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

FEBRUARY 17, 1999

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The Public Hearing convened in Room 220, 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
REGINALD GRIFFITHS, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANGEL F. CLARENS, Commissioner
ANTHONY HOOD, Commissioner
JOHN F. PARSONS, Commissioner

STAFF PRESENT:

Sherri Pruitt-Williams, Interim Dir., Office of Zoning
Paul Hart, Office of Zoning
Beverly Bailey, Office of Zoning
John Nyarku, Office of Zoning

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P R O C E E D I N G S

(Whereupon, the foregoing matter went on the record at 9:30 a.m.)

MS. REID: This hearing will please come to order.

Good morning, ladies and gentlemen, this is the February 17th Public Hearing of the Board of Zoning Adjustment, District of Columbia. My name is Sheila Cross Reid, chairperson. Joining me today are Betty King, vice chairperson and Jerry Gilreath, representing the National Capitol Planning Commission.

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

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

The order of procedure for special exception and variance cases shall proceed as follows. Statement and witnesses of the applicant, government reports, including Office of Planning, Department of Public Works, ANC, etc., persons or parties in support, persons or parties in opposition, closing remarks by the applicant.

The appeal is a statement and witnesses of the appellant, the zoning administrator, or other government official, the owner, lessee, or operator of property involved, if not the appellant, the ANC within which the property is located, intervener's case, intervener's case, rebuttal and closing remarks by the appellant.

Cross-examination of witnesses is permitted for persons or parties with direct interest in the case. The record will be closed at the conclusion of each case, except for any material

specifically requested by the Board, and the staff will specify at the end of the hearing exactly what is expected.

The decision of the Board in these contested cases must be made 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 a time to raise such a matter.

Are there any preliminary matters? Please come forward.

MR. BROWN: Good morning, Madam Chair, members of the Board. My name is Patrick Brown. I'm counsel for Ms. Crary, the appellant in Case No. 16405.

By letter dated January 12, filed January 13th with the Board, I requested a continuance of the case, and more importantly, an amendment to the pending appeal which currently involves three building permits at the subject property.

The requested amendment was for two additional permits subsequently after filing the appeal discovered in meetings with the Zoning administrator's office.

Those now five permits cover the same subject property and the same envelope of issues related to the appeal. And in fact the Board would have a difficult time ruling strictly on the three

building permits that are at issue without considering the fourth and the fifth, one of which was issued prior to the appeal being filed; the other was issued after the appeal was filed.

Those two permits are remedial in nature, attempting to correct in the first case work that was done without a permit; and two, the second permit was done also in a remedial nature for work that was done beyond the scope of the permits.

The issues are the same as to the violations of zoning regulations, because again, it involves work that was done without permits, and was discussed in the other ones.

Several procedural points that are important.

First, I filed the letter with the Board January 13th; attempted to serve Mr. Sisson, the intervener of the property owner, a copy of that letter by certified mail. That letter was returned to me, and you'll see a copy of the envelope in your package of materials that was filed just yesterday, following up my January 12th letter indicating that three attempts were made to serve that, and it was returned to me on, I believe, February 8th undeliverable.

And in fact, Mr. Sisson just received a copy of my letter this morning, as well as a letter that was dated February 12th, filed yesterday, in which Mr. Lorenco, the acting zoning administrator, consented to first, the amendment of the appeals to include the two permits which he and his office were not aware of until we met on January 5th; and also his consent to the continuance required by that amending of the appeal.

I'll also note -- and hopefully it's in the record -- ANC-3D, which has taken up this matter on several occasions, has written a letter supporting both the amendment of the appeal, and the continuance to consider all the issues in a global

format.

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

I think subject to questions from the Board, I think it would be appropriate to bundle all these issues together, in fairness to not only my client, the zoning administrator, and also Mr. Sisson, because you can't consider the three that are pending without discussing and ruling on the two new ones that were found well after -- in fact first came to my notice on January 5th or 6th in meetings with the zoning administrator.

So with that, I respectfully request a continuance, and to amend the appeal to include those two building permits.

MR. SISSON: If the Board please, I have a preliminary matter I want to address as well.

MS. REID: Are you affiliated with this particular case?

MR. BROWN: Madam Chair, I have not seen this, and I don't believe it's been filed in the record. So I'm going to object to it being received. It's out of time for purposes of the rules; puts me in an enormous disadvantage.

And it appears that, quite frankly, it goes to the merits of the case just from looking at the first page, rather than the procedural issues which are firmly before the Board.

MS. REID: Okay. Mr. Brown, just let me get ascertained.

You're the -- engineer --

MR. SISSON: I'm the property owner, yes, ma'am.

MS. KING: Could we have your name and home address?

MR. SISSON: Yes. My name is Charles Sisson. I own the home at 3020 43rd Street, N.W.

MS. KING: And where's your residence?

MR. SISSON: I have lived there -- I've moved out during construction, but I intend to move back.

MS. KING: What is your address?

MR. SISSON: 9730 Morry Road, Fairfax, Virginia.

MS. REID: You're basically opposing his request for a continuance?

MR. SISSON: Actually, I am moving that the petition be dismissed.

MS. PRUITT-WILLIAMS: Excuse me, sir. We didn't get a chance to look at that. We really shouldn't take this because we're only dealing with the preliminary matter of whether we should even hear the case today.

MR. SISSON: Well, that's what I'm addressing.

MS. PRUITT-WILLIAMS: No. A dismissal would come after hearing the case. The Board doesn't have the power just to not hear cases if they don't think they're valid. They have to hear them, and then make a decision.

MR. SISSON: I think on the basis of jurisdiction the issue of timeliness is an issue that you should consider before you hear the case.

My argument is that this appeal has not be brought on a timely basis.

MS. PRUITT-WILLIAMS: Sir, you make that argument at the hearing, and not as a preliminary issue.

MS. REID: You could request dismissal at the hearing.

MS. PRUITT-WILLIAMS: But we haven't even gotten to that yet.

MR. SISSON: Okay.

MS. PRUITT-WILLIAMS: So this is too premature.

MS. REID: So today the issue before us is the request for amendment, and also a request for continuation.

MR. SISSON: All right. Then I would argue that the case not be continued because its detrimental to my best interest.

First of all, one of the permits that the appellant is asking to be joined here was actually issued in May of 1998, which is seven months ago. And the argument that in some way that was not debatable to him so that he could take it as a part of this appeal, which was filed actually in November of 1998, seems a little bit preposterous to me, honestly.

MS. REID: I'm sorry. Could you go over that timeline again, please?

MR. SISSON: Sure, I'm sorry. Well, it's contained in this information. But basically I have that the -- I bought the property in November of 1997. I got permits to do the construction in January and February of 1998.

MS. REID: Those were the first three permits?

MR. SISSON: That's right.

MS. REID: Okay.

MR. SISSON: And then there was a fourth permit issued in May of 1998 -- I'm sorry, that was a third permit. A fourth permit in August of 1998.

MS. REID: Which one was in August?

MR. SISSON: Yes, in August 1998.

MS. REID: Was it the third of fourth?

MR. SISSON: Fourth. And finally the last permit was issued in September of 1998.

The appeal was issued in -- the issue was filed in September of 1998.

MS. KING: When did construction begin at your property?

MR. SISSON: January of 1998.

MS. KING: Exterior?

MR. SISSON: Exterior construction, yes.

In fact, if you'll notice, the next page shows the permits. And then finally you'll see that Mr. Brown was fully aware of what was going on in March of 1998, because he solicited information on the permits that have been issued and the actual building construction plan. So he's been well aware of all this for a long, long time.

MS. REID: Mr. Brown?

MR. BROWN: I won't dispute that I've been aware in general of this case for some time, actively worked with the zoning administrator's office over time. I think it's relevant, as to the May 17th permit, that, again, my research and the records management branch failed to uncover that, both my personal search and people on my staff at the law firm, both at the time the appeal was filed and subsequently.

Only when I met with the zoning administrator's office was that permit made available to me through their personnel which, quite frankly, they were not aware of in the continuum of the process. The appeal was filed in September, and the last permit that was issued was dated October 5th of '98.

So again, in a broad spectrum as to the individual permits, it was done in a timely manner, subject to the availability of the records through the normal procedures; and in this case extraordinary procedures of meeting directly with the zoning administrator's office.

And the October 5th permit is instructed because it attempts after the appeal was filed to correct work that is the subject of the appeal. S again, the continuum here goes up beyond the date when I filed the appeal.

At every turn I've had great difficulty, as the record now indicates, communicating with Mr. Sisson, so that in large measure the product of where we are, and the need for continuance, the fact that he's only now aware today of my request to amend and continue, is the fact that I've had great difficulty contacting him, using prudent methods that I feel, given earlier problems contacting him and unavailability of addresses, were appropriate.

So I think in all circumstances, both substantively and procedurally, and for purposes of Mr. Sisson's interest, my client's interest, and the interest of the zoning administrator, that the amendment to include all the issues, and to the continuance, to allow that to occur in a procedurally correct manner to all the parties that's appropriate.

I welcome any questions.

MS. REID: When you went to research the building permit you're saying that you couldn't find one or two of the permits? It was not there?

MR. BROWN: Well, how you research is -- in the basement of 614 H Street is the Records Management Branch.

MS. REID: Right.

MR. BROWN: I have personally and through my staff looked at the files regularly, and you ask by address. You ask for this address. And the case here, I asked not only for building permits -- which are kept separate from electrical, and plumbing, and other permits.

After several times that that occurred, including right before the appeal was filed, at which time I became aware, I believe, the fourth permit.

At that time -- they're all kept in a single file by address -- the May permit was not there, and then after I filed the appeal -- in fact, another important permit was applied for, and issued. And again, I did not become aware of that until I believe January 5th or 6th of 1999, when in the course of this case I met with the zoning administrator's staff.

And in fact, Mr. Lorenco, who is acting zoning administrator, was not at that meeting, and certainly his staff was unaware of the two additional permits, and frankly I think it would be fair to say he was equally not aware of them.

MS. REID: When you say they were not aware of them, Mr. Brown, how come they weren't aware of them? They were not a matter of their record?

MR. BROWN: Well, the zoning administrator's office doesn't keep those records. These permits were issued as a walk-through basis, so that in the course of the issuing of the permits they never reached from the second floor of 614 H Street to the third floor, where the zoning administrator's offices and facilities are.

So they went from the second floor, where permits were issued generally in the same day -- permits were issued, and then sent directly onto the system they have to the basement for

records management.

MS. KING: Mr. Brown, could I ask you, if only one of these five permits were in question you wouldn't be here, is that correct? It's the accumulation of far and other matters that brings you here?

MR. BROWN: Oh, absolutely. There's a continuum.

MS. KING: No, what you're saying is that if it was any one of the five, you wouldn't be here. But that the combination of the additions to the house that are involved with the five, are what makes it a matter for the DCA, is that what you're arguing?

MR. BROWN: Well, that's partially correct. In this case -- and this is an extremely unusual case, because in fact five permits were required for a relatively simply project for an addition. But you certainly have to look at, in this case, each individual permit, because there are discrepancies, both legal and factual discrepancies with respect to each one.

But again, looking at it because they were accumulative in nature. They were all the basis for building the end product, which as a total, as well as the individual parts, violates the zoning regulations.

One of the problems in considering this case -- and it's going to be a factual issue for this board -- is that permits were issued for work done greatly exceeding those permits, for which then in this case those remedial permits were issued. And you'll note there, to repair existing roof, and to bless work that had already been done without permits.

The key is that that work being done not only was without permits, but in this case, violative of the zoning regulations, particularly as it relates to the unique requirements of the Wesley

Heights overlay district.

MR. SISSON: May I respond to some of the points that Mr. Brown has made?

MS. REID: Go ahead, sir.

MR. SISSON: Number one, Mr. Brown has been able to contact me at any time he wants. He has my telephone number. He calls me. He called me yesterday to tell me that the letter had not been delivered.

He could have called me a number of times to let me know that there was some additional information that was required. He chose not to do; I don't know why.

Number two, Ms. Crary lives next-door. She's the appellant. She's known -- I haven't done the construction behind -- undercover, dark, or behind a curtain. This construction has been ongoing since January. It was started in January of 1998. It finished before these -- the construction was concluded before this appeal was filed. The work has been done. It's a matter of record, a matter of history.

And in fact, as you will see, I intend to argue that not only is the appeal not filed on a timely basis, but that the doctrine of equitable laches and equitable estoppel also apply in here. And that this appeal was brought way after the fact that this is permitted.

Number three, as a say, they have been quite involved and quite in this construction since the day it started. And in fact there was a stop work order issued in April, the first week of April of 1998; interestingly enough, just a few days after Mr. Brown looked at the plans, I can't help but suspect that there was some reason, some connection there.

After that stop work order was issued, I did go back

myself personally and get the fourth permit, the May permit that is being filed in question.

I can't believe that Mr. Brown, who says he's an expert in this area, would not realize that you can't work at a project that a stop work order has been issued without knowing that another permit or some rectification would have been filed.

I'm at a little bit of a lost to understand why this is all such a surprise to Mr. Brown.

MR. GILREATH: When you -- to get the remedial -- or the modification or what have you -- who's the -- the zoning office -- did they go over with you the zoning and so forth?

MR. SISSON: I didn't -- I went to them. I did talk to the director of the Department at that time. I'm sorry, he's been replaced. I don't remember his name. I did talk to him, and he was the one who decided that there should be a permit issued.

MR. GILREATH: So they didn't have any problem. You explained to them the fact that you had exceeded --

MS. PRUITT-WILLIAMS: Excuse me, we're actually getting into the merits of the case now, and we're not at that stage yet.

MS. REID: Let's make a decision on the preliminary matter.

MS. KING: I have one more question for Mr. Sisson.

Mr. Sisson, you're aware that your advisory neighborhood commission has sided with Ms. Crary.

MR. SISSON: Yes.

MS. KING: And I understand that asked you to come and talk to them, and you haven't been able to. And part of their request for a postponement is that they would like to give you an opportunity to appear and talk to them before they make a further

decision.

MR. SISSON: I appeared at their last meeting.

MS. KING: When was there last meeting?

MR. SISSON: It was Monday of last week.

MR. BROWN: They met Monday, February 8th.

MS. REID: You said you did appear?

MR. SISSON: Yes, I was there.

MS. REID: We don't have that.

MR. BROWN: They voted to support the appeal, both with respect to the three pending and two additional. They have not filed their letter documenting that. Again, I think there concern was, having dealt closely with them, is that the appropriate issue under consideration now is the amendment and the continuance, which they've already --

And I believe that the Board has in their file --

MS. KING: We do.

MR. BROWN: -- their letter going back.

Unfortunately, at that meeting -- I believe it was the 11th of January, although Mr. Sisson -- I attempted to give him written notice at that meeting, so did the ANC, he did not attend.

MS. KING: My question is answered. Thank you both very much.

MR. SISSON: Again, I would repeal to the Board that this matter has been ongoing for 13 months now. I want a resolution. I very strongly urge you not to support a continuance of this hearing. I want to try to resolve it at this point in time.

MS. KING: Madam Chair, could we now -- does this have to be re-advertised?

MS. PRUITT-WILLIAMS: Yes, it would. If there is

some additional comments that have been identified, it would have to be re-advertised.

MS. REID: I don't see how we could hear the case, given the fact that it has not been advertised, with those two new permits which are germane to this particular hearing in this case.

MS. KING: I agree with you.

MR. GILREATH: If this is continued, can we hear from the zoning officers, how they understood -- they have issued the initial permits, and then when they were modified. If this is all legitimate, that's certainly --

MS. PRUITT-WILLIAMS: Mr. Gilreath, as a matter of course, usually on appeals, the zoning administrator comes and testifies. But we can make a special request to make sure they're here.

MR. GILREATH: I really need to hear what they said. The information that he gave them --

MS. KING: Right. But we can't do that today.

MR. GILREATH: -- and with some good faith, it strengthens his argument. On the other hand, if there's something that is not clear, then we have something else.

MS. KING: I move that we postpone the case to the first available date, and that we require the presence of everyone from the zoning office who is involved in this, so that we can clarify for the legal issues exactly where the fault lies.

MR. GILREATH: I second the motion.

MS. REID: And also the amendment of the appeal.

MS. KING: Oh, yes. And postpone and amend.

MR. GILREATH: I seconded it.

MS. REID: All in favor, aye. Opposed?

And also, the new information from the ANC -- I think that they had on record that there was not an appearance by the intervener, and we would like to have an update from them to reflect the fact that there had been, subsequent to their submission, something that was germane to the case. Correction.

MS. PRUITT-WILLIAMS: Madam Chair, we can actually give you the postponement date now. We will actually send it out, but also just for information.

MS. REID: Okay.

MS. PRUITT-WILLIAMS: The next available date will be the April 21st date. And, for the record, we're going to return Mr. Sisson's submission for now, so that it won't be -- you can submit it for the record later, but right now we're going to return it to you.

MR. SISSON: Could I ask one question as a point of order?

It is true that a petition or request for a dismissal of a case doesn't have precedence?

MS. PRUITT-WILLIAMS: Well, we actually didn't get into the merits of the case.

MR. SISSON: No, no. That can't be filed --

MS. PRUITT-WILLIAMS: As a preliminary issue?

MR. SISSON: -- as a preliminary issue?

MS. PRUITT-WILLIAMS: Traditionally, we have not done it that way.

MR. SISSON: I thought that appeals or petitions for dismissal have precedence.

MS. PRUITT-WILLIAMS: Mr. Clarens, when there is a motion for dismissal, prior to a case being heard, this one when we're talking about, specifically will it be taken up for a dismissal at

that time, or at the time of the hearing?

This is a preliminary matter right now, this is not the hearing itself. This is where we're trying to ascertain.

MS. KING: I don't see how we can, without hearing the case, can decide whether to dismiss it or not.

MS. REID: I know the case can be dismissed based on timeliness, or something that is irregular, or something that is abnormal.

MS. PRUITT-WILLIAMS: But you have to hear that to make that decision.

MS. REID: Well, no, no. In the event there is something that is brought to my attention prior to the case being heard, that would be basis for dismissal, is what we're talking about.

MR. CLARENS: My recollection, it's never happened in the time that I served on the BZA exactly as you suggest. It has come as a challenge to the jurisdiction of the Board to hear a case; and therefore, would be challenged on jurisdiction; and therefore asked to dismiss the case or not to hear the case.

But what are the basis of the request for dismissal?

MR. SISSON: That is my basis, for timeliness.

The Board has held in the past that anything later than four months filed after the permits have been issued has not been filed on a timely basis. In fact, I have cases to support that; that anything that is brought to the Board's attention not on a timely basis is dismissed.

MR. CLARENS: It seems to me that the Board can hear a request for dismissal, and hear the merits of that. That would be my recommendation. I haven't participated. I don't know exactly what went on before I arrived, but I think that a request for dismissal

on the basis of procedural issues would be appropriate before the Board.

MS. REID: I think that Mr. Sisson --

MR. CLARENS: But I'm not parliamentarian by anybody's -- imagination.

MS. REID: He did make a request. Let's put it this way, you certainly can make a request for dismissal. And you did that, and you based it on the issue of timeliness.

So would you just like us to take a position on that request?

MR. SISSON: I absolutely would. Because, again, I think that -- this date's from permits that they were issued more than a year ago. The construction has been finished --

MS. REID: Well, this is kind of after the fact, so just indulge here in this instance, so that we can accommodate you. And in this instance for dismissal of this particular case, what is the pleasure of the Board?

MR. GILREATH: Can we get some information?

MS. REID: Well, I think we've already decided not to dismiss it; this is just a --

MS. PRUITT-WILLIAMS: Mr. Sisson, I just want to be clear.

You're requesting that the Board dismiss this case with hearing it, is that correct?

MR. SISSON: That's correct.

MS. PRUITT-WILLIAMS: We can check with Corp Counsel.

MR. CLARENS: But he's suggesting that it can be dismissed on the issue of -- and I don't know. Another issue that we

need to talk about is, it's not on the merits of the case. It needs to be dismissed on the merit that it is inappropriate for us to hear it because of timeliness.

And the question then would be, is there a rule that establishes that -- is it anywhere written in the regulations that appeals have to be presented to the Board within a timeframe. I do not recollect any such rule.

There's nothing in the regulations that I can remember that says that appeals must be filed within a certain period of time. If you can point to us, then we might be able to proceed.

