

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENTS

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PUBLIC HEARING

+ + + + +

In the matter of:

APPLICATION OF THE NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES Case No. 16262

APPLICATION OF CESAR F. ARMENDARIZ, JR. Case No. 16209

APPLICATION OF GEORGE DRAVILLAS Case No. 16215

APPLICATION OF ATLANTIC STREET BAPTIST CHURCH Case No. 16217

APPLICATION OF FRANK ARRINGTON, JR. Case No. 16248

APPLICATION OF KAISER INVESTMENTS COMPANY Case No. 16250

Hearing Room 220 South
441 4th Street N.W.
Washington, D.C.

Wednesday,
July 16, 1997

The above-entitled matter came of for hearing, pursuant to notice at 9:30 a.m., Susan Morgan Hinton, Chairperson, presiding.

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PRESENT:

SUSAN MORGAN HINTON
LAURA M. RICHARDS
MAYBELLE TAYLOR BENNETT
BETTY KING
SHEILA CROSS REID

Chairperson
Vice Chairperson

STAFF PRESENT:

MADALIENE DOBBINS
REGINALD LYONS
TRACEY ROSE
BEVERLY BAILEY
GLADYS HICKS
ALBERTO BASTIDA

Office of Zoning
Office of Zoning
Office of Zoning
Office of Zoning
Acting Zoning Administrator
Office of Planning

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

2 (9:48 a.m.)

3 CHAIRPERSON RICHARDS: Good morning, ladies
4 and gentlemen.

5 The hearing of the District of Columbia Ward
6 Commissions Board of Zoning Adjustment will come to order.

7 Joining me today are Betty King, Sheila Cross Reid
8 and from the Planning Commission John Parsons and National Park
9 Service, John Parsons. We have no representative today from the
10 National Capital Planning Commission.

11 Copies of today's agenda are available to you located
12 to my left near the door. Please be aware that this proceeding is
13 recorded electronically so I must ask you to refrain from disruptive
14 noises.

Should you desire to give information to
15 the Board, please come to a microphone, state your name and home
16 address, and proceed to make your wish known. All persons planning
17 to testify are to fill out two witness cards located at each end of the
18 table in front of us.

19 After we finish this statement, please proceed to pick
20 them up, fill them out, so that when your case is called, you will have
21 them ready to hand to the reporter. Upon coming forward to speak,
22 please give both cards to the reporter. When seated at the witness
23 table, please give your name and home address.

24 The agenda for a foreign mission case is as follows:
25 Statement and witnesses of the Applicant, Government reports, those
26 of the Secretary of State and the Office of Planning et cetera, reports

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1 or recommendations by other public agencies, the report of the
2 relevant ANC, persons in support, persons in opposition.

3 The record will be closed at the conclusion of each
4 case except for any materials specifically requested by, offered to and
5 accepted by the Board. The Board and Staff will specify at the end of
6 the hearing exactly what is expected.

7 The decision of this Board in this legislative
8 proceeding must be based exclusively on the public record. To avoid
9 any appearance to the contrary, we request that persons, counsel and
10 witnesses not engage the members of the Board in conversation
11 during any recess or at the conclusion of this hearing.

12 At this time the Board will consider any preliminary
13 matters. Preliminary matters are those which relate to whether a case
14 really should be heard today such as requests for postponement,
15 continuance or withdrawal or whether proper and adequate notice of
16 the hearing has been given. If you are not prepared to go forward or if
17 you believe that the Board should not proceed, now is the time to raise
18 such a matter. Does Staff have preliminary matters?

19 MR. LYONS: Yes, Madam Chair. The Staff does in
20 the Foreign Missions case. In this case, Madam Chair and members
21 of the Board, the Staff failed to advertise 40 days in advance of
22 today's hearing a Notice of Proposed Rulemaking. This is required
23 under Section 3340.9 CO of the Board's rules.

24 However, previously in a previous Foreign Missions
25 case in Turkmanistan, the Board under a similar situation did go
26 forward with the public hearing and did advertise for 40 days as a

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1 Notice of Proposed Rulemaking in the D.C. Register and following the
2 expiration of that, did then act on the Foreign Mission case. We would
3 recommend a similar method of action be used in this application.

4 The Board would not be -- We would ask that the
5 Board would waive the requirement that the Notice be advertised 40
6 days in advance of the hearing so that the Notice could occur
7 subsequent to this hearing. It has been submitted to the D.C. Register
8 for publication to occur in the July 25th publication which would be 40
9 days prior to -- well, 40 days actually from the Board's September 3rd
10 meeting so that the Board could then make a decision at the
11 September 3rd meeting.

12 CHAIRPERSON RICHARDS: Well, thank you for that
13 information. Is there any party or interested person who wishes to
14 assert prejudice by that manner of proceeding? Is the Board inclined
15 to waive -- All right. As you suggest, Mr. Secretary, you may call the
16 case.

17 MR. COLLINS: On that preliminary issue, does that
18 mean that the decision can be made on the September 3rd public
19 meeting?

20 CHAIRPERSON RICHARDS: All other things being
21 equal, yes, based on that particular flaw. We will see what else may
22 arise during the course of the hearing.

23 MR. COLLINS: Sure. But based on that.

24 CHAIRPERSON RICHARDS: Right.

25 MR. COLLINS: Thank you.

26 MS. ROSE: The first case is 16262, Application of

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1 the National Association of Retired Federal Employees on behalf of
2 the Embassy of the Republic of Botswana, pursuant to 11 DCMR
3 1001, for permission under Section 1002 to locate a chancery in a
4 DCOD/SP-1 District at premises 1531-33 New Hampshire Avenue,
5 N.W. (Square 136, Lot 33 and 806).

6 All those persons wishing to testify on the application?
7 No parties. Okay. The Applicant is seated before you.

8 MR. LYONS: In this case, there are no parties,
9 Madam Chair. There is no swearing in of witnesses as it's a rule-
10 making case.

11 CHAIRPERSON RICHARDS: Legislative. Thank
12 you.

13 MR. COLLINS: Good morning, Madam Chairperson
14 and members of the Board. My name is Christopher Collins with the
15 law firm of Wilkes Artis Hedrick and Lane. Seated to my right is
16 Ambassador Archibald Mogwe of the Embassy of Botswana and to my
17 far right is Robert Morris.

18 This is an application of the Embassy of the Republic
19 of Botswana for a chancery use of an existing SP office building in the
20 DuPont Circle area. This application has the support and
21 endorsement of the Department of State, the Office of Planning, the
22 Historic Preservation Review Board, the Advisory Neighborhood
23 Commission and the DuPont Circle Conservancy.

24 The Embassy currently has a total of 17 diplomats
25 and staff members and they are located in leased space at the
26 INTELSAT on Connecticut Avenue. They propose to locate to the

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1 building which is presently the headquarters of the National
2 Association of Retired Employees known by its acronym NARF.

3 NARF has presently 74 employees in the building, 3
4 times as many as the Embassy would have in long term future. NARF
5 has as many as 90 in the building so the relocation of the
6 Embassy to this site would be a significant decrease in density of use
7 of that site.

8 There is an existing parking lot on the site which
9 accommodates 9 cars and this will satisfy the needs of the Embassy
10 as the Embassy has a need for 9 spaces. There will be significant
11 interior and exterior improvements for the building. The exterior
12 improvements have been approved by the Historic Preservation
13 Review Board on their consent calendar on June 26.

14 There is no displacement of residential uses in the
15 building. There are in fact no residential uses on this block of New
16 Hampshire Avenue. The use is consistent with the mix of uses in the
17 area and it is an appropriate use in the SP District subject to
18 disapproval by this Board based upon the six criteria of the Foreign
19 Missions Act.

20 Specifically on the parking that I just touched on,
21 there is parking for 9 cars on the existing lot. There is a need for
22 space for 9 vehicles at this time. There are 11 commercial parking
23 facilities within a two block radius. There's the Metro at DuPont Circle
24 located within two blocks of the site.

25 There's a taxi stand located at the DuPont Plaza Hotel
26 across the street. There are bus lines along Massachusetts Avenue in

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1 both directions. In fact there is better transportation to and from this
2 location than there is at the existing chancery now.

3 The statement of the Applicant which we submitted to
4 you sets forth our case, the background and how we meet the criteria
5 of the regulations and the law. The State Department is here to
6 discuss how the application meets the Federal criteria. The Office of
7 Planning is here to address the local criteria.

8 Just quickly going through the exhibits to our
9 statement. Exhibits A and B show the plats of the property. Under
10 Tab A, it's actually three lots on Tab A. This is the 1966 based atlas
11 map and it was Lots 2930 and 806. It is now combined into Lots 33
12 and 806.

13 Tab B is a zoning map. You can see that this block
14 on New Hampshire between DuPont Circle and Q Street is half SP1
15 and half C3C so this is in the northern half of that block which is the
16 SP. But just a few doors down is the C3C District which is a medium
17 high density commercial district.

18 Exhibit C I would like to draw your attention to the first
19 picture in Exhibit C. This shows the building. It's the light colored
20 building in the foreground. It's actually two buildings joined together a
21 number of years ago. Significantly, there's a blank north wall you can
22 see facing the parking lot and as you see in the plans that have been
23 submitted there's a significant improvement to the building by the
24 recladding on the side.

25 In fact on that blank north wall you can see what's an
26 elevator, or a stair tower, that kind of protrudes and juts up above.

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1 That's going to be reclad with a bay with a tower above so that it
2 appears to be part of the architecture of the building which is just
3 hiding that very squared off, very bland looking stair tower.

4 Exhibit D is the HPRB's approval on a consent
5 calendar. It's actually the staff report which is adopted on the consent
6 calendar.

7 Exhibit G is the transportation report. Exhibit H is the
8 2 original BZA applications or approvals for office use of the building.
9 NARF occupied the first of the 2 buildings as a matter of right until
10 1978 in the SP Zone. An NARF office could occupy an SP building as
11 a matter of right.

12 So that first BZA case was actually for the roof
13 structuring for the elevator addition, the small addition for wide
14 addition to accommodate the new entrance in that building. And then
15 subsequently in 1979 was for the other building and then they were
16 joined together as one.

17 The last exhibit, Exhibit I, is the outline of
18 Ambassador Mogwe's testimony. I do have the Ambassador's
19 testimony written out which I would like to submit for the record. And
20 unless there are any further questions at this point I would like to turn
21 over to Ambassador Mogwe.

22 CHAIRPERSON RICHARDS: That would be fine.

23 AMBASSADOR ARCHIBALD MOGWE: Madam
24 Chairperson, Members of the Board. I feel honored to appear before
25 you in order to testify in support of our application for the relocation of
26 our new Embassy. At birth, my name is Archibald Mogwe and I am

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1 the Ambassador of Botswana.

2 At present time our Embassy is located in the
3 INTELSAT building in the International Satellite. We are leasing the
4 space and our lease expires in the very near future. We currently
5 work about 10 diplomats and 7 diplomatic staff in the Embassy. We
6 anticipate adding up to 4 additional people in the foreseeable future
7 with up to a maximum of approximately 25 diplomats and staff in the
8 near future.

9 We've been actively searching for a new home for our
10 Embassy and found what we believe to be an ideal location which
11 suits our needs both now and the future. We have signed a contract
12 to purchase the present home of the National Association of Retired
13 Federal Employees which is moving to a new location.

14 We intend to make minor but necessary
15 improvements to the exterior of the property. And we intend to totally
16 renovate and upgrade the interior of the building. The maximum
17 future long term size to our staff will only be approximately 1/3 of the
18 present staff size of the National Association of Retired Federal
19 Employees. Therefore, our presence will not be a burden to the
20 neighborhood.

21 The statement that was filed in our behalf sets forth
22 the manner in which we meet the criteria for approval of our
23 application. I do not have to repeat them before you this morning but I
24 will be pleased to answer any specific questions you may have.

25 The statement also sets forth our present manner of
26 operation which we intend to continue in our new location. There is

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1 sufficient parking and public transportation available in the immediate
2 area to satisfy the needs of our staff and our occasional guests.

3 Our representatives have met with the Office of
4 Planning, the DuPont Circle Conservancy, the staff of the Historic
5 Preservation Review Board and the Advisory Neighborhood
6 Commission to discuss our application. We have obtained Historic
7 Preservation approval for the exterior improvements. And I
8 understand that the Office of Planning, the Department of State and
9 the Advisory Neighborhood Commission have all recommended
10 approval of our application.

11 We have much work to do on both the outside and
12 inside the building and will be able to begin that work as soon as we
13 possibly can get your approval. I believe that we meet all the
14 necessary criteria for approval of our application.

15 Therefore, with respect, I request that you proceed
16 with your official job as quickly as possible so that we can move
17 forward with our plans and begin our occupancy when our current
18 lease expires. Thank you for consideration of our application.

19 CHAIRPERSON RICHARDS: Board Members, would
20 you like to hear the entire case and then ask questions as they -- do
21 you have any other witnesses you are going to present? Mr. Morris.

22 MR. COLLINS: Mr. Morris is with the Traffic and
23 Transportation.

24 MR. MORRIS: Good morning, Madam Chairperson
25 and Members of the Board. I am Robert L. Morris, Traffic Engineer
26 and Transportation Planner. My home address is 9109 Rouen Lane,

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1 Potomac, Maryland 20854.

2 I have prepared a traffic analysis which as Mr. Collins
3 mentioned is Tab G in the material in front of you. And in the interest
4 of time I would touch on the highlights of that report and certainly be
5 prepared to answer any questions you may have.

6 I have indicated in my report what the current traffic
7 conditions are in the area. I measured the peak hour volumes passing
8 through the two intersections on Q Street, New Hampshire Avenue
9 and 18th Street, morning and evening peak hour.

10 I have indicated that the public transportation is as Mr.
11 Collins noted better than at the existing location of the Embassy and is
12 one of the better locations in the District of Columbia. Not only do we
13 have good public transportation, there's also a taxi stand across the
14 street on New Hampshire Avenue.

15 I have indicated where all the front street parking is in
16 the immediate area and the public parking facilities, 2 of them within
17 half a block of this site. With the proposed use of this subject property
18 as Mr. Collins noted there would be even in the long term
19 approximately 1/3 the number of employees on this site than that have
20 been on the site in the immediate past. So there would obviously not
21 be as a result.

