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

JANUARY 19, 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 9:30 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
JERRY H. GILREATH	Board Member
ROBERT N. SOCKWELL	Board Member

ZONING COMMISSION MEMBER PRESENT:

KWASI HOLMAN	Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OTHER AGENCY STAFF PRESENT:

Mary Vogle,	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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(9:39 a.m.)

CHAIRPERSON REID: Ladies and gentlemen, this is the January 19th, year 2000 public hearing of the Board of Zoning Adjustment, District of Columbia.

My name is Sheila Cross-Reid, Chairperson. Joining me today are Robert Sockwell; Gerry Gilreath, representing the National Capital Planning Commission; and representing the Zoning Commission is Kwasi Holman.

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

One, statement of witnesses of the applicant; two, government reports, including the Office of Planning, Department of Public Works, etc.; three, report of the Advisory Neighborhood Commission; four, parties or persons in support; five, parties or persons in opposition; and six, closing remarks by the applicant.

Are there any appeal cases today? I think that we are -- is there an appeal today?

MR. HART: No.

CHAIRPERSON REID: Okay. 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 the staff will specify at the end of the hearing exactly what is expected.

The decision of the Board in these contested cases must be based exclusively on the public record. To avoid any appearance to the contrary, the Board requests that persons or parties 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 or should be heard today, such as request for postponement, continuance or withdrawal, whether proper and adequate notice of the hearing has been given.

If you're 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 think that we had a few requests for a postponement. There was a request for postponement for case number 16457. Is there anyone here who is associated with that

particular case?

Yes, come forward, please.

MS. DOBBINS: Good morning, members of the Board. Madeline Dobbins representing the applicant in 16457. The applicant in this case did not request a postponement. We were informed that there would be a postponement.

CHAIRPERSON REID: Oh, I see. Informed by who?

MR. HART: Madame Chair, one of the critical factors for this postponement is that the regs require a report from the Office of Planning.

CHAIRPERSON REID: Right.

MR. HART: That report has not been provided and that's the main reason why we have to postpone this case.

CHAIRPERSON REID: All right, so then basically the purpose of your being here is just to determine when, in fact, it will be postponed to?

MS. DOBBINS: That's correct, Madame Chair.

CHAIRPERSON REID: So we're just going to do it by consensus, Mr. Hart? By consensus, we'll just postpone the case?

MR. HART: Yes, Madame Chair.

CHAIRPERSON REID: Unless there is any objection by any other Board member.

Is there any discussion?

MR. HOLMAN: I just wanted to ask the question has the Office of Planning indicated when they can provide the report?

MR. HART: No, they haven't. They haven't given us a date on that, no, which gives us a problem in setting a date.

MS. PRUITT: Excuse me, Madame Chair. Sheri Pruitt. Just a little bit more information on this. This is, as Mr. Hart stated, one of the cases that is -- before taking final action, the regs state that they should have a report.

We have been in touch with the Office of Planning trying to get a date from them when they would have a report so we could reschedule this. Unfortunately, Office of Planning is undergoing growing pains, like many of the other District agencies, and their new person who heads Zoning just came on board yesterday.

We have talked with her, left a message, and she's supposed to be getting back to us. Unfortunately, as of this time, I have not heard any response in reference to when this could be rescheduled. So, at this point, we would just have to renotice because we don't have a date and we don't know when it would be coming.

CHAIRPERSON REID: Okay.

MS. DOBBINS: We would ask that the Board reschedule this as soon as possible.

MS. PRUITT: And we would try -- yes, we would do so as soon as we find out once the hearing is available. We only need a ten day notice now if we're rescheduling it. But --

CHAIRPERSON REID: Okay.

MS. PRUITT: -- at this point, we're hoping to have it in February. I mean, I'm telling people what we're hoping. Whether or not Office of Planning will be able to accommodate us is another issue.

MS. DOBBINS: So the Board would consider this for a ten day notice for a further hearing?

MS. PRUITT: Correct.

CHAIRPERSON REID: Okay. Is that acceptable to you, Ms. Dobbins?

MS. DOBBINS: Yes, it is.

CHAIRPERSON REID: Okay, thank you.

MS. DOBBINS: Thank you, Madame Chair, members of the Board.

CHAIRPERSON REID: Would you come forward if you have something to say?

MS. JONES: Good morning. My name is Thelma Jones and I'm a party to this -- in opposition to this. And it seems to me that since the applicant had been informed that it probably wouldn't go forward, we didn't receive any word stating that the case would not go forward.

But some people that has been gone on the other side that testified before, they were calling people in our area telling them that the case was postponed and they knew as early as Saturday, but no one from this Zoning BZA never called me, who is a party to -- in opposition to this case.

So we will apply with whatever goes forward.

CHAIRPERSON REID: Just one second, please.

Is this a situation that has been stated to us? Is this exactly what occurred that --

MS. PRUITT: Well, actually --

CHAIRPERSON REID: -- they were not informed? Being a party of the case, they should have been informed that there was going to be --

MS. PRUITT: We have no telephone number for Ms. Jones. I actually spoke to someone yesterday because your phone was out of order.

MS. JONES: My phone is not --

MS. PRUITT: Yvonne Moore called me --

MS. JONES: Oh, no, no, no, no.

MS. PRUITT: -- on your behalf, Ms. Jones.

MS. JONES: My phone is not out of order. My phone is a working phone.

MS. PRUITT: Well, that's what I was told and she told me she would then contact you. That's why we didn't call you.

MS. JONES: Who told you that?

MS. PRUITT: Yvonne Moore. I spoke with her yesterday.

MS. MOORE: And that's not what I said.

MS. PRUITT: That was my understanding, ma'am. I'm

sorry if I misunderstood, but that was what I understood.

MS. MOORE: I said that --

CHAIRPERSON REID: Okay, excuse me, excuse me. What you have to do is to sit down and give your name and your address and then you can speak, okay?

MS. MOORE: Thank you.

Good morning. My name is Yvonne Moore. I reside at 2330 Good Hope Road in SE in the Fairlawn Section of Anacostia. I called Ms. Pruitt-Williams --

MS. PRUITT: Correct.

MS. MOORE: -- yesterday to ask her if, in fact, this hearing had been canceled because Ms. Gray called me. And I told you that I had not been able to reach Ms. Jones by telephone because she was not home.

MS. PRUITT: Oh, I'm sorry, I misunderstood. I knew you were unable to reach her. That was what I understood.

The other thing is we were hoping this morning we would actually have a hearing date. As I said, as of 9:00 when I spoke -- tried to get in touch with Ms. McArthy, we were not able to. We were hoping that we would be able to tell people today when it was going to be held.

Unfortunately, Office of Planning has not been able to get back to us, so we have no other recourse but to readvertise.

And normally our course is, when we do have

cancellations and we readvertise -- I mean we have a date, we announce it at the hearing because we don't always have -- we don't always know who's going to participate or who's interested since only parties do we have, but there are other people who are allowed to testify at any time.

CHAIRPERSON REID: Okay, I think that the crux of this whole matter is that, as a party, the Civic Association certainly should have been so notified.

And since you were not given that courtesy, then I certainly do, on behalf of this Board and the Zoning Office, extend our apologies to you for being remiss in that responsibility. And we will ensure that that will never happen again in regard to any subsequent notices or any information that you should receive.

We will make sure that you do receive it in adequate time.

MS. PRUITT: Ms. Jones, may I ask, could you give us your number off the record because all your correspondence only has an address? I don't want you to give it to me on the record.

MS. JONES: My correspondence -- and I think I have a copy of one of my letters.

CHAIRPERSON REID: You could give it off the record, Ms. Jones.

MS. JONES: It's 202 --

CHAIRPERSON REID: Off the record, Ms. Jones. And

even if Ms. Jones could not be reached, there are other people that are associated with or who are in contact with --

MS. PRUITT: So we could add the name of that, too.

CHAIRPERSON REID: -- Ms. Jones that you can contact so that they can get in contact with Ms. Jones. But we -- and I certainly empathize with your position and I can understand your being upset. And all we can do is to try to ensure that this will not happen again.

MS. JONES: And I would appreciate that.

CHAIRPERSON REID: Thank you very much.

MS. JONES: Thank you. So we're all dismissed as of now?

CHAIRPERSON REID: Yes. At this time, we've decided that we don't have the Office of Planning report. The person who is heading up the Zoning section, Ms. McArthy, is not -- she's new, so therefore she did not have time to prepare adequately.

But as soon as it is determined when that report can be made available, then we'll try to have it. I think it's set in February. And I will give a ten day notice ahead of time.

Ms. Pruitt, a ten day notice in which she can make sure that you will be informed.

MS. PRUITT: It will be in the District Register.

CHAIRPERSON REID: And also that you will be personally notified by this body.

MS. JONES: Thank you very much.

CHAIRPERSON REID: Thank you.

Okay, now we had another preliminary matter in regard to a request for postponement, case number 16531. Is there anyone here from -- for the afternoon? Okay, we'll take it up this afternoon. Okay, there are two for the afternoon, so we won't deal with those now.

All right, can you call the first case of the day, please?

MR. HART: Madame Chair, are we going to just stick to the order on the agenda?

CHAIRPERSON REID: No, we're going to change the order and take the second case first because Mr. Gilreath is here only for that particular case. And then we will go to case number one. So, in other words, 16513, Lenora Moragne, will not be heard until after we hear the case number 16457 so that Mr. Gilreath can then leave.

Okay, do you want to call the case?

MR. HART: Yes, the first case of the morning, number 16543, application of Assefa Kidane, pursuant to 11 DCMR 3103.2, for a variance to use premises as an office under Subsection 330.5 from the use provisions on the first through the third floor in an R-4 District at premises 1201 New Jersey Avenue, N.W. (Square 555, Lot 807).

Will the persons planning to testify come forward

and raise your hand for the oath.

(The witnesses were sworn.)

One other thing. Are all the persons involved in this case here?

MR. KIDANE: Yes.

MR. HOLMAN: Thank you.

CHAIRPERSON REID: Mr. Hart, do we have someone who has not been sworn? Is there anyone else?

MR. HOLMAN: And you are involved in this?

CHAIRPERSON REID: Is there anyone else?

MR. HOLMAN: Is there anyone that's involved with this case? Anyone?

CHAIRPERSON REID: Okay.

(The witnesses were sworn.)

CHAIRPERSON REID: Okay, Board members, in this particular case, I will have to recuse myself and Mr. Sockwell, the Vice Chair, will preside in this particular instance.

MR. SOCKWELL: All right, all the -- I guess all the witnesses for the applicant are at front at this point?

MR. KIDANE: Yes.

MR. SOCKWELL: Then we can proceed with the statement of the applicant.

MR. KIDANE: Good morning, everyone. My name is Assefa Kidane and I have some --

MR. SOCKWELL: Mr. Kidane, give your address as

well as your name.

MR. KIDANE: Okay. My name is Assefa Kidane and my address is 3806 Steppes Court, Falls Church, Virginia, 22041.

MR. SOCKWELL: Would you hold a moment, please?

I apologize. We were just working out a procedural matter.

MR. KIDANE: Okay.

MR. SOCKWELL: Please continue.

MR. KIDANE: Good morning, Madame Chair. I guess Madame Chair's not here.

MR. SOCKWELL: Well, it will be Mr. Chair at this point or Mr. Vice Chair.

(Laughter.)

MR. KIDANE: Mr. Vice Chair and members of the Board, first I want to thank each and every one of you here. I want to thank the Board for taking the time to review my application and for giving me the opportunity to appear before you.

I want to thank you, my neighbors, for your words of encouragement, words like "it is about time that someone is doing something to this building, it is shaping up now, don't give up now," words that I will never forget as long as I live.

I hope I have given you and the neighborhood hope in what I have accomplished. I have Nik Reid here from Avanti Real Estate, and I also have Elaine Potwardoski, partner with

Meeting Management, here with me today. And that's Elaine over there.

Mr. Reid can testify as to the hardship encountered in selling this property and Elaine can answer specific questions about Meeting Management, Inc.'s operations. I also want to address adverse impact that the zoning decision may cause and the hardship that I've suffered due to the unique and unusual nature of this building.

First, I want to address my intent briefly. When I in the building in February 1998, my plan was to make this place a home for my family and a restaurant business in the basement. The birth of my daughter in December 1999 changed this plan completely.

Even though we felt lack of adequate backyard space for our daughter to play a major concern, we also found the busy corner incompatible with raising a family.

The building is unique and unusual due to the fact that there's no other building structure like it in the entire neighborhood -- *ie.*, a residential building with a commercial space on the first floor which occupies the entire corner.

Another unique aspect of the property is that the residential facade faces New Jersey Avenue, however the commercial facade faxes New York Avenue via M Street.

There's a little island separating M Street and New York Avenue. Also the building is land locked without any

backyard or access to the alley. In addition, there's no access to the house from the commercial space on the ground level, which significantly limits the use of the premises for strictly residential.

I also would like to address the question of adverse impact, traffic, parking and environment briefly. The last certificate of occupancy available showed that this space was used as a four unit one bedroom apartment on the top two floors and as a dry cleaning business in the basement.

This means there were at least four, possibly eight or more, people on the top two floors and unknown amount of foot traffic in the basement. Even though I'm not an expert on the environment, my guess is that chemicals used in dry cleaning business could cause some harm to people and the environment.

I also would like to think that there will be some concern as to disposal of trash and cleaning materials. The same can be said about carry out, grocery store, restaurant, etc. The new tenants who would like to occupy the space will have six to eight people at any given time.

Most of the work is done outside the office, meaning the most number of people that would be in the building at any given time would be eight people or less. Having an office space also will avoid the kind of trash that usually attracts rodents and that can be harmful to the neighborhood and to the environment.

I have obtained a parking waiver from the Historic Preservation. Parking during the day would not be a problem because, during the working hours of the business, approximately this is from 9:00 a.m. to 5:00 p.m., the people from the neighborhood are at work.

The business operates Monday through Friday, so there will be no evening or weekend parking or traffic associated with the business. Should this application be approved, there will not be any increase in traffic due to the small number of employees, some of them who live close enough to walk.

Others will come by Metro and a few will drive. The community has been very supportive generally and applauded my efforts. They're happy to see a positive change and any contribution to the neighborhood that will help to deter some of the elicit activities this community has suffered in the past.

The neighborhood is going through a transition right now and everyone is hopeful of the Mayor's plans for New York Avenue as a technology corridor for the city. I was invited by the ANC to attend a meeting on Tuesday, which was yesterday, January 18th, at 8:00 p.m.

I discussed my application with the members and answered their questions. I was told that they would submit a letter for me if there was enough time to get one by this hearing. They said generally if the Board doesn't hear anything from them, the assumption would be that there wasn't a problem with my

application.

This was a statement that I prepared before I went to see the ANC members. But when I met with the ANC members yesterday evening, there was -- one of the members wasn't present yesterday, but generally, the people who were there, there wasn't any disagreement to my plan.

When I obtained the building in February 1998, I was told by the real estate agent that it was not safe to walk in the building. Finally, when I gained access to the building, I discovered that it was either being used as a crack house at the time or was a crack house at one time.

Lack of back yard, car traffic from New York Avenue, foot traffic from businesses on New York Avenue, lack of access from the basement to the first and second floor are some of the shortfalls that make this property uniquely unmarketable for residential use.

This project of renovating this place was completed in February 1999, costing several thousand dollars, a lot of my time, frustration and headache. The place has been on the market for 11 months now. The only inquiries I'm receiving now are for commercial activities.

I have been paying mortgage for two years now and there's no end in sight. As it is now, I'm accepting credible offers below the appraised value. I'm carrying a lot of financial burden and the neighborhood is getting another closed out

building.

The more this building stays closed up, the more it will continue to the blight and demise of the neighborhood. I urge you and the committee to approve this request. Families do not find this building to be attractive due to the noise generated from New York Avenue traffic.

Also, to my surprise, also people find the commercial/residential mix, as it stands now, unappealing. I do not think an approval will, in any way, impair the integrity or the intent of the zoning regulation or map.

In closing, I want to thank each and every one of you and are happy to answer your questions.

MR. GILREATH: Mr. Vice Chair, I have a question.

Is this building -- there was some plans with the application. Has any kind of renovation been undertaken yet, or is this something that you would do later?

MR. KIDANE: Yes, it has.

MR. GILREATH: Well, the plans, as I read them, you have a kitchen on the first floor and then you have the bedrooms on the second floor.

MR. KIDANE: Oh, you mean for the future, for office use?

MR. GILREATH: Yes, if it were office use.

MR. KIDANE: Not yet.

MR. GILREATH: Well, if we were to approve this

variance and you want to have the second floor for residential, would you put a kitchen up there? How are you going to arrange that?

MR. KIDANE: On the second floor I'm going to put a kitchen.

MR. GILREATH: So you would move the kitchen?

MR. KIDANE: I'll move the kitchen, yes.

MR. GILREATH: Okay, all right. My initial question. I may have more later.

MR. SOCKWELL: So, at present, the configuration that was provided to us for the property shows a completed renovation at this point?

MR. KIDANE: Yes, sir.

MR. SOCKWELL: And you described the commercial tenant that you would want to use the lower level -- I had one question. There was a site discrepancy in some descriptions that were provided with your application.

It was that on page -- on one of the pages, you described the use of the property differently from the way it actually is bearing out and I want to go back to that. I apologize for not -- oh, yes.

In a statement that we have where it says, "I intend to use the second floor of this building as a one family living unit -- living quarter, and the first and basement floor as office space." So that conversion of this unit, first floor

kitchen to commercial, and moving the kitchen upstairs so that the second floor would then be a self contained unit, and then the first floor and basement would become commercial, is that right?

MR. KIDANE: Yes, the intent -- well, my initial intent, sir, is that I was going to make that place my home and for my family. That was the initial intent. Fortunately, my daughter was born and we didn't find it a good place to raise a child, so that was the intent.

With that intent, that was why we put the kitchen on the first floor initially. But when that plan changed, now the idea is to move the kitchen from the second floor to the top floor, to the second floor, and then also have a little office space within the second floor right there.

MR. SOCKWELL: Now, you give the impression that there is a tenant proposed for the first floor, but you did not --

MR. KIDANE: No. A tenant for the first floor?

MR. SOCKWELL: Yes, you made a statement -- in your delivered remarks, you made a reference to the new tenants who would like to occupy the space will have six to eight people at any given time.

MR. KIDANE: Yes.

MR. SOCKWELL: But you did not identify the type of tenant.

MR. KIDANE: Oh, I have a witness here and the tenants are going to be the people who will be in the office from

Meeting Management, sir. I apologize.

MR. SOCKWELL: Okay, all right.

MR. KIDANE: I apologize.

MR. SOCKWELL: Okay, all right. No more questions at the moment.

MR. KIDANE: Thank you, sir.

MR. SOCKWELL: You can -- did you want -- are you --

MR. KIDANE: If you have any questions. That's why we have here.

MR. SOCKWELL: I want to get an understanding of what the tenant is actually to be.

MS. POTWARDOSKI: Okay, our company is called Meeting Management Services and we provide --

MR. SOCKWELL: Identify yourself and your address.

MS. POTWARDOSKI: I'm sorry, Elaine Potwardoski. I reside at 406 Cedar Street, N.W. in the District of Columbia.

MR. SOCKWELL: And how do you spell your last name?

MS. POTWARDOSKI: P-o-t-w-a-r-d-o-s-k-i.

MR. SOCKWELL: Potwardoski?

MS. POTWARDOSKI: Potwardoski, right.

MR. SOCKWELL: Thank you. Proceed, please.

MS. POTWARDOSKI: Yes, I am one of the owners of a company called Meeting Management Services. We provide meeting and convention planning. We work -- we have seven employees,

including the two owners. We work in an office on the phone, by fax, by mail.

We do not have clients visit our office ever. And when we have programs going on, they are at hotels and convention centers, and we are very often off premises at the meetings.

MR. GILREATH: I have a question in terms of the other uses, say, on this block where the building is located and the adjacent block. Do any of those -- all of that is residential? And if so, do any of these residential buildings have some kind of commercial use either on the ground floor or the basement, or would this be the only one?

MR. KIDANE: On M Street, where the building is located, one side of the building is on New Jersey Avenue. The other side is on M Street. There's like a small island there. We have a picture here maybe if it would help.

MR. GILREATH: Okay.

MR. KIDANE: But there are commercial buildings. There is a grocery store right about two doors down.

MR. GILREATH: On New Jersey or M Street?

MR. KIDANE: On M -- on New York. New York cuts into M and part of it goes straight. There's a little island that comes to M Street.

MR. GILREATH: I see.

MR. KIDANE: So I do not -- that's on M on New York. But about two doors down, there's a grocery store, there's

a hair dresser, there's a carry out place and a couple of boarded up buildings, and an old fire station.

MR. GILREATH: Well, is this commercial part of the block on which your building is located, or is that separate?

MR. KIDANE: On one side of the block. Now, on New Jersey Avenue, all of them are residential buildings.

MR. GILREATH: They're all entirely residential?

MR. KIDANE: Yes, except one on the -- there's a church at the end of the block, which is supporting my application. And also there is a place for elder care, a home for elder care right next to the church.

But other than that, on New Jersey, there are no --

MR. SOCKWELL: The old fire station is currently occupied by --

MR. KIDANE: Yes.

MR. SOCKWELL: -- Sound Reinforcement Company? At least it was at one time.

MR. KIDANE: There is a fellow owns the building and I think they do some kind of recording, music type recording activities in the fire station.

MR. SOCKWELL: Years ago it was called the Berg Incorporated, and I assume it's still the same owners. They usually have a truck parked in front of the --

MR. KIDANE: No, no. No, it's not a fire station anymore.

MR. SOCKWELL: No, I know that. But I've been in the building.

MR. KIDANE: Okay.

MR. SOCKWELL: It was, at one time, used to manufacture speakers and other sound reinforcement.

MR. KIDANE: Maybe that's what they do. Because when they open the door and what have you, I always see speakers and sound systems.

MR. SOCKWELL: Same guys. Twenty years or thirty years they've been there. Okay.

MR. GILREATH: I have one more question.

How long has it been since you put this building on the market for rental and you've not had any takers? Has it been a month, a year?

MR. KIDANE: Eleven months.

MR. GILREATH: Eleven months?

MR. KIDANE: Yes. Almost a year in February.

MR. GILREATH: And you got, as I understand it, no response for residential use, --

MR. KIDANE: No.

MR. GILREATH: -- but the commercial people or office people said they would be interested?

MR. KIDANE: Yes, yes.

MR. GILREATH: Okay.

MR. SOCKWELL: Mr. Kidane, you -- the way -- now,

the statement of Meeting Management says that the top floor of the building will serve as a part time residence for one of the company's owners.

MR. KIDANE: Yes.

MR. SOCKWELL: And that would be the third floor, right?

MR. KIDANE: Yes, sir.

MR. SOCKWELL: And the second floor would be then an independent unit?

MR. KIDANE: No, it will all be one unit, sir. Second floor would be strictly office space.

MR. SOCKWELL: Okay, the second -- wait a minute.

MR. KIDANE: It has like -- I don't know if you want to call it first floor, but the basement -- the basement part, the one from the street level. I call it first floor. And then there is the second and the third floor.

MR. SOCKWELL: Okay, so --

MR. KIDANE: Second floor would be --

MR. SOCKWELL: -- the first floor is actually a basement?

MR. KIDANE: Yes.

MR. SOCKWELL: Okay.

MR. KIDANE: There is not any underground basement, per se.

MR. SOCKWELL: I'm just trying to make sure that I

understand exactly what's happening here. So the first floor, for all intents and purposes, is a walk up?

MR. KIDANE: Yes.

MR. SOCKWELL: Or the second floor, second floor is a walk up?

MR. KIDANE: Yes. Can I bring this picture to you, sir?

MR. SOCKWELL: Yes, the pictures that were provided didn't show -- at least the ones that I have don't show enough of the building for me to know exactly what it looks like.

MR. KIDANE: I have Mr. Nik Reid here, who is my former Avanti real estate who is here to make a presentation on the hardship and the building.

MR. SOCKWELL: Do you have another full face on picture of the building?

MR. REID: Yes, I do.

MR. SOCKWELL: Can you pass that through staff so that we may take a look at it?

MR. REID: I had intended to distribute that with my presentation.

MR. SOCKWELL: Okay, if you'd turn your microphone on so that that --

MR. REID: Okay, I had intended to distribute this with my presentation. If you would prefer to have it --

MR. SOCKWELL: No, that's fine. All right, okay,

so you have a presentation that you haven't made yet?

MR. REID: Correct.

MR. SOCKWELL: Okay.

MR. REID: Which might answer some questions.

MR. SOCKWELL: Yes, please go ahead. For some reason, I thought that after Mr. Kidane's presentation we were going there, but I realize that you're here with a presentation of your own.

MR. REID: Yes.

MR. SOCKWELL: Well then I apologize.

MR. REID: Good morning, Mr. Vice Chair and members of the BZA. My name is Nik Reid. My address is 1203 Columbia Road, N.W. I am a real estate broker with Avanti Real Estate who was engaged approximately a year ago by Mr. Kidane to market his property at 1201 New Jersey Avenue.

I was very familiar with this property because I specialize in the Logan, Shaw LeDroit Park and Columbia Heights areas of the city. It was a huge, old, dilapidated building that was an eyesore right on the prominent corner of New Jersey and New York Avenue.

For many years it sat vacant, providing a haven for drugs and other illegal activities. My preliminary market analysis indicated that the property should be priced at about $325,000 based on what similar properties were selling for, the location, the new renovation and the additional commercial space

on the ground floor.

In addition, we had sold a residential property one and a half blocks away about two months prior for $294,000. This property was smaller, had not been recently renovated, was not on a corner, and it did not have additional commercial space.

After the subject property was on the market for over a month with no sale, upon my recommendation Mr. Kidane got an appraisal which came in at approximately $320,000. Although I marketed the property very aggressively, *ie.* a residential yard sign, a commercial banner on the New York Avenue side, newspaper ads, postings in the MRIS (which is the real estate computer system), and numerous open houses, there was no contract forthcoming.

The problem seemed to stem from the fact that the property was an anomaly in the marketplace -- *ie.*, two commercial to be residential, and two residential to be commercial.

The residential customers who have viewed the property loved the work that Mr. Kidane had done and the architectural appointments of the building, but were turned off by the lack of backyard space for families, children, dogs or entertainment.

There were several who were very much interested, however; but once they checked on the local schools and/or obtained the crime report, they were dissuaded from moving forward.

I should point out that this area is similar to many areas of the city that are now in transition -- *ie.*, many of the boarded up houses are being renovated and the drug activity is being cleaned up. Some of you may remember the notorious Hanover Street that has now been transformed, which is about one and a half blocks to the north of the subject site.

Commercial customers determined that the property was not large enough and that there was no parking. Therefore, in an otherwise brisk real estate market where most properties are selling at full price or more and in many instances we're seeing multiple contracts, this property languished on the market for several months at considerable expense to Mr. Kidane.

The community appears to be very pleased that something positive has -- was happening at the site and were also very hopeful that we would get a sale so that the building would not remain vacant. They would come over and ask, "Have you sold it yet?" And sometimes even give me leads of possible purchasers.

Out of frustration, Mr. Kidane has dropped the price until it was substantially far below the appraised value. We also offered incentives and bonuses to induce other agents to push this property. Then, towards the end of last summer, 1999, the Washington Post reported that the city was considering transforming New York Avenue into a technological corridor.

I then started to receive several commercial inquiries and a couple of offers came in. They were, however, at

the reduced price. The current contract holder, Meeting Management, offered the best price, albeit at several thousand dollars still below the appraised value.

Mr. Kidane accepted the offer because he felt that, given the circumstances, it was about the best that he could do. The subject property sits on a corner which is an unusual confluence of -- and let me refer you to a map.

MR. GILREATH: Could you maybe also pass those pictures along so we could be -- you said you had some pictures we could look at.

MR. REID: Yes, yes.

MR. GILREATH: Pass that so we can look at those as well.

MR. REID: Okay, continuing, the subject property sits on a corner which is an unusual confluence of New Jersey Avenue, M Street and New York Avenue, with New Jersey and New York being the most prominent. This corner is sited as at the beginning of the New York Avenue off ramp to 395.

Therefore, considerable traffic flows past the site daily. And just a brief look at the map. The location of the site is highlighted in yellow, and you can see the New Jersey and the New York, and then the M Street goes directly past the front door of the basement unit.

To give you some perspective, I have provided you with an area map. Here you will see that there are several

churches in the neighborhood with -- now, directly caddy-corner on this map is called the Gas Station. This is the -- from the base map book, so it is not the most current name.

But that location is the Bible Way Temple diagonally across from the site. On the southeast corner there is a large DHCD sign for a new development at the Augusta site.

Directly to the east of the site is a commercial strip from Lot 897 through Lot 825. If you will -- now, looking at the first picture, the commercial strip is to the right.

And if you flip to the second page, you'll see the commercial strip that runs along that small island that is separated from the site by M Street, and then it kind of turns the corner a little bit and runs down New York Avenue towards the church that is on the corner of Kirby and New York Avenue.

There's a tremendous amount of commercial there.

MR. GILREATH: If I were standing in front of the building that you're seeking relief on and looking across the street, is this what I would see on New Jersey? If I stood -- looked right across, is that what I would see?

MR. REID: No.

MR. GILREATH: It says New Jersey. Now when you look right across the street at New Jersey, what's on the other side of that? Is that all residential or is that commercial, too?

MR. REID: Directly across the street is the Augusta project I mentioned. That's the DHCD project that's about

to be undertaken. There is the Church of the Holy Redeemer.

MR. GILREATH: Well, what I was interested in was looking this way. What's over here on this side? Is that commercial? There's the churches there, but I look this way, what's over here on New Jersey? Is that all residential or is that commercial, too?

MR. REID: That is an unoccupied building. That building on the corner there is zoned commercial as a C2 zoning, but it's on the market.

MR. GILREATH: This is all C2 over here then?

MR. REID: No, then on New Jersey then there is a church.

MR. GILREATH: Oh, a church over here?

MR. REID: Yes.

MR. GILREATH: All right, okay. I just wondered whether or not it was all commercial. Thank you.

MR. REID: Okay.

MR. GILREATH: That answered my question. Thank you.

MR. REID: All right.

As you can see from the pictures I'm giving you, the frontal views, that the property occupies a predominant corner with residential on the New Jersey Avenue side. The second picture shows the adjacent commercial strip and an old fire station that is now being used, in answer to your question, sir,

Vice Chair -- now being used as a car repair shop and recording studio.

And then the third shot was taken looking west on New York Avenue to demonstrate the perspective and the heavy traffic which contributed to the not so inviting family environment that has been spoken of several times here.

I sincerely hope that my input has been helpful to you. Thank you for your time, and I would be happy to address any additional questions that you might have at this time.

MR. SOCKWELL: Mr. Reid, the properties that are adjacent to the subject site between the first -- between the fire station or the former fire station and the subject site are currently being used as what?

MR. REID: Well, there's only one that is between that fire station.

MR. SOCKWELL: So that's that one green --

MR. REID: That one green -- and I believe that that's a multi-unit or a rooming house at this time.

MR. SOCKWELL: Mr. Kidane, as one familiar with the property and its adjacent pieces, can you confirm that?

MR. KIDANE: I think between the building, 1201 New Jersey Avenue and the fire station, there are people who live in that building.

MR. SOCKWELL: Yes, but is it --

MR. KIDANE: The green building.

MR. SOCKWELL: Is it used as a single family or multi-family residence, to the best of your knowledge, as you were planning to live in this house at one time?

MR. KIDANE: I think it's a single family, I think. There are people who live in there.

MR. SOCKWELL: And the buildings along New Jersey Avenue, Mr. Reid, you said going north are all single family residences at this point?

MR. REID: Yes, up to the church that's on the corner of Morgan. And you can see by this front picture how the residential entrance, which is on the New Jersey Avenue side, is different -- looks out differently from the basement side that looks out toward the New York Avenue.

MR. SOCKWELL: Now the entrance to the 1201 building that would be used by the businesses or business is which entrance?

MS. POTWARDOSKI: I would think we would use both the --

MR. SOCKWELL: Porch entrance and the street entrance?

MS. POTWARDOSKI: Street entrance. The street entrance is slightly more convenient because you don't have to go through the garden and up the stairs. So that might wind up being the entrance that we use.

MR. SOCKWELL: But it could be either one?

MS. POTWARDOSKI: It could be either one.

MR. SOCKWELL: And the intent is that the top floor would remain residential and that the other two floors would therefore become business use, that is correct?

MR. KIDANE: That is correct, to a certain extent, sir, but we want to put a --

MR. SOCKWELL: To what extent?

MR. KIDANE: We want to put a kitchen upstairs and probably put an office also upstairs.

MR. SOCKWELL: All right, we have -- there is some discrepancy between the statements of the proposed tenant and the statements made by the owner in this situation because we are in receipt of a letter from the tenant stating that the top floor would be used as a residence part time by one of the officers of the company who is named, that the other two floors would be the business use.

Am I not correct?

