS: Okay, what hours are the services?

MR. TEWOLDE: Seven a.m. to 11:00 a.m.

MS. HICKS: Okay. When will members no longer be at the church on Sunday?

MR. TEWOLDE: Eleven a.m.

MS. HICKS: Okay. Are there any other holy days that you have services on?

MR. TEWOLDE: Yeah, we do -- we have Christmas, Good Friday, and Easter, and occasionally, we have a committee meeting.

MS. HICKS: Approximately members would be -- would be at the committee meeting?

MR. TEWOLDE: Just five, six.

MS. HICKS: And at what time of the day will this committee meeting be held?

MR. TEWOLDE: Well, it depends. You know, we get,

like, Mondays most of the time.

MS. HICKS: And would this be in the evening?

MR. TEWOLDE: Yeah, in the evening, yes. I just want to make clear this -- can I say something? They are the holiday -- I just want to give you an example that, for example, in the United States, people celebrate the Christian on December the 25th. Well, we don't celebrate.

According to Orthodox church, we celebrate on January 7th. Even Easter, we celebrate -- I don't have the date now. But in the United States even -- for example, if they celebrate this Friday, we're going to celebrate after a week. So, that's the way we do every time, every year, according to the Orthodox.

MS. HICKS: Would that be on Sunday?

MR. TEWOLDE: That's going to be --

VICE CHAIRPERSON SOCKWELL: On a Sunday, the Sunday after Easter?

MR. TEWOLDE: Well, Easter is --

VICE CHAIRPERSON SOCKWELL: But it's the week after normal Easter for --

MR. TEWOLDE: Correct.

VICE CHAIRPERSON SOCKWELL: -- all the other Christians?

MR. TEWOLDE: Correct.

MS. HICKS: Okay, the next witness is Mr. Welde,

along with Mr. Permits on the off-street parking issue. Mr. Welde, would you state your name, address, and your professional occupation?

MR. MEZGHEBE: My name is Weldemaria Mezghebe. I'm a physician assistant, surgical P.A., and I live in 12001 Gordon Avenue, G-O-R-D-O-N, in Beltsville, Maryland, 20705.

MS. HICKS: Okay, could you explain what the photos in the exhibits show as regards to your observations on off-street parking in the immediate area where the church is located?

MR. MEZGHEBE: The -- the pictures show the availability of the parking space on the 4700 block on 14th Street, N.W. Basically, the pictures were taken between the hours of 7:00 a.m. to about 11:00 -- 11:00 a.m. in the morning.

And those are the hours usually, between to 7:00 and 11:00 or 10:300, that are our Sunday services. And the purpose of the pictures were to see if there is available parking areas those hours, without being hinderance to the community and without using the off-site -- the off-site street, the off-site of 14th Street, the Crittendon or the Decatur Streets.

I was concerning basically on the 14th is right across from the church.

MR. SMITH: Mr. Welde, I take it that these are the photographs, both of them, that you made yourself. Is that correct?

MR. MEZGHEBE: Correct.

MR. SMITH: And that we asked you to get a special camera that makes a date and time stamp so that we would -- can authenticate the type of photographs being made, and that we -- we decided to go this route as a substitute traffic consultant because of the limited funds of the church, and we're trying to do this on a budget.

I want to point out for the record that -- and we have this labeled -- that -- and I also have copies for the BZA after we're finished with this, with these exhibits, that this first picture was made at 14th and Crittendon, looking north. This is the bus barn, which is on this side of the street, so that --

VICE CHAIRPERSON SOCKWELL: Mr. Smith?

MR. SMITH: Yes?

VICE CHAIRPERSON SOCKWELL: Would you like to pass your copies of those photographs to the Board now?

MR. SMITH: Some of them are black and white; some of them are color. I only have one copy.

VICE CHAIRPERSON SOCKWELL: Okay.

MR. SMITH: What we wanted to do was -- this is a 200-foot proximity circle of the site, and this is a 600-foot circle.

VICE CHAIRPERSON SOCKWELL: I don't know where they --

MR. SMITH: I do some liquor licenses as well as

BZA cases from time to time, and we have to use a 400 and 600-foot radius. And I think that's appropriate because of all of the dialogue that happens from a restaurant or a nightclub that comes in to use property.

What is the real sphere of influence that people have? And I think it's been dialogued a great deal that a 600-foot circle is a very generous area to consider to be used for any type of destinate parking and walking to a destination.

The area is characterized by the east side for two -- this is 14th and Crittendon right here. The east side of 14th Street is the Metrobus bus barn, which --

VICE CHAIRPERSON SOCKWELL: And actually, Mr. Smith, the liquor license requirements are based on the proximity of same-class liquor licenses in particular. And those are different criteria; I've done those myself.

MR. SMITH: I stand corrected. So, what we did was, is we wanted to go the length of the 600-foot circle, at any rate, showing the parking that was available on the street.

We have several boards of photographs that were taken at various times, not only of 14th Street, but of some of the surrounding streets, which we can go through rather quickly and show you how much parking was available.

If you look at this particular area, from this area down here up to here, there's approximately 77 parking spaces on Sunday, but there's approximately 60 spaces normally in that area

that were formerly metered parking.

But because the City is redoing the meter situation and is doing these new meters -- and for some reason, the meters are either being stolen or removed off of that street, although it is a commercial street -- so we expect, because the signage is still there, that there will be meters coming back in those locations.

The meter poles are still there. There are just no meters on the street right now. So, our emphasis was to see if we could find, at the time the church uses their -- their church on -- between 7:00 a.m. and 11:00 a.m. on Sunday, if there were, indeed, on the average, 12 or more spaces available, not in front of residences on Crittendon, Buchanan, Allison, Decatur or Delafield.

The first picture shows a view in the early morning along Crittendon -- along 14th Street, that there's no parking on this side of the street. And if you look at these pictures very carefully, there's parking all up and down this side of the street. And in these photographs, there is parking available.

The second photograph shows the subject property at the same time, and that there is no one, at all, parked next to the building. There is a no parking sign from here to the corner, but there are approximately three spaces available next to the building, that are normal spaces, on the street.

The next picture shows Buchanan -- excuse me,

Decatur Street, looking south, again very early in the morning on 10/14. And again, where there's about 12 spaces on that side of the street, there's only one car, that I can see on this photograph, that's parked there at that hour.

This other photograph here is at the corner of Delafield, looking down 14th Street again. There's a number of parking spaces that are not metered in this particular block. And there's at least five to seven spaces available on this side of the street.

This is a view, on 10/15, of the street that shows only three cars in the three-block area that is parked there at that hour.

VICE CHAIRPERSON SOCKWELL: At what hour?

MR. MEZGHEBE: Unfortunately, this was a new camera. I do not -- could not set up at the time. I was able to set up the date though. But on the next pictures, you will be able to see the time and the date.

On this -- if I have to guess, this is early in the morning, at 7:00, 7:30, because all my pictures are taken between 7:00 to 11:00 or 11:30 in the morning.

VICE CHAIRPERSON SOCKWELL: All right, and some of them were taken on the 14th?

MR. MEZGHEBE: That's the only picture on the 14th, which was Saturday.

VICE CHAIRPERSON SOCKWELL: I understand that, yes.

MR. MEZGHEBE: The only picture -- I think I took maybe a couple -- either one day or two days that I took pictures on Saturday. The rest are on Sundays.

VICE CHAIRPERSON SOCKWELL: And the Sunday pictures are the ones that are most important if your services --

MR. MEZGHEBE: Correct.

VICE CHAIRPERSON SOCKWELL: -- are generally held on Sunday.

MR. MEZGHEBE: Correct.

MR. SMITH: Here's some other on-street parking that was available on 10/15. This is a view of Decatur Street, standing in the intersection on 14th and Decatur, looking to the west. And you can see that there's one, two, three, four -- at least five parking spaces --

MR. MEZGHEBE: That's my car there.

MR. SMITH: -- that are available. Huh?

MR. MEZGHEBE: That's my car right there.

MR. SMITH: That's your car?

MR. MEZGHEBE: Yes.

MR. SMITH: I wouldn't tell a policeman

(Laughter.)

MR. SMITH: Here's another view, 14th -- 14th and Delafield, looking west, which shows the same situation. Here's another view, 15th at Delafield, looking south. And this street has on-street parking all the way up and down 15th, except for 25

feet from the intersection or five feet from a driveway.

So, there was (sic) several spaces available one block away. So, we're not saying that we would like to park there. We're just characterizing the neighborhood as having an abundance of parking at the time when the church uses its services.

Here's another photograph made on 10/15 by Mr. Welde. Again, this is taken at the corner of 14th and Decatur, looking south. The subject property is located right here. And you can se that when you see this -- this particular shot, that there is plenty of parking available again on the street.

Once again, we took some more photographs on November the 5th --

MR. MEZGHEBE: Now, you see the dates --

MR. SMITH: Yeah, the date -- he got --

MR. MEZGHEBE: The time.

MR. SMITH: He showed me the first round, and we got the date (sic) to work.

MR. MEZGHEBE: The time.

MR. SMITH: So, 11/5 at 7:26 a.m., 14th and Delafield looking south where there's -- I only see one, two, three cars in the view on this photograph. 11/5 at 7:27 a.m., this is, again, at 14th and Decatur looking south, which is a block further down, and there's only one, two, three, four, five, six cars on that two-block area at that hour.

Here's another photograph taking -- taken on November the 5th at 11:42 a.m. There were some neighbors that said, "Well, starting at about 11:00, we have no parking in the neighborhood," and the church will be out of their building by 11:00 because their church -- their service is actually not -- it doesn't end at 11:00; it ends about 10:00 to 10:30. And they have given themselves a half an hour to go and go home.

So that again, this shows that there's one, two, three, four, five, six, seven, eight, nine cars parked on that end of the block, and a block that has normally 25 to 30 cars available. I can give you exact count.

On the 5th of November, at 11:44, at 14th and --

VICE CHAIRPERSON SOCKWELL: May I --

MR. SMITH: -- Delafield, looking south, again is a different story. Again, 11/6 at 3:00 p.m., when he -- I told -- I asked Mr. Welde to make some shots of the street at other times too, at random.

VICE CHAIRPERSON SOCKWELL: Yeah, let's -- let me ask you a couple of questions.

MR. SMITH: Yes, sir.

VICE CHAIRPERSON SOCKWELL: Generally speaking -- and I just want to sort of bring this to closure. Generally speaking, during the times that the church is holding services on Sunday, which is the principal use day for the largest number of church members --

MR. SMITH: Correct.

VICE CHAIRPERSON SOCKWELL: -- as I understand it from testimony, approximately during the period 7:00 a.m. to 11:00 a.m., what seems to be, by your unprofessional -- i.e. you're not a traffic consultant -- estimate and photographs -- what appears to be the average number of spaces available during that time period within a block in -- in all directions, or thereabouts, of this proposed facility? Are you saying that there are at least 11 or 12 free parking spaces during those times currently?

MR. SMITH: If you go one block in each direction on 14th Street, there are 41 available spaces.

VICE CHAIRPERSON SOCKWELL: All right.

MR. SMITH: Based upon the photographs we've shown you, and continue to show, that there's approximately 20 to 25 spaces that would normally be metered, which does not include the side streets where the commercial property extends back to the alley, which would increase our number.

VICE CHAIRPERSON SOCKWELL: All right. And then, you're saying that there are 25 spaces that would normally be metered. And in addition, there are how many other spaces?

MR. SMITH: If we --

VICE CHAIRPERSON SOCKWELL: And those metered spaces -- meters aren't -- don't work on Sundays. They're not --

MR. SMITH: Correct.

VICE CHAIRPERSON SOCKWELL: You don't put money in meters on Sunday, so those metered spaces are free spaces on Sunday.

MR. SMITH: That's correct.

VICE CHAIRPERSON SOCKWELL: So, let's get to the total number of spaces, the average number of spaces. I want some closure here.

MR. SMITH: Okay. If we went to Delafield down to Allison, there are 77 total parking spaces. On Sunday morning, at the various times we looked at it, there has not been more than 15 to 20 cars parked where 77 spaces exist, without counting any of the side streets.

If we count the side streets, there's approximately 270 parking spaces in the 600-foot circle, and also picking up this block down to Allison.

VICE CHAIRPERSON SOCKWELL: So, you're saying 270?

MR. SMITH: Yes, sir.

VICE CHAIRPERSON SOCKWELL: Now, is the -- why don't you complete your traffic discussion and then we can get to some more of this, please?

MR. SMITH: Some of the -- some of the residents who wrote in and said that there's a lack of parking --

VICE CHAIRPERSON SOCKWELL: Well, we'll get to -- we'll get to that, but okay --

MR. SMITH: I'm still making the presentation on --

VICE CHAIRPERSON SOCKWELL: All right.

MR. SMITH: -- what's available. Last Sunday, on the 26th, I met all the panel here, and we went down the alleys to see what we could discover, because I had never been down the alleys.

And these -- this exhibit here represents alley -- alley parking spaces which are behind either the same block where the house is located -- the property is located, which is 14th, Crittendon, 15th, and Decatur.

And what we found was, is that there is a whole set of garages. Some of them are abandoned and used for storage. But they are altogether in that alley, which is located near the subject property -- in this particular alley, there are 24 parking spaces that weren't vacant -- they were not vacant garages.

And on the other side of the garages, there were six spaces on the on Crittendon Street that were available off-street for the residents' use.

We also went through to look at the alley along 14th Street, which is right here. And there's approximately 17 or 18 parking spaces behind the commercial buildings because the commercial buildings don't go all the way back to the lot line. There's parking behind those buildings, many of which are vacant.

We went up to Delafield, and we found that between 14th and Delafield, and 15th and Decatur, there's another set of

garages and parking spaces which number 17 spaces, that are available to the -- not to us, but to the people that own the houses that park behind their houses.

And we were curious when some of the folks in the neighborhood were saying that they don't have parking to see if they really do have parking. So, we took the liberty of going behind three of the protestors' houses, and we see that 1416 Crittendon has a parking spot.

The person who protested from 1419 Crittendon has a double-wide gate for two cars to park in. And the rear of 1418 Decatur has an ice -- it looks like an abandoned ice cream truck and some trash, but it's basically one or two parking spaces if you put them end-on-end to fill up that space. Anything else?

MS. HICKS: No, that's it, not unless they have any more questions. Okay, in conclusion, under Case No. 16632, there is an exceptional condition of the premises which requires relief from the Board of Zoning Adjustment.

The existing one-story structure was built in 1992. The addition to the original structure was added in 1935, thereby covering --

VICE CHAIRPERSON SOCKWELL: When did you say --

MS. HICKS: -- approximately 100 percent of the lot.

VICE CHAIRPERSON SOCKWELL: -- the original structure was built?

MS. HICKS: 1922, according to the tax records. And according to the records of the D.C. Surveyor's Office, the addition was put on in 1935, therefore covering approximately 100 percent of the lot.

There's only a green strip that's -- that's controlled by public space, located on Crittendon Street, which cannot be used for parking without permission from the Department of Public Works.

We strongly believe that the variance can be granted without detriment to the public good. Also, to minimize the parking impact to the neighborhood, car-pooling, walking, and taking public transportation is -- is advised and recommended.

The creation of a liaison -- we suggested there be a creation of a liaison between the church and the ANC to establish dialogue. And we suggest that two members of the church be designated to monitor the parking on a weekly -- on a Sunday -- every-Sunday basis to avoid parking on the residential streets and only use the parking along the commercial strip.

Twenty-two people have signed individual letters of support of the church, and we have those that we could submit to the Board.

COMMISSIONER HOOD: Mr. Chair, if we could just clarify for the record, are those 22 people in the neighborhood or are they --

MS. HICKS: In the neighborhood, yes.

COMMISSIONER HOOD: -- from the church?

MS. HICKS: Yes. And their street addresses are -- and the signatures and dates are listed on -- on each -- each letter of support. Currently, the church members are trying to find and negotiate off-street parking to lease and use on Sundays.

And this, in the future, will require a special exception. But this is something that we don't have finalized as of today. So, with that, I conclude our case.

VICE CHAIRPERSON SOCKWELL: Board members --

COMMISSIONER HOOD: I have --

VICE CHAIRPERSON SOCKWELL: -- any questions?

COMMISSIONER HOOD: -- a number of questions, Mr. Chair, but I want to start off, first of all, is the bus barn still being used?

MR. SMITH: Yes.

MS. HICKS: Yes.

COMMISSIONER HOOD: And you all are directly across the street from the bus barn?

MR. SMITH: Yes.

MS. HICKS: Yes.

COMMISSIONER HOOD: I will tell you that I've been taken aback by these pictures, just having dealt personally with that area. Something must have definitely changed up there. You used to have to do some double-parking just to go in and school

tokens when I was in school.

So, I can tell you that -- and I was sitting here, trying to figure out exactly what's changed. But I'm looking forward to hearing the discussion.

But I can tell you I know I'm familiar -- but this was years ago; I've been out of school for a while -- not too long, but --

(Laughter.)

COMMISSIONER HOOD: -- but I can tell you that I was kind of taken aback by all the room that I'm seeing here on these pictures. But with that, Mr. Chair, I'll yield to my colleagues and see how the discussion goes.

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, do you have questions? If you want to hold -- or if you're still working on them, I can ask the questions.

MEMBER RENSHAW: Go ahead; you go ahead.

VICE CHAIRPERSON SOCKWELL: All right.

MS. HICKS: Can I comment on that, on what he just said about what has changed? Currently, it's my understanding that you can get tokens and smart-cards, or whatever you need, at different locations. So, there may not be the same demand to go into one location now because you can go into the Metro -- wherever the Metro Transit Authority is located.

You can also go to Metro Center. You can also get smart-cards from Giant, and also Safeway, and other locations.

So, that might be the change that has been made over the years.

COMMISSIONER HOOD: I understand that, Ms. Hicks. But while that's not relevant -- but my situation was that I was -- basically one or two of us were the only two in there buying the tokens.

So, I was wondering where the other cars were going, or where -- you know, so, in other words, I understand the availability now, different places are going to access those items. But at that time, if I remember correctly, the crowd in the bus line were one or two or three -- three folks.

So, the cars definitely didn't reflect what I see here.

VICE CHAIRPERSON SOCKWELL: And we're assuming that the photographs are true to their intent, and -- and time of having been taken. What I would like to ask here -- do you have other questions, Mr. Hood?

COMMISSIONER HOOD: I have some more that I would like to --

VICE CHAIRPERSON SOCKWELL: Well, no, please, you may continue.

COMMISSIONER HOOD: I don't have them together, but I --

VICE CHAIRPERSON SOCKWELL: Okay, well, then let me ask this question, and this would be asked of Mr. Achlem -- is that right, Mr. Achlem (sic)? What is it, Achlem?

MR. DALREN: Dalren.

VICE CHAIRPERSON SOCKWELL: Dalren, okay. You stated, I believe, that -- or it was stated that the orthodox church restricts the driving to services by its members unless specifically approved. That was a statement made in the early part of the presentation.

And I want to get a good understanding of that, that the church members are not free to drive their personal cars to services on Sunday, if they so choose?

MS. HICKS: Okay, do you want to answer that?

MR. YITBAREK: I can answer that. If you look at the orthodox, for example the Jewish Orthodox, they walk to their synagogue as a rule. But because of where we live, we trying to adjust this where you cannot walk from White Oak to 16th Street.