22 There would be 9 parking spaces on the site. These
23 9 spaces have been previously approved by the BZA. And this is
24 adequate for their maximum requirements.

25 To my knowledge there has not been a request for
26 diplomatic parking spaces on 18th Street. If you are familiar with 18th

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1 Street, it has 1 lane northbound and 2 lanes southbound. So there's
2 never parking permitted on the eastside of the street going
3 northbound.

4 Immediately adjacent to this property with 2 lanes
5 southbound, there is parking permitted in non-rush hours between
6 9:30 in the morning and 4:00 in the afternoon and of course prior to
7 7:00 in the morning and after 6:30 in the evening. This is space is
8 typically used by people coming into downtown to park there after 9:30
9 and in normal circumstances they are all gone by 4:00. So the spaces
10 would not really serve the community in the immediate residential area
11 in any event.

12 It seems to me that this is something that the
13 Embassy may want to consider in the future but as I understand for
14 diplomatic parking spaces it's not been requested at this time. That's
15 my presentation. I would personally be happy to answer any
16 questions.

17 CHAIRPERSON RICHARDS: Thank you. We may
18 have questions later.

19 MR. COLLINS: There is one last item on the plan in
20 our discussions with the Office of Planning and if I may use Mr.
21 Morris's report which is under Tab G of the statement of the Applicant.
22 If you turn to page 8 of Mr. Morris's report, that shows the parking
23 layout.

24 We had talked about some additional landscaping
25 and specifically an ornamental tree in the space between the parking
26 space, the edge of the parking lot and Q Street and actually the fence

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1 that abuts Q Street. You can see a small like a triple line with dots
2 every so often. That represents the new relocated fence.

3 Between the fence and the parking lot there will be a
4 ornamental tree that we had not yet determined. Something like a
5 dogwood, a flowering cherry, something of that nature. An ornamental
6 tree. And we talked with Mr. Bastida about that issue. That did not
7 appear in the drawings but that is something we will be happy to have
8 as a condition of the approval.

9 CHAIRPERSON RICHARDS: Perhaps we'll hear
10 from the State Department.

11 Mr. MLOTEK: Good morning. May it please this
12 honorable Board. I'm Ronald Mlotek, Legal Counsel of the Office of
13 Foreign Missions, the U.S. Department of State. I'm here today
14 representing the Department which is in full and strong support of the
15 Embassy of Botswana's request before this Board.

16 A customary letter has already been issued for the
17 record from our Deputy Director to the Board setting forth our views as
18 to the satisfactory fulfillment of the statutory criteria for which the State
19 Department is responsible at any rate by the Embassy of Botswana in
20 this case.

21 And I will not belabor the Board by reading a letter or
22 redundantly adding anything to it except to note 2 things. First, the
23 Department of State acknowledges and is appreciative of the
24 cooperation and the support that the Government of Botswana has
25 rendered to the United States mission in Gaberoan (ph) the capital
26 with regard to our property needs and property facilities in that

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1 country. Our property facilities there are greater than the Embassy of
2 Botswana here. Very frequently that is the case, the pattern of our
3 representation aboard. Not always, but frequently. It certainly is in
4 the case of Botswana.

5 But the government there has cooperated and we
6 believe therefore under the doctrine of reciprocity we should support
7 and recommend in favor of the Embassy of Botswana in Washington
8 being granted reciprocally favorable treatment.

9 Secondly, we would observe that from a land use
10 point of view, this is an excellent place for faring government office i.e.
11 a chancery to be located. That concludes my presentation. And I'd
12 be glad to answer any question which any member of the Board might
13 wish to direct.

14 CHAIRPERSON RICHARDS: Does anyone have any
15 questions for this person?

16 MS. REID: I have none.

17 CHAIRPERSON RICHARDS: Thank you, Mr. Mlotek.

18 MR. MLOTEK: Thank you very much.

19 MR. BASTIDA: Good morning, Madam Chairperson
20 and members of the Foreign Missions Board. For the record my name
21 is Alberto Bastida with the D.C. Office of Planning. The Office of
22 Planning submits its report on July 3 of 1997.

23 The Office of Planning refers addressed the criteria
24 required by the zoning regulations that the Embassy has to meet on
25 pages 3, 4 and 5 of our report which are Sections 101 and 102 of the
26 zoning regulations.

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1 The Office of Planning is of the opinion that the
2 Applicant has met the burden of proof under Sections 101 and 102 of
3 the proposed foreign chancery in the DCOD/SP-1 zone district. The
4 proposal will be for viable use that would be compatible with the
5 systems uses in the area. With all the easements concerned the proposed
6 Chancery will building within the municipal and Federal interest. For
7 these reasons as the major designee in matters relative to foreign
8 nations, the Office of Planning recommends approval of this
9 application.

10 That concludes my presentation. If you have any
11 questions, I will try to answer them. Thank you.

12 CHAIRPERSON RICHARDS: Members of the Board.

13 MR. BASTIDA: I would like to add that the Office of
14 Planning referred this application to the Department of Public Works,
15 to the Fire and Emergency Medical Services and The Metropolitan
16 Police Department. Unfortunately, the Office of Planning received no
17 answer of these referrals up to now from the above-mentioned
18 departments. Thank you.

19 CHAIRPERSON RICHARDS: Thank you for
20 checking with them. Are there any other governmental entities who
21 may or may not have submitted reports wish to be heard? No. Are
22 there any persons who wish to heard in support of this application?
23 Are there any persons who wish to be heard in opposition to this
24 application? Do the Board members wish to pursue any aspect of this
25 application with the Applicant at this time?

26 MS. KING: Yes. Mr. Collins, I'd like to ask you or His

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1 Excellency, the Ambassador, whether even though there will be fewer
2 people working the building on a regular basis day to day if the
3 material alterations are going to include reception rooms or if there will
4 be impact of increased traffic in the area due to visitors to the
5 Chancery.

6 MR. COLLINS: The Embassy is currently located at
7 the INTELSAT building so it has an existing operation and we
8 analyzed existing operation to see what impact it would have and I
9 think as the statement sets forth here currently approximately on
10 average 5 visitors per day to the Embassy.

11 Once a year there is a meeting on a rotating basis
12 among a number of the African countries. Some of them are located
13 in this very same area along New Hampshire Avenue and so there
14 may be a once a year meeting in the conference room. There is a
15 conference room that's existing now that NARF uses on a regular
16 basis.

17 MS. KING: But the Chancery will not be used on a
18 regular basis for large parties and receptions.

19 MR. COLLINS: It's an office.

20 MS. KING: Thank you very much.

21 CHAIRPERSON RICHARDS: One thousand square
22 feet per employee.

23 MR. COLLINS: It's a very very nice one.

24 CHAIRPERSON RICHARDS: Yes. Guy who works -
25 - Okay. Anything else?

26 MR. PARSONS: I do have one question. First, I want

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1 to congratulate you all on turning this eyesore at the junction of these
2 two avenues into an oasis. It's really going to be marvelous. By
3 adding this facade treatment and the landscaping, a great contribution
4 to the community, I believe.

5 I didn't want to leave the issue of the trellis options
6 here in our record unless -- Have you made a decision or has the
7 Historic Preservation Review Board assisted you with the decision to
8 be made on page 7?

9 MR. COLLINS: Their recommendation is the simpler
10 the better and that's the direction that they are going in, the Office is
11 going in right now. There is an on-going discussion with Suzanne
12 Ganchion (ph) on the certification reports staff on that issue but
13 among those options we certainly would like you to consider all of
14 them but if you have a preference as the final arbitrator as to the
15 specifications certainly that's within your privy to make that.

16 We are suggesting -- I think everyone should agree --

17 MR. PARSONS: The reason I bring it up we certainly
18 don't want to leave you in a position you have to come back here --

19 MR. COLLINS: Certainly not.

20 MR. PARSONS: -- for a decision on it. When you
21 say simpler the better do you know where they are leaning? A, B or
22 C?

23 MR. COLLINS: I think --

24 MR. PARSONS: The only apparent difference
25 between B and C which I think is probably where you want to go is the
26 color of the stucco and the curvature of the arches as I graph it.

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1 MR. COLLINS: Actually on page 6 of the plan I think
2 is even a more simple version.

3 MR. PARSON: All right.

4 MR. COLLINS: And the others are alternatives.

5 MR. PARSONS: I'm sorry. So you have a proposed
6 action here on page 6 and this is for our information.

7 MR COLLINS: These are other things that are being
8 studied and were considered. The feedback that we're getting is the
9 simpler the better and on page 6 that is a -- the issue now is really
10 material stuff of what's on page 6.

11 It's whether there would be masonry piers or metal
12 piers. Metal piers can be smaller. According to the discussion that
13 I've heard metal piers can be smaller than masonry but metal piers
14 rust.

15 So the issue is do we make a smaller -- you can make
16 a smaller masonry and that discussion is still on-going with the staff.

17 MR. PARSONS: So this is an issue that you're going
18 to resolve with Suzanne or --

19 MR. COLLINS: We would like to be able to do that.
20 Notwithstanding the fact that this Board has the final decision. If you
21 would give us the authority to explore that and finalize that with
22 Suzanne with the Historic Preservation Review Board Staff to fight the
23 option to do that.

24 CHAIRPERSON RICHARDS: Inasmuch as we're not
25 going to decide this until September, would you have something
26 decided upon by then?

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1 MR. COLLINS: We have to. Yes.

2 CHAIRPERSON RICHARDS: Okay.

3 MR. PARSONS: That would be excellent. I would
4 move for approval, Madam Chair.

5 CHAIRPERSON RICHARDS: We can't move --
6 There's that little problem with the failure to --

7 MR. PARSONS: Well, you know where I'm coming
8 from.

9 CHAIRPERSON RICHARDS: -- solve that.

10 MR. PARSONS: We'll wait to September for that
11 motion.

12 CHAIRPERSON RICHARDS: Hey, what's not to like.

13 MR. PARSONS: I'm sorry.

14 CHAIRPERSON RICHARDS: Try not to prejudge this
15 case. Okay. I guess that you're going to submit your final site plan,
16 landscaping plans and otherwise we stand in adjournment.

17 MR. COLLINS: May I add? I'm sorry. Before you
18 close this. And this may be premature. If we had not had the notice
19 issue, I was going to move for an expedited order and I'd like at this
20 point since I don't have an opportunity to tell you on September 3rd
21 because we don't have input then to explain to you the reasons that
22 we need move fairly quickly on this.

23 This is actually a three-way transaction. Botswana is
24 in leased space. Their lease is expiring. They're moving to the NARF
25 headquarters. NARF is moving to with the current headquarters of an
26 outfit called The Society of Human Resources Management, SHRM.

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1 And SHRM is moving to an new building.

2 This is a three-way transaction that has to be carefully
3 choreographed. Botswana as the Ambassador mentioned does have
4 a significant amount of interior work that needs to be done before they
5 can move in. And backing up from the expiration of their lease, they
6 must be in a position to start that work as soon as possible.

7 We also have the issue as to weather, W-E-A-T-H-E-
8 R, the weather for the exterior construction must be in a position to be
9 able to build this facade before and have the footings and have the
10 construction well under way before the bad weather sets in in January
11 that we anticipate. There will also be no settlement on the contract
12 until after the written orders issued and a reasonable period passes to
13 see if any appeals might be filed, without any appeals having been
14 filed.

15 So having taken all of that into consideration, we are
16 going to need to get our order as soon as we possibly can. What I
17 would propose in light of the September 3rd decision date is if the
18 Board is disposed, if the remainder of the Board is disposed, to
19 approve the application. And I would respectfully request that if we
20 get a draft order in with a computer disk with the order on it that we
21 could have the written order by September 19.

22 CHAIRPERSON RICHARDS: We have this new
23 proceeding whereby we at our meeting adopt an order.

24 MR. COLLINS: Yes, I'm aware of that. I'm only
25 concerned about what happens between the 3rd and the 19th.
26 Getting it out. I would be happy to get that to the Board for

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1 consideration September 3rd.

2 CHAIRPERSON RICHARDS: Sure. You can work
3 out the mechanics with your staff. I mean once we vote on the
4 checks, you can do it in a parchment and it's the order of the Board.

5 MR. COLLINS: It's just the matter of getting it signed
6 by this Board and getting it back as the official order. That's what I'm
7 concerned about. Getting it on the 19th.

8 CHAIRPERSON RICHARDS: Okay. Yes. We
9 certainly urge Applicants to work with Staff once the Board makes any
10 decision that it may in the future make and bringing it to fruition.
11 Okay.

12 MR. COLLINS: Thank you.

13 CHAIRPERSON RICHARDS: Anything else we need
14 to deal with in this matter?

15 MR. COLLINS: I would just like to make clear that
16 there is a deadline for the items that were requested. I suggest mid-
17 August.

18 CHAIRPERSON RICHARDS: What do you say, Mr.
19 Secretary?

20 MR. LYONS: I would recommend August 25th.

21 MR. COLLINS: And that is for the revised site plan
22 showing the location of the tree?

23 CHAIRPERSON RICHARDS: Yes.

24 MR. COLLINS: And the selection of what the final
25 lattice work will be?

26 CHAIRPERSON RICHARDS: So it's only going to be

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1 one tree? That's it?

2 MR. COLLINS: That's correct. Just the location
3 where it's going to be.

4 CHAIRPERSON RICHARDS: So August 25th?

5 MR COLLINS: Thank you very much.

6 CHAIRPERSON RICHARDS: Thank you.

7 (Off the record.)

8 CHAIRPERSON HINTON: The hearing will please
9 come to order. Good morning, Ladies and Gentlemen. This is the
10 July 16th public hearing of the Board of Zoning Adjustment of the
11 District of Columbia.

12 My name is Susan Morgan Hinton and I'm your
13 Chairperson.

14 Joining me today are Laura Richards, Vice Chair,
15 Sheila Cross Reid, Betty King and Maybelle Taylor Bennett,
16 representing the Zoning Commission.

17 Copies of today's hearing agenda are available to
18 you. They're located to my left near the door. All persons planning to
19 testify either in favor or opposition are to fill out 2 witnesses cards.
20 These cards are located at each end of the table in front of us.

21 Upon coming forward to speak to the Board, please
22 give both cards to the Reporter who is sitting to my right. The order of
23 procedure for special exception and variance cases will be as follows:

- 24 1. The statement of witnesses of the Applicant.
25 2. Government reports including the Office of
26 Planning, the Office of Zoning, Department of Public Works and ANC.