MS. REID: Perhaps the best thing to do, rather than taking a vote on it today -- excuse me.

The best thing to do I think would be for us to continue the case, and then we'll get the proper counsel from Corp Counsel on that issue. And then at the time of the hearing you can still have a request for dismissal. You could submit that, and we could take it up at that time, prior to the case being heard.

MR. SISSON: I would point out that Rule 3315.2 says that, "Any person aggrieviated by any order, requirement, decision, determination, or refusal made by the administrative officer or body, including the mayor of the District of Columbia, in administration or enforcement of the zoning regulations, may file a timely appeal with the Board, as may be provided by the Board.

MR. CLARENS: I see. So it is the discretion of the Board to establish when timeliness is an issue.

MR. SISSON: As precedent has been set.

The Board has ruled in the past that anything as far back as five months prior to the petition is not filed on a timely basis.

MS. KING: Can you give us the legal citation for that,

or a case citation?

MR. SISSON: Yes, ma'am, I can.

MS. PRUITT-WILLIAMS: Excuse me. Unless we're going to rescind your previous motion, this is stuff that should be discussed at the hearing.

MR. SISSON: I think this is a preliminary matter. This is what I intended to bring up.

MS. PRUITT-WILLIAMS: But, sir, they've already voted.

MS. REID: We voted to continue it. But he still has the right to request a dismissal at the hearing.

Now, what I was saying is that, it goes to being able to define timeliness. And this is what we have to get advice from Corp Counsel on. That's a vague gray area. And we have to ascertain what is considered reasonableness in regard to timeliness, so that we will have a basis to which to be able to respond to your request for dismissal.

MR. SISSON: I would suggest you look at Appeal 14110. That is one of the --

MS. KING: You're going to file all of that information for us to read when you file your papers for the hearing on the 21st.

MS. REID: Appeal number what, sir?

MR. SISSON: I'm sorry, I'll refer it again.

MR. BROWN: I offer objection to the arguments being made, Mr. Sisson's making. The question I think is when he makes them those are legitimate issues for this board to consider. But I don't think the Board is in a position, quite frankly, to do that today, particularly having granting a continuance.

MS. KING: We have no intention of doing it today.

MS. REID: No, we said, Mr. Brown, if in fact, Mr. Sisson does decide to follow appeal -- I'm sorry, request for dismissal, then that could be done at the hearing as a preliminary matter, at the actual hearing.

We've already voted to continue this -- we don't want to wipe out his right to make that request, and we'll then address. And in the interim we'll get advice from Corp Counsel as to the best way to proceed under those circumstance with the issue of timeliness, and how that is defined.

That is just a very vague and nebulous term. So that we can be able to --

MR. BROWN: I have absolutely on objection. I think that's the appropriate way to proceed.

MR. GILREATH: Corporation Counsel, I hope they can give us a precedent that the Board in the past has -- in a certain way.

MS. PRUITT-WILLIAMS: Appeal number.

MR. SISSON: 14110. And there are other court cases that govern this as well. And I will be glad to provide them.

MS. REID: All right. Thank you, I appreciate that.

Anything else?

MR. BROWN: No.

MS. REID: Thank you very much.

Any other preliminary matters? Please come forward.

MR. WATSON: My name is Matthew Watson, counsel for Advisory Neighborhood Commission 2A, with regard to BZA Case Number 16389, George Washington University Hospital.

A letter from the chair was submitted to the Board yesterday.

MS. PRUITT-WILLIAMS: Excuse me, Madam Chair. This is actually inappropriately before us. We're not hearing this case today. And this type of issue should either be taken up at a public meeting, or when the hearing comes up.

MR. WATSON: I understand. The issue is the fact that the traffic expert has been scheduled for surgery on March 1st, and the hearing is scheduled for March 2nd.

MS. PRUITT-WILLIAMS: Well, sir, that would be the time to request a postponement. Unfortunately, the applicant isn't here because they weren't given notice.

MR. WATSON: The applicant was given notice.

MS. PRUITT-WILLIAMS: They weren't given notice from our office. We got it yesterday. It was not put on our agenda.

This case is not before the Board today. It can go in the next public meeting agenda, which is the date -- unfortunately, the day after the hearing has been scheduled for.

It's more appropriate that it be handled there, because you need to also have the applicant be able to respond.

MR. CLARENS: We can't hear it now.

MS. PRUITT-WILLIAMS: Exactly.

MR. CLARENS: We have an agenda. This is outside agenda.

MR. WATSON: The difficulty is that we have a situation. We wanted to give prompt notice because a crucial witness has been scheduled for surgery, and cannot be here.

MS. REID: If I may. You can make sure that the Office of Zoning is made aware of that, and they will then -- themselves accordingly. But this is not appropriate for you to make the request when this is not on this agenda for today.

MR. WATSON: I understand it's not on the agenda, but there is no public meeting occurring before this hearing.

MS. KING: But we're going to all have to troop in on Tuesday morning, and adjourn, or continue the case whatever, probably.

MR. WATSON: That would seem to be quite inefficient --

MS. KING: It is, but that's --

MR. WATSON: -- making this available to you, and the notice has been given to the applicant.

MS. REID: Well, notwithstanding that, we still have to conduct ourselves predicated upon the rules and regulations that we operate under.

MR. WATSON: We thank you. We made an attempt to provide this in an efficient manner.

MS. KING: We appreciate knowing that we'll only have to be here for a very brief time.

MR. CLARENS: Well, it's not an efficient manner. This is not an inappropriate manner. It's not an issue of efficiency, sir. This is an inappropriate manner of -- you correspond with the Office of Zoning. You inform them, and then things fall the way they do. And that's all you have to do.

You cannot take things out of the -- the Board has an agenda, and they need to follow an agenda. And this is inappropriate. We cannot act on it, we cannot hear you.

MR. WATSON: The second matter was a request for an extension of time to file the response to the submission of February 8th.

MR. CLARENS: This is inappropriate. Anything

dealing with this case is not appropriate before this board.

MR. WATSON: Thank you.

MS. REID: Thank you.

Any other preliminary matters?

MS. MCCARTHY: Good morning, Madam Chair, members of the Board. My name is Ellen McCarthy. I'm director of Planning and Land Use Services for the law firm of Robins, Kaplan, Miller & Ciresi. And I'm here today following up on the letter that was sent to you last week requesting a continuance for Case 16404.

I communicated with the staff of the Office of Zoning in advance, and with Mr. Schauer, whose appeal it is, the Capitol Hill Restoration Society; and Mr. Schauer graciously agreed to permit us to request a continuance, eventually agreed to a continuance.

As I mentioned in my letter, there was a schedule conflict with Mr. Nettler --

MS. KING: You said there was a letter sent to us?

MS. MCCARTHY: Yes.

MS. REID: That was not contained within our packets, was it?

MS. PRUITT-WILLIAMS: It should have been.

MS. REID: I knew that it was going to be a request for continuance, but I did not --

MS. KING: I didn't.

MS. REID: -- have one in the file.

None of us have that in our file.

MS. PRUITT-WILLIAMS: I'm sorry. I just heard from a secretary that it was not sent. But yes, we did receive the letter, and --

MS. KING: Could we see a copy?

MS. REID: While he's doing that, you can just basically give us the salient points of the letter.

MS. MCCARTHY: The salient point of the letter was that Mr. Nettler unfortunately has a contract with the Navy in the city of Los Angeles that required him to be out in California on these dates. And through -- we're not sure how -- this meeting had been put down on this calendar for the 17th of March instead of the 17th of February.

So he had agreed to go to this meeting in California, and only discovered when I brought back the agenda for this meeting, after it had been posted on the bulletin board, and I was here for some other research -- he discovered that it was actually the 17th of February. So that's when we called Mr. Schauer, and he agreed, and we sent the letter.

MS. REID: Mr. Schauer is in agreement, and he has no objections to it being continued?

MR. SCHAUER: Madam Chairperson, we have no objection. We are appellants in this case, and we have no objection to accommodating Mr. Nettler.

Thank you.

MR. CLARENS: Madam Chair, let me say something in regards to that. I don't have any problem with -- especially if parties are in agreement.

However, I am concerned with the fact that in the previous case -- that we heard the request for postponement in the previous appeal case, there was a question as to whether the zoning administrator would be represented or not.

In my experience, the zone administrator always, or almost always in my recollection, was present on appeals, because it is their decision that is being appealed. And I don't know how we can

make an intelligent adjudication of whether that decision was made correctly or not without the presence of the zoning administrator, or their representative.

So I would like to recommend to the Board that they instruct staff to send a letter to Mr. Lorenco --

MS. REID: That's been done.

Mr. Clarens, prior to this particular hearing today, we had -- this has been before us two or three times it seems. And we had requested -- and I assume that they were here today because of the fact that knew there was a request for postponement.

MS. KING: Is that correct? Did they know that there was a request for postponement, although we did not?

MS. PRUITT-WILLIAMS: No, they didn't. Although, we do notice them that this appeal is on our agenda, and we assume that they will be coming.

MS. REID: I was making an assumption. So you're saying that they were aware, but they did not --

MS. PRUITT-WILLIAMS: We will follow up and call them the day before.

MS. REID: Make sure that someone is here, because we cannot function in their absence.

MR. CLARENS: Madam Chair, there are two things I would recommend that happen. One is that a formal letter, perhaps even signed by you, explaining the importance of their presence in appeal cases. Because otherwise, it's almost like going to traffic court, and the policemen are not showing up, and the judge dismisses the case in your favor.

Because if the person that made the decision that affected the two parties is not here to represent their position, why

they make the decision, it's very difficult for the Board to act on it.

So I think that some sort of a letter that the staff can draft, and that perhaps you might sign explaining the importance of why it is important for them to be here. And then follow up with a phone call on the day before, reminding them that they must be here. Somebody from their office has to be here that is familiar with the case.

MS. KING: Not just somebody, the people; the person or people who are involved in the case.

Now, in this case we had somebody show up, and that somebody didn't know --

MS. REID: Didn't have a clue as to what was going on, was not involved in it.

MS. KING: So I think we have to be a little more specific than saying somebody.

MS. REID: Don't just send the janitor; send someone who is --

MR. CLARENS: Don't just send the letter. You put that in the letter, that's right.

MS. KING: Not only that, but I think that this correspondence, and perhaps a covering letter explaining our concerns; that at the last time this was heard somebody showed up who didn't know anything about the case; and this time nobody showed up at all.

And that we should express our concerns to the director of the Department of Consumer and Regulatory Affairs, that this causes great inconvenience to the appellants, and the community representatives, not to mention the BZA. And that they should shape up.

MR. CLARENS: And I think if the staff could write a letter, I think it would be wonderful. Because I think that it's crazy not to have the zoning administrator here. Otherwise, I don't have any problem with the postponement.

MS. KING: Nor do I.

MS. REID: Do we move that we postpone it?

MR. GILREATH: I move to postpone the case.

MS. KING: Second.

MS. REID: Seconded by Ms. King.

Do we want to set a date certain?

MS. MCCARTHY: Yes.

MS. REID: All in favor?

Do you know when he would be available?

MS. MCCARTHY: He's given me the only other dates that he thought would be a problem, and that was March 10th.

MS. REID: Okay, other than that.

MS. PRUITT-WILLIAMS: The next available date then would be April 21st.

MS. KING: What was the date of your letter?

MS. MCCARTHY: It was last week, I believe.

MS. REID: Where is the motion to dismiss?

MS. KING: This isn't a motion to dismiss. This is a letter requesting a postponement.

MS. REID: She's saying that that was in this file, a motion to dismiss.

MS. PRUITT-WILLIAMS: The letter came into the office last week in fact. I remember reading it on Thursday. It probably got clocked on Wednesday or Tuesday, but when I went through my in box it was Thursday.

It may not be in the file yet.

MS. REID: No, no. We're looking for something else.

(Whereupon, the foregoing matter went off the record, and back on the record)

MS. REID: So we're continuing the case to April 21st?

MS. MCCARTHY: Right.

MS. REID: And we'll take up whatever has to be done at that time.

MS. MCCARTHY: Thank you, Madam Chair.

MS. REID: Do we have that letter? If not, then perhaps we can get Ms. McCarthy to fax us a copy of it. Could you do that?

MS. PRUITT-WILLIAMS: I've seen the letter. It's probably still in the in box. It just hasn't filtered from my box into the file.

MS. REID: Well just as a backup, please.

MS. MCCARTHY: Sure.

MS. REID: Thank you.

Okay. First case of the day.

MR. HART: First case of the day. Number 16426, Application of Seung Won Hong, pursuant to 11DCMR 3107.2, for a variance under Section 741 to construct an automotive repair service in an C-3-C District at premises 21 L Street, S.W., Square 684, Lot 22.

Staff will note that the address is correct, but the square is actually 648, as opposed to 684.

Whereupon,

SEUNG WON HONG

having first been duly sworn, was examined and testified as follows:

MS. PRUITT-WILLIAMS: Madam Chair, one preliminary issue. On this particular case the property was not posted.

MS. REID: It wasn't?

MS. PRUITT-WILLIAMS: No.

MS. REID: You need to speak into mike, give your name, and your address, sir.

MR. HONG: My name is Seung Hong. I live in Springfield, Virginia, 8138 Ridgecreek Way. I'm currently operating an auto repair shop in 31 K Street, S.E., been there for last 15 years.

Even though the letter from the BZA office stated that sign must be posted, I just missed it, not by purpose. I don't know how I could have missed it. It's the biggest letter on the letter.

But as far as all the other requirements, I went down through the list and completed them all.

MS. REID: Ms. Pruitt-Williams, in the instances -- I don't think that during my time on the Board I've experienced a case where there was no posting at all.

MS. PRUITT-WILLIAMS: Generally we postpone the hearing.

MS. REID: Have it posted. Because my concern is that there's a possibility that there are people that would miss who may have some concerns. And if were to move ahead, then we may be remiss in our obligations.

Mr. Hong?

MR. HONG: Yes?

MS. REID: We would have to continue this, and give you the opportunity to post it. And for anyone who had any issues or concerns to have the opportunity to respond, if they so desire.

So we couldn't hear the case today.

MR. HONG: I did have sign posted prior to filing the BZA variance, future site for --

MS. REID: No, no, no. That would be your sign. See there's a zoning office sign -- the orange sign -- that is the required sign. It must be posted on the property.

MR. HONG: Also, I've gone to the ANC meeting last Monday, and I was very well received by the neighborhood.

MS. REID: Oh, good. That's good.

MS. PRUITT-WILLIAMS: Although we have a letter from the ANC requesting that -- they request that we waive the time to allow the report to come in, and if we postpone it we don't have to worry about that.

MS. REID: Okay. So then, what would be the --

MS. PRUITT-WILLIAMS: April 21st.

MS. REID: April 21st. Is that alright with you?

MS. PRUITT-WILLIAMS: We can to that by consensus, we don't have to vote it.

MS. REID: All in favor of postponing Case Number 16426 until April 21st.

MS. KING: I second.

MS. REID: All in favor?

Okay, Mr. Hong. Then we'll just take this up on the 21st of April.

MR. HONG: Thank you.

MS. REID: Thank you.

MS. PRUITT-WILLIAMS: And don't forget to pick up your placards from our office.

And Mr. Hong, remember, they must be posted 15 days prior to the hearing, at least 15 days. And you also will have to

have an affidavit of posting to go along with that. And you can bring that in like the week before. They will be able to help you over there.

MS. REID: Mr. Hong, also I would suggest in the interim that you meet with staff, and have them to advise you as the proper way to submit your application, because your application is incomplete. And there are certain things that need to be in this case for us to be able to hear it properly. And they'll assist you.

MS. PRUITT-WILLIAMS: Yes, Mr. Hart can help you.

MR. HART: Application Number 16429 of James Word, pursuant to 11DCMR 3107.2, for a variance from the parking requirements under Section 2101.1 to provide six parking spaces for a church with 65 seats in an R-4 District at premises 3408 Sherman Avenue, N.W., Square 2841, Lot 866.

(Whereupon, the persons, having first been duly sworn, were examined and testified as follows:)

MS. REID: For the record, I'd like to disclose that -- the property that we're actually going to be hearing about today is the property that I was involved in the sale of -- representing the seller. I am in no way involved in the property at this time, and I don't think that --

MS. KING: When did this sale take place?

DR. WORD: I think it was about back in July '98.

MS. REID: Last year, 1998. I don't think that it would impair my ability to be impartial in hearing this case, unless there is an objection, at which case I would have no problem with excusing myself.

MS. KING: Except that we wouldn't have a quorum.

DR. WORD: Good morning, Board. My name is James Word. I am the applicant in 16429, and I'm the pastor of the

church, which is located at the address of 3408 Sherman Avenue, which is Square 2841, Lot 866.

We're here pursuant to 3107.2 and Section 2101.1 to seek a variance from the parking requirement of 1 parking space for every 10 seats in a church, which is under 2101.2.

We have an application I think that is fairly complete. That is probably in front of you.

What I would like to do is describe the circumstances that brings us before the Board, so that it's somewhat understandable to you.

What I will do is first show you an architectural plan for the building. Let me make a preliminary statement.

There is a parking lot that is on the side and front of the property at 3408 Sherman Avenue, but there are technical and practical problems with the parking lot that brings us before the Board.

And I don't think you have the application opened before you, but I would like to show a drawing of the property so that I could explain fairly clearly what the technical problem is, and what the practical problem is.

I have a copy of the plans in total, and you also have sort of a cut-out, a detail of the parking lot itself around the building.

There's definitely a set of plans that are in the application. They should be folded and --

MS. KING: Well, I'm not lucky enough to have them.

MS. REID: The plans -- this is just a --

DR. WORD: That's a detail from the plan.

MS. KING: I don't even have a detail to the plan in my folder, Ms. Pruitt-Williams.

MS. REID: We need the file itself with the plans, the

folded plans.

MS. KING: I need a copy of the detail that everybody else seem to have too.

MS. REID: Okay. Go ahead and proceed.

DR. WORD: This is the architectural drawing showing the outline of the church building itself. This property which is -- somewhat like a triangle. This triangle is the property, and in the front of it there is a paved parking lot that is approximately 22 feet in depth, and approximately 23 feet -- or 24 feet in width.

And on the side of the building there's another paved parking lot that is approximately 20 feet in width, and 100 plus feet in length. So there's a fairly large parking lot around the building, in the front and side of the building.

MS. KING: So you can provide the six spaces.

DR. WORD: We can provide six spaces. There's a problem.

The problem is that the parking lot that's on Sherman Avenue side of the building is public space, after the first 10 feet of width. So this part doesn't belong to the church, even though if you had to visually inspect it, you would think that it is church property. But in fact it's not; it belongs to the public.

And this parking lot is the church's property.

MS. KING: And how many spaces do you have there?

DR. WORD: There are two potential spaces in the front, because a space has to be 9 x 19. So we can get two cars here, and still have ample space to move around. And we can in fact get five spaces across here, if there is stack parking along the part that belongs to the church, which is 10 feet x 101.

MS. KING: So why are you here? I mean, what you've just told is that you can provide six parking spaces.

DR. WORD: Seven parking spaces, yes.

When we went before the zoning desk, we were only approved for the two spaces because -- I think it's Section 2117 of the zoning regulations says that you're not allowed to park in the front a the building --

MS. KING: Infringe on public space.

DR. WORD: In the front of a building.

MS. KING: Oh.

DR. WORD: And the address for this building is Sherman Avenue. So this would technically be the front of the building. So we were only given credit for two parking spaces. And those five were not credited to us.

MS. KING: And those five are entirely on church property, or partly on public space?

DR. WORD: They're entirely on church property, and there is public space that allows us to maneuver in and out of our private space. And there are also two curb cuts, if you see here, so that we can use one as an entrance, and one as an exit.

MS. KING: And where is the entrance to your church?

DR. WORD: The entrance is on this side of the building, which is Park Road.

The problem comes -- it's a historical problem because in the last C of O, and just realistically -- in reality, the building had been used in '50s as a gasoline service station. And the building had two doors on this side -- on the Sherman Avenue side for entrance and exit of customers. And it had a service desk here, and

supplies in the area that's now being used as a sanctuary. And this was closed off. It only had a side door that led to an apartment living space upstairs.

Since 1952 when the last C of O was filed, the doors on the side -- the main entrance doors have been bricked up, and there's a back door that leads to the side of the podium, and two double doors. Church form doors have been added to the Park Road side.

