GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

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WEDNESDAY

NOVEMBER 8, 2000

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The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 2:52 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Jerrily R. Kress,	Director
Sheri Pruitt,	Secretary, BZA
Beverly Bailey,	Office of Zoning
Paul Hart,	Office of Zoning
John Nyarku,	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Arthur Jackson, Office of Planning
Maxine Brown-Roberts, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

Marie Sansone, Esq.

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(1:51 p.m.)

CHAIRPERSON REID: For those who were here for the afternoon session, unfortunately we ran over this morning and we do apologize for that. We will take a short recess and then continue with the afternoon session.

Do we have any withdrawals or any -- yes, I think that would be appropriate to go ahead and do those so that the people who are here won't have to wait and then only to find out that it is not going forward today.

(Brief Pause.)

MS. BAILEY: Just one moment before you leave. There are two cases this afternoon that are going to be rescheduled. The first one is 16619, Romano Romani and Thomas D. Parry.

The applicant has requested that that case be postponed. The staff is recommending a February date for that. At this point, we don't have a specific date in February, but it will be held in February 2001.

And the second case, Members of the Board, is Application Number 16550, Stacy Hamblin. Again, the applicant is also requesting that that case be rescheduled, and the staff has preliminarily identified a February date for that.

CHAIRPERSON REID: Okay. So we only have what?

MS. BAILEY: We have three cases this afternoon.

We have Michelle Hester, Alex Boyar, and the case that was rescheduled from October 24th, Sasha Bruce.

CHAIRPERSON REID: Okay. We have three?

MS. BAILEY: Yes, Madam Chair.

MS. PRUITT: On the other two cases that have been rescheduled, we will publish in the District Register the actual date.

CHAIRPERSON REID: Thank you. All right. We will be back at -- I'm sorry, was there a question? Please come up and speak in the mike, sir, and give your name and address.

MR. WASSEL: Good afternoon. My name is Louis Wassel, and I am co-chair of the 16th Street Neighborhood Association. And I have asked for party status in regards to this request.

VICE CHAIRPERSON SOCKWELL: With which one, with Hamblin?

MR. WASSEL: With Hamblin, yes.

CHAIRPERSON REID: All right. At the time when that case is called, sir, then you can come up and request party status.

MS. BAILEY: I'm sorry, sir, but that case, 16550, Stacy Hamblin, that case is going to be rescheduled. Is that what you inquired about?

MR. WASSEL: Yes. My question is --

CHAIRPERSON REID: Oh, that is the one being

rescheduled. Okay.

MR. WASSEL: My first question is whether there is any discussion on the rescheduling at this moment?

MS. PRUITT: The only thing we have, because our schedule is very tight, is that we know that we cannot accommodate it before February. So, as I was saying, we would republish in the District Register a date once we have determined that, and we will also send a notice to the ANC and single member district.

MR. WASSEL: Okay. My concern is that this is the third time that the neighborhood has been down here for this case, and you are asking to have it rescheduled for the fifth time.

CHAIRPERSON REID: Fifth time? How many times has it been before the board?

MS. PRUITT: It was dismissed once, and so that is a separate case. This is a new case, although it has got the same number. But it was dismissed once, and then this is the second time it is being continued.

MR. WASSEL: My concern is that as a neighborhood, we have received three notifications on different dates for this to happen. The first one was the first week of February. The second one was in June.

There was a letter also sent that it was going to be scheduled in September, and then this one in October. I am very concerned about this being the fifth rescheduling and having close to 47 residents trying to write letters and concerns in

regards to this application.

At what point and what responsibility as citizens of the block can we keep coming back and taking time out of our business schedule?

CHAIRPERSON REID: Did you say five times, sir? I think I heard three times; a dismissal, and then a continuation, and then this is the second continuation request.

VICE CHAIRPERSON SOCKWELL: It was called up, and the representatives weren't there as I recall. It was dismissed. Then there was a request for reinstatement, and then there was a scheduled hearing. And then I think that one was rescheduled to today.

So there probably have been five actions on it, but they weren't all hearings scheduled.

MR. WASSEL: That is correct. But nevertheless, as residents of that block, we have had to come down and make special times to either see if they are going to be rescheduled, and what action would take place.

I know that it is very easy to dismiss those hearings as going as reschedules, but nevertheless as individuals not everybody is properly notified from the BZA.

In fact, I would go on record as my notifications are going to the owner that was there over 10 years ago. I called down to clarify why my address goes with somebody else's name.

So if my notifications aren't getting sent to me

directly, I can only infer that other neighbors are not getting properly notified on these situations, and it really raises a concern and issue, and I do have the letters dated for three such situations of this nature.

MS. PRUITT: Sir, a couple of things. In reference to you getting your address, but not the right owner. We get our list from the tax and revenue, and so we have no ability to change that. If you call and let us know, and we note the file, we can do that here.

But tax and revenue, you need to discuss with them on that. We also do three types of posting in case one does fall through, which is posting in the District Register, which most residents don't read. We recognize that.

We send it to the ANC, and we also send it to your single member district, which we are not required to, but we do. And we also send it to your Council person, which we are not required, but we do. And then we mail out to people within 200 feet.

And then the applicant is required to post the property 15 days before. So we have those many different types of notice, so that if one does fall through, you do have a due notice. It is not that every single one has to be met. It is the due process.

And it is hopefully designed to catch -- you know, so that people who aren't maybe notified one way are notified

another way, and so that way their rights are not --

CHAIRPERSON REID: Okay. Ms. Bailey, may you can enlighten us as to the request for the continuation.

MS. BAILEY: Well, actually the applicant is here, and maybe he should articulate his reasons for requesting that the application is postponed.

MR. KLATT: My name is Klaus Klatt, and i am an architect. I was hired by the Hamblin brothers to represent in this particular case. Mr. Wassel is well aware of my situation.

The first postponement that I had requested unfortunately was not read by the board while I had some business to take care of abroad. I had made a request for a continuation, because for several -- and to me unknown -- reasons, I have in my possession three letters that I had sent to the ANC to be heard.

I never received a response, and at this time I felt that I was not obligated then to appear and postponed my trip abroad. The present -- and as Ms. Pruitt so acutely said, the case was -- instead of being dismissed, it was allowed to be continued.

My latest request for a continuation does not originate from me, but originates from a Mr. Fentey. Mr. Fentey has requested about three weeks ago, or four weeks ago, that he would like more time.

He is part of the ANC and he is the commissioner at the moment for 4C, and he approached one of the owners, Mr.

Johnson, who is present here as well, and asked him that a continuance be requested, which I did by the way. This is why I am here today.

MS. PRUITT: Madam Chair, also -- excuse me, and not to cut you off, Mr. Klatt, but we have a letter from Mr. Fentey. It came in late, and so it was in our file, but maybe the community has not seen it.

It was dated November 1st, and it was stamped in then, but it is only from that single member district. Suzy Fish signed off on this.

CHAIRPERSON REID: Let's get to the reason for it.

MS. PRUITT: My understanding was that they wanted to decide to work out some of the problems.

CHAIRPERSON REID: A resolution to resolve some of the problems?

MS. PRUITT: Yes, to resolve some of the issues that are outstanding.

CHAIRPERSON REID: And asked for some more time to do that.

MR. KLATT: And may I just finish, and for this reason I am requesting that the board decide to give us another date in court.

MR. WASSEL: Could I have a clarification on the November 1st letter, because I have a copy that was faxed from Ms. Suzy Fish, who is the actual ANC in the area described, where she

is going back to the original motion to disapprove this proposal.

MS. PRUITT: Excuse me?

CHAIRPERSON REID: What is the question? I'm sorry, but what is the question, sir?

MR. WASSEL: My question was in regards to the letter that was dated November 1st from Mr. Fentey, and signed by Ms. Fish, I do have what I believe is the same letter asking that this application be disapproved. There is no indication of a continuance.

MS. PRUITT: He is correct. We had gotten verbal requests from Mr. Fentey.

CHAIRPERSON REID: Well, all right. It also seems that there has to be some response from the Office of Planning and Public Works, DPW, and the Fire Marshal, and that information is forthcoming.

Nevertheless, when we receive a request for a continuation to help to resolve some of the issues from the ANC or from a council member, typically we try to accommodate them, notwithstanding the fact that the ANC is saying that they are opposed to this.

Apparently, there is still some cause to believe that there is some possibility of some resolution, and I suspect that's why we do have the request for a second continuation.

VICE CHAIRPERSON SOCKWELL: Let me ask Mr. Klatt a question. When you say no reply from the Police Department,

Office of Planning, and Public Works, et cetera, et cetera, are you saying that those are requests that are made routinely by the board for reports in connection with cases?

MR. KLATT: It is my custom to also approach each of these agencies. I have not heard any positive or negative reply from any of them. I did approach and did get an answer from the Planning Department, however, in the meantime.

VICE CHAIRPERSON SOCKWELL: Generally, as you may not know, the board receives its reports from these agencies as they choose to grant them. There are not any requirements that the police department, or the Office of Planning, or Public Works, provide a report as a requisite to our hearing the case.

MR. KLATT: Absolutely. I am fully aware of that, but I am used to feeling out any of the agencies as to the possible objections anyone might have in this case.

VICE CHAIRPERSON SOCKWELL: Okay. So I guess what I am saying is -- and, Madam Chair, follow me with this -- we don't have to reschedule a case because these agencies have not responded. But we are more willing to reschedule a case if we believe that a compromise can be achieved that will both save the board time and certainly perhaps save the community the need to have to argue for or against, or in some relation to a case.

If you can meet with the community, and the community becomes happy, then we can expedite your case through the system, and that makes everybody happy.

And that seems to be one of the things that you have stated in your letter of October 12th, and so my assumption is that that is the most salient reason for your request again for a postponement.

MR. KLATT: It is not my doing necessarily, I must admit, but I do request it.

VICE CHAIRPERSON SOCKWELL: I certainly understand the situation of the community's representatives coming down, Madam Chair, on a regular basis for hearings that have not taken place. And if we postpone this hearing this time, I think we should make it a final postponement.

CHAIRPERSON REID: I would agree. Given the situation, I think that would be most appropriate. Can we have a motion on the floor?

VICE CHAIRPERSON SOCKWELL: I move that we postpone the hearing until a date certain in the year 2001.

CHAIRPERSON REID: February.

VICE CHAIRPERSON SOCKWELL: February 2001, for the purpose of allowing the applicant time to continue or solidify negotiations, which may reduce or remove the objections of the community to the proposed project.

CHAIRPERSON REID: The final one.

VICE CHAIRPERSON SOCKWELL: This being the final postponement.

CHAIRPERSON REID: Continuation. I would second

it. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

MS. BAILEY: The staff will record the vote as four to zero; motion made by Mr. Sockwell, and seconded by Ms. Reid, to postpone this case, Application Number 16550 of Stacy Hamblin for one final time, the date being certain in February of 2001.

MS. PRUITT: Madam Chair, just for this office, we will not only republish in the District Register, but we will send out to everybody within 200 feet. So they will get a second notice of the hearing.

CHAIRPERSON REID: Okay.

MS. BAILEY: Madam Chair, did you want to vote on the first case to be postponed as well, 16619?

CHAIRPERSON REID: We did that by consensus.

MS. BAILEY: Consensus? Okay.

CHAIRPERSON REID: Thank you. All right. Let's see. Thank you very much. Now, for the afternoon, we have Michelle Hester, and the first case of the afternoon has been continued. So we have three.

So we will return about 2:30. We have to take a short break for lunch.

MS. PRUITT: Ms. Mitten has arrived, and she has some issues with or some concerns with some of the afternoon

agenda.

CHAIRPERSON REID: Okay. All right. Go ahead.

COMMISSIONER MITTEN: Madam Chair, I don't have anything to add in terms of the discussion about whether or not the case, case number 16619, be continued.

But what I did want to put on the record is that the application lists the existing use of the property, or present use of the property, as small lobbyist/consulting office, and that that would not change, and that is what the variance is for.

So what I am suggesting -- and there is also a piece of letterhead that shows the --

CHAIRPERSON REID: Order, please. If you want to have discussions, please leave this hearing room so that you can talk outside of it. Thank you.

COMMISSIONER MITTEN: -- applicant, their address, as being at the property, which implies that they are already occupying the property as an office.

And I wanted to suggest that we make a referral to the zoning administrator to verify whether these people are occupying this property in accordance with the zoning ordinance.

CHAIRPERSON REID: Okay. So you are saying that -- we had a case like that not too long ago, and --

MS. PRUITT: It's on The Hill, too.

CHAIRPERSON REID: Yes.

MS. PRUITT: The staff can draft a letter to the

zoning administrator requesting that they verify the use of this particular property at this time.

CHAIRPERSON REID: Okay.

MS. PRUITT: And then you will have that information for the hearing. At least we will certainly draft them and contact them, and hopefully you will have it for the hearing.

CHAIRPERSON REID: Thank you.

VICE CHAIRPERSON SOCKWELL: Madam Chair, as well, when I looked at the case folder for 16619, I found it lacking in some of the more definitive information. The site maps don't have the property indicated specifically and they are difficult to read.

There is no description of the building on the site plan, or any other plan of the building itself. I found that it was --

MS. PRUITT: Mr. Sockwell, we have noted that, too, and we have been trying to call in applicants, or at least contact them and let them know that they need to augment their application.

CHAIRPERSON REID: And also I don't think that they even had -- I think I had a question about them having the wherewithal of making a case, and they need to make sure that they are properly prepared before they come, and I don't think they were. Okay. We will return about 2:30.

(Whereupon, the hearing was recessed at 2:10 p.m., and was resumed at 2:52 p.m.)

CHAIRPERSON REID: Good afternoon. First of all, let me first apologize for the delay for starting the afternoon session. The hearing will please come to order.

Ladies and Gentlemen, this is the November 8th public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Sheila Cross Reid, Chairperson. With me today is Robert Sockwell, Vice Chairperson, and Carol Mitten, representing the Zoning Commission.

Also present and representing the National Capital Planning Commission is Rodney Moulden, who will be joining us momentarily. Copies of today's hearing are available to you. They are located to my left at 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.

When 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 in variances is, one, statement of the witnesses of the applicant; two, government reports, including the Office of Planning and the Department of Public Works.

Three, the report of the Advisory Neighborhood Commission. Four, parties or persons in support, and cross-

examinations. Five, parties or persons in opposition; and lastly, 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 material specifically requested by the Board, and stuff 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 at this time so as not to disrupt these proceedings. The Board will make every effort to conclude the public hearing as soon as possible and before six o'clock p.m.

If the afternoon cases are not completed at six o'clock 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, such as a request 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 the 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, just what was discussed earlier; that Application 16619 will be postponed. That is the first preliminary matter.

The second preliminary matter is 16550, which I understand is going forward today. We initially had indicated that that case would be rescheduled until February, but it is my understanding that that is now going forward.

CHAIRPERSON REID: Ms. Bailey, that decision has not yet been made. However, are you bringing it up as a preliminary matter, or are you asking that it come forward as a preliminary matter?

MS. BAILEY: That is at the board's pleasure. Initially, it had been discussed as a preliminary matter. It is at the board's pleasure as to whether to take it up now, or whether I should call the case.

MS. KRESS: Basically, you took an action, which was to continue it, and so I think you need to take an action that says that you are going to formally hear it today.

CHAIRPERSON REID: Okay. I think what we will have to do is to make a motion to, I guess, that would supersede the other motion, or do we have to take --

MS. KRESS: I would just make a motion that you are going to supersede it and hear it today.

CHAIRPERSON REID: We will have to undo that motion, and that is my whole question here.

MS. KRESS: Yes. If you want to supersede the motion, which was earlier approved, then you have to undo the earlier motion. That way you are covered on all of that.

CHAIRPERSON REID: Right. Okay. Why don't we have the parties involved come forward. Those persons who are involved with the Application of Stacy Hamblin, Application 16550, please come forward.

MS. BAILEY: Madam Chair, did you want me to call the case or just hold off on calling the case?

MS. PRUITT: Madam Chair, maybe if we could get a sense from the folks that are coming to the table now whether there is adequate representation of the individuals involved before we reconsider the action that was taken this morning.

CHAIRPERSON REID: Well, what I was doing was to have them come up and make a request as a preliminary matter, and then once we decide to proceed, then we would make a decision as to the sequence of that case.

MS. PRUITT: Yes, I think that is a good way to proceed.

CHAIRPERSON REID: All right. Preliminary matter.

MS. BAILEY: Please sit down and turn the

microphone on, and identify yourself.

MR. KLATT: My name is Klaus Klatt. I am an architect in the District of Columbia. I am here on behalf of the Hamblin brothers in Case Number 16550.

I first have to apologize for a misunderstanding that I was given at first by mr. Fentey, who unfortunately has arrived just in time, and is able to straighten it out. And for this reason, I would very much appreciate if you allow me to present this case in a final, hopefully decisive, manner, which will be quite short.

CHAIRPERSON REID: Mr. Klatt, you are in effect rescinding the request for a continuation?

MR. KLATT: I certainly am, Madam Chair, yes.

CHAIRPERSON REID: Okay. Then I move that we accept the applicant's request for a recision of the request to continue Case Number 16550.

MS. PRUITT: Second.

CHAIRPERSON REID: All right. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

CHAIRPERSON REID: Okay.

MR. KLATT: Thank you. Would you allow me to ask the board, however, Madam Chair, on today's roster that my case is only the third one. I happen to be here, and would I be permitted

to state my case now?

CHAIRPERSON REID: Are you asking to be taken out of sequence?

MR. KLATT: If it is necessary.

CHAIRPERSON REID: You are the last case of the day, and you are requesting now to allow your case to go forward as the first case of the day?

MR. KLATT: It is not necessary. However, since I am sitting here and Mr. Fentey has other things to do, yes. My case is going to be quite short, I promise.

CHAIRPERSON REID: Did you just say it is not necessary?

MR. KLATT: I did say that, yes.

CHAIRPERSON REID: Is that what you mean?

MR. KLATT: I do mean it, because I have inconvenienced you, unbeknownst to my previous knowledge, and I am at this moment also inconveniencing the other two applicants that are here on totally different matters.

CHAIRPERSON REID: Well, let me put it this way. If there is no request to be taken out of sequence and taken first, then it would go in the order.

MR. KLATT: If you allow me to make that request again, I certainly will at this moment.

CHAIRPERSON REID: Thank you. Will you come forward, please.

MR. HALPERN: I am here on another matter. Speaking for myself, if the gentlemen would accept a short time limit and state that specifically, I think I would have no objection.

CHAIRPERSON REID: Okay. Given the fact that we have our most newly elected council member here, and we realize that his time is very limited, in order to accommodate that, do you have any objection to allowing them to be taken out of sequence?

It is a quick case. It is my understanding that it is a very short issue that we will be dealing with, and allow us to dispose of it as the first case of the afternoon. Is there any objection?

MEMBER MOULDEN: As long as there is no objection from the other parties.

CHAIRPERSON REID: Well, are there any objections from anyone else here?

MR. NUNLEY: Well, Madam Chairperson, I am here on --

CHAIRPERSON REID: Mr. Nunley, could you please come up here to the board and give us your name.

MS. KRESS: He is used to being on this side.

CHAIRPERSON REID: Right.

MR. NUNLEY: Madam Chairperson, I am Ed Nunley, and I am here on behalf of Mr. Boyar, Case Number 16637. We do have

an issue, and there is a time constraint, and we need to be somewhere at four o'clock.

If Mr. Klatt can take care of this matter very quickly, then we have no objection.

CHAIRPERSON REID: All right. Well, okay. I think we can move through it relatively quickly. Thank you very much, Mr. Nunley. Are there any other persons here who will testify in regard to this particular case or is here for this case? Weren't you here earlier this morning, sir, on this case?

MR. WASSEL: Yes, my name is Louis Wassel, a resident of the block, and I don't plan on testifying.

CHAIRPERSON REID: Okay. Thank you very much. Then that being the case, we can expedite your case fairly quickly. Just give us the salient points, and then we will go through the various stages and hopefully be able to get done with this in short order.

MS. BAILEY: Madam Chair, should I call the case?

CHAIRPERSON REID: Yes, please do.

MS. BAILEY: Application of Stacy Hamblin, Application Number 16550, pursuant to 11 DCMR, 3103.2, for a variance from Subsection 2507.2, to allow subdivision and the construction of 10 single-family row dwellings in an R-4 District on an alley lot that does not abut an alley 30 feet or more in width, and has from the alley access to a street through an alley or alleys not less than 39 feet in width at the rear of 1406

through 1424 Webster Street, Northwest, Square 2699, Lot 64.

All those wishing to testify, would you please stand to take the oath.

(The witnesses were sworn.)

MR. KLATT: Madam Chair and Members of the Board, my name again is Klaus Klatt. I just happen to be an architect. The property in question is bound by four alleys, and each of these alleys is 16 feet wide. Webster Street and -- well, all four streets on the outside are not visible on this drawing.

However, the only access into the alley lot at the moment, Lot 64, is from 15th Street on my left. The application was made more than an year ago to the zoning board, to the zoning department, to subdivide the individual or Lot 64 into hopefully 10 townhouse lots.

The zoning is R-4. In other words, strictly residential. Because the Hamblin brothers, and Mr. Johnson is represented here as one of the other partners, we had some problems that this property could not be developed without a board of zoning adjustment approval.

And to, of course, to make an application for a building permit, and since it is zoned R-4, it would be logical to divide the Lot 64 into in this case into 10 individual lots.

We then went to the ANC and received a rather substantial objection to build anything into their back yards, let's call it, and we tried to obtain certain reactions in a

positive way, which to this day was not positive.

I have taken it upon myself to go to the various departments, and as Mr. Sockwell mentioned to me, to find out if there is anything else that could be done, especially the Department of Recreation and Parks, who suggested to us that, well, why don't you make a park out of it.

But that would not necessarily help the owners. I went to the Department of Planning and found another solution in the very same vain. It would be a so-called recreational easement then. The main reason why I am here, which is at the suggestion of the Hamblin brothers and Mr. Johnson, is very simple.

When the property was purchased in, I think, 1991 or so -- well, '89 or around that time -- it was purchased for close to $5,000. The property had been somewhat in foreclosure. The City was very happy to sell it.

Ever since, of course, the Hamblin brothers wanted to do something with this property, and which as I said was legally zoned R-4. However, we are only confronted with tax bills, and which as late as '99 -- I do not have the 2000 tax bill -- is $66,000 a year.

It is in the highest bracket of the taxation. In other words, the number five bracket, although again the owner is not entitled to do anything with the property.

We have suggested to the ANC to maybe create townhouse lots for -- instead of 10, 8 lots, and the last and the

first lot shown here is empty, and also here is empty, would not be developed by the owners, but would be set aside for rental, and let's say for a dollar a year to the next door neighbors to be used as parking, their own parking.

Unfortunately, I have been involved with this lot for quite some time now, and found at one time 64 either junked or individually owned privately parked cars there.

It was used as a junk yard as well, and as a boat yard, and as also a garden. The owner has sent me here just simply to have a decision made by the board whether this property can be used for any other purpose.

And therefore I am closing my argument, stating just simply that I have had to notify the owners that there is absolutely no chance to make a plea to the ANC, to the neighboring adjoining property owners, to change their minds.

Therefore, I would very much like to leave your decision in your hands. Thank you very much, Madam Chairperson.

CHAIRPERSON REID: Thank you. Let's see now. If there are no questions from the board members, then we will move now to the ANC report and the Office of Planning Report.

We do have an ANC report and we do have an Office of Planning report, and the Office of Planning basically -- and their analysis of this particular application has recommended that the application be denied because of the fact that it failed to meet its three-prong test as to being granted approval for a

variance.

And then we also had a letter from the ANC which basically told or stipulated that -- Mr. Sockwell, if you will.

VICE CHAIRPERSON SOCKWELL: The original ANC letter stated that ANC-4C -- there was a letter from ANC-4C05, which we received November 1st, which states that ANC-4C, I guess, reaffirms its resolution not to support the proposed development, and that resolution was dated January 31st of 2000.