So, we get -- we say that okay, at least you can take the public transportation. And Father Dalren lives in White Oak, and he had been taking on Sunday a public transportation back and forth.

I mean, we can give him a ride; we can pick him up. But he had been taking on Sunday public transportation the past ten years.

VICE CHAIRPERSON SOCKWELL: Yes, but -- but I think that the critical part of your answer or your description of the method by which church members arrive at, or would arrive at, the facility was that generally, you are not allowed to drive on

Sunday to the service, unless previously approved by Father Dalren.

MR. YITBAREK: Yeah, you can -- you can say that. Like back home, everybody walks to the church; no one drives.

VICE CHAIRPERSON SOCKWELL: Okay, what you're -- what you're saying to me is not what I'm asking to hear. I'm asking to hear whether or not it is a rule, or whether or not it is just encouraged, that people not drive.

MR. YITBAREK: Yes, it is encouraged people not to drive because of the orthodox rule.

VICE CHAIRPERSON SOCKWELL: The services that are held on the church on Sunday from approximately 7:00 a.m. --

MR. YITBAREK: Yes.

VICE CHAIRPERSON SOCKWELL: -- starting time --

MR. YITBAREK: Yes, yes. There is only one mass, 7:00 a.m. to 10:00 a.m. or 10:30 a.m.

VICE CHAIRPERSON SOCKWELL: And after the mass, what other church activities that might retain the larger portion of the congregation would take place?

MR. YITBAREK: There will be none like --

VICE CHAIRPERSON SOCKWELL: And that's normally.

MR. YITBAREK: Yes, normally.

VICE CHAIRPERSON SOCKWELL: When weddings are held at the church --

MR. YITBAREK: No, usually we do weddings -- we

arrange a church -- we do weddings in different places, at a bigger church.

VICE CHAIRPERSON SOCKWELL: Okay. So, there are no small weddings?

MR. YITBAREK: Yes, that's true.

(Laughter.)

MR. YITBAREK: And you know, because of the culture, yes.

MS. HICKS: And it's true for funerals.

MR. YITBAREK: Yeah, even funerals have never been held in our church.

VICE CHAIRPERSON SOCKWELL: Okay. And in terms of other church activities, there apparently are some small five to seven person council-type meetings, or what -- they were called committee meetings.

MR. YITBAREK: Yeah, the committee, like five to seven of us, usually on Monday night; it depends on the schedule. If not, any other, like it could be Saturday, but five or seven of us. That's the maximum. The Building Committee -- like the Building Committee or Church Committee --

VICE CHAIRPERSON SOCKWELL: And what times are those generally held?

MR. YITBAREK: No, we arrange it. It depends on how our schedules are. If it is Monday -- if it is a work-day, usually it's in the evening.

VICE CHAIRPERSON SOCKWELL: So, after 6:00?

MR. YITBAREK: Yes, after 6:00, 6:00, 6:30, 7:00.

VICE CHAIRPERSON SOCKWELL: And Saturdays?

MR. YITBAREK: Saturday probably --

MR. MEZGHEBE: It's difficult to set a date really, or a time. It's the convenience of the individuals' own schedule.

VICE CHAIRPERSON SOCKWELL: All right, that's fine. Now, there are no plans for nursery school programs, or anything like that?

MR. MEZGHEBE: No, there is no -- no, we don't; nursery schools, no.

VICE CHAIRPERSON SOCKWELL: Is the -- is there any intent to make the church facility, should it be approved, available at times for community meetings, such as perhaps the Advisory Neighborhood Commission might a space to hold a meeting, or the community civic association might need a space to hold a meeting, that might be --

MR. MEZGHEBE: No, should --

VICE CHAIRPERSON SOCKWELL: Is there anything in your orthodox religion that would prevent the use of the facility for any type of community --

MR. MEZGHEBE: Oh, you mean for our community, no.

VICE CHAIRPERSON SOCKWELL: For the surrounding community that -- is there anything --

MR. MEZGHEBE: Can I answer that?

VICE CHAIRPERSON SOCKWELL: Yes.

MR. MEZGHEBE: The answer is no. Normally, our church is very strict. You go to the church only to pray and pray only; nothing outside the church activities.

VICE CHAIRPERSON SOCKWELL: Okay.

SECRETARY PRUITT: Excuse me, Mr. Sockwell.

VICE CHAIRPERSON SOCKWELL: Yes?

SECRETARY PRUITT: Just for clarification of the record, the Board is only looking at parking. Churches in this particular area are allowed, as a matter of right. And so, the only thing that's before the Board today is whether or not to grant the variance from the number of -- 12 number of parking spaces.

VICE CHAIRPERSON SOCKWELL: Right. I think that the direction I'm trying to take on this is to what extent the facilities will be used by anyone. And in asking that question, it naturally carries over to whether or not the community would be using it.

But that was just -- the principal use -- the principal issues are how much activity the building is going to generate, which would encumber potentially the parking that's available in the neighborhood.

I think that covers my general questions at this time. Ms. Renshaw?

MEMBER RENSHAW: Yes, Mr. Vice Chair, it -- you stated that the Father would be on the premises every day throughout the day. So, that brings me to ask whether congregants will be able to make appointments to come for counseling or any kind of sessions with the -- with the church leader.

This, again, goes to parking and whether that is going to be the case, whether that's part of your religion.

MR. YITBAREK: It is not our custom, like if I may say the Catholics, to go and make an appointment with the priest. And you know -- but it might be an occasion our very old people who can come on the holidays like St. Gabriel is on -- on the 12th, and those kinds of days. They just go and pray.

And most of those old people are from back home, and they will be driven by their family or public transportation.

MEMBER RENSHAW: The Office of Planning submitted a report to the BZA, and had, as one of its issues for our consideration, what traffic and parking demand management policies will be used to minimize impacts on the neighborhood. Have you seen this report?

VICE CHAIRPERSON SOCKWELL: Are we -- are we at the Office of Planning report yet? I mean, I don't think we're there yet.

MEMBER RENSHAW: I had a question -- well, I had a question regarding parking demand.

VICE CHAIRPERSON SOCKWELL: Okay, but I wouldn't reference it out of the Office of Planning report because we haven't gotten to that section.

MEMBER RENSHAW: All right, then I will hold that comment and pass to Commissioner Hood.

VICE CHAIRPERSON SOCKWELL: Thank you.

COMMISSIONER HOOD: I was sitting here trying to formulate one or two questions. I don't have many because I think most of it is pretty straight forward here in front of me. I, too, was going to reference the Office of Planning report, but I will wait, as the Chair has asked.

One of my -- one of questions is -- and I'm not really sure how the orthodox church works. But as far as trying to grow -- I know most churches are trying to get the membership and trying to grow, you know?

From what I'm hearing here today, you're like -- you have 50 people; that's it. You know, that's the cut-off. What about room for growth, which is going to eventually encompass more traffic, more cars? Where do you stand with that?

MR. YITBAREK: Okay, the church was formed in 1990, and incorporated in 1992. And now, we are in year 2000. From 1990 up to now, it's only 52 members. So, you can see the growth yourself. It's not much growth at all.

COMMISSIONER HOOD: So, you had 52 members in 1990, and you have 52 members now?

MR. YITBAREK: No, no, no. What I'm saying is from 1990 up to 2000, the growth only 52 members, which is -- I don't know when they started, but --

MS. HICKS: How many numbers did you start with?

UNIDENTIFIED SPEAKER: Eighteen.

MR. YITBAREK: Yeah, so they said they started at 18, and now it's 52. So --

COMMISSIONER HOOD: The majority of your membership now, how do they get to wherever you're worshipping now? How do they get there?

MR. YITBAREK: Some of us car-pool; most of us public transportation. And we are on 16th and S right now, which is a very busy area.

MS. HICKS: Do any of the members walk?

MR. YITBAREK: Yeah, and a lot of the members walk, yeah, like Mehari and --

COMMISSIONER HOOD: Where are you -- where are you now, on 16th Street?

MR. YITBAREK: Sixteen and S.

COMMISSIONER HOOD: And a lot of your members walk now?

MR. YITBAREK: From Washington, yeah, and a lot of them take public transportation.

COMMISSIONER HOOD: So, the majority of your membership is from Washington D.C.?

MR. YITBAREK: Correct, yeah.

COMMISSIONER HOOD: So, when you move down to -- if this is approved, and when you go down and if you -- the waiver, and you're able to use the facility and the parking and everything, the majority of your members will be walking?

MR. YITBAREK: Yes, sir.

COMMISSIONER HOOD: I did have some questions in the Office of Planning's report. And I'm sure that's where my colleague, Ms. Renshaw, was going, so I will now -- I guess I will end my questioning. I believe that's it, Mr. Chair.

VICE CHAIRPERSON SOCKWELL: Thank you. Any more questions, Ms. Renshaw?

MEMBER RENSHAW: Not at the moment.

VICE CHAIRPERSON SOCKWELL: All right, then we'll go to government reports. We do have a report from the Office of Planning, and I've asked Ms. Renshaw to bring up the salient issues and highlights of that report.

MEMBER RENSHAW: The Office of Planning's report is dated November 17th, 2000, and it was written by David McGhettigan through Andrew Altman, the Director of the Office of Planning.

And the summary is that the Office of Planning approves -- recommends the approval, with conditions, of a variance from the parking requirements of Section 3202.2, for a church use in the C-1 zone.

He then goes on to give the outstanding issues and the recommended action, along with background project description and analysis, which consumes several pages, and the issues for the Board's consideration; and he has a number of them, one, two, three, four issues.

And then, finally, the recommendation that the Office of Planning recommends the approval with the following conditions: (1) that the use of the structure for services or other large gatherings shall be limited to Sunday mornings; (2) that the applicant shall establish a program to encourage ride-sharing, transit, bicycle and pedestrian modes of transportation by church members to minimize parking demand; and (3) that the applicant shall diligently pursue an off-site parking agreement.

Upon approval of an off-site parking agreement by the Board of Zoning Adjustment or two years from the date the variance is granted, whichever occurs sooner, this variance shall become null and void.

COMMISSIONER HOOD: Mr. Chair, my question was to some of these conditions that the Office of Planning had recommended. First of all, I wanted to ask Ms. Hicks, were they aware of the Office of Planning report?

MS. HICKS: Yes, I did see the report. Yes.

COMMISSIONER HOOD: Okay. My concern is, how much of this -- and maybe my colleagues can help me -- is even enforceable. I believe -- I don't know if number three. I mean,

so it's kind of just out there on a whim.

MEMBER RENSHAW: Well --

COMMISSIONER HOOD: And I want to thank you, Board Member Renshaw, for doing the Office of Planning report since you're representing the OP today too.

MEMBER RENSHAW: Oh, I have many hats.

VICE CHAIRPERSON SOCKWELL: She has many hats; that's correct. Well --

MS. HICKS: Could we have a fourth condition, to have a liaison? That's what I recommended in the -- in my conclusion, that there be two members from the church appointed as liaison to work with the community when and if they perceive or think that there are any problems, that one person be -- two persons be designated, one to be vigilant every Sunday, and the second person should serve as a back-up, in the church, to make sure that there are no problems with individuals parking in the residential portions of the neighborhoods?

MR. YITBAREK: And any other concerns.

MS. HICKS: And they could also address any other concerns from the community.

VICE CHAIRPERSON SOCKWELL: Okay.

MS. HICKS: Also on condition number one, could we add "except holy days," Good Friday and Christmas, which is celebrated next year in the Eastern Orthodox fashion? Those would be the only exceptions to -- that we would request for the

-- for item number one, on the conditions.

VICE CHAIRPERSON SOCKWELL: Add holy days?

MR. SMITH: January the 7th.

MS. HICKS: Which would be Christmas, which would be -- which would be January the 7th.

SECRETARY PRUITT: Excuse me, Mr. Sockwell, I'd just like to state for the record; these conditions really don't apply to what's before the Board.

MS. HICKS: Okay.

SECRETARY PRUITT: It's only for the parking.

MS. HICKS: Okay.

SECRETARY PRUITT: The church is a matter of right. You're allowed to have --

VICE CHAIRPERSON SOCKWELL: Right, right.

SECRETARY PRUITT: -- your services whenever you --

MS. HICKS: Okay.

SECRETARY PRUITT: You know, it's your right to do so. The Board is only looking at parking, and that needs to be very clear.

VICE CHAIRPERSON SOCKWELL: So, actually number -- number two and three would be the only ones --

SECRETARY PRUITT: They could be --

VICE CHAIRPERSON SOCKWELL: -- that would have any parking impact.

SECRETARY PRUITT: But typically, we don't

condition variances because they run with the land. It can be done, but it's traditionally not.

MS. SANSONE: Excuse me, Mr. Chair. I was just speaking with Jerrily Kress again this morning on this issues of conditions. In these use variance in parking cases, it would be appropriate to impose conditions.

Of course, we should be careful that they are, you know, enforceable. And -- and also, I noticed in number three, the Office of Planning is suggesting that this would really be a -- almost a two-year variance to allow the applicant to try to pursue an off-site parking agreement, which, of course, is a special exception process, and provide the parking that way.

Or else, the way the Office of Planning has this, is that the variance would become void. So, they are -- they are suggesting a type of enforceability here. And conditions relating to parking would be appropriate in a parking-type situation, a parking -- even though it is a variance.

VICE CHAIRPERSON SOCKWELL: I think -- you see, the issue here is the church is a matter of right. The particular church is of such a size, population-wise, that it would require a variance from the parking requirements.

And so, if we are to condition this, then we are conditioning the particular church, as opposed to just a church. And that's -- that's where the difference between matter of right and a BZA-related issue come together.

So, I think we have the right to put certain conditions on the particular church. We might even be in a -- might be advised to make any order, should there be one, tied directly to this particular church, only because under the circumstances, the -- their orthodox -- in order for conditions to be enforced, if such enforcement is considered, one of the things is that the method by which they practice their religion discourages the use of automobiles to come -- for coming to services, which is unusual in that it is part of their religious tenet.

It is not just a -- an administrative decision, per se. And that is where this becomes a little bit different from the average church.

SECRETARY PRUITT: I guess my concern -- and this is something counsel, I think, would be better answering -- but traditionally, variances run with the land. And we have had previous cases where there have been variances, and you have conditioned them. But the conditions had to be based on not the particular tenant, but, you know, on a reasonableness.

And so, I'm not sure how to tie this to --

VICE CHAIRPERSON SOCKWELL: Well, see, they're the owners -- they're the owners, as opposed to a tenant. And --

SECRETARY PRUITT: Right, but if they sell the property, usually it runs with the property. Variances -- if you vary --

VICE CHAIRPERSON SOCKWELL: Yeah, the problem -- the problem is that, because this is a parking variance, let's say that another church comes in and they figure they can fit in 190 people --

SECRETARY PRUITT: Then they would need additional parking. They need a variance for the additional spaces.

VICE CHAIRPERSON SOCKWELL: Okay.

SECRETARY PRUITT: But that would be based on their sanctuary. But say another church came in and they had the same number of people, the variance would run with the land.

VICE CHAIRPERSON SOCKWELL: Okay, so -- so, we don't have -- so, we don't have an enforcement mechanism, per se, as you know?

SECRETARY PRUITT: And that's why I say, I don't know if --

VICE CHAIRPERSON SOCKWELL: Okay.

SECRETARY PRUITT: I think Court counsel needs to answer it, or at least do some research on that. I think there's National Child Development where that was an issue case. And that's a concern.

MEMBER RENSHAW: Well, in National Child Development case, the Court said that the Board cannot impose personal conditions to impermissibly regulate the business conduct of the owner, rather than the use of the property.

And the conditions that are proposed here are not

relating to the conduct of the church or its religious conduct, but to the use of the structure.

And they're proposing the establishment of a program to encourage ride-sharing and so forth. They're proposing, you know, keeping the number of gatherings limited so that -- it's going to the use of the building, not to the conduct of the church.

Now, when we speak of running with the land, we typically mean that the variance will be permanent and last forever. It runs with the deed. But in a use variance, such is being requested here, it's -- I believe it's a use variance.

VICE CHAIRPERSON SOCKWELL: No, it's an area variance.

MS. HICKS: It's an area variance.

VICE CHAIRPERSON SOCKWELL: The use is a matter of right.

SECRETARY PRUITT: It's an area variance for parking --

MS. HICKS: Right.

SECRETARY PRUITT: -- and that's what --

MEMBER RENSHAW: It would still -- it's being proposed for a term of years, two years variance, at least as OP's proposal, that they're saying the variance should last for two years, or until the church is able to come forward with an off-site parking agreement and get their special exception approval or variance to

allow them to meet their parking obligation that way.

So, we're not really talking about a condition here that is running with the land permanently, at least as being proposed by OP. They're proposing a term limit. And really, that's an enforcement mechanism.

VICE CHAIRPERSON SOCKWELL: Well, it looks like we have to at least decide whether or not the method by which OP wanted to place controls on this is one that the Board wishes to attempt to employ, or whether we're going to look at it strictly on the basis of the applicant's proposed condition, which is probably the more effective one, which is a self-imposed condition to provide a community liaison in perpetuity, which would give the assurance -- an assurance to the community that any changes and any issues that might affect them will be brought to their attention and discussed with authorized members of the church governing body.

And I think that that, in itself, as a self-imposed condition, places more control or communication that either of the three conditions recommended by the Office of Planning because first of all, the use of structure for services other than -- or other large gatherings shall be limited to Sunday mornings would be a -- probably an unfair imposition on the church.

And -- and because the church is a matter of right, where do you draw the line against what a church can or cannot

do, if it's a matter of right operation to be a church. To be a church is to do what is done in churches traditionally at whatever times those things are -- are actually accomplished.

As well, the program to encourage ride-sharing transit, bicycle, pedestrian modes of transportation is part of the orthodox order's tenets, as I said. And the off-site parking agreement is something that we certainly might want to look at.

But realistically, even if the numbers proposed by the applicant's traffic analysis are 50 percent inflated, there would still be approximately 145 available spaces in the community, of which a reasonable portion apparently are available during the particular time period at which the church holds its principal Sunday service.

So, we are going to have to look at this when we get to it, but I want to get through the rest of the issues that -- unless we have --

COMMISSIONER HOOD: Mr. Chair, I just have one concern. I've been sitting here looking through the sheet that was just handed to us about those in support. And also, I tried to compare it -- and I may be incorrect -- with the people that we noticed within 200 feet.

And I've noticed that we have people on our street and other places, and I'm just trying to see if anyone was in support within the 200 -- in the sheets to which the Office had noticed.

And my concern is, I'm seeing -- you handed us a stack of support letters. But then, when I compared them to my listings, I'm concerned because this does not reflect what I was looking for here. So, that's just something I wanted to bring to everyone's attention.

SECRETARY PRUITT: And Mr. Hood, I would say that there may be --

COMMISSIONER HOOD: I may be incorrect, but --

SECRETARY PRUITT: No, but some of those may be owners, and some may be tenants. And that be where some --

COMMISSIONER HOOD: What hundred block, again, is this on?

SECRETARY PRUITT: It's on -- I was just looking at that. It's the 4700 block.

MS. HICKS: It's the 4700 block of 14th Street, N.W.

SECRETARY PRUITT: Fourteenth Street. And then, if you look at some of the addresses like 1500 Upshur -- 14 -- well, some of them are way off. So, there --

COMMISSIONER HOOD: Right, and that's --

SECRETARY PRUITT: -- there is a variety.