So my argument, in terms of the first leg of it, practical difficulty -- the difficulty we have is that we have ample parking space. It's not situated in a place where we can use it in order to qualify as a church, so that we can get the six spaces we need in order to get the zoning permit.

MS. REID: Oh, okay. And Dr. Word, you may want to start in presenting your case, is with the first prong of the three-prong test, and that is with uniqueness. What is it that is unique and unusual about your property. And then you go to practical difficulty.

DR. WORD: Okay.

MS. REID: Because of the practical difficulty, and your being able to be in compliance with the existing zoning regulations -- and you're actually doing that, but I just need it for the record.

DR. WORD: We're talking about the unique situation of the property itself.

MS. REID: Well it has to be inherent in the property itself. And looking at the diagram -- you said triangular, but that property is more a trapezoid, more in the shape of a trapezoid.

DR. WORD: Right.

MS. REID: And go ahead and talk about the unusual or unique aspects of that property that causes a practical difficulty.

MR. GILREATH: If the original interest over on the left side had been bricked up, and your interest to your sanctuary is in the front there, is there some kind of -- you still have to define this as saying the front is on the left here.

DR. WORD: On the Sherman Avenue side?

MR. GILREATH: Yes. What's the regulation that says -- if you ripped up the side --

MS. KING: But Jerry, even if he moved it, he's still got to get --

DR. WORD: One extra space.

MS. KING: -- one -- he's still got to get a waiver for the one space. Because if Park Road then becomes -- from the front, then he loses the two spaces he's got there.

DR. WORD: I lose those two. So I need the relief. I need the Board to allow us either to park one here, or give us relief for street parking for one, in addition to the five that are on the side.

We bought the church through a -- after foreclosure, but it had been used for a church for a number of years. And it was in the name of Bishop Long. And at the time that we bought it, it was a sanctuary on the first floor; had long since been abandoned as a gas station.

What we have on the property is a two-story brick structure where you see the shaded parts here, and there's a basement underneath.

Apart from the building itself, and the parking lots that are on the Park Avenue and Sherman Avenue side, there is only a small space in the back of the building, which is this space here,

where there's any possibility of expanding it.

So the problem for us in terms of making available additional parking is that we cannot -- without destroying the building, and taking part of it down, we cannot extend the parking lot in any direction. And we're land-locked on the backside of it. Because there's an adjacent structure here, and this portion that is -- there's a small easement here that's on the outside of our property line.

MS. KING: That's not an alley.

DR. WORD: There is an alley. The alley is -- I haven't checked the records. But the alley is used by several buildings that are adjacent to our property, and it is the only access that the other property owners have for reaching a place to place their garbage or to get out from the rear.

MS. REID: But the building is also landlocked, and this is a structure here. So you couldn't drive through to Park Road.

DR. WORD: The alley is not wide enough.

MS. KING: No, no, I can see that on the map.

DR. WORD: You can see it on the map.

MS. KING: But it's clear to me, in looking at the map of the area, that that is a unique lot in shape and size, and in access.

Tell me, have you been in touch with your Advisory Neighborhood Commission?

DR. WORD: We met with them twice, as soon as we had made the filing. And I think you have in your application a letter from them. They made two site visits to the property.

One of the commissioners lives about a half a block away from the property and is very well aware of the --

MS. KING: Does anybody else have the letter from the ANC?

DR. WORD: Let me give you a copy of mine.

Is anyone missing a copy of the letter from the ANC?

MS. KING: No, that's alright. I can see --

MS. REID: This letter was, in all fairness faxed to me yesterday, because I called and requested that.

MS. KING: I'm seeing it for the first time.

MS. REID: And it's supposed to be made available to all other board members this morning.

MS. KING: But it was not.

DR. WORD: We filed it in a timely manner.

MS. PRUITT-WILLIAMS: I understand. It was filed in a timely manner.

My understanding is Mr. Hart provided you with a package of items that came in after your package was mailed out on Friday.

MS. KING: I did not receive any such thing.

MS. PRUITT-WILLIAMS: Okay. We will rectify that.

(Whereupon, the foregoing matter went off the record at 10:47 a.m. and went back on the record at 10:47 a.m.)

MS. REID: Go ahead, proceed. So you're showing us unusual and uniqueness, and the practical difficulty.

DR. WORD: The practical difficulty exists, that is -- I mean, we can't expand it. It's landlocked on these two sides. And so the --

MS. KING: How many cars do your parishioners use on an average Sunday or Wednesday?

DR. WORD: Well, right now we're only using one car; we're using a van.

MS. KING: No, no, no. All the members walk to your church?

DR. WORD: All the members come in the same van. We only have one driving member at this point; all the rest of them come in the van that the church owns.

So we only need one parking space currently. Of course we're hoping that we get other members. It's a tiny church.

MS. KING: Sure.

MR. GILREATH: Can I ask one more question? I understand only the left side -- you say there's a little bit of parking in there. You have to extend over into the public space, right?

DR. WORD: You'd had to cross public space. You wouldn't have to be on public space because you have 10 feet, and you need 9 x 19. So by you have an additional 1 foot of space more than you need for width. And of course, you have 100 feet, so, you can get a parked car there.

MR. GILREATH: Is the public space paved as well?

DR. WORD: Yes. If you look at this property -- I have pictures that I've submitted as well that shows what the property looks out. The pictures should be in the file, but you can see that it looks like --

MR. GILREATH: I don't know what the District's policy is on public property or government property is, but when you --

MS. REID: Excuse me. The reporter's having a hard time catching all this, so you have to make sure -- but also for the Board members, please, to speak into the mike.

MR. GILREATH: I'm just wondering. If I were in your situation I think I would be inclined to go down to the -- office of D.C. Government, and say I have this situation here. It's paved and so

forth. Could I get a lease on this property for about -- an easement or something.

DR. WORD: No, we did that already.

MR. GILREATH: They -- already, or they won't allow it.

DR. WORD: We went to public -- they won't allow it. You cannot in a R-4 support zone lease public property.

MS. KING: Not only that, but there's this wrinkle about it being the "front of the building".

DR. WORD: That's the other wrinkle.

MR. GILREATH: Okay, so it has been explored.

DR. WORD: Yes.

MS. KING: I know we've got to go through the whole process, but it strikes me that we could give this waiver for a time period, and if during that period Dr. Word's congregation swells enormously, and it becomes a question of an impact o the neighborhood, then it could be reassessed by whoever's on the BZA in the future.

But it strikes me that if they have one driving member and one van, and they've got two legal spaces, there would be little, if any, adverse -- in fact no detriment to the public good if we gave him a waiver for a period of years. And then we have to come back and deal with this when his congregation is overflowing his church.

MS. REID: Dr. Word, could you speak to us regarding adverse impact. Ms. King just mentioned that.

DR. WORD: Yeah. What I was saying about the meetings with the ANC is that members of them -- two members -- visited the property twice, and they took note of the fact that there was a parking space there. But they also looked to see how

much street parking exist in the area to determine whether or not they thought it was adverse. On a holiday they found out that there was plenty of free parking

The church is located at about a half block from the intersection of Park Road, New Hampshire, Sherman Avenue, and Monroe on one side.

MS. KING: You're fairly close to Howard University, is that correct?

DR. WORD: We are -- not really close to Howard University.

If you can picture the location of the Petworth Metro Station, which is on the corner of New Hampshire and Georgia Avenue, we're about two blocks down.

MS. KING: Oh, I know, okay.

DR. WORD: But it's a huge intersection, ad there is lots of street parking. At the worse time on Sundays -- and we have five pictures in the file -- if you would pull them out. There are five pictures showing that even when other churches are in service, and there are three other churches, there is still lots of street parking.

I have photographs that show that on Park Road going east there's at least a half block on both sides of the street where no one parks.

And I think the ANC, when they met, their conclusion was that there is such an abundance of parking space -- this shows Sunday, February 2nd. That's what it looks like looking east on Park Road. So there's plenty of parking space during church time. On Sunday, the 14th, east on Park Road.

And whereas when you're downtown, for instance, around the churches at Shiloh and Metropolitan, they're doubled and

tripled park, including full parking spaces. So there's no lack of public parking space by our church.

The same is true when you look north on Sherman Avenue from the property. There's plenty of additional parking space at the height of its use on Sunday. And of course, on Wednesday nights there's no problem parking because fewer members go to prayer meeting.

MS. REID: There's no problem with traffic, or noise, or --

DR. WORD: There is no problem with traffic or congestion because this area is not a place where cars build up.

MS. PRUITT-WILLIAMS: Excuse me, Dr. Word, are those the same photos we have in the file?

DR. WORD: These are two additional ones, but you have three showing Sundays before.

MS. PRUITT-WILLIAMS: Can you submit those though for the record when you finish?

DR. WORD: Yes, I will submit them for the record.

What I would ask is, rather than giving us a waiver for a period, I would ask the Board to give us the complete variance, because of the fact that there is no adverse impact.

The ANC has agreed unanimously that they feel there's no adverse impact to the community. And if the Board takes cognizance of the fact that we have five parking spaces, we're simply talking about one additional parking space.

MS. KING: Dr. Word, I wasn't suggesting that it would be for a period of a year, or even two years; I was thinking about 10 years or something like that. In which case the whole situation in terms of parking impact on the neighborhood might be different.

DR. WORD: That would be fine actually.

MS. KING: By that time you hope that Ms. Reid would have sold you another church, because you will have outgrown the one you have now.

MS. PRUITT-WILLIAMS: Generally, the Board does not condition variances for times. Those are usually only for special exceptions. So this would be granted in perpetuity.

MS. KING: In perpetuity?

MS. PRUITT-WILLIAMS: Yes.

MS. KING: To march with the land?

MS. PRUITT-WILLIAMS: Yes.

DR. WORD: Would you have a problem with that?

MS. KING: Well, it just seems to me -- at the moment you've got a van plus a few other people who come to your search. You have the potential to have 60 people there, and possibly as many as 10 cars in the neighborhood, and you have only two legal parking spaces, one of which I presume you don't want to lose because it might well block your front entrance.

DR. WORD: We really can't use the -- we have to use the parking lot on the side actually, because this is the main entrance. We don't have entrances from the side.

So I wonder if the Board has the authority to take cognizance of the fact that Sherman Avenue is not the front of the building in fact; that Park Road is the front of the building. And therefore allow us, for purposes of the zoning permit, to be credited with five.

MS. REID: Well, we can't really do that.

MS. KING: Particularly, because if we grant this it marches with the land, and somebody later may come and open up

those bricked-up walls on the Sherman Avenue side.

MS. REID: Basically, you're asking for a variance for this one automobile.

DR. WORD: Well -- no, we're going to have to have four.

MS. REID: Okay. I thought you were saying that technically you can park five --

DR. WORD: Yes.

MS. KING: Technically they can park seven.

DR. WORD: We can park all of the cars there. I mean we use the public spaces to park or 10 or 15.

MS. REID: The variance was six, and then that would take care of all of it.

DR. WORD: Yes, that would take care of it. A variance of four, by the record as she said, because the zoning desk has given us credit for only two.

MS. REID: For zoning issues.

DR. WORD: For zoning issues we need a variance for four.

MS. PRUITT-WILLIAMS: But the other thing is, if Dr. Word's church was to expand and increase, then he would have to come back for more relief. But if doesn't -- if it goes over 65 seats -- this will go with the building for the 65 seats.

MS. KING: Okay, I buy that.

MS. PRUITT-WILLIAMS: And if it goes beyond that, then he has to become back for additional relief.

DR. WORD: That's right, because we'd have to get another permit.

MS. REID: If his congregation grow and blossom,

he'd have to get a bigger church eventually.

DR. WORD: That's our hope.

MS. KING: Okay. No, I'd forgotten about that. Yes it is tied to the number of parishioners.

MS. REID: Are there any other questions?

MR. GILREATH: I don't have any more questions.

MS. REID: Dr. Word, does that complete your presentation?

MR. GILREATH: I wonder if there's anything more I should say. I don't want to prejudice myself.

MS. REID: I think you've done enough.

DR. WORD: Thank you.

MS. REID: You have an opportunity to come back at the end, and ask for a summary order, or whatever today.

DR. WORD: Okay. And I'll end here.

MS. BAILEY: Dr. Word, do you own that property?

DR. WORD: Yes.

MS. BAILEY: The question I asked Dr. Word is, did he own the property, and he said yes, he did.

DR. WORD: Yes.

MS. REID: Okay. Now to government report. There are none. ANC? Is there anyone from the ANC? No one from the ANC. We do have a letter from the ANC; that ANC-1A.

MS. KING: Some of us have a letter from the ANC.

MS. REID: Some of us have a letter from the ANC. And it said by unanimous vote they had determined that no adverse effect would result for approval of the request.

The Commission strongly urges the Zoning Board to approve the request. Now they did not say there was a quorum, so

basically we will take note of the fact that the ANC is on record as being in support of this application.

Persons and parties in opposition to the application? Persons and parties in support of the application? Closing remarks by the applicant.

DR. WORD: I would just say that I -- I just hope you approve the variance for me.

MS. REID: -- a summary order with this decision today?

DR. WORD: Yes, I would like a summary order to that effect.

MS. REID: Okay.

DR. WORD: Thank you.

MS. KING: I move that we approve this order. I think that he's met his burden of proof clearly. It doesn't have any adverse impact. It's a uniquely shaped lot in a unique location. It would be a great hardship if he weren't able to have the waiver of four parking spaces which in fact do exist, but through a technicality can't be counted. And therefore, I move that we approve this request.

MR. GILREATH: I second the motion.

MS. REID: All in favor, aye. Opposed?

MR. HART: The staff will call the vote as 3 to 0, Ms. King, Mr. Gilreath, Ms. Reid, to grant this summary order.

MS. REID: Okay. Dr. Word, you should have your order in about two weeks.

DR. WORD: Thank you very much.

MS. REID: Congratulations.

MS. PRUITT-WILLIAMS: And Dr. Word, if you can get those photos.

DR. WORD: Yes.

MS. KING: I think they're in the file.

MS. PRUITT-WILLIAMS: I believe he indicated there are two more.

MS. KING: Oh, two more, I beg your pardon.

MS. REID: Okay.

(Whereupon, the foregoing matter went off the record at 11:01 a.m. and went back on the record at 1:33 a.m.)

A F T E R N O O N S E S S I O N [1:33]

MS. REID: The hearing will please come to order.

Good afternoon, ladies and gentlemen, this is the February 17th Public Hearing of the Foreign Missions Board of Zoning Adjustment of the District of Columbia.

Joining me today are vice chairperson, Betty King; Reginald Griffiths representing the National Capitol Planning Commission and representing the National Park Service of John Parsons.

Copies of today's hearing agenda are available to you. They are located to my left near the door. Please be aware that this proceeding is recorded electronically, so we must ask you to refrain from any disruptive noises or actions in the hearing room. If you decide to give any information to the Board, do not speak from the audience, but rather come forth to a microphone. State your name and home address, and proceed to make your wish known.

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.

After we finish this statement, please proceed to pick them up, fill them out, so when your case is called you will have them ready to be handed to the reporter.

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

When seated at the witness table, please give your name and home address. I repeat, please give your home address rather than your business address. After this you may proceed to give your testimony or statement.

The agenda for this case will proceed as follows.

Statement and witnesses of the applicant, government reports, including Office of Planning on behalf of the mayor, reports or recommendations by other public agencies, report of the ANC with which the property is located, persons in support of the applicant, persons in opposition to the application.

The record will be closed at the conclusion of each case, except for any material specifically requested by, offered to, and accepted by the Board. The Board and its staff will specify at the end of the hearing exactly what is expected, and the date when the persons must submit the evidence to the Office of Zoning.

After the record is closed no other information will be accepted by the Board. The Board has instructed the staff to return any materials received after the record is closed to the person who submitted it.

The decisions of the Board in this legislative proceeding must be based exclusively on the public record. To avoid any appearance to the contrary, the Board request that persons, counsel, and witnesses not engage the members of the Board in conversation during any recess, or at the conclusion of this hearing session.

While the intended conversation may be entirely unrelated to any of the cases that are before the Board, other persons may not recognize the discussion is not about a case.

The staff will be available to discuss procedural questions.

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 a time to raise such a matter.

Are there any preliminary matters? Come forward, please.

MS. PRUITT-WILLIAMS: Madam Chair, staff has no preliminary matters.

MR. GOODMAN: My name is Robert O. Goodman. I live at 4126 Lomar Terrace in Mount Airy, Maryland. I raise the point that the ambassador of the Republic of Equatorial Guinea has been ill, and he is on his way, but he's running late. I wanted to report that to the Chair.

MS. KING: Is he going to be presenting his case, or does he have other people presenting it for him?

MR. GOODMAN: He will be making a statement as well.

MS. REID: But is he represented by counsel?

MR. GOODMAN: He is in deed.

MS. REID: And who might that be?

MR. GOODMAN: I am.

MS. PRUITT-WILLIAMS: Excuse me, Madam Chair. Do you want to deal with preliminary issues for all cases today?

MS. REID: Well, we may as well.

All right, Mr. Giott.

MR. GIOTT: Procedurally, Madam Chairman, did I understand correctly that the Board will only hearing from the single member district in which the site is located?

MS. REID: No. ANC, there's a segment for the ANC.

MR. GIOTT: Will the ANC-1B be heard also?

MS. REID: Are you here for this particular case?

MR. GIOTT: Yes.

MS. KING: They were noticed in this case, if I'm not mistaken, were you not, Mr. Giott?

MR. GIOTT: We were noticed.

MS. REID: And you are here for that purpose.

MR. GIOTT: That's right. And we did take an action as an ANC. I just wanted to clear up --

MS. REID: You will be given an opportunity.

MR. GIOTT: Thank you very much.

MS. REID: Any other preliminary matters?

MS. PRUITT-WILLIAMS: Madam Chair, there's a preliminary matter on the next case, and that's a request for a postponement for Georgetown University.

MS. REID: Is anyone here affiliated with Case Number 16427? Is anyone in the room here that's affiliated with that particular case, Georgetown University?

MS. PRUITT-WILLIAMS: I believe most of the people knew about it, but I just wanted -- in case someone did not know that it had been -- it's been postponed to March 17th.

MS. KING: Has it been postponed?

MS. PRUITT-WILLIAMS: Yes.

MS. KING: Did we take an action?

MS. PRUITT-WILLIAMS: Excuse me?

MS. KING: Did we take an action?

MS. PRUITT-WILLIAMS: No. This was postponed prior to getting to you.

The applicant had submitted their application. It was

given a hearing date, and it went up to the register.

Right after it went to the register, the applicant called and asked for a different date. It was too late to retrieve the information from the register. So the notices that went out to the 200 people have this March 17th date, the corrected date.

But just in case someone read the register and not noticed.

MS. REID: All right. So that's Case Number 16427. What was the date?

MS. PRUITT-WILLIAMS: 17th.

MS. REID: Okay. Can we proceed with this case?

MS. KING: On the other hand, we can do St. John's, and then go back to Equatorial Guinea, if they prefer.

MS. PRUITT-WILLIAMS: You could ask their counsel if he feels uncomfortable starting.

MS. REID: Mr. Goodman, would you prefer to proceed at this time, even though the ambassador's not yet arrived, or would you rather us take up the next case? Take up the next case, and then have your case immediately after that.

How long do you take before the ambassador will be able to arrive?

MR. GOODMAN: He was supposed to have left about 20 minutes ago, and they were at I Street. If you give me a few moments, I'll call and make sure he's on his way.

MS. REID: Okay. Maybe the best thing to do would be to just give him about 5 or 10 minutes, and then we can proceed with this case.

Then what we'll do, Mr. Goodman, is give you five minutes or so, and then we'll proceed with your case because

Mr. Griffith and his department both have to leave. So if we switched it around it would be cumbersome.

MR. GOODMAN: I understand, Madam Chair, and I will go and make the phone call.

MS. PRUITT-WILLIAMS: Madam Chair, we do have another preliminary issue we can deal with.

MS. REID: Okay.

MS. PRUITT-WILLIAMS: On the application of 16430. Is the applicant here, for St. John's?

It's a small issue, so I don't think it will be a --

The notice has the application's address as 3400 O Street, which is what the application also indicated. But the actual address, I believe, is 3200 O Street?