MS. POTWARDOSKI: Yes, maybe I can clarify that. One of the owners of the company resides on the Eastern Shore and has a very long drive. So for certain times when he has an evening function or something, we are going to make a small efficiency apartment type arrangement up there for him to stay in with a murphy bed and things like that.

But it's quite a large floor and there's probably excess space that will be used for employees at some time.

MS. BAILEY: Mr. Chairman, excuse me for interrupting. I'm Beverly Bailey with the Office of Zoning. The way this is advertised, it says for the first through the third floors.

So even though the applicant may be proposing to use one of those floors for residential use, the top floor, it's advertised for the first through the third floors to be used that way, so you may want to clarify that or make -- you know, I'm just trying to make sure you understand what this building is advertised for.

And it's for the first through the third, not the first through the second.

MR. SOCKWELL: Well, the application states proposed use for property living quarter and office.

MR. GILREATH: Are we to assume now that even part of the third floor will be used for office purposes? You'll have a small efficiency for one of your owners, but part of the third floor would also be used for offices?

MS. POTWARDOSKI: It very well might be. The building right now is quite large and has a lot of space and we haven't made final plans as to what is what, but the top floor is larger than we need to dedicate to the efficiency unit.

MR. GILREATH: When you say that, I need a clarification because I was under the impression that the third floor would be fully residential. So part of that would be

office?

MS. POTWARDOSKI: Yes, that's correct.

MR. GILREATH: Okay, thank you.

MR. SOCKWELL: So the letter to Mr. Kidane from the Zoning Review Branch Chief states that the certificate of occupancy that was filed was to use the subject premises as office. So I assume that when you applied for your C of O, you applied for all floors to be office?

MR. KIDANE: Yes. And --

MR. SOCKWELL: I don't have a copy of the certificate of occupancy application in my -- or maybe I do. Let me look. Did you submit such?

MR. KIDANE: See, my understanding was, which wasn't clear to me at the time, that there was an existing certificate of occupancy for commercial space on the first floor. But the top two floors, the existing certificate of occupancy was for apartment, one bedroom apartment units.

So in me filling out the form, I put in office and living quarter in there, but I didn't think that the living quarter was I thought was given, so the only thing that I really have to put in there was the office space, which is an old -- since there was already an existing living quarter, which was the four apartment buildings, which a copy I have submitted with my application.

MR. SOCKWELL: So you submitted a copy of your

certificate of occupancy application?

MR. KIDANE: Existing certificate.

MR. SOCKWELL: No, not existing, proposed. The question I'm raising is the proposed certificate of occupancy application would have to state the square footage to be applied to the uses.

And if the building has a total of X number of square feet and you place that number of square feet on the application and the number of floors, which would be three, and the use, which would be office, and that's all that's on that application, then our understanding should be that the property would be used strictly for commercial purposes.

So I'm just asking you what was on the application that was declined by the District?

MR. GILREATH: Mr. Vice Chair, there's a letter from the District's Department of Consumer Regulatory Affairs in which he says -- when they said he had to go through BZA that it was subject premises offices.

MR. SOCKWELL: Right. Yes, and that's what I was referring to initially when I said that it's stated that the use was to be office, that there actually apparently was no intention in the certificate of occupancy application that residential use be continued in the property as units per se.

MR. KIDANE: I understand.

MR. SOCKWELL: So I'm just trying to get a

clarification from your memory, the best of your recollection. Did you apply to have the entire building used as office?

MR. KIDANE: No.

MR. SOCKWELL: Because the application says living quarter and office, but your certificate of occupancy application would have allowed you to convert the entire building to office use.

MR. KIDANE: Okay, I misunderstood. But when I filled out the application with BZA, I put in that application living quarter --

MR. SOCKWELL: And office.

MR. KIDANE: -- and living space, yes.

MR. SOCKWELL: Yes.

MR. KIDANE: And that was my understanding. But maybe I misunderstood.

MR. SOCKWELL: I think that perhaps you did because the certificate of occupancy application that you have made is basically held sort of in limbo until the Board of Zoning Adjustment acts upon your application.

And if we approve your application, we're trying to find out whether or not it's consistent with that which was reviewed by the zoning administrator or the chief of the Zoning Review Branch and referred to us.

Because this is a referral on a certificate of occupancy application as opposed to a referral on a building

permit application. You have already renovated the building to make it a living unit, and now your intention is to lease or sell the building to this fine organization to occupy it as offices.

And what I'm trying to come to grips with is exactly what it is that we are looking at, because we are looking at something that does not quite come together as a continuous, coherent piece.

MR. KIDANE: I want for this committee to consider what is consistent with the certificate of occupancy.

MR. SOCKWELL: All right, which would be to convert the property to office use?

MR. KIDANE: Yes.

MR. SOCKWELL: And that would be the entire square footage of all three floors?

MR. GILREATH: I think that would prohibit the residential part. If you say all offices, there would not be a residential component permitted.

MR. SOCKWELL: Right.

MR. KIDANE: I apologize.

MR. SOCKWELL: Yes, see I'm really -- if you had provided us a copy of the application for the certificate of occupancy, I wouldn't be asking these questions, but I do have to.

MR. GILREATH: Well, the letter from the District agency, to me it says that -- there's nothing that refers to residential. I think we can infer it's only office.

MR. SOCKWELL: Yes.

MR. GILREATH: Well, if we were to approve this, could he submit a revised request for certificate of occupancy? If he got the approval, can he go back there and apply for office plus the residential part?

MR. SOCKWELL: Then he'd have to -- he could proceed with the certificate of occupancy for office if we were to approve it as all office, and then, if he wanted to have a residential unit in the building, he'd have to go back and apply to return a portion of the building to a residential use.

MR. GILREATH: But if we approve this, why is he bound -- why can't he simply cancel the other certificate of occupancy and he says BZA has approved this for the residential component and he simply applies for a new certificate of occupancy with the residential component.

What's to prevent him from doing that -- if we approve this, of course?

MR. SOCKWELL: I don't know that there's anything that would prevent him from doing that.

MR. HOLMAN: Well, then that would just tend to make more sense than to have him do that and then come back yet again.

MR. SOCKWELL: I just want to make sure I understand where he was going with this because we have to approve it for either what it says on the application for Board of Zoning

Adjustment action or we have to approve it on the basis of what he's actually applying for.

MR. GILREATH: I think that we should focus solely on what he's requesting the BZA.

MR. SOCKWELL: Well, that says living quarter and office. And he would have to scratch the word living quarter out of it. And if you do that, that's not the application.

MR. GILREATH: I don't think we're bound by the certificate of occupancy thing. We would respond to his application -- if we approve it, then he can go back and ask for a new certificate of occupancy. I don't think he has to --

MR. SOCKWELL: Then he's going to have to have a living quarter in it in order for -- in order to get a certificate of occupancy.

MR. GILREATH: When he goes back for the certificate of occupancy, he has to get a revision if we approve this, which you would say you want this residential part as well.

MR. SOCKWELL: I don't have a problem with that.

MR. GILREATH: Okay.

MR. SOCKWELL: So, based on the application and based on the plans that you have provided and the testimony to this point, what we're looking at is a three story building that is currently configured to be used as a residence that would be reconfigured to be used as an office on two floors and a residence/office on the third floor, plans for which we really

don't have, but the assumption is you could -- as long as you can get the proper access -- one of the issues that you're going to have is means of egress from the top floor residential unit and you're only showing one means of egress.

So that's a question that we don't answer here at the Board of Zoning Adjustment.

MR. KIDANE: Okay.

MR. REID: I can respond to that if you would like.

MR. SOCKWELL: That's fine.

MR. REID: It's just that when you step through this doorway on the porch, the stairs to the second floor are --

MR. SOCKWELL: Which doorway are you talking about?

MR. REID: On the New Jersey Avenue side.

MR. SOCKWELL: Okay.

MR. REID: When you step through that door, there are, in fact, two doors; one that goes into the first floor and one that goes straight up the stairs to the second floor. So that could be easily modified to make the second floor a completely separate unit or to allow access to the second floor from the first floor, whichever is the preference of the new purchaser.

And then, of course, the fire escape, which might be a little difficult to see on the -- on this side, is still the second means of egress from --

MR. SOCKWELL: And as long as it stays in place, it can be the second means of egress.

MR. REID: Yes.

MR. SOCKWELL: If it ever disappears, forget it. City doesn't allow new fire escapes, but they will allow existing ones. So we do seem to have the capability of achieving the desired goal?

MR. REID: Yes, sir.

MR. SOCKWELL: All right, well I don't -- I mean I see that the property is located where it is and is certainly land locked. Are there anymore questions of either of the three witnesses here?

MR. GILREATH: Mr. Vice Chair, I have no more questions that I personally -- I feel I have a judgement whenever you're ready for a motion, I'll be prepared to make it.

MR. SOCKWELL: All right, then I thank you.

Are there any persons in opposition to this application here?

In terms of government reports, I don't believe I saw any government reports in the file.

MR. HOLMAN: No.

MR. SOCKWELL: So that means there's no Advisory Neighborhood Commission report, therefore the assumption would be that the Advisory Neighborhood Commission, which was noticed, did not respond.

MR. KIDANE: Can I say something, sir, please?

MR. SOCKWELL: Yes.

MR. KIDANE: I met with them yesterday and one of the members -- there's one person and there was another one, and they were very supportive. There wasn't any disagreement. And because of the timing, they couldn't get a letter out to you in time, but they were very supportive of the idea.

MR. SOCKWELL: So you met with them on the 18th?

MR. KIDANE: Yes, sir, at 8:00 p.m.

MR. SOCKWELL: Well, because they -- is there anyone from the ANC here? No, so they did not meet, they did not vote, they do not have a statement to make in this case at this time.

So lacking anyone in opposition, if you'd like to make any closing remarks regarding your application, we would entertain those at this time.

MR. KIDANE: Yes, sir. I want to thank every one of you here. I want to thank the neighbors here. Thank you for supporting me. And I want to thank you guys. And I would like to request a bench decision and summary order because of time is an essence here for me.

And I want to thank all of you. And thank you again.

MR. SOCKWELL: Are there any questions from the Board members?

MR. HOLMAN: No.

MR. SOCKWELL: Then I believe that the application

as stated for a variance certainly meets the requirements of uniqueness in terms of the issues of the lot itself and its configuration. It is land locked. It does not provide the basic amenities that would be expected for a residential property in terms of rear yard, in terms of a -- certainly more residential posture with regard to its environment and adjacencies.

It certainly faces one of the most heavily traveled streets in the District of Columbia and -- especially yesterday.

(Laughter.)

And I believe that you have a tenant that will provide a much improved image for that particular corner and certainly a tenant that provides a needed service within the District of Columbia. And as to how you configure the building or how the building becomes a viable space for that tenant is up to you to work out as you go through the future process on this.

So I don't see personally any reason not to approve this application. If any of the Board members have anything to say other than a motion, please let me know.

MR. GILREATH: Well, I'm prepared to make a motion that we approve the application. I'd also like to make a comment or two.

MR. SOCKWELL: Please.

MR. GILREATH: If this building had been in one of the intermediate residential buildings going north there, I would have to take a long, hard look and say we do not want to interfere

with the residential character.

However, where this building is located on the corner there, and as the Vice Chair has indicated, really it's very close to New York Avenue and suffers the impacts from the traffic and so forth. And with the car repair shop where the old fire station was and so forth, I can see what, to my mind, this is really not particularly suitable for residential use, particularly families with children.

So I think the kind of office use being proposed is most appropriate. And the applicant has made a reasonable effort to try to rent it residentially. Eleven months strikes me as a conscientious effort.

So I think there is a hardship for him to -- obviously a financial hardship and otherwise to try to carry this property. So I think he's met all the requirements. I don't think it in any way interferes with the intent of the zoning regulations, and therefore I recommend that we approve the application.

MR. SOCKWELL: And if I might add one other thing. Normally when a C zone is mapped along the street, it would include all the properties that would be of similar character. And in this case, you've got the fire station and just one other residential property between yourself and the commercial spaces to the east.

And the unfortunate situation with this building is

that perhaps 50 or 60 years ago it was in a much lower activity area. But today, it certainly does not function for its original intended purpose. And more than anything, it actually fits more within the context of a commercial environment at that particular location, being the corner building, than it does in the residential environment which is contiguous along the New Jersey Avenue to the north.

And I do believe that the use that we put to will be a less objectionable use. I would like to ask a question about signage.

What kind of signage do you plan for this building?

MS. POTWARDOSKI: Just a small brass plaque on the porch and next to the New York Avenue door indicating the name of the company and the address of the building.

MR. SOCKWELL: And I would like to know that we can condition the signage? No, we cannot. Okay, well we would hope that, for the variance, which we cannot condition signage on, that the signage would be in character with --

MS. POTWARDOSKI: In fact, we're planning something that's identical to the residential building just east -- just north of us on New Jersey Avenue.

MR. SOCKWELL: Okay, and we expect lights at Christmas and --

MS. POTWARDOSKI: Oh, absolutely.

MR. SOCKWELL: Anyway, I would entertain a motion

for --

MR. GILREATH: I've made the motion.

MR. SOCKWELL: Okay, you made the motion?

MR. HOLMAN: I'd like to second the motion.

MR. SOCKWELL: Then we will vote. All in favor, say aye.

(Chorus of ayes.)

Any opposed? No, no opposition.

A decision will be made as a bench decision. That should be available to you within, what, two weeks?

MR. HART: Two weeks, yes.

MR. SOCKWELL: Within a two week period. We thank you very much for your time.

MR. HART: Staff would record the vote as three to zero to approve; Mr. Gilreath, Mr. Holman and Mr. Sockwell.

MR. SOCKWELL: We'll take just a couple of minutes before we call the next case. Thank you.

CHAIRPERSON REID: Please call the next case of the morning, Mr. Hart.

MR. HART: The next case is application of 16513 of Lenora Moragne, pursuant to 11 DCMR 3103.2, for a variance from the provisions of Section 2101 to waive the parking requirements to accommodate a boarding house for five residents in an R-4 District at premises 2225 Flagler Place, N.W. That's in Square 3122, Lot 70.

All persons intending to testify in this case please come forward.

(The witnesses were sworn.)

MS. MORAGNE: My name is Lenora Moragne. There's one correction. The boarding house should really read rooming house, but I suppose that's minor. That has been corrected officially.

CHAIRPERSON REID: Ms. Moragne, we have determined -- we talked to corp counsel about that for the zoning regulation. They're treated the same. Both zoning and boarding are in the same category, so really there's no difference.

MS. MORAGNE: All right.

CHAIRPERSON REID: I'm sorry, rooming and boarding houses are treated the same.

MS. MORAGNE: Good morning. My name is Lenora Moragne and I'm the owner and manager of the subject property, and I thank you for this opportunity to come before you this morning. Just briefly, for background, in June of 1979 I purchased the property and it was occupied by family surnames, the Rogers and the Parkers.

At that time, I was teaching at Howard University and originally graduate students lived in the property. Later my relatives, who were students at Howard, moved into the property. As they moved on to their professional careers, I began renting units in the property to employed adults, many of whom were

students.

Now, I'm here today because I have applied -- I have been operating renting to employed students and I do not have a certificate of occupancy. The certificate of -- and when I applied for the certificate of occupancy, it was denied because of the non-availability of off street parking.

In August of '86, there was a claim of exemption registered with the DCRA. That was my first contact with them. And as long as -- and at that time, my relatives were living there with their friends. And then, as I said, I began renting to employed adults.

And somewhere along the way, I know I should have applied for the appropriate certification, but I never gave it much thought and I never did. So I view myself here today because I do not have the certificate of occupancy and that I would like to continue the process.

At the request of a neighbor, and I attached the written documentation of the neighbor, housing inspectors visited the premises unannounced on a couple of occasions in '97 and '98. And this same neighbor had the premises visited by police -- the D.C. Metropolitan Police officers.

And I have included the reference to her explanation to some of the other neighbors that she had had the house raided. In March of 1986 I did apply for the certificate of occupancy. In November of '88 it was denied.

The house capacity is seven. There are two occupants each now on the basement level and the first floor, and three occupants on the second floor. They share two full bathrooms and two full kitchens. Since taking ownership in '79, I've been the sole -- I am the sole owner, but I've also been an on hand resident/manager.

And I promised my residents, as a housing provider, that there will be a place -- a clean, quiet, and secure environment in exchange for their rate of pay. As for automobiles, it can range from no car on the premises to two or three.

At the present time, the occupants of rooms two, three and five do have cars. And this was the count during the Christmas recess. And then finally, with respect to the background and the process that I've gone through in applying for the C of O, over the past several months I've been contacted and in communication with officials about compliance with the property.

In November of '97 one of the housing inspectors contacted me after visiting the property and he gave me some instructions on things that I should do in order to bring it up to the code. It had to do with changing the -- things like changing the latch on the security door so that it opens from the inside and hand rails and widening a window.

More recently, in July of '99, housing inspector

Joseph Lewis visited the premises again. And so I make that statement because I would like for you to know that I have been in touch with the -- this is a continuing process, but I have been in touch with them trying to come into compliance with the rooming house.

CHAIRPERSON REID: Okay, Ms. Moragne, --

MS. MORAGNE: Yes? I'm going to try to go very fast.

CHAIRPERSON REID: Let me just interrupt you here for a moment, okay?

MS. MORAGNE: Okay.

CHAIRPERSON REID: We have in our packages your testimony --

MS. MORAGNE: Correct.

CHAIRPERSON REID: -- that you've submitted, and it's rather exhaustive and we have read through it, just to let you know that. However, when you were here last, we talked about the purpose of being before this Board and how to get your application approved, and that was that you had to demonstrate that you met a three-pronged test, and that was that there would be something -- if you showed there was something unique and unusual about your property, one; two, that there would be no adverse impact; and that it would not impair the intent and integrity of the zoning regulations and map.

And that's what we need to be doing.

MS. MORAGNE: Okay, I was just giving you some background.

CHAIRPERSON REID: We've got it.

MS. MORAGNE: All right.

CHAIRPERSON REID: It's all in here. We have it.

MS. MORAGNE: Okay, great.

CHAIRPERSON REID: But we need to cut to the chase so that you can address specifically what, in fact, you're here today for.

MS. MORAGNE: All right.

CHAIRPERSON REID: And that's the only thing we can go by essentially is how you meet your three-pronged test or if you meet it.

MS. MORAGNE: Okay.

CHAIRPERSON REID: So do you want -- and I didn't see that in your submission.

MS. MORAGNE: Well, my request here on page two.

CHAIRPERSON REID: Page two? What section? I'm looking at the October 28, 1999 --

MS. MORAGNE: No.

CHAIRPERSON REID: It says background history?

MS. MORAGNE: Did you give them --

MS. BAILEY: Ms. Reid, a package was handed to you this morning in the entry room on this application.

CHAIRPERSON REID: You mean the supplemental?

MS. BAILEY: Yes, ma'am, a packet of information on 16513.

CHAIRPERSON REID: Just a second. Okay, right. But isn't -- all right, on page two rational, right? Okay. Now, speak to us in regard to these things. Yes, we did receive that. I'm sorry. Okay.

MS. MORAGNE: Okay.

CHAIRPERSON REID: First prong of the test is how is your property unique and unusual?

MS. MORAGNE: All right, I'd like to call your attention to Attachment E, which I've basically just reproduced the relevant sections of the certified plat that was submitted to the BZA when I applied for application.

CHAIRPERSON REID: Okay.

MS. MORAGNE: And I hope you can interpret my colored inks there. Do you have that?

CHAIRPERSON REID: Uh-huh.

MS. MORAGNE: The asterisk -- the red asterisk is 2225 Flagler. There is a walkway to the north and to the rear of the property. And my property, like the 12 properties below it to the south of the plat, is one of 13 in the 2200 block of Flagler that does not have access to an alley.

CHAIRPERSON REID: So it's land locked?

MS. MORAGNE: Well, there's no alley behind the house.

MR. SOCKWELL: It has a three foot walkway, but that's it.

CHAIRPERSON REID: Okay, so now that's --

MS. MORAGNE: Do you see the --

CHAIRPERSON REID: Now that -- yes, I do. Now that is germane to all 12 properties. Now how do we --

MS. MORAGNE: Correct.

CHAIRPERSON REID: -- how do we make a distinction of your property from the other properties?

MS. MORAGNE: How do you --

MR. SOCKWELL: Madame Chair, I would like to just interrupt to say that it is typically unusual that properties are land locked with walk alleys only. Actually, I grew up in a house that had the similar condition.

And most properties back up onto some sort of alley. Her property and the other properties along that, not all have the similar uniqueness in that some of them actually have access -- side access to the alley where she is actually at the end of a line so she has the most distant access of any property in her group to the public alley.

CHAIRPERSON REID: Okay. All right, so this green line at the top, that's her property line and it backs up to those properties that are an Adams Street?

MR. SOCKWELL: And that's her house.

CHAIRPERSON REID: Okay.

MR. SOCKWELL: That's the alley that --

CHAIRPERSON REID: Oh, I see.

MR. SOCKWELL: That's all she has.

CHAIRPERSON REID: I see. Ms. Moragne, Mr. Sockwell has made a good point. And we'll try to help you because we understand that some people don't -- really they're not familiar with how to exactly make a case.

MS. MORAGNE: Express it. And I appreciate that.

CHAIRPERSON REID: Yes, and the point that it is land locked is good, but then, just to make sure that we're in keeping with the specifications of the regulations, we have to look to see well what makes this property different from the other properties.

And Mr. Sockwell has pointed out that your property is land locked on both sides and that it is furtherest from any accessibility to that alley that goes down at the bottom of that green line. I don't know what you call that.

MS. MORAGNE: Yes, where it says 20 feet, that's an alley.

CHAIRPERSON REID: That's the alley?

MS. MORAGNE: Yes.

CHAIRPERSON REID: Okay, all right.

MS. MORAGNE: And ten feet and 15 feet. Those are all alleys serving other properties --

CHAIRPERSON REID: Okay, now --

MS. MORAGNE: -- in the area.

CHAIRPERSON REID: Okay, now let's now go to adverse impact. So explain to us how your property -- how would granting you this application result in there not being any adverse impact in regards to parking, traffic, light, noise in any way that would be a nuisance to other -- or the surrounding neighborhood.

MS. MORAGNE: All right, well the point I was making about the houses with no access to the alley is that those with access to the alley have space. They have garages or they have carriage houses where they can put their car.

So one would assume that the people who have access to off street parking would utilize that off street parking. Those without access to off street parking, there's nothing to utilize. So --

CHAIRPERSON REID: Well, then, in regard to parking, how are the parking conditions on that street? I mean, is there parking on the street or is there a problem with parking?

MS. MORAGNE: Yes, well, there is parking on the street. I have been there since '79 and I have --

CHAIRPERSON REID: What about the side streets, Adams and W Street?

MS. MORAGNE: Well, yes, there's parking. Yes, there's parking on the street, yes.

CHAIRPERSON REID: Okay, now in your particular

property, you have how many tenants?

MS. MORAGNE: Seven.

CHAIRPERSON REID: Seven tenants. And how many have cars?

MS. MORAGNE: At the moment, three.

May I go on and address the car issue?

CHAIRPERSON REID: Uh-huh.

MS. MORAGNE: Okay. Yes, all right. Well, I want you to -- you know, the point I was making about the fact that there are houses that do have possibilities for parking off street and that's an option that they have. There would be more space on the street if those options were utilized.

And I see one of the problems is possibly helping people better utilize their off street parking areas when they have --

CHAIRPERSON REID: How can you do that? I mean how can you have any impact or any influence on where people park their cars?

MS. MORAGNE: Well, I think this might be a city problem.

CHAIRPERSON REID: But in regard to this application, I wouldn't even go there --

MS. MORAGNE: Okay.

CHAIRPERSON REID: -- because that is not something you have any control over. The fact that they have the carriage

houses is well and good; but the fact of the matter is, it's their prerogative whether they park in their garages, in their carriage houses or on the street.

So what we want to deal with is your property.

MS. MORAGNE: All right.

CHAIRPERSON REID: This instant application for your particular property and the parking as it is germane to your property only.

MS. MORAGNE: Okay, the second --

CHAIRPERSON REID: We've established -- wait a minute. What we've established is that seven tenants, three own cars. Okay?

MS. MORAGNE: Yes.

CHAIRPERSON REID: There is that parking -- you're alleging that there is parking on the street on Flagler and on the side streets for those three cars that would not cause any disruption or would that cause any kind of adverse impact, in your opinion?

MS. MORAGNE: Well, let me go back and say that I did go back and review applications of people living in the house and not everyone has a car. It's very difficult to determine, on an average, how many cars will be there at any one time.

Sometimes there's no one in the house with a car. Sometimes people come to the house. They might have a car. They find that proximity to the university is such that they don't need

their car.

CHAIRPERSON REID: Do some people walk to the university?

MS. MORAGNE: Well, it's right at University. It's right at --

CHAIRPERSON REID: I know, I know. I mean I know exactly where it is. But I'm asking --

MS. MORAGNE: I mean they wouldn't take a car to the university.

CHAIRPERSON REID: If people --

MS. MORAGNE: So, you know, I say three now. It could be zero tomorrow. And there's another -- you know, there's another point. If we were a single family house, it's conceivable that we would have three cars based on the makeup of the family.

So the fact that we have three cars --

CHAIRPERSON REID: So it fluctuates?

MS. MORAGNE: Yes.

CHAIRPERSON REID: Okay.

MS. MORAGNE: I mean, it's --

CHAIRPERSON REID: All right, well --

MR. SOCKWELL: Madame Chair, --

MS. MORAGNE: I'm trying to --

MR. SOCKWELL: Madame Chair, let me -- I mean let me ask Ms. Moragne a couple of questions, if I may, with regard to that issue.

It's obvious that those of us who know the neighborhood, as I do, know that Flagler is a narrow street with parking on both sides --

MS. MORAGNE: Correct.

MR. SOCKWELL: -- and that to be virtually a one lane passage most of the time. Flagler does have alley impacts on the street which further reduce the parking, but I would say that, from my experience, Adams Street and certainly W Street directly to the south do have adequate parking and most often unused parking even late at night.

MS. MORAGNE: I know it does because I go there several times a week and my tenants --

MR. SOCKWELL: Fine. So in your estimation at least, there is available neighborhood parking within a reasonable distance of the property for the occasional up to three cars that might be owned by residents and/or might be coming with visitors to those residents or what not.

I mean, would you assume from your experience and your time in the neighborhood that there is parking available?

MS. MORAGNE: Correct.

MR. SOCKWELL: All right, that's really what we're trying to get at.

MS. MORAGNE: Now, if you look at Second Street, which is west of Flagler, it's the W to the left side of Exhibit F, you will see a street called Second Street. Now, between W and

Adams on Second, there's very little -- I mean there's not the zone restrictions and people park there all the time.

I mean they can park there. I mean it's not like -- you can go there any night. There's been a full force opposition effort to say there's no parking, but I'm trying to present my side.

MR. SOCKWELL: Well, let's ask this question. Anyone who resides in your home and has a car registered at that address would have access to zoned parking stickers?

MS. MORAGNE: Correct.

MR. SOCKWELL: Anyone who resides at your home whose car is not registered to the house would not have access to a zoned parking sticker, and therefore would be taking his or her chances parking in the restricted zones during the time that that is restricted, which is mostly, what, 7:00 a.m. to 6:30 p.m.?

MS. MORAGNE: Yes.

MR. SOCKWELL: All right, okay. But after that, --

MS. MORAGNE: That is correct.

MR. SOCKWELL: -- all of the parking is free to anyone who chooses to use it?

MS. MORAGNE: Yes.

MR. SOCKWELL: Okay, thank you.

CHAIRPERSON REID: Okay, Ms. Moragne. Now let's go to traffic. What about traffic impact?

MS. MORAGNE: On my -- at the moment, on my -- what

about traffic? Flagler's a one way street going south.

CHAIRPERSON REID: All right, the question is, --

MS. MORAGNE: Yes.

CHAIRPERSON REID: -- if, in fact, your application is granted, --

MS. MORAGNE: Yes.

CHAIRPERSON REID: -- would there be a problem with traffic? Would there be an adverse impact to that neighborhood with traffic if we approved your application?

MS. MORAGNE: Well, I would say no, not necessarily. You say that there is -- do you mean traffic on the street or traffic to the house? I mean you -- because the traffic to the -- is that what you mean, on the street?

CHAIRPERSON REID: Ms. Moragne, I just mean vehicular traffic, vehicular traffic.

MS. MORAGNE: Oh, okay.

CHAIRPERSON REID: Yes or no would do. A yes or no answer would be fine. A yes or a no answer --

MS. MORAGNE: Oh, no.

CHAIRPERSON REID: -- would be fine.

MS. MORAGNE: No.

CHAIRPERSON REID: Thank you.

MS. MORAGNE: In my estimation, no.

CHAIRPERSON REID: Okay, what about noise? Is there any nuisance in regard to noise?

MS. MORAGNE: Well, now I have been around many streets in that community and people do blow at -- now, I would say there's no noise at my house.

CHAIRPERSON REID: Then that's all -- Ms. Moragne, let's just stay the course.

MS. MORAGNE: Okay.

CHAIRPERSON REID: Okay?

MS. MORAGNE: All right.

CHAIRPERSON REID: No --

MS. MORAGNE: No.

CHAIRPERSON REID: -- is the answer?

MS. MORAGNE: No.

CHAIRPERSON REID: Okay, thank you.

MS. MORAGNE: No.

CHAIRPERSON REID: All right.

Board members, have you got any questions?

Mr. Sockwell, do you have any questions?

Okay, --

MS. MORAGNE: May I make a couple other points about the presence of --

CHAIRPERSON REID: Yes, I'm sorry.

MS. MORAGNE: May I just draw your attention to a few other points about the statistics on parking?

CHAIRPERSON REID: Uh-huh.

MS. MORAGNE: Well, you're going to read this. But

some single family two person homes on the blocks have two cars. And as I said, if we were a one family with three cars, this wouldn't be an issue. And a third point I'm trying to make is that you never know, you never know who's going to have one and who's not.

Since '79 I've been not aware of a parking problem on the block even. I mean, had I been aware of it, it would have been very easy to suggest that, you know, not accept anyone without a car.

CHAIRPERSON REID: All right. Ms. Moragne, do you feel that granting the application will have any -- will in any way impair the intent of the zoning regulations or map?

MS. MORAGNE: No, I do not.

CHAIRPERSON REID: Okay, all right.

If we have no other questions, then we'll just move through this application and go now to -- you can just stay right there -- go now to any government reports, Office of Planning or ANC.

MS. MORAGNE: Did you receive the ANC report?

CHAIRPERSON REID: I have not seen it. Does anyone have a report from the ANC?

MS. MORAGNE: Well, may I call your attention to Attachments F, G and H --

CHAIRPERSON REID: Okay.

MS. MORAGNE: -- in my report to you?

CHAIRPERSON REID: F?

MS. MORAGNE: Yes, G and H. There was an ANC meeting that was devoted fully to the issue of the parking. Chairman Barry said that he would prepare a statement and send it to you. And if -- I did not get my copy, so I don't know whether that --

CHAIRPERSON REID: Okay.

MS. MORAGNE: was sent, but I would like to point out that there was a 2R session on my variance request. The members who were present at the meeting are listed in Attachment G, the commissioner's who were present and those who were absent.

CHAIRPERSON REID: Okay.

MS. MORAGNE: And I would like to draw your attention to the summary, the vote as well as the decision of the commission after they heard a presentation from me, a presentation from those opposing my request, and then questions and answers from the overflow crowd at the meeting.

CHAIRPERSON REID: Okay.

MS. MORAGNE: And then I'll draw your attention to H, which is a letter from one of the commissioners from 5C03.

CHAIRPERSON REID: H?

MS. MORAGNE: Yes, H.

CHAIRPERSON REID: Okay, that -- yes. What I was asking about was if the ANC had taken the position and send a letter to us which they usually do.

MS. MORAGNE: Well, did you see the vote and the conclusion of the minutes?

CHAIRPERSON REID: Just a moment, Ms. Moragne. What it is, is that we have a copy of the -- I guess the minutes of that --

MS. MORAGNE: There were five pages and this -- I just gave you the summary --

CHAIRPERSON REID: Okay, let me finish.

MS. MORAGNE: -- of their conclusions.

CHAIRPERSON REID: Let me finish. We have the minutes of the meeting and, in the minutes, it does say that the vote was -- it says, "A vote was taken and there was a decision not to take any action," and the Board has not received a letter from the ANC.

Now typically, when we don't receive a letter from the full body of the ANC in which there's a quorum present to take a vote, then the assumption is that they have no objection. And it comes directly from them, not from the applicant.

The other thing is, in regard to the letter from the single member district representative, Mr. James Shabazz, --

MS. MORAGNE: Yes, ma'am.

CHAIRPERSON REID: -- then we can -- well, we will enter that as a letter in support of, but it's not the ANC. It's not the full ANC.

MS. MORAGNE: Well, I know, I said Mr. Barry has

told me on more than one occasion that he would share a statement with you.

CHAIRPERSON REID: Okay.

MS. MORAGNE: But since you haven't received it, I didn't -- I asked him to send you a copy.

CHAIRPERSON REID: Well, we do. We have something that's addressed to the BZA Zoning commission, but it came from you.