COMMISSIONER HOOD: I just wanted to put that on the record.

VICE CHAIRPERSON SOCKWELL: Yeah, the -- most of these letters are from non-adjacent neighbors who may be within

the general area, but not from -- not from persons who would be immediately affected by the presence of the church.

MS. HICKS: Okay.

VICE CHAIRPERSON SOCKWELL: And that's -- I appreciate that, Mr. Hood. Your observations are duly noted. If no one has additional questions immediately of OP report, we do not a report from Public Works. And the Advisory Neighborhood Commission has not provided us --

MEMBER RENSHAW: We have a letter. We have a letter.

VICE CHAIRPERSON SOCKWELL: Do we have a letter?

MEMBER RENSHAW: Yeah, is this from the Chair?

VICE CHAIRPERSON SOCKWELL: Oh, okay.

MEMBER RENSHAW: It's --

VICE CHAIRPERSON SOCKWELL: I'm sorry, supplemental package.

MEMBER RENSHAW: The ANC4-C letter is dated November --

VICE CHAIRPERSON SOCKWELL: 3C.

MEMBER RENSHAW: It says 4C.

COMMISSIONER HOOD: 4C.

VICE CHAIRPERSON SOCKWELL: Oh, okay. Oops, the wrong one.

MEMBER RENSHAW: Is dated November 20th, 2000, and signed by Maureen Young, the Chair of ANC4-C. And it asks the

Board of Zoning Adjustment to take official note that the ANC4-C has reviewed the application for an exception to the parking regulations of the District of Columbia, and recommends that the BZA deny the application.

As support for the denial, please take note that ANC4-3 voted four to one to one at its November 14th, 2000 meeting to deny the application. They voted based on the report by ANC4-C03, that the residents of ANC4-C03 were against the conversion because they are concerned that the use would cause parking problems.

There being a quorum of six members of ANC4-C present, and there being a vote of the majority of the commissioners present, ANC4-C recommends that the Board of Zoning Adjustment deny BZA Application 16632; again signed by Maureen Young, the Chair of ANC4-C.

VICE CHAIRPERSON SOCKWELL: There is -- let me see this. There is something to be said -- we give the Advisory Neighborhood Commissions great weight, but there is something to be said about the way this ANC letter is written.

They are concerned that the use would cause parking problems. The issue is that the use is a matter of right use. A church is not being denied access to a community that it has a matter of right to exist within.

What I think the ANC may have meant to say was that the intensity of use, based upon the number of church members to

be accommodated, would cause parking problems. That's not exactly what they said.

And this letter, again, is not on official ANC stationary as well, which we do require. And that can be corrected.

COMMISSIONER HOOD: But do we have --

SECRETARY PRUITT: Actually, it's not required. We like it.

MEMBER RENSHAW: No.

SECRETARY PRUITT: It is not required by regs.

VICE CHAIRPERSON SOCKWELL: Well, we've been asking for it.

SECRETARY PRUITT: We've been asking for it, correct. I just wanted to --

VICE CHAIRPERSON SOCKWELL: Okay, and we -- we would prefer to have that. Is there anyone here representing the Advisory Neighborhood Commission --

SECRETARY PRUITT: There's one over there.

VICE CHAIRPERSON SOCKWELL: -- 4C?

MR. FENTY: Yes, yes.

VICE CHAIRPERSON SOCKWELL: Mr. Fenty, would you step forward? Have you been sworn in?

MR. FENTY: Has the -- has the proponents closed their case?

MR. SMITH: We are --

MS. BAILEY: If they may step back, please?

SECRETARY PRUITT: Yeah.

VICE CHAIRPERSON SOCKWELL: Yeah.

MS. BAILEY: The applicants, would you please take a seat?

VICE CHAIRPERSON SOCKWELL: We should have asked you to step forward. We actually had Ms. Renshaw read the ANC report --

MR. FENTY: Either way.

VICE CHAIRPERSON SOCKWELL: -- and I apologize for that.

MS. BAILEY: Mr. Fenty, when you have completed your testimony, would you please fill out two witness cards for us?

MR. FENTY: We filled them out.

MS. BAILEY: Oh, okay.

MR. FENTY: I think we turned them in.

UNIDENTIFIED SPEAKER: Yes.

VICE CHAIRPERSON SOCKWELL: And would you state your name and address, please, for the record?

MR. FENTY: My name is Adrion Fenty. I live at 4712 17th Street, N.W. I am a Commissioner for ANC4-C03, in which 4700 14th Street is located.

COMMISSIONER HOOD: Mr. Fenty, this is in your SMD?

MR. FENTY: Uh-huh.

COMMISSIONER HOOD: This is in your single-member district?

MR. FENTY: Yes, this is within my single-member district. Should I proceed with testimony or do you want me to --

VICE CHAIRPERSON SOCKWELL: Please.

MR. FENTY: Okay. I want to start by saying that the community, through the ANC, has followed all laws that govern the ANC throughout this entire process.

We were aware at the outset that the law of the District of Columbia provides that churches are a matter of right. However, churches are required to have one parking space for every ten feet that they have.

It is my understanding that the use, as a matter of right, follows some type of religious interpretation, but that the parking issue is not one to be given any like consideration.

It's one that was written with the impression that the community would decide when there is a parking problem, and when a particular use is going to pose some type of parking problem on the community. And that is why it comes to the ANC.

In order to have a church without the requisite parking, you must obtain a variance, and that is why we are here. The variances are only given if they are in accordance with the law of the District of Columbia, which requires that the ANC decision be given great weight before this body.

In October of this year, ANC4-C03 convened a meeting, wherein every member of ANC4-C03, including residents within 200 feet, were invited.

Residents showed up at that meeting, and every resident who showed up voted against approving this variance. They stated two reasons for that. One was that they did not want to have additional cars parking in the neighborhood; there was already a parking problem; and two, that that use was inconsistent with what the community wanted.

On November 14th, before the full ANC, a majority of the ANC voted to support ANC4-C03's decision and deny this variance. I submit to you that all of the laws of the District of Columbia have been followed, that mistakes have been made by the proponent, as has been stipulated, but that the community has made no mistake, and that the community should not be punished.

We have followed the process. We have followed it fairly, and this body should give great weight to that decision.

Now, there are some other issues. I just want to correct the record. It's my understanding that although there are 50 people in the -- that belong to the church, this variance would allow for 120 members to come. And that is what should be the issue, not the 50.

This body has recently decided a case in the same neighborhood, less than a half a mile away, wherein it denied the application to build ten townhomes in the neighborhood because,

in part, it would cause parking problems in the neighborhood.

So, there is a precedent for you all denying this variance today.

VICE CHAIRPERSON SOCKWELL: Can you reference the case?

MR. FENTY: It's the application of Stacy Hamlin and Allen Johnson. I don't have the case number in front of me.

VICE CHAIRPERSON SOCKWELL: Actually, one of the issues on that particular case was the specific fact that it did not have proper access from the alleys. It was -- to be built, primarily within the alley system.

MR. FENTY: But parking was an issue, both in the community decision and the Office of Planning. And it was my impression that it was a decision, and this Board's decision as well.

Let me also state that the testimony given that there was a church at this location before is erroneous. The use, up until about 1997, was a convenience store.

VICE CHAIRPERSON SOCKWELL: They submitted a Certificate of Occupancy that showed that it was a convenience store.

MR. FENTY: Yes, there was testimony that said there was a church there before.

VICE CHAIRPERSON SOCKWELL: I didn't hear it.

MR. FENTY: I'm just trying to correct the record.

Lastly, I would, at some point -- and I don't know the proper procedure here, but there has been pictures shown of 14th Street and the neighboring streets that show no parking at the time when the proponent plans to use the church.

I would like to present pictures which, in my opinion, show the exact opposite so that this body will know that there is, the community impression at least, that this is a very crowded street at the time that the church would like to use it.

That is my testimony, and the testimony of the ANC. And I understand that there are residents from the community who are here to testify.

VICE CHAIRPERSON SOCKWELL: Do you have those photographs for the record now?

MR. FENTY: Yes. The Court's indulgence?

COMMISSIONER HOOD: Mr. Chair, can I just ask Mr. Fenty a question?

VICE CHAIRPERSON SOCKWELL: Please.

COMMISSIONER HOOD: Mr. Fenty, is there a no parking sign or something -- I'm just -- like I said earlier, stated earlier, I was taken back -- the cars -- you know, the availability of the parking.

Is there a time, a point in time during the day, when there are no parking signs going up and down 14th Street?

MR. FENTY: Well, it's my understanding that the parking is only in -- you can park on Sundays on the west side of

the street, but not -- in front of the bus barn, you cannot park, at least in the 4700 block of 14th Street. You cannot park in front of the bus barn at any time.

There's a Metro stop there. And the only place you can park is in the 4600 block of 14th.

COMMISSIONER HOOD: I will say that the pictures that I see here now brings back a lot of memories.

MR. FENTY: Let me say for the record that those pictures were taken this past Sunday at 7:45 a.m. -- I'm sorry, for the record, 9:45 a.m.

COMMISSIONER HOOD: Is there another church in the area?

MR. FENTY: There are probably no -- no less than ten churches in the area. There's -- there's a lot of churches on 16th Street, on 14th Street, on Arkansas, on 13th Street. It's -- it's an area that has a lot of churches, which --

VICE CHAIRPERSON SOCKWELL: And numerous churches are in private homes, residential buildings. Are any of those in private -- in formerly residential properties?

MR. FENTY: There is a church in the 4500 block or 4600 block of 14th Street. That was there before I was the ANC Commissioner for this area.

So, I am unaware of whether that came through a process. It doesn't have any parking. And I understand that, during our community meetings, there was testimony that that

church causes problems, as well as another church at the corner of Buchanan and Arkansas, which is in the Single-Member District 4C-03.

COMMISSIONER HOOD: I just -- I'm just perplexed of how you can go to one extreme to -- this is what I'm used to seeing, but I don't know how you can get pictures like that and this.

VICE CHAIRPERSON SOCKWELL: It certainly appears that, on any given Sunday -- where did I get that one from -- you may find some significant differences at different hours. And at 9:45 would be approximately the middle of the service, as proposed by the applicant, at which time it appears that the intersection surrounding the proposed facility is choked with cars parked on the street.

It troubles me that we have two sets of photographs that are so entirely different.

MR. FENTY: If I may, Chair, most of those parking problems are probably the result of the church on Arkansas and Buchanan and maybe the church in the 4600 block of 14th Street.

The church on Arkansas and Buchanan has a lot of people who attend the church, and they park -- you cannot really park on Buchanan. They park on every adjacent street on both sides of Arkansas.

So, depending upon when they start their service, that probably explains the discrepancy in the two photos. It's a

very large church.

VICE CHAIRPERSON SOCKWELL: Uh-huh. Mr. Fenty, you are the ANC Commissioner for 4-C03. Where do you live in relation to this property? Again, you're at 4712 17th?

MR. FENTY: Yes, so two blocks away west.

VICE CHAIRPERSON SOCKWELL: Okay. And during the course of your weekly travels, you spend a lot of time on these neighborhood streets. Obviously, in the last several months, you've spent more time on the streets than you, perhaps, wanted to.

But the question is, the photographs here are particularly important because they're Sunday, and Sunday is when we're talking about the services. Generally, when you don't have a Sunday service, is the availability of parking on the neighborhood streets fairly good?

MR. FENTY: You can usually find one parking space. Sometimes, you do have to go to Decatur because all of the street -- all of the spots on 14th Street are taken up.

The testimony given by the proponent that there are hundreds of spaces is incredulous. This neighborhood always have cars that are backed up against each other.

I don't know where that testimony was derived from, but it couldn't be farther from the truth. And it really offends me. That should not be the testimony that's on the record before this body.

It is very hard to park in the area of 14th and 15th, Crittendon and Decatur. If nothing else, that should be on the record.

VICE CHAIRPERSON SOCKWELL: And I will admit that -- I mean, I went to Roosevelt High School. Of course, it was many years ago, but -- longer ago than Mr. Hood was there, but anyway -- the -- when I traversed 14th Street, it has -- I don't have a recollection personally of as few cars being present as those in the photographs that we were presented before I saw these.

This looks more reasonable to me. But I think that the question is that on a Sunday, with the impact of potentially more vehicles, and in this case, these cars are all parked, perhaps according to the Mayor's relaxed parking policy, but they are parked virtually up to the intersections, beyond the limits of parking signs.

And this tends to say that there's not enough parking. And it tends to say that people are squeezing the parking envelope to the point that it's bulging. And would additional cars brought in be significantly enough -- would be enough significant to cause this to become an even worse situation than it is now?

And I appreciate your testimony, and the photographs are very much appreciated for the record.

Board Members, are there any other questions for

Mr. Fenty at this point? And the applicant has the ability to cross examine Mr. Fenty if you would like. Mr. Smith?

MR. SMITH: Mr. Fenty, at your Single-Member District -- did somebody say -- Mr. Fenty, at your Single-Member District meeting in October, how many citizens voted -- I was there, but I wanted to ask you --

VICE CHAIRPERSON SOCKWELL: Let me interrupt, and I apologize. Procedurally, Mr. Fenty, I should have allowed you to cross examine the applicants. Would you like to do that before Mr. Smith asks his questions?

And you can stay where you are, Mr. Smith, because you may be representing the applicant for his cross examination.

MR. SMITH: Okay.

MR. FENTY: The Court's indulgence? No.

VICE CHAIRPERSON SOCKWELL: Yes, sir?

MR. FENTY: No, I don't want to cross examine.

VICE CHAIRPERSON SOCKWELL: All right, then, Mr. Smith, please feel free.

MR. SMITH: Mr. Fenty, at your October Single-District meeting, I recall were there not three citizens voted no, and no one else was there that voted at that time?

MR. FENTY: That's correct.

MR. SMITH: And again, at the -- so, what you're saying, then, is that based upon your leafleting the neighborhood, that three citizens came forward and came to the

meeting, and said that they did not want the -- the use of the church at this location?

MR. FENTY: That's incorrect. I think it's the -- the record will show that residents have sent letters in. We have another letter we can present today, so that's incorrect.

MR. SMITH: But basically, it's three or four people have come forward out of your single-member district to become identified and talk about their opposition to this facility?

MR. FENTY: That's incorrect.

MR. SMITH: How many people would you -- would you represent that have officially either written letters or voted in your meetings?

MR. FENTY: There has been probably less than ten who have voted in the meetings, probably less than five -- I don't know how many people have sent letters in. We could certainly find out.

However, everyone in the community was invited to come to the meeting. I think it was actually your testimony that the members of your church lived in Silver Spring, Alexandria, and Beltsville, not even in the District of Columbia.

MR. SMITH: I would like a clarification. In the center of your testimony that you just presented to the Board of Zoning Adjustment, that the -- "the use is inconsistent with what the community wanted," can you elaborate on that statement,

please?

MR. FENTY: That was a statement by one of the residents who came to the meeting. I think it is important to note here that the -- throughout this process, I think that the -- the members of the church have felt, in some way, that the community was against them.

But for -- for historically, and for the last couple of years, this community has worked diligently to try and build some retail tenants in their area. So, while that is not germane to the facts of this case, it is understandable that the community does take that into account when making their decision.

And that was a testimony that came out of the meeting, and that the community did not feel that this use was consistent with the use that they wanted in -- within their own community.

And I'm disappointed that the Office of Planning did not take that into account.

MR. SMITH: Mr. Fenty, at the ANC meeting in November, you submitted a resolution, which I have a copy of. Can you tell the Board of Zoning Adjustment -- this one was defeated, but is this the resolution that you had submitted that was voted down? MR. FENTY: This is the resolution that was submitted. I think we will both stipulate that this resolution got a three -- only had three members approve it, which meant it did not get approved.

Subsequently, there was a motion, absent this resolution, to deny the variance, which did get four members supporting it. I'll just clarify that for the Board of Zoning Adjustment.

One of the ANC Commissioners did not agree technically with the way this resolve was written. He didn't think it specifically addressed what we were trying to do.

And when we just said flatly that we were going to deny the motion, deny the variance, he then came on-board and supported our denial.

MR. SMITH: So basically, the resolution was the background, even though it wasn't passed, that the rationale that's stated in the "whereas" is basically the rationale or the will of the people that were present at the ANC meting. Is that correct?

MR. FENTY: Because we did not vote on the resolution, we cannot say whether or not that is why the ANC Commissioners voted on it. All we can say is that a majority of the ANC Commissioners who were present at our duly-scheduled November meeting voted against supporting this variance.

MR. SMITH: One of the paragraphs for the resolution that you submitted that was not passed says, "Whereas, a majority of the members of the community voted to disapprove the zoning exemption based for reasons including the following: (a) converting the building into a church would cause additional

parking problems on Crittendon and other neighboring streets --

VICE CHAIRPERSON SOCKWELL: Mr. Smith, let me ask a question.

MR. SMITH: Yes?

VICE CHAIRPERSON SOCKWELL: If the resolution was not passed, what is the validity of discussing it?

MR. SMITH: Because --

VICE CHAIRPERSON SOCKWELL: It does not carry the weight of the ANC's vote.

MR. SMITH: Okay, I'll withdraw the question.

VICE CHAIRPERSON SOCKWELL: Yeah, anything that was discussed is discussion. Anything that was passed is record, okay?

MR. SMITH: No more questions.

VICE CHAIRPERSON SOCKWELL: Okay, thank you. Are there any more questions from your group?

MR. SMITH: No.

VICE CHAIRPERSON SOCKWELL: Thank you. Mr. Fenty?

MR. FENTY: Yeah, I just wanted to make one other observation that might not be clear. The area that's been discussed on the record, that you called public parking, that they thought was part of their establishment, is -- there is extra space there to walk, but it does not appear to be a parking area.

VICE CHAIRPERSON SOCKWELL: Yeah, the term --

MR. FENTY: If you look --

VICE CHAIRPERSON SOCKWELL: Yeah, let me explain. The term "parking" --

MR. FENTY: I understand.

VICE CHAIRPERSON SOCKWELL: -- is an DPW term that has nothing to do with cars. There is --the designation of public space in the District of Columbia between the curb line and the property line, is one of two things. It is either sidewalk, as required sidewalk space, or it is a combination of two elements: one, sidewalk, which is from the curb to the rear of the existing or designated sidewalk.

And the rest of that space between that point and the building, the property line, is designated as parking. It probably goes back to sometime when people put their horses there, but it has nothing to do with cars.

And if there is no curb cut and no agreement between the Department of Public Words and a property owner for such use of space, then it is merely a designation that starts with "P" and means nothing about cars.

MR. FENTY: I just wanted to state for the record exactly what you just said, is there are no curb cuts there. So, it would be hard to even think that that was a parking area.

VICE CHAIRPERSON SOCKWELL: But sometimes, people just really don't know. Okay, anything else?

MR. FENTY: No, but I think there are some

community members who signed up to testify.

VICE CHAIRPERSON SOCKWELL: Okay, Board Members, do we have any questions for the ANC representative?

MEMBER RENSHAW: No.

VICE CHAIRPERSON SOCKWELL: Are there parties or persons in support of this application, who have planned to testify?

(No audible response.)

VICE CHAIRPERSON SOCKWELL: Are there parties or persons --

MS. ASEFA: Support.

VICE CHAIRPERSON SOCKWELL: Support? Did you fill out a witness card?