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- 1 3. Persons or parties in support.
- 2 4. Persons or parties in opposition.
- 3 5. Closing remarks by the Applicant.

4 Cross examination of witnesses is permitted for
5 persons or parties with a direct interest in the case. The record will be
6 closed at the conclusion of each case except for any materials
7 specifically requested by the Board. The Staff will specify at the end of
8 the hearing exactly what is expected.

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

13 At this time the Board will consider any preliminary
14 matters. Preliminary matters are those which relate to current case or
15 should be heard today such as request for postponement,
16 continuance or withdrawal or whether proper and adequate notice of
17 the hearing has been given. If you are not prepared to go forward with
18 the case today or if you believe that the Board should not proceed,
19 now is the time to raise such a matter.

20 Does the Staff have any preliminary matters?

21 MR. LYONS: Yes, Madam Chair. The second case
22 of this morning's agenda, 16209, in the Application of Cesar
23 Armendariz, Jr. The Board may recall on February 19th, it was
24 indicated that Mr. Armendariz had died in an automobile accident
25 earlier this year.

26 In postponing this application, it was hoped that there

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1 would be some clear authority established as to who would then have
2 an interest in the property and who would be able to go forward with
3 this application. And that had not happened. We had been in contact
4 with a Mr. -- Mr. Howard, can you help me with -- Is it --

5 MR. HOWARD: Michael Sachel (ph).

6 MR. LYONS: Michael Sachel who has indicated that
7 he has interest in this application and then Mr. Armendariz's estate.
8 We have asked for something in writing to verify that. And having not
9 received anything to this point, we would ask that this matter be
10 postponed an additional period to allow Mr. Sachel to submit some
11 proof or evidence that he has some authorization or control over this
12 property in order to proceed with it as it is pending before the Board.

13 CHAIRPERSON HINTON: Mr. Lyons, when the
14 request made to Mr. Sachel to provide that information to the Board?

15 MR. LYONS: It was an earlier request shortly after
16 the public hearing in February and then a recent contact with him at
17 that time he indicated that he felt that there would be some dispute in
18 terms of the heirs at least involved in Mr. Armendariz's property which
19 might involved other family members. That there could be an
20 extended period of time before those matters are settled.

21 The other issues related to this application that had
22 not been posted and so forth with in fact would preclude the Board
23 from hearing the application today.

24 MS. RICHARDS: Madam Chairperson, apparently
25 there is somebody who wishes to speak to this matter. I would remind
26 the Board that the last time we had this hearing on February 19th

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1 there were people in opposition to the application who showed up and
2 asked that the Board not rule on it. We did tell those people that we
3 would schedule another date because it's something beyond
4 everyone's control that had happened.

5 But at this point we're nearly 6 months beyond
6 February and we've received nothing from anyone that shows that
7 they have an interest in the opposition. And it really seems to me that
8 there's no point in the BZA to hold this open.

9 CHAIRPERSON HINTON: Generally, I believe that
10 we have more potentially relevant information so I'd like to hear what
11 the people here have to say before I make a decision.

12 I'm just wondering whether we really ought to be
13 taking testimony on the --

14 MR. LYONS: It's a preliminary matter only at this
15 point.

16 MS. HERMAN: Excuse me. I wish to speak to the
17 Board about this matter.

18 CHAIRPERSON HINTON: Okay. Could you identify
19 yourself for the record?

20 MS. HERMAN: My name is Robin Herman. My
21 address is 2213 13th Street N.W. I'm the person right next door to
22 this. And I request that you do not postpone the hearing. In fact, go
23 forward today because there's an existing structure there. It was built
24 in November of 1995 and the neighbors who were present at the
25 February 19th hearing are also present today and we'd like to have
26 the matter addressed and the structure actually removed from the

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1 property.

2 I don't believe the failure to post notice should prevent
3 the Board from going forward since the neighbors who are directly
4 involved have actual notice and I also have statements from several of
5 other neighbors who are there stating that they are aware of the
6 hearing today and are opposed to the variance.

7 CHAIRPERSON HINTON: You were here at the
8 February hearing. Is that how you have notice of the estate?

9 MS. HERMAN: That is correct.

10 CHAIRPERSON HINTON: Okay. And you think all
11 the immediate neighbors also are aware?

12 MS. HERMAN: Yes. In fact the people on the other
13 side of this house are aware. Their neighbors are here and again I
14 have statements from several other neighbors saying that they are
15 aware of the hearing.

16 CHAIRPERSON HINTON: Well --

17 MR. LYONS: Mr. Sachel is not present in the
18 audience, is he?

19 MR. QUINN: No, he's not.

20 MS. RICHARDS: Will you identify yourself for the
21 record?

22 MR. QUINN: My name is Daniel Quinn. I reside at
23 2209 13th Street, N.W. which is on the other side of the property at
24 issue. In addition to confirming that the neighbors in the area have
25 been notified of this meeting, I have personal contact with Mr. Sachel
26 and he has in my opinion expressed no intention to comply in any of

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1 this matter with the District of Columbia.

2 When he had first began construction, he told me he
3 didn't need to get permits because he could have the structure built
4 without the District even knowing about it. He has shown blatant
5 disregard for zoning laws and I think we need to go ahead with this to
6 address an unsafe and illegal structure.

7 MR. HOWARD: My name is Clyde Howard and I live
8 at 2217 13th Street, N.W., two houses above where the structure is
9 located. And I find that there's too much going on in this area
10 particularly of structures being built and nothing happening to them
11 and nothing being done. And I find that this particular structure also
12 meets that mode because nothing is being done. He is only been
13 cited by consumer regulatory affairs by the fact that he has been in
14 violation.

15 The structure is built. I have pictures here that may
16 attest to it. And it continues to remain an annoyance to the
17 community. It also blocks sight and view of the neighbors.

18 I have not at this particular point reciting my testimony
19 but I would like to be given the opportunity and I would like this Board
20 to rule upon the continuance of this case. I see no need for it. It
21 needs to be resolved now. And as long as that structure remains
22 there, the temptation to use it will also occur and he has used it
23 unfortunately. The pictures I have taken of him using the structure is
24 on a roll of film which I have not yet developed.

25 MR. LYONS: The only thing I can respond to that
26 question is to indicate that Mr. Sachel and Mr. Armendariz lived

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1 together at the premise in question. Other than that I have no
2 knowledge of any other type of living.

3 MS. RICHARDS: I move that to dismiss with
4 prejudice at this stage.

5 CHAIRPERSON HINTON: I think we have a motion.
6 I will second it. All those in favor?

7 MS. BENNETT: Aye.

8 MS. REID: Aye.

9 MS. RICHARDS: Aye.

10 MS. KING: I think I must abstain since I didn't hear
11 the earlier unfair testimony.

12 CHAIRPERSON HINTON: There was no testimony.
13 Opposed? Could the Staff record the vote? Do you understand what
14 that means? We've dismissed the application which means with
15 prejudice. They can't reapply for a year and that without BZA
16 approval to have the Applicant have the deck (PH). You now have
17 what you need to pursue it with the enforcement body which is DOC
18 DCRA.

19 MS. HERMAN: Is it out of order of them to take it
20 down or do we need to go through building inspectors?

21 MR. LYONS: With the issuance of an order to
22 dismiss, it would be leave the enforcement authorities a window in
23 which to take action and certainly would with the community's
24 encouragement that that action could be done sooner as opposed to
25 later.

26 CHAIRPERSON HINTON: If you make a request in

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1 writing to those authorities for action and you don't get action in a
2 timely manner then you can appeal that refusal to act back to this
3 Board.

4 MS. RICHARDS: Madam Chairperson, perhaps we
5 should reopen this matter based on the gap of this individual party's
6 status to ease their enforcement action?

7 MR. LYONS: I didn't quite understand.

8 MS. BENNETT: Do they require it in order to initiate
9 or pursue enforcement?

10 CHAIRPERSON HINTON: This calls for a vote --

11 MR. LYONS: No, I don't think that would be
12 necessary.

13 CHAIRPERSON HINTON: -- to appeal the decision.

14 MR. QUINN: Is anybody on the Board able to
15 address the issue that since the owner of this home is deceased that if
16 the property was put up for sale by the estate and the structure is still
17 up, is there any recourse or any liens that the District can place on
18 that property given the decision of the Board?

19 CHAIRPERSON HINTON: If the deck needs
20 approval from this Board in order to be constructed and it doesn't have
21 that approval then it can be removed at any time regardless of
22 whether the property has changed hands.

23 MR. QUINN: Thank you.

24 MS. HERMAN: Can we postpone for receiving copy
25 of the order so we can proceed with the action?

26 MR. LYONS: Would each of you submit witness'

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1 cards to us please?

2 MR. QUINN: Sure.

3 CHAIRPERSON HINTON: And then if you order the
4 stuff and --

5 MR. LYONS: We will give them a courtesy copy.

6 MR. HOWARD: If need be, I have pictures of them.

7 MR. LYONS: No, we're not in the hearing itself.

8 CHAIRPERSON HINTON: We understand. Thank
9 you.

10 MR. LYONS: Thank you. The vote in this matter,
11 Madam Chair, for the record was 5 to 0 to dismiss the application with
12 prejudice. Ms. Richards, Ms. Hinton, Ms. King, Ms. Reid and Ms.
13 Bennett to dismiss.

14 CHAIRPERSON HINTON: Thank you. We're still in
15 preliminary matters. Does the Staff have any other preliminary
16 matters now?

17 MR. LYONS: The Staff has no other preliminary
18 matters.

19 CHAIRPERSON HINTON: Does anyone in the
20 audience have a preliminary matter? No?

21 MS. ZEIGLER: We are here for --

22 CHAIRPERSON HINTON: You need to come to a
23 microphone if you are going to speak to the Board.

24 MS. ZEIGLER: My name is Cynthia Zeigler and I'm
25 here on Case Number 16262.

26 CHAIRPERSON HINTON: That case has already

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1 been decided.

2 MS. ZEIGLER: I'm sorry. What is it? 16250. Sorry.
3 And we just wanted to make sure that what we have existing now that
4 it's still going to remain in the back of our house.

5 MR. LYONS: 16250 is a case that is scheduled for
6 this afternoon.

7 MS. ZEIGLER: It said 9:30.

8 MR. LYONS: We have an a.m. and p.m. And the
9 a.m. agenda begins at 9:30 and if you look on that agenda that you
10 have you'll see a.m. between 9:30 and 1:00 p.m. and the cases are
11 listed.

12 And p.m. happens to fall on the back side. P.M. is
13 listed at the top and that is to begin at 2:00.

14 MS. ZEIGLER: Well, our poster said it would begin at
15 9:30 a.m. I wrote it down. They had it posted all in our neighborhood
16 and on the trees where it is posted.

17 MR. LYONS: Yes, I understand.

18 MS. ZEIGLER: It said a.m.

19 CHAIRPERSON HINTON: Well, it will in fact be this
20 afternoon. After 12:00

21 MS. ZEIGLER: Okay. So it will be 9:30 p.m.?

22 MR. LYONS: 2:00 p.m. This afternoon.

23 MS. ZIEGLER: Lost a whole day's work then. They
24 need to post it correctly. I beg your pardon. I had reports to do and I
25 took off to come down here for that. Thanks for nothing. Could you
26 tell me whether they are going to remain the same, did you all say

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1 that? Because I know you know that we lost a whole day's work.

2 MR. LYONS: Can I ask you if you would talk to
3 Beverly Bailey of the Office of Zoning Staff?

4 MS. ZEIGLER: Who is she?

5 MR. LYONS: She is next door in Room 210.

6 MS. ZEIGLER: Beverly --

7 MR. LYONS: Beverly Bailey.

8 MS. ZEIGLER: So we need to go home and change
9 the posters because other people wanted to come down here. Should
10 we fill out witness cards?

11 MR. LYONS: Yes, please if you would.

12 MS. ZEIGLER: Fill out 2 or would 1 be all right for
13 now?

14 MR. LYONS: Yeah.

15 MS. ZEIGLER: Beverly --

16 MR. LYONS: Beverly Bailey.

17 The next case on the agenda is Application 16215 of
18 George Dravillas, pursuant to 11 DCMR 3108.1 and 3107.2, for a
19 special exception under Section 213 and 1403.2 to establish a parking
20 lot, a waiver of the parking space, dimensional, size, design and
21 striping requirements for attendant parking under Subsection 2115.11,
22 and a variance from the minimum five percent landscaping
23 requirement, Subsections 2117.11 and 2303.1(f), for a temporary
24 parking lot with an attendant in an RC/R-5-B District at premises 2307
25 Champlain Street, N.W. (Square 2563, Lot 101).

26 All persons wishing to testify in this application,

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1 please rise to take the oath.

2 Whereupon,

3 JAMES THACKABERRY

4 was called upon as a witness and, having been first duly sworn, was
5 examined and testified as follows:

6 MR. LYONS: Please be seated.

7 CHAIRPERSON HINTON: Would you state your
8 name and home address for the record?

9 THE WITNESS: My name is James Thackaberry. I
10 work with the Department of Housing and Community Development. I
11 live at 1735 D Street, S.E. in the District.

12 CHAIRPERSON HINTON: Thank you. We have
13 read the record and we have the information that you have submitted.
14 I have a couple of questions before you get started if you don't mind.

15 And this is for the Staff. I didn't find a letter from the
16 Zoning Administrator. Did anyone else --

17 MR. LYONS: There is one from the administrator,
18 Madam Chair.

19 CHAIRPERSON HINTON: Here we go. It's in the
20 main file. I don't think that it made it into our package.

21 MR. LYONS: Into your package.

22 CHAIRPERSON HINTON: Let me read it through.
23 The Zoning Administrator notes relief as:

24 1. Special exception pursuant to Section 213 to allow
25 a temporary parking lot within an attendant to be located in the
26 RCR5B residential zone.

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1 Okay. Now --

2 MR. LYONS: Madam Chair?

3 CHAIRPERSON HINTON: Now the Administrator just
4 notes what the relief that's needed. Yes?

5 MR. LYONS: Madam Chair, the Zoning
6 Administrator's memorandum did call for 1 special exception relief
7 under 213. However, the Applicant applied for several other relief
8 under several other sections of the regulations as they saw where
9 there was need for certain relief given the type of parking lot that they
10 had anticipated establishing.

