GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

DECEMBER 1, 1999

+ + + + +

The hearing was held in the Office of Zoning Hearing Room, Suite 220 South, One Judiciary Square, 441 Fourth Street, N.W., Washington, D.C. 20001, at 1:00 p.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ANTHONY J. HOOD	Commissioner
JERRY H. GILREATH	Board Member
ROBERT N. SOCKWELL	Board Member

OFFICE OF ZONING STAFF PRESENT:

PAUL HART	Office of Zoning
JOHN NYARKU	Zoning Specialist

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Wilkes, Artis, Hedrick & Lane, Chartered
Suite 1100
1666 K Street, N.W.
Washington, D.C. 20006-2897
(202) 457-7814

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1:08 p.m.

CHAIRPERSON REID: Good afternoon. This hearing will please come to order on December 1, 1999. This is the public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Sheila Cross-Reid, Chairperson. Joining me today are Robert Sockwell -- who will be with us in just a couple of minutes -- Jerry Gilreath, representing the National Capitol Planning Commission, and representing the Zoning Commission is Anthony Hood. Copies of today's hearing agenda are available to you. They are located to my left near the door.

All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us. When coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right.

The order of procedure for special exception and variance cases are statement and witnesses of the applicant, government reports including Office of Planning, Department of Public Works, ANC, et cetera, persons or parties in support, persons or parties in opposition, closing remarks by the applicant.

The order of procedure for appeal applications will be as follows. Statement of witnesses of the appellant, the Zoning Administrator or other Government official, the owner,

lessee or operator of the property involved if not the appellant, the ANC within the property is located, intervener's case, rebuttal and closing remarks by the appellant. Cross examination of witnesses is permitted by persons or parties with direct interest in the case.

The record will be closed at the conclusion of each case except for any materials specifically 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 of the contrary, the Board requests that persons present not engage Members of the Board in conversation. Please turn off all beepers and cell phones at this time so as not to disrupt these proceedings.

The Board will make every effort to conclude the public hearing as near as near as possible at 6:00 p.m. If the afternoon cases are not completed at 6:00 p.m., the Board will assess whether it can complete the pending case or cases remaining on the agenda.

At this time, the Board will consider any preliminary matters. Preliminary matters are those which relate to whether a case will or should be heard today, such as a request for postponement, continuance or withdrawal or whether proper and adequate notice of the hearing has been given. If you are not prepared to go forward with the case today, or if you believe that

the Board should not proceed, now is the time to raise such a matter. Preliminary matter? All right. Have a seat, please.

MS. HUBBARD: My name is Harriet B. Hubbard, Ms. Reid. I represent the party in opposition. A letter is on file from the Residential Action Coalition in this case -- in 16511, the first case on the docket.

CHAIRPERSON REID: By Hilton Hotel, Incorporated?

MS. HUBBARD: That is correct. And I would ask for either a dismissal with prejudice or a deferral or any other method that can be used for the case not to be heard today because of deficiencies in the record which is before you.

CHAIRPERSON REID: And what are the deficiencies?

MS. HUBBARD: As you know, this case is heard under order number 314, which is the Zoning Commission case regarding the existence of convention center facilities in hotels. In that order, the loading berth --

CHAIRPERSON REID: Wait. You said that --

MS. HUBBARD: The record I said is deficient. So it shouldn't be heard.

CHAIRPERSON REID: How is it deficient?

MS. HUBBARD: Requirements were made for the loading berth and parking requirements to be allocated according to the floor space in the building. There is nothing in the file showing where any of the loading berths are located or how that relates to the FAR in the hotel -- the use of the FAR in the

hotel. Now, I have spent four hours and I have read every page in the record, and you will see that that is not in the record anywhere. So that in order for this case to be heard in my opinion as an area variance, it would have to have conforming loading and parking entrances and spaces to conform to what it says in order 314. And there is no showing in the record that it does. And there is no site plan in the record. The original site plan of the Hilton Hotel was absent from these files in 1970, when I first examined the files for the Hilton -- 1969. The original site plan was missing. But you should get a site plan now that compares with the original site plan, and no doubt Wilkes and Artis can supply that for you because they were the lawyers for the Hilton back in those days.

Another thing is the record is deficient because it says that this application can be made by someone that had an occupancy permit valid as of 1980, and there is no occupancy permit showing what the occupancy permit for the Hilton was in 1980;. My recollection of the original occupancy of the Hilton was that it had 1,000 rooms and 500 parking spaces. Obviously, there is something entirely different today, because they say that they have now guest suites and a very small number, less than 200 or 200 and something, so that their occupancy permit today must be different from what it was in 1980, and it says that only a person with an occupancy permit -- we would like to see the occupancy permit that exists today and the occupancy permit required for

this hearing as it existed in 1980.

CHAIRPERSON REID: Okay --

MS. HUBBARD: Now there is no site plan in this thing showing the exits and entrances. Mr. Morris refers to parking being provided in the universal building. It would seem to me that the regulation requires that all the parking be in the same building. I mean, I have spent two hours and I have read every page of the record. Not only was that true, but when I examined the record as of yesterday morning, spending two hours here and looking again over every page, there were two pieces of the applicant's -- three pieces of the applicant's case missing from the record. You couldn't have copies of them either, as you must know yourself from looking. There was no statement from the hotel manager and there were several other pieces missing. And it is on this basis that I think the case should be dismissed with prejudice or at least deferred for at least six months.

CHAIRPERSON REID: Okay. Ms. Hubbard, tell me again who are you representing? Are you a party in the case?

MS. HUBBARD: Yes, I am.

CHAIRPERSON REID: Okay, what organization?

MS. HUBBARD: I told you. The Residential Action Coalition. The letter is in your file, I trust.

CHAIRPERSON REID: Did you request party status?

MS. HUBBARD: I certainly did.

CHAIRPERSON REID: In the file, I have --

MS. HUBBARD: A letter signed by Kay Echols.

CHAIRPERSON REID: No, the only one I have is for the Kalorama Citizens Association.

MS. HUBBARD: Oh, no. The letter was in the file yesterday. The letter was in the file yesterday.

MR. HOOD: Madam Chair, I believe it is in another folder that we have there.

MS. HUBBARD: Why is it in another folder?

CHAIRPERSON REID: Okay. All right. This is a letter authorizing you to represent the Residential Action Committee signed by --

MS. HUBBARD: Coalition.

CHAIRPERSON REID: The Residential Action Coalition, excuse me.

MS. HUBBARD: Yes.

CHAIRPERSON REID: That was signed by --

MS. HUBBARD: You didn't get a copy of that before today?

CHAIRPERSON REID: Just a moment. That has been signed by Katherine Echols, President.

MS. HUBBARD: That is right.

CHAIRPERSON REID: Now the first thing that we have to take up is granting you party status before you can make a motion.

MS. HUBBARD: Well, all right. I am just saying

that as a would-be party, I would like to ask for recognition and party status. I personally also have special knowledge of this case.

CHAIRPERSON REID: Okay.

MR. COLLINS: Madam Chair, my name is Christopher Collins with Wilkes, Artis, Hedrick and Lane, and I would like to be heard on the party status request at the appropriate.

CHAIRPERSON REID: Well, that would be now, Mr. Collins. You need to speak into a microphone. Can someone please yield a microphone to him? Thank you.

MS. HUBBARD: I applied before anyone else to be a party. I am amazed that you didn't get it in your folder.

CHAIRPERSON REID: Well, be that as it may, we have it now and we are going to act on it.

MS. HUBBARD: All right.

MR. COLLINS: Madam Chair, I am reading from the zoning regulations the definition of party. On applications to the Board, a party is the applicant, the ANC within which the property is located, and persons in support or opposition to the application who appear and participate at the public hearing held by the Board and who are determined by the Board to have a specific right or interest which will be affected by action on the application. She has not stated any such interest in the application. She has an intrinsic interest, which is not the same as a specific interest or affect from this case.

MS. HUBBARD: All right. I will tell you that the boundaries of our association are Florida Avenue on the north. People that are listed as affected parties within 200 feet are listed in your people who are notified of this case and they are people that we represent and are here today in the audience. And we have, as any other citizen's association does -- we are adversely affected. I will go into the adverse effects at this time.

CHAIRPERSON REID: No, no.

MR. COLLINS: I will just state or just observe that it was stated that the northern boundary of this group is Florida Avenue, which is south of our site.

MS. HUBBARD: Yes, but there are people living within 200 feet who are members or people that we represent of our organization. I mean to say citizens associations, as you know, Ms. Reid, are always admitted as parties. But our boundaries have members who are affected by the -- and not only that, in previous cases regarding the Hilton Hotel -- I can give you the -- I have copies of these cases here. Citizens associations with boundaries at Florida Avenue were admitted as parties. Do you want me to give you the numbers of those cases?

CHAIRPERSON REID: No. What I need to ascertain is, number one, in your organization, the Residential Action Coalition, you are saying that there are persons within the organization who live within 200 feet of the subject property?

MS. HUBBARD: Yes.

CHAIRPERSON REID: And that -- are you saying that your issues are not able to be represented through your ANC?

MS. HUBBARD: Of course not. Because our ANC -- well, it could be -- I don't know whether it could be represented by the ANC or not. The ANC is not in the position to be a party in the case in our sense. As a matter of fact, Ms. Reid, our organization has been admitted as a party by this Board in many other cases. We would like to be a party in this Board. Not only that, I personally have special knowledge of this case.

CHAIRPERSON REID: Okay.

MR. COLLINS: I have no objection Ms. Hubbard being a person in this case --

MS. HUBBARD: No, no.

MR. COLLINS: But if she is to be a party --

MS. HUBBARD: I want to be a party.

MR. COLLINS: Then she would be representing the interest of her members, and then there is no need for the members to speak.

MS. HUBBARD: Yes, I would be, because the members will be our supporting witnesses. Just as the applicant has a number of witnesses, we also have witnesses.

CHAIRPERSON REID: Okay. Is there anyone else who wants to speak on this issue of party status for the Residential

Action Coalition?

MS. HUBBARD: In support?

CHAIRPERSON REID: Speak on it.

MS. HUBBARD: Pardon me?

CHAIRPERSON REID: Either in support or opposition to. Is there anyone else sitting here who has something to say in this regard? Okay. Let us have some discussion on the issue as to whether or not you should receive party status.

MS. HUBBARD: Well, I can assure you in other zoning cases --

CHAIRPERSON REID: Ms. Hubbard, you have already told us --

MS. HUBBARD: Exactly the same conditions applied.

CHAIRPERSON REID: We understand that. Thank you. Board Members?

MR. GILREATH: Madam Chair, the boundary of her association reaches within 200 feet of the property?

MS. HUBBARD: Yes -- 200 feet, yes.

CHAIRPERSON REID: Yes, she said.

MR. GILREATH: Well, if that is --

CHAIRPERSON REID: Specifically, citizen associations that are so-situated and that have some standing and would then be granted a standing status. And therefore, I would have no problem with the granting of party status.

MR. GILREATH: With such close proximity, they

could be potentially affected. So I wouldn't have any problem with it either.

CHAIRPERSON REID: Mr. Hood?

MR. HOOD: I am just trying to make sure I understand exactly who Ms. Hubbard is representing. I believe she is representing the RAC, which is the Residential Action Coalition?

MS. HUBBARD: That is right.

CHAIRPERSON REID: Right.

MR. HOOD: Now what is the relationship? I heard the citizens -- what is it, the Kalorama Citizens Association? So you are not representing Kalorama?

MS. HUBBARD: No, I am not.

CHAIRPERSON REID: That is a different association.

MR. HOOD: Okay. Because especially if the area which she is representing is within the 200 feet, within our ordinance I think that is something that we normally do and take under consideration. So I have no problems with it.

CHAIRPERSON REID: Okay. Mr. Sockwell?

MR. SOCKWELL: It seems that Ms. Hubbard has the required credentials. I have no issue.

CHAIRPERSON REID: Okay. Ms. Hubbard, at this time we are back in session and we would agree to grant you the party status. Now, the next issue is you want then to put a motion

before us to dismiss or to delay. Which one?

MS. HUBBARD: As you choose.

CHAIRPERSON REID: Speak into the microphone, Ms. Hubbard. Push the button and when the red light comes on --

MS. HUBBARD: I plead that the case should not be heard today because of the deficiencies which I have listed earlier. After carefully examining the folders, the application is deficient. It does not show compliance with the loading berth and parking requirements for a convention center and exhibit space use.

CHAIRPERSON REID: Okay.

MS. HUBBARD: There is nothing in the folder that allocates the existing floor space in the building -- FAR in the building to the existing loading docks and parking space. There is no site plan in the folder.

CHAIRPERSON REID: Okay, Ms. Hubbard. You don't have to reiterate. You have given us the reasons for your motion.

MS. HUBBARD: So that we should not hear the case today.

CHAIRPERSON REID: Okay. Mr. Collins, did you wish to comment on the motion to dismiss?

MR. COLLINS: Yes, I do. Ms. Hubbard has raised several points on this issue. First of all that there is no loading berth or parking requirements shown for a convention

center or exhibit space use. We are not proposing either a convention center or exhibit space use. This is additional meeting space for the hotel. The parking requirements for a hotel in this zone are based upon the number of guest rooms, and there is a typographical error in the statement of the applicant. It is not 118 rooms. It is 1,118 rooms that exist in the hotel.

MS. HUBBARD: The application says guest suite. Not only that, there is no proof in the folder that they even have R-5-D zoning. I made a thorough search of the zoning records, and the records show that they have R-5-C zoning and were granted a variance in the 1960's in order to increase the FAR on the space. I have the cite right here. I mean to say there is no proof. If Wilkes and Artis can even prove that they have R-5-D zoning. They would be required to prove that. And also that they had a valid occupancy permit as of 1980. What there occupancy permit shows. These are not in the file.

CHAIRPERSON REID: Mr. Collins?

MR. COLLINS: Yes. Let me -- the number of parking spaces based --

CHAIRPERSON REID: Excuse me one second. Let's let Mr. Sockwell speak.

MR. SOCKWELL: Excuse me. Exhibit C in the applicant's file shows an excerpt from the zoning map of the District of Columbia that indicates the site as being in an R-5-D zone.

MS. HUBBARD: That map may be in error. The original source of all the map is the documents on record in the zoning department.

MR. SOCKWELL: But generally, Ms. Hubbard, we --

MS. HUBBARD: I can read it --

MR. SOCKWELL: Ms. Hubbard, generally we wouldn't question the zoning maps, because otherwise we don't have a document to go by.

MS. HUBBARD: Well, you do because all of the zoning records are automatically --

MR. SOCKWELL: Nothing is automatically done in this District of Columbia unless you have lived here a lot longer than I have.

MS. HUBBARD: They are. And it says right in the regulations.

MR. SOCKWELL: And of course you probably have.

MS. HUBBARD: Well, that is true.

MR. SOCKWELL: Well, not necessarily. You don't know how old I am.

MS. HUBBARD: You look --

CHAIRPERSON REID: Excuse me, let's not --

MS. HUBBARD: It is no secret. I am almost 86 years old.

CHAIRPERSON REID: Let's not belabor that point. I think that that has been established with the submission that we

have in our files, and this is basically what we are going to look at in making any kind of coordination.

MS. HUBBARD: Let me read for the record what the Zoning Commission said. Now they said the application can change from R-5-C to R-5-D, lot 828, Square 25435. Said property having frontage on Columbia Road, T Street, Florida Avenue and 19th Street, N.W. was denied. That is back in -- the date of this is I think 1959 -- November 18. 1959. That is the records of the Zoning Commission. The map must have been made in error. I would just say that that is true. Also, there is no report from the planning department in there.

CHAIRPERSON REID: But, Ms. Hubbard, many of our --

MS. HUBBARD: There is deficiency in the files.

CHAIRPERSON REID: Many of our cases may or may not have Office of Planning reports. That does not deem it in our opinion to be a deficiency.

MS. HUBBARD: It is not. All right. Well, anyway, I can tell you that all questions relating to their claim to get more FAR -- you see, they are planning, according to their own statement that is in the files, to double their function space. I mean to say whatever they are doing now, they are going to do twice as much. That is what they say in their statement.

CHAIRPERSON REID: All right.

MR. COLLINS: If I may. Some of the members of this Board may recall when in the early 1990's when a new R-5-C

zone was created -- an interim R-5-C. And then what happened is there was a deficiency between the then-R-5-C, which was 3.0 FAR, and R-5-D, which was 6.0 FAR, and there was no interim zoning category. The Zoning Commission created a new R-5-C zone of 3.5 FAR. And when they did that, they rezoned everything in the city that was R-5-C to R-5-D.

MS. HUBBARD: No, they didn't.

MR. COLLINS: And the zoning map was changed in 1996 to reflect that action of the Zoning Commission.

MS. HUBBARD: What was the date of that?

MR. COLLINS: The 1996 zoning map.

CHAIRPERSON REID: All right. Now let me just assert one thing here. Notwithstanding what you may or may not have, Ms. Hubbard, what we are compelled to go by is what is reflected in the current zoning book. This is what we have to go by. I can't debate what may or may not have happened in the past. But we can only go by what is before us today. And today reflected therein -- for this particular property, this subject property, this lot and square is R-5-D zoned.

MS. HUBBARD: All right. Even if you admit that, the calculations of the FAR as they are allocated to the guest room side or a hotel side or whatever it is and this other function space, they are not in the file. And that would be required. There is no site plan.

MR. GILREATH: Madam Chair, aren't we -- shouldn't

the Board be in the position to say that we determine whether or not the submission is sufficient or not? She is dealing with a lot of technical things, many of which may not be all that significant. We need enough information to make sure that we can make a decision on it. I read the material and I am not sure that some of the things she has identified from my point of view would impair my ability to render a judgment.

CHAIRPERSON REID: Well, that is pretty true, Mr. Gilreath. And typically what we do is we make those determinations, one and two, if in fact we find that there is something that is -- the application is somehow deficient in some regard, then we would then request -- leave the record open and request that those things be submitted prior to us making our decision.

MR. GILREATH: Exactly. We determine whether it is a deficiency.

CHAIRPERSON REID: Yes. Are you done with your response?

MR. COLLINS: Unless the Board has any questions on the other points that were raised.

CHAIRPERSON REID: No.

MR. COLLINS: Thank you.

CHAIRPERSON REID: Now in regard to the motion on the floor as to whether or not this case should be dismissed --

MS. HUBBARD: There are other people that may want

to speak to it, Ms. Reid. I think there are other people here who are sitting right beside me who would like to speak to this.

CHAIRPERSON REID: Okay. I apologize, because I thought I had asked if anyone else wanted to speak regarding this particular issue, and they said no.

UNIDENTIFIED SPEAKER: What you asked was was there anyone from --

MS. HUBBARD: The audience.

UNIDENTIFIED SPEAKER: From RAC.

CHAIRPERSON REID: Oh, okay. All right. I think that I asked first -- we took up the issue as to party status. And I asked if anyone wanted to speak in that regard. I am sorry, I didn't. I did not ask if you wanted to speak on the issue of dismissal. Yes.

MS. HARGROVE: Well, since we are going back to party status, I wish to speak for the Kalorama Citizens Association.

CHAIRPERSON REID: Madam, that has already been established.

MS. HUBBARD: No --

MS. HARGROVE: Not for my association it has not been established.

CHAIRPERSON REID: Oh, you are --

MS. HARGROVE: I am Ann Hargrove, here to represent the Kalorama Citizens Association.

CHAIRPERSON REID: All right. Ms. Hargrove, before that, right now what we are discussing is the issue of dismissal of the case.

MS. HUBBARD: Or deferral.

MS. HARGROVE: Or referral -- or deferral.

CHAIRPERSON REID: Or deferral.

MS. HARGROVE: And we would like to speak to that if we may.

CHAIRPERSON REID: All right. And also --

UNIDENTIFIED SPEAKER: So would the ANC.

CHAIRPERSON REID: Okay. Go ahead.

MS. HARGROVE: I'd like to bring up two reasons why I think it would be a good idea to defer it -- maybe three. The first is that it is our view that it should be advertised as a use variance rather than an area variance case. It is really clear what the Commission intended in 1980, and our association as well as the ANC for the area were strongly involved in that case at that time. While alterations to existing hotels is permitted in a residential zone, absolutely no expansion of total gross floor area of the hotel can be accomplished. And no increase in the size of the function rooms, exhibit space and commercial adjuncts.

Now we are not talking here -- since there is an absolute prohibition on expansion of function rooms, exhibit space and commercial adjuncts, the order did not assert that you could have a certain percentage of expansion. It didn't say that under

any conditions you could expand. It completely prohibited it as a use. It said the function rooms, exhibit space and commercial adjuncts of both nature and impact are clearly more similar to commercial uses, and that the Commission therefore believes that those zones within the District of Columbia which are reserved for exclusively residential use should not also permit hotels because of the commercial aspects of such use.

Now the applicant is merely asking for relief from a restricted use as distinguished from a lot occupancy or a courtyard or a rear yard or FAR or comparable requirement, which would be an area variance. The case should be readvertised as a use variance, which is a tougher case to make, and I suspect why the applicant did not want to do it. That is our first reason.

The second reason is what will be proposed I think by the ANC. There is a real worry in our neighborhood about notice in this situation, and I will let him explain that one. Our organization was not contacted by the hotel, nor was it contacted by the lawyers for the hotel, although I am well aware that they are not required to under the law. Many of our members live within 200 feet and we have been actively involved with the hotel over many years. Therefore, we really haven't had an opportunity to completely do a good job on this case and we need a little bit more time.

