GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

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WEDNESDAY

FEBRUARY 16, 2000

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The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice, at 9:51 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ROBERT N. SOCKWELL	Vice Chairperson
ANNE RENSHAW	Board Member
RODNEY MOULDEN	Board Member NCPC

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OTHER AGENCY STAFF PRESENT:

David Colby	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:
Marie Sansone, Esq.

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(9:51 a.m.)

CHAIRPERSON REID: The meeting will please come to order. Good morning, ladies and gentlemen. This is the February 16th Public Hearing of the Board of Zoning Adjustment, District of Columbia.

My name is Sheila Cross Reid, Chairperson. Joining me today is Robert Sockwell and -- your name?

MR. MOULDEN: Rodney Moulden.

CHAIRPERSON REID: -- Rodney Moulden, who is joining us representing National Capital Planning Commission. This is the first time that he has sat with us, and we want to welcome him to our Board, and also representing the Zoning Commission is Ms. Mitten, Carol Mitten. Matter of fact, we have a whole new Board except for myself and Mr. Sockwell. Ann Renshaw is also one of our newest members. So we have all new faces in the last few months appearing before you today except mine that's been here for quite a number of years.

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

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

The order of procedure for special exception and variances is: Statement and witnesses of the applicant; government reports, including Office of Planning, Department of Public Works, etcetera; report of the ANC; parties and persons in support; parties and persons in opposition; closing remarks by the applicant.

Cross-examination of witnesses is permitted by the applicant or parties. The ANC within which the property 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 staff will specify at the end of the hearing exactly what is expected.

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 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 and should be heard today, such as 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. Are there any preliminary matters?

I know staff has a couple of preliminary matters with regard to postponement or continuance.

MS. PRUITT: Yes, Madam Chair. Application 166490 is requesting, actually, withdrawal. You have a letter dated February 15. That's the first case for this morning of application of Meristar Hotel Group.

CHAIRPERSON REID: Ms. Pruitt, in an instance where someone is requesting a withdrawal, we don't have to take an action, do we, just allow them to withdraw it?

MS. PRUITT: Correct.

CHAIRPERSON REID: And also do they receive their fees back?

MS. PRUITT: No.

CHAIRPERSON REID: Okay. So, basically, it's just a notification kind of thing?

MS. PRUITT: Right. I mean, because this has been advertised, there could potentially be somebody here who wanted to discuss the case.

CHAIRPERSON REID: Is there anyone here -- What was the case number again?

MS. PRUITT: 16490.

CHAIRPERSON REID: And that was Meristar?

MS. PRUITT: Correct.

CHAIRPERSON REID: Is there anyone here that's in any way affiliated with that case? All right. Then I have no problem with it. If other Board members have no objection, then we can allow them to withdraw their case.

MS. PRUITT: I believe we also have an application 16537. Is Mr. Zahn here? I believe we were going to receive a request for continuance on that case from the applicant.

CHAIRPERSON REID: He is not here?

MS. PRUITT: No one in the audience --

CHAIRPERSON REID: Is that the first case?

MS. PRUITT: Well, it would be the first case now.

CHAIRPERSON REID: Now that the Meristar -- and he's not here?

MS. PRUITT: No. No one responded.

CHAIRPERSON REID: Okay. What we'll do is let's go ahead and proceed, and then check again after we are done. We have just only one more case?

MS. PRUITT: I think we have two this morning. I see we have --

CHAIRPERSON REID: Well, we had three, and then we had --

MS. PRUITT: We had six this morning. No, I'm sorry, excuse me. Three. So we have only one case left.

CHAIRPERSON REID: One case. Okay. So why don't we do this. Why don't we take the first case of the morning, and then after that case ask again if Mr. Zahn has come in before we adjourn for the morning session. Okay? All right, thank you.

MS. PRUITT: The first application today is 16548, Application of National Association for the Education of Young Children, pursuant to 11 DCMR 3104.1, for a special exception under Section 213 to continue the use and operation of an existing parking lot with 22 parking spaces in an R-5-B District at 1522-26 Church Street, N.W. (Square 194, Lots 50 through 52).

All those planning to testify, could you please stand and raise your right hand?

Do you swear or affirm the testimony you are going to give today is the truth?

(Witnesses sworn.)

MS. PRUITT: Please be seated. Could the applicant come forward.

Madam Chair, this property was not posted timely. However -- rather, filing for the property was not filed timely, but my understanding is that it was posted at the correct time. So you need to waive the filing time for posting.

CHAIRPERSON REID: Okay, unless the other Board members have any objection, I have no objection to waiving the time. Is there anyone here -- anyone else here affiliated with that case who would have an objection? Okay. Very well. Proceed.

MR. AREND: Good morning, Members of the Board.

CHAIRPERSON REID: Were you sworn?

MR. AREND: Yes, I was.

Good morning, members of the Board. My name is Tom Arend. I'm with the law firm of Shaw Pittman. We represent the National Association for the Education of Young Children, which is the owner of the lot. Their headquarters building is located on 16th Street, which is connected to the lot by an alleyway.

The Association is a nonprofit, tax exempt organization. Sitting to my left is Dr. Mark Ginsberg who is the Executive Director of the Association, and he will be available to answer questions about the Association and the history of the lot.

We are applying for a special exception to continue to use the lot as a parking lot. The Association acquired the building that is adjacent to the lot in 1992. It applied for special exception to continue to use the lot, as the prior owner had, for parking. The Board granted the special exception in 1994.

Unfortunately, the next step was not taken to obtain the certificate of occupancy. There was confusion, apparently, on the Association's part. They didn't understand that they had to obtain the C of O.

They attempted to comply with all of the conditions of that special exception and maintained the use of the lot as parking. The lot is used by employees of the Association Monday through Friday during working hours. It has been open to residents of the neighborhood at night, Monday through Friday, and then Saturdays and Sundays all day and all evening.

In addition to neighbors, parishioners of the church, St. Luke's, which is connected to the lot,

use the lot for parking, and also the Foundry Church uses the lot for parking. In addition, a number of other neighborhood organizations use the lot for overflow parking on P.M., the Jewish organization on 16th Street.

It is our understanding that, since that lot has been vacant, which has been for over two decades now, it has always been used for a parking lot in the neighborhood. It has been made available to neighbors and to other community residents free of charge, and the Association has tried to be a good neighbor in this respect.

We understand that there have been some problems in the past and some complaints from immediate neighbors on 16th Street with respect to some of the maintenance issues. The Association has met with neighbors, and we have drawn up a plan to improve the lot.

We have submitted a plan and a contract from a contractor to do the work on the lot, which includes landscaping and some repaving. In addition, we are going to providing security and increasing the lighting.

Mark Ginsberg will be happy to answer any questions about the Association or history of the lot

or if I can fill in any gaps that you might have, information.

CHAIRPERSON REID: Questions, Board members?

BOARD MEMBER RENSHAW: Yes.

CHAIRPERSON REID: Ms. Renshaw.

BOARD MEMBER RENSHAW: Good morning. I understand you have met with the neighbors, and you're looking to an agreement or you have made an agreement. Have you signed an agreement?

MR. AREND: Well, we have met with the neighbors. The neighbors on 16th Street presented us with some proposals for improving the lot aesthetically, which we have agreed to do. We've submitted a contract. The Association is prepared to spend over $10,000 to implement these landscaping and aesthetic changes.

In addition, we have gone before the Advisory Neighborhood Commission, and they have approved a two-year special exception, and Don Jackson who is the local ANC representative is here as well for the hearing.

BOARD MEMBER RENSHAW: All right. I would just like to know what took you so long. You've had the property for quite a while, and you've had problems

in the past. Why are you now just waking up to the fact that you have got to have lighting and security and landscaping?

MR. AREND: Well, I think what we're talking about are improvements on the existing condition. The lot is lighted. There is somebody from the Association who is tasked or had been tasked for the last ten years with cleaning it and doing some landscaping, and we're talking about doing things over and above what the conditions were set in the initial special exception back in 1994.

Also, I might add that the Association was not aware of the extent of some of the issues brought up by the neighbors until we were --

BOARD MEMBER RENSHAW: But they communicated with you.

MR. AREND: Well, actually --

BOARD MEMBER RENSHAW: And you can look out -- I looked at the pictures that have been submitted, and I see trash and other problems, and why weren't those corrected immediately so that they did not surface again, and the landscaping? Go ahead.

DR. GINSBERG: Let me just say for a second, one is I've recently joined the Association as the Association's new Executive Director. The

Association has been in the District and been an association for 75 years, but I've been there a relatively short time.

As these issues have been drawn to my attention, and they were, really, quite recently, that's when we began the process of trying to develop a plan to improve the lot. We actually agree with the neighborhood that the lot can profit from, in terms of its aesthetics, improvements; and we are pleased to do that.

We have also just -- Having joined the Association, we've had a number of projects in and around the building itself to improve the quality and nature of the environment to the building internally. So what we are doing now externally in terms of the landscaping as well as the improvements to the lot are really consistent with an overall upgrade of our facilities.

Personally, I can't speak for former management, but I can speak for our current management that we are fully committed to not only comply with all of what's required but to go beyond that and to create an environment of the parking lot that's not only aesthetically more pleasing but also meets the needs of the neighborhood, to the extent that we can.

VICE CHAIRPERSON SOCKWELL: Dr. Ginsberg, since we are on the subject of who was responsible for what and when and why it wasn't done, while we could not possibly hold you accountable for things that occurred before you became Executive Director -- and what date was that that you took over?

DR. GINSBERG: Just a year ago.

VICE CHAIRPERSON SOCKWELL: One year ago? So these preexisting conditions were probably brought to your attention by the community or were they brought to your attention by the previous administration, or were they left over in memos and letters and complaints from the community that you found in a file?

DR. GINSBERG: No, actually, I learned about them primarily through the contacts we've had with the neighborhood and then, in inquiring about the situation, learned about some of the history from our staff. But we've had a fairly dramatic change in the leadership of the organization in the last year. So this is all relatively and quite recent and new to me.

When we learned of it, though, that's when we began a process to try to plan for kind of an overall aesthetic remake, not only of that lot which we've taken the suggestions of the community and incorporated that into the plan -- in fact, it is the

plan that we have developed -- but also the building itself.

VICE CHAIRPERSON SOCKWELL: Well, since the date of the original order was December 2, 1992, on the decision anyway, and the order may have followed sometime later because of the backlog of getting orders out, it appears that the organization itself apparently ignored virtually all of the elements of the order for a period of five years, and that the neighborhood did complain about such things as a shack that was on the property, certainly about the condition of surrounding wall, fencing or lack thereof, the obvious lack of security and normal cleaning and maintenance of things like the wheel stops, the fact that there were condoms and trash present on the property.

This property, of course, was being used on a daily basis by the Association itself. So there was no way that those working at 1509 16th Street wouldn't have known the condition of the lot and would not have been in a position to understand that this was not a good thing, since the lot was on the residential side of the community and not adjacent to the building, behind the building or on the same lot as the building and, therefore, did impact significantly on the appearance of that block.

So do you have anything to say about that, now that you've been at the Association for a year?

DR. GINSBERG: Well, my sense is that there have been problems in the past, but the problems were not, I think, on an everyday basis. There were times when the lot was not in as good repair as others. There were times when there had been trash on the lot, from what I've understood.

That, as you might imagine, can be cleaned up and then can also reappear. So it's a constant issue of being vigilant in maintaining not only the aesthetics of the lot but also the condition of it in terms of things like garbage being strewn along the lot.

So, you know, clearly, there have been errors in the past.

VICE CHAIRPERSON SOCKWELL: And there was -- If I might interrupt, Dr. Ginsberg.

DR. GINSBERG: Sure. Please.

VICE CHAIRPERSON SOCKWELL: There was a clear lack of basic maintenance to the lot itself. Trash, of course, can blow in and out, but the cracked up and broken and dislocated wheel stops, the condition of the wall, the lack of certain other security measures and the fact that apparently no lighting was

ever installed per the --

DR. GINSBERG: No, there is lighting.

VICE CHAIRPERSON SOCKWELL: Yes, but was the lighting installed after the order or was the lighting just the existing lighting that had been there all the time? That's one of the questions.

MR. AREND: I believe the lighting was installed after the order, as well as the -- and the lot was painted for parking space stripes, and there was an individual from the Association tasked with maintenance and security in terms of supervising the lot.

Now, granted, obviously, there were serious problems.

VICE CHAIRPERSON SOCKWELL: And the shack--

MR. AREND: The shack had been removed. The shack, I understand, was removed. It was not removed on a timely basis, but it was ultimately removed.

VICE CHAIRPERSON SOCKWELL: Right. And it had absolutely no purpose on the lot at that time at all, because it was boarded up.

MR. AREND: That's correct. That's my understanding.

VICE CHAIRPERSON SOCKWELL: So it really

didn't need to be there, and apparently there were -- One of the things that we tend to find is that organizations hold themselves above the communities in which they exist, thinking that they don't have to coexist with the community. They just have to be there and do what they do.

Of course, a vacant lot as opposed to a parking lot would subject the organization to a property tax payment of about 60 percent higher, as I recall, the difference between 215 and five dollars, if I'm not incorrect. Of course, that is a very important aspect of your appearance today.

DR. GINSBERG: Well, let me just make one comment about community responsibility, just a couple of words about NAEYC.

Our primary mission is an organization, the primary organization in the country involved in promoting the development of young children, and through that we are the national accrediting body for childcare/daycare centers around the country. We accredit virtually every Head Start center in the country as well as about 7,000 community based childcare centers.

So we as an organization are very committed to community issues, and our work primarily is a

community based organization. So, you know, I don't want to overly generalize, and hope you will not, what our organization is about to what may have been some inappropriate maintenance issues on a parking, because that's not at all consistent with our mission.

VICE CHAIRPERSON SOCKWELL: And that's a very important fact for you to bring out, because an organization that's committed to a higher goal externally should maintain internally --

DR. GINSBERG: Oh, no question.

VICE CHAIRPERSON SOCKWELL: -- the same level of commitment.

DR. GINSBERG: Oh, couldn't agree with you more. Couldn't agree with you more.

MR. AREND: I would just add that the lot is essential parking for NAEYC employees. As you, I'm sure, are well aware, the neighborhood suffers from a lack of parking for residents and other individuals who work and use the neighborhood.

These are 20-22 spaces, depending on how you count them, that are used by NAEYC staff, that are, frankly, essential to the efficient running of the organization. If individuals can't park there, they are, obviously, going to have to park someplace else. Unfortunately, those options are practically

nonexistent.

I think that's why historically this lot has been used as a parking lot before not only the Association but many other organizations, groups, residents in the neighborhood.

DR. GINSBERG: I think, too -- Let me just reinforce something that you said, Mr. Sockwell, that we as an organization take great pride in what it is that we do. I think we also hope that we take great pride in how we do it.

I don't have great pride in what I've learned about how the parking lot had been maintained over time. There's no question that it could have been maintained better, and there's no question that it will be maintained better.

You know, part of what I consider to be my responsibility in my time of watch in the organization is to be not only a responsible member of the community but a responsible neighbor in what is a very beautiful and wonderful neighborhood of our city.

So, yes, I certainly am not here to defend the practices of the past. I'm here to say that I have understood that the organization could have done better, and to say that our commitment is to do better, and to immediately make changes in the aesthetics of

the parking lot in ways that are consistent with the community's wishes, and then to maintain the parking lot and to maintain a relationship with the neighborhood to be sure that we are maintaining the parking lot in a way that is both sensible and appropriate.

VICE CHAIRPERSON SOCKWELL: And just to complete that thought, Dr. Ginsberg, the issue of organizations as opposed to individuals is that an individual living in a single family residence on any particular street can leave and a new resident come in, and that could change the entire visual and social relationship with that piece of property; because that new person could start parking abandoned cars and everything else on the lot.

An organization is an organization, and whether Dr. Ginsberg or Mr. Smith is running the organization, that chair should be able to be filled by a new individual without much change in the way the organization perceives its relationship to a community.

DR. GINSBERG: True.

VICE CHAIRPERSON SOCKWELL: And therefore, the organization itself has been deficient, and perhaps the Director being one who would have handled that relationship did not do anything to improve it. It

might be your charge, period, to make sure that the organization outlives your reign or rule as the person primarily in charge.

DR. GINSBERG: Well said, well said.

BOARD MEMBER RENSHAW: Madam Chair, a few questions, please.

I just want to review a couple of points. Is the hut still there?

DR. GINSBERG: No, it's not.

BOARD MEMBER RENSHAW: It's gone? Very good. Now the parking is free?

DR. GINSBERG: Yes.

BOARD MEMBER RENSHAW: With the community? Do you have --

DR. GINSBERG: Yes, for everybody.

BOARD MEMBER RENSHAW: Do you have arrangements, written arrangements, with them or is it first come, first served with the community?

DR. GINSBERG: It's on a first come, first served basis after working hours.

BOARD MEMBER RENSHAW: And you have working hours defined?

DR. GINSBERG: I believe it's nine to five. It may be eight to five.

BOARD MEMBER RENSHAW: All right. And are

there 22 or 20 spaces? Would you be specific?

DR. GINSBERG: Twenty-two is what is in the application and has historically been in the special exception. I say 20, because there was an issue that was brought up at the Advisory Neighborhood Commission. There were only 20 spaces marked off, but I believe there are 22 in terms of area, that it's capable of accommodating 22 parking spaces.

BOARD MEMBER RENSHAW: All right, 22. Now there is always the question in a community when they see a parking lot that something more is going to happen, even though you're here to proceed as you have been with a parking lot for employees. Do you have any plans to change that lot into an addition for your building, anything like that at all?

DR. GINSBERG: We don't at the moment. The community has had contact with us. In fact, several of the neighbors have had contact with us -- in fact, several of the neighbors -- about their interest in that particular piece of property being developed in the future, but we have no specific plans at the moment, although we certainly would be happy to interact with the community about some of their thoughts about the ultimate use of that property. But we rely on that property a great deal as a parking lot

for our employees, and it is very important that our people have a place to park when they come to work.

As you know, the impact on the neighborhood would be severe with 20 or 22 additional cars being forced to find other parking. So the short answer to your question is no, we have no immediate plans nor anything on the drawing board, but as always we would be interested to hear the neighborhood's thoughts, and they've begun to explore that with us.

BOARD MEMBER RENSHAW: Is your organization governed by a board of directors?

DR. GINSBERG: Yes. It's governed by a board of directors. That's a nationally elected board of directors, governing board, as it's called. That's correct.

BOARD MEMBER RENSHAW: All right. And at the time when you are going to -- you're beginning to think about doing something with this piece of property, will you bring the ANC and representatives of the community into planning sessions so that these people are not blindsided by what you are going to do?

DR. GINSBERG: Well, with that question, that's consistent with the kind of organizational philosophy, as I talked earlier.

BOARD MEMBER RENSHAW: How many staff drive

to work and park in that lot?

DR. GINSBERG: It's full every day.

BOARD MEMBER RENSHAW: Full every day? Twenty-two or 20?

MR. AREND: Twenty, I believe.

DR. GINSBERG: I think there's 20 at the moment, and there are others who drive who have to find other places to park, obviously. We have more than 20 staff.

BOARD MEMBER RENSHAW: All right.

CHAIRPERSON REID: Mr. Ginsberg, I think -- Let me first say that I think that the mission of your organization is a very laudable thing. You bring a worthwhile type of entity to the city. Nonetheless, what we're faced with today is you're here for an extension of your special exception.

So the responsibility of this Board is to determine whether or not it should be extended, and that's predicated on what we are -- the information we are given from the community and from yourself and what have you.

The problem is that you have been given a special exception, and the condition of the special exception was that you were to comply with certain conditions that were not completely complied with, and

you've given us all kinds of reasons why you did not, could not.

As a result of that, you now come to ask us to believe that, if we give you an extension, that you will not continue to conduct yourself in the manner in which you have. You came for the special exception, and you were given that. Then there were conditions that were put into the order, and those were not -- you know, that was not taken care of.

We now have letters from members of the community who are not happy with the fact that you've not been a good neighbor, and you've not maintained that parking lot as you were supposed to, and they have given us pictures. I mean, they have taken the time.

This community is a very concerned community. Like you said, it's beautiful, and they want to keep it like that. They do not want an eyesore, and understandably so.

As such, some have recommended to us that we not give you a five-year, that we give you a two-year or maybe even a one-year extension. I can imagine that would be kind of troublesome for you --

DR. GINSBERG: Yes.

CHAIRPERSON REID: -- for that to happen, but that's happened as a result of your not being

responsible to them and to even their complaints, numerous complaints that just fell on deaf ears.

So now is the day of reckoning. So we have to now determine if, in fact, or why we should allow you to continue, and now we have to hear from the community and from the ANC, and you're saying that you will do something. But how do we know?

What I would suggest comes to my mind, as I'll often do, do you have a community liaison person or entity that can communicate with you as to when you start to go awry and let you know that, hey, this is not happening, you're not doing like you're supposed to, and straighten it up? Do you have something like that?

MR. AREND: I think, de facto we do. Mr. Hobb seems to --

CHAIRPERSON REID: No, not de facto. I mean officially --

MR. AREND: A great idea. We could do that.

CHAIRPERSON REID: -- because of the fact that you have had several complaints that you ignored. I don't want to say ignored. That's too strong; that you have not heeded. So if you have a person who is an official -- quote/unquote, official capacity to work

with you to say -- you know, because like executive directors may come and go. How do we know you're going to still be here five years from now, and a new one comes in and says I wasn't aware of the order, I didn't know what I was supposed to do. So that puts the community in jeopardy.

What we're supposed to do is try to assure that, to the greatest extent possible, that there is a peaceable coexistence between the entity, yourself, and the community. As such, I'd like to hear what you'd like to -- what you can do or what you're willing to do in order to be able to bridge that gap, because right now there is a problem.

DR. GINSBERG: Well, I think it's a great idea, and I think we would be very prepared. I think it's a terrific thought to establish a liaison function between the organization and members of the adjacent community to the organization. We would be happy to host a couple of receptions or that kind of thing to actually spend some time and talk about the plan, not only for the parking lot today, but have a kind of a regular forum to be sure that we're all complying with the expectations of each other. I think it's a terrific idea.

CHAIRPERSON REID: Yes. I don't think that

-- You don't need to have a reception and all of that, but --

DR. GINSBERG: Well, I mean like an opportunity for discussion.

CHAIRPERSON REID: Okay. Well, do what you feel. I think they want to see something. They want to see some commitment. They were all right with your having a special exception, and I think that you have to -- We have a credibility issue here where you've already promised that you were going to do something. You didn't do it. So now how are you going to restore in the community that degree of credibility that will allow you to be able to receive your special exception, if in fact we were to grant you the extension here today?

DR. GINSBERG: I think that's a great idea, and clearly, the neighborhood also enjoys the use of the lot on any given night. There are many, many cars that are parked there on the weekends.

CHAIRPERSON REID: Sure. Sure.

DR. GINSBERG: You know, we're pleased to be able to provide that for the neighborhood, and together, hopefully, we can create a situation that meets everybody's needs.

MR. AREND: I would just note so the record

reflects the balanced view in the neighborhood that we have also received significant support from neighbors for the special exception, St. Luke's, the Foundry Church --

CHAIRPERSON REID: We have those.

MR. AREND: -- Stoneham Condominium Association.

CHAIRPERSON REID: We have those, and we will acknowledge those at the appropriate time, but that's not a problem.

MR. AREND: I understand.

CHAIRPERSON REID: And rightfully so, that's kind of a given that you would have some support, because this diverts to what you do, you know. But we will acknowledge those letters of support. I don't know if we have people in support here, but we definitely will note those letters. We do have them in the file.

CHAIRPERSON REID: Comment?

COMMISSIONER MITTEN: I would just like to follow onto a theme that has been developed to some extent, which is one of the main criteria for us deciding whether to grant a special exception -- this is in Section 3104 of our regulations -- is that those special exceptions will be in harmony with the general

purpose and intent of the zoning regulations and zoning maps and will not tend to affect adversely the use of neighboring property.

I'm sure you're well aware of the fact that this property is not zoned for a parking lot. It is a special exception, and the desire for development in the neighborhood is not to have parking lots. It's to have residential development.

Often when special exceptions are given for something like this, it's because the time isn't right to realize the full potential of what's intended by the comprehensive plan and the zoning regulations. That's not the case right now in that neighborhood.

I think one of the things that comes through in the letters from some folks in the community is that this -- even people who are suggesting that there be an extension given, that this is not something that's going to go on indefinitely. So can you respond to the fact that, for people who don't want this special exception granted and who do know that the time is right right now for this to be redeveloped -- I mean, how can we reconcile that with your request, given the direction the neighborhood is moving in?

DR. GINSBERG: Well, that's a very good point. What came up earlier, too, is the beginning of

a planning process to look at the ultimate use of that property. You know, at the moment and really for the foreseeable future, we have a need with respect to any development of the property to think about the parking needs of our employees, which are critical.

COMMISSIONER MITTEN: Right.

DR. GINSBERG: So in considering development options, one of the components, at least from our perspective and, certainly, I can fairly speak for our employees from their perspective, would be to include some opportunities for parking.

How that could be configured, how that could be developed, I think, is something that's going to take some time. It's not going to happen overnight. Also, being a not for profit, we're not a developer. That's not our business or our industry, but we certainly think -- and that's why I answered the question the way I did earlier -- we have no current plans, but the neighbors have approached us, and we've concurred with the neighbors that it would be useful to begin a planning process about what ultimately might occur on that property.

I do understand that the notion of the special exemption is not a permanent one.

COMMISSIONER MITTEN: Well, I just want to

press on a point, and I don't want this to be offensive at all, but the idea that you have this burden of where your employees are going to park -- I mean, the community's position, I would suspect, is well, that's your problem.

We have to protect the interests of the community as well as your interests, which are -- You know, they are very specific.

DR. GINSBERG: Right. That's the balancing act here.

COMMISSIONER MITTEN: So I guess I don't know what to attempt to extract from you by way of commitment to sort of the timetable for exploring alternatives, but I think some folks in the neighborhood would suggest that you've had your time, and it's been in the past that you should have been doing this.

DR. GINSBERG: Well, we will begin discussing with our governing board. Clearly, that's something that must occur, and we've already had conversations in a preliminary manner with our governing board about the issues that are before you today, and that's something that will begin. But as you know, the development of a lot that's owned by a nonprofit, the issues take time --

COMMISSIONER MITTEN: Of course.

DR. GINSBERG: -- to occur, which is one of the reasons when the community neighborhood commission suggested a two-year extension, we thought that was a reasonable time period to give us an opportunity to look at the long term possibilities of that property. We're pleased that that was one of the suggestions that they made, which does kind of allow a time frame and a deliberate process to occur that's not either rushed beyond capacity or slowed beyond necessity.

COMMISSIONER MITTEN: Have you been approached by developers about buying your lot?

DR. GINSBERG: We have had -- Several people have called us about the availability of that lot since I have been with the organization, and to all I have said we would entertain discussion, but we've not had any discussions face to face or any preparation or materials presented to us in writing.

So as you might imagine, it's a very desirable piece of property by any stretch of the imagination in an area that has been extensively developed and for which residential properties are quite valued. So, clearly, there are some possibilities. Yet the balancing act we were talking about earlier, the need to develop a residential piece

of property but also to think about the long term needs of our employees, given we do operate the organization in the neighborhood, it's a balance that we'd like to try to nurture.

VICE CHAIRPERSON SOCKWELL: Dr. Ginsberg, with regard to your use of that lot for accessory parking, I don't want you to believe that this Board would attempt to push you away from an accessory use that has been confirmed and reaffirmed for an existing organization over a period of years.

Certainly, the community is very interested in seeing a higher and better use of that lot, but provided that your organization is in compliance with the rules and regulations of the District of Columbia and the orders of this Board, your use of the lot is a continuing use, not a new use or not a new organization. You didn't come in yesterday. You didn't replace a previous organization of the same type. You are the same organization that has been in possession of that lot and using it for this purpose.

One of the factors that enters into this is that, because you are an existing organization and you are using the lot in a way that is not consistent with the underlying zoning, it is incumbent upon the organization to handle that gift very, very carefully;

because the community has sincere complaints and sincere needs, and it's not the churches that are against you, because they are around the corner and down the block. It's the people that are adjacent to and across the street from that lot who deal with the issues every day and every night.

Because this is a gift, gifts sometimes have to go back to the store because they don't work.

DR. GINSBERG: We fully intend to be very responsible.

CHAIRPERSON REID: Okay. Let's try to move on. Government reports, ANC?

MS. PRUITT: Excuse me, sirs. Could you splay your mikes out in opposite directions of each other.

CHAIRPERSON REID: Is the ANC present? Okay, would you allow them to come up.

DR. GINSBERG: Sure. Thank you.

CHAIRPERSON REID: Thank you very much. We'll have you come back up for closing remarks.

MS. SANSONE: Madam Chair, I would just note that the ANC report was filed five days before the hearing. So it would be two days late.

CHAIRPERSON REID: Okay, you need to request a waiver.

MR. JACKSON: Madam Chair, I did request a waiver for this, because --

CHAIRPERSON REID: You did?

MR. JACKSON: -- we were not given timely notice of this hearing, because it was sent to the wrong ANC. The ANC of jurisdiction is 2B, not 2C.

CHAIRPERSON REID: All right. Then you made sure that that was corrected within our office as well?

MR. JACKSON: I did see the letter requesting a late filing in the file.

CHAIRPERSON REID: All right. So you did request a waiver?

MR. JACKSON: As soon as the neighbors notified us that they had received word and we had not, we requested a waiver of that.

CHAIRPERSON REID: Okay, I don't have it in my file, but just verbally we will accept your request and grant you a waiver, unless there is any objection from any of my colleagues. All right. Please, sir.

MR. JACKSON: My name is Don Jackson. I'm the single member district representative for this property. This has been an ongoing discussion in our neighborhood. There are several parking lots in the 1500 block of Church Street, and this particular one at

our last ANC meeting was probably a difficult decision for me, because I tend to step back and look at the bigger community, not just look at this lot by itself.

I agree with the comments from some of the neighbors that the lot has not been maintained acceptably in the past five years. It has not been cleaned, and the landscaping -- there really is no landscaping, and there's a five percent minimum landscaping requirement in the zoning regulations.

Over the past five years my phone calls, as well as some of the neighbors, have gone unreturned from NAEYC. So our process was just to stop discussions and wait until the exception came up for renewal, and that's why Mr. Ginsberg was not contacted until recently.

As Ms. Mitten said, the neighborhood is in a growth spurt right now. There is a lot of development going on. That's one of the problems. It's very sporadic, and I don't think there's a plan for the neighborhood. There are interested persons doing individual lots but not thinking about long term impact.

We're only a block from 14th Street, which is trying to be rejuvenated. In the other direction, we have the 17th Street commercial strip which brings

in people from outside and has no parking at all. We have the Jewish Community Center at 16th and Q, and on 16th Street just a block from this parking lot we have approximately 300 housing units with no parking.

So the lot does benefit the neighborhood, and having it open at night has been a benefit. Many neighbors are appreciative of that.

In the past year, the Mayor's office has designated both Dupont Circle and the adjoining Logan Circle just across 15th Street as neighborhoods where there is major parking problems, and we have task forces going on right now trying to develop parking plans for neighbors and businesses to coexist peacefully and benefit both parties.

That was the reason that I made the motion that I did. Because of all the ad hoc redevelopment of individual properties and knowing that we're going to have to lobby people to try and modify some of their plans to include parking for businesses and residents and that sort of thing, I did not feel that the one-year request by some of the neighbors would be adequate, knowing some of the parties involved.

Also, the size of this lot, to develop it by itself -- One of the suggestions made was to do underground parking, as was done in a nearby project,

but ramping down underground would lose quite a few spaces. So there is a lot adjoining it, and one of my plans is to get the owners of that lot, which will be here probably in another month or two before you, to maybe look at some cooperative effort to do some parking there for both of their organizations and for the neighborhood.

I don't think this will be accomplished in one year, given the personalities in the neighborhood. So the ANC's recommendation which was filed with you was to approve it only for a two-year renewal, conditioned upon contracts being presented as a matter of good faith, that the new members of the NAEYC, the new staff, would follow through with them.

So far, we've not received any copies of these contracts that they said they had presented to you all. So at this point we have not signed anything with them, but if they would present contracts showing they will comply with all the zoning regulations, then we would be willing to sign those at this time.

CHAIRPERSON REID: The contracts that you're referring to were to reflect the agreement and the conditions that were stipulated in the ANC letter dated February 10, 1999?

MR. JACKSON: Actually, I have a correction

here for you.

CHAIRPERSON REID: It must be 2000.

MR. JACKSON: Our computer was not Y2K compliant at the time. So I can file it and update it for you.

CHAIRPERSON REID: Okay. All right, but is that what you're saying?

MR. JACKSON: Yes.

CHAIRPERSON REID: But you don't have that yet?

MR. JACKSON: We have not received a contract from them at this time, no.

CHAIRPERSON REID: All right. Then we can request that prior to any order going out. What single member district are you from, sir?

MR. JACKSON: From ANC-2B04.

CHAIRPERSON REID: 2B04, okay. Where in the letter does it say two years? Oh, I see it, the first condition, two years -- You said that they agreed to that or they did not? What are you saying?

MR. JACKSON: The ANC supports a two-year renewal only on the following conditions, and at our meeting NAEYC also was agreeable to those terms.

CHAIRPERSON REID: They are agreeable to only two years?

MR. JACKSON: At our meeting, they were in concurrence with that, yes.

CHAIRPERSON REID: Does that conclude your report?

MR. JACKSON: Yes.

CHAIRPERSON REID: All right.

BOARD MEMBER RENSHAW: Madam Chair, I have a question. Appreciate your being here to give a report on your single member district. Mr. Jackson, the Mayor has had a neighborhood summit. He's had two sessions now, and it is the time for neighborhoods getting together for this long term planning that your neighborhood, obviously, needs.

Are you going to be taking the lead with the applicant? Are you planning to have the applicant play a large part in this long term planning for your neighborhood?

MR. JACKSON: Yes, and it will involve including another ANC as well. The adjoining ANC has a lot of commercial property just half a block from this property that we want to try and work all of this together. So I do plan to have a joint effort between ANC 2F, Logan Circle, which also has a parking task force, and ours; and we will involve both NAEYC and other groups that have parking lots that we want to

redevelop.

BOARD MEMBER RENSHAW: All right. Just another point: At times when residential communities buck up against nonprofit led, the residents have a fair amount of angst, because they do not -- They may have a good association with a nonprofit. However, they are not privy to the planning efforts of the nonprofit organization, and they look out on a space, and they know that tomorrow it could change.

The surveyors could be over there. The developers could be in your office or in the office of the applicant making plans. So I do want to stress that, in regard to this open space, that the ANC keep tight communications with the applicant and that the ANC is brought into initial planning as quickly as possible.

MR. JACKSON: Yes.

CHAIRPERSON REID: Ms. Mitten?

COMMISSIONER MITTEN: At the meeting did you all discuss -- I know you mentioned that you discussed the one-year renewal. In your opinion, that wasn't a sufficient amount of time to sort of resolve whatever issues there might be. But in terms of giving leverage to the community, in terms of making -- You know, there is the issue of coming and saying all the

right things to us about their commitment to the conditions that they might agree with, with the ANC and so forth, but then the enforcement of all of that, as you know -- that's the difficult part.

Did you talk about a one-year renewal in the context of, you know, sort of the added incentive for them to live up to the commitment, because they will have to back quite soon to us to prove yet again that they deserve a renewal of some length of time.

CHAIRPERSON REID: One year or two years?

COMMISSIONER MITTEN: I'm asking Mr. Jackson. They are recommending a two-year renewal, and I'm asking did they discuss the one-year renewal in the sense that it would give added enforcement authority, I guess.

MR. JACKSON: We did consider the one year as a leverage issue, but in terms of all the factors involved, working with the other ANC and property developers and that sort of thing, I do not feel that it was feasible. I would not oppose a one-year. That would be fine, but just from a practicality point I felt the two-year was more appropriate.

COMMISSIONER MITTEN: Okay. I don't know if you can answer this question, but in the -- I know the task force, the parking task force is an ongoing

project. How do they view these types of parking lots? Do they consider that they are sort of a short term asset or a long term asset in terms of parking in the community, or do you know?

MR. JACKSON: On my particular task force, there hasn't been a lot of discussion about off-street parking in the first -- We divided into two phases. The first was to recover on-street parking as much as possible first for residential zoning purposes, and then we would go on to the off-street parking issues after that.

The community is very mixed on it. Obviously, there are those who have benefitted from this lot, and some similar ones are in favor of them, but others definitely want the properties converted back to residential use. So there's a mixture of opinions in the community.

COMMISSIONER MITTEN: But you don't know -- You know, when you're quantifying the amount of parking available in the neighborhood, do you know how they view a surface lot like this that has a special exception?

MR. JACKSON: The parking task force as a whole has not surveyed that just yet.

COMMISSIONER MITTEN: Thank you.

CHAIRPERSON REID: Thank you very much. Persons or parties in support of the application, please come forward. Please?

MS. KLIPPLE: My name is Mary Jane Klipple. That's K-l-i-p-p-l-e. I'm the nearest neighbor to the lot. My wall adjoins the parking lot.

I perhaps was the one that finally got the shack removed after a great deal of effort, but in recent times my only complaint would be on the policing of the lot and keeping the weeds down and that sort of thing.

I would say that I think the lot is essential to the neighborhood. As you have already heard, it's used both in the daytime fully by the employees of the organization, and it's certainly used in the evening by perhaps some of the people that object to the continuation of the lot.

It is free to the community. It's also free to Foundry United Methodist Church, which is at 16th and P and which has parking needs, and I'm an active member of that church and have been for a long time.

I have owned my house there since 1991, and I have lived in it continuously since about 1995. Parking is absolutely essential in the neighborhood,

and until I can believe that the city or the ANCs or anybody has any kind of a plan to provide parking for residential areas, I would think that it's absolutely essential to keep this kind of a lot open.

I perhaps fault the city as much as I do anybody else in regard to these kinds of situations. We have had until very recently very poor maintenance of streets and sidewalks. We still have absolutely no maintenance of the alley. The parking lot is a hazard to get into, I think, for some of the employees. After any rain, we have a lake right behind my house.

I myself have two and a half or three spaces behind my house which are used by staff at the Foundry Methodist Church during the week, because there is just no place for people to park in that neighborhood. The on-street parking has almost totally disappeared from 16th Street and from the side streets.

So I would hope that in your considerations you would take that point of view from the community. I have a very old house, and I do have some maintenance problems of my own which I am trying to address this year, and I think I will have the cooperation of the current management of the organization.

My major complaint was with the past

management who were unresponsive to letters, to any kind of requests, but that has -- Except for the quality of the maintenance, which has not been exceptionally good this past year, I have had no other kind of difficulties with them using the parking lot.

CHAIRPERSON REID: Thank you. Sir?

MR. WOGAMAN: My name is Philip Wogaman. I'm the Senior Minister of Foundry United Methodist Church at 1500 16th Street, N.W.

Our church is the longest standing building or institution in that immediate neighborhood. We have been there since 1904. We have existed in the city since 1815. I think our parking problem began with the invention of the automobile.

We do not have a parking lot other than a very minuscule staff parking that will take at maximum eight cars. We've had some use of the underground facility across P Street from us in the last two or three years, and that's been very helpful.

We have appreciated the use of the NAEYC lot on Sundays. They have been very kind and generous in allowing us to make some use of that spot. I know on Sundays, in particular, our congregation will fan out through the neighborhood insofar as parking lots are not available to us.

Increasingly, members of our church are in the neighborhood. We probably have several hundred people in our church now fairly close in, and many are within walking distance of the church. For them, parking is not an issue in our immediate neighborhood. But for the church as a whole, it is.

Foundry has been committed to the city for all these years. We would never think of moving to the suburbs or anything of that sort. We are deeply committed to being a part of the glue that helps to hold the metropolitan area together, and to us that isn't a sentimental matter. It's a matter of the survival of a wider community which includes, of course, Maryland and Virginia as well as the District.

These are real dilemmas. We have observed through the years the increasing density of population in that area. The immediate area is not like the suburbs where you have single family homes and lawns and commensurately large exposure to streets. We have a very densely populated neighborhood.

That means, insofar as people who have cars, a dense population of cars as well. I just have to say it seems reasonable to want to have some parking facilities available in areas like this, and that's something the zoning regulations ought to take

seriously into account.

I would like to say just one other word about the NAEYC. They have been good neighbors to us in a variety of ways, not least the fact that they are the sponsoring organization, the accrediting agency for preschool programs, and we have an active preschool program in our church accredited by them and supported by them which serves poor people in the city.

It's not a money maker for the church. We've put over $100,000 a year into the preschool program, and we have appreciated the proximity of the NAEYC as the support for that effort, in addition to their generosity to us with the parking lot.

CHAIRPERSON REID: Thank you, sir.

BOARD MEMBER RENSHAW: I have a question for Ms. Klipple. Ms. Klipple, you made the statement that you have a lake behind your house or -- Yes, a lake behind your house. I'd like to know if any -- Is that drainage from your place or is that drainage from the parking lot?

MS. KLIPPLE: It's probably drainage from a lot of places. It's the alley that is so pitted and so low that --

MS. PRUITT: Excuse me, ma'am.

MS. KLIPPLE: I'm sorry. It fills up to an

extent. On the P Street side, there are apartments. I don't believe there are any single family houses. I think they are all apartments or condos, some with parking behind them and some with not.

On my side of the street, there is a house adjoining mine, and I would think that perhaps it's an accumulation of runoff from everywhere, plus the rain that just comes down, and the condition of the alley is such that a lake forms in the alley itself and stays for a period of time until it evaporates or gets splashed off.

BOARD MEMBER RENSHAW: So that the lake is in the alley. It's not on your property?

MS. KLIPPLE: Oh, yes. It's in the alley.

BOARD MEMBER RENSHAW: It's in the alley. Thank you.

MS. KLIPPLE: And I have made over the years requests, as I think others have, to get the alley fixed on that block, but there has never been any response.

CHAIRPERSON REID: Thank you. Persons or parties in opposition to this application, please come forward.

MR. GUILLERY: Hello. My name is Wade Guillery. I live at 1501 Church Street, N.W. at the

end of the block in question, and I've lived there for 14 -- a little over 14 years, and I've seen a lot of change.

I want to thank you for the opportunity to come before the Commission and for your notices to the community of these changes going on.

I don't really want to talk about past use of the lot, because my neighbors will talk to that effect. However, I would like to talk a little bit historically.

You know, over the past 40 years a lot of change happened in the city. We had white flight. We had decline of inner city neighborhoods. The suburbs grew, and you had a lot of times properties that were no longer valuable through declining neighborhoods, and they fell into disrepair and, as such, for safety concerns possibly they were razed. Then what do you do with them? They're full of weeds.

Well, they became community parking lots or paved over, and they were used by commuters and so forth. I know this, because my next door neighbor, Ms. Maurice Thomas, is 101 1/2 years old, and she's lived in her house since 1925, and she told me that the house I currently own was once a parking lot put in in the fifties.

They tore down two beautiful old rowhouses, and she even showed me the pictures, and it was a parking lot from 1955, I think she said, to 1975 when someone put in and redeveloped five little houses down Church Street instead of fronting on 15th. She said, I've seen those changes come about.

At one time, maybe the best use of the property was a commercial surface parking lot, either for residents or whatever, but that has changed. We've seen it change most recently in the last, I'd say, five to seven years where not are we getting Seven Elevens and sub shops. We're getting residential housing.

All of a sudden, the developers have found that there is a need, and we're getting condominiums. We've even had a couple of houses on P Street go from rooming houses back to single family, and they were sold before they were even started construction.

