

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

JUNE 5, 2001

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EXCERPT ONLY OF
APPLICATION NO. 16657 BY
CHRISTIAN PRAISE CHURCH

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
REGINALD W. GRIFFITH	Chancery Member
SUSAN MORGAN HINTON	Board Member

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Commissioner (a.m. sess)
HERBERT M. FRANKLIN	Commissioner (a.m. sess)
JOHN G. PARSONS	Commissioner (p.m. sess)

COMMISSION STAFF PRESENT:

Sheri Pruitt, Secretary, BZA
Paul O. Hart, Office of Zoning
John K. A. Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

John Fondersmith, Office of Planning
Jennifer Steingasser, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.
Christine Roddy, intern

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

MR. HART: The next case is Application 16657, the Christian Praise Church, pursuant to 11 DCMR 304.1, for a special exception under section 205 to establish a child development center for 20 children, two-and-a-half to five years old, and five children five to eight years old, and six staff in an R-1-B District at premises 3626 Alabama Avenue, S.E., Square 5668, Lot 34.

The hearing date was January 9, 2001. Decision dates were March 6, 2001, May 8, 2001, and June 5, 2001.

Christian Praise Church filed an application with the Board of Zoning Adjustments on October 20, 2000, pursuant to 11 DCMR 3104.1 for a special exception under 11 DCMR subsection 205 to allow the Power to Become Childcare Center, PTBC, and its president, Minister Aaron M. Brooks, to use church annex property as a child development center.

The subject property is located at 3626 Alabama Avenue, S.E., Square 5668, Lot 34, in an R-1-B Zone District. The application was accompanied by a letter from the Zoning Administrator dated August 8, 2000, certifying the need for the required relief.

Christian Praise Church and PTBC are represented in these proceedings by the American University Washington College of Law, Community and Economic Development Law Clinic.

After hearing the case, the Board granted the application for

1 a term of one year, subject to conditions.

2 Since three members of the Board will not have
3 personally heard this case at the time the written, final
4 Decision and Order is to be issued, the Board is affording the
5 parties to this case the opportunity under 1509(d) of the
6 District of Columbia Administrative Procedure Act, D.C. Code 1-
7 1509(d) 1999, to file written exceptions and arguments with the
8 Board concerning the proposed Decision and Order.

9 The Board has directed that any written memoranda
10 containing exceptions and arguments be filed with the Board no
11 later than the close of business, on Friday, May 25, 2001. The
12 Board also directed that prior to or at the time of filing a
13 memorandum, the filing party must serve all the other parties
14 to this case with a copy of their memorandum. No reply or
15 responsive memoranda will be accepted, and the Board will not
16 hold oral argument on the exceptions and arguments.

17 Pursuant to D.C. Code 1-1509(d), parties may
18 designate any portion of the exclusive record, that is, the
19 file, transcript, and Zoning Regulations, to which they wish to
20 call the Board's attention, but they may not introduce new
21 evidence in connection with their exceptions or arguments.

22 The Board will review the proposed Decision and
23 Order and any exceptions and arguments at its regular public
24 meeting on Tuesday, June 5, 2001, and may take action to issue
25 a final Decision and Order at that time.

1 The transcript of the hearing of the application
2 and the Proposed Order were sent to each of the participating
3 Board Members.

4 The original participating members, the vote of
5 3-0-2, were Ms. Sheila Cross Reid, Mr. Sockwell, Ms. Mitten to
6 approve; Ms. Anne Renshaw, not present, not voting, and the
7 third mayoral appointee, not participating in the case and not
8 voting.

9 Participating Board Members are: Ms. Sheila Cross
10 Reid, Ms. Anne Renshaw, Ms. Susan M. Hinton, and Ms. Carol J.
11 Mitten.

12 The case is before you, Madam Chair.

13 CHAIRPERSON REID: Thank you very much. All
14 right, Board Members, in this particular instance, the
15 Applicant has filed an exception to the Board Order, in
16 particular in regard to the term of one year. So the Board's
17 discussion is on that particular argument and essentially just
18 basically going over some of the argument is that number one,
19 the Board's proposed decision to place a one-year limit, time
20 limit on the center's special exception to lack of space that's
21 in the Board's findings of fact, and therefore violates the
22 District of Columbia Administrative Procedures Act.

23 BOARD MEMBER HINTON: Madam Chair, before we go
24 any farther, I need to say that I did read the record so that I
25 could participate.

1 But I also want to raise a question. I hope it
2 is a question that we can get a good answer to. When I was on
3 the Board previously, we had to go through this exceptions
4 process a number of times because a number of board members had
5 left. At that time, we were advised that the exceptions
6 process is very limited in that the orders are sent out so that
7 all the parties have a chance to comment as to whether they
8 think the order represents what the Board did.

9 Does the order represent the decision? That's
10 what the exception process is for. It is not proper to
11 consider any requests for changes to the Board decision during
12 the exception process. That can only happen after the order
13 has been issued. Then every party has 10 days to submit
14 requests for reconsideration.

15 CHAIRPERSON REID: Right.

16 BOARD MEMBER HINTON: So I would caution you.
17 Unless that rule has changed, and I'm willing to hear that it
18 has, but if the rule hasn't changed, then what we have in front
19 of us is a request for reconsideration. It should not be
20 handled until the order has been issued.

21 MS. SANSONE: Madam Chair, perhaps I can clarify.
22 I believe what Board Member Hinton has said is partially
23 correct. That one of the purposes of the exception process
24 under the Administrative Procedures Act is to make sure the
25 order does reflect the Board's decision.

1 The primary purpose, however, is that the
2 Administrative Procedures Act is very concerned as a matter of
3 fundamental fairness, that the individuals on a Board that are
4 going to make a decision about a case have personally been
5 present during the hearing to review and hear all of the
6 evidence and arguments that were being made. This notion that
7 the decision maker personally hear the case is very critical.

8 So the Administrative Procedures Act allows
9 parties to make arguments about an order to board members. The
10 purpose again is board members who have not heard a case.

11 So the fundamental purpose is actually much
12 broader than just pointing out any error or any deviation from
13 the Board's verbal decision. It is actually to allow the
14 parties to personally address either in writing or it can even
15 be oral, in this case it's in writing, to personally make their
16 arguments to the people that are going to decide these cases.

17 So that the type of exceptions that were made in
18 this case are actually properly before the Board. They are
19 similar to a motion for reconsideration or rehearing that might
20 be made after. But the Administrative Procedures Act does
21 allow this type of argument to be made because again, there
22 would be persons deciding the case that had not heard the case.