Staff, Mr. Hart, did we receive a letter directly from Mr. Shabazz, you know, --

MS. MORAGNE: No, Mr. Barry.

CHAIRPERSON REID: Mr. Barry. This is Mr. Shabazz.

Did you say anything about Mr. Barry?

MR. HART: No, Madame Chair.

CHAIRPERSON REID: Okay, did you not receive anything directly --

MR. HART: From the ANC.

CHAIRPERSON REID: -- any ANC member?

MR. HART: No.

CHAIRPERSON REID: Okay. However, this letter that you did serve us with -- and I don't know why he didn't send it directly to us, but we'll note it for the record. And pertinent part is this simply states that he has inspected -- Mr. James Shabazz, single member district representative from 5C05, he has inspected the property and feels that Ms. Moragne has operated

outside of the lay of the law.

Her moral code, business ethics and compassion for people have allowed her to operate fully within the spirit of the law. The case is of great controversy to Bloomingdale, LeDroit Park. There seems to be a lot of issues that I don't want to get into regarding that particular neighborhood.

Nonetheless, to summarize this, he simply says that he is in favor of your application and a lot of other things that are not germane particularly to this particular hearing that he has included in his letter.

But the gist of it and all that we're concerned about is the position that he's taking, and that is one of support.

MS. MORAGNE: Right. May I read the vote on the decision from the commission from the ANC, body of the whole?

CHAIRPERSON REID: Well, the fact of the matter is we would have to get that from the ANC itself, not from the applicant.

MS. MORAGNE: Oh, you can't read this?

CHAIRPERSON REID: Well, I've indicated that, from what you've shown me of the minutes, that it appears that there's more opposition which is substantiated by the fact that they have not sent us a letter in opposition, and that is --

MS. MORAGNE: Well, there was a four-four vote.

CHAIRPERSON REID: Well, so that --

MS. MORAGNE: Yes.

MR. SOCKWELL: If I might just make the statement. Because the ANC did not take a position on your application, they apparently chose not to send us a letter making that assertion. Ms. Vicky Leonard Chambers is the recording secretary. She has been present in the hearings.

So the ANC is well aware that a letter could be sent. They did not, so we don't have a document for or against you from the ANC. That does not hurt you. It just says that they didn't send us anything. And we can't read the minutes of the ANC as a document for the record because it is not an official statement of the ANC's position sent to us by a duly authorized member of the ANC, that's all.

CHAIRPERSON REID: But you do understand that typically what happens is if, in fact, we don't receive anything, then we make the assumption that they are not in opposition. Because if they were in opposition, they would let us know.

So it's not -- you know, it's not a negative thing that they did not send a letter.

All right, we go now to persons and parties in support of the application. Persons or parties in opposition to the application, come forward.

Okay, Ms. Moragne, could we just step back -- just step back for one -- let them come up and then we'll have you come back up for closing remarks.

Okay.

MR. LEVESQUE: My name is Joseph Levesque. I live at 111 W Street, N.W., which is the same square as the property in question.

MR. SOCKWELL: How do you spell your last name, sir?

MR. LEVESQUE: L-e-v-e-s-q-u-e.

MR. SOCKWELL: Just for the record, are you related to a Levesque that lived in Southwest Washington? There's only one other Levesque I've ever heard of.

MR. LEVESQUE: That's correct, I see it in the phone book all the time.

(Laughter.)

All my relatives are in New England.

MR. SOCKWELL: Thank you.

MR. LEVESQUE: I'm a member of the Bloomingdale Neighborhood Improvement Committee. I am here representing the 93 neighborhood residents who have signed petitions or letters opposing the variance and that request that you deny the variance. And I presume you have all those 93 letters that were submitted earlier?

MR. SOCKWELL: How many did you say?

MR. LEVESQUE: There were 93. There were 93 letters total. Sixty-two of them live within 200 feet -- foot radius of the property in question, and 31 live outside the 200

foot radius. And actually most of those of the 62 are within that same square.

And every one of them requested denial of the variance. The application, from my point of view and the point of view of the neighborhood residents, clearly fails the three-pronged approach. And I didn't expect to be making this testimony because Ms. Chambers had to leave, but I will refer to her correspondence with you.

MR. SOCKWELL: And feel free to use your own words.

MR. LEVESQUE: Sure, I certainly will.

The property in question is not unique in the aspect that a uniqueness would make it uncommon, and it has a common characteristic that there is no parking, off street parking, for, as Ms. Moragne said, all of the houses along Flagler Street on the east side except one that is near the alley -- the three houses -- do you have the plat map in front of you?

And then the three houses to the north also do not have street parking. The one to her rear does not have street parking. The four houses on the west side of Flagler on Adams Street do not have parking, off street parking, and do not have access -- do not have the availability of putting in parking.

My map goes beyond what you probably have, and I'll give you this. In addition to these properties, there are other houses along Flagler Street all within 200 foot radius that do not have off street parking because of just the configuration of no

alley.

All houses between Flagler and Second Street, which is about a half a block on the north side of Adams Street -- there's about 12 houses there -- none of them have off street parking. They all rely on street parking. And many of the houses on the east side of the alley also directly to the north of Flagler do not have off street parking.

On first street, which is the same square between -- on the 2200 block of First Street, they do not have off street parking. It's a very, very narrow alley and you could not ever put any driveway in there to have off street parking.

So what we encounter in our neighborhood is people from all over -- when First Street gets all filled up, people start moving on and parking onto Adams Street and Flagler Street. And recently there's been a lot of renovation of abandoned homes, particularly on Flagler Street, and now these homes are occupied.

As a matter of fact, one, two three on the east side of Flagler were just recently renovated. I'm sorry, two. And they do not have off street parking and they're relying on the street parking. So it's getting much more difficult.

And at nighttime, there is -- you will have to walk around the block sometimes to park. Very often that's the case. So that is not a unique characteristic to Ms. Moragne's property at 2225 Flagler Place. It is a very common characteristic.

And I feel that the second prong approach, that

granting a variance would cause a detriment to the public good because it would increase the parking problem and it -- if you have five residents, which she said there are seven currently, but there are applications for five.

If you have five residents in there, you could, at any time, have a maximum -- you could have five or more cars. She could say that there wouldn't be there, but there could be that many with five adults that are living in that home.

Also, there are three houses on Flagler Street where the occupants have disabilities and they do not have off street parking, and there are actually four people, four individuals in three houses. And that would make it more difficult for them if they have to walk a further distance to park on another street when parking's not available on Flagler.

CHAIRPERSON REID: Well, in that instance then, could they not -- there's not a handicapped parking or designated, or couldn't you get that for those people's disabilities on your street?

MR. SOCKWELL: It's been tried.

MR. LEVESQUE: I think it's been tried and I think it's been unsuccessful.

Is that the case?

One person is blind, one person is in a wheelchair, and there are two other individuals with disabilities that I'm not quite sure what they are. They live in one household.

And the third-pronged approach would -- that the original intent and integrity of the zone plan is to maintain -- for R-4 is to maintain single family homes, to turn -- and that would be -- that would go against maintaining single family homes if there was a -- this was turned into a five room rooming house and the zone -- the variance was permitted.

Sorry about all of this. I just didn't expect to do this. There truly is insufficient parking in the area. I've been there for 14 years. I'm not a new resident to the area and I've seen -- I look out at night through my windows and I see, as the evening goes on, 5:00, 6:00, 7:00 o'clock, the streets do fill up.

And like I said, people come from other streets, First Street, Second Street, W Street. They'll go over and they'll park wherever they can find a space because you're not even able to park in front of your house.

You're sometimes not even able to park on your block, and that's almost every night. And then when Howard University is in session, the problem is exacerbated. In the summertime it's not as bad when school is not in session.

There is a precedent for denying the application. You have a letter stating that there was another rooming house that was operating illegally and that they had requested a variance in I believe 1983. This was the letter that was dated December 11, 2000, which is obviously wrong.

This property that was requesting a variance back in 1983, the variance was denied. Both properties had been operating illegally and were converted into rooming houses illegally. They both have no off street parking.

At the time, many residents, a total of 38, opposed this variance. At this time, there are 93 residents that have signed petitions and oppose it, which is almost three times as many.

CHAIRPERSON REID: I'm looking at that order, which was April 27, 1983, and it stipulates that there was an application for a 12 room rooming house.

MR. LEVESQUE: Yes.

CHAIRPERSON REID: And your proffering to us that this is similar?

MR. LEVESQUE: Because it did not have any off street parking at all.

CHAIRPERSON REID: Well, no, we're talking about impact. We talked about the intensity of use and impact, and you're proffering to us that a boarding house -- a 12 room boarding house is akin to a five unit or a building that has five residents or a five tenant rooming house?

MR. LEVESQUE: Only in the aspect that it would turn a single family home into a multi unit dwelling that would possibly have either five cars or 12 cars. It doesn't -- yes, the impact is greater, but it is the same -- similar circumstances

where it would take off --

CHAIRPERSON REID: Huh-uh.

MR. LEVESQUE: Okay, it is twice as many rooms.

CHAIRPERSON REID: It's a stretch. I mean it's a stretch.

MR. LEVESQUE: But what they're doing is they're removing -- taking away the public parking from other residents. But it was denied because of insufficient parking in the area at the time in 1983. And it's only gotten worse.

CHAIRPERSON REID: Okay.

MR. LEVESQUE: Much worse. That's one of the reasons I moved to that area back in 1986 was I thought there was plenty of street parking and it's just -- it's not the same.

CHAIRPERSON REID: Okay.

MR. LEVESQUE: And that was denied. In short, it just said that the variance not be granted without substantial detriment to the public good and without substantially impairing the intent and integrity of the zoning regulations.

And that's the extent of my testimony.

CHAIRPERSON REID: Okay, all right, questions Board members?

Well, do you want to wait until both of them speak first? Okay, we'll save our questions until after both witnesses have spoken.

MR. ROBERTS: Good morning. My name is Scott

Roberts. I live at 125 W Street, N.W. in Bloomingdale around the corner from the 2200 block of Flagler Place, N.W. I want to briefly make my statements. To reiterate what Mr. Levesque has said regarding the first of the three-pronged test is the uniqueness of the property.

As he said, the east side of the 2200 block of Flagler Place, N.W., there are ten other houses that are identical with respect to not having off street parking. So I would think that that would make Ms. Moragne's property at 2225 not unique since there are other homes on the same side of the street that are in the same situation that are totally land locked without any off street parking.

Another item I wanted to mention was the Commissioner Joseph -- or James Shabazz's letter. Just to make it clear that Mr. Shabazz is the ANC commissioner for another single member district other than the one we're talking about.

CHAIRPERSON REID: Is he a member of the ANC?

MR. ROBERTS: Yes, he's the ANC commissioner for ANC-5C05, I believe, which is south of Rhode Island Avenue.

CHAIRPERSON REID: Okay, thank you.

MR. SOCKWELL: But he is a member of the ANC-5C?

MR. ROBERTS: Correct.

MR. SOCKWELL: His single member district does not deny him a vote --

MR. ROBERTS: Oh, that's correct.

MR. SOCKWELL: -- and does not make him not a member of the panel that would vote on any ANC-5C issues. Am I not correct?

MR. ROBERTS: That is correct.

MR. SOCKWELL: Good.

MR. ROBERTS: I just wanted to make it clear --

MR. SOCKWELL: Thank you.

MR. ROBERTS: -- that he wasn't the commissioner for the --

MR. SOCKWELL: Well, we understood that.

MR. ROBERTS: Okay. And I also assume that, upon reviewing the content of his letter, his intent is also clear.

I had not seen his letter. I can only guess.

CHAIRPERSON REID: Wait a minute. Wait, wait, wait. You are --

MR. SOCKWELL: He's trying not to guess. If you start guessing, then you make the content of your testimony much less valid. We'd prefer that you use something like direct experience, I was there, I heard it, read it, saw it. But if you guess, well I guess you might be wrong.

MR. ROBERTS: Okay, I stand acknowledged. I withdraw that comment. Thank you very much.

The third and final specific item that I will say is that the parking on W Street and Adams Street is tight and as well as Flagler. And granting the zoning variance would only

exacerbate the problem.

Therefore, I'd like to ask you to consider denying the zoning variance request.

CHAIRPERSON REID: Okay, thank you.

Board members, questions?

MR. SOCKWELL: I would like to start just by asking Mr. Levesque if the variance is denied, then the home currently used by Ms. Moragne would go back to being -- would have to go back to being a single family residence as the rest of the properties that you would like to see exist, right?

That would be the -- it couldn't -- if it couldn't be the rooming house, then it would have to go back to being a single family property, correct?

MR. ROBERTS: I'm not sure of that.

MR. SOCKWELL: Well, that would be the -- it would have to be consistent with the other properties in the neighborhood. We are asking for something that is not a consistency.

And, I mean, do you understand what I'm saying?

MR. ROBERTS: No, I'm sorry.

MR. SOCKWELL: Okay. If a person --

MS. BAILEY: Mr. Chairman, --

MR. SOCKWELL: Yes.

MS. BAILEY: I understand what you're saying. And to answer your question, it probably could be used for a boarding

or a rooming house if the number of rooms were less than five because zoning only becomes -- the parking only becomes applicable if it's up to five rooms.

Two parking spaces are required for up to five rooms. But if it's four or less, it could be used as a rooming house as a matter of right.

MR. ROBERTS: That's correct. She could have four units in there without any parking requirements. She would have to reduce the number from five to four.

MR. SOCKWELL: All right. Currently it's being operated at five, is that --

MR. ROBERTS: Up to seven she said.

MR. SOCKWELL: Seven, it's seven. And the application is for five. So even under the application, the potential number of vehicles would be reduced from the current, say, illegal use, correct?

MR. ROBERTS: Correct.

MR. SOCKWELL: Correct. So, under any circumstances, the number of cars in question would be less than what could occur if it were allowed to continue at seven, which is what's going on. So it seems to say to me that, under any circumstances, the situation will improve.

Under her request, it would improve somewhat. And under a denial, it would improve somewhat more.

MR. ROBERTS: Correct.

MR. SOCKWELL: But under no circumstances would it necessarily go back to being what it would be as a single family. The other issue that I wanted to ask you about is that it was brought up that Howard University, when it's in session, causes an impact load upon your available parking.

MR. ROBERTS: Yes.

MR. SOCKWELL: If that is the case, has the neighborhood approached Howard University to see that any of its students not living within your community are not parking within your community? If not, why not?

Because they would provide -- with the number of students that Howard University has, their impact on your neighborhood would have to be significant simply because of where the closest dorm is. And there is probably no monitoring of the number of cars owned by Howard University students.

You probably don't know; but you know that when they're in session, it causes an impact on your neighborhood.

MR. ROBERTS: We have requested that the parking enforcement come through the neighborhood to ticket cars that are not -- that do not have the zone five required parking sticker for off street parking, and they are doing that.

However, that hasn't relieved the problem. I don't know who is -- you know, how many cars from Howard are parked in our neighborhood, but the fact is, is that the parking is tight whether it's Howard, whether it's people that live in the

neighborhood, whether they're visitors.

The point is that the parking is tight.

MR. SOCKWELL: Well, the point --

MR. ROBERTS: Wherever it's coming from -- I may not be able to force Howard University residents from not parking in our neighborhood. I guess there's only so much parking there.

MR. SOCKWELL: But I guess what I'm saying is that you haven't tried either.

MR. ROBERTS: I specifically have not done it.

MR. SOCKWELL: No, let me explain. The situation would be that if the university is the largest source of cars outside of residents in that neighborhood and it is obvious that -- I mean, I'm a graduate of Howard, so I have some understanding of how many people have cars on that campus.

It seems that you would be looking at that as a major source along with looking at this particular property which has potential of five residents, I mean, rather than not look at 10,000 possible cars.

I mean, it doesn't make sense to me. And it shouldn't make sense to you. But if it does, I understand. All I'm saying is that the university, just like other universities that have come before this Board, have had to make concessions to their communities because they provide a major impact on their neighborhood -- on the neighboring residential.

And it would not be inconsistent for you to go to

the university. Patric Swaggart has been honored as being one of the most progressive citizens in the city. I mean he'd have to listen to you.

MR. ROBERTS: May I briefly comment?

Mr. Sockwell, your comment is very, very well taken. I don't believe the ANC nor the Bloomingdale Civic Association has specifically contacted Howard University with respect to off street parking by students in the neighborhood.

I can make perhaps a promise to you that we could proceed and do that since it's a very good suggestion.

CHAIRPERSON REID: Mr. Holman.

MR. HOLMAN: Yes, good morning. I wanted to ask -- I don't have the copy of your map, but could you just basically describe the areas where there are residential parking enforced? From what I'm gathering from your testimony, it's basically Adams and Flagler, but not Second and -- is it First?

Can you just speak to that issue?

MR. ROBERTS: Where there is parking enforcement?

MR. HOLMAN: Where the residential parking --

MR. ROBERTS: Requirements?

MR. HOLMAN: -- program is in effect.

MR. ROBERTS: It would be the entire square of 3122, which would be all of Flagler, all of Adams, all of First Street, all of W Street.

MR. HOLMAN: What about Second?

MR. ROBERTS: Second Street on the east side definitely, and a good part of actually -- on the west side and the east side except on one block where there is the public works, the water works. It's a one block area and that does not have restricted parking there. So that that would be the one area that I can think of.

Everywhere else is restricted parking.

MR. HOLMAN: Okay. I guess another related question is, is this a problem that's just developed in the past couple of years, or is this an historical problem? Can you speak to that? I know you probably haven't had an opportunity to do traffic counts or any of those kinds of things, but I'm just trying to get a feel for it.

MR. ROBERTS: It's a problem. It was not a problem in '86 when I moved there. It has been a problem for a few years as more homes that were abandoned, vacant have been remodeled and are now occupied by homeowners that perhaps own one or two vehicles.

And especially within a 200 foot radius. There are just so many homes that do not have the off street parking. So when they do move in, the house is occupied, they do start taking up the street spaces. And that's the only place that they can park.

MR. HOLMAN: Okay.

MR. ROBERTS: So it is getting worse and it is --

it's pretty bad.

MR. HOLMAN: Okay.

MR. ROBERTS: It's not Dupont Circle. It's not Adams-Morgan. It certainly isn't.

MR. HOLMAN: Sure.

MR. ROBERTS: Thank God.

MR. HOLMAN: And I guess one of the other pieces of testimony that's kind of -- I hadn't really considered prior to this was that we're essentially talking about the difference between having four persons in the structure as a matter of right and one additional person.

Do you think that that is going to make a -- in and of itself have a significant impact on the neighborhood?

MR. ROBERTS: Well, yes, in a sense that when two homes were renovated just to the south, yes, it did make a big difference. It honestly did. So one car makes that difference. When you're coming around and you're looking for a parking space and it's been taken up and you can't park within 25 feet of the corner because the property is so close to the corner, yes, it -- that one car can make the difference.

You know when you're driving around and you just miss that one space, you know how important that one space really makes.

MR. SOCKWELL: Mr. Levesque, one other little question, if I might. Because in this same line of questioning --

I just want to add to what Mr. Holman said by asking you is there a limitation on the number of teenaged driving aged children allowed in the homes in your neighborhood?

In other words, once the children grow up, either they've got to fly away like Peter Pan or they won't be able to have cars based on your philosophy. That means that the 16 year olds have got to move out immediately.

MR. ROBERTS: No, there's no restriction on the teenagers.

MR. SOCKWELL: Okay, so the potential of additional vehicles will be based upon the families that live there as much as and more so than the number of residents in this particular house. As those families produce children who reach driving age, they may get cars.

And there are a lot more houses in question there than there are in question with this particular case. Would you not agree with me?

MR. ROBERTS: There are more houses. There are, to my understanding, very few teenagers that live on Adams -- I mean, excuse me -- on Flagler Street.

Am I correct?

MR. SOCKWELL: But you're saying that --

MR. ROBERTS: There's not a lot of children that live in our neighborhood.

MR. SOCKWELL: I understand that. But that's not a

fixed situation. You could sell your house tomorrow and a family could move in with children, --

MR. ROBERTS: Correct.

MR. SOCKWELL: -- and they would bring in however many children they have and they would have as many cars as that family wants to provide.

MR. ROBERTS: That's correct.

MR. SOCKWELL: What I'm trying to say is there's really no way of controlling the number of vehicles. And although we've concentrated significantly on this, we're only talking about one car probably here versus the potential of a neighborhood growing 20 or 30 cars over a period of any number of unspecified years based upon who owns the property and who lives there.

MR. ROBERTS: That's correct.

MR. SOCKWELL: And when you think about that, it should give you pause to the validity of this significant discussion that we're having on parking.

CHAIRPERSON REID: Mr. Holman.

MR. HOLMAN: Yes.

CHAIRPERSON REID: I'm sorry, Mr. Sockwell, he had not finished.

MR. HOLMAN: Well, I'm almost finished. And I guess what I'm saying is, in an ideal world, every neighbor would get along with every neighbor. Everyone would have a parking space. And I guess what I'm focusing on in my mind and, in a

sense, it probably wasn't as helpful to present the other case because that -- it's a different order of magnitude.

What we're essentially talking about is the difference between one space as opposed to 12 or more spaces. And that's what I'm understanding from the application and the discussion. And this case is almost like the issue of one car too many.

And if I'm oversimplifying this, please help me, but that's kind of where it's coming down in my mind. Are there other things that I'm overlooking?

MR. ROBERTS: We would just like you to take -- I'm sure that the other 93 residents that signed petitions would like to be considered also that are not here today.

MR. HOLMAN: And I'm certainly sensitive to that. And believe it or not, I actually even read the names and all that of each of the signatories and I am sensitive to that, and that's what we have to balance.

Okay, thanks.

MR. SOCKWELL: And just one more thing. If the impact of the vehicles and the use had not existed prior to this application, it would be an upcharge in cars surcharging the neighborhood. But because the existing use is there and would actually be reduced, it does somewhat change the criterion for judgement.

Usually if you were taking a building that had not

heretofore been used -- and in this case, certainly it was not licensed properly. If we were trying to bring that building up to this higher level, then we'd be adding cars.

Actually, we'll probably be taking cars away under any circumstance, and that is the part that I am dealing with and I think that you see where I am with that. And it is significant because there are many cases where these kinds of things happen where the impact is already existing and we're not making it worse.

We might even be able to improve it, but we have two ways of doing that and we have to make the decision as to which way to go with regard to that.

CHAIRPERSON REID: That particular neighborhood, Howard University, parking, which is not uncommon to any neighborhood that surrounds a university, parking is tight generally. Being a real estate practitioner, I'm very much familiar with that LeDroit Park area and we see that it is going through an enormous transition right now.

The parking problem -- I think what is going to exacerbate over time -- I think that's a given. And I think that when we elect to live in certain areas, then we also understand that some of the problems that are germane to the area are things that, being a D.C. resident, living in certain localities and there may be some problems that you have to contend with as a city dweller.

I know that many of the houses, and they have some really beautiful houses, some of the most beautiful houses in the city on LeDroit park are huge, mansion-like houses that are being converted into multi-family units.

Several of them -- and I suppose you're familiar. And I guess what I'm getting to is I know of one on Third Street that I just viewed yesterday that's being converted into 14 efficiencies. Is your civic association monitoring and also opposing and going, you know, after the developers who are developing these properties into multi units?

Because it is a proliferation over and around in that area significantly. We're not talking about one space or one parking space. We're talking about a tremendous transition that is occurring over there. Are you aware of it? And if so, are you active in opposing those types of developments generally?

MR. ROBERTS: Okay, may I -- I think Third Street actually doesn't fall within the Bloomingdale neighborhood, so I'm not sure quite --

CHAIRPERSON REID: It's what?

MR. ROBERTS: Third Street, N.W. is not within the Bloomingdale neighborhood. It is not within the boundaries of the ANC or the Bloomingdale Civic Association.

CHAIRPERSON REID: Well, okay, be that as it may, nonetheless, in Bloomingdale, as well as LeDroit Park, they're the same. You still have the same magnitude of transformation going

on.

MR. ROBERTS: Oh, I understand. But I don't know of any big houses in my Bloomingdale neighborhood that are being considered or are being converted to big homes. And I know it's happening in lots of places. Yes, big homes. I don't know of any in our neighborhood.

And so I guess I would take your question into --

CHAIRPERSON REID: Well, there are Bloomingdale and LeDroit Park are --

MR. ROBERTS: Right next to each other, I understand.

CHAIRPERSON REID: Right. I mean, I said the community generally.

MR. ROBERTS: Understood, understood. But I guess we probably wouldn't be -- as an organization, the ANC or the civic association probably would not take a position --

CHAIRPERSON REID: Unless it was directly in Bloomingdale --

MR. ROBERTS: In the neighborhood, yes.

CHAIRPERSON REID: -- and you don't know of any in Bloomingdale per se?

MR. ROBERTS: Yes, not any of the -- I mean, it's a long, skinny strip of the neighborhood and I don't know of any that are being converted. Most of them are actually being purchased and renovated as single family homes.

CHAIRPERSON REID: Okay, let me just reiterate just to make sure that we are all on the same page. Your opposition is to this -- is it just one additional space above what would be a matter of right? This is what this is all about? I can't believe it. Because it just seems to negligible to go through so much time and effort.

MS. BAILEY: Ms. Reid, the application is for a variance from two off street parking spaces. The applicant is not able to provide any parking space on site and the zoning regulations require that two be provided.

CHAIRPERSON REID: Ms. Bailey, you just told us that, but the point that was being made was that if it were four tenants, then it would be a matter of right and no parking would be --

MS. BAILEY: Right.

CHAIRPERSON REID: That's the whole point.

MS. BAILEY: Exactly.

MR. ROBERTS: There is nothing we could do to stop her from having four units from turning one of the two rooms into one, making it one larger apartment. There's nothing we can do.

CHAIRPERSON REID: Okay.

MR. ROBERTS: She would be -- she has all the right in the world to do that. And I guess we are here today to try to, as you're saying, oppose any increase in the number of dwellings in the neighborhood.

CHAIRPERSON REID: Have you all met with her and talked to her about what she's -- what her intention is in the community and about this fear over the impact of this one parking space. I mean, have you all tried to have any kind of relationship or develop any kind of means about which to diffuse this opposition prior to coming here today?

MR. ROBERTS: Yes, I've asked her if she would consider just going from five to four, and she said she did not. Chairman Barry had also said that the whole problem would be resolved at the ANC meeting when we were discussing this.

CHAIRPERSON REID: That didn't happen? That did not happen? There was a split, right?

MR. ROBERTS: There was a four to four -- correct.

CHAIRPERSON REID: Right.

MR. ROBERTS: It was actually five opposing it, three in favor, and then someone changed their vote after the initial vote and it went to four to four.

CHAIRPERSON REID: Yes, but it seems to me that in a situation where -- I'm sorry to cut you off, but you have --

MR. ROBERTS: Okay.

CHAIRPERSON REID: -- like a negligible type of impact that, in the interest of good community relations, and that's what I think we should be about here in the District of Columbia, trying to learn how we could live with each other together.

If it's not a tourist home or some type of crack house or something that is really going to cause some detriment, if it's a matter of a parking space, work it out. Find out whether or not you could come to some kind of meeting of the minds and not allow it to fester into something that is being blown way out of proportion.

And I think you know what I'm talking about --

MR. ROBERTS: Yes.

CHAIRPERSON REID: -- predicated upon what we have gotten here that has not been brought out today, but it is not pretty.

MR. ROBERTS: No, it's not. It's unfortunate, it really is.

MR. HOLMAN: Let me add onto the Chair's statement because one of the impediments we have is we can't impose conditions on our orders. It's basically up or down in this regard. And one of the things that would have been nice would have been for the community to come together, work out an agreement.

And I can't say what that agreement might have been, but perhaps you would agree that, you know, she would make best efforts not to rent to people with -- anything. I mean whatever reasonable people could come up with.

And that would take this whole situation away and it puts us in a very difficult position, but that's what we're

here for. But I just hope that -- my desire, having been a resident of that neighborhood for a number of years, is that people would find alternative ways to resolve some of these issues.

And I hope, no matter what we decide here, that that will be the spirit in which things are undertaken. Because there will always be contending goods. There will always be people who don't exactly see eye to eye.

But certainly it shouldn't get to this level over essentially one parking space.

MR. ROBERTS: Yes, I think it started out on a bad note a few years ago and it really has never changed. More neighborhood residents got involved. There is really now the issue of parking and trying to maintain single family homes in the neighborhood, keeping the intent of the Zoning Board.

So there's a lot of residents that really just have the one issue of the parking becoming a problem. And they do feel that -- and I asked some other people that all this bad blood -- there's not a lot of bad blood. It's not widespread, to be honest with you.

And my heart goes out to Ms. Moragne and I know that a lot of other residents in the neighborhood do feel that way, but they do oppose the variance for the off street parking.

MR. SOCKWELL: And gentlemen, the one thing is that, like you and like Ms. Moragne, you're all long term

residents of the neighborhood. This is not someone, some interloper, coming in from -- I don't want to mention any cities because somebody might be from there -- (laughter) -- from elsewhere just dropping in like a stone saying well, I'm going to do this or I'm going to do that.

I mean, she's provided a service actually first for family and then out of the goodness of her heart, and probably from her background in teaching, to students, and this is something that you should be able to understand.

MS. MORAGNE: Try.

MR. SOCKWELL: Try to understand. The fact that she is actually not legal in this, the fact that she has attempted to do the right thing, the fact that she will, under any circumstances, be reducing her income by the number of people that she has to drop down to is something that won't affect either you or you.

But it is something that you have to consider as well. But again, from what we've seen in the material that's been submitted to us, your neighborhood is in tremendous turmoil. And I've gone through this kind of thing with my own community. I live in New Southwest.

I'm on the board of my condominium association. And some of the things that have come before us would have torn the neighborhood apart, and I personally stepped in because -- not because I wanted to, but because I had to and sealed the

neighborhood back together again.

And somebody in Bloomingdale is going to have to do the same thing. And it's going to take guts and it's going to take interest. And if you haven't got the guts and you haven't got the interest, you don't need to be there because you'll just go along with the steam roller.

And that's all I have to say now. Thank you.

CHAIRPERSON REID: Right now.

MR. SOCKWELL: Right now.

CHAIRPERSON REID: Are you through?

MR. HOLMAN: No, I was going to say some things about leadership. But I think we've beat this to death.

CHAIRPERSON REID: Right.

MR. HOLMAN: I mean, we've actually almost had two hearings on this issue and I think -- I hope, no matter what we decide, that the community does -- and I think it will come together and move forward on a positive basis.

And I wish there were a magic wand that we could wave or some Solomon-like approach that would please everybody, but this is going to go one way or the other. And I hope that you understand that we really have taken a lot of time and really want to do what's in the best interest of the community and we'll try to make the right judgement.

And we are sensitive. As I said, I've lived in that neighborhood for over ten years and I -- believe me, I

understand what you're dealing with and I hope we make a decision that will make the community move forward, whatever that is.

CHAIRPERSON REID: All right.

MR. ROBERTS: May I ask a procedural question? You have two outcomes. One is to grant the variance, which allows to have -- allows Ms. Moragne to continue with a five person rooming/boarding house. If the variance is denied, then she has the choice of making it a single family home or keeping it as a four person rooming house.

She can only have seven tenants. We don't want her to have to evict two or three people upon getting advised by you on what your decision is. We're just curious. We don't want to have anybody get evicted and we wondered procedurally what happens after that from going from seven to five or seven to four.

MR. HOLMAN: Okay, well we have our expert over here, but let me give you my lay person's -- I guess when she gets her certificate of occupancy and say it's for five people, just theoretically, if we were to make that decision, then she'd have two people too many.

So essentially, that would be the result of that action. If we denied the application, then three people would be on the street. So that's, I guess, the nature of the beast as I see it.

MR. ROBERTS: The community does not want anyone evicted. They just thought, as someone moves out, just don't fill

that room. We have told that to Ms. Moragne.

CHAIRPERSON REID: Attrition?

MR. ROBERTS: Yes, that's what we've told her.

MR. SOCKWELL: Unfortunately, if I might interject, Madame Chair, the city doesn't work quite that way. In many instances, it doesn't work at all when we want it to, but that's getting better. But the point is that legally she would apply for a certificate of occupancy for the number of units that is allowed.

If we deny, then she'd have to apply for four units. If we approve, then she would -- then her occupancy, which I think has already been applied for but denied --

CHAIRPERSON REID: But a matter of right for four?

MR. SOCKWELL: She has a matter of right for four. Yes, under any circumstance, because it is a new use per se, because there was not an existing certificate of occupancy, an inspection would have to be done.

So, upon inspections, it would be determined how many rooms are being used for that purpose. And any rooms in addition would not be allowed. And so there would not be much time. There might be maybe 30 days or whatever it would take to get that put together, but there wouldn't be that time.

Now, the attrition issue is a very commendable position for the community to take on that, I have to admit, but I don't think the city sees it that way.

CHAIRPERSON REID: Okay. All right, let's -- okay, all right now. Just for the record, as we move along here -- this is taking up quite a bit of time this morning with this particular case -- I want to note for the record that there were letters of support that came in and those letters were from a Myra Outlaw, who, in pertinent part, talked about how well Ms. Moragne kept the property, and that she goes through very, very stringent screening, and that she takes care of extermination, and that she has been quite pleased with the manner with which the house has been kept.