CHAIRPERSON REID: Okay. And that was a quorum?

VICE CHAIRPERSON SOCKWELL: Yes, there was a quorum present.

CHAIRPERSON REID: And a vote taken to deny?

VICE CHAIRPERSON SOCKWELL: Yes. This does not -- this particular resolution doesn't state specifically a quorum and the vote, but it says resolved by Advisory Neighborhood Commission 4C, and that ANC-4C disapproves the application for a zoning variance in Case Number 16550.

CHAIRPERSON REID: And what is on the second page, Mr. Sockwell?

VICE CHAIRPERSON SOCKWELL: The second page of the letter -- the letter is on 4C05 stationary, and signed by Suzy Fish. It says a quorum, established by advisory neighborhood commission, on Tuesday, February 9th, voted unanimously to oppose the zoning approval of BZA Application Number 16550.

The only statement I would make to the record is

that this statement is not on ANC-4C stationary. It is on ANC-4C05, single member district, stationary, which generally is not the way that we accept ANC documentation.

It should be on the full ANC's stationary, because it is as well signed by the commissioner of ANC-4C05, and not by an officer of the full advisory neighborhood commission.

We can certainly request some additional documentation which would be sufficient to correct the record.

CHAIRPERSON REID: Well, okay. Along with that ANC letter is a petition, with several persons having affixed their signatures thereto, to disapprove this particular application. And while it is not on the ANC --

VICE CHAIRPERSON SOCKWELL: Actually, I think these pages may be out of sequence now that I look at this copy.

CHAIRPERSON REID: Is it?

VICE CHAIRPERSON SOCKWELL: Because the resolution has a page one, and then there is a signature page of residents, and then there is another page to the resolution which is behind that page in our file, which does in fact list the commissioners.

CHAIRPERSON REID: But it still is not on the -- well, I guess --

MS. KRESS: It doesn't have to be on the special stationary.

VICE CHAIRPERSON SOCKWELL: Well, in this case, it says in Section 2 of its resolution that ANC-4C the following

commissioners voted in favor against, or in abstainment of the above disapproval resolution.

And Mr. Fentey is listed as being in favor of the resolution, and Mr. Young, or whatever, and on and on. So it looks like there would be a quorum. Mr. Fentey, what is the quorum for the ANC?

MR. FENTEY: Six.

CHAIRPERSON REID: So it was unanimous.

VICE CHAIRPERSON SOCKWELL: So there are eight signatures.

CHAIRPERSON REID: All right. Then the ANC will certainly be afforded the great weight to which it is entitled. We will next move to persons or parties in support, and persons and parties in opposition.

I'm sorry, but we did have one letter from Council Member -- well, that's a different one. We had several letters of opposition that are in the file, and then we had the petition that we have already noted opposition to.

Are there any other persons here who wish to testify in opposition? If not, closure by the applicant.

MR. KLATT: Madam Chair, I would like very much to have you vote at this moment.

CHAIRPERSON REID: Thank you very much. Like a bench decision, summary order?

MR. KLATT: I waive my right to that as well.

CHAIRPERSON REID: No, the correct answer is yes.

MR. KLATT: Yes, of course.

CHAIRPERSON REID: Okay. Board Members, may I have a motion?

COMMISSIONER MITTEN: I just wanted to say one thing in response to Mr. Klatt's request, because in addition to having the specific application, he was asking us to tell him what he can do with the property.

And unfortunately we only respond to specific applications that are put before us. So I just wanted to say that. And if it will be of any comfort, the Class 5 tax classification is being phased out. So the tax bill should go down. So, Madam Chair, I move for denial of Application 16550.

CHAIRPERSON REID: And do I have a second?

VICE CHAIRPERSON SOCKWELL: I second.

CHAIRPERSON REID: All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

CHAIRPERSON REID: All right. That's it.

MS. BAILEY: The staff will record the vote as four to zero to deny the application; motion made by Mrs. Mitten, and seconded by Mr. Sockwell, and that will be a full order since this is a denial.

MS. KRESS: That's correct.

MR. KLATT: Thank you very much.

MR. FENTEY: Thank you on behalf of ANC-4C.

CHAIRPERSON REID: Thank you very much.

MS. BAILEY: The next case of the afternoon is Application Number 16621 of Michelle Hester, pursuant to 11 DCMR 3104.1, under Section 223.1, for a special exception to allow the establishment of a non-conforming side yard from an addition to an existing single-family dwelling in an R-1-B District at premises 3604 Quesada Street, N.W., Square 1863, Lot 39. Would you please stand to take the oath.

(All witnesses were sworn.)

MS. BAILEY: Members of the Board, the affidavit of posting was filed and the property was timely posted. The ANC is recommending approval of the application.

We did not receive a request for party status. Neighbors have signed letters of support for this application, and the project is now ready to go forward. Madam Chair, did you want Ms. Hester to identify herself and begin discussing her project?

CHAIRPERSON REID: Yes, we do.

MS. HESTER: My name is Michelle Hester, and I live at 3604 Quesada Street. Our plan is --

COMMISSIONER MITTEN: Could I just interrupt you for one minute? Has she been sworn in?

MS. BAILEY: Yes.

COMMISSIONER MITTEN: Sorry. I missed that part

earlier.

CHAIRPERSON REID: Go ahead.

MS. HESTER: Our project that we would like to embark on is to add seven feet on to the house so that we can add to our kitchen and add to a bedroom on the second floor.

I think you all have the plan there and the total addition would be about -- as described, would be about 7 feet out, and 17 feet wide. In our neighborhood, our house is on a triangular lot, which makes the addition a little bit tricky.

In our neighborhood, in the alley that our house is on, there are eight houses, and about half of those houses either abut the alley immediately or very close to it.

In fact, my house at one point is about maybe a foot-and-a-half from the alley, and the new addition as planned would be further away from the house than part of the house, the current standing house.

The neighbors have been very supportive of this, and encouraging, and I don't think there has been any objection at all.

CHAIRPERSON REID: So to your knowledge there is no opposition?

MS. HESTER: No, actually people have been very encouraging about it.

CHAIRPERSON REID: I note for the record that I think that there was one letter in opposition or maybe not. Hold

on for one second.

MS. HESTER: Was there? I mean, not to my knowledge I should say.

CHAIRPERSON REID: No, they are in support. Okay. Go ahead. So as far as you know, there has not been any opposition?

MS. HESTER: No.

CHAIRPERSON REID: And you talked to your neighbors?

MS. HESTER: I think there are letters there in the file from all the neighbors who would see the addition. Actually, more than the neighbors who would see the addition there, because I think that went down three houses on each side.

CHAIRPERSON REID: Okay.

MS. HESTER: And that there was no objection.

CHAIRPERSON REID: Okay. You are coming under Section 223. Now, in your application, I didn't see -- wait a minute. I did see that you addressed the specific zoning regulation that you are coming under. Can you speak to that, please? That is, as to Section 223 and how you comply with the zoning regulations.

MS. HESTER: I'm sorry, but I can't speak to that. Can you expand on that a little bit?

CHAIRPERSON REID: All right. This is your first time here at this board?

MS. HESTER: Yes.

CHAIRPERSON REID: Okay. Then you are asking for relief in the form of a special exception.

MS. HESTER: Right.

CHAIRPERSON REID: And the regulation that pertains to the relief that you are asking for is Section 223, and part and parcel of what you do when you come to us is to demonstrate to us how you comply with that regulations, or why you need the special exception.

MS. HESTER: I will have to admit that my husband has handled much of this.

COMMISSIONER MITTEN: If I could just interrupt. I think in Exhibit Number -- well, I don't know what exhibit number is.

CHAIRPERSON REID: Are you referring to the applicant's position?

COMMISSIONER MITTEN: Yes, under the building permit application.

CHAIRPERSON REID: She did allude to it somewhat, and their pages aren't numbered.

MS. HESTER: I think I can speak to this.

CHAIRPERSON REID: Did you write this? It says building permit application. I think this is what you were referring to, Ms. Mitten?

COMMISSIONER MITTEN: Yes, Madam Chair.

CHAIRPERSON REID: And that is what you submitted to us as a basis for the relief that you are asking for?

MS. HESTER: Yes. I can speak to these three things easily.

CHAIRPERSON REID: Okay.

MS. HESTER: The house is actually set forward on the street so that it has absolutely no bearing on the light and available space to the neighbors. The neighbor's house to the left doesn't begin until well after where the addition is, and in fact they can't even see the addition unless they come out to the street.

And actually because we have an alley next to us, only the people to the left of us would be affected in any way by the addition, and as I said, they can't really see it from their house until they come out their door and walk towards the street.

And I think you can see from the plans that our goal is to have the addition be in character with the house. I think that as planned that it will -- I mean, our hope is that it will look like it was always there.

It is sort of an interesting house architecturally, and we don't want to take away from that. When I solicited the neighbors, I took copies of the plan, of the external plan, to show them both the front view and the side view, and they seemed generally pleased with them.

CHAIRPERSON REID: Okay. So the addition, together

with the original building, is that what you were demonstrating in the pictures?

MS. HESTER: Yes. I think that you can see from that picture that it really -- that the goal is, and I think it is well carried out, to make the addition look like it is not really an addition, but just an extension. That the house has just grown in a sense.

CHAIRPERSON REID: Okay. And then demonstrate in compliance with paragraphs (a), (b), (c), the applicant will use graphical representations, such as plans, photographs, or elevation or section drawings. Okay.

MS. HESTER: And I think you have those there.

CHAIRPERSON REID: Yes. This is the plan and this is the addition. All right. Board Members, do you have questions?

MS. HESTER: Can I add something here?

CHAIRPERSON REID: Sure.

MS. HESTER: I certainly don't want this to prejudice the application in any way, but if there was any chance of our adding four inches to that seven feet, we would be very, very grateful.

There is a little mis-measuring, but I don't want that to prejudice your consideration in any way. Maybe that is out of line.

COMMISSIONER MITTEN: Do you have another drawing

to give us that illustrates that?

CHAIRPERSON REID: You said four feet, or is it four inches?

MS. HESTER: Four inches, yes.

CHAIRPERSON REID: Where? Where would it go?

MS. HESTER: It would be 7 feet, 4 inches.

MS. PRUITT: The board can amend the application and Mrs. Hester can resubmit a new drawing with the new dimensions on it.

MS. HESTER: Well, I think if that is the case, we can just go forward on what we have here.

VICE CHAIRPERSON SOCKWELL: Madam Chair, there are certain elements of the zoning ordinance that we would be possibly in violation of if we did that.

However, because the applicant's plat does not specifically indicate at which point the 2.75 foot side yard is achieved, it is only my -- I can only estimate that it is at the edge of the one-story rear portion of the house depicted on the plat as shown in one of the photographs submitted.

And if one recalls, the zoning ordinance does not allow us to exceed a particular side yard nonconformity, but would allow us to meet that same nonconformity up through the 5 foot side yard being less than the 8 feet required.

Now, because I can't tell whether or not the new porch actually is on a plain parallel to the alley side property

line, and therefore parallel to a no deeper and incursion into the side yard then the first story projection of the existing portion -- I mean, the four inches may or may not have relevance.

I just don't know if -- I have no dimensions to work with to tell me where the 2.75 side yard is existing, and what the side yard relationship to the edge of the porch portion of the new addition. I have no dimensions to tell me that.

MEMBER MOULDEN: What you are saying is that plan does not show the dimensions of it.

VICE CHAIRPERSON SOCKWELL: Yes, it does not show dimensions and so I can't -- I don't have any point of reference.

MEMBER MOULDEN: Right. And the drawing is not to scale and so we can't really measure it. It has been reduced.

COMMISSIONER MITTEN: I think that Ms. Hester needs to clarify something that I think you may be misreading, and hopefully that I am not misreading; is that there is a one-story portion that is at the very, very back of the house.

And then there is another one-story portion, and are both those one-story portions existing now?

VICE CHAIRPERSON SOCKWELL: No. The photographs show the existing ones.

(Brief Pause.)

MS. HESTER: Well, can I just withdraw my suggestion about the four inches? Is that relevant to what you are saying or not?

VICE CHAIRPERSON SOCKWELL: Yes, to the extent that I don't have dimensions. I don't have dimensions to determine what the effect of the 4 inch change would be.

MS. HESTER: Well, let me just withdraw it then.

VICE CHAIRPERSON SOCKWELL: All right.

COMMISSIONER MITTEN: Well, is this existing or not, the one-story?

MS. HESTER: This is not.

VICE CHAIRPERSON SOCKWELL: The assumption is that it is a 2.75 foot side yard.

COMMISSIONER MITTEN: I understand.

VICE CHAIRPERSON SOCKWELL: I wasn't talking at you, Carol. I was talking to Mr. Moulden. I was not responding to your question at all.

COMMISSIONER MITTEN: All right.

MS. HESTER: And this is actually just a cover over a porch. It is not further structures, but a cover.

VICE CHAIRPERSON SOCKWELL: Actually, a cover over a porch, a covered porch, becomes a structure by zoning because it is more than four feet above grade. Once you put a roof on it, it becomes a structure, regardless of whether or not it is enclosed totally.

CHAIRPERSON REID: All right. So then you are going to withdraw your request for the 4 inches.

MS. HESTER: Yes.

CHAIRPERSON REID: All right.

MEMBER MOULDEN: I think we need to have this drawing amended for the record that it reflects the accurate side yard set back. This drawing is not complete without the actual dimensions showing the setback.

VICE CHAIRPERSON SOCKWELL: The way the zoning office's computational or compilation is stated, the variances -- the side yard shown as provided is 8 feet and 2.75 feet.

So that tells me that the side yard on the right side of the plat is 8 feet because it is dimensioned. But the 2.75 foot side yard is not dimensioned. It is only my assumption that it occurs at the end of the one-story portion, which is at the lower portion of the page.

If that is the case, then my assumption is again without being reconciled by data that your addition does not exceed that 2.75 foot -- does not reduce the 2.75 foot side yard in its location as it is depicted on the plat.

And my only statement with regard to your request for four more inches is that based on what you have requested, and based on what is in our documentation, I know that your proposed addition should not reduce the side yard to less than 2.75 feet as it was created. I can't tell whether or not 4 inches more is going --

MS. HESTER: Well, we are very eager to move in, and --

MEMBER MOULDEN: Well, I think the appropriate thing to do for the record, and for documentation, is to have this drawing amended to reflect the setbacks.

VICE CHAIRPERSON SOCKWELL: Yes, I think the side yard should be depicted on the plat for our record --

MEMBER MOULDEN: Can we do that?

VICE CHAIRPERSON SOCKWELL: -- at the point where it occurs, and I assume that your contractor --

MS. BAILEY: Ms. Hester, when you speak, would you speak into a microphone?

VICE CHAIRPERSON SOCKWELL: And that is because your contractor or your architect, or designer, determined that the 2.75 feet -- or someone determined that the 2.75 feet as a side yard on the alley side exists.

And yet I don't know -- it is not dimensioned, while all the other relevant dimensions were provided, and that one was not.

COMMISSIONER MITTEN: Couldn't we if we wanted to approve this application, couldn't we give it conditional approval, subject to receiving the amended plan as Mr. Moulden has suggested,a nd also provided that the resulting side yard is consistent with the application, which would be 5.25 feet?

VICE CHAIRPERSON SOCKWELL: Well, that's not correct. The side yard is 2.75 feet.

COMMISSIONER MITTEN: No, the side yard that would

be created by the addition.

VICE CHAIRPERSON SOCKWELL: The side yard created by the addition -- what you are looking at is a variance of 5.25 feet from 8 feet, which is the minimum --

COMMISSIONER MITTEN: Oh, I'm sorry. I have got you. So I would suggest that instead of what I said in error that it just be -- that the condition would be that the addition does not narrow the side yard beyond 2.75, beyond the existing 2.75.

MS. HESTER: In other words -- well, I want to be clear about what we need to do.

VICE CHAIRPERSON SOCKWELL: I would be willing to accept that the addition, which is inclusive of the porch, does not encroach upon the side yard to reduce it to less than the 2.75 feet of side yard that exists.

MS. HESTER: That it does not reduce it?

VICE CHAIRPERSON SOCKWELL: Yes, to less than the 2.75 feet. The only thing that makes this slightly difficult is that it is then a -- without having the right dimensions to work with, I am telling you that you might be able to increase your enclosed portion of the addition another 3 feet, because I don't know what the dimensions are.

I am just saying that the overall thing -- I mean, you could take it out in any way, shape, or form to get to 2.75 feet, and I am not sure that that is the kind of open-ended thing that I want to give her, because I haven't designed it myself, and

I don't have enough dimensions to know what my limiting factors are and that bothers me.

If you are asking me for 4 inches, I guess the only way I could say yes, you can have 4 inches, provided that that four inches -- we would approve a 4 inch additional width of your addition provided it does not in total reduce the side yard than less than 2.75 feet. That way I'm saying you can get the 4 inches.

MS. HESTER: Well, I guess --

COMMISSIONER MITTEN: Let us talk and then when we finally get somewhere, we will bring you in.

MS. HESTER: Well, would it be easier for me to call my architect?

VICE CHAIRPERSON SOCKWELL: Well, no. We could just give you the 4 inches. As long as it is only 4 inches that you are asking for, I think we can handle that.

COMMISSIONER MITTEN: Mr. Sockwell, I thought that your point and Mr. Moulden's point were really aside from the issue of the four inches, which is we don't know whether the addition is narrowing the existing side yard, because we don't have measurements on the plat.

So we need measurements on the plat to show what the measure of the existing side yard that is created by the existing rear one-story porch.

VICE CHAIRPERSON SOCKWELL: That dimension is

assumed because that is what is existing, and that is the only place a side yard would have been taken from with the existing configuration of the house.

COMMISSIONER MITTEN: And so what do you assume that to be?

VICE CHAIRPERSON SOCKWELL: I assume that at the edge of the one-story portion, and that is to the alley side, that from that point to the property line perpendicular, is 2.75 feet.

COMMISSIONER MITTEN: Okay. I think that's --

VICE CHAIRPERSON SOCKWELL: And yet because I don't have any dimension from the edge of the proposed porch to the same property line, I don't know whether four inches -- even though it may look right, I don't know whether the 4 inches would kick it over or not.

COMMISSIONER MITTEN: And I got that part, but I think we still need to condition it, because we don't have measurements, and we need to condition it, and forget the 4 inches. I mean, the 4 inches is just making things needlessly complicated.

VICE CHAIRPERSON SOCKWELL: Well, that's what she asked for.

COMMISSIONER MITTEN: But she knows that she doesn't want her life complicated.

VICE CHAIRPERSON SOCKWELL: I don't know why 4 inches is so critical.

COMMISSIONER MITTEN: But we still need to have a conditional approval if we decide to do that, because we need to know what that measurement is and we don't.

VICE CHAIRPERSON SOCKWELL: Right. And we need for the record to have the plat amended to show the dimensions.

COMMISSIONER MITTEN: Exactly. Exactly. So I would move that we approve this --

CHAIRPERSON REID: We are not quite there yet.

COMMISSIONER MITTEN: Okay.

CHAIRPERSON REID: We need to go through the application.

VICE CHAIRPERSON SOCKWELL: Let me finish my quick question, because this got off on a particular tangent. I believe that from what I am looking at, the openness of your porch, which is an open porch with a single column at the outer edge, and the view lines that would be created by the addition, and the fact that it is on the side that is bordered by a 15 foot public alley, which gives you an extremely wide side clearance to your next property, and the fact that there is neither a sidewalk or any other pedestrian feature there, makes this a fairly acceptable modification to this particular house under the circumstances.

And the fact that the house fits on to this lot, which is an unusual trapezoidal lot, it does create a limiting factor on the amount of space that you can use because of its shape, and in particular because of its shape.

And therefore I would be amenable personally to the proposal that you have made, and I see it as providing the widest point at the Quesada Street side, and the narrowest point deep in the alley.

And the relationship to the alley of the entire structure is not really compromised by the addition.

CHAIRPERSON REID: All right. Thank you very much, Mr. Sockwell. All right. Now we move to the Office of Planning report. Do we have one?

MS. BAILEY: No, Madam Chair, we don't.

CHAIRPERSON REID: No Office of Planning report. All right. The ANC report. Basically, 3-G comes out in support of the application, and with a vote having been taken, we will give it the great weight to which it is entitled.

And we now move to persons and parties in support, or persons and parties in opposition. And I don't think we had any opposition. So closing remarks by the applicant.

VICE CHAIRPERSON SOCKWELL: You might say please and quickly.

MS. HESTER: Please and quickly.

CHAIRPERSON REID: All right. Do you want a bench decision and summary order? That's where you can get your application approved today.

MS. HESTER: I would love that.

CHAIRPERSON REID: Okay. Board Members. Ms.

Mitten, may I ask you to bring the motion, because you had started it earlier with the conditions.

COMMISSIONER MITTEN: All right. I move that we approve this application subject to receiving an amended plat that specifically shows the dimension of the side yard distance between the existing one-story porch, and that specifically shows the dimension that will be created by the addition, the proposed addition.

VICE CHAIRPERSON SOCKWELL: The existing one-story portion is not a porch. It is an enclosed part of the house.

COMMISSIONER MITTEN: Oh, it is. I'm sorry. Maybe Mr. Sockwell should make the motion.

VICE CHAIRPERSON SOCKWELL: No, you were doing fine if you just say one-story portion rather than one-story porch.

MS. HESTER: It is a porch, but you are saying it is considered a structure. It doesn't make any difference.

VICE CHAIRPERSON SOCKWELL: No, the existing rear portion of your house is enclosed. That low one-story roof projecting portion along the back side. My assumption is that your proposed addition does not exist yet.

MS. HESTER: Right.

VICE CHAIRPERSON SOCKWELL: Okay.

COMMISSIONER MITTEN: Okay. Let me start again. I move for the approval of Application Number 16621, conditioned the board receiving a revised plat that includes the -- that

specifically includes the measurement of the side yard as it relates to the existing one-story portion of the dwelling.

And the measurement as it relates to the side yard that will be created by the proposed addition.

VICE CHAIRPERSON SOCKWELL: At the edge of the porch.

MS. HESTER: Could you hold the picture and tell me --

VICE CHAIRPERSON SOCKWELL: Yes, I can. This is what we are looking for. We need a dimension there, and we need a dimension there.

CHAIRPERSON REID: And that would have to be submitted prior to the order being issued, which will be in about 2 or 3 weeks. So if you can get it into us that would be great. Is there a second?

MEMBER MOULDEN: I will second the motion.

CHAIRPERSON REID: All in favor?

(A chorus of ayes.)

VICE CHAIRPERSON SOCKWELL: And just one thing. All the neighbors that were across the street or next door, or next door to next door, all approved it.

CHAIRPERSON REID: Now what?

VICE CHAIRPERSON SOCKWELL: All the neighbors approved it, and I was just looking at all of the letters from all of the neighbors, and looked at where the houses were located, and

everybody that was immediately affected approved it.

CHAIRPERSON REID: All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

MS. HESTER: Then I should submit this, or my architect should submit this?

VICE CHAIRPERSON SOCKWELL: Yes. You may bring it in, but I would suggest that your architect it. He just has to amend the dimensions, that's all.

MS. HESTER: Right. Right. Thank you very much.

VICE CHAIRPERSON SOCKWELL: You're welcome.

CHAIRPERSON REID: You are quite welcome. Good luck.

MS. BAILEY: The staff will record the vote as four to zero to approve the application; motion made by Mrs. Mitten, and seconded by Mr. Sockwell. Ms. Reid and Mr. Moulden to approve, and Ms. Renshaw not present, and not voting.

The next case of the afternoon is Application Number 16637, Alex Boyar, pursuant to 11 DCMR 3104.1, for a special exception under Section 2516 to permit the theoretical lot line subdivision to allow the construction of four single-family detached dwellings in an R-1-B District at premises 4427 Potomac Avenue, Northwest, Square 1356, Lots 21 and 22. Please stand to take the oath.