23 So it is properly before the Board and can be dealt with prior
24 to the issuance of the order.

25 CHAIRPERSON REID: So, Ms. Sansome, as I

1 understand it, typically with the exception process before the
2 order is issued, and the parties have an opportunity to address
3 any mistake or any error that the Board may have made to the
4 new board members, and at the same time, I think I hear you
5 saying that similar to the reconsideration which occurs after
6 the order has been issued, it is an opportunity for the
7 Applicant to raise any issue to the new board members or to the
8 board members that are now sitting to any aspect of the case
9 that they feel would warrant, would be so warranted. Is that
10 my understanding?

11 As a matter of fact, there's a fine line between
12 the two, isn't there?

13 MS. SANSONE: Well, yes, Madam Chair. There is a
14 fine line. Of course that's why we cautioned in our
15 instructions that there shouldn't be any new evidence being
16 made in these arguments. It's basically an opportunity to
17 argue on the basis of the existing record.

18 CHAIRPERSON REID: No new evidence?

19 MS. SANSONE: New facts.

20 CHAIRPERSON REID: What about the term? I mean
21 is that proper? That this being an area that the Applicant
22 feels they want to bring up.

23 MS. SANSONE: Yes, Madam Chair. This would
24 actually be within the scope of the arguments that could be
25 made.

1 I was concerned that the Applicants had attached
2 a report.

3 CHAIRPERSON REID: Right, right. There is a
4 report that's new.

5 MS. SANSONE: That report would be not allowed.

6 CHAIRPERSON REID: We would not be able to
7 consider that, but in regard to the term, you are saying that
8 that argument we could consider?

9 MS. SANSONE: Yes, Madam Chair, you may consider
10 that argument.

11 BOARD MEMBER HINTON: I guess then at this point
12 my concern is that there was a different person that voted on
13 this. I felt that decided it. There was another vote that
14 decided it, and now we're removing that vote from the decision.

15 It just seems like we're putting in a different
16 person's opinion.

17 CHAIRPERSON REID: Well what happened in that
18 instance, there were three people. That was me, and Mr.
19 Sockwell, and Ms. Mitten. Mr. Sockwell and myself raised an
20 issue. We were very concerned about the one-year term. The
21 only reason why we voted was because we did not want to deny
22 the Child Development Center completely. So we went along with
23 that particular vote, not because we were in agreement to the
24 one-year term. It is because we did not want to see the
25 Applicant not have an opportunity to be able to operate.

1 That is what has caused the contention, I think.

2 BOARD MEMBER HINTON: So if our corporation
3 counsel is comfortable that we are proceeding properly, I have
4 no problem with that. I think whether we do this now or
5 whether we issue the order and then have reconsideration in the
6 end --

7 CHAIRPERSON REID: It will amount to the same.

8 BOARD MEMBER HINTON: It will amount to the same
9 thing.

10 My concern was one of procedure, so I am
11 satisfied that we can go ahead.

12 CHAIRPERSON REID: Okay. Now the Board's
13 proposed decision to place a one-year time limit on the
14 Center's special exception is lacks space on the findings of
15 fact and therefore violates the District of Columbia's
16 Administrative Procedures Act.

17 The Applicant in this instance contends that
18 within the evidence that was before us at the time there was
19 not anything that was presented that would corroborate a
20 position that a one-year term would be required or would be in
21 the best interests of this particular application.

22 I think that some of the information that was
23 raised was the fact that there was some testimony that there
24 was a childcare center there before and there were some
25 problems with that one. A lot of the testimony that came up in

1 our position spoke to that particular childcare center. In
2 this particular instance, the Applicant had engaged attorneys,
3 pro bono attorneys from American University's Law School, to
4 give them guidance.

5 As such, they moved to make sure that all of the
6 objections were met. They provided the parking. They put in
7 measures to mitigate the traffic problems. The contention is
8 that there was not anything that corroborated the point that
9 they should have only one year.

10 COMMISSIONER MITTEN: If I could, Madam Chair,
11 just speak to the issue about the one year. There is evidence
12 in the record that one year is appropriate because that is the
13 term of the obligation that they have to lease the property.
14 So the childcare center can only occupy the property for a year
15 because that is the term of their lease. So I think in terms
16 of whether or not there is evidence in the record that a year
17 is appropriate, I would say there is evidence in the record
18 that one year is appropriate.

19 CHAIRPERSON REID: I am not in belief with that,
20 Ms. Hinton.

21 COMMISSIONER MITTEN: I'm Ms. Mitten.

22 CHAIRPERSON REID: I'm sorry, Ms. Mitten. Did
23 you have that copy of the lease?

24 COMMISSIONER MITTEN: I think that was given in
25 oral testimony.

1 CHAIRPERSON REID: I don't remember hearing
2 anything about a --

3 COMMISSIONER MITTEN: It's also in our order, in
4 our findings of fact, page 5, number 11. They have a year-to-
5 year lease with the church.

6 CHAIRPERSON REID: A year-to-year lease is
7 different from a one-year lease.

8 COMMISSIONER MITTEN: How is it different?

9 CHAIRPERSON REID: Well because each year
10 basically you have one year and then you have the option to
11 renew every year. Then often with most leases you have a one-
12 year lease that then gives you the opportunity to continue. So
13 if this says year-to-year, that does not mean that it's one
14 year.

15 COMMISSIONER MITTEN: Well, my recollection from,
16 and we could clarify it, I don't have the transcript from the -
17 - yes, I guess I do. I believe that the testimony was that it
18 was a one-year lease, and not that there were options to renew.

19 But in either case, we don't have the year or the lease in the
20 record. We only have the testimony.

21 CHAIRPERSON REID: Because I think they were
22 asking for five years, was it? So that seems strange that if
23 they only had a lease for year that would not be -- obviously
24 that would not be an obstacle because of the fact that they
25 made it very clear to us that they needed at least five years.

1 COMMISSIONER MITTEN: Again, I don't recall that
2 they were asking for a specific term. I think that assigning
3 the term just came up in the discussion about the conditions.

4 CHAIRPERSON REID: I think that that was typical,
5 which we normally assign a term of at least five years for
6 child development centers. I think that was kind of an
7 assumptive type of position that they had taken.

8 COMMISSIONER MITTEN: Maybe just to take that
9 point all the way home, in terms of whether or not there is a
10 finding of fact about anything related to a term, the only
11 finding of fact that there would be is related to the term of
12 the lease. There isn't anything to support a five-year term
13 other than tradition of the Board. There is not a finding of
14 fact related to this case that would support a five-year term.

