GOVERNMENT OF THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

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WEDNESDAY

MARCH 17, 1999

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The Board met in Hearing Room 221 South at 441 4th Street, N.W., Washington, D.C., at 9:30 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
BETTY KING	Vice Chair
JERRY GILREATH	Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANGEL F. CLARENS	Commissioner
ANTHONY HOOD	Commissioner

STAFF PRESENT:

ALBERTO BASTIDA	Acting Interim Director Office of Zoning, also representing Office of Planning
PAUL HART	Office of Zoning
JOHN NYARKU	Office of Zoning
BEVERLY BAILEY	Office of Zoning

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(9:40 a.m.)

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

This is the March 17th public Hearing of the Board of Zoning Adjustments, District of Columbia. Joining me today is Betty King, Jerry Gilreath representing the National Capital Planning Commission, and representing the Zoning Commission is Angel Clarens. My name is Sheila Cross Reid, Chairperson.

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

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

The order of procedure for special exception in variance cases will proceed as follows; One, statements and witnesses of the Applicant, Government reports, including the Office of Planning and Department of Public Works, the ANC, etcetera,

persons or parties in support, persons or parties in opposition, closing remarks by the Applicant.

Cross examination of witnesses is permitted to persons or parties who have a direct interest in the case. The record will be closed at the conclusion of each case, except for any material physically requested by the Board, and the Staff will specify, at the end of the Hearing, exactly what is expected.

The decision of the Board in these contested cases must be based, exclusively, on the public record.

To avoid any appearance to the contrary the Board requests that persons present not engage the Members of the Board in conversation.

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

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

Are there any preliminary matters?

(No response.)

CHAIRPERSON REID: Before us calling the first case Mr. Bastida is acting in the capacity of Acting Director today, he is from the Office of Planning, as you may know, I just want to clarify the dual role that he will be playing today, this is Mr. Bastida.

Would you call the first case, please?

MR. HART: The first case is 16435, Madam Chair. I need to note that this case was not posted, there is no affidavit of posting for this case.

CHAIRPERSON REID: Is there anyone who is involved with this particular case, 16435, here? Please come forward. Have a seat, please, sir.

We don't have an affidavit of posting, was that the -- was the property posted?

MR. HETEM: I'm sorry, I was not notified. I came down and filed, asked a number of different times what the procedure was, and I was never told that it needed to be posted. I apologize a thousand times.

This is new information to me at this second.

CHAIRPERSON REID: Did you not receive, at the time that you made your application, sir, the

instructions as to what the procedures were?

MR. HETEM: I don't have that in my file. I don't remember receiving it.

CHAIRPERSON REID: Mr. Hart, isn't there a form that he would have received that specified --

MR. HART: Yes, when you came down to make your application you were given a form. Did not give you a form?

MR. HETEM: No, I was told, verbally, the process. This is the first time I have done this in a long time, and I apologize for any inconvenience.

CHAIRPERSON REID: What is at issue is the fact that prior to your having a Hearing we have to give notice, and we give notice in two or three different forms, one of which is that the property has to be posted with a sign like this, to notify the public that you, in fact, are coming before this Board for a Hearing.

So that anyone who has an interest in the case, and opposition to it, or in support, can come down and have an opportunity to participate if they should desire.

MR. HETEM: Like I say, I apologize. I was not notified.

CHAIRPERSON REID: Are you prepared to

go forward with the case today?

MR. HETEM: Yes.

CHAIRPERSON REID: Has it been in the D.C. Register? Did you not receive this, sir? It is posted in the D.C. Register -- would you come forward again, please?

This is an acknowledgement that was signed by the individual who received this form.

MR. HETEM: That is me.

CHAIRPERSON REID: We gave you one, and we keep one, and this is the form.

MR. HETEM: Well, most likely when I did I --

MR. HART: You have to speak into the mike.

CHAIRPERSON REID: Yes, speak on the mike.

MR. HETEM: That is my signature, and most likely what I did, I signed it on the spot and I --

CHAIRPERSON REID: You didn't look at it?

MR. HETEM: I apologize. But all the addresses that -- the surrounding addresses --

CHAIRPERSON REID: Well, that is what we are going to go to, now.

MR. HETEM: Okay.

CHAIRPERSON REID: And we are going to see what we can do without the -- sir, needless to say, it is incumbent upon the Applicant to make sure that the procedures are followed and that, if you -- the reason why we have this form is to make sure that you are given your instructions to, that you would then comply with, and obviously to circumvent the issue of someone saying, I didn't see it.

MR. HETEM: Right, I understand that.

CHAIRPERSON REID: Because I know that sometimes in a rush, we very quickly may look at something and sign it, and not really read it, and then this -- in this particular instance it is important that you have done so.

Now, let's go to the other forms of notice. The persons who live within 200 feet of your property were sent letters?

MR. HETEM: Yes.

CHAIRPERSON REID: Is there anyone here who is in opposition to this particular case?

MS. KING: I would note, Madam Chair, that ANC-2E was fully aware and has endorsed the project at a meeting at which there was a quorum. So the elected representatives of the neighborhood were informed and have taken action in support of

this application.

CHAIRPERSON REID: Okay. Board Members, what would be your position in regard to the case? We feel that under these circumstances that it would be proper to move forward and hear this case today?

MS. KING: I do. I see no bar.

MR. GILREATH: We have done similarly in the past, in similar cases like this?

CHAIRPERSON REID: If there is no opposition and if, in fact, the other notices, forms and notices have been given. Mr. Clarence, did you have any input?

MR. CLARENS: Yes, I don't think the Board can proceed on this case. I think that posting is a major part of the advertising of the case, and I think that the failure of the Applicant to post the applicant is a flaw, and it needs to be remedied before the Board can proceed. That is how I --

CHAIRPERSON REID: Well, there you have it. The -- if there is one Member of the Board who feels, even one Member who feels that the procedure should be complied with correctly, then we have to give deference to that particular opposition, sir.

The decision would then be that you would have to go back and comply with the

regulations, and the procedures, as they have been given to you, and post the property properly, and be rescheduled for another Hearing.

MS. KING: Before that is done he has to be rescheduled, because it has to be readvertised?

CHAIRPERSON REID: Yes, well, go through the procedure to make sure that whatever the steps are, the sequence of steps have to be followed, and we would have to -- Mr. Hart, would he then have to readvertise?

MR. HART: Yes.

CHAIRPERSON REID: And you would have to meet with Staff and let them apprise you as to what, in fact, you need to do in order to be in compliance.

MR. BASTIDA: Madam Chairperson, I would suggest we postpone it, or continue it to a day certain, and I'm trying to find the calendar to give you such a date.

CHAIRPERSON REID: We will give you another date. And, just basically, you have to go through the procedures and have your Hearing continued to some date in the future. The first available one is what we will try to give you.

MR. HETEM: Will I be able to be rescheduled for the very next meeting?

CHAIRPERSON REID: For the very next Hearing date?

MR. HETEM: Well, we don't know.

MS. KING: Our next Hearing date is full, as we just discussed.

CHAIRPERSON REID: I don't know when. We do have a rather ambitious calendar coming up next month, so we will schedule you for the next possible date we can get you in.

MR. HART: Madam Chair, the next possible date would be May the 19th.

CHAIRPERSON REID: May 19th. Is that --

MR. HETEM: I will have to check my calendar, I assume it is okay. Yes, that far in advance I would say it is not a problem.

CHAIRPERSON REID: Yes. If, in fact, there is a problem, just apprise Staff, and then they will reschedule you accordingly.

Thank you, sir. It is scheduled to what date? The next case, please. Sir, don't forget to go to Staff and have them -- since this is your first time here, and you are not really familiar with the full procedures, have them to counsel you as to what needs to be done.

MR. HART: The second case is application number 16427 of the Georgetown

University pursuant to 11 DCMR 3108.1, for a special exception under Section 210 to allow construction of a residence hall and dining facility under an approved campus plan for property located in an R-3 District at premisses 3700 O Street, N.W. (Square 1321, Lot 1).

All persons having to testify in this case, please raise your right hand.

(WHEREUPON, THE WITNESSES WERE SWORN.)

MS. KING: Madam Chair, before we begin, I would like to congratulate the CAG, the ANC, and the Applicants for having, in my two years on the Board, come forward with the first Georgetown University plan which seems to have community support. I hope this heralds a new day of happiness and joy in Georgetown.

MR. BASTIDA: Mrs. King, I like the phrase that, it seems.

MS. KING: It seems. Well, we will see. I see Barbara Zartman sitting there, we can't tell what is going to happen.

(General laughter.)

MR. SZEGEDY-MAZAK: Good morning, Ms. Reid, Ms. King, Mr. Gilreath, good morning, Mr. Clarens.

I'm Peter Szegedy-Mazak, and I reside at

5050 McArthur Boulevard, N.W., in the Palisades area of Washington. I'm Special Counsel in zoning, land use, and real estimate at the Law firm of Arnold & Porter.

With me today is my colleague Nate Gross, who is the Chief of zoning and land use services at Arnold & Porter. We are here as Counsel on behalf of Georgetown University in support of its application number 16427, pursuant to sections 3108.1 and 210.1 of Title 11, DCMR, the Zoning Regulations for the District of Columbia.

Georgetown University respectfully requests a special exception relief, and further processing of its campus plan to permit construction of a residence hall, a dining facility, a Jesuit community residence, and underground parking, loading, and bus maintenance facility.

The property comprises part of lot 1 in square 1321. It is owned by the University, it is within the geographic boundaries of the campus, and is located in the southwest corner of the campus, hence the name, southwest quadrangle project.

The site is now used as a surface parking lot for 785 vehicles. It is zoned R-3, a low to medium density residential category.

CHAIRPERSON REID: As you well know, in

instances where we have a density popular case, and there does not appear to be any opposition that I know of --

MS. KING: Well, is there anybody here in opposition to this case? That is fine.

CHAIRPERSON REID: You can't speak from the audience, anyway. But there is no opposition that we know of, and there is no one here in opposition, so therefore you can stand on your record, for the most part, and give us the salient points of your case, and expedite it.

As far as we can see this seems to be a very clear cut case.

MR. SZEGEDY-MAZAK: Ms. Reid, thank you so much, but I will do that as soon as I finish my introductory statement which summarizes the case, and then allow Alan Brangman, the University architect, to address Georgetown's issues, and that would be -- and then if there are other questions of the architect, of Nate Gross, or the transportation planner, then they are here to testify, also.

The University proposes the following uses for the site, a new residence facility, housing 780 beds, with additional multiple purpose phase for curricular and academic purposes; a new dining hall with the capacity to seat 1,200 people; a new

residence for the Jesuit community with 38 apartments, a kitchen, and other multipurpose space. And, finally, four levels of underground parking with 815 parking spaces, some loading docks, and a bus maintenance facility.

The southwest quadrangle project received conceptual design approval for its master plan, site plan, and massing, from the Commission on Fine Arts on September 18, 1999.

Prior to that it received considerable support and praise for its design from the Old Georgetown Board in its July 23rd, 1999 report to the CFA on this project. 1998, excuse me, thank you.

In our presentation today we will show, by substantial evidence, that the University is entitled to its requested zoning relief pursuant to Sections 3108.1 and Section 210.1 for the following seven reasons.

First, the project is consistent with the campus institutional designation in the comprehensive plan. Furthermore, it implements a number of the District elements and policies of the comprehensive plan, including the housing element, urban design element, transportation element, environmental element, and land use element.

Equally important it has the support of the Office of Planning.

Secondly, the project is consistent with the stated goals and purposes and elements of the University's campus plan in providing educational support, a transportation center, and a consolidated housing, mixed use facility. It will only add 380,000 square feet of gross floor area to the campus total, and increase campus FAR from 1.03 to 1.12, well below the 1.8 campus FAR allowed under the Zoning Regulations.

Reason three, the project effectively implements the policy of Section 210.2 of the Zoning Regulations regarding neighborhood impacts. The project is planned and designed to repatriate existing students on campus from surrounding neighborhoods.

By housing 780 more students on campus the University will be their landlord. This is no longer the responsibility of surrounding communities. The project will, thus, considerably lessen and resolve any objectionable conditions to neighboring property, in Georgetown, Berleath, Foxhall Village and neighboring communities, because of noise, parking, commuter traffic, and other issues occasioned off-campus student residences.

Any adverse neighborhood impact is also mitigated by the location of the facility on the campus. It is screened from the residential communities by campus buildings, and open space. It is at least a quarter of a mile away from the closest residential community.

With respect to parking and traffic, reason four, the project will have minimal community impact. The new parking facility will contain 815 spaces. This number reflects a one to one replacement of the existing 785 parking spaces, plus an additional 30 spaces for the Jesuit community, which is a slight increase of what they already have.

Trip generation to and from the campus will remain largely unaffected and, in fact, will improve because 780 otherwise commuting students will be housed on campus, where they are not allowed to have cars, or park.

Furthermore, the total parking cap, under the current campus plan of 4,080, remains unchanged.

Reason five. As a result of the southwest quadrangle project 92 percent, I repeat, 92 percent of Georgetown University undergraduate students will reside on campus. This is an

extraordinary amount for an urban university, specially, which has limited land for a variety of campus and other uses, and with limited expansion opportunities.

I dare say that this is probably a higher percentage than many of the university's locally.

Item 6. As acknowledged by the Old Georgetown Board, and the Commission on Fine Arts, the project design is exemplary. The project will make a significant contribution to the aesthetic quality and visual integration of the entire campus.

Item 7 and possibly most important, the project has received broad base neighborhood and community support. This is most unusual, as Ms. King points out.

In approving the project almost unanimously no Commissioners from ANC-2E voted in opposition. There were five in favor, two abstentions. Especially welcome, a strong support has come from the very neighborhoods that the university has worked closely with to improve and work with regarding communications and relationships. That is Berleath and Foxhall, in addition to the greater Georgetown community.

This broad community support is a

testament to the quality of the project. More importantly its support is very persuasive evidence that the project's impact on the surrounding community and neighborhoods is positive and welcome, not objectionable and divisive.

Based on this uncontested public support, it is not difficult to conclude that the project's success, and the project itself, are in the public interest.

The university will continue to work with the community during the next phases of development if approved by the BZA.

In short, we believe that the evidence of record is, and will be, substantial. That the southwest quadrangle project meets all of the legal requirements under Sections 3108.1 and Section 210.1 of the Zoning Regulations, and that the university is, therefore, entitled to BZA approval of its project for its application.

I now introduce Alan Brangman, the university architect, who will discuss the university's objectives and goals in the campus plan.

MR. BRANGMAN: Thank you, Peter. Good morning, Madam Chair, Members of the Board. My name is Alan Brangman, I'm the university architect for

Georgetown University, I'm also the Executive Director of facilities planning for the campus.

I reside at 211 South Oak Street, in Falls Church, Virginia. So I have an office on the main campus of Georgetown University. I'm directly responsible for all university facilities planning, including architecture, engineering, and construction.

I also supervise the overall direction of the campus planning process, which is what brings us here today.

Now, I'm going to edit my presentation for the moment --

CHAIRPERSON REID: Good.

MR. BRANGMAN: -- perhaps at the Chair's suggestion. Rather than go through what may sound to be terribly redundant statements, since Peter has taken a lot of my thunder in his opening remarks, I would suggest that perhaps we go right to the project itself. I would introduce Graham Wyatt, who is from the firm of Robert Stern, and is a lead architect on our project, and perhaps the best thing to do is just to have him do an overview and an introduction of the project for your consideration.

Thank you.

MR. WYATT: Thank you, Alan. Madam

Chairwoman, Members of the Board. Madam Chairwoman, I will take you up on your suggestion of using the short form, and I will not repeat everything that Peter said.

We are very pleased to be here today. And what I'm going to do is to speak in general terms about the planning of the project, and how all the various elements which Peter has mentioned are going to be accommodated on the site.

First, --

MS. KING: You can use that as a hand mike.

MR. WYATT: Yes, I will do that. First I think it is very useful to put the project in context. Those of you who know the Georgetown University campus, really a quite marvelous series of quadrangles and historic buildings on the top of the hill, looking over the Georgetown community, but unfortunately underutilized, and a poorly designed area in the backyard, if you will, which consists of, among other things, a very large amount of ungraded parking.

And that is the area which we are looking at as the site for the southwest quadrangle. It is a very significant site, it is bounded by existing buildings on the east, it has playing

fields to the north, which we are going to keep, and actually as a separate project, somewhat reorganized so they will be more usable by the university.

As Peter mentioned, all of the parking which is here will go away, and will go underground, and we are very excited about that.

The property is bounded by National Park Service land on the south, and somewhat to the west. So we have been very concerned about working with the Park Service and the community to make sure that we are a good neighbor on that front.

Here is the site plan, the same plan of the campus as a whole, but showing the new buildings on site. Notice that the parking has all gone away. The residence hall, which as Peter mentioned, consists of 780 beds, and is actually three separate buildings in a way but connected as one structure, defining it to our quadrangle. It is located here.

The dining hall, in this location, adjacent to new south, which is an existing building, an existing 900 seats dining hall in new south will be vacated and replaced by this 1,200 seat dining hall, and that existing space will become student services base, which is sorely needed on campus.

Here is a new residential structure for

the Jesuit community, the Jesuit community is currently located in historic buildings in this portion of the campus, and they will have a new facility, which is 38 Jesuit residences and dining hall.

Vehicular circulation is something that concerns us greatly. Right now it is a mess. Prospect Street ends in a giant parking lot. It is an important street in the community but it doesn't really get proper tribute on campus, and we are proposing that Prospect Street will end in a small vehicular drop off area, which will be the entrance to what is now the backyard, but will in the future become a very important part of the campus.

The second point of entrance is Canal Road, and there is existing south entrance here, which comes up on campus, currently again, drops you in a giant parking lot.

Along the length of that are two points of entrance into below grade parking, and those points of entrance are here, and here, on the model. So the underground parking, the maintenance facility, and the loading dock are all entered at that point.

Cars then rise on campus, most of them having been removed before they ever get to the top

of the campus. There is a second point of parking garage entrance here, where our goal is to get people out of their cars as quickly as possible, and to not make it look as though there is a giant parking garage on campus, but to keep it underground.

Pedestrian circulation is a very important issue. Right now this portion of the campus, which we perhaps euphemistically call college walk, in fact, is a roadway which is lined with parking and service docks, and we are looking to reduce the amount of vehicular circulation there as much as possible, and to extend that through the new development on campus, so that College Walk, so that Library Walk, which starts at the library, and terminates in the southwest quadrant will truly be a walkway.

We think that that is a great asset for the university, and good for the community as a whole.

The second walkway, which we call College Walk, runs north-south, penetrates through the building, in an open archway, which you see in the model here, and in the future it is our goal that that may expand to the north, leading to athletic facilities, and if there are future

buildings, to them also.

So it is very important, we feel, to have north-south connection here.

The arrangement of the buildings on site, and their massing, has been very carefully considered. We want to keep the lower buildings in the front, on the Palisades, and have the buildings rise to the back. The dining hall is a two story building, the Jesuit community is a two and a three story building, and the student residence hall varies between six and eight stories, and is comparable in height to the eight to nine story buildings that exist adjacent to it.

Finally, I think, an important issue of architectural expression, what does it all look like? And I want to say that we feel very strongly that there is a strong, positive architectural tradition on campus, and that maybe in the years after the second world war the university went somewhat astray, but we are looking to the history of the campus in the design of this building, and we hope that that is clear in the architecture, that the massing of it, the way it is broken down, the materials that we are using, stone, brick, the way in which windows are organized, all are supposed to reflect the historic buildings on campus.

We think that is an appropriate thing to do, and we think it is a goodwill gesture to the community, also.

So with that said I would like to pass this on to Nate Gross from Arnold & Potter.

MR. GROSS: Thank you, Graham.

Good morning Madam Chair, Members of The Board. I'm Nate Gross from the law firm of Arnold & Potter, land use and zoning consultant. I reside at 4424 Alton Place Northwest.

I'm a little short in the statement that I have. I will namely just cover points that perhaps were not fully covered by Mr. Mazak.

The zoning regulation, of course, focused on compatibility with the surrounding neighborhood. That has been pretty well covered in terms of the site being well-buffered from the surrounding residential area.

The number of students at the university is unchanged by construction of this project, the traffic consultant will document the fact that traffic conditions will be, essentially, the same or possibly somewhat better.

The favorable impact on the number of student group homes, or the number of students in group homes, and in Georgetown in particular, is

evident on the intent of the project.

The campus gross floor area has not been commented on. If approved and constructed the southwest quadrangle project will add 379,650 square feet of gross floor area to the campus total, resulting in an increase in build FAR to a total of 4,908,570 square feet.

This will increase campus FAR from 1.03 FAR existing to 1.12 FAR, and this is still well below the 1.8 campus FAR allowed by the zoning regulations.

We are also requesting a technical amendment to the campus plan as adopted in 1989 and '90. The site is designated, in that campus plan, for educational support, transportation center, and energy related facilities.

Part of this site is also designated for student residences. So, essentially, this project consolidates several scattered student residential sites into one primary complex.

It continues the transportation center function, and the energy facility previously planned, basically, drops from the plan. So because of these modifications we are also requesting a technical amendment to the campus plan.

The 1990 campus plan also requires with

any further processing case that the university update the Board on two items, the Canal Road entrance, and student housing.

The Canal Road entrance, after many years of federal and local study, and a great deal of community participation is nearing the decision phase of the project.

In December of 1998 the Federal Highway Administration issued the final environmental impact statement and the comment entered on that on February 22nd.

The FAH will now issue its record of decision, it is called, and then prepare its design based on the final approved modification to the entrance, for public hearing at the National Capitol Planning Commission, and the Commission of Fine Arts.

If all goes well there, the stage will be set for a decision by the end of 1999.

The thing we would emphasize in this particular application is that with essentially no change in traffic conditions, and with both the Prospect Road, and the Canal Road entrance continuing to serve this site, this project will work fine even if the no-build alternative should happen to be selected. But alternative to modify is

the preferred one, but this project, we believe, is unaffected by the outcome of that.

As to student housing, the 1990 plan called for 925 new beds on campus and several components. The first was a renovation of Loyola, Xavier, and Rider Halls. This has been completed, resulting in 191 new beds.

A second component was to construct a new dormitory of 500 beds. This is that dormitory, and it has 780 beds, so it exceeds that.

The plan also called for the reconstruction of St. Mary's to provide 200 beds. That has not been done, for two reasons. The building was found to have a number of serious problems for that purpose, and secondly, neighbors did not really want to have a larger building at the edge of the campus adjacent to the residential. So that remains to be addressed in the campus plan, the further use of St. Mary's.

Since 1990 the university has also tried, where possible, to convert non-residential space on campus to student beds, and that has resulted in an additional 260 beds since 1990.

The 92 percent of undergraduates residing on campus has already been mentioned. This is very unusually high, I would say, both locally

and nationally.

For the reasons stated in our testimony, Madam Chair, the Applicant believes that the southwest quadrangle project complies with the zoning regulations and other applicable policies, and wants approval.

Thank you. Next will be Rob Kerns of Grove Slate Associates, the transportation consultant.

MR. KERNS: Madam Chair, Members of the Board, good morning. My name is Robert Kerns, I'm a transportation engineer, professional engineer with Grove-Slate Associates. I reside at 1301 North Courthouse Road in Arlington, Virginia. I work at Grove-Slate Associates with offices at 1140 Connecticut Avenue, downtown.

I will keep this very brief. We studied the traffic impacts of the southwest quadrangle during the month of February to ascertain the impact to the community.

To accomplish this we took a look at the existing access opportunities, and compared that with opportunities that will exist in the future, after the development is completed.

Secondly, we specifically looked at the trip generation to see what the differences would be

from the existing conditions to after the site had been developed.

Regarding site access opportunities, the two ways into the main campus, currently, are via the Canal Road access, and the Prospect Street access. In the future these will remain identical, the opportunities will be identical, and unchanged. Therefore the status quo is not going to be altered, and the ingress and egress patterns will remain identical.

Regarding trip generation, since the proposed parking structure will replace the existing surface lot parking spaces on a one to one basis with the exception of the 30 additional spaces for the Jesuit community, there will be no impact there, as well.

The Jesuit community will not be a high trip generator. This traffic generation will be minimal, and it will be greatly offset by the fact that the 780 new students that will be living on the campus will no longer have to commute from off-site.

Therefore there is anticipated to be a significant reduction in the number of trips that are currently going to campus.

For these reasons we have concluded that from a traffic standpoint, and transportation

standpoint, the project will have no adverse impact on the surrounding community.

Thank you, very much.

MR. CLARENS: A couple of questions. The entrance to the garage off the hill, there were three entrances described by the architect, two as the road coming from Canal Road goes up, and then a third one, which is sort of on the north side of the building.

Can you explain what the three entrances, what do they serve, and what is the sequence, or the description in detail, as to what happens inside once you go in there?

Maybe it is the architect that should answer that question as opposed to the traffic consultant.

MR. WYATT: Graham Wyatt with Robert Stern Architects, to your question.

Yes, there are two parking entrances which you can see here, on the plan, and which are also represented in the model. And they bring -- they provide direct ingress and egress to and from two of the levels of the garage, and they separate traffic.

There will be a vehicular entrance automobiles and buses arriving at the lower one, and

there will be automobiles and service vehicles at the upper. And the third, which is the entrance on the north side of the residence hall, enters the top level of the parking garage, and it is for automobiles, only.

And we have located them, but also organized the internal circulation of the underground garage itself very carefully to separate different types of vehicles as quickly as possible.

MR. CLARENS: And my question is, what are the basis of that segregation? In other words, how do you define who goes up to the top, and who stays at the bottom, and who goes where?

MR. WYATT: There is a, first of all, all levels are internally connected. There is an upper level which is a partial level that is for automobiles only. There is a second level, the southern portion of which is loading dock and kitchen facilities for the two buildings, and the back portion of which is automobile parking. Below that, level of automobile parking, and finally, bus facility at the lowest level.

MR. CLARENS: And, again, maybe I'm not explaining myself as clearly as I usually try to do. And it is who goes where. I understand what is inside, I understand where the entrances are. I

want to know, you know, are the students going to be, you know, who -- you know, is it public, when there is an event at -- what is the name of your gymnasium? I should know that, but I don't.

So who goes where? That is what, you know, is there areas of the parking that are reserved for certain users, or is it just simply public parking? And if it is then when I arrive, how do I know that I'm entering on the lower level, on the middle level, or on the upper level?

MR. BRANGMAN: Mr. Clarens, perhaps I should answer that question. Again, I'm Alan Brangman, the university architect.

There is some dedicated parking in the complex, actually in two areas, the first of which on the upper level is dedicated for the Jesuit community. It is located directly below their building, so that they can access, and we can segregate their portion of the garage within the footprint, basically, of their building.

At the lowest level of the garage, which Graham mentioned was also the entrance for buses, our bus fleet, as well as for the university fleet, garage in essence, and for facilities workers, for the most part, will be dedicated to that level.

The middle level is the sandwich,

internal portion of the sandwich levels, will operate basically as our garage facility, or excuse me, our open lot facility operates now. It is primarily staff and faculty who use that lot. There is a minimum number of students who use it, as a result of those students being residents of the area, not residents in Georgetown, but their parents live in this vicinity, and therefore they are able to use that parking lot.

We, typically, do not provide parking for students. This lot is, as most of our lots are, not all of them, are primarily for faculty, staff, and for visitors.

So we would have, as we do now with all of our entrances, we have signage that designates, for instance, the existing lot. There is parking lot 3, it designates who should be parking in that lot, on the signage, and we would carry the same type of controls as we operate this garage.

MR. CLARENS: And my question as to when you have public functions, and is this on weekends, for example, in the past I have used that parking lot, and so is that going to continue?

MR. BRANGMAN: The intent is that you would still be able to use that parking lot, as that will be one of our main visitor parking lots, as

Levee is one of our main visitor parking lots. Everything would function the same, in terms of who uses those lots, as it will in the future, when it becomes a garage. We see no functional change in those.

MR. CLARENS: There is going to be no increase in the number of parking that will be available to visitors on weekends?

MR. BRANGMAN: Same numbers, yes.

MR. CLARENS: Then coming back to the traffic consultant, it is -- did you -- have you been able to quantify, at all, the number of parking spaces that would be freed in Georgetown as a result of the transfer of students residing outside the university to this new facility? Is there any numbers as to the number of cars that won't be driving and, therefore, occupying parking spaces in the immediate vicinity?

MR. KERNS: We did not specifically address that and quantify it. However, I would estimate it is in the range of two to three hundred vehicles.

MR. CLARENS: That will no longer be competing for spaces --

MR. KERNS: Yes.

MR. CLARENS: -- in the streets of the

vicinity?

MR. KERNS: This is based on the 780 students that will now be on campus, yes.

MR. CLARENS: And you are assuming that about a third of them drive?

MR. KERNS: Roughly, yes.

MR. CLARENS: Okay, that is all, thank you.

MR. GILREATH: Madam Chair, I have one question. I don't know if it is within our purview or not. You are going to have a bus fleet maintenance in the garage, in the basement level, at some level?

MR. BRANGMAN: Yes.

MR. GILREATH: And you are also going to put your special energy efficient vehicles parked in there as well?

MR. BRANGMAN: Correct.

