GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

PUBLIC HEARING

WEDNESDAY

SEPTEMBER 2, 1998

The Public Hearing convened in Hearing Room 220, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 1:00 p.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

Sheila Cross Reid, Chairperson
Betty King, Vice Chair
Anthony Hood, Zoning Commissioner

STAFF PRESENT:
Sheri M. Pruitt-Williams, Interim Director and Secretary to the Board
Tracey Witten Rose, Staff, Office of Zoning
John Nyarku, Staff, Office of Zoning
Alberto Bastida, Office of Planning Staff
Angel F. Clarens, Zoning Commision Member

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(1:00 p.m.)

CHAIRPERSON REID: The Hearing will please come to order. Good afternoon, ladies and gentlemen.

This is the public Hearing at the Board of Zoning Adjustments, District of Columbia. Joining me today are Betty King and Mr. Anthony Hood, representing the Zoning Commission.

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

Before coming forward to speak to the Board, please give both cards to the Reporter who is sitting on my right.

The order of procedure for special exception in variance cases will proceed as follows; statements and witnesses of the Applicant, Government reports, including the Office of Planning and Department of Public Works, the NC, etcetera, persons or parties in support, persons or parties in opposition, closing remarks by the Applicant.

Cross examination of witnesses is

permitted to persons or parties who have a direct interest in the case. The record will be closed at the conclusion of each case, except for any material physically requested.

The Board and the Staff will specify, at the end of the Hearing, exactly what is expected. The decision of the Board in these contested cases must be based, exclusively, on the public record.

To avoid any appearance to the contrary the Board requests that person present not engage the Members of the Board in conversation. The Board will make every effort to conclude the public Hearing as near as possible to 6 o'clock p.m.

If the afternoon cases are not completed at 6 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 requests for postponement, continuance, or withdrawal, or whether proper and adequate notice of the Hearing has been given.

If you are not prepared to go forward with the case today, or if you believe that the Board should not proceed, now is the time to raise

such a matter.

Please come forward.

MR. COOPER: Good afternoon, Madam Chair. My name is Robert Cooper, I'm with the law firm of Jackson & Campbell, and we are here on behalf of Ira Clements, which is the second matter before you, set for today.

We were recently -- we've just been retained to represent them in this matter, which is a forbearance for existing non-conforming structure, and the addition of a deck that was built on the rear of their property.

At this point, Madam Chair, i understand that this has been continued before, with a recommendation for no further continuances, but I -- this application was filed, I believe, late last year, prior to the Commission's final rulemaking, which would permit such a structure to perhaps be permitted under -- not under the variance, but under the special exception provision, under Section 223.

It is possible that, and unfortunately I have not had an opportunity to fully investigate this and do all the work that I would need, but I have a suspicion that we might be able to fit this under the Section 223 special exceptions, as opposed to the variance.

But if the Board is not -- would not consider an additional continuance to allow me to investigate that, then I would be prepared to go forward, I presume today, on the variance request, and see where that takes us.

CHAIRPERSON REID: Is the Applicant here?

MR. COOPER: The Applicant's son is here. The Applicant is an elderly gentleman who just had hip surgery. His son had previously been -- had submitted an authorization to speak on behalf of his father, Mr. Michael Clements. He is here in the room with us.

CHAIRPERSON REID: Well, am I understanding that you said that they just retained you as Counsel?

MR. COOPER: As I understand it, they had retained other Counsel previously, but Counsel has gone AWOL, and has also taken with him some of the documents that they have provided to support their application before you.

CHAIRPERSON REID: So heretofore they had not been represented by Counsel?

MR. COOPER: Correct, they had not. On two previous occasions they appeared for Hearings, I believe, it was the December 17th, and February

18th. They requested an extension of time to secure Counsel. The Agenda here today reflects that there was another Hearing that had been set for May 6th. But, as I understand it, from notice from the Board, that notice of that May 6th Hearing had not been sent out to the parties, so no one appeared on May 6th on behalf of the Clements.

They were unaware that the Hearing -- they had not received notice in the mail from the Board that that Hearing was set for the 6th. But they did receive the notice that the Hearing was going to be set today, and I was contacted last week, and was just retained to represent them in this matter.

My preliminary investigation is that there is a possibility we can fit this under Section 223, special exception.

CHAIRPERSON REID: So basically you are saying that given the fact that you were just recently retained you want to request an additional continuance?

MS. KING: Well, it would also have to be re-advertised if, in fact --

CHAIRPERSON REID: Let me finish.

MS. KING: Okay.

CHAIRPERSON REID: Based upon the fact

that --

MS. KING: Sorry.

CHAIRPERSON REID: -- you need time to research the case, and to pull the salient points together in order to make a satisfactory presentation?

MR. COOPER: Correct. If I'm not able to go forward under Section 223, special exception, then I would appear on behalf of the Clements in request of the variance. But I would like to, at least, get an opportunity to investigate that, meet with the Zoning Administrator, and see if we can fit it under a special exception.

CHAIRPERSON REID: Sure.

MR. COOPER: Then I would come back under the special exception provision.

MS. KING: Then it would have to be re-advertised, is that not correct? I mean, if we -- if we postpone it, it doesn't have to be re-advertised, we just postpone it until a date certain.

CHAIRPERSON REID: Correct.

MS. KING: What we need to do, if we agree to do this, and my suggestion is that we should --

CHAIRPERSON REID: If the Applicant

would like to --

MS. KING: -- that we would postpone it until a date certain, and then if prior to that time, you want to abort the whole process by withdrawing the application and refiling then --

MS. PRUITT-WILLIAMS: No, no.

MS. KING: Isn't that the way to go?

MS. PRUITT-WILLIAMS: We can, if you want to investigate the special exception, the Staff can allow him to talk to -- of course, go talk to the Zoning Administrator, then we can amend the application, but it would have to still be re-advertised, he would not have to, you know, withdraw and refile, it just could be amended.

So Staff would suggest that maybe the Board consider letting Mr. Jackson investigate that and let us know whether or not he wants to go forward as a special exception. We can therefore amend it, and then place notice and then put it on a Hearing schedule based on that.

MR. COOPER: But if not, if we could -- I guess that --

MS. PRUITT-WILLIAMS: And that is a suggestion.

MR. COOPER: -- option would be to go on

and set it for a date certain, as Ms. King stated for the variance.

CHAIRPERSON REID: Let me hear first from the other Board member.

MR. HOOD: If there is no opposition for us doing that, I will concur.

CHAIRPERSON REID: Okay. I have no objection to it.

MS. KING: No, I believe we should allow the postponement, and then -- I agree with Counsel that postponing until a date certain is a good idea. And then if he, you know, if we have to start all over again from scratch, why, that just gets canceled.

MS. ROSE: This case has taken four Hearing slots so far, and we don't know how long it is going to take for them to go back to the zoning administrator.

My recommendation would be to postpone indefinitely until we hear back from the Applicant, because we would still have to re-advertise, or send out notices, in any event, if we don't give a date certain, today.

But if we give a date certain, and they are not prepared to go forward that date, you know, the Board starts to look kind of --

CHAIRPERSON REID: Right. Why don't we do it in the manner which you are suggesting.

MS. ROSE: Right.

CHAIRPERSON REID: First appear before the zoning administrator, and then we can schedule it accordingly. And then so notify the Applicant, and his attorney.

MS. ROSE: Well, it is my impression that the Applicant will be contacting the zoning administrator, and notifying us when they are prepared to go forward.

CHAIRPERSON REID: I'm sorry, it was just -- once they have gone through the zoning administrator then they will come back to us.

MS. ROSE: Yes, once he's made a determination on whether -- how they would like to proceed.

CHAIRPERSON REID: All right. Okay?

MR. COOPER: Sounds good to me.

CHAIRPERSON REID: Thank you.

MR. COOPER: Thank you.

MS. KING: While -- I would like to ask the Staff, we seem to have had a proliferation of decks built, and then they come to us. And I wonder if there is any pattern of a specific builder, or if it is widespread through the industry.

I wonder if the Staff would like to communicate with the Director of DCRA, or his Deputy, or whomever, just to point out that a lot of this is happening, that they might keep an eye out for it, and see if they are tracking perpetrators, who are particularly --

MS. PRUITT-WILLIAMS: We can certainly pass that information on.

MS. KING: Because you know we seem to have a lot of -- of course, they keep coming back.

CHAIRPERSON REID: All right. Staff, my understanding is that we do have another preliminary matter in regard to another postponement request by LaVerne Lacy?

MS. ROSE: Yes. The first case on the agenda, 16315 of LaVerne A. Lacy, there is a letter written, today, and faxed over to us, from the representative of the Applicant requesting that the Board postpone this matter. An emergency has arisen.

CHAIRPERSON REID: Is there anyone here affiliated with that particular case, today?

(No response.)

MS. KING: I move that we postpone it.

MR. HOOD: Second the motion.

CHAIRPERSON REID: All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No response.)

MS. ROSE: Are we doing this indefinitely, or to a date certain?

MS. KING: Well they are not -- they don't have that conflicting problem. I think let's give them a date certain, but this will be their third postponement. No, the May 6th one was the one where the notice was improper, is that correct?

MS. PRUITT-WILLIAMS: Well, this is also another one that has been postponed on several occasions.

MS. KING: Yes, but was the May 6th one of theirs was that also -- did they really ask for a postponement, or was it because we misadvertised, or something?

I mean, this -- the attorney in the previous case said that the May 6th one they were not informed, or something.

MS. PRUITT-WILLIAMS: Usually for postponements we don't send out public notice because the notice is given at the Hearing where it is postponed.

MS. KING: Oh, okay.

MS. PRUITT-WILLIAMS: That is the

typical process. There may have been sometimes, and we would have to research to find out, to be --

CHAIRPERSON REID: Maybe they didn't take note at the Hearing that --

MS. PRUITT-WILLIAMS: The Staff will certainly try to be clearer, that is what we are trying to be clear now.

CHAIRPERSON REID: Once at the Hearing we determine that we are going to postpone/defer, then they get no other notice?

MS. PRUITT-WILLIAMS: Correct.

MS. KING: Well, could I ask, in this case, since nobody from this -- and I mean, it is a private individual, probably themselves not very sophisticated about this; could I ask, as a matter of courtesy, that the staff would call LaVerne Lacy and tell her when the postponed Hearing is --

MS. PRUITT-WILLIAMS: Well, certainly on this one, since there is nobody here we would contact them.

MS. KING: Okay.

CHAIRPERSON REID: Do we have any other preliminary matters?

MS. PRUITT-WILLIAMS: I'm sorry, still want to clear up. Are you doing this to a date certain? You want to put them on a date?

CHAIRPERSON REID: November, or --

MS. PRUITT-WILLIAMS: The next available, sort of date, that is closest to being clear would be November 4th. That is a meeting date, or November 18th. Does the Board have a preference?

CHAIRPERSON REID: It doesn't matter, whichever one is easier for you to schedule.

MS. PRUITT-WILLIAMS: We will make it the first case, because we have George Washington on the 18th.

MS. ROSE: 9:30 a.m?

MS. PRUITT-WILLIAMS: Yes.

MS. ROSE: So case 16315 is postponed to November 18th at 9:30 a.m., as the first case of the morning.

CHAIRPERSON REID: Are there any other preliminary matters?

MS. ROSE: The staff has none.

CHAIRPERSON REID: Proceed to the first case of the afternoon.

MS. ROSE: The first case of the afternoon is 16347, the application of Liberty Limited Partnership, pursuant to 11DCMR3107.2 for a variance from the use provisions of paragraph 721.2J to allow a public indoor storage facility in a C-2-A

district, and the premise is 624 through 642 H Street N.E., (Square 858; lots 845, 846, 851, 853, 854 and 855.

Would all persons planning to testify in this application please rise to take the oath?

(WHEREUPON THE WITNESSES WERE SWORN.)

MR. AGUGLIA: Good afternoon. Is this on?

MS. KING: Is the green light on?

MR. AGUGLIA: Good afternoon, I'm Richard Aguglia, with the law firm of Hunting & Williams, representing the Applicant in this case, Liberty Limited Partnership.

As the clerk noted, this is an application for a use variance to permit a public indoor storage facility at 624, 642 H Street, N.E. The property is zoned C-2-A, and under the C-2-A zone district and regulations, not more than 2500 square feet of gross floor area may be used for general indoor storage.

We are asking the Board to allow a use variance to permit the public indoor storage facility which will be in excess of the amount permitted as a matter of right under the regulations.

As the Board knows, the test is three

parts. One, we must show undue hardship; second, we must show exceptional nature of the property; third, we must show no harm to the public or to the zone plan.

In this respect we will provide testimony from three witnesses, and also show community support, and that under the test provided, that the Board has the authority to grant the use variance.

Our first witness will be Mr. Andrew Schaeffer. We are passing out an outline of Mr. Schaeffer's testimony, and we will do our best to keep his testimony to ten minutes.

MR. SCHAEFFER: Hello, my name is Andrew Schaeffer, I'm the owner of the project Liberty Limited Partnership.

MS. KING: Could you speak up?

MR. SCHAEFFER: My name is Andrew Schaeffer, I'm the owner of the project Liberty Limited Partnership.

CHAIRPERSON REID: Mr. Schaeffer, I'm not certain that you can be heard in the back of the room. Are you able to hear?

Check to see if yr mike is on, and pull it closer to you. And then if you could amplify your voice, and please give your home address.

MR. SCHAEFFER: I'm sorry?

CHAIRPERSON REID: Please give your home address.

MR. SCHAEFFER: My address is 13305 Beale Creek Court, Potomac, Maryland, 20854.

I originally moved into this building in April of 1975. I purchased the building in 1980. The building was originally constructed in 1952 by Ourisman Chevrolet as a Chevrolet facility, and to store automobiles on the upper floors.

The building was vacant when I moved in, in 1974, it had been vacant for about three or four years prior to that. The use that I used it for was to store taxicabs in the upper floors, and repair taxicabs on the first floor.

I used that for a period from '74 to '86. We had as many as 1,400 taxicabs using the facility at one time. On Saturday was the day that the people would come in for service and payment, and we would easily handle 600 to 800 cars.

Since we moved out of the facility in '86, we've been trying to sell the facility for about 12 years now. There has been no offers, at all, within the last 8 years, or 6 years.

The current offer to purchase the building is to utilize it as a public storage

facility, to renovate the facade, to hire employees, 70 percent from the community, to furnish a community room for the use of the ANC or as a possible police substation.

On the corner of 7th and H there is a drug problem, which has always given us a lot of problems. The building, basically, is a shell. It is five floors, the first and the third floor have relatively high ceilings; the second, fourth, and fifth, have low ceilings.

We have had people look at it to see if it was possible to renovate it into some type of office, but they told us, at the time, that because of the dropping of the HVAC and the mechanicals into the ceiling, it wouldn't give enough ceiling height.

The building was basically designed as a storage facility for automobiles. The first floor is accessible through H street and a 30 foot alley in the rear. The second floor is accessible through a ramp on the 7th street side. The third, fourth, fifth, and roof is accessible through an elevator, two two-car elevators, which at the current time is not working.

Currently we've been trying to lease it for retail or office space, continually. We have been able to do that. We now have a garage, a

tenant, utilizing the first floor, at very minimal rent. It does not even cover half of the real estate taxes on the property, because the assessment is substantial.

We have had debt on the property, we've had a negative cash flow on this project for the last 12 years. I feel that this is the highest and best use at this time. The facade is run down, it will be totally renovated, it will have new glass, glazing all the way around, and it will have security. It will have -- aesthetically it will look much like an office building.

I think it will do much to improve the neighborhood. We have had a tour of the building on June 15th, asking the community to participate, and there was a turnout of about 25 people.

Some of the ANCs that are in support of it will testify later. Also, we have worked with the Faith community, and the Northeast Citizens Against Crime and Drugs are in support of the project.

We have circulated a petition, at the beginning, and got support of the businesses on both sides of A street, within a block or two.

The issue of traffic, if there is any large trucks going into the building, they will off-

load in the back. There is now a Murray's beside us, that is where they have their larger trucks. But for the most part the storage will be by car pickup or small van.

The surrounding area has quite a bit of retail available that has not been able to be leased for a considerable amount of time. The condition of the building, right now, is that of one of a shell. In other words, there is just the concrete building, which is very strong, and minimal electricity, and rest room and plumbing facilities on the upper floor.

MR. AGUGLIA: Mr. Schaeffer, would you just quickly go through the exhibits so that the Board can follow the description of the subject property, and the surrounding area?

MR. SCHAEFFER: The first picture is a view of the front of the building facing H street with the side of it exposed. On the second page, this is also the front of the building, on the top portion, all the glass will be replaced, and the facade will be renovated.

The lower picture is a picture of the 7th street side, which actually is not on 7th street, but can be viewed from 7th street. In the lower right-hand corner there is a ramp to the

project allowing access to the second floor.

On page 3 is a view looking down, the top picture is a view looking down H street towards 6th street. And the lower picture is looking up towards 7th street.

The next picture shows --

MS. KING: Excuse me, you are standing in front of your building, Mr. Schaeffer?

MR. SCHAEFFER: I'm sorry?

MS. KING: This is -- the pictures you've just described are standing in front of your building looking across?

MR. SCHAEFFER: Yes.

MS. KING: Thank you.

MR. SCHAEFFER: The next picture is a picture of the first floor which has fairly high ceilings, and is currently used for parking. The next picture, which is empty, is the second floor, which would -- and some of the upper floors, which show the lower ceilings and the cross beams, which were the fact, the mechanicals, allowing not enough ceiling height to be desirable for office.

Further on there is a mechanical penthouse which shows two doors, and that houses the elevators. The elevators, at this time, are not working. We had them working back in '86. The

purchaser plans on reconditioning the elevators at a cost of about 200 to 250,000 dollars.

The purpose is that one elevator holds 6,000 pounds, and one elevator holds 8,000 pounds, so it could transport heavy items.

As you go on, these are pictures of the surrounding neighborhood. The top picture is the 500 block of H street, and the lower picture is also the 500 block of H street, and there is a number of retail establishments available for lease, and also available for sale.

As you move on it is much of the same, on H street areas that have not been rented or renovated by the facade.

On the corner of the building there is some boarded up property, and going -- there is another property owner who purchased all the property going up towards 7th street, including the Apollo, and that is the Pilgrim Baptist Church. I would hope that they would testify later on in our behalf.

And so the stores going up 7th street are vacant at this time, but do have plans to be renovated at some time in the future.

So with Murray's on one end, with our building renovated in the middle, and with the Faith

Community Developing, the other corner, it would help the entire block of H street.

There is a plat on the property, it is all C-2-A. There is some R-4, which is only used for parking, and that is separated by a public alley on both sides, and on one side by 7th street. At the time it is being used by the Pilgrim Baptist Church for parking.

Lastly, we went to the businesses on both sides of us and asked for their support with a community petition.

MR. AGUGLIA: Mr. Schaeffer would be happy to answer any questions that you may have.

MS. KING: Council member Ambrose's letter in the final paragraph says, I and the community are committed to working with the owner of the property to assist in marketing this valuable building to a tenant who is acceptable.

Has there been any action on the part of the community to help you market this building over the 10 years that it has been vacant?

MR. SCHAEFFER: No. We have met several times with Council Person Ambrose, and we also have the support of the single member ANC for that, and also four of the other Commissioners.

MS. KING: But you received no help from

any of the people who oppose this application in trying to find an alternative use for the building? A real alternative use; in other words a tenant or a buyer who would use it for something other than a storage business?

MR. SCHAEFFER: We've never been contacted, in the entire time, by anyone from the community approaching us with some type of options. There was, at one point, there was some interest from the YMCA, it didn't come directly from the community, it came from a relationship that we have with the Y. Funding was not available.

There was someone else, many, many years ago, but the building just would not lay out for his use.

MS. KING: Thank you.

MR. SCHAEFFER: There was also a religious Muslim group that was interested, but after studying the structure of the building, and the high cost of any type of renovations, they declined. It was a church.

MR. HOOD: Mr. Schaeffer, just a follow-up. Did you ask for help from the community about marketing the building, go out and ask for help?

MR. SCHAEFFER: Originally, when we put the project up for sale, we contacted everyone in

the real estate community. Also, we had spoken to the H street CDC a number of times. The building had a sign on it, for a number of years, for sale.

CHAIRPERSON REID: Was it listed with a commercial real estate broker?

MR. SCHAEFFER: Yes. The -- Carey Winston brought us the contract on this current deal. It was listed with a number of brokers over the years.

At the time that Carey Winston brought us this deal, we were trying -- I was trying to sell it myself, at that point.

CHAIRPERSON REID: Okay. It was on the market for 10 years?

MR. SCHAEFFER: Almost 12 years.

CHAIRPERSON REID: Almost 12 years, and during that time was your price consistent with the market, or did you find that you started at one price and then had to reduce?

MR. SCHAEFFER: What happened was, we originally priced the building at three million dollars. It is assessed at 2.4 million dollars. We reduced the price in stages down to 2 million dollars, and the current purchase price is below that.

CHAIRPERSON REID: And what is the

square footage of the building?

MR. SCHAEFFER: It is 122,000 square foot of building.

CHAIRPERSON REID: What is it?

MR. SCHAEFFER: 122,000 square foot of building.

CHAIRPERSON REID: And how many levels?

MR. SCHAEFFER: Five.

CHAIRPERSON REID: And equal amount of square footage on each floor?

MR. SCHAEFFER: The first and second floor are the largest. They are 27,000 square feet. The third, fourth, and fifth are 22,000 square feet.

CHAIRPERSON REID: The petition that you submitted were signed by adjacent business owners?

MR. SCHAEFFER: Yes.

CHAIRPERSON REID: Were there any petitions signed by any community, or members, or residents of the H street corridor?

MR. SCHAEFFER: We had letters from the -- four ANC Commissioners filed for the record.

CHAIRPERSON REID: We have those.

MR. SCHAEFFER: And we also had, from the Northeast Citizen's Committee, and from the single member district ANC.

MR. HOOD: One other question, I don't

know --

MR. SCHAEFFER: And Mr. Daniel Pernell.

MR. HOOD: I have one other question, Madame Chair. About the trucks, I know you said you are looking for small vehicles and cars. But for the scenario of large 18 wheelers, how can you accommodate in that area, say you do have some 18 wheelers, what would be the impact, what kind of adjustments have you made so the traffic will flow free and things won't -- because it is tight down there to begin with.

MR. SCHAEFFER: Right, exactly. What happened was, when we used it, we used to get car carriers come in, which are the large tractor trailers delivering taxis. And we always off-loaded in the rear of the building.

We are more than willing to stipulate that any large truck be off-loaded in the rear. That is what it is designed for, and the alley is very wide there, has access to 6th Street, I Street, and 7th Street.

Safeway used to be next to us, but they closed, and that is how they got all their trailers in.

MR. HOOD: So you are saying that if you have an 18 wheeler it would have to off-load in the

alley?

MR. SCHAEFFER: It would off-load in the alley, right. They would drive straight through, basically, and off-load in the alley. The -- anybody coming in would not off-load in the street. What they would do, would drive in through the openings, and off-load inside the perimeter of the building. There wouldn't be any off-loading on the street, it would all be done on the interior of the building.

MR. HOOD: Would there be any off-loading in the alley, either? Am I understanding you correct? MR. SCHAEFFER: Right, right.

MR. HOOD: Okay.

CHAIRPERSON REID: Does that conclude your --

MR. AGUGLIA: Well, we have our next witness.

MR. SCHAEFFER: Thank you.

MR. AGUGLIA: Mr. James Darby.

MR. DARBY: James M. Darby, I reside at 1600 North Oak Street, unit 730, Arlington, Virginia, 22209.

I'm a real estate sales person with Transwester, Carey Winston Company, based in

Bethesda, Maryland.

I was asked here to talk about the property and its viability, and its highest and best use, I should say, as a self storage facility.

I guess the primary thing I wanted to make sure that I passed along was that the project itself, because of some things that Andy already mentioned, Mr. Schaeffer already mentioned, relating to the ceiling heights, as well as the fact that there are no modern electrical or HVAC system in place, means that it is going to be a complete and total renovation of the entire facade, which quite frankly, in the letter that you will have, I may have estimated a little on the low side, at 100 dollars a square foot.

Based on the fact that I was using comparable rents in the Capitol Hill submarket, and there is really not a critical mass of office, or retail, or residential product of a mid or high-rise classification in this particular submarket, the most valuable highest and best use is a self storage.

