GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

SEPTEMBER 19, 2000

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Robert Sockwell, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OTHER AGENCY STAFF PRESENT:

Ellen McCarthy	Office of Planning
Maxine Brown-Roberts	Office of Planning
Steven Cochran	Office of Planning

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VICE CHAIRMAN SOCKWELL: Good morning, ladies and gentlemen. This is the September 19th, year 2000, public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Robert Sockwell, Vice Chairperson, sitting in for Sheila Cross Reid, Chairperson.

Joining me today is Ann Renshaw, Rodney Moulden representing the National Capital Planning Commission, and representing the Zoning Commission is Anthony J. Hood.

Copies of today's hearing agenda are available to you. They are located to my left near the door. All persons planning to testify, either in favor of or in opposition, are to fill out two witness cards.

These cards are located on each end of the table in front of us. On coming forward to speak to the Board, please give both cards to the Reporter, who is sitting to my right.

Order of procedure for appeal cases, those cases on appeal, is, one, statement of witnesses of the appellant; two, the Zoning Administrator or other government official; three, the owner, lessee, or operator of the property involved, if not the appellant; the ANC within which the property is located; the intervenor's case; and, finally, rebuttal and the closing remarks by the appellant.

Order of procedure for a special exception in variance cases is, one, statement of witnesses of the applicant.

Two, government reports, including the Office of Planning, Department of Public Works, et cetera, and cross-examinations.

Three, the report of the Advisory Neighborhood Commission, ANC, and cross-examinations.

Four, parties or persons in support, and cross-examinations.

Five, parties or persons in opposition, and cross; and, six, closing remarks by the applicant.

Cross-examination of witnesses is permitted by the applicant or parties. The ANC within which the party is located is automatically a party in the case.

The record will be closed at the conclusion of each case, except for any material specifically requested by the Board, and stuff will specify at the end of the hearing exactly what is expected.

The decision of the Board in these contested cases must be based exclusively on the public record. To avoid any appearance to the contrary, the Board requests that persons present not engage the Members of the Board in conversation.

Please turn off all beepers and cell phones, or except them to vibrate at this time so as not to disrupt these proceedings. The Board will now consider any preliminary matters.

Preliminary matters are those which relate to whether a case will or should be heard today, such as a request for postponement, continuance, or withdrawal, or whether proper

and adequate notice of the hearing has been given.

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

MS. BAILEY: Yes, Mr. Chairman, the staff does have a preliminary matter, and it concerns application Number 16597, Elaine Correra. Would the applicant please come forward, and you may have a seat, please, at the table.

Members of the Board, this case was advertised for a second story addition to an existing garage. The staff during the research on this project has discovered that there is a community based residential facility at the site.

It was referred to us by the Zoning Administrator. However, there is no mention of the CBR Act, and the staff is interested in perhaps getting a little bit additional information from the applicant and for your discussion as to whether this case should go forward today, or whether it needs to go back to the Zoning Administrator's office for a second check to make sure that all the requested relief is correct, and the matter is before you at this time.

DIRECTOR KRESS: I would just like to add to that that what was advertised is what the Zoning Administrator forwarded and referred to us, which was a variance under 404 from the rear yard requirements.

It became clear though in reading the application that the proposed second story addition to this accessory garage, while allowed under the zoning codes, is supposed to be for a domestic person's use. And in this case, it is the applicant who is requesting use of this space.

So at the very minimum we are missing at least one variance request for this application. What we have in front of us is not sufficient in the Section 404.

VICE CHAIRMAN SOCKWELL: All right.

DIRECTOR KRESS: And in fact I would just go a step further and say that the staff is recommending that this be sent back to the ZA to explore further the addition to the garage, the variance with the rear yard, and any ramifications based on the community based residential facility. We think it needs more analysis. With that, I will turn it back to you, Mr. Chairman.

VICE CHAIRMAN SOCKWELL: Since the project was not advertised as a community based residential facility, it would stand to reason that those who might wish to testify or offer their opinions were not given proper information to base their decisions on.

And we would like for recommendations for proposed action from the Zoning Administrator to be very clear to the board on information that we feel that we should have in order to properly carry out our duties.

And I believe that we should refer this back for

additional study, and to clarify, and therefore it would be readvertised for the purpose of presenting the more factual statistics on what is proposed and what exists.

DIRECTOR KRESS: Is that a motion?

COMMISSIONER HOOD: Is that a motion?

VICE CHAIRMAN SOCKWELL: And this gentleman wishes to speak on behalf of the applicant.

MS. FISHER: That's correct. Good morning. My name is Kevin Fisher.

VICE CHAIRMAN SOCKWELL: And your address, sir?

DIRECTOR KRESS: Do we need to swear him in?

VICE CHAIRMAN SOCKWELL: No, he is not giving testimony.

DIRECTOR KRESS: All right.

MS. FISHER: I am the architect of record for this proposed addition, and I am failing to understand how we should have advertised this differently in our application.

The present building on this lot is a residence, but it is also being used as a care facility by Ms. Correra, who has been licensed since 1968 for that use. It does not change the nature of the building itself.

VICE CHAIRMAN SOCKWELL: This is quite true, sir. However, in the application form, or on the application form, which we have a copy of, the request is existing uses of building or property. It did not say how was the building constructed

initially.

It asks what the building is being used for.

MS. FISHER: A residence.

VICE CHAIRMAN SOCKWELL: And it is being used not as a single family residence, but a community based residential facility, with a certificate of occupancy for five units.

MS. FISHER: So we --

VICE CHAIRMAN SOCKWELL: As the existing -- well, it says -- well, for five residents I should say.

MS. FISHER: Yes.

VICE CHAIRMAN SOCKWELL: It is five residents on basement, and two other on first, and seven on second, which is 14 people. And that a single family residence is generally not expected to have but a certain number of non-related persons within that domicile.

MS. FISHER: And what would that number be, sir?

VICE CHAIRMAN SOCKWELL: What does the ordinance say specifically?

MS. WILLIAMS: Six.

VICE CHAIRMAN SOCKWELL: And in this case it is a licensed facility, and single family residences don't have certificates of occupancy of this type.

MS. FISHER: Okay. Our application was based on Section 2500.4 --

VICE CHAIRMAN SOCKWELL: I understand that, and

that was your application to the Board of Zoning Adjustment. Your application for the building permit, which was permitted to the zoning division of the DCRA, which was then referred to the Board of Zoning Adjustment, is stating that the building is a single family residence, which it is not.

It is a community based residential facility, which is not the use. The use is that for which it carries a certificate of occupancy. Yes, it is and was constructed as a single family residence, and as a licensed architect myself, I understand exactly what you are saying.

MS. FISHER: Okay.

VICE CHAIRMAN SOCKWELL: And as one who deals with the process on a daily basis --

MS. FISHER: As do I.

VICE CHAIRMAN SOCKWELL: No, not as I do. Trust me. You design, and you go to the permit office and you deal with that. I deal with this because the Board of Zoning Adjustment first meets every week.

Second of all, because I deal with projects, and primarily very large ones, through the zoning office of the Department of Consumer and Regulatory Affairs; and, third, because it is my specific responsibility to know this ordinance virtually backwards and forwards, as opposed to just knowing the building code.

And you would not understand exactly unless you

know how the application forms are intended to be responded to. If this building were used as a grocery store the existing use of property would be listed as grocery store and not single family residence. It is used as what it is, and not as what the structure may appear to be.

MS. FISHER: Okay. I understand you.

VICE CHAIRMAN SOCKWELL: Thank you.

MS. FISHER: Okay. This was not an effort to deceive you in any way.

VICE CHAIRMAN SOCKWELL: I understand that. I understand that you didn't understand.

MS. FISHER: We brought it forth as the nature of the building.

VICE CHAIRMAN SOCKWELL: Right. But because the advertisement to the community should completely explain the uses, and people who may not know what goes on within the property, would have no way of knowing other than that which is written or their personal experience with the building itself.

We have to make sure that the community is noticed properly for the potential of objections and support.

MS. FISHER: What would you suggest that we do now, amend our application?

VICE CHAIRMAN SOCKWELL: I would move that this board continue this until it can be referred back to the zoning administrator for a correct referencing of the relief, and of the

existing facilities use; that your application, of course, would be amended to state what is actually there, and that this would be renoticed to the community.

MS. FISHER: Okay. So we should reapply under an amended application, or would you guys --

VICE CHAIRMAN SOCKWELL: We will refer it back to the zoning administrator, and I think the way the process would work the staff can explain that.

DIRECTOR KRESS: We will reprint that, but you do need to follow up with the zoning administrator, because this letter is a referral to you to bring to the BZA. So you need to follow up with the zoning administrator, and we will forward it to the zoning administrator.

But you need to follow up and then get that referral letter, and amend your application, and bring it back to us so that we can continue the process.

MR. MOULDEN: And, Mr. Chairman, you had a motion on that; is there a motion?

VICE CHAIRMAN SOCKWELL: Yes. I would move --

MR. HOOD: I will second it.

VICE CHAIRMAN SOCKWELL: All in favor or is there any discussion?

(No audible response.)

VICE CHAIRMAN SOCKWELL: All in favor?

(Ayes.)

VICE CHAIRMAN SOCKWELL: I would also suggest that if the property is to continue as a CDRF, and I know what it means, but we were using CDRF back there, and I just continued to do it. Your license expires, or your certificate expires the 1st of October. So you have to renew that.

MS. WILLIAMS: Yes.

VICE CHAIRMAN SOCKWELL: So I just wanted to make sure that you don't forget to do that.

MS. CORRERA: Okay. That's right. I will do that.

MS. FISHER: Thank you.

MS. WILLIAMS: Thank you very much.

MS. BAILEY: Members of the Board, the staff will record the vote as four to zero, a motion made by Mr. Sockwell, and seconded by Mr. Hood, and Ms. Renshaw, and Mr. Moulden, voted to continue this case and renotice the property.

The next case of the morning is application number 16595. This is the application of Linwood and Connie Tipton, pursuant to 11 DCMR 3103.2, for a variance to exceed the allowable percentage of lot occupancy requirements under Section 403.2 to enlarge an existing detached garage and add an addition, deck, to the side of the premises in an R-4 District at premises 712 East Capitol Street, Northeast, at Square 897, Lot 801.

All those wishing to testify on this application, please rise to take the oath.

(All witnesses were sworn.)

MS. BAILEY: Mr. Chairman, this application, all of the bonding requirements have been met, and we have a letter from ANC-6B, and a waiver is needed to accept that into the record. Several items have been filed since the packages were submitted to you, including a letter from the Capitol Hill Restoration Society.

And again, all final requirements have been met, and this case is now ready for you to hear this morning. You may proceed, sir, with your case.

MR. GOLDSTEIN: We would like to begin by --

DIRECTOR KRESS: Perhaps we should do the waiver first.

VICE CHAIRMAN SOCKWELL: Yes. There is a motion that we waive the rule to accept the advisory neighborhood commission report into the record.

MR. HOOD: Seconded.

VICE CHAIRMAN SOCKWELL: All in favor?

(Ayes.)

MS. BAILEY: Your motion is moved and the motion is made and carried.

VICE CHAIRMAN SOCKWELL: Let's -- we want to do a general swearing in at this point just to get everybody. Did we swear in everybody this morning who might testify?

MS. BAILEY: Mr. Chairman, we sworn the architect and applicant. Are there others who need to testify in this case

who needs to be sworn? This is the first case of the morning, the Tipton case.

DIRECTOR KRESS: Or any other cases for the morning, and perhaps we could do the swearing in all together. Anyone who wishes to testify on any of their cases in front of the Board this morning, could you please rise.

(All witnesses were sworn.)

MR. GOLDSTEIN: My name is Howard Goldstein and I am the architect of record for this project, and with me is Connie Tipton, the owner of 712 East Capitol Street.

I would like to start off by requesting the opportunity to give you a copy of your presentation and reduced drawings, or reductions of the drawings, which are in the file. They were large drawings and I reduced them down to 17 by 11.

VICE CHAIRMAN SOCKWELL: The staff will pass them out to the board. Thank you.

MR. GOLDSTEIN: Also to my right, I brought cords showing the two drawings for your files, the large drawings, the ones that are being handed out now, which I will reference during this presentation.

VICE CHAIRMAN SOCKWELL: And before you begin, let me just remind you that for a variance, I am going to read Section 3103.2 for variances.

Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time

of the original adoption of the regulations, or by reason of exceptional topographical conditions, or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code da, da, da, da, would result in particular and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of the property, to authorize upon an appeal relating to the property a variance from the strict application so as to relieve the difficulties or hardship, provided that the relief can be granted without substantial detriment to the public good, and without substantially impairing the intent, purpose, and integrity of the zoning plan as embodied in the zoning regulations and map.

MR. GOLDSTEIN: All right.

VICE CHAIRMAN SOCKWELL: Variances are more difficult to support than special exceptions.

MR. GOLDSTEIN: Okay. I will begin my presentation at this point. The following is our presentation on behalf of Linwood and Connie Tipton for the acceptance of their application for a zoning variance to increase the percentage of lot coverage to restore the original side porch and to expand the carriage house at 712 East Capitol Street, Northeast.

And to give you a brief background, the Tiptons purchased the house at 712 Eat Capitol Street, Northeast, in February of this year, with the intent to restore it and occupy it

as their principal residence.

The previous owners made available an original architectural drawing of the house which shows a two-story side porch on the east side of the house. It is also evident from the brick work on the east side of the house that this porch did exist at one time.

And the examples are that there is some brick work that is different than the original house which was under the side porch, and some flashing lines that indicated that there was a roof there at one time.

The Tiptons' application seeks permission to restore the side porch. There is also a carriage house at the rear of the lot that has been converted to a small apartment.

However, there is no certificate of occupancy for such an apartment. The Tiptons wish to return this to a garage, which they intend to park their two cars. This requires increasing the depth of the building.

The Tiptons' application seeks permission to add several feet on the front of the carriage house. 712 East Capitol Street is a semi-detached house. Therefore, a zoning variance is required for lot coverage greater than 40 percent.

The current structure at 712 covers approximately 42 percent of the lot. If the application is approved for both the restoration of the side porch and expansion of the carriage house, the lot coverage will increase to approximately 50 percent.

It may be important to note from a visual and open space point of view, even though not relevant to the zoning/lot coverage issue, is the fact that in addition to the land area included in calculating the lot coverage, there is a deep front garden, approximately 54 by 40 feet in front of 712 East Capitol Street, Southeast.

In addition, the majority of the houses in the Capitol Hill area are attached row houses, which are allowed 60 percent lot coverage in the R-4 district.

Before I discuss these relevant points, I will just quickly go over the plan, which I have here on this board. This is a semi-detached house, and this is the structure of the residence, and this is the detached carriage house, and this is the side yard, and here is East Capitol Street, and there is an alley that turns at an angle back here.

And this is our proposed side elevation showing the covered porch and how it extends along the side, and the section shows the carriage house extension.

This is the 1901 -- I don't know if everyone can see this, but this is the 1902 (sic) drawing which the owners received from the previous owner, and it shows the side porch, the covered side porch, that was removed for whatever reason, and we want to build it back exactly the way it was draw in 1902.

I have also brought along some detail showing how we are planning to replicate the original 1902 drawing. Now, I

have three relevant points to granting the application for a zoning variance.

The additions sought will have no adverse effect on neighbors. In fact, it will benefit the neighbors in two ways.

VICE CHAIRMAN SOCKWELL: All right.

MS. FISHER: First, the addition to the carriage house will enable the Tiptons to park their two cars off the street, alleviating the crowded parking situation on East Capitol Street.

Second, the addition of the side porch will enhance the historic nature of the neighborhood, which is the written intent of the historic district, Capitol Hill, and will provide a more attractive view of the east side of the house.

The Tiptons met with the zoning committees of both ANC-6A and ANC 6-B, and received their unanimous endorsement. In addition, several neighbors have written individual letters in support of the Tiptons' application. There is no known opposition to the Tiptons' application.

Secondly, the additions are in conformity with the historic area. The area's zoning seeks to keep adequate open space and to maintain and enhance the historic nature of the neighborhood.

The additions being sought at 712 East Capitol Street leave a large amount of open space, nearly 50 percent of the buildable lot, plus the very large front yard, and restore the

side porch that was originally part of the property, thus enhancing the historic area.

This semi-detached house is fairly unique in the Capitol Hill area where a majority of the houses are row houses which are allowed 60 percent lot coverage. The D.C. Historic Preservation Office and the Capitol Hill Restoration Society both support the Tiptons' application.

Third, the additions are needed to overcome practical difficulties. The addition to the carriage house is needed to make it useable as a two-car garage. The structure is currently not large enough for this purpose.

The restoration of the side porch, which will enhance the historic nature of the neighborhood, ironically is not possible under the zoning regulations. It is the intent of the historic district to implement restoration which is not possible unless the requested variance is granted.

So, it is the zoning regulations themselves that present a practical difficult to enhancing the historic district. In addition, restoration of this side porch will provide traffic flow within the property as it was originally designed, and this is not possible without the granting of a zoning variance.

Summarizing, if granted, the Tiptons' application for a zoning variance at 712 East Capitol Street, Northeast, to allow the addition to the carriage house and to restore the side porch on the east side of the house will enable the historic

character of the neighborhood to be enhanced and will help alleviate density of on-street parking.

VICE CHAIRMAN SOCKWELL: Is there any more testimony?

MR. GOLDSTEIN: Do you have something to add?

MS. TIPTON: No, I am here and will be happy to answer any questions, as well as Mr. Goldstein.

VICE CHAIRMAN SOCKWELL: Board Members, do you have questions, or should I start?

MR. HOOD: Mr. Chairman, I do have a question, and maybe it would be answered if we could proceed with discussion.

VICE CHAIRMAN SOCKWELL: Let me start by saying that in reviewing the application the statement on the application for the basis for action sought was to enlarge the existing garage, which is too small for a car, and to reconstruct the porch on to the house which was once an existing structure, and these new structures will exceed the allowable lot coverage once built.

I was interested in the fact that it was stated that the existing carriage house structure in the application description would not support an automobile, and so I took it upon myself to evaluate a structure of similar type and dimension against the applicability of fitting a Mercedes S Class, which is one of the largest sedans you can buy, and a Cadillac Esclade, which is one of the largest sport utility vehicles that one can buy.

The Mercedes is approximately 203.1 inches long, and the Cadillac is approximately 201 inches long, each of which, assuming the walls to be about 8 inches think on that garage as a masonry garage structure, within an applicable garage door, would fit with about two feet to spare.

So I was concerned with the premise for the application might be a bit faulty with regard to the requested relief. As well, based on the drawings that you have shown, the extension to the garage would actually not increase the available width for multiple car parking.

But it would extend the depth for an additional things that might occur around those vehicles. In your zone, under the current ordinance, it is only required that one off-street parking space be provided.

There is not a specific justification for two. Also, on the basis of extending the yard, or the garage, and looking at the existing arch that is apparently not original construction and that attaches the garage wall to the house, I am concerned that perhaps that arch which violates the side yard requirements that would normally be in place for something that was built after 1958, which that arch may well have been, that the arch actually violates the side yard requirements.

And while I have no particular difficulty with the porch itself, it is not a grandfathered fact that the porch can be reconstructed under the current zoning ordinance with the other

changes as well, because now you have defeated the side yard.

I haven't found a really good logical justification for extending the garage, which is apparently 20.1 feet in actual length in its existing condition, minus 16 inches for wall thicknesses.

MR. GOLDSTEIN: Well, we have --

VICE CHAIRMAN SOCKWELL: And even if it were 20.

MR. GOLDSTEIN: We have done many homes with two car garages, and they are never this small.

VICE CHAIRMAN SOCKWELL: Well, that may well be true and in a more generous neighborhood where the lots are much larger, one can accommodate 3 and 4, and even 5 car garages with no impact on lot occupancy, or impact on required side yards or rear yards.

But this is a different condition, and at this point it would violate the side -- you have a very generous lot here, and admittedly the house occupies only a portion of it. The garage occupies a portion of it, and allC of it predates the zoning ordinance.

But when we attempt to apply the current zoning ordinance to existing structures, it is sometimes not as easy to just say yes because the neighbors and the historical society would love to see certain things done.

It is the ordinance that we have to enforce, and we have to have justification that we feel is sufficient to make

those decisions based upon what is written within the ordinance, and the flexibility that we feel we have here at the board.

And at present I don't see the hardship -- because your lot is very large, and I don't see the hardship because the garage building would accommodate most of the largest vehicles that there might be.

MR. GOLDSTEIN: With two cars in there, you would have to go through one to get to the other. You couldn't get around the car.

VICE CHAIRMAN SOCKWELL: Well, let's say that if you are showing the width of the entrance on this drawing, which is less than --

MR. GOLDSTEIN: It is 16 -- you mean the door?

VICE CHAIRMAN SOCKWELL: Yes, the door.

MR. GOLDSTEIN: Which is minimum size double-car door, which is 16 feet.

VICE CHAIRMAN SOCKWELL: Right. But the area that you are providing for cars is less wide than the existing garage area that you are appending. I mean, the vehicle area is actually narrower.

MR. GOLDSTEIN: If you scale disproportionately the door, which is 16 feet, and the depth of the garage is probably 17.6. So if you put a car -- and the cars that you are talking about are 200 inches long did you say?

VICE CHAIRMAN SOCKWELL: Well, what type of door

are you planning to use, and you are not going to do a -- I mean, I just did a garage recently, and so the garage door didn't take up any room outside of the vertical project as it comes down.

It latches into the opening and it doesn't -- there is a small projection of runners behind it, but that is outside of the area that the cars are going to be moving within. I mean, you are going to have to have that.

MR. GOLDSTEIN: But if this is a depth issue --

VICE CHAIRMAN SOCKWELL: If you have a 203 inch car, what is the inside dimension of your garage?

MR. GOLDSTEIN: Well, the inside dimension of the existing garage is -- I think it is 17-1/2 feet.

VICE CHAIRMAN SOCKWELL: So it is incorrectly dimensioned at 20 feet, at 20.1 feet? I mean, you are actually adding a wall in the front and you can probably know from your own dimensions that it appears to be eight inches, and it appears to be approximately the same thickness as the existing wall.

MR. GOLDSTEIN: Where do you see the 20 -- I'm sorry, but --

VICE CHAIRMAN SOCKWELL: It is on the site plan. It is on the plat actually.

MR. GOLDSTEIN: It is on the plat?

VICE CHAIRMAN SOCKWELL: On your survey.

MR. GOLDSTEIN: So you are saying it is 20.1 feet?

VICE CHAIRMAN SOCKWELL: Yes, 20.1 feet.

MR. GOLDSTEIN: Minus 16 inches.

VICE CHAIRMAN SOCKWELL: Minus 16 inches. It is 240 inches, minus 16.

MR. GOLDSTEIN: Right. So that leaves you, I guess, a foot-and-a-half, to get around the car.

VICE CHAIRMAN SOCKWELL: Well, to get to the front and rear of the car, yes. Maybe two feet. It depends on whether it is absolutely accurate or not, and that is if you are using -- if she has an S Class Mercedes at 203 inches. If she has a Honda, she has got plenty of feet.

But I was going by the application. The application seemed to state that you can't do something, and if we have to review this, we have to decide whether or not that is realistic, because that was the justification. You can't get a car in there.

MR. GOLDSTEIN: Well, do we want to speak on the issues of whether or not --

VICE CHAIRMAN SOCKWELL: And the dimension that you provide on the drawings is a VIF drawing, a VIF dimension, which means verify in field, which means that this could be whatever. I mean, you don't need that much additional depth in the garage to get the car in even if you thought you needed two feet, or three feet, around it.

You are asking for what appears to be 10 to 12 feet of additional garage, and that is not -- it doesn't add up to what

you need. It adds up to what you want.

And the justification is based on the application, and the application did not ask for additional length to accommodate a larger car. It asked for additional length to accommodate a car, period.

And I believe that I have proven that we can accommodate a car, or two cars, in the depth that we have now. But you are asking for far more depth than that required to do the job, and there is no justification for that much depth.

MS. TIPTON: Mr. Chairman, if I might comment. We would or we did want to park both of our cars in the garage, and we were of the understanding that the current depth would not accommodate our parking both cars and being able to walk around them to actually get out of the garage.

And so we sought to add some depth to the garage. I agree with you that the 10 feet that we are seeking to add is more than is needed to park the cars in there, and --

VICE CHAIRMAN SOCKWELL: Well, I don't even know that it is 10 feet.

MS. TIPTON: -- we felt that since we were adding to the depth of the garage that we wanted to add a little bit more so we would have some storage area in the back of the garage. So that is a more complete answer perhaps.

VICE CHAIRMAN SOCKWELL: Well, there is room for storage on the side of the vehicles. There is room for storage

there, and you are trying to gain a tremendous amount of square footage that is really unnecessary for the purpose to which it would be assigned.

You only need three feet for a handicapped wheel chair access aisle. So if a wheelchair can get around the front of your car with three feet, then a human being doesn't need more than three feet walking, loaded with groceries in both arms.

MS. TIPTON: No, I understand that the facts as you are presenting them may well be correct, but that while we were seeking to move that wall in order to be able to walk around the cars, we felt that it would be beneficial to add a few extra feet for additional space in the garage.

And as well by completing the closure of the rear of the house and separating it from the side of the house, I believe that there are building code fire and safety implications here that are outside of the purview of this board. But that --

MR. GOLDSTEIN: That would not be a roof. That space --

VICE CHAIRMAN SOCKWELL: Well, it has three doors on it, and it has a door and a door.

MR. GOLDSTEIN: But it wouldn't --

VICE CHAIRMAN SOCKWELL: And I assume that they may be locked, and it doesn't provide free access out to the rear of the house in case of a fire. Those are issues that could come up.

MR. HOOD: Mr. Chairman, which one are you looking

at?

VICE CHAIRMAN SOCKWELL: I am looking at their drawing A-2, first floor plan.

MR. HOOD: Oh, okay.

VICE CHAIRMAN SOCKWELL: Which shows a vestibule type situation, probably a rebuilding of the arched wall so that it would fit a more rational door.

MR. GOLDSTEIN: No, we had planned to retain the arched wall there. You can see that it is shaded and the other walls that are newer are hatched.

VICE CHAIRMAN SOCKWELL: And I am not even sure that arched wall is legal, because I don't know that there was a permit issued for it. It violates side yard requirements, and structures in required side yards are generally not allowed like this.

MR. GOLDSTEIN: Well, it clearly has been there for a long time.

VICE CHAIRMAN SOCKWELL: Yes, I understand, but it doesn't make it right though.

MR. GOLDSTEIN: Right.

VICE CHAIRMAN SOCKWELL: But I don't think that I see justification for the extensive enlargement of the garage.

MR. GOLDSTEIN: These gates, the one that is existing, and the new one labeled door 17, would both be just open gates, and there would be no roof over this space. So there is no

combustible material that is going to touch from one structure to the other. It is all masonry.

VICE CHAIRMAN SOCKWELL: But by carrying the wall, you have connected the two buildings into one in one respect.

MR. GOLDSTEIN: They are already connected.

VICE CHAIRMAN SOCKWELL: And I am not saying that they aren't already, but certainly it is making a difference there. But regardless, I don't have a justification for extending the garage.

There is no property hardship that actually says that this has to be done because of the shape and condition of the lot, or exceptional conditions that are constrictive in nature, or restrictive in nature. But let me --

MR. MOULDEN: Mr. Chairman, are you recommending that there be some adjustment to make the garage smaller, or are you recommending that there is no clear indication that there is a hardship to do this, or --

VICE CHAIRMAN SOCKWELL: I believe that we are probably stepping -- we would be stepping beyond our bounds to further reduce the side yard, which has something in it that I do not believe is supposed to be there in the first place, and that is that wall.

It was not built by the present owner, and that is this wall here, the wall in their drawing that is right there, and that separates the garage from the house.

It is an arch at this point that is existing, and to bring the additional walls out creates and boxes in with a structure that side yard completely, and I don't believe that we have the authority to remove a side yard, or exacerbate a condition which may be an existing non-conforming condition which could, but probably doesn't, preexist the ordinance.

We cannot extend or increase that non-conforming condition. I believe that a side yard is supposed to be continuous and an existing side yard that they have of course is tremendous.

If we limit them to what would be the equivalent of an 8 foot distance from the edge of the existing house wall to the face of the garage extension, that would at least be in keeping with the minimum side yard requirement at that point.

MR. MOULDEN: I have a question for the applicant. According to a copy of the photograph in the file, you currently park in front of the house?

MS. TIPTON: We are currently parking our cars on East Capitol Street, that's correct.

MR. MOULDEN: What is this drawing here showing a picture of a house?

MS. TIPTON: I'm sorry, that looks to be the carriage house from the alley.

MR. MOULDEN: Okay.

MS. TIPTON: That is a picture taken -- I don't

know when, because right now there is a dumpster in that space, and there is an area there that you could park a car were the dumpster not there, because we are in the process of renovating the interior of the property currently.

And which is why we are parking our cars on the street. We have not done any kind of tearing out of the carriage house pending this application. I think we stated in our presentation that had been by the previous owners converted to a small apartment, which has no certificate of occupancy.

We don't desire to try and use it as an apartment, or an office, but we want to try and park our cars in it, and that is why we were seeking the ability to add some depth to the garage so that it was easier to walk around.

And as I said, I understand the chairman's point that we don';t need a 10 foot extension, but we felt as long as we were going to the expense of extending that wall, that since there is plenty of parking or there is plenty of area on our property at the back there, that we were desirous of adding a few extra feet so that we would have additional storage space in that garage.

I guess we would be willing to accept a consideration of adding a lesser number of feet, but I guess also in addition I would just -- I know that the rules for a semi-detached house such as this with a large side yard, are that we can only cover 40 percent of the lot.

With both of these additions, we would be at around

50 percent, and it is clear that most of our neighbors are covering far more than their lots. Plus, we have a very large front lot.

I mean, we are really wanting to contribute to the area, and to take both of our cars off of the street and accommodate that. And we would like to do it in a proper manner obviously. But we would seek your help in figuring out how to do that.

MR. MOULDEN: I have another question. I guess within a few blocks in each direction is there any similar type of garage on other properties in the area that you noticed?

MS. TIPTON: In the alley where we would enter our garage has other garages behind homes on 8th Street and on 7th Street.

MR. MOULDEN: Is it similar in size to what you propose?

MS. TIPTON: There are a variety of sizes of the garages on that block, and some of them would be larger, and some of them would be smaller.

MR. MOULDEN: And they are used for automobile parking?

MS. TIPTON: For parking, yes, correct. And some of them just have a parking area with no garage. So there is a real variety on that alley way.

MR. MOULDEN: And this is on your block?

MS. TIPTON: There are a couple of houses on our block that have parking. I think there are only one or two adjacent to us on the west side that have parking. The other parking on the alley would be behind some of the homes on the two side streets, 7th Street and 8th Street.

MR. MOULDEN: The reason why I said that is because in some cases where you can't exactly show an extreme hardship, if you can show that there are similar homes in the adjacent area or adjacent block, and they have been justifiably approved for their size and the use of automobiles, that that could help the case.

MS. TIPTON: I see.

MEMBER RENSHAW: Mr. Chairman, I have a question for the architect. Mr. Fisher (sic), you showed the drawing, the original architectural drawing, in 1902. And I just want you to focus on the side porch which has been removed, and which you would like to have replaced.

In drawing number A-2 does the original porch -- did the original porch go back only for the four pillars, or the three pillars? How far did the original porch go back or do you know?

MR. GOLDSTEIN: We can't really tell, although there is a brick change. There is a change in the brick work on the side, but it is very hard to tell how far it went back.

MS. TIPTON: We don't have any other drawings of the side or anything. The only original drawing that we have is

of the front elevation.

MEMBER RENSHAW: So where you are saying you are replacing a porch, you are just really putting on an additional deck, mimicking the look of the original porch; is that correct?

MR. GOLDSTEIN: That's correct.

MEMBER RENSHAW: And you are extending it for the length of the house, and am I right that this back end of the house is all new? Is the back end of the house new?

MR. GOLDSTEIN: No, it is not. It is all original. You are referring to this end of the house?

MEMBER RENSHAW: That's it.

MR. GOLDSTEIN: That's all original.

VICE CHAIRMAN SOCKWELL: One of the things that troubled me about the application and that seems to be there -- and I am not saying that this was done to misconstrue the conditions, but you say reconstruct a porch.

Reconstruct does generally mean replace in kind. It doesn't generally mean replace, emulate, simulate, extend. It doesn't mean recreate in general shape and form. Reconstruct means rebuild in place as was.

And what you are doing is reconstructing perhaps to the extent as an architect you can look at the change in materials at the base of the house, and determine pretty much where that porch used to be, and then add on to the rear to gain access to

other to be renovated portions of the home.

And it does trouble me that the use of words which an architect has great command of, seems to be misleading, and was misleading to me. And that is one of the reasons why I really tried to look at this very, very carefully to see what you were doing, because we don't have the license to be just poetic and grant variances and relief on the basis of what is a good design.

We have to have justification under the ordinance to be fair. Your house, because it is the end of its row, is a semi-detached house by definition. It is --

MR. GOLDSTEIN: Mid-block.

VICE CHAIRMAN SOCKWELL: Well, it is at the end of its row. It is a semi-detached house, and there are semi-detached houses mid-block everywhere. Generally, we think of semi-detached houses as paired houses, with a shared wall and two outside walls on the opposite sides.

But unfortunately the way that houses are built the end row houses almost invariably are considered to be semi-detached under the strict reading of the code. And in this case --

MR. GOLDSTEIN: You understand mid-block?

VICE CHAIRMAN SOCKWELL: I do understand that it is mid-block, and it is for all intents and purposes the way the code is written semi-detached. It wasn't the result of a house being torn down and this being the remaining house.

This house was built with those bays on that side, and therefore had to have yard distanced from those bays. So the house itself is exactly what it is supposed to be, and didn't become that way through some fault or some change elsewhere. It has been that way ever since it was built, minus the porch.

I believe that we can -- I would feel comfortable recommending a minimal extension of the garage, which is going to accommodate length of vehicles somewhat greater than what is there now, and would more adequately accommodate two cars and the walk around from those two cars, so that one could walk over to the other side of the garage.

But the point is that I can't see granting you an abnormally large extension that is not justified, and we have to maintain an eight foot side yard at that point at the rear of the house.

So I am going to recommend that your garage extension be limited to the extent that an eight foot distance be maintained from the existing -- what is that, a west wall?

MR. GOLDSTEIN: Yes.

VICE CHAIRMAN SOCKWELL: A west wall --

MR. GOLDSTEIN: I'm sorry, but that's the east wall.

VICE CHAIRMAN SOCKWELL: The east wall, to the face of said extension.

MR. GOLDSTEIN: That would leave us two feet

basically.

VICE CHAIRMAN SOCKWELL: It will be two feet more than you had.

MR. GOLDSTEIN: Right, because I think --

VICE CHAIRMAN SOCKWELL: Because you a have a greater side yard than can be accommodated without -- I mean, if you had five feet, if you had an existing five foot side yard I could work with, then maybe we could take it to five.

But eight is in the code, and you have got 20 feet of side yard in real terms, and you are going to want to extend a reconstructed porch into that area. That porch as well has a second floor to it, which means that it is a double-porch, as opposed to a single porch with a roof. It has a walkout on the second floor.

MR. GOLDSTEIN: But it is just a roof with a railing around it.

VICE CHAIRMAN SOCKWELL: Okay. So it is not a walkout?

MR. GOLDSTEIN: No. I mean, you can go through the window and get on it, but there is no deck up there. There is no useable space up there.

VICE CHAIRMAN SOCKWELL: All right. So you are saying that this is a roofed porch?