As for the record, I think Ms. Hubbard really is on a right track. Maybe some of the specifics are not what you would

agree with. But if you look in that record, they are deficient, it seems to me, with regard to the loading dock requirements. With 35,000 additional space, it appears to us at least that there probably would be a requirement for three more loading docks, since for each 10,000 square feet of function space a loading dock is required. Even the one they have now is grossly inadequate for the hotel's operations.

Secondly, although they are not increasing the number of sleeping rooms by this proposal, we need to look carefully at the condition of the garage. Because if they are going to put two pillars down in the garage as they allege in order to support the new structure, presumably some parking spaces will be removed and the garage will have to be redone and reconfigured. And if so, it should be made to be a conforming use in accordance with the revised parking regulations which the Commission enacted a little bit after I believe 1980, as I remember.

So for these reasons plus the fact that when you look at the record there is no mention made of those kinds of requirements, the elevations are inadequate and skimpy in terms of how they would actually look on 19th Street or on T Street. I really think it would be a good idea to give a little more time to have a more complete record and to give us time to deal better with this case.

CHAIRPERSON REID: Ms. Hargrove, did you give your

address? Your home address?

MS. HARGROVE: My home address is 1827 Belmont Road, N.W., Washington, D.C. That is about three blocks from the hotel -- maybe two blocks now that I think about it.

CHAIRPERSON REID: Yes?

MR. SCHOTT: I guess because the ANC was eluded to, let me identify myself. My name is Peter Schott. I am co-chair of the Zoning and Permits Committee for the ANC. We are asking for a postponement. We did not really feel that we have had adequate notice. I will include in the record a letter that we received which gave three addresses for our ANC. So we are not sure actually when we received the original October 21 notice. Only one of those addresses was correct. So it is likely that it floated around before we got it, not giving us adequate time to actually meet. We met as a committee, the Zoning and Permits Committee, on November 29, and we agreed that we felt that we should have an extension, and we are -- and I have a letter here asking for an extension until January 12 or afterwards.

CHAIRPERSON REID: Has that been submitted?

MR. SCHOTT: I have it right here.

CHAIRPERSON REID: So we don't have it?

MR. SCHOTT: No, you don't have it.

CHAIRPERSON REID: You better give that to staff.

MR. SCHOTT: Because the problem was, again, we did not even know about this until approximately the 29th.

CHAIRPERSON REID: Okay. Are you saying that that same notice went to three different addresses for your ANC?

MR. SCHOTT: Well, no. The notice itself lists three different addresses. So we have no idea when we actually got it. We believe we did, but we are not certain when because -- it lists Marie Reed School, which is not our address. And if it went there, it wouldn't be forwarded to us. It lists an address -- 1728 Kalorama -- which is no longer our address. We moved about six months ago. And then it finally lists a post office box. So it is not clear which address it went to and therefore when we got it. And we have a tendency to get the D.C. Register quite late. I think it averages about two weeks after the fact. I did find that this was in the October 22 D.C. Register.

CHAIRPERSON REID: What is the date of the letter?

MR. SCHOTT: The letter is addressed, I believe, October 21.

CHAIRPERSON REID: Are you saying that --

MS. PRUITT-WILLIAMS: Madam Chair, could you turn your microphone on?

CHAIRPERSON REID: Okay. I asked what was the date of the letter and he said October 21. And you are saying that you don't know if the letter -- if three copies went to those different addresses?

MR. SCHOTT: No, one copy went to -- it wasn't sent to --

CHAIRPERSON REID: How did you get it? How did you get the letter?

MR. SCHOTT: I think eventually it must have gotten to our post office, but the problem is we don't know when it arrived at our post office. I mean, we have no record as to when it got into our post office.

CHAIRPERSON REID: So do you know --

MR. SCHOTT: I checked the log and it is not listed in the log.

CHAIRPERSON REID: So you don't --

MR. SCHOTT: We do maintain a log in our ANC.

CHAIRPERSON REID: All right. So in that log at some point it would have to reflect that you did receive it. When did you receive it?

MR. SCHOTT: Unfortunately, that is my -- our log unfortunately does not state. And I looked specifically at the log the last couple of days.

CHAIRPERSON REID: Okay. It was sent out October 21. So somewhere thereabouts, you would have received it unless it had a forwarding address that would then reflect that it had gone somewhere else first before it got to you. If it didn't have that, then I guess the assumption is that it came straight to the post office box. So once you received it, you are saying you didn't log it in.

MR. SCHOTT: Unfortunately, it was not logged in,

yes.

CHAIRPERSON REID: So we don't have any idea as to when you did receive it. Let's just stipulate for the record that you received it somewhere around or about within a few days to a week after the 21st? Okay. That being the case, you are saying that that --

MR. SCHOTT: I mean, there is really no way of ascertaining that.

CHAIRPERSON REID: There is no way. So the only way we can do -- the only thing we can do in this instance, because of the fact that you did not reflect it in your log, is to then assume that you received it within a reasonable amount of time of the date that it was sent out. And as such, you are saying that you still did not have adequate time to be able to meet and take this matter up?

MR. SCHOTT: The ANC meets on the first Wednesday of every month. So that makes it probably around November 4 or 5.

CHAIRPERSON REID: Right.

MR. SCHOTT: So by that time, we did not have any record of it.

CHAIRPERSON REID: Not no -- excuse me for cutting it off. Not that you didn't have -- not that you did not receive it. You are just saying you didn't have any record of receiving it. I don't know what or if anything we can do about that.

MR. SCHOTT: Well, we would also like --

CHAIRPERSON REID: It was not taken up at your November 4 meeting?

MR. SCHOTT: That is right. Because we were not aware that it even existed. I only found out -- and since we got the record probably -- that is a D.C. Register. I think it probably arrived. I have got a summary of that, which I submitted to our members on the 5th, which means that is the day we must have received the Register. Which that is the first inkling we had that there was something.

CHAIRPERSON REID: You received the Register when?

MR. SCHOTT: I think November 4 or 5.

CHAIRPERSON REID: After the meeting?

MR. SCHOTT: After the meeting.

MR. SOCKWELL: Madam Chair, let me ask Mr. Schott one question. Who routinely picks up mail from your various or only location?

MR. SCHOTT: There are two commissioners. The Chair picks it up and up until recently the Vice Chair.

MR. SOCKWELL: And when mail is received, is that mail routinely not opened until there is an individual designated to do that present or do they look at the mail to determine whether or not it is bulk rate or first class or D.C. Government or checks or bills, and then deal with them appropriately immediately?

MR. SCHOTT: It is generally brought into the office and logged in. Now sometimes it has been known that somebody doesn't -- even though the office is right now across the street from the post office. There have been occasions where someone has just brought it home with them and then maybe brings it to the office a couple of days later. So that is one of the reasons we sometimes can't follow through a lot.

MR. SOCKWELL: Right. And I understand that you don't man the office on a daily basis.

MR. SCHOTT: No. Unfortunately because of budget constraints, we do not have a staff.

MR. SOCKWELL: All right. Thank you.

MS. SELLIN: I am Ann Sellin, and I am representing the Dupont Circle Citizens Association. Our boundaries encompass both sides of Florida Avenue. I have a letter from the President of Dupont Circle Citizens asking to be a party in the case and that I represent the association.

CHAIRPERSON REID: What is your address?

MS. SELLIN: 1834 16th Street, N.W.

CHAIRPERSON REID: ANC is automatically a party. Please give Mr. Collins copies as well.

MS. SELLIN: In reviewing the application 11 days ago, I found many deficiencies. I agree that under 350.4D, it must be advertised as a use variance. Because that hotel restriction, which was passed in 1980 by the Zoning Commission,

provides that the gross floor area of a hotel may not be increased and the total area within the hotel devoted to function rooms, exhibit space and commercial adjuncts may not be increased. Now if you are enclosing a courtyard, you are really increasing the commercial use. And the advertisement, by the way, itself says that it is increasing the use for the addition of function rooms and exhibit space, contrary to what Mr. Collins said. That is specifically what is in the application.

But the use is very key here. Under the zoning regulations, hotels in residential zones cannot lobby space and sleeping rooms as residential. But function rooms, exhibit space and other are counted as commercial space. So this really comes under commercial space. And by the way, this is a very huge increase. It is 35,000 square feet or 37,000. You can't tell from the application whether it is 35,000 or 37,000, because they give two different figures. But clearly this is a use variance.

Now the second problem I have is that it should be advertised as a loading berth variance also under 2201.1 of the zoning regulations. Ms. Hargrove has already addressed this and I agree with her. For each additional 10,000 square feet of functioning exhibit space, one loading berth is required. And it gives the dimensions of the loading berth. So we need three more loading berths here. Loading berths have been a major headache to the neighborhood for 20 years. We have had tractor trailer trucks -- well, since the 1950's actually.

MS. HUBBARD: 1965.

MS. SELLIN: That have littered our streets. They have been unhitched from the trucks and we just have these truck carcasses enveloping whole residential blocks. So if that is increased, we are in real trouble.

Now also as to notice, the file itself is incomplete. There are no building plans for the new construction. Now Section 3202.6 of the regulation states that all applications for building permits authorized by orders of the BZA must be processed according with the zoning regulations in effect on the day that the order is promulgated. Providing that all applications for building permits shall be accompanied by plans and other information required under 3202.2, which will sufficiently complete the permit processing without substantial change or variation.

Well now under 3202.2, these are specifically listed -- these requirements are listed. Number two under that says, "The plan elevation and location by dimensions of all existing proposed structures and the proposed use of those structures." And also under subsection 3, "The parking and loading plans and the basis for computation of those plans."

Now there are no plans. Plans are usually submitted -- you know, big folded up plans. And we have to look at the plans for the parking areas, the underground parking areas, and the uses for all of those areas. And that is not indicated.

All I saw was just a schematic plan of the infill and a very schematic cross section. But there are no plans submitted and there are no uses designated on those plans, which is a real deficiency because we can't interpret what is in the file. There is just not enough information.

Also, if there is a plan or a map in possession of the Office, there is a zoning regulation that says that you have to have something in the file that tells you where this is. And there were things missing from the files, and there were no indications in the folder that I looked at 11 days ago saying where certain things were.

Also, there was nothing in the way of a report from the planning office. And under 3318.2, it says when an application is referred in advance of of a public hearing to any public agency or government unit for a report or recommendation, that report and recommendation shall be filed with the Board at least seven days prior to the date of the hearing. Now I had someone go down seven days prior and there was not report. So we don't know what the recommendation is, and there really shouldn't be a recommendation if it wasn't filed. So we have a lot of problems with the application.

CHAIRPERSON REID: Okay. Thank you. All right. Did you wish to say something?

MS. WALLS: I am here on another preliminary matter. I didn't know these persons --

CHAIRPERSON REID: All right. Now --

MR. FRANK: My name is Andreas Frank. I live at 1933 19th Street within 200 feet and I would like to join as party status.

CHAIRPERSON REID: With --

MR. FRANK: With Kalorama Citizens Coalition or Association. I am a member.

CHAIRPERSON REID: Well, if they are granted party status, then that is it.

MR. FRANK: Okay, as an individual.

CHAIRPERSON REID: You mean you want to testify as an individual? Sure.

MR. FRANK: I would like to join as an individual -- party as an individual.

CHAIRPERSON REID: Party as an individual? An individual party?

MR. FRANK: Yes.

CHAIRPERSON REID: Aside from the Dupont Circle Citizens Association?

MR. FRANK: Yes.

CHAIRPERSON REID: Why?

MR. FRANK: Because I wasn't given notice. Nothing came in the mail to me.

CHAIRPERSON REID: Is there anything --

MR. FRANK: I found out about this last night.

CHAIRPERSON REID: Is there anything that is unique to your particular property that would not be the same as any other persons who live within 200 feet of the subject property?

MR. FRANK: It is unique in that I have a driveway and other people don't have a driveway on the street.

CHAIRPERSON REID: No, that you would be particularly aggrieved -- more aggrieved than anyone else who lived within 200 feet.

MR. FRANK: No. I just thought it would help because none of these individuals live within 200 feet. So I was thinking that it would help.

CHAIRPERSON REID: Well, in this instance, you certainly have the right to be able to testify in opposition to it if you wish. But party status is typically reserved to ANC and for associations that have standing in the particular community or persons who are particularly more aggrieved than anyone else that live in the immediate area.

MR. FRANK: I believe I should have automatic party status if I live within 200 feet.

CHAIRPERSON REID: But you don't.

MR. FRANK: I do. I live on 19th --

CHAIRPERSON REID: No, no, no. What I am saying is that even though you believe you should, you don't automatically get party status because you live within 200 feet.

MR. FRANK: Why is that?

CHAIRPERSON REID: I just explained.

MR. FRANK: It is just an organization?

CHAIRPERSON REID: I just explained. Unless you have some type of --

MR. FRANK: A unique concern?

CHAIRPERSON REID: Yes. In other words, if there is something that makes your property or you more aggrieved or more affected than anyone else, then that would be the basis for us granting you party status.

MR. HOOD: Madam Chair, if I may just add, through his association he may be able to work out his concerns. And if they are granted party status, he may be able to work out what his particular concerns are through his association. That may ease the conversation we are having.

CHAIRPERSON REID: Sure, I would agree with that.

MR. FRANK: I was told that there was nothing in the regulations that say I would have to be particularly or uniquely aggrieved.

CHAIRPERSON REID: Well, even if you were told that, basically what I just said was those are the basis by which we would then determine whether or not you are granted party status. Whether or not you have something unique or different about your particular property or yourself, more so than anyone else.

MR. FRANK: Then I would like to create a party of

individuals within 200 feet that weren't noticed. I can say that there are more than a dozen people that haven't been given notice from the BZA in writing here that have unique concerns that weren't given an opportunity to review the case because we didn't know about this case.

CHAIRPERSON REID: Okay. Now what is your name again?

MR. FRANK: Andreas Frank.

CHAIRPERSON REID: Andreas Frank?

MR. FRANK: Frank is my last name.

CHAIRPERSON REID: Okay, Mr. Frank, because of that problem sometimes coming up, we have three methods of notice. One is the letter sent out to people within 20 feet. The other is through D.C. Register or Public Notice. And also the property itself were posted. So the idea is that with those three --

MR. FRANK: Okay, Public Register I don't read. I never received a mailing. And there is nothing on 19th Street on any of the employee entrances or by the loading dock that notifies in terms of those big placards. And that is the only street I walk because that is the street I live on.

CHAIRPERSON REID: The property was not posted?

MR. FRANK: Nothing was posted that there was a public hearing, and that is the most egregious part of this. That is where all the noise is. That is where all the complaints are.

CHAIRPERSON REID: But my question was was the

property posted?

MR. FRANK: Nothing. I never saw anything.

CHAIRPERSON REID: Okay.

MR. FRANK: I never saw any posting on a public hearing.

CHAIRPERSON REID: Okay. Yes?

MS. HUBBARD: May I bring up one more --

CHAIRPERSON REID: No, Mrs. Hubbard. We have to let other people have a chance.

MS. HUBBARD: I was just talking about deficiencies in the record.

CHAIRPERSON REID: Ms. Hubbard?

MS. HUBBARD: All right.

MS. WILLS: Madam Chair, my name is Kathleen Wills. I live at 1910 Kalorama, and I am not within the radius. But I am an education activist and advocate in Adams Morgan and I do a lot of work with John Quincy Adams Elementary School, which is next to the Hilton Hotel. And my concern is when I found out about this proposed expansion, I phoned the principal of John Quincy Adams and he was not at all aware of the Hilton's plans to expand. When I phoned downtown this morning, I was referred to the Facilities Office. The Facilities Office of the District of Columbia Public Schools had no knowledge whatsoever of this planned expansion. Now I don't know to what office, if at all -- presumably the Hilton did notify DCPS, but Facilities, which is

the appropriate office within DCPS to deal with such matters had no knowledge of this planned expansion. So I don't even know if they were properly noticed.

My concern as an advocate for children is that this may get steamrolled through without adequate input from the community, and more importantly from parents who have children at that school. As you must be aware, the Hilton -- their loading bays face 19th Street. That is the street that our children walk up and down every school day to get to and from school. And our concern is that when you look at the plans, there really is no clear indication how the footprint of the Hilton Hotel would be expanded and how that would affect 19th Street. In addition, the construction traffic. And also when you talk about increased exhibition space, you are talking about heavy semi's that roll in with prefab exhibitions. All of this going on in a neighborhood that is so close-in. 19th Street is extremely narrow. Our children, as I said, use that street every school day. And I think that, number one, based on the information that I have, my opinion is that this should be denied outright based on the zoning regulations and the fact that this is actually a use variance and not an area variance. But all that aside, at the very least this should be postponed. We should not be penalized because the ANC was not given adequate notice or because the ANC, for whatever reason, did not act on this. And we should not be penalized because the proper notifications were not made. The parents in

Adams Elementary School have a right to be involved in this process.

CHAIRPERSON REID: Okay. Well now let's do this. There have been several issues raised here this afternoon. So let's try to address them one at a time. Okay? Now let's first deal with the issue of party status. The Residential Action Coalition has been granted party status. The Kalorama Citizens Association and the Dupont Circle Citizens Association -- let me ask you this, those persons who are asking for party -- these entities or these organizations, could you not combine your request? I mean, could you not come as one party? Are you concerns basically the same or are your concerns different each one of you? Are we going to hear the same presentation from each?

MS. HARGROVE: Ms. Reid, I have no idea what the Dupont Circle Citizens Association is going to present to you, and I represent my own association which has a different boundary from hers. That is an inappropriate approach if I may say so.

CHAIRPERSON REID: Okay.

MS. HUBBARD: And in terms of -- I would like to say this with regard to party status. I would like to have the right in seeking party status to get certain things into the record through questioning the applicant. However, as you well know, I have been down here many, many times in another life -- much younger. I have done dozens and dozens and dozens of cases before the BZA. And as you know, it is repetition we must avoid.

It just so happens, we are all acquainted and I believe that you will not be troubled by our not having coordinated our various ideas on this case beforehand. So that rather than combining this, I think that we all have something to add to your knowledge of this case. This is a huge case -- 5 acres, also involving the universal building to the west -- an enormous piece of land. A little 30-foot wide street -- not like what Mr. Morris says in the application. A residential neighborhood which is on the upward trying so hard. This is a very important case, and I am sure we will combine. I am sure you won't have any trouble with that.

CHAIRPERSON REID: Wait a minute. You are saying that you would combine?

MS. HUBBARD: No. What I am saying is that you won't find a lot of duplication or asking the same questions. But as far as presenting written testimony, I am sure you wouldn't have any trouble with that. I mean written testimony or our case.

CHAIRPERSON REID: Okay.

MS. SELLIN: In representing Dupont Circle Citizens Association, I would like to say that we have members who live on 19th and T Street. We might have completely different concerns from Kalorama Citizens Association or RAC. And we may even have a diverging of opinion about some aspects of the case. I think we could all as parties present cases, including Mr. Frank, who certainly is and I believe should be a party, since he is a very affected neighbor. I think we could all present a case without

duplication of testimony. But none of us should be denied party status.

CHAIRPERSON REID: Let me just say this. Sometimes in situations like this when we do have several requests for party status, it is not uncommon for people to -- if they basically have similar concerns, they combine it and they will come together. It is up to you. I have to ask that because sometimes people want to do that. Now having said that, we have already granted party status to the Residential Action Coalition. So then let's take up individually the Kalorama Citizens Association. Board Members, what is your position?

MR. GILREATH: I have no problem granting party status to the organizations.

MR. SOCKWELL: It seems logical.

MR. HOOD: No problem, Madam Chair.

CHAIRPERSON REID: Okay. By consensus then, we will grant party status to Kalorama Citizens Association. Now Dupont Citizens Association?

MR. GILREATH: No problem.

CHAIRPERSON REID: Mr. Sockwell?

MR. SOCKWELL: I am willing to accept that.

MR. HOOD: I have no problem, Madam Chair.

CHAIRPERSON REID: All right. We will then by consensus grant the Dupont Circle Citizens Association party status. What about with regard to Mr. Frank?

MR. SOCKWELL: Mr. Frank, you stated that you have a driveway. Does that place you at the corner house?

MR. FRANK: The corner house on 19th and Vernon, directly across the street.

MR. SOCKWELL: From the loading docks?

MR. FRANK: From the loading docks and from the employee exit.

MR. SOCKWELL: So you are on the north corner -- what would be the north corner of a T intersection? Are you that home?

MR. FRANK: No.

MR. SOCKWELL: You are the south corner?

MR. FRANK: I am at the north -- the corner of Vernon and 19th.

MR. SOCKWELL: But you are on Vernon?

MR. FRANK: I am on 19th.

MR. SOCKWELL: Oh, you are on 19th. So you are on the south corner?

MR. FRANK: Yes.

MR. SOCKWELL: Because there are only a couple of houses there.

MR. FRANK: Yes, there are three houses.

MR. SOCKWELL: With that particular amenity.

MR. FRANK: I think those individual homeowners won't be adequately represented or would have a different story to

tell the Board and wouldn't duplicate what the various associations that represent other apartment owners or renters in that area.

MR. SOCKWELL: Well, it would seem that your property has a reasonably unique condition for that particular neighborhood in that you do have a driveway. So many people would love to have a driveway. I grew up in the neighborhood. I know it well. I played on the lot before the hotel was there.

MR. HOOD: I have no problems. Mr. Frank can be a party.