(The Witnesses were sworn.)

MS. BAILEY: Members of the Board, the property was posted, and the affidavit has been properly filled. We do have a report from the Office of Planning and also from ANC-2E. Both reports would require a waiver to be accepted into the record.

There are five lots of record here for this -- five theoretical lots of record, and I am not quite sure if you have a copy of the summary sheet that I prepared. But each lot, each subdivided lot, is identified.

The case is now ready to go forward, unless you have some other questions of me, Madam Chair.

CHAIRPERSON REID: Okay. We have to waive you said, waive the rules for the late submission of the OP report?

MS. BAILEY: And ANC-2E, yes.

CHAIRPERSON REID: And the ANC? Okay. Board Members, are there any objections, or do you want to vote on it?

VICE CHAIRPERSON SOCKWELL: It's no problem.

CHAIRPERSON REID: Okay. All right. Then we would so waive the rules for the ANC report and for the Office of Planning report. Mr. Nunley, I don't think there is any opposition to this case. Is there anyone else here affiliated with this particular case?

(No audible response.)

CHAIRPERSON REID: All right. So as such, feel free to expedite your case. We have read the materials that have

been submitted to us, and so we are familiar with it. So just tell us what you want us to know, and you can get through this relatively quickly.

MR. NUNLEY: Well, thank you, Madam Chairperson. I want to go directly to the Office of Planning Report, and discuss the recommendations. The Office of Planning asked that the applicant submit a final landscaping and grading plan and we have that.

We submitted it to the Office of Planning, and we have copies for the Board. Secondly, as to the subdivision conforming to the requirements of 2516.5(d), and we have complied with that. I am trying to find my note that tells me where and how. But we have assured compliance with that. Just one second.

(Brief Pause.)

MR. NUNLEY: Right. That is the section that states that if any part of a boundary of a theoretical lot is located in common with the rear lot line of the subdivided lot of which it is a part, the rear yard of the theoretical lot shall be along the boundary of the subdivided lot.

In our site plans, and I believe Exhibit G, it does show that the lot lines do go to the rear of the property in every case. It may show better in Exhibit C, the plat of computation.

Finally, that the applicant submit a revised preliminary subdivision plat prepared by a licensed engineer showing easements, shared access driveway, and identifying

building envelopes, building setback lines on each dwelling parcel.

Now, we have submitted that in all of the plats that we have submitted to the board, including the most recent landscaping plat. In conversations with Mr. Jackson that Mr. Boyar had just today, we understand his concern about the easements was -- well, would you pipe in and tell us exactly what they are.

MR. BOYAR: I believe it was a storm water easement at the adjacent -- adjacent to the entrance to the property that belongs to Foxhall Square Townhouses, which is adjacent to the property, and it carries water run-off underneath.

It is just a very small section, probably about 7 feet, which is buried underneath my property.

And there is no plan that I have that would impinge upon that.

MR. NUNLEY: And finally that the Department of Health approve a storm water management plan for the subdivision. Mr. Boyar has met with representatives of the Department of Health.

The building permit process requires an acceptable storm water management plan be submitted and approved prior to construction, and so we feel that that particular piece should be dealt with in the building permit process.

VICE CHAIRPERSON SOCKWELL: Would you repeat that, Mr. Nunley?

MR. NUNLEY: That a storm water management plan is part of -- has to be submitted as part of the building permitting process. So we feel that a final storm water management plan should be approved at that time, to be submitted and approved at that time.

VICE CHAIRPERSON SOCKWELL: Thank you.

CHAIRPERSON REID: Any other questions, Board Members?

COMMISSIONER MITTEN: Maybe I will begin with the last issue that you raised about the storm water management. One of the criteria for evaluating the application has to do with the relationship of what has been proposed and the environment.

And I think that may have been behind it, and we have someone from the Office of Planning who can speak to that, but that would help us evaluate the relationship of what is being proposed to the environment in a more complete way.

MR. NUNLEY: Well, Mr. Boyar has had conversations with the Department of Health.

MR. BOYAR: I met out on site with a number of people from the Department of Health, Abdu Mussi (phonetic) specifically. I have also had multiple conversations with Tim Cary-Cary. I have built a bit in the city, and I have worked with him over the years.

And I have gone through over the last few months some of my ideas with him for the site, and he said that is

something that we can work out, and he saw no problem in one or two different schemes for the site.

But that we would get to it once I actually submitted my plans for construction. When I met with Abdu Mussi on-site this week, he actually was able to walk the site and see the site, and the slope, and I walked off where the lots would be for the four different houses.

He felt that there was no concern or impact to the environment. I went through what I thought I might do, and then he basically said after that that again it is an issue that I will take up with the Department of Health once I get through to the permitting process.

But on a sidebar, he said that he didn't see that there would be any problem with the application.

COMMISSIONER MITTEN: So he didn't provide you anything in writing that said based on what has been proposed and pending final approval of a storm water management system, that he is all right with what has been proposed. He didn't provide you anything in writing?

MR. BOYAR: He didn't say that, but he had the opportunity to say that it would hurt the environment if there was something that was noticeable, and he didn't do that.

COMMISSIONER MITTEN: But you don't have anything in writing I guess is my question.

MR. BOYAR: That's correct, I don't, but he did

walk the site with another associate of his.

COMMISSIONER MITTEN: Okay.

MR. BOYAR: And he did say that it looks like a great site.

VICE CHAIRPERSON SOCKWELL: Let me ask a question. First of all, did Mr. Mussi say that you would have to provide an environmental impact screening form for this project?

MR. BOYAR: Mr. Cary-Cary gave me a form, and I guess it said that if the construction costs are, I believe, $1 million or more --

VICE CHAIRPERSON SOCKWELL: It is $1.38 million.

MR. BOYAR: Is that in today's dollars?

VICE CHAIRPERSON SOCKWELL: Yes.

MR. BOYAR: Then I would need to do that, and I quite honestly don't know if -- at present, I don't think my construction hard costs will be above that.

VICE CHAIRPERSON SOCKWELL: And you are not producing more than 50 units of housing, nor 50 cars of parking. If you were required -- and I say this for Ms. Mitten's information, if the applicant is required to provide the extensive answers of the environmental impact screening form, then based on the criteria that require the form, he will have to go through a multi-phased environmental policy act review, which is less than an environmental impact statement.

But it is far more than the minimal storm water

management and sediment control requirements that would be the minimum. So there are six different divisions of the Department of Health that would look at the project. As well, the Office of Planning would look at it.

And the Department of Public Works, Transportation, and the Water and Sewer Authority, would also look at it under an EIS, and so that is the determination based on costs and extended development. And in his case it is costs strictly.

CHAIRPERSON REID: But weren't they referred to those entities to be looked at?

VICE CHAIRPERSON SOCKWELL: He would not be referred to anyone other than the Department of Health through DCRA's permitting process.

CHAIRPERSON REID: No, the Office of Planning.

VICE CHAIRPERSON SOCKWELL: It wouldn't be referred to the Office of Planning unless it meets the criteria for an environmental impact screening form response, which is a multi-page, very detailed, questionnaire.

CHAIRPERSON REID: Okay.

COMMISSIONER MITTEN: I had another question. I seem to have a number of things that are labeled Exhibit G. So I will make reference to the elevation that was submitted, and I understand that you are requesting some level of flexibility in the appearance of the dwelling, because you want to provide an opportunity for doing custom work.

MR. BOYAR: That's correct. That is the house plan, correct. I put that in just as an example of a style, but the Palisades is interesting, like in Cleveland Park, it has colonials, and victorians, and contemporaries, and in some cases they actually blend pretty well together.

I am going to try as best as I can to do custom homes for the purchasers within hopefully my good taste that everything blends well together. But I wanted to give them the opportunity, and not to be constrained by a certain house type.

MR. NUNLEY: And the footprint of all of these proposed houses will be within the confines as they are shown on the Exhibit G, building footprints.

COMMISSIONER MITTEN: I understand about the footprints. I guess one of the things that is required is that you submit typical floor plans and elevations.

And while some flexibility is permitted, I don't think unlimited flexibility is appropriate, given that people are responding to issues related to impact on other properties based on what they are being shown.

And so I guess what I am looking for is there some way to marrow the amount of flexibility so that there is a more predictable framework that we are dealing with. I mean, I don't think we can just say, well, that's fine, or anything else that looks like something in the Palisades is fine.

MR. BOYAR: Sure. Well, it just reminds me of

something funny. I don't know if this is the appropriate time for it, but a friend had suggested calling the place Pirates Cove and having an abandoned ship with a pirate flag flying up there, and I sort of vetoed that right away.

I think I have got pretty good tastes. I don't know how that could be written out and legislated. I would be open to your suggestions. I think that to enhance the value of my property, it would make sense for me to make it as attractive as possible, where all the houses blended well together.

One of the nice things about my site is that it is not going to be a cookie cutter project, where all four of the houses will have the same exact road frontage. I can set some back from the others as a slight grade to the property, which allows it not every single house is going to be at the same elevation as well.

So to not have that sort of uniformity, which will actually make it seem like a much better planned community.

COMMISSIONER MITTEN: And I understand that. I guess what I am driving at is that you are not going to have -- I don't think it is consistent with this process, that you have sort of unlimited ability to design the proposed dwelling, even though if it is a buy right development, you can do that.

But you are asking for something special and so we impose a few more controls, and that is one of the controls. It is not to say that if you provided us some alternatives in

completely different styles that we couldn't approve different alternatives, and give you even flexibility within that, but I don't think we can give you unlimited flexibility.

VICE CHAIRPERSON SOCKWELL: Madam Chair, do we under the special exception authority have the right to make what I would call aesthetic design decisions with regard to the houses themselves?

In that -- I mean, we can't tell him whether it is brick, or whether it is some other material, or where the windows should go. He is not asking for bulk or side yard variances and things like that.

He is merely asking for the theoretical lot division of this particular property. I am not sure. I just want to know whether or not we can impose any strict controls on his design. And I do realize that the design that he provided was a sort of typical -- this is what it could be design.

COMMISSIONER MITTEN: Could I just remind you of another case that we had that is a parallel situation to this that you might remember how we approached it?

VICE CHAIRPERSON SOCKWELL: Yes.

COMMISSIONER MITTEN: Is the property on Good Hope Road. A single family dwelling portion of that property was a theoretical lot subdivision, and we had requirements or conditions that we imposed that were related to building materials, and --

VICE CHAIRPERSON SOCKWELL: It was a contested

case. This is not a contested case.

COMMISSIONER MITTEN: Okay.

MS. SANSONE: Perhaps I could just point to one of the regulations which does allow the board to impose conditions relating to design and screening. So to some extent that is relevant.

CHAIRPERSON REID: We could ask for a revised plan.

MS. SANSONE: Actually, there is contested cases, even though the applicant doesn't have opposition.

CHAIRPERSON REID: I mean, even without them being contested, right, Ms. Sansone?

MS. SANSONE: Yes, that's correct. And technically this is treated as a contested case under the APA, even though it is not contested with people in opposition. We still classify these as contested cases for due process and procedural rights purposes.

VICE CHAIRPERSON SOCKWELL: Because the ANC supported it without conditions, and there were no detractors, my assumption is that the ANC saw what we saw, and if they didn't, I would like to know that we are seeing more than they saw or less.

MR. BOYAR: Let me just add on that a little bit. I bought the property back at the end of the winter, and I spent a lot of time, and I think wisely, working with the adjacent neighbors, the community association, Foxhall Citizens Community Association, and the ANC, and asking them what their needs were,

and what I thought I would do for the property.

And I did go through not only showing them that, but I told them that I would be building custom homes, and it would be up to or under my perview. What they were trying to get at is if somebody wanted a contemporary that mixed well with the victorian, as well as it worked well together, I wouldn't have a problem.

But I went through this with all of the adjacent communities -- Foxhall Square, Canal View -- and the ANC members. So they were apprised of that for months, and they were just -- they had problems, no issues, with that at all.

VICE CHAIRPERSON SOCKWELL: Would you be amenable to a condition of approval that you submit final designs to the ANC for their review? I didn't say approval. I just said review.

MR. BOYAR: That would still allow me -- this is my first time through the BZA. Would that still allow me to get the theoretical lot line subdivision approved, and so on and so forth?

VICE CHAIRPERSON SOCKWELL: Yes, it would just be a condition of your approval that you would submit your final custom designs to the ANC for review.

MR. BOYAR: Just as a courtesy?

MR. NUNLEY: It would be a condition of the order, Mr. Sockwell?

VICE CHAIRPERSON SOCKWELL: It could possibly be a condition of the order. Now, that is to say that you would not

blind side the ANC with some pink and purple albatross that Ms. Mitten would feel very upset about, as would I. And if it is subtle shades of pink, maybe not so bad.

What Ms. Mitten's issue is -- and while I understand exactly where she is coming from, my issue would be that if you are giving the community a fair representation of what they expect to see, or did, when you met with the ANC, then if you turn around after you are approved for your theoretical lot lines, and present, and build something that is entirely different, then it would not necessarily show forthright dealing with the community.

And we want to make sure, among other things, that the community is comfortable with what will result from your efforts. That's all.

MR. BOYAR: If I could add that --

VICE CHAIRPERSON SOCKWELL: Since you have not provided us with design plans that are being submitted for permit, you see.

MR. BOYAR: I understand that. I understand. That is not a problem. I am also planning on moving into one of the houses that I build, not that that matters to you all, but it does matter to me as far as the pink and purple house.

Some of the interior walls might be, but I don't --

VICE CHAIRPERSON SOCKWELL: At least you are not color blind.

MR. BOYAR: Okay. But I think that would be fine. I have a good relationship with actually everybody that I have worked with so far there, and I have spent some time to achieve that.

I could have gone in for my BZA application many, many months ago, but I wanted to make sure that they were all happy and comfortable, and even the ANC secretary had when she faxed me the approval of the resolution had a best of luck on the 8th, and was relatively supportive of me.

And they are looking forward to me becoming a member of their ANC. So I think that the answer is yes.

COMMISSIONER MITTEN: That sounds like a good way to handle it.

VICE CHAIRPERSON SOCKWELL: Okay. So if you will accept that, then we can make that as a friendly amendment to your request.

MR. BOYAR: Can I just ask how that works, in terms of if I am building one house at a time, do I take the plans first to the ANC for their monthly meeting, and then they say it looks okay. Then who do I send that resolution to? Do I send it to the BZA, or --

VICE CHAIRPERSON SOCKWELL: No. Actually, because the ANC is to be notified, albeit not necessarily in a timely manner, for all building permits at this point, it would be considered -- it is always considered to be a proactive gesture on

the part of a developer to provide the ANC with advance descriptions.

MR. BOYAR: That's fine.

COMMISSIONER MITTEN: I just had one more issue which relates to the Section 2516.5(d). The Office of Planning, and we will probably hear a little bit more about this, and I think your position is that the rear lot line -- I lost track of which way north is, but the rear lot line is -- let me just finish my question. Just tell me where north is.

MR. BOYAR: North is this way.

COMMISSIONER MITTEN: I think the point that the Office of Planning is making is that you have two legal lots, and all of the rear lot lines for the theoretical lots are oriented to the southbound rear line of the more southerly two lots.

So actually the rear line of the more northerly lot is -- I mean, their position is that the rear line is the line to the west. So how do you respond to that?

MR. JACKSON: Madam Chair, a point of clarification. I just wanted to --

CHAIRPERSON REID: Give your name.

MR. JACKSON: My name is Arthur Jackson from the Office of Planning. I show clarify something. My reading of this is that she is correct about what my interpretation was of where the rear lot line is.

And that has to do with the fact that there is no

access from -- even though the address of the properties in on West Potomac, there is no access from West Potomac. So the very front property line would have to be on Lincoln Road.

However, I would defer to the zoning administrator to make a final determination of exactly where the rear lot line is. I was just going to stipulate that that should be clarified, and that they are consistent with that regulation.

And so an agreement between us is probably not appropriate since the ultimate determiner would be the zoning administrator. So I would just ask that that question be directed to the zoning administrator.

And if they are in compliance, then I am satisfied.

COMMISSIONER MITTEN: So you have not done that yet though?

MR. JACKSON: No. I researched it, but that is one point that I did not research. I thought that somebody from the zoning administrator's office would be here today, but --

COMMISSIONER MITTEN: Okay. That's helpful. Thank you. So we will get that resolved with the assistance of the zoning administrator.

MR. NUNLEY: Now, let me just interject that Mr. Boyar had numerous meetings with the Office of the Zoning Administrator before the proposal came down to here, and he has spoken numerous times with Mr. Bellow. And Mr. Bellow had indicated that there would be no issue here.

COMMISSIONER MITTEN: Well, maybe we will just ask for a specific response on that issue in writing, and we will have it for the file.

MR. NUNLEY: That's fine.

VICE CHAIRPERSON SOCKWELL: So, Mr. Jackson, it would be my feeling that that might require a redirection or a different breakdown of the property if that particular theoretical lot's rear line was one of the longer phases of the lot, as opposed to the short phase by definition.

MR. JACKSON: That is correct. However, what it may require, if that was the case, what I see -- and I would anticipate that really what you are talking about is looking at Exhibit G, is just a reorientation of Lot 4.

Because if you reoriented Lot 4 so that he rear of that lot was towards the same lot lines that I suspected the rear lot line is, then that would satisfy the requirement, I believe.

Now, again, the final determination would be with the zoning administrator. I am just suggesting that if it turned out that the lot lines at the east or west end of the property are the rear property lines, then it seems like that would just -- that that would affect the last lot, lot number four. The other three would remain.

MR. NUNLEY: I am at a bit of a disadvantage because I don't have my code book here in front of me, but Chapter 25, or Section 2516, dictates the front of the theoretical lot

lines. Excuse me.

(Brief Pause.)

MR. NUNLEY: Well, I will put it this way. I know how I would have interpreted it when I was with the Office of the Zoning Administrator. And we don't have a problem with getting something written from the Office of the Zoning Administrator because we are quite comfortable that he will view it the same way based on the numerous conversations that we have with them.

The concern that I have is a time factor. Mr. Boyar is under certain time constraints, financing and other issues, and something like that may -- if not kill the project, make it very difficult to move forward.

I have just been told that we believe that we can get the letter from Mr. Bellow or from Mr. Johnson, and have it this week.

MR. BOYAR: Just to interject. I actually have gone through every single item here with zoning. I went through all the setbacks, and I went through all my calculations with Mr. Bellow.

I don't have any concern that there is going to be an issue. I am sure that I could get a letter immediately from him.

COMMISSIONER MITTEN: That's fine. It is just that an issue has been raised by the Office of Planning, and we would just like to have something that gives us some comfort that it has

been dealt with appropriately.

MR. NUNLEY: My concern was time. If we can do it that quickly, then I no longer have that concern.

COMMISSIONER MITTEN: I don't have any more questions, Madam Chair.

CHAIRPERSON REID: Mr. Moulden.

MEMBER MOULDEN: Yes. I have a question about the design and I want to go back to that. In the redesign, you are going to take it back to the ANC, but I was wondering government-wise does the Office of Planning look at the design and would they be interested in that also?

MR. JACKSON: You mean the ultimate designs of the buildings?

MEMBER MOULDEN: Yes.

MR. JACKSON: The property is not in a historic district, and if you walk around in the area, there is a wide variety of housing there. Most of it is very attractive and well kept.

But you see brick homes, stone homes, and you see homes that you are not sure what they are made of, but they still look pretty good.

And I would suggest that if they go to the ANC and the ANC is comfortable, then the Office of Planning does not have any concerns about the design, per se. But we would like to make sure that there are some minimum concerns addressed by the overall

development and that's what we have outlined in our reported.

MEMBER MOULDEN: So in other words, you don't want to see a copy of that revised design?

MR. JACKSON: No. If that ANC is satisfied, that is satisfactory to us.

CHAIRPERSON REID: Okay. Thank you. Mr. Jackson, do you want to go ahead and give the OP report?

MR. JACKSON: Yes.

CHAIRPERSON REID: All right.

MR. JACKSON: Yes, Madam Chairman, thank you for the opportunity to speak before you today. Quickly, Mr. Boyar has requested to create a hypothetical -- I'm sorry, but a theoretical subdivision of five tax lots on two adjacent record parcels, generally located at 4427 Potomac Avenue, Northwest.

The subject properties are located immediately west and south of Lincoln Road, Northwest, and a road that is 12 feet wide, and that extends southwest from the 4400 block of McArthur Boulevard, Northwest.

This property is also next to an open section of the Potomac Avenue, Northwest, right-of-way, and other property owned by the District of Columbia.

Mr. Boyar acquired the property in early 2000, and he would like to subdivide the lots for future residence development. Because of a lack of frontage along an improved right of way, and other inconsistencies, the applicant is

requesting a theoretical subdivision to create the five lots.

The applicant indicated that there would be four lots for a single family development, and one lot that would be retained in common ownership by the homeowners association to provide a said vehicular access to Lincoln Road.

After our review of the -- the applicant provided a plat of computation for Lot 22 and part of Lot 21, Square 1356. And I will say that is also a preliminary plat.

Attached to your staff report is a final plat that has some additional information; a schematic site plan showing the suggested building footprints on each parcel, and a typical building floor plan and typical front facade elevation.

Both lots are zoned R-1-B, and under the zoning regulations a one-story detached dwelling is permitted as a matter of right in this zoning district. The zoning regulations also provide that there are standards for lots created in this zoning district.

As per our review of the summary sheets as provided for each lot, the proposed lots would meet the lot area, lot width, lot occupancy, floor area ratio, parking space requirement, front, rear, and side yard requirements of the zoning ordinance or the zoning regulations.

Further analysis involved the Planning Department looking at what the proposal has to do to be consistent with the overall zoning regulations. We will stipulate that the proposed

single family development is consistent with the R-1-B zoning district, and that it proposes to stabilize areas and promote residential development in a suitable environment.

The next standard looks at the compliance with Section 2516. After reviewing those standards, the Office of Planning made the following determinations. The applicant did not provide all the materials required under Section 2516.3, including the estimated existing and preliminary landscaping and grading.

I will note that in the application that there was an attachment that was listed as the landscaping plan, but I did not receive it. So I am not sure if that just was not submitted or I just wasn't happy with that.

The other point is that some of the standards requiring a view of the preliminary site plan -- I'm sorry. Some of the standards require the review of a preliminary site plan showing all structures, landscaping, and paving.

In particular, we need to verify that the front building wall will face the street, and how the private access road would intersect the existing street -- again, which is 12 feet wide -- and whether there is adequate screening would be provided around the perimeter of the property.

The proposal does not meet the standards of Section 2516.5(d), and as I stated, we will defer to the zoning administrator to make a final determination about whether or not that is done. But I think it is important to ask that specific

question of the administrator.

There were concerns about storm water management on the property, and we feel that final approval of the application should be deferred to allow the applicant to provide more complete information.

A review of the comprehensive plan overall, and the ward plans for this area, indicate that this proposal as presented in general terms meets the goals of the comprehensive plan.

The Advisory Neighborhood Commission ANC-2E considered the application on October 20th, and I understand that you have a copy of their letter of approval. I have copies here if you don't in your packet.

Aaron Katz, president of the Canal View subdivision, HOA, wrote a letter of support that is attached to the staff report. As far as Agency comments are concerned, the fire department has expressed no objections to this proposal, and attached is a copy of the fire department's report and to your report.

And the Office of Public Works at that time had not seen the plan and expressed some concerns about not having complete information. I should note that in discussion or in talking with the Department of Public Works that they indicated that they -- oh, I have got a letter here from the Department of Public Works that outlines their reaction.

CHAIRPERSON REID: Do we need a waiver for that?

MS. SANSONE: Since all government reports are due seven days before the hearing, we should waive the requirement to accept this.

CHAIRPERSON REID: Okay.

MR. NUNLEY: May we at least see a copy of that?