Myra Outlaw. And then a letter from Karen Olum who apparently was -- she's from Sweden and she had lived there and she also speaks very glowingly of her experiences there living by Ms. Moragne's house. Now, the petition -- we didn't have letters, and this is what kind of threw me.

You kept saying letters. We have a petition with people who are -- have signed in opposition. And there are how many, 63, 93 --

MR. ROBERTS: Ninety-three.

CHAIRPERSON REID: -- the number fluctuates, for the record -- in opposition to that particular case. We go now to closing remarks by the applicant and ask Ms. Moragne to please come back up and give closing remarks.

MR. ROBERTS: Thank you very much.

CHAIRPERSON REID: Thank you.

MR. SOCKWELL: Thank you.

CHAIRPERSON REID: Oh, and also I didn't note the letter from Ms. Vicky Lynn Chambers, who seems to be a party very actively engaged in opposition, one of the persons who had to leave early today. And we have a letter from her. And she voices her opposition to the property and feels that Ms. -- to the application and feels that Ms. Moragne has not met her burden of proof.

And she also submitted that Board order in which another 12 unit or 12 tenant house, boarding house, had been denied.

Okay, Ms. Moragne.

MS. MORAGNE: I would like to request that my whole statement be entered into the record. Is that appropriate, my four pages? Any public record.

CHAIRPERSON REID: It is already a matter of record, ma'am. Once you submit it to this Board, it becomes a matter of record. You mean you want it to be put on the transcript? It is in the record.

MS. MORAGNE: Oh, good, all right.

CHAIRPERSON REID: Yes, it's a matter of record.

MS. MORAGNE: Because I didn't read the first part of it and I wanted the whole thing. And I just want to thank the Board for their insightful comments. And I certainly appreciate this opportunity to appear before you for a second time.

CHAIRPERSON REID: All right, Ms. Moragne, are you asking for a bench decision or a summary order today? All right, do you know what that is?

MS. MORAGNE: No, ma'am.

CHAIRPERSON REID: Okay,

MS. MORAGNE: Bench decision?

CHAIRPERSON REID: -- that's when you get a decision today. A bench decision, which means that you would get -- would mean that you would get a decision today. That's it.

MS. MORAGNE: And a summary order?

CHAIRPERSON REID: Summary order would mean that you'd get your decision quicker because it's a matter of it being a very short order as opposed to what we call a full order, which is quite intensive and involved.

Yes or no, Ms. Moragne?

MS. MORAGNE: I don't understand the question --

CHAIRPERSON REID: Okay.

MS. MORAGNE: -- or the options.

CHAIRPERSON REID: Let me try to clarify for you, okay?

MS. MORAGNE: I'm sorry.

CHAIRPERSON REID: All right, when you come before this Board, --

MS. MORAGNE: Yes, ma'am.

CHAIRPERSON REID: -- at the end of your

presentation, after your present your case, then you can get a decision today or you can get a decision in about a month when we have our next board meeting, which will be on February the 2nd, the 2nd of February, in which we could make a decision at that time.

And a summary order is a short order rather than a full order, which is a more intensive, longer order.

MS. MORAGNE: Well, I'll wait for the second of February. Is that an appropriate response?

MR. HOLMAN: No.

CHAIRPERSON REID: Well, I mean, if you can get a decision today, then why wait? I guess most people --

MS. MORAGNE: Okay, well fine.

MR. HOLMAN: She doesn't understand.

CHAIRPERSON REID: You can ask for it. I mean you can ask for it.

MS. MORAGNE: Oh, okay.

CHAIRPERSON REID: Whether you get it is a matter of the Board to decide, but --

MS. MORAGNE: All right.

CHAIRPERSON REID: -- most people, if they can get a decision on the day that they make their presentation, they would like to.

MS. MORAGNE: Well, I'd like a decision today.

CHAIRPERSON REID: Okay, thank you. All right,

want to make the motion?

MR. SOCKWELL: I would move that, on the basis of the applicant's request for a variance to have a five person rooming house in the R-4 District, that we move to approve the application with the stipulation that if -- well, actually we can't stipulate because it's a variance.

I apologize. I move that we accept this application.

CHAIRPERSON REID: All right, second this motion or did you want to -- I feel that Ms. Moragne has met her burden of proof, that she has demonstrated that her property is unique, and that I cannot see any adverse impact that one additional car in the community would present.

I feel that, from reading her submission, I feel that she is a responsible land owner, a landlord, and that she's taken great pains to try to ensure that her property is clean and that she does not have -- that she has suitable persons in the house and that she runs her house in an exemplary manner.

I'm convinced of that. I don't feel that there is any other adverse impacts as far as traffic is concerned or as far as noise or anything else. And I think that she has -- that granting her application will not impair the intent and integrity of the zoning regulations or map.

Did you have a statement?

MR. HOLMAN: Well, I'll also be voting in support

of the application, and I just remain concerned that the community find a way to come together and move forward from this point.

Different leadership styles might have produced a different result and I'm hoping that we'll obviously be seeing applications from this neighborhood from time to time for various things, and I'm hoping that the spirit of cooperation will kind of take root in the community because -- and we intentionally didn't go into a lot of the other issues that were presented, but I hope that that kind of spirit does not continue and that the community comes to get her. But I will be voting in support.

CHAIRPERSON REID: I would suggest -- this isn't an assigned -- this is just my contribution as a citizen of the District of Columbia that you perhaps can contact the Mayor's office to request mediators to come into your community and to try to work with the persons who are in opposition to each other and this infighting and this turmoil that is occurring, which is deplorable, and these accusations and these things that are being alleged could somehow be dissipated or they can be mediated to the best interest of the community.

I think that, at this point, this is what's needed, as well as perhaps maybe some of the church persons who are in the community to come in and try to bring this community together because it does not make sense for the splintering that we're seeing occur there.

And I think that every one is entitled to the quiet

enjoyment of their property. And some of the things that we're hearing I don't like to hear in regard to some of the things that have happened there. I think that those actions that are deplorable should be -- that the persons who are responsible for it should cease and desist and allow this lady to have the quiet enjoyment of her property.

Whether you like her or not, that is beside the point. Everyone has the right to be able to enjoy their property without harassment.

All in favor?

(Chorus of ayes.)

Opposed?

MR. HART: The staff would record the vote as three to zero; Mr. Sockwell, Ms. Reid, Mr. Holman to approve in a summary order.

CHAIRPERSON REID: Thank you.

Good luck, Ms. Moragne.

We have one more case of the morning now?

MR. HART: Yes, ma'am.

CHAIRPERSON REID: Did you call the case?

MR. HART: No, Madame Chair.

CHAIRPERSON REID: I'm sorry, I was unaware you were waiting for us. I'm sorry, I was thinking that you had called the case.

MR. HART: No, I didn't.

CHAIRPERSON REID: Please, we're sorry that --

MR. HART: Case number 16536, application of the National City Christian Church, pursuant to 11 DCMR 3103.2, for a variance under subsections 530.1 and 533.4 from the building height restriction and recreation space requirements for the construction of an apartment house containing 175 units on the site that is now the parking lot and maintain the existing church in an SP-2 District at premises 14th and Thomas Circle Streets, N.W. This is on Square 212, Lot 123.

Would those persons intending to testify stand to take the oath? This is case 16536. Everyone intending to testify, please raise your right hand for the oath.

(The witnesses were sworn.)

CHAIRPERSON REID: Okay, Mr. Glasgow, please.

MR. GLASGOW: Madame Chair, how are you?

CHAIRPERSON REID: Fine. How are you?

MR. GLASGOW: Good. Good morning, good afternoon, Madame Chair, members of the Board.

For the record, my name is Norman M. Glasgow, Jr. of the law firm of Wilkes, Artis, Hedrick & Lane here on behalf of the applicant, the National City Christian Church. Here with me today from the same firm is Mr. Dennis Hughes.

Also as a part of the presentation of witnesses today, on behalf of the church, include the pastor of the church, Rev. Alvin Jackson, seated to my immediate right; church

administrator, Paul Rosstead; and then at the end of the table, Mr. Raymond Brophy, the development consultant for the church.

In addition, Anne Adams, architectural historian, will be testifying; John Torti and Maurice Walter of Torti-Gallas Architects are in attendance. Julie Smith, who's with the Bazuto Group and is president of the marketing management part of that organization.

Marty Wells of Wells Associates, who's a traffic expert; and Steven Sher and Rick Nero, land planners, will also be testifying on behalf of the applicant.

The following will be submitted as experts in their respective fields: Ray Brophy in real estate development feasibility; Anne Adams in architectural history, historic preservation including design, review and compatibility; John Torti in architecture and urban planning; Julie Smith in apartment marketing and feasibility; Marty Wells, traffic; and Steven Sher and Rick Nero in land planning.

We will have copies of their curricula vitae for the record.

So if those resumes could please be introduced by Dennis. I believe that most of these people have been qualified as experts either before the Board or the Zoning Commission previously. I know Rick and Steve have. Marty Wells has.

Let's see, Andy Adams has. And we will qualify any of the others that the Board deems necessary.

CHAIRPERSON REID: How many expert witnesses do you have?

MR. GLASGOW: I believe we have -- I think it's a half dozen.

CHAIRPERSON REID: Okay, how many of those have been previously approved as expert witnesses by the Board, four?

MR. GLASGOW: I believe four.

CHAIRPERSON REID: All right, so the other two are basically -- and could you identify the ones that have already been approved?

MR. GLASGOW: The ones that have been previously been approved -- I think there are three that haven't been. Steve Sher, Rick Nero, Marty Wells and Anne Adams have previously been approved as experts either by the Board or the Commission.

CHAIRPERSON REID: Okay, all right. And the three that have not, then you're submitting their resumes?

MR. GLASGOW: Yes.

CHAIRPERSON REID: Okay.

MR. GLASGOW: Mr. Torti, Ms. Smith and Mr. Brophy.

CHAIRPERSON REID: Okay, Torti, Smith and Brophy.

MR. GLASGOW: Right, I can't remember, Ray, whether in 1990 we qualified you as an expert or not.

MR. SOCKWELL: Mr. Brophy, your license is in what?

MR. BROPHY: District of Columbia, Virginia and Maryland.

MR. SOCKWELL: As a?

MR. BROPHY: Real estate broker, --

MR. SOCKWELL: Broker?

MR. BROPHY: -- consultant, yes.

CHAIRPERSON REID: That's Mr. Brophy? Was it Brophy, Adams and Torti, correct?

MR. GLASGOW: Julie Smith.

CHAIRPERSON REID: Oh, four? Okay.

All right, we have no objection to accepting those four witnesses as presented as expert witnesses. And that would be Julie Smith, Raymond Brophy, John Frances Torti and Anne Adams.

MR. GLASGOW: And the others that have been previously qualified by this -- by the Board of the Commission.

CHAIRPERSON REID: Okay.

MR. GLASGOW: All right, thank you.

With the permission of the Board and before proceeding with the testimony of the witnesses, I'd like to give a brief opening statement on how the applicant intends on meeting its burden of proof. I assume that the Board members have received a copy of the statement of the applicant.

By way of background, the subject property is located to the northwest of Thomas Circle with frontage on Massachusetts Avenue, Highland Terrace, 14th Street and N Streets, N.W., and is the site of the National City Christian Church.

It's shown on the two boards before the -- up on

the easels.

Does the mic pick up or do you have a -- are you picking me up now? All right, thank you.

These plats show the subject property with the lower part of the plat being south. This outline shows the subject property, which is -- has a very unusual shape and size. It's approximately 75,000 square feet in size.

The church, shown in this area, and then the parking lot area shown to the north at the corner of 14th and N Street. How the layout is impacted will be discussed in detail by the witnesses and why it is that this subject property -- why we need the height variance and why the development occurs at this area of the site.

And this northern parcel where it is intended to build the 110 foot high apartment building is presently used as a surface parking lot with 57 spaces. On Sunday, the lots accommodate approximately 90 spaces.

We will have the traffic expert discuss how it is that the parking will be accommodated with the new building. There will be a garage level constructed for the church. Previously this Board, in 1990, approved a 90 foot SP office building for the site in application number 15157, which is Exhibit N of the statement of applicant.

I worked on that case with Mr. Ray Brophy. So that for a period of almost 12 years now, we have worked with the

church trying to find how it is that there is a reasonably feasible way to develop this property other than for parking lot purposes.

We are now bringing before you a residential apartment project with two variance requests, one for a height variance to go from 90 to 110 feet, and the other a variance from the residential recreation space which, with the consent of the Board, we will be withdrawing due to an agreement of the church to allow use by the residents of the apartment building of the open spaces and gardens around the church for passive recreation use.

Those areas, in combination with the health club, party room and other open and available spaces on the lot to be developed, are in the aggregate approximately 22,500 square feet in area and exceed the 17,500 square foot residential recreation space requirement.

We would like to thank the Office of Planning representatives in that regard for encouraging us to pursue, with the church, other options to increase the amount of on site residential recreation space provided so that those inquiries from the Office of Planning and seeing what it is that we could do to meet that requirement were very helpful with the discussions with the church and with the development consultant.

And the church has agreed that the open space areas on the church may be used by the residents of the apartment building, which is on the same lot as the church, for passive

recreation space activities. And therefore, we meet that requirement. And with the consent of the Board, we would like to withdraw that variance request.

The areas proposed for residential recreation space meet the technical requirements of Section 533 and, as I said, are located on the same lot. The architects will be discussing the nature of that recreation space and the pastor will be specifically testifying that the church has consented to the use of such space.

In proceeding with the project since approximately the middle of last year, Mr. Brophy approached the church to see the feasibility of developing residential apartment building on the site.

As a result of those feasibility studies, I was then contacted and it was determined that a building and height in excess of 90 feet would be required in order to proceed with the project given the situations and conditions affecting this piece of property, including the church, including the need to replace the church parking lot which now would be an underground use and have significant cost attended to it, and therefore you need to have additional development to support that cost.

We thereafter went to several community meetings and to the Historic Preservation Review Board. We note that the Advisory Neighborhood Commission, in October of 1999, as set forth in Exhibit K, voted unanimously to support the height variance for

the project.

And subsequently, the Historic Preservation Review Board, in November, voted unanimously to grant conceptual design approval of the building that you will see here presented today. The Office of Planning also supports the granting of the application and we understand that a copy of their written report is in the file.

As I previously stated, we have submitted a prehearing statement, a copy of which you should have been able to see by now. At pages one to 13, it states how the applicant meets its burden of proof. It has a series of exhibits showing the site, its size, its zoning.

And also we state that the -- that on the west side of the square there is a major site which is zoned HRSP-2, which permits 130 feet in height, an 8 FAR. That site is on the junction of Massachusetts Avenue and 15th Street. That will be pointed out by the land planner.

I think that, unless there are any preliminary questions, I would like to then proceed with the testimony of the witnesses, noting only that the Board of Zoning Adjustment, we have submitted several precedents where the Board has, as a result of historic landmark projects being further developed with building additions, has granted a series of reliefs, including FAR variances, which we are not asking for in this case.

We are just slightly over half our permitted FAR.

And there have been other variances, rear yard variances and others, that we don't need in this particular case which have been granted by the Board in order to implement additions to historic landmark structures.

And there is precedent in the Court of Appeals with the United Unions case which states that if you are an individually designated historic landmark, you have particular and distinct characteristics that affect that piece of property that are distinguishable from other pieces of property going to our uniqueness requirement.

Our practical difficulty will be discussed in both land planning terms, architectural design terms, and feasibility of the project terms. That will be covered by a series of the witnesses. And then I think with that we'd like to move forward with the testimony of Pastor Jackson.

CHAIRPERSON REID: Let me just see a show of hands. Is there anyone here in opposition to this particular application? Okay, thank you.

MR. GLASGOW: Pastor Jackson, would you please identify yourself for the record and proceed with your testimony?

PASTOR JACKSON: Yes. Good afternoon, Madame Chair, members of the Board. I'm Alvin Jackson, Senior Pastor of National City Christian Church. I've had this position with the church since April of '98 and greatly enjoyed the challenge and opportunity of serving an urban congregation in downtown

Washington.

Today I'm here to urge your approval of a dynamic proposal to remove a surface parking lot and put that property to productive use for an apartment building that will benefit the church, the local community and the District of Columbia as a whole.

The project will also provide an income stream which will allow for the proper maintenance and upkeep of the church and the continuation and expansion of its ministry programs.

By way of background, the church is one of the Capitol's historic landmarks designed by John Russell Polk, who also designed the Jefferson Memorial, the National Archives Building, the National Gallery of Art and other architectural treasures in Washington.

The maintenance and upkeep of this structure results in an acute strain on the financial resources of the church. And so the church is always looking for sources of funds for the expansion and continuation of its outreach and service programs such as the community children's ministry, the food pantry, the emergency assistance program.

The church is also committed to expanding its partnerships with churches and service organizations in the city. We kindly provide space for the administrative offices of the House of Ruth, the Coalition for the Homeless, the Prison

Fellowship, the Mayor's Program for Seniors and the Council of Churches of Greater Washington, and several other non-profit service organizations in the city.

It is our understanding, from my advisors, that development of this property on a ground lease basis could provide an income stream of approximately $250,000 to $300,000 per year. The church does have a major commitment to making housing as affordable as possible available, and so this figure might be reduced by $50,000 or so.

The church has been attempting, over the last ten, 15 years, to develop the parking lot property. In 1990, the church went to the Board of Zoning Adjustment and received approval to build a 90 foot high office building.

But due to the state of the real estate market at the time, that project was not able to proceed and a number of church initiatives and programs suffered as a result. In addition, funding for certain maintenance and upkeep programs were deferred.

Now we have an opportunity this time with a residential building to try to realize our dream of developing the site. We would add residents to the community, some affordable housing, maybe some additional church members, income to the District of Columbia, and one level out of the three below grade parking levels for church use to replace the loss of the surface parking lot.

Church representatives have participated in numerous community meetings and presentations. And while we're aware that there is some concern, and maybe opposition, to this project, there is significant community support for this project as evidenced by the unanimous vote of the Advisory Neighborhood Commission in support of the project.

And we've also received unanimous support from the Historic Preservation Review Board and the support of the Office of Planning. I hope that the Board will recognize the sensitivity, carat and quality which has gone into the design of the proposed apartment building and will grant the height variance and the residential recreation space variance requested.

With respect to the residential recreation space variance, in further discussions with the Office of Planning, the church has agreed to make available to the residents of the apartment building significant areas of the open space surrounding the church for passive recreational activities.

We believe that this arrangement will benefit both those residents who choose to enjoy the beauty of our grounds and the church itself. Thank you for this opportunity to present this testimony, and I will be pleased to answer any questions you may have.

MR. GLASGOW: As a technical matter, Madame Chair, as a result of the approval of the Board earlier, we are no longer requesting the variance for the residential recreation space.

Thank you. I'd like to proceed with the testimony of Mr. Rosstead.

MR. ROSSTEAD: Good afternoon. My name is Paul Rosstead. I'm a resident of the District of Columbia and hold the position of church administrator at National City Christian Church. As church administrator, I have the general responsibility of overseeing the allocation of resources and income within the church.

During the past several years, we have noticed an acute strain on church resources and attention between maintaining the physical assets of the church and providing, as well as expanding, needed programs within the community.

In the past two years, after -- or with the arrival of Dr. Jackson and the beginning efforts to expand our ministries within the community, we've experienced growth of about 25%, growing from a membership of approximately 400 to more than 500.

Our membership is fairly well divided between residents of the District of Columbia, Maryland and Virginia. And we also attract a number of out of town visitors to our worship services each week. The largest single item in our current budget of about a million dollars is property.

With more than $300,000 being spent on day to day operations and upkeep of the building and property, often the major repairs and maintenance must be deferred. Only the most pressing of these repairs can be made at this time.

Roof leaks are patched and repaired. Leaks in the sanctuary and the resulting damage to the plaster ceiling and walls are repaired as money becomes available. While we were told that our roof needs some repair and general maintenance, a major cause or source of the moisture intrusion comes from cracks in the limestone facade and areas where the pointing and caulking have failed over time.

While we've not gotten a quotation for the work needed, we've been given verbal estimates of approximately one million dollars for work needed just to the exterior to preserve the structure.

While the church is a historical structure to be preserved, it's also a living institution that provides office, meeting and program space not only for the congregation itself, but also for other community-based organizations.

FLOCH, or For Love of Children, holds meetings and gatherings at National City, AMAYA Services for the Aging will be sharing office space with us, as well as holding meeting -- monthly volunteer training sessions, as well as seasonal gatherings for the elderly in the immediate neighborhood in the larger D.C. area.

The House of Ruth shares office space with us and we're looking at ways that we can become more involved with their programs. The National Labor Relations Board has, for the last several years, held its annual Black History Month program at

National City, and we'll do so again next week.

The list goes on. All of these groups are local, nonprofit, community-based organizations that provide primarily community related programs, but some sponsor programs that are aimed at larger national and international affiliates of the local community organizations.

The $250,000 to $300,000 in annual income that will be generated by this project as proposed will provide the resources necessary to preserve the facilities as well as to continue and expand the outreach and ministry to the church's neighborhood and to the rest of the D.C. community either by the church directly or in partnership and cooperation with other community organizations.

We've studied and read over the statement provided for the record. We recognize and agree that were it not for the setbacks, the grounds and the open space provided on this lot and the configuration of the church building itself, we would be able to build a building sufficiently large enough to be economically viable and also to provide a level of parking for the church without the necessity of seeking a height variance.

It will be more fully explained by the other witnesses. In addition to the needs of the church, we do believe that the maintenance and preservation of historic buildings and the provisions of the resources to further that goal are of benefit to the community and thus a legitimate part of the

variance test.

Thank you.

CHAIRPERSON REID: Thank you.

MR. GLASGOW: I'd like to call the next witness, Mr. Raymond Brophy.

MR. BROPHY: Good afternoon. My name is Ray Brophy. I'm president of Raymond C. Brophy, Inc., a commercial real estate investment firm specializing in equity development and development consulting. I have been a resident of and my company located in the District of Columbia for over 35 years.

Our firm has worked with the National City Christian Church on a development plan for this site for the past 12 years. The goal of the project, create income to support the church's many community-based social programs, as well as the ever increasing cost of maintenance and operation of the historic church.

In 1988-89, office building plans were developed and zoning permission granted after approximately 18 months. Then the commercial real estate market in D.C., as well as nationally, entered a severe economic slump.

As a result, there was neither enough interest nor sources of financing for the development of that project at that time. During the past 12 to 18 months, there has been a resurgence of interest in the development of new rental high rise apartment buildings downtown.

After much analysis, we determined that the neighborhood's direction had changed and we wanted this project to be part of a new living downtown. As a result, we approached Dr. Jackson's board with a proposal to develop the site as a rental apartment project.

My company was given a period of approximately eight months to study the cost, operation and overall economic viability of such a project. As the site is on 14th Street in an area where no new high rise rental apartment development has taken place for some 20 years, we worked with and consulted contractors, architects, apartment leasing and management firms, city planners and real estate marketing research personnel to determine the site's economic viability.

The site and the development has several factors which make it unique. First, the church's need for an additional level of parking to replace the parking spaces lost from the existing parking lot will be necessary to any project in order to lessen the impact on neighborhood residential parking.

Its estimated cost is over a million dollars, added to which is the annual cost of maintenance, repair and security of the garage facility. Two, another economic consideration is the need for the project to receive the approval of the Historic Preservation Review Board and its location adjacent to the landmark church, both dictating that design elements and building materials be substantially higher quality.

After reviewing buildings around the subject site, the value of these elements is approximately a half million dollars. Three, our market research shows that we can achieve rents of $1.95 to $2.00 per square foot per month.

Other average rents of the downtown area of newly constructed rental apartment buildings are $2.31 at the Lexington at Market Square, $2.35 per square foot at the Winston House at 22nd and L Streets.

And the Regent, under construction at 16th and R Streets, is projecting rents of $2.40 to $2.45 per square foot per month. Our projected 15 to 20% discount to these buildings is a very significant economic factor.

All of these factors become evident in the comparison of the economic pro formas of an apartment building at 90 feet versus one at 110. Our analysis demonstrates, at 90 feet, the project will yield an investor 4.3%; while at the 110 feet, he would yield 7.8%.

With ten year Treasury bills presently yielding approximately 6.6, few investors would take the risk of a project yielding substantially less than a no risk government note. It is for the foregoing reasons that an additional two floors containing 26 units beyond those permitted by right are needed to make the project economically feasible to meet the objectives of the above given reasons.

Thanks for your time today and for allowing me the

time to offer the foregoing in support of a favorable decision.

Thank you very much.

MR. GLASGOW: The next witness that I will be calling is Ms. Anne Adams, architectural historian. She will be followed by Marty Wells and then Julie Smith and then the land planners.

CHAIRPERSON REID: Mr. Glasgow, did the witnesses so far submit their testimony?

MR. GLASGOW: No, they didn't have --

CHAIRPERSON REID: Written testimony?

MR. GLASGOW: Some have written testimony and some do not. They're speaking from their notes.

CHAIRPERSON REID: Okay.

MS. ADAMS: Good afternoon. Good afternoon again. For the record, my name is Anne Adams. I'm an architectural historian with Wilkes, Artis. I'm here today on behalf of National City Christian Church, which is, of course, the building you see on the wall over there.

I'd like to tell you a little bit -- or take you around the site very quickly and just talk a little bit about the issues that I think are relevant to this construction on the site of this very important landmark.

As you've heard, the church was designed by John Russell Polk, who is one of our country's probably most important classicist of the first half of the 20th century. It was built in

1930. It's on a large, angled, L-shaped site which fronts on the northwest quadrant of Thomas Circle, which is one of the large, open spaces throughout the city that are major elements of the L'Enfant plan.

The church itself is angled toward Thomas Circle with recesses and lower construction around it sort of framing it designed to set off the main mass of the building, which is what you see here. This is one of those recesses with landscaping that is to the west of the building, the adjacent apartment building.

And in the background you can actually see the new construction that's going on adjacent to that structure. Going around the circle, this is Luther Place Memorial Church, a very robust, gothic revival church from about 1870.

As with National City Christian Church, it has grown and expanded on its site over the years and in ways that have been compatible with the original landmark structure. And that church is certainly strong enough to stand up to some of the larger and less architecturally distinguished buildings that are now surrounding the circle.

Actually I think it's fair to say that the two churches are sort of the architectural highlight of Thomas Circle. The churches and the surrounding late 19th and early 20th century buildings of Logan Circle Historic District and the greater 14th Street Historic District provide a quality and richness of architectural fabric that is quite exceptional.

Unfortunately, we've had a number of decades of less than wonderful architecture that has occurred, and we're hoping to change that direction. This is looking up 14th Street toward our site with the church addition.

You can see -- and then there's a whole in the streetscape at the corner of 14th and N. Another site shot to show you some of the open space. This is a small chapel on 14th Street looking back toward the front of the church, and of course all of the very large office buildings to the south of Massachusetts Avenue.

There is a wonderful, recessed, quiet space near the chapel that is very pedestrian oriented. There's a nice planting there. It is a perfect, sort of contemplative location adding to the richness of the site.

Then there is our parking lot, which is surrounded by low brick and chain-link fence, covered with asphalt, and is making no good contribution to the site or to the neighborhood in its current state. This is again looking across the site to the west.

This is the east side of town, Terrace East. You can see the construction going on in the background. Our parking lot. This is standing in the alley west of our site looking back across 14th Street, which is 110 feet wide, toward -- on the right you can see the parish hall for Luther Place Church and then the row houses across on the north side of N Street and their new

apartment -- or new building north of that, which shows an interesting mix of both building sizes and heights and designs, but which work together to provide a richness to the streetscape that I believe is a contribution to the neighborhood.

This is the alley west of our site looking toward the north side of N Street. Again, you see buildings of different heights, different sizes, different ages and quality of design. The alley and parking behind Town Terrace East.

This is looking west on our alley with the new construction and the back of the Heatherington Apartments, and the back end of Town Terrace East. I'll take you down N Street. This is the garage entrance on N Street to Town Terrace East.

I'm getting my directions mixed up. The north side of N Street with, I think, some of the less distinguished buildings in the neighborhood. Very large residential buildings. You can see Luther Place church in the distance.

This is again the south side of N Street looking west -- looking east rather. The alley behind the three buildings on the south side, our site, and the two buildings on the south side of the street looking back toward the church.

The very large, new building that is under construction on the south side of that alley. You see the back of National City Christian Church in the distance. And then we come back to our parking lot, which is basically a hole in the streetscape.

The city was designed -- laid out and designed and actually has been developed to have buildings line the streets and frame the streets and the views and vistas you have.

So having a vacant corner is not consistent with the traditional development of the city and we think a building should absolutely be put on that site to fill out the frame of the street, which is exactly what's happened across the street with Luther Place and the buildings on the north side of N Street and on 14th Street.

Again you can see a richness that occurs when you have buildings of different vintages, different sizes and different designs. As long as they're good buildings, they contribute to the streetscape in a very positive way.

This is a closer view of the row houses on the north side of N Street and the back end of the parish hall at Luther Place. And we come back to the landmark in question, which is a very significant, monumental, classical revival church that has -- the building places extensive demands on its owner because of its size, its age and its importance.

You will see a project in which the architects have gone to great lengths to come up with an appropriate way to put a building on this parking lot. It's been designed to look like a separate building, as it should, even though it's an addition to the church.

It's been designed in a way that is sort of

historicist and traditional and reminiscent of one of Washington's periods of best design, which was the apartment houses of the early 20th century. Its materials, its massing, its design vocabulary and expression all complement the church, but clearly remain a background building to the church.

It will allow this church to retain its very dominant visual presence on the circle. It will sort of enhance the framework of buildings that are around the church, but set at a distance. The Historic Preservation Review Board was very enthusiastic about this building, as you've heard.

They approved it unanimously in concept with one condition, and that is that the garage entrance be placed off the alley, not on 14th Street or N Street. And one of the reasons I think that's important is that this building -- this proposed new building has maintained the traditional hierarchy and relationship of building to street.

It has designed public faces along 14th Street and N Street. It also actually has an articulated elevation on the south side where it looks over the church; as opposed to if it were just an ordinary building someplace, it would probably be a pretty blank -- just a plain brick wall.

And it has a rear elevation that is a service elevation that accommodates those service functions -- less public functions that have traditionally been on the alley systems in Washington. And the review board staff was quite adamant about

that.

And the Board was -- concurred with that determination that the garage should be on the alley and that the public side of the building should be appropriately articulated.

So, all in all, I think this new apartment building gives us enormous opportunities to, number one, eliminate a condition that is not particularly friendly to the street by taking out the surface parking lot.

And it contributes to the neighborhood and the riches of the neighborhood in two ways, both physically through its articulation, its design and its construction; and also by providing an income to the church to deal with the demanding physical aspects of the landmark church which are extremely important and difficult to address.

So I would hope you would approve this. If you have questions, I'd be happy to try and answer them.

Thank you.

CHAIRPERSON REID: Thank you.

MR. GLASGOW: The next witness that we'll be calling is Mr. John Torti of Torti-Gallas Architects.

MR. TORTI: Good afternoon. My name is John Torti. I'm a principal with Torti-Gallas & Partners, CHK. I'm also a resident of the District of Columbia. I live very few blocks from this site in the Dupont Circle neighborhood.

I have a presentation that encompasses three

portions. One, a look and a description of the FAR and the numbers of the architecture and how it works on the site. Second part to talk about the architecture itself and the design of the building. And the third to talk about the effects of the shadows of this building on the surrounding neighborhood.

We are -- I am here presenting this building that I think will become not only an asset to the city, but to the Thomas Circle neighborhood as well. And we have designed this building with the best urban design and architecture practices for this very special city.

And those, as Andy began to mention, deal with understanding what the urban design of the city is and how the blocks want to be filled to the street -- to the street edge and, in essence, make the public space of the street the vital and exciting portions of our neighborhoods.

This building also operates at several scales: a large city scale and a smaller, human, neighborhood scale. The quote that I felt very proud about from the Historic Preservation Review Board goes something like this, that "this building is extremely elegant and is reminiscent of Washington's golden age of apartment buildings."

So I take that with -- I take that comment with a great deal of pride. And I think from a design point of view, we've done a good job. Let me now begin the more detailed presentation.

The site itself, north is up, 14th Street is on the right, and N Street is on the upper edge. The site itself is showing the first floor plan of the proposed apartment building adjacent to the existing church.

In round numbers, this is a -- the church currently occupies a one FAR and the apartment building will occupy a 2.3 FAR. And in this zone for residential development, a six FAR is permitted. So this is, as an ensemble, a fairly low intensity of use.

And it is because the church, as precious as it is in its wonderful design and contribution to the city, sets back from, in essence, Mass Ave. and 14th Street with the open space in front of it that the residual ground to the north becomes smaller.

Another way -- or what I'm really trying to get at is if that residual ground were part of our property, it would have been very, very simple to achieve the total 3.3 FAR which the ensemble represents on the site without going to the extra height.