The neighborhood is just booming and not with commercial/office/retail like this goes on downtown. It's booming with people who want to live in our neighborhoods, and the density that brings also brings us a benefit.

It brings us increased revenue to the city. Registration of these automobiles runs about $85 a pop, city taxes, residential taxes, real estate taxes.

It also brings us safety.

If our block, instead of being two-thirds vacant lot, had four-story condominiums or single family homes, you have people walking their dogs, coming home at night, saying hello on the street, less opportunity for vandalism or being mugged, as I have been on my block, held up at gunpoint, or had your car windows broken out of and some minor things stolen.

I mean, you can't have guests come without saying don't have anything in your car showing, and it's odd, but you have to tell them that, because they are coming in from the suburbs or another part of the city that isn't tasks with that kind of attention.

In general, we've seen a lot of good change and, as you know if you've watched television lately, we've had an article on Channel 4 News showing about the development of the Fresh Fields. We're getting upscale businesses wanting to develop long, long vacant properties. I mean eyesores for years.

I was fortunate enough to live there when the Duron Paint put in a Route 1 style suburban store in our property. I supported it, even though it's not beautiful. It got rid of the weeds and the migrants and the homeless people that were living in this vacant area adjacent to my property.

CHAIRPERSON REID: Okay, which brings us to the special exception that we're here for today.

MR. GUILLERY: Yes, ma'am. I'm sorry.

I ask that you disapprove this exception. As Mr. Sockwell said, this is a privilege. It is a gift, and regardless of the past, we need to look at the future. You as Board members here, I think your role is to see the future and not the past or today.

Developers want property to build housing. It's zoned residential. As a neighbor, I'm not concerned they're going to put in a Seven Eleven or some hideous property that we won't have a chance to comment on. With the procedures in place, the ANC, the Historic Preservation and so forth, we will have ample time to comment on any kind of thing they want to build.

They can maximize their profit today. After the election this fall or next year, the recession -- Who knows what the economy will do? Possibly, two years from today when we come back before you, the best use will again be surface parking.

We have an organization that employs, I think, around 100 people, but we're talking 20 parking spots. We're talking a neighborhood that -- we talk about the JCC and this organization and the businesses

on 17th Street, and they value this parking. We're talking 300 condominium units in the vicinity. Twenty spots?

That percentage is minuscule. While, yes, it provides an advantage to some of the neighbors, mostly the renters who are there, and the renters who come in and park there in the evening, they're there Sunday morning. So it's a lot of -- The church doesn't evict the spots to park. So that point is negligible.

I guess what I'm getting at is we ask that you deny it so that change can take place. We're not taking the ownership away from this applicant. We're not changing the zoning on it. I nor you nor they could control that it was zoned residential when they bought it. It's zoned residential. Residential it should be, whether it's built on today, next year or two years from now. But for a nonprofit to pass up hundreds of thousands of dollars in potential money is, to me, unconscionable. Thank you so much.

VICE CHAIRPERSON SOCKWELL: Mr. Guillery, let me just ask one question. Do you believe that it should be the charge of such a board as this to determine what you can do with your house?

MR. GUILLERY: No. I believe --

VICE CHAIRPERSON SOCKWELL: Then -- thank you -- do you believe that it is the charge of this Board to presume that changing an existing use for the sake of fostering development is the right thing to do, because either you or we believe that it's better for Mr. Jones' property to be used for residential than for some other use?

MR. GUILLERY: I believe the Board should base their judgments on the adverse impact to the neighborhood, and for continued use of a vacant lot, whether it's for parking, whether they spend hundreds of thousands of dollars to make it beautiful, still impacts the value of my property. I'm a homeowner. I've lived there continuously.

If I tried to sell my home, the first thing they see when they step off the street -- they say, well, what are these empty lots? What's going to happen with those? Oh, well, they're accessory lots, and that continues. I don't know the answer to that.

I'm just saying I'm adversely impacted. That's why I'm here today. I may not have made that clear earlier.

VICE CHAIRPERSON SOCKWELL: Just one more question. Mr. Guillery, do you own a car?

MR. GUILLERY: Yes, I do. But I walk to

work every day, and it stays parked, and I walk home in the afternoon, and I see the gridlock that the city faces. I walk home about six o'clock, and we're talking a property that uses 20 spots. I'm talking the immediate use by the owner, not the neighborhood.

Neighborhoods will cope, like they always do, when you get overdeveloped. We are talking a property of 16th and P that is within a 12-minute walk of the Orange, the Blue, the Green and the Red and Yellow lines.

We're talking served by a major bus line on the P Street and 16th north/south, and we're talking about a commercial garage at 1616 T Street right outside their door that is available, I believe. I haven't checked lately, but to anyone who drives in and pays the eight dollars to park or $12 to park all day, plus all the ones that are in the 17th and K or 17th and L area that are commercial establishments.

So for the 20 people that are privileged enough to park on this lot from the NAEYC Monday through Friday, I would think that 20 out of 100 or so could easily make accommodations. Park in the suburbs and take Metro then.

VICE CHAIRPERSON SOCKWELL: Just one more question then, since you brought that 1616 P Street

lot. That's a pay lot, right?

MR. GUILLERY: I believe it is a commercial lot. It's part of their right to build this large property on 17th and P, and the National Wildlife Foundation -- to build that, they had to allow this parking garage to be used not solely for their use, but for maybe weekends for the churchgoers to park for Foundry and so forth. I'm not an expert in that area, though.

VICE CHAIRPERSON SOCKWELL: Do you know whether or not the garage charges the people to use that?

MR. GUILLERY: Yes. It is a commercial.

VICE CHAIRPERSON SOCKWELL: So at all times, people have to pay.

MR. GUILLERY: I would think so. It's a for profit thing. It's not free.

VICE CHAIRPERSON SOCKWELL: So the benefit to the community with regard to the NAEYC lot is that they don't charge the community. They don't charge the church.

MR. GUILLERY: They allow it to remain open as part of their zoning order in 1992. If you give us this, we will do that.

VICE CHAIRPERSON SOCKWELL: Right.

MR. GUILLERY: Then signage went up four years after the order that basically said do not park here, you will be towed. I don't understand how that can be interpreted as we'll let the neighborhood use it. If the neighborhood knows to use it, they do, but it would be a mystery to someone coming to the JCC or to a restaurant or even visiting me. They would assume, if I park here, I run the risk of being towed.

Now that may be changed in the future, but that is the signage that is there today.

CHAIRPERSON REID: Wait, wait, wait. There is not signage there, and it says -- There is nothing there that would indicate to anyone that the parking is allowable after a certain time of the day?

MR. GUILLERY: No, ma'am. It says parking reserved for members of the NAEYC; others will be towed, period.

CHAIRPERSON REID: Okay. All right, thank you. All right, next.

MR. TILTON: Hi. My name is Roger Tilton. I also live in the 1500 block of Church Street.

I would just like to -- I think you all have asked very probative questions that certainly indicate that you have reviewed this record carefully, and you're aware of the parking deficiencies and the

fact that the current petitioner did not comply with previous BZA orders, which is -- So I don't think I need to go into that.

What I would like to go into is that two years ago we came before a different Board with respect to the adjacent parking lot. There are two parking lots that are side by side here. That Board revoked the special exception on that parking lot, because they found it adversely impacted the neighborhood.

The reason they found that was that it also had not been maintained. They also had not complied with BZA orders. Now our ANC rep indicated that they were going to be before you again. I guess they are going to ask for not a renewal but a new special exception for that lot. We will, of course, be here to adamantly oppose that, but currently that is not a parking lot.

Our position is that the lot that the petitioner is applying for has all the deficiencies of the St. Luke's lot, which is they don't comply with BZA order, and it adversely impacts our neighborhood.

In the neighborhood today the new apartments that are being constructed -- some of the two-bedroom apartments sell for as much as $500,000. I'm sure that none of you would like to live across --

If you had a $500,000 apartment, would like to look out onto an unkept parking lot. You probably wouldn't like to look out on a perfectly kept parking lot.

Parking lots in residential neighborhoods, I don't think, coexist terribly well. It is an adverse impact. I know that the NAEYC has indicated that they would -- that if they are given a year or two extension, that they will start a planning process that might eventually put this property back to its original intended use, which is residential.

I think that my problem with that is that a planning process where they have a year or two to do this, they will start a year or two from now, just like they will -- just like in the past these petitioners start complying with your previous order about a month or so before they apply for their renewal.

I don't think we're going to gain anything by issuing them an extension. Currently, the developers certainly in that area -- I do work in real estate. So I have a little bit of knowledge of it. The developers in that area are salivating over opportunities to develop. There is no doubt in my mind that, with a very short period of time, that they could come to an arrangement with a developer where they would -- where that property could be a lovely

residential development for the city, accessible to the city, and where they could retain parking.

I think it is physically possible. I think it is very doable. In fact, they probably would have condominium parking spaces underneath that building that would be as valuable as the current parking.

As a result of that, as I said, I would request that this Board deny this special exception. I don't think special exceptions should turn into permanent zoning changes, and this is looking like a permanent zoning change that is just going to be routinely granted, even when they fail to comply with your orders.

CHAIRPERSON REID: Mr. Tilton, in regard to your reference to the Board order a couple of years ago, which I sat on that Board, for St. Luke's Church, if I recall correctly, this was not exactly the same thing.

In that instance, there was -- The problem was that the lot -- Part of the lot at least was being used for commercial, and that was the basis by which it was denied, not adverse impact. Yes, there were some similarities, but the essence of that case -- and if you're going to cite, then please do so correctly -- was the fact that it was not supposed to have been used

for commercial gain, and that's what happened, and that's the reason why it was denied.

I remember that distinctly, because there were a lot of newspaper articles about that decision.

MR. TILTON: Right, but you could -- but the Board did approve a renewal of their -- They had two lots.

CHAIRPERSON REID: Two lots, P Street and then the Church Street thing.

MR. TILTON: Right. And the Board did renew the P Street lot for accessory parking. The Board could have renewed the Church Street lot for accessory parking.

CHAIRPERSON REID: Could not, because of the fact that it had been turned into a commercial parking lot, and that was not allowed under the current zoning regulations, sir.

MR. TILTON: Well, the Board certainly approved the P Street lot as an accessory parking lot, even though that had been turned into a commercial parking lot as well.

CHAIRPERSON REID: Well, I don't know if the P Street had already some compliance or had been given some authority to do that. I know that, in regard to the other parking lot, it was not supposed to

be commercial, and it had been. That's why it was denied. So I don't know what the history of the other lot is.

Okay. Also, we've already said that, and Mr. Sockwell said it very clearly, that it is not within the purview of our Board to dictate or to suggest to persons as to what is the highest and best use of their particular land or their property.

The only thing we are here for is to determine whether or not the use of their accessory lot will have a negative impact on the community, and not using it for the highest and best use of developing it would not be within the auspices of those categories in which we would be -- that we would use to determine whether or not they are in compliance. Thank you.

We do also have for the record your letter in which you laid forth the basis for your decision or your position very clearly. Thank you. Yes, sir?

MR. HOPP: Good morning. My name is Jeff Hopp, H-o-p-p. I'm a homeowner in the 1500 block of Church Street as well. I'm here to oppose permanent above ground parking lots in our neighborhood.

This neighborhood, as we are all well aware, is certainly coming around finally. It's developing and is not the place for above-ground

parking lots, especially ones that are maintained with a history like this one.

Just a matter of clarification, earlier, Ms. Chairwoman, you had asked about the signs. You do have a photograph in your packet of what the exact sign says, and it does, in fact, say no parking, NAEYC, violators will be towed at owner's expense. So I just wanted to clarify that point as well.

CHAIRPERSON REID: Wait one second. Let us check that, because I don't remember. Within our file it may have been that the pictures weren't clear enough for us to be able to see. Where is it? I mean, is that actually on the property? What we will do is we will determine that, once we have the applicant come back. Is that on the parking lot?

Well, we don't know about that yet. We'll have to determine once we have them back up. We will find out what, in fact, this means and why.

MR. HOPP: Right. Actually, that's the sign that's currently on the lot.

I also wanted to touch on the fact that these are only 20 spaces, like Mr. Guillery had pointed out. If they don't have this lot for their use, the applicants have stated that where are they going to park. They're going to park on our streets.

Well, that's absolutely not true, because our particular neighborhood and the surrounding neighborhood is zoned for residential parking, Zone 2. They can certainly park there, but if they park there all day long, then they are subject to tickets, and we all know that enforcement has been a problem lately, although we have had some limited success recently in getting enforcement to issue Zone 2 tickets.

Mr. Jackson stated that if ramping were installed underground, you know, they might lose some parking. I agree with the gentleman here that a plan could be set forth.

What we want is a permanent solution for the neighborhood. We don't want a permanent above-ground parking lot in our neighborhood.

As far as their commitment to clean this parking lot and keep it maintained on a regular basis, I have to tell you. I walked by it this morning, and there is trash and debris laying in the parking lot right now as we speak. There are no weeds, as the pictures indicate, because it's wintertime.

So I'm just leery of their commitment level, understandably, given the past history. You do have copies of the letters where as early as 1994 and 1997 we tried to address the concerns, and Ms. Klipple

indicated that the shack removed. Actually, the reality is that Tom Day of Office of Solid Waste Control, the Clean-Up Division, issued a violation to them in 1998, and then they were forced to remove the blue shack.

I also want to comment on when the Association was aware that they had a problem. One of you stated -- I don't remember who it was; I apologize -- that -- I believe it was Mr. Sockwell -- that the conditions of this lot had been -- From the pictures, obviously, they have existed this way for six years. Their employees have to be stepping out of their cars, stepping over trash, stepping over bushes, in order to get into their building, pass through the alley, walk around the 16th Street side to get in the building. However, it was actually drawn to their attention on September 15, 1999, in the form of a notice of infraction from the Office of Zoning Enforcement for failure to have a certificate of occupancy.

I did not enclose this copy. I assume you have a record of this ticket. If not, you can have this one. So that's when it was drawn to their attention. That's why we're here today, is because Enforcement went to them, wrote them a ticket, and here we are.

They do have a verbal agreement with the Office of Zoning Enforcement to continue to park cars on the land until this hearing process is complete. You're well aware, there has not been a C of O for 13 years on this property. So the time has certainly come to do something about that.

There was one point I wanted to make also about support for the lot. I believe you have a letter -- I've looked through the file -- from the Stonesdale Condominium Association. This is a building on 16th Street, N.W. in a different ZIP Code, just as Foundry Church is in a different ZIP Code.

They have 15 units in this building, and not one single parking space. They don't look at the lot every day. We own homes on this street. We walk by it every single day. We look at it. It affects our property values, not these folks who are supporting it.

The folks who are supporting it, with the exception of Ms. Klipple, don't live in the community. The parking lot is full of Maryland and Virginia license plates, etcetera, etcetera. It affects us, not those folks who are supporting it. Thank you.

CHAIRPERSON REID: Thank you. Questions?

VICE CHAIRPERSON SOCKWELL; Yes. Mr. Hopp, to the best of your knowledge, have any of your --

Where do you live with respect to the property itself?

MR. HOPP: At 1507, catty corner.

VICE CHAIRPERSON SOCKWELL: Okay. To the best of your knowledge, have any of your neighbors been ticketed or towed from having parked on that lot at night? Have any of your guests been ticketed or towed from having used that lot at night, and do any of your guests use that lot at night?

MR. HOPP: My guests do not use the lot at night. As far as my knowledge of people getting ticketed or towed, I have no knowledge of that. On that particular section of the lot, the St. Luke's lot was a different story a while back, but this particular lot, no.

One neighbor was -- My very nextdoor neighbor -- He was supposed to be here. He's not here yet, but he had parked his vehicle on the lot overnight one night and came out to them threatening to tow it, although I believe a verbal argument ensued, and he moved the vehicle.

VICE CHAIRPERSON SOCKWELL: Was that a weekday?

MR. HOPP: It was.

VICE CHAIRPERSON SOCKWELL: Okay. So they have the right to possess their lot during the working

hours.

MR. HOPP: I don't know what time. It was in the morning, but yes.

VICE CHAIRPERSON SOCKWELL: Mr. Tilton, do you own an automobile, sir?

MR. TILTON: Yes, I do.

VICE CHAIRPERSON SOCKWELL: And you park?

MR. TILTON: I have, actually, a parking spot.

VICE CHAIRPERSON SOCKWELL: Okay. With regard to parking lots, surface parking lots in general and your relationship in terms of property position to the lot is?

MR. TILTON: I'm at the end of the street, across the street from the lot.

VICE CHAIRPERSON SOCKWELL: So you're sort of diagonal.

MR. TILTON: Right.

VICE CHAIRPERSON SOCKWELL: But down the street slightly. You park off-street?

MR. TILTON: I do.

VICE CHAIRPERSON SOCKWELL: Okay. So you're not encumbered by the lack of parking for yourself in the neighborhood.

MR. TILTON: Correct.

VICE CHAIRPERSON SOCKWELL: And Mr. Hopp, you're not encumbered by the lack of parking for yourself in the neighborhood.

MR. HOPP: That's correct.

VICE CHAIRPERSON SOCKWELL: And Mr. Guillery, you're not encumbered by the lack of parking for yourself in the neighborhood?

MR. GUILLERY: No, I'm not.

VICE CHAIRPERSON SOCKWELL: How many spaces do you have behind your house, available?

MR. GUILLERY: We have a garage. The houses were built with garages, and we don't have alley access.

VICE CHAIRPERSON SOCKWELL: Okay. So your garage is straight under front?

MR. GUILLERY: On the street.

VICE CHAIRPERSON SOCKWELL: So you're the newer properties?

MR. GUILLERY: Yes.

VICE CHAIRPERSON SOCKWELL: All three of you? Okay. And you oppose permanent parking, of course, and as well it could be understood that that does not present the highest and best use of land in that neighborhood? Okay. Thank you.

CHAIRPERSON REID: Mr. Moulden?

VICE CHAIRPERSON SOCKWELL: He didn't respond to me.

CHAIRPERSON REID: Oh, I'm sorry. I thought you were making a statement. What was the question?

VICE CHAIRPERSON SOCKWELL: No, Mr. Guillery wanted to respond to me.

CHAIRPERSON REID: Oh, what was the question?

VICE CHAIRPERSON SOCKWELL: I asked them about their parking, but I don't know what Mr. Guillery's response was, because I had --

CHAIRPERSON REID: You made a statement, but was there a question on the floor?

VICE CHAIRPERSON SOCKWELL: I had made some statements. I'm not sure what Mr. Guillery's response was, but he has a right to respond to me.

CHAIRPERSON REID: Without a doubt.

MR. GUILLERY: I wanted to clarify the understanding of your question, that yes, we have parking, and I'm not here to oppose parking in the city or in the neighborhood. I'm here to oppose the adverse impact this has on my property values and my neighborhood in general, the beauty of it and the tranquility and the quality of life by having these

open air, even if they were walled up with grass, impact that it does. It looks like a missing tooth in a line of what was once rowhouses.

It's zoned R-5B residential, and that is the primary reason we're here, to enforce our entitlement to ask that the Board honor the zoning of this property. Thank you.

VICE CHAIRPERSON SOCKWELL: So you would probably be unhappy if you had a neighbor with a semi-detached house with a large side yard that was grass rather than a parking lot --

MR. GUILLERY: No, I would not.

VICE CHAIRPERSON SOCKWELL: Well, you said even if it was grassed. So I want to make sure that you're opposed to any open space in the neighborhood at all. You would rather have it all developed as buildings.

MR. GUILLERY: Well, sir, this is, I believe, 12 housing lots. It's a very large open space in our contiguous block. I'm not talking about a side yard or the setbacks or the bay windows and the grass. That's what makes our --

VICE CHAIRPERSON SOCKWELL: I just wanted to make sure that under no circumstances would you accept open space, because sometimes that's a great

benefit to neighborhoods.

MR. GUILLERY: It is.

BOARD MEMBER RENSHAW: Madam Chair.

CHAIRPERSON REID: Yes. Ms. Renshaw, I would like to recognize Mr. Moulden. He hasn't yet had a chance to speak.

MR. MOULDEN: My question is to the members who are opposed. With respect to any adverse or negative impacts from vehicles leaving, maneuvering on the lot as far as noise and maybe headlights in the evening, has there been any negative impacts as far as noise and maybe --

MR. HOPP: We can't speak on that, because we don't live directly opposite the lot. There's an apartment building directly oppose.

MR. MOULDEN: Any complaints from neighbors?

MR. HOPP: Not to me about that, no, sir.

MR. GUILLERY: I haven't had complaints from neighbors, nor have I called the police. But late in the evening, I'd say two in the morning, I occasionally visit friends or go to some of the clubs in our neighborhood.

You know, since it's an open lot -- we don't want -- it isn't been chained -- you do have

people who drink or carouse, and they will be yelling at someone, and I have observed that, not nightly, not regularly, but yes, it does occur that there are loud noises or, you know, very loud discussions sometimes from some of the people who use the lot as they are leaving or departing, especially on the weekend. I have encountered that. I can attest to that. It's not frequent, but it does happen.

MR. MOULDEN: Thank you.

CHAIRPERSON REID: Ms. Renshaw?

BOARD MEMBER RENSHAW: Yes, just a quick question to Mr. Guillery. Have you brought -- Well, in fact, have all three of you appeared before the ANC and brought these comments? Were your comments part of the thinking process? I see a nod to Mr. Jackson's head, yes.

MR. GUILLERY: Ms. Renshaw, I'm glad you brought that up, because we did attend the ANC, and we made our points known. I'd like to -- I do not mean any offense to the ANC in general, but it was comprised -- It's comprised of about six members, and they were there.

Of the six districts that were represented that night, four of them are, I believe, if I'm correct in it, west of 16th Street are their districts. Our

two districts, Commissioner Jackson and Commissioner Hart who lives at 15th and O Streets were the only two that are contiguous where this property is located.

I'd like the record to show, and I believe the minutes of the ANC do so, that Commissioner Hart was opposed to surface parking lots in her district and in general. She believes they bring crime, and she's lived there since '76. They bring crime, trash debris, and they do not add to the wellbeing of the neighborhood, and she voted against the resolution to give them two years.

The rest of the Commissioners, you know, agreed with Mr. Jackson. It's his district, and they went along, and it was almost a unanimous vote. But I feel as a resident that the view of the ANC of what should or may go there in the long run doesn't -- It impacts whether the JCC needs it or the restaurants and bars on 17th Street versus those of us who live in the 1500 block. So I'm glad you asked that question. Commissioner Hart was against it.

CHAIRPERSON REID: Let me ask you something. This is directed to the three of you. You heard testimony here today from the applicant that, number one, they show remorse and apologize for the fact that they had been remiss in the manner in which

that parking lot had been maintained.

Nonetheless, you also heard them proffer to us assurance that they were now in the process of taking steps to make sure that, number one, the conditions that were requested by the ANC were going to be complied with, one, and two, that they were open to creating a liaison, community liaison, entity to ensure that the promises or the order -- the conditions of the order are complied with on a regular basis.

If, in fact, that were to happen, would you not be amenable to their special exception application or are you still adamant about -- It's my understanding that you are concerned about the adverse impact. If that were removed, notwithstanding the inference of adverse impact being your property value, whether or not it would or would not increase -- that's not typically what comes before us as being adverse impact. But if they are doing what they are supposed to do, then would you still feel the same way?

MR. HOPP: I think I would, because during our meeting with the applicant, Dr. Ginsberg said that -- said himself that this land will never look like anything but a parking lot.

CHAIRPERSON REID: No, no, no.

MR. HOPP: No matter what they do to it.

It's never going to look like --

CHAIRPERSON REID: No. Excuse me. This morning -- and this is the most recent information we have -- out of his mouth I heard him say that they were not opposed to development and, matter of fact, they were getting ready to enter into discussion dialogue with that end with developers. Was I the only one that heard that this morning? They were open to it. That's what I heard today.

I don't know if previously he may have had that position, but today he said that he was open to dialogue and, you know -- What you have to understand is they have an organization that they are concerned with. That's where their mindset is. They're not into development. So they don't think about that, but I think that what's important is that they are willing to be open minded about it.

I did not hear them say that they would not ever allow. I heard them say today that they would be open to talking to, having some dialogue with developers toward that end.

MR. HOPP: Yes, ma'am. Well, I believe we stated in one of the letters that we were open to discussing as well. However, I have to reiterate, we do not support a permanent above-ground parking lot.

It has been our experience in dealing with ANC and BZA issues with the other parking lot you mentioned earlier that what an applicant says they will do and what they actually do are sometimes two very different things, number one.

Number two, if the leadership at the organization changes hands, the next person in charge may not necessarily have the same view as Dr. Ginsberg.

CHAIRPERSON REID: I agree.

MR. HOPP: We certainly think that, you know, something could be done with the land to allow them to have the parking they need for their employees.

CHAIRPERSON REID: Well, then you get into dictating -- You know, you can't do that. But if, in fact, you're not agreeable to permanent, then is there a time frame that you would be amenable to?

MR. HOPP: I believe that is --

CHAIRPERSON REID: I'm trying to reach some kind of compromise here with you and -- I mean, we have the ultimate authority to just determine and to tell you, but we would prefer to have you dialogue and, you know, come up with some kind of compromise.

I see them trying to reach you. At the same time, it would be great if we could get some type of -- you know, some movement on this side.

MR. TILTON: Can I respond to that?

CHAIRPERSON REID: Sure.

MR. TILTON: As Jeff said, we did present to them in our initial meeting with them or follow-up to the initial meeting -- we presented them option, a one-year option that we would permit an extension of the parking lot if they would ensure that it complied with the current parking lot requirements that D.C. has in a residential zone, and if we had a commitment on their part that essentially at the end of the one year, that was it.

CHAIRPERSON REID: Well, your ANC -- Excuse me. Your ANC stated that one year was infeasible, and they suggested two.

COMMISSIONER MITTEN: Madam Chair, can I interrupt you for just a second? When I pressed Mr. Jackson on that point -- and if you would like him to come back up again just to repeat himself -- he did say that he would accept a one-year extension, I believe, and he can verify that. He's nodding. So just to be correct on what the ANC said.

CHAIRPERSON REID: Well, no. What we have to be correct about, Ms. Mitten, is what is written in the letter from the body of the ANC at which a quorum was present, and vote was taken, and to which we would

give the full weight.

Now for a single member district representative to come and to say something different is not the last word. We have to accept what has been proffered to us -- Ms. Renshaw, I'm sure that you can concur with this -- what has come from the full body.

BOARD MEMBER RENSHAW: Yes, I can, but I would also listen very closely to the single member district commissioner, because in this case Mr. Jackson is closest to the scene and represents his neighborhood. So I would, of course, give great weight to the ANC vote as outlined in the letter from the ANC, but I also listen carefully to the single member commissioner.

CHAIRPERSON REID: Okay. All right.

MR. TILTON: And I just would like to continue briefly, that I think one year -- My problem with the BZA's routine continuing of these special exceptions of this type is that it is becoming de facto permanent rezoning. I think, when you give them an exception, if you go no further than to say -- and I don't think that you probably would say -- and we won't do this again, because there will be a new BZA two or three years from now, they are just going to come back to you and get another two or three-year exception.

So I think we have to send a message, and we're willing to be accommodating, but we want to send a message that surface parking lots on residentially zoned land are inappropriate.

CHAIRPERSON REID: And you are then saying one year? Are you saying one year?

MR. TILTON: One year.

CHAIRPERSON REID: One year. And you, sir?

MR. GUILLERY: Yes, ma'am, one year. A lot has been made about the value it brings to the neighborhood in parking. We're talking about an owner who wants to use it for their use, and --

VICE CHAIRPERSON SOCKWELL: Are you sure of that? Can you be specific? Can you make sure that no one else gets to use it? Are you saying that that's the only person that can possibly use it, an owner for his own personal use? You can't be that completely, absolutely inflexible with your statements. You have to speak with a broad understanding and not with a narrow view.

MR. GUILLERY: Yes, Mr. Sockwell. What I was referring to was the applicant is applying for a special use exception for this property. That's what's before the Board, and they use it any way they see fit. Whether they allow the neighborhood to use it or

whether they would plan to chain it off, that's their decision to present to you, the compromise.

All I'm saying is that there are options, technology and engineering-wise, to allow them to maintain parking. I'm not saying that's your decision. I realize you decide that. I'm saying you have to look beyond. You're the BZA. You have to look at the now and future of the city.

We also talk about adverse impact is my property value. It's not only my property value. It's the revenue stream to our city that paves our roads and sidewalks. We're talking -- If it's zoned residential and it's occupied by residential, build it and they will come.

Every apartment that has been built in our neighborhood, house, regardless of the price or rent, is fully occupied and is standing room only, and they are sold before they even finish construction. That brings in revenue to the city. That's adverse impact in the city. We're talking --

CHAIRPERSON REID: Yes and no.

VICE CHAIRPERSON SOCKWELL: Now you're speaking as an expert on real estate issues, which I don't know that you can qualify yourself for.

CHAIRPERSON REID: Excuse me, Mr. Sockwell.

MR. GUILLERY: Well, I am a real estate -- I have a real estate license, but I'm talking --

VICE CHAIRPERSON SOCKWELL: I have an architectural license, but that doesn't mean anything, necessarily.

MR. GUILLERY: I understand.

CHAIRPERSON REID: Well, I mean, you know, I think that what I keep hearing is that -- and this has nothing to do with what we're doing here today -- is that when, in fact, that lot is developed, then the whole neighborhood will benefit from it, and the property values will go up, and everyone will be happy. But that's not what we're here for today.

MR. GUILLERY: I understand. Thank you for correcting me.

CHAIRPERSON REID: You know, we cannot -- We are not given that kind of authority,and that's beyond our purview, and we couldn't anyway, because it would be highly -- and you're a real estate person, and so am I -- speculative at best. I can understand your feeling, because you know, the whole city is like that, and there's a lot of excitement.

Nonetheless, we still -- we try to give everyone that comes before us the benefit of the doubt and not use those factors as a basis for determining

whether or not they should be granted their special exception because of the fact they're not maintaining the parking lot like they were supposed to all this time.

Let's not forget this organization does indeed have a greater benefit to the city. They are not just a fly-by-night organization. They are well established, and I feel that there is a need for their presence.

So let's try to temper what the organization brings to the city with what, in fact, the needs of the neighborhood are, as best we can. Yes?

MR. HOPP: Yes, Ms. Chairwoman. They do have a good place in the city. You know, they do good work, but two things. I'd like to comment on that and then Mr. Sockwell's comment a minute ago.

If they don't have this parking lot, they are still going to do the same good. Their people will just not be able to drive to work. They will take the bus. They'll take the subway. So if this parking lot is not there for them, they are still going to do their work.

CHAIRPERSON REID: Okay. And they have a problem with parking. But go on with your next point.

MR. HOPP: Right. Mr. Sockwell indicated earlier a question about parking in the evening on the lot, as far as the neighborhood using the lot. Actually, they hadn't done that previously out of the goodness of their heart, because it was, in fact, in the previous zoning order. You will look through and see that. They were required to allow the neighborhood to park there, and we certainly hope that if this order is granted that that point will be retained.

CHAIRPERSON REID: Well, those are basically what we typically do when we extend is to pick up the same conditions from the previous order and to add whatever ones we feel necessary, predicated upon what is comes to us from the community with them having had the special exception, in the first place.

All right, thank you very much. Let's now have closing remarks by the applicant. You have to come up to the mike, sir, and speak into the mike, because we can't hear you or get you on the record.

MR. AREND: Members of the Board, there is a representative from St. Luke's who is attending who would like to say a few words in support, if we could.

CHAIRPERSON REID: All right. Also, I failed to mention that we also had another letter of support in our file from the condominium association,

from the Stonesdale Condominium Association for the application.

MS. PRUITT: Excuse me, ma'am, could you raise your right hand. We need to swear you in.

(Witness sworn.)

MS. VANCROFT: Thank you for this opportunity. My name is Ruby Vancroft, and I'm senior warden at St. Luke's Episcopal Church at 1514 15th Street, N.W.

Our property does abut the property for the association asking for a renewal. I guess what I basically want to say just a few words in terms that we, too, have had numerous requests of asking us can we come back to see if we can use our property for parking for a number of neighborhood activities and that, and that as a church that has been there for about 125 years, we are part of the community, and we want to continue to be part of the community. But we also want to be part of working closely with the community and trying to solve the problems as they have come up.

We realize that we do need to have areas to work on. We do need to do the communication. In light of that, we do go to the ANC meetings. I do myself, and we are a part of the Dupont Circle Association. So we are looking at how we as a church located within

that area can be an active part of the community to serve the community and help in any way that we can.

We do support the applicant in terms of use of the parking lot, because we ourselves as a church do use ours during the week and also during the Sunday service. So as a part of the church and as a part of the community, we are here to support them, but also to say we will do whatever we can to work along to help have the communication that you had talked with and to keep an open door in terms of fostering good relationships within the community.

Thank you.

CHAIRPERSON REID: Thank you. Okay.

MR. AREND: Members of the Board, if we could first respond to a few points that were raised in the opposition, first with respect to the length of the special exception that we are requesting.

We certainly don't object to a two-year recommendation on the part of the ANC, but it is certainly the Association's preference and request that a five-year special exception be granted. Certainly, a one-year is not reasonable, we don't believe, particularly considering that we've received a contract from a contractor to do landscaping in accord with the conditions set forth by the residents of Church Street,

and that will take some time to do, and also the expense to the Association will be over $10,000. To do that for simply one year with the condition that then the site must be developed is not something that's particularly feasible for the Association.

Second of all, with respect to the signage issue, we concede that point. The sign is incorrectly worded, and there is one sign on the lot. It's been up there for years.

DR. GINSBERG: Can I just say two points about that. One is that, to my knowledge, there has never been ticketing or towing done of any car on that lot.

Secondly, as to the signage issue, it was pointed out to us, and frankly, it was not something I was aware of that was in my radar screen. One of the items on the proposal in the contract that we have from a contractor which was sent to us just yesterday after last Wednesday's community neighborhood advisory meeting -- this happened very quickly -- one of the items is removal of that sign and a correction with another sign around the hours in which the parking would be restricted to agency people.

CHAIRPERSON REID: Oh, I see. So you would have a sign that would say --

DR. GINSBERG: Correct. That the lot would be restricted during business hours, and we would list those, Monday to Friday, then available to the neighborhood.

CHAIRPERSON REID: Okay. So you will correct that.

DR. GINSBERG: Yes. That's one of the items in the -- As I said, the neighborhood commission asked us to get this done very quickly, and just yesterday we did get a contract from a contractor that we're negotiating the final language and specs of, but we expect to begin that work on the lot soon after the weather breaks. Some of that work has to await the more favorable weather.

MR. AREND: That was turned around in less than a week. I received it yesterday and forwarded it to the Board yesterday as well.

Also, I would note that, although the lot itself is an R-5B zoned lot, as I understand it, I think we have to bear in mind that we are asking, as has been noted, for an existing and continuing use, that the neighborhood is larger than simply Church Street. There are more than simply residences in that neighborhood.

There are a significant number, as has been

pointed out, of businesses, other nonprofits, and other associations and organizations that, obviously, employ many hundreds of people that need space.

The lot has always been operated as a lot free of charge, and indeed many of the members from the NAEYC who use the lot aren't in a position to pay for parking, frankly, given their incomes. Parking in the city on a daily basis is very expensive. You're looking at $8 to $10 a day at a minimum.

CHAIRPERSON REID: And the people that you serve are low and moderate income parents?

DR. GINSBERG: Many of our employees are working in the childcare arena. Many of our workers are early childhood professionals who are not, as we know, some of the most highly paid workers. If anything, they are some of the most passionate, committed workers, I think, but salaries are not as great as we would like them for a variety of reasons in the early childhood field, in the early childhood profession.

Parking benefits is a significant benefit for these workers, by the way.

VICE CHAIRPERSON SOCKWELL: Gentlemen, I'm going to take just a second to paint a picture that has developed. I'm going to play artist for a moment.

The NAEYC operates a parking lot. That parking lot is removed from their place of business. That parking lot serves the NAEYC as a convenience to its employees. Outside of the business hours of the weekdays, NAEYC has paid absolutely no attention to the parking lot, its condition, its impact on the neighborhood or a relationship with the neighborhood regarding the lot.

I don't believe that you could tell me that NAEYC ever informed the property owners or made it well known to the property owners that they could use the lot, just assumed that if they didn't use it for themselves, they wouldn't chain it up and didn't lock it, and the signage reflects that, the fact that it's "our" lot, your lot, and for your use.

There has been no attempt to work with the neighbors, qualify any of the neighbors for use of the lot, no stickers, passes or anything that would make them feel that they could comfortable park on that lot, but they've been doing it, because you haven't been ticketing.

The problem that I see is that you've neglected your charge to the community which might have prevented a number of citizens from coming in, having this kind of negative response to your application,

simply because they don't see you as a viable community oriented organization for the purpose of their support.

I believe fully that the three gentlemen that showed up here to sit before this Board to voice their opposition would probably have been much more concerned with the relationship with your organization if it had been cultivated when it should have been. Now we are in the position of working with this kind of decision, whether it's one year, two years or no years.

I believe that, if you see this, regardless of what happens today, you need to be a better neighbor to your community. Too often, organizations just don't do the right thing until they have to, and there's no reason for that.

CHAIRPERSON REID: Are there 20 spaces or 22 spaces?

MR. AREND: I believe there are 20 spaces.

CHAIRPERSON REID: I'm hearing -- You know, it goes back and forth, 20, 22.

MR. AREND: I believe there are 22 spaces that are actually painted right now, but the area of the lot can accommodate 22, but those two extra spaces are not painted.

CHAIRPERSON REID: But there are only 20 that are available?

MR. AREND: Right.

DR. GINSBERG: But there's 22 that are possible.

MR. AREND: Twenty-two that are possible, 20 that are used, because they are -- they haven't been painted yet.

CHAIRPERSON REID: All right. In regard to the contract or the agreement that you had with the ANC, is it written up and signed or is it just verbal or what is it?

MR. AREND: This was an agreement we arrived at meeting with Mr. Hopp and Mr. Tilton at the Association a number of weeks ago, and then subsequent to the ANC meeting we spoke again with those individuals and some others, as well as Mr. Jackson from the ANC.

Mr. Hopp provided us with a letter prior to the ANC meeting with some conditions addressing landscaping issues primarily that we said, fine, we're perfectly willing to do. Once we received the approval from the ANC, which I think was last Wednesday night, we immediately contact a contractor, and the contractor provided --

DR. GINSBERG: What we objected to in their proposal was a one-year condition, because in our

view, it just simply isn't feasible, running a nonprofit the way we do with a governing board structure and a large membership, to come to a decision about the eventual use of a very valuable piece of property. It's a very valuable asset for the Association.

It was my feeling as the Executive that to do that within a one-year time frame was, in light of all of the other work that we do with children and families in this city and elsewhere around the country -- was just going to be a terrific burden, and we felt that the two-year provision that Mr. Jackson suggested at the ANC was far more feasible and workable and gives us time to be deliberate about the eventual ultimate use of the property.

CHAIRPERSON REID: Okay. And you heard the opposition say that, well, if you were to comply with the order that had been -- the condition in the order that had been stipulated before and to do the things you say you're going to do now as far as the proposal, contracting the work to be done and the liaison, that they would be amenable to a time frame of maybe one year, and the ANC full body said two years.

MR. AREND: Yes.

CHAIRPERSON REID: What are you requesting?

MR. AREND: I think we're requesting a five-year special exception.

CHAIRPERSON REID: What could you live with?

MR. AREND: Well, one year is really an impediment.

CHAIRPERSON REID: One year, I would agree with that.

DR. GINSBERG: I would prefer -- We would prefer more than two years, because it gives us time to be very deliberate. I think within two years that would be the minimum that we think we can work on these issues.

MR. AREND: I think it's important to bear in mind also -- and this point, I believe, was brought up by Mr. Jackson of the ANC -- that while the lot accommodates 20-22 cars, if you were to build on that lot, we've heard that the building almost assuredly would have to be residential.

Well, not many people are going to buy a residential apartment or house without parking. So you're already going to have parking in that underground lot. So you're going to find the very nature of the development take away some spots.

In addition to that, as a practical matter

you probably would have to develop the lot adjacent to it, which belongs to St. Luke's, which is a church, another nonprofit organization.

Certainly, meshing those two administrations along with the ANC, the neighborhood and, you know, a myriad of other concerns is going to be a complicated matter, to say the least, and I think having the utmost flexibility to explore all of these issues without any predetermined outcome, I think, it is important to understand, is important to all parties concerned.

CHAIRPERSON REID: But are you saying that you are open to or amenable to exploring other possibilities of use of the lot other than just the surface parking lot at some point?

MR. AREND: Absolutely.

CHAIRPERSON REID: And this is not in any way trying to encourage you to do otherwise. I'm just wondering, based on what we've heard here today -- I just wanted to get some clarification as to --

DR. GINSBERG: I think we're open to exploring all possibilities and our minds are not closed about anything. I think the issue is still that in the period of time that the lot would remain a parking lot, we would hope, we do intend to be both

responsible neighbors and neighbors that can hopefully not only maintain a lot but have a lot that would meet some of the -- in fact, many of -- all the needs that we've heard from the community, and we think that the proposal that they presented to us with respect to landscaping and maintenance and those kinds of things are quite reasonable and quite appropriate.

CHAIRPERSON REID: Okay. So you were saying more than two. But what could you live with?

DR. GINSBERG: Well, we had hoped for an additional five year extension. I think three years would be better than two, and four years would be better than three. I think, from our perspective, one year is very unreasonable. Two, we think, is quite rushed and is not a whole lot of time when you look at all the elements that need to be brought together for development.

CHAIRPERSON REID: Right. And the expense.

MR. AREND: And expense. Certainly, it's not there's just the initial expense of the almost $11,000 for the landscaping. It's the cost of the individual to supervise the parking lot on a daily basis, and then any upkeep that has to go on on an annual basis.

So I mean, certainly, the Board is in its

discretion to grant whatever it would like to grant in terms of duration of the special exception, but we would prefer, obviously, a five-year exception.

DR. GINSBERG: And three is better than two, and four would be better than three.

MR. AREND: Yes, certainly. You know where we sit on that issue. That's not going to be a surprise.

CHAIRPERSON REID: Ms. Renshaw?

BOARD MEMBER RENSHAW: Dr. Ginsberg, since landscaping is essential to, shall we say, the temporary quality of life in the neighborhood, I'd like to know are you going in for a landscape guaranty? In other words, if the plantings that you do put on the property do not survive because you do not water, we have a drought, that those plants will be replaced by the company that you hire to do the landscaping?

DR. GINSBERG; Well, we just have a proposal from the contractor, and we haven't ironed out all the details of that. But our commitment would be to maintain the lot in the manner in which the community has asked us and we've agreed to maintain it. So that would be our commitment.

BOARD MEMBER RENSHAW: So that would be in writing. You would work out something with the

landscaping company so that replacement of plants would be in writing?

DR. GINSBERG: Yes, I would want the lot to be maintained, not just look nice for 30 days. But absolutely, it would be consistent.

BOARD MEMBER RENSHAW: All right. So guaranty for landscaping. What I sense here with what you have had to say about the time frame for this special exception, that you're in a holding pattern and you are bringing to bear some nibbles from the development community concerning that property.

I would like to know, Dr. Ginsberg, if you have the authority to speak for the board of directors?

DR. GINSBERG: I don't, in terms of the ultimate development of the property. I do, because I've discussed it with the board. They are understanding of the issues that we're dealing with, and we have had preliminary conversations about our need to look long term at the use of that property. But any ultimate decision about how that property is to be developed, sold, whatever would happen to it, would be a decision of our governing board, not my decision alone.