CHAIRPERSON REID: Sure.

MR. JACKSON: The Department of Public Works received our request for information about the proposed subdivision. We noted that --

CHAIRPERSON REID: Are you going over this report now?

MR. JACKSON: Well, I was going to briefly summarize it so that you didn't have to read it.

CHAIRPERSON REID: Okay. Unless anyone has any objection, we will waive the record to accept the report into the record, and Mr. Nunley had asked to review it first.

MR. JACKSON: Oh, I thought he just wanted to see it, but okay.

(Brief Pause.)

MR. NUNLEY: We have no objection to waiving that.

MR. JACKSON: All right. So did you vote to waive it?

CHAIRPERSON REID: No. What I had said was that unless anyone had any objection, and Mr. Nunley, agent for the applicant, wants to see it.

MR. JACKSON: The Department of Public Works stated briefly that they noted that the subdivision would be located at the terminus of Lincoln Road, a 20 foot wide burrway coming from McArthur Boulevard.

Note that on the plat that it is actually 12 feet wide, but there is also an 8 foot easement dedicated for highway purposes, and that is on private property just south of Lincoln Road.

The proposed terminus or proposed element will be landlocked, with no other access than Lincoln Road, and the road will be extended into the property development as a private street to serve the development.

They indicated that they were not concerned about the traffic generation. However, they were concerned that two way traffic circulation on Lincoln Road would be very difficult as a two hour residential parking permit is allowed on the south side of that segment of Lincoln Road.

Yet, 13 townhouses are currently using the road in this fashion. That was somewhat unclear. So I called and tried to get a further explanation of their opinion.

I think overall that they are of the opinion that they could not come out in opposition of this proposal because they approved the development of 14 townhouses on Lincoln Road, and they approved the establishment of permit parking along the street.

They cannot unilaterally remove parking from the street. It would have to take the agreement of all of the property owners next to it who are currently using the parking. So they expressed no opposition to the establishment of these four houses on the subject property, with access directly to the street.

And that's where that stands. We also did get to talk to the Department of Health, and the storm water management representatives, and they confirmed that they met with the applicant in the field, and they did not -- they said that things could be worked out.

I was not able to contact them, and they left a message, and I had been trying for a couple of days to contact them and get more details about it. But I think the general gist was that they thought it could be worked out.

And as such, they felt fairly confident that this would not create a significant problem. The planning department's concern really had to do with the fact that it appeared that if -- and I think the first thing we should do is turn to the plat that was submitted by the applicant showing the easements in the existing subdivision.

I think that plat is Exhibit B. Okay. You will note on Exhibit B that we have two lots, Number 22 and 21, the existing two-story framed dwelling which will be demolished for the development, and of course a drainage easement.

You will note the drainage easement at the end of Lincoln Road. That drainage easement is located there apparently specifically to catch run-off that comes down Lincoln Road. That would also be in the middle, essentially at the very edge of his driveway coming into the property.

What our concern was, was that the subsequent plans did not show that easement, although he indicated that he would simply be relocating the -- well, okay. That the receptacle would still be there.

I guess our question was how are we going to get a driveway in around it, and how wide would the driveway be, and how the circulation worked. So it was unclear, although through discussion -- we had a general discussion about how we would approach it.

The specifics of how it would work were kind of unclear. At the time the real concern was that the Department of Public Works had said that they would not normally approve a two-way driveway that was less than 16 feet. Of course, this is 12.

When the Planning staff discovered that there was an easement on the adjacent property, we assumed that the property owner, the developer, would be allowed to at least widen the driveway to -- to use the existing street that is now being used for parking, and the easement that is currently on the private property and being used for parking, that could become part of the driveway coming in.

Now with the existing permit parking on that section, and the likelihood that that cannot be removed, we are still back to the 14 foot street. The planning staff had some concerns, but the Department of Public Works felt that this could work essentially because it is only four dwellings.

So the question that we had then was just how would they work it out, and how would the alignment be set up, and then there were other issues of parking available on-site for the houses that are there, and where would they put the parking.

There were just some unclear -- it was unclear because there was not a specific site plan showing all these elements and just how it all worked together.

Now, I have no doubt that there are various options for addressing these issues, and I am sure that they can be -- that with the thoughts and discussions that have gone on with the city staff and with the design professional that they can put down on paper a plan that will work.

It is just that my concern was that there are so many issues that could conflict one against the other. For instance, if you put in a nice layout for the parking plan, but then you have landscaping.

And in looking at the preliminarily landscaping plan which the applicant submitted, I see trees in a tree strip that is 3 to 4 feet wide, where normally you would look for a minimum of 7 feet for a tree, just because they will need that

space for the roots.

Is this the plausible approach? I don't think so. Or if it is used, then you have to look at the spacing of the trees. So if you are putting the trees there, then how might the rear orientation of the shifting of the driveway affect where you are going to put your storm water management structures.

And again the other issues that are raised in my staff report, a more detailed site plan showing all the owners that are going to be on the site, probably would address those issues.

And I think that what was brought into today and was handed me in the hall really is much better, but it still is seen as being a little preliminary. But I will leave it to the board to decide whether or not that is sufficient to move on.

So in light of all of those concerns, we think that conceptually that this is a good plan. It is the most -- it is an appropriate use for the site, but we would like to recommend, or still would like to recommend that the board give conditional approval only for today, and that final approval will be subject to certain conditions.

And where the applicant would submit a final landscaping and grading plan as required under Section 2516.3(b), and that the subdivision conform to 2516.5(d), and that the applicant submit a revised preliminary subdivision plan showing all easements and shared access driveway, and identifying building

envelope.

Now, I should explain that by building envelope, what he is showing now is a building footprint. In terms of a building envelope, what I was talking about was just lines showing the setbacks, and not the actual footprint of the building.

This would give you the flexibility to put a building in any shape you want within the footprint, but it would show where the building has to go.

MR. BOYAR: We have done that.

MR. JACKSON: Well, what you are showing is the building footprint and not the envelope. Is that on the new plan?

MR. NUNLEY: That is on all the plans. That is not the footprint. That is the design envelope. It can be smaller, but no larger.

MR. JACKSON: Okay. Usually the building footprint reflects -- okay. It is a 25 foot setback. The building envelope reflects a 25 foot setback uniformly from the property line.

It doesn't necessarily outline the building. What you have on your plans is the building footprint, and not the building envelope.

VICE CHAIRPERSON SOCKWELL: Well, generally, Mr. Jackson, as an architect, I show envelope the way that you are suggesting a footprint would be shown.

And I show a footprint to show the extent of all excavation that would wind up being built space, even if it

extended only below grade and not as part of the super structure. So we have a difference in our education on how the term should be used.

MR. JACKSON: Okay.

VICE CHAIRPERSON SOCKWELL: Now, Fairfax County requires the way that I stated it, and therefore at least I can say that there is somebody with qualifications, rather than just using my own impression.

But I think generally a footprint is intended -- at least in architectural terms -- to indicate the extent of disturbed earth.

MR. JACKSON: Well, I am using it in the context of showing the extent of where development is allowed outside of the setbacks, or inside of the setbacks.

VICE CHAIRPERSON SOCKWELL: Well, an envelope would generally meet the zoning criteria in the District of what is allowed above grade, which is the only part that would actually have building implications.

MR. JACKSON: Well, let's go to Exhibit G.

MR. NUNLEY: I think the labeling here is what may be throwing us off. Whoever did these plans say building footprints, which implies that is the perimeter of the actual building.

It's not. It is designed to show the maximum allowable buildable space on that site. And as you will see, it

shows the side yard setbacks, and it shows the rear yard setbacks, and the front yard setbacks.

MR. JACKSON: Well, the rear yard setback is 25 feet.

MR. NUNLEY: And it is showing the 25 feet.

MR. JACKSON: It is showing 35 feet. You see, the only thing is that you actually have more space to build in than is being shown. It should be 25 and 25 --

MR. NUNLEY: No, no. This is the intended maximum buildable area on this site, and it fits well within the regulations. The 25 feet is a requirement, but you can meet the requirement and have more. So here this is --

MR. JACKSON: I am not arguing that. I am saying that for the sake of flexibility that you can show 25 in the front, and 25 in the back, and you can build within that area. Now, you restricted yourself to 35 feet, which is fine.

But you can give yourself 25 feet in the front, and 25 in the back, and you can build anywhere within that area. That's all I am saying.

MR. JACKSON: Right.

VICE CHAIRPERSON SOCKWELL: For example, on lot 3 --

MR. JACKSON: But this is what we are comfortable with.

MR. BOYAR: Well, we could compromise on the term

and call it buildable area and leave the footprint, versus the other alone, and call it buildable area.

MR. NUNLEY: No, I understand what you are saying, and we could have done calculations and averaged it out, and it would have been 25 feet on this side, and less than 25 feet on this side, averaging out to 25. But we determined not to do that.

MR. JACKSON: Okay. If you want to limit yourself, that is fine with me. Okay. And finally that the Department of Health approve a storm water management plan for the subdivision. As per your discussions with the Department of Health, however, if they are not concerned about the storm water run-off, then I will delete or agree to withdraw that as a recommended condition.

VICE CHAIRPERSON SOCKWELL: Would you repeat that? I didn't g et it all.

MR. JACKSON: Oh, the last --

VICE CHAIRPERSON SOCKWELL: Yes, just the last.

MR. JACKSON: That the Department of Health approves a storm water management plan for the subdivision. Our concern was that this could be somewhat difficult given the fact that the storm water management -- the property is such of a size that storm water management could actually be on someone else's property next door.

But given the response from the Department of Health, if they are not concerned about that issue, then I would agree to delete that recommendation.

MR. NUNLEY: Well, let me just add that that would not be allowed under the building code, and so we couldn't build. You are saying that storm water management would be over on someone else's property; is that what I heard?

MR. JACKSON: It appeared that that would be a possibility.

VICE CHAIRPERSON SOCKWELL: Maybe because of the direction to which the property slopes off.

MR. JACKSON: It slopes to the west.

VICE CHAIRPERSON SOCKWELL: Yes. And the issue is that there are any number of ways of handling the storm water management. Since you are in this particular location, and since there have been some new storm water management initiative toward biosystems and things like that, you may be able to do this without pumping, or without some of the more traditional tanks and what not.

But you would have to meet the Department of Health's requirements for storm water management regardless, and it puts it in their court rather than ours.

MR. JACKSON: Exactly.

VICE CHAIRPERSON SOCKWELL: And since it is an external thing to the zoning process, I would think that we could leave it up to them, because right now I don't think that anybody is getting out of the permit office without extensive review.

MR. JACKSON: Mr. Sockwell, I guess my only thought

was that when we initially visited the site, not being clear on how water could get out, I thought this could be a situation where the inability to provide appropriate storm water management could terminate the project.

In essence that they would get approval by the BZA, and then come back to the Department of Health and not be able to do the development because they could not meet those requirements.

But I am satisfied now that they have met and discussed it with them, that the natural process will work everything out.

VICE CHAIRPERSON SOCKWELL: Yes, the biosystems are now being used to handle waste, including parking lot run-off. So they may be able to meet this without having to do an expensive pumping or storm water management tank system, but they are going to have to do something, and I agree with you. It will be on-site. I do want to -- well, I guess you are not through yet.

MR. NUNLEY: Thank you for your time and I am ready for questions.

VICE CHAIRPERSON SOCKWELL: Okay. There was discussion about this easement, the drainage easement.

MR. NUNLEY: Yes.

VICE CHAIRPERSON SOCKWELL: And what is the facility that is there now?

MR. JACKSON: There appears to be a storm drain that goes back towards McArthur Boulevard.

MR. BOYAR: No, it actually is a catch basin towards the end of Lincoln Road, and it catches the water run-off, and then it goes diagonally across my property as I think you will see in Exhibit B for about 7 feet.

But it is buried underground many, many feet. And then it just goes across to the adjacent community's parking lot.

MR. JACKSON: Well, where does it come out?

MR. BOYAR: It ultimately comes out in the -- right around the large retaining wall that is right on the edge of my property, and then goes to the area that is the saving and accepting, which is that triangle that is taken out.

And just also to let you know that I have met out on the site a number of times with the water and sewer authority, Jim Sibonski, and also Mr. Truong, who before he was there was with the Department of Health.

And he spent a lot of time, and he felt very comfortable. I mean, all of these things -- I mean, I am not going to put words into his mouth, but he knew exactly what I was doing. He knew about the BZA application and if they ever had any issues they would have brought it up.

And also the Department of Health walked the site as well. There were never any issues that there would be a problem with it. They just said there will be a solution, and we will work it out jointly.

VICE CHAIRPERSON SOCKWELL: But you are saying

there actually is a pipe that goes diagonally across your property?

MR. BOYAR: Yes.

VICE CHAIRPERSON SOCKWELL: Which is an established de facto WASA easement for drainage?

I mean, that's what it would be, because it has been there, and they have the right to continue to utilize it unless you provide some alternative.

MR. BOYAR: It is actually not WASA, and I asked them. It is actually belonging to the townhome community. The people at WASA thought that it was theirs, but they could not find it.

So they just deferred to the other, and quite honestly, it is completely clogged and it has not been maintained in many years.

VICE CHAIRPERSON SOCKWELL: But because it exists, it could present you problems, because it exists, regardless of the fact that it is on your property. Well, it can't belong to someone else if it is on your property, per se, easily.

But it can certainly become a requirement for you to maintain because it services adjacent property, and it exists on your land.

MR. BOYAR: It just passes through, if that means anything. It is just bisecting for just a short span of space. It goes from, I believe, the Foxhall Square or Foxhall Mews

townhome community, and through mine, buried underground, and then shortly thereafter to another community.

Again, I have brought out a number of folks from WASA, and the Department of Health, who had no issues with that at all. And during the final engineering process all that stuff will be addressed to the satisfaction of the city.

VICE CHAIRPERSON SOCKWELL: There is nothing in your deed description that mentions this piece of equipment?

MR. BOYAR: I'm sorry?

VICE CHAIRPERSON SOCKWELL: There is nothing in your deed description that mentions this piece of equipment?

MR. JACKSON: As a recorded easement.

VICE CHAIRPERSON SOCKWELL: As a recorded easement, yes.

MR. BOYAR: Yes.

VICE CHAIRPERSON SOCKWELL: There is?

MR. BOYAR: Yes.

VICE CHAIRPERSON SOCKWELL: But does the recorded easement stop with that square, or does it stop with the passage of water through your site in the pipe that is currently clogged up?

MR. BOYAR: Are you asking if --

VICE CHAIRPERSON SOCKWELL: Yes, I guess I am just trying to find out whether or not you knew the extent to which this is going to encumber your development.

MR. BOYAR: The process started back in the early spring, and that's when I had first brought out the folks from WASA, including Mr. Truong, and had discussions with Mr. Carey-Carey.

VICE CHAIRPERSON SOCKWELL: You see, if you say it is not theirs, then it is not their responsibility, and they really don't care because they are not worried about it.

MR. BOYAR: Right.

VICE CHAIRPERSON SOCKWELL: My only question was whether or not its existence -- and as you say, it is serving an adjacent community. If its existence means that it either has to stay there or you have to manage the water that is going into that system, regardless of whether it has been maintained or not, whether you have to manage the water that is going into that system, along with any water that you generate.

MR. BOYAR: And I am not an expert on this, and that's why I brought in the other folks from the city agencies, but when the water does enter this catch basin, it is immediately buried underground, and goes through my property for a very short distance, and then it does not appear to discharge on to my site.

The easement actually shows it bisecting through that small little area to the adjacent property.

COMMISSIONER MITTEN: Do we have a plat that shows where the pipe goes, because if we do, I don't have it.

VICE CHAIRPERSON SOCKWELL: I am assuming that it

is going into his property and something is happening to it. I mean, there may be a possibility that it is bisecting or is hitting to the far end of your property, and may actually continue to drop with the land, and may exit a headwall into the Potomac.

MR. BOYAR: Let me just add that part of my homeowners association will -- the fee -- will take care of the maintenance of whatever storm water system the city requires that I put in, whether that is a sand filter, or if there are any other designs that the city says that I can build that will be part of what my HOA will take care of, in addition to road maintenance and such.

VICE CHAIRPERSON SOCKWELL: And believe me that I understand that part, but my only consideration was that perhaps this was an issue that might be an albatross that you have not fully determined the impact of because it is serving someone other than your property. But it is on your property.

MR. BOYAR: And I had asked Mr. Truong, and he didn't seem to think that it was any problem for me to develop the site at all.

VICE CHAIRPERSON SOCKWELL: Okay.

MR. BOYAR: And I know that I have worked with him over the years on a lot of these storm water end-use.

VICE CHAIRPERSON SOCKWELL: And as have I, but the problem is that it is not a public facility, and he can tell you anything that he wants. And in particular it is not ours, and we

don't think that it is a problem.

But it is yours, and I just wanted to make sure that if you are going to develop it that you are aware of what might be the implications of its existence.

MR. BOYAR: Sure.

MR. JACKSON: I just had one other question for clarification. Have you determined whether or not you can actually build a road on top of this pipe?

MR. NUNLEY: I defer to Mr. Boyar on that.

MR. JACKSON: My question was I wondered if he had determined whether you can actually extend the road over this pipe.

MR. BOYAR: I'm sorry, but what was the question?

MR. JACKSON: I just wondered have you determined that you can actually build a driveway on top of this pipe?

MR. BOYAR: Yes. I don't have to do much in the way of excavation for a private driveway. The impact to that area is going to be negligible.

MR. JACKSON: Okay. I wasn't too sure.

CHAIRPERSON REID: Any other questions?

COMMISSIONER MITTEN: Is it Mr. Jackson from the Office of Planning?

MR. JACKSON: Yes.

COMMISSIONER MITTEN: Was there a referral made to the National Park Service?

MR. JACKSON: No, there wasn't.

COMMISSIONER MITTEN: I ask that because if you look at the base map, it looks actually like they are an abutting property owner, and if they are not, they are certainly close by. And one of the criteria that we are supposed to be evaluating on is the visual impact on parks.

MR. JACKSON: Ms. Mitten, I should clarify that what you have -- okay. When you look at the plat there, or are you looking --

COMMISSIONER MITTEN: I was looking at the base.

MR. JACKSON: Which exhibit are you talking about?

COMMISSIONER MITTEN: Exhibit A.

MR. JACKSON: Exhibit A? Okay. You should note that there -- you can verify this if I am saying the wrong thing here, but there is a public right of way, the former Potomac Avenue, Northwest, right of way, which is unopened.

There is Park land on the north side that is on the corner of this lot, but then there is Park land across the right of way on the south side.

COMMISSIONER MITTEN: Okay.

MR. JACKSON: So that the largest portion of park land is really a hillside that runs down to Canal Road. So this development, I do not think, would have any more impact on the Park land than would the townhouses to the north, and to the east, and to the west.

I would think thought that they would have been notified as an adjacent property owner through the Office of Zoning. But I did not follow it up with a direct --

COMMISSIONER MITTEN: Maybe Mr. Boyar has something to add.

MR. BOYAR: I guess you see my hand going up. Sorry about that. I was terrible in school, too. The very first person that I met with was Dave Murphy. He is the contact person for any development. He was very, very involved with the Canal View development, which is the adjacent community, which actually had the issue.

And I believe that there was some sort of long drawn out process with the BZA regarding the National Park Service and the cutting of trees. And then the visibility of the houses from Virginia even.

And Mr. Murphy was the first person that I met on site with when I started to develop the plans for the community, just because I knew that that was going to be an issue.

And he brought out one of the Park Service rangers with him, and they went through their concerns, and we sent him back a memo basically addressing what we were planning on doing, and going through the zoning regulations on the height and such of the buildings.

And he basically -- well, he didn't basically, but he told us that if there was a problem that we would hear from

him. But he was the very first person that I spoke to about the development.

COMMISSIONER MITTEN: Okay.

VICE CHAIRPERSON SOCKWELL: Could you submit a copy of that letter to the record?

MR. BOYAR: That I had sent to him?

VICE CHAIRPERSON SOCKWELL: Yes.

MR. BOYAR: Sure.

VICE CHAIRPERSON SOCKWELL: Did he respond in writing?

MR. BOYAR: No.

CHAIRPERSON REID: Okay.

COMMISSIONER MITTEN: I actually had another question.

MR. BOYAR: Let me just add that the letter was actually addressed not to him, but to the head of the capital area region. I can't remember her name, but that is who it would be addressed to.

VICE CHAIRPERSON SOCKWELL: I know who you are talking about.

COMMISSIONER MITTEN: This is for Mr. Jackson also. I understand that the Department of Public Works doesn't have an issue about the amount of traffic that is going to be generated and that is understandable.

Do you have any guidance that you could give us on

how we can, if it is necessary, condition this so that when the property is under construction, since Lincoln Road is so narrow, how that can all be handled, because that strikes me as something that will be problematic.

MR. JACKSON: Our recommendation is that the final plans for this development be brought back to the board for your approval, and at that time the proposed conditions at the time of construction could also be part of the package.

COMMISSIONER MITTEN: Could you assist us in drafting some conditions that would offset any unpleasant conditions that might arise during construction?

MR. JACKSON: Well, what I would do is that I would look forward to getting a detailed plan from the applicant, and then I would work with the Department of Public works to see whether it was adequate, and where there needed to be changes and changes made, and then forward that information to the commission.

COMMISSIONER MITTEN: All right. Mr. Boyar, did you want to add something?

MR. BOYAR: I did. Thank you. The main concern of the townhomes adjacent to my property, just north of my property, one of their concerns was the construction traffic. And I explained to them that the world is not perfect.

You may hear trucks at seven o'clock in the morning, but my site is 250 feet long. I have more than ample space. It is almost a blessing to have an in-fill site in the

city with that kind of space that all construction traffic can park and idle on my property.

I don't have to worry about it idling on McArthur Boulevard, or Lincoln Road, but I went through that with them. I did also tell them -- and this is part of the process that I have spent many months establishing a relationship with them, is that I told them that if I have a tremendous piece of equipment that is coming in, I will call the homeowners association president and ask them the best way to notify the neighbors, whether it is putting notices on the cars, or whatever. But I did establish a discussion about that exactly.

COMMISSIONER MITTEN: Okay. We are just trying to make sure that all the conversations that you have had with people, and you have understandings with people, but to the extent that they are important to the board that they be put in writing. That's what we are just trying to capture all of that.

MR. BOYAR: But I just wanted to let you know that I had addressed that.

COMMISSIONER MITTEN: I understand. Thanks. That's all I have.

VICE CHAIRPERSON SOCKWELL: Your site slopes off over 20 feet from front to rear, or edge to edge, and so that looks like a slope of about 1 foot in 10, a little less than 1 foot in 10, which seems to be reasonable to say that you can park your vehicles at one end and not have any difficulty moving back

and forth.

And that's looking at your final grades, as opposed to your existing grades. You have been out on the site and I haven't, and Mr. Jackson has been on the site. Does it look like it is passable. Would we want to --

CHAIRPERSON REID: All right. Are you done questioning?

VICE CHAIRPERSON SOCKWELL: Ms. Mitten --

CHAIRPERSON REID: How many more questions do you have?

VICE CHAIRPERSON SOCKWELL: I just wanted to ask Ms. Mitten a question. Would you want the developer to submit a construction management plan?

COMMISSIONER MITTEN: That would be perfect.

VICE CHAIRPERSON SOCKWELL: Okay.

CHAIRPERSON REID: All right. Ms. Bailey, are you recording the things that are being asked for?

MS. BAILEY: Yes, Madam.

CHAIRPERSON REID: All right. That concludes the questioning of the Office of Planning report, and we will now move to the ANC. Mr. Sockwell, if you have that.

VICE CHAIRPERSON SOCKWELL: The Advisory Neighborhood Commission 2-E has written a letter, dated November 1st of 2000 regarding this application.