11 I guess at this point if you will bear with me, Staff the
12 Office of Zoning did not furnish a report in this case and our concern
13 was that there wasn't enough information in the record to address the
14 several paragraphs, standards of criteria, that would apply in this
15 application under 213 which relates to the R5B District as well as the
16 Reed Cook Overlay District under Section 1403.2.

17 And other Sections 2117.11 and 2115.11 also would
18 apply. We were not able to really make an analysis of the application
19 not having specific information detailed enough that would help us
20 address those standards.

21 CHAIRPERSON HINTON: Okay. Thank you. That
22 answers my second question. So what that means then is that you
23 are going to need to address all of those regulations in your testimony
24 today since that information is not in the record.

25 THE WITNESS: Okay.

26 MS. BENNETT: Let me ask this. What you are

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1 requesting essentially as I understand it is the opportunity to provide
2 parking until the full structure the Designing Commission just took
3 proposed action on is actually built?

4 THE WITNESS: That's correct.

5 MS. BENNETT: And the reason you required phasing
6 was so that there would be a continuity of parking in -- while the
7 construction was going on.

8 THE WITNESS: That's correct.

9 MS. BENNETT: Because the construction is going to
10 take some time and you didn't want to denude (PH) the area.

11 THE WITNESS: That's our concern.

12 MS. BENNETT: That's the bottomline so that the host
13 of requirements and relief sought that was just mentioned in addition
14 to what was advertised is before us for a temporary period of time.

15 THE WITNESS: That's correct.

16 MS. BENNETT: And that period of time estimated is?

17 THE WITNESS: A year and some months.

18 MS. BENNETT: For the construction of the whole --
19 At least all of the parking?

20 THE WITNESS: For all of the garage.

21 MS. BENNETT: All of the garage.

22 THE WITNESS: When that's in operation.

23 MS BENNETT: All right. I just wanted to clarify that.

24 CHAIRPERSON HINTON: I do note that I believe all
25 of the relief is properly advertised.

26 THE WITNESS: Yes.

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1 CHAIRPERSON HINTON: It just wasn't in the BZA
2 letter.

3 MS. BENNETT: Okay. So the special exception to
4 establish the lot to weigh the parking space dimensional size, design
5 and striping requirements and the variance from the minimum 5
6 percent landscaping are in total what it is that you are asking. All
7 right.

8 THE WITNESS: Yes. And in the posting of all the
9 exceptions were referenced.

10 MS. BENNETT: In the posting they were all
11 referenced?

12 THE WITNESS: Yes.

13 MS. BENNETT: All right. I'm good. Thank you.

14 CHAIRPERSON HINTON: So why don't we go ahead
15 with the Applicant's statement?

16 THE WITNESS: Okay. I have written copies of my
17 statement that I'll -- Okay. I'll proceed.

18 CHAIRPERSON HINTON: Thank you.

19 THE WITNESS: My name is James Thackaberry and
20 I'm the Project Manager with the Department of Housing and
21 Community Development. I'm here representing -- We got permission
22 of the owner, Mr. George Dravillas, to act as agent on his behalf in this
23 matter in the case at issue the Application 16215 to promote attendant
24 parking on Lot 101 in Square 2563 for the period of DACD's (ph) lease
25 of 101.

26 The District as owners of Lot 90, 91, 92, 105, 106 and

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1 125 in adjacent Square 2560 has negotiated a land lease and sale of
2 air rights to the Adams Morgan Development Company Limited
3 Partnership for the construction of a mixed use project consisting of a
4 350 space parking garage, 60 to 80 condominium units and
5 approximately 4,000 square feet of retail space.

6 This development will be built on the only large
7 parking lot in the Adams Morgan Community. During the construction
8 period of the garage and the other development the District desires to
9 provide as much replacement parking to the Adams Morgan
10 Community as possible.

11 According we have developed parking plan for the
12 Adams Morgan area which would provide temporary replacement
13 parking spaces for those that will be lost during construction. That's
14 approximately in the 1st phase of construction about 120 spaces just
15 lost to the excavation for the garage.

16 A summary and map of the proposed interim parking
17 program was filed with the special exception application materials and
18 on the map in that packet the lot we're dealing with is labeled as
19 Number 3. It's the old Amoco gas station.

20 The economic viability of Adams Morgan business of
21 the business community requires that suitable, convenient parking be
22 available during the construction of the proposed parking garage. To
23 this end DACD entered into negotiations with the owners of vacant
24 property in the vicinity of the garage construction. All properties
25 except for Lot 101 have appropriate approvals and use certificates to
26 permit use as parking lots. Lot 101 is the only one that has a special

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1 exception.

2 The 20 spaces that will be provided on Lot 101 will
3 help ease the sever parking that will exist during the parking garage
4 construction period. And we are providing these parking spaces to
5 assure that we have close to the same number of spaces that
6 currently exist prior to construction.

7 Before closing I would like to specifically address the
8 issues of concern that ANC raised, reflected in their vote to oppose
9 this application. DACD was aware when we applied for the special
10 exception that the ANC and the community would perceive granting
11 such a special exception as an encroachment of commercial and
12 parking uses east of Champlain.

13 Because of the concern, it was for this reason that we
14 requested the effective period of the special exception be limited to
15 only that period of the lease when we were actually using the lot for
16 temporary replacement parking. Once the lease expires at the end of
17 the garage construction, the special exception would expire. And that
18 would take care of structuring at this phase would allow us to have a
19 spot of temporary parking spaces but not establish any long term
20 commercial uses during inter-residential areas east of Champlain
21 Street.

22 The Department of Housing and Community
23 Development appreciates all your consideration on this matter. We
24 look forward to your review of the Application.

25 CHAIRPERSON HINTON: Thank you. Are there any
26 questions from the Board members?

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1 MS. BENNETT: Yes. Mr. Thackaberry, sir, I guess
2 what we need to have you or I need to have you address is do you
3 want relief from having to do all these things that a normal parking lot
4 would have to do? Because you don't want to spend all the money to
5 put all this striping and asphalt and whatever, whatever, curb stops
6 and all the things that would have be required on there for so short a
7 period of time when for real you're going to be using it very briefly and
8 then directly the traffic that would need parking into the final parking
9 lot.

10 THE WITNESS: That's correct.

11 MS BENNETT: Because if the Designing has its way
12 it's going to constructed.

13 THE WITNESS: In seeking out and putting together
14 the program of parking spaces, we sought lots that were already
15 operational where we could have had other lots that could be used
16 immediately. This lot is an approved paved old gas station site but
17 once the pumps and the gas islands were removed it's a paved
18 approved lot that can immediately accept parking.

19 MS. BENNETT: Okay. And this is going to have
20 attended parking?

21 THE WITNESS: Yes. This is going to be an attended
22 parking lot with as the plat that was submitted at the application shows
23 the parking arranged in a way where cars are parked in a tandem. It's
24 really -- We will have an attendant --

25 MS. BENNETT: So you are still spending money for
26 the attendant?

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1 THE WITNESS: Yes.

2 MS BENNETT: An attendant will still be there.

3 THE WITNESS: The interim parking program is going
4 to managed by our present parking lot operator, Colonial Parking.
5 They are part of the developer's development team. They will be
6 running the parking garage when that's completed and ready for
7 operation.

8 In the interim, they will be operating the front lot on
9 18th Street, the phase one lot portion of our development site that will
10 continue in operation. This lot -- Some unassigned spaces on the
11 Dorchester Apartments parking lot that they will issue monthly stickers
12 to people, customers but they won't attend the lot in any way. And
13 then they are adding ours to a lot they own, already operate I think on
14 California Street.

15 So all these lots together they will continue to manage
16 as a continuation of their current management role of the current
17 parking lot.

18 MS. RICHARDS: I have one question. What's going
19 on on the site in question at this time?

20 THE WITNESS: It's used for the -- storage and other
21 car storage by a car repair shop. It's across the alley to the east.

22 MS. BENNETT: What's going to happen to the
23 vehicles that are currently stored on it?

24 THE WITNESS: When I posted the signs the lot had
25 been cleared so it's pretty much --

26 MS. BENNETT: Okay.

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1 MS. RICHARDS: So is that sort of like an informal,
2 legal use? The cars there?

3 THE WITNESS: We are only acting as the owner's
4 agent for this specific matter. Mr. Dravillas would have to speak to
5 those matters.

6 MS. RICHARDS: You don't know what the long term
7 plans for that site are, do you?

8 THE WITNESS: I do not. We only approached Mr.
9 Dravillas with the proposition of would he be willing to lease to the city
10 for the period of the construction of the garage this lot for temporary
11 parking. And he was willing to do it if we got the necessary special
12 exception ruling which we are trying to do.

13 MS. RICHARDS: And the city is going to remove the
14 pumps?

15 THE WITNESS: No, the pumps have been removed.

16 MS. BENNETT: The pumps are gone.

17 MS RICHARDS: They're gone already.

18 THE WITNESS: There was quite a bit of
19 environmental abatement that remediation that had to be done
20 on this site. That was all done many years ago. That was extensive
21 excavation. They removed three rather large gasoline fuel storage
22 tanks from there. And when that was done, all the islands were
23 removed.

24 All that remains on the site is the old attendant's shed.
25 This is one of those gas-and-go stations so it has the restrooms and
26 the attendant's booth. That's all that remains.

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1 CHAIRPERSON HINTON: Are there any other
2 questions? Ms. King.

3 MS. KING: There is some reference to the fact the
4 local ANC opposes this use and I don't see any records. Are they on
5 record?

6 MR. LYONS: I checked from the ANC. Yes, it is.

7 THE WITNESS: I assume -- They did vote in
8 opposition.

9 MS. KING: I did not get a copy of that.

10 MR. LYONS: You did not get a copy of that?

11 CHAIRPERSON HINTON: The Board members
12 didn't get it. It is ANC file though. Yes, we'll get to the ANC part of the
13 hearing and we'll read in the record at that point. Okay.

14 THE WITNESS: I believe it is not apparent from our
15 application that the District was applying -- I'm speculating but I think
16 they seemed more focused on Mr. Dravillas being the Applicant. He
17 has previously applied for special exception on his own and been
18 denied by ANC.

19 CHAIRPERSON HINTON: Thank you. Let's move to
20 the -- I did not receive a report from the Office of Planning. Did
21 anyone else?

22 MS. BENNETT: No.

23 CHAIRPERSON HINTON: Mr. Lyons, is there one
24 prepared?

25 MR. LYONS: No, Madam Chair. We as I indicated
26 before did not find sufficient information in the record to really address

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1 the standards that relate to the various areas of relief that the
2 application requires.

3 CHAIRPERSON HINTON: Okay. Thank you. The
4 ANC, the Board members didn't get a copy of the letter but there is a
5 letter in a file.

6 MS. KING: Do you want me to read it?

7 CHAIRPERSON HINTON: Sure. ANC-1-C.

8 MS. KING: "To the Board of Zoning Adjustments.
9 Ladies and Gentlemen. BZA Application 16215. The Advisory
10 Neighborhood Commission 1-C met on April 28, 1997 to consider
11 among other things the above-referenced application for a special
12 exception to locate an attended parking lot on the lot of 2307
13 Champlain Street, N.W.

14 The property is located in Zoning District RC/R-5-B.
15 Proper notice of the meeting was given with notices referencing the
16 application posted by April 21, 1997. Eight members of the
17 Commission were present at the meeting surpassing the total of 5
18 needed for a quorum.

19 Discussion at the meeting reflected a consensus that
20 the proposed use was inappropriate at the site. The issues and
21 concerns to be considered by the Board are (a) as a general matter.
22 Further commercial uses in the area would have a detrimental effect
23 on the residential community which requires the special protection of
24 the Reed Cook Overlay District and (b) the history of this Applicant at
25 this site reflects an indifference to community needs that should not be
26 rewarded with a special exception to the zoning regulations.

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1 According the Commission voted unanimously to
2 oppose the Application. The undersigned is authorized to present this
3 report. Sincerely, Daniel M. Horagan (PH), Chairperson, Advisory
4 Neighborhood Commission 1-C."

5 CHAIRPERSON HINTON: Thank you.

6 MS. REID: Excuse me. Does it say temporary
7 anywhere in there?

8 MS. KING: They don't seem to have. I don't see the
9 word "temporary" here anywhere.

10 MS. REID: I'm trying to understand. Is it that the
11 ANC is not aware of the fact that it's a temporary type situation? Or
12 are they under the impression that it's going to permanent?

13 THE WITNESS: I get the impression that it's going to
14 be permanent or they suspect it may be but our intention of applying
15 here was always going to be absolutely temporary only for the period
16 of our lease.

17 CHAIRPERSON HINTON: Sure.

18 MS. BENNETT: When I realized that those are two
19 separate cases. When you came before the Zoning Commission,
20 there was quite a bit of cooperative spirit it seemed to me between the
21 ANC and the Applicant and what they were trying to do at least in
22 establishing the PUD. And so I would like to know if you know
23 whether or not they were aware of the interim plans to retain that
24 parking throughout the area until the PUD was fully built. Do you
25 know whether or not?

26 THE WITNESS: I know this is a fairly new ANC as far

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1 as membership of the ANC Commission. I think there's been a lot of
2 turnover but the old Commission was aware that we had developed,
3 certainly the business community is aware at their request developed
4 this interim parking program. This is a parallel program to alleviate the
5 difficulties created by the construction.

6 MS. BENNETT: Do you mean as of the beginning of
7 this year they took office?

8 THE WITNESS: Right. In January.

9 MS. KING: All the ANC's were elected. Most of them
10 took office on the 2nd of January.

11 MS. BENNETT: So the people who held office when
12 much of the planning were from the old Commission?

13 THE WITNESS: That's right. My understanding is
14 that there was nearly a complete turnover of the ANC.

15 MS. BENNETT: I see.

16 THE WITNESS: One or two members may have
17 been reelected but it's pretty much a whole new ANC.

18 MS. BENNETT: Thank you.

19 CHAIRPERSON HINTON: There was no one else in
20 the audience for this case. There's no letters of support in the record
21 and the only opposition is from the ANC. We have closing remarks
22 from the Applicant.