That, I think, is the basic principles of the urban design of the site and where we are with that in this proposal. The recreation space that we are talking about equals in total about 22,000 square feet of space.

We are asking for permission to build approximately 175,000 square foot building, which would require a 17,500 square foot recreation space. And that space has three elements. It has an internal element within the building, which is the lobby

seating areas, a community room and a health club.

It has a small garden in the back of the building itself. We are -- although this is not included in the recreation space because it is in another parcel, we are going to landscape a piece that the church owns across the alley that again will enhance the rear of the church of the ensemble.

And then we are including these two larger pieces in front of the church which total approximately 17,000 square feet themselves. So the total adds up to approximately 22,000 square feet. Just wanted to put that in context when I was talking about the site.

The building itself is an L-shaped building. It holds the corner of the site. It has a 90 foot high cornice, at which time the building sets back ten feet with the exception from the street edge, with the exception of a small tower on the corner, thus reinforcing the corner statement of the building the way many Washington buildings do.

The residential quality of the building I think is quite evident. It has a set of scales that operate within the total facade. It has a strong base, an articulated middle and the top, which is set back from the corners.

The materials that we've selected are brick and cast stone. Both are compatible with the limestone of the church in color and the cast stone in texture. And the detailing of the facade, as you can see, is quite intricate.

In discussion with the HPRB, we had modified the south facade to include that level of articulation as it becomes, rightfully so, an important facade as viewing the church and the apartment building from Dupont Circle.

Also for the record, the rear facade has very similar detailing on it. So there is really no front and back hierarchy for this building. And that was done in discussion with the residents of Town Terrace East.

I have many more drawings on the facades of the buildings that I could present, but I would suggest that -- I'd like you to know that they're here and, if questions come, I could talk about them in more detail.

This is a set of line drawings that show the reduced size of the footprint of the upper two levels. This is the typical floor footprint and you can see where the setbacks occur along N, along 14th, and along the alley adjacent to Town Terrace East.

This is a plan of the three parking levels, one of which will be dedicated to the church congregation. And this is the roof plan showing the setback and the L-shaped penthouse, which is 18 feet back from the setback and 18 feet high as well.

Anybody like to see these more closely, I'd be happy to -- if anybody would like to see these more closely, I would be happy to bring them up more closely.

This is a comparison between the office building

which is currently approved for the site, which is a 90 foot high office building, and our L-shaped apartment building. The comparison looks at sun angles at 10:00 a.m. and at 2:00 p.m., and it looks at sun angles in June, September and December.

June is the darker color. September is the orangest color. And December, when the sun is the lowest, it's in the yellow -- in the yellow color. The shorthand version of this is that for -- in comparison, that for Town Terrace East, in every possible situation, the sun impact on that building is less than it would be with the 90 foot high office building.

And the reason for this is that the 90 foot office building, in essence, occupies the whole block. And that we, in fact, do not occupy the whole block, but have approximately 25% of the block which does not have building on it and that is the reason that the sun impact is less.

The sun impact of the apartment building on the buildings across the street in the worst case scenario only, in the December months, increases the shadow height approximately two stories from that line to that line and from this line to this line.

In either case, on the Seville approximately shadowing it in December only and the rest of the months having no impact. Across 14th Street, on the row houses on the corner of 14th and N on the northeast corner, again the majority of the year has no impact.

In December, the end of December, the shadows at 2:00 and 10:00 crawl up the wall approximately one story in that corner of the building.

That is my presentation. I'd be happy to take questions.

Did I miss anything?

MR. GLASGOW: You did fine.

I'd like to call the next witness, who will be Mr. Marty Wells, traffic expert.

CHAIRPERSON REID: Is that your last witness, Mr. Glasgow?

MR. GLASGOW: We have two witnesses after that.

CHAIRPERSON REID: Okay.

MR. GLASGOW: But they will be brief. We know that there is no traffic -- technical traffic issue here; but when we had some meetings with the community, there was some concern about the alley and the number of cars going in and out and how the alley was operated, so we determined that we would have -- and had, as we went through this process, a traffic consultant to advise us as to how that would be operated.

MR. WELLS: Thank you. Madame Chair, members of the Board, I'm Marty Wells, president of Wells & Associates, and we were retained to review the traffic and parking impacts of the proposed 180 unit apartment building.

I've prepared a memorandum that documents our work

and our findings and I would like that to be submitted into the record. I'll try to be brief since I'm suffering from a cold in so small part.

During the course of our work, we did conduct traffic counts on both N and 14th Streets. We analyzed existing levels of service and future levels of service both with and without this proposed apartment building.

We looked at the impacts on the intersection of 14th and N and the alleys and N Street. We estimated the number of peak hour trips that would be generated by this apartment building, as well as the 140,000 square foot office building that has been previously approved for this site.

Finally, we evaluated the Sunday parking impacts. Our findings, in a nut shell, is that the intersections in the immediate area currently operate at acceptable levels of service, A or B. D or better is considered acceptable.

The proposed apartment building would generate between 60 and 75 peak hour vehicle trips. That's in a 60 minute period during the morning and in the afternoon. Contrast that with the number of trips that would be generated by the 140,000 square foot office building which is approved for the site, which is about 150 to 160 trips.

So you can see that the apartment building would generate less than half the number of trips that the office building would generate. The 60 to 75 trips is a modest number.

The intersections we reviewed will continue to operate at acceptable levels of service.

Obviously they will have less impact than the previously approved office. It's my opinion that access, both for service vehicles and for cars coming into and out of the garage, is most appropriate from the alley. Fifty-three parking spaces, which is about the size of the number of marked spaces in the current lot, would be replaced by one of the three parking levels proposed for this building.

That number of parking spaces is adequate to accommodate the normal weekday parking demand of the church. We have observed up to 90 cars -- actually 91 cars parked in that lot during Sunday services. There currently is a security guard that monitors the flow of traffic in and out of that lot.

There will continue to be a security guard that would monitor the flow of traffic in and out of the parking garage. Overflow parking is required. In fact, overflow parking is currently provided at the Washington Plaza Hotel, which is across 14th Street from the church.

There is an arrangement between the church and the operator of that lot that allows members of the congregation to park there on Sundays if a space is not available in the surface lot. That will be true in the future as well.

In summary, it's my opinion that the proposed apartment building would have no significant traffic or parking

impacts on the neighborhood. It would have less impact than the office building.

I'm gratified to know that A and C2F agreed with our findings regarding access and traffic in their consideration of those matters at their October 6th meeting of 1999 as documented in their November 15 letter to this Board.

That concludes my prepared remarks.

CHAIRPERSON REID: Thank you.

MR. GLASGOW: Madame Chair, in the interest of time, what we can do is we can have Ms. Smith's testimony held for rebuttal in case there are any questions and proceed with the testimony of the land planners.

CHAIRPERSON REID: Okay.

MR. SHER: Good afternoon, Madame Chair, members of the Board. For the record, my name is Steven E. Sher. I'm the Director of Zoning Services with the law firm of Wilkes, Artis, Hedrick & Lane. Staff is going to hand you an outline and I'm not going to go through the whole thing.

I'd just like to sort of hit the high points at this point because you've heard a lot of the stuff already in terms of what's on the site, where it is, what surrounds it and so forth. That's set forth on pages one and two of the outline.

On pages two and three, and carrying over to the top of four, I have walked through the requirements of the existing SP-2 zone as it applies to this site going through the

use, height, lot occupancy and so forth, just walking through each one of those requirements as it would apply to any development that would occur on the site.

As you've heard, what is proposed is an addition to the existing church, which would be an apartment house with about 175 to 180 units. It will be a 12 story building, 110 feet in height, with a gross floor area of approximately 175,000 square feet.

That translates to an FAR of about 2.2 on the entire lot, remembering, of course, that the building itself is only going to be built on a portion of the site; but when you look at the overall site, the apartment building would be an FAR of about 2.2.

When you look at the existing church facilities in total, you would have an FAR of about 3.3, whereas a six FAR is permitted in total on this site. And as I think you've heard, there will be three levels of underground parking, a total of about 156 spaces.

As the Board has recognized at this point, we're down to only one variance. The one variance we've requested would be a height variance to allow 110 feet instead of 90 feet, which is what is otherwise permitted in an SP-2 district.

On pages four and five at the bottom, I have quoted the -- both the zoning regulations and the Zoning Act as they set forth the standards for a variance, and the Board is well familiar

with that.

In terms of our compliance with those standards, one, we have to show that there's some exceptional or extraordinary situation or condition. And the most important fact going to that situation or condition is the existence of the landmark church occupying a disproportionate share of the footprint of the property when you compare the density to square footage, the FAR in the church, versus the land that it occupies and compare that to the density proposed in the apartment building and the land that it occupies.

The church occupies about 80% of the site. The part -- what's left over is 20%, but the church is down at one FAR and that just throws out of whack what the overall density on the site could be. So we can't possibly get to the six FAR permitted even if we could get to 130 feet, which is the maximum allowed under the Act of 1910.

We're not even asking for that. We're at 110. The Board has recognized, in any number of previous cases, that the existence of a landmark structure creates an exceptional situation on a particular piece of property.

This is not the same as if this were an historic district where you've got lots and lots of structures and buildings on many lots in their entirety form a district. This is a specific landmark designated in and of itself, and I've noted these two cases on page five and under Roman number viii(a)(1)(b)

one and two, two cases.

The Corcoran Gallery of Art case, BZA number 14703, and 2501 Pennsylvania Avenue, BZA number 15461. I have copies of those if the Board wants them, but they're in your files obviously. And those are cases in which the Board found that the existence of a landmark created an exceptional situation which supported the granting of a variance.

I would note that the Corcoran case went to the Court of Appeals and the court sustained the Board's finding that that was a sufficient basis to grant a variance. You also heard about the need for parking for the church, which is the second component of what makes this an exceptional situation.

You've got a surface parking lot there. In effect, that surface parking lot is being depressed three stories below grade. It would not be ordinary for an apartment house to have to provide that extra level of parking because an apartment house would normally stand by itself.

Since this is an apartment house which stands as an addition to the church, it's got to accommodate that parking. That's the exceptional situation. In terms of the practical difficulty, the cost, which you've heard testimony about in terms of that lowest level of parking, and the need to put together a critical mass of housing that makes a feasible apartment house, which Mr. Brophy has spoken to before and which Ms. Smith can speak to if you need more on that later.

In terms of the detriment to the public good, residential use is favored in the SP district. It is accorded a higher density than non-residential use. And so what we are proposing here is a use which is in consistency and harmony and furthering the purposes of the SP district.

As Mr. Torti just showed you before, the building is set back at the top two floors with a strong architectural recognition at that 90 foot height. The Zoning Commission has recognized the appropriateness of height in this square by allowing 130 foot height not on this site, but at the west end of the square where an extended stay suites hotel is currently under construction and where there is a site left for additional apartment house development, which is allowed to go to an FAR of 8.5 and a height of 130 feet.

So just in general, that is a height that has been deemed to be appropriate in this neighborhood. The architect has shown you the shadow studies and I believe that you can concluded -- and I certainly concluded that the additional height does not have a substantial impact on adjoining property.

I conclude that the property is affected by an exceptional condition, that strict application of the regulations limiting development to 90 feet would cause a practical difficulty for the owner, and that the variance could be granted without substantial detriment to any surrounding properties.

In my opinion, the application should be granted.

MR. GLASGOW: That concludes the applicant's direct presentation and we are available for questions from the Board.

CHAIRPERSON REID: Board members?

MR. HOLMAN: It's not a big question, but I think both the architectural historian and the architect mentioned that this building would be reminiscent of the golden age of apartments in Washington. I just want to get some examples.

I'm just trying to fix it in my mind.

MS. ADAMS: I think if you think about Connecticut Avenue, we have 2029 Connecticut -- 2101, right, which is -- 2029 is the wonderful terracotta, white terracotta building in Kalorama. Just next to that, to the north, 2101, which is a sort of classical, gothic kind of building.

Then there's the -- right at the corner of Connecticut by the bridge is the -- there's a Dresden across the street, which is curved one. The one I was talking about before was the Woodward, which is buff, brick and terracotta.

There are buildings that are generally -- they start Beaux Arts. They go even into the slightly deco mode a little later. But they're characterized by high quality design of richness, of materials, and an extraordinary street presence that some of our later buildings lack.

MR. HOLMAN: Okay.

MS. ADAMS: The whole Connecticut Avenue corridor, all the way up to Chevy Chase Circle actually, you can find

examples in all different styles but of very high quality.

MR. HOLMAN: Thanks.

MS. ADAMS: Hopefully that answers your question.

CHAIRPERSON REID: Now, in this apartment building, how many units did we say?

MR. GLASGOW: We're going to have approximately 180 units.

CHAIRPERSON REID: Hundred and eighty units?

MR. GLASGOW: Correct.

CHAIRPERSON REID: Okay, and 156 -- a three level parking and 56 spaces?

MR. GLASGOW: There will be 100 spaces available for the apartment units.

CHAIRPERSON REID: And the 56 would be for the church?

MR. GLASGOW: For the church.

CHAIRPERSON REID: Okay. And did you do an analysis on approximately how many persons you anticipate occupying that building?

MR. GLASGOW: We had an analysis of what the parking demand would be for the building, and we believe that we have met that and more. Under the zoning regulations, we have approximately -- we have more than twice the parking that's required --

CHAIRPERSON REID: Okay.

MR. GLASGOW: -- for the building.

CHAIRPERSON REID: Okay. The parking lot that was supposed to be made available for an excess parking on Sundays for the church, is there an agreement?

MR. GLASGOW: The church has had an arrangement for some period of time with the hotel, and the hotel has very little utilization of that parking during Sundays.

CHAIRPERSON REID: So on Sundays --

MR. GLASGOW: I think the traffic consultant found that there were over 200 parking spaces available.

CHAIRPERSON REID: Available at the hotel --

MR. GLASGOW: Yes, that's correct.

CHAIRPERSON REID: -- for the church?

MR. GLASGOW: That's correct.

CHAIRPERSON REID: And the number of parking spaces that are on that lot at this time is how many?

MR. GLASGOW: I believe it's 57.

MR. WELLS: Madame Chair, it's about 53 spaces.

CHAIRPERSON REID: Fifty-three?

MR. WELLS: That's the number of marked spaces.

CHAIRPERSON REID: Okay.

MR. WELLS: With the aid of the security guard, members park in the aisles on Sundays.

CHAIRPERSON REID: Okay, all right.

Mr. Sockwell.

MR. SOCKWELL: Actually I had one or two questions.

First, Mr. Torti, the sun studies that you did, the shadow studies, showed that there would be approximately two additional floors of shadow impact on one of the adjacent buildings.

MR. TORTI: The buildings -- the one and a half stories of additional shadow in December on the facades of the buildings across the street on the north side --

MR. SOCKWELL: North side of N.

MR. TORTI: -- on the north side of N Street, and these are the facades there.

MR. SOCKWELL: Now that's --

MR. TORTI: This is the December 10, December 2:00 diagrams of that north facade, the buildings on the north side of N Street.

MR. SOCKWELL: And that was based on a comparison of the shadow lines that would have been caused by the office building development?

MR. TORTI: Yes, this is the office building. Same two drawings, apartment building. Same two drawings.

MR. SOCKWELL: So it looks like the apartment building also extends horizontally the shadow line as well as vertically? And the 10:00 --

MR. TORTI: Yes, yes, it looks --

MR. SOCKWELL: See, the --

MR. TORTI: It's approximately 20 feet one day.

MR. SOCKWELL: Yes, the question that I would raise is if the horizontal impact is more -- I don't want to use the word detrimental -- is more important than the vertical because the horizontal impact might continue for the greater portion of the day where the vertical impact will occur during a different period.

I just want to get a feeling for you on that.

MR. TORTI: Okay, by vertical impact, you're talking about that? Okay, well that --

MR. SOCKWELL: The 20 feet --

MR. TORTI: That does swing. As you can see, --

MR. SOCKWELL: Right, it's going to swing.

MR. TORTI: -- from June, September, December, it's going to swing.

MR. SOCKWELL: It's going to swing.

MR. TORTI: And as -- and in the afternoon, you know, it literally will continue to swing that way as you get later and later as the sun sets to the left. The horizontal impact does grow a story and a half in December and that -- what is that -- that's the equinox, solstice -- one of them.

CHAIRPERSON REID: Whatever.

MR. SOCKWELL: The question that I would raise is that, in your estimation, the buildings across the street that are impacted are residential buildings.

MR. TORTI: Yes.

MR. SOCKWELL: And in your estimation, that impact will have effect on their access to what some people call light. Certainly won't affect their ventilation, but will certainly affect the relative level of sunlight going in there.

Now, on the one hand, the owners of the building will appreciate the reduction in air conditioning cost in the summer thanks to your shadow, and the shade tolerant plants will love you. But the question is does that -- do you think that that makes a major impact on the livelihoods of the people that would be in those units?

That's just my question to you.

MR. TORTI: I think, you know, considering the differential between no building and a building, --

MR. SOCKWELL: Absolutely.

MR. TORTI: -- you know, this is very -- this is nothing.

MR. SOCKWELL: Right, the matter of right would encumber all but the one shown there.

MR. TORTI: Exactly right. So this is a very, very small, incremental difference that we're talking about and an incremental part of the year. You know, we're only talking about, let's say, at the worst case scenario, you know, two or three weeks either side of December 21st when that would come to effect.

So this is a -- this is a small issue in my mind.

I think that the contribution of the building being on the street and the street getting better, substantially better, is by far a greater ameliorating situation than that extra 15 feet of shadow in that small period of time.

MR. SOCKWELL: Yes, I mean realistically, the building will certainly be there in one version or another at some point. And my only question was to get a feeling from you regarding the impact because there will be a major impact in terms of shading that building, and that shading is going to occur no matter what gets built.

MR. TORTI: Yes, but --

MR. SOCKWELL: So we're talking 20 feet in one direction and a story and a half in the other.

MR. TORTI: For those small number of weeks a year. Otherwise zero.

MR. SOCKWELL: Okay, all right. Thank you very much for that. Let's see.

Mr. Wells, on the vehicle trips proposed, you said 60 to 75 for the apartment building versus approximately 160 for the office building alternative which will not be built?

MR. WELLS: That's correct.

MR. SOCKWELL: And the peak hour differentials between those two I don't know if you really discussed.

MR. WELLS: They would be more or less the same hours. These are the -- what you might call the rush hours, the

morning and afternoon rush hours. It's a 60 minute period that would occur during the morning anywhere between 7:00 and 9:00 a.m., and in the afternoon anywhere between 4:00 and 6:00 p.m.

MR. SOCKWELL: Quite often, when transportation consultants come before us -- traffic consultants come before us, it has been their opinion that an apartment building generates a different peaking period in terms of vehicle flow than would an office building, because office buildings usually empty out between a certain period of time in the afternoon.

They trickle in, but they empty in very heavily. An apartment building generally does not generate that kind of major outflow, nor does it create the major -- a major inflow.

MR. WELLS: That's correct. Square foot per square foot, a residential use is much less traffic intensive than a commercial use like an office building. And the directional distributions are different. Obviously people leave home to go to work in the morning. In the afternoon, it's the mirror image of that.

MR. SOCKWELL: And as I recall, and correct me if I'm wrong, N Street's one way eastbound?

MR. WELLS: Correct.

MR. SOCKWELL: So the flow will never be against a traffic flow -- in other words, crossing traffic going in the opposite direction?

MR. WELLS: For better or worse, --

MR. SOCKWELL: For better or worse.

MR. WELLS: -- N Street only goes one way.

MR. SOCKWELL: Right.

MR. WELLS: And that is eastbound at 14th Street. In fact, you cannot cross 14th Street. You have to turn onto 14th Street either left or right because N Street --

MR. SOCKWELL: The other --

MR. WELLS: -- is westbound on the other side, that's exactly right.

MR. SOCKWELL: So there's some potential benefits maybe that extend beyond any liabilities of having N Street being parked on both sides and it's a fairly small street.

MR. WELLS: That's right. Generally one way traffic flows are -- there's less friction than for two way streets, and that's why you see a lot of one way streets in urban areas.

MR. SOCKWELL: Right. Okay, that's all I have for you.

Mr. Sher, you get away clean today. I don't have a question.

(Laughter.)

CHAIRPERSON REID: Okay, thank you very much, Mr. Glasgow. We'll now move to the Office of Planning report.

Ms. Vogle.

MS. VOGLE: Ms. Vogle, in the interest of time, we

do have your report. Could you basically summarize it for us and give us your recommendation?

MS. VOGLE: Certainly. I'm Mary Vogle from the Office of Planning. The application by National City Church at 5 Thomas Circle requests a variance from the building height restriction, now no longer for the residential space requirements, for construction of a 110 foot tall apartment house in an SP-2 district at 14th and N Streets, N.W., Square 212, Lot 123.

The site is currently a parking lot. In any case, I don't believe I need to continue with the site and area description. I think that's been very well covered. Move on to our analysis of the situation.

Okay, a variance -- the variance sought to allow the additional 20 feet in height to -- 20 feet in height from 90 foot, the height limit under the SP-2 zone for a maximum building height of 110 feet.

There is no limit on the number of stories to be contained in buildings with an SP-2 district. We did feel that there is an exceptional situation or condition here and we especially believe that the property -- that the landmark status of the historic church that takes up a great deal of the property does qualify for an exceptional situation.

We also felt that the -- in regard to that, the SP-2 zoning provides for a 6.0 floor area ratio; however, if the site were developed under the zoning, it would total less than half of

that. So we felt this was -- certainly represented an exceptional situation.

We were less certain of the practical difficulty. And I think some of what we've heard today probably allays our concern with what exactly was the practical difficulty there.

Hearing the church's need for the annual income and also the fact -- the extra cost of the design elements, the third level of parking that was needed, and the fact that few investors would take the risk for the lower return at the 90 foot level was -- I believe would be convincing to our office at this point.

In terms of the public good, the comprehensive plan -- one of the objectives in the comprehensive plan is to facilitate mixed use development along Massachusetts Avenue that emphasizes the residential component.

This proposal, while it's not directly on Massachusetts Avenue, the site itself is and the entrance to the residence would be within 250 feet from Massachusetts Avenue. Housing is a high priority for the city and we feel that this particular proposal would be a welcome boost toward the integrity of the zone plan.

We felt that the project is very much in keeping with the neighboring buildings both in scale and design; that it is, in fact, 20 feet lower than the building to be developed on the western edge and only 40% of the floor area ration for that particular project.

As we've heard now several times, the Historic Preservation Review Board staff called the designed "extremely elegant." We agree with that. And the ANC-2F found an absence of significant adverse impacts on light, air or shadows on neighboring buildings.

So all this taken into consideration, we felt that the project does, in fact, meet the test for -- the three part test for a variance.

CHAIRPERSON REID: Thank you.

Are there questions of -- okay, thank you, Ms. Vogle.

There are no questions, Mr. Glasgow? All right.

Then we move down to the other government report, which was from Historic Preservation. And basically, in pertinent part, it simply recommends that approval -- recommended to their board that the project be approved in concept and that the garage entrance to the building serviced only by the alley as consistent -- being consistent with the purpose of the Historic Preservation law and delegate final approval to the staff for this particular project.

All right, persons or parties in support of the application, please come forward. I'm sorry, ANC.

MS. KRAMER: Good afternoon, Chairman Reid and members. I'm Commissioner Helen Kramer, Secretary of ANC-2F and chair of the Community Development Committee. I'm here on behalf

of ANC-2F. I gave the staff a letter of authorization from the chair of the commission, Leslie Miles.

As the record indicates, shows ANC-2F voted unanimously to support this application at its meeting of October 6, 1999. In so doing, the commission adopted the recommendation of its Community Development Committee which thoroughly reviewed the elevations, architectural drawings and shadow lines of the proposed apartment building.

During the community forum portion of its public meeting, ANC-2F heard the views of several residents of Town Terrace East, the condominium on the other side of the alley from the proposed building at 1420 N Street.

Concerns were raised regarding possible adverse impacts of delivery trucks entering the garage entrance off the alley and shadows cast by the proposed building. As you've already heard, the developer attempted to address the concerns about the garage entrance off the alley and moving it was rejected by the HPRB, so that is not a viable option.

In regard to the shadows, the commission concluded that they would not be significantly greater than those cast by the previously approved 90 foot building.

In reaching its decision in support of this application, ANC-2F considered not only the likely impact on the community it represents and the District of Columbia as a whole as required by its oath of office, but the impact of this development

not going forward.

Parking lots are not the best possible use of land in an area on the border of downtown. Privately owned parking lots are transitional uses and their presence in a densely developed area is an indication that market forces are not favorable to a higher use.

In the present case, since the lot is owned by a church and used exclusively as accessory parking for National City Christian Church, it is exempt from property and parking taxes. Thus, it returns no fiscal benefit to the District of Columbia.

It also provides no income to the church to help maintain its historic landmark building. In July 1990, the BZA approved a special exception to the zoning regulations to allow construction of an accessory office building on the site.

There was extensive consultation with the residents of Town Terrace East and the applicant agreed to address their concerns which were the same as those heard in connection with the current proposal.

ANC-2F had not yet been created and the predecessor, ANC-2C, approved the office development with certain conditions. As noted in its letter to the BZA dated November 15, 1999, ANC-2F's preference for residential as opposed to office development on the site weighed heavily in its decision.

Residential development at this location is not only better for our community, but is better for the District of

Columbia as a whole. The residents of the proposed market rate housing development would generate more revenue for our city than occupants of an office building, most of whom would probably be commuters.

Residents pay sales taxes and patronize local restaurants, theaters, grocery stores and retail stores. Thus, the income multiplier effects of residential development are greater than office development.

Furthermore, the architectural design of the proposed apartment building is far superior to the original office design. The Community Development Committee examined the effect of the proposed height of the building on the vista from south of Thomas Circle and concluded that it would have the salutary effect of partially blocking the view of the architecturally undistinguished Seville apartment building on the northwest corner of 14th and N Streets, N.W.

The shadows cast on surrounding apartment buildings would not be significantly greater than those cast by the 90 foot office building. The ANC does not consider it a viable -- a desirable option to have a permanent parking lot on the site.

We urge you to give our views the great weight mandated by the law. I'd be glad to answer any questions.

CHAIRPERSON REID: Ms. Kramer, at your ANC meeting there was a quorum present and --

MS. KRAMER: Yes.

CHAIRPERSON REID: -- there was a vote taken.

MS. KRAMER: Yes.

CHAIRPERSON REID: So therefore, you will be afforded the great weight with which the ANC is entitled.

MS. KRAMER: Thank you.

CHAIRPERSON REID: Are there any questions of Board members?

Okay, thank you.

MS. KRAMER: Thank you.

CHAIRPERSON REID: Okay, now persons and parties in support of the application, come forward.

MR. GLASGOW: I think we have some people in the audience that are in support, but I don't know that they were necessarily going to speak.

CHAIRPERSON REID: All right, then are they submitting anything for the record?

MR. GLASGOW: I think that we would want to have this case concluded today.

CHAIRPERSON REID: Okay.

(Laughter.)

All right, then, for the record, there are persons -- may I see a showing of hands -- who are here in support of the application who would not be speaking on record. Now we move to persons and parties in opposition.

Now let me see a show of hands how many. Okay, --

MR. GLASGOW: Oh, you're talking about opposition?

CHAIRPERSON REID: Okay, there's one, two, three, four, five. Okay, could I ask you to come up two or three at a time? As a matter of fact, all five of you may come up to the table. And I ask, in the interest of time, that you state your position and that you not -- try not to go over two or three minutes.

And if some -- if the previous speaker has articulated your view, please do not reiterate so it will not be redundant. Thank you. Okay.

PASTOR HOLMAN: My name is Pastor Holman. I'm the pastor of Luther Place Church, the other historic landmark on Thomas Circle. And it was very reassuring and inspiring to see our church and the building that we put up a few years ago portrayed as positive examples of the development that's under consideration today.

I would like to use my time for one purpose primarily. The reservations that we have had, we expressed objections in a letter that you received mostly concerning shadow and the effect on views and this kind of thing.

And I've heard a great deal today to ameliorate my feeling about position. We want to urge all those in power to make decisions about this to consider that the housing market in this community is booming. It's beginning to boom.

The needs of people who can afford elegant

apartments are being well addressed. We want to advocate for the inclusion of affordable housing in whatever is built. And I was very reassured to hear the pastor speak to that today and I just want to support that.

Luther Place was only allowed to put up an eight story building because of opposition from the neighborhood. You're talking about putting up a 12 story building, and I have to say that this hurts. This creates feeling of inequity.

It also -- it's also worth saying that Luther Place, likewise, has the expense of an historic building. It has no income from the building that it was able to build because it's providing housing for low and working class people.

It's doing it in a way that's attractive and that's attracted the support of the community since it was constructed. So we want to just bring that little bit of history to mind. We wish that we were applying for a variance today because we could have parking, too, and we could have all the good things that National City has provided a design to provide.

If we were requesting the zoning today, perhaps we could get what we asked for a few years ago and were denied. If there's any moral leverage in that, we would just like to apply it to the cause of affordable housing.

And I think that's all I want to say.

CHAIRPERSON REID: Your point's well taken. Thank you.

MS. DRACHSLER: Good afternoon, ladies and gentlemen. My name is Margaret Drachsler. I am a resident and unit owner at Town Terrace East condominium where I have lived for an excess of 20 years now.

Just for some context, I supported the building of Eden House that the reverend just spoke about. Unfortunately, I do oppose the building of the apartment building that is before you today. The shadow studies and the artist representation don't begin to measure the impact of that 20 feet on the neighboring buildings.

What has been ignored so far are the rooftop facilities that are on three of the buildings in the immediate neighborhood. On top of ten story buildings are swimming pools and deck areas at Town Terrace East, Town Terrace West and the Seville.

We all have some kind of privacy screening around those areas to permit people to have recreation in some privacy. And having a building that is looming above us by 20 feet is going to destroy that privacy, besides providing shadow and shade when that is not what we would want for our rooftops.

And it was certainly not something that we contemplated when we went through the expense of providing those rooftop facilities. I'm also somewhat troubled by the representation that they cannot make a profitable development at 90 feet because the market is booming in the neighborhood and

there is new construction throughout the neighborhood consistent -- considerably lower than 90 feet.

I think the highest building that I included in my written submission, which I gave earlier today, was an eight story building at 16th and Q. So apparently there are ways to make profitable residential development within the neighborhood.

The 20 additional feet that they're asking is so way out of scale. Yes, it would be nice to block the vista of the Seville from south of Thomas Circle, but the artistic representation does not include the penthouse, which would add an additional 18 feet.

And yes, you may not be able to see that standing on 14th Street or standing on N Street, but looking from south of the circle or looking from north -- looking down towards the building from north of Thomas Circle, it's a massive, out of proportion scale that this building represents.

It will be looming over everything within its immediate vicinity. This is somewhat easier to oppose this application because the church has an alternative. I am in sympathy with their need to find some source of revenue to maintain their landmark in the way it should be maintained, and they can do that with the office building that has been previously approved that would not provide the diminution of sunlight to the rest of the neighborhood, would not invade the privacy of the rooftop facilities as this one would.

So I therefore request that the Board deny the application for a variance. Thank you.

CHAIRPERSON REID: Just let me ask you. Your opposition is not so much for the application per se, but it is because of the height?

MS. DRACHSLER: The 20 feet. It's the 20 feet that I oppose. I would welcome residential development. You know, architecturally it's a very nice building.

CHAIRPERSON REID: So 90 feet, you were comfortable with that?

MS. DRACHSLER: Ninety feet would be fine. I would love to see that.

CHAIRPERSON REID: And have you had any discussions with the applicant?

MS. DRACHSLER: Yes.

CHAIRPERSON REID: And what was the result of your discussions with them?

MS. DRACHSLER: They have always maintained that they cannot profitably build an apartment building for -- at 90 feet.

CHAIRPERSON REID: And you showed them -- you demonstrated to them that they could?

MS. DRACHSLER: I'm not sure that I -- no, I'm not sure that I have the expertise to demonstrate that.

CHAIRPERSON REID: Well, and I was just wondering

because, you know, you alluded to the fact that there was another apartment building --

MS. DRACHSLER: There are many other new construction projects that are much less, yes.

CHAIRPERSON REID: -- on Q that -- and you felt that, as a result of that, having observed that construction going on, that perhaps the same thing would pertain to this particular site and that they could feasibly build the apartment building -- the 90 foot -- I mean the 90 foot apartment building.

And in your discussions with them, were you able to defend your position?

MS. DRACHSLER: In all honesty, I had not thought of the other construction that was going on in the neighborhood at the time that we did talk about. I mean, the whole -- the emphasis of my discussions with Mr. Glasgow and with the Brophys has been the 20 feet additional height that they asked.

But I had not talked about the other construction that's going on in the neighborhood, no.

CHAIRPERSON REID: Thank you. Okay.

MR. BIGGIO: May I submit some photographs?

CHAIRPERSON REID: Sure. Give it to staff.

MR. BIGGIO: I wish I had brought my slides.

My name is Charles Biggio. I live at Town Terrace West, which is next to Margaret's condominium. I, too, came down here to argue in favor of the programs of the Lutheran Church and

their building.