15 CHAIRPERSON REID: I think that in this instance
16 we're talking about something was restricted, and if it's going
17 to be something that is more restrictive then I would think
18 should be some type of information or data that would support
19 why in fact one year.

20 COMMISSIONER MITTEN: Well I am just speaking to
21 the point that is being made by the Applicant, which is that
22 there is not a finding of fact that relates to the term
23 specifically.

24 I am just saying there isn't anything that
25 supports a five-year term. Whether or not a five-year term

1 could be supportable for other reasons, I am just saying there
2 is nothing in the record.

3 CHAIRPERSON REID: Discussion?

4 COMMISSIONER MITTEN: If you'd like, if you could
5 just give me a minute, I could probably find when we were
6 questioning the minister about the term of the lease.

7 CHAIRPERSON REID: Okay.

8 COMMISSIONER MITTEN: If you'd like to go on and
9 have a discussion with maybe Ms. Hinton and Ms. Renshaw and
10 then I'll keep looking.

11 CHAIRPERSON REID: All right. Then so we'll come
12 back to that.

13 Then the second argument was that the Board's
14 proposed decision to place a one-year time limit on the
15 center's special exception lacked basis in substantial evidence
16 of record, and therefore violates the District of Columbia's
17 Administrative Procedures Act.

18 That also goes to the issue raised earlier in
19 regard to the church, that the daycare center that was there
20 before had some problems, and the new director had now taken
21 steps to try to mitigate whatever problems that were raised,
22 which is typical in these instances when there is a new daycare
23 center coming in. They had I think bent over backwards to do
24 more than what would be normally expected to try and make sure
25 that they did not have adverse impact on the community.

1 Any discussion on that argument?

2 The third one was the one-year term limit fails
3 to promote the health, safety, and general welfare of the
4 children of the District of Columbia. In that regard, I would
5 like to mention that I do agree with the Applicant in that over
6 in that area of Southeast Washington, we have to be sensitive
7 to the fact that there are problems that are inherent that may
8 not necessarily be all over the city, such as the fact that the
9 daycare centers are in need. There are also people who --
10 welfare-to-work programs that require that they have daycare in
11 order to be able to obtain jobs.

12 When you talk about the health or safety and
13 general welfare of the children of the District of Columbia,
14 you have to look to certain things like this daycare center was
15 one of the rare, extremely rare facilities that provided night
16 care and weekend care. We have people who cannot work because
17 of the fact that they cannot find childcare at night or on the
18 weekends because that's the only thing that is available to
19 them. I know the welfare-to-work programs have a lot of jobs
20 that are in the hotel and restaurant industry that require
21 night work.

22 The health aspect comes from the fact that as a
23 result of many citizens not being able to find night care or
24 adequate care, that they have to leave the children at home or
25 sometimes leave the children at home or uncared for in order to

1 be able to work. Many of the people who need this night care
2 and daycare, and these are the people I know, are trying to get
3 off welfare or they are coming out of rehab programs, and as a
4 condition of that, drug rehab programs, they have to have
5 employment. Some of the employment that's available to them is
6 only during these hours. So daycare in that instance is very
7 important. Other than that, they are restricted as to what
8 type of jobs they can take.

9 Now remember, our job is to try to mitigate
10 adverse impact. Adverse impact comes in other forms other than
11 just traffic and noise. If you have situations where people
12 can't get jobs or can't work, then you have other types of
13 social ills that are occurring in the community like drugs,
14 prostitution, violence, crime.

15 I think that in an instance where you have a
16 facility that wants to provide daycare -- I keep saying
17 daycare, but care of the children all hours of the day and
18 night, to be able to provide a service to the community to
19 offset some of the adverse impact that our communities are
20 plagued with, it would be instructive for us to try to do what
21 we can to see if we can be open minded as to the term.

22 Now the aspect of the fact that it imposes a
23 financial burden on the church to have to come back in less
24 than a year as well as the fact that it takes away from the
25 stability of that community and that church, that church

1 daycare center because of the fact that it is very difficult to
2 get people to contract to bring their children to a daycare
3 center that only has a term of one year. They don't want to
4 uproot their children that quickly. They want to have a place
5 where they can provide some stability. For some of them,
6 that's the only type of stability that they have in their lives
7 for their kids as well.

8 As the fact that in order to get loans to ready
9 the daycare center, they have to demonstrate that they are
10 going to be there for some time. If it's just for a year, it
11 has a negative impact on their credit worthiness.

12 I think that when you look at the staffing, to be
13 able to attract staff, stable staff, it is very hard to get
14 people who only will take a job when they know it's a
15 possibility to only be for one year.

16 As well as the fact that for the most part,
17 daycare centers, they have to incur expenses to set up the
18 daycare center, to get the facilities in proper order and
19 condition. A one year term just smacks to me of insensitivity
20 to the plight of citizens in parts of our communities that may
21 not have necessary representation on this Board.

22 As such, I would very strongly recommend that we
23 do allow them to have the five-year term, a five-year term in
24 order for them to be able to properly operate and for them to
25 be able to provide their community with a very needed service.

1 I would move that we approve the application,
2 that we amend it to the term for five years.

3 Is there a second? Okay. Further
4 discussion or another motion?

5 VICE CHAIRPERSON RENSHAW: Just let me say here
6 first of all, I want to state that I have read the record, just
7 to reaffirm that, and have read in the submission, the
8 Applicant's memorandum that was presented to the Board. I read
9 it with interest. Just to note for the record that Ms. Reid
10 was quoted at length in this submission to the Board. I only
11 wish that the Applicant had perhaps farmed in some of the
12 comments of the other Board Members who had originally
13 participated in the case.

14 I don't think that a one-year time limit is an
15 extraordinary circumstance. Many a small business, and we have
16 to realize that this daycare center can be classified as a
17 small business, runs into the problems that have been talked
18 about and discussed at length in this appeal or in this
19 memorandum back to the Board.

20 It is the fact that small businesses do have to
21 go after money. They do have to lock in space. They do have
22 to go after clients. Here the clients are the little children.
23 So that it is not unusual for small businesses to have these
24 kind of circumstances with which to deal.

25 But I would argue that this is a wonderful

1 opportunity for the church and the daycare center to show what
2 can be done in a one-year period to get moving rather quickly,
3 to put into place what they had proposed to the Board, and to
4 work with the parents in the community as far as the benefits
5 that the daycare center will bring to the children within that
6 one-year period.