MR. BROWN: I believe it's 3240.

MS. PRUITT-WILLIAMS: The bottom line, the address is different that what was on the application and what was sent out in the notice.

MS. REID: So the notice was sent out with a different address?

MS. PRUITT-WILLIAMS: No the notice was sent out correct, based on the application. The application was inappropriately filled out. There's a mistake on that.

MS. REID: Okay. That's what I'm trying to ascertain.

MS. KING: The notices went out to the people to the proper 200 people?

MS. PRUITT-WILLIAMS: That's what we need to find out.

MS. REID: Okay, Mr. Brown.

MR. BROWN: The 200-foot property listing was done

in accordance with where the building physically is --

MS. PRUITT-WILLIAMS: To the 3200.

MR. BROWN: -- regardless of the address. And, in fact, it went beyond the 200 feet. But the written notices that went out were based on the physical location of the property and it's correct place. Those went out, I assume --

MS. PRUITT-WILLIAMS: They went out in a timely manner, yes.

MR. BROWN: -- they went in a timely manner.

The property itself was posted on its various street frontages in an appropriate manner.

The ANC has taken up the matter. We've gotten letters of support from adjoining property owners, so that I think all the requirements, or the purposes of notices were completely served by the events that occurred in accordance with the procedures.

MS. KING: But we published the wrong address, is that correct?

MS. PRUITT-WILLIAMS: We published the address that was given to us in the application, which happened to be the wrong address.

MS. REID: That's exactly what we're trying to ascertain. I understand the fact that it was on the application.

MS. PRUITT-WILLIAMS: Correct. However, notice went to the correct people, and the property was posted. So there's notice on two different fronts.

MS. REID: What was put in the D.C. Register?k

MS. PRUITT-WILLIAMS: This.

MS. REID: The incorrect one?

MS. PRUITT-WILLIAMS: The incorrect address, yes.

The zoning relief is the same. It's just the actual physical location of the building.

MS. KING: And I don't think that any of the people who live within 200 feet of St. John's Church have any doubt that St. John's Church is in the 3200 block, not the 3400 block, so -- Madam Chair, it seems to me that there's no reason to abort this hearing.

MS. PRUITT-WILLIAMS: We can just amend the application.

MS. REID: To my knowledge, there is no opposition to this particular case.

MS. KING: On the contrary; there's widespread support.

MS. REID: None. Okay. Then I think that we'll probably be on pretty safe ground to proceed -- from the fact that the property was noticed, and the people did receive their notices in 200 feet, it should be okay.

MS. PRUITT-WILLIAMS: So we'll take this up after the foreign mission case.

MS. REID: Right. We'll proceed with the case today, Mr. Brown.

MR. BROWN: Thank you very much, Madam Chair.

MS. REID: Are you ready? Okay. Please, come forward.

MR. HART: Madam Chair?

MS. REID: Yes.

MR. HART: This is Application 16428 of the Chancery of the Republic of Equatorial Guinea, pursuant to 11DCMR 1002.1 to permit a new chancery use by the Embassy of the Republic

of Equatorial Guinea in an R-5-C District at premises 2020 16th Street, N.W. at Square 175, Lot 805.

(Whereupon, the persons, having first been duly sworn, were examined and testified as follows:)

MS. REID: You can proceed.

MR. GOODMAN: Madam Chair, my name is Robert Oliver Goodman. I'm an attorney here in the District of Columbia. I'm here with His Excellency, Ambassador Pastor Micha Ondon Bile, the ambassador of the Republic of Equatorial Guinea.

Also testifying today, interpreting for the ambassador, will be Ms. Mari-Cruz Andeme, his diplomatic attache.

By way of introduction, the Republic of Equatorial Guinea is a small country located near the equator on the west coast of Africa. It is a developing democratic nation, seeking investments by American and international companies in its economic development and infrastructure.

Equatorial Guinea has a population of approximately 530,000 inhabitants, and an land area of 17,433 square miles.

The government of Equatorial Guinea has an abundance of natural resources. Approximately 1,000 of its citizens live in the United States. Almost 75 percent of them live in the New York City area.

In 1995, the Republic of Equatorial Guinea sought and received permission to establish an embassy in the United States of America. The purpose of that embassy is to engage in contacts between American businesses, ecclesiastical institutions, and leaders in the higher education community.

Its first office, 1375 square feet, established in July of 1995, was located at 1511 K Street, N.W., Suite 401, in Washington,

D.C. That office was vacated before December 1998 for a current temporary quarters at 1712 I Street, N.W., Suite 410, in Washington. It was only the intent of the government to find and locate an embassy in a building that it owned for the purpose of carrying out its mission.

We have been members of the United Nations since 1968, and have a mission in New York City where we represent our government there in that international body.

In September of 1998 we purchased the property at 2020 16th Street, Square 175, Lot 805, with the intent to locate our embassy there. We notified the Office of Foreign Missions of the U.S. Department of State of our intent, and they did not object.

The Department of State recently sent a letter in full support of the location of the embassy on the premises. We also contacted the Board of Zoning Adjustment of the Government of the District of Columbia. The hearing today before the BZA is the result of that notification.

As you know, 2020 16th Street is in the District zone R-5-C residential commercial. The government has no plans to alter the charming exterior characteristics of the building, and will use the property for residential and commercial use purposes.

The interior is tastefully decorated in an elegant and timeless style. There's a one-bedroom apartment located on the first floor, where the former housekeeper lived. This apartment will be occupied by permanent embassy staff for security purposes.

The upper levels of the home will be used exclusively for offices and temporary VIP quarters by traveling members of the delegation of our nation, and/or temporary distinguished visitors and guests.

There are four or five permanent members of the

embassy staff. Two are diplomats; the other two are citizens of the Republic of Equatorial Guinea and also a South American country.

The ambassador, on the other hand, lives with his family in Virginia, so he will not be living at the quarters.

Summary. The Government of the Republic of Equatorial Guinea takes this opportunity to express our application before you. We want to make sure that you understand that we want to be good neighbors; conduct our business in a manner that will not disturb or negatively impact the neighborhood. The location of our embassy on 16th Street will enhance the quality of life and property values in the community. The building is in an historic district, and will be a wonderful venue for the embassy.

In preparation for this meeting we had two open house events, which we invited our neighbors to come and see the interior of the building. At those meetings -- one on the 31st of January and the other on the 7th of February -- Ambassador Bile and his family and the staff and their families were present. We had a good turnout, and we had a good response.

I would like now to submit to the Board some folders, some written materials, on the Republic of Equatorial Guinea. I have four copies.

At this time I'd like to introduce His Excellency, the Ambassador of the Republic of Equatorial Guinea, Pastor Micha Ondo Bile.

AMBASSADOR BILE: I would like to say a few words, but my English is not no good. With that I will pass that to speaking in Spanish.

TRANSLATOR ANDEME: We'd like to thank you for this opportunity for having him here to explain our case. He is ill right

now. He was briefly hospitalized yesterday. He's still at home, but he had to come for Virginia to attend this meeting, which is very, very important for us.

This case that we're discussing right now, the opening of our chancery at 2020 16th Street, is not a lucrative business. My government has purchased this building, a little bit over a half million dollars. This is like a lot of money to my government, to our country. We don't have that kind of money offhand all the time, which means that it's very, very important for us to establish this relationship with the United States of America.

And in doing so, which is the purchase of the building, the people living in the zone, we always considered their concerns, and they are very important to us. We don't want to antagonize them, or we don't want to undermine their concerns, which are very reasonable. And not just only the people living in that particular area, but the whole District of Columbia.

I want the Board to understand that the strengthening enhancement of the relations between both countries will not only benefit citizens from Equatorial Guinea, but also it will benefit citizens from the United States, as well as our neighbors in that particular zone. Because what we're trying to do here is to promote business communication at all levels, so that the standard life of citizens in Equatorial Guinea could be higher, and as well benefit citizens here in the United States.

Thank you very much

(End of translation)

There's a statement that he has prepared that will perhaps explain most of the concerns that he has about the neighbors living in that area, and other comments that other institutions have

made on this case, their reports.

So if I may -- shall I state my name?

My name is Mari-Cruz -- I am the attache of the embassy. I live on 2020 16th Street, N.W., Washington. And I will read the statement that the ambassador prepared for this hearing.

"As the ambassador of the Republic of Equatorial Guinea, before the United States of America and the United Nations, I stand here today to comply to one of the supplemental rules and practice required by the Board of Zoning Adjustment, which follows other various sequences which to the best of my knowledge I have observed.

It's always been my government's desire to strengthen and enhance bilateral relations with this great nation. After all -- discovery in my country -- various American oil companies sell in Equatorial Guinea, resulting in an extreme need to fully strengthen these ties.

In April last year I was drawn to the beautiful building that sits on 2020 16th Street, N.W., not only for its outside physical beauty, nor for its interior capacity to host the service of fermenting international and valuable relationships, but I was also drawn by the entire neighborhood which holds a rich and classy appearance, a fact I have ever, nor will ever undermine. A -- resolution -- I will illustrate below.

From day one we have worked with the State Department, and had to ensure that we met all requirements, both dictated by the Federal Government, as well as the District Government.

For the first part we have complied with the regulations that govern the purchase, an establishment of a chancery.

I refer to the documents that I enclosed in our case files.

We are under the same situation of having complied with the District Government's demands. We were asked by the BZA to meet with two ANCs that are directly affected by our case. Unfortunately, we only met with ANC-1B, and not with ANC-1C. I personally feel overwhelmed by this unusual situation, because we all know that 2020 16th Street pertains to ANC-1C; however, I wish to inform you that the embassy was never formally, nor officially advised by ANC-1C to attend any meeting.

Yesterday, an apology was made to my staff by an ANC-1C representative during an emergency meeting called by the embassy. On the other hand, we had attended ANC-1B's meeting, thanks to the courteous endeavor of Commissioner Giott. After brief discussions, ANC-1B voted in support of our appeal.

Now I would like to briefly comment on the various and reasonable concerns I've learned neighbors of this zone have, and also comment briefly on the reports presented by some institutions.

Number 1, Number of diplomats. The Planning Office inaccurately states that our embassy employs four diplomatic staff members. This is incorrect. We only have two diplomatic members and another two non-diplomatic. This is important because it answers the question of the number of vehicles with diplomatic tags that the embassy will be using on daily basis.

Number 2, Use of the 4th Floor. This floor will be used for ministers that might visit Washington, D.C. only on official businesses. That is during celebrations -- for example, the World Bank, they hold in August every year a two-week seminar. I will sometimes have ministers come to attend those meetings. That's the

only time we will have the floor used.

Diplomatic business. We maintain constant diplomatic relations with bodies of the Federal Government. When we do so it is always at their quarters, therefore five visitors a week for diplomatic business in our embassy, as the Office of Planning states -- that is not true either. Sometimes we might have -- ambassador to ambassador visitors or visits to our chancery.

The State Department never approves our decision, nor our process of acquiring the building. Please refer to State Department documents that I enclose in our case file.

While we do share the Dupont Circle Citizens Association's view, that this is a proud and viable neighborhood, I am here to assure them that its main characteristics will not change by our occupying the building. The neighborhood will continue to be stable, and furthermore, productive and successful. We are indeed good quality neighbors, and the State Department has already valued our existence as an utmost importance. We will definitely improve the neighborhood to a richer and proud one.

Number 6, The parking. The former owner of 2020 16th Street had three parking spaces; one which is the garage, another two spaces at the back of the lot, the rear of the building.

The embassy has acquired the same number of spaces, therefore the neighbors are currently under the same parking situation by Ms. Gigliotti -- that's the former owner, Ms. Gigliotti.

The neighbors are currently under the same situation with parking when Ms. Gigliotti was the owner; and we have not worsen anything. We do not intend to acquire further parking, not on-site, not off-site.

All our visitors will arrive by public transportation. All

visitors that we anticipate will be from the D.C. area; that is, no one will come from Burke, Virginia, or Richmond, Virginia, Baltimore -- places far like that. And if they come from Baltimore, they stay in hotels, and then they come by cab or by bus to the embassy, which is how we are doing our business right now.

To the embassy two vehicles will be driving in and out everyday from Monday to Friday. Only delivery vehicles might be seen from time to time. This is so because we are supplied every two months. That's office supplies; paper, pencils, etc., etc.

Traffic congestion can never -- accord -- with courier services. They come on a motorcycle, bicycle. They drop the passports, and they pick them up and they go away.

Garbage removal. The embassy's currently paying the city authorities for the service, and remain to do the same.

The previous owner had five people occupying the building. Our embassy will have between four and five -- the same amount of people. That number is not expected to increase in the foreseeable future.

Number 9. We feel we have complied with all requirements set, especially parking. But we are very, very willing to work and be participants with the neighbors on issues that affect us both.

Once our offices are closed, there will be a permanent staff member living under normal residential circumstances. We have used before -- for security purposes. This is because she will watch over our belongings -- country -- government things in the office while the offices are closed.

Thank you very much for your consideration, and for your time.

MR. GOODMAN: Madam Chair, that concludes our presentation.

MS. REID: Board members, did you have any questions?

MR. GRIFFITHS: I have several questions. And I think you've answered most of them, but I just want to be clear, make them concise for the record.

As I understand it, there were formerly three automobiles, and you anticipate having no more than that, only three automobiles at the property?

MR. GOODMAN: We have two. We have two diplomatic automobiles.

MR. GRIFFITHS: You have two diplomatic, but the total number of automobiles --

AMBASSADOR BILE: Three.

MR. GRIFFITHS: -- would be three?

AMBASSADOR BILE: Yes.

MR. GRIFFITHS: All right. Then you say that you have two non-diplomatic staff and two diplomatic staff. And so the occupancy of the building during working hours would be four or possibly five?

AMBASSADOR BILE: That is correct.

MR. GRIFFITHS: You indicate that after hours there will be at least one person, or perhaps two. You didn't say two, but I'm just asking.

TRANSLATOR ANDEME: Just one person.

MR. GRIFFITHS: Just one person staying in the property.

TRANSLATOR ANDEME: Yes.

MR. GRIFFITHS: And you expect how many visitors per week, including business.

TRANSLATOR ANDEME: We can say a maximum of five. It won't even get to that.

MR. GRIFFITHS: Drop-offs, passports, everything.

TRANSLATOR ANDEME: Okay, yeah, five a week. Okay.

MR. GRIFFITHS: You include five. But you might have -- even if you double that it would be 10 or so.

You seem to have less activity right now than a residential area, residents, but we'll see.

Your fourth floor will be for guest ministers possibly two weeks a year?

AMBASSADOR BILE: Yes.

TRANSLATOR ANDEME: Yes. One time a year, but for a period of two weeks in August.

MR. GRIFFITHS: How many guest ministers at one time?

TRANSLATOR ANDEME: Two, because these are World Bank meetings, Minister of Finance and Minister of Planning.

MR. GRIFFITHS: So at worse you would anticipate less than -- let's say less than 10 to be safe --

TRANSLATOR ANDEME: Oh far less than --

MR. GRIFFITHS: -- in the office space, the chancery, at any time?

TRANSLATOR ANDEME: Any time.

MR. GRIFFITHS: Thank you.

MS. KING: You purchased this house without a contingency for getting zoning approval to use it as a chancery, is that

correct?

MR. GOODMAN: It was a situation where the owner was anxious to get out -- It was a situation where the previous owner, Ms. Gigliotti, to get out. And reading the regulations and talking to the people at State, it was assumed that there was a presumption in favor of operating embassy locations in historic districts. And we checked and found that the 16th Street corridor was considered to be an historic district, although it is not --

MS. KING: But you're aware that it's not in the diplomatic overlay.

MR. GOODMAN: That is correct, we knew that.

MS. KING: And you were aware of that when you purchased the property?

MR. GOODMAN: That is correct.

MS. KING: Thank you.

MS. REID: I have a question. Do you do any entertaining at the chancery?

TRANSLATOR ANDEME: Yes. We have designed a plan.

MS. REID: I'm sorry?

TRANSLATOR ANDEME: Yes. We will entertain receptions. Is that your question?

MS. REID: Yes.

TRANSLATOR ANDEME: But we will do them off-site, we won't do it in our building.

MS. REID: No, that was my question. You will not have --

TRANSLATOR ANDEME: Oh, we won't have them there.

MS. REID: You won't have receptions, or you won't be entertaining at that facility --

TRANSLATOR ANDEME: No, not at that --

MS. REID: -- even though you may have them at other places in the city.

TRANSLATOR ANDEME: At other places, yes.

MS. REID: What are the hours of operation?

TRANSLATOR ANDEME: From 5 to 9, ma'am. I'm sorry, from 9 to 5.

MS. REID: Okay. Monday through Friday. No Saturday and Sunday?t

TRANSLATOR ANDEME: No Saturdays and Sundays.

MS. REID: Thank you. No other questions

Thank you very much. I'll bring you back up for closing remarks.

We'll now have government reports, the Secretary of State.

Ms. Pruitt-Williams, do we have an Office of Planning?

MS. PRUITT-WILLIAMS: We do. You do have a report in your package.

MS. REID: Yes, but I mean -- Oh, I see. We don't have a representative.

MS. PRUITT-WILLIAMS: No, we will not have a representative.

MS. REID: Okay.

MR. MLOTEK: Good afternoon. May I please this honorable Board. I am Ronald Mlotek, legal counsel of the Office of

Foreign Missions, United States Department of State.

I am pleased to appear before you today as part of our statutory role in assisting the Board of Zoning Adjustment -- the Foreign Missions Board of Zoning Adjustment -- in adjudicating chancery cases under the Foreign Missions Act.

As you know, I presume, we have submitted for the record a statement from the deputy director of the Office of Foreign Missions, Deputy Assistant Secretary, Theodore Stricker. That's in the record; I will not regurgitate it right now. Just to highlight the central points which fall within our province under the Foreign Missions Act and under six criteria by which these cases are to be decided.

First of all -- that letter was, by the way, dated January 27th. First of all, the Department of State finds that there is no special security requirement or parking-related requirement for this chancery if it were to be approved at this location.

Second, we would point out, as we do in all of these cases, that assisting embassies in obtaining adequate and secure facilities in which to conduct our operations does fulfill the international obligation of the United States under the applicable treaties that regulate diplomatic relations.

And third, we point out that there is an interest in the area of reciprocity between Equatorial Guinea and the United States of America, although we do not have an embassy there now. We closed our embassy in 1994 for fiscal and budgetary reasons, but we are planning and in principle have approved reopening a presence there in the form of a consular agency, basically to look after the interest of the growing number of American citizens who are beginning to travel to Equatorial Guinea in connection with the oil industry and

petroleum-drilling operations there.

So for those reasons, the Department supports this application, and requests the Board to act favorably upon it.

I will of course hold myself open for questions, either at this point or later. I would also like to ask the Board's leave, in the event that some subsequent witness or group of witnesses should raise points that impinge upon the federal interest, for permission to address the Board again on those subjects, particularly if an issue of international law or diplomatic relations law should be raised; or if some aspect of the Foreign Missions Act should come into play.

And in this regard, finally, I would just like to respond to something Member King raised with the applicant directly.

She mentioned that the area is not within the diplomatic overlay. And that is of course, true. But to my understanding, the diplomatic overlay does not apply one way or another -- in other words, there were no areas mapped, either within or without the diplomatic overlay, that were in medium high density zones such as this.

Because under the Act, an area that is medium high density is presumed to be -- the general area is presumed to be an appropriate area for chancery locations. Specifically, I would refer you to the Foreign Missions Act in the U.S. Code at Section 4306(b)(2).

It says, "The chancery should also be permitted to locate in any area which is zoned medium-high, or high density." This is zoned medium-high I believe, medium-high density, residential. Subject to disapproval by the Board.

The diplomatic overlay applies to the second section (b)(2)(b). I just read you (b)(2)(a); (b)(2)(b) says, in addition to the area I just mentioned, medium-high or high density residential, "a

chancery shall also be permitted to locate in any other area, determined on the basis of existing uses", which includes office, institutional uses, etc, as an area that would be suitable.

So in other words, the Board is suppose to, in the cases under (b)(2)(b), determine first whether the area is suitable, and then, two, whether this specific location within the area is suitable.