The people that I've spoken to, from a residential or an office point of view just weren't interested in taking the risk in an area that didn't have a critical mass of similar product.

Either they, or the tenants they've been working with, or lenders, just needed a little more comfort level, which usually only comes with a little bit more commercial development in such an area.

When I've been working with J. McCarthy for several years, in some other projects, and I think the thing that really struck me in talking to Mr. Schaeffer about this building, over the years, is that I knew that Jay would, once he went through it, would be interested in making a complete and total renovation of the building.

MR. AGUGLIA: Would you explain who Mr. McCarthy is?

MR. DARBY: I'm sorry, Mr. McCarthy is the contract purchaser for the property. He will get into his presentation, also, about what he plans to do with it.

But I guess given the fact that it requires a variance to the zoning, and given some comments and concerns that I knew were present in the community as to what happens to this project, and knowing that Mr. McCarthy would be making a total renovation of the project, including the facade and window treatment, it is -- I firmly believe that this is the highest and best use for

the project.

MR. AGUGLIA: Mr. Darby, is it a fair statement to say that the cost of renovating the building to office or residential far outweigh any potential return to make it economically impractical?

MR. DARBY: That is the response that I've gotten from the marketplace. I will clarify that I'm not an appraiser or a consultant, and I consider that a positive situation, here, because when I'm talking to people, I'm talking to people that are going to do something immediately, or in the very near future, not just based on some numbers and some comparables.

I have been talking to people that, you know, put their money or their lender's money on the line, right away. And I've been told that the return is just not there for the amount of risk and the equity that would be required for this investment.

MS. KING: There's a letter from your employer, signed by you, Mr. Darby?

MR. DARBY: Right.

MS. KING: This is not --

MR. DARBY: That is my letter.

MS. KING: -- talking about the

economics of the situation?

MR. DARBY: Correct. That is the letter that I was addressing, that since we last came in here, in reviewing the building with the general contractor some numbers came back which were actually much higher than 100 dollars a square foot for a complete renovation of a five story facade.

It is still a question mark with a couple of the floors that they would be a viable tenant, because as Mr. Schaeffer mentioned before, the ceilings are so low, you have to get HVAC and electrical systems in place, and it makes it difficult to lease if you end up with 7 foot ceiling heights.

MR. AGUGLIA: Does the Board have any further questions of Mr. Darby?

CHAIRPERSON REID: On your letter, Mr. Darby, on the second paragraph it says, one would expect to achieve five to eight dollars rent. Is that per foot?

MR. DARBY: Correct. That is based on a triple net rental rate.

CHAIRPERSON REID: Are you saying that this is based on a renovated building?

MR. DARBY: Well, I guess the main thing here is that, you know, you could do -- you see

rents that are being asked in the Capitol Height, and the Capitol Hill market that approach 25 to 30 dollars a foot. Expenses are anywhere -- the lowest I've seen is 10 or 11 dollars a square foot, and the highest is about 15.

CHAIRPERSON REID: Right.

MR. DARBY: For someone to take a risk in an unestablished office market, someone would be looking at an 18 to 20 dollars a square foot, at full service rental rate. So I think at the end of the day you are probably going to net anywhere from, you know, 8 to 10 dollars, as far as someone taking the risk in an unestablished marketplace.

That doesn't take into consideration the fact that there could be two floors that really aren't viable to lease at any number. And the fact that this -- that most of the tenants that you would try to attract to this project, are also looking at comparable buildings that are in and around the Union Station area, where there aren't just buildings under construction, but millions of square feet of additional FAR.

MR. AGUGLIA: Well, I think the 5 to 8 was triple net. That may equate to something like, I'm guessing, 15 dollars a foot full service.

MR. DARBY: You can actually -- you

would be closer to 18 to 20 dollars full service. That is where I was --

CHAIRPERSON REID: Now, I think that it appears to me that for even a triple net lease, I think that this figure is on the low side, given the fact that -- I think you just said that you could expect rents anywhere from 11 to 15 dollars a square foot?

MR. DARBY: Expenses.

CHAIRPERSON REID: For Capitol Hill?

MR. DARBY: Expenses.

CHAIRPERSON REID: Expenses?

MR. DARBY: Right. So that is why when you take a 20 dollar full service number, and minus 11 to 15 dollars a square foot, you end up with a lower net number. That is what the investor ends up with, at the end of the day, after he pays his expenses.

That doesn't take into consideration carrying, and the risk of leasing.

CHAIRPERSON REID: Notwithstanding that, it still appears to me that this is a low number for a fully renovated building on -- well, H street is on the peripheral of Capitol Hill, but the numbers seem kind of low, in my opinion, on that end.

MR. DARBY: You are absolutely correct,

that number takes into consideration the risk that someone would need to take to go into an area that doesn't have a critical mass of the current product.

CHAIRPERSON REID: Well, we don't want to split hairs on this.

MR. DARBY: Maybe I can answer it. If you are at Union Station, for instance, you would be trying to push 27 to 35 dollars --

CHAIRPERSON REID: -- dollars a square foot renovated.

MR. DARBY: -- because you would be right in -- right.

CHAIRPERSON REID: Yes.

MR. DARBY: So you are absolutely right.

CHAIRPERSON REID: And H street is not yet proven, it is an up and coming corridor, which is not -- it is in rather close proximity to Union Station.

MR. DARBY: Right.

CHAIRPERSON REID: So, again, I just -- it just struck me that that figure was kind of on the low side. I'm just wondering how you came about it, that is all.

MR. DARBY: Okay.

CHAIRPERSON REID: Next witness?

MR. AGUGLIA: I think the problem was

the expenses to renovate this building to achieve those costs is what throws it out of whack, because the net is going to be so low, and the risk associated with it so high, that it wouldn't work.

CHAIRPERSON REID: Okay. Thank you for your testimony.

MR. AGUGLIA: Our next witness is Mr. James McCarthy.

MR. MCCARTHY: Good afternoon. James J. McCarthy, 8700 Falls Road, Potomac, Maryland, 20854.

I'm the president of the Williams Borough Development Corporation, and we own several self-storage businesses in this area, one in Alexandria, one in upper Marlboro, Leesburg, and Frederick, and a couple of other facilities down in the Florida area.

Our plans for the H street building include, as has been said, renovating the facade, which now has a deteriorating warehouse look, and give it a more of an office building look, as has been discussed; changing the casement style windows to a tinted glass, or strip glass; new doors, awnings, new doors and awnings at the sidewalk level, painting and repairs where needed, and so on, to give the passers-by an impression of prosperity, replacing the current impression of deterioration.

The building was originally designed, as has been said, for auto sales, vehicle storage and repair. And I think our proposed usage is somewhat similar, at least the storage aspect of it.

The building is ideally suited for my business for a couple of reasons. The large entrances on H street, as well as the alley behind will allow drive-through access for loading and unloading within the building itself.

So the people on the street won't see anything that is happening in my building. The larger trucks, the 16 or 18 wheeled vehicles will be accessing through the alleyway.

And one of the unusual features of the building is that it has these two huge lifts that open onto the alleyway, itself, because the vehicles back in the chevrolet days, and the taxi days, had to access the building and drive into the lifts. It was easier to do that directly from the street.

So the elevators, actually, have two entrances, one inside for our interior customers, and one outside for the folks that come and want to unload via the alleyway.

And when I say these elevators are large, these elevators are huge. They are enormous, you know, you can drive a truck into them.

The low ceiling height in the upper floors, which create a problem for office or retail purposes, really has very little impact on us. Our space is supposed to be unfinished, we will be adding sprinklers, of course, and some things to bring the building up to code.

The floors and the ceilings and walls which are now bare concrete or glass will, that is a benefit to us, because it lowers our cost of our retrofit.

We will serve the immediate local community residents who may need additional space for many reasons, as well as any small businesses which will run their operations from our space. In our experience, about 25 percent of our clients will be businesses.

I think a copy of our traffic impact study was submitted earlier?

MR. AGUGLIA: Yes, we've attached it to this testimony, just for your convenience, along with the need for self storage.

MR. MCCARTHY: But, briefly, the traffic impact should be substantially less for our use than any retail or office use for one, or maybe two simple reasons.

The majority of our clients will visit

our property only twice, the day that they move their stuff in, and the day that they move it out. So somebody may be renting for several years, but they won't visit the facility but two times.

And another thing is that a lot of our clients, they come when they have free time, and most folks have free time on the weekends. So we will have, you know, we will have more traffic on the weekends than we will, you know, during regular business hours when our clients have to work themselves.

At our Alexandria site, for example, our rush hour traffic count averages 2.2 vehicles per hour, which is, you know, is very little traffic. And Alexandria is a 55,000 square foot facility, which is a medium size facility. And it is in the downtown area, which isn't quite the same as --

MS. KING: This is going to be how many square feet?

MR. MCCARTHY: Well, we will start off at 50 and depending on demand, you know, we will work up from there. We can go up as high as 75.

MR. AGUGLIA: Would you explain, Mr. McCarthy, the security controls that would be in place?

MR. MCCARTHY: Well, we will be using --

we will be using a handful of security techniques. In addition to having a resident manager we will have personal security entrance cards for everybody. And anyone that leases space will need a -- have their own personal access code number.

The facility will be closed at 7 o'clock at night through 7 a.m. in the morning. We will have, you know, video cameras at various locations, in the front, the rear and the side, and that will be -- most of those manned during the daytime as well as the night-time. High intensity lighting in the rear.

It is in our best interest, as well as our clients' interests that we make it as secure as possible.

MS. KING: When you say a resident manager, do you mean you are going to build an apartment in the structure so that somebody could live there?

MR. MCCARTHY: There is a resident manager living in there now.

MS. KING: Oh, I see.

MR. MCCARTHY: And we would need to -- it is in a poor state of repair, we would need to make it more habitable, you know, for one of our managers. But there are facilities in there right

now for a resident manager.

MR. HOOD: And you say someone is living in there now?

MR. MCCARTHY: That's correct.

MR. HOOD: Okay.

MR. MCCARTHY: As regards to demand for our project, a copy of our demand analysis is also part of the testimony.

Our industry standards, that is the self storage industry standard, is that each person in a given area requires 3 square feet of storage space. And within a five mile radius of this building, according to the 1990 census report, there are 617,000 or so people, which means there is a demand, a theoretical demand of 1,850,000 square feet.

The current supply within this five mile radius is approximately 700,000 square feet, leaving an unmet demand of 1,100,000 square feet. In our estimation there is a very substantial unmet demand that we would like to help fill.

Now, I understand that there are many people in the community who would rather see retail operation, or something that would draw shopping or shoppers to the avenue, you know, Sears or a Hecht company.

And this would be wonderful for the

neighborhood. But the facts, as I see them as a businessman, I mean, this building is dilapidated, it is in need of a lot of money to bring it up, even for storage the interior work is enormous.

There are many boarded up storage front around us, third tier retail. It is a poor street, at this moment, with a lot of dreams and a lot of possibilities that we are willing to buy into.

When I'm finished with this building we will look like a prosperous office building. And since our clients will load and unload inside the building itself, then most of the folks driving by will think it is an office building.

But most importantly I think it will transform this building from being a part of the H street problem, to a part of its solution. It is one step among many needed to transform this street. But maybe 10 or 15 years from now, when the avenue looks a lot better, a Hecht company or somebody will come and make us an offer, and we will sell the building to them.

MR. AGUGLIA: Mr. McCarthy, could you explain how the storage could help small businessmen who are mom and pop type operations in the neighborhood?

MR. MCCARTHY: In our other facilities,

we will have plumbers and painters, and rug installers, that will really have no place, they try to run their businesses out of their homes, but that is difficult for storage. So they will store their things in our place, and in the mornings, you know, 6 a.m. they will come and pick up their equipment, and then they will go out on their routes during the day, and at the end of business they will bring their stuff home.

And we have, as I think I mentioned, around 25 percent of our business should be local businesses servicing, you know, the local community.

MR. AGUGLIA: What percentage would you estimate would be from residents who need storage facilities because they don't have enough closet space, or cellar space in their home?

MR. MCCARTHY: That is a hard one to say, but I would think that in this particular area, the more intercity or urban that you get, the less space the tenants seem to have in their apartments and townhouses. And in single family homes you have basements and attics, and places to keep your stuff.

You know, when you are in an apartment, you are kind of closed in, so where are you going to keep your bicycles, and your ski equipment and all those other things? So we get a large amount of our

clients that will be from the local community just keeping their things there, because they have no room.

MR. AGUGLIA: Mr. McCarthy, this Hearing was continued so we could get more -- we and the Board could get more community input. As a result of meeting with the community, are there some conditions that you have agreed upon, which would be incorporated into the Board's order, should the Board approve the use variance?

MR. MCCARTHY: Well, I know that it is important that the facade renovation be done, and be done properly, and done upfront. And we are going to make sure that, you know, that there will be no delay on handling that.

Certainly the 70 percent of our employees will be hired from the local community. If we are going to -- I think as has been mentioned, we are going to have an ANC meeting room, as well as a neighborhood watch or crime watch room.

The streetscape and landscaping shall be provided as depicted in the -- as illustrated. Large truck access, 16 wheels or more, will strictly be -- will be restricted to the alleyway behind. No curb cuts or expansion of existing curbs shall be asked for.

MR. AGUGLIA: What is the access vis-a-vis curbs on H street now? I draw the Board's attention to the first page following his outline, the depiction of the renovated facade.

MR. MCCARTHY: If you notice there are five awnings. The middle three awnings each have curb cuts. We intend to close off the middle curb cut and use that as our office area, and allow access through the building through the door in front of which is a white car.

And on the right-hand side there will be parking for our customers that go in to rent units.

MS. KING: At the extreme right of the building, or here in the center? Because it looks to me as if there is steps there where the white car is.

MR. MCCARTHY: That is actually a curb cut. In the center we are going to have our office area, right behind the tree.

MS. KING: Right. And then on either side, here is where the regular size cars and vans drive through?

MR. MCCARTHY: That's correct.

MS. KING: I see, okay.

MR. MCCARTHY: And the ceiling height is large enough so that we can get trucks up to, you

know, almost any size vehicle will go through that building. It has been designed for that.

MR. AGUGLIA: And, lastly, --

MR. MCCARTHY: The ANC meeting area, by the way, we are targeting for the left-hand side, under the left-hand awning, first floor.

MR. HOOD: One question about the meeting room. Under the conditions, will the meeting room be free of costs to the ANC?

MR. MCCARTHY: That's correct. We would like to have some -- we would like it to be restricted to the ANC and to Neighborhood Watch personnel.

MR. HOOD: What you are saying, you mean associations?

MR. MCCARTHY: We are not going to charge rent, we will provide that space for free.

MR. HOOD: Organized community groups, basically?

MR. MCCARTHY: Well, the ANC specifically, as well as the Neighborhood Watch group, specifically. MR. HOOD: And civic associations? I'm just trying to get a clear picture. Just with ANC, or Neighborhood Watch, or civic associations, organized neighborhood groups? That is where I'm going.

MR. MCCARTHY: Up to this point it has been just the two organizations, the ANC and the Neighborhood Watch group that have specifically requested that. We would entertain other groups.

One concern we have is with security of the facility, and so we would like to know who would be entering our facility.

MR. HOOD: If approved I think that that is very key that 70 percent of employees be hired from the neighborhood, like you have here. A lot of times they will come in to get things through, and say, this is what we are going to do, and then after that something else happens. So I think that is key.

MR. MCCARTHY: I think you have the power to control that, I think.

MR. HOOD: Right, but I've also seen other things happen, too.

MR. MCCARTHY: In my experience we try to hire from the areas around our facilities, because it is easier for our managers to get there. It just makes, as a practical matter --

MR. HOOD: But I just want to stress that that is key, very key.

MR. AGUGLIA: And as I said, we would have the Board incorporate this into its order, so

there is no slip between the -- and then lastly, I suggest that we conclude with Mr. McCarthy, as we've already submitted to the Board the self-storage needs, and the traffic impact report.

If the Board has any further questions of Mr. McCarthy?

MS. KING: I have none.

CHAIRPERSON REID: I have none. Is there any cross examination from parties?

MR. AGUGLIA: I believe there are none.

CHAIRPERSON REID: Is ANC present? Are there any Government reports? I don't think that we have one from the Office of Planning, or any other Government reports on this case. I see none. I will now have a report from the ANC. Please come up.

You want to remove your things from the table, because this is the ANC portion. I did ask you to stay in the event there was some cross examination. But there was none.

MR. PERNELL: Good morning, I'm Commissioner Daniel Pernell III, and I would like to say that --

CHAIRPERSON REID: Please give your address.

MR. PERNELL: I'm sorry. I have been

working on the H street corridor for a little over 11 years now, with what we call the H Street task force.

CHAIRPERSON REID: Your address.

MS. KING: Your home address.

MR. PERNELL: I'm sorry, 1132 4th Street N. E.

CHAIRPERSON REID: Okay.

MR. PERNELL: And in these 11 years, in 1989, we did a survey that we wanted that particular building at 624 H Street, that garage, Chevrolet garage, we wanted it as a high scale restaurant. But as years went on we found out that it is not capable of supporting such a facility, so we went against that.

In 1995 the task force came back together, again, with Commissioner Karen Wort, and we made a list of abandoned buildings, and one of them was 624 H Street, and a number of abandoned homes on both sides, south and north of H Street, along with District U.S. Attorney Eric Holder, and a number of members of civic groups, within the area; STanton Park, public interest civic association, and the Northeast Citizens Against Crime and Drugs.

We all met and we came to the conclusion that this building can only be a storage facility,

but a possibility of a community office in and out there, you know, seven days a week, if that is possible.

We had viewed the building in June for the second time to make sure that our doubts and our thinking was in perspective, and indeed it was. That this building, the number of floors that they have, only two floors were high enough to get anything going in there.

The cost of renovation would be astronomical, and I mean, which is no cost to us, but nevertheless it was the type of building I don't think that I would want to use for -- but a storage facility would be the proper thing, so we voted in favor of the storage facility there on H street, 624.

The main concern is that we have been wanting for years, and Mr. Schaeffer has come to us twice in those 11 years, concerning 624, and this was a major time for him, because we really had to think this out. We involved every community group, every group that wasn't registered, was registered, had a concern in this, and we all arrived pretty much at the same, that this facility at 624 H Street could only be a facility for storage.

Thank you.

MS. KING: Are you all going to testify? Maybe I should hold my questions. But I'm a little confused. Was there a meeting of the ANC at which a quorum was present, at which a vote was taken, where the ANC voted in support? I mean, those that are for, or opposition? This is a test for great weight, and I just wanted to clarify that issue.

MR. PERNELL: Right. That was, I believe, May 7th -- I mean, July 7th there was a meeting.

CHAIRPERSON REID: What is your --

MS. KING: How many members are there in ANC?

MR. PERNELL: Ten at the moment.

CHAIRPERSON REID: And what is ANC?

MR. PERNELL: It is at -- 6A.

CHAIRPERSON REID: Because we have a letter from 6A that --

MR. PERNELL: Was there a name on it?

CHAIRPERSON REID: Karen Wort.

MR. FERRELL: Let me explain. There was not a meeting where a quorum was held.

CHAIRPERSON REID: Okay, this is what we need to ascertain; if there was a meeting of the ANC in which there was a quorum, number one; and if there was a vote taken.

MR. FERRELL: No. There was not a meeting where a quorum was present, we could not establish a quorum, and subsequently those ANC in their individual capacity, represent the individual single member district elected to either support, or either oppose the BZA application. Some ANC Commissioners wrote letters of support.

But due to a lack of a quorum we were not able to take a vote as an ANC body.

MR. HOOD: Which SMD is this in, and who is the SMD?

MR. FERRELL: The SMD is located at 6A08.

MS. ROSE: Sir, please identify yourself for the record.

MR. FERRELL: My name is ANC Commissioner Gregory Ferrell.

MR. HOOD: 6A08?

MR. FERRELL: 6A08 was represented by Susan Orndorff, at that particular time. Since, I believe, Ms. Orndorff submitted a letter of resignation August 5th of 1988.

MR. HOOD: Let me interrupt you, for the sake of time. Who is the chairperson?

MR. FERRELL: The chairperson, currently, is Dereck Barnes.

MR. HOOD: Okay, thank you.

MR. PERNELL: To make it clear for the record, when we were down here several years ago and had a continuance for Mr. Schaeffer and Mr. McCarthy, the letter that was supposed to be submitted by the 6A commission at that time, by the chairman had not came into your office, even though he told us it did.

And we still find out, to this day, that it is not. So we find that letter be invalid, if it does show up, and that presently our statement to be for the record.

MS. KING: There is a letter dated May 11th pursuant to request of the --

MR. PERNELL: Whose name is on it?

MS. KING: ANC voted to disapprove the request for a zoning variance. ANC's decision was based on lack of information from the Applicant. That was May 11th.

MR. HOOD: But I believe --

CHAIRPERSON REID: Subsequent to that --

MR. HOOD: -- since then a --

MS. KING: -- a letter from four, I guess the four who were here before us. No? Veronica Raglin, Marvin Fields, Gregory Ferrell, and Daniel Pernell III.

CHAIRPERSON REID: Now, here is where I'm finding some difficulty, and that is, did you say the ANC could not meet in order to come up with a quorum, in order to be able to vote as a body and submit a report to the BZA?

MR. FERRELL: What had happened was that the -- there were several members of the ANC Commission that were not exactly sure about the structure of the building.

CHAIRPERSON REID: Now, I understand that. But before you go any further, often there may be a split of opinions, or difference of opinion within the ANC. However, this is why the quorum is important, because then we could get a vote taken, and then we get a, basically, a feel for the body, based on your having had that meeting with the quorum and taken a vote.

Now, I'm still not clear why that didn't happen.

MS. KING: The letter from Dereck Barnes does not make any reference to a quorum being present, and therefore it would not meet the test for great weight.

MR. FERRELL: As I said --

MS. KING: -- testify under oath is that since then they have not been able to achieve --

MR. FERRELL: -- establish quorum.

MS. KING: -- quorum.

MR. FERRELL: And what had happened was, because there -- we did have a tour of the facility. There were ANC Commissioners at the table, that they were present at the tour of the building. We wanted to look at the structure of the building to get a better idea with regards to a suitable purpose for the building.

At that particular meeting there were several other civic association members, members from the H Street Merchant's Association, churches was also present.

Subsequent to the meeting we were not able to establish a quorum at our July meeting. We recess during the month of August, we don't have meetings during the month of August.

So, therefore, commissioners who decided that they felt that the BZA application should be supported wrote letters in their individual capacity. But we were not able to establish a quorum after the tour of the building in June.

MR. SCHULMAN: I can shed some light, perhaps.

CHAIRPERSON REID: Into the mike. Please identify yourself.

MR. SCHULMAN: My name is Jim Schulman, I'm the Acting Chairman of the Zoning and Licensing Committee. You are correct, there was division in the ANC about this issue.

But with respect to the letter that our Chairman wrote, I must say, just to clarify, that there was a quorum at that meeting. However, many commissioners were unhappy with the characterization of the reasons the vote was negative in that letter, because it actually went beyond that issue of lack of information.

It was, without going into any great length, there were commissioners who were concerned about the change of use.

However, it is correct that we did attempt to have a quorum of the Zoning and Licensing Committee to revisit this issue. At the time that I took a telephone poll, because of lack of quorum, at the time where we were going to submit a report, we had a tie vote, a 4 to 4.

However, subsequent to that time, several of the individuals who did not vote at that time have come out in favor of granting the variance. And for what it is worth I can tell you the names of those individuals.

So even though I personally am in

opposition, I want to come here to accurately reflect that there was a majority of the commission that was in favor of granting --

MS. KING: Can you speak for the Zoning Comitee, of the Committee?

MR. SCHULMAN: I can only speak as Acting Chair of the Committee, the Zoning and Licensing Committee. But I'm also Vice-Chairman of the ANC as a whole, and it is a majority of both.

CHAIRPERSON REID: Did you say you are in opposition?

MR. SCHULMAN: I, personally, am in opposition, but I wanted to be fair to the project, so that people know that --

MS. KING: So what you are saying is that a majority of the commissioners now support the project?

MR. SCHULMAN: Right. Even not including Ms. Orndorff, in whose single member district this resides, even though she is -- she has resigned.

MS. KING: She supported?

MR. SCHULMAN: Correct, that is what I'm saying.

MR. FERRELL: There's a letter, on the record, from former Commissioner Susan Orndorff,

before she resigned.