MR. GILREATH: Well, I am willing to concede if this driveway makes his property unique. Otherwise, Mr. Frank indicated I think that he would get several people together. If he got several people together, property owners in the neighborhood, and came back, I would have a problem granting party status. I am not sure about the driveway thing, if that is sufficient. I am still in a quandary on that.

CHAIRPERSON REID: The issue is whether or not his positioning there makes him any more affected or more aggrieved than anyone else in the same block or the same neighborhood.

MR. SOCKWELL: I would say a liberal interpretation -- if I might interrupt -- a liberal interpretation of his issue is that he has a driveway that is directly across from the loading docks. That makes his property somewhat unique among the properties in the neighborhood, especially the single family properties. And it would be appreciated if he could bring

together any other person -- I think there is one other driveway south of you on that block.

MR. FRANK: There is one other driveway and he signed onto a letter with me.

CHAIRPERSON REID: You need to come to the microphone, sir.

MR. SOCKWELL: So you are in fact representing yourself and by proxy per se the --

MR. FRANK: Mack McCarty.

MR. SOCKWELL: Another individual. So that makes him a party of two at this point.

MS. TRITTIPOE: I would like to add this. My name is Trittipoe -- Tracy Trittipoe. I am an owner with my husband of two properties at 1919 and 1921 19th Street, which are even more directly across from the Hilton loading docks. They literally face them. I represent as a matter of fact -- they weren't all able to sign since we had very little notice -- I represent basically 32 tenants of mine, who are affected by this, not only in terms of traffic congestion and noise, et cetera. So I would like to have the opportunity to be able to present basically my tenants' point of view, if there were such an opportunity. And obviously if this hearing proceeds today, there is no opportunity for me to do this. I was just able to contact them last night and get most of them to sign. So in the interest of tenants in the neighborhood - and there is also a building at the corner and I

don't know to what degree the many tenants in that building have been notified or know anything about this. And I think it behooves the Commission to give residents in the area more opportunity to know about this and be able to participate in the process. Because it is a grievous situation. One has no idea about the congestion there. Sometimes trucks are triple parked and you cannot literally get up and down 19th Street. School buses can't even get up and down to pick children up at school time because of the congestion. So at any rate, I would also add my voice to this general appeal for at least some sort of delay so that more evidence can be assembled. Thank you.

MR. COLLINS: Madam Chair, Christopher Collins. At some point I think the Board has to be mindful of people asking for party status on behalf of themselves and others. Typically the Board has in the past required some kind of written authorization to represent someone. So if that is going to be the case, I think that this written authorization by either the organization or by the individuals. To have someone say he represents himself and his neighbors or herself and her tenants is letting -- the Board is going down a slippery slope here. People could come in at any point. Party status is a fairly serious thing, and the Board has typically required a fairly high standard for declaring party status.

We have heard a lot -- the request for party status has been slipping into arguments on the merits of the case. And at

some point if we get into the merits of the case or when we get into the merits of the case, I think a lot of these issues will be quickly answered. So I would like to either be able to rebut the issues that have been raised by these various party requests and get into the merits on the request for postponement and move along now. Thank you.

MR. GILREATH: Madam Chair, a second thought on Mr. Frank. Just speaking as one Board Member. If he can put together a list of people and they sign it that he represents that group there, I am in full agreement that he would be accorded party status. But he by himself, I think he should be permitted to only testify as an individual.

CHAIRPERSON REID: I would agree. What we are getting into is the situation where once you grant Mr. Frank party status, then any other person who lives on that street can come forward and say, well, I also have a particular special situation that I am particularly more aggrieved and that my concerns cannot be met with or cannot be aired through my ANC. That is the purpose of the ANC is to put forth the interests and the issues of the persons who are within the geographical location of your ANC. So what we have to be very careful about is a situation where we have a case and we have several parties and then we have individuals who could still testify as individuals, but who also could have their special concerns voiced through the ANC or through their citizen associations that have already been granted

party status.

MR. FRANK: My only comment would be that there are only three houses -- single family houses, not apartment buildings -- directly across on 19th Street. And to my knowledge, there are not any past the alleyway to Florida Avenue, nor are there on T or directly on Connecticut. So that would create an opportunity for me to be especially aggrieved. I don't know if that is the right reference to it, because I cannot get in and out of my parking space. It does not permit use of my land because of how they operate their loading docks. It is a unique interest that I don't believe will be presented by any of the citizens coalitions or organizations.

CHAIRPERSON REID: All right. Go ahead, Mr. Frank. I think that you said that it is okay with you.

MR. HOOD: Yes, it was fine with me.

CHAIRPERSON REID: And Mr. Gilreath, you also -- did you want to say something else?

MR. HOOD: Yes. I was just going to echo that one of my concerns that I was sitting here and thinking about why his particular case would be unique and we should be able to grant him party status was for just the reason that he just conveyed to us. If he is not able to, again, be able to work that out with the associations or through the ANC's, I think that with the amount of houses that exist, I think he should be party status. Because can't nobody tell the story except living witnesses.

CHAIRPERSON REID: Mr. Gilreath, you --

MR. GILREATH: I will generally concur with that.

CHAIRPERSON REID: And you did too, Mr. Sockwell. Okay, then Mr. Frank would be granted party status. So now we have four entities with party status in this particular case. We now need to move to -- yes?

MS. FALWELL: Ms. Reid, I am Veronica Falwell, and I represent D.C. Public Schools. I was just informed about two hours ago about this variance and this case and I was asked to come to observe it. I wasn't sure exactly what was going on here. I know that Ms. Wills had called Kifah Jayyousi, who is the Director of Facilities. I am the Deputy Director for Real Estate. And I was told that there was going to be some type of construction to take place at the Hilton that would adversely affect the kids and the children attending Adams School. I checked with our legal department and was told that we never received any type of notice. So I too request that there is a delay of this variance until such time as the D.C. Public Schools can assess the impact and the proper person can address you with the assessment of how it would affect the children attending that school.

CHAIRPERSON REID: Okay. Thank you.

MS. FALWELL: You are welcome.

CHAIRPERSON REID: And what was your name?

MS. FALWELL: Veronica Falwell.

CHAIRPERSON REID: Okay. Now the other issue was with regard to notice. From our office file, it states that the ANC -- you are ANC 1-C, sir?

MR. SCHOTT: 1-C, yes.

CHAIRPERSON REID: 1-C was noticed on 10/21. And it states that the property was posted -- we have affidavits of posting on 11/16. There are pictures that demonstrate to us that the property was posted. And I am hearing you say that you did not see any posters on that property. I need a clarification of that from the applicant. Mr. Collins, can you speak to that, please?

MR. COLLINS: I am sorry? The question again? I was conferring --

CHAIRPERSON REID: In regard to the posting.

MR. COLLINS: Yes.

CHAIRPERSON REID: I have got an affidavit of posting here saying that it was posted and also I see pictures showing that the property was posted.

MR. COLLINS: Yes.

CHAIRPERSON REID: But the people here today are saying that they did not see the posters on the property. I am rather nonplussed about this.

MR. COLLINS: There are five notices, one on each of the five street frontages -- Columbia, Connecticut, T, Florida and 19th.

CHAIRPERSON REID: Okay. It doesn't stipulate -- please, order. Mr. Collins, can you please come to the dias, please? These are the pictures that have been submitted to show that the property was posted, but it doesn't indicate where those posters went.

MR. COLLINS: We have a map that shows where the postings -- we can file that for the record to show that the posting was done properly.

MR. FRANK: Are those numbers keying the photographs to the map?

MR. COLLINS: No, they are not. I am sorry, yes. The 1, 2, 3, 4, 5, they are. The map is not here, but we can produce that.

CHAIRPERSON REID: Do you know personally -- I mean, is someone here that can attest to the fact that there was posting on 19th Street? Because the people who live on 19th Street said that it wasn't.

MR. COLLINS: Mr. Walker from our office did the posting and he is not here today.

CHAIRPERSON REID: So we don't know. We are not really sure.

MR. COLLINS: Well, we are sure. It is just Mr. Walker is not here today to demonstrate that to you, and we don't have the map here.

CHAIRPERSON REID: Okay. So it --

MR. COLLINS: I have an affidavit of maintenance if you would like that as well.

CHAIRPERSON REID: The affidavit of maintenance would reflect --

MR. COLLINS: An affidavit of maintenance is not required to be filed in a BZA case, but we can produce an affidavit of maintenance to indicate that the property was maintained very five days in accordance with the requirements of the Board.

CHAIRPERSON REID: I am asking, do you have that?

MR. COLLINS: Yes, I do.

CHAIRPERSON REID: And it indicates where those posters were located?

MR. COLLINS: It indicates what properties were -- what signs were maintained and which ones were intact and which ones were replaced and I have that.

CHAIRPERSON REID: And where the property is located?

MR. COLLINS: Let me get that.

CHAIRPERSON REID: All right. Okay, now while he is doing that, the other thing that we had to take up was the issue of whether or not this particular application should be a use variance or an area variance. It has been submitted to us as an area variance. So, Mr. Collins, did you want to speak to that?

MR. COLLINS: Yes, I do. Madam Chair, you were a

Member of the Board at the time when the Sheraton case was before this Board several years ago. You may recall that that very same issue was raised. It was a much larger proposed expansion of the hotel in the order of about 200,000 square feet, and the Board wrestled with that issue as to whether it was a use variance or an area variance. The Board concluded in that case -- that was Case No. 16072. In their findings of fact and conclusions of law, the Board found that "the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty..." And recited the test.

In the case that we attached to our statement of the applicant -- if I may find it, I believe it is Exhibit H, which is a case very similar to the instant case. This is a case from 1983, so it goes back a number of years, Application 13937. That is the H Corporation. That was an application to expand the Ramada Renaissance Hotel on New Hampshire Avenue just south of M Street. In that case the Board also found that the variance requested was an area variance. So this Board has ruled on at least two occasions for hotel expansions in residential zones that the proper relief was an area variance.

MS. SELLIN: I would like to address that.

MS. HARGROVE: Madam Chairman, may I respond?

CHAIRPERSON REID: Okay. Well, she asked first, so let's start over here.

MS. SELLIN: Both the cases cited by Mr. Collins

did not go to appeal and the Court of Appeals has raised the issue of area use variances. In the Taylor case, they found actually that row houses that were proposed for an R-1 area constituted both a use and an area variance and turned them down on that basis. That was Case No. 6954. That was decided in 1973. So that was a very narrow interpretation, but I do feel this is a use variance and we don't have a court precedence.

MR. COLLINS: We don't need a court precedence, Madam Chair. We have previous rulings by this Board, which this Board is governed by, unless they have been reversed or otherwise changed on appeal. There were no appeals. The Board's ruling in this case should follow the previous rulings of this Board.

CHAIRPERSON REID: Okay. Ms. Hargrove?

MS. HARGROVE: I am afraid Ms. Sellin covered my point. It has not gone to the Court of Appeals and it is our judgment that the Board has ruled in error on those two previous cases. As you know, the Sheraton Park case did lose its variance request in any event, but not for that reason.

CHAIRPERSON REID: Okay.

MR. GILREATH: Madam Chair, I think it would be helpful to me -- what is being proposed, is it going to be meeting rooms? I mean, is it going to be exhibit halls and all this, or is it going to be meeting rooms where the occupants or the guests will meet. I am not sure just what this addition is going to be comprised of.

MR. COLLINS: The addition, Mr. Gilreath, is for meeting rooms. It is approximately 35,000 gross square feet, approximately half of which will be meeting rooms. The other half will be circulation space and support space. There is no exhibition space proposed and we can make that a stipulation of our application if you so desire that the space will not be used for exhibition purposes. It is not designed for exhibition purposes. You cannot get exhibits into it the way it is designed. It is designed for meeting space -- for company meetings. As we get into the case, you will hear a lot of discussion about how company meetings will actually result in less truck traffic on the street, addressing a lot of the issues that have been raised here.

MR. SCHOTT: Excuse me. The application specifically says exhibition space.

MR. COLLINS: That is because the function room and exhibit space is lumped into one in the zoning regulations. We used that phrase. We will explain to you today about the application. You will hear the application and you can condition the approval no exhibition space if you so desire.

MR. SOCKWELL: Mr. Schott, just for your education, the applicant's paperwork does further define specifically what it is they want to build.

CHAIRPERSON REID: No I do remember --

MS. HARGROVE: Excuse me, Ms. Reid.

CHAIRPERSON REID: Go ahead.

MS. HARGROVE: The other issue that was raised is whether there shouldn't be a variance for the loading docks.

CHAIRPERSON REID: A separate variance?

MS. HARGROVE: A separate variance.

MS. HUBBARD: I would like to say that in that case, Ms. Reid, that would prove that the thing was non-conforming. In that case, a use variance would be required.

MR. COLLINS: The hotel is not non-conforming.

MS. HUBBARD: What I mean is that they are claiming that they are expanding a conforming use right now, don't they? I mean that in the 1980 finding --

CHAIRPERSON REID: Mr. Collins, is that what you are --

MR. COLLINS: Hotel is not a non-conforming use.

MS. HUBBARD: No, I didn't say hotel. I said the convention center space is a conforming use. That is what you found in the 1980 thing. So now you are -- if you just expanded --

MR. SOCKWELL: Ms. Hubbard, would you try not to call it convention center space? Because that only leads us in the wrong direction. It is what it is, but the convention center is not that.

MS. HUBBARD: The occupancy permit they have is for a convention center hotel. And all the prior cases in which they were involved -- I can cite the cases in record -- talk about the

importance of the convention center. In my opinion, there is no way that anybody could say what is the difference between the type of thing that they are doing and exhibit space and meeting rooms.

MR. COLLINS: Madam Chair, we are getting into an argument about the merits of the case --

MS. HUBBARD: On the contrary. No, we are not. We are talking about --

MR. COLLINS: I think we need to go to the normal process where the applicant has the chance to explain the case and we may answer some of the questions.

MS. HUBBARD: I would just like to finish one little sentence. They have a certain amount of loading and parking now in the building -- probably it will be shown in their occupancy permit when they produce that.

CHAIRPERSON REID: Okay.

MS. HUBBARD: And then what it says in the case in 1970 is that convention center space is an accessory use of a hotel. That is how they got where they are prior to this particular case. That is what it said, convention center space.

CHAIRPERSON REID: Okay.

MS. HUBBARD: All right. Now they are going to convert the space, they say, into something else.

CHAIRPERSON REID: Okay, wait one second. Before we get into the merits of the case. We have been trying to determine the preliminary matters for now almost an hour and a

half.

MS. HUBBARD: Well, I was just talking about whether it is a use variance or not.

CHAIRPERSON REID: So let's now go to -- the application stipulates a variance to allow the addition of function rooms and exhibit space to a hotel in an R-5-D zone. It does not speak to a convention center or a convention space. That is number one. Number two, on their self-certification, it states that they are asking for a variance, but unfortunately that form is insufficient in that it does not stipulate what kind of variance. Nonetheless, I remember the Sheraton case some years back, and I remember the issue being raised as to whether or not it was a use or area variance. And my understanding was that in less a particular use is being changed to something else other than what it already is, then it is a use variance.

MR. COLLINS: No.

CHAIRPERSON REID: I am sorry, if it is a different use --

MS. HUBBARD: It is a different use and they just said so.

MR. COLLINS: No, I didn't.

CHAIRPERSON REID: Now wait, I am not finished. Ms. Hubbard? From what I can hear and what I am understanding is that the application is for an extension of an existing use. It does not say that it is a new use. It is not anything that is

different from what is already existing there. So in my opinion, I don't see this as being a use variance. It appears to me that it is an area variance.

MS. HARGROVE: Ms. Reid, Mr. Sockwell himself said that they are applying for something different. So I think she has made a valid point. But as to the loading dock thing, I should point out that the zoning regulations themselves --

CHAIRPERSON REID: Well, we haven't gotten to that yet. That is a different issue.

MS. HARGROVE: They referred to it as function rooms.

CHAIRPERSON REID: Okay, wait. Mr. Sockwell, could you speak to what Ms. Hargrove is referring to? I am not sure.

MR. SOCKWELL: What it states on page 2 and 3 of the applicant's statement is that the proposal includes the enclosure of a portion of the current open deck at the lobby level north of the pool on the T Street lobby level adjacent to the T Street entrance. The addition will include a junior ballroom, which can be divided into four meeting rooms plus the enlargement of 13 existing small meeting rooms, some of which may be combined to form larger rooms. There will also be a corridor space surrounding the junior ballroom on three sides which will serve as pantry storage, hallway and rest room space. In addition to the modest addition, other matter of right improvements which were not specified will be undertaken as part of the overall master plan.

That includes improvements to guest entrances and the rear yard and landscaping. In their assertions in the project, they at least assert that the convention business would be lost to the new convention center and that the hotel would be more likely to attract a non-convention/non-display exhibit type of user. And that was their justification for the changes.

CHAIRPERSON REID: Mr. Gilreath?

MR. GILREATH: My inclination -- I feel that the conversion to meeting rooms does not change the basic use. They are supportive of the guests there to use this for their convenience. So I do not see a change in use. So to me applying as an area variance is appropriate.

CHAIRPERSON REID: Mr. Hood, would you like to speak on that?

MR. HOOD: Madam Chair, I am not ready to speak on that now, but I have some other concerns when we get to that point. I am not -- unless you all are ready to make a decision, I am not comfortable yet with whether it is a use or area. But still, I want to hear some more information. But I have another issue. It is pressing, but I don't know whether I should bring it up now or not.

CHAIRPERSON REID: Okay, but --

MR. COLLINS: May I address the use variance issue?

CHAIRPERSON REID: Yes.

MR. COLLINS: Reading again from this Board's order

in Application 16072, the Sheraton case, footnote 3 with the Board explaining their position -- "We have concluded that the applicant's proposal is better characterized as an augmentation of a long-standing hotel use on the site requiring an area variance rather than as a new use. We note that an expansion may be of such a magnitude that it becomes a de facto change in use. For instance, in this matter, were the proposed expansion to result in a hotel double or triple the size of the existing entity, we might well characterize the relief as a request for a use variance."

MS. HARGROVE: Madam Chair --

MR. COLLINS: In that case, they determined that it was an area variance, very similar to this case, except for the fact that there was a substantially larger increased square footage proposed for that use.

CHAIRPERSON REID: I think that the discussion subsequent to -- I mean prior to the issuance of that order was predicated around the fact of the size of the extension. And it was determined that if it were of a greater magnitude or larger then perhaps a change in use might be considered. However, if in fact it was -- the extension was of a size that was not considered to be overly -- to change the overall appearance of the property, and if in fact the use of the property would change, then they would consider a use variance. But in that it is a hotel and the proposed extension is to continue a hotel with some alterations or some expansion, that does not change the use of the property. So,

therefore, I would not be of the opinion that it was a use variance. I would go with an area variance.

MR. SOCKWELL: One thing, without attempting to plead the applicant's case, one of the particular issues with hotel function spaces, i.e. convention spaces or meeting spaces, is that what is called a pre-function area is a large part of the space utilized for that because the -- say a junior ballroom or primary ballroom or meeting rooms have to outlet a large number of people into an egress capable space at one time very often and those spaces take a lot of square footage. So what may be 35,000 square feet may not equate to 35,000 square feet of truly function space. It generally equates to much less when you look at the various uses of space as required. And we have been involved with a number of hotels. But it would be interesting to know what the size of the junior ballroom is.

MR. COLLINS: About 11,500 square feet.

MR. SOCKWELL: Okay. And the current primary ballroom is -- to the best of your knowledge?

MR. COLLINS: It is substantially larger.

CHAIRPERSON REID: It is larger now?

MR. COLLINS: The current primary ballroom?

CHAIRPERSON REID: Yes.

MR. COLLINS: Yes.

CHAIRPERSON REID: So it is going to be downsized?

MR. COLLINS: No, we are adding another one.

CHAIRPERSON REID: Oh, I see. So you have one and then you are going to add another?

MR. COLLINS: A smaller one.

CHAIRPERSON REID: Smaller than the one that is existing.

MS. HARGROVE: Madam Chairman, just another question if we may. In the Ramada case that he referred to in his pleadings earlier, there was an allusion to what that would impact -- how that space would impact in terms of numbers of people. So it would be quite relevant to know the number of people that would be involved. Number two, I should also indicate that this so-called sort of ancillary function space is space which can frequently be used to register guests for a convention and carry out other activities, exhibits of books and that sort of thing by the convention goers. And it is an arbitrary distinction to make a distinction between those two things.

MR. COLLINS: To answer your question --

CHAIRPERSON REID: Excuse me. Ms. Hargrove, I really didn't follow that. What did you

-- what are you saying?

MS. HARGROVE: Mr. Sockwell was concerned that we considered the space that is going to be the ballroom or the four meeting rooms separately from the space in the hallway outside, which is supposed to be reorganized. I am simply asserting that since many of us do go to conventions, just as Mr. Sockwell

obviously does, that you sometimes use those areas for registration of guests, portrayal of books. They are big gathering areas directly associating with the function of the hotel as a convention hotel, whether they are doing meetings or whether they are doing exhibits or both.

CHAIRPERSON REID: Okay. Thank you. All right --

MR. COLLINS: Madam Chair, the size of the primary ballroom is 39,000 feet to have a kind of comparison.

CHAIRPERSON REID: Okay, 39,000.

MR. COLLINS: And this proposal is 11,500.

CHAIRPERSON REID: Mr. Hood?

MR. HOOD: You can go ahead -- are you going to take a vote on whether --

MR. GILREATH: Did you express your concerns about the use as compared to area variance?