"Dear Members of the Board, at its regularly

scheduled meeting of October 30th, 2000, which was duly noticed and at which all the members were present, the following motion was passed. The vote for this motion was unanimous. ANC-2E supports the proposed project at 4427 Potomac Avenue that constructs four houses, with a special exception. Sincerely, Peter Paulsfer, Chair, ANC-2E."

And it is on ANC-2E stationary and all the commissioners are listed at the bottom.

CHAIRPERSON REID: With a quorum and a vote taken?

VICE CHAIRPERSON SOCKWELL: With a quorum, unanimous.

CHAIRPERSON REID: Okay. And this board will give the ANC report the great weight to which it is entitled. We move now to -- there are no persons in support or in opposition of this case. So we move to closing remarks.

MR. BOYAR: Just to recap a few things here. I spent an awful lot of time with not only the neighborhoods adjoining my property, but also I believe all of the departmental agencies, and most recently the Office of Planning, but the Department of Health, Zoning, Structural, which I am pretty comfortable with, Transportation, and so on, they saw no issues that were any different than any other job site that is just going to be worked out during the typical process of building these houses.

But I feel pretty comfortable that there should not

be any problems there. But I have taken a long time to work with them. I have also have a pretty good sized lot here. It is almost 37,000 square feet.

And in talking with the neighbors, I scaled down a number of homes that I am even asking to put in there, four, and I am not putting in any more than that, and they were all tickled that I was not going to be over-building the site.

So the sites actually have some nice land, and I would note that one lot house has just 5,000 square feet. The average, I think, is about 9,000 square feet per lot.

The adjoining neighbors that I spoke to about the traffic on Lincoln Road had no problem with me about the four houses. The only thing they asked me if I could help them with was to try and get Lincoln Road paved because the city wasn't responding to any of their requests. But I don't know if I can help them with that.

And then addressing the final grade, which is not going to deviate much from the existing grade, which is nice. It has got a nice rolling feel, but it is not hilly.

At the very, very end where it does slope off a bit, there are not going to be -- there won't be much other than just lushly landscaped spaces over there.

MR. NUNLEY: As Mr. Boyar said, he has taken a long time, and a lot of consideration has gone into the development of this project. And we understand the concerns of the Board

consistent with Section 2516, and the concerns of the Office of Planning.

We would like to request that if the Board feels comfortable that they would approve this application, contingent upon receiving this other document in support, such as the construction management plan and the letter from the Office of the Zoning Administrator, which we can get to you very, very quickly, before the end of this week actually, so as not to necessitate a second hearing on this if that is at all possible.

VICE CHAIRPERSON SOCKWELL: Mr. Boyar, I have one question in particular here in just looking at your plans. You see but one tree on the site that is worth saving, and that is the 21 inch maple.

MR. BOYAR: Could you point that out?

(Brief Pause.)

MR. BOYAR: As I went through the site with the homeowners next door, and also the ANC and the other associations that I meet with, I told them that it is in my best interests -- the whole property is -- the perimeter is surrounded with trees.

Depending on the footprint of the houses and where I excavate, as long as I don't cut into the root hole, it is my intent to save as much as I can. I will get rid of the weed trees and there are quite a number of those there.

But there is some nice trees that I would like to save if possible, but I will leave that to the architect that is

working with the customer, and try and build that into the house if you will. But I would like to if it is possible. Otherwise, I will have to cut it down and replant other trees.

VICE CHAIRPERSON SOCKWELL: Well, my assumption is that this site has never been built upon.

MR. BOYAR: It has.

VICE CHAIRPERSON SOCKWELL: It has?

MR. BOYAR: Yes. There is a --

VICE CHAIRPERSON SOCKWELL: Well, when I say built upon, I mean, yes, there is a little house up at the front end that you are going to tear down. But the --

MR. BOYAR: And there is also a barn that is collapsed.

MR. JACKSON: That is collapsed, yes.

VICE CHAIRPERSON SOCKWELL: Okay. But most of the vegetation is old and if all possible one of the things that we would hope that you might do is find a way -- and of course within the limitations of your customer's custom requests, since this is not a subdivision that they going to buy as built. They are going to build as modified from your plans.

But we would hope that you could influence them into thinking of the value of existing vegetation is greater than the value of 4 inch caliper new trees that take 25 years to grow when it comes to major trees, if they don't fall into the living room.

MR. BOYAR: Well, I, like you, agree with that. I mean, it makes perfect sense, and it actually creates an immediate neighborhood feeling when you have something like that, and I hope that we can work within that.

That's why also when I have the building footprint that I can play with the shifting of the house, so that I might be able to avoid cutting into the root ball.

VICE CHAIRPERSON SOCKWELL: I would just like you to think green.

MR. BOYAR: And just because you say that, I am also one of the -- one of volunteer things that I do is that I help advise the FAR Southwest/Southeast CDC, which is the first green, all green, CDC in the city.

And I have helped them, and they are also associated with a church group with their real estate development in the FAR southwest/southeast. So I do have some experience and some desire, too, to maintain as much green as I can.

VICE CHAIRPERSON SOCKWELL: Thank you.

CHAIRPERSON REID: Okay. Thank you very much. All right. Board Members, is there a motion?

VICE CHAIRPERSON SOCKWELL: I move that we approve the project request --

CHAIRPERSON REID: With conditions?

VICE CHAIRPERSON SOCKWELL: Yes, with conditions. That would be developed as quickly as possible so as not to

encumber the applicant for too long a period.

The Office of Planning to provide conditions and the board to provide conditions based on the discussions that we have had.

CHAIRPERSON REID: Well, don't you want to just go ahead and --

VICE CHAIRPERSON SOCKWELL: Enumerate?

CHAIRPERSON REID: -- set forth the conditions at this time? I mean, the ones that were in the Office of Planning report, I think all except

-- there are one or two that Mr. Jackson then rescinded.

But specifically on page 10 of the Office of Planing Report, which conditions do you want to include. And then add whichever ones that you feel would be appropriate.

VICE CHAIRPERSON SOCKWELL: Well, Mr. Jackson, do you want to state the conditions that you feel most wedded to?

MR. JACKSON: Yes. The submission of a final landscaping and grading plan; that the subdivision conform to 2516.5(d). And the applicant does not seem to want the flexibility to move the building around. So just for a point of clarification.

Are you saying that your building footprints are going to be where your building is going to be, or do you want the flexibility to move within the buildable area on the lot?

MR. BOYAR: I feel comfortable that I can within

the perimeters that I have drawn up build within those.

MR. JACKSON: Okay. Then the final condition would be that the final plan become part of this approval. So the final development plan would be part of this approval.

VICE CHAIRPERSON SOCKWELL: And that final development plan would be a generalized plan, because there is the custom aspect of these houses, and we don't want to lock him.

MR. JACKSON: Certainly. That would be the site plan, the landscaping plan, and --

VICE CHAIRPERSON SOCKWELL: Would you want the zoning administrator's acceptance of the applicant's contention of rear lot to be submitted as part of the record?

MR. JACKSON: Yes.

VICE CHAIRPERSON SOCKWELL: Okay.

CHAIRPERSON REID: And then your conditions?

VICE CHAIRPERSON SOCKWELL: And I would want -- and since I mention it, and I don't want to take it from Carol Mitten, but Carol Mitten would want a construction management plan to be submitted giving your general hours of construction, methods of bringing materials in.

And how you are going to organize the site. Basically, where you are going to put most of your storage and things like that.

MR. JACKSON: Mr. Sockwell.

VICE CHAIRPERSON SOCKWELL: Yes, sir.

MR. JACKSON: Just a point of clarification. It would probably be advisable if they were to confer with an ANC, or their neighbors, to make sure that they are aware of it and that they concur before they bring it back to us.

VICE CHAIRPERSON SOCKWELL: Yes.

MR. JACKSON: So that they don't get a plan approved here, and then go back to the ANC and neighbors, and they say, well, this is not what we agreed to and not what we expected.

MR. BOYAR: I have no problem bringing it to Scott Polk, who is the ANC commissioner for that space. And once I get this information, I will give it to him, and then have him sign a note as I attach it to the record here.

CHAIRPERSON REID: All right. Now, how are you going to do that, Mr. Sockwell? We need to review it before it becomes part of the final order.

VICE CHAIRPERSON SOCKWELL: Yes. We would want to have the opportunity to look at that plan. If the ANC -- and here again you are talking about the single member district in which the property is located, and we generally are talking about the Advisory Neighborhood Commission that includes your single member district.

So if they have -- if you can communicate with the ANC and they can quickly review the plan, maybe they can sign off on it, or initial it, or something, that shows that they have all looked at it.

But something to expedite, as we don't want to hold you up any longer than necessary. But it is important that what is proposed is acceptable. Part of that, of course you know, is going to be that the city will require you to have an erosion control plan that would be part of your site organization for construction.

But the construction management plan would speak to the hours that you are going to operate, the number of days a week, and some of the other general aspects of how you plan to manage your construction. And you are building one house at a time.

So the length or the duration of construction for a house would be important, especially the hard construction, because once they starting painting, they are not going to make a lot of noise. But until the shingles are on there is going to be a lot of banging.

CHAIRPERSON REID: I think, Ms. Sansone, that the way to do this perhaps would be to -- if we have a summary order submitted today, and then have the revised plans to be submitted by a review of the ANC. Now, are we saying the full ANC, or just the single member district, or just a representative, or what?

VICE CHAIRPERSON SOCKWELL: Well, the single member district is probably -- depending upon the border of your SMD, your single member district representative may be sufficiently empowered to look at it.

But the community won't see it as a hole, or won't have an opportunity to see it, unless there is an ANC meeting called, and I don't know how that ANC operates, and whet her the SND is going to have a meeting, or whether it is going to be a full ANC meeting, which is what I assume.

MR. BOYAR: Are you asking that I make a presentation in front of the whole community, as well as just the SND, or if I may just give it to them?

VICE CHAIRPERSON SOCKWELL: Let me make this suggestion. Rather than go to the full ANC, because we don't have any opposition to this, the SMD representative and your immediate adjacent neighbors should see your construction management plan.

CHAIRPERSON REID: Where I was going with this, Ms. Sansone, is that at our -- when our next meeting dates or hearing dates, and prior to the order being issued, we could review it at that time and make a decision as to whether or not it is acceptable to us in the form in which it was submitted. How is that?

MS. SANSONE: That would work, sure.

CHAIRPERSON REID: Okay.

VICE CHAIRPERSON SOCKWELL: And you would submit also the park service letter that you sent as part of our record.

CHAIRPERSON REID: All right. Now, Ms. Bailey.

MS. BAILEY: Madam Chair.

CHAIRPERSON REID: Now, should we give a time line

as to when we want that to be in, so that we can then make a decision or review it, basically?

MS. BAILEY: Okay. Can I just please go over the things that I have heard?

CHAIRPERSON REID: All right. Sure.

MS. BAILEY: Okay. The applicant is to submit the final design of the floor plans to the ANC for review.

CHAIRPERSON REID: To the single member district representative. It does not have to be the full ANC, and the community. That means the neighbors in the community around which the project will be located.

MS. BAILEY: The applicant is to request from the zoning administrator figures concerning the rear lot lines.

VICE CHAIRPERSON SOCKWELL: Ms. Bailey, it would be --

MS. BAILEY: The assessment of where the rear lot lines are?

VICE CHAIRPERSON SOCKWELL: Yes, acceptance of the rear lot line as proposed for the proposed development as proposed by the applicant.

MS. BAILEY: Okay. The applicant is to provide a letter that was submitted to the National Park Service when they contacted them about the project. Finally, a construction management plan is to be submitted. Are those the things that -- are all of those the things that are being requested?

CHAIRPERSON REID: Yes.

VICE CHAIRPERSON SOCKWELL: Yes.

MS. BAILEY: Okay.

COMMISSIONER MITTEN: I heard a few more.

VICE CHAIRPERSON SOCKWELL: Yes.

COMMISSIONER MITTEN: The Office of Planning recommended that we request a final landscaping and grading plan, which is required.

MS. BAILEY: Now, they submitted one today. Is that not acceptable?

MR. JACKSON: Is that a final?

MR. NUNLEY: Yes.

MR. BOYAR: Yes.

VICE CHAIRPERSON SOCKWELL: It is the final preliminary non-customized version.

MR. JACKSON: Exactly.

MR. BOYAR: My landscape designer actually has been out on the site, and she has walked it, and she drafted this up. I didn't know that I needed one until I spoke to Mr. Jackson about that.

CHAIRPERSON REID: Yes, we have that.

MR. JACKSON: Okay. Then all I want is -- are you saying this is your site plan, too?

MR. BOYAR: Well, I have a very detailed site plan that you have a copy of. What are you looking for specifically on

the plan?

MR. JACKSON: Showing all the pavement, curb, gutter, where your units are, showing the easements.

MR. BOYAR: Mr. Jackson, is this all the stuff that is going to be determined during the permitting process?

VICE CHAIRPERSON SOCKWELL: Yes. Mr. Jackson, the issue that we have been trying to grapple with is whether or not what he submits, if formal, is to be adhered to specifically, because he states that there is a customization here at the level of house that he is going to build.

MR. JACKSON: Right.

VICE CHAIRPERSON SOCKWELL: And we didn't ask him the cost per year, or the sale price, or the relevant sales price. What is the square footage of the houses?

MR. BOYAR: Again, it will be determined by the homeowners, but I would think it will probably be 3,000 to 4,000 square feet.

VICE CHAIRPERSON SOCKWELL: And at about 400 a square foot?

MR. BOYAR: Hard costs?

VICE CHAIRPERSON SOCKWELL: Yes.

MR. BOYAR: Oh, please.

VICE CHAIRPERSON SOCKWELL: Well, sales cost.

CHAIRPERSON REID: Moving right along.

VICE CHAIRPERSON SOCKWELL: Yes, moving right

along. Basically, all I am saying is that they are custom high-end houses, which they are going to be based on the materials, then you want the flexibility to orient them and adjust them according to individual tastes of the purchasers.

But that is within the perimeters that you set in your design. So we are interested, and Mr. Jackson is interested, in seeing a fairly hard piece of evidence.

And I am suggesting that while if you submit it, you can put on it subject to customization so that it doesn't say that this is it. But what Mr. Jackson feels that the Office of Planning's interest is in seeing is a more definitive description of what you are going to build.

Because what this compromises basically is sketches, and sketches don't exactly meet the Office of Planning's requirement for reviewable documentation. Am I more or less correct?

MR. JACKSON: Yes. And in fact if you did something to the same scale as the landscape plan, that would be adequate.

CHAIRPERSON REID: Okay. Did you have any other ones that you wanted to bring up?

COMMISSIONER MITTEN: I just wanted to clarify that Ms. Bailey said that it would be the floor plans that would be submitted to the ANC, the customized floor plans. I think the more important thing is elevations. So if we could just add that.

CHAIRPERSON REID: The construction management plan, did she say that?

COMMISSIONER MITTEN: Yes.

CHAIRPERSON REID: Okay.

COMMISSIONER MITTEN: Okay. That's fine.

CHAIRPERSON REID: All right. Then --

MR. NUNLEY: I just have one comment. Excuse me. As we were sitting here, we were talking, and we can have all of this in within a two week period.

CHAIRPERSON REID: All right. Ms. Bailey, with that kind of time line, two weeks, would then put it on our calendar, our agenda, for what date? It doesn't have to be a meeting date. It could be a hearing date. Whatever comes the quickest.

MS. BAILEY: The 21st. Two weeks would be the 21st of November, and on the 21st, you have --

VICE CHAIRPERSON SOCKWELL: Wait a minute. They would have to have it in about a week ahead of time for us to be able to review it to have it on that calendar. So maybe we are talking about the week following that.

MS. BAILEY: That would be the 28th.

CHAIRPERSON REID: That sounds more realistic, because then you would have two weeks to get it ready, and then you need to be able to get it in here to us so that we have it the Friday before.

MR. BOYAR: I understand that. One question that I have is -- and since I have not done this before, if I bring it in then, when would I actually have the recorded lots?

There are some considerations that I need to work within, and if it means that if I have to spend all of my time the next week to get all this information sooner to you, I would do that.

VICE CHAIRPERSON SOCKWELL: You are allowed to file for your building permit while your lot recordation process is being done. You just won't be issued your building permit for any particular house until that is completed. Am I not correct, Mr. Nunley?

MR. NUNLEY: No, that's correct.

MR. BOYAR: One of the things that is possibly not surmountable, but it is going to be a challenge, is that since I did take an awful long time, and I worked with the communities and the government agencies, I had a short term loan that is actually going to be ballooning at the end of -- well, actually, in December.

I have no problem refinancing it once I have legally separate recorded lots, and that is my concern as to when that would be.

VICE CHAIRPERSON SOCKWELL: Well, I mean, you have to initiate that process with the surveyors office, right?

MR. BOYAR: Well, they have already drawn up the

plan of computation.

VICE CHAIRPERSON SOCKWELL: All right.

MR. BOYAR: It has already been determined, and actually drawn up by them. So it is just waiting, I guess, for the order from here to sign it.

VICE CHAIRPERSON SOCKWELL: Okay. All right.

MR. NUNLEY: I think his concern is that he is willing to -- I said two weeks, and he is willing to try to get it done within one week if we can one week sooner time to be back here before the board.

VICE CHAIRPERSON SOCKWELL: Madam Chair, if he can it in within a week, then it would still put us an extra week out, and we would have enough time to review it. If it comes in in time for it to be mailed on a Friday packaged to us prior to the following week's meeting --

CHAIRPERSON REID: You mean couriered out to us?

VICE CHAIRPERSON SOCKWELL: Yes.

CHAIRPERSON REID: So that is the 21st?

VICE CHAIRPERSON SOCKWELL: Yes.

CHAIRPERSON REID: That would then mean that you would have to have it in by what date next week, in order for it to be heard?

MS. BAILEY: The 21st? We would like to have it by at least the 16th, no later than the 16th.

CHAIRPERSON REID: What day is that?

MS. BAILEY: That's on a Thursday.

CHAIRPERSON REID: Next Thursday, the 16th, would that work?

MR. BOYAR: Sure.

MR. JACKSON: Madam Chair, the Office of Planning would like -- I would just ask now that we get a waiver because we are not going to get ours into the mail, but the way things are looking, we should just have a one pager saying everything is okay.

CHAIRPERSON REID: Okay. So once you receive it, and you receive it at the same time, I have no problem with that Monday or Tuesday before the meeting or hearing -- well, it will be a hearing date, that you would just fax over to us what your position is.

MR. JACKSON: Okay.

CHAIRPERSON REID: Or just simply to indicate that you have received it and have reviewed it.

MR. JACKSON: That you, Madam Chair.

VICE CHAIRPERSON SOCKWELL: Do you want us to waive the rules now?

(Laughter.)

MS. BAILEY: So, Madam Chair, let me just repeat that a decision will be made on this application the morning of the 21st of November prior to the start of the agenda for that morning.

All information is due from the applicant by Thursday, November 16th, and the Office of Planning's report should be submitted prior to the meeting on the 21st.

CHAIRPERSON REID: Okay. I will second the motion. We didn't have a second, and so I will go ahead and second it. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: And no opposed. Okay. Thank you. You should have your order in about 2 or 3 weeks. Okay. Great. Thank you and good luck. All right. The Board will take a five minute break and be right back.

(Whereupon, the hearing recessed at 5:22 p.m., and the hearing was again called to order at 5:33 p.m.)

CHAIRPERSON REID: The last case of the evening, Ms. Bailey, please call it.

MS. BAILEY: Sure. Application Number 16622 of Sasha Bruce Youthwork, Incorporated, pursuant to 11 DCMR 3104.1, for a special exception under Section 335.1 to continue the operation of a youth residential care home facility for five additional residents, for a total of 15 residents and rotating staff, in an R-4 District at premises 22 Maryland Avenue, Northeast, Square 96 1, Lot 803.

Madam Chair, and Members of the Board, we have received reports from the Office of Planning, and the Office of Planning is recommending approval of the application.

We did receive a report from the zoning and licensing committee of the ANC-6A, and a waiver is needed. That report was received late. We also have a request from two persons for party status; and that is Mr. Lyle Schauer with the Capital Hill Restoration Society, and Mr. Joshua Halpern. I am assuming that those persons are in the audience.

And lastly the property was posted and the affidavit was properly filed. I am not quite sure if at this point that you want to ascertain party status for the two persons who have requested it.

CHAIRPERSON REID: Yes. Please come forward if you are requesting party status. All right. Mr. Schauer.

MR. SCHAUER: Yes, Madam.

CHAIRPERSON REID: All right. You wanted to request party status?

MR. SCHAUER: I put in the request for party status, yes.

CHAIRPERSON REID: From the Capital Hill Restoration Society?

MR. SCHAUER: Yes.

CHAIRPERSON REID: Given the fact that we often see you with cases of this nature as a representative of the Capital Hill Restoration Society, I have no problem with you being granted party status.

We can vote on it, Board Members, unless you have

some objection. All right. Hearing no objection, Mr. Lyle Schauer has requested party status, and that will be so moved.

COMMISSIONER MITTEN: Well, as long as it is Mr. Schauer on behalf of the Capital Hill Restoration Society.

CHAIRPERSON REID: It is, on behalf of the Capital Hill Restoration Society.

COMMISSIONER MITTEN: I second that.

CHAIRPERSON REID: All right. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: All right. Opposed?

(No audible response.)

CHAIRPERSON REID: Okay. Thank you. Next.

MR. HALPERN: My name is Josh Halpern, and I reside at 515 - 10th Street, Northeast, which is in the same square and immediately behind the Sasha Bruce House.

CHAIRPERSON REID: Okay. Mr. Halpern, would you be more impacted than anyone else who lives on that block?

MR. HALPERN: My back yard is about 10 to 20 feet from the playground used by the Sasha Bruce House, and that is set forth in the letter that I wrote to you, and therefore I have asked for party status.

And I also have a petition from other people who live on the streets basically immediately adjacent to t he Sasha Bruce House, about 20 people.

CHAIRPERSON REID: Are you representing those

people?

MR. HALPERN: Only insofar as the petition, which I wish to present to you.

CHAIRPERSON REID: Okay. And my question again is, sir, is there anything about your property that makes it uniquely affected by the application?

MR. HALPERN: Yes. It is the one that is closest. Basically, my back yard is separated and receives the most notice from their back yard because of the shape of the lot.

CHAIRPERSON REID: All right. Board Members.

MR. HALPERN: And actually I can show -- I have a picture that can illustrate that for you.

CHAIRPERSON REID: All right. Can you give it to the staff, please.

(Brief Pause.)

MR. HALPERN: All right. This is my property, and this is my back yard, and this is my house where I sit, and it is immediately opposite their -- this is their playground, and I can see right into their house.

CHAIRPERSON REID: All right. Is there any discussion about this particular application for party status?

MR. HALPERN: You could also refer to the letter which I sent, which is part of the record.

CHAIRPERSON REID: The triangular shaped property is yours? No, the one that you outlined. That is the only one we

are talking about.

MR. HALPERN: My property is here.

CHAIRPERSON REID: But all I am saying that this is not a line of demarcation if their line is here, their property line is here?

MR. HALPERN: Yes.

CHAIRPERSON REID: And this is your house?

MR. HALPERN: Yes, and I have a view into there.

CHAIRPERSON REID: This is where the play area is?

MR. HALPERN: That's correct.

CHAIRPERSON REID: Is there a house right here?

MR. HALPERN: No, that is a back yard. That house faces that way, and so there is a separation of about 10 or 15 feet between the two houses.

CHAIRPERSON REID: Okay. Where is your house?

MR. HALPERN: My house is on 10th Street.

CHAIRPERSON REID: Your house is over here on 10th Street?

MR. HALPERN: Right.

CHAIRPERSON REID: Oh, I see, and then this is your back yard that extends over to abut the subject property?

MR. HALPERN: Yes. So as I sit there, I can see right into their back yard.

CHAIRPERSON REID: Okay. All right. Do you see that, Mr. Sockwell?

VICE CHAIRPERSON SOCKWELL: Yes.