MS. ASEFA: No, I didn't.

VICE CHAIRPERSON SOCKWELL: If you -- you should have filled out a witness card. If you have testimony, I think we can allow you to do this if the Board Members don't mind. Fill out two witness cards, pass them forward, and you may come up to speak.

COMMISSIONER HOOD: No, she said support.

VICE CHAIRPERSON SOCKWELL: She said support, that's right.

VICE CHAIRPERSON SOCKWELL: She will be. Thank you, Mr. Fenty. And just for those who don't know, Mr. Adrion Fenty is the Council member-elect from Ward 4.

MS. BAILEY: Mr. Chairman so as not to hold the proceeding up, the lady can testify. And then, at the end of her testimony she --

VICE CHAIRPERSON SOCKWELL: That will be fine.

MS. BAILEY: -- can fill out the application -- the witness cards.

VICE CHAIRPERSON SOCKWELL: All right. Would you identify yourself and your address, please?

MS. ASEFA: My name is Lydia Asefa. I am --

VICE CHAIRPERSON SOCKWELL: I beg your pardon; would you spell that for us, please?

MS. ASEFA: Sure, L-Y-D-I-A, A-S-E-F-A. I'm sorry, I sound a little nervous because I am.

VICE CHAIRPERSON SOCKWELL: That's okay. Take your time. We're all very comfortable -- want you to be comfortable just like you're in your own living room.

MS. ASEFA: Okay.

(Laughter.)

VICE CHAIRPERSON SOCKWELL: And your address again?

MS. ASEFA: It's -- well, I own a business. It's SuperSaver Grocery and Deli at 4413 14th Street, N.W., Washington D.C.

VICE CHAIRPERSON SOCKWELL: 4413?

MS. ASEFA: Right. I've been there approximately 14 years.

VICE CHAIRPERSON SOCKWELL: Continue.

MS. ASEFA: I think the only thing that I'd like to say is that I've been there a very long time, which means I know pretty much the neighborhood and what the neighborhood people are like and what's been going on.

Generally, 14th and Crittendon, that -- that corner, that alley corner, has nothing been but an open market for drug selling. It's been there for prostitution. There's been -- it's an area where a lot of violence has taken place.

For -- for me, as far as I guess I'm concerned, I've talked to quite a few people about it. And for a church to come in there, for the community, even though the community is not going to be part of that church, it's a good idea because I see a lot of youngsters out there who I would say -- you know, when people go to a church and they're covered up, and they're humble, you kind of see things.

This is not a church that I go to. Actually, I don't even go to a church. But when the other kids, all the neighborhood kids, see these people who are concerned, and see these people who have morality and who want to worship, then it -- you know, it kind of -- what's the word I want to use -- it runs into the community.

You know, the kids will actually see something, something that has not been there for a long time. What has been there has nothing been but violence. I don't think -- I mean, of

course parking is going to be a big issue here, but I don't think parking is the issue.

The issue here is what they want to put up there is, you know, department stores. That's what the neighborhood probably would like to see. But they bought the building.

And the community probably -- is the community going to be disturbed by this? I doubt it. I doubt it, especially the people who are in business. And you know, would I be concerned if there is a church there? I'm two and half, maybe three blocks away; no, I wouldn't. It wouldn't bother me any.

I would get -- I'm sure I would get business from the church if they were there, and so would the other businesses that are around. It's not going to kill the area. I don't think it's going to kill the area. But I don't think parking is the issue here.

A lot of the kids are going to see something that they have not seen it. And you have to actually live there -- and I don't live there, but I am there 90 percent of the time.

There was a problem that I used to come in there and work from 7:00 a.m. until 12:00 midnight. And I see the kids. And more -- everybody should be concerned, not what's going to be -- what is -- what is going -- how -- what it -- what the parking issue is going to be here

People should be concerned what is coming in, and what is going to happen to the neighborhood, and if the

neighborhood is going to have any kind of change because of this.

The kids on 14th and Crittendon, 14th and Buchanan, 14th and Allison, have absolutely no moral values, a lot of them. That's not a wrong statement; that's the right statement. I've been in that neighborhood. I've been in that neighborhood for 14 years.

Thirty percent of the kids in that neighborhood carry guns. Now, tell me that's a wrong statement, because I see them.

VICE CHAIRPERSON SOCKWELL: Well, let's say that in terms of the parking issue that is before us, is your deli open on Sundays?

MS. ASEFA: Yes.

VICE CHAIRPERSON SOCKWELL: And what are your approximate hours on Sunday?

MS. ASEFA: Nine to 9:00.

VICE CHAIRPERSON SOCKWELL: Okay. And do you find that there is a significant parking impact on those streets on Sunday? Would you, in your viewpoint, feel that the photographs provided by the applicant or -- I don't know if you saw the photographs provided by Mr. Fenty, but they are of a significantly different parking area appearance from the ones that were provided by the applicant.

Would you say that on Sunday, there are a lot of cars on the street -- let's put it that way, during the --

MS. ASEFA: During the 14th and Crittendon -- is that the area?

VICE CHAIRPERSON SOCKWELL: Yeah, in that -- in your general vicinity -- you're in the 4400 block, you said, 47 -- 4413? And so, you're three blocks --

MS. ASEFA: From them.

VICE CHAIRPERSON SOCKWELL: -- down the street.

MS. ASEFA: Right.

VICE CHAIRPERSON SOCKWELL: But although you may be in the store more than outside of the store, obviously there is enough business for the deli to be open on Sunday --

MS. ASEFA: Yes.

VICE CHAIRPERSON SOCKWELL: -- which is a good thing. But do you believe that the parking is impacted? And you don't have to feel that it is improper to make an honest statement, although you are in support of the application, obviously.

MS. ASEFA: The parking will have some impact.

VICE CHAIRPERSON SOCKWELL: Okay, thank you. Any questions, Board Members?

MEMBER RENSHAW: No.

VICE CHAIRPERSON SOCKWELL: Thank you very much for your time.

COMMISSIONER HOOD: I just wanted to say to Mrs. --

VICE CHAIRPERSON SOCKWELL: Asefa.

COMMISSIONER HOOD: -- Asefa, that while I understand -- and believe me, we understand the concerns about the neighborhood and maybe some criminal elements that you may see. It's still this Board's charge -- I just want to put this on the record -- to deal with the parking.

That's what is basically in front of us. And I know those other things amount to something and mean something to you because it's tangible. But this Board's charge is, at this particular time, in this case, is to deal with the parking variance.

And I just wanted to put that on the record.

MS. ASEFA: Okay, thank you.

VICE CHAIRPERSON SOCKWELL: All right, persons or parties in opposition, people who would like to speak? Do you represent a common interest or are you all from different houses or living places, locations within the community?

UNIDENTIFIED SPEAKER: Locations within the community.

VICE CHAIRPERSON SOCKWELL: All right. I'm going to call a five minute recess, if you don't mind, so that Board Members and members of the audience can relax briefly. Thank you.

(Whereupon, the proceedings went off the record at 4:08 p.m. and resumed at 4:23 p.m.)

VICE CHAIRPERSON SOCKWELL: Reconvening, we are now

to talk with the persons in opposition. None of you had requested party status, per se, to the best of my knowledge. Is that correct --

SECRETARY PRUITT: Yes.

VICE CHAIRPERSON SOCKWELL: -- Staff? All right, so, how would you like to proceed? Who wants to go first?

MS. HOWELL: I do.

VICE CHAIRPERSON SOCKWELL: All right, you'll have to push the button on your microphone to illuminate the little, red band. That means it's on. Give your name and your address and your statement.

MS. HOWELL: Judith Howell, and my temporary address, currently, is 5808 Georgia Avenue, N.W. However, I have just recently moved from the 4300 block of Georgia Avenue, and I attend People's Congregational Church, which is 4704 13th Street, N.W.

And I also teach there during the week as an academic therapist and tutor for people with specific language learning problems, aged fifth grade through adult. So, I'm at the church on a continuous basis during the week.

VICE CHAIRPERSON SOCKWELL: And please go ahead.

MS. HOWELL: First of all, I'd like to say that --

VICE CHAIRPERSON SOCKWELL: Let me ask you -- I want you to begin your testimony with a statement of why you feel that you are particularly aggrieved by this.

MS. HOWELL: I'll try to keep it real brief, but I will try to cover the waterfront.

VICE CHAIRPERSON SOCKWELL: Okay.

MS. HOWELL: I have been a resident of Washington 35 years. And for a brief period of time in the 70's, I actually lived on 14th Street, and I believe the exact address is 4704, as is the same address of the church.

And is the -- currently the Spanish church in the -- I'm sorry, 4600 block -- the 4600 block. I believe it was 4604. That's actually the Spanish Inglesa, which is a converted rooming house. And I roomed in that rooming house also directly across from the bus barn between Buchanan and Crittendon Streets, N.W. on 14th Street.

That is where the Spanish Inglesa exists now, that Representative Fenty talked about the community having a problem with the parking of that church in the alleys and along the side streets, and in front of the businesses.

I also worked at a vegetarian restaurant during that time that was on 14th Street between Buchanan and Crittendon, so I am quite familiar with the parking situations over a long period of time.

And I also purchase all of my travel passes, although I do sometimes get them from retail stores and stuff -- you will find that if you do both Metro-rail and Metrobus, the most convenient place, and the place that still has the widest

variety of Metro methods of transportation to purchase is that bus barn.

First of all, I want to say that I am aggrieved to have to be opposed to having the parking variance given to a community of faith, so that my speaking in opposition, this is not an easy thing.

I really believe if it was not for my community of faith on 13th Street, I wouldn't be alive today and doing the kinds of positive things that I am in the community. So, it grieves me to have to speak in this way.

But the parking problem there is real. And I was as shocked as you were, sir, to see the photographs. And there may be a few things that can explain this. Because of the way Metrobus has now set its bus fares and -- and revised how its cards are given out, I do know that people now continue to buy on a bi-weekly basis.

And you'll find the first of the month Sunday, right after the checks and so on have come in, is usually a very heavy Sunday of people coming up to purchase from the bus barn, what we would say from the retail store at the bus barn.

And then, it does slack off the second week. And then, about mid-month, there is another, you know purchase. You know, people are constantly coming to buy, but the amount of volume that we used to see there has probably been changed by the nature of the way the bus barn, itself, now sells its passes, so

that they are in smaller amounts of money, more convenient; people are more likely to get weekly.

But I find that people still buy, you know, a lot of things, usually two Sundays a weeks (sic). So -- two Sundays a week -- a month, rather, is what I'm trying to say, is that you will see more traffic than you will see two of the other Sundays.

It just happens to go like that. And I usually come over between services and always try to purchase my cards there.

Now, I have to say that I am very, very disappointed also with the Office of Planning because the community, as a whole, did believe that as a part of the Ward 4 plan, and as a part of everything that has been expressed to them, that they understood that we really thought that a retail corridor should be established and nurtured opposite the barn.

But parking problems, if you get somewhere at 6:45 or 7:00 in the morning, you will probably get the spaces first. So, if this church comes at quarter of 7:00 in the morning to start their service, they will probably get what available spaces that there are on the actual corridor, or just in the fringe parts of the side streets.

However, everybody else who then comes, either for later church services in the area or to do mercantile business in that area, will be circling and going -- parking further and further into the residential zone in order to make the

accommodation.

The numbers of parking spaces that have been talked about in this informal presentation made by the proponent are mind-boggling to me. I don't know where 77 of them are on the main street. I don't know where 100-and-whatever-many it was stated there are, are on the side streets.

I just -- most of those homeowners have multi-generational family members. They have two, three, four cars a house. And just this -- unless everybody had left to go to their churches when they took their pictures, I mean, I just don't understand how they could say there's that many parking spaces.

There are not that many parking spaces in that community as what I heard testified to here today. Given that, that area had been affected for a long period of time with crime. And some crime was around some of the night spots in the area.

And when all of those were closed, yes, there's residual community crime issues that have absolutely nothing to do with the parking, except that it may the trend that the community residents in that area would rather park their cars on the street where they could see them, than use any particular garages, or sheds behind their house, or alley parking spaces where they would have to come into their property from the rear, or have to negotiate getting through the alley to the street side in order to enter their homes.

Also because that area had a lot of crime for a

long period of time, a lot of people have secured their backs in that area and, therefore, make it very difficult for them to access.

So, all this idea about all this parking in the alleys and parking behind houses and all of this is something that if the community does not think now that this variance will affect them, once they have to try and reactivate these kinds of parking facilities in order to park their cars, it will definitely affect them. And you will hear an outcry.

There is another issue, if we just stick with parking. It is my understanding -- well, I was in the neighborhood when the bus barn was renovated. And many, many of the routes that come through the bus barn were re-routed to either Bladensburg Garage or to Western Garage.

I think this Board, Zoning Board, would have to take into effect (sic) what's going to happen with now the purchase by private developers of the Western Garage.

And now the re-routing of those bus routes, especially the cross-town ones, E-bus lines and other bus lines, that may not be able to access the Bladensburg Garage, will they be transferred back to Northern?

One of the big fights when I was living there was whether they were going to let Northern build this big washing facility and -- and maintenance facility there. And the reason why the okayed it, and parking by the way -- they had to put

parking there -- and they okayed it because Metro said they would be moving the buses out.

Well, this latest thing of Western Garage going to private developers will bring some of those buses back. And although the garage sits on the eastern side of 14th Street, it greatly affects traffic and parking on the western side as well.

Because when buses finish their route, they have to come into the garage space. So, there are a lot of -- it always has been an exceptional amount of non-service buses that come down and pull in; not that many on Sunday of course. But that is a consideration, an idea, of it affecting the ability for consumers to come and use the services and park.

I attended this meeting, which was held in my church by the ANC for C-03 because I saw the folks directly adjacent to me at the meeting. And they had just opened a coffee shop in that block.

And so, because of that -- and I was at the church -- I asked, "What's the meeting about?" And I went in, and I listened. When it came time for the voting -- although many of us who had been in the community knew that this parking variance would create a problem, we did not vote.

We were asked by Mr. Fenty not to vote. Only those people in the 200-foot range were allowed to vote. There were other people in the meeting, including myself, that were voicing these concerns and asking these questions.

We need to really see if there can be a healing for this community. This community has had to put up with a tremendous amount, without getting very much services at all.

It seems like everybody has something for the community to have, except what will benefit the residents and increase consumer, taxpayer, and residential use in the community, and also what will create a more wholesome family environment.

Possibly the presence of a church, with moral and upright people, might bring that. But also, an active business corridor, with small businesses that are making it and that are bringing something positive -- and what I see, as having worked at a small business in that area, is that we never could get enough in that two-block area going at one time to feed off of one another, and therefore prosper.

And people are not going to come and park and do business where it is inconvenient for them. If these people are going to make it as a coffee shop there, they need Saturday morning and they need Sunday morning. And if the parking is taken, somebody is going to go somewhere else to get their coffee.

VICE CHAIRPERSON SOCKWELL: Well, the question would be perhaps, if I might ask, whether or not people coming on Sunday morning might become customers of a facility that offers coffee and things like that, either before or after church, and

would not that business thrive on the additional customer flow?

MS. HOWELL: My observation of both the church at Arkansas and Buchanan, which have come in the community since I -- I'm just at the church and no longer a resident or an employee on that corridor, and the Inglesa, is no.

They go to one carry-out, possibly two. They go to the carry-out down in 44, some maybe. And mainly, they just go to the corner store on Buchanan. And to the best of my knowledge, the church presence that pre-dates the church presence of this church has affected one thing and one thing only, all the back to our neighborhood, where we have a new sanctuary, all up Arkansas and 13th Street, it has affected one thing: parking.

VICE CHAIRPERSON SOCKWELL: And do you know how many people the Inglesa will hold?

MS. HOWELL: I don't know how many it holds. I do know that community people testified, and I have witnessed myself, that they continue to block alleys. They continue to have parking problems. Neighbors continue to call, and the police are pretty much ineffective, or have been ineffective, in terms of getting them to even park in, you know, the legal spaces.

As far as the church that went into the C & P property at Arkansas and Buchanan, they were sold that property with the thing that there's parking on the roof. But if you look into it, you will find that a whole part of the roof was unable

to carry or bear the load, the structural problems -- you walk -- you can walk by it or drive by Arkansas Avenue and see where they've tried to patch the brick from keeping that roof from coming down.

And basically, they have only been able to develop a small portion of their site as a church because of the structural problems.

The bottom line is, I think people are taking advantage of who are in communities of faith by people who have property. These people desperately want places to worship, and they are misled when they purchase.

And as far as what the community needs are or the impact that it's going to have on the community, absolutely nothing -- no research is done; no pre-conversation is given for us to have any import or idea.

VICE CHAIRPERSON SOCKWELL: I assume that you don't have any knowledge of why the previous business closed?

MS. HOWELL: No, I don't. I do know though, at one point, it wasn't a convenience store. There was a great farmer's market, small farmer's-type fresh vegetables and fruit store on 11th Street, N.W.

And because of crime, it tried, at one point, to migrate up to that 14th and Crittendon Street area. And it used that area that's called parking to put out fresh fruits and vegetables, and watermelons, and stuff like that, for display on

the weekends to show what their produce -- produce -- what produce they had brought in fresh.

And that was a positive use. However, there just wasn't enough other business. You know, and the neighborhood had turned enough away from the crime to make it a viable -- you know, for them to stay.

VICE CHAIRPERSON SOCKWELL: Okay, thank you.

COMMISSIONER HOOD: Mr. Chair, may I just offer a suggestion?

VICE CHAIRPERSON SOCKWELL: Yes.

COMMISSIONER HOOD: Maybe we can hear from all four -- I think these are the only people here in opposition. If we could just hear from all four for the second time, because I do know we're going to lose the quorum at 6:00 --

VICE CHAIRPERSON SOCKWELL: Six-thirty.

COMMISSIONER HOOD: -- 6:30?

VICE CHAIRPERSON SOCKWELL: Uh-huh.

COMMISSIONER HOOD: I think it's 6:00, and we do have another case. So, if we can hear from all of them, then we can maybe ask the questions.

MS. HOWELL: Right, well, I am going to leave. So, if anybody has anything specific for me -- I had a student at 4:30, and I desperately tried to reach the mother.

MEMBER RENSHAW: I just have one question, and anyone could answer this in their testimony, or by Ms. Powell

(sic). And that is, the mayor has made a statement that he is going to be spinning out some of the government offices into the community.

And I wondered if this 14th Street corridor or over nearby on Georgia Avenue was going to be the location in Ward 4 for some government office buildings, and whether or not it's anywhere near this site. Shaking of heads? Then, the question is answered.

MS. HOWELL: Yeah, no, it's not -- nothing is going to affect that immediate block. And the last name is Howell, H-O-W-E-L-L -- not that we know.

VICE CHAIRPERSON SOCKWELL: All right, thank you very much. Next, please?

MS. NWANZE: Hi, my name is Audrey Nwanze. I am a partner --

VICE CHAIRPERSON SOCKWELL: Spell your last name, please.

MS. NWANZE: N, as in Nancy, W-A-N-Z-E. And I just have one, quick comment.

VICE CHAIRPERSON SOCKWELL: And your address?

MS. NWANZE: Is -- my business address is 4706 14th Street, N.W.

VICE CHAIRPERSON SOCKWELL: All right, go ahead, please.