MR. HOOD: My concern is not with the use and area. It is even before that. So if you can go ahead and dissolve that issue, then I can speak to my issue.

CHAIRPERSON REID: Okay. I would move that we -- I guess was a motion put forward by one of the parties to have it be considered as a use variance? Was that you -- was that your organization, Ms. Hubbard or was that your organization?

MS. SELLIN: The Dupont Circle Citizens Organization.

MS. HARGROVE: And the Kalorama Citizens also. And

also the loading berth thing. We also think the case should be readvertized for that.

CHAIRPERSON REID: That is another. Okay. Now I would move that we deny the motion to have the application considered as a use variance, but rather to proceed with an area variance.

MR. GILREATH: I second the motion.

CHAIRPERSON REID: All in favor?

BOARD MEMBERS: Aye.

CHAIRPERSON REID: Opposed?

MR. HOOD: Madam Chair, I would like to be recorded as abstaining.

CHAIRPERSON REID: Okay. Now in regard to the variance for the loading docks, I am not certain as to the basis for a request that the applicant apply also for an area variance -- a separate area variance for the loading docks. So that has to be supported or explained. I am not clear on that.

MS. HARGROVE: Madam, it has to do with the additional space which is being added, which is 35,000 square feet of function space, which the zoning regulations clearly require a loading dock for each 10,000 square feet thereof. So it appears to us, at least from first reading, without having a further description of the hotel's plans regarding its parking and its loading dock and its garage, which are nowhere in the case, that they need more loading docks. And that becomes a very major issue

because if the present location with one dock is inadequate, the whole thing, if they are going to reconfigure their garage should be moved around to 19th Street -- I mean, should be moved around to T Street.

MS. HUBBARD: Let me speak to that, please.

CHAIRPERSON REID: Okay.

MS. HUBBARD: You know, there is also another element with regard to the traffic here, which is busses. Now the original site plan --

MR. COLLINS: Can we address one issue at a time?

MS. HUBBARD: All right, I am talking about --

CHAIRPERSON REID: Yes, let's stay with --

MS. HUBBARD: The accommodation of busses, trucks and automobiles, which the Hilton as a magnet attracts, to various locations around its 1,400-foot space along the curbs or curb space. Remember, there is an enormous curb space where all those entrances are. Now I was saying that the building -- if you granted the use variance without considering the parking and the trucks, not to mention the busses, which are not mentioned in the regulations at all anywhere but are a reality, you would be creating a non-conforming space because --

CHAIRPERSON REID: Are you talking about the loading docks?

MS. HUBBARD: What?

CHAIRPERSON REID: Are you still on the issue of

the loading docks -- the variance for the loading docks?

MS. HUBBARD: And parking. What about the parking? Where is that located?

CHAIRPERSON REID: All right.

MS. HUBBARD: There is no site plan.

CHAIRPERSON REID: Right now we are talking -- I thought you were going to speak to your position as to whether or not there should also be a variance for loading docks.

MS. HUBBARD: Well, if they do not intend to add to the loading docks, then you would be creating a non-conforming use. I mean, it would be an area variance, but it would be a non-conforming use because it wouldn't conform to your regulations requirements. So they must ask also, if they don't intend to expand the loading dock and parking area and specify where it is in the hotel -- I mean, if they aren't asking for that and if they don't intend to build any more loading spaces or parking spaces or locate them in the hotel, then they must ask for a variance from the regulations that requires these.

MR. COLLINS: The hotel is currently a conforming use.

MS. HUBBARD: Well, no it is not.

CHAIRPERSON REID: Okay, Ms. Hubbard, please.

MR. COLLINS: The hotel is currently a conforming use and conforming as to the number of loading berths. The loading berth requirements in Section 2201.1 of the zoning

regulations for hotels says that for function room and exhibit space in all districts the requirement is for hotels with a total of 10,000 square feet or more of floor area, there is a requirement for one 30-foot loading berth, one 100-square foot loading platform. For each 50,000 square feet of floor area more than 50,000 square feet -- so in 50,000 square foot increments beyond 50,000, you are required to add one additional 55-foot berth and one 200-square foot loading platform.

MS. HUBBARD: Let me ask -- that is not the same regulations I am reading.

MR. COLLINS: But it is the current regulation, and I can give you a copy of it. Please do not dispute the Board when you don't have the regulations in front of you.

MS. HUBBARD: I have them right here.

MR. COLLINS: I just read from the regulation. The July 1995 regulations.

MR. SOCKWELL: And I followed the regulations word-for-word with my updated copy. So I agree with Mr. Collins on the wording of the loading requirement.

MR. COLLINS: We are not adding 50,000 additional square feet.

CHAIRPERSON REID: So, therefore --

MR. COLLINS: So, therefore, we don't trigger the requirement for another loading berth.

CHAIRPERSON REID: Okay. Thank you.

MS. SELLIN: In reading that same section, 2201.1, its says for each additional 10,000 square feet of function and exhibit space, one loading berth is required.

MR. SOCKWELL: Which zoning ordinance are you reading from?

MS. SELLIN: 2201 --

MR. SOCKWELL: No, which version of the loading ordinance?

CHAIRPERSON REID: Do you have the latest?

MR. SOCKWELL: Do you have the current zoning ordinance? I mean, we have this zone problem with the Board that the zoning ordinance copies have varied and --

MS. SELLIN: It is 1996.

CHAIRPERSON REID: Yours is 1998?

MR. COLLINS: Mine is updated to what should be the latest information. I do have also the 1994 one. But mine is current beyond 1996, which was the last time the District actually put the information in.

CHAIRPERSON REID: Just a second. Let me ask you this. Do you all have a copy of the latest regulations as Mr. Collins just read from?

MS. SELLIN: Well, I have -- my zoning regulations did address the 50,000 square feet. However, I interpret this as for every 10,000 additional square feet of functioning exhibit space, you need one loading berth. I don't see that there is any

difference.

MR. COLLINS: That would be inconsistent with what is stated in the regulations. She is reading from her notes. I am reading from the code.

MR. SOCKWELL: Yes, the 2201 hasn't changed since the 1994 regulation, which I also have.

MS. SELLIN: No, it hasn't. I don't see that there is any dispute about that. For every 10,000 square feet of each additional function and exhibit space, you need a loading berth.

MR. COLLINS: That is not what it says.

MR. SOCKWELL: No, that is not what it says. If you read that, you wouldn't be able to build houses or park cars in the city in your own garage. What you are doing is you are making something cumulative that isn't.

MS. SELLIN: No, this is for hotels. This is specifically for hotels.

MR. SOCKWELL: I know exactly what you are reading from, but you are incorrect.

MS. SELLIN: Well, let me ask one question.

MR. SOCKWELL: Let me go back through it so that we are all clear on it. And if we are still unclear, then maybe I stand to be corrected.

MS. HARGROVE: Mr. Sockwell, it depends on how much convention center space they already have when you get over 50,000.

MR. SOCKWELL: I understand that. But I am not dealing with the exact figure from the hotel. I am just dealing with the way the regulation is written.

MS. HARGROVE: Right.

MR. SOCKWELL: It says, "Hotel for function rooms and exhibit space in all districts with a total of 10,000 square feet or more of floor space, one loading berth at 30-feet deep and one loading platform at 100 square feet. And then it says for each 50,000 square feet of floor area more than 50,000 square feet, one loading berth at 55 feet deep and one 200 square foot loading platform. It doesn't say for each 10,000 square feet of space, one loading berth. It gives 10,000 square feet as the breakout point for requiring a loading berth and then says or more. Then the next statement picks you back up when you exceed 50,000 square feet to require you to have a larger loading berth as your next berth. And it sometimes is difficult to understand this code because it isn't always quite clear.

MS. SELLIN: Well, Mr. Sockwell, even by your interpretation, a variance for the loading berth is required.

MS. HARGROVE: The point is how much square footage do they already have when you add on the 35,000 square foot.

MR. SOCKWELL: The question is how much square footage do they already have, yes.

MS. HARGROVE: And that would require probably two or three loading berths depending on how you look at it, and they

only have one.

MR. SOCKWELL: And Mr. Frank's driveway.

MS. HUBBARD: I would like to be clarified a little bit as to what I am saying here about non-conforming. You are assuming that the amount of square footage that they already are devoting to convention center use, which is I believe on their present occupancy permit conforms to the regulations. Now whether you call it convention center space and they want to use different words now -- functions or something -- they are certainly going up above 60,000. They said they were going to double the size of their present facilities.

MR. COLLINS: You said that. We didn't say that.

MS. HUBBARD: You just added on. Oh no, it says right there in your architect's -- look at your architect's first page about how they are going to double the size of what they have already got. That is what he says.

MR. SOCKWELL: The question of one versus two might best be answered by real numbers, Ms. Hubbard. And those real numbers would be requested and should be requested by the Board of the applicant so that we can see whether or not loading berths that are existing are sufficient for the increase in size being proposed.

MS. HUBBARD: That is right.

MR. SOCKWELL: If they are not sufficient, then a variance would be required for the additional loading berth if it

cannot be accommodated in the overall plan.

MS. HUBBARD: That is right.

MR. SOCKWELL: I mean, we are willing -- I mean, that is not a problem.

MS. HUBBARD: I mean, couldn't we just decide to defer this --

CHAIRPERSON REID: In this instance, we can request a reading from the Zoning Administrator's office as to whether in fact there is a need for additional loading docks.

MR. COLLINS: We have a letter from the Zoning Administrator signed back in August on this issue.

CHAIRPERSON REID: And do we --

MR. COLLINS: Where he determined that -- no, it is not in the record.

CHAIRPERSON REID: Okay.

MS. HARGROVE: Could we please have the square footage of the existing amount of exhibit and function space in that hotel as a starter?

CHAIRPERSON REID: Let's allow him to finish. And please try to be polite and courteous to each other. Two people can't talk at the same time.

MR. COLLINS: The hotel was built at a time when the parking and loading requirements were different than they are today. The hotel was conforming at the time it was built. It is not a non-conforming structure. The definition of non-conforming

structure specifically excludes parking and loading. We are not -- I want to take the parking issue out. Parking is required based upon the number of guest rooms. We are not changing the number of guest rooms. We are talking about loading now. The hotel has six 45-foot berths -- loading berths. At the time it was built, it was required to have one. That is what the regulations said at the time.

CHAIRPERSON REID: It has how many?

MR. COLLINS: It has six.

CHAIRPERSON REID: All right. Now the letter that you just referred is dated when?

MR. COLLINS: August 2, 1999.

CHAIRPERSON REID: And what in essence does it say? From the Zoning Administrator. And we would like -- also, Mr. Collins, could you submit for our records that letter?

MR. COLLINS: Sure.

CHAIRPERSON REID: Because we don't have it.

MR. COLLINS: It said in pertinent part, "When the hotel was built the zoning requirement was one 45-foot loading berth. The hotel currently has six 45-foot loading berths. The current hotel function room/exhibit space loading requirement in the zoning regulations is one 30-foot deep berth." We have gone through the requirement. "In our meeting, you agreed that in order to calculate the loading requirements, we would first calculate the number of loading berths that would be required for

the existing function rooms and exhibit space and then calculate the number of loading berths that would be required for both the existing and proposed new function rooms and exhibit space." This is how you do it when you calculate loading credits and parking credits. "If the number of required berths is the same, then no additional berths need be required. There is currently 109,074 square feet of function rooms and exhibit space in the hotel. Based upon the above-stated requirements, this would require one 30-foot berth and two 55-foot berths. The new project includes the conversion of 2,416 square feet from function room to service use and 18,255 square feet of new function room space. Because this will yield a new total of 124,913 square feet of function rooms and exhibit space, the loading requirement is the same and no additional loading berths are required. Please indicate your concurrence." And he signed this concurrence.

MS. HUBBARD: Who signed that?

MR. COLLINS: Armando Lourenco, Administrator of Building and Zoning Regulation and Acting Zoning Administrator.

MR. SOCKWELL: Mr. Collins, one question. In particular, you stated how much additional function space is being added.

MR. COLLINS: 18,255.

MR. SOCKWELL: Okay. Which would be -- which would mean that the 11,500 square foot junior ballroom and another 6,000 some odd square feet of --

MR. COLLINS: It is like 8,000 square feet of new meeting room space, but we reduced the existing meeting room space by 2,416 square feet and converted that to service space.

MR. SOCKWELL: Okay. So the other space that makes up the bulk of what is approximately 35,000 square feet of addition is used for --

MR. COLLINS: It is service bay circulation.

MR. SOCKWELL: Service circulation.

MR. COLLINS: That type of thing.

MR. SOCKWELL: And does the exhibit space include prefunction area in the original calculation to the best of your knowledge and does it include prefunction area in the additional calculated areas?

MR. COLLINS: The numbers I gave you earlier?

MR. SOCKWELL: Yes, the 109,074.

MR. COLLINS: That was based upon -- oh, the 109,074? That is existing -- I believe that is everything.

MR. SOCKWELL: Did the 109,074, to the best of your knowledge, discriminate between service and actual function? In other words, it might --

MR. COLLINS: Yes, it did.

MR. SOCKWELL: It did?

MR. COLLINS: Because the requirement is function rooms and exhibit space as a defined term and service is another defined term.

MR. SOCKWELL: All right. So we can assume that you are really fairly close on the 18,255. MR. GILREATH: Madam Chair, it seems certainly to meet the technical requirements. But if the exhibit space is going to be relinquished and converted to meeting space, they need to bring trucks in there to display goods and so forth and so on, to me that diminishes -- there should be less rather than more. So the loading berths and so forth were adequate before, they should continue to be adequate. There will be less demand on them than before.

CHAIRPERSON REID: Go ahead.

MR. SOCKWELL: Well, Madam Chair, if there are six real loading berths now, and if the basis of those six is the requirements of the hotel and the requirements for the function area, and it can be quantified that the additional area does not require additional berths, then of course the question would be moot. But it may require confirmation.

CHAIRPERSON REID: Okay. Well, in regard to the variance for the loading dock, I don't feel that based on what has been said here today to include the letter on this issue from the Acting Zoning Administrator that there is a need for a further variance for the loading dock. That is my opinion.

MR. GILREATH: I agree with that. I think that the Zoning Administrator's document and so forth as presented seems to be credible and convincing, and I don't think we need to go beyond

that.

CHAIRPERSON REID: I think we need a copy of that as I requested, Mr. Collins, and also I would think that the other parties in the case, if you could please provide them with copies as well.

MS. HUBBARD: May I point out, Ms. Reid, that this document which you are having entered into the record was not in the record previously. And I would just like to say that my opinion of the Zoning Administrator's opinion -- and this has been borne out in the past -- I would like to see the actual measurements by floor area from the hotel that have never been submitted. What is used for what. And the Zoning Administrator did not have that. Just remember what Mr. Reagan said. Trust but verify. And nothing has been verified here. And I just want to say that there is no reason at this point to be sure that what the Zoning Administrator says is right. Because he hasn't got the calculations and neither do you.

CHAIRPERSON REID: Any additional information that you need, Ms. Hubbard, I am sure that you can request from staff or request from the Zoning Administrator's office or Mr. Collins.

MS. HUBBARD: All I would like to see is an allocation of space as it existed prior to what is being changed and after in square footage with every single floor.

CHAIRPERSON REID: I understand that. Who are you requesting that from?

MS. HUBBARD: Well, it would seem to me that before any decision could be made on this matter as to whether --

CHAIRPERSON REID: Would you like to see that in the record?

MS. HUBBARD: No. That before you could make a decision on this matter, you would have to have that material in front of you.

CHAIRPERSON REID: I just said -- what I said, Ms. Hubbard, was would you like to see it in the record? Meaning that --

MS. HUBBARD: I would like to see it.

CHAIRPERSON REID: Meaning that --

MS. HUBBARD: I would like to see it in the record, yes.

CHAIRPERSON REID: Once it is in the record, then it is submitted to us and we are --

MS. HUBBARD: It is not in the record now.

CHAIRPERSON REID: Well, we are not making a decision right now.

MS. HUBBARD: Well, as to whether or not they need a variance you are.

CHAIRPERSON REID: But the point we are making -- the whole purpose of this exercise we are going through is to better determine what our needs are and determine what other information we may need or what other types of exhibits or what

have you we need to have and we would so-request that.

MS. HUBBARD: Well, could I say with regard to information that the photographs which they submitted with their original application -- they are required to submit three photographs -- are at least 15 years old and do not reflect the conditions in the neighborhood now.

CHAIRPERSON REID: Okay.

MS. HUBBARD: And how do they dare to use photographs like that. I don't know --

CHAIRPERSON REID: I don't know -- I really have no basis to be able to determine when those photographs were taken. Mr. Collins --

MS. HUBBARD: Well, you can just look at the present neighborhood and compare them with the photographs.

CHAIRPERSON REID: Because I think that the pictures that are submitted are supposed to be recent, aren't they?

MR. COLLINS: There is no requirement on what the date is. The photos that we had were aerial photos, which you probably could not duplicate today given air flight regulations and things. The requirement is not to show photos of the neighborhood but to show photos of the property. And these three photos that we had adequately and best showed the location -- the limited location of where this new small construction of 0.17 FAR is going to take place.

CHAIRPERSON REID: So she is speaking of aerial photos of neighborhood -- the site.

MR. COLLINS: We didn't submit aerial photos of the neighborhood. We weren't required to.

MS. HUBBARD: Well, they are in the picture and they do not reflect --

MR. COLLINS: Well, if you take a picture of the building, you can't help but ignore the buildings next door.

CHAIRPERSON REID: So you did submit recent pictures of the building itself?

MR. COLLINS: The pictures we have in the record?

CHAIRPERSON REID: Yes.

MR. COLLINS: The three photos of the site?

CHAIRPERSON REID: Yes.

MR. COLLINS: Are photos of the site.

MR. SOCKWELL: Mr. Collins, may I ask the question, if I may? Are the photos of the area that is generally that which would be redeveloped recent photographs that show the existing current conditions, changes in retaining walls and walkways -- anything that is current with the hotel? Because those pictures could be taken from the building across the street. There is nothing to prevent those photographs from being available.

MR. COLLINS: The pictures show the current condition of the property. The aerial photo, I understand, was taken when the building was built in 1965. The building shape has

not changed. You can see it is on the --

MR. SOCKWELL: I understand that. But what the Board would respond to, and admittedly the universal buildings have been redone recently.

MR. COLLINS: On the inside.

MR. SOCKWELL: On the outside too. They reskinned them.

MR. COLLINS: That is certainly not going to change the zoning envelope.

MR. SOCKWELL: No, it is not going to change the zoning envelope. But if the Board is respond to the conditions, we always ask for existing conditions. We don't ask for the pre-existing conditions of 25 years ago. We ask for the immediate existing conditions. There is no difference between the requirement for single family home photographs and those for a hotel.

MR. COLLINS: I would challenge anyone to find on that photograph any --

MR. SOCKWELL: I grew up in the neighborhood, Chris. I could probably find something.

MR. COLLINS: On the building in question. We are not required to -- nor did we have to submit photos of the neighborhood.

MR. SOCKWELL: No, but you are going to modify an outdoor area of the hotel.

MR. COLLINS: Yes.

MR. SOCKWELL: In order to adequately depict that outdoor area, you should have current photographs. Because since 1965, a lot of things have been modified to some degree. And I realize you don't wish to provide the photographs, but I am just asking for them.

MR. COLLINS: I didn't tell you -- excuse me, I didn't --

MR. SOCKWELL: I didn't say you refused. I just said you don't wish to.

MR. COLLINS: No, I do not -- I take issue with that characterization.

CHAIRPERSON REID: He did not say that.

MS. SELLIN: Chairman Reid, what we really --

MR. COLLINS: And the photos -- excuse me, I wasn't finished.

MS. SELLIN: I am sorry. I apologize.

MR. COLLINS: The photos that we have submitted show the current condition of the property. If it is to be changed in any respect -- the building has the same shape it had when it was built in 1965.

MR. SOCKWELL: Of course.

MR. COLLINS: The surface area of the small addition that we propose is the same shape and location. Neither

has changed since 1965.

MS. HUBBARD: Yes, it has changed.

MR. COLLINS: We are simply giving you the best photographs we have of the area so that you can see what the area is that we are talking about.

MR. SOCKWELL: Okay, regardless of that --

MR. COLLINS: If you would like pictures that show the existing condition now, we will be happy to go and take as many photos as you want.

MR. SOCKWELL: I could argue that. Rather than that, I would think the Board -- and I would ask Madam Chair for her concurrence -- I would think the Board would want the numbers.

MS. SELLIN: Yes, thank you.

MR. SOCKWELL: With fairly accurate depictions of what those numbers do represent, including the new area, which has been shown primarily in sketch form and what I would call design development form rather than a more readable form that can be evaluated effectively by the Board. In most cases, we do get better direction in the drawings that are submitted. They don't have to be permit drawings, but they do have to be very accurate representations of what is being done so that we do see and can compare.

CHAIRPERSON REID: Okay. Let us -- Ms. Hubbard, let us move on. Now the last thing that we are going to consider -- like I said, we have been at this for almost two hours. It is

the motion to dismiss or to defer or continue the case. Before I do that -- Mr. Hood, you had indicated earlier that there is some issue that you had that you wanted to bring up.

MR. HOOD: Yes, I have a couple. One of my concerns after looking at my submission and seeing what we were working with here, I thought everything was on the up and up. From what I am hearing today, I am very appalled that we have to sit here and iron out issues when I think that Mr. Collins and the applicant should have shown some initiative to go out and work -- especially when you are doing something to this magnitude. Now I am not familiar with the BZA procedures all the way thoroughly, but on the Zoning Commissions, some of those issues are tried to be worked out before it comes before the Board.