MS. KING: Yes, we've got a copy.

MR. FERRELL: She wrote a letter. Some of what Mr. Schulman said was accurate, and some was not accurate. There was no telephone poll, as far as I'm concerned. The Z&L Committee initially heard from Mr. Schaeffer and Mr. McCarthy, with regards to the application.

At that particular time there was no action taken, none whatsoever. And it was supposed to be sent over to the full Commission, because there was division in our Commission, there was no real consensus as to what we support as a body, or reject it as a body.

Subsequent we had a tour of the building in June, several ANC commissioners were there. ANC commissioners that supported the BZA application decided to submit letters in support or in opposition to, in their individual capacity, because we were not able to deal with the issue as an ANC body.

MS. KING: Ms. Raglin, do you have anything?

MS. RAGLIN: Yes. I just wanted to add that the zoning and licensing --

CHAIRPERSON REID: Ms. Raglin, would you

give your name and your address?

MS. RAGLIN: I'm sorry. My name is Veronica Raglin, ANC 6814, I live at 4008 21st Street, N. E.

I just want to add that the Zoning and Licensing Committee did hear something from the project. It was also brought forth to the full Commission, and once the full Commission votes, it cannot go back to the Zoning and Licensing Committee as was stated.

Plus the Commission did not ask that the Zoning and Licensing Committee take it up for further information. It was directly from the Commission that we said we needed more information.

And based on that Mr. Schaeffer was able to set up a meeting in which the Commissioners came, other community members came, and there was a lot of input and information. There was also the question asked, at that meeting, and I'm talking about the June 15th tour of the building, what are other uses? And we asked people, tell us what you recommend.

Nothing has come forward, and therefore we -- those of us who feel that the project is good for H Street, feel that this is now the time to move so that we can get on.

MR. FERRELL: And also, I may also add

that last Tuesday we also met with the City Councilperson for Ward 6, Sharon Ambrose, and at that particular time it was myself, Commissioner Raglin, Commissioner Fields, Commissioner Pernell, representatives from Mr. Schaeffer, his attorney.

And we reiterated the fact that we wanted to have at least 70 percent employment for residents that live in that particular neighborhood. Mr. Schaeffer, Mr. McCarthy, and the attorney understand the importance of having residents in that neighborhood employed.

As the ANC we support the project. We are ready, and in my capacity as a job developer, working with the social service organization, and my brother is a director, executive director for the Coalition for the Homeless, the shelter resides in the rear of the building.

I can assure you that Mr. Schaeffer -- Mr. McCarthy will be entertaining applications from those who are most needy in terms of jobs for that particular project.

We also reiterated the importance of high density lights on the 7th street side, and in the rear of the alley. 7th street and H street corridor is ridden with drugs, and all kinds of quality of life issues.

They have consented to place high density lights around the building in order to illuminate that area at night.

Mr. Schaeffer has consented to have a meeting area that will be utilized by the ANC and also the Metropolitan Police Department, if they desire to have a substation there.

Mr. Hood raised the question about other civic associations or groups using that particular meeting area. I don't see a problem from the ANC sharing space. There may be some security issues there.

At the time when we were negotiating objectives from the community, there were no real concern raised about the meeting space besides the concern that Ms. Ambrose echoed, that a substation or the Metropolitan Police would have access to the meeting area.

MR. HOOD: Let me just take you back on what you said. I was under the assumption that it was going to be a community room, not the ANC office. So now what you are telling me, it is going to be the ANC office?

MR. FERRELL: No, sir, it is a community meeting area space for --

MR. HOOD: But you already have a

location for your ANC office?

MR. FERRELL: We have an office location, we are under a lease agreement, day by day for the ANC office at the Medlink Hospital. This area is more to be utilized as a meeting space for the ANC and the Metropolitan Police.

That is the original agreement, but of course there could be some modifications made to that.

MR. HOOD: Let me ask one other question. When Ms. Orndorff was the ANC Commissioner, at any time, did she ever have an SMD meeting? A single member district meeting?

MR. FERRELL: With regards to the project?

MR. HOOD: Yes, at any time, right.

MR. PERNELL: Did she have a what, now?

MR. FERRELL: Did she have a meeting, an SMD meeting regarding the Schaeffer's project?

MR. PERNELL: She met with the civic group with Ms. Laura Mary and myself.

MR. HOOD: And that was her SMD meeting?

MR. FERRELL: Right.

CHAIRPERSON REID: Okay.

MR. SCHULMAN: I can just speak to that. I don't know whether she held an SMD meeting or not, but she did tell me, over the telephone, that she

did make a survey of the area. Now, I don't know if that included residential, or it was just businesses that she spoke to. But she found overwhelming support for anything to happen at that facility, and that was one of the things I wanted to convey.

MR. HOOD: Thank you.

CHAIRPERSON REID: Okay. I think that at this juncture what we need, as a Board, is to get from you, before our meeting where we will actually make a decision on this particular application, that you have your meeting, and you all have a quorum, at which time you will submit a report that will advise us as to what your position is.

Because at this point, what we have is, several single member district representatives who are testifying, but we cannot give you great weight.

The great weight aspect comes from your submitting to us, as a body, what your position is. And it seems to me that that position has been evolving, and you have people who were not on board with you who later, after touring the facility, realized that perhaps this was the highest and best use, after all. And they then started to work with Mr. Schaeffer, and making concessions as far as what you wanted to see there, and also what you -- amenities you wanted to see have, that would be most

conducive to that particular neighborhood.

So your report, then, should stipulate what your stipulation is, one. And that there was a quorum, and that you will support the application with the conditions that you've laid forth here today, and have that submitted to us so that we will have it for our meeting.

MR. PERNELL: Madam Chair, what would happen, four out of 14 -- I'm sorry, 5 out of 15 ANC Commissioners have applied -- reapplied for ANC positions, registered for ANC positions, and they have turned them in, only 5 out of 14.

With the Congress cutting the budget for the ANCs, and it would be final as of September 22nd, if we don't put forth a report such as we ask, what would happen after that? I'm just a little bit --

MR. HOOD: This is pertaining exactly to what he said.

CHAIRPERSON REID: I'm going to give you an opportunity, just let me answer his question, first.

MR. HOOD: Okay.

CHAIRPERSON REID: At this point, the regulations, as they are written, the ones -- the regulation in which we have to abide by, or comply

with, stipulate that in order for you to be given great weight you have to have that quorum.

However, I understand that these regulations did not take into consideration that perhaps your budget might be cut, and it might cause, as a result of that, some difficulties.

So to answer your question, I'm really not sure how that would be handled. Maybe I will defer that. Mr. Hood, can you respond to it?

MR. HOOD: I think, at least when I've been on the other side, I think they usually, the Board usually gives commissioners, gives them great consideration, but not great weight. If we could just consider, and that way we don't have to prolong it.

And I'm not trying to -- being the rookie member I'm not trying to come down and have the know it all, but I do think that we need to have -- if we can give them consideration and move forward, as opposed -- like he said, for example, and this is happening throughout the whole city, not being able to get quorums, and necessarily people not wanting to participate in the ANC process.

CHAIRPERSON REID: Well, certainly Mr. Hood, whatever you have to proffer to this Board is taken, we appreciate, and is taken with great

significance.

MR. HOOD: Thank you.

CHAIRPERSON REID: Ms. Pruitt-Williams, can you weigh in on this?

MS. KING: Madam Chair?

CHAIRPERSON REID: Let her, and then --

MS. KING: Could I say something?

CHAIRPERSON REID: Yes, right after she --

MS. PRUITT-WILLIAMS: I would agree with Mr. Hood. I think you have -- if the Board feels they have enough information to make an informed decision, you have got a lot of information from the ANC, you just don't have an official letter from them with great weight.

However, you have gotten testimony from single member districts. If you feel you have enough information, I don't see why you can't go forward, if you would like, today, to make a bench decision, if you feel comfortable with that.

Or, you know, have the -- submit --

CHAIRPERSON REID: Well, we will see --

MS. PRUITT-WILLIAMS: Submit, right.

CHAIRPERSON REID: We will play it by ear, depending on how the rest of the testimony goes.

MS. KING: Ms. Pruitt and I, great minds think alike. I think that we should wait to determine what additional information we want or need, when we get to the end of the process this afternoon, and then determine whether we can go forward without an official great weight quorum, etcetera, of the ANC.

CHAIRPERSON REID: Okay, all right. Any other further comments? Ms. Raglin?

MS. RAGLIN: Yes. I would just like to start again. Veronica Raglin, ANC6814.

I would like to thank you for the opportunity to come before the BZA board to talk about the H street storage facility.

First and foremost, the facility was formerly a car dealership, and later used for cabs. This pre-existing use should be the basis for continuing the use of this facility for storage.

It has been the case of personal items, we now feel that this would be something that would be added and needed for the community.

Secondly, the storage facility will stimulate much needed business development of the H Street Corridor, unlike the other corridors in the 1968 riots, which have seen a revitalization.

Although there appears to be an

abundance of retail space in the corridor, merchants and tenants cannot afford to pay the exorbitant prices required, and therefore, business development has been stifled, and the H Street Corridor has not been revitalized as other parts of the city.

Third, this will provide a stable business, which will help to anchor other businesses to the H Street Corridor.

Fourth, the community has had an ample opportunity to ask questions and preview the building, and to make suggestions and recommendations or comments. There has been a traffic study, as previously stated, and extensive discussions on alternative businesses.

However, to date, we have not heard from these people who continue to say that there should be some other use.

I also concur with all of the previous comments of the attorney and my fellow commissioners in support of the project. You can see that we consider this a very important project, we've taken our time to come down and testify, we just didn't send a letter.

So we do feel that this is something that will benefit the total community.

In conclusion I urge the BZA to support

the variance, because we are tired of the blight that the vacant and abandoned buildings, and the unused rental space.

There must be some forward movement in the city. The broken buildings and the vacant buildings encourage vandalism, fire, crime, and environmental problems.

Let's move forward and make sure that we can provide the best possible situation for business development on the H Street Corridor, otherwise you are actually lowering the standard of living for city residents.

Thank you for your time, and I will be happy to answer any questions that you may have.

CHAIRPERSON REID: Thank you, Ms. Raglin. Do you have a copy of your testimony to submit to the Board?

MS. RAGLIN: Yes.

CHAIRPERSON REID: Please.

MR. SCHULMAN: Very briefly, I just want to --

CHAIRPERSON REID: Give your name again.

MR. SCHULMAN: Yes, James Schulman, 631 E Street N. E.

I just wanted to report that among both the supporters of this project, and the detractors,

they share concerns regarding the presence of the large trucks that has been spoken of today, for loading at the facility, and the need for the ground floor activity to be seen from the street.

A number of comments were made at our meetings in this issue, about how it would be useful for the office, or the place where they are going to buy and sell boxes to the public, be visible from the street, through some kind of window, just to add to the activity of H Street.

But, personally, I do not agree that a self storage is a highest and best use for a building of this prominence on revitalizing H street, and that is why I'm opposed to granting the variance.

CHAIRPERSON REID: I should just add, for the single member district representatives, any and all conditions that you would like to see be a part of any order that we come up --

MS. KING: Excuse me, could I deal with what this gentleman has just testified to, can I ask him the question before you finish with him?

CHAIRPERSON REID: Okay.

MS. KING: Have you participated in any -- you don't want a mini storage facility there. Have you participated in any effort, with the owner,

to find alternative tenants for that building that would be within the framework of the kind of business that you would like to see on H street?

MR. SCHULMAN: No, but I have maintained that a little bit of creativity on the potential owner's part in terms of multi uses for the building might be in order.

MS. KING: You don't accept their suggestion that the low ceilings and all of the girders that we have seen, and so forth, would make it impossible to install the kind of air conditioning and other things that you need, and still have a ceiling height that is acceptable for an office, or any other kind of undertaking like that?

MR. SCHULMAN: I'm a registered architect in the District of Columbia, and I have toured the facility, along with everybody else. And only on one of the floors does that even begin to present itself as a problem.

I think that has been overblown as an issue. I think that, again, with a little creativity, there is plenty of room for duct space. So that has been somewhat of a red herring.

MS. KING: And you feel that it is financially viable that their estimates of what kind

of rent they could receive in an area which -- I don't know if it was you, or one of your friends testified is a drug hangout, and so forth, to turn that into office space in that kind of a neighborhood would be viable, economically, for the kind of investment that needs to be made?

MR. SCHULMAN: I'm not calling for office space.

MS. KING: You are not calling for office space?

MR. SCHULMAN: No, I'm not calling for office space. I'm just saying that the argument given that it doesn't make sense for use as retail or commercial is a specious argument.

And I'm not an appraiser, I can't speak to -- I haven't done market studies, and no I haven't helped the owner determine alternative uses. But there is a, as some of our other commissioners have pointed out, there is a self storage facility not too far away, around the corner.

And I would really hate to see this become, H street become a warehouse district because of a little too great lenience with regard to zoning variances.

MR. PERNELL: Board members, Mr. Schulman was just -- admitted that he did not attend

any of the meetings that we had. As I said before, I've been on the H Street task force, and the H Street corridor for 11 years now, working with Ms. Lord-Mer, the civic group, the Reverend Bowman, the Public Interest Civic Association, and Mrs. Eichman, with the Stanton Park Civic Association. I think some members came from Kingman's Civic Association.

The idea of this becoming a warehouse district, we looked at that, and we saw this to be special and different. That we need something on that H Street corridor, we need something to show the rest of the community it can be upscaled, and it can look like it is being revitalized.

And that is what we look forward to. We had no intention of making H street a warehouse district. That was our first concern, and our position at first. But we changed our minds because we want this building to go forward, to spruce up the avenue.

And that is what I wanted to make clear for the Board.

CHAIRPERSON REID: Thank you.

MR. PERNELL: Is that I have been working a long time, and I understand. But it seems like every time we get something going, someone comes from another area and wants to be opposition

against it. And that is the thing that hold us up.

CHAIRPERSON REID: What we don't want is -- you all have made it very clear what your position is, and the basis of your position, and that is well taken, I think we all have that.

We don't want this to be a forum for you all to debate your issues, because that is what was supposed to have been done at the meeting that didn't occur.

So having said that, my other point was simply that any conditions that you would want to have put into any order that comes from this Board, you should make sure that you get that up to us, particularly some of the items that you raised today, I have not heard before, or seen in any of the materials that were submitted.

And to simply say that you were promised this or promised that, that has to be reduced to writing so that --

MR. PERNELL: Madam Chair?

CHAIRPERSON REID: Sure?

MR. PERNELL: There were several letters submitted by several agencies --

CHAIRPERSON REID: We have them.

MR. PERNELL: -- and everything that I testified to is included.

CHAIRPERSON REID: I don't think I heard any, I saw -- and you can correct me if I'm wrong, the issue regarding the lighting in the rear?

MR. PERNELL: That was after we submitted our letters.

CHAIRPERSON REID: That is what I'm saying, the whole point I'm making is that there are some issues that you raised that we haven't seen yet, we don't have it.

MR. PERNELL: Well, could you give me a time frame with regards to the submission of --

MS. KING: Well, let's start right now.

MS. PRUITT-WILLIAMS: That will all happen at the end. The Board has to, one, determine whether or not they are going to approve it. If they do approve it, that would go into the conditions, and we are not at that part in the process, yet.

You will be notified as to when you can submit additional information at the end of the Hearing here.

MS. KING: I'm sorry, but if we decide to make a bench decision today, it will be too late. Let's go over. You say the facade is renovated, that that is the agreement?

MR. PERNELL: Yes.

MS. KING: 70 percent of the employees hired are from the surrounding community, the community room for the ANC is provided within a reasonable time after construction has been completed, and you want to add to that your request that there be --

MS. PRUITT-WILLIAMS: Let's do that at the --

MS. KING: -- security lighting on the outside?

CHAIRPERSON REID: Excuse me one second. Let's do that at the end.

MS. KING: But these people will not be on at the end. The last thing at the end is the closing statement by the Applicant, is that not correct?

CHAIRPERSON REID: I see, you just want to get --

MS. KING: I want to know what they want.

CHAIRPERSON REID: -- when we get to the end --

MS. KING: Not in writing, I just want them to tell me.

MR. FERRELL: Madam Chair, for the record, the additional items we would like to see in

the agreement, if the BZA elects to support the application, as stated would be high density lights around the buildings, in particular on the 7th street side, and the rear of the building, because it is a high drug area.

We would also like to see, if feasible, a community police station.

MS. KING: Well, that is something that we can't mandate. They've indicated, as part of their testimony, that they would be willing to do that, it is up to the Metropolitan Police Department. Anybody who has a mini storage in a transitional neighborhood would be delighted to supply space to a police department.

So I don't think that that is a problem, but the lighting is something that wasn't on your original --

MR. FERRELL: Also, we did not request for any additional curb cuts. That came at the meeting with Sharon Ambrose, but we agree that there should be no additional curb cuts, as ANC, my single member district, we agree with that, also.

And also our highest priority is to make sure that Mr. McCarthy and his business hire at least 70 percent of the residents in the particular area, that is high on our priorities.

CHAIRPERSON REID: And the other thing was the community room?

MS. KING: Yes, that is right.

MR. FERRELL: And the community room.

MS. KING: And the facade renovation.

MS. ROSE: Madam chair?

MR. PERNELL: May I -- civic groups and any other groups in the area that would like to use it as a meeting place.

MS. KING: Well, what the owners have said is that they will make it available to the ANC and to the Neighborhood Watch?

MR. PERNELL: Yes.

MR. FERRELL: Yes.

MS. PRUITT-WILLIAMS: Madam Chair, staff would just like to -- while the hiring of 70 percent of neighborhood is a very good idea, you may think that it is a very good idea, there is no way that this Board can enforce that, if you make it a condition. I just wanted to let you know.

MS. KING: But in the order we can make sure that it is said, that the --

MS. PRUITT-WILLIAMS: Correct, but it can, as a condition it would --

MS. KING: -- the owners have undertaken to do that.

CHAIRPERSON REID: But what you can do is to enter into an agreement with the owners, yourself, regarding some of the things that we cannot -- we don't have the power to enforce.

MS. RAGLIN: Okay. One last comment. I would just like the Board to consider, if at all, a temporary variance that could be granted for a couple of years in order to asses the viability of a storage facility.

CHAIRPERSON REID: We can put a time limit.

MS. KING: Not on a variance.

CHAIRPERSON REID: Not on a variance?

MS. KING: Not on a variance. A variance goes to the land.

MR. FERRELL: Let me also just --

CHAIRPERSON REID: I'm sorry, I was confusing it with a special exception. We can't because the variance, once it is -- the site receives a variance it goes with the land.

MR. FERRELL: Let me also state, for the record, that Mr. Schulman had indicated he did not want to see H street turned into a warehouse district.

The building at question today is perhaps the largest edifice that is vacant on H

Street. And there is no real possibility that H Street could be turned into a warehouse district, because the vacant facilities that are there now, are basically storefronts, or small vacant lots.

I'm a native Washingtonian, I lived through the 1968 riots, and I saw H street devastated. When I was a child I used to walk H Street, and I used to buy my school clothes there. And 30 years has passed since the 1968 riots, and we still have those devastated sites along the H Street corridor.

And if we continue to procrastinate, as ANC representatives and elected officials, then those corridors will remain blighted forever, if we start talking about issues that are really not germane to economic development, and real job opportunities for people in our community.

So I just hope and pray that the BZA will help the H Street corridor by stimulating some economic development by supporting this BZA application.

CHAIRPERSON REID: Thank you very much for your testimony. Stay right there and let me see if there is any cross examination by the Applicant.

MR. AGUGLIA: No, there is not. If it will assist the Board now or later, I have a

proposed order that incorporates each and every one of the conditions.

CHAIRPERSON REID: At the end the Applicant will have closing remarks.

Okay, thank you very much for your testimony.

CHAIRPERSON REID: Persons and parties in support of the application please come forward.

MR. JONES: Good afternoon.

CHAIRPERSON REID: Good afternoon.

MR. JONES: My name is Louis B. Jones II, 3609 Golden Hill Drive, Mitchelville, Maryland, 20721. I'm the Pastor of the Pilgrim Baptist Church at 700 I Street, N.E.

In August of 1997 we purchased five commercial buildings adjacent to this Liberty Cab, or this variance project that we are talking about today.

We are in the process of revitalizing and restructing the facade on those properties. We had a meeting with Mr. Schaeffer and his group, perspective buyers, and they shared with us their -- the storage possibility, and we were concerned about that building as well. It has been sitting there, again, for 12 years. It is certainly an eyesore to those who drive down the H Street corridor.

And after talking with Mr. Schaeffer, Mr. McCarthy, and his group, they assured us that our main concern is the revitalization of the facade of that building. And what we will have on H Street, on one end, on 6th and H Street, you have Murray's, and then we are on 7th And H.

We are in the process, our construction, to start the end of September, the 1st of October, and then their project in the middle. We will have one complete block completely revitalized on H Street.

And there is a thrust that is going forth to take H Street, or to bring H Street back to a level of respectability from the '68 riots and all that took place.

And I'm here in favor of the variance for this indoor storage property.

CHAIRPERSON REID: Thank you. Any comments or questions?

(No response.)

MS. KING: Thank you.

CHAIRPERSON REID: Now, persons or parties in opposition to this application please come forward.

MR. SALIM: Good afternoon. My name is Anwar Salim, the Chairperson of H Street Merchant's

Association, and I own a business on H Street, at 1017 H Street N.E.

MS. KING: Is that your home address, Mr. Salim?

MR. SALIM: My home address is 1810 9th Street, N.W.

On Thursday, August the 27th, the Merchant's Association met at 6:30, and we had approximately 20 members there, at that meeting. And at that meeting the merchants voted against the variance to have a public storage place on H Street.

We thought that placing a public storage on a corridor that is being given quite a bit of attention now will basically more likely hurt the corridor than to help it at this time.

Years ago we probably would have said yes, but now that a lot of attention is being placed on H Street, we are saying no.

It is just like fixing a facade and 70 percent of jobs, which we probably will get about 5 jobs, and employ about three people from the neighborhood, it is just like putting a Rolls Royce in front of the building and keeping the keys in your pocket; it would look good, you can move around in it, but you can't do anything with it, basically.

We want the neighborhood to grow, we

want it to be revitalized. We want a business there that would help bring people into the community, instead of killing a block that is already there. We want to revitalize the block, we want to revitalize all of H Street.

And in order for us to do that we have to have dialogue with the owner of the building. I was invited only to two meetings, one with ANC meeting, which they voted at the time opposition against it because they needed more information. And one was to do a view of the building, which was a few months ago.

We feel that more can be done with the building. It is a nice building, the building is in pretty good shape. It is not in disrepair, and I think the building has probably one of the greatest potentials on H Street. It is the largest building on H Street, it can serve as an anchor to help feed into more of the businesses.

We need more, basically, good traffic on H Street, instead of a one time traffic. We need more than buildings that just look good, we want buildings that will help, again, bring business to H Street.

CHAIRPERSON REID: Okay. Any comments or questions? Ms. King?

MS. KING: Yes. I'm going to ask you the question I've asked all the other people. This building has been vacant for almost 12 years. During that time have you worked, at all, with Mr. Schaeffer, the owner, to try and identify some viable use that will make it possible for him to sell or rent the building?

MR. SALIM: I did, but at this time I think I mentioned it to him, I think it was in the rooftop of the building, but he mentioned that he had a contract, and that when you have a contract on a building you can't go any further as long as that contract is on the table.

I also have tried to contact and have talked to a few people in reference to a few agents that may be interested in the corridor to come look at the building, but it can't be done until the contract is basically off the table.

Maybe it can be revisited another day. But I think that if we put a lot of energy, and a lot of attention on this building, that we can put something positive right at that building. This building is only a few blocks from the back of Union Station.

And we also know that the city Government, and a few other people, are looking at

the 300 block of H Street to build an H Street gateway to help poor businesses on H Street.

There are a lot of plans for H Street. But in order for us to make it right, in order for us to look years down the future, in order for us to go into the year 2,000, we have to put businesses there that will last for years to come, and give us room to grow.

And I don't think a public storage will give us that opportunity.

MS. KING: Well, Mr. Salim, you and I have been around long enough to know that there have been lots of plans for H Street; they come and go. There is no question that progress has been made over the years, but there is still a long way to go.

And, you know, one of the tests for Mr. Schaeffer is the practical difficulty. And having a building empty, not bringing in sufficient revenue to pay the property for 11 plus years is a real practical difficulty, and we have to be compassionate and take that into account.