MS. NWANZE: Okay. It has appeared so far from

the testimony that it comes -- the view has come mostly from residents. But there are businesses also on that block, on the 4700 block. And as Judith testified, we are a brand new coffee house that opened eight weeks and a day ago.

We do the bulk of our business on Saturdays and Sundays, a large part of our business on Saturday -- on Sundays because we provide entertainment.

I notice that in -- not in any of those pictures is my car, and I'm usually there at 7:30. So, we've been open since the end of September. The impact that this church will have on our business will be tremendous in the morning.

A lot of our customers drive in for a quick cup of coffee and drive out. They are three doors away from us and will take up the bulk of our front parking area for our customers to come in and out. And there's already a problem now.

I cringe to think what it will be like once they have full membership, if they don't have it already. I don't have anything against churches; I just think that a store front is not an appropriate use for a church.

And they have not been completely honest throughout this whole process. So, I find it hard to believe that they have only 50 members. They started construction without getting permits. It just has not been a very truthful dealings here.

VICE CHAIRPERSON SOCKWELL: Let me ask a question.

MS. NWANZE: Sure.

VICE CHAIRPERSON SOCKWELL: Do you have -- did you research whether or not they had obtained building permits before --

MS. NWANZE: We did call the inspector, yes.

VICE CHAIRPERSON SOCKWELL: All right.

MS. NWANZE: Uh-huh, we did.

VICE CHAIRPERSON SOCKWELL: And the inspector --

MS. NWANZE: Came out and stopped the construction.

VICE CHAIRPERSON SOCKWELL: All right.

MS. NWANZE: So, in terms of the impact that it would have on us, it would devastate our small business. And that's all I have to say.

VICE CHAIRPERSON SOCKWELL: Just one thing: you may not be aware that many of the churches in the City that are some are the more successful churches started out in some type of store front as the most appropriate method to house their fledgling congregations, and have since moved to large and very elaborate facilities.

And you do not believe that a store front is an appropriate beginning for a church.

MS. NWANZE: Not at this critical stage that our retail strip is in, no, I do not.

VICE CHAIRPERSON SOCKWELL: No, you said, period. You did not -- you didn't say "in this area". I am just saying that you do not believe --

MS. NWANZE: No, I --

VICE CHAIRPERSON SOCKWELL: -- that a store front is appropriate --

MS. NWANZE: For my area; let me --

VICE CHAIRPERSON SOCKWELL: -- for a church. That's what you said. I want to correct the record and --

MS. NWANZE: Correct.

VICE CHAIRPERSON SOCKWELL: -- make sure I understand what you mean.

MS. NWANZE: Let me clarify.

VICE CHAIRPERSON SOCKWELL: It's either you're totally against it, or you're against --

MS. NWANZE: No.

VICE CHAIRPERSON SOCKWELL: -- it in this particular location for this particular reason.

MS. NWANZE: This particular location and this particular block of the 4700 block of 14th Street.

VICE CHAIRPERSON SOCKWELL: Thank you. Next, if there are any other questions. Yes, please?

MR. NWANZE: My name is George -- George Nwanze, and that last name is the same. I am also a part owner of the coffee house in the 4700 block of 14th Street.

We also happen to live in that same neighborhood. We're three blocks away, so there is a multitude of interests, not just running a business, but also being residents of that

neighborhood.

One of the things that came upi earlier during the testimony was the fact that 30 percent of the children or the youngsters in that neighborhood are involved in some criminal activity.

I would like to say that I have four children, and I do not perceive them to be criminals. So, I just wanted that on the record.

Going back to the parking issue, I took the photographs that are represented there on behalf of the complainant, in opposition to that church -- I mean, to that location. Those pictures were taken at 9:25 this Sunday, and are accurate.

There is something that has been sort of overlooked through much of this proceeding with regards to pictures and locations of churches in this neighborhood. There was mentioned by Judith of a church, the 4600 block, the Inglesa Church, right across the street, east of that, is another church in a warehouse facility.

The church has been referred to as being located at Arkansas and Buchanan. That church has at least 500 members that share -- have parking somewhat available to them at 14th and Buchanan in a parking lot that they lease from Gulf Oil Company.

Now, when that parking lot is full, the members of the church park along 14th Street, as well as Arkansas. Their

parking ranges from 14th and Allison, as I can tell, all the way up to 14th and Delleville.

The -- most of the cars that you see in that picture taken at 9:45, the majority of them are actually members of that church. In the -- in the weeks that we've been there on Sunday running the business, we've had the opportunity to stand at our store front and observe parking issues.

We have been well aware of this church coming up for some time now, and the impact that it would have on parking. So, we have had ample opportunity to personally observe the coming and going of traffic.

There is absolutely no parking between those hours.

VICE CHAIRPERSON SOCKWELL: Between what hours?

MR. NWANZE: Between the hours of 8:00 and at least 11:00, there is no parking available. The exploration of an off-site facility is probably a moot -- a moot point. There is nothing within that proximity that will afford this church an off-site facility, other than going to park maybe somewhere in Columbia Heights.

So, you know, trying -- trying to stay focused on the parking issue, there really isn't a parking option. A lot of the pictures here, I don't know what day they were taken. Some of the pictures in the alley show property in the back of our property, which is not accessible for parking.

And there was made mention of, you know, the

security issue. And Judy point -- touched on the point that I had that -- and that may be a reason why the neighbors do not want to park in the alley. But they don't have that option also.

I would also like to say that the -- the business that we have is a business that thrives on having availability of parking space, as my wife said earlier.

There isn't really much that -- that can be done in terms of allowing the church to have some space. There really isn't any space available.

I also know -- and this may be a little bit off the point of parking as well. I'll retract that statement. But I also have some history with the church and that building. I actually had a hand in helping them out when they recently -- when they purchased that building.

And they were well-aware of the limitations of that building.

COMMISSIONER HOOD: Mr. Chair -- I just need to clarify your last statement. You assisted this church?

MR. NWANZE: The building that we purchased for our coffee house was owned by the same individual. The gentleman that sold the building to them also sold the building to us.

When they purchased the building, and right about the time that they were trying to do something with the building, I -- they -- I physically helped to clean and move a lot of the existing equipment that was in that building, that's a deli. And

I --

VICE CHAIRPERSON SOCKWELL: Was that because you purchased the equipment?

MR. NWANZE: No, not because I purchased the equipment. I -- the gentleman that sold the building is a personal friend of mine.

VICE CHAIRPERSON SOCKWELL: Oh, okay.

MR. NWANZE: And he needed someone who could help, you know, them to clean the place out.

VICE CHAIRPERSON SOCKWELL: But you weren't aware of -- I assume that you weren't aware of any inferences that might have been made as to the availability of additional square footage for parking?

MR. NWANZE: No, but I was well aware of the -- the fact that there was a congregation -- a significant congregation that was coming to that location.

VICE CHAIRPERSON SOCKWELL: Okay, thank you.

MR. NWANZE: You're welcome.

VICE CHAIRPERSON SOCKWELL: Mr. Hood?

COMMISSIONER HOOD: I have no questions.

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, any questions?

MEMBER RENSHAW: No questions at this time.

MR. FYKES: My name is Leroy Fykes.

VICE CHAIRPERSON SOCKWELL: You'll have to push the

red button. Thank you.

MR. FYKES: My name is Leroy Fykes. I live at 1313 Emerson Street, N.W. I work on the -- with Charlene DuJarvis on the Georgia Avenue Revitalization Committee.

And in that discussion, we also raised the issue of doing some revival down on the 14th Street corridor that we're now discussing.

I'm also -- I've lived at -- at my address on Emerson Street for 19 years. I'm also the block captain for the Carter Baron East Neighborhood Association for that block, and also have an interest in the -- interest in the commercial block because I'm looking to purchase a place to practice law close enough to walk.

I have three children. I think it's appropriate for me to be able to run my practice in my neighborhood. And I'm looking for a kind of neighborhood where I can actually do that.

And this revitalization and bringing in tenants and making it a comfortable enough block for people to come and go without security issues, and be able to get good services -- traffic is clearly a part of that consideration.

Now, one of the issues -- you know, we -- it would be very hard for anyone to ever suggest that our neighborhood was anti-church. I'm a deacon over at Zion Baptist over on Blagdon -- - Blagdon Avenue.

In my neighborhood, in the eight or nine blocks

around where I am, we have -- we must have 10, 15 churches. On just the corner of Emerson and -- which is about three blocks over -- Emerson and 14th Streets, you've got St. Paul AME. You've got -- down on Galliton, you've got three churches down on -- right near the corner of Galliton and 14th Street.

You've got this -- the new church on 14th and -- and Allison. All of the churches have parking problems. I mean, Zion now is parking across on Blagdon Avenue. And they're now -- we're now parking all the way across 16th Street.

Nineteenth Street is growing again. They've got a new minister. And of course, they're parking at 16th, and they're coming down the side streets also.

You've got Simpson Hamline at Allison and 16th Street. We've got churches blanketed -- we're going to start an 8:00 service in January. So, we're going to have not only the 8:00 service, breakfast, Sunday School, an 11:00 service, we -- these churches, basically in the neighborhood that I live in, have services that extend from the early morning right until the early afternoon.

Now, even at Emerson Street, where you have St. Paul, we have illegal parking regularly every Sunday morning because there's not enough space. Now, we're only three blocks further north of the 4700 block of 14th Street.

Churches -- you know, churches tend to have elderly folks. They're not going to walk long distances. So, if you

only have parking immediately -- the parking that we're going to be concerned about is going to be immediately adjacent to the building.

So, that the notion that there are other spaces that are further out that are going to be used, that's just not realistic.

I don't know where these pictures come from either because when I park over there on Sundays, and during the week to pick up tokens for my kids, I usually have to come up on the sidewalk, jump -- have somebody jump out to get the bus tokens, and then -- and then come back. And then, we take off.

But the notion that there's adequate parking there is a real myth. And I'm certainly -- I would object to the photos because there's really been no foundation established by an expert for the acceptance of these photos into evidence.

VICE CHAIRPERSON SOCKWELL: Well, we have tried not to require an expert for the opposition's photographs either. So --

MR. FYKES: Okay, well --

VICE CHAIRPERSON SOCKWELL: -- we have to accept --

MR. FYKES: -- I understand that.

VICE CHAIRPERSON SOCKWELL: -- both of them on the word of the -- good faith.

MR. FYKES: Right. So, that's why I'm testifying at this point about the -- the fact that this is not what I

normally see during the day on a Sunday or a Saturday for 14th Street in the 4700 block.

Now, as a potential, future merchant -- because I really do need to have some space around there. We're very concerned about the synergism associated with getting --

VICE CHAIRPERSON SOCKWELL: Now, this is as a potential, future merchant --

MR. FYKES: Right.

VICE CHAIRPERSON SOCKWELL: -- "you" are concerned --

MR. FYKES: Me.

VICE CHAIRPERSON SOCKWELL: -- not "we" or "they;" "you".

MR. FYKES: Well, if I --

VICE CHAIRPERSON SOCKWELL: You.

MR. FYKES: -- commiserate with --

VICE CHAIRPERSON SOCKWELL: Mr. Fykes --

MR. FYKES: -- there will be others --

VICE CHAIRPERSON SOCKWELL: Mr. Fykes, law business is the future merchant.

MR. FYKES: Right.

VICE CHAIRPERSON SOCKWELL: Okay.

MR. FYKES: But in that business -- there will more than just myself in that business.

VICE CHAIRPERSON SOCKWELL: Okay, but you --

MR. FYKES: So, I used the imperial "we".

VICE CHAIRPERSON SOCKWELL: -- but you're -- but you're speaking for yourself because it's a non-existent business. You cannot speak for people who do not exist.

MR. FYKES: No, it is an existing business. We are just not currently on that --

VICE CHAIRPERSON SOCKWELL: Okay, all right.

MR. FYKES: -- in that spot.

VICE CHAIRPERSON SOCKWELL: Okay, go ahead.

MR. FYKES: But we are an existing business. We've been in existence for more than 30 years.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MR. FYKES: Now, what I'm suggesting is that in -- in looking at a neighborhood, and one of the -- we're currently meeting on a monthly basis as a 14th Street revival group to try to deal with issues of safety, to try to bring -- to get people interested, to try to get infrastructures built into the area that's appropriate for new businesses.

We're really trying to make and market the 14th Street corridor. Parking is critical to the development of that corridor. The businesses that are going to come to the -- that are potentially going to come to that -- into that area are going to need parking because they're coming and going, like the coffee shop.

I specialize in elder care. My clients can't park

three and four blocks away. They need to be able to park close to where their business is.

Now, there was an issue raised about a -- why the food market in the church's location died. It died, I think, as a person who attempted to go over there and shop, because the quality of the presentation was poor.

The actual food was -- it was a plexi -- a thick, plexi-glass operation, which means that basically they were more afraid of us -- they weren't afraid to take our money, but they appeared to be afraid of us as customers.

That's not what we see in the businesses that we hope to have established in the near future. And the other thing, of course, is that the expectation is that the parking problem, if the revitalization is successful, can only get worse.

So, what we're trying to do now is to make sure that we anticipate the fact that there will be a growth in businesses and retail in that area, and that when we finally hit -- hit that mark, there will be adequate parking in that area. Thank you.

VICE CHAIRPERSON SOCKWELL: Mr. Fykes?

MR. FYKES: Yes?

VICE CHAIRPERSON SOCKWELL: You do not foresee the addition of off-street parking as part of the revitalization design?

MR. FYKES: I don't see that. I don't know where

it would be, where you could actually put parking.

VICE CHAIRPERSON SOCKWELL: Well, below grade.

MR. FYKES: There are lots of springs and so forth that run through that area, even -- it would be very hard to put some -- some below grade parking. And I don't think the City has any plans for doing that. It has not been discussed in our meetings -- and we've had planning folks there.

VICE CHAIRPERSON SOCKWELL: So, most of the development that you see is City-funded development or private development?

MR. FYKES: Well, you're talking about infrastructure if you're talking about parking.

VICE CHAIRPERSON SOCKWELL: I'm talking about -- I'm talking about infrastructure.

MR. FYKES: Right.

VICE CHAIRPERSON SOCKWELL: I'm talking about parking; I'm talking about whatever the revitalization would entail, as you, as one working with the organization that's promoting it through Mrs. Jarvis, would see that.

MR. FYKES: Well, and --

VICE CHAIRPERSON SOCKWELL: And if parking is a concern, then parking should be part of the grand plan.

MR. FYKES: Well, parking currently has not been -- has not been -- the investment in parking certainly has not been discussed at this point. What we've talked about primarily has

been issues of security, beautification, so that we would create the right ambiance for businesses that -- that could come to that area and -- and operate successfully.

VICE CHAIRPERSON SOCKWELL: So, you're talking about neighborhood support: retail, commercial businesses, as opposed to any other employment center related development?

MR. FYKES: Right, it's a small strip. And what we're looking for are the dry cleaners, the coffee shops --

VICE CHAIRPERSON SOCKWELL: Okay.

MR. FYKES: -- the small doctors' and dentists' offices that would support a fairly strong demographic in that area.

VICE CHAIRPERSON SOCKWELL: Small law firms and --

MR. FYKES: Hope to be bigger.

(Laughter.)

VICE CHAIRPERSON SOCKWELL: Okay. Any questions, Ms. Renshaw?

(No audible response.)

VICE CHAIRPERSON SOCKWELL: Mr. Hood?

COMMISSIONER HOOD: I just have -- I just have one question. I want to just ask the three panelists right now, just give me a quick response. The letter dated September 21st to Ms. Kress, and I quote -- this is just a portion of the letter -- "The only variance we need is for parking. And we are certain that there will be no neighborhood opposition to us."

Is that statement incorrect? All of you can ask -- answer.

MR. NWANZE: I'm sorry; the letter is from the?

COMMISSIONER HOOD: This letter is from the church, Mr. Yitbarek, I believe. Is that how you pronounce it? I hate to mispronounce people's names, but it was in response to this application trying to expedite it.

So, I just want you to put on the record the statement out of this letter where it says, "The only variance we need is for parking, and we are certain that there will be no neighborhood opposition to us."

Is that an incorrect or correct statement?

MR. NWANZE: It's a -- it's an incorrect statement. There were two witnesses here earlier who live on Crittendon, 1414 Crittendon, that couldn't stay because they had to go back to their work. They filled out witness cards, but they weren't able to testify.

They are strongly in opposition to having a parking variance. We know that because --

COMMISSIONER HOOD: Did they submit anything in writing?

MS. NWANZE: I don't know if you received letters from them or not.

COMMISSIONER HOOD: We probably did. If you would see what's actually behind here --

SECRETARY PRUITT: I don't know.

MR. NWANZE: And I think that letter would be inaccurate also.

COMMISSIONER HOOD: Okay, that's all I need to know. Thank you; I'm satisfied.

MS. NWANZE: I'm sorry; can I ask the date of the letter?

COMMISSIONER HOOD: September 21st, 2000.

MS. NWANZE: Okay.

COMMISSIONER HOOD: Exhibit No. 12.

MR. NWANZE: Could I possibly add something, Board Members?

COMMISSIONER HOOD: Sure.

MR. NWANZE: As a coffee house, we would -- we would more than welcome the business from the church. And we are certainly not in opposition to a church, but not at the expense of a community and the community's interest in parking.

MEMBER RENSHAW: Mr. Vice Chair, just a question for Mr. or Mrs. Nwanze; and that is, are there any surface parking areas close to your coffee shop, which also might be used by Mr. Fykes for his law business?

I take it that there is no, what we would call, a municipal garage, parking garage, in your area, which perhaps the community ought to look into.

VICE CHAIRPERSON SOCKWELL: Right.

MEMBER RENSHAW: But are there any surface lots that can be used for customer parking?

MR. NWANZE: The only -- the only surface lot is the lot that is currently used by the church at 14th and Buchanan, which is a parking lot that's owned by Gulf Oil Company.

And that, as I stated earlier, is fully occupied during the hours the church is in operation. And the members do spill out onto the side streets.

MR. FYKES: One other thing too is that in terms of -- in terms of the church being there, I'm also looking at the issue of the presentation that they put, because the presentation that they put is going to very important to people's decisions about whether they're going to stop, or even my clients, who come with appointments, whether or not they'll feel safe.

VICE CHAIRPERSON SOCKWELL: Do any you feel that a church located there, exclusive of the parking issue, would go a distance in making the neighborhood corner, which has been referred to as a location for drug activity, etcetera, a better corner? Now, that's understanding that the church operation for assembly activities is primarily on Sunday with a single service, and for small committee meetings, although there would be someone in the church daily for some period of time, apparently.

MR. FYKES: I think that if the -- based on the

services that the church -- the things, the activities the church says it would be involved in, which was essentially zero during the week, what that really means then is that that becomes an inactive corner.

Now, an inactive corner with respect to foot traffic from the church -- for example, at Zion, there's lot of programs and activities, which means that, in terms of safety, there's always somebody coming and going. It's a different -- it's different from the traffic issue.

If you have a building on the corner where they're done before dark, so to speak, and there's no other activity there, it's just -- it's like an abandoned building in the evening.

So, it does not really help in terms of safety and security for the rest of the neighborhood. And it certainly doesn't give -- it certainly does not -- does not help the neighborhood in terms of a presentation.