BOARD MEMBER RENSHAW: But I'm asking the question in regard to the community issue to enter into

an agreement with the ANC and with the neighbors. Do you have the authority to sign a piece of paper that states we are going to do and we agree to do this and this and this?

DR. GINSBERG: With respect to the improvement on the lot?

BOARD MEMBER RENSHAW: With respect to the improvements of the lot and again what I pressed for earlier, that the community and the ANC, the single member district commissioner be involved early on with any development concerns and future that you have for the property.

DR. GINSBERG: Yes, that's a good point. Let me clarify it. I do have the authority to make the agreement for the improvements to the lot, without question. If the lot were to be sold or a contract could be entered for the development of the lot, that decision would be a decision I would need to bring to my board before that decision is finalized, but the decision on improvements I have the authority to make.

BOARD MEMBER RENSHAW: All right. But again, do you have the authority to add these people, the representatives of the community, however they wish to nominate themselves and put their names forward -- Do you have the authority to enter into a negotiation

with these people that they will be part of the future development?

DR. GINSBERG: Oh, yes.

BOARD MEMBER RENSHAW: You do have the authority?

DR. GINSBERG: I think the decision about the eventual use --

BOARD MEMBER RENSHAW: That's the board's decision.

DR. GINSBERG: -- is the Board's decision, but in terms of seeking the input, advice and guidance of our neighbors in that process, I certainly do have the authority.

BOARD MEMBER RENSHAW: And would these neighbors and the ANC commissioner be able to speak to the chairman of the board? In other words, interact?

DR. GINSBERG: Yes, I would think so. I serve on the board as a board member as Executive Director, but I would certainly want to involve that kind of dialogue with a broader array of our leadership, yes.

BOARD MEMBER RENSHAW: All right.

DR. GINSBERG: Yes. Not a problem.

CHAIRPERSON REID: Okay. Are you asking for a bench decision, summary order today?

MR. AREND: If the Board is in its discretion and feels that it has enough information and has deliberated this matter sufficiently and is prepared to make such a ruling, we could accept that.

CHAIRPERSON REID: All right. If you would like to get a decision today, okay.

MR. AREND: It's not required. We don't feel that we have to have a Board decision. Obviously, we need a Board decision in order to get the certificate of occupancy and in terms of moving forward with the proposal -- to prepare to move forward with the proposal, you know, as soon as --

CHAIRPERSON REID: But the thing about it, though, is that you're overdue.

MR. AREND: I understand that. I understand that.

CHAIRPERSON REID: This is why I'm kind of throwing it out to you.

MR. AREND: I agree with you, yes.

CHAIRPERSON REID: All right. Board members? I'd like to have a motion, and then we can comment.

VICE CHAIRPERSON SOCKWELL: On the basis of the fact that this is a nonprofit organization and -- I apologize for misstating at the beginning of this

hearing issues of taxes, because you don't pay property taxes.

MR. AREND: That's correct.

VICE CHAIRPERSON SOCKWELL: And on the basis of the fact that the community would not be placing the NAEYC under any mandate to develop or dispose of the property, since it would just fall into fallow if not continued as an active use and would probably be far more detrimental to the neighborhood condition in an unused, vacant condition, I move that we approve an extension of not more than two years for the use to which it is currently illegally being put to, with the condition that the certificate of occupancy be sought or issued immediately, and that all aspects of the tentative agreement with the community be complied with.

CHAIRPERSON REID: All right.

BOARD MEMBER RENSHAW: I can second that.

CHAIRPERSON REID: Okay, seconded, and then thee are conditions. However, why is that you are limiting it -- What is the basis for limiting it to the two years?

VICE CHAIRPERSON SOCKWELL: My basis for the two year limitation is that the organization, regardless of the Executive Director being new -- the

organization has never taken a position of -- It's obvious to me that they ever intended to comply with previous orders of the Board, and --

CHAIRPERSON REID: Well, we can't really say that.

VICE CHAIRPERSON SOCKWELL: Well, let's put it this way. Let me say that they did not comply with the elements of the previous order in a timely manner.

CHAIRPERSON REID: That is correct, and that is the basis for your -- Okay. I'd like to hear from other Board members.

COMMISSIONER MITTEN: I am going to say two things. One is that I would like to put an additional condition in what is already included in the ANC letter and so forth, and I would also like to speak in favor of a one-year renewal only. But let me give my additional condition first, because it might make it a little bit easier to handle the second thing I'm proposing.

This is what I would suggest as a proposed condition. In recognition of the fact that this special exception for a surface parking lot is not intended by either the comprehensive plan or the zoning regulations as a long term use of this property, the applicant will exert its best efforts to formulate a

solution to its employee parking needs that do not include the use of this property for surface parking.

Now the reason that I think that's important to add is to allay the fears of the community that these people will only get urgent when it's time again for renewal.

CHAIRPERSON REID: That they will -- Say that again, please.

COMMISSIONER MITTEN: That they will only become urgent --

CHAIRPERSON REID: No, no, prior to that you said that -- prior to the surface -- that that be not used only for surface parking.

COMMISSIONER MITTEN: Would you like me to just repeat the condition?

CHAIRPERSON REID: Well --

COMMISSIONER MITTEN: I don't know where you want me to start.

CHAIRPERSON REID: Yes, because that's a very long condition.

COMMISSIONER MITTEN: Well, that's why I wrote it out.

CHAIRPERSON REID: Yes. Typically -- What is the essence of that condition?

COMMISSIONER MITTEN: The essence of it is

to make sure that these people, this association, does not drag their feet about addressing the issue that this is not meant -- this use in this zone is not meant to be a long term use. It's not meant, as the gentleman suggested, to be a de facto rezoning.

VICE CHAIRPERSON SOCKWELL: If I might interrupt, Madam Chair, because I made the motion, the issue for a two-year motion or two-year extension is exactly that, to preclude the thought that this is a permanent use of property.

I don't believe that we have the right to tell an organization or an individual that he or she must assume the position of a developer or one proposing development because we personally may think that the use of the land is not the highest and best use. We cannot do that.

This is not an inquisition. We are telling them by the fact that they must come back and see this Board or whatever Board is in place at that time. They have to come back and show that this is acceptable again, and it may not be acceptable next time, but I don't think that we can start conditioning our orders to say that you've got to start looking for someone to buy or develop this land within the next two year period, or else. It just can't e done.

COMMISSIONER MITTEN: Well, I --

VICE CHAIRPERSON SOCKWELL: The understanding of your intent is there, but I don't think that we can do that.

COMMISSIONER MITTEN; Well, I would like to suggest that we can do that and that, you know, we have very specific things that we are concerning ourselves with, which is the burden on this organization, the burden on the community --

VICE CHAIRPERSON SOCKWELL: But can you find in the zoning ordinance --

COMMISSIONER MITTEN: Could I please just finish? Yes, I could. In fact, I read it at the beginning, and I'll read it again. Under Special Exception, Section 3104.1, and I'll leave out the beginning of the sentence.

VICE CHAIRPERSON SOCKWELL: Put it all in.

COMMISSIONER MITTEN: All right. "Pursuant to authority contained in the Zoning Act, the Board is authorized to grant special exceptions as provided in this title where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the zoning regulations and zoning maps and will not tend to affect adversely the use of neighboring property in accordance with the zoning

regulations and zoning maps."

So this is saying look at the big picture, and the big picture is special exceptions like this are not intended to be long term solutions. All I'm suggesting is these people need to be made urgent about finding what is a long term solution.

I'm not trying to tell them what that should be. I'm just saying we need to put -- I think we need to include it so that, when they come back, t hey have to give evidence that, yes, in fact, they have been seeking a long term solution.

CHAIRPERSON REID: Well, the purpose of the special exception within itself is to give some relief and to, in instance where there is a basis for someone or an entity to receive a special relief or special exception from the existing building regulations because of the fact that they were promulgated in 1958 and sometimes things just don't fit like they did, and the main test there is the adverse impact aspect.

The special exception, by virtue of its very existence, is because of the fact that it's not in compliance with the existing zoning. That's why you get the special exception.

COMMISSIONER MITTEN: I understand.

CHAIRPERSON REID: And as such, as Mr.

Sockwell said, we can't -- Even though there was testimony here today to say that special exceptions are de facto zoning changes or permanent zoning changes, this is just not true. That is not the purpose of the special exception process.

It is done so as to give relief to our citizens who have been -- do not fit within the auspices strictly of the zoning that is in the regulations today, and we use the adverse impact as a test to determine if, in fact, it will cause such detriment that it is not feasible to have them there.

Now they have already been given one special exception which, by virtue of -- and that, I think, by virtue of the fact that another Board decided that it was -- that they were convinced that it was all right for them to be there, and now we come a few years later and they are coming for an extension.

From what I'm hearing, they really haven't done anything except to not comply with one provision, and that is the provision in regard to keeping the parking lot as it's supposed to be and, as I said before, I'm not making excuses for them. But this happens. I've seen it happen many times before.

They have now made some proffer to us as to how they would like to try to change that. We have the

opposition. We also have support, and I think that -- I think anyone would have to -- I mean, how could just one year, then investing $11,000 and to do all the things that they are, are we going to ask them to do for one year would be very infeasible for them to do that.

I think that two years is even a short enough time, even though the ANC has asked for two years, but I think that, given the fact that I'm not concerned about the fact that the area is in demand and that there is a squeeze on getting this property such that now the applicant comes before us and the community is saying, well, we want you out and we want that property for another purpose. That is not the purpose of our Board here.

I'm not concerned about that. What I am concerned about is whether or not they have complied with the existing order that they had, and there was some problems with that, and they have now said that they would make the necessary changes to do that; and I heard the opposition say, well, okay, if they do, we'll give you one year.

I would say that one year is too short. Two years is too short. I would suggest that we give them four years, and I think that that would be fair.

They do serve a benefit to the community, and letting them park the cars in the community. The churches said that they are able to park their cars there on Sunday.

So I think that this particular applicant has demonstrated that, even though they have not been a perfect good neighbor, that due to circumstances -- and it's inexcusable, really -- they just have not lived up to what they were supposed to, but they will put forth their best effort to do so again, and I'd like to see them have that opportunity.

BOARD MEMBER RENSHAW: Madam Chair, while I seconded Mr. Sockwell's motion for two years, I would really prefer one year, because I don't think that it is a hardship on the applicant to review with this Board improvements on that lot and the interaction that needs to be set up immediately with the neighbors.

We have to realize that there is practically zero enforcement right at this point when we -- Who do the neighbors turn to if indeed the orders are not being complied with? Of course, turn to the applicant. But if they turn to the city, there is going to be little enforcement.

So I would -- I do not look upon this as a negative by suggesting that one year is really within

bounds. I look at it as a time for you to come back and to cheer about your improvements and to just say the year ahead looks great, because this is what we're doing, and have the neighbors -- give them a time to speak, because they have been so passionate about their very objective but negative views on your property.

I don't believe that it is handicapping you in any way to deal with a tight time frame, because I am quite sure that your board is moving along with -- since you have some interest, expressed interest from developers, and that's not something you just sit on.

CHAIRPERSON REID: I don't think that the opposition has been objective, not in the least.

BOARD MEMBER RENSHAW: I do. I do, because they are there, and we're not there. They have to tell it as they see it, just as the applicant does the applicant's side.

CHAIRPERSON REID: Okay. Mrs. Renshaw, you have to remember that this is a nonprofit organization that -- I'm not finished -- that has to pay fees to come to this Board again next year, and they have to incur this $11,000 in costs. And suppose they come here next year, and they are turned down. Then that money has just gone down the drain.

So I would think that a term that would

allow them time to comply with the order and to demonstrate that they are going to continue to keep it as it's supposed to be would be more appropriate.

BOARD MEMBER RENSHAW: Well, I don't think money is going to go down the drain at all. If you are sincere, if you're serious about what you're doing, this is going to be money very well spent. But I don't feel that it's going to be that kind of handicap for you to come back before the Board and sit with us for a half an hour and just bring us up to date on your improvements.

CHAIRPERSON REID: It won't be half an hour. Mr. Moulden?

BOARD MEMBER MOULDEN: I'd like to see an agreement put in the recommendation that the nonprofit group will work with the community to develop some type of memorandum of understanding, and maybe the approval is contingent upon that action being taken to improve the lot, landscape, screen and so forth. If that doesn't happen, is there some kind of way that the approval could be disapproved?

CHAIRPERSON REID: Are you suggesting that we table the actual vote to request that this be done, and then we would take it up at our regular meeting, which would be the first Wednesday in March?

MR. AREND: Madam Chairman, may I just say that there actually is in writing already, I think, substantially all of the conditions that we've discussed with the neighborhood in the context of a letter from some of the representatives from the neighborhood that we have all reviewed and on which this landscaping and maintenance proposal is based.

CHAIRPERSON REID: You could submit it to us?

MR. AREND: And I believe I did submit to the Board yesterday as soon as we received it a copy of this proposal with an accompanying plan of the lot, indicating where certain landscaping would occur and lighting and so forth, and we are perfectly willing to enter that into the record as a condition of the special exception.

BOARD MEMBER MOULDEN: Does that represent all of the committee concerns?

MR. AREND: I believe it does. Well, the community concerns that have been voiced in opposition. I believe it does. It was done in conjunction with them.

CHAIRPERSON REID: If we go at this vote today, then it would be to include the recommendations and conditions that were included in the previous

order, as well as the conditions that were also proffered and that you agreed upon with the ANC -- You've agreed to that -- and the signage they had requested be changed. That should also become --

MR. AREND: That's part of the proposal, I believe, for the landscaping.

CHAIRPERSON REID: Well, the proposal, landscaping proposal, will be incorporated, I guess. Ms. Pruitt, would it be incorporated or would it just be referenced in the order?

MS. PRUITT: Well, it's like the plans follows with the order. They are not actually -- You can say -- If you want to, you can actually reference the landscape plans as an exhibit.

CHAIRPERSON REID: All right, and the community liaison aspect of it, we want the condition that that be another condition, that they would create a community liaison to meet regularly with the --

MR. AREND: We have even spoken with them and indicated please, you know, we would like to have continuing contact with you and, if there are any issues, please come to us, and we will address them.

CHAIRPERSON REID: So the only issue at this time is the term, and here we are. We have one year, two years -- What did she say?

BOARD MEMBER MOULDEN: Two.

CHAIRPERSON REID: Two years, and then four years. I said four years, and Ms. Renshaw said one year. So we're between -- We don't have any consensus. Can we --

MS. PRUITT: Right now you have a motion on for two years. You either vote on this or amend it or -- I mean, you have to deal either with that first or amend it.

CHAIRPERSON REID: All right. All in favor of the motion for two years?

VICE CHAIRPERSON SOCKWELL: I believe there is somewhat more discussion on the motion that's on the floor. Ms. Renshaw had a --

BOARD MEMBER RENSHAW: Yes. I think it would be a good idea if we tabled this to our first meeting of the next month so that we can be very clear in what these conditions are going to be, because we've been passing language back and forth, and I'm not quite sure if it's in or it's out. But I really feel that it might be better if we tabled it, because that's not going to inconvenience the applicant.

VICE CHAIRPERSON SOCKWELL: Normally, if I might interject, the staff maintains a log of what motions are on the floor and which ones are applicable

and what conditions are applicable, and I think that we can take care of this now.

CHAIRPERSON REID: You have it, don't you, Ms. Pruitt?

MS. PRUITT: Yes. That's why I say. The first motion was made by Mr. Sockwell, seconded by Ms. Renshaw. That was for two years.

Now I believe later Ms. Renshaw said she really would like one year. Does she want to amend the original motion?

COMMISSIONER MITTEN: I think they are going for what are the conditions.

MS. PRUITT: Well, that was the first motion. Then as a condition right now, aside from the normal conditions that we have about parking lots, we have Ms. Mitten's condition about the use of the property.

CHAIRPERSON REID: Yes. And mine about the liaison, community liaison.

MS. PRUITT: Correct.

CHAIRPERSON REID: All right. So we have those, Ms. Renshaw. Okay. So now the vote -- The motion was for two years, and there was a second. Then -- Well, wait a minute. You can't have -- Are you seconding his motion or not?

BOARD MEMBER RENSHAW: I can amend the motion for one year instead of two years, if I have a second.

COMMISSIONER MITTEN: I'll second that.

CHAIRPERSON REID: All right. All in favor of the approval with one year?

BOARD MEMBER RENSHAW: Aye.

COMMISSIONER MITTEN: Aye.

CHAIRPERSON REID: All opposed? All right. The motion fails.

MR. Sockwell, are you going to reiterate your motion?

VICE CHAIRPERSON SOCKWELL: What I would like to do -- I would move that a two-year extension be provided with the conditions of the previous BZA order to be combined with conditions of the current order with one condition left out, and that is a condition that requires the applicant to make certain -- take certain action to seek best use of the property --

CHAIRPERSON REID: That's not a condition.

VICE CHAIRPERSON SOCKWELL: That was a condition that was on the first motion.

CHAIRPERSON REID: No, no.

VICE CHAIRPERSON SOCKWELL: Okay. We'll leave that out. Okay.

Then the motion would be as stated, with Ms. Renshaw's -- Let's see, whose requirement -- Excuse me. Whose requirement was that we have the liaison?

CHAIRPERSON REID: It was mine.

VICE CHAIRPERSON SOCKWELL: Okay.

CHAIRPERSON REID: All we need now is to make a motion for the --

VICE CHAIRPERSON SOCKWELL: For the term?

CHAIRPERSON REID: Just make a motion that it be approved with the term for two years that you --

VICE CHAIRPERSON SOCKWELL: All right. I'm looking for a two-year motion then.

CHAIRPERSON REID: All right. Is there a second on the two-year motion?

BOARD MEMBER RENSHAW: I second.

CHAIRPERSON REID: All right. Seconded. All right. All in favor of two years?

COMMISSIONER MITTEN: I'm opposed.

CHAIRPERSON REID: All opposed?

COMMISSIONER MITTEN: That would be me.

CHAIRPERSON REID: All right. That's it.

MS. PRUITT: I was just going to read back. Staff would record the vote as five -- Excuse me -- four to one to approve for a two-year period with the conditions as stated.

CHAIRPERSON REID: Thank you. That concludes today's BZA. Did Mr. Zahn come in?

MS. PRUITT: No. Staff has called Mr. Zahn.

CHAIRPERSON REID: Repeat recording of the vote, please.

MS. PRUITT: The motion was made by Mr. Sockwell, seconded by Mr. Moulden with Ms. Renshaw and Ms. Reid to approve, and Ms. Mitten in opposition.

CHAIRPERSON REID: No. I'm sorry. I'm in opposition. So you have three-two.

MS. PRUITT: I'm sorry. This is the two-year. You're in opposition to the two-year approval?

CHAIRPERSON REID: I am. I wanted five years.

MS. PRUITT: Oh, I'm sorry. I didn't hear your vote clearly. I thought you said to approve. I only heard Ms. Mitten.

CHAIRPERSON REID: I was with Ms. Mitten. She opposes it, and I oppose it for different reasons.

MS. PRUITT: Okay. When the vote was called, I only heard Ms. Mitten.

CHAIRPERSON REID: Let's do it again.

MS. PRUITT: Yes. Could we, please?

CHAIRPERSON REID: All in favor of the

motion to approve with two years?

BOARD MEMBER RENSHAW: Yes.

VICE CHAIRPERSON SOCKWELL: Yes.

BOARD MEMBER MOULDEN: Yes.

CHAIRPERSON REID: All opposed?

COMMISSIONER MITTEN: Aye.

CHAIRPERSON REID: Aye. Now you have it?

MS. PRUITT: Yes. To reiterate so we're all straight: Motion made by Mr. Sockwell for two years, including the other conditions as mentioned. Seconded by Mr. Moulden, and Ms. Renshaw to approve, Ms. Reid and Ms. Mitten in opposition.

CHAIRPERSON REID: All right. That concludes today's BZA hearing for the morning session.

(Whereupon, the foregoing matter went off the record at 12:19 p.m.)

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

(1:21 p.m.)

VICE CHAIRPERSON SOCKWELL: Good afternoon. I am Robert sockwell, Vice Chair of the Board of Zoning Adjustment, sitting in for the early portion of this session for Sheila Cross Reid who is absent on personal business.

I would like to call this hearing to order. Good afternoon, ladies and gentlemen. This is the February 16 Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Robert Sockwell.

Joining me today are, to my left, Anne Renshaw who is a new Board of Zoning Adjustment Commissioner, and Rodney Moulden, who is sitting with the Board from the National Capital Planning Commission -- this is his first day for residence with the Commission -- and Carol Mitten, who is with the Zoning Commission, who is sitting with the Board today.

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

The order of procedure for special exceptions and variances is: One, statement and witnesses of the applicant; two, government reports, including Office of Planning, Department of Public Works, etcetera; three, report of the Advisory Neighborhood Commission (ANC); four, parties or persons in support; five, parties or persons in opposition; and six, closing remarks by the applicant.

If an appeal application is on the agenda, which we don't have -- No, we have no appeals. All right. Cross-examination of witnesses is permitted by the applicant or parties. The ANC within which the property 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 staff will specify at the end of the hearing exactly what is expected.

The decision of the Board in contested cases must be based exclusively on the public record. To avoid the appearance to the contrary, the Board requests that persons not engage the members of the Board in conversation. Please turn off all beepers and cell phones at this time, so as not to disrupt these proceedings.

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

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

If you are not prepared to go forward with a 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. PRUITT: Yes, Mr. Chair, we do. On application 16550 you have a request for a continuance from the architecture's representative of the applicant. There should be a letter in your file.

Unfortunately, we have not been able to contact this person to find out when they would like to have it rescheduled. So we will just have to -- We can't do the March 1st date that he would like, because of the schedule we have. I think we already have six cases on that day. If you'd like, we can add it, but

that's going to make a very heavy day for you all.

In absence of that, we will just have to readvertise, which can be done with no problem.

VICE CHAIRPERSON SOCKWELL: Are representatives of that case here in the room today, 16550? Yes. Is anyone representing the applicant himself here today? No. Then we would not have, in any event, the proper representation to go forward.

Give me just a second, please.

(Off the record.)

VICE CHAIRPERSON SOCKWELL: All right. In the absence of representative of the applicant and the request having been submitted by the architect as representative of the applicant, -- the architect is out of the country and will not return until the 20th of February per his letter -- I would suggest a continuance to the first available date.

MS. PRUITT: Free date? I mean, do you want to add this to an end? Right now you have a full agenda up to May 1 with eight cases on each day -- you know, a full agenda for each day. Do you want to add it to the end or do you want to put it on May 1? That would be the earliest.

VICE CHAIRPERSON SOCKWELL: Well, it seems that May 1 would be appropriate. In the absence of the

architect, someone from the applicant should have been present at this hearing to make the case for anything earlier. So I think that, absent that, we would move it to the most appropriate date for the Board.

MS. PRUITT: So we can reschedule it for May 1 and, hopefully, we will -- Staff will try to contact the -- excuse me, May 3 -- contact the applicant to confirm this timing, but we will not need to send out -- Based on my understanding, you're suggesting we should not -- we will not need to readvertise if we continue to the 3rd.

VICE CHAIRPERSON SOCKWELL: Right. There will be more than enough time.

MS. PRUITT: So we continue to the 3rd, May 3 in the afternoon.

VICE CHAIRPERSON SOCKWELL: Thank you. One question: Is Mr. Zahn here?

MS. PRUITT: No. Mr. Sockwell, staff in the break called Mr. Zahn's office twice, and he was not available, and we did talk to somebody in his office and was trying to contact him. When we returned a call, he was still not available. So that's the best we can give you on that.

I don't know what you want -- I mean, the case is -- Do you want to continue it?

VICE CHAIRPERSON SOCKWELL: Well, it's a no show. That's a good point.

MS. PRUITT: Dismiss it? I don't know. I'm sorry, sir. What case? We're talking about a case this morning for Mr. Gregory Zahn, application --

CHAIRPERSON REID: Is anyone here affiliated with that case?

VICE CHAIRPERSON SOCKWELL: And the audience does not have the right to speak out requesting dismissal of cases that they are not even sure what we're talking about.

CHAIRPERSON REID: That was from this morning.

VICE CHAIRPERSON SOCKWELL: Yes. We're talking about another case. And don't talk anyway.

CHAIRPERSON REID: Ms. Pruitt, should we let him contact you, the staff members, to reschedule?

MS. PRUITT: Well, we have to contact him, because at this point I don't know what's happening. He knew that the hearing was today. He knew the hearing was today, and he was --

CHAIRPERSON REID: He didn't show up.

MS. PRUITT: He didn't show up. So you either can dismiss or, if we continue, we'll have to readvertise, because we don't know --

CHAIRPERSON REID: Well, I don't want to continue it, because I don't know what the status of it is. So why don't we table that until our next hearing or something like that to see what happens in the interim.

MS. PRUITT: We would have to -- I mean, we still have to do -- We have to continue to a date or something.

BOARD MEMBER RENSHAW; Madam Chair, I would recommend, since the applicant was a no show, that we move to dismiss.

COMMISSIONER MITTEN: Second.

CHAIRPERSON REID: All right. I would not -- I don't think that -- With the dismissal, then he would have to reapply and start from beginning to end.

MS. PRUITT: Yes, he would have to pay another filing fee. For homeowners, it's just a flat $250 rate. I mean, that's not a little fee, but it's not -- You know, he can ask for multiple types of relief.

CHAIRPERSON REID: What is the other alternative?

MS. PRUITT: We could continue it to a date certain and hope that he shows up, but we don't know. And the application, as it is, is not really ripe for

hearing anyway.

CHAIRPERSON REID: I would think that that would be a more humane route to take.

VICE CHAIRPERSON SOCKWELL: Yes. Absent any knowledge of why he didn't show, maybe something befell him that we really don't have any idea of.

CHAIRPERSON REID: Maybe an emergency or something. We don't know what happened.

COMMISSIONER MITTEN: May I ask a question before we vote on the motion? Can he request that the fee be waived when he resubmits?

CHAIRPERSON REID: No.

COMMISSIONER MITTEN: He can't?

CHAIRPERSON REID: He can request it, but it can't be waived. Cannot.

So we have a motion. Go ahead. I'm sorry.

VICE CHAIRPERSON SOCKWELL: Yes, we had a motion.

BOARD MEMBER RENSHAW: We had a motion. We had a second.

VICE CHAIRPERSON SOCKWELL: Yes. All in favor of dismissal. Opposed?

MS. PRUITT: Staff would record the vote as three to two to dismiss. Motion made by Ms. Renshaw, seconded by Ms. Mitten and Mr. Moulden to dismiss, Ms.

Reid, Mr. Sockwell to not. So the motion is dismissed.

CHAIRPERSON REID: Okay. Does that conclude the preliminary matters?

MS. PRUITT: Madam Chair --

VICE CHAIRPERSON SOCKWELL: Are there any other preliminary matters?

MS. PRUITT: Madam Chair, yes, there is. I just got a note. The audience would like to note that there are people here on the record for application -- Oh, we haven't gotten there yet, sir. Hold one.

There is another preliminary issue. 16550 -- No, that is the same one. I'm sorry. We continued. There are some people here in the audience who are in opposition to this. They would just like to have that put on the record.

VICE CHAIRPERSON SOCKWELL: All right.

MS. PRUITT: Opposition to the application.

VICE CHAIRPERSON SOCKWELL: So they should fill out their cards and pass them in.

CHAIRPERSON REID: I'm confused. Ms. Pruitt, opposition to which application?

MS. PRUITT: Actually, we have several continuances, and this one we haven't dealt with yet.

CHAIRPERSON REID: Okay, let's take them in order.

MS. PRUITT: Okay, this is the next one, application of Stacy Hamblin, 16550, request for a continuance. I do understand that there are people here who want to testify on this hearing. I won't say in opposition or not. I don't know yet.

VICE CHAIRPERSON SOCKWELL: Just for procedural matters, now that Chairperson Sheila Cross Reid has arrived, I will pass control of the meeting back to her. Thank you.

CHAIRPERSON REID: Thank you, Mr. Sockwell.

All right. Anyone who is associated or affiliated with this particular application, please come forward. Is the applicant here? So the applicant is not here?

MS. PRUITT: As I said, we did do this one. This is the architect is out of the country. We've already continued that to May 3rd.

CHAIRPERSON REID: No, no, no. That's not the one that I was referring to. Which one are you referring to?

MS. PRUITT: 16550.

CHAIRPERSON REID: Oh, I'm sorry. Oh, okay. I'm sorry. I got you now. So the architect is out of the country.

MS. PRUITT: We continued that to May 3,

the first case, in the afternoon after one o'clock.

CHAIRPERSON REID: I'm sorry. I'm coming in here behind. That's the one that is continued to May 3. Okay.

MS. PRUITT: Correct, and I got a note from some people in the audience to state that they are here, and they wanted that on the record, that they were here for this case.

CHAIRPERSON REID: Okay. So you're so notified that it will be heard on May 3rd. Thank you, and sorry for any inconvenience this may have caused.

Question? Come forth, please.

MS. PRUITT: Please state your name for the record, please, sir.

MR. FENTY: My name is Adrian Fenty. I'm representing ANC-4C, and we did pass a disapproval resolution to this matter, and we invited several members on the block who live within the proper area to oppose this variance request to this meeting, and we have had several conversations with the architect, and we do want it on the record that the architect as recently as a week ago stated that he would be at this meeting and didn't tell us that he wouldn't be here.

We even asked him if he would withdraw the application, and he made no mention that he wasn't

going to be here. So we would want that on the record, that he came before the ANC and did not testify as such, as he has presented to this body.

To be honest with you, we would actually like you to hear our testimony, and we would like to ask for a dismissal, because in our opinion, him not showing up with that excuse at the last minute is just the same as someone not showing up. I don't think he actually is out of the country. That's not what he testified at the ANC hearing last Tuesday.

CHAIRPERSON REID: The fact of the matter is that we've already taken a vote on it to continue it, you know.

MR. FENTY: A motion to reconsider maybe?

CHAIRPERSON REID: Ms. Pruitt, the ANC which is a party in the case can request a dismissal.

MS. PRUITT: Correct, if they are a party.

CHAIRPERSON REID: And we had already decided to continue it, notwithstanding the fact that you didn't speak.

MR. FENTY: Well, we didn't get a chance.

CHAIRPERSON REID: We heard some murmurings in the back, and we had to clarify what case we were talking about.

MR. FENTY: I'm sorry that we didn't

testify, but we were trying to alert someone on your Board that we were here to testify in opposition to this, and we would --

CHAIRPERSON REID: In opposition to the request for continuance?

MR. FENTY: To the request for a variance, ma'am.

CHAIRPERSON REID: Okay, you were here to testify in opposition to the variance itself, but not the request for the continuance?

MR. FENTY: Well, I'm in opposition to that on behalf of the ANC as well, and I would ask for you to entertain a motion for reconsideration and then hear a motion for dismissal.

MS. PRUITT: Madam Chair, in fairness to Mr. Fenty, no one was invited to comment on our motion to continue the case from the audience.

CHAIRPERSON REID: No one had ask if anyone affiliated with the case to come forth?

VICE CHAIRPERSON SOCKWELL: I asked if anyone affiliated with the case was here. I didn't ask them to come forward.

CHAIRPERSON REID: Okay. Well, all right. Just to make sure that -- In the event that, because there's some misunderstanding, we erred, then let's do

that. Let's put a motion on the floor to reconsider.

COMMISSIONER MITTEN: I so move.

BOARD MEMBER RENSHAW: Second.

CHAIRPERSON REID: All in favor? Opposed? Okay, now.

MS. PRUITT: Excuse me. Could I have that verbally? Was there anyone in opposition?

CHAIRPERSON REID: No.

MS. PRUITT: So to dismiss. This was the motion to dismiss?

BOARD MEMBER RENSHAW: No, this is a motion to reconsider.

MS. PRUITT: I wanted to keep the motion straight. That's it.

CHAIRPERSON REID: This is to reconsider the first motion. So now there is a motion on the floor to dismiss coming from the ANC representative. Your name?

MR. FENTY: Adrian Fenti.

CHAIRPERSON REID: Okay. Did you give your address?

MR. FENTY: Yes. It's on my witness card. I'm sorry. 4712 17th Street, N.W., Washington, D.C.

CHAIRPERSON REID: Okay. Now put your motion on the floor.

MR. FENTY: Okay. I would like the Board of Zoning Adjustment to consider a motion to dismiss this case. The facts that I would like to bring forward are that both the developer, the land owner and the architect have testified at a civic association meeting and a formal ANC meeting. They have brought forth testimony and plans and drawings to both the civic association and the ANC.

Both our 16th Street neighbors, civic association and the ANC have voted against this, and the ANC passed a resolution which was unanimous, and that should be in front of you; but if it's not, I have extra copies to present to the Board, and it's a disapproval resolution which calls for this to not be approved in any form or fashion by the ANC, and it's signed by the ANC, including the single member districts which include this property.

CHAIRPERSON REID: One second, please.

Okay. On January 7 the applicant asked for a continuance, because he would be out of town until February 20th and would like us to reschedule it to March 1st. I have no problem with that. Anyway, the motion on the floor to dismiss it, because the ANC has requested it, for the reason they gave. Is there a second for that motion?

COMMISSIONER MITTEN: Well, just technically, I think he's requesting that one of us make the motion to dismiss, and that hasn't been made.

CHAIRPERSON REID: Ms. Pruitt, he can't make a motion if they're a party?

MS. PRUITT: No. It would be a little easier if the Board would make it, so we can record it correctly.

CHAIRPERSON REID: So would someone, please?

BOARD MEMBER RENSHAW: I so move.

COMMISSIONER MITTEN: I'll second it for purposes of discussion.

MR. FENTY: Madam Chair, we also have several homeowners in the audience today who have taken time off of work, who could testify as to their specific reasons why they don't want this development to occur.

CHAIRPERSON REID: Well, that would be if we have the hearing. Right now we just wanted to deal with the aspect of it that pertains to whether or not the case should be dismissed. Discussion?

COMMISSIONER MITTEN: If I could put a question to Mr. Fenty. Is there some hardship -- and I realize, you know, that you have folks that have come

down here and perhaps taken time off of work and all of that. Is there some particular hardship for you all if we continue this, given that the development that you oppose can't go forward without approval of this body?

MR. FENTY: I think the facts of the record should be noted by the Board. There is an application, of course, by the petitioner, and then there is the unanimous resolution passed by the ANC, and the D.C. Code, of course, gives great weight to the decision of the ANC.

In this matter, it's unanimous. We've addressed the entire community, and no one is in favor of this particular development. So in light of those facts, I don't see the need to continue this matter and to have our civic association and ANC have to bring people down here again to go through this, when the proponent knew that he should be here when there are rules that say that, if they don't show up, matters will be dismissed.

Again, it's unanimous. We've had two meetings on this and an ANC meeting. I don't think postponing it for two months would bring anything else to the table.

BOARD MEMBER RENSHAW: Question, Madam Chair, to Mr. Fenty. On January 7 the applicant or the

architect, Klaus Klott, wrote to the BZA requesting an appearance on February 16, and then he says a previous commitment on that day will not permit me to appear. Did you not get a copy of this?

MR. FENTY: No, ma'am, we didn't or else we would not have shown up today. Again, we met with him as early as last Tuesday.

BOARD MEMBER RENSHAW: Last Tuesday, and he never mentioned putting this in the file?

MR. FENTY: No, he didn't.

VICE CHAIRPERSON SOCKWELL: So when were you specific meetings with the architect and the developer?

MR. FENTY: We had a meeting on January 31st of the neighbors who surround that area. That meeting involved about 34 people. All 34 were opposed to the development as it's been proposed to this Board, and then on February 8 ANC-4C met, and there were seven ANCs present, and we had a unanimous vote to disapprove the application for variance.

VICE CHAIRPERSON SOCKWELL: And the architect was present both meetings?

MR. FENTY: Yes, and he did a proposal at both meetings of about 15 minutes to a half-hour and then answered questions.

VICE CHAIRPERSON SOCKWELL: Was the developer present at both meetings?

MR. FENTY: The developer was present and gave testimony at the first meeting. He was present in the second meeting but did not give testimony.

VICE CHAIRPERSON SOCKWELL: Madam Chair, it appears that in the absence of the architect, the developer would have known and that, with any intention to be open with the community, since the letter that we've received occurred prior to either of the two meetings, there is some indication that there was a complete disconnection in terms of letting the representatives of the community know what was transpiring or was not expected to transpire on the 16th of this month.

Because of the level of communication that the community had with the applicant, it does seem unusual that they would not have been made aware that the hearing would not take place or that the applicant was not going to be present.

CHAIRPERSON REID: Well, you know, the fact of the matter is that they are not here, the developer or the applicant, to give their side as to what happened. I think that postponement and continuance for two weeks to March 1st -- and will the calendar

allow that? That's another thing.

MS. PRUITT: That was the concern about the previous one which we continued to May 3d, the very first. You have a full agenda up until May with eight cases on each day.

CHAIRPERSON REID: So May would be the first time it could be heard?

MS. PRUITT: Yes.

CHAIRPERSON REID: All right.

MR. FENTY: Madam Chair -- I'm sorry.

BOARD MEMBER RENSHAW: While they are in discussion, Mr. Fenty, tell me again. You had ANC meetings on January 31st, and what was the other date?

MR. FENTY: The January 31st meet was a single member district meeting, and then the February 8th was the entire ANC.

VICE CHAIRPERSON SOCKWELL: Mr. Fenty, I just have one more question for you. With regard to the meetings that you had with the developer and the developer's architect, was this hearing brought up in either of those meetings?

MR. FENTY: Absolutely. At the February 8th hearing one of the ANCs put a motion on the floor to request that the developer withdraw the application in light of the overwhelming community opposition and

asked him to withdraw his application for this hearing. At that time, I would have thought that would have been a perfect time to say, well, you know, we've already asked for a postponement. But no such mention was made at that time, nor at any other time.

I would like to put on the record also that, although the architect of the -- I think he's been designated to testify on behalf of the developer, but the developer still could have testified today and has a partner, his brother-in-law, who -- both men live in the city and have testified that they have other buildings in the neighborhood, and they could have come here today to testify in their own behalf.

BOARD MEMBER RENSHAW: Also, Madam Chair, I wanted to ask the Board if it is a requirement when an applicant is asking for a postponement not to paper the ANC. In other words, as the party sends in a request to the BZA that that paper is also sent on to the ANC. Is that not a requirement?

CHAIRPERSON REID: It's generally all parties. All parties are to be notified.

MS. PRUITT: Right, prior to a hearing except the only party that's identified is an ANC at that point.

CHAIRPERSON REID: So the applicant --

MS. PRUITT: The party status isn't granted until the actual hearing.

CHAIRPERSON REID: Except for ANC.

MS. PRUITT: Except for ANC. That's what I'm saying.

CHAIRPERSON REID: So you think that they were aware of the fact that they were to have notified the ANC that they wanted a continuance and did not do so? This is speculative.

MS. PRUITT: I can't answer on that, because I have not talked to Mr. Klott. So I have no idea.

CHAIRPERSON REID: So I think that I would be willing to give them the benefit of the doubt and let them come to us on our next date certain that we could to explain to us what happened, and then at that time you can still put a motion on the floor to dismiss. I mean if it doesn't go today.

Now any other discussion? All right then, we have a motion on the floor to dismiss and it's been seconded. So all in favor of the motion?

BOARD MEMBER RENSHAW: Aye.

VICE CHAIRPERSON SOCKWELL: Aye.

CHAIRPERSON REID: All right. All opposed? Let me say it again, and can you speak into your mike.

All in favor of dismissal? All opposed? MS. PRUITT: I just wanted to be sure, because I had heard too many. The motion to dismiss was Mr. Sockwell, Mr. Moulden and Ms. Renshaw to dismiss, Ms. Reid and Ms. Mitten not to. Is that correct?

CHAIRPERSON REID: Right.

MS. PRUITT: So this case is dismissed.

CHAIRPERSON REID: Okay. Is there another preliminary matter, Ms. Pruitt?

MS. PRUITT: Yes, there is, on application 16551. We just received it today, the affidavit of posting. So you just need to waive the time for filing. We actually do have it, and was it posted on time is what I need to --

CHAIRPERSON REID: Waive the time?

MS. PRUITT: For filing. Yes, it was posted timely. It's just that it wasn't filed timely.

CHAIRPERSON REID: Oh, the affidavit, you mean?

MS. PRUITT: Correct.

CHAIRPERSON REID: They didn't request it? We just do it automatically?

MS. PRUITT: Well, I mean you have to do it, because they just gave it to us today.

CHAIRPERSON REID: Oh, okay.

MS. PRUITT: I got it about ten minutes ago.

CHAIRPERSON REID: May I see someone who associated with this case, please? Come forward.

MS. PRUITT: 16551.

CHAIRPERSON REID: Can you tell us why -- Give your name, please.

MS. HUNTER: Dora Hunter.

CHAIRPERSON REID: And could you tell us why it wasn't -- the affidavit of posting was not submitted timely?

MS. HUNTER: Actually, the photos didn't come out, and I had to retake them and redevelop them.

CHAIRPERSON REID: All right. Well, I have no problem with waiving the time to allow the affidavit of posting to come into the record, if there is no objection by my colleagues. She actually posted, but she just did not --

MS. PRUITT: Correct. The affidavit was -- The property was posted timely, 15 days prior to the hearing. The thing is that the affidavit should be in here five days prior to the hearing, and it was today.

CHAIRPERSON REID: Okay. Well, we'll waive the time. All right, thank you very much. We'll call you back when it's time for your case to be heard.

Thank you.

MS. PRUITT: Staff has no more preliminary matters. I don't know if you queried the audience, though.

CHAIRPERSON REID: Well, did you ask prior to my coming in, Mr. Sockwell, if there were any other preliminary matters from the audience?

VICE CHAIRPERSON SOCKWELL: No.

CHAIRPERSON REID: Okay. So let's have the first case of the day, please.

MS. PRUITT: The first case of the day is application 16549, application of Daniel Berman, pursuant to 11 DCMR 3103.2 for a variance under Subsection 2001.3(a) and (c) to allow for a proposed addition to an existing nonconforming four-unit apartment house and under Section 406.1 from the minimum closed court requirements in an R-5-B District at 1906 Biltmore Street, N.W. (Square 2549, Lot 419.)

All those planning to testify, would you please stand and raise your right hand?

(Witnesses sworn.)

CHAIRPERSON REID: Excuse me. Is that gentleman back there -- are you planning to testify in this case, sir? No? All right. So it's just the three people here?

MS. PRUITT: Please be seated.

MR. ELLIS: Good afternoon. My name is Craig Ellis. I am counsel for the applicant, and it's pleasure to be back before the Board again.

I have with me today Mr. Sam Dyer, the designer of the project, and also the applicant sitting right behind us, Mr. Daniel Berman.

This is an application for two variances. The variances are necessitated to make an addition to the house at 1906 Biltmore Street, N.W. The house as it presently stands without any building, additional building, is a house that exceeds the lot occupancy.

The house also as it presently stands has a closed court. That court has a width varying from two and half to roughly three and a half feet, almost four feet, and the closed court, pursuant to our zoning regulations, is too small. The closed court requirement width is 15 feet, and this closed court is too small.

So, therefore, nothing could be done in terms of additions to this house without first coming to the Board for a variance.

The actual relief -- I'm sorry. The actual construction to the property would not be necessitated if these existent conditions were not present. Nothing

in the addition that we propose to do here causes any additional relief. It is the property as it sits that causes us to seek this relief. So I wanted to begin with that.

It was originally a four-unit apartment building. Mr. Berman has come in, and he has taken the property and reduced it from a four-unit to a there-unit apartment building. He and his wife want to start a family. They want this addition to the rear.