MR. GILREATH: Will there be any kind of refueling of these vehicles from the department around, do you have any kind of refueling arrangement in the basement, for these vehicles?

MR. BRANGMAN: We are looking at a fueling station that will be part of this project, in that lower level.

MR. GILREATH: I presume that you have

looked into it. These special fuel efficient vehicles, do they use hydrogen and oxygen, natural gas, or something?

MR. BRANGMAN: Yes, they usually run on methane.

MR. GILREATH: Well, I presume you have to go through these requirements, I would think that you would do it very carefully, because you have all these residences above, so you would not want to encounter any kind of difficulty, because if there were a difficulty it would affect all of the students above the ground?

MR. BRANGMAN: Yes, I understand. We currently have regulations on campus, we do have a fueling station for the fuel cell buses, currently on campus, and there are regulatory concerns that we, obviously, have to follow for that.

As part of the design we are making sure that we can accommodate those types of uses in the lower levels of the garage, and would have, would meet all of the regulations for the operation of that facility.

MR. GILREATH: You should do that very carefully, because you say you have fueling stations now. If they are above ground, and away from the residences, if there were a difficulty, the impact

would not be as great. Because once you put this underground, if there were ever difficulties, so it should be looked at very carefully.

MR. BRANGMAN: I understand, thank you.

MS. KING: My concern, I understand that the traffic consultant has said that no matter what happens to the question of the Canal Road entrance, even the no-build will have no impact on the surrounding community, that is correct, is it not?

MR. SZEGEDY-MAZAK: That's correct.

MS. KING: What is the impact on the surrounding community going to be of destroying the 785 parking spaces during construction?

MR. BRANGMAN: We have a phase planned for how we intend to park on campus with those spaces that will be displaced, and we are looking at two plans. One that looks at taking the baseball field and turning that into an interim parking lot during the period of time that we are constructing the new facility.

All the cars that are currently parked on lot 3 would be shifted north to the baseball field. Contractors are required to park, probably, over in Virginia, where they can find lots, and will end up busing their workers in, in order to do construction on this project.

We will probably be looking for, or at least looking at the ability to perhaps have an early opening of the garage, which -- this below grade structure, which I know is something that many times gets done in the District as office buildings are completed, where the garages are completed, and the offices come later. We will look at a similar application for early use of that facility.

We are also looking at a second plan that does things like take out half of the tennis courts, take out the basketball courts in front of McDonough gym, park on all the road or hard surfaces that we can find on campus, in order to make sure that we are not spilling cars into the community as part of this project.

And those are commitments and discussions that we have been having with the community as an ongoing process of presenting this project to them, and understanding what their concerns are, and making sure that we aren't doing things to unduly burden the community.

MS. KING: So you have made a commitment that the displaced parking, and the construction workers' parking, and so forth, will not be dumped into the neighborhood?

MR. BRANGMAN: Yes. As a matter of

fact, Ms. King, I'm out in other jurisdictions looking for fields so that my baseball team can play on those fields while this project is being built, and the baseball field will be out of commission.

MS. KING: Thank you.

CHAIRPERSON REID: Mr. Kerns, I have a question for you, if you would come back here, please. My understanding is that the proposed development of the southwest quadrangle will diminish the impact in the surrounding area, and on the campus, in regard to parking, and on traffic.

But in your submission, on page 6 the last paragraph, it says that there will be a slight increase in the number of new trips to the campus. And I'm not clear on that.

MR. KERNS: That is based on the 30 additional spaces that will be provided, over and above, the number of spaces today. The structure will have 815 spaces, 30 of which will be reserved for the Jesuit community. Today there is 785.

So in that regard there will be a slight increase. However, if you look at the overall net impact, with taking off the student trips, that is --

CHAIRPERSON REID: I see what you mean,

thank you.

MR. SZEGEDY-MAZAK: Madam Chair, we have a witness from the community, Ms. Bateman, who would like to testify in support at this time.

CHAIRPERSON REID: The second segment will be the various reports, the ANC reports, and the government reports.

MR. SZEGEDY-MAZAK: In that regard, we rest. Unless there are other questions, that is the nature of our presentation. We respectfully request, then, the relief requested. Thank you.

CHAIRPERSON REID: Government report?

MR. BASTIDA: Good morning, Madam Chairperson, Members of the Board. For the record, my name is Alberto Bastida, with the D.C. Office of Planning.

The D.C. Office of Planning, regretful, could not present a briefing report on these matters, and if -- and I will provide a verbal report. And if the Board believes that a written report would be -- should be provided, the Office of Planning would be glad to do so, subsequently to the Hearing.

I will just go, briefly, through the regulations. 210.1 the college is in front of you for their approval. 210.2, the Office of Planning

believes that the proposal conforms with the master plan, and that there will not be adverse impacts regarding noise, traffic, number of students, and any other possible objection or conditions.

210.3 the Office of Planning has determined, with the Applicant, that the Applicant don't exceed the permitted FAR, as it was presented to you by Mr. Gross, I believe.

210.4 the Applicant is submitting the building and parking on all the facilities, and all the other necessary physical improvements related to that. Accordingly, the Applicant meets with 210.4.

210.5 is unapplicable, because that is for off-site construction or other activities. And 210.6 the Office of Zoning referred this application to the D.C. Office of Planning, and the Department of Public Works.

Accordingly the Office of Planning believes that the Applicant has met the burden of proof regarding the further processing of this campus plan, and recommends approval of this application.

The Office of Planning would like to note that, since the Applicant is negotiating with the community to provide those parking spaces where is best served the university and provide the least

amount of impact to the community, that the Board, if so choose to approve this application, provides that latitude to the Applicant, in that way the Applicant would not be in -- will be in conformance with the approved master plan.

That concludes the presentation of the Office of Planning, and if you have any further questions, I will try to answer them. Thank you.

CHAIRPERSON REID: Mr. Bastida, did you not submit a written report?

MR. BASTIDA: That's correct, Madam Chair. The Office of Planning apologized because we could not provide a written report, and I just provided a verbal report, and if the Board chooses that a written report should be provided, we will be glad to do so, subsequent to the Hearing, if the Board believes that that is necessary for you --

MR. GILREATH: We have it on the record, on the transcript, so that will suffice.

CHAIRPERSON REID: I have no problem with that.

MS. KING: Mr. Bastida, would you -- the provision about parking that you just mentioned at the end, sounded like a condition that you were recommending, or what you -- that we should say that the moving of the parking on a temporary basis to

other places on the campus would not be a violation of the campus plan during the construction phase. Is that what you are suggesting?

MR. BASTIDA: Yes, and that way the university will be always in compliance with the approved master plan. And, obviously, it should be noted that that is a temporary provision.

CHAIRPERSON REID: All right. We have other reports, Ms. King, could you give us the ANC report? And then we have --

MS. KING: Yes, ANC-2E at a regularly scheduled meeting on the 2nd of March, 1999, a quorum being present, passed a resolution which, in summary, says: Therefore be it resolved ANC-2E supports Georgetown University southwest quadrangle project, and urges the BZA to grant approval to this project with the conditions as stated above.

Now, the conditions above, let me see what they are. The university has agreed to keep ANC-2E and other community associations, by which I presume they mean the Citizen's Associaton of Georgetown surrounding the university informed on all aspects of this project, throughout the construction.

And has agreed, to the extent possible, to keep construction vehicles out of the surrounding

neighborhoods throughout the construction phase, and has agreed to work with them, and particular with West Georgetown, for the purpose of providing for students who reside in this new dormitory, a route to travel to and from the campus that is more directly onto Canal Road, rather than through the residential streets of West Georgetown.

CHAIRPERSON REID: They are saying they want that --

MS. KING: They would like those conditions, us to put in our order the condition that they collaborate with the --

CHAIRPERSON REID: Is there any member representative of the ANC here? Would you come forward, please?

MS. MCFARLANE: Good morning Madam Chair, and Members of the Board. My name is Jonda McFarlane, and I'm the Chair of ANC-2E, and I have the letter and resolution for you.

But since it has been summarized adequately, probably, I won't read it unless you desire me to do so, but I will answer any questions, if you have them.

MS. KING: Do you have a written agreement, or just a verbal agreement with Georgetown University?

MS. MCFARLANE: We have a verbal agreement, and that is why we ask for you to include these conditions in your approval that will then --

CHAIRPERSON REID: They agreed to do so?

MS. MCFARLANE: Yes, this is an agreement between us, but it is memorialized in this document, not in another document between -- that is signed by both parties.

CHAIRPERSON REID: Thank you very much. Fine Arts we have here? Come forward, please.

MS. ZARTMAN: Good morning, Madam Chair and Members. My name is Barbara Zartman and I'm the Commissioner for single Member District 2E04. And as I said before this section began, I come to offer qualified support for this project. It is certainly welcome to our community.

It is certainly a -- it goes a long way to providing the 925 new beds that were promised in the 1990 campus plan. I'm here to ask you to give this a strong order. There has been great confusion in tracking the number of students accommodated on campus because of increasing space in the dormitory, taking a dormitory off-line, rather; full time equivalence versus bedded students.

And we would really like you to have your order clarify that this new facility will not

be a vehicle for expansion of the student body. The campus plan which is in place through the end of the year 2,000 does cap the student body, the university with its largest freshman class ever, is within double digits of reaching that cap on the student body.

And we would simply like your order to make it very clear, in both FTE's and real body numbers, the number of students who are to be accommodated on campus.

Missing from the presentation so far was the fact that the approved campus plan did require the university to house 100 percent of its undergraduate student body by 1997. So it has not met that standard.

We would ask you, as well, to incorporate a few other concerns, one of which has been unaddressed, and that is archeology on campus. Bowers Run is one of the oldest parts of Georgetown, and I would like your order to reference the fact that there may be historical artifacts uncovered in the process of construction that should not be lost to the history of Georgetown.

This will be financed with public bonds, as I understand it, and I would ask that you require that all of the standards for those bondings be met.

We are happy to have this addition to our community. It is well designed, carefully thought out, I don't believe it will make a difference in terms of traffic in our community once constructed. We truly hope that it will be followed by capacity for the remaining students who live in our community.

And we just ask you for a strong order to make that something we can all live with comfortably.

MS. KING: Ms. Zartman, what do you mean about the bonding? I mean, surely, if they are given bonds by the City Council, the City Council sets those rules, and the Board of Zoning Adjustment has nothing to say about it.

What role do you see us playing in the question of the bonding? I don't know enough about bonds myself, but is there --

MS. ZARTMAN: There are conditions in terms of employment of city residents.

MS. KING: But that is imposed by the City Council in the terms under which the bonds were issued, so I don't think we have any authority on that.

MS. ZARTMAN: Thank you.

MS. KING: The question of archeology, I

mean, this comes under -- and maybe somebody from the university could either shake their heads or nod, comes under the Historic Preservation Review Board, as well -- yes, it does.

I think that they are the people who look after, because I know from having been in the position to appoint the HPRB Members, that one of them has to be an archeologist.

So, I think maybe it is they who impose the archeological, that and general law, and so forth, that imposes the archeological question.

MS. ZARTMAN: Yes, they do. I think what I'm asking for is a strong order that is comprehensive. Our difficulty, in fact most of the difficulty with the community and university relations, has been in parsing words. It is very frustrating.

Nobody wants to go through definitions of what is, is. If there is a single comprehensive order for which we can seek redress before the Board, for ways in which any institutional function doesn't meet the goals of the comprehensive plan. And, certainly, historic preservation is one of those. It really can clarify life for all of us.

The issue of the dormitory, that is a classic example of how that can happen. We asked

for details, and at the ANC Hearing, which is why I was one of the two who abstained, the university was stunningly bereft of actual knowledge about the size of their current freshmen class, the size of the student body.

And that is why we are -- I am asking for clarification of that in your order. Similarly, if we can at least have an order allowing this massive construction to reflect the fact that this is a fairly precious place. All of the trees will have to come down along the crest, the university has committed itself to restoring those. I know the Park Service will see that that happens.

But it is the sort of thing that I think a strong order from this body can clarify for all of us, and make the basis for good town-gown relations.

CHAIRPERSON REID: What Ms. King is saying, though, is that there are some things that are beyond our purview, and it is within the authority of the other entities like the City Council as regard to the bonds, and the Historic Preservation Review Board in regard to the archeological aspect.

And even within the campus plan, and the number of students, maximum number of students, that is already set forth, if I'm not mistaken, which

they are supposed to be in compliance with.

I don't know if that would be something that we would want to address in our order, because it has already been addressed.

That is my understanding, they know what the maximum number of students has to be. So for us to address that in that order would just be redundant.

MS. ZARTMAN: Well, I do believe the issue of full time equivalents versus student body is still a matter that isn't clarified.

MS. KING: What you are saying that they are counting two half time students as one student?

MS. ZARTMAN: Correct, even if the two half-time students occupy two separate bedrooms in the west Georgetown community.

MS. KING: Mr. Bastida, is that kosher as far as campus plans are concerned, for them to count two bodies as one, if they are only attending half time classes?

MR. BASTIDA: If -- I would like to look at a definition, but I think that, in fact, that is permissible. I think, since I'm wearing the other hat now, as Acting Director, I would like to reaffirm that the Board has no jurisdiction over archeological diggings.

In fact, D.C's, the Historic Preservation Review Board has deferred the Georgetown Act to the Commission of Fine Arts, and basically takes the proposal. So the Commission of Fine Arts would be the one ruling on these, and I would like to emphasize that, in fact, the Old Georgetown Board for the Commission of Fine Arts look at these areas very carefully, and enforces those regulations which are not the purview of this Board. Thank you.

CHAIRPERSON REID: Thank you.

MS. KING: Thank you. Thank you for raising the questions, Ms. Zartman.

CHAIRPERSON REID: Now, there is the Commission of Fine Arts, Ms. King?

MS. KING: Yes. The preliminary recommendation from the Assistant Secretary of the Commission of Fine Arts has no objection to the general concept of the master plan, site plan, and massing study for the proposed residential, dining, parking, and maintenance complex for the southwest quadrangle of the university, and they will be resubmitted under a new concept application for design development to be reviewed by the Commission when it is ready.

So there is preliminary approval but, of

course, you have lots of steps to go through, I'm sure.

CHAIRPERSON REID: I didn't see anything from the Historic Preservation Group Review Board?

MS. KING: No, I think they deferred to the Commission of Fine Arts, and the Old Georgetown Board in this.

CHAIRPERSON REID: All right. Now, persons and parties in support of the application?

MS. KING: I might just note, Madam Chair, that the Citizen's Association of Georgetown has voted unanimously to support this project.

CHAIRPERSON REID: I was wondering if there was anyone here from the Citizen's Association of Georgetown, or the Berleath --

MS. KING: Berleath is also supported.

CHAIRPERSON REID: All persons for the application who would like to speak --

MS. KING: You are here representing the Berleath Citizen's Association?

CHAIRPERSON REID: Come down and speak on the microphone, and give us your name and --

MR. ANDREWS: My name is Bob Andrews, President of Commission Association, I live at 1430 Foxhall Road. We, in fact, provided a letter to the university with our qualified support for the

project, similar to the one that Ms. Zartman gave you, on the record.

We welcome the opportunity for the students to be on campus. We have some concerns about the university growth in total. We also have some concerns regarding during the construction phase, which way the trucks will run when they leave the campus, in order for them to do it, when they build the four level garage.

CHAIRPERSON REID: That is a question that you want to ask of the Applicant?

MR. ANDREWS: The Applicant, I think, ma'am.

CHAIRPERSON REID: Thank you.

MS. BATEMAN: My name is Grace Bateman, I have been a Georgetown resident for 20 years, and I'm delighted to be here to see this project come --

MS. KING: We need your home address. Sorry to interrupt. May we have your home address?

MS. BATEMAN: Yes. 1693 34th Street, N.W.

I began with this project in 1988, so it has been more than a decade that we have been hoping to see this come.

I would just like to give a little frame of reference from where we have come, and the things

that we feel most strongly, I think, as residents on the west side of Georgetown about this project.

Back in '88 when I served on the ANC for -- I served from '88 to '92, community relations were dreadful. The university took the position that off-campus students really weren't its responsibility, and that it didn't have much of an obligation to house many students on campus beyond the number that were already there.

Through a very arduous, sometimes, process we got to the point where in the campus plan the university agreed to house, essentially, all undergraduates on campus. I believe Ms. Zartman said the plan requires all undergraduates to be on campus by 1997.

I don't believe that is accurate. I think the plan essentially commits the university, or it committed the university to housing, essentially all, which at that time meant the better part of the 1,200 students who were not then on campus.

In the plan the idea was to build a dormitory that was to have been constructed by 1995 to house those students. As many of us may remember that commitment was tied to obtaining permission to expand the utility capacity on campus, the District

did not ultimately grant a permit to build the co-generation facility, and so the dorm project, basically, was put on ice.

Happily it has come forward again. I agree with the comments made earlier that the main issues that we had in the community, student noise, student trash, and overcrowding, will be very much remedied by this project.

I agree that the university should make some effort to channel the foot traffic from this project away from the residential community, and I believe that comment was made earlier.

So I would urge the Board in its order to include that requirement, that some thought be given to, particularly, late night activity should be channeled away from residential areas, and if possible more directly down from the campus to the M Street area, where many of the students travel.

Other than that I'm just here to say I wholly endorse the project, and I believe that the order should be very simple. All that is before the Board today is this project, the campus planning process will be ongoing, in the coming months, and issues as to the enrollment cap, and the current number of students on campus, I think, are best addressed in the campus planning process.

And I would strongly urge the Board not to encumber this project in any way, so that it can move forward as quickly as possible. Thank you.

MR. MINNICK: Thank you, Ms. Reid. My name is Paul Minnick, I live at 1513 Wisconsin Avenue. My family and I have lived in D.C. since 1959.

I'm here to endorse this dorm project for several reasons. Number one, the housing stock in Georgetown is terribly overcrowded with students at this particular point in time. And I think that this project will go a long way to relieving those kinds of problems.

It also will, I think, increase the better community awareness of the situation between the university and the community. And I'm here to answer any questions as a resident. I neither have any affiliation, indirectly, or directly, with the university, but purely a resident.

CHAIRPERSON REID: Thank you.

MR. GWYNNE: Thank you, Ms. King. I will say a few words, if I may.

I'm Guy Gwynne, the Vice President of the Berleath Citizen's Association, and the second Vice President of the D.C. Federation of Citizens Associations.

I have worked with Georgetown University over the years, both with them and against them, particular in the co-generator fight that so many of you remember here.

We have taken a lot of votes in Berleath, and we followed this project very carefully, and basically we are all for it. This is a great step forward.

Georgetown University has approximately, by its own count, and by ours, 2,400 students off-campus, graduate and undergraduate. They all take up the same amount of room.

Now, Berleath has approximately 741 of these students in its little three by four block area. We would dearly love to have some of those move on campus, although being so close to the university, right across from the hospital, we are probably the area, along with Prospect Street in Georgetown, of greatest preference for student housing there, it is a natural development.

BaSically I'm here to say this is a good project. The communities are not opposing it, but we very much want to make sure that in this BZA order there is a pledge, or a requirement of the university not to raise the enrollment cap, because that would the hole in the sack.

Other than that this promises real relief for the community and we hope this is the first step of about three of these. Thank you.

MS. KING: I would point out, I think that our Chairwoman, Ms. Reid, has -- I mean, the student cap is in the campus plan.

MR. GWYNNE: That is right.

MS. KING: If they violate that they violate the campus plan. For us to restate it here would be redundant.

MR. GWYNNE: There is nothing that would preclude that redundancy, though, and we would consider it an assurance.

MS. KING: We have the assurance, already, of the campus plan.

CHAIRPERSON REID: And we don't know if that is within our purview to condition an order --

MR. GWYNNE: I'm sorry, Ms. Reid, could you speak into the microphone?

CHAIRPERSON REID: We don't feel that the -- that it would be necessary for us to be redundant, and starting within the condition, the cap for the students, the student cap, because that is something that has already been done within the form in which it has -- it is -- that has the authority to do so.

So for us to do that again would just be unnecessary, we feel.

MR. GWYNNE: It is not strictly necessary, but I can assure you it would be a very welcome assurance to the communities, because this question comes up all the time.

CHAIRPERSON REID: Even if we did it, sir, that would not preclude it from coming up again.

MR. GWYNNE: All right. Well, I have made my request, and I have put it on the table.

CHAIRPERSON REID: Sure, and we take note of that. Thank you.

MR. GWYNNE: So thank you very much.

CHAIRPERSON REID: I just would like to note that before closing remarks that, typically, we do have a segment for cross examination.

However, in this instance, because of the nature of this particular case, and we felt that it was a case that had great support from the community, and there was no opposition, I did not call for cross examination. That does not preclude, however, anyone who may have had a question, from doing so. If, in fact, they want to do that. I just want to throw that in, because we didn't. So if there was any question?

(No response.)

CHAIRPERSON REID: Seeing none I would now move to closing remarks by the applicant. Persons or parties in opposition?

(No response.)

CHAIRPERSON REID: Seeing none, now we go to closing remarks.

MS. KING: I wonder if I could raise a couple of issues with the university before they make their closing remarks?

What is your student population, and how many of them are full time, and how many of them are part-time? What is the cap in the campus plan? I don't have that in the front of my memory.

MR. BRANGMAN: The cap in the campus plan is 5,627, and that is what we call full time equivalent. The BZA cap which --

MS. KING: And how many of --

MR. BRANGMAN: I'm sorry, go ahead, Ms. King.

MS. KING: And how many, you know, how many actual -- I understand that that is full time, or that is FTEs?

MR. BRANGMAN: Right.

MS. KING: But how many actual bodies are there?

MR. BRANGMAN: How many actual bodies? It is just over 5,786, is what we are looking at, as our enrollment number. That number, then, gets adjusted to get back to our BZA adjusted full time equivalent --

MS. KING: Yes, because not all of the 5,786 are full time students.

MR. BRANGMAN: Correct. So we are looking at, right now, for fiscal '99, 5,486, okay?

MS. KING: FTEs?

MR. BRANGMAN: FTE, okay?

MS. KING: 5,496 --

MR. BRANGMAN: 86.

MS. KING: 86 FTEs.

MR. BRANGMAN: Undergraduate students.

MS. KING: Undergraduate.

MR. BRANGMAN: And the way that we deal with the cap, that leaves us 65 students under the BZA mandated cap. Because the BZA mandated cap is affected by the number of beds that we have, the total number of beds that we have on campus, which is 4,230.

MS. KING: Now, when you increase the number of beds are you going to increase the number of students?

MR. BRANGMAN: We have said, many times,

and I know you have just heard that --

MS. KING: I want it to be on the record. You are under oath, and on the record.

MR. BRANGMAN: As a result of this project we are not increasing the cap. The appropriate discussion for a change of the cap is in the campus plan discussions, which we will be starting, probably, sometime in the fall, in order to meet our schedule for a new campus plan by the end of December of 2000.

MS. KING: Okay, great, that is fine. Now, could we deal with this question of the route of the trucks?

MR. BRANGMAN: Yes.

MS. KING: The construction vehicles as they enter, leave the construction site?

MR. BRANGMAN: Yes.

MS. KING: What streets are they going to be traversing?

MR. BRANGMAN: This has been a very interesting discussion because, obviously, if for instance the Canal Road project were completed, and the university had the ability to make left turns out of the campus on Canal Road, at this time, then probably the easiest route for the removal of trucks, given the fact that we are going to be

moving an enormous amount of dirt from that hole, would be left out on Canal Road, down to the Key Bridge, across the Key Bridge, and out into Virginia for disposal.

We do not have that capability right now, and the community has raised that issue. We believe that some time ago when there was construction going on in the campus, there was the ability to perhaps have a temporary curb cut on Canal Road so that trucks could do exactly what I just talked about.

We do not have a construction manager on board as of yet. As a matter of fact we just spent the last two days going through interviews for a selection. We hope by the end of today, or tomorrow, that we will have identified our CM.

They will have to provide the most expedient route for the removal of construction debris as part of our requirement, as well as part of the requirement for the District.

Our hope is --

MS. KING: As it stands now, the trucks can only -- vehicles can only enter from the east on, or whatever it is, on Canal Road and turn in there, is that it?

MR. BRANGMAN: Going west on Canal Road

you can enter into the campus --

MS. KING: By making a right hand turn?

MR. BRANGMAN: -- across the model, and then make a right hand turn into --

MS. KING: And then to escape you have to go out Prospect Street?

MR. BRANGMAN: If we were required, for instance, to try and get to the Key Bridge then, currently, the only way to do that, is to either go down Prospect, or to go down -- come out of the campus, make the right, go down Canal Road, up to Foxhall, to McArthur, and try to figure out how to get flipped around to get back to Key.

It is a very difficult situation. It is one of the reasons why we were pushing to try and get the Canal Road project resolved.

MS. KING: Well, let's not deal with the Canal Road project, I'm very familiar with that issue.

MR. BRANGMAN: I understand.

MS. KING: And I don't think we want to muddy the waters at this time.

MR. BRANGMAN: I agree.

MS. KING: And I don't think you want to raise that. Okay, fine.

But it is your intention, I gather, that

you will mitigate the impact on the immediate surrounding community to the greatest degree possible with your construction, your whole construction project, but particularly the vehicles?

MR. BRANGMAN: Yes, as part of the approval process with DCRA we will have to have an approved plan for getting construction vehicles in and out of the site.

MS. KING: Okay, thank you very much.

MR. SZEGEDY-MASZAK: Madam Chair, we would respectfully request a bench decision if we can, because of the urgency that Georgetown would like to proceed with the planning of this -- the future planning of this project.

In large part Ms. King pointed out one of the reasons is that they want to rectify and clarify this construction, the construction process. We would also indicate that Georgetown would be more than willing, and it has shown, to comply with the conditions of the ANC in meeting with them, and in continuing the dialogue that has been going on.

So we would ask both for a bench decision and a summary order, and we thank you for your attention and your consideration of our request. Thank you.

MR. BASTIDA: Madam Chairperson?

CHAIRPERSON REID: Yes?

MR. BASTIDA: If you are considering a summary order I would advise the Board that perhaps they want to consider a condition in which would give flexibility to the university to comply with the Commission of Fine Arts refinements, or the design. And that way the university would not have to come to the Board for those refinements.

And that has been done before, and what I'm suggesting is done, since the massing, and so on, is all set and approved by the Commission of Fine Arts.

MS. KING: I would move, Madam Chair, that we approve this application, with the following conditions.

That the university will comply with the conditions in the ANC resolution regarding the collaboration between the university and the community, and particularly the Advisory Neighborhood Commission, and to -- and the mitigation of any adverse impact, to the greatest degree possible.

CHAIRPERSON REID: Okay, and --

MS. KING: And that we recognize that the Commission on Fine Arts, and the Old Georgetown Board will have final approval of the plans, and

that we give our, you know, that whatever CFA says is fine with us.

CHAIRPERSON REID: Okay, and the issue regarding the channeling of the foot traffic to M street, or to minimize the impact, is that contained within the ANC, is there a request for that?

MS. KING: I think that is a little more specific than we wanted to get. The -- maybe we should just say, put it in, Georgetown will keep the ANC and other community associations, informed on all aspects of its project, through the construction.

Georgetown, let's just make these the conditions, has agreed to the greatest extent possible to keep construction vehicles out of the surrounding neighborhoods, and Georgetown has agreed to work with the surrounding neighborhoods, and particularly west Georgetown, for the purpose of providing for students who reside in this new dormitory, a route to travel to and from campus that is more direct onto Canal Road, rather than through the residential streets of West Georgetown.

Does that cover it? If we put those three provisions in, as well, as my inelegant selection, vis a vis the Commission on Fine Arts?

CHAIRPERSON REID: I think that that

pretty well covers it. All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No response.)

MR. HART: The staff would record a vote, four to zero, to grant. Ms. King, Mr. Gilreath, Mr. Clarens, and Mrs. Reid.

MR. SZEGEDY-MASZAK: Madam Chairman, we would just like to thank you and Ms. King, Mr. Clarens, and Mr. Gilreath. We look forward to commencing, and we will work with the community throughout. Thank you.

MS. KING: Hear, hear.

MR. HART: The next case is application 16437 of F. B. Partnership, pursuant to 3108.1, for special exception from Section 512 to permit a hotel in an SP District with a reduction in the required off-street parking in an SP-2 District at premises 1225 13th Street, N.W. (Square 281, Lot 832).

Those persons planning to testify in this case, stand, raise your right hand.

(WHEREUPON, THE WITNESSES WERE SWORN.)

MR. COLLINS: Good morning, Madam Chairperson and Members of the Board. My name is Chris Collins with the law firm of Wilkes, Artis, Hedrick & Lane. Seated to my left is Sarah Shaw,

with our office, and to my right is Robert Miller, representing the applicant, F.B. Partnership in this case.

CHAIRPERSON REID: Is there anyone here in opposition to this case?

(No response.)

CHAIRPERSON REID: Just as in the preceding case, this appears to be an instance where there is no opposition, and the case is very straightforward. You can then give us the salient points so we can expedite this, and state on the record, we have all read the materials that have been submitted.

MR. COLLINS: All right, thank you. This is, as announced, a special exception for review of a change in existing community residence facility to a 112 room hotel and reduction in the required amount of off street parking.