23 THE WITNESS: I would only refer back to my
24 statement in support that this is a parallel, this is part of an interim
25 parking program that the Department of Housing and Community
26 Development proactively developed at the request of the Adams

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1 Morgan Community to help alleviate parking difficulties that will occur
2 during the construction period of the garage.

3 We've gone the extra mile we believe to talk to
4 owners of vacant property in the neighborhood and with the
5 developer's parking lot operator to pull this and including even going
6 so far as to phasing the construction of the garage so that we
7 minimize the temporary loss of parking to the extent humanly possible
8 given that this is a very intensively developed neighborhood where
9 there really are not a lot of vacant lots existing so that we were quite
10 challenged to find the four or five lots that we did to stitch together the
11 program.

12 So that we feel by providing this temporary
13 replacement parking, we feel very pressing public need is served
14 during the construction period of the 350 space parking garage.

15 MS. RICHARDS: Mr. Secretary, one final question is
16 appropriate. How many spaces are being lost during construction?

17 THE WITNESS: Our count during the phase one
18 construction --

19 MS. RICHARDS: How many are there now? Forget
20 how many we're going to get. We're going to get a lot more phased
21 in. How many were there before all this that are lost?

22 THE WITNESS: During the period that we're building
23 the garage on the back portion -- See our parking lot has a portion
24 that's on 18th Street separated by an alley. Then the back portion of
25 Champlain Street.

26 The construction initially is concentrating first and

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1 foremost on getting the garage portion of the project constructed
2 which is the Champlain Street portion. On that portion of the parking
3 lot there are 120 spaces more or less that will be lost. There are
4 about 27 to 30 spaces on the front lot that we're keeping in operation
5 while we build the garage on the back portion.

6 And what we're going to do is pull the lowest level of
7 the garage built and operational and on-line to actually bring some of
8 the parking into operation before we take out the front portion of the
9 site. All of this with the view of minimizing the severe loss of off-street
10 that's going to occur --

11 MS. RICHARDS: So. All right.

12 THE WITNESS: So having said all that this special
13 exception is very much in the framework of this larger program. We
14 have very carefully crafted it so that it is a special exception only for
15 the period of the lease that we are seeking or we'll have on this site.
16 So that once the lease expires the special exception should extinguish
17 and that should take care of the ANC's concerns.

18 MS. RICHARDS: All right.

19 THE WITNESS: Thank you.

20 CHAIRPERSON HINTON: Thank you. Board
21 Members, do I have a motion in the case?

22 MS. RICHARDS: No, I would like deny this
23 application. I do so based on the history of Reed Cook Overlay Zone.
24 And this Board's past efforts to protect the Reed Cook Overlay Zone
25 from you know --

26 CHAIRPERSON HINTON: Is there a second? That

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1 motion fails for lack of second. Is there another motion?

2 MS. BENNETT: Madam Chair, I would move to
3 approve this application.

4 CHAIRPERSON HINTON: I second.

5 MS. BENNETT: And let me say why I did. We had
6 about four sections of Reed Cook. Reed Cook was passed in
7 somewhat of a treacherous way and it was passed in a way that would
8 at once eliminate obsolete industrial zoning, protect existing housing,
9 promote additional housing, and award the developers of additional
10 housing and keep the creeping of the commercial building of 18th
11 Street from moving to the east and thereby outcompeting residential
12 uses for space there.

13 In total the proposed PUD which has gotten a first
14 stage approval by the Zoning Commission is one which would
15 enhance, reenforce and not undermine the Reed Cook in general and
16 the intent of those regulations. The provision of attended parking on a
17 temporary basis would provide the kind of supervised storage of
18 vehicles that makes what is required here, the appropriate
19 dimensions, size, design and striping, fair with that necessary because
20 you've got supervised vehicles.

21 If any parking lot depends upon the driver of the
22 vehicle to store his or her own car, and then they need real clear
23 direction about where the car should go and it should be big enough
24 for the car.

25 And now with those kinds of things when you have
26 attended parking, the attendant parks the cars in such a way that they

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1 can be taken out upon demand when the operator of the vehicle
2 comes back. You do not all of the striping and so one because you've
3 got a body that's supervising what is happening.

4 And special exceptions are predeemed compatible in
5 zoning districts. And that is what is being asked for. We don't have to
6 prove practical difficulties. We don't have to prove hardship and all
7 that kind of stuff. That is unnecessary.

8 What we need to know is that there's a good reason
9 for this to happen. Number 1. And I think there is.

10 Number 2. It can not have adverse impacts. And in
11 fact I think not to provide for this would have an adverse impact.

12 And then Number 3. There can be no undermining of
13 the zone plan which I think gets to maybe Ms. Richards's concern.
14 And here they made intention not to undermine the zone plan. The
15 intention here is not for this commercial parking to start creeping east
16 and to destabilize the Reed Cook area. The intention here is to
17 provide and continue to have an atmosphere where there can be
18 thriving business during a time when more appropriate parking, the
19 permanent parking and housing for crying out loud which is something
20 that Reed Cook is begging for will be provided.

21 There's going to be housing provided. There's going
22 to be parking provided. And this is an attempt to do so in a smooth
23 and in as undisruptive a manner as possible. And I think therefore this
24 request falls within the four corners of the special exception
25 requirements and these are the reasons why I would approve it.

26 CHAIRPERSON HINTON: I would agree and I would

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1 just add the -- I would agree with you that the need for the waiver and
2 updating the striping and other requirements has been justified by the
3 attendant that will be on-site. And the need for the variance from the 5
4 percent landscaping requirement is due to two things.

5 One is that the entire lot is already paved and second
6 that the temporary nature of the lot, one to two years, just doesn't
7 justify the ripping up of pavement and installing landscaping for such a
8 short period of time.

9 MS. BENNETT: Thank you, Madam Chair. I forgot
10 about the variance.

11 CHAIRPERSON HINTON: Okay. And having said
12 that, are there any other comments?

13 MS. RICHARDS: I just like to add. My objection is
14 not against PUD or the nature of relief. It is something like a concern
15 that I don't want the ANC to think that this is likely to be something
16 other than temporary. I would appreciate if you make the motion and
17 second it so that you can be certain that it is temporary and not
18 permanent.

19 MS. BENNETT: No problem.

20 CHAIRPERSON HINTON: I was just looking at the
21 ANC's proposition and I would just like to say that we do recognize
22 they are in opposition but it's not clear from the letter whether they
23 understood that it was temporary. And we do understand that the
24 concern but nevertheless think this will actually benefit the
25 neighborhood and ease the parking problem that will exist if it were
26 not approved.

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1 Yes, Ms. Reid?

2 MS. REID: Let me just say that I certainly agree
3 thoroughly with what Ms. Bennett said -- for the motion as well as
4 what Ms. Hinton said but the issue regarding the ANC's letter. I'm not
5 convinced that it is really legitimate in the sense that I'm not sure, I did
6 not get the impression that they had adequate information to make
7 their decision. And in absence of that, I can see no reason for them to
8 object particularly because that neighborhood has been clamoring for
9 parking for ages.

10 So if they understood that it was temporary and
11 because of the fact we know that the ANC doesn't remove that may
12 not be clear to them and if that were so they may withdraw their
13 opposition and now it seems like the ANC is not on target with that.

14 CHAIRPERSON HINTON: Okay. Why don't we
15 discuss the conditions? We have conditions that are normally
16 attached to parking lots that say things like the parking lot will be kept
17 clean and free of debris.

18 MS. BENNETT: And this would be --

19 CHAIRPERSON HINTON: The surface will be
20 maintained.

21 MS. BENNETT: Yes, that's right. And that no portion
22 of the cars should overhanging the pavement and whatnot. That we
23 will require.

24 CHAIRPERSON HINTON: Yes. No portion of the
25 parked cars shall --

26 MR. LYONS: Extend over the public --

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1 MS BENNETT: Extend over the public lot, space.

2 MR. LYONS: It's under Chapter 22.

3 MS. REID: I understand that. Why don't we just look
4 at that and kind of review that for the records?

5 CHAIRPERSON HINTON: And then we need a
6 condition about the timing. And I was thinking that we can approve
7 until -- Will the garage need a C of O to operate?

8 MR. LYONS: Yes.

9 CHAIRPERSON HINTON: So we can approve until
10 the C of O has been released?

11 MR. LYONS: You want a time that --

12 CHAIRPERSON HINTON: A termination date.

13 MR. LYONS: To relate to the constructional
14 completion of the garage.

15 CHAIRPERSON HINTON: A condition of the garage.
16 I mean if we say the completion of the garage it seems like a difficult
17 thing to prove. That is --

18 MR. LYONS: That is to the issuance of condition to a
19 date.

20 CHAIRPERSON HINTON: Well, yeah.

21 MS. REID: Also there's a phasing aspect of it so
22 maybe for the Office -- they will once the first phase is completed as it
23 will then the interim.

24 CHAIRPERSON HINTON: Right. And their phasing
25 plan shows that they need this until the garage is finished and ready to
26 be fully occupied.

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1 MS. REID: Okay.

2 CHAIRPERSON HINTON: So Mr. Lyons do you have
3 another idea other than this?

4 MR. LYONS: I just want to ask Mr. Thackaberry
5 when would the garage be available for use? After completion of its
6 construction or for the entire project?

7 MR. THACKABERRY: We will have the developer
8 open the C of O for the garage when it's ready to operated as
9 attended. That's the point at which we will consider the garage
10 complete.

11 We are fast tracking the whole schedule but that's just
12 to facilitate the phasing of construction. But for the completion of the
13 complete construction, it's devilishly difficult factoring and phasing but
14 at least a year and four or five months. But it's somewhere in that
15 timeframe would be when the garage is complete.

16 MS. BENNETT: I like that as opposed to tying it to
17 the lease. It would seem to me that if the construction takes longer
18 than the terms of the lease you are likely to try to extend the terms of
19 the lease to accommodate that. Probably a better measure would be
20 to tie it to the completion of the garage.

21 THE WITNESS: Absolutely. In fact we're tying our
22 lease termination to the completion of the garage.

23 MS. BENNETT: All right.

24 THE WITNESS: For our purposes we don't want to
25 get cut short.

26 MS. BENNETT: Sure.

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1 CHAIRPERSON HINTON: So why don't we say then
2 until the C of O for the garage is released but not to exceed three
3 years. Say something happens and construction on the garage stops
4 and it's a half built garage. Then after 3 years you have to come back
5 to the Board regardless. Okay? We need to vote. All those in fair?

6 MS. BENNETT: Aye.

7 MS. REID: Aye.

8 MS. HINTON: Aye.

9 MS. KING: Aye.

10 CHAIRPERSON HINTON: All those opposed?

11 MS. RICHARDS: Aye.

12 MR. LYONS: Staff will record the vote as 4 to 1 to
13 approve the application with conditions. And the ANC's letter was
14 given great weight.

15 MS. BENNETT: Yes.

16 MR. LYONS: Staff will record the vote as 4 to 1. Ms.
17 Bennett, Ms. Reid, Ms. Hinton and Ms. King to approve. Ms. Richards
18 opposed to the motion.

19 CHAIRPERSON HINTON: Ready for the last case
20 when you're ready.

21 MR. LYONS: Yes. The last case is Application
22 16217 of the Atlantic Street Baptist Church, pursuant to 11 DCMR
23 3107.2, for a variance from the off-street parking requirements of
24 Subsection 2101.1 for a church seating 49 persons in an R-2 District
25 at premises 30 Atlantic Street, S.E. (Square 6151, Lot 40). All person
26 wishing to testify in this Application please rise to take the oath.

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1 Whereupon,

2 MILTON WILCHER

3 was called as a witness and, having been first duly sworn, was
4 examined and testified as follows:

5 MR. LYONS: Please be seated.

6 CHAIRPERSON HINTON: Would you give your
7 name and home address for the record please?

8 THE WITNESS: Thank you. My name is Milton
9 Wilcher and I am the Pastor of Atlantic Street Baptist Church. Can
10 you give me --

11 CHAIRPERSON HINTON: All right. I didn't catch
12 your name.

13 THE WITNESS: Milton Wilcher. W-I-L-C-H-E-R.
14 And I'm the Pastor of the Atlantic Street Baptist Church. I'm here on
15 behalf of this application.

16 Let me say good morning to the Board and I'm glad to
17 be here and have come to this date. The basis of the application rests
18 on the fact that parking congestion is not a problem in the area within
19 the 200 feet surrounding the premises of 30 Atlantic Street.

20 The only restrictions in the unit block of Atlantic Street
21 have to do with residential parking, rather non-residential parking.
22 From 6 a.m. to 8 p.m. I believe, non-residential parking is limited to 2
23 hours. However, residential parking if you have the sticker you can
24 park there all day.

25 The other restriction of course is a metro bus stop
26 which is at the corner and it's about only 20 feet for restricted space in

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1 front of the stop itself.

2 Now in that unit block of Atlantic Street there are 4
3 detached houses and 3 row houses and a twelve unit apartment
4 dwelling. And all these have parking facilities either in the driveway or
5 in the space available at the rear.

6 In the 3900 of 1st Street which borders the eastside of
7 30 Atlantic Street, the church location, there are 4 detached and 2
8 apartment buildings all having driveways and/or space in the rear for
9 parking.

10 Now in the 4000 block of 1st Street which is to the
11 south, basically the same is true. There are 2 apartment buildings and
12 1 detached house and they all have parking in the rear and the
13 apartment building of course has a parking lot.

14 The only significant parking restrictions are in the 100
15 block of Atlantic Street. This is due to the presence of the fire
16 department. They have a unit located there and because of its
17 presence, it restricts parking to about half of that block. However, the
18 one detached house next to the firehouse has plenty of backyard
19 parking space and the apartment row house which is across the street
20 from the fire department has an alleyway that leads to the rear and
21 apparently there's space for parking. I've seen residents driving back
22 there with their cars.

23 So because the parking congestion is certainly not
24 significant, it has led us to come before the Board and request a
25 variance for the off-street parking for the church. And with that we
26 have presented the information that you have before you. If you have

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1 any questions, I'm prepared to answer those.

2 CHAIRPERSON HINTON: If I may ask the Office of
3 Zoning put your proposal as one or the other. One being to construct
4 a 4 car parking lot and get a variance for 1 space or get a variance for
5 all 5 spaces. Do you have a preferred alternative?