MR. SALIM: I know something about it. I also own a few buildings on H Street and I have one that I've been trying to rent out, also. And I've had people to come to me with the wrong use, with use that I didn't think it would help H Street

to grow.

So, therefore, I had to eat taxes, also. As a business investor, as a business owner, I have to eat that. And I could have put a few businesses on H Street that would fill my pocket, but that burden that I had, I had to make that painful choice, do I need businesses to come here that would give the other businesses a chance to grow, and my additional business a chance to grow, or should I go ahead and go for the money? It is a choice I had to make, and I chose not to accept those tenants, and my building is still vacant, being used basically as a warehouse.

And so I understand, that is why personally I will come on board, and I will try to bring people together to help work with Mr. Schaeffer. That is if he wants that help.

I think that, again, and I don't think that I can overemphasize it enough, that I really feel that the building could be of better use than a public storage.

I mean, we can imagine the 700 block of H Street, which is a historic district area, and what if they was to take that building, because those buildings have been vacant for years, and put a public storage right there? How would the

community feel about that?

CHAIRPERSON REID: You said that you were talking to some type of sports -- what kind of sports owners?

MR. SALIM: I was talking to an agent of Mr. Johnson, and we know he want to put some businesses here on H Street. And he had also had some -- he had some interest in the Washington, D.C. area.

CHAIRPERSON REID: Who?

MR. SALIM: Magic Johnson. And one of my clients that comes to my shops, one of my clients, as a matter of fact, wrote a letter to him, and we are waiting for a response for him to come down. Another basketball player that was interested, but he is no longer in the area.

CHAIRPERSON REID: Okay. You have some possibilities, speculatively, that perhaps there may be some sports figures who may be interested in that building, maybe?

MR. SALIM: Maybe, I agree.

CHAIRPERSON REID: On the other hand you have someone who is interested, and who will do something with a building that has been sitting there for 12 years, it is contributing to the blight and decay of that particular corridor.

My question then becomes what -- were you doing anything in the last 10 or 12 years?

MR. SALIM: Well, basically I didn't know it was up for sale.

CHAIRPERSON REID: But there has been signs on the building? I asked, specifically, whether or not it was with a broker, and whether or not there were signs posted.

Now, if you have been over there for all this amount of time, then it would appear to me that you would have seen the signs, and if you had some suggestions, then to come forward with suggestions before such time that it had gotten to a point where there is finally someone who wants to do something to try to eliminate the blight for the business, and perhaps it is not the ideal business, it is not going to be what you ideally would like to see. Nonetheless it certainly is better than what is there right now.

It does not, in my opinion, contribute negatively to the welfare of that particular corridor. So those are things that I think, you know, you should look at.

Would you rather for them to just stand by at this time and say, let's not do anything, and let's just wait to see if one of these basketball,

or one of these athletes come forward?

Because that may or may not happen. In the meantime there is no one else coming forth to do anything with it, and it is just sitting there contributing to the blight, and that will deter other investors who might be interested to coming to H Street, from coming over there, because of so much blight. So it is six on the one hand, and half a dozen on the other.

MR. SALIM: I can go further. I've been working pretty closely with the CDC, H Street CDC, and it was my understanding that they wanted to use -- there was some interest in using the building for office space, and there were some tenants that were interested in using it.

But, again, as long as there was an offer on the table it couldn't be discussed again. I didn't realize, basically, that it had gone this far until I saw a notice, a BZA notice on the building. I didn't know that Mr. Schaeffer wanted to sell the building, I didn't know if he was just holding the building for a better date, I didn't know what was going on, basically.

So I did know that the CDC had mentioned, on a few occasions, to me that the director of CDC did mention, and the president of

the H Street Investment Corporation did mention that they had some interest in the building.

But I was hoping that the interest they had shared with me was fruitful, and I think it would be more fruitful than a public storage.

So, again, I'm just expressing the views of the H Street merchants, the meeting that we had on the 27th.

CHAIRPERSON REID: But you would agree that interest by the CDC, which I'm familiar with CDC, would have been best proven or manifested by a contract on that property. They've certainly have had ample opportunity to do that over the years, and that just did not happen, for whatever reason.

So, you know, you have to look at the full picture. Any other questions?

MS. KING: No other questions. Thank you very much. It was nice to see you, Mr. Salim. It has been a long time.

CHAIRPERSON REID: All right. Closing remarks? I'm sorry, did you want to cross examine this witness? I'm sorry, I didn't give you -- come forward. Now we have your closing remarks.

MR. AGUGLIA: Yes, I will try to keep them to about a minute.

CHAIRPERSON REID: Okay.

MR. AGUGLIA: All right. I believe that our testimony has met the test. We have met our burden of proof, we've shown that the property has extraordinary, or exceptional situations or conditions. It is a shell, it has virtually no utilities, it has a low ceiling, which could make renovation to an acceptable zoning as a matter of right, impractical and impossible.

Mr. Schaeffer has shown undue hardship. He has been unable to sell it, he has had a substantial deficit for many, many years, and he has tried to sell the property for many, many years without success.

We've also shown not only that there is no harm to the public, but in fact there is going to be a benefit to the public. That this will allow a jump start for the neighborhood in the right direction, as Reverend Jones testified, it will give them a critical mass between 6th Street and 7th Street.

Ladies and gentlemen of the Board, you have to walk before you can run. This will give them an opportunity to get something going in the right direction, as Mr. McCarthy testified, in five or six years, ten years, if things are really rolling and a Hecht's wants to move in, or a Home

Depot, this will be the balance of the basis which will move it forward.

They are not going to move in to that particular situation right now, given the neighborhood condition, and the condition of the building.

With all due respect to Ms. Ambrose, her letter was premised upon the fact that Near Northeast Against Drugs had voted against it, in fact they changed their vote and sent something to the record to the fact that they had changed their mind in favor of it.

In deference to Mr. Schulman, I must applaud him, even though he was an opponent, he made it clear that as a result of a poll of various members, because of the inability to get a quorum, and I will say that we tried to meet with the ANC twice after our Hearing was continued, to try and answer all their questions, that we were unable to meet with them for lack of a quorum, so we met with them individually; that he testified that poll indicated that a majority of the committee members on the Zoning Committee, and a majority of the members of the Commission, themselves, were in favor of the project.

So based upon that I don't feel there is

any necessity to have the -- to go back and perhaps fruitlessly get the Commission to meet without a quorum.

That is why I think there is enough evidence on the record for the Commission. And even by an opponent of the project, that a majority of the members of the Committee, as well as the Commission were in favor of it, and you have a statement from them, single member district Orndorff that she was in favor.

So for those reasons I would ask that you approve the use variance. What I have is a proposed order, and the order -- the order depicts as conditions to the use variance --

MS. KING: You are too far away from the mike. If you need to stand up, then you can use this mike, and you can hold that.

MR. AGUGLIA: The order puts in as condition to approval that each and every condition that was mentioned today is met.

Let me pass this up so we can go through it quickly. May I have one copy to pass back to the ANC members?

MS. KING: Yes, here, you can have mine. We will share one, if you don't mind, Ms. Reid?

MS. PRUITT-WILLIAMS: Madam Chair?

CHAIRPERSON REID: Yes?

MS. PRUITT-WILLIAMS: Typically you don't condition a use variance. It is the use that they are requesting a variance for. This can be part of the order, but as a condition, we typically have not -- the Board has typically not conditioned a use.

A variance from a use is what is being requested, so you don't usually condition that use. Because these all go to the physicality of the building, and things of that nature. So you can put them in the order and --

CHAIRPERSON REID: Well, we will just put them in the order --

MS. PRUITT-WILLIAMS: -- I just wanted to give you that as a point of clarification.

CHAIRPERSON REID: -- incorporated.

MS. PRUITT-WILLIAMS: It can be incorporated in the order.

MR. AGUGLIA: I'm just trying to satisfy the Board that the conditions that the community wanted have been met.

MS. PRUITT-WILLIAMS: I believe you will be able to sort of make both parties happy that way.

CHAIRPERSON REID: -- the enforceability aspect of it.

MR. AGUGLIA: Yes.

CHAIRPERSON REID: But that can be accomplished through an agreement with the entities that are proffering these conditions.

MR. AGUGLIA: All right. But you will see, starting with number 2, number 1 being pro forma; number 2, the facade is renovated; number 3, 70 percent of the employees that would be hired for the storage facility from the --

MS. KING: Wait, wait, wait. You are getting a use variance?

MR. AGUGLIA: Yes.

MS. KING: Is it time sensitive? I mean, do we set a time limit on it?

MR. AGUGLIA: No.

MS. PRUITT-WILLIAMS: No, that is the other thing, that once it is done it runs with the land.

MS. KING: It runs with the land. So one is out.

MR. AGUGLIA: Okay.

MS. KING: You will be happy to hear.

MR. AGUGLIA: Yes.

MS. PRUITT-WILLIAMS: That is why it is difficult to condition.

MS. KING: I understand, because once

you've given permission it is done, 150 years down the road is it still -- well, we won't think about that, none of us are going to be here. Certainly not the members of the BZA.

MR. AGUGLIA: Whatever the Board feels is appropriate so that the needs of the community are met, within the parameters that we've listed, which I believe are in agreement with the community, we would be happy to provide.

MS. KING: In order to be tidy why don't you have an agreement with the ANC and the Neighborhood Watch, and I will put it in this legal document, is that --

CHAIRPERSON REID: No, she said, Ms. Pruitt said that it could be --

MS. KING: It can be in.

CHAIRPERSON REID: -- in the order, but just not a condition.

MS. KING: Okay.

CHAIRPERSON REID: It is not a condition, correct?

MS. KING: Right.

CHAIRPERSON REID: We can do it like that. MS. KING: That there is an agreement between the parties that this shall take place, but not to say that it is a condition. I get

you. Sorry, I was just being a little dull. I understand. Thank you.

MR. AGUGLIA: Thank you.

MS. KING: Shall we give a bench decision?

CHAIRPERSON REID: I have no problem with that. Are you requesting a bench decision?

MR. AGUGLIA: Yes.

MS. KING: He doesn't have to request it, we can do it.

CHAIRPERSON REID: Are you able to dispose of this case today?

MR. HOOD: I am, Madam Chair.

MS. KING: I am too.

CHAIRPERSON REID: All right.

MS. KING: I think that the burden of proof has been amply met by the Applicant. Certainly there are unique circumstances that have been of great detriment to Mr. Schaeffer in terms of not having been able to dispose of this property for 11 years.

I think -- I am sympathetic to the point of view put forward by Mr. Salim and Ms. Ambrose, and others, that it would be nice to have a very upscale office here, and I suspect that in the long run, if that part of the neighborhood does come

back, partly as a result of the work that the church and Mr. McCarthy are going to do to restore that part of H Street, that eventually it will become uneconomical to have mini storage there, because it may become a very up-market neighborhood as a result of its proximity to Union Station, and any development that may take place there.

But I think in the meantime that this is a bona fide use; the case has been well made that it is not a violation of the zoning, it will not cause -- in fact, it will have some benefits for the community, in the long run. Many benefits, perhaps. And certainly the burden of proof has been made on unique circumstances and a hardship.

And, therefore, I move that we grant this application without conditions, but making note of those items that have been agreed upon between the -- Mr. McCarthy on behalf of the storage company, and the individuals we spoke to, today, on behalf of the Advisory Neighborhood Commission.

MR. HOOD: I'll second the motion.

CHAIRPERSON REID: And I would add to that that in accordance to adverse impact, it appears that there will not be any adverse impact and it will not impair the integrity of the zoning regulations for the map.

All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No response.)

MS. ROSE: Is this the issuance of a summary order?

CHAIRPERSON REID: Yes.

MS. KING: Yes.

MS. ROSE: We do have a party in opposition.

MS. KING: No, I don't think we've got Karen Witt, who is unable to be here, and Karen Ambrose as having submitted testimony in writing.

MS. ROSE: But they did not request, nor were they granted party status.

MS. KING: Oh, I see, okay. So we can do a summary order?

MS. ROSE: Yes.

MS. KING: I beg your pardon.

CHAIRPERSON REID: Ms. Pruitt-Williams is thinking of something.

MS. PRUITT-WILLIAMS: I would suggest that because there was some opposition that we do a fall order. I mean, I think we can get this out in time.

MS. KING: I'd be more comfortable with

that, too, I think.

MS. PRUITT-WILLIAMS: We will just use due diligence to get it out to you in a very quick time.

CHAIRPERSON REID: Okay, then we --

MS. KING: We have a draft from Mr. Aguglia.

MS. PRUITT-WILLIAMS: We have most of the information here, anyway. I don't anticipate it being a big issue.

CHAIRPERSON REID: Mr. Aguglia, would you then submit with your proposed order the additional information that we need as far as findings of fact and --

MS. PRUITT-WILLIAMS: We can --

CHAIRPERSON REID: -- and submit it to us with a --

MS. PRUITT-WILLIAMS: Yes, we can close the -- I would suggest that the Board close the record and then staff can talk to Mr. Aguglia about getting a disk and things of that nature.

CHAIRPERSON REID: All right, thank you. We are going to adjourn for 10 minutes, and we will reconvene.

(Whereupon, the above-entitled matter went off the record at 3:03 p.m. and

went back on the record at 3:13 p.m.)

CHAIRPERSON REID: We will now resume the afternoon session.

MS. ROSE: The next application is 16360, application of Lawrence A. Laurenzi, pursuant to 11 DCMR 3107.2 for a variance from the allowable lot occupancy to allow an addition to a structure that exceeds the allowable percentage of lot occupancy, section 2001.3(z); a variance from the allowable percentage of lot occupancy for a building that exceeds the allowable floor area ratio limitation, section 403.2, a variance to allow an addition to a gross floor area to a building that currently exceeds the allowable floor area ratio, section 2001.3(c); a variance from the rear yard requirements for a building under section 404.1; and a variance from the required width and area of a closed court, section 406.1; for a building to allow the construction of a deck and bay window in the R-5-B district at premises 1719 Willard Street N.W., (Square 151, lot 158).

Would all persons planning to testify in this application please rise to take the oath?

(WHEREUPON, THE WITNESSES WERE SWORN.)

MR. LAURENZI: My name is Laurence Laurenzi, and I reside at 1719 Willard Street, NW,

Washington.

I have been directed by the Board to -- the Board has required me to satisfy the burden of proving elements which are necessary to establish the case for the --

CHAIRPERSON REID: Would you please speak up? Amplify your voice, because they won't be able to hear you in the back, and we can barely hear you here.

MR. LAURENZI: I'm sorry. I am seeking a variance to allow an addition to a structure that currently exceeds the allowable percentage of occupancy, to permit the use of a deck and a bay window addition in the rear of the building.

I'm applying for the variances because my building was, when I moved in 12 years ago, it was missing a certain part of the floor area that is in the back two story section, so I'm not really getting the full effect of the gross floor area that I can get.

What I want to do is to add the small bay window are onto the back of the building, on top of a deck, to create more space in that area.

I -- my work study, I'm very confined in a section back there, it is hard for me to move around in. If I get the variance to add five feet

back onto the building, this bay area, that is going to move the deck space back, so I need to go for a closed court to be able to get the turning radius for my cars to go underneath of this deck.

If you will look at the pictures and the drawings, I think you will see.

MS. KING: Now, there is a uniqueness to your house in that it has an interior court, is that correct?

MR. LAURENZI: Interior court being open.

MS. KING: You've got an interior court at your house, that is unique on your block, is it?

MR. LAURENZI: Yes, it is atypical.

CHAIRPERSON REID: Okay, continue.

MS. KING: I think he thinks that is it.

CHAIRPERSON REID: Are you done?

MS. KING: Let's go over the standards for the variance that he needs.

CHAIRPERSON REID: Well, let me first say that we read your submission, which was very interesting, and it was very exhaustive regarding the history of the house, and the siting of it, as well as the architecture of the property, and the fact that you have a unique situation with the court. Is this something like an atrium?

MR. LAURENZI: Well, yes, ma'am. It is open -- what happened was they took the section of floor out to bring in more light from the skylights.

CHAIRPERSON REID: That was the previous owners who did that?

MR. LAURENZI: Yes, yes.

CHAIRPERSON REID: And go ahead Ms. King.

MR. LAURENZI: Actually there were two buildings done, right next to each other, right there. The folks next door had twins, and they just went ahead and covered it.

CHAIRPERSON REID: You are familiar with the fact that in order to receive your variance, that you must meet your burden of proof, which is a three-prong test?

MR. LAURENZI: Yes.

CHAIRPERSON REID: Okay. And Ms. King will kind of walk you through that.

MS. KING: Right, I'm going to. You are going to give me your cheat sheets.

The unique or unusual situation that is inherent in your piece of property is that you have that central courtyard in -- sort of plunked down in the middle of what is a substandard rather small -- is your house attached, or detached?

MR. LAURENZI: It is attached.

MS. KING: It is attached on both sides, and in the middle of it you've got sort of a doughnut hole, right?

MR. LAURENZI: The back section is not attached on both sides, it is a three story building in front, it is a two story building in the rear, and that two story part is the section where there is the kitchen below, and there is just like a walkway on top. I had my desk and computer back there, and there is really no space.

So what I would really like to do is to open that space up with this bay window. It would bring a lot more light.

MS. KING: I understand. Now, the next -- the practical difficulty aspect seems to be well covered, or the uniqueness, I beg your pardon.

CHAIRPERSON REID: But the uniqueness that brings about a practical difficulty.

MS. KING: -- about a practical difficulty.

The next test is undue hardship or practical difficulty caused -- that makes it difficult to comply with what is permitted in that area.

MR. LAURENZI: Yes.

MS. KING: And again?

MR. LAURENZI: The buildings are already over lot occupancy, and if I were to add anywhere, I would have to go for a variance of some type.

MS. KING: And the next test you have to meet is that will there be any substantial detriment to the public good, any adverse impact? Your neighbors have weighed in with the -- with testimony in favor of your proposal. In fact, they all seem rather enthusiastic about it.

MR. LAURENZI: Yes, ma'am.

MS. KING: As is the Historic Preservation Review Board, since you live in an area that is covered by them.

And then finally, the final test is, will it substantially impair the purpose and integrity of zoning regulations in the map. And it doesn't appear to me that it would. That whole area is a patchwork of substandard lots.

So I think that, you know, it simply -- it is an old part of the city, it is simply a matter of accepting the inevitable.

CHAIRPERSON REID: Also, let me ask you, have you had any complaints, or any concerns from anyone that abuts your property in regard to your application after you post it, and notified them

that you were going to be going after these variances?

MR. LAURENZI: I've had no complaints, and I've talked with my neighbors in that area, and they are very much in favor of this deck because of the lighting that it is going to create in the alleyway. It is going to get the general sense of use.

It is an alleyway where many people speed through, and it is pretty unsafe back there. And there is a lot of robberies, and actually gunshots in the area, and I think this is going to create a sense of use.

MS. KING: You received letters from your abutting neighbors in support of your project?

MR. LAURENZI: Yes, ma'am.

MS. KING: And from the people who face you across the alley, behind?

MR. LAURENZI: Yes, ma'am.

CHAIRPERSON REID: And I think he has a couple of petitions, as well.

MS. KING: What I was particularly concerned about were the people who would be directly impacted, in other words, the abutting neighbors and the people, you know, for whom -- you know, who would be expected to complain bitterly if

you were going to obstruct their view, or do something that was detrimental.

And I think he has received letters of support from all of the people who are directly impacted by what he proposes to do.

CHAIRPERSON REID: So you are testifying that to your knowledge there is no negative adverse impact in regard to traffic, parking, lighting, noise, or any type of annoyance, or anything that would cause any neighbor any type of inconvenience?

MR. LAURENZI: I'm testifying to that statement, yes.

CHAIRPERSON REID: Okay. Mr. Hood?

MR. HOOD: No, I have no questions, no comments. I think everything is in order.

CHAIRPERSON REID: The ANC has not submitted anything. Have you talked to your ANC?

MR. LAURENZI: I called the ANC twice to report that I was going to have a Hearing, but --

CHAIRPERSON REID: They did not submit anything on your particular case.

MR. LAURENZI: No, ma'am.

CHAIRPERSON REID: And in regard to the government reports, Ms. King mentioned that we did receive a letter of support from the Historic Preservation Review Board on your behalf, so we do

have that.

Persons and parties -- just stay right there. Persons and parties who are in opposition of this application?

(No response.)

CHAIRPERSON REID: Persons and parties in support of the application?

(No response.)

CHAIRPERSON REID: Okay. Closing remarks?

MR. LAURENZI: In conclusion, if granted this addition, I will only enhance the alley between Willard Street and Near Street, and not cause detriment to any -- or detriment to public good, and will not substantially impair the intent, purpose, or integrity of the zoning regulations or maps.

CHAIRPERSON REID: And would you like us to give you a decision today?

MR. LAURENZI: I'm sorry?

CHAIRPERSON REID: Are you requesting that you receive a decision today?

MR. LAURENZI: I would like a decision, if possible.

CHAIRPERSON REID: Board members, I would recommend that we -- I move approval of this application. I think that the Applicant has

demonstrated that he has met his burden of proof, that his property is unique, for the reasons that have been proffered here today, and that it doesn't pose a practical difficulty on him, that there is no adverse impact as is evidenced by the lack of any opposition here today, or letters of opposition.

There is very strong support for the application from the community and the neighbors. There is no report from the ANC, so they -- we would assume that they must not be in opposition to -- they certainly would be here if there were, and that it does not impair the intent and integrity of the zoning map or the zoning regulations.

Second?

MS. KING: I second.

CHAIRPERSON REID: All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No response.)

MS. KING: Summary order?

CHAIRPERSON REID: Summary order, which means that you will get your order in approximately two weeks.

MR. LAURENZI: Okay.

CHAIRPERSON REID: Do you have any other questions?

MR. LAURENZI: No, I would just like to say thank you very much for allowing me to have this deck space.

CHAIRPERSON REID: You are quite welcome.

MR. LAURENZI: I know how very hard it is to get. Thank you.

CHAIRPERSON REID: Thank you.

MS. ROSE: The staff will record the vote as 3 to 0 with Ms. Reid, Ms. King, and Mr. Hood to grant the application and the issuance of a summary order.

MR. LAURENZI: Thank you.

MS. ROSE: The next application is 16361 of The Fishing School, pursuant to 11 DCMR 3107.2 for a variance from Subsection 334.3 to allow structural changes to a Temporary Community Service Center, a variance from the minimum lot area and width requirements of (Subsection 401.3), a variance from the allowable percentage of lot occupancy (Subsection 403.2) for a structure, and a special exception under the provision of Subsection 334.1, to continue a Temporary Community service Center and to expand to an adjacent building in an R-4 District at premise 1238-40, Wylie Street N.E. (Square 1003, lot 73 (Site per subdivision))

Would all persons planning to testify in this application please rise to take the oath?

(WHEREUPON, THE WITNESSES WERE SWORN.)

MS. PRUITT-WILLIAMS: Madam Chair?

CHAIRPERSON REID: Yes?

MS. PRUITT-WILLIAMS: Before we start there is a couple of things we would like to clear up.

The Applicant has requested a reduction in fee, and it is before the Board to determine -- it should be in your file, when they submitted they requested that the Board consider reducing the fee, and I suggest you take that up now, prior to starting the case, and then afterwards, of course, as you also determine party status for this case.

MR. HOOD: I think I'm going to reserve my comments.

CHAIRPERSON REID: Ms. King?

MS. KING: Although I'm sympathetic, everything that I have read about this program makes me feel that it is something that is very admirable and of great value to the community.

However, the fees for zoning relief are set based on our costs, and more than half of the budget to run this office is predicated on our collecting those fees.

I would not, at this point, move to reduce them. I don't think that we are in any position to be able to do that, at this time, much to my regret.

I mean, I would like to waive our fees for all good works, but I'm afraid that it is simply not -- it would not be fiscally responsibility for us to do it at this time.

CHAIRPERSON REID: Mr. Hood?

MR. HOOD: Well, as much as I hate to, too, I'm going to have to agree with Ms. King. As far as us not being able to, at this time, to be able to do that, I guess we are going to have to stick to the fee that is set.

CHAIRPERSON REID: Shall we vote, or do we do that by consensus?

MS. PRUITT-WILLIAMS: You can do that by consensus.