Now my question to you, Mr. Collins, is have you made an attempt -- without the notification

-- have you made any attempts to go to the community and say let's resolve some of the issues and some of the concerns and kind of went above and beyond the call in coming into a community and doing a development of this magnitude?

MR. COLLINS: Yes, I think we have, sir. We have done a tremendous amount of outreach. And let me just summarize for you what we have done. Mr. Bill Edwards, who is the general manager of the hotel, contacted Council Member Evans and Council Member Graham. We contacted the Office of Planning and had a meeting with the Office of Planning. We contacted the Deputy Mayor

for economic development and discussed it with him, and I believe that there has been a letter submitted to the record on that. Mr. Edwards contacted the chairperson of ANC 1-C, Ms. Linda Softli and discussed this issue with her. I contacted the chair of ANC 1-D, located across Connecticut Avenue, and discussed it with her, Linda Bumbalo. I called for Mr. Kyle Pitsor, who is the chair of ANC 2-B. I left voicemail messages and never got a return call back. We talked to the Dupont Circle Merchants and Professional Association and made a full presentation. We spoke with the Wyoming Condominium, the only abutting residential property of the project.

MS. HARGROVE: No, that is not so.

MR. COLLINS: That we did not speak to them?

MS. HARGROVE: There are three apartment buildings there -- the Wyoming, the Oakland, the Gelmar. Plus two -- the first black cooperative in the city on 19th Street, all in the same block.

MR. COLLINS: Well, the property that immediately abuts is the Wyoming Condominium. Additionally, we spoke to the Hotel Association and the Convention and Visitor's Bureau. We tried to speak to everybody that we could. The notice went out to all owners of property within 200 feet in accordance with the records of the Office of Tax and Revenue, which is the normal way that those records are kept. We sent that information to the Board and the Board sent the notice out as it normally does, in

this case 40 days in advance -- the statute requires 30 days.

CHAIRPERSON REID: Did you speak to ANC 1-C? You spoke to two ANC's.

MR. COLLINS: I spoke to two and Mr. Edwards spoke to the chair of ANC 1-C on this issue.

MS. HARGROVE: Who notified no one else.

CHAIRPERSON REID: So you did talk to ANC 1-C?

MR. SCHOTT: No, he did not speak to ANC 1-C. He spoke to the chair, who until yesterday I had no idea had even spoken -- so she did not communicate to --

MR. COLLINS: Well, that is not our issue. That is an internal issue of the ANC. We did what we could do.

MS. FALWELL: How is it that in all this so-called outreach that there was no attempt at all to deal with a very important stakeholder in this process, which is the school right next door to the Hilton?

MR. COLLINS: The school had notice 40 days in advance.

MS. FALWELL: Well, you just heard that there was no record of any notification whatsoever.

CHAIRPERSON REID: Just a moment, please. Three people are speaking.

MR. HOOD: Madam Chair, I asked the question. I think he has answered my question, even though it is not to my satisfaction. Apparently you have made an -- there was an attempt

made. But the reason I brought it up is because what we heard here today for two hours, as the chairperson has mentioned, was a lot of things that I have seen in the past resolved. There is going to be some separation and some issues where both sides and all parties don't agree. But some of the things I have heard here today, if a good conscientious effort was made, then we would not have been here for two hours hearing the things that would have been taken on in an ANC meeting or a civic association meeting or what other associations that are involved. And that is just where I am coming from.

MR. COLLINS: Well, I would turn the tables a bit and say that our application has been in for several months. The notifications went out 40 days ago and the property was posted and no one contacted us. We made all the outreach we could. We spoke to everyone we could -- everyone we knew how to contact. Everyone within 200 feet got notice of the application and where to find additional information, and we have a number of people down here today for the first time.

MR. HOOD: Mr. Collins, with all due respect, they are not coming to you. You are coming to them. So I think you have to go beyond the call of duty sometimes and try to -- like I say, not resolve all issues, but some of these issues here today I am sure that you all could have worked out.

MR. COLLINS: We contacted everyone that we knew.

MR. SOCKWELL: Mr. Collins, one question if I may.

Forgive me for interrupting you. But, Mr. Collins, when you made phone calls or when phone calls were made to the Advisory Neighborhood Commissions, were those phone calls followed up by any written documentation such as a letter? It would have been a very worthwhile step, even in the case of ANC 1-C, where it may be a little bit more difficult to get your hands on documentation that comes in the mail. But a phone call doesn't always precipitate a response, but a letter always leaves a record. And then it is a lot easier to determine that the ANC has not been responsive for one reason or the other. Because they have to pull their meetings together. And once it is documented, there is no excuse on their part.

MR. COLLINS: There was a follow-up letter sent to Ms. Softli of the ANC.

MR. MCCABE: May I just say that I spoke with Kyle Pitsor yesterday --

CHAIRPERSON REID: Your name and your address.

MR. MCCABE: T.J. McCabe, 1825 T Street. I spoke with Kyle Pitsor last night, and he had no indication of what was going on here today.

CHAIRPERSON REID: Who is Kyle Pitsor, sir?

MR. MCCABE: He is the ANC Chair for Dupont Circle.

CHAIRPERSON REID: All right.

MS. HARGROVE: Let me, please.

CHAIRPERSON REID: Okay. One more comment and then

we need to bring some closure to this.

MS. HARGROVE: Just two quick ones. The first is that our association was not contacted, as you saw from that list, and yet we have been involved with all of the cases involving the Hilton before, including the extensive rewriting in the 1980's, which we thought would protect our neighborhood. But secondly, getting off of that tact for a minute, we really do need to have a better file. You saw us asking questions today about parking and loading docks, and you heard me say that these schematics were very, very bad. We really can't tell what the new parking garage will look like, where the entrances are, how the space will be used. We don't have the statistical data that Mr. Sockwell requested so that we can see what the exact percentage is and the square footages are in the hotel. That is logical for several reasons. The hotel did get some building permits a year or two back to do some work. There have been some changes since 1980. And we need to judge this stuff. We can't come in with a good case without a good record. And so I would earnestly request you to postpone it and let us get all this stuff, including the Zoning Administrator's opinion, the proper elevations for the hotel and the proper plans for the hotel into the record and let us go back to our associations to discuss this thing intelligently.

CHAIRPERSON REID: Okay. Let's move forward now. The motion on the floor to dismiss or to continue this particular case. Okay, Mr. Sockwell requested that we do it in two votes.

All right, the motion to dismiss?

MR. GILREATH: To dismiss the application?

CHAIRPERSON REID: To dismiss the application. This is the one that was proffered to us by the Residential Action Coalition, Ms. Hubbard.

MS. HUBBARD: Make him reapply.

MR. GILREATH: Madam Chair, I make the motion that we deny the dismissal request.

CHAIRPERSON REID: Okay, I would second that. Take the vote? Are we ready to vote? All in favor?

BOARD MEMBERS: Aye.

CHAIRPERSON REID: Opposed? All right. Now the second motion was a motion that came from the Dupont Circle Citizens Association as well as from the Kalorama Citizens Association and also from the ANC, and that was a motion for a continuation. I would move that we vote to continue this until a date certain. And the reasons why -- can I get a second?

MR. SOCKWELL: I second the motion.

CHAIRPERSON REID: The reason why is because there seems to be a great deal of uncertainty in regards to this application, particularly as it pertains to the community. And this Board takes -- gives a lot of weight, of course, to the ANC as well as to -- and I understand in this instance there are three ANC's in close proximity, as well as the input from the citizens who claim that they were not properly noticed. Now

notwithstanding the fact that we know that we did send out notices to everyone within 200 feet and it was posted in the D.C. Register and the property was posted, nonetheless, because of the concern here today, I think that it would be in the best interest of the applicant and also the community for there to be additional time extended to give the various entities time to meet and to discuss this issue and for there to be additional information coming into the record for everyone to be able to read it and to be able to understand it. Also, I think that the applicant, as Mr. Hood mentioned, should -- even though, yes, there has been a lot of outreach, but apparently not enough. So, therefore, given the fact that these persons have appeared here today that obviously you may not have been aware of until today, and we always try to encourage opposing sides to get together and to try to come to some resolution of their differences and to work out compromises and to try to ameliorate as much as possible the problem areas and then come back to us and to proffer to us what in fact you have done and if in fact you were able to get closer. And we understand that there are always instances where you can come to a certain point but you can't go any further, and that is when we will have to then make a decision. But I think it would be inappropriate to go forward with this case today.

MR. HOOD: Madam Chair, I would just like to echo your comments and I associate myself with your comments. And also I would hope that both sides could come to some type of agreement.

Not that that would make our job a lot easier, but I would hope that they would go into those discussions openminded and just not with a closed mind and straight on one side. Because there are some issues, and I would hope that both sides could try to resolve some of those issues before you come back. And as you said, Madam Chair, then in that case if they are not, then we will have to make the decision.

MR. GILREATH: Madam Chair, I concur with your motion. And I agree. I think it is appropriate that more time be accorded to resolve some of these issues. And I would request that the applicant indeed improve on the graphics and illustrations. They were not too illustrative. I had difficulty in trying to determine what was existing and just how the addition would affect the views and so forth. So hopefully you could provide us with graphics or drawings that are a little more readable and give us the relationship of what exists and what is proposed.

MR. SOCKWELL: Madam Chair, I would like to request of the opponents to the application that they, themselves, get together and try to reduce these multiple parties down to a manageable perhaps party of one with several speakers indicating the specific issues that might be somewhat different among the diverse groups. So that we can get to the bottom of the issue as quickly as possible when we come back together. And it would also create a better community relationship among these ANCs and

individuals that will go forth to the millennium, let's say, creating a stronger community bond.

CHAIRPERSON REID: All in favor?

BOARD MEMBERS: Aye.

CHAIRPERSON REID: Opposed?

MS. HUBBARD: Could I add one thing, Ms. Reid?

CHAIRPERSON REID: No --

MS. HUBBARD: That when we --

CHAIRPERSON REID: Ms. Hubbard, no, you cannot. Thank you. We just closed this case. As I was saying, what we will have to do is set a time certain for the hearing and given the fact that we have so many parties, give a time frame for the presentation by the applicant as well as time for the parties so that we can be on a time table and not allow this particular case to just go on and on and on. Because you have so many people who have the right to cross examine. Even though you have been extended the right, hopefully you will bear in mind that we need to get through the hearing and to try to limit your questions to those that are germane particularly to your own interest. My understanding as to why we have so many parties is because each of you -- and I hope this is true -- each of you have distinct and different issues that you are bringing to the table and that you will be presenting to us. And this is why you have separate party status and this is what we would like to see.

And to the applicant, there are several things that

we are requesting that you submit. Can you give us a timeline please, Mr. Hart? First of all, let's enumerate the things that we are asking for. Did you have some things already jotted down?

MR. HART: No. I didn't make of the things we are asking for.

CHAIRPERSON REID: Well, let's go through them.

MR. SOCKWELL: It has been requested among other things that a more complete site plan be provided depicting the property and the loading docks, points of entry, and the area to be redeveloped. That would be presented. Also, a more definitive set of schematic floor plans and perhaps an additional section and the numbers -- basically the calculations of existing and proposed floor area should be broken down and perhaps assigned on a room-by-room, corridor-by-corridor basis on the floor plans as applicable. And then the existing space perhaps described somewhat more clearly as to its existing area and the modifications thereto.

CHAIRPERSON REID: Did you say hotel pictures?

MR. SOCKWELL: No, I did not.

CHAIRPERSON REID: Okay.

MR. SOCKWELL: The photographs -- if perhaps a photograph could be provided of the area on the south side of the building east quadrant showing the location of the new space as it is currently existing. That would be the only photograph I think that would be -- that and perhaps a photograph of the loading

docks on 19th Street, although they are existing.

CHAIRPERSON REID: And, Mr. Collins, I had stated that he would for the record submit a posting management -- some type of posting management -- I don't know, report?

MR. COLLINS: Our affidavit of maintenance?

CHAIRPERSON REID: Yes, an affidavit of maintenance that would reflect for us where those posters were placed on the building, particularly the one that was on 19th Street that has been -- that the community persons have stated was not in place. That would be very important for us to be able to ascertain if that poster was there and if it were properly maintained.

MR. SOCKWELL: A key plan would probably be just fine --

CHAIRPERSON REID: A what?

MR. SOCKWELL: A key plan which basically commits a number from the photograph to a position on the building exterior, and that would show whether they were posted on 19th Street, say between the loading docks or at the employee entrance, north of the loading docks, or whatever.

MS. HUBBARD: The certificate of occupancy.

CHAIRPERSON REID: Did you request that?

MR. SOCKWELL: No, I didn't, but they can provide that.

CHAIRPERSON REID: For the existing use?

MS. HUBBARD: The one going back to 1980 and the

one that is present now.

CHAIRPERSON REID: Okay.

MS. HUBBARD: And building permits that have been applied for since then.

MR. SOCKWELL: What would the relevance of minor building permits be to this?

MS. HUBBARD: Because we understand -- this is just rumor, but there is nothing in the files to verify or dismiss it -- that extensive changes with regard to the use of space have already been made in the hotel. And I mean I know about some of them myself because I have been in there, but I never paid any attention. So we would like to get the building permits.

CHAIRPERSON REID: Okay. We have that.

MS. HUBBARD: And the occupancy permits.

CHAIRPERSON REID: Okay. The certificate of occupancy -- historical. Because I think it has been the hotel for --

MS. HUBBARD: Historical. And we might even go back to the day --

MR. GILREATH: Madam Chair, I think there is a certain limit.

MR. SOCKWELL: The only building permits that --

MR. GILREATH: We are dealing with the here and now. If there have been some kind of alterations --

MR. SOCKWELL: The only building permits that might

be germane to this would be those which would fundamentally change the use of a function or exhibit space to another use, not necessarily a redoing of the lobby bar or something like that. Because those are really more toward the hotel side and less toward the function side, which really occupies the lower levels.

MS. HUBBARD: I would just like to be able to prove or have you know what is the difference between the previous use and the present use. For example --

MR. SOCKWELL: Well, Ms. Hubbard, let me say this.

MS. HUBBARD: Mr. Sockwell --

MR. SOCKWELL: It is Sockwell with no T.

MS. HUBBARD: Please let me say one thing.

MR. SOCKWELL: Yes.

MS. HUBBARD: They drove over the curb on 19th Street using that thing as an entrance to their loading dock for five years until we took their pubic hall license away. And that particular entrance was determined to be a fire exit. But they gave them back their license, wouldn't they? And gave them a curb cut, wouldn't they? That was why they had to build a new fire exit on Florida Avenue, which you see there today. Now it is things like that that you should know. This hotel has not always been a spotless character.

CHAIRPERSON REID: Okay. Well, the building permits we have --

MR. SOCKWELL: Well, neither have most of us.

MS. HUBBARD: I know. But I am not asking to ruin everybody's night and day with truck traffic either.

MR. SOCKWELL: Understood.

CHAIRPERSON REID: Okay. But also with regard to the certificate of occupancy, that hasn't changed in how many years?

MS. HUBBARD: We don't know that.

MR. COLLINS: The hotel opened in 1965.

CHAIRPERSON REID: Has there been any change in --

MR. COLLINS: Mr. Edwards would like to make some comments.

CHAIRPERSON REID: All right.

MR. EDWARDS: I am Bill Edwards, General Manager of the hotel and Vice President of Hilton Hotels. This has been a good exercise and I agree with your conclusions. I have been in that hotel since 1971 and I have lived on 19th Street since then.

MS. HUBBARD: Where?

MR. EDWARDS: I am talking to the Board, ma'am. All of these issues -- I have no problem taking photographs. I agree if you want photographs or whatever it is to make a bona fide decision here. That is all we are trying to do. I would like to know from the parties that are sitting in this room that have had the microphone for two and a half hours is if I personally met with the ANC director Ms. Softli in my office and

taken her on a tour of the entire site, which I did in October, when I personally take all the Boards and meet with a D.C. map for a morning meeting weeks ago and explain in detail what we are doing, if we have written every ANC asking them, hey, hold a meeting and I will be there. Even with Ms. Softli, I said hold a meeting and we will come. I would like to see from your chair instructions given that these parties, responsible parties in position representing their association, which I agree with -- because I also lived in that hotel until a few years ago right above the entrance on 19th Street with my three kids, so I have a feel for what is going on -- that they get it together. If I have met with the ANC, I can't go any further than to say I will meet with anybody you want and here is the whole project. I mean, how far do we have to go? A door-to-door campaign? I can't do that.

MR. HOOD: Madam Chair, may I --

MR. EDWARDS: Would you please just -- I agree with you, Mr. Hood. I am not arguing your point. But where do you all -- can we get it together? I will be glad to do anything needed.

MR. HOOD: I concur with you. But the problem is this Board acts on what we have in front of us. And other than the letter from Mr. Price -- this is the only letter that I saw where someone even responded. So, therefore, what we had in front of us was the information like it was -- it was empty information more or less. What we need is documentation that, yes, I have tried to do this. Even if you are not successful. But at least

when I read the file at home, I know that you have made an attempt. When I read this file and from what I heard today, my conclusion is you haven't made an attempt. But that is what -- I have dealt with what is in front of me.

CHAIRPERSON REID: Mr. Edwards, you testified here today what you have actually done. And the point that Mr. Hood is making is that we didn't know that.

MR. EDWARDS: It wasn't on paper. Okay, I understand your point.

CHAIRPERSON REID: So we need to be made aware of -- I mean, in all fairness --

MR. EDWARDS: I mean, I have been meeting with -- I talked with Mr. Graham yesterday. I mean, I don't know where you want me to go.

CHAIRPERSON REID: I understand that. But that is known to you. It is important that you demonstrate to this Board what in fact you have been involved in and what you have done --

MR. EDWARDS: Okay. If we are looking for paper exchanges, I will go back with counsel and I will find the paper exchanges.

CHAIRPERSON REID: Your outreach. And so then once we have that in front of us, then we can determine, oh well, they did this, this, this and that.

MR. EDWARDS: I have got the file if you want them right now.

MR. SOCKWELL: Mr. Edwards --

CHAIRPERSON REID: You need to get it to us.

MR. SOCKWELL: If I may, Madam Chair. Mr. Edwards, the real issue is that in cases like this which have very strong issue-based objections and/or support, it is to the advantage of the applicant to make sure that a very strong paper trail to his or her or their activities is presented to the Board for our information education.

MR. EDWARDS: I agree with you.

MR. SOCKWELL: We can't make you the bad guy if you have done all the right things. We can't not listen to the ANC and the community when they claim that they haven't been given fair notice or proper notice or adequate access to the proposal prior to these meetings. In the case of the public schools, it is a little bit different because often the public schools are difficult to get to, at least that is what the newspapers say. It doesn't mean that the public school itself isn't considered an important factor. In this case, of course, the public school is not on the side of the property where the construction would take place, and that does make a difference. And you don't agree -- you see, I know Adams School. You have to understand, I know the neighborhood. Adams School is not on the side of the property where the construction would take place in the case of the proposed renovation. And it might have been that Adams School wasn't considered as an affected party directly. That is not to

say that Adams should not have been notified.

MS. WILLS: With regard to that, I do want to say for the record that the Hilton Hotel is a community partner of Adams Elementary School, and we have had a long and productive relationship with the Hilton Hotel.

MR. SOCKWELL: It didn't sound like it.

MS. WILLS: No, but they have been very helpful.

MR. SOCKWELL: You have never even expressed any knowledge of the hotel except as an enemy.

MS. WILLS: Well, I attempted to make a comment earlier, but I was not recognized.

MR. SOCKWELL: You didn't start out that way.

MS. WILLS: No. But the point of my remarks was to raise our concerns about this construction, not to talk about our long and productive relationship with the Hilton Hotel.

MR. SOCKWELL: But it is part and parcel of a relationship that you have with the party.

MS. WILLS: So now I am doing this. So now I am doing this.

MR. SOCKWELL: And you should always make sure --

MS. WILLS: But what I want to say --

MR. SOCKWELL: Let me finish this. You can never divorce from the situation just to make your point on something that you don't like. You should always put it in context. You would never do that with the students. You should not do it with

the hotel.

MS. WILLS: Excuse me. I am not a teacher first of all. But I do want to say that I made an effort to make such remarks earlier, but I was not recognized. But I want to say at this point that, yes, the Hilton Hotel is a community partner of John Quincy Adams Elementary, which is why some parents and I were equally concerned that the Hilton Hotel did not approach the school with regard to its plans. It may be that we are overly concerned about this situation, but we have to err on the side of caution with regard to the safety and well-being of our children. Now we would be perfectly willing to listen to the Hilton Hotel's presentation should they decide to give one. But this notion of noticing downtown -- we can't even find out if in fact they did and if they did to which office. As I said, the Facilities Office, headed now by Kifah Jayyousi, who came in August, indicated that he had no knowledge at all about the Hilton's plan, nor did the legal office.

CHAIRPERSON REID: Okay, let's move on.

MR. HOOD: Madam Chair, I just have one quick point. I think that for the past two-and-a-half hours, Madam Chair, you have recognized everyone in the room. But I would also like to acknowledge the fact that when I asked for the submissions to show the progress of these meetings that are going to take place, we are not just looking for submission from Mr. Collins. We are looking from the ANCs and the associations, whether pro or

con. I think everybody should be able to submit something so that we can have something when we are doing our study and reading for the case. Thank you.