6 THE WITNESS: Well, I would like to get a variance
7 for all 5 spaces because if we constructed 4 spaces based on the
8 amount of square footage, you don't have enough to maneuver like
9 the regulations so we would probably have to limit it to 3 spaces so
10 you can get into a space without having to pull out a car and move in.
11 So we would really prefer a variance for 5 spaces.

12 MS. BENNETT: Madam Chair, have you taken a look
13 at the amount of room that would -- where those 4 spaces would be
14 sandwiched?

15 CHAIRPERSON HINTON: Yes, I have and I don't
16 think that those are 4 viable parking spaces.

17 MS. BENNETT: I don't either.

18 CHAIRPERSON HINTON: I think that possibly 2
19 spaces could go in there with a double width driveway but there's just
20 not room for 4 like you said to get in and get back out again. But that
21 answers my question that you would prefer a variance for all the
22 spaces and you believe that there's enough on-street parking for all
23 those.

24 MS. RICHARDS: Could you roughly indicate your
25 church growth from your inception through today and tell where
26 people were parking before you ceased?

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1 THE WITNESS: Well, church growth is certainly
2 volatile. It's revolving, a dual type situation because the area lends
3 itself to because of parking and low income constantly moving in and
4 out. Only the residential owners are still there which I am one.

5 Well, the parking was on the street and there never
6 was a problem. Nobody ever had any problems. The only reason
7 why we are approaching this is because we couldn't that parking lot
8 adjusted to meet the regulations.

9 MS. RICHARDS: What's been you highest
10 membership in your 20 some history at that site?

11 THE WITNESS: Well, we keep record of each
12 member even though they are no longer there or have gone. And
13 over the years we have reached a total of about 360.

14 MS. RICHARDS: How many people come to church
15 on an average Sunday?

16 THE WITNESS: Well, on about average now is about
17 35.

18 MS. RICHARDS: Okay. And how many of them drive
19 their cars more or less?

20 THE WITNESS: Just the last time I counted it was
21 about 10 that had cars.

22 MS. RICHARDS: Okay. Thank you.

23 CHAIRPERSON HINTON: Any other questions from
24 the Board?

25 MS. REID: Is the church located near any metro
26 stations?

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1 THE WITNESS: No, it's not. It's down at South
2 Capital and 1st and Atlantic. The nearest metro is Anacosta (PH)
3 which is of course Martin Luther King and Howard Road so that's over
4 the hill beyond St. Elizabeth's Hospital.

5 MS. BENNETT: No where to go?

6 CHAIRPERSON HINTON: And what's known to the
7 report of Office of Zoning? Ms. Bailey?

8 MS. BAILEY: Thank you, Madam Chair. Good
9 morning to you the members of the Board. The Office of Zoning is
10 recommending conditional approval of the Application. Ms. Hinton,
11 you indicated the 2 scenarios that the Application seeks. We are
12 recommending that at least some parking be provided whether that be
13 1, 2 or 3 spaces. But if there's room on the site to provide some
14 parking that some parking be provided on the site whatever that
15 number is simply because in the vicinity of the church, Atlantic Street,
16 1st and Martin Luther King, it's a quite heavily traveled area. Both
17 traffic and pedestrian. So if it's at all possible to have any parked on
18 the site that would be the recommendation.

19 And we are recommending based on the fact that the
20 practical difficulty is the shape of the lot. It's irregularly shaped. The
21 building was constructed prior to May 12, 1958. Prior to zoning as it is
22 currently practiced today.

23 Based on my discussion with the Applicant, it appears
24 as if the building was never used for residential purpose but it may
25 have been used or it was used for commercial purposes since it was
26 constructed.

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1 There's a copy of the old certificate of occupancy in
2 the record. Although I couldn't clearly read this C of O information, it
3 appears that there may have been a barber shop there prior to the
4 church being there. And in addition to that the church has been on the
5 site now since 1973.

6 So with all of those reasons, we believe that there's a
7 practical difficulty existing at the site. We would have loved to have
8 gotten some comments back from DPW about this project. We
9 weren't able to do so but we are recommending conditional approval.

10 In terms of the ANC we did contact them. However
11 we weren't able to get their final comments.

12 CHAIRPERSON HINTON: I see in the records that
13 we sent letters to ANC 8-B and 8-D and I don't believe we received a
14 report from either. Is that right? Are there any questions of the Office
15 of Zoning? No.

16 MS. RICHARDS: Did you make any further
17 determination as to whether it would be easy to put a couple of
18 parking spaces? We know that you can park 4 but the 2 spaces --

19 MS. BAILEY: Kind of relied on DPW to make
20 judgments as to the number of spaces that could hold on the site.
21 And not having gotten the feedback from them, it's going to be up to --

22 CHAIRPERSON HINTON: Now would be the time for
23 the ANC which I don't believe we have any response. Closing
24 remarks by the Applicant.

25 Perhaps if you're in support. I guess you can stand
26 up and be sworn in. There's not -- Closing remarks by the Applicant.

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1 THE WITNESS: I certainly thank you for hearing our
2 application. And I did talk with the ANC representative from 8C,
3 Barbara Kemp and at the time she said she was going to certainly
4 give her weight toward having this application approved. But I don't
5 know what held her up. She said she would try if at all possible to be
6 here. But other than that I don't know what happened.

7 But certainly as far as the extra spaces we would
8 definitely be -- That was part of our plan, that lot for at least 2 spaces.
9 That's definitely going to be part of the plan. Thank you.

10 CHAIRPERSON HINTON: Thank you. Okay. Board
11 members, do I have a motion?

12 MS. KING: Madam Chair, I move that we approve the
13 application.

14 MS. BENNETT: I second.

15 CHAIRPERSON HINTON: Okay.

16 MS. RICHARDS: I have a question. Are we
17 approving it for the 5 or for the 3 since he just said they wanted to put
18 the 2 for the lot?

19 MS. BENNETT: It's up to their discretion I would
20 think.

21 MS. RICHARDS: I think we should go ahead and
22 grant it for 5 because it's a small church. It's been around. It's
23 expensive to put in even 2 spaces right now.

24 MS. BENNETT: I would agree.

25 CHAIRPERSON HINTON: Very good. I would agree
26 actually. Would someone like to state on the record?

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1 MS. RICHARDS: The grounds for relief?

2 CHAIRPERSON HINTON: Right.

3 MS. RICHARDS: Those cited in the Office of the
4 Zoning report as to the irregular size of the lot and the fact that its
5 configuration predates the zoning regulations.

6 CHAIRPERSON HINTON: Very good. Okay.

7 MS. REID: Also there does not appear to be any
8 negative impact in regards to the community. There's no opposition
9 and we don't feel that it impairs the integrity of the zoning regulations.

10 CHAIRPERSON HINTON: Very good. All those in
11 favor?

12 MS. REID: Aye.

13 MS. BENNETT: Aye.

14 MS. RICHARDS: Aye.

15 CHAIRPERSON HINTON: Aye.

16 MS. KING: Aye.

17 CHAIRPERSON HINTON: Opposed?

18 MR. LYONS: The Staff would report that 5 to 0 to
19 approve the application. Ms. King, Ms. Bennett, Ms. Richards, Ms.
20 Reid and Ms. Hinton to approve issuance of a summary order?

21 CHAIRPERSON HINTON: Yes.

22 MR. LYONS: Thank you.

23 CHAIRPERSON HINTON: Hearing adjourned.

24 Reconvene at 2:00 p.m. Off the record.

25 (Whereupon, at 11:36 a.m., the above-entitled matter
26 was recessed to reconvene at 2:00 p.m. the same day.)

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

(2:00 p.m.)

CHAIRPERSON HINTON: On the record. The hearing will please come to order. This is the July 16th public hearing of the Board of Zoning adjustment of the District of Columbia. Joining me today are Vice-Chair Laura Richards, Sheila Cross Reid, Betty King and Maybelle Taylor Bennett representing the Zoning Commission.

Copies of today's agenda are available to you. They are located to my left near the door. All persons planning to testify, either in favor or opposition, are to fill out two witness cards which are located at either 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 exception in variance cases will be as follows: 1) statement of the witnesses of the Applicant, 2) government reports including the Office of Planning, the Office of Zoning, the Department of Public Works, and the ANC, 3) persons or parties in support, 4) persons or parties in opposition, and 5) closing remarks by the Applicant.

The order of procedure for appeal applications will be as follows: 1) statement of witnesses at the appellant, 2) the zoning administrator or other government official, 3) the owner, leasee, or operator of the property 4) the ANC within which the property is located, 5) the intervener's case, and 6) rebuttal and closing statement by the appellant.

Cross examination of witnesses is permitted for

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1 persons or parties with a direct interest in the case. The record will be
2 closed at the conclusion of each case except for any materials
3 specifically requested by the Board. The Board and the Staff will
4 specify at the end of the hearing exactly what is needed.

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

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

13 At this time, the Board will consider any preliminary
14 matters. Preliminary matters are those which relate to whether a case
15 will or should be heard today. Such as requests for postponements,
16 continuance, or withdrawal or whether proper and adequate notice of
17 the hearing has been given. If you are not prepared to go forward with
18 the case today or if you believe that the Board should not proceed,
19 now is the time to raise such a matter. Does the Staff have any
20 preliminary matter?

21 MR. LYONS: No, Madam Chair.

22 CHAIRPERSON HINTON: Does anyone in the
23 audience have a preliminary matter?

24 MS. DWYER: Madam Chair, for the record, Maureen
25 Dwyer with the law firm of Wilkes, Artis, Hedrick and Lane Chartered.
26 I have a preliminary matter. A motion to dismiss in connection with

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1 the third case on the afternoon agenda. I didn't know whether the
2 Board wanted to entertain that motion now or to wait until later when
3 the case is called.

4 CHAIRPERSON HINTON: I think we would be better
5 to wait until the case is called.

6 MS. DWYER: All right. Thank you.

7 CHAIRPERSON HINTON: Thank you. Seeing no
8 other preliminary matters, let's proceed with the first case.

9 MR. LYONS: The first case is Application 16248 of
10 Frank Arrington, Jr., pursuant to 11 DCMR 3107.2, for a variance from
11 the rear yard requirements (Subsection 404.1) to allow the addition of
12 a carport to a detached single-family dwelling in an R-1-B District at
13 premises 4411 Alabama Avenue, S.E. (Square 5365, Lot 174).

14 All persons wishing to testify this application please
15 rise to take the oath. Please raise your right hand.

16 (Witnesses sworn in.)

17 Please be seated. Will the Applicant come forward?

18 CHAIRPERSON HINTON: Before we start the case,
19 is there anyone here in either support or opposition of this first case?
20 Seeing no one -- Could we have your names and home address for
21 the record?

22 Whereupon,

23 FRANK ARRINGTON, JR.

24 was called as a witness and, having been first duly sworn was
25 examined and testified as follows:

26 MR. ARRINGTON: Yes. My name is Frank

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1 Arrington, Jr. I live at 4411 Alabama Avenue, S.E., Washington D.C.
2 20019.

3 Whereupon,

4 **DAISY ARRINGTON**

5 was called as a witness and, having been first duly sworn was
6 examined and testified as follows:

7 MS. ARRINGTON: Daisy Arrington. 4411 Alabama
8 Avenue, S.E., Washington D.C. 20019.

9 CHAIRPERSON HINTON: We do have your record
10 and we've read everything you've submitted. If you would like to just
11 make a brief summary of what you're requesting from the Board.

12 MR. ARRINGTON: Yes. What I'm requesting is to
13 add a carport onto an existing house. There are several reasons for
14 that. One thing, we live about 40 feet above the street level and we
15 walk over there every day. And having the carport, I could prevent the
16 bird droppings on the car.

17 Although we have an enclosed garage, my wife
18 doesn't like the smell of gas in the house. And we have more than
19 one car so anytime we come home, we could come in from the rear
20 and not walk up the steps.

21 CHAIRPERSON HINTON: This is a car port for two
22 cars? It's large enough for two cars?

23 MR. ARRINGTON: Yes, the car port is large enough
24 for two cars.

25 CHAIRPERSON HINTON: Okay. And it is in the rear
26 of the apartment?

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1 MR. ARRINGTON: It's in the rear of the apartment.

2 CHAIRPERSON HINTON: And it would be accessed
3 from a driveway that comes in off an alley.

4 MR. ARRINGTON: Yes ma'am.

5 CHAIRPERSON HINTON: Okay. And the -- I'm
6 sorry, go ahead.

7 MS. RICHARDS: You are in an R-1-B zone area.
8 Your lot appears to be substantially larger.

9 MR. ARRINGTON: Yes, at one time there were four
10 lots in -- I think a smaller house that had combined all four lots. That
11 was, I guess, almost two years ago.

12 CHAIRPERSON HINTON: And the other thing that I
13 noticed is the house, as it exists, is set back substantially from the
14 front street. And, as it exists, there is currently only a ten foot rear
15 yard. The house comes after ten feet. Is that right?

16 MR. ARRINGTON: That's true. The north end of the
17 house is only ten feet from the public alley.

18 CHAIRPERSON HINTON: Okay. Very good. Does
19 that conclude your testimony?

20 MR. ARRINGTON: Yes.

21 CHAIRPERSON HINTON: Okay. Are there any
22 questions from Board members?

23 MS. BENNETT: I do. Mr. Arrington, the portion of the
24 house that is already there that comes within ten feet of the alley, was
25 that a portion that was originally there when you purchased it?

26 MR. ARRINGTON: Yes. I think that portion was put

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1 down in 1925.

2 CHAIRPERSON HINTON: So it precedes the zoning
3 regulations.

4 MS. BENNETT: So that precedes the zoning
5 regulations all right. And the depth of what you're proposing, it looks
6 like it's 15 feet extending from the existing house on one end and 23
7 on the other end.

8 MR. ARRINGTON: Yes. The north end of the house,
9 that's only ten feet from the alley except the present -- The request, I
10 only have 15 feet coming out from the house that's within the variance
11 of 25 feet which leaves the ten feet variance.

12 On the far end of that there is the two parking spaces.
13 You need more than 15 feet for an average sized car. So we put the
14 other parking space on the side of the house. Although the parking
15 area itself forms like an A frame with one side a little bit longer than
16 the other.