CHAIRPERSON REID: All right. I would go along with my colleagues. I feel that the program that the application is concerned with is a highly laudable program, but I cannot at this time justify a basis for a reduction of fees.

So by consensus I think we all agree that we deny that request.

Before we get started, may I see a show

of hands for those person who are in support of this application?

Is there anyone here who is in opposition to the application?

MS. PRUITT-WILLIAMS: Madam Chair, you may -- you might want to poll the people to find out if those who are in opposition or for the project have similar issues.

CHAIRPERSON REID: That is what I'm --

MS. PRUITT-WILLIAMS: So that there is not a duplication or redundancy.

MS. PRUITT-WILLIAMS: The persons who are in opposition, basically, are the persons who appeared before, the Single Member District person, and you ma'am, you are -- could you come please, forward.

And the persons in support, are you members of the same entities, groups, organizations?

MS. PRUITT-WILLIAMS: You need them to come forward, Madam Chair.

CHAIRPERSON REID: Okay. ANC as well as the organizations, I would just like to ask, if you could have your -- whatever your position is that you ask a single individual, it would certainly help us to kind of facilitate this Hearing.

MR. JONES: Madam Chair, a couple of

Board members are here to speak in favor of The Fishing School, and the zoning.

CHAIRPERSON REID: What members, including yourself?

MR. JONES: Yes, including myself.

MS. PRUITT-WILLIAMS: Is this Board members of the school, sir? Board members of the school?

MR. JONES: Yes.

MS. PRUITT-WILLIAMS: So you are not requesting party status?

MR. JONES: No, I'm not.

CHAIRPERSON REID: So then would you be able to speak on behalf of --

MR. JONES: One of us will. I have another meeting at 4:30.

CHAIRPERSON REID: Okay, good. The pre-hearing submission is very extensive, and we have read the record, and we are very familiar with the issues in regard to this particular --

MS. PRUITT-WILLIAMS: Excuse me, Madam Chair?

CHAIRPERSON REID: Yes.

MS. PRUITT-WILLIAMS: The Reporter is indicating she can't hear you.

MR. JONES: Louis B. Jones II.

CHAIRPERSON REID: Thank you, Mr. Jones.

MR. SCHULMAN: I'm Jim Schulman, again, with the ANC6-A, and also with me is Commissioner Rosalee Johnson.

MS. KING: Are you a Commissioner yourself?

MR. SCHULMAN: I am a Commissioner, and Ms. Johnson is the Single Member -- represents that Single Member District.

MS. KING: And is here in opposition to The Fishing School?

MR. SCHULMAN: No, we are here in support.

CHAIRPERSON REID: When the time comes, if you all could basically have one speaker to address this Board on your support. Next?

MR. PERNELL: Daniel Pernell, ANC6A02, who has been the moderator between Wylie Street community and the ANC, there, in that community, and I'm also testifying in opposition of The Fishing School.

MS. ROSE: Is he requesting --

MS. PRUITT-WILLIAMS: Madam Chair, we still -- staff is unclear who is requesting party status.

CHAIRPERSON REID: No one has so far.

MS. PRUITT-WILLIAMS: Okay, that is what we needed to know.

CHAIRPERSON REID: Okay. Come forward, please.

MR. TATE: My name is Atif Tate, I'm a former resident/participant, and now I'm a community outreach coordinator with DC Habitat, and we work with these different organizations in this community.

CHAIRPERSON REID: And you are speaking in favor?

MR. TATE: I'm speaking in support of The Fishing School.

CHAIRPERSON REID: Okay, thank you.

MS. RUFFIN: My name is Vanessa Ruffin, I'm a resident on the street on which The Fishing School is presently asking for these variances and changes to occur. I speak on behalf as a resident and in representation as a community member, and again, a resident on that street.

MS. KING: Are you in favor or opposition?

MS. RUFFIN: I am in opposition.

MS. KING: Opposition, okay.

MS. RUFFIN: Right.

CHAIRPERSON REID: ANC, Single Member

ANC Commissioner is here?

MS. RUFFIN: I beg your pardon?

CHAIRPERSON REID: Is your ANC Commissioner here?

MS. RUFFIN: Yes, she is.

CHAIRPERSON REID: Okay, then --

MS. RUFFIN: She is a Board member and she is in support.

CHAIRPERSON REID: Oh, so she cannot --

MS. RUFFIN: No, she cannot.

CHAIRPERSON REID: Thank you.

MS. RUFFIN: Thank you.

MR. MCCRAE: My name is Derrick McCrae, and I live on I Street, around the corner from The Fishing School, and I'm also representing the employees of The Fishing School, and we are in support.

CHAIRPERSON REID: Okay.

MR. FERRELL: My name is Gregory Ferrell, and I'm Advisory Neighborhood Commissioner, represent 6A12, and I'm in opposition.

MS. KING: You are in opposition?

MR. FERRELL: Yes, I am.

MS. ROSS: Good evening. My name is Ethel R. Ross, I'm a resident of -- across from The Fishing School. I've been there for 20 years, and I

would like to talk about the goodness that I have seen since I've been there.

CHAIRPERSON REID: Support?

MS. ROSS: Support, yes.

MS. WASHINGTON: Good afternoon. My name is Joyce Washington, I live directly next to the Fishing School, so therefore I'm a resident in the street, and I'm in support.

CHAIRPERSON REID: Can you hear, did you get that?

MS. BISHOP: Good afternoon, my name is Patricia Bishop, I have lived in Washington, D.C. for 38 years. I've been raised on Wylie Street, and have also lived and raised children on the block of Wylie Street, and I'm here in support of the Fishing School.

CHAIRPERSON REID: Thank you.

MS. BISHOP-BROOKS: Good afternoon, my name is Blondell Bishop Brooks, I'm the youth coordinator for the Fishing School, I have lived around there for 30 years, and I'm here to support for the Fishing School.

MS. BRAYSON: Good afternoon, Menzelna Brayson, I'm the office manager of the Fishing School, and I'm in support.

MR. KRASIK: My name is Rudolph Krasik,

I live at 649 Gerard Street, NE, and I'm here in support of the Fishing School.

MS. LEO: Good afternoon. My name is Madeline Leo, and I live at 1221 G Street N.E., and I am employed at the Fishing School, and I'm also in favor of the Fishing School.

MR. COLTRAINE: Good afternoon, Madam Chair. My name is Gary Coltraine, I'm at 1741 E Street, N.E. I'm no staff at the Fishing School, in favor of the Fishing School, will be heading up the Deanwood Site. Thank you.

MS. DAVIS: I'm Martha Davis working with the Fishing School on the real estate project. I live at 1227 W Street, N.W. I'm in favor.

CHAIRPERSON REID: Okay. Just let me say this, for the record. We have some time constraints, because at five o'clock persons will have to leave, so what we would like to do is, Mr. Ellis, have you to present your case, and we have read the material so that you can basically expedite it, and bring out your salient points.

And those persons who are involved with the school and the board, as an employee, have one person speak to something, to say, on behalf of those persons, and we will hear the opposition.

And those in opposition we ask that you

not be redundant, give you an opportunity to speak, but if it has already been addressed, or someone has already expressed it, then we ask that you not be repetitive, so that we can get through this as --

MR. LEWIS: Could I ask for three minutes to get with my people here, I think I can truncate my portion of it, and help -- I think I will try to help the Board out with this, if --

CHAIRPERSON REID: Fine.

MR. LEWIS: If you can give me three minutes to meet with my people and then we can deal with it from that standpoint?

CHAIRPERSON REID: That is fine with me.

MS. PRUITT-WILLIAMS: Madam Chair, maybe those in opposition could also --

CHAIRPERSON REID: Great point made by Ms. Pruitt-Williams. Those in opposition, maybe you all can get together and, you know, basically try to -- have one person to --

MS. KING: Coordinate your presentation.

CHAIRPERSON REID: -- express, for you, what you want said. So that we don't have --

MS. KING: Take the time now to work out the presentations on both sides of the issues.

CHAIRPERSON REID: And that way it will

save time for everyone involved.

(Whereupon, the above-entitled matter went off the record at 3:38 p.m. and went back on the record at 3:42 p.m.)

MR. ELLIS: For the record -- oh, the case hasn't been called?

CHAIRPERSON REID: It has.

MR. ELLIS: For the record I'm Craig Ellis, Counsel for the Fishing School. To my right is Mr. Tom Lewis, the CEO for the Fishing School, and to my left, over here, is Mr. Tom Raitel, who is our architect.

Very briefly, you already know the relief that we are requesting. I will have Mr. Lewis, rather than go over the relief, since you already have it there, Mr. Lewis give you some overview of the Fishing School, very briefly, let you know what it is, and how it came about.

MR. LEWIS: Madam Chair, my name is Tom Lewis, and I'm the founder, CEO of the Fishing School, and we organized the program in 1990 in a house that I owned at 1240 Wylie Street. Also there is a lot right next door that was owned by the city, the house was condemned and torn down, used as a community dump, and we've been using that area.

The house that we are operating in is a

very small house, less than 900 square feet, and in the process of our work there, we work as an after school motivation program for children between the ages of 5 and 15. It is a pay based program, and we have a variety of services that we offer to children and parents in that area.

The neighborhood that we operate in is devastated by drugs, we have an open air drug market there. And, of course, our children are exposed to this kind of element. And the Fishing School acts as a safe haven for them. We have a place for them to come and be safe. And, of course, we have a respite that serves as a respite for our parents. And we have some additional training for our parents and our children.

The Fishing School is a community orientated, family orientated program for people that need to come for help and that kind of thing.

So as a result of us being a small program, needing more space, in order to operate, as we began to get known by the community, and by the broader community, we began to employ people. We have four paid staff as we apply for a space for them to be in order to be with our children, and some volunteers that come.

So in the process of that we have the

opportunity to purchase the house next door, which used to be a crack house, and when I first came there, it was about 15 people in front of the door every evening.

So we have the opportunity to purchase that house, and in the process of that we applied for a community development block grant so that that could take place. And we receive that okay for that grant, and in order for that to happen we are requesting a variance in order to -- we have an original variance there, which expired.

So we are looking for a special exception in order to continue our work, and to expand to the house next door.

Thank you.

MR. RAITHEL: Hi, my name is Tom Raithel. I represent the architects. We've been retained by the Fishing School to provide architectural services for the project.

As a brief overview of the existing conditions, these are two relatively narrow buildings, approximately 13 feet wide, and there is about a 4 or 5 foot space between the buildings, which is occupied by nothing.

This here is the space that is existing between the buildings. Each building presently has

its own staircases, toilet facilities and kitchens. The concept of the construction project is to combine both buildings into one, as an economic alternative to renovating both buildings.

What it does is we only have a limited cost because we would only be providing a single set of toilet facilities, a single set of stairs, a single mechanical system, rather than duplicating all these systems.

In addition we would be utilizing, after bridging the gap between the buildings, we would be utilizing this space as the central access corridor to get to both sides of the building.

The new construction would be in the same character, in keeping with the character of the adjacent buildings. I will show you the elevation.

So we are maintaining the general look of the building. The new construction would be ADA accessible, all the functions of the school would be ADA accessible, on the first floor. The toilet facilities are on the first floor, and in my opinion the building as a whole would be totally renovated, new windows, new doors, the exterior walls will be taken care of, new roof, and in my opinion this will be a positive impact for this street.

I have no further --

MR. ELLIS: Just very briefly, the building that was previously there, and approved in an earlier order that is exhibit to our filing, was not ADA accessible, and the difficulty was being able to serve children that need special help. They could not come in the building, at all, because the way it would have to be organized, you know, the bathroom stacks over the kitchen, and since the bathrooms were upstairs, you could not handle the children.

And even if you moved the bathroom, switched places, the back door would be coming into the bathroom as opposed -- the bathroom and the kitchen as it presently is, if you switched the bathroom from upstairs to downstairs, then the back door would come into the bathroom as opposed to coming into the kitchen now.

MS. KING: Where is the ramp that is ADA accessible? It is not at the back?

MR. RAITHEL: That will be at the rear of the property.

MR. ELLIS: If you look at the bottom of the --

MS. KING: Do you have a rear elevation?

MR. RAITHEL: Right here. It doesn't actually show the ramp, but it will be there.

MS. KING: That is where it is going to be?

MR. RAITHEL: Yes.

MS. KING: Off an alley, behind the house, is that it?

MR. RAITHEL: Yes.

CHAIRPERSON REID: How does the alley access?

MR. RAITHEL: Via automobile.

CHAIRPERSON REID: No, I mean, on the other side of the house, is that where the entrance to the alley is? I want to see the --

MR. RAITHEL: The alley runs along the back of the house.

CHAIRPERSON REID: No, getting into the alley.

CHAIRPERSON REID: How do you get into it? Let's see, maybe it is in one of these.

MR. ELLIS: You come off of 13th Street, and you come down through the alley.

CHAIRPERSON REID: It is not that far.

MR. ELLIS: It is not that far off there.

CHAIRPERSON REID: And then do you have a --

MS. KING: This is -- the buildings have

different depths at the rear, is that correct?

MR. RAITHEL: Yes, that is correct.

MS. KING: And you are going to maintain the shell of the building?

MR. RAITHEL: Yes.

MS. KING: So this one will be very close to the alley, and this will not be so close.

MR. RAITHEL: The only additional construction is bridging the gap between the buildings.

MS. KING: And that is going to be solid for the two stories of the two buildings?

MR. RAITHEL: Yes, absolutely.

MS. KING: Okay.

MR. RAITHEL: Just to add, just to illustrate the difficulty in having -- in showing you the location -- this is one of the existing buildings on the right, here. You can see how much space is taken up by the bathroom and the stairs. It leaves very little remaining of the building. It just makes a lot of sense.

Do you have any other questions?

MS. PRUITT-WILLIAMS: Just for clarification, the joins indicate this is a corner building, it is an -- rather on one side you --

MR. RAITHEL: It is not a corner.

CHAIRPERSON REID: It is not a corner.

MS. PRUITT-WILLIAMS: Okay, I just wanted to be sure.

MR. ELLIS: I will then address, if there are no questions for the architect? Okay, I'm sorry.

CHAIRPERSON REID: I do have a question for the architect, in looking at the plans. On the 13th Street side it appears that there is an alley that goes right down the center, that these houses abut -- or the houses that are facing Wylie Street, so there is --

MR. RAITHEL: The building on the left does abut an adjacent structure.

CHAIRPERSON REID: -- access the alley from Wylie?

MR. RAITHEL: No.

CHAIRPERSON REID: So you have to go to 12th to 13th. I see what you mean now. There is no -- these houses on the end of 13th Street and 12th Street are landlocked?

MR. RAITHEL: Essentially so.

CHAIRPERSON REID: Yes. Okay, all right. Just curious about that.

MR. HOOD: I just have one question, the existing on the corner cutoff on the building, on

the construction, the rest of the backyard, what is that used for? I'm not sure exactly who --

MR. RAITHEL: You can best address that.

MR. LEWIS: It is the yard. The rest, behind the building? Yes, sir, it is the yard back there.

MR. HOOD: Is there anything that takes place back there?

MR. LEWIS: Outdoor activities.

MR. HOOD: Okay.

MS. KING: And also on an adjacent vacant lot?

MR. ELLIS: What happens, just so you know, there is an adjacent vacant lot, which I will address in a moment, but I had passed around to you, the Fishing School has just received, on August 25th, the right to purchase, they have been negotiating with Breen and the District of Columbia for this property, and they have just offered -- and part of this CDBG money that has been provided will be used to purchase this piece of property.

And it has given us an exact number that what we can purchase it for, and that is a piece of property that heretofore was being used to be dumped on.

So it has been fenced in by the

Applicant. MS. KING: When we look at this, is it to our right or our left?

MR. ELLIS: As you look at it, it is to your right.

CHAIRPERSON REID: That is going to be used as a play area for the children, or parking or?

MS. KING: So you will have --

MR. ELLIS: It is a play area.

MS. KING: -- three plots of land?

MR. ELLIS: Three plots of land. But the application before you I had to deal with only the two, but you understand that, you know, we just got the letter that now -- we were told earlier, but it has now come in writing that we can now purchase this piece of property.

So if this is approved we will move post-haste to get that third piece of property.

MS. KING: Okay.

MR. ELLIS: Very quickly, going through the relief that is being requested. First we are asking a variance from section 334.3 to allow structural changes to a building which will be used for a temporary community services center.

As you understand, a temporary community services center cannot, the idea is that it is temporary, so therefore the building would not be

changed. That is an area has been talked about at the BZA level for several years now, of going to the Zoning Commission and asking for a change in this reg, because a temporary community service center, you just keep coming back and coming back, and communities need these centers.

And they are saying that they shouldn't be temporary where you have to come back, that there should be some change in this regulation, and that it is quite costly for these organizations to come back every three years.

But the -- we are seeking a variance, as you know, if you look at the item number 2, a variance from the minimum lot area requires that any building that is not a flat one family semi-detached dwelling, or a building to be converted to apartment must have 4,000 square feet.

Well, this property, all of it, all three -- the two sections are not 4,000 square feet total, anyway. This property, this area is very unique. These lots are very, very small. They have been bisected by an alley, chopped off, and that whole section right there is very small.

And as a result these properties are unique in that they are below the minimum lot size in R-4 zone. In R-4 zone the minimum lot is 1,800

square feet. Each of these lots is 990 square feet each.

So, therefore, these lots, because of the way this alley comes through there, and this is -- these -- it is just this one little narrow block in there that it has happened. And we believe that the property is unique because of its size, and the ADA requirement also is the big problem here for us.

If you have a temporary community service, temporary community center there, service center, you have the problem of being able to serve all kids.

Here these buildings are so narrow you have a very narrow staircase that the staircase going up is 30 inches wide. It is sheer going up. It is so sheer that it is difficult to even put a rail down it, in the space, considering a rail, that is so narrow that it is difficult getting a rail in there for people to, you know, go up and down.

And it would be very difficult for someone who is on a cane, crutches, to get up and down, and totally inaccessible for someone who is in a wheelchair or a walker.

And the bathroom, as I stated earlier, is on the second floor. And the difficulty we had was how do we comply with trying to meet our ADA

requirement in a building without being able to expand it? And the logical thing for us was to expand in the building next door that was being used as a crack house, as was recently said.

The property also, the owner, which is the Fishing School, would encounter an exceptional practical difficulty as a result of strict application, in that if you say no, essentially they could not operate and provide services to everyone who would want to have services in that building.

It would also be difficult in that staffing, these buildings -- although I say in here it is 1,200 square feet, because that is what I was led to believe, actually the buildings are -- the -- each building contains roughly a little over 400 square feet per floor, so it is about less than 900 square feet in the building.

It is difficult to run programs and staffing, considering this operation has to run by raising money. And you have to have people to raise money, and we are utilizing, under the old order issued by the Commission, there are 20 students in there per day, four staff people.

It is difficult to have 20 students -- 20 individuals, I shouldn't say students; 20 individuals and 4 staff people when you only have

800 square feet and you are trying to run programs.

MS. KING: Could I ask you a question at this point? Somewhere in my reading, in preparation for this meeting, I saw the number 40. Do you intend to double the size of the enrollment, or -- and what will the impact on staff; and apparently you are going to have additional staff to raise moneys and so forth.

MR. ELLIS: The additional staff is there. We don't -- that is --

MS. KING: You have four staff people?

MR. ELLIS: Four staff people, yes.

MS. KING: And you don't intend to exceed four staff people?

MR. ELLIS: Four FTE's full time equivalent.

MS. KING: Fine.

MR. ELLIS: There may be six or seven people in there, but there will be only four FTEs.

MS. KING: Four FTEs, okay. And how many students or participants in the program?

MR. ELLIS: There will be 20 students utilizing the program, but you have to understand, there will be more at times. What happens is the Fishing School has done a good job of taking these kids and allowing them to partake of services in

other parts of the city.

So where there might be 20 students in the house actually partaking of the services of the house, there may be another 20 that come to the house, because that is where they get on the vans to be taken to tutorial services at other places, to sports events at other places.

MS. KING: What is your certificate of occupancy going to set as the capacity of the building?

MR. ELLIS: The certificate of occupancy, based on the square footage of the two buildings put there, will be 50, allowable by code will be 50.

But what we are trying to say is we are not trying to -- the philosophy of the school is coming into a community, and helping on a small scale. Not to grow this program to -- because the idea, if you heard one gentleman who came up and testified and said, I'm in the Northeast, the idea is to have fishing schools in other places throughout the city that have needs like the needs being met in this community, not to take the Fishing School and grow it into some monstrosity there in that community, because then you are bringing kids in from outside.

It is to help the kids within that community, and go to each community that needs services, as money and funds will allow, to open up another Fishing School to help within that community, that is the philosophy.

So to answer your question again, Ms. King, it is to primarily keep it at its present size, but recognizing that there will be children that will come to the school to be disseminated to other places, but they will not be there for the purposes of utilizing the program there at the facility. They are just -- it is sort of like a pick up point and drop off point.

MS. KING: Okay, thank you.

MR. ELLIS: The last of the legal tests, the variance would not cause substantial detriment to the public good, and would not impair the intent, purpose, and integrity of the zone plan.

The Board has passed on -- excuse me. This particular organization is trying to do help for this community. There will be no way, shape or form, that it is trying to do any harm to this community.

In terms of traffic, the major traffic that this organization provides is the traffic it generates in trying to take children somewhere in

its vehicles. The majority of the children walk right into the facility.

So we are not talking about individuals that, you know, large -- some day care facilities where you have, where people are coming in at 4, and their cars are lined up to drop or pick kids up, or early in the morning to drop kids off, that is not the intent of this.

We have the -- we recognize, and we are, right now, actively and have gotten an agreement that to the extent our parking facilities are off, we are trying to move -- we are not trying, we have gotten agreement to be able to move our vans off the street to keep the parking problem down.

We will pick up our kids on the street, but we are in the process, now, of finalizing the agreement with H Street CDC so we can park our vans someplace else, so it will not be a hindrance to the community.

Going to the next variance. A variance from the minimum lot area and width requirements. The minimum lot area will be 4,000 square feet. Well, as I just said, with three lots together, we come up to 2,970. With this application we will have 1,980.

Again, it is like I said, with the first

one, this area, this street has been chopped by this alley. They are unique in that these are very small lots. If you look at that whole area, this is the only area within that geographic area that has these small lots, these ridiculously small lots, 990 square feet each.

Their width, together, would be 36, it requires 40. But actually when you add the additional lot which, again, we have shown you here, we will be purchasing shortly, we will have 54 square feet, which we will have more lot width than that required by the regulations.

We will still be short approximately 1,130 square feet in the lot size.

Again, going back to our test, as I said, these properties are unique in that they are smaller than the average lots within the community. The average lots would be 1,800 square feet, these are half the size of the average lot in an R-4.

Again, without this, for the same reasons we did with the first variance request, the owner would encounter exceptional practical difficulties as a result of the strict application of these regulations, because again, without it we can't meet the needs of the youth that we want to serve.

It is very difficult for us. We have gotten plenty of organizations that have come in to assist the Fishing School, we have a computer lab. Right now we have computers on top of computers because we can't get them out on tables, because we just don't have the room to perform the services for the 20 kids that are in there. We have to break them up in groups, because we just don't have the room.

Finally, with the variance cause substantial detriment to the public good, and not impair the intent and purpose and the integrity of the zone plan. Again, this program is set up to help this very community.

As Mr. Lewis stated earlier, this is a neighborhood that has been devastated by drugs. You have open air drug markets, you have houses that are being used for crack houses, and this is to give children a place where they can go; parents a place where they can go to seek both training and educational services, so they can better themselves, and not have to deal with the problems that surround them along that street.

The third variance is variance from the allowable percentage of lot occupancy pursuant to 403.2, for a structure in an R-4 zone. Essentially

the proposed structure would occupy approximately 1,337.73 square feet, based on its present size of 1,980, which is only the two lots. It would only be able to occupy 792 square feet, which means that we exceed the amount by approximately 542 -- 545.73 square feet.

However, as you -- again, we have told you we are going to buy that lot next door, which actually, once you add that up, we are only -- we would end up being able to have a lot occupancy of -- that is on page 12 of my brief to you, we would be able to have a lot occupancy of approximately 1,188 square feet, or approximately -- we would only be seeking a variance of 13 percent now, as opposed to nearly 50 percent.

So, again, going back to our test, it is the same thing over and over again. These lots are unique, but for their smallness and size; had they been at least average size we would not have to deal with this variance. But because they are half the size that they are supposed to be, or would be in an R-4 zone, we are not able to have the sufficient square footage for lot occupancy here.