7 They argue in this memorandum about the
8 difficulty of preparing, time spent preparing to come back to
9 the Board of Zoning Adjustment. I think their good record and
10 their activities on behalf of the children in the neighborhood
11 are going to speak volumes. That is what the BZA would be
12 looking at, not how much time the Applicant would be spending
13 with attorneys to plead a case. The best case is going to come
14 from those parents who have been very satisfied with the work
15 of the Board.

16 As far as the business of having only a one-year
17 timeframe to sign up children, one can also take the point of
18 view that parents look to a shorter period of time to sign up
19 the children so that they can see whether or not the child is
20 acclimated to the setting. Many parents, I would suspect,
21 don't want a long-term commitment with any daycare center, to
22 give the parents the flexibility of changing scenes if that is
23 the case after one year. I don't know about the contract
24 arrangements with parents.

25 But it's also a chance for the Applicant, if they

1 are going to plead the case discouraging parents from bringing
2 their children to the center, as spoken about on page 13 of the
3 memorandum, there should be some survey to substantiate those
4 kinds of claims.

5 To discourage people, that's a blanket statement.

6 I have no way to know whether or not that is an accurate
7 statement. We don't know. So I would state that it is going
8 to be the action of the center that is going to plead the very
9 positive case for the childcare center if indeed the childcare
10 center comes back within the year to the BZA.

11 CHAIRPERSON REID: Other comments?

12 COMMISSIONER MITTEN: I did find the excerpt in
13 the record, just to make that clear. It's open to some
14 interpretation, I suppose.

15 VICE CHAIRPERSON RENSHAW: What page would that
16 be one?

17 COMMISSIONER MITTEN: It's on page 168 at the
18 bottom. I asked the question how long is the lease. Mr.
19 Brooks responded, "We have a year-to-year lease. It goes from
20 12 months and then in the 11th month, we review the lease every
21 11th month and go forward." That's precisely what it says.

22 CHAIRPERSON REID: Any other comments?

23 BOARD MEMBER HINTON: Well, I would like to put
24 on the record that I have listened to everything everyone has
25 said. I in reading the material and thinking about other cases

1 and the real consequences of a one-year timeframe, I do think
2 it is unreasonable to allow a new use and a new user and limit
3 it to one year.

4 I think that either the Applicant has met their
5 standard of proof in demonstrating that they can operate a
6 facility without adversely affecting the neighborhood, in which
7 case the Board would approve it, or they haven't, in which case
8 the Board would deny it.

9 But I think that what we have with the decision
10 of yes, you can do it, but only for a year, is what we're
11 really saying is we're not sure you have met your burden. I
12 don't agree with that. I think in this case the burden of
13 proof has been met. I think that a one-year timeframe is
14 unreasonable to expect to be able to get a group of parents to
15 bring their children, and then train those parents for what is
16 expected and how they can use this facility to their benefit
17 without affecting the people who live nearby. That is not
18 going to happen overnight. That is probably going to take some
19 time.

20 You know, people tend to do I think what is most
21 convenient until they are educated that that is really not
22 working well for somebody else. Some of these issues about
23 traffic and double parking and all that, people are going to do
24 it until they learn that they really shouldn't do it. If they
25 learn that if they continue to do it, it is likely that the

1 childcare center will close and their children will not have a
2 place to go, they are going to be more motivated. But that's
3 something that is going to take some time. I think that we
4 need to recognize it.

5 Before I heard anybody say anything this morning,
6 I was thinking that three years, I think, is a reasonable time.

7 That is probably not uncommon for facilities like this. Other
8 cases that I have sat on have had a variety of timeframes. I
9 have never seen one year. I don't think that this can be
10 established and operate and really even have a good sense of is
11 it working in a year.

12 When you think that our backlog of cases is four
13 or five months, they are going to have to in order to not sort
14 of be operating outside of their approval, they are going to
15 have to put in their submission in six or seven months. I
16 don't think that is enough time to get them up and running, and
17 get a group of parents in that can learn how this facility
18 needs to be operated so that it doesn't affect the neighbors.

19 I think three years is more reasonable. I do
20 think such a small timeframe is going to affect their ability
21 to get clients because as a mother of two young children, I
22 would not want to get my children started at a facility and not
23 have a reasonable anticipation that that facility is going to
24 be there for the next three years, which is the time that my
25 children would need it. You know?

1 I wouldn't want to take my children some place
2 for a year and then another place for another year, or even
3 have to wait until the 11th month to find out if on the 13th
4 month my kids have a place to go. I mean that is not giving
5 these people a fair chance at operating a facility.

6 So I am willing to go to the five years at the
7 outset. I would prefer to go to three years. I am not willing
8 to vote for only one year because I think that is unreasonable.

9 COMMISSIONER MITTEN: Madam Chair, can I respond
10 to Ms. Hinton?

11 CHAIRPERSON REID: Yes.

12 COMMISSIONER MITTEN: One of the things that you
13 said was that you feel that in the beginning, or if I can just
14 sort of consolidate what I heard you say, is in the beginning
15 they won't be meeting the standard because they have a learning
16 curve, that parents need to be educated about the policies and
17 so on. So if we bring them back in a year, it is not enough
18 time for them to actually be complying. That is the concern.

19 That is the concern I had, which is the community
20 was through this before. They are significantly impacted by
21 Ann Beers Elementary School and all the traffic associated with
22 that. There are a number of other daycare centers in the area.
23 They are on a busy street, all the stuff that's in the record.

24 So the concern is, is that how long does the
25 community have to wait? Why should they have to wait at all.

1 The burden starts the day that the approval is granted. My
2 concern from the beginning is that this community is already
3 significantly impacted by these non-residential uses, so if in
4 a year they can't prove that they have met the burden, then
5 they don't get to stay. They need to be able to prove that in
6 the short run because there are so many conditions, in order to
7 make the order palatable, there are a lot of conditions.
8 There's a lot of uncertainty associated with those.

9 We had the same discussion when we deliberated it
10 before. I am very sympathetic to the things that Ms. Reid said
11 about the needs of the community, but that is not the standard
12 for the special exception. It is the impact of the use on the
13 residential neighbors. I'm sorry, but I think that is where
14 the priority has to lie.

15 CHAIRPERSON REID: Well, let me just jump in here
16 because I think that you are incorrect. I think that when you
17 talk about adverse impact, again, Ms. Mitten, you have to
18 realize it's not always just about traffic and parking, if in
19 fact there are things being done to mitigate those that are
20 perceived. There was considerable amount of testimony here in
21 support of this daycare center, notwithstanding the fact that
22 even though there may be a few daycare centers over there, but
23 there is still a dire need for daycare centers, and
24 particularly one who provides night care and weekend care.
25 That is not something that -- this is the first time I have

1 seen or heard of such a facility.