The building, as an existing building, with 24 parking spaces in the garage, 30 are required under the zoning regulations for the hotel. The Applicant will provide 30 parking spaces through the use of valet parking.

The building was built as apartments in the early 1950s, and in 1985 was changed to a CRF for up to 224 persons, and up to 28 staff.

As approved that use included, as listed in the Board's order for 1985, for the residents of that building, meal service, laundry service, and maid service, plus limited personal hygiene assistance, transportation, or recreation activities.

So the proposed change of the building to a hotel will include many of those same kinds of things that have been approved by the Board in the past.

The conversion to the hotel is supported by the Office of Planning, by the ANC, and by the local community association. The ANC and the Logan Circle support letters are -- documents, are attached as exhibit G on page 27 of the statement of the Applicant, and on exhibit H, page 31 of the statement of the Applicant. Both contain conditions to which the Applicant has agreed.

The Office of Planning has also recommended approval with two conditions, one of which is acceptable, and one of which is not acceptable. The one that is not acceptable states that the proposed hotel signage, as shown in the plan, should either be eliminated or modified.

We will discuss that more in our presentation.

The Statement of the Applicant, which we have submitted in this case, details how the hotel meets all the requirements of Section 512. We have witnesses here to address compliance with each of those sections.

There are exhibits in support, which also support our case, particularly exhibit J, the land use survey at page 34, exhibit K the examples of typical hotel signage in the area, at page 37 of our statement, and exhibit L, which is a detailed traffic impact analysis prepared by O. R. George and Associates, which appears at page 38.

There are three witnesses today, all will summarize the basic points in their presentation. The first is Mr. Robert Miller, representative of F.B. Partnership. Next will be Richard Hurdle of the firm of Zibbick and Hurdle, architects, he is the project architect for this proposal, and finally Osborne George with O.R. George and Associates, who will be prepared to answer and explain any questions you might have concerning his very detailed report.

So unless there are any questions at this time, I would like to call the first witness, who is Mr. Robert Miller.

Mr. Miller, would you identify yourself?

MR. GILREATH: What is the status of the building now, is it vacant, or is it being occupied?

MR. COLLINS: It is occupied. Mr. Miller will discuss that.

MR. GILREATH: He will tell us where these people are going, and so forth?

MR. COLLINS: ExaCtly, yes.

MR. GILREATH: All right, fine.

MR. MILLER: Good morning Madam Chair, Members of the Board, my name is Robert Miller, I reside at 7608 Glocken's Drive in Potomac, Maryland. I'm the Vice President of Robbie, Inc. I'm the general partner of F.B. Partnership.

F.B. Partnership owns this property located at 1225 13th Street, this is the only property owned by F.B. Partnership. We, as F.B. Partnership, bought the building in 1985. As Chris said, it was previously an apartment building, we immediately obtained a special exception to operate the building as a CRF, or community residential facility.

The building, currently, is approximately 60 percent occupied. It is occupied with several small group home style facilities providing care to the mentally ill, and mentally retarded. It is residential type care. All

programs in the building are currently managed by a company, CareCo Inc.

CareCo Inc. is a company that we wholly own and manage, it is a company that has been in business since 1985. One thing maybe worth mentioning in light of the articles published in the Post this weekend, and earlier this week, relating to the care of the mentally ill, and mentally retarded residents throughout the District, it is unfortunate, as in these cases it often is, that a few bad apples in the way of providers are able to muddy the waters of the rest of the industry.

CareCo, as I said, since 1985 has enjoyed an exceptional reputation as a residential service provider to the mentally ill and mentally retarded, and they have enjoyed that reputation among the Department of Health, MRDDA, CMHS, the community activist groups, members of the community, family members of the residents.

And, as I said, it is just unfortunate that the article would cast such a poor light on the extent of all the providers out there.

As I said, also, all of the programs within the building are currently managed by CareCo Inc., and it is about 60 percent occupied.

The reason we are proposing to make this

conversion, the city has effectively mandated to us, or restricted our ability to place additional group home type facilities, or CRF type facilities in the building because of the perception, or the concept, that these type facilities are better disbursed into the community in more traditional home-like settings.

Actually even today the bulk of CareCo's business, about a dozen or so group homes, are placed within the community in Northwest, and the Northeast District residential areas. So those homes, the bulk of CareCo's business currently is in the community, and CareCo would be in charge of replacing the programs within the building out back into the community, at the request of the District.

As we looked at the conversion opportunities of the building we looked to the obvious answer, or the obvious choice would be apartment or condominium. And, unfortunately, the configuration of the rooms, which was good maybe in 1952 for marketable apartments, they are all small efficiency type units, just don't work today in real life for marketing apartments for the type of residents in the area.

And we know that from speaking to several apartment investors and developers, and from

speaking to several condominium developers that do other projects in the area, there.

In looking at what would work, and what economics would work for a project like this, we moved the rooms, as you will see in the architect's presentation, do lend themselves very well to hotel type rooms, and we immediately started speaking to the community members, the ANC, the hotel operators that operate properties similar to this one in the community, franchisers.

And what we determined was that this is a viable project as a hotel and the market does tend to exist for the property.

One area we would ask for leniency from the Board relates to the signage component that we have, and again as you will see in Dick's presentation, the architectural presentation, we request what we believe to be very reasonable signage, at the same time, required signage.

In determining the amount of signage that we would request from the Board, we looked both at other properties in close proximity, and looked at the signage, currently, on those buildings. We also spoke to the operating company that will be managing the hotel, spoke to the franchisers, and based our signage request on their requirement.

Their primary concern is just maintaining enough signage and visibility to travelers coming from the south, and coming from the north on 13th street, that people realize that this is a viable hotel project, and they have a good sense of where they are going, and are able to find the property.

Further, we do also feel that specifically sections 512.3 and 512.5, related to the design and height, and bulk of the structure, be in harmony with other properties in close proximity, we feel of course the design, as you will see from Dick, we do feel is in harmony. The bulk and height of the structure are not changing.

The use as in Section 512.5 we feel the hotel use will result in the balance of residential office, and hotel use in the SP district, in the vicinity of the hotel, as is delineated on the land use survey, which is I think exhibit J on page 34 of your package.

In looking at the surroundings we feel that harmony does exist, and the balance of use does exist.

I would be happy to take any questions. Thank you very much.

MR. HURDLE: Good morning. My name is

Richard Hurdle, I am with Zivik-Hurdle architects, the design principal. I reside at 10614 University Drive in FAirfax, Virginia.

I think I will jump right to the site plan here, and orient you. This is along 13th street, in mid-block, between M and N, two blocks above Massachusetts Avenue.

The building was built in 1950 in an unadorned modernist style that was popular at the time. It currently has a brick facade, and pre-cast concrete window eyebrows, if you will, accents that run across most of the front facade windows.

It has a garage level, as mentioned, below which is entered from the rear alley to the side. It also has an on-site loading dock accessible from the southern alley.

On the property is existing fire exits from below grade coming up through the alley level. It is approximately 70,900 square feet, it has an FAR of 5.07, it is 85.57 feet tall.

The building has numerous roof structures at varying heights, sizes, and various states of repair.

Zivik and Hurdle was charged with turning this property -- converting this property into a moderate priced suite style hotel, which is

defined in the industry these days as guest rooms having kitchenettes, and some with one bedroom separate areas.

Amenities that would go into such a hotel would be a fitness center, a business -- excuse me, a fitness room, a business center, guest laundry and breakfast areas.

Our task was also to upgrade the exterior so it could be recognized as a hotel in the traditional sense, also improving the exterior to be a better neighbor to some of the renovated properties around it; to unify the roof structure, and to renovate the interiors of the building with as little structural modification as possible, due to budgetary constraints.

As you can see in the first floor plan, and the color key is yellow represents public spaces, blue represents the back of house administrative spaces.

The first floor is, in fact, the lobby floor is two and a half feet above grade, and then another foot and a half up to the actual main level where the access to the rooms are.

That was, of course, a challenge from an accessibility perspective, handicapped accessibility. We, in fact, have addressed that by

opening up an area of the building previously not accessible to the rest of the building. It was built originally, I believe, as a drugstore, as an accessory use. And now we are going to bring the disabled through that, because it is at grade level, whereas this main entrance is not, provide handicap lift up to the main level, to the front desk area, and all of the amenities that are behind that.

We have added a revolving door, trying to increase the lobby are a to be more generous, which it currently is not. We, of course, would be introducing new interior finishes compatible with hotels. A front desk over on the left-hand side, with administrative offices behind, a fitness room behind the corridor, with guest laundry, function rooms.

There is an existing kitchen, currently, and proposing an upgrade to the existing restaurant.

One of the key elements in moderate lodging today in suites is to have a dedicated breakfast area for continental breakfasts, which we have pulled to the front of the building, giving a visibility to the street, opening up the windows, and so forth, and creating some circulation down there with a new stair into this lower level.

On the typical floors --

MS. KING: Excuse me?

MR. HURDLE: Yes?

MS. KING: Could I ask a question?

MR. HURDLE: Please.

MS. KING: I see a 30 place dining room. Is that what you are referring to as the breakfast room?

MR. HURDLE: No, ma'am. The breakfast, that 30 place dining room is the existing dining room that is in the rear here.

MS. KING: But you have --

MR. HURDLE: The breakfast area is slightly different in that it only serves a continental breakfast at limited times in the morning.

MS. KING: And you are saying that that large room at the back only seats 30 people?

MR. HURDLE: Yes, I believe that is what we are planning on, 30 at this point. It probably has capacity for greater --

MS. KING: Twenty one times four is eighty four.

MR. COLLINS: Ms. King, the hotel requirement, the definition of a hotel is that it seat at least 30 persons in the dining room. So we have used 30 as the operating number. It may, in

fact, seat more, but it can't seat less.

MS. KING: Okay, okay. And so the function, you have the -- and I mean, I'm just -- I made notes on what you were asking for, you say two functions rooms, but it looks to me as if you had -- I see, those are the two small meeting rooms?

MR. HURDLE: Yes, board room style facilities, this one and that one.

MS. KING: And then this large room could be a ballroom, a dining room, whatever, is that it? And will meals be served there three times a day, or twice a day, in the dining room?

MR. MILLER: Yes, we will have the capacity to serve meals there three times a day. It is a full commercial kitchen setup that was setup there for the CRF, and our intention in operating the hotel is to serve three meals per day to primarily hotel residents.

MS. KING: I see, okay. Primarily hotel residents?

MR. MILLER: Hotel guests, I should say.

MS. KING: For transients, not for residents?

MR. MILLER: For guests, I just misspoke. It is for guests of the hotel, the food services are for just the guests of the hotel.

MS. KING: But this isn't a residential hotel where people will rent suites and live there year round?

MR. MILLER: This is not an extended stay property, this is a transient hotel, yes.

MS. KING: Okay, thank you.

MR. HURDLE: There is a distinction in the market, today, between extended stay and suites hotels.

MS. KING: I know, I know. It is a very sensitive one, I know, for the community. And I just --

MR. HURDLE: We know.

MS. KING: -- we were having here.

MR. HURDLE: And you will see, by the typical floor plan, it had 16 apartments on a typical floor, and they convert well to a suite style hotel, because of their size. They have the square footage, and the fact that they all have small kitchenettes, pullman type kitchens, and most of them, there is several, three to be exact, one bedroom suites that currently exist as one bedroom rooms, which have full kitchen spaces in them.

However, those are a bit more upscale, will become the more upscale and higher priced rooms in that property when completed.

We have also added a vending area which, of course, is typical to most hotel properties, and we also have a need for linen closets scattered along the floor for maid service, and janitor's closets, and laundry chutes.

The roof plan is a little bit of an interesting design problem because we have three roof structures up there of different heights, and different states of repair, as we mentioned. The elevator machine room is to the north stairwell to the roof, in the middle, and down in this area is the incinerator stack which will, is no longer in use, but needs repair.

The incinerator stack has a metal cap on it, screen, I'm sure which was rash, and so forth in the past, which we would propose to remove, as well as unify these structures with an enclosure wall outlined here. You can see the door, perhaps, which connects those in a uniform height.

These structures, at their highest, are 13 foot 6 in height. We would make this one uniform wall of 13 foot 6, and combine them all together. The one wrinkle in this particular concept is that at this point in the southern side we are non-conforming and set back, and we would ask for a leniency on that particular point, because we think

that this is a much needed improvement, being so visible from the south coming up 13th street.

We, of course --

MS. KING: Excuse me, was that last an amendment to your application?

MR. HURDLE: No. We feel that the Board has the authority to, under Section 512.4, to require us to provide screening, appropriate screening of those things on the roof structure. We have two choices, we either put them up, or don't. And we think it is a better solution to have it there.

We think that we are a better neighbor for doing so. While I have this elevation up I will point to the dash lines that you ca perhaps see at your desk better, but they represent the varying heights, the screen of the incinerator stack being the tallest one, which we would like to eliminate all together. So that will bring the uniform wall at 13 foot 6, down to a reasonable height.

We would also like to articulate it slightly with a bit of a cornice up there. The material that you see illustrated here is primarily an Iffus exterior finish, cementations finish product, which we would use over most of the building. We would put it up on the penthouse, or

the enclosure, as well.

We are trying to invoke the classic traditional image of an in-town hotel with this design. We are trying to assemble those elements, such as revolving door, awnings, canopy, cornices, things that have been reminiscent and associated with hotels for quite some time, try to reproduce these out of the iffus finish material, and to bring this to a recognizable state.

We think that the 1950s image is not compatible with the hotel, it is one of very horizontal proportions. We took the opposite tact and are trying to express the verticality of the building with the pilasters in the body of the building, creating a base with a water table at grade, and then with the use of cornices create the top, or the capital of the building there.

Now, the -- you also will notice that there are louvers which will be new, and associated with the air conditioning, heat pump, that will be put into each one of the rooms.

We, color-wise, we would like to see a heavier darker brown on the bottom, perhaps medium brown in nature, a light brown in the center, and the crown being of a sand color.

The southern exposure, this is from the

alley, but very visible, coming up 13th street, would be detailed the same way. Again, we would have the iffus finish covering the entire elevation, right back to the rear alley, same color scheme.

Here you can see the accessible entrance that we are proposing, new storefront, colored storefront, dark green, to be exact. This is the fire escape railing, which we would like to revise and bring new railings there. A little bit of detail at grade level.

And, generally, keep the same theme, until we get to the back corner of the building. The existing building, as mentioned, is brick. We would not plan on putting any new finishes on the eastern side of the building, as it backs onto another building across the alley.

On the northern exposure, at the suggestion of the Office of Planning, we brought the iffus finishes back 45 feet to a natural break in the building. At this point, as you can see, if you refer back to the plan, it breaks back about five feet, which would be a perfect place to terminate the new material.

We would like to use the same color scheme, the same detailing, and so forth. The rest of the building, towards the rear, would be the

brick that is currently there, which we would clean and point up, that was required.

The -- back up to the signage for just one moment to show locations that we are proposing on the southern elevation --

MR. BASTIDA: Madam Chairperson, as wearing the hat of the Acting Director, you have said that on the northwest side, those 45 feet, the materials would be identical to the ones that you have proposed on the south facade, correct?

MR. HURDLE: Yes, sir.

MR. BASTIDA: Okay, thank you. It is depicted on the drawings as such, but I just wanted to be sure it was on the record.

MR. HURDLE: It seems that that is visible in between the Arthur Cotton Moore building right beside, there is very much of it we can see back to that point, so we agree that it is very much important.

MR. BASTIDA: Thank you.

MR. CLARENS: What is the relationship between the brick that you are using for the center element of the front facade, and the existing brick of the building?

MR. HURDLE: On the front facade we would have no brick exposed, that would be entirely

covered on this facade.

MR. CLARENS: You are stuccoing the entire facade?

MR. HURDLE: On the front and on the south, yes.

MR. CLARENS: I see.

MR. HURDLE: And that brick is currently a sandy color, so --

MR. CLARENS: And the reason for that is that you are covering the illumination of the eyebrows, and all that kind of thing?

MR. HURDLE: Yes, I think in order to -- those eyebrows stick out anywhere from four to six inches.

MR. CLARENS: But they will be taken out?

MR. HURDLE: They will either be taken out or disguised by the fact that this material is butting right up to it, but we are no longer going to be using them as a design element.

MR. CLARENS: I see. So is a dry bit type of job?

MR. HURDLE: Yes, it is.

The signage on the front elevation that we are proposing to have on the front face of the two awnings that we are proposing at the lobby, and

also at the front of the canopy itself. This canopy being methyl, perhaps in a dark green color, with some very distinguished signage, perhaps backlit, would be very attractive and discreet.

On the south elevation we are proposing a self-illuminated sign at the eighth level, very appropriate place, between some windows. Brand criteria for hotels, as you know, is strict, and there will be requirements based on which franchise the partnership goes with. But this is a well located sign for visibility from 13th street.

The -- we believe that this project is consistent with the rest of the neighborhood because of its colors, its mixture of details that we are trying to introduce here. We surveyed the rest of the area, we feel that those details are reminiscent of what is going on around the building.

It is, decidedly, more traditional in nature than modernist, and we believe that that is an appropriate response.

I think in conclusion here, the building is in accordance with section 512.3, the height, bulk and design, because we have not altered the height with the proposed modifications. We have purposely reduced the bulk of the building by trying to introduce the vertical rather than horizontal.

And the nature of the design elements, the cornices, the articulation of the water table, and so forth, is similar to that in the surrounding neighborhood.

We believe that building is in accordance with section 512.4. The building set backs and signs, because the proposed screen wall that we have designed will unify the roof structures, as opposed to making them more prominent. We feel that unifying them behind one wall will, in fact, decrease their visibility, and would certainly look better.

And the sign locations that we are proposing are compatible with the height, and the size, and locations of those hotels that are immediately surrounding this building.

And, lastly, the building is in accordance with 512.6, the gross floor area of the function rooms does not exceed 15 percent, as the two rooms that we have shown you total 935 square feet, which is approximately 1.3 percent of the gross.

Thank you.

MS. KING: Since the issue of the signage has been raised, should I wait for Mr. Bastida, wearing his OP hat to make his report, or

should I ask him, now, what he objects to?

CHAIRPERSON REID: That was the concern I had too, Ms. King, and I thought that once Mr. Bastida made his report he could clarify what the objection was, what he was referring to.

Mr. Clarence? Just a second please, before you leave Mr. Clarence has --

MR. CLARENS: Leave your things up there. Just a couple of questions. The -- let me see how I can phrase them. The three partite scheme of the three levels that you have indicated show a three colors, as you described it, brown and then the sort of more reddish, sort of buff, and then the yellow, or lighter color.

And my concern is with wrapping this building on two and a half sides with this scheme. And I understand the arguments, that the back goes to an alley, and that you can't see that, etcetera, etcetera, and then the other side is covered by another building, and you don't quite see it.

But I'm wondering if the brick that is existing in the building, two things, either -- what would be the problem with letting some of the brick that is existing in the building become that middle band to some degree, so that there is a little bit more continuity between those areas that you are not

touching, or that you are doing little to, and the new scheme?

Or on the other side of the coin, if you have done any value engineering as to the benefits to your client, as to continuing the wrapping of the building for energy purposes, I'm assuming that you are using some sort of insulating panel to apply the synthetic stucco on.

So assuming that that is the case, would there be any energy savings that would offset the initial costs? And I understand the initial cost is always an issue, and where you are borrowing money, and all that kind of thing, and it increases the cost, but it would make the building -- we don't know when other buildings are torn down, and we don't know, you know, what happens, and where the views are, etcetera, etcetera.

And I'm troubled with a building that, going through this major renovation, this changing and bringing it up to date, and using fairly sound principles of design, it is kind of a patchwork. It goes and does it just for what is seen.

But the moment that you turn the corner, when in fact that is not how we perceive things in an urban environment, we walk around it, with a peephole getting and looking at the building from

the alley at a corner.

And it seems to me that we dress up this, we come to the corner, and then we don't do anything on this facade. Somehow if the brick could make it around the corner, or if we could wrap the whole thing in a simplified manner, but somehow wrap the whole thing with the stucco, the building would have a little more integrity.

That is -- those are comments you may want to address them and talk about them.

MR. HURDLE: I would like to address one of those comments. The brick is in fair repair, currently. It is a glazed brick, which makes painting or changing the color of that difficult to keep a lasting painted surface on that.

That was our primary concern. We did look at the option that you speak of, we thought that it would be a nice way of tying all four facades together by letting some of that come through.

The issue of pointing up the brick is one, but secondarily, but most important visually is the color. The brick is something we would like to change entirely. We would like not to refer to the old building any longer with this new design.

However, painting it, changing the

surface of it, is likely a maintenance problem for the future. It would look great initially, the paint would continue to come off, as you know.

I think that building in a maintenance issue like that we have built ourselves an eyesore, perhaps a problem in the future.

So that is why we did not pursue that in the front facade, and we are gearing the colors that we selected with the iffus to something that at least will be compatible with the sandy color that it currently is on the back and side facade.

Value engineering, in terms of the insulation value of that wrapped around the building we did not perform. We, of course, were concerned about initial cost, and meeting their budgetary expectations.

MR. MILLER: We would be happy to explore the furtherance of the value engineering. And clearly Dick is correct, he was looking just to do the front piece, or the required pieces, based on our initial cost limitations.

One of the things that makes this project attractive to all the involved parties, from a development perspective, is we have the capacity to provide, assuming we can limit our initial cost, and just make major upgrades to mechanicals, some

first floor upgrades, and the remaining being primarily cosmetic, we have the capacity to provide a product which is suitable for the mid-price level in a downtown environment, with a limited service type of hotel, which is a pretty unique product, in the downtown area where a family of four, economy scale travel, can come and stay downtown within walking distance of the downtown attractions.

We have been very cautious in looking at the initial cost on this, that we don't place ourselves out of that market, so to speak, and into a more upscale market that won't meet the very objective we are trying to meet from a marketing perspective on this thing.

Clearly we would further explore the value engineering piece of this which, you know, we would look at closely with Dick, to see how the long-term effect on our cost really shook out on it.

But that was our primary objective in --

MR. CLARENS: Owning the, the intent is for you to own the property and lease it to an operator?

MR. MILLER: We will actually own the property, and we will contract the management services to an operator. We will maintain ownership and the operator will come in as a contractor, and

they will manage the building for us.

MR. CLARENS: Well, as I said, obviously I don't want to go too far in that direction, because this is a zoning variance case. But it seems to me that because design becomes an issue, and it has become an issue in your presentation, it is a special exception, so it even increases the concern, that given that you are already going to incur some costs in the pointing of the brick, of the existing brick, and that you will own the building, and that the installation of the outer insulation system will produce savings to you in the running of the building, that might either go to the benefit of exactly what you are talking about, the cost of operation of the building, that it might very well be something that should be contemplated.

I'm not sure, exactly, how we as a Board are going to interact with that, but I'm just bringing it to the table. Less cost, less detail, a simplified idea, but that gives it some unity, and we don't have this building that has this mask applied to it.

CHAIRPERSON REID: Okay, thank you very much.

MR. COLLINS: The final witness is Mr. Osborne George, O.R. George and Associates.

MR. GEORGE: Good morning Madam Chair and Members of the Board. I'm Osborne George with address at 1748 Elton Road in Silver Springs, Maryland.

At the request of the applicant we undertook a study to assess the traffic access and parking needs, as well as the potential impacts of the proposed use which has been described for you.

We were to determine whether the use complies with section 512.9 and 512.10 of the zoning regulations 11 DCMR. We have concluded that the proposed use satisfies both of those sections, and we documented our findings and the basis for those findings in a lengthy traffic report which is in exhibit L of your package.

The primary reasons for those favorable assessments are, of course, related to the location of the property within proximity to the central employment area, within proximity to two metro area stations, and considering the proposed uses and means of access which would be primarily via taxi, transit, and of considerable level of pedestrian activity.

With regard to parking the applicant proposes valet service under which the 24 parking spaces within the basement level of the hotel would

be expanded to 30. The parking plan is indicated on page 15 of your report.

We think that it is an efficient one. Half of the spaces could be accessed without moving any vehicles, over 20 spaces could be accessed by moving a single vehicle.

So we think it is an efficient one, that the valet service would be one that would provide value and efficiency to the parking operations.

For these basic reasons we have concluded that the proposed use satisfies both of those sections, and that the project would not cause adverse impact from the perspective of traffic, access, as well as for parking.

Thank you, I would be glad to answer any questions.

CHAIRPERSON REID: Thank you.

MR. COLLINS: Excuse me, one housekeeping item. Mr. George has appeared here in numerous times as an expert witness, I ask that he be so considered.

CHAIRPERSON REID: Mr. George has certainly been here, and we are very familiar with his expertise in this area, and he will certainly be recognized as an expert.

MR. GILREATH: I have a question. On

the elevation level, we have to close the lane on 13th street for the materials being removed and so forth, or can this be accommodated in the alleys?

MR. GEORGE: That is a detail that I would defer, perhaps, Mr. Hurdle, or --

MR. MILLER: Could you repeat that question? I just didn't hear it.

MR. GILREATH: As you remove materials, I know some buildings have these chutes coming down, and they have to have some kind of dumpsters. During the construction phase will 13th street be affected, or can this be accommodated in the alleys?

MR. MILLER: This will all be able to be accommodated in the alleys, and one of the main reasons, there is no massive moving of materials on this project from upper floors. All of the configurations are staying exactly as they are.

MS. KING: Could I ask a question? Mr. George, the 30 spaces you feel are adequate to the population of transients who will be guests at the hotel?

MR. GEORGE: Yes.

MS. KING: But there are two meeting rooms, and there is also a dining room ballroom on the architect's rendering showed that it had seating capacity of 84.

Do you think there will be an adverse impact on the neighborhood if there are large functions in that room, or in those rooms, that will draw people who are not staying at the hotel to the hotel?

MR. GEORGE: We think the answer is yes, and the basis for that answer is that we have done a survey of the parking facilities, both on street and off street, within what we define as the parking impact area, and that is indicated on page 10 of your report, which covers the area from Massachusetts Avenue to N, to O Street, and 12th Street to the east to Vermont Avenue to the west.

There are a total of over 320 parking spaces within that area, on street parking spaces, with its service both during the period when the residential occupancy would occur, that is before 7 o'clock in the morning, as well as during the period when peak business type of parking demand would be generated between 10 a.m. and 3 p.m.

We find that even currently roughly 70 percent of the parking spaces are occupied, a number of them are even unmetered spaces. So we think that type of availability of parking within the area would be adequate to accommodate the overflow demand.

MS. KING: Fine, thank you very much.

MR. COLLINS: Unless there are any further questions that ends our presentation in chief.

CHAIRPERSON REID: Thank you. We will now have the report from the Office of Planning, the government report.

MR. BASTIDA: Good morning Madam Chairperson, again, Alberto Bastida with the D.C. Office of Planning.

Madam Chair, I apologize, but I was out of the room when I should have been sworn in, could I be sworn in?

(WHEREUPON THE WITNESS WAS SWORN IN.)

MR. BASTIDA: The applicant has drawn a very good presentation, so I'm going to present my report very briefly. This report has a site and area description, existing zoning analysis of the proposal, and then it goes through all the items on the zoning regulation that apply, 12.1, and we believe that the applicant complies with 512.1, 2, 3, 5 -- I mean partially with 4, 5, 6, 7, 8, 9, 10, and 3108.1.

The Office of Planning's main concern is, and the Office of Planning concurs with the Applicant on the signage issue. But our concern is

with the signage of the hotel on the south side.

And we concur with the Applicant, with the Travelodge signage, that it is also on their south facade, that definitely has a very negative impact in the area, and it is very obvious if you go through a site visit.

And that is the one that the Office of Planning is concerned about. The proposed signage along 13th Street the Office of Planning has no concerns, or problems with that.

If you look at the majority of the hotels in Washington, D.C. the signage is rather unobtrusive and quiet. And basically that is why the Office of Planning, when it makes its recommendation, to approve this application with two conditions, the signage, and it is only the signage on the eighth floor of the south facade, and that in fact the valet parking is provided around the clock, 365 days a year.

MS. KING: Which they have agreed to, already.

MR. BASTIDA: Well, but I mean, I'm just presenting my report.

MS. KING: Yes.

MR. BASTIDA: Regarding the facade and the embellishments that the applicant has provided,

when they came to see us they did not have any upgrading on the north elevation.

I did two site visits, one during the daytime and one in the evening, and I determined that the north facade needed certain improvements, and the applicant has provided those, which I am very pleased about.

The other section of the north facade is not as ready visible from a -- if you are driving, or just walking along 13th street. Perhaps the compromise that Mr. Clarens feels strongly about, it would be just extending the three cornices around the building, and wrap it around, because that will give it a continuity, and it will express a tripartite sort of architecture that is very appropriate of Washington, and Washington is known for that, and would provide that -- a resemblance of such, and a continuity to the rest of the facade.

I don't know if that is feasible, or economically, for the applicant to do.

That concludes the presentation of the Office of Planning. Just recapping, we recommend approval of this applicant, we recommend the Board deny the signage on the south wall, south facade of the building, and that, again, I'm repeating myself, that the valet parking around the clock and 365 days

a year be provided.

CHAIRPERSON REID: Mr. Bastida, I'm not clear on what is the rationale for the objection to the signage on the south side of the building?