MR. HALPERN: Let me give you one that I have not scribbled on, Mr. Sockwell.

CHAIRPERSON REID: All right. Board Members, any discussion about this particular application for party status?

(No audible response.)

CHAIRPERSON REID: Any objections, or would you like to make a motion?

COMMISSIONER MITTEN: Madam Chair, I move that Mr. Halpern be accepted as a party in this case.

MEMBER MOULDEN: I second.

CHAIRPERSON REID: Okay. All in favor?

(A chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No audible response.)

CHAIRPERSON REID: All right. Thank you very much. Now, the applicant, please come forward. And I do apologize for the lateness of the evening. This was a long day, I'm sorry, and there was nothing that we could do. But we will try to get you out as soon as we can. All right. Yes, go ahead.

MS. SHORE: I am Deborah Shore, and I am the executive director of Sasha Bruce Youthwork. This is Mr. George Johnson, who is the director of the Sasha Bruce House, which is the property in question.

The organization operates a number of programs in

the city. This particular program -- and really our sort of center of the organization, is the Sasha Bruce House, which serves runaway and homeless teenagers from all over the city.

But with a special large number coming from this particular neighborhood where we are, and from the far northeast and southeast.

CHAIRPERSON REID: Okay. Excuse me. Did you give your address?

MS. SHORE: 1022 Maryland Avenue, Northeast. I have never done this before either, and so forgive me.

CHAIRPERSON REID: That's okay. We will help you through it, and will you give us the first name of the Bruce House again?

MS. SHORE: Sasha Bruce House.

CHAIRPERSON REID: And give me your affiliation with the Sasha Bruce House.

MS. SHORE: I am the executive director of the organization, which is called Sasha Bruce Youthwork.

CHAIRPERSON REID: Oh, okay. And Sasha Bruce House is one of the programs that you run?

MS. SHORE: Correct.

MR. JOHNSON: And I am the program director of the Sasha Bruce House.

CHAIRPERSON REID: Okay. Thank you. Go ahead.

MS. SHORE: This application really has been a

while in coming because we have had -- the demand for the services of this part of our organization has been pretty consistent over the last number of years. We were very fearful of this process for good reason.

But we finally determined that it was really important for us to get this permission to be able to serve a larger number of young people because the city agencies, the city as such, that the number of young people that come knocking at the door, or for whom there is no place to go, is very pressing, and we feel that very directly.

The program exists as a temporary shelter for young people with intensive counseling services, lots of family counseling, and the main focus of our counseling, and the main focus of our counseling, is an effort to return young people to their families in a more organized and happier state.

We also help them with scheduling, and we helped really stabilize their lives. A lot of these young people have had really quite unbelievable backgrounds and experiences, such that we often have very intensive involvement with them for a period of time, of 3 to 4 weeks typically.

But then we also continue and follow up with them as part of aftercare. The building and the grounds are large. The building could easily accommodate this number of young people. The grounds also have a capacity to handle, if you will, many people, without seemingly causing a problem.

And on that note, I want to say that we have had people write letters in opposition, and in only one case have we ever had that person come and speak to us, and in that case, as was outlined in the letter, he felt that our staff responded very well.

And in the case of any of the other people, we have never had -- you know, a complaint. We have not known of these issues, and whatever issues there are that people feel have to do with noise or that they are not feeling like we are supervising when the kids are outside well enough, that is certainly something that we can respond to.

We have been operating this program for 19 years, and we are a strong organization, and we feel that we do a really excellent job with kids. We have gotten national awards for the kind of work that we have done.

We are in fact being asked to create a curriculum for the kind of counseling that we provide to these young people. And so I say all of this to say that this is part of our fear, was that it would unearth some problems.

And I guess that I just want to say that we are open to working with our neighbors. We feel that we are good neighbors. You know, people have complained about some things, and that we have really tried to respond to them in each case.

And I wanted to specifically say that we only saw a letter that came today from a group of people that live a number

of blocks away, and one of the things that it mentions, which we would like to say is also a real issue, is that on one side of us there is a -- I believe it is a national park service park, and that is utilized by a lot of people in the neighborhood to drink

And we get a lot of bottles into our yard, and often we are targeted as the -- there is an assumption that our young people are participating in that, and that is absolutely not the case. I mean, the young people that we serve are well supervised, and we know where they are.

And we feel that it is really important for the city to respond positively to this because we really are the only shelter of our kind. So it is in the best of all possible worlds. We would be in a huge park somewhere, and so nobody would be bothered by us.

But we do the best that we can and we are very willing to respond to what our completely new issues that people have brought to us, which is noise, putting up some shrubbery that would provide a barrier.

We already told our neighbor here that we would be glad to do that. We had no idea that that was a problem to him. We cut down some undergrowth about a year-and-a-half ago and apparently it has made it worse.

We really wish to have this happen, obviously. I really worry about if it were not to happen where these young people would go. We are a city that has more than our fair share

of serious social problems, and Sasha Bruce is in a very good position to provide services. So I will let my colleague say a few things.

MR. JOHNSON: Just quickly. I have been with the agency now for --

CHAIRPERSON REID: Your name and address, please.

MR. JOHNSON: George Johnson, 1022 Maryland Avenue, Northeast. I have been with the agency now for about 13 years, and I really felt that we were good neighbors. I never got the sense that the neighbors were in opposition in any kind of way of what we do at the facility.

I never felt that the things that happened at our facility or around the neighborhood that created a serious risk to anyone in the neighborhood. And as Mrs. Shore mentioned, when things were brought attention, we immediately got them addressed.

And so had we known that these other things were -- you know, that people were thinking these other things, had they brought those things to our attention, they would have been definitely addressed.

The location of Sasha Bruce House is at the corner of 11th and Maryland Avenue, which is kind of a major throughway, you know, and often times -- and there is a stop shop there, and often times people will drive by late at night, or whenever, and just throw trash, and beer bottles, and everything on the sidewalk and such.

And often times we get blamed for that, but that is not us, and that is not our kids. We don't do that, but we do our best to try to kind and keep things in order, and keep the surrounding grounds clean.

I know now that each day that I come to work that the first thing is walk around to pick up the beer bottles and such, and toss them in the dumpster. There was a complaint that the trash was kind of building up, and often times that wasn't our trash. That was trash from some of the neighbors who put that in our dumpster.

So instead of kind of trying to compete with that, what we did is that we added an additional trash pick up day, and that seemed to kind of help resolve that issue better. So I say that just to say that this is good service for the young people and families in the community in the D.C. area.

And, you know, we do what we can. We do what we can. And it would be a disservice to the community to not provide this additional space so that young people who have no place to go can have some place to go during a crisis situation.

MS. SHORE: And it has come as sort of a surprise to us that there is some opposition, although I have to say that I think that we also have people who are from that neighborhood and who volunteer, and who have provided support to us.

And if you look at our donor base, it is quite a mixture of people. We have a lot of supporters as well. And we

would very much like your support to be able to make sure that if a young person knocks on the door at midnight and has no place to go, we are not in a position that we can't serve them. I think that's all.

CHAIRPERSON REID: Okay. I have a couple of questions. The kids that you have there at your facility are 14 years old and up, or what are the ages?

MS. SHORE: Seventeen and under. We don't typically have very young children. It is not a family shelter. It is mostly teenage. So, 11 to 17.

CHAIRPERSON REID: A what?

MS. SHORE: Ages 11 to 17.

CHAIRPERSON REID: All right. One of the complaints that we had was in regard to noise and the play area. What percentage of the youth that you have at the facility play out in the yard?

MR. JOHNSON: Well, we have a very structured program, and we have some blocks of free time where the kids can go out play in the yard, which is basically -- what's there is a basketball court, and they have a little picnic area there.

And so when that happens, most of the kids usually go out. I mean, you are talking about 10 kids at the most that would go out and play basketball outside.

However, between the hours of 4:00 to 6:00, we do have an aftercare program, and that aftercare program is for kids

that have completed the residential portion of our program, but still come back for that additional support. They may be on the premises between the h ours of 4:00 to 6:00, which may add to --

MS. SHORE: Meaning there are more kids on the basketball court.

CHAIRPERSON REID: And how many?

MR. JOHNSON: There are about 10 additional.

CHAIRPERSON REID: You have at your facility about what, about 14 kids?

MR. JOHNSON: Ten.

MS. SHORE: Yes, 10.

CHAIRPERSON REID: And you house 10?

MR. JOHNSON: That actually live there are 10, yes.

MS. SHORE: Now, if we have this increase, we may have to reduce the number of kids that we provide aftercare services to out of that facility. We do have some other programs, and we are talking about that because we want to be sure that we are able to provide all the services.

So I don't think that there would be that many more kids that we would plan on being in the facility at any given time.

CHAIRPERSON REID: So you have 10 living there and 10 who are in aftercare.

MS. SHORE: For two hours a day at most and not on the weekends.

CHAIRPERSON REID: Okay. And you have a basketball court in the back of the house?

MS. SHORE: Well, it is really in the front of the house, but it backs up on to our neighbor. The house sits up on a hill, and when you walk up the stairs to go into the house, before you -- and kind of where the house is facing a huge yard, is a very large yard.

It also backs up on to F Street, and so it is --

CHAIRPERSON REID: What is the lot size? Okay. It looks like about how many square feet approximately?

MR. JOHNSON: It is probably about 13,000 square feet or so or maybe more.

CHAIRPERSON REID: Okay. Then the basketball court portion, is that more away from the neighbors? The reason that I ask is because generally a basketball court, just by its definition, is noisy with the basketball court, and the cement.

And also along with the basketball game goes a lot of yelling, and screaming, and cursing, and what have you. That is all part and parcel of it. So I would think that that may be a bit noisy.

MS. SHORE: Well, you know, it is not directly in front of where this gentleman's property abuts ours, and there is another house, or is it two other houses, that also are in the same relationship.

It is actually closer to the house that is next

door on Maryland Avenue who have not presented any complaint to us about that.

CHAIRPERSON REID: Well, that's not my question. My question was isn't that kind of noisy, the basketball court?

MS. SHORE: Well, it is a pretty good distance. The truth is that 10 days ago I would have told you really that it is not for anyone else, because this is a huge area, but obviously now there is some issue here.

CHAIRPERSON REID: Is the site of the basketball court such that it is not disruptive.

MS. SHORE: You mean to the house?

CHAIRPERSON REID: No, not to the house. To the neighborhood.

MEMBER MOULDEN: What is the distance of the basketball or recreational area to the nearest neighbor, and what time is recreation allowed?

MR. JOHNSON: Well, from 4:00 to 6:00 is the time that there is a lot of activity on that basketball court.

MEMBER MOULDEN: They are restricted from 4:00 to 6:00?

MR. JOHNSON: It is not really restricted from 4;00 to 6:00, but the major --

MEMBER MOULDEN: So they could be out there at eight or nine o'clock at night? Are there lights out there?

MS. SHORE: No, there is no lights actually.

MR. JOHNSON: I have a structure of the program and how it is structured from hour to hour if you would like to see that.

CHAIRPERSON REID: And what about on the weekends?

MS. SHORE: But there are times when the kids are on the basketball court later to that.

MR. JOHNSON: Yeah. I mean, there are. One or two kids could go on the court and shoot hoops. When you say basketball court, we have one -- it is a half-court. It is not like two baskets. It is just a small area, like a back yard basketball court kind of thing.

MEMBER MOULDEN: Are there other recreational activities besides basketball?

MR. JOHNSON: Not usually. The young people just sometimes hang out in the yard, and talk, and --

MS. SHORE: It is much more that.

MEMBER MOULDEN: Is it screened; is the fence screened?

MR. JOHNSON: When you say screened --

MEMBER MOULDEN: Well, sometimes the fence is screened, and it is galvanized fence, and it can be screened with some type of board-on-board, or maybe plastic.

MS. SHORE: No, it's not.

MR. JOHNSON: No.

MS. SHORE: It's not, and in fact we told this

gentleman that we know that the noise and the site is the problem, but either a fence or shrubbery there, to put fast growing pine trees, it seems like it would provide a lot of cover to his property.

MEMBER MOULDEN: Do you know the actual distance?

MS. SHORE: I don't.

MR. JOHNSON: I could only estimate.

MS. SHORE: I don't, but we could do that.

CHAIRPERSON REID: Also, the --

MS. SHORE: And when you say the distance, if you wanted us to do that, it would be -- you see, the basketball court sits on, say, the first fourth of the lot, and going over, you know, there is quite a bit more area.

MEMBER MOULDEN: Before you get to the residential area? I mean, the nearest home.

E-V-E-N-I-N-G S-E-S-S-I-O-N

(6:00 p.m.)

MS. SHORE: Well, no, before you get to F Street, before you get to the street. Now, there is a house that is actually relatively close. Mr. Halpern's back yard backs up on to -- in the second quadrant of the back yard, you know.

And then on F Street, there is another house that is next door to our property. It is a very unusual lot. I don't think that there is anything that I have seen in the neighborhood, or anywhere actually.

It was a very grand house at some point, and so it has a huge ground, and there was actually a sunken goldfish pond when we first moved in. It is terraced down to F Street. It is quite extensive.

MR. JOHNSON: If I could just do this to kind of give you a picture of where this basketball court is. Okay. This is the basketball court, and this is the basketball goal right here. And in the back of the basketball court, there is a house, which extends alongside there, and then there is --

CHAIRPERSON REID: Well, you don't have to do it like that. We have the map right here, and so why don't you just show us on the map.

VICE CHAIRPERSON SOCKWELL: My assumption is by looking at this photograph that I am looking at the basketball goal. Looking at your photograph along the -- I guess this is the

Maryland Avenue side, around the corner from that is the basketball goal, and there is a house adjacent to it over there.

MS. SHORE: And his house -- I want to just show you this, but his back yard starts somewhere around here.

CHAIRPERSON REID: Here it is right here. This is your property line right here, and this is Mr. Halpern's property. His house is on 10th Street, and it backs up to --

MS. SHORE: To us?

CHAIRPERSON REID: Well, he said that -- well, no, how is that possible, because he said it comes across here like that. Here is how he drew this.

VICE CHAIRPERSON SOCKWELL: He can't draw his house across other people's homes.

CHAIRPERSON REID: That's what I asked. I asked how is it that you are affected.

MR. HALPERN: That's why I gave you --

CHAIRPERSON REID: Mr. Halpern, can you come forward, please, because I didn't understand that.

MR. HALPERN: My house is right here, and this is the back yard here and these are other houses. The basketball court is here. The basket itself is about here. And, of course, the children come out here, and I sit -- I have an office -- I sit back here at my window, and I can view right across the yards, and that is about 10 or 15 feet.

CHAIRPERSON REID: Oh, I see what you are saying.

MR. HALPERN: I get the noise because the noise travels directly.

VICE CHAIRPERSON SOCKWELL: Of course.

CHAIRPERSON REID: And that is a view. The impression I got was this, that your house --

VICE CHAIRPERSON SOCKWELL: What you were drawing was incorrect. They don't understand this as quickly as I do.

MR. HALPERN: Well, be that as it may.

VICE CHAIRPERSON SOCKWELL: That's because it is a property issue, and I deal with property issues all the time.

MR. HALPERN: Okay.

CHAIRPERSON REID: So in other words, while your property does not abut --

MR. HALPERN: That is correct.

CHAIRPERSON REID: But you are saying that the noise travels. Okay. I have got you. That makes more sense.

COMMISSIONER MITTEN: She wants you to point it out where it is.

MR. HALPERN: It is right there.

CHAIRPERSON REID: Okay. We have that straight.

MS. BAILEY: But your property does not abut their property.

VICE CHAIRPERSON SOCKWELL: No, it doesn't.

CHAIRPERSON REID: We just went through that.

MR. HALPERN: But I also understand that noise

travels in a straight line.

CHAIRPERSON REID: Okay. You will have a chance to talk or to testify, Mr. Halpern. Now, another thing I wanted to find out was the residence, is that the proper terminology?

MS. SHORE: Yes, that is one of our client's residence.

CHAIRPERSON REID: And the residents that are there, you said they are mostly runaways?

MS. SHORE: Yes, and apparently there was a problem with the notification. We applied for a youth residential care home, which is reflective of the young people that we are serving there, which are young people that are not involved in the court system.

And our application clearly shows that, but Mr. Schauer, when I met with the Capital Restoration Society, caught that when you all gave us our notification -- and I guess that's what it is, that it showed that this was for a youth rehabilitation home.

And I made the assumption that the reason that that might have been was because we took over a facility where this building was previously utilized by the city, and they had a youth rehabilitation home certificate of occupancy, which we just carried over.

But we did not apply. We do not mean to apply for a youth rehabilitation home, which is a much more restrictive

application. We meant to apply for the youth residential care home.

VICE CHAIRPERSON SOCKWELL: That's what it says on your application, youth residential care home.

MS. SHORE: Right, but when we got notice -- and we did try to call the office.

CHAIRPERSON REID: When you got notice from who?

MS. SHORE: Mr. Schauer.

MR. SCHAUER: May I speak to that?

VICE CHAIRPERSON SOCKWELL: Just turn on the microphone and identify yourself.

MR. SCHAUER: My name is Lyle Schauer, and I am the zoning chair of the Capital Restoration Society, and I am a party in this case representing the society.

The problem was that in the -- first of all, in the application, and in the zoning administrator's letter, the reference is made to Section 303 of the regulation, which is for a youth care home, residential care home.

But the notice that was put out, you will notice, from this office indicates that it is under Section 335 and not 303. So even though the wording then proceeds to go on to describe a youth residential care home facility, the section that is referred to is a rehabilitation home, which is a much more serious kind of operation.

And as Ms. Shore points out, kids in that kid of

home are under court supervision and treatment for offenses that have been committed, and much more serious.

CHAIRPERSON REID: And are you saying that came from the this office?

MR. SCHAUER: Yes. The application, you will notice, that Ms. Shore put was under Section 303, and the zoning administrator's letter also says 303.

MS. SHORE: We did call the office, and were told to be just sure to bring it up when we were here that it could not be corrected afterwards, and it didn't have implications, since it was clear what we applied for.

CHAIRPERSON REID: Okay. Ms. Bailey, we will make sure that those corrections are made, right?

MS. BAILEY: Yes, Madam Chair.

CHAIRPERSON REID: All right. Thank you. So, okay, that's the confusion. Now, describe to me the -- give me a profile of the average client that comes to your home.

MS. SHORE: Well, the average age is about 15. The average client comes often because there has been tremendous difficulty in school. They have been failing in school, or they have been truanting.

The parents are very concerned, although in a substantial number of the cases there is a single mom, and so that is who we are dealing with as the parent. The young person who has had for some -- you know, in often some very unique ways, some

difficulty that is either brought them to the attention of somebody at the school, somebody in a church that they might be associated with.

Somebody who would bring them, or they themselves have gotten to the point where they have decided to leave home. And often those situations are ones that are -- where there has been serious abuse, where there is some serious problems in the family that aren't so easy to resolve in a few short weeks.

But sometimes not. Sometimes it is adolescent struggling. So it runs the gamut certainly, but what happens is that a young person either comes on their own, or we get a call from either a parent, or another interested adult, and they come to the program.

And there is an initial, enormously involved if you will, interviewing process, where the rules and regulations are explained, where there is an effort to assess the situation that they are in, and also to welcome them, you know, to make them feel comfortable.

For some of the young people -- and we have had young people who have been living in a car for a week before coming.

MR. JOHNSON: These young people usually don't have a criminal background, and they are there because they are in crisis, you know, and where at their home the mother is either going to get hurt or the kids are going to end up getting hurt.

So there is a need for a time out. So they are not there because of any criminal type action.

MS. SHORE: And for a lot of these young people, we consider it a tremendous strength that so many of the young people come on their own to us, because for many of them there are options on the street.

They are not options that many of us would consider viable, but for many of these young people, it is not that they don't know how to at least try to make it on the street, and they choose not to, and they come in to a very structured environment.

They know that they have to get up, and they know they have to go to school, and they have to -- if they don't go to school, we have tutoring that goes on. There is a group every day. There is lots of counseling.

CHAIRPERSON REID: So these youths are troubled. They are not delinquent, and they are not in a criminal sense --

MR. JOHNSON: And it is not a rehab center.

MS. SHORE: Absolutely.

CHAIRPERSON REID: -- in the criminal system. They are basically more emotionally troubled than anything else?

MS. SHORE: Yes. And for some of these young people, they would be called or what used to be called persons in need of supervision.

CHAIRPERSON REID: And how long do they stay?

MS. SHORE: They stay 3 to 4 weeks, unless -- there

are times when a young person would stay longer than that when they can't really go home. And in some of our other programs that we have, we have long term living situations, apartment living programs for young people who really don't have a family to go back to.

So that is a case where we have worked and would work hard to try to find someone in their natural network that they could live with, because that is always a better circumstance. But when they can't, then we have a couple of places that they can come and live with.

But they have to again go through a fairly hefty interviewing process, and agree, you know, to the rules of that program.

CHAIRPERSON REID: Thank you.

MEMBER MOULDEN: Is your program connected to any social services or human services, or foster care programs?

MS. SHORE: We are funded by both the foster care system and what is called the social services system, and where the foster care system is under a receiver at the moment. So that is the only reason why it is separate.

MEMBER MOULDEN: You don't get referrals maybe from Maryland, or is it just the District, or --

MS. SHORE: Well, we have kids from Maryland, and we have some kids that come from long distance.

MEMBER MOULDEN: The reason why I ask you that is -

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MS. SHORE: Like Seattle, and --

MEMBER MOULDEN: -- because I know that this is a critical concern and issue about foster care and finding homes for youths.

MS. SHORE: Right. But that critical issue, which we are only sort of involved in a marginal way, because we don't do traditional foster care as an agency. We do sort of non-traditional foster care, in that we will often place young people who are 16 and older.

So for most of the young people that are in the, quote, foster care system, have been found to be abused or neglected, which is not our population typically anyway. You know, finding foster care for them is not something that we have done.

MEMBER MOULDEN: It sounds like you provide a good service for that specific need for the community, but is there any way that you can sort of mitigate some of the issues or concerns that the community has, or is there anything that you can do to increase alternatives, and maybe to address the community concerns with noise and --

MS. SHORE: Absolutely.

MEMBER MOULDEN: -- what may appear to be one thing, but it may not be, you know.

MS. SHORE: Yes, yes, yes.

MEMBER MOULDEN: And that way you may cover both sides. I mean, you can't argue that you are not providing a service that is needed in the community. I mean, Time Magazine just did a big article about the care of kids who are in foster care, and finding homes for youths in society.

MS. SHORE: Right.

MEMBER MOULDEN: So it is a definite need, but I think that you need to look at alternatives to just mitigate some of those concerns that have impacted the community, or what may appear to be something that could impact it.

MS. SHORE: We very much would like to think that we can work with these issues, and intend to, and wish to, and as I say, it really does come as something of a surprise. And it hurts a bit, because we feel that we are not able to do a lot with the neighborhood because we are busy doing what we do.

But we feel like we have been trying to be good neighbors, and anything that is brought to us, we have responded to. So to hear that there are issues that people feel and that would take this opportunity to surface, you know, doesn't feel wonderful to us.

But certainly it is perfectly legitimate to be able to not be bothered in your own house. And it is a huge space. There are lots of things that I think that we can do.

And I guess the other thing is that there are some people that -- well, one of the people that wrote a letter, I had

a long conversation with last night, and George has talked to him a couple of times.

And at the end of this conversation, I said to him, well, you have been doing all this catering and cooking, and stuff, and why can't you come over and volunteer with us to do cooking with kids. You know, teach them to cook.

And so that is the other thing, which is that I think we need to reach out to the community and perhaps if people know more about what we are really doing, it will feel better for them to be in the neighborhood, and not be concerned by us.

CHAIRPERSON REID: Okay. Mr. Sockwell, we want to move it along now.

VICE CHAIRPERSON SOCKWELL: Yes. I wanted to say two things. One, you are in a position to feel uncomfortable about coming to the board, because you felt that the problem issues might come to light during your application for more children. I mean, that's what you said at the beginning.