2 That's a real fire alarm. We are going to
3 adjourn. That's a real fire alarm so we have to vacate the
4 building.

5 (Whereupon, the foregoing matter went off the
6 record at 11:30 a.m. and went back on the record
7 at 12:00 p.m.)

8 CHAIRPERSON REID: I will resume our morning
9 session.

10 Okay. I think when we left off I was in the
11 process of speaking, so I'll continue. This is in regard to
12 the term. I was saying that when we speak of adverse impact,
13 in some instances there are other things to consider. In this
14 instance, I was pointing out that adverse impact could be
15 parking and it could be traffic, noise or trash or the like.
16 But I think that the Applicant put into place measures to
17 mitigate that with providing parking, as well as drop-off and
18 pick-up, and the trash removal, and the like.

19 Now other problems that could cause adverse
20 impact in the community are things that pertain to the fact
21 that in this instance there is a need for daycare centers. We
22 received letters from St. Timothy's Child Development Center.
23 We got information from St. Timothy's Child Development Center
24 before and after care, and also Ann Beers Elementary School
25 facilities have waiting lists. As such, they are in favor of

1 this particular facility moving forward.

2 The adverse impact I was speaking of is in regard
3 to people who are unable to take work, jobs because they don't
4 have daycare. When they don't get jobs, then that of course
5 increases other neighborhood instability and problems,
6 contribute to crime, contribute to a lack of the welfare and
7 health of the community. Not to mention the fact that children
8 are sometimes left home alone because they don't have adequate
9 facilities to be able to take their children to.

10 In addition to that, in regard to this aspect of
11 take a child to daycare center for one year, I would agree with
12 Mrs. Hinton, having a child myself. There was no way I would
13 take my child anywhere that could not provide me with hopefully
14 complete childcare services until my child was ready to go to
15 nursery school or to go to kindergarten.

16 Just like any other parent, no mother wants to
17 take their child -- it's very disruptive to take a child to a
18 new place anyway, but to have to take them to a new place and
19 then the following year, when they are at a very fragile age,
20 to have to uproot them and take them somewhere else so that
21 they can be traumatized all over again is not something that
22 most people want to do.

23 Also, the ANC did not have any objection to this
24 particular application. There were several letters of support.

25 The opposition for the most part was due to the previous

1 daycare center, not this daycare center. I don't think that is
2 fair to make that kind of connection between one and the other.

3 Last point is that perhaps a compromise would be
4 that the church had already stipulated that they were going to
5 have periodic meetings with the community to determine if there
6 is any problems or anything of that nature. Perhaps there
7 could be contained within the order something that would
8 require there be a community liaison, where the church would
9 be, the Applicant would be made aware of any problems that may
10 arise other than the provisions that are already put in place
11 like the contract that they have everyone to sign who goes to
12 the daycare center, as well as penalties imposed. In fact,
13 that they are violations.

14 I don't know anything more that any applicant
15 could possibly do coming before this Board, unless from
16 hereafter, am I to understand that all special exceptions are
17 going to be for one year? Is this something new, we're setting
18 a precedent here? I mean I have to understand because Mrs.
19 Hinton made a good point. I said most daycare centers were for
20 five years and six years since I've been on this Board, but I
21 would have to accept her correction. I have seen some for 10
22 years. I am just wondering is this something that's new, that
23 we're going to do this for all special exceptions now if there
24 is some opposition?

25 COMMISSIONER MITTEN: If you are asking me, I

1 have never advocated for a one-year term before. I think there
2 are extenuating circumstances here because the neighborhood is
3 so heavily impacted.

4 CHAIRPERSON REID: But there is a waiting list
5 for child development centers, for childcare. Ms. Mitten, you
6 have to understand, this community needs child development
7 centers.

8 COMMISSIONER MITTEN: But what you are suggesting
9 is that without regard to which sites are most appropriate to
10 meet that need, because the need exists, that we should approve
11 it for whoever would ask for it.

12 CHAIRPERSON REID: I think that we should listen
13 to the community, the people who live there, who are raised
14 there, who have knowledge of that community. If the ANC had a
15 problem, they would be here to oppose it. They did not. You
16 have people who live right there who are coming into us saying
17 we need this, we want this, we feel this will be good for our
18 community, as well as the PTA from the school, the same school
19 Ann Beers, that has a before and after, saying they need more.
20 We have to listen to that community.

21 I mean this community has to be given the same
22 consideration as every community in this city. We have to look
23 at it from a holistic point of view. What is in the best need
24 of this particular community? If this is what the people are
25 saying that they need and they want, and there is a great

1 demand for it, then why would you penalize someone who is
2 trying to come in and to do something to improve the community
3 over there?

4 COMMISSIONER MITTEN: I don't consider the one-
5 year term a penalty.

6 CHAIRPERSON REID: It is.

7 COMMISSIONER MITTEN: Actually the pending
8 question was Ms. Hinton had raised some issues. I had
9 responded to her and I was hoping that she would then follow up
10 on what I had posed back to her about your notion about the
11 fact that there's going to be this period of impact until the
12 center is up and running, and that is giving them the benefit
13 of the doubt that they are capable of meeting the conditions.
14 So could she respond to that?

15 BOARD MEMBER HINTON: I guess the way I think
16 about it is I think every special exception that we approve
17 moves into a neighborhood and things are different. I think it
18 is hard to quantify what those differences are and at what
19 point, where you draw the line between different but still
20 acceptable, and different and not acceptable.

21 What I am looking at in this record is DPW has
22 said that they don't believe that traffic or parking will be a
23 problem. So I am relying on that. But I also believe that any
24 time you have something new, there are going to be instances
25 where people take advantage or people don't do sort of the

1 right thing, where somebody might double park in front of the
2 building to get their child rather than pulling into the ally
3 which is sort of the planned way that this is going to happen.

4 I think it is unreasonable for us to expect that
5 a special exception will never have any negative impact on the
6 community. I think the reason that we write the conditions is
7 to control those to the extent that they can be controlled, you
8 know, and to try to make especially the applicants aware of
9 what is expected and what the community concerns are so that
10 they can run their business to the best of their abilities to
11 lessen those effects and lessen the impacts, and to not be
12 disinterested in what the concerns of the community are.