MR. BASTIDA: It is so tall, it is up high, it is -- it doesn't follow the character of the neighborhood, it doesn't fit within the character of the majority of the hotels in Washington, D.C., and if you were to drive by and see the Travelodge facade you will see how, for lack of a better word, gettoish it looks.

CHAIRPERSON REID: We have pictures.

MR. BASTIDA: The pictures look much better than the reality.

CHAIRPERSON REID: So what, then, is the recommendation?

MR. BASTIDA: That they be eliminated.

CHAIRPERSON REID: That there would be no sign on the building?

MR. BASTIDA: On the south side.

MS. KING: On the facade that faces 13th street, they would have everything that they asked for, it is just that on the side of the building.

CHAIRPERSON REID: Is that what you are saying, that the sign is only on the south, or also on the --

MR. BASTIDA: Our objection is only to the signage on the south facade of the building.

CHAIRPERSON REID: Is there a sign on the front?

MR. BASTIDA: We don't have any objection to those three signage.

CHAIRPERSON REID: So there are three signs?

MR. BASTIDA: On the front.

CHAIRPERSON REID: And your only objection is to the one that is on the south side?

MR. BASTIDA: Proposed there are four signs, there are three in the front, and the Office of Planning has no objection to that. The only -- only the fourth sign, on the south side of the building, the Office of Planning has a strong reservations about.

CHAIRPERSON REID: Because it looks gettoish?

MR. BASTIDA: It just looks out of character with the neighborhood, and it will have. in the Office of Planning's opinion, a detrimental impact on the neighborhood.

CHAIRPERSON REID: The other three signs, are they the same as the one that is on the south side, is there any difference?

MR. BASTIDA: Yes, it is the prominence and the difference of how it will be, and how it will affect as you drive on the northbound direction along 13th street.

CHAIRPERSON REID: So the one on the south side --

MR. BASTIDA: Is the long facade that --

CHAIRPERSON REID: Is the larger? The one on the south side is the larger sign?

MR. BASTIDA: Correct.

MS. KING: What they propose here is that over here, here, and here, they will have a sign saying, this is whatever the hotel name is, and then they will have a billboard on the side.

CHAIRPERSON REID: I know that is what I was asking about. The signs on the front are okay, but the sign on the southside you think that is just not appropriate?

MR. BASTIDA: I think that if that sign were to be put up it would have a detrimental impact on the neighborhood, and the character of the neighborhood, and the residents of the area, and based on the zoning regulations regarding potential negative impact, the Office of Planning is saying that that sign will be denied.

CHAIRPERSON REID: You said that that

sign was obtrusive?

MR. BASTIDA: Yes, obtrusive to the character of the neighborhood.

MR. COLLINS: Madam Chair, Mr. Hurdle has put up the south facade.

CHAIRPERSON REID: I have it. We also have it here.

MR. CLARENS: And the difficulty with -- is not only that there will be a sign which has been sort of discretely shown, but that in fact that sign will probably be the logo of the hotel operator chain. So it will have a big, whatever it is, S or whatever.

MR. BASTIDA: And it would be lit, and it becomes very prominent.

CHAIRPERSON REID: Now, looking at the other pictures of signage, on other buildings like the Travelodge, and also the Wyndham building, are we saying then, that this sign is more obtrusive than these signs that are on these other existing hotels?

MR. BASTIDA: Those signs I don't know how they were approved, but this is another Board, and the Board has the prerogative to determine if it has a negative impact on the character of the neighborhood.

I believe that all the signs that are shown there, in fact, are deleterious to the character of Washington, D.C. and those areas, and I think that the majority of those hotels are not in the food chain up, the food ladder.

And we are trying to provide here a hotel that, in fact, will be of some prominence, and it will have a more elegant character. And I think that that sign contradicts that.

And the examples associated with it, in fact, reaffirm the conclusion of the Office of Planning.

CHAIRPERSON REID: You know, I'm really not fully familiar with the criterion for signs for various types of buildings, particularly hotels. So from my vantage point of looking at it, I don't have the type of critical eye.

I don't know what, I mean, what is the criteria in this city for signs for hotels? I don't know, I don't have a measuring stick by which to judge.

MR. BASTIDA: Well, if I may? I think that if you go around the city, and look at the hotels, you will see how unobtrusive the hotel signs are. And the better quality hotels, the more unobtrusive those signs are, and so on.

And this is something that is bringing up the neighborhood. How are we going to clutter with signage that is associated with suburbia, and is associated with lower scale sort of hotels, which is what is basicaly depicted on those pictures.

And if you go in the evenings, in the late afternoon, and see the Travelodge sign, you will be able to determine, very easily, what I'm trying to put into words, which is all visual.

CHAIRPERSON REID: So you are saying, basically, that that type of signage departs from the type of signage that you typically would see in an upscale type of hotel?

MR. BASTIDA: I don't say upscale, because this is not upscale. But it is up the food ladders. So I think that this sort of sign is associated more with the lower end of the hotel industry.

CHAIRPERSON REID: Okay.

MR. COLLINS: The signage size is addressed in the building code, that is where it is governed, and it is based upon the linear footage of the building in relation to the permitted square footage amount of sign.

I mean, the square footage that is permitted on this building, I don't have the

numbers, but it is much greater than the signs that we are proposing, that is first of all.

And second of all, if you look at the photo on page 27 of our statement, specifically the Travelodge one, there is an issue taken with that, our sign which is on the south elevation drawing that is up on the easel is probably, if you look at that Travelodge sign, the one that faces more directly to the eye, that is the south facing side.

That Travelodge sign is maybe one and a half to two times as large as the one that we are proposing here. So it is not quite, the Travelodge sign is much larger than the one that we are proposing, and there is two of them at the top. Actually there is three.

CHAIRPERSON REID: So let me understand this. The signage is in compliance with the building codes?

MR. COLLINS: Yes, it is.

CHAIRPERSON REID: And the objection that -- with OP is a matter of aesthetics, is that correct? MR. BASTIDA: The environmental impact to the area. If I may?

There are matter of rights that by which large signage can be used, and in all hotels in the city. The preponderance of the hotels choose not to

use what is permitted under the regulations, because they feel that it is detrimental to their character.

Accordingly, this is in front of the Board for a special exception, so we can be more stringent on the way that it is determined, makes a determination, because the Board can determine that, in fact, it has a deleterious impact to the neighborhood, and accordingly it is one of the criteria that you have to use, you then can determine that that signage is not appropriate.

I didn't want to get into the sizes and so on. The problem is the prominence of those signs when they are backlit, and they are colored, and there are certain things associated with it, that they cannot establish right now, because they don't know who the operator is going to be.

And usually those signs in the design -- well, let me not go there, are detrimental to the character, the quiet character of the District of Columbia.

MR. CLARENS: Madam Chairperson, if I may. Let me kind of go for a compromise here so we can move on. I'm particularly in agreement with the backlit -- with the objection to the backlit sign. I think a backlit sign should not be approved by this board.

Although I see that perhaps there is a way of allowing a sign which could be lit from a source located as a projection from the building, and that would be a sign of limited size.

Now, what -- how we are going to determine that size that is something that I haven't gone that far. But it seems to me that we would like to hear from the applicant what is the sign that has been shown on the application, what will be the minimum size of sign that they would be willing to live with, and then recommend to the Board that a minimum sign be approved not to be backlit, but to be lit from the outside, which will -- it is --

The reason that I'm recommending this way is that I think that for the type of market that this project is proposing some of this travelers will come by automobile, and as you negotiate the city of Washington looking for a place where you are going to stay, as you are arriving, the signage which is located eight stories, or seven stories, or however high it is, might be helpful.

But I agree 100 percent with the Office of Planning that a backlit sign is inappropriate to downtown Washington, D.C., and we should not be, in spite of what is already there, which we have no control, we do have control over this, and we should

suggest that we do it that way.

MR. BASTIDA: If I may?

CHAIRPERSON REID: Okay.

MR. BASTIDA: If the Board so chooses, the Office of Planning would be glad to work with the application to try to provide something to the Board prior to the next decision date.

MS. KING: I think that they are in some haste to receive a decision before the Zoning Commission changes the zoning.

MR. BASTIDA: That is not a problem because the SP will not be heard until May --

MS. KING: 1st?

MR. BASTIDA: No, it was April 1st, now it is the 6th of May. So there is not really a concern that that is going to happen, because your decision will take place before that.

And rather than try to design something quickly, and so on, in the design process something that is thought out usually turns out to be better. But that is the decision of the Board.

CHAIRPERSON REID: You have explained your position, Mr. Bastida, I understand very clearly what the intent was as far as the Office of Planning is concerned, and that point is well taken, but I also concur with Mr. Clarens in that a part of

our objective is to try to make, or to bring about a more friendly city, and that people or persons coming particularly from the airport would be looking for a hotel, and a sign would certainly be nice to see in trying to negotiate the directions.

However, I do believe that there can be some modification to something less obtrusive, particularly in regards to the lighting, and I can certainly see your point with the backlighting. But a softer type of lighting, illumination, that would be -- would achieve the same objective, but would not have, would be a, more serving to the aesthetic of that particular area, coming downtown.

So I would think, then, that the Applicant worked out, or made some ultimate suggestions with the signage, so that you would be able to have a sign, but at the same time you would also compromise with the Office of Planning to present it in such a way that it would be more meaningful, or less obtrusive, or not deleterious to -- not have a deleterious impact on that particular area.

MR. BASTIDA: Madam Chairperson, that is exactly what I was trying to do, I'm trying to offer the Office of Planning the ability to work with the applicant to do exactly what you just stated, and

what Mr. Clarens wants, rather than having it designed on two seconds, and presented, is to give the applicant the ability, the opportunity to really think it out and make sure that the type of light, and the type of the sign will not be deleterious to the area. I would conclude with that.

MR. COLLINS: Madam Chair, I think that there should be some kind of sign there. In terms of the lighting, as long as there is sufficient visibility to potential customer/client, I think that is fine.

But to have some kind of lighting to the point that it is not readily visible would be a mistake. Whatever can be achieved on that will have to be, basically, visible to the potential customer to the hotel.

MR. GILREATH: I would like to hear from the applicant. I think this is a very doable type of thing. Yes?

MR. MILLER: One point we are thinking is, we have, we share the objective with the Office of Planning of improving the general perception of the neighborhood, and not contributing to the junking up of the neighborhood, or neon signs, or large backlit signs. We share that exact same objective, and that is one of the pieces that is

critical to creating this as a mid-priced hotel, as opposed to a budget oriented, or a Motel 6, or something along those lines.

As we look at the -- as we look at our signage options and further defining the options, there are if you look at exhibit K, where we show the signage, the signage as is shown on the Wyndham sign, as opposed to the Travelodge sign, where you don't end up with a backlit block, but you end up with backlit lettering, which provides a less -- maybe a more upscale look, or provides a fancier look that is less damaging to the overall neighborhood.

We would certainly look at doing, you know, something along those lines, or horizontal of course, but something along those lines. Along the lines of something like the Wyndham sign, as opposed to the Travelodge sign.

MS. KING: And that is on the -- the Wyndham side is on the facade, the front facade of the building, or the side facade?

MR. MILLER: That is on the front facade of that building, and that building is surrounded on both sides by other buildings, there is only a front facade.

CHAIRPERSON REID: So you are saying

that you would then do a vertical?

MR. MILLER: No, I'm actually just pointing to the lettering, the backlit --

CHAIRPERSON REID: Well, I think it is not so much the lettering, it is the lighting, the illumination.

MR. MILLER: Yes, the backlighting of the individual letters as opposed to the backlighting of a block sign, for example.

CHAIRPERSON REID: I see what you are saying.

MR. BASTIDA: But it is still a backlit sign.

CHAIRPERSON REID: Even though that would be softer, couldn't you, with your sign, have some type of illumination that would -- some type of device that would illuminate your sign adequately without it being backlit? It is the same objective, but just coming in from a different angle.

MR. MILLER: That was one of the discussions we just had here a moment ago, actually, and the concept of a front lit sign, we think that is difficult to achieve the adequate lighting to maintain, or to build into this, depending on what we are looking for here.

We are open to suggestions on what, you

know, on how a front lit sign would actually, we would be able to achieve the adequate lighting.

CHAIRPERSON REID: What comes to my mind, and of course this is beyond my area of expertise, but off the top of my head comes to mind is where you have light reflecting on signs, very clearly, so that you still have the same effect, it is a reflection rather than a backlit. That is what comes to my mind.

MR. GILREATH: Don't motels and so forth, they just have some kind of a front illumination?

CHAIRPERSON REID: Motels usually have the backlit sign.

MS. KING: Madam Chair, I suggest that we defer this issue and ask the applicants, after consulting with the Office of Policy to come back with a very specific plan that we can approve before we take final action on this, whatever final action is taken on it.

CHAIRPERSON REID: Some alternatives, just to present a solution that --

MR. CLARENS: You want alternatives?

CHAIRPERSON REID: No, what I was thinking was that when they confer with the Office of Planning is that they bring some alternative type

of signage that would be --

MS. KING: But we are not the client, I mean, they present us, and we say yes or no, I don't think that we should be designing their building.

CHAIRPERSON REID: Mr. Bastida has proffered that they meet with the Office of Planning and develop together something that would be in keeping with what would be most suitable --

MS. KING: And that would be presented to us before we take a vote on the project?

CHAIRPERSON REID: Certainly what they come up with is what we would vote on, obviously we can't vote on two or three different things.

MR. CLARENS: So the idea, then, is to get the client to work with the -- or the applicant to work with the Office of Planning?

CHAIRPERSON REID: Yes.

MR. CLARENS: In developing a smaller and more appropriately lit sign?

CHAIRPERSON REID: I think that is very doable, and I think that the suggestions that have been made, or the suggestion from the Office of Planning is one that once the solution has been arrived at, will be something that everyone would be happy with, and their suggestion is something that would be even an asset to your building, ultimately,

because of the whole aspect of it being downtown, and what you want to portray there on that particular site.

MR. COLLINS: One point of clarification, Mr. Clarens mentioned that a smaller sign, if we do another type of illumination may have to, in fact, be a larger sign so that it can be adequately seen. As Mr. Gilreath was saying, whatever the sign is, it has to be something that --

CHAIRPERSON REID: Again, you said that you were within the building code --

MR. COLLINS: Right.

CHAIRPERSON REID: -- and it is smaller than what is allowed, so I guess some type of compromise of the size and the lighting to satisfy what your objective is, as well as the Office of Planning, which basically speaks on behalf of the city.

MR. GILREATH: What they will present is not going to be alternatives --

CHAIRPERSON REID: No.

MR. GILREATH: -- I think it would be a mistake. It is something that you have been able to work out with the Office of Planning, and you have reached an agreement on it, and say, this is what you feel is the minimum you can go with in terms of

reduction of size, or however you do it.

CHAIRPERSON REID: The alternative was, basically Mr. Gilreath, where the negotiation between the Office of Planning and the applicant to come up with a model, or some type of idea, or whatever the ultimate is going to be, to then present to the Board. MR. GILREATH: Well, the presumption there, or assumption is that they will be able to reach an agreement with the Office of Planning. What if the client says, this is the minimum we can go to, and then OOP says, well we feel this is bad for the character of the neighborhood.

CHAIRPERSON REID: Then this is forum by which the decision will be made.

MR. COLLINS: It will need to be a generic sign because we don't know the brand at this point, yet, it is still --

CHAIRPERSON REID: Well, you are going to -- what you are going to submit is going to be, basically, a sample of what will be there --

MR. COLLINS: Right.

CHAIRPERSON REID: -- just basically have the specifications as to what, in fact, you intend to put there.

MR. COLLINS: Exactly.

CHAIRPERSON REID: And the lighting.

MR. COLLINS: And we may use examples to show the different kinds, but we just don't know the sign. So in terms of discussions about alternatives, we may in fact have to show alternatives to see what it would look like if it were a Quality Inn, or --

CHAIRPERSON REID: And I'm sure the Office of Planning will give you suggestions as to what, in fact, would be the most appropriate, okay?

MR. COLLINS: Good.

CHAIRPERSON REID: Are there any questions, or any cross examination for the Office of Planning?

MR. COLLINS: No.

CHAIRPERSON REID: And I didn't ask because of there being no opposition, cross examination for the applicant. But, again, that is certainly, anyone is welcome to do so.

ANC report, we have an ANC report?

MS. KING: Well, we do have an ANC report, Madam Chair. We also have a legal document which is a binding agreement between the applicant, the Logan Circle Community Association, and the Advisory Neighborhood Commission, 2-F, which I presume you would be happy to have incorporated into

our order?

MR. MILLER: Yes.

MS. KING: And bearing that in mind the Commission, at a regularly scheduled public meeting on November 4th, 1998 with a quorum of five of the six Commissioners present voted 5 to nothing in support of the application. They also -- and they referred to the letter of agreement.

CHAIRPERSON REID: Okay, and it is signed by both the Applicant and the Association?

MS. KING: The agreement is signed by the applicant, by Robert Miller, by the Chair of ANC-2F, and by the President of the Logan Circle Community Association. It is my suggestion that we incorporate that into our order.

CHAIRPERSON REID: Okay.

MS. KING: At the appropriate time.

CHAIRPERSON REID: We don't have any other government reports, I don't think.

All right, persons or parties in support of the application?

MR. WILLIAMS: Good morning, Madam Chairperson. My name is Lindsley Williams, I'm appearing here this morning on behalf of my client, the William Calameers Investment Corporation, his partner Steven & Harris, and Mr. Harris in this

connection owned property on the block that is squared to the immediate north square 280, where they have a car wash and a liquor store on 13th Street.

And the purpose of my being here today is to express our support for the application without getting into any of the details; to request that if it is going to have the record be left open, we will submit a letter outlining our support, and leave it at that.

I would comment to you that 13th street is a wide street, which is reflected, I think in the atlas, it is approximately 110 feet from one side to the other. It is a street that flows south at that width from Logan Circle, which is a very significant element in the urban design of the city.

The street is not yet recognized as a special street, within the meaning of that term, under the comprehensive plan, but we believe from other studies that we have done, that it meets the criteria for such a designation, and in that capacity the designation, if it is to be forthcoming, is one that brings with it the recommendation on the part of the Council, in terms of the policies associated with special streets, for the evenness of cornice lines.

This building would be at a variance from other buildings, it pre-existed, but they requested your approval, you heard that this morning, for the enclosing of materials that are now on the roof, and this would be a betterment in that direction.

So we stand in particular support of that aspect of the project.

Second, in terms of the discussion that I have observed, and listened to this morning, you heard a number of comments about the colors, and the new treatments that are going to be provided.

I believe the record in this case may have, they often do, color photographs of adjacent buildings, along with color photographs of the building as it exists right now.

I don't know the term the architect would give to the nature of the brick, there he has the expertise by which to characterize it. I would say that it is not a contributing element to the neighborhood, by any stretch of the imagination.

It is a building that stands adjacent to the building to its immediate north, which is a robust piece of architecture, I will leave it at that.

And the treatment that is being provided

would bring greater harmony to the character of the neighborhood, than it has right now. And we will put the rest of our materials in writing, in a letter, if you leave the record open to receive it.

I believe the record is going to be left open for you to receive other things? Likely that is what I'm anticipating is going to be happening.

If you are going to leave the record open we would like to be able to join it. If you are not going to leave the record open, we will sustain --

CHAIRPERSON REID: It will be left open for the signage.

MR. BASTIDA: Madam Chairperson, on the signage war I forgot to express the Office of Planning strong recommendation for the treatment of the penthouse as proposed, and to be wrapped all around the south facade of the building.

And we concur strongly with that, and would recommend that you consider approval of that section of the building facade.

CHAIRPERSON REID: Persons or parties in opposition to this application?

(No response.)

CHAIRPERSON REID: Being none, closing remarks by the applicant?

MR. COLLINS: Madam Chair, Members of the Board, you have heard the evidence, and testimony, and seen the exhibits indicating how the applicant believes that we meet all the criteria for special exception relief for the hotel in this application.

There is one issue left open, which is a very subjective issue of aesthetics. And whether we can come to agreement with the Office of Planning on the signage plan or not is yet to be seen.

We will endeavor to do that, we will work with Mr. Bastida looking at other examples of different types of signage that is lit, that is visible. To a certain extent, an economic issue. We have the Travelodge next to us which has two very prominent, three very prominent signs at a high elevation.

And this hotel would be in economic competition with that Travelodge, so there needs to be some recognition there that the character of this neighborhood, which is one of the criteria for special exception relief includes that Travelodge that we are trying to, obviously be better than, but also compete with economically.

So with that said, I thank you very much, and we would agree, or I guess we are

anticipating that the record will be left open for certain specific information by a certain date, and we would hope that we could come to this very quickly in terms of our submission, so that we could get a decision in the next month, in the April meeting date.

MR. CLARENS: Madam Chairperson, so my understanding then is that the applicant will get back to us with some specific ideas about this sign, and the lighting of the sign, the size of the sign, as well as some response to my enquiry regarding the continuity of the outside treatment of the building.

I'm not asking you to do it, I'm asking you to look at it and to come back to us with some ideas.

MS. KING: I think that Mr. Clarens earlier remarked that surrounding buildings might disappear over the years, and you would be left with a building that looked half done on one side.

I don't have any trouble with the east facade, whatever it is that is on the alley at the back, but I think that if you are going to do it halfway, and somebody tears down the building next door it is going to give a very odd appearance.

So I do think it would be useful for you to look at the feasibility of having -- on the north

facade. On the east facade I have no problem with, because it is uniform. But to have a facade that is half done and half not done, and the abutting property is torn down, is going to look very odd.

MR. MILLER: I understand, and both the properties, both to the east and to the north are both relatively new properties in the scheme of things, and they are fully occupied properties, they are not abandoned properties.

Also we realize that if one of those buildings were torn down in the future it would probably be to our economic benefit to finish the wrapping of the building at that point, anyhow, just because of the detriment of the way the place would look, basically, to the prospect of getting customers.

CHAIRPERSON REID: Okay. Then this particular case will be decided at our next regularly scheduled meeting, which is April 7th.

MS. KING: Provided you can give us -- it is a meeting, it is not a hearing.

CHAIRPERSON REID: It is a meeting, Mr. Hart. And at that meeting we can make a decision on this particular case. It should be pretty straightforward with the submission of what we have asked for, and the decision can be made. So it can

be put in that particular calendar, I don't think that is a problem.

MR. BASTIDA: Madam Chairperson, maybe you should have a date certain by which time the information should be submitted to the Board.

CHAIRPERSON REID: Mr. Hart, can you please give them a date as to what the submission, when the submissions are due?

MR. COLLINS: Can I suggest the 31st, which is two weeks from today?

CHAIRPERSON REID: Okay, that is fine. Hearing no further questions, then --

MR. COLLINS: And also the letter of support by that date, as well?

CHAIRPERSON REID: Yes, Mr. Williams can submit his letter.

Then that concludes this particular case. Thank you.

We have one more for the morning session.

MR. HART: This is application number 16436 of the New Redeemer Baptist Church, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 for an accessory parking lot (for the church use) for 26 parking spaces in an R-5-A District at premises Rear 5714 Georgia Avenue, N.W.

(Square 2935, Lot 820).

Those persons planning to testify please raise your right hand.

(WHEREUPON, THE WITNESSES WERE SWORN.)

MS. KING: I gather that since are the only two gentlemen who stood there is no opposition to this case, and therefore we can --

MR. GREEN: Madam Chair, Members of the Board, my name is Alton Green, I'm an architect, I reside at 3433 Mount Pleasant Street, N.W.

And this is a member of the church, a board member of the church, Joe Thompson with me, just in case you have any questions, that type of thing.

I have two parts we want to make. One is the parking lot, the issue of the parking lot, and another --

CHAIRPERSON REID: Before you continue, the owner of the property is?

MR. GREEN: The owner of the property, excuse me, is New Redeemer Baptist Church.

CHAIRPERSON REID: Now, do you have a letter from the owner that has authorized -- do you have a letter from the owner?

MR. GREEN: Mr. Rhodes is the pastor of the church, and he has authorized me to serve as the

agent.

CHAIRPERSON REID: Okay, let me just get clear on this. There is a letter from Mr. Rhodes authorizing you to represent, and the gentleman who is going to testify is a board member. Now, where is that letter?

Well, I guess --

MS. KING: The certification is signed by Mr. Green and Mr. Rhodes. Mr. Rhodes is here? Mr. Rhodes is right there.

CHAIRPERSON REID: All right, proceed.

MR. GREEN: I have to make use of the -- I wrote a letter in terms of the fee, asking basically for a waiver of the fee, but let me get to the parking lot first.

The parking lot, and I think you have the drawings, I'm not sure if you have the drawings, is in the rear of the church, surrounded by three outlets. It is an R-5-A district.

I want you to see this. Here is presently, this is the property line of the church here, and the property in question is separated from the church only by this alley, okay?

You could park in this parking lot, which is across the alley from your right. That was the former RiteAid drugstore parking lot, and they

let them use the parking lot on Sundays. RiteAid closed, they moved, so they presently have no parking, no off-street parking.

And, basically the issue here is to accept in a 5-A district for parking for 26 parking spaces.

MS. KING: Where is the curb cut, where do they come in?

MR. GREEN: There is no curb, since this is an alley.

MS. KING: I see. And where do they enter the parking lot?

MR. GREEN: They have the parking spaces here, going into the parking spaces here, right through the property, and also from the alley.

MS. KING: Okay.

MR. GREEN: I did take these drawings to the public works management and they stamped off on the drawing, so there is no problem with store management in terms of our plan.

And basically we feel that we need to have a zoning code that, section 213.

MS. KING: What kind of paving are you going to have there?

MR. GREEN: This would be a blacktop.

MS. KING: Okay. And will it be -- it

will be all weather impervious surface, is that correct?

MR. GREEN: It would be all weather.

MS. KING: Throughout?

MR. GREEN: Throughout.

MS. KING: Okay. And will there be any attendant on the lot, or how are you going to secure it when you are not using it yourselves? I mean, is it going to be available for parking to the public when the church is not using it? How are you going to secure it?

MR. GREEN: No, this is an open parking lot and we --

MS. KING: Anybody who comes along can use it at any time?

MR. GREEN: No, this is just for the church Sunday parking, basically.

MS. KING: So it is going to be secured in some way, chained shut, or you are going to have gates, or what?

MR. GREEN: We haven't proposed any gates for this parking lot. By code we didn't have to have gates, only screen the parking lot from the residential area, which we are doing. The parking lot, as we have it now, there is no fence up there.

CHAIRPERSON REID: Mr. Hart, I'm a

little confused with this because this is Section 213.8 for an exception parking lot. But isn't the accessory parking lot, does that come under 214?

MR. HART: Yes.

CHAIRPERSON REID: So if the --

MR. HART: You are right.

CHAIRPERSON REID: Was it advertised as 213?

MR. HART: It was advertised as 213.

CHAIRPERSON REID: In that instance it doesn't have to be readvertised, or anything, is it okay that it is not 213, it is 214? Mr. Clarens, can I get your input on this?

At issue is this parking lot that has been advertised as a 213 parking lot, but it is actually 214 an accessory parking lot. And it has been advertised as one thing, we are going to be hearing it as something else. I'm not clear on what is correct.

MS. KING: Have you been in touch with ANC-4B, and do you have any kind of communication from them to us?

MR. CLARENS: You posted the property?

MR. THOMPSON: My name is Joe Thompson, I reside at 724 Slider Avenue, Silver Springs, Maryland.

We have been in touch with the ANC, we went to their meeting on Saturday the 13th, and there was no opposition to our doing the parking facility.

MS. KING: But they haven't written a letter to the Board of Zoning Adjustment.

MR. THOMPSON: She stated that she would do so.

MS. KING: Mr. Hart, have we received a letter from the ANC-4B about this matter? Did they send --

MR. HART: Was this yesterday?

MR. THOMPSON: Yes.

MR. HART: I did receive a call, but we -- I did receive a call and spoke to someone that said a letter was going to be faxed to the office yesterday.

MS. KING: In support of this application? MR. HART: In support of the application.

MS. KING: Okay.

CHAIRPERSON REID: They were noticed about this Hearing, and they are not here, and they have sent a letter of support, then we will put on the record that we have a call --

MS. KING: But it is just a memo to 4C,

but this is actually, is it 4B or 4C?

MR. THOMPSON: It is 4B.

MS. KING: B as in boy?

MR. THOMPSON: Yes.

CHAIRPERSON REID: They noticed both 4C and 4B, I guess you were right -- sir, could you come forward please? What you are going to have to do is apparently there was some little snafu in that the section that you are really coming to us under is section 214, so what you need to do is just basically redo this, each one of them, and tell us how you comply with these regulations.

MR. CLARENS: Can you give them a copy so that we don't --

CHAIRPERSON REID: You would look at the same time?

MR. CLARENS: Well, I think we shouldn't, you know, make incomplete our set here.

CHAIRPERSON REID: Well it is just a couple of minutes.

MR. CLARENS: He is going to return it?

CHAIRPERSON REID: We will watch him very carefully.

MR. CLARENS: We don't want to lose a --

MR. GREEN: Okay, first of all, the zoning code that I was using, you know, that could

have been the problem.

CHAIRPERSON REID: I think another thing, too, is that you self-certify, and you self-certified under 213.