MR. GOLDSTEIN: It is a covered porch.

VICE CHAIRMAN SOCKWELL: A covered porch.

MS. TIPTON: Yes.

VICE CHAIRMAN SOCKWELL: And there is no intention, at least at this moment, to extend one of the windows down or to --

MR. GOLDSTEIN: No.

VICE CHAIRMAN SOCKWELL: -- pop them out and put doors?

MR. GOLDSTEIN: No.

MS. TIPTON: No, sir. In fact, we have already restored and put new window sash in the windows there, and we sealed up the bottom part that was originally -- that would swing open to what was the original porch.

And the reason that we are going up with it and not putting a deck on the top is primarily a financial reason. It was a lot more expensive to have a deck up there as well, and so we have chosen to try and replicate the appearance of it without having the expense of adding a deck on the upper level.

MR. GOLDSTEIN: In fact, the historic department, Steve Colcott, had told us that he would only support our design if we did put the porch -- the roof over the covered porch as per the drawing, the 1902 drawing.

VICE CHAIRMAN SOCKWELL: What is the height of the porch above grade to the deck of the walking surface approximately?

MR. GOLDSTEIN: I think it is 4 feet, or 3-1/2

feet.

VICE CHAIRMAN SOCKWELL: Okay. And under the circumstances of an uncovered deck, you would be allowed to build that into a side yard, and it wouldn't count towards lot occupancy as long as it is not more than four feet above grade.

Under the circumstance of it being a historically significant house, and the fact that you had a very successful historic review, and the strong support of neighbors, I would be willing to allow or recommend that the porch be allowed as designed because if it did not have to have the overhead component matching the original design, it could be built without a roof as a deck, and without encumbering your lot occupancy.

MR. GOLDSTEIN: I'm sorry, but if you could just refer to the third drawing. In fact, it says 4-1/2 feet from grade to the deck.

VICE CHAIRMAN SOCKWELL: Oh, thank you.

MR. GOLDSTEIN: So I don't want to mislead you.

VICE CHAIRMAN SOCKWELL: Well, I do appreciate that. I will modify what I said and say that it is within reason close to a deck height, and could have been lowered somewhat, but you are trying to maintain the relationship between the existing house and the original porch as much as possible.

MS. TIPTON: Yes.

MR. GOLDSTEIN: Yes.

VICE CHAIRMAN SOCKWELL: And I would still stand by

my basic premise, which is that you could have worked out a deck without having to violate the lot coverage.

And I would be willing to recommend that we approve it on the basis that it is meeting historic preservation guidelines and could otherwise be produced with some modifications to meet code and not encumber your lot occupancy. But I cannot accept the garage the way it was.

MEMBER RENSHAW: Mr. Chairman, just back to the porch again.

VICE CHAIRMAN SOCKWELL: Yes.

MEMBER RENSHAW: Which is to be reconstructed to the original design. Did the original design -- we have kind of established that the original design probably was not as long as this deck is going to be.

VICE CHAIRMAN SOCKWELL: Right.

MEMBER RENSHAW: Was the original design covered? Do you intend to cover the extent or only have --

MR. GOLDSTEIN: No, we are only intending to cover the indentation, the portion that is inside the bay area and between the two bays.

MEMBER RENSHAW: So where you said you are going to seek to reconstruct the porch to the original design as the Capitol Hill Restoration Society states in its letter of September 18th, you are actually reconstructing the porch, but then you are adding on to the original design. I just wish your application

was more specific.

MR. GOLDSTEIN: Well, we are really not sure whether the original porch didn't follow these exact -- this exact shape. We clearly can see what it looks like from the front, but we have no drawings that show what it looked like from the side.

VICE CHAIRMAN SOCKWELL: Are the windows above original configuration?

MR. GOLDSTEIN: Yes.

VICE CHAIRMAN SOCKWELL: All right. Are you going to put in the lattice at the base as per the original drawing?

MR. GOLDSTEIN: At the front, we had planned to put the wrought iron that is shown there, and on the side --

VICE CHAIRMAN SOCKWELL: On the side porch, we have a lattice.

MR. GOLDSTEIN: Yes. But that is the front opening, and on the sides we have not decided whether we are going to fill those in as of yet.

VICE CHAIRMAN SOCKWELL: Well, it would have likely had lattice on all faces in its original configuration, but you want to leave your windows available?

MR. GOLDSTEIN: Well, that is what is driving this, is that we want to not block any more light than already gets blocked by the structure.

VICE CHAIRMAN SOCKWELL: So to the extent that we have details of your porch construction, you are not actually

recreating the design as it existed at its base. You are emulating the design to the best of your ability?

MR. GOLDSTEIN: Yes, I agree with that.

VICE CHAIRMAN SOCKWELL: Because from what I can see, once you get below the actual balstred, you are going to have some modifications. It is not going to be the same load bearing masonry structure that may have existed before. It is going to be something different.

And that's so that you can access to the light to the windows to the side, et cetera, et cetera.

MR. GOLDSTEIN: Yes. I would -- that's an appropriate assumption.

VICE CHAIRMAN SOCKWELL: And the historical society is aware of those differences in detail?

MR. GOLDSTEIN: Yes, they are. They have reviewed these exact drawings and the 1902 drawing, and that's where Steve Colcott generated his letter based on these documents.

VICE CHAIRMAN SOCKWELL: All right. And he did not require you to reproduce the base?

MR. GOLDSTEIN: No, he did not.

VICE CHAIRMAN SOCKWELL: All right. On that basis, I don't really have any more questions for you.

I think that the issue is primarily whether the board feels that they can accept my recommendation on the garage and whether Ms. Renshaw is comfortable with the extension of the

side porch beyond what may have been -- and more than likely was -- a limitation within the space separating the two bays, which is more likely what the porch looked like.

And certainly having researched the building type, you are probably able to speak to that.

MS. TIPTON: If I could just make a comment. At the rear of the house, you can see that there are glass doors and glass panels on the side there, and there is and was when we purchased the house an existing deck if you will on that back part of the house. That is how you get out of those doors at the back of the house.

VICE CHAIRMAN SOCKWELL: But it wasn't an original deck. It was --

MS. TIPTON: No, it's not. You can tell it is not an original deck, but that --

VICE CHAIRMAN SOCKWELL: Probably the same as for that arch.

MS. TIPTON: And those doors, I'm sure, weren't original either, but that is how one gets out of the back of the house at this point, and it is the way that the house existed when we bought it. But those are the rear doors to the house if you will.

VICE CHAIRMAN SOCKWELL: And those were torn off?

MS. TIPTON: No, it's there.

VICE CHAIRMAN SOCKWELL: It's there now?

MS. TIPTON: That is the only way out of the back of the house. So to not have a porch at the back would not provide us any way to get out of the back of the house. So we felt from a design standpoint that it made more sense to incorporate that and rebuild that to tie it in with the porch restoration, and to replicate that from the front.

MEMBER RENSHAW: I understand. I understand the need to extend the porch to connect those two entities, but it was just to inquire whether or not the original design in your research of the original design, it looked like that, or was it just the covered portion, and then there was a gap.

And then as Mrs. Tipton said, a deck was added at the back later on, and I gathered that that was the case.

MR. GOLDSTEIN: I think that was the case.

VICE CHAIRMAN SOCKWELL: Well, I will admit that that sad looking porch doesn't do anything for what you are planning to build, and I see no reason not to be able to continue the design in moderation unroofed to pick up that area, and as long as you are maintaining the design continuity, I would be willing to accept that.

MEMBER RENSHAW: But Mr. Chairman, back to the garage. You are recommending only two feet?

VICE CHAIRMAN SOCKWELL: I am recommending that an eight foot distance be maintained between the east wall of the house and the front wall of the extended garage.

MR. GOLDSTEIN: Which would leave us only two feet.

VICE CHAIRMAN SOCKWELL: Which would give you two more feet than you have now.

MR. MOULDEN: Mr. Chairman, could you show us by using that pointer, but also are we going to hear from the -- before we make our recommendations, are we going to hear from the ANC?

VICE CHAIRMAN SOCKWELL: I don't know that there is anyone else here to testify on this case.

MEMBER RENSHAW: We can read into the record the ANC comments.

VICE CHAIRMAN SOCKWELL: What I am saying is that this front wall would be pushed back to create eight feet from this wall to wherever the front wall begins.

MR. GOLDSTEIN: Which is going to be here.

VICE CHAIRMAN SOCKWELL: Right.

MR. GOLDSTEIN: And this is eight feet.

VICE CHAIRMAN SOCKWELL: Yes. And if you carry it straight across and if -- I'm sorry, your name is again?

MS. TIPTON: Mrs. Tipton. If Mrs. Tipton doesn't buy something longer than a S500 Mercedes, she should be able to utilize that garage effectively. But it is a side yard related issue, and you have a side yard that is quite generous and I don't wish to modify by allowing you to delete the side yard.

You are still going to have a side yard around that

porch, and that garage should not prevent the movement through the side yard to the rear of the house. The side yard is what I am dealing with. And what interior dimension, length-wise, will you have if you put that wall there?

MR. GOLDSTEIN: Well, I was just looking at my field dimensions, and --

VICE CHAIRMAN SOCKWELL: And your architectural drawings should be to scale. Do you need a scale?

MR. GOLDSTEIN: Excuse me?

VICE CHAIRMAN SOCKWELL: Your architectural drawings should be to scale. Do you need a scale?

MR. GOLDSTEIN: No, they are to scale.

VICE CHAIRMAN SOCKWELL: Do you need a scale to measure the inside of the garage?

MR. GOLDSTEIN: Well, if you have one.

MEMBER RENSHAW: Mr. Goldstein, would you point out again on the map where the two foot line is?

MR. GOLDSTEIN: Well, roughly speaking, if this is 10 feet, minus 8, leaves 2 for the wall to come across here.

MEMBER RENSHAW: This is a picture of the garage elevation with the arched way. Is this the side area that you were talking about here?

MR. GOLDSTEIN: This is the arch.

MEMBER RENSHAW: There is the arch.

MR. GOLDSTEIN: Yes, there is the arch, and so that

is the wall that was built.

MEMBER RENSHAW: So the garage is here.

MR. GOLDSTEIN: It is drawn to scale quarter-scale.

VICE CHAIRMAN SOCKWELL: Quarter-scale.

MEMBER RENSHAW: Mr. Goldstein, the garage is down here?

MR. GOLDSTEIN: Yes, this is the side of the garage, and here is the side yard, and here is the archway, and this is the front.

MEMBER RENSHAW: All right.

(Brief Pause.)

MR. GOLDSTEIN: Well, the interior dimension is scaling at 18-1/2, and then as you had said, the door will encroach -- the track of the door will encroach, let's say, six inches.

VICE CHAIRMAN SOCKWELL: Right. Well, it may not encroach the full six inches.

MR. GOLDSTEIN: So let's say it is 18 foot clear, and so we would have 20 foot clear, I guess.

VICE CHAIRMAN SOCKWELL: If the board would be willing and we grant you a seven foot side yard, that will give you another foot, and that is assuming that you have the clearance, that you will have clearance, and you are going to run that wall all the way across, and you will be able to get in front of your cars.

I have many friends who have garages that don't have that much clearance for their cars, and they have things stored on both sides of them, and all of that. You really are only required to have a one car garage.

The fact that you want to pack two cars in has nothing to do with the ordinance. It has everything to do with your convenience.

MS. TIPTON: And that of the neighborhood, I believe, because it is a very crowded area for parking.

VICE CHAIRMAN SOCKWELL: Right. But the point is - -

MS. TIPTON: And our neighbors are very supportive of that.

VICE CHAIRMAN SOCKWELL: I am sure they are, and the first time you have that nice big party on the porch, then your neighbors won't have any parking spaces anyway.

But if the board wishes to allow you a seven foot side yard for access to a garage, the width is not going to change, and you could get two cars in that as long as you did not put the S-500 Mercedes in there, and you would be just fine.

And you can put your Volvo in there and anything else you would like. But I would be willing to recommend a seven foot side yard, and that is the best that I feel that I am willing to recommend should the board choose to go along with me.

MR. HOOD: Mr. Chairman, I just wanted to ask Ms.

Tipton a question. I have the dialogue, and you have heard our response to the chairman. That recommendation, is that suitable and acceptable, even though I know you have -- from what I have seen, you have all the credentials and you have all the support. But is his recommendation acceptable, and can you live with it?

MS. TIPTON: Well, obviously we would prefer to have a little more space, or we would not have sought more space, and I guess I would be happier if we could split the difference and have 5 feet of the 10 feet.

But if the best that we can do is an additional 3 feet, then we will have to decide whether it is worth the expense to do that and park our cars there. Obviously, we would like to make it so that we can use it and it will be convenient for us and for the neighbors.

And if the best that we can do is 3 feet, then we will have to decide what we are going to do around that. I obviously would prefer to have a little more space.

MR. HOOD: So it may be an option that you may not do it at all if you go with the Chairman's recommendation?

MS. TIPTON: You know, it is not an inexpensive thing to do, and so certainly my husband and I will have to discuss whether we will go to the expense, and it is a considerable expense to build a new brick structure and so forth, and we will have to make that decision on whether we are going to do that.

MR. HOOD: So if you don't do it, meanwhile, we still have those two cars back on that crowded -- in that crowded neighborhood?

MS. TIPTON: That's correct.

MR. HOOD: Okay. Thank you.

VICE CHAIRMAN SOCKWELL: Actually, most of what you are going to be building is a door. You are not going to be building a lot of new brick structure at all. You are going to be building mostly door. You are taking the wall out, and you are going to be putting in a lintel.

MS. TIPTON: The wall and the roof, and everything, need to come out.

VICE CHAIRMAN SOCKWELL: The lintel may already be there from what I could see, and if the lintel is there, then you will have to build out and add some roof to that for a 3 foot extension. And that cost in flooring would be associated with the most expensive part of the construction really.

The likelihood is that with the extension that you are planning the lintel that is in place would probably have remained?

MS. TIPTON: I don't know.

MR. GOLDSTEIN: Well, I think the difference in costs --

VICE CHAIRMAN SOCKWELL: Well, I am not going to get into that, because I have gone where I am going.

MR. GOLDSTEIN: Okay.

VICE CHAIRMAN SOCKWELL: It is not really relevant to my discussion because the side yard issue is the issue that we are dealing with, and not the cost of construction.

MR. GOLDSTEIN: And I just wanted to go back and revisit the wall, the arched wall. That wall clearly could be 50 years old.

VICE CHAIRMAN SOCKWELL: It perhaps could. By the photographs that I have, I have no idea how old it is.

MR. GOLDSTEIN: But you haven't gone to see it.

VICE CHAIRMAN SOCKWELL: No.

MR. GOLDSTEIN: Actually see it.

VICE CHAIRMAN SOCKWELL: No.

MR. GOLDSTEIN: And if that was the case, then these two structures are attached, and at one point we considered the possibility of it being a row house because of that fact. But we felt that we wouldn't get very far with that.

VICE CHAIRMAN SOCKWELL: Well, no, because the wall was added after the garage was constructed, and you and I both know that.

MR. GOLDSTEIN: Yes, but --

VICE CHAIRMAN SOCKWELL: And it doesn't matter what the -- and we probably both know that it was constructed without a building permit, and that there is absolutely no record of it ever having been constructed.

We pretty much probably know that, too, and for all we do know that wood deck that is attached to the side of the house that now becomes the way to the back yard wasn't built with a permit either. But we don't know that for a fact.

I am not trying to say that it was or wasn't, but we do know that the garage and the house were not attached initially, and that the attachments that are there were not done in the style that an architect, a professional of your caliber, would have even considered.

MR. GOLDSTEIN: Okay. I accept that.

VICE CHAIRMAN SOCKWELL: I thought you might accept that.

MR. GOLDSTEIN: But the 8 foot or 7 foot, or 5 foot, whatever we decide, isn't that a light, air, and ventilation issue as it pertains to two structures?

VICE CHAIRMAN SOCKWELL: Actually, what it really is, is a fire safety issue for egress.

MR. GOLDSTEIN: Well, egress --

VICE CHAIRMAN SOCKWELL: And what you created was a vestibule, a fire vestibule, or a vestibule in that area which is not what the purpose of a side yard is.

A side yard is supposed to be continuous from one end of the property to the other under the code.

MR. GOLDSTEIN: But if there is a gate in the side yard, which is what this would become, we would have hardware that

we could egress from that would give us safety from ingress.

VICE CHAIRMAN SOCKWELL: Yes, but I'm not the --

MR. GOLDSTEIN: So it wouldn't be a fire exit problem.

VICE CHAIRMAN SOCKWELL: Well, I am not dealing with it from a building code standpoint. I am dealing with it from a zoning ordinance standpoint, and I am just telling you what the building code implication is.

MR. GOLDSTEIN: Okay.

VICE CHAIRMAN SOCKWELL: So I have -- my recommendation is that we allow you a 7 foot side yard for the purpose of extending your garage, and that we allow you the designed side porch as proposed, as variances to the lot coverage.

That gets you down below 50 percent lot coverage, and with a lot that size, when you get 50 percent -- your neighbors, yes, they have 60 percent lot coverage, but they don't have your sized lot. So 50 percent lot coverage for you would be 90 percent lot coverage for them, and they can't go there.

You have a very large lot, and people with large lots look at the percentage of coverage and say, oh, that's not so much. And, yes, the people next store who have row houses can go 60 percent.

But they are not going 60 percent on your square footage either. So no matter what they do, they cannot get to that. So you have no hardship.

If this board grants you what you are asking for, you should think that the board has been very generous with you based on what you have as a lot and amenities. That is my personal feeling.

I move that we accept -- that we grant the variance for the side porch as shown on the drawings, and that we accept a 7 foot side yard, and that the order will not be written until drawings are produced to show the modification to that garage design that has been accepted.

MR. MOULDEN: I second.

VICE CHAIRMAN SOCKWELL: Any discussion?

(No audible response.)

VICE CHAIRMAN SOCKWELL: All in favor?

(Ayes.)

VICE CHAIRMAN SOCKWELL: Opposed?

MR. HOOD: Opposed.

VICE CHAIRMAN SOCKWELL: Abstentions?

(No audible response.)

MS. BAILEY: The staff will record the vote as 3 to 1; a motion made by mr. Sockwell, and seconded by Mr. Moulden, and supported by Mrs. Renshaw, and opposed by Mr. Hood. That is, the applicant is to provide revised drawings showing a 7 seven foot side yard, and the porch would be constructed as proposed.

Mr. Chairman, are you ready for the next case?

VICE CHAIRMAN SOCKWELL: Yes.

MS. BAILEY: That is application number 16596, of the Mount Vernon Development Group, L.P., and 500 H Street, L.P., pursuant to 11 DCMR 2103.2, for variances under Section 773 from the required recreation space, and under Subsection 1705.3 from the retail/arts floor area ratio requirements to construct a high-rise 200 unit apartment building in a DD/C-2-C District at premises 770 5th Street, Northwest, and that is Square 486, Lots 35, 818, 819, 821, 822 through 823, and 827, and the east-west alley closed pursuant to D.C. Law 13-18.

Most of the persons who are here for this case were sworn in. Is there anyone who was not sworn in and who wishes to testify and needs to be sworn in at this time?

(The Witnesses were sworn.)

VICE CHAIRMAN SOCKWELL: We will wait for a moment. One of the board members has stepped out.

MS. BAILEY: Mr. Chairman, should I continue?

VICE CHAIRMAN SOCKWELL: You may continue, yes.

MS. BAILEY: All of the following requirements have been met on this project, Mr. Chairman. I can't see all the way down to the other end. I think the Office of Planning's report is to be waived in. It was filed a little late, and the case is ready to be heard by the board.

Excuse me. There is some additional submissions that were made and that were received after the packages went out. You should have those, the reviews of architectural plans, letter

of support from the Reverend Joseph Conway, and again the Office of Planning's report, and this case is ready for you to hear at this time.

VICE CHAIRMAN SOCKWELL: Let me ask if there are any persons in opposition to this application present?

(No audible response.)

VICE CHAIRMAN SOCKWELL: I want to wait until Mr. Moulden returns before we proceed.

MS. BAILEY: Mr. Chairman, we need to waive the report. Is it possible to do that at this time?

VICE CHAIRMAN SOCKWELL: We can do that very easily. I move that the Office of Planning's report, that we waive the rules, and admit the Office of Planning's report into evidence.

MEMBER RENSHAW: I second.

VICE CHAIRMAN SOCKWELL: All in favor?

(Ayes.)

MS. BAILEY: The vote is recorded. Thank you.

VICE CHAIRMAN SOCKWELL: Mr. Moulden will be in shortly, or in a moment, and you may proceed. Ms. Giordano, you will be speaking, I presume?

MS. GIORDANO: Yes.

VICE CHAIRMAN SOCKWELL: We are fine then.

MS. GIORDANO: Thank you, and good morning, Mr. Chairman, and Members of the Board of Zoning Adjustment. My name

is Cynthia Giardano, for the record, from Linowes and Blocher, a law firm representing the applicant.

To my left is Matthew Birenbaum, who is the vice president of Avalon Bay Communities, Inc. Avalon Bay is the current owner of the property. The property was actually conveyed to Avalon Bay after the application was filed, and so they will be substituting themselves for Mount Vernon as the applicant in this case.

To my immediate right is Eric Rubin, of the Madison Retail Group, and to my far right is Eric Colbert, of Eric Colbert and Associates, an architectural firm. I have a brief opening statement. It was my intention to try and just summarize.

We submitted a fairly detailed statement into the record, and if the board is comfortable with that, we will just hit the high points.

VICE CHAIRMAN SOCKWELL: Please.

MS. GIORDANO: And to try and move things along for you this morning. I am very excited to be able to present this case to you this morning. Those of us who have had some doubts in the past about the feasibility of the DD residential requirements can appreciate the importance of this project, which is a high-rise residential apartment building in the downtown and that has no government financial subsidy, and is seeking no relief from the DD residential requirements. I think that is a first.

Rather, we are here today to ask for some minor

deviations in the DD preferred retail requirements, and the residential recreation space requirements. These retail requirements receive a secondary importance in the DD overlay regulations for residential projects.

We are seeking a reduction first in the preferred retail requirement from approximately 11,900 square feet, to approximately 7,000 square feet. We are also seeking a variance from the residential recreation space requirements.

We believe that the imposition of the residential recreation space requirements in the DD on large residential projects was an unintended result because it has a severe negative impact on large residential projects in the downtown, and as I think you will see and that we will demonstrate is that it is almost impossible to provide and provide sufficient housing to meet the residential requirements.

In fact, in this case the residential recreation requirement is an extraordinary 31,000 square feet of residential recreation space, and 50 percent of that, which would be have to be provided outdoors according to the requirements.

If that requirement were strictly applied in this case, it would preclude a feasible residential project, and as we contend, could not have been an intended result.

Further, the basic premise of the residential recreation space requirement is an outdated notion in our view. It is outdated because the whole purpose of having residential

space and recreation space in a residential project is really not necessary where we have lively entertainment and recreation rich downtown, which we now have developing today.

And certainly it is the intention of the regulations that the residential space will support those entertainment uses that are required as preferred uses in the downtown, and in order to support those uses, it really does not make sense to require a developer to provide for competing recreation space within a project.

We believe that the project meets the legal requirements for variance relief in this case. The site is unique and exceptional in that it is the only private and assembled site in Chinatown of sufficient size to implement the downtown housing planning goal of establishing a residential link between the Mount Vernon triangle area where the City is seeking a concentration of residential uses, and the PADC quarter area to the south, where a good concentration of residential uses has already been developed.

A strict implementation of the residential recreation space requirements as I indicated before would preclude our ability to provide that link. It would also impose an undue hardship on the applicant. It would adversely impact the project's economics, and would preclude the opportunity to meet the housing goals of the City on this site.

The retail requirement would also adversely affect the project economics, and we will have expert testimony on that

issue in a moment from Eric Rubin of the Madison Retail Group.

At this time, before we proceed with our first witness, I wanted to just make a couple of corrections in the materials in the record. First of all, I have already covered that the applicant has changed.

The supplemental statement also that we submitted also refers to 209 units in the project, and it is actually 203 now. They have consolidated, and made some larger units in the project.

We also have a little bit of confusion with the plans that were submitted. When we first submitted the plans back in May, we had not fully developed the floor plans, and those plans have now been refined.

We submitted updated plans with the Office of Planning report and those are the plans that we hope that you will refer to today to avoid confusion when the architect speaks.

With that, unless there are any questions at that point, I would like to go ahead and qualify two of our expert witnesses, and then we could proceed with our first witness. The first witness that I would like to qualify is Eric Colbert.

He has presented testimony before this board before. He is an expert in architecture and he is a licensed architect in the District of Columbia, and he has been qualified by this board before. So I would ask that you accept his qualification again.

VICE CHAIRMAN SOCKWELL: Does anyone have questions of Mr. Colbert, or do we accept him as an expert in the field of architecture?

MEMBER RENSHAW: I move that we accept him.

MR. MOULDEN: I second.

VICE CHAIRMAN SOCKWELL: So moved.

MS. GIORDANO: The second witness that I would like to qualify now is Eric Rubin. He is an expert in the downtown retail leasing market. I have just handed in for your reference a summary of his qualifications.

He has not appeared before this Board before today, but the Board is welcome to ask him questions after they have reviewed his qualifications.

(Brief Pause.)

VICE CHAIRMAN SOCKWELL: Mr. Rubin, you mentioned a project downtown. What was your problem with that?

MR. RUBIN: I was a tenant representative for the restaurant at the location.

MR. HOOD: Mr. Rubin, have you ever testified in front of any board or commission?

MR. RUBIN: Yes. I was involved as a consultant for the Washington Convention Center, retail consulting for the new convention center and the retail requirements for it.

We did testify in front of their board, and also the neighborhood ANCs, and all parties that were interested in the

retail in that area.

VICE CHAIRMAN SOCKWELL: So you were with Smithe for a while?

MR. RUBIN: Smithe-Braden, which no longer exists as a company. It had a long history from 1930, but what was Smithe-Braden is now Grubb and Ellis.

VICE CHAIRMAN SOCKWELL: All right. If the board members are satisfied that Mr. Rubin's experience and expertise are not to be questioned, then we would accept him as an expert witness in the field of real estate for the purpose of this hearing.

MEMBER RENSHAW: I agree.

VICE CHAIRMAN SOCKWELL: All right.

MS. GIORDANO: Mr. Chairman, I also submitted one additional document into the record. It is a copy of a subdivision plat that was recently recorded within the last week for the site. So there is a new lot number for the site.

I think it would probably lessen confusion in the future if we used that new lot number. It is lot 40, and it substitutes for all of the lot numbers that appeared in the notice and that is in our statement.

VICE CHAIRMAN SOCKWELL: And in some of the drawings, it was difficult to see the total extent of the lot, north to south, and that clarifies pretty much everything. Thank you.

MS. GIORDANO: All right. We are ready to proceed now if you are ready. Our first witness this morning is Matt Birenbaum of Avalon Bay Communities, and Mr. Birenbaum is just going to give you a little bit of background on Avalon Bay and their intentions with respect to the site.

MR. BIRENBAUM: Thank you. I am pleased to be here this morning. My name is Matthew Birenbaum, and I am vice president of Avalon Bay Communities.

We are a publicly traded real estate investment trust, and traded on the New York Stock Exchange under the symbol of AVB. As a company, we own approximately 40,000 apartments and we concentrate in the northeast corridor from the Washington area and north to Boston, and on the west coast in California, northern and southern California, and in the Seattle area.

As a real estate investment trust, we are developers, builders, managers, and long term owners. Our business is providing ongoing financial returns for our shareholders, and so unlike subdevelopers, which are more of a merging builder type of model.

As a company, we generally and hold things for our own account in the long run. As a company, we are very focused on urban development in downtown areas. We recently completed the first new rental apartment building constructed in downtown San Francisco in the past 20 years in the South Market District.

We are working on projects, numerous projects, in

the New York area, and several projects in the greater Washington area. This will be our first development in the District of Columbia, and we are very excited to be part of the renaissance of living downtown.

We do own one other community in the District at 4100 Massachusetts Avenue, Northwest, and that was a community that was developed by another party, and that we purchased in the mid '90s. And I will be available for any questions. Thank you.

VICE CHAIRMAN SOCKWELL: Any questions by the Board Members?

(No audible response.)

VICE CHAIRMAN SOCKWELL: All right. Ms. Giordano

MS. GIORDANO: Okay. We would like to move on at this point to the project presentation by Eric Colbert.

MR. COLBERT: Good morning, Mr. Chairman, and Members of the Board. I am very happy to be here this morning to describe our project. This is actually exciting for me because the site is right across the street from my office, which is located in the same area complex, and we are in the old girls Catholic school, and there is a church next door, and there the rectory to the north of that.

And that, along with the General Accounting Office, is what is going to be directly across the street from our site. Then diagonally across is the Pension Building, the Building Museum. Directly to the north is a hotel currently called the Red

Roof Inn, and we will actually be an addition to that building.

And then on the south side there is an existing store building, where there is a Burger King on the lower floor, and some law offices above that. This map that I have mounted on the board shows the extent of the Chinatown area.

As you can see, we are kind of at the bottom of it, and H Street being the main Chinatown commercial corridor, and so in addition to that, because of our proximity to the Pension Building, we are under the jurisdiction of the United States Commission of Fine Arts, which we have met with the Fine Arts Commission three times and obtained approval for this building as it currently is shown on these drawings.

And in addition to that, we met with the Chinatown steering committee and design subcommittee on several occasions, and just recently had unanimous approval for the design that we have incorporated into the project.

And this is a rendering. It is a 12 story building, and on the upper floors, the typical floor will have 19 apartments, and then on the top floor, we have combined a few, so that the total apartments is 203.

And then on the ground floor, we will have a combination of -- there is no residences on the ground floor, but we will have space for the apartment occupants there for an exercise room and a small room for a business center.

And then other rooms for the concierge and the

business office to run the building, and all the additional space that is left over, on the southern side, we have 7,000 square feet for a commercial space that Eric Rubin is helping to lease.

And then on the north side, we have an 1,800 square foot space which will probably be a professional office. This is a drawing showing the north and south elevations, and this is the existing building on the south side that has the Burger King, and then you can see our elevation extending above that.

These are some boards that describe some of the designs that we are incorporating in order to enhance the building in a way that makes a statement about the fact that it is in the Chinatown area, and one of the first things that we are doing here is we have this drawing that shows the Chinese pavers that we are going to be incorporating into the sidewalk.

And they do have these in other areas of Chinatown, but the number of these -- we are actually having all 12 signs of the Zodiac at points along the sidewalk, and is as many times more than what you see in other areas of Chinatown.

I would also like to point out that these plants -- we were working with a Chinese landscape architect, Peter Lu, of Lu and Associates, and he was very helpful in incorporating the different Chinese elements in the building.

Some of the other elements that we have incorporated include Chinese planters that we are going to have on either side of the front entrances to the building. We also have

a six locations the Chinatown lantern that we are going to incorporate into the sidewalk.

And in addition to that, Peter helped us design a steel guard rail that will go around the planter boxes that will also connote the Chinese design.

In addition to the landscaping and planting, we are going to -- another thing that I didn't mention is that we are going to be adding quite a number of additional ginkgo trees in front of our building.

And it has been very pleasant for me as a person who spends a lot of time in that area to see the older Chinese folks coming there together and getting the ginkgo nuts off the trees, and that is a real important part of their culture that we are helping to enhance in the neighborhood.

And in addition on the building we have added architectural ornaments, and this shows the sequence, having worked with the Chinatown subcommittee on the design, on a railing design, and we have quite a bit of that enhancing the entire facade.

This is a blow up of several points along the top of our building, and in addition to that, we have these guard rails going all the way up and down in several places along the facade.

And what we have done here is that we have evolved with the help of the Chinatown steering committee members a guard

rail design that will be very strong on the entire -- this side of the building that will help enhance the Chinese design character.

And then in addition to that, we are also adding other Chinese elements. For example, above the front door, we are going to have etched glass windows going all along the front that have a very strong oriental character. You know, directly derived from windows in historic Chinese buildings.

And in addition to that, at four points along the facade of the building, we are going to have canopies for the use of spaces, and those canopies will have a very dominant Chinese lettering in addition to the English.

And also in addition to that, we will have Chinese lettering that will say the name of the building in Chinatown in front of our building. Another or some other additional aspects of our Chinese design of the building include the fronts of the bays which have the panels, and the form of these panels and the way that the corner is rounded is something that is a motif that is very common in Chinese design.

In addition to that the entire base of the building, the outline of the base has been -- the profile of it was derived from the base of the buildings and sculptured in China garden panels.

This is a plan of the first floor of our building, and on the south side, which faces more the government buildings, we are going to have a lease space there that is 7,000 square

feet. This is our lobby, and the elevators, and trash room, and then we have a lounge here and a business center.

And then this will be the leasing and concierge's area, and then we have a fitness center here, and a relatively small residence storage. So essentially this is another 1,800 square foot lease space.

That, along with the 7,000 square foot space on the south side -- in other words, we are taking a minimum programmatic area that we absolutely need to support the 203 apartment building, and putting that on the ground floor.

And then everything that is left over is what we are providing in terms of the preferred uses, the non-residential uses. This is a drawing of our typical floor plan, and as I mentioned it has 19 apartments on a typical floor, and with bays facing 5th Street, and on the rear side we have inset valvings.

And the building will ungulate in and out a little bit to help give it the classical artifact effect that was approved by the Fine Arts Commission. And my last document here is a roof plan, and we are committed to providing 5,000 square feet of roof deck, and actually based on my experience as an architect who specializes in residential construction, and not only new construction, which is a more recent thing for us, but also we have also been renovating a lot of older apartment buildings, and on many of those one of the parts that we have been doing is adding roof decks.

And based on the size of this building, at 5,000 square feet, this roof deck is much larger than one that we have been providing for apartment buildings, where there is an existing building and they have asked us to add a roof deck.

So I feel that the client is really providing a lot of space there, and I term it as recreation space. So we have 5,000 on the roof and then a thousand square feet on the first floor in the exercise room that I pointed out when we were looking at the first floor plan. Any questions?

MS. GIORDANO: If I might just interject for a moment and just clarify. With respect to the space that we are providing for preferred retail uses, it is the 7,500 square foot space. I'm sorry, 7,000 square foot space.

The 1,800 square foot retail space is the one that we would like the flexibility to lease to a non-preferred retail or commercial tenant if we are not able to lease it to a preferred tenant, and Mr. Rubin is going to explain the difference between preferred and non-preferred, and how the market is likely to influence that ability to lease that space.

VICE CHAIRMAN SOCKWELL: Would you prefer that we -- well, we can wait until all of your witnesses have spoken before we cross-examination them, unless the board wants to ask questions now. We can wait. Thank you.

MS. GIORDANO: All right. So we will proceed with Mr. Rubin then.

MR. RUBIN: My name is Eric Rubin, and I am with the Madison Retail Group, and I think you for having me here today. What I was asked to basically talk about is to kind of give you a brief overview, and for me that is sometimes very hard to do because I am pretty enthusiastic about what is happening with the retail climate here in the District of Columbia, especially in the downtown right now, but I will try and keep it brief.

If we look at downtown in general, in our terms, in real estate terms, downtown would be defined basically as 15th Street, Northwest, to about 4th Street, Northwest, where we are here; and Pennsylvania Avenue to the south, and Massachusetts Avenue to the North.

If we look at what has been evolving over the course of the last five, and in some cases 10 years, we are finally at a point to where we are seeing where retail is finally starting to catch up with the rest of the development activity that is going on.

Where basically if you look at where there has been a consistent flow of retail, it is basically at 12th and F right now. I think as we see things continuing to evolve that we are starting to see what really is a reemergence of our primary streets and our secondary streets, as far as retail is concerned.

I think what you all probably hear a lot of, and what we will tend to market to retailers, is the primary streets,

F Street from 15th Street, to the MCI Center basically, and then 7th Street, from Pennsylvania Avenue up to the new convention center, and hopefully beyond as the new convention center comes on line.

We also see the emergence of some of the secondary retail streets. When we look at 5th Street as a street for retail, there is some problematic issues with, say, primary versus secondary. The problematic issue with 5th Street is that the street is primarily dominated by public buildings that have very little or no retail at all.

And what I think makes the Avalon Bay project a great opportunity for us is to basically create retail space that will serve as a neighborhood amenity to not only the residents in the building, but the neighbors there.

And a lot of the retail that would primarily be needed or that would go there primarily would be neighborhood type retail. That means basically neighborhood cafes, hair salons, services, and why we are asking for a variance to possibly non-alternative, non-retail use may be more commercial uses, say an accountant's office, or a law office that wants to be on the street and that wants to interact with the street, with customers coming in off the street.

It is very much like retail used to be, and a lot of these big offices that we have today, a lot of them started on the street front, and we see that this is a great opportunity to

maybe find a service type of business, like a doctor, that could serve the neighbors and the residents of the building.

And I think it is also a great opportunity, because our primary streets of F Street and 7th Street, we still have a lot of work to do on them. There is a lot of leasing, and there is a lot of convincing to tenants, national and local tenants, that that is the place to be.

But we are seeing the rents go up significantly in those streets, because they are being touted as the primary retail streets. And 7th Street especially being more geared towards entertainment retail, and the rents tend to be higher there.

And 5th Street and the Avalon Bay project can be a great opportunity as we feel for local entrepreneurs that have businesses that want to do something that would both serve as an amenity to the building to keep the residents happy, because those are the primary customers, and the neighbors.

It is a great opportunity for them to be put in the business, and also the rents on 5th Street will also probably be significantly cheaper than what they would be on 7th Street.

And this is an ongoing issue that we will probably have to address later on, and especially with a lot of local retailers, because it is becoming very difficult for them to find locations because of landlords' demands in the market and the higher rents that are asked for.

But this would be a great opportunity for local

neighborhood type of retailers to service this project and the surrounding neighborhood, as well as the non-related commercial uses that we could put that could also be a great service for people to just walk in for convenience purposes.

MS. GIORDANO: That concludes our testimony, and we would be happy to answer any questions.

VICE CHAIRMAN SOCKWELL: All right. Board Members.

MEMBER RENSHAW: Yes, I will start out with some questions for you since I know that that spot is close to the Metro Building, and to the south two blocks.

And I believe that is exactly where I had to park my car when I had an appointment at Metro the other week. So I will be sad in one sense to see a service parking lot go. They are hard to come by. Which leads me to the question of how much parking are you providing.

MR. COLBERT: We are actually providing about 150 spaces, which the requirement in this zone is one space for every four dwelling units. So we are providing more than three times the zoning requirement.

MEMBER RENSHAW: Is that going to be available for public parking, or just for those in the building?

MR. BIRENBAUM: We are examining that now. The first purpose of the parking is for the residents in the building, but to the extent that there is demand that can support a more managed parking facility, then it could be opened to the public.

MEMBER RENSHAW: And where do you access the parking from; from the back of the building or from the alley?

MR. COLBERT: Yes, this is the first floor plan and this is the parking garage entrance, which is very close to G Street.

MEMBER RENSHAW: Let me know how to get in there when you are finished. Thanks.

MR. HOOD: Mr. Colbert, I just have a brief question. The signs identifying the complex, where is that going to be?

MR. COLBERT: Yes. Actually, I don't know if this is very visible, but what we are planing to do at this point is to have the words "Avalon" and they haven't made a final decision about the name yet.

But it looks like it will probably be Avalon at Gallery Place on the stone above the front door. And in addition to that, it will also be in Chinese in that location.

MR. HOOD: Okay. I am treading thin water here. Maybe I should yield to my colleague who is an architect, but to me looking at this -- and I heard you say that you are going to add some additional trees, because what you have here looks like it is a little -- I don't want to use the word naked, as that is not fair. But how many trees would you propose to put in front of the complex?

MR. COLBERT: I think right now there are only

about three, and we are going to be having eight. So the actual spacing here is the maximum that we can provide given the D.C. requirements towards tree spacing. In other words, we could not get any closer with the trees than what we have shown.

MR. HOOD: So in other words, four is probably the max that you can do?

MR. COLBERT: Yes, an additional four.

MR. HOOD: An additional four, and so a total of eight?

MR. COLBERT: Right.

VICE CHAIRMAN SOCKWELL: You see, I think the elevation -- if I might interrupt -- is not indicative of what the plan shows, in terms of numbers of trees.

MR. COLBERT: Yes, the rendering just shows existing trees, but after that, we worked with our Chinese landscape architect, and we have added four additional trees. And I put this drawing back up because that is what these points represent, these boxes on each side.

MR. HOOD: Okay. No further questions. Thank you.

MR. MOULDEN: Was the landscaping approved by the Fine Arts Commission also?

MR. COLBERT: No.

MR. MOULDEN: Okay. Was there a separate landscaping plan that was submitted then?

MR. COLBERT: We will have to -- we will be filing

for the final construction documents and those details will have to be approved by the Fine Arts Commission.

MR. HOOD: Okay.

MR. MOULDEN: And my next question deals with density. Part of this application request is for a variance for the density for the FAR and the height. What is basically driving your request for an increase in density? Is it the parking?

MS. GIORDANO: The application itself -- the density is a matter of right, and the height is a matter of right, and the FAR of the total project is matter of right.

It is the density of the preferred retail requirement that we are seeking an adjustment in, and then the residential recreation space requirement, which are geared to FAR. So I know that it is confusing.

MR. MOULDEN: Correct. So what is basically driving that?

MS. GIORDANO: The residential recreation space requirement is approximately 30,000 square feet of recreation space in the project, and 50 percent of which, about 15,000 square feet, has to be provided outdoors.

The footprint of the roof -- and this is where most projects include that residential recreation space -- is not even sufficient to meet about half that requirement. There is this occupancy, which is about 80 percent, and that is a matter of right.

And the site backs up on to an alley, and a lot of the rear yard area is devoted to access. So there is nowhere to put that residential recreation space on the lot other than on the roof. And we provided the maximum that we can on the roof without interfering with the mechanical requirements.

So we have done what we can with the residential recreation space requirement, but we can't meet the maximum. And as I indicated before, I think that that maximum requirement was probably -- you will concede -- to begin with in the DD overlay.

We just probably never really sat down and analyzed it when the DD overlay was adopted, and increased the residential FAR maximums on these sites. The residential recreation space was not adjusted accordingly.

Now, with the retail variance, we are providing a 7,000 square foot floor space for one preferred retail tenant, and there is one more space left over after we provide the lobby area that is needed for the residential building, the fitness center, the conference center, which is a small area where tenants can use computers, which has become sort of a given in a high-end residential building.

And after we provided that space there is only an 1,800 square foot space left over for additional commercial use, and it is that space, because of its small size, and because of its location adjacent to the northern end of the building where there is not as much retail or office use surrounding, that we are

concerned we may not be able to get a preferred retail tenant.

We think that it is more likely that we could get a local serving, a small law office, or doctor's office, or something of that nature, which will help provide some street traffic, which is the point of the preferred retail uses.

But it does not technically meet the preferred retail requirement. The preferred retail uses are listed, and it is somewhat arbitrary. It is an arbitrary listing of uses, and those uses are not listed.

So we wanted the flexibility with regard to the 1,800 square feet, and to lease it for an office tenant if we cannot find a preferred retail tenant. And then we need the overall reduction because there is nowhere else in the building to put any additional retail use other than to go up to the second floor, which is not viable, and would preclude some of the residential space that we are providing.

MR. MOULDEN: Where would your loading and delivery area be located?

MR. COLBERT: That is along the alley, and we have a service and delivery space here, a 55 foot loading bay in this location, and another loading area here.

VICE CHAIRMAN SOCKWELL: All right. I have a few questions to ask. The first one is that you spoke of the ginkgo being provided as the tree, which is probably the designated species, but the designated species for D.C. is a ginkgo male.

You are talking about female ginkgoes, which will be producing fruit.

And I do not believe that the ginkgo female is currently on the recommended list. I grew up in Adams-Morgan, and we had a multitude of them all along 18th Street, and at certain times of the year they are very aromatic, to say the least, plus you have to walk over the fruit as you go by.

But I don't know if the ginkgo female is an acceptable species anymore, and you might want to check with Bill Beck at the tree division.

MR. COLBERT: We will check that.

VICE CHAIRMAN SOCKWELL: The second question is how do you plan to attract residents of Chinese descent since there are so many features to the building which represent valuable elements in the Chinese community's heritage.

MR. BIRENBAUM: I can speak to that. WE have had numerous discussions with the Chinese community on the design elements of the building, and which Eric reviewed, and as part of that, we have also talked about how we can make our presence known in the Chinese community and are developing a plan for outreach to that community, including advertisements in Chinese language newspapers, posting of notices in businesses, throughout Chinatown.

As well as I think that anybody who lives or does business in that area as construction starts will certainly become

aware of the activity, and we will have obviously leasing staff available.

But we are planning to do outreach to the community in order to try and extend ourselves to the community as much as we can, and incorporate ourselves within the neighborhood.

VICE CHAIRMAN SOCKWELL: Because the Wah Luck is probably the only major residential property for the Chinese community within Chinatown, and it would be prudent of any developer to research the facilities and activities provided in Wah Luck House to make sure that such a building as this would not be sterile, in terms of its outreach to that community.

And something -- and nothing was discussed in your presentation -- ornamentation was discussed, and mostly exterior ornamentation, but nothing of a programmatic nature.

And I would think that that would be very important for us to see, because part of bringing the "Living Downtown" back into Washington is to be able to accommodate the residents that are there now, and to bring back the character that is often missing from neighbors.

And we can talk about that a little bit more, and also the leasing and marketing space appears to have been provided on the high profile side of the building, and on the principal facade, where one might seek more of a retail or commercial character, rather than placing it in a less prominent location.

Because it is really just a function of management,

and a short term function for the tenants when they are moving in and needing things, and then it would be the staff support area, and it really shouldn't be on the front of the building, wasting potentially valuable retail commercial space.

The next thing that I wanted to speak to was that in the zoning ordinance, and this has been argued for many, many years, in order to be an addition to an existing building, there has to be a connection, and that connection is not shown in the drawings that were presented to us.

And, in fact, that connection would compromise the 1,800 square foot retail space that is on the north end of the building, because the connection, in order to work, cannot be below grade. It has to be at the principal facade.

And we found -- and since we have done numerous buildings that were additions, it is often been distorted as to -- or let's say difficult to achieve a compromise as to what that connection should be.

Should it be a connection between principal lobbies? Should it be a connection acceptable going into a stair? Is it a connection that is a meaningful connection, and the zoning ordinance is a bit silent on exactly what it means.

So I want to know what you plan to do with that.

MS. GIORDANO: Okay. I am going to ask Eric if he would point out that connection, and note that we have reviewed this issue with the zoning administrator.

VICE CHAIRMAN SOCKWELL: Mr. Johnson?

MS. GIORDANO: Yes.

MR. COLBERT: Actually, the plans do show a door. There is an existing door on ours for the hotel, and so when we designed that, that's the reason that we had that there, because we knew that we had planned it so that we could do a division later.

So, you know, if this is a professional office, there will be access from that space into the hotel.

VICE CHAIRMAN SOCKWELL: What is on the opposite side of the door as you show it now, and as the architect of the hotel you should know.

MR. COLBERT: There is a corridor there that goes -- there is a restaurant, and then leads to the lobby of the hotel.

VICE CHAIRMAN SOCKWELL: All right. Because the drawings that were originally submitted on the -- well, the ones that I have here in front of me, which are actually the latest drawings, do not show at the first floor a connection at all. These are the revised drawings.

MR. COLBERT: Well, we will have a door there.

VICE CHAIRMAN SOCKWELL: Let's talk about the requested relief. Basically, the relief from the residential recreation space would be the provision of 5,000 square feet versus the 15,525 square feet.

MS. GIORDANO: It is actually 6,000.

VICE CHAIRMAN SOCKWELL: That is outdoor recreation space, which would only be 32 percent of that which is required under the "Downtown Development District."

And your total space would be 6,000 versus 31,050, which is only 19 percent of that which would be required under the regulations. And although balconies are not considered to be recreation space by definition in the code, how many of the units will have private balconies?

MR. COLBERT: About 50 percent.

VICE CHAIRMAN SOCKWELL: In addition, the retail space that you wish to have before we take out the 7,000 from the 8,800, if we take the 8,800 as originally shown, versus the required 11,920 square feet of preferred use retail, we are only looking at having provided 74 percent of that which would have been required under the regulations.

Now, if we further reduce that to 7,000 square feet, we are at 59 percent. So we are asking for significant relief from that. And in the original prehearing statement, I believe it was stated that the requirements for your management and what not were particularly important in regard to their impact on the ground floor.

And when I look at them, I don't see a great deal of importance to those spaces, in terms of the impact, but just in terms of the way that the prehearing statement was written, it

appeared to overplay the impact of that on the decision to reduce the preferred use retail commercial space.

But those are the questions that I wanted to raise generally, and I am sure that the Chinatown guidelines that will be used will be the ones that Alfred Lu originally generated some years ago. I have an autographed copy from Mr. Lu.

MR. COLBERT: Yes.

VICE CHAIRMAN SOCKWELL: And I want to make sure that anything that is developed within the community truly responds to this community and its supposed needs based on the fact that it is Chinatown, and its real needs based on the fact that so few Chinese live there, along with attracting certainly the broad base of residents to the area.

How are the units to be priced in the general spectrum of market rate?

MR. BIRENBAUM: The units will be basically rented out at market, and the current market in that area would range anywhere from $2.25 to $2.35 per square foot per month. That gives you a range anywhere from $1,200 a month, on up to $3,000 a month, and probably more for penthouse and very large apartments.

VICE CHAIRMAN SOCKWELL: Does this meet the income and space needs of members of the Chinese community that are currently living within Chinatown? Does it attract by any portion of its rental structure those people who might wish to live in Chinatown who might be living in the Wah Luck House at a certain

rate? Are your rates comparable to Wah Luck House in any way?

MR. BIRENBAUM: I believe Wah Luck House is a subsidized development that receives Federal and local subsidies in exchange for reducing the rents. So I am not intimately familiar with that development, but I believe it is a subsidized development.

This will be a market rate development and so I would imagine that the rents are significantly different.

VICE CHAIRMAN SOCKWELL: So it is possible that it might actually freeze out the community completely?

MR. BIRENBAUM: Presumably the people that are already living in the neighborhood, we are not displacing any residents.

VICE CHAIRMAN SOCKWELL: That isn't what I said.

MS. GIORDANO: I don't think that Avalon Bay has done a detailed market study of that small area of the downtown.

There is -- and I am no expert on this, but I believe that you are right that Wah Luck House is the primary concentration of housing for the Chinese in that area.

VICE CHAIRMAN SOCKWELL: At least quality, well maintained, modern housing.

MS. GIORDANO: There is not a large residential Chinese community in Chinatown. It is primarily a business community.

VICE CHAIRMAN SOCKWELL: Right.

MS. GIORDANO: And as Mr. Birenbaum said, there is obviously going to be quite a gap between the subsidized housing, and Wah Luck House, and this project. And there is no plan to really bridge that gap that is consistent with the economics of this project.

VICE CHAIRMAN SOCKWELL: Well, one of the inconsistencies is always that in looking at a community and its infrastructure, both from a visual and a real point of view, you have a situation where a building will address the physical features of something that should be there, but might not have one single resident, or one single truly related individual, descent-wise, living there.

It will bring in new workers who are coming into the city as the city develops into a more revitalized economic core, and yet because it carries the motifs of Chinatown, and because it responds with the exterior features, with the streetscape elements, with the Chinese tiles, with the ginkgo trees -- and of course that is not your responsibility if it is a designated tree.

But all of those elements, along with some program to at least reach out to the Chinese community, should be part of the plan. And I haven't seen anything that let's me believe that this is more than another apartment building built downtown to house new residents, and not try to attract any of the people whose lettering in konge or whatever will be on that building.

And I would like to think that there would be some greater outreach, even to the extent that there is some cultural connection that could be brought to bear to make this meaningful to Chinatown. That's all.

MEMBER RENSHAW: Mr. Chairman, on your comment about the cultural connection, I would suggest that you bring the motifs inside, or in other words, extending the wall space in the lobby area to those artists in the community who might have works that they would like to display.

That's one way of bringing the community inside the residence. I would also like to ask if any portion of this building is going to be set aside for affordable housing, or is it all as you have described it to be, luxury apartments? Would you comment, please?

MS. GIORDANO: We appreciate your suggestion on the wall space. I think that is an excellent suggestion. There is no provision for subsidized housing in this project, or low income units in this project. There is no requirement to do that.

In fact, the zoning regulations in the DD overlay provide some options for providing low to moderate income housing, where you are permitted to do less than the residential requirement if you provide low to moderate income units.

And very often to provide them outside of the DD area, and to actually move those units off site. This project is trying to provide a critical mass, and a substantial concentration

of housing in the downtown, and not to move units off-site, or to decrease the amount of units by providing low to moderate income units in exchange.

That's the primary impetus of this project, and the primary planning goal that it is trying to satisfy, is to get a substantial concentration of housing in this location.

And unfortunately I guess the project can't do all things for all goals. That is the one that we are trying to satisfy here.

MEMBER RENSHAW: I can understand that. I worked on the downtown plan, and I know that one of my first impressions of the District when years ago I came as a visitor, as a tourist, was that on the weekend that the downtown was empty.

There was nothing down here at all, save on the activity on the mall. So I applaud any efforts to bring housing into the downtown area, and as long as it meets with the community's approval of that particular area, then that satisfies me and seeing and making sure that you do have a way of bringing the community into the residence, vis-a-vis perhaps the art avenue.

I would strongly suggest it. It might be a unique effort of this -- of your real estate concern. I also wanted to ask a question about the fitness center.

I take it that this is going to be not a chain operation, and that it is a do it yourself fitness? You just have

the equipment there and the residents use it as they need it or they want to?

MR. BIRENBAUM: That's correct, and in fact it is a very significant amenity to our residents to be able to work out within the building. It is open and available to the residents 24 hours a day with a card key access.

MEMBER RENSHAW: Is it open also to the Red Roof Inn persons or residents? Well, not residents, but visitors?

MR. BIRENBAUM: No, I believe the Red Roof has its own fitness workout room of some kind for the guests.

MEMBER RENSHAW: When Chairman Sockwell brought up the business about the access to the inn, and the 1,800 square feet of space, that entrance/exit is going to really make it very difficult for that space to be utilized well. It is not going to be the most attractive space, I think, to rent.

And so I am wondering do you have any other thoughts as to how this is going to be other than just a connector space?

MR. COLBERT: I think that in the leasing that there may be an opportunity there to come up with a tenant that might gain some benefit from having that additional access.

MEMBER RENSHAW: You have cited perhaps an accountant or a lawyer. Is there any other thoughts? I just see it as kind of a blank space, and I hope that it is not going to be blank space, because that is not what you want.

MS. GIORDANO: Right. That's exactly what we are trying to avoid, is having a dark space there, because we can't attract a preferred retail tenant. That's one of the primary purposes of the variance, is to give us more options so we can make sure that that space is not dark.

MR. COLBERT: I think another market for that space that would play well with both the hotel residents and our residents would be personal service uses, and we find a demand for this in a lot of our communities, whether it is a nail salon, hair salon, a massage therapist, something along that nature.

MEMBER RENSHAW: Sports medicine?

MR. COLBERT: Sure.

VICE CHAIRMAN SOCKWELL: Just one more thing before we move forward, and that is that although you may not be the type of property that will attract a moderate or lower income individual -- and by the nature of what is being provided and what not, that certainly may not be the case.

But it would seem to be the right thing to do to step beyond the box and attempt to attract residents of Chinese descent to come back into the city, and move into Chinatown, and live in a building that embraces some of their cultural heritage and interests, along with everyone else's, for a cross-cultural experience.

And meets the needs of the community as we would like to characterize it, and not a dining Chinatown, but a living

Chinatown. I mean, people go to Chinatown to go to Chinese restaurants, or at least they used to.

Now they go to Chinatown to go to the MCI Center, and to go to barbecue places, and Brazilian restaurants. But there are still no currently developed new projects inviting them to live in Chinatown.

MS. GIORDANO: We will take up that suggestion and I think that Mr. Birenbaum indicated that it was his intention to advertise in venues that would make the project known to Chinese descent individuals. And maybe we need to look a little more carefully at that.

VICE CHAIRMAN SOCKWELL: And hopefully find people who can write the Chinese language so that those can be -- so that those advertisements can be properly dictated, and generated, and disseminated.

MR. BIRENBAUM: Absolutely. I would just add that as a company we do have a lot of experience in urban communities, and in ethnically diverse communities.

As an example, our community that I was mentioning before in San Francisco, we actually had both on the website, and when you visit the community of Fang Shea (phonetic), a guide that would lay out the grid on each of the apartment layouts, because that was a significant target market for that community, and that could well be the case here as well.

VICE CHAIRMAN SOCKWELL: Yes, you could have a Fang

Shea (phonetic) consultant right here to work with each apartment for any Chinese and Americans. I mean, Americans in California are more into Fang Shea than anybody else these days.

But the point is that things like that are ideas. I think we can proceed if there are no more questions from the Board Members to the reports, and I believe we have government reports from the Office of Planning, and do we have a DPW report?

MS. BAILEY: No, sir, we do not.

VICE CHAIRMAN SOCKWELL: All right. I guess if the report that we have is the Office of Planning Report, then I assume that Ellen McCarthy is going to deliver that for us.

MS. MCCARTHY: Yes, Mr. Chairman, I have some things to add, but I am going to have our second newest staff person, Maxine Brown-Roberts, who is going to do the -- since you have our written report, she is going to do a summary of the Office of Planning report.

And then I have some additional observations, some of which deal with some of the concerns that the Commissioners have raised to just add to Maxine's report.

VICE CHAIRMAN SOCKWELL: All right.

MS. ROBERTS: It is the Staff's opinion that the requested variances should be approved, as they fulfill the aim of the residential use in the downtown element of the comprehensive plan to encourage residential use in the Gallery Place/Chinatown area, which is between the Pennsylvania area quarter and the Mount

Vernon Square triangle.

The proposed variance would not be detrimental to the public good and will not impair the purpose or the integrity of the zoning regulation, plan, or map. It is our opinion that it will enhance and fulfill these recommendations and bring some additional activity to that area. Thank you.

The first variance test is from Section 773, which is the residential recreational space, which required 15 percent of the gross residential floor area to be dedicated to residential recreational uses.

It is our opinion that the variance requested for this, due to the narrowness and the -- I'm sorry, due to the narrowness of this space -- that to fulfill this 15 percent residential space requirement is greater than the entire size of a lot, and the opportunities providing outdoor recreational space are limited and non-existent due to the long and narrow shape of the property, and the requirements of loading facilities and access to the parking garage in the rear area.

Secondly, the variance from Section 1705.3 for the preferred retail uses, the applicant states that the proposed development is being combined with the Red Roof Inn.

The location of the proposed project on the east side of Chinatown along the major 7th Street commercial retail corridor, the Staff supports the requested reduction in the retail arts use requirement on the subject property.

There was no support submitted from the ANC to staff on this project due to the fact that there was no quorum. Thank you.

MS. MCCARTHY: I wanted to address in particular -- I wanted to first of all state -- and we would be glad to go into more detail in our report, but I thought that we would just hit the highlights, and then the Commissioners could question us further on any of the variance tests or the specifics of our report.

But I did want to indicate that the Office of Planning strongly supports this project. The Mayor's task force that has been meeting on downtown housing issues is about to propose -- and we are looking to try to get it set down for a public hearing at the next zoning commission meeting on the 16th of October, where the task force has endorsed a bundle of regulatory reforms.

One of the key ones is a relaxation of the recreational space requirement in the downtown area. The requirement is -- here we are in the middle of the downtown in an area that we are attempting to encourage high density housing, because that's the appropriate density for our downtown.

And yet because the recreational requirement is a percentage of the total square footage that is in the building, it penalizes anybody who is producing high density housing, just at the point in which we need every unit we can get, because the

downtown action plan which we are also about to finalize in October, points out that we will be almost a thousand units under the 5,400 unit target that had been set in the comprehensive plan for housing south of Massachusetts Avenue.

So the large number of units on this site is really critical to meeting that target. The fact that they have taken a parcel which is zoned mixed use and instead of putting a large commercial component on here, are doing an all housing alternative was a big boost to try to meet those goals.

So to turn around and in effect penalize them because using the extra density left over from the hotel and the density that was contained on that site means that they have increased their recreation space requirement on a site that is -- it is an unusually good site for housing in downtown, in that it is very efficient.

It is long and narrow, and so in order to provide light and window access, you don't have to do the usual kind of U-shaped courtyard or similar sorts of interventions in your area, in your lot configuration, that you might normally have to do if you had a shorter, deeper lot.

That's great in terms of being able to produce good units with good views that we think will be very marketable for the downtown, but it is bad if you are looking to be able to provide more recreation space, because it means that you don't have to leave a courtyard in the middle of it, and you don't have

to have extra space around it in order to get the distance from the windows or the walls that are in the building next door.

As a matter of policy the Office of Planning would prefer to encourage since we have a building that is downtown, and within steps of the mall, and within steps of many museums and art galleries, bars, cafes, restaurants.

We would rather see the residents of downtown choosing to enjoy their recreation by supporting downtown businesses, and by taking advantage of downtown open space and recreational opportunities, and enlivening the streets, and contributing to the sense of downtown as a place that people would rather be.

And so in this instance we are very enthusiastic about anything that we can do which makes it more economically viable to develop housing downtown, and at the same time not penalizing or not compromising on the goals of the "Living Downtown," which we think in this instance in particular applies to the variance from the recreation space.

With regard to the retail requirement, the Office of Planning is generally very strong on the importance of downtown retail, but what the downtown plan in particular talks about is the importance of unbroken bands of continuous retail space because of the benefit they have to not only providing a variety of goods and services for potential retail patrons downtown, but also because of the effect that they have on the streetscape, of

creating in effect shopping boulevards, and shopping areas.

Well, if this project were on F Street or G Street, there would be no way that we would support a reduction of the retail space; and if it were on F and G Street, I'm sure that the developer would not be interested in that, because there would be a demand for retail along that space.

There would be other retail to be clustered next to, and there would be the advantages of having a critical mass. In this instance, because we are talking about 5th Street, and because we are talking about being across from St. Mary's, which is a beautiful building architecturally, but which is not generating a whole lot of retail presence, and nor is the GAO exactly contributing to the street life.

Nor is the Metro Building to the south of this, or the Pension Building. There is very little else that would support a critical mass of retail in this area. We think that the plans for the space on the corner, which is more approximate to traffic going to the MCI Center, and which is more visible because it is closer to the Metro and to the Pension Building, and to GAO, in terms of potential customers, we think that makes a lot of sense to have and to concentrate the retail there.

We certainly hope -- I think what Mr. Birenbaum was just talking about, in terms of the personal services retail, that would fit in well. It would be an excellent use of that site, those kinds of services.

There are not that many of those kinds of services clustered in the area, but we think giving the developer the flexibility makes a lot of sense. In terms of the issues of Chinese residents and subsidized housing, you know, certainly, Mr. Sockwell, I think we would agree with you that we would like to see Chinatown be more than simply Chinese restaurants.

But I think that is exactly why this building as a market rate building is an important addition to Chinatown, because at this point in time we almost force young professionals, the middle class, Asian-Americans, who might be otherwise interested in being in Chinatown, out into the suburbs, because there is very little housing in that area which is not either subsidized or elderly housing.

And so having a building there which is market rate, and which is attractive, I think has a better chance of serving that potential market, and filling an important nitch.

And lastly, I guess, I would remind the commission that in addition to Wah Luck House, which is D.C. public housing, or subsidized public housing, we also have Judiciary House, which is where this building would be located in between, Wah Luck and Judiciary House.

And we need market rate housing there to help make the connection between the housing that there has been a substantial Federal investment in, and the Pennsylvania Quarter area, and the housing that the district foresees putting a major

push on to develop in the Mount Vernon triangle area.

The "Downtown Action Plan" which I alluded to has recommended as one of its first action steps that the District issue the request for proposals for housing on the Wax Museum site, which is just slightly to the north and east of this project.

And this project, along with some residential that is being planned for Square 517, and with the housing that is in Gallery Place, will begin to make a critical mass in the middle so that you have the Penn Quarter housing clustered around Pennsylvania Avenue and going up the 6th and 7th Street corridor, and you have this housing slightly to the north and east of that, between Gallery Place and the Avalon Bay project, and then you will have the substantial concentration of housing in the Mount Vernon triangle area, which we think planning wise makes a lot of sense in their locations.

And that it is important to have market rate housing mixed in with the subsidized housing which is already there. So, thank you very much, Mr. Chair.

MR. MOULDEN: This question is to the Office of Planning. I was concerned with this residential requirement and the great concentration to have housing downtown. Is that something that should be looked at in the zoning ordinance that has had these issues come up before and other major developments in meeting that 15 percent requirement?

MS. MCCARTHY: Yes. There will be -- I know of at least two other cases besides this one, that if we can't hurry up and do something about the residential requirement before the zoning commission, your time will have to be taken up in hearing these cases, and that's why we want to push for the October setdown.

And that's because it is everybody that is looking at developing housing downtown, especially those who are in the C-2-C and C-3-C areas, are running up against the difficulty of providing this space.

You know, the rest of the package would also permit things like -- since the DDD essentially establishes a 130 foot height limit for all -- both C-4-C and C-3-C, and C-2-C, of permitting people to increase the density of housing provided on the site, because the floor to floor heights that are needed for office are substantially greater than for housing.

So you can actually pack more housing into the same overall height of building, and that is one of the other pieces of the package that we will be proposing to the zoning commission.

But they are all geared toward saying that we have got a hot housing market now, and we have got a comprehensive plan that established a set of targets and goals for that area. Let's look at our zoning regulations and make sure that there is nothing there that would discourage the construction of that housing.

MR. MOULDEN: So, in summary, I guess this part of

the zoning code presents a hardship for this case and probably others, I guess?

MS. MCCARTHY: Yes.

VICE CHAIRMAN SOCKWELL: I think that regardless of the zoning requirement, the issue can probably be brought into focus in another way. Having lived in a 330 unit apartment building for any number of years, which dwarfs this thing and makes it look like small potatoes, I know the extent to which roof terraces are used, and to the extent to which outdoor recreation space is utilized when it is there, and that is in great expanses.

My building had roof terraces on both ends. It was shaped very much like this one. It was a block long. It also had one of the largest swimming pools in the City, or has I should say, and had a sunken garden, and other amenities.

But very seldom did large numbers of residents take advantage of most of that. They seemed to prefer the roof deck because of the view. But there was very little use of the other outdoor spaces, especially not to the extent that, say, 31,000 square feet in this case would be essentially tremendously used if it were to be produced.

But the idea is that a certain amount of residential recreation space will be utilized, and a certain amount should be produced, and perhaps there should be some mechanism by which the utilization of recreation space has been documented.

Perhaps the planners have something in their research, and perhaps behavioral scientists and social scientists have looked at these things. But right now I do believe that for this project to go forward, and effectively go forward, that a significant reduction would be warranted based on my personal experience with such spaces, and based on the site configuration, and the intention to increase the critical mass of downtown housing.

But by the same token, I think things like pushing the back of house functions into prime store front space are not the way one should do it. I think that the rental office is a rental office.

It is not to be pushed to the front because what goes on in there isn't going to attract people. It could go in another location, perhaps to the north end of the building.

It would probably be even more valid to put the exercise room up front because those things seem to attract people anyway, and if you can't run, watch somebody else run.

But the point is that there are some things that I think could be done to improve the design of the interior, and Ms. Renshaw's request that more attention be paid to Chinese motif and art perhaps within the lobby, and the potential of programs within the building, to entice artists of all types and cultural events of all types that could be fitted into an activity space within the building's public areas be sought.

I think that's what makes a building a community, and that's what makes this building enhance or at least contribute to the potential of redeveloping some of the ethnicity of this community.

Without those things, it is just another apartment building, regardless of whether it is $1,300 a month or $13,000 a month.

MR. HOOD: Mr. Chairman, I would like to call a point at this point. I would be interested in maybe hearing from the rest of the -- if we can kind of move on.

VICE CHAIRMAN SOCKWELL: All right. Well, we have to have -- if there is any cross-examination of the Office of Planning.

MS. GIORDANO: No.

VICE CHAIRMAN SOCKWELL: And we had an advisory neighborhood commissioner here, and is that a report from the ANC?

MR. PERNELL: That is a report from the --

VICE CHAIRMAN SOCKWELL: Mr. Pernell, you can come forward and identify yourself. If we could make space for him at the table, it would be appreciated. If you would identify yourself and your address.

MR. PERNELL: Good morning. My name is Commissioner Daniel Pernell III, and I live at 1132 4th Street, Northeast. I am here as a single member ANC, and as a member of the 6-A Zoning Licensed Subcommittee, and I just wanted to add to

the record.

And excuse me for being a little sluggish today. I have to have treatment for cancer. My cancer has reappeared now for the last three years, and so I am not at my best. Nevertheless, I had an opportunity to meet the Chairman of the Chinatown Steering Committee of Washington, D.C., Mr. Duane Wong, and this meeting was on September 11th, 2000, at the Wah Luck House, one of the first senior citizen buildings for the Washington area Asians of Chinatown.

The Chinatown Steering Committee of Washington, D.C., is a volunteer advisory group to the District Mayor, serving the Chinatown community for more than a decade, by planning, developing, and implementing economic, social, and cultural activities, programs and projects, to improve the enhanced quality of the life in Chinatown.

During the September 11th meeting, Mr. Eric Colbert and Ms. Betsy Heimgarden, and their associates, reviewed and discussed the proposed high-rise 200 unit apartment building in a DC/C-2-C district at the premise of 770 5th Street, Northwest, in Square 486, Lot 35, 818, 819, 821, 822, 823, and 827.

The square also covers the west end alley close pursuant to D.C. Law 1318 that discussed the designs of the proposed building. We heard a status report from Mr. John Foundersmith concerning the legal seafood signage, and future projects for the Chinatown design and review.

And finally we heard from Mr. Peter Lu concerning Chinatown's park. The Chinatown Steering Committee and the U.S. Park Service has already approved the park design which the Chinese Consolidated Benevolent Association has undertaken to build and to benefit the local Chinese community, and the surrounding community of Ward 6 and 2.

Members of the Steering Committee went into great discussion concerning what the new proposed project could bring for the Chinese community and its senior citizen constituents.

Ms. Weingarden interjected by naming amenities that would be included in the development of the building, and Ms. Twong Thai felt that Ms. Weingarden's delivery of amenities were not clear. Those amenities exclude the Chinese community.

After the discussion, I witnessed the Chinese Steering Committee members make the motion to support the design and modification of the facade only, and at a later date they would like to meet with the Chinatown community and developers on the project to continue dialogue concerning what amenities and support of the developers could do for the Chinatown community.

But members of this board and zoning commission, this does not stop here. In 1996, Mr. Wong, Chairman of the Chinese Steering Committee, and Ms. Linda Lee, Chairman of the CCBA, which is the Chinese Consolidated Benevolent Association, came together and started the first Asian police substation in Chinatown, whereas they raised some $3,000 or more from members of

the businesses and residents of the Chinatown to fund the station and by necessary office supplies.

Crime in Chinatown dropped by more than half. Both organizations are still continuing to train, educate, and assist the Chinatown community in economic jobs and living opportunities, with no help from the city or new development coming into the Chinatown community and the District.

Whereas, the District of Columbia's Comprehensive Plan or Act of 1984 became D.C. Law 5-76 in April of 1984, this law states that Chinatown, downtown's only ethnic cultural area, should be protected and enhanced, and therefore it should receive special treatment.

Its role as a major regional and tourist attraction should be strengthened by clear linkage to public transit and adjacent area by developing a strong Chinese image in its building facade and building improvement, and by attracting new development to reinforce its economic viability.

In 1985, D.C. Law 5-187 further strengthened this language by designating Chinatown as a special treatment in order to institute design standards that enhance Chinese treatment or in order to institute design standards that enhance the China characters of the area.

These standards were developed in 1987 and published as the Chinese design guidelines. Chinatown residents say they want redevelopment and development in Chinatown, but not

at the cost of losing one of their citizens in the area.

They feel that the development proposals coming to the Chinatown can support Chinatown by sharing the costs of additional police officers in Chinatown at the substation on 8th Street, Northwest, and by supporting the Chinatown community with adequate and inexpensive social recreation for their senior citizens by supporting the Chinatown community with economic training and job assistance.

And by continuing to have dialogue with the Chinese Steering Committee members and the surrounding community of Chinatown. Members of the Board, please pay special attention to the residents of Chinatown, because no one else is. Thank you.

VICE CHAIRMAN SOCKWELL: We appreciate you taking the time when you are not feeling your best to come down and speak for the people that you represent.

MR. PERNELL: And may I say this, Mr. Chair, that the 6A Commission is one of the few commissions in the District of Columbia that has been overburdened with issues of this sort, especially when it comes to affordable housing and displacing not only Asian residents in the District, but other ethnic groups and minorities.

We feel that these developers have a responsibility, and the Asian community has expressed that they do not want to just accept the facade of a building and dump it in our community. But they want to touch it and they want to feel

it.

I have visited China, and Japan, and Korea, in February with the Unification Church, and this is the kind of feeling that they are feeling. The Africans have the same feelings. They want to be able to feel and by feeling this building, they want to be able to use the facility at low cost, or no cost at all.

The closest facility is the Mount Vernon Place United Methodist Church, who allows the Chinese community, which is at 900 Massachusetts Avenue, to come over there. Most of those seniors at the Wah House are unable to walk that distance, especially on days when it is raining as it is now, because of different types of ailments.

So we feel that this building, which is just a few blocks away from the Wah House, will be very beneficial, not for a site and accommodation of individuals coming to the area, but also if they were able to use those facilities. Thank you.

VICE CHAIRMAN SOCKWELL: Thank you. As this is a report by a single member, a district commissioner, and not an ANC report, it is not granted the great weight that the Advisory Neighborhood Commission report would be.

But we listen to and understand, and hopefully the applicant has paid attention to the issues that you brought forth in your report, and will be sensitive or more sensitized to the needs of the community beyond those previously established in his

communications with the community to date.

MR. PERNELL: Absolutely.

VICE CHAIRMAN SOCKWELL: So thank you very much. Are there any board questions of this gentleman?

DIRECTOR KRESS: Or cross-examination.

MEMBER RENSHAW: No cross-examination.

VICE CHAIRMAN SOCKWELL: Thank you very much, Mr. Pernell.

MR. PERNELL: Thank you.

VICE CHAIRMAN SOCKWELL: And I do think that some of the things that Mr. Pernell raised have been discussed previously during this hearing by this board, and that this just reinforces the idea of connective relationships.

All right. At this point, do we have parties or persons in support who would like to testify? If so, would you step forward, please.

DIRECTOR KRESS: This is an organization, and we are allowing organizations five minutes, and individuals, three minutes.

VICE CHAIRMAN SOCKWELL: All right. The three of you represent an organization?

DIRECTOR KRESS: You need to identify yourselves and what they represent.

MS. NEUHAUS: Going left to right, Mr. Chairman and Members of the Board of Zoning Adjustment, ladies and Gentlemen,

my name is Joanne Neuhaus, and I am here today as a representative of the Pennsylvania Quarter Neighborhood Association. The Pennsylvania Quarter Neighborhood includes the area of downtown bounded by 5th Street on the east, G Street on the north, Pennsylvania Avenue on the south, and 10th Street on the west.

The Pennsylvania Quarter Neighborhood Association was created in 1988 by five private developers who were including residences in their developments in the Pennsylvania Quarter area, and the Pennsylvania Avenue Development Corporation, more commonly known as PADC.

Since the association's inception when I worked at PADC as director of project development and special assistant to the executive director, I have been deeply involved with the Association's initiatives. In 1993, as the area developed, the PADC voted to open its membership to all in the neighborhood.

Today this growing voluntary association has over a hundred merchants, restaurants, property owners, and hotels, and major public institutions, non-profit associations, office tenants, theaters, art galleries, churches, and residential condo associations among its members.

This is certainly one of the few neighborhood associations in the city that is inclusive rather than exclusive. I am here today to lend the association's support to the application of Avalon Bay Communities, Inc., for variance relief to develop a 203 unit apartment house at 770 - 5th Street,

Northwest.

This project is consistent with the City's housing goals for the downtown, and will in fact help to achieve them. When completed the residents at Avalon Bay's apartment project will continue to make downtown a more vibrant community.

It will enhance Chinatown, which at the moment has few residents, and its residents are more likely to be people who will support the arts and retail uses in both Chinatown and Penn-Porter.

I cannot stress how important it is for the City to complete the work that the PADC began in the downtown by facilitating and encouraging new housing development in the downtown like the Avalon Bay project.

The recent real estate recession demonstrated how difficult it can become to achieve a critical mass of housing development in the downtown, and the effects this has on the neighborhood's merchants.

The recession curtailed development in the downtown, and several Penn Quarter retailers, which served the residential community, could not survive without a larger supporting residential presence. The most significant loss was the Landsberg market.

When the market leased space in the Landsberg, the owners anticipated continued development of the Pennsylvania Quarter and surrounding area, including construction of between

500 and 1,000 additional residences on sites both within and adjacent to this area.

When new residential development in the area ceased, the Landsberg Market could not hold on. But we have hoped that with the development of more housing that the neighborhood can again attract retailers who will provide goods and services necessary to maintain a viable residential community.

We now have a burgeoning economy. There is a renewed interest in coming downtown for relaxation and entertainment, and of course there remains keen interest in living in the downtown, which unlike most urban neighborhoods, offers its residents and those who work in the area the opportunity to live in close proximity to major cultural and entertainment uses, as well as opportunities to participate in community activities and events.

Let us not miss this window of opportunity to provide more housing in the downtown. The Avalon Bay project will add a substantial number of new housing units here. These residential uses will help support essential retail arts and entertainment uses that serve the existing residential uses.

The project will benefit the Penn Quarter neighborhood and Chinatown, and help to make Washington the world class city that it should be now and in the future. Thank you for giving me this opportunity to present this testimony. If you need copies, I have them.

VICE CHAIRMAN SOCKWELL: Thank you, Ms. Neuhaus. Are there any questions of Ms. Neuhaus? Any cross? If not, the next witness, please.

MR. WANG: My name is Duane Wang, and I am the Chairperson for the Chinatown Steering Committee. At the September 11th meeting, we approved this design only for this project, because we find out that the developer, that they already studied the Chinese guidelines, and they are working with our subcommittee for two times, and have used tremendous efforts to try and satisfy these Chinese guidelines.

So we welcome this new project for design only, because we don't want you to delay this project. We like this project, and that's why we approved it. Usually, we don't want to approve just for the design. We want to approve the whole thing, including the economic and social, and all those other items.

But I believe that today is the first time that I have come to your board, and I have learned lots of things from here, from nine o'clock to right now, to 12 o'clock.

I find out that we have lots of friends, lots of good board members here, and it is interesting for the community, and interesting for the residents, and interesting for the citizens, and I learned the magic words of connection, and that is very important.

We have got to have the developer have a connection with the community. So I have already negotiated with the

developer and architectural firm, and we want them to know that it is important to come to Chinatown, and they have got to work with us together to have the community in their project, and that is very important.

We have got to work together and make a good partnership, and so I am working on that. I hope that the dialogue with them will continue, and also I hope that the zoning members will help us to make sure that we will have finalized this agreement to submit to you. Thank you very much.

VICE CHAIRMAN SOCKWELL: Thank you very much. Any questions by the board? If not, we are glad that you have had a good relationship with the developer to this point, and hopefully it will be continuing. Any cross-examination of the gentleman? If not, thank you very much, Mr. Wang.

MR. WANG: Thank you.

MR. LYNCH: Good afternoon, my name is Terry Lynch, and I am the executive director of the Downtown Cluster of Segregations. Just some very brief points as to why I have submitted testimony in support.

First and foremost, this project sets two very important key precedents. As Mr. Hood and Ms. Kress certainly know, we have heard time and again from commercial office development saying that you cannot do a privately financed matter of right residential development in the east end and the DDD.

This sets a standard that, yes, you can. You have

a well recognized residential developer who is going to come in, and who is not buying out of the housing requirement, and is indeed exceeding the housing requirement to do a privately financed matter of right residential development in the DDD.

There is a tremendous precedent that is being set, number one, which we hope to use time and again in the future with other developers in the community.

Number Two, the precedent is being set that a new residential development will be situated in immediate close proximity to special needs housing. Directly across the street, we have Mount Carmel Shelter, which provides -- is a homeless facility for many women who are in recovery from substance abuse and mental illness.

On the block immediately to the north we have the Gospel Mission, which is a several hundred bed unit facility which is dealing primarily with the male population, and also many of whom are in recovery from mental health and substance abuse addiction.

So, yes, we can have new housing developments in the immediate proximity to special needs housing. So I think we have two tremendous precedents being set here that we look to use with other developers as they come forward with various projects.

One issue that was not touched on, and I hope OP or OB may provide some additional information on, is that you are

basically taking a back of the house property, i.e., in the back of the MCI Center. It is a surface parking lot. We are dramatically increasing its revenue stream to the District.

You are bringing in 200 residential units, and you are dramatically increasing property tax returns to the District, and income tax returns to the District, and sales tax returns to the District, as well as hopefully construction and employment opportunities, and retail opportunities for District residents.

I think the economic improvement from this property is really significant, and I was hoping that might get quantified, both in terms of job share and new tax revenues that are going to be generated.

Lastly, I want to comment that I will certainly work to the extent that I can with the development community and this particular developer to make sure that they market as aggressively as possible to the members of the Chinese community church, as well as to the other 35 member congregations of the Downtown Cluster of Congregations.

That is a ready and willing audience for new marketing downtown, and we will try and work with them significantly to make sure that they do market to both the Chinese community and other member congregations.

You have a letter from the pastor of St. Mary's Church in support of the project, and I know that Bill Tang, who is the pastor of the Chinese Community Church, who will be very

receptive to trying to work with this developer. So those are just the points that I wanted to make today.

VICE CHAIRMAN SOCKWELL: Thank you, Mr. Lynch. Thank you very much for coming. Any questions by the board? Is there cross-examination by the applicant? Thank you.

Before we take closing remarks by the applicant, just one question.

DIRECTOR KRESS: I'm sorry, but you didn't ask for anyone in opposition. I don't know if there is.

VICE CHAIRMAN SOCKWELL: Well, actually I did at the beginning. There were no opponents.

DIRECTOR KRESS: There are no opponents? I'm sorry. Thank you.

VICE CHAIRMAN SOCKWELL: What is the mix of units?

MR. BIRENBAUM: The unit mix includes about five percent efficiencies or studio apartments, and it is about 45 or 50 percent one bedrooms, and about 40 percent two bedrooms, and then there is a few three bedrooms. Maybe 4 or 5 of those. So hopefully that adds up to close to a hundred percent.

But it is a variety of apartments. The average unit size is about 900 square feet, which is on the large side for a high-rise.

VICE CHAIRMAN SOCKWELL: Yes, it is. Okay. Because I wondered about that. I have one other question, which maybe you can answer and maybe not. The displacement of cars from

the existing lot will be approximately how many vehicles? Has anyone looked at that?

I mean, realizing that the apartments are being provided with a level of spaces based on probably code minimums and maybe a few more.

MR. COLBERT: We are going to have three levels of parking, and I think on the lot now they use valet, but it also includes the alley, which is completely unused. So I think we are probably at least doubling the amount of parking that will be available on the site.

VICE CHAIRMAN SOCKWELL: But instead of it being commuter parking, it will be targeted to this building, and will have some impact on MCI parking for evening events, which would then have to be absorbed elsewhere in the neighborhood, where of course there are new buildings being constructed.

So it may all wash out quite nicely, but I just wanted to ask the question to see if you had any quantification on that. OP didn't make any statements about traffic issues. So I assume that Ms. McCarthy didn't have any.

MS. MCCARTHY: As to traffic issues, no, and actually there are still a number of parking lots on the western half of the site which for the moment, at least, will still be in operation next to the Rock and to the Arena Cafe there, and right next to the hotel there, there are still surface parking lots. This is only on the eastern half of the site.

VICE CHAIRMAN SOCKWELL: That's true, but it is replacing spaces that would be transient spaces with spaces that will not be transient spaces.

MS. MCCARTHY: That's true. There is also under construction in the immediate vicinity the National Academy of Sciences, which is planning an enormous increase in parking, which they have committed to become available in the evening for people who are -- they are actually thinking they will target it not at the MCI Center, but at the cultural institutions, like the Shakespeare and the Willie Namath, and other restaurants and activities in that section of downtown, because the MCI Center, at least at this point in time, is being well served by the parking around there.

And there will be a substantial increase in parking spaces in the Gallery Place project. There are several hundred spaces that will be there that will be serving the retail in Gallery Place, and commuters during the day time, and the residential in Gallery Place, and then the MCI visitors.

So we will net, and we will see a several hundred space increase in that area, only some of which is dedicated for day time use, and some of which will be available for commuters, in addition to a lot of it being available for evening use.

VICE CHAIRMAN SOCKWELL: What is the schedule for Gallery Place to come on line? Do you know?

MS. MCCARTHY: My understanding is that there has

been a snag recently, and I don't know all the details of that. They were planning for something within two years.

VICE CHAIRMAN SOCKWELL: So depending upon your schedule, you guys might all be coming out of the ground at the same time.

MR. BIRENBAUM: That's possible. We certainly look forward to the Gallery Place project moving forward, and we are excited about the impact that it is going to have on the neighborhood.

VICE CHAIRMAN SOCKWELL: Okay. All right. Then I would -- if there are no more questions by the board members, and no cross, we will have closing remarks by the applicant. Thank you.

MS. GIORDANO: I am just submitting for the record -- and Mr. Pernell is not here, and so I can't share a copy of this with him, but just a chronology of all of our attempts to meet with the ANC representatives.

Unfortunately, the ANC is lacking a single district representative for this particular area, and a chairperson, too, also. But we made a great deal or put forth a great deal of effort to try and get an ANC or some ANC input into this project, and unfortunately we are just unable to because of a number of circumstances, including two meetings without quorums, et cetera.

And so just to make the point that it was certainly not a lack of effort on our part that led us to the circumstance

of no ANC report on this project. And in closing I just wanted to say that I think that we have clearly met the legal requirements for the variance relief requested.

Certainly, it is clear that this granting of these variances is going to do no public harm. In fact, it is going to do a great deal of public good in getting this project off the ground, and helping the city to meet their housing goals for this area. And as Ms. McCarthy indicated, currently the City is behind on meeting those goals.

And this project will provide 203 units which are needed to take us that much closer to the goal, and in a location where the City needs this concentration of housing to bridge the gap between the Penn Quarter area and the Mount Vernon triangle area.

So we think that we are uniquely located to make that contribution to the downtown, and the project has been configured to do that because of the unused density from the Red Roof Inn, and the developer's ability to go in and basically self-finance this kind of large residential project without a combined lot partner in a commercial project, and we are able to proceed at this time.

And the intention is to proceed as quickly as possible. In fact, you saw the subdivision plat, and we got that accomplished so that we can proceed with our permit application as soon as possible. We are in a great deal of hurry actually to get

going on this.

We have heard what the Chinese community has indicated, in terms of making the project more user friendly, the Chinese community. We had some ideas along those lines, and we met actually with Mr. Wang last Friday about making a contribution to the park in the Chinatown area that Mr. Pernell mentioned.

And that is something that is being taken up and considered by Avalon Bay at this time. So there will be further dialogue with the Chinese community, and there will be more connection between the Chinese community and this project.

I don't think that you will be disappointed in that, and we ask the board for their support. We would like ideally a bench decision if the board is comfortable in making that decision today, because as I indicated, we are ready to get -- we have started working drawings, and we are going to be proceeding very quickly with a permit application for the project. Thank you.

VICE CHAIRMAN SOCKWELL: Thank you. Well, I think that you have produced certainly a meaningful project for an economic boost within the Chinatown community. I believe that its features have been modified to embrace some of the Chinese history and culture, and that the streetscape has been prepared to embrace some of the Chinese cultural elements.

I believe that it is a market rate building for market rate tenants. I believe that it will enhance the

neighborhood. Anything that is built in that block bordered by G and H, 5th and 6th, will be an enhancement to what has been a blighted area for many years.

I believe that you have seen and heard the outcry of the Chinese community that says we want to be included in more than just the visual imagery of a developed Chinatown.

And it is to the developer's interests in having good will, and seeing the cultural heritage of Chinatown improved, and preserved, that the things that have been done to date have taken place.

And the fact that a dialogue has been established and that can be continued, and that witnesses have come forth to state that that is something that they will work toward, I believe the developer understands his charge.

And that within the limits of economics, good planning, and the need to proceed, he will do what is necessary to create a long lasting and perhaps an expandable bond between the incoming development, and the existing Chinatown residents, and make that infrastructure something that we will be proud of.

It will never be San Francisco, but it does not have to be tomorrow what it is today.

MR. HOOD: Mr. Chairman, with that I will second your motion.

VICE CHAIRMAN SOCKWELL: Thank you. That was a motion to accept, and I think we can go with a bench decision on

this. Would you submit findings of fact to us, or do we --

MEMBER RENSHAW: Do we vote?

MS. GIORDANO: Yes, it will be a summary order.

VICE CHAIRMAN SOCKWELL: A summary order.

DIRECTOR KRESS: We don't need to find if you do a bench decision, and a summary order, we don't need the findings of fact, and --

VICE CHAIRMAN SOCKWELL: I don't think there has been any opposition. I think if anything that there is concern, and that concern is for the development of Chinatown and for the continued dialogue between the community and the development community, and between the existing Chinese community and the development community.

So I move that we grant the variances. Any discussion? We have a second. All in favor?

(Ayes.)

VICE CHAIRMAN SOCKWELL: Opposed? Abstentions? Thank you very much for your time. I thank all of you for your time.

MS. GIORDANO: Thank you.

MS. BAILEY: The staff will record the vote as four to zero, motion made by Mr. Sockwell, and seconded by Mr. Hood, Mr. Moulden, and Mrs. Renshaw, to approve the application with a summary order.

VICE CHAIRMAN SOCKWELL: And special thanks to Mr.

Pernell, who is now here now, to come out for this project, and to voice the concerns of the community, with health issues that were not overriding, but which were certainly significant. We really appreciate that.

We are going to take a break of five minutes to discuss the afternoon schedule.

(Whereupon, the hearing recessed at 1:35 p.m.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(2:05 p.m.)

VICE CHAIRMAN SOCKWELL: We will now go with the application of C. Lillette Campbell.

MS. BAILEY: Thank you, Mr. Chairman. Good afternoon. The last case of this morning is 16598, of the application of C. Lillette Campbell, pursuant to 11 DCMR 3104.1, for a special exception under Section 206 for the construction of an elementary school for 100 students and 7 staff, the building will consist of modular classrooms, adjoining an existing residence, and a studio garage on an alley with off-street parking in an R-2 District at premises 907, 909, and 911 Quackenbos Street, Northwest, and that is Square 2982, Lots 808, 809, 810, 139, 106, 107, 110, 111, and 112.

All those wishing to testify and take the oath, would you please stand. Anyone else wishing to take the oath, please stand, and raise your right hand.

(All witnesses were sworn.)

VICE CHAIRMAN SOCKWELL: Let me ask if there is anyone in opposition to this application?

(No audible response.)

VICE CHAIRMAN SOCKWELL: Is there anyone here in support of the application other than the applicant? Thank you.

MS. BAILEY: Mr. Chairman, and Members of the Board, the staff has reviewed this package, and the application

before you. This is a self-certified project, and we have a report from ANC-4B. All of the postings were timely filed, and the case is ready for you to hear.

VICE CHAIRMAN SOCKWELL: You are Mrs. Campbell?

MS. CAMPBELL: I am.

VICE CHAIRMAN SOCKWELL: Would you identify yourself and you may proceed. And give me your address or give us your address for the record.

MS. CAMPBELL: Okay. My name is Lillette Campbell, and I am the Director of Bridges Academy, at 907 Quackenbos Street, Northwest, Washington, D.C. 20011.

VICE CHAIRMAN SOCKWELL: Please proceed.

MS. CAMPBELL: Good afternoon, Mr. Chair, and Members of the Board. The Bridges Academy is a small independent school that formerly existed as the Academic Enrichment Center. For the past 21 or more years, we have quietly produced some of tomorrow's leaders in our facility.

We have had students, and staff, and family, from more than 40 countries, and most recently this past year, we added Brazil and Mongolia to our heritage stew, so to speak. Our students haver gone on to attend not only local universities and colleges, but we have had students Vanderbilt, Florida A&M, Moorhouse, and so on.

Some of our graduates are doing wonderful things now. One is an engineer with General Motors designing

locomotives, and we have former students who are working in the areas of social work and so forth.

We have had the opportunity to move to other locations, but I am a firm believer in Washington, D.C., and Ward 4, in the Brightwood Community and Georgia Avenue in particular, and we would like to stay right in that area.

Our students attend classes of 10 to 15, and we have a wonderful staff as I said from many, many places. Our design or our plan for this building is in conformity with the rest of the neighborhood. It will be brick and siding, just as most of the homes are in this area.

The cart sort of came before the horse so to speak, in that these modular buildings came available and we purchased them knowing that the lot was formerly used by Safeway as parking, but not knowing that Safeway's special conditions would not pass on to us.

So here we are before you to have your consideration of that petition. I brought with me some information packets about the school so that you can know us better.

And some life-sized conceptual drawings of what our plan is. This is the existing plat of the Lots 808, 809, and 810 on Quackenbos Street, Northwest. These lots will be subdivided, and we have made the application, and we will proceed with that upon your approval adjoining those three lots.

This shows all of the lots involved and the campus effect that it will have. Our main building on Georgia Avenue, the location of the lots of the existing structure, and the modular buildings that will be attached to it.

These are conceptual drawings done by the architect of the proposed classroom structure, and the black area is the existing structure, and the modules would be attached three at the side and two at the back, with a basketball court in the open area, and a fenced play yard. There will be off-street parking as we have indicated.

These are the elevations, side and rear, of the properties; north, south, northeast and west elevations. And this last one is my drawing, and not the architects, of what the floor plan would be for those buildings, with the classrooms, the unit here, and the classrooms there.

Our plan would be to have quiet classes in the existing structure, and computer class, art class, sewing, and things of that nature, a language lab, and the others in the modular units would be normal classrooms for English, Spanish, science, and so forth.

We have been in the area as I said for more than 20 years. We have not had any incidents to speak of. On one occasion I do know that a neighboring business came to me upset because every day my students entered his store and just gave him a hard time, and just disrupting things.

But this was at 3:30 every day, and our school does not dismiss until 4:00. Not only that, our students wear uniforms, and these students were not in uniforms, and so they were clearly not our students.

We cleared that up and we have had a very good relationship with him ever since. Other than that, I think we have contributed to the neighborhood. All of our parents do not live in the immediate area, but they patronize the area.

They go to the businesses and they use the dry-cleaners, and go to the stores and shops along Georgia Avenue. I think that they contribute as much to the neighborhood as those who live there and as the residents.

We are looking forward to this, and I don't think of it as a real expansion. It is a physical expansion, but we are not looking to dramatically increase our student population. We just want them to have more space to do what they are doing so very well. And in a nutshell that's it.

MEMBER RENSHAW: Mr. Chairman, may I ask some questions at this point?

VICE CHAIRMAN SOCKWELL: Yes, you may.

MEMBER RENSHAW: Mrs. Campbell, just a few incidental questions. What are the ages of your 100 students? Do you have 100 students there now?

MS. CAMPBELL: Presently, we have about 80 students in the age category that would be affected, and that is

kindergarten to 8th grade. And we have our preschool students at Emory Church, which is across Georgia Avenue, and an infant center two doors away. It is just the older students that would be in this particular building.

MEMBER RENSHAW: All right. And what are your hours of operation?

MS. CAMPBELL: The school day runs from 8:45 to 4:00 p.m. We do have before and after school care that would be in the main building on Georgia Avenue, and that would start at 6:30 in the morning, and end at 6:30 in the evening.

MEMBER RENSHAW: All right. And are these students dropped off at the school?

MS. CAMPBELL: Yes, they are.

MEMBER RENSHAW: How do they get to the school?

MS. CAMPBELL: Most of them are dropped off. Some take the bus, and some walk.

MEMBER RENSHAW: And where are they dropped off?

MS. CAMPBELL: They are dropped off at the main building at 6119 Georgia Avenue.

MEMBER RENSHAW: And do you have an indent for cars to pull in, or do they just stop at the street? How do you manage that?

MS. CAMPBELL: It is a metered block on Georgia, and they usually just pull in. There are only about 4 or 5 businesses on that block and so it is not usually a problem to

park, bring your child in, and go back out.

We also have parking in the back, and we have 9 or 12 parking spaces off-street on the alley already. We would be adding the additional spaces with this approval. We also already have two fenced play yards with equipment.

MEMBER RENSHAW: All right. Thank you.

MS. CAMPBELL: Okay. One other thing that we have done to facilitate this is that the house next door was once -- and probably still is -- a number of teenage boys there, and perhaps they have grown up by now because things have gotten quieter.

And the house that we bought was filled with teenage boys in foster care, and so I think we have contributed a lot to the neighborhood by purchasing that property. We also gave them stockade fencing to separate the two.

MEMBER RENSHAW: There was a comment in this material that we had about 905 Quackenbos Street, and directly adjacent to you. And has that family signed on? I couldn't find that address.

MS. CAMPBELL: I did not -- I have not been able to catch up with this person. She does work nights and does not answer her door during the day. I have spoken to her brother, who is a co-owner, and he has not objected, but wanted his sister to sign. We just have not been able to see her.

MEMBER RENSHAW: And you talked about the concern

that had been expressed by the architect, and which was to be eliminated with the construction of a privacy fence between the two properties.

MS. CAMPBELL: We have done that already. That is the one that we were talking about, and we gave them -- there was initially a stockade privacy fence between 907 and the Safeway lots that we purchased. We took the fence up and gave it to them, and they have installed it between 907 and 905.

MEMBER RENSHAW: All right. Thank you.

VICE CHAIRMAN SOCKWELL: Mr. Hood.

MR. HOOD: I have just a few questions. Mrs. Campbell, presently you say you are at 6719 Georgia Avenue?

MS. CAMPBELL: That's correct.

MR. HOOD: On the new site, what is on the other side of both public alleys?

MS. CAMPBELL: Okay. There are two public alleys. One is where there is a garage, and then there are empty lots, and on the other side there are several garages, and one or two empty lots. I don't know -- I have not been able to contact the owners. I have sent letters and so forth.

I do know that one of the owners of the first set of garages has passed away and so has his wife. It is still listed in their names by the District. We do see someone there every now and then, but she is not the owner of record.

MR. HOOD: Okay. Upon the children entering into

the facility, which way will they be entering?

MS. CAMPBELL: They will all still enter Georgia Avenue, because that is the meeting point. That is the main building, and they will meet there, and at class time they will go to the other building. They would cross the main alley, the Georgia Avenue alley, to that facility.

MR. HOOD: So they would have to actually cross that alley?

MS. CAMPBELL: They don't have to, but they can. That's the way that anyone who comes before school care would go. We would escort them that way. Any who are dropped at the building, there will be a place for them to drop off, and that would be on the Quackenbos Street side.

MR. HOOD: And right now are there cars parked -- this is a residential neighborhood and are there cars parked on Quackenbos?

MS. CAMPBELL: The cars that are parked on Quackenbos primarily belong to the police officers who live in Maryland. We are right across the street from the 4th District. There are only four houses on that block. And one of them is the one that we own.

MR. HOOD: Okay.

MEMBER RENSHAW: Mrs. Campbell, could I see your large rendering of what the school is going to look like?

MS. CAMPBELL: Sure.

MS. BAILEY: Ms. Campbell, is a copy of that in the file?

MS. CAMPBELL: Yes.

VICE CHAIRMAN SOCKWELL: Yes.

MR. HOOD: Yes, it is in the file. Mr. Chairman, I may have some more questions, but right now it appears to me that she has overwhelmingly community support. So I will just wait to see how the discussion goes.

MS. CAMPBELL: Do you need the originals for that? I have the signatures from the citizens, and the businesses in the areas.

VICE CHAIRMAN SOCKWELL: No, that's fine.

MR. HOOD: I would just say this, that you have been around long enough and you see different things.

MS. CAMPBELL: Oh, yes, quite a lot of different things.

MR. HOOD: And this is definitely different for me.

MS. CAMPBELL: Okay.

VICE CHAIRMAN SOCKWELL: I think, Ms. Campbell, that the questions that I have are with regard to the buildings that you plan. Have you considered your -- because you have purchased the buildings already, and you know that they will fit your site once you prepare it.

MS. CAMPBELL: Yes.

VICE CHAIRMAN SOCKWELL: But have you considered

the zoning impacts of rear yards and side yards, and things like that? You have an architect who is assisting you, and has he gone through those exercises with you?

MS. CAMPBELL: Yes, he has. All of those are indicated in his conceptual drawings, the space requirements for rear and side yards, and front as well.

VICE CHAIRMAN SOCKWELL: And you know that there maybe some significant building permit related concerns for using that type of building?

MS. CAMPBELL: Yes.

VICE CHAIRMAN SOCKWELL: And you are prepared to go forth?

MS. CAMPBELL: I am.

VICE CHAIRMAN SOCKWELL: Well --

MS. CAMPBELL: My understanding is that while modular buildings can be considered temporary in the district, they are considered just as a permanent building would be, and they have to be constructed that way.

VICE CHAIRMAN SOCKWELL: It is generally the safety concerns, and perhaps some health related concerns, where one might have to exit children from a structure to get them to a restroom that is in another part of the structure.

MS. CAMPBELL: There are restrooms in the modules as well. We do know that we will have to go into the ground to tap into the sewer, because the existing residential sewer lines

may not be adequate.

VICE CHAIRMAN SOCKWELL: Yes, but what I am thinking is that the way you are sketching it, I take your sketch to be a representation of things, as opposed to the real hard detail.

And that is that your children are going to have to in one drawing step outside of the building in order to step into the classroom area where the restrooms are located, and that might present some problems from the standpoint of the City's codes.

MS. CAMPBELL: Yes and a no, because there are lavatories in the modules themselves, and so if they are in a class in that area, then --

VICE CHAIRMAN SOCKWELL: I don't know whether the dividers between classroom areas were demountable dividers, or --

MS. CAMPBELL: No, they are to be covered walkways. My understanding is that that was the only way it could be considered one structure, is if they were covered walkways.

VICE CHAIRMAN SOCKWELL: No, that's not what I mean. I mean within the building. You have one that shows three classrooms, and the restrooms are shown at one end.

MS. CAMPBELL: Okay.

VICE CHAIRMAN SOCKWELL: You show doors to the outside from each classroom, but only one classroom has the restrooms in it, and it appeared that the students would have to go outside of Classrooms A and B, and into Classroom C, after

leaving the building itself in order to get to the restrooms.

MS. CAMPBELL: Okay. The restrooms will not be in a classroom as such. They will have their own area that would be accessible. Anyone would have to go out of one area and into another.

VICE CHAIRMAN SOCKWELL: I didn't mean out of one area. I mean outside. That's the way it is sketched. I am an architect, and I am looking at it as I see it. Only that I am just explaining to you that I am assuming that you did not look at that the way that I would, which is to say that these doors are here, and there are no doors there.

If I have to get to the restroom, I have to go outside and then back into the building, and that was through your sketch of the modular building that is behind the existing house.

You did a floor plan which I looked at, and that's this one, which I sort of colored in, but it showed -- and again this is a building code related issue, and not a zoning code related issue, per se.

But you show three doors exiting to the common area outside, and then you show the multi-purpose room with the lavatories in it. But if I am in classroom number six, and if I wanted to get to the multi-purpose room, can I do that without exiting the structure? Does that mean that I have to put my coat on and go outdoors?

MS. CAMPBELL: Yes, you would have to go out on to

the walkway.

VICE CHAIRMAN SOCKWELL: Okay. And that might present a problem from the standpoint of code compliance.

MS. CAMPBELL: Okay.

VICE CHAIRMAN SOCKWELL: Because you are really not supposed to -- I mean, in the middle of a blizzard, you are going to send your students out the door and down the hall outside to go back in to go to the restroom, and then back out the door, and up the hall.

You may want to work that out, but like I said, I am just suggesting that there are some issues that you will be dealing with, and that you should be aware to get the best counsel from DCRA's staff that you can.

MS. CAMPBELL: Thank you.

MEMBER RENSHAW: These covered walkways, are they over the public alley?

MS. CAMPBELL: No, they are not.

MEMBER RENSHAW: Whereabouts are they?

MS. CAMPBELL: They are all within the property.

MEMBER RENSHAW: Within the property?

MS. CAMPBELL: Yes.

VICE CHAIRMAN SOCKWELL: And from what I can see, you have one person who will testify in support?

MS. CAMPBELL: Yes.

VICE CHAIRMAN SOCKWELL: And do we have any

reports, ANC reports?

MR. HOOD: Mr. Chairman, we have one report.

VICE CHAIRMAN SOCKWELL: Yes, one report from ANC-4B. I didn't have page two of that.

MR. HOOD: I didn't either. But it sounds as though they were in support.

MS. CAMPBELL: They were.

VICE CHAIRMAN SOCKWELL: At least the last word on the last line is will rather than won't.

MS. CAMPBELL: It was a letter in support.

MEMBER RENSHAW: Ms. Campbell, do you know who signed this letter from the ANC, dated December 4th?

MS. CAMPBELL: Vannie Taylor was our ANC representative at that time.

MEMBER RENSHAW: Is it her --

MS. CAMPBELL: It is a man.

VICE CHAIRMAN SOCKWELL: Did they vote?

MS. CAMPBELL: Yes, they did. Those who were there. They said that they could not -- there was a special something that the ANC would get from zoning.

What I had requested was a letter in support of the effort to go with the package to zoning, and they had no objection to that. They voted, and I was on the agenda, and met with the public.

MR. HOOD: I believe they voted, Mr. Chairman, 6 to

10.

VICE CHAIRMAN SOCKWELL: Well, what it says on the front of this is -- well, I am having trouble locating the fact that it says that they actually voted. It says after proper and adequate notice to all whom might be affected, this commission consisting --

MEMBER RENSHAW: Does the office have in the main file the second page of this document, dated December 4, 1998.

MS. CAMPBELL: I have the original with me.

MEMBER RENSHAW: Oh, you do?

(Brief Pause.)

MR. HOOD: The letter is still in support, Mr. Chair.

MEMBER RENSHAW: We are getting copies made of the full 4-B letter.

VICE CHAIRMAN SOCKWELL: Generally the letter format would state that a vote was taken of the quorum, and that the vote was unanimous, or 4 to 3, or 6 to 5, or whatever. And this letter comes just a little short of saying that.

MS. CAMPBELL: I think that's because there were a number of issues in 4-B at the time, with representatives not showing. There was a lot of back and forth with certain community members about whether they were able to vote, and whether they should vote, and who was in charge. It was really ugly for a while there in 4-B.

VICE CHAIRMAN SOCKWELL: Well, if we could get a confirmation from 4-B, just a short note from the Chair that a vote was taken.

MS. CAMPBELL: Okay.

VICE CHAIRMAN SOCKWELL: That would be sufficient for us to validate this effectively.

MS. CAMPBELL: Okay.

VICE CHAIRMAN SOCKWELL: But because it does not state that a vote was taken, it is not the board's privilege to assume that a vote was taken.

DIRECTOR KRESS: And if there was a quorum as you said earlier.

VICE CHAIRMAN SOCKWELL: Yes, they did state that there was a quorum of members in the first paragraph, and that this Commission, consisting of 10 commissioners, of which six were present, constituting a quorum, made inquiry into the referenced matter. But it doesn't say specifically that a vote was taken.

MR. HOOD: Well, let me just say, Mr. Chair, that they have four vacancies, and so six would be all that they would have.

VICE CHAIRMAN SOCKWELL: Right. But this doesn't just say that they voted.

MR. HOOD: Right. It doesn't say anything about a vote, and so we need to be assured that that is what took place.

MS. CAMPBELL: All right. And since Mr. Clair

(phonetic) is no longer on that commission, does this mean that I have to go before the new one?

VICE CHAIRMAN SOCKWELL: No, all you would have to do is get someone to go to the minutes of the meetings where votes would have been recorded in the commission's records, and write a note stating that on Thursday, June -- well, this is actually June 11th of '98.

MS. CAMPBELL: Right.

VICE CHAIRMAN SOCKWELL: So in 1998, they said it was okay.

MS. CAMPBELL: Right. It was December before we got the letter. It was a very, very difficult time in 4-B.

VICE CHAIRMAN SOCKWELL: So hopefully they have a record. But it would make it easier for us to give the ANC the great weight to which it is --

MEMBER RENSHAW: You could write a letter to the ANC-4B just requesting a copy of the minutes of this meeting and see what it says.

MR. HOOD: Well, two years ago, but I want to make sure that this board is being fair. A lot of times ANCs are not -- and I am sure that Ms. Renshaw would agree, that they are not paid staff, and they don't get paid, and they are volunteers, and we run into all of that.

So I hope that this board will take into consideration that she has a lot of people who signed a petition,

and that if it comes back, and if she is not able to obtain those records or those minutes, because a lot of times those things are not easily accessible.

VICE CHAIRMAN SOCKWELL: Well, for the record, we would not be able to give the ANC great weight unless we had some assurance that the ANC did actually cast a vote.

However, there is no other opposition. There is no opposition I should say to the application present here, and so the necessity of great weight isn't as much of an important factor as it would be otherwise.

So this is not a contested case. Do we have any reports other than this ANC letter?

MS. BAILEY: No, sir, we do not.

VICE CHAIRMAN SOCKWELL: All right. The ANC letter, for the record, appears to be in full support of the applicant, and barring any other reports, then I would suggest that we take parties or persons in support. And you do have a person in support?

MS. CAMPBELL: I do.

VICE CHAIRMAN SOCKWELL: Then she may come forward and identify herself, and present to the board.

MS. PEARSON: Good afternoon. I am Zavita Pearson. I have had two students --

VICE CHAIRMAN SOCKWELL: Your address, please?

MS. PEARSON: I'm sorry. It is 4907 Georgia

Avenue, Northwest, and that is my business address.

DIRECTOR KRESS: Are you here as an individual or are you here representing an organization?

MS. PEARSON: I am actually here as an individual. Would you like my home address, too?

DIRECTOR KRESS: No, that's all right. We just needed to know, because as an individual, you have three minutes, and as representing an organization, you have five minutes to make a presentation.

VICE CHAIRMAN SOCKWELL: And actually we prefer the home address since you are an individual.

MS. PEARSON: Okay. 2107 Amherst Road, in Lewisdale, Maryland 20783. I would like to say that I am in support of the expansion of the physical space for the school. In the past, I have had two students at the school who have gone from two years old to the 8th grade.

They both have been very successful in life. My younger son is now 20, and I was a very active parent during that time, and one of the major issues we had was enough space for the children. It is difficult to learn if you don't have enough space for it, and we have all worked towards expanding the room for the children over the years.

And that this is a great opportunity not only to enhance the District's handling of school children, but also to create a better opportunity for the students that are currently in

the school to have room to grow and learn. And I didn't really need five minutes.

VICE CHAIRMAN SOCKWELL: All right. Thank you very much, Ms. Pearson. Do we have any questions for Ms. Pearson? If not, there are no parties in opposition, and no persons in opposition still? Thank you. And I would accept closing remarks by Mrs. Campbell.

MS. CAMPBELL: I would just request that the board give positive consideration to this. I think we have proven ourselves over the past 20 years. I have seen quite a lot of changes, both positive and negative, in the Georgia Avenue community. But I believe in it, and I support it, and I would like to stay there.

I think that we have contributed considerably to the community, and to the City, and to the world through the students that we have created. They are all contributing well to society. We would like to continue that.

I would ask only that you let me know today, if possible, with a bench decision. Hopefully the ANC issue, and I will pursue that immediately, will not impede a bench decision. We are ready to proceed. We would like to have the modules in place for the new school year.

VICE CHAIRMAN SOCKWELL: Let me ask you just a couple of quick questions.

MS. CAMPBELL: Sure.

VICE CHAIRMAN SOCKWELL: First, there was no concern in the neighborhood about the potential of additional traffic. You plan to drop all of your students off and pick them up from the Georgia Avenue building?

MS. CAMPBELL: Primarily that will be the drop-off and pick-up location there. As I said, if someone is late arriving there, there is a provision for them to drop off on Quackenbos, but again there are only three houses other than ours on that block.

VICE CHAIRMAN SOCKWELL: All right.

MS. CAMPBELL: So there should not be a traffic problem.

VICE CHAIRMAN SOCKWELL: Are there any weekend programs involved in your school?

MS. CAMPBELL: None to speak of. We do have soccer teams and T-Ball teams, and so forth, and they do have games on the weekends sometimes, but there isn't a weekend program.

VICE CHAIRMAN SOCKWELL: You show an outdoor play area which is designed as a basketball court for a full-court sized children's scale game?

MS. CAMPBELL: Yes.

VICE CHAIRMAN SOCKWELL: Will these courts be available to the neighborhood at any time, or are they specifically for the use of the school?

MS. CAMPBELL: No, I cannot say that the

neighborhood will not use them.

VICE CHAIRMAN SOCKWELL: Understood.

MS. CAMPBELL: We do have playgrounds, and they are fenced and locked, but they still get used by the neighborhood. Liability insurance requires that we say that it is for the exclusive use of our children, but we all know that is not the way that it happens.

VICE CHAIRMAN SOCKWELL: Okay. It is not public access.

MEMBER RENSHAW: A question about the modular units again. Each has an individual air-conditioning unit?

MS. CAMPBELL: Yes, it does.

MEMBER RENSHAW: And how does that increase the noise level in the community if all 4 or 5 of these units go at once?

MS. CAMPBELL: Well, all five units would be on the alley. There would be two at the rear alley, and three at the side alley. So I don't think there would be a significant increase during the day.

The ones on the side alley are on a commercial alley. The ones that would be on the rear alley, there is only one garage, and then vacant spaces, vacant lots, where we plan to put our garage.

MEMBER RENSHAW: Have any of the neighbors asked about that, the noise?

MS. CAMPBELL: No.

MEMBER RENSHAW: Has your engineer -- do you have an engineer, and has he or she been asked to give a reading as to how noisy it is going to be?

MS. CAMPBELL: No, they have not been asked. Now, these are not the huge air-conditioning units. In fact, they are not even the size of a home unit. They are the packs that are attached to the back.

MEMBER RENSHAW: All right.

VICE CHAIRMAN SOCKWELL: Generally, I don't recall them being particularly noisy where I have been them in operation. And your playground will have lighting or no lighting?

MS. CAMPBELL: The basketball area, I'm sure, will have lighting. The existing playground is not lighted.

VICE CHAIRMAN SOCKWELL: Okay. Generally, such lighting is requested to be controlled so that it doesn't lead off into the neighborhood, and I would assume that you would maintain that as it is a requirement of code.

And the only other question that I wanted to ask you was -- well, anyway, I really don't have any other questions. I do want to caution you that -- oh, that's the question. The modular buildings that you plan to have. For about how long do you plan to have them? Do you plan to replace them eventually with permanent structures?

MS. CAMPBELL: That's a good question. I have a

five year plan, but not a 10 or 20. Cost is a major concern. We were able to take advantage of these buildings, and of course they came before we were able to come before you.

But we were able to save about $40,000 by accepting them at that time. To build the kind of structure that we want and envision on that site will take not less than a million dollars. To put these in place, we will probably be able to do for a hundred-thousand.

So that is a considerable saving. It will take, I'm sure, a good bit of time to generate funds to do a real building. That is our dream. But I could not say. I'm sure that it would be 10 years down the line or more before we could do that.

VICE CHAIRMAN SOCKWELL: Unless you find a living angel.

MS. CAMPBELL: Exactly. And I don't play the lotto, or D.C.'s anyways.

VICE CHAIRMAN SOCKWELL: Well, I have no further questions for you. It appears that with the level of support that you have from the community and the duration of the program, and you have presented yourself very well to us today, I am in favor of a bench decision on this, once again stating that the building department will be your real hurdle in getting this put together.

MS. CAMPBELL: Right. I'm sure.

VICE CHAIRMAN SOCKWELL: And I would move or ask my

board members to move that we approve the private school for these lots, which will be subdivided eventually, and the facilities to be located at Lots 808, 809, 810, 139, 1060, 107, 110, 111, and 112, in Square 2982.

MR. HOOD: If you are finished with the motion, I will second it.

VICE CHAIRMAN SOCKWELL: Any discussion? All in favor?

(Ayes.)

VICE CHAIRMAN SOCKWELL: Opposed? Abstensions? The motion is passed. Thank you very much for your time and good luck.

MS. CAMPBELL: Thank you very much.

VICE CHAIRMAN SOCKWELL: Your order should be issued within two weeks, 2 to 2-1/2 weeks.

MEMBER RENSHAW: You may have a new career before the zoning boards. Very well done.

MS. CAMPBELL: Thank you very much.

MS. BAILEY: Members of the Board, the staff will record the vote as four to zero, motion made by Mr. Sockwell, and seconded by Mr. Hood, Mr. Moulden, and Mrs. Renshaw, to approve the application.

Mr. Chairman, are you ready for the next case?

VICE CHAIRMAN SOCKWELL: Yes.

MS. BAILEY: Thank you. This is Application Number

16600, of the Union of American Hebrew Congregations, pursuant to 11 DCMR 3103.2 and 3104.1, for a special exception under Subsection 508.1 for the construction of an addition to an existing building for office use, a variance under Section 531.1 from the floor area ratio requirement, and a variance under Section 2001.3(b) and (c), from the limitation on additions to non-conforming structures devoted to conforming uses in a DC/SP-1 District at premises 2027 Massachusetts Avenue, N.W., Square 94, and that is Lot 21.

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

(All witnesses were sworn.)

MS. BAILEY: Mr. Chairman, several items have come in since your packages were sent. The first is a report from the Office of Planning, and we have also received a report from the Advisory Neighborhood Commission-2B. These two items need to be waived into the record. Would you like to do that now, sir?

VICE CHAIRMAN SOCKWELL: Yes. I would move that the rules be waived and that the documents be admitted into the record.

MS. BAILEY: Thank you.

DIRECTOR KRESS: You just moved --

MR. MOULDEN: I will second the motion.

VICE CHAIRMAN SOCKWELL: All in favor?

(Ayes.)

MS. BAILEY: The staff will report the vote as four to zero to accept the documents into the record. We have checked the file and the affidavits have been timely posted and filed. We have a report from the D.C. Historic Preservation Review Board, and the Dupont Circle Conservatory. This project is now ready for you to hear.

VICE CHAIRMAN SOCKWELL: Thank you. One question. Is there any opposition here against this particular application?

(No audible response.)

VICE CHAIRMAN SOCKWELL: And I don't think that Mr. Glasgow and company have been sworn in.

MR. MOULDEN: They have.

VICE CHAIRMAN SOCKWELL: Oh, you have? All of you?

MR. GLASGOW: The witnesses have been, yes, sir.

VICE CHAIRMAN SOCKWELL: Okay. You guys just don't look like you have been sworn in.

(Laughter.)

VICE CHAIRMAN SOCKWELL: All right. Would you please begin. Thank you.

MR. GLASGOW: Thank you, sir. Good afternoon, Members of the Board. For the record, my name is Norman M. Glasgow, Junior, of the law firm of Wilkes Artest. Here with me today is Mr. Dennis Hughes of the same office, Mr. Stuart Bindeman, who is also present, and who is a member of the Board of the Union of American Hebrew Congregations, who is seated to my

right past Dennis, and the owner of the building, Mr. Cal Bowie, of Bowie Gridley Architects, who is on the far end of the table, and also here is Mr. Paul Andoceno, of Bowie Gridley Architects.

VICE CHAIRMAN SOCKWELL: And, Mr. Glasgow, since it appears that there is no opposition to this, and the advisory neighorhood commission, and the historic preservation people are in support, I would wish that you just touch the highlights, and not necessarily go through the entire case if you don't mind.

MR. GLASGOW: Yes, sir. I would be happy to do that. Essentially, this case boils down to -- and I will give a very brief opening statement, and turn it over to the witnesses. We are adding about 500 square feet on three floors to this building so that we can have access by elevator, ADA access, and add in a stairwell.

In fact, the actual office use inside the building will be slightly decreased. There is going to be no change with respect to the intensity of the use of the building, number of employees, or any of that. So it is a very technical area of relief.

We have been to a number of citizen meetings in the area. We have unanimous support. We have been to the historic preservation review board, and to the Dupont Circle Conservancy.

This site is on a triangular lot, and when you look at the floor plans that will be exhibited by the architect, you will see the very minor nature of the building addition, and

unless there are any preliminary questions, given the small nature of the addition, I would like to turn it over to Mr. Bindeman.

And we also have the statement of applicant, and Mr. Bindeman, do you adopt the statement of the applicant as your statement in this case?

MR. BINDEMAN: Yes, I do.

MR. GLASGOW: All right. Mr. Bindeman, please identify yourself for the record, and proceed with your statement.

MR. BINDEMAN: Good afternoon. My name is Stuart Bindeman, and I am a member of the Board of Directors of the Union of American Hebrew Congregations, and the owner of this property which has operated the Religious Action Center at these facilities since the 1960s.

Since I have adopted the statement of the applicant filed with the board, and in order to try and save some time, I am prepared to answer any questions that the board may have.

VICE CHAIRMAN SOCKWELL: I don't really have any specific questions. It is very clear the extent of the addition, and the purpose of the addition, and if anything, it is very simplistic and straight forward.

MR. BINDEMAN: Yes, sir, I think so.

MR. GLASGOW: Now we will proceed with the testimony of Mr. Cal Bowie.

MR. BOWIE: Mr. Chairman, and Members of the Board, my name is Cal Bowie, and I am a principal of the firm of Bowie

Gridley Architects. I am delighted to be here today to tell you briefly and quickly about this project.

In short, as Chip said, this project addresses handicap access to an existing building, a wonderful existing historic structure in the Dupont Circle Historic District. It will provide access to the building on one of the street frontages, the rear street frontage, rather than the front, where because of the topography and the changes existing, you cannot achieve a ramp entrance to the building.

Furthermore, it will provide handicap ADA accessible toliets inside the building, and address life safety issues by providing a new fully enclosed fire stair that touches all of the existing floors.

It will preserve and even highlight the historic fabric of the building itself, and adds no additional office space. As Chip said, it has been fully reviewed and accepted by the neighbors and the regulatory authorities.

The only piece of work that would be remaining for us would be a public space permit for a bay projection, which is contemplated by the design. That bay projection is largely there to cover an open stair which goes to an entrance to the basement at the lower level.

I will quickly take you through the drawings, and then give you my opinion as an expert witness.

VICE CHAIRMAN SOCKWELL: And for the record, Mr.

Bowie has appeared before this board in the past, and I don't think there is a reason for us to prequalify other than to say hello.

MR. BOWIE: Just going very quickly to the site, Massachusetts Avenue is on the bottom of this drawing, and 21st Street and Q Street is right here, and the Philips Collection is diagonally across from that intersection, and in the heart of Embassy Row.

The building is a wonderful Bogards building, and a brick structure, and with two stories and a roof on the front side, and three in the back actually because of the change in topography.

And what we are adding to the building as Chip said is only about 500 square feet on each floor, and a projected area way entrance to the lower level.

There are already bays existing on a covered space on all of the three other sides.

Existing at that point right now is an enclosed courtyard, which has air-conditioning equiupment in it and which will be moved to the roof of this building. So in fact it will be an improvement in terms of noise to the neighboring properties.

On the bottom of this border, the photographs of the existing building, and Massachusetts Avenue beside in the lower left-hand corner, and the Q Street side, and on the end, Q Street from the east side.

These drawings show the existing floor conditions and the open courtyard that exists right now in the back. The proposed drawing shows how we are creating a new fire stair within the physical building, but still not disturbing the fabric of the significant rooms that really have never been changed to this particular structure.

And adding an elevator and new handicap bays on the toilets for each floor. A second set of drawings shows the existing elevations as it is today. There is a wall, which is the plane of the property line, and that is the line that we are building the addition on.

And what we are doing is creating really a new facade which stays flat, rather than folding back the existing facade. The intent in a work sense is really to leave the fault of these buildings looking different. In other words, the brick and the detailing of the new work will be compatible, but different, from the existing one, but not an extension of the fabric of the existing building.

As I said, there is a bay projection, which in fact ties to an area way on public space, but they won't give formal approval until you all do, but they say they have no problem and that it is within the limitations of the amount that is allowed on this facade.

There is already one bay that exists further down the site, and that pretty much is the extent of the project. It

is a very simple little project.

VICE CHAIRMAN SOCKWELL: The existing windows and frames behind your new construction will remain in place as ornamental interior?

MR. BOWIE: No, in fact they --

VICE CHAIRMAN SOCKWELL: Well, it just appeared that they were still in place in the drawing that I was looking at, but maybe that is not the case.

MR. BOWIE: No. Part of the structural wall lines remains, but they have kind of deteriorated, and the elevator was actually built in the gap in between. So they are enclosed in the wall.

VICE CHAIRMAN SOCKWELL: Well, it looked like they remained physically within from the one that I was looking at. Maybe they didn't.

MR. BOWIE: No.

VICE CHAIRMAN SOCKWELL: Okay. So with regard to public space, that is another matter all together and that's whatever they decide to do.

MR. BOWIE: Yes.

VICE CHAIRMAN SOCKWELL: But it seems to be a very tasteful and very compatible addition. Sort of like a mini-Federal Triangle.

MR. BOWIE: I wish, but --

(Laughter.)

MR. BOWIE: All of the other buildings in that row and in the back are built to a consistent scale, and the buildings across the street are very much the same scale as this piece.

MEMBER RENSHAW: Mr. Chairman, a question. Mr. Bowie, on the drawing on the left, what is the building right -- is it in back of? Right there where your hand is?

MR. BOWIE: Our lot line is actually right here. This is a portion of our building which is actually set back. In other words, if I were to show you that piece of the building, which actually bends back in away from the line of the property, which still goes along that line.

MEMBER RENSHAW: So you are going to be removing those windows in this building up?

MR. BOWIE: Yes. Actually, they get built into the walls. That wall will remain there, but covered by the overbuild.

MR. HOOD: I just have a question. Again, I am treading on thin water here because I am not an architect, but the side where -- can you put up the last drawing that you just had for Commissioner Renshaw?

MR. BOWIE: This is the Q Street side here.

MR. HOOD: And my question is that you are saying that the building that is to the left sits back?

MR. BOWIE: That is correct. The next building in the row actually sits back from the end point of our lot line, and it is down at the bottom here, at the point of the triangle.

MR. HOOD: Okay. With your new addition are you blocking any light or anything?

MR. BOWIE: No. They are all north facing facades, and in fact there is quite a bit of -- in that facade window it is quite a bit a ways away.

VICE CHAIRMAN SOCKWELL: Would you flip your drawing so that we can look at the elevations briefly. One of the elevations shows --

MR. BOWIE: What sticks out is right here, and it is actually something that you all approved about two or three years ago. It was a new access, and it only has a door in the middle of it, about a ways over. We have come out to surpass that point.

MR. HOOD: So can you show me with that picture the relationship where your new addition is?

MR. BOWIE: This the part of the building that is folded back to the grid of the city, and so it is that piece back in there that gets built in right here.

VICE CHAIRMAN SOCKWELL: So from the standpoint of their drawings, it is right in there if you flip that around.

MR. BOWIE: That piece that sticks out is right there, and as you can see in that photograph, it is really sort of a story-and-a-half tall.

MEMBER RENSHAW: Where is the tree?

MR. BOWIE: The tree is way out on the corner out

here, and it is actually on the neighbor's property.

MEMBER RENSHAW: But that is not going to be damaged?

MR. BOWIE: No, because we already have a wall and a foundation that is in place right there. This is that wall and the tree, and the wall actually comes across right there.

MEMBER RENSHAW: Can you do something to clean up this, and make it look --

MR. BOWIE: That is part of the agreement that we have made with the neighbors.

MEMBER RENSHAW: Would you go back to the mike and tell us what you are going to do. We had asked about cleaning up that back area. So, Mr. Bowie will explain.

MR. BOWIE: Specifically, there is some paraging on the building, and the labeling of the parking spaces, which the agreement with the neighbors addresses, and we will clean that up and make it compatible with the rest of the back of the building.

The other thing was that the trash containers are located there currently, and we made an agreement with the neighbors that the trash containers would go in an enclosure, rather than just sitting out there by themselves. And that is included within the letter from the ANC, I believe.

MR. HOOD: Commissioner Renshaw, I think we may be able to address some of those issues, and if it is approved, put them on as conditions.

MR. BOWIE: May I proceed?

VICE CHAIRMAN SOCKWELL: Yes.

MR. BOWIE: It is my opinion as an expert that this is in fact a unique and exceptional site, because it is one of the wonderful triangular sites created by the city grid and the axial avenues intersecting each other.

And that there are practical difficulties with resolving these issues of handicap egress, and accessible toilets, within the fabric of the existing building.

It is a small building, and including a new fire stair within it, and solving the other problems with the elevator would substantially destroy the historic fabric, which is certainly not the owner's intention.

It also will remove an old existing fire escape from the back by providing a new fully rated fire stair inside. I believe that it has no adverse impact upon the neighborhood or adjoining property owners, and I conclude that we have met the test and satisfied the burden of proof for a special exception.

VICE CHAIRMAN SOCKWELL: Thank you. Do you have other --

MR. GLASGOW: Mr. Chairman, we do not have any further witnesses other than questions. We would hope that the board would be able to grant a bench decision in this case.

VICE CHAIRMAN SOCKWELL: We have a little ways to go, but does the board have any questions of these witnesses?

(No audible response.)

VICE CHAIRMAN SOCKWELL: Then I would ask for government reports, of which we have none. We have a report of the advisory neighborhood commission 2-B, which has approved the project.

MS. MCCARTHY: I'm sorry, Mr. Chairman, but there is a report from the Office of Planning.

VICE CHAIRMAN SOCKWELL: Oh, you didn't say anything. I probably didn't see it. Yes, here it is. Then I request that Ellen McCarthy present the Office of Planning report, and we go backwards to that.

MS. MCCARTHY: Good afternoon, Mr. Chair, and Members of the Board. In the interests of time, why don't I just very briefly summarize the Office of Planning report, which essentially agrees with Mr. Bowie's statement that both the historic nature of the building and the unique shape of the lot do constitute extraordinary exceptional circumstances, and that because it is removing the outside fire stairs because it is solving the code problem without destroying the historic fabric, because it is doing so in a design that is approved by the Historic Preservation Board; and supported by two different organizations in the neighborhood, that we find that this can be granted without any harm to the integrity of the zone plan.

It is consistent with general planning principles, and meets the test for the zoning relief, and our recommendation

basically was approval for the building, with the conditions that have already been agreed to by the applicant in its agreement with the ANC.

VICE CHAIRMAN SOCKWELL: Thank you, Ms. McCarthy. Any questions of the Office of Planning by the board? If not, any cross-examination by the applicant?

Then we will move to the advisory neighborhood commission report from ANC-2B. And at its regularly scheduled public meeting of September 13th, 2000, ANC-2B considered BZA application 16600, an application by the Religious Actions Center, for special exceptions and variances under Section 508.1 and 531.1, and 2001.3 for the construction of an addition at 2027 Mass Avenue.

With 7 of 7 commissioners in attendance, the following motion was unanimously approved. ANC-2B supports approval by the BZA of the special exception and variance requests of BZA application 16600 for the purpose of constructing an addition on the Q Street facade of the building.

ANC-2B's support of application 16600 is subject to inclusion of the attached, mutually approved, voluntary agreement in BZA's final order on this matter. The voluntary agreement addresses signage, parking area, upkeep, and an agreement to construct a trash enclosure.

And it goes into discussing that there were many concerns, and that the architect demonstrate a desire to develop

solutions, and the design level will fit well into the historic nature of the area, and suggests a contact person.

And I do not think -- I mean, we could read the agreement aloud, and that way it will become part of the record, and we won't have to discuss it, but there are several enclosures which are drawings describing the final agreed upon conditions that needed to be described graphically, and those are dated 5/23/2000.

The agreement is signed by Kyle Pister, Chairperson of ANC Commission 2B. I will read the substantive issues. Agreement made this 6th day of September, 2000 by and between the Union of American Hebrew Congregations (owner) and Advisory Neighborhood Commission 2B (ANC-2B).

Recitals: Whereas, owner is the owner of Lot 21 in Square 94, known as premises 2027 Massachusetts Avenue, Northwest (the property); and whereas the property is located within the boundaries of ANC-2B, such ANC being organized pursuant to the Advisory Neighborhood Commission Law, D.C. Code 1-251, et cetera, and whereas owner desires to construct a 3-story addition to the property, said addition to be used primarily for an elevator and additional stair access, and whereas to that end the owner has applied to the Board of Zoning Adjustment (BZA) (Application Number 16600), for certain special exceptions and variance relief necessary to construct the above referenced improvements.

And whereas owner and ANC-2B believe that working

together cooperative ensures a better neighborhood; and whereas due to the proximity of the subject property to residential uses, owner and ANC-2B desire to enter into an agreement to address certain community concerns regarding the property.

And whereas ANC-2B at its regularly scheduled meeting on May 10th, 2000 voted unanimously to support project application number 16600 to the BZA, provided that certain conditions are met; and whereas, in consideration for the ANC support of, the project owner has agreed to ANC's conditions --

MR. HOOD: Mr. Chairman, may I interrupt?

VICE CHAIRMAN SOCKWELL: Go ahead.

MR. HOOD: I think that this is a part of the record already, and for the sake of time --

VICE CHAIRMAN SOCKWELL: Well, there is only one other page.

MR. HOOD: I agree. I should have stopped you earlier.

VICE CHAIRMAN SOCKWELL: But since you didn't, I will continue. The owner agrees to remove painted wall signage from Q Street frontage of property, and owner agrees to maintain and keep clean the parking area on the property, and subject to appropriate D.C. government approval, the owner agrees to construct a trash enclosure on the property as described herein, and those drawings that I mentioned.

And would maintain and house the dumpsters and

trash cans therein, and it was signed by David Saperstein, Director and Co-Counsel for the Union of American Hebrew Congregations, and signed by Kyle Pister as I stated, and has two attachments, or three attachments, and this will be in the record, and will be a part of the order should the board approve said application. Closing remarks and/or discussion?

MEMBER RENSHAW: Mr. Chairman, just to note on this page that there are two handwritten addendums, and brought to our attention that the ANC commissioner in that single number district, and the ANC as a whole, have to be contacted about any changes to these, and to be kept in touch with what is going on.

VICE CHAIRMAN SOCKWELL: An ongoing relationship.

MEMBER RENSHAW: Yes, an ongoing relationship, and I would add that if there is a chance for a tree or two back there, could you please plant? Thank you in the name of the ANC.

VICE CHAIRMAN SOCKWELL: Okay. Provided that there are no questions on the Advisory Neighborhood Commission report, and there are no persons in support to be heard from, and none in opposition, closing remarks from the applicant, which I think would be a reiteration of what he said before, there is a bench decision, and thank you very much, and good night.

MEMBER RENSHAW: Are we voting?

VICE CHAIRMAN SOCKWELL: I would move, if there is no discussion, that we approve the request for the special exception and variance, and that the ANC conditions be bound into

the approval order.

DIRECTOR KRESS: May I also add that there were a couple that were in the OP's recommendation reports. The first one is that the applicant shall provide proper parking signs on the Q Street side of the building, and you might wish to include that.

Number 2 is that the applicant shall enclose its garbage as requested by the ANC, and that is already taken care of.

VICE CHAIRMAN SOCKWELL: Right.

DIRECTOR KRESS: Number 3 though is not though. The applicant shall continue work with the HPRB staff on materials and details of the design. I am not sure that needs to be said. As you know, they have to maintain and get those approvals separate and independent from us.

VICE CHAIRMAN SOCKWELL: Yes.

DIRECTOR KRESS: And then the last item was that Board Member Renshaw suggested a tree or two. I just wanted to point those out to you and to be whether you want them in your motion or not.

VICE CHAIRMAN SOCKWELL: Where would those trees be located?

MR. BOWIE: We could certainly get some near the trash container or some additional planting out there.

VICE CHAIRMAN SOCKWELL: All right. If the motion

is conditioned as amended by and as explained by staff, Ms. Kress, and with the addition of Ms. Renshaw's request for additional landscaping, preferably trees, as possible, is there anything else that should be added to this that you can think of?

DIRECTOR KRESS: I didn't see anything. I just wanted to point those out.

VICE CHAIRMAN SOCKWELL: Okay. And I appreciate that. Then I would move that we approve. Do I get a second?

MEMBER RENSHAW: Second.

VICE CHAIRMAN SOCKWELL: Any discussion? All in favor?

(Ayes.)

VICE CHAIRMAN SOCKWELL: Any opposed or abstentions?

(No audible response.)

VICE CHAIRMAN SOCKWELL: Done. Thank you.

MS. BAILEY: The staff will record the vote as four to zero to approve the application, with conditions outlined in the ANC report, and by the Office of Planning. The motion made by Mr. Sockwell, and seconded by Mrs. Renshaw, and Mr. Moulden, and Mr. Hood, to approve.

The next case of the afternoon is Application Number 16601, of NJA Development Partners, L.P., Daniuel and Mary Loughran Foundation, Inc., pursuant to 11 DCMR 3103.2 and 3104.1, for variances from Subsection 1709 for the requirement to use TDRs

and from Subsection 773.3 for the residential recreation space requirement and for a special exception under Subsection 411.11 for multiple roof structures set back less than 1 to 1 from the edge of the roof to construct a 130 foot, 9.6 floor area ratio apartment house, to contain approximately 371 units, and hotel, to contain approximately 170 rooms, with optional ground floor retail and/or office uses in a C-3-C District/Receiving Zone at premises New Jersey Avenue, K, L, and 2nd Streets, Southeast. This is Square 741, Lots 7, 8, 13, 14, 16 through 18, 20 through 36, 801, 803, 804, 807 through 809, and on a public alley proposed to be closed.

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

(All witnesses were sworn.)

MS. BAILEY: You may be seated. Mr. Chairman, several items have been submitted into the record since this project was sent to you, one of which is the report from Advisory Neighborhood Commission 6B.

A waiver is needed to accept that into the record, sir. Would you like to do that now?

VICE CHAIRMAN SOCKWELL: I move that we waive the rules to accept the ANC report.

MR. HOOD: I will second.

VICE CHAIRMAN SOCKWELL: All in favor?

(Ayes.)

MS. BAILEY: It is so noted by the staff. In addition to that, there are some other items that have been submitted; a letter from the Capitol Hill Restoration Society, and the applicant has also submitted revised architectural plans, and I think those have been given to the board.

All of the following requirements have been met, and we have just received an affidavit of maintenance, indicating that the posting has been properly maintained, and this case is now ready for you to hear.

VICE CHAIRMAN SOCKWELL: Thank you. You may proceed.

MR. GLASGOW: Thank you, Mr. Chairman. For the record, my name is Norman M. Glasgow, Junior, of the law firm of Wilkes Artest. Here with me today is Mr. Dennis Hughes of the same firm.

Seated to Dennis' right is Mr. Robert Holland, of MJA Development Partners. Mr. Sheldon Stein of MJA Development Partners is also here in attendance here today representing the applicant.

Mr. Simon and Mr. Gang of SKG Architects, and Mr. Harps, of Harps and Harps, Inc., who is a real estate valuation expert; and Mr. Steven E. Sher, land planner with the firm of Holland and Knight.

Mr. Holland is also submitted as an expert in residential and multifamily development, and Mr. Holland will be

able to explain that briefly. He has been the developer of 88 residential projects.

Mr. Harps and Mr. Sher have previously been accepted as expert witnesses by this board in the past. Next, I would like to proceed with a brief opening statement.

This project is located in Square 741, in a C-3-C zoning district. It is located at the intersections of New Jersey Avenue, K and L Streets, comprising almost the entirety of Square 741, except for Lot 19.

This certainly presents a tremendous opportunity for the District of Columbia, adn as noted inteh Office of Planning report, it is a project that is critical to the future of the near southeast, and to the District as a whole, that this project be realized.

So we have very strong Office of Planning support, and strongly recommends that the Board approve both variances and the special exception. This is certainly a unique case in my experience, and I am unaware of any project in the C-3-C district to be devoted principally to apartment house use, with approximately 375 apartment units being proposed, and a 170 unit hotel.

This use combination in the TDR receiving zone is without precedent, and what is particularly unique is the apartment building. And in proceeding with this case the applicant has been extremely creative in pulling together an

economic development package which allows an apartment building to go forward, although as it will be testified to, it is marginally financially feasible.

As will be discussed later, this involves obtaining DC/FHA financing, and there will be a TIF application for the hotel, and from the Board's standpoint, the obtaining of variance relief from the requirements to use transferable development rights as the mechanism from increasing FAR, from 6.5 to 10, and to obtain 130 feet in height.

The other areas of relief involve a variance from the residential recreation space requirement, and we note that the applicant in this case is meeting about 50 percent of that requirement through the provision of a pool, open space, and meeting room within the project.

Lastly, there is the special exception for roof structure, set back at less than 1 to 1 from the edge of the roof, and for the number of roof structures. Given the size of the building, we think that those requests are appropriate and sustainable.

The applicant has filed a statement of applicant, which should be a part of the record. This statement goes into some detail in pages 1 through 25 as to the nature of the relief requested, and how the applicant meets that burden of proof.

The subject site is unique and affected by several exceptional situations or conditions. The applicant is faced with

practical difficulty without the granting of variance relief, and that there would be no detriment to the zone plan if the variances requested are granted.

The witnesses of the applicant will discuss in detail of how the burden of proof is met. The applicant notes the large site of the subject site, and the large size of the subject site, which is approximately 48,000 square feet.

The zoning history and comprehensive plan history of the site, and the rezoning of the property from a CM zone to C-3-C, and the opportunity which is presented by recent planning initiatives for the creation of residential uses in this area of the city also constitutes part of the uniqueness of the site and the planning history.

In a review of the statement, you will note the location of the subject site is shown as Exhibit A within the statement, and Exhibit B shows the site being located in the C-3-C zoning district; and Exhibit C are plans for the project.

Exhibit F is the zoning commission order relating to the height and FAR of the Capital south receiving zone, of which this site is a part. Exhibits G, H, and I, and J, are outlines of the testimonies of the witnesses.

And Exhibit K is a zoning commission order relating to the rezoning of the site from CM district to C-3-C. The applicant has spent a substantial amount of time with the District government, and several of its offices, including the Office of

Planning, but also with respect to meeting with the housing people and others.

The ANC and the Capitol Hill Restoration Society instruction of project which can proceed forward to develop an apartment building on the site with the relief requested from the board.

The applicant has the support of the Office of Planning, and ANC, the Capitol Hill Restoration Society, and will look forward to the abililty to present this exciting and innovative project to the Board of Zoning Adjustment.

We are prepared as a part of the presentation to respond to the recommendations and conditions of the OP and ANC support letters. If there are no preliminary questions from the Board, I would like to call the first witness, Mr. Robert Holland.

VICE CHAIRMAN SOCKWELL: Please proceed.

MR. HOLLAND: All right. Thank you, Mr. Chairman.

MR. GLASGOW: Mr. Holland, will you please identify yourself for the record, and describe your history and background with residential development, and proceed with your statement.

MR. HOLLAND: My name is Robert Holland, and I have been a real estate developer in Washington for 30 years. I have done over 88 projects in Washington in my career. One of the more prominent ones is the Georgetown Waterfront Paper Mill.

In fact, I go back to that today and I look at it

and it looks better today than when we did it. I basically am a neighborhood developer, where I go in to areas such as Dupont Circle in 1974, when it was a slum. Most people don't remember that.

And basically I believe in redeveloping an area with a combination of retail, residential, and office, rather than any single one of those. One of the things that comes to mind, and I remember when L'Fant Plaza was built, and it was great during the day, and then at night it was barren.

And people would not even go down there because there was no people on the streets. Therefore, they felt uncomfortable.

And then we went ahead and under a C-3-C we did a total rezoning similar to what we did over on the New Jersey Avenue area in the west end. And if you remember the west end when they started it in 1978/1979, the same thing started happening.

The developers saw that you could build a hotel, and you could build an office building, and they immediately starting building those things, and apartment buildings were not in the plan. And finally towards the end, there were 2 or 3 office buildings built right on the Park as condominiums.

And what I feel here is that we have an opportunity to start off on the right foot. We have a million-and-a-half square feet of office space going right now in the Navy Yard,

which will be occupied 8,000 people in the next six months.

When talking to Admiral Weaver, who is in charge of the Navy Yard, he said for every one employee we are going to have here, it is going to be serviced by one private employee. So instead of having 8,000 people, you are going to have 16,000 people.

And you already have a city that has a huge commuting problem, and traffic problem, and so I am going, wow, we need to have a little residential here so they can live next door to relieve not only the traffic, but to have these people have a neighborhood that they can call their own, as well as the commercial side of it.

We see on either side of us -- the Gewarts on one side, on 300 M Street, are building 300,000 square feet, which is basically a hundred percent leased at $35 a foot; and down the street we have Spaulding and Sly is doing another 300,000 square feet of office space.

So I am very excited to be in between them, because I think that we can service the community. Just one other thing that I want to add. I am coming back to Washington, D.C. I have been away for some years in New York, and so we have always maintained a home down in the Shenandoah Valley.

So I am coming in every day, and a 2-1/2 hour commute is not my -- I don't know how people do it. So I said to my wife that we have to move back to Washington. So let's look

for a place to rent and see what we want to do.

I have been looking for five months for an apartment, and last week there were 19 apartments available for rent in Washington, D.C., and to me that is -- I mean, New York has got a tight market, but Washington, it is beyond tight.

And what this does is not only for well off people, but this puts a pressure on the lower income people that live in this city, because their property comes in the eyesight of those developers who want to create more expensive housing for the people who want to live down there.

So, I think what we have to do is that we have to start looking not only at creating new neighborhoods with residential, but we have to create residential so we relieve some of that pressure on the taking away of those houses.

And basically I can't really say too much more than that we are excited about this project, and it has been 10 years in the making. Everybody thinks I am nuts for not building an office building, but at the end of the day, I believe in this project, and I believe it has long term potential.

And out of my 88 projects, I have never had a loser, and I don't plan this one to be one either. Thank you, sir.

VICE CHAIRMAN SOCKWELL: Thank you. Any questions, Board Members?

MR. GLASGOW: I have one item for Mr. Holland. Mr.

Holland, it is my understanding that you are in the process of applying for D.C. FHA financing, and that this project will be 20 percent affordable housing units?

MR. HOLLAND: That's correct. There will be 75 units available.

MR. GLASGOW: Thank you.

VICE CHAIRMAN SOCKWELL: Thank you. And I would want to interject that in 1968, when I worked for Harry Weisen and Associates Architects, we were one of the first tenants in L'Fant Plaza's COMSEC building. There was no carpet on the floor.

And the concrete dust leached out of that system for years, and so our drawings were always covered with soot the next month or what seemed like it. Anyway, continue.

MR. GLASGOW: I would like to call the next witness, who is the architectural firm for the project, Mr. Steve Gang, and Sami Kokdig.

MR. GANG: For the record, my name is Stephen Gang, and I am a principal in the firm of SKG Architects and Planners, located at 4916 St. Elmo Avenue, in Bethesda, Maryland.

This is Exhibit Number 2, a brief description of the properties around it. North is up, and K Street is to the top of the sheet, and New Jersey Avenue is to the left, and L Street is to the Street is to the right of the sheet.

To the north, on the north side of K Street is an existing District of Columbia storage area, and to the east of the

site is an existing apartment complex, and an area for school bus storage. To the west of the site is a large scale industrial park.

To the corner of L Street and New Jersey is -- I think it is called the Matthews Baptist Church, and one block down on M Street and New Jersey Avenue is the existing Metro stop for the Navy Yard, and to the south is basically vacant property and automobile related facilities.

The lot size is 48,108 square feet, and it is divided into two land uses. Off of L Street is a 175 key hotel, in which they are approximately 116,570 square feet of FAR.

To the north, facing K Street and facing New Jersey Avenue, is a 14 story residential building, 130 feet in height, with approximately 347,443 square feet of FAR. There is two grounds of underground parking, with approximately 246 spaces.

We are seeking as Mr. Glasgow mentioned a variance regarding the open space requirements. The open space requirement in this zone requires 10 percent of the FAR to be in open space, which theoretically means that since we have 347,000 square feet of residential floor area, the exact same land area, since we are at 10 FAR, needs to be provided in recreation.

And I think or we think that is a very challenging thing, especially since there is X-number of square feet required for the building. What we are proposing is an indoor pool, which would take up approximately 2,600 square feet, a club house of

approximately 1,800 square feet, and an indoor club house of approximately 2,100 square feet.

There is also an active outdoor courtyard built on top of the garage in which we are planning that 80 percent of it will be green, and out of that 30 percent will be active. I think a suggestion from the department and the OP was to make it accessible for elderly and children, which we are planning to do.

The second, which is a special exception that we are asking for, has to do with rooftop structures, this is the rooftop plan, and it is our drawing number five.

The four areas that we are requesting is in the -- I am going to start clockwise. At the southeast corner of the site off of L Street and East Second Street, a staircase from the hotel. In the corner of New Jersey and L Street, the cooling tower, and the elevator shafts for the hotel, plus the staircase.

In the northwest corner of the site, off of K Street and New Jersey Avenue, the elevator shaft, plus the cooling tower; and in the northeast corner of the site, an elevator for the loading dock for the residential, plus the staircase for the residential.

The setbacks from the three streets all adhere to the one-to-one slope or one-to-one requirements. There are all in excess of one-to-one from the property lines. Now, the internal building faces, since we have more than three sides, and we are also asking for relief as we are not meeting the one-to-one

requirements along those areas.

I think per OP's suggestion that we are going to make these very similar in character and in scale. If there are any additional questions, I would be happy to answer them.

VICE CHAIRMAN SOCKWELL: With regard to the roof structure setbacks, what is the specific difference between one-to-one and what you provide in your worst case where there is a setback?

MR. HOLLAND: Well, the worst --

VICE CHAIRMAN SOCKWELL: The worst case would be that stair tower, I assume.

MR. HOLLAND: The worst case would be where it is abutting along the face. I just want to mention one other thing, and what we have done from an urban design standpoint is that we have also set the building back 10 feet from along New Jersey Avenue.

So for the first 90 feet, we are abutting along the property line, which is this line right there, and then we are setting the building back 10 feet, and even from that 10 feet -- well, we are measuring from the property line over.

So, for example, I would call this number three, description number three, and from the property line back, we are 27 feet, 8 inches. In reference to your question of which is the worst case, it is the second one which I described for the hotel, which basicallly abuts the face of the building in the back.

VICE CHAIRMAN SOCKWELL: What is your setback in the front?

MR. HOLLAND: In the front, from the front face of the building --

VICE CHAIRMAN SOCKWELL: Is it a one-to-one, or is it --

MR. HOLLAND: It is one-to-one. It is 18 foot 6 inches, and if you want to go to the property line, it is another 10 feet back.

VICE CHAIRMAN SOCKWELL: And it is no less than one-to-one from the street facade to the building in any case that I see?

MR. HOLLAND: That is correct.

VICE CHAIRMAN SOCKWELL: And the setback at 90 feet is a setback prescribed by code?

MR. HOLLAND: It is prescribed in the existing zone for residential as being 90 feet.

VICE CHAIRMAN SOCKWELL: Right.

MR. GLASGOW: Mr. Chairman, I think one point of clarification. That was the setback that we discussed with the Office of Planning. If there was no required setback, we could straight up 130 feet. They asked for a setback and we provided it.

VICE CHAIRMAN SOCKWELL: Okay. Any questions? If not, please continue.

MR. GLASGOW: Mr. Gang, have you completed your testimony?

MR. HOLLAND: Yes, I have.

MR. GLASGOW: All right. I would like to call the next witness, Mr. Richard Harps. Mr. Harps, would you please identify yourself for the record and proceed with your testimony.

MR. HARPS: Thank you, Mr. Glasgow. My name is Richard Harps, and I am the president of the real estate and consulting firm of Harps and Harps, Incorporated, 1111 - 14th Street, Northwest, Washington, D.C.

I was asked about a month ago to look at the feasibility if you will of developing residential uses on this site. As you know, it is in the receiving zone in the South Capitol area. It is an area that has been basically anticipated to be developed with commercial uses.

This is the only proposal that I am aware of, of a residential development in the entire area between South Capital Street and M Street, the freeway, and the public housing to the east.

It is a pioneering development that fits absolutely every definition of the word that I have ever heard of pioneer. When one looks -- oh, I'm sorry, I have copies of my report, and there are a couple of things in there that might make the Board's job just a hair easier.

VICE CHAIRMAN SOCKWELL: By the way, Mr. Harps,

your resume has been submitted to the record?

MR. HARPS: Certainly a number of times before.

VICE CHAIRMAN SOCKWELL: I did not -- not that you are not familiar to me.

MR. HARPS: It is attached to the report on page 12.

VICE CHAIRMAN SOCKWELL: Thank you.

MR. HARPS: As Mr. Holland mentioned, there are going to be a tremendous number of new employees in the area. There are currently no residential uses for those employees to live in. Part of the problem that I think the city will have in that area is that most of the employees currently live in Maryland and Virginia.

If there is no supply for them to move into that area, then they clearly will continue to live in Maryland and Virginia. So the hope here is that once this thing is completed with all the new development that there will be sufficient numbers of those employees who would choose to live close to work.

That is one of the reasons that I still live in the City. I am with Mr. Holland, the commute is too much. If you will turn to page 5. Just to set the background, I have listed a number of the apartment rents in the southwest urban renewal area, and in and around downtown Washington.

Everyone is very familiar with the increase in prices in apartments, and rents which has occurred in the last --

really in the last 12 to 15 months. We have seeen this huge explosion of rents. Interestingly enough, if you will look at the top two rents listed, Town Center Plaza, at 1001 - 3rd Street, Southwest, and Marina Towers, at 1100 - 16th Street.

Marina Towers was originally Town Center West. It is the mirror image of the Town Center Plaza Apartments, built at the same time by the same developer. Virtually identical buildings, and if I may, the neighborhood nearby property characteristics from a view standpoint.

And just look at the difference in the rentals between those two. If you look at Waterside Towers, which is further west, on 6th Street, which has views of the river, and then you look at the rentals for the properties on G Street and on 4th Street. Again, look at the difference in rentals.

So you can see that the downtown properties at $2,000 and $3,000 per unit on rents are well above both Marina Towers and Waterside Towers. And really the closest thing to a location we have to this property is really Mount Vernon Plaza, where the rentals barely hit a thousand dollars.

Of course, none of those locations have the potential demand which this property has at this point. So there is a reasonably good chance that they are going to be able to achieve the kind of rents that they will need to make this property feasible.

With apartments, especially on a pioneer property,

you need a certain critical mass in order to get enough people there so that other people will want to live there. So the size of the project from the standpoint of the number of units is critically important.

You also need more units rather than less units in order to get economies of scale to keep the operating costs down. A small 100 or 200 unit apartment complex costs an awful lot more per unit to operate than a 300 or 400 unit complex.

One concierage, and one person in the lobby, can handle either one of those buildings, and when you are dividing $40,000 by 400 and $40,000 by 200, that is a huge difference when that is added on a number of different factors.

I looked at the feasibility of this property from two standpoints; one on the market basis, and leasing everything out, rents would probably range between $1.75 and $2.00 a square foot. You would end up with a value that would be less than the cost of in the neighborhood, and that is explained a little bit further in Section 4, of about $2,100,000.

So the costs would effectively exceed on market rents the value of the apartment complex by about $2 million. The value of the land, of the 34,000 square feet of land allocated to the residential component, based on sales and asking prices for some of the prices on M Street that are currently on the market, is probably around $15, $16, or $17 per FAR.

So, let's use $15, a little on the lower end, so

that we don't inflate the numbers. That's put a land value on it at about $3.4 million. So now we have a spread of $5-1/2 million between what the land would be worth for, say, an office building, and what the land is worth under the apartment.

Clearly, that kind of spread cannot be accommodated by a normal, prudent market oriented, profit motivated, developer. In this case, by using bond financing, and by being able to sell the tax credits -- and of course that means 20 percent affordable housing on the project, and it means that 20 percent of the units would be rented for significantly below the $1.75 to $2.00 a square foot, you are able to get that loss down, that differential between what the land is worth, and what the residual from the project is worth at $2.00 on the market rents, to a hair over $650,000.

It is still a loss at $650,000. You get to a very small positive number if you project market rents at $2.05 a foot. Now, I will be honest with you. I am not good enough to tell you today whether market rents two years from now are going to be $2.00 or $2.05 a square foot.

I mean, right now, there is no indication down there that market rents are going to be anything because we have no comparables. So the $2.00 a square foot is below what the downtown properties are currently getting.

You know, the newer downtown properties, such as The Lexington. It is a little below the LaTrobe, which is one of

the better buildings in Washington. It is certainly below the West End, but it is well above Mount Vernon Plaza at 930 M.

It is twice what they are getting at 200 K. Those are two of the newer properties that were built downtown during the last time that people built apartments in this city and up until the current time.

So this is a marginal deal, but it has got that little bit of positive spin on it, and so it is possible. The developers think that I am a little low on my rents and that's fine. That's why they are developers and I am an appraiser.

And if their numbers come through, it is a hair positive. But I just want you to notice that in no case is there any additional money left over to pay for any TDRs unfortunately. The land value which I imputed to the site was based on a 6-1/2 FAR site, on 34,000 square feet.

The residuals are based on the proposed 10 FAR building. If that number is negative, and clearly there is no additional money in the project to buy any additional land density from wherever you want to get it, and when you look at it from that standpoint, and when you realize -- and, Chip, please stop me when I get too far a field.

But when you look at it from the standpoint that the whole purpose of a receiving zone was to promote preferred uses, and some in the city, and generally downtown, but to promote preferred uses, here we have a site where they are going to put

the preferred use on the site.

It is not really feasible without the assistance somewhere, and part of the assistance is the bond financing and the sale of the tax credits. The other part of the assistance is being able to develop a site without having to buy, pay money, for additional TDRs, to fill up the gap between 6.5 and 10.

The Zoning Commission has already pretty much stated that the 10 FAR, 130 height limit, is appropriate for the area, because they made it a receiving area. If any cost is basically put on the TDR, tha tmakes that spread even more negative, and at some point it gets negative enough that the developer goes back and says why are we bothering. We can build an office building here.

This would be a great thing for the city if in fact this thing goes forward. Now, if we get 300 residents down there, maybe all of a sudden we don't have another southwest, but we have another east end of Washington, another Pennsylvania corridor or whatever it is called this week.

I mean, I think it is very appropriate for the Board to approve this. Financially, the developer needs it, and financially they cannot, I do not believe, afford to pay for the TDRs. And that is what I was supposed to speak to. Thank you.

MR. GLASGOW: If there are any questions for Mr. Harps, or otherwise we will call the witness, Mr. Steven Sher.

VICE CHAIRMAN SOCKWELL: One quick question for Mr.

Harps. With regard to transferable development rights and the affordability of them at this point, from your projections, having looked conservatively at the financials that this building could generate if you were to look at a future that says that this building creates an excitement, along with the office infrastructure, and the 900,000 square feet that is supposed to be starting down at the 11th Street Bridge, this project as a mixed use type project could be a generator of other residential, as well as continued growth in the office infrastructure.

If you looked at it in a forward looking way, what would you say if it went and does exactly wehat it ought to do, what would you say it can do, and not necessarily from a financial standpoint, but from a catalytic standpoint?

MR. HARPS: I think from a catalytic standpoint, it could be phenomenal. I think if you get 300 or 400 people, or 600 people, assuming that some of them will in fact be couples, and not singles, living down there -- and for one thing I am convinced that the city will pay more attention to that area from the standpoint of police and public safety, because now there would be residents.

It certainly can't hurt the city's plan, and hopefully they will start to plan to improve the public housing to the east, and they have already made some improvements. But there is a proposal, I believe, to move the school buses in the middle of Second Street, and that would help.

Certainly the city could do more. They could get rid of the trash storage, and DPW parking areas. I think long term that it would be very positive. I would like to correct one thing, Mr. Chairman, that you mentioned, and that was conservative.

The only thing that I was conservative about was the current land value at $15. The $2.00 a square foot that I used in the analysis is in my opinion in no way, shape, or form, or fashion, conservative. I have given every credit I could to the potential of this site.

VICE CHAIRMAN SOCKWELL: Well, I would say that if the comprehensive plan amendments had not put the central employment area through that stretch, we would not be talking about that number. We would be talking about a much lower number.

MR. HARPS: That's probably true.

VICE CHAIRMAN SOCKWELL: And so I think the number may have some conservatism built into it personally.

MR. HARPS: Okay.

VICE CHAIRMAN SOCKWELL: And I would like to announce that Council Member Ambrose, Sharon Ambrose, from the City Council, is sitting in the audience, and if she would like to speak to anything for this particular application, we would be more than happy to take her out of turn, as I know that she has a busy schedule.

COUNCILWOMAN AMBROSE: Thank you, Mr. Chairman. I

have submitted a letter in support of this project. I also want to say that I have testified before this body, HPRB, the Zoning Commission, I believe on every single project that has been ongoing for this Navy Yard, Southeast waterfront, development area.

It is the single, I think, most active development area in the city. I am convinced that as I said in my letter that this private sector investment in residential housing down there is going to make a significant difference.

I think it is on the edge. I think it is a commitment of money and enthusiasm, and most importantly, confidence in the area, that will not go unnoticed. In fact, I left my office not being able to take a call that I was receiving a call back actually from Tony Costa from GSA.

My fondest dream is to see mixed-use development on the Southeast Federal Center, to get housing actually right on the waterfront, and to have housing on this L'Fant vista street of New Jersey Avenue, I think goes a long way towards convincing even the Federal Government that there is potential for residential in this area.

So I urge you to grant the variances asked for in this project, to allow the project to go through, and without the variances, I am not entirely sure that it would be possible financially to make it work.

So, thank you very much for hearing me out of turn,

and again I am most enthusiastic about this project, and especially about the willingness of these investors to have confidence that residential will work down there.

VICE CHAIRMAN SOCKWELL: Well, I am sure that the south end of Ward 6 will be benefited by having the development of the waterfront not so discontinuous with everything else that is positive, and can be positive in that neighborhood.

And the waterfront certainly has been lacking and everything along major streets that have such development potential has been lacking, and now we seem to be getting there.

COUNCILWOMAN AMBROSE: That's right, and I think that this residential project, perhaps because of its size, is particularly abridge backed up to residential Capitol Hill. And I see it that way, and I think the developers see it that way, and I certainly will be working to promote it as such.

VICE CHAIRMAN SOCKWELL: Thank you for your remarks.

MR. GLASGOW: I would like to call the last witness, Mr. Steven Sher. Mr. Sher, would you please identify yourself for the record, and proceed with your testimony.

MR. SHER: Good afternoon, Mr. Chairman, and Members of the Board. For the record, my name is Steven E. Sher, and I have to stop and make sure that I say this right, the Director of Zoning and Land Use Services with the law firm of Holland and Knight, LLP.

The staff will provide to you a copy of my outline, and as is my usual custom, I will review it with you rather than go through it line by line. I think you have heard enough about where the site is, and what the surrounding area looks like, which is Roman Numerals 1 and 2 on page one.

On Roman Numeral 3 on page two describes the existing C-3-C zoning that applies to the site, and as has been stated before, that is a zone which ordinarily allows a maximum height of 90 feet, and a maximum FAR of 6-1/2.

But because this property is in the Capitol South receiving zone, with the acquisition of TDRs, the maximum height permitted is 130 feet. The maximum FAR is 10 if the site is allowed to go that height because of the width of New Jersey Avenue, which is 160 feet wide. The maximum height permitted here is 130, and the maximum FAR is 10.

I am now in the middle of page three, the proposed development. You have heard this before, too. It is a building that would have two uses; an apartment house of approximately 375 rooms, and a hotel of approximately 170 rooms. The total gross floor area of approximately 464,000 feet, which is 9.65 FAR.

Overall, if you take those two components and divide them, you find that the apartment house is 10 FAR on its site, and the hotel is 8.72 FAR on its site. And again the overall height is 130 feet with that setback at the 90 foot level of 10 feet along New Jersey Avenue.

There are three areas of relief required from the board in order for this project to proceed as it is now proposed. First is a variance from the residential recreation space requirement. What is required is 34,000 plus square feet, and what is proposed is about 15,000 square feet.

On the requirement to purchase TDRs, as you have heard described, it is not proposed to purchase the TDRs in order to build this site, and I am going to come back to that.

And the third area is the special exceptions for roof structures, basically to have more than one roof structure, and you heard Mr. Gang describe the location and the nature of the four that are up there, and to permit those roof structures not meet the one-to-one setback from the edge of the roof in all circumstances.

On page four, Roman Numeral 6, I have set forth the standards of the Zoning Act and the regulations as they relate to a variance. As to the residential recreation space, essentially what comes down here is the size of the building on the size of this lot, which effective means that you have to haver 1.0 FAR equivalent devoted to a residential recreation space if you are to meet the requirement.

That would either require that a substantial amount of interior space would be devoted to recreational use, or you would otherwise have to reduce the size of the building so you could get down to the amount of space that you can provide.

You can see from the site plan that there is a limited amount of exterior space which can actually be devoted to residential recreation space, and given the necessity to provide a significant threshold of residential units, the critical mass, in order to make the project feasible, you are really in a position where you can't reduce the residential requirement.

So what we then have is a var iance to bring that level down to what is proposed. In my view there would be no detriment to the public good. The building shares the recreational amenities with the adjoining hotel. There are other nearby recreational opportunities planned.

You have heard some discussion about the removal of the school bus parking that now exists between the two pieces of the Second Street right-of-way. And there has further been recognition by the City through the Office of Planning that this requirement for residential recreation space is probably too high, and should be adjusted for high density residential development.

It was a requirement that goes back to about 1978, and quite frankly, nobody has built enough residential development in commercial zones to prove that the requirement is not right.

But what is happening now is that as you look at what is involved here, the combination of the size of the building, and the requirement of the regulations creates the exceptional situation and the practical difficulty in meeting that, and proving that amount of space in meeting that

requirement.

With respect to the variance on transferable development rights or TDRs, what I would like to just spend a moment on is something that Mr. Harps started to talk about, which is what is the history asit relates to TDRs. Transferable development rights are earned essentially for two reasons.

One, you are either providing some preferred use within the downtown development district area, preferred use being a department store, a theater, or an apartment building; or, secondly, you are under-building on a site that has been designated historic.

So where the normal density would be either 8-1/2 or 10 FAR, the historic regulations limit on-site development to six, and allow you to transfer the remainder somewhere else. And the assumption there is that commercial development will occur in these receiving zones.

Commercial development primarily being office buildings, and there are five receiving zones; New Downtown, East Capitol, South and North Capitol Street, and Southwest.

And it was assumed that in all of those places allowing an extra increment of commercial development would allow people to reach that higher level of development by going out and buying the TDRs earned from either preferred uses or under-building on historic sites.

But that the commercial development would then

leverage the preferred uses to be built downtown. What is happening here is that the otherwise preferred use is going to be built not there, but here on this site, in an area where current planning policies and current planning concepts, suggest that rather than seeing an all commercial area, which is what had been envisioned for years and years, and which the zoning had allowed for years and years.

And, in fact, the previous industrial zoning would not have allowed residential use. But we now have the medium high density commercial category shown on the comprehensive plan, the evolving concepts for the revised, or in the process of being revised, Southeast Federal Center Master Plan, to incorporate mixed use in there, all suggest that within this area which had previously been planned for and developed as commercial use, should not be considered to have mixed use.

And what is happening in this case is that you get that critical mass, and you get that number of units that provides enough people in there in order to begin to make a difference in that area.

You can go up north, and west on New Jersey Avenue, and go under the freeway, and get to the southern end of the Capitol Hill neighborhood. You can go east and go on the other side of Second Street, and you get to the Arthur Kapler projects.

There is residential in there, but this site -- and

I like Mr. Harps' use of the term pioneering. Right now there is nothing in the way of residential amenity in this particular sub-area, within the Capitol South area.

You put an apartment building of this size and magnitude down there, and you begin to create the linkages between residential to the north and residential to the east, the water front to the south, and it begins to make some sense for the City.

As to the requirements for the special exceptions for the roof structure, essentially this derives out of the nature of the proposed uses, i.e., apartment house and hotel.

If this were an office building, and if this were a square block building on this site, you probably would not be here for roof structures, because you would not have the cut-out of quartz to provide light and air to the units that would face on the inside of that building.

The configuration of double-loaded corridors for both apartments and hotels suggests that the width of that falls somewhere between 65 to 70 feet ideally for an apartment building, and maybe a little less than that for a hotel.

What that does is that it squeezes the place where you can put a roof structure on the roof. You need to have those penthouses to provide for stair and towers to the roof or elevator overrides for the two cooling tower areas that Mr. Gang talked about.

But if you have to set back not only from the

street side of the building, but also from the interior courtside, you just wind up not having a good place to put those facilities.

So what we need then is a variance to have -- well, not a variance, but a special exception to have the four separate roof structures. In theory, they could be connected, but what you then do is you have a screened wall connecting the four of them that adds significantly to the bulk on the top of the building when there is absolutely no reason to have it.

And then the other thing is not to have to provide that setback from the inside, and as Mr. Gang set forth earlier, we meet all of the required setbacks from the street sides, and given the places that you can see this building from, and the way that this is designed, you are not likely to notice the lack of a setback on the interior side.

I conclude, therefore, that the property is affected by exceptional conditions, and that the strict application of the regulations creates a practical difficulty, and that the variances can be granted without substantial detriment to any surrounding properties.

That approval of the application allowing a new apartment house would be a significant contribution to City policy of encouraging mixed use in this area, formerly devoted to and planned for all commercial buildings, and I would suggest to the board that the application should be granted.

VICE CHAIRMAN SOCKWELL: Board Members, questions?

(No audible response.)

VICE CHAIRMAN SOCKWELL: So, Mr. Sher, you believe that as a result of the preferred uses being placed in the "receiving zone" that the TDRs are somewhat mooted by the decision to place the more important principal use here, and not there, and that there should be some relief granted from the TDR issue on that basis as a variance?

MR. SHER: In a word, yes.

VICE CHAIRMAN SOCKWELL: Okay. I don't have another question for you.

MR. GLASGOW: Mr. Chairman, that concludes the direct presentation of the applicant.

VICE CHAIRMAN SOCKWELL: Then we should proceed to the Office of Planning Report, which would be again delivered by --

MEMBER RENSHAW: Do we have a representative from 6B?

VICE CHAIRMAN SOCKWELL: I don't know. Is there an ANC representative? Yes, of course. Mr. Simon.

(Brief Pause.)

MR. COCHRAN: For the record, my name is Steven Cochran, and I am with the Office of Planning. This is the site, and this is the southeast-southwest freeway, and New Jersey Avenue, and the Anacostia River down there, and the Capitol just at the top of the screen.

And an important thing is the pumping station down at the southeast-southwest Federal Center, which would form a vista from the Capitol for about, oh, 40 feet in height.

Okay. This is going to be a close-up of the site. We are looking at New Jersey Avenue here, and this is L Street, Southeast, and here we are at K Street, Southeast, and Second Street, Southeast.

Okay. This little notch that you see here is Lot 19, the one that isn't included out of the entire square. So we have got a combination of warehouse uses here, and some vacant uses here, and the warehouses are also vacant.

So you are basically looking at the entire square, except for the 550 square foot convenience store in Lot 19 down here. Between Second and Canal, it is all public property. These horizontal bands that you see here are actually school buses.

The Office of Planning is in the long run certainly working to get the school buses removed and to have all of this returned to public space, and not necessarily as a canal, but certainly public open space. It was the site of the old canal that went down to the Navy Yard.

This is the South Capitol Street, Frederick Douglas Bridge, coming up in -- no. Yes, going up into South Capitol Street. Here we are looking at the Southeast Federal Center in through here, and the pumping station is here.

New Jersey Avenue goes on an angle about like this

up to the freeway. So you can see again that it is connecting Capitol Hill and we are looking at the Library of Congress complex up here, with the river.

Okay. This is the New Jersey Avenue coming down there, and the site again, K, New Jersey, L, and you can see some of the old factory buildings down here at the Southeast Federal Center, where the Office of Planning and the Mayor are certainly hoping to create that vibrant mixed-use community that we have all been talking about for the last year or more.

Say 20 if you go back to the original ANC/CP Report, and maybe even 30.

Okay. Now we are going to get into the actual ground level views. This is the view down New Jersey Avenue from Capitol Hill. We are looking at the Rayburn Building, and the parking garage being over here. This is the Capitol Hill Historic District.

The freeway is right about here at the crest of the hill, and beyond would be the Southeast Federal Center, and the site is going to be about four blocks down past the freeway on this side.

This is the freeway and the site is right over or right down in here, and past this large elm tree. We are looking south again towards the Anacostia River.

Here we are on the south side of the freeway. There is that Elm tree again, and you can just barely see some of

the Department of Public Works facilities in here. If you are as close to this screen as I am, you can actually see the fence that is fencing off Square 741 and the proposed site.

Again, the Southeast Federal Center, and the pumping station are down through there. Now, we are going to take a look at the one lot that is not in the project.

This is the convenience store in Square 19. The proposed building would go up somewhat above the screen here, and behind here, this area where you see the row houses, would be one floor high until you get to the facade of the apartment building itself on Second Street, which is right here, and that facade would start approximately here.

This wall and this wall define the alley that will be considered for closing by the City Council next week. We are looking at a close-up of the rear of Lot 19. This is a public alley, despite what it may appear to be. This again is the area that will be considered for closing next week.

And this would be the access to the applicant's proposed courtyard, and the loading docks for the hotel back in through here, and in the distance on the other side of this tree, you would see the rear end or the rear side of the corner of the hotel, and then the back of the New Jersey Avenue facade of the apartment building.

MR. HOOD: Mr. Chairman, may I just ask a question while we have this up?

VICE CHAIRMAN SOCKWELL: Yes.

MR. HOOD: Who is in the homes on the side, or the store, or whatever that is on the side?

MR. COCHRAN: I would have to ask the applicant. I believe they are vacant.

MR. HARPS: There is no -- everything on the block is vacant.

MR. HOOD: So those are vacant and nobody is being displaced?

MR. HARPS: It is all gone.

MR. HOOD: Nobody is in any of that?

MR. HARPS: None of that, except for Mr. Kim, who owns this building.

VICE CHAIRMAN SOCKWELL: If you can cut to more of the overview slides and perhaps eliminate some of the close-ups. You have given a good overview of the site. Specific frontages, like New Jersey Avenue, you may wish to discuss. But we could move along since there is no opposition.

MR. COCHRAN: Then I think that this would probably be the only one that might be worth looking at then.

This is a very, very schematic prospective looking down New Jersey Avenue, or looking up New Jersey Avenue, excuse me, towards the Capitol. And it just shows you where the setbacks would occur. Obviously the design that has been submitted to you is much more highly articulated than this.

But it does show you how well it would frame the Capitol, and in some ways it would help you to notice the freeway less by focusing your view on the Capitol.

One of the advantages of being on the -- of essentially the same opinion on the case as Mr. Sher and Mr. Glasgow is that you don't have much to say by the time that the Office of Planning gets up, and so I will be very brief.

We are are recommending very strongly that the board approve both of the special exceptions and both of the variances. There are a few clarifications that I would like to go through though.

For the special exception to have four penthouse structures rather than one, we clearly recommend that there be and that you allow for. I would like to ask Mr. Ganglow to show the overlay sheet that he and I discussed earlier today so that it is going to be part of the record.

While he is putting that up, I would like to mention that there are a couple of changes to the Office of Planning's written report here. On page four, we mentioned that we think that it would be appropriate for 3 out of the 4 roof structures to be at the 18 foot 6 inches height that the applicant proposed, and possibly that the fourth should also be at 18 foot 6 inches, rather than 9 feet 6 inches.

We have since reviewed the refinements to the design, and we would now like to recommend that the fourth, that

is to say the southeast roof structure, be at 9 feet, 6 inches, as the applicant proposed, rather than as we suggested that we might be recommending on page four of the report.

The applicant has also clarified the location of that roof structure since the time of the submission, and we have no problem with how the applicant is showing the location of that roof structure.

VICE CHAIRMAN SOCKWELL: Would you explain that a little bit more fully.

MR. COCHRAN: Certainly. That smaller southeastern room structure, on some sheets in the application had been shown all the way to -- well, considerably more to the south, and off to the east. In other sheets, the applicant showed it all the way to the east at the party wall, but to the north, in the same position to the north as it is here on the overlay.

We questioned why the applicant couldn't meet the one-to-one setback from the party wall. Indeed, the applicant has revised the plans since the time we wrote our report to meet that one-to-one setback from the party wall, and has clarified that the sheets that showed the roof structure closer to the courtyard wall, and meeting the setback requirements from the south wall are in fact the correct sheets.

So what you see there is what we would like to see submitted as part of the record. When it comes to the shape of the structures, because we feel that these are going to be

prominent from the Capitol Hill skyline, although we hope that they won't be prominent for long because they will be joined by other structures, we still feel that it is important that they be designed as intrical parts of the building, which is why you are seeing the roof structures with more uniformity now to their shape, as opposed to the gigs and zags essentially that had been the plan.

I know that is a correct architectural term, thank you, that had been in the plans that were actually submitted. This is a more unified and harmoninous design, and we would like this to be part of what you consider as part of the record.

VICE CHAIRMAN SOCKWELL: So they are a little less ziggy now, huh?

MR. COCHRAN: Absolutely.

(Laughter.)

MR. COCHRAN: The special exception to the location of the roof structures with respect to the setbacks, I believe Mr. Sher has covered that adequately. We feel that there is no harm to the public good and that sunlight, air, and elbow room would not be compromised by their not be set back from the interior courtyard.

When we look at the -- well, going on to page six. I believe that Ms. McCarthy has addressed most of these issues about why we would argue for relief from the requirements for recreation area in her discussion of Avalon Bay.

This is a somewhat similar kind of structure, with a somewhat similar market. I believe that you will likely see that the zoning commission will likely see recommendations in the not so distant future from the Office of Planning that would recommend that the requirements be changed so that we can get more housing in town, and I don't know that we need to go into that.

I would point out, however, that on page seven that we are making some -- we would recommend that you make some proviso for active recreation uses.

In the courtyard, we want to be sure that there are benches and equipment for the elderly, and for children, which is why we are recommending that 30 percent of the area that is landscaped be set aside for active recreation uses.

I would also like to note that we are recommending that you require the applicant to provide a secure exit from the Second Street side of the building so that in the future when that area where I showed you the buses are parked, when that area becomes public space and is accessible, and possible recreation space, that that be easily accessible from the apartment building through an entrance from Second Street and the applicant has agreed to that.

And then we also have a provision about keeping the party room and the meeting space open to the building residents at least six hours per month, and the applicant has agreed with that.

When it comes to the variance for the restriction

on the TDRs, I believe that Mr. Sher has gone into considerable detail, and we quite agree with him, on this. The concept behind the TDRs was to get a public good.

And we believe that in this instance that we are going to be getting a significant public good by allowing the applicant to go up to the full 130 feet without of the purchase of the TDRs, in an area where we would not otherwise be likely to get residential uses, and certainly not at this point in the marketplace.

Someone has to be the first one in, and we may well also be recommending in the future that the zoning commission consider allowing these heights for residential uses in TDR receiving zones, period.

Clearly, the zoning commission has already said implicitly that 130 is an appropriate height. It does not have a negative impact on the public. We are simply trying to come up with a mechanism whereby we can get publicly beneficial uses.

So in effect everything has already been set up by the zoning commission, and we are in agreement with the applicant that it is appropriate to grant a variance here in order to allow this public good to be achieved in this area.

To date, no TDRs have been purchased for residential uses since the inception of the provision. And the applicant has indicated -- and now we are moving on to page nine. The applicant has indicated that the applicant will provide 20

percent of affordable housing units.

We would like to see the Board of Zoning Adjustment make that a requirement of the approval, as oppoosed to just indicating that they will try to do it.

And finally access to Lot 19. This is just as much a part of the alley closing application as this, but we want to be sure that the person who owns Lot 19 continues to have access to the rear of that lot, as long as that lot is not incorporated in this larger project.

So we hope that you will also require the applicant to agree in writing that the alley access remain unimpaired for Lot 19 by the granting of an easement, and clearly there would be a reciprocal obligation here that the applicant not block the alley entrance, nor the owner of Lot 19 block the alley entrance, so that each user would have access to it appropriately.

That concludes the Office of Planning report, and I am certainly open to questions.

MS. MCCARTHY: If I could just amplify one thing. We just want to be clear about the issue on TDRs, and that we are not saying that in every instance of residential construction in a receiving zone that that should in and of itself justify being able to get to the full height and density without the purchase of TDRs.

But we do think in this particular instance, because of the ripeness or lack of same of the market, or the

pioneering position of this project within the market, and because of its inclusion of the affordable housing units, we think that there is a clear justification in this particular instance, and the Office of Planning will continue to consider other cases on a case-by-case basis.

As I indicated to you the recreation requirements, we do think that there is ample justification for changing the rule on that, and on that we will proceed with the Zoning Commission for TDRs. At this point in time, we are looking at that more on a case by case basis.

VICE CHAIRMAN SOCKWELL: Thank you, Ms. McCarthy, and thank you, Mr. Cochran. Do we have any cross-examination of OP by the applicant?

MR. GLASGOW: Just one question of clarification. On page 9, it is my understanding that with respect to the 20 percent of affordable housing, that is to be consistent with our agreement with D.C. FHA.

What we don't want to have a problem with the board is where we have one condition coming from BZA and a different condition from BZA obey, and then we can't get our financing.

So it is almost like some of those orders are like conditional, and it may well be as far as considering a condition that is consistent with the agreement with the BZA to obey, and that is how that condition should read for the 20 percent affordable housing.

VICE CHAIRMAN SOCKWELL: All right. Now, what does that mean specifically? In other words, are we dealing with a floating crap game, or are we specifically at some point that we know that we will be able to achieve?

MR. GLASGOW: Well, this residential project, with all the number of meetings that we have had, does not go forward without D.C. FHA financing. I mean, we have to have a bond, a D.C. FHA bond, or there is no apartment project.

VICE CHAIRMAN SOCKWELL: Are we saying that the 20 percent affordable could drop to --

MR. GLASGOW: No. No, I just want to make sure that the terms and conditions of the provision of the 20 percent affordable housing, they are going to be controlled by the D.C. FHA bond financing.

If there is something written where there is some type of incongruity between BZA and what D.C. FHA does, we have a problem. We have a financing problem and we won't be able to go forward with the sale of the bonds.

So it is almost -- I guess it would be analagous to those situations where we have had an approval from BZA, and we have said, well, if the Historic Preservation Review Board approves X, then that is what the final design, if you will, of a building ends up being.

So it is going to be D.C. FHA that is going to control the terms and conditions of the 20 percent.

DIRECTOR KRESS: I would just say that I think that the staff could work out that terminology if it were approved today in concept to make sure that we cover this the way that the applicant is requesting.

MR. COCHRAN: Mr. Chairman, we had much the same -- we had exactly the same question, and we discussed it with the applicant's legal counsel, which is why we came up with the phrasing that we did on page 9; to agree in writing to reserve at least 20 percent of the total number of apartment units for affordable housing in accordance with an agreement with D.C. FHA, so that both conditions are met.

It is congruent with D.C. FHA, but we are still talking about at least 20 percent, and I believe that in my telephone conversation with the applicant's counsel that we were in agreement on that wording.

VICE CHAIRMAN SOCKWELL: Well, I think that the difference between what OP is saying and what the applicant through his attorney is saying is that the 20 percent is expected to be a fixed number per Office of Planning.

The 20 percent is a goal per the applicant's counsel, because it is dependent upon, and when one makes a conditioned response dependent upon, that means that the 20 percent is not fixed. And OP is saying that at least 20 percent of the units will be affordable housing.

MR. GLASGOW: All right.

VICE CHAIRMAN SOCKWELL: And you can't have it but one way; either we agree on 20 percent or we agree on D.C. FHA.

MR. GLASGOW: We can agree on the -- well, the 20 percent is not the issue.

VICE CHAIRMAN SOCKWELL: Okay.

MR. GLASGOW: But the 20 percent may be subject to certain terms and conditions of D.C. FHA. I mean, that will be what they require.

VICE CHAIRMAN SOCKWELL: I understand, but what do you feel the potential ramifications of your position are, as opposed to what OP seems to be saying in a fairly explicit manner?

DIRECTOR KRESS: May I propose some wording? Could it be that it agrees in writing to reserve at least 20 percent of the total number of apartment units for affordable housing, subject to the terms and conditions of an agreement with D.C. FHA?

MR. GLASGOW: That is what we are talking about.

VICE CHAIRMAN SOCKWELL: All right. It sounds like the same thing to me, but in legal terms, Mr. Glasgow is running it through a screening process that I cannot do.

MR. GLASGOW: I think what she has talked about is acceptable to us.

VICE CHAIRMAN SOCKWELL: The subject to issue is the part. As Mr. Cochran is saying, in accordance with means that it is 20 percent and there will be an agreement. Subject to means that it is going to be based upon an agreement that we have 20

percent.

It is a different statement, and it is a specifically different meaning between what you are saying and what he is saying. And if you can explain why and where the difference lies, then maybe the Office of Planning will be able to accept it.

DIRECTOR KRESS: My proposal was to do both. It is to say that they agree in writing to reserve at least 20 percent of the total number of apartment units for affordable housing, subject to the terms and conditions --

VICE CHAIRMAN SOCKWELL: Subject to subordinates the 20 percent to the terms and conditions.

MR. COCHRAN: Right.

VICE CHAIRMAN SOCKWELL: And that's the problem.

MR. COCHRAN: In accordance with has them equal. The 20 percent is as equal as the D.C. FHA financing. Subject to means that we will give you 20 percent, subject to whatever D.C. FHA says.

And if they say, look, you can only finance this project with 15 percent affordable housing, then they would supersede the 20 percent is how I would read that phrase.

MR. GLASGOW: All right. We will go ahead and accept this, but we want to be in a position that if we have any issue with respect to D.C. FHA, we would have to have this corrected immediately, because we are going to be going to the

council, and getting our bonds, and trying to get all of that done before the end of the year.

VICE CHAIRMAN SOCKWELL: I think what you really want to do is have your 20 percent, something that people can hang their hats on.

MR. GLASGOW: We don't have any problem with that. The 20 percent is a given.

VICE CHAIRMAN SOCKWELL: I understand that, and if something comes up that affects the financing, and it can be handled with some administrative modification to the order, then --

DIRECTOR KRESS: We do have the provision for minor modifications.

MR. GLASGOW: That's fine.

VICE CHAIRMAN SOCKWELL: Yes. So, it is not going to be 8 percent or 9 percent because D.C. FHA said something. If it is 19.5 percent, or something like that, then the Office of Planning, seeing the reasoning for it, and wanting such a project to go through should it be approved, would probably be able to accept a negotiated settlement that is out of your control.

But they don't want to be in a position where the negotiated settlement is out of their control.

MR. GLASGOW: Right. We will accept the condition. We have stated what our concern is.

VICE CHAIRMAN SOCKWELL: I understand.

MR. GLASGOW: We are trying to get this project through like lighting.

VICE CHAIRMAN SOCKWELL: And I believe that we have -- if you accept what the staff has recommended, I believe that we have a procedure whereby we can make an adjustment based on something that would be out of your control, or might be out of your control.

But we want to feel that we are at a point that we can look at, and taste, and smell, and that's all that we can ask for when there is a financing issue that has not been finalized. But we want to know where you are.

MR. GLASGOW: Well, the 20 percent is not the issue. That is not a problem.

VICE CHAIRMAN SOCKWELL: Okay. Mr. Cochran, is that satisfactory where we stand now?

MR. COCHRAN: That is satisfactory.

VICE CHAIRMAN SOCKWELL: Thank you. All right. Then we would go -- if there are no more questions of the OP report, do we have Advisory Neighborhood Commission Member Gottlieb Simon?

MR. SIMON: Thank you, Mr. Chairman. It is indeed a pleasure to appear before you today. You know, there are certain bodies that have preferences about where parties sit. That said, my name is Gottlieb Simon. I am the executive director for Advisory Neighborhood Commission 6B.

And the Board has received the ANC's report, but I am not sure that you have had a chance to examine it very carefully since we got it to you as late as we did. It is not too long, and I will try to compress it as we go along. As you have heard, there are three issues of relief that are being requested today.

The first one, and the one in which the ANC spent the most time on was the TDR. The applicant has indicated that the cost of purchasing the TDRs would make it too costly to develop the apartment building.

Therefore, they are asking for increased height without having to purchase the TDRs. The Commission is satisfied that the production of housing, particularly where it includes some affordable housing, warrants consideration of this request.

And parenthetically I would indicate to you, and remind you perhaps, that ANC-6B has been a great champion of housing in our ANC area, and the relationship of housing is of paramount concern.

However, the applicant has provided, or did provide at the time that the Commission considered this, no formal evidence that the cost of TDRs would be prohibitive.

Indeed, the applicant had provided no information whatsoever on the cost of the TDR, and so the Commission raised the question is there a point at which the cost could be absorbed and beyond which it could not be.

In other words, must the requirement be waived completely, or would a partial waiver be appropriate. In effect, the applicant is asking for an imputed subsidy. Such a subsidy can be provided for the special purpose of providing new housing.

It would be wrong to provide this exceptional benefit, however, if the applicant later changed his mind and decided to make the entire building an extended stay facility.

The Commission has seen apartment buildings on Capitol Hill redeveloped in this manner and does not wish to see a repetition on this site. The second area of relief had to do with residential recreation space. The applicant is asking to be relieved of this requirement, again without formal documentation, because the imposition of the full requirement would make it difficult to develop the housing.

The third area are the multiple roofs setback. The applicant persuasively maintains that the application of this requirement is impractical, unnecessary, and also costly.

The fourth area of concern or interest of the Commission has to do with the public benefits. In response to Commission concerns, the applicant noted several ways in which the project would provide public benefits.

The applicant presented a letter from Donohoe Construction saying that Donohoe would look to the neighborhood first to fill construction jobs. In addition, the applicant said that a letter would be submitted later committing the hotel

operation to sign a first source agreement.

Finally, the applicant agreed to undertake a marketing program to make nearby low income housing residents aware of the project's housing opportunities.

The Commission therefore voted six to zero at its properly noticed meeting of September 12th to support this application on two conditions. First, that the applicant should provide the BZA with an economic analysis that shows whether the project needs a complete waiver or only a partial waiver of the TDR requirement.

And, second, that the BZA impose a provision that would ensure that the entire apartment building stays a true residential use and not later a hotel use or extended stay facility use. And that is the Commission's report.

VICE CHAIRMAN SOCKWELL: Mr. Simon, would you say that Mr. Harps analysis is in general the response to your first -- to the ANC's first requirement to some degree?

MR. SIMON: I would say that his response -- that his testimony is highly responsive to the Commission's concerns.

VICE CHAIRMAN SOCKWELL: And, second, the ANC wishes that we put some kind of prohibition on a conversion?

MR. SIMON: Correct.

VICE CHAIRMAN SOCKWELL: Okay. Thank you. Questions?

MEMBER RENSHAW: Yes. Mr. Simon, was there

anything that you heard today that would alter the Commission's opinion?

MR. SIMON: Well, I would say that we received much more information on the economic status of the project than the Commission had before. I don't know to what extent that would have changed the Commission's precise vote, and I will tell you why.

And that is because on another project in this area, the Commission reviewed considerable financial data, only to discover when we had the opportunity to sit down and do an independent analysis, that as a matter of fact the numbers, which looked fine on paper, did not really add up.

And so that was a matter of great concern to the Commission, and why it isn't in effect saying we would like developers as a general rule, as a general procedure, and as a regular requirement, provide data that can be clarified.

MEMBER RENSHAW: In my ANC area, we are very sensitive to rooftop structures, and we are getting some mini-high-rise buildings. One of the issues that we have talked about is this business of cell towers on roof-tops. Did your Commission discuss this in a public meeting, and did you discuss it with the developer?

MR. SIMON: We did not discuss cell towers. That was not brought up on our part.

MEMBER RENSHAW: Or antennas of any --

MR. SIMON: Antennas? No. No.

MEMBER RENSHAW: Or satellite dishes, or anything like that, because that is part of what we call the garbage that is placed on top of buildings, and it is viewable, seeable, and there is some concern about the prominence of the rooftop structures from the Capitol Hill skyline that was mentioned today.

MR. SIMON: Yes. Well, I can assure you that those kinds of things would be of great concern in most of the ANC-6B area, which is a historic district.

We don't really have that many residential buildings of such height that it has become a concern in our area. But the simple answer to your question is that that was not a topic of discussion.

MEMBER RENSHAW: But it is a concern in general?

MR. SIMON: In general.

MEMBER RENSHAW: Thank you.

VICE CHAIRMAN SOCKWELL: If I might say that one of the issues on roof structures is generally whether or not they are unified or separated, and again based on the shapes of buildings and the locations of core services, roof structures often wish to be where they deserve to be by that technical functional relationship.

The fact that this development has pushed the roof structures back to a one-to-one relationship with the exterior facade makes them more relevant to the condition of the average

single bulk mass office building, where they are always pushed into the center of the structure.

In this case, if they impact anything, they will impact this sunlight going into the core and not anything else. And I think that they are sensitively placed personally. I don't seem to have a real problem with them.

But had they been pushed to the exterior of the facade, it would have certainly to me presented a different problem for potential apporoval.

MR. SIMON: I believe the earlier testimony also indicted that they could have been connected in a artificial sense, and that seemed not to do anything other than to satisfy the technical requirements.

VICE CHAIRMAN SOCKWELL: We have been through that on previous projects, and not before this board, but through our office, and actually with the assistance of attorneys in this room, we have worked out situations where the false walls and connections, which really serve no purpose except to make a feature that isn't real look like it is real from one view, where it is almost like a false movie set.

You have got a front door and you walk out the back, and trip into the grass. So I think that they have done a good job on this from a roof structure standpoint.

MEMBER RENSHAW: Well, I would just say, Mr. Sockwell, Chairman Sockwell, that this business of antennas and

rooftop structures seem to catch up with the neighborhood by surprise. And we have seen it in my neighborhood where all of a sudden a permit was issued for 12 antenna on a building, and it was out of the blue.

And we have asked for information, which we have not received yet. So I am just stating and suggesting that we have some kind of an arrangement where any of these antennas or satellite dishes, or additional rooftop structures that are added, be done so in consultation with the ANC. I think that's fair.

MR. HOOD: I had a quick question for Mr. Simon.

VICE CHAIRMAN SOCKWELL: Yes.

MR. HOOD: Again, I want to go back to the comments of the Chair. You feel sufficient enough that you can speak for the Commissioners, even though I know that you serve as the executive director, that they do not need to review. That if this is voted upon today, that they do not need to review Mr. Harps submission?

MR. SIMON: What the Commission did in that regard was to say that we think that the representation of economic difficulty requires a degree of review and analysis that we are unable to provide either because of our experience, or because of the data that we have in front of us. And, therefore, we would recommend that the BZA do that.

VICE CHAIRMAN SOCKWELL: All right. Thank you.

MR. SIMON: I might if I could also comment that

you raised a question about residential displacement, and by and large that has already occurred.

VICE CHAIRMAN SOCKWELL: All right. Any more questions for Mr. Simon? Is there any cross-examination by the applicant of the Advisory Neighborhood Commission representative?

MR. GLASGOW: None.

VICE CHAIRMAN SOCKWELL: All right. Then having your ANC's quorum and vote six to nothing -- six for and none against, with the conditions, we will give the ANC report the great weight that it deserves.

MR. SIMON: Thank you, Mr. Sockwell.

VICE CHAIRMAN SOCKWELL: Thank you. Are there parties or persons in support of the application who wish to speak? How many are there of you? One. Going once, going twice; please come forward. Thank you.

DR. WILSON: Thank you, Mr. Chairman. For the record, I am Dr. Christina Wilson. I am in charge of public programs and adult education at the National Building Museum. I also an a architectural historian, and I am a Capitol Hill resident.

My house is about 10 blocks, 8 to 10 blocks from the site that is being considered this afternoon. The address is 323 C Street, Southeast. I am here today to express my overwhelming and very strong support for this project for a variety of reasons.

I think it will have tremendous benefit not only to the greater Souteast Federal Center, which has been the focus of the discussion today, but also my neighborhood, the Capitol Hill neighborhood, and the City as a whole.

Let me first emphasize to you and reiterate the important need for housing in this part of the City. As you know, there has been a tremendous increase in real estate value and in demand for housing, and Capitol Hill is one of the foremost neighborhoods in this respect.

What is happening now is that many houses that were turned into apartments in the '50s and '60s by absentee landlords who lived elsewhere, are being returned to single family houses. I have done this.

My husband and I bought a house that was carved into three apartments, and returned it to a single family house. So even though the house was uninhabitable when we purchased it, we took potentially three units off the market, and now we only have one, which is our basement apartment rental.

This trend is happening throughout the City, but it is especially happening on The Hill, and this trend is reaching further and further from the Capitol itself in the historic district, and furhter east toward the Barney Circle neighborhood.

So actually in the short term the number of rental units and residential units, especially for single people, is dropping. So it is putting even more pressure on people who wish

to live in or near this neighborhood to do so.

I think it is extremely important to remember the potential for the residents who live in this area, not just people who work at the Navy Yard. But remember that this site is a 10 to 15 minute walk from the U.S. Capitol.

It could easily be a place where Hill staffers and Congressional staff, and the Library of Congress employees could live. And frankly as a neighborhood resident, I have grown a bit weary of the houses that are carved into apartments now that are occupied by Hill staffers, and that more resemble fraternity and sorority houses than they do residences for long term citizens.

I would much rather have apartment buildings like this occupied by professionals, but also well managed and well maintained, which I know is the plan of this corporation.

So that is of tremendous neighborhood benefit from that point of view. I would also like to remind you of the importance of bringing more residents to the City. The demand for hou sing is great.

Remember that the vacancy rate for residentials, and apartments in particular, is the lowest that it has been since World War II. So the City as a whole desperately needs residential units.

But this area does in particular, and this will fit in very well with Mayor Williams' initiative to bring 100,000 people, 100,000 more people to the District of Columbia.

Ultimately that means that it will increase the tax base, and it will improve City services, and that will contribute significantly to the City's long term revitalization.

Remember, too, that the more residents who come to this part of town will attract more goods and services that will benefit everybody there. Most of my neighbors to get certain items have to go to Maryland or Virginia if they don't go all the way across town.

And I would much rather those tax revenues be spent in the District than in Maryland or in Virginia. That's all I have to say. I just hope that you will strongly support this project, which I think is remarkable and extremely important.

And, finally, I just want to add that the investors and the people responsible for this proactive in dealing with the community. They have come to community meetings, and they have reached out to us, and they should be commended not only for the pioneering nature of this project, but for the way that they have responded to and supported the neighborhood that they hope to soon occupy. Thank you.

VICE CHAIRMAN SOCKWELL: Thank you very much, Dr. Wilson. Are there any questions from the board of this witness?

(No audible response.)

VICE CHAIRMAN SOCKWELL: Thank you then.

DR. WILSON: Thank you, Mr. Chairman.

VICE CHAIRMAN SOCKWELL: If there are no further

witnesses, and there are no witnesses, or no parties, or persons in opposition, then I would like for closing remarks to be delivered by the applicant.

MR. GLASGOW: The only closing remark that I have, Mr. Chairman, is that we are under some time constraints with respect to this project, and we would like to receive a bench decision if that is possible.

VICE CHAIRMAN SOCKWELL: My feeling about a bench decision in this particular case is that it is one of complex, if not somewhat complicated, issues, which need to be looked at in detail.

I believe that we should take the time to examine the testimony and the submitted documentation, Mr. Harps' information, among others, so that we are comfortable with the assertions by the applicant as well.

I think that we need to be cautious in proceeding in the TDR direction, and would want to look -- I would want the board to look at that to be sure that it understands fully what the ramifications are of decisions that relate to transferable development rights. And that we move quickly, but deliberately, to make the right decision.

MR. HOOD: Mr. Chairman, I, took, agree that if we make an error, let us error on the side of caution. While there is overwhelming support, I can tell you from this Commissioner's standpoint that so far I do like what I see.

It needs something to jump start that area, and so I would rather for us -- if we are going to make an error, let's error on the side of caution, and not just what we have in front of us, and let's move as expeditiously as possible.

VICE CHAIRMAN SOCKWELL: I believe housing is a linchpin of the development potential of the area, and there is room for a great deal of it. The first person in is always the one that has to take the greatest risk. That is, if nobody follows.

So if the water is warm, it is going to be wonderful, and we want to make sure that the water is warm, but that we take its temperature before we jump into the tub.

MEMBER RENSHAW: It was an excellent presentation by the developers today, and thank you for being interested in this part of Washington, D.C., which does very much need an encouragement to grow, and to be more beautiful than it is and more viable.

But I want to just in closing bring up one matter that was mentioned in the ANC report, and hope that the BZA will agree with me. That there is a suggestion by the ANC about the construction company saying that it would look to the neighborhood first to fill those construction jobs.

And also the applicants said that a letter would be submitted later committing the hotel operation to sign a first source agreement. That's excellent, but I would also like to push

it a little further that both the construction company and the hotel report back periodically -- maybe quarterly -- to the ANC on the number of neighborhood persons hired in those jobs.

I think that is very important, and while it is good to suggest, it is even better to get a report back on a deliverable. And if necessary both the hotel and the construction company may have to extend themselves on training programs, which would be a wonderful -- what shall I say, a wonderful push in the neighborhood. So if that could be done, I would like to encourage it very much.

DIRECTOR KRESS: I would just say that the next meeting is October 3rd. It could possibly -- well, September 26th, if you wanted to look at trying to decide this next week, the case 16607 has told us that they may withdraw, which was the short case that was supposed to be in front of the GW campus plan.

There is a potential to have a special meeting to decide this the morning of September 26th. Otherwise, October 3rd is your regular public meeting. But that is quite a booked morning on all the decisions that you have to make, and that would be the normal place to add it.

MR. HOOD: May I make a suggestion? If it is not too late for the applicant and all parties involved, October 10th, and I am looking at the schedule, if we come in at nine o'clock.

DIRECTOR KRESS: October 10th happens to be a day that Commissioner Hood also is serving.

MR. HOOD: Well, not to mention that it was --

DIRECTOR KRESS: No, I just think it makes sense, because you are going to be here all day.

MR. HOOD: -- convenient for me.

MR. GLASGOW: Can I make one comment? We also are proceeding forward with an alley closing, and the alley closing hearing is going to be occurring September 26th, which is --

DIRECTOR KRESS: A week from today.

MR. GLASGOW: Yes, which dovetails well with the 26th, because the next legislative session after that, we are going to be trying to get the alley closed before the end of this year. So, we would want to be able to take to the council October 3rd the -- that they would be able to act on the alley closing.

VICE CHAIRMAN SOCKWELL: Well, you wouldn't be able to have an order by that time.

MR. GLASGOW: Yes, we know, but we could take them a decision. We could take Council Member Ambrose's decision of the board.

DIRECTOR KRESS: If you did a bench decision with conditions, we could potentially get an order that quickly.

VICE CHAIRMAN SOCKWELL: Well, I think the question is whether or not on a case that has complexities beyond just roof structure -- I mean, we are talking about setting a precedent with regard to the TDR issue, and I think that we should look at it.

And even if we delay one week so that the board

members can take back the information that has been gathered here today and go through it, we may be able to return a decision at the next meeting.

But I do not wish to proceed blindly into a decision on something that is as important as this particular one. Your development means a great deal to the Navy Yard. It means a great deal to Ward 6, and it means a great deal to the core of Capitol Hill.

And in fact realistically it means a little bit to me because I live in Southwest just across the street sort of. But the issue is that we want to proceed with caution, as opposed to with direct speed, and I believe that you can certainly understand my concern that we be comfortable with what we do.

Because this TDR issue is not going to go away. It will continue to come up, especially in these emerging areas where transferable development rights have not proven to do what they may have been expected to do when these downtown development district issues came up initially.

So if we are going to jump start the community, we want to make sure that the board is on board before we hit the pedal.

MR. HOOD: Mr. Chair --

MR. GLASGOW: And I think that we are talking about the 26th as a potential date?

MR. HOOD: The 26th? If the 26th is suitable, Mr.

Chair, I will make it my priority to be here on the 26th.

VICE CHAIRMAN SOCKWELL: You would only need to stay long enough to perhaps --

MR. HOOD: Well, long enough may mean three hours, but yes.

(Laughter.)

VICE CHAIRMAN SOCKWELL: Well, not necessarily. Mr. Cochran has a statement.

MR. COCHRAN: The Office of Planning certainly understands your concerns that it set a precedent for TDRs, but I just wanted to emphasize for the office that we are looking at this as each case standing on its own merit.

VICE CHAIRMAN SOCKWELL: And I understood that from your testimony.

MR. COCHRAN: We certainly do not view t his as setting a precedent, and we would have no hesitation in a future case, even on New Jersey Avenue, recommending against a TDR if it should so be justified.

VICE CHAIRMAN SOCKWELL: And I understand that, but I am stating that for the board, which is different from the Office of Planning, we wish to be as aware of the TDR issue as -- I have been involved with TDRs to some degree, both in California and here. So it is not new to me.

And I even have documentation that would help the board to understand the transferable development rights issue, and

I think the board needs to feel comfortable taking time to deliberate on its own with this particular issue. So we will decide this case on September 26th.

DIRECTOR KRESS: On September 26th, we will set a time for a public meeting. It can either be at 9:00 or 9:30, whatever your pleasure is.

MR. HOOD: Can we make it at nine o'clock?

VICE CHAIRMAN SOCKWELL: You just want everything to go your way don't you?

MR. HOOD: Well, so far it hasn't been and so I figured --

(Laughter.)

VICE CHAIRMAN SOCKWELL: Well, since mr. Hood, Chair of the Zoning Commission, has requested that he -- and I am merely sitting in, we will do it at nine o'clock if the rest of the board has no --

MR. HOOD: If that is okay with Commissioner Renshaw. I mean, you know, 9:30 is --

MEMBER RENSHAW: Do I have a voice or what?

VICE CHAIRMAN SOCKWELL: I understand.

MR. HOOD: Well, 9:30 is fine. I will do it at 9:30.

VICE CHAIRMAN SOCKWELL: No, nine o'clock is fine.

MR. HOOD: You guys come in every week. So 9:30 is fine.

VICE CHAIRMAN SOCKWELL: No, nine o'clock is just fine.

MR. HOOD: Now we can't agree on that.

VICE CHAIRMAN SOCKWELL: That's all right.

(Laughter.)

DIRECTOR KRESS: Ms. Renshaw, would you break the tie.

VICE CHAIRMAN SOCKWELL: We will do it at 9:00 a.m.

MEMBER RENSHAW: I'll break the time and make it 9:15.

VICE CHAIRMAN SOCKWELL: Okay. I knew it. All right. Thank you very much.

MS. BAILEY: Mr. Chairman, was there a submission? Mrs. Renshaw had mentioned something coming in. Was there a submission to come in on this from the applicant?

VICE CHAIRMAN SOCKWELL: Their findings of fact would probably be coming in at some point, but I doubt that they would have that prepared by next week. I mean, if you are running a little shorthanded, let me know. All right. Mr. Simon, please come to the microphone, please.

MR. SIMON: Mr. Chairman, Mrs. Renshaw was making reference to letters that the applicant said would be forthcoming; a letter from the hotel operator with regard to the first source agreement perhaps, and so to respond to Ms. Bailey's question about was there anything else coming.

VICE CHAIRMAN SOCKWELL: Okay.

DIRECTOR KRESS: We don't really need that if you decide that is a condition, Ms. Renshaw. We can write that, and we often do, regarding the zoning commission. Most orders do have that in it.

MEMBER RENSHAW: All right.

DIRECTOR KRESS: So we do have -- we can do that without any additional submissions.

VICE CHAIRMAN SOCKWELL: And I want to clarify one thing which was part of, I think, the ANC letter. Are we talking about Donohoe Construction or Donohue Construction?

MR. GLASGOW: Donohoe.

VICE CHAIRMAN SOCKWELL: Thank you.

MR. SIMON: Thank you.

VICE CHAIRMAN SOCKWELL: All right. Then unless there is some other issue to discuss, then we can proceed to the next case, and we will see some of you bright and early at 9:15 next week. Thank you.

MR. GLASGOW: Thank you very much.

VICE CHAIRMAN SOCKWELL: The next case, and the last case of the day, will be the application of the Public Welfare Foundation, Inc., case number 16602.

MS. BAILEY: The application of The Public Welfare Foundation, Inc., pursuant to 11 DCMR 3104.1 for a special exception under Section 214, to use a parking lot to service the

customers and employees of the store in an R-4 District at premises 932 - 12th Street, Northwest, Square 274, Lots 71 through 75.

All those wishing to testify, would you please stand and raise your right hand.

(All witnesses were sworn.)

MS. BAILEY: Members of the Board, with this case, you do have a report from the Department of Public Works. The affidavit and all other requirements have been filed timely. We did not find a report or did not see a report filed from ANC-1B.

There is a previous order on this site, Number 14574. This case is now ready for you and for the applicant to discuss with the Board.

MR. SZEGEDY-MASZAK: Good afternoon, Mr. Chairman.

VICE CHAIRMAN SOCKWELL: Give me just a second, please.

DIRECTOR KRESS: We have just received the ANC-1B's report and it is being handed out for you. We do need to waive that to allow it in.

VICE CHAIRMAN SOCKWELL: I move that we waive the rules to admit the advisory neighborhood commission 1B report.

MEMBER RENSHAW: I second.

MR. HOOD: I second.

VICE CHAIRMAN SOCKWELL: All in favor?

MR. HOOD: Aye.

MEMBER RENSHAW: Aye.

VICE CHAIRMAN SOCKWELL: Aye.

VICE CHAIRMAN SOCKWELL: All right. I think we are all here now. Do we have all of the handouts? You may proceed.

DIRECTOR KRESS: There is one more handout that is going to be coming from --

VICE CHAIRMAN SOCKWELL: We will wait for just one more.

DIRECTOR KRESS: Well, I don't think you need to hold up. It is from a council person in support.

VICE CHAIRMAN SOCKWELL: That's fine. Please proceed.

MR. SZEGEDY-MASZAK: Good afternoon, Mr. Chairman, and Mr. Hood. Ms. Renshaw, how are you? My name is Peter Szegedy-Maszak, and I am special counsel in real estate, land use, and historic preservation, at the law firm of Arnold and Porter.

I am counsel for The Public Welfare Foundatoin, the applicant in this case. I am joined today by my colleague, Nathan Gross, who is the director of zoning services at Arnold & Porter, and whom, Mr. Chairman, has been qualified before as an expert witness in land use, and I would request that also today.

VICE CHAIRMAN SOCKWELL: That's fine. We are quite familiar with Mr. Gross.

MR. SZEGEDY-MASZAK: Mr. Chairman, in the interest of time, I didn't know if the board has had an opportunity to read

the application and the prehearing statement, and would simply like me to proffer the testimony, and then leave it open for any questions you may have.

VICE CHAIRMAN SOCKWELL: Yes, I think that the entire board has had an opportunity to read the material. And are there any persons or organizations in opposition to this case present?

MR. SZEGEDY-MASZAK: No, sir.

VICE CHAIRMAN SOCKWELL: All right. Then I think --

MR. SZEGEDY-MASZAK: Well, Mr. Chairman, just one -- we have or we are blessed with Mr. Lawrence Guyot here from the ANC to speak in favor of the application.

VICE CHAIRMAN SOCKWELL: Okay. I look for opposition in order to determine the extent to which we may be able to abbreviate your testimony and the testimony of your witnesses so that we may move the case along.

So you may begin, and if you hit the salient points, I think we are all fairly familiar with the case, and we will question you as needed.

MR. SZEGEDY-MASZAK: Absolutely. Thank you, Mr. Chairman, very much. This hearing is on application 16602 by The Public Welfare Foundation for a special exception under 11 DCMR 214 and 3104.1.

This special exception request is necessary to

allow the applicant to provide 24 accessory parking spaces for us of employees and visitors to the offices of the applicant.

The proposed accessory parking site is zoned R-4 and is located at 932 Twelfth Street, Northwest, Square 274, Lot 71 through 75. The 24 parking spaces will be accessory to the applicant's headquarters operation located in the True Reformer Building at 12 U Street.

The applicant owns all fo the real property that is the subject of the application. The accessory parking lot will be separated only by a public alley from the True Reformer Building. As noted in our application, this property has been used in the past for parking purposes for a prior retail use.

That accessory parking lot was approved by this board in March of 1987. That order has lapsed, and the retail use has also lapsed. The True Reformer Building, Mr. Chairman, is a designated local landmark, and is on the District's inventory of historic sites.

Both the True Reformer Building and the proposed parking lot are within the greater U Street historic district. The Historic Preservation Review Board has jurisdiction over new construction, and therefore has jurisdiction over the parking lot.

We spoke yesterday with the staff person from the Historic Preservation Review Board, Mr. Steve Calcutt, who aedvised us that he had no objection whatsoever to the parking lot design, and would request that this case be placed on the HPRB's

summary consent calendar for one of its next two meetings.

We also received notice from the zoning administrator that as a historic landmark the True Reformer Building has no parking requirement under 11 DCMR 2100.5.

Nonetheless, the applicant still seeks approval of this special exception for its parking in the interests of maintaining community relations and in the interests of abiding fully with the zoning regulations of the District of Columbia.

The accessory parking lot will be exclusively used by the employees of The Public Welfare Foundation and visitors to their offices. The accessory spaces are intended to strictly limit, as well as alleviate, any potential for overflow parking on neighborhood streets due to the reoccupancy and restoration of the landmark building.

Our evidence will show that the proposed accessory parking spaces fully comply with the applicable special exceptions standards in 11 DCMR, Section 214 and Section 2303. Section 214.1 authorizes the board to approve a special exception to prove as a special exception, quote, accessory passanger or automobile parking spaces elsewhere than on the same lot, or part of a lot on which the main use is permitted, subject to ll DCMR 3104.1, and the conditions specified in Sections 214.2 and .8.

Our witnesses today are, and who are next to me, are Mr. Larry Kressley, who is the executive director of The Public Welfare Foundation; and I proffer that Mr. Kressley will

testify regarding the background and purposes of The Public Welfare Foundation, its planned use of their former building and headquarters, the need for the accessory parking for employee and visitor parking, and the extensive community outreach process that the foundation engaged in to provide community participation in the planning process.

Mr. Kressley does have a statement that he will submit to the record, but I proffer that that will be his testimony.

Our land use consultant, the very experienced Nate Gross, will present the planning and zoning analysis for the proposed accessory parking lot, and I proffer that Mr. Gross will show that a accessory parking lot is fully compatible with Section 214.2 to 214.8 of the zoning regulations.

We are also joined very happily by Mr. Kent MacDonald from Sworg and Associates, and Mr. MacDonald will present the plans and accessory parking lot, and indicate compliance with the relevant physical and area requirements in Section 2303 of the zoning regulations.

And I proffer that Mr. MacDonald's testimony will show complete compliance with the project and with Section 2303. I also proffer that the proposed accessory parking space or lot use is entirely consistent with the criteria in 3104.1 in the following ways.

It is consistent with the intent of the zoning

regulations to enhance compatibility between adjoining commercial and residential zoned districts, and will not tend to adversely affect the use of neighboring property.

Second, the accessory parking spaces will provide necessary and convenient off-street parking to serve employees and visitors to the Offices of The Public Welfare Foundation, and substantially minimize the use of available on-street parking.

Finally, the proposed accessory parking spaces are both located and appropriately buffered from nearby properties in such a manner that will minimize any adverse effects, especially traffic related, on the surrounding neighborhood.

Mr. Chairman, I proffer that testimony on behalf of our witnesses, and I would also proffer that Mr. Guyot would testify that the board -- that the ANC voted 9 to 0 in favor of this application, and that Mr. Guyot is very satisfied with the community outreach efforts that were undertaken by the applicant.

So, Mr. Chairman, if you have questions to any of the panel, otherwise we would stand on our evidentiary proffer.

VICE CHAIRMAN SOCKWELL: Thank you. You may proceed with your first witness.

MR. SZEGEDY-MASZAK: Mr. Chairman, I would like to introduce to you Mr. Larry Kressley, the executive director of The Public Welfare Foundation.

MR. KRESSLEY: Good afternoon, Mr. Chairman, and Members of the Board.

VICE CHAIRMAN SOCKWELL: Good afternoon.

MR. KRESSLEY: My name is Larry Kressley, and I reside in the District at 2500 Q Street, Northwest, and I am the executive director of The Public Welfare Foundation, and I am very pleased to have this opportunity to talk with you this afternoon about our application now before the board.

This application is an important step in the Public Welfare Foundation's efforts to restore the historic True Reformer Building to its status as a vibrant community landmark. Throughout this project, we have worked closely with the neighborhood residents and elected officials in a colloborative effort, gathering their ideas and opinions, and sharing our plans and our progress.

The True Reformer was one of the first in the nation to be designed, financed, and built by the African-American community. It is a powerful symbol of preservance, determination, and accomplishment, in the face of great obstacles.

Dedicated in 1903, the building was originally the home of the True Reformers, a benevolent organization dedicated to to improving the lives of African-Americans at the turn of the century. Later, it became the home of the Metropolitan Police Boys Club, and of the First Separate Battalion, the African-American Branch of the D.C. National Guard.

It was also the site of early concerts by Duke Ellington. Sadly, however, The True Reformer Building has been

sitting empty and deteriorating for most of the past 10 years. But come next January, the True Reformer Building will again be home to community-building, and neighborhood activities, and to the arts.

Once renovation is completed, the building will serve as the hedquarters of the Public Welfare Foundation. Founded in 1947 by newspaper published Charles Edward Marsh, the foundation is committed to supporting organizations that use the strategy of service, advocacy, and empowerment.

Inherent in this strategy is the belief that people who are most affected by a problem must be involved in developing solutions to address it. The Foundation distributes $19.5 million each year to grass roots and community based groups in the United States and around the world.

The foundation supports a number of projects here in the District of Columbia, including a fund for Washington's Children and Youth, which last year distributed over $500,000 to grass roots organizations in Anacostia.

We plan to make a substantial portion of the True Reformer Building, including the original two level auditorium, available for use by neighborhood groups and local non-profit organizations. We anticipate the building coming to life during the day, and in the evening, too, with community meetings and events, concerts, and other performances.

The continued use of the land immediately behind

the building for parking will allow our staff to have secure, accessible parking parking, and help to alleviate parking congestion in the surrounding blocks.

During our ongoing discussions with the community about their hopes for this building and the surrounding neighborhood, we heard time and again the importance of bring new daytime users into this community.

By relocating our operations to the True Reformer Building, we will being a daytime staff of about 30 to the U Street corridor. But our ability to do that is partially dependent upon providing those staff members and people who visit us with accessible parking.

Our work with the community on this project began well before construction was underway, and at no time in our public meetings did residents express concerns about our use of the lots directly behind the building for parking.

But the advising neighborhood commission and the Cardozo-Shaw neighborhood association passed unanimous resolutions in support of the project, and our application for tax exempt revenue bonds.

Ward One Council Member Jim Graham, the ANC Chair, Laurence Guyot, and ANC vice chair Glenn Melcher, who represents our neighborhood on the ANC, have all been active participants in the community process, and are supporters of the renovation of the True Reformer Building as our headquarters.

In addition to the accessory parking site immeidately to the south of the True Reformer Building, the property we acquired last year includes additional land in the interior of the square block.

These lots were approved some years ago for development of a parking lot that was never built. Once the site of alley dwellings, this land has stood empty for many years, serving as an ad hoc parking lot and garbage dump.

If the application before you today is approved, we will not need this land for parking, and we plan to devote it to more useful community purpose.

We held several community meetings to discuss the project and gather community opinions, and also conducted a survey of residents about their preferences for the use of that land. An overview of our community outreach activities and the results of the survey are included in these information packets that we prepared for you.

After an extensive community process, our board of directors recently decided to pursue a development plan with the MANNA Community Development Corporation, a non-profit community development group, INSAW, and under that plan the MANNA CDC would develop 12 affordable housing units and a park, both uses that received strong community support in our meetings and our survey.

Once again, Chairman Sockwell, and members of the Board, I thank you for consideration of our application.

VICE CHAIRMAN SOCKWELL: Thank you. Are there any questions of Mr. Kressley at this time?

MEMBER RENSHAW: Yes, I have one question. You state, Mr. Kressley, on page 2 about your staff of 30. I am in the second paragraph down.

MR. KRESSLEY: Yes.

MEMBER RENSHAW: And our ability to do that is partially dependent on providing those staff members with accessible parking. Aren't you very close to a Metro?

MR. KRESSLEY: Yes.

MEMBER RENSHAW: How close?

MR. KRESSLEY: We are on the same block as the Metro.

MEMBER RENSHAW: That's what I thought. I would like to know what you are doing or going to do to encourage Metro use?

MR. KRESSLEY: It is a real priority for me. I mean, I have had staff discussions, and I think that one of our six major program initiative areas at the foundation is the environment. I want our building and all of us who use it to be environmentally friendly.

A number of us walk to work. I walk from 2500 Q Street down to the Watergate where we currently are, and I plan to do that once we are in the building. So we are working on personnel policies to encourage Metro use and other ways of

getting to work, so that not everyone is going to be driving.

Now, there are some people -- one of my colleagues lives in Fredericksburg, and a number of people live out in the suburbs beyond the Metro. So it is an issue that needs to be sorted out. In addition to staff parking, this will also be parking for people who come for meetings with the staff at the foundation.

MEMBER RENSHAW: And also for those events at night that you are going to have?

MR. KRESSLEY: Yes.

MEMBER RENSHAW: I just didn't want this to be an excuse for your staff who live in relatively close proximity to the building to say, oh, I am going to drive over there when they could take the Metro.

MR. KRESSLEY: And I couldn't agree with you more. Thank you.

VICE CHAIRMAN SOCKWELL: I have a couple of questions, but I think I can hold them until after the architect makes his presentation.

MR. SZEGEDY-MASZAK: Thank you, sir, and Ms. Renshaw, thank you for those comments. Thank you. I now introduce my colleague, Nate Gross, as our land use expert.

MR. GROSS: Thank you. Mr. Chairman and Members of the Board, I am Nate Gross, and I reside at 4424 Alton Place, Northwest, in the City. I would like to simply briefly describe

the immediately surrounding land use pattern, and then run through the special exception criteria found in Section 214 of the zoning regulations.

If you could turn to the map following the first blue divider sheet, I think this will show up clearly. You will see through the middle of the page, in an east-western direction, the U Street corridor, which on the south frontage is zoned C-2-A, arts, and down to the alley in the square, where you see the red and blue buildings marked. Am I going too fast?

VICE CHAIRMAN SOCKWELL: I believe we may be missing a colored copy somewhere, but we are working with you.

MR. GROSS: The red indicates the True Reformer Building, and then the commercial zoning, the C-2-A zoning, goes down to the alley. The blue indicated is the accessory parking lot.

The land use pattern on the rest of the block is if you go west along U Street from the True Reformer Building, you have 2 or 3 small commercial uses, and then you have the Metro Rail Station at the corner of 13th and U Street.

And going down 13th and across T Street, you have existing road dwellings. There may be a few apartments. South of the proposed parking lot is vacant residential property, and as you can see, there is a parking lot across the street from the proposed parking area.

And then turning to the standards in Section 214.2

-- well, starting with 214.2, the accessory parking spaces shall be in an open area or in an underground garage, and in this case we are in an open area that has been vacant since the previously approved parking lot basically went into disuse.

Subsection .3 and .4 both deal with assuring that the distance of the accessory parking to the commercial building, and the commercial zone is very close. The parking spaces must be in their entirety within 200 feet of the area to which they are an accessory, and in this case they are entirely within 105 feet.

Basically, the alley is 15.75 feet wide, and then the dimensions of the proposed accessory parking lot are 89 feet by 90 feet, easily qualifying for the 200 feet distance. And then separated only by an alley or immediately contiguous, and in this case it is only separated by an alley.

And, point five, the provisions in Section 23 will be dealt with by Mr. MacDonald, the architect. Section 214.6, which is probably the heart of the regulation -- well, no, I'm sorry. It shall be economically impractical or unsafe to locate accessory parking within the principal building.

The principal building, of course, is the True Reformer Building. In this case the reason that it is impractical is the True Reformer Building covers 100 percent of its lot, and it is an extremely important historic landmark, which is being restored fully according to the Secretary of the Interior standards for restoration.

So it would be unsightly and destructive to historic preservation values to do some demolition or arrangements to provide parking there.

VICE CHAIRMAN SOCKWELL: And, Mr. Gross, I think that the True Reformer was solicited and was granted a waiver of parking and loading as a designated historic landmark.

MR. GROSS: That is correct, Mr. Sockwell, yes. And so this is simply provided for the convenience of The Public Welfare Foundation and also to protect the neighborhood from undue overspill parking.

And 214.7 is the provision that I was thinking of, where it will be so located and designed so that they don't become objectionable to the neighborhood. I believe there are several points here.

First, the access to the parking lot will continue to be from the existing alley. So there will be no new driveway. That alley, in turn, is located right at the edge of the commercial strips. So that's as close as possible to the commercial area.

As Mr. MacDonald will show, there will be fencing and landscape screening that will also buffer neighboring property, and as parking for visitors and employees, this will be mainly for daytime use. There might be some evening use, but at the time when nearby residents are home in their homes, the parking lot will be very little used.

And so there will be no adverse effects there. And finally it is not a large parking lot. Hopefully it is about the right size to alleviate overspill parking without being such a big parking lot that draws any additional traffic.

So we believe that it imposes no adverse effect on the immediate area, and as has been mentioned previously, the Department of Public Works report is in support, and that concludes my comments, Mr. Chairman.

VICE CHAIRMAN SOCKWELL: Thank you. I will hold my questions until after the architect.

MR. SZEGEDY-MASZAK: Mr. Chairman, the other thing in addition to Mr. Gross regarding the buffering and the construction of the parking lot, that is also subject to historic preservation review standards for compatibility with the landmark.

So you can rest assured that the buffering will be very, very compatible with the existing landmark and with what the neighborhood also wants.

VICE CHAIRMAN SOCKWELL: Thank you.

MR. SZEGEDY-MASZAK: So I now introduce Kent MacDonald, Mr. Chairman, to explain the physical dimensions and the area requirements for the lot.

MR. MACDONALD: Good afternoon. My name is Kent MacDonald, and I am a project architect and project manager at Sorg and Associates. We are the architects for the rennovation of the True Reformer Building, and for the construction of the

parking lot.

I reside at 1444 Swan Street, in the District.

I would like to introduce you or orient you first with some visual aids. This is the True Reformer Building, looking from the northeast. This is U Street going along this way, and 12th Street is on the left. The parking lot is directly behind the building on the left.

Some other photographs of the parking lot. This is from the south, along 12th Street, looking towards the True Reformer Building. And here this is again on 12th Street, looking south, and this is the edge of the parking lot. You will see that the parking lot is set back.

The street right-of-way is quite large. The existing parking lot, and indeed the future parking lot, will align with the line of the True Reformer Building, which is on the street right-of-way.

This is looking from the interior, from the southwest, and again looking towards 12th Street, and with some houses in the background, and the parking lot, and you see the existing chain linked fence in the front. And the True Reformer Building in the background.

Directly to the west of the project, of the parking lot, is a public alley, and then beyond that alley you will see here at the corner is a ventilating building for the Metro.

Over here, standing on 12th Street and looking, you

will see this grassy slope, and then at the edge of the park, the existing parking lot, and then again the Ramada Building in the background beyond that public alley.

And then way in the background on 11th Street, the backs of some townhouses. This is the site plan for the parking lot, and the landscape plan you have in your pamphlets or booklets. There is an existing survey, and a more -- there is some dimension plans, and also some details of the fencing and the lights that we are intending to use.

Again, to orient you, this is 12th Street, and north is up, and the True Reformer Building sits here. This is the public alley that defines the commercial district to the north.

This again in here is the outline of the existing parking lot. To the south are 5 or 6 vacant lots currently. This is the public alley running north/south, and then the Ramada Building is to the west.

There is some additional vacant lots down here just below the Ramada Building, and then again beyond is the large parking area that you see in the vicinity map.

This is the line of the True Reformer Building here, and you can see that the parking lot is kept back well behind it. There is a substantial -- I would say at least 15 feet or so of landscaping between the curb and the property line, and even beyond that another six feet of landscaping even before the

parking lot begins.

To address some of the issues in Section 2303, the parking lot will be completely paved with asphalt, and a portion will be concrete. There is an existing sewer inlet that will be renovated here. The existing parking lot is rather degraded.

There will be a substantial border of landscaping. I mentioned six feet on the front, and three feet on both the west and the south. The only other structure on the lot will be a trash enclosure that faces the alley.

The entire parking lot will be fenced. Along the front will be a series of steel picket fencing, with brick pylons, and again you see details of that in the exhibit.

Around the south and west will be again a steel fence with board in-fills so that it will be opaque. And then along the southern border, this is a residential zone here that will be -- this will be planted with shrubbery here.

On the northern portion, facing the public alley, there will be a sliding gate, which will either be -- we are not quite sure whether it is going to be card activated or key activated. So this will be a secured parking lot.

Again, this is the trash encloser. As for the entrance, there is a rear entrance to the True Reformer Building in the southwest corner, and there will also be cameras on the alley. People from the inside of the building will be able to look out and see if it is safe to go out into the alley, et

cetera.

There is landscaping again, and this is a landscape plan that has been devised the Fixed Studio of Georgetown, and we are calling for red beds along the -- in this slope in front of the parking lot, and several ink berry and cherry laurels along the front.

Again, these steel pickets, you would be able to see through them, but then the shrubbery will be in front, and there will be two maple trees in the interior of the lot. This planted area conforms to the five percent rule for landscaping within a parking lot.

VICE CHAIRMAN SOCKWELL: Which planted area?

MR. MACDONALD: These two dots, the two maple trees. And I think --

MEMBER RENSHAW: Is there any guardhouse or --

MR. MACDONALD: No, there is no guardhouse.

MEMBER RENSHAW: No enclosure?

MR. MACDONALD: Again, it is a key or a card activated. People would be able to drive up here and from the left side of their window stick a card in and the gate would slide open and then they can proceed in.

There will be lighting, and again there is a detail of the light fixtures that we intend to use. There are four light fixtures on the perimeter here, and again they face into the parking lot, and they will not shine into any other areas. I

think that concludes my presentation. I will take questions if you have any.

VICE CHAIRMAN SOCKWELL: All right. I have just a few questions. One is regarding the parking lot and the number of cars. The drawings that I have seen tend to show, first, 19 cars, with the original parking lot, and the description in the prehearing statement mentioned 25 cars, and Mr. Kressley spoke, I believe, to 24 cars, or one of you spoke to 24 cars.

And I really was not able to tell by looking at the drawing whether you could effectively achieve a D.C. spec parking for 24 cars; and since it is not valet, it needs to meet a parking lot specification.

MR. MACDONALD: Well, we have tandum parking. There are 24 spaces. One of them is a handicapped space in this corner, with the five foot side space. And then there are a combination of some compacs and standard spaces within.

There are tandum spaces in the back, and because this was an excessory use, we felt that we could eschew the other regulations for the standard spaces.

VICE CHAIRMAN SOCKWELL: I think that although the spaces are not required, because assuming that you have executed the waiver of parking and loading, a copy of which should be submitted to the file for our record here, the parking lot, if it is not attended, would still want to meet D.C. specifications for a parking lot.

And additional cars that you provide as piggy back or tandum parked cars are really -- they are not relevant to the striped lot condition. They are relevant to the way that you use it. But I believe that you are probably more effectively going to be able to provide in real terms 19 self-parked automobiles.

Once your people start banging into each other around there, they are going to want to keep to 19. I don't believe that you can get that through the City with a number of 24 if it is a self-park lot. So I think you are going to have to come to grips with a number, and I am not sure what number we are approving.

Well, we actually don't have to approve any number because it is not required parking. But we can approve the use.

MR. MACDONALD: Okay.

VICE CHAIRMAN SOCKWELL: And you can determine it, but I didn't see 24 cars in there. The next question is -- okay. We have taken care of two of my questions.

MR. GROSS: And just since you brought it up, I have the parking waiver form here with me now, and I will submit it to the staff.

VICE CHAIRMAN SOCKWELL: And Mr. Nyarku can make a copy of it for the record. The other question I have actually is regarding the auditorium. You stated that it was a two level auditorium. I assume that you mean that it is an auditorium with balcony?

MR. KRESSLEY: Yes, there is a mezzanine. It is the original John Langford, who is the architect. It is his original design that we have maintained.

VICE CHAIRMAN SOCKWELL: So it has been restored to its near original condition?

MR. KRESSLEY: Yes, sir. We put the stage back, which was missing, and it so it will be a full scale auditorium.

VICE CHAIRMAN SOCKWELL: Is it proscenium, with a modified proscenium stage?

MR. KRESSLEY: Yes, it does have a stage, but there is no fixed seating, and I should point out that in the mezzanine that the mezzanine will not be an auditorium use. The mezzanine space will be actually a library for The Public Welfare Foundation.

That will not be a public space. People will be able to look over the balcony, but they will not be -- the public will not be using the mezzanine space.

VICE CHAIRMAN SOCKWELL: Okay. How many seats will it accommodate?

MR. KRESSLEY: I believe it is about slightly under 400, 375. I would have to check the record.

VICE CHAIRMAN SOCKWELL: And although the parking appears not to be made available to the general community surrounding your project when you are not there, which means that it will -- that apparently the lot is probably just overgrown and

maybe people are parking there as they choose now.

It won't be a lot that is available for either evening parking for events, and the developing retail/commercial nightlife that is in the community there. Nor will it be available to the residents of the surrounding neighborhood when you are not there.

MR. KRESSLEY: That's right.

VICE CHAIRMAN SOCKWELL: Is that correct?

MR. KRESSLEY: That's correct, yes.

VICE CHAIRMAN SOCKWELL: So I guess that is -- well, with the increase in need for parking, is the True Reformer -- well, not the True Reformer, but is the foundation going to be a six day a week, or just a five day a week operation, with of course those like yourself will be coming in on Saturday and Sunday just to make sure that everything is okay.

MR. KRESSLEY: Yes. We want to have as much use of the auditorium and there is also a community meeting room on the first floor, and we also want to make the board room available to community groups who need a more formal setting. So we want to use it as much as the need in the community dictates.

VICE CHAIRMAN SOCKWELL: You said there is a board room on the first floor?

MR. KRESSLEY: Yes, and at the 12th and U corner, there is -- I guess it would seat about 20 people -- another community meeting room for smaller events.

VICE CHAIRMAN SOCKWELL: All right. I just wondered. So the facilities will be made available to the public, and there is probably going to be some kind of television camera, remote access, for people coming to various functions or something like that for the lot.

MR. KRESSLEY: That's right.

VICE CHAIRMAN SOCKWELL: All right. I really don't have any additional questions, except if you have any.

MR. HOOD: I have just one quick question on that. The building is going to be accessible to the community. My question is are they also going be able to get into the parking lot?

MR. KRESSLEY: Into the parking lot that we are discussing today?

MR. HOOD: Right.

MR. KRESSLEY: Generally it is going to be used for day use.

MR. HOOD: Day use only?

MR. KRESSLEY: Yes.

MR. HOOD: And in your deliberations with the community did you let them know that they would not have accessibility to the parking lot? Was that ever discussed?

MR. KRESSLEY: Well, I don't know that it ever came up. And again I think it needs to be -- it is one of those issues that need to be worked out. I mean, certainly if a group wanted

to use the building at night, and they said that they were bringing young people in from Prince George's County in six cars for a concert or something, I think our inclination, and our sort of community-mindedness would make sure that somebody would be there to let them in to use the immediate parking.

But I do have to say that even though January is just looming ahead of us, there are details of the building's use in general that we have not work out yet.

VICE CHAIRMAN SOCKWELL: And with new projects like the Bohemian Caverans not far away, there will be a need for valet parking for attendees to those jazz concerts and dinner, and people may want to rent your lot in the evenings for that use.

And if that is a potential to help keep the streets available for as much parking as possible, I would think that that might be a viable, albeit small, financial gain for you. It might have some potential and you might want to consider it.

MR. KRESSLEY: Absolutely, and again I would want to work with neighborhood groups and Mr. Guyot, and ANC, and others around the parking issues. You know, we are in a position not to as an endowed foundation, while we see all of our resources as precious, we are not in a position to have to look for income streams.

So I think that if it is in the community interests to do something like valet parking, our motivation would be the community interest rather than the income.

VICE CHAIRMAN SOCKWELL: You just want to make enough money so that in case they bang into this gate it can be repaired and not a cost to you.

MR. KRESSLEY: That's right.

VICE CHAIRMAN SOCKWELL: I think that I have no more questions. If the board members have no more questions, I would want to move to Mr. Guyot's report from the ANC.

MR. GUYOT: Mr. Chairman, it is a pleasure. Mr. Kressley did not tell you a couple of things about himself. When they purchased this building, along with it came $500,000 from a community development block grant.

Uncharacteristically, it was returned to the City. I think that begins to give you an idea of why ANC is so enthusiastic in its support of what we are doing here.

We are presently involved with development in that immediate area with Donatele and Kline, and with Metropolis, and with working on redeveloping Clifton Terrace.

We have helped Donatele and Kline to develop Harrison. So we are very -- but now we are working with someone who is just as concerned about developing the belief in self-government, and the belief in self-empowerment, and he does that with panache and aggressiveness.

So on the question of us dealing with him on how the parking is handled, our previous history, where we had a community meeting to determine how the land next to the parking

lot would be used, and the determination was that it was to be for low income people, and the commitment, and that is done, and it is solified, and it is moving ahead.

And I would just simply point out to you that the ANC met at its regularly public meeting, at which a quorum was present, and just listened to the merits as presented, and voted unanimously to support this application.

The same is true of the Cardoza-Shaw Neighborhood Association unequivocally. That is the kind of support that has been generated in bringing people together in that community who had previously found a lot of reasons not to work together.

So this is an unusual individual, and an unusual application, and we would certainly support a bench decision.

VICE CHAIRMAN SOCKWELL: Thank you. Any questions of Mr. Guyot?

DIRECTOR KRESS: Yes. The staff has a very big question. I'm sorry to interrupt, and we need to get this clarified. We have got two addresses floating on this property, and it has been advertised as 932, which is on the application. But as we were going through all of this, it appears to be 1932 Twelfth Street, Northwest.

VICE CHAIRMAN SOCKWELL: It would have to be 1932.

DIRECTOR KRESS: Unfortunately, their original application said 932 and it has all been advertised as 932. We were just noticing that we have got two different sets of numbers

running here. The original application and the certification have 932, and not 1932, and unfortunately we advertised it as 932.

But then as we pulled up our information and reviewed it, we have got 1932 on some things and 932. The problem is that we advertised it as 932, which is incorrect, and 1932 is correct.

VICE CHAIRMAN SOCKWELL: And actually at 932, it would not indicate to anyone that it is uptown.

DIRECTOR KRESS: Well, except for the lot and square, but people rely on --

VICE CHAIRMAN SOCKWELL: But most people don't know things by lot and square.

DIRECTOR KRESS: I am sorry I interrupted you, because it just came to our attention as we are flipping back and forth. And our little summary sheet at the top says 932, and then where we copy what was published, it says 1932. And so it says 932, and that is what drew our attention to it.

MEMBER RENSHAW: What does that mean, Ms. Kress?

VICE CHAIRMAN SOCKWELL: Well, because it would be advertised that way and no one would see the additional information from the file unless they came to the board's offices, we have a situation where the property looks like it is downtown, and where it is uptown.

MR. GUYOT: Mr. Chairman, may I be heard on that?

VICE CHAIRMAN SOCKWELL: Yes, but admittedly the

advisory neighborhood commission knows about it and advertised its meaning, and probably advertised its meeting with the right address, and those things took place.

But it does present a problem for the board.

MR. GUYOT: Mr. Chairman, I would hope not. The reason that notice is provided is to bring as much community participation on the nexus of the decision.

VICE CHAIRMAN SOCKWELL: Of course.

MR. GUYOT: It would be impossible for there to have been more participation in our community on this event. It was broadly noticed and various groups came in and actively sat down and negotiated, and talked about what should be done here.

There was a meeting at the Islander Restaurant, which involved a large segment of the community. Our ANC had a public meeting on it. The community -- the Cardoza-Shaw community had a public meeting on it. So people had a lot of bites at this apple.

DIRECTOR KRESS: We are looking right now, and I think it would be imperative to find out if the people within 200 feet that were notified, if they were notified within the 200 feet of the 900 address, or the 1900 address.

VICE CHAIRMAN SOCKWELL: Do you have a copy of the notice that went out?

MR. GROSS: Mr. Chairman, I can assure the court --

DIRECTOR KRESS: It says 932. I am just trying to

find out where --

MR. GROSS: I can assure the board that we provided the mailing addresses of the property owners within 200 feet. We provided the addresses for the property owners within 200 feet of the correct place, yes.

MEMBER RENSHAW: And just to note that this building is more known by its name than it is by its address.

MR. GUYOT: And if I may make one other point.

VICE CHAIRMAN SOCKWELL: Well, I am not of the gelief that this little multi-story building that no one knows about would have gone unnoticed at an advisory neighorhood commission meeting, or through the process by which you bonded with the community.

It's just that I want to make sure -- and we have to make sure that our procedures don't leave room for some type of later protest of the way that things were handled.

MR. GUYOT: I understand.

VICE CHAIRMAN SOCKWELL: And by the slightly troubled look on Mr. Kressley's face, I don't want him to feel that --

MR. HOOD: Mr. Chairman, due to the latest development, I still think that we can move expeditiously on this.

VICE CHAIRMAN SOCKWELL: Yes.

MR. HOOD: Fortunately the 200 people within 200 feet were notified, but I wanted to say a point to Mr. Guyot, an

ANC commissioner who stuck around here since -- I think he has been here since one o'clock.

A lot of times we don't hear a lot of good dialogue between ANC commissioner and an applicant. I want to congratulate the applicant for working with the ANC, and Mr. Guyot should be commended and his ANC for sticking this long and staying and waiting for the hearing since one o'clock.

He is not paid, and he is out there working through the vineyards, and he is doing a good job. So I just wanted to put that on the record.

MR. GUYOT: Mr. Chairman, let me just respond. I saw Commissioner Kress and Commissioner Hood at a meeting at nine o'clock in this room on Saturday morning, and so I am simply following their example.

DIRECTOR KRESS: Thank you.

VICE CHAIRMAN SOCKWELL: Well, for the fact that I know you to be a veteran of the process, it is not hard for you.

MR. HOOD: Mr. Chairman, I am ready to -- well, are they finished?

MR. SZEGEDY-MASZAK: Mr. Chairman, may I say something?

VICE CHAIRMAN SOCKWELL: Yes, sir.

MR. SZEGEDY-MASZAK: I am just trying to think of how we could cure this notice.

DIRECTOR KRESS: I have a question. What about

what we did once before, which is where the board went ahead and made its decision, but as you know the decision is not final until it is published.

And then we immediately published it in the register, and if there were no comments during that time period, then the board's order became final, and it was signed.

MR. SZEGEDY-MASZAK: Well, there is an other way to do it, and --

VICE CHAIRMAN SOCKWELL: Well, let me say this before we get into that if I may. The building was posted, and because the building was posted, it was posted with the right address on it, I'm sure. And whether it had the right address on it or not, it was on the building site.

So I think that we have probably with one of several methodologies --

DIRECTOR KRESS: Good point.

VICE CHAIRMAN SOCKWELL: -- we have made our proper representation to the community at large, and we have on occasion made mistakes. So I don't think we really have a problem with this.

MR. SZEGEDY-MASZAK: Mr. Chairman, if you -- well, we thank you deeply. One thing that could be done -- and I would ask for a bency decision anyhow, but if a bench decision were made, and then the bench decision were published in the D.C. Register for 30 days or whatever, and no comments came in

whatsoever, then after 30 days obviously the bench decision would stand.

And if there were comments that came in, then obviously it was not noticed right, and then we have to go back, you know. But I think there might be that option, sir.

VICE CHAIRMAN SOCKWELL: First, I don't think that the issue of the parking is one of that level of significance because you have a waiver of parking and loading. Therefore, the parking spaces themselves are not part and parcel to the approval of the True Reformer Building for any of its activities.

The parking is merely a use, an accessory use, that is not continguous with the project site, and is separated by an alley, and is within the 200 foot radius for all of its facilities.

Therefore, the issue is not of consequence in that respect. You had to come here in order to get there, but we don't have any reason to send you around.

MR. SZEGEDY-MASZAK: Okay. Thank you, sir. And the only other thing is that on behalf of The Public Welfare Foundation, Mr. Guyot has been of inesteemable valuable. People like Mr. Guyot are so important in the community because they help us, and they help people like the Public Welfare Foundation, whose motives are great.

But nonetheless they help us understand better what the community really wants, which is an impossible task sometimes,

Mr. Chairman. So Mr. Guyot has our deepest appreciation. And I would only simply request that if we could get a bench decision so that The Public Welfare Foundation can then proceed to the HPRB and get its approval.

VICE CHAIRMAN SOCKWELL: If the staff does not have an objection, I believe that we can proceed with a bench decision.

DIRECTOR KRESS: I agree.

VICE CHAIRMAN SOCKWELL: Then I would ask Mr. Hood to make the motion.

MR. HOOD: Mr. Chairman, I would make a motion that we approve Application Number 16602 for the special exception. There does not seem to be any adverse impact to the surrounding area, and with that, I make a motion to approve.

DIRECTOR KRESS: Before you second, may I just suggest that a part of it include all of our standard conditions that go along with parking lots and that you all are familiar with. And also do you want to have any time limits on this, or is this something that you are viewing as a permanent situation?

VICE CHAIRMAN SOCKWELL: Well, it could be approved -- well, because it is accessory parking for the building and not -- well, for the building by its owner, as opposed to a particular use for a tenant of the building, although the owner is the tenant in this case, I don't think we need to condition it with a time limit. But if we wanted to condition it, I would recommend nothing less than 10 years.

DIRECTOR KRESS: The staff has no opinion. They just wanted to point that out.

VICE CHAIRMAN SOCKWELL: I would condition it only to the extent that as long as the foundation owns the building, the parking goes with the building.

MR. HOOD: I will accept that in a motion.

DIRECTOR KRESS: And do you want the other standard conditions about keeping it free of debris and the other --

VICE CHAIRMAN SOCKWELL: Certainly, certainly. I mean, that goes without saying, because it would be similar to the conditions in the previous order for the previous user, which had expired. And I don't think that anyone would question that, because you have already shown through the Sorg and Associates' design that you are going to provide all of those things.

MR. HOOD: All right. With that, Mr. Chairman, I would make a motion.

VICE CHAIRMAN SOCKWELL: All right.

MEMBER RENSHAW: Second.

VICE CHAIRMAN SOCKWELL: All in favor?

MEMBER RENSHAW: Aye.

VICE CHAIRMAN SOCKWELL: Aye. Abstensions?

(No audible response.)

VICE CHAIRMAN SOCKWELL: Thank you very much for your time.

MR. SZEGEDY-MASZAK: Mr. Chairman, thank you, and

Ms. Renshaw, you can rest assured that the employees will be encouraged to take public transit, whoever can.

MEMBER RENSHAW: I'm sure, and I also hope that this parking lot might be heated. I understand that we are going to have a messy winter, and if you had a heated lot, you wouldn't have to plow.

VICE CHAIRMAN SOCKWELL: This hearing is now over.

(Whereupon, at 6:00 p.m., the hearing was concluded.)