The smallness, the uniqueness of their size causes us a practical difficulty. Again, if we don't receive this we cannot provide the services

that we need to provide, and also do the fundraising that needs to continue this program.

And, thirdly, again, we are trying to better this community, in no way are we trying to harm it, or cause it any practical difficulties. We are doing everything we can to even beautify this neighborhood.

The variance that is complete. We have, last, the special exception relief that we are seeking. The special exception, the first item is 334.2, a temporary community service center shall be located so that it is not likely to become objectionable to neighborhood properties because of noise and other objectionable conditions.

Again, the subject properties, both of them, the initial property, and the property that was recently been bought, had at some point been used as crack houses. It is clear that they are being used to the better of the community, not to the deterioration of the community now.

The programs provided by the Fishing School are structured to assist the community, specially youths, but also there are programs for parents. Parents are receiving computer training, there will be more programs for computer training with the expansion of the building, in that there

will be a computer lab.

One thing I failed to mention, up in the arts and crafts section of the building, since the building is ADA accessible, although there will be an upstairs, and therefore the children who are handicapped will not be able to go upstairs, the same services that will be provided upstairs will be provided for them downstairs in the arts and crafts center, in that there are going to be computers moved in there for them, for their use on that level.

So everything, every service will be duplicated for them downstairs, it will just be that, you know, when they are there, they will have to partake of it on the lower level.

Section 334.3, no structure changes shall be made except those required by municipal laws. Well, that is why we are here on this one, to make structural changes in the building. So that is the structural changes we are trying to make, but we do not plan, once we get this, to make any more structural changes, because any further changes in this program would cause us to go out of this community. We are going to build in more than one community.

This is our first, we have a second

underway, and actually recently there is a Fishing School that opened up in North Carolina.

The item was -- section 334.4, the use shall be reasonably necessary and convenient to the neighborhood in which it is proposed to be located. It is right in the heart of Wylie Street. This is one of the most underserved communities there is. And what we are there to do is provide them the services.

334.5, a temporary community service center shall not be organized for profit, and no part of its net income is to the benefit of any private shareholder or individual. As you saw, with our exhibit we have there, the Fishing School is a 501C3 organization, and therefore no money endures to the benefit of any individual.

That completes my statement of the legal tests. If there is any question?

CHAIRPERSON REID: Mr. Ellis, very quickly. While you were adequately -- went through the various parts of the three-pronged test, except here you speak to adverse impact. Would you very briefly do that? Just as far as traffic, parking, noise and the like. Generally, just for the record.

MR. ELLIS: Okay. Traffic, as I said, the majority of our children walk in. The majority

of the traffic that will be engendered will be the traffic that the Fishing School itself does by taking the kids away from the community.

CHAIRPERSON REID: But that would not have any adverse impact on --

MR. ELLIS: We do not believe so. We do recognize that we have caused problems in the community in terms of we have vans, so we park the vans on the street, and vans are bigger than cars, so they take up some space.

Recognize that, when they came to me, I set out to alleviate the parking problems of the vans, of leaving them on the street. And we have worked out with H Street CDC an agreement to park the vans when they are not being used for the kids, off the street, on the Atlas building that is on H Street behind the Atlas building.

We are just finalizing that agreement. Mr. Barrow is here, he is sitting back in the back. Mr. Barrow is here, if the Board wants him to testify that we do have an agreement, we just haven't -- to be honest with you, I had a death in the family and was away, and was not able to get the agreement finalized before this Hearing.

But we have an agreement in principle, and all we are getting ready to do is just finalize

it in writing.

CHAIRPERSON REID: Okay, so you are saying that you did, at one time, have a problem, some complaints about the vans parking, and that has now been mitigated by the agreement with the H Street CDC, and also parking on the Atlas parking lot?

MR. ELLIS: But moving the parking to, you know, when the vans are not in use, by parking them in the Atlas parking lot.

CHAIRPERSON REID: Okay.

MR. ELLIS: There was some complaints that were being made to us about noise, children making noise. What we will do, what we have done is making sure that the children, when they are being dismissed, and sometimes they would leave, and as kids will be, like leaving school, or anywhere else, they will be boisterous and noisy.

What we will do now is at least we will send staff people out with them to keep the noise down, you know, walking them out of the community, dispersing them out of the community.

Now, those kids that actually live on the street, though, there is a recognition that there is only so much we can do. But kids who may live around the corner, or live somewhere, you know,

in the neighborhood, we will assist and do as much as we can with assisting in helping keeping these kids quiet so they will not disturb anyone, you know, in the community.

And understand, the Fishing School is willing to do whatever it can to help that community, in any program, you know, that they can assist, be of assistance in.

CHAIRPERSON REID: We understand that. Ms. King, did you have any questions?

MS. KING: Mr. Lewis, do you have regular meetings with the neighbors, and do you have a formal mechanism for meeting on a regular basis with the immediate community?

I mean, I understand that the children and the parents, and so forth, who participate in your program are by and large people in the community. But do you have sort of a regular formal sort of --

MR. LEWIS: Up to this point we didn't have regular formal meetings. We had meetings, open house, when we began our summer program, we had meetings with the community, and when we began our after school fall program. During the Christmas holiday season we have meetings posted for the community.

MS. KING: Which are basically social, not to discuss any problems?

MR. LEWIS: Right, but since this came up to our attention in April, we have offered to have monthly meetings with the community, and we've had three or four with the community. And, of course, the same people that complained decided they didn't want to come to the meeting. We all hope to have monthly meetings with the community.

MS. KING: And what are your hours of operation? Refresh my memory.

MR. LEWIS: Our doors open now at 10 in the morning, we close at 8 p.m.

MS. KING: That is right.

MR. LEWIS: The children come at 4 o'clock, 3:30, 4, as soon as school gets out in the afternoon.

MS. KING: And all of your children are school age, you don't have any --

MR. LEWIS: No, ma'am, we don't have any -- they are between the ages of 6 and 14.

MR. ELLIS: There is one caveat to that. You recognize that summer hours are a little different than that. When we have summer hours, when the kids are out of school, we do have children in the house from --

MR. LEWIS: From when school gets out, our summer hours are from -- the staff is from 8 to 4, and the children come from 9 to 3.

MS. KING: Okay. So from September through May --

MR. LEWIS: September through June.

MS. KING: -- June, it is from 10 a.m. to 8 p.m.?

MR. LEWIS: That's correct.

MS. KING: And in June, in what, July and August?

MR. LEWIS: June, July and August, latter part of June, all of July, and up to about the third week in August the children are there from 9 until 3.

MS. KING: And the place is open from 9 until what time?

MR. LEWIS: 8 to 4.

MS. KING: 8 to 4 p.m.?

MR. LEWIS: Yes, ma'am.

MS. KING: Okay. So your hours are shorter in the summer, but they start earlier?

MR. LEWIS: Absolutely.

MS. KING: Because these will probably be as conditions to your -- I have no further questions, Madam Chair.

MR. HOOD: I just have one or two. I don't know if I'm confusing myself or not. The addition, what is that passageway being used for now, where the --

MR. ELLIS: The breezeway, actually people were throwing trash. You need to understand that these are row houses, you have like three row house. Actually, the lot we were buying was a row house that was torn down, actually torn down.

But what happens is you have three row houses, a breezeway, three rowhouses, a breezeway. And the breezeway had to have a fence put up because people would just walk by and throw trash in there.

And so it is being -- what happens there is a fence across it right now, and it is essentially there. I mean, you know, it is nothing. You don't -- it is a place where you don't want it to be utilized for anything, because a kid may be pulled off in there, or anything. So what we -- it has been stopped.

MR. HOOD: A couple more. Are both houses being used now, or just --

MR. ELLIS: Both houses, and that was a matter, both houses, the second house was bought, and some cursory work was done on it. But the -- it, too, was previously used as a crack house, and

so it was bought with the idea that there was some funds that the CBDG required the Fishing School to put up 87,000 dollars of its own money, and it used a portion of that money to buy that house next door, you know, to be hooked up. So they own both houses.

MR. HOOD: On the other side of both houses, with exception of the vacant lot, then continues town homes the rest of the way?

MR. ELLIS: Yes.

MR. HOOD: Okay, thank you.

CHAIRPERSON REID: Okay. Are you done with your presentation?

MR. ELLIS: That is it.

CHAIRPERSON REID: Okay, thank you. Do we have any cross exam by the ANC?

MS. PRUITT-WILLIAMS: Madam Chair asked for cross examination, not in favor. You will have time to do that later. Sir, you can only cross examine them in reference to what they testified to today, if you are a party, but you didn't request party status.

CHAIRPERSON REID: No. The government report, I don't think that there were any -- we had a letter from the ANC6-A that --

MR. ELLIS: Well, the ANC representative is here.

CHAIRPERSON REID: You are the vice chair person of the ANC?

MR. ELLIS: No, the person who signed it, it was Jim Schulman signing on behalf of the ANC.

CHAIRPERSON REID: Mr. Ellis, you can go back there and I will bring out the ANC.

MS. PRUITT-WILLIAMS: Madam Chair, just for the record, there is no report from the ANC.

CHAIRPERSON REID: The reports that we have in our file are --

MS. PRUITT-WILLIAMS: Are single member district, right.

MS. ROSS: There was one --

MS. PRUITT-WILLIAMS: So we have no official report from the overall ANC.

CHAIRPERSON REID: I do have a question, though, because --

MS. PRUITT-WILLIAMS: You do? I'm sorry.

CHAIRPERSON REID: There was one letter that came in that stated that they had taken -- they had a meeting, they couldn't vote because of the lack of a quorum, but then they took a telephone vote, and at the telephone vote they were approving the --

MS. PRUITT-WILLIAMS: I retract my statement, it came in later than what I had in my package.

CHAIRPERSON REID: Yes, this is dated August 25th.

MS. PRUITT-WILLIAMS: Okay.

CHAIRPERSON REID: So based on this I will allow it to be submitted for the record, and afford this ANC6-A great weight. All right?

MS. PRUITT-WILLIAMS: You may want to read it for the record if Mr. Schulman isn't --

CHAIRPERSON REID: Mr. Schulman -- basically in part it said that this matter was given consideration on, at two meetings, May 13th and June 10th, and that adequate and proper notice was given to the public.

MS. KING: Those are meetings of the Zoning and Licensing Committee.

CHAIRPERSON REID: That is what I'm saying. The ANC as a whole, there was no vote on this issue at its July 2nd meeting due to lack of a quorum. The issue was voted, however, via telephone on August 25th, 1998, with the ANC. Nine Commissioners voted on the issue with four voting yea, two voting no, one recusing herself from voting due to membership from the Board of Directors on the

Fishing School, and two abstaining. The vote tally regarding approval of their support follows below.

MR. SCHULMAN: So there were two that we could not reach, one of whom is sitting next to me today.

CHAIRPERSON REID: Basically it seems that the -- it appears that both --

MR. FERRELL: Madam Chair, with regards to that letter submitted by Mr. Schulman, Mr. Schulman was not authorized to submit any voice telephone poll of the ANC. I was never polled. We were not able to reach a quorum at the regularly scheduled ANC meeting. Therefore the ANC did not take a position one way or the other on the Fishing School.

Mr. Schulman reports that he has done some voice poll with the consent of the executive committee of the Advisory Neighborhood Commission 6-A, which is not appropriate. The executive committee doesn't have the authority to do that.

Our bylaws, and even the BZA's guidelines require that the chair person sign off on any written statements or in support of, or opposition to, a BZA application.

Mr. Schulman is the vice chair of the ANC, and as he stated in his letter, that there was

not a quorum, and I certainly was not polled.

CHAIRPERSON REID: Do you want to speak to that?

MR. HOOD: Madam Chair, how many members are there of the ANC?

MR. FERRELL: There are exactly, at this particular time, when this matter was going before the ANC, there were 11. Now there is currently 10.

MR. HOOD: How many are recorded as being ANC Commissioners, how many are on the commission?

MS. KING: It is a 12 member commission.

MR. FERRELL: There are 14 seats, but there are not 14 seats filled, there are only 10 seats occupied.

CHAIRPERSON REID: 10 seats occupied, and a quorum consists of --

MR. FERRELL: There are 11.

CHAIRPERSON REID: 11 seats.

MS. KING: A quorum is 6.

CHAIRPERSON REID: A quorum is 6 of those 11.

MR. FERRELL: A quorum would be 6.

CHAIRPERSON REID: The letter that was submitted to the record --

MR. TATE: We are getting here.

CHAIRPERSON REID: I don't have the --

MS. PRUITT-WILLIAMS: Madam Chair? There you go.

CHAIRPERSON REID: This is the copy that is in the file.

MR. SCHULMAN: I have the original with signatures here, if you would like.

MR. FERRELL: Madam Chair, at the time this was being addressed before the ANC Commissioners, there were 12 seated ANC Commissioners, and to constitute a quorum there had to be seven.

MS. KING: But even if there were seven, I mean, there were one, two, three, four, five, six, seven, eight, nine people, apparently, were consulted, and four of them voted yes. That is not an affirmative vote, to my mind.

MR. SCHULMAN: I believe, as much as I do not like the telephone poll, I would be the first one to say that we --

MS. KING: Don't talk about -- talk about how four votes out of nine people is a quorum, I mean, is a majority.

MR. SCHULMAN: Of the -- we have -- well, I'm not going to purport to speak for him today, but Deleanne Ware, called me, after the fact,

and said that he was firmly in favor of this project. So we actually have one more yes than is on this letter.

But even with this we have a majority, because we had several abstains. People who abstain from voting, by choice, so they voted not to place a vote. Now --

MR. ELLIS: Excuse me, may I address this for just a second? The issue that I believe you are asking is, there is not a majority of the members of the ANC voting for this. The question is not whether there is a majority voting.

Just like the BZA, there are five of you, actually there are only four of you right now, but there are five seats. And today, if you vote two to one, there is not a majority of the BZA, it is a majority of the quorum.

And the question here is, was there a quorum? And then once there is a quorum, what is the vote. And the question that Mr. Schulman should be addressing, or the others should be addressing here is not the number, but did the vote constitute a quorum?

MR. FERRELL: No.

MR. ELLIS: And then after there was a -- whether there was a quorum, then what is the vote.

MR. FERRELL: There was no quorum.

MR. ELLIS: And if you look at the numbers --

MS. KING: Let's not debate that. I mean, we can go on arguing there was or there wasn't. But we just -- we have the information, I think that is all we need, Madam Chair, as to the circumstances of the telephone poll on the -- of the ANC6-A.

MR. SCHULMAN: There was a precedent for this in the Washington community fellowship case that was heard before you not that long ago. And it is a bad precedent, one we don't want to continue, but because we were able to successfully use the phone poll in that case, we thought we could appropriately use it in this case.

CHAIRPERSON REID: Well, another thing too is I don't know if we are able to accept the telephone vote. I don't know if there is a precedent for that. Ms. Pruitt-Williams, have you experienced that, or are you knowledgeable about a telephone vote?

MS. PRUITT-WILLIAMS: Telephone poll? No way. I have not -- I mean, there is no policy, or --

CHAIRPERSON REID: Yes, if you have a

meeting then --

MS. PRUITT-WILLIAMS: Although I mean there is no policy for or against it, that is what I'm saying.

CHAIRPERSON REID: Right, but I think that --

MS. PRUITT-WILLIAMS: Telephone polls are done in other issues. I mean, --

CHAIRPERSON REID: We have --

MS. KING: -- telephone polling --

MR. BASTIDA: Madam Chair?

CHAIRPERSON REID: Yes?

MR. BASTIDA: I think that the bylaws require that there is a properly constituted meeting.

MS. KING: For the great weight, yes.

MR. BASTIDA: Yes, for the great weight.

CHAIRPERSON REID: IN which there is a quorum.

MR. BASTIDA: In which there is a quorum. So the word meeting and quorum go in tandem. So that is all what I have to say.

CHAIRPERSON REID: I agree with you. All right?

MR. PERNELL: Madam Chair, I have one opponent, Ms. Yolanda Rivera, who lives on Wylie

Street, 1232 Wylie Street. She couldn't stay, so I want to submit for the record her letter. She did original --

MS. PRUITT-WILLIAMS: Excuse me, Madam Chair?

CHAIRPERSON REID: Yes?

MS. PRUITT-WILLIAMS: Staff is a little lost as to where we are in the process.

CHAIRPERSON REID: Right now the ANC --

MS. PRUITT-WILLIAMS: Are we doing ANC?

CHAIRPERSON REID: The ANC for 6-A, within itself, there is no representation of that particular ANC, and the people who are coming forth now are chairs of the single member district that make up the ANC.

MS. PRUITT-WILLIAMS: So you need to determine not to give great weight.

CHAIRPERSON REID: I don't see how we can.

MS. KING: I don't see how we can.

MS. PRUITT-WILLIAMS: We just want to be clear for the record.

MS. ROSS: Based on --

MS. KING: There is no, they just can't do it.

MR. ELLIS: Again, when an ANC vote, the

question is, and I don't disagree with Mr. Bastida, I just may disagree with the operation as he lays it out.

There is a meeting, there is nothing in the regulations before this Board that requires the meeting and the vote to happen simultaneously.

CHAIRPERSON REID: Okay.

MR. ELLIS: And there was, and there is, if you read this letter --

CHAIRPERSON REID: Mr. Ellis we understand where you are going with that, the point is well taken, and what we will do is we will take it under advisement, and we will make a decision accordingly.

We don't want to take the time now to debate that issue if the meeting occurred, or did not occur, and all of that. We will take it under advisement.

MS. PRUITT-WILLIAMS: But you need that in order to give great weight, or not, for this particular --

MR. BASTIDA: She can visit that later on, but I think that you should clarify, for the record, just in case you want to consult corporation counsel later on, that at the meeting that was properly constituted, how many people were present?

CHAIRPERSON REID: Physically.

MR. FERRELL: There was a quorum, Madam Chair. That is stated in the --

MR. BASTIDA: Let me answer the question and see, and then you can counter argue.

CHAIRPERSON REID: My understanding, Mr. Bastida, is that the meeting failed, there was no vote because there was not a quorum.

MR. BASTIDA: But I do want to clarify that for the record, and that way you can then debate it later on.

CHAIRPERSON REID: All right. Then we will --

MR. BASTIDA: If you have to. There was not a quorum, right?

MR. FERRELL: No.

MR. BASTIDA: Okay, thank you.

MR. PERNELL: Are you ready now?

CHAIRPERSON REID: Yes, I'm ready.

MR. PERNELL: First of all, my name is Daniel Pernell, ANC6-A02, 1132 4th Street N.E.

Ms. Yolanda Rivera, who lives at 1232 Wylie Street N.E. could not be here today, and I have her statement for the record, Madam Chair. I have a list, she did a survey and petition in the area of Wylie Street and surrounding community, that

is for the record.

She required a calendar from the Fishing School which was dated 1997, that is for the record, and also some pictures that you all can look at while I go over it.

Madam Chair, I met with Wylie Street and the surrounding community there, and also I visited Mr. Lewis at the Fishing School.

MS. KING: Excuse me, sir, are you the single member district representative?

MR. PERNELL: No, I'm not.

MS. KING: I see.

MR. PERNELL: I was asked by a nearby member to be the arbitrary person between the two groups.

I wrote out, we met on June 12th, and had the community come forward at Holy Name Church, along with residents of the community. After June 12th, on June 15th I wrote a letter to Mr. Lewis thanking him for coming out and listening to the concerns of the community, because there were some serious concerns there.

MS. KING: What were they?

MR. PERNELL: And they are listed right here, and I'm submitting them to the record.

CHAIRPERSON REID: Well, could you read

them?

MR. PERNELL: Sure. One of the concerns were parking, the parking situation. And I believe Mr. Lewis has corrected that, because I checked it out. Children making unusual noise in the community in coming and leaving of the facility.

Ms. Vanessa Ruffin who lives right next door to the facility had some suggestions -- well, within the area, suggested to the director, Mr. Lewis, to help in planning and implementing the future of the Fishing School, and had not been answered, and I wanted him to answer her, and I think he is going to talk to her.

Ms. Yolanda Rivera also wanted to be in part of the planning of the facility, and was not asked to do so. Ms. LaVerne Loss still have some unanswered questions, she lives on 13th Street and Wylie area.

MS. KING: What are they?

MR. PERNELL: She didn't mention them, and I'm considering them to be valid at the meeting. She may have discussed them with Mr. Lewis. I didn't hear any more complaints from her.

Mr. Lewis was asked, by me, to meet before the ANC July 2nd, which is our general meeting, in which there was not a quorum. And --

MR. SCHULMAN: But he did appear?

MR. PERNELL: Yes, he did appear, but we didn't have a quorum.

I just want to say, Madam Chair, I was the arbitrator between the community, and I like to see a community work together. There is a number of members here for the Fishing School, and there is some members here against the Fishing School.

I think that Mr. Lewis can do good on that block, but there are still some concerns from the ANC, and those concerns are the number of kids going in and out of the Fishing School, the age of the kids, the hourly time they are going to be open and closed.

I understand that the parking was taken care of, because we did not want to see those huge vans on that little narrow street, as when I give you these pictures you will see what I'm talking about.

We wanted the school to have adequate lighting in that area, and also participate in community clean up on a full time basis, seven days a week. And that was it for that concern.

The number of people that attended that June 11 meeting, I have a list of them, that are here for the record. And I just want to say, in my

statement, to say that I have -- I'm not a proponent or opponent against the Fishing School, is that I wanted to -- I came forward as a moderator to see the community come together and work out a problem.

I always say if they have the problem with the director, work with the director. That they are invited to their meeting. I believe Mr. Lewis called a meeting on June the 24th. I don't have the results of that meeting, I don't know if Mr. Schulman went to that meeting, but I don't have the results of that.

That is all I want to say. I'm going to turn it over to Mr. Ferrell.

CHAIRPERSON REID: Thank you.

MR. FERRELL: My name is Greg Ferrell, I'm an Advisory Neighborhood Commissioner represent 6-A12. I echo some of the concerns of Commissioner Pernell.

However, I do have some additional concerns, that if the BZA application is approved by this Board, there are a number of concerns in the community with regards to additional participants inside of the Fishing School. Whether they will expand from 20 to 50.

I believe it was testified to, today, that they are including the parents in this computer

learning lab, as well as children.

I know there has been concerns about parking. I heard the testimony today with regards to the use of the Atlas in the rear. I know there is nothing that has been submitted to the community, in writing, to solidify that, to rest some of the myths that has been going around in the community with regards to the parking issues.

I believe that Mr. Lewis and the Fishing School has done a great deal of good in the community. However, to expand the operations in such a narrow street, which is R-4, currently, you are going to have increased parking, will have increased participation from parents, and also kids.

And I believe that you also will have increased trash, if the kids are actually being fed or lunch, or snacks, or whatever, etcetera, and there will be a need to have some clean ups, sanitation in the particular corridor of Wylie Court Street.

I'm not so sure everybody in that community is persuaded that everything that is stated will actually take place. And I think there needs to be something a little more concrete to rest some of the community's concerns.

CHAIRPERSON REID: Okay, thank you.

MS. KING: Can I ask a question? So you are advising us to turn down this application, you don't want the school to expand, and you don't want it to be accessible to handicapped students? I mean, I want to be clear as to what you want. Do you want us to deny this application, and therefore they will not be able to utilize the building next door that they purchased?

MR. FERRELL: Currently I would ask the Board to deny their -- currently, as it stands today, all that I know about the school is what was submitted on the record. From what I understand, there has been some additional information that could have been submitted with regards to the parking problem.

I'm not so sure if that has been addressed, but currently with the information that I have, echoing what the attorney spoke about the ADA thing --

MS. KING: I mean, you've heard everything that we've heard.

MR. FERRELL: The problem is that right now --

MS. KING: You still wish that we would deny this application?

MR. FERRELL: Yes.

MS. KING: And that the school would not be permitted to expand?

MR. FERRELL: Yes.

MS. KING: And you, sir, do you fell the same way?

MR. PERNELL: No, I don't. I think that the school has been a vital tool to the community in helping African-American kids, in getting prostitutes and drugs off the corner. It is no longer a haven for drug dealers, and people who breaks into abandoned homes and live there, and set them on fire when the wintertime comes.

I think the -- all the problems that I have it was that Mr. Lewis didn't communicate with the community. Make sure that the community is aware of where he is at. And along with the ANC, who is Ms. Rosalie Johnson in that area, we didn't hear anything about that until he came to the ANC, and we was in the dark.