MR. GREEN: Right.

CHAIRPERSON REID: And it should have been under 214, and that is one of the problems we have been having with self-certification, that sometimes it is not as proper as they would, had you gone to the zoning administrator to get denied. But, go ahead.

MR. GREEN: Okay. 214 accessory of parking, only build parking spaces with available same, or pilot lot, except for one family dwellings still be permitted in R-1 district, if approved by the Zone Adjustment in accordance with conditions.

214.2, accessory parking spaces shall be in an open area, or in an underground garage, no portion of which, except for access, shall extend above level of the adjusted and finished grade. This is of course, open surface parking.

214.3 accessory parking spaces shall be located in their entirety within 200 feet of the area to which they are -- in which they are accessory. The church is directly across the alley.

214.4, accessory parking spaces shall be

contiguous to, or separated only by an alley, from the use to which they are accessory, which it is, there is an alley, so it is separating the parking lot from the church property.

214.5, are provisions of chapter 23 of this title regulating parking lot shall be complied with, except that a board may be an appropriate case under 2303.3 modify, or waive the conditions specified in 2303.2, where compliance would serve no useful purpose. And it shall be economically impractical, or unsafe, to locate accessory parking spaces within the principal building, or on the same lot on which the building is permitted because of the following, strip zoning, restrictive size of lot caused by -- there is no way you could fit parking spaces on the church for a parking lot.

214.7 accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

As we stated before, we are just moving the parking space from one area across the alley, to another area.

CHAIRPERSON REID: You haven't received

any complaints, or any opposition to your particular application from the community, to your knowledge?

MR. THOMPSON: No, we have not.

MR. GILREATH: I don't know if this the appropriate time for this but what, assuming that we approve this, and you don't chain this or what have you, and then some particular group, persons or whatever, would start using it as parking, and maybe driving up there and using for inappropriate purposes or so forth.

So it seems to be almost a requirement that you have some control of this parking lot during the week, because it could become used for other purposes other than what you would want.

CHAIRPERSON REID: Let's answer it now.

MR. GREEN: Yes, that very well could happen. I guess the church would have to monitor that.

CHAIRPERSON REID: Like a chain, or something like that?

MR. GREEN: A couple of chains, right.

CHAIRPERSON REID: To prevent anyone from parking on it that you don't want to park on the lot during certain hours?

MR. GREEN: Right.

MS. KING: Do you know if in the past

you had any complaints about your existing parking lot, which is just across the alley from this new site, have you had any complaints of, you know, illegal activities going on there when you are not there, or of it being disruptive, or dirty, or anything from your immediate neighbors?

MR. THOMPSON: No, we clean the property about every three months on a regular basis, the members do that. And we have had problems of course, that is problems throughout the city, but we try to eliminate them, you know, as well as we can.

If we see something happening we report it, or call the police to take care of it.

CHAIRPERSON REID: Okay. Are you finished with your presentation?

MR. GREEN: I still have one more.

CHAIRPERSON REID: Okay.

MR. GREEN: 214.4 taking final action on the application for use as an accessory parking space, the Board shall submit the application to the D.C. Department of Public Works for review and report.

And as I said before, I already took it to the Department of Public Works.

CHAIRPERSON REID: You did?

MR. GREEN: And we have approval, you

know, in terms of storm management.

CHAIRPERSON REID: Mr. Clarens?

MR. CLARENS: Do you realize that I believe you need to have 5 percent of the total area of the parking lot dedicated to landscaping?

MR. GREEN: Yes.

MR. CLARENS: And do we have a landscaping plan, have you submitted a landscaping plan?

MR. GREEN: This is what --

CHAIRPERSON REID: Bring it up so that we can take a look at it.

MS. KING: We are going to have to keep it, if it is part of the record.

MR. GREEN: This right here is the -- which comes through, I believe I have it written down here, 5 percent two lane, 88 square feet.

MR. CLARENS: And what is the plan, what is the planting plan for that area?

MR. GREEN: By code we have to put in shrubbery, so this is 42 inches high shrubbery.

MR. CLARENS: We would need to have, and typically we do require the type and the spacing, you know you supply the height, and you are saying shrubbery, and that is fine. But what kind, and what is the spacing of that. And then you are

obligated to maintain that landscaping in place, and in good growing condition.

In addition to that I think that this notion, and it has been my experience in the BZA that the original intention of the lot is obviously well intended, but what happens over time is that the lot, once built, is utilized for all kinds of purposes other than what the church intended.

And the church is not going to be in a position to monitor the use of the lot for 24 hours a day. So I think that this notion of a chain detail would be important for you to consider, and to present the Board with those details, as well as the typical elevation of what that is going to look like.

So that at the times the church is not using the lot it can be chained and prevented from being used for something else. And, also, you do not have an intention to lit the lot?

MR. GREEN: No, there is no intention to light the lot.

MR. CLARENS: Okay. There is some lighting on the back of the building, I believe that would -- but there will be no direct lighting coming from the lot.

MR. GILREATH: Madam Chair, can we go

ahead and take votes on this, or does he have to wait and he has to submit a --

MS. KING: Mr. Clarens --

CHAIRPERSON REID: They have also, and they haven't gotten into the expedited aspect of it, let's wait and hear what they, and see how we can reconcile those two things.

MR. GREEN: Basically that is it. I will give this back to you.

MR. CLARENS: Okay, now we are in business.

CHAIRPERSON REID: Now, continue.

MR. GREEN: This concludes the presentation in terms of the parking lot. As, you know, I mentioned we met all the items on that particular zoning section.

And if I may I would like to bring up the letter that I sent to the Board on the waiver of the fee. Now, and I just want to say that I have represented clients that, you know, my clients, that particular fee would be no problem.

But I thought that I would best represent my client, the church, and bring it up. You know, what I feel is that, you know, problem in that fee at 80 dollars per parking space that comes up to 2,080 dollars, I believe.

And according to your schedule, the Board schedule of fees, there is no difference between a church parking lot in this case, a small church, and a commercial parking lot, where there would be great profits made.

So my issues are two. Number one the fee would present a hardship, it does present a hardship to the church, 2,080 dollars for this particular small church.

Number two, the -- there is no difference between, you know, as I mentioned earlier, the schedule makes no difference between a commercial parking lot fee and a lot such as this. The church is not going to be making any projects.

CHAIRPERSON REID: Mr. Green, just let me address that quickly. Often non-profits come before us and request a fee waiver. Nonetheless, the fees are established within the regulations and we have no authority to adjust or to eliminate, or to waive fees. It is beyond the purview of this board to do that.

So even if we were so inclined we just don't have authority to do so.

MR. GREEN: Okay.

CHAIRPERSON REID: Now, the second issue?

MR. GREEN: That was the second issue.

MS. KING: The first issue was the granting of the parking.

CHAIRPERSON REID: No, he made his case, and then he had two other requests, one was for a fee waiver, and the other one -- did you not request an expedited hearing?

MR. GREEN: Yes, that was early on, but the two issues were in the fee waiver.

CHAIRPERSON REID: I didn't hear that. You iterate your request for the expedited Hearing. No, what I'm referring to now is that I want to be on record that he has asked for an expedited hearing, and to get a quick response. I wanted to go through the clearance part, and then we --

MR. GILREATH: Madam Chair, on the fee waiver I agree, you know, there is nothing we can do to accommodate you on that. But is there some kind of recommendation, or an issue that could be taken on our part to advise the Zoning Commission to look at this to see if there could be a graduation of, you know, a commercial parking lot where they will get revenue from it, and a small church having to pay the same rates.

We can't do anything now, but I'm wondering if the issue should be looked at, to see

if there could be some kind of adjustment?

CHAIRPERSON REID: I would agree but --

MR. BASTIDA: Madam Chairperson?

CHAIRPERSON REID: Excuse me one second.

MR. BASTIDA: Wearing my acting director, that would be upon the Zoning Commission Members sitting here to bring it to the Commission.

CHAIRPERSON REID: That was exactly what I was going to say. The question should be in that --

MR. GILREATH: Could we solicit you, at least to investigate this and then some time in the future to see, perhaps, if there might be some kind of relief? Certainly they should be charged something, but should we charge them the same rate as a commercial parking lot?

CHAIRPERSON REID: A sliding scale?

MR. GILREATH: Yes.

MR. CLARENS: Yes, and then the whole fee structure of zoning permits have been, zoning applications have been reviewed as recently as a couple of years ago, and was actually adjusted at that time.

This issue was discussed fully, and I will be glad to bring it to the attention of the Zoning Commission, but I think that that is -- we

have already, you know, that has already been decided and it was not that long ago.

MR. GILREATH: It would be invaluable if you could remind them, you know, if in the future this could be looked at to see if perhaps there could be some kind of accommodation on this.

MR. CLARENS: Well, when the city gets richer maybe we can do that.

CHAIRPERSON REID: Now, we move to the government report. There is no Office of Planning report. The ANC has submitted a report?

MS. KING: Somebody from the ANC telephoned to the office and said that they were sending a report, or faxing a report, but the fax isn't working, so we have not received an ANC report.

CHAIRPERSON REID: Okay. Well, the report we haven't received it, and I guess it is on its way. But the assumption is that they are not in opposition to your application because we have not heard anything to the contrary from them.

And Mr. Hart said that he did talk to them. There is no other government report. Persons and parties for this application please come forward.

(No response.)

CHAIRPERSON REID: Seeing none, persons or parties in opposition?

(No response.)

CHAIRPERSON REID: Seeing none, closing remarks from the applicant.

MR. GREEN: I just want to thank the Board for listening to my -- our presentation, specially in terms of the waiver, the fee waiver. And I hope there is something that can be done about that, because to be blunt it is just not fair in this case.

And I would also like to ask for, in terms of the parking lot, if I can get a decision from the bench as to whether, you know, where you are going to go in terms of --

MR. CLARENS: Madam Chairperson, I think that there are two issues that are incomplete in the application. I think we need a completed landscape, and we need a detail, as well as an indication of how it is that you are going to fence off this parking lot. And those things should be submitted before the Board makes a decision in your case, because we do not know.

MR. GREEN: Okay. I can submit that within a matter of a couple of days.

MR. CLARENS: Are we going to take it up

on the April meeting? I mean, I'm not suggesting that we protract this, but I don't think that we are ready to move on this now.

CHAIRPERSON REID: Mr. Green, in your letter, in which you requested an expedited Hearing you said that at the present time the property has been sold, and that you have no provisions for parking, as well as the fact that the request is of an immediate nature.

Nonetheless, because of the fact that there are some things that you need to submit, we cannot give you a decision today.

However, at our next scheduled meeting, once you have submitted the items that Mr. Clarens has asked for, we can then render a decision. That would be April the 7th.

MR. CLARENS: Does that give you time to prepare this landscape plan, and the shrubbery, the height --

MR. GREEN: Yes, like I said, that would just take a couple of days.

CHAIRPERSON REID: All right, thank you. This concludes the morning session. We ran a little over, I apologize for that. We need to have a 15 minute recess because the reporter has to make his adjustments for the taping, as well as the fact that

we will grab a sandwich or something.

So we will come back about 15 minutes to begin the afternoon session.

(Whereupon, the above-entitled matter was recessed for lunch at 1:03 p.m.)

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

(1:40 p.m.)

CHAIRPERSON REID: Good afternoon. Will the Hearing please come to order.

This is the March 17th Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Sheila Cross Reid, Chairperson.

Joining me today are Betty King and Jerry Gilreath of the National Capitol Planning Commission, and representing the Zoning Commission is Mr. 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 at each end of the table in front of us.

All parties 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 of variance case will proceed as follows. One, statement and witnesses of the applicant; two, government reports, including the Office of

Planning, Department of Public Works, ANC, etcetera. Three, persons or parties in support; four persons or parties in opposition; five, closing remarks by the applicant. Cross examination of witnesses is permitted for persons or parties who are interested in the case. The record will be closed at the conclusion of each case, except for any material 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 to the contrary the Board requests that persons present not engage the Members of the Board in conversation.

The Board will make every effort to conclude the Hearing as near as possible to 6 o'clock p.m. If the afternoon cases are not completed by 6 o'clock p.m., the Board will asses whether it can complete the pending case, or cases remaining on the agenda.

At this time the Board will consider any preliminary matters. Preliminary matters are those which relate to whether a case will or should be heard today, such as requests for postponement, continuance, or withdrawal, 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.

Are there any preliminary matters?

(No response.)

CHAIRPERSON REID: Does the Staff have any preliminary matters?

MR. HART: No.

CHAIRPERSON REID: Please call the first case.

MR. HART: The first case is application number 16438, the Howard University, pursuant to 11 DCMR 3107.2, for a variance from the parking requirements of Section 2101 for a single family dwelling and one flat in an R-4 District at premises 2021 through 2031 5th Street, N.W. That is 5th Street and Oakdale Place, N.W. That is Square 3080, Lot 844.

(WHEREUPON, THE WITNESSES WERE SWORN.)

MS. GIORDANO: Good afternoon, Madam Chair, Members of the Board.

We were before you just about a month ago with regard to the same overall project, which is the LeDroit park housing initiative. It is a

partnership of Fanny Mae and Howard University to redevelop a lot of the adjoining residential rowhouse developments surrounding Howard University Hospital.

And the project that we brought before you last time included a couple of houses on U Street that required variance relief. This specific property that we are dealing with this afternoon is located at 5th and Oakdale, just around the corner.

What is proposed to be developed there, this isn't one of the in-field sites, most of the development is actually renovation. But this is an in-field project.

The site was formerly occupied by six single family row dwellings. What we are proposing here is two structures. One is a flat, it is two units combined into one building, and the other is a semi-detached structure.

At this point what I would like to do is ask the architect who is seated here to my right, from Sorg & Associates, Kent MacDonald, to just walk you through the site, and then I will explain a little bit better what the reason for the variance relief is.

MR. MACDONALD: Good afternoon. This is the site of what we are calling the cottage. The

overall scheme, this is Oakdale Place and 5th Street, N.W.

The site is approximately 53 feet deep, and 80 feet long. We are putting a flat on the corner, which will be comprised of a townhouse unit and a flat below. And then to the south another townhouses.

Per the code we are required to supply two parking spaces for each of the two units. The first parking space is this one, which will be accessed off of 5th Street, and this one up here will be accessed off of Oakdale Place.

I can go into more detail, if you would like.

MS. GIORDANO: I could just take it from here. This was the project that was presented to the Historic Preservation Review Board. This project has undergone extensive review by the Review Board because of the historic district.

A number of structures were mandated to be preserved by the Review Board that the university did not initially suggest their preservation because of their dilapidated condition.

There has been a lot of give and take between the applicant here and the Historic Preservation Review Board.

On this particular part of the project the Review Board had an objection to the off-street parking spaces because the Review Board has authority in that area, because they need to approve any curb cuts.

So they, in their report, a copy of which we have submitted to you with our application materials, suggested that we come to the Board of Zoning Adjustment instead, and that the Board consider a request for variance relief to alleviate the need to provide off-street parking here.

The Review Board's position was that the early design of the LeDroit Park housing did not include off-street parking spaces at that time, in the late 1800s, that was not typical of urban development, and that in fact the development in that area was intended to preserve a green buffer adjacent to the street, and on the sides of the houses, and it was actually supposed to be one continuous green space.

At that time there was very little fencing of individual lots. So on that basis they felt that this parking was not compatible with the original character of the historic district.

The university agreed to come to the Board and ask for this variance relief.

Subsequently we met with the LeDroit Park Civic Association first, and found that they were not of the same view as the Review Board.

They felt that the parking was really desirable because it enhanced the desirability of these living units, and their primary concern is to make sure that these new units are sold, and are very marketable.

And, also, because the parking congestion in the area, they felt that the parking was actually a benefit.

So we are in a strange situation here, in that we really did suggest the parking, initially, because we felt that it did enhance the desirability of these units. We feel that it makes for a better development here, but the Review Board has a concern about, as I indicated, the appearance of the parking.

The LeDroit Park Civic Association suggested that a possible compromise could be that we provide the parking, but that it be appropriately screened with landscaping to give the appearance that the Review Board is seeking, of green space around these houses.

So that is something that we would be more than willing to do. And at this point I would

just like to ask Mr. Behringer to provide his view of the university's position on this. Yes?

MS. KING: Does it matter what we do? Because if you go back, unless the Historic Preservation Review Board gives you a curb cut, you can't --

MS. GIORDANO: Right, it is a conundrum.

MS. KING: It is a hell of a mess.

MS. GIORDANO: Right. When we first got the position of the LeDroit Park Civic Association I was not at that meeting, but Maybelle Bennett attended for the university, and she subsequently informed me of their view.

And I suggested to her that I talk to the Review Board Staff and see if we couldn't go back to the Review Board at that time and ask for a reconsideration.

And I did that, but the Staff felt that the Review Board had suggested that we go to the Board of Zoning Adjustment, and that we follow that course at this point, and he said that, basically, if the Board of Zoning Adjustment was not of the same mind as the Review Board, he did not think that the Review Board would want to stand in the way of this project.

But he felt that we needed to adhere to

their suggestion.

MS. KING: Okay, that makes it clearer.

MS. GIORDANO: So we are following through with that process at this point, although we certainly have mixed feelings about the whole thing, and it is a very worthwhile project.

I think we went into some detail about the project the last time, and I submitted a number of newspaper articles. So it is my hope that, eventually, we will not be caught forever in a cross fire here, but that one of the agencies will allow us to go forward with this project.

And, fortunately, we do have the luxury of a little bit of time here. It is not that the project schedule is so tight that we don't have some time to go back to the Review Board at this point, and try and take a second look.

And with that, can I just ask Mr. Behringer to just mention, briefly, sort of what the project timing is, and offer his position on that. Mr. Behringer is president of Behringer & Associates, and he is the project manager for the project.

CHAIRPERSON REID: Before Mr. Behringer, in other words let me understand this, Ms. Giordano. So the Historic Preservation Review Board has kicked

it over here?

MS. GIORDANO: Yes.

CHAIRPERSON REID: And wants us to make a decision, and then they are going to re-review --

MS. KING: Maybe they will reconsider the curb cuts if the alternative is that they can't develop the project, because we won't let them have the relief.

MS. GIORDANO: The Review Board felt that perhaps it was an easy zoning planning issue. Maybe it is not so easy. There are parking consequences, there are impacts associated, and I think it is appropriate that the BZA weigh in on those issues, and then it will be a matter of, you know, which issue prevails.

MR. HOOD: Madam Chair, can I just ask a question?

CHAIRPERSON REID: Sure.

MR. HOOD: So, apparently at first the Civic Association, the LeDroit Park Civic Association agreed with what you came up with, the curb cuts and everything, but because you were not able to get it through the Historic Preservation Review Board, then that is why you are -- I'm just trying to make sure I understand.

MS. GIORDANO: The Review Board,

actually, in their report, in the staff report which I have submitted, directed us to come to the Board of Zoning Adjustment to seek variance relief in lieu of the relief that we were asking the Review Board to provide, which was approval of the curb cuts.

MR. HOOD: So the door is not closed on the curb cuts?

MS. GIORDANO: No, we could go back and ask for reconsideration of that issue, yes. But at this point --

MS. KING: Because, in effect if we say no, and if the HPRB says no curb cuts, and we say no zoning relief on your parking, then what we have is a big piece of property that can't be developed.

MS. GIORDANO: Right, and I don't think anybody wants to see that happen. I can't promise we won't be back here, again. But I certainly hope not.

MS. KING: Yes.

MR. GILREATH: Is it possible, say, that we deny the parking relief that goes back to the Historic Preservation Board, and they deny the curb cuts, can you come back to us, and we take a look at it?

MS. GIORDANO: I think we would have to ask for reconsideration at that point, yes.

MR. GILREATH: Okay. Well, as long as there could be some relief if they decide they don't want to grant curb cuts. Okay, I guess there are other alternatives, okay.

MR. BEHRINGER: Good afternoon, I'm Peter Behringer, president of Behringer & Associates, and project manager for Howard University in the LeDroit Park initiative.

If it is acceptable to the Board I would like to introduce a letter at this point.

My home address is 10226 Silverstone Place, Ellicott City, Maryland.

I think that Ms. Giordano has pretty accurately described the position of the university in this particular undertaking. As we started off in the LeDroit Park initiative, it has been the strong goal of the university to respect the, both the requirements of the various DC Agencies involved, as well as the needs and the desires of the people who live in the LeDroit Park Community.

One of these activities that we have done, particularly in the new construction, wherever possible, and I think the original plans were with all of the new construction units, we have provided off-street parking.

That is all of the units around the

corner on U Street, as well as these particular units right here, and this was in response to a very strong indication, early on, from the community that to the extent that we were able to provide off-street parking they wanted to see that, because the parking in this neighborhood is difficult, and the closer you get to the hospital the more difficult it becomes.

And this location, of course, is right across the street from the back door of the hospital.

We are respectful of the feelings of HPRB, and because of that respect we are here today before you. It is, as Ms. Giordano said, in a perfect world we would like to be able to move forward providing the off-street parking.

The response from the community, it makes these two buildings, two units, more marketable, and it removes a negative impact on adjoining properties.

So we are, as she said, we do have a conundrum here, we are caught in the middle, and the position of the university is, as it is stated in the letter, and as it has been stated by Ms. Giordano, that we are here before you because we have been directed to be here before you by HPRB.

MR. GILREATH: Is it possible for us to convey them our intent, or our position, without taking an official action saying that, assuming the Board, say we feel that there should be parking with appropriate landscaping, and they would take that back to the Historic Preservation Review Board, and perhaps they would relent?

MR. BASTIDA: Madam Chairperson, I think that the Board has to listen to the merits of the case, and the regulations before proffering any advice, otherwise you are prejudicing the case.

MR. GILREATH: We should hear the whole thing. But I'm saying, are we --

MS. KING: No, we should -- let's hear the whole thing.

MR. GILREATH: Okay, fair enough.

CHAIRPERSON REID: Okay. Is that your presentation?

MS. GIORDANO: That concludes our presentation.

CHAIRPERSON REID: Okay. Is there anyone here in opposition to this case?

(No response.)

MS. KING: In essence, I mean, Mr. Gyot is here to represent the ANC which says that we should grant them.

CHAIRPERSON REID: Well, let's see what he has to say, okay?

MS. KING: We shouldn't grant them, they should have that parking. So, I mean, what is in opposition?

CHAIRPERSON REID: We will move now to the Government reports, ANC reports, Office of Planning, and so forth. Is there any Office of Planning --

MR. BASTIDA: Madam Chairperson, did the applicant address the regulations regarding a variance?

MS. GIORDANO: I would like to summarize that in the closing statement.

MR. BASTIDA: I think that you would have to --

MS. GIORDANO: Is that all right, or would you prefer that I do it now?

MR. BASTIDA: I think that you should address it at the beginning, because that is an issue to cross examine.

MS. GIORDANO: Okay. The variance relief requires that there be something exceptional or unique about the piece of property that, as a result, would cause practical difficulties if the applicant were required to adhere to the zoning

regulations.

This property is exceptional and unique because of its location within the historic district, as well as the exceptional quality and nature of this redevelopment. And that was the same basis that was found for uniqueness in the previous LeDroit Park initiative case that we brought before you.

So I think the first rung of the test is met. The second rung of the test is the practical difficulties case. And we certainly have a practical difficulty here in that if we cannot provide the parking, if we do provide the parking, as is required by the zoning regulations, we will not be able to build the project, because the HPRB will not approve the curb cut.

So we certainly have a practical difficulty.

The last rung of the test is whether the granting of the variance would cause any adverse impact on the community and surrounding properties. And that is the part of the case, I think, that is debatable at this point.

The -- I believe that you will hear some testimony from community representatives that parking is a problem in the neighborhood, and that a

lack of parking provided with this project could, indeed, have an adverse impact.

And we feel that there is merit to that point of view.

CHAIRPERSON REID: Ms. Giordano reiterate for me the contention that this property meets the first rung of the test?

MS. GIORDANO: The exceptional and unique condition of the property is that it is not only located in a historic district, but it has been vacant, dilapidated property for some time, which is in need of rehabilitation, as is many of the surrounding adjoining properties that are part of this initiative, and the fact that it is the subject of a unique redevelopment effort, a partnership by a major university in the city, and Fannie Mae Corporation, to redevelop entire blocks of property in and around the hospital. and make a major impact on the neighborhood as a result.

MS. KING: The U Street properties are going to have off-street parking?

MR. MACDONALD: Yes.

MS. KING: All of them will?

MR. MACDONALD: Yes.

MS. KING: And in that block that is being redeveloped in the partnership with Fannie

Mae, are these the only properties that will not have off-street parking?

MR. MACDONALD: Yes.

MS. KING: And these are, although there are a few others, these are essentially the ones that don't have alley access --

MS. GIORDANO: That's correct.

MS. KING: -- so you can't get at the property from the alley?

MS. GIORDANO: That was really the difference.

MS. KING: That and the two or three that are next to them, behind them, on U street?

MR. BEHRINGER: In complete answer to your question there are houses on Oakdale Place, to the east of this property that are existing properties, that also do not have off-street parking, and that is a result, simply, of the small size of the lots. And the fact that the alley that does serve them is an undersized alley.

So the combination of the two really precludes the ability of the university to provide off-street parking in those locations.

Other than that all of the other properties have off-street parking. Wherever we could provide it, we did.

MS. KING: Okay.

CHAIRPERSON REID: Now, thank you very much for pointing out those unique and unusual aspects. Definitely for us makes a better case than simply to say that because it is a part of the Howard University initiative, that would not be the basis for determining that the property was unique.

MS. KING: Nor is the very fact that it is in the historic district.

CHAIRPERSON REID: Right.

MS. KING: There is already case law that that is not a unique circumstance.

MS. GIORDANO: There can be a cumulative impact of --

CHAIRPERSON REID: We've already passed that hurdle.

MS. KING: But when you get to the detriment to the surrounding area, that is where the case is very strong for us to deny the request.

MR. HOOD: Madam Chair, I don't know if this is in order, but I just had a question. I want to know if there is any restricted parking on the off-street parking within the area, like on the street, zone permit parking?

MR. BEHRINGER: There is permit parking in the area. There is, currently, no permit parking

on Oakdale Place, but we have been advised by the Department of Public Works, that they will be responsive to a request from residents, and we haven't had any residents until about a month ago, to do that from.

The university initially made that request to the Department of Public Works and was denied because of the fact that it is not a resident owner on the street. But they said come back to us once you have resident owners on the street, and we would consider providing that --

MR. HOOD: So even within a block radius there is no permit parking within a block?

MR. BEHRINGER: That's correct.

MR. HOOD: Okay, thank you.

CHAIRPERSON REID: Okay. Now we are going after the ANC presentation, there is no Office of Planning report.

MR. GYOT: Madam Chairman, I would like to present three documents, the minutes of our February meeting, at which we voted --

CHAIRPERSON REID: Please give your name and your address.

MR. GYOT: Excuse me. My name is Lawrence Gyot, I reside at 507 U Street, I'm an ANC Commissioner. All of this area we are talking about

is in my single member district, I live right around the corner.

Madam Chairman, I would like to present three documents, the minutes of our February meeting of the ANC at which we voted unanimously in support of the variance. The minutes are --

MS. KING: Excuse me, are you in support of a variance?

MR. GYOT: That's right.

MS. KING: Oh, okay.

MR. GYOT: Now, I would also like to present our ANC meeting of last evening, in which we reversed our position. I would also like to present a letter from the president of the LeDroit Park Civic Association.

And I would like to attempt to remove some of the mystery from this.

CHAIRPERSON REID: If you would pull it all together for us we would appreciate it.

MR. GYOT: I certainly would like to attempt to.

CHAIRPERSON REID: Are you submitting --

MR. GYOT: Yes, please.

CHAIRPERSON REID: Okay.

MR. GYOT: Madam Chairman, the Historic Preservation Review Board when they entered into the

LeDroit park was astounded by one factor. It saw Howard University, the LeDroit Park Civic Association, and the ANC, and the LeDroit Park Historic Society working together. That had not happened in LeDroit Park in 10 to 15 years.

So we are dealing with an agency that is staff driven, the staff is very, very familiar with this property, and with all of the political ramifications of that area.

To give you an example, we took the position that we did not want 621 and 619 demolished. The Historic Preservation Review Board agreed with us, we came before this body and supported Howard University's attempt to deal with unequal land distribution, as it related specifically to those two properties, and that was granted.

The point I want to emphasize is, number one, we have a staff driven agency that understands the uniqueness of development in Howard University and LeDroit Park, and the relationship with Fannie Mae.

It also understands and recognizes the significance of the community working together. I moved into LeDroit Park in 1971. Then Howard owned a lot of dilapidated property. There were two

overriding considerations. How do we get this done?

If there is one thing that everyone in LeDroit Park wants, and I think this is reflected in the letter from the President of the LeDroit Park Civic Association, is getting this, facilitating Howard as much as possible, specially when it finds itself in the unique situation of really adhering to the request of the citizens in LeDroit Park.

So we -- our Commission is unanimous in its support of looking at this. And I think our letter tries to emphasize, we are very appreciative of the Historic Preservation Review Board's concern for historical continuity.