I'd like to talk about three things a little bit: the law, as I understand it; the effect this building will have on the neighborhood; and the effect this building will have on the future.

The law kind of states that you can -- well, you have to have a substantial detriment to the public good without substantially impairing the intent, purpose and integrity of the zone to get the variance. I believe the scale violates the law.

And specifically, 500.2, you have to ensure that new development is compatible in use, scale and design. This is the purpose of the S-2 zoning. And I contend that this violates the scale limit of the S-2 zoning and therefore it should not be allowed.

CHAIRPERSON REID: Okay, can you -- are you going to further qualify that?

MR. BIGGIO: Well, I think the 20 foot variance is the qualifier. If it were allowed in there, then you wouldn't have a problem with scale. It's just that 20 feet is an enormous amount to me.

The only other 12 foot -- I mean 12 floor apartment building I could find in the whole area was the Cairo, which is an example of excess. And after the Cairo, I believe the city decided they didn't want to do that.

Okay, so that's basically what I would like to say.

Both the new construction needs to be compatible with the surrounding properties. This is one of my basic arguments. If you look at the photographs, the first one is Luther Place Lutheran Church.

If you build this building directly across the street from it, you're going to hide this little gem of building. You will also create a big light trap. The sun from the office building will fall onto the church and the roadway there will create a big, polluted environment there.

That affects the environment. If you look here at the -- I guess you have this B, which is the N Street village that the pastor is aware of. You'll notice it's only like three or four stories. They will invade -- the visual invasion of the courtyard will detract from their use.

If you'll notice on drawing C, on photograph C, on the eighth floor you will see a little dish antenna. Take a look at that. These are protected by FCC regulations. In the future, more and more of us will want to have these things.

And if you allow this variance, you're going to forbid people to have these. Now look at the shadow on D. Imagine that extending two or three more floors up. You'll notice that the lower condominiums get no light at all.

And this is at -- probably at noontime when the sun's highest. This building here is a senior citizen home. Their only recreational space is a small porch in front of the

building. This is where the old folks sit out there and enjoy the few days they have left.

This building will shadow that. I mean, to me that was the clincher.

CHAIRPERSON REID: Okay, wait a minute. Before you go any further, in this picture number D, right?

MR. BIGGIO: Are we on D? Yes.

CHAIRPERSON REID: Okay, now the shadow that is cast here --

MR. BIGGIO: This is a shadow that you see now of the present building.

CHAIRPERSON REID: But what time of day and what time of year?

MR. BIGGIO: This is about 11:00 about a week ago.

Now, if you imagine --

CHAIRPERSON REID: Okay.

MR. BIGGIO: -- the shadow extended up two more floors and a little more for the penthouse, that's the kind of shadow you're going to have in real life.

CHAIRPERSON REID: Okay, excuse me one second. All right, thank you. Go ahead. I'm sorry.

MR. BIGGIO: Okay, take a look at F. This is the present building which the church has. It wants to build 128 foot building total height. That's almost twice as large as this. Way out of scale for that building.

Notice all the other buildings in the neighborhood. They're all built to code or below code. Now they kept mentioning the building at the end of the block being higher. That's in another zone. That's why it can be higher.

I'm asking you to protect our S-2 zoning. Okay, and here's a small picture -- well, you have a bigger picture. This is our recreational area that we would like to have. Your buildings will -- this building, if it's built, will overlook this and invade the privacy of at least five of these kind of structures that we maintain at big expense.

Okay, furthermore -- okay, a couple more things and I'll -- first of all, a building with this big a variance, it's 450,000 cubic feet, will create a lot of additional pollution in this neighborhood. Now, we already have a lot of pollution.

We had, I believe, seven days last year of red alert days. Now this affects the old people and the poor people of my neighborhood. And I don't think you should give variances for this kind of thing unless there's a really good reason for it.

Okay, and I guess that's about all I have to say, except that I believe that both the present and the future needs would be better served if they were to keep it down to the 90 foot. And I'm in favor of the 90 foot.

Oh, one final thing. The traffic expert. There will be visitors to this building. And if everybody had a parking place in the entire building, there would still be

visitors, there would still be people driving the trucks in and dropping stuff off, there would be Aunt Lilly coming in from DesMoines.

All it takes is about three parking places to be filled in my neighborhood and there is no parking. Recently a parking place went for like about $20,000 in my unit, so they are more valuable sometimes in the unit itself.

So I believe some of these experts give you sort of a one-sided view of this. And you need to take into account the human side of building a building this big. Because every time you build it up, somebody else has to pay the price.

Thank you.

MS. DRACHSLER: Madame Chair, with my apologies, may I add something to my earlier statement, please?

CHAIRPERSON REID: Is it brief?

MS. DRACHSLER: Brief.

CHAIRPERSON REID: Okay.

MS. DRACHSLER: There's been some discussion as to the 130 foot height of the -- of a building that would be allowed at the opposite end of the block at 15th and Mass. First of all, the Home Suites Hotel, which is currently under construction, is something less than 90 feet.

It's eight stories and that occupies the area immediately to the rear of Town Terrace East and Town Terrace West. Then there is a small section of the parking lot at 15th --

on 15th Street that has not yet been built.

And I would point out that topographically there is a rather steep incline from the level of the hotel that's under construction and the level of 15th Street from which the 130 feet height would presumably be measured.

And so that would -- as I said, there is nothing, as far as I know, that is under current consideration right there. The "for sale" sign is still on the property.

CHAIRPERSON REID: So what are you saying, that topographically there's a slope?

MS. DRACHSLER: Yes, a very steep slope from --

CHAIRPERSON REID: A steep slope that --

MS. DRACHSLER: The hotel, for example, is right here. And then there is a further part of the parking lot and then 15th is over here. It goes like that. It's a very steep slope that gets down between the height where the hotel -- eight story hotel is, which is roughly the same height as Town Terrace East and Town Terrace West and the height that would be a -- you know, that -- for the -- any proposed office building or residential construction at 15th Street.

Thank you.

CHAIRPERSON REID: Thank you.

I'm sorry, Mr. Sockwell.

I'm sorry. Your name, ma'am?

MS. DRACHSLER: Margaret Drachsler.

CHAIRPERSON REID: Ms. Drachsler.

Did you want to ask her something?

MR. SOCKWELL: Yes. Ms. Drachsler, you alluded to the fact that the penthouse was not included in the shadow study, I believe.

MS. DRACHSLER: No, it was not included in the artistic representation showing the scale of the project. I don't know whether it was in the shadow study or not.

MR. SOCKWELL: Well, actually it isn't included in the rendering that is sheet A-1 of our submission, and that does concern me. It concerns me considerably because it is traditional that the building be shown in a correct representation.

The penthouse does not exist on one of the more significant drawings which shows the National City Christian Church and its northern neighbors with the new building in place, and I thought Mr. Torti might want to respond to that.

MR. TORTI: Well, we showed the penthouse very specifically in every drawing that --

MR. SOCKWELL: Except?

MR. TORTI: Well, the issue of where that penthouse is and how much of it and the scene from -- in that perspective is -- you know, it --

MR. SOCKWELL: I understand. Well, let me say this. I'm an architect, Mr. Torti. I've been licensed in this city since 1975. It doesn't make me the oldest guy, but it

certainly makes me familiar with profession.

In our firm, which isn't in question here, we show penthouses when they exist. We don't have penthouses that are conjecture. We don't have penthouses that aren't included in the design. You have a completed design here.

You have a rendering. It doesn't show the penthouse. There is no logical explanation as to why it isn't on here. There's just not one. This is not being done as a schematic sketch. You basically have apartment layouts. You have everything shown.

And now that I realize it, it's not shown in the shadow studies either in terms of its effect and I want to know why.

MR. TORTI: Well, in all honesty, the --

MR. SOCKWELL: Please be honest.

MR. TORTI: I'm trying to, and I'm not trying to be devious in any way at all. I mean, the penthouses are very clearly shown where they would be most obviously seen in all of the frontal, side and rear and elevations.

Also, --

MR. SOCKWELL: But let me state -- let me interrupt just to say this. In the wintertime, the sun angle -- the solar angle is at its lowest, correct?

MR. TORTI: Yes.

MR. SOCKWELL: The effect of the penthouse on

shadows is at its maximum, correct?

MR. TORTI: Yes.

MR. SOCKWELL: The penthouses do not get included in your sun and shadow study. Why? Because the wintertime is when we postulated in our discussions that the effect of the building on the adjacent buildings is the greatest.

You stated that specifically two to three weeks --

MR. TORTI: I think, you know -- let's do one thing at a time.

MR. SOCKWELL: I'd like to.

MR. TORTI: Okay. I think they are shown in the shadow study. I mean these little -- see this little bump coming up over here? That is -- do you see the little bump coming up over here?

MR. SOCKWELL: Well, I was looking at the --

MR. TORTI: There's nothing for it to fall on and in between.

MR. SOCKWELL: Let's go with the profile. Let's go with the plans of the building. As the penthouse is represented on each plan as that shape, it should be casting a shadow over the shadows of the facade at the parapet, and it is not shown in context.

So I can't imagine that if it's not shown there, it would be shown elsewhere.

MR. TORTI: Okay, all right. Where we have not

shown them is on the roof of our own building. This does fall on the roof of our own building and this falls on the roof of our own building. But when it falls on the ground around in, in particular in the worst possible case, which is in the yellow here, it does -- you see this piece coming up?

There is nothing for it to fall on here and this piece coming up.

MR. SOCKWELL: Well, let's say that it would be appreciated if you had shown that the shadow does fall entirely on the roof and not beyond the roof, if that is the case.

And realistically, you do understand it is an error on the part of the person who cast the shadows not to have shown the penthouse shadows because those are projections vertically on the building and they cast a shadow just like everything else.

And I can show you many, many things from probably the files here where those shadows are shown from that level. And there's not a really good, logical explanation for them not being there, that's all.

MR. GLASGOW: Mr. Sockwell, may I jump in?

MR. SOCKWELL: Yes, Mr. Glasgow.

MR. GLASGOW: With the architects, because part of -- there is other people from Mr. Torti's team here. While the shadow is not being shown as it's on our building, the penthouse shadow is shown on all drawings.

The little jogs that we have here, the penthouse

shadows are -- and I can understand why it was confusing on our part not to show the roof structure shadow so that you saw it was being taken into account; but it was, in fact, on the drawings that we submitted for the record.

MR. SOCKWELL: I understand. The fact that the roof structure wasn't shown on a principal rendering and the perspective --

MR. GLASGOW: I believe because of that perspective, Mr. Sockwell, --

MR. SOCKWELL: Yes.

MR. GLASGOW: -- is that the roof structure was not because of our setbacks.

MR. SOCKWELL: No, the roof structure would show it. You can't set back -- even an 18 foot penthouse is going to appear. At the angle at which this drawing was done, it's going to appear not quite in this representation, but it's going to be a chunk and you're going to see it.

MR. GLASGOW: I believe that when we -- when we worked it out with the --

MR. SOCKWELL: And it only sets back one to one.

MR. GLASGOW: No, we're more than that.

MR. SOCKWELL: Well he said 18 feet vertical, 18 feet back from the parapet.

MR. GLASGOW: Yes, but we have another ten feet around here. Then we're 18 feet.

MR. SOCKWELL: Okay.

MR. GLASGOW: So that you're 28 feet.

MR. SOCKWELL: Okay, well if you're 28 feet, it might be a smaller element, but it would be a visible element.

MR. GLASGOW: Yes, and from here back is more than 28 feet. I believe this was -- what was the dimension from the --

MR. TORTI: This is 25 feet.

MR. GLASGOW: Yes, we've got -- we're over --

MR. TORTI: Twenty-two.

MR. SOCKWELL: Okay, these are questions that just need to be asked.

CHAIRPERSON REID: No, you can't ask a question right now. All right, let us first make sure that Mr. Sockwell's questions are answered.

And are you satisfied now?

MR. SOCKWELL: I'm satisfied that I've been given an answer to the question, yes.

CHAIRPERSON REID: Okay, all right. Please do.

MR. GLASGOW: I still have one more point.

MR. SOCKWELL: Certainly.

CHAIRPERSON REID: Okay.

MR. TORTI: And I think you have to understand that the penthouse also is shown in a configuration that is -- I don't think there has been a building of this use built in the District in recent years that has a penthouse this large. And when we get

to the detailed drawings, it will, in fact, show it.

Since it has to be a single penthouse, we showed it as its maximum size to, in fact, present it in the worst possible light.

MR. SOCKWELL: I assume that the units will be individually heated and cooled without a central system because it's typical to --

MR. TORTI: Yes.

MR. SOCKWELL: -- most apartments at this time?

CHAIRPERSON REID: Okay, can we move on?

MR. SOCKWELL: Yes.

CHAIRPERSON REID: Now, if you have a question, then you can direct it to me and then -- or the Board members, who will then have an answer for you when they have the closing remarks. But you can't directly ask the applicant questions.

Okay, all right.

MR. STOVER: Madame Chair, my name is Byron Stover and I live at 1239 Vermont Avenue. I have a letter from the Board of Directors for Crescentire Condominiums at 1239 Vermont Avenue.

May I approach the bench?

CHAIRPERSON REID: Sure. Give it to staff, please.

MR. STOVER: Well, I have to admit I feel pretty intimidated following these high-priced lawyers and architects. I'm just an ordinary citizen.

MR. SOCKWELL: So are we.

CHAIRPERSON REID: Well, these proceedings are not set up just for the benefit of the high-priced lawyers or professionals that you're speaking of. This is a citizen's forum.

MR. STOVER: Yes, ma'am.

CHAIRPERSON REID: So therefore, whatever you have to contribute will be welcomed, so please do so.

MR. STOVER: Okay, thank you.

I've noticed that they never show you a view looking down N Street, looking west, showing both sides of the street, and there's a reason for that. They know, if they show you that view, you will see a concrete canyon once this building is built.

Twelve stories is totally inappropriate for this site. A much more appropriately sized building is the Lutheran Church's apartment building at the northeast corner of 14th and N, the Eden House Apartments. It's a beautiful building. The architectural design is great.

But it's eight stories. In front of that is a six story section, a courtyard, and four three-story Victorian houses. That scale is very appropriate for this neighborhood. Concerning the ANC, I heard no comments that they heard anything from the Luther Church or from the Eden House Apartments.

Both of those properties will be impacted by this behemoth. Parking versus traffic -- the parking problems will be worse at night when everyone returns from work. And of course,

currently the parking situation is extremely tight.

This project does not provide enough parking for the residents, let alone guests. The comments concerning the shadow lines I thought were very, very interesting. The shadow lines in the summer would be at the minimum due to the position of the sun.

In the winter, the shadow lines would be at the maximum. The buildings on the north side of N Street will be in almost a perpetual shadow during those weeks in the winter. Reference was made to a golden age of apartments.

Well, there's an art deco apartment at the corner of Vermont and N, a half block from this site, is eight stories tall. It's a perfect size for this neighborhood. Reference was made to 130 foot building at Massachusetts Avenue and 15th Streets.

Well, that size building may be appropriate for that site because it does not sit on N Street. It would not turn N Street into a concrete canyon. And as far as a rate of return on their investment, I think they have admitted that there would be a positive rate of return on a smaller building.

They merely want a larger rate of return on the larger building, which I think is odd coming from a nonprofit institution. And that's my only comments. Thank you very much.

CHAIRPERSON REID: Thank you very much.

MR. SOCKWELL: Just one thing. I believe that,

based on the zoning ordinance, they have provided sufficient parking for the building. The requirements are set and they don't have to provide more cars than they would be normally required to under the zoning, and they have done that.

Yes, Mr. Biggio.

MR. BIGGIO: I think our objection is that by giving the variance, the 26 extra apartments, you attract those guests and other people which are not part of their parking liability. It's just an extra burden that goes on us.

450,000 cubic feet of building are stuck up on top of that building.

MR. SOCKWELL: 450,000 cubic feet sounds like a lot. I don't know why you're using that term because it doesn't make -- 450,000 cubic feet could be handled in one story. It doesn't have to mean what you're trying to make it mean.

Another question I have for you is your shadow pictures, it wouldn't matter whether an office building or the apartment building was constructed on that site. Those shadow pictures aren't going to change. The people that live across the street are going to lose what they're going to lose.

It could be a much smaller building. It would do the same thing to those people at the ground level.

MR. BIGGIO: I'm talking about the --

MR. SOCKWELL: Yes, I know, about this; but I'm going back to the other thing.

MR. BIGGIO: It will raise the shadow. If you look down N Street on my picture, you can see the shadow of the 90 foot building.

MR. SOCKWELL: Twenty feet's twenty feet.

MR. BIGGIO: Twenty feet's like two units, I guess, about two units on top of that.

MR. SOCKWELL: Yeah, 20 feet's 20 feet. Now, there is a setback at the 90 foot level, --

MR. BIGGIO: Right.

MR. SOCKWELL: -- and that setback does affect the impact of the 20 feet. It's not like it's a straight wall. And it's important that it's not like a straight wall. The zoning ordinance was designed so that it would not do that.

So it has to setback at that 90 foot level in this case.

MR. BIGGIO: But it only looks like it's setback like a foot or something. Am I mistaken as to the drawing?

MR. SOCKWELL: What's your setback?

MR. GLASGOW: Ten feet.

MR. SOCKWELL: Ten feet.

MR. BIGGIO: Okay, it's hard to see it from I guess the frontal drawing. You're talking about the side?

MR. SOCKWELL: And the ten feet does affect significantly the way things project shadows. I mean, I admit that in the case of many of you, any building that has the bulk of

this one or an office building is going to significantly impact the existing conditions that you're used to living under, and that is important as anything.

But that does not say that this building 20 feet taller has such a great additional impact. It does say that, based on what you aren't going to get, which is an office building, which was proposed many years ago and was never built -- based on that fact, everything stayed status quo.

You had a parking lot. Parking lot didn't affect anything. Now you're going to have a building of some sort. That building is proposed at somewhat larger scale in some respects, especially on the two street faces, than would be the equivalent office building.

But in overall bulk and overall impact of the number of issues that would be specific to an office building, the apartment building does not present those. It presents some benefits. It presents some liabilities or some -- and some major change to what you're used to seeing there.

And you have every right to understand that that change is considerable, considering the fact that there's nothing there at all now. Now, no one -- I don't know what -- if any complaints were made by the developers of other buildings in the neighborhood as to their effects on properties adjacent to them, but you have to take into context the fact that you're going from nothing to something big.

And please try to look at it fairly in that respect.

MR. STOVER: Well, I think that the good reverend pointed out when Eden House was built they were limited to eight floors maximum, and that's an appropriate sized building for this neighborhood.

MR. SOCKWELL: Well, we were not the Board that approved that project. I have no knowledge of what was involved with that project, and it really shouldn't be brought into play here because it is another project.

And whether it's eight stories, two stories or 12 stories, it isn't germane to this particular conversation --

CHAIRPERSON REID: All right.

MR. SOCKWELL: -- on this particular project.

CHAIRPERSON REID: All right, Mr. Holman is trying to get something in.

MR. HOLMAN: Well, yes, I'm kind of glad you alluded to that. Because it raised the question about your testimony, which basically sounded like I wish I were coming before the Board today because asked for ten stories and got eight.

And if I could have gotten that, I would have taken it. And that's what I drew from your testimony because --

PASTOR HOLMAN: We support a ten story development.

MR. HOLMAN: Right.

PASTOR HOLMAN: In other words, an eight story building is not economic. We have to raise money to subsidize it. So we support a ten story building.

MR. HOLMAN: Well, you're actually supporting -- by saying that, you're actually supporting the case of the applicant when you indicate that. I guess what's interesting is the applicant is -- and I'm not taking a position. I'm just following the logic of the discussion.

But the applicant seems to be saying that if they have a building of this size, they can support not only the church, but provide more needed housing in one of the sites that is available to provide that housing.

And not only that, they seem to be saying that they're going to make some attempts to provide affordable housing as well. And I guess what that does in my mind is it starts saying is -- what's the greater public good.

Is it increasing the stock of housing, affordable and market rate, as opposed to, you know, the issue of -- and I'm not minimizing the issue of shadows on people's properties. I live in the shadow of a really huge building and I get no sunlight on one side of the building, so I'm sensitive to that.

But I guess what I'm saying is, this is one of the few sites that I know of where we can begin to make a dent on the lack of affordable housing and rental housing in the city, so I take this very seriously. And I just want to say I didn't

understand that part of your testimony because -- I think I did actually, because you were saying basically if you could have had a ten story building, you would have built it.

And so, by saying that, you know, eight stories is the -- kind of the level at which everyone should come along -- I'm having a little difficulty with that because this Board has to look at, you know, not just how this building affects the neighborhood, but how it affects the city as well.

So these are some of the things that are going through my mind as I'm making this decision, but I think I do understand your position now.

MR. SOCKWELL: Pastor Holman, one question. Have you been with Luther Place for quite some time?

PASTOR HOLMAN: I've been with Luther Place since 1995.

MR. SOCKWELL: Okay, so you were not around when Luther Place built the SRO on the back side?

PASTOR HOLMAN: In 1990? I'm not sure what you're referring to.

MR. SOCKWELL: Yes, well -- yes, the five story --

PASTOR HOLMAN: When they built the fourth story?

MR. SOCKWELL: Yes, when they built that project, there was a tremendous amount of neighborhood opposition to that project.

PASTOR HOLMAN: I know.

MR. SOCKWELL: And you guys were on the other side of the coin fighting valiantly for a project that you believed in.

PASTOR HOLMAN: Exactly. And I am not opposing this project. I'm only opposing -- I'm only opposing the 12 story. And I'm pleading for affordable housing.

MR. SOCKWELL: Right, but you did couch your original remarks in "well, we didn't get this," so it sounded like sour grapes.

PASTOR HOLMAN: No, no, no; it wasn't sour grapes. I mean --

CHAIRPERSON REID: Okay, excuse me, excuse me.

MR. SOCKWELL: I mean, and I just wanted to be sure --

CHAIRPERSON REID: Excuse me. I don't -- let's not belabor that issue, all right, and move on. We do have one more witness who was waiting to testify, and I'll do courtesy to her. Let's allow her to have her say.

MS. HOLCOMB: Hello. Thank you very much. My name is Shannon Holcomb. I'm a resident and owner of Town Terrace East. I'd like to address two issues: one, public good; and the second, behemoth.

The apartments that had been mentioned by the -- I'm going to call the team the development team -- are in Kalorama, on Connecticut Avenue, the Woodward, 22nd and L, R Street, Pennsylvania Avenue. These neighborhoods are a long way

from 14th and N.

I am buying my apartment with my boyfriend. I bought my apartment in June of '89, so I've been there a while. I know, because I do my -- I'm a writer, and so I work in my apartment and I know that no one from where my boyfriend lives, which is at Connecticut -- or 20th and N -- nobody comes to 14th Street and nobody from 14th Street goes to 20th.

So we're talking very, very different neighborhoods. And this is a delicate neighborhood. It's been developing slowly. The theater at P Street is doing well and developing slowly. The restaurants are developing slowly. The additional housing in the area -- the old folks home across the street was huge and has worked well in the neighborhood.

But slowly people are restoring three, four, five story buildings on that block. My question earlier was whether the penthouse, what is being called the penthouse, is included in that 20 feet or is this additional to the 20 feet?

The second request from the developers was dropped, and that was for recreational space. Both the people who pointed to the drawing of the church included the area which now is the baptismal font. I'm assuming the church is not going to want people doing recreation in the area of the baptismal font.

It was stated that residents of the building would be permitted to use this area. Does this mean that the neighborhood will not be permitted to use this area? When we

speak to behemoth, it's the height, but it is also -- if you'll look at this drawing, it takes up the entire lot.

It extends well beyond Town Terrace East and Town Terrace West. It's huge. And my guess is that members of the development team didn't photograph in several directions from their site because it's a scruffy neighborhood.

I live in one of the architecturally undistinguished buildings, which have been mentioned several times, and only I consider my building, which is a modernist building, architecturally distinguished. I like modernism.

I know that I'm currently out of favor, but just came from Paris and there are buildings modernists there. It will change. And I think that the term and its usage so frequently shows some contempt for the neighborhood in which the behemoth is to be situated.

CHAIRPERSON REID: Is that it?

MS. HOLCOMB: That's it.

CHAIRPERSON REID: Okay, thank you very much. All right, now we'll have closing remarks by the applicant.

MS. HOLCOMB: Could I also ask the team, when they come up, to explain again how there will be no shadow on Town Terrace East? That I found --

CHAIRPERSON REID: Okay, you can't, but I can.

MS. HOLCOMB: Bingo. Thank you.

CHAIRPERSON REID: No shadow on what?

MR. HOLMAN: Town Terrace East.

CHAIRPERSON REID: And let me just explain why you can't ask the question directly, because only persons who are parties are allowed to cross examine the applicants and the witnesses. And since you did not have that designation, --

MS. HOLCOMB: I'm sorry, I don't mean to be rude.

CHAIRPERSON REID: No, that's okay. We'll make sure that your questions are answered. All right, thank you.

Mr. Glasgow, you've heard the questions. Would you like to address them or would you like for me to ask you directly again?

MR. GLASGOW: Yes. Anything I don't cover, please ask.

CHAIRPERSON REID: Okay.

MR. GLASGOW: I think there were a couple things that, with respect to the testimony, certainly we want to take a look at. If you could turn to Exhibit P in the book, which is an aerial photograph showing the subject square.

CHAIRPERSON REID: Yes.

MR. GLASGOW: There are three very light colored rectangles in there. They come out, you know -- it's a blue background and I'm going to be addressing the swimming pools first, the rooftop uses on the adjoining buildings which are in the -- with respect to Town Terrace West, the swimming pool I believe we measured to be approximately 300 feet from the property

line.

It has two roof structures in between. All of those swimming pools are on the west side of their roof structures separated from our building.

MR. SOCKWELL: Would you locate that for me?

MR. GLASGOW: Yes, sir.

MR. SOCKWELL: I'm not sure exactly where you are.

MR. GLASGOW: Exhibit P. Mr. Sockwell, this is Town Terrace.

MS. PRUITT: If you could share that with the rest of the Board.

MR. GLASGOW: Yes, Mr. Sockwell, the --

CHAIRPERSON REID: The Board members.

MR. GLASGOW: The Board members, right. The Town Terrace West swimming pool is shown in the aerial photograph. All right, Town Terrace East swimming pool in the photograph both on the far side of the roof structures from our building.

MR. SOCKWELL: Got it.

MR. GLASGOW: The Seville appeared to the north of the roof structure and way beyond where we cast any shadow. So I would submit that the photographic evidence shows we do not have any impact on those roof structure uses.

MR. SOCKWELL: Thank you.

MR. GLASGOW: The next item is on Exhibit B shows a plat of the square. Lot 122 is the lot that we're talking about

where future construction can occur. And if you will look at that property, the property fronts on Massachusetts Avenue, 15th Street and N Street.

So that when you talk about point of measurement, and I know Mr. Sockwell would be very familiar with this, I would take my point of measurement for my 130 feet from N Street. I'd get my 1910 Height Act from Massachusetts Avenue or 15th Street, but point of measurement is from N Street.

So the falling grade, all that means is the building is taller on the Massachusetts Avenue side. The point of measurement will be from N. Let me go through a couple of the other notes there.

With respect to the shadow studies on Town Terrace East, I believe we showed that there is less shadow cast by our building than the 90 foot high office building principally because, as Mr. Sockwell pointed out, we have a court.

We have 25-30% of that 19,000 square feet cut out. And so I will now reorient the drawing. You would see that the drawing shows that compared to the 90 foot high office building, that there is less shadow that is cast -- this is the office building taking up 100% of the lot -- than compared with the apartment building with the cut out, which lessens the amount of shadow that's cast on that building.

CHAIRPERSON REID: Okay, now wait one second. I'm sorry, I'm sorry. This witness, in fact, testified in opposition.

I can't see you. Can you stand up? What's your name?

MS. HOLCOMB: Shannon Holcomb.

CHAIRPERSON REID: Okay, Ms. Holcomb, are you able to see what he's showing? All right, that's your question. So why don't you come around so that you can see exactly how he's demonstrating the response to your question.

MR. GLASGOW: The response to the question, Ms. Holcomb, is that because of the cut out that occurs where there is no building, there is less shadow cast by this building at 110 feet. Also taking into account its ten foot setback on the property.

MS. HOLCOMB: So there is less shadow at this end, so less total shadow. But I find it hard to accept that --

CHAIRPERSON REID: Okay --

MS. HOLCOMB: -- 90 feet --

CHAIRPERSON REID: Okay, now --

MS. HOLCOMB: -- cast less shadow than 110 on this end.

CHAIRPERSON REID: Well, first of all, first of all, wait a minute.

MS. HOLCOMB: No, it cast a shadow on all those windows.

CHAIRPERSON REID: Okay, but first of all, wait a

minute. I don't think that you're on the mic. And secondly, you're not supposed to cross examine him, so your questions should be directed to us.

MS. HOLCOMB: It appears to me that -- I'm sorry. It appears to me that the total is being taken and that at the end with the cut out there is less shadow on the north end. I find it very hard to believe that there is less shadow by 110 foot building than a 90 foot building.

CHAIRPERSON REID: Okay.

MS. HOLCOMB: I am assuming that what they are doing is combining both shadows.

CHAIRPERSON REID: Okay.

MS. HOLCOMB: And that will not affect the roof, it will affect all those windows only -- I mean it will not affect the roof only, which was his testimony.

CHAIRPERSON REID: Okay, Mr. Glasgow, can you --

MR. GLASGOW: I think the two sets of shadow studies speak to that. This point is 90 feet, that point is 90 feet on these two buildings. This is now with the residential apartment building with the cut out. I think you can see how the shadows impact.

And now this is our additional 20 feet and the shadow and how the shadow impacts this part of the building. And then the shadow from the 90 foot high building has more of an impact because it fills out this area of the site.

I think that's --

CHAIRPERSON REID: Okay.

MR. GLASGOW: I think that's fairly basic with respect to that. And the additional 20 feet in height that we have that's over their building casts a shadow on their roof in that respect.

CHAIRPERSON REID: Okay, now we don't -- I don't --

MS. HOLCOMB: Could I ask you to ask whether the penthouse is part of the 110 feet --

CHAIRPERSON REID: He's going to address that.

MS. HOLCOMB: -- or not?

CHAIRPERSON REID: We're going to address that.

MS. HOLCOMB: Thank you so much.

CHAIRPERSON REID: We're going to address that question.

MR. GLASGOW: With respect to the roof structures, all the buildings in the area have roof structures as is shown in the aerial photograph. That was the first exhibit, the one that's mainly in blue. Town Terrace East has a roof structure.

Town Terrace West has a roof structure. From the documents we reviewed, they're both at 18 feet six, just like our roof structure. So the difference is whether we're 90 feet in height versus 110 feet in height.

The roof structures all equalize.

CHAIRPERSON REID: Okay.

MR. GLASGOW: And the Seville has a roof structure. And I think that's all shown in the aerial photograph.

CHAIRPERSON REID: All right, thank you, Mr. Glasgow. Just one second, please.

Mr. Sockwell, did you want to speak to that issue about the penthouse as well on record?

MR. SOCKWELL: Yes, I mean, the penthouse is allowed above any --

MS. HOLCOMB: I just want to --

MR. SOCKWELL: Yes, it's not included in any of the height requirements. It is in excess beyond whatever the height in any zoning district is allowed to be. Even if you were allowed under the Height Act alone to go to 130 feet, you would be allowed another 18 feet six inches under the Height Act of 1910 as amended.

And that penthouse has to be set back from the 130 feet even by one foot horizontally for each one foot vertically.

CHAIRPERSON REID: Okay, thank you.

MS. HOLCOMB: Thank you.

CHAIRPERSON REID: All right, Mr. Glasgow, can you continue?

MR. GLASGOW: All right, I think that with respect to -- we talked about shadow. With respect to scale, we believe that the scale is consistent, as was submitted by the testimony of the expert land planning witnesses, as has been determined by the

Historic Preservation Review Board because they would be looking at scale issues, and also at the Office of Planning.

With respect to traffic, even though traffic is not technically an issue in this case, we provide significantly more parking than what's required under the regulations. We had a traffic expert that did a study and that there were no adverse traffic impacts.

With respect to testimony from the Eaton, that building is shown -- that building is on the other side of 14th Street and then on the other side of Luther Place next to the hotel. So that significantly -- that building is probably about 300 feet away from where we are, so we don't see how we have any impact on that building.

If you look at the first sheet on Exhibit D, on the right-hand side of the page you're just barely able to make out Eaton Towers. It's on the far right. It's north of Washington Plaza Hotel, so it's across 14th Street on the other side of Luther Memorial Church and across Vermont Avenue from us.

CHAIRPERSON REID: Okay.

MR. GLASGOW: So I believe that building's a significant distance away and we have no impact on that building as a result of the granting of the height variance. Also, with respect to Town Terrace West, we've discussed the shadow studies on Town Terrace East.

If you look at Town Terrace West on that same

sheet, we have no impact by virtue of the requested height variance because Town Terrace West is separated from the subject property by Town Terrace East, which is a building that is I think about 170 feet long and, of course, 90 feet in height. Both those buildings are 90 feet in height.

