GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

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TUESDAY

JANUARY 9, 2001

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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 10:09 a.m., Robert N. Sockwell, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Chairperson
SHEILA CROSS REID	Vice Chairperson

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Vice Chairperson

COMMISSION STAFF PRESENT:

Sheri Pruitt, Secretary, BZA
Gerald Forsburg, Office of Zoning
John Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Maxine Brown-Roberts, Office of Planning
Michael Johnson, Rental Accommodations
John Moore, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

AGENDA ITEM	PAGE
PRELIMINARY MATTERS	5
APPLICATION OF JAMES AND SYLVIA CURTIS	
16647, ANC-7E	29
WITNESSSES	
JAMES CURTIS	30
APPLICATION OF CHRISTIAN PRAISE CHURCH:	
16657, ANC-7B	129
WITNESSES	
AARON BROOKS	131, 137
BARBARA ASHBY	132, 193, 205
JESSE ANDRUS	151
APPLICATION OF PHILLIPS COLLECTION:	
16618, ANC-2B	195
WITNESSES	
STEPHEN GELL	197
MICHAEL CAIN, ESQ.	198
VINCE MICONE	201
SHEILA MILBOURNE	224
RUBY PERSON	232
CARRIE TURNER	236

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

(10:09 a.m.)

CHAIRMAN SOCKWELL: Good morning, ladies and gentlemen. The hearing will please come to order.

This is the January 9th public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Robert Sockwell, Chairperson. Joining me today is Sheila Cross Reid, Vice Chair, and from the Zoning Commission Ms. Carol Mitten.

Copies of today's hearing agenda are available to you. They are located on 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 and variances is:

One, statement and witnesses of the Applicant;

Two, government reports, including Office of Planning, Department of Public Works, et al.; Three, report of the Advisory Neighborhood Commission, the ANC;

Four, parties or persons in support;

Five, parties or persons in opposition;

And, six, closing remarks by the Applicant.

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

The record will be closed at the conclusion of each case, except for any material specifically requested by the Board. And 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 present not engage the members of the Board in conversation.

Please turn of fall beepers and cell phones or set them to vibrate only at this time so 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 requests for postponement, continuance, or withdrawal, or whether proper and adequate notice of the hearing has been given.

If you are not prepared to go forward with the case today or if you believe the Board should not proceed, now is the time to raise such a matter.

Does the staff have any preliminary matters?

MS. PRUITT: Yes, Mr. Chair, we do. We have

several smaller issues on preliminary matters.

We do have a request on Application 16650. There's a request from single member district Commissioner Eric Heard for a postponement.

CHAIRMAN SOCKWELL: Is Mr. Heard in the hearing room today or a representative of the ANC?

And if that representative would come forward please. That's okay. Thank you.

Please have a seat, turn on your microphone, identify yourself and your address, and please express to us your reasons for requesting a postponement.

MR. HEARD: Well, I think I've had an opportunity, too, to talk to some of the involved parties this morning.

My name is Eric Heard. I am the newly elected ANC member of the ANC Commission for 1A06. And the church is our neighbor.

And certainly I've been in the area for two and a half years, and I have lived in my apartment building on 13th Street and Monroe for seven years. So I have some years in the area and some investment.

We do have, in our area, probably within one and a half blocks of each other about seven, if this goes through it will be nine, of these type of homes or businesses or institutional businesses in our neighborhood.

I think one of the biggest issues that I have

right now is that there's been a misunderstanding, a gross misunderstanding of what this church is trying to do. And I think that I've been put a little bit at rest.

I have a lot of questions, serious questions. So do some of my neighbors and constituents. And even some non-constituents have some issues concerning it. But I think if we were able to postpone this particular hearing we would have a meeting. I would put together a meeting with the community to have the church, Mr. Bonner and the persons that are involved in the running of the facility that's being planned, to come and tell us exactly what they want to do.

I think this is some of the problems we are having, is total understanding. There hasn't been a real opportunity for us to understand or even get a good presentation. Not that he wasn't there for presentation, but we didn't have the time to listen to him entirely. And I think there has been a lot of misunderstanding.

So I would like to have the postponement so we could listen to all the issues and speak to all the people that are involved.

CHAIRMAN SOCKWELL: And, Mr. Heard, you have had conversations with your constituents?

MR. HEARD: Yes, I have.

CHAIRMAN SOCKWELL: And they have expressed an interest in getting more information on the proposed use and as

you said --

MR. HEARD: That's correct.

CHAIRMAN SOCKWELL: -- you have found that there may be a misconception of what that proposed use is.

MR. HEARD: Well, I know there is. I think the whole purpose of the building and the re-zoning adjustment has been I think in many cases -- sometimes, Mr. Chairman, when you don't have enough information, sometimes people get a little crazy with their thoughts about what's going to be there. And I think I have even experienced a little bit of that myself. And I think a lot of those things have been laid to rest this morning in just discussing it with the individuals that are here.

So I think there would be a lot more certainty as to what was going to be going on if we had the opportunity to have this meeting and to meet with the church and the people who are going to run the facility.

CHAIRMAN SOCKWELL: Do you feel that a meeting with the church will make the proposed application, first, more clear to the community? Yes.

MR. HEARD: Yes.

CHAIRMAN SOCKWELL: And, second, it appears that from what you are saying the community's opposition may be based on a set of factors that are not fully understood.

MR. HEARD: Yes, sir.

CHAIRMAN SOCKWELL: It seems to me that it would be advantageous to any case that comes before the Board to have as little opposition or as much understanding of the affected parties -- by the affected parties as possible. And that shortens our potential hearing requirements, and it may make for a more coordinated relationship between the community and the Applicant.

I, for one, feel that under the circumstances, and of course understanding that as a new Advisory Neighborhood Commissioner, you wish to do the best and provide immediate service to your constituents --

MR. HEARD: I do.

CHAIRMAN SOCKWELL: -- who put you in that position for a good reason. I think that this Board should consider your request.

MR. HEARD: Thank you.

CHAIRMAN SOCKWELL: Board members?

MS. SANSONE: Mr. Chairman, perhaps you should hear from the Applicant.

CHAIRMAN SOCKWELL: Yes. Is the Applicant representative --

MR. HEARD: Should I move back over there?

CHAIRMAN SOCKWELL: You may stay there.

MR. HEARD: Okay. Thank you.

MR. BONNER: Yes. My name is Larry Bonner, with

the South West Church of Christ, Incorporated at 13th and Irving Street, N.W.

We have two buildings sitting at the corner at 1307-1305 Irving Street. They have been vacant since April of '79. And because the weather is bad, we wanted to try to get these buildings back into use.

We followed the procedure. We sent out all this information and so forth. And we'd like some assurance that they are going to go ahead and read our application. We gave them all this information and so forth. And all this information was sent out to the community because the Zoning Board told us to get this information to them.

So we don't have no problem with postponing, but we'd like to see this expedited as soon as possible because we don't want those buildings freezing up and water pipes bursting and so forth.

CHAIRMAN SOCKWELL: Mr. Bonner, just to clarify one thing that you said, you said the buildings have been vacant since '79?

MR. BONNER: Since April of '99.

CHAIRMAN SOCKWELL: Oh, I thought you said '79.

MR. BONNER: No, I'm sorry. April of '99.

CHAIRMAN SOCKWELL: Okay. You did say '79. We heard. I was surprised because --

MR. BONNER: Okay. I'm sorry.

CHAIRMAN SOCKWELL: I was surprised because the certificate of occupancy certainly didn't bear that out.

Okay. So since April of '99. Okay, that's fine.

Well, if you have no objection to the request of the Advisory Neighborhood Commissioner, that's a good thing.

Board members?

VICE CHAIRPERSON REID: I just had a question regarding the ANC, OMC. We had notified the ANC and received no response.

MS. PRUITT: From the overall ANC or the single member district?

VICE CHAIRPERSON REID: No, no. The full ANC.

MS. PRUITT: I don't remember seeing that in the file.

VICE CHAIRPERSON REID: Okay. What I'm wondering is when you say bring it to your constituents, did you also or were you including the ANC proper?

MR. HEARD: Of course.

VICE CHAIRPERSON REID: Or just your single member district?

MR. HEARD: Both.

VICE CHAIRPERSON REID: Okay. So you want the time to allow input from the people --

MR. HEARD: Yes.

VICE CHAIRPERSON REID: -- the community, your single member district as well as the full ANC.

MR. HEARD: Yes.

VICE CHAIRPERSON REID: Now do you know what date the next ANC meeting will be?

MR. HEARD: Well, our next ANC meeting is tomorrow night when we elect officers. I think one of the issues that we have here is that some of the information was given by the church to the ANC, and it wasn't distributed to the people.

VICE CHAIRPERSON REID: Okay. Sure. That happens sometimes.

MR. HEARD: I'd like to make sure that happens.

VICE CHAIRPERSON REID: So do you have the church on your agenda for tomorrow night?

MR. HEARD: No, we do not. We have just the officers, election of the officers tomorrow.

VICE CHAIRPERSON REID: So you are not going to take it up at this meeting?

MR. HEARD: No.

VICE CHAIRPERSON REID: So then any schedule would have to be --

MS. PRUITT: Madame Chair, actually the first available time is April, so --

VICE CHAIRPERSON REID: Oh, I see. He was asking for expedited. So I was just --

MS. PRUITT: Right.

CHAIRMAN SOCKWELL: That's Madame Vice Chair.

MS. PRUITT: Excuse me, yes. Old habits are hard to break.

CHAIRMAN SOCKWELL: That's right. Anyway.

(Laughter.)

VICE CHAIRPERSON REID: Mr. Bonner, what is the reason why you are asking for it to be expedited, sir? What are the concerns of the church?

MR. BONNER: The two buildings have been vacant. And as you know vacant buildings tend to attract certain types.

VICE CHAIRPERSON REID: Right, right.

MR. BONNER: And also we have to heat the building and that's costly because you have to keep it heated to keep from pipes from freezing, and all that kind of stuff.

So that's why we wanted make it -- use it, started using so we can not just let the --

VICE CHAIRPERSON REID: So you are requesting that it be expedited? Is that possible?

MR. BONNER: Yes.

VICE CHAIRPERSON REID: It's not possible to get it on any earlier agenda?

CHAIRMAN SOCKWELL: What agenda is the most --

MS. PRUITT: Excuse me?

CHAIRMAN SOCKWELL: When can we get it on the

docket?

MS. PRUITT: April 3rd.

CHAIRMAN SOCKWELL: April 3rd.

MS. PRUITT: Yes. We have continued a lot of cases, and that then pushes us back further, and then we still have new cases coming in that you have to accommodate. So -- and there are cases that haven't even been scheduled that are prior to this case.

CHAIRMAN SOCKWELL: The reason we might want to look at another date is that if the community and the Applicant appear to be coming together, it might be a fairly short case As opposed to --

MS. PRUITT: If you are willing to stay beyond six until its finished. I mean, you have pretty ambitious schedule from here on out. You have Sibley Hospital next week and the Potter appeal. I don't think you want it on that day.

The 23rd is civil infractions. The 30th is the Georgetown Flea Market, which is a big case, along with the appeal of that, an application and an appeal. You have George Washington campus plan decision in February, along with five cases in the afternoon.

On the 13th you have three cases: one continued in the morning and one is the hearing of the CapitOl Hill Hospital.

MS. SANSONE: I believe there's some possibility

that the Potter appeal has been resolved.

MS. PRUITT: Well, we have some -- it's been resolved. I've just talked with Mr. Niedermeyer. They hopefully will be withdrawing that, but we have not gotten anything officially in writing. So it may fall through at the end. So who knows? I'm not sure. And we do not -- typically the policy is we don't withdraw it or place anything in there until we are absolutely sure.

I can call back, but I just spoke to him yesterday.

MS. MITTEN: Mr. Chairman.

CHAIRMAN SOCKWELL: Yes.

MS. MITTEN: I think we also want to be mindful of the fact that the ANC -- the meeting at which they will take up this issue is February what?

MR. HEARD: It would be the second Wednesday in February. I don't have a calendar with me.

MS. MITTEN: Okay. So we would need to -- you know, if we are going to accommodate that, then I think the Potter appeal would precede that anyway.

CHAIRMAN SOCKWELL: Okay.

MS. MITTEN: So we --

MR. HEARD: In addition, it would also be another meeting which would be the constituents of --

MS. MITTEN: Correct.

VICE CHAIRPERSON REID: And when would that be?

MR. HEARD: I wasn't even certain I would be doing that, so I will make plans on that right away. Probably within the next three weeks. It would be nice to --

VICE CHAIRPERSON REID: I was just thinking.

CHAIRMAN SOCKWELL: Well, it looks like we are in a position where we have to at least fall after your ANC meeting, which would be middle of next month. And then time for your letter to come whichever way it would be resolving the issues, and that puts us probably March or April.

VICE CHAIRPERSON REID: Well, wait a minute. I want to ask another question. Is there -- when you have the election of officers, you don't take up any business at that meeting?

MR. HEARD: No, we don't. We have many issues to work out.

VICE CHAIRPERSON REID: So you can't get it on that agenda?

MR. HEARD: No.

CHAIRMAN SOCKWELL: Plus, there wouldn't be time for it to be announced to the community.

MR. HEARD: Yes, that would be tomorrow night.

CHAIRMAN SOCKWELL: That would be the key, the key factor.

MR. HEARD: We have to post second days before the

meeting to let people know about it.

VICE CHAIRPERSON REID: We have an organization that is against the clock as far as -- I know how that is -- as far as trying to maintain, to heat a building for a nonprofit organization, to be able to do that while they wait for a meeting of the ANC.

And what we are trying effectuate is how can we accommodate both, having your meeting at the same time, not having any further detriment to that particular site because of the fact that the ANC has to meet.

Don't you sometimes have emergency meetings?

MR. HEARD: We can't have an emergency meeting until after we have our officers' meeting.

VICE CHAIRPERSON REID: That's tomorrow. What I am saying is then is there -- do you think its possible --

MR. HEARD: But we also have to have the community involved.

I mean I have a petition at home to stop the whole thing that I can send in. I mean if -- I think we are being pushed, and they are being pushed, too, I understand. But we have to make sure that the community feels comfortable with what's happening because it's our backyards.

VICE CHAIRPERSON REID: Well, what it seems to be is a miscommunication or a lack of communication as to what the actual use of the facility will be.

MR. HEARD: Right.

VICE CHAIRPERSON REID: I think that's what the problem is. Once that's clarified, then perhaps a lot of the misunderstanding can be diffused.

CHAIRMAN SOCKWELL: Mr. Bonner, the building you said has not been used since April of '99.

MR. BONNER: Right.

CHAIRMAN SOCKWELL: Who was using it at the time?

MR. BONNER: The same missionary foundation was operating community residential facilities for disabled persons.

CHAIRMAN SOCKWELL: Okay.

MR. BONNER: And when they vacated we decided to make use of it by trying to provide some community services.

One of the things that we did do, I understand that they are supposed to send out -- we had to pay for sending out an announcement to every resident within 200 square feet of that facility. I wonder whether that happened. Because, you know, that's supposed --

CHAIRMAN SOCKWELL: It is typical that that would have been done. The list is in our file.

MR. HEARD: I did receive mine.

CHAIRMAN SOCKWELL: You did?

MR. HEARD: Un-huh.

CHAIRMAN SOCKWELL: Okay.

MR. BONNER: Okay.

CHAIRMAN SOCKWELL: That's a good thing. So the CRFU as a previous use having been abandoned by the people, I guess, you had leased the building to, you are now taking it back over for this other purpose.

MR. BONNER: Right.

CHAIRMAN SOCKWELL: I see. That's what you want to do. I was just wondering if there was a way that -- if there was something that you could do with the building pending, but there isn't obviously because it's a change of use.

VICE CHAIRPERSON REID: As I understand it, and of course, we haven't had the hearing yet, is that the use is going from the community base residential facility to an outreach ministry type of entity?

MR. HEARD: Right.

VICE CHAIRPERSON REID: And that's where the confusion is coming in.

MR. BONNER: But it's not for living.

VICE CHAIRPERSON REID: What's your application for? Is it for a community based residential facility? Okay. So --

MR. BONNER: It's a temporary community service center.

CHAIRMAN SOCKWELL: Service center, not a CRF.

VICE CHAIRPERSON REID: Right. Okay. That's what I thought.

CHAIRMAN SOCKWELL: I think that's where Mr. Heard in talking with Mr. Bonner before the hearing, or at the outside in the hall or whatever, found out that things were not what the neighborhood perceived.

VICE CHAIRPERSON REID: Not what they thought.

MR. HEARD: But there is two parts to parts to this shell that has to be broken. And that is that there is a misunderstanding. But there's also the other issue concerning if the misunderstanding is not made to be understood, in like a one block area, a one-half block area, we will have nine such facilities in our area.

So there's that other part that has to be -- once we understand, then we have to --

CHAIRMAN SOCKWELL: Those are getting into the merits of your argument.

VICE CHAIRPERSON REID: Once it's established that what it's not, then that other, the contention of the other nine becomes moot, doesn't it?

MR. HEARD: It would to me.

CHAIRMAN SOCKWELL: One would hope.

I don't think that we have an option on the schedule. And certainly I'm sure your building is heated by gas, and we know that the gas prices have gone completely out of the roof. So my only statement to you is that we are going to put it on the most aggressive schedule that we have which is we

can probably put it in what did you say, Sheri?

MS. PRUITT: April 3rd.

CHAIRMAN SOCKWELL: April 3rd, which would be the first week in April.

The only thing that could possibly happen is if we had enough notice of a drop-out in one of the earlier dates, we could reschedule it. But that is unlikely.

MS. PRUITT: And that would then require the office to mail out notices to people within 200 feet. And they should probably re-post a property again if you do that. Because right now, we will set it to a date certain today.

CHAIRMAN SOCKWELL: Right.

MS. PRUITT: If you change that, you have to notify those people and usually it has been the policy that if you are interested to hear further hearing, and it is announced that the hearing and so you've gotten notice --

CHAIRMAN SOCKWELL: So we're going to have to re-notice anyway.

MS. PRUITT: Well, that's -- you mean for the parking?

CHAIRMAN SOCKWELL: For the hearing.

MS. PRUITT: No.

CHAIRMAN SOCKWELL: No.

MS. PRUITT: No, not if it's continued to a date certain.

CHAIRMAN SOCKWELL: Not if it's continued to a date certain.

MS. PRUITT: Correct.

CHAIRMAN SOCKWELL: And there is the other issue. Well, I think we are going to have to put you on the April 3rd agenda.

MR. BONNER: Okay.

CHAIRMAN SOCKWELL: That's the best we can do, and we apologize for that.

MR. BONNER: Just a question. Will we put that little sign up again? Do we keep putting that up?

MS. PRUITT: Actually, Mr. Bonner, if you could, I'd like to talk to you afterwards and we can talk about your application. And also with you, sir, for the ANC, about your application so we can get it as smooth and tight as possible so that when it does come here, it will be pretty ready to go.

VICE CHAIRPERSON REID: In the meantime I hope the two entities can interact and establish a meeting of the minds. Because obviously the church, as the church has been well established in the community for many, many years and has done a lot of good that I know about, and on the other hand, of course the community concerns. Maybe they can be diffused by the discussion and then, perhaps, what the church is trying to do is ultimately be a benefit to the entire community, rather than looked up on as the opposite. And everyone can try to work

together within the community, which is what we ultimately like to see at this Board.

If you come back and say, "Well, we've had these meetings and we've discussed this and discussed that and see what we come up with," then that certainly makes our job a lot easier.

CHAIRMAN SOCKWELL: One question. Will that be an afternoon or a morning?

MS. PRUITT: Afternoon.

CHAIRMAN SOCKWELL: It will be afternoon. So consider one o'clock.

MS. PRUITT: It will be the second case in the afternoon.

MS. MITTEN: Mr. Chairman?

CHAIRMAN SOCKWELL: Yes.

MS. MITTEN: If I could just interject something, just to have everyone be aware of it. Whatever the parking requirements were for the previous use, for the CBRF, may differ from the requirements for the proposed use. And that would be something that you'd want to discuss with staff about whether or not you might also need to be applying for a parking variance if you don't have the ability to provide it on site.

So just to be aware of that.

MR. BONNER: Okay.

MS. MITTEN: All right?

CHAIRMAN SOCKWELL: The question's been raised that the parking issue might be one that requires input from the Zoning Administrator at DCRA in that you have a previous use that may have some variance on parking or may not have required parking. We are not getting into that part of it, but when you return to us it might be effective for you to make sure that you understand what the parking inputs are or impacts are from the Zoning Office of the District of Columbia.

VICE CHAIRPERSON REID: Mr. Chair, may I, since the Zoning Administrator happens to be here today, ask him directly if in fact in your letter to us, where you refer it to the BZA, and you outlined for us what in fact the zoning release is that would be necessary and is being requested, in an absence of an indication as to a parking -- whatever the parking release is, if it's not indicated on your letter, are we to assume there is no parking requirement?

MR. JOHNSON: Vice Chairwoman, that's a good question. Generally so, one should do that, but as you probably know, I'm continued to make improvements in terms of the operations. And if that has been an issue or some concern to the Board, I'll look at that and make sure that it is clarified in my future correspondences.

VICE CHAIRPERSON REID: Thank you.

CHAIRMAN SOCKWELL: Thank you.

And that statement comes from Michael Johnson, who

is the Zoning Administrator, at Building and Land Regulation Administration. His telephone number is available to you.

(Laughter.)

CHAIRMAN SOCKWELL: All right. Then if the Board does not object to a postponement to a date certain of April 3rd, 2001 in the afternoon, we will continue this case to that time. Do we --

VICE CHAIRPERSON REID: Mr. Chair, I move that we postpone the Stickler case until April -- what was it?

CHAIRMAN SOCKWELL: April the 3rd.

VICE CHAIRPERSON REID: April 3rd.

CHAIRMAN SOCKWELL: In the afternoon.

Second?

MS. MITTEN: Second.

CHAIRMAN SOCKWELL: All in favor?

(Chorus of ayes.)

CHAIRMAN SOCKWELL: Thank you very much, gentlemen.

MS. PRUITT: Staff would record the vote as three to zero to postpone to April 3rd, motion made by Ms. Reid and seconded by Ms. Mitten.

CHAIRMAN SOCKWELL: And may I say that it's not often that people leave on a handshake and I think that's appropriate. Thank you.

VICE CHAIRPERSON REID: You're so corny.

CHAIRMAN SOCKWELL: All right. Are there any other preliminary matters?

MS. PRUITT: Not from staff.

CHAIRMAN SOCKWELL: Then would you call the first case please.

MS. PRUITT: Yes. The first case of the morning is Application 16647, application of James and Sylvia Curtis, pursuant to 3103.2, for variance from the use provisions of Subsection 300.3, to use the subject premises as a two-unit family flat, located in an R-2 district, at 4638, 4650, 4654 Hillside Road, S.E., Square 5362, Lot 65, 66, and 70.

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

(The witnesses were duly sworn.)

MS. PRUITT: Please step forward. Thank you.

CHAIRMAN SOCKWELL: You may begin your presentation. There apparently are no others here, either witnesses or the Advisory Neighborhood Commission.

MS. ROBINSON: I'm the Advisory Neighborhood --

CHAIRMAN SOCKWELL: Oh, you're the Advisory Neighborhood Commissioner.

MS. ROBINSON: Yes.

CHAIRMAN SOCKWELL: Well, then you shouldn't be up yet.

MS. ROBINSON: Sorry.

CHAIRMAN SOCKWELL: Thank you.

And you are Mr. Curtis?

MR. CURTIS: My name is James Curtis.

CHAIRMAN SOCKWELL: All right. Mr. Curtis, please begin.

MR. CURTIS: My name is James Curtis. I am a property manager. I've had properties that I've managed in the 4600 block of Hillside Road for 27 years, having started in July 3rd, of 1973.

MS. PRUITT: Excuse me, Mr. Curtis. I don't mean to interrupt you, but could you pull your mic closer because we are having a hard time hearing you?

MR. CURTIS: Okay.

MS. PRUITT: Thank you.

MR. CURTIS: Should I repeat?

CHAIRMAN SOCKWELL: You can actually turn that volume up on the side of it. It's a little wheel on the side of the machine. See if that works.

MR. CURTIS: As I was saying --

CHAIRMAN SOCKWELL: That's better.

MR. CURTIS: -- my name is James Curtis. I am a property manager. I've been managing properties in the 4600 block of Hillside Road, S.E., for 27 years, having purchased the first building in July 3rd, of 1973.

The purpose of my request is to try to rectify a

situation that occurred quite some time ago.

When I first purchased these buildings they were four one-bedroom units. And right at that time the D.C. government was coming out with a new program to provide affordable housing for the large families. And my properties did not meet that need because they were one bedroom units.

I submitted letters to three of the D.C. housing agencies to seek their confirmation that there was, in fact, a demand for facilities with larger bedroom units. Their responses came back that truly confirmed my suspicions.

And through their encouragement, I converted these buildings from four one-bedroom units to two three-bed room/two bath units, which were very well received by the Section 8 office and the Attended Assistance Program.

However, there was a technicality inasmuch as when I attempted to get the certificate of occupancies changed, as I was under the impression that I had to do, I was told by a lady in the Certificate of Occupancy Office that I did not need to change my certificate of occupancies.

She verified that I had certificate of occupancies on file. And she indicated that since I was not increasing the units but reducing them, that this was not necessary.

And going on that information, I proceeded to continue to manage the properties as two-unit facilities. It was only until recently when I was about 13 days late in

renewing my licenses and was fined accordingly, that the gentlemen who was adjudicating this matter indicated that I had to get a new certificate of occupancy.

I showed him my licenses that I had been renewing each year that reflected the two-unit configuration. But he said that I still had to go through this procedure, and I'm here now trying to get this rectified, trying to get everything back into the proper perspective. And that's why I'm here.

CHAIRMAN SOCKWELL: I see. So what actually happened was that -- and you didn't supply copies of any of your previous licenses to our record, but what you are saying is that you had existing licenses which clearly show that these were two bedroom --

MR. CURTIS: Three bedroom.

CHAIRMAN SOCKWELL: Three bedroom.

MR. CURTIS: Two unit.

CHAIRMAN SOCKWELL: Two-unit flats. And that it was only because you were late repaying your fees that this came up.

MR. CURTIS: Yes.

CHAIRMAN SOCKWELL: It would be, I think, appreciated by this Board if you could submit at least a copy of one of your existing previous license renewals for the record, as confirmation of the condition.

MR. CURTIS: I certainly will.

CHAIRMAN SOCKWELL: And you may continue if you have any other description and discussion.

MR. CURTIS: Well, since that I just wanted to indicate that I have a very serious concern about the neighborhood even though I do not reside in the neighborhood. As I said I've been there for 27 years. I'm not someone who's just gone in to purchase properties, to flip them, and to then leave, but to really try to improve the neighborhood.

And with this in mind, I just wanted to outline some of the things that I have done as a property manager to improve the quality of the neighborhood.

I've installed concrete walkways where there was nothing more than just a dirt path leading from the apartments to the trash collection facilities.

Also when I purchased the properties there was a serious erosion problem. Because any time that it rained water would just run down the side of the apartment carrying the dirt and everything else with it. And since that time, and I think you can see by the photographs that I have in the exhibits, that I've landscaped the area, installed shrubbery, installed chain linked fences.

We've installed ceiling fans in the buildings, wall-to-wall carpeting, and heavied up several of the buildings.

And all of this was an effort to improve the neighborhood. I have rented these three-unit apartments out

ever since they have been completed under the -- exclusively under the Section 8 program and under the Tenant Assistance Program. And the tenants who have rented them were very happy to have facilities that would give them adequate bedrooms.

And I feel it also stabilized the neighborhood because when I had these units as one-bedroom units, I would get more of a transitory tenant, one who would come in and rent for a few months, and then leave.

And also it seems like the single tenants would also be the ones that would draw this unpopular element because they would have a lot of company coming in and out. These were the individuals to me that were a detriment to the neighborhood.

So I caught myself doing two things: eliminating or reducing that problem, but also bringing about a certain amount of stability in the area. Because I felt that a family with children going to school, going to church, and things like that would help to stabilize the neighborhood, and I feel in a large sense that this has happened.