It's going to be built on the second floor, over the second floor on a deck that is off the third floor of the property. The skin will be essentially a glass, stucco and brick. It is to brick the one side to go with the property on the one side, stucco on the other side to go with sort of the property on the other side, and the glass.

To the extent that you may have any questions about how it's designed, we have the architectural plans over there on the board.

Essentially, the addition will be built to cover approximately one-half of this deck that's on the second floor, off the third floor but on top of the second floor. The deck would be approximately -- I mean, the new addition would be approximately 16 1/2 feet by 15.25 feet.

Now as I stated, we are here for a variance. Do you want me to go through --

CHAIRPERSON REID: Mr. Ellis, obviously, you don't have any opposition to your particular application.

MR. ELLIS: No. The ANC supports us.

CHAIRPERSON REID: Yes, and support from the ANC or the letter. Well, there are only three people sworn in. And the ANC is in support of your application. So just give us the fill-in points, but do demonstrate how you meet your test for your variance.

MR. ELLIS: I just want to clarify something, Madam Chair. You said there are three people who have been sworn in. I only know of two, the two that are here with me.

CHAIRPERSON REID: Oh, I'm sorry. There are three people here, two sworn in. So there's a lot of people here. You're correct.

MR. ELLIS: For the first variance from Section 2001.3 (a) and (c) to allow an addition to an existing nonconforming structure in a R-1 zone, that section provides in Section (a) and (c) that a structure shall conform to the percentage of lot occupancy requirement and (c) that the additional

enlargement itself shall not increase or extend any existing nonconforming aspect of the structure, and so not create any new nonconformity of the structure and addition combined.

Pursuant to Section 403.2, all structures within this R-5-B zone has a -- is limited to a lot occupancy of 60 percent. This property as it sits exceeds that by 18.36 percent. The subject property, as I stated, is a three-story rowhouse. It is also three units.

The variance relief sought is justified in that the proposed addition does not cause the property to not conform with the lot occupancy requirement nor does it increase any or extend any existing -- I'm sorry -- does not conform with the lot occupancy requirement nor does it increase or extend any existing nonconforming aspect of the structure or create any new nonconforming aspect.

Because the property as it was constructed prior to the implementation of the zoning regulations exceeds lot occupancy requirements and the minimum width requirement of the closed court, no addition could be built without this addition.

The requested variance will not be detrimental to the public good nor will it impair the intent or integrity or purpose of the zone plan. The

subject property is located next to an apartment building, and the proposed addition to be built is to be next to a solid brick wall that extends at least ten feet above the proposed addition.

No air, light or ventilation of the apartment will be affected. Further, the ANC supports this structure.

With respect to the minimum closed court, Section 406 requires that the closed court in an R-5-B zone have a minimum width of 15 feet. The existing closed court has a width of from 2.9 feet to approximately 3.5 feet.

Since the subject property as presently constructed violates the closed court requirement, again no addition could be built without the requested variance relief.

The subject property presents an exceptional condition in that the property as constructed has a closed court to provide ingress and egress to a basement on the subject property and to provide light to those rooms in the subject property located over that closed court.

Had the rear portion of the property been constructed from lot line to lot line, as most rowhouses, and in all the other rowhouses in that

neighborhood, no rear court would have been present and, therefore, there would be no need for the closed court variance.

The closed court in this instance was necessary to provide an exterior exit from the cellar under the front porch and other property. Additionally, the closed court provided an ambient light source to the rooms that are over that court.

In Droughty v. Board of Zoning Adjustment, the District of Columbia Court of Appeals held that the concept of exceptional condition in the variance context refers to an unusual condition of the property, of that particular property.

In this case, this is a property that has an unusual condition in that it has a closed court. It was built before the zoning regulations. The closed court does not comply with our present zoning regulations, and indeed if you take that application, it would also apply to the lot occupancy; because it was built before there were lot occupancy requirements, and the lot occupancy was exceeded by the building when it was built back before the zoning regulations.

So, therefore, this building provides, in and of itself, an exceptional condition. No improvement of the property could take place without

the requested variance, and the presence of the closed court would present the applicant with an exceptional practical difficulty if the zoning regulations are strictly applied, since no construction could be undertaken without the granting of the variance.

Finally, granting of the variance for the closed court would not cause substantial detriment to the public good and would not impair the intent and purpose and integrity of the zone plan.

The requirement focuses on evidence of adverse impact of the grant of the variance on the adjoining property owners; (2) the neighborhood, including traffic, parking and circulation; and (3) the existing zoning requirements for the zone district in which the property is located, including light/air requirements, yard and set-back requirements, lot size and shape; (4) the location of the structure on the lot and the relationship to adjoining lots and streetscapes, uniformity of the streetscapes and design of the neighborhood structures; (6) character of the neighborhood, including increased noise, density, influx of commercial vehicles and other traffic; and (7) neighborhood stability.

The neighbors here support the addition, and ANC-1C has submitted a letter to support the

requested variance. The proposed addition is located at the rear of the subject property and is totally obscured from the street view. The wall for which the apartment next door will extend ten feet above the proposed addition.

The property is to be used by the applicant and his wife, and there is no additional traffic as a result of this proposed addition. Additionally, we have here -- and I will hand to the secretary of the Board -- five sets of pictures of houses in the neighborhood so you get an idea about this house.

This is one of the few houses that has an actual structured garage. As a result of that, that counts in the lot occupancy, and they had originally sought to have that garage -- the roof on the garage removed so that it wouldn't be structure, and the Historical Preservation Review Board denied that request. If that had not ben denied, again we would not have been here either.

What happens is, as you can see in all five of those pictures, most of the neighbors in the neighborhood have this addition. But because the garage on this house was considered to be historical, they couldn't tear it down. They couldn't remove the roof, and therefore, they can't build onto their house

without variance relief.

So we just wanted to show you those pictures that show that everybody in the neighborhood -- well, not everybody, but a good many of the people in the neighborhood have done exactly what my client intends to do.

If there's any questions from the Board or for the architect, we'll be happy to entertain them.

VICE CHAIRPERSON SOCKWELL: So what do you want us to do about it?

MR. ELLIS: To approve -- Well, as per our brief that we have filed, we ask you to approve our variances.

VICE CHAIRPERSON SOCKWELL: And you think you've justified it fairly well. You've covered everything except the footing. So I was wondering if there was anything else you might want to present to the Board to support your case.

MR. ELLIS: Nothing.

BOARD MEMBER RENSHAW: Do you have a large color picture or a large black and white picture of the back of your house where this addition is going to be made?

MR. ELLIS: Yes, we do.

CHAIRPERSON REID: Mr. Ellis --

MR. ELLIS: I said large, but it's not large, but it shows where it would be. Yes, Madam Chair?

CHAIRPERSON REID: I'd say that your presentation was quite succinct, and that there is no doubt, I don't think, that you've demonstrated that there is no way that the applicant would be able to comply with the existing zoning regulations, given the fact that the structure itself predated -- the existence of the structure predated the existing zoning regulations. Any comments, Board members?

We'll move on to the ANC. Is there any ANC representative here? We didn't have one earlier. Okay. We did have a letter of support from the ANC-1C, and they had a quorum present and a vote taken. So, therefore, they will be afforded the great weight to which they are entitled, and they said in pertinent part that they support the application for a zoning variance for this application.

Are there any other persons who have come in in support of the application? In opposition to the application? Closing remarks by the applicant.

MR. ELLIS: As a closing remark, we would just ask the Board for a bench decision.

CHAIRPERSON REID: I would move approval of

this application. Board members?

BOARD MEMBER RENSHAW: Second.

CHAIRPERSON REID: I think that the applicant has demonstrated, as I said earlier, that he has met his three-pronged test and that, given the fact that the structure itself predates the zoning -- the current building regulations, it would be certainly a practical difficulty for him to be able to comply with the existing zoning regulations.

So, therefore, given the fact that there does not appear to be any substantial detriment or adverse impact by virtue of the fact that we don't have any letters or any persons here who are opposed to the application, the ANC came on board in support of the application, and that it does not tend to impair the intent or integrity of the zoning regulation or map, all in favor? Oh, comments? I'm sorry. Mr. Sockwell, please, how could I not give you a chance to give your comments.

VICE CHAIRPERSON SOCKWELL: Thank you, Madam Chair. With regard to a lot of properties that preexisted the zoning regulations that are anomalous to their adjacent environment, in case of things like courts where this could have been built straight out rather than with the light well court notch or niche,

if you want to call it, these kinds of things and minor variations put buildings like this in nonconformity with the zoning ordinance, and it's only because of the fact that the zoning ordinance was not intended to take into consideration some of these preexisting conditions.

In a house like this, I don't see that the proposed addition would damage either the neighbors' rights nor would it increase anything that was not a preexisting nonconformity in ways that would be significant.

So, therefore, I have no problems with the garden room. Let's hope he gets enough sunlight. Thank you.

CHAIRPERSON REID: Other comments, Board members? All right, all in favor? Opposed?

MS. PRUITT: Staff will record the vote as five to zero to approve. Motion made by Ms. Reid and seconded by Ms. Mitten for summary order.

MR. ELLIS: Thank you.

MS. PRUITT: The next case on the agenda is application 16551, application of The Welch Family Limited Partnership #1-/Steve Royall, pursuant to 11 DCMR 3103.2, for a variance under Section 2101 of the off-street parking requirements for a "Social Lounge

and Dance Place (Public Hall)" in a C-2-A District at 1335 H Street, N.W. (Square 1027, Lot 824).

All those planning to testify, could you please stand and raise your right hand.

(Witnesses sworn.)

MS. PRUITT: Please be seated. Thank you.

CHAIRPERSON REID: Give your name and your address.

MS. HUNTER: My name is Dora Hunter, address 5552 B Street, S.E.

CHAIRPERSON REID: Okay. Ms. Hunter, tell us why you think you should receive -- have your application approved for your variance.

MS. HUNTER: As we are aware, on that commercial property there is no parking. What I'm trying to do is something -- I'm trying to look for something on the positive aspect, and I just really want to have the variance approved based on off-street parking to facilitate my building.

CHAIRPERSON REID: Ms. Hunter, did you have any discussion with the staff as to how to prepare for this particular hearing?

MS. HUNTER: No, ma'am.

CHAIRPERSON REID: Did you not -- Have you ever been to this Board before?

MS. HUNTER: No, ma'am.

CHAIRPERSON REID: Are you familiar with these proceedings?

MS. HUNTER: Slightly.

CHAIRPERSON REID: All right. Then do you know that the purpose of your being here is to have your application approved for the variance, and in order to do so you have to demonstrate how you satisfy a three-prong test? Do you know about the test?

MS. HUNTER: No, ma'am.

CHAIRPERSON REID: Okay. We have to, number one, show how your property -- something about the subject property that's unique and unusual or exceptional such that it would cause you practical difficulty to comply with the existing zoning regulations. That's the first test.

Is there anything about the property or -- Let me just say this -- or do you feel that you are prepared to go forward today; because oftentimes when people come to us and they are not aware of the proceedings or they are not familiar with exactly what they need to do to give their case the best possible light for it to be approved, then they will have it rescheduled and give themselves time to consort with the correct persons or determine what they need to do.

I'm sure that you are aware of the fact that you also have opposition.

MS. HUNTER: Yes, I am.

CHAIRPERSON REID: Okay. So it's kind of risky, because you really are not adequately prepared to go forward today. So it puts you at a disadvantage. Now you have two choices. You can either go forward today or, in the alternative, you can ask us for a postponement so that you can become better prepared and come back to us.

So it's up to you. If you go today, then basically you'll be winging it, and we'll do all we can to try to help you through it, but I don't want to delude you into thinking that you can just say a few words and that would be adequate enough to give you the best possibility of getting your application approved.

MS. HUNTER: I understand. I do not want to hurt my chances. I have been working hard and trying to obtain the seven variance that I need for the property. I have come up with a business owner who is willing to let me use their parking space. I have it in writing for the property. However, I'm not exactly sure if maybe I should or not, but I will take the advice from you.

CHAIRPERSON REID: You have a business

owner who will allow you access to their parking lot for you to have the cars parked on that lot?

MS. HUNTER: That is correct.

CHAIRPERSON REID: You have that in writing? Well, that's good, but you still have to make your burden of proof in regard to getting your variance today. Number one is, is there anything unusual, unique or exceptional about the property itself that would not allow you to be able to comply with the existing regulations or cause you some practical difficulty? Practical difficulty means some hardship or some problems.

MS. HUNTER: Hardship if I don't obtain variance.

CHAIRPERSON REID: Well, that's true, but let's start there. Did you -- What do you want to do today? Do you want to go forward or do you want to --

MS. HUNTER: I just really don't want to hurt my chances of this. If there is a more -- a different procedure that I need to go, then I'm willing to do that.

CHAIRPERSON REID: Well, you would then -- and I've asked staff to do this, and I guess it has not been put in place yet. But in the cases where it's very obvious that an applicant is not familiar with the

proceedings and they have not demonstrated within their submission to us that they even have a clue as to what, in fact, they need to do to get their application approved, I had asked that they consult with them and to make sure that they understand, and take them step by step through the process, so that they have a better opportunity to have it done.

So what we usually do in cases like this is to assign you to a staff member who will then work with you and walk you through the different steps to help you.

MS. HUNTER: Would I be able to be heard today?

CHAIRPERSON REID: It's unlikely, because we have another case, a big case, coming up after you, and it's going to take some time. I mean, that's not something they can do in a few minutes. I mean, you're going to have to make an appointment to sit with them and to go over everything and to make sure that you have the best likelihood of getting it approved.

Now the idea of the parking lot -- that's good that you could submit that to us. But that still does not negate the fact that you have not been able to demonstrate that you comply with that three-prong test, and that's what you have to do.

Another thing is have you met -- I saw in here that you did talk to ANC?

MS. HUNTER: Yes.

CHAIRPERSON REID: And matter of fact, you appeared before them.

MS. HUNTER: Yes.

CHAIRPERSON REID: Oh, okay. Yes?

MR. WALKER: I'm sorry, Madam Chair. My name is Darrell Walker, and I am Chairman of ANC-6A.

MS. PRUITT: Excuse me, sir. Neither one of you were sworn in. Correct?

MR. WILSON: I'm sorry. No.

MS. PRUITT: Can we do that before you start testimony. Stand please, and raise your right hand.

(Witnesses sworn.)

MR. WALKER: Thank you. Madam Chair, my name is Darrell Walker. I reside at 1839 D Street, N.E., Apartment 2, Washington, D.C. 20002.

I am currently Chairman of Advisory Neighborhood Commission 6A. The applicant did come before the ANC's zoning and licensing committee on January 12. There was opposition to her application, because the single member district commissioner was not notified of an existing application for a variance at

that location of 1335 H Street, N.E.

The applicant was also told to submit a parking plan to the ANC either at our regularly scheduled monthly meeting, which took place February 3, or at our zoning and licensing committee meeting which took place February 9.

I do not recall seeing the applicant. As a matter of fact, our monthly meeting was cut short, so to say, where we could not actually hear or even vote on the minutes from the Z&L. We did not have a chance to bring up the case before the full Commission. As a matter of fact, the case was not even put on the agenda to be brought up, because we did not get any notification from the applicant.

On February 9 at our monthly Z&L committee meeting, the applicant came back before the Z&L committee. She did submit a parking plan. The parking plan was not approved by the Z&L committee. It was not approved by the full Commission.

Therefore, at this time, because of opposition to this application, there were a lot of questions that are unanswered about the application itself, along with the establishment as far as who owns the -- who is actually going to be running this business.

Those are some of the questions -- You know, who is going to be running the business, you know, the case that these -- the parking plan itself, you know. I mean, the parking lot in question is three blocks from where the establishment is. At three o'clock in the morning you're going to walk down H Street.

CHAIRPERSON REID: Which parking lot is in question?

MR. WALKER: The parking lot in question is a hair salon.

CHAIRPERSON REID: Is that the one that she's referring to when she says that she's arranged for parking?

MR. WALKER: Right, right. It's a hair salon approximately three blocks away from the establishment. It's a small lot, sits on a corner between two buildings, hardware store and a hair salon.

We asked that she come back before the ANC with the paperwork notarized. Anyone could write a letter. We asked -- We did ask her to have the papers notarized. There were some questions about a copy of an application. It actually came from here, from the BZA, that was not on D.C. Government letterhead. It looked like someone had typed it.

CHAIRPERSON REID: It was what?

MR. WALKER: It's in the folder. There is a copy of the application that's on regular paper with no D.C. Government letterhead, and every time I come down here I get it on D.C. Government letterhead. There was a question as to where that even came from. No, that's not it.

There are a lot of unanswered questions.

MS. PRUITT: Ms. Reid, you probably don't have it in the ones that we've copied you, because you don't copy everything. So you might want to look in the case file.

MR. WALKER: Right. I think I saw it in the case file. Actually, I pulled this letter, copied this out of the case file. I think you all have this. It was a letter from the ANC. This letter -- I was not privy to this letter at all, by me being the Chairman of Advisory Neighborhood Commission 6-A.

CHAIRPERSON REID: Wait a minute. What do you mean you weren't privy to this letter?

MR. WALKER: I never saw it. I never saw it until I came down here. I don't -- I never knew the contents. I never even knew a letter was coming from the ANC to the BZA.

CHAIRPERSON REID: Do you know Marvin

Fields?

MR. WALKER: Yes, I do. Marvin Fields is an ANC Commissioner.

CHAIRPERSON REID: All right. Well, this letter apparently was written by Marvin Fields.

MR. WALKER: Okay. And Mr. Fields at the February 9 meeting was instructed by me, the Chairman of ANC 6-A, to get the letter -- form the letter and send the letter to me, and I would have the letter put on ANC letterhead and sent here, and I will bring it to him to be signed by him and signed by myself.

MS. PRUITT: Mr. Jones, is it?

MR. WALKER: Walker.

MS. PRUITT: Walker, I'm sorry. The Board doesn't consider this an official ANC letter with great weight. So it's taken as regular testimony.

MR. WALKER: Okay, thank you.

MS. PRUITT: I did want to clear that up for you.

MR. WALKER: Thank you.

CHAIRPERSON REID: Do we have a letter from -- an official letter from the ANC?

MS. PRUITT: Not an official letter. You just have it from the single member district. This is the only thing we have from the ANC.

CHAIRPERSON REID: But wait, wait, wait, wait. Let us get this clarified, because this letter was the letter that we had in the file that stipulated it was the zoning and licensing committee, and that is the entity that Ms. Hunter appeared before?

MR. WALKER: Yes, ma'am.

MS. PRUITT: That's a subcommittee of your ANC. Correct?

MR. WALKER: Correct. It's a subcommittee.

CHAIRPERSON REID: Then they should have given a report to you, and then you would have submitted the letter to us.

MR. WALKER: Correct.

CHAIRPERSON REID: And so they circumvented that whole process.

MR. WALKER: Yes, ma'am. Right.

CHAIRPERSON REID: And they sent the letter straight to us.

VICE CHAIRPERSON SOCKWELL: So these are actually meeting minutes.

MR. WALKER: Sir, actually, those are not correct minute meeting -- I mean meeting minutes. I'm sorry. Actually, the minutes don't reflect the opposition by myself or the community.

CHAIRPERSON REID: So I don't know how this

could get in, and it's being proffered as an official document. So perhaps you can clarify that and get that straightened up within your own body that that's not to happen, because that is confusing.

MR. WALKER: It really is. Like I said, I didn't know about any of the letters until I actually came here today and asked for copies of the letter out of the file.

MS. PRUITT: This is actually -- But we wouldn't consider this an official letter. I mean, we often get letters from single member districts on top of the resolution or the official letter for a report. It is a little unusual, because it's from a single member.

VICE CHAIRPERSON SOCKWELL: Yes, but Ms. Pruitt, the way it reads, it says Advisory Neighborhood Commission 6A, Zoning and Licensing Subcommittee. It doesn't say SMD anything. So I assumed it to have come from the ANC-6A.

CHAIRPERSON REID: And then it says --

MS. PRUITT: But it says it's the Licensing and Zoning Subcommittee, which --

VICE CHAIRPERSON SOCKWELL: Yes, but that doesn't say SMD anything. In other words --

MS. PRUITT: I understand, but --

CHAIRPERSON REID: Okay, okay. Let's not belabor this, okay?

MR. WALKER: Could I say one more thing?

CHAIRPERSON REID: The fact of the matter is that it was put in inappropriately, and it caused some confusion. I think we can all agree with that. I was confused, and Mr. Sockwell was confused.

MS. PRUITT: It's not inappropriate for the letter to be in, because the record is open. It's just not considered an official ANC report, because it wasn't a quorum ANC, and that's the point I was trying to make.

CHAIRPERSON REID: The point that was being made through the Chairman was that he had requested that the letter be sent to him, so it could be submitted properly on the letterhead. That's why I said that this letter, which appears to represent -- does not, and it should not have come to us like that.

Based on the way it's worded, one could deduct that it was from the full ANC. It's just not clear, and he is basically saying to us that he had instructed the --

MR. WALKER: Commissioner Fields.

CHAIRPERSON REID: -- Fields to do otherwise, and it was done like this, and that it does

not really even reflect what actually happened. That's where the confusion comes in for me.

So we'll make sure that we -- You will make sure that we get the appropriate letter that is directly from your ANC with the quorum and the vote taken, and that will reflect the true feeling or the true position of the ANC. Correct?

MR. WALKER: Yes, ma'am. Also you said that there was a letter. I'm not sure that the single member district commissioner actually wrote a letter to the BZA. Oh, okay, because I talked to him, and he said he hadn't written a letter.

CHAIRPERSON REID: Okay. Well, what do you mean? If he didn't write the letter, where did it come from?

MR. WALKER: This letter came from -- The letter that you're referring to -- Are you referring to the letter that says -- this letter here?

CHAIRPERSON REID: Marvin Fields.

MR. WALKER: Okay. Marvin Fields is not the single member district commissioner.

VICE CHAIRPERSON SOCKWELL: Hold that up again, please.

CHAIRPERSON REID: Is that the same one? It's ANC Commission 6A.

MR. WALKER: Zoning and Licensing Committee.

CHAIRPERSON REID: Chairman, Commissioner Marvin Fields.

MR. WALKER: Right. He's not the single member district commissioner.

CHAIRPERSON REID: Oh, he's not?

MR. WALKER: No, ma'am. Marvin Fields -- Okay. Because we did not actually -- Because our February 3 meeting did not actually take place per se, we were not able to reconstruct the committees. So, therefore, the February 9 meeting was chaired by Marvin Fields.

Until we have our next meeting and we're able to reconstruct those subcommittees, then no one is the Chairman unless they are either appointed by myself, which I chose not to do -- they have to be elected by the full Commission.

CHAIRPERSON REID: Okay. So what are you saying, that we have to disregard the letter?

MR. WALKER: Yes, ma'am.

MR. PITTMAN: Well, Linden Place is here, Ms. Reed, and I'm Robert Pittman. We have concerns --

CHAIRPERSON REID: Give your address, please.

MR. PITTMAN: I'm sorry. It's 1219 Linden Place, N.E. We have similar concerns as the new Chair has regarding this establishment, including who is the owner, and we have attempted to reach some type of understanding or know who we're dealing with in terms of Dora Hunter and her business.

We've not been able to establish it at this point. So what we would like, in conjunction with the Chair, is to, one, either have additional time to do an investigation and find out exactly what we're dealing with, because there are some concerns with credibility in how this operation would be run.

We are talking about -- If you grant a variance, we're looking at a public hall license. So that's one of our concerns. The other is that, if we can't reach that, we would be willing to assist this lady with getting some other type of license, but possibly not a public hall license.

MS. HUNTER: Madam Chair, I had submitted to the ANC a letter stating the Welch Family Partnership who is the owner of that building, and I have submitted a letter to show them. They have shown a great concern of who owns the building, and I have given that to them in writing stating the association that I have with the Welch family in regards to this

business.

CHAIRPERSON REID: Do you have that?

MR. WALKER: Madam Chair, it should be in the file. Madam Chair, the question -- maybe it was taken the wrong way. We are questioning who is going -- We know the Welch family owns the building. We actually want to know who is going to be running that business, because there are two people on the paperwork. You have --

MR. PITTMAN: Steve Royall.

MR. WALKER: -- Steve Royall, and you have the applicant. It got confusing to us when we saw the application. We don't know who to deal with, and then she brings a letter -- the applicant brings a letter before the ANC that says she's representing the Welch family.

MS. HUNTER: As well as one from Steve Royall. I'm handling all the business licenses and procedures for this building.

CHAIRPERSON REID: Who is Steve Royall?

MS. HUNTER: He is my partner. It is not a partnership. We're doing this together. I'm handling all of the licenses, the procedures.

CHAIRPERSON REID: Okay. So you're going to be running the business?

MS. HUNTER: Yes.

CHAIRPERSON REID: All right. Does that answer your question? Does that answer your question?

MR. WALKER: No, it doesn't. Not exactly.

CHAIRPERSON REID: It seems like we're going nowhere fast with this application. Okay? There's just too many inconsistencies, and there's not sufficient information in the file, and I would recommend that you go and reschedule this, allow Ms. Hunter to consult with staff so that she can have her ducks lined up as to how she could make her presentation to us, and in the interim that she meet with the correct body of the ANC and make sure that you know the person that you're dealing with is the correct person, and that you can then ascertain from her everything you need to know and to determine what you're dealing with and get all the facts and what have you.

Also you had suggested that perhaps you could work with her and try to help her, because it appears to me that she's kind of groping her way around this rather complicated licensing process, and I know that for someone who has never done it before, it can be rather daunting, and she could inadvertently slip up and make a mistake that could be very costly, and

perhaps there may be another way to go at this to accomplish the same thing so that when she comes again that she will be able to have the better possibility of getting it through.

MS. HUNTER: Madam Chair, I have spoken with the single family member who is handling this, Mr. Almond. I have spoken with him. I have given them all the information that they had asked, and their concern is a public hall permit, and I'm here for a variance.

CHAIRPERSON REID: Well, the variance that you're here for is for a public hall, to allow -- No, actually, it's the parking, I think, for a public hall which requires a variance.

That's what I'm saying. It can be a bit befuddling.

MS. HUNTER: And I have gone to the ANC.

CHAIRPERSON REID: Work with them.

MS. HUNTER: And I have given them notarized letters in regards to the public hall.

CHAIRPERSON REID: But again --

MR. WALKER: Madam Chair, if I may. I have said to everyone that I as Chair will not hold a one-on-one meeting with any applicant. If you want to meet me, you have to meet the full Commission, and that's fair. I explained this to the applicant at our last

Z&L meeting.

I asked her to specifically get in touch -- Well, I put her with Mr. Hammonds, Commissioner Hammonds, and Mr. Pittman and said you three get together, come to some conclusion, and I asked him to help at that meeting. I said can you help her, and Commissioner Hammonds and the three of you get together and then whatever you agree with, bring it before the ANC, the full body.

In all fairness to any applicant that comes before the ANC, if we find fault in your application, we will do the same thing we're doing here, come down here and try to get it straightened out or either try to work it out before you get here.

CHAIRPERSON REID: Right.

MR. WALKER: That's what I want to do, you know, because there's things that we asked her in the meeting that she did not even know, and we said, you know, you need a little bit of help in certain areas, and we asked the people who were there to actually help her.

So this should have been avoided, even coming down here to voice any opposition to this application, if that would have been done. To my understanding, contact had not been made --

CHAIRPERSON REID: Communications broke down.

MR. WALKER: Right. Communications broke down, and things didn't happen between then and now.

CHAIRPERSON REID: Okay. Now, Ms. Hunter, I think that we should point out to you that they are willing to work with you and try to help you through this, and I would suggest that you give the your full cooperation, because -- for two reasons: One is that they are more familiar with the process, because of the fact that they deal with it quite frequently.

MS. HUNTER: Exactly.

CHAIRPERSON REID: Two is that they carry great weight here at this Board. When they come before us, they give us what their position is, and they then defend that position and we listen very carefully to what they tell us.

So these are the friends that you want to have in order to get your application through, because when you have them in opposition, it makes your course a very slippery slope when you're dealing out there without that support. I can hear them. They are not adamantly opposed. They want to find out more about you and who you are and what you are and how you're going to operate before they make their final decision.

MS. HUNTER: And I have given them --

CHAIRPERSON REID: And they will help you as well as the citizens association. They're willing to assist you. So, you know, take that and try to work it out with them to make sure that your application is better prepared next time.

MS. HUNTER: I have bent over backwards trying to obtain the information that they asked. They even wanted to see the lease of my building.

CHAIRPERSON REID: Whatever they ask for is what you have to provide. I know sometimes it can be like -- If you're not familiar with the process, it can be rather, you know --

MS. HUNTER: One-sided.

CHAIRPERSON REID: Yes, and you're like, well, why do I have to give you this and, you know, I've given you all of that, and I don't feel like going through all this. But the fact of the matter is this is what everyone has to do.

MS. HUNTER: That's right, and I'm willing to comply.

CHAIRPERSON REID: Great. I'm glad to hear that. Any other comments?

BOARD MEMBER RENSHAW: Yes, Madam Chair. A comment to Mr. Pittman: In regard to two pieces of

correspondence that you sent into the BZA February 4 and February 10, 2000, would you supply the BZA with a copy with actual signatures? These do not look like actual signatures. These look like typewritten signatures.

MR. PITTMAN: They were computer generated, and we'll be happy to give you a hard copy.

BOARD MEMBER RENSHAW: Please, on both those letters.

CHAIRPERSON REID: All right. So are we going to -- Ms. Hunter, are you asking for a continuance?

MS. HUNTER: Well, a postponement. Yes.

CHAIRPERSON REID: Okay.

MS. HUNTER: Thank you.

VICE CHAIRPERSON SOCKWELL: Ms. Hunter, the letter that we have in our file which seems to be a sort of a "Dear Neighbor" -- this is an introduction to your business -- I found very vague in terms of explaining what it is that you're trying to do. It didn't tell me very much of anything except in one area, and that was that you were going to provide some sort of location for sobriety organizations one day a week.

That was the only thing that I really was

able to gather from that letter that told me anything about what you were going to do in that building. Without more sufficient descriptions of the proposed operation, it makes it difficult for the Board to evaluate. It would make it difficult for the community to evaluate what it is that you plan to do.

We have had some applicants come before us having presented material to the community on purpose that didn't tell them what they were going to do, and although we don't think that that's the case here, I would like to see you regenerate this letter with a little bit more fact and a little bit less "we're going to be really nice people," but "we're going to be nice people doing X, Y and Z."

CHAIRPERSON REID: Ms. Pruitt, who would be the staff member?

MS. PRUITT: Mr. Hart.

CHAIRPERSON REID: Okay, Mr. Hart, then having heard the concerns of Mr. Sockwell, will you ensure that in working her that she addresses all of the issues that he just put forth in her applicant's statement submission to us.

MR. HART: Yes, Madam Chair.

CHAIRPERSON REID: As well as everything else that she may need.

MR. HART: Sure.

CHAIRPERSON REID: Okay. All right, now the date?

MS. PRUITT: May 3rd in the afternoon.

CHAIRPERSON REID: Yes, that's the earliest that we have available. There's no way we could put her on any other day?

MS. PRUITT: Well, you have -- As I state, you have eight and nine cases on each day.

CHAIRPERSON REID: Let's try to get her on earlier, because I know that there are some considerations as far as getting the licensing and opening and what have you.

BOARD MEMBER RENSHAW: Madam Chair, does the ANC have to call a special meeting in order to get any of this information to the BZA concerning this case?

MR. WALKER: Not if she has to come back at May 3, because actually the ANC will not be having a meeting in the month of March. Our next meeting is the first Thursday of April. So it would really -- She would really have adequate time. We would have adequate time to work with the applicant.

CHAIRPERSON REID: Well, how often do you meet? Don't you meet once a month?

MR. WALKER: We are only required by law to have nine meetings per year, and we are trying to settle some -- get some ANC things together before our next meeting.

CHAIRPERSON REID: Is there any way you can have a special meeting?

MR. WALKER: We could call a special meeting.

CHAIRPERSON REID: Because that's a long time to hold someone up.

MR. WALKER: Well, it is. I mean, we could call a special meeting. I mean, we would have to give the commissioners seven days' advance notice, but a special meeting could be called, depending on the date.

CHAIRPERSON REID: So if you could call a special meeting -- What days do you usually have your meetings, or this would be -- Any day then?

MR. WALKER: Right.

CHAIRPERSON REID: Well, then could we try to get her on around the first of April, Ms. Pruitt?

MS. PRUITT: In April you have a full agenda on the 5th. You have Waste Management on the 19th and G.W. master plan on the 26th. That's why I say you have a very full agenda.

CHAIRPERSON REID: Okay. On the 5th --

MS. PRUITT: You already have continued two cases on top of the four that's already scheduled.

CHAIRPERSON REID: For the morning or the entire day?

MS. PRUITT: You only have the afternoon. I mean, the morning is a meeting.

CHAIRPERSON REID: Okay, but with the meeting, typically after the meeting we have a couple of cases.

MS. PRUITT: Well, it just depends. I mean, because we don't -- Meetings are kind of hard to judge. Depends on how many bench decisions you make and what motions come in.

CHAIRPERSON REID: I would try to get her in on that date.

MS. PRUITT: Do you want it in the morning or the afternoon?

CHAIRPERSON REID: The morning after our meeting.

MS. PRUITT: Okay.

CHAIRPERSON REID: That will be the first Wednesday in April?

MS. PRUITT: Correct. That would be April 5th.

CHAIRPERSON REID: Is there any objection

to trying to get her on for that date?

BOARD MEMBER RENSHAW: No. That's the first Wednesday, April 5?

CHAIRPERSON REID: That's our meeting day, and after we have our meeting typically we have a couple of cases in the morning.

BOARD MEMBER RENSHAW: Just ask the ANC if that's going to be all right with your schedule.

MR. WALKER: Well, see, our meeting isn't until the 6th.

CHAIRPERSON REID: You have a special meeting. We have to have a special meeting anyway.

MR. WALKER: We have to have a special meeting to consider it, and what I will do is I will call a special meeting for -- Okay, this meeting will be continued to April 5. Correct?

CHAIRPERSON REID: The hearing.

MR. WALKER: The hearing. Okay.

CHAIRPERSON REID: That gives you six weeks. Well, actually, five.

MR. WALKER: Roughly, around five and a quarter weeks. We could call a special meeting in the middle part of March.

CHAIRPERSON REID: Ms. Hunter, would that work for you?

MS. HUNTER: Yes, ma'am.

MR. WALKER: Let's say three weeks. We'll put notice of a special meeting on this case.

CHAIRPERSON REID: All right. Very well. Thank you.

MS. PRUITT: This is also to indicate that you will not be re-noticed. This is your notice of the April 5 meeting.

MR. WALKER: Thank you.

CHAIRPERSON REID: Ready?

MS. PRUITT: The last case on the agenda for the day, application 16457, the rehearing of the application of Kass MA, L.L.C., pursuant to 11 DCMR 3104.1, for special exceptions under Sections 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 the R-5-A and R-5-B 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 (Squares 5735, Parcels 211/96, 220/31 and Lot 804 and Square 5763, Parcels 219/38).

All those planning to testify, could you please stand and raise your right hand?

(Witnesses sworn.)

MS. PRUITT: Please be seated.

CHAIRPERSON REID: Given the fact that there appears to be such a great interest in this case, the Board will take a recess for ten minutes so that we won't have to stop again.

(Whereupon, the above entitled matter went off the record at 2:46 p.m. and went back on the record at 3:01 p.m.)

CHAIRPERSON REID: Before we get started with this particular case, we have housekeeping matters that we need to attend to. There is one item from this morning, and that was for case Number 16548, and I needed to have the record reopened to change the vote that was taken and recorded incorrectly as voting in opposition to case Number 16548, Education of Young Children, when my intention was to abstain; because I was not voting against the application. I was voting against the motion, and as a result of that, the vote was recorded that I was in opposition to it.

So I want to make sure that that is now changed. It was my mistake -- now changed to reflect that I abstained in that particular case, 16548, National Association for the Education of Young Children. Thank you.

Could you please so notify the applicant

and the opposition, I guess, about the actual vote so that they could be so -- made to be aware of the fact that that vote was supposed to have been an abstention on my part.

All right. Now please call the case, and then we'll take up the --

MS. PRUITT: We've already called the case.

CHAIRPERSON REID: You called the case? Okay.

MS. PRUITT: The only thing I would like--

CHAIRPERSON REID: The swearing in has been done? Right?

MS. PRUITT: Yes.

CHAIRPERSON REID: All right. So now before you go to the time, we had a request for party status from the Frederick Douglas Association. Sir, in this instance, this case is rather like an anomaly in that we have already -- This is a rehearing of a case that we had before, and we had already established the party status for persons in this particular case.

So at this point we cannot entertain requests for party status. Nonetheless, you may still testify, but just not as a party. Thank you.

Now also the Office of Planning submitted a late report and a request that we waive our rules to

allow the report to come in for good cause shown. If there are no objections by any other Board members, then we will so waive the rule to allow the report to come into the case.

Now the other thing is time. Ms. Pruitt?

MS. PRUITT: Yes. Under the new statute or under the new regulations promulgated in October, there are time limits established for presentations. The Board always has the right to change those time limits, but to start out the application has an hour.

The parties will have -- Since there is only one party, that person will have 15 minutes. Organizations will have five, and individuals will have three. We'll try to time it. ANCs, no time. There is no time limit on any government entity, and that's only for testimony. Cross-examination is not counted in the time frames.

CHAIRPERSON REID: Okay. But also I think that we want to give some kind of constraints to cross-examination.

MS. PRUITT: Well, that's your prerogative.

CHAIRPERSON REID: Because this is going to be a rather lengthy case, and we don't want it to go on and on and on ad infinitum with cross-examination. So we want to give some type of guidance to the amount of

time we will allow for cross, and that would be --

MS. PRUITT: That's for the Chair to set. I mean, I'm not sure what you would like.

CHAIRPERSON REID: Oh, I'm sorry. I thought that --

MS. PRUITT: There are no guidance.

CHAIRPERSON REID: -- we had some guidelines to adhere to.

MS. PRUITT: The guideline is for testimony.

MS. DOBBINS: Madam Chair, I can indicate to you that we will not use cross-examination to try to make our case. We will only use it to clarify issues that have been presented.

CHAIRPERSON REID: I appreciate that very much. All right. Then Ms. Dobbins?

MS. DOBBINS: Thank you.

CHAIRPERSON REID: And tell us how long do you anticipate it will take you?

MS. DOBBINS: I think we can probably accomplish this in 60 minutes. We'll try. That's assuming that there are not a lot of interruptions. I'm not sure whether the Board would choose to save questions for the end of the presentation or how you would like to proceed.

CHAIRPERSON REID: Well, it's hard. You know, sometimes the need to ask the question is just so overwhelming that they just want to jump right in there. So we'll try to as much as possible hold them, but if we need to, we will. Be mindful of the fact that we have read -- See all of this?

MS. DOBBINS: Yes.

CHAIRPERSON REID: We have read this voluminous amount of material. So we are aware of. Gee, I'm the only one up here who sat on the original one, aren't I? So the other Board members are reasonably aware of it. So, Ms. Dobbins, can you in your presentation just kind of, you know, hit on the highlights and just give us the summaries of what, in fact, you are here for today?

MS. DOBBINS: We will keep it as precise as we possibly can.

CHAIRPERSON REID: Appreciate that.

MS. DOBBINS: Good afternoon, Madam Chairperson and members of the Board. I'm Madeliene Dobbins with the law firm of Arter & Hadden, and seated to my right is Phil Feola of the law firm of Wilkes, Artis, Hedrick & Lane. Together we represent the applicant, KSI Services, Inc., in this matter before you today.

We would first like to thank the Board for the opportunity to be here for the second time to present our proposed development. We would also like to thank the community for its patience, guidance and commitment during this process.

We are here today seeking approval for the planned residential community containing a mid-rise garden apartment component and a single family detached home component.

The Homes at Woodmont development will be located on two parcels of land along Good Hope Road, S.E. These two parcels are separated by a portion of Fort Stanton Park. The apartment component is planned for the eastern parcel, and the single family component is planned for the western parcel.

Both housing types are permitted as matter of right uses on the property, and both components meet all of the requirements of the zoning for the site. The proposed development with 176 apartments and 35 detached homes is only about 25 percent of the density permitted for the site or the zone.

We seek no variances or deviations from the zoning regulations, only the two special exceptions required for this type of development. The two special exceptions involve the creation of a theoretical

subdivision governed by Section 2516 of the zoning regs and the site plan review for multi-family development in the R-5-A zones governed by Section 410.

As you know, in the residential zone districts, approval from the Board is required for theoretical lot subdivision, and in the R-5-A zone district Board approval is required for all multi-family developments.

Both forms of review are essentially site plan reviews. These review processes were designed to ensure high quality, responsible residential development in the District. They were designed to ensure the delivery of residential developments like the one we will present today.

We will demonstrate to you today that the proposal meets all of the standards of Section 2516 and Section 410 of the zoning regulations. We believe the proposed development achieves all of the goals of the comprehensive plan and the purposes and intent of the zoning regulations.

It will provide new, high quality, market rate housing east of the Anacostia River. It will encourage a number of residents to remain in the District because of improved housing options. It will encourage homeownership through the single family

detached component, and it will facilitate the development and redevelopment of residential and commercial projects in the surrounding area.

The development will enhance neighboring property by correcting erosion problems, eliminating an unsightly landfill area, and improving the streetscape along Good Hope Road, S.E. The applicant has spent many hours with the community presenting, listening, and refining this development.

Although we will demonstrate substantial community support, we have been unable to gain unanimous support for our development. However, we are committed to continue working with the community.

The future of the communities east of the river and their revitalization are dependent on private capital investment. This development is an enormous investment of private dollars in the community. It will provide quality housing, community input, and it will provide a catalyst for future residential and commercial development.

Testimony today will show that the applicant has gathered the evidence and necessary support to present a substantial and convincing case. We are hopeful that your decision will be made easier by the voluminous supportive documents in evidence that

you have already been provided with.

The written record in this case will be supplemented and highlighted by the testimony and exhibits that you will hear and see today.

Phil Feola will present our witnesses and their credentials. Phil.

MR. FEOLA: Thank you, Madam Chair. For the record, Phil Feola with Wilkes, Artis on behalf of the applicant. As Ms. Dobbins just said, again we would like to thank the Board for rehearing this case.

The witnesses, while there are a number of them who have stood up and been sworn in, most of them -- most of our technical people are here to answer questions and respond to questions, and the persons who we have proffered as expert witnesses before are the same persons -- in the previous hearing on this matter are the same persons, but for your reference they are listed in Tab M of the applicant's prehearing submission.

We would like the Board to consider a new expert in this matter, Rosalind Wheeler Styles, who has helped the applicant in developing community support, and her expertise in community development organization. With that, I'd like to submit her resume and see if the Board would recognize her as an expert

in this field.

If it pleases the Chair, we can start the presentation while it contemplates Ms. Styles' --

CHAIRPERSON REID: How many witnesses, Mr. Feola?

MR. FEOLA: Five.

COMMISSIONER MITTEN: Madam Chair, could Mr. Feola just repeat. What is the area of expertise that Ms. Styles is being offered as an expert in?

MR. FEOLA: Community development.

BOARD MEMBER RENSHAW: If I may ask, when did Ms. Styles join the corps, so to speak?

MR. FEOLA: I believe it was July of this year, and it was in direct response to the concerns the Board raised in the previous iteration of this case, that the applicant hadn't reached out and accommodated some of the concerns in the community.

BOARD MEMBER RENSHAW: All right. I would have appreciated -- I think BZA would have appreciated having her resume in advance, if she's been working with you since July.