CHAIRPERSON REID: What I was going to say is let's bring some closure to this finally. I think that now we all know, right? I think that the problem was communication. I think that the applicant had felt that they had adequately communicated with and notified. But then we find people coming here today that they weren't even aware of the fact that they should have notified or who were interested in this particular case. And now I think everything is on the table and that we are going to extend the time for this case to be heard and in the interim, the problems that were raised today -- we have probably gone through a great deal of the case --

MS. HUBBARD: Oh, no.

CHAIRPERSON REID: Excuse me. I am saying that facetiously, Ms. Hubbard. To the point that at least we have cleared a lot of the problem areas or areas that were vague, and that now both the people in the community and the applicant will conduct themselves accordingly so that when we have the hearing, we will be able to proceed with adequate information and we will have everything in front of us and we should be able to get through the case fairly quickly. The only other thing that we did not ask for that was raised -- and that was I don't think we need a historical certificate of occupancy, but we would like to please

submit a copy of the current one. Usually that is in the file.

Now can we move past this? Are we done with this?

MR. GILREATH: Do we know a date certain now?

CHAIRPERSON REID: Mr. Hart is going to give us a date certain for the hearing.

MR. HART: At this point, the first available date for the hearing would be February 9. I need to make some other suggestions here. Based on Mr. Hood's recommendations as to what the Board wants to see, I would suggest that the applicant makes his submissions or the submissions on the week of the 24th of January. Is that reasonable? For the meeting of the 9th of February, giving the community members a clear two weeks to respond or to add additional information for the February 9 hearing. How does that sound?

MR. COLLINS: Are we -- I just want to be clear. It is my understanding that we were going to get some information together and then meet with the parties?

CHAIRPERSON REID: No, Mr. Collins. Typically we just ask that in light of the things that you have heard here today, that perhaps getting with the various entities that have come forward to express their concerns may be appropriate for the applicant so that if there are any areas that can be resolved then that can be done.

MR. COLLINS: Right. That was what I thought was -

- but what Mr. Hart was saying sounded like something different than that, that is all.

CHAIRPERSON REID: No. He is giving the timeline for the submissions that we requested and also a date for the next hearing -- the next hearing date. that is all he is doing. And that date -- this is -- here today is the notice of that date for everyone. It will not be readvertised. So those of you who are here, take note that this is the only notice that you will receive of the date. And if you have other persons that you feel should be so-notified, please let them know. In the meantime -- well, the property will remain posted, won't it? But then you have to change the date.

MR. GILREATH: Madam Chair, I thought Mr. Hart was also saying that the things we requested about better drawings and so forth, they would be submitted two weeks earlier so the other parties have a chance to look at them.

CHAIRPERSON REID: That is exactly what I am saying. He is giving a timeline. Didn't you give the date?

MR. HART: Yes, I did. Sure.

MR. GILREATH: It came across to me like all they had to do was get together and talk. He has to submit the documents too.

CHAIRPERSON REID: No, no. The things that we requested have to be submitted by a date certain -- January 24.

MR. HART: January 24, yes.

CHAIRPERSON REID: And the hearing date is going to be --

MR. HART: February 9.

CHAIRPERSON REID: February 9.

MR. COLLINS: But then the parties have an opportunity to submit something -- what was it, two weeks after the January 24 date?

MR. HART: No, no. I didn't say they had to submit something, but there would be a period of time that they, if they so choose to, they can. Because based on what happened here today, they are going to want to see what you are submitting.

MR. COLLINS: Sure.

MR. HART: And whatever is going to happen between that period of time is up to them. But I put that time there deliberately for them to be able to see what you have or what you have submitted.

MR. COLLINS: My only concern is if we want -- if we are able -- our goal is to come prepared on February 9 to be able to answer any issues that are raised in that subsequent submission. And I thought you said they had two weeks from January 24, which would -- by my using my fingers and toes means February 7.

MR. HART: February 9.

MR. COLLINS: February 9. And then that is the hearing date.

MR. HART: That is the hearing date.

MR. COLLINS: So we wouldn't have an opportunity to see what their responses are to our presentation.

MR. HART: All that will be in the record.

MR. COLLINS: But the same day as the hearing.

MR. HART: No, no, no. They have -- okay, the hearing is the 9th. Normally we send out packages to Board Members about five days or six days. In that period of time, which would be the week before, maybe the third or fourth. Everything that is coming in would have to come in. Because we are starting the hearing from the first -- you know, this is the hearing.

MR. COLLINS: So their submission requirement would be the third of February then?

MR. HART: Yes. If they want to make submissions. I am just trying to build in some time for them if there is a need for submissions from them.

MR. COLLINS: Okay.

MS. HUBBARD: Submissions from us or submissions from him?

MR. HART: From you.

MR. COLLINS: You don't have to.

CHAIRPERSON REID: Mr. Hart, repeat the timeline once more, please, to everyone. And let's make sure that that is agreeable to everyone that will be involved.

MS. HUBBARD: Could I ask one more thing? I would like it if you could -- if you have subpoena power, I don't know. It is to get a responsible member from the Department of Public Works or Highway Department to produce their map of the freeway as it existed when they first got their hotel permit.

CHAIRPERSON REID: Well, first of all, Ms. Hubbard, we don't have subpoena power.

MS. HUBBARD: The thing is, Mr. Gilbert, our former head of planning, he borrowed my map. He didn't have one. And he never returned it. But this is a map -- the original site plan of the Hilton was based on the freeway being built.

CHAIRPERSON REID: Okay, Ms. Hubbard --

MS. HUBBARD: And 19th Street being turned into a ramp from Dupont Circle to Connecticut Road --

CHAIRPERSON REID: Let me finish. Let me finish. If you feel that that is important for us to look at --

MS. HUBBARD: I think you should get it.

CHAIRPERSON REID: I am not finished. Then perhaps you can secure that and you can submit it within the time frame.

MS. HUBBARD: I would like to have you have that. That would be a great help to you in all this case and other cases.

CHAIRPERSON REID: We don't have subpoena powers.

MS. HUBBARD: This is a map of all the ramps and access roads and the freeway and the crossings with the Metro

stops that was developed by Mr. Burton.

CHAIRPERSON REID: If you know of this document, then you can --

MS. HUBBARD: And I think you should have that for this case. Because the situation on 19th Street as it exists today was because of those plans where a ramp to the freeway, which was to go along Florida Avenue -- ramp from Columbia Road to Dupont Circle was planned.

CHAIRPERSON REID: Okay, Ms. Hubbard, if you have it --

MS. HUBBARD: Vernon Street and 4th Street were access roads.

CHAIRPERSON REID: Ms. Hubbard, if you have -- if you know where you can secure that, then submit it during the time frame and we will look at it.

MR. SOCKWELL: And Ms. Hubbard, I vaguely remember some grand highway plan. There have been so many --

MS. HUBBARD: Vaguely remember? Well this is --

MR. SOCKWELL: Because none of them ever got funded or something happened.

MS. HUBBARD: We stopped it. And I would just like to say another thing, Mr. Sockwell. For information --

MR. SOCKWELL: The thing is the hotel does exist.

MS. HUBBARD: One of the most important books in the United States was written because of the Hilton Hotel's truck

traffic, and it was listed as one of the 100 most important books of the century.

CHAIRPERSON REID: Ms. Hubbard --

MS. HUBBARD: By a person who lived on 19th Street. Her name is Helen Lovett. And it is called --

CHAIRPERSON REID: Ms. Hubbard, please. If you feel that is important -- ma'am, we are going to give you the opportunity to submit to us anything that --

MS. HUBBARD: Can't you get it? It is a government document.

CHAIRPERSON REID: Anything that you feel is important that will defend or benefit your position, submit it during the time frame.

MS. HUBBARD: No, but it may occur to you -- I mean, you talk about community cooperation here and the Hilton Hotel calling on people. My gosh, they used to send the servants over to see me. They finally decided I was very high-toned and invited me to tea.

CHAIRPERSON REID: You can write us a letter.

MS. HUBBARD: Many, many people in this room today --

CHAIRPERSON REID: You can write us a letter and let us know all of that. But right now, we have to move on.

MS. HUBBARD: What I mean is that many, many people in this room -- Mr. Sockwell, you included -- do not realize --

CHAIRPERSON REID: Ms. Hubbard, let me just say this. Because at this point in time, my patience is becoming strained. I have asked you not to talk while I am talking or any other Board member, and I have proffered to you what to do. Now, if that continues, I am going to have to ask you to leave. Thank you. Now we have a timeline?

MR. HART: Yes, let me run that again.

MR. COLLINS: May I make a suggestion on the timeline? I am sorry for interrupting. But in order to give the applicant sufficient time to be able to constructively address any issues that might come up in these submissions, can I suggest that we move everything up a week. Instead of the 24th, that we could do it a week earlier, which would be the 17th.

MR. HART: You see, that is giving you less time.

MR. COLLINS: That is all right. We can do it in less time. And then give the parties 10 days from the 17th.

MR. HART: So, let's back up here --

MR. COLLINS: To give us time to adequately address so that we can come here and be prepared to address everything. I am just concerned that three or four days isn't going to be enough time -- including a weekend in-between. That is not going to be enough time.

MR. HART: The 17th for the applicant. We will take all the submissions back 7 days from January, and we meet the 9th of February. Is that correct?

MR. COLLINS: That would give us sufficient time to come here, as Mr. Hood suggested, totally prepared with our responses and time to work things -- if there is responses that generate further discussion, we would have plenty of time for that as well.

MR. GILREATH: Madam Chair, you could also ask if this is acceptable to the Citizens groups. I think this is a very good timeline.

CHAIRPERSON REID: Well, I mean, they are here and if they have any objection, this is the time to raise it. If not, then the timeline that Mr. Hart is setting forth is what we are going to be going on.

MS. WILLS: I just want to say I don't have any problem with that and I want to thank the Board for being so sensitive to the community's concerns.

CHAIRPERSON REID: Thank you. And also with the posting -- Mr. Collins, you will make sure that it remains posted and you just have to change the date, I guess.

MR. COLLINS: Well, let me understand. The Board's rules of procedure say that if you continue to a date certain, you don't need to continue the posting. There is no readvertisement. However, if they are there, what would you do? Take them down? The only thing I was saying was that you may just want to change the date so that you will make sure that those persons who stated here today that they never saw the sign that it is there and that

the address was changed and that it remained there until the hearing date. You don't have to, but I would think that in light of good public or community relations that you might want to.

MR. COLLINS: I just want to make sure what our requirement is. The posting requirement is a 15-day requirement.

CHAIRPERSON REID: I am not giving you -- you have stated to us that you have complied with that requirement.

MR. COLLINS: That is right.

CHAIRPERSON REID: There are persons here today that testified that they never saw a sign on 19th Street. And I am simply suggesting that given what transpired here today, that you may want to leave your signs there and just change the date. I am not requiring you to do that.

MR. SOCKWELL: Consider it a Christmas card to the community.

MR. COLLINS: Is it the first case in the morning then? Or is a morning or afternoon case?

MR. HART: Yes, it can be the first case in the morning.

MR. COLLINS: Because if we are changing the sign, we have to know that too.

CHAIRPERSON REID: Yes. We probably need a full day.

MR. HOOD: Madam Chair -- and I don't want to belabor the point -- but because of the magnitude of what I am

seeing with this case, should the case just be by itself on that day? I am not sure. I am not with scheduling, but I was wondering should it be by itself.

CHAIRPERSON REID: Probably we are going to need all day -- at least all day.

MR. SOCKWELL: Easily.

CHAIRPERSON REID: All right. Thank you very much. Can we move now to the second case of the day? This certainly took a lot more time than we all anticipated. Call the next case please, Mr. Hart?

MR. HART: Okay. Yes -- remember, there is a preliminary matter.

MS. WALLS: When the chairperson called for preliminary matters, I was here for a preliminary matter based on Case --

CHAIRPERSON REID: You were. I am sorry. You know what, I was thinking that you -- after that, I was thinking that you were with the first case. Okay, go ahead with the preliminary matter.

MS. WALLS: It is Case No. 16483. There had been a request for a continuance, and I was not sure as to whether that matter had been entertained or not.

CHAIRPERSON REID: No. No, we have not entertained the matter. We can take that up at this time. The request came from --

MR. HART: From Georgetown Homeowners Alliance.

CHAIRPERSON REID: I think it was the Georgetown Homeowner's Association for a continuance. Yes. Is there -- is Mr. Artman here? Okay, and tell us again who you are?

MS. WALLS: Okay, I am Brenda Walls, Assistant Corporation Counsel on behalf of the District of Columbia.

CHAIRPERSON REID: Okay.

MS. WALLS: This matter was scheduled for a hearing today. I got notice that this request for a continuance had been made. I was not served with a copy of this request. However, at this point, since it appears no one is here, I have no problems or no objections to the continuance. However, we would request that if there are any future correspondence or requests that the Office of the Corporation Counsel be served with a copy of whatever notice is filed. I have entered my appearance in this case.

CHAIRPERSON REID: Well, my understanding was that they should have -- you should have been served. And there is no one here to speak to it. But certainly since you are the other party in this case, you should have gotten some notification that there was a request for a continuance. So I don't know how that is best handled. I suppose you will be in contact with them or talking to them or something?

MS. WALLS: I will try to be in touch with the attorney who is representing the Georgetown Homeowner's Alliance.

CHAIRPERSON REID: All right. And also staff will

--

MR. HART: Yes. Would it be appropriate at this point to assign a date to it? Because already with their -- I had intended bringing this up as a preliminary matter. I have here the notice or request, which I don't think you have.

MS. WALLS: I came down to the office yesterday and received a copy of the letter that the President of the homeowners alliance sent to the Chairperson.

MR. HART: So I had gone ahead and anticipated a date for February 2. But there are some other questions to be answered. For example, the parties -- have the appropriate parties been served? Because I don't think they were all served even for this proposed meeting today. But anyway, the proposed date at this point is February 2 in the afternoon.

CHAIRPERSON REID: Mr. Hart, you know we never really made a decision as to whether or not we were going to continue the case.

MR. HART: That is a point. That is an appropriate point.

CHAIRPERSON REID: We have to take care of first things first.

MR. HART: That is appropriate, yes.

CHAIRPERSON REID: Board Members, I have no problem with continuing the case. This was not done -- it was a request and not a motion. So I guess just by consensus we can -- if you

have no objection, we can just agree to continue the case to the February 2 date. And to also ask staff to correspond with Ms. Artman and let her understand that people had not -- parties had not been properly served in this instance and we need to have that done. I would think that if they were asking for a continuance, someone would be here representing them.

MS. WALLS: Unless they just assumed that it was going to be granted. But as I said, I didn't find out about it until yesterday when I came down and got a copy of this letter.

CHAIRPERSON REID: Well, they don't appear to be represented by counsel. So that may have something to do with them not following the procedures correctly. So, Mr. Hart, when you talk to them, please so-notify them as to what in fact is the correct and proper manner to proceed here at the Board.

MR. HART: I will.

CHAIRPERSON REID: Thank you. That takes care of that. We now have two more -- two or three -- two more cases.

MR. HART: We have two more.

CHAIRPERSON REID: We have G Street and Delta Sigma Theta.

MR. HART: We have three cases.

CHAIRPERSON REID: Okay. There has been a request for a five-minute recess and we will return. (Whereupon, at 3:51 p.m. off the record until 4:00 p.m.)

CHAIRPERSON REID: The hearing will come to order,

please.

MR. HART: This case is No. 16515, Application of 1328 G Street, N.W. Associates, Limited pursuant to 3107.2 and 3108.1, New Section 3103.2 and 3104.1, for a variance from Subsection 1703.3(a) from the gross floor area retail requirement in the Downtown Shopping District and a special exception under Subsection 411.11 from the roof structure setback requirements in a DD/C-4 District at premises 1330 G Street, N.W., Square 253, Lot 64, 819 and 820. Would those persons planning to testify please stand and raise your hand for the oath?

(WITNESSES ARE SWORN.)

CHAIRPERSON REID: Is there anyone here in opposition to this particular case? Are there people here in support of the case? Mr. Collins, this appears to be a rather straightforward case that you have submitted to us. The Board Members and myself have read your submission. And, therefore, because there is no opposition that we are aware of -- we have not received anything, then we can expedite this and we will ask questions as you go along.

MR. COLLINS: Very well. Thank you Madam Chairperson and Members of the Board. My name is Christopher Collins with Wilkes, Artis, Hedrick and Lane. To my left is Dennis Hughes with our office. To my right is Mr. Tim Kissler. Mr. Kissler is representing the applicant and here today to discuss this application. This is an application for a variance

from the retail requirement -- the .5 FAR retail requirement in the DD/C-4 shop sub area as well as a special exception for the roof structure. Both areas of relief are due to the small size of the site. That is what is causing us to come here to you for two areas of relief. It is a very small cite. The building is proposed at 8.5 FAR in 110 feet, which is a matter of right in that zone. Due to the limited size of the footprint of the site and the need to include in the building in the ground floor all the necessary components for a first floor of an office building, including loading berths, parking spaces, elevators, two steps of egress stairs, another set of egress stairs from the basement, a fire control room, mail room, lobby, service corridor and shafts, there is a certain amount of area left over for the retail space. We are devoting all of the leasable ground floor retail space to retail service, arts or entertainment uses as required by the regulations, but we cannot achieve the .5 FAR, just because of the small size of the site.

Secondly, the roof structure requires a special exception. The maximum height of a roof structure, as you know, is 18.5 feet. This roof structure is 15.5 feet, which requires a 15.5 foot setback. We do not meet the setback requirements on all sides from the room, again due to the amount of machinery to be put up on the roof and the amount of air circulation space that must be around each piece of equipment. We cannot -- again because of the small size of the site, we cannot meet the strict

setback requirements.

So I would like at this point, unless there are any questions about the preliminaries, to turn to Mr. Kissler, who can simply summarize the application today. Thank you.

MR. KISSLER: Thank you. I am Tim Kissler of 5164 Gaene Court, Fairfax, Virginia, representing the John Akridge Company, which is the entity of 1328 G Street Associates. We had tried to solve this problem by assembling the rest of the block -- if you see, our site is shaded in yellow. We had tried to assemble all the way over to 14th Street, including the corner of 14th and G Street is the historic National Bank of Washington Bank Building. We wanted to buy it and renovate it and build an office building that connected to it and then went all the way over to these -- what once was three lots. So we started the assemblage at one end and tried to go to the other end and quite frankly everybody on the block wanted to get rich and it didn't happen. So we tried to solve the problem in that way. The next adjacent site, that owner is very, very hard to deal with. So we were stuck. We had to do something with this property.

So we are proceeding forward with matter of right development, 110 feet, 8.5 FAR. Again, a very small footprint. This site is roughly 20 feet wider than this room. From a practical viewpoint, we want to have as much retail as possible so that we can lease it, but we still have to get all the functionality of the space and still make a leasable office

building. And quite frankly, we have a lot of interest from associations. Despite the small footprint, they can buy the building -- associations

-- using IRB financing from the District. But they all do want all the modern day amenities -- two to three elevators. We are showing two. So the architects have tried to comply with that.

CHAIRPERSON REID: Okay.

MR. KISSLER: Thank you.

CHAIRPERSON REID: Thank you.

MR. COLLINS: Our next witness is Mr. Mark Gilliand from Shalom Bronis Associates.

MR. GUILLIAND: Good afternoon. My name is Mark Guilliand, and I live at 229 East Spring Street in Alexandria, Virginia. I will be as brief as I can here. I will just start with a --

CHAIRPERSON REID: Now make sure that you speak into the microphone. You may have to hold it.

MR. GUILLIAND: Does this come out?

CHAIRPERSON REID: You can't go but so far, but at least you can just kind of -- what you may want to do is just move the easel up closer to us.

MR. GUILLIAND: Sure.

CHAIRPERSON REID: Mr. Hart, we had portable microphones at one time. What happened to those?

MR. HART: Those ceased to work. We got more

high-tech microphones.

CHAIRPERSON REID: But could we request a portable one?

MR. GUILLIAND: The site, as Mr. Kissler pointed out, is toned in here in yellow. It is on a block that is bounded by G Street to the north, 13th Street to the east, F Street to the south, and 14th Street to the west. It has a 66-foot frontage along G Street. It also has frontage along two other public ways. On the east side, there is a 15-foot public alley and on the south side a 30-foot public alley. And there is one property line that is a shared interior lot line with an existing 6-story building at 1336 G Street.

I think it is interesting to compare the size of this development lot to some of the other properties around. It is a 7,500 square foot site essentially. If you compare that to some of the newer development sites on this particular square within the last 10 years, there is 1310 G Street, over 20,000 square feet, 600 13th Street, about 23,000 square feet, 1331 F Street, about 16,000, and 607 14th Street, the West Story Building, is a 25,000 square foot site. So it is a significantly smaller site.

The zoning is the DD/C-4. We are developing to the full matter of right height and density 8.5 FAR, 110 foot of height. We are limited in height by the width of G Street that we front on. These other developments, with the exception of 1331 F

Street that I just mentioned, by virtue of their using measuring points on both 13th and 14th Street have 10 FAR and go up to 130 feet in height. So not only do they have larger areas, but they have greater floors.

This is -- I won't spend much time on the architecture, but only to point out that this is a view standing in front of the Episcopal Church across the street looking back towards the corner of the building. You can see the corner of 1310 G Street, the 130-foot building and of course our proposed building at 110 foot in height. And then the properties directly to the west are currently shorter structures. I believe the directly adjacent one is 75 feet and then they step down to much smaller structures. I think it is reasonable to assume that this area to the west will someday be assembled and be developed to 110 foot height.