VICE CHAIRPERSON SOCKWELL: Mr. Fykes, to what extent do the businesses that are currently along that immediate strip of 14th Street, which would be west side primarily, stay open beyond 6:00 or 7:00 p.m. in the evenings?

MR. FYKES: Right now, the only one that I'm aware -- the only two businesses I'm aware of -- and again, I didn't start -- only within the last couple of years have I even considered the possibility of working with that strip, and I

never used it.

But the businesses that I know are open, because of the neon lights, are the liquor store. And now, we have -- the Nwanzes have their coffee shop. And there may be a couple other places that are down there that are kind of seeping into my consciousness now because basically, the coffee shop is there.

Before, because I don't spend a lot of time in the liquor store, I didn't have much of a reason to go down there.

VICE CHAIRPERSON SOCKWELL: Uh-huh. So, for the most part, even now, the existing businesses, with the exception of the coffee shop and the -- well, the liquor store, and of course the gas stations and what-not, there are no generally evening-oriented businesses operating along that --

MR. FYKES: No, I didn't say that. I said I wasn't aware of them because --

VICE CHAIRPERSON SOCKWELL: Okay, you're not --

MR. FYKES: -- because I didn't --

VICE CHAIRPERSON SOCKWELL: -- you're not aware of any of them, okay.

MR. FYKES: -- I can't -- so, I can't speak to that.

VICE CHAIRPERSON SOCKWELL: Okay, then perhaps the Nwanzes can --

MS. NWANZE: Yes, I can.

VICE CHAIRPERSON SOCKWELL: -- respond to that.

MS. NWANZE: Outside of ourselves, there is a bakery that basically goes 24 hours a day. There is an Asian restaurant, which stays open very late, possibly until 1:00 or 2:00 in the morning. I've never been there and it's been closed.

And there's also a nightclub that opens up on the weekends: Thursday, Friday, Saturday and Sunday.

VICE CHAIRPERSON SOCKWELL: Okay, now, is the Asian restaurant a sit-down restaurant or is it a carry-out?

MS. NWANZE: Carry-out.

VICE CHAIRPERSON SOCKWELL: Okay, so it's a carry-out, rather than a restaurant?

MS. NWANZE: Uh-huh. And on the 26 -- on the 4600 block, there is a family-style, sit-down, Spanish restaurant, in addition to -- they're open until 2:00, and their bakery is open pretty late also. VICE CHAIRPERSON SOCKWELL: All right, okay.

MEMBER RENSHAW: I wish we had a little map with an indication of the businesses on the block, and hours of operation.

MS. NWANZE: Is that something that can be provided? The map is already done by the neighborhood with all the pertinent information.

MEMBER RENSHAW: Does the neighborhood have that?

MS. NWANZE: Yeah, Adrianne Vance.

VICE CHAIRPERSON SOCKWELL: Yeah, and maybe that

isn't necessary because this is a parking variance, not a use variance. We're not --

MEMBER RENSHAW: I'm saying the parking.

VICE CHAIRPERSON SOCKWELL: Yeah, but the -- the parking -- the parking impact on most of those businesses -- we're really talking about a Sunday single-time period parking impact. We're not talking about a weekday parking impact.

And I think that would be overkill to request that. It's not necessary, I don't believe.

MEMBER RENSHAW: I don't agree with you, Mr. Vice Chair. I think it would be very helpful. And if Mr. Fenty's ANC can provide it and have it for our files, I think we should accept it.

VICE CHAIRPERSON SOCKWELL: Well, I mean, if they want to prepare the documentation and submit it to the applicant, as well as to the Board, I mean, that's something that I don't agree with because we're not dealing with those businesses.

And they are not necessarily even in the same block as this particular business. And their owners are not represented here with the hearing.

MEMBER RENSHAW: I think a visual is always very helpful to --

VICE CHAIRPERSON SOCKWELL: I think visuals are very helpful, but I don't --

MEMBER RENSHAW: -- and -- and I --

VICE CHAIRPERSON SOCKWELL: -- want to ask for this.

MEMBER RENSHAW: -- doubt -- I doubt that it's going to take a great deal of time. I bet that it's already --

VICE CHAIRPERSON SOCKWELL: Well --

MEMBER RENSHAW: -- available, so --

VICE CHAIRPERSON SOCKWELL: -- if I may use the Chair's discretion, I'm not going to ask for it.

MEMBER RENSHAW: Well, the neighborhood can supply it if they wish.

COMMISSIONER HOOD: I don't want to have to do a sua sponte review to the Zoning Commission, so what I will do, I think the Chair asked the discretion -- maybe I will ask the Chair -- the Chair's indulgence that we -- if it's provided, we just ask for it. If not, let's just move on, either way.

MR. NWANZE: And Mr. Chair, the businesses are all in that block, sir. They are all in the 4700 block of 14th.

VICE CHAIRPERSON SOCKWELL: I thought that the business -- one business was in the 4600 block as a Spanish restaurant.

MR. NWANZE: Only one.

VICE CHAIRPERSON SOCKWELL: I thought that --

MR. NWANZE: Fortune Express, the bakeries, ourselves, we're all in the 4700 block. Only the La Lepitard is the restaurant that's directly across from the church. That's

the only one.

VICE CHAIRPERSON SOCKWELL: Right. If you want to include only those businesses that are in the 4700 block and put that information together, that's fine.

Are there any other questions for these witnesses?

(No audible response.)

VICE CHAIRPERSON SOCKWELL: Is there any cross examination of these witnesses by the applicant? (No audible response.)

VICE CHAIRPERSON SOCKWELL: Then, you're excused, and thank you very much.

MR. NWANZE: Thank you, Mr. Chair; thank you, Board Members.

(Pause.)

SECRETARY PRUITT: Excuse me, before you leave -- please, could you wait for a minute? I just wanted to check something with the Board. Excuse me -- excuse me, Mr. Chair, I believe that the three witnesses who are still here are getting ready to leave.

Just so we're clear for the record, you're going to leave the record open for them to submit a map --

VICE CHAIRPERSON SOCKWELL: Right.

SECRETARY PRUITT: -- of the -- that means you also have to serve it on the ANC and the applicant. I just wanted to be sure that was clear before you left.

VICE CHAIRPERSON SOCKWELL: Thank you.

SECRETARY PRUITT: Thank you. Oh, and do you have a date, I mean, when this needs to be in by?

VICE CHAIRPERSON SOCKWELL: I think that we -- you can have this within a week, can't you?

SECRETARY PRUITT: You know, this would be potentially first available next -- for decision at your next meeting on December 5th, which means we would need it before then.

VICE CHAIRPERSON SOCKWELL: Can you provide it more quickly than that? You can -- for the -- for the base mapping, you can refer to --

SECRETARY PRUITT: There are some -- but there are some other --

VICE CHAIRPERSON SOCKWELL: Okay, there are --

SECRETARY PRUITT: -- issues, that you need to allow the applicant time to respond to it also.

VICE CHAIRPERSON SOCKWELL: All right.

COMMISSIONER HOOD: Mr. Chair, if I --

SECRETARY PRUITT: I mean, that's -- that's one of the problems.

MS. NWANZE: -- simple map of the businesses that are located on the 4700 --

MS. BAILEY: Excuse me, ma'am, you need to speak from the map -- the mic.

MS. NWANZE: I'm just asking -- what I'm saying that I will do, and that would be to provide a map of the businesses that are located on the 4700 block --

VICE CHAIRPERSON SOCKWELL: In the block.

MS. NWANZE: -- of 14th?

VICE CHAIRPERSON SOCKWELL: Their hours of operation and what was --

MEMBER RENSHAW: That's it, their hours and --

MS. NWANZE: Okay, just the 47 -- the 47 or the 46 and 47?

VICE CHAIRPERSON SOCKWELL: Just the 47.

MS. NWANZE: Forty-seven, okay.

SECRETARY PRUITT: If they can have that to us within a week, then we -- you would still not be able to make a decision, but you could do it in January.

MS. NWANZE: I could get it to you --

VICE CHAIRPERSON SOCKWELL: Well, I'll tell you what. I'll tell you what --

SECRETARY PRUITT: Or a special meeting.

VICE CHAIRPERSON SOCKWELL: -- since the -- since the building is at the corner of 47, we'll just allow you to -- or request that you do the 4600 block too.

MS. NWANZE: Good enough.

VICE CHAIRPERSON SOCKWELL: That will make our Board Members very happy to my left.

SECRETARY PRUITT: You also, though, have to allow the applicant time to respond to that.

VICE CHAIRPERSON SOCKWELL: Yeah, and the applicant would need time to respond, okay?

COMMISSIONER HOOD: So, we probably --

VICE CHAIRPERSON SOCKWELL: So --

COMMISSIONER HOOD: -- if I can just say, we may be able to have a special meeting on the 12th. I know you all have a busy schedule, but --

VICE CHAIRPERSON SOCKWELL: Yeah, if you have a -- if you can complete that and serve the ANC and the applicant in a week's --

SECRETARY PRUITT: By Monday.

VICE CHAIRPERSON SOCKWELL: By Monday --

MS. NWANZE: Sure.

VICE CHAIRPERSON SOCKWELL: -- you can do that? Okay, that's fine.

SECRETARY PRUITT: Then that will give them a week to respond.

MS. NWANZE: Okay.

VICE CHAIRPERSON SOCKWELL: Since that concludes parties or persons in opposition, then I guess we will take closing remarks by the applicant.

MS. HICKS: I'll try to be brief. I only have about six points to make, and also to get back on record as far

as clarifying a couple of items.

This building has been vacant at 4700 14th Street, N.W. for approximately a year, maybe more. The store next door is used for storage of items. It has not been used for retail use.

The next door, the third door up, is the coffee house. Yeah, then, there's another store, and then the coffee house.

Any retail use in the area, in our estimation, will create just as much, if not more, of an impact on the neighborhood than the nine cars that will be there on Sunday, early in the morning.

There are members of this church who do live in the District of Columbia, and there are members who do walk to church, take public transportation. And again, threw are approximately only nine cars that will be used to car-pool and to transport those individuals who live at great distances.

The coffee shop has been open only for two months. The date that I went in, the church members were sitting in there as patrons. So, I think there's been some assumptions that the church members will not contribute anything or give anything back to the neighborhood. That's not true.

They were in the coffee house when I came to the ANC meeting on November the 14th having coffee and waiting for me to arrive.

Also, the members fast prior to church services. So, once they get out at 10:30, they might -- those who do walk or take public transportation, in my estimation, will probably contribute something back to the coffee house, or even the bakery, or any other retail facility that is open, that has food to serve.

Because if I were fasting for a Sunday, I don't think I could make it until -- for that length of time, for a church service.

Also, I'd like to point out and note that we knew that the photos would be in dispute. We did make an extra effort to have those photographs date-stamped with the date-stamp that's provided by the camera.

And photographs were made by witnesses in a team effort, to establish the time of day and the actual condition on the time and dates that they were taken.

It is our feeling, that sure, there is -- there's -- with any use of 4700 14th Street, N.W., there is going to be some impact. But with this church, it's not going to be as great of an impact as the "X" number of churches that are already existing in the surrounding area.

Also, we felt that there would not be as great of an impact on the neighboring area as if the proposed use would be a retail store. As a matter of right, a 7-Eleven could locate there, theoretically.

Have you ever stopped, or tried to get into the parking lot, of most 7-Elevens, or tried to get parking close to a 7-Eleven when people are getting coffee early in the morning, or as they're going back and forth to work?

So, theoretically, any use that you use there will have some traffic impact. But we feel that the church, because of its uniqueness, will not have as much impact as the neighbors are speculating that it will have. Do you have anything to say?

MR. SMITH: I would like to elaborate on that point that because a building is under 3,000 square feet, any use, unless it's a public hall or a liquor store, that allows for ANC input, or a fast-food restaurant is allowed to be in that location as a matter of right.

And we know that some of the traffic that has been proposed, that the coffee house might have itself, as the traffic -- we know that a liquor store will have, which is three doors down, can be the same for any type of commercial establishment that must rely on a good customer base to come in there, is going to create parking problems and hazards.

We think that the de-intensified parking use of a church that only uses the space principally on Sunday from 7:00 until 11:00 is probably the best of all worlds.

Also, I think it's erroneous to characterize the building as being vacant and unattended to. I think that, from what I've seen around the City, there's a great number of

churches that don't seem to have a lot of activity at certain times. But that doesn't mean that it's unattended to or -- or let to waste upon the neighborhood.

I've talked to the people in the church. I've seen their plans. You've seen their plans. I think that they're taking an abandoned structure that needs to move forward in a positive way.

There was also some allegations about illegal work that was going on in the church, and I want to clarify that. Apparently, they weren't aware that if they did some of the repairs to the bathroom and to the roof -- to the ceiling inside the space, and put some plywood on the floor to help stabilize it a little bit that they would be subject to a stop-work order.

So, they were given a stop-work order. I didn't know -- at that time, I was not involved with the case, when that happened.

However, I understand that Mr. Berhane Yitbarek, who is here, went down to talk to Swann Mack about this situation and wanted to rectify how to -- what -- what can we do here? We're planning on doing a church, and, you know, what do we do?

And what -- to my knowledge, what has happened is, the Zoning Reviewer, Swann Mack, said, "No, you're not a church until the certificate of occupancy says you're a church. You are whatever use to repair it was there before."

So that, if they needed to repair a bathroom, to

put a toilet into the bathroom, then not the applicant -- they now have a permit to work on the bathrooms -- the applicant did not do this; the City Zoning Office said, "No, you have to go back to the former certificate of occupancy." So, they wrote down it was a store.

So, that's how it's done. I process permits every day in the City, and I know that to be a fact. The work that they've been doing is only to repair the building, for whatever the outcome may be. You can't really use a building or sell a building that has a non-working bathroom, and has garbage piled high, and has no working electricity inside the building, and so on.

VICE CHAIRPERSON SOCKWELL: Excuse me, would you repeat that last statement?

MR. SMITH: I don't know if I can.

(Laughter.)

VICE CHAIRPERSON SOCKWELL: You said you cannot sell a building --

MR. SMITH: It's very difficult to sell a building or to use a building if it doesn't have code-compliant electrical service, bathrooms that are working, and stuff like that.

I think that what they were trying to do is, whatever the outcome will be by this case --

VICE CHAIRPERSON SOCKWELL: Well, I think the question is --

MR. SMITH: -- and they're trying to make it --

VICE CHAIRPERSON SOCKWELL: -- that they purchased the building in that condition.

MR. SMITH: Correct.

VICE CHAIRPERSON SOCKWELL: So, I think that sort of negates your statement.

MR. SMITH: Well, I don't feel so.

VICE CHAIRPERSON SOCKWELL: I mean, if they -- if you're saying that they were willing to buy it with non-working facilities, then it obviously wasn't a condition of sale for them, and therefore, would be no more of a condition of their sale to someone else necessarily.

I think what we do have, which is not necessarily relevant, is the fact that perhaps they were working on the building without a building permit. And as you know, having processed many building permits through the City, you can do virtually nothing of substance without a building permit.

MR. SMITH: Correct.

VICE CHAIRPERSON SOCKWELL: They may not have been aware of that. And I am not aware of what that work of substance was or wasn't, so it's not particularly relevant.

MR. SMITH: Okay.

VICE CHAIRPERSON SOCKWELL: And the fact that you addressed it appreciated, but not necessary.

MR. SMITH: Okay.

MS. HICKS: Okay.

VICE CHAIRPERSON SOCKWELL: Ms. Hicks, any other --

MEMBER RENSHAW: Yes, Mr. Vice Chair, I'd like to --

VICE CHAIRPERSON SOCKWELL: No, I was asking Ms. Hicks if she had any --

MEMBER RENSHAW: Oh, I'm sorry.

MS. HICKS: No, we -- we've -- we'll rest our case.

VICE CHAIRPERSON SOCKWELL: Okay.

MEMBER RENSHAW: Mr. Vice Chair, I'd like to ask Ms. Hicks about a statement in the Office of Planning report. I should have brought this up earlier.

It states that, "The applicant has pursued an off-site parking agreement with the bus barn across the street, but such an agreement would take six to nine months to finalize." Is that accurate?

MR. SMITH: I can -- I can handle that one, I think. To my knowledge, what actually happened was when they were told they had to find some off-street parking, they talked to a manager at the bus barn, who said that if they were given permission to do anything, it would take several months. And that was the end of the conversation.

There was no representations made on behalf of the manager to allow any parking at all that could be done as a sure thing, and we can get to it, or anything like that.

It was just a casual conversation relating to, "Gee, you have parking there. Is it available to us?"

And I think that, based upon what I know about being able to park at facilities with the insurance requirements, with -- with staggering schedules for buses that we -- who knows what's going to happen, and with their allocation spaces for their own help, and perhaps with people that would abandon cars there overnight or something, that that probably wouldn't happen, as well as I --

VICE CHAIRPERSON SOCKWELL: The question -- I think the question might be raised a little bit differently, and that is that has there been any formal discussion with WMATA --

MR. SMITH: No.

VICE CHAIRPERSON SOCKWELL: -- regarding any use of their facility for parking?

MR. SMITH: There's been no formal discussion that I'm aware of.

VICE CHAIRPERSON SOCKWELL: All right. And do you have another question, Ms. Renshaw?

MEMBER RENSHAW: No.

VICE CHAIRPERSON SOCKWELL: All right. Has there been discussion with the Department of Public Works regarding the rental of the adjacent 18 foot by 90 foot strip on the corner, which is accessible by an alley, or by a curb-cut, at the rear of the property, for parking for your facility?

MR. SMITH: I did talk to Anthony Downing. As you know, he was away for a while, but he's back now. And I talked to him Friday, Thanksgiving Friday.

And I told him that we have a Board of Zoning Adjustment case, and we -- the folks that purchased the property thought it was a front yard, and it turned out it was public space, and that there may be something that could be done to accommodate parking.

I also, in my permit travels, know Caroline Pauley, who works with Mr. Downing. And she is the Traffic Engineer that approves curb-cuts. And I had a similar circumstance on another site, not related to this neighborhood, where you have to put a green lawn, not pavement or -- it has to be landscaping less than three feet high, or a green space, between the sidewalk and any driveway four feet wide.

And the reason why you do that is, if you parallel park and you pull in there, and you open a car door, you can't smash your car door into a pedestrian who's going down the sidewalk, or a roller-blader, or a cyclist like me, who might not see the car.

So that, if there was parking that was allowed to go there, it could only probably be a single line of cars that could enter from the alley. And it might be able to go out at the base of the lot, somewhere toward 14th Street.

But Mr. Downing told me that all curb-cuts all

public space rentals have to go before the ANC, and that he wasn't sure of the outcome of anything. And he also has not seen the sight, nor sent his inspectors out there.

And he said he would be willing to do so, at some point, if we file for something to go there.

VICE CHAIRPERSON SOCKWELL: Well, the site is 18 -- the public space available is 18 feet wide.

MR. SMITH: Yeah, it might be.

VICE CHAIRPERSON SOCKWELL: I had a distribution run while we were on break.

MR. SMITH: Okay, okay, 18; so that leaves 16 feet -- well, after the four is taken out.

VICE CHAIRPERSON SOCKWELL: If you -- if you have 18 feet, and you put something there, you only need five percent -- say, if you use the private property requirement for five percent landscaping --

SECRETARY PRUITT: That's for ten parking spaces or more.