CHAIRMAN SOCKWELL: I see. And for this variance how do you feel that you meet the tests?

I guess we have to assume these to have the uniqueness requirement. There is a test of uniqueness of property. There is a practical difficulty to you. Hardship, sorry. And adverse impact, yeah.

Are you familiar with the regulation requirements for meeting a set of criteria for approval on variances?

MR. CURTIS: No.

CHAIRMAN SOCKWELL: All right. Then that probably explains why it wasn't included in one way or another in your presentation.

VICE CHAIRPERSON REID: Yes. When we have applicants that come before us, sometimes they're not really familiar with the proceedings unfortunately. And they are not prepared.

And in this instance where you have a three pronged test that you must meet in order to get the -- to obtain the relief that you're requesting, sir, which one is that your property has to -- you have to demonstrate that there is something inherent in the land that makes your property unique or unusual. That is something that pertains to the configuration of the property or the shallowness or the shape of the property or the slope of the property. It makes the property unique or different from the other properties.

CHAIRMAN SOCKWELL: Or a unique situation regarding the property.

MR. CURTIS: There's nothing unusual.

CHAIRMAN SOCKWELL: Well, in that you weren't informed of what those circumstances might be, the unique situation that I think we might look at is the fact that your

property exists as two-unit flats in a situation that for some reason was not adequately handled.

Now, I don't know about the record keeping of DCRA with regard to your conversion. But do you recall receiving building permits for the conversions that you did?

MR. CURTIS: I don't recall, sir. I was led to believe that at the time that I requested the certificate of occupancy, what I was trying to do, that all of that would fall in line. The building itself was not that unique, and what I did to make the conversion was not a very complicated situation. What I had, it's a two-story building, with two one-bedroom units upstairs and two downstairs. The units upstairs, the kitchens, stoves and refrigerators and kitchen cabinets were removed. The floors were tiled and carpeted, and a door was installed.

In other words, the units upstairs were just converted to bedrooms. It was already a bedroom up there and a bath. So the living room and the kitchen were just made into bedrooms and tied into the apartment downstairs. And that made it very easy to make into a two-unit building as opposed to four.

CHAIRMAN SOCKWELL: What would normally have happened in converting would be that in creating four units, or taking four units and turning them into two, there would be at least a fire separation issue that would require inspection.

And the removal of the kitchen appliances itself could have required an inspection, but more likely any modifications that were not just regular repair work would have required some sort of a building permit, should have been issued.

The unfortunate circumstance that we're caught with is that we don't really have -- and obviously you don't have evidence of building permit having been issued -- but when the application for your two-unit occupancies was filed for these buildings, and that's for licensing, you went through a licensing process, I guess, or whatever for this. You didn't go through a building permit process.

And your certificates of occupancy are for four-unit buildings and always have been. And as you said you were told, as you stated, you were told by the Certificate of Occupancy Branch that because you were changing to less rather than more, that you didn't have to revise your certificate of occupancy.

Yet that was not given to you as a document. It was just given to you verbally.

MR. CURTIS: Yes. I was applying -- I was there at the office at I believe it was 614 H Street for that specific purpose of getting that occupancy permit changed. And when I talked to the lady there, I remember her name was Mrs. White. Once she told me that I didn't go any further and she did not give me a document on anything to that effect. This was all

verbal, across the counter.

CHAIRMAN SOCKWELL: Well, I can say this, and Board members will have to give this whatever consideration you'd like. I am very familiar with the processes that occurred at 614 H Street and a number of the anomalous conditions that have resulted from misinformation that may have been given by various people, who were often undertrained and did not understand fully the implications of the regulations.

And I won't hold that against you personally. But I can believe that if you've come before us, having been there and been told, been there to do what was proper and having been told that it wasn't necessary, it's actually plausible that that could have happened.

And you had already achieved certificates of occupancy in 1979 and '82 apparently for the properties, and '81, all three properties.

So it's obvious that you were not attempting to operate in an illegal manner. So I think that the condition of uniqueness might be handled if we consider it somewhat liberally, that your property exists as two units, at least from the certificate of occupancy standpoint, based on a misinformation.

The building permit part of it, which would have been the conversion and inspection of the change, is the other part of it that I don't have as much freedom to consider. And

the Board members will have to weigh in with their opinions on that part of it.

We don't have a record to address that would say yes. And apparently from the Applicant's own statement, his modifications he did not believe to be sufficient to require a building permit. However, if a certificate of occupancy had been requested, inspections would have taken place during that part of the process because it would have been a change of occupancy as opposed to a name change or something else.

So if he was told that he didn't need to do that, it would have negated another part of the process which might have, in fact, actually solved his building permit problems, had they gone out and said, "Oh, you've converted this. You need a building permit after which we can inspect." But that didn't happen ten years ago. So it's sort of fell apart perhaps at a counter on the second floor of DCRA.

MR. JOHNSON: Excuse me, Mr. Chairman. May I interject just a moment?

I was following -- first of all, let me say I think you really described the process and the activities of Mr. Curtis went through very aptly and very clearly.

Listening to Mr. Curtis' testimony as the Zoning Administrator obviously raised some concerns in my mind, and maybe I may be able to add some light to the issue, if nothing else, raise some questions that I have. If I may, may I pose a

question to Mr. Curtis? Informational.

CHAIRMAN SOCKWELL: I think that would be appropriate since your here and you're certainly the representative official.

MR. JOHNSON: Mr. Curtis, when you went to DCRA some years ago and applied or attempted to modify your certificate of occupancy and was advised by staff that you didn't need to do that, was that before or after you had made the conversions to your unit?

MR. CURTIS: It was right at the time that I was in the process of doing it.

MR. JOHNSON: So you were -- you had already commenced the work.

MR. CURTIS: I hadn't already. I hadn't done it. I was planning to do it. I had already had the concept of making the change. I had already written a letter to the Section 8 people, the tenant assistance, and the other private unit development people, Mr. Lenore. And I had not made the conversion at that time.

MR. JOHNSON: So you hadn't started any work.

MR. CURTIS: I hadn't started yet. I was getting ready to start, and I wanted to submit this certificate to go through the process of doing this.

MR. JOHNSON: Okay.

MR. CURTIS: The lady told me that I did not have

to do this.

MR. JOHNSON: I understand. I have just another question, without being rude to cut you off. I am just trying to be concise. Had you ever pulled any building permits with the city before?

MR. CURTIS: No, I haven't.

MR. JOHNSON: Never?

MR. CURTIS: No. No, I haven't. When I first bought the buildings and got the certificate of occupancy, all of these different people came out to my property. Electrical, structural, a lot of different inspectors came out.

MR. JOHNSON: Why?

MR. CURTIS: Prior --

MR. JOHNSON: Did you submit plans?

MR. CURTIS: No. That was just the initial request for certificate of occupancy. I didn't do anything. I just -- I was told that when I purchased a building you need a certificate of occupancy. And I applied for that and that's when I received those that are dated '79, '80, and '81. That was just as a new owner, I was applying for the building, not to modify. But I was told that since it's a change of ownership that I had to get the certificate of occupancy in my name.

MR. JOHNSON: And just one other question just for my own edification. You indicated you've been a property manager for 20 some odd years, 26 or 27 I think it was you said.

MR. CURTIS: Yes.

MR. JOHNSON: And throughout that duration you've never made any modifications to your buildings and you've gone to get a permit?

MR. CURTIS: No. Not for that. I just --

MR. JOHNSON: Have you made any?

MR. CURTIS: I operated the building just as they were. I did the regular things when a tenant moves out. I painted the building.

MR. JOHNSON: Yes, sir.

MR. CURTIS: And we when -- the carpet most of the time is soiled. And whenever a tenant leaves the carpet is too soiled to clean. I replace the carpet and then re-rented it.

MR. JOHNSON: Okay. And just this is my last question. When you in a sense saw the opportunity or responded to the Department of Housing and Community Development's request for assistance in terms of providing additional housing, larger units, which I must say that I surely applaud you for that; no one had discussed or shared with you the idea or possibly suggested to you that you might need some approvals to make changes to the building?

MR. CURTIS: No one did. After I left the Certificate of Occupancy Office, and I did a lot of the work myself in conjunction with some other people who -- obviously I didn't do any electrical work, or anything like that. I did the

painting and things like that.

It was never suggested that a building permit was necessary to do that.

MR. JOHNSON: And this is my final question. And when you were with the office and you were inquiring about the certificate of occupancy, did you share with staff your desire to make changes to the building or you just didn't mention that at all?

MR. CURTIS: Well, when I went to the Certificate of Occupancy Office to get the certificate for two unit, I told the lady that's why I wanted it. I already had -- she checked the record and said, "You already have certificate of occupancies on file."

See, it wasn't that I was applying initially. I already had certificate of occupancy. But I was told that I was told that I may have to get a new certificate of occupancy because the current ones say four units and I was going to two. And that was the whole reason for going down there in the first place.

So when she told me, "Mr. Curtis, you already have certificates of occupancy on file and you are reducing them. It's not needed," then I left. And I proceeded to go ahead with what I had planned to do based on the fact that I knew that these three-bedroom units were in demand. So I just proceeded.

CHAIRMAN SOCKWELL: I think that --

MR. JOHNSON: Thank you.

CHAIRMAN SOCKWELL: Thank you Mr. Johnson.

I think that the situation is one that we have to sort of accept to a degree. The fact that you went down trying to get a certificate of occupancy to change from a higher load to a lower load. And they told you that that's okay. You had certificates of occupancy on file. You probably would have to do it if you went from four to six, but not from four to two. And that while it doesn't hold water in a real sense, it makes sense that they might have told you that. It does make sense that they might have told you that.

And if you proceeded to make minor changes which were really not structural changes, you pulled equipment out and capped lines; that while it should have -- could have triggered inspections and should have resulted in some kind of a minor alterations permit, it's difficult.

I mean go back. You said this happened in '81 and '79.

MR. CURTIS: Well, '79 and '81 is when I first purchased the building.

CHAIRMAN SOCKWELL: Yes.

MR. CURTIS: And I operated it for a while just as one-bedroom units.

CHAIRMAN SOCKWELL: Okay.

MR. CURTIS: It was right around the '87, '88, '89

time period that I made the conversion.

CHAIRMAN SOCKWELL: Okay. Well, there was a lot of upheaval at DCRA in that time period. And that I am familiar with. So --

MS. MITTEN: Mr. Chairman.

CHAIRMAN SOCKWELL: Yes.

MS. MITTEN: Could I ask Mr. Curtis --

CHAIRMAN SOCKWELL: Please.

MS. MITTEN: -- a few questions?

I don't know if you know this exactly, but approximately when were these buildings constructed?

MR. CURTIS: They were constructed during World War II. I was told that.

MS. MITTEN: Okay. And, I mean, from the pictures it looks like they were probably constructed as four-unit buildings. Is that your impression?

MR. CURTIS: Yes.

MS. MITTEN: When you bought them, that you were buying it as it was built, more or less.

MR. CURTIS: Yes.

MS. MITTEN: Okay. If I could just interject a thought here, to maybe just add some clarity to it, it seems to me that the original certificates of occupancy were granted in the spirit of legally nonconforming use; that these were four-unit buildings that had been constructed prior to the zoning

being put in place.

The zoning was put in place for something less intense and valid certificates of occupancy were given for four units because it was a preexisting structure.

So the real issue, as I see it, is that Mr. Curtis has created another legally nonconforming use that is less intense than what had been a permitted legally nonconforming use. So the issue before us is is that appropriate.

And the issue about whether building permits were pulled and all of that is really outside the scope of what we need to concern ourselves with.

So if that adds any clarity to what we're talking about -- or I think it does add some clarity.

CHAIRMAN SOCKWELL: I think that that helps us to frame this.

Yes. Go right ahead please.

VICE CHAIRPERSON REID: This in fact -- this is to Ms. Sansone. We talked about a variance, the uniqueness or unusual aspect based on circumstance before. There had been court precedent on those particular situations.

In a situation like this, where you have an unusual circumstance predicated upon a building that within itself -- like as Ms. Mitten said pre-dated the zoning -- and then in this case the conversion took it from a less dense. Then in that instance that would not be under the category of

extending a nonexisting use, would it?

Or it would be decreasing a non -- I said "nonexisting" -- a nonconforming use. How would that be described? Would that be decreasing a nonconforming use? What is the correct zoning vernacular in that?

MR. JOHNSON: In my opinion it would probably be described as reducing the original use of a nonconforming use itself, but with that being said, if the issue was before me at that time and as the Zoning Administrator still would have required coming before the BZA because keep in mind the whole purpose of a legal nonconforming use classification is really to maintain what was nonconforming.

Any change to that would, whether or not it goes up or down --

VICE CHAIRPERSON REID: I see.

MR. JOHNSON: -- still would require coming before the appropriate body that has the authority to grant such a change.

VICE CHAIRPERSON REID: I see. That's what I needed to know. That's why we're here. Right?

Okay. So now we can basically categorically accept that, right, as a circumstantial uniqueness?

MS. SANSONE: Yes, Ms. Reid.

VICE CHAIRPERSON REID: We could.

MS. SANSONE: An unusual circumstance or situation

involving the property where there is no indication of intentional misconduct or there's some reliance on the government, good faith reliance. Those things can amount to an extraordinary circumstance.

(The Board conferred.)

CHAIRMAN SOCKWELL: Give us your estimate of the hardship that would be caused by not being able to continue this use as an approved use of your property, as two-unit buildings.

MR. CURTIS: I would say, sir, that if the request were denied two things would have to happen immediately. We'd have to evict the people that are occupying the property now under the Section 8 program as a three-bedroom unit. And then I would have to reconfigure the building back to one-bedroom units.

CHAIRMAN SOCKWELL: Actually, your certificate of occupancy is for a more intense use of the property than that which you have been using it for and in reality would be a more detrimental impact to the neighborhood for a variety of reasons, one being that the use is already a nonconforming use as a four-unit building under current zoning and would be going back to what it had been.

In fact, what we're trying to do is review to legitimize the use that you have turned the buildings to which is a less intense use. So your hardship would be the loss. You'd have to evict existing tenants.

MR. CURTIS: Yes.

CHAIRMAN SOCKWELL: Which destabilizes those individuals. It would also require you to reconfigure the buildings which would be an economic hardship.

Three, based on your previous statements of the fact that in the one-bedroom use the transiency of your tenants was much higher.

MR. CURTIS: Exactly.

CHAIRMAN SOCKWELL: Which destabilizes the neighborhood itself to some degree and has a tendency to bring in the kind of people who may not be the desirable residents that family units are, with all of the associated benefits of family life.

MR. CURTIS: Yes, sir.

CHAIRMAN SOCKWELL: And I can certainly see that you meet the hardship criteria.

Now in terms of adverse impact of our granting this variance, give me in your words your reasons for believing that there would be no adverse impact.

And adverse impact would be negative impacts to the community in parking or traffic or noise.

VICE CHAIRPERSON REID: Light.

CHAIRMAN SOCKWELL: Any loss of light and air to adjacent residents. And since we're really talking about what occurs within the building, I think you can pretty much drop the

light and air part of it.

But give us your feelings about impacts that would be positive versus negative.

MR. CURTIS: Well, as it stands now, sir, I have not seen any adverse impact based on what I have actually done. I do see that there are more children in the neighborhood playing. That's the only thing that I see.

There's a neighborhood school within walking distance. That's not a problem. I do not see an adverse impact based on what I have done.

CHAIRMAN SOCKWELL: All right. And of course you know we really don't want children in our neighborhoods, so that's --

(Laughter.)

CHAIRMAN SOCKWELL: No. So basically from what you're saying, the impacts of your change from four units to two units have all been positive. They've reduced the number of people to live -- number of adults that you would have because instead of having four one-bedroom units in a building, you have two three-bedroom units. But that includes children and family unit concept.

You feel that the impacts have been minimized. It probably means fewer cars per family, or could. But then again those are things that you might want to express to us. But at the same time you don't see any problems that have been

generated?

MR. CURTIS: No, sir.

CHAIRMAN SOCKWELL: All right. So in that if we don't have any more Board questions, then I would call for reports of organizations.

MS. PRUITT: The OP report should --

CHAIRMAN SOCKWELL: Yes.

MS. PRUITT: You have the OP report.

(The Board conferred.)

CHAIRMAN SOCKWELL: If the lady from the ANC would step forward. Do you have any question's you'd like to ask Mr. Curtis as cross examination?

MS. ROBINSON: Yes, I would like to.

MR. SOCKWELL: Then please step forward. Press the button on your microphone, the one that you chose. And identify yourself and your address and the organization that you represent.

MS. ROBINSON: My name is Naomi Robinson.

CHAIRMAN SOCKWELL: Naomi Robinson?

MS. ROBINSON: Robinson.

CHAIRMAN SOCKWELL: Yes.

MS. ROBINSON: ANC-7E-07.

Mr. Curtis' buildings are in my single member district.

CHAIRMAN SOCKWELL: Please proceed.

MS. ROBINSON: The first question I would like to ask you, you said you had not seen anything concerning your buildings, what you've done to your building, adverse to what you applied for.

MR. CURTIS: Yes, ma'am. I said, yes, converting from a four-unit to two-unit with three bedroom and two baths.

MS. ROBINSON: Right.

MR. CURTIS: I did not see it adverse.

MS. ROBINSON: Well, each one of your bedrooms is a family. Excuse me.

CHAIRMAN SOCKWELL: You have ask him questions.

MS. ROBINSON: Oh, I'm sorry.

CHAIRMAN SOCKWELL: Yes. When your turn comes as ANC you --

MS. ROBINSON: Okay.

MS. PRUITT: Do you have anymore questions, ma'am?

MS. ROBINSON: I went blank.

CHAIRMAN SOCKWELL: Would you like some water, ma'am?

MS. ROBINSON: No, I'm fine. I just went blank for a minute.

VICE CHAIRPERSON REID: If you want to think about it maybe --

MS. ROBINSON: Can I ask later?

VICE CHAIRPERSON REID: Yes. If you want to think

about it and we'll allow -- go ahead and allow the Office of Planning and the Zoning Administrators to speak, and then we'll allow her to ask when she has a chance to.

CHAIRMAN SOCKWELL: Okay. What we'll do is when you --

MS. PRUITT: Your mic.

CHAIRMAN SOCKWELL: Excuse me. What you can hear the recorder can't hear if I don't have my mic on.

If you want to hold you questions, then we will go to reports of government agencies and that is Office of Planning in this case.

MS. PRUITT: Mr. Chairman, the Office of Planning report needs to be waived for filing time.

CHAIRMAN SOCKWELL: Yes, that's correct. And we received the Office of Planning report when?

MS. PRUITT: Today.

CHAIRMAN SOCKWELL: Today. That's what I thought. If Board members don't have an issue with that, the Office of Planning reports occasionally do not come in as quickly as we would like them. So we'll waive it in if there's no problem.

(No response.)

MR. SOCKWELL: All right. Then ANC -- excuse me -- Office of Planning representative, please identify yourself for the record.

MR. MOORE: Good morning. I'm John Moore,

Development and Review Section, Office of Planning.

And I personally apologize for the report being late. I hope we get a lot better at that.

CHAIRMAN SOCKWELL: Thank you.

MR. MOORE: Ms. Robinson, if your 70 years old, when I get there I want to look like you.

We won't waste your time, Mr. Chair. I want to direct you to basically three sections of our report, first being the site description and second the analysis, cumulative comments.

The subject premises, the address is already given. It is among the buildings that Mr. Curtis owns, among ten other buildings similar in size and shape.

The properties which are located on the north side of Hillside Road, there is a marked difference in terms of the maintenance or condition of those buildings when you compare those to the buildings on the south side where there's a rule of single family, well maintained houses and some apartment buildings.

But you can tell that there's a marked different between the two sides of the block. This is not directed at just Mr. Curtis' property because as I indicated, there's more properties there than just his.

Let me just state that under the analysis section, the Office of Planning's read of 300.3, the zoning regulations,

that conversion to four-bedroom flats into two duplex units, we thought should qualify as one family or semi-detached dwellings. Therefore, it should be done as a matter of right.

In recent information in a meeting this morning with the Zoning Administrator and this office, we found that the way it came close, there are some areas where it fell. And that had to do with the fact that each unit would have to be on a separate lot. And that's not the case in this case.

And no other units oriented toward the public space, towards each other as opposed to towards Hillside Road.

So our report in this area is wrong to be perfectly honest. And it's the Board's -- if you want us to modify, fine.

I want to go to the community comments because I also had a conversation with Ms. Robinson and made certain observations myself. By the way, I did meet with Mr. Curtis also. And I shared with him my observations that I had when I went out to the site.

I also talked to the police district, the Sixth District in that area.

When I went out to view the property, I encountered something I rarely encounter. And that is as a person who's very familiar with east of the river in the city, I felt a little threatened because of the elements I saw in front of in this case one of your buildings, Mr. Robinson.

There must have been 20 or 25 young people out there. And you didn't have to be too intelligent to realize what was possibly going on there.

In a conversation with the Sixth District, they informed me that two homicides had taken place last year on that side of the block. They didn't say your property; on that side of the block. And that three major players in the drug arena had been arrested.

And I was even cautioned by the police department that if I was to go out again that I should call them for escort.

Just to give you observation made by me as well as was shared by the police department.

Although -- and when I met with Ms. Robinson, who I talked to on the phone rather, I did mention to her that what was the greater or lesser deal, to have the buildings mostly vacant or boarded, attracting negative elements, or have the buildings converted into duplex units, as Mr. Curtis had done, if they were up to and kept up to code.

And she agreed that if they were in that condition, that it would be a benefit, a positive benefit to the community as opposed to a negative ones as perceived in the community right now.

Apparently, I'm sure that she will make her own statement her own statement in that regard. But there seem to

be from my perspective a lot of strong feeling in the community especially those who live on the south side of the block about the properties on the north side of the block.

And in the context of that, the Office of Planning wanted to put into its report conditions, and in conversation with staff here, we were told that the Board didn't usually put condition in orders. In a session again with Mr. Johnson this morning, he said that that may not necessarily be the case where we are recommending that this application be approved.

And by the way, I want Mr. Johnson to expound on the point he made regarding the condition.

Our Director feels very strongly if this application is approved, that there be some kind of conditions where the community can feel a sense of comfort with respect to the government doing its part regarding inspections and the like.

With that I'd like to defer to Mr. Johnson to talk more about potential conditions on this application.

MR. JOHNSON: Thank you very much.

If I may.

MS. PRUITT: Mic, Mr. Chairman.

CHAIRMAN SOCKWELL: Sorry.

Mr. Johnson would be allowed to respond to direct questions I believe from -- just a second.

(The Board conferred.)

MR. SOCKWELL: All right. What we will do first is let Mr. Curtis and Ms. Robinson cross examine Mr. Moore, if they chose to, on details of the Office of Planning's report. I would start with the Applicant.

Do you have questions for Mr. Moore regarding his assertions in the OP report?

MR. CURTIS: Not necessarily a question, but just a comment regarding his report.

CHAIRMAN SOCKWELL: Questions. You can put your comments in closing remarks. If you have a question -- if you question any of what was stated in the report, any of the issues regarding the loitering, crime, how Office of Planning came to those conclusions, if you have anything that you want to ask, you can ask at this time.

MR. CURTIS: I don't think that I have questions regarding that because I'm aware of those existing. So I'll comment later.

CHAIRMAN SOCKWELL: All right. Okay. Then you can address things in the closing remarks after.

MR. CURTIS: Yes, sir.

CHAIRMAN SOCKWELL: Ms. Robinson?

MS. ROBINSON: I have no questions.

CHAIRMAN SOCKWELL: No questions.

All right. Now, we can --

MR. MOORE: Mr. Chair?

CHAIRMAN SOCKWELL: Yes.

MR. MOORE: If it's your will, I can convert what I said to Mr. Johnson in the form of a question.

CHAIRMAN SOCKWELL: No. We'll do it the other way. But if Board members have questions of you, Mr. Moore, I think that in terms of the assumption of matter of right if you can, if you would like to annotate the report to change a conclusion you can submit that to the record and we can handle it that way.

If you want to rephrase that section of the report, how quickly can you get it back to us?

MR. MOORE: Let me make sure that I understand exactly what you are saying in terms of annotating my report. Our recommendation would still be the same.

CHAIRMAN SOCKWELL: Right. But you would retract the statement about matter of right status and that was the part that you wanted to change.

MR. MOORE: Yes, I can do that.

CHAIRMAN SOCKWELL: However you want to do it, if you want to do it on the copy that you have and submit it to us, or if you want to --

MS. PRUITT: Mr. Chair, it's on the record that there's a change. So he doesn't -- I mean it's helpful if he could annotate it, but it's not required or necessary.

CHAIRMAN SOCKWELL: But just so the paper record

reflects the written record, we would ask you to cross that section out and put a note stating --

MR. MOORE: I'll modify the report.

CHAIRMAN SOCKWELL: Modify, yes.

MR. MOORE: Is 24 hours okay?

CHAIRMAN SOCKWELL: That's fine. We appreciate that.

MS. PRUITT: Yes.

CHAIRMAN SOCKWELL: Now, Michael Johnson may speak.

MR. JOHNSON: Thank you, Mr. Chair, for recognizing me. I'm Michael D. Johnson, the Zoning Administrator.

And just so succinctly capsulize my discussions with the Office of Planning via Mr. Moore this morning, there were two things that we basically discussed. One was that I was of the opinion that the BZA, this great body, has the authority to almost do anything that it desires. And probably it was almost.

CHAIRMAN SOCKWELL: There's a very small A on almost.

MR. JOHNSON: And pursuant to that line of thinking or that logic, I thought that if the Board so desired to in an effort, one, to accommodate the community's needs to be responsive as a government, in addition to the desire of the

Office of Personnel and the Zoning Administrator's Office, to in a sense increase and enhance the quality of life in our communities, that I surely would be in concurrence with the Board if it so decided to place some requirements on the variance, if the Board in fact granted the variance.

The only caveat to that if the Board decided to go through that line of logic and come to that decision would be that it would be enforceable because, of course, my office is charged with enforcing your desires, in essence.

And if we still followed that same line of thought that I would be willing, personally willing, to work either with the community, Mr. Moore and others, to ensure that whatever the Board's wishes were were enforceable and, in fact, could be accomplished.

CHAIRMAN SOCKWELL: Thank you, Mr. Johnson.

Generally the -- and I'll be very brief on this -- generally the BZA does not have the authority to directly enforce anything, anything, period. So in enforcement it means that the Applicant is going to have to fall within the guidelines of DCRA's requirements for certificates of occupancy and building permits, and all of the other inspectable items. And only on those issues where DCRA has real jurisdiction can you step in to assure that certain goals are met.

So we don't place any requirements on you in that respect outside of those areas within the zoning ordinance that

you have direct authority on.

MR. JOHNSON: If I may respond.

CHAIRMAN SOCKWELL: Please.

MR. JOHNSON: I think historically that has been the case but again I'm of the opinion that of course if it's lawful, and as in a sense the enforcement arm of this Board, and charged with the task of enforcing the zoning ordinance, again, I would just say that it is my opinion, and I'm surely not the person who makes the decision, but it is my opinion that if the Board places conditions that we could and we would attempt to enforce those, really carry out the will of the Board.

And I'm in a sense reiterating that because I'm aware since I've been the Zoning Administrator for 16 months, that I am aware of some cases that we're dealing with even now that the Board has placed some conditions, not necessarily this active Board, but the BZA in the past has, and we are in the process of enforcing the Board's will.

CHAIRMAN SOCKWELL: Thank you very much.

MR. JOHNSON: Although it's very challenging.

CHAIRMAN SOCKWELL: Yes. Well, we certainly appreciate the Zoning Administrator's interest in working with the Board of Zoning Adjustment on enforcement issues which are very important to us.

Now I believe that we can have the report of the Advisory Neighborhood -- excuse me.

Do either of you wish to cross-examine the Zoning Administrator?

MS. ROBINSON: Not at this time.

CHAIRMAN SOCKWELL: Then I would ask for the Advisory Neighborhood Commission report from you.

MS. ROBINSON: Can I read my report?

CHAIRMAN SOCKWELL: Yes, you may.