I think what I will do is just bypass all the plans and just go right to talk about the two issues here for us today. The mechanical penthouse and the retail. I will start with the mechanical penthouse. This is a blow-up plan of the roof structure. What is outlined in yellow is the edge of the main roof. The blue line indicates the containing walls of the roof structure. As Mr. Collins mentioned, zoning will allow us to go up to 18.5 foot with a zoning complying roof structure. And the setback requirement is a one-to-one relationship. What we are doing in this proposal is going up to 15.5 feet and therefore we

would be required to have a 15.5 foot setback. But on the west side of the property, we have got a 9'10" setback, on the east side a 13'6" setback, and on the south side a 13'2" setback.

There is a lot of things coming up into these roof structure. There are elevators from the floors below and a stair that are driven by the core locations down below and really tie into -- as they drive all the way down the building into parking circulation issues and things like that. So those are fixed elements that need to come off. There is a cooling tower that is here. You can see a piece of equipment here. I have also outlined in red some dimensions that we have to keep free and clear around these pieces of equipment. Sometimes they are for air intake and sometimes they are just for maintenance of the equipment. There is a cooling tower and a couple of pumps associated with that cooling tower, the emergency generator and there are air handling units serving or conditioning the space on the office levels below and a pump room.

So I hope this demonstrates that there is a lot of equipment up in here. This doesn't even show electrical equipment panels that come up with that -- come up to serve this mechanical equipment, which will also require a lot of space.

The justification for the relief or for the special exception. Compliance with the setback requirements is impractical because of operating difficulties resulting from the size of the building lot. I demonstrated hopefully in the

discussion over the site plan. This is a significantly smaller building lot than you typically see for commercial developments.

The roof structure is consistent with the intent and purpose of the roof structure regulations, and it does not adversely affect the light and air of adjacent buildings. As part of the pre-hearing statement information, I think we have pretty well-documented shadow studies that were part of that. Just to summarize, I believe that those shadow studies demonstrate that when you compare the building that we are composing with the 15.5-foot penthouse to a matter of right structure with an 18.5-foot penthouse with 1/1 setbacks, there is no significant adverse effect from the increased shadows. As a matter of fact, the sketches that were included at the end of that shadow study I think pretty clearly demonstrate that an 18.5 foot tall penthouse in the early hours of the day and late afternoon hours of the day actually casts a greater shadow than our 15.5 foot structure with reduced setbacks.

The requirement at the first floor is .5 FAR. What we are able to provide is approximately 875 square feet short of that. It gets close, like .45, but we are not quite able to get there. There are, as Mr. Collins mentioned, a lot of things that need to happen in a first floor. There is an office lobby, fire control room adjacent to that office lobby. There are building code requirements of fire stairs and mechanical shafts. There are other zoning requirements of loading berths. We have a 12x30

berth with its associated loading platform and a service delivery berth. And then there is the marketing concerns. Even though this building is not required to have any parking because of the small size of the lot -- it is less than 10,000 square feet. So parking is not required by zoning. However, parking is essential to the Akridge Company in order to be able to have this be a more marketable property. So there is a parking entrance that happens off of the south alley.

I hope that this sort of demonstrates that we have devoted the maximum amount of frontage possible to the retail and configured the wall between the lobby and the retail area in such a way as to accentuate that frontage or that exposure and maximize the amount of retail that we can provide.

The justification for relief for the variance with regards to the retail. The property is unique and confronted with an exceptional condition, which is the size of the building lot. Again, compared to surrounding developments, this is a bit of a postage stamp. The strict application of the zoning regulations would result in a practical difficulty. We did a diagram here to illustrate what it would take to get to .5 FAR, which is this image here. What we did was took a lobby, which I think is relatively modest but comfortable, in our proposal and turned it into a 3'8" sort of code minimum corridor that gets you from the front door back to the elevators. And that just gets you to the .5 FAR.

Again, we are at .45 FAR, 2,900 square feet. All of the available leasable area at the ground floor is devoted to retail. And I think that the development proposal meets the spirit of the regulations, even if it falls short of the letter of the regulations. That is my presentation if there are any questions.

CHAIRPERSON REID: Okay. Any questions?

MR. SOCKWELL: Mr. Guilliand?

MR. GUILLIAND: Yes.

MR. SOCKWELL: The basic lobby configuration is to provide an obviously essentially correct lobby for the kind of use that you have. And the extended corridor, although nobody would walk in that way to get anywhere, is just to show the minimums that could be achieved if you squeezed it down to something you couldn't sell anyhow.

MR. GUILLIAND: Exactly.

MR. SOCKWELL: The other thing, with the roof structure, the principle setback facade would be the G Street facade in this case, and you have achieved greater than the 1 to 1 setback to the roof structure as I recall from what I recall. The question I would ask you is what is the percentage of roof occupied by penthouse or roof structure, let's say?

MR. GUILLIAND: I think I have got -- in that portfolio case over there, the zoning tabulations mounted on a board. Of course, we did the calculations for the FAR calculation

on the site.

CHAIRPERSON REID: We don't have to see all the calculations.

MR. SOCKWELL: I couldn't read it from that. I am having trouble reading my copy.

CHAIRPERSON REID: Where is your magnifying glass?

MR. SOCKWELL: I didn't bring my magnifying glass this time. I think I took it out. Yours is cleaner than mine.

CHAIRPERSON REID: No, I think it is about the same.

MR. GUILLIAND: The roof structure is .25 FAR and .37 is allowable.

MR. SOCKWELL: Exactly I know that. The percentage of roof occupied by penthouse is what I asked.

MR. GUILLIAND: I see. I didn't do that calculation though.

MR. SOCKWELL: Okay. It shouldn't exceed one-third of the roof, and it looks like it does.

MR. GUILLIAND: The one-third -- my recollection of the one-third of coverage relates to zoning districts where the number of stories is limited. The number of stories is not limited here in the C-4 zone.

MR. SOCKWELL: That to my knowledge is not the issue. That you can only reach a maximum of one-third of the roof. But let me check my ordinance. I always like to go to the

book.

MR. GUILLIAND: I am reasonably comfortable with that because I looked it up yesterday.

MR. SOCKWELL: Okay. Well, I will go to Section 411 and just take a quick look.

MR. COLLINS: Mr. Sockwell, it is Section 411.8.

MR. SOCKWELL: Thank you. Okay, we are covered.

CHAIRPERSON REID: Okay. Does that conclude your presentation, Mr. Collins?

MR. COLLINS: Yes, it does.

MR. SOCKWELL: And one other question. I looked at the sun angles and the shade lines actually where the roof structure doesn't meet the 1 to 1 setback. It seems to me that those are the points at which you really would have the least effect on the street and the other buildings adjacent across the street, assuming that the maximum solar angle is 61 degrees. It is obviously that you placed the stairway -- you had to place it looking at the roof plan where it comes up -- you placed the rest rooms to the outside and pushed the stairs as far to the inside as possible, placing the elevators where they ought to go. It seems to be a relatively thought out arrangement to minimize your deficiency, at least on the east side. And on the west side, I guess it is doing what it is doing for obvious reasons of bringing your mechanical systems and whatnot through the building. And I can see where to achieve a .5 FAR in the south side would have

created a really unusable entrance arrangement under virtually any circumstance. And you have accommodated the loading and other essential aspects of the building to the extent required under the zoning ordinance. The number of parking spaces provided is --

MR. GUILLIAND: It is going to be roughly around -- I think we had 32 on this application -- 31, excuse me.

MR. SOCKWELL: So it is a continuous ramp down?

MR. GUILLIAND: Yes, I have got a parking level I can show you. The first level below grade, the ramp extends down off of the south alley and then just starts a spiraling configuration and goes down two levels and stops. It is shoe-horned in.

MR. SOCKWELL: You met your compact maximum requirement. Okay. I think that is the extent of the questions I will have on that. Thank you.

CHAIRPERSON REID: All right. Government reports and ANC? I did not see within the file a report from the ANC. Did anyone else? Did I overlook it? Did you all contact or talk to the ANC?

MR. COLLINS: Yes. Mr. Hughes contacted the ANC and spoke to Ms. Helen Kramer of ANC-2F.

CHAIRPERSON REID: And they had no problem?

MR. COLLINS: They had no problem.

CHAIRPERSON REID: They didn't send a letter. So typically when they don't, we just assume that there is no

objection on their behalf. There were no other government reports contained in our file that I know of. Persons or parties in support? There is no one. Or persons or parties in opposition. Therefore, closing remarks, Mr. Collins.

MR. COLLINS: Just three points, Madam Chair. First of all, the size of the site is just over the minimum requirement for an R-1-A residential zone. So it is a very small site. In terms of the retail, we have maximized the amount of frontage possible for retail in accordance with the spirit of the shop regulations to promote retail on the street and have a street presence of retail. We simply just cannot put in as much as required. I think that the diagram on the right easel demonstrates clearly the configuration that would have to be achieved for the lobby, which would actually be nothing more than a corridor in order to achieve the .5 FAR, which would make the building totally undesirable from a tenant standpoint and not worth constructing in that configuration.

In terms of the roof structure, you have seen all equipment that needs to be on the roof is on the roof and there is just no place else to put it. It can't go inside and can't go on the alley. We don't have any other area to put it in. So we did as much as we could to place the roof structure in a way that does not have any adverse impacts. We are surrounded on three sides by public rights of way, which increases -- practically speaking increases our setback even more than the 1 for 1 from adjacent

properties. And on the fourth side, the building is lower than ours at this point and will likely at some point be developed to the same height as ours. So in either event, it will not have an impact on light and air.

For those reasons and the reasons stated by the witnesses, we respectfully request that you approve our application. Thank you.

MR. SOCKWELL: And, Mr. Guilliand, I assume that the serpentine wall wouldn't be a serpentine wall if you had more room to play with it. Because it works to --

MR. KISSLER: I can actually answer for him. I would rather have the office building entrance be in the middle of the building and go right down the middle. But in order to have the retail space be contiguous and as large as possible, we put it off to the side.

MR. SOCKWELL: And the serpentine wall gets you the maximum squeeze without having a rather choppy looking lobby. I mean, it all seems to be very logically put together. Very commendable.

CHAIRPERSON REID: Board Members, I would move approval of this application. I feel that the applicant has met his burden of proof and demonstrated that the property is indeed unique in regard to the other properties on that particular square in relation to the size of this particular site. As well as the fact that -- there is no question about the fact that it would

pose a practical difficulty to comply with the existing zoning regulations, which is very adequately depicted in the illustration that was displayed to us today wherein to do so would not be prudent and would cause certainly a practical difficulty as far as marketing this particular property is concerned as well as the fact that they have, as best as they could, complied with the other zoning regulations. And as to adverse impact, we don't have any opposition to this particular application, nor has anyone appeared here to oppose it. And there has been no submission of letters. So we can assume then that there is no adverse impact with regard to noise, traffic, parking, light or what have you. With the demonstration of their shadow analysis, that further depicted the fact that there would not be any adverse impact in that regard.

Thirdly, I don't think that it impairs the intent or integrity of the zoning regulations or map. Do I hear a second?

MR. GILREATH: I second the motion, Madam Chair.

CHAIRPERSON REID: Any further discussion?

MR. SOCKWELL: The only thing I would say is that sometime in the future you are going to find tenants with needs for additional rooftop mounted dry coolers and somebody is going to want an emergency generator, and hopefully there is room to accommodate those things or to possibly keep them below four feet in height above your roof or parapet. You do have a tight

location, so I wish you luck with that.

CHAIRPERSON REID: All in favor?

BOARD MEMBERS: Aye.

CHAIRPERSON REID: Opposed?

MR. HART: Staff will record the vote as 4 to 0 -- Ms. Reid, Mr. Gilreath, Mr. Hood and Mr. Sockwell.

CHAIRPERSON REID: Thank you. Good luck. The next case, please, Mr. Hart.

MR. HART: The next case, yes. Application Number 16490, the Application of Meristar Hotel Group, pursuant to 11 DCMR 3107.2, which is a new Section 3103.2, for a variance from Section 771.1 and 771.2 and 931.1 of the maximum floor area ratio requirement to enclose an outdoor pool and an adjacent space for a fitness facility, both on top of the roof, in a C-2-A and W-1 Districts at premises 3000 M Street,N.W., Square 1197, Lot 70.

CHAIRPERSON REID: Is there anyone associated with Case No. 16490 here in this hearing room today?

MR. HOOD: Madam Chair, I believe this -- and I was kind of confused when I was going through the packet. There is a letter here asking for us to postpone, I believe. It was from Robert Nettler. I don't know --

CHAIRPERSON REID: Mr. Nettler? I don't -- may I see the letter, please?

MR. HOOD: Richard -- I am sorry, Richard Nettler.

CHAIRPERSON REID: May I see it? Because I don't

have it.

MR. HOOD: I can't even see it. Unless it was -- unless I was in the wrong folder.

CHAIRPERSON REID: Did you have it?

MR. SOCKWELL: There were a couple of letters in the wrong folders when I was checking around looking to see.

MR. HOOD: But that was dated for September 15, I believe.

CHAIRPERSON REID: They are asking for a continuance?

MR. HOOD: A continuance, right.

CHAIRPERSON REID: And they don't specify when. I have no problem with continuing it. Board Members, do you have any objection?

MR. SOCKWELL: No. I don't have my copy of the letter in this file.

MR. GILREATH: The applicant isn't here to say yeah or nay.

CHAIRPERSON REID: No. Mr. Nettler had submitted it, but there was no --

MR. HOOD: Mr. Sockwell, look in the next file. That is where I found mine.

CHAIRPERSON REID: You found it where?

MR. HOOD: It was in the next file. Sometimes that happens.

CHAIRPERSON REID: All right. Move it to what date. Let's select a date certain.

MR. HART: Okay. The date certain at this point would be February 16.

CHAIRPERSON REID: Okay. Call the next case.

MR. HART: The next case is Application 16523 of the Delta Sigma Theta Sorority, Inc., pursuant to 11 DCMR 3108.1 and 3107.2, new Sections 3104.1 and 3103.2, for a special exception for an addition to a non-profit office to be used by the Sorority and area variances under Subsection 2001.3(a) and (c); 402.4 and 403.2, from the percentage of lot occupancy and the floor area ratio in a D/DC/R-5-B District at premises 1703 and 1707 New Hampshire Avenue, N.W., Square 154, Lots 44 and 22.

CHAIRPERSON REID: Okay.

MR. HART: All persons planning to testify please stand and raise your right hand to take the oath.

(WITNESSES ARE SWORN.)

CHAIRPERSON REID: Okay. Ms. Dobbins?

MS. DOBBINS: Good afternoon.

CHAIRPERSON REID: Good afternoon. Well, it looks like no one else is here but you guys. We have not received any letters of opposition and there is no one here to oppose your application. Therefore, as you probably are aware, in those instances we -- I encourage you to expedite your presentation and to give us basically the highlights of your case and to truncate

your presentation. We note that you are asking for one special exception and three variances, correct?

MS. DOBBINS: That is correct.

CHAIRPERSON REID: All right. So go ahead and proceed. But you can -- we have read your submission and we have read all the materials that are contained within our packages.

MS. DOBBINS: In other words, just make it brief.

CHAIRPERSON REID: Yes, make it brief. Give us what --

MS. DOBBINS: Is required.

MR. SOCKWELL: Ms. Dobbins, you can start with, oh just to be.

MS. DOBBINS: And inside joke?

CHAIRPERSON REID: Mr. Sockwell, I guess you are not aware of the fact that I am an AKA.

MR. SOCKWELL: My mother is too.

MR. HOOD: I was going to ask Madam Chair as to the humor, did they run it by them first. But I won't do that now.

MS. DOBBINS: Good afternoon. Madam Chair and Members of the Board, I am Madeliene Dobbins and with me is Alexandra Zelikson. We are with the law firm of Arter and Hadden. And Arter and Hadden is counsel to Delta Sigma Theta Sorority, the applicant before you today.

As you are aware, Application 16523 request special exception relief pursuant to Sections 3104 and 217, and variance

relief pursuant to Subsections 3103.2, 2001.3(a) and (c), 402.4 and 403.2 of the zoning regulations. This is to construct an addition and make renovations to existing non-conforming buildings at 1707 and 1703 New Hampshire Avenue.

The property is zoned R-5-B. It is located within the Diplomatic and Dupont Circle overlay zones, and it is within the Dupont Circle Historic District. For zoning purposes today, lots 44 and 22 have been considered one lot of record. The calculations for the requested lot occupancy and FAR variances have been determined based on the buildings being connected and considered one building.

Before we go any further, you have some documents that have been submitted to staff. One shows the zoning and building code information. That is the same information that was included in the initial application. However, as we revised the project responding to the community and Historic Preservation Review Board, we did not revise the first sheet of the plans.

CHAIRPERSON REID: What exhibit is that, Ms. Dobbins?

MS. DOBBINS: I am sorry?

CHAIRPERSON REID: Which exhibit are you referring to?

MS. DOBBINS: It should say zoning and building code information.

CHAIRPERSON REID: Oh, I didn't have that. We

don't have that.

MS. DOBBINS: Okay. You should be getting that. I just wanted to bring it to your attention because the plans that are in the record as part of the prehearing submission, the first page has the zoning and building code information on it, and it was not revised from the previous plans that we had done when we went out to the community. So we wanted to make sure that you had the correct ones. However, the application does show the correct -- does have the correct zoning calculations.

CHAIRPERSON REID: So wait a minute. You are saying that the zoning and building code info has been modified?

MS. DOBBINS: Not since the application. There is just a discrepancy in the submission. Turn to the plans in the document that pull-out. Your pre-hearing submission, the first page. Right under the vicinity map it says zoning and building code information.

CHAIRPERSON REID: Yes.

MS. DOBBINS: That first page was not revised after we made some additional changes before we filed the application. So what you have on this sheet that I am giving you today is the same as what was applied for and what is in the plans. I just didn't want you to look at the cover of the plans and think that was the correct information.

MR. SOCKWELL: Right. Most of the documentation below the line that says gross floor area of lot 44 is modified.

MS. DOBBINS: That is right.

CHAIRPERSON REID: All right. So then what you might want to do is replace this page with the correct notations or changes. Just for the record.

MS. DOBBINS: Okay. That would be -- you want us to. Okay. Well, if we do that, you won't be able to close the record today. That is why I was submitting this.

CHAIRPERSON REID: Okay. So then what you want us to do is to attach this to this page.

MS. DOBBINS: That would work.

CHAIRPERSON REID: Okay.

MS. DOBBINS: Also, something you will be receiving today or should have received now is a memo from the Zoning Administrator indicating that this property qualifies as a historic building as it relates to parking waivers.

CHAIRPERSON REID: We don't have that?

MS. DOBBINS: You should have it today.

MR. SOCKWELL: So you have a completed waiver of parking and loading form submitted?

MS. DOBBINS: Yes.

CHAIRPERSON REID: Okay.

MS. DOBBINS: Now Delta Sigma Theta Sorority Incorporated came before this Board in 1988 and was granted a use variance to allow the office for its National Headquarters at the site at 1705 to 1709 New Hampshire Avenue, N.W., and that is your

order number 14766, and a copy of that is in your document also. Since that time, 1705 and 1709 were combined. Those lots were combined and the structure now sits at 1707 New Hampshire Avenue. So that is the correct address. However, Delta also owns 1703, and that is part of the property that is before you today.

The special exception requested under Section 217 allows for additions to buildings of certain sizes used by non-profit organizations in historic residential districts. It is in harmony with the purpose and intent of the regulations and will not adversely affect the use of neighboring properties. As I indicated before, the site is eligible for a parking waiver. However, the on-site parking will be completely maintained on site even with the additions. The use that has existed at the site since 1972 will continue and all activities on the site are related to purposes of the Sorority. The variances can be granted without substantial detriment to the public good or without impairing the integrity of the zone plans of the city.

Now the non-conformities regarding lot occupancy and FAR currently exist at the site. The proposal before the Board does not add any new non-conformity to the site. It increases them, but it does not add any new ones. And it also combines them. And for the site at 1703, it even -- when the lot is combined and we get a blended FAR and a blended lot occupancy, it is less.

Okay. The uniqueness of this case arises from a

confluence of factors. It is the history of the properties, the irregular shape of the site, the institutional necessity and the proximity of other structures on the property. This is an exceptional situation for the applicant and the historic community.

We spent hours with the community and are proud to say that we have the support of the ANC in this process. We have been through the Dupont Circle Conservancy going through the Historic Preservation Review Process. We have conceptual approval from Historic Preservation -- the staff. So it has been a long process for us even though we have just gotten to you. We are hopeful that your decision will be made easier by the information that we have already provided. The written record will be supplemented by the testimony presented today. The technical evidence will be presented by our architectural staff. There are resumes for you for both of the gentlemen that are here as part of the architectural staff. As the Board sees fit, we would ask that these two gentlemen be declared experts.

Mr. Leland Allen I think is the project manager for this project and Mr. David MacArthur is the Director of Architecture for McKissack & McKissack. Both are with McKissack and McKissack Architects.

MR. SOCKWELL: Ms. Dobbins?

MS. DOBBINS: Yes.

MR. SOCKWELL: I have just one immediate question.