But we also, is one overriding concern is, how do we make sure that those properties are sold? Is there a parking problem? Yes, there is a parking problem. But the Board of Zoning Adjustment has helped us a lot with that, because when you supported the Advisory Committee that includes the ANC, the LeDroit Park Civic Association, Howard University, ANC-5C, Pleasant Plain Civic Association, we will be able to go to DPW and facilitate and assist the residents on Oakdale to get that -- have that parking problem.

We know who -- we know the identity of the people who cause the parking problem. They are

either Howard patients, or employees. That can be dealt with.

So I would really urge that taking the unique political ramifications into consideration, that I think the Historic Preservation Review Board would be much more receptive if it looked at this as a neutral playing field. It recognizes the uniqueness of having the various political forces that are working together.

And I would urge that you support the parking there with the landscaping.

MS. KING: What you mean is deny the application?

MR. GYOT: By all means.

MR. GYOT: By all means.

CHAIRPERSON REID: I don't get it.

CHAIRPERSON REID: He wants us to deny the application, they will then go back to HPRB which he believes, as many other people in this room, I think, believe that the HPRB, rather than stopping this project dead, will look at a design that will permit the curb cuts, two modest curb cuts, and provide screening so that the cars, you know, that you don't have, that it will not interfere with the historic character, but that there will be off-street parking.

Which not only the university, but the community desires. And that in this case, in many cases when it comes to curb cuts we defer to the Historic Preservation Review Board, but Mr. Gyot is suggesting is that we don't do it this time, and that maybe they should defer to the desires of the community and of the university?

MR. GILREATH: But if the Historic Preservation Review Board does not -- otherwise if they came back to us, we would end up doing a reversal of our position? This is an absurd situation.

MS. KING: Ms. Giordano, I mean, if in fact you found that our -- that should we deny the application, and should the HPRB be impervious to reason in this regard, would you have the legal right to come back to us for reconsideration?

MS. GIORDANO: I would have to ask for a motion for reconsideration. There would certainly be new evidence in that, really, we have no other choice at that point, that the Review Board will not reconsider their position.

I think, although it is not the best legal position to be in, I think that it is a safe position because I think it is unlikely that there is going to be an appeal of the issue.

MR. GILREATH: There would be, in effect, a reversal of our position. Can the Board do this?

MS. KING: We have to do every case on a case by case basis. Now, you know, were you here for the big wrangle over the curb cuts and the development of that building up on Capitol Hill, and so forth?

CHAIRPERSON REID: Pennsylvania Avenue, and that was --

MS. KING: A big deal about, you know, and then ultimately we didn't, and wrangles with the neighbors, and God knows. We had two days of hearings on that case. And it all had to do with curb cuts, and we deferred to the HPRB in that case.

But I think in this case it is not so clear.

MR. BASTIDA: I think if somebody were to read your case, the way you are going about it, it would be prejudiced, and it will not hold in court. I think that you should go to the merits of the variance, and your denial, and I think that if Mr. Gyot provides some of that rationale, rather than basically a feeling of the community, will strengthen your position.

You should look at, too, the part three

of the test about the compliance with the zoning regulations, and deleterious impact that it will have on the zoning regulation, and perhaps that might be the linchpin that will come to a decision for either approval or denial.

Remember that you are a quasi-judicial body.

MS. KING: Yes, Mr. Bastida, but clearly there is an adverse impact on the community. All you have to do is look at the map, and the proximity to Howard University Hospital, and to realize the amount of difficulty there is in parking on streets surrounding there, and the adverse impact of the redevelopment of this block by this project between Fannie Mae and Howard.

And how many new cars that is going to put on the street, and what an adverse impact that will have on the surrounding neighbors.

MR. BASTIDA: I think your point is based on that, you are following the letter of the law, and your decision will be appropriate.

CHAIRPERSON REID: Let's just basically get through the merits of the case, and then we can discuss it in its entirety, given all the facts we have, or did have before us.

MS. KING: I think we have heard the

merits.

MR. HOOD: I also just want to comment to the other Commissioners. One of the issues that I raised, and that is why I was asking about the permit parking, was what was supplied for the record is bumper to bumper parking already.

And it is, obviously, from looking at a picture, you know what they say about a picture is worth a thousand words. It is already a problem from our standpoint, so we can continue.

CHAIRPERSON REID: Mr. Gyot, are you done with your presentation?

MR. GYOT: I just want to emphasize that there is nothing more important to the residents of LeDroit Park than facilitating bringing those properties back into habitability.

There is a direct nexus, we believe, between sale of those properties and the nicely cultivated parking. So we ask that you take this into consideration, and help us make it possible.

CHAIRPERSON REID: Okay. Let me be clear, for the record. The ANC-1B unanimously approved this application in February, and then yesterday they reversed their position?

MR. GYOT: Unanimously.

CHAIRPERSON REID: Based on the fact

that they would like to get a favorable response from the Historic Preservation Review Board, is that correct?

MR. GYOT: Well, based on the articulated expression of the LeDroit Park Civic Association. Everything we do as a Commission, ANC-1B and LeDroit Park Civic Association went to the Historic Preservation Review Board united, initially, in this whole review by the Historic Preservation Review Board.

So when they took that position, and they are one of the groups that is working with us in the Advisory Committee established by this great Board of Zoning Adjustment, we are very sensitive to coalition building, and we looked at the facts, talked to others, Maybelle Bennett and others, and felt very enthusiastic in changing our position.

CHAIRPERSON REID: The LeDroit Park Civic Association?

MR. GYOT: The LeDroit Park Civic Association takes the same position that we take. We are supporting their position.

CHAIRPERSON REID: This letter from, signed by Mr. Quary, it is saying there that --

MS. KING: That if the designers can construct the parking so as not to be obtrusive, the

parking spaces would not detract from the historic character of the neighborhood.

CHAIRPERSON REID: Well, isn't that in support of the application?

MS. KING: No.

CHAIRPERSON REID: Okay. Well, that is where I'm confused.

MS. KING: The application is for a waiver of the requirement for them to have parking.

CHAIRPERSON REID: It is a variance?

MS. KING: It is not what they want, but it is what they are asking for.

CHAIRPERSON REID: It is not what they want, but that is what they are asking for?

MR. GYOT: And there is unanimity of the three factions on that position.

CHAIRPERSON REID: The only reason why they are doing that is because of the position that the Historic Preservation Review Board took, so that is why they came here?

MR. GYOT: Well, also we were directed, Howard was directed here by the Historic Preservation Review Board, and we -- I want to emphasize, the reason I presented to the BZA our minutes of February was to point out, or of January, was to point out that we would be extremely cautious

in going against the wishes of the Historic Preservation Review Board.

But it is only in the uniqueness of this situation, where we have the unanimity of the community --

CHAIRPERSON REID: Okay, wait a minute, Mr. Gyot. They don't want the variance, they really want the curb cuts?

MR. GYOT: That's right.

CHAIRPERSON REID: But the only reason why they are asking for the variance is because the Historic Preservation Review Board told them to come here?

MR. GYOT: That is exactly right.

MS. GIORDANO: There are a number of issues here, if you will. The Review Board deals with historic compatibility issues in the historic district.

The Board of Zoning Adjustment has to deal with zoning and planning issues, land use impacts. Parking is one of those. So the Review Board said, at the first cut of this, we don't think that this is the best thing from a historic standpoint, let's explore whether it makes sense, from a land use standpoint, to do away with this parking.

And that is where the BZA comes in. And the BZA, in its decision, can indicate that there is a countervailing issue of adverse impacts, land use impacts, lack of parking, that is created if the curb cuts are denied.

And then the next step would be for the review board to consider, okay, there is some other countervailing issues here, those issues, let's take that into account, weigh the historic against that, and maybe they will take a different position given that additional evidence.

CHAIRPERSON REID: Given this new information they are receiving, then if you want to be denied this application, then why make a case for it?

MS. GIORDANO: Obviously Howard's position is that they want to build this project. That is first and foremost.

CHAIRPERSON REID: But just one second, excuse me, let me just interrupt you for a moment. My understanding is that once you come through this particular entity, and then it is turned down, you go back to the Historic Preservation Review Board to see if they would be, then, more amenable to giving you the approval for the curb cuts and they turn you down, you have to come back here?

MS. GIORDANO: We are, obviously, in between a rock and a hard place. There is nothing that we can really do about that. But, we unfortunately --

CHAIRPERSON REID: I see where you are coming from, but I'm just -- I just want to see how we can structure this in a way that is smoother, rather than being so jagged.

MS. GIORDANO: I agree, but I don't think there is another way. I mean, I did attempt to see if we could get some reconsideration based upon the position of the community association, and I was basically told --

CHAIRPERSON REID: Yes, just like we have to have a basis for an approval, we have to also have a basis for a denial. So --

MS. GIORDANO: Right. And I think that a basis for a denial is the, clearly, the zoning regulations presume that parking is desirable, it is required parking. And a variance can only be permitted unless there is a very, very good, extraordinary reason for not providing the parking.

And in this particular context where parking is needed in that neighborhood, and parking congestion is a factor, I think there is a very good reason for denying a parking variance.

MR. HOOD: Madam Chair, let me just interrupt. I think we just need to move forward, because I don't think we should be trying to help them with the case, or them helping us, and having this dialogue.

MS. KING: I agree.

CHAIRPERSON REID: Not withstanding those positions, I have to be clear on what I'm doing. This is rather convoluted for me, as I'm going to make a decision on this particular situation, which appears to me to be a very important case, I want to be very clear on exactly what I'm doing. Thank you.

MR. BASTIDA: Madam Chairperson, could I ask Mr. Gyot a clarification of the position? You feel that the houses will not be sold because there is such a parking problem, that the lack of provision of the parking will render the house unsalable?

MR. GYOT: Absolutely.

MR. BASTIDA: Because of the congestion, and the negative impact that it will have in the neighborhood?

MR. GYOT: My answer to your question is yes, and I think that the LeDroit Park Civic Association has come up with an excellent solution.

MR. BASTIDA: But I'm trying to put it on terms of the regulations. So you are saying that your position is based on that planning issue, and a deleterious impact to the community?

MR. GYOT: That's right.

MR. BASTIDA: Regardless of the position unanimity?

MR. GYOT: That's right.

MR. BASTIDA: Thank you.

CHAIRPERSON REID: Now, we move to persons and parties in support of this application.

(No response.)

CHAIRPERSON REID: Persons or parties in opposition to the application?

(No response.)

CHAIRPERSON REID: Closing remarks by the applicant?

MS. GIORDANO: We have no further remarks, thank you.

MR. BEHRINGER: If I may just add one other thing? The university has done, in my mind, I have been doing this for 30 years, an absolutely amazing job in providing a range of housing opportunities for home buyers in the LeDroit Park neighborhood with the smaller houses that we have on Oakdale, are being made available at 89,000 dollars.

And because of low financing, and the university's contribution toward closing costs, they are affordable to people who are at very low income levels.

The university, in addition, is trying to provide an entire range of housing opportunities, not just low income, not just moderate and middle income, but a whole range.

And these houses represent units that are more in the middle income range than the lower income range. Our feeling has been that it is extremely important for houses that are higher income than the others that we are offering, that parking be an integral part of those.

And to not have parking would make it, we feel, extremely difficult to adequately market those units.

MR. BASTIDA: Madam Chairperson, could I ask for a clarification from the witness?

You base that because the parking conditions in the area are such that the lack of the provision of the parking space within the house will aggravate, will have a deleterious impact on the ambience of the neighborhood?

MR. BEHRINGER: Absolutely.

MR. BASTIDA: Okay, thank you.

MS. KING: On that basis, Madam Chair, I move that we deny this application, that it will have a deleterious impact upon the surrounding community.

MR. HOOD: I second the motion.

CHAIRPERSON REID: Second. All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No response.)

MR. HART: The staff will record the vote 4 to 0 to deny, Ms. King, Mr. Hart, Ms. Reid, Mr. Gilreath.

The next case, application 16439 of 3101 Rhode Island Avenue LLC, pursuant to 11 DCMR 3108.1, for a special exception from Sections 726 and chapter 2302 to establish a gasoline service station and to establish a food store in a C-2-A district at premises 3101-3103 Rhode Island Avenue N.E. (Square 4308 Lot 45).

Those persons planning to testify please raise your right hand.

(WHEREUPON, THE WITNESSES WERE SWORN.)

MR. RAY: Good afternoon, I'm John Ray. Madam Chairperson and Members of the Board, I would like to sort of ask leave to share with you a

situation between us and the ANC that may well have to expedite what we are going to do here today.

And if I could have leave to do that I think it might be helpful.

CHAIRPERSON REID: Okay, sure.

MR. RAY: Madam Chairman, as you know the ANC is required to file their report -- I'm sorry, my home addresses or office address? 4310 20th Street, N.E. Washington, D.C. zip code 20018.

Seven days before the Hearing they have not filed their report with the Board. We contacted ANC back in last year and informed them that we were going to be filing this application, we contacted ANC Commissioner Karen Lancaster.

We then followed it up with a letter to the Chairman, as well as all of the Members. We also followed it up with a second letter. And when the Board filed their notice, we actually sent them a copy of the notice and we followed that up with several telephone calls trying to get a meeting with them.

They finally called us, as I recall, on February 23rd, and said that they would like for us to meet with them on the 4th of March, at the full ANC. Although I was going out of town that day I did change my flight to nine o'clock

that night, and we met with them at six o'clock.

At that meeting they decided they wanted to hold an additional meeting in the single member district on the 15th, and we also went to that meeting.

And the same issues were raised at this meeting. And notwithstanding the fact that this time period had run down, we said to them that we would enter into a voluntary agreement to address all of their issues.

They have decided they would like to have an additional meeting. And like I said, they all support the project, they have all said they support us going forward.

Our problem is now a time problem, a time problem in terms of this matter of the loan, the time problem in getting construction loan so that we can do it this summer before the winter set in.

Mrs. Lancaster has asked us if we would agree to allow them to hold one more meeting, and I said that if we could have this on the agenda for the 7th, that we could go forward and put in all the information we have, and see whether there is any concerns from the Board about other issues, that we would be willing to do that, so I wanted to raise

that.

MS. KING: And you are suggesting, Mr. Ray, is that we would hold the record open until a date certain to receive the report from the ANC, which would be considered at our decision making meeting on the 7th of April?

MR. RAY: Yes, Ms. King. Let us go forward and put on the basic case, in terms of whether we would be in compliance with the zoning regulation, etcetera, etcetera, etcetera.

We would have an additional meeting and let the submit their report, and if we could get a decision on the 7th we would still be okay in terms of the loan, and in terms of moving forward.

MS. KING: Sounds reasonable to me.

CHAIRPERSON REID: I have no problem with that.

MR. RAY: Commissioner Lancaster is here.

CHAIRPERSON REID: She will be the ANC representative?

MR. RAY: Yes, ma'am.

CHAIRPERSON REID: She will have an opportunity to testify.

MS. KING: After the ANC period point.

CHAIRPERSON REID: Immediately after --

MR. RAY: Yes, I just wanted to let you know that she would agree to this, she actually requested me to do this.

CHAIRPERSON REID: And immediately after your presentation then the ANC will have an opportunity to speak.

MS. KING: Essentially the ANC has not made a decision yet, and what we have agreed to do is to hold the record open after the Hearing today so that the ANC can take a formal vote to --

CHAIRPERSON REID: I understand that, Ms. King, but just wanted to let her know that she will have an opportunity to testify if she so desired. If she doesn't want to, then we can keep moving on.

MR. RAY: Thank you. I'm John Ray appearing on behalf of the applicant, 3101 Rhode Island Avenue LLC.

This is a limited liability corporation whose managing partner is Jerry Shaffer. The Corporation owns a property at 3101 through 3103 Rhode Island Avenue, N.E., which is the subject of this application. The property is lot 45, it is square 4308.

Appearing with me today is Joe Mamo. Mr. Mamo is in the gasoline service station

business, and he has leased the subject property for the purpose of developing a gasoline service station and food store.

Also appearing with me is Jeffrey Way, who is the architect for the project.

We have applied for a special exception pursuant to section 726 and 2302 of the zoning regulations.

The property is approximately 25,000 square feet, is currently vacant and fenced in. It is occupied by a vacant building, which is a former gas station, which is approximately 2,800 square feet.

And I would note for the Board's attention that there was a gas station there which operated there for about 15 years, and then the gas station was closed, and then it was operated as a used car dealership for a period of time, up until about two years ago, and then the used car dealership closed down, and that is the property that is fenced in there today.

The property is zoned C-2A. C-2 zoned districts are designated in the zoning regulation as community business centers. As for C-2A, section 720.2 of the regulation states, and I quote:

"The C-2A district is designed to

provide facilities for shopping and business needs, housing and mixed uses for large segments of the city outside of the central core."

Section 72.3 through 72.5 go on to say that C-2A districts shall be located in low and medium density residential areas, with access to main highways and shall accommodate a major portion of existing commercial strip. Food stores may be located in C-2 zoned district as a matter of right, and gasoline service stations may locate there with special exceptions.

Section 726 sets forth the requirements for special exceptions for gasoline service stations. Section 2302 merely restates the same requirements in a different context.

First, the proposed service station cannot be within 25 feet of a residential district, or have an entrance, or exit, within 25 feet of a residential district, unless separated from the residential district by a street or alley.

The 3101-03 Rhode Island Avenue N.E. site is well over 25 feet from any residential district. It is separated from the adjacent R-1B zoned district by Rhode Island Avenue, Newton Street, and a public alley.

A retaining wall at the rear of the

property, adjacent to the area also serves as a buffer between the property and the residential zone.

Second, the proposed service station shall not create dangerous, or other objectionable traffic conditions.

The 3101-3 Rhode Island Avenue N.E. site has curb cut access points from Rhode Island Avenue, thus assuring that traffic can move safely and smoothly in and out of the gas station onto Rhode Island Avenue.

Third, required paring spaces shall be designated and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicles without moving any other vehicle into public space.

The applicant proposal includes 13 parking spaces for full sized vehicles, and 5 parking spaces for compact vehicles.

The parking space regulations at the gasoline service station requires one space per 300 square feet of gross floor area. Thus the applicant proposal, with a structure of 2,800 square feet of gross floor area would require 9 parking spaces. We are providing double the required amount.

Fourth, no gasoline service station

driveway or entrance, or exits, may be closer than 40 feet to a street intersection. The applicant site is more than 40 feet from the nearest intersection, which is Rhode Island Avenue at Newton Street on the southwest, and at Eastern Avenue on the northeast.

Thus we submit that the application meets all of the requirements set forth in the regulation for a special exception for a gasoline service station.

I have already shared with you our efforts to communicate with the Advisory Commission Friday, and I will not discuss that again.

We have offered to enter into a voluntary agreement with the Commissioners to provide written assurance that specific actions will be taken to address community concerns.

Again, I have also indicated to you our discussions around that and the additional meeting that we are going to have.

Overall the proposal offers benefits to the community and the city. It will provide an attractive renovation of now a vacant eyesore, it will create ten new jobs, with hiring preference first for residents of the neighborhood, and next for other residents of the District of Columbia.

The project will generate an estimated 40,000 dollars per month in gasoline revenue, and additional revenue from the food market that will also be operated there, and this food market will be a food market pretty much on the scale of a Seven Eleven.

It will also provide an opportunity to attract dollars from those motorists who go out Rhode Island Avenue, entering and exiting for work in the morning, and in the afternoon.

We believe that this is a good project for the District, a good project for the community, and will benefit the community at large, as well as those who live in the area.

Our architect now, if you would like, would be willing to go through and show you where the exits, intersections are, and what we are going to do.

MR. WAY: For the record, I'm Jeffrey Way, registered architect, address being 6201 Riverdale Road number 320, in Riverdale, Maryland, 20737.

I will now approach the easel. We have three illustrations, one of which is an enlarged photographic illustration showing the existing condition of the building, and I have another

illustration which is a frontal elevation drawing taken directly from the Rhode Island Avenue view, and the third illustration is a site plan, which indicates the curb cut locations, and the proximity -- the layout of the parking, etcetera.

I'm unable to affix these, because we have tacks, but I will be able to position it here. This is the front elevation drawing. What is being depicted here is the existing condition of the building, which is effectively a one-story building, pretty much residential in scale, or one story in scale, in that it is only about 12 feet from the grade line to the eave line, where the roof begins to slope upward.

We have an existing glass and metal storefront system which will remain effectively unaltered, with the exception of repairs, necessary repairs to the glazing, or the mullion systems.

We have existing glazing here which will remain effectively as existing with the exception, again, of repairs to the glazing or mullions, and we have three openings here, between the brick spandriels, the brick pilasters, rather, which are presently garage bay doors, which are basically glass.

So it was a very nicely designed facade

some 25, 30 years ago. We are going to retain the characteristic of it, being sort of a nice and open and airy, very nice looking building.

We are just going to replace the existing glassy garage bay doors with a mullion storefront glass, a mullion system that is consistent with the existing, already there, so it will be pretty much unified.

I can remove this now, and use the photograph as an illustration. Please disregard, as best you can, the fencing in the foreground, which is there just to keep the site as clean as possible during its period of no use.

But here, at the upper left-hand corner, you can see the storefront glazing system. I believe that you will see the glass overhead garage bay doors. These will be replaced, and the mullions that you see here, they will just continue down, so this will just become a storefront system not unlike the existing system to the right of the elevation, okay?

Again, as I mentioned, as the photograph illustrates, it is pretty much residential in scale. It looks a lot like some of the nicer suburban homes that were being built back in the late '60s.

And the last illustration that I will

use this afternoon is in the form of a site plan. And the site plan with north being up on the page. From left to right you will see Rhode Island Avenue, and at the very bottom of the page you will see Newton Street.

The existing building is located right here and the parking is arranged pretty much along Rhode Island Avenue, and over on what would be the east property line.

The configuration of the parking is angled for easy access. You will notice that we have located the fuel islands along Rhode Island Avenue, parallel to Rhode Island Avenue.

We are also illustrating the proposed canopy which would be located directly above the fueling islands. And then the tank field is located near the apex of the triangular property, at the intersections of Rhode Island Avenue and Newton, which allows for good access.

There are a total of 1, 2, 3, 4 existing curb cuts all which meet conformity to DC DPW standards. They are not exceeding 25 feet in width, and those are proposed to remain.

That pretty much --

MS. KING: And the two curb cuts on Newton Street will also remain, or do they exist

now?

MR. RAY: Ms. King, they remain, but the community want those -- well, one of them blocked off, and we have agreed to do that.

CHAIRPERSON REID: Thank you.

MR. HOOD: Mr. Ray has provided some photographs that I can provide to -- you spoke about the three bays and the glass mullion. Can you kind of give me a description of what you mean when you say mullion, what it is actually going to look like?

MR. WAY: Absolutely. If I could ask everyone on the Board to just sort of do a u-turn, these vertical elements here, which separate the panes of glass, are mullions.

MR. HOOD: So that is going to be filled with mullion and no glass, all the way to --

MR. WAY: No, the mullions separate the panes of glass.

MR. HOOD: Okay, so you still, it will still have the existing glass? Well, not the existing, but you will still have glass?

MR. WAY: Correct.

MR. HOOD: Okay. I misunderstood.

MR. BASTIDA: Madam Chairperson?

CHAIRPERSON REID: Yes?

MR. BASTIDA: I'm sorry.

MR. HOOD: Let me see, I had one other question.

MR. BASTIDA: Do you accept the photograph into the record?

CHAIRPERSON REID: Yes.

MR. BASTIDA: Thank you.

MR. HOOD: Commissioner King asked my other question. Thank you.

MR. WAY: Any other questions of me at this time?

MR. HOOD: Madam Chair, I just want to put on the record that I'm the President of the Civic Association of the area, and that will not hamper my decision making process. I just want to put that on the record.

CHAIRPERSON REID: Thank you.

MR. RAY: Any other questions?

CHAIRPERSON REID: No. Did you have any other witnesses to testify?

MR. RAY: No, this is all.

CHAIRPERSON REID: Okay, thank you very much. Now move to government reports, Office of Planning, there is none. ANC report?

MS. KING: That is, we have been asked to hold the record open to receive a report from the ANC before a decision is made on this the 7th of

August. Sorry, April.

CHAIRPERSON REID: You want to add to the record?think add it to the record?

MS. LANCASTER: Good afternoon. My name is Karen Lancaster, I'm the ANC Commissioner for 5-A11. I have a letter authorizing me to represent the ANC from our chairperson.

I wanted to put on the record that we did receive correspondence from Mr. Ray on January 8th and January 22nd, but due to the holiday season, the fact that we had our January election of ANC officers, we lost employee staff support, and a few other reasons, we were not able -- I was not able to schedule a meeting with Mr. Ray until February, when we actually invited them to our March 4th meeting, and I had a single member district meeting on the 15th.

The community voted to have the facility. We really look forward to having the station and mini-mart there, but they had some community concerns that they wanted to resolve before I could be authorized to sign the voluntary agreement.

So this is why I requested that we be put on the calendar for your April meeting.

What I wanted to find out if there was a

deadline for me to submit my documentation before the April 7th meeting, or am I allowed to submit it at the April 7th meeting?

CHAIRPERSON REID: No, you should have it in before. Mr. Hart, what is the time frame for her to have her submissions in, her letters in, and also the agreement?

MR. HART: We are assuming that it is for the April 7th meeting?

MS. LANCASTER: Has that been determined?

CHAIRPERSON REID: Well, that was the request by Mr. Ray.

MS. LANCASTER: So it will be April 7th?

MR. HART: You have to make a submission to us, the latest date should be March 31st.

MS. LANCASTER: Well, we will not meet with the community until April 5th, so I have to have the submissions 14 days prior, or 7 days?

CHAIRPERSON REID: You should, unless you ask for a waiver.

MS. LANCASTER: So I can ask for a waiver and submit them on --

MS. KING: But you are meeting on April 5th?

MS. LANCASTER: The 5th of April.

CHAIRPERSON REID: Because of the timing conflict, then while you are supposed to have your submissions at least seven days prior to the actual Hearing date, or meeting date, if in fact that does not gibe with when your meeting will take -- the time your meeting will take place, then you can ask for a waiver to have it admitted into the record so that we can, then, look at it, or at the time in our April 7th meeting.

MS. LANCASTER: When does the waiver have to be submitted?

CHAIRPERSON REID: At the same time. You can request a waiver at the same time you submit your late --

MS. LANCASTER: Late documents?

CHAIRPERSON REID: The documentation that will be later than the time that you were supposed to have submitted it.

MS. LANCASTER: Okay, I understand.

MR. HOOD: Commissioner Lancaster, I just have a question. You had an S&B meeting?

MS. LANCASTER: Yes.

MR. HOOD: The meeting you are going to have on April 5th, is that an S&B meeting?

MS. LANCASTER: Yes, it is, because we had some specific requests for it. We had a

voluntary agreement drawn up, I got it on Tuesday. And the community has not -- they had some very specific concerns, like environmental, curb cuts, we wanted to make sure that there wasn't an increased flow of traffic onto Newton Street, because houses are right behind the gas station, even though it is separated by an alley.

So we wanted to make sure that those curb cuts were closed so that we wouldn't have more of a flow of traffic into the community.

So those were some specifics that were not put into the second draft that I received from Mr. Ray's office. I wanted to have the word tentative put in, but Mr. Ray didn't want that in there, so there is some things that we need to go over.

CHAIRPERSON REID: Does that give you adequate time to be able to have the agreement drawn up and signed by both entities prior to your submission?

MS. LANCASTER: The problem is there is some issues that Mr. Mamo has to deal with as far as funding, and some other concerns he had about construction during nice weather.

So that is pressing it for me, but if it means that we can come to some sort of amicable

agreement I'm willing to --

MR. HOOD: My concern was, Ms. Lancaster, is that I understand that you are going to have another S&B meeting on April the 5th?

MS. LANCASTER: On the 5th.

MR. HOOD: Has the full ANC had an opportunity to take a vote so that your ANC may have the --

MS. LANCASTER: We voted to let the community hear it. We had a -- when we invited Mr. Ray and company to the March 4th committee as a whole meeting, the entire body voted to let the community decide.

MR. HOOD: So, in other words, I guess you realize that you need an ANC quorum to give great weight then, from a --

MS. LANCASTER: Okay.

MR. HOOD: That is all I'm trying to --

MS. LANCASTER: We will have a committee of the whole meeting on the first Thursday in April, so I will have it put on that agenda.

CHAIRPERSON REID: What is that date?

MR. HOOD: That is April the 8th. See, that is the day after, and that is where I'm going with this.

MS. LANCASTER: I understand, so we

would not --

MR. HOOD: I see some time frame problems.

MS. LANCASTER: And we would not have the entire great weight if we don't have the entire body, is that what you are saying?

MS. KING: Another thing that concerns me, and I hope that this will not arise, but if by any chance the ANC and the applicant fail to reach a mutually acceptable agreement, your filing your report two days in advance gives him no opportunity to respond before this body makes its decision.

Because when we have -- it is not another continuation of the Hearing, it is a meeting at which we make a decision.

MS. LANCASTER: Oh, I see.

MS. KING: If you all work it out, which pray God you will be able to do, then it doesn't create a problem. But if you are going to file something on the 5th of April, and if Mr. Ray and his client don't approve of it --

MS. LANCASTER: We don't have enough to -- okay.