So obviously there is an awareness of the potential -- and you took a long time to bring this before the board, and that there was an awareness of issues.

MS. SHORE: No, no.

VICE CHAIRPERSON SOCKWELL: And there is always -- and when I say that, I mean that you know that in your community, because you have been with this business that you have owned for a long time, that --

MS. SHORE: Well, it is a non-profit. I don't own it.

VICE CHAIRPERSON SOCKWELL: Well, you are listed as owner in your letter.

MS. SHORE: I am the president of the corporation, and I am the founder of the corporation, but it is a non-profit organization.

VICE CHAIRPERSON SOCKWELL: Okay. But I am just saying that the term owner was used, and so I just referenced what was in your documentation. But you realize that there can be community concerns, and it always helps to bring the community closer to your operation rather than attempting to sort of shut them out.

That way you get more support, and you at least might even prevent some of what has been suggested as descriptions of profanity used against people walking by and all of that. And I am in no position to say what that came from.

But I did want to say that you might want to reorient the basketball court so that the goal is at the opposite end of the playing surface. That way the noise, which is generally generated closer to the goal, would be oriented away from the more residential part of your environment.

You cannot prevent the visual aspect of the children playing, but you can certainly move the noise to the other end.

MS. SHORE: But I didn't want to imply to you though that I felt like there were all these issues. I did not know of these issues.

VICE CHAIRPERSON SOCKWELL: I am not saying that there are -- I am not asking you to respond to that.

MS. SHORE: What I mean though is that sometimes there are a lot of different ideas that people have about teenagers in our society, and those issues are not -- people don't always like feel warm and fuzzily about our teenagers. But I do, but not everybody does.

VICE CHAIRPERSON SOCKWELL: I understand. I grew up in a depressed neighborhood, with very poor children all around me, of which I include myself as one. And now that is fashionable Adams-Morgan. I mean, everything changes. It just depends on who is there when.

MS. SHORE: Right.

CHAIRPERSON REID: Let's move on, please. Thank you very much, Mr. Sockwell. Now, let's move on to the Office of Planning report.

MS. SANSONE: Madam Chair, did you wish to allow cross-examination by the parties?

CHAIRPERSON REID: I'm sorry, but did you wish to cross-examine?

MR. SCHAUER: I do indeed.

CHAIRPERSON REID: I'm sorry. I forgot that.

MR. SCHAUER: Ms. Shore, I gather this is a 24-7 supervision house; that is, 24 hours a day, 7 days a week?

MS. SHORE: Yes.

MR. SCHAUER: How many staffers do you have?

MS. SHORE: We have -- there are 17 full-time staff.

MR. SCHAUER: Seventeen?

MS. SHORE: Seventeen. There are three shifts of staff, and there are two overnight staff, 11 to 7.

MR. JOHNSON: There are three shifts; 7:00 a.m. to 3:00; and 2:30 to 10:30, and then from 10:00 to overnight, or the overnight shift, which there are two staff on the overnight. And then on average on the 2:30 to 10:30 shift, there is an average of four, and sometimes five people on that shift.

And that is excluding the volunteers that come out and help out on the 24 hour hot line.

MR. SCHAUER: And are any of these staffers residents in the house?

MS. SHORE: No. No, they don't live there.

CHAIRPERSON REID: Well, what about the overnight counselors?

MS. SHORE: The overnight counselors are expected to be awake during that whole time, and there is a male and a female.

CHAIRPERSON REID: No, the question was are there

any -- do they live there?

MR. JOHNSON: No, Madam.

MS. SHORE: No, they don't live there.

CHAIRPERSON REID: They just come to work?

MS. SHORE: They just come to work, yes. They do the midnight shift.

MR. SCHAUER: I have no more questions.

CHAIRPERSON REID: Thank you. Mr. Halpern, do you have any questions?

MR. HALPERN: Yes. Ms. Shore and Mr. Johnson, you were at a meeting at the ANC that wasn't a meeting about a week ago? There wasn't a quorum?

MS. SHORE: Yes.

MR. HALPERN: At that time what did you say about the use of the house?

MS. SHORE: I think we said the same thing that we said today.

MR. HALPERN: I distinctly recall you saying that you were tutoring people in there, and certainly the number of people in the house is greater than 10 or 20 that one sees around during the day.

MR. JOHNSON: No.

MS. SHORE: That's not true.

MR. JOHNSON: We do provide tutorial services for the kids that are in the program.

MR. HALPERN: And not from the neighborhood?

MR. JOHNSON: No, not from the neighborhood.

MR. HALPERN: And how about -- well, it is difficult to define, but let's say young adults, but are the young adults who are in your residential living program, do they come to the house at any time?

MS. SHORE: Who are in the other residential living programs?

MR. HALPERN: Yes.

MS. SHORE: No, not typically, unless there is a party, like Thanksgiving. The services are provided in other residential programs for them.

MR. HALPERN: Well, that's kind of not what you were saying at the ANC meeting, and there are people there who can testify if the record is left open.

MS. SHORE: I don't understand what you remember me saying. That has always been true.

MR. HALPERN: I remember you saying that there was an after care program in the house?

MS. SHORE: Yes. We described that. There is an after care program from 4:00 to 6:00.

MR. HALPERN: Which is only 10 people in the after care program.

MS. SHORE: Yes, typically.

MR. HALPERN: On average, and the 10 people in the

house?

MS. SHORE: In the residential program, right.

MR. HALPERN: So there are at least 20 people in there.

MR. JOHNSON: From 4:00 to 6:00, there may potentially be that.

MS. SHORE: From 4:00 to 6:00 only. They don't stay for dinner, and dinner happens at 6:00.

MR. JOHNSON: And with the after care, sometimes they are not even there, because we have therapeutic horseback riding, which would take the kids out to a place in Maryland to do that.

We have a high gain program which is away from the facility, and there are other special activities where they are away from the facility.

MR. HALPERN: Okay. Now, I am giving you what I got from the community partnership for the homeless, and that lists your capacity as 15. And I can give you many other sources that I have found that lists your capacity as 15.

MS. SHORE: Well, what we do on some occasions is have foster care. We have a number of foster care homes that we utilize.

MR. HALPERN: No, this is specifically for the shelter.

MS. SHORE: Well, we don't have a capacity of 15.

CHAIRPERSON REID: Well, my understanding is that the relief that is being sought here today is for up to 15.

MS. SHORE: Right.

CHAIRPERSON REID: So the capacity for 15 must be there. I don't see anything that is surprising about that.

MR. HALPERN: No, this is listed as their in-take, and it is listed in many other places as being 15. And Ms. Shore said again at the non-meeting at the ANC that many times they don't turn anyone away. They have a no turn away policy.

MS. SHORE: That's true.

MR. HALPERN: That's true.

MS. SHORE: That's true.

MR. HALPERN: Which means that if there are 10 people there, and someone comes, they won't turn them away.

MS. SHORE: That's right, and that's true, and we have had more than 10 kids on occasion because we don't believe that anyone should be sent back out to the street.

CHAIRPERSON REID: Well, the main thing here is that the request here today is for 15, and there is a capacity of 15 there?

MS. SHORE: Absolutely.

MR. HALPERN: Yes, except that one would expect coming here that they would have kept to their current ceiling, which is 10, which is to give you another --

MS. BAILEY: Mr. Halpern, you understand that the

documents that you are giving us we will be keeping?

MR. HALPERN: Yes.

CHAIRPERSON REID: Okay.

MR. HALPERN: Now, we have heard this estimate of 3 to 4 weeks for an average person, right? And I have also heard estimates, and I have written documentation and various things that you say you serve 1,200 runaways a year.

MS. SHORE: No, 1,200 young people.

MR. HALPERN: Young people.

MS. SHORE: Yes.

MR. HALPERN: So, 1,200 young people a year.

MS. SHORE: Yes.

MR. HALPERN: Now, if your capacity is 10, and there are 365 days, there is 3,650 bed days. You divide that by 1,200, and that means that you have about 3 days a person. So something here does not add up.

MS. SHORE: Wait a minute. We operate 13 youth programs. Some of those youth programs -- we have never in any of our literature said that we serve 1,200 young people at 1022 Maryland Avenue. We are talking about 13 programs.

MR. HALPERN: Well, it wasn't quite put that way.

MS. SHORE: Well, I'm sorry, but that is what's true, and that's consistent with everything that we have ever written, and that was a mistake.

CHAIRPERSON REID: Well, okay. She answered and

that's all you have to do, is to give an answer, and you don't have to elaborate so much. He asked you a question, and you gave an answer, and then go on to the next question, Mr. Halpern.

MR. HALPERN: Okay. Let me present to you some more evidence. This is from something called Children's Express. It is from Mr. Johnson, and he says that -- and again it is the three week average. And again the point that I am trying to make is that they have been operating above capacity, above the 10.

And our fear in the neighborhood is that if this special exemption is granted, 10 has become 15 already, and 15 will become 20.

CHAIRPERSON REID: Well, this is not your time to testify. This is to ask cross-examination questions. It says here the average stay is three weeks. What is the point that you are making here, Mr. Halpern? I'm missing it.

MR. HALPERN: Okay. There is other information that says about the 1,200. But I can't find --

MS. SHORE: He is calculating and saying that something is wrong with this picture, but the 1,200 is for 13 youth programs, the Sasha Bruce House being one.

CHAIRPERSON REID: How many more questions do you have, Mr. Halpern?

MR. HALPERN: Only one more question. The only people that use that house are the people who are in the shelter program, and some additional -- maybe up to 10 additional from

another program?

MS. SHORE: Yes. There are some additional staff people there.

MR. HALPERN: No, no, that's acceptable.

MS. SHORE: You know, that are in the basement, and --

CHAIRPERSON REID: You answered the question. Thank you. Now, the Office of Planning report, please.

MS. BROWN-ROBERTS: Thank you, Madam Chairman, and Members of the Board. My name is Maxine Brown-Roberts, from the Office of Planning. The Office of Planning supports the request for an increase in the number of residents from 10 to 15.

Sasha Bruce has been providing shelter and services for children for approximately 19 years, and there is a demand for these services due to a reduction in government services.

The children at this center are not drug or violent offenders with criminal records. The proposal does not increase the building size, or the staff, the number of staff numbers.

There have been a few incidents of disturbing conduct from some children, and it has been reported by some neighbors, and the staff at Sasha Bruce has responded satisfactorily in the opinion of the Office of Planning.

However, we would request that there be more vigilant supervision and that the concerns of the neighborhoods be taken more into consideration. And we would also suggest or

recommend that Sasha Bruce set up some sort of community involvement with the surrounding neighbors in order to forestall some of the complaints.

The staff also agrees that some of the noise issues that has been brought up could be addressed through some screening and would recommend again that Sasha Bruce meets with the community to address this.

Trash collection has also been a problem in the community, and the applicant responded by building a brick yard to house the trash receptacles, and have increased the number of days for trash pickups, and we would also recommend that this be monitored.

The subject site is in an R-4 zone, and is subject to the following provisions as outlined in Section 303. This section recommends that no other property containing community based residential facility for several or more persons in the same square or within 500 feet of the property.

There are no other community residential based facilities within the same square or within 500 feet.

CHAIRPERSON REID: Okay. Excuse me one second, and let me interrupt you for one minute. One is that on your page two, it says Section 332.1. That is not correct, right? It is section 305 or rather Section 303. The subject site is in the R-4 zone.

VICE CHAIRPERSON SOCKWELL: It is 303.1.

CHAIRPERSON REID: So your number two reflects the wrong section, and that is important.

MS. SANSONE: Madam Chair, I think their section is correct. Section 332.1 refers to special exceptions in the R-4 zone, and it refers you back to 303 --

CHAIRPERSON REID: All right. I just wanted to make sure.

MS. SANSONE: The citation in the notice is to a different section, 335, and that's where the error is. I think 335 was meant to be --

CHAIRPERSON REID: Okay. And also given the time and the lateness of the hour, and we have to be out of here, could you just stipulate that in the opinion of the Office of Planning that the applicant does or has complied with Section 303.

MS. BROWN-ROBERTS: Okay. And not go through all of them?

CHAIRPERSON REID: Exactly, and all the elements thereof.

MS. BROWN-ROBERTS: Okay. The Office of Planning's recommendation is that the applicant has met with all of the following provisions as outlined in Section 303, and the Office of Planning would therefore recommend approval of this special exception.

CHAIRPERSON REID: Okay. With conditions, right?

MS. BROWN-ROBERTS: Right, with the outlined

conditions.

CHAIRPERSON REID: Okay. And then we will go over the conditions at the end, and you can help us through that.

MS. BROWN-ROBERTS: Yes, I will.

CHAIRPERSON REID: Thank you so much.

MS. BROWN-ROBERTS: You are welcome.

CHAIRPERSON REID: Is there any questions of the Office of Planning?

MR. HALPERN: Yes.

CHAIRPERSON REID: All right. You have to come to the mike.

MR. HALPERN: Where is the Madison Women's Shelter?

MS. BAILEY: Sir, she did not testify as to --

MR. HALPERN: She testified that there was no house or no community based within 500 feet.

MS. SHORE: That's true.

MR. HALPERN: Where is the Madison Shelter?

MS. BROWN-ROBERTS: I am not sure where that is.

MR. HALPERN: Can I give you a map?

MS. SANSONE: Mr. Halpern, you can present testimony about that shelter in your direct if the Office of Planning is not aware of it.

CHAIRPERSON REID: She may not be aware of it, Mr. Halpern.

MR. HALPERN: She may not be aware of it, but

should I do that on direct?

CHAIRPERSON REID: Yes. When you testify, you can bring that out.

MR. HALPERN: But can I also point out that it is the Goding School with one "o" and not the Gooding School? That is on page one of the letter.

CHAIRPERSON REID: Of what letter?

MR. HALPERN: The Ann M. Gooding School is really the Ann M. Goding School; G-O-D, and not G-O-O-D.

CHAIRPERSON REID: You mean that is a correction that you wanted to point out?

MR. HALPERN: Yes, that is a correction.

CHAIRPERSON REID: And that is on one page?

MR. HALPERN: That is on page one, with site and area description, at the last sentence of that paragraph.

CHAIRPERSON REID: Oh, okay. So, it is G-O-O-D-I-N-G?

MR. HALPERN: No, G-O-D-I-N-G. I mis-spelled it, too, but I voted there last night.

CHAIRPERSON REID: All right.

MR. HALPERN: Also, are you aware of the playground?

MS. BROWN-ROBERTS: Yes, sir.

MR. HALPERN: The Sherwood Playground.

MS. BROWN-ROBERTS: The playground across the street.

MR. HALPERN: Why didn't you list it here? It is in the next square.

MS. BROWN-ROBERTS: There is no particular reason.

MR. HALPERN: Are you aware that the Goding School is now being used as a special education facility?

MS. BROWN-ROBERTS: No. When I went up there, I looked at that, and it was a Saturday when I went there.

MR. HALPERN: So you didn't talk to the principal?

MS. BROWN-ROBERTS: No, the --

MS. SHORE: Wait a second. The --

CHAIRPERSON REID: Well, wait a minute. You can't all talk at the same time. Now, wait a minute. The question with regard to this special education school, is that a community based residential facility?

MR. HALPERN: No, but the Madison Shelter is.

CHAIRPERSON REID: Then how is that relevant?

MR. HALPERN: Because it shows the excess use of the neighborhood and it reflects on parking, because the teachers have to park, and that is one block away.

CHAIRPERSON REID: Okay. Next question.

MR. HALPERN: My next question is that you make a statement here about the Sasha Bruce House is the only short term shelter for young people in Washington, D.C. Is not Boys Town

listed partially as providing short term shelter?

MS. SHORE: I can answer that. Boys Town does not provide short term shelter, except for young people that are already designated by the abuse and neglect system, which is different.

MR. HALPERN: And is this also going to be true of the Boys Town facility on that is going to go into Pennsylvania Avenue?

MS. SHORE: Yes, I understand it. Absolutely.

MR. HALPERN: They are not going to provide any short term shelter?

MS. SHORE: No, not of the kind that is off the street. No, not absolutely not.

MR. HALPERN: Please bear with me for a second here.

(Brief Pause.)

MR. HALPERN: It says here, Boys Town of Washington, services, and I gave you the book.

MS. SHORE: Wait a minute. Is this the community partnership by the way?

MR. HALPERN: Yes.

MS. SHORE: It was completely changed. That listing was so incorrect that it was changed.

MR. HALPERN: Maybe so, but in other listings -- I can only go by the record. Long term residential, emergency

shelter, and foster care, and parent training.

MS. SHORE: Well, that does sound correct. I mean, what we would call ourselves is short term shelter, and on a 24 hour basis. That's not what they do. They get referrals from the city, and take those referrals and work with them for actually a much longer period of time typically, typically 2 or 3 months.

MR. HALPERN: Well, I gave it away, but there is a listing that I had that didn't make -- that does list referral policies, and I don't remember that being true for Boys Town, be that as it may.

Again, I can only go on the evidence that I have. Let's go back to your statements here. With reference to statement 303.3; did you measure the distance, either on a map, or actually measure it between the Madison shelter and the property for Sasha Bruce, the Sasha Bruce property?

MS. BROWN-ROBERTS: What I did was that I got a list from the Health Department, and looked and measured 500 feet from the Sasha Bruce.

MR. HALPERN: On what?

MS. BROWN-ROBERTS: Pardon me?

MR. HALPERN: On what, a map?

MS. BROWN-ROBERTS: On a map, yes.

MR. HALPERN: And the map showed all the property lines?

MS. BROWN-ROBERTS: Yes.

MR. HALPERN: Or you measured corner to corner?

MS. BROWN-ROBERTS: You had to measure from each property line.

MR. HALPERN: Okay. I will come back to that on direct.

CHAIRPERSON REID: Okay.

MR. HALPERN: Let's see. Now, in terms of parking, did you make any survey of parking in the neighborhood and pressure on the parking?

MS. BROWN-ROBERTS: When I went there, I noticed that there were, I think, three parking spaces on the side, and I noticed that there was on-street parking. The two times that I drove through the community, I didn't see that there was a problem there.

MR. HALPERN: Well, I will introduce evidence on direct that that is not true. Okay. What I won't quarrel with is your final statement that they provide a useful service.

CHAIRPERSON REID: Is that a question?

MR. HALPERN: No.

CHAIRPERSON REID: Thank you. All right. The ANC report.

MS. SANSONE: I don't believe that the ANC has a report because --

CHAIRPERSON REID: I am just asking if there was an ANC report. We have this letter from the ANC.

MS. SANSONE: It is from the single member.

MS. BROWN-ROBERTS: Madam Chairman --

CHAIRPERSON REID: Martin Fields, single member district, yes.

MS. BROWN-ROBERTS: I spoke to Mr. Fields, and apparently they are having a meeting tonight to discuss this issue.

MS. SHORE: But we did go to two other meetings.

CHAIRPERSON REID: But they were noticed, correct?

MS. SHORE: Pardon me?

CHAIRPERSON REID: They were noticed?

MS. SHORE: Yes, they were.

MS. BROWN-ROBERTS: Yes, they were.

CHAIRPERSON REID: Typically, when we don't receive anything from them, we assume that they are not opposed to the application. We did receive one from Mr. Fields, who basically says that -- well, not much. He doesn't say too much.

So, anyway, he doesn't say one way or the other. Okay. Now, moving on. First there is the parties in support, and persons or parties in opposition, please come forward.

MS. SHORE: Do we move back?

CHAIRPERSON REID: Yes.

MR. HALPERN: I think that between us, Ms. Shore and I can provide you a rather sad chronology of what he ANC didn't do.

CHAIRPERSON REID: Okay.

MR. HALPERN: They had a meeting of the zoning commission, or the zoning subcommittee, about 3 or 4 weeks ago, which created that letter, and then two weeks ago there was a called meeting, for which there wasn't a quorum.

And on Sunday, Mr. Fields called this meeting at a very curious time. So I think the assumption that they not having a letter here is an indication of position is not one that I would make.

CHAIRPERSON REID: Well, whether you would make it or not, Mr. Halpern, is not the issue here. The fact of the matter is that in the dozens of cases that we hear every year, if in fact we do not receive a letter from the ANC, then we always make the same assumption that they are not opposed to it, because in the event there is opposition from the ANC, there is no doubt that we are very much made aware of it.

So the assumption is not a light assumption. It is something that is more in keeping consistently with what has been the practice here at the BZA, and I have been here for 6 years. So you now have an opportunity to speak if you would like.

MR. HALPERN: Would you like to go first?

MR. SCHAUER: Madam Chair and Members of the Board, for the record, my name is Lyle Schauer, and I am the zoning chair for the Capital Hill Restoration Society, and I reside at 1107 Independence Avenue, Southeast.heast, and our offices for the

society are at 420 - 10th Street, Southeast.

I submitted a letter on the results of our zoning committee meeting, in which we indicated conditional support. Now, I cover two items in this letter. One, the confusion that we saw between Section 303 and 335, which has already been disposed of.

The other question dealt with the problems that the neighbors were having with this facility, and we are made aware of a complaint from one of our members about a recent incidence of a disturbing conduct by one of the residents.

She complained and told us, and to the staff of the Sasha Bruce House, and felt that the staff had addressed the problem promptly, and she had no further reason to complain.

So I think that the context that I made in the neighborhood generally followed that train; that there was a modest level of discomfort with the premises, or with the operation, but that the staff seemed to be on top of it.

Now, I am concerned about the increase of staff by 50 percent, because I think as a general rule of thumb, the problems of supervision increase as the square of the number of residents, rather than an arithmetic progression.

So an increase of 50 percent in the number of residents means something more than twice as much supervision is needed, and that bothered me a little bit, because Ms. Shore indicated that there would be no increase in staff.

I don't quite understand how this is done, and maybe she can cover that on rebuttal. But that troubled me. And also I must admit that I was troubled by the information that there is an after school or after hours program.

I was not aware that there was such an operation going on. I don't believe that it came up in our committee meeting, unless perhaps I dozed off at that point. But I don't believe it did.

So I am a little concerned about that, because I don't see how they are operating that program under their existing CFO, or how they would operate it under the new CFO that would be issued as a result of this special exception.

And again I leave that issue to you as members of the board. Finally, I did appreciate the Office of Planning's suggestion that there should be some interplay between Sasha Bruce and the neighbors. I think that is always good.

I am not sure that it always works as well as it might, but I think that the principle is good. What I would like to see in addition is a condition put on this special exception, a condition in terms of time.

And we would suggest that it be limited to 5 years. It is my experience that operations that may rub badly against the neighbors are much more likely to play very strictly if they know that they are going to have to come back before this board in 5 years, because at that point, if the neighbors are aggrieved,

they can come in and unload on you people.

And you can then address whatever the problems are that have been brought up. If you don't call them back, you are never going to find out about these things. So I do appreciate the Office of Planning's suggestion about some kind of organization to contact the neighbors.

But I think it has to be reinforced by a time limit on the special exception, and I would understand from Ms. Shore's testimony to our committee, and in further conversations with her, that Sasha Bruce would have no problem with a time limit.

So I would suggest that you condition the special exception appropriately. That's all I have, Madam Chair, and Members of the Board. Thank you very much.

CHAIRPERSON REID: Thank you. Mr. Schauer, I just want to be clear. Your letter says that you conditionally support and would like to see a 5 year term, and you recommended a condition to the final approval. Are you testifying in opposition?

MR. SCHAUER: Well, I have to, because it came under 335, and we were dead set against 335.

CHAIRPERSON REID: Okay. With that correction then, you are in support with the condition?

MR. SCHAUER: Basically, yes, we are in support of it, but the only way I could come in to oppose 335 effectively is to appear as an opponent.

CHAIRPERSON REID: Okay. I understand. I see also in your letter where you testified different, and also helped to clarify some of the confusion. We very much appreciate that.

MR. SCHAUER: Thank you.