So you cannot see our site from Town Terrace West. So there's a significant setback there. If you look at the drawing, you see it's separated by the alley and Town Terrace East, then you get to Town Terrace West.

And we've discussed the impact on Town Terrace East and the views that there are with respect to that. Those are where two of the witnesses were. I believe that there's been significant discussion with respect to the issues raised by Luther Place and that -- where their position is on the application in its totality, so I don't want to address anybody's testimony on that.

I believe I've covered the testimony of those witnesses to those questions that they had raised.

CHAIRPERSON REID: Yes.

MR. GLASGOW: Unless I've missed something. But that's what my notes reflect.

Just in summary, with respect to closing arguments, we have submitted -- we've all been through a lengthy hearing at this point in time, and we appreciate everybody's time and attention.

We do believe that we have a significant project that has significant support to it: the Advisory Neighborhood Commission, the Historic Preservation Review Board, the Office of Planning and other support that we have within the community.

And we have a difficult and unique site to deal with. Otherwise, it would have been developed. Some of us have been working at it for 12 years. And we would hope that the Board would be able to grant the height variance application so that we would have the opportunity to proceed forward with a very meaningful and significant residential project in the downtown area.

CHAIRPERSON REID: Okay. Is that it, Mr. Glasgow? Are you --

MR. GLASGOW: Well, we would like to have a decision today if we could have a decision.

CHAIRPERSON REID: I was wondering if you were finished with your presentation.

Okay, Board members, would you like to --

MR. SOCKWELL: I would like to request -- I have some concerns. My concerns at this point are strictly those of the effect of this particular building at the proposed height on the adjacent properties to the north.

And what I would like to see, which I don't have available to me, and I'm not comfortable because I don't have it, and because there's certain things that seem to be discrepancies

which could have been artistic license, I would like to see a drawing that casts a shadow at 12:00 noon across the total super structure of this proposed building to the buildings on the north side of the street.

Such a drawing would look something like this, which basically shows your deep, medium and light shadow lines, but it shows the projection of shadow from all of the elements that are vertical elements on the building -- on the proposed building.

And I think that could be easily done because you have all of the dimensions of the others. That way it would allay any fears that anything was left out of this process and would give us an opportunity to examine in totality the impact of the shadow at the most important times of the year.

And I think that -- September and December and probably -- you did three, didn't you? June, September, December is what I'm looking for because that's where the major impact is going to be.

CHAIRPERSON REID: Do you want to make the motion? And I'll second.

MR. GLASGOW: What we would like, if we could, we can submit that for the record, if we could have a vote that is subject to the Board's approval of that; that that does not significantly --

MR. SOCKWELL: That would be fine.

MR. HOLMAN: I'd like to make a motion that the Board approve the variance as requested. I believe that they have shown the necessary elements to support their request. I'm particularly impressed by impact -- I'll just go through some of my reasoning on that very briefly.

That this is an exceptional project related primarily to the historic preservation structure that's on the site; that I think that there would be some practical difficulties and some -- I think that we can do this without significantly impairing the integrity of the plan for the area.

I think it provides a much needed addition to our housing stock. I'm impressed by the fact that the applicant is interested in exploring the possibility of providing affordable housing within the mix of the property, as well as supporting the church.

And I find nothing wrong with the church deriving some income from these kinds of projects. And I think that architecturally, from what I can gather, it is a very exceptional project. It was certainly perceived so by the Office of Planning and the Historic Preservation Review Board.

And I move that we approve it as presented.

CHAIRPERSON REID: I would second that motion based on all the reasons that you just gave. And I think that what we would do is to leave the record open to have the applicant submit the further shadow study as Mr. Sockwell has requested.

Yes, well, it would be subject to -- we'd leave it open and the order, of course, would not be issued until such time that we would have a chance to look at that submission from you. All right?

MR. SOCKWELL: That's fine.

CHAIRPERSON REID: Okay.

MR. SOCKWELL: And I would --

CHAIRPERSON REID: All in favor?

MR. SOCKWELL: I also wanted to say that the project for those who are in opposition and those who are not certain that this is the best to provide remember that in providing a residential project of this size with this number of units, you are stimulating the development of support retail and support commercial and support recreational activities within your community, support medical services.

All of those things are derived from the development of this kind of project that leaves people in the community 24 hours a day -- leaves them in the community in the evenings when there is something else to do.

It will provide a greater level of vitality to the community that isn't present when office development comes in and those buildings empty out at 6:00 and 6:30 p.m. You're going to have a more viable community, you're going to have improved property values.

The church, hopefully, will have more members

coming on Sunday. There are many things to be derived from a project like this, along with the fact that a parking lot will be turned into something that provides revenue to the city and more positive use of land.

So the positive side of this is that you're getting something that you really need. And hopefully there won't be significant negative reactions and responses.

CHAIRPERSON REID: Thank you, Mr. Sockwell. That's an excellent point that you just made.

All in favor?

(Chorus of ayes.)

Opposed?

MR. HART: Staff would record the vote as three to zero to approve the variance as requested; Mr. Holman, Ms. Reid and Mr. Sockwell. The record will be open for submission of the additional shadow study as requested by the Board.

As soon as you can -- as soon as you get it, and then the order will be written.

CHAIRPERSON REID: Okay, that concludes the morning session. For those of you who are here, please accept our apology. We'll resume with the afternoon session.

Okay, then let me open for the afternoon the January 19th BZA hearing for the afternoon is open.

MR. HART: What case is it?

CHAIRPERSON REID: And we'll now take preliminary

matters. I'll read opening remarks later.

Okay, Mr. Sher.

All right, we have to have order. If you have some discussion, please take it on the outside of this hearing room so as to give the courtesy to the person who is about to speak here at the desk.

MR. SHER: Madame Chair, members of the Board, my name is Steven E. Sher again, the Director of Zoning Services for the law firm of Wilkes, Artis, Hedrick & Lane. We represent the appellant in appeal number 16535, 1819 35th Street, N.W. I believe it's the last case on your agenda for today.

We submitted a letter to the Board dated January 5th requesting that the Board postpone the hearing on this matter. I don't know if the Board's had an opportunity to review that letter.

CHAIRPERSON REID: Yes, we have.

MR. SHER: If not, I can go through it. But essentially an action of the council may ultimately negate any need to proceed with this matter; and until that all gets resolved, we didn't think there was any point in the Board proceeding with it this afternoon.

We would request that the Board postpone the matter indefinitely, and we will advise the staff as to what's happening with that particular piece of legislation and what impact it may have on our appeal. And if we can withdraw it -- if the matter

gets resolved, we'll withdraw it.

If we have to come back and have a hearing, we'll so notify the staff.

CHAIRPERSON REID: Okay, gentlemen -- sir?

COMMISSIONER DICKEY: Oh, I'm sorry. I'm Commissioner Raymond Dickey at ANC-5A. We sent a letter into the Board on --

CHAIRPERSON REID: Oh, that was on a different case. Okay, I'm sorry. Right now we are only dealing with appeal number 16535, Georgetown Flea Market, and then we'll come to you.

All right, Mr. Sher, in regard to this particular request, we would like to set a date certain so that it will not just be indefinite. And then, of course, if, in fact, the necessary legislation is forthcoming by that date certain, then we can reschedule again, but we'd like to get you on the calendar.

MR. SHER: My only reason for suggesting indefinite was I don't want to take somebody else's place on the calendar if I don't need it. And I'm at the pleasure of the Board.

CHAIRPERSON REID: Yes.

MR. SHER: If you want to put me down the road six months, --

CHAIRPERSON REID: Yes, staff has --

MR. SHER: -- that's fine.

CHAIRPERSON REID: -- specifically requested that we give a date certain for scheduling purposes. So if that's all

right with you, then we'll set up a time.

MR. SHER: I'm at the pleasure of the Board.

CHAIRPERSON REID: May? Okay, May what?

MR. SHER: May, June, July, whenever. I mean --

CHAIRPERSON REID: Okay. Do you want to do it --

MR. SHER: Yes, I'd rather. Let's put it on June. June is fine. We should have it resolved one way or the --

CHAIRPERSON REID: What date is that? The first hearing date is June the 2nd? June the 7th? Okay.

MR. SHER: Done. Thank you kindly.

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

MS. BEDI: Good afternoon. My name is Sheila Bedi. I am representing Joyce Madyun "YOUR" Incorporated as a student attorney under the supervision of Professor Brenda Smith with my partner Shawna Wilson.

This is the application number 16532. We have three preliminary matters. The first is a request for a fee waiver. We have submitted four requests for a fee waiver in our application. I don't know if the Board has had a chance to review those yet.

CHAIRPERSON REID: Let me address that for you. We get several requests for a fee waiver because you're a nonprofit entity, correct?

MS. BEDI: That's correct.

CHAIRPERSON REID: However, we don't have the authority to grant fee waivers. That is not within our purview. So unfortunately, we are not able to address that request and certainly not able to waive the fees.

MS. BEDI: Okay.

CHAIRPERSON REID: So that takes care of that.

MS. BEDI: That's not the information I received from the staff. I was told that the Board had the discretion to waive the application fee.

CHAIRPERSON REID: Well, be that as it may, sometimes, unfortunately, as you well know and any organization, people have misinformation. But now that you're here, then you're getting it from the horse's mouth and we can't.

MS. BEDI: Okay.

CHAIRPERSON REID: I'm sorry. I would like to, but unfortunately we don't -- we just don't have the power.

MS. BEDI: Okay.

CHAIRPERSON REID: Thank you.

MS. BEDI: Our other two preliminary matters have to do with the notice requirement. We are asking that the Board waive the requirements, have the sign posted on the property for 15 days. The sign was posted for 14 days, --

CHAIRPERSON REID: All right.

MS. BEDI: -- but all the other methods of notice were in text.

CHAIRPERSON REID: I have no problem with that. If the other Board members don't, then I have no problem with waiving that requirement for that one day.

MS. BEDI: And our last matter is the supporting documents. We have submitted some supporting documents after the 14 day deadline. They were submitted within seven days and are before you now.

CHAIRPERSON REID: I think that -- isn't it seven days for submission? So you're within the time line, so you're okay.

MS. BEDI: Okay.

CHAIRPERSON REID: Now you said four matters. You just gave us three.

MS. BEDI: It was just three matters.

CHAIRPERSON REID: Okay, all right. Thank you.

MS. SMITH: I'm sorry, Madame Chair, is there a process --

CHAIRPERSON REID: Give your name and your address.

MS. SMITH: I believe my student actually identified me. My name is Brenda Smith and I'm Associate Professor at the Washington College of Law, American University, and I'll be supervising Ms. Bedi and Ms. Wilson this afternoon.

CHAIRPERSON REID: We need your address, please.

MS. SMITH: It's 5525 16th Street, N.W. is my home address. The address that we'll be using --

CHAIRPERSON REID: No, no, we just need your home address for right now.

MS. SMITH: Okay, fine. I guess the question that I would ask, given that the fee to apply for a special exception or a variance is extremely high, is there a process by which a nonprofit -- and we represent many of these nonprofits and we'll be probably appearing before you.

Is there some sort of exception or some sort of process by which they could get some assistance with this fee? Because for many of these nonprofits, it's a substantial burden.

CHAIRPERSON REID: Yes, and I understand that and I certainly empathize with you. Nonetheless, it is not something that is within our purview. Nonetheless, we have a member of the Zoning Commission sitting over here to my right and it would be a rulemaking type of issue where the Zoning Commission are the ones who have the power and authority to modify or change regulations, and perhaps that might be the route that you wish to go.

And it's been brought up before and there has been some discussion, so perhaps, you know, you may want to pursue that.

MS. SMITH: I will.

MR. HOLMAN: Is my name in front of --

CHAIRPERSON REID: It is, it is. Yes, I will take this up. I'm well aware of the issue. I've just been on the Commission a couple of months, but it might be time for us to take

a look at that. And I can't speak for the other commissioners, but it's duly noted.

And we probably won't be able to do something in this time frame, but going forward. See, part of the problem, as I understand it, is it would be different if the fees came to support the -- some of the activities of the Commission and the BZA, but they go into the general fund.

And so we'll have to kind of unravel that ball of yarn and talk to the people that help us make those decisions. But I hear you and I'll take it up.

MS. SMITH: And if there is a process by which nonprofit organizations that represent nonprofits could testify, we would be very interested in doing so.

MR. HOLMAN: Oh, believe me, in any rulemaking there's ample opportunity to testify and I hear you.

MS. SMITH: Thank you.

MR. HOLMAN: Okay.

CHAIRPERSON REID: Thank you.

MR. SOCKWELL: One thing if I might say. In Chapter 32 under administration and enforcement, it says the fee for any appeal or application made in accordance with the provisions of this chapter shall be as determined by the Mayor, and the fees are all determined by the Mayor, not by the Board, not by the Office of Zoning.

So we really don't have control over the

administration of the fees.

MS. SMITH: And again, what we would say is that the fee applications that we made were never responded to. We would not have brought that as a preliminary matter if there had been any response to our request.

MR. SOCKWELL: Oh, but that's okay.

MS. SMITH: Thank you.

MR. HOLMAN: Understood.

CHAIRPERSON REID: Thank you.

All right, any other preliminary matters? Please come forward.

MR. HART: Madame Chair, yes, I would like to raise one.

CHAIRPERSON REID: Okay.

MR. HART: Case 16530, application of Frank Jackson. The applicant did not post the property. And as such, we would have to reschedule.

CHAIRPERSON REID: Okay. Is there anyone here from -- for the case for Frank Jackson, 16530?

MR. SHER: Madame Chair, you just might want to know there are a lot of people out in the hall, I think, who --

CHAIRPERSON REID: Staff's going to get them. Thank you.

Thank you very much, Mr. Sher.

MR. SHER: I don't know who they are, but --

CHAIRPERSON REID: Did you get them?

Okay, are you associated with the Frank Johnson application -- I'm sorry, Frank Jackson, 16530?

MR. JACKSON: Yes.

CHAIRPERSON REID: Okay. It's been brought to our attention by staff that the property has not been posted.

MR. JACKSON: Yes.

CHAIRPERSON REID: Okay. Now, part of these proceedings require that the property be posted at least 15 days ahead of the hearing so as to notify the public. In addition, we put it in the public Register and also we send out the letters.

You know, the letters are sent out to 200 people -- all the people within 200 feet. Now, in order for us to be able to have a hearing, we have to make sure that the property is posted. So we're going to have to reschedule your hearing.

MR. JACKSON: Okay.

CHAIRPERSON REID: Okay?

MR. JACKSON: Okay.

CHAIRPERSON REID: All right.

MR. JACKSON: So I have to post it?

CHAIRPERSON REID: And you can talk to Mr. Hart, staff, to further explain to you what that entails. Now, also, since you're here, let me just say to you that I reviewed your application. Your application is insufficient.

There are certain things that must be here for you

to be able to make a case for you to get -- have a possibility of getting approval. So I would recommend that, in the interim, you meet with staff and let them explain to you and to take you through the procedure and perhaps even make available to you some samples of previous cases that are similar to your case so that you would be given a fair opportunity to be able to make your case, okay?

MR. JACKSON: Okay.

MR. HART: Mr. Jackson, before you leave, we already have date set for your next hearing. This will be a continuation as opposed to doing -- starting all over again. We're talking about February the 9th. And you will probably be the first case on February the 9th.

Now, as the Chair said, please talk to staff, a staff member. You may want to talk to me and I can tell you which way to go and we can run through just how to deal with your case.

MR. JACKSON: All right.

MR. HART: So don't leave today without doing that.

MR. JACKSON: Okay.

MR. HART: Thanks.

CHAIRPERSON REID: I think we have one more preliminary matter and that is -- thank you very much, Mr. -- is it Mr. and Mrs. Jackson?

MRS. JACKSON: Right.

CHAIRPERSON REID: Thank you very much.

MRS. JACKSON: Thank you.

CHAIRPERSON REID: All right, now we have one other -- Mr. Hart, do we not have --

MR. HART: Yes.

CHAIRPERSON REID: -- a preliminary matter in regard to case 16531?

MR. HART: Yes, Madame Chair.

CHAIRPERSON REID: Are there any persons here that are -- okay, please come up, sir.

COMMISSIONER DICKEY: Madame Chairman, I'm certainly pleased to be here this afternoon to present the ANC's side of the case. The ANC -- I'm representing ANC-5A this afternoon. ANC-5A sent a letter to the Board on January 4th requesting a postponement of this case, and that was because ANC received the case on December the 20th, of which, during the holidays, the ANC has been closed.

The ANC did not have a meeting scheduled for December. The next ANC public meeting is scheduled on January the 26th, which is after this case has been heard. And there is -- it is a serious case to the community.

We have a lot of community citizens that would like to have input into this. And in order to get it before the ANC, we can't do that until the 26th. So we are requesting that the case be postponed to February.

CHAIRPERSON REID: Okay.

COMMISSIONER DICKEY: Anytime after the 26th.

CHAIRPERSON REID: Okay, is there anyone else here who is associated or affiliated with case number 16531? Is the applicant here?

Mr. Fiola.

MR. FIOLA: Thank you, Madame Chair, members of the Board. For the record, Phil Fiola for the applicant, Father Flanagan's Boys Town of USA.

The applicant opposes the delay requested by the ANC for a number of reasons. Primarily, we believe all the notice requirements have been met and fulfilled. And, in fact, the applicant, Boys Town, has been meeting with the community -- initially met with the community in October of 1998.

They've had a series of meetings during '99, some with Mr. Dickey, some with others; and as late as last week met with the Queen's Chapel Civic Association and residents of North Michigan Park. We don't see that the applicant should be punished essentially because the ANC didn't have a meeting in December.

The notice went out from the BZA on December 9th and we called the ANC that day to try to have a meeting. And unfortunately, they didn't have anything scheduled until January 28th. We've offered to the ANC to meet any time, but they were unable to pull a meeting together to address these issues.

This property and this application has been well noticed in the community, and people have had an opportunity to

express their views both to the applicant, and I assume today to the BZA. And, in fact, I think that the Board can accommodate the ANC's position by keeping the record open.

We'll be happy to go meet and make a presentation to the ANC on January 26th or 28th. And the Board can then receive that report from the ANC and give it the great weight it's entitled to. So there doesn't seem to be a reason to delay the hearing since the property has been posted.

The notice went out to the property owners within 200 feet, and the community at large is generally aware of this project. So we would suggest to allow us to go forward. If there are other things that the Board wants to see in the record, we will then have opportunity to do that and then they can receive the ANC's report on -- whenever it gets it and make a decision with a full record.

CHAIRPERSON REID: Would you be amenable to --

COMMISSIONER DICKEY: Madame Chairman, with everything that was going on, the community met with Boys Town several times and asked questions about the proposal. And some of the community is saying that Boys Town told them that they would get back to them, which had never happened.

I have lived in this area since 1957. I dealt with the first case that Boys Town brought before this Board and I think the ANC should be allowed -- one reason, because I have brought in the Department of Public Works, of Streets and Alleys

because the water coming from Boys Town is flooding apartment -- I mean flooding basements on the Delaphile side, so I brought in the Department of Public Works, which I haven't gotten their report back yet.

I also brought in the Health Department from an environmental service who surveyed the property. I haven't gotten -- we haven't gotten that report back yet. We brought in consumer and regulatory affairs that looked at the property and looked at the problem.

And also we walked through with the engineer that has his drawings on the proposal to eliminate the problem. It is still being looked at by the department. None of that has come out.

So we don't know anything until we get these reports that we can come before the public, let the public know what the situation is, how we can resolve the water problem -- and it's a serious one -- and how we can resolve the other problems that the community has.

Now, that's why we need this delay.

CHAIRPERSON REID: Okay, thank you.

Mr. Sockwell.

MR. SOCKWELL: Just my question, which may have been superseded by what you said, was that how often does the ANC meet?

COMMISSIONER DICKEY: The fourth Wednesday of each

month.

MR. SOCKWELL: Generally how often do you have a quorum?

COMMISSIONER DICKEY: We usually have a quorum every time we meet.

MR. SOCKWELL: All right, the reason I asked was that Mr. Fiola has stated that the ANC couldn't pull a meeting together to discuss the issues, and I was trying to find out whether or not the ANC was having regularly scheduled meetings.

COMMISSIONER DICKEY: Sir, the ANC is having an administrative meeting the first Thursday of each month. That's just for the ANC's commissioners to get together to consider things, which we did.

MR. SOCKWELL: Are those meetings generally made available to --

COMMISSIONER DICKEY: To the public?

MR. SOCKWELL: -- to persons wishing -- well, if they're not public meetings, that's one thing. You have to schedule a public meeting.

COMMISSIONER DICKEY: That's correct.

MR. SOCKWELL: Okay, and how often do you schedule public meetings?

COMMISSIONER DICKEY: We schedule a public meeting once a month. That's the fourth Wednesday of each month.

MR. SOCKWELL: Okay, are those generally attended

by a quorum of ANC commissioners?

COMMISSIONER DICKEY: Absolutely, yes.

MR. SOCKWELL: All right, okay.

CHAIRPERSON REID: Okay, so your next scheduled -- your next regularly scheduled meeting would be --

COMMISSIONER DICKEY: The 26th.

CHAIRPERSON REID: -- the 26th of January?

COMMISSIONER DICKEY: Yes, ma'am.

CHAIRPERSON REID: And anytime after that, you're prepared to go forward?

COMMISSIONER DICKEY: Absolutely.

CHAIRPERSON REID: Okay. Now Board members, my feeling about this is --

MR. FIOLA: One more comment, Madame Chair?

CHAIRPERSON REID: Before I speak?

MR. FIOLA: Just real quick because I just want to make sure --

CHAIRPERSON REID: Okay.

MR. FIOLA: -- Mr. Sockwell understood.

I wasn't suggesting the ANC has not been responsible in this matter at all.

CHAIRPERSON REID: Okay.

MR. FIOLA: They just happened not have a meeting in December. The way the calendar fell, the notices went out. We didn't pick the January 19th hearing date. That's just how the

chronology falls. And Mr. Dickey, I know, is -- he works extremely hard at this non-paying job and he's a very good ANC commissioner, so I don't mean to suggest anything untoward.

It's just that it -- that's the way it fell. And we think the community will have a chance to be heard by leaving the record open.

MR. SOCKWELL: Well, thank you, Mr. Fiola, for clearing that up because the words you used were more likely to have been interpreted by me, and perhaps hopefully not others of the Board, that the ANC was not responsive.

MR. FIOLA: No, that is -- I'm sorry, that's not the case. If I used the wrong words, I apologize.

CHAIRPERSON REID: I think that, in all fairness, as you well know, our regulation required that we afford the ANC's great weight in any of our deliberations. Given the fact that there appears to be some problems that have to be addressed that are predicated upon other reports from other governmental entities being submitted, for us to allow one continuance, I would not have a problem with.

I don't know how the other Board members feel about it.

Mr. Holman.

MR. HOLMAN: I would certainly, I guess, all things being equal, like to know what the ANC has to say about this. So I could live with it. I'd like to ask the applicant what

practical difficulty that causes for you in terms of what you're doing.

MR. FIOLA: I can't honestly say that the world's going to end if there is a delay. You know, this whole application's about serving kids who are abused and neglected. And the longer it takes to get those houses built, to get the kids in place, if this Board is inclined to approve it, those are nine more kids that aren't being in the system.

We think that we can address the issues that have been raised, the storm water issues. We brought the civil engineers that have prepared the plans. We haven't had a chance to present those to the ANC, Mr. Dickey is exactly right.

We would be happy to do that on the 26th or the 28th.

CHAIRPERSON REID: Okay.

MR. HART: Madame Chair, I'd like to make a point here. Based on our schedule, the first possible time -- let's say, you know, we have a continuation. You're talking about sometime now in May.

CHAIRPERSON REID: You can't get him on the calendar, no possibility?

MR. HART: The calendar right now is bulging.

CHAIRPERSON REID: Okay.

MR. HART: You know.

CHAIRPERSON REID: Okay, Mr. Sockwell, do you have

a statement to make?

MR. SOCKWELL: The only thing I would say is that it does appear to me that there are issues involved which affect the community's positive relationship with Boys Town and they are significant issues if they relate to more than one piece of property that might be compromised by a water problem.

And the water problem has not, to date, been resolved. And I do believe that it would exacerbate the situation if we move forward with these other issues hanging over the heads of those involved with the project, both the community from the side of having a good feeling about Father Flanagan's Boys Town project for growth based on having solved a problem that may have existed for some time with the existing project.

So I personally believe that we need to find a way to accommodate the Advisory Neighborhood Commission in this sense.

CHAIRPERSON REID: Okay, Mr. Hart, is there a possibility of us scheduling a special meeting? Okay, because, in this instance, when we have a situation -- or the ANC needs to be able to meet and to discuss it and to review whatever presentations are being made, and also the urgency that has been preferred to us by the applicant in consideration of both sides, perhaps a compromise would be for us to -- and I don't have a problem with this if other Board members don't -- to have a special meeting that would accommodate you.

And if so, when would that be?

MR. HART: Okay, your next meeting is -- your next ANC meeting is, Mr. --

COMMISSIONER DICKEY: 26th of January.

MR. HART: The 26th of January?

COMMISSIONER DICKEY: Yes.

MR. HART: And you're going to need some -- we have a meeting the 2nd, the 9th and the 16th. We're still talking about the 23rd of February. Is that good?

MR. FIOLA: That would be good with us.

MR. HART: We're back to three meetings in February again. The first possible date would be the 23rd.

CHAIRPERSON REID: I have no problem with that date. I don't have anything on my calendar, I don't think.

(Laughter.)

What about you, Mr. Sockwell?

MR. SOCKWELL: We'll work with it.

CHAIRPERSON REID: We can set it up for morning.

MR. HART: It will be good to set it up in the morning.

CHAIRPERSON REID: For the morning.

Is that satisfactory to you?

COMMISSIONER DICKEY: Yes, ma'am; that is fine, thank you.

CHAIRPERSON REID: Okay, Mr. Fiola?

MR. FIOLA: We certainly would like to have it

sooner than later. This application as filed in October.

CHAIRPERSON REID: Well, that's a lot better than April --

MR. FIOLA: No, I understand.

CHAIRPERSON REID: -- or May.

MR. FIOLA: I understand. But you asked me if it was okay with me. I have no choice.

MR. SOCKWELL: Is it an acceptable compromise?

MR. FIOLA: We would rather have it earlier than later, that's all.

MR. SOCKWELL: Yes.

CHAIRPERSON REID: In the interim, we always ask that the two entities try to get together. Obviously Mr. Fiola, there are some issues. And what I'm hearing from the ANC commissioner -- give me your name again.

COMMISSIONER DICKEY: Ray Dickey.

CHAIRPERSON REID: Mr. Dickey, is that there had been some proffers made to talk to you and it was -- the response was we'll get back. You should know that -- and you probably do know that we take the input from the citizens and the ANC very seriously here on this Board.

And we need to know what they're thinking. We need to know how they're being impacted. We need to know what their position is. So I would suggest that the two entities try to get together to mitigate any differences that you may have.

And when you come back, then it will certainly take a lot less time for you to come, you know, forward and say well listen, we have discussed this, we've made compromises, these are the things we've done to ameliorate the problems and things will go a lot smoother and a lot quicker.

Okay, all right. Thank you very much.

COMMISSIONER DICKEY: Thank you very much, Madame Chairman.

CHAIRPERSON REID: All right, we will recess now.

(Whereupon, the foregoing matter went off the record at 3:30 p.m. and went back on the record at 4:00 p.m.)

CHAIRPERSON REID: Very quickly, this meeting will come to order. We opened it earlier, remember, but we did not read the opening remarks.

Good afternoon and thank you for your indulgence. This is the January 19th public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Sheila Cross-Reid, Chairperson. Joining me today is Robert Sockwell.

And representing the National -- I mean representing the Zoning Commission is Kwasi Holman. Mr. Gilreath is not here with us today.

Copies of today's hearing agenda are available to you. They're located to my left near the door. All persons planning to testify either in person -- either in favor or in

opposition are to fill out two witness cards. These cards are located on each end of the table in front of us.

When coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right. During the procedure for special exceptions and variances, there's, one, statement and witnesses of the applicant; two, government reports, including Office of Planning, Department of Public Works, etc.; three, report of the Advisory Neighborhood Commission; four, parties or person in support; five, parties or persons in opposition; six, closing remarks by the applicant.

Cross examination of witnesses are 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 the staff will specify at the end of the hearing exactly what is expected.

The decision of the Board in these contested cases must be cased 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 make every effort to conclude the public hearing as near as possible to 6:00 p.m.

If the afternoon cases are not completed by 6:00

p.m., the Board will assess whether they can complete the pending cases or cases remaining on the agenda. We took care of the preliminary matters. Right, I don't think there are anymore?

So therefore, we will now proceed. Will the staff please call the first case of the afternoon?

MR. HART: Application number 16529 of the Episcopal Archdiocese of Washington, pursuant to 11 DCMR 3104.1, to establish a child development center under Section 205 for a total of 55 students and seven teachers; to be located on the first floor with 20 students and two teachers;

A small second floor classroom seven students and one teacher; large second floor classroom 17 students and two teachers; mid-second floor classroom 11 students and two teachers and basement in an R-3 District at premises 2001 14th Street, S.E., Square 5774, Lot 836).

Those persons planning to testify, please stand and come forward. Please raise your right hand and take the oath.

(The witnesses were sworn.)

CHAIRPERSON REID: All right.

MR. THOMPSON: My name is John Thompson. I'm the architect working with the Episcopal Diocese of Washington on their application. And if it's okay, I'd like to just go through a little bit of -- you know, describe the project and what we want to do.

CHAIRPERSON REID: Okay, are there any other

persons here in opposition to this particular application?

Okay, what about persons or parties in support of the application?

All right, and --

MR. THOMPSON: There's one other gentleman who's going to join us.

CHAIRPERSON REID: In support? Okay. Mr. --

MR. THOMPSON: Thompson.

CHAIRPERSON REID: -- Thompson, in situations where we don't have any opposition, then you could -- in the interest of time, the submission that you've given to the Board members have been read, so we are familiar with your case, so you could expedite and we can kind of, you know, move this on fairly quickly.

MR. THOMPSON: Okay, I will be brief. I guess what I would like to say is that the Archdiocese of Washington, the congregation and the wardens of the chapel of St. Phillips, the Evangelist, they desire to serve the community in which they're operating in, in Anacostia.

This is an economically depressed area of the city. And some of the programs that are currently happening there include a food bank and a clothing closet which are for needy families.

With the Welfare to Work additional programs that they wish to engage in is a computer lab to give skills to people

to get back into the work place, as well as what this application is about, the child development center, that they feel that the -- that there is a great need for -- you know, for mothers and fathers entering the workplace to have a safe place for their children.

So we are in the middle of a $1.8 million dollar renovation to this facility currently. We are upgrading life safety systems, installing sprinklers, new fire alarm system, replacing electrical entirely, all new mechanical system, all new plumbing.

We're creating an ADA accessibility with a wheelchair lift to give access to the chapel, an elevator to access all levels of the facility, and a new at grade entrance. I don't think that we're going to have a significant impact on traffic in the neighborhood.

And I don't know if there's any questions I can answer, but -- I did bring some visual material, but it's sort of redundant from what you already have.

CHAIRPERSON REID: Okay, within your presentation, Mr. Thompson, I don't think I heard you address specifically the regulation.

MR. THOMPSON: Section 205 of the zoning regulation, which says that the Zoning Board can grant permission to operate a child development center in an R-1 district. We're in an R-3 district, which means that it would be a special

exception.

CHAIRPERSON REID: Do you have the Section 205 in front of you?

MR. THOMPSON: I have it with me.

CHAIRPERSON REID: Okay, then do you want to pull it out so that you could specifically address those regulations as they are what your approval -- this approval will be predicated upon?

MR. THOMPSON: I believe that we are capable of meeting all the applicable codes and licensing requirements. We have reviewed that section of the public welfare, including adequate outdoor space, access to the outdoor space without crossing any streets and what not.

As I said, I believe that we are not creating any objectionable traffic conditions. There is sufficient parking spaces on site for staff, for pick up and drop off of children to the center. An outdoor play space is being provided in the rear of the building.

We are doing considerable regrading to --

CHAIRPERSON REID: Okay, Mr. Thompson, let us take this one step at a time. All right, you're saying that you are providing the requisite drop off and pick up --

MR. THOMPSON: Yes.

CHAIRPERSON REID: -- structure? How is that being done?

MR. THOMPSON: There's an existing parking lot. Would you like me to show you graphically?

CHAIRPERSON REID: Do you have it in your printout? I mean your submission.

MR. THOMPSON: I think that there's a site plan as part of this --

CHAIRPERSON REID: All right.

MR. THOMPSON: -- submission.

CHAIRPERSON REID: Yes.

MR. THOMPSON: And there is an existing parking lot on the site, and that parking lot is going to be maintained in the same configuration that it exists in.

CHAIRPERSON REID: Okay, let's see now. The parking lot, is this the area close to V Street? Oh, okay, you mean that, the detailed plan. Okay.