17 CHAIRPERSON HINTON: Any other questions?

18 MS. BENNETT: Access to the carport would be from
19 the alley?

20 MR. ARRINGTON: From the public alley, yes.

21 MS. BENNETT: All right. Thank you.

22 MR. ARRINGTON: Thank you.

23 CHAIRPERSON HINTON: Okay. Thank you. Board
24 members? Office of Zoning?

25 MS. BAILEY: Madam Chair, good afternoon. For the
26 record my name is Beverly Bailey. The Office of Zoning is

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1 recommending approval of the application. We believe that there is a
2 possible difficulty on the sight. The layout of the structure of the lot.

3 Besides hill topography as you can see from the
4 photographs in the file, the sight is located on a very steep slope. The
5 age of the dwelling unit that it was constructed in 1925, at least a
6 portion of it was.

7 And the fact that the dwelling is located on an
8 extremely large lot. The lot size is 11,844 square feet, only 5,000 is
9 required in the R-1-B district.

10 We believe that the zoning relief can be granted
11 without adverse impact on the abutting and other nearby properties
12 and without substantially impairing the intended purpose of the zoning
13 regulations in -- the Applicant owns many automobiles and seeks the
14 Board's approval to house the vehicles properly on the side. The
15 Office of Planning is therefore recommending approval of the
16 application.

17 We have asked the Applicant if the Board desires to
18 provide a photograph or some type of a diagram to show the Board
19 what the carport would look like. And I'm not sure if the Applicant is
20 prepared to do that.

21 Lastly, there are two letters in the record in support of
22 the application from the Applicant's neighbors. And in addition to that,
23 the ANC that's 7-E has written in support of the application. With that
24 we're recommending approval.

25 CHAIRPERSON HINTON: Thank you. Are there any
26 questions from the Board members?

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1 MS. RICHARDS: Is your recommendation --
2 unknown what it's going to look like --

3 MS. BAILEY: Well, I saw it. But it doesn't mean that
4 the Board is going to agree with me, but Mr. Arrington has it and I
5 think he'll be pleased to show it to the Board.

6 MR. ARRINGTON: Yes. I can show you what I have.
7 I have here -- that demonstrates some designs on how carports or
8 other additions to houses are constructed. It doesn't give a complete
9 A-frame, but you can see the basic same, half of the design. The only
10 thing you would have to do is add the other half to complete the A.

11 CHAIRPERSON HINTON: Could you give it to the
12 secretary please? Mr. and Mrs. Arrington, do you have any cross
13 examination questions of the Office of Zoning?

14 MR. ARRINGTON: No, we don't.

15 CHAIRPERSON HINTON: Okay. I don't recall a
16 report from the ANC. Does anyone else? Let's look at that. ANC 7-
17 E, July 3rd. No objections to the application for a variance.

18 MS. BENNETT: Madam Chair, you'll note that the
19 ANC's letter appears to be deficient given what we usually require. In
20 order to give it great weight, there is no indication of the number of
21 people who attended the meeting nor the vote.

22 CHAIRPERSON HINTON: You're right.

23 MS. BENNETT: I'm pleased to know that they have
24 no objection. And I happen to know Ms. Jackson, and if there were an
25 objection for sure we would know about it.

26 CHAIRPERSON HINTON: We will accept it then as a

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1 letter, but we will not give it great weight. Any persons in support?
2 Persons in opposition? Closing remarks by the Applicant.

3 MR. ARRINGTON: Yes, I have some closing
4 remarks. I wouldn't built anything or attach anything to my house that
5 wouldn't enhance the house itself or anything in the neighborhood.
6 So, I didn't want you to worry about that.

7 CHAIRPERSON HINTON: Thank you.

8 MR. ARRINGTON: Thank you.

9 CHAIRPERSON HINTON: Board members? Can I
10 have a motion?

11 MS. BENNETT: Madam Chair, I move to approve
12 Application 16248.

13 MS. REID: I'll second.

14 CHAIRPERSON HINTON: Okay. Very good and for
15 the reasons listed in the Office of Zoning report, I'm assuming. No
16 conditions are recommended. All those in favor?

17 MS. BAILEY: Aye.

18 MS. REID: Aye.

19 MS. RICHARDS: Aye.

20 MS. HINTON: Aye.

21 MS. KING: Aye.

22 Opposed?

23 MR. LYONS: Staff would record the vote as being 5
24 to 0 to approve the application. Ms. Bennett, Ms. Reid, Ms. Richards,
25 Ms. King, and Ms. Hinton to approve issuance of a summary order.

26 CHAIRPERSON HINTON: Yes. Thank you. Okay.

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1 We're ready for the next case please.

2 MS. ROSE: The next case is application 16250.
3 Application of Kaiser Investments Company, pursuant to 11 DCMR
4 3108.1 and 3107.2, for a special exception under Section 214 to
5 continue accessory parking spaces, a variance to allow accessory
6 parking spaces for single-family dwellings to be located elsewhere
7 than on the same lot as the dwellings (Subsection 214.1), a variance
8 to locate accessory parking spaces more than 200 feet from the area
9 to which they are accessory (Subsection 214.3), and a variance to
10 allow accessory spaces that are not contiguous to or separated by an
11 alley from the area to which they are an accessory (Subsection 214.4)
12 for accessory spaces on alley lots in a CAP/R-4 District at premises
13 415 3rd Street, N.E., 416 and 424 4th Street, N.E. (Square 780, Lots
14 43, 62 and 810).

15 Would all persons wishing to testify the application
16 please stand and take the oath?

17 (Witnesses sworn in.)

18 CHAIRPERSON HINTON: Thank you. Ms. Prince?

19 MS. PRINCE: Good afternoon Madam Chair and
20 members of the Board. I'm Allison Prince of Wilkes, Artis, Hedrick and
21 Lane. And I'm here today on behalf of the owner of the subject site.

22 Today we're seeking a renewal of the 19912 BCA
23 order granting special exception and variance approval to allow the
24 use of three alley lots for a total of 55 accessory parking spaces.

25 CHAIRPERSON HINTON: Ms. Prince, I'm sorry to
26 interrupt once you've started. We've all read your very thorough

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1 application and seeing no opposition in the -- in the audience, we're
2 ready to expedite. Are you happy to stand by the record that's been
3 submitted?

4 MS. PRINCE: I'm happy to stand on the record with
5 an emphasis that we are seeking a ten year term of approval.

6 CHAIRPERSON HINTON: Okay. Are there any
7 questions for the Applicant from the Board Members?

8 MS. RICHARDS: I'd just like for the Applicant to
9 briefly address the concerns raised in the Capitol Hill Restoration
10 Society about the maintenance and the lack of upkeep of the flowers.

11 MS. PRINCE: Actually, we have someone here from
12 the Heritage Foundation who's in charge of the day to day operation of
13 the lot. I think it would be preferable to have that person come up,
14 Gretchen Kugel, as opposed to Mr. Kaiser who owns the lot but does
15 not operate it.

16 MS. RICHARDS: Well, the letter says that before the
17 Heritage Foundation took over, the Applicant who had the primary
18 responsibility didn't live up to it.

19 MS. PRINCE: Heritage has been using the lot for the
20 entire term of the --

21 MS. KING: Do they have a ten year lease?

22 MS. PRINCE: No. Heritage does not have a ten year
23 lease.

24 MS. KING: The Restoration Society has raised their
25 concern, not that the Heritage Foundation will cease while during their
26 tendency to keep the lawn up in an appropriate fashion, but that

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1 should they cease to rent it then it will then decay again as it was
2 before Heritage took it over. Can you address that? That's the
3 concern, I believe, that you're --

4 MS. PRINCE: During the entire time that the lot has
5 been used for accessory parking purposes, it's been used by
6 Heritage.

7 MS. KING: But not maintained by them.

8 MS. PRINCE: Used and maintained by Heritage
9 during the entire time that there has been accessory parking there.

10 MS. KING: Have you seen this letter?

11 MS. PRINCE: Yes I have.

12 MS. KING: Well, the neighbors apparently have a
13 different feeling about whether it's been well maintained in the early
14 part of this --

15 MS. PRINCE: Well, we do have someone in the
16 audience, Gretchen Kugel, from the Heritage Foundation, who can
17 address the day to day maintenance of the lot and how it's handled on
18 a daily basis.

19 Why don't we disagree with the statements of the
20 Restoration Society? And in connection with the earlier approval, a
21 procedure was set up whereby I was made the contact person --
22 concerns about the lot. And in four years I've not received a single
23 phone call.

24 Apparently there have been direct dealings with
25 Heritage, and they feel they've been responsive. So, I'd like Gretchen
26 to come up if she could.

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1 CHAIRPERSON HINTON: Yes. Thank you.

2 MS. KING: Gretchen should probably be sworn in
3 because this gentleman was the only one sworn in.

4 MS. PRINCE: Right.

5 Whereupon,

6 GRETCHEN KUGEL

7 was called as a witness and, having been first duly sworn, was
8 examined and testified as follows:

9 CHAIRPERSON HINTON: You need to give your
10 name and home address for the record.

11 THE WITNESS: My name is Gretchen Kugel. I'm the
12 Director of Administration of the Heritage Foundation. My home
13 address is 2604 South Arlington Mill Drive, Number H, Arlington, VA
14 22206.

15 CHAIRPERSON HINTON: Could you address the
16 question of the daily maintenance and the keep-up of the lot?

17 THE WITNESS: Is that the question?

18 CHAIRPERSON HINTON: Have you seen the letter
19 from the Capitol Hill Restoration Society?

20 THE WITNESS: Yes, it was shown to me yesterday.
21 I have.

22 CHAIRPERSON HINTON: And that letter seems to
23 say that the upkeep and maintenance of the lot has not been done on
24 a daily basis.

25 MS. RICHARDS: Until recently.

26 CHAIRPERSON HINTON: It was done and then it

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1 wasn't done for a while. Can you address that?

2 THE WITNESS: I've been with the Heritage for a
3 year. I has been maintained on a daily basis during my tenure by our
4 two building engineers as well as another person on my staff.

5 CHAIRPERSON HINTON: And what is it that they do
6 everyday?

7 MS KUGEL: Actually all three of them park in that lot.
8 They check it as they come in in the morning. They check throughout
9 the day. They check it again in the evening picking up any broken
10 glass they might find.

11 For the record, the residents in that area use that
12 courtyard on the lot in question for their trash pick-up. So there are
13 occasions when there's trash in the area.

14 There are also three plots with trees and very basic
15 landscaping which we maintain.

16 CHAIRPERSON HINTON: And would you report that
17 that is currently and has been maintained in a healthy growing
18 condition?

19 THE WITNESS: Yes, it has.

20 CHAIRPERSON HINTON: Any other questions from
21 Board members?

22 MS. REID: No.

23 MS. BENNETT: No.

24 MS. KING: No.

25 CHAIRPERSON HINTON: Okay. Thank you. We're
26 going to move to the report of the Office of Zoning. No, I'm sorry. Ms.

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1 Prince, did you have something else?

2 MS. PRINCE: I just had one point that I wanted to
3 add. In meeting with Gretchen and Mr. Kaiser, it appeared that there
4 was a very easy solution to what appears to have been a
5 communication problem regarding issues that have arisen regarding
6 the lot.

7 There are signs posted on the lot about towing for
8 illegal parking activity. It would be very simple to add another sign
9 with the number of the contact person at the Heritage Foundation so
10 that if anyone has a question regarding the operation of the lot they
11 can simply call that number.

12 I sent notices to the property owners within 200 feet
13 that I was contact person but clearly people move and come and go.
14 That would provide very effective communication to the extent that
15 there has been somewhat of a breakdown.

16 CHAIRPERSON HINTON: Very good. Thank you.
17 Office of Zoning report?

18 MS. BAILEY: Thank you, Madam Chair. The Office
19 is Zoning is recommending approval of the application, members of
20 the Board. I must state for the record though we were unaware of the
21 Capitol Hill Restoration Society's letter until today. So obviously those
22 comments were not reflected in our report.

23 We have 12 conditions in our report and they are
24 pretty much a carryover of the previous BZA order on this case.
25 That's 15579. And in addition to that we are recommending that the
26 application be approved for 10 years.

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1 Madam Chair, would you like for me to go over the
2 conditions or just leave the record as it is?

3 CHAIRPERSON HINTON: We've all read the
4 conditions so you don't need to repeat those. We'll probably be
5 referring to them.

6 MS. BAILEY: With that, we're recommending
7 approval.

8 CHAIRPERSON HINTON: Very good. And I note in
9 condition number 1 you agree with the Applicant's request for the 10
10 year time period.

11 MS. BAILEY: Yes, Madam Chair.

12 CHAIRPERSON HINTON: Thank you. Any
13 questions for the Office of Zoning?

14 MS. RICHARDS: I have none.

15 CHAIRPERSON HINTON: No. Ms. Prince, any cross
16 examination?

17 MS. PRINCE: No cross examination.

18 CHAIRPERSON HINTON: We have no reports from
19 DPW. Do we have a report from the ANC?

20 MS. RICHARDS: I don't recall one.

21 CHAIRPERSON HINTON: No report from the ANC.
22 Persons in support? You can come forward. You need to stand and
23 be sworn.

24 MR. LYONS: Excuse me, sir. Were you going to
25 testify in this case?

26 Whereupon,

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BECKY FREDRIKSSON

was called as a witness and, having been first duly sworn, was examined and testified as follows:

MR. LYONS: Please be seated.

THE WITNESS: My name is Becky Fredriksson and I live at 312 D Street N.E. in Square 780 where the lots are located. I've lived there since 1966 and I have had a bird's eye view of what's happened in that interalley since then.

I concur with what the Capitol Hill Restoration Society has stated in the main. I support the lots used as parking specifically to the Heritage Foundation. They have been wonderful tenants. And in the main they have respected the fact that this is indeed a commercial operation within a square zoned R-4 for which we are all very thankful.

However, there have a been few problems. The alleyways need to be resurfaced. And I think it would as far as the community is concerned, some of my neighbors have stated to me that perhaps the Heritage Foundation with 51-55 cars coming and going everyday might take it upon themself to contact the DPW and to have the non-brick portion of the alleyways resurfaced instead of placing that burden on the community.

I have just heard testimony as you have with regard to maintenance. It has been off and on and the community has, I myself included, helped maintain the lot, specifically the trees. I'm co-chair of Trees for Capitol Hill and helped plant the trees and have been mulching them.

1 However, beginning this year, the Heritage
2 Foundation has promised that they will mow and they will mulch and
3 of course the neighbors will have to continue to water because there is
4 no on-site water but we are very happy to do that to keep it the way it
5 is.