And years ago -- as Mr. Griffiths knows because he was heavily involved in that process. Years ago, when the Foreign Missions Act was first passed in '82, thereafter in 1983 an impetus began from the National Capitol Planning Commission and the Zoning Commission to try to define, to pre-define, those areas under (b)(2)(b); in other words, the areas that would be deemed to be appropriate on the basis of existing use. And that, Ms. King, is what became known as the "diplomatic overlay".

But this case is not brought under 4306(b)(2)(b); it's brought under 4306(b)(2)(a), which the diplomatic overlay was never meant to apply to. And I just wanted to correct that for the record.

MS. KING: So you feel that the fact that this is a totally residential block is immaterial?

MR. MLOTEK: No, it is not immaterial at all. It is not immaterial at all, and the Board can and should under the six criteria take that into account.

All I'm saying is, that in a normal case an embassy -- in other words, in the case that was brought under (b)(2)(b), where the diplomatic overlay has some applicability, the Board in such a case has two questions to decide; one, is the entire area appropriate in the Board's view; and number two, is that particular site appropriate. That's because the diplomatic overlap comes into play there.

In a case under (b)(2)(a) there's only one hurdle, or one test that must be examined. Because under the statute itself the area is determined. Whatever you or I may think, the area, the entire area, is presumed statutorily to be appropriate for chancery location, because the Act itself says, "they shall be permitted to locate there, subject to disapproval".

Then there is only the second test to be looked at as to whether that specific site. And the question you raised of course, Ms. King, would relate to that specific site, as to whether that entire block is residential, and whether it would impede the residential character of the block, and that's perfectly appropriate.

All I'm saying is that it should not be held against this embassy, or against this application that the site is not in the diplomatic overlay.

MS. KING: Did the State Department warn the Government of Equatorial Guinea that there was this problem of meeting zoning approval, since it was outside of the diplomatic overlay?

MR. MLOTEK: Well, without getting too far into the conversations between the Department of State and a foreign government, let me simply say that we do in all cases counsel embassies extensively about the zoning realities, and the likelihood or lack of likelihood of gaining approval before this board in cases where they must come to this board for approval.

This case, of course, they did purchase the property without a contingency, and we made them aware as we do in other cases that there could be opposition, and that our diplomatic approval notes in all cases state that we cannot guarantee successful outcome before this board. That's our standard operating procedure.

MS. KING: Thank you.

MR. MLOTEK: You're very welcome.

MS. REID: Any questions?

Okay, thank you, Mr. Mlotek.

MR. MLOTEK: Thank you very much.

MS. REID: Office of Planning report. Vice Chair Betty King will -- summary.

MS. KING: The Office of Planning has recommended -- as the mayor's designee in matters relative to foreign missions, the Office of Planning recommends denial of this application. In part -- I will not read the entire opinion, which everybody has before them, but on page 5 --

MS. REID: I don't think the audience can hear you that well, Ms. King.

MS. KING: Oh, I beg your pardon. I'm sorry, let me start again.

As the mayor's agent, designee, in matters relative to foreign missions, the Office of Planning recommends denial of this application. I will not read the entire opinion, which is before members of this panel, but I will read two sections.

One is on page 5 under Section 101.7, Municipal Interest. The Office of Planning has said, "The applicant would introduce a non-residential use in this area of 16th Street, which is presently totally residential in character.

In addition, during the discussion of the diplomatic overlay as part of the Foreign Missions Act this area was never considered suitable for the location of foreign missions."

The chancery, in the Office of Planning's opinion, would have a deleterious impact on the residential character of this

portion of 16th Street.

And then the final paragraph on page 6 says, the recommendation of the Office of Planning is that they're of the opinion that the applicant has not met the burden of proof under Section 102 of 11DCMR, relative to the location of the proposed foreign chancery in an R-5-D zone district.

"This proposed office use as a chancery would have a deleterious impact on the character of this section of 16th Street which is totally residential. The proposal would exacerbate the existing parking problems with the area. This area has not been considered suitable for chancery use.

Based on the above analysis, the mayor's designee in matters relative to foreign missions, the Office of Planning recommends denial of this application."

And this document was signed by John -- transition coordinator for the Office of Planning.

MS. REID: And I'll also note that the federal interest -- it's not updated. It says the Department of State closed its embassy in Malabo, the capitol of Equatorial Guinea in 1994, but the representative from the Secretary of State, Mr. Mlotek, informed us that they do intend to reopen the embassy there in deference to the number of American citizens who are now moving there to participate in the oil industry, for the record.

MR. GRIFFITHS: Madam Chairman, for the record, what you just read with respect to the U.S. presence overseas is not a municipal matter.

MS. REID: I read it as a federal interest.

MR. GRIFFITHS: But this is something from the Office of Planning?

MS. REID: Yes, this is under the federal interest portion of the Office of Planning report.

MR. GRIFFITHS: Well I guess what I'm saying is that the Office of Planning, while it can comment on anything, has rather not so weighty influence on the federal interest. That's the way the Act is drawn up.

MS. REID: Okay. Thank you for your input in that instance.

MS. KING: It's for that reason that I didn't read that section of the report.

Under government reports, I note that we have nothing from the Commission in Fine Arts, nothing from the Preservation Review Board, nothing from the Corporation Counsel.

However, we do have letters from four members of the City Council. Jim Gram, who is the councilmember for Ward 1, and three at-large members; the Honorable Phil Mendelson; the Honorable David Katanya; and the Honorable Carol Schwartz. All four have opposed the granting of permission for the establishment of the chancery at 2020 16th Street.

MS. REID: Okay. Thank you.

Now, report of the ANC; ANC-1C and 1B -- I think it's located in both of those jurisdictions.

MS. PRUITT-WILLIAMS: It's located in 1C.

MS. REID: 1C, would you come forward, and then we will have testimony from 1B.

MR. LETZINGER: I'm Eric Letzinger. I live at 1621 T Street, N.W., Apartment No. 306. And I am the ANC commissioner for 1C-08, which is the single member district in which this property that we're discussing today is located.

A little bit of background. The ANC Commission 1C met on February 3rd at our monthly meeting on Wednesday to officially discuss this issue in light of significant residential opposition to the proposed usage, and we during that meeting elected to oppose the proposed usage for a transferee for this building.

MS. KING: Was a quorum present, and was it duly advertised that this was going to come up at that meeting?

MR. LETZINGER: Yes, it was.

MS. REID: First of all, do we have a letter? Did you send a letter?

MR. LETZINGER: Yes.

MS. REID: Do you have it, Ms. King?

MS. KING: I don't, no.

MS. REID: I don't think --

MR. LETZINGER: You should have everything. Everything's been faxed in, and sent according to due process.

MS. REID: I have a -- resolution of Advisory Neighborhood Commission 1C. This is signed by Richard Mason.

MR. LETZINGER: That's the resolution itself.

MS. KING: Okay. But it doesn't say -- in order for us to give great weight we have to know that it was duly advertised, and public meeting, and a quorum was present, and what the vote was, in order to give great weight.

MS. REID: There's not a letter here.

MR. LETZINGER: Okay. Here are the two pages that were faxed to you, and you're only holding the second sheet, so I'm not sure what happened in your administrative process.

MS. REID: Could you please give it to the staff so that we could take a look at it?

MR. LETZINGER: Right.

MS. REID: Thank you.

MS. KING: Could we see it, Sherri? I don't think we need copies made.

MS. REID: Basically, it's dated February 5th, "To whom it may concern, enclosed is the certificate of the resolution passed by the Advisory Neighborhood Commission 1C" --

MS. KING: There was a quorum.

MR. LETZINGER: There was a quorum in all of our meetings. We're a good commission. All of our meetings are publicly advertised thoroughly, and we have tremendous attendance at our meeting.

MS. KING: You have nine members. How many attended this meeting?

MR. LETZINGER: Seven of the nine.

MS. KING: And how many voted in support of the resolution?

MR. LETZINGER: All but three.

MS. REID: So four people out of nine members?

MR. LETZINGER: There were two that abstained and two that were -- let's see, two abstained and two that were absent.

MS. KING: And your rules are that an affirmative vote requires a majority of those present in voting, is that correct?

MR. LETZINGER: Yes.

MS. KING: Okay, thank you.

MS. REID: Notwithstanding the fact that verbally you are -- reporting -- but in the submission to us it does not indicate that there was a present, or that a vote was taken.

MS. KING: Just for a future reference.

MR. LETZINGER: That's good to know. And one piece of information. We're a relatively new commission, so I'm sure there's a ball or two that we've dropped.

MS. REID: Okay. Then what you should do is just consult with staff, and let them apprise you as to what is the proper format for this commission each time you do so.

MR. LETZINGER: Great.

MS. REID: Okay. Go ahead and continue.

MR. LETZINGER: I know this is another piece I need to have, which is basically a letter from the Commission authorizing me to speak on behalf of the Commission with respect to this issue.

MS. REID: You're the chair person of the --

MR. LETZINGER: I'm not the chairperson.

MS. REID: You're a single member. Okay.

MR. LETZINGER: Right. But I have authorization from the Commission to --

MS. REID: Okay.

MR. LETZINGER: -- right.

MS. KING: And he represents the SMD in which 2020 16th Street is located.

MS. REID: And we'll waive that letter of authorization into the record.

MS. KING: Oh, and we better waive the covering letter from the resolution in as well.

MS. REID: Actually, the covering letter should have been a part of the record. It was not, so therefore we just weigh the record to acceptance of the record. It's probably here, but it's just not part of our packages.

Okay, go ahead.

MR. LETZINGER: Okay. Essentially, the issues -- there's a little bit of background. The issues that are the most pressing to our neighbors in 1C-08 are the fact that this is -- 16th Street, a lot of people think of it as a commercial strip, given it's sort of corridor in nature, high traffic, etc.

The area of 16th Street that we're talking about is a very, very residential area. There's nothing like this for 10 blocks. The folks who live in this neighborhood have chosen our long, long-standing residence.

Folks who live in this stretch have lived there for many, many years, and basically have chosen this neighborhood, and have chosen to stay in this neighborhood because of its residential nature.

The opposition to the use of this building on behalf of my neighbors is rooted essentially in the desire to keep this a residential neighborhood, and a slippery slope is what we're afraid of, with respect to it's non-residential use.

And obviously we all spend a significant number of hours of our lives circling the block, looking for parking, which is a significant problem. I'm sure as you all as District residents -- and I don't know if any of you live in my neighborhood, but we circle the block often, and obviously a non-residential use, a potentially heavily traffic environment is something that makes us nervous, for obvious reasons.

As this issue sort of became -- sort of surfaced in our neighborhood, we took a very rationale approach to surveying the folks in our neighborhood.

We've got one of these great D.C. neighborhoods that's about half African American and half white population, so we

basically stood on -- myself and a series of neighbors undertook a process where we basically stood outside of the building as people walked by in our neighborhood, and received basically 125 signatures, asking people how they felt about a chancery moving in to this building; how does that sound to you; is that something you're looking for; is it something you're not looking for. If you're not looking for it, here's this opportunity to express that vote.

We has zero people express the fact that this was something that they were wanting in their neighborhood. The ANC took this into consideration, and given the overwhelming support -- or giving the overwhelming opposition, we had a packed house at the meeting, and we took action, recognizing that our position -- or our role as ANCs are to serve as the mouthpiece of the community, we heard it loud and clear. Felt very confident about the process that we had gone through.

MS. KING: Did you submit that petition as part of the record?

MR. LETZINGER: No, I'm holding it.

MS. REID: Go ahead.

MS. KING: Sorry.

MR. LETZINGER: Is that something that I should be doing?

MS. KING: Are the signatories residents of that immediate neighborhood, or are they just passersby?

MR. LETZINGER: Yeah, we have their exact address. We have their address, their home address, their zip code, their apartment number, the whole deal. And, yes, they are --

The purpose of this, mind you, was for us. This was for us. This is not presenting some statistic or significant study that

demonstrates anything. This was to make sure that the ANC was informed before we moved ahead, making sure that in fact we weren't acting upon the opinions of a few; and making sure that we were acting on the opinions of the entire neighborhood.

I think what you'll hear today is an impressive presentation from a slew of residents. There a number of buildings in the area that you will hear from residents who live in each one of these buildings around.

You will hear from associations who represent multiple buildings and multiple interest in the neighborhood. And again, the theme that you'll hear is based on essentially parking and the lack thereof, and essentially a strong, strong interest in preserving our residential nature of our neighborhood, and our strong desire to preserve that.

I think that wraps it up. I think if there's -- 141 names, as opposed to 125. But is there an opportunity at this point to submit this as part of the record? Can I do that now?

MS. REID: Sure.

MR. LETZINGER: Then on behalf of our efforts to survey the line, I submit 141 names and addresses of neighbors who feel similar.

MS. REID: Question. Did the Republic of Equatorial Guinea appear before your ANC to answer any concerns that you may have had? Did you have an opportunity to discuss your issues with them?

MR. LETZINGER: Yeah. Unfortunately -- and I do think this is really unfortunate. Unfortunately, we had a miscommunication. ANC-1B and ANC-1C, neither one of us formally invited the chancery to our meetings. We both verbally invited them.

And 1B was successful in getting that verbal communication to actually translate into having the chancery folks come out to the meeting, and they had a productive meeting.

One of our commissioners, Eleanor Johnson, invited verbally the ambassador himself, so we all collectively thought that we had appropriately invited. And what I learned yesterday in a meeting with Mr. Goodman, the counsel for the chancery, is that English is not the first language of the ambassador, and apparently the invitation from Commissioner Johnson didn't make it. It was given, but I think there was a communication breakdown -- given sort of English as a non-primary language, there was a miscommunication there apparently.

MS. KING: Did any of you attend the receptions -- either of the two receptions that were held at the proposed chancery?

MR. LETZINGER: Yes, yes. We had two commissioners go to those meetings.

MS. REID: Okay, thank you.

MR. LETZINGER: And many neighbors went to those meetings.

MS. REID: Thank you very much.

MR. LETZINGER: Thank you.

MS. REID: Before you leave, sir, one question, sir.

MR. GRIFFITHS: You mentioned that there was no use of this kind within 10 blocks.

MR. LETZINGER: Yes.

MR. GRIFFITHS: What did you mean by that?

MR. LETZINGER: The nearest chancery is 10 blocks north, which is I think Lithuania, which is up closer to 16th and

Columbia; 10 blocks roughly, 8 blocks.

MR. GRIFFITHS: Okay. I'm not sure what the Nigerians are doing on P Street right now.

MR. LETZINGER: What's that?

MR. GRIFFITHS: The Nigerians on P Street, the chancery there.

MR. LETZINGER: E and what?

MR. GRIFFITHS: 16th. But I don't know.

MR. LETZINGER: Yeah, right. I was trying to think which would be closer there.

MR. GRIFFITHS: Well, you said 10 blocks. I'm just estimating 10 blocks. It's within 10 blocks.

MR. LETZINGER: Corcoran, Swann -- seven block?

MR. GRIFFITHS: Believe it.

Are you concerned only about chanceries? Is the agency only concerned about chanceries, or non-residential uses?

MR. LETZINGER: Non-residential uses.

MR. GRIFFITHS: So there are no other non-residential uses within that area, within 10 blocks?

MR. LETZINGER: Oh, yes there are.

MR. GRIFFITHS: I know it. But that's why I'm asking. I don't want to read into your words the wrong message, so I'm trying to clarify that.

MR. LETZINGER: Right. There are plenty of non-residential uses within 10 blocks of that particular -- there's plenty of drycleaners. I get my hair cut around the corner. And the gym is around the corner. We live in the city.

MR. GRIFFITHS: But on 16th Street.

MR. LETZINGER: On 16th Street. On 16th Street,

let's see, going down -- yeah, there are actually non-commercial -- or non-residential uses on 16th Street. There are a couple non-profit associations that are --

MR. GRIFFITHS: I just wanted to clarify in my own mind.

MR. LETZINGER: Yeah.

MS. REID: Any other questions, Board members? Okay, thank you.

MR. LETZINGER: Okay, thank you.

MS. REID: Mr. Giott.

MR. GIOTT: My name is Lawrence Giott. I'm an ANC commissioner in 1B-04. I attended the open house, at which time I informed everyone present that 1B would be hearing this at our next regularly scheduled meeting.

We had a quorum present, and I'd live the waive of the rules so I can introduce the position taken by 1B.

MS. REID: So ordered.

MS. KING: Mr. Giott, could you explain the geography of 1C, 1B, and 2020 16th Street for me?

MR. GIOTT: We're talking across the street.

MS. KING: Okay. Directly across the street.

MR. GIOTT: Exactly.

MS. KING: Thank you.

MR. GIOTT: And significantly, we're talking about the corner of 16th & U, where the National Republican Women have a large gathering almost weekly.

Madam Chairman, we are here today due to country's business. This is the international frame of reference of the Board of Zoning and Adjustment. I think that it is very clear that you have the

opportunity and you have the prerogative of approving this site in an R-5-B zone.

Imagine this were a church. Would there be any doubt about the ability of the church to set up there? This is about the international relationship of two countries; this is not about how popular this is to any number of people who live in that immediate site.

The parking problem we consider dealt with. The invitation that was sent to me to attend the open house said, that they owned a parking facility -- a parking space -- and they had leased on a long-term basis two others.

The letter from the State Department that I read, that's available to you in the file, makes no mention of any circumvention by the applicant; nor was any heard in the testimony of the gentleman from the State Department.

And Madam Chairman, I apologize for not knowing the rule about not questioning federal testifiers, but my only purpose would have been to establish what he has established, and what the letter from his superior establishes; that there was no circumvention.

MS. REID: Mr. Giott, just for clarification, there's no cross-examination --

MR. GIOTT: I understand. I understand.

MS. REID: -- of any applicant or witness.

MR. GIOTT: I understand. And I just wanted to say, I would have not had sought it had I known that.

MS. REID: No problem.

MR. GIOTT: Now, Madam Chairman, what we're about here is, the ANC-1B heard from representatives of -- we heard from Mr. Goodman, and we asked him a couple of questions. One, had the parking been dealt with; two, if he and/or his client had known

about the 1C meeting, would they have attended. Both of those were asked in the affirmative.

We asked also, have you conferred with the State Department about this purchase. He told us yes.

We then had a heated discussion. Some people attempted to remove this from our agenda. The votes were there to prevent that from happening, after which there was an open discussion about this and all of its parameters, and a majority of those who established the quorum voted in favor of this application. And I might say, Madam Chairman, quite enthusiastically.

We see this as a national issue. We were very glad to be given the opportunity to say to a country, yes, this is America. We're about openness, we're about diversity, we're about international rapproachment that parallels any other country anywhere in the world. This is about Americanism.

MS. REID: Any questions, Board members?

Mr. Giott, thank you very much.

In this instance with the 1B not being the ANC in which it was located, do they still get the great weight?

MS. KING: I don't believe so. They are given the weight that any association, and particularly an elected association, but not the great weight that is given to the ANC in which the actually physical location --

MS. REID: We will note for the record the position of the ANC-1B, which basically had a quorum, and had a majority vote in support of this application.

MR. GIOTT: Madam Chairman, I hope you would also note, of the people who signed the petition, how many of them were under the belief -- falsehood -- maybe at the time that they

signed, that there was circumvention by the applicant. And how many of them were told that there is in fact a parking problem, when in fact a parking problem does not exist.

I simply hope that you would --

MS. KING: Could we have the petition, please?

MS. REID: We will see the petition, and we will look at it, Mr. Giott.

MS. KING: We don't need multiple copies, just so we can see one, and everybody can read what the preface to it is.

MS. REID: Okay. Persons in support of the application, please come forward.

Mr. Pernell, were you sworn?

MR. PERNELL: No, I'll take it now. I was out in the hallway.

MS. REID: If there's anyone else here, who will be testifying today, who has not been sworn, please stand up?

(Whereupon, the persons, having first been duly sworn, were examined and testified as follows:)

MR. PERNELL: Good evening, Madam Chair and Board members. Can you all hear me?

My name is Daniel Pernell, III, and I am chairman of the 6A Commission on Capitol Hill. I have the responsibility of networking and assisting 13 individual commissioners, and a listening ear to some 28,000 constituents who are voters and taxpayers on Capitol Hill.

I am here today as a single-member district advisory neighborhood commissioner, and as an African American resident of the District of Columbia for more than 30 years now.

Madam Chair, I am also here today to support the

embassy of the Republic of Equatorial Guinea in the United States of America in Washington, D.C. This Republican country is strategically located in the Gulf of Guinea. I've visited that French Guinea on a number of occasions when I was in the service with my parents and family.