MS. ROBINSON: Mr. Chairman, on October the 20th, 2000, Commission 7E received a memorandum from the Board of Zoning Administration and an application from James A. and Sylvia Curtis requesting permit to seek from the Board a zoning variance for continued use of three buildings on Hillside Road, 4638, 4650, and 4654.

CHAIRMAN SOCKWELL: Ma'am, put the microphone --

MS. ROBINSON: Sorry. Do I have to start over?

CHAIRMAN SOCKWELL: No, go right ahead. In fact, why don't you testify from the other microphone over there next to it, and then maybe we'll hear you better. Okay.

MS. ROBINSON: These buildings were originally built to accommodate four single families. They were converted to two-family dwellings without the knowledge of the community. This brings more people into the dwelling. The buildings were not built to accommodate a large number of people. By that I mean, it was converted into three bedrooms. That means each bedroom had a family. So that means it's more people on that

one floor in the same edifice, which was too many people in one building.

On October the 4th, the application was presented to the Benning Ridge Civic Association meeting. It was discussed and voted to send a letter to deny the request. On October the 10th, the ANC regular meeting convened with a quorum of commissioners present. The petition was presented to the body and voted to send notices to members in the community to voice their opinion, pro or con.

On October 24th, Mr. Frank Brown from DCRA neighborhood planning and myself toured the premises and talked to the tenants. We brought back the findings to the community.

At the regular meeting for ANC, November the 14th, it was voted unanimous to deny the request of Mr. James A. and Sylvia Curtis for the above dwellings.

The reason, it's unsafe for children. It is unhealthy for children. The landlord did not comply with the D.C. building codes. There is no ceiling in 4638. There is no drain. When it rains, the water comes into the building. The basement is flooded. This is the upper floor.

The bottom floor is a drug infested place where people are living in there, trash all over the place. The windows are out. The drain pipes are disconnected from the building. And this building is also known for any kind of

illegal activities that you can name.

The first week in November the residents of 4630 -- oh, I will finish that.

The other buildings, 4650 and 4654, need major repairs, up and down.

On December 12th, the ANC voted to notify the Board of Zoning of our findings and deny the requests.

On December the 14, Mr. Howard Wade and I toured the area again. The grass had been cut. Some of the trash was taken out of the yard from 4638, where the first of November the tenant on the upper floor, where the ceiling had fallen out, had been evicted. And some of his belongings were still on property. That was the 14th.

Mr. Howard Wade is our neighborhood planning. You may excuse me, but this is my first time appearing before a Board. So I'm a little nervous.

VICE CHAIRPERSON REID: You're doing a very good job. You're doing a very good job so just keep on.

MS. ROBINSON: That's about all I have right now.

Oh, I have one other thing to say. The block where -- this is the even side of the 4600 block of Hillside Road. From 4600 to 4660, there are buildings. Some are still four units. Some have been changed. Some have been boarded up. And some should be boarded up.

It is a drug infested area. And I live not far from it. You can lay in your bed at night and hear gun shots and all coming from that area. Anything you could name is there.

And that's all right now. Any questions?

MR. MOORE: Mr. Chairman.

CHAIRMAN SOCKWELL: Yes.

MR. MOORE: Just for the record, Mr. Howard Wade is the Ward 7 planner, the Neighborhood Initiative Program the District has. He's in the Office of Plans. He's the Ward 7 planner.

CHAIRMAN SOCKWELL: Howard Wade?

MS. ROBINSON: Howard Wade.

MR. MOORE: Howard Wade, the one that she's referring to.

CHAIRMAN SOCKWELL: Thank you.

Do you have any questions now that you wanted to ask Mr. Curtis?

MS. ROBINSON: Yes. I do.

CHAIRMAN SOCKWELL: All right. Feel free.

MS. ROBINSON: How do you -- I wanted to get it right now.

How can you sit here and say that about your tenants, when you have such desirable people in your buildings? I'm going to talk about your buildings. Yours is the only one

in question on that block, 38, 50, and 54.

MR. CURTIS: What buildings are you referring to, Ms. Robinson?

MS. ROBINSON: Thirty-eight, forty-six.

MR. CURTIS: That have the illegal or the legal activities going on?

MS. ROBINSON: Right now 4638.

MR. CURTIS: Okay. Forty-six, thirty-eight, Ms. Robinson, is a two-unit building, as you know.

MS. ROBINSON: That's correct.

MR. CURTIS: Apartment 1 is vacant and it's in the process of being painted to get ready for another Section 8 tenant. Apartment 2 has a tenant named Ms. Aisha Jones, with four children. And there's nothing going on.

MS. ROBINSON: If she's there she must have just move there.

MR. CURTIS: No, ma'am. She's been there for a year.

MS. ROBINSON: I have a record from the Sixth District. The bottom floor.

MR. CURTIS: Forty-six, thirty-eight?

MS. ROBINSON: Thirty-eight, un-huh.

MR. CURTIS: No. ma'am.

MS. ROBINSON: Ms. Jones lives 3645.

MR. CURTIS: No, ma'am. Ms. Jones is my tenant at

4638 Hillside Road, S.E., Apartment 2. That's one of my three bedroom, two bath units. She's a single mother with four children.

MS. ROBINSON: When you say Apartment 2, is that the ground?

MR. CURTIS: Apartment 2 is upstairs.

MS. ROBINSON: Upstairs. That's the one with no ceiling in.

MR. CURTIS: No, ma'am.

MS. ROBINSON: Forty-six, thirty-eight.

MR. CURTIS: No, ma'am.

MS. ROBINSON: I went in there with Frank Brown. He's from DCRA. I went in there.

MR. CURTIS: Forty-six, thirty-eight?

MS. ROBINSON: And that's where you evicted the man. There was a man up there and he was evicted.

CHAIRMAN SOCKWELL: I think the issue is being debated, and what I want you to do is ask questions that require a fairly precise answer from Mr. Curtis.

MS. ROBINSON: I'm sorry.

CHAIRMAN SOCKWELL: And if you can move through a series of questions that might indicate or might elicit from Mr. Curtis the answers that you're looking for with regard to either the condition of his buildings or the tenants or the problems that you have enumerated in your --

MS. ROBINSON: The main problems we have, that the community has is how will he -- why would he allow the caliber of people to be in his buildings.

VICE CHAIRPERSON REID: To him.

CHAIRMAN SOCKWELL: To him

MS. ROBINSON: Why would allow the caliber of people to be in your buildings, and do nothing about it?

MR. CURTIS: Okay, all right. I can address that very clearly. Number one, Ms. Robinson, the buildings that you're talking about in question, you said 4638, 4650, and 4654.

MS. ROBINSON: They are the buildings that's in question.

MR. CURTIS: 4638 Hillside Road is one of the converted buildings consisting of two units with three bedrooms and two baths. Forty-six, thirty-eight, Apartment 1 is vacant and has been vacant for over eight months. Forty-six, thirty-eight, Apartment 2 has been occupied for over a year with Ms. Aisha Jones. And there is no falling ceiling in 4638, Apartment 2.

I think, Ms. Robinson, you are being misinformed. The apartment that had the falling ceiling is located at 4648 Hillside Road, S.E., Apartment 3. It was occupied by a Mr. Ronnie Harper and a Ms. Wanda King.

During their occupancy part of the ceiling did fall, and we pulled down the rest of it for safety purposes.

And we had the insurance adjuster to come through and investigate it, and he determined that the ceiling that fell was not due to negligence. It had nothing to do with negligence. And Mr. Harper and Mr. Wanda King were evicted. They were evicted for nonpayment of rent. They were four months behind in their rent.

I tried to get them to relocate so that we cold safely repair the ceiling and pull the rest of it down. And they would not move nor would they pay their rent. So the fastest way of getting them out of the apartment was to go through the legal process of having them evicted.

But like I said I think there's a misinformation. Forty-six, forty-eight is not even a building in question here that we are trying to get zoning adjusted --

MS. ROBINSON: I'm not talking about 48.

MR. CURTIS: -- because it is and has been a four-unit apartment, four one-bedroom apartments with a certificate of occupancy for that. So that particular apartment is not in question. And that's the apartment that had the falling ceiling. And that is the apartment also where the drain pipe has fallen away from the building.

But the three buildings in question here does not have a falling ceiling nor has it ever had a falling ceiling.

MS. ROBINSON: It's marked on the building 4638.

MR. CURTIS: Okay. Let's do it this way. Ms.

Robinson, I contacted you on at least two occasions to invite you to come with me to go through the buildings so I could address these concerns that you had. And you declined.

And because that would have been a case where I would have --

MS. ROBINSON: Can I answer that? I am not going into your block with those caliber of people alone. I could not get a policeman or no one from DCRA to go with me.

MR. CURTIS: Okay. Well, you didn't tell me that, ma'am.

MS. ROBINSON: I didn't have to tell you that.

CHAIRMAN SOCKWELL: All right. Excuse me.

MR. CURTIS: I'm the owner and I would have taken you.

CHAIRMAN SOCKWELL: All right. It's been established that you invited Ms. Robinson and Ms. Robinson refused. I think that's sufficient, that Ms. Robinson feared for her safety.

MS. ROBINSON: That's correct.

CHAIRMAN SOCKWELL: Claimed that she didn't go for that reason.

Just to clarify something, if I may, do you, Mr. Curtis, own any of the buildings between 38 and 50? Between 4638 and 4650?

MR. CURTIS: Yes, sir.

CHAIRMAN SOCKWELL: How many?

MR. CURTIS: I own 4648. That's the building between those two addresses that you mentioned.

CHAIRMAN SOCKWELL: Okay. That's the only other building that you own?

MR. CURTIS: Between those two addresses, yes, sir.

CHAIRMAN SOCKWELL: So you own four total buildings.

MR. CURTIS: I own five buildings. And I recently sold four. I still own 4636, which is adjacent to 4638.

CHAIRMAN SOCKWELL: But you at one time owned what? Forty-six --

MR. CURTIS: Forty-six, thirty-six, 4638, 4648, 4650, and 4654 Hillside Road S.E.

CHAIRMAN SOCKWELL: Okay. And you still own 38, 50, and 54?

MR. CURTIS: Well, no. I recently sold 4650. I still own 36, 38, 48, and 54.

CHAIRMAN SOCKWELL: But 4650 is one of the buildings in our application.

MR. CURTIS: At the time that I submitted my application initially, I was the owner of the building.

CHAIRMAN SOCKWELL: All right. And now you are not.

MR. CURTIS: Well, I'm continuing to be the one to advocate this because the owner, the purchaser of the building, purchased it with the understanding that I was proceeding with this request.

CHAIRMAN SOCKWELL: And you did represent yourself as manager of -- actually you represented yourself as manager and then you did in your -- in one of your statements at the beginning, say you were property owner. But you are not the property owner of all of the buildings. You are the property owner of two and the manager of those three.

MR. CURTIS: I'm the owner/manager of all of those buildings.

CHAIRMAN SOCKWELL: Except for 50 because you don't own it.

MR. CURTIS: Except for 50 which I just sold.

CHAIRMAN SOCKWELL: Yes. You're just the manager for 50. All right. I mean I just wanted to make sure I understood. I assumed that you owned all three, but you are the manager of two of the buildings in question or three of the buildings in question and the owner of only two of them.

MR. CURTIS: Let's back up, sir. I --

CHAIRMAN SOCKWELL: No, the question, we're only dealing with 38, 50, and 54.

MR. CURTIS: Okay.

CHAIRMAN SOCKWELL: Fifty is managed by you.

Thirty-eight is managed by you, and 54 is managed by you, but 50 has recently been sold.

MR. CURTIS: Yes, sir.

CHAIRMAN SOCKWELL: So it is no longer owned by you.

MR. CURTIS: Exactly, exactly.

CHAIRMAN SOCKWELL: And so you are acting. Do you have anything that allows you to act on behalf of the owner?

MR. CURTIS: I don't have it in writing, but he is fully aware and is prepared to --

CHAIRMAN SOCKWELL: Well, we would need that in writing because otherwise 50 shouldn't be before us if you don't --

MR. CURTIS: Okay. He's very -- that's no problem because --

CHAIRMAN SOCKWELL: All right. I'm just making --

MR. CURTIS: -- his certificate of occupancy has been held in obeyance pending the outcome.

CHAIRMAN SOCKWELL: Okay, but I just need the Board to have in its files that documentation.

Ms. Robinson, do you have any other questions for Mr. Curtis at this point? This is your opportunity to raise any issues that you can get a good, solid answer from him on.

MS. ROBINSON: The only thing I would --

CHAIRMAN SOCKWELL: Anything he testified,

anything he testified to you may ask a question about.

MS. ROBINSON: Although the building had been converted from four to two units, I would like to know why there's so many people in those buildings. Why?

MR. CURTIS: Okay. Of the three buildings that we're talking about, let me go back to 4638, the first building. Forty-six, thirty-eight now is occupied by a tenant by the name of Ms. Aisha Jones. She's a single mother with four small children, and there's three bedrooms and two baths. I do not see an overcrowded situation in that.

Forty-six, fifty is an apartment, occupied Apartment 1, by a tenant named Ms. Darlene Williams, and she currently has two children living there. She had a third, but the son died. So that's not overcrowded.

Forty-six, fifty, Apartment 2 was just recently rented out under the Section 8 program by the owner, and I believe that lady has about three children.

Forty-six --

CHAIRMAN SOCKWELL: Can I ask you a question? I've got to ask you two questions.

One, the son died you said?

MR. CURTIS: Yes.

CHAIRMAN SOCKWELL: Do you know how the son died?

MR. CURTIS: I think --

CHAIRMAN SOCKWELL: I mean, it's not important,

but --

MR. CURTIS: Well, I can tell you how he died, sir.

CHAIRMAN SOCKWELL: -- the establishment -- it's been testified by Ms. Robinson that there is drugs and --

MR. CURTIS: Yes.

CHAIRMAN SOCKWELL: -- violence involved --

MS. ROBINSON: It is.

CHAIRMAN SOCKWELL: -- in these housing occupancies.

MR. CURTIS: Yes.

CHAIRMAN SOCKWELL: And for that reason and that reason only I have asked the question.

MS. PRUITT: It doesn't affect the zoning.

MS. MITTEN: Mr. Chairman, if I could just suggest by cultivating a discussion like that --

CHAIRMAN SOCKWELL: I wasn't cultivating.

MS. MITTEN: -- you're implying that it's relevant.

CHAIRMAN SOCKWELL: Well --

MS. MITTEN: And I just don't want to leave that impression with these folks.

CHAIRMAN SOCKWELL: Under negative impacts --

MS. MITTEN: Related to --

CHAIRMAN SOCKWELL: -- related to --

MS. MITTEN: -- to the number of units.

CHAIRMAN SOCKWELL: -- related to the use.

MS. MITTEN: The number of units.

CHAIRMAN SOCKWELL: Related to the use, we can bring in parking issues. We can bring in issues of traffic. We can bring in issues of safety, and that may fall under an issue of safety.

MS. MITTEN: Well, we disagree about that, but you're the chair. So --

CHAIRMAN SOCKWELL: Okay. Well, then I will withdraw the question and go to my second question, which is you seem, Mr. Curtis to be unsure of the people living in your units. You said, "I believe she has a certain number of children."

If you are the manager of such a small occupancy and you have been the manager of these properties and the owner for more than ten years, it would seem to me that you would know who lives in what.

MR. CURTIS: Okay. Let me clarify that, Mr. Chairman. The uncertainty about the number of occupancies in Apartment No. 2 of 4650 Hillside Road is predicated on the fact that my management responsibilities with that building since it was sold is very limited now just to monitoring and keeping the grounds, monitoring the area.

CHAIRMAN SOCKWELL: When was the building sold,

sir?

MR. CURTIS: September 21st of 19 -- of the year 2000.

Mr. Leopart, the owner of the building, is the one who actually does the renting of all of the two units at 4650, the building that I just sold. I had nothing to do with the renting of Apartment 2 under the Section 8 program to the lady that's currently living in there now.

So my responsibility as a manager of the building that I just sold is very, very limited, just to surveillance and outside maintenance since I own the buildings adjacent and behind his. I own 4648 and 4654. His building is in between the two, 4650.

CHAIRMAN SOCKWELL: Okay.

MR. CURTIS: And I told him that I will look after his building from that point of view.

But from the terms of collecting rents or doing anything like that, I do not do that anymore, and he was the one who actually rented Apartment 2.

CHAIRMAN SOCKWELL: Okay, all right. I understand.

MR. CURTIS: That's why.

CHAIRMAN SOCKWELL: Okay.

MR. CURTIS: But I can give you the names of all the other tenants.

CHAIRMAN SOCKWELL: All right. That's fine.

MR. CURTIS: I rented them.

CHAIRMAN SOCKWELL: Ms. Robinson has asserted that there are individual families living in each bedroom.

MR. CURTIS: That's not the case, and this could have all been clarified very clearly if she had walked through the building with me. There are no -- there are no individual bedroom units with individual families living in the bedroom. That was the impression that I was getting.

MS. ROBINSON: I got this from the tenants that live in the building.

MR. CURTIS: What's the tenant's name, ma'am?

CHAIRMAN SOCKWELL: I would suggest that you not identify a tenant. It would necessarily prejudice the owner against that tenant, if you don't mind.

MR. CURTIS: Could I ask? I think I'm on the same side as you are, Ms. Robinson, in terms of --

MS. ROBINSON: You can't be on the same side with me.

MR. CURTIS: Yes, ma'am. I'm interested in a stable neighborhood as well, and could I just make a statement?

VICE CHAIRPERSON REID: Wait, wait, wait. Excuse.

CHAIRMAN SOCKWELL: We're going to give you an opportunity to make a statement in closing remarks.

Ms. Robinson, do you have anymore questions for

him?

MS. ROBINSON: Not at this time.

CHAIRMAN SOCKWELL: All right. This is going to be your last opportunity to ask questions because we have no other witnesses.

MS. ROBINSON: Okay.

CHAIRMAN SOCKWELL: So then under those circumstances if the Board doesn't have additional questions, we can ask at this time for closing remarks from the Applicant. There is no one other than the Advisory Neighborhood Commission representative here in opposition or in support of the application.

MR. MOORE: Mr. Chair.

CHAIRMAN SOCKWELL: Yes.

MR. MOORE: Excuse my rudeness. Is it appropriate now to discuss potential condition?

CHAIRMAN SOCKWELL: Yes.

VICE CHAIRPERSON REID: Well, no.

CHAIRMAN SOCKWELL: Well, after closing remarks.

VICE CHAIRPERSON REID: Right, right, right.

CHAIRMAN SOCKWELL: Yeah. So I would ask Mr. Curtis to give his closing remarks in support of his application.

MR. CURTIS: Well, I would say, Mr. Chairman, that my entire intention of converting these units from four units to

two units was with an idea or an intent of improving the neighborhood and not to be a detriment to the neighborhood.

As I said before, I'm not an absentee landlord. I manage my own properties. I'm over there at least four out of the five working days of each week, and I've been doing this ever since 1973.

I've worked very, very closely with the police at the Sixth District. A lot of the things that I've done has been done confidentially because I feared for my life as well over there on Hillside Road based on my actions to try to rid the neighborhood of those unfavorable elements.

Every time that I have seen drug dealers on my property, I have required them to leave, and if not, I have called the Sixth District to have the police to come out there to forcibly remove them.

I would have to say that in the times that I've been over there, there has been a drastic improvement in that neighborhood, relatively speaking, since it has, based on what has been there in the past. The number of drug dealers loitering on the property is very, very small relative to the way that they were before.

This is primarily based on two factors, and I believe Mr. Moore brought out one. Three of the major players over the have been arrested and are serving time, and these other underlings who look to them as heroes are now without a

leader, and so it's not as predominantly a drug area as it was before, an open air market, although there is still some drug activity taking place.

Because two of the main players live in these stable, private homes across the street from my properties, and they come across the street to my properties to do their dealing. And they live in the private, single family homes.

Now, getting back to my concern for the neighborhood, I've worked with the police. The police have actually used my property as an observation post to look out of the windows to see what was going on, and if the tenants there knew that, I would be in trouble.

And also as a result of my activities in that area, the drug dealers have burned out one of my apartments because they thought that I was cooperating with the police. They have thrown bricks and irons and everything imaginable into my vacant apartments, breaking all of my windows, and this is on file at the police station.

I had a 1988 Toyota pick-up truck that they threw a cinder block through the windshield and broke all of the side windows, and Officer Littlejohn can attest to that down there. He was in Vice.

There's a Sergeant Mitchell down there who's in charge of Vice now that I've called and asked for her assistance because of the drug activity that's going on there on Hillside

Road.

I am not a party to this, the situation that's going on, but I'm doing everything I can, and I do not advertise what I am doing in that neighborhood, and I wish I had been invited to this neighborhood advisory meetings where all of these people were talking because a lot of this misunderstanding could have been cleared up to show that I am on their side and not on the side of the drug dealers. Otherwise I would not be suffering all of these things that I'm suffering as a consequent of my trying to improve the neighborhood.

And I do not allow overcrowding in my apartments, and every Section 8 tenant who lives in my apartment has to be approved by the Section 8 inspection office that the housing quality standards that they have set have been met before a tenant can move into my building.

And what I was trying to do is to invite Ms. Robinson to walk through these buildings, the buildings that are getting ready to be rented. She'll see that they're properly maintained, that they have carpeting on the floor. They have new appliances whenever necessary. They've got new ceiling plans.

I do not run a slum apartment. I am not responsible, nor can I change the conditions in the neighborhood in which my properties are located, but I can do what I can.

There are 22 buildings on that side of the street,

22 apartment buildings which I own or manage five, which means that there are seven -- 15 more that are completely out of my jurisdiction, and I can only hope that the landlords there will cooperate.

I can also indicate that there are two boarded up buildings between my apartment that I've worked very closely with the D.C. government trying to get them to clean up that area, and I understand the advisory neighborhood has been doing the same thing. They did come out and clean that area.

Every time my man cuts the grass or when I cut the grass, I cut the grass of the yards in the boarded up buildings, and maybe you would attest to the fact that you see that boarded up area is cut and the trash has been removed.

MS. ROBINSON: Everything you're supposed to do.

MR. CURTIS: I do not own that building.

CHAIRMAN SOCKWELL: All right.

MR. CURTIS: I cut it. I keep it cut.

CHAIRMAN SOCKWELL: It's being brought out that obviously you claim to have an interest in the neighborhood --

MR. CURTIS: Most definitely.

CHAIRMAN SOCKWELL: -- and an interest in your property. I think that beyond that, the other things that you're saying can be held somewhat to a minimum. I just want to get from you a statement, based on what you testified to, based upon what you're applying for that is a closing remark from you.

MR. CURTIS: Okay, yes.

CHAIRMAN SOCKWELL: And Ms. Reid would like to ask you a question.

VICE CHAIRPERSON REID: Mr. Curtis, from what has been brought out here today, it appears that the aspect of this particular hearing in regard to the adverse impact comes into play, and predicated upon what I've heard from Mr. Moore from the Office of Planning, and from Ms. Jackson in regard to your properties and the upkeep of the properties and the problems with the drugs and the problems with the impact that that has on the neighborhood, that's not one of our categories, however. It falls under, in my opinion, falls under what I would determine to be traffic, traffic not necessarily being cars, but traffic meaning drug traffic, people going in and out and crowds of people standing in front of the buildings.

Now, from what I can garner, you are aware of these things, and you said that you had taken steps to try to remedy the situation. Now, it appears that on that side of the street is where the problem stems from, and you said here today that the people on the other side of the street came over to your properties and caused problems.

Now, you're the owner of the properties, and my question is with regards to the condition of the property, there was testimony to the fact that the properties were not in good repair. You're saying that they are in good repair, that there

is not overcrowding in the units.

But yet still there is evidence of a lot of people and a lot of activity in or in front of those buildings.

Now, what steps have you taken as far as the security of that building, your buildings? Do you have security bars or do you have like security on the front of the door so that people can't -- have to be buzzed in or people can't walk in and out of the buildings? What steps have you taken to try to ameliorate some of the drug activity and the drug trafficking that goes on in and outside and in front of those buildings that wreaks havoc on the neighborhood?

MR. CURTIS: Ms. Reid, the drug activity that's taking place on Hillside Road is taking place in the public on the sidewalk, which happens to be in many cases in front of my buildings, not inside my buildings.

There is one apartment in which there was some people going in and out that I reported to the police, and they indicated that they were taking surveillance on that building, and in fact, they told me to stay out of it, that they knew what was going on on Hillside Road, and that they are taking measures through undercover activities that they did not want to divulge to me that would resolve part of the problem.

VICE CHAIRPERSON REID: No, no, my question was -- I'm sorry, but my question was: do you have security on your buildings to keep people from going in and out?

MR. CURTIS: Well, they're not going in and out of my buildings like that. That's what I'm saying. My buildings, and especially the three buildings in question, they're not public buildings. In other words, the entrance to the three bedroom/two bath unit is one single entrance. No other tenant goes there but the one who lives there.

VICE CHAIRPERSON REID: Oh, okay.

MR. CURTIS: And there's two entrances to the building, and each entrance goes into that one private home. You don't go to one to go to another. There's not a hallway.

CHAIRMAN SOCKWELL: Right.

VICE CHAIRPERSON REID: So the activity and the trafficking is outside of your buildings in front of the building you're saying?

MR. CURTIS: Yes, ma'am, 99 percent. On each of my buildings there's a sign that says, "No loitering, no trespassing, no drugs," and with that in mind, whenever two or more people are out there in front of my building, I call the Sixth District.

VICE CHAIRPERSON REID: Okay. What about the trash and water in one of your buildings where tenants can't go down to wash because of the health hazard?

MR. CURTIS: Okay. Well, there's no need for them to go downstairs because there's nothing down there except my tools and everything. But we did have a problem.

VICE CHAIRPERSON REID: There's no washer and dryer?

MR. CURTIS: No, we have no -- they have to go up on the Pike.

VICE CHAIRPERSON REID: Okay. What about the trash and water?

MR. CURTIS: No, there was water in one of my basements caused by one of my tenants who flushed Pampers and paper towels down there instead of using toilet tissue, and that was resolved, but the thing about it, I had to snake that out so many times that it accumulated again because the tenants were still using paper towers down there, and I did not come across this until the plumber finally pulled out a wad of it that demonstrated to me that it was paper towels that was causing the flooding and not any imperfections in the building itself.

So that was a tenant matter that I got resolved, and it's taken care of.

VICE CHAIRPERSON REID: Okay. What about trash and the trash removal or the --

MR. CURTIS: Every -- every --

VICE CHAIRPERSON REID: -- grass?

MR. CURTIS: Every work day until the last month I am the one who cleaned up the trash every day. So the trash is not in front of my building, and this is why I have to keep saying. You know, I have five out of 22 buildings. Now, you

personally have to be very specific and say that the trash is in front of 4636, 38, 48, 50 or 54, and I even -- most of the trash is in the border buildings, and I clean that myself as well.

CHAIRMAN SOCKWELL: Well, what you seem to be saying is that on your side of the street, and I think it's being brought out, that the activity seems to be taking place on the north side of the street; that the north side of the street has a different character from the south side of the street.

VICE CHAIRPERSON REID: Mr. Chair, the Office of Planning report specifies that it's the south side of the street.

CHAIRMAN SOCKWELL: No, the Office of Planning report specifies that it's the north side of the street.

VICE CHAIRPERSON REID: Let me look. Maybe I can stand corrected.

CHAIRMAN SOCKWELL: On the map, that's north. That's south.

MS. ROBINSON: It's the even side. I got with the even side.

VICE CHAIRPERSON REID: Oh, I'm sorry. So, oh, okay. It's across the street from this property.

CHAIRMAN SOCKWELL: Un-huh. No, his property is where the activity takes place.

VICE CHAIRPERSON REID: No, he said -- he said that --

CHAIRMAN SOCKWELL: No, he said his side. His side is where the activity is.

VICE CHAIRPERSON REID: I understand, sir, but he said that the bad people live across the street.

CHAIRMAN SOCKWELL: Yeah, he --

VICE CHAIRPERSON REID: And they come across the street to his property.

CHAIRMAN SOCKWELL: Yes, he said -- Mr. Curtis said that some of the bad people live on the other side of the street, but it was testified by Mr. Curtis and by the Office of Planning --

VICE CHAIRPERSON REID: Okay, all right.