The plans that were provided have no dimensions at all. Is there a reason for that? If they have been through Preservation review, one would think that there would be dimensions of at least a general nature on those drawings. But there is nothing. And while they are in a scaled relationship, there is no way to look at anything and make any judgments from the drawings themselves except visually. Perhaps Mr. Allen and Mr. MacArthur can respond to that.

MR. ALLEN: We do have a smaller drawing which does have some dimensions on it. The existing lots are each -- the lot at -- maybe if you could hold that up, David. We have copies of that. The lot dimensions are on the site plan, which we will distribute to you.

MR. SOCKWELL: Yes. The lot dimensions were not really something that I didn't see, and you have a platte, which gives the lot dimensions. But the actual drawings that you are using to represent the property give visual but no graphic dimensional information. I just wanted to know why that is so at this stage of development.

MR. ALLEN: Well, I think that in answer to that, I must just say that that is an oversight. We have not dimensioned our buildings. We work with them every day.

CHAIRPERSON REID: And they are just scaled.

MR. ALLEN: And they are drawn to scale accurately. We do have one dimension on our site plan, which is the width of

the new open courtyard to verify that that is the correct dimension.

MR. SOCKWELL: But at some point, you would want to submit to this Board a dimension set of plans -- at least to the extent that we can look at the overalls. It is a little bit more difficult to evaluate something when all you see is the picture. I mean, I can't pull out my scale and say, okay, let's play with this for a while. And although we are not here to design the project, if there is anything that needs to be looked at, I would have to rely upon your recollection as to exactly what is.

MR. ALLEN: Well, we know that the -- as a basis of design, we know that each of the properties, which were originally four properties, is exactly 25-feet wide. And we have on our site plan the dimensions of the lot. All of these drawings are -- let's say that all of the means of egress and all of the stairwells and everything are drawn in accordance with the zoning code and with the zoning ordinance.

CHAIRPERSON REID: Mr. Sockwell, are you concerned about dimensions for floor plans, et cetera? Is that --

MR. SOCKWELL: I was concerned with some of the overall dimensions just to see what I was looking at. I am not used to seeing drawings at this stage that have no dimensions on them at all. As an architect, it is a little difficult for me to feel comfortable when I don't see any dimensions. I mean, I am not necessarily looking for room dimensions, but at least it would

have given me a little bit better understanding of what will be described in their testimony. But let's proceed.

CHAIRPERSON REID: In regard to the acceptance of Mr. Allen and Mr. MacArthur as expert witnesses, I have no objection.

MR. GILREATH: Nor do I.

CHAIRPERSON REID: So, therefore, we will accept them as such.

MS. DOBBINS: Thank you. Okay, we have organized our presentation in a logical and efficient manner. So first, Ms. Rose McKinney, the Executive Director of Delta Sigma Theta Sorority will give a brief presentation about the Sorority, its mission, and why it needs to expand the headquarters and the day-to-day operations.

MS. MCKINNEY: Good afternoon, and thank you for this opportunity. Since you already know a little bit about Delta, I will be extremely brief. Delta has had a presence in this community since its founding in 1913 on Howard's Campus by 22 young women. As you know, it is a membership organization of 190,000 members around the country. And we are subdivided into seven geographic regions around the country and are now an international organization with chapters in England and Panama and Republic of China, just to mention a few.

In D.C. proper, we have about 9 chapters and a little over 1,000 members in the D.C. community. Some of our well-

known members that you might know are -- of course, our first Vice President lives in this community, who will soon be our President we are hopeful. Honorable Alexis Herman is one of our members and so are Doctor Haight and Honorable Linda Linda Cropp and Hilda Mason, just to name a few people who are in the community.

Our members are committed to public service and public service is a criterion for membership in the Sorority. I will just mention two of our noteworthy projects. One in this area, which is the Delta Towers. You may be familiar with the residential housing complex in Northeast Washington. That is a part of our Washington, D.C. alumni chapter program. And one of our national programs that we are very, very proud of is the Betty Shabazz program, which was named for Betty Shabazz, whom you all know lost her life recently. That program has about 10,000 young women in it from across the country whom we are mentoring and working and trying to assist them with leadership skills and to go into some of the non-traditional work areas for women. That program has been very well received around the country.

In terms of our national headquarters, which is on New Hampshire Avenue, we have had a physical presence there since 1953, when the first office was opened by Patricia Roberts Harris. At that time, we were on 1814 M Street, and our Board has felt very strongly about maintaining our presence in this community since its founding. We relocated from 1814 M to 1705, which is our present location.

The headquarters operation is the center of support for our entire Sorority. We have an organizational structure that allows for 35 permanent positions, and these are salaried professional persons who maintain and run the office. We have supported our community. We have supported the city. We have tried to be good neighbors. We have brought several major conferences and conventions to the Washington, D.C. area. And in fact I think the chapter is bidding for another large convention. In 1981, we assembled about 6,300 registered delegates here in the D.C. area. This past July, we had a regional conference and assembled about 2,000 registered delegates.

We have contributed to the economy of the city in terms of tourism. Our members from across the country come to support our building. In fact, our members have burned the mortgage on both of our properties. So they are very supportive of the Sorority and of our headquarters and come to the city consistently to tour the facility. We bring at least 12 committee meetings to the D.C. area a year, and we have what we call an Annual Delta Days on the Hill every year here in Washington. We have grown from a staff of two when Pat Harris was here to a staff of 35 that I just mentioned.

And we are interested, as Ms. Dobbins indicated, in expanding our operations. We are establishing a perpetual archives and that work is well underway and many of you know Dr. Walter Hill, who is working on that. We want to expand that

program and establish that. As well as a Center for Research, which will be the focus of our research and educational foundation founded back in 1965. That is focused on educational development for our members.

And the other point I would like to make is that we do not create any obstruction to the community in our parking. Our parking is used for our staff members. It is basically for the executive level staff as well as persons recognized for seniority. But it is an all women's organization, as you know, so we are very concerned about safety and security in the area and parking is assigned in that area. So we would invite you if you are in the neighborhood to just stop by and see our present facilities. You will be getting a handout that includes some of the photos of the interior of the building, which is what we are trying to replicate in the new project as well. Thank you.

MS. DOBBINS: Madam Chair, did you want to hold questions until we finished the presentation?

CHAIRPERSON REID: Yes.

MS. DOBBINS: Okay. Then Mr. Leland Allen and Mr. David MacArthur will do the architectural presentation.

CHAIRPERSON REID: Okay.

MR. ALLEN: My name is Lee Allen and I am with McKissack and McKissack Architects. Thank you for this opportunity to present our plans and our elevation.

I think in answer to the legitimate criticism of

Mr. Sockwell that we do not have dimension drawings is that much of our emphasis on the work of the project has been in the area of historic preservation. I would say, however, that all of the drawings are drawn accurately, and the figures regarding areas and FAR -- the new figures -- are accurate.

First of all, I would like to -- in preparation of these designs, we have endeavored to create a street front along New Hampshire Avenue which is in harmony with the existing historic buildings. The addition at 1703 New Hampshire Avenue replaces a fourth floor. Now there is a photograph way on the left side of the existing building on the left side that shows the building without the fourth floor. On the right -- the gray or the back and white photograph is a 1907 photograph of the original fourth floor. And it is our intent to restore that fourth floor using materials which are as close to those that were originally there.

This building was designed by Jay Franklin Schneider, who designed many of the buildings in the Dupont Circle area. The addition to 1707 fills in a gap which now exists on the street front. And in working with the Dupont Circle Conservancy and with the Historic Preservation Board staff, they encouraged us to go ahead and complete that building rather than just deal with the lower aspect of the building. And what we have done is to repeat the essential elements of 1707. Lot 44 was at one time 1705, 1707 and 1709. So when I refer to those numbers, they refer

to 17 -- there we are, right at the bottom. What we will do at 1705 is repeat the elements of 1707 so that we have triple windows along the front. The floor to floor heights will be the same and the floor lines will be the same. And the existing first floor facade will remain in place.

Now there was at one time a building which filled that slot. The evidence of that original building is shown on the walls of the 1703 and 1709. The structures will be renovated and constructed into a single building with connections at each level. The new FAR for the combined lots will be 2.890. The new lot occupancy of the combined lots will be 72 percent. We requested a special exception under Section 217 because this section governs additions or modifications to buildings used by non-profit organizations in historic residential districts. Because the Board previously approved the use, it need only consider the effect of the addition on the use of neighboring property. Both buildings have been in continuous use with no opposition or deleterious effects to the neighborhood. The existing 13 parking spaces -- let's show the small board, David -- will be maintained, even though the buildings are eligible for a parking waiver. The proposal before the Board will be in harmony with the intent and purpose of the zoning regulation and map.

An exceptional situation or condition exists on this property that justifies the granting of the variance as requested. The history of this site creates a practical

difficulty. It is located in the Dupont Circle Historic District, which requires compliance with specific rules. The zoning requirement for lot occupancy and floor area ratio will not support the construction of an architecturally and functionally sound addition. An example of that is we will simply be rebuilding an existing floor on 1703 and we will be reconstructing what used to be at 1705. There will be no substantial detriment to the public good and the intent, purpose and integrity of the zoning plan will not be impaired. And in preparing these designs, we reiterate that we worked with the Dupont Circle Conservancy. We met with them four times and we have met with the Dupont Circle Citizens Association twice and with ANC-2B twice and the staff of HPRB four times. All of whom were unanimous about completing the New Hampshire Avenue streetscape by filling in the gap at 1707 and by restoring the fourth floor at 1703. We believe that the plans before you represent the smallest and least obtrusive addition that we can design to meet the functional needs of Delta Sigma Theta Sorority. This concludes our presentation and I will be glad to answer any questions. Thank you.

MS. DOBBINS: There were some pictures of the rear of the building that I think the Board would be interested in seeing because it shows

-- it shows how the parking is saved.

MR. ALLEN: They are on this other handout. No, we don't have that in here.

MS. DOBBINS: The building to the rear -- I think you probably have it in your plans. the first floor is the same as it is and then the other floors go out further. That is to let the Board know how the parking remains.

MR. MACARTHUR: The parking is developed below the second level of the infill building. So the existing parking plan remains, as Ms. Dobbins says.

CHAIRPERSON REID: Okay. I have a question on the previous board that you just put down. Now this picture here shows -- that fourth floor was there, right?

MR. MACARTHUR: That is correct.

CHAIRPERSON REID: And then it was taken --

MR. MACARTHUR: There was fire damage.

MR. ALLEN: It burned.

CHAIRPERSON REID: Oh, okay. The entire time that --

MR. MACARTHUR: It remained in this state for several years, probably 40 or 50 years.

CHAIRPERSON REID: Okay.

MR. MACARTHUR: We have done structural evaluations and have determined the extent of fire damage and repair required and so forth.

CHAIRPERSON REID: So the restoration is going to be consistent with --

MR. MACARTHUR: The photograph.

CHAIRPERSON REID: What was there.

MR. MACARTHUR: Yes. As far --

MR. ALLEN: Yes. It will be a reconstruction of the fourth floor.

MR. MACARTHUR: The far right really depicts a --

CHAIRPERSON REID: How it is going to look.

MR. MACARTHUR: Yes.

CHAIRPERSON REID: What I am asking is what I am seeing here and what I am seeing there -- maybe I can't see that well enough. Is that --

MR. ALLEN: Well, the photograph on the far left is the existing condition.

CHAIRPERSON REID: What?

MR. ALLEN: The photograph on the far left is the existing condition.

CHAIRPERSON REID: I understand that. But this elevation, which is the proposed, right?

MR. ALLEN: Correct.

CHAIRPERSON REID: What I am saying -- my question was is it going to be restored -- it is supposed to be restored to look like that when it is done?

MR. MACARTHUR: That is the intent, yes.

CHAIRPERSON REID: But what I am seeing -- that elevation does not look like it is the same.

MR. MACARTHUR: This is the building behind a tree. Unfortunately, it is not a clear view.

MR. SOCKWELL: So the building that you are touching on the left of that photograph is in fact 170 what?

MR. ALLEN: 1703.

MR. SOCKWELL: So what is the case is that the building that would be adjacent to 1703 in that photograph no longer exists.

MR. MACARTHUR: It wasn't there. that is correct.

MR. ALLEN: That is correct. 1705 is not there.

MR. SOCKWELL: Yes, but 1701 isn't --

MR. ALLEN: 1701 --

MR. SOCKWELL: Doesn't look the same either.

MR. ALLEN: Well, I think that is because we have a rounded park, which is not shown. It is a bay.

MR. SOCKWELL: It is a bay. It is rounded.

MR. ALLEN: Yes. That is the Grenadian Embassy, which was built contemporaneous with 1703.

CHAIRPERSON REID: So today --

MR. SOCKWELL: So it just doesn't look -- yes, okay. It is a depiction because you only emphasized detail on the three buildings that are the contributing buildings to the project. It made the one adjacent look different and maybe the photograph not read well. That is all.

CHAIRPERSON REID: Okay. I just wanted to get some

clarification on that. Questions? Mr. Hood?

MR. HOOD: I have no questions.

CHAIRPERSON REID: Mr. Sockwell?

MR. SOCKWELL: I don't have any questions.

CHAIRPERSON REID: All right. Does that conclude your presentation, Ms. Dobbins?

MS. DOBBINS: Yes, it does.

MR. SOCKWELL: One minor question. About the alley elevations of all this --

MR. ALLEN: We don't have a drawing of the alley elevations, but they would be constructed in the same manner as the front. So these would be -- let's say that the windows and everything would be the same. We would carry that around to the rear.

MR. SOCKWELL: And just a limitation of detail as an alley elevation might normally exist.

MR. ALLEN: Oh, I am sorry, we do have it in the drawings. It is drawing number A-203.

MR. SOCKWELL: I apologize, I was concentrating on your presentation and didn't look back in the file. And that shows the location of the parking underneath.

MR. ALLEN: Yes.

MR. MACARTHUR: The parking is underneath and the general office in the raised portions above the parking in both buildings.

CHAIRPERSON REID: All right. Government report -- we don't have any, except we did get a letter from the ANC, who had submitted to us on October 20 -- a letter dated October 20. A letter in support of the application, having a meeting on October 13 with a quorum present. And there was a unanimous vote to approve this application or support this application. So, therefore, ANC-2B will be afforded the great weight to which it is entitled. There is no one here in support and no one here in opposition. So, therefore, we move now to closing remarks by the applicant. Excuse me one second, Ms. Dobbins. I should note that we did have the letter that you just gave us from Historic Preservation in which you were granted a waiver for the parking.

MS. DOBBINS: That is correct. That is a part of this record.

MS. DOBBINS: We had one other letter in support from one of the adjacent neighbors. The Mezzanottes who are right next door.

CHAIRPERSON REID: You are right. I am sorry, when I was saying that there was no one here in support. There is a letter from Mezzanottes stating that they realize that due to your shutting of a dead-end alley in the rear, there may be some inconveniences. Nonetheless, they feel that it is in the best interest of the community to extend some good neighborliness as they so indicate. And they come out in support of the application. There was a question that I had in this letter,

though. And I will raise it now. It says at the last paragraph about halfway down. It says, however, it is our understanding that the architect has recommended that the snaggle-tooth appearance of the entire facade of the combined buildings will be improved while retaining the historic facade as an entity unless some unknown factor as to this portion of the allocation should become an issue prior to the Board's decision has been made. We are taking this position as to this part of the variance that is being sought. I couldn't garner what she was referring to.

MS. DOBBINS: I think I know. The Mezzanottes used to own 1703. So they are glad to see the restoration. And they are basically neutral on the other part, the infill part of the building.

CHAIRPERSON REID: Oh, okay.

MS. DOBBINS: That is what they are calling the snaggletooth part.

MR. ALLEN: The carriage house is only one floor, so this fills that in.

CHAIRPERSON REID: Oh, okay. I just didn't get that at first.

MS. DOBBINS: Great. We thank you for your time and attention to our presentation. We have put a strong case into the record geared toward earning your approval today. We are pleased that the record does in fact contain support for the project. There are no issues regarding the use of the buildings

and the evidence here today has detailed that the use has existed since 1972 without any adverse effects to the surrounding properties. We have presented testimony today and written evidence in the record demonstrating how it has met the burden of proof for the requested zoning relief. The design presented by the applicant has approval of the community and the Historic Preservation Review Board. And for all of these reasons, we request that you grant approval of this application, a bench decision, a summary order, and hope that you will probably grant us just a little flexibility regarding the facade for final approval by the Historic Preservation Review Board. They want to look at the final drawings one more time. We again thank you for your time and this concludes our presentation.

MR. GILREATH: Madam Chair, I am ready to make a motion that the Board approve this application. I think that, like you said, it is a historic building. Is this in the Dupont Circle Historic District?

MS. DOBBINS: Yes, it is.

MR. GILREATH: It is also an historic district. This is a unique situation and I think the design, the infill and what have you, is very attractively done and very complimentary. I think they have done a good job and I think that particular street and neighborhood benefits from this. So the motion is that it be approved.

MR. HOOD: Madam Chair,I would also second the

motion.

CHAIRPERSON REID: Okay. Mr. Sockwell?

MR. SOCKWELL: It appears that the -- at least the facades on the street side certainly recreate the continuity that had existed in the original frontages and replicates effectively the period building that was lost due to fire. It brings harmony to the rest of the block. The rear facades are rear facades, and I don't have enough to make any determination at all as to how they really fit with the rest of the back side of the community in that they do have a different function in particular with the elevated portion to allow for the continued required parking. But overall, it appears to be a very tastefully designed rehabilitation and addition. And if it meets the needs of the Delta Sigma Theta Service Sorority, then I think that it has been effectively communicated to this Board and I would be more than happy to support its approval.

CHAIRPERSON REID: Okay. I will concur with my colleagues. I feel that the applicant has demonstrated that they are in compliance with Section 217 in regards to the special exceptions and that they have met their burden of proof in regard to the variances that they are requesting -- the relief which they are requesting. And that they have shown that their property is unique and that there would be a practical difficulty in complying with existing regulations. They did not have any opposition, so therefore we can, I guess, assume that there is no adverse impact

in regard to parking. The parking requirement has been waived by virtue of the Historic Preservation letter. Nonetheless, they are providing some parking, which is great. There does not seem to be a problem as far as traffic or as far as light or noise or what have you. And it does not appear that granting the application would be a detriment to the public good or would impair the intent or integrity of the zoning regulations or map. Mr. Sockwell, you had mentioned that you would like to see in the plans that they give dimensions.

MR. SOCKWELL: When the dimension plans -- should we vote to approve this project, when the dimension plans are finalized, we would like to have a set of those inserted into the record.

CHAIRPERSON REID: Prior to the order being issued? It would have to be.

MR. SOCKWELL: It should be prior to the issuance of the order. What is your time frame for completing the CD's on this or at least getting dimension drawings?

MR. ALLEN: We can put dimensions on the drawings almost immediately.

CHAIRPERSON REID: Yes. That shouldn't be difficult.

MR. ALLEN: The original buildings -- the initial buildings, we have the drawings from the 1988 renovation of 1705, 1707 and 1709. And we have very carefully measured everything

about 1703. So we have accurate -- the drawings are drawn accurately.

MR. SOCKWELL: So you have chosen carefully your elevator cab sizes and your stair tower dimensions and all those things.

MR. ALLEN: Yes. It is all worked out.

MR. SOCKWELL: But you just haven't dimensioned them on the drawing.

MR. ALLEN: I have to say that is kind of dumb not to do so, but we have just been working along. We do have -- you know, the stairs are correct. We have been to the building department and they have approved the means of egress, cabs worked out. We are in good shape.

MR. SOCKWELL: Okay. I mean I am --

CHAIRPERSON REID: Do you want to see them?

MR. SOCKWELL: I would like for us to have them.

CHAIRPERSON REID: You want them submitted for the record.

MR. SOCKWELL: I would like to have them submitted for the record at some point. Because --

CHAIRPERSON REID: Prior to the order. It has to be.

MR. SOCKWELL: I mean, can you do it within a week?

MR. ALLEN: Yes.

CHAIRPERSON REID: So that is not a problem.

CHAIRPERSON REID: Okay. All in favor?

BOARD MEMBERS: Aye.

CHAIRPERSON REID: Opposed?

MR. HART: Staff would record the vote as four to zero, Mr. Gilreath, Mr. Hood, Mr. Sockwell and Ms. Reid to approve.

CHAIRPERSON REID: Okay, Ms. Dobbins. Just one other question. In regard to it having to go now to where?

MS. DOBBINS: Historic Preservation Review. We have --

CHAIRPERSON REID: Oh, for the facade.

MS. DOBBINS: Yes. We have conceptual approval for what you see in front of you. And they want to tinker with the facade just a little. But it would not change any dimensions of the building or any of the floor plans.

CHAIRPERSON REID: But it has nothing to do with our decision, right?

MS. DOBBINS: No. It is just that when the Board approves plans -- I mean, when it approves an application, it approves the plans that are with the application. So what the Board has typically done in situations like this, they have allowed flexibility for HPR to tinker with the facade. I mean, there is some language in some of your previous orders.

CHAIRPERSON REID: Okay. So whatever that language is, let's just insert that language in regard to --

MS. DOBBINS: The facade.

CHAIRPERSON REID: The facade and any changes or tinkering around that Historic Preservation chooses to impose upon the facade.

MS. DOBBINS: And that would be the condition -- that would be a condition. I will find the language that the Board has previously used.

CHAIRPERSON REID: Okay. Thank you. Give that to staff. We appreciate that. Okay. That then concludes our hearing for today. Thank you.

(Whereupon, at 5:14 p.m., the hearing was concluded.)

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