MS. KING: Fine.

MR. PERNELL: If we were well --

MS. KING: So if we impose a condition that he meet on a regular basis with the single member district, and/or representatives of the ANC, and the neighbors and so forth, you would not have a -- you would not feel that it was necessary to deny

this application?

MR. PERNELL: That's correct.

MS. KING: Thank you very much.

MR. FERRELL: One other point, Ms. King, before we go on.

Ms. Rosalie Johnson is the Commissioner for that single member district, but she also has a seat on the Board of Directors. And one of the problems was that some individuals felt that she could not be impartial, as being an ANC representative, and also sitting on the Board of Directors.

And Commissioner Pernell kind of filled in some of the gaps to try to ease some of the people's reservations about any biases, one way or the other, because she has two hats.

Now whether she will be a candidate for the ANC for this coming election, I'm not sure. But the BZA should be placed on notice that Ms. Johnson is -- currently is a representative, and if she choose to run and is elected, there will be a conflict of interest.

MR. PERNELL: And I would like to say one more thing for the record.

MR. HOOD: It is in our records, we are notified of that.

MR. PERNELL: I would also like to say, for the record, that on all my steps in dealing with Wylie street and the surrounding community of -- Ms. Johnson was informed. Ms. Johnson and I had a consultation talk on the phone, and she didn't have any problems with me being the mediator.

MS. KING: Thank you.

MR. PERNELL: There, in the community.

MR. HOOD: May I ask Mr. Ferrell another question?

I understand that there is some discrepancies that you might have had a few problems, but all in all has this school helped benefit the community?

MR. FERRELL: Without a shadow of a doubt.

MR. HOOD: Excuse me?

MR. FERRELL: Without a shadow of a doubt.

MR. HOOD: Okay, thank you.

MR. SCHULMAN: I'll be brief, Jim Schulman, again, ANC6-A04. Obviously the ANC was divided, but a clear majority of those voting, from the whole ANC, not just the Zoning and Licensing Committee, were in favor of the variances and special exception requests.

Commissioner Rosalie Johnson obviously would love to speak, and would testify if we had more time.

While we believe there is legitimacy to some of the resident's concerns regarding non-residential uses on Wylie Street, the students who attend the after-school program, and their parents, who are from the immediate area, are residents also, and deserve the services that they can obtain in the neighborhood.

Expansion of the Fishing School will be directly related to the improvement of the existing and adjacent property. And the ANC feels that the community fears regarding possible declines in property value on the street as a result of the Fishing School expansion are overblown, if not absolutely incorrect.

I know somebody, an adult, Atif Tate, who is in the room today, who was a student at the Fishing School and would testify here, if we had more time, as well, that that facility saved his life.

And I did review the BZA's 1992 summary order for this case, and I can see no reason why permission to operate should not be, again, granted.

Thank you very much.

CHAIRPERSON REID: Thank you. Any cross examination from the Applicant?

(No response.)

CHAIRPERSON REID: Thank you very much.

MR. PERNELL: Thank you, Madam Chair.

CHAIRPERSON REID: Persons and parties in support of this application please come forward.

MR. MCCRAE: My name is Derrick McCrae, and I'm a staff at the Fishing School, and also --

CHAIRPERSON REID: Mr. McCrae, could we have your home address, please?

MR. MCCRAE: 1337 I Street N.E.

CHAIRPERSON REID: Okay.

MR. MCCRAE: Can everybody hear me? As I was saying, I'm a staff person at the Fishing School and I also live in the neighborhood.

Now, from what I'm hearing, from what I just heard from some of the folks that oppose the Fishing School, is generally parking, children making noise. All those things, I thought we already settled those things in the prior meetings that we had.

You know we made promises to them, and we would do these things, and we would take care of them, and we have taken care of them. And I don't know why they just keep coming up, it is just a

waste of time for the Board and myself.

Now, the school is the only positive thing that is going on in that street right now. And we help a lot of children down there. And I've been there for almost 5 years now, and a few of the kids that -- I will just go from the year past.

We had one of the kids that attended Fishing School scored the highest marks on the Stafford 9 in math, because he attended the Fishing School.

And we also had, let me see, I'd say about another five or six kids that made honor roll because of the Fishing School. And also we are able to keep a lot of the kids, let's say, between the ages of 11 and 13 off the streets, because they are at the Fishing School doing positive things.

And the biggest thing about the Fishing School is that is where the kids come get their spiritual healing. Some of them don't like it, but they get it. And that is the most important part about the Fishing School.

And that is all I have to say.

CHAIRPERSON REID: Thank you very much for your testimony.

At this time we will have persons and parties in opposition. Please come forward.

MS. KING: That was the one person.

CHAIRPERSON REID: That was in support.

MS. KING: That was in support, okay.

MS. RUFFIN: My name is Vanessa Ruffin, I live at 1219 Wylie Street N.E., I've been a 21 year resident on that street, and a fourth generation resident on that street.

I did not live there all of my life, and until 21 years ago only visited over years while my family members lived on the block, and can only attest to the 21 years that I have lived there.

I have one question before I begin, because I want to be clear, before I speak, since I generally speak from the standpoint of fact.

Is the Fishing School on trial, or its location?

CHAIRPERSON REID: It is not a trial.

MS. RUFFIN: I'm sorry. When I say on -- I'm sorry, I used the wrong term. Is the Fishing School itself in question with the BZA, or its location?

CHAIRPERSON REID: It is the use, it is the --

MS. RUFFIN: And size.

CHAIRPERSON REID: -- actual use of that particular location.

MS. RUFFIN: The actual use, in an R-4.

CHAIRPERSON REID: In that location, in the R-4 district as well. We are here today, the purpose of this Hearing is to look at the case, and what the -- the relief that they are asking for, from this Board, which is the special exception, and a variance; two variances, I think.

MS. RUFFIN: My reason for asking that was because I needed to be clear that we were not discussing the validity of the Fishing School, because I have yet to ever question that.

The Fishing School, and Mr. Lewis' concept and idea, as well as the programs that it carries out are commendable. It has, however, in total agreement from the testimony given by Mr. Lewis, the architect, and everyone else, outgrown the capabilities of that R-4 residential area.

And if we are looking at those facts in their pure sense, I cannot support, even with the alterations that will call for, and I will go down my list of oppositions on those alterations, based on the needs of the Fishing School within Wylie Street N.E. to operate.

As far as my concern in this matter, Mr. Pernell mentioned it, I have offered -- have run behind Mr. Lewis, I have made myself a nuisance

attempting to help him more appropriately locate, in direct proximity, to continue this good work and service to our community, because it is very much needed.

However, he doesn't even want to entertain basically even seeing me, let alone legitimately looking at any of the assistance I have attempted to provide.

If you are interested on any of the information upon contact, in other words, somebody indicating that it is wanted, I will provide as much as I possibly can in order to assist in the appropriate location for the expanded needs, for the accessibility compliance, and the needs to serve the individuals in direct proximity in our community, as the Fishing School has attempted to do.

One of the first things that hit me like a ton of bricks, today, was the accessibility compliance, that they had an interest to serve persons with special needs.

I happen to be a volunteer, but a Board member for the District's Council for Independent Living. I serve with a number of other individuals with disabilities relating to independent living legislation and compliances within the District of Columbia.

And I find that to have individuals with disabilities to go past, and I call it the pink house on 13th street, by way of that alley, to enter into the Fishing School unless some major changes can be made in those proximity areas, from my position unacceptable.

And I don't think that there were very many people who looked at the needs of persons who already have challenges putting themselves at risk to enter beyond, or past those particular conditions.

We have recently had some improvements on the street, they tore up some areas, and they are repaving. However, even the sidewalk which is old brick, as well as the condition of the alley, and a house that is continuously on the nuisance property task force list, exists in proximity of the disability access that was presented here.

The next thing that I am concerned about is this. With all of the information concerning the alterations of the building, and the square footage, and the very good job that the Fishing School is doing, whether that space really, really is going to be adequate, or if as the BZA originally stated, when it was in compliance, when the variance was given, another location should have been being

sought, or certainly looked at over the extensive period of time that Mr. Lewis has had to appropriately relocate for the expansion of these much needed services in our community.

Presently we need, on Wylie Street, good responsible residents. That is individuals who are not just doing it at the time the Fishing School is opened, but at all times, good neighbors who look out for one another, who have concern for individual property rights.

And at this juncture, as I start to look at good neighbors, Mr. Lewis I'm hoping being one of mine, I can't say that as I've lived there, for the period of time, and had experiences around him as a neighbor, that I always got those feelings that he was a good neighbor.

The Fishing School, again, is an admirable situation. However, when it came to actual questions and needs within our community, and the cooperation to take care of anything other than his business during hours, be it for profit, or not for profit, I did not get the kind of response from a good neighbor in a residential community needed.

That has, I believe, trickled down in some of the behaviors of those individuals associated with the Fishing School.

When the doors close I still live on that street, as do many other neighbors who have children, who have moved, due to the lack of a strong residential or community atmosphere on that street.

I support, at this point, that that be a priority of the R-4. That the BZA first take a look at us doing the things that we need to do to be that good community, and that the Fishing School be urged to do what the original variance indicated, and that is to appropriately locate this service where it can carry out the full scope of what it is attempting to do.

I have a letter that I submitted, I think it may also be in your paperwork, with my concerns. Just a whole bunch of things here. Let's see.

That letter is a result of questions posed by Mr. Lewis, and a response that I gave, I believe, back in May, as a result of us as a community going to him and try to solicit him as a good neighbor, on behalf of the Fishing School, and to work with us on some of the concerns that we had to improve the block of Wylie Street.

Thank you.

CHAIRPERSON REID: Thank you very much.

We now will have closing statements by the Applicant. Excuse me, did you have any cross examination?

MR. ELLIS: No.

CHAIRPERSON REID: Okay.

MR. ELLIS: Very briefly. There were certain concerns that were made, one the number of kids. As we stated, we are not trying to increase the number of kids. We explained to you how we calculated that the order that you had before was 20 kids, 4 staff people.

We are still there, we recognize -- we want you to recognize that there may be times that there will be children there, but they will be congregating there only to get on the buses to leave.

The age of the kids was testified to. The kids are basically age 9 to 13 -- excuse me --

MS. KING: 6 to 14 was told, we were told earlier.

MR. ELLIS: 6 to 14, I'm sorry. The hours were previously stated, we have summer hours and winter hours. We stated those. Parking, we've told you about the parking, that we have gotten an agreement with H Street CDC.

Do you want me to go back over the

parking?

CHAIRPERSON REID: The hours, just give me the hours.

MS. KING: I've got the -- let me check to make sure. The hours are from 10 a.m. to 8 p.m. during school, when school is in session, and from 8 a.m. to 4 p.m. during the summer holidays?

MR. ELLIS: That's correct.

MS. KING: Would it be appropriate for us to ask, I mean, there is opposition, therefore we can't decide this until our next meeting, which is a month away. Can we ask that Mr. Ellis file a copy of the agreement on parking that is to be reached with the H Street CDC?

MR. ELLIS: I don't have a problem with that, but Ms. King, there is no one that asked for party status.

MS. KING: I beg your pardon?

MR. ELLIS: There is no one that asked for party status.

CHAIRPERSON REID: For party opposition.

MS. KING: Okay.

CHAIRPERSON REID: So no one here has asked for party status who is in opposition.

MS. KING: I see, okay.

CHAIRPERSON REID: The hours are Monday

through Friday only?

MR. ELLIS: Monday through Friday, yes.

CHAIRPERSON REID: Even in the summertime?

MR. LEWIS: At this, during the summertime yes, but starting this coming fall, well, starting two weeks from now, we are going to be having a Saturday program as well. At one point we had a Saturday program, but the person that was running it for us transferred to Baltimore.

CHAIRPERSON REID: Monday through Saturday and the same hours?

MR. LEWIS: About five hours on Saturdays.

CHAIRPERSON REID: Which would be?

MR. LEWIS: It would be from about 9 to 1, 9 to 2.

CHAIRPERSON REID: Okay.

MS. KING: 9 to 2?

MR. LEWIS: Yes.

MR. ELLIS: The parking, as we told you about, we have an agreement. Lighting, we have placed, I believe, mercury vapor lights, and they are to be incorporated into the project, I mean, once they do the project it will -- some of them will come down and then go back up, but we have

mercury vapor lights, already.

Community clean up, there is already a plan with the children, as community service, that they go out every other day to do help with community clean up. That is the Fishing School doing it themselves.

Again, the trash was -- Ms. Ruffin said that -- about the ADA access, she brought up about that. The rear of the building is already concreted in. The only thing you have to do is put a slight ramp there that is out of wood, and it is there.

Need for good responsible residents. The problem is these properties, as we stated earlier, they were crack houses. One was -- Mr. Lewis got the first one, was a crack house. And when he got the second one it had been used as a crack house.

Somebody converted it, or attempted to convert it to a rental unit, and it had been allowed to deteriorate. But it had been a crack house right before that.

And appropriate location. One thing about the appropriate location is, it is within the community where the people need the services. The Fishing School is in the heart of the community where the services are needed, and we believe that

that is where it needs to be.

CHAIRPERSON REID: Is there food prepared on the premises?

MR. ELLIS: There is a kitchen, and there is some food that is prepared on the premises, yes.

CHAIRPERSON REID: And what about the issue of trash? I know you said that there is a community clean up by the school, but what about trash pickup?

MR. ELLIS: It is not a daily lunch program.

MR. LEWIS: No, we have trash pickup, and we have regular pickup from the city. We have a relationship with the Department of Public Works. We also have a neighbor who lives two doors down from us. Whenever any additional trash comes, he picks it up himself. We pay him to do that.

And as far as trash is concerned, the Fishing School has always, exclusive of the neighbors on Wylie Street, the Fishing School, with our children, have always gone up and down the block every other day, and cleaned the streets.

CHAIRPERSON REID: My question was if, in fact, you prepared food on the premises, then you have additional trash.

MR. LEWIS: We have a man on-site to load up all the trash every day, and we have a relationship with the Department of Public Works.

CHAIRPERSON REID: To take it away?

MR. LEWIS: Yes, to take it away.

MS. ROSE: Daily?

CHAIRPERSON REID: You have a contract --

MR. LEWIS: Not every day.

MS. ROSE: How often is it removed?

MR. LEWIS: About every day, sometimes three times a week.

CHAIRPERSON REID: Two to three times per week?

MR. ELLIS: Yes, public works comes in at least twice a week, and then the individual -- the private individual --

CHAIRPERSON REID: In addition to the regular scheduled pickups by Public Works you have someone else that --

MR. LEWIS: Yes, we have --

CHAIRPERSON REID: -- you contracted with to pick up?

MR. LEWIS: That's correct.

CHAIRPERSON REID: Remove trash from premises at least twice a week?

MR. LEWIS: At least twice a week.

MR. ELLIS: I misspoke. Public Works comes twice a week, and the other gentleman comes once a week.

CHAIRPERSON REID: Okay.

MR. LEWIS: And trash is not a problem at the Fishing School, never has been.

CHAIRPERSON REID: Okay. Mr. Ellis, continue?

MR. ELLIS: I'm finished.

CHAIRPERSON REID: All right. Are you --

MR. ELLIS: We would request a bench decision since there was no party opposition.

CHAIRPERSON REID: Mr. Hood?

MR. HOOD: I'm prepared to vote if all the Commissioners are. I would just like to add, I'm not sure, can we put something in there that Mr. Lewis continue to work with --

CHAIRPERSON REID: We can, once we have a motion. Do you want to move approval?

MR. HOOD: I'm ready to move approval of the Fishing School for its variances and special exceptions.

MS. KING: May I suggest some conditions regarding --

CHAIRPERSON REID: Before that, let's for the record reflect that the burden of proof has been met, the attorney for the Fishing School has set forth the -- the condition under which he is requesting relief.

The property is unique, it is a substandard lot, and the fact that there is certainly a practical difficulty for complying with existing zoning regulations predicated upon the fact that the compliance -- unable to comply with the ADA regulations, in addition to the fact that the size of the lot precludes them being able to carry out their regularly scheduled program.

And in regard to the adverse impact, they spoke to mediating some of the negative aspects of the parking, which would be addressed through a plan to park the vans off the street on the Atlas parking lot, as well as making sure that the vans were not left in front of the building, I think they said.

They also talked about noise abatement, by having a staff member to accompany the children from -- I guess it is from the site, and to caution them about making too much noise.

I don't think traffic was a problem. They also talked about trash, and we talked about

mitigating that, and we can do that in the conditions.

And, lastly, the test regarding impairing the integrity of the zoning plan and map, I think that that has been properly addressed, that there is no impairment.

MS. KING: I would suggest that this be for a period of three years. I think that is the maximum that we can grant with the regulations.

CHAIRPERSON REID: Did you second it?

MS. KING: I don't care, sure, I seconded it, of course. Don't you remember?

CHAIRPERSON REID: Now we go to conditions.

MS. KING: Shall it be for no more than a period of three years.

CHAIRPERSON REID: As is required within the regulations.

MS. KING: Right. The student enrollment shall not be more -- or there shall not be more than 20 students at any time in the building, the students being between the ages of 6 and 14, and there shall be no more than four full time equivalent staff people.

MR. ELLIS: Ms. King, can I ask you about the conditions? You said 20 students in the

building. Can it be 20 students in the building participating in programs, as opposed to, like if the kids come in, you don't want us to keep -- if we have 20 kids in the program, and 15 kids coming to get on a bus, you don't want us to leave 15 kids outside, do you?

MS. KING: Well, I don't know. I mean, what is the maximum number of students who will be in the school at any one time?

MR. ELLIS: In the school at any one time, we will have many times a total of 20 in there

MS. KING: Okay, that is what I was saying.

MR. ELLIS: But we might have 15 kids that come there to go someplace else.

MS. ROSE: So ask for 35.

MS. KING: So your number is 35, then, no more than 35 students in the building at any one time.

MR. ELLIS: At one time, okay, 35.

MS. KING: No more than 35 students of ages 6 through 14 in the building at any one time; a maximum staff of four full time equivalent employees; the hours during school days from late August until mid-June is from 10 a.m. to 8 p.m., Monday through Friday.

During the summer holidays, for most of June, July, and August it is from 8 a.m. to 4 p.m..

MR. ELLIS: Monday through Friday.

MS. KING: Monday through Friday, and Saturday programs are being instituted that will run from 9 until 2.

MS. ROSE: Saturday programs?

MS. KING: Those are the hours of operation.

MS. ROSE: The Saturday programs are only during the summer, or all year?

MS. KING: Year round.

MR. LEWIS: During the fall, right now, but year round if possible.

MS. KING: Year round.

MR. LEWIS: Thank you.

MS. KING: And I think that we need to mandate that, particularly Mr. Lewis, because you are going to have to come back in three years, that you meet at least four times a year with representatives of the Advisory Neighborhood Commission, and with the immediate neighbors of your property.

And particularly, I think, you are going, during the construction period you are going to need to be sensitive to their concerns.

But I think we need to require you to meet a minimum of four times a year, and heal any problems that you have with your neighbors.

Adequate trash removal is to be provided, and --

CHAIRPERSON REID: Are you going to specify to at least pick up twice?

MS. KING: At least twice weekly trash removal will be provided. And arrangement will be made for your vans when not in actual use to be parked away from the site in an off street parking.

Is there anything else?

CHAIRPERSON REID: What about the community clean up that the school participates in at least twice a week, that you said that they are already involved in that?

MR. LEWIS: We are already involved in that. We do it, the community doesn't have a problem, we are willing to do that. And I would also add, if you don't mind, about the meetings, if you would make the mandate that we make an attempt to meet with the community, because we've had two meetings previously, recently, that they didn't come to. So they use that against us. We will have the meetings.

MS. KING: I think, you know, I've had a

lot of experience in community relations and so forth. Your ANC Commissioner is a member of your board. She has a constituency that has, at least in the past, has been sufficiently supportive of her to elect her. That is 2,000 people who elected her, or had the opportunity to vote for her.

It seems to me that it is not unreasonable for us to require that you hold those meetings, use your best efforts, and the efforts of your board members to get the participation of your neighbors.

And if you meet them as co-equals, not doing a PR number with them, but sitting down and saying, how can we help you, what are we doing wrong that you don't like, what do you like that we are doing, and what do you dislike.

And it is our intention to let you remain in that community, and to expand your facility. But you've got to, I mean, you talk about serving your neighbors, and yet you have some of your neighbors who are up in arms against you. And I think it is just a matter of simple logic that you should try and repair that, otherwise you are not really serving your community.

I don't mean to preach at you, but I think it is -- but I did. And I think it is

unreasonable for you to say that you use your best efforts and if you can't pull it off we don't care. We do care, four times a year.

You know, really pulling out all the stops to make -- you are serving your community, certainly there are parents of the children, and so forth, who must be willing to come and talk to you about any problems that exist in your community. It is not unreasonable, four times a year.

CHAIRPERSON REID: Do you have other conditions with regard to the lighting? I think it is the Applicant's proffer that they were going to provide vapor lights?

MR. ELLIS: We have mercury vapor lights up.

CHAIRPERSON REID: Already?

MR. ELLIS: Yes.

CHAIRPERSON REID: That will be put up?

MR. ELLIS: Yes, we have lights up, already. What we are saying is when we get finished with the renovations we will put them back, probably during the renovation some of them will be moved, and then we will put them back up, there will be adequate lighting.

CHAIRPERSON REID: Adequate lighting is provided.

MS. KING: But we need to make certain that they don't spill over into other people's property and become a nuisance to the neighbors.

MR. ELLIS: We will have our architect.

CHAIRPERSON REID: Okay. Appropriate adequate lighting.

Mr. Hood, did you have --

MR. HOOD: No, I think we've covered it all.

MS. KING: No spillover beyond the property line is essentially what we are talking about.

MS. ROSE: Did you address whether the ANC gets great weight or not? Because that goes into our order.

CHAIRPERSON REID: At this point, based on the fact that the ANC did not have a meeting with a quorum, that is the basis for which they are given great weight. We would certainly take their position into consideration.

MS. KING: And that of the -- it is my impression that there is nobody wants this school, well, possibly one person who wants the school to shut down, you know, they wish it were -- some people wish it weren't where it is, but everybody seems to be very supportive of the mission of the

school, and what it has accomplished.

CHAIRPERSON REID: And the services they are provided.

MS. KING: Even those people on the ANC who apparently voted against it.

CHAIRPERSON REID: Even the people who may have some problem with the school, nonetheless, I think that it is far better than what was there before.

MS. KING: Yes, better than a crackhouse.

MR. HOOD: Let me just add, if the school were not there, we need to think about what situation could exist if the school is not there to take care of our kids.

CHAIRPERSON REID: All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No response.)

MS. ROSE: Staff will report the vote is 3 to 0 with Mr. Hood, Ms. King, and Ms. Reid to grant the application with conditions. And is this a summary order, or a full order?

CHAIRPERSON REID: Yes, it is. Could you provide a proposed order for us?

MR. ELLIS: I will draft the proposed

order.

CHAIRPERSON REID: Yes, a proposed draft order, and on disk.

MR. ELLIS: Yes. The problem is that the system that you have set up is different from my system. I will give you a proposed order, but you guys are on Office, and I'm on Wordperfect.

MS. ROSE: Madam Chair, we can discuss that off the record.

CHAIRPERSON REID: We will discus it.

MR. ELLIS: Okay.

CHAIRPERSON REID: The case is over. Any other discussion regarding this case can be done directly with the Applicant and the participants therein. The case, for the purpose of this Hearing, is now over and done with.

MS. ROSE: The next --

MS. KING: The case is closed.

CHAIRPERSON REID: The Hearing for the day is not yet over, so any discussion that you have, I would ask that you please move it out into the hall, and we will now have the next case. Thank you.

MS. ROSE: The next application is 16387, of Square 456 Associates, pursuant to 11DCMR3108.1 and 3107.2, for a special exception

under (subsection 411.11) for a roof structure and a variance from (subsection 1706.22(g)) which is an error, to permit commercial development to proceed prior to issuance of a certificate of occupancy for non-residential development within the DD District until a certificate of occupancy is issued for affordable housing in a DD/C-4 district at premises 625-627 E Street, and 620 and 626 F Street, 501-507, and 511-517 7th Street, N.W. (Square 455, Lots 37, 39, 868 and 869.)