CHAIRMAN SOCKWELL: -- that the activity is concentrated on the north side of the street.

VICE CHAIRPERSON REID: You're -- wait a minute. Where is Office of Planning report?

CHAIRMAN SOCKWELL: Mr. Moore, would you speak to that, please?

MR. MOORE: That is an accurate statement you made. As a matter of fact, in support of that part of what Mr. Curtis said, the day I indicated that I was there and felt some threat to my own safety, as the crowd disbursed, most of them went to the south side of the block.

VICE CHAIRPERSON REID: Okay. I'm sorry. The bad -- the bad people on the north side of the street.

CHAIRMAN SOCKWELL: The bad activity is on the north side of the street.

VICE CHAIRPERSON REID: Okay, and -- all right. That's here?

CHAIRMAN SOCKWELL: No, this is the north side of the street; this is south. This is north.

(The Board conferred.)

VICE CHAIRPERSON REID: Okay. I'm sorry. We're in sync. I just got a little turned around as to which side. It's the north side of the street where his properties are, where the problems are.

MR. CURTIS: Where the manifestation of the problem is.

VICE CHAIRPERSON REID: Okay, all right.

CHAIRMAN SOCKWELL: Anyway, if I may continue --

MS. PRUITT: I'm sorry. I have a --

CHAIRMAN SOCKWELL: Yes, go ahead.

MS. PRUITT: I was just going to say prior to his closing, I would suggest that maybe Mr. Moore give his conditions in case he has some closing remarks to be addressed by those.

CHAIRMAN SOCKWELL: Okay. We can do that.

Now, let me just continue on this very quickly. That it's apparent that the issues are communicating back and forth across the street. It's apparent that you have boarded up

buildings adjacent to your properties, and typically boarded up buildings tend to be congregating places, and because they're in between your properties, a lot of that activity is going to be concentrated around your properties.

I don't know if Ms. Robinson, who does not go on that street unescorted, has as direct information as she claims, and what I'm concerned about is you said you wouldn't go on that street without police.

MS. ROBINSON: Right.

CHAIRMAN SOCKWELL: But you also stated that you've been in the units, and I thought that was somewhat a contradiction.

MS. ROBINSON: Well, maybe I didn't say it right. It was Mr. Frank Brown from the Department of DCRA.

CHAIRMAN SOCKWELL: Okay.

MS. ROBINSON: And I went into the unit.

Can I say one other thing?

CHAIRMAN SOCKWELL: Yes, ma'am.

MS. ROBINSON: The back part of his units is to my back alley.

CHAIRMAN SOCKWELL: Okay.

MS. ROBINSON: That's how I know so much about what's going on. I live on 46th Place.

CHAIRMAN SOCKWELL: All right.

MS. ROBINSON: His back is to my back. There's an

alley separating us.

CHAIRMAN SOCKWELL: All right. So your house rear yard looks onto his rear yards.

MS. ROBINSON: Part of.

CHAIRMAN SOCKWELL: Part of his rear yards.

MS. ROBINSON: Yes.

CHAIRMAN SOCKWELL: All right, and do you see people? Do you see what's going on in the back of his property?

MS. ROBINSON: You can see it if I walk -- I have to come out in my yard. I can see it.

But if you can go on that street right now in front of his property, there is a white car which the owner lives in 4638, deals from the house and that car, and it's full of young people at all times.

CHAIRMAN SOCKWELL: Okay.

MS. ROBINSON: You can go out there now and see it. Now, he's probably in denial right now.

MR. CURTIS: You said 4638 there's a white car?

CHAIRMAN SOCKWELL: Mr. Curtis, yeah, apparently it's something that's unknown to you from what you're saying.

Mr. Moore, do you have any input on this?

MR. MOORE: This is the configuration or location of the houses or the conditions?

CHAIRMAN SOCKWELL: The conditions.

MR. MOORE: Okay. Given the concern expressed to

the Office of Planning and this morning by the community and my colleague, Mr. Wade, who's been in the units, the Office of Planning believes that if it is possible that a condition be placed on the C of O and place the onus on Mr. Curtis to request an annual review/inspection from DCRA for a period of at least five years. The Zoning Administrator's Office. I apologize.

MS. MITTEN: May I ask Mr. Moore what would they be looking for during this review?

MR. MOORE: This would be code inspection. It's been expressed that the buildings are not up to code.

MS. MITTEN: Okay, and is there something preventing you? If DCRA feels that there have been allegations that are well founded, that the buildings are not up to code, why don't you just go there now?

CHAIRMAN SOCKWELL: Well, he doesn't work for DCRA. That's one reason why he won't go.

MR. MOORE: I work for the Office of Planning.

CHAIRMAN SOCKWELL: He works for the Office of Planning.

MS. MITTEN: Okay, and you --

CHAIRMAN SOCKWELL: They have no responsibilities for --

MS. MITTEN: Thank you, Mr. Sockwell. Could I just continue with Mr. Moore?

CHAIRMAN SOCKWELL: Yes, you may, but as Chair I

am just correcting you because you were speaking to him in the vein that he was responsible or involved with enforcement, which he is not, and I was merely making that clarification.

MS. MITTEN: Okay. I understood him to say that these were jointly being proposed by Office of Planning and the Office of the Zoning Administrator. If I didn't understand that correctly --

CHAIRMAN SOCKWELL: I believe Office of Planning can propose conditions that they would not have any involvement in enforcing.

MS. MITTEN: Okay. So, Mr. Moore, the review would be to determine building code compliance; is that correct?

MR. MOORE: Yes, it would.

MS. MITTEN: Okay. Thank you.

MR. MOORE: If you note the last sentence in my recommendation, the very last sentence.

CHAIRMAN SOCKWELL: So that was the extent of the conditions?

MR. MOORE: That's basically the extent of it, yes.

CHAIRMAN SOCKWELL: Okay.

MR. MOORE: Mr. Johnson wants to reiterate.

MR. JOHNSON: Mr. Chair.

CHAIRMAN SOCKWELL: Yes, go ahead, please.

MR. JOHNSON: I have some comments that will maybe

help elaborate on Mr. Moore's and the Office of Planning's recommendation in terms of conditions being placed should the Board decide to grant the variance.

Inclusive of -- I should say maybe to be more specific, some of the administrations that I would recommend that would in a sense have some responsibility to follow up on this would be, of course, the building code component as part of BLRA, the Office of Housing, which is another component of DCRA, and of course, the Office of the Zoning Administrator.

And again, let me just share with you kind of my mindset. I'm in total concurrence with the Mayor's new initiative that we approach these things in a comprehensive manner, and having the background as a neighborhood planner many, many years ago, I still have some strong affinity to the issues that have been raised both by Ms. Jackson and have also been identified almost from a defensive standpoint by Mr. Curtis.

One of the things I would like to suggest, and the Board can surely take it under advisement, would be to possibly fence off and secure part of that property, particularly the areas that are vacant.

The other thing I would suggest -- that would be one -- the other recommendation I would like to suggest would be that because in this country we've always viewed the ownership of property as a responsibility, that Mr. Curtis himself would

either initiate or hire additional staff to periodically check the conditions of its properties.

I'm saying that because one of the things I heard at least in Mr. Curtis' testimony was that a roof fell in, but the insurance company said it was not due to negligence. I did not hear what the reasoning was. So that raises some things in my mind.

So that would be one other suggestion, and then lastly, that we would be willing to take on the annual inspection, and of course, the community can call our offices when we would also document to see if there were any complaints and in a sense use that as a gauge to carry out compliance if the Board so chooses.

So those are just some ideas that came to my mind as a result of listening to this issue this morning and speaking with Mr. Moore briefly this morning about it.

CHAIRMAN SOCKWELL: Mr. Johnson, in terms of the fencing of the vacant property, I mean, whose responsibility would that become?

MR. MOORE: Ultimately the property owner's.

CHAIRMAN SOCKWELL: Okay. So the adjacent property owners could be required to fence off their property as a safety measure to prevent congregating of undesirables and activity?

MR. MOORE: I'm of the opinion that could be the

case, especially when one considers that although nuisance is treated in this city somewhat broadly, it's been my experience that to some degree we really have not addressed a lot of these issues from a nuisance standpoint, and in my mind that looks like that could be.

CHAIRMAN SOCKWELL: I think the problem that we have right now is that within the authority of the Board of Zoning Adjustment these issues cannot be addressed.

VICE CHAIRPERSON REID: You can require a fence.

CHAIRMAN SOCKWELL: I don't know that we can -- well, we can't require a fence for people that aren't before us.

VICE CHAIRPERSON REID: No, no.

CHAIRMAN SOCKWELL: That's the problem.

VICE CHAIRPERSON REID: But I have a question about the fence.

CHAIRMAN SOCKWELL: Okay. Go right ahead.

VICE CHAIRPERSON REID: Mr. Johnson, when you say a fence, I'm just trying to envision how is that -- I mean, the kind of -- the people that are in discussion today, the guys who are into the activity, what kind of fence? Do you mean a fence they can't climb over or a fence that -- a fence that -- if there's a fence there, wouldn't they just congregate right outside the fence?

I mean I can't -- I mean I'm just trying to see how that can help to, you know, mitigate that adverse impact.

MR. JOHNSON: That's a good question, Vice Chair. I was envisioning a six foot privacy fence. Mr. Moore just shared some photograph that appears to be a three foot fence or four foot fence there now. It often really lends itself more towards congregating because people just generally lean or sit on them.

VICE CHAIRPERSON REID: Would that -- you said a six foot privacy fence around the front of the building. Is that permissible by building code? Can that be done?

CHAIRMAN SOCKWELL: Oh, but of course.

VICE CHAIRPERSON REID: Okay. Are you going to put some barbed wire around the top of it?

MR. JOHNSON: I wouldn't suggest we go that far. I don't think this is an incursion on the community, but surely --

VICE CHAIRPERSON REID: You know, I'm saying that in jest. However, I was trying to envision where this property was, and Mr. Sockwell brought to my attention -- I had like kind of put it out of my consciousness because of the fact that I remember it now, that that area was referred to as "Little Babe Ruth." It was just that bad over there with the gunfire and the drugs and the killing and all of that.

And when I -- as it came to my realization what we were dealing with, I was also trying to think of what can we -- you know, if we were to go forward, how can we possibly do

something to try to give some comfort to that community over there that is basically being terrorized for the most part.

And I was wondering if with Mr. Curtis' application for the two units, if that, in fact, from what I have heard here from Ms. Jackson, was that that was somehow complicating --

MS. ROBINSON: I'm Ms. Robinson.

VICE CHAIRPERSON REID: I'm sorry. Ms. Roberts (sic).

-- complicating the issue, and that allowed more people to be in those buildings, and the outside with the fence, I'm not sure if that -- you know, do you mean a secure fence where only the people who lived in the building could come into the fence? In other words --

CHAIRMAN SOCKWELL: I think that the idea is --

VICE CHAIRPERSON REID: -- into the yard?

CHAIRMAN SOCKWELL: I think the idea is these are vacant buildings, and that they would be secured by --

VICE CHAIRPERSON REID: Vacant?

CHAIRMAN SOCKWELL: Yeah, the ones that we are talking about are the vacant buildings that are in between Mr. Curtis' properties.

VICE CHAIRPERSON REID: Oh, you're not speaking of Mr. Curtis' property?

CHAIRMAN SOCKWELL: No.

MR. JOHNSON: No, I'm talking about the vacant -- well, let me qualify that. It was my understanding -- I could be in error -- that Mr. Curtis also owns some of the vacant building.

CHAIRMAN SOCKWELL: Well, he said he didn't. He said he only owned five.

MR. CURTIS: My buildings are occupied, or a unit may be temporarily vacant --

VICE CHAIRPERSON REID: I thought he was saying --

MR. CURTIS: -- preparing for another --

VICE CHAIRPERSON REID: And also --

MR. CURTIS: -- but I do not have vacant buildings per se.

MR. JOHNSON: Okay. Then that would probably be another issue that we could address. I'm sorry. I correct that. I thought or I was under the impression that that was one of your buildings.

VICE CHAIRPERSON REID: Are they secured? Are those buildings -- Mr. Johnson, excuse me -- are they boarded? Are they boarded up so they cannot be penetrated?

MR. MOORE: The answer is possibly. they can still be penetrated, yes.

CHAIRMAN SOCKWELL: Look. I think we're getting a little bit off track here because we can't require anything in this hearing of any buildings other than the ones owned by and

managed by Mr. Curtis. We are talking about solutions, but those solutions are not the ones that will affect the application that we have before us.

I think that the issues that I would want us to frame this in, and here again we need to finish the -- I think we've gotten the idea of potential conditions from Mr. Moore and from Mr. Johnson.

I think we've just about gotten the completion of your closing remarks. Am I -- do you have anything else to say?

MR. CURTIS: Just the fact that the three buildings in question are not the buildings that have problems with respect to drugs. Now, there's drug activity going on, but it's not in my buildings. It's out in the public property and out on the street.

And whether it's a four-unit or a two-unit, the drug activity outside is not affected basically by that that's going on.

CHAIRMAN SOCKWELL: Okay. All right. Is that all you wish to say?

MR. CURTIS: Yes.

CHAIRMAN SOCKWELL: All right. Let me say this. We are looking at buildings that are currently configured as two-unit buildings. Among the issues that I think we have to consider are the fact that if they are returned to one-bedroom, four-unit buildings, then that creates four independent groups

of people.

You converted them to two-unit buildings to increase the number of bedrooms and accommodate larger families, which is what housing for poorer people has tended not to provide in sufficient quantity.

Now, control of the use of those units is very important because the safety of the neighborhood is involved, and it's a neighborhood in crisis, as Ms. Robinson and Mr. Moore and even Ms. Reid are well aware and I'm aware because I've been over there, too, and it's dangerous during the daytime.

So I think that you have shown us the issue of a certain uniqueness of the situation, at least the way the situation developed around your conversion.

There certainly would be a hardship to you. There certainly may be the decision is whether there's as much of a detriment or negative effect in granting or whether there's a greater negative effect in not granting.

There are issues here about security, safety, maintenance. In your case, you are stating that the maintenance is good and that you don't let things fall apart, and that you had landscaped.

On the other hand, Ms. Robinson said that the grass hasn't been cut and then there were collapsed ceilings. But you responded by saying that it was an issue that part of the tear-down of the ceiling was done by contractors who came in

to do the repairs.

We've talked about the issue of tenants being evicted. One tenant you said was evicted because the tenant refused to move out under the conditions of needing to get into the unit to repair it, I believe.

Okay. We have all of these things to look at, but most important is that we have a neighborhood and a situation which we have to determine will or will not, does or does not meet the requirements of the regulations, will or will not be a negative impact on the neighborhood.

Your maintenance of the properties, your vigilance over the tenants and activities that you have control over is very important.

The ability to monitor 24 hours a day is very difficult. You don't live there. You screen your tenants. I know that Section 8 tenants are screened, and if they comply with their requirements, they can stay there. If they don't, it's on you to evict in the proper manner and repopulate your building with new tenants who have, again, been screened and will be expected to comply with their requirements as renters in your property, subsidized renters.

It is your responsibility as a property owner with a vested interest in the neighborhood, not just your property, to try to communicate with the Advisory Neighborhood Commissions, to try to communicate with the police department.

It is also known to be somewhat dangerous to be too obvious doing the latter because these people are dangerous people.

So all I'm saying is that we have these issues to look at.

(The Board conferred.)

VICE CHAIRPERSON REID: You know, Mr. Chair, this particular case, while initially it seemed somewhat complicated, in my opinion now, would warrant us perhaps not taking a vote on it today and deferring it to the next -- our official meeting date, given the fact that the ANC, which we must note the ANC-7E had taken a vote with a quorum present to deny this particular application, and they are to be given great weight in their position.

Then you have the Office of Planning report basically recommending approval, and they also are afforded great weight, but I think that we need to look at a couple of other things.

One, how would it impact the community if it were denied? How much of a hardship it would incur. Would it be infeasible?

And then would you then risk the possibility of having more boarded up buildings over there? You know, so on the other hand, too, if it goes forward, would that have an impact on the community?

The aspect of the fence condition is okay, but I don't think that goes far enough in order to be able to have any type of ability to impact the adverse conditions there on that particular building if, in fact, it is approved.

So I would be inclined to suggest that we defer it, defer and allow us to give more thought to it, as well as I don't know about the request -- perhaps requesting from the Metropolitan Police a police report on those buildings to get a better idea as to the activity being inside or outside or get a better -- get our arms around the situation.

Mr. Chair, Mr. Moore is trying to --

CHAIRMAN SOCKWELL: Yes, Mr. Moore.

MR. MOORE: Ms. Reid, as I mentioned, the Sixth District I talked to the lieutenant in charge of that area.

VICE CHAIRPERSON REID: Lieutenant Kiminsky?

MR. MOORE: Yes, and he did inform me that the problem has subsided quite substantially lately, but it was much, much worse at some point. I didn't discuss with him if the activity penetrated to the private space versus public space, but he did say the activity had diminished quite a lot. So at least we're headed in the right direction.

VICE CHAIRPERSON REID: Thank you, Mr. Moore.

CHAIRMAN SOCKWELL: Great. That's good to know.

Yes, I think that we've got a number of issues that we have to consider, and I would think that among them is

the fact that if the buildings cannot receive a certificate of occupancy, it will force a number of Section 8 residents whose children are in public schools in that neighborhood who have established themselves to move, and that's a destabilizing aspect.

And it would then require the buildings to be converted back to uses that are more likely to attract single, unmarried individuals, and those are the ones that tend to be more likely to have criminal influences occurring within the units because there aren't going to be young children there. There aren't going to be mothers, and that's the things we have to look at.

MS. PRUITT: Excuse me, Mr. Chair. I wasn't sure.

CHAIRMAN SOCKWELL: Yes.

MS. PRUITT: Are you making -- doing deliberations now and a decision now or are you going to defer this to your next meeting?

CHAIRMAN SOCKWELL: I am bringing up the reason why we are going to have -- well, I think we should defer a decision.

MS. PRUITT: Okay. I wasn't clear.

CHAIRMAN SOCKWELL: Yes. And we have to look at all of these aspects of the property and the neighborhood and what's been brought up and hopefully conclude what's best in the long run.

And in terms of the short run, what that means. So I would agree with Ms. Reid that a decision today on this case would be unadvisable or ill advised; that we need to take into consideration all of the things that have been brought forth and deliberate and choose a date for a decision, which would be the next regularly scheduled hearing date, I believe.

If there's anything that we need that we can't get, do we think we need a police report on the buildings? Would that --

VICE CHAIRPERSON REID: I would.

CHAIRMAN SOCKWELL: -- force us to --

VICE CHAIRPERSON REID: I'd like to request that.

CHAIRMAN SOCKWELL: Okay. Then we can request a police report. Now, that -- who would provide that?

VICE CHAIRPERSON REID: The District -- what's the --

CHAIRMAN SOCKWELL: I mean does the Applicant supply that to us?

VICE CHAIRPERSON REID: No, Staff would request it, right?

MS. PRUITT: If you'd like, we can. We have not gotten a good response or not really quickly, timely ones. But we will write them a little requesting information.

Your next meeting is February 6.

VICE CHAIRPERSON REID: Okay, and going back over

the last two years.

MS. PRUITT: We haven't gotten much response.

VICE CHAIRPERSON REID: Well, all we can do is the best we can do.

MS. PRUITT: That's what I'm saying. All we can do is send them a letter.

CHAIRMAN SOCKWELL: We can request it.

MS. PRUITT: And request it. I just wanted to let you know it's not been good.

CHAIRMAN SOCKWELL: Well, if we request it and we put the -- we set the decision meeting for February 6th, that would give us time to either get it or not get it.

Is there anything that you need, Ms. Mitten for additional information?

VICE CHAIRPERSON REID: Could you, Ms. Pruitt -- is it possible to ask -- what was the inspector's name from the police department?

MS. ROBINSON: Kiminsky.

VICE CHAIRPERSON REID: Mr. or Ms.?

MS. ROBINSON: Lieutenant.

VICE CHAIRPERSON REID: Lieutenant Kiminsky? Could you specifically ask that lieutenant?

MS. ROBINSON: Excuse me. Lieutenant Kiminsky, K-n-i-s-k-y.

VICE CHAIRPERSON REID: Now, if in fact we can't

get a written report --

MS. ROBINSON: Excuse me. PSA 607. That's how you --

VICE CHAIRPERSON REID: Okay. Did you get that, Ms. Pruitt?

CHAIRMAN SOCKWELL: PSA 607.

VICE CHAIRPERSON REID: PSA 607, and if you could, I don't think that there will be a problem getting that police report. Usually it's a computerized sheet.

MS. ROBINSON: I have a report, but it's not the newest report.

VICE CHAIRPERSON REID: It's not the what?

CHAIRMAN SOCKWELL: Latest one.

MS. ROBINSON: The latest report. I had one report.

VICE CHAIRPERSON REID: Okay. Could we have that brought into the record?

CHAIRMAN SOCKWELL: Yeah, that can be submitted to the record.

VICE CHAIRPERSON REID: That would be most helpful. Thank you very much. I really appreciate that. If you can just give it to staff.

Do you need a -- can we give her a copy back?

MS. PRUITT: I just would like you to note that you also have a G.W. decision on that day. And the Sewer

McBride appeal in the morning.

CHAIRMAN SOCKWELL: All right. Then we have a tight schedule.

MS. PRUITT: Excuse me?

CHAIRMAN SOCKWELL: We have a tight schedule.

MS. PRUITT: Very tight.

MR. CURTIS: Excuse me. Would it be possible for me to get a copy of that police report?

MS. PRUITT: There may be some additional motions that come in that, you know, we need to put them on, but if they come in like five or ten days before. We don't know that at this point.

CHAIRMAN SOCKWELL: Well, we could --

VICE CHAIRPERSON REID: Go ahead. I'm sorry.

MS. MITTEN: Mr. Chairman, I would just suggest that since it's likely that two other Board members would need to read the record so that they could participate in the decision, and since there's certainly a lot to refresh ourselves about G.W., and the fact that the Sewer McBride appeal not be, you know, the most readily dispatched with, I would recommend that we not put it on the 6th.

CHAIRMAN SOCKWELL: Okay. Then what would be the next available date?

MS. PRUITT: March 6th actually. The next meeting would be March 6th.

CHAIRMAN SOCKWELL: All right. Then we'll put it on March 6th. I mean, during that time nothing changes with regard to the Applicant's status for his building.

MS. SANSONE: Mr. Chair, the Applicant would also need to submit that letter from the owner for that one property that's authorizing him.

CHAIRMAN SOCKWELL: Right, yes.

MR. CURTIS: I made a note.

VICE CHAIRPERSON REID: So with the police report, we just ask for the time from this particular report to date, if we can get that, or even if we can't, then --

MS. PRUITT: All criminal activity in the area; is that what you need?

VICE CHAIRPERSON REID: No.

CHAIRMAN SOCKWELL: Specific to that block, those buildings.

VICE CHAIRPERSON REID: Just that block and those buildings, those addresses specifically.

CHAIRMAN SOCKWELL: Now, on March 6th, would that be a morning or afternoon?

MS. PRUITT: Morning. All meetings are in the morning. Decision meetings are always in the morning.

CHAIRMAN SOCKWELL: Okay. Then barring any other questions, I think that we will continue this. Well, this will be scheduled for a decision on March 6th.

As you may know, on March 6th, you may participate in the hearing, but you would be as audience rather than making any statements.

(The Board conferred.)

CHAIRMAN SOCKWELL: Yeah. Your participation is limited to being in the audience, but not making any statements.

All right. Then we will look to see you on the 6th of March if you choose to come to that meeting.

Thank you. Thank you both. Thank you, Mr. Moore.

Then this concludes the morning hearing.

(Whereupon, at 12:34 p.m., the meeting was recessed for lunch, to reconvene at 1:30 p.m., the same day.)

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

(1:36 p.m.)

MS. PRUITT: However, we had advertised through the BZA that there would be a campus plan, further processing for Trinity College. It is now under the jurisdiction of the Zoning Commission, which will have a new hearing date. Ms. Mitten will actually address that.

MS. MITTEN: Good afternoon, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Tuesday, January 9th, 2001.

My name is Carol Mitten, Vice Chair of the Zoning Commission for the District of Columbia. This hearing will please come to order.

As published in the D.C. Register on Friday, December 8th, 2000, the review of campus plans has been transferred from the Board of Zoning Adjustment to the Zoning Commission. Therefore, the public hearing of the campus plan for Trinity College further processing, which is Zoning Commission Case No. 00-37CP, also known as BZA Case No. 16645, scheduled for this afternoon, has been rescheduled to Thursday, January 18th, 2001, at 7:00 p.m., in this room.

As a procedural action, the Zoning Commission for the District of Columbia now adjourns today's public hearing. Thank you very much for your patience in this matter. The Commission sincerely regrets any inconvenience this postponement

may have caused.

I now declare today's public hearing adjourned.

Thank you.

CHAIRMAN SOCKWELL: You may all go home now.

(Laughter.)

CHAIRMAN SOCKWELL: Good afternoon. This is the afternoon session of the public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Robert Sockwell, Chairperson. Joining me today is Sheila Cross Reid, and from the Zoning Commission, Carol Mitten.

Copies of today's hearing agenda are available to you. They are located on 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 side 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 variances is:

One, statement and witnesses of the Applicant;

Two, government reports, including Office of Planning, Department of Public Works, et al.;

Three, report of the Advisory Neighborhood Commission, the ANC;

Four, parties or persons in support;

Five, parties or persons in opposition;

And, six, closing remarks by the Applicant.

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

The record will be closed at the conclusion of each case, except for any material specifically requested by the Board, and 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 not engage in the members of the Board in conversation.

Please turn off all beepers and cell phones or set them to vibrate at this time so 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 or whether proper and adequate notice of the hearing has been given.

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

Does the staff have any preliminary matters?

MS. PRUITT: No, Mr. Chair, we have no preliminary matters.

CHAIRMAN SOCKWELL: If not, then let's proceed with the first case.

MS. PRUITT: The first application on the afternoon agenda is Application 16657, application of Christian Praise Church, pursuant to 11 DCMR 3104.1, for a special exception under Section 205, to establish a child development center for 20 children ages two and a half to five years old, five children ages five through eight, and a staff of six in an R-1-B district at 3626 Alabama Avenue, S.E., Square 5668, Lot 34.

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

(Whereupon, the witnesses were sworn.)

MS. PRUITT: Please be seated.

Mr. Chair, there are a couple of issues with this particular case. First, you have a request for party status from Barbara Ashby. Well, there are three things.

Request for party status. You need to waive the filing time for the affidavit of posting, and there should be some clarification. We advertised for 25 children total, and the Applicant's information says 30. So we just need to clarify which one that it is.

CHAIRMAN SOCKWELL: You are representing the

Applicant?

Turn you microphone on by pressing the button at the front of it, and identify yourself and your address, sir.

MR. BROOKS: Minister Aaron Brooks. The address is 1621 28th Street, and that's Southeast Washington, D.C., on behalf of the Power to Become Child Care Center, which is located at 3626 Alabama Avenue in Southeast Washington.

CHAIRMAN SOCKWELL: All right, and the number of children is?

MR. BROOKS: At the original time, Mr. Stockwell (phonetic), of the application it was 20 to 25 children, but per Karen Buster (phonetic), who is the representative at Human Resources, at 841 North Capitol, she zoned for 30 children per the square footage of the inside of the facility.

CHAIRMAN SOCKWELL: All right. So that means that you have qualified the facility at this point to accommodate 30 children from the D.C. --

MR. BROOKS: Yes, sir.

CHAIRMAN SOCKWELL: So I assume that then we can amend the application --

MS. PRUITT: Correct.

CHAIRMAN SOCKWELL: -- based upon --

MS. PRUITT: For 30 children.

CHAIRMAN SOCKWELL: Yes. If you'd like, you may begin your presentation.

MS. PRUITT: You still have to waive the affidavit filing.

CHAIRMAN SOCKWELL: Oh, that's right. I'm sorry.

MS. PRUITT: And you also have a party request that you have to deal with.

CHAIRMAN SOCKWELL: That's right. I'm sorry.

Does anyone have an issue with waiver of the affidavit for filing?

(No response.)

CHAIRMAN SOCKWELL: Then let the record reflect that we waive the rules to accept the late filing.