I am a former member of the Library of Congress who founded Blacks In Government, and I understand the need for this country -- this new country -- to have a home in the Nation's Capitol.

I came from a military family, and I travel to other countries, and I had the opportunity to live overseas. I know this country has, and it will offer great possibilities to other blacks in the city, knowing that the population now is 75 to 84 percent black -- and I don't mean foreign blacks -- in the District of Columbia.

This embassy wants to be in the diverse community that we have in Washington, D.C. They are here today to express that, in which they have done so already.

Ambassador Bile and his staff have done everything in their power not to disturb or cause any disorder to the community at large, or to any members of the surrounding community of the embassy. They have consulted and inquired to the State Department and to the District of Columbia Board of Zoning Adjustment for carrying out the proper procedures for providing adequate parking space to comply with BZA requirements.

Ambassador Bile and his staff went out to the community in an effort to answer any and all questions concerning the embassy. In their already -- acquired -- facility they had a number of house meetings there to also get acquainted with the community and the ANCs.

Madam Chair, I end my statement by saying I do

support the Republic of Equatorial Guinea in the United States by saying, I understand that people have a right to examine, to observe with great care, to inspect critically in their own community.

I'm an advocate of scrutinizing any business, organization, or an embassy coming into the community, but it's a problem when one commission votes for it, and another one votes against it. And we know there's a problem there. There's some questions and concerns that not being answered. I don't think the fault is on the Republic of Equatorial Guinea; I think the fault is on the community not being properly informed on the coming of this embassy.

I think the reason I came forth because I've been fighting for a number of years for the rights of individuals, and mainly rights of African Americans being in the community. This embassy would be an avenue to open negotiations with the community. I think it would be a community that is in need of such an embassy in the area.

I came up out of the embassy family for many years, and I've been there now. And I just want to say I'm here in support of them. Thank you.

MS. REID: Any questions? Okay, thank you, Mr. Pernell.

Persons in opposition to this application? May I see a show of hands?

I ask that you come up in groups of three or four at a time, in a panel, and try to be as brief as possible in your testimony, and not be redundant; not reiterating the same issues, or the same things that have been previously said by another witness.

MS. KING: There's an easel over here, if you've got a

map, or a display of some kind.

MS. REID: Proceed.

MR. COUMARIS: Shall I start?

MS. REID: Yes.

MR. COUMARIS: Good afternoon, ladies and gentlemen. I have copies of --

MS. REID: You need to give your name, sir, and your address.

MR. COUMARIS: My name is Tom Coumaris. My address is 1413 S Street, N.W. I'm the advisory neighborhood commission, as Mr. Giott is from the Advisory Neighborhood Commission 1B. I am the commissioner for 1B-01.

I have copies of a letter that submitted. Do you want copies of the letter now?

MS. REID: You've already submitted it?

MR. COUMARIS: No. Shall I get copies?

Feel free to ask me to speak up; people do it all the time in my neighborhood.

I'm used to talking when other people are speaking, so that's why my voice is kind of low sometimes.

Good afternoon. My name is Tom Coumaris. I'm the advisory neighborhood commissioner for District 1B-01, which directly is across 16th Street from this property. I've represented this neighborhood for 10 years now, and my family has roots in this neighborhood back to 1902.

Through regular neighborhood meetings and informal discussions with neighbors I'm able to keep abreast of the mood of the neighborhood. There have been few issues in my neighborhood which have aroused so much opposition as this proposed incursion of

the non-residential use into our part of 16th Street.

I've heard strong opposition and phone calls from residents of the Brittany Condominiums, the Northumberland Co-Op, and many residents of 16th Street, 15th Street, and Caroline Street.

This opposition has not surprised me. My neighbors cherish the essential residential nature of our portion of 16th Street. We realize that our neighborhood, and especially our part of 16th Street, is very wonderful but very fragile an oasis of mixed density residential life in the center of the city.

As any of you who have walked in the area of 16th & Caroline or 16th & New Hampshire know what I mean. We're almost a village atmosphere. We're residents of fine homes, and fine buildings, know each other. They stand out front. They talk to each other over fences and on the sidewalk.

It's a very friendly type of neighborhood where we don't have a lot of high density, and people know each other, and it's sort of an anchor for the downtown area of the city. I'm convinced that it is the fine homes on 16th Street which has kept the dignity of our neighborhood through troublesome times.

In other cases I have heard that however nice residential areas may be, compromise is made necessary by economic development and revenue gain to the city. However, here we have a case where this variance will actually cost the city considerable tax revenue by removing the property from the tax rolls.

There is no compelling reason to allow this applicant to allegedly provide parking by renting the last two spaces from, I believe, a 22-unit building which itself is not presently in compliance with parking.

When you add the parking situation that already exists in our neighborhood, and unfortunately, there is one -- when you add to this mix the number of diplomatic license plates, be it two, be it three, or be it four -- we've heard various numbers here -- you're going to exacerbate a situation that is already making a lot of people think about not living there anymore. It's making it less habitable.

Also a big concern in our neighborhood is the historic district. We love our neighborhood and we love its historic significance. We have actually, almost I think five, historic districts that almost converge at this one area. We have multiple layers of socioeconomic history behind this neighborhood.

It's a very, very significant historic area, and we would be bringing in a chancery which would have diplomatic community from the historic district. I mean, we have to believe that they would do the best, but it would pretty much be up to them because they do have the diplomatic community. We don't have any other organization in our neighborhood presently which is immune from the historic preservation laws.

As for the matter of the vote by ANC-1B --

MS. REID: Excuse me. I've had an opportunity to kind of peruse that particular area -- this corridor that you're getting ready to get into --

MR. COUMARIS: Yes, ma'am?

MS. REID: -- is not germane to this particular hearing, so I cannot allow that.

MS. KING: I absolutely concur.

MS. REID: It is not germane. You have to specifically stay with the issue regarding this application only. Any other things is extraneous which we cannot allow to be put into the

record.

MS. KING: The next paragraph I think is permissible. But the first paragraph of the second page is not I think. Your statement about it not being passed in accordance with by-laws, I think is germane, but not --

MS. REID: Sure, you may go into that, but not the extraneous part.

MR. COUMARIS: Well, I think briefly what I would ask is that the BZA be fair. If one commissioner, Mr. Giott from LaTroy Park, is allowed to speak, then certainly the commissioner --

MS. KING: You're allowed to speak, but it is not --

MR. COUMARIS: But when it comes to taking the position of the ANC, there's not -- one commissioner who had any more weight than another --

MS. REID: You can do that, sir. However, the information that you have put forth in this particular paragraph is detrimental information to other parties that we can't allow here.

MR. GRIFFITHS: So it's not substantiated here.

MS. REID: And not substantiated.

MR. GRIFFITHS: So let's just leave it out.

MS. REID: So we cannot allow it.

MR. COUMARIS: Okay. Well, basically I would just ask that when you look to the position of ANC-1B, you ask for a letter of representation from the chair, or some sort of authorization. And you also recognize that ANC-1B is a very large ANC, the largest in the city, which stretches from 16th Street almost to North Capitol Street. And that I am the single member who is "the" most affected by this.

My district is directly across the street from this proposed area. And as far as our rules go, we are supposed to have

an advertised agenda. We did not have any advertised agenda at this. This was a total surprise to us when we came to the meeting; it was prearranged.

And I think you should give whatever testimony you get the amount of weight that it deserves, but don't necessarily think that you're listening to a position of the people who were affected by this zoning variance.

In concluding, I guess as the duly elected representative for the residents directly across 16th Street from this application I can tell you firmly that there is not one single person I know in the area, within miles of this area, who's in favor of this application.

On the other hand, I know of hundreds of people in my district -- and I've only got 2,000 people in my district. But I know of hundreds of people in my district who are very, very strongly opposed to this application for the reasons that I stated. Thank you very much.

MS. REID: Questions?

MR. GRIFFITHS: The ANC-1C had a survey that was signed by many people in the area. I assume that some of those people lived in 1B.

MR. COUMARIS: Possibly.

MR. GRIFFITHS: Possibly. Okay.

MR. COUMARIS: I haven't seen them.

MR. GRIFFITHS: What is the timing between that survey when it first began and the meeting of ANC-1B?

MR. COUMARIS: To be honest, I don't know when that survey was done; I haven't seen the survey. So I wouldn't know what the timing is.

MR. GRIFFITHS: I see.

MR. COUMARIS: I know that ANC-1C met approximately one week before ANC-1B met.

MR. GRIFFITHS: And did you partake in the survey?

MR. COUMARIS: No, I did not.

MR. GRIFFITHS: You did not. But you did know about the meeting of ANC-1B?

MR. GRIFFITHS: Yes, I knew about the meeting of ANC-1B because we always meet the same week of every month. I knew about the meeting of ANC-1C because it was advertised in advance, and it was advertised that this would be on the agenda.

MR. GRIFFITHS: Okay. I was asking about 1B.

With respect to the meeting on 1B which you say you knew about, and the fact that there had been some activity in the community, but we're not sure about the timing of that activity with respect to the survey, there were a number of people at the 1B meeting, is my understanding, and there was great discussion about this at the 1B meeting.

MR. COUMARIS: No, there was no notice to anyone --

MR. GRIFFITHS: I didn't ask about notice.

MR. COUMARIS: There was no notice to the public.

MR. GRIFFITHS: I did not ask about notice. I asked how many people would you estimate were at the 1B meeting?

MR. COUMARIS: Approximately -- are you talking about commissioners also?

MR. GRIFFITHS: No, I'm talking about total people.

MR. COUMARIS: The public?

MS. KING: All the commissioners, everybody in the

room.

MR. COUMARIS: 15 to 20

MR. GRIFFITHS: You say 15 to 20.

MR. COUMARIS: 15 to 20, which is large, we had a number of -- applicants that night.

MR. GRIFFITHS: So you consider that large?

MR. COUMARIS: Yes.

MR. GRIFFITHS: So in this large meeting of ANC-1B there was a good deal of discussion, pro and con, etc.

MR. COUMARIS: Among the audience.

MR. GRIFFITHS: With whomever participated.

MR. COUMARIS: Among the members?

MR. GRIFFITHS: Whoever participated?

MR. COUMARIS: Yes, sir.

MR. GRIFFITHS: And then there was a vote taken.

MR. COUMARIS: Correct.

MR. GRIFFITHS: And the results of the vote was what?

MR. COUMARIS: I don't remember the exact numbers. I think it was 4 in favor, and 3 opposed, and the rest of the members abstained.

MR. GRIFFITHS: But as a result of all of this discussion, there was a vote taken, and the results of the vote for 1B was in favor of this application.

MR. COUMARIS: The ultimate vote, yes, was in favor of this application.

MR. GRIFFITHS: Okay.

MS. REID: Mr. Coumaris, the letter that you submitted does not have a signature, and we would need to have a

signature for the letter to authenticated.

Would you please, for the record, make sure that there is one that has your signature.

MR. COUMARIS: Sure.

MS. REID: Thank you.

MR. BROWN: My name is Dennis Brown. I reside at 1820 16th Street, N.W. I've occupied and owned that building for the last 25 years. I am an architect, and have practiced in the District of Columbia for the last 27 years.

I'm an also a member a past president of the Dupont Circle Citizens Association, and currently president of the Dupont Circle Conservancy, which is the neighborhood historic preservation group, dealing with the 16th Street historic district, Strivers Row, Massachusetts Avenue, as well as the Dupont Circle historic district.

I'm here as the official representative of the Dupont Circle Citizens Association, regarding their position on this matter for which they have submitted testimony, written testimony to you.

I would like to confine my oral remarks to two areas, one in terms of that related to the 16th Street historic district and the location of embassies within the general Dupont Circle area, and how DCCA views the impact on residential parking in this area.

MS. KING: One moment. Let me just point out to my colleagues that there's a letter from Margaret Young, president of the Dupont Circle Citizens Association, authorizing you to speak on behalf of the association.

MR. BROWN: You are aware, the only other embassy which is located within the 16th Street historic district is an Nigerian embassy, which is at the opposite end of the historic district from this proposed application, just one block north of Massachusetts

Avenue.

The building which they purchased, which we supported and endorsed enthusiastically, was that they bought a very large mansion, one of the significant contributing structures to the 16th Street historic district that was vacant and in very bad disrepair. And they proceeded to do a very elegant and wonderful restoration of that building, making it a contribution to the neighborhood and to the community.

Also that property is located in that part of the historic district which is designated both in the comprehensive plan in terms of zoning, and the Ward 2 area neighborhood plan as being of mixed use for residential -- hi-rise residential, as well as for professional and embassy types of use.

But all those kind of uses take place south approximately aligned at R street. All of the uses north of our street within the 16th Street historic district are residential. And that is in accordance with the plans for this area to keep that area residential.

As you are also aware Dupont Circle area in general has numerous embassies located certainly within our association's boundary, probably about somewhere between 15 to 18 embassies. And all those are congregated on streets, in areas where other types of non-residential uses are located, such as association, law offices, and other professional kinds of organizations; New Hampshire Avenue, and certainly along Massachusetts Avenue. This area is not one of those areas where embassies have located, or have we supported having embassies locate.

In terms of the parking issue I think one thing that has not been brought up, although the embassy has indicated that they are not going to change the current parking usage in terms of the

number of spaces. But as an embassy they have a matter of right to on-street, designated, diplomatic parking, which will remove parking available to residents in that area.

MS. KING: Do you know how many spaces they're entitled to?

MR. BROWN: I do not. It's at least one, and probably two.

So we are in support of denying this application, along with the other parties who are going to appear before you with testimony. And we do not believe this is an appropriate area for the embassy to locate. We certainly welcome them to the area and to the neighborhood, but there are sufficient areas properly zoned for their type of occupancy other than locating in what is 100 percent residential area. Thank you.

MR. BIEN: I'm Charles Bien. I'm a resident of 2022 16th Street, which is right next to the proposed chancery at 2020. I'm also a professional city planner, and have been such for over 35 years practicing all over the country, and publishing on zoning and other matters, and a member of the American Institute of Certified Planners.

I am here to speak both as a professional planner and as an interested party, being a resident and property owner next-door for 22 years.

I think it would be helpful, perhaps it would be helpful, to very briefly run through the area we're talking about. You've heard repeatedly that it is residential only, and it always has been residential only. There never has been -- in over 100 years this neighborhood has existed as a residential only neighborhood. There never has been anything but residential use, and residential use only, in the area for

over a century.

MS. KING: Mr. Bien, let me be devil's advocate for a moment.

MR. BIEN: Yes, ma'am, please.

MS. KING: Did not the previous owner have a home occupation in the building?

MR. BIEN: The previous owners were two ladies who lived their with their maid who had to two children. Okay, so the previous statement that there were five people; there were actually three adults and two little children, because we had a 3-year old that played with them. Because one of them was about 6 and the other's about 4.

MS. KING: There's never been a home occupation there?

MR. BIEN: Well, let me keep going.

MS. KING: Oh, sorry.

MR. BIEN: One of the women owned two businesses, a property management business, and I believe a trash collection business out in Rockville. And each day she would drive out to one of her two businesses that she owned and operated.

The other owner was a brilliant woman with a Ph.D. in strategic planning from Wharton, who was semi-retired. She had done a lot of computer simulation -- regression analysis, worked for the State Department under contract, with a contract firm. She -- worked -- with that firm.

Occasionally, she would review or write reports on her own computer. I don't consider that an office use. I mean, when I write a report or write an article on my home computer in our library, I don't consider it an office use.

MS. KING: Okay, thank you.

MR. GRIFFITHS: For tax purposes it is.

MR. BIEN: No. My accountant won't let me get by with it, because it has to be a certain percentage of square foot, and parameter, and everything else, and I don't meet the test. And I don't think she did either, I don't know. You can check the IRS records.

Anyway, it was never an office use, is what I'm trying to say. My wife will testify to the previous use of it, so I'm not going to bore you with hearing it again.

But the point is, these pictures are to set the stage a little bit. Unfortunately, these photographs don't do justice. I think your file pictures of the application.

So you'll see there's single-family homes, there's apartments. The building in question is here; we live here. So there's one family, rowhouses, condominiums, renters, co-ops on this block face.

As you turn the corner on V Street, it's the typical pre-World War I rowhouse, with a little porch in front kind of house that covers V Street. Around about 1900 to 1915 those were built. Low density on V Street.

As you go across the street you come in to large apartment buildings, this building and the Northumberland. This is the Brittany.

By the way, all of these buildings, including the Balfore, which was built in the 19th century -- all of these buildings, tenants associations, condominium associations, co-op associations are on record, in writing, in your files formally opposing it.

Every organization in the neighborhood of property owners and tenants that exist has opposed this thing in record on your

files, and all of these too.

Behind the property -- and this is very important, because while there are, and has been mentioned, there are embassies on 16th Street, we all know them, the Australian Embassy at Scott Circle. Half a block up across the street, the Nigerian Embassy which Dennis Brown just mentioned.

As you go all the way up to the top of the hill, just past Meridian Hill or Malcolm X Park, you get into the cluster of the Italian Embassy, which was built during the Mussolini government as an embassy; the Cuban delegation; the Polish Embassy; and the Lithuanian delegation in a kind of cluster up there; all of which that are built on huge properties, isolated with transition space between them and other properties, also in a cluster of embassies.

This is not that case. This is a 1920s rowhouse, the last building built on the block. A building by the way which was not identified, when the 16th Street historic district was created, as a contributing building. So it would not be entitled to any subsequent exemption from parking requirements if it were converted to other than a one-family house.

So the parking problem would not be exacerbated if you would turn this down, and it would attempt to be converted to something else.

But it is on a dead-end alley, and that's very important. There's a dead-end alley, and it's hard to read on this aerial photograph from Mr. Griffith's organization, the National Capitol Planning Commission. Let's see if I can get the thing right here.

We're talking -- this is U Street. I'm sorry, this is U Street. This is 16th Street. The property in question is here. There's a dead-end alley. This little white line is this dead-end alley.

It's only 10 feet wide, plus there's utility poles in the right-of-way, so it's even less than 10-feet wide.

If I remember right, the standards width for alleyways in the District of Columbia is 15 feet wide, so you have a very -- and you can kind of see that in this photograph, a very tight constricted space.

This is the wall of the 3rd District Police Station. So there's no added security by this being on the street because you've got the 3rd District right there already.

So you have a very tight narrow alleyway. This is the garage of the property in question. There's a cul de sac. This was taken when we had the ice storms, so the end of the property line is a little blurred.

This is a low-income -- I believe it's a 47-unit apartment building. It's quite large.

MS. KING: Is that The Washington?

MR. BIEN: No, this is on U Street. The Washington House is a block and a half a way, across the street from -- Bekeman Place -- at 16th & Florida.

So these are the three spaces, two of which they're claiming to rent.

MS. KING: I'm looking at this, and I'm seeing a sort of J alley.

MR. BIEN: No, it's a dead-end -- well, I don't know what you mean by J.

MS. KING: Well, it's sort of a sideways J.

MR. BIEN: It's a square J. The line goes straight back, and then there's a square turnaround area. That's what this is; this is a turnaround area.

MS. KING: I see. But also halfway down that straight-of-way --

MR. BIEN: There's another alley that cuts in, yes. But you can't drive -- that's so narrow you can't drive down it; you turn into the properties.

MS. KING: Okay, fine.

MR. BIEN: It's really basically unusable, that intersection.

MS. KING: I see.

MR. BIEN: But people do park down next to the police station illegally, but that's beside the point.

MS. KING: Now where's the police station on this model? Here's the building.

MR. BIEN: This is the fire station, and this starts the police station property, which then goes to 17th Street.

MS. KING: So this is the police station?

MR. BIEN: Right, all the way over to 17th. And these are the rowhouses I was talking about.

MS. KING: Right.

MR. BIEN: What I'm trying to get across here is that this is a very tight, congested space. What I'm trying to get across here is that as you'll see in the written testimony, there are 173 housing units on the 2000 block of 16th Street alone. How that was done was go out and count mailboxes in the apartment buildings, and that sort of thing. And there are 338 housing units in the 2000 block of New Hampshire and 16th taken together.

That includes -- these buildings are on New Hampshire. This building is on both. We counted it as on 16th Street for purposes of our survey. This is the Brittany Apartment. And there

are 47 housing units in this building, which is a low and moderate-income unit, all of which tenants opposes, as I said before.