MS. KING: There is not enough time. So I wonder if we shouldn't -- is it going -- I wonder if it is going to make life terribly difficult for

the applicant if the decision is made at the meeting on the first week of May?

CHAIRPERSON REID: Also Mr. Hood just said that the full -- your full ANC cannot meet until the 8th.

MS. LANCASTER: Right.

CHAIRPERSON REID: And you have to have the full meeting of the ANC in order for you to be afforded the great weight to which you are entitled.

MS. LANCASTER: Okay, and that is what I would like to have, the great weight which we are entitled to.

CHAIRPERSON REID: Okay, and then that gives you more time to be able to get everything together and be able to submit it properly.

MS. LANCASTER: Right, exactly.

MR. RAY: Madam Chair, I think --

CHAIRPERSON REID: Speak into the mike, please.

MR. RAY: I think we all have to be a little responsible here. We, of course, have followed the letter of the law, and we have sort of leaned over backwards to accommodate them.

Now, there is nothing to stop them from holding a special meeting, so they don't have to wait. The full ANC can hold a special meeting any

time they want to.

And so I think that they have to step up to the plate at this point and do some things. So what they need to do is to go and call for a special meeting. They don't have to wait until they --

MS. LANCASTER: I can consult with my chair person.

CHAIRPERSON REID: Well, we need to know that.

MS. LANCASTER: Yes, we can hold a special meeting.

MR. HOOD: I think that is in order, that way it will expedite --

CHAIRPERSON REID: Now, if in fact, as Mr. Ray has requested, you are able to do that, then that solves the problem, and we would be able to move forward.

MS. LANCASTER: Right, it does.

CHAIRPERSON REID: Rather than wait for another whole month.

MS. LANCASTER: Okay, and that would work for both parties.

CHAIRPERSON REID: And then what you would need to do, since we don't know, I mean, if we can go forward on the 7th, then Mr. Hart will tell you when you have to have these documents.

Well, you may still need to have a waiver, but --

MS. LANCASTER: I will probably still need to have a wavier.

CHAIRPERSON REID: -- but you must structure your submissions in such a way as to give Mr. Ray and the applicant an opportunity to respond to it, and you know, work out the kinks so that it can be submitted to us for our deliberations on the 7th.

MS. LANCASTER: I will call Mr. Hart and find out about the waiver. Thank you.

CHAIRPERSON REID: Thank you. Now --

MR. BASTIDA: Madam Chair?

CHAIRPERSON REID: Yes?

MR. BASTIDA: Excuse me, Madam Chairperson. If they were to agree it is all fine, but if they do not agree, and there is a possibility, I think that it is necessary that the ANC submits a report by March 31st.

CHAIRPERSON REID: Right.

MR. BASTIDA: I mean, that way Mr. Ray will have until April -- well, what I'm trying to see if he will waive the ten day's requirement, and Mr. Ray will have to submit his response by April 2nd or 3rd.

CHAIRPERSON REID: I'm sorry, I didn't hear all of what you said.

MR. BASTIDA: I'm sorry. The ANC will have to submit its report for March 31st, serve it to Mr. Ray, or Mr. Ray can agree to pick it up from here, and then Mr. Ray will have until April 2nd, or April 3rd to address any issue outstanding on the ANC report.

MS. LANCASTER: I have one concern about that. It is not the ANC meeting getting the 12 Commissioners together that is a problem. It is the community meeting. I have to take the voluntary agreement that I received this morning back to the community so that they can say, Ms. Lancaster that is fine, you know, we have no problems with that, we are willing to have you sign off on the voluntary agreement.

I don't have a problem with getting the whole body together, it is just getting the community together, because that is really only two weeks from now.

MR. BASTIDA: Right. But the problem is that the Board needs time, and the other party needs time to address the issues if they are not agreeable. So there is a time constraint, and I was just trying to give you as much time as possible,

and try to be fair to you, I mean, or proposing to the Board to give you, I'm not anybody to give you or not any time.

And to give X amount of days to Mr. Ray, also, to answer your comments, if you are not in agreement. So the Board could make a reasoned decision at its meeting of April.

MR. RAY: Mr. Bastida, Madam Chairman, we feel fairly strongly, you know, that we can respond to their issues. For example, she raised the issue about the curbs.

I mean, we are willing to close those down if that is what they want. I mean, you know, it is not an --

CHAIRPERSON REID: There is not a lot of contention.

MR. RAY: Yes, that is not a contention issue. I think we can deal with that. I think her point is that some things are not in the agreement, like on contamination.

Well, the issue about contamination is all set forth in the statute. I mean, you know, we have to follow the statute. So I think part of the problem is having the community to understand that there is a law, you know, that covers contamination.

And, thankfully, there is no tanks even

down there now, because when they put the automobile dealership there, DCRA, the environmental division of DCRA came out and made them take the tanks out. They went through the process, they tested it, there was no problem there, so there is no remediation required. They will come out and do that again.

MS. LANCASTER: Can I say just one thing? We wanted to have that in writing included in our voluntary agreement, that was one of the things that we wanted added to our voluntary agreement, that the tanks from the prior gas station had been removed, but we wanted to see it in black and white.

MS. KING: May I make a --

MR. RAY: And we, you know of course we have the documents on that from DCRA. But those are the kinds of issues that they are --

MS. KING: Could I make a suggestion, Madam Chair, that would be a compromise. Rather than waiting until our May meeting, it is not unusual for us to come in a few minutes early on a non-meeting day, on a Hearing day.

Could we schedule this for decision on the 20th of April?

CHAIRPERSON REID: Prior to the --

MS. KING: Prior to the beginning of our

Hearing --

MS. LANCASTER: That would be great for us.

MS. KING: And then the ANC has time not only to have the community meeting, to hash it all out, and have their ANC meeting, but also it gives Mr. Ray time to respond should they not, God forbid, come to a mutual acceptable agreement.

CHAIRPERSON REID: So we come in at nine o'clock on the 21st, Ms. King?

MR. RAY: Ms. King, the two issues that are troublesome for us is Mr. Mamo's loan, and his construction. And we don't want those things to run afoul.

MS. LANCASTER: It is only two weeks, that is two weeks, from the 7th to the 21st.

MR. RAY: That is two more weeks, we are now talking five weeks from today.

MS. LANCASTER: I understand.

MR. RAY: Mr. Mamo said he could handle an additional three weeks, I don't know about an additional five weeks.

MR. MAMO: My name is Joe Mamo my home address is 7312 Braddock Road, Annandale, Virginia, 22003.

My concern is after this board decides,

hopefully in a favorable decision, we have another eight to ten weeks of waiting period to go through construction permits.

So now I have spoken to Ms. Lancaster earlier and agreed that we could, perhaps, extend it to the 7th, because we have already met twice with the community, and we tried to meet back in January.

MS. LANCASTER: I explained, Mr. Mamo, why that was impossible.

MR. MAMO: I understand. What I'm saying is that I have done all I can to comply with all the requirements, and I got Mr. Ray, and he stopped to research it to make sure we are following the law.

So now we are talking about five more weeks from now, and another perhaps ten weeks before we get construction permits.

CHAIRPERSON REID: We are talking about, back to that special meeting, that special community meeting?

MS. LANCASTER: For the whole Commission body?

CHAIRPERSON REID: Yes, and the community. MR. MAMO: They have a meeting, April 5 they could meet, we could work out all these details which, in my opinion, all of them

has been, you know, all of the issues that we have, we are close to making an agreement.

So I think April 5 if they have that agreement worked out then they can call an emergency meeting for the ANC as a whole, and vote prior to the 7th.

MR. HOOD: Let me just ask Commissioner Lancaster, is there any way that you can move that April 5th meeting back, closer? I mean, allow more time. I see everything running on and running close. From the fifth to the seventh, you get to the voluntary agreement, you have a problem, then the sixth, and then you have to come back in front of this board on the 7th.

MS. LANCASTER: That is close.

MR. HOOD: So if the community S&B meeting could be moved -- it is no trouble getting the 12 Commissioners, I believe --

MS. LANCASTER: No, I don't think that will be a problem, it is just that --

MR. HOOD: -- if you could move that community meeting back to maybe the end of March, April 1st, I think that is on a Thursday, and I think that would accommodate both parties.

MR. BASTIDA: That Thursday is the Thursday before Good Friday.

MS. LANCASTER: I know, Mr. Hood, that would be the best possible scenario, but that is pushing it. That is pushing it. I'm trying to be as flexible as possible because I realize that Mr. Mamo has funding and building permit concerns, but this is not the only case I have.

And, you know, I have to try to now go back to the -- and try to get a meeting place, and get the fliers out, we don't have any staff, so it is difficult. I am trying to be flexible, but there are some current constraints that I'm dealing with.

MR. BASTIDA: Excuse me, Madam Chairperson, may I ask, what are your concerns beside environmental?

MS. LANCASTER: Like Mr. Ray mentioned, the curb cut, we had asked for a restroom, and there was concern that that may be -- that may bring up some other issues.

I have a copy of the voluntary agreement here.

CHAIRPERSON REID: You said you asked him for a restroom. Is there a restroom there?

MS. LANCASTER: It is only for employees. There is no -- we were told there was no requirement for there to be a public restroom, and we were requesting a public restroom.

There were concerns about the curb cut that we mentioned on the Newton Street that would increase the flow of traffic to the community. There was a concern about the prior tanks, we wanted to get written proof of that.

But, basically, the other things we did not have real problems with. Mr. Ray was explaining to me that there are -- that the law specifies certain things about the type of container you must have, what it must look like.

I thought that had to be in our agreement, but he said that that is covered in the law.

CHAIRPERSON REID: Well, Ms. Lancaster, I think that what we are dealing with here is a situation where you are not that far apart, and you have an applicant who is very amenable to working out whatever problems there are with the community.

However, on the other hand too, we don't want to hamper his ability to be able to get his financing in place to be able to bring that gas station on line in a timely fashion.

So you are going to have to make some type to compromise in order to be able to --

MS. LANCASTER: Meet the 7th deadline?

CHAIRPERSON REID: Well, the 7th is the

deadline, that is our regularly scheduled meeting that we will be speaking, at which time we will be deliberating on this particular case.

Today is the 17th. Now, because of the fact that you don't have any contentious issues, so that is what in my opinion dictates that it can be very easily resolved once you have the agreement drawn up.

Mr. Ray addressed a couple of your concerns right here on the spot today. So the other few can be handled, I would think, through having this emergency community meeting, and addressing it, and amending or adding to that agreement, and get it signed, and move on downstream.

MS. LANCASTER: Right, okay.

MR. BASTIDA: Madam Chairperson, if I may? The environmental issue is really part of the building permit process which complies with the law, has to take effect, and they will not receive a building permit if they do not comply with it.

MS. LANCASTER: Okay.

MR. BASTIDA: So that is one case. The second about the curb cut, that is something that is in public space. This Commission ha no jurisdiction over it, so you can only make a recommendation. It

is really part of DPW.

CHAIRPERSON REID: In regard to the curb cut, my understanding was that they, the community requested that that particular entrance be closed.

MR. BASTIDA: But what I'm saying is this Commission has no jurisdiction over it. So regardless of --

CHAIRPERSON REID: I didn't say that we did.

MR. BASTIDA: But regardless of the agreement or disagreement, you can only make a recommendation, you cannot enforce it. That has to go to DPW.

So what I'm saying, the community has another recourse to go directly to DPW and request that it will not be granted, or will be granted.

CHAIRPERSON REID: But it is already there.

MR. RAY: We are willing to agree on this, so it is part --

MR. BASTIDA: What I'm trying to convey to the Commission is that those are four issues you really have little say in. Two of them, and the other two doesn't seem to be that difficult because you can, based on the testimony, you can say that they need to provide the public toilet or not, and

what was the fourth issue?

MR. RAY: The fourth issue really went to the containers, which is part of the contamination, which is in the law that you are talking about. But what kind of containers are actually in the ground, but the law specifies that.

MR. BASTIDA: Yes, the law specifies that. But also the Commission, in its wisdom, can say how they should be enclosed, or not to have a visual negative impact on the area.

And, you know, you can exercise your jurisdiction over it.

CHAIRPERSON REID: At this point we are not interjecting anything into this agreement. We want to see what, in fact, they come up with. And then if they are both amenable to it, and it is within our purview, and it is in compliance with all the other D.C. Government regulations and laws, then we would have no problem with it.

MR. RAY: Madam Chairman, if I may just on the one issue about the toilets, bathrooms. The law in the District of Columbia, the only place that you are required to provide toilet facilities for the public is in set down restaurants.

What we decided to do here, they have a big concern about loitering, prostitution, and what

have you. Now, if you really want to create a problem with loitering and prostitution, is that you put down bathrooms where people come and get a key, they go in, they lock the door, and they do all kinds of things in there.

MR. BASTIDA: Please do not go there.

MR. RAY: So what we agreed to do for them is that we would put a bathroom on the inside for the public which the management could control. So when you get, you know, unsavory folks come in, you can deny them access. So we have tried to address that issue as well, for them.

MS. LANCASTER: You said the employee bathroom --

CHAIRPERSON REID: Rather than for us to beat that to death, that is something to be reconciled between the community and the applicant to, whatever you come up with, that you both agree to, it is fine.

And I'm sure that there are arguments on both sides.

MR. MAMO: But, Madam Chair, I just want to say, in terms of this time frame, it is critical, because we have the construction, we have the loan. Now, two weeks we can handle, but you go five weeks, we have to wait five weeks before we can go further,

which is about another eight weeks.

MS. KING: As long as you feel you have time to respond to whatever they are going to do on the 5th?

MR. MAMO: We do. We feel comfortable.

MS. LANCASTER: So is that when I have to have my documents into Mr. Hart, on the 5th?

CHAIRPERSON REID: Right, and your letter, your waiver as well. Both at the same time.

MR. HOOD: Madam Chair I still see a problem with the 5th, because they are having an S&B meeting on the 5th. So if you can move that -- I still think that if you can move that S&B meeting back further --

CHAIRPERSON REID: She said she could, she said she could earlier.

MR. HOOD: But we are still talking about the 5th.

CHAIRPERSON REID: Initially she said --

MS. LANCASTER: I just want to clarify, Ms. Reid. I said that I would have a special meeting of the whole body before the 5th. But I didn't say that I could move the S&B meeting from the 5th.

CHAIRPERSON REID: Well, can you?

MR. HOOD: That was my point.

MS. LANCASTER: That is really pushing it.

CHAIRPERSON REID: I understand that, but we are making a concession, as it is.

MS. LANCASTER: Okay, I understand.

CHAIRPERSON REID: And so at this juncture if you can manage to try to move the schedule in such a way that you will be able what you want to do, achieve what you want to achieve, and then on the 7th we can make a decision, and hopefully you all would have come to an agreement, everyone is happy about it, or at least they can live with it, and then the applicant can move forward with his project.

MR. HOOD: So Madam Chair, a point of clarification, we will be deciding this case on the 7th?

CHAIRPERSON REID: We will be deciding it on the 7th.

MS. LANCASTER: And I must have my documents to Mr. Hart on the 5th, Monday the 5th?

CHAIRPERSON REID: Right. And Mr. Ray has proffered that if there is no problem with him, once you get it in to him, he will do what he has to do.

MR. BASTIDA: To clarify, the ANC will

provide this report on the 5th, Mr. Ray will provide, by closing of business on the 5th, Mr. Ray will provide any answers to it by closing of business on the 6th, and the Board will decide at the scheduled regular meeting on the 7th of April?

MR. RAY: Right.

MS. LANCASTER: Just one other question, Ms. Reid. A fellow Commissioner that is a lot more experienced than me said that we cannot call a special committee of the whole meeting. Can I get clarity of that before I -- sorry.

MR. HOOD: Madam Chair, could the other Commissioner be able to come to the mike so we can understand, or was that --

MS. CURRY: Thank you very much. A clear problem. Our community meeting is on the 8th. All of these decisions have to go into the community meeting to be finalized. Once we make a decision it must go into the community meeting.

The community meeting is not until the 8th, that is where I see the problem.

MR. RAY: There was some talk about holding the community meeting on the 8th. The community meeting in her single member district --

MS. CURRY: There are two meetings we have to have, we have to have the committee as a

whole and --

MS. LANCASTER: I'm sorry, let me just, what I thought, in order to get the great weight of the ANC from the Board of Zoning, we must bring it before the committee as a whole, is that correct?

MS. KING: That's right.

MS. LANCASTER: And that meeting, she said, it is on the 8th. I must have two special meetings. I have to --

MS. KING: Excuse me, did the full ANC not authorize your community in the SMD meeting to make a decision, is there not a resolution?

MS. LANCASTER: No, ma'am, we don't have a resolution.

MS. KING: You have no resolution from the whole ANC with regard to this matter?

MS. LANCASTER: They voted to allow the community, they voted to allow a community meeting. That is the only thing we voted for at our March 4th committee as a whole meeting. We did not draft a resolution.

MR. RAY: Madam Chairman, if I may, at the March the 4th meeting the vote that took place there, and I assume that the ANC keeps records for this, the issue came up as to whether or not Ms. Lancaster had held a meeting in the single member

district. She said she had not.

So ANC voted that she should have a right to call a meeting in her single member district. That is what the vote was for, and we held that meeting on the 15th. They voted for her to hold a meeting. We have had that meeting now.

Now, technically, our assumption was that after we had those two meetings that the full ANC would vote. And they can call a special meeting. The full ANC can call a special meeting for any day they want to.

Now, instead of them going forward to cast their vote, which some of the members wanted to do, Ms. Lancaster wanted to hold an additional meeting.

MS. LANCASTER: A community meeting.

MR. RAY: You know, I mean, this community versus ANC meeting is confusing to me. I mean, an ANC meeting is an ANC meeting. I mean, she is talking about some kind of other meeting that she need to talk about it. But that has nothing to do with the ANC having great weight if she is to have some other kind of community meeting.

MS. LANCASTER: I just have one question. I thought Mr. Hood said that in order to get the great weight I would have to bring the

matter up before the entire ANC. Is that correct?

MR. HOOD: Let me restate my position, so it wouldn't look like I was taking a side. What I was saying, we were talking about time frames, I heard April 7th for us to make a decision, I heard April 5th for you to have an S&B.

And I just simply said that I know if you come in front of this Board in order to have great weight you had to have a vote from the full Commission.

So I'm simply saying that if you can move up your S&B meeting, then that way you said you wouldn't have a problem getting your 12 Commissioners to meet. That way it will be fair to both parties, we don't have to make such a big deal of it, we can resolve the issues.

Because if you go on the 5th, you get some issues that you are not able to resolve, then I don't know what happens, then we have a problem on the 7th. So there seems to be two issues that are pressing.

MS. CURRY: My name is Mary Baird Curry, ANC Commissioner 5806 1120 Michigan Avenue, N.E. D.C.

In order, after Ms. Lancaster meets with her single member district, she will bring it back

to the Commission. After the Commissioners meet and vote, in order for us to ratify, we must go to the community.

Our next community meeting is the primary meeting that we need to make sure that we go through in order to give you all a legal document.

CHAIRPERSON REID: Can that be moved up? Can that be moved up?

MS. CURRY: We could only make the 24th, because this is March.

MS. KING: 24th of March?

MS. CURRY: The 24th of March is our next community meeting. Ms. Lancaster will not have had her single member district meeting then. She would have to back up and have a single member district meeting in order to make that 24 March meeting, where we actually go into the community, where everything we do and conclude is ratified.

Or we have to wait for the April meeting for ratification of whatever we do. That is what I'm saying is the illegal part of this.

CHAIRPERSON REID: Ms. Lancaster, can you move the single member district meeting up to be able to have the agreement to present to the community?

MS. LANCASTER: No.

MS. KING: You have already had a meeting of your single member district, and presumably you have a list of the people who attended?

MS. LANCASTER: Yes.

MS. KING: Can you not get on the telephone and call those people to a meeting in the next few days?

MS. LANCASTER: Yes.

CHAIRPERSON REID: Because you only have a few issues to resolve. Most of it has already been taken care of, you just have maybe one or two issues that you need to discuss.

MS. KING: And then you could take that to the 24th meeting and get it in by the 21st.

MS. LANCASTER: And it is a great weight that way?

MS. KING: Right, right.

MR. HOOD: Even if that didn't work, you have basically an agreement with the applicant.

MS. LANCASTER: Right.

MR. HOOD: Well, I don't want to get into that, because that is what we talk about in the first case, I don't want to --

MS. LANCASTER: Okay, that will work.

MR. BASTIDA: That is correct, Madam

Chairperson. Now the accommodation will have to be submitted to the Board by closing of business on March the 31st. And if Mr. Ray has any comments it has to be submitted to the Board by closing of business on April 3rd.

CHAIRPERSON REID: Okay.

MR. RAY: Thank you.

MR. BASTIDA: The day after April fool's day, April 2nd.

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

(No response.)

CHAIRPERSON REID: Seeing none. Persons or parties in opposition to the application?

(No response.)

CHAIRPERSON REID: Seeing none. Closing remarks by the applicant?

MS. KING: The applicant has no closing remarks.

CHAIRPERSON REID: Mr. Ray, closing remarks by the applicant.

MR. RAY: No further comment.

CHAIRPERSON REID: All right, then we will deliberate this case on April 7th, at our meeting. Thank you. Next case.

MR. HART: The next case, 16440

application of James G. and Courtney M. Doherty, pursuant to 11 DCMR 3107.2, for a variance from the rear yard setback requirements of section 404.1, a variance from the side yard requirements of Section 405.9, and a variance from provisions of Section 201.1(h) to allow a private garage designed to house no more than two motor vehicles and not exceeding 450 square feet in an R-1-B district at premises 5332 Sherrier Place, N.W. (Square 1442, Lot 63).

CHAIRPERSON REID: Is there anyone else that is here that is affiliated with this case?

(No response.)

(WHEREUPON, THE WITNESSES WERE SWORN.)

MR. GRINA: My name is Peter Grina, I'm a registered architect in Washington. My clients, Jim and Courtney Doherty are here, also, for -- as the record was stated, for the various variances.

MR. BASTIDA: Excuse me, your home address, please?

MR. GRINA: I'm sorry, 4626 Green Place, N.W. 20007.

The two main issues we want to talk about are the house and the garage, and we will talk about those separately.

The addition on the house, the --

CHAIRPERSON REID: Excuse me, Mr. Grina,

before you get into your testimony, there does not appear to be any opposition to your application, so therefore you can, for the most part, rest on the record, because we have read the record.

You can expedite and just give us the salient points of your case, because for the most part we are familiar with the aspects thereof, and you have several letters of support.

MR. GRINA: We have eight letters of support.

The three points, the exceptional and unique aspect of the case has to do directly with the proportion of the lot. It is a very wide but very shallow lot due to the 30 foot right of way that runs behind the property.

The practical difficulty is the direct result of that exceptional lot dimension.

CHAIRPERSON REID: Now, elaborate a little bit more on that.

MR. GRINA: Okay.

CHAIRPERSON REID: The aspects of uniqueness and unusual conditions inherent in the land, you are saying it is because of --

MR. GRINA: The proportions of the lot, the minimum lot frontage in this zone is required at 50 feet. The actual lot frontage of the Doherty's

property is 160 feet. From the street it actually looks like two lots. This is the street frontage. But as you can see, it is very shallow. There is a 30 foot right of way where DPW's main crosstown water line is buried.

CHAIRPERSON REID: An irregularly shaped lot?

MR. GRINA: Yes, narrow, narrowing down to even more narrow.

And that is -- that creates a certain hardship when you go to comply with the stated setbacks to get what they are looking to do.

CHAIRPERSON REID: And what is that practical difficulty?

MR. GRINA: The depth of the lot, right now the house is non-compliant. It is a required 25 foot setback, rear yard setback. The existing setback is 22 and a half feet, to the corner of the house, as constructed. And the house, in this neighborhood, there is a broad range of house sizes.

This is on the smaller side of the range, especially given the relatively large lot, in order to add to the home, and make it a more functional family home, shall we say, it is very difficult to add to, because of that shallow lot.

The area of -- from an architectural

standpoint, the kitchen and dining room are on the back of the house. From an architectural standpoint, to expand the kitchen into a kitchen family area, the logical location for that addition is on the back of the house as opposed to the side.

The added benefit to going onto the back in terms of the community is that it is less visible, obviously, on the back of the house, as opposed to expanding the house to the side.

In terms of the adverse impact I think we can show that, if you want me to get into the architectural --

CHAIRPERSON REID: Well the adverse impact, basically, you want to just speak to what adverse impact there is, if any, or speak to the lack thereof, for making the second test for your case.

MR. GRINA: We believe that there is a lack of adverse impact with the proposed addition due to the fact that we are putting it on the rear of the house, and there is the additional 30 foot buffering from the adjacent landowner by that right of way.

CHAIRPERSON REID: You have had no complaints from any neighbors, or abutting property owners?

MR. GRINA: We have eight letters in support from neighbors across the street, immediately adjacent is an architect who has submitted a letter in support of the design. The Doherty's have met with the neighbors, shown them the plans.

CHAIRPERSON REID: There is no adverse impact?

MR. GRINA: Right.

MS. KING: And the garage is going to house how many cars?

CHAIRPERSON REID: Two, no more than two.

MR. GRINA: The request is for the variance to provide three spaces. Part of that is a matter of utility. Mr. Doherty is a custom cabinetry contractor, has a van, and a trailer as the course of his, you know, small tool trailer.

CHAIRPERSON REID: You say three? Because your application says no more than two. A private garage designed to house no more than two motor vehicles.

MR. GRINA: That is the allowable, current allowable zoning. We are proposing three, which is in our statement.

CHAIRPERSON REID: Okay, I see, all

right. That is what you are seeking the variance from.

MR. GILREATH: Madam Chair the listing in the public Hearing agenda, I didn't see any mention, and I always review this first, when I read what they wanted, it doesn't even mention this two-story addition.

CHAIRPERSON REID: In the application's statement.

MR. GILREATH: What goes out to the public, when they read this, would they have known that --

MS. KING: No, it is a rear yard setback, the side yard requirement, and the variance to allow a private garage.

MR. GILREATH: To allow a private garage.

MS. KING: The setback in the side yard is what they are asking for to expand the --

MR. GILREATH: If this goes out to the general public, though, how would they --

CHAIRPERSON REID: They are going to look at what relief they are asking for, and that is a variance from this section, and this section, and to allow three -- well, they are asking for relief from this regulation that says that they could have

no more than two, and they need three.

MR. GILREATH: Normally the public agenda doesn't list the variance for a two story addition, and so forth? Because they mention to allow a private garage, that part is identified.

CHAIRPERSON REID: Oh, I see what you are saying.

MR. GILREATH: They make no mention, whatsoever --

CHAIRPERSON REID: Mr. Bastida?

MR. BASTIDA: It is a self-certified?

MR. GRINA: Yes, it is.

MR. BASTIDA: Would you so certify, do you put the two, the addition, the two story addition in the certification?

MR. GRINA: In the statement, yes, that should be --

MR. BASTIDA: No, not in the statement, on the certification.

MR. GRINA: Those -- is that not on the record?

MR. BASTIDA: I have it here, and I don't see it.

MR. GRINA: Well, there is no requirement for rear yard setback for a garage, so that would not make sense.

MR. GILREATH: My concern, since we received this notice, when I read that I wouldn't have known what these variances were for. I mean, when I read it, it sounds like just to accommodate this private garage, and you say two motor vehicles, and then in the statement of what you actually want, you want this two story plus basement addition, plus you want a three car garage.

How would the public know what is being sought?

MR. GRINA: The, you know, as I understand it, the sections --

MR. BASTIDA: Excuse me, did you check with the zoning administrative report to do the self-certification?

MR. GRINA: Yes, I spoke with the people that --

MR. BASTIDA: And didn't, who did you talk to in the Zoning Administrator's office?

MR. GRINA: I spoke at one point with Mr. Nunley, and the second time when I actually took the form down there I don't recall the person that I spoke to. I believe their signature is on it, though.

MR. BASTIDA: For self-certification you would be the one signing. I mean, the zoning

administrator's office would sign.

MR. GRINA: The section --

MR. BASTIDA: When you require a variance you have to relate it to what you are building, and you have to make clear that you require those variances to provide, to build the garage, and to build the addition, otherwise the public does not have proper notice.

MR. GRINA: When I submitted all the documents to BZA the self-certification specified -- relating to those specific sections, the first two sections of the side yard and the rear yard, those are not specifically applicable to a garage. Those are the general setback requirements for the structure on the lot.

The last section relates specifically to the garage.

MR. BASTIDA: But then you would have requested two variances, two area variances, one to have a three car garage, and the other for the addition, and you are requesting one variance.

So it was assumed that it was all one case, depicted by one issue. But that put aside what is the increase on the square footage that you have with the proposed garage, and with the proposed addition, and what is the maximum lot coverage that

is permitted, as a matter of right, and how much you are proposing?

MR. GRINA: Matter of right is 40 percent, we are proposing, inclusive of the addition and the garage, 40 percent.

MR. BASTIDA: You are going to the maximum, the 40 percent. Okay. This would be my advise. The Board can go both ways. A variance which is a maximum test that is required was advertised. It was not clearly understood, but the Board has the latitude to do, to hear the case and decide it without further advertisement, or the Board might want to be conservative and continue the case and re-advertise it.