MR. FEOLA: So noted.

CHAIRPERSON REID: That's a new procedure that we're going to be instilling, wherein prior to your actual case being heard, that the resumes of

expert witnesses be submitted. I think we're going to have that be 14 days ahead of time. Is that right, Ms. Pruitt?

MS. PRUITT: Fourteen days ahead of time is t he prehearing.

MR. FEOLA: And I apologize. It was an oversight on our part, because, as you know, the rest of them are in our --

CHAIRPERSON REID: Well, I don't think you knew. I don't think that you knew about the fact that we are trying to do that from now on. So go ahead.

MR. FEOLA: Thank you. I'd like to call our first witness, Mr. Richard Knapp of KSI Services, Inc., and with him and next to him is Gene Edgecombe of Viertex, and I'll just let them go on.

Mr. Knapp, state your name and address for the record, please.

MR. KNAPP: My name is Richard Knapp. The address is 2731 Woodley Place, N.W., Washington, D.C.

I am the Senior Vice President of KSI Services, Inc., the developer of this project. I'm joined by Sarah Davidson of my office, who is the project manager. I'm one of the principals of the project. I'm one of the owners and principals of our property management company as well.

I'd like to thank the development team for being here and being with us for about 18 months as we've gone through this marathon project. The architect is here, the geotechnical consultant, the wetlands people, the land planners. They have my deep appreciation.

I also want to thank the community very much for their perseverance and, as Madeliene said, their guidance and wisdom.

As Madam Chair knows, we did not fare well with the BZA about half a year ago. The BZA rejected our application, urging us to do more in the community in terms of building community consensus about what we wanted to do, as well as working more intensively with the National Park Service.

We hope we've been able to address those two concerns. I'm going to run through a brief presentation about KSI, the developer, our project and the kinds of things we've been doing in the last half-year to respond to the BZA's urgings.

KSI Services, Inc., is a Virginia based company that specializes in planned residential communities. These are well designed, planned communities that have a mixture of different housing types, including multi-family, single family,

commercial. They are noted for high quality, extensive amenities, a range of housing types, and intensive community participation.

We are known for a planned community called Cascades in eastern Loudoun County which we did about a decade ago. We are well known for Sully Station. These are done by Kettler and Scott, our wholly owned affiliate. Sully Station was a planned community we did in Centerville, Virginia.

The Homes at Woodmont, which we are showing here in this rendering, is what we are proposing in Southeast of Washington, D.C., and it's just another line of one of our planned communities, emphasizing a mix of housing types.

We have in the eastern parcel, as Madeliene referred to it as, 176 multi-family apartments, and in the western parcel 35 detached, single family homes that my development partner, Gene Edgecombe is going to be developing.

I want to show you some examples of our multi-family product. This is some multi-family we've done in eastern Loudoun County, a property which we took a lot of the citizens from Southeast to look at. Our impression was that this tour went very well.

An example of our interiors. We take that

very seriously in terms of space, layout, quality of finishes, color selections, overall finish quality. By the way, that's an elderly development that we've done in northern Virginia.

We do most -- About half of our work involves renovation of older buildings. This is Cambridge Commons which was at one time a highly deteriorated multi-family development which we resuscitated.

This is an example of it before renovation. It was vacant, riddled with crime, a lot of abandonment. That, I should say, is one of my sons who is thriving in D.C. Public Schools right now. I just wanted to put that in.

This is an example of the kitchens beforehand in his property, kitchens after. I'm showing you a lot of experience in renovation.

This is a well known property in Bethesda which was owned by Mrs. Casey, a very controversial landlord that let the property slip with a lot of code violations. We took it over and totally revitalized it, re-tenanted it.

We took the citizens of Anacostia to see this property. Again, our impression was that this was a useful property for them to see in order to get to

know us better.

This is a property called Loudoun House in Leesburg. It was a very distressed property, a 100 percent Section 8 property with a lot of crime, vandalism, drug activity, very infamous within the community.

We were able to totally revitalize it, re-tenant it, reclad the outside, put new landscaping in, put amenities in, and completely turn it around. It's now really just a model multi-family community, indistinguishable from any kind of market rate, first class community in the area.

I've been showing some bricks and sticks, but what we really specialize in is property management. That's how we define ourselves, we feel, by the services we provide our residents. This is the staff from one of our developments. We have a diverse property management staff, reflecting the diversity of our clientele that we serve.

Lessons learned over the last half-year as we've gone back into the community: We've heard from the community over and over again to provide a range of housing types to suit diverse community needs. People are living longer. The type of household is changing. There's not just a nuclear family. There's divorcees.

There's empty nesters. There's single parents with children. There's young starter couples.

Working with my partner, Gene Edgecombe, we've tried to come up with a residential concept that cuts across many different housing needs. Build a quality community. We're told that over and over again, especially by Chairperson King of the ANC. He kept emphasizing, go quality, quality, quality.

We were told don't just build buildings; build a community. Focus not just inside our property line but what's happening outside in the fabric of the community within the overall neighborhood that we'll be in.

Achieve historical and environmental compatibility. These were words that I really picked up from Mr. Gray and Mrs. Gray of the Frederick Douglas Civic Association. We're building in an infill situation with very sensitive existing neighborhood fabric, and we were told to be very conscious of the history of Anacostia, the historical building materials that have been used, to be sensitive to the environment, certainly with the National Park right there.

Keep the density low, we heard. We have a development which is 13 units to the acre. Madeliene

referenced our reduced density. The allowable density under the CON zoning is 50 to the acre, but we're bringing this development in at 13 units to the acre.

Community participation: Rosalind Styles, our community development expert who was being sworn in, will talk more extensively about all the community participation that we've been engaged in at the urging of the BZA. The developers entered into written and legal enforceable agreements, agreements in partnership with the ANC-6C, 8B and the Frederick Douglas Improvement Council.

We have letters of support from all those groups. We have these legally enforceable agreements with all of them, with the one exception of ANC-8B. We're just in the process of putting the finishing touches on a legally enforceable agreement which Rosalind Styles will talk to more.

Financial ability to proceed: One of the nice things about this development is, if we can get through this hearing, we are there. We can start. We have the ability to raise the equity through Sun America. It's an insurance company on the west coast, which is our long time partner, which has done about 35 major projects with us.

The debt will come from housing bonds. I'm

pleased to say that Sarah last night was able to get a unanimous endorsement from the D.C. Housing Finance Agency for an inducement resolution. So that part is moving very well.

We've used these sources to produce over 7,000 apartment homes in the region, using other bonding besides D.C., obviously. We've used VHGA, the Community Development Authority bonds and other terms of financing.

I want to touch on the product briefly. I'm going to be talking primarily about the apartments. My partner, Gene Edgecombe, will be talking about the single family homes, which he is developing.

KSI is going to develop and own and manage the multi-family. This is 176 apartments in six different garden style buildings with a major pool, with an extensive clubhouse area.

Quality apartment homes at Ron King's urging, gated community, pool, fitness center and clubhouse, an after school enrichment program. We believe in services, not just physical product. Computer training for our children, a children's play area, modern, efficient floor plans, washer/dryers and features such as fireplaces and vaulted ceilings and top floor units.

This is very important: Prewiring for cable, FAX and online services. We have a whole -- KSI has a whole technology division which is going to be wiring these apartments for the 21st Century. We're using RG-6 cable. We're using Category 5 wire. We're also using fiber optic cable which will be in the backbone of this development so that our customers will have full, high speed, broad band access to the Internet and whatever other services come along.

This is an example of some existing apartments in Anacostia. We know that there are people in this room, when they think of apartments, they think of this type of product which was built through Federal programs, which was built at great density, which was built with small units, which wasn't really built for a market. It was built per a Federal program.

It suffers from abandonment, often absentee management, absentee ownership, crime, drug and other issues. This is what we're contrasting it with. This is an example of a KSI product, a beautiful product.

I've been told to just speed it up a little, which I will certainly do. An example of one of our -- a product which I want to contrast it with. Our floorplans -- I can go through this quickly. I want to just show you our floorplans real quickly:

Vaulted ceilings, fireplace, separate dining room facility, large bedrooms as opposed to the 90 square foot minimum FHA bedrooms.

Apartments of the past: Program driven, very low, very low income, high density, small units, versus the kind of product that KSI is talking about, market driven, targeted toward middle and upper middle income, lower densities, larger units, abundant amenities and services, owner managed.

There's a strong market for quality rental housing. Marbury Plaza, Skyland, Park Naylor have comparable rents, are at full occupancy. Tight market -- there's no new supply of housing combined with removal of all their units.

There's people currently leaving Anacostia because they can't find suitable housing. Good Hope marketplace is an existing shopping center which is a key anchor.

I want to just point out the context a little bit. This is the two properties along Good Hope Road, which is a highly traveled transitway with bus service leading right into downtown, which is a ten to 15 minute ride away.

There's bus service connections to the Metro stop, which is right here. We think that

inevitably our customers are going to be able to get into the -- The product is going to do very well, because there's a tremendous amount of job growth happening in downtown D.C. which is really taking advantage of some of the national trends, increased employment in hospitality, entertainment, international trade, new media, high technology.

There's a whole burgeoning job growth happening right here within an easy Metro commute from our property.

Timetable is to start construction September of the Year 2000, which is not too far away. This is a project that can happen quickly. Everything is in place, subject to the entitlements. Initial delivery, June of 2001 for both the apartments and the homes.

I want to turn it over to Gene now who we like a lot, because he's a big proponent of smart growth with experience in neighborhood housing, in-town housing.

This map shows you the suburban commuting routes that are used by P.G. County to get into the city. The thick lines are Branch Avenue and Pennsylvania Avenue, which are highly congested. Within the next ten years there's going to be 1.2

million people that have to be accommodated in our metropolitan area. Not everybody can live in the suburbs.

Gene's goal, with me, is to get folks back downtown in nice neighborhoods on transit stops where they can get to an abundance of employment.

Gene, let me turn it over to you. I think I've gotten a hint I've exceeded my time limit.

MR. EDGECOMBE: Thank you, Madam Chair, members of the Board. My name is Gene Edgecombe. Along with my partner, IDS will be developing the single family homes. I've got a long history in this type of development.

Just in the way of background, since 1970 I've been a registered architect here in the District. For the last ten years I've been a full time developer, primarily residential development. Right now, not including Woodmont, I've got about 135 new single family homes under development, plus about another 30-some units of rehab multi-family for which we are the development mangers.

What we are proposing here for the Homes at Woodmont is a product that, quite frankly, we're very familiar with, because we're actually building them now.

This is an example. Dick mentioned smart growth and things related to that. This is one of our developments in northeast Washington called Woodridge Place. Actually, it's 37 -- very comparable, 37 new single family homes. We have been completely sold out. We'll have build-out in April or May of this year.

The same homes that we are doing at Woodridge we'll be doing at Woodmont, and this gives you some idea of the type of units that we're talking about. We have four product types that we'll be developing.

Standard will be the brick fronts, and they're standard on both the Woodridge and will be standard on the Woodmont homes. Our four products range in size for the finished space a little over 1700 to a little over 2200 square feet of finished space. Every home has a full basement, unfinished. Every home has a garage, and we offer a full array of options available to the home buyers.

Again, this sort of gives you the flavor. They have been very well received. We've had a lot of members of the southeast community come out and look at our products, and I think they were well received.

I show this, because I think we make a change in communities that we work in also. All of my

work is either in the cities or near in. This what you're looking at was the former Montana Terrace public housing complex, which is directly across the street.

We have come in as the development managers working with the Housing Authority, and we're actually converting these, a portion of them, to home ownership. The units you are looking at right now that were four-story walk-up apartments will now be stacked townhouse.

We've torn down about 50 percent of the buildings, de-densified. These homes will be for sale, market value of about $110,000, but they will sell for under $70,000. We have the same opportunity in this community where we are proposing the Homes at Woodmont, and I look forward to working with the community on some of those.

CHAIRPERSON REID: I'm sorry. Do we have under a tab his resume as well, because I didn't see it?

MR. FEOLA: Actually, Mr. Edgecombe's vitae is under a different tab as part of the development team. Let me see if I can get to it real quick. Yes, Tab C, Madam Chair. It's a brochure about his company and attached to it is his personal resume, I'm pretty sure. Yes.

CHAIRPERSON REID: Okay.

MR. FEOLA: May we proceed?

CHAIRPERSON REID: Please.

MR. FEOLA: Next witness is Joe Plumpe, landscape architect, who will describe a site plan and the layout of the respective components of the development. Mr. Plumpe, your name and address, please.

MR. PLUMPE: Thank you. Good afternoon. My name is Joseph Plumpe, Studio 39 Landscape Architecture, land planner, land architect for the project. My residence address is 9366 McCarthy-Litz Court, Burke, Virginia. The office is in Alexandria, Virginia.

The product itself is 15.8 acres along Good Hope Road, and essentially it's the middle of Good Hope Road's retail corridor. If you think about it, Good Hope Road retail right now is existing just across from the 11th Street Bridge. Traversing past the project is the Safeway marketplace.

Around the community itself, various types of housing, which you want to try and blend in with as much as possible. Scullen Apartments to the east, Marbury Plaza to the north, Fairlawn community to the north as well. Fort Stanton Park bisects the site in the middle.

The park itself, owned by the National Park Service, provides a unique opportunity for us to position our development within the existing tree lined parks that are there right now.

Right now, currently, the fabric of the area, residential fabric -- some of these shots are all on Fairlawn: Attached single family housing, family housing themselves showing brick, simple roof lines, similar to what will be done for the single family houses, as well as the apartment buildings.

The Skyland Apartments right next door east of the project itself, tree lined streets, brick. We are trying to complement that as well.

Across the street, across Good Hope Road is Altamont Condominiums, a rehab project: Again brick. We're trying to bring that quality material into our project. Good Hope Road is on the right.

Marbury Plaza: The highrise apartment buildings are across the street, across from the National Park Service and the single family development of the site plan.

Good Hope Road itself also lends itself to single family homes and single family attached, which will right across from the proposed single family portion of the development. Good Hope Road is right

here, and our site is on the right side.

Aerial view tells the big story here. Right now the multi-family parcel is basically a desolate, barren landfill that has been abused for many years, and it's eyesore into the community. Fortunately, in the park a beautiful natural site that we would like to help the Park Service clean up with improved trail systems and through culvert crossings in the trails, garbage removal, taking care of the erosion which the multi-family parcel now has in itself.

The way we're going to do that is by dynamic compaction, which is a detailed construction type of ability to compress the soil to make it more suitable to build, as well as soil removal that is debris ridden from the past Metro construction opportunities in the past.

Single family parcel is right across the street from Marbury Plaza and some of the Fairlawn single family houses themselves. Existing trees now, some will be preserved; some will have to be removed for development. There's also wetlands that will be enhanced on the project itself, as well as preserved.

One of the big issues with the National Park Service is what do you see from the Capitol, near the Capitol crossing the 11th Street Bridge. So we

went out there on a very windy and cold day across the 11th Street Bridge.

Marbury Plaza here does stick up, and our site here is in the red. A better shot shows it a little bit better, Marbury Plaza. Then our property will be right here. These trees here, incidentally, are on the edge of property and which will be preserved and, therefore, minimize if not maybe totally shield the apartments. The apartment buildings themselves are three and four-story units tall.

The site right at Altamont and Good Hope Road: Here is our desolate, barren landfill site. That will be taken down gradewise, of course, so we can enter the site. That will be taken down, buildings built on it, and with the various different types of construction techniques to make that happen.

This is what the site is right now. Park Service property to remain intact. Our site right now is the landfill.

The other direction looking back east along Good Hope Road, our site here, the National Park Service street which will stay intact. Currently, there is approximately a seven to an eight foot rise in the land right off of Good Hope Road, again taken down for grade access for the units themselves as well as

the preservation of the trees of the National Park Service so that we can have good views from the apartment buildings, but as well to shield to buildings from the 11th Street Bridge and down Good Hope Road.

Good Hope Road itself is tree lined. This is near the entrance into the single family parcel, Marbury Plaza here, and then the single family entrance being at this location. Those trees in this area would be preserved, because they are on the National Park Service property.

Off of 18th Street, which is the secondary entrance into the single family parcel, National Park Service on this area. Here would remain the houses themselves being in this area. So it's a nice tree lined entrance off of 18th Street, which is west of the project.

The zoning itself: Right now today we could build -- I think it's over 800 apartment units, but the conscientiousness of the developer and working with the neighborhood staff and the Park Service has led us to something that we think is successful, a multi-family housing parcel on the parcel that needs to be developed right now, and also it is very compatible with the adjacent Skyland Apartments.

The single family parcel, which is right

across the street from other single family units -- that will complement what's there right now today. Again, the west entrance off of 18th Street is here, and Good Hope Road in this fashion.

The site plan itself, as Dick mentioned: There is a multi-family housing component here and a single family here. We have -- Tree lined streets is what we will try and do throughout both parcels, as well as along Good Hope Road.

The multi-family parcel: Again, that barren, desolate area. We have to improve upon it with grading and opportunities to help minimize the impact of the National Park Service views from their trails with extensive walls that will be natural in look, natural materials used, as well as extensive vegetation, vegetation which is fast growing as well as large material installed to minimize the views from Fort Stanton Park. Numerous meetings with the National Park Service to get that ironed out.

The site plan again follows the contour of the land with the apartment buildings facing outward towards the Park area itself with two other buildings here, with an alternative of having an internal court for people to converse, what-not, in between the two buildings.

Conscious effort again. The previous site plan had buildings parallel to the property line. This shows just end units to the property lines themselves, which these four end units are three stories tall with the rest being four stories tall components of the buildings.

A poolhouse, poolmentaria, gatehouse area to control house into the project from Good Hope Road, but also there is a minor access from Wagner Street to the south.

The entry sketch: This is kind of an artistic impression of what could happen. Brick columns, stone columns, masonry type columns with fencing to welcome the people into the project itself. The gatehouse or the gate arm behind all the walls -- excuse me, behind the fencing and the landscaping, the clubhouse itself being a one-story component to blend in again with the different types of architecture in the neighborhood.

Cross-sections through the multi-family housing parcel tells it all. Severe elevation change for the Park property here to the multi-family. Extensive walls and landscaping, as I mentioned before, will be provided.

The apartment buildings are themselves

three-story components, four-story components, three stories on the ends that are on the perimeter of the property, and again using siding and brick. Once again -- I can't stress the point that we really want to fit in with the community with the building materials and the architectural styling.

The single family housing parcel has a private road which allows us to meander the road aesthetically through the property and provide aesthetically pleasing lot sitings, as shown on the drawing here. But we have a wetland area here which we would like to enhance and to make better and larger and also we'll get into that a little bit later.

There are also wetland preservation area here and tree preservation. These trees again will help shield the apartment piece to the east.

Types of housing: Just like as Gene mentioned, architectural in styling, brick siding, again to match in with the community.

Cross-sections through the single family parcel really tells the dialogue of working with the National Park Service, the National Park Service being here. Elevation changes have been modified on our site plan to minimize walls and to minimize tree disturbance within the tree drip lines as well as to provide the

streetscape feel that would provide all the houses on the one side of the street without any backyard disturbance onto the National Park Service property.

Again, this shows another section. These show the worst case scenarios with the topography difference between the road and the National Park Service. Our property, incidentally, is right here. So again, we're trying to minimize the impact on the National Park Service.

What's there: Right now today this is the way you go along Good Hope Road and walk down the hill a little bit. Just be a little careful. It's a little steep, but you go down there. This is that wetland area in the single family housing parcel.

The wetland grade itself doesn't function. It's an eyesore, but we plan to make that into a view amenity from the backyards of some of the units of the single family houses, the wetland area being here. The National Park Service and that streetscape that I mentioned before is in this area.

Then Good Hope Road is here, which we plan to have an interpretative plaque that would describe what a wetland really is and what does it do for the community. It's not an eyesore. It's actually a benefit for water quality and for aesthetic viewing.

Again, the entry sketch. We'll eventually, hopefully, make Homes at Woodmont a success in the neighborhood.

MR. FEOLA: Mr. Plumpe, for the benefit of the Board, I wonder if you could go through the accommodations that have been made for the Park Service in a little more specificity.

MR. PLUMPE: Okay. Let me go to the -- I want to go to the site plan. Single family-wise, you know, that's where most of the issues are with the Park Service themselves. Again, improving what our grades are up against the property line on the single family parcel; taking out debris into the National Park's property right now, doing improvements to the existing trail system.

The culverts have been cleaned and cleared, trash removal. On the multi-family housing parcel on the property line, which is in this area, shows us that right now the landfill has actually spilled onto the National Park Service property by several feet in height.

We want to take that, being very careful with backhoes, and with long boom type backhoe equipment to pick that off the property without disturbance to the existing trees themselves. There's

a lot of asphalt there, too, from previous landfill dumpage. It's to take that garbage out.

The other thing is to provide extensive planting along the property line of the apartment parcel here as well as those walls that I mentioned before, to retain the earth, but as well to minimize the views from the trail itself by using that large vegetation and natural looking stone or masonry type elements on the walls themselves.

Dick just mentioned to me, previously we eliminated two to three lots located generally in this location because of wetlands that we needed to preserve, basically from a Corps standpoint but also from aesthetic standpoint.

What's going to be interesting as one crosses the road here, it has a view corridor toward the National Park Service property, a nice aesthetic view either coming from Good Hope Road or going through the property to exit the property onto Good Hope Road.

Lastly, the houses themselves used to front along this property line. So we pulled them all on the other side of that, preserving that National Park Service feel, and actually take benefit of it from having a tree lined street that's mature trees now that one can drive under and go into the parcel.

MR. FEOLA: Madam Chair, for the record in the applicant's prehearing statement on pages 13 through 16 are the specific provisions that have been made to address the Park Service concerns, and I think the Park Service will address their own concerns in a few minutes. But at least that will point you in the direction where the applicant is going.

Our next witness is Mr. Osborne George. Mr. George, your name and address for the record, please.

MR. GEORGE: Good afternoon, Madam Chairperson and members of the Board. For the record, I'm Osborne George with address at 1738 Elton Road in Silver Spring, Maryland.

MR. FEOLA: Go ahead.

MR. GEORGE: Madam Chair, at the request of the applicant we undertook a study of the potential traffic impact and parking generation needs of the proposed community which has been described to you today.

We did so in conjunction with extensive discussions with the Department of Public Works, Office of Intermodal Planning. We used their standards and guidelines as well as current general engineering standards in assessing the impacts, as I mentioned.

We determined that the proposed use should not result in adverse traffic and parking conditions. The findings of our study are documented in Tab D, and in the interest of time I've been requested to endorse that document here today and to summarize its findings briefly.

The exhibit that is before you shows the location of the site. The roadway running roughly diagonally east-west is Good Hope Road. Based on discussions with the Department of Public Works, we analyzed four intersections between 25th Street to the east and 16th Street to the west of the subject property.

We determined that, based on existing conditions and going into the future, using a projected buildout of the site in two to three years, that the future conditions would continue to be acceptable. That is, the intersections considered would continue to operate at acceptable levels of service and, again, within the standards of DPW except for two intersections in the future.

That is the intersection of 25th Street and Good Hope Road to the east and the intersection of Good Hope Road with the Marbury Plaza entrance, which will be a bit to the west of the subject property.

I would point out that our study also showed that these conditions could be mitigated by minor changes in the signal phasing and signal timing of the intersection, which is a procedure which the Department of Public Works would typically accommodate as part of the implementation of a particular project.

MS. DOBBINS: Mr. George, before you go on, would you state when these conditions would be -- the times? You indicated that two intersections would not function or would need some change. Would you indicate at what times?

MR. GEORGE: Right. Those minor deficiencies or marginal deficiencies would occur during the morning peak hour only. During the afternoon peak hour, the situation would be acceptable.

I would point out, Madam Chair, that in projecting the future situation we use very conservative estimates. Looking at data provided by DPW for the period 1990 through 1996, the data showed considerable fluctuations in traffic volumes on a daily basis, but generally a decline in traffic volumes. However, in keeping with DPW's standards, we assumed a six percent growth per year. So we have pretty much simulated the worst case scenario as far as the future.

I would point out, though, and as Dick Knapp alluded to, that you couldn't look at the study area and its road network in complete isolation. This is part of a more sub-area and regional road network. Dick Knapp pointed out to the Pennsylvania corridor is a major commuter route. So is the Branch Avenue corridor running north/south just east of the study area.

These are major corridors, very often subject to incidents and accidents, and very often you do have significant diversion of traffic through more local oriented roadways such as Good Hope Road. In fact, I'll just say that we undertook a survey in the area of the site during the course of the study, and we determined that eight out of ten -- roughly eight out of ten of the vehicles using Good Hope Road during the morning were indeed vehicles with out-of-state -- that is out of the District of Columbia -- registration.

We think this is significant and, while it's outside of the scope of this study to address regional issues, we think that this is a factor that should be noted to the Board.

Madam Chairperson, one of the concerns raised by the citizens and which we were asked to

address was the issue of transit service. Good Hope Road is a major transit corridor connecting with bus service directly to downtown, as well to the Anacostia Metrorail station located to the west.

We had discussions with the transit planning specialist of the Washington Metropolitan Area Transit Authority, WMATA. They confirmed that there are five bus routes along here, providing service between five and 15 minute headways. That is the time spacing between buses during the morning peak hour and afternoon peak hour, and a little bit greater than that during the off-peak periods.

They confirmed that there are bus stops conveniently located that would serve the community, and it indeed is in keeping with WMATA's policy to enhance ridership. So they look forward to perhaps the growth of residential development and increasing the ridership on their system.

Another concern that was raised had to do with parking. The site will consist of 176 multi-family units. That is the eastern portion of the site. The applicant proposes to provide 184 parking spaces, off-street parking spaces.

The zoning ordinance requires one space per unit, which means that 176 spaces would be required.

So while we satisfy -- While the applicant satisfies the zoning regulations, we were also requested to survey developments, comparable developments within the immediate area to determine what is the empirical usage, what the empirical data shows as far as parking generation.

We surveyed two sites, one located immediately to the east, the Skyland Apartments, and the Park Naylor Apartments which is off Naylor Road just to the north.

I think this is very important. Those developments contain a bit over 200 units each, one 213, Skyland Apartments, and the Park Naylor Apartments, quite comparable in terms of quality to the proposed use, contains 231. The proposed development will in total consist of 216 units.

Just to summarize, we found that in the peak period of parking generation, which would generally be between midnight and 6:00 A.M., both sides generate an average of approximately .78. That is, 8/10 of a parking space utilized per apartment unit.

Next slide. So, based on average usage, we find that the parking that is provided for this development would be well in excess of what is needed. We went further and looked at census data for the sub-

area. We looked at a number of census tracts which are indicated here, and we specifically singled out rental units, since that was the concern as to whether the parking provided for the rental units would be adequate.

This show the numbers. Basically, it shows that for this area the average number of vehicles owned per rental unit is in the range of .65. So we think that this data supports -- If you have less than three/quarters of a car, if you accept that, much less than a single car per unit, then it strongly suggests and supports the applicant's proposal in terms of the parking supply.

That, in a nutshell, is the essence of the study, and I look forward to answering any questions you may have.

MR. FEOLA: Madam Chair, we have one more direct witness. We've got Ms. Styles who will describe the community outreach that the developer has undertaken since May.

CHAIRPERSON REID: We first need to accept her as an expert witness. Do Board members have any objection, after having looked at her resume, to accept her as an expert witness within the category of community relations?

All right. Was there any objection by any other party in this case to accepting Rosalind Styles as an expert witness? Okay, Ms. Styles. Just a moment, please. Yes, Ms. Jones? You need to come to the mike, please. You need to come up to the mike.

MS. JONES: What was your question?

CHAIRPERSON REID: Oh, I'm sorry. We are now -- We have taken up the issue of accepting Ms. Rosalind Styles as an expert witness in community relations, and we always ask other parties if they have any objection. The Board members have no objection.

MS. JONES: Yes -- Oh, you mean the Board members?

CHAIRPERSON REID: The Board members or parties in the case.

MS. JONES: My name is Thelma Jones. I'm the President of Fairlawn Citizens Association. Yes, I object to her testifying as an expert witness or a community liaison because, as someone stated, she was hired in July, and in July they had Ms. Sharon Robinson on board as a consultant.

I have a card from Ms. Rosalind Styles, like I have cards from everybody else. It does not state any dealings with what she is associated with. Then I notice in her -- on her profile that they passed

out that her Capital City is a number of Fairlawn Citizens Association.

No, Capital City is not, but Rosalind Styles joined the Fairlawn Citizens Association on January 13 at the ACC meeting. So with that, I don't see how she can testify, because even though she did go out through the community, write letters, send FAXes to people asking them to put them on their letterhead and FAX them back, and they did that with no questions asked.

Only two, three people, four people I spoke with, and I asked them did -- Some of them were FAX'ed back relating to the ANCs, and I have a letter from Butch Hopkins. When I called him, I said did Ronald King request this letter from you? He said, no, Rosalind Styles requested the letter. But I have a letter stating that.

Mrs. -- The lady from east of the river called and said she had requested a letter, and she said she told her no. A lot of these letters that they have in here, the people don't even live in close proximity to the site.

She even -- The lady that is the President of the Fort Stanton Civic Association called me and asked me -- told me that she was pressuring her to send

the letter back on her letterhead, but I have her copy where she FAX'ed back to her that she is not supporting this project.

So, no, I don't abide that she's -- Yes, she has gone out and filled up this document. I think I have a copy, and I got it paged. I've got the pages where I can -- She's gone to the church up on Alabama Avenue. Reverend Lipscomb don't sign no letter for anybody. She's gone up to --

CHAIRPERSON REID: Okay, Ms. Jones, here's the question on the floor. In order for us to accept her testimony as an expert witness, then she submitted a resume that basically reflected her background, her experience in that regard, in community relations.

That is what we have to look at. Now if, in fact, she has not been involved in community relations or outreach or doesn't have that background or experience as such, that's what you can question. But what you're saying in essence is that she has. She is doing just that, and from her resume she has been doing that type of work for several years.

So that's what we are looking at, not as to whether or not when she passed out her cards it had the title of community outreach and the fact that she came on whenever she came on doesn't matter. If she came on

yesterday, it doesn't matter.

What we're looking at is whether or not she can testify as a community outreach person or in regard -- an expert in community relations.

MS. JONES: Well, as far as I'm concerned and what I know from the community, she is not a stable person.

CHAIRPERSON REID: Thank you, Ms. Jones.

MS. JONES: She's not stable in the community. That's what I'm saying.

CHAIRPERSON REID: Thank you very much, Ms. Jones.

BOARD MEMBER RENSHAW: Madam Chair, I would just like to point out that it's very difficult to analyze a resume of a "expert witness" in the dark. I do feel that we have not been given adequate opportunity to go over the multi-pages which include all the background of Ms. Styles.

So I would suggest that we take her testimony and enter that into the record. We can all read it, but not to go forward with any testimony at this time.

MR. FEOLA: Madam Chair, the developer has no problem with Board Member Renshaw's position, and we can -- She can say what she has to say, and you can

take it for --

CHAIRPERSON REID: So are you saying that you want to take her testimony, and then we'll determine in our deliberations whether or not she would be accepted as an expert witness?

BOARD MEMBER RENSHAW: No. What I'm saying is that the Board can accept this written testimony, but we don't necessarily have to hear from Ms. Styles at this time.

CHAIRPERSON REID: Well, I for one --

BOARD MEMBER RENSHAW: I don't think it's necessary.

CHAIRPERSON REID: -- would like to hear from her, because quite a large portion of this case is community driven, and I'd like to also be able to question her as to her role in this second segment in that the applicant has proffered that they have done an extensive community outreach.

I think it's only fair to allow the person that they have proffered to us as the person who has done that to testify.

BOARD MEMBER RENSHAW: But in fairness to Ms. Styles, it's just the fact that this Board has not had adequate opportunity to scrutinize her biographical material so that we can format questions to her that

would be relevant to what is said in the testimony.

MR. FEOLA: We'll withdraw her -- I'm sorry.

BOARD MEMBER RENSHAW: In other words, you juggle one to the other. Go ahead.

MR. FEOLA: We will withdraw our request for her to be recognized as an expert. We would request that she be allowed to testify, and that should be 11 minutes, because we'd like three minutes in the remaining part of our time, because it is a very important part of our case.

CHAIRPERSON REID: All right. Is there any objection? All right. Proceed, Ms. Styles, please.

MS. STYLES: Thank you, Madam Chair. Good afternoon, Madam Chairperson and members of the Board. My name is Rosalind Wheeler Styles. I live at 2330 Good Hope Road, S.E., Apartment 807, Washington, D.C.

I would like to present testimony outlining KSI's efforts to outreach to the community in support of application number 16457.

I am a native Washingtonian, born and raised in the Anacostia section of Southeast Washington. I have extensive community based Federal, local and private industry experience. A copy of my resume has been filed with the Board.

If it is the pleasure of the Board at the end of this testimony that you need me to elaborate, I will be available to do so.

I currently manage Capital City Associates, Inc., a private community based consulting firm to coordinate the relationship between developers and local communities. Capital City's main goal is to ensure that local residents and businesses participate and benefit from the unprecedented amount of development proposed or currently underway in our neighborhoods east of the Anacostia River.

In July of 1999 I was hired by KSI in response to a recommendation by this Board of Zoning Adjustment that KSI undertake outreach to this community and gather support for the Homes at Woodmont.

After a comprehensive review of the development plan, I joined the KSI team as a development consultant to design and implement a strategy for maximizing community participation in the development process. The strategy consisted of conducting extensive outreach to the broader community and ensuring the participation of local residents and businesses in the proposed development of the Homes at Woodmont.

Since the last hearing, KSI has

participated in a variety of community generated activities to garner community support. KSI began by compiling and disseminating copies of the development plan to the community.

In addition to the overall design and description of amenities, the plan contained supporting data such as the market research, census data, environmental report, and traffic and engineering studies. The plans were made available for public review and comment through the Advisory Neighborhood Commissions and the local library.

KSI was invited and conducted presentations at over 60 public forums and community meetings. KSI participated in organized discussion meetings with community residents, civic associations, business groups, and other community organizations.

At the request of the community, KSI and the local ANCs arranged three property tours for residents to visit VDS single family homes in northeast Washington and KSI's multi-family homes in both Northern Virginia and Maryland. The tours allowed residents to view the housing types being proposed at the site.

KSI prepared and distributed comprehensive written responses to concerns elicited by community

members in community resident meetings. These concerns became the basis for establishing an advisory committee to manage KSI's long term partnership with the community.

KSI consulted the community leaders and stakeholders to determine their concerns and coordinate their participation in the development process. KSI met with elected officials to coordinate their support.

Council Member Sharon Ambrose in Ward 6 and Council Member Sandy Allen in Ward 8 laid the foundation for garnering local support within their respective ward. Those efforts led by Advisory Neighborhood Commissioner Ronald King in ANC-6C and Advisory Neighborhood Commissioner Hope Etiene in ANC-8B resulted in unconditional support by both Council members.

They were also instrumental in securing the support of Council Member Charlene Drew Jarvis, Chair of the Committee on Economic Development, and Council Members At Large Harold Brazil, David Catagne and Phil Mendelssohn.

ANC-6C, ANC-8B and the Frederick Douglass Community Improvement Council were instrumental in providing forums for residents and community

participation in the review and assessment of KSI's development plan. As a result of their efforts, each ANC passed a resolution in support of the proposed development.

The ANCs and the Frederick Douglass Community Improvement Council have agreed to sign an agreement with KSI to implement a strategy for the continued participation of the community during the construction and management of the development.

In addition to the support of the ANCs and the Frederick Douglass Community Improvement Council, KSI has received support from other resident organizations such as the Concerned Citizens of Anacostia and the Marbury Plaza Residents Association.

The residents of other associations have also expressed their individual support of the development, members of the Park Skyland Civic Association and the Altamont Manor Condominium Association.

KSI has also conducted extensive outreach to community organizations to ensure their ability to provide goods or services to the new families living in the Homes at Woodmont. Community organizations who endorse the development include the Anacostia Economic Development Corporation, Building Bridges Across the

River, Senior Citizens Counseling and Delivery Service, Parklands Community Center, Covenant House Washington, the United Planning Organization, and the Far Southeast Family Strengthening Collaborative and the D.C. Chartered Health Plan.

KSI met with other representatives of the community to coordinate their services to the 211 new families who will be moving into the neighborhood. The District of Columbia Board of Education has ensured KSI that local schools will be able to accommodate the additional students from the proposed development.

The Police Department has informed KSI that they have the resources necessary to ensure the safety of the additional families. The Washington Metropolitan Area Transit Authority, otherwise known as Metro, has committed that their public transportation system has the capacity to accommodate the additional families. The local churches, Allen Chapel AME Church and Our Lady of Perpetual Help Church, welcomes the new families.

The local business groups, the Ward 8 Business Council, Tony Thomas Associates, and the Washington Metropolitan Minority Contractors Association, endorse the development plan.

In addition, the Washington Minority

Contractors Association assisted KSI to develop its local and minority hiring plan, and will continue to work with KSI to provide opportunities for local and minority hiring.

KSI has worked with the community to establish long term goals and commitments. KSI wants to ensure that the proposed development provides significant and long term value added to the community.

To manage that process, the community has created a community advisory committee consisting of resident groups, ANC leaders, and the developer, to facilitate long term, ongoing communication and a partnership between the developer and the community residents.

The focus of the advisory committee will be: (1) community directed investment, portion of profits derived from this development into neighborhood based projects and activities; and (2) to implement a local hiring plan encompassing the construction trades and service trades.

KSI is committed to ensuring that the community and the developer are accountable to one another over the long term. How will KSI stand by its commitments?

KSI has entered into written and legally enforceable agreements of partnerships with ANC-6C and the Frederick Douglass Community Improvement Council. ANC-8B's agreement is pending.

Neighborhoods east of the Anacostia River have become the target of significant proposed development. These plans include the redevelopment of public housing, new home construction, apartment renovation, construction of commercial districts, shopping centers, subway stations, and extensive school renovation.

Historically, the comprehensive redevelopment of neighborhoods has created the displacement of current residents and squeezing out of local businesses in the development process. Economic revitalization of neighborhoods must encompass a partnership between the government, private sector, developers, and local businesses and residents.

The revitalization plans should ensure that local businesses are given an opportunity to participate in the proposed development and that residents are protected from displacement and outpricing by new home construction, and are able to secure employment in jobs created as a result of that development.

The Homes at Woodmont encompasses the partnership process. KSI and the community working together can successfully remove blight from the community, improve the quality of life for the residents, and serve as a catalyst to generate development of the surrounding community.

KSI's investment in this neighborhood will help to create a magnet for other potential development and assist the residents to achieve our goal of enhancing the lives of communities east of the Anacostia River.

I thank you for the opportunity to appear before you today.

MR. FEOLA: Madam Chair, that ends our direct presentation. I just would like the Board to be aware that we have a number of experts with us today to answer questions: James Eckert with Engineering Consulting Services who did the geotech report which is part of Tab F of our prehearing submission; Ernie Anderson and D.M. Lucie of Greenhorne & O'Mara which did the wetlands studies for this property, which is also part of that same tab; John Lutestanski and Kyle Oliver, the civil engineers for the project; and Michael Lemay of Lemay Arts and Architects who did the architecture for the project.

So they are all here and available for questions from the Board on the technical issues, and all the slides you saw -- we have boards that we can point to and put the lights up.

CHAIRPERSON REID: I'd like to have the person who is here who has the -- just to give us a summary of the geotechnical report, and also the one that has done an environmental -- Mr. Eckert?

MR. FEOLA: Jim Eckert.

CHAIRPERSON REID: Yes, to summarize for us the results of your analyses for the record. We have it. You have an environmental specialist as well.

MR. FEOLA: That's correct.

CHAIRPERSON REID: And the environmental specialist. Just in a few words, give us the essence of your analysis, sir.

MR. ECKERT: My name is James Eckert. My address is 11446 Dale Spring Drive, Oakton, Virginia. I'm Senior Vice President of Engineering Consulting Services. We are the geotechnical engineers for the project.

By and large, when we did the first study of the site, we found that the site has been covered in large part by up to 40 feet of a construction debris fill which was placed there from some Metro site in the

area.

Underneath that, there is the typical soils of the area, which include some low to moderate plasticity clays, sands and gravels. Because we were unable to reach the critical alignment where the retaining walls will go, we went back and redrilled the site recently and cut a bench along that hillside and drilled that area as well.

In essence, because of the depth of existing fill which is variable across the site, we recommended that the site be improved by the use of dynamic compaction. This is a means of using a weight to densify the soils in place without having to cut them out and put them back in again.

Once that is finished, the hillside will be reconstructed with the retaining walls that were shown in Joe Plumpe's cross-section, and they will be -- the hillside will be reinforced with drilled piers. Once that's finished, the site will go forward much like any other site with compacted fill to bring it to design grade and the construction of the buildings on shallow foundations at normal bearing capacities.

CHAIRPERSON REID: All right. Thank you. The environmental specialist? Come back. I'm sorry. I just wanted a statement. Do you have a question?

VICE CHAIRPERSON SOCKWELL: Yes, since we are there. Mr. Eckert, as you spoke about the existing conditions of the site environment, you said that there was up to 40 feet of fill, most of that from Metro construction. I assume that most of that was clay and sandy soil base.

MR. ECKERT: Most of it was sandy and silty. Very little clay is in it, and mixed in there was some construction debris, both dimension stones, some concrete, some asphalt, all material that will respond to a dynamic compaction. The extent of clay was not detrimental to the use of dynamic compaction.

VICE CHAIRPERSON SOCKWELL: One of the issues about fill sites is that, as one removes the overburden and/or compacts what's there, one may be dealing with something that's unlike a natural occurring base. Therefore, the stability of said compacted area could vary considerably, depending upon to what extent what's there that isn't good is taken out and replaced with something else and to what extent that which it bears upon is actually truly compactable and capable of maintaining a certain amount of water.

If the soil tends to be expansive and runs dry and then wet, you're going to have movement in basements and foundations of the new construction.

That's one of the things we find with suburban construction sites that have been subjected to compacted fill, dynamically compacted fill, where the water table has been destabilized, and sometime after the product has been put in place, i.e., the building, you start getting differential settlement among portions of the building and its foundations, cracks and separations and all sorts of things like that.

From your experience with geotechnical analysis, do you see any specific areas, especially those areas where we are going to have hillside stabilized by retaining walls -- have you seen anything that would give you rise to believe that more needs to be done to provide a stable base for that hillside edge community?

MR. ECKERT: Let me expand a little bit on what the dynamic compaction would consist of, I think, to address that issue.

First off, with dynamic compaction there's a heavy decompaction and then there's the ironing pass, so called, on the surface. In this case, there will be an addition, the placement of compacted fill as we bring it up to grade. So the buildings themselves will be sitting well above that existing material in the reworked material.

Secondly, the extent of the clays in the water, insofar as water table, because you are on a hillside, you have less of an issue. You actually had on that site prior to the placement of fill two ravines and two lobes of -- or three lobes of headland that went across the site. That's where the variableness of the fill results from.

In the slope itself where the retaining walls go, we have proposed, and they will be a part of the design, is drill pier earth retention of the slope. So the retaining wall is truly retained globally by the drill piers and not by the retaining walls per se. They retain only the upper portion of it.

From our experience, and we've done many of these, including in old landfills and the one in Fairfax County near Manchester Lake that you may be aware of, it is a good site for dynamic compaction and will work well. The debris that's there will -- Obviously, concrete debris won't densify, but it will be -- the material around it will be placed into a denser state by the dynamic compaction.