VICE CHAIRPERSON SOCKWELL: -- you actually -- you actually wouldn't be able to get ten spaces. You've got 1,600 and --

MS. HICKS: And a legal-sized parking space is nine feet wide.

VICE CHAIRPERSON SOCKWELL: Yeah, but you wouldn't be using a legal parking space in this case. You'd be losing --

using valet parking at 285 per -- 285 square foot per --

MR. SMITH: Correct.

VICE CHAIRPERSON SOCKWELL: -- per allowable car. But you also have basement access stairs and a projection from the building into the space. So, the available space is good for 5.68 cars, if it were not encumbered at all.

And since it is, the chances are that you might get three, possibly four, cars into the space, valet-park only. And that would mean no curb-cut would be requested because you would be coming in off of the existing curb-cut, which is the rear alley access.

MR. SMITH: Correct.

VICE CHAIRPERSON SOCKWELL: And that would at least allow a reduction in the number of spaces being requested for the variance. But I just wondered if any of that had been looked into.

MR. SMITH: Other than my discussion with Anthony Downing on Friday, no. We would have to go through a Public Space Committee hearing for public space rental, and go back before ANC -- is it 4C --

MS. HICKS: 4C.

MR. SMITH: -- 4C to solicit their input. Not that -- not that the decision would be based solely upon what their input was, but I think it is something that we are willing to look and see if we can pursue that.

I think that it would take some time to advertise, because of the holidays, for the Public Space Committee and so. But we definitely would look at it, regardless of the outcome of this hearing.

VICE CHAIRPERSON SOCKWELL: All right, thought I'd bring it up. Yes?

COMMISSIONER HOOD: I just have a quick question. Again, I ask this to the three people who were here in opposition. Again, I'm concerned about this expediting letter in that there will be no neighborhood opposition.

Ms. Hicks, could you expound briefly on why the lead pastor -- well, they may not call it Pastor. Mr. Yitbarek wrote that and put that in this letter to this -- to the Office of Zoning.

MS. HICKS: Okay, let me see if I have a copy.

COMMISSIONER HOOD: September 21st --

MS. HICKS: September 21st -- Mr. Permits will speak to that. I came in late on the case. I didn't start getting involved in the case until late October.

COMMISSIONER HOOD: Okay.

MR. PERMITS: What happened, when I first got involved was, between Ms. Swann and Edgar Nunley, it took them about two months to come out with the referral letter to the Board of Zoning Adjustment.

And Ms. Kress requested us to write a letter, if we

didn't think we would have any opposition. At the time, we didn't know we wouldn't have any opposition, but we didn't feel that -- because we saw that there didn't seem to be any parking problems at the time we wanted to use the building, that there would be one.

So, at the request of the Director of the Office of Zoning, we submitted a letter in our attempt to try to try to get an expedited hearing, because the church is paying mortgage payments and -- and space that they're only able to have for a certain amount of time, and the time was ticking away.

So, I think that that letter was a little premature, because we hadn't been before the ANC. But it was a -- at the request of Mrs. --

MS. HICKS: Kress.

MR. PERMITS: -- Ms. Kress.

COMMISSIONER HOOD: I've had -- let me just say this; I've had the pleasure of working with Mrs. Kress, and I just find this hard to believe that she -- she doesn't usually put the cart before the horse.

MR. PERMITS: Well, that's --

COMMISSIONER HOOD: So, I'll -- I'll just leave it at that. I just want to make sure that -- I'm -- I am concerned about this letter coming to us like there's no opposition, no problem, please hurry up and expedite it.

MR. PERMITS: That was the insistence upon the

church that they needed to move fast, and we were trying to get an expedited hearing. And it turned out that they didn't have an expedited hearing.

VICE CHAIRPERSON SOCKWELL: All right. I think that where we -- where we stand on this is that there is information being requested. This case, being a contested case, will require further deliberation by the Board before a decision can be made.

We are expecting to have the next meeting for this case to be on the 12th of December, after information is provided. It was not discussed at what time we would bring the case up on the 12th.

SECRETARY PRUITT: The concern is Ms. Renshaw isn't going to be here; you won't have a quorum unless you have somebody read the record. And I can't -- we won't have the transcript back by then.

VICE CHAIRPERSON SOCKWELL: All right. So, we may have to pursue this --

SECRETARY PRUITT: January.

VICE CHAIRPERSON SOCKWELL: Is there another day?

SECRETARY PRUITT: No, because your other hearing days are very full. Let me pull the schedule just to verify, but --

VICE CHAIRPERSON SOCKWELL: Basically, the only thing that we would be discussing would be the parking issue, in

particular, and the documentation submitted by the opponents. It's not a continuation of testimony or any other active --

COMMISSIONER HOOD: Could we do it the morning of the 19th?

VICE CHAIRPERSON SOCKWELL: Yeah, I would suggest that we try it as a morning of the 19th issue if possible.

MR. SMITH: Mr. Chairman, if -- to help expedite things, if we can get the information, as Ms. Pruitt asked the persons in opposition to present the information, we can respond within 24 hours. So, we can probably make the December the 5th calendar if the other --

VICE CHAIRPERSON SOCKWELL: Well, we can't -- we can't do the December 5th, unfortunately.

COMMISSIONER HOOD: I think the 19th -- because we have two in the morning, I believe --

VICE CHAIRPERSON SOCKWELL: You have currently two that is (sic) showing on this; there may be more.

MR. SMITH: The 19th of what?

COMMISSIONER HOOD: December.

VICE CHAIRPERSON SOCKWELL: December.

MR. SMITH: Okay.

SECRETARY PRUITT: Yeah, and an appeal in the afternoon, which is usually very, very long. So --

COMMISSIONER HOOD: For personal reasons, I know I will be here the morning of the 19th representing the Zoning

Commission. So, if we can try to work that into it --

SECRETARY PRUITT: We can continue it to the 19th at the special public meeting.

VICE CHAIRPERSON SOCKWELL: I think that that's the most reasonable time frame that we can offer at this point.

MR. SMITH: What time?

SECRETARY PRUITT: It would probably -- I would like to say 9:00.

COMMISSIONER HOOD: I believe I'm going to be serving that day anyway --

MEMBER RENSHAW: Oh, okay.

COMMISSIONER HOOD: -- at least the morning.

SECRETARY PRUITT: So, 9:30, the first thing in the morning; I mean, the first case on the agenda?

VICE CHAIRPERSON SOCKWELL: Okay.

SECRETARY PRUITT: That would still -- we would still like your responses to the map from the community, if you choose to respond, by December 11th --

MR. SMITH: Okay.

SECRETARY PRUITT: -- and with the decision date on it on December 19th at 9:30.

MS. BAILEY: Is this further hearing? Is it further hearing or decision?

VICE CHAIRPERSON SOCKWELL: Decision.

MEMBER RENSHAW: Decision.

SECRETARY PRUITT: The record will be closed, except for the response from the community -- I mean, the submission from the community and your response.

MR. SMITH: Okay.

SECRETARY PRUITT: Otherwise, the record is closed.

MR. SMITH: Thank you so much.

VICE CHAIRPERSON SOCKWELL: Thank you.

MS. BAILEY: We also encourage the applicant to provide findings of fact and conclusions of law, if you choose to do so.

MR. SMITH: By what date?

SECRETARY PRUITT: We have a little bit more time on that.

MS. BAILEY: By the 15th, Sharon --

VICE CHAIRPERSON SOCKWELL: By the 15th?

MS. BAILEY: -- which would be that Friday? Well, Wednesday is the 13th.

SECRETARY PRUITT: The 13th.

MS. BAILEY: Okay.

SECRETARY PRUITT: Yeah, response --.

MR. SMITH: December the 11th and December the 15th for findings of fact?

MS. BAILEY: Uh-huh.

MR. SMITH: And once again, thanking the Board for its indulgence.

MS. HICKS: Thank you.

VICE CHAIRPERSON SOCKWELL: Thank you.

COMMISSIONER HOOD: Thank you.

VICE CHAIRPERSON SOCKWELL: Please -- please call the next case.

MS. BAILEY: Application No. 16633 of Eva Bradler, pursuant to 11 DCMR 3103.2 -- Mr. Chairman, I'm stopping because, if I'm not mistaken, there's a new Zoning Administrator's memo, not the one that's advertised. So, that's the one we should be calling.

MS. BAILEY: Okay. I'm sorry, Mr. Chairman; I'll start over, Application No. 16633 of Eva Brandler, pursuant to 11 DCMR 3103.2 for variance under Subsections 2001.3(A), (B), and (C) to allow an addition to a non-conforming, existing structure and use that exceeds the allowable percentage of lot occupancy, and a variance from Subsection 2101.1 from the required number of parking spaces in an R1-B district, at premises 3715 Woodley Road, N.W.

The property is located in Square 1920 on Lot 25. All of those wishing to testify, would you please stand to take the oath? Please raise your right hands.

WHEREUPON,

MAXINE BROWN-ROBERTS

WILLIAM BRANDLER

NAOMI ADELMAN

WERE CALLED AS WITNESSES BY THE BOARD AND, HAVING BEEN DULY SWORN, WERE EXAMINED AND TESTIFIED AS FOLLOWS:

ALL: I do.

SECRETARY PRUITT: Mr. Chairman, this is, of course, the case we dealt with in a preliminary way. There's a -- the application needs to be amended to reflect the correct zoning relief.

And subsequent to that, Staff has been -- has talked with OP, who has been in consultation with Mr. Nunley, who indicated that his -- it is his belief -- and I am paraphrasing, and I will defer to OP after a while -- that the second relief on the first letter is not needed, so that there is only one variance relief requested.

VICE CHAIRPERSON SOCKWELL: Thank you.

MS. BAILEY: Mr. Chairman, only to complicate things a little further, there is a request for party status on this case, as well.

VICE CHAIRPERSON SOCKWELL: All right, thank you. And the persons requesting party status, we should take party status first.

SECRETARY PRUITT: It's your choice.

VICE CHAIRPERSON SOCKWELL: I would like to establish the party first. So, if you would allow the person wishing to become a party to the case --

SECRETARY PRUITT: And then, I guess you do need to make a determination on -- or, just to -- for clarification on the record, are you going to deal with the two zoning release (sic) or just the one zoning release based on the letter on Exhibit 19?

VICE CHAIRPERSON SOCKWELL: I'm thinking about that one.

SECRETARY PRUITT: Okay.

VICE CHAIRPERSON SOCKWELL: Thank you.

SECRETARY PRUITT: So, that the applicant knows what --

VICE CHAIRPERSON SOCKWELL: All right. And if you would push the button your microphone and identify yourself and your address, please?

MS. ADELMAN: Naomi Adelman, 3713 Woodley Road, N.W.

VICE CHAIRPERSON SOCKWELL: And it's A-D-E-L-M-A-N?

MS. ADELMAN: Right.

VICE CHAIRPERSON SOCKWELL: It's 37 --

MS. ADELMAN: Thirteen.

VICE CHAIRPERSON SOCKWELL: -- 13 Woodley. So, you are the adjacent neighbor?

MS. ADELMAN: I am.

VICE CHAIRPERSON SOCKWELL: And you are

requesting party status as --

MS. ADELMAN: I believed I needed to do that in order to testify. I didn't realize you --

VICE CHAIRPERSON SOCKWELL: Well, you actually don't need it in order to testify, but you are, by your location, stating that you are particularly aggrieved, or in support of -- I don't now which way you're going with this --

MS. ADELMAN: Aggrieved.

VICE CHAIRPERSON SOCKWELL: -- aggrieved, because of your proximity to the proposed --

MS. ADELMAN: Right.

VICE CHAIRPERSON SOCKWELL: -- work.

MS. ADELMAN: Correct.

VICE CHAIRPERSON SOCKWELL: And does anyone on the Board object to Ms. Adelman requesting party status?

COMMISSIONER HOOD: No.

VICE CHAIRPERSON SOCKWELL: Okay. Then, do we -- we don't have to move on that, do we, or do we?

SECRETARY PRUITT: No, you can just do it -- well, actually --

COMMISSIONER HOOD: General consensus.

SECRETARY PRUITT: -- general consensus.

VICE CHAIRPERSON SOCKWELL: The general consensus of the Board is that you are accepted as a party --

MS. ADELMAN: Thank you.

VICE CHAIRPERSON SOCKWELL: -- to the case. If you would return to the -- if you can find a seat? All right, the applicant is seated and sworn in. You may begin to -- yes, I'm sorry?

SECRETARY PRUITT: You still need to deal with the issue of whether or not --

VICE CHAIRPERSON SOCKWELL: Oh, I'm sorry.

SECRETARY PRUITT: -- just so that the applicant knows exactly what issues to address, as you -- on the November 7th memo, there's only one variance request that Mr. Bella states needed, and that's 200. -- 2002.3.

I will defer, actually, to Ms. Robinson-Brown (sic). She spoke with Mr. Bella during our break and can give more information.

VICE CHAIRPERSON SOCKWELL: Ms. Robinson-Brown (sic), would you like to --

SECRETARY PRUITT: I hope I'm pronouncing it correctly?

MS. BROWN-ROBERTS: Yeah, it's Maxine Brown-Roberts.

SECRETARY PRUITT: I'm sorry.

VICE CHAIRPERSON SOCKWELL: Oh, I thought there was something different about the way that was --

MS. BROWN-ROBERTS: I spoke to Mr. Bella on a number of occasions concerning this. And earlier today, I also

spoke to him. And he informed me that the portion of the zoning regulations that talks about all other uses in all of the District did not apply because there is a regulation for apartment use. It is just that it is not within the R1-B zone.

So, it is up to the discretion of the Board to regulate or assign how many parking spaces they think is appropriate.

VICE CHAIRPERSON SOCKWELL: I think -- the way I looked at it was, because the apartment use, as listed in 2101's table, 2101.1's table, did not refer to the R1-B district simply because apartments would be traditionally banned from that district unless they were pre-existing, prior to the 1958 enactment. I assumed that --

MS. BROWN-ROBERTS: It is a pre-existing --

VICE CHAIRPERSON SOCKWELL: Yeah, and it is. I assumed that the -- that the variance would still be needed, because it was all other districts. Even though the use is a listed use, the district was not listed under the use. So, it would fall under the catch-all, all other districts portion.

And Ms. Sansone, do you --

MS. SANSONE: Well, the -- there is a provision in the regulations that where you're changing a building or structure to another use that requires more parking spaces, than requires -- than what had been required, that the additional parking spaces in conformity to the schedule in 2101

have to be provided.

SECRETARY PRUITT: But the use is not changing.

VICE CHAIRPERSON SOCKWELL: Yeah, this is not a --

MS. SANSONE: No, but it's requiring more parking spaces.

VICE CHAIRPERSON SOCKWELL: Yeah. And the issue -- the issue is that there -- there were no parking spaces required when the building was built. So, the new units increase the non-conformity, and so it's increasing a non-conforming use within a non-conforming structure.

And I think that we probably should -- I'll tell you what; I'd want to err on conservative and include it.

MS. SANSONE: Mr. Chairman, I was referring to the wrong section. It's 2100.6 that talks about increasing the intensity of the use.

VICE CHAIRPERSON SOCKWELL: I knew what you meant.

MR. FINN: May I -- may I start?

VICE CHAIRPERSON SOCKWELL: Yeah, please go ahead. So, we're going -- we're going to -- we're going to deal with the -- with the parking variance as well.

MR. FINN: My name is Michael Alan Finn. I'm an architect in the District of Columbia, and was hired by Mr. Bill Brandler here to do plans with this building.

Before I get into the -- my discussion of what we're doing with the building, may I ask just for a clarification on the parking variance? If we're extending -- if we're increasing the number of units in the building, say by four units, does that mean we're required to supply four parking spaces?

If there were no parking spaces required --

VICE CHAIRPERSON SOCKWELL: You're -- you're --

MS. SANSONE: -- because it's an existing use --

VICE CHAIRPERSON SOCKWELL: Yeah.

MR. FINN: -- we're putting four more -- does that mean we have to put in four parking spaces?

VICE CHAIRPERSON SOCKWELL: Well, the way that I was looking at is was that, under the catch-all, you would be looking at a parking space per each 600 square feet of gross cellar floor area devoted to the use.

MR. FINN: So, that's -- so, in other words, if we're putting new units --

VICE CHAIRPERSON SOCKWELL: I beg your pardon, Ms. --

SECRETARY PRUITT: I'm just thinking out loud.

VICE CHAIRPERSON SOCKWELL: Because it's -- it doesn't fall under the requirements for apartments in 2101, which basically does not go over into the -- into the R1-B zoning district.

So, if I go to all of the uses, all districts, it's one per 600 square feet of gross floor area, cellar floor area. I'm not sure that the zoning ordinance effectively binds us into using the residential requirement. And I'm willing to listen to Staff --

MR. FINN: Because if the -- if the basement --

VICE CHAIRPERSON SOCKWELL: I mean, if you went -- if you were going to go to R5 requirements, and basically for apartment houses in an R5 requirement, it's one for each dwelling unit. If it were an R1-B, there is no allowance for such parking.

If we -- if we're talking about four units, and we want to go with four spaces, the whole idea is that the R1 district is one space per residential unit required, yet the building is pre-existing, didn't have any parking; you're adding units.

I'm not really sure how to handle it. And I looked at it at least two different ways, and I felt that maybe it was satisfactory just to use a square-footage basis to deal with the parking issue.

But I will -- I will accept whatever the consensus of my Board Members is, or with Staff, Corporation Council, and Office of Planning.

MR. FINN: If I -- just to do some quick arithmetic, if I may, there's one existing unit in the

basement.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MR. FINN: I'm just -- I'm just basically brain-storming here. There's one existing unit in the basement. If we -- we -- we're going to enlarge that unit to incorporate an existing area where you've still got a direct access out.

But say we decide not to touch that unit --

VICE CHAIRPERSON SOCKWELL: Yeah.

MR. FINN: -- and we only add three units in the basement; if we do the variance in one fashion, that would be an addition of three parking spaces.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MR. FINN: And we've got more than enough space to put in six parking spaces in the backyard. So, the variance becomes a moot point.

If we go by the square footage of the basement -- let's say the -- and once again, we've got an -- you can see we've got an existing unit in the basement that's approximately, oh, let's say, 25 by 15 square feet. Let me just do that real fast here. Let's call it 375 --

VICE CHAIRPERSON SOCKWELL: Three hundred and seventy five --

MR. FINN: -- square feet.

VICE CHAIRPERSON SOCKWELL: -- square feet, right.

MR. FINN: And then, the entire basement is 100.41 times 40 is 401 -- let's call it 401.7 -- 4017 minus 375 for the existing unit is 3642, and you divide that by 600 --

VICE CHAIRPERSON SOCKWELL: You've got six spaces.

MR. FINN: -- is six spaces.

VICE CHAIRPERSON SOCKWELL: Right.

MR. FINN: So --

VICE CHAIRPERSON SOCKWELL: All right, then I would be willing to take the lesser, which would be a space per unit. I think that -- we could work with that.

SECRETARY PRUITT: If that is the case, then they really don't need the variance because the space is provided.

VICE CHAIRPERSON SOCKWELL: Okay.

MR. FINN: We have space for six cars.

SECRETARY PRUITT: And unfortunately --

VICE CHAIRPERSON SOCKWELL: Okay.

SECRETARY PRUITT: -- that's been a problem we've talked with the Zoning Administrator about. If space is provided -- it's sort of left moot.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

SECRETARY PRUITT: If space is provided on-site, they don't need a parking variance.