13 So I guess if I thought that there would be
14 traffic and parking issues that would be ongoing, that would be
15 not solvable, then I would just think that we shouldn't approve
16 it. But in this case, based on an assessment of what DPW said
17 and then OP went out and sort of looked at actually what's
18 happening in those intersections and determined that they think
19 that it is workable.

20 You know, any time we have a plan like this, if
21 they do what they have planned to do, it's workable. If they
22 disregard all of the things that are in our conditions, it is
23 going to not be workable. It is going to have very serious
24 effects on the neighborhood.

25 So I think that we have to write the conditions

1 that we feel are necessary to make the special exception work,
2 and be reasonably comfortable that that is what will happen.

3 I guess my concern is that the enforcement of
4 zoning seems to be not working very well throughout the city.
5 So the Board grants variances and special exceptions and the
6 Zoning Commission grants PUDs, and people have a certain
7 expectation of what that is. You know, there are conditions,
8 you must do this, you can't do that. That is what the Board
9 and Zoning Commission are supposed to do.

10 But then there's supposed to be a zoning
11 enforcement, where people can really call and say, "You know,
12 they are only allowed to have this many children, and they have
13 this many. We want something done about it." I think people
14 have the reasonable expectation that it should be done quickly,
15 within a week, within a week. What we really have is very
16 little zoning enforcement, and things are never done.

17 I sense that your concern with this is based on
18 the assumption that there won't be zoning enforcement
19 available. Is that?

20 COMMISSIONER MITTEN: I mean that's part of it,
21 but it's also a very difficult order to enforce because of the
22 nature of the conditions.

23 CHAIRPERSON REID: Because of the nature of the
24 conditions? Could you --

25 COMMISSIONER MITTEN: I am going to elaborate on

1 that. A lot of the concerns related to the traffic, in part
2 will there be adequate access to the parking and will the
3 parents use the parking, and then will the parents not actually
4 park, but just drop off.

5 That requires staff to be available for I would
6 say at least a one-hour period, and it requires multiple staff
7 members to be available because the notion is as soon as
8 someone comes with a child, they walk out and get the child.
9 Well then if someone else comes up, then there needs to be
10 another -- you know, and parents are impatient, so if there is
11 no one coming, they are going to park the car, and they are
12 going to park it wherever. So that is a very difficult order
13 to enforce.

14 We are relying a lot on how this thing is going
15 to be operated. There is no track record for the operator in
16 terms of running a childcare center. I guess it's a double-
17 edged thing, which is, we have poor enforcement and then add to
18 that this is a difficult order to enforce.

19 So that's why I have a lot of concerns.

20 BOARD MEMBER HINTON: We have had other child
21 development centers where one of the conditions was that during
22 the morning drop-off and the evening pick-up periods, staff
23 members would be available and stationed at the entrance. If
24 it needs to be -- I think this is only up to 30 children, so I
25 don't know whether that would need one or two people, you know,

1 what number of people exactly it would need.

2 But I think that that is a condition that we may
3 want to add because I agree with you, that if parents have to
4 park their cars, get out and walk the children in, they are
5 going to be there longer than if they can stop the car and let
6 one of the caregivers help the child get into the building.

7 Again, I agree with you. Not only is that hard
8 to enforce, it is going to be extremely difficult to enforce
9 with the current set-up that we have.

10 VICE CHAIRPERSON RENSHAW: Madam Chair?

11 CHAIRPERSON REID: Just let me just say this. To
12 my knowledge, all of the conditions that we put on any special
13 exception is hard to enforce. So what is new about this?

14 COMMISSIONER MITTEN: Some are easier to enforce
15 than others. I mean if it's a quantitative thing.

16 CHAIRPERSON REID: But I mean for the most part
17 that is something we are plagued with the fact that we do the
18 best that we can given the circumstances in front of us. There
19 are some things beyond our control. A lot of it is based on
20 just faith that, just trust that based on what they have given
21 us, look at the entire picture and to see the mechanism that
22 they are putting in place to mitigate problems proactively
23 before they happen. I was impressed with that.

24 They put a lot of time and energy to address
25 whatever problems that could possibly arise in order to be able

1 to provide the services they wanted to provide.

2 But as far as enforcement is concerned, that is
3 the same problem we have, be it campus plans or anything else.

4 We don't have the authority at this point to be able to do
5 anything about it. So that's not anything different. It's not
6 uncommon.

7 COMMISSIONER MITTEN: Well, I think the nature of
8 the condition is within our control. I think some conditions
9 are easier to enforce than others. I will give you an example.

10 If, for instance, you say to an applicant well
11 you have to have a dumpster and here is where you have got to
12 put it, if they don't have the dumpster, you take a picture,
13 you take it to the Zoning Administrator, and you say, "See,
14 there's the photograph, it shows there's no dumpster." Okay?
15 It is easy to quantify and easy to provide evidence.

16 If someone is operating outside of their hours
17 that they are permitted, that requires that you have a zoning
18 inspector go during the hours that they are operating that they
19 are permitted. Or if in this case the staff --

20 CHAIRPERSON REID: Of course, Ms. Mitten, I
21 understand that. What I'm saying to you, the point I'm making,
22 please, is that certainly there are some conditions that are
23 discernible as far as enforcement is concerned. The point I am
24 making, however, is that for the most part in any special
25 exception that we have, be it a big development downtown or be

1 it a campus plan or any other special exceptions, for the most
2 part we do it on faith or trust.

3 There are rarely instances where we can quantify
4 a violation, but for the most part they are imposed. People
5 come to us all the time and the second time around when they
6 were supposed to have done something or come to us within a
7 certain period of time, and they are in violation. But the
8 only thing that we can do I think is to impose the conditions,
9 with the understanding that in good faith, the Applicant is
10 going to do their best to comply. They have to convince us.

11 I think in this instance, the Applicant has bent
12 over backwards to try to convince us that they will mitigate
13 the perceived problems that the opposition raised to the best
14 of their ability. What more could you ask than that?

15 VICE CHAIRPERSON RENSHAW: All the more reason to
16 ask that the daycare center return in one year. The incentive
17 is the renewal of the permit. What I'm talking about
18 incentive, incentive to make sure that these conditions are
19 adhered to.

20 But I just want to point out that under a special
21 exception there is the language that this will not tend to
22 affect adversely the use of neighboring property. I am a bit
23 concerned, and therefore in support of a short-term limit,
24 about these extended hours. It seems that the hours of this
25 daycare center are Monday through Friday, 6:00 a.m. to 7:00

1 p.m., 8:00 p.m. to midnight on Friday evenings, and 8:00 a.m.
2 to midnight on Saturday. It must be 8:00 a.m. to midnight on
3 Friday.