MR. THOMPSON: At the corner of 14th and V is the parking.

CHAIRPERSON REID: Okay, 14th and B. Okay, it's a separate parking lot?

MR. THOMPSON: Yes.

CHAIRPERSON REID: Okay, now where do the cars queue to --

MR. THOMPSON: The cars would enter that parking lot from 14th Street. There is a traffic island on 14th Street, so it is one way traffic in front of the church entering into the

parking lot, so that you would then pull into the parking lot, drop off or pick up, and then exit the parking lot onto V Street, which is two way traffic.

CHAIRPERSON REID: And is there anyone from the staff that assists with the drop off and pick up?

MR. THOMPSON: I would have to defer to the other gentlemen.

CHAIRPERSON REID: Okay, there is? All right.

All right, go ahead and continue.

Now the other thing that you were discussing with us was in regard to play area.

MR. THOMPSON: Yes.

CHAIRPERSON REID: And where is that?

MR. THOMPSON: The area that is outlined on the plan shows area of improvement. There is a rear yard that we are proposing for the play -- for play structure and for the students to use.

CHAIRPERSON REID: It's all of this area that you've kind of delineated in the dark outline?

MR. THOMPSON: The area -- the dark outline is showing the area of improvement. Part of that is a new, at grade ramp to -- for wheelchair access, which is on the 14th Street side of the building.

CHAIRPERSON REID: Where is the play area?

MR. THOMPSON: In the rear, the back of the

property.

CHAIRPERSON REID: Okay, I need more guidance than that. I need to know specifically.

MR. THOMPSON: The area of improvement is shown both here and here, same space. The space here, area of improvement, is a new, at grade ramp to get access to the building without stairs. Then, in the back of the building is the play area. So --

CHAIRPERSON REID: Okay, in the back of the building. And approximately what is that -- what's the size of that play area, 38 by 48?

Okay. Now, is that play area separated from the parking area?

MR. THOMPSON: It is.

CHAIRPERSON REID: How?

MR. THOMPSON: They don't actually meet. The parking area is here and you have to go onto a sidewalk here and here's the play area.

CHAIRPERSON REID: Oh, okay, okay.

MR. THOMPSON: So they only meet right there at the corner.

CHAIRPERSON REID: No, wait a minute. One second.

MR. SOCKWELL: Oh, I'm sorry. I was in the wrong place. Excuse me.

CHAIRPERSON REID: This is an architect over here.

MR. SOCKWELL: I didn't say it was --

CHAIRPERSON REID: Okay, all right, now I see. Okay. Okay, no problem.

MR. THOMPSON: In addition to that, we may also provide play space in the side yard of -- in the side yard of the Oxford House. This is a property that is owned by the same -- by the Episcopal Diocese and their side yard would be overflow.

CHAIRPERSON REID: Okay, now when you say Oxford House, do you mean Oxford House in the sense of the residential facility for --

MR. THOMPSON: Yes.

CHAIRPERSON REID: Program and recovery.

CHAIRPERSON REID: Okay, now -- just interesting, just interesting that you would put the play area in that area.

MR. THOMPSON: The women leave in the morning and have jobs.

CHAIRPERSON REID: Are these the children of the women who are in the Oxford House? Okay.

MR. THOMPSON: No, but it's the residential facility is basically -- the residential facility is basically unoccupied during the day because the women who are living there have jobs that they go to. So their side yard would be part of the play area for the kids while the facility is unoccupied.

CHAIRPERSON REID: Okay. Okay, now continue with

205. Are you working your way through that?

MR. THOMPSON: We did cover the outdoor play space. Screening from the adjacent neighbors, we are planning on putting up a fence between our yard and the adjacent neighbors.

CHAIRPERSON REID: Okay. And you've had no complaints from any of the adjacent neighbors with regard to your application?

MR. THOMPSON: Not that I'm aware of, unless they've contacted you directly.

CHAIRPERSON REID: Yes, we wouldn't know.

MR. THOMPSON: And the play space is located on site so that there are no unsafe conditions getting the children from --

CHAIRPERSON REID: Right, to and from.

MR. THOMPSON: Right.

CHAIRPERSON REID: All right, go ahead.

What about other facilities like that within 1,000 feet of your facility so that the cumulative impact would not be negative for the community?

MR. THOMPSON: I am not aware of -- go ahead.

REV. LEWIS: My name is the Reverend William Lewis. I'm the pastor of St. Phillips. Could I respond to that, please?

CHAIRPERSON REID: Please.

REV. LEWIS: The nearest is at Minnesota Avenue. That's Ambassador Baptist Church that has a similar facility.

MR. THOMPSON: That's more than 1,000 feet.

CHAIRPERSON REID: Well, the question is what your -- granting this particular application adversely impact the area as a result of there being, you know, another child development --

REV. LEWIS: No, absolutely not.

CHAIRPERSON REID: -- center added within 1,000 feet.

REV. LEWIS: As a matter of fact, I spoke with the pastor and he has a long waiting list.

CHAIRPERSON REID: Okay, that's what we need to know. Now, let me allow you to continue and then I have some questions. Hopefully you'll be able to address them within your presentation, okay?

MR. THOMPSON: Okay.

CHAIRPERSON REID: Go ahead.

REV. LEWIS: Oh, you're ready for me?

CHAIRPERSON REID: Yes.

REV. LEWIS: Oh.

CHAIRPERSON REID: Are you done, Mr. Thompson?

MR. THOMPSON: I am.

CHAIRPERSON REID: Okay.

REV. LEWIS: Madame Chair, I want to thank all of you for giving us the opportunity to appear before the Zoning Board this afternoon and to let you know that our church is the Episcopal Church and it's one of the -- it is founded by African-

Americans and --

MR. HART: Excuse me, excuse me. Just for the record, your name and address?

REV. LEWIS: My name is the Reverend William Lewis, L-e-w-i-s. My address is 14110 Royal Forest Lane, Silver Spring, Maryland, 20904.

I can continue? Yes, it's one of the -- it is the oldest African-American Episcopal church in Anacostia. And I want to bring to your attention that we have several programs going on, which would include Saturday tutorial programs, after school care, Girl Schools and, of course, the Oxford House also mentioned.

We also have a clothing closet, food pantry and computer closets. And we envision that, with the completion of this building -- and the Diocese of Washington has invested $2.4 million dollars to renovate this building, so it's a massive renovation.

And we've come to the conclusion, based on the needs of the community, that this is one way we could serve the community by having a child development center that will take a holistic approach with the hope that when these children graduate from our center, my ultimate goal is to make sure that they are proficient in communication, computation, computer skills and some other skills so that they will do extremely well when they move on to kindergarten, with the hope that they will be reading at first grade level.

That's our ultimate goal. And we do hope that, without wasting much of your time, that you would support us in this great venture of ours because we think there is a need in the community and as a church. The Episcopal Church has made a heavy investment in the neighborhood.

Thank you.

CHAIRPERSON REID: Okay, thank you.

All right, first?

Oh, were you going to testify?

UNIDENTIFIED SPEAKER: I have not been sworn.

CHAIRPERSON REID: All right, then would you like to stand and let's get that --

MR. HARRISON: I have nothing to say at this time. But if there's an opportunity later that something should arise, I could address that.

CHAIRPERSON REID: Then you need to be sworn.

MR. HARRISON: Okay.

(The witness was sworn.)

CHAIRPERSON REID: The ANC that you're located within, have you had contact with them?

REV. LEWIS: Yes.

CHAIRPERSON REID: They gave you --

MR. THOMPSON: I have, as well.

CHAIRPERSON REID: Did they give you a letter?

MR. THOMPSON: I didn't receive a letter.

CHAIRPERSON REID: Okay, what was their general response?

REV. LEWIS: The general response from Mr. Johnson is that he's in favor of the project and that, unfortunately, they did not meet in December to speak with us. But I have had extensive discussions with him. As a matter of fact, he's going to invite me again to the meeting on the 26th of January.

CHAIRPERSON REID: That's ANC-6A?

REV. LEWIS: Yes, ma'am.

CHAIRPERSON REID: Okay.

MR. HARRISON: 6C.

REV. LEWIS: 6C.

CHAIRPERSON REID: 6C?

REV. LEWIS: 6C.

CHAIRPERSON REID: Okay. All right, now are you going to be providing lunch or snacks or any kind of food at the facility?

REV. LEWIS: Yes, it's going to be certainly taken into consideration when we --

CHAIRPERSON REID: It's going to be what?

REV. LEWIS: It will be taken into consideration in terms of providing snacks.

CHAIRPERSON REID: Well, we need to know if you are or you aren't. Because if so, would you have a kitchen or --

REV. LEWIS: Yes, we do have a kitchen facility.

CHAIRPERSON REID: Would the meals be prepared there? Okay.

MR. THOMPSON: We are building out a commercial kitchen in the lower level.

CHAIRPERSON REID: And you would prepare lunches for -- okay. And the trash removal from the premises would be -- how are you --

MR. THOMPSON: There is a dumpster in the parking lot.

CHAIRPERSON REID: And what about the trash pickup? How often?

MR. HARRISON: We have a contractor who --

CHAIRPERSON REID: Your name and address.

MR. HARRISON: Yes, my name is Donald Harrison, 3354 Highwood Drive in Southeast Washington.

CHAIRPERSON REID: Okay.

MR. HARRISON: We do have a contractor, Carter Contractor Trash Compacting Company, who picks up once a week -- at least once a week and as many times as we request. So if it needs more than once a week, then we can do that also.

CHAIRPERSON REID: The contract as needed? You'll be contracting --

MR. HARRISON: Yes, we can --

CHAIRPERSON REID: -- and they pick up as needed?

MR. HARRISON: We can ask them -- they are

contracted already. However, --

CHAIRPERSON REID: Oh, okay.

MR. HARRISON: -- if we need additional pick up, we can request that.

CHAIRPERSON REID: Okay. What is your affiliation with the applicant, sir?

MR. HARRISON: I'm the senior warden of the church. This is the vestry of the church.

CHAIRPERSON REID: Okay.

MR. HARRISON: We are the -- represent the congregation.

CHAIRPERSON REID: Okay, thank you.

All right, now your application is for 55 students?

REV. LEWIS: Yes, please.

CHAIRPERSON REID: Seven teachers?

REV. LEWIS: Yes, please.

CHAIRPERSON REID: And you have -- you're providing how many parking spaces?

MR. THOMPSON: Donald?

MR. HARRISON: I think the lot -- without knowing the measurements, I believe the lot will accommodate at least 40 automobiles.

CHAIRPERSON REID: All right, so more than --

MR. HARRISON: Oh, absolutely.

CHAIRPERSON REID: -- the requirements?

Now let me just see about -- it says that you want to establish a child development center for a total of 55 students to be -- oh, I see, broken down by the different floors?

MR. THOMPSON: And the classrooms, right.

CHAIRPERSON REID: And a total not to exceed 55?

MR. THOMPSON: Correct.

CHAIRPERSON REID: Okay.

MR. THOMPSON: And that number of 55 was determined by the classroom sizes that we have available and the public welfare code.

CHAIRPERSON REID: Okay, and your hours of operation?

MR. HARRISON: Hours of operation will be from 6:00 a.m. to --

CHAIRPERSON REID: 6:00 to 6:00?

MR. HARRISON: 6:00 to 6:00, yes.

CHAIRPERSON REID: And that's Monday through Friday?

MR. HARRISON: Monday through Friday, yes.

CHAIRPERSON REID: Okay.

Are there any other questions, Board members?

(Laughter.)

MR. SOCKWELL: I should have just said what are your questions, Mr. Sockwell.

MR. SOCKWELL: First question is just to clarify

something. On the architectural schematic floor plan of the proposed -- I guess what would be the ground floor, I suppose, you show the walkway to the new door entrance, but you show steps in that sequence of movement.

And yet, on the site plan, the steps are not shown and you did mention that the ramp, as shown with the different slopes, was a handicap ramp. I assume that that is a discrepancy in your drawings?

MR. THOMPSON: It is a discrepancy in the drawings. We were able to eliminate those stairs and have ramps.

MR. SOCKWELL: Okay, thank you.

The second question actually is in response to one of the documents that we have in the file from the Department of Health, and I can wait on the question or I can ask the question.

CHAIRPERSON REID: Well, do you want to do that at the designated time for that --

MR. SOCKWELL: Okay, I can wait on the question.

CHAIRPERSON REID: Okay.

MR. SOCKWELL: In the architectural drawings for the spaces -- I will put the question in this context currently. In the architectural drawings of the spaces that are shown, there is no furniture plan.

MR. THOMPSON: I have those with me available that I can submit at this time.

MR. SOCKWELL: Please do.

CHAIRPERSON REID: Okay. All right, government reports. We do have a report from the Office -- not from the Office of Planning, but a report from DPW. And basically they state, in pertinent part, that --

"We note that the site is well served by Metro bus and that approximately ten to 15 vehicles will be generated by the center during the peak hours for drop off and pick up. We do not expect this level of traffic to measurably affect the level of service of the street system leading to and from the site.

"With regard to parking supply, the applicant states that the church parking lot has the capacity for approximately 50 automobiles and, in our estimate, there would be ample parking to accommodate the parking need of the center and the minimize parking overflow into the neighborhood.

"From a transportation standpoint, the proposed child development center will not have an adverse traffic and parking impact on the local transportation system. Therefore, the department has no objection to the proposal."

And then from the Department of Health, it simply states that they have no problem with the application. But of course, with these particular submissions, it is predicated upon the -- them going through their regular inspections and determining, you know, that you are in compliance as far as the rules and regulations that -- and under which they would be having -- under which they have the jurisdiction for which you'd operate.

I hope --

MR. THOMPSON: To license the facility.

CHAIRPERSON REID: To license them. Thank you.

So, basically we would send a copy of the BZA order -- in fact, pass this to their office and they will then take up what they have to do.

Now, Mr. Sockwell had questions regarding the Health Department report? Okay.

MR. SOCKWELL: All right, if I may, Madame Chair, the Health Department states that the specific square footages that will determine the number of students to be accommodated is based on that space which is considered to be program space.

And as Mr. Thompson and Mr. Lewis probably know, the program space is that space not occupied by fixtures and furniture. And I notice that there are spaces -- some spaces designated as storage. I do not see what may be sufficient space for children's toys to be stored within the program space and other things that are necessary for the operating of that space.

I know that there will probably be some provision for nap time, which means that tables have to either be stackable and chairs stackable or moved out of the room so that that space can accommodate the children.

Sleeping bags and blankets and things like that have to be stored. Also, I want to ask if there is an isolation space for sick children, which is a requirement.

MR. THOMPSON: I believe that the office can function as the isolation space.

MR. SOCKWELL: It can, yes.

MR. THOMPSON: On the second floor.

MR. SOCKWELL: All right, now what about the storage aspects here? I mean, I'm just questioning it because it does not seem that you have provided a great deal of storage. Some rooms appear not to have any.

CHAIRPERSON REID: Let me --

MR. SOCKWELL: And it's only because you are -- I mean, we don't have the right to determine whether or not you have the program space requirements; but since we're here, I just thought I'd ask.

CHAIRPERSON REID: Why not?

Just let me -- before you answer that question, --

MR. SOCKWELL: I mean, it's been considered. That's all I want to make sure.

CHAIRPERSON REID: There are requirements that you must meet for licensing, and would not that line of questioning fall under your licensing requirements? When the inspectors come out, they will determine whether or not you are in compliance with their regulations?

MR. THOMPSON: Yes, these plans, furniture plans, are not really --

CHAIRPERSON REID: Okay.

MR. THOMPSON: -- meant to represent entirely every fixture that will be needed for this facility. I do recognize that we will need cots, and the cots will probably -- will have to either be collapsible or stacking.

These rooms are going to function in several different ways at different times of the day, and that we will need some sort of storage, cubby holes and some furniture within the room.

MR. SOCKWELL: And the reason that I brought that up is because the square footages that you show are either gross or net. And the furniture, as placed, even if it's representative furniture to seat seven students, does it represent a reduction of gross? The 253, does that represent gross or net?

I guess that's really what my --

MR. THOMPSON: That's the square footage of an empty room.

MR. SOCKWELL: Okay, so there are going to be some adjustments necessary, and I wanted to make sure that we were all aware of that. Okay.

CHAIRPERSON REID: Yes, any decision that we make is predicated upon your being able to obtain your necessary licensure through -- in compliance with their regulations.

Persons and parties in support of the -- no, ANC. Is there anyone here from the ANC? All right, we did not have a letter from ANC-6C. And typically, when we don't receive a letter

from the ANC, our assumption is that there is no problem, that they have no objection.

Because if they were, they would let us know. If they did, they would let us know.

Persons or parties in support of the application? All right, did we have any letters of support in the file?

Did you submit any letters of support? Because I don't remember seeing --

MR. THOMPSON: We have letters of support, but we didn't get them in in time. Is that the case?

CHAIRPERSON REID: I'm sorry, you said?

MR. THOMPSON: I believe that we have some letters of support, but we were not -- we did not get them to the Board in adequate time.

CHAIRPERSON REID: Also persons or parties in opposition to this particular application, come forward. Seeing none -- all right, closing remarks by the applicant.

MR. THOMPSON: I'm sorry?

CHAIRPERSON REID: Closing remarks by the applicant.

MR. THOMPSON: I think that it is in the community's best interest to operate -- for St. Phillips to operate a day care facility at this location. I do not feel that there is going to be significant negative impact, either traffic or otherwise.

And I would ask the Board to support our request for exception.

MR. HARRISON: Additionally -- Donald Harrison speaking. Additionally, you asked whether the institution of this development center would affect -- or adversely affect any other similar institution in the area.

The Ambassador Baptist Church has a day care center, a child development center. They have an excess of students. In fact, the entire area needs additional space for child development, and we hope that we're providing that additional space in that area.

And in fact, if others came in the area, that would be welcomed also.

CHAIRPERSON REID: Okay. All right, thank you very much.

Did you wish to ask for a bench decision, a summary order? Do you know what that is?

MR. THOMPSON: I don't.

CHAIRPERSON REID: Okay, a summary order and a bench decision means you would get a decision today and that you'll get a short order that should be coming forward to you within about two weeks.

Or, the other is to have a full order, which means that you would have to wait until our regularly scheduled deliberation meeting, which is the first Wednesday of the next

month, every month, and to get a decision.

MR. THOMPSON: The short order. We would prefer the short order.

CHAIRPERSON REID: Bench decision?

MR. THOMPSON: Yes.

CHAIRPERSON REID: Right.

MR. SOCKWELL: I just wanted to state that if there is opposition to your application and it requires -- and parties in opposition to the application and we, as the Board, have to deliberate, that's when the decision can't be made as a bench decision.

In this case, there is no opposition. There are no parties in opposition. That's all, so you understand exactly why. I mean, it's not like you can choose one or the other. It's best -- if you wanted a bench decision and we couldn't give it to you, then we'd say no.

CHAIRPERSON REID: Thank you.

Now, Board members.

MR. HOLMAN: I'd like to move approval of the application as submitted.

CHAIRPERSON REID: Okay.

MR. SOCKWELL: I'm willing to second that.

CHAIRPERSON REID: All right.

MR. HOLMAN: I believe it has substantial community benefits. It seems to -- they have addressed the traffic and

transportation concerns, and they seem to meet the intent of Sections 205 and 206 of the --

CHAIRPERSON REID: I think it's just 205.

MR. HOLMAN: -- 205 of the regulations.

CHAIRPERSON REID: And there is no opposition, so it does not appear that you have any adverse impact on the community or to the neighborhood as far as parking, traffic. You have more than enough parking. And traffic, noise -- seems you've made provisions for drop off and pick up.

You've demonstrated that you have adequate playground area for the children. So typically, with our child development centers, we do condition it. And would you amend your --

MR. HOLMAN: Yes.

CHAIRPERSON REID: -- motion to include the normal conditions that we usually impose upon a child development center, and that is basically the number of students, no more than 55, no more than seven employees.

The children's ages are --

MR. THOMPSON: Thirty months to six years.

CHAIRPERSON REID: All right, 30 months to six years?

MR. SOCKWELL: Yes, I was saying two and a half. You were saying 30, but it's the same thing.

CHAIRPERSON REID: Your hours of operation are 6:00

in the morning a.m. until 6:00 p.m. in the evening, Monday through Friday. And there will be staff assisted drop off and pick up. That you will provide lunches on premises and you will have trash pick up.

You will have a provision for trash pick up as required or as needed. And usually we put a term on it. Five years. And typically it has -- it is predicated upon what kind of reaction we get from the community.

I don't see any -- this seems to be something that is needed by the community, so I would, in this instance, recommend seven years as the term.

Mr. Hart, are there any other conditions that you can think of for child development centers?

MR. HART: No.

MR. THOMPSON: Could I ask a question?

CHAIRPERSON REID: Sure.

MR. THOMPSON: At the end of the seven years, do we have to come back and formally apply for this to renew or --

CHAIRPERSON REID: Yes, it is for a term of seven years, and that basically gives the Board an opportunity to assess what kind of impact, if any, you had on the neighborhood and hear from the community.

MR. THOMPSON: Thanks.

CHAIRPERSON REID: Okay, all right.

MR. THOMPSON: Thank you very much.

MR. SOCKWELL: And it's up to the Department of Health to approve your --

MR. THOMPSON: I understand.

CHAIRPERSON REID: All in favor?

(Chorus of ayes.)

Opposed?

MR. HART: Staff would record the vote as three to zero to approve; Mr. Holman, Mr. Sockwell, Ms. Sheila Reid, with conditions as indicated. This is a summary order.

MR. THOMPSON: Thank you.

CHAIRPERSON REID: Thank you. Good luck.

MR. THOMPSON: Thank you.

MR. HART: Next case, our final case.

CHAIRPERSON REID: Last case.

MR. HART: Application number 16532 of Joyce Madyun/YOUR organization, United to Rise, pursuant to 11 DCMR 3104.1 for a special exception for a community service center under Section 209 which consists of an education and recreational before and after school program, an employment support program for teens and young adults and a summer program for all ages on the first floor and basement in an R-1-B District at premises 4913 14th Street, N.W., Square 2807, Lot 24.

All those persons planning to testify, please rise. Raise your right hand for the oath.

(The witnesses were sworn.)

MS. BEDI: Good afternoon. I am Sheila Bedi. Address is 2950 Van Ness, N.W., Washington, D.C. We recognize that the Board has had a very long day, so we will try to keep this brief. But we've reversed the order of our testimony.

We have members of the community and the applicant who are willing to testify and give you an overview and some details about YOUR services, but what we will do is go through the legal standards and the regulations first.

And then if the Board has any questions that need to be answered, the applicant and the members of the community would be happy to do that.

CHAIRPERSON REID: Okay, is there anyone here in opposition to this application? Okay, then this should be pretty straightforward. First of all, let me again apologize to you for the lateness of the day. And I know you've been waiting a very long time.

We apologize for that because it was beyond our control. Nonetheless, in that we were able to continue four cases, that helped a lot. So you can expedite your presentation. We have read your submission and we can get through your case relatively quickly.

Board members will hold questions until the end to allow you the opportunity to make your case.

MS. BEDI: Great. I will go through the first three legal standards and then co-counsel will take the remainder

and she'll sum up.

Youth Organizations United to Rise is located in an R-1 district. This district is meant to stabilize residential areas and to promote a suitable environment for family life. YOUR contributes to building stronger families in this neighborhood through its programs and services.

Additionally, the renovations that YOUR has made have stabilized this neighborhood, and we would like to submit these pictures as evidence for the Board to take a look at. They show before and after what the property looks like before Ms. Madyun and her family took over the property.

YOUR contributes to the stabilization. Its programs deter juvenile delinquency. They provide education and recreation for the area's youth.

Now I'm going to move on to the community center regulations. This is Section 209 of the DCMR. The first section provides that a community center shall not be organized -- shall not be organized for profit, but shall be organized exclusively for the promotion of the social welfare of the neighborhood.

YOUR is a nonprofit organization incorporated in Washington, D.C. in August of 1997. It was formed solely to serve the youth of the community, and currently we are waiting our 501(c)(3) status.

Along with that, the center has no intentions of offering any articles of commerce for sale. Its future activities

all include expansion of its programs. We won't be offering anything for sale. YOUR does charge a fee for its services; however, the fee is based on the family's ability to pay and no child is ever turned away.

CHAIRPERSON REID: Thank you.

MS. WILSON: The third regulation states --

CHAIRPERSON REID: Give your name and your address, please.

MS. WILSON: Oh, excuse me. My name is Shawna Wilson. I reside at 3725 McComb Street, N.W., Apartment 114.

The third regulation states that a community center shall not likely become objectionable in a resident district because of noise and traffic. The location of YOUR is right across the street from Wess Elementary. Students are picked up there and walked across the street.

In addition, most of the activities occur off site, they take field trips, or on the playground at Wess Elementary. In addition, it's just a before and after school program currently running. The time is from 6:45 to 8:15 -- excuse me, 8:30; and then 3:15 to 6:15, so there's a staggered pick up and drop off.

Parents start to pick up students around 4:30 and continue until 6:00. There's only about 15 to 20 students on average at the center, and a number of them are within the same family. So the pick up is usually about seven to nine cars.

There is adequate parking on the street and there's

also four parking spaces allotted to the center. There are also support letters that specifically address the issue of noise and traffic, and that is Exhibit 31 in the file.

The final prong says that the use of a community center shall be reasonably necessary or convenient. Once again, the community center is located right across the street from Wess Elementary.

There are other before and after school programs within the neighborhood; however, they're distinguishable for a number of reasons. None of them are within walking distance. Students must be picked up, and that poses a problem for families in a number of regards, one being children can't participate in either academic or extracurricular after school activities.

And there has been a problem in the past with children being left or the shuttle service not coming. That's one of the reasons why Ms. Madyun started the program. And as stated in the introduction, the organization is really building on the community.

There's a mentoring and internship. It's really trying to bring some self esteem and nurture students along. Ms. Madyun has been within the community for over 20 years, has worked with the school system for this same number of years.

As you'll see in the file, there are two petitions from teachers and neighbors. There are individual support letters. There is an ANC support letter from Mr. Flowers, the

chairperson from 4C, and Maureen Young, the secretary of 4C.

And there is also a letter of support from her civic association, Carter Baron. So, in all, it is necessary and convenient, and it makes positive contributions to the neighborhood.

CHAIRPERSON REID: Okay, thank you.

MS. WILSON: At this time, would you like to hear from the applicant herself saying her credentials and why she thinks it's a valuable service to the community?

CHAIRPERSON REID: Is this the applicant?

MS. WILSON: Yes, ma'am.

CHAIRPERSON REID: Yes, absolutely.

MS. MADYUN: My name is Joyce Madyun, M-a-d-y-u-n, and my address is 1322 Farragut St., N.W., Washington, D.C., 20011. I am the Executive Director of YOUR Community Center. And prior to becoming the director of YOUR community center, I was the director of Wess PTA Enrichment Center, which was a before and after school program located in the school building.

In 1997, the property at 4913 14th Street, N.W. became for sale and my husband and I purchased the house to do a community center. We have five children, and our children are grown.

And most parents that we know have the same concerns that we had as parents, and that was a safe place for our children as young teenagers -- well, school age teenagers and as

young adults, just having a place that they could come to and not be on the streets, get some type of training in terms of just etiquette, help in getting college applications, scholarships and those kinds of things.

So our vision for YOUR was to have a place where we could provide resources for our young people. And the before and after school program, because our children are very -- a lot of the children are deficient in the academics -- just a place where we could use other methods to strengthen their academic enrichment and field trips.

Our city is a classroom in and of itself. And while I was the director at Wess, I started a program called Camp on the Go in the summer, and our children went on field trips every day. And prior to becoming the director of Wess Enrichment Center, I worked in special ed for three years.

And the general knowledge that our children acquired just from taking the field trips increased two years. So putting all of that together just helped me to realize my mission, and that is to just give to our young people.

CHAIRPERSON REID: Well, Ms. Madyun, --

MS. MADYUN: Yes.

CHAIRPERSON REID: -- thank you so much for your testimony. I think that I am very much impressed with your program. I think that it certainly is something that we probably need in every community or neighborhood in the city because there

is such a need.

And it is really very gratifying to see people like yourself doing this kind of work to provide these kinds of activities, as well as the type enrichment for our young people. I think it is a wonderful program.

MS. MADYUN: Thank you.

CHAIRPERSON REID: Okay, Board members, questions?

MR. SOCKWELL: Likewise, I think the program is something that's very beneficial to the community. And it takes a lot of personal dedication to do what you have done, just getting the program underway.

Obviously the building had to be modernized considerably. And --

MS. MADYUN: Could I just say -- in addition to seeing the property for sale, my husband agreed to mortgage our house. The gray house is the house that we purchased in 1979. We moved in 1980 and renovated.

So we were able to refinance that piece of property to get the cash because that piece of property, we couldn't even finance. I mean, no mortgage company would finance. So that's our -- I mean that's our life.

So, you know, we would hope that you would support us so that we can continue.

CHAIRPERSON REID: Okay, thank you.

MS. MADYUN: Thank you.

CHAIRPERSON REID: Okay, --

MR. SOCKWELL: Just --

CHAIRPERSON REID: Do you have a question?

MR. SOCKWELL: These aren't really questions per se, but since we have two very ardent student attorneys representing you, Ms. Madyun, I want to let them know that there are a couple of things that they have to remember to do.

And that is, when you provide letters of support, always provide the address of the person signing that letter so that a Board like this one can determine whether or not the person signing is a neighbor or just an interested party, a neighbor within the 200 foot radius perhaps or just an interested party supporting the concept and the application.

So those are just some form things. And I noticed that because you had some of the people signing letters also listed in other documents, I was able to transfer the addresses over, so -- on some of them, but not all of them.

So just sort of remember that. Thank you.

CHAIRPERSON REID: All right, you just stay right here.

The government reports, which would include the ANC -- we don't have an Office of Planning report, but we do have letters from the ANC. Is there any ANC representative here? Now I'm a little confused because I have two letters from the ANC, but one is from --

MS. WILSON: One is from --

CHAIRPERSON REID: Okay, all right, one is from -- yes, the ANC-4C, which basically states that there was a quorum present and that they voted unanimously to support this application. The other one is from a single member district, and this one is signed by --

MS. WILSON: Ms. Young.

CHAIRPERSON REID: -- Ms. Willie Flowers, who is the chairman of ANC-4C. Then we have a single member district -- a letter from single member district representative, and basically stating that there's no opposition and that they give their overwhelming support to this application. That's signed by Maureen Young.

We have no other government reports I don't think. Okay, then we move now to persons or parties in support of the application. All right, if they would like to speak. If not, I'll just make note of the fact that there are other people here who are in support of the application who are not speaking on record.

And then we'll move to those persons or parties in opposition. I couldn't imagine. And closing remarks by the applicant.

MS. BEDI: Well, we would just like to say that this is an organization that contributes greatly to the community, that enhances the community, and has programs that serve the

youth. We would ask that the Board approve our request and we would like a bench decision today.

CHAIRPERSON REID: Thank you.

MR. SOCKWELL: It's obvious that the law students today -- this is American University?

MS. WILSON: Yes, sir.

MR. SOCKWELL: Are being very well schooled in the proper etiquette of representing clients before boards and commissions, and you are to be commended for that. Very professional and very well stated.

MS. BEDI: Thank you.

CHAIRPERSON REID: I think that --

MS. WILSON: And patient.

CHAIRPERSON REID: I'd like to move that we approve this application. I think that they have demonstrated that they have met their burden of proof that they have filed with the required regulations under 209, that there does not appear to be any adverse impact in regard to parking, traffic, noise, light or the like.

There is no -- there have been complaints and no opposition to this application that we know of. There have been several letters of support for the application, as well as petitions that are signed by numerous people. The ANC also has come out in support of the application.

I think that the effort that's being made by the

students -- I'm sure this is pro bono -- attorneys is highly commendable and it's just great to see people working together in the community to try to bring about positive change.

And as a D.C. resident, I want to let you know that I appreciate that, as I have a child myself and I know how important that is. I'm sorry, I just got a note. My colleague wants to bring up again -- ask me to apologize -- us to apologize again for the fact that we were not able to accommodate your request for a waiver of fees, but I hope you can understand that it's something that -- again that we don't have authority over, and that you will talk to the person to my right or Board member to my right and take it to -- well, you can't talk to him, but that is the vehicle by which you can bring about that kind of change.

And I think there's a second -- did anyone second?

MR. HOLMAN: Oh, second, second.

CHAIRPERSON REID: Don't fight it now.

(Laughter.)

Okay, all in favor?

(Chorus of ayes.)

Opposed?

Okay, thank you.

MR. HART: Staff would record the vote -- to record the vote as three to zero to approve; Ms. Reid, Mr. Holman and Mr. Sockwell, summary order.

CHAIRPERSON REID: You should have your decision in about two weeks. Good luck.

MR. SOCKWELL: And Ms. Bedi and Ms. Wilson, don't expect all of your cases to go this easily.

(Laughter.)

CHAIRPERSON REID: That concludes -- thank you. Good luck to you.

That concludes at 5:00 the hearings for today.

(Whereupon, the proceedings were concluded at 5:00 p.m.)