VICE CHAIRPERSON SOCKWELL: Okay.

SECRETARY PRUITT: And we're working closer with

them to get it a little clearer.

VICE CHAIRPERSON SOCKWELL: All right. Then under the circumstances, for a variety of reasons, we'll drop with number two and deal only with the variance from Section 2002.3 for the expansion of the non-conforming use.

MR. FINN: I mean, we are more than willing to put in six spaces in the back. And we have the room for it.

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MR. FINN: Well, to proceed on the -- on the other variance, if I could -- if I may just review -- review the building. Is it okay if I stand up?

VICE CHAIRPERSON SOCKWELL: Uh-huh.

MR. FINN: I do this better if I walk around.

SECRETARY PRUITT: Just turn your mic, sir.

MR. FINN: Oh, I'm sorry. Here we have a drawing of the existing basement. And one thing that's interesting about this particular building is that there are existing area-ways into this basements.

In other words, if you look at the photograph of the front of the building, there is one rather intriguing, attractive, direct entrance area-way into the basement in this corner of the building. There's also another one on the side yard.

And there is an existing entrance in the rear of the building also. So, the basement is quite accessible on its

own merits, without going through the main floor of the building.

And it's -- one of the things that we'd like to use when we, hopefully, construct our new units because this will enable -- well, there's two reasons for doing this. One is that it will enable each one of these apartments to become more or less like an English basement.

It would have its own direct egress and ingress from the street without going through the lobby of the building, which we think would be a good thing for the neighborhood in the fact that the side yards would become more useable, rather than just a vacant -- the present, vacant, long strip that they are now, and would become a more attractive portion of the building.

Also in the rear, there are some covered porches, which you can see in the photographs also. And we would like to actually make a little area-way underneath these porches so that these two units in the rear also would have a direct access to the outdoors without going through the building.

And we feel that would make the building connect a little bit more to the -- to the yard, and make it less remote. And there is -- if there is any sort of security problem in here now, having the direct access to the units, we think, would help alleviate that problem.

Also, the ceiling height is pretty good in here

also. It's -- it's about seven-plus feet underneath these large steel beams. So, there's plenty of ceiling height. So, the demolition of the existing concrete floor would also be kept to a minimum because basically, we can keep what we have.

So, the plan is basically very straight-forward, just, you know, adding more units in the basement. I think what's important in this building is that basically, we're not going to be changing the envelope, or the exterior.

We would, of course, like to do these area-ways. And in some cases, the District Government actually requires these individual exits from apartments because as any -- since it's not -- it doesn't meet existing building codes, if you can put a -- if you put a new unit in it, and you have a direct access directly outside, it eliminates any, you know, potential fire hazard because you don't have to go through a public corridor.

Let me talk a little bit about the neighborhood. Oh, it's a basically -- it's basically a two-story and basement building. It's a residential use; it's a residential neighborhood.

The neighborhood is a bit of a mix. Directly to the east -- there's a single-family dwelling directly to the east. But adjacent to that are rather dense, high-rise residential developments all up and down Wisconsin Avenue.

And there's rather a mix in the neighborhood. As

you go further and further west, it becomes more single-family, detached. And there are a mixture of flats, and single-families, and varying residential developments in the neighborhood.

And basically, we feel that -- that we have a practical difficulty on our hands here because we've got -- well, the owners have the space; it's there. And in order to do anything with it, we're required to get a variance.

It seems like it's -- maybe it's a rather harsh word to use, but it's almost a hardship because we -- the space is there and, yet, we can't do anything with it. And it seems like it's ready-made for residential use because that's basically what the building is.

And, you know, it's about 80 years old. So, the fact that it's non-conforming, you know, is basically no fault of the present owners.

So, we -- basically, we want to be -- also, we want to be good neighbors. And I've discussed this with the owners, and we're more than willing to do whatever it -- any neighborhood adjoining property owner would like to have us do in order to make the building more presentable, basically clean it up and make it an asset to the whole community.

It's a -- it's a wonderful source of moderately priced, affordable housing. And this is what the District is in the greatest need of. And it seems to me this is a

wonderful opportunity to do that.

And once again, I say the owners are more than willing to be accommodating to whatever concerns that the neighbors might have. So, that's basically it.

May I -- just one other thing; and on -- as far as the percentage of lot occupancy goes on this particular building, we're actually pretty close. We almost -- we almost make that. So, basically, as far as lot occupancy goes, it's -- if it were one floor, it would just be a big house.

So, it has rather a minor presence in the street now. So, basically, that's it.

COMMISSIONER HOOD: Mr. Chair, can I ask a question --

VICE CHAIRPERSON SOCKWELL: You may.

COMMISSIONER HOOD: -- if it's in order? I just wanted to ask a question. You stated that you wanted to be a good neighbor. I'm looking at some pictures, and I'm also looking at the letter from -- let me see who the letter was from -- from the person who's right next door, Ms. Adams?

SECRETARY PRUITT: She's right there.

COMMISSIONER HOOD: Oh, okay.

VICE CHAIRPERSON SOCKWELL: Adelman.

COMMISSIONER HOOD: Ms. Adelman, I'm sorry. Her letter alludes to that you obviously have not -- my concern is do you want to be a good neighbor now because you have to come

down in front of the Board of Zoning Adjustment and get -- for your addition of your three new apartment, or did you want to be a good neighbor all through the process, years ago this time, before you got here?

I just want to know; is it all of a sudden you want to be a good neighbor, or have you always wanted to be a good neighbor?

MR. BRANDLER: Well, I think the process certainly has brought a lot of things to my attention. I'm the builder's son. Thirty years ago, she purchased the building. I was just starting at the time. We couldn't afford a management company.

We -- every week, we used to mop the floors.

COMMISSIONER HOOD: Can you speak a little louder?

MR. BRANDLER: Sorry. At that time, when we first purchased it, it was fun for me on weekends mopping the floors, cutting the grass, changing lightbulbs, doing everything that should be done, and should be done now.

Over the years, maybe 20 years ago, it was handed to a management company, just because my mother was getting too old and she had to work. I was in school. And you know, they handled the rent control and all of those items that she wasn't familiar with.

I'm getting more involved with it as she's

getting older. I have a brother and two sisters. They're in the area, but they're not interested. And I -- I enjoy it. It's fun for me.

I go by there with my son. I live in Rockville. And when we go by -- just within the last two years, I've become more involved with it.

The reason it was purchased 30 years ago was to provide an income to my mother in her retirement. She doesn't really need the income right now, and -- but she doesn't want to lose money either.

The building hasn't been maintained properly. As far as the structure goes, there's seepage in the basement, and -- and the roof needs to be replaced. There's a lot of items that need to be done structurally. Those are major items.

In the last two years, her income on it -- and she doesn't get a salary. Whatever falls to the bottom is basically it. Last year -- I have her, I think, D-90 or the -- or the tax return. In 1998, it was $3,500. Last year, it was $12,000.

So, you know, one item -- replacing the roof, we put it the other way. So, as I started getting more involved, I noticed there were things that needed to be done.

And honestly, Ms. Adelman next door, she has a very nice yard; I think the nicest in the area, no question about that. The one we have inside of the outside, the yard

doesn't look very nice; I agree with that. But --

SECRETARY PRUITT: Mr. Chairman, we're about to lose our quorum here.

MR. BRANDLER: But just to sum up quickly, I have been interested in the last couple of years. I've added windows, electrical. But this has hastened it, I will admit.

COMMISSIONER HOOD: For the sake of time, you -- you've answered my question.

MR. BRANDLER: Yes, sir.

VICE CHAIRPERSON SOCKWELL: Any further statements by the applicant at this point?

MR. BRANDLER: Well, I'm continuing to --

VICE CHAIRPERSON SOCKWELL: Okay, all right.

MR. BRANDLER: And part of the income from the additional units will go to upgrade and make some improvements.

VICE CHAIRPERSON SOCKWELL: So basically, it's your statement that the additional income from the units will help you to improve the maintenance and upkeep of the unit, and of the building itself, and will, of course, increase the reserves developed from the cash flow, I would assume?

MR. BRANDLER: I would like to get to that point where I have some reserves. But there are items that I feel should be done right away.

VICE CHAIRPERSON SOCKWELL: Okay.

MR. BRANDLER: But it will be a while before

there's reserves, but --

VICE CHAIRPERSON SOCKWELL: All right. Well, let me ask you this; in the immediate -- in the immediate future, what are the things that you plan to do to the exterior, because you're going to spend a considerable amount doing this modification to the interior, which of course, you can amortize. But let's get to that.

MR. BRANDLER: Yeah. Well, and again, what I'm doing here was hastened because of the -- because of the Zoning Board hearing. And actually, it gave me a chance to meet a lot of the neighbors, and I did become more involved.

What disappointed me, a lot of the complaints that I received from the neighbors were very easy ones to correct: one complaint about the gate being -- it's been a couple of years and it hasn't been fixed, and trash -- these are easy things.

But what I would like to do with the money is -- what I've just done is I did hire a landscaper. And Friday, he's going to start some work on that. Now, that costs $7,000.

VICE CHAIRPERSON SOCKWELL: Okay, that's fine. Let me ask you a couple of questions very quickly, because I think we're running low on time, and I want to get to the bottom of this.

How have you received the complaints that have been lodged by neighbors over a period of, say, the last year

or so, or two, including Ms. Adelman?

MR. BRANDLER: Well, the neighbors haven't been giving complaints to me. They've been giving them to Wagleman & Brawner, the management company. I've just been involved in the last couple of months and have heard about it.

VICE CHAIRPERSON SOCKWELL: Okay, so you're actually new to being involved with the property, period?

MR. BRANDLER: The day-to-day operations, that's correct.

VICE CHAIRPERSON SOCKWELL: All right. So instead, your mother --

MR. BRANDLER: No, well, I've been involved with the income statements and that type of thing -- with major improvements, if a boiler had to be replaced.

VICE CHAIRPERSON SOCKWELL: But have you had any involvement with the complaints that have been lodged against the property?

MR. BRANDLER: No, sir.

VICE CHAIRPERSON SOCKWELL: Okay, and --

MR. BRANDLER: Not until now.

VICE CHAIRPERSON SOCKWELL: And your mother has not been sharing those things with you --

MR. BRANDLER: Well, she -- she didn't --

VICE CHAIRPERSON SOCKWELL: -- through --

MR. BRANDLER: She wasn't aware of these types of

complaints either and --

VICE CHAIRPERSON SOCKWELL: Well, what is Wagleman and whatever doing when they get these complaints?

MR. BRANDLER: Well, they've -- I asked them the same question, and they say they've responded. And I asked them for proof. They faxed me over some letters, which I have here, of how they responded.

VICE CHAIRPERSON SOCKWELL: Were those letters placed in the file for us to be aware of?

MR. BRANDLER: I have them here. I didn't place them in the --

VICE CHAIRPERSON SOCKWELL: Copies of those letters would probably be appropriate to be placed in the file because it would give some kind of time frame during which the management company has dealt, independently of the owners, with any adjacent neighbor complaints. And I think that would be worthwhile.

Beyond that, it appears that there is -- there is a complaint regarding maintenance, upkeep, noise, and I think the responsiveness of the owner or manager to such complaints, at least in the case of the individual who is here.

And if -- you don't need to elaborate on the design any further, and you have pretty much covered the issues, as you see them. I'd like to bring Ms. Adelman up very quickly, if we can. I'd like to get through --

SECRETARY PRUITT: Well, she actually has the right to cross examine the applicant --

VICE CHAIRPERSON SOCKWELL: Yeah.

SECRETARY PRUITT: -- before she puts testimony on.

VICE CHAIRPERSON SOCKWELL: Yeah, we have an Office of Planning --

SECRETARY PRUITT: And we have an Office of Planning --

VICE CHAIRPERSON SOCKWELL: -- report.

SECRETARY PRUITT: -- report also. And I believe she had some questions; I'm not sure.

VICE CHAIRPERSON SOCKWELL: Yeah, do you want to cross examine?

MS. ADELMAN: No, I haven't -- I didn't have --

SECRETARY PRUITT: Ma'am, you have to --

VICE CHAIRPERSON SOCKWELL: Yeah, please come forward. I'd like for you to cross examine the applicant.

MS. ADELMAN: I had a question.

VICE CHAIRPERSON SOCKWELL: I understand that she's putting it on, but she's still in the room.

MS. ADELMAN: I had a question about the number of parking spaces, and the fact that you're using four spaces now. Is this -- and maybe this is a question to you, Vice Chair. Is this the new three spaces, in addition to the four

that are currently being used because they were --

VICE CHAIRPERSON SOCKWELL: Well, the fact --

MS. ADELMAN: -- the total will be eight.

VICE CHAIRPERSON SOCKWELL: The fact of the matter is that, because the building pre-dates the Zoning Ordinance, and probably has been at its present level of occupancy for a long period of time, the spaces that they have were not required spaces. Am I pretty much --

SECRETARY PRUITT: That's correct.

VICE CHAIRPERSON SOCKWELL: Yeah, and --

SECRETARY PRUITT: That's correct.

VICE CHAIRPERSON SOCKWELL: And on that basis, they could be applied to any compliment of --

MS. ADELMAN: Right, to --

VICE CHAIRPERSON SOCKWELL: -- spaces being required at this time.

MS. ADELMAN: Okay. Now, does this mean there's a limit to the number of parking spaces --

VICE CHAIRPERSON SOCKWELL: There's a limit --

MS. ADELMAN: -- that they can have?

VICE CHAIRPERSON SOCKWELL: -- based on the size of the lot.

MS. ADELMAN: Okay. I did have a question to the architect about how you would define "an attractive entrance" to the side of the apartment, and also what you consider a

"side yard". What is the exact width of the space between your building and my home?

I don't believe that's considered a yard. That's maybe --

VICE CHAIRPERSON SOCKWELL: There's actually five feet shown on the drawings that indicate the plat, which --

MS. ADELMAN: I don't --

VICE CHAIRPERSON SOCKWELL: -- is to his property line. Now, beyond his property line, if that five feet truly exists, as it has been described --

MS. ADELMAN: Well, that might be five feet between my house, but not my property line.

VICE CHAIRPERSON SOCKWELL: No, his property line to his wall, to his building --

MS. ADELMAN: Five feet?

VICE CHAIRPERSON SOCKWELL: -- is shown in this drawing.

MEMBER RENSHAW: Mr. Vice Chair, I want to state for the record that I have to leave right now. I'm very sorry to the applicant and to Mrs. Adelman. But I will --

SECRETARY PRUITT: Well, we have to stop.

MEMBER RENSHAW: You'll have to stop because you'll lose a quorum and will have to, unfortunately --

VICE CHAIRPERSON SOCKWELL: Okay, all right. Okay, let me ask --

MEMBER RENSHAW: -- have to be rescheduled.

VICE CHAIRPERSON SOCKWELL: -- Ms. Adelman one question. Of all the issues that are present in this case, is there anything that the applicant could do that would be sufficient for you to withdraw as an opponent to his proposal?

MS. ADELMAN: I think that I would need more than just one action. I have been complaining for nine years. The management company has told me that, in fact, they were told by Ms. Brandler that she did not want to hear about it; she didn't want to spend the money on it.

And they've done the best they can to try to get the work done. They would not pay to have work done, or to have the yard mowed.

Mr. Brandler has informed me that he has been in charge -- "in charge" of this for the last year and a half to two years. I don't think it takes that long to mow your lawn and to edge your walk. Those are not expensive things. You don't need a building reserve to do it.

VICE CHAIRPERSON SOCKWELL: That's right.

MS. ADELMAN: You know, he could hire a kid in the neighborhood to do it.

VICE CHAIRPERSON SOCKWELL: Okay.

MS. ADELMAN: The place is a mess. I think I would want a good year of seeing that this building is being maintained properly before I think that they -- that they have

three more people.

And then, I have one other thing, is that the basement apartment supposedly, whatever it is -- I've never seen it -- has been unoccupied for a very long time.

And I don't know how long you can consider that an existing space if it hasn't been occupied. I don't know what the law is, but I think that that should be something that you should all investigate.

VICE CHAIRPERSON SOCKWELL: Well, it's more than a four-unit building, so it has to register its units with the rental accommodations people with the District of Columbia.

MS. ADELMAN: Okay.

VICE CHAIRPERSON SOCKWELL: I have no idea what their --

MS. ADELMAN: Okay, what they've registered?

VICE CHAIRPERSON SOCKWELL: -- what they've registered, right.

MS. ADELMAN: Okay. Well, I think, actually, my answer to your question simply is no, there's nothing they can do, at least --

VICE CHAIRPERSON SOCKWELL: In the short term?

MS. ADELMAN: -- in the short term.

VICE CHAIRPERSON SOCKWELL: Okay.

MS. ADELMAN: In the long term, yes.

VICE CHAIRPERSON SOCKWELL: Okay.

MS. ADELMAN: And I told that to Mr. Brandler.

VICE CHAIRPERSON SOCKWELL: All right. Well, because we are losing -- we have lost our quorum, I'm going to have to schedule a continuation of this hearing for another date certain. And that is likely to be --

SECRETARY PRUITT: I'm looking --

VICE CHAIRPERSON SOCKWELL: Hold your -- hold your breath.

SECRETARY PRUITT: Looking at the schedule and squeezing everything as tight as we can, it appears that we may -- you've already added one case to the 19th. You could add this one. That means you have two other cases in the -- in the morning.

I will warn you, though, that one of the cases in the morning is an Amoco station that's highly contested. We've been getting tons and tons of calls and letters in opposition on that. So, it's going to be a big case.

MS. ADELMAN: Could we go first?

COMMISSIONER HOOD: Mr. Chair, if we put those --

VICE CHAIRPERSON SOCKWELL: Well, if it's a gas station, then I'm pleased to hear it.

COMMISSIONER HOOD: If we put those cases that we added first, because we have some knowledge of them, then we should be able to proceed (sic) --

VICE CHAIRPERSON SOCKWELL: Yeah.

COMMISSIONER HOOD: -- each one of them within a half an hour, I would hope. And if we start at 9:00 --

VICE CHAIRPERSON SOCKWELL: Okay.

COMMISSIONER HOOD: I mean, well, let me -- I don't -- I'm not going to say anything about --

VICE CHAIRPERSON SOCKWELL: Yeah, whatever the schedule is. I would say that what we will try to do is dispose of this case on the 19th of December --

MS. ADELMAN: Okay.

VICE CHAIRPERSON SOCKWELL: -- if you can return. And it would be an a.m. case. Ms. Adelman, is that --

MS. ADELMAN: You bet.

VICE CHAIRPERSON SOCKWELL: Okay.

COMMISSIONER HOOD: Mr. Chair, if I can, I want to take this opportunity to apologize to both. I know they've sat through us going back and forth with the previous case. And again, I want to apologize to you, but our colleague did have a previous engagement.

And we were running short today, so I want -- from this -- from my perspective, I want to apologize to the both of you.

MS. ADELMAN: Thank you.

COMMISSIONER HOOD: I appreciate your patience. And I'm sure that the Chair agrees with me.

VICE CHAIRPERSON SOCKWELL: I agree. And -- and

to all of you, we will try to get through this as expeditiously as possible on the 19th. So, therefore, lacking a quorum, I adjourn the hearing.

(Whereupon, the hearing was concluded at 6:13 p.m.)