VICE CHAIRPERSON SOCKWELL: Are you going to be using something like RC-30 or any of those types of materials as part of the compacted fill or is it all going to be --

MR. ECKERT: Be putting a drainage material in?

VICE CHAIRPERSON SOCKWELL: Yes.

MR. ECKERT: No, that will not be required in this case. There's enough drainage coming out of it. That will change, but there is no need to put in like with drains, I guess, is what you have reference to.

VICE CHAIRPERSON SOCKWELL: All right, thank you.

BOARD MEMBER RENSHAW: Madam Chair, a question for Mr. Eckert. When you start to tamper with landfill, what, if anything, is going to be released into the air or the water as a result of your moving this landfill or compacting this landfill?

MR. ECKERT: We did not do the environmental, but I guess in reference to your question, as far as the geotechnical aspects there would be nothing other than -- Materials that are there that we've found are all benign materials. They are stone, wood, concrete, asphalt, things which are on the ground surface regularly.

To my knowledge, the environmental found no other materials that you would be concerned with.

BOARD MEMBER RENSHAW: All right. Thank

you. Who is the environmental expert here?

MR. FEOLA: We have two different entities, one that did the wetland studies on the wetlands report, and then the civil engineer which is dealing with soil erosion and storm water and the like.

The environmental assessment that's referenced by Mr. Eckert's testimony was done by a consultant who is not here, the Phase I environmental assessment. It is part of Tab F, part of the prehearing submission, which goes to the quality of what's in that materials.

BOARD MEMBER RENSHAW: Did your material, your environmental material, have to be reviewed by D.C.'s Environmental Regulation Administration within the Department of Health?

MR. FEOLA: It will have to be.

BOARD MEMBER RENSHAW: But it has not?

MR. FEOLA: No. The regulations are -- The review is done upon application for permits. But, yes, it will have to be.

CHAIRPERSON REID: All right. So the person in the Phase I is not here.

MR. FEOLA: No, ma'am. Our wetlands --

CHAIRPERSON REID: The wetlands and civil engineer? Okay, then we will hear just briefly from

him.

MR. FEOLA: The wetlands?

CHAIRPERSON REID: Please.

MR. FEOLA: Briefly state your name and address and summarize.

MR. ANDERSON: Good afternoon, Madam Chairperson and members of the Board, ladies and gentlemen. My name is Ernest Anderson. I'm with Greenhorne & O'Mara as a technical consultant in the area of wetlands. I live at 13223 Poet Court, Fairfax, Virginia.

Briefly, Greenhorne & O'Mara conducted a detailed wetland investigation, as required by the Corps of Engineers. In that investigation we found approximately an acre and a half of jurisdictional area, wetlands under Federal regulation.

Subsequently, the Corps of Engineers reviewed our work in the field and formally approved that as a delineation of wetlands on the property. Subsequent to that and subsequent to the previous hearing, in concert with the engineers and architects and in concern to the National Park Service issues, the geometry was changed, and wetland impacts on the project were reduced from .39 to approximately 2/10 of an acre.

Also, we met with Jim Collier's staff and discussed the requirements and the approach to mitigation for the wetland impacts, and received agreement that our approach was appropriate, significant and adequate.

CHAIRPERSON REID: Thank you. Okay.

BOARD MEMBER RENSHAW: Question. How far back from the wetlands is the construction going to be? In other words, how much room are you giving?

MR. ANDERSON: It might help, if you don't mind, to put up the map. The large area right there is -- Approximately an acre of that is wetlands. What we are proposing to do is to delay the rate at which water runs through that system, to increase the wetland acreage there, and this is the very strategy we discussed with Jim Collier's staff.

In that area there will be a distance of approximately 40 or 50 feet from any fill to the edge of those wetlands. There is a wetland impact there where the road crosses the wetland complex. That will be fill. So the facts are that there would be an earthen fill and a culvert pipe in the wetlands there, and that's a 2/10 acre impact, which I discussed.

In the wetlands above there towards the National Park, again it's 20 or 30 feet or more from

the edge of the jurisdictional wetlands to any kind of fill material.

BOARD MEMBER RENSHAW: Only 20 to 30 feet?

MR. ANDERSON: Yes, ma'am.

BOARD MEMBER RENSHAW: That's not very much.

MR. ANDERSON: Ma'am, that wetland there is about two feet wide, and so it may be -- The closest encroachment will be 20 feet. It will be much greater than that in some cases, but it's merely a riverine system bank to bank. It's not vegetative wetlands in that area.

CHAIRPERSON REID: And you met with the representatives for the National Park Service to discuss the reconciliation of the wetlands with the proposed site, and was it based upon that that they decided to eliminate the two houses?

MR. ANDERSON: Ma'am, that was also in relationship to screening and the preservation of vegetation in that area. The wetland issues were really a minor issue compared to the visual issue of the vegetation in that area.

Again, you know, the wetland in that area is only a couple of feet wide. In a field trip, a detailed field trip with the National Park Service

representative, we did view the wetlands on the -- the adjacent wetlands, the seeps, as they call them, on adjacent areas, and found that there was no surface connection and, of course, the Park Service will have to speak for itself.

CHAIRPERSON REID: Okay. We'll have them come up.

VICE CHAIRPERSON SOCKWELL: If I might, it's my understanding that the perimeter revitalization of park area was part of the charge of the developer in achieving a reasonable degree of nondisturbance with the proximity of the development. Again, you were involved with that?

MR. ANDERSON: Yes, sir, I was, including the details of removing the material that has crept onto the National Park Service ground and to stabilize that so that that not only is corrected but it's prevented in the future.

BOARD MEMBER RENSHAW: Is there going to be any fence around this wetlands area to protect it?

MR. ANDERSON: Yes, ma'am.

BOARD MEMBER RENSHAW: There will be? How high is the fence going to be?

MR. ANDERSON: I learn it's four feet.

BOARD MEMBER RENSHAW: Four feet? Thank

you.

CHAIRPERSON REID: Okay. I have questions for Ms. Rosalind Styles.

MR. FEOLA: Just for the record, I'd like Mr. Anderson to tell us who Jim Collier is that he referenced.

MR. ANDERSON: Mr. Collier is the head of the Environmental Health Administration who is charged with the District of Columbia's regulations related to wetlands and water quality related to the wetlands.

CHAIRPERSON REID: Thank you. I wanted to say that I think that it is very laudable that the applicant has now done a considerable amount of outreach to the community. As a result of that, many of the entities that had at first opposed this application have now come on board in support of, in addition to many of the Council members who we have now gotten letters from, some of which have had previously been in opposition to.

So there has been evidence that there has been a tremendous outreach, and I think that it is highly commendable that you've been able to obtain agreements from the developer wherein he will -- they will be instrumental in making -- building a community rather than just a project, and reaching out to the

various community entities to help to bolster up the strength and stability of that community.

That's very important. However, there's still two entities that are in opposition, and they were before, and they still are. These were the most vehement oppositions that we had, particularly Fairlawn and then later we had another one from Skyland, Skyland Civic Association, I think it was.

You're shaking your head, but I have a letter in here from another. Let's first go to -- While I'm looking for it, let's first go to Fairlawn. Have you had any meetings with them or have you been able in any way come to any kind of compromises or any mediation?

MS. STYLES: Well, the first thing I'd like to address is that I was real concerned when Ms. Jones said that I had misrepresented myself in terms of who I -- the things that I do.

I have three sets of business cards, and it all depends on the audience as to which one I use. I am an owner of a training organization. So if I am meeting with a client regarding training, that's the card I give.

When I met Ms. Jones, I was at the time as a representative of Capital City Associates, and I gave

her a card in that respect. The card that she has I gave to a friend who lived in the -- We live in an apartment building together, and I gave it to her as a personal card, not as a business card.

So in saying that, yes, we have talked. Yes, I have met with the Fairlawn Civic Association. The first meeting was held during the summer in July. I had just -- I was trying to make a decision at the time whether to join the team, and I went to the meeting that they were having with the residents in one of the local establishments, and there were a lot of concerns from the residents about the project.

So I then asked and was granted, you know, a meeting with Ms. Jones, because I wanted to understand as a resident of the community for myself and in talking to her as the leader of that organization what are the real issues, what are the real concerns, what are the problems, and how could I help to intervene on behalf of the residents and the community to resolve those problems.

The problems and the concerns that she had affected me also. So I wanted to be sure that, if there was a way that we could work together to compromise in terms of the concerns, and the major concern that was expressed at that meeting -- and then

she did subsequently come to the ANC meeting, and I'll have -- Commissioner King will have to be able to respond to that -- was the lack of information or misinformation.

It was my charge to make sure that the information about the development in print was prepared and given to her, as well as any studies around the project, that it was the documentation in writing was prepared and given; because a person can say one thing, but if you have documentation, then that's the kinds of things that the community wanted.

Those things were specifically made available and presented to her. The other -- The subsequent meetings and outreach -- the organization has not been interested in communicating further, and those efforts have been -- tried to have been coordinated through the ANC.

I try to serve as a facilitator for the ANCs and the resident associations as not directly for the developer. I try to be the listening ear and the facilitator when the community wanted to have meetings. So a lot of the activities and the outreach was done through the ANC-6C, and again Commissioner King can respond to that.

If there are any other -- Are there any

other things from the team?

CHAIRPERSON REID: All right. Now we are not going to allow -- and you know this -- speaking from the audience now. Let's establish the rules that you already know and proper conduct in a hearing of this nature.

Now if, in fact, I have to stop again, then I can assure you that those persons who are the guilty persons continuing to cause some disruption will have to asked to leave.

MS. STYLES: To clarify it again, Madam Chair, the answer is yes. The second thing was that Ms. Jones also participated in the tour of the property. So there has been outreach to that particular organization.

In reference to the Skyland -- Park Skyland Civic Association, yes, you have received --

CHAIRPERSON REID: Wait, wait, wait. First with Fairlawn, did you meet? You all met? On one hand, you said that --

MS. STYLES: I met with the President. Yes, I did.

CHAIRPERSON REID: Not the organization? And now you're a member of the organization. Correct?

MS. STYLES: Yes, I am a member of the

organization.

CHAIRPERSON REID: Okay. So.

MS. STYLES: On the occasion that when I asked her -- and I did outreach to her in writing, and I do have copies of that, requesting a meeting and support, that was not responded to.

CHAIRPERSON REID: Okay. They gave you their concerns and their issues, and you responded to them, gave them what they asked for?

MS. STYLES: KSI -- before I joined the team, they responded in writing, yes.

CHAIRPERSON REID: Were they satisfied with what you gave them?

MS. STYLES: They did not respond to me in terms of any additional concerns.

CHAIRPERSON REID: So you don't know?

MS. STYLES: Those responses were given to the ANC Commissioner.

CHAIRPERSON REID: But you don't know if that was satisfactory to them?

MS. STYLES: I cannot answer that, no.

CHAIRPERSON REID: All right. Now let's go now to the Park Skyland Civic Association. That was the other letter that we received.

MS. STYLES: Yes. The Park Skyland Civic

Association convened a meeting, and they convened a meeting specifically for KSI to do a presentation. At that meeting there were concerns raised by the members, and they asked that we respond to those questions in writing, which we did, and we submitted the responses to the Civic Association.

As a follow-up we requested a letter of support in writing, and we were not responded to. We again -- The ANC-8B and Park Skyland requested a tour to be conducted for their constituents. That tour was held, and their constituents were able to participate in the tour.

After the tour was held, we asked them to reconvene at their next meeting and make a decision in regards to support. They did not convene the meeting, and we asked to be invited to a follow-up meeting which was held in January.

At that meeting, the Chairman had already submitted a letter in opposition, and we asked him again in writing about his concerns. He stated new concerns which we responded to in writing. All of that documentation is available for submission.

He requested twice, and Mr. Taylor decided that he as an individual would oppose the development. His membership do not -- were not supporting his

decision, and so he submitted his letter as his own independent position and not the position of the organization.

CHAIRPERSON REID: So in other words, you -- - in dealing with -- You had two entities -- three entities, Parkland, and then you had the Park Skyland Civic Association and Mr. Taylor.

MS. STYLES: Yes. Well, Mr. Taylor is the Park Skyland, yes.

CHAIRPERSON REID: I understand that. Mr. Taylor's position was not the same as the association's?

MS. STYLES: It was not -- It was never taken to a vote, because he never called for a vote on a decision by the organization.

CHAIRPERSON REID: Okay, because the letter that he proffers to us was from -- as the President of the Civic Association.

MS. STYLES: Exactly, and that is -- We -- I mean, we take issue with that, because we were there, but he stated emphatically that that was his own personal decision, his own personal opinion.

CHAIRPERSON REID: We don't have a position from the Park Skyland Civic Association with a vote taken and a quorum present.

MS. STYLES: Because on the third page of his letter, the very opening statement on the back page, it states, "As President of our Association, I can only express my personal opinion on this matter." He made it very clear that this was his personal opinion.

CHAIRPERSON REID: Well, it's a contradiction. He starts out as President.

MS. STYLES: Exactly, and that's exactly what --

CHAIRPERSON REID: As the President of the Association, I can only express my personal opinion. Well, I mean, how do you read that? I mean, anybody, even though they may have an office of authority, they still will always have a personal opinion. So I guess we just have to take this as we see it and accept it as his personal position, since we don't have one from the Park Skyland Civic Association per se.

Nonetheless, what I need to understand is that there was an effort made to try to determine what, in fact, the issues and concerns were and to try to address them as best you could.

MS. STYLES: And I do have those copies, if you need it.

CHAIRPERSON REID: Okay.

MS. STYLES: I mean, I have them with me today.

CHAIRPERSON REID: Once you gave them responses to what you had determined were the main issues, then you didn't get a follow-up response on that?

MS. STYLES: No, we have not.

CHAIRPERSON REID: Nor did you -- Are you aware of any reversal in their position predicated upon what you had done in trying to reach some compromises with them?

MS. STYLES: No, I'm not aware of that. The only thing I -- As I said earlier is his personal decision, and he had not -- They had not convened a vote, you know, in terms of the membership.

CHAIRPERSON REID: Thank you. All right. Are there any further questions for Ms. Styles or anyone else? Ms. Renshaw?

BOARD MEMBER RENSHAW: Yes. On January 6 and January 7 Ms. Thelma Jones of the Fairlawn Citizens Association, Inc. -- she is the President -- wrote to the BZA expressing her opposition to this application.

Now had Ms. Jones -- Had you communicated with Ms. Jones concerning the issues that she advanced

to the BZA prior to January 6? In other words, I'd like to know if you wrote on any of the subjects that Ms. Jones brought up in her letter, because --

MS. STYLES: I'm not aware of that letter. I'm sorry, I would need to see it. I don't know what letter you are referencing.

BOARD MEMBER RENSHAW: January 6, 2000. It's in the file. Because these are hard issues that Ms. Jones has brought up on behalf of her citizens association, and they require, I would imagine, some technical background to answer the questions. So I would assume that you as the community outreach person had brought to bear the proper people to answer this type of letter in advance of her advancing a letter to us.

MS. STYLES: I'm sorry.

MR. FEOLA: I'm sorry. Ms. Renshaw, is it the date stamped in you are referencing or the date of the letter?

BOARD MEMBER RENSHAW: The date of the letter is January 6, and it's stamped January 7 on Fairlawn Citizen Association letterhead.

CHAIRPERSON REID: Let's just paraphrase it quickly so that --

MS. STYLES: I've never seen the

communication.

CHAIRPERSON REID: Basically, you probably are aware of them, because the issues that are being raised have been raised before: Adverse impact or substantial detriment to the community, which is a part of the special exception criteria, the test for approval, that there not be substantial detriment; and in this instance, she has raised issues like gridlock, traffic gridlock, parking problems, overcrowding in schools, overcrowding in the shopping centers, and increased soil erosion.

Those are the main issues that she had put on the table, and those are the ones that you are saying that you had addressed?

MS. STYLES: We do have the responses to those questions, and I think that has been submitted as a part of the package. The questions that were raised by the -- specifically by her and the community.

CHAIRPERSON REID: Well, I think that some of the issues -- The traffic and the parking Mr. Osborne --

MS. STYLES: Mr. George.

CHAIRPERSON REID: Mr. George, sorry, had addressed those problems. The overcrowding aspect of it, I don't know how you could best answer that, but

the soil erosion is something that would be addressed by the civil engineer in regard to, I suppose, soil borings on the site, and I think that we were given information from the geotechnical witness that those problems -- those issues had been addressed.

So I think that -- I'm satisfied there has some dialogue and discussion about those things. Adequately? I don't know yet, but at least there was the commencement of some type of discussion.

MS. STYLES: Madam Chair, if I may, again I just want to reiterate that the questions, when they were first precipitated, were responded to in writing, and that listing that we submitted in the hearing application specifically asked those questions, and each answer has been provided in writing, and those issues -- those responses were provided to the Fairlawn Civic Association. The answer to that question is yes.

CHAIRPERSON REID: Okay. Thank you. I have one other question. Go ahead.

MR. FEOLA: Madam Chair, for the record the prehearing submission which we made to the Board on January 5 was given, as Ms. Jones did allude to, to her, and in that has a detailed analysis of environmental, storm water conditions, erosion control, and --

CHAIRPERSON REID: Parking?

MR. FEOLA: Mr. George's entire parking and transportation report is part of that. This is as detailed prehearing submission as I've been associated with in 20 years of doing this, and she may not like the conclusions or take issue with some of the findings, but the information was provided to her.

CHAIRPERSON REID: Okay. Now the other question -- I don't know who could best answer this. That is: What are the proposed sale prices of the houses, the price range of the houses that are going to be constructed, as well as the rental, ranges of the rental?

MR. EDGECOMBE: Madam Chair, I can speak to the sales prices of the houses. Right now, even though we still have a little bit more marketing analysis to do, we are proposing to sell our lowest priced model starting at in the neighborhood of $170,000, and for the largest product that we have it will be in the low 190's.

Those same homes right now in northeast are selling from 175 to 225,000.

CHAIRPERSON REID: And rentals?

MR. FEOLA: Let the record show, Madam Chair, that was Mr. Gene Edgecombe speaking.

MR. KNAPP: The rentals, Madam Chair, we will have two bedrooms starting at 775 and three bedrooms starting at $900 per month.

MS. DOBBINS: Let the record reflect that that was Mr. Richard Knapp speaking.

CHAIRPERSON REID: Okay. Now here's what I don't understand. I've been a real estate broker here in this city for 20 years, and I have a difficult time understanding how, given the current comparables in that particular area of Anacostia as far as the prices of houses are concerned -- I don't know any houses that are selling in that price range.

So I need someone to explain to me, based upon your feasibility study or your market analysis, how are you justifying a price between 170 and 190 there?

MR. EDGECOMBE: I think your question is an excellent question. One of the positive parts about -- which is why we're so interested in the development of this area. That area is rapidly becoming a mixed income area.

Interestingly enough, because we have sold out all of our houses in northeast, we still have a lot of traffic coming in expressing an interest for our southeast site. We have indicated what our pricing

would be. We have had no problem at all.

We have another development that's under construction right now 15-20 minutes from that site just across the District line in Prince George's County, across from Dodge Plaza on 202. We're selling the same product for the same price.

The day we had the opening of our model homes, we signed contracts for 12 units for sale the first day. We have done -- For about a three-mile radius around our Prince George's site, which would overlap into our Good Hope Road site, we did a market study, the Zimmerman Group out of Princeton, New Jersey, and they have confirmed.

As a matter of fact, given the median income levels for the area, they felt our numbers were conservative, and our sales in both the northeast and there in Prince George's County has confirmed such.

CHAIRPERSON REID: So let me see this. I have a couple more questions. Although in your submission to us you many times mentioned that you were offering many amenities within the scope of your project, but in the community itself now the types of support structures that you would need such as the shopping, schools, safety -- I have a very difficult time understanding how at this time -- I'm not saying

that sometime in the future, but at this time how that site on Good Hope Road can support a project, high end project, of this magnitude, given the fact that -- Maybe, you know, someone else may be able to tell me, but I'm a native Washingtonian.

I don't know of too much shopping that's available around there. I don't know of -- I know the school system, being a former teacher. I know the school system, and I don't know if the school reports would -- this is something that parents want to know, the test scores of the schools would be conducive to the type of people who would be interested in purchasing there, as well as the crime reports.

Once the crime reports are obtained and one made an analysis of a decision to buy there as opposed to buying somewhere else, paying the same amount of money somewhere else where you did have ample shopping and you did have the kind of schools that you want to send your children to, and also you didn't have the kind of crime problems that you have in that area -- That's why I have some hesitance about this development at this time there, because I don't know, quite frankly, anyone of my clients that I could bring over there right now and have them to purchase a property, just to be able to convince them to purchase a property

at that site at this time for between $170-$190,000.

MR. EDGECOMBE; Madam Chair, again your hesitancy, your question is a good one. Some years ago I had the same hesitancy when we were looking to develop our Woodridge site. Directly across the street -- and I mean directly across the street -- from where we just recently sold our highest price model, $225,000 for the base price, was what I can only describe as a war zone.

I'll call it the former Montana Terrace development.

CHAIRPERSON REID: Sure. We know where that is.

MR. EDGECOMBE: We sold out our 37 home development before the rehab/redoing of Montana Terrace started, even though we did indicate that we would be redoing it.

We also had the disadvantage -- Unlike Good Hope Road that has a tremendous volume of WMATA bus service, we have bus service but not nearly the frequency that you have on Good Hope Road. We don't have major shopping centers nearby.

I guess what I'm trying to say is that I've gotten to understand more the urban market. Folks who tend to buy in the urban market buy so for a reason.

They opt not to go out into the suburbs.

Let me give you another example. We're doing 40 new single family homes that I mentioned within shooting distance of the District line on 202 in Prince George's County across from Dodge Plaza. That site, very much like the Montana Terrace site, had a horrible reputation.

As a matter of fact, the site was closed down. It had former garden apartments, and there was so much problem with drugs and other things, the site was closed down. Over a period of time we negotiated with the county to redevelop the site.

Interesting enough, because of my experience in northeast, I had a lot less hesitancy. That's the site that I just mentioned. On opening day when we opened our model, our two model homes, we signed up 12 people for contracts.

It's a little different market. These are folks who, for the most part, have opted to stay in the urban area, who recognize that your large super Giants and other super stores may not be around the corner, but because of other conveniences, convenience to the workplace, not having to be involved in an hour's worth of commute, they are prepared to buy such.

I think the final part is that folks also

tend to look at the community that you are creating. If you had come to visit our site in northeast three or four years ago, I think a lot of people would have had reservations, but I'd like for you to come out and see that site today. I don't mean just our single family homes, but I mean the whole community is thriving now. I mean, it's moving forward.

I think it's a different market from the suburban market. Folks do make their option. But here's my final point. When you look at quality homes in the District, comparable homes, this is still the best bargain going.

You know, Southeast -- this is a gorgeous site. The views, the parkland, proximity to major arterials -- If you work on Capitol Hill, you're 15 minutes from the office -- a lot of amenities.

No, we don't have yet the super shopping areas that you have, but who knows. The Gateway down at Martin Luther King and Good Hope Road one day will be a thriving retail gateway, I'm sure.

CHAIRPERSON REID: But don't you usually have these things before you -- Don't you have the support system in place prior to establishing a project, and from what you're saying to me is that the project, for the most part, I guess, is highly

speculative.

MR. EDGECOMBE: Not at all, ma'am.

CHAIRPERSON REID: You just don't know, because you're relying on the P.G. County project and the one over in northeast as a benchmark for whether or not this project will go well there. Again, my question to you was how do I convince a homeowner to allow me to sell them one of the houses that you're going to build over there for $190,000 on Good Hope Road?

Also, I want to clarify that I think that southeast, Anacostia, is one of Washington's best kept secrets. I think that there is great potential and that it's one of the most beautiful areas of the city, actually. Nonetheless, there are still problems that give me pause for a development at this time of that nature.

I think that in the future that there will be many similar types of projects all around and about, but I just --

COMMISSIONER MITTEN: Madam Chair, an appraiser's perspective?

CHAIRPERSON REID: Yes.

MS. STYLES: Could I just respond, please, if I may, Madam Chair; because I'd like to be able to

answer your question.

One of the things when I talked about -- In my opening statement I talked about development east of the river. If I can just kind of give you a little bit of a background of what's going on across the river and why this project fits into that master plan, I'd like to just take that minute, if I may.

To begin with, in 1995 -- In 1995 the revolution -- the evolution of east of the river began. When President Clinton came into office, he then began -- he set aside monies to jump start revitalization of the city.

The first amount of money was earmarked for what we call the last development area, which is east of the river. In 1997 we conducted a conference to begin to put together a master plan, to be able to address the concerns that you have just raised in terms of development.

Now in 1998 we did a construction fair for east of the river. At that time we identified over 200 -- close to $300 million worth of development that's going on in our neighborhoods. That's comprehensively east of the river.

That number is now up to over a half a billion dollars, and these are things that are

currently underway or will begin in the spring of this year. The kinds of homes that are being developed, the majority of the projects is over 1,000 new townhome construction.

There are major shopping development that's going on. Mr. Edgecombe talked about the Northern Gateway project. The shopping center that's there is only one of a series of shopping plazas that are being proposed east of the river. This site is being developed.

Right along that corridor we have other businesses who are looking to move into that neighborhood. We used to have a hard time attracting people to the neighborhood. Now we are being selective in terms of the development.

The Mayor's initiative called for a comprehensive study, because there was so many avenues for development. There were so many opportunities for development. The Office of Planning, which has just released a study, showed that the development has moved far beyond anywhere else in the city.

So this offers people, the consumers who want to stay within the city, a different alternative. Yes, there is comprehensive redevelopment of existing properties like Stanton Hill. There are new home

constructions that's going on like the ones that are going on in far Southeast and far Southwest, but there is not a new product of single family, full detached homes that's going on within this neighborhood revitalization with the exception of this product that KSI is building on Good Hope Road.

Across the street the new owners of Marbury Plaza are investing in resurging that property. We are working with the new owners, because they see that property having an attractive market. They see this property competing with their tenants.

People within that community want to wait-list for this property to be developed. So is the demand there? Yes. The demand was there a year ago. It will be more so next year and by the time this structure is built.

So hope that in some way shows how this property fits within the entire neighborhood revitalization effort, not just an isolated incident.

VICE CHAIRPERSON SOCKWELL: Madam Chair.

CHAIRPERSON REID: Ms. Mitten asked.

COMMISSIONER MITTEN: Well, I guess I just wanted to kind of give a brief response to your question, Madam Chair, which is you said, you know, you could see that sometime down the road this is possible.

In fact, Mr. Edgecombe is -- He's going to make a market. He is going to be the first.

As Ms. Styles said, there is a lot of demand, and there's all of these demographic factors playing a role. So Mr. Edgecombe and his associates, they extrapolate their experience in northeast and in close-in Prince George's County, and they say all of these similar factors have led to a success and led to a price level in these other developments.

If I were appraising this property, I would look to those experiences and say those same factors are in place here and, yes, it can be done, because the demand does exist.

MR. EDGECOMBE: Madam Chair, if I may, I don't trust my own judgment on these things. I'll give you an example.

I have two banks right now vying for the financing on these, Bank of America, former Nations Bank. Matter of fact, I drove representatives of Bank of America throughout the whole community within the past couple of weeks. Riggs Bank who is doing my Woodridge Place are anxious to finance it.

We don't do spec homes, first of all. All of our homes are based on pre-sales. We have a pre-sales listing already for this site. Folks who have

come over to our northeast site to look at the one model that we have left have signed our book, which is not a commitment to a contract but just signing up.

I am so sure on this market, for me it's not a speculative venture at all.

VICE CHAIRPERSON SOCKWELL: Mr. Edgecombe and fellow Board members, as a native Washingtonian, as many of us are, I have seen a lot of what has happened in neighborhoods. Georgetown was gentrification. Capitol Hill was gentrification. Columbia Heights is gentrification. Olde Town Alexandria was gentrification. When I worked in Olde Town Alexandria, it was just starting.

Woodridge I looked at. When I first saw it, I could not imagine how those houses would sell with Montana Terrace directly behind them. Then I had a long conversation with a gentleman named Jim Roberts, whom I have known for many years.

At that point I understood more about how the infrastructure was being balanced, Montana Terrace against the new homes, the new homes against Montana Terrace, from an economic standpoint to create the base that you needed to get the project going and done. But once you had that coming together, those single family homes sold.

Now I will admit, two of those single family homes on the fringe on the back side look like they were something out of Kosovo, because as they were being put up and the insulation was being put on, the people that were in Montana Terrace who had not been, shall we say, relocated used it as a firing range for missiles of all sorts.

I said, this may not work, but it has worked. I'm proud to say that driving through that area now, one does not recognize it. To produce infrastructure like this on a planned basis sometimes even frightens the communities in which it's going to be developed, because they are not used to such strategically developed change.

People tend to fear the unknown. This is an unknown. What is it going to do to our community? There are lots of things that people don't understand until they see it, but realistically, projects like this one and development happen to occur either as happenstance or as directed, and sometimes one cannot tell by looking at the surroundings how well the development will do.

Now I worked on the design of the Washington subway system, and it was we build it, they will come. They didn't come for 25 years. They didn't

come. They didn't ride it. They didn't -- Development didn't occur at the ends of the lines where we thought we were supposed to be getting the development, because nobody was interested. Nobody changed his pattern.

But patterns develop in very unusual ways, and right now the pattern is that, if you live out there, you're too far away from the jobs in here. The infrastructure in here is the most valid infrastructure.

In my own neighborhood -- I live across the street from a longstanding public housing unit -- my condominiums have gone up just about double in the past two years in value, when they were on a consistently continuous down-spiral. These things just happen.

If they are projected by the economic trends and if the other things are in place, they will work. The one thing I do have a question about is how much public amenity is being provided for wintertime sports, because you've got a pool, but I don't see very much else there.

BOARD MEMBER RENSHAW: Madam Chair, now back to the case at hand. This is a gated community, Mr. Edgecombe? Part of it? Which part is the gated part?

MR. EDGECOMBE: I'll let Dick speak to

that. But not for the residential. You want to speak to the apartments?

VICE CHAIRPERSON SOCKWELL: We like to think apartments are residential, actually.

BOARD MEMBER RENSHAW: We certainly do. We want to protect them, too.

MR. KNAPP: Yes, the multi-family will be a gated community.

BOARD MEMBER RENSHAW: Now how many gated communities are there in this general area, and are gated communities successful, if there are others?

MR. KNAPP: Yes, there are a number of rehab project -- rehab communities that do have gates surrounding them.

CHAIRPERSON REID: No, she asked in that community.

BOARD MEMBER RENSHAW: In that general community.

MR. KNAPP: Yes, Park Skyland comes to mind, which is the adjacent property to where we are.

BOARD MEMBER RENSHAW: I want to find out, since you are going to put someone in that little booth or whatever, is it going to be 24 hours a day, 365 days a year?

MR. KNAPP: No, ma'am. The gate will not

have 24 hour guard surveillance. The gate will be accessed -- will be activated automatically by a mechanism. The gate will go up, and residents will be able to -- The gate will be right here. It will not be manned with a person. It will just have a card reader that will allow it to automatically go up.

When visitors arrive here, they will call up on a telephone and be buzzed in. If their entry is denied, they have a bailout where they will come out, and they will be able to turn around and come out.

BOARD MEMBER RENSHAW: So this really is to kind of monitor the cars into that area rather than a public safety of the people who live there?

MR. KNAPP: That is correct. It's primarily to control vehicular access. That is correct.

BOARD MEMBER RENSHAW: All right. I have some questions for the traffic consultant also. Is he still here?

VICE CHAIRPERSON SOCKWELL: Now while he's out there, you say that it's not gated in the traditional gated community sense. So there's no guardhouse or anything like that, just strictly a flip gate?

MR. KNAPP: That is correct.

VICE CHAIRPERSON SOCKWELL: And there is perimeter fencing around the entire property?

MR. KNAPP: Yes, that is correct. There will be a gate.

VICE CHAIRPERSON SOCKWELL: So all up along in here there would be perimeter fencing?

MR. KNAPP: Yes, that is correct.

VICE CHAIRPERSON SOCKWELL: And at what height?

MR. KNAPP: Approximately six feet.

VICE CHAIRPERSON SOCKWELL: Now on the single family residence side there's fencing against the Park. Yes?

MR. EDGECOMBE: We're looking at the potential based on the conversation with Park Service, possibly having fencing along the parkland edge.

VICE CHAIRPERSON SOCKWELL: See, one of the issues --

MR. EDGECOMBE: And that's primarily because of the recommendation by the Park Service.

VICE CHAIRPERSON SOCKWELL: One of the issues that I would be concerned about is that, because the Park allows free travel within itself -- now there is a dropoff along here. Yes or no? Or is that dropoff primarily along the back side of the multi-

family?

MR. PLUMPE: For the record, my name is Joe Plumpe, Studio 39.

Along the single family road here -- We had numerous conversations with the National Park Service, Jim Rosenbaum -- excuse me, Jim Rosenstock is here today. He will probably talk about that as well.

Actually, you know, sometimes fences are not the best thing for the Park Service property line. We had numerous conversations with them. Where we have the fences it's really to keep people's private yards out of the National Park Service.

The main concern there was having people take over the Park Service forest for gardening or something like that. So, really, this being a public way, a private roadway, again the issue is not to have a fence that would be of any nature, really.

We met with Jim and Dave Murphy many times. Well, the Park is sometimes higher and sometimes on grade. There is a sidewalk only on the house side, you know, to try and discourage the cut-through as much as possible to the Park land. But it is a public open space. We cannot prohibit people to go in there.

Right now people, you know, go through it at will, and there is a path right now that is

established through Fort Stanton Park, which is used periodically through the residents of the neighborhood as well as the regional system.

BOARD MEMBER RENSHAW: Having -- Well, perhaps Mr. Feola can answer this question or someone on the Board. But I understood that any property that was in direct proximity to National Park land had to go before the Fine Arts Commission. Now did you go before the Fine Arts Commission?

MR. FEOLA: No, we didn't, and that is not an exactly correct statement. The Fine Arts Commission has jurisdiction over Rock Creek Park and the Potomac parks. Any property that is built upon or subdivided adjacent to those parks as part of the Shipstead-Luce Act have to go to Fine Arts.

The rest of the parks in the city, many of which are governed -- are owned by the Park Service, managed by the Park Service, are not subject to Shipstead-Luce.

BOARD MEMBER RENSHAW: Okay. Question answered.

MR. FEOLA: As I said that, the Park Service is an adjacent property owner, and participated in this hearing before; and the applicant is cognizant of trying to work with the Park Service.

BOARD MEMBER RENSHAW: But do you have anything in writing from the Park Service as of now? You had proposed things that I have marked in your exhibit book.

MR. FEOLA: There is a letter that I received today which I'm sure Mr. Rosenstock will talk to that was sent to the Board that states the Park Service's position much more clearly than I could possibly do. Maybe Mr. Rosenstock is going to deliver them. I have a copy of it.

BOARD MEMBER RENSHAW: Has your traffic consultant returned yet?

MR. FEOLA: Yes.

BOARD MEMBER RENSHAW: All right. You said that Good Hope Road has about 17,000 vehicles a day?

MR. GEORGE: I didn't say that today. That might have been in the report.

BOARD MEMBER RENSHAW: It was in the report. You did the traffic count?

MR. GEORGE: No. We obtained the data from the Department of Public Works, average daily traffic volume.

BOARD MEMBER RENSHAW: Ah, very good.

VICE CHAIRPERSON SOCKWELL: Turn your microphone on, please.

BOARD MEMBER RENSHAW: I asked the question as to what magic words did you use with DPW to get at the results of a traffic report out of them, because we invite you to my neighborhood. We've been trying for years to get an accurate traffic count in my neighborhood on various roads, and we have not gotten them. So what did you use? Tell me.

MR. GEORGE: Okay. I'm tempted to say Abracadabra, but --

BOARD MEMBER RENSHAW: I'll try it.

MR. GEORGE: -- that may not work. Ms. Crenshaw, let me clarify --

BOARD MEMBER RENSHAW: Renshaw, R -- I'm not the golfer.

MR. GEORGE: Ms. Renshaw, let me clarify. We did our own turning movement counts during the morning and afternoon peak periods for the purpose of evaluating the intersections. In order to look at the historical trends of traffic flow within the area, DPW is the repository of that data, and they had data for the period 1990 through 1996, and we obtained that data from them.

I might tell you that Mr. Peter Moreland of that Department, through him this type of data is readily available.

BOARD MEMBER RENSHAW: Ah. Well, you'll perhaps give me his phone number later on.

MR. GEORGE: All right, I will.

BOARD MEMBER RENSHAW: Now did you factor in -- Your data goes into 1996. Did you factor in for subsequent years of traffic into that analysis?

MR. GEORGE: Yes. We did our counts in 1999, within the period February and March. We estimated then that the development would be built out within two to three years, and as I indicated earlier, even though the data from DPW shows that there has been some moderate decline in traffic volumes, we used a factor of six percent. We increased the traffic by six percent going into the future; that is, over the three-year period.

BOARD MEMBER RENSHAW: All right. Now did you provide the BZA with any accident reports from that area?

MR. GEORGE: No, ma'am.

BOARD MEMBER RENSHAW: Oh. You did not go to the local police district and ask for that information, because I note here that -- Well, I'm going to ask you. Are you requesting of DPW to put in a traffic light?

MR. GEORGE: At the entrance to the site?

BOARD MEMBER RENSHAW: At the entrance to the multi-family site, especially.

MR. GEORGE: No, ma'am. A traffic light -- The need for a traffic light would be governed by specific warrants dictated by the Manual on Uniform Traffic Control Devices. This development would generate less than 100 trips during the morning peak hour, and those types of volumes won't come close to warranting a traffic light.

BOARD MEMBER RENSHAW: Well, let me just say that what dictates a traffic light is often an accident count, and it's a vehicular count. And the residents and, certainly, the developers can make a good argument with the city to put into a budget for a traffic light at a specific location. We've done in my area.

We've had to wait, but we've done it, and we've pressed on it, and it has been successful and very, very needed; because one accident is one accident too many.

MR. GEORGE: Ms. Renshaw, what --

BOARD MEMBER RENSHAW: And I note that this is 25 miles an hour. This area is 25 miles an hour. Do you know that -- I mean, are the police able to keep the traffic within 25 miles an hour or is this like so many other routes in the city, a speedway?

MR. GEORGE: I would say that, because of the fact that commuter traffic is very heavy on a number of those roadways and very often along roadways such as Good Hope Road, the volume of traffic in itself mitigates the speeds, and the speeds are rather low.

As far as the accident statistics being used as a basis for a traffic signal, yes, that is true. What we find is that the entrance to this site is located between two signalized intersections.

BOARD MEMBER RENSHAW: How far apart?

MR. GEORGE: From 25th Street on the east to the Marbury Plaza entrance? I don't know. I could perhaps scale it off the map and give you a distance. I would estimate it's approximately 1500 feet between the two intersections. That's an estimate.

BOARD MEMBER RENSHAW: 1500? Okay

MR. GEORGE: Yes. And as far as -- The signals would generally be able to be used to create gaps in traffic to facilitate access onto that roadway.

BOARD MEMBER RENSHAW: You had a rather interesting statement to me -- I'm just going to tuck back in my notes here; hold on -- that you were going to ask for some minor changes in signal timing. That's interesting, because in my community I can't tell you what a disaster it is to ask DPW to re-sync traffic

lights.

Again, if your abracadabra works over on Good Hope Road, I mean, I will spread the word and get those people to do what they have not done in my community, and we've been asking for over 15 years. I am always very suspicious of traffic counts on busy roads, and I'm very suspicious at speed when you say posted 25, because my road is posted 25 and I live on one of the heaviest, most trafficked roads in the upper northwest.

MR. GEORGE: Would that be Wisconsin Avenue?

BOARD MEMBER RENSHAW: No. It's Military Road which carries about 35,000 cars a day, and nowhere in development in my community is that ever released but by the citizens; because the city tucks itself back in and does not talk about it. But I am expressing these points, because I think that in any traffic analysis, while you've done your job, you have to look at it from the neighborhood perspective.

They are the ones who live there. You're not living there. If they say, and it may come out in their testimony, that that roadway is very fast and that there is speeding and that they can't get out into traffic because the lights are badly synchronized, then

we're going to listen very closely. At least, I am, because I know that is going to be more accurate than -- I'm sorry -- your very well crafted testimony.

MR. GEORGE: Thank you.

CHAIRPERSON REID: That's a good point, Ms. Renshaw. Part and parcel of the reason why we're having this rehearing is because the applicant felt that the Board erred and -- although they felt that way, I'm not saying that we did. We agreed to have the rehearing, and that there was in many instances quite a bit of expert testimony that was given to us that supported their project.

The opposition that -- that the opposition did not have the quote/unquote "expert" testimony. I'm glad you said that, because as we well know, often the persons in the community don't have the wherewithal to be able to hire all these experts and attorneys and these lettered people. Yet and still, when you talk about detriment to the community, which is a criterion, substantial detriment or adverse impact, then we rely on people who live there who can see, who can feel, who can experience that come to us.

They don't have to be experts. I think that if I live in a certain area and I've lived there for sometime and I understand and know better than

people who come into my community, I am then the quasi-expert as to what is happening, and we don't discount or trivialize what they say to us, because they don't happen to be -- they have this title or this particular label on them.

In parity and equalness and fairness, we consider everything that is brought to us.

MR. GEORGE; If I may, Madam Chairperson and Ms. Renshaw, I think you would find that in traffic engineering that one has to take a balanced approach. Please remember that the traffic light is not a panacea as far as traffic flow. In fact, studies have shown that very often, by providing a traffic light, you introduce considerable stopping and you increase certain types of accidents.

So in and of itself, a traffic light is not a panacea. Again, the guidelines for these types of traffic control devices are governed by specific criteria, and I would dare say that a development which generates 100 vehicles -- less than 100 vehicles in the peak hour, which is perhaps 1.5 vehicles per minute, would not likely satisfy. I mean, wouldn't even be subjected to the warrant for a traffic signal.

BOARD MEMBER RENSHAW: You said that traffic lights often cause accidents. Well, they can

also save lives.

MR. GEORGE: Yes.

BOARD MEMBER RENSHAW: And that is why I am very surprised that you in your traffic analysis did not go to the police department and investigate the accidents along Good Hope Road in the area where you are building.

MR. GEORGE: There's a specific reason for that. I think the section of the zoning regulations require that we show that the proposed development will not cause. There may be problems in an area, but I think the onus is on us as the consultants, as the experts, to demonstrate, as the regulations require, that the development will not cause such adverse impacts.

BOARD MEMBER RENSHAW: But you have to know about the history of the road. In other words, you're putting a very developed housing units up there. I mean, lovely. You've got your trees and your roadways, and you have to put it into an area where you hope there is safety for those who live there.

MR. FEOLA: Ms. Renshaw, we, I think, hear what you're saying, and we certainly can provide that for the record. I think the reason that particular piece of information may not have been part of his data

is, as you can see from the aerial, this is a vastly undeveloped piece of property. My guess is there are probably not a lot of accidents, because there is nobody there. But we can get the data for the general vicinity. I'm talking about the site specific, but we can get the data from the police department for the intersections, both north and south and east and west, and I think that's appropriate. And we will get that for the record for your consideration.

CHAIRPERSON REID: And I think, to that, putting forth the best effort to do that and to also demonstrate how you could mitigate some of the concerns that the community has voiced as to the traffic impact and suggestions for how -- and I don't know what the answer is, if it's a traffic light or if it is that the timing of the traffic light or whatever, if it's more traffic signs or whatever -- to demonstrate to the community that you have heard and that you are listening to and that you want to do something to help to mitigate that perceived adverse impact.

MR. GEORGE; Yes.

CHAIRPERSON REID: So that would be great if that could be done.