6 And it has not been an eyesore the way it was in the
7 past. I'm not a proponent of parking lots in the area zoned R-4 but in
8 this particular case, it has not been an onus for the community.

9 However, there are a few concerns. And because of
10 the iffy situation that is the Heritage Foundation had not signed the
11 ten-year lease. I agree with the Capitol Hill Restoration Society that I
12 would prefer 5 years or until something more stable can be arranged
13 with the Heritage Foundation.

14 And also I would like in similar respects as the Capitol
15 Hill Restoration Society that a condition be incorporated to prohibit
16 accessory parking for commercial operations, evenings and
17 weekends. This parking lot is just becoming known.

18 And I have seen an increase of cars parking there in
19 the evenings and on weekends. People are visiting nearby
20 restaurants, union station or whatever. And then a few Sundays ago
21 there was a tour bus parked there which makes us a little bit trepidous
22 about how these lots are going to be used in the future on evenings
23 and weekends.

24 So I think that's about it and I thank you very much for
25 your attention to me.

26 CHAIRPERSON HINTON: Thank you. Are there any

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1 questions from the Board members? Thank you. Did you have any
2 cross examination?

3 MS. PRINCE: No cross examination.

4 CHAIRPERSON HINTON: Other persons or parties
5 in support? Persons or parties in opposition? Okay. Ms. Bennett has
6 a question for the Applicant.

7 MS. BENNETT: In the Capitol Hill Restoration letter,
8 page 2, item 2, is mentioned a condition whether the 5 spaces shall be
9 available at market rates for monthly rental for area residents. That is
10 taking place now or is there not area resident that has asked for that?

11 MS. PRINCE: In 5 years there has been no
12 expressed interest. They can park for free during the peak demand
13 times after work and on the weekends. And we're happy to
14 accommodate them in that respect so it provides a little incentive to
15 pay the monthly per market value rental rate to lease the spaces
16 during the day. We've received no inquiries.

17 If a resident does come forward and make that
18 request we will make every effort to accommodate them but we've
19 received no interest.

20 CHAIRPERSON HINTON: Then that brings forward a
21 dilemma because if the lot is allowed to be used by the residents in
22 the evenings and on the weekends, how could you prevent the lot
23 from being used as sort of the accessory lot for the commercial uses
24 that are in the area?

25 MS. PRINCE: This was an issue that we addressed
26 fully back in 1992. That's the double-edged sword. The neighbors

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1 very much wanted it for evening and weekend use. And our only
2 option is to leave the spaces open for them. And the trade off is that
3 in so doing, there may be some nonresident parking there.

4 We can clearly close off the lot for evening and
5 weekend use. It has not become a problem, that we're aware of. And
6 the neighbors did specifically want that evening/weekend use and do
7 avail themselves of it. So until it becomes an unmanageable situation,
8 and we'll be hearing about that, especially if we've signs all over the
9 lots. We're inclined to accommodate them until they tell us it's not
10 worth it for them, that it's generating too much traffic.

11 CHAIRPERSON HINTON: And then it could be
12 gated.

13 MS. PRINCE: Then it could be gated. We could
14 chain off the spaces.

15 CHAIRPERSON HINTON: Okay. Very good. Do
16 you have concluding remarks?

17 MS. PRINCE: In conclusion, I would just like to state
18 that I think Heritage Foundation has been an excellent user of this lot.
19 This is an active, involved community. Advisory Neighborhood
20 Commission 6-A did contact us and said due to lack of concerns, they
21 didn't even require our attendance at a meeting and they said they
22 took no position. Except that they did not oppose our ten year term.

23 Capitol Hill Restoration Society did become involved
24 at the 11th hour and we've tried to accommodate them. But we've
25 had five years of history here with little negative communication really
26 none.

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1 I would like to add that your granting a ten year term
2 would really greatly assist my client in securing a ten year lease from
3 Heritage. Heritage is one block away. They're in great need of these
4 spaces. Their other overflow spaces are in Union Station which are
5 far less desirable.

6 So with a ten year term, we'd be equipped to say we
7 can enter into a ten year lease with you without any threat of having to
8 keep coming back to the Board, which is costly and time consuming,
9 as you know.

10 CHAIRPERSON HINTON: Right.

11 MS. PRICE: So, with that I'd like to conclude and ask
12 for your rapid decision.

13 CHAIRPERSON HINTON: Thank you. Is it your
14 position, then that the Heritage Foundation would be willing to sign a
15 ten year lease if I have the BZA granted this special exception?

16 MS. PRICE: I don't know if Mr. Kaiser can answer
17 that or if Gretchen can. I can't speak on behalf of Heritage.

18 MR. KAISER: We haven't approached them for it yet.
19 A longer lease. I think they'd be interested. I don't know. Maybe
20 Gretchen can answer that question.

21 THE WITNESS: We now have 160 employees who
22 would be very interested in maintaining this. As Ms. Prince has noted,
23 our overflow space currently is Union Station, which is far less
24 convenient.

25 We are in the building. We are a part of that
26 neighborhood and will continue to be so.

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1 CHAIRPERSON HINTON: Thank you. Board
2 members, can I have a motion?

3 MS. RICHARDS: I move to approve for five years.

4 CHAIRPERSON HINTON: Thank you. I'll second if
5 we can discuss the time period. And all the other conditions really.

6 MS. RICHARDS: Sure. Do you want to look at the
7 OP report?

8 CHAIRPERSON HINTON: Yes.

9 MS. BENNETT: Madam Chair, at least there's one
10 condition in addition to those that we will discuss that have been listed
11 in the OP report, pages 6 and 7, that I think is a good idea and should
12 be added. And that is there shall be a sign posted with a contact
13 person's number on it.

14 I think whether it's five years or ten years, that's a
15 good idea.

16 MS. RICHARDS: I agree.

17 CHAIRPERSON HINTON: I agree too. With the
18 name and phone number.

19 MS. BENNETT: Maybe not a name because you
20 know people come and go. But a number.

21 CHAIRPERSON HINTON: Perhaps the name of the
22 Heritage Foundation is okay and a phone number.

23 MS. RICHARDS: Why don't we go with, I assume
24 that it's got the same number of parking spaces you have 55, and
25 that's why. So 2 - 12 are fine with me plus the sign. It's just the -- and
26 let's see.

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1 So I would put those into motion and turning -- I want
2 to see if there are any other ones with Capitol Hill Restoration.

3 CHAIRPERSON HINTON: That's what I'm looking at.
4 And number 3, they ask for a condition that the spaces --

5 MS. PRINCE: That's almost virtually impossible to
6 enforce unless they have an attendant there in the evening. And I'm
7 sure they don't want to --

8 CHAIRPERSON HINTON: I agree with you.
9 Condition number 3 -- That's the dilemma and I think, I agree with Ms.
10 Prince, until we hear that the use of the lot other than daytime hours
11 has really become a burden we don't want to enforce this condition
12 because it will prevent the community from using the lot also.

13 MS. BENNETT: Also, you know, I'm just thinking
14 through one of the concerns Ms. Fredriksson raised. Should another
15 tour bus or such find it's way back there with a sign, Ms. Fredriksson,
16 since she has a bird's eye view, could make a call to the Heritage
17 Foundation.

18 Now the problem is if it's an after hours kind of thing
19 and not during the work day, there would be no response until first
20 thing Monday morning.

21 So I'm trying to think and the more I think through this,
22 even though my propensity was to move in the direction of ten years,
23 more and more I'm moving in the direction of five because there is
24 going to be a continuing opportunity for this particular lot to get the
25 kind of traffic that the neighbors don't necessarily welcome. Which
26 suggests the need for continued monitoring to me. I don't know. I can

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1 probably be convinced otherwise.

2 MS. REID: Well, monitoring or not, if the two of us
3 decide that it was going to park there, I think these are some of the
4 things that are maybe beyond control of the Applicant.

5 In that, you have a lot there that is open to the
6 residents, the residents want to have somewhere to park they would
7 be to use this parking lot. The downside of it is that occasionally there
8 may be someone else other than a resident who may park there.

9 If it's not something that is not done routinely or if it's
10 not something that it inundates the community with traffic, that's
11 something that, I suppose, that just would happen.

12 In addition, the issue about the cleaning of the lot that
13 I heard, on the one hand, someone said that the lot was kept clean,
14 and then I heard someone say that it wasn't kept clean and that
15 residents or something there was trash pick-up or something there.
16 So I think that we need to be clear on, is it their responsibility to clean
17 the lot regardless of who put the trash there.

18 CHAIRPERSON HINTON: It is. Yes it is.

19 MS. REID: Okay. So the fact that residents put trash
20 there is irrelevant and that they are supposed to clean the lot daily.
21 And I think that was one of the major concerns of the Restoration
22 Society as well as the person who spoke in support of this application.

23 I have no problem with the ten years, but I would
24 compromise seven years. But because of the fact that I don't really
25 see where there has been a real problem when you discuss one tour
26 bus over five years. I don't think that is anything insurmountable. I

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1 mean that's going to happen. A car here, a car there, that's going to
2 happen.

3 If it's been kept clean for the most part then I think
4 that that area needs to be sured of, as far as making sure it's cleaned
5 daily. And I would say seven years.

6 MS. BENNETT: Well, you have a spectrum.

7 CHAIRPERSON HINTON: We do. Five - seven -
8 ten.

9 MS. RICHARDS: Let me just get some clarity on
10 these other two conditions on the Capitol Hill Restoration. Are they in
11 or are they out?

12 CHAIRPERSON HINTON: Well, the first one is the
13 one we're talking about.

14 MS. RICHARDS: That's pretty -- What about two and
15 three?

16 CHAIRPERSON HINTON: That is still in.

17 MS. RICHARDS: Okay.

18 MS. KING: What is still in?

19 CHAIRPERSON HINTON: Well, the condition that a
20 total of five spaces shall be available at market rate for monthly rental
21 to area residents. It was originally a condition. It's still --

22 MS. KING: I understand that, but I mean, I'd like to
23 have legal counsel's opinion as to whether we can -- whether that's
24 not unlawful seizure of private property to impose that condition.

25 MS. REID: Well, I think your response is that it's in
26 part 3. So it comes --

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1 MS. KING: No, I understand that but I would like our
2 legal counsel to tell us whether they feel that it would stand the test if
3 we insisted that the owner rent five monthly spaces to residents
4 should there be an application for them.

5 MS. BAILEY: Ms. King, I'm not legal counsel but in
6 looking over the previous order, I don't see that as a condition.

7 MS. KING: No, but this submission from the Heritage
8 says that it was a condition in the 1992 order, but it was dropped from
9 the OZ recommendations.

10 MS. BAILEY: And that's what I'm saying.

11 MS. KING: It wasn't in that original --

12 MS. BAILEY: I'm looking at the previous order and I
13 don't see that as a condition.

14 MS. KING: Well I'm troubled by our, you know,
15 essentially seizing five of their 55 spaces. Absent having a lawyer's
16 opinion that it's something that would withstand a court challenge.

17 MS. REID: Well, if it was not in the original order then
18 I don't think we should address that at this time.

19 MS. KING: I'm with you then.

20 MS. RICHARDS: Well, I think that we can let it go
21 because that's what I would be willing to let slide, not so much on
22 legal grounds, but if there's been no request for five years, leave it out.
23 I think it's got some limited facility here.

24 So number 3, is that in or out? We discussed it but
25 didn't resolve it.

26 MS. KING: It's out.

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1 MS. RICHARDS: Okay, it is out.

2 MS. KING: Because it's impossible to enforce without
3 an attendant.

4 MS. RICHARDS: So now speaking solely to the
5 duration.

6 MS. KING: Number of years.

7 MS. RICHARDS: There's been conflicting testimony
8 and we've got to make individual credibility determinations because
9 clearly something has been going on there. So, you know, there's
10 been like less than perfect.

11 And I do think we need to sort of monitor it unless
12 they say they've got increased activity in the area which is likely to
13 kind of generate more, I guess, problems over time then less.

14 So I think five years is fine. Plus that I didn't get the
15 sense that there had been at much thought given by the owner to
16 getting a ten year lease from this Applicant.

17 That seems to have been, you know, more or less the
18 thought of the moment. I mean, the ten year lease from Heritage.

19 CHAIRPERSON HINTON: And I'm concerned that
20 we be not too restrictive. We do have a condition that says the lot
21 must be cleaned daily. So if it's not being cleaned, it's an important
22 issue. No one would need to wait either the five year period or any
23 ten year period to come back and tell the BZA that the lot's not being
24 cleaned.

25 I guess my recommendation would be a compromise
26 on the time. I think that the Applicant has shown good faith and

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1 remarkably is here before their expiration of the --

2 MS. PRINCE: Yes we are.

3 CHAIRPERSON HINTON: Which is probably the first
4 time as long as I've been here. We appreciate that forward thinking.

5 MS. RICHARDS: Do you want to see how many folks
6 there are for five years?

7 CHAIRPERSON HINTON: What is the feeling among
8 the Board members? We have talked about 5, 7 and 10.

9 MS. BENNETT: Well, you know, you heard what I've
10 had to say about it. I think there is some need for perhaps with some
11 moderation. I would move with the seven years.

12 MS. KING: I would support that as well.

13 MS. REID: Seven.

14 MS. KING: Seven.

15 CHAIRPERSON HINTON: Okay. So we have the
16 conditions, we're adding a condition that there will be a sign posted
17 with the phone number for the contact person. And the other
18 conditions as listed in the Office of Zoning report, changing condition
19 number one to seven years rather than five or ten. All those in favor?

20 MS. KING: Aye.

21 MS. RICHARDS: Aye.

22 MS. REID: Aye.

23 MS. BENNETT: Aye.

24 CHAIRPERSON HINTON: Opposed?

25 MR. LYONS: Staff will record the vote as being five
26 to 0 to approve the application. Ms. Richards, Ms. Hinton, Ms. Reid,

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1 Ms. King, and Ms. Bennett to approve.

2 CHAIRPERSON HINTON: Thank you. We're going
3 to take about a two minute recess before we call the next case.

4 MR. LYONS: Is that a summary order, Madam
5 Chair?

6 CHAIRPERSON HINTON: Summary order. Thank
7 you. Off the record.

8 (Whererupon, the above-entitled matter concluded.)

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