MS. KING: Madam Chair, given that the Advisory Neighborhood Commission 3D, and the large number of the immediate neighbors have all weighed in, in favor of this, although the ANC has some conditions on their favorable response, it seems to me that there is, and also because it was advertised, we have a photograph of the property having been posted, I suggest that we proceed with this case forthwith.

MR. BASTIDA: In that case, Madam Chairperson, the applicant has made its case, and let me recap it for you, just to make it much

clearer.

The practical difficulty is that this lot is narrow, it is four-sided, it is a different lot than any of the other lots in the area. If this were a rectangular lot they can do what they are proposing to do as matter of right.

Secondly, it appears not to have negative impacts since it abuts the rear yard, or faces the rear yard, and the existing right of way, so it appears not to have negative impact to the area.

Thirdly, the zone plan for the city will not be impacted since the applicant is proposing to build to the maximum permitted, and not go beyond that. Accordingly it will not have a negative impact on the zone plan of the city.

MS. KING: Could I ask the applicant a question, Madam Chair?

CHAIRPERSON REID: Go ahead.

MS. KING: The ANC, have you seen the letter from the Advisory Neighborhood Commission?

MR. GRINA: We have not.

MS. KING: What they have said, the Commissioners voted, but it was divided into two parts. One, to approve without change the plans to add on to the house, and that vote was unanimous,

five to nothing.

And secondly to support no more than a two car garage, and also not to support access coming off the right of way in the back of the property. And on that the vote was four to one.

Could you deal with your willingness to reduce the size and the access for the garage, is that something that you are willing to consider?

MR. GRINA: If I could address the access first, and then perhaps let Mr. Doherty speak to the size, which is a mater of owner utility.

Because of the right of way which runs behind the property off of Galena, which is really the secondary road, Sherrier is really the major street frontage, it was felt that we had the advantage of entering the garage from that right of way, which we pursued with DPW, actually after going through sort of an exhaustive search of D.C. agencies to find who had control of that right of way. DPW ultimately does.

I met with DPW, they indicated that they did not see a problem with granting us the use. We are not building anything on that, it is simply an access provision. We submitted the letter to them, we have not received their letter of approval back. However I have spoken with them indicating that they

did not see any problem with that, and it is a matter of getting the paperwork through.

The advantage to that, really is -- I mean it doesn't, it is not really an advantage to the owner, necessarily, he could just as easily come in off of Sherrier as opposed to the back. But it is felt that it is a real advantage to the community, you don't have a garage door facing the street.

And we have gone to some length to detail the garage in sort of a cottage-like manner, so that it doesn't look like a garage. And that is the biggest benefit I see toward getting that --

MS. KING: Do you understand? I mean, it doesn't seem quite logical to me that the ANC, you know, it seems to me just as you say. But I mean, have you met with the Advisory Neighborhood Commission?

MR. GRINA: We did, we presented -- I'm sorry, we presented to them, as I understand their concern, they were somewhat concerned about setting, perhaps, a future precedent. I can't speak to that, I'm not a lawyer.

MS. KING: Well, access to garages from the alley?

MR. GRINA: From the right of way, which

we happen to be --

MS. KING: Is it paved?

MR. GRINA: No, it is a grass right of way, it is currently used by repair trucks, both for PEPCO and for DPW.

MS. KING: But it is a sort of a lawn?

MR. GRINA: Right, and we would not change that.

MS. KING: A no-man's land that belongs to nobody, but a green space?

MR. GRINA: Right, and we would not change that, and have offered to do whatever we can to maintain it in the current state.

MS. KING: I see, okay.

MR. GRINA: And if --

MS. KING: Now, what about this issue of two versus three parking?

MR. DOHERTY: Yes, thank you. My name is James Doherty, I live at 5332 Sherrier Place, Northwest D.C., 20016.

I want to offer that this has been very interesting, and I recognize a capable board doing important work here. It is not something I'm familiar with.

We have -- I have requested an expanded square footage, an expanded footprint for a garage.

I don't care if I have a third door, so much. I am willing to live with less square footage. The square footage that we have drawn and proposed is more to keep in line with the architectural style of the neighborhood.

And actually it was to grease the wheels of this ANC meeting, and I'm disappointed with the ANC meeting. They had other things on their agenda, I believe, and we were pushed back until ten o'clock at night, and there was very little discussion.

So to answer, I would be willing to live -- I feel like we need 600 square feet as opposed to 450. What we have proposed is 745 square feet. I have a cargo trailer, I have a 19 foot long van that is not an oversized truck, it is made by GMC and it has no writing on the side.

I have gone to great lengths, and I see that is testified by the eight letters that we brought in support, they are all within 150, or whatever it is, 200 feet of our property. Three of the members of that group have lived in the neighborhood in excess of 45 years. They have a long history of this right of way, they are in support.

I don't understand the ANC's decisions in light of that, and I feel like I have strayed

from the question, and I apologize if that is the case.

MR. GILREATH: Madam Chair, looking at some of these community neighborhood responses, I think that some of the respondents got confused, they read this public agenda about the two car garage proposal. Some of them say, I fully endorse the application to have a garage, now maybe they were --

MS. KING: But most of them have reviewed the plans.

CHAIRPERSON REID: Yes, I looked at that, specifically, to see if for the most part were aware that there was a two level addition, and they said they support the building plans, and some of them say the garage and the addition. So I'm assuming that they were made aware of what the intent of the applicant was.

MR. DOHERTY: I believe that I, before today, did not give this process enough respect. In my course pursuing this, and the documentation that I now realize I should have brought forth. I can testify that I met with each of these neighbors personally, individually in their homes, with a full set of drawings.

And the other thing I want to point out,

as Mr. Grina indicated, our lot is 160 feet wide --

MR. BASTIDA: Excuse me, could you specify, you have a complete set of drawings that depict a three car garage?

MR. DOHERTY: That's correct.

MR. GRINA: The same set of documents that were submitted in your record.

MR. BASTIDA: Thank you.

MR. DOHERTY: And what I think is also in our favor, or perhaps should be taken under consideration by this panel is that the open spaces that are created, we don't border any private property, we have a grass alley to our side, we have a grass right of way to our rear, and we have two streets on the other two sides.

The open spaces are in excess of the reset of the block, for blocks around. With our improvements that we propose, we have a very open area. We are proposing a 28 foot wide house, a 50 foot open space, a 30 foot garage, and a 30 foot open space.

And I think, I believe, that if the ANC had entertained a discussion of any depth they would have recognized that as well.

CHAIRPERSON REID: And you did not attend the ANC?

MS. KING: He said that they didn't take up the matter until 10 o'clock, and you know ANCs, by the time --

CHAIRPERSON REID: I'm sorry, you did say that earlier, and you didn't think that they probably gave your particular case the adequate type of sensitivity that they needed to be able to respond to it, they were tired.

MR. DOHERTY: There was on the docket, also, the purchase of the Kafritz property for a school, in which a large group from an adjoining neighborhood that carries a lot of weight --

CHAIRPERSON REID: But there at that meeting you said that, I wasn't clear. I know that they met, you were there, did you speak?

MR. DOHERTY: I was allowed to speak briefly, and then told that they would not entertain any more of my thoughts. I was not allowed to offer as much as I have already offered here today.

CHAIRPERSON REID: When you posted the property, on those orange cards, the large posters, did you indicate that you were also going to put the two story addition?

MS. DOHERTY: Yes.

MS. KING: And I might note, I'm looking at the page of the plans for the Doherty residence,

it is clearly a three car garage, 8, 9, 8 feet, 3 doors. The side that faces away from that grass right of way is cottage in design.

CHAIRPERSON REID: I think that the objection from the -- what I'm hearing, Mr. Doherty, is the fact that there are three garage doors that kind of depart from what is in keeping with the ambiance of that particular neighborhood.

And I think that you may want to consider making the facade of the garage more in keeping with the integrity of the neighborhood.

MS. KING: Well, no. Excuse me, Madam Chair, the facade of the garage looks like a guest cottage. It is the rear of the garage, on this right of way, which looks like an alley, but is in fact a grass no man's land that belongs to no one, you see --

MR. GRINA: This is the drawing of the garage.

MS. KING: What faces the street, and Sherrier place is below, and Galena is there. And the three garage doors face this no man's land, this green swatch that is the right of way.

MR. DOHERTY: Correct. That took us a long time to figure out who even owned it. We went to --

MS. KING: I understand. But what faces the street looks like a house.

CHAIRPERSON REID: Okay, I understand that. But still when they say that it is not in keeping with the integrity of the community, what comes to my mind is the three garage doors. Are you saying that that is not visible from the street at all?

MS. KING: Not from the street at all. Amongst the letters that we have, do the people who will face that, in other words, your neighbors behind on Galena?

MR. DOHERTY: The neighbor on Galena place, whose property borders the right of way don't exist. My wife and I have been there four years, the house has been vacant. I understand it is in somebody's estate, in probate.

CHAIRPERSON REID: That being the case, what was the objection? I don't understand what the objection was, it does not appear to be obtrusive, in my opinion, I don't see the problem.

MR. DOHERTY: I was hoping to learn the nature of their objection when I got here today because it was unclear when I left the meeting, and I never received the notice. We would certainly agree with your point.

CHAIRPERSON REID: Yes. I thought that perhaps the other side that has the three doors was maybe giving a deleterious effect to the community, but if it is not, I just don't understand.

MS. KING: Excuse me, let me just read -- you have not seen this letter. The second paragraph, let me read into the record the ANC letter, or --

CHAIRPERSON REID: Well, can you do that in the ANC part?

MS. KING: What I'm concerned about is that the second paragraph, on the agenda for this meeting, that is March 8th, when they took the vote, Mr. And Mrs. Doherty and their architect, Mr. Peter Grina, presented BZA application 16440. They have applied for a variance from the rear yard setback, a variance from the side yard requirements, and a variance to allow a private garage designed according to their application, to house no more than two motor vehicles.

MR. DOHERTY: That is incorrect, our application was requesting an exception to that. The zoning for our district is for no more than two vehicles. I can't tell you why it is misstated there.

MS. KING: Well, it was clearly a

misunderstanding there.

MR. GILREATH: But in the last paragraph it talks about that they understand that they wish to build a three car garage when they expressed --

MS. KING: That is correct.

MR. GILREATH: So even though they apparently misunderstood --

MS. KING: And they understood they wanted an addition to the house, it is just that second paragraph --

CHAIRPERSON REID: And then just stipulate that there will be a two car garage, and they also don't want access coming off the right of way in the back of the property.

MR. BASTIDA: Madam Chairperson?

CHAIRPERSON REID: Yes?

MR. BASTIDA: I think that the main point, I think that the community objection is, I think it can be resolved, is the community see that the use of that right of way is used seldom. And they are afraid that if it is used every day by three cars coming and going, it would really put that open right of way in a very bad state of disrepair, specially if you have heavy rain and so on.

The architect for the applicant has

proffered that the applicant are willing to maintain the right of way. I think that if you are inclined to approve it, that you should request from the applicant information regarding how they intend to upkeep it.

CHAIRPERSON REID: And also the condition that --

MR. BASTIDA: And a condition in the order, and see what they proffer to do that. Because I think that if I lived there, that would be my main concern.

CHAIRPERSON REID: Can you respond to that question?

MR. DOHERTY: I think that is a very intelligent and very reasonable request, and we are willing to do that.

MS. KING: Well, now.

MR. DOHERTY: Now, I'm sorry.

MR. BASTIDA: You can always put it in writing and submit to the Board, and the Board could make its decision.

MS. KING: But if you want a decision today, you have to do it today.

MR. DOHERTY: Very good. I would suggest that there are methods to control erosion. First of all, we don't anticipate daily use, but

there is no way to document that.

We value the right of way probably more than anybody in our neighborhood. We would like to see it unchanged. I think that we can perhaps install some hard materials in the earth's surface that would not change the look, or the grass look, and that would retard erosion.

I already maintain a large section of land that is beyond my property line that apparently belongs to the city for future expansion of the street, or something.

MR. GRINA: Could I interject? I don't know how specific you want the statement.

MR. BASTIDA: Let me give you -- the problem is not with these present owners, but they are not going to live there in the next 100 years. So it has to be specific, it is not that I'm trying to issue death earlier than you can, but you will move on to better and bigger houses.

That order runs, then, with the land and everybody who buys the property has to comply with it.

MS. BAILEY: Madam Chair, I think it should be taken into consideration that this is in public space, and the applicant is not able to make any improvements on public land without the approval

of the Department of Public Works.

MR. GRINA: If I could address that just briefly. We do have a letter pending with DPW in which we pledge to maintain that property, basically, what is the status quo or better, with them, which --

MS. KING: When do you anticipate getting that letter?

MR. GRINA: I can't say specifically. I spoke -- I would be happy to give you a copy of that letter --

MS. KING: Well, the thing is that for us to give you permission to build the way you have designed it, if by any chance DPW changes its mind, you are going to have to come back to us. Maybe we should wait and make a decision on this after you filed, we should hold the record open for the letter from DPW.

MR. GRINA: Would it be possible to do that regarding the garage, and approve the house addition at this time?

MS. KING: One case, isn't it?

MR. GRINA: I'm just wondering if that is possible. I know the owner is anxious to get started with construction now that we are into the springtime.

MS. KING: Yes, but you are going to tear down an existing garage and possibly not replace it? I mean --

MR. GRINA: There is no existing garage.

MS. KING: Isn't there? What is that lump on the back on the plan? I'm talking about this. What is that, is that an --

MR. DOHERTY: That was a previous structure, it is not there currently. Obviously I would like to see this process streamlined as much as possible, and I think that part of our attempts to communicate with water and sewer who, I believe Mr. Grina has the person's --

MS. KING: Water and sewer isn't DPW, is it? Water and sewer is now an independent agency.

MR. GRINA: I can tell you, specifically.

MR. DOHERTY: While Mr. Grina looks that up, this right of way is currently driven on by huge maintenance trucks by PEPCO. They have a perpetual right of way to maintain the poles.

As far as the end of our house. Once we get beyond our house, that right of way narrows considerably with growth, and their trucks don't drive beyond there. I think this is a very unique situation. It already is driven on, on a regular

basis, by trucks that are much larger than our vehicles.

MS. KING: But which have permission to do so, and you don't have permission to use that.

MR. DOHERTY: That is correct, we have a verbal permission, and we have been assured that in writing is in process.

MR. GRINA: It is the District of Columbia Water and Sewer Authority.

MR. BASTIDA: Could you submit a letter for the record, and could there be a Board requirement to receive the letter into the record?

MS. KING: Is there a letter? There isn't a letter.

MR. GRINA: There is a letter submitted to them requesting --

MR. BASTIDA: To them, so at least we know exactly what they are talking about.

CHAIRPERSON REID: And he says that verbally they have agreed. So what you can do is to submit your letter, and wait for their written -- however, I guess you are assuming that it is going to be in the affirmative, in writing in the affirmative, so therefore you are proceeding to get your -- have your approval through this body, correct?

MR. GRINA: That is correct. Given the size of the project --

MS. KING: May I see the letter?

MR. GRINA: -- we would like to get it under way, as was previously stated, so we can get back into --

CHAIRPERSON REID: Even if it is approved, that is something that you have to deal with the appropriate agency.

MR. GRINA: That's correct. So let's move forward.

MS. KING: Excuse me, you wrote to the D.C. Water and Sewer Authority, which I don't think exists any more, but nevertheless you wrote to Mr. Jerry Johnson on the 4th of November. And when did you talk to him and get this verbal assurance that he was going to give you the permission that you asked?

MR. GRINA: I would say that was probably two weeks ago.

MS. KING: He says, we are writing at the direction of Mr. Bernie Gascons, chief of design, to request permission to drive across water and sewer property to access a new garage which we intend to build on our property, at the address.

We will not alter the water and sewer

property in any way, other than possibly spreading gravel to avoid erosion where we intend to drive. We have enclosed drawings which illustrate our intentions.

We understand that our use may be interrupted should the authority need to perform maintenance on the property, and would appreciate 24 hours notice so that we may remove our vehicles from the garage in advance of the work. Thank you for your consideration.

MR. BASTIDA: Madam Chairperson, this puts a different light. This is -- this appears to be land under the jurisdiction of water and sewer. So it is not really public land, and it is, because it is an independent authority.

So water and sewer appears to have jurisdiction over the land. Accordingly you can advise water and sewer of what your wishes are, if you decided to approve it, and in that way they would take it into account when they do grant or deny that permit.

CHAIRPERSON REID: What are you saying?

MR. BASTIDA: I'm saying that you can make suggestions to them, you cannot tell them what to do.

CHAIRPERSON REID: To who?

MR. BASTIDA: To water and sewer regarding the alley.

CHAIRPERSON REID: There is no intention on our part to make any recommendations to water and sewer. The statement that I made was we will take care of the business that we have to take care of as far as this entity is concerned, and if we approve it, then whatever they have to deal with, as far as water and sewer is concerned is between them and water and sewer, we don't have anything to do with that.

MR. DOHERTY: Excuse me. Is it possible to approve with the contingency that we receive approval to cross the land?

CHAIRPERSON REID: Well, again, once we approve it, then you know what the situation is. Then if, in fact, you don't get the approval to cross the land, then --

MR. GRINA: And it becomes our problem, that is correct.

CHAIRPERSON REID: We are just taking care of the part that we have to take care of, as far as this aspect of the case is concerned.

MR. DOHERTY: And it will be up to us to convey whatever decision --

CHAIRPERSON REID: Get an easement, or

whatever you need to do as far as they are concerned.

MR. DOHERTY: -- department of water and sewer.

MS. KING: Mr. Bastida should the -- should WASWA, which is not part of DPW any more, decline, then do they have to come back to us with altered plans for the garage, with access from Sherrier Place?

MR. BASTIDA: Let me think for a minute.

CHAIRPERSON REID: Because if he has no right of way, there is no way of accessing the property.

MR. BASTIDA: The access is in private property, and you are approving that access on the private property. From that point of view if the access to the private property is going to be from a different place, they will have to come to you.

CHAIRPERSON REID: You understand that? Now, let's move on. Stay there, the second segment is Office of Planning report?

MR. BASTIDA: No Office of Planning report.

CHAIRPERSON REID: ANC we have --

MS. KING: We have already read the letter.

CHAIRPERSON REID: -- the letter from ANC. And, just for the record, the ANC Committee -- go ahead.

MS. KING: Approves the change, the plans to add on to the house, but does not approve a three car garage, approves a two car garage, and does not approve of the access from the right of way behind.

This was an action taken at a meeting on March 8th, which was -- for which public notice was given, with a quorum present, and therefore great weight must be given to the ANC's opinion in this matter.

CHAIRPERSON REID: Okay, all right. There are no other reports that we know of for this particular application.

Persons or parties in opposition to the application?

(No response.)

CHAIRPERSON REID: Seeing none; persons or parties in support of the application?

(No response.)

CHAIRPERSON REID: Seeing none; closing remarks by the applicant.

MR. DOHERTY: Obviously we have submitted what I would like to see approved. As I

listened to the ANC's report, yet again here, perhaps the language that they used in excess of a two car garage I believe that I can work with an expanded two car garage, if that would help this panel at all, as opposed to three doors, I can live with two doors if I can --

MR. BASTIDA: Excuse me, Mr. Doherty, the Board just approved, as you submitted the drawings. I think that you are better ahead quitting.

MR. DOHERTY: Yes, I thought so too.

CHAIRPERSON REID: So are you asking us for a bench decision summary order today?

MR. GRINA: If that is possible.

CHAIRPERSON REID: Board Members, I would move that we approve this application.

MR. GILREATH: I second the motion.

CHAIRPERSON REID: Were there any conditions that we wanted to add to this? My motion is, as applied for. All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: Opposed?

(No response.)

MR. HART: Staff will record the vote is four to zero to grant. Ms. Reid, Mr. Gilreath, Ms. King, Mr. Hood. This will be a summary order.

MS. KING: I abstain. There was no call for abstention. I'm troubled about certain aspects of that access, and that garage, and going against the ANC on this, although they may have been very you know, so I'm not voting against it, but I have abstained.

MR. HOOD: And I just need further clarification. I believe we voted as it was written, for no more than two?

CHAIRPERSON REID: No, the variance --

MR. BASTIDA: You voted for what is on the record.

CHAIRPERSON REID: The three car garage.

MR. GILREATH: Because the base property, falls from it, there is no adverse effect. We don't agree with the ANC's analysis.

CHAIRPERSON REID: And I was going to add to my motion that I feel that the applicant has met the burden of proof, that they have demonstrated that the property is unique, and that there was a practical difficulty to comply with existing zoning regulations, that there does not appear to be any adverse impact, and that it does not seem to impair the integrity or intent of the zoning regulations or map.

MS. KING: And I abstained because,

although the house that faces the three car garage across the green space, which is the right of way, may be empty now, it won't necessarily be in perpetuity, and this variance marches with the land.

And I'm concerned, also, about if it has been since November, and they haven't gotten -- well, sewer is usually a fairly reasonably efficient organization, if they haven't gotten their permission, we may be authorizing something they won't be able to build.

But, anyway, I won't vote against it, I just can't vote.

MR. GILREATH: They indicated that they had received a verbal telephone call saying that they would agree with this.

MS. KING: That and 50 cents will get you a small cup of coffee.

CHAIRPERSON REID: The onus of this whole application is on the applicant.

MS. KING: Right, I understand.

CHAIRPERSON REID: So they understand they have that responsibility, and they want -- they feel comfortable to move ahead with it.

MS. KING: You notice I didn't vote against it, I just abstained.

MR. HOOD: Well, let me say this, maybe

I should have asked the question, I had an assumption that what was written was the two car garage, maybe I missed that, as opposed to what the drawing show.

I just have one question, I know the vote has been called. The letters that have come from the community seem to be in support. The people who are most affected right in that area, and they have no problems with three car garages, four car, whatever?

CHAIRPERSON REID: They looked at the plans, most of them say that they have looked at the plans, and approved the plans, so we assume --

MR. HOOD: And the plans they saw had a three car garage?

MR. GRINA: These exact drawings.

MR. HOOD: In that case, Madam Chair, I will support.

MR. HART: The final case application number 16441 of Hannah Smotrich and Michael S. Barr, pursuant to 11 DCMR 3107.2 for a variance from the off-street parking requirement of Section 2300.3(e) for an artist studio allowed in a private accessory garage in an R-3 District at premises 3812 Windom Place, N.W. (Square 1833, Lot 36.)

(WHEREUPON, THE WITNESSES WERE SWORN.)

MS. SMOTRICH: For the record I'm Hannah Smotrich, I reside at 3812 Windom Place, N.W., Washington, D.C. 20016.

I'm a graphic artist, I have been working from a studio --

MS. KING: Excuse me, could you speak into the microphone?

MS. SMOTRICH: Yes, I'm sorry. I'm a graphic artist, I have been working from a studio in a bedroom of our house since May 1995. With the birth of our second child last October we have decided we needed to reclaim the bedroom, and chose to renovate what was previously an unusable garage into a studio space.

There are no zoning issues with regard to the building itself for the intended use, all of that has been approved. The only thing that I'm here for today is a variance asking for a waiver of the requirement for the 9 by 19 off-street paved parking pad.

I, obviously, very much understand the logic behind the requirement, but the concern is that in this particular instance compliance would actually create more negative impact than a waiver would.

There are two very simple points. First

and most importantly there is abundant on street parking. I submitted with my application three photographs which, and I have similar copies here as well, which show a typical daytime view of our street. The one car which is in view is in fact my own. We have never actually used our garage.

In terms of, as a graphic artist my studio is primarily for my own use, on a very rare occasion a client will come to visit the space. I wrote on my application ten times a year. I would say that that was probably a very generous overestimate. The reality is that I typically go to my clients.

And the second issue is that in order to create the parking pad we would actually create quite a bit of disruption in the back of the house. The option, obviously, would be to create a pad off of the alleyway. It would require the removal of at least two fairly large trees, and it would also require the removal of a portion of fence.

We have the space in the backyard, and we are certainly able to comply if it is necessary. We would, obviously, prefer not to. We would like to keep -- it has a very nice residential character back there, it is a nice shaded area, it is in keeping with the rest of the alleyway. I mean,

there is a lot of trees all along the alleyway, we would like it to stay consistent with that.

We have spoken to all of the neighbors whose property adjoins, and in fact they have all signed a letter which also should be in your files, as well. And they all agree that they would prefer that the space not be built.

I think that is really all I have to say.

MR. GILREATH: You have a garage, or a building that was used as a garage, but you are using it for storage now, is that right?

MS. SMOTRICH: Yes. I mean, what was currently in the space was literally two broken lawnmowers.

MR. GILREATH: Has this ever been used since you have been living there, as a garage?

MS. SMOTRICH: No, it has not.

MR. GILREATH: Okay.

MS. KING: I can attest, from my personal experience, that that portion of Windom Place, in fact, that portion of most of those streets, with the possible exception of Albemarle, is -- there is always ample on-street parking.

Do you have a home occupancy permit, a home business permit, whatever you call it?

MS. SMOTRICH: Yes, it is home occupation permit, we do.

CHAIRPERSON REID: Okay. Ms. Smotrich, in applying for a variance relief before this Board there are three tests that you have to meet. Are you familiar with those tests?

MS. SMOTRICH: I have been picking up on those tests since I have been sitting listening to you.

CHAIRPERSON REID: Those are -- that, then, establish the basis under which you could be granted the relief that you are requesting. And that first test would be something that is unusual, or unique about your property that would make it -- would cause you a practical difficulty to comply with the existing zoning regulations.

MS. SMOTRICH: I think I spoke to the issue of practical difficulty in the sense that it would require, you know, the removal of several trees and fence. I think it would actually become more exceptional if I were to comply in the sense that it would be disrupting the flow of the existing neighborhood. The back view of that alley is pretty consistent in that it is very nicely treed all along the way.

CHAIRPERSON REID: I heard you say, and

I'm glad you are clarifying it, because that was my next question. You were saying that to comply with the zoning regulations would cause even more deleterious effects on the community, and that is because of you having to remove the trees?

MS. SMOTRICH: Exactly, and the fence as well.

CHAIRPERSON REID: Okay. As far as we know there is no adverse impact. You didn't get any complaints or any opposition from any of the other neighbors, or any of the abutting property owners?

MS. SMOTRICH: No. In fact they have repeatedly come to me and said, I got another notice, do you need me to do anything?

CHAIRPERSON REID: Did you talk to the ANC?

MS. SMOTRICH: Yes, I went before the ANC meeting, and I believe -- I mean, you I guess would have a more formal record of it, but the verbal experience --

CHAIRPERSON REID: I didn't get anything from the ANC.

MS. KING: I don't have anything from the ANC, either.

CHAIRPERSON REID: Did they send you a letter?

MS. SMOTRICH: They did not give me a letter, I was there on February 17th, 3F, and it was unanimously in favor of it, and they said that they were going to forward that recommendation to you.

CHAIRPERSON REID: We haven't received it, but we contend that, if in fact they were in opposition to it, we would hear from them.

MS. SMOTRICH: It was unanimous.

CHAIRPERSON REID: We assume that they are okay with the application.

Okay, and I would assume, then, that granting you this application would not impair the integrity or the intent of the zoning regulations or maps.

MS. SMOTRICH: I'm sorry, what was the last word that you used?

CHAIRPERSON REID: I said granting you this relief would not impair the integrity or intent of the zoning regulations, or the zoning map?

MS. SMOTRICH: I certainly don't believe so.

MS. KING: It will continue to be a primary family residence.

MS. SMOTRICH: Yes, the nature of my -- the only thing --

MS. KING: -- home office for one member

of the family, that is well within the --

MS. SMOTRICH: The issue of the business is unchanged, the issue of my family has.

CHAIRPERSON REID: So moving on to the Office of Planning report?

MR. BASTIDA: No, Madam Chairperson.

CHAIRPERSON REID: ANC report? No ANC reports, no other government reports. Then persons or parties in support of the application?

(No response.)

CHAIRPERSON REID: Seeing none; persons or parties in opposition of the application?

(No response.)

CHAIRPERSON REID: Closing remarks by the applicant?

MS. SMOTRICH: Please.

CHAIRPERSON REID: You would like to have a summary order today?

MS. SMOTRICH: That would be wonderful.

MS. KING: I move that we grant this application. It is clear that the neighbors are in support of it, it will have no harmful effect on the surrounding neighborhood.

It is well within the intention of the zoning regulations and maps, and in fact, if the issue is not of any building or anything, it is a

question of her not providing off-street parking.

You will note that on the map, that there are neighbors of hers who are not providing off-street parking because they don't have garages, and I don't see that one less off-street parking space that has never been used as an off-street parking space is going to harm the neighborhood.

Therefore I move that we grant this application..

MR. HOOD: Second the motion.

CHAIRPERSON REID: Okay. All in favor?

(Chorus of ayes.)

CHAIRPERSON REID: All opposed?

(No response.)

MR. HART: The staff will record that the vote is four to zero to grant. Ms. King, Mr. Hood, Mr. Gilreath, and Ms. Reid. This will be a summary order.

CHAIRPERSON REID: You should have your order in about two weeks.

MS. SMOTRICH: Thank you very much.

CHAIRPERSON REID: Thank you. That concludes the BZA hearings for March 17th.

(Whereupon, the above-entitled matter was concluded at 4:21 p.m.)