MR. FEOLA: Madam Chair, with the Board's permission, we would be happy to provide a management

plan, so to speak, for your consideration.

CHAIRPERSON REID: That would be great. I think that that would go a long way in quelling some of the concerns as far as the traffic is concerned. I think that what the community -- The impression I got, Mr. Feola, was that the community wanted you to demonstrate that you respected them and that you have some concern about what they have raised as issues and that you're trying to do something about it.

MR. FEOLA: Absolutely. I think, as the ANCs will testify, the agreements that you'll see make the community -- and including -- and we hope Fairlawn will joint the group -- and the developer partners in making this thing work going forward in the future.

CHAIRPERSON REID: Okay. Now let's move on to cross-examination. Is there any cross-examination by the party, which is Ms. Jones representing Parklawn Citizens Association? I'm sorry, Fairlawn Citizens Association.

You have to sit down and speak into the mike, Ms. Jones. First give us the person to whom you are directing the question. Then give your question.

MS. JONES: Mr. Joe Plumpe. In your presentation you stated that you all will have an entrance from the homes off of 18th Street.

MR. PLUMPE: Yes, that's correct. We'll have one entrance off of the 18th Street to the west of the single family parcel right there.

MS. JONES: There is no 18th Street west there, unless --

MR. PLUMPE: This street right here.

MS. JONES: Right where? Okay. So where is the entrance going to be, because you know, that's a big drop down into a gully. You have to take steps and walk down into that land. So how are you going --

CHAIRPERSON REID: Let him answer the question, Ms. Jones, and try to calm yourself down some. Okay? We can get the questions answered for you.

MR. PLUMPE: Really, right now she is correct. There is a grade drop there. It is not such a grade drop which cannot be overcome from the standpoint of construction right now.

There is room to grade out there. Our property is wide enough to raise the grade to have proper access onto the roadway itself. But what will probably happen there is the houses themselves may be walk-out conditions, because -- meaning that the front yards are higher and the rear yards are lower. So, therefore, the road can be raised so it would line up

approximately to the same grade or slightly higher than the grade of the National Park Service that's adjacent to it.

It can be done. We have preliminary grading plans already worked out for the entire project. So we can furnish those as well from the civil engineer on the project.

MS. JONES: So how are you going to do that, because off of B Street when you go down into that site, it's about -- I know you have to walk down steps, about, I know, 20 feet drop down in it.

MR. PLUMPE: I don't know if it's quite that deep, but there is a drop there. I will agree with you. There is a drop right in that area right here.

MS. JONES: Where V Street is.

MR. PLUMPE: That is correct.

MS. JONES: And then unless you all are going to cut some of that hill away that goes all the way back into W Street --

MR. PLUMPE: Well, right now from here to W Street -- Is this W Street right here, right? Is that correct? No? Okay, I'm sorry. You know, again by the entrance into the project, which is close to the National Park Service there, that will allow us the

opportunity to enter the site itself. It should work and will work to allow proper access into the property.

MS. JONES: I don't think so.

CHAIRPERSON REID: Ms. Jones, all you can do is ask questions. Even if you don't --

VICE CHAIRPERSON SOCKWELL: The topographic map shows basically a knoll at that point where the two intersect, sort of narrows at that point. You're probably looking at what I'm looking at.

MR. PLUMPE: That's right, yes. Essentially, I was just giving the civil engineering drawing from the civil engineer which basically shows 18th Street and V Street intersection here, and our access into the property is right next to the National Park Service.

The existing grade on 18th Street is at contour 132. Our proposed road grade would be at 132-133. So, therefore, it will meet the grading that will be along the property line of the National Park Service, may require a small retaining wall, but it will be workable.

Right now there is a 30 contour which is approximately 15 feet into the property at the National Park Service contour. It is at a 28 contour. So there's only really two feet of grade change there.

Basically, what you're looking at -- This will be on fill. There will be dirt -- Excuse me. There will be soil filled up in that area.

You see, the hillside along U Street there at the corner here, this is where the hill is on Lot 1 of the single family parcel. That will be regraded, but the hill and the property line of the single family parcel, which abuts U Street, will be basically met. The grade will be, you know -- Excuse me. The grade will meet. So it can be done.

CHAIRPERSON REID: All right.

MS. JONES: I haven't finished. I got another question. Right here when you come off of U Street onto 18th Street, if you cut away that hill, are you all going to put a wall to hold that street up; because it's a street.

MR. PLUMPE: Okay. Let me respond --

MS. JONES: Wait a minute. I'm not finished.

MR. PLUMPE: Okay, I'm sorry.

MS. JONES: If you're going to cut into that dirt and not put a wall up there, that street is going to fall over.

MR. PLUMPE: Well, I'll agree with you on that behalf. But in our situation, we are not --

VICE CHAIRPERSON SOCKWELL: Ms. Jones -- Excuse me. Let me just interrupt. Ms. Jones, when we're dealing with public streets and the access to public streets, the city has jurisdiction. The city will not allow a connection to a public street that doesn't work.

MS. JONES: They have to comply?

VICE CHAIRPERSON SOCKWELL: They have to comply. No matter what it costs them, they have to comply. By the same token, because the Department of Health deals with erosion control standards and storm water management, they will have to comply for the retention, lack of erosion. All those things will be taken care of.

The people that would be the unknown in the equation would be the Park Service and how they would expect anything at the perimeter of their property to be handled from the standpoint of erosion and stripping the soil that might change something in the ecosystem at that point. But believe me, there are enough agencies involved with that that you won't have to worry about it.

The person that guys a house will have to look at what his backyard looks like or front yard looks like. That's another story entirely. But don't

worry about what will happen to V Street or 18th Street or U Street. That will be taken care of. Guaranteed.

CHAIRPERSON REID: Okay, Ms. Jones, next question.

MS. JONES: That's enough for him. Ms. Styles.

CHAIRPERSON REID: Thank you, sir.

MS. JONES: You stated that you sent me a letter. I have never received a letter from you. I have received letters from Mr. Gray, but I have never received a letter from you.

You stated that you met with me twice.

MS. STYLES: Yes.

MS. JONES: Yes, you did come to my house twice, but you were not an employee of KSI.

MS. STYLES: The first time.

MS. JONES: And the second time you came on a Friday. You came on a Saturday after they gave us dinner. Remember?

MS. STYLES: Yes.

MS. JONES: Okay. You were not employed by KSI.

MS. STYLES: Ms. Jones, did I come to your house --

MS. JONES: Okay, wait a minute.

MS. STYLES: Can I answer that one?

MS. JONES: Wait a minute.

MS. STYLES: I came to your house three times.

MS. JONES: Right. Wait a minute. Yes, you did, on a Monday.

MS. STYLES: The third time I picked you up.

MS. JONES: On a Monday.

MS. STYLES: And I told you --

MS. JONES: No, you didn't. No, you did not, because -- and I have proof with Ms. Dobbins there, and I didn't know you were employed by KSI until we went on the tour to view those houses.

COMMISSIONER MITTEN: Madam Chair.

CHAIRPERSON REID: Yes?

COMMISSIONER MITTEN: Ms. Jones, you're supposed to ask a question now, and then later you can testify.

MS. JONES: I'm asking questions. This lady sitting here said --

CHAIRPERSON REID: No, wait, wait. Ms. Jones --

MS. JONES: All right. The question is--

CHAIRPERSON REID: -- just calm yourself

and just ask the question simply and not raising your voice, so we can get through this. All right.

MS. JONES: Okay. On that Monday, I had called --

CHAIRPERSON REID: You have to ask her. Put it in the form of a question. Did you on that Monday?

MS. JONES: Did you on that Monday come and pick me up, because you wanted to know where were all the vacant apartments in the area, because you did not know the area?

MS. STYLES: No, that's not true. What I did do is I called you and we made an appointment. We made an appointment for us to meet at two o'clock. I came to your house, and I picked you up -- I'm responding.

I came to your house, and I picked you up, and I said to you -- I said, Ms. Jones -- I said, I understand. The first thing I said to you when I called you was that I have joined the KSI team. I said, and you need to know that. I said, the second thing is that I would like for us to go together to the site, because I need to understand what your concerns are specifically about the back side of the site.

When we went to the site, we walked through

the woods, and you said I don't understand why KSI don't fix up some of these buildings that are here that are vacant, and you showed them to me. You pointed out about three different properties.

We got in the car again, and we drove around, and we visited other locations in the neighborhood, and you said to me -- You said, Ms. Styles, I don't understand why KSI is building more apartments; we already have a lot of places in this neighborhood that they could fix up. And you wanted to show those neighborhoods to me.

We stopped in our travels and talked with Mr. Wilson who was in the neighborhood at the time, and you said to him -- expressed your frustrations -- Drake Wilson -- You expressed your frustrations as, well, I don't understand why KSI is building new product when there are so many already in the neighborhood that need to be fixed up. And I said to you, is it possible for us to sit down and work out a compromise. And I said to you, I will go back to KSI and ask them if they would be willing to work with you in terms of identifying some sites that could be fixed up.

Now the responses after that -- The meetings that we had after that, Ms. Jones, you told me that you would not talk to me. So the remainder of the

conversations that was held with Ms. Jones were conducted, and they were precipitated by the ANC Commissioner and the Chairman of the Frederick Douglass Community Improvement Council.

MS. JONES: When?

MS. STYLES: When did they contact you?

MS. JONES: No. When did I meet with you through the ANCs and through the Frederick Douglass Council?

MS. STYLES: No. The rest of the communication with your organization was precipitated by the ANC Commissioner and the Chairman of the Frederick Douglass Improvement Council. Mr. Gray and Mr. King will be able to directly respond to that, and their relationship with that organization.

MS. JONES: But I will address what she's saying when I do my testimony.

VICE CHAIRPERSON SOCKWELL: But you do understand, Ms. Jones, that --

CHAIRPERSON REID: Okay, Ms. Jones, ask your questions.

VICE CHAIRPERSON SOCKWELL: But you do understand that Ms. Styles is saying that she did not meet with you again.

MS. JONES: Yes, but she didn't do the

calling. I called her.

CHAIRPERSON REID: Okay, Ms. Jones, right now what you're doing at this time is getting information out of Ms. Styles so that we will be aware of some of your concerns, and then when you have your opportunity to speak, then you can testify as to what your impression of her response was. Okay?

MS. JONES: I will do that.

CHAIRPERSON REID: Thank you. All right. Okay, that concludes the cross-examination. Now we have government reports, and that would be Office of Planning. Also, I saw a representative of National Park Service. Are there any other government officials here, DPW or -- I'm sorry, come forth, please. Then we'll have the ANCs, but I just wanted to get government reports first, and then we'll have the ANC reports. All right, sir. Right now let's have Office of Planning report first, and then I'll have the other government reports. Thank you. Mr. Colby.

MR. COLBY: Thank you. My name is David Colby representing the Office of Planning.

The report is in the record.

CHAIRPERSON REID: Yes, we have your report.

MR. COLBY: But I will briefly summarize

it. We looked at the project, and it appears to meet the very specific criteria contained in Sections 410 and 2516 which deal with multiple buildings on lots.

The plans which are in the conceptual stage now will be refined and at the time that the permits are sought, they will be more detailed, and the permit office, the zoning office will be better able to assure that those zoning sections, the requirements of those sections, have in fact been met.

The applicant, in response to National Park Service concerns, has, as the material of the applicant has provided, agreed to a number of erosion controls, including the use of retaining walls and easements for conservation and dense landscape covers.

According to the applicant, the National Park Service is generally receptive to these mitigating measures, and I guess we will hear whether that's fully accurate or not this evening. As has been pointed out, the Environmental Regulations Administration will review this further as it comes to them in the permit stage.

As noted again in the materials, five forest wetlands have been identified on the two sites, have been accommodated generally with a small amount --

which was noted earlier -- crossing the road which could not be accommodated and put into a culvert, which is consistent -- This small amount is consistent with Federal regulations and acceptable to the Army Corps of Engineers.

As regards vistas and viewsheds, there is considerable change in elevation within Fort Stanton Park. The existing trees within the park coupled with the additional landscaping proposed along the property line should provide visual screening of the development.

The adequacy of parking was an issue raised in the earlier proceedings, and briefly mentioned again tonight -- or today. The project now provides more than the amount of parking required by the zoning regulations, and as was pointed out, the study of parking use in the area and other apartment projects has shown that parking is currently used at less than a one to one ratio. So it is believed that parking will be adequate and, of course, the Department of Public Works has recommended approval of the project for the District.

As regards density, which was a considerable concern expressed last go-round and in the order of that proceeding, the Board in its November 5,

1999, order noted community concern that one more garden apartment complex would eventually only add to the existing inventory of distressed or vacant garden apartment buildings and units in the area, which have tended to lead to vandalism and drug activity.

The Board noted as well that an increase in the area's population would exacerbate the existing congestion on the roadways and lead to adverse parking impacts. But the question to be addressed is whether density leads to these things automatically or whether it can be affected by design and development decisions or even by location or timing variables.

It should be noted that the proposed development -- and I think this has been pointed out -- way underbuilds the permitted zoning of those zone districts that it is being built within. Only about 26 percent of the approximately 800 units permissible under existing zoning will be built.

Yet while this reduced density is positive in many ways and it provides a transition to the park and a more comfortable fit to the community, is density really bad? Surely, the quality of the development and the associated amenities and the physical environment created as well as the management and maintenance necessary for a quality environment are all key to

answering the questions about density.

The proposed Homes at Woodmont project is intended to be a high quality development, it has been pointed out and questioned by the Board as to whether it's ahead of its time in that location. It's not likely to become distressed as so many other garden apartments in the area have over time, and thus not adversely affect the overall quality of the community.

It will likely have the reverse effect, stimulating renovation and/or new development. If that occurs, the populated density of the area will again -- will increase and again be what it was once. But it's unlikely that anyone will find that increase to be problematical, rather just returning to what was there before.

The project is not inconsistent with the comprehensive plan. I think that was clearly pointed out in the materials in the record, and I won't go into that, but I'll be happy to answer any questions on that.

The community -- and we will hear, I think, a great deal of testimony still today. The community has been deeply involved in the project. Many voice either strongly oppose or mixed in their support or opposition.

E-V-E-N-I-N-G S-E-S-S-I-O-N

(6:00 p.m.)

MR. COLBY: The current submission includes a significant collection of letters in support, many from persons or groups who did originally oppose the project. The primary opposition to the project has come from and continues to come from the Fairlawn community located across Good Hope Road.

The concerns of this community have been and remain extensive, as the record of the case indicates, including concerns about environmental issues, traffic and parking, density and building type issues. In addition to those concerns, the community -- Ms. Jones called me directly and expressed some additional concerns about the design of the buildings, recognizing that if the project were approved, which she opposes, but would want design input, nevertheless, to ensure its compatibility with the community -- with her community.

The specific concerns, as our report notes, were that the buildings should either be brick or have a substantial amount of bricks to relate to the brick homes in her community, and that the backs of the detached houses facing Good Hope Road would, in her view, present an undesirable view to the street and to

the community across the street.

I believe the Board should evaluate this issue as part of -- and in response to that during the public hearing on this case. I should note that the detached houses will have, as I understand it, brick facades. The apartment buildings include some brick along with other materials, and the frontage along Good Hope Road will be heavily landscaped, hiding the back sides and generally hiding and screening the detached housing.

The Department of Housing -- As far as other agency comments, the Department of Housing and Community Development in the previous session, and the Department of Public Works this time around have both reviewed this application and recommended approval.

In conclusion, the applicant appears to have met most of the concerns expressed by the Board in its order. The project will provide a quality of housing not otherwise available for sale or rent in the area, and it is expected, and we hope it will, attract people who are currently moving to P.G. County to seek that quality of development there.

Rather than having an adverse impact on the area and adding to existing distressed properties, the development should have the effect of encouraging much

needed reinvestment. It will clean up an unsightly landfill situation that has existed in the area for many years. The impacts on the park and on the traffic can and will be mitigated.

For these reasons and for all the others noted in our report, the Office of Planning recommends approval of the subject application, and note the importance of the Board's making the many commitments by the applicant to the community and to the National Park Service a part of its order to ensure their implementation, and that the applicant continue to work with all parties, in particular the Fairlawn community, to ensure the development lives up to all of its promise and is a true asset to the neighborhood and to the city.

That's the end of our report.

CHAIRPERSON REID: Mr. Colby, thank you for your report. It was very enlightening.

MR. COLBY: Sorry we were so late in getting it to you.

CHAIRPERSON REID: That's all right. I'm glad that we have it. Just one question, and that was: You mentioned that Ms. Jones had asked for design input. She opposes it, but she also asked for design input, and you said that we should address those

issues. Can you clarify that a little bit more for us, please?

MR. COLBY: Well, first of all, to her credit, let me say that many people who oppose projects oppose them so strongly that they lose the opportunity to have input into what is finally approved. I think they lose, and the Board loses, and the project loses by that.

I think this project is better for having gone through this difficult process.

CHAIRPERSON REID: So are you recommending that the --

MR. COLBY: I'm recommending that, if we could, that you have -- through your powers, that you have the applicant address the issue of the brick -- of the screening of the single family homes and what people will see from Good Hope Road, of that part of the project, and where the houses do not directly face Good Hope Road; and whether the -- Sorry, I'm losing on the other one.

CHAIRPERSON REID: Brick.

MR. COLBY: Yes, whether there is enough brick to, in fact, ensure that this project is strongly compatible with its surroundings, and particularly the Fairlawn community.

CHAIRPERSON REID: Okay, thank you. Is there any cross-examination, Mr. Feola, for Mr. Colby? Ms. Jones, did you have any cross-examination?

MS. JONES: No, I'll address that when I do my testimony.

CHAIRPERSON REID: All right, thank you very much. All right, National Park Service. Before the National Park Service speaks, let's make an assessment at this time. It's just about six o'clock, and we need to determine whether or not we are going to be able to finish this evening.

I've lost one Board member who had a prior commitment. He had to leave. I'm going to lose another one shortly. So we now have to finish the government reports, the ANC reports, and then we'll have the persons in support of the application, and then persons in opposition of the application, and then closing remarks by the applicant.

Now we need to get some type of gauge as to whether or not we feel we can complete that all this evening or if we feel that we need to continue it to finish on another day. Let me get some input from the applicant and also from the opposition.

MS. DOBBINS: Madam Chairman, Madeliene Dobbins. We don't expect to take a lot of additional

time with any rebuttal or any closing statements. So we think that we probably could finish it tonight.

CHAIRPERSON REID: Okay. All right, thank you. Ms. Jones, come forth, please.

MS. JONES: With all the rest of the --

CHAIRPERSON REID: Is your mike on?

MS. JONES: Oh, I don't know. With all the opposition and the people that's supporting it and you have quite a few other people before you get to the opposition, so I would suggest that you would come back another day; because it is getting late, and we all have to go home. And so after you do the government witnesses, I think we should take a break and let the opposition and the proponents and the other people come back another day, because it is getting late, and it will take time for people to get their point across, because they are out here and they want to be heard.

CHAIRPERSON REID: Okay. Let me do an assessment, please, Ms. Dobbins. How many people are here to testify in support of the application? So we have about six people.

The people who are speaking in support, I think we can probably get through that fairly quickly, because we've heard so much today. Basically, if we could just kind of have kind of a consent calendar type

of procedure wherein you go on the record as saying I support this application and give your name, for the most part, unless there's something that is just so pressing that you feel you want to get it out. But if we get the gist of it, that would be all right with you?

MS. DOBBINS: That's fine with us, Madam Chair. Most of the persons here in support are being represented by one person. So that we didn't bring the whole group.

CHAIRPERSON REID: That's great. Thank you very much. Now persons in opposition? Okay. All right now, those persons who are in opposition, which is quite a few -- I'm just looking at the people. Ms. Jones, are many of these people with your organization?

MS. JONES: Yes.

CHAIRPERSON REID: Okay. Well, would you allow Ms. Jones to speak on your behalf or, if there is some pressing need to speak individually, is there some consensus about the concerns that Ms. Jones can put forward to us? Now how many people who are in opposition will allow it to get spoken through Ms. Jones? Okay. So most of you don't -- All right, okay. Most of you will not be speaking -- Ms. Jones will not be speaking for you. Okay. Well, then those persons

we will then allow to speak three minutes a piece.

If you can possibly, you know, get out what you have to say in less than three minutes, you can cede your time to the next person, and if someone before you has just said what you wanted to say, then you could just ditto that, and we can just moving on and, hopefully, we may be able to get out of here in about an hour, hour and a half, 7:30-ish. Does that sound --

Okay. Well, I've been told that we'll be here a couple of hours. Now if we can get through this in a couple of hours, we can dispose of this case today, and then we don't have to come back. So if everyone cooperates, we can do it.

Yes, sir? Come up front, please, and speak into the mike.

MR. WALLACE: My name is Wendell Wallace, and I'm a resident on Good Hope Road, S.E. We have been here for about four hours. We have given the opposition the respect and a great deal of respect, and also the Board. We respect you, and we respect at the same time your coming -- or your listening to us. But we do hope that you will give the homeowners and the people who live in the community the same amount of time and the same amount of respect. Thank you.

CHAIRPERSON REID: If you're speaking in terms of opposition per se, then we've already in the beginning, sir, said that the opposition -- we would allow them equal time, an hour. That would include everyone. All right?

MR. WALLACE: So we are only given one hour, when the people here who are the developers have been given at least two or three hours?

CHAIRPERSON REID: No, sir. They were given an hour in which they concluded, and then the rest was cross-examination and questioning by the Board. That's why it went on, because we had to question them about some of the testimony that they gave here today. But their actual case that they put on did not exceed an hour.

Remember when the stop clock beeped, and then I was in the midst of asking questions. That was subsequent to them having given their presentation, sir.

MR. WALLACE: That was when the clock went off?

CHAIRPERSON REID: Right.

MR. WALLACE: And then we --

CHAIRPERSON REID: I was in the questioning mode at that time. But they had no more witnesses to

come forward.

MR. WALLACE: Okay. Then my second thing is: I look at the Board as a judge when we're in a courtroom, and we look at different parts of the plaintiff and the defense. I hope that -- I've never seen the judge take sides in reference to either the plaintiff or the defense, and I hope that the Board will do the same.

CHAIRPERSON REID: Of course. What's your name?

MR. WALLACE: Wendell Wallace.

CHAIRPERSON REID: Mr. Wallace, of course. I mean, we are an objective body, and this is why we're trying to get all the facts. Only after we get the facts can we even begin to think about making a determination. We don't know yet. We really don't know.

MR. WALLACE: But what I have been hearing, I have seen some agreement with the developers. I've seen agreement with some of the Board up there, and I didn't like that very much.

VICE CHAIRPERSON SOCKWELL: Well, Mr. Wallace, there's certain things that you are going to hear your way, no matter what we do. On top of that, if we are agreeing with you -- consider the other side

-- saying the same thing. But what you don't know is what we are going to do once we have heard your side as well as their side; and if you prejudge us, we will not prejudge you, regardless.

CHAIRPERSON REID: Yes. Within these discussions and testimony, there's certain parts that we do agree with, and then when you all talk, there will be parts that we will agree with, with you. But that does not within itself determine what the outcome of this particular case will be. That will be only when we have our hearing meeting, and we will then go into deliberations, and we will then discuss the issues and then whatever position we take, we will defend that position, and then we'll have a vote.

That is when it's ascertained what, in fact, the body as a whole would like to see done or like to have done there.

VICE CHAIRPERSON SOCKWELL: And the other thing, Mr. Wallace: If you yourself are inflexible in your position on things, then don't ask someone else not to be.

MR. WALLACE: I am not -- I am a very flexible person, because there are some things that I agree with.

VICE CHAIRPERSON SOCKWELL: That's good.

CHAIRPERSON REID: Let's get it out. Let's get the whole case out.

VICE CHAIRPERSON SOCKWELL: Just remember, we have to ask the questions of the developer. We have to get to the bottom of the issues, and there's certain things that we will say that may not be what you want to hear. But if what we say are the truth, then it doesn't matter.

CHAIRPERSON REID: Let's proceed and get all the evidence on the table, all the testimony, and then we'll have the full picture to be able to deal with.

BOARD MEMBER RENSHAW: Madam Chair, are you going to poll the members as to whether they would recommend to break at this point or continue?

CHAIRPERSON REID: Well, Ms. Renshaw, my understanding was that you had to leave.

BOARD MEMBER RENSHAW: Yes, I do, but I also want to vote on this case. I do not want to --

CHAIRPERSON REID: We won't vote today.

BOARD MEMBER RENSHAW: I know, but I'm going to have to catch up with all of the transcript, and I hate to miss hearing from the neighbors. I mean, it's one thing to read it. It's another thing to sit here and listen to you.

CHAIRPERSON REID: Okay. Well, let's poll the members as to whether or not they want to finish today or have to continue it. I say I'm here for the duration, you know, and I don't know how Ms. Mitten feels or Mr. Sockwell. So speak on the matter, please.

COMMISSIONER MITTEN: Well, I'm available to see it through to the end, although I'm very sensitive to the fact that the community -- These are folks that -- You know, they're not being paid to sit here, and they have -- you know, they have their lives to get back to, and they have their dinner to have and all of that, you know, and they've been here quite a while.

I think that there is something to be said for us reconvening when we're all fresh and we can give the community -- for all of the participants from the community, you know, our full attention to their concerns.

CHAIRPERSON REID: Mr. Sockwell?

VICE CHAIRPERSON SOCKWELL: With a case that has as much opposition and as much support as this one, and those people in opposition and in support may be somewhat diametrically opposed, I'm sure the community, too, would prefer that the Board that has heard much of the case would hear all of the case and

that they would have access to all of us for this decision.

On that basis, I'm willing to recess until we can bring everyone back together and complete the process as it was started. Were this a deck or something like that, something very small and not quite so complex, I'd be more willing to say, okay, three of us can do this, and people might not be so put out. But I do believe that the community wants to get the broadest base of involvement of the Board on a case that has as much importance to them as this one does.

So I would suggest that we consider recessing, even though it puts a strain on the Board because we have so many cases to hear, and our time is given from our other lives. We don't work for the city. We are here, but we are not regular salaried government employees, and we have other people, and some of us have millions of dollars riding on the hours that we don't spend here.

CHAIRPERSON REID: Well, if we do that, can we then at least hear the Park Service, National Park Service, so they don't have to come back again, and --

MS. DOBBINS: Madam Chair, before you finish I'd like to request that, if you do have to recess, that you at least proceed through the ANCs and

a couple of the support organizations that will not be able to return. ANC-6C has indicated --

VICE CHAIRPERSON SOCKWELL: And that might be okay, in that if the ANCs have sent letters in which reflect the positions they will take, we may be able to work with that. I'm not too averse to that.

CHAIRPERSON REID: Let's try to do the best we can this evening. It doesn't matter to me. Like I said, if you want to be here, if you want to finish it, I'm here for the duration. If not, then I will come back whenever you -- to reconvene. It doesn't matter to me. Whatever everyone wants to do is what I'm amenable to do.

The Park Service -- Excuse me. The Park Service, and I have a letter from DPW and School Board and the ANC -- If we can get through just that portion of it, then when we come back -- Oh, and a couple of people -- you said organizations in support here. If we can get through just that amount within the next 45 minutes, then we can target seven o'clock. Is that good for everyone? Then we'll reconvene at a date certain.

MS. KRESS: I would just say, you might want to determine that date now so those people who know they are not going to testify this evening can

leave.

CHAIRPERSON REID: All right.

MS. KRESS: Paul has the calendar here.

MR. HART: Okay. The first possible date, Madam Chair, is March 8.

CHAIRPERSON REID: March 8? All right. Morning or afternoon?

MR. HART: It's open. You can have it morning. I would suggest morning.

CHAIRPERSON REID: All right.

MS. DOBBINS: Madam Chairperson, if possible, we need to be able to get through this in February. We're looking at final acquisition of the properties, and we're on a deadline. It was continued at least once.

CHAIRPERSON REID: Do you have a better date?

MR. HART: Madam Chair, we have a potential date we can look at. On the 23rd of February, we have -- Just a minute -- we have two cases. One is in the morning, and one is in the afternoon. So we can piggyback this case on one of them. At that point it might be better to do it in the afternoon.

CHAIRPERSON REID: The afternoon, the second case of that afternoon on February 23. Is that

amenable to everyone? Okay.

MS. DOBBINS: And the Board starts its afternoon proceedings at one o'clock. Is that correct?

CHAIRPERSON REID: Right, and we'll take up the first case, and then your case after that, and we'll have only to finish up the people in support and the opposition and closing remarks. Okay. All right, thank you.

All right now. Sir.

MR. ROSENSTOCK: Good evening, Madam Chair and members of the Board. My name is Jim Rosenstock, representing the National Capital Parks East, the National Park Service. It's a pleasure to be here once again to speak before you.

We delivered fairly extensive testimony on our concerns about this project in May of 1999. I'll attempt to be much more brief this time, even though I'm looking at a number of new faces.

You should have before you -- I gave Mr. Hart some copies of our most recent letter signed by Superintendent John Hale. We were very interested in what the Office of Planning would have to say on this.

While the Park doesn't believe that it's appropriate for the National Park Service to either support or oppose this project because of a number of

issues that are beyond our purview, we feel that what the Planning Board had to say in conclusion is very much to the point.

The applicant has made a number of promises and proffers to us and the community in the course of these six months or so, and it's definitely very important that these be made a permanent part of the order in this case, if indeed this project is approved.

We have met extensively with the applicant in this regard, because of the large number of concerns the Park Service had on adjoining Park lands, a number of issues. The applicant has made, we believe, a good faith effort to understand and address a lot of these issues. However, we do remain concerned, because this is a very difficult site, and it has had a difficult history with the Park, and we're concerned that all the proffers that have been made actually are successful, if indeed this project is granted.

Let me go over a few of the concerns as quickly as I can that we had. Behind the single family portion of the project, to the west is a portion of Fort Stanton Park that includes some extremely sensitive and rare wetland communities on the National Park Service site. We're reasonably confident that the applicant has taken steps to protect that portion of

National Park's land.

In regard to the wetlands on the applicant's single family site itself, that's not really within the purview of the National Park Service, and we depend on D.C.'s water quality and wetlands people, Jim Collier's shop, to address those issues.

We have concern -- There is the Fort Circle hiker/biker trail that passes through Fort Stanton Park. We did have considerable concerns that the multi-family portion, the apartment portion built on the large landfill to the east, that it would have adverse impacts on the trail, on the views from the trail as you come through, and also on the adjoining Park land.

Indeed, as has been stated several times, there has been extensive erosion and sedimentation on the Park land from the landfill site. As the applicant has testified, it will be a difficult site for them to build on. They will have to take special measures to be able to put their buildings up in a stable situation.

Additionally, this land is suspect in terms of its ability to support the kind of vegetation that we feel is absolutely necessary for this project from a landscaping standpoint. On the site right now there's

a lot of trees that have come up on their own over the years since the landfill was put in. They are all stunted because, frankly, the soil types are not sufficient to support mature forest.

The applicant has offered to do extensive reforestation plantings to augment the Park Service forest along the border of their eastern parcel in order to help provide screening both for the trail and also, in the long view, to provide additional augmented mature forest eventually on that site.

The National Park Service does have specific standards for reforestation, and in addition to plant species, the soil conditions are absolutely critical to the success of a project like this. I only have one copy of this. We have supplied the applicant with this. I have one copy for you. I have no others, because we are a tree conservation organization.

The applicant has noted that they did an analysis of one of the long views. In addition to the view, the close view from the park, from the scenic trail that we have through Fort Stanton Park, we do have great concerns for the long view.

Fort Stanton Park is a part of the Fort Circle Park systems, which is a forested ridge line that pretty much envelopes the central city and

provides a forested green backdrop. When you look at the morning news and they show the beautiful vista of the sun rising behind the Capitol, in the background is Fort Dupont Park. The Fort Circle Parks were set aside as an important element of the overall larger cityscape, and it's very important to protect this.

The applicant has done some analysis of the vistas, particularly from the 11th Street Bridge. There are a number of vistas that we note are important from the center city, a number of historic and important sites that we do have great concerns that the multi-family dwellings, which are artificially elevated on this large mountain of rubble, if you will -- we're concerned these buildings will intrude on the viewscape.

So it's critically important that as many plantings be done close to the buildings and on the terraces that they will be building as well, and that these plantings be successful and grow fast and grow tall and grow large, and are there forever.

We need these kind of protections, and we need this placed in the order in such a way that future owners of the property will not have it within their purview to remove these trees.

There are already some other constructions

in the area that are definitely very intrusive into what is otherwise a beautiful green forested ridge line, and we want to make sure that any project like this would not add to that intrusion.

CHAIRPERSON REID: Mr. Hale, I just wanted to interject.

MR. ROSENSTOCK: Rosenstock. Mr. Hale is my boss.

CHAIRPERSON REID: Oh, I'm sorry. Looking at your letter -- what's your name?

MR. ROSENSTOCK: Jim Rosenstock.

CHAIRPERSON REID: Oh, Rosenstock. Can you please make a list of those concerns that you had that you would like to have placed in any order, make a list of them and make sure the staff gets it?

MR. ROSENSTOCK: Yes. I think this letter addresses those concerns pretty --

CHAIRPERSON REID: Well, yes, but it's not -- They have not been itemized. It would be easier for us if you could just itemize them and give them to staff.

MR. ROSENSTOCK: You would like it in outline form?

CHAIRPERSON REID: Right, because then it could be very easily incorporated as opposed to staff

having to go through the letter and try to extract from it exactly what you want, and something may inadvertently get omitted or left out.

MR. ROSENSTOCK: Absolutely. We'll be happy to do that.

CHAIRPERSON REID: We appreciate that.

MR. ROSENSTOCK: Okay. Basically, the proffers that the applicant has made to the Park Service have been reasonably responsible to our concerns, but as the Office of Planning put it, it's important that these be incorporated into the order in such a way to ensure that these proffers are accomplished successfully.

One additional thing: If indeed this project is approved, there are a number of erosional problems, both on Park Service land and on other lands. They come from the existing problems with the land, with the landfill problems. All of these erosional problems, including a drainage to the south of the site, should be addressed during that phase.

If you have any other questions, I would be happy to take them.

VICE CHAIRPERSON SOCKWELL: Mr. Rosenstock, I have but one question, and it's not very timely. Where was the Park Service when the adjacent land to

the Park was being developed into a landfill?

MR. ROSENSTOCK: We were there. I guess, actually --

VICE CHAIRPERSON SOCKWELL: Nobody cared then.

MR. ROSENSTOCK: No, sir. We have in our files numerous complaints about that.

VICE CHAIRPERSON SOCKWELL: But you've got 40 feet of fill, and 40 feet of fill didn't just appear overnight.

MR. ROSENSTOCK: No, it didn't, but like I say, first of all, in D.C., unfortunately, regulations as far as landfills were different then than they are now, thankfully.

There are a number of fills of that nature and, surprisingly, or not so surprisingly, really, many of them are in southeast, and many of them happened during the last phase of Metro construction.

We did protest mightily. We have a number of documents in our files about that, and there were some citations of the operator that was filling on the Kass property at the time. We have photos in our files of seven feet of sedimentation on Park Service property.

We were aware of it. It was -- and there

was some struggling done with it, and quite frankly, not a lot happened.

VICE CHAIRPERSON SOCKWELL: And, unfortunately, a lot of that landfill probably affected the ecosystem within the Park significantly, and over a period of years; and although very fortunately now, the Fort Circle Park System is considered to be more important because the community has grown more cohesive, as well the city has been moving forward. But it is a shame that Metro was allowed to use that adjacent land indiscriminantly to fill next to the Parks when the Parks were really the only representative body that could have done anything about it.

MR. ROSENSTOCK: Well, like I say, we did -- That was actually before my time and this job at the Park, but I know in our files the Park did protest. But that, unfortunately, is not the only site in southeast that was treated in that manner.

Maybe an even larger point would be that it's a shame that that land was not Park land then, and that's a parcel that probably should have been a part of Fort Stanton Park when it was acquired many years before. But it was not. So that was then, and this is now.

BOARD MEMBER RENSHAW: Madam Chair, I have just a few questions for this witness. I want to say how much we regard the National Park Service in my neighborhood. We are very close to the Park proximity-wise, and we just have wonderful, wonderful relations with the Park Service. So three cheers to you.

The last page of Mr. Hale's letter I'd like to have you put your hands around or your fingers around, because it's kind of loose.

CHAIRPERSON REID: Which letter? What's the page?

BOARD MEMBER RENSHAW: It is the February 15, 2000, letter to the BZA from John Hale, Superintendent of National Capital Parks East.

The last paragraph talks about the "Wetland seeps exist in Fort Stanton Park; these homes are sensitive to plant communities as well as rare micro fauna. The applicant has agreed to work with us to protect these areas from immediate construction impact as well as from secondary impacts such as the spread of invasive plants. We will also coordinate with staff from D.C. Department of Health, Division of Health and Environment, in this regard."

Put some teeth into that. What do you mean? That's very vague. That is vague.

MR. ROSENSTOCK: Yes, okay. I'll be more specific. We were very concerned that the single family homes development, the construction, would have impacts on some of these wetland seats that have rare plant communities in them.

We were concerned about drainage from the road. We were concerned about backyards from homes on that site being extended or, in some cases, being used as dumping grounds onto the parkland, which has been our experience in some other areas. We were concerned that drainage and erosion from the construction phase might adversely affect these seats.

After the initial May 1999 meeting, we did meet in the field with the applicant. They did make some changes. They pulled the housing to one side of the road to allow a cleaner border, quite frankly, between the park and the single family residences.

In terms of grading on their site, they made some changes so as to ensure that flows would be from the wetlands toward the street rather than any flows that might tend to impact toward the wetlands.

There was -- This may be off the subject, but let me quickly expound. In terms of fencing, we're not fans of chain link fence in the National Park Service. Also we don't believe in fencing people away

from the parks. We do prefer that people use established trails, and we don't need to have our contiguous forests broken up by unnecessary trails, but the parklands are for the people, and we expect the residents of any new community to be able to use our park and our trails.

In terms of backing up residential backyards to parks, especially those type of backyards that have privacy fences, we've found that typically more debris finds their way on the other side of the fence. We prefer, for that reason, for fencing to be -- if it is indeed necessary for safety or liability purposes, that fencing be as transparent as possible, both for aesthetics and for protection of the parkland.

BOARD MEMBER RENSHAW: But do you feel that you have -- Do you have a written agreement with the developers that, if this development goes forward, the National Park Service land there is suitably protected?

MR. ROSENSTOCK: We have a list of proffers from the applicant that we would like to have written in the orders of the zoning decision, if you do so.

BOARD MEMBER RENSHAW: Yes. All right, thank you.

CHAIRPERSON REID: Thank you very much. Now the representative from the School Board, please

come forward. I think that's the last government report. Then we have the ANC report. Is there one ANC or two ANC representatives here? Just one?

MR. BONHAM: Good evening. My name is Benjamin Bonham, and I'm the Ward 6 representative on the D.C. Board of Education.

I would just like to submit this letter for the record to this particular Board.

Dear members: I represent Ward 6 on the D.C. Board of Education and would like to express my opposition to the building of multi-family homes under application Number 16457 by Kass MA, L.L.C., KSI Inc. However, I do support development of single family homes where the multi-family homes are currently planned to be built.

This plot of land is mostly located in Ward 8 with approximately one-quarter to one-third located in Ward 6. Before the 1990 census, all the land was located in Ward 6. Because the boundary is redrawn every ten years, if the census determined it is necessary to bring equity to each ward, this boundary change could very well place the plot of land back in Ward 6, once the 2000 census is completed.

No matter what the circumstances are, the children from the development will attend Ketchum

Elementary School, Kramer Middle, and Anacostia High Schools, all located in Ward 6. The development will be located on the upper end of Good Hope Road, while all three schools are located on the lower end of Good Hope Road.

Good Hope Road is currently a traffic hazard for many of our students, especially during the morning rush hour when traffic congestion runs the entire length of the road. With no future plans for road expansion, space for expansion being limited at best, and limited alternative routes, if the alternative routes are taken, it creates a bigger problem because traffic, which normally uses the main road, Good Hope Road, will flood residential streets.

I truly have a concern regarding the safety of our children if apartments is developed.

Let me somewhat apologize for maybe the way I'm reading this. I've noticed the past month or so my sight has changed. So I'm starting to see a little double as I'm going through this. So I'm trying to remember what I wrote more so than try to read what I wrote.

BOARD MEMBER RENSHAW: It happens to all of us.

MR. BONHAM: So I've reached that stage,

and I understand what my parents were discussing. So work with me through this, please.

A negative stigma has plagued Anacostia long enough. There are a large number of vacant and abandoned apartment buildings in the area. I strongly suggest revitalization of current apartment sites and begin to help stabilize our community.

Building single family homes would greatly assist in accomplishing the goals we have for our community. Schools east of the river are the D.C. Public Schools' most populated. The development of apartments by KSI can negatively impact the learning environment at the three schools in Ward 6.

Reports have shown that smaller school sizes have fostered a better learning environment for students. Limited space and financial resources to build new schools will compound the problems the school system has in providing and improving these schools.

Those schools are already targeted as special assistance schools. Targeted assistance schools are schools that are performing at a level or levels behind other schools across the city. Because of the reasons stated, I oppose the development of apartments by KSI on the application number 16457 site.

CHAIRPERSON REID: Okay. I'm sorry I did

not earlier give the applicant or the opposition an opportunity to cross-examine the gentleman from the National Park Service. I just wanted to make sure that I didn't omit that. Mr. Sockwell?

VICE CHAIRPERSON SOCKWELL: Mr. Bonham --

MR. BONHAM: I would like to also add that I'm a life long resident of Ward 6, and the majority of my family live in Anacostia and the surrounding areas that's here for discussion, my first cousins, my aunt, and I have many other cousins that live in that community that have great concerns about the development that's going on in that particular community, as well as the representation that I provide to that community.

I would like to comment on some of the other areas, some things that I've heard discussed tonight regarding the particular area in Ward 6, if you don't mind. I did hear from Ms. Styles that the Board of Education was supporting this measure, the development, and that's just not true.

I just wanted to also say that there was a letter in the package, I believe, from the Board member in Ward 8 who did comment on supporting this particular project, but he lives nowhere near this project, and the fact is that the two Board members that do live in

Ward 8 that are on the Board of Education send their kids to school in Ward 3.

So they are not going to be impacted by what happens at these schools that are in Ward 6 or that's going to be in that particular community. They actually send their kids way across town to school.

Allen Chapel A.M.E. Church -- I am their immediate past president of the men's ministry for the A.M.E. churches of the Washington Conference, which make up about 80 churches between D.C. and Baltimore, and I know Reverend Leon Lipscomb very, very well, and I know that he would love to have the additional parishioners come to his church. However, I don't think that he would allow -- he would be so concerned about building the membership in this community that he would put the kids' safety in that neighborhood at jeopardy.

I also don't believe that he would like to see the academic achievement of the schools that we are trying to build deteriorate even further. I got that appointment from the Bishop of the A.M.E. churches.

I used to be a teacher at Kramer Elementary School, which is one of these schools that's going to be greatly impacted, and all we've ever had down there was chaos. We are trying to turn that around as a

system. Like I said, this is a targeted assisted school. We are putting extra resources. We're trying to do what we can at this time to turn that particular school in the community around with the assistance of the Fairlawn Civic Association.

The lack of a quorum -- It's my understanding that the ANC-6C is supporting this, and the Frederick Douglass community organization is supporting this. I guess I've had -- Given the nature of my job, you know, I have the pleasure of attending some of these community meetings, and I would just like to say that I don't believe that when this particular issue was passed by those two organizations, that they even had a quorum present.