4 But in any case, that is going to put a big
5 burden on the community.

6 CHAIRPERSON REID: Why?

7 VICE CHAIRPERSON RENSHAW: Because of the traffic
8 and the noise. There are going to be families coming for the
9 children at late hours when in this residential neighborhood,
10 quiet is shall we say expected.

11 So I am just saying that with these extended
12 hours, which are very ambitious hours, and perhaps very needed
13 hours, that a one-year timeframe is reasonable to make sure
14 that those hours are not a burden on the neighborhood with cars
15 driving up, with doors slamming, with children coming out to
16 the cars at late hours, people who would be late beyond
17 midnight, so therefore the operation stays open. We hope that
18 that would not be the case. But in any case, there is the
19 chance that these are going to take place.

20 Although, Ms. Reid, you talk about faith and
21 trust, I would hope that that would be the case. However, I
22 think that in this circumstance, a one-year limit would be
23 shall we say the best route to go with the invitation to the
24 daycare center to return in a year, tell us about how well it
25 has been brought together with the community, the neighbors,

1 the parents whose children are in the daycare center, and then
2 there is the option of course for extending it for a five-year
3 period or whatever the Board deems is necessary.

4 CHAIRPERSON REID: Well, the fact of the matter
5 is you have people in the community who are never going to be
6 happy, never going to be satisfied. Those same people will
7 come back. They know that they are under the gun. Those same
8 people will come back next year and raise opposition and put
9 these people out of business. That is the risk that they are
10 taking. Wherein, over a longer period of time, over five
11 years, there is more opportunity for people to be able to see
12 how things are going to work out.

13 The first year may be one that there is a
14 learning curve. There may be some violations. There may be
15 some problems. But those problems, given time, could be worked
16 out, if you say just one year.

17 Now when I asked you why would that be a problem
18 as far as the drop-off and pick-up with regard to the hours, my
19 thinking is if you've got 30 kids, you've got 30 kids. Some
20 will be picked up at 6:00, some at midnight. Those that will
21 be picked up at midnight -- have you been over there on Alabama
22 Avenue? It is a very highly visible and highly trafficked
23 street. It is a major thoroughfare. So a car coming to pick
24 someone up, you are not going to be able to discern the sound
25 from that car coming from the rest of all the traffic and noise

1 on that particular block.

2 My feeling would be that there would be a smaller
3 percentage of people coming to pick their children up at
4 midnight. But nonetheless, these people are still under a
5 contract to do so in such a manner that would not be
6 disruptive.

7 Again, to me, this whole aspect of one year does
8 not make any sense. My whole point I'm making here today is if
9 you are going to do this for this particular application, then
10 is this something that is going to set a precedent for all
11 special exceptions, no matter where it is and for what
12 business, what use? A one year?

13 COMMISSIONER MITTEN: By asking that question,
14 you don't appreciate the special circumstances that prevail
15 here and why --

16 CHAIRPERSON REID: There is nothing special about
17 these circumstances other than anywhere else. My question is -
18 -

19 COMMISSIONER MITTEN: Like I said, you don't
20 appreciate the special circumstances.

21 CHAIRPERSON REID: Are you going to put a one-
22 year term on all special exceptions?

23 COMMISSIONER MITTEN: No, ma'am.

24 CHAIRPERSON REID: Then why this one?

25 COMMISSIONER MITTEN: I am not going to repeat

1 myself. I think I have covered that thoroughly.

2 I would like to put a motion on the floor and
3 let's just see if we can get anything off the ground.

4 CHAIRPERSON REID: I'm not finished talking.
5 Because to me it's selective. I think that if you are going to
6 impose any type of precedent or if you are going to have a
7 policy, that it should be applicable to all residents, all
8 communities, all wards across the city at all times. I don't
9 think that you should make an example or exception for this
10 particular case compared to all the other cases that we deal
11 with. I think that that is grossly unfair and unreasonable.

12 COMMISSIONER MITTEN: May I make a motion, Madam
13 Chair?

14 CHAIRPERSON REID: Sure.

15 COMMISSIONER MITTEN: I move approval of the
16 order as it was written, with the one-year term.

17 VICE CHAIRPERSON RENSHAW: Second.

18 CHAIRPERSON REID: Okay. So the motion failed.
19 We have a split.

20 I'm sorry. All in favor?

21 Opposed?

22 MS. PRUITT: The motion fails for lack of a
23 majority. Motion made by Ms. Mitten, seconded by Ms. Renshaw
24 to approve order as written.

25 I would suggest the next step is that we have Mr.

1 Griffis, the new member, read the record and you take this back
2 up at your July meeting. That is an option.

3 CHAIRPERSON REID: Well, the fact of the matter
4 is that if in fact the child development center is trying to
5 start up in September, I think that imposes an additional
6 burden on them because it's another month gone by, and they
7 would have to have some understanding of what they are going to
8 do so they can get started doing it prior to -- not putting it
9 off to July.

10 I think that certainly there should be some
11 instance where -- some room where there could be compromise so
12 that we will be able to do two things. One, allow the daycare
13 center to open because there is a dire need. Apparently this
14 is falling on deaf ears, some board members, but there is a
15 dire need for this daycare center. They need to get started.
16 They have to get their financing. They have to get on track.

17 Two, deal with this issue of the term in such a
18 way that there is some -- as we've done in other cases, where
19 there is compromise and there is some type of mitigation or
20 some type of conditions that would satisfy all the Board
21 Members to the point that we can dispose of this particular
22 case today.

23 VICE CHAIRPERSON RENSHAW: I would like to just
24 point out that these ears are not deaf. I think that we have
25 had a very thorough discussion of this. We just have divergent

1 points of view.

2 I want to ask at this point, what is the
3 procedure? Because there is in motion an order. There has
4 been a vote. Does that order still continue? In other words,
5 is the clock ticking down to when that order is going to be
6 released?

7 CHAIRPERSON REID: Ask Ms. Sansome.

8 MS. SANSOME: Madam Chair, Board Member Renshaw,
9 no. There is no clock ticking on this in terms of any
10 effectiveness of the order. The order cannot be issued until
11 the Board, with at least three members voting to issue the
12 order, there really is nothing out there governing the
13 Applicant or this case.

14 COMMISSIONER MITTEN: I think there might be a
15 way to proceed without you compromising your strongly held
16 views, is if we voted for a one-year term, they could start
17 with that understanding that they would have a one-year term.
18 Then at the next meeting after Mr. Griffis has read the record,
19 you can make a motion or Ms. Hinton could make a motion for
20 reconsideration of the term. Mr. Griffis would have read the
21 record at that point. The term will be -- I mean we are all in
22 agreement about everything but the term.