And would the person wishing party status please come forward? Push the button in the front of your microphone. Thank you.

Identify yourself, please, and your address and your reasons for requesting party status. And you filed your request in a timely manner.

Thank you.

MS. ASHBY: Can I read from my letter?

CHAIRMAN SOCKWELL: Yes. Well, you can refer to the letter for the things that you --

MS. ASHBY: Okay. My name is Barbara Ashby. I live at 2145 36th Place, S.E. My residence is on the corner of the alley where the Christian Praise Church wishes to drop children off and pick them up.

In addition, I have a garage with an apron that has three parking spaces, which is directly behind the back of the proposed child care facility. I'm very concerned because this is not the first time that the Christian Praise Church has attempted to operate a child care center at this same location. I do not know if the first center was licensed, but I do know that they provided before and after school care, as well as care for several preschoolers.

I have several neighbors here who can also testify to that fact, who also live and park along this same alley.

As you know, the Christian Praise Church and the proposed center are located on Alabama Avenue, S.E., which is a very busy bus route. The residents who live on Alabama Avenue do not park on Alabama because it's so busy. They park in the back, and they use that alley to enter their property.

We all have garages in the back, but let me say this. One of the reasons I'm so strongly against this, too, is that -- and I think I should have party status -- this is not the first time they have attempted to have a center.

When they had it in the past, parents would come to pick up their children and drop them off, and they would actually park on my apron in front of my garage, as well as on the aprons of other garages along the alley so that they could go in and pick up their children.

And when we would ask them not to do this, many of

the parents were very rude and disruptive to us. Other parents would double park in the alley so they could go in and get their children because there is no space to park back there, and we're, you know, like right across from the proposed center.

In addition, 36th Place, which is the front of my house, is directly across the street from Ann Beers Elementary School, a school that has 550 students. Thirty-sixth Place is a one-way street with one lane down the center. During the day cars park on both sides of 36th Place from Alabama Avenue all the way back to the end of the street.

When parents come to drop off their children or pick them up, they either idle in the middle of the street or stay parked there, you know, until they can go in and get their children. So 36th Street -- Place -- excuse me -- which is the front of my property and also the side of the church, between every -- we have three rush hours really. We have one in the morning that starts as early as, I think, 7:00.

MS. MITTEN: Ms. Ashby, could I just interrupt you?

MS. ASHBY: Un-huh.

MS. MITTEN: We're going to be able to hear all of that when you get to testify.

MS. ASHBY: Okay. I didn't know how much. I didn't know if I'd get another chance.

MS. MITTEN: I think what Mr. Sockwell was asking

you to speak to is the standard for party status, which is how are you individually more affected by this request than other people in the area.

MS. ASHBY: Okay. I'm individually more affected because I have a garage and parking area directly behind the proposed center, and in the past, they actually used my space to park their cars.

CHAIRMAN SOCKWELL: What is your address again?

MS. ASHBY: 2145 36th Place, S.E.

CHAIRMAN SOCKWELL: And you're next to the alley?

MS. ASHBY: I'm next to the alley, and my property extends all the way -- my backyard is in the alley, and then behind my back yard is a garage.

I have photographs that I submitted, and I also have additional photographs.

MS. MITTEN: Where?

MS. ASHBY: They were in the record because --

MS. PRUITT: They're in there.

MS. ASHBY: And I have some more photographs, and I also have a petition from neighbors.

MS. MITTEN: I think what might be helpful for us is we have a plat that was -- you probably didn't submit the plat.

MS. ASHBY: No.

MS. MITTEN: But if you could just -- it's

actually an attachment to the Office of Planning report. If you could just identify on the plat for us where your lot is, that would help us just place you in relationship to the -- if you could show Ms. Pruitt and then she could show us.

(The Board conferred.)

MS. PRUITT: We're just trying to get the lot identified where you live. Okay?

(The Board conferred.)

CHAIRMAN SOCKWELL: Obviously, Ms. Ashby, your property is directly adjacent to the proposed site, and that puts you in a unique position that you would be immediately affected under any circumstances, and as far as I see, you have a legitimate request for party status.

Do the other Board members have any --

MS. MITTEN: I agree with that assessment.

MS. ASHBY: Thank you.

CHAIRMAN SOCKWELL: Then I move that we grant party status.

MS. MITTEN: I second it.

CHAIRMAN SOCKWELL: In favor?

(Chorus of ayes.)

CHAIRMAN SOCKWELL: All right. You don't have to say there because your testimony will come later.

MS. ASHBY: Thank you.

CHAIRMAN SOCKWELL: All right. Reverend Brooks,

you may begin your testimony.

MR. BROOKS: May I approach, Mr. Sockwell?

CHAIRMAN SOCKWELL: You will hand that to staff, if you would, please.

MR. BROOKS: Okay. First of all, let me start off by saying good afternoon and once again introducing myself. I'm Minister Aaron Brooks.

I propose to have the Power to Become Child Care Center listed at 3626 Alabama Avenue. This is a new facility. I am not a member of the Christian Praise Church. I am just leasing the building from them, but under the exception that we have commercial zoning because the building has not previously been commercial zoned.

I was not a part of any prior day care center or any affiliation with the church. So this is my first time applying or trying to run any type of child care facility out of that residence.

In addition to that, I've provided the Board with a copy of the business proposal and also matters regarding the concerns for parking, the traffic on and adjacent to Alabama Avenue, and the traffic pursuant to Ann Beers elementary School.

There is a crossing guard at that intersection where Anne Beers and Alabama Avenue intersects during the time when the traffic is high, which is early in the morning and in the afternoon.

In addition to that, I submitted a plat to the Board with my application outlining the back space area behind my proposed child care center and the church.

I have permission from Pastor Andrus -- this is he -- to use the church's yard and lawn area because it's not being used for anything else. So I have permission from his to use that as parking for loading and unloading during the time that my children will be coming or going from the day care center. That area can accommodate up to 20 to 30 cars at a time.

CHAIRMAN SOCKWELL: I'm sorry. Please continue.

MR. BROOKS: In addition to that, I don't propose to bring additional traffic into the neighborhood, but to use the existing students that are already there. I talked with the interim principal at Ann Beers School. Their before and after care is overloaded. So they would need additional before and after care.

The Director at St. Timothy's, which also runs a child care facility on Alabama Avenue, has a waiting list where they cannot accommodate all of their children.

In addition to that, Christian Praise Church has children will need that type of facility that I'm providing. So I don't propose to bring additional children or traffic into the neighborhood, but to strictly pull from those that are already there that need the service to be provided to them.

Those are the matters regarding parking. If I

could, I need to get to my easel. I want to just make sure that the Board can still hear me.

CHAIRMAN SOCKWELL: You will need to bring the easel to a point where you can speak from it or if you have someone who can turn the pages, I can give you a light pen that you can use if you would like.

MR. BROOKS: I just brought a ruler.

VICE CHAIRPERSON REID: Excuse me, if I may, Mr. Chair.

Sir, if you would, I think that if you put your easel kind of like to the -- yeah, kind of slant it that way a little bit so that these --

MR. BROOKS: The ladies can see.

VICE CHAIRPERSON REID: The people. I don't know if they're all ladies -- who come to participate in your hearing will be able to see what you're presenting to us, as well.

And Mr. Sockwell does have a pen, a light pen, that you could use while we all see it.

CHAIRMAN SOCKWELL: If I can find it.

VICE CHAIRPERSON REID: He thinks.

CHAIRMAN SOCKWELL: Yeah, I know it's in here. Here we go. Okay. Just press the button on the side of it and point it in the direction of your --

MR. BROOKS: If everyone could direct their attention to the easel, the name of the proposed child care

facility is the Power to Become. The acronym is PTBC.

The Bible says in John 1 and 12 that to as many as received him gave he the power to become the Sons of God.

All too often times growing up in the inner city -- I've grown up, born and raised in Southeast -- children are told that they're never going to be anything, that they're not anything, that their fathers weren't anything, and so consequently, they grow up not being anything.

It is my objective and intention to make sure the children know that they have the power to become anything that they want. If you look at my logo, which is on the front of the presentation that I've given you, the steps of the logo that lead up to the Power to Become have doctor, lawyer, entrepreneur, preacher. I would like the children to understand that they have the ability and the power to become anything that they would like.

So that's the proposed name for the day care center, and that's the reason why. That covers the name.

It is the intent if you turn and open to page 1 that my staff and myself have the Power to Become. Our primary focus is to create excellence in early childhood education. We're intending to develop well rounded, disciplined children and power to meet the challenges of the 21st Century.

Too many times children don't have the proper models, the proper role models, whether they be male or female,

in life, and so consequently our jails are overcrowded. Our institutions for insanity are overcrowded.

Right now I work with abused and neglected children, and I don't know if you guys know, but the social care system is struggling to create accommodations for these children right now because the parents have not taken responsibility, and there hasn't been proper care given.

So it is our intention to create excellence and discipline, and we're going to do that by starting at the age of two and a half years old. We're going to install a strong foundation in the children starting with basic academia, reading, writing, arithmetic. I think the kids have gotten away from that somewhat with the elementary schools, going to computers and things, and I still think there's a great need for basic math and reading, basic science, and things like that.

Also, we're intending to use biblical principles and loving discipline and the knowledge of the young people of who they are, whether they're Hispanic or African American, getting them back to their heritage.

We have also outlined to have field trips and to have our ratio based on a DCMR 29 qualifications of staff to ratio. I don't believe I have to go into extensive detail of that, but just it's in the package. It's the third bullet.

The hours of operation are going to be from 6:00 a.m. to 7:00 p.m., and then on Friday and Saturday, we intend to

have extended hours, concluding at midnight so that there will not be the children getting in too late or there will not be any late night traffic as if there was a party or a club going on. We're going to cut off at that point.

But oftentimes I work at night now, and in the evening. So I would do greatly to have a day care center right now if I could that would open in the evening.

So I think that that would be a good service to provide in 21st Century families. Everybody doesn't have a nine to five job.

In addition to that, the families must be notified if any changes occur, whether that be with the hours or whether they intend to make any changes. We want to make sure that we have a smooth and congruent flow with the families. We want there to be excellent communication.

On top of that, we have outlined to have the medical needs taken care of the children with the health forms that are submitted and the DCMR 29, as well as the child care handbook. Each parent will have to submit a health form on behalf of their child with any allergies noted or anything of that nature, and we will just administer basic first aid, i.e., ice packs and pressure if there is a cut. All of my staff will be first aid certified, but any emergencies that arise, we will immediately notify the parents, and in addition to notifying the parents have the children transported to the hospital if the

need is that severe.

The release authority of the children will be only to two, three parents at the most. Children get abducted a lot, and I don't want to get in the middle of any mother and father spats between the parents. If the parents have custodial rights to the children, they have the right to sign them out.

In addition to that, sometimes parents have to work late and things like that. So we want to have at least one grandparent or somebody else that can sign the child out.

Any changes in the registration data, i.e., if the children change schools or if the parents get married and they were single before or anything like that, we'll just update those records quarterly.

CHAIRMAN SOCKWELL: Now, the fees you really don't have to describe to us.

MR. BROOKS: All right, all right.

CHAIRMAN SOCKWELL: All right. What we'd like to do is ask you to discuss things like parking, transportation issues in any detail, the way staff arrives and departs, the strategic method by which people are dropped off and picked up, those sorts of things.

MR. BROOKS: Okay.

CHAIRMAN SOCKWELL: And which parts of the building you're going to be using for which children, where infant care -- you said you don't have infants because you're

starting at two and a half. What's the cutoff upper age?

MR. BROOKS: The cutoff age is eight years old. From five to eight years old, we're just going to do before and after care.

At the middle level of the facility will be the before and after care children because they'll be coming in and leaving out from school.

And the basement level will be the intermediate children. Those are the children between three and six, and then the two and two and a half year olds will be on the upstairs level because I don't necessarily want them by the door if there's a draft, and I don't want them to be party to the frequent traffic coming back and forth with the before and after care children.

The staff will park in the rear of the facility. There are three parking spaces directly behind the facility, and again, I have permission from Christian Praise Church to use their lawn for parking for my staff persons.

The staff is going to be small, only up to six people at any given point during the day. So there will only be between four to six cars parked there at any given time for any extended amount of time.

There will be no entrance or exit onto or off of Alabama Avenue so as not to participate in their frequent traffic flow that goes on on Alabama Avenue.

Also, I've spoken with Mr. Grant. He has assured me that there if a crossing guard, as I previously stated, at that intersection during the times of pick-up and drop-off between 36th Place and Alabama Avenue, and he has also assured me that they are lobbying for traffic calming devices, such as the speed bumps, yield signs, et cetera.

CHAIRMAN SOCKWELL: Okay. Continue. Is there more that you wish to --

MR. BROOKS: No, that's about all concerning the traffic and the drop-off and the pick-up. Other than that, we're just going to provide the parents with handbooks, pre-registration information that's going to be given to them so that I intend to conduct an interview with the parents so that everybody is clear on what we're offering and what they're receiving, and all of these are according to the DCMR 29 code I've regulated in the presentation that I've given you, to include meal and snacks.

We're going to have the parents bring the meals and things like that for the children because, to be quite frank with you, the amount of money that it costs to get the ducts put in for the commercial kitchen were just more than I could bear in starting a business.

Some time during the time that the business is generating capital, we will intend to do that.

Also, it will keep the parents from having any

complaints about what their children are allergic to as far as what they eat because they'll be supplying the meals.

CHAIRMAN SOCKWELL: Can you respond to the Section 205 requirements of the zoning ordinance for us, please?

MR. BROOKS: Pursuant to Code 205-3, again, that's on the first page. To avoid the bus traffic flowing through Alabama Avenue, persons dropping off and picking up their children, again, will do so in the rear of the facility.

Pursuant to Code 205-5, the center will provide an open, outdoor play area in the rear of the facility. Also, the is a library directly next door to Ann Beers Elementary School where public playground equipment is provided.

Pursuant to Codes 205-5 and 207-7, there is only one street to cross to get to that library playground area. Ample sidewalk space is provided and available.

Please excuse the typographical error there.

But there is available space for children so that there will be no walking in the street or anything of that nature. This will provide quick and easy travel, and again, as I stated previously, there's a crossing guard in that section during the busy times of the day.

CHAIRMAN SOCKWELL: And your outdoor play area is sufficient for the number of children and the requirements?

MR. BROOKS: Yes. I submitted a blueprint of the outdoor play area along with my application.

In addition to that, Mr. Sockwell, during the time that we had the preregistration and the interview with the parents, we're going to inform them of the pick-up and drop-off procedures so that no one is confused and that we don't have any accidents on that Alabama Avenue side. It is a very busy street, and there is a lot of traffic there. So we're going to make sure that the parents are well informed.

On top of that, once you get a chance to actually look through the proposal, I do have a monthly parent night where that problem will be at the top of the agenda, reiterated continually so that no one is under the impression that under any circumstances do we have the children on Alabama Avenue.

CHAIRMAN SOCKWELL: Now, you are within 1,000 feet of another child care facility?

MR. BROOKS: Yes.

CHAIRMAN SOCKWELL: And in considering your location and your traffic patterns, the times and points of pick-up and drop-off, you don't -- how do you feel that your facility will be compatible with that other facility and its operations?

MR. BROOKS: The other facility and its operation, I've gone over and spoken with them in brief, not extensively, but from my understanding they pick up and drop off on the Suitland Road side where the former Marion Barry House is, going right down Suitland Road for the same reasons that I intend to

pick up and drop off on the other side, is because the traffic area on Alabama Avenue is very high, very strong at whatever time of the day you go through there.

So they drop off and pick up on the Suitland Road side, which has no direct effect on where we drop off and pick up. We won't be bumping heads with each other, so to speak, nor will we be interfering with each other in any way.

CHAIRMAN SOCKWELL: All right. Thank you.

MR. BROOKS: Thank you very much.

CHAIRMAN SOCKWELL: Questions?

MR. BROOKS: Okay.

CHAIRMAN SOCKWELL: Did you have anything to say, sir?

MR. ANDRUS: Other than thank you all, thank you for hearing us, and the traffic loading and unload problem. We do understand the concern of our neighbors, and it is a very high traffic area, but as Minister Brooks stated, our main goal is to solicit those who are already coming into the area.

The former problems that was there, I was not the pastor at the time, but I have allowed Minister Brooks to park on the property next door, which is ample parking for the amount of business that we're going to -- that the day care facility will solicit, and we have no intentions whatsoever of complicating any parking matters with our neighbors whatsoever.

We are going to be sure that the parents know our

loading and unload procedures.

CHAIRMAN SOCKWELL: And just again for the Board's knowledge, your name again?

MR. ANDRUS: I am Pastor Jesse Andrus of Christian Praise Church.

CHAIRMAN SOCKWELL: Andrews or --

MR. ANDRUS: Andrus.

CHAIRMAN SOCKWELL: Andrus.

MR. ANDRUS: Correct.

CHAIRMAN SOCKWELL: And you were not the pastor of the church at the time that the previous day care center was in operation?

MR. ANDRUS: This is correct.

CHAIRMAN SOCKWELL: All right. Thank you.

VICE CHAIRPERSON REID: I have a question, Mr. Chair.

CHAIRMAN SOCKWELL: Yes.

VICE CHAIRPERSON REID: In regard to the parking, the drop-off and pick-up, I understand that you said there would be a place made available on the lawn and rear of the church.

MR. BROOKS: Yes, yes.

VICE CHAIRPERSON REID: Okay. And that would be designated as the drop-off point and the pick-up point.

Now, do the parents have to park and go in or there will be someone, a staff person to take the kids inside?

MR. BROOKS: Well, one of my staff persons will be right there. The church and the building are parallel to each other this way, and when the parents park on the lawn of the church, they'll be right at the rear of the facility where the entering of the facility will be. So there will be a staff person right there at that door on the lawn.

VICE CHAIRPERSON REID: Okay.

MR. BROOKS: Because the people will come right across the lawn onto my facility. There is no fence in between the day care center and the church.

VICE CHAIRPERSON REID: They'll be escorted?

MR. BROOKS: Yes.

VICE CHAIRPERSON REID: Okay. Now, in regard to the play area, if I understood correctly, the children will be, during designated play times, they will be taken across the street?

MR. BROOKS: Well, depending on the weather and things like that, but there is enough space in the rear of the facility that they can play there, but as far as play equipment, there is a library directly across the street.

VICE CHAIRPERSON REID: Okay. When you say "play there," where is there -- is there a designated play area?

MR. BROOKS: Yes. I mean, there is just ample yard space out there for them, but there is not any equipment for them as far as sliding boards and things like that, and so

the library is a public library. I've spoken to the director at the library. It has ample, safe playground equipment complete with the -- I can't think of what you call the padding that they put under the playground equipment, but it's complete with that.

VICE CHAIRPERSON REID: So at some point do you intend to provide that at the facility?

MR. BROOKS: Of course. Yes, of course. I've looked into the playground equipment. It costs roughly from ten to $15,000 to get the equipment and then get it mounted the way it's supposed to.

VICE CHAIRPERSON REID: But in the meantime that the children are going across the street, you have ample staff to insure the safety of them as they are transported back and forth across the street?

MR. BROOKS: Yes. We are going to have staff escorting the children back and forth across the street, and there will only be one street to cross, and it's a very short street, and there's a cross-walk provided there. There's no multi-lanes or anything. It's a one-way street. There is a cross-walk at the end of the street. They're cross that one street, and then they're directly about 40 or 50 paces from the library.

VICE CHAIRPERSON REID: Okay.

MR. BROOKS: So they will be escorted directly to that area.

VICE CHAIRPERSON REID: Okay. Thank you.

And then finally, in regard to the issues that were raised by the community, particularly Ms. Ashby, the lady who requested party status, are you going to put in place any rules to better protect the people in the community, such as in your manual that you give to the parents, rules in regards to parking on the neighbors' lawns or the neighbors' parking spaces?

And I guess some type of penalty or something to kind of regulate if, in fact, there's a violation of that particular rule because it seems to me there is a lot of consternation in regard to them parking the cars in a way that would be disruptive or that would be an imposition on the people in the community. So that if you have the rules in place, that would help give some solace to the community.

And the aspect of the rudeness and the way that the -- addressing the manner in which they respond to people in the community who may raise an objection, hopefully in a respectful way, to some type of violation of the rules, and I guess some type of guidance as to how to conduct themselves so that you won't have the kind of adverse impact or the kind of things that are being brought out as to what has happened not necessarily at your center, but honestly, this is the experience that has happened in prior centers there, as well as the other school that's in the community that also has children. And this

is a way to circumvent that problem before it even starts, if, in fact, it were to start.

MR. BROOKS: Right, and I am fully and completely trying to comply with the community, Ms. Reid. I have no intention on disrupting the lives of Mr. Ashby or anybody else with regard to their parking and their garage area. I would have the same concern if I lived there and it was my garage.

I intend to have an open house prior to us opening the child care facility where I personally intend to walk the parents around there to point out specifically these people's driveways, in addition to pointing out to them where they should be parking their cars for pick-up and drop-off.

Also, I've looked into getting a sign to point directly to say, "Do not park in these driveways. They're private," a sign that's going to be on my property, but point towards theirs.

As far as penalties go, I can't readily tax one citizen for parking on another citizen's property. Now, if Ms. Ashby or somebody in that neighborhood decided to have that person towed, and I will make them aware that it will be at their expense if something does get to that manner.

As far as being rude or anything like that, we're not going to condone any of that. As a matter of fact, I'm going to speak very harshly against that at the open house and at the orientation because I want this to be something where the

community works together, not against each other. I want this to be something where if they see something going on in the community, they notify us. If we see something going on, we notify them.

I've already talked with Pastor Andrus. We're going to have like once a year during the summertime a little community cookout type thing so everybody can get involved and talk with each other, so that the fires stay very small, if any fire at all.

I intend to work with the community, not against them.

VICE CHAIRPERSON REID: Well, if -- I'm sorry.

MR. BROOKS: But as far as penalties go, other than enforcing a towing policy with persons that park on these people's garage or in their parking area, I could not in my business practice enforce a penalty for them parking on a personal person's property.

VICE CHAIRPERSON REID: Well, in previous cases before us, sir, where there was a similar situation, the entity, the school itself had a policy predicated upon complaints that they received, and if they have people who were, you know -- got repetitively complaints about parking and things like that, they had to place some type of penalty that was being imposed.

MR. BROOKS: Of course, I'm sure that can be instituted.

VICE CHAIRPERSON REID: Right.

MR. BROOKS: For example, a three to five rule of complaints or if the person has three complaints about your particular vehicle, then I can impose a vehicle --

VICE CHAIRPERSON REID: Well, probably --

MR. BROOKS: -- two complaint --

VICE CHAIRPERSON REID: Excuse me, sir. But probably the first offense, second offense, third offense.

MR. BROOKS: Right. That's what I'm --

VICE CHAIRPERSON REID: That type of thing.

MR. BROOKS: Right. Where it builds up.

VICE CHAIRPERSON REID: And we'd like to be -- we probably would -- I would ask that we see something like that that would be instilled.

Now, the last thing was -- I said that before, but this is really the last thing.

MR. BROOKS: Okay.

VICE CHAIRPERSON REID: The fact that the people -- if I understood you correctly, the children that you will have at your school are children who are already in the community, and if I understood it correctly, your facility is more the overflow to accommodate the need of some of the kids that are not being or are having difficulty being accommodated in the already existing facilities.

MR. BROOKS: Yes.

VICE CHAIRPERSON REID: So that the children that you will be working with are children who are already there in the community as opposed to having children coming from other areas.

MR. BROOKS: Yes.

VICE CHAIRPERSON REID: Is that exclusive?

MR. BROOKS: No, that's not exclusive, but that's what my intention is. I have talked with the principal, again, at Ann Beers Elementary School, but I can only have 30 kids. Christian Praise has 15 to 20 children on their own without even getting any from the elementary school.

So the number of children that I'm allowed to have automatically circumvents me having a heavy flow of traffic from anywhere else because once I get that 15 or 20 directly from there, I only have ten spaces left available. If the school even comes out with those ten, then I have no other room for anybody else to bring any flow from anywhere else.

I put out a survey in the community with the school and with the church to see what type of response I would get on a facility like mine. I got 22 responses back in the affirmative that people would want to have their children there.

So if I got with that, then I only have -- and I put out 50 surveys, and I got 22 back in the affirmative.

VICE CHAIRPERSON REID: Okay.

MR. BROOKS: And so if I have that 22, then that

only leaves me with eight other ones, and that was just at the school and at the church alone.

VICE CHAIRPERSON REID: Okay. Thank you.

CHAIRMAN SOCKWELL: So if I might say then, the children that are coming in are, as was stated, an overflow. They are children that would want to be accommodated at the adjacent facilities but cannot be accommodated. In some instances you said there was a waiting list.

MR. BROOKS: Yes.

CHAIRMAN SOCKWELL: And you were going to capture children from that waiting list, and others that would be neighborhood children where there's a need.

MR. BROOKS: Yes. For example, the elementary school, when I spoke with the principal, she has children there that are in the first and second and third grade, but their brothers and sisters are not old enough for the school and things like that. They are two and a half to three years old. So if the parent could put their children in school there in the first or second or third grade, and the brother or sister is right there across the street, then it makes that available for them to be able to capitalize right there in the same area.

CHAIRMAN SOCKWELL: What percentage of the children do you believe will probably walk or be walked to your facility from the neighborhood, as opposed to being driven from the neighborhood or anywhere else? Do you have any idea?

MR. BROOKS: For the most part the parents in the neighborhood pretty much walk their children to school. I see them walking them in groups. So I would say there's about a 50-50 split between those that drive and those that walk directly in their neighborhood because, like I said, the parents generally get together and walk the children to school. They take different days from what I understand, and one parent walks on Monday and Tuesday and another parent, you know, so on and so forth.

And so they've got that pretty worked out. I was out there at school time. It was about 7:45 to eight o'clock in the morning, and I was out there talking with the parents and passing out the survey.

CHAIRMAN SOCKWELL: Okay. So you think that about half --

MR. BROOKS: Yes.

CHAIRMAN SOCKWELL: -- of your students will probably come on foot with parents.

MR. BROOKS: Yes.

CHAIRMAN SOCKWELL: And the other half will be dropped off.

MR. BROOKS: Yes.

CHAIRMAN SOCKWELL: Okay.

MS. MITTEN: Mr. Chairman, I just had a few questions.

Minister Brooks, we had some photographs in our file here, and so I'll be looking at the photograph, but I'm sure you know what it looks like.

MR. BROOKS: That's right.

MS. MITTEN: I just want to be sure. The church is the white building on the corner; is that correct?

MR. BROOKS: Yes, ma'am.

MS. MITTEN: Okay, and in the photograph it shows a fence along the alley.

MR. BROOKS: Yes, ma'am.

MS. MITTEN: How will the folks get to the yard to park on it?

MR. BROOKS: It doesn't show that there is a wrought iron fence separating the yard from the street on the 36th place side, but his directly across from the elementary school.

MS. MITTEN: Well, here's what I see. I see a wood fence behind the church, and then I see a chain link fence behind the building where the day care center is supposed to go. Is that more or less the way it is?

MR. BROOKS: That's accurate from the -- what you have in front of you is a shot of the back of the two buildings.

MS. MITTEN: Yes.

MR. BROOKS: The church actually faces the 36th Place side.

MS. MITTEN: Okay.

MR. BROOKS: And where it places 36th Place, there is a wrought iron fence.

MS. MITTEN: And is it a bunch of brick piers and --

MR. BROOKS: No. That's the divider between the two yards.

MS. MITTEN: Okay. Maybe --

MR. ANDRUS: May I can.

MR. BROOKS: Okay.

MR. ANDRUS: If I understand your question correctly, you want to know how do they actually get to --

MS. MITTEN: How the people access with their vehicles.

MR. ANDRUS: -- the facility, right. From Branch Avenue, they would come going up Branch Avenue to our Pennsylvania Avenue and make a left turn -- a right turn onto U Street, and U Street will bring them all the way around to 36th Place.

MS. MITTEN: Okay.

MR. ANDRUS: And they can make entrance into the yard to park from that way. They don't have to take that alleyway into 36th Place.