Would all persons planning to testify in this application please rise to take the oath?

(WHEREUPON, THE WITNESSES WERE SWORN.)

CHAIRPERSON REID: Good afternoon.

MR. GLASGOW: Good afternoon, Madam Chair, Members of the Board. For the record my name is Norman Glasgow, Jr. with the law firm of Wilkes, Artis, Hedrick and Lane appearing on behalf of Square 456 Associates, the Applicant for a variance relief from the provisions of the DD District, and also for special exception with respect to roof structure setback.

Here with me today are Ms. Pamela Benoil, of Compus management, Mr. Colden Florance of the architectural firm of KCFSHG, Mr. Steven Sher, Land Planner, Mr. Bill Davis, appearing on behalf,

he is also appearing on behalf of Golden Rule Plaza Inc.

Mr. Sher you already know, and then also Ms. Shaw of our office is here in the audience, from Wilkes, Artis.

Mr. Florance and Mr. Sher are offered as expert witnesses in the field of architectural land planning. They have previously testified before this Board on many occasions. Mr. Davis has previously appeared before this Board in the capacity of project developer with particular emphasis on financing of projects eligible for, I guess, HUD financing, CDBG financing, and other various areas of financing to build various number of projects in the city.

I don't know how much the Board has read through our tome.

MS. KING: Every word.

CHAIRPERSON REID: Mr. Glasgow, what we like to do, is to expedite this case. I don't think there is any opposition.

MR. GLASGOW: We are not aware of any.

CHAIRPERSON REID: Yes, there is no opposition.

MS. KING: The two gentlemen sitting on our left, are you here just for information, or are

you in opposition, or -- just for information, okay.

CHAIRPERSON REID: That being the case, then you may want to expedite, give us the salient points. For the record, we have read the materials that were submitted to us, to basically be able to facilitate your case.

MS. KING: Make your case.

MR. GLASGOW: I think at this point in time, having gone through the statement of Applicant, you have the Office of Planning report, and the letter that was signed by three of the ANC Commissioners, I'm not going to argue whether there was a quorum or not, there wasn't. They had no meeting in August, so three signatures was all that we could get.

MS. KING: I'm not sure I have a copy of the ANC letter, was it in the package? Maybe it didn't get into mine for some reason. I have an ANC question mark on my page. Well, staff can give me a copy while you proceed. I'm sorry, I don't mean to tie you up.

MR. GLASGOW: I can give you a copy.

MS. KING: Thank you.

MR. GLASGOW: I believe it was filed with your office in August 31st.

MS. KING: I don't doubt it, it seems to

have gone missing from my file.

CHAIRPERSON REID: Mr. Glasgow, I'm not sure that -- staff just informed me that there was not an ANC letter. We didn't receive it.

MS. KING: Well, we have a copy now.

CHAIRPERSON REID: Yes. And their position is in support?

MS. KING: The ANC supports a granting of special exception relief to allow roof structures which do not meet the normal setback. ANC understands that --

MR. BASTIDA: You might want to submit that into the record, before you read it.

MS. KING: Have we not already done that?

MR. BASTIDA: Well, they cannot find the copy of the --

CHAIRPERSON REID: So we have to waive the rules to accept it into the record. It is so waived.

MS. KING: The ANC strongly supported the variance relief requested, which is very important to the ability of the Golden Rule Plaza project, etcetera.

Now, the purpose of this letter is to advise the Board of the support of the undersigned

members of 2-C. ANC2-C does not meet in August, and was therefore unable to hold an official meeting to deal with the matter. And it is signed by Lawrence L. Thomas, chair person, vice chair person Norma Davis, and Treasurer Doris L. Brooks.

CHAIRPERSON REID: So there was no quorum, not vote taken?

MS. KING: It is a 6 member body, and the three officers, I presume meeting in executive session, the chair, the vice chair and the treasurer signed this. So we can't give it great weight.

CHAIRPERSON REID: But they come in, they weigh in as being in support of the application?

MS. KING: Absolutely.

CHAIR PERSON REID: So the record will then reflect the fact that ANC2-C has submitted a letter in which they are in support. However, they were unable to meet because of it being August, and so therefore we are not able to give great weight, but we will certainly take their position into consideration.

MS. ROSE: So it is not the ANC, but the single member district members?

MS. KING: Three members of the ANC.

MS. ROSE: Three members of the ANC?

MS. KING: Have supported it.

MS. ROSE: Okay.

MR. GLASGOW: Madam Chair, I think that given the lateness of the hour, and your previous comments, that we want to skip Ms. Benoil's testimony. She is here on behalf of --

CHAIR PERSON REID: Can she summarize, quickly? We would like to hear from her.

MR. GLASGOW: Either that or we can go straight to the burden of proof.

CHAIR PERSON REID: Okay, all right.

MR. GLASGOW: Why don't we go to Mr. Florance, and talk roof structures.

MR. FLORANCE: I'm sure you are all generally familiar with the site?

CHAIR PERSON REID: Yes.

MR. FLORANCE: Can you hear me now? You are generally familiar with the site. This is the Hecht's building, F Street, 7th Street, this is the earlier Hecht's building, this is dated from the last quarter of the 19th century, this is the 1924 structure with which you are all familiar. And this is not now part of the project, but it has been restored, it is the Top House. Jemal owns that property and restored that.

This is the four story Murray building

existing on the corner, and we are proposing to add six stories to that for a total of 10. This has been approved by the Historic Preservation Review Board, and has gone before the Mayor's agent, and has been approved.

And then around the corner, on E Street, are 625 and 627 E Street, and they too will be restored, and remodeled as residential, as is this building.

Now, there is a courtyard in between. We have a total on-site of about 56,000 square feet of residential, and we also have on the order of 230,000 square feet of office construction, and there is retail at the ground floor.

And that is all, as the material we have submitted indicates, in accordance --

MS. KING: Is that the AARP building on the other side?

MR. FLORANCE: Yes, you are absolutely right. AARP is here, this is a vacant parking lot, and you can see that from this drawing. This is the Hecht's, this is the Murray building, 7th, F, this is the arena, says proposed here, but we now know that it exists.

This is the AARP building, this is the Oriental building association, which is not a part

of this project. This is the vacant parking lot which is proposed as a new office building to complete the block.

The roof structures that we are talking about include the one that you see here, and which there will be the penthouse, mechanical equipment, elevator, penthouse, so on and so forth, the usual things that occur in the penthouse, and obviously we are well back from the face of this building.

But because of our negotiations with the HPRB, and the way in which we designed this project, requiring a setback for the new addition, from the existing street, we are unable, on the back, on the alley, to have the full 18 foot 5 -- I'm sorry, 18 foot 6 inches setback because of the constraints of the existing rooftop structure of the Hecht's and because of our concern with the design, and how it is perceived from 7th street, and that was a part of the approvals of the HPRB.

And I have to say we like it, we think it is a good design.

So what we have, in effect, is an eight and a half foot setback from the face of the building in this location. And so that is one relief that we are requesting.

In the case of the Murray building,

although this model is not entirely accurate, what is actually happening is that north-south, these two locations, we are only able to provide a 15 foot setback. We are all right east-west, we have the full required 18 and a half foot setback.

And the reason for that is clear. We have a stair shaft in here, we have an elevator overrun, and we have mechanical equipment. And although we worked very hard to reduce them to the absolute minimum, we could not squeeze this any further without introducing, really, engineering impracticalities that would be very difficult to contend with.

So those are the two rooftop reliefs that we are looking for.

Now, I would also like to say that we are interested in some design flexibility. And the kinds of design flexibility that we need are related to the future leasing and use of the building, and would have no impact on the numbers or the kind of retail, or anything else, that we have proposed, and have received approval of in the past.

The thing that we need is an ability to move retail, for example, either horizontally or even vertically, below grade, above grade, to respond to market demand.

If a Nike superstore were to want to come and occupy that corner, or perhaps that corner, we need the flexibility to do that within the design parameters of the project, and also without, as I say, violating any of the numbers which are carefully calculated, as you have read, to provide the special arts uses that the overlay, the DD overlay asked for.

Another kind of relief that we need, not relief, but flexibility in design, as this building becomes a reality, we have to make an interesting design choice. And that is, do we align the floors of this building with the floor to floor heights of Hecht's, which are quite unusual for a downtown office building, but still offer some interesting opportunities, or do we align the floor to floor heights of this new building with the AARP building to the south, which gives a different set of circumstances.

And that, really, is a market driven sort of issue which will require a lot of analysis, a lot of work with potential tenants, so on and so forth, but which will have no practical impact in terms of FAR, the height of the building, anything else of that nature.

But it is the kind of design flexibility

that we would very much like to have.

Another kind of design flexibility is that the elevation on F street, of the proposed "new building" was approved by the HPRB, and it looks like that. That is what was approved.

This, of course, is Hecht's, and across the street, obviously, is the arena. We are interested in being able, as time goes on, to rethink the design of this facade.

Now, that is in the historic district, so if we do that, we will have to take it back to the HPRB, so there will be design control on that facade, but we feel that that is another example of the sort of flexibility that the project really needs in order to be viable as it goes forward.

And we are all aware that the project has been lying fallow, very fallow, for a long, long time. And everyone is, at least I am, very anxious to have this thing stabilized and occupied, and healthy, and back in action.

That is, in effect, what it is we are asking for. Thank you.

MR. GLASGOW: That is the testimony on one area of the relief that we have. The other area of relief is, if I may make a brief proffer --

MS. KING: Under law, what is the

difference between flexibility and relief?

MR. GLASGOW: The flexibility that he desires is, one, we need -- it won't impact any of the relief that we are requesting, all right? with respect to the roof structure setback. We already have to go to the Historic Preservation Review Board, and the Mayor's agent.

Sometimes Board orders come out and says the project shall be constructed in accordance with plans marked exhibit X.

MS. KING: I see, you don't want us to do that?

MR. GLASGOW: We don't want you to do that.

MS. KING: I understand.

MR. GLASGOW: -- necessity to do it.

MS. KING: I mean, however, you would have no objection to our saying that the roof structures, for which we are granting a variance, must be accomplished according to the design submitted?

MR. GLASGOW: Correct. And in the Office of Planning Report there are two conditions that are referenced, and one of those talks about the -- the second one on page 8 of the OP report, the Applicant may modify the design of the building

subject to approval under DC law 2-144, Historic Preservation Review Board, and/or Mayor's agent.

MS. KING: That is okay, I understand, but I just, you know?

MR. GLASGOW: And that specifically says, provided that those changes do not diminish the roof structure setbacks. That is the very next line.

So we understand where the Board's concern would be.

MS. KING: I like this word flexibility.

MR. GLASGOW: The second area is that the Square 456 Associates was approached by the representatives of Golden Rule Plaza to see whether or not we could fund the 500,000 dollar off-site affordable housing contribution in our joint venture, earlier than just doing it at the time when they were getting their certificates of occupancy, and we knew that their project was going forward.

They said, can you fund us early? I took it to the representatives of Square 456, and they said yes, we can do that, provided that we know that when we have made that 500,000 dollar contributing, that we have made the contribution, and that we are not in a position where, in effect, we are at risk as to how Golden Rule Plaza proceeds.

And so that is what generated this second area of relief, the variance request. And so we have agreed with Golden Rule Plaza on that. The representative from Golden Rule Plaza is here if there are any questions on that.

Also there is a condition that has been agreed to between Golden Rule Plaza and the Square 456 Associates, representatives. That is the first condition, talked about when the 500,000 dollar amount should be placed, that it should be placed in an escrow account to be made available for Golden Rule Plaza at the time of settlement on its financing for the low and moderate income housing project, which it will be developing between New Jersey Avenue, New York Avenue, K Street, and east of the Center Lake freeway, just south of By The Way Church.

So after placing the 500,000 dollars in escrow, then as soon as Golden Rule Plaza is ready to close on its construction financing, the 500,000 is there, they are able to pull that out.

They also are going to be able to use that as they finish up their financing, and use that, as they've got 500,000 dollars worth of equity on the project. So that will assist them in a number of ways, and Mr. Davis can address that in

however much detail the Board needs.

MR. DAVIS: Shall I speak?

MS. KING: Just a brief overview, don't you think?

CHAIR PERSON REID: Yes.

MR. DAVIS: Some of you may know about the Golden Rule Plaza apartment project. We've been working, diligently, on this project for at least six years. It took a great deal of effort to obtain the right to the land. This land is near the corner of K Street and New Jersey Avenue, and is excess highway land so we had to go all the way through the Federal Highway Administration, Secretary of Transportation, to get site control for this project.

It is going to be a seven-story apartment building with 127 units, about twelve one-bedrooms, 103 two-bedrooms, and another 12 two-bedroom apartments.

We are going to have the apartments are targeted for senior citizens. About 50 percent of those senior citizens will be very low income seniors. The price on the units will go from about 450 dollars a month, up to about 800 dollars a month, so we will have a great deal of variation, but it is all well below the moderate income HUD

limits.

The project, right now, has a total development cost of about 12.6 million dollars. That 500,000 from the joint venture that we are speaking about is very critical to the financing of the project.

If the 500,000 is available at the commencement of construction, that is 500,000 that we don't have to borrow, which keeps the rental levels lower.

Also, Hud, which is providing the FHA insurance on the taxes and bonds for the project, has stipulated that all the funds have to be available to construct the project from day one.

So that means that having 500,000 dollars in an escrow account that we can't get until the certificate of occupancy, is not going to help us to pay the construction firm.

So it would be very helpful to our project to have those funds available at the commencement of construction.

Finally, you may be concerned about the imminence of this project. I can assure you that our project will be up before his project is up. WE should be starting construction on this project within the next six months, hopefully by the end of

December, but certainly by February of next year.

We have already received approvals from the department -- DC Housing Finance Agency, to issue taxes and bonds for the project, and we are now in the process of negotiating the tax credit investment for the project.

I will stop at that point.

CHAIR PERSON REID: Thank you very much. Mr. Hood?

MS. KING: No questions.

MR. GLASGOW: Mr. Sher is here if you have any questions for him, but I think our statement is pretty clear as to how it is that we meet all the burden of proof, how it is we meet the provisions of section 1706 of the regulations dealing with that variance request for that submission of those bonds.

I would suggest -- we did suggest, and had worked with the Office of Planning on two conditions to the order. Assuming that the Board is in a position to grant, those are set forth on pages 7 and 8, and they deal with when we would place the funds in escrow, and how they are obtained from the escrow account.

And then, also, the Office of Planning was concerned that if for whatever reason that the

Gold Rule Plaza project did not go forward, that there was a mechanism to then retransfer the 500,000 dollars to some other affordable housing project, and that has all been reviewed by the parties involved.

And then, of course, the flexibility issue that Mr. Florance dealt with was the other condition.

CHAIR PERSON REID: Okay.

MR. GLASGOW: With that, if there are no questions?

MR. HOOD: I just have one very brief question. The residential piece, I don't see the parking for the residential piece.

MR. GLASGOW: That parking -- that residential parking is going to be included in the garage that goes underneath the commercial piece. With the small historic buildings, you are right, there is no parking garage underneath those buildings. That parking is provided for under the commercial portion of the project.

MR. HOOD: So that is where the residents will be parking?

MR. GLASGOW: Exactly.

MR. HOOD: Okay, thank you.

MR. BASTIDA: I think what is not clear

to the Board members is that existing parking lot is really a part of the project in front of them.

MR. GLASGOW: Yes, the large parking lot located --

MR. BASTIDA: Along F Street, between 7th and 6th.

MS. KING: Opposite the MCI center?

MR. BASTIDA: Correct.

MR. GLASGOW: Yes, that parking lot, on the north side of the square. It is right in this location, this looks like a building, it is for parking.

MS. KING: Okay.

MR. BASTIDA: Presently, not for long, I hope?

MR. FLORANCE: There are in excess of 600 parking spaces on the site.

MS. KING: And how many underground -- well, it is really none of our business, but just curious. How many underground spaces are you going to have?

MR. FLORANCE: About 625 throughout the entire site.

CHAIR PERSON REID: And there are how many residential units?

MR. GLASGOW: About 55. But we have

worked with the community that we have the flexibility, depending upon market demand, and needs, to either increase or decrease size of units. Right now it is programmed for about 55 units, but that number could go up or down, depending upon size of units.

MR. FLORANCE: The residential parking will be satisfied by the commercial parking, which is across the alley, and there we have 625 cars, or will have, when we are built out.

CHAIR PERSON REID: Okay. Thank you very much for your testimony. We will now move to -- well, the ANC, we've already dealt with that. And the government report, the Office of Planning report, I don't think there were any other government reports, were there?

MS. KING: Yes, there is one from the Department of Housing and Community Development, which is a yes.

CHAIR PERSON REID: Yes, I forgot about that.

MS. KING: And the Historic Preservation Review Board, and the Mayor's agent for historic preservation all weighed in.

CHAIR PERSON REID: Okay. In support of the application?

MS. KING: Well, they are all -- well, Historic Preservation Review, I mean, is going to have to approve after Mr. Florance exercises all of his flexibility all over the place, they are going to have to say whether he can build it or not.

MR. FLORANCE: The rights of flexibility.

MR. BASTIDA: Good afternoon, Madam Chairperson, members of the Board. For the record, my name is Alberto Bastida, with the DC Office of Planning. The Office of Planning submitted its report on August 25th, and basically will be very brief.

The Office of Planning basically recommends approval of this project, with two conditions. They are spelled out on pages 7 and 8 of our report. Chip already took my thunder off of me, and addressed those two recommendations. So I will not elaborate on them, because since you know the content of them.

The only thing I will elaborate slightly is on the regulations and how the Applicant meets the burden of proof.

The roof structure is a special exception, and there is basically three issues related to roof structure, by which it should be

approved; the historic preservation issue, the structural condition of the existing buildings, and I forget the third one right now. And the setbacks are minimal, and the minimum need of providing those services as required for the structures, and by the Historic Preservation Review Board.

The variance is an area variance in which regarding the prohibition of the -- which would be separated from the need to have it on hand prior to the occupancy of the building, the office building specially, after being built. And that is because of the historic preservation issue, the different overlays in the area, and economics.

And those are the four factors by which the Applicant meets the burden of proof regarding the variance.

Accordingly, the Office of Planning recommends approval of this application provided that the two conditions spelled out on pages 7 and 8 of the Office of Planning report are included in the Board's approval.

Regarding the flexibility, the flexibility under the same issue is more related to historic preservation, and even though the Board has the authority to be the final reviewer of such design, the Board has the authority to delegate that

responsibility to the Historic Preservation Review Board. But it is the authority of the Board being delegated to HPRB, but it is still the authority of the Board.

That concludes my presentation. I would answer any questions you might have. Thank you.

CHAIR PERSON REID: Thank you. Mr. Bastida, for the record, would you please speak to the conditions?

MR. BASTIDA: The conditions, basically, makes first that regrading the half million dollars, that it will not be sitting in a bank account for perpetuity, because the intent of this is to provide housing downtown, and the Office of Planning is interested in providing that housing in the short term, rather than in the long term. And that assures that, in fact, it will be provided in the -- well, it doesn't assure, but it goes as far as possible to assure that that housing will be provided on the short term.

And that is the condition on page 7 that goes through to page 8.

And the second condition at the bottom of page 8 is regarding the so-called flexibility that has been discussed, so HPRB could dictate what the final visual appearance of the project would be

like, but it also retains that the roof structures should be built as presented to the Board.

MS. KING: And that there should be no reduction of on-site housing?

MR. BASTIDA: That's correct. But that on-site housing is regarding to the amount of square footage, not to the number of dwelling units, because that responds to the market demands, which could make -- it could give latitude in the number of units that end up, so it will be a slight increase, or a slight decrease.

CHAIR PERSON REID: You want to indicate in this condition how many square feet will be allocated towards the housing, regardless of the amount of units?

MR. BASTIDA: That's right. It is on the record.

CHAIR PERSON REID: Not less than, or something like that?

MR. BASTIDA: Right, that the 50,000 square feet that has been proffered by the Applicant.

MS. KING: So it is 50,000 square feet?

MR. BASTIDA: Plus or minus 50,000 square feet.

MR. FLORANCE: It is 56 and change.

MR. BASTIDA: Yes. The approximately 57,000 square feet that is provided by the Applicant. Because we better be on the upper ranges than on the lower ones.

MR. GLASGOW: We can give a precise number. I don't want to have an issue with the zoning administrator's office.

MR. BASTIDA: Fine, I have no problem. If you want to --

MR. GLASGOW: 56,240, that is the number.

MS. KING: 56,240 square feet of housing.

MR. BASTIDA: Residential.

MR. GLASGOW: Right.

MR. BASTIDA: The Office of Planning could be more difficult and request that when is the construction going to begin, if the Board approves it. That was a rhetoric question.

MS. KING: Did I hear an answer?

MR. BASTIDA: Unfortunately you did.

CHAIR PERSON REID: Okay.

MS. ROSE: Madam Chair, I just wanted to clarify the provision of the regulation that this is under. My reading of 1706.22 doesn't have a G to it, and I just wanted to cite the correct one when

we do the order.

CHAIR PERSON REID: 1706.2?

MS. ROSE: This is the 1995 regulations, and I don't know if there has been something --

MR. GLASGOW: Show her the updated regulations, please.

MS. ROSE: Okay, it is updated, then.

MS. KING: Mr. Sher, what have you done?

MS. ROSE: This is -- okay. What year is this? It has been renumbered. Okay, thank you.

MR. BASTIDA: You might want to put, for the record, what the date of the regulations you use for the basis, so there is not any doubt.

MR. SHER: With revisions through 1997, June 6th, 1997.

MR. BASTIDA: Thank you.

CHAIR PERSON REID: We should be operating from that.

MS. ROSE: Exactly.

CHAIR PERSON REID: Do we not?

MS. ROSE: I'd have to check, I don't have that here. This was out of the counter. This is 1995.

CHAIR PERSON REID: Okay. Any further questions, Mr. Hood, Ms. King?

MS. KING: No further questions, thank

you.

CHAIR PERSON REID: Okay. Thank you so much, Mr. Bastida. Were there any cross examination questions of Mr. Bastida from the Applicant?

MR. GLASGOW: No.

CHAIR PERSON REID: Okay.

MR. BASTIDA: You are welcome.

CHAIR PERSON REID: Now we have closing remarks by the Applicant.

MR. GLASGOW: I don't think I have any closing remarks, other than to ask if we could get a bench decision, we would appreciate it.

CHAIR PERSON REID: Members, are you amenable to disposing of this particular case today?

MS. KING: Absolutely.

CHAIR PERSON REID: Can I get a motion?

MS. KING: I move that we approve this application with the conditions as described, as imposed by, or suggested by the Office of Planning regarding the half a million dollars for the Golden Rule Plaza, and the escrow, and the wording that Mr. Bastida put forward.

Also that there be some flexibility in the design of the building, that we, in effect, delegate our authority to approve final design to the Historic Preservation Review Board. At the same

time provided that there are no changes in the roof structure setbacks as shown on the plans that were submitted as part of this case.

And that there be no reduction in the 56,240 square feet of residential housing on site. I feel that they have met the burden of proof, very adequately, and that we should applaud them for this development, and encourage them to speed them along.

CHAIR PERSON REID: There does not appear to be any adverse impact, or opposition to this particular --

MS. KING: Exactly.

CHAIR PERSON REID: And it does not impair the integrity of the zoning map or regulations?

MS. KING: On the contrary.

CHAIR PERSON REID: All in favor?

(Chorus of ayes.)

CHAIR PERSON REID: Opposed?

(No response.)

MS. ROSE: Who seconded the motion?

MR. HOOD: I will second the motion.

MS. ROSE: Staff will record the vote as 30 to 0, with Ms. King, Mr. Hood to grant with conditions. Is this a summary order?

CHAIR PERSON REID: Yes a summary order.

You should have your order out in about two weeks, Mr. Glasgow.

MR. GLASGOW: Thank you.

CHAIR PERSON REID: Do you have a draft of a proposed draft order?

MR. GLASGOW: Yes, we have a draft. Due to some insert of a couple of words today, we will get it in tomorrow.

CHAIR PERSON REID: Do you have it on disk?

MR. GLASGOW: Yes.

CHAIR PERSON REID: Very good, we appreciate that. It will expedite things. Are there any other -- is there any other business?

MS. ROSE: I think that we are done.

CHAIR PERSON REID: Okay. This concludes today's Hearing.

(Whereupon, the above-entitled matter was concluded at 5:57 p.m.)

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