23 CHAIRPERSON REID: But how can they start? They
24 have to get their financing. To give them one year at this
25 point in time, they would still have to try to get financing,

1 credit costs, try to get kids lined up to open at the daycare
2 center. Then if next month it fails, then all of that effort
3 and money has just gone down the drain. I don't think that
4 these people are rich.

5 COMMISSIONER MITTEN: I just offer that as one
6 way to proceed, given that you have this concern. I mean it
7 could be -- we don't know how it is going to turn out in July.
8 So right now they have nothing.

9 CHAIRPERSON REID: But there is a month. There
10 is one whole month that will go by before they will know
11 whether or not they can even proceed at all.

12 VICE CHAIRPERSON RENSHAW: Not if we vote today.
13 That is a good idea, Ms. Mitten.

14 CHAIRPERSON REID: Why would you do that? What
15 could they do with that?

16 VICE CHAIRPERSON RENSHAW: They can start to
17 organize their school.

18 CHAIRPERSON REID: How?

19 VICE CHAIRPERSON RENSHAW: How can they do it?
20 They can have their lessons plan put in order. They can go to
21 the bank. Small businesses have to contend with this all the
22 time.

23 CHAIRPERSON REID: No. Not like this.

24 VICE CHAIRPERSON RENSHAW: They do too. They do
25 too.

1 CHAIRPERSON REID: I am a small business, and I
2 can assure you that when you go to the bank, you better have
3 your ducks lined up.

4 VICE CHAIRPERSON RENSHAW: They obviously have a
5 plan of action for one year. They have known about the one-
6 year term now for how long?

7 When was that vote taken, Ms. Mitten? March?

8 COMMISSIONER MITTEN: March.

9 VICE CHAIRPERSON RENSHAW: All right, so a couple
10 of months. They have had a couple of months to plan for the
11 most immediate contingency, which is one year. I would expect
12 that daycare center to have the operation going forward with
13 that plan for one year.

14 Now if they had been able to prevail here and get
15 a longer term, then they would have perhaps adapted portions of
16 their operating plan. But there is nothing to prevent them for
17 getting underway. That is what the parents, I would think the
18 parents in the neighborhood were interested in sending their
19 children to this daycare center, would like to know, that this
20 operation is on the way, is on route to opening in September.
21 It can be that.

22 CHAIRPERSON REID: No. It is too unstable.

23 VICE CHAIRPERSON RENSHAW: It is not unstable. A
24 one-year term can be an incentive to renewal.

25 CHAIRPERSON REID: Who is going to send their

1 children? I mean why do you think that --

2 VICE CHAIRPERSON RENSHAW: I have no survey in
3 hand of who is going to use this daycare center.

4 CHAIRPERSON REID: But why would you think that
5 those parents over there would be willing to send their
6 children?

7 VICE CHAIRPERSON RENSHAW: I can't speak to that.

8 CHAIRPERSON REID: To a daycare center that they
9 weren't sure it's going to go forward.

10 VICE CHAIRPERSON RENSHAW: Mrs. Reid, we don't
11 have any data on that. So I am just picking up on what Mrs.
12 Mitten has proposed. It seems to be a sensible suggestion so
13 that the clock can tick and the daycare center can plan, and
14 they can.

15 CHAIRPERSON REID: No, I don't think that's
16 viable.

17 VICE CHAIRPERSON RENSHAW: It is very viable.

18 COMMISSIONER MITTEN: If I could just say, I mean
19 it's a suggestion, if you don't like the suggestion and you
20 don't have an alternative suggestion then I would suggest that
21 we move onto the next case, because we are not going to reach
22 any kind of agreement here today.

23 CHAIRPERSON REID: Well at this point in time I
24 don't want to -- what I don't want to do is cause the Applicant
25 any further burden. I am just at a loss as to if we would

1 serve them well to take a vote for the one year, and then take
2 it back up again in July? That does not make a lot of sense to
3 me.

4 COMMISSIONER MITTEN: We are going to take it up
5 again in July anyway. I mean if this thing is going to move
6 forward --

7 CHAIRPERSON REID: If we take a vote today, why
8 would we take another vote in July?

9 COMMISSIONER MITTEN: Well the reason that I had
10 suggested that we do that is because then you could get the
11 input of Mr. Griffis, who perhaps would be in favor of a longer
12 term.

13 CHAIRPERSON REID: Then we would just hold off
14 until then.

15 COMMISSIONER MITTEN: That is another
16 alternative. I was offering a second alternative because your
17 concern was they wouldn't be able to move forward because they
18 wouldn't have a decision in hand. Well, they could have a
19 decision in hand.

20 BOARD MEMBER HINTON: Excuse me. Could I just
21 offer a suggestion? I don't think that we have to put this off
22 for a month. We can ask Mr. Griffis to read the record and we
23 can have a special public meeting next Tuesday morning before
24 our hearing, so that we could at least have a decision in a
25 week. I think that is a lot more reasonable than putting it

1 off for a month.

2 MS. PRUITT: It also allows the applicant, if the
3 vote doesn't go the way they want, not only to ask you for
4 reconsideration but then it starts the clock for the Court of
5 Appeals. So it allows them then to go to the Court of Appeals
6 if they choose.

7 BOARD MEMBER HINTON: Could we give that a try?

8 CHAIRPERSON REID: No, I think that would be
9 good. I mean one week to allow Mr. Griffis to read it, and
10 then to take the vote. That would be on the -- what date is
11 that, next week?

12 MS. PRUITT: Yes, that's June 12th at 9:00.

13 CHAIRPERSON REID: Would that give us enough time
14 or should we make it 8:30? How is our calendar that morning?

15 MS. PRUITT: You have four cases that morning.
16 One is a use variance, which can be difficult. The others are
17 house additions. Two use variances, and two house additions.
18 So if you would like 8:30, that's fine.

19 CHAIRPERSON REID: 8:30 is fine with me.

20 Ms. Mitten?

21 COMMISSIONER MITTEN: I would prefer 9:00, but --

22 MS. PRUITT: It is my understanding that this
23 case has been continued -- I mean that this will be continued
24 to an 8:30 public meeting, special public meeting on June 12th,
25 as the first item. We will get the record to Mr. Griffis to

1 read.

2 (Whereupon, the proceedings were concluded, to be
3 continued on June 12th.)
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