MS. MITTEN: So the access, the vehicular access to your yard is -- to the yard of the church where this drop-off

parking would be --

MR. ANDRUS: Right, right.

MS. MITTEN: -- is from 36th Place.

MR. BROOKS: Yes, ma'am.

MR. ANDRUS: Right, right.

MS. MITTEN: And is there a curb cut there now?

MR. BROOKS: Yes.

MR. ANDRUS: Yes, yes.

MS. MITTEN: You know, like a little driveway sort of thing.

MR. ANDRUS: Yes, yes, yes.

MS. MITTEN: And is the area there people would be parking behind the church, is that paved or is that grass or --

MR. ANDRUS: It's grass.

MS. MITTEN: It's grass?

MR. ANDRUS: Yes.

MS. MITTEN: So do you have concerns about people parking on grass? I mean if they do that with any kind of regularity you won't have grass.

MR. ANDRUS: Oh, it's not pretty grass right now anyway. In fact, we park on it. We park there for overflow on Sundays when we have regular service. So we use it for parking now.

MS. MITTEN: Okay, and you overflow is overflowing from where? Where do most of the other people park on Sunday?

MR. ANDRUS: On 36th Place.

MS. MITTEN: Okay. So they're parking on the street?

MR. ANDRUS: Right.

MS. MITTEN: And they use the area behind the church only when there's not enough parking on the street.

MR. ANDRUS: Right.

MS. MITTEN: Okay, and how many cars can you accommodate in this?

MR. ANDRUS: I would say about 18, 20 cars.

MS. MITTEN: Okay, and is that -- I don't know if you'll know what the term "stacking" means. Is that where you can get 18 cars in, and people block each other in or is that 18 cars and anybody who's parked there could leave at any given point?

MR. ANDRUS: We probably could get -- I would say we've gotten -- we have not looked at it in that dimension as far as perfect parking, but I would say --

MS. MITTEN: No, but when you answered the question --

MR. ANDRUS: -- in other words, if we park around the perimeter, I would say you probably can get comfortably 15 cars.

MS. MITTEN: Okay, and that would get everybody sort of --

MR. ANDRUS: And someone can easily -- right, right.

MS. MITTEN: -- free access.

MR. ANDRUS: Right. They can go and come out, go and come out, right.

MS. MITTEN: Okay, and then is the parking area that's behind this building where the day care center is proposed, is that outside the chain link fence?

MR. BROOKS: Where the staff is going to park is directly outside the chain link fence.

MS. MITTEN: Okay.

MR. BROOKS: There is a designated area for parking right there.

MS. MITTEN: Okay.

MR. BROOKS: Which is where the staff will park.

MS. MITTEN: Okay, and you said there's three parking spaces there?

MR. BROOKS: Yes.

MS. MITTEN: Okay, and then my last question is: how long is the lease that you have with the church for the day care?

MR. BROOKS: We have a year to year lease. It goes from 12 months and then in the 11th month we review the lease every 11th month and go forward.

MS. MITTEN: Okay. Thank you.

MR. BROOKS: Thank you.

CHAIRMAN SOCKWELL: Minister Brooks, with regard to -- well, actually, I take that back. This is for Pastor Andrus.

What days do you have your principal services?

MR. ANDRUS: Wednesday evenings is Bible study, and Sundays. We have Sundays.

CHAIRMAN SOCKWELL: So you have your entire congregation on Sundays and a portion for Bible study on Wednesdays?

MR. ANDRUS: Correct.

CHAIRMAN SOCKWELL: And that's the extent of your use of the major facility?

MR. ANDRUS: Right.

CHAIRMAN SOCKWELL: Then would you say that your parking spaces available to the child care center would be far in excess of what the child care center will need during the times that the child care center is in operation?

MR. ANDRUS: Absolutely, because I'm a working pastor. So I'm not even there. I'm there just periodically. So yes.

CHAIRMAN SOCKWELL: So you believe that there's sufficient parking for the church's needs and the child care center's needs at all times?

MR. ANDRUS: Correct.

CHAIRMAN SOCKWELL: Okay. I don't have anymore questions.

Is there cross examination by the party, Ms. Ashby? Would you like to ask questions of the Applicant?

MS. ASHBY: I'm not sure of your process.

CHAIRMAN SOCKWELL: Please just turn your mic on.

MS. ASHBY: I'm not sure of the process. I also have additional photos that I took after I read the report. So when do I turn those in?

CHAIRMAN SOCKWELL: All right. You can submit those at the time that you submit your testimony.

MS. ASHBY: Okay.

CHAIRMAN SOCKWELL: Which will be shortly.

MS. ASHBY: So this is just questions.

CHAIRMAN SOCKWELL: And it would be advisable that your questions relate to the testimony of the Applicant and not introduce different information.

MS. ASHBY: Okay. I notice that you said that there are three spaces behind the metal fence, but in your application you said there are two. I know sometimes three cars are parked there, but one of them usually is jutting out into the alley.

So are there two spaces or three?

MR. BROOKS: There are actually three spaces. I parked a van there because ADT was putting the fire alarm system

in, and then two regular sized cars fit into those spaces even with the mini van there.

MS. ASHBY: Okay. I noticed that you said that the other parking area will accommodate 18 to 20 cars. Are you aware that there are huge oak trees on that area, in that area?

MR. ANDRUS: Yes, we are. We've got 20, about that many cars when we have our overflow at the church.

MS. ASHBY: Is it true that the cars are parked on top of leaves during the fall, which is a health -- which is a fire hazard because the oak trees drop lots of leaves? They fall. Are you aware of that?

MR. BROOKS: I'm aware of it directly where the child care center is concerned because, again, I'm going to have the kids in the yard.

I have a regular lawn care person that is going to be taking care of the yard. I've had the leaves raked up at least twice this season already, and I haven't even occupied the building yet. So I'm keenly aware of that concern.

MS. ASHBY: I'm not talking about the yard behind the proposed center. I'm talking about the church yard in which the leaves were not cleaned up until the middle of December this year.

MR. ANDRUS: Okay. I was not aware of the fire code for the leaves being on -- I was not aware of that, but now that I'm made aware of that, that's a problem that can be

solved.

MS. ASHBY: Are you aware that during the day when school is in session that there are regularly cars parked in front of the gate to what you are alleging is your parking lot? That gate is usually not free for anybody to come in or leave, and I have photographs, many of them, showing that.

MR. ANDRUS: All right. We have had problems with that, and I have not persisted in talking with the principal because we do post a -- first of all, it's illegal for them to park there because it is a driveway, but because I'm not there regularly, and I don't have to get access, I have not persisted in having the principal to or should I say work with the principal and having cars towed, et cetera, simply because it hasn't -- it presents a problem with us on Wednesday evenings when they have their meetings, their PTA meetings, and we have gone over there and asked them not to park occasionally.

But now that we want to park on a regular basis, we'll definitely persist, and I'm sure that she'll work with us, and if the cars are there, we'll have to have them towed.

MS. ASHBY: This is a question for the Board. I don't know. Is it legal to call something a parking area when it's full of huge trees and not paved and not striped? Is that a legal parking lot?

Because they're talking about 18 to 20 cars, which is a lot, a parking lot.

CHAIRMAN SOCKWELL: The way public parking lots are designated, and the way the city handles it is that there is a required paving for public parking lots, and how that might affect you parking in your back yard if you wanted to pull your car in off the street and how it might affect the church for the private use of its people, I'm not quite sure.

But for public parking lots, there are specific requirements that they be paved in a hard surfaced material, such as concrete or four inches of asphalt. That much I can tell you.

MS. ASHBY: So would this facility be a public facility and that, therefore, make it a public lot that should be paved?

CHAIRMAN SOCKWELL: It's not something that I can answer directly.

MS. ASHBY: Okay, but that's a question I have.

VICE CHAIRPERSON REID: Excuse me one second. In Washington, as you probably are aware, I don't know exactly what the ordinance is. However, in regard to churches, if you have noticed on Sundays, there's parking, like double parking in the streets around a lot of the churches, and I don't know if that's some kind of special ordinance that allows them to be able to do that.

It has nothing to do with regular parking regulations. Do you know?

MS. MITTEN: No, I don't.

VICE CHAIRPERSON REID: Because they park all over the place. So I didn't know if that was -- do you know, Pastor, if that's something that you're allowed to do if you're a church or Sunday or --

MR. ANDRUS: Well, up until this point, no one has said we're not allowed. So I have not had to --

VICE CHAIRPERSON REID: I know it's something special --

MR. ANDRUS: -- investigated it.

VICE CHAIRPERSON REID: -- around major churches in the city because there are cars parked all in the street, double parked for that time only.

MR. ANDRUS: Right.

VICE CHAIRPERSON REID: And the police don't seem to ticket them or anything. I don't know. Do you, Ms. Sansone?

MS. SANSONE: No, Madame Chair, and we just have the zoning regulations here, not other parking regulations.

CHAIRMAN SOCKWELL: I do know that for funerals and for certain things the police department does relax its enforcement, but I don't think that there's anything on the books, to the best of my knowledge.

MS. ASHBY: Okay. I have just a few more questions.

VICE CHAIRPERSON REID: All right.

MS. ASHBY: I notice in your proposal that you say in the second year you plan to provide transportation, and again, my question is: is that going to be buses? Is it going to be vans? And if so, where will they park and where will these children be loaded and unloaded? Is that going to be in the alley also?

VICE CHAIRPERSON REID: Wait, wait. One question at a time.

MS. ASHBY: Okay.

MR. BROOKS: The transportation that we're going to provide is going to be the maximum of two mini vans. Again, all of our kids are not school age children, and so they will not all be going to school. So we'll only need two eight-passenger mini vans, which would accommodate 16 children, which is more than half of our load. So that would be more than adequate for their transportation.

What will happen is I'll usually be driving the vans. So that I won't be driving my personal vehicle. So there will be no parking space for my car, but the vans will be taking up those parking spaces.

MS. ASHBY: And where will the vans be loading and unloading?

MR. BROOKS: They'll be unloading on the church parking area so that the children can come directly into the yard where the other people unload their children, and they'll

come inside of the fence and just come down the back steps.

MS. ASHBY: Is it true that the back yard of the proposed child care center and this alleged parking lot -- there's no wall or fence between those two so that the little children who are supposed to play in this backyard could easily just run out into this alleged parking lot?

MR. BROOKS: No, there is a wall there.

MS. ASHBY: I have photos showing that.

MR. BROOKS: She has photos showing. Ms. Mitten just asked me about the brick wall in between the two. There are photos showing that there is a wall dividing the two areas.

MS. MITTEN: Ms. Ashby can show us those photos when she testifies, and we can talk about it further.

MS. ASHBY: Okay, okay. A couple other questions and I'll be through.

Is there a sidewalk in the alley?

MR. BROOKS: No, the alley is just a paved alley. There is no sidewalk there that I know of.

MS. ASHBY: So if children are walking to the library or the playground, will they be walking down the alley or will they be walking down busy Alabama Avenue?

MR. BROOKS: More than likely when the children go to the library what they'll do is go out of the rear of the facility and either go down the front steps onto a sidewalk, which is on Alabama Avenue, or go through the front steps of the

church which leads onto a sidewalk. There is a walkway right between the front of the facility of the day care and the front of the church that leads right to the sidewalk right in front of Ann Beers Elementary School where the cross-walk is.

MS. ASHBY: So you're saying no children will be walking in the alley, and parents will not be picking up and delivering their children from the alley; is that right?

MR. BROOKS: Yes.

MS. ASHBY: But that's what's in your proposal.

MR. BROOKS: No, I'm saying the children will be picked up and dropped off in the designated parking area on the side.

MS. ASHBY: That's not what's in the proposal. It says in the rear. It clearly says that over and over in the proposal. The children will be picked up and delivered in the alley, which means --

MR. BROOKS: There is nowhere in the proposal where it says in the alley. It says in the rear, and that is the rear of the church, and it is the rear of my facility, but it's the designated area of pick-up and drop-off. I did not mention alley anywhere in the proposal.

MS. ASHBY: Could I look at that for a minute? Because there's a lot of talk about all of the traffic on Alabama Avenue and how you'd be using the rear.

So you're talking about the rear of the church,

not the rear of the facility; is that right?

MR. BROOKS: There is a fence separating the rear of the church and the facility from the alley is the point that I'm making.

MS. ASHBY: So you're saying the children will be picked up and delivered on 36th Place?

MR. BROOKS: I'm saying that they'll be picked up and delivered --

MS. ASHBY: The side?

MR. BROOKS: -- yes, on the 36th Place side.

MS. ASHBY: The 36th Place side?

MR. BROOKS: Yes.

MS. ASHBY: And nobody will be using the alley to pick up and deliver children; is that right?

MR. BROOKS: If they use the alley, it will just be to come through to get to 36th Place, which I have no control over whatsoever. I am going to instruct the parents to pick up and drop the kids off in the parking area, and they can walk directly across. There is a walkway provided there.

MS. ASHBY: Okay, and two other questions. Are you aware that 36th Place and Ann Beers School has three rush hours, one in the morning, one from three to 3:30, and a third rush hour for the after school programs from 5:30 to 6:30? That during the -- are you aware of that?

MR. BROOKS: Yes.

MS. ASHBY: Are you aware that during all three of those rush hours, especially the dismissals, that all cars parked on 36th Place -- that the street is completely blocked up by cars idling? Are you aware of that?

MR. BROOKS: I mean I am not aware that the street is blocked up by cars idling. Again, there is a crossing guard. There's a D.C. police officer there if there are people double parked, and --

MS. ASHBY: Okay. So you're not aware of that.

Are you aware that there are also parents who park in the alley along the fence of the church, along the wall on the left side to my house, sometimes doubled parked?

MS. MITTEN: Ms. Ashby, if you could use your questions to elicit information rather than testifying.

MS. ASHBY: Okay.

MS. MITTEN: You are basically testifying.

MS. ASHBY: I was just wondering are they aware of it because they don't seem to be aware of the existing problems in the neighborhood and how they would exacerbate the existing problems in the neighborhood.

MR. BROOKS: I'm aware that the parents park in the alley and things like that, but again, that's the traffic from the elementary school, and I have no governing ability for that traffic. I intend to walk my parents around the facility to instruct them properly. I intend to give them notification

in the pamphlet, and I intend to point it out to them monthly at the meeting.

I also intend, like I said -- I think I was talking to Ms. Reid at the time -- I intend to erect a sign that points directly to those parking spaces where your driveway and things are concerned, but as far as what traffic the school elicits and where the parents park, the only thing I can do to speak with that is to speak with the principal and see if we can't get some type of cooperation there.

Again, I already have spoken with Mr. Grant about getting some type of traffic calming devices and some signs erected, but of course, that takes time.

But as far as the parents from the school, I don't -- I can't govern what they do as far as double parking and things like that because that doesn't directly -- that's not parents coming to the day care because the day care hasn't opened yet.

MS. ASHBY: I know. Two other questions.

Does Christian Praise Church have activities every Friday and Saturday till midnight?

MR. ANDRUS: No.

MS. ASHBY: So I'm wondering what children you're planning to serve every Friday and every Saturday to midnight.

MR. BROOKS: Are you speaking to me now?

MS. ASHBY: Whoever, because the proposal talks

about having children there from 8:00 p.m. to midnight Friday, all day Saturday, and till midnight on Saturday.

MR. BROOKS: I intend to serve the children that are already coming to the day care center. I'm not just soliciting to serve children that are at Christian Praise during their service times. If the children are using the day care center during the week, then I intend to provide that extended care for the parents that use the facility at anytime, not just when there's a service going on.

MS. ASHBY: So your plan is to have parents wake up children at midnight and leave in the middle of the night. So two nights a week there will be traffic coming in picking up sleepy children in the middle of the night?

MR. BROOKS: When I've done my research, to be honest with you, Ms. Ashby, that's better than what is currently going on in a lot of cases where children are being left with teenagers or people that are inadequate to take care of their children, and they're getting them out of the bed and out of these people's houses a lot later than midnight.

So in answer to your question in that regard, yes, that's what I propose.

MS. ASHBY: Those are my questions.

CHAIRMAN SOCKWELL: All right, and I think, Ms. Ashby, just to clarify, since one of your questions was directed to Pastor Andrus, it was stated by Minister Brooks that his

facility is a leased facility from the church; that he is not a member of the church and is not affiliated with the church in any way other than the apparently symbiotic relationship that one has to have with one's lessor --

MS. ASHBY: Right.

CHAIRMAN SOCKWELL: -- for the access to the yard.

In response to another question that I looked up, the zoning ordinance in Chapter 21 does state that the required -- well, that parking spaces must be paved with impervious materials, and that includes the things that I stated, and that isn't a restriction on public or commercial spaces as opposed to private spaces, but the level to which it may or may not be enforced is pretty much that in my experience it has been enforced in commercial parking facilities much more than in a residential situation where you might pull your car into your backyard, but the code is specific.

MS. ASHBY: Okay. Thank you.

CHAIRMAN SOCKWELL: All right. It would now be time for our government reports, which will include a report from the Office of Planning, and I don't think we have an Advisory Neighborhood Commission member here. No. All right. So the Office of Planning's report would be next.

MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman and members of the Board.

The application proposed a child development

center for --

CHAIRMAN SOCKWELL: And please just identify yourself to the audience.

MS. BROWN-ROBERTS: I'm sorry. My name is Maxine Brown-Roberts from the Office of Planning.

CHAIRMAN SOCKWELL: Thank you.

MS. BROWN-ROBERTS: The application proposed a child development center for 30 children and six caregivers. BZA may grant an approval for such a use subject to standards applied in Section 205.

Two, zero, five, point, two requires that the center be capable of meeting all applicable code unless it's a requirement.

The application will be reviewed by Department of Health and DCRA prior to obtaining a C of O to operate the child development center.

The center shall be located and designed to create no objectionable traffic conditions or unsafe conditions.

The subject property fronts on Alabama Avenue, and the applicant has stated that there would be no pick-up or dropping off along Alabama Avenue, but will be at the rear of the site.

The center will also provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees, and visitors. The requirement under Section 2101

requires one space for four teachers and other employees. The Applicant proposes three parking spaces at the rear of the property.

Also, additional parking spaces will be provided as stated by the Applicant on the church parking lot.

The center must include any outdoor, open play space provided shall be located and designed so that there will be no objective impacts. The outdoor play spaces provided to the rear of the property, and the property is fenced on all sides except the side adjacent to the church.

The play area will not be visibly objectionable as there will not be any large play equipment, and small equipment will be stored away and taken away at playtime.

The play area will be adjacent to the backyard of an adjacent residence. For these reasons the impact of noise activity from the church and center will be minimized.

The Board may also require special treatment in the way of designed screening of building, planting of parking area signs, and other requirements.

The existing appearance of a building will not be changed and will continue to present the appearance and sense of a residential community. Therefore, no screening of the building is required.

At this time, the Applicant is not proposing a sign to advertise a child care center, but has stated that he

may request a sign permit some time in the future.

It is recommended that future sign be small, discrete, and does not detract from the residential character of the neighborhood.

All street play area shall be located so as not to result in the endangerment of individuals and attendants of the center traveling between the play area and the center itself.

The Applicant has stated that children will be taken to the Francis A. Gregory Regional Branch Library, which is located approximately 500 feet from the subject site. The Applicant has coordinated with the library official concerning the use of the outdoor play area. The children are scheduled to go to the library near the middle of the day when the elementary school is in session and traffic is at a minimum. Therefore, the short walk should not endanger the children.

The Board may approve more than one child care center in a square or within 1,000 feet of another child development center.

To the southwest of the subject site is the St. Timothy's Nursery School, which is approximately 200 feet from the proposed center, and operates between 6:30 a.m. and 6:00 p.m., and has a total current -- and currently has a total enrollment of 88 children. Most of the children attending St. Timothy's are dropped off and picked up by the Suitland Road entrance. Therefore, due to the small number of children of the

proposed center, the combined operation of St. Timothy's and the elementary school should not significantly increase the impact of noise and traffic on the adjacent neighborhood.

The standard by which the BZA should approve a special exception is also set forth in Section 3104-1 of the zoning regulations. These requirements should also be met, which states that the special exception should be in harmony with the general purpose and intent of the zoning regulation, the zoning map, and will not tend to adversely affect the use of neighboring property.

The proposal upholds the general provisions of the R-1 zone, which is to develop the area with single family detached residences. The proposed child care center will not detract from this quiet residential area. Therefore, the intent, purpose and integrity of the zoning regulations and map will be maintained.

The Applicant has also -- the application has also been reviewed by the Department of Public Works for transportation issues, which has stated that the development center would not have any significant impact on local traffic or parking.

On December 16th, 2000, a community meeting by ANC-7B was held and was voted to recommend approval of the requested special exception.

The Office of Planning recommends approval,

recommends that the Board of Zoning Adjustment approve the requested special exception with conditions which relate to the future sign to be no larger than two feet by two feet, and will also agree with the establishment of the penalty for parking on neighbor properties.

Thank you, Mr. Chairman.

CHAIRMAN SOCKWELL: Thank you very much, Ms. Brown-Roberts.

First, do the Board members have any questions?

(No response.)

CHAIRMAN SOCKWELL: If you have questions of the Office of Planning regarding their report, as well, if they don't, would you like to question? Yes.

MS. ASHBY: My question is --

CHAIRMAN SOCKWELL: Microphone, please.

MS. ASHBY: My question is: did anyone from your office actually come out to the neighborhood during the hours of dismissal from Ann Beers School?

MS. BROWN-ROBERTS: I have been out to the site on two occasions, but not when there was a dismissal in progress.

MS. ASHBY: Okay. That's my main question because it's a vast difference.

VICE CHAIRPERSON REID: Do not testify. You'll have an opportunity to.

CHAIRMAN SOCKWELL: All right. Let's see. We

don't have any other government reports I don't believe. So then --

MS. MITTEN: Mr. Sockwell, I would just make note of the fact that the Department of Public Works did submit a report that was attached to the Office of Planning report as Attachment 2, and their only concern was that there should be caution exercised in taking the children to and from the library.

CHAIRMAN SOCKWELL: All right. Thank you very much, Ms. Mitten.

And basically DPW found that the proposed land use would have no significant impact on local traffic or parking.

All right. So then I believe, having dealt with the government reports, not having anyone to cross from the Department of Public Works --

VICE CHAIRPERSON REID: Mr. Chair.

CHAIRMAN SOCKWELL: Yes.

VICE CHAIRPERSON REID: Even though ANC-7B, which is the affected ANC, did not send a letter, and typically we assume that they have no objection if they don't send us anything, but Office of Planning did note that they were aware of a meeting.

MS. BROWN-ROBERTS: Yes, they were. They did have a meeting and discussed this application.

VICE CHAIRPERSON REID: And said it was December

16th. There was a vote to approve the requested special exception. However, because we don't have a formal letter from the ANC, we can't afford them the great weight to which they're entitled.

However, we do take the fact that you had included that assertion in your letter to us that did take place, but we can't give the great weight, right, Mr. Chairman?

CHAIRMAN SOCKWELL: All right. Thank you very much, Ms. Reid.

So now we have at least the impact of all government reports. So it would then be time for the party to come forward, parties in support first. Are there any parties in support? Individuals in support? Then you may --

PARTICIPANT: Oh, no, no, no, no, no. Oppose vehemently.

CHAIRMAN SOCKWELL: No, not in support of Ms. Ashby. In support of the application.

(Laughter.)

CHAIRMAN SOCKWELL: So then we'll have parties in opposition, and that would start with Ms. Ashby.

MS. ASHBY: They can go first.

CHAIRMAN SOCKWELL: No, you're the party, and they are individuals and if in opposition, would be speaking separately.

MS. ASHBY: I wish to thank you.

CHAIRMAN SOCKWELL: Now you may testify.

MS. ASHBY: Thank you.

I wish to thank you for allowing me to testify today and for granting me party status.

I'd like to say clearly that I'm a mother and a grandmother, and I am not opposed to child care centers, in general, but I am opposed to a child care center at this location, and I'm going to try not to repeat everything I said before about how it will exacerbate existing parking, congestion, and traffic problems on 36th Place, Alabama Avenue, as well as the alley.

I'd also like to say in listening to the testimony about why the center is being set up, I was very disturbed to hear the negative stereotype of Southeast parents and Southeast children. This is what we do not need. All of our children do not end up in jail or in mental institutions, and I am concerned with a program that believes that Southeast parents cannot raise good children.

VICE CHAIRPERSON REID: Okay. Ms. Ashby, that is not anything that was testified here today. Now, what we need you to do --

MS. ASHBY: They did.

VICE CHAIRPERSON REID: -- is to stay on course as it pertains to that -- pertains to your objections to this particular application based on, I guess, adverse impact.

Anything that goes beyond that is not something we usually give audience.

MS. ASHBY: Okay. It was.

CHAIRMAN SOCKWELL: Okay. Under the circumstances I will say this, that Minister Brooks did make reference to the issues that were underlying his interest in developing this center in his presentation, and I do think that Ms. Ashby has a right to redress that in her comments only because it was made a part of his basic reason for being there, and I think that in supporting her neighborhood that's --

VICE CHAIRPERSON REID: Okay.

CHAIRMAN SOCKWELL: It steps slightly outside of this, and as Chair, I'm suggesting that we allow her remarks to stand strictly for that reason, and that you -- but, please, go forward in --

MS. ASHBY: Thank you. Yes.

VICE CHAIRPERSON REID: But, Mr. -- Mr. Chair, in keeping the record straight, we have to be very careful that we don't inadvertently allow testimony that is not in keeping with what we heard here today.

CHAIRMAN SOCKWELL: But we did hear today that statement from the Applicant. That's the point.

MS. PRUITT: Mr. Chairman, can we take a break for a second?

CHAIRMAN SOCKWELL: The Board is asking to take a

break for a moment, please. Five minutes sufficient?

Thank you.

(Whereupon, the foregoing matter went off the record at 2:58 p.m. and went back on the record at 3:03 p.m.)

CHAIRMAN SOCKWELL: Ladies and gentlemen, the Board has been requested to take up a matter of immediate importance that will require us to table the present case for about ten minutes while we deal with this particular issue, and we ask your indulgence in this matter.

Will staff call the next case?

MS. PRUITT: Application 16618, application of the Phillips Collection, pursuant to 11 DCMR 3103.2 and 3104.1, for variances under Subsection 402.4, 403.2, 400.7, and 2001.3, from the maximum allowable floor area ratio, from the maximum allowable lot occupancy, from the enlargement of a nonconforming structure, and for a special exception under Section 411.11 for the location of roof structures, and for a special exception under Section 2516.1, for two or more principal structures on a single lot to permit improvements in expansion of the museum in the D/DC/R-5-B, and DC/SP-1 districts at 1600 21st Street, N.W., and 1618 21st Street, N.W., Square 66, Lot 74, 819, and 827.

All those planning to testify, please stand and raise your right hand.

(The witnesses were sworn.)

MS. PRUITT: Please be seated.

CHAIRMAN SOCKWELL: Are there any preliminary matters with regard to this case?

MS. PRUITT: Yes, Mr. Chair. We have one preliminary matter that's being brought forward by the Applicant and parties in opposition, a request for continuance.

CHAIRMAN SOCKWELL: And will those representing both sides take a seat? Turn on your microphones, please, and who would like to speak first? Identify yourself and your address in relationship to the Applicant or opponent, as the case may be, starting with Mr. Gell.

MR. GELL: Thank you, Mr. Sockwell.

The parties were prepared to go forward today. I think we were going to start with our cross examination of the witnesses. I believe that the Applicant had completed their case.

However, we have been waiting for a copy of the Office of Planning's report, which we got or which was made available some time last night. I hadn't seen it until today, and which obviously is quite detailed, has a great deal of information and recommendations in it that we haven't had a chance to look at, and we don't see how we can move forward on the case profitably, profitably for you or for us until we've had a chance to review it.

In the meantime, the parties have discussed the

possibility of a delay, picking this up at a later time, and Mr. Cain can speak for their side. I think there is some agreement that it may be possible for us to use the time profitably to try to reach some agreement in the case, which we're willing to do.

But in any event, we would ask for a delay until March 27th, which I think is the first date that the Board has open.

CHAIRMAN SOCKWELL: All right. Thank you very much.

Mr. Cain.

MR. CAIN: Thank you, Mr. Sockwell.