But there are only 68 parking spaces on the 2000 block of 16th Street, both on and off-site parking. And the on-street parking is subject to rush hour traffic restrictions.

So there's a total of 68 on and off-street parking spaces on the 2000 block of 16th Street. Only 18 on-street parking spaces on the 2000 block of 16th. This is all in the written testimony that you'll see these figures repeated.

There's 30-minute parking restrictions on V Street in front of the police station; 17th Street is permanently all one-side only for police cars in the block where the police station is. There's a.m. and p.m. restrictions on various other streets, including U and V.

There's roughly a 5 to 1 ratio of apartment units to parking spaces in the immediate area, the immediate area being this building on U Street and the 2000 blocks of 16th & New Hampshire.

Now as I read the zoning code it says, it's a 2 to 1 ratio on-site, but we're saying 5 to 1 already exists in terms of housing units per parking space when you add on-street and on-site. So if you just did the on-site, I don't know what it would be, 20, or 30, or 40 to 1.

We've got a parking problem obviously. Renting we believe will not solve the parking problem; it's a temporary solution, even if there's a right to renew on the lease. The two rental spaces the embassy's talking about are these two. There's only three for this low-income building that denies ever in the future any of the occupants of having those two.

On-site parking is the only solution, but there is no room for on-site. Virtually 100 percent of the lot is covered with existing structure, so there's no room to put any more parking on site.

MS. REID: Sir, are you nearing the wrap-up of your presentation?

MR. BIEN: Yes, ma'am. One more point is all I want to make. I'll make it very briefly. I don't want to turn you off.

MS. REID: We just have other people waiting.

MR. BIEN: Yes. I want to make one other point in conclusion. The point of the historic preservation district I think has been well stated by Mr. Brown, which we, of course, endorse.

This is an R-5-D. The application says R-5-C, but it is an R-5-D zone. If it were an R-5-C we wouldn't even be here today, because it wouldn't even be allowed to put it in. So that was an error in the application.

But it's an R-5-D zone, and this black line is a rough outline of a blow-up of the comprehensive plan for the area. You will see that there are varying densities within that R-5-D zone. The density of the block in question, this little red spot, is the property. This lighter tan color only calls for single-family, rowhouse, and garden apartment density, something that really is less than an R-5-D zone in intensity.

Other portions of the existing R-5-D zone call for hi-rise apartment buildings, something which is more in character with an R-5-D zone. If this were an R-5-C zone, clearly there wouldn't be any question about what goes in or not, since there's no diplomatic overlay.

What we're arguing is that the official land use policy of the city, while not the only thing that you consider, and necessarily the dominant thing that you consider, should be considered. And citations of -- just for the record -- citations of the comp plan, Sections 101.1, 102.1, 102.2, 112.5, and 112.6, all say that the fact

that this is a less dense zone -- residential zone in this immediate area, should be taken into account in interpreting whether or not to grant the use. Thank you very much for the time to talk.

MS. REID: Any questions?

The next witnesses in opposition, please come up. You can come up three or four at a time.

How many others are there? There's three more, two more? Four. Okay, can you come up, please?

MR. PARSONS: Madam Chairman, I have an unavoidable conflict and have to leave, but I want to assure --

MS. REID: At 4:00?

MR. PARSONS: No.

MS. REID: At what time?

MR. PARSONS: The meeting's at 4:00, I'm leaving now.

Anyway, I want to assure that I will review the record.

MS. REID: Mr. Miller, do you want to come up? Thank you.

And these are the last four? Okay.

Mr. Parsons has to leave, but he will read the record to be able to participate in the decision.

MS. SELLIN: I'm Ann Sellin, and I'm representing the Residential Action Coalition, established in 1983 to protect the residential quality and historic features of the neighborhood.

MS. REID: Ma'am, will you give us an address.

MS. SELLIN: Give you a what? Oh, it's 1834 16th Street, N.W.

MS. KING: And do you have an authorizing letter from your organization to --

MS. SELLIN: Our president is here, and --

MS. KING: Do we have an authorizing letter?

MS. REID: We still need a letter.

MS. SELLIN: Well, I have testimony, and she can authorize it.

This property is within our boundaries. RAC members voted unanimously at a regular membership meeting on January 27, 1999, to oppose this application. And I'll cut out some of the testimony in favor of time.

The city has made a cogent case for the BZA rejecting this building for a chancery use. The staff report states flatly that during the discussion of the diplomatic overlay as part of the Foreign Missions Act this area was never considered suitable for the location of foreign missions.

The chancery would have a deleterious impact on the residential character of this portion of 16th Street. It further states that this section of 16th Street is totally residential. The proposal would exacerbate the existing parking in the area.

Jim Gram, councilmember for Ward 1, makes a strong statement by letter to you about the adverse impact as related to the comprehensive plan, and three other members of the Council have written.

My testimony focuses on the specific reasons for these deleterious effects as they relate to the zoning regulations, and the peculiar conditions of the 2000 block of 16th Street between U and V.

And by the way, we have mentioned several other embassies on 16th Street. The Nigerian Embassy was occupied in the '60s by Nigeria; vacated when they moved to M Street. It is in a

special purpose zone.

We begged through diplomatic channels, to architects who were designing the new capitol of Nigeria -- we begged and pleaded with them to move back to 16th Street and restore their embassy. It took 12 years, but they did it. And we were very happy that they're now located in the SP zone, a wonderful -- tauten mansion on O Street.

The chancery needs four parking spaces to meet the needs of two floors of office use and two separate living units. The proposal is to apparently waive the requirements, at least of one of the spaces, and to locate one in the present garage at 2020 16th, and locate two more among the Tudor style apartments at 1603 U Street. And that was shown in the picture that Mr. Bien showed you.

The proposal to permit two parking spaces behind the apartment building at 1603 U Street would create a 100 percent non-conformity use for that building, that apartment building. Any decision to reallocate required spaces would have decidedly adverse impact on the neighborhood.

The apartment building at 1603 U provides two spaces behind. A dumpster occupies a third potential space. It has 22 apartment buildings, and by regulation must provide 7 parking spaces. So it is already non-conforming by 5 required spaces.

By permitting chancery parking in those spaces, meant to serve residents, the BZA would be creating a 100 percent use non-conformity for that apartment building, clearly in opposition to the intent of the zoning regulations, and certainly a deleterious restriction to the many residents of the block who are already horribly squeezed for parking.

Immediately adjacent to the proposed chancery is an

apartment building at 2008 16th Street with 28 units. And immediately south at the corner of 16th & U is the eight-story Balfore apartment building with 53 units.

The backs of both these buildings, which back up to the alley, have no parking for residents. They face the alley where the two parking spaces are proposed to be transferred to chancery use.

I live two blocks away on 16th Street in a rowhouse. Since I and my husband have one car and a vacant space, we rent that space to a neighbor living in a nearby apartment. There's such a demand for parking by residents, we have never once had to advertise the space, because when someone gives it up words spreads so quickly, so new neighbors standing at the door asking to immediately fill the slot. Any parking should be dedicated to residents use.

Dangerous conditions could result. The alley in question is entered from V Street and dead-ends in the area where the three apartment buildings containing 85 units back up to it. There's a city wall to the west which makes a 90-degree turn eastward. Signs on the wall claim that parking is prohibited next to the walls in order to ensure that fire lanes stay free.

I've looked at that alley four times in the past two weeks during working hours. There have always been one or two cars illegally parked in those fire lanes. Permitting chancery parking in this area would only exacerbate the situation.

Chanceries are notorious for not paying parking tickets, and the city has great difficulty in collecting from foreign governments. Actually, only the State Department can enforce payment by threatening reprisal against the government, a route which it is loathe to take for obvious reasons.

If there's increased illegal parking in this dead-end

area the blocking of the fire lanes would be even worse. Those lanes are meant for fire trucks in order to protect the 85 apartment dwellings adjacent. The waiving of just one space by the BZA would further worsen intolerable parking conditions for residents.

The Office of Planning has determined that a chancery must provide four parking spaces. The chancery apparently proposes to waive one space. This block is unusual in that it houses the 3rd District Police Station on V Street and a fire station on U Street. Because many of the policemen and firemen come to work from various areas of the city and suburbs, some unfortunately commute by car, and these cars have to be parked on the streets. But the most obvious occupants of street spaces during working hours are the St. Elizabeth's employees.

A survey taken February 16th at 10:00 a.m. and February 11th at 2:00 p.m. -- these are working days -- revealed to me that 9 of the 18 legal street spaces in the 2000 block of 16th N.W. -- for -- St. Elizabeth stickers. These commuters work at 1601 V where they minister to disabled children, and the license plates were from Maryland, Virginia, and Delaware. This is the block across from V Street from the block in question.

The cars park all day and are never ticketed. On V Street curb parking is so scarce, it is not unusual to find three or four police cars parked double in front of the station, and sometimes on the grass along 17th Street.

The one on-site parking space -- as the photograph in the file shows, and Mr. Bien showed in his photographic display -- is in a non-conforming garage which actually impinges on the alley. It has a wooden structure on the left-hand side that comes over on the alley about two inches -- and that's a very narrow alley -- making it more

difficult to maneuver a car in and out of the garage.

The garage according to the regulations should be set back 7 feet from the back building line on this 10-foot wide alley. The regs read, "When a private garage is abutting an alley, it shall be set back at least 12 feet from the center line of the alley upon which it opens."

The reason being to permit quick maneuverability of a car in and out of a garage. With a dead-end alley this situation is particularly bad because you're blocked on one end of a maneuvering car; you can't go out of the dead-end part of the alley. You're stuck there.

2020 16 Street is also a non-conforming building occupying well over 90 percent of the lot, rather than 75 percent called for in the zoning regulations.

The proposed intensification of use from single-family to chancery puts a strain on the entire block and neighborhood. It would be harmful to the residents and to the economic interest of the city to permit the location of the chancery in an area found to be unsuitable by the Office of Planning.

Chanceries are in a position to outbid a residential buyer when a rowhouse comes on the market, creating an unfair situation for the purchaser who would create no intrusion in the neighborhood. That purchaser would pay both income and land taxes if he were residential, and a chancery is exempt from this of course.

In zones which pit residents against limited office space, such as the SP zones surrounding downtown in the northwest, the residential occupants have been almost entirely squeezed out since the 1958 zoning regulations created a SP zone, because residents are simply unable to compete economically against offices.

Chanceries are better off in commercial zones where they don't pre-empt residential buildings. Areas found appropriate for chanceries by the Office of Planning, such as those -- inappropriate -- such as those in R-5-C and D residential rowhouses areas and apartment zones where parking is particularly difficult, should be protected and enhanced by the Board of Zoning Adjustment, not further commercialized. This would serve the economic health of the city and enable the stability and protection the residents of these neighborhoods want. Thank you.

MS. KING: No questions.

MR. TURNER: Good afternoon. My name is Dan Turner, and I live at 2026 16th Street, Unit 4, which is only three doors away from this property. I am also the president of the Condominium Board for our building. We're a building -- a condominium -- of five units, so I'm speaking for the Condominium Association as well.

I've been a resident of 2026 16th Street since the beginning of 1996, and have been a resident of the District for 14 years. In late 1995 I was drawn to the neighborhood by the quality and the uniqueness of the buildings, and by the obvious residential character of the surrounding streets.

In the past three years I've come to know and speak with many of my neighbors on 16 Street, V Street, and New Hampshire Avenue. We have a number of problems and concerns in our diverse little residential community, and we talk among ourselves almost on a daily basis. It's been a real pleasant surprise for me that we have developed this kind of neighborliness in a center of a large city.

We have made improvements to our property in both the front and the back to make life more pleasant and safe for

ourselves and for our neighbors. We completely remade the garden in the last year, and the landscaping in the front on 16th Street we've added lighting along the walkway in front and bright flood lights in back on the alley to increase everybody's safety. We've done these things, and more, to improve our little part of the neighborhood.

Among the five units in our building four of the five of us have cars that we either park in the two spaces behind our property or on the surrounding streets. I've parked on the surrounding streets since the beginning of 1996, and finding a space has become more and more difficult.

We have many people parking in the neighborhood during the day who work a number of blocks away, or who work at the police's 3rd District station. At night we have people from the suburbs parking here on their way to Adams Morgan or to the U Street businesses. We need help with these existing problems, and we should not add to our parking problems with new business at 2020 16th Street.

Allowing the house at 2020 16th Street to become a chancery will detract from our efforts to create and maintain a friendly residential neighborhood. Its use as an office will change the character of our block.

As residents of a large city, we have to make an even greater effort to encourage and protect our sense of neighborhood. Thank you very much.

MS. REID: Thank you. Questions?

MR. GRIFFITHS: Just one.

You say you are constructing a new condominium building, a five-unit?

MR. TURNER: No, no, no. It's existing. That's our

building.

MR. GRIFFITHS: What did you say with respect to -- I thought you said something about --

MS. KING: You did hear him say the verb constructing; perhaps mistakenly.

MR. TURNER: Oh, I'm sorry. I didn't mean that, no. It's an existing condominium that's been there since early '80s.

MR. GRIFFITHS: I think he used the word construction --

MR. TURNER: Oh, our garden in the front.

MR. GRIFFITHS: That was different. I heard that statement.

MR. TURNER: Oh, is that right? Okay. No.

MR. GRIFFITHS: What did the condominium in the '80s replace?

MR. TURNER: I think it was a single-family home.

MS. KING: How many units in the condo?

MS. REID: There were five units?

MR. TURNER: Yes. It's a five-story building.

MS. REID: One bedroom or two-bedroom?

MR. TURNER: All two-bedroom. There are seven residents in our building.

MS. BIEN: My name is Susan R. Bien. I live at 2022 16th Street, N.W. I'm here today to ask this BZA Board to deny application 16428 for a proposed chancery and embassy use at 2020 16th Street, N.W.

Since November of 1977 2022 has been home for my husband and me, and it's been the only home our 3-year old has ever

known. Over the past 22 years we've watched our neighborhood go from an area with a high vacancy rate to a much sought-after area for residential living.

When I'm asked about where I live, I say the 16th Street's historic district. The 16th Street historic district reflects the proud tradition of a residential neighborhood for over 100 years. The tradition is also reflected in the adjacent nearby Strivers Row historic district of

African American historic residences.

It's ironic. All of our hard work to build a viable residential neighborhood would be undone by allowing an office building at 2020 16th Street.

The word chancery is just a fancy word for office building, because numerous workers will grow in numbers along with the number of daily visitors. Also, if there is an additional residential use of this property, it will only add to the problems.

The front facade of 2020 is deceptive; the building inside is small. The building has a stairway system, that while it's very attractive, it's large size eats up a lot of square footage, and cannot be easily altered.

As the previous owners of 2020 were packing up to move to McLean, Virginia, one of them said to me they were doing us a favor and selling their home for a chancery because it would increase the value of our property next-door.

This is not a matter about money; it's about saving a residential neighborhood. Thank you.

MR. MILLER: My name is David Miller. I reside at 2034 16th Street, N.W., four houses north of the proposed chancery. I won't take a great deal of your time. I have several points I'd like to

raise.

I moved into the area in 1985 when approximately 60 percent of the buildings on that block were vacant. And I watched residents repair them, renovate them, remodel them, and in that time I watched that neighborhood become a community, the residential community.

The second point I want to make is the point Susan just made very eloquently, and that is we are talking about an office building. It's an office building in a townhouse. In my professional capacity as a builder and developer in the area for the last 20 years I seriously question whether this building can be converted legally into an office building. I know it will not be an efficient one.

I question that primarily on issues of safety, zoning as well, but matters of egress. The building when I first moved there had fire escapes both front and rear. It no longer has those. It's my understanding they could not be replaced. With a center stair, I question whether this building can be cut into an office building and receive a C of O, unless it's with some special diplomatic exceptions.

The parking issue I think has been beaten to death. I support it. We all have that problem.

The second to last question I want to raise is the word that I think is the most important in this hearing, in this deliberation that you have. I haven't heard that word yet today, and that word is precedence. This will be the first, and if you allow this, it won't be the last. Because if you allow one, why not take two or three other townhouses and turn them into office buildings, and our residential character is lost.

This is not a personal issue against the Republic of Equatorial Guinea. We've been very impressed with their approach.

I've met with them. We wish them well. It was an excellent strategy. I might suggest that the price that they paid for the building -- and it's sort of my business to keep track of prices -- was a reasonable price. They may well be able to put this building back on the market and turn a tidy profit. Thank you.

MS. REID: Thank you. Vice President?

MS. KING: No questions.

MS. REID: Thank you, Mr. Miller.

MS. KING: I have some questions for the applicant, if that helps you determine whether they come back or not.

MS. REID: Okay. Well, we'll just ask them back up.

We'll now have the applicant come back up, please, and to give a few closing remarks.

MS. KING: And answer questions.

MS. REID: Would the applicant like to make any closing remarks?

MR. GOODMAN: Sure. I'll keep it very short.

There is a traffic problem at 2020 16th Street. Being aware of that problem, the Embassy of the Republic of Equatorial Guinea took steps to ensure that we would have reasonable parking available for the operation of the embassy.

At our meeting at 1B we had close to 100 people present at that meeting, and the discussion was with the neighborhood and the commissioners. As a result of our presentation and the people who listened to us, they voted in favor. At ANC-1C we were not notified of the meeting, and we did not have an opportunity to talk to the people in ANC-1C.

We had a choice to make, whether to go forward or to ask for a continuance. And we made the choice to go forward

because we were convinced after talking to some of these people that their minds were already made up, and no matter what we said, or what we did, or how we tried to accommodate them, they would be opposed to the embassy.

They talk about residential characteristics of the neighborhood, when in fact two doors down there is a temple, religious temple, that is occupying that space. No mention of that space throughout the entire afternoon. It certainly is not residential.

When we met with Mr. Letzinger we made it clear that we wanted to work with the people in the neighborhood, and try to accommodate their interest. We understand that it's the first one in a neighborhood that they might be against. They seem to be opposed not to cars, necessarily, but only those cars that have diplomatic license plates.

The alley is in fact 10 feet wide. There is a space at the end of the alley where our parking spaces are located. And they seem to think that if we don't occupy those spaces, I guess they will not be occupied.

I'd like to give to the Commission a copy of the parking area behind the building. Clearly there are four spaces there. Clearly there's an alley there.

There is an alley. It is small, but it is accessible. It has been used for parking by the previous owner. It is used for parking by whoever has the money to pay for that spot.

We rented that spot, leased it in good faith, and we should be able to park there. There's no suggestion here that those parking spaces will not be used. The opposition only wants to restrict the use from the Embassy of Equatorial Guinea.

We have done everything possible. We have

contacted the State Department. We've worked with the neighborhood. We've opened our homes and opened our hearts to have the people come and see that we intend to upgrade in a safe and orderly manner.

If you would take a look at the entire street, it is residential, yes, but the congestion is not caused by 2020 16th Street. The congestion is caused by 2008 and 1603, which has a number of individual condominium homes. And the police department, and the 9th Fire Engine Department. So the congestion will not be exacerbated by the use of that building by the Republic of Equatorial Guinea.

As far as traffic flow is concerned, we'll be operating during the daytime between normal business hours, 9:30 to 5:00. Most people will be working at that time, and the spaces that they do have will be vacated. And we will be using only those spaces that we have rented or used within our space.

I would like also to submit to the Board a view of our building, along with the parking situation, and 2008 which is on the corner.

MS. KING: Mr. Goodman, your client attempts to decline to have a diplomatic parking space on the street reserved?

MR. GOODMAN: We will certainly entertain that if that comes before us.

MS. KING: How many would the chancery be entitled to?

MR. GOODMAN: That I do not know. I would have to go, as we have, to the Office of Foreign Missions, and talk to Mr. Richard Massey. Perhaps Mr. Ron Mlotek --

MS. PRUITT-WILLIAMS: Perhaps Mr. Mlotek will be

able to answer that for you.

MR. MLOTEK: For the record, this is Ron Mlotek of the Office of Foreign Missions, once again, to answer the question that has arisen several times.

MS. KING: Board Member King, first of all, I want to make it clear, there is no absolute legal entitlement under international law to parking spaces in front of embassies. This is something that years ago the District of Columbia through its regulatory processes, and the Department of Public Works and the Bureau of Traffic there promulgated, possibly at the behest of the State Department many, many years ago, but before my time.