I know at the ANC meeting when they passed this, I think Commissioner Adams, Commissioner Johnson, Commissioner Drake and Commissioner King were the only four members attending that particular meeting that night, other than Ms. Jones and maybe one person from the community.

Unfortunately, we don't get this much attendance in the Anacostia area as we would like to. However, I would say that the Fairlawn Civic Association meetings, when I do attend their meetings, we have 50 or more attending those particular meetings.

So if I would recommend a group that actually represent that community, it would be the Fairlawn Civic Association, because they are always packed.

The Frederick Douglass organization, when they passed the -- when they decided to support this, the membership there was Mr. Gray and his wife. I don't think that's a clear -- a good representation of the Frederick Douglass community to say that that organization would support such a big project that's going to give such an impact to the entire community.

I just would like for you all to take those things under consideration. I didn't come to vote at those particular meetings, but given the nature of my position I do attend these particular meetings. You know, you get a little frustrated when you only see two people at a meeting.

Ketchum -- The PTA President, very good friend of mine who has been active with that PTA with the past two years. It seems as though that was a crafted letter. I know him very well. He bought his house in the area that you're talking about, and you made the comment about those homes not selling for a certain amount. Well, he bought his home just five years ago for $42,000, see.

So we're talking about a community that we

really have to look at with the reality is on the pricing of these houses, because a PTA President there, like I say, bought his house for $40,000. I'm sure he's hoping that his house would appreciate with this development, because he lives there on U Street, and that he's not really an active member, and at these PTA meetings no one shows, and he's not active at all. In fact, he's frustrated.

So I'm sure that someone contacted him -- contacted the school, found out who the PTA President was, and asked him to sign the letter and support it. Of course, he would. I mean, he's admitted to me that there's nothing going there, and I come to those meetings, and I know it's just he and I.

Well, I just wanted to give those particular comments based upon some of the things that I've heard so far tonight said. You know, you can give that the weight that you decide.

VICE CHAIRPERSON SOCKWELL: Mr. Bonham, I have a couple of questions, but -- In fact, I'll start with a question.

Do you fully believe that bringing luxury housing rather than low income housing into the community is a negative thing? Do you really believe that bringing in residents who are generally more

concerned and more actively concerned about the neighborhood, the schools, the conditions, public safety is a negative thing to bring into your community?

MR. BONHAM: Well, it really depends upon the type of people that move into the city. You know, I've recently heard that the majority of people that move in the city now don't even have children. So --

VICE CHAIRPERSON SOCKWELL: Which would not impact the schools at all.

MR. BONHAM: Could impact the schools.

VICE CHAIRPERSON SOCKWELL: Well, it wouldn't if they don't have children.

MR. BONHAM: Well, we're not saying they will impact it. Let me just say why they could impact the schools, and I said that because you know there's been a lot of proposals out there on how we're going to redesign our board, what the governing structure may be, where if the Mayor gets to appoint people to the board will he be appointing people who have children in the schools or people who do not have children in the schools.

The people who decide what -- If this goes to a ballot, a referendum on the ballet, who will determine whether there be an appointed board or an

elected board. Would it be people who don't have kids in the schools, since that's the majority, or would it be the people who do have kids in the school, which are a minority.

So I'm just saying that all these things greatly impact education, quite frankly. A lot of these things determine how much funding that the school system will receive, so we can try to meet the needs of kids who just can't -- whose needs are just not being met.

You've mentioned it before when you mentioned the regentrification. I mean, let's be real. You are aware of it, because you mentioned it. What are we trying to do to Anacostia? Are we really trying to bring that community together and stabilize it or are we actually trying to just tell these people go to P.G. County?

VICE CHAIRPERSON SOCKWELL: Well, I think the question is adequately raised in the long term sense of what the city does in terms of programs, but the question is, specifically with regard to a development such as the one that is proposed, if you are bringing in a resident who is interested in his community, interested in the quality of his living space, interested in public safety, more likely to

bring higher tax base to the area, improve the services and probably come to PTA meetings, are you doing a bad thing?

MR. BONHAM: Well, you know, I think --

VICE CHAIRPERSON SOCKWELL: You're not answering the question. You don't give me that "you know." I want a yes or no, and don't even try it. You are a very, very involved person. It's either yes or no, and what you want to say is no, but you know the answer is that, yes, it is good for the community.

As to whether or not this development is good for the community and schools, you talk about how it increases that. We have to make -- You have to understand that, if someone said they were building low income housing, single family, you wouldn't want it.

CHAIRPERSON REID: Mr. Sockwell --

VICE CHAIRPERSON SOCKWELL: So all I'm saying is I just ask that question because I want an objective answer, and I know that you want to couch it in the position that you're take, but I'm asking that particular question.

CHAIRPERSON REID: -- let him answer your question. You can't ask a question and answer at the same time. Excuse me. Excuse me.

VICE CHAIRPERSON SOCKWELL: Yes, Madam

Chairman.

CHAIRPERSON REID: Mr. Sockwell, let him answer your question. You can't ask him a question, then tell him what the answer is. I mean, at least let him get out --

VICE CHAIRPERSON SOCKWELL: Usually, it's easy to answer a question that is fairly well drawn.

CHAIRPERSON REID: Well, let him say what he has to say.

VICE CHAIRPERSON SOCKWELL: I didn't question the other answer he gave, but that one I did.

MR. BONHAM: The only reason I didn't just give a flat yes or not, because sometimes flat yes and no answers are not fair.

VICE CHAIRPERSON SOCKWELL: Sometimes they are not.

MR. BONHAM: And the reason that you may say that I was, if you want to say, dodging your question --

VICE CHAIRPERSON SOCKWELL: Evading.

MR. BONHAM: -- evading is because I didn't think that question was fair, and I was hoping that you would decide to rephrase it where I could probably answer it in a fair manner.

VICE CHAIRPERSON SOCKWELL: The reason that

I asked it was because, when you started, you spoke to the multi-family being bad for the community, but you didn't speak to the fact that multi-family can be bad for the community but shouldn't always; and if it high rent for your neighborhood, the likelihood is that if it works, it will bring in a higher level of economically prepared resident, let's say, maybe a more committed resident, because they have more to lose.

Sometimes, especially in homeownership, of course, we all have more to lose. But in apartment dwellers we can find that they are the ones that are going to have tenant associations. I mean, I've been there, done that, start tenant associations.

I'm on the condo board of my condo. We can't get a quorum in our condo for an annual meeting, and we've tried twice this year, last year and the year before, and these are people whose condos cost 200 grant or a little less.

MR. BONHAM: Yes. I really believe that the question you're asking this time is very fair. But I do not believe that there should be no apartments in the area. I never really stated that.

What we were talking about was new apartment development in the area. I do believe that there are some existing properties that can be turned

around in that particular area, and I think that that would probably be the best type of development for an area such as in that particular area. That's just the way I feel.

VICE CHAIRPERSON SOCKWELL: And thank you. That's the kind of answer I'm looking for.

BOARD MEMBER RENSHAW: I have a question for Mr. Bonham. I go back to your letter of February 16, 2000, to the BZA. I'd just like to get an idea of the schools that you list in your letter, Ketchum Elementary, Kramer Middle, and Anacostia High School.

What is the enrollment, and are these schools up to capacity at this time?

MR. BONHAM: Let me say that I do have the enrollment figures here. I had the profile and left it in my car, but I believe I wrote it in my notes.

BOARD MEMBER RENSHAW: We hope that you didn't write in small print.

MR. BONHAM: So am I. Actually, let me just say I can tell you what the -- Let me -- Well, I'm looking and talking at the same time.

The enrollment -- should I say the capacity of the building is not accurate. I did attempt to bring the report which would have given the capacity today. However, that report was not released by the

school system, because it's not completed, and to give you any information outside of the completed document could have been very misleading. However, what I could tell you is I do have some old paperwork, and I can tell you that some things have changed since the capacity of the seventies.

Now we have computer rooms. We have technology. We cannot fit the number of students in these schools that we could back in the seventies. We've had to take coatrooms and make other type of rooms out of them, just so we could try to accommodate half of what the capacity was at that time.

I do have a sheet here, I believe, if I didn't give it to you. The building capacity at Ketchum Elementary School -- it was designed for 752 students, the program capacity of 604.

The Kramer Junior High School -- it really doesn't -- I don't know how much this information is going to help you. The Kramer Middle School capacity is 828, and Anacostia Senior High School is 1458.

One of the reasons why -- I pointed this out to the school system, that this information was pretty -- was inaccurate, because I graduated from Eastern Senior High School. When I went to Eastern Senior High School, we had over 3000 students at that

school. Today, if you put half of 3,000 students in Eastern, it's filled to capacity.

So the figures of yesterday doesn't match up with today. The same thing with Anacostia. Actually, I'm looking at Anacostia, and I really don't know how they got this figure for Anacostia of 1458. I used to be on the track team at Eastern Senior High School, and we used to go to PEN relays every year, and they -- Franklin Farrell, you know it -- and we had school sizes so we can be fair to the smaller schools and the larger schools.

Anacostia always ran with the smaller schools, and the smaller schools' capacity had to be 750 and below, you see. So -- and I'm looking at this, and it says Anacostia Senior High School 1458. I know that's off, and I brought it up to Facilities. We're still doing work on trying to get -- Well, you all know all about the numbers of the D.C. Public School System.

There's a lot of work to be done. It hasn't been completed, and I would say in this area, it's one of those.

BOARD MEMBER RENSHAW: Is it your testimony, Mr. Bonham, that the children who may be in this project or in this development as proposed by the applicant would negatively impact those schools?

MR. BONHAM: I believe at this time it would negatively impact those schools, because those schools are not just regularly performing schools. I mean, they are not high achieving schools at this time. I hate to say that. And they are not average achieving schools. They are below average achieving schools, and they have been targeted by the school system to receive special assistance to try to bring them up to par.

BOARD MEMBER RENSHAW: The applicant talked about early on and after school enrichment program, didn't get into the guts of that. But has the applicant talked to you about the design of such an after school enrichment program?

MR. BONHAM: Unfortunately, I haven't heard anything from the applicant. I have come out to the community meetings and seen the demonstrations, and I guess I've seen the demonstration maybe about five times at different community meetings, but never was there any discussion regarding what they could do to help improve the quality of life for the kids in the schools.

CHAIRPERSON REID: Well, they are here now. So perhaps before the evening is over, you can make some type of contact with them directly, exchange cards

and get some dialogue going along those lines, because they have indicated within their submission that they are in the midst of establishing the after school enrichment program. So you would be the first that I would think -- one of the people who would --

MR. BONHAM: Let me also comment about after school programs, you know. It's not always do you have a program. It's about do you have an effective program. There are many schools that have programs, and there's kids that are still performing at the low par.

So I just want to make sure that you take that under consideration as well, because people always say they are doing things, but you know, a lot of times it's for naught.

CHAIRPERSON REID: Well, you can work with them, I think, in that regard, because it could very well be that they really would not be as highly skilled in that regard as you may be or someone that you know may be to assist them in setting up the kind of program that would be effective. Like you said, I agree with that.

I mean, just set a program up, but if you have that type of concern, then I think that it would be appropriate for you then to talk to them and to make

sure -- to better ensure that what they are doing is an effective program. I think that's a very good point.

MR. BONHAM: Okay. I agree with you 100 percent. Yes.

CHAIRPERSON REID: Okay. Now let's try to move this on.

COMMISSIONER MITTEN: Can I just ask one quick question, please, of Mr. Bonham?

CHAIRPERSON REID: Yes.

COMMISSIONER MITTEN: One of the things that's included in your letter is that you say there are a large number of vacant and abandoned apartment buildings in the area, and you strongly suggest revitalization of current apartment sites to help stabilize.

Are you meaning rehabilitation of the existing multi-family?

MR. BONHAM: You know, right. That could -- Yes. Yes. I mean, like I said earlier, that I don't believe that multi-family properties are necessarily bad. However, you don't want the entire community to be multi-family. You want to try to keep a balance in the community.

I think, if they were to do that and build the homes, I think that would create a lot of balance

in that community; because not just -- There's a lot of apartment buildings in that community, if you compare the homes to the apartments.

I think revitalization or, should I say, refurbishing or rehabilitating some of these buildings, I think, would do a lot for those communities, and I think a developer would know what to do, because it's their profession.

COMMISSIONER MITTEN: Well, my follow-on question is just to understand. You know, if we're talking about vacant and abandoned buildings, that means they are not populated right now, and then if you have a concern about the density of people associated with multi-family and you're suggesting rehabilitation, then that would mean, you know, a higher density of people and children going to the schools.

MR. BONHAM: Well, we do know that. However, we also know that that would provide some type of a balance to the community. We are looking at people who should be in those places now that we should be accommodating as well, see.

So we are not looking at counting additional people. We are looking at what should be in that community now, and we have to deal with that. If those buildings were to open up tomorrow and families

moved into those apartments, we have to deal with them. But we don't need to compound it by building additional apartment buildings, and then also open those buildings tomorrow and create a havoc for the school system.

COMMISSIONER MITTEN: Thank you.

BOARD MEMBER RENSHAW: Mr. Bonham, at this time with those vacant buildings there is no movement to -- There is no movement in the community to address that, to rehabilitate these buildings?

MR. BONHAM; Actually, from going to ACC meetings and to the other community meetings, I think that there are aggressively trying to get something done for that community. Yes.

CHAIRPERSON REID: Well, we're lagging behind. I really would like to try to move this on, and we can try to limit our questions to maybe one, if we have to have a question, so that we can try to conclude this fairly shortly. Appreciate it.

Are there any cross-examination questions for Mr. Bonham? All right, thank you so much, Mr. Bonham, for your testimony.

All right. I have a letter from DPW in regard to this application. It says basically in pertinent part that, based on parking usage data

provided by the applicant for comparable development, as well as census data regarding automobile ownership in the general area of the project, the Department concludes that the provision of 216 parking spaces at the site will be adequate to minimize parking spill-over to the neighboring residential area.

We now move to ANC report, and this is the last -- Oh, except we are going to do a couple of persons. Okay.

MR. KING: Good evening, Madam Chair and members of the BZA. I'm Ronald King, Chairman of Advisory Neighborhood Commission 6-C, and I'm happy to be joined this evening by Drake Wilson, Treasurer of ANC-6C.

The School Board member has left. I wanted to address something to him. For the record, I'm quite proud of Anacostia High School in Ward 6. He may not have seen the Anacostia, its academic team win just recently, and I think many of our residents who are here tonight took some offense to that.

Additionally, the Superintendent's figures on school enrollment have been independently verified, and I tend to agree with the Superintendent. I suppose Mr. Bonham, who really could not be specific in giving the capacity of schools in that area presently -- I do

remember earlier today that was addressed explicitly by the presentation of the applicant.

You have in your possession our statement for the record, which was submitted, my letter to you, Madam Chair, November 15, 1999. In the interest of time, I won't read it at all. I'll just cite --

CHAIRPERSON REID: Summarize it for us.

MR. KING: Exactly. I'll cite a number of points I made. Also I'd like to mention that our School Board member was rather forgetful, because he was mistaken when he stated that we did not have a quorum present. Indeed, he mentioned members who were not even at that meeting.

As you see in my paragraph number 2, I state for the record indeed who was there --

CHAIRPERSON REID: There was a quorum.

MR. KING: -- and that the vote was unanimous.

Let me just say, bottom line, ladies and gentlemen, is this comes down to apartments. Seated here this evening are neighbors. We're good neighbors. We're friends. Some of us support the development. Some who oppose it do so because of the inclusion of apartments. That is the bottom line.

You had asked if there had been any

movement on the part of members of Fairlawn because of the apartments. There has not, and there will be, because some people will oppose this because apartments are included in the project, and that is the bottom line.

Actually, there are two factors that would negate our even being present this evening. One, had the applicant desired to construct apartments across the street from my home at Marbury Plaza on Good Hope Road, we would not have to have come through you, because presently the zoning allows for density there, dense development of apartments.

Another highrise could be put there. Low income, cheap apartments could be put there, and I would be picketing this building as my neighbors behind me, because I don't want those apartments in that area.

I represent Advisory Neighborhood Commission 6C, and my neighbors, myself included, would be -- and my single member district -- would be the single member district most impacted by the development of dense apartments directly across the street, and that is not to be.

Directly across the street from Marbury Plaza are to be single family homes, and I am

supporting this, because I want homes across from me and the luxury apartments further up the street on that desolate landfill which has been there for years.

Also, I'd like to say that, had the applicant listened to my council when the applicant first came before the Advisory Neighborhood Commission late last winter, we probably would not be here today. You probably would have approved the application. I can't say how you would have voted, but I would venture to say the BZA perhaps would have approved the application sometime ago when it was first presented to you, because had the applicant waited until all of the studies and assessments had been submitted, then the ANC could have taken a position then.

I told Dick Knapp, Vice President of KSI, Inc., that under no circumstances would the Advisory Neighborhood Commission support his application at that earlier time, because from my days as a staff member of the City Council and the first elected Council last century, elected in '74, I knew that impact statements had to accompany any major development proposals; because I had to prepare them as a staffer for the Council.

Loving my community as I do -- this is my hometown. I agree up on the hillsides of southeast.

My family settled here two centuries ago. The area at 6th and D Streets -- or 2nd and D Streets, Southeast, used to belong to my family where we sold coal to the city. My mother still lives in one of the family homes on Capitol Hill. I lost my father just a few years ago.

So I love this community, and I love where I live. I could live anywhere in the metropolitan area I wanted, from Spring Valley to McLean to Potomac. I live in Anacostia, because I have the best view of anyone in this whole metropolitan area, and I like living around my neighbors. So I am there. I did not flee to Ward 9 or anywhere else. I am there, as my neighbors are there, because we love it. I love this city, and I love my neighborhood.

CHAIRPERSON REID: Thank you, Mr. King, but -- and we appreciate your testimony, but given the lateness of the hour, please, put on the record the summary of the position of the ANC in regard to this application.

MR. KING: Fine. Thank you. ANC-6C unanimously and enthusiastically supports the development, the complete development. Actually, this is a lesson in civics. We refused to be railroaded earlier, because we demanded for the benefit of our

neighbors, those who support this as well as those who oppose this, that we have the impact statements.

After the initial hearing when we did not offer our support and you did not approve the request, the studies I had requested began to arrive. As we reviewed those studies, we held deliberate meetings throughout the community. At the ANC we recommended that other organizations have meetings such as the Anacostia Coordinating Council, other associations.

We even hosted a popularly attended summit where the Mayor, His Honor Anthony Williams, the Council Member, Sharon Ambrose, a host of developers, not just KSI, everybody wanting to do any kind of construction in that area came before the assembled neighborhood to tell us what they wanted to do. KSI at that point had an opportunity to again present to the community.

After this deliberate consideration and exhaustive consideration, the ANC voted unanimously on October 4, as I state here, to approve the entire application. Our resolution to you was in triplicate, three parts. One, we supported our sister ANC-8B, because that is where the luxury apartments lie, and certainly enthusiastically we support the houses that lie in the confines of 6C.

The point is -- You mentioned a number of things earlier in terms of why would folk want to come. Business people don't go into business for charity's sake. People go into business to make a buck. The dilapidated structures at the bottom of Good Hope Road had been there for the last quarter-century.

The ANC had been moribund before those of us who were elected in November 1998 took office. We lobbied the Mayor and the Executive to get those dilapidated eyesores torn down at the base of Good Hope Road. They were.

Nobody is going to build a thing there, and nobody, frankly, should build anything there unless we get additional residents who can help us with the tax base. If we had the mass of residents with the disposable income to support businesses, some of the existing businesses who are trying to hold on would have already been able to improve and expand, and new businesses would have come to the community.

We look forward to this so that we can get more neighbors like us, people who have been fleeing the city, going to Prince George's and other places, to come to give us some company; because riffraff have chased good taxpaying people away.

Now as a native -- and I'm sure with your

being natives, you remember -- we used to have 800,000 people here in the city, and I don't recall stumbling over each other at that point. We need more people like us in this room who work hard, who have disposable income, so that businesses will open.

Many senior citizens, because of the fear of crime, aren't going to come out anyway. Frankly -- Well, I've got gray hair, but I'm not -- Some would call me senior, but others might say, well, you're not a senior yet. But I'm not going to go out -- I'm not going to go out to support these businesses, because I can look at the monument. I can look at Lincoln and the Memorial from my dining room or from my bed. So I don't have to go out.

That's why we need new folk who are going to support new businesses. So we support this.

Now a couple of things I need to point out to you, Madam Chair, that you mentioned in your questioning. You questioned the safety. I would just point out that the 7th District where the homes would lie last year were cited and awarded as having the best crime statistics in the entire District of Columbia.

Our Council Member, Sharon Ambrose, frequently says throughout the ward, Ward 6, that PSA, Police Patrol Service Area 609 is one of the best PSAs

in the entire ward. I have had some car trouble of late. So sometimes in coming home I walk all the way up Good Hope Road. I can walk up and down Good Hope Road morning, noon or night, and I tell you, feel every bit as safe as I would walking up Wisconsin Avenue.

If I were to invite you to join me, and I do this in coat and tie, there is less likelihood I would be bothered on Good Hope Road than on that stretch of Wisconsin Avenue in tony Georgetown. If you check the crime statistics, they are far greater in Georgetown and Adams Morgan than they are on Good Hope Road. I just wanted to set that record straight.

Now in terms of development, this development would be the first large scale housing development in this part of Anacostia, 6C, in a quarter-century, and that's what we are about, revitalization of our city, getting people with money back into the city to help us.

I would also say that the Navy Yard -- we have been successful in luring Navy to come from Crystal City, despite the unfair opposition of Members of Congress, and we're getting 12,000 new people coming to work along the stretch of M Street in Ward 6 at the Navy Yard. That's a major coup.

These people are going to need residences, and I can tell you, neighbors of mine in Marbury Plaza -- and there are 2,000 of us -- cover a wide spectrum of demographics. We have some people trying to make ends meet, saving up their money so they can one day buy homes, and many of these people have approached me about how soon these houses are going to be built.

We have other people quite wealthy. We have everything from people on assistance to millionaires. We have people with extensive property holdings elsewhere in the city and in the metropolitan area and in the country who live in Marbury Plaza, because they choose to do so.

I've had to put off two meetings today, be away from my office. I'm going to pull an all-nighter, because it was important that I be here for my residents today. I've got two meetings coming up this evening at the same time, one with my board and one with the Council Member in a hearing that I've got to juggle, because they are in different parts of town. But the point is someone like myself who, as I said earlier, could afford to live any number of places does not have time to cut grass.

I have not had time to put away some laundry I did two weeks ago, and I'm hoping that one of

my neighbors -- Well, I won't get into that, but someone may help me fold and put them away this week. But the point is I don't have time to cut grass, and a lot of folk -- We have empty nesters. We have people who simply like the ambience of living in our dwelling and looking out over the capitol.

I see everything from Springfield-Franconia to the Baltimore Washington Parkway. So people in many instances choose to live in apartments, because they like to do that.

One of the undercurrents here, unfortunately, is a type of understated, pseudo-elitism, a NIMB-ism, "Not in My Backyard." I have gone to community meetings, and one of the reasons I ran for this position is because it is important that some of us who choose to live in apartments have an opportunity to be represented.

There is a tendency on the part of some homeowners to think that, you know, once you buy a home, despite the size or despite the cost, that you have arrived and that anyone in an apartment is somehow a second class citizen or somehow is not as good. And trust me, I just had a neighbor build a mansion, but has maintained his residence in Marbury Plaza.

I had another friend buy a half a million

dollar penthouse, but has lived in the Plaza. So the point is it's not about riffraff. Now at these community meetings we get many people in homes complaining about some of their children and neighbors' children out selling drugs and prostituting themselves.

So you can be low life, be you in a house, a crack house, or in an apartment. So let's just, you know, put that out there and get rid of that. We who live in the city don't need to, for whatever reason, turn on ourselves and take on this self-destructive NIMB-ism.

In Ward 6, in Anacostia, we want to enjoy the fruits of this revitalization, and we want to join our other wards across this city in attracting good, law abiding, taxpaying citizens to help the coffers, because that lessens the burden on all of us.

So in summation, those are the remarks I would like to put forward. I think my colleague who joins me this evening, Drake Wilson, would have some remarks, and we certainly are happy to respond to any questions that you might have, and I thank you for your rapt attention.

MR. WILSON: I'd like to thank the Board for allowing us to speak today. We have meeting -- I'm sorry. My name is Drake Wilson. I live at 1673 W

Street. I'm ANC Commissioner for 6-C09, and I am the Treasurer of that ANC.

We have been in this process with KSI for almost a year now, and we have come to the full conclusion that we fully support and welcome this effort to our community.

I ditto the items that were mentioned by the Chair, and I would like to suggest that we are trying to make our community attractive, and we want to position ourselves, and we believe that this development will position us to attract the right kind of people to help move our community in the right direction.

I think that it supports the redevelopment that's taking place and the revitalization that's taking place, and it's timely, and it's in sync with what's taking place in our community. We provide this ANC full support of this effort. Thank you.

CHAIRPERSON REID: Thank you. Are there any questions of the ANC members? Do Board members have questions for the ANC members? All right. Any cross-examination for the ANC members? Ms. Jones.

MS. JONES: I wrote my questions down, but I don't know what I did with it.

CHAIRPERSON REID: You'll just have to go

from memory, Ms. Jones.

MS. JONES: Okay. I'm going to pose my question to Ronald King. Ronald King, how long have you lived in Marbury Plaza?

MR. KING: I have lived in Marbury Plaza for four years. I have visited Marbury Plaza since 1968 when the front building was constructed when my sister and brother-in-law married.

CHAIRPERSON REID: Just answer the question. Just, please, I appreciate the fact that you want to embellish your answers, but just answer the question so we can keep moving. Thank you.

MR. KING: Certainly, Madam Chair.

CHAIRPERSON REID: As quickly as you can. Thank you.

MR. KING: Yes, Madam Chair.

CHAIRPERSON REID: We're all tired by this time.

MR. KING: Yes.

MS. JONES: I noticed you were talking about the development would be the first new development that's come to Anacostia. What about the houses that Habitat just built on the fill land. They just built, and they're in the last stage of completion. Have you forgotten about those?

MR. KING: I have not.

MS. JONES: Well, you didn't mention those, which is built right behind --

CHAIRPERSON REID: You're testifying.

MS. JONES: Oh, excuse me.

MR. KING: Let me just say, Madam Chair, I do represent Ward 6, and those places are not in Ward 6. My statement in the record is the first large scale housing in Ward 6.

CHAIRPERSON REID: Okay.

MR. KING: Thank you.

MS. JONES: Okay.

MR. KING: Thank you, Ms. Jones. Do you stand corrected?

MS. JONES: Yes, I will. You and I get along fine.

MR. KING: Yes, we do, but I represent Ward 6, not Ward 8. My statement was factual.

MS. JONES: Okay.

CHAIRPERSON REID: We got that.

MR. KING: Thank you.

MS. JONES: And I notice in your statement and in your testimony you stated you -- How many SMD meetings have you had? Single member district meetings have you had?

CHAIRPERSON REID: But, Ms. Jones, it has to be germane to the --

MS. JONES: To the project?

CHAIRPERSON REID: -- to the testimony.

MS. JONES: It is, and maybe I need to put it in a two-part question.

MR. KING: It was a fair question. I can respond to it.

CHAIRPERSON REID: How is it relevant?

MS. JONES: Because I'm in his SMD, and I've never been invited to one of his SMD meetings, because we have never had a notice for the entire --

CHAIRPERSON REID: Okay. All right, answer that.

MR. KING: I will respond, and I think you have in the record that notice. I called a single member district special meeting of residents in Marbury Plaza, because Marbury Plaza, which lies in the confines of Fairlawn Citizens Association. Residents don't attend.

Fairlawn residents, and I'm a member of Fairlawn and do attend, voted against the Homes at Woodmont project. Therefore, I called a special single member district, as a responsible Commissioner would do, to get additional comment from residents who

historically do not attend those meetings at the library, and for their convenience I had this meeting on a Sunday afternoon in the common room at Marbury Plaza, and I stand behind that. I think it was good to do, because that allowed me to gauge that there was widespread support of people who don't bother to go to the meetings at Fairlawn.

CHAIRPERSON REID: Okay, thank you. Next question, Ms. Jones.

MS. JONES: That's all, because I am in his SMD, and I am --

CHAIRPERSON REID: You're testifying. Did you get the answer that you wanted? Did you get an answer to your question?

MS. JONES: No. The only thing I wanted to know, why I have never received a notice from my commissioner about a SMD meeting, regardless of what the meeting is about.

CHAIRPERSON REID: Okay, but you asked a question, and he gave you an answer.

MS. JONES: Okay. All right.

CHAIRPERSON REID: Thank you.

MS. JONES: Okay.

BOARD MEMBER RENSHAW: Madam Chair, if I may -- If I may, before our ANC representative, Mr.

King, is --

CHAIRPERSON REID: This is cross-examination.

BOARD MEMBER RENSHAW: I just wanted to know about this document that we've just been given, agreement between KSI --

MR. KING: Thank you. Since that was admitted into the record, and the Chair had asked that I move along quickly, I didn't mention that. But that document, and Commissioner Renshaw, that -- Board Member Renshaw, that document is at the crux of this.

When I mentioned that this experience these past months provide an excellent civic lesson when we didn't approve this before but got the submission of the impact studies and worked along with KSI ad nauseam, we came up with an agreement between ANC-6C, KSI, and the ANC in the other ward, 8B, came up with its own agreement.

This agreement allows us to have KSI give priority to residents in our neighborhood for jobs for building this, because we have a lot of skill levels -- skills levels, rather. So it gives us people who can actually lay the mortar and bricks.

It gives us an opportunity for more skilled contractors, and it gives us an opportunity to, under

signature and in a legal document, have KSI commit to reinvestment programs.

So that's why it was great that KSI didn't listen to me at first and ran ahead and got rejected by you in the first round, because it gave us an opportunity to get them to agree to help revitalize some of the old dilapidated apartment buildings that many of my neighbors -- all of us, quite frankly -- would like to see.

So this document really is something that, if other communities in town would like to bring to their neighborhoods, it would be great for them to copy with developers who would want to do things there.

What KSI has shown us is exemplary, and they have set a new standard for developers wanting to build in this city that we all love so much.

BOARD MEMBER RENSHAW: Mr. King, was this passed at a public meeting?

MR. KING: Yes. We voted on this. Yes.

BOARD MEMBER RENSHAW: It doesn't say when you voted on this.

MR. KING: Yes. The ANC voted on this at our meeting this month, which would have been the first Monday. The date of the first Monday in this month -- I've got a little calendar here.

BOARD MEMBER RENSHAW: But it should be on this document, that this was advanced at a public meeting and that a quorum was present and who voted for this.

MR. KING: Yes. For that we did not submit to you. I think KSI did. So I assume that they had entered into the record that.

BOARD MEMBER RENSHAW: But this agreement between KSI and ANC 6-C -- I take it that this was not brought before your ANC in a public meeting?

MR. KING: Oh, it was. It was.

BOARD MEMBER RENSHAW: It was?

MR. KING: It was, at the meeting February 7th.

BOARD MEMBER RENSHAW: February 7th? That should be --

MR. KING: It was also brought to the Commission prior to that at the January meeting. What happened at the -- It's just been mentioned to me by Ms. Dobbins, Attorney Dobbins, that perhaps a transmittal letter accompanying that was misplaced. I don't know.

BOARD MEMBER RENSHAW: All right.

MR. KING: But we did vote at our January meeting to approve the agreement. At our January

meeting it was pointed out that there were a couple of typographical errors and an omitted line, and we approved that with the understanding that those corrections would be made.

In the ensuing days one of our commissioners thought, well, if they are going to turn this over and agree to maintenance costs that perhaps we should build in inflation. So in the document you have there is a line that says a three percent increase.

On that particular one the Commission at the February meeting did vote, but other than that modification the document is essentially the same that was passed -- the two typographical corrections. That was passed in January.

So in essence the body in January and then with the corrections in February.

CHAIRPERSON REID: All right. I think that what Ms. Renshaw is saying, that since we don't have the transmittal letter that reflected that there was a quorum and a vote taken that would accompany the agreement, could you please make sure that we receive it?

MR. KING: Oh, sure. Yes.

CHAIRPERSON REID: Thank you. Are there

any other questions, cross-examination for Mr. King? All right, thank you very much.

MR. KING: Thank you very much.

CHAIRPERSON REID: All right. Ms. Dobbins, there were some organizations here in support. Did they leave already?

MS. DOBBINS: No, Madam Chair.

CHAIRPERSON REID: All right. Come forward, please, and give us your name.

MS. DOBBINS: There was one other organization in the community that wanted to testify, Frederick Douglass.

CHAIRPERSON REID: Now that is -- Is this the last one? Are there two or one? I see two people getting up.

MS. DOBBINS: Yes, there are two.

CHAIRPERSON REID: All right, two. Okay. Then these will be the last testimony, two persons in support, and then the remainder of the people in support and the people in opposition and closing remarks will be when we convene on the 23rd. Is that right? 23rd in the afternoon. Okay, thank you.

MS. THOMAS: Good evening, Madam Chair and fellow Board members. I am Toni Thomas, initial I. Toni Thomas. I am a Ward 8 business person, and we

have an office at 2307 Skyland Place.

I support this. I came today to give my support for the development, because it does provide an opportunity for decent, safe and affordable housing east of the river.

You've heard a lot of the testimony about the need for quality housing, and the development team's commitment to the community deserves recognition by the Board. There are a number of activities and programs that were discussed that need to be fully examined, not only examined but carried out, and I know through the community participation process that it will occur.

I think what has been demonstrated today is the need to continue to work with the resident community, and I feel very committed to this developer and the team to bring that to fruition.

Diversity in the community is critical, and we see that that's a part of this development, as well as mixed income housing. There's nothing wrong with low income people, moderate income people living in the same neighborhoods.

I was appalled at some of the discussion about people's incomes and where they should and should not live. We can all live in harmony within one

community, and the divisions that are being created are unnecessary.

I see this development team as an opportunity of bridging those divisions. People who have very low incomes can live next to moderate and middle income people, and that's something that we are doing more of in the metropolitan area.

Very briefly, I support it because I firmly believe that, as this development goes forward, it provides not only the opportunity for mixed income housing, but also for the residents who live in the community who want to move up. Whether they move up in housing, single family housing and/or apartment living, that provides a resource that is not currently existing.

I would be more than glad to answer any questions that you have. My background has been in housing. I spent more than 37 years in the area of housing. That was involved with community participation as well as the manager of the Washington Office of HUD.

We know full well that comprehensive community development makes a major difference in the lives of our residents in the District of Columbia. I thank all of you for the opportunity to speak, and

would welcome comments and questions from you and also from the residents of the community.

CHAIRPERSON REID: Thank you very much. Questions, Board Members? Any cross-examination from parties? Ms. Jones?

MS. JONES: I have one question.

CHAIRPERSON REID: All right, quickly.

MS. JONES: Did you give your address? Where do you live, Ms. Thomas?

MS. THOMAS: I live in Maryland, and I have a business in the District of Columbia and in Maryland. If you don't mind me elaborating a little bit?

MS. JONES: No, I just asked you where you live. I'm okay.

MS. THOMAS: I grew up --

CHAIRPERSON REID: No, no, no. You have to just answer the questions. Did you give your address when you first started testifying?

MS. THOMAS: I did.

CHAIRPERSON REID: Which was?

MS. THOMAS: It's 2307 Skyland, Suite A. When I established my business east of the river, I decided to do it here.

CHAIRPERSON REID: So your business -- That's where your business is located?

MS. THOMAS: Yes, it is.

CHAIRPERSON REID: Okay, that's your business. All right. That's the only question you have? All right, thank you.

This is the last person to testify for the evening. Sir? We asked that beepers be turned off.

MR. GRAY: It wasn't mine. Hi. My name is Bernard Gray. I was born and raised in the city. I've lived in my present address of 2090 18th Street, which is directly across from the new homes development, since 1975. I lived in the further part of Southeast up between '59 and '75.

Since my moving to the community of Anacostia -- and keep in mind that when we're talking about Anacostia officially, it doesn't go to where the apartments are located at all, and it doesn't go past Marsh Road. So it's a very small area that we're talking about.

Since I've been a member of the Frederick Douglass Community Improvement Council, since '78, I have served as their legal counsel, and we have always tried to get development that was community orientated and residents involved in it.

This is the first time that we have had a developer willing to commit himself to being sued

legally if he does not carry out whatever he's made in his commitment to you as well as the commitment that he's made to this community.

Believe me, that will be enforced. I've sued the city over failure of the Board of Education to do what they were supposed to do. I have sued the city on the 600 home business that they were making. So I do not expect that this developer will get away with anything that he's made a commitment to do.

That's why I drafted that agreement between the developer and the Frederick Douglass Community Improvement Council. Once that was drafted and the developer decided that he would do that, then they then did it for ANC-6C and ANC-8B, but neither one of them have the power to enforce it. I do, as counsel for the Frederick Douglass Community Improvement Council, and I will.

So there's a lot of things that were said that may not be accomplished, but I will be there to make sure that it does through my organization. We were initially -- The Frederick Douglass Community Improvement Council was initially opposed to this development, because we supported our community sister organizations, including the Fairlawn Civic Association.

Once we discovered that the Ward 8 -- ANC-8B decided that they would support the project, we withdrew our support for the -- we withdrew our opposition to the apartment units based on the fact that I think their community ought to decide what it is that their community ought to have, and our community should support what our community is most affected by.

Everybody agrees that the Ward 6 homes ought to be built. It is that aspect of the apartment development that the opposition comes in, and I think it was clearly stated that everyone has a right to live in the city someplace, and we cannot judge one development project by a mismanaged development project that may be across the street from it.

Now negatively, I was going to get everything off, because the reports that we received -- Once the President, who happens to be my wife, for Frederick Douglass Community Improvement Council requested and received the reports that she had asked for, we went over them, and I personally went over them, and I disagree fully with the traffic report. It's just not going to happen.

Now I do agree that -- I counted nine out of ten cars being Maryland or Virginia residents, as

I'm waiting for the bus on Good Hope Road to come into work. She said eight. So we're pretty close. But there is no way that I would take DPW's traffic count and give it a whole lot of status.

Sometimes that traffic going across that bridge backs up to 18th Street, and it is snarled from there all the way across the bridge, all the way downtown. So it's going to have an impact. If you add 100 cars more, it's going to have an impact.

The point is, is that sufficient to stop what needs to be done in my community? I say no. There are going to be some advantages, and there are going to be some disadvantages, and I think the project overruled those disadvantages that we have, and we ought to go forward on it.

My negative aspect on this person called Mr. Bonham as the ward representative. I'm going to ask that I be at least allowed to say this, because I think it's important to both you and to the community, actually to say this last statement I'm going to make.

CHAIRPERSON REID: Sure, go ahead.

MR. GRAY: Mr. Bonham replaced me as a member of the Board of Education, but don't hold that against me for what I'm about to tell you. But he's absolutely wrong.

First, he does not live in my neighborhood. He lives on Capitol Hill. Secondly, the children who are elementary age children will not be going to Ketchum. They will be going to Stanton, which is at the top of the hill.

Thirdly, all of those schools that he mentioned are underutilized. They are under-enrolled, and we had a big long discussion about closing schools, because the schools were under-enrolled. They are not overcrowded now, and I don't think the addition -- Not knowing how many children are going to be of school age, how are we going to predict they're going to overcrowd the school systems?

Now the best that I can figure out is that, if you take the car ratio, it would be less than one car per unit. So we're not going to have the 212 cars that we would have had if everyone had a car.

Secondly, unless we know the number of children and their ages, we can't make a prediction that they are going to overcrowd the school system. Most of the kids who are -- what should I say? -- significant enough that the parents want them to go someplace else, they send them to Jefferson. They send them to Hines. They send them to Deale. So they don't even go to Kramer.

Those children who are senior high school, I don't think it's going to be a traffic problem or a safety problem for them to be able to walk down to Anacostia, if they walk at all. So I think he was totally wrong, and he's definitely wrong when he said he attended my community meeting and we didn't have a quorum.

He's been to one of our community meetings passing out campaign literature, and he came to the ANC to do the same thing. That's the only time I've ever seen him in my community, and it galls me for him to be a member of the Board of Education and an elected official and come here and tell you misinformation. That is absolutely absurd.

Thank you.

CHAIRPERSON REID: Thank you very much. Are there any questions of this witness? Is there any cross-examination questions, Mr. Feola and Ms. Dobbins, Ms. Jump? Okay. Thank you.

Then that will conclude the hearing for today finally. Thank you very much for your indulgence, and I know that everyone is probably tired by now and hungry.

We did have items that we had requested and, hopefully, we'll be able to get them by the next

hearing date, which is the 23rd. Do you have a list of them, Ms. Bailey?

MS. BAILEY: Yes, Madam Chair. A traffic management study -- I think the applicant --

CHAIRPERSON REID: From the applicant?

MS. BAILEY: From the applicant; also from the applicant, a count of traffic accidents within the two intersections; an outline of the National Park Service concerns. I think you had asked for that.

CHAIRPERSON REID: An outline of what?

MS. BAILEY: The National Park Service.

CHAIRPERSON REID: Asked for their conditions that they wanted to include in the order, yes, the conditions.

MS. BAILEY: And then the final thing would be a statement or a letter from the ANC indicating when the agreement was developed or was discussed in a meeting, a quorum was present, what the vote was, and all of the details that led up to the final agreement.

CHAIRPERSON REID: Okay. Before I close, though -- Thank you very much. I think we are all in synch with that. Just one other thing. There was another letter from the ANC-8B. They did not appear here today, but I want for the record to put it on our record that they had submitted a letter in support of

the application.

They had a public meeting September 22, and there was a quorum present. Now this letter, however -- Now this is what I have to get some clarification. This letter was for support for reconsideration of the application.

Now is that the same as support for the application, because this hearing -- This is a rehearing of this application. Do you follow me? I just wanted to make sure that there's no misunderstanding, because when we had the meeting in which we determined whether or not there would be a rehearing, then I don't know if this letter was in support of that or in support of the actual application that we have before us.

MS. DOBBINS: They specifically wrote the letter for reconsideration request, for support of that, and they specifically indicated "and for subsequent granting of special exceptions under Sections 410 and --

CHAIRPERSON REID: Oh, thank you. Where is that, Ms. Dobbins?

MS. DOBBINS; It's in the same paragraph, that first paragraph of the letter. You're looking at the October 13th letter?

CHAIRPERSON REID: Yes.

MS. DOBBINS: Okay. It says --

CHAIRPERSON REID: Okay. I'm sorry. I did not see that.

MS. DOBBINS: And I brought that to your attention, because some of the other letters that were presented at the same time also say that as well, some of the Council members' letters as well.

CHAIRPERSON REID: All right. This is a little confusing, but nonetheless, they did have a quorum present, and they did take a vote, and their position is in support of the application as well as they submitted to us a series of resolutions that reflect the same thing.

They also had some conditions, and the conditions were that the apartment component and the single family detached component of this project shall be built simultaneously, and that the applicant shall enter into a binding agreement with ANC-8B that outlines its long term commitment to this project and the community in general.

I think that wraps it. Mr. Hart?

MR. HART: Madam Chair, I'd like to say one thing again, just reiterate. The meeting is on the 23rd at 1:00 p.m. However, be aware that this case

would be the second case on the agenda. So though the session starts at one, you will be the second case on the 23rd, afternoon.

MS. DOBBINS: And then, Mr. Hart, there will be no additional announcements or --

MR. HART: No. That is correct, Ms. Dobbins.

CHAIRPERSON REID: Thank you.

(Whereupon, the foregoing matter went off the record at 7:44 p.m.)