For the record, I'm Michael Cain, attorney for the Applicants.

Like Mr. Gell, we just received the report today. However, the conditions that the Planning Office is recommendation in support of its conclusion are, in our view, items that have been in the public domain since at least October. We have worked through those with the Planning Office primarily because we really didn't have opportunity to work through them with anybody else. We never really had a substantive response.

On the other hand, we are interested in narrowing the issues if it can be done. If Mr. Gell represents that there's a chance of having meaningful discussions, then we're interested in having meaningful discussions.

We are willing to join in a request for a postponement, but we think March 27th is too long. The suggestion was floated, but not any commitment made by staff, that perhaps the Board might be willing to entertain a special session some time in early or mid-February.

If that was a prospect and we could have a full day to ourselves, we think that if agreement can't be reached in a month's time, certainly the case could be concluded in a day's time.

CHAIRMAN SOCKWELL: Mr. Cain, as you may well be aware, the Board has a very aggressive schedule which is virtually a weekly meeting every week, 48 weeks out of the year. To have special sessions puts particular difficulties on various members of the Board, and if possible, we try not to have to do that.

However, the issue is one of the level of impact on all parties as a result of not being able to meet until the next most appropriate date, which is in March and toward the end of March, and staff has no better dates to offer.

I mean we can certainly on the 27th -- could we make sure it's a morning case?

MS. PRUITT: It will be the only case.

CHAIRMAN SOCKWELL: It would be the only case.

MS. PRUITT: We arranged it so it could be the only case on the agenda starting at 9:30.

CHAIRMAN SOCKWELL: And we could do that and attempt to get through and hopefully if the issues have narrowed, get it done and perhaps, although there is certainly no guarantee, the decision and order might be based on the more expedited bench decisions, but here again, there's no way to even assume that that could be the case.

But we would prefer to have it on the 27th if that can be arranged for both parties.

MR. CAIN: Excuse me one second.

(Counsel conferred.)

MR. CAIN: We can do the 27th, Mr. Sockwell. We would really appreciate it if we could be a morning.

MS. PRUITT: You will be the only case on the agenda, the first thing in the morning at 9:30.

CHAIRMAN SOCKWELL: Then if there is no objection from other Board members, this case will be --

MS. PRUITT: Can we take an official vote, please?

CHAIRMAN SOCKWELL: Will be voted on for a continuation.

I move that we continue this case to the date certain of March the 27th at 9:30 a.m.

VICE CHAIRPERSON REID: Second.

CHAIRMAN SOCKWELL: All in favor?

(Chorus of ayes.)

CHAIRMAN SOCKWELL: Opposed?

(No response.)

CHAIRMAN SOCKWELL: Abstentions?

(No response.)

MS. PRUITT: Staff would record the vote as three to zero to continue the hearing to March 27th, motion made by Mr. Sockwell, seconded by Ms. Reid. This will be --

CHAIRMAN SOCKWELL: Just one question. Is the ANC member representative -- do you have any problem with that? I apologize for not asking.

MR. MICONE: Mr. Chair, no. We are in favor of that. Initially when the ANC opposed the --

CHAIRMAN SOCKWELL: Identify yourself and address.

MR. MICONE: Oh, I'm sorry. For the record, my name is Vine Micone. I'm the ANC Commissioner for Single Member District 2B02 in which the Phillips is located.

CHAIRMAN SOCKWELL: And you live at?

MR. MICONE: I live at 2007 O Street, N.W.

CHAIRMAN SOCKWELL: Thank you.

MR. MICONE: Thank you, sir.

We are in favor of moving the case through March 27th. I believe if there is any way to negotiate a neighborhood settlement or settlement with the ANC, we will be able to do it by March 27th without a doubt.

This was actually the time line initially in October that we were hoping to have the case postponed to

originally. Simply because of the magnitude of the issues, we feel it would take that long to resolve any issues that could be resolved or decide that we can't and come forward here.

CHAIRMAN SOCKWELL: Thank you very much.

MR. MICONE: Thank you, Mr. Chair.

VICE CHAIRPERSON REID: It appears that all entities involved are amenable to trying to come to some closure or some meeting of the minds, and we very much appreciate that, that effort. Hopefully in the interim when you reappear before us, that our work will be made very easy, very simple.

Thank you.

CHAIRMAN SOCKWELL: Thank you, Ms. Reid.

MS. PRUITT: When we continue on the 27th, we'll start with Board's questions to the Applicant, followed by cross examination by the parties, and then the regular sequence.

MR. CAIN: And if I may observe, I believe we had a number of come-back issues.

MS. PRUITT: As a result of the negotiations, if you have new information --

MR. CAIN: Well, but to respond to specific assignments the Board gave us last time.

MS. PRUITT: Correct, right. So you can start off with that, and then followed by -- and we will not be noticing this. So this is your only notice. If you know of other individuals who are interested, please pass that on because

we're not sending out public hearing notices or publishing this in the Register.

CHAIRMAN SOCKWELL: Yeah, there should with this delay be every opportunity for all involved to communicate considerably, and that includes all of the community, all of the organizations, all of the agencies that need to be dealt with, and everything should be able to get to us in that period of time.

Thank you.

MR. MICONE: Mr. Chair.

CHAIRMAN SOCKWELL: Yes.

MR. MICONE: May I ask a procedural question? This is the first time I as Commissioner have represented the ANC in opposition to a matter. When does the ANC report come in in the process?

MS. PRUITT: If you'd like, afterwards I can talk to you about that.

MR. MICONE: Thank you very much.

VICE CHAIRPERSON REID: And give you the sequence, right?

MS. PRUITT: Yes.

CHAIRMAN SOCKWELL: Yes. Fine. Thank you very much, gentlemen and ladies and gentlemen, for your patience, and good luck.

We will now return to the case of the Christian

Praise Church Child Care Center, Number 16657.

The hearing is still in progress. If those representing the case for the Phillips Collection would please keep your voices down and exit to the corridor, we'd appreciate it.

Thank you.

Please. All right. I think we can proceed now.

MS. ASHBY: Just start?

CHAIRMAN SOCKWELL: Yes, go right ahead.

MS. ASHBY: Before continuing, there are several documents I'd like to submit for the record. One are additional photographs, which I will be referring to in my testimony.

The second item is a petition that's been signed by neighbors who are directly affected by this, neighbors on 36th Place, as well as Alabama Avenue, in opposition.

And I also have two letters of opposition that were written by elderly neighbors who could not attend.

So do I give those to you?

CHAIRMAN SOCKWELL: Those things should be submitted to staff.

MS. ASHBY: When I filed on December 22nd to request party status, at that time I stated, you know, the reasons for my opposition, and I also submitted photographs which I'd just like to run through quickly, as well as the new one that I just submitted.

Do you have those?

MS. MITTEN: Staff is making copies of the new photographs, but we have --

MS. ASHBY: The old ones?

MS. MITTEN: Yes.

MS. ASHBY: Okay. Photograph number one shows the rear of the building with the sign from the previous day treatment center.

Although I do understand it was a different minister and a different person who's renting, I just want to say that, you know, the support that I have, you know, the previous negative experience with this same church even though there may be a different minister.

Number two shows the limited parking space, two to three spaces behind the rear of the proposed center. If cars are parked in that area, then there is nowhere for parents to drop off children except in the middle of the alley because there's no sidewalk, and the alley according to the survey map is only about 16 feet wide and barely two cars can get through.

Photograph number three shows my garage and apron with parking spaces, which is directly across, which was the site where parents would frequently park or block in the past.

Photograph number four shows the alley in the rear and the Ann Beers School in the front, again, just showing the proximity.

Photograph number five shows that there are times when the Ann Beers parents do park all along the fence of the church. They sometimes double park in the alley behind the proposed center, and as I said, in the past not only would the Ann Beers parents park here, but the parents from the before and after school day care would also park there because those same parents have to use the same thoroughfares.

And photo number six actually shows a car that's backed all the way up to their center picking up children, and my point in bringing this up is not to say that Ann Beers School is a problem of the new center. What I'm saying is there's already an existing problem that will be further exasperated.

Photo number seven shows cars parked on both sides of the street during school hours all the way back to the curb, and as you can see, these cars are blocking the gate to the back of the church. So even if they wanted to use that as an area, they couldn't.

It's interesting, too. This photo also shows something else which is not unusual. The sidewalk is not cleared except right in front of the church, and I've always felt they were bad neighbors in that they don't clear the sidewalk except right in front of the church, even though children have to walk along there.

And number eight is a similar photograph showing the cars parked all the way to the edge of the alley.

While you're waiting for the other photographs, what I could do is read the letters and then go through the new photographs.

MS. MITTEN: You know, it would probably be fine -- it would be preferable to us if you would not read the letters because we can read the letters.

MS. ASHBY: Oh, all right. Okay.

MS. MITTEN: And just, you know, deal with things that you'd like to highlight for us.

MS. ASHBY: Okay.

CHAIRMAN SOCKWELL: And one question, Ms. Ashby. The vehicle that is shown in your photograph blocking the driveway and gate to the churchyard --

MS. ASHBY: Right.

CHAIRMAN SOCKWELL: -- would you say that is the responsibility of the city to ticket when driveways are blocked. If that vehicle had blocked the alley, it would just as easily be a ticketable offense.

MS. ASHBY: I agree. It's also a ticketable offense to park in an alley, and I've lived in this neighborhood for 22 years, and for 22 years, we've taken turns calling the police about parents who park in the alley, leave their car, go to the school to pick up their children, and maybe they're as long as ten or 20 minutes.

CHAIRMAN SOCKWELL: Have the police been

responsive?

MS. ASHBY: They're responsive every now and then, and they'll come and ticket the cars, and then it will be better for about a week, and then it comes right back.

And some of my neighbors can testify to that. We do talk with the police. We have talked with the principal. So, yes, these are offenses, but I'm saying they're not taken care of.

CHAIRMAN SOCKWELL: Thank you.

MS. ASHBY: Okay. You don't have the pictures back yet?

MS. MITTEN: No.

MS. ASHBY: Okay. As I stated earlier, my main concern, and I was going to use the pictures to go through it, has to do with the existing problems with congestion, traffic, and parking, and the fact that originally this center asked to have 24 hours Friday night. They really wanted to keep children all night long, but when they found out they couldn't do that, then they're saying they'll let the children go at 12.

I find that hard to believe that they're really going to wake children up at 12 midnight. I think it's a covert effort to have institutional weekend care in our neighborhood.

And with all of this happening right under my window, I mean, I just envision all of this traffic coming in the middle of the night picking up children, crying children,

and it's just not a pleasant thought.

As I said before, my concerns about what they're calling a parking lot is that at times that place is a real fire hazard. I'm always concerned when the cars are parked there on top of leaves because you should not be parking cars on leaves, and if those cars catch fire, my house is right there, and then, hey, my house could go up in flames, too.

MS. MITTEN: While we're waiting for the photographs, could I just ask you. When the previous child care center was in operation, since you seem toe be the may person who was around at that point, were they using the parking area behind the church at all?

MS. ASHBY: No. No, they were not. They never used that area. The parents were instructed. You can see the arrow that says pick-up place.

MS. MITTEN: Right.

MS. ASHBY: And they would -- the parents couldn't park anywhere. They just left their cars in the middle of the alley and went in to get their little children or they would leave their cars in my apron to my garage and go in to pick up their children.

MS. MITTEN: Aside from the issue related to, you know, leaves and parking on top of leaves and so on, does it ease your mind at all that the church yard will be made available for drop-off of the children?

MS. ASHBY: No, and I'll tell you why. When you see the other pictures, parents dropping off their children are usually in a big hurry, and they're going to drop them off the fastest way they can. So when 36th Place is blocked, you know, in the morning by the Ann Beers parents, they're going to quickly learn that they can come through the alley, park their car, and run them right in there.

MS. MITTEN: Let me ask you a question by way of, you know, maybe solving that problem. It seems that if they were to come in through the alley, they would have to use the gate that's in the chain linked fence.

MS. ASHBY: Right.

MS. MITTEN: There's the three --

MS. ASHBY: Right, right.

MS. MITTEN: There's a chain linked fence, and then there's a gate.

MS. ASHBY: Right.

MS. MITTEN: What if that gate were kept locked for anyone except staff who would be the people parking in those three spaces? So that the only way a parent could get access to the child care center would be if they came through the church lot. Would that alleviate your concern?

MS. ASHBY: Well, no, because where are they going to leave their car?

MS. MITTEN: In the church lot.

MS. ASHBY: But they can't get to the church lot. That's the point. They can't -- a lot of the times --

MS. MITTEN: That's because of illegal activity.

MS. ASHBY: -- the alley is blocked already, and 36th Place is blocked already. They can't get to the lot. That's my point, and this is even worse when school is dismissed.

And it's also true, as I said, for the after school programs. We have cars parked all along the alley from 5:30 to 6:30, and we have 36th Place, and they can testify to this, blocked again for the after school programs.

This is a community school. It has activities all the time, and our poor, little street is just backed up all the time.

CHAIRMAN SOCKWELL: Well, actually one of the issues, if I might interrupt, is that the driveway that accesses the church lot has no signage defining where parking cannot be, and for that reason it's quite often in many neighborhoods that people assume that if a gate is in existence whether there's a curb cut or not, if there are no signs, they will park there.

MS. ASHBY: Oh, I know.

CHAIRMAN SOCKWELL: And therefore, one of the issues that could be handled by signage is the blockage of that driveway because people are a lot more likely to park where they're supposed to if they see a sign that says "no parking any

time" or "no parking, driveway," the different signs that are used by DPW.

And those could be requested as one way of assuring, first, that there's access more likely than not, and second, that anyone who comes along who's called to ticket will see immediately that the vehicle is parked in the wrong location.

MS. ASHBY: Yes, I agree with that. And as I was saying to you, it's not possible to even get to that gate when the traffic is blocking the street, and you'll see that when I -- do you have the pictures yet? Okay.

CHAIRMAN SOCKWELL: And even that traffic that's double parked, if it's blocking the street, should leave driveways and alleys open, and if they're not doing it for the alley and they're not doing it for the driveways, then enforcement is the way that this needs to be handled.

And one question I wanted to ask you. When you realized that this particular facility was being planned, did you make any attempt to discuss your issues with Minister or --

MS. ASHBY: No, I did not know what they were planning, and I did not get a notice of the ANC meeting. The only thing I got was the mail-out, I guess, from Zoning stating that there'd be a hearing on January 9th, and that was my first notice.

I knew they were working on the house. I assumed

that they were fixing it to be the minister's residence. I didn't know they were planning another child care facility.

So, no, I have never seen either one of them in my life.

CHAIRMAN SOCKWELL: Okay. The reason I asked was because I think you submitted a petition.

MS. ASHBY: Yes.

CHAIRMAN SOCKWELL: And you've had the time to prepare a petition and speak with your neighbors and galvanize them against something that you've never even attempted to talk with the Applicants who are doing it.

MS. ASHBY: I was only notified --

CHAIRMAN SOCKWELL: And that's unusual.

MS. ASHBY: It is?

CHAIRMAN SOCKWELL: Yes, because you don't know what they're doing, except you say you received information in the mail, of course, from the Office of Zoning, but you never attempted to find out whether or not there was a way of coming together with them to discuss their issues, maybe perhaps make them allies in a mutual fight against traffic and problems.

But you went immediately against them based on the information that you had had and the terrible situation that you had had with the previous operator. In fact, you probably didn't know until today that this operator was not affiliated with the church, as had been the previous operator.

MS. ASHBY: I did know that because I reviewed the record.

CHAIRMAN SOCKWELL: Okay.

MS. ASHBY: The 16657 last Thursday.

CHAIRMAN SOCKWELL: Yeah, we know what the number is, but I'm --

MS. ASHBY: And that was the first notice I had that they were planning to have Friday night, all day Saturday, because in the notice it didn't say anything about that.

Also, I didn't have a lot of time after I received that first notice. I have never seen either one of them, you know. They come into church, and they leave, and very few people in the neighborhood attend their church. So I don't even know how to contact them.

And the thing is that --

CHAIRMAN SOCKWELL: Well, actually it would have been the same way that you contact us.

MS. ASHBY: Huh?

CHAIRMAN SOCKWELL: We have all the information here at the Office of Zoning.

MS. ASHBY: Oh, un-huh.

CHAIRMAN SOCKWELL: And you did review the file.

MS. ASHBY: Yes, I reviewed the file.

CHAIRMAN SOCKWELL: So you did know how to contact them.

MS. ASHBY: Not -- not the minister. His name wasn't --

CHAIRMAN SOCKWELL: Well, the gentleman who's operating the facilities name and information are in our files.

MS. ASHBY: Right. Yeah, his name was in there.

CHAIRMAN SOCKWELL: Yes, but you didn't attempt to do anything except galvanize your support against him. You didn't try to find out whether or not there was a reason not to feel that his project was, say, completely negative.

I'm just questioning you because it is often the case that the opponents try to know what's going on with the Applicant so that they have the most appropriate way of responding. Sometimes friends are made; sometimes enemies are galvanized. But when you don't try, you don't know.

But anyway, continue please.

MS. ASHBY: Well, I was concerned because there are so many misrepresentations in the proposal that I read, and so I didn't think I would be dealing with people who would be dealing with me in an honest way, but I could be wrong about that.

CHAIRMAN SOCKWELL: Yeah. You didn't try so you really didn't find out.

MS. ASHBY: Yeah. I was just concerned with -- but anyway, photo number nine shows 36th place during school hours, and as you can see, there are cars parked from Alabama

Avenue all the way back, and this is daily.

These were all taken last Friday.

This is another view of 36th Place, and where the alley is located. Another view.

Photo 11 is also another view of the parking problem.

Photo 12 again shows the gate being blocked, which you know could probably be alleviated, but if you can't get to the gate it doesn't matter whether it's blocked or not, and a lot of the times parents can't get to that gate because 36th place.

Photo 13 is a photo of the backyard of the church, which you can see is filled with large trees, and I doubt very seriously if 18 to 20 cars could get around those trees to park safely, and I did express my concern about the leaves that the cars are now parking over, which is a fire hazard.

Photo number 14, again, shows the child care center and the church. Now, the wall that they are saying is between this parking lot and the back yard, as you can see, that is a little, low wall that even a two year old can jump off. It's a very low wall.

There used to be a fence there, but it was removed, and so any child who's playing in this back yard can also run into the area that they're saying would be the parking lot.

Photo 15 shows what happens at three o'clock, what happens in the morning, and what happens in the after school hours, where there is just a solid line of traffic from Alabama Avenue all the way up the street, and many of these parents are not in their cars. They are in the school picking up their children, and their cars sit there.

So that we who live in the neighborhood cannot get out of our houses, out of our block between those hours. We cannot get through the alley, and any parents trying to drop off kids or pick up kids from this proposed center would also not be able to readily get through this street. They might have to wait ten, 20 minutes.

So even if the gate is not blocked, they can't get to it.

Photo 16 also shows another view of the congestion of 36th Place. The school is on the left, and Alabama Avenue is on the right.

Photo 17, another view of the congestion. Cars parked all the way down to the "do not enter" sign, way beyond where they should be.

Photo 18 shows Alabama Avenue, and on the right is Christian Praise Church. On the left, the second building on the left is the proposed center, and as you can see, there are cars parked all along here, as well as double parked because this is the kind of congestion we have every day almost three

times a day.

Photo 19 shows traffic congestion again, the corner of Alabama Avenue and 36th Place at three o'clock dismissal. The cars are parked down beyond the stop sign adjacent to fire hydrants, and again, parking is a serious problem.

Now, there is a crossing guard and a copy. Yet there are cars parked illegally. So, I mean, we have policemen who are actually on site who don't do anything about this problem.

And, again, any parent coming from -- trying to pick up children from the proposed center could not get down this street fast, and those who are slick are going to run around to the alley and block up the alley.

Photo number 20 shows another view of Alabama Avenue in front of the school. Again, you can see cars are lined up, double parked because even though this is a non-parking area, they park here because there's nowhere else to pick their children up. So Alabama Avenue becomes very crowded.

Photos 21 and 22 I took on January 4th, and this is the rear of the proposed child care center where the workmen are currently doing a lot of work on the inside, and this shows them blocking the alley. They have two cars in their space and one car blocking the alley.

There are two neighbors who are concerned and

talking to them, and the center hasn't even opened, and already the alley is being blocked by their workmen.

So, yes, I did have a lot of concerns and, you know, I didn't try talking with you all, but I didn't have a lot of time. I was really just frightened that a nightmare that I experienced a few years ago was coming back again. I mean that was my main concern and the fact that I felt very alone in confronting parents who were parking all over my property and yelling at me as if I was wrong and saying, "I've got to pick up my child. I've got to pick up my child."

You know they just act so righteous about picking up their child. They don't care that we have a problem. So I don't want to keep repeating myself, but this is my testimony, and as I said, I'm not opposed to child care centers. I just think this is bad location because of the existing problems we have in the neighborhood, which we've been trying to settle for years with the police and with the principal.

But the problem is not solved. These pictures were taken just last Friday.

Thank you.

CHAIRMAN SOCKWELL: Thank you very much, Ms. Ashby.

You can stay there because the Applicant has the opportunity to cross examine.

Do you have questions?

MR. BROOKS: I just would like to address a few of the things that you have concerns with Ms. Ashby.

Again, I haven't had the opportunity to formally meet you or introduce myself to you, and I apologize for that. I put out the required notification, and I was at the ANC meeting myself, along with Pastor Andrus.

I'm interested in working with the community, not against the community. I'm not privy to, nor was I a part of what went on before, and I apologize that you had a, quote, unquote, nightmare that you went through.

But as far as the traffic concern goes on 36th Place and Alabama Avenue. The only thing that I can do other than have them parking on the church lot for my part --

CHAIRMAN SOCKWELL: What you want to do is ask questions of things that Ms. Ashby has said. I realize that that's not the direction that you're taking, but it's a cross examination. You will have closing remarks in which to really frame what you're saying now, and I'd appreciate it if you would sort of limit yours.

MR. BROOKS: Those cars that you took photographs of, I think they were 21 and 22, were the last photographs. Just let me address that the work is complete in the house. The building is completely renovated, and I believe one of those was a truck. I wasn't privy to a copy of the photos so I'm not sure if one of those was a truck or not, but there is ample space for

cars to get there, not trucks, and there's a distinct difference.

Other than that I have no further questions on anything that she had to say. I believe that I put my points forward at the time that I had an opportunity, and I'll save the rest for closing.

CHAIRMAN SOCKWELL: Thank you.

All right. Now the other persons in opposition who would like to speak, please come forward. We can take you two at a time, and you have three minutes to speak. And if you'll put your microphone on.

MS. MILBOURNE: Good afternoon. My name is Sheila Milbourne. I live at 2135 36th Place, S.E. I live four houses north of Ms. Ashby.

I'd like to speak to several issues, and they are a little spread out.

First, we already have seven child care facilities in the area. We have Ann Beers Elementary School, has a before and after care program, and Ms. Dickey has vacancies in that program.

We have the Seventh Day Adventist School, which is two and a half blocks from us, which also has a before and after care program.

We have the St. Timothy's Child Development Center at Suitland Road and Alabama Avenue. No children from St.

Timothy's come to Ann Beers Elementary School via bus. St. Timothy's is very cooperative in having four of its staff walk the children down, bring them to the crossing guard who is in the cross-walk between 8:15, 8:45, 3:15 and 3:45, and that personnel crosses them. So those folks who are like from the buses are not a part of us.

We have the New Redeemed Child Development Center that is also two and a half blocks down Branch Avenue.

We have the Church of Jesus Christ Child Development Center that is on Pennsylvania Avenue.

We have the New Macedonia Child Development Center four blocks away.

And we have the Naylor Road School that is held in the same building that the ANC has its meetings at Branch Avenue and S Street.

My concern is we already have enough child care facilities in a neighborhood of single family dwellings, where the youngest child is 31, and she lives in Atlanta. That is my concern, that in our immediate area there are no small children.

The Ann Beers Elementary has a population between 550 and 600 students who come in every day. They have an a.m. Space Program, where teachers arrive about 6:00 a.m. That program is from 6:30 to 8:30. The have about 14 instructional staff.

They have a program that's called Stars for

students with academic needs. They have a soccer and language arts program after school. They have a science program. We have the Model Elementary School Science Program for the District of Columbia and the first one that was done in the nation, and we have basketball.

Now, coupled with the parents coming and going to school, we also have all of those programs letting out between 5:30 and six o'clock -- are my minutes gone already? -- between 5:30 and six o'clock. Sometimes the cars are parked three wide and ten deep on my street.

We call the police and they come move the cars, but after a while even the District gets tired of you calling about that.

My concern is that the fire hydrant is in front of my house, and that if we did have an emergency, we could not get there.

The principal, who is an interim principal, Ms. Hamlet, and we anticipate that she would be gone at any time, has not been in the neighborhood long enough to come out and meet the people, et cetera, except at PTA meetings, where when you have a block squared where there are no children, then it would be difficult for you to move on.

I'm also concerned about the clutter at the end of the yard. Christian Praise has their refuse cans at the end of their fence. Someone -- there was a piece in the fence that was

broken. It's not painted now. There were two pieces. When they pulled up that fence rats ran all over the place.

I would be concerned that they would move toward doing something to alleviate that problem.

I spoke to the gentleman in the hall about when they have programs that are disjoint from church activities, like little picnics and parties and that kind of thing. The children are not adequately supervised, and I have taken two children out of the street within the past, let's say, two months.

We have a noise level. We have a terrific noise level. I am concerned about the noise level after six o'clock. By the time the soccer team finishes playing on the field, the football team finishes playing football, and the science people come out and explore the flora and the fauna around the school, and then we're going to have other people coming out.

I am not opposed to children. I am not opposed to children's programs. I have four children, four grandchildren, and was 43 years a teacher. So that is not what I have problems with.

I have major problems with the way this is being structured. I might also say that we could have extended ourselves to these gentlemen on my right had we had some notice, and I will deal with my ANC representative when I get home, but if we don't get a notice for a meeting, we don't know that it's

going on.

I knew that this gentlemen had been working on this program for a whole year. Next week when I got a copy of the jacket, it said 01700, and I was like that could not be right, but it is because I spoke with the gentlemen. They say that is correct.

Our neighbors are more than concerned about the traffic problem. It is a traffic problem that the school needs to adjust -- to address. It is a problem that the 6th District needs to address. We have had three children out into Alabama Avenue, to get broken limbs having been hit by cars, and there is no policeman. There is no person in that cross-walk at any given time after 3:45. Their time is up.

The school has a security person who goes down from time to time, but the security person has to secure the school when the programs let out at 6:30.

Those are what I will call my major concerns. The community is not against working with the gentleman, but the community would like to know what is going on at the church also so we could extend ourselves.

I got wind of this on December 8. I sent a correspondence down to your offices here, and my correspondence was not in the jacket. I have addressed that correspondence at this time. There were some things filed in the jacket that didn't belong to us. So some other people are going to have

problems with that also.

But I feel in addition to this if there were meetings going on and things were being called, then we as a community, it's a 50-50 proposition, and our community are good neighbors, and we want to be good neighbors to all of our neighbors, but we do have to address the problems, and the problems need to be the safety of the children as they relate to parking and going across the street.

There is no crossing guard to go to the library, and the school is adjacent to that. Then there is a field, then there is a parking lot, then there's the library.

CHAIRMAN SOCKWELL: Ms. Melbourne.

MS. MELBOURNE: And that property belongs to the Park Services.

Thank you.

CHAIRMAN SOCKWELL: Before you rise, one question I want to make very clear. The Ann Beers program is a D.C. public school?

MS. MELBOURNE: Yes. Yes, sir.

CHAIRMAN SOCKWELL: Right. It is not a private day care provider.

MS. MELBOURNE: No, it is not.

CHAIRMAN SOCKWELL: And apparently it is by far the largest generator of traffic activity in the morning and in the afternoon.

MS. MELBOURNE: Correct.

CHAIRMAN SOCKWELL: And in terms of major influxes of people during the day for the various programs that it has. It sounds like it's an accelerated program school.

MS. MELBOURNE: And a beautiful school.

CHAIRMAN SOCKWELL: Okay, but if the Ann Beers School did not exist in that location, a great deal of the problems that are being considered as too much would disappear completely because you're talking about hundreds.