But it's not a legal requirement that comes from international law, or treaty, or anything like that, or federal statutory law.

The District of Columbia zone regulations specify the following: 60 feet -- maximum, or the lesser of -- 60 feet or the front footage of the property, whichever is the less.

Now at 60 feet you could I think squeeze in about three cars. Legally I think a parking space is --

MS. KING: 19 feet.

MR. MLOTEK: 19 feet.

MS. KING: How wide is the building?

MR. GOODMAN: We have the plat here. It is 20 feet x 100 feet deep.

MS. KING: So 20 feet wide you'd have one parking space in front of the building.

MS. REID: Mr. Goodman, also this picture that you submitted, I'm not really sure what -- are you trying to -- the case, or --

MR. GOODMAN: Yes, I'm showing you the area where the embassy's located.

Madam Chair, the picture you have shows you the street -- including the building and the multi-use --

My building is the -- pink -- building next to that.

MS. REID: Oh, okay. And that building beside it is an apartment building?

MR. GOODMAN: Yes, ma'am.

MS. KING: And the other building -- these are the single-family homes.

MS. REID: Okay. Thank you.

MR. GOODMAN: With your permission, Madam Chair, I'll turn the mike over to Ambassador Bile. Do you have any comments, sir?

MS. KING: I have one more question. Excuse me, Your Excellency.

Is there any intention to make any alterations, do any construction? Because the plans that we've been shown -- so living rooms, dining rooms, kitchens, bedrooms, but no office space.

MR. GOODMAN: No alteration. The front bedroom is going to be the ambassador's office. It has a fireplace.

MS. KING: So the plans that we have do not accurately reflect what will occur?

MR. GOODMAN: They do accurately reflect what is and what --

MS. KING: But it shows that the second floor -- it has a living room, dining room, kitchen, and so forth. And the first floor has a bedroom.

MR. GOODMAN: The kitchen will remain the same,

and what is now the dining room will be a conference room. And the front of that on the second floor will be the ambassador's suite.

MS. KING: And there will be no changes in the partitions?

MR. GOODMAN: I'll leave that to -- you have someone to present?

TRANSLATOR ANDEME: The second floor will be used as the main office section, having that bedroom turn into the ambassador's office. We'll just insert a table, and a few other furniture, not changing structures of the walls, or the -- the -- will still remain there; the kitchen will stay there. Nothing will be removed from the basic structure of that second floor.

Moreover, we understand that if our appeal is approved we will have to comply with our fire escape regulations, for which we will call either the State Department or the fire department to advise us the best way. We do know that we need a fire escape. If we are approved, of course, we will have that in the back of the building.

MS. KING: You would then have to get permission from the Historic Preservation Review Board to add the fire escape at the rear of the building, is that correct?

TRANSLATOR ANDEME: We don't know that. We'll have to go to the Historic --

MR. GRIFFITHS: Mr. Mlotek, you will answer that?

MR. MLOTEK: Yes. Board Member King pointed at me, so -- Yes, yes.

Optimally, we would like to see all of these sorts of renovation issues joined together and consolidated before the Foreign Missions Board of Zoning Adjustment, and that way the Board itself

can look at them.

However, it's not a violation, but anything for them to do it in the other manner, going to the Historic Preservation Board to see if they can work out something to get staff approval; put it on the consent calendar if there isn't a problem.

Many chanceries do in fact do it this way, chanceries that have been in place for many years, not just moved into the neighborhood. So therefore, they have no BZA case to which they could join these other renovation issues.

To precisely answer your question, yes, they would have to. We do get into some technical legal questions though about what the jurisdiction of the Historic Preservation Review Board is vis a vis this body, the Foreign Missions Board of Zoning Adjustment.

So that -- just to narrowly answer your question. So that if they went to the Historic Preservation Review Board, and there was a need to have a full scale Historic Preservation Review Board hearing, a contested case hearing, rather than a consent calendar type of situation, then we would have to advise them to come back here. So then this board would again assume jurisdiction over these other issues beyond location.

MS. KING: Now, it was suggested by somebody who testified in opposition that in fact if there was a historic preservation issue that arose, that with their diplomatic immunity the chancery, the embassy, could simply ignore the provisions of the Historic Preservation Review Act.

Is that correct?

MR. MLOTEK: No, Ms. King, it is not correct. I would like to implant in everyone's mind the following requirement of the Foreign Missions Act. This is federal law. It pre-empts everything

else, and covers all such matters in the District of Columbia.

This is Section 4306(g), entitled Compliance With District of Columbia Building and Related Codes.

"The Secretary of State shall require foreign missions to comply substantially with District of Columbia Building and Related Codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States."

Substantially here, I can tell you as a matter of actual practice for the last 17 years of practice under the Foreign Missions Act, 1982 to date, substantially has never meant anything else than full. And the Congress used the word substantially simply to allow a slight amount of wiggle room if we were talking about something extremely sensitive, like the communications room of the embassy where we wouldn't want fire inspectors to go into, or something like that. But certainly nothing to do with historic preservation.

With regard to historic preservation, substantial -- I cannot conceive of how you would substantially comply with historic preservation laws without fully complying with them, because you either get the approval, or you don't get the approval.

MR. GRIFFITHS: Mr. Mlotek is it fair to say that this Board could receive the position of the Historic Preservation Review Board, and then this board could act, and could make whatever it wished a condition of approval, so that the chancery would have to comply?

MR. MLOTEK: Yes, in my opinion you could do that, Mr. Griffiths.

MS. REID: Any other questions, Board members?

MS. KING: I don't believe so, no.

MS. REID: Okay. Then this will conclude the Foreign

Missions hearing for the day.

MS. PRUITT-WILLIAMS: Excuse me, Ms. Reid. I wasn't sure if the ambassador had a statement.

MS. REID: Oh, I'm sorry. I thought that he had made a statement through the interpreter.

Does that conclude your case?

MR. GOODMAN: Yes.

MS. PRUITT-WILLIAMS: Also, one other thing for the record. I just want to amend the application. It was raised here that the application has R-5-C. It's actually R-5-D. It is correct, so it is before the Board correctly. I just wanted to put that on the record.

MS. REID: Thank you.

And we will be making a decision during our deliberations meeting on March --

MS. PRUITT-WILLIAMS: That will be your first opportunity --

MS. REID: Wednesday, March 3rd we'll take this up in our meeting at that time.

MR. GOODMAN: Will be contacted by the staff?

MS. REID: You may attend the meeting if you'd like. It's not mandatory, but if you like you are welcome to attend that meeting to hear our deliberations on this case.

MS. KING: Would it be appropriate, Madam Chair, to have plans that show the actual use that is intended for the interior of the building?

MS. REID: I thought the response was that the intended use is exactly as it is now.

MS. KING: No, but if you look at the plans, it's bedrooms, and living rooms, and kitchen.

MS. REID: Oh, I see. You want it to be designated.

MS. KING: Yes. They're talking about residential use on the ground floor, rooming house use on the fourth floor, and that the two intervening floors will be used as offices.

Under the plans that are before us now those office spaces, living rooms, and dining rooms and stuff.

MS. REID: I understand.

Mr. Goodman, you understand.

MR. GOODMAN: Yes, I do.

MS. REID: Could you please submit that for the record so that we will have that for our meeting; we'll be able to look at it?

MR. GOODMAN: Yes ma'am.

MS. REID: As showing properly how it's going to be utilized.

MS. PRUITT-WILLIAMS: Mr. Goodman, just for the record, can we please make sure you get it into us probably by February 25th or 24th?

MR. GOODMAN: Come back to you?

MS. PRUITT-WILLIAMS: Your revised plans.

MR. GOODMAN: Oh, yes.

MS. PRUITT-WILLIAMS: So that we can have them in time to go out to the Board, that's all. Thank you.

MS. REID: This concludes the Foreign Missions hearing for today, and we'll recess for about five minutes.

(Whereupon, the foregoing matter went off the record at 4:00 p.m. and went back on the record at 4:34 p.m.)

MR. HART: Application Number 16430, of St. John's

Church pursuant to 11DCMR 3108.1, for a special exception under Section 205 and 320.3 to increase the number of children in the present child development center from 36 to 45 children and increase in current staff from 7 to 9 in an R-3 District at premises 3240 O Street, N.W., Square 1231, Lot 144.

Those persons coming to testify, please raise your right hand, and stand.

(Whereupon, the persons, having first been duly sworn, were examined and testified as follows:)

MS. KING: Madam Chair, may I suggest that there appears to be no one in opposition to this case. The case has been well documented in the papers that are before us. I note that the Advisory Neighborhood Commission is in favor of this. And I would therefore suggest that we ask Mr. Brown to make the salient points of his case, and then we can get on to deciding.

MS. REID: I agree with you, Ms. King. I don't think that we could ask for a sweeter case this late in the day. Based on the records before us, I think we all agree that there doesn't seem to be anyone who is in any way opposed to this, and to the contrary everyone seems to be delighted that this is going to be occurring.

So I'm sure Mr. Brown, having been here many times before, will give us the salient points, and expedite the case, and basically get through it in short order.

MR. BROWN: I'd be happy to.

For the record, my name is Patrick Brown. I'm with the law firm of Greenstein, DeLorme & Luchs, P.C. If nothing else, I would like to introduce my team here.

Next to me is Ms. Jean Rainey. She's the president of the Board of Directors of the St. John's school. To my right is Julie

Cook, who is the vice president of the Board of Directors for the preschool. And then next to her is Kathy Price, who is the actual director of the preschool, all of them prepared to answer any questions you should have.

This is an application under Section 205 to expand the existing previously approved child development center, as stated to go from 36 to 45 students; increase the hours of operation for 8:30 to 6:30 p.m. Monday through Friday; and to run the school all year round.

We're in a unique situation, while one the ANC support, with one condition, that there be biennial review -- or biennial discussions and reporting with the school. That's obviously acceptable as a condition by the applicant. There are several letters of support in the record. I do not believe the Office of Planning or DPW have submitted anything in writing.

Briefly, under the criteria of this case --

MS. KING: Actually, let me correct that. The Department of Public Works has said that they have no objection to the request. That was dated today's date. I'm sure that the staff will provide you with a copy.

MR. BROWN: With that, there are no opponents I believe. Under the criteria, briefly, which is all addressed in the pre-hearing statement submitted. The center is currently properly licensed, and would expand those licenses to meet the expanded student population.

Traffic and pick-up are both issues that are dealt with in the statement. Traffic is minimal, with half of the students coming from the zip code. The other half are able to use Potomac Street in especially designated pick-up and drop-off area where there's

short-term parking and space available.

Then in the afternoon they're met by the staff who take them out. Several staff members take them out to the cars, depending on their time of departure, which is staggered depending on the child's program participation.

As before in the original order, no off-street parking is required given the nature of this project, and the historic district, and the historic building. Off-street parking for the staff is provided, and paid parking in the vicinity, and will continue to be so provided. Every staff member who in fact needs parking will be provided parking.

Internal to the site is the play area, which is more than adequate to serve the existing students as well as the additional ones. Improvements are going to be made to the playground, new equipment, which can be accommodated, and it's used on a staggered basis so that all students are not present at any one time in the play area.

One change from the previous is, the school has decided not to use the Hyde School across the street as a play area. They can meet their needs internally to the site. It's safer. It has better equipment, more age-appropriate equipment for their students than going across the street. And so that's no longer a need, as it was once.

There's no other child development centers within a thousand feet, so that's no longer an issue. And I think the Department of Public Works have indicated no objections.

Under the criteria, both generally as a special exception and those laid out, taken broadly as the record would reflect, that there will be no objectionable conditions generally or specific to any of these issues related to the operations.

And I would ask the Board to, first, render a bench decision, and also a summary order to allow prompt action for purposes of enrolling students for the summer program that they'd like to hopefully institute this year. So, some sort of quick action by the Board would be -- facilitate that.

The conditions laid out in the original order as modified by this application would be applicable, and we ask that the approval be for a 10-year period of time, given the track record that's been established, and the minor nature, the change, and the condition that the school and the ANC will maintain a regular reporting system, so that that will be done on a more informal basis, rather than more frequent visits here to the Board. Obviously, any changes would have to come back to the Board, so that there's a good level of certainty and ongoing scrutiny of the project.

With that, I'd ask the Board's approval.

MS. REID: Okay. Mr. Brown, just for the record, you hit on some of the stipulations for 205, but you didn't go over all of them, did you? You briefly kind of --

MS. KING: I think he did. I think he touched most --

MR. BROWN: I tried to. I've got a list here in front of me. They kind of cross over in some places. I may have taken two in one breath.

But the general criteria is licensing and code issues, traffic, and the pick-up and drop-off of the students.

MS. REID: You did. I just looked at them just to make sure, because you didn't kind of go in order.

In regard to the play area, you mentioned that they were not going to be using the Hyde School; they would be able to accommodate the play activities on site. And I just wondered why

they were going to Hyde School in the first place. Just wondered.

MR. BROWN: And this was before my time, but I am told that it was an option that they thought about, but then when it came time to implement it, it was found that the equipment at the Hyde School was too old for their students. It's an elementary school as opposed to the younger students, as well as logistical issues as far as the heavy use of Hyde School. So it never was really used, and will not be.

MS. REID: With the addition of the increased enrollment, is there provisions being made for trash pick-up, additional trash pick-up? Obviously with additional students there will be --

MS. KING: Do you serve meals? Do the students bring brown bags or are they on --

MS. RAINEY: Only half of the students stay for lunch, and they bring their own lunch.

I'm Jean Rainey, 4000 Cathedral Avenue, N.W. Our trash is picked up with that of the church twice weekly. And so there is no problem. It's only nine additional children, so there's not a great increase in the amount of trash.

For lunch the children do bring their own -- those who stay for the lunch program -- that's an optional program -- the children do bring their own sandwiches. So there's no food prepared on site.

MS. REID: Okay. Any other questions, Board members?

MR. HOOD: I only have a question. I would want to respond to Mr. and Mrs. Mast -- I believe that's the way to pronounce their last name. They were concerned about the expansion into the future for the school.

Would you kind of elaborate on that, if you planned on

doing some more expansion, or were you just going to cut it off here? Anything down the road that you're planning to do? We can address that.

MR. BROWN: I'm not familiar with that letter, but I think that Ms. Rainey can --

MS. PRUITT-WILLIAMS: We have a copy here for you, if you'd like.

MS. RAINEY: I could only say that this would be the absolute limit of our space. The church has been very kind in allowing us to use as much space, and in fact that's the reason we came back to you, is because they did make additional space available to us.

But there is no more space available, and the church conceivably --

MR. HOOD: So you're at your limit now.

MS. RAINEY: We're at our limit.

MR. HOOD: Okay, thank you.

MS. REID: Do you have a copy of --

MS. PRUITT-WILLIAMS: Madam Chair, I understand it's in this statement that Mr. Brown submitted, the conditions in the previous order. Is that what you're looking for?

MS. REID: Yes.

MS. KING: On the statement of reasons and support of application. I've got it here.

MS. REID: I have the first page of the summary order of April 7, 1996, but when it was faxed to me it got put on the same page.

MS. KING: These are his proposed amendments to the conditions, plus he has already said -- I just note, Madam Chair, that Advisory Neighborhood Commission 2E at a duly announced

meeting on February 2nd with a quorum present, adopted a resolution in support of this special exception. And they would like us to include a condition that biennially the child development center and the ANC would review any inquiries used for -- well, any matters of concern to the community regarding the child development center, I think is a neater way of saying it.

MS. REID: And there was a quorum present.

MS. KING: There was a quorum present, and it was passed, unanimously.

MS. REID: So they should be afforded the great weigh to which they are entitled.

MS. KING: Exactly so.

MS. REID: Mr. Brown, do any of the other witnesses want to testify at this time?

MR. BROWN: I think we've covered all the bases.

MS. REID: You don't need to?

Any questions by Board members?

MR. GILREATH: The additional nine students -- you see any kind of increase in the traffic, the pick-up and the drop-off? Are the streets able to accommodate these?

MR. BROWN: If I could, if you could draw your attention to the map there. One, you start with the issue that the factual background or historical background is that half the students, 50 percent of the students are local, and can be anticipated to walk, or be carried, depending on their age. Those numbers would follow through in the additional nine students, so we're talking about a minimal increase there.

If you look at Potomac Street, it's one day going -- it dead-ends at O, but it's one way going toward M Street and the river.

For purposes of the neighborhood that's a great street because it's low volume; it doesn't start anywhere. It goes somewhere, but very few people feed into it. So that for purposes of traffic, and pick-up that's an ideally situated spot also for purposes of the existing parking restrictions that gives a place for it to occur, and some turnover.

So the anticipation is that they existing traffic issues are negligible, and the incremental change will be --

MR. GILREATH: Kind of remain so. Okay.

MS. REID: Okay. We now go to government reports. We had just the one from DPW that Ms. King had mentioned earlier.

MS. KING: Yes, they have examined all the issues relating to parking and transportation. And we do not believe that increasing the number of students and the operating hours will significantly impact the parking in the neighborhood. Accordingly, DPW has no objections to the applicant's request.

MS. REID: Okay. And the ANC letter from 1E was already read into the record, so we have that -- 2E was already read into the record.

Persons and parties in opposition to the application?

MS. PRUITT-WILLIAMS: The record will show that there actually is nobody in the audience.

MS. REID: Persons or parties in support of the application? Seeing none, closing remarks by the applicant.

MR. BROWN: Just briefly, I think we've touched upon each and every one of the special exception criteria laid out, and the applicant has made the case for the requested relief. And again, request that it be by bench decision and a summary order, so that they can go about starting up their summer program under the terms

of the order.

MS. KING: Madam Chair, I move approval of this application --

MS. REID: I second it.

MS. KING: -- for a period of five years, during which time the leadership of the child development center will meet on at least a biennial basis with the ANC to discuss any matters or concerns.

MS. PRUITT-WILLIAMS: Excuse me, Madam Chair. I just wanted to bring the Board's attention that the applicant is actually asking for approval for 10 years.

MS. KING: That's what I said.

MS. PRUITT-WILLIAMS: You said five.

MS. KING: Oh, I beg your pardon. Ten years. I have no problem with 10 years, and the ANC doesn't either. I'm sorry, I'm reading two pages at once; I'm getting cross-eyed.

The child development center shall operate from 8:30 a.m. to 6:30 p.m. year round.

MS. REID: Monday through Friday.

MS. KING: No, year round. Is it Monday through Friday?

MS. REID: Monday through Friday year round.

MS. KING: Year round. Okay.

The maximum number of students shall be 45, ages 2 and one half to 5 years. That remains the same. The maximum number of staff shall be 9.

Is that full-time equivalence, or is that nine actual bodies? Nine actual bodies, and never to be more than nine actual bodies.

MS. PRUITT-WILLIAMS: Excuse me, Ms. King. I do have a question, because this did come up on another child development case, because the ages of your children dictate the number of people that you need to have with them.

So nine people are what you need for the ages of the children that you're proposing to have. I just didn't want to put you in a bind where if you change your children's age, you even need more, and we would have conditioned you out of that.

MS. KING: Drop off and pick up of the children -- on Potomac Street, and a staff person should be present to receive -- I'm adding and discharge the children, because I believe you said you did that when they're dropped off and picked up.

All deliveries to the child development center shall coincide with deliveries made to St. John's church. Trash will be picked up at least twice per week. Outdoor play shall be in the fenced yard of the church rectory.

Efforts shall be made to reduce demand for parking by encouraging staff to walk, to use public transportation, and the applicant will continue to arrange for off-street parking as possible in the Georgetown community.

Is that it? I think that covers all the bases.

MR. BROWN: The biennial ANC report.

MS. KING: I put that in the 10 years, that during which period, at least biennially, you all will meet with the ANC to discuss concerns.

MS. REID: That was the only stipulation by the ANC?

MS. KING: Right.

MS. REID: Okay. All in favor, aye. Opposed?

MR. HART: The staff will call the vote as 4 to 0 to

grant -- Ms. King, Ms. Reid, Mr. Hood, and Mr. Gilreath. This is with a summary order.

MS. REID: That concludes this hearing, and Mr. Brown you will have your order in about two weeks.

MS. PRUITT-WILLIAMS: And John Nyarku is the project manager.

(Whereupon, the foregoing matter went off the record at 4:34 p.m.)