CHAIRPERSON REID: Thank you. Okay. Mr. Halpern.

MR. HALPERN: Well, the first thing that I would like to say is that I, and I think all of the neighbors, are in support of Sasha Bruce's petition that you forgive them the filing fee. That's in the record. That being said, I have a petition, which I have copies of.

CHAIRPERSON REID: You have to give it to the staff, and the staff has to give it to us. I'm sorry, but that is just how we have to do it.

MR. HALPERN: From many of the neighbors, and the reason they are not all is not -- well, I went out on Sunday night and started getting this, and I have not been able to reach everybody.

And I will be honest and say that of the people that I reached, three people did not want to sign for various reasons, ranging from support to Sasha Bruce, or as one gentleman said, he wasn't much impressed with the supervision, but he didn't want to harm the children in any way.

Basically, we are asking that this petition be rejected at this time. I would like to present some direct evidence. The actual distance as measured with a hundred foot

tape measure by me, and then verified against maps -- I forget the name of the survey, but I think Mr. Sockwell will be very familiar just from the style of it. Let's see if I can find that.

Yes, it is the base survey of 1956, and it is 447 feet, and I will give you plus or minus 3 feet. It is 4 50 feet from property line to property line.

VICE CHAIRPERSON SOCKWELL: I measured it at 470 feet, plus or minus, and I think you are wrong.

MR. HALPERN: Okay. But it still is under -- we can go out there with a tape measure, but the point is --

VICE CHAIRPERSON SOCKWELL: No, we only use the surveyors materials.

MR. HALPERN: Oh, I see. You added up all these things.

VICE CHAIRPERSON SOCKWELL: Yes. I actually used a relationship which matched your distance, that's all, just to compare.

MR. HALPERN: Okay. Right. And so it is under 500 feet, and that's just true, which points -- and if you also look at the map that I gave you, you will see that the Sherwood Playground is quite close. The District is preparing to break grounds to rebuild a play center there at the north end of the property.

We are told that it is real soon now, or as soon as D.C. has a budget. The Goding School, as I said, is there. And

you may not recognize it, but directly across from my house on 10th Street is the world famous Finley Boxing Club, which also has lots of people who come and park.

So simply to say that parking is not a problem there is, I think, not as true as you might believe. For example, what I have done here is that I have some pictures standing at the crossroad of F and 12th, which again I will offer for the record.

These were taken Sunday afternoon before the Redskins game, and everybody was out shopping, and you can see that it is pretty well parked up.

MS. SHORE: Wait a minute, F and 12th?

MR. HALPERN: I'm sorry, F and 11th. I wrote it wrong.

CHAIRPERSON REID: All right. Madam, you can't speak from the audience.

MS. SHORE: I'm sorry.

MR. HALPERN: So, F and 11th Street. Parking is a problem, and it is particularly a problem for the people on Maryland Avenue because they don't have neighborhood parking restrictions for reasons that I don't quite understand, but it's true.

CHAIRPERSON REID: Okay. This was when?

MR. HALPERN: This was taken Sunday at about 2:00 or 3:00 in the afternoon.

CHAIRPERSON REID: Okay.

MR. HALPERN: And this does not show Maryland Avenue, which also was quite parked up at the time. I would like to make some comments on the trash. You have heard said that the Sasha Bruce House after complaints built a concrete retaining area.

You have also heard said that a lot of the trash is because the neighbors throw the trash into it. I would like to show you a picture of that area, which clearly shows a gate. It is gated.

So you will have to now believe that we toss everything over the gate into the containers, which you notice are overflowing; and I would like to show you a picture I took on Sunday. Remember, they knew that the hearing was going to be today, and you would think that everything would spic and span.

CHAIRPERSON REID: Well, Mr. Halpern, before you go any further, let me ask you something here. This trash, in all fairness, seems to be bagged up and probably to be picked up. I don't see any trash spilled over or --

MR. HALPERN: Well, as I understand the rules for establishments like this, the containers must be closed at all times to hold down rats, and there are complaints about rats in the trash.

CHAIRPERSON REID: I'm sorry, but that's a DCRA requirement? I am not familiar with that. Are you, Mr. Sockwell?

VICE CHAIRPERSON SOCKWELL: The

Department of Health would establish for this service facility administration, or another regulatory agency that deals with such facilities, would establish the requirements.

Now, DCRA would not normally establish the requirements, unless it is under one of their regulatory functions dealing with these types of facilities.

CHAIRPERSON REID: Are you saying that they need a dumpster, or they need to have those big trash --

MR. HALPERN: Well, I am saying several things. First of all, an open dumpster that is overfilled is a very easy place for rats and mice to go.

CHAIRPERSON REID: Well, when I say dumpster, I am referring to the commercial dumpsters that are required for businesses and are enclosed; or on the other hand, those big trash receptacles that are --

MR. HALPERN: They have dumpsters.

VICE CHAIRPERSON SOCKWELL: The dumpsters shown here would normally be equipped with a lid. The picture does not show enough of it for me to know that the lid is or isn't there.

CHAIRPERSON REID: But basically we get your point. We get your drift.

MR. HALPERN: Okay. And in the second picture, you can see that it is not covered, and there are complaints in the neighborhood, especially along F Street, of rats and mice, and I have a resident rat right now who is too smart for me. So this is

a serious complaint.

MR. HALPERN: Is it your testimony that aside from Sasha Bruce, all of the neighbors provide the proper containers and maintain them, and is it your testimony that only the Sasha Bruce House could be the source of rats?

MR. HALPERN: From what I observed of their houses in going by, I saw no open trash containers in the front yards of the houses along F Street, nor along 10th Street, nor along 12th Street.

VICE CHAIRPERSON SOCKWELL: And what about rear yards? I mean, we are talking about rats. We are not talking about some --

MR. HALPERN: No, we are talking about rats that have been observed on F Street.

VICE CHAIRPERSON SOCKWELL: Right. But are you --

MR. HALPERN: And in my back yard.

VICE CHAIRPERSON SOCKWELL: Well, my suggestion is that with only photographs of one facility, there is no way that we can compare the quality of maintenance of trash receptacles within the neighborhood.

MR. HALPERN: Now, I am not --

VICE CHAIRPERSON SOCKWELL: There just is no way to do that.

MR. HALPERN: -- a sanitary engineer, which you would need a professional opinion.

VICE CHAIRPERSON SOCKWELL: You don't need to be. No, I don't. You have given an opinion which is not professional, and you are asking the board to respond to it. So if you are not an engineer --

MR. HALPERN: This was an order of magnitude --

VICE CHAIRPERSON SOCKWELL: Just let me finish, please, please. If on one side you are saying that one needs to be an engineer, and yet you are supporting your contention and not being an engineer, how can we effectively accept your position or not accept your position?

You are saying that this is the case, and this is where the rats come from, but then you are saying, but you really need an engineer to make that determination. I am just trying to figure out where you are.

MR. HALPERN: I am saying several things. First, I have clearly established what the situation is in this concrete rivet by the pictures, and there can be no doubt that those are unsanitary conditions.

Second, I am saying that while I have not gone into everybody's kitchen, and I have not gone behind everybody's fence, I have not observed anything that approaches that state of being unsanitary in any house along F Street or on 10th Street.

VICE CHAIRPERSON SOCKWELL: But you have provided no evidence to the contrary.

MR. HALPERN: Well, you have --

VICE CHAIRPERSON SOCKWELL: You have only shown us one situation and that's all.

MR. HALPERN: -- pictures which show you the general state of repair along the street.

CHAIRPERSON REID: I think that --

VICE CHAIRPERSON SOCKWELL: We understand what you are trying to provide us, and --

CHAIRPERSON REID: Wait. Wait.

MR. HALPERN: And if you leave the record open --

CHAIRPERSON REID: Excuse me, but I think that this particular issue has been given enough time. I understand your point, Mr. Halpern, and I understand your point, Mr. Sockwell, and in the end, we will take into consideration all of it, and make our decision accordingly.

MR. HALPERN: Right. I would like to give you one other piece of evidence.

CHAIRPERSON REID: Okay.

MR. HALPERN: This is -- and I have multiple copies of this, but this is the strategic plan for homeless continuum of care services in the District of Columbia.

This is the strategic plan which is available on the website of the community for community partnership for the prevention of hopelessness. Hopefully you got the ones that were marked. In it on page 19, if you turn the page over, it says support additional 20 beds for homeless youth by April of 2000.

I should point out that in the current plans that Boys Town is going to provide 36 beds, 20 of which will be long term, and 16 of which will be short term.

Therefore, it is my contention that within the strategic planning process of the District of Columbia that the additional five beds are in excess at Sasha Bruce, and if you turn over to the FY 2001 budget, you will see that 52 beds are provided for youth. That would be on the third page of the document that I gave yo.

Now, let me come down to kind of where Mr. Schauer was. We have talked about this a lot in my immediate neighborhood, and our general feeling is that the Sasha Bruce Youthworks provides a needed service, but provides it badly for 10 people.

The amount of supervision is minimal on the street. The person that Ms. Shore referred to as having had this nice -- who wrote the letter, and I believe that is Mr. Gunther or Gunter, is also a signature on the petition that I gave you.

So I am not quite so sure that he is on her side or I wouldn't be quite so sure that he is on her side. At least not in the petition that I gave you.

CHAIRPERSON REID: Who?

MR. HALPERN: Mr. Gunther.

CHAIRPERSON REID: And who is he?

MR. HALPERN: He is the person -- he is one of the

people who wrote the letter that is in the record. He is the third signature from the bottom, and his wife is the second signature from the bottom, Joel Buchanan.

Another neighbor, Micki Holmes, the fourth signature from the top, lives in the house directly on the side of the Sasha Bruce House. She just moved in. It used to be Section 8 housing. She said that she got in there, and she didn't know what was happening, and the kids came over and wanted liquor.

The people living there in the past had given them liquor, we assume. They were a pretty rough bunch. Now, you can say, well, how do I know that they are from the Sasha Bruce House. Well, you know, they don't wear signs saying they are from the Sasha Bruce House.

But you see them going in and out, and they yell, and they throw rocks, and they are not the most -- they have not had an easy life, and we really feel that at this point that Sasha Bruce has not shown an ability to supervise the children that they have in the shelter.

There have been complaints in the past by many people. You know, I have talked to maybe 20 or 30 people in the past 3 days, and a lot of them said that they complained. And they said, you know, but nothing happens. So why should I complain?

I think at this point, you know, that Mr. Sockwell can say, well, how can you prove that they complained? Well, I

don't have affidavits from them now. I could get them, I suppose, if you keep the record open.

So what does the neighborhood, or what do the immediate neighbors want? And again we talked about this. We want you and we want Sasha Bruce to kind of go away for a year.

And if they can show in the next year that they can supervise the children in the shelter, and they can -- that there won't be trash strewed around the shelter, and that the kids don't play badly with us, we will support this.

CHAIRPERSON REID: Wait a minute. You say that you want them to go away for a year?

MR. HALPERN: Withdraw the application and go away for a year and show that you can do the job, and come back.

CHAIRPERSON REID: Oh, I see. In other words, exist as they are, and then delay their application for another year.

MR. HALPERN: Yes.

CHAIRPERSON REID: That is what you are advocating?

MR. HALPERN: Yes. We are advocating that they not only do that, but that they -- we don't necessarily want that they play well with us. We want that they supervise the children.

VICE CHAIRPERSON SOCKWELL: Mr. Halpern, I mean only to ask two questions. One, if that is the wish of the signers of your petition, why was that not stated in the top documentation?

And, second, it would have been appreciated had you also placed in that petition that these neighbors of the Sasha Bruce House accepted you as their spokesperson for conditions related to this application, because you are acting as their spokesperson, regardless of the fact that they have signed this.

MR. HALPERN: Right.

VICE CHAIRPERSON SOCKWELL: Those were two things, one of which we certainly think or I certainly think may not be an unusual request among neighbors. But it is better when these people have stated that you are their spokesperson.

And I know that you have spent a lot of time speaking with them and trying to assess their positions.

MR. HALPERN: The short answer is that at five o'clock on Sunday I went out into the neighborhood, and I went back after listening to people and I created this.

CHAIRPERSON REID: Mr. Sockwell, would you like to have that submitted for the record prior to a decision being made?

VICE CHAIRPERSON SOCKWELL: Can you do that?

MR. HALPERN: I can go ask. I am easier with that than I am with the request that I be their spokesperson.

CHAIRPERSON REID: I'm sorry, but you are more comfortable with what?

MR. HALPERN: With going back and redoing this, and going back and showing it to everybody, and saying would you sign on to this. Let me -- the idea about the postponement only came

up about 48 hours ago after I had gathered considerable signatures.

CHAIRPERSON REID: The idea about what?

VICE CHAIRPERSON SOCKWELL: A postponement.

MR. HALPERN: Postponing. You know, it was somebody's idea, and it was a good idea.

CHAIRPERSON REID: Oh, that. Okay. Well, I mean --

MR. HALPERN: Everybody that I talked to after that thought it was a good idea and I am stuck with the petition that I have.

CHAIRPERSON REID: Well, if you are alleging here that that is what we want, then we need to --

MR. HALPERN: Well, then let me say that is what I want.

CHAIRPERSON REID: Okay. And that's better. That's better. Thank you. If there is any cross-examination of this witness, and if there is not, then closing remarks by the applicant.

MS. SHORE: I find this very difficult, and painful, and frankly also a bit -- you know, it gets at my professionalism frankly to say that we don't after 25 years know how to run a youth program, and that somehow people who see things from some distance can tell that. So, I guess --

CHAIRPERSON REID: Excuse me. Excuse me. In your

closing remarks --

MR. HALPERN: What am I supposed to do?

CHAIRPERSON REID: Okay. Well, let me explain. Use this time to basically reaffirm your relief that you are asking for and why you think it is important.

MS. SHORE: All right.

CHAIRPERSON REID: It is not necessary to go into a defensive mode in regard to opposition, because that is the nature of these cases. People come and they have their own issues, and they have the right to air them.

Nonetheless, your role is to convince us that the relief that you are asking for is something that is legitimate, and it is something that is needed, and it is something that you feel that you are entitled to, and that you are deserving of. Use it for that.

MS. SHORE: All right.

CHAIRPERSON REID: And don't belabor it.

MS. SHORE: All right. I will try and do that. I would like to appeal to this board to support our application. I honestly believe that we run a very strong and good program. I think that it is clear that we have some community issues, and I am very willing to establish a community advisory board, or call the neighbors to us and work with them.

And hope that we can actually work through some of these relationships. We have certainly found that to be true in

the past. But the need for this service is enormous, and there is no one else in the city that is providing that.

And I think that you can check in many, many places and find that that is the case. We are in a very good location really, and I think the problems that people have brought to you, and therefore to us, are ones that we really can deal with, and we will do our best.

I think you can be assured that we will do our best to reach out to the community, and to take care of the problems that have been already identified, and to figure out where we can go, in terms of keeping some better feedback loop going so that this doesn't only come up or come to us because of a public hearing such as this.

CHAIRPERSON REID: Okay. This is what I would suggest that you do. First, number one, you have heard the concerns of the community, and there will not be a decision made today, because of the fact that we have a party in opposition.

So that means that we have to have a full order, but in the interim, whatever you can do to try to ameliorate some of the adverse impact issues. For example, the trash. What we have seen today is that while there has been evidence to try to contain the trash better, there is still more work to be done.

And we would like to see evidence that you are taking steps to better ensure that there is not an issue as far as trash debris or rodent problems. So it is not to in any way to

indicate that we think that you are thee only people who may have rodents.

Nonetheless, obviously because of the nature of your business, that is something that you should try to demonstrate to us, and also the procedure by which trash is picked up on a regular basis, we need to know that.

We also need to know the establishment of the community liaison, and which was recommended here today as a measure of being able to react or be more proactive to some of the problems that may occur that are just -- well, I guess that it is something that is not uncommon when you have young people around, even if there is a home where you have a couple of kids, and there will be noise, and there will be problems.

But given the nature of your business, and the fact that you do have children, obviously we are aware of the fact that it is impossible for you to have perfect children and on complaints ever.

But nonetheless whatever you can do to try to better contain the behavior, and to alert them to what the problems are in that community, and I guess also to assist them in understanding what it means to be a good neighbor and how to conduct themselves properly.

The basketball court, on the other hand, I think that is something that would go a long ways to mitigating some of the adverse impact, if in fact -- I don't know whether it would be

a matter of putting it -- maybe moving the basketball court to the other side where it is more away from neighbors, and that noise can be muted somewhat.

MS. SHORE: Yes.

CHAIRPERSON REID: Well, not muted, but it could be lessened somewhat, because that is a problem area. And if you could get those things to us prior to us making the decision, then it would go a long ways in demonstrating to us that, number one, you take very seriously the concerns of the people around you.

And with the community liaison entity being established, then I am sure that it would probably work not just for the community, but also for you, because as you said earlier, you were able to get a volunteer or two who may be interested once they understand and know what you do to perhaps support you and work with you into making your establishment a better establishment, while at the same time helping to defuse some of the problems.

And actually, to be perfectly honest with you, quite frankly I don't think your problems are insurmountable. I have not heard anything that was really an extremely serious situation, where there was some type of weapon, or drugs, or things of that nature, that plague neighborhoods throughout.

So these things that the neighbors are asking for and that they are concerned about, I don't think it is too much for you to try to work with them, or try to demonstrate to them

that you are concerned about their quality of life in that particular neighborhood.

MS. SHORE: We will certainly do our best to do that, you know. Sometimes people are truly interested in that, and other times that's not what is true. We have had that, but we certainly will try.

CHAIRPERSON REID: The decision will be made on this particular case at our next regularly scheduled meeting, which is the first Wednesday in December.

MS. BAILEY: That is the first Tuesday in December.

CHAIRPERSON REID: Tuesday, I'm sorry. We are on Tuesdays now. Tuesday, December what?

MS. BAILEY: The 5th.

CHAIRPERSON REID: The 5th.

MS. SHORE: We were supposed to have an election yesterday, which didn't exactly happen did it?

CHAIRPERSON REID: The things that we are asking for should be in by when?

MS. BAILEY: The applicant has to serve the parties all of the documents that they are going to provide to the board. Is it possible to have that served on the Office of Planning, this office, the Office of Zoning, and the applicants by November 17th; is that possible?

MS. SHORE: That is 10 days from now. When you say that we need to serve all of the applicants, with what documents?

CHAIRPERSON REID: Not applicants. The parties.

MS. SHORE: Oh, I mean the parties.

CHAIRPERSON REID: The parties; the Office of Planning, the board, and the parties that are here and who have testified here today.

MS. SHORE: And with what -- what are the documents? I didn't hear documents. I heard --

VICE CHAIRPERSON SOCKWELL: Well, evidence of --

CHAIRPERSON REID: Well, here is what you do. Meet with the staff, Mr. Hart or Mrs. Pruitt, and they will explain to you exactly what you need to do.

MS. SHORE: Okay. That sounds fine.

VICE CHAIRPERSON SOCKWELL: Can we add to the requirements of the applicant that they present us with some kind of documented house rules by which your residents are expected to abide to?

MS. SHORE: Absolutely.

CHAIRPERSON REID: Also, I would suggest that with the liaison, that you attempt to involve the ANC, perhaps a representative from the ANC, on that liaison committee, as well as maybe from the Capital Hill Restoration Society. Mr. Schauer, would that be something that you would be interested in having or to see done?

MR. SCHAUER: Probably not. We are -- I think that this is something that has to be dealt with by the neighbors

themselves. I don't think we can help there.

CHAIRPERSON REID: You are not a neighbor?

MR. SCHAUER: Well, we cover the whole area.

CHAIRPERSON REID: So that is not something that you would want to get directly involved in. But nonetheless those persons who are directly involved in living around there, it would be a good idea if they were involved in the community liaison.

MR. SCHAUER: And the ANC, of course.

CHAIRPERSON REID: The ANC, absolutely.

VICE CHAIRPERSON SOCKWELL: Can they submit --

CHAIRPERSON REID: Now, Mr. Halpern, we don't --

MR. HALPERN: I have a procedural question.

CHAIRPERSON REID: Okay. Fine.

MR. SCHAUER: Will the record remain open, and if so, until when?

CHAIRPERSON REID: Ms. Bailey, the record remains open until --

MS. BAILEY: Just for the items that we have talked about today.

CHAIRPERSON REID: Was there something that you wanted to submit that --

VICE CHAIRPERSON SOCKWELL: Yes, we wanted him to submit his petition with some modification if he could.

CHAIRPERSON REID: The petition, yes.

MR. HALPERN: I am going away tomorrow, and I won't

be back until the 19th of November. I will try my best and try to hand it off to someone.

CHAIRPERSON REID: Well, under these circumstances, Mr. Halpern, we would allow you to do it when you get back, and we can waive the record to allow you to submit it at that time when you return.

MR. HALPERN: And there is another piece of evidence that I would like to see submitted if possible, and that is the reports of the Sasha Bruce House for that location to their funding agencies showing the nightly census for the past month, or year, or whatever they have.

CHAIRPERSON REID: The nightly census?

MR. HALPERN: How many people are in the house as reported to the funding agencies in the reports that they submit.

MS. SHORE: We don't have a funding agency that we do nightly reports to. We do report to one of the agencies, but we only report -- well, we don't do that.

CHAIRPERSON REID: Are these also a concern to the board members?

VICE CHAIRPERSON SOCKWELL: I am not sure that that is necessary for this board to act. Therefore, I would discourage it. But I would like photographic evidence and something to show that you have cleaned up the trash area and provided secure containers. That is important.

CHAIRPERSON REID: And let me also along those

lines say that if the dumpster or whatever it is, the trash receptacles, what daily plan do you have for disposal?

For example, maybe a child has a chore to take the trash out, but if I know children like I do, they will take the trash out and just throw it down there rather than -- you know.

VICE CHAIRPERSON SOCKWELL: Like a basketball over the fence.

CHAIRPERSON REID: So you are going to have to almost police it, because this is a big concern, and make sure that does not fall through the cracks.

MS. SHORE: We felt like we were doing a lot better, and adding the day to --- we now have trash pickup three days a week.

CHAIRPERSON REID: Well, the objective is the --

VICE CHAIRPERSON SOCKWELL: Well, pickup is one thing, but the control is the other.

CHAIRPERSON REID: When you have an institution in a residential area, in an R-4 zone, there are always areas of contention, and the most important thing is that the community wants to be respected and to exist and have a decent quality of life.

And if you are there, then I don't think that what they have asked for today is anything insurmountable. That is just a very small thing; noise abatement, trash, trash control, and that's the least that could be done to help mitigate some of

the issues that have been raised.

VICE CHAIRPERSON SOCKWELL: An unsecured trash becomes a problem because there are rats and there are tree rats, and tree rats are squirrels. And squirrels will get into anything that is in a plastic bag.

CHAIRPERSON REID: And thank you for your participation today and your indulgence.

MS. BAILEY: Madam Chair, there is an outstanding matter, and I think Mr. Halpern touched on it lightly, and the applicant had requested a fee waiver.

Now, if that is no longer a request, then certainly it is moot. But there was a request for a fee waiver. Do you still want --

MS. SHORE: The amount of the fee was, I think, $1,200.

CHAIRPERSON REID: We are aware of the fee waiver, and that will be taken up at the time that we make our decision. We will deliberate and at that time we will discuss and take a motion as to whether or not the fee can be waived. But we are not doing a decision today.

MS. BAILEY: Okay. Do you know when you are supposed to submit your information to the board?

MS. SHORE: I know when, November 17th. But we do need to talk to you about the documents that you mentioned.

MR. HALPERN: I will try and talk to someone also.

CHAIRPERSON REID: Well, again, we are not going to deliberate until December 5th. So if you can get it in a week before, then we can waive our record to allow you to do so and we will gladly accommodate you. Okay. So, thank you very much and that concludes today's hearing.

(Whereupon, the hearing was concluded at 7:20 p.m.)