MS. MELBOURNE: Yes.

CHAIRMAN SOCKWELL: You said how many hundred children are at Ann Beers?

MS. MELBOURNE: Between 550 and 600 as of yesterday.

CHAIRMAN SOCKWELL: Right, and that is directly across the street from you and Ms. Ashby.

MS. MELBOURNE: And Christian Praise Church.

CHAIRMAN SOCKWELL: And Christian -- yeah, and I think that's one of the things that makes this difficult, because we've got a public school. We can't move public schools. We can't even think about them.

MS. MELBOURNE: That's correct.

CHAIRMAN SOCKWELL: They are part of the fabric of the community. But I just wanted to make sure that the record reflected that the Ann Beers program is a D.C. public school

program.

Thank you.

MR. PERSON: Good afternoon. My name is Ruby Person. I live at 3618 Alabama Avenue, which is two doors from the proposed facility.

I have lived in the neighborhood for 30 years or more, and I also can attest to some problems with the parking that went on when the previous day care facility was there, which I will not dwell on at this time.

However, my main concern right now is the direction of the day care center, which is clearly a commercial enterprise. It will be a commercial enterprise. They are doing this for pay.

I am opposed to having a commercial enterprise in our neighborhood. We are a neighborhood of older parents. We do not have very young children who would make themselves available to this facility, and I see no immediate benefit to our community from having it located next door.

The hours of operation are a concern to me. I am very concerned about the weekend operations, the long hours on Fridays, as well as the Saturday operation. If it were being established, as he said, to take care of the overflow from the existing facilities that are in the neighborhood already, that would be totally different because the existing facilities do not operate long hours on Friday and Saturday. So I see a

problem with that.

I also see a problem with saying that the crossing guard will facilitate the children who are coming and going to the facility on Alabama Avenue. The crossing guard is at the crossing guard of Alabama Avenue and 36th Place. The cross guard would have no bearing whatsoever on children coming and going to that day care facility because the day care facility is not -- the entrance on it where they say the children would be going in is not on the corner of 36th Place and Alabama Avenue. It's behind that, at least a block behind. There's a yard back there, and the crossing guard does not leave her post to come back to help children cross into the facility that they are proposing to establish.

And in terms of the playground facility being available to those children, the playground facility is not next door as was testified to by the person who is attempting to establish this facility. The playground is not blocks away, but it's quite a bit of difference between where the facility is located and the actual playground itself, which is a public playground.

There's the school next door to Christian Praise Church. Then, as Ms. Milbourne testified to, there is a space between that, a public space between that, then the public library, and then the public playground, and that public playground I would not recommend that it be used for those very

young children for the simple reason that it's available to anyone who wants to go there in the public.

And having lived there, many times I have seen people just hanging out in that park. I would not recommend it for that particular purpose.

Also, in addition, he mentioned the fact that there is space for 18 to 20 cars in that church parking lot. I strongly object to that. There is not space for 18 to 20 cars in that facility, and so parking -- I still believe that parking would be a problem for those persons who are picking up and dropping off.

And also previously, there is no guarantee I don't think. I am not convinced at this time that there is a guarantee that parents will not be dropping off in front of the facility, which is on Alabama Avenue. When the facility was there before, it was common practice to drop children off in front of Alabama Avenue, on the Alabama Avenue side, and I live on the same side of the street as the facility is.

Thank you for your time.

CHAIRMAN SOCKWELL: Thank you very much.

Cross examination by the Applicant?

Remember. Respond to anything --

MR. ANDRUS: I just have one question.

Ms.?

MR. PERSON: Person.

MR. ANDRUS: Person. Pastor Andrus.

MR. PERSON: Nice to meet you at last.

MR. ANDRUS: Thank you.

As Mr. Stockwell (sic), the Chair, stated, if there is a lock, if we locked that gate, which means it's only available to staff persons to enter, which means that the families have to come into the exit that we allow them, would that satisfy that as far as you being convinced that they cannot enter into that -- into that way? Would that be satisfactory?

MR. PERSON: My statement was that I was not convinced that they will not enter from Alabama Avenue. That was my statement.

MR. ANDRUS: Oh, Alabama from -- oh, that they would not enter from Alabama Avenue.

MR. PERSON: I am not convinced that they would not use Alabama Avenue for drop-off. I am not convinced of that.

MR. ANDRUS: Okay. Well, we can't convince you of that.

MR. PERSON: I know.

MR. ANDRUS: Okay, all right. Thank you.

MR. PERSON: Okay.

CHAIRMAN SOCKWELL: Thank you very much.

The last witness.

MS. TURNER: Good afternoon.

CHAIRMAN SOCKWELL: Good afternoon. State your name.

MS. TURNER: My name is Carrie Turner. I live at 3612 Alabama Avenue, S.E., two doors up from this proposed day care center.

I am totally in agreement with what Ms. Ashby, Ms. Milbourne, and Ms. Person have said. I'm totally in agreement with the problems.

Our number one concern is traffic, and of course you all know that. Traffic is horrendous, and you could not know what we go through there in that block unless you came and spent from 6:00 a.m. until six or 7:00 p.m. in the afternoon. Then you could see what we are contending with.

First of all, I would like to say that I live almost across the street from St. Timothy's Church, which is my church, and that day care center is not 1,000 feet away from the proposed day care center.

CHAIRMAN SOCKWELL: I think it's been stated in the testimony in the record --

MS. TURNER: That it has to be.

CHAIRMAN SOCKWELL: -- that this day care center is less than 1,000 feet from its adjacent neighbor.

MS. TURNER: Oh, okay.

CHAIRMAN SOCKWELL: That was never asserted as being any different.

MS. TURNER: Okay. And I spoke to Father Downs, who is the rector of St. Timothy's, a couple of Sundays ago in reference to this issue, and to my knowledge, there is not a full house at St. Timothy's Day Care Center unless I have been given the wrong information.

These are concerns that I have. Traffic; this day care center opening right across the street almost from St. Timothy's Day Care Center, and then I'll tell you another thing I'm concerned with. I'm concerned with what you're going to do with 30 children at a location where you only have about a 25 by 40 foot lot in the rear for the children to play in.

Now, to me, that seems like an awful small area for that many children to go out and play in.

Let's see what else I have.

And also, another concern of mine is the alley, the traffic in the alley. My house, the front is on Alabama Avenue, and the rear is on 36th Street, and we have so much traffic traveling in that block off of Alabama Avenue on 36th Street and making a right turn into that alley. Sometimes we have problems trying to get out of our driveway.

And I can see if we have another day care facility in that block that we're going to have even worse problems trying to get out of our driveway.

Now, I think that I have touched on things that are of concern to me, and as I said, I'm in total agreement with

what has been said by these ladies.

So that's my testimony.

CHAIRMAN SOCKWELL: Thank you very much.

Any questions from the Board? No.

The only question I would ask is that from where you are, do you have a backyard, an alley parking or garage in your rear?

MS. TURNER: No, I don't have. I have a backyard.

CHAIRMAN SOCKWELL: You don't --

MS. TURNER: I enter in the rear of my house. I enter from 36th Street, and I don't have a garage, but I do have a backyard.

CHAIRMAN SOCKWELL: Okay. But you don't have access problems with your alley?

MS. TURNER: No. Well, what I'm saying is this.

CHAIRMAN SOCKWELL: Your yard is blocked. So you don't have an alley at your rear.

MS. TURNER: Yes. Well, I don't have an alley, but what I'm saying is sometimes we have problems trying to get out of our driveway because of the traffic off of Alabama Avenue making a turn into this alley, the alley which is behind the proposed site.

CHAIRMAN SOCKWELL: Is there a Metro station conveniently located to you? No?

MS. TURNER: No.

CHAIRMAN SOCKWELL: Okay. Thank you.

Then if there are no further questions, no questions of the opposition, then we would request closing remarks from the Applicant.

MR. BROOKS: As stated at the time that -- and thank you, Mr. Chair. I appreciate it -- as stated at the time that the application was made, I have put forth effort to get the traffic calmed in the area as much as I possibly can.

I will not insult the Board nor the community's intelligence by saying that I've been there 22 or 30 or any amount of years as these people have, but what I can say is that for the time that I've been working through there over the past year to try to get the building renovated, I have seen the traffic problems. I have seen the concerns, and again, I did speak with Mr. Grant about getting some things done in the community because I know no other way about getting the problems addressed other than enforcement and speaking with the ANC Commissioner.

And to testify to that, I did speak with Ms. Turner the other day to see what her concerns were, and I told her the exact same thing concerning the traffic matters, that outside of getting speed bumps and traffic calming devices and the participation of the D.C. Police Department, I didn't know what else I could do as a new resident to the neighborhood to assuage the traffic problems.

Any other problems I think could be easily rectified as far as the library and things like that. It is approximately 550 feet from the day care center. You cross one street. I didn't say it was across the street. You cross one street to get there.

Ms. Roberts was out there twice herself to examine. So you don't just have to go by my testimony.

There's always room for day care. I know that there are other day care centers in the community, and I'm not refuting that fact, but there is always room for day care, and there's a great plenty of children available to come into my day care center.

Again, I did put out surveys and did talk with at least two of the other day care centers that were in the community to find out if I had a need. It was part of my marketing before I even began any renovation on the building.

Again, I am working with Christian Praise Church to have access to those parking spaces, and on top of that, let me say about the parking area where Christian Praise Church is concerned those 20 cars are not going to be there all at one time. There is space for those cars, but parents drop their kids off intermittently. There is not going to be 20 people there at 6:30 or 20 people there at 7:30 or at eight o'clock or anything like that all of the time.

So the people will be there quickly. they'll pick

their kids up, drop them off, but they're not going to be parked there any long amount of time even though the space is available for them to do that if necessary.

I did put out the proper notification to the community about the building coming. I personally sent out the 200 notices, submitted to the Board, and also was a participant at the ANC meeting, again, with Pastor Andrus, as I stated. So I've done what I was supposed to have done as far as notifying the community, as far as talking to them; even went as far as to get Ms. Turner's phone number from Mr. Grant because I knew that she had a specific concern. That's how I got the number, from Mr. Grant, because I knew that she specifically had a concern.

I wasn't aware of any other concerns that were made up until last Thursday or Friday when I got the notification that Ms. Ashby had a concern, and I intending upon knocking upon her door, but my daughter has been in the hospital all weekend. So I didn't get a chance to talk with her prior to today.

But I attempted to talk with the community as much as I could. I sent out notification. I've addressed the specific problems that I knew that were problems previously, prior to submitting my application.

I appreciate the Board's time. I know it's been lengthy today, and for that I apologize as much as I can, but thank you very much for your consideration.

CHAIRMAN SOCKWELL: Just I think I have one question, and that is with regard to one of your stated purposes, which is the late night child care, there's a question that had been raised by at least two of the persons in opposition as to whether or not that is really an appropriate activity to subject the little children to in terms of having to be roused from perhaps their nightly sleep, and that was a question.

I wanted to know just for my own benefit under what circumstances you really decided that this is workable.

MR. BROOKS: Well, actually, Mr. Sockwell, to be very honest with you or very frank, I intended to operate a 23 and a half hour day care center, but it was not originally submitted on my application. So it was suggested that I limit the hours to midnight.

My objective is that the parents that work, because I work in the evening and at night; I know that there is a need for day care in the evening and at nighttime. I also know that there are revivals; there are social functions that parents like to go to. It is in the benefit of the parents and the children if they have the proper -- the same place to bring their kids on the weekend that they have to take them during the day, as opposed to a teenager babysitting them or them leaving them with some under age person to watch them, in which case fatalities and accidents occur.

My objective in that is to provide the same care during the evening and on the weekend that the children get during the day so that the parents can participate in other activities, some of the activities which will enrich the family structure. If the mother and father have an opportunity to go to dinner or catch a play or to go to a church function, then they have an opportunity to enrich the family.

CHAIRMAN SOCKWELL: Okay. I think I understand. Thank you very much.

This is a more complicated case than I think we expected it to be when we came before us. The issues and the circumstances of your situation and the community's previous experiences are somewhat unusual because you are within immediate proximity of a very large public school, which is a major generator of activity, traffic and pedestrian activity, at least during the five-day school week. And that begins early and ends late.

The other issues of the previous operator of the facility have obviously made the neighborhood very much less receptive to the idea of a repeat of the similar problems, especially the neighbor whose issues were such that she requested party status, and generally people will request party status when they feel that they are much more aggrieved than anyone else and can substantiate that.

And Ms. Ashby certainly substantiated by her

location with regard to the church and the day care center the immediacy and the potential seriousness of issues that had been previously developed or shown from that particular use.

So it's a difficult question for us to work with. What you are asking for is a special exception, and the principal issue with special exceptions is that they not have negative impacts on the surrounding community, provided they meet all of the other requirements that the city sets forth.

And we are charged with listening to all of the arguments and trying to make a fair and effective decision, and I have to say that this may not be a case that we can decide as a bench decision case, but I want my fellow Board members to think this through and give me their perceptions.

(The Board conferred.)

CHAIRMAN SOCKWELL: All right. It is my understanding that because Ms. Ashby registered herself as a party in opposition, we are required to take this into further deliberation, and we will establish a decision date, which would be the next regularly scheduled meeting.

MS. MITTEN: Mr. Sockwell.

CHAIRMAN SOCKWELL: Yes.

MS. MITTEN: Could I just maybe add something?

CHAIRMAN SOCKWELL: Yes.

MS. MITTEN: Which is, you know, just as in the case which we just continued, we find that there is benefit to

the time that is spent pending a decision that we would make, and while that hearing was continued, what we may want to do, if you find this appropriate, is leave the record open for a few things, and one would be for the ANC report, which I'm sure after Ms. Milbourne makes her telephone call they may want to reconvene all of the interested parties and, you know, make sure that everyone is heard, and perhaps the ANC will have something new to share with us.

I think, you know, there were some ideas that were shared today that maybe the Applicant hadn't thought of about ways to alleviate some of the concerns in the community.

I mean, I think it's clear everyone recognizes that there's a need, and we're really trying to work together to determine if this can be an appropriate location.

I would also suggest that during this interim period of time, particularly since Ms. Brown-Roberts had said that she didn't personally experience the traffic situation on her visits to the property, that she might make a personal effort to go again and get first-hand experience of the traffic situation, and perhaps we could also take this opportunity because Mr. Laden's response as the Department of Public Works really did not convey any appreciation on his part of the really, I think, horrendous traffic situation that is created by Ann Beers Elementary School, which is an existing situation.

So I think there's something to be gained by

leaving the record open and for some additional materials.

CHAIRMAN SOCKWELL: I think part of it has to be couched in the fact that Alabama Avenue is a rush hour street. We're not talking about a street that's impacted by the school. We're talking about a street that is a major carrier of traffic during the rush hour periods, a.m., p.m., Saturday afternoon when everybody is trying to get out into Prince George's County. I mean it's impacted by a lot of things.

And the issue of Alabama Avenue is one of continuing traffic, not one of necessarily cyclical. It's very continuous traffic, and we need to have time to -- and I'm sure that Mr. Laden did look at the traffic counts, which he probably looked at level of service changes as a barometer, which would not have been affected significantly by the addition of this facility.

MS. MITTEN: Well, and that may be precisely true, and that may be the way that he performed his analysis. I think while Alabama Avenue is, as you say, an ongoing -- it's of concern just because of the volume of traffic on it, but I think it's 36th Place which is directly impacted and congested as a direct result of Ann Beers Elementary School, and yet it is integral to the success of or the ability of these folks, if they operate a child development center there, not to create adverse conditions for the community.

So I think, you know, I would like to have some

sense that DPW has a full appreciation for the existing condition on 36th Place.

CHAIRMAN SOCKWELL: One thing is that there is a level of parking that is required for facilities such as this, and it's fairly limited by code. Anything more is beneficial. Anything less is noncompliant.

MS. MITTEN: I get the sense that you're disagreeing with me.

CHAIRMAN SOCKWELL: No, I'm not.

MS. MITTEN: In some way, but I can't follow why.

CHAIRMAN SOCKWELL: What I'm saying is that I think that the center that's going to max out at 30 individuals is going to have a limited effect on the arterial streets. It's going to have virtually a null effect on the arterial streets.

The issue that I think is more apparent is the neighborhood impact of this with regard to, first, the specific neighbors who are going to be most affected, and those are the neighbors along the alley that really has its perimeter at the rear of this facility and the church; as well, the people who might be parking on the church lot, regardless of the fact that there are going to be possibly 18 spaces, maybe only ten on the church lot.

If there are five, they probably exceed the required parking for a facility of this size. So it's not whether there are 18 or 12. Those spaces are pretty much

overkill for the particular need, and it seems that the center will operate at times that the church is not operating at capacity. So there should not be a great impact there.

But we have a neighbor that organized her neighborhood around issues that are particularly important to her and her neighborhood. Now, her neighbors were not parties to this. They're affected by the Beers Program. They're affected by the rush hour traffic. They're affected by everything that happens.

They may not be as affected by you, but it is obvious that Ms. Ashby is affected by what existed prior to your coming and what does exist as a result of other facilities in the area, and she and her neighbors all feel that there shouldn't be any increase in the disturbance to their community.

And it is unfortunate that they never had a chance to talk with you. Maybe, maybe not, they would have been able to come to an agreement that would be satisfactory.

It is my hope that during, and as Ms. Mitten stated, that during the time that we are waiting to get information that will be coming back, that you will have a chance to talk with both the minister and the pastor because you're dealing with two different individuals from the ones really created your perceptions of the problem.

That doesn't mean the problem went away because these people changed. It does mean that there's a possibility

for communication, and if that possibility results in something positive or something acceptable, then that may allow you to come back before we take a vote with additional information that will be helpful toward that end.

If not, then we will go as the information that we have received and will be receiving will lead us.

VICE CHAIRPERSON REID: Thank you, Mr. Chair.

I just wanted to mention that given the fact that, as often is the case, we have two entities coming before us, one is the Applicant, who appears to be attempting to put in place a facility that is something that would be useful and good for the community, and then you have on the other side the opposition who are demonstrating their concern about various adverse impacts that will have some effect on their quality of life.

So as the Chair said and Ms. Mitten said, if, in fact, there could be a meeting of the minds -- if you noticed earlier, when we recessed and came back a big case, not that your case is a small case, but because there are a lot of issues, and they're going back to the drawing board and try to see what they can hatch out.

Obviously, I think that the lack of communication wherein you have not even met until today really did not go in your favor. Just as the Chair pointed out, Ms. Ashby could have contacted you. By the same token, you could have contacted the neighboring people in the community and talked to them and see

what their concerns were and what has happened with the other -- unfortunately you're being victimized by what happened before, but nonetheless, it happened, and as a result of that, you're now being looked at with a jaundiced eye.

And things -- I would specifically point out that you try to come to some type of meeting of the minds on or some kind of understanding about are things that were brought up like the issue of the cars parking, how are they going to park, where are they going to park.

The trees are there obviously, you know. The idea is that you're going to be coming to the table in good faith and not bringing something that doesn't make sense, is not plausible. Demonstrate how you're going to park those cars, where you're going to park those cars. How you're going to address the issue of the leaves and the cars; the aspect of clutter and trash, how you're going to dispose of it.

And your plan -- Ms. Pruitt is not sitting there. I was about to say she's taking notes. Are you taking the notes.

Okay. Staff will give you these things that we're talking about.

How you're going to dispose of the trash; do you have a dumpster? How often will it be picked up? Is there any problem with rodent control? If there is, how are you going to address that?

The aspect of that fence, it was put out to us that that fence -- and it made a lot of sense. The fence is a very short fence. Is that what you are referring to when you say this is the fence for the children to be able to be contained? Is that adequate? If not, then what are you going to do about it.

The aspect of the cars parking, maybe they weren't your cars, but apparently cars do park there, blocking the entrance into the lot. How are you going to address that, with signage or notifying the parents in your manual, your brochure or at your church?

The children being picked up in the middle of the night. You have 30 kids. So give us a time, a sequence or a time interval, a schedule to show how many kids will be picked up at different times. I'm sure all 30 kids won't be picked up at midnight.

So about how many children do you anticipate being picked up at midnight? And that might give some comfort to the community, knowing that it may be two or three kids at the most, and if they are picked up, do you have some rules as far as noise, doors slamming, people talking and things like that, to try to give some direction to the parents as to how to conduct themselves within that community, things of that nature.

And basically just listening to the concerns that were raised here and then proffering how you propose to address

those various issues and those being brought up to us, and then ultimately perhaps if, in fact, it does go forward, then we can condition any approval with things that you suggested to us.

And also things that we may impose ourselves to include perhaps a community liaison where you would have members of the community, ANC members, to meet with you periodically to address, be proactive in addressing problems before they even happen, and when problems do arise, have a contact person that would be available for them to call and say, "Well, I had this problem. Someone parked in front of my house," or "someone disrespected me," or "we heard arguing in the middle of the night coming from your facility," whatever the problem is. Have some way to be able to have the community to feel that you're working with them.

In other words, you want to be there, but at the same time you want to be a good neighbor, and you want to be able to assure them that they're not going to have their quality of life completely adversely impacted by your presence.

And I think that was the concern I heard.

CHAIRMAN SOCKWELL: Thank you very much, Ms. Reid.

I think that these are all constructive comments that hopefully will result in some meeting of the minds. If not, then we will take the action as we have seen -- yes?

VICE CHAIRPERSON REID: Just one other thing. In regard to the aspect of the overflow, we heard from the

community that there was no overflow, that there were vacancies at some of these facilities. Evidence that there is a need.

CHAIRMAN SOCKWELL: Some documentation might be helpful if you can get it from any of the facilities that you talked with regarding waiting lists or children that can't be accommodated so that that gives more weight to the fact that there is a need for your facility to handle children that would otherwise be housed in that community at the other nearby centers.

That would be helpful because you spoke to a need for up to 22 children from their church.

MR. BROOKS: Okay. When I was speaking to the need of the overflow, I was saying I put out a petition. I mean a survey. I got feedback from 22 members of their church alone.

CHAIRMAN SOCKWELL: Did you get feedback beyond those?

VICE CHAIRPERSON REID: In writing.

CHAIRMAN SOCKWELL: In writing beyond those 22 members or, in other words, did you get feedback from any others?

When you said you stood outside with a survey, you stood outside the church on Sunday?

MR. BROOKS: No, I gave the survey to their church members at a particular meeting, but in addition to that, I was in the community at Ann Beers School on a morning and passed out

the survey to different parents that were just out there, not necessarily if they had kids that were my school age or not, just a lot of the parents because there was a great congregation of people out there that drop off and pick up in the morning.

CHAIRMAN SOCKWELL: Did you get any surveys back from the Ann --

MR. BROOKS: Very few. People were getting them first thing in the morning and that type of thing. I got a couple of phone calls, but not anything in writing.

CHAIRMAN SOCKWELL: Well, if you can document any of the phone calls or any of those things effectively, then we'd want you to submit that during the time that the record is left open.

MR. BROOKS: And may I also say, Mr. Sockwell, I'm a little confused. The ANC person is not the community liaison between the businesses and the residents of the community?

CHAIRMAN SOCKWELL: Well, the ANC person is the one delegated responsibility by being elected from from the community to represent that segment of the community. The single member district commissioner would represent Ms. Ashby and her neighbors if they all fall within the boundary of that single member district.

And yet the entire Advisory Neighborhood Commission will meet on issues that are brought to it by the single member district representatives or by others who are just

in the community who want to get something taken care of.

So the ANC is involved. There could also be a community council. There could be a civic association. Any of those organizations within the community can be your points of contact to the community or the community's point of contact to the Advisory Neighborhood Commission.

MR. BROOKS: The reason I asked that is because I was at the ANC meeting, along with Pastor Andrus, the last one that they had prior to this meeting, and there was a civic association force there, not just one representative, but more than one person, and I don't know if it's a different civic association for Alabama Avenue and for 36th Place, but I do know that those persons were there because I talked with them.

And I also have spoken back and forth with Mr. Grant.

CHAIRMAN SOCKWELL: But now that you know specifically who objects to your proposal, those are the people that you need to be talking with.

MR. BROOKS: Okay.

CHAIRMAN SOCKWELL: Ms. Ashby and the ladies that are there are the people who have come, spent their day to be here, written their letters, and stood before those microphones to go on record, comfortably and uncomfortably, to represent their viewpoint, and they're the people that you need to talk with.

MR. BROOKS: Okay.

CHAIRMAN SOCKWELL: All right. On that basis, what's the date that we're set?

MS. MITTEN: Could I just make sure that -- bless you.

VICE CHAIRPERSON REID: Thank you.

MS. MITTEN: -- that I'm not the only one who thinks that it's appropriate for Office of Planning to make another visit so that if after personally witnessing the traffic situation at dismissal time, if there's additional response from DPW?

CHAIRMAN SOCKWELL: Ms. Brown-Roberts by her expression gave me the knowledge that she fully intends to spend a rush hour afternoon --

MS. MITTEN: Okay.

CHAIRMAN SOCKWELL: -- out there in traffic.

MS. MITTEN: Okay. I didn't see her expression. So okay.

CHAIRMAN SOCKWELL: It was priceless.

VICE CHAIRPERSON REID: That's why it's important for us to know how many kids are being discharged at what time, so that we can get an idea, 3:30, six o'clock, 12 o'clock.

CHAIRMAN SOCKWELL: I think we can all imagine an elementary school. Yeah, that's an elementary school, right? It's a primary school, yeah. Letting out 550 to 600 children at

the end of the day. It's just like any other elementary school.

VICE CHAIRPERSON REID: But I think that the elementary school discharges as 3:30, but I think that this particular facility discharges -- their kids are from 8:30 until six.

CHAIRMAN SOCKWELL: But they're not --

VICE CHAIRPERSON REID: Six, thirty.

CHAIRMAN SOCKWELL: But they're not open yet.

VICE CHAIRPERSON REID: Huh?

CHAIRMAN SOCKWELL: They're not open yet.

VICE CHAIRPERSON REID: Will be, so that the 3:30 traffic won't have the same type of impact because it will be the Ann Beers, and then theirs is at 6:30, and the Ann Beers people will be gone. So that might make a difference in looking at the sequencing of the discharge.

CHAIRMAN SOCKWELL: It should free up some of the traffic, significant traffic, and in particular, it should free up the most undesirable, least desirable impacts on the street parking.

VICE CHAIRPERSON REID: Okay.

CHAIRMAN SOCKWELL: All right. So we have those things. I think if staff has all of the information and we know that OP is going to make a rush hour visit, that we're going to get a report from the Advisory Neighborhood Commission. We hope to have that in hand.

And what was the other thing that we were going to get? Documentation from your surveys, and if it's from the church, that's fine, and try to have the addresses and names of people who responded. If that's the information that you provided on your surveys, it would help to know if some of those people live within walking distance or whatever.

What else do we want?

MS. MITTEN: Well, I think as a consequence of the hearing today and any additional conversations that they have, that if they would like to modify their proposal --

CHAIRMAN SOCKWELL: Right.

MS. MITTEN: -- to accommodate any of the concerns, we would certainly be interested in that, too.

CHAIRMAN SOCKWELL: So anything that comes from your discussions, if anything does come from that, should be submitted to us in advance of the hearing or the decision meeting so that we can take those into consideration, those items.

Thank you.

And the decision meeting date will be?

MS. PRUITT: I would suggest March 6th to allow the ANC to have opportunity and everybody the opportunity to meet. If we do do it on March 6th, we would need all information by close of business on February 27th, all submissions.

CHAIRMAN SOCKWELL: Is that afternoon?

MS. PRUITT: March 6th would be morning.

CHAIRMAN SOCKWELL: Morning, okay, a.m.

MS. PRUITT: Always morning. And all information into the office by February 27th.

CHAIRMAN SOCKWELL: Okay. Does that seem satisfactory with everyone?

And the hope is that you will be able to, as we have vehemently requested, you'll be able to have communications and conferences and conversations with the Applicant, which might mean that what you submit will be coordinated with them so that any misconceptions, misunderstandings have been handled, whether you come to a common conclusion or not; that there will at least be communication during the process.

Thank you.

All right. On that basis, we have nothing else on our schedule. Thank you all for your participation. I call this meeting adjourned.

(Whereupon, at 4:31 p.m., the public hearing was concluded.)