

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY,

MARCH 18, 1998

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

Sheila Cross Reid, Chairperson
Maybelle Taylor Bennett
Susan Morgan Hinton
Laura M. Richards
Reginald Griffith
John G. Parsons

STAFF PRESENT:

Madeliene H. Dobbins, Director
Tracey Witten Rose, Staff

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

2 (9:42 a.m.)

3 CHAIRPERSON REID: The hearing will
4 please come to order.

5 Good morning, ladies and gentlemen.
6 This is the March 18th Public Hearing of the Foreign
7 Missions Board of Zoning Adjustment of the District
8 of Columbia. Joining me today are Reginald Griffith
9 representing the National Capitol Planning
10 Commission, and representing the National Park
11 Service is John Parsons.

12 The topics of today's hearing agenda are
13 available to you. They are located to my left near
14 the door. Please be aware that this proceeding is
15 recorded electronically, so we must ask you to
16 refrain from any disruptive noises or actions in the
17 hearing room. If you desire to give any information
18 to the Board, do not speak from the audience but
19 rather come forward to a microphone. State your
20 name and home address, then proceed to make your
21 wish known.

22 All persons planning to testify either
23 in favor or in opposition are to fill out two
24 witness cards. These cards are located on each end
25 of the table in front of us. After we finish this
26 statement, please proceed to pick them up, fill them

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1 out, so that when your case is called you will have
2 them ready to be handed to the reporter. Upon
3 coming forward to speak to the Board, please give
4 both cards to the reporter who is seated to my
5 right. When seated at the witness table, please
6 give your name and home address. I repeat, please
7 give your home address rather than your business
8 address. After this, you may proceed to give your
9 testimony or statement.

10 The agenda for a foreign missions case
11 will proceed as follows: statement and witnesses of
12 the applicant, government reports, Secretary of
13 State and the Office of Planning on behalf of the
14 Mayor, reports or recommendations by other public
15 agencies, report of the ANC within which the
16 property is located, persons in support of the
17 application, persons in opposition to the
18 application. The record will be closed at the
19 conclusion of each case except for any material
20 specifically requested by, offered to, or accepted
21 by the Board.

22 The Board and the Staff will specify at
23 the end of the hearing exactly what is expected and
24 the date when the persons must submit the evidence
25 to the Office of Zoning. After the record is
26 closed, no other information will be accepted by the

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1 Board. The Board has instructed the Staff to return
2 any material received after the record is closed to
3 the person who submitted it.

4 The decision of the Board in this
5 legislative proceeding must be based exclusively on
6 the public record. To avoid any appearance to the
7 contrary, the Board requests that persons, counsel
8 and witnesses not engage the members of the Board in
9 conversation during any recess or at the conclusion
10 of the hearing session. While the intended
11 conversation may be entirely unrelated to any of the
12 cases that are before the Board, other persons may
13 not recognize the discussion is not about the case.
14 The Staff will be available to discuss procedural
15 questions.

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

25 Does the Staff have any preliminary
26 matters?

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1 MS. ROSE: No, Madam Chair.

2 CHAIRPERSON REID: If not, let's proceed
3 with the first case.

4 MS. ROSE: Oh, the audience, someone in
5 the audience.

6 CHAIRPERSON REID: Are there any
7 preliminary matters? Come forward, please.

8 MS. GIORDANO: Cynthia Giordano, Lennos
9 & Blocker Law Firm, case 16321 on the morning
10 agenda. I had submitted a request for a continuance
11 until May 6th.

12 CHAIRPERSON REID: Okay.

13 MS. GIORDANO: The reason for the
14 continuance was we had met with the ANC and they
15 have raised a number of transportation issues
16 related to the project which we want to look into
17 and see if we can resolve.

18 CHAIRPERSON REID: All right. We do
19 have that request in our files. I think that what
20 we would like to do is to try to determine a date
21 certain on which we could continue it to. I think
22 you asked specifically for May --

23 MS. GIORDANO: May 6th meeting.

24 CHAIRPERSON REID: -- 6th. I don't know
25 if that's going to work for us.

26 DIRECTOR DOBBINS: It just dawned on me,

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1 Madam Chair, you have a case on May 6th that will be
2 coming off of the agenda --

3 CHAIRPERSON REID: Oh, it will?

4 DIRECTOR DOBBINS: -- that will be heard
5 today.

6 CHAIRPERSON REID: Okay.

7 DIRECTOR DOBBINS: So, you do have at
8 least one slot. It's the morning of May 6th.

9 CHAIRPERSON REID: Okay. That being the
10 case, unless there's an objection from any of the
11 Board members, I have no problem with the
12 continuance to May 6th.

13 DIRECTOR DOBBINS: So, it would be the
14 last case to be heard in the morning on May 6th.

15 MS. GIORDANO: Thank you very much.

16 CHAIRPERSON REID: You're quite welcome.
17 All right, next case please?

18 MS. ROSE: The first case of the morning
19 is 16327, the application of 1401 16th Street
20 Associates on behalf of the Embassy of the Republic
21 of Kazakhstan, pursuant to Section 206 of the
22 Foreign Missions Act, to locate a chancery and
23 accessory parking in a DC/SP-1 and DC/R-5-B District
24 at premises 1401 and 1407 16th Street, NW, Square
25 195, Lots 824 and 847.

26 There will be no swearing in of

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1 witnesses as this is a legislative hearing.

2 CHAIRPERSON REID: Okay, you may
3 proceed.

4 MR. COLLINS: Good morning, Madam
5 Chairperson, members of the Board. My name is
6 Christopher Collins with the law firm of Wilkes,
7 Artis, Hedrick and Lane.

8 Seated to my right is Mr. Kairat Umarov.
9 Mr. Umarov is the Deputy Chief of Mission of the
10 Embassy of Kazakhstan. To my far right is Mr.
11 Robert Morris, who is a transportation consultant in
12 this case. Also present this morning with us is Mr.
13 Gabit Yermekov, who is sitting behind me. Mr.
14 Yermekov is the Third Secretary and Consul to the
15 Embassy and is available for questions if necessary.

16 This is an application for a chancery
17 use of the building and accessory parking at the
18 Northeast corner of 16th and O Streets Northwest.
19 The site is split-zoned, as you can see in the
20 Exhibits B and C on pages 12 and 13 of the statement
21 of the applicant which we filed with you.

22 The property has been used since 1974
23 for offices pursuant to former Section 4101.35 of
24 the zoning regulations. Before 1978 in the SP zone,
25 what we now call SP office uses, could be placed in
26 an existing building as a matter of right and that

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1 happened back in 1974. That section regulations
2 appears at Exhibit F on page 17 of our statement.
3 The certificates of occupancy for office use of the
4 premises are attached as Exhibit H on page 22 of the
5 statement.

6 However, BZA approval was required for
7 use of the parking lot because it was split-zoned
8 back in 1974 and the case #11742 is attached to our
9 statement as Exhibit G on page 19. That approval
10 was valid for a period of two years and we looked
11 every place we can think of and have been unable to
12 find a subsequent case dealing with that split zoned
13 lot after that time. However, the parking lot has
14 been used since that time for accessory parking. As
15 a matter of fact, it was used since the late 1950s.
16 Finding of fact number 4 in that BZA case indicates
17 that since the late 1950s, the lot was used for
18 accessory parking for the dental office and clinic
19 that was in the building on the basement first floor
20 since 1959.

21 So, with all that as background, the
22 relief that we're here for today for which we've
23 obtained confirmation from the Zoning Administrator,
24 is that the chancery use of the building is
25 permitted as a matter of right because office use
26 was established before 1978. It's the same as any

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1 other office being able to locate using what we call
2 the grandfather rights to move in. However, FMBZA
3 approval is required, a review is required because
4 of the split zoned nature of the lot. We know from
5 past experience that the FMBZA must apply the six
6 criteria under the Foreign Missions Act for this
7 review. However, the Zoning Administrator has
8 confirmed that Section 214 of the regulation which
9 deals with accessory parking on a split-zoned lot
10 should be reviewed in the context of the municipal
11 interest criterion of the Foreign Missions Act.

12 So, with that as background, we have the
13 parking lot that's been used for almost 40 years for
14 accessory parking. As the documents indicate that
15 we've submitted, the surface will be repaved. The
16 lot will be surrounded by a new security fence.
17 Security is very important here. The lot opens on
18 to O Street and has frontage on the alley in the
19 back. It has some frontage, but no vehicular access
20 to 16th Street, but there is frontage of the parking
21 lot on 16th. So, it will be surrounded by a
22 security fence, a security grade type of fence.

23 We have met with one of the neighbors
24 who had a concern about the placement of the fence
25 along the alley, and Mr. Yermekov and I met after
26 the ANC meeting with that individual. I have spoken

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1 with him on the phone. We also met with him and
2 worked out a location of the fence to set it back
3 from the property line at one location so that it
4 would facilitate the movement of vehicles in the
5 alley. The alley at that point is only ten feet
6 wide and vehicles going southbound and having to
7 turn eastbound would be able to turn easier if we
8 move the fence back. The Ambassador has agreed to
9 do that and we've indicated that in our statement.

10 The criteria for the parking lot review
11 are set forth at pages 7 and 8 of our statement of
12 the applicant. Additionally, this Board has final
13 authority over historic preservation issues and
14 there are some historic preservation issues here.
15 They are detailed as Exhibit J of our statement at
16 page 32. We listed previously, an antenna as a
17 proposal as part of that. We are no longer seeking
18 that now. We don't have the details of that. It is
19 being determined exactly what the nature of that
20 antenna would be. It would be a receiving only
21 antenna which is typically smaller than a broadcast
22 antenna. A receiving only antenna -- we don't have
23 the details so we determined it best simply to
24 remove that from the request at this point.

25 You have the information before you.
26 The location of the plaques indicating the Embassy

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1 of Kazakhstan next to the front door -- to the left
2 of the front door as you face the building, which
3 would replace an existing plaque of approximately
4 the same size and the same location there. There's
5 a doorway on the ground floor on O Street which will
6 be used for the consul office which will have a
7 smaller plaque next to the door identifying it as
8 the entrance for the consul office.

9 There is a pad in front of the building
10 where there is currently a modern type of sculpture,
11 metal sculpture that's placed there by the current
12 owner. That will be removed by the current owner
13 when they leave. That pad will be reused for a
14 flagpole. This flagpole that we propose is
15 virtually identical to the flagpole of the Embassy
16 of Nigeria, across O Street and the other buildings
17 in proximity. I've got photos of all the other
18 buildings in the area that have flagpoles, including
19 the embassies of Australia, Tunisia, Nigeria,
20 Philippines and the National Wildlife Federation
21 building across the street as well, some of the
22 hotels and office buildings, including several
23 historic landmarks with flagpoles in front.

24 The fence, as we mentioned, is a
25 security fence. It is not intended to be a
26 decorative fence. It's an operating security fence

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1 for surrounding the parking lot. The design is a
2 very simple design. You've seen the drawing of the
3 flagpole and the fence as well.

4 The parking lot has been used for
5 illicit purposes in the past. It is currently open
6 to O Street with two remnants of decorative fence
7 there. It's sort of a cable and post mechanism
8 along the alley which allows for the free movement
9 of pedestrians back and forth across there, which is
10 simply not acceptable in terms of the security
11 standpoint. So, we do need to surround it with a
12 fence.

13 The criteria for a Foreign Mission Act
14 review are set forth at pages 4 through 9 of the
15 statement and we have them. I won't read them to
16 you but there are six. The first is the
17 international obligation of the United States to
18 facilitate the provision of adequate and secure
19 facilities. The State Department is here and will
20 speak on that issue. Secondly, is historic
21 preservation as determined by this Board and we've
22 gone through that. You have that submission. The
23 third is the adequacy of off-street or other parking
24 and any extent to which the area will be served by
25 public transportation. Mr. Umarov will speak on
26 that issue. We have currently a demand for 15

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1 vehicles and a parking lot that would accommodate up
2 to 32 parked vehicles, so we have sufficient parking
3 on the site.

4 Fourth, the extent to which the area is
5 capable of being adequately protected as determined
6 by the Secretary of State. The State Department is
7 here to review that. Fifth, the municipal interest
8 as determined by the Mayor and we have the criteria
9 that we've set forth at pages 7 and 8 on the parking
10 lot issue. Then finally, the federal interest as
11 determined by the Secretary of State.

12 Unless there are any questions on those
13 points, I'd like to go to my first witness, Mr.
14 Kairat Umarov. I have a copy of Mr. Umarov's
15 testimony here that I'd like to submit to the Board.

16 Mr. Umarov, would you please proceed
17 with your testimony to the Board?

18 MR. UMAROV: Thank you.

19 Good morning members of the Board. My
20 name is Kairat Umarov and I am a Deputy Chief of
21 Mission of the Embassy. Unfortunately, Ambassador
22 Nurgaliyev could not participate, was unable to
23 participate in this hearing because he was unable to
24 reschedule his public speech at Quantico. So, he is
25 presently out and he sends his regrets, knowing that
26 it is a very important hearing. He requested me to

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1 represent him this morning to speak with you about
2 our Embassy and the purchase of the building at 1401
3 16th Street, NW.

4 As Mr. Collins mentioned, my colleague,
5 Mr. Yermekov together with him appeared before the
6 Advisory Neighborhood Commission last week and there
7 were no objections to our use of the property. As
8 you know, our legal counsel also has verified with
9 the Zoning Administrator that we are permitted to
10 purchase and occupy the building for a chancery
11 without the need for approval by this Board.

12 However, we recognize that the zoning approval from
13 this Board is necessary for continued use of the
14 parking lot. We are going to make some very modest
15 alterations to the building which has already been
16 described. I'm going to just do a point on this as
17 well, which must be reviewed by this Board because
18 of the property's location in the historic district.

19 With regard to the use of the parking
20 lot, our statement that was filed with the Board
21 indicates that we currently have 15 diplomats and 10
22 non-diplomatic staff. We have a need for 15 parking
23 spaces for diplomatic vehicles and that number will
24 continue to be unchanged for a long period of time.
25 The members of our non-diplomatic staff, they live
26 all in apartments near the present location of our

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1 chancery. When we purchase the new chancery, they
2 probably will relocate their apartments nearer,
3 closer to the new location. So, they won't need any
4 cars so they won't arrive to the chancery by cars.
5 They will use the public transportation until they
6 relocate their housing closer to the new location of
7 the Embassy.

8 The parking lot at our new location has
9 spaces for up to 32 vehicles. Currently, we have
10 approximately five to eight visitors per day for
11 diplomatic and other business purposes. Most of
12 these visitors to the Embassy now arrive by taxi and
13 use other public transportation. This is expected
14 to continue at the new location. As for our
15 Consular section, it is open from 9:00 to 12:00 p.m.
16 Usually, daily, they receive approximately five to
17 eight visitors. Most of these visitors are
18 messengers who arrive to the Embassy by bicycles.
19 So, we do not expect that these numbers will
20 increase in the future at the new site.

21 Most of our business is conducted by
22 telephone, telecopy, mail, diplomatic pouch and
23 messengers. Both the present and the new proposed
24 locations are adjacent to major thoroughfares with
25 access to taxis and busses. We have no regularly
26 scheduled deliveries from the outside vendors. The

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1 Administrative Section usually purchases supplies as
2 needed and they deliver it to the chancery. As for
3 the trash, it will continue to be stored in
4 containers behind the building as it is at present,
5 and the chancery will contract with a private
6 company for removal of this trash. Considering all
7 these reasons, we believe that the operation of our
8 chancery will not become a burden to our new
9 neighbors.

10 We have reviewed the criteria for
11 approval of the parking lot, and we believe that our
12 proposed use meets those criteria. Our legal
13 counsel has listed those criteria on pages 7 and 8
14 of the statement which you have before you. I will
15 not read those points to you, but I would be pleased
16 to answer any specific questions you have. In
17 general, the surface of the parking lot is really
18 broken, in some places worn out, and we would like
19 to repair the whole lot. We will maintain the
20 landscaping along O Street in front of the parking
21 lot and we will keep the parking lot clean and free
22 from any refuse and waste. The property has been
23 used as a parking lot since the late '50s according
24 to your city government records. We believe that
25 the continuation of this parking lot use is not
26 likely to be objectionable to our neighbors.

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1 With regard to the historic preservation
2 issues, we intend to install a metal security fence
3 around the parking area. Specifically, we have
4 mentioned already in the statement, the fence will
5 be 7 feet high and will be located along O Street
6 along the back of the parking lot next to the public
7 alley, and at the front of the parking lot adjacent
8 to the 16th Street. A portion of the fence will be
9 set back from the alley, at the request of our new
10 neighbor on O Street, in order to help facilitate
11 movement of the cars and trucks in the alley. I
12 just would like to point once again, stress once
13 again, that the fence is necessary for us for the
14 security reasons. That's why, of course, we would
15 like to have a new fence around the whole building
16 in order to prevent any unauthorized parking at the
17 place. The financial means of the Embassy does not
18 permit us to have any janitor or someone to stand
19 over there just to control the passage of the cars.
20 That's why, of course, we would like to underline
21 that we need a fence as it is usual in Washington,
22 DC for any embassy to have a security fence.
23 Because present fence is adequate and appropriate
24 for these reasons.

25 We will also install a metal plaque with
26 the name of our Embassy next to the front door on

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1 16th Street where a metal plaque is currently
2 located. A smaller metal plaque will be located
3 adjacent to the doorway on O Street which will serve
4 as an entrance to our Consular Section. Finally, we
5 will install a flagpole in front of the building to
6 replace a small metal sculpture which has no
7 historic importance and which was placed there by
8 the current owner. Also, we don't want to put the
9 flagpole adjacent to the building in order to
10 preserve its present appearance. Because in order
11 to have it attached, we have to make some
12 alterations to the building. In order to avoid that
13 and just to preserve the building as it is, we don't
14 want to go for that.

15 The statement submitted with our
16 application lists in detail on pages five through
17 nine, the ways in which our application meets the
18 criteria for approval by this Board. Accordingly,
19 we respectfully request that you approve our
20 application. I would be pleased to answer any of
21 your questions concerning this matter. Thank you.

22 CHAIRPERSON REID: Thank you.

23 MR. COLLINS: Madam Chairperson, we, in
24 our presentation to you this morning, we simply
25 referred to the criteria for the parking under the
26 municipal interest criteria. We did not go through

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1 that, but we would be pleased to go through that in
2 detail if you'd like. Otherwise, we'll simply be
3 able to answer any questions you might have, and I'm
4 specifically referring to pages 7 and 8.

5 CHAIRPERSON REID: Yes, I would like you
6 to do that, just --

7 MR. COLLINS: To go through it?

8 CHAIRPERSON REID: -- briefly go through
9 it, just for the record.

10 MR. COLLINS: Certainly.

11 The Zoning Administrator has confirmed
12 that approval is required in this case because of
13 the location of the lot in the split-zoned
14 situation. That is her letter which she confirmed
15 on page 29. In that letter, she did confirm that an
16 FMBZA review would be required for use of the R-5-B
17 portion of the lot. So, on pages 7 and 8 of the
18 statement, we've addressed that, specifically
19 Section 214.2: "the accessory parking spaces are in
20 an open area of Lot 847."

21 214.3: "the accessory parking spaces
22 are located in their entirety within 200 feet of the
23 new chancery building," or they're all within 35
24 feet or 50 feet or so, at most, of the building.

25 214.4: "the accessory spaces are
26 contiguous to the new chancery building", as

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1 required.

2 Section 214.5 requires "compliance with
3 Section 2303. That's as follows, 2303.1(a): "all
4 areas devoted to driveways, access lanes and parking
5 areas are paved to form an all weather impervious
6 surface." Well, you heard testimony this morning
7 that the pavement is somewhat broken in places and
8 it will be resurfaced when the Embassy completes the
9 purchase and moves in.

10 2303.1(b): "no vehicle or any part of a
11 vehicle will project over any lot line or building
12 line." You've heard the testimony about placing the
13 security fence around the parking lot. It will be
14 either on the property line or in some instances,
15 set back from the property line as in one case, as
16 requested by the owner. So, that would prevent any
17 car from projecting over the lot line. There is no
18 building restriction line along O Street in this
19 case. "No use other than the chancery use will be
20 conducted from or upon the premises." It's secured.
21 It's only for the use of the chancery. "No
22 structure other than an attendant's shelter shall be
23 erected or used upon the parking lot." At this
24 point, there is no intention to put an attendant's
25 shelter on the lot. We're simply reciting the
26 section in the regulations. 2303.1(d): "the

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1 vehicular entrance and exit to the parking area on O
2 Street is more than 40 feet from the intersection of
3 16th and O." It's approximately 80 to 90 feet from
4 the intersection. 2303.1(e): "any lighting
5 used to illuminate the lot will be arranged so that
6 all direct rays are confined to the surface of the
7 lot." 2303.1(f): "the parking lot
8 will be kept free of refuse and debris. The
9 landscaping along the O Street frontage of the lot
10 will be maintained." This will be a lot solely
11 under the control of the Embassy. It will be easier
12 to maintain than would a public parking lot or other
13 kind of lot that is open to use by anyone.

14 Sections 2303.2, .3, and .4 don't apply
15 here because the portion of the lot under
16 consideration is located in the R-5-B zone. Those
17 sections only apply when it's an R-1 through R-5-A
18 zone.

19 Finally, 2303.5, "the installation of
20 the fence and the maintenance of the perimeter
21 landscaping along the O Street frontage will
22 maintain and enhance the appearance of the lot and
23 together with the resurfacing of the lot." We
24 believe that this will not detract from the value of
25 adjacent property. You must remember, this lot has
26 been in operation since the late 1950s and BZA did

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1 approve in 1974 for the R-5-B portion.

2 Section 214.6 does not apply in this
3 instance. That only applies when the accessory
4 parking is not located either within the building or
5 on the same lot as the main use. Here, we do have
6 it on the same lot. It's simply a split-zoned lot,
7 so that section doesn't apply.

8 Section 214.7: "the accessory parking
9 spaces are so located and designed that they are not
10 likely to become objectionable to adjoining and
11 nearby property because of noise, traffic or other
12 objectionable conditions." Mr. Morris will talk
13 about the traffic issues. As far as noise goes,
14 this is a unified use. It's the chancery parking
15 for the chancery there. It is not a noise producing
16 type use in the normal course. It is the chancery,
17 the office representing the Republic of Kazakhstan
18 here in the United States. The property has been
19 used for parking for many, many years.

20 214.8: We understand that this
21 application has been referred to DPW. That
22 indicates how we believe that we comply with Section
23 214. I also have another document I'd like to
24 submit. Mr. Umarov referenced the flagpole, wishing
25 to locate the flagpole in the front of the building
26 rather than to attach it to the building as some

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1 other embassies have done in the past. I've got
2 some photos of other buildings in close proximity,
3 including buildings in the historic district, to
4 show that the location of the flagpole as proposed,
5 is similar to other uses in the area.

6 I'd like to, if I may just go through
7 those page-by page -- you have the photo on the top
8 -- the first page is the Nigerian Embassy which is
9 located directly across O Street to the south, 16th
10 and O; across the site to the west, the Resources
11 Conservation Center at 16th and O Streets has
12 flagpoles. The next page at the top, the Resources
13 Conservation Center actually goes around to 16th
14 Street. There's a portion of the old American
15 Truckers' Association building there that's part of
16 that and has flagpoles in front. Proceeding further
17 down 16th Street on the east side, the Quality Inn
18 has flagpoles also in the historic district.

19 The next page, you'll see the Embassy of
20 Australia on the top at 16th and Massachusetts.
21 Below that, the Philippine Embassy at 17th and
22 Massachusetts. It says 17th and O, but that's a
23 typographical error. Flipping to the next page, the
24 Embassy of Tunisia at 15th and Mass. It's not in
25 the historic district but has a flagpole in front.
26 The Airline Pilots Association building at 17th and

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1 Mass has a flagpole in the front. The next page,
2 the Sumner School, which is located on 17th Street
3 between Massachusetts Avenue and M Street --
4 actually, between Rhode Island and M -- has a
5 flagpole. That is a historic landmark with
6 flagpoles out in front. Also, on the bottom of that
7 page, 1461 Rhode Island Avenue is part of a historic
8 landmark and has a flagpole out front of it.

9 Other buildings in proximity, but not
10 necessarily in the historic district, the Madison
11 Hotel, 15th and M; building at 1200 17th Street
12 between Rhode Island and M; and finally, the
13 Governor's House Hotel on Rhode Island between 16th
14 and 17th all have flagpoles out front. So, the
15 location of a flagpole in front of the building
16 would certainly be consistent with the character of
17 other buildings in the area.

18 Unless there are any questions on those
19 issues, I would like to then go to Mr. Morris.

20 CHAIRPERSON REID: Mr. Morris?

21 MR. COLLINS: Mr. Morris, would you
22 identify yourself and proceed with your testimony?

23 MR. MORRIS: Thank you.

24 Good morning, Madam Chairperson, members
25 of the Board. I'm Robert L. Morris, Traffic
26 Engineer, Transportation Planner. My home address

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1 is 9109 Rouen Lane, Potomac, Maryland 20854.

2 I have prepared a traffic analysis which
3 I believe is in the material in front of you --

4 CHAIRPERSON REID: Yes, it is.

5 MR. MORRIS: -- and I will just touch on
6 the highlights of that.

7 CHAIRPERSON REID: Okay.

8 MR. MORRIS: I've indicated what the
9 traffic conditions are in the area. All the
10 intersections operate at acceptable levels of
11 service. I've indicated the parking on site at the
12 subject location which provides 32 marked spaces.
13 And I've indicated what the public transportation is
14 with six metro bus routes that serve this area --
15 this specific site, I should say.

16 I've indicated what the effect would be
17 of the proposed use of the subject site and I will
18 not repeat all the testimony that has just been
19 given to you with regard to the use of the Embassy
20 and the chancery. I would note that although it is
21 expected that people will continue to use the
22 current mode of transportation, principally walking
23 to the site, even if they remain where they live,
24 they have excellent bus service down Massachusetts
25 Avenue to get to the site. Or if everybody drove,
26 you would still have excess parking on the site.

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1 You'd have 25 people in the building, 32 available
2 parking spaces.

3 I would note that the occupancy of the
4 building by 25 people including the Embassy and
5 chancery people and non-chancery people is
6 substantially less. It's less than one-third of the
7 occupancy of the building with its prior use. So,
8 in terms of traffic engineering, this is a
9 substantial improvement both in terms of trip
10 generation and parking requirements. There would
11 not be any adverse impact on the neighborhood as a
12 result of this use of the property. Therefore, from
13 a traffic engineering viewpoint, this is an
14 appropriate use of the subject title.

15 CHAIRPERSON REID: Thank you, Mr.
16 Morris. We'll recognize you as an expert witness,
17 your having testified many times before, before this
18 Board.

19 MR. MORRIS: Thank you.

20 CHAIRPERSON REID: Board members, do you
21 have questions?

22 MR. PARSONS: I do have a few questions,
23 yes.

24 Let's see, Mr. Umarov, congratulations.
25 This is a beautiful building. I think it's
26 something you'll be very proud of.

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1 MR. UMAROV: Thank you very much.

2 MR. PARSONS: I wanted to just check
3 some facts. The fence that's proposed, I've got two
4 exhibits. One shows it as seven feet and the other
5 one appears to show it at eight feet. I wondered
6 what your proposal was there?

7 MR. UMAROV: Actually, it's 7 feet high.

8 MR. PARSONS: That sounds better to me.

9 There don't seem to be any exhibits on
10 lighting. Although you state in your proposal that
11 there will be down lights and so forth, have you
12 done any work on that? Do you have any vision for
13 what's needed there?

14 MR. UMAROV: Actually, it won't be too
15 many lighting over there. That's why we presently
16 don't have any engineer plan for that, but we think
17 that it will be not very much lighting and it will
18 be directed to the surface of the parking lot.

19 MR. PARSONS: So, you wouldn't propose
20 to put any lighting on the side of the building, for
21 instance, flood lights, to light the parking lot?

22 MR. UMAROV: Not yet, at present.

23 MR. PARSONS: But you would place
24 fixtures into the parking lot?

25 MR. UMAROV: No, on the fence maybe.
26 I'm not a technician. We have to work it out.

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1 MR. PARSONS: All right. You mentioned
2 that you had submitted this to the Historic
3 Preservation Review Board. Have you had any
4 response yet?

5 MR. UMAROV: The HPRB meets on March
6 26th.

7 MR. PARSONS: Fine. How many of the
8 parking spaces in the lot -- maybe this is a
9 question for Mr. Morris -- are in the area
10 designated R-5-B? The question is, could you place
11 15 parking spaces in the current SP area without
12 encroaching into the R-5 feet?

13 MR. MORRIS: We would have adequate
14 parking with parking just in the SP area. But I
15 would suggest that I would prefer not to reduce the
16 amount of parking, simply in the interests of the
17 people in the neighborhood so that there's no
18 question of any overflow parking. You would have
19 room on the site for visitor parking and I would
20 prefer not to have to add to the on-site parking.

21 MR. PARSONS: But you would agree that
22 32 is way beyond the needs here?

23 MR. MORRIS: Thirty-two is beyond the
24 current needs, that's correct. But I would also
25 note, Mr. Parsons, that the access to the parking
26 lot is in the residential portion of this site. So,

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1 I don't know how you would get into the site. I
2 don't think you could come in off of 16th Street. I
3 don't think anybody would want you to do that.

4 MR. PARSONS: No, I'm not proposing
5 that.

6 MR. MORRIS: Right.

7 MR. PARSONS: All right. I'm looking at
8 the photographs on page 16 of your presentation, or
9 your submission. I'm also looking at a letter from
10 Mr. Steven Dix. Are you familiar with that?

11 MR. UMAROV: No.

12 MR. PARSONS: Oh, you're not. Oh,
13 that's too bad.

14 Mr. Dix has a number of proposals to
15 enhance the appearance of the photographs at the
16 bottom of page 16. Some of them, I feel, have merit
17 and it's unfortunate you don't have a copy. So, you
18 don't know what we're talking about.

19 MR. COLLINS: We checked the record
20 yesterday and it was not available to the public.

21 MR. PARSONS: That's a shame. It's a
22 letter of March 8th directed to us -- that is, the
23 Board. He has a sketch in there of ideas he has to
24 enhance the appearance. I think I'd like us to look
25 at that. Maybe we can't do it this morning, but ask
26 for you to respond in writing.

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1 Certainly, this parking lot has been
2 used for a long time but this is something I think
3 needs enhancement. I really do. I don't think it's
4 expensive. It's just something that we've got the
5 fortunate circumstance of you not needing all the
6 parking spaces. Possibly tree islands and things of
7 that nature could be put in to screen it and make it
8 a more attractive setting for this historic building
9 is what I have in mind. But I don't know quite how
10 to do that because you're at a direct disadvantage,
11 not having seen this letter.

12 I guess what I suggest, Madam Chair, is
13 that they be afforded the opportunity to look at
14 this and respond to the record. I don't know.

15 CHAIRPERSON REID: Okay, sure. The land
16 that was issued -- I had, Mr. Collins and that was
17 in regard to the landscape plan because that was
18 also, as Mr. Parsons just mentioned, an issue that
19 was raised by the ANC.

20 Did you have a landscape plan? I see
21 one in your application package.

22 MR. COLLINS: There is existing, if you
23 look on page 16, you'll see landscaping out in front
24 of the parking lot along O Street and it's our
25 intention to maintain that landscaping there. But
26 we don't have a landscaping plan for the inside of

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1 the parking lot, no. We're simply proposing to
2 continue the use that's been there for 40 years.

3 CHAIRPERSON REID: In other words,
4 you're not proposing to, in any way, embellish or
5 enhance the existing parking lot further than what
6 we see here in the picture?

7 MR. COLLINS: Other than to repave it
8 which I think will significantly improve the
9 appearance of the lot, and put the fence -- security
10 fence.

11 CHAIRPERSON REID: Okay. We'll give you
12 an opportunity to look over the material and then
13 you can respond.

14 MR. COLLINS: Are we asked to respond to
15 this now, or to --

16 CHAIRPERSON REID: Did you want him to
17 take a moment to look at it now, Mr. Parsons?

18 MR. PARSONS: I'm not sure that's fair
19 to you at all. Briefly, what he's suggesting is
20 that pavement be removed along the building, your
21 building and the building on the other side and a
22 planting bed be installed there; a fence around the
23 dumpster; a tree at the back of the site, and some
24 additional landscaping on the 16th Street side along
25 your new fence.

26 Why don't you go home and take a look at

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1 that? I think there's some good ideas in there.

2 CHAIRPERSON REID: Okay, Mr. Griffith?

3 MR. GRIFFITH: Yes, I have one simple
4 question. I see three fences. As I look at
5 photograph number one on page 33, I see a low
6 decorative fence and I see a low picket fence.

7 MR. COLLINS: On the top of page 33?

8 MR. GRIFFITH: Yes.

9 MR. COLLINS: The fence that is furthest
10 away actually belongs to the Carnegie.

11 MR. GRIFFITH: All right. So, you're
12 only dealing with the low decorative fence in the
13 foreground? That is on your property? None of the
14 lower decorative fence is on your property? I'm
15 sorry, none of the lower picket fence is on your
16 property, is that correct?

17 MR. COLLINS: The fence that's rear-most
18 is not on our -- it's on -- it's the Carnegie's
19 fence. The fences in the front are actually --
20 they're in front of our property. They're in public
21 space, but they're permitted to be there.

22 MR. GRIFFITH: Well, I'm afraid we're at
23 a disadvantage using words. Let me be specific.
24 You see a tree in the photograph.

25 MR. COLLINS: Yes.

26 MR. GRIFFITH: And you see the left-hand

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1 side of the tree is approximately in line with the
2 end of the decorative fence in the foreground.

3 MR. COLLINS: Yes.

4 MR. GRIFFITH: Is any of the fence
5 beyond that moving further left on your property?

6 MR. COLLINS: Yes.

7 MR. GRIFFITH: All right.

8 MR. COLLINS: Well, it's in public space
9 in front of our property.

10 MR. GRIFFITH: So, you have two types,
11 as I believe I see it -- two types of fence in front
12 of your property?

13 MR. COLLINS: Right. Right. That's
14 correct. Two different types in that photo.

15 MR. GRIFFITH: That's unfortunate.

16 MR. COLLINS: That's the way it is right
17 now. It is unfortunate.

18 MR. GRIFFITH: Yes, it's not --

19 MR. COLLINS: I am told that the fence
20 to the left of the tree is a vintage 1950s fence.
21 The property --

22 MR. GRIFFITH: Well, there are two
23 questions. There are two questions.

24 MR. COLLINS: Yes?

25 MR. GRIFFITH: One is whether or not,
26 since it is one property, this is an opportunity to

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1 get one attractive fence rather than have two
2 disparate fences at the front of the property, since
3 they're the same height? That's one question.

4 The next question has to do with page 36
5 where you have indicated the extent of the seven
6 foot fence, I believe, with the hatch marks, is that
7 correct?

8 MR. COLLINS: That's correct.

9 MR. GRIFFITH: The question then comes
10 up as I look on pages 37 and 38 describing that
11 taller seven foot fence, what happens at the
12 juncture between the new taller fence and any other
13 fence? I think that also is a design esthetic issue
14 that you're going to have to address.

15 MR. COLLINS: I think the taller fence
16 -- the only place that would abut any other fence is
17 when it runs into the southern boundary of the
18 Carnegie. The taller fence is proposed to be put
19 along O Street with a --

20 MR. GRIFFITH: Otherwise, it runs into
21 the building.

22 MR. COLLINS: Yes.

23 MR. GRIFFITH: And the lower fence in
24 front of the building does what?

25 MR. COLLINS: It remains. We're not
26 proposing to do anything --

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1 MR. GRIFFITH: Does it turn the corner
2 and meet the building also?

3 MR. COLLINS: My recollection is that it
4 does. This taller fence will not meet the shorter
5 fence. The shorter fence does not go all the way
6 around to the back to where it would meet the tall
7 fence.

8 MR. GRIFFITH: I understand that, but it
9 has to stop someplace. Does it stop on its own
10 alignment, or does it turn and meet the building?

11 MR. COLLINS: I'll have to refer to the
12 photographs. I'm not --

13 MR. GRIFFITH: I can't find anything
14 that tells me.

15 Well, let's just do this.

16 MR. COLLINS: Yes.

17 MR. GRIFFITH: Mr. Collins --

18 MR. COLLINS: Yes, it does not meet.
19 I'm not sure whether it turns and attaches to the
20 building or not, but it would not meet the location
21 where we propose the fence.

22 MR. GRIFFITH: Why don't we say that it
23 may be an issue that would impact both the
24 appearance of the front yard as well as the access
25 of the public to that front yard, and probably have
26 to be addressed in some manner anyway if it doesn't

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1 turn the corner and meet the building. Otherwise,
2 you've got two fences meeting each other. Are you
3 with me?

4 MR. COLLINS: Well, it currently
5 operates. It's got openings where you walk in on
6 both doors. What you're talking about is the
7 appearance of the fence?

8 MR. GRIFFITH: Yes, and whether it all
9 always the fence meets the building where there's a
10 transition, or the fence meets the fence. You don't
11 understand.

12 MR. COLLINS: Well, whatever it is, it
13 has been there for many years.

14 MR. GRIFFITH: I know, but this is an
15 opportunity for a new tenant that is upgrading the
16 appearance of the building to do something about
17 that. That's all I'm suggesting.

18 MR. COLLINS: All right. We will look
19 at it. We will look at that, sir.

20 MR. PARSONS: Madam Chair, if I may,
21 again, turning to page 16, I just noticed the two
22 photographs in the upper section. There appear to
23 be two lights mounted on the side of that building
24 that I really don't think meets your intent. That
25 is, those kinds of lights -- if that's what they
26 are. They look like yellow lights there on the side

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1 of the building -- certainly would be offensive to
2 the neighbors. That kind of lighting is not what is
3 described in your testimony. So, I just wanted to
4 make sure that we didn't let that slip that the
5 photographs were here and we saw those, and we must
6 have liked them.

7 MR. COLLINS: The Embassy is buying not
8 only this building, but the adjacent building which
9 is not before you today because it doesn't need
10 zoning approval. It's the residential building
11 directly to the east of the parking area on O
12 Street. You can see that the western wall of that
13 building is on the lower photograph of the right --

14 MR. PARSONS: Yes, that's handsome.
15 That one is a beauty there. Maybe you can get some
16 windows in the walls when --

17 MR. COLLINS: But perhaps it's possible
18 that we could do some lighting arrangement --
19 attached to the buildings. You asked a question
20 before about poles and I'm not sure that was well
21 understood, but I don't think there's an intention
22 to put a light pole in the parking lot.

23 MR. PARSONS: How else would you achieve
24 this idea of down-lighting that wouldn't spill into
25 the neighborhood or spill on to the street? It's
26 normally done with poles about ten feet tall and

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1 down-lights just to provide a security lighting
2 within the parking lot and not illuminating the
3 whole thing from a higher elevation.

4 MR. UMAROV: I think we don't have any
5 intention as to illuminate the whole district.
6 We'll just do whatever is appropriate for that.

7 MR. PARSONS: All right, then.

8 MR. UMAROV: And we will use it only for
9 our needs.

10 MR. PARSONS: Understood.

11 CHAIRPERSON REID: Okay, Mr. Parsons,
12 are you done? Any further questions?

13 MR. PARSONS: No, thank you.

14 CHAIRPERSON REID: All right, thank you.
15 Thank you very much.

16 We'll move now to the government
17 reports, Secretary of State representative. Please
18 come forward.

19 MR. BASTIDO: I think I am ahead of
20 them. I think that the Office of Planning is prior
21 to the Department of State, and I need to leave
22 also.

23 CHAIRPERSON REID: Okay. If you would
24 indulge us, please. Mr. Bastido has mentioned that
25 he would like to go first, the Office of Planning,
26 because he has to leave. So, certainly.

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1 MR. BASTIDO: Good morning, Madam
2 Chairperson, members of the Board. As the major
3 designee regarding this matter, the Office of
4 Planning is in front of you.

5 Before I go into my report, I would like
6 to congratulate the Chair on her appointment, since
7 I haven't had the opportunity to appear in front of
8 the Board since your election. Thank you.

9 First, we submitted our report late and
10 we would request a waiver of your rules to permit
11 the report into the record.

12 CHAIRPERSON REID: All right, so
13 wavered.

14 MR. BASTIDO: Thank you.

15 The report basically paraphrases many of
16 the things that the applicant has stated so I'm not
17 going to go through every point of the report. I
18 would just like to make a couple of comments. This
19 property is in a historic district. First, it's one
20 property so only the portion of the property being
21 used for the Embassy will have to appear in front of
22 you. Secondly, this Board has jurisdiction over any
23 happening within the private space. Accordingly,
24 the Historic Preservation Review Board can only make
25 recommendations to this Board. In fact, you take
26 over that authority. So, you can request from the

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1 applicant any items that you would so like because,
2 in fact, you are the Historic Preservation Review
3 Board for foreign missions cases.

4 The Office of Planning would like to
5 really have a landscape plan for the rear yard. It
6 could be improved variously. It depends if the
7 Board would like to have a specificity or not, but
8 the Board could mandate that certain things would
9 take place if it so desired and would like to get an
10 approval sooner rather than later.

11 The Office of Planning has concerns
12 because we haven't heard about the lighting that is
13 going to be used for the parking. There are several
14 ways to achieve the security lighting. There are
15 several ways that are a very handsomely way to do
16 it, and others that are not so handsomely to do.
17 So, I think it would be a benefit for the historic
18 district that, in fact, the Board make sure that the
19 proper lighting is used on the property.

20 The Office of Planning also concurs with
21 -- of the Planning Commission regarding the fencing
22 issue.

23 That put aside, the Office of Planning,
24 with those conditions, recommends approval of this
25 application. If those conditions are met, the
26 proposal will not be detrimental to the new

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1 municipal and further interests accordingly as the
2 Mayor's designee in matters relative to foreign
3 missions, the Office of Planning recommends approval
4 of this application.

5 That concludes my presentation. I will
6 try to answer any questions you may have. Thank
7 you.

8 CHAIRPERSON REID: Thank you.

9 I have a question, Mr. Bastido. Did we
10 get a response from DPW?

11 MR. BASTIDO: I'm glad you brought that
12 up. We referred this to the Department of Public
13 Works, the fire department and the police
14 department. Unfortunately, we have received no
15 answer for our referral.

16 CHAIRPERSON REID: Okay.

17 All right, now we move to the Secretary
18 of State, Department of State.

19 MR. MLOTEK: Good morning. May it
20 please this honorable Board. I am Ronald Mlotek,
21 Chief Legal Counsel of the Office of Foreign
22 Missions, the US Department of State. I appear here
23 today to convey the views of the Department
24 regarding this application.

25 We have, on March 3rd, submitted to the
26 Board our formal written comments. I won't read

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1 them verbatim. I will just, in the interest of
2 time, review them generally. Most importantly, we
3 note that the state of diplomatic reciprocity
4 between the government of Kazakhstan and the
5 government of the United States is in a favorable
6 balance. We are happy with it.

7 The government of Kazakhstan has been
8 helpful and facilitative to the Department of State
9 in our operations in Kazakhstan as they relate to
10 acquiring properties for residential and for office
11 chancery purposes in Kazakhstan. They've been most
12 recently helpful with acquiring property for
13 Ambassadorial residence and they are also being
14 helpful in making available to us, property in the
15 new diplomatic chancery area that will be developed
16 in Kazakhstan for the diplomatic community there.
17 So, for this reason, we favor and support this
18 application strongly.

19 We also note in our communication to you
20 that there are no special parking needs and no
21 special security needs at this site or because of
22 this particular government. But of course, as with
23 all foreign missions and chanceries in all capitols
24 including ours, it is reasonable and understandable
25 that the government concerned, the embassy
26 concerned, would want to have some sort of an

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1 adequate security fence. The Department of State is
2 pleased to note that the Embassy has shown an
3 acknowledgement and an appreciation of the need to
4 respect the historical character of this
5 neighborhood in respect of its need for a security
6 fence. So, we think that is commendable and we
7 would also note that with emphasis to the Board.

8 We also would like to express our
9 appreciation to the Embassy for making an
10 accommodation to one of the neighboring citizen
11 residential property owners who had a concern with
12 egress and exit from -- access to the property
13 through the alleyway -- the common shared alleyway
14 in the back. The Embassy was sympathetic and made
15 an adjustment in the sighting of the rear portion of
16 the fence so that it would not impede the property
17 owner from making his turns to get in and out. This
18 demonstrates, I think, the Embassy's understanding
19 of and commitment to the rights of the citizen
20 residents in the vicinity.

21 That wraps up my portion of this
22 presentation. If you have any question now or as we
23 move along, I'll be here to answer them.

24 CHAIRPERSON REID: Mr. Parsons?

25 MR. PARSONS: No questions.

26 CHAIRPERSON REID: Thank you very much.

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1 MR. MLOTEK: You're very welcome.

2 Oh, before I end, although Mr. Bastido
3 has left, I do need once more for the record --
4 Since he put it in issue and he raised it, I do once
5 again need to put the State Department's view on the
6 record with regard to the lingering public space
7 issue.

8 Just very briefly, it is and it
9 continues to be the position of the Department of
10 State that this body, the Foreign Missions Board of
11 Zoning Adjustment, does have plenary authority to
12 adjudicate and to grant permission to use public
13 space in appropriately suitable ways provided all
14 the other conditions and interests are
15 satisfactorily met and addressed in the opinion of
16 the Board. Mr. Bastido and I respectfully disagree
17 on this. He believes that the Board has no
18 jurisdiction to do this. We believe that the Board
19 does under the federal statute, the Foreign Missions
20 Act, under which the Board operates.

21 Thank you.

22 CHAIRPERSON REID: Thank you.

23 All right, moving on to reports from
24 other public agencies, I don't think that we
25 received anything -- nothing has come in from DPW or
26 the fire department or the police department

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1 subsequent to the package being prepared. No, okay.

2 Let's move now to the report from the
3 ANC.

4 MS. DeHART: My name is Meredith DeHart.
5 I live at 1528 O Street, NW. I'm the ANC
6 Commissioner for ANC 2-B-5, which is the area the
7 Embassy, or proposed Embassy is located in. I also
8 live across the street, across O Street, so that I'm
9 very involved with this.

10 The ANC, of course, submitted its letter
11 indicating that we conceptually approved of the
12 chancery use.

13 DIRECTOR DOBBINS: Excuse me, Madam
14 Chair?

CHAIRPERSON REID: Yes?

15 DIRECTOR DOBBINS: Before the ANC
16 proceeds, they requested a waiver to admit their
17 report late. I think that should be addressed
18 before they proceed.

19 CHAIRPERSON REID: Okay. So waived. We
20 will waive the rules so that you can submit your
21 report late.

22 MS. DeHART: I'm sorry. You said --

23 CHAIRPERSON REID: Your report. You
24 requested a waiver of the rules so that you could
25 submit your report late?

26 MS. DeHART: Yes. It should have been

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1 submitted on Monday.

2 CHAIRPERSON REID: Yes. Yes, and we're
3 so waiving. I'm so waiving, okay?

4 MS. DeHART: All right, thank you.

5 Our primary concern was the lack of any
6 design plans which has been addressed somewhat
7 already. Usually, when applicants come before the
8 ANC, they have architectural drawings demonstrating
9 exactly what they plan to do and why it would be
10 beneficial for the neighborhood. And in this
11 instance, we had none of that. I would like to
12 provide photographs of what I see from my bedroom
13 window.

14 DIRECTOR DOBBINS: Madam Chairman, you
15 also need to know if -- I've forgotten your name,
16 I'm sorry -- is speaking --

17 MS. DeHART: Meredith DeHart.

18 DIRECTOR DOBBINS: -- as a single member
19 district, or is speaking for the ANC itself.

20 MS. DeHART: It's difficult. It gets a
21 little mixed. On the one hand, I've indicated that
22 the ANC was distressed with the lack of design
23 plans, and we asked that they come back with design
24 plans. But the whole application seems to be moving
25 forward very quickly so that it's not within the ANC
26 purview to say, "yes, we like this" or not. It will

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1 have gone beyond our next meeting in April. I
2 believe next week is the Historic Preservation
3 Review. We're here before the BZA today.

4 CHAIRPERSON REID: The question was, are
5 you representing the full ANC or just a single
6 member district?

7 MS. DeHART: The entire ANC.

8 CHAIRPERSON REID: Okay.

9 MS. DeHART: In terms of representing
10 the entire ANC, our distress was that there were no
11 plans that we could see that we could approve or
12 disagree with, whatever. We stated that in our
13 letter. Otherwise, we expressed the opinion that
14 it's an entirely appropriate use for the property.

15 CHAIRPERSON REID: Was there a quorum
16 present when you voted on this issue?

17 MS. DeHART: Yes, there was.

18 CHAIRPERSON REID: Okay. Your position
19 exactly is what? I'm not clear.

20 MS. DeHART: My position?

21 CHAIRPERSON REID: The ANC position.

22 MS. DeHART: The ANC position was that
23 we reserved approval of any design plans because
24 there were none submitted. But at this point, the
25 entire application is moving forward so quickly that
26 that opportunity is not going to exist. I believe

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1 at this point, it's in the hands of the BZA and with
2 Historic Preservation.

3 CHAIRPERSON REID: Okay.

4 DIRECTOR DOBBINS: Madam Chair, I'm not
5 sure that the ANC -- they may not understand that
6 the only portion before the Board today is the
7 parking. So, the Board would not have any design
8 plans in its file either.

9 MS. DeHART: Perhaps I should revise my
10 position since I can't really say the ANC didn't
11 like what was submitted because nothing was
12 submitted, other than to use the parking there on O
13 Street. But perhaps I should simply say I'm
14 representing myself single member district, a
15 resident living across the street at this point.

16 I provided a photograph of the view I
17 have of the parking lot, the dumpster, from my
18 bedroom window. For 23 years now, I've watched the
19 landscaping that previously existed die and just
20 simply be removed. What remains now is a bed of
21 spotty grass and this thick patch of ivy. We have
22 two pieces of wrought iron fencing. One is
23 breathtakingly beautiful from the original house.
24 The lower fence was something that was provided
25 later when the parking lot was created, I surmise.
26 The photograph shows that the entrance to the former

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1 house would have been blocked by this fence had it
2 been there originally.

3 But speaking for myself, we're asking
4 for landscape plans that would screen our view of
5 the parking lot. It's a neighborhood that is very
6 rapidly changing. Within the next six weeks, all
7 but one property will be owner occupied of the
8 original houses, which is a first for decades now on
9 that block. A new condominium is being built on the
10 south side of the street. Without the models
11 having been completed even, more than 20 of the 31
12 apartments have been sold. I would expect by the
13 end of this month, probably the remaining apartments
14 will be sold as well to demonstrate the interest in
15 the neighborhood.

16 We have two historic zones here: the
17 16th Street historic district, of course, and then
18 the residential properties are in the greater 14th
19 Street historic district. We would ask that the
20 applicant be sensitive to their location in these
21 historic districts, and also in a residential
22 neighborhood. Generally being good neighbors in
23 terms of what we're going to be living with, most
24 likely, for the rest of our lives with this parking
25 lot situation. The view of the dumpster is not
26 especially appealing, nor is the general view of a

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1 parking lot with cars. Such that any landscaping
2 plans that are considered hopefully would screen our
3 view of that.

4 CHAIRPERSON REID: Okay. Thank you.

5 MS. DeHART: Thank you.

6 CHAIRPERSON REID: Any questions?

7 All right, are there persons in support
8 of the application?

9 All right, persons in opposition of the
10 application? Please, come forward. Opposition --
11 persons in opposition. You have to come forward.

12 DIRECTOR DOBBINS: Come to the
13 microphone, sir.

14 CHAIRPERSON REID: Your name and
15 address?

16 MR. BROOKE: My name is Jeffrey Brooke.
17 I am a resident at 1523 O Street, NW, a few doors
18 down on the O Street side. I'm a person that
19 they've been kindly referring to as having raised an
20 issue to them. They contacted me and said, "are
21 there any issues?" They've been very good about
22 dialogue with the neighborhood which I appreciate
23 very much.

24 We're looking very forward to having our
25 new neighbors, and they've agreed in this dialogue
26 to set a short portion of the fence on the alley

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1 side back, given that it's an unusually tight alley
2 going to their property line which does not
3 currently have a fence. It would have blocked
4 access to anything larger than about a Volkswagen
5 beetle, I think. So, they've been very good with
6 the dialogue and we appreciate that.

7 As Commissioner DeHart referenced, our
8 only question mark at this point is that we have not
9 seen actual drawings for the space itself to
10 continue that dialogue at a more appropriate
11 detailed level. In fact, I understand there was a
12 Historic Commission meeting last night in which the
13 issue of the fence was discussed. It was my
14 understanding second hand that the existing
15 decorative fence would then be replicated across the
16 O Street at the very least. I think that may be
17 accounting for the confusion of the seven foot
18 versus eight foot fence because it, as you may see
19 from the photographs, has these little spires on it
20 that stick up a little above seven feet. I don't
21 know where you would draw a line of the true height
22 of that fence, but the neighborhood would be very
23 supportive of that fence being extended across and
24 that small picket-like fence that was added within
25 the last several decades, removed.

26 I also wanted to mention the issue of

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1 the lighting that has been a bit of confusion. That
2 is correct, the current structure has a number of
3 what are floodlights on it. The adjoining house on
4 O Street that they will be purchasing for Embassy
5 housing also has a very large floodlight at the roof
6 line which is illuminating the space from that side.
7 It is very large. That would be preferable to have
8 something replacing that. Attached to that house
9 would be fine. I don't think it would require
10 poles. Just lighting attached to both structures,
11 but directed down would seem to fulfil our needs.

12 Any questions?

13 CHAIRPERSON REID: So, let me understand
14 this, you're in support with the conditions?

15 MR. BROOKE: I am in general support --

16 CHAIRPERSON REID: In general support.

17 MR. BROOKE: -- but we have not, as
18 Commissioner DeHart noted, seen drawings. I mean,
19 this one neighbor submitted to you this proposal of
20 his own which would include screening through
21 greenery and such which, in concept, is what the
22 neighborhood would like to see. But there are no
23 drawings yet, official drawings from the Embassy
24 yet, for us to dialogue with them and say, "yes, we
25 agree with this." As long as these concepts that we
26 are discussing are adopted in a conclusive, approved

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1 drawing, I am very much in support of this.

2 CHAIRPERSON REID: Yes, okay. Thank
3 you.

4 Persons in opposition, please come
5 forward to the table.

6 MS. ECKLES: Good morning. My name is
7 Kathryn A. Eckles. I'm a resident at 1524 T Street,
8 NW, owner/dweller since 1973. I'm here as the
9 president of the Residential Election Coalition in
10 opposition to this application.

11 Any of you, Mr. Parsons, and I know Mr.
12 Griffith knows, the Residential Election Coalition
13 is committed to the preservation of housing. Now, I
14 lived, starting in 1949 until 1953, at the corner of
15 16th and Q. Then I moved to 1532 16th Street and
16 lived there until 1973. I lived there long before
17 SP was ever enacted into law, and I saw the steady
18 loss of housing in a zone that we hear was supposed
19 to protect housing, to keep a balance. It was to be
20 tilted, preferably in favor of residential.

21 Now, I believe you will recall some
22 months back, there were some hearings before this
23 zoning commission to evaluate the SP.
24 Unfortunately, 16th Street was not included in the
25 hearing and that is unfortunate. Now, I testified
26 for REC and made a point of commenting on the fact

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1 that 16th Street was what I considered a prime
2 example of the failure of the SP zone. I'd like to
3 start and take you -- if you'll take yourselves --
4 face north on 16th Street at Scott Circle. I'm
5 going to walk you up both sides of the street, up to
6 Q Street.

7 Starting on the right-hand side, you
8 have I think it's a hotel, a Days Inn or something.
9 That, at one time, was housing. We move up the
10 street then and there's a tiny little house sitting
11 quite back from 16th Street. I believe it's an 1860
12 brick house with a little front porch. It's still
13 housing. Then the Stonegate Condo is there. Then
14 we go forward up to the northeast corner of 16th and
15 Q with Jewish Community Center. Everything else has
16 been removed in favor of SP use. At 1527, I believe
17 there are now nine condos, but there's also an
18 office presence there. 1525 has a single
19 residential use and 1523 a single one.

20 Take the left-hand side. Where the
21 Embassy stands was housing. Where the Wildlife
22 Resource of Future, that was housing. We move on up
23 the street. Then we get to the newly refurbished
24 Churchill. That is housing, but that was housing.
25 Next door is the High Tower which is an article
26 building dating probably to the '30s-'40s, that was

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1 housing. 1532, 34, and 36 were all residential when
2 I moved to the area. There's not a residential
3 presence there. Now, I think the SP is a flop and a
4 failure. It has not done what it was supposed to
5 do.

6 Now, we heard Mr. Morris testify about
7 the great abundance of parking and public
8 transportation in that area. Now he testified about
9 a facility at the northeast corner of 16th and P,
10 that there would be adequate parking. Adequate
11 people could walk to a parking lot and ride busses.
12 In that BZ order, that front yard public space was
13 not to be paved over, but it was concreted over. It
14 was to be landscaped. It has not been. There was a
15 curb cut on the P Street side and a portion of the
16 antique fence was removed. If you were to go there
17 now, you'd see 10 or 12 or 14 cars, sometimes even
18 on the sidewalk. Now, that is so much for the
19 promises. I'm saying that any Embassy and/or
20 chancery operation, if they're inconvenienced,
21 they're going to break the law, believe me.

22 And another question comes to my mind.
23 Of all the buildings in Washington, DC other than an
24 SP zone, is this the only place in the District of
25 Columbia that this Embassy can consider locating? I
26 think it is not. I'm saying we have seen the

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1 failure. We have seen the removal of housing in an
2 SP zone. It should not be continued. For that
3 reason, we oppose, and will oppose any time, where a
4 residential use is provided that the preference be
5 going there. Because it's very obvious if you take
6 the sands of times in an hour glass, when it pours
7 from residential into an SP office use, it never
8 turns around and pours back the other way.

9 Thank you very much.

10 CHAIRPERSON REID: Thank you, Ms.
11 Eckles.

12 Yes, ma'am?

13 MS. HUBBARD: My name is Harriet B.
14 Hubbard and I live at 2039 New Hampshire Avenue, NW.

15 In 1982, the present law which retains
16 the control of the chancery locations in the BZA
17 went through Congress. I was a general factotum of
18 the ad hoc committee on diplomatic zoning, which was
19 a city-wide organization that fought the NCPC at
20 that time, Mr. Griffith, which we very arrogantly
21 and insolently wished to have control of all the
22 sites for chanceries, you know, just put them in
23 anywhere they wanted to. We won the vote in the
24 Senate, 49 to 51. We won the 51. And do you know,
25 the State Department here today hired Wilkes and
26 Artis, Mr. Collins, to fight us citizens and lobby

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1 in Congress against us, us poor citizens in the
2 District of Columbia.

3 Anyway, the present regulation that you
4 have did not have all the restrictions that we
5 wanted. I've had a great deal of experience, as
6 some of you know, with zoning cases in the DuPont
7 Circle area. I would like to say that, for example,
8 Kay mentioned that they should have picked another
9 site. We have had many cases of chanceries coming
10 in, and they offer more money for the property than
11 a residential owner would. For example, that was
12 the case of the Saigon chancery. The residential
13 offer, where we would have had a family living, was
14 about \$2,000.00 below what the chancery was
15 offering.

16 Now, this particular building was built
17 as a residence. O Street had the most beautiful
18 houses on it back in the old days. This entire area
19 was subject to another scrutiny in Case 7524 -- Mr.
20 Parsons will remember that -- where we tried to get
21 this area rezoned. Remember, about that time, SP-1
22 was created. Now, as these people have indicated,
23 they intend to buy still another building on O
24 Street. Mr. Griffith mentioned that there was
25 nothing anti the municipal interest in this. All
26 this property will be tax free. I wonder if you've

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1 ever considered that. Whereas right now, we could
2 have housing in there with people paying taxes and
3 all that vacant land would be built up if you were
4 to deny this case, which you have a right to do.

5 For example, there are many other -- as
6 you will notice in Uzbekhistan, the country of
7 Tamerlaine, they are going to have a diplomatic
8 enclave. Well, we have a diplomatic enclave here.
9 They could get their -- up there. Or they could
10 have it in an office building. For example, down in
11 the Watergate Building, many chanceries are down
12 there. For instance, Sweden is down there. What we
13 often find is that here in Washington, somebody
14 wants to sell the property and they go to Wilkes and
15 Artis and see where they can make the best deal, you
16 see. They can get a little more money for it for
17 another use. I've often commented that we have the
18 most permissive zoning code in the entire country,
19 and we do because you permit the residents and the
20 residential uses to be driven out of SP, for
21 example, as Kay just said. We will lose the tax.

22 Then the other thing, there is the
23 question of the parking lot being in R-5-B. If that
24 R-5-B thing were restricted to R-5-B use, it would
25 be built on for apartment houses just like the place
26 across the street. If this were in another national

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1 capitol like Paris, you wouldn't even be allowed to
2 have a parking lot because they aren't allowed in
3 Paris.

4 Parking lots are generally regarded as a
5 municipal blight, Mr. Griffith. I don't know --
6 this has been pointed out to you, I know, in other
7 hearings and the Zoning Commission has recognized
8 this in the case of when they put in the CR zoning
9 that parking lots are a blight. We have other
10 parking lots in that O Street area there which we're
11 trying to get rid of.

12 Then I'd also like to question Wilkes &
13 Artis' claim that because it was an office building
14 before, they have a matter of right use to make it
15 into an office use again, like a chancery. I do not
16 believe that is correct. A chancery is different
17 because you have control over the chancery use.
18 Now, I would like to have you deny any kind of use
19 of the R-5-B property at all. Ask them to see if
20 they can not select another site, which they can.
21 If you notice, in Uzbekhistan, their chancery is not
22 going to be in the middle of a residential
23 neighborhood. It seems to me to say that they've
24 been cooperative in exactly the same sense that we
25 are --

26 Just look at that corner there. We are

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1 being zoned out of town. The land is being made
2 tax-free. We have the Australian Embassy, which
3 used to be the most beautiful house, just lovely.
4 The Nigerian -- that used to be used for housing. I
5 mean, if you could have seen Washington years ago.

6 Mr. Collins referred to the fact that
7 this place has been used as a parking lot for many
8 years, the R-5-B section. Before that, it was a
9 house until we had the 1958 rezoning -- the 1958
10 rezoning of Washington. When everything was torn
11 down, you know, along that area. When SP was
12 created and all the plan was to clear out
13 Washington, all its residents because of the Cold
14 War, you know. And building street -- A few people
15 on this Board or in this whole zoning office have
16 any institutional memory at all of how Washington
17 was wrecked.

18 Now, just as a little side line on the
19 question of fences -- oh, I don't want this use at
20 all, but whatever use is there. We've been trying
21 for years to get chain link fences out of 16th
22 Street. Imagine, on 16th Street, we have chain link
23 fences, including further up the street.

24 I would just like to mention that also,
25 no parking lot, no chancery -- this whole property.
26 You've got to consider the other purchase they

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1 intend to make. This whole deal is a contingency of
2 the 16th Street Associates trying to get the highest
3 price. They're just paying more than a residential
4 buyer would pay. Please don't let this go. We're
5 going to lose the whole area.

6 CHAIRPERSON REID: Thank you, Mrs.
7 Hubbard.

8 MS. HUBBARD: Thank you.

9 CHAIRPERSON REID: Questions?

10 Okay, we'll move now to closing remarks,
11 Mr. Collins, please?

12 MS. HUBBARD: Pardon me?

13 CHAIRPERSON REID: No, Mr. Collins will
14 now give his closing remarks, if you're done?

15 MS. HUBBARD: Pardon? Oh, yes, I'm
16 through.

17 CHAIRPERSON REID: Okay, thank you.

18 MR. COLLINS: Madam Chairperson, members
19 of the Board, I just briefly want to say several
20 things.

21 We will take a look at the letter that
22 was submitted with the suggested landscape and other
23 features. We will take a look at the other issues
24 that were raised during the course of the hearing,
25 certainly by Mr. Griffith, Mr. Parsons and others.

26 Finally, I'd just like to state that we

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1 don't disagree with any of the historical references
2 that Mrs. Hubbard or Ms. Eckles have mentioned. But
3 in this case, we are not seeking approval for use of
4 the building. The building has been confirmed to us
5 as a building that can be used as a matter of right
6 for chancery purposes. The reason we're here is for
7 the parking lot extending into the R-5-B zone. The
8 status of the SP zone, the nature of the SP zone is
9 not an issue before this Board, certainly. Simply,
10 the only issue here is the issue of the parking lot.

11 We would like an opportunity to address
12 those issues that were raised and hope that you will
13 be able to make a decision on this case at your
14 April 1st hearing.

15 CHAIRPERSON REID: Okay.

16 MR. PARSONS: Madam Chair, I have one
17 more question.

18 I noticed in your application -- you
19 didn't mention it verbally -- that there will be a
20 "small antenna" on the roof. Do you know what the
21 definition of small is?

22 MR. COLLINS: Yes. Well, we mentioned
23 that we had hoped that by the time of the hearing,
24 we'd have details on it, Mr. Parsons. If I
25 neglected to say it -- I thought I did mention it
26 early-on --

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1 MR. PARSONS: Well, maybe you did. I'm
2 sorry.

3 MR. COLLINS: -- that we had determined
4 that we're not proceeding with that right now
5 because we don't have the details. It will be a
6 receive only antenna. It is not a broadcasting
7 antenna. Kazakhstan has been trying to get
8 information from back home as to what the nature of
9 that might be, but they don't have the details. We
10 just determined to take that off the table at this
11 point. But if we need to come back, we certainly
12 will come back.

13 MR. PARSONS: All right.

14 MR. COLLINS: You know, there's a
15 certain matter of right of antennas and certain that
16 require review and we will take a look at it.

17 MR. PARSONS: Thank you.

18 CHAIRPERSON REID: Okay.

19 Yes, Mr. Griffith?

20 MR. GRIFFITH: Madam Chair?

21 Mr. Collins, when you say that you will
22 address the issues that you have heard, I'm assuming
23 you're meaning the design of the fencing for the
24 parking lot. But I would very much like you to
25 extend consideration of the total fencing because of
26 the opportunity here to integrate something into a

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1 very nice addition to the neighborhood.

2 I'm assuming that when you think about
3 landscaping possibilities and lighting for the
4 parking lot, you will also extend that to the rest
5 of the property, again, for integration reasons.
6 With that understanding, I think we'd be happy.

7 MR. COLLINS: Good.

8 CHAIRPERSON REID: Okay, Mr. Collins --
9 Madam Secretary?

10 MS. ROSE: This will be on the April 1st
11 meeting agenda?

12 CHAIRPERSON REID: April 1st meeting.
13 These are the submissions that we will be expecting
14 if you would reiterate them again.

15 MS. ROSE: Okay. The submissions that
16 would be due would be a response from the applicant
17 to the letter from Mr. Dickens, as well as a
18 response to the issues of fencing, landscaping and
19 lighting.

20 Is there anything else?

21 CHAIRPERSON REID: Mr. Griffith, does
22 that satisfy what your request is?

23 MR. GRIFFITH: Yes, it does.

24 CHAIRPERSON REID: Okay, thank you.

25 MS. ROSE: And that submission would be
26 due on March the 25th, and proposed findings of fact

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1 would also be due on that date, March 25th. I
2 understand that there are no parties to a foreign
3 missions case. Therefore, we don't have responses.

4 MS. HUBBARD: May I ask a question?

5 CHAIRPERSON REID: No, Mrs. Hubbard.
6 The segment for your opposition and testimony has
7 now expired.

8 MS. HUBBARD: I just want to ask you a
9 question --

10 CHAIRPERSON REID: No, Mrs. Hubbard,
11 after the segment for the opposition has now gone
12 by. We can no longer go back to that.

13 MS. HUBBARD: No, I wanted to ask you a
14 question with regard to procedure.

15 CHAIRPERSON REID: But you can not. If
16 you have a question then now at this point, it's
17 best that you then ask Staff after this case has
18 been heard at the conclusion of the case.

19 MS. HUBBARD: I'd like to ask you
20 because I'd like to put you on the record.

21 CHAIRPERSON REID: Mrs. Hubbard, I can
22 not allow you to do that. Thank you.

23 All right, this case is concluded and
24 we'll now take a short recess, five minutes.

25 (Whereupon, off the record at 11:13
26 a.m., until 11:21 a.m.)

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1 MS. ROSE: The next case on the agenda
2 is 16320, the application of Leon and Virgie Toston,
3 pursuant to 11 DCMR 3107.2 for a variance from the
4 on-site parking requirements of Section 2101 to
5 establish a rooming house with 11 units on the
6 basement, first and second floors of a structure in
7 an R-4 District at premises 3605 13th Street, NW,
8 Square 2829, Lot 60.

9 Would all persons planning to testify in
10 this application, please rise to take the oath.

11 CHAIRPERSON REID: Do you rise, sir, to
12 take the oath?

13 MR. TOSTON: Yes.

14 MS. ROSE: Is he counsel?

15 Are you counsel?

16 MR. TOSTON: No, I'm the owner of the
17 property.

18 MS. ROSE: You're the owner? All right.
19 Whereupon,

20 LEON TOSTON
21 was called as a witness, and having been first duly
22 sworn, was examined and testified as follows:

23 MS. ROSE: You may be seated.

24 MR. TOSTON: Good morning, members of
25 the Board, Madam Chairman.

26 My name is Leon Toston and I applied for

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1 a certificate of occupancy at a house at 3605 13th
2 Street, NW. I got a letter back from the Board of
3 Zoning Review stating that the application the use
4 -- my proposed use was permitted in R-4 zone
5 district, but due to lack of parking, my application
6 was rejected. Under Section 5-424, you know, where
7 an owner has a property where due to the shape or
8 size of the lot that you can not possibly get
9 parking, under strict application of Section 5-413
10 to Section 5-432 where it will create exceptional
11 hardship, the owner may seek a variance to eliminate
12 that hardship. I'm seeking a variance to eliminate
13 that.

14 MS. BENNETT: Can you talk to us about
15 what features about the property keep you from being
16 able to provide off-street parking?

17 MR. TOSTON: Yes. The way the lot is
18 located, I can't -- the house sits right on 13th
19 Street so I can't provide it on the front. On the
20 back or at the end of the property, there's a little
21 street that goes in-between. I submitted a picture
22 along with my application that shows the property.

23 MS. BENNETT: You have an alley in the
24 back?

25 MR. TOSTON: Yes, an alley. So, it's
26 impossible to provide parking in the back or the

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1 front.

2 CHAIRPERSON REID: You said you provided
3 pictures, sir?

4 MR. TOSTON: Yes, along with the
5 application.

6 MS. BENNETT: Now, you know what I don't
7 understand?

8 MR. TOSTON: What's that?

9 MS. BENNETT: You have a picture of the
10 front which we have. Is that flagstone on the front
11 of your property?

12 MR. TOSTON: Yes.

13 MS. BENNETT: Okay. Then in the back,
14 there's a little like path.

15 MR. TOSTON: Okay, in the back of the
16 house --

17 MS. BENNETT: Now, is that the side? Is
18 that the passage between -- you have the rear of the
19 house showing the passage between the houses.
20 That's on the side of the house.

21 MR. TOSTON: Yes. It's a passage that
22 comes between the house that I own and other houses
23 on 13th Street and the houses that would be on Otis
24 Place. So, it's a walkway through. There's no way
25 you could put anything back there.

26 CHAIRPERSON REID: But your house comes

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1 up to the lot line?

2 MR. TOSTON: Yes, it comes all the way

3 back to the alley.

4 MS. BENNETT: I'm still confused. You

5 couldn't drive a car --

6 MR. TOSTON: No, there's no way.

7 MS. BENNETT: -- through the alley --

8 MR. TOSTON: Okay, it's an alley.

9 MS. BENNETT: -- to get to a rear yard?

10 MR. TOSTON: No, it's an alley on the

11 side of the house. Then there's a walkway that's

12 about this wide. So, there's no way I could get

13 something to the back of my lot. These houses --

14 CHAIRPERSON REID: Your building is land

15 locked?

16 MR. TOSTON: Beg pardon?

17 MS. BENNETT: Is your building land

18 locked?

19 MR. TOSTON: Is it land locked?

20 MS. BENNETT: In other words, if your

21 building were on fire at the back --

22 MR. TOSTON: Yes.

23 MS. BENNETT: -- and I were driving a

24 fire engine --

25 MR. TOSTON: Yes.

26 MS. BENNETT: -- I could not turn down

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1 an alley --

2 MR. TOSTON: You can turn down the

3 alley, yes.

4 MS. BENNETT: -- and put the fire out?

5 MR. TOSTON: You could turn down the

6 alley. There's only five houses between the alley

7 and Otis Place. So, it's only, I guess, about maybe

8 50, 60 feet across. There's only five houses there.

9 So, a fire engine could come on either side and have

10 a hose that would be long enough to put out a fire.

11 These are -- houses.

12 MS. BENNETT: Yes, but you could not

13 drive a car into your back --

14 MR. TOSTON: No, you can't.

15 MS. BENNETT: -- into your back yard and

16 park it?

17 MR. TOSTON: No.

18 MS. BENNETT: See, that's what we're

19 trying to get to.

20 MR. TOSTON: No.

21 MS. BENNETT: We're trying to figure out

22 what features about your property make it impossible

23 for you to provide access to a vehicle for the

24 purpose of parking it.

25 MR. TOSTON: Yes.

26 MS. BENNETT: That's the unique feature.

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1 That's the exceptional feature of your home -- I
2 mean, of this property and that's what we're trying
3 to drag out of you.

4 MR. TOSTON: Yes. Yes, well, it's
5 impossible -- I stated on the application, it's
6 impossible.

7 MS. BENNETT: Is it mission impossible?

8 MR. TOSTON: Yes, it's very impossible.
9 There's just enough room to walk through.

10 MS. BENNETT: I see. I see from here.

11 You were talking about a fire truck
12 being able to access by Otis or that alley --

13 MR. TOSTON: Yes, they could come down
14 Otis.

15 MS. BENNETT: -- that is east/west
16 alley.

17 MR. TOSTON: Yes.

18 CHAIRPERSON REID: They can't come right
19 around the back.

20 MS. BENNETT: But they'd have to have
21 the hose come down and put the fire out that way?

22 MR. TOSTON: Yes, yes.

23 MS. BENNETT: The vehicle could not come
24 in the back of your house?

25 MR. TOSTON: No, the vehicle can't come
26 through. No.

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1 CHAIRPERSON REID: Okay, that's what we
2 need to know.

3 MS. BENNETT: That's what we wanted to
4 know.

5 CHAIRPERSON REID: All right.

6 MS. BENNETT: So, your practical
7 difficulty is that there is no access --

8 MR. TOSTON: To parking.

9 MS. BENNETT: -- to the rear of your
10 property for you to be able to bring a car in and
11 park it. And on the front, there's no space for you
12 to create a parking space?

13 MR. TOSTON: No.

14 MS. BENNETT: Thank you.

15 CHAIRPERSON REID: Any further
16 questions?

17 MS. BENNETT: May I?

18 CHAIRPERSON REID: Oh, sure.

19 MS. BENNETT: Did you talk to any of
20 your neighbors or have you talked to anyone at the
21 ANC about what you propose to do? Did you get any
22 feedback?

23 MR. TOSTON: I called ANC about five
24 times. I talked to a gentleman there. I also gave
25 him address to other properties where he could go
26 down and see. I even offered to take him in the

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1 property. He said so far, he had not received
2 anything from any of the residents. He had sent
3 letters out to all the residents and --

4 MS. BENNETT: What ANC are you in?

5 MR. TOSTON: Beg pardon?

6 MS. BENNETT: What ANC are you in?

7 CHAIRPERSON REID: 1-A and 4-C.

8 MS. BENNETT: Okay.

9 MR. TOSTON: It's 1-A. And he also said
10 regardless of what he thought, it would be
11 determined about what the residents thought. If the
12 residents wanted a complaint filed, he would do
13 that. But at that point, nobody had filed any kind
14 of complaint.

15 MS. BENNETT: We are in receipt of
16 letters from tenants and former tenants --

17 MR. TOSTON: Yes. Yes.

18 MS. BENNETT: -- attesting to your being
19 a good landlord and what-not, but unfortunately,
20 they did not address the zoning issue that we have
21 to --

22 MR. TOSTON: Yes.

23 MS. BENNETT: It is good to know a good
24 landlord.

25 MR. TOSTON: Well, I am.

26 CHAIRPERSON REID: You did not talk to

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1 any of your neighbors to ask them or discuss with
2 them the probability of them submitting a letter of
3 support regarding how they're affected by your
4 application for the use that you're applying for?

5 MR. TOSTON: Yes, in the immediate area,
6 there's five houses there. I talked to the lady
7 that's next to one of my houses. She's been ill for
8 the last month and she would have no problem because
9 she has a house where she takes care of senior
10 citizens. I also have the house at 3607.

11 MS. BENNETT: Well, we got a letter from
12 Mr. McNail.

13 MR. TOSTON: Mr. McNail?

14 MS. BENNETT: McNail, yes, 3607 13th
15 Street.

16 MR. TOSTON: Okay.

17 MS. BENNETT: We got a handwritten
18 letter from him.

19 MR. TOSTON: Yes. That's another
20 rooming house that I have and he's been there since,
21 I think, '84.

22 MS. BENNETT: Okay, but he is a tenant
23 of yours?

24 MR. TOSTON: Yes.

25 MS. BENNETT: He is not the owner of the
26 property?

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1 MR. TOSTON: No, I own it, yes.

2 MS. BENNETT: Oh, okay, I see. So, you

3 own the house next door to --

4 MR. TOSTON: The one next door, and I

5 just purchased the one at 3609 also.

6 MS. BENNETT: So, you own all of those

7 buildings up to the alley?

8 MR. TOSTON: Well, it will be three next

9 to the alley.

10 MS. BENNETT: Right.

11 MR. TOSTON: Yes.

12 MS. BENNETT: Okay.

13 MR. TOSTON: The one on the end --

14 MS. BENNETT: What about 3603?

15 MR. TOSTON: That's the one where I

16 spoke with the lady. She's been ill, but she would

17 have no objection because I let her use the back of

18 3605 to let her senior citizens sit in the back

19 yard. So, she would have no objection. And the

20 house at 3601 has been vacant for as long as I can

21 remember.

22 MS. BENNETT: That's at the corner of

23 Otis Street?

24 MR. TOSTON: Yes, it's vacant.

25 MS. BENNETT: Madam Chair, I have no

26 further questions.

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1 CHAIRPERSON REID: Mr. Toston, we're
2 trying to assist you in making your case to this
3 Board for the relief that you're requesting, and
4 it's a three-prong test. Are you familiar with that
5 test?

6 MR. TOSTON: Beg pardon?

7 CHAIRPERSON REID: Are you familiar with
8 the test, the three-pronged test that you have to
9 address in order to be able to request relief?

10 MR. TOSTON: No.

11 CHAIRPERSON REID: Okay. Well, Mrs.
12 Bennett just went over with you one of the
13 conditions, and that would be that there is
14 something unique or unusual about your property that
15 would cause some practical difficulty for you to be
16 able to comply with the existing zoning.

17 MR. TOSTON: Well, I understand. Yes, I
18 understand that. That's the reason I took the
19 pictures and tried to demonstrate --

20 CHAIRPERSON REID: Okay, you understand
21 that part? Okay.

22 MR. TOSTON: I also had I guess a plat
23 that would sort of show how the property is located.

24 CHAIRPERSON REID: And the other prong
25 is that it would be no substantial detriment to the
26 public good, meaning that it would not cause any

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1 kind of adverse impact to your neighbors or the
2 neighboring community as far as noise, parking --

3 MR. TOSTON: No.

4 CHAIRPERSON REID: -- lighting --

5 MR. TOSTON: No, because --

6 CHAIRPERSON REID: -- traffic and the
7 like if, in fact, you were to be approved for your
8 application.

9 MR. TOSTON: It won't be any problem.
10 One thing that sort of surprised me about this,
11 people who are living in rooms don't have cars.
12 It's all they can do to keep a roof over their head.
13 So, I have I guess close to 40 tenants and I guess
14 maybe three have a car.

15 CHAIRPERSON REID: Okay.

16 MS. BENNETT: Is that so?

17 CHAIRPERSON REID: Interesting.

18 MR. TOSTON: I mean, it's all they can
19 do to, you know, provide a roof over their head.

20 MS. BENNETT: Okay. So, in this
21 building, there were two sets of requests, in fact.
22 One said that you had four in there now?

23 MR. TOSTON: Yes.

24 MS. BENNETT: And you wanted to have
25 nine. Then we got an amendment --

26 MR. TOSTON: Yes.

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1 MS. BENNETT: -- that said 11.
2 MR. TOSTON: Yes.
3 MS. BENNETT: You have rooms for 11?
4 MR. TOSTON: Yes. When I bought the
5 house -- the lady I bought the house from owned all
6 six of those houses at one time and she rented all
7 the houses out as rooms. So, the houses are already
8 set up for rooms.
9 MS. BENNETT: I see.
10 MR. TOSTON: Yes.
11 MS. BENNETT: Why did you say nine the
12 first time?
13 MR. TOSTON: I just put nine down there,
14 you know. I have a couple of rooms in the basement
15 that I could use, but I didn't put that down at
16 first. So, I decided to, you know, use all of it
17 because for one reason, if I -- when I apply for
18 insurance, when they come in, if they see an extra
19 room, then they won't give you insurance.
20 MS. BENNETT: They will not?
21 MR. TOSTON: No. If I apply for nine
22 rooms and I've got space for 11, then they won't
23 give me insurance. I would have to apply for the
24 whole 11.
25 MS. BENNETT: I see what you're saying.
26 MR. TOSTON: Yes.

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1 MS. BENNETT: So, in this building
2 that's before us, of the five, how many of them
3 drive?

4 MR. TOSTON: Well, right now, it's one
5 gentleman that has a car. I also have 3607 that is
6 also a licensed rooming house, and no one in there
7 has a car.

8 MS. BENNETT: And how many are in there?

9 MR. TOSTON: Right now, I have seven
10 people in there.

11 MS. BENNETT: And no one drives?

12 MR. TOSTON: No.

13 I also have two houses at number 9 and
14 number 11 U Street licensed rooming houses, and no
15 one in there has a car.

16 MS. BENNETT: And nobody drives there?

17 MR. TOSTON: No. It's all they can do
18 to pay their rent and try to survive.

19 MS. BENNETT: I see. Okay.

20 And you can't think of any other adverse
21 impacts?

22 MR. TOSTON: If you would go by one of
23 my houses, you would not know it from any other
24 house on the street because this ANC leader went by
25 3607 and he said he thought the house was vacant. I
26 have a lease agreement which is very strict. I care

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1 about the tenant and I keep the house up.

2 CHAIRPERSON REID: Thank you.

3 MS. BENNETT: So, you would say to the
4 second test that Madam Chair asked about, that there
5 would be no adverse impact based on --

6 MR. TOSTON: No, none whatsoever.

7 MS. BENNETT: -- parking and that sort
8 of thing?

9 MR. TOSTON: No.

10 MS. BENNETT: You don't have a history
11 of people loitering --

12 MR. TOSTON: I don't have --

13 MS. BENNETT: -- loud parties and mayhem
14 taking place?

15 MR. TOSTON: No. No. I'm a real -- and
16 I have a lease agreement that addresses everything.
17 I don't have people sitting on the front and if I
18 have problems, then I go to court to get it solved.

19 MS. BENNETT: Okay.

20 CHAIRPERSON REID: Have you ever had any
21 complaints from your neighbors regarding the use of
22 that particular building as -- the property as a
23 rooming house?

24 MR. TOSTON: No, I've never had any
25 complaint. The house has been inspected many times
26 by inspectors. I've never had any kind of

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1 violation.

2 MS. BENNETT: All right.

3 CHAIRPERSON REID: All right.

4 MS. BENNETT: Madam Chair, in addressing
5 that third prong which talks about impairing the
6 intent, purpose, and integrity of the zone plan, I
7 would note that rooming house use is allowed as a
8 matter of right in the R-4 zone district.
9 Therefore, the use to which Mr. Toston is planning
10 to put the property is not, in my judgment, going to
11 in any way impair the intent, purpose, or integrity
12 of the zone plan.

13 CHAIRPERSON REID: Thank you. Very
14 good.

15 MR. TOSTON: All right. Thank you.
16 Have a good day.

17 CHAIRPERSON REID: All right, just a
18 moment, Mr. Toston.

19 MS. BENNETT: Hold on. Wait a minute.

20 CHAIRPERSON REID: Just a moment.

21 Cross examination. Is there any of the
22 ANC present? Okay.

23 Then we'll move to government reports.
24 Are there any government reports, DPW or the like,
25 Office of Planning? I don't think so.

26 All right, next, is the Advisory

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1 Neighborhood Commission? We don't have anything
2 from them nor are they present today.

3 Okay, parties or persons in support?
4 Parties or persons in opposition?

5 Okay, now, Mr. Toston, your closing
6 remarks?

7 MR. TOSTON: Well, I appreciate you all
8 allowing me to appear before the Zoning Board. I
9 can assure you that if my application is approved,
10 there won't be any problem with the house.

11 CHAIRPERSON REID: Okay. Are you
12 requesting a summary order, a bench decision today?

13 MR. TOSTON: Beg pardon?

14 CHAIRPERSON REID: Would you like us to
15 dispose of your particular application today?

16 MR. TOSTON: Yes, if possible, yes.

17 MS. BENNETT: Madam Chair, I move
18 approval of application 16320. I think we are clear
19 about the practical difficulty. I'm satisfied that
20 there will be no adverse impacts based on Mr.
21 Toston's experience, long-term experience it seems,
22 with rooming house properties and his observation of
23 the extent to which folks do or do not have cars.
24 Finally, the fact that I don't think this is going
25 to impair the integrity of the zone plan.

26 CHAIRPERSON REID: Okay, all in favor,

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1 aye?

2 ALL: Aye.

3 CHAIRPERSON REID: Opposed?

4 MS. ROSE: Staff will record the vote as

5 3 to zero, with Ms. Bennett, Ms. Reid, and Ms.

6 Hinton to grant. Ms. Richards not present, not

7 voting.

8 CHAIRPERSON REID: Okay.

9 Mr. Toston, you should have your reply

10 in two weeks.

11 MR. TOSTON: Beg pardon?

12 CHAIRPERSON REID: You should receive

13 your response in approximately two weeks.

14 MR. TOSTON: Okay.

15 MS. BENNETT: The order.

16 CHAIRPERSON REID: The order.

17 MS. BENNETT: After you have the order,

18 you can then begin to do what you have to do.

19 MR. TOSTON: Okay. I thank you all.

20 CHAIRPERSON REID: Okay, thank you.

21 MS. BENNETT: Thank you.

22 MR. TOSTON: Have a good day.

23 MS. ROSE: The next application is

24 16322, the Faith Moravian Church of the Nation's

25 Capital, pursuant to 11 DCMR 3108.1 for a special

26 exception under the provisions of Section 205 to

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1 establish a child development center for 59
2 children, infants to five years of age, and 11 staff
3 on the first level of the basement and part of the
4 first floor of an existing structure in an R-2
5 District at premises 405 Riggs Road, NE, Square
6 3741, Lot 809.

7 Would all persons planning to testify in
8 this application please rise to take the oath.

9 Whereupon,

10 MAXINE GARRETT

11 DONALD MORANT

12 were called as witnesses, and having been first duly
13 sworn, were examined and testified as follows:

14 MS. GARRETT: Good morning, Ms. Reid and
15 the other members of the Board.

16 My name is Maxine Garrett and I live at
17 4926 Third Street, NW, Washington, DC 20011. I am
18 the chair of the Faith Moravian Day Care Center
19 Committee of the Faith Moravian Church of the
20 Nation's Capital.

21 Whenever we say Moravian, people don't
22 understand what that means. I've put into your
23 packets a little bit about our church. We're here
24 today in order to seek a special exception because
25 we wish to establish a day care center in a zone
26 that is zoned R-2. Therefore, we need a special

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1 exception in order to have a day care center there.

2 The Moravian church is a regular
3 protestant denomination church which has been
4 established since 1457. We're really not new to
5 this area because our oldest church is in Thurmont,
6 Maryland and has been there for over 125 years.
7 There's another church in Upper Marlboro and one in
8 Lanham. Fifteen years ago, we established the Faith
9 Moravian Church here in the District of Columbia.

10 In August of 1997, we purchased a
11 building located at 405 Riggs Road, NE. In an
12 attempt to enhance and become a part of that
13 community, to serve and to educate and even
14 evangelize the community, we wanted to become a
15 viable part. In going around asking the people what
16 did they need in the community, one of the things
17 that they said that they needed was a day care
18 center. We have 281 signatures of persons who live
19 in that community who have attested to the fact that
20 their community needs additional day care and
21 education for their children, and that they endorse
22 our church establishing a day care and learning
23 center for the children located in this facility.
24 All of these signers were residents of the District
25 of Columbia and were over 18 years of age.

26 You might wonder why did we want to go

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1 into this kind of enterprise? Well, Moravians have
2 always had as their prime thing, after Christianity
3 of course, education. It has always played a prime
4 part in the Moravian life. John Hust was a
5 professor of the University of Prague. John Amos
6 Commineus was a world renowned educator. Moravian
7 schools and colleges and hospitals have been founded
8 in Germany, England and the United States, and also
9 in all of the mission fields.

10 Strong Christian education programs are
11 an integral part of each of our congregations'
12 lives. We have camps. We have conferences. We
13 have retreats. We have a college in Winston-Salem.
14 We have a college in Bethlehem, Pennsylvania. We
15 believe in bringing children from the cradle up, and
16 educating them. Because we are new and because
17 people do not know very much about us, we wanted to
18 establish that in the Northeast part of Washington,
19 DC because we saw a need for it there.

20 We wish to open our day care center with
21 59 children. The fact that we could have that
22 capacity was determined by the DC Department of
23 Consumer and Regulatory Affairs in their pre-
24 inspection survey. We have five beautifully
25 appointed classrooms that are brightly painted with
26 new carpet. We have a stainless steel commercial

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1 size, industrial size kitchen that will make it
2 possible for us to provide food for these children.
3 We have child-sized bathrooms and water fountains,
4 and have a full equipped nurses station and a large
5 fellowship hall where we can have 45 children at any
6 one given time to have exercise and recreation there
7 in inclement weather.

8 We have a fenced-in yard, beautiful
9 grassy section, and we have budgeted for and plan on
10 having 11 paid staff persons. One of the things we
11 want to do for the neighborhood is to make sure that
12 part of those staff persons are from the welfare
13 roles of Washington, DC. We will also have
14 volunteers from our congregation. We have attempted
15 to and have abided by all of your requirements. We
16 have done our supporting documents. We have paid
17 our fees and we are hoping that you will find
18 favorably for us.

19 In order that you would know a little
20 bit about us, the other person who is going to speak
21 to you today is Donald Morant, who is the president
22 of our Board of Trustees. We have brought along
23 Melida Hodgson who is our member of our committee,
24 Doctor Robert Baird, who is a retired pediatrician,
25 is a member of our board and has had to leave
26 because of another engagement. And we're very happy

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1 to have Ms. Milli L. Edwards who is the block
2 captain of Block 8 with us today to affirm our
3 needing to be in the neighborhood.

4 That is my opening statement and I'll be
5 happy to answer any questions that you may have. If
6 you do not have any at this point, Mr. Morant will
7 show you the building and how we're going to do.

8 CHAIRPERSON REID: Okay, thank you, Mrs.
9 Garrett.

10 What we'd like to do is to go through
11 the regulations that you are here today requesting
12 relief from --

13 MS. GARRETT: All right.

14 CHAIRPERSON REID: -- and that's for a
15 special exception for -- that's Section 205.

16 MS. GARRETT: Yes.

17 CHAIRPERSON REID: Did you perhaps, in
18 your submission, address it already? Are you
19 familiar with the regulation?

20 MS. GARRETT: Yes, I am familiar with
21 the regulation. I have it in front of me.

22 CHAIRPERSON REID: Okay.

23 MS. GARRETT: We have gone item-by-item
24 and have, I think, fulfilled each requirement.

25 CHAIRPERSON REID: Oh, very good. Well,
26 can you recite that to us, please?

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1 MS. GARRETT: All right.

2 CHAIRPERSON REID: Okay.

3 MS. GARRETT: Well, first of all, in
4 205.1 it says, "use as a child development center
5 shall be permitted in the R-1 District", and of
6 course, we're in an R-2 District "if approved by the
7 zoning board in accordance with the conditions
8 specified in 3108 of Chapter 31 of this title,
9 subject to the provisions in this section." That's
10 what we're doing now. We're here for that.

11 It says that in 205.2 that "the center
12 shall be capable of meeting all applicable codes and
13 licensing requirements." That's why we went ahead
14 and paid in advance for the pre-inspection fee and
15 had someone to come out from the District Welfare
16 Department to see whether we would comply. Of
17 course, we do have those things. They can not give
18 us a license or do anything unless we do come to you
19 first.

20 CHAIRPERSON REID: And we do have the
21 report from DCRA in the file.

22 MS. GARRETT: You do have it? All
23 right, you have that.

24 It says that "the center shall be
25 located and designed to create no objectionable
26 traffic condition, no unsafe condition for picking

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1 up and dropping off children." We believe that we
2 have fulfilled that requirement.

3 "The center shall provide sufficient
4 off-street parking spaces to meet reasonable needs
5 of teachers and other employees and visitors." We
6 have on our own property, 13 parking spaces. Of
7 course, this is on the street parking and another
8 facility available for that.

9 MS. BENNETT: And that contrasts -- let
10 me just insert here -- with the requirement to have
11 four. We have in our packet a memorandum from the
12 Department of Public Works which says "according to
13 the applicant there are currently 13 parking spaces
14 at the subject site compared to the four that are
15 required by the zoning code." So, you're well
16 within the requirements for parking.

17 MS. GARRETT: Oh, good, I'm glad to see
18 that.

19 "The center, including any outdoor space
20 provided, shall be located and designed so that
21 there will be no objectionable impact on adjacent or
22 nearby properties due to noise or activity, visual,
23 or other objectionable conditions." We do not
24 believe that our church is located in a place where
25 it would be objectionable. We have our own fenced
26 in play space, but we also have a letter, as you can

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1 see, from the principal of the LaSalle School who
2 says that we can use their equipment, and their
3 parking, and their playground when they're not using
4 it. We have formed a very good and close
5 relationship with the principal and the teachers and
6 the people there. In fact, they're going to have
7 their graduation in our facility this coming June
8 when they go on to middle school. So, we've
9 fulfilled that.

10 MS. BENNETT: In your pre-inspection
11 report, there's a notation there that says that you
12 need to repair some fencing. Is it your intention
13 to do that?

14 MS. GARRETT: I don't believe it's
15 fencing. We've got a brand new fence, long fence,
16 put up around that park. I don't think it's
17 fencing.

18 MS. BENNETT: Well, we've got --

19 BROTHER MORANT: Would you allow me to
20 address that, please?

21 MS. BENNETT: Okay, go ahead.

22 BROTHER MORANT: We -- address that
23 after I laid out the plan for you.

24 MS. BENNETT: This is September 15th.

25 MS. GARRETT: Oh, that's because we now
26 have that --

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1 BROTHER MORANT: I will show you the up
2 to date.

3 CHAIRPERSON REID: Okay. Okay.

4 MS. GARRETT: We will show you that we
5 have a whole new fence around there.

6 CHAIRPERSON REID: All right. All
7 right. Mrs. Garrett, to your
8 knowledge, has there been any objections within the
9 community or the neighborhood --

10 MS. GARRETT: No, there has been no
11 objection within the community.

12 CHAIRPERSON REID: -- regarding your
13 having a day care?

14 MS. GARRETT: We have visited both block
15 meetings and we have visited with -- we are a member
16 now of the Lamond Riggs Civic Association, and I
17 believe that they have sent a letter of
18 recommendation for us?

19 CHAIRPERSON REID: They have, right.
20 So, you don't --

21 MS. GARRETT: May I go ahead?

22 CHAIRPERSON REID: Yes, sure.

23 MS. GARRETT: Point 205.6 says, "the
24 Board may require a special treatment in the way of
25 design, screening of buildings, planning, parking
26 area signs and other requirements as it shall deem

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1 necessary to protect adjacent and nearby
2 properties." We have not heard from you that you
3 would desire that from us. We do not need, I don't
4 believe, any screenings. We have the only building
5 on that corner and one house is in that block --
6 there's one house on the corner. We do have a
7 parking area and we do have everything -- I think
8 that we fulfill that too. Brother Morant will show
9 you when he shows you our design, all of that exact
10 part.

11 "Any off-site play area would be located
12 so as not to result in endangerment to individuals
13 in attendance at the center in traveling between the
14 play area and the center itself." The school is
15 less than a block from us and we would walk our
16 children down there in full compliance and with the
17 necessary adults walking them down when they played
18 outside, when they were not going to use our own
19 yard.

20 "The Board may approve more than one
21 child development center in a square or 1,000 feet
22 of another child development center" -- and so forth
23 and so on. We do not see or do not know of any
24 child development center within 1,000 feet of our
25 location.

26 "Before taking final application" in

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1 205.9, "for use of the child development center, the
2 Board shall submit the application to the DC
3 Department of Public Works Human Services and the DC
4 Office of Planning for review and written reports."
5 It's my understanding that you do have a report from
6 both of those agencies?

7 CHAIRPERSON REID: Yes, we do.

8 MS. GARRETT: Right. Point 205 --

9 MS. BENNETT: We don't have Office of
10 Planning but our procedures have changed just a bit.

11 MS. GARRETT: All right. Someone from
12 the Office of Planning did call me, a Nigerian
13 gentleman by the name of Mr. --

14 CHAIRPERSON REID: Nymku?

15 MS. GARRETT: He said he was sending the
16 report. A week ago last Tuesday, he told me he was
17 sending it but it was in approval.

18 MS. BENNETT: Okay. That's not going to
19 hold up anything, okay?

20 MS. GARRETT: Okay.

21 205.10, "a referral of the DC Human
22 Resources shall request advice as to whether the
23 proposed center can meet all licensing requirements
24 set forth by the applicable laws of the District."
25 Of course, I don't know whether you have that or
26 not, but we're sure that we can meet the applicable

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1 laws.

2 MS. BENNETT: All rightey. Thank you.

3 CHAIRPERSON REID: All right.

4 Sir?

5 BROTHER MORANT: I'm Donald Morant. I'm
6 president of the Board of Trustees and chairman of
7 the corporation of Faith Moravian Church. I live at
8 1346 Alderton Road, Silver Spring 20906.

9 I'm here in support of this project
10 mainly because as Sister Garrett has mentioned
11 before, we have done the necessary survey in the
12 neighborhood to see whether this would be what the
13 neighborhood needs and how we could impart the
14 neighborhood with such a service. Also, I take the
15 responsibility of making sure the building reached
16 requirement and -- facilities around it that would
17 create a safe environment for children, and without
18 any adverse impact on the neighborhood.

19 For this reason, we have worked hand-in-
20 hand with the citizens association and also both
21 block captains. One of them is here today in
22 support of us. We have sought the approval in
23 presenting them an entire plan that also includes
24 the impact of traffic in the neighborhood. On all
25 three occasions that these various committees have
26 met, they have approved us overwhelmingly.

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1 Therefore, I see no adverse objection within the
2 neighborhood.

3 I'll give you a history of this building
4 and then we'll give you some pictures of it. This
5 portion of the building -- the building is in two
6 halves. One part is the sanctuary and this half is
7 the educational building. It was constructed in
8 1976 as a school for handicapped children. After
9 about five or six years, it was sold to the head
10 Office for the Aging and has been used for such,
11 until it was sold again to Mt. Jezrel Church who
12 changed it from -- I think it was an R-4 and it was
13 changed to an R-2. I'm not quite sure of that one.
14 So, the building has always been in use and has been
15 fully utilized.

16 The drawings of the picture that I will
17 show you will attest to -- if you don't mind? Can
18 I?

19 CHAIRPERSON REID: Yes.

20 MS. BENNETT: Do we have copies of those
21 drawings in the record already?

22 BROTHER MORANT: You may have some, not
23 detailed and blown up as this one is. You have some
24 of the drawings, but not the layout of the
25 classroom, I think. You have the plat and the
26 various pieces of it. I won't take more than five

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1 seconds on this.

2 MS. BENNETT: We're going to lose a
3 quorum in about five minutes, so we're going to have
4 to kind of move very, very quickly. All right.

5 BROTHER MORANT: This is the downstairs
6 area that will be used as -- do I have to use a mic?

7 MS. BENNETT: You need to be at a mic
8 and just talk to --

9 BROTHER MORANT: Okay.

10 MS. BENNETT: And you really will have
11 to speed it up.

12 BROTHER MORANT: I will.

13 The top area of it is the classrooms.
14 As you can see, it comes across. The bottom to my
15 right here will be the office. There's a conference
16 room which is -- that part has to do with the
17 church, so we won't bother about it. In the middle
18 there are two steps. One of the steps, the arrow
19 pointing down, is going to the children's bathroom.
20 The arrow pointing up would be taking them up to the
21 next level. We are at the first aid room, and would
22 lead them to the kitchen, the dining room area, and
23 of course, the multi-purpose room in the event of
24 inclement weather.

25 I'm going as fast as I can.

26 MS. BENNETT: Mic, because we're

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1 recording electronically.

2 While he's doing that, Ms. Garrett,
3 could you tell us the opening and closing times that
4 are proposed?

5 MS. GARRETT: Yes. Because we found
6 that parents can't always get to places at 6:00 in
7 the evening when they're supposed to pick up their
8 children. We're going to open at 6:00 and remaining
9 open until 7:00.

10 MS. BENNETT: Okay.

11 MS. GARRETT: There are a lot of times
12 that you couldn't get there on time, and there's no
13 extra charge for that.

14 MS. BENNETT: And that's Monday through
15 Friday?

16 MS. GARRETT: That's Monday through
17 Friday. We're just going all out to do that. We
18 have a budget and we have the money to do this, and
19 we're going to become a part of the community.

20 MS. BENNETT: Okay.

21 BROTHER MORANT: Okay, ma'am. As you
22 can see there -- and is considered an alleyway
23 behind the building. Our property is eight feet
24 away from the alleyway which gives us an easement at
25 the bottom so we can use the parking if we choose
26 to. That would be on our property. We can park on

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1 Riggs Road and Riggs Road and -- property to the end
2 of our property. There is a flashing light and a
3 sign that says during the hours of 7:00 through to
4 8:00 in the morning and 3:00 to 5:00 in the evening,
5 the speed limit is 15 miles per hour. Although we
6 do not intend to park on -- because we don't have
7 reason to park on Riggs Road anyway.

8 On Chillum Place, which is the far end,
9 the corner to the church is free if we choose to
10 have parking there, but we are keeping away from off
11 street parking.

12 MS. BENNETT: Where are the 13 parking
13 spaces?

14 BROTHER MORANT: Oh, on the other plans
15 I will show you. This spot here is used for
16 parking.

17 MS. BENNETT: Okay, come back and tell
18 us again on the mic.

19 MS. GARRETT: He can use the hand mic.

20 BROTHER MORANT: The egress behind the
21 building has always been used as parking.

22 MS. BENNETT: And that's where the 13
23 off street parking --

24 BROTHER MORANT: No, ma'am. It will
25 hold 13, but I wouldn't force it there because
26 inside -- and I'll show you my next map -- we drive

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1 in our driveway, in our parkway going into the
2 property of itself off the alleyway.

3 MS. ROSE: Sir, you can use the hand
4 microphone.

5 MS. GARRETT: Use the hand microphone
6 there, Don.

7 MS. ROSE: Instead of going back and
8 forth. You have to turn it on.

9 MS. BENNETT: Turn it on. Turn it on.

10 BROTHER MORANT: If I speak fast, I
11 should be able to get this done in a few seconds.

12 Okay, this is our property. This is the
13 alleyway. We're the only property who has access to
14 the alleyway off. Right here, which alleyway turns
15 down, is our driveway. Coming up to our driveway,
16 we have five parking spaces in there and we have
17 over half-a-acre of level ground which we'll leave
18 as lawn for the moment for children for stretch air.
19 If we choose to use it as parking later, we will.
20 But at the present moment, it is not a necessity.
21 We want to leave it for the beautification of the
22 neighborhood and we try not to change anything.

23 But eventually, the egress here, all the
24 way down, is eight feet and that's our property. It
25 has already been used as parking by the previous
26 owners and is used for parking now by us.

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1 MS. BENNETT: Okay. So, but let me just
2 say this. You must provide at least four parking
3 spaces according to the code.

4 BROTHER MORANT: I'll show you. I'll
5 show you.

6 CHAIRPERSON REID: Well, that's actually
7 13.

8 MS. BENNETT: Actually, 13.

9 CHAIRPERSON REID: Oh, sorry. I know
10 we're making you rush but we want to retain a quorum
11 so we can actually do justice by this case today.

12 BROTHER MORANT: Okay.

13 MS. GARRETT: We do have those spaces.
14 We just have a little hard time explaining.

15 BROTHER MORANT: I don't know if you can
16 see the whole end of the picture.

17 CHAIRPERSON REID: You can bring it up
18 here.

19 BROTHER MORANT: Okay. The pictures in
20 the lower end is showing you where the egresses are.
21 This is up in the driveway there. You can see if
22 you go around the corner, we have five or six
23 parking spaces there where my car parks and of
24 course, a van. Our church van is parked farther in.
25 And the fenced in area that we talked about, you'll
26 see -- if you can look beyond my car, you'll see the

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1 fenced in area.

2 CHAIRPERSON REID: Yes.

3 BROTHER MORANT: That new fence there.

4 -- church van park. If you look around the corner -

5 -

6 MS. BENNETT: So, how many parking

7 spaces do you have back here?

8 BROTHER MORANT: Five. Five. Five is

9 there right now.

10 MS. BENNETT: All right.

11 And you're saying you also use --

12 BROTHER MORANT: Yes, egress.

13 CHAIRPERSON REID: Off street.

14 MS. BENNETT: -- this as parking as

15 well?

16 BROTHER MORANT: Yes, ma'am.

17 And these are the rooms. You can see

18 I've got five rooms up there. There are 16 feet by

19 30 feet wide. The pictures are showing it to the

20 front view, one looking face and the other the other

21 way.

22 MS. BENNETT: All right, thank you.

23 CHAIRPERSON REID: All right. The

24 government reports that we have already in the file

25 is one from DPW. Where, I think you had already

26 part of that into the record --

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1 MS. BENNETT: Yes.

2 CHAIRPERSON REID: -- in which they are
3 in support of this application, or they're
4 recommending approval of this application. I see no
5 objection to it.

6 MS. BENNETT: And the Service Facility
7 Regulation Administration, we do have the pre-
8 inspection.

9 CHAIRPERSON REID: Service Facility
10 Administration, the pre-inspection report has been
11 submitted to the file. We don't have a report from
12 OP, or do we?

13 MS. BENNETT: No, we don't.

14 CHAIRPERSON REID: Okay. The ANC --
15 have you all talked to the ANC?

16 MS. GARRETT: We have talked to the ANC.
17 Our particular ANC has not been able to convene
18 according to Mr. Vinnie Taylor because there are, I
19 think maybe three vacancies.

20 CHAIRPERSON REID: Okay.

21 MS. GARRETT: And so, in lieu of that,
22 we have talked to our block people and that's why
23 Ms. Milli Edwards is here today to express their
24 support of what we're doing.

25 CHAIRPERSON REID: Okay.

26 MS. GARRETT: We have talked to our ANC

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1 though, our -- person.

2 CHAIRPERSON REID: You have talked to
3 the ANC and as far as you know, there was no
4 objection?

5 MS. GARRETT: There have been no
6 objections voiced to us, and there have been no
7 objections -- we have nothing in our file that says
8 that the ANC objects.

9 CHAIRPERSON REID: Thank you.

10 MS. BENNETT: We also have in the file,
11 Madam Chair, a letter dated February 21st from the
12 Lamond Riggs Citizens Association. They have
13 written in support of Application 16322.

14 CHAIRPERSON REID: Okay. And that would
15 be parties or persons in support.

16 As far as persons in opposition?

17 Closing remarks, sir? Mrs. Garrett?
18 Either one of you.

19 MS. GARRETT: We're just hoping that you
20 find favorably for this. We've worked very hard at
21 it. One of the things that we found in this
22 neighborhood is that people say "people come and
23 go." We don't intend to come and go. We intend to
24 stay there, put our money there. The first baby
25 that we take in, I intend to see that that child is
26 educated in one of our colleges.

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1 CHAIRPERSON REID: Excuse me. Would you
2 like to have your big decision, summary order today?
3 Would you like to have us --

4 MS. BENNETT: Would you like us to make
5 a decision today?

6 MS. GARRETT: Yes, I would like for you
7 to make a decision today so I can go start buying
8 furniture.

9 CHAIRPERSON REID: Okay.

10 MS. BENNETT: Madam Chair, I move
11 approval of Application 16322.

12 CHAIRPERSON REID: I second it.

13 MS. BENNETT: That would allow for 59
14 children from infant to five years, approximately 10
15 infants from infant to two years, and 49 others from
16 two to five years, 11 staff members. There's a
17 provision for 13 parking spaces. The hours of
18 operation would be from 6:00 a.m. to 7:00 p.m.,
19 Monday through Friday. All of the regulations by
20 DCRA for the running of child development centers
21 must be adhered to. And I can't think of any other
22 --

23 CHAIRPERSON REID: As long as they
24 comply with Section 205, the child development
25 center.

26 MS. BENNETT: That's right.

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1 CHAIRPERSON REID: And what about the
2 term? How many years would you like to --

3 MS. BENNETT: Because of the location
4 and what seems to be support from the neighbors --
5 and it's not really cheek by jowl up against other
6 abutting properties in a way that would cause major
7 adverse impacts, I would recommend a ten year space
8 of time. Then they could come back to us. It
9 doesn't sound like there's a lot of potential for
10 adverse impacts in my judgment. We would have heard
11 from our neighbors if that were so.

12 CHAIRPERSON REID: Okay. All right.
13 All in favor say aye?

14 ALL: Aye.

15 CHAIRPERSON REID: Opposed?

16 MS. ROSE: The staff will record the
17 vote as 3 to zero with Ms. Bennett, Ms. Reid and Ms.
18 Hinton to grant. Ms. Richards not present and not
19 voting. That's the summary order with conditions as
20 indicated?

21 CHAIRPERSON REID: Yes, it is.

22 MS. BENNETT: Yes.

23 CHAIRPERSON REID: Mrs. Garrett, you
24 should have your order within about two weeks.

25 MS. GARRETT: Thank you so much and God
26 bless you. Thank you so much.

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1 CHAIRPERSON REID: Very well, thank you.
2 This meeting is now adjourned.
3 (Whereupon, the hearing was recessed at
4 12:08 to reconvene this same day.)
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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (2:06 p.m.)

3 CHAIRPERSON REID: Good afternoon,
4 ladies and gentlemen. I am Sheila Cross Reid,
5 Chairperson of the Board of Zoning Adjustment for
6 the District of Columbia.

7 Joining me today are Maybelle Bennett
8 and Laura Richards. Copies of today's agenