GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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WEDNESDAY

APRIL 5, 2000

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The Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ROBERT N. SOCKWELL	Vice Chairperson
RODNEY L. MOULDEN	Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Commissioner
CAROL J. MITTEN	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Sheri Pruitt	Secretary, BZA
Beverly Bailey	Office of Zoning
Paul Hart	Office of Zoning
John Nyarku	Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Mary Nagelhout, Esq.
Marie Sansone, Esq.

C-O-N-T-E-N-T-S

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P-R-O-C-E-E-D-I-N-G-S

(9:53 a.m.)

CHAIRPERSON REID: The meeting will please come to order. I would like to apologize for our delay this morning. We were in executive session and we will open our meeting and take care of the minutes and some of the other preliminary matters that we have to do today. We will then recess to go back into our executive session and come back out to give the remainder of our deliberations.

Ms. Pruitt.

MS. PRUITT: Good morning, Madam Chair.

CHAIRPERSON REID: Good morning.

MS. PRUITT: Before you today are the public minute meetings of March 1, bench minute meetings of March 1 and 22. I don't know if you would like to take them all at once.

CHAIRPERSON REID: Mrs. Pruitt is suggesting that in regard to the minutes that they be approved en mass or a consent calendar so that we don't have to each one individually. If there is no objection or if you have any comments or corrections or anything of that nature, we can do that. For the most part, the motion will be put on the floor to take all the minutes at the same time. Can I get a motion?

MR. MOULDEN: Second.

CHAIRPERSON REID: Was there a motion?

MR. MOULDEN: I second the motion to --

CHAIRPERSON REID: You have to make a motion.

MR. MOULDEN: I would like to make a motion to have the minutes included under the consent calendar to group them all together and not to individually hear each one of the minutes.

CHAIRPERSON REID: Okay. I second it. Mr. Sockwell, did you have any comments or questions or the minutes?

VICE-CHAIRPERSON SOCKWELL: No.

CHAIRPERSON REID: And you, Ms. Mitten, did you have any?

COMMISSIONER MITTEN: I wasn't present for any of the meetings so I won't be able to vote.

CHAIRPERSON REID: All in favor, aye?

(Chorus of Ayes.)

MS. PRUITT: The staff would record the vote as three to zero to one to approve. The motion made by Mr. Moulden and seconded by Ms. Reid. Ms. Mitten not voting not being present.

CHAIRPERSON REID: Okay. We have a couple of preliminary issues, or rather a couple of issues that we would like to deal with in a preliminary manner, and that's application 16531 of Father Flanagan's Boys Town. This application was self-certified and there were some questions about in reference to certification so we referred this to the Zoning Administrator's Office to get a reading on how they saw this self-certification.

They promised that they would try to get back to

us. They couldn't get back to us with the information for the day but they would try to so we could do a decision meeting on the 12th. I've talked with the applicant and it's not what they'd like but they don't mind if we continue it to the 12th to allow the Board to get the ZA's information to make a better decision.

CHAIRPERSON REID: Okay. Is that put to us in the form of a motion, Ms. Pruitt, or just for information that it's going to be referred to ZA?

MS. PRUITT: We've already referred it to the ZA, the staff has.

CHAIRPERSON REID: So there is no action then that we need to take other than you're informing us?

MS. PRUITT: You could actually go forward today if you felt comfortable but I would think it would be prudent to have the ZA's input on this particular case.

CHAIRPERSON REID: Yes. That would be my understanding that given the fact that there is some question in regard to the type of relief that's being requested, then it's proper and prudent that we do that. I have no problem with moving it to the April 12th meeting date unless other Board members have any objections or comments.

MS. PRUITT: We also have a second case, Jewish Primary Day School, application 16556. This is a little different issue. We have not received all the transcripts. We got the first transcript late close of business on Monday and we are

expecting the second transcript close of business on Thursday.

The parties in opposition have not been able to -- they have stated they have not been able to do their findings of fact because they haven't had a full transcript. I've talked to all the parties. At that point we thought all the transcripts were going to come in on Monday and they were okay with the April 12th time frame.

Now that they won't get the complete set until Thursday, I'm really asking the Board what you would like to do. Do you still want to maintain the April 12th time frame? It gives them a little less than a week to write the full findings of fact. Or do you want to reschedule it for another day besides April 12th understanding that the applicant really has requested a bench decision because of the urgency on their part.

VICE-CHAIRPERSON SOCKWELL: Madam Chair, didn't the Jewish Primary Day School give us a time table?

MS. PRUITT: They really wanted a decision today. I did talk to both parties and applicant to find out what the implications would be of changing it and they didn't mind a week delay. I think many think longer may be problematic for them because of registration. If you were to approve it, they would have problems. If you don't approve it, it's not an issue but they would like to know one way or the other.

VICE-CHAIRPERSON SOCKWELL: So that gives us less than a week.

MS. PRUITT: It gives the parties in opposition less than a week to do their findings of fact. There are several Board members who have to read parts of the record and we have to find out what the March 15th hearing states, if whether everybody was there for there or not.

COMMISSIONER MITTEN: Can I ask a question then? Is there anything in our regulations that say what the minimum time span should be between the time the transcripts are available?

MS. PRUITT: No, there's nothing in our regulations directly. It has been this Board's practice that they get at least a week before the transcripts before findings of fact are due to give people ample time to incorporate all that information.

CHAIRPERSON REID: I was going to say that I would be amenable to the postponement to April 12th for us to then have our decision meeting. Let me ask you before I go any further, Ms. Pruitt, the issue of the transcript not being available is something that is on us, the Zoning Office, or is it something that is not caused by us?

MS. PRUITT: I think it's a little bit of everything. We've had so many hearings that have been very long and the purchase orders have been for certain amounts and we've exhausted them a lot quicker than we had anticipated. We have already put in the process for transferring money but if you've ever worked with the District budget, it takes forever just to do

something simple like that so we couldn't get the transcripts.

CHAIRPERSON REID: Typically an applicant or a party in opposition would have how much time to construct their draft order of findings of fact?

MS. PRUITT: As I was telling Ms. Mitten, it has been the Board's policy to give them a week.

CHAIRPERSON REID: And Thursday gives them a little less than a week?

MS. PRUITT: Yes.

CHAIRPERSON REID: Okay.

MS. PRUITT: That's with the understanding that they have already part of a transcript.

CHAIRPERSON REID: They already have part of one. Okay. That's what I was just going to say. All right. I think I wouldn't have any problem with postponing it until Wednesday but I think that if we try to take it any further, that it would cause some unnecessary hardship for the applicant.

MR. MOULDEN: Okay. I have no problem with that either but my question was the transcripts will be available Thursday and how would the opposition party know that?

MS. PRUITT: Excuse me?

MR. MOULDEN: How will the opposition party be aware?

MS. PRUITT: I will call them.

MR. MOULDEN: You will call them?

MS. PRUITT: Um-hum. I've talked to them.

CHAIRPERSON REID: So they can pick it up on Thursday?

MS. PRUITT: Yes.

MR. MOULDEN: It's just one day off so I don't see a problem with that.

CHAIRPERSON REID: Then by consensus we agree to the April 12th postponement of the Jewish Primary Day School decision.

MS. PRUITT: The other preliminary issue that I would like to deal with is actually a case for this afternoon, the Kraus case for this afternoon. In the Kraus case they are requesting a continuance and both the attorney and the party are here and would request a continuance. Unfortunately I don't have my information in front of me as to when they would like to have this hearing heard.

MR. MOULDEN: Ms. Pruitt, what is the reason for the continuance request?

MS. PRUITT: I believe Mr. Kraus has been very sick and in the hospital and has been unable to sort of participate in the negotiations. They're trying to work out a settlement.

CHAIRPERSON REID: The letter from Mr. Gell stipulated that they are still in the process of trying to work something out, trying to come to a meeting of the minds. They felt that a postponement would be necessary in order to accomplish

that. I have no problem with it in that they are attempting to try to come to an agreement. What date was it?

MS. PRUITT: Late July.

CHAIRPERSON REID: Okay. And both attorneys have agreed to -- I understood in the letter from Mr. Gell that both attorneys had talked about it and they were unable to --

MS. PRUITT: Actually, they are both here.

CHAIRPERSON REID: Yes, I see that. Late July?

MS. PRUITT: We have two hearings scheduled in July already. They are tentatively scheduled and they are both trash transfer which is on the 11th and then the 24th.

CHAIRPERSON REID: Do you anticipate that taking all day?

MS. PRUITT: All day? Yes.

CHAIRPERSON REID: All day cases, the 11th and 24th?

MS. PRUITT: Um-hum.

CHAIRPERSON REID: We could put that --

MS. PRUITT: We could put it on the first meeting day, which actually that's something I need to talk about. It's the 4th of July. The first Wednesday of the month is the 4th so we need to discuss how you want to do that.

VICE-CHAIRPERSON SOCKWELL: How about if?

MS. PRUITT: How about when as opposed to it being on the 4th? But there is the first meeting date because you're

having right now three meetings a month so that would be the hearing date that's tied to the meeting also.

CHAIRPERSON REID: But would it be prudent to move it to Thursday?

MS. PRUITT: That's what I wanted to ask you all about that.

CHAIRPERSON REID: So we won't miss that whole week.

MS. PRUITT: Right. That's what I wanted to talk to you about, when you wanted to schedule it.

CHAIRPERSON REID: Are you back from your vacation at that time, Mr. Sockwell? The day after?

VICE-CHAIRPERSON SOCKWELL: Don't worry about it.

CHAIRPERSON REID: Is that all right with you, the 5th?

COMMISSIONER MITTEN: If that's my turn to show up, I'm available.

CHAIRPERSON REID: That's right. You might not even have to be here.

COMMISSIONER MITTEN: Somebody from the Zoning Commission will be here.

VICE-CHAIRPERSON SOCKWELL: The fact that the two attorneys are sitting so close together may mean it shouldn't be very short.

CHAIRPERSON REID: Okay.

MS. PRUITT: I'm sorry. So was the conclusion --

CHAIRPERSON REID: The 5th.

MS. PRUITT: Thursday the 5th?

CHAIRPERSON REID: Um-hum.

MS. PRUITT: Okay.

CHAIRPERSON REID: Are you done with that?

MS. PRUITT: Yes.

CHAIRPERSON REID: Why not look at in the secretary's report. This is just for information regarding Parkside just to give us an update on what was happening with that particular application. We don't have to really address that today.

MS. PRUITT: I'm sorry?

CHAIRPERSON REID: I said since it was just an FYI type of thing. There's nothing that you are asking us to do or there is no action necessary.

MS. PRUITT: Well, the question was they made a response to the request of where it is. Now you can decide if you don't mind what they say and give them more time or else dismiss the case. It's been almost four years now.

CHAIRPERSON REID: Well, as I said before, this is a very unusual case and it involves a major project over in Kenilworth Parkside and I think it's a very important project. I think that as a result of that project being there, we've seen a massive improvement or transformation of that particular area.

I feel that it's worthwhile enough that it doesn't cost us anything to allow them the time they are dealing with bureaucratic red tape. They are probably trying to get funding from other sources and scrambling around and trying to figure out how they are going to do that from some donations or whatever. I have no problem with allowing them time to be able to do it.

MS. PRUITT: Now, it does cost us because they have not paid their fee.

CHAIRPERSON REID: I don't understand what you mean.

MS. PRUITT: I mean, you're saying there's no cost. That's what we're really waiting for. There's been a decision made and order written but the understanding was that the order would not be released until they pay the rest of their fee.

CHAIRPERSON REID: Well, the thing was that -- I mean, what is it costing us if we hear it today or hear it next week or next year. The fact of the matter is that we have not heard the case. They have not paid their fee and we don't know if they ever will be able to pay it so the situation status remains the same.

MS. PRUITT: Right. I just wanted to clarify. There's not a hearing. All of this has been done. All we're waiting on is the fee.

CHAIRPERSON REID: Again, if it's today or next year, the situation remains the same there. If they can go

forward and pay their fee, fine. If they can't, they just can't.

MS. PRUITT: Do you want to set a time certain for them to get back to us explaining the situation and if they have a time frame of when they may be able to pay us?

CHAIRPERSON REID: We've been dealing with this for the five years that I've been here. Well, maybe not exactly five years but at least three or four years.

MS. PRUITT: It's been since 1996.

CHAIRPERSON REID: Okay. And it's the same thing. There is a problem and I think that as such we should give them the opportunity to be able to try to resolve whatever their issues are because that is not a typical situation. This is a grassroots organization that does not have the resources and we know that. As such, I have no problem with extending them additional time, whatever time. It doesn't really matter.

MS. PRUITT: That's what I wanted to know. Do you have a time frame?

CHAIRPERSON REID: I don't want to put a time frame on it.

VICE-CHAIRPERSON SOCKWELL: Madam Chair, apparently this project is in litigation. This is what we're talking about, right?

CHAIRPERSON REID: Yeah.

VICE-CHAIRPERSON SOCKWELL: Generally the agencies of the District that I've been involved with respect litigation as

a legitimate reason for holding any decisions until such litigation has been satisfied. That litigation is the principal reason by which I would suggest that we give an open-ended time limit on the continuance.

CHAIRPERSON REID: I didn't have that particular document that Mr. Sockwell just showed me in my files. Did you?

MS. PRUITT: It should be.

MR. MOULDEN: Are you finished?

CHAIRPERSON REID: Yes.

MR. MOULDEN: Madam Chair, I think since this case has been -- this issue has been going on for some time and we do need to put down a time frame which is considerate of the applicant's working this issue out so we can look forward to them giving us some decision.

CHAIRPERSON REID: Mr. Sockwell just said that if it's in litigation, they are not going to be able to do anything until they get a decision.

VICE-CHAIRPERSON SOCKWELL: For example, the Portholes project was tied up in litigation for a number of years. The Department of Consumer and Regulatory Affairs was cognizant of that fact and allowed certain issues to be held open until said litigation was resolved.

I believe that in any case where the project is tied up in the courts, that would be the more appropriate manner of dealing with it. That is, to not make a decision when that

decision is out of the control, when the decision of the applicant is out of it's own control.

MR. MOULDEN: My comment was based on the fact did we have any hearing dates that they would go to trial. I mean, do we know any specific dates as far as litigation when this thing could be resolved? If we have dates, we could --

MS. PRUITT: No, to my knowledge we have no information.

MR. MOULDEN: If we had dates, I was going to base it on the dates.

VICE-CHAIRPERSON SOCKWELL: Right. But the point is even if we had dates for hearings, we wouldn't have dates for decisions and I think that it is best to leave this open-ended until the litigation is satisfied. I would suggest that if you want to place any kind of a deadline on them, put three months that they should respond to us within 90 days of the decision on litigated issues. That would be reasonable, I would think.

MR. MOULDEN: So the issue is that we don't release the order until they pay.

CHAIRPERSON REID: I should also reiterate for the record again that the fees that they are being asked to pay is something like $60,000 and they don't have it so that is part of the issue with them taking so long to be able to take care of this. We can say within 90 days after the decision has been reached pursuant to the litigation that's pending if you like

that. I have no problem with it.

VICE-CHAIRPERSON SOCKWELL: We should certainly expect the applicant to respond to us as soon as litigation has been satisfied so that at that time they would know which direction they are going in.

CHAIRPERSON REID: All right. Ms. Pruitt?

MS. PRUITT: Staff will write a letter indicating that.

CHAIRPERSON REID: All right. What else do we have?

MS. PRUITT: Those are the only preliminary issues. We do also have a case to be heard this morning, the Welch family.

CHAIRPERSON REID: The Welch family. Okay. We also have Frank Jackson --

MS. PRUITT: Right. That's --

CHAIRPERSON REID: -- decision.

MS. PRUITT: Yes.

CHAIRPERSON REID: Would you like to take this up now or would you like to do it after executive session?

MR. MOULDEN: We can do it now.

CHAIRPERSON REID: It's pretty straightforward. Okay. We'll call it.

MS. PRUITT: Application 16530, Frank Jackson, pursuant to 3103.2 for variance from the minimum side yard setback

requirements under Section 405 to allow the proposed addition (deck) to a single-family detached dwelling in an R-1-B District at premises 2223 Lawrence Street, N.W. (Square 4247, Lot 807).

The Board heard this case on March 1 and voted to approve the variance. However, after the Board voted to approve it, it came to the Board's attention that the affected ANC had requested that the record be left open so that it could submit their official report.

We have now gotten our official report and it's favorable and it's really a matter of you reaffirming your original vote.

CHAIRPERSON REID: The ANC-5A with a quorum present and a vote having been taken has voted to not object to the application and that was the only thing we needed on that. I move that we reaffirm our original vote in reference to the approval of this application. Do I hear a second?

VICE-CHAIRPERSON SOCKWELL: Second.

CHAIRPERSON REID: All in favor?

(Chorus of Ayes.)

CHAIRPERSON REID: Opposed?

(None opposed.)

MS. PRUITT: I'm sorry. Mr. Moulden, did you oppose?

CHAIRPERSON REID: All in favor aye?

(Chorus of Ayes.)

CHAIRPERSON. REID: All opposed?

(None opposed.)

CHAIRPERSON REID: Okay.

MS. PRUITT: Staff will record the vote as three to zero to one. Motion made by Mrs. Reid, seconded by Mr. Sockwell. Ms. Mitten not voting not having been present.

CHAIRPERSON REID: That basically takes care of the matters this morning. Any other comments or discussion from the Board members? Then we will recess for 30 minutes and we'll resume to come back and give a decision on the KASS case, the Studio House case.

(Whereupon, a recess was taken from 10:15 to 11:23 a.m.)

CHAIRPERSON REID: All right, we'll resume our discussion from this morning and we will begin with our decision regarding the first application. Read the case number, please.

MS. PRUITT: Case No. 16457 of KASS MA L.L.C., pursuant to D.C.M.R 3104.1 for special exception under section 410 and 2516 to allow the construction of 33 new single-family detached dwellings with garages in a theoretical lot subdivision and 176 luxury garden apartments in R 5A and R 5B district at premises bounded by Good Hope Road, S.E. between 24th Street, S.E., to the east, and 18th Street S.E., to the west. Square 5735, parcels 211/96, 220/31, lot 804 and square 5763, parcels 219 /18.

The hearing dates for this were January 19, February 16, 23, and today's a decision date. The Board requested additional information which included a Memorandum of Understanding between the School Board Member William Lockridge and the Developer regarding the proposed educational plan, adjustments by the Applicant to concerns identified by the Park Service, a traffic management plan, and draft findings by the applicant.

In your package you have a copy of all that information. This is now before you for deliberation.

CHAIRPERSON REID: Board members --

MS. PRUITT: I'm sorry, Madam Chair, before you go into deliberation, I would like to read Mrs. Renshaw's information into the record so that you'll have some context.

MS. PRUITT: All right.

MR. HART: Madam Chair, this memorandum I am about to read on the KASS Case also includes Boys Town in the one memorandum, so I want to make that straight before I start reading. This part in fact will deal with the Good Hope Road Project at this point.

CHAIRPERSON REID: The concerns are the same for both sites, right?

MR. HART: Yes.

CHAIRPERSON REID: Okay, now once it's read into the record, do we have to do it again for Boys Town?

MS. PRUITT: Yes, we would.

CHAIRPERSON REID: Go ahead, Mr. Hart.

MR. HART: This memorandum is from Commissioner Anne Renshaw to Theodore Gordon, Senior Deputy Director for the DC Department of Health, and the Deputy Director of Environmental Health Administration, and it is cc: to Patrick Canavan, Special Assistant to the Office of the City Administrator, and also to Jerrily Kress, Director of the Office of Zoning.

The subject is landfills, and it addresses this problem in Boys Town, at Sargent Place and Delphine Place, N.E., and Good Hope Road, S.E., on the south side between 18th and 24th Streets, S.E., abutting Ft. Stanton Park.

The message reads as follows:

"Boys Town, thank you for faxing on March 9 an updated fact sheet on the drainage problem stemming from the existing landfill at Boys Town, Sargent Road N.E. One note. From this information that the Watershed Protection Division can only provide regulatory oversight, including planned review and inspection of this project.

"Water drainage from the Boys Town Landfill is a 15 to 20 year unresolved quality of life and health issue, impacting Delphine Place homeowners. Speaking for myself, and trying to ascertain what is in this landfill, did the city keep records of

what was actually dumped on that property, other than a general description on Metro construction and debris? Is the landfill vented, and if yes, in what directions? Is the run-off surface water and or discharge from the interior of the landfill? Is there anything more than DOH can do beyond regulatory oversight to stimulate, mandate, and or enforce the immediate cleanup of this landfill as charged?

"One Delphine Place resident testified to smelly water in her basement related she feels to the landfill drainage. Has the DOH WPD taken samples of the water found at the Delphine Place Basement to ascertain what is leaking, or oozing into the house abutting the landfill?

"Two Good Hope Road S.E. Another former Metro Landfill site is property located on the Southside of Good Hope Road S.E. between 18th and 24th Street, S.E., on either side of a section of Ft. Stanton Park. National Park Service property.

"Did the city keep records of what was dumped on this property other than Metropolitan Construction debris? Is this landfill vented, and if yes, in what direction? When a longstanding landfill is disturbed, what controls are mandated

by DOH to measure possible air and water pollution? What City agency if not DOH determines the stability of landfill property for large scale construction activity?

"Does compacted landfill property shift over time? And if yes, what happens on the buildings situated on the site? Is soil compacted, soil preparation, regulated and by what D.C agency? Many thanks for providing answers to these landfill questions. If possible, a response by the end of the month would be greatly appreciated."

That is the end of the message.

CHAIRPERSON REID: Okay. Any comments from Board Members?

COMMISSIONER MITTEN: Well I think Mrs. Renshaw raised a lot of issues that are legitimate issues. They are not necessarily issues that are appropriately brought up in this context, but I would like to make sure that when we dispose of this case that we refer all of the materials that have been submitted that relate to environmental concerns or erosion issues, that we forward all of that to the Department of Health.

CHAIRPERSON REID: Okay.

VICE-CHAIRPERSON SOCKWELL: I as well agree that Ms. Renshaw has brought up some salient issues. As to the extent that we can deal with them, there is some question, but I do

believe that they should be referred forward.

CHAIRPERSON REID: All Right. Very well. Let's move now to the discussion regarding the particular case before us and I will then entertain a motion for our particular position on this case. Would members --

COMMISSIONER MITTEN: Madam Chair, would you like a motion first, or -

CHAIRPERSON REID: No.

COMMISSIONER MITTEN: Discussion first?

CHAIRPERSON REID: Discussion.

COMMISSIONER MITTEN: Well I'll begin by saying that I am in favor of the application that's before us for both single family and multi-family development on this property. There are myriad conditions that have been proposed and I think we need to give greater specificity to some of those conditions so that the community can be assured that they will be met, and met in a timely manner.

I guess just in general I'd like to say that we heard a lot of concern from the community over the introduction of new multi-family units in a neighborhood where there are a lot of vacant or under-utilized multi-family properties that haven't been taken care of and so forth. And all indications are in this case both specifically, and in the context that is being created, across the river, that this is a different kind of project than exists in this community right now.

It's a different quality of project, it's catering to a different economic level, and I think that that is something to be -- in the context of considering whether this is going to have a positive impact on the community, or a negative impact on the community, I think that we can be assured that it will have a positive impact.

I think to the extent that the citizens -- I think I'd just like to read form Bernice Kernie's testimony. She had said that those of us who have lived in Anacostia or more than 30 years and are homeowners believe that the key to economic development and long term stabilization of our tax-bases is through home ownership.

And that was the source of a lot of this resistance to more multi-family development. I guess that I would recommend to the community that they need to be aware of the fact that the vision that has been set forward for their community and the context of the comprehensive plan is for moderate density residential development, and to the extent that she would like to instead of providing a place where there could be more multi-family developed, I think you need to speak to your legislators when the comprehensive plans comes up for renewal, and say we would really like to promote single-family residential and maybe the vision needs to be changed.

So while we are meant to react to the vision as it exists, which is moderate density residential on this site, it's

on for multi-family and I think what was proposed is consistent with that. I would just recommend to the community that to the extent that they would like things to be -- move in a different direction in the future, that at least the first place to start is with the comprehensive plan.

And I have other specific comments, but maybe I'll defer to another Board Member at this time to make their remarks.

CHAIRPERSON REID: Okay. Mr. Moulden.

COMMISSIONER MITTEN: Madam Chair, I feel the housing project is a good project for the community and the District of Columbia in general. Specifically because it provides a mixture type of housing, apartment and single family homes.

However, I hope that this project will be a benefit to the community. That it will provide affordable housing and also address some community needs and some development needs. I think this project will -- the home ownership part will increase the tax base for the District and attract various types of residents to the area and may retain some in the area, so overall I think that the project is a good project for the community, however, there needs to be some conditions attached to this project to ensure that it will address community concerns and just development concerns.

VICE-CHAIRPERSON SOCKWELL: I have strong feelings that this proposed development can act as a successful development, as one catalyst for rehabilitation or replacement of

vacant buildings and renewed upkeep of existing populated multi-family units and single family dwellings in the area.

I feel that a number of conditions have been proposed by the National Park Service and others. The assertions by the applicant of how it will more effectively confront the community in a positive way, have some unresolved and/or unquantified aspects which we will have to look into but I feel that this neighborhood, like many neighborhoods that have previously been unwanted by the development community, totally underdeveloped, are in the midst of a major change in interest in Washington and all of its neighborhoods, and that people are looking for housing.

People are looking for quality housing and this is one infield development which hopefully, like many others, will eventually network and link together to produce over all improvements in the quality of life in Anacostia and in other less often looked upon neighborhoods. So I believe that we have something that we can look forward to.

CHAIRPERSON REID: Board Members, this project for me was rather troubling in that as you recall, the first time this case came before us we turned it down and we did so because we felt that the applicant had not met its burden of proof with regard to the aspect of a special exception to adverse impact.

The community made it very clear to us that they opposed it because of the fact that I don't think they had been

adequate outreach or lobbying of the persons who would be directly impacted upon the development going forward. And as such, when it came back for rehearing, we received quite a few letters in which many of the opponents and prominent entities in the community had reversed their positions 180 degrees and had started to support this project which made us feel it warranted a second look.

Now when we had the presentation of the second -- the rehearing of the case, what I was looking to see, was how is this case different from the first case. And what I did note was that the applicant had made a colossal effort this time to reach out to the community, to find out what the community concerns were, to be cognizant of what kind of impact it would have on the community, and to also look to what they could do as developers to try to revitalize that whole area, not just with putting a project in the middle of the community, but to demonstrate that they were interested in being a good neighbor, and to show that they would like to give back to the community.

Since then we've gotten in our records and heard testimony there have been several agreements that have been struck with various entities and various organizations in the community. There have been proffers of assistance in terms of technological training for the children, in terms of revitalizing or rehabbing some of the wooded up houses in the community and providing funds for a traffic analysis that would address some of the issues that came up in regard to the traffic problems.

While I did have reservations, I feel that in the long run, coming from a real estate point of view, that area had been one that had been kind of overlooked, and it was fraught with all kinds of problems, but given the current atmosphere and environment in regard to real estate in the city, it now appears to me that obviously that whole area is going to experience a reawakening, if you will, and as such, I think that the community there should be able to benefit, and therefore I would consider supporting this application with adequate conditions that would reflect the concerns of the community as well as the National Park Service, as well as the Office of Planning, as well as the agreements with the ANC.

Conditions with the ANC, agreements with the various organizations, the terms that have been entered into in terms of various agreements being reflected in the conditions and anything and everything that we can possibly utilize to ensure that the community is made comfortable with such a development coming in its midst.

And as such, we feel that in so doing we feel that we would better ensure that we had a viable and feasible development, multi-family and single-family housing going in, and that the community as a whole would derive, hopefully derive, benefit from a decision that we make today.

So, unless any other Board Members have any other comments, then we can now -- I'll ask for the question, and

entertain a motion.

COMMISSIONER MITTEN: I move that we approve the application that is before us with conditions and those conditions to be fleshed out subsequent to --

CHAIRPERSON REID: Right.

COMMISSIONER MITTEN: I don't know how you want to handle the --

CHAIRPERSON REID: First of all, let me get a second before we --

VICE-CHAIRPERSON SOCKWELL: I'll second the motion for approval.

CHAIRPERSON REID: Okay, we would -- because of the voluminous amount of conditions and agreements, and documents, that pertain to mitigating adverse impact, and diffusing any deleterious effects that this development may have in the community, we will not deal with conditions today. We have to flesh them out and to get our arms around which conditions are applicable and determine how we can best do that.

So today we will make - we will have the vote and then we will, in working with the Corp Counsel determine what conditions will be imposed as part of the order.

VICE-CHAIRPERSON SOCKWELL: And if I might add, Madam Chair, any conditions that are not made part of an order would certainly merely preclude our having input or impact on whether those needs of various parties are important to what we

doing, but in regard to the development itself, we would hope that the applicant and those who have issues will come together and satisfy all of those that are most salient.

CHAIRPERSON REID: Mr. Sockwell, you mean -- what are you saying?

VICE-CHAIRPERSON SOCKWELL: In other words, any conditions that we don't make may be part of some assertions by various parties in the case, and that those conditions that we don't make part of the order are still issues that the developer and those entities should try to work out, if they are deemed relevant so that they don't have to be something that we will become party to with regard to the order.

CHAIRPERSON REID: So, in other words you are saying that if in fact there is some other issue that is not contained within our conditions, that you recommend that the applicant and any opposition try to hammer that out?

VICE-CHAIRPERSON SOCKWELL: Exactly. That would be the neighborly thing to do.

CHAIRPERSON REID: We better do it with conditions.

VICE-CHAIRPERSON SOCKWELL: Hmm?

CHAIRPERSON REID: We better do it with conditions.

VICE-CHAIRPERSON SOCKWELL: Well, if we don't think they are important enough to make them conditions, and yet they are something that the applicant wishes to work with, it's the applicant's prerogative.

CHAIRPERSON REID: Oh, I see. In other words you are saying that you don't want to limit it to whatever --

VICE-CHAIRPERSON SOCKWELL: The applicant wouldn't be limited -

CHAIRPERSON REID: -- we include in the conditions?

VICE-CHAIRPERSON SOCKWELL: Exactly.

CHAIRPERSON REID: Okay, the conditions, once the conditions are hammered out, then we will review the conditions and determine that we are all in the same page with them, and have them to be included as a part of the order.

COMMISSIONER MITTEN: Perhaps it would be advisable to set a date by which we would do that, because as I would understand it, the order really wouldn't be completed until the conditions are finalized.

CHAIRPERSON REID: Well, this is going to be a full order and it will take some time, because it has so many different issues to be contained therein with the findings of facts, and conclusions of law, so Ms. Pruitt, do you want to set a date for when the conclusions --

MS. PRUITT: I would have to refer with Corp Counsel.

CHAIRPERSON REID: I'm sorry, the conditions would be --

MS. PRUITT: If you can give us at least two weeks, a little bit -- and then we could set it. I am trying to think of

our next meeting. The next meeting is on the 18, but you have a very full agenda that day.

CHAIRPERSON REID: If the conditions are gotten to us in our packages, then the only thing that we would really discuss is those that we may have had some issue with or some objection to. But I think that we are all on the same accord, basically, as to the conditions that have been set forth.

We have tons of conditions, and we just want to make sure that they are specified and they are condensed down to what is needed without leaving anything out and that's why we don't have the time to do that today.

MS. PRUITT: I just wanted to make you aware that you already have a special public meeting on the 18th to discuss the Clarke case anyway.

CHAIRPERSON REID: So, we could do that that day?

MS. PRUITT: That starts at nine, so that means that you'd have to --

CHAIRPERSON REID: Is that good? Mrs. Sansone? All right. That's fine.

MS. PRUITT: Just so that I am clear, you are going to meet in executive session to deal with the conditions or are you going to do it in deliberation out here?

CHAIRPERSON REID: We'll do it on the dais.

MS. PRUITT: Okay, and you are starting at nine?

CHAIRPERSON REID: Yes, it should not be that much

that we have to discuss. I think that we are all on the same page as far as the need for including these various conditions that have come from different sources into the order of it, we just want to do it in an organized manner to ensure that we give as much comfort to the opposition as we can through the -- to mitigate and to diffuse any adverse impact.

MS. PRUITT: So you'll be doing both the Clarke Case and this case within that half an hour?

(Laughter.)

CHAIRPERSON REID: Yes.

MS. PRUITT: Okay, I just wanted to be clear.

COMMISSIONER MITTEN: Madam Chair, just as a procedural matter, should we, since we all have comments on the conditions and how to tighten them up, should we give all that to the Corporation Counsel, and then they'll draft - they'll put all that together, and then give us a draft back to react to, or how are we going to do that?

CHAIRPERSON REID: Corporation Counsel is in agreement to -- however we decide to do it, they will all support that decision.

COMMISSIONER MITTEN: Okay, well then I propose that we each individually give them our comments, suggestions for the conditions, and then they condense that all down to a final draft.

CHAIRPERSON REID: Okay. All right, any further

discussion? Comments? All right all in favor, say aye.

(Chorus of Ayes.)

CHAIRPERSON REID: Opposed?

MR. MOULDEN: Aye.

CHAIRPERSON REID: I did that just before, didn't I? Left your vote out. But let's do it again.

MR. MOULDEN: For the record I would like to say that I read the transcripts, because I left early for one part of the hearing.

CHAIRPERSON REID: Let me do that again, Mr. Moulden, because I got you on the opposite when I said all opposed.

Okay, all in favor?

(Chorus of Ayes.)

CHAIRPERSON REID: All opposed?

(None opposed.)

MS. PRUITT: Staff would record the vote is four to zero to one to approve motion made by Mrs. Mitten, seconded by Mr. Sockwell. Mrs. Renshaw abstaining, and I would like -- she asked that something be read into the record in reference to her abstaining in her decision.

I have decided to abstain. The D.C, Department of Health has not provided me a written response to my memo. I am not convinced that the two sites are suitable enough, stable enough for building. I worry about what happens if the new homes

show signs of deterioration due to land shift.

We do not want to stand in the way of progress and economic revitalization, but we also have to be concerned with the public's health. This case is so sensitive that it is best for the city members to come to a consensus with out my absentee decision wrapped in conditions. Therefore, as I am out of town for the vote, I will abstain.

(Whereupon, the hearing in the matter of the application of KASS MA, L.L.C. was concluded at 11:53 a.m.)

CHAIRPERSON REID: Thank you. Okay, we have one more case.

MS. PRUITT: The next case to be decided is application 16554 of JAMES AND JULIA P. EDMONDS for the Studio House of Arts pursuant to 3104.1 for a special exception under Section 206 to permit the establishment of existing buildings to be used for music of the art; the owners will reside on the top two floors in the D/R-3 District at premises 2306 Massachusetts Avenue, N.W. (Square 2507, Lots 4 and 5).

Your hearing date was March 1. The record was closed at the end of the hearing except for the requested draft orders which were submitted by March 27th.

CHAIRPERSON REID: All right, Board members.

MR. SOCKWELL: I move that the Studio House project application be denied on the basis of traffic issues that cannot be effectively managed with the level of traffic that would be

inherent to the use proposed.

MR. HOOD: Madam Chair, if I may add, I will second the motion. After hearing deliberations and seeing the film, I have some concerns and I know that the charge of this commission and the Board of Zoning Adjustment is to protect the safety and health of the citizens of the District of Columbia.

I think in approving this in a manner within that circle, I think we are setting up some very tragic situations for that community and for the students involved so I will second the motion.

CHAIRPERSON REID: I concur with you, Mr. Hood and Mr. Sockwell. I think that I was not convinced that given the fact that we now have T Street -- no, the Q Street Bridge that is inoperable right now but once it is open, then we have that additional traffic coming around that circle.

For the cars to back into that circle I think would be very dangerous. Particularly you have children involved here and the adverse impact as presented to us by the community I think has great merit. I was not convinced that the applicant made their case so I would concur.

Do you have any comments, Mr. Moulden?

MR. MOULDEN: Yes. After reading the transcripts on this case, I also agree that this project shouldn't be approved.

CHAIRPERSON REID: All right. All in favor?

(Chorus of Ayes.)

CHAIRPERSON REID: All opposed?

(None opposed.)

MS. PRUITT: Staff would record the vote as four to zero to deny. Motion made by Mr. Sockwell and seconded by Mr. Hood.

(Whereupon, the hearing in the matter of the application of JAMES H. AND JULIE P. EDMONDS FOR THE STUDIO HOUSE SCHOOL OF THE ARTS was concluded at 11:55 a.m.)

CHAIRPERSON REID: That concludes our public hearing for this morning -- meeting. Excuse me. Now we will go into a public hearing.

(Whereupon, at 11:55 a.m. the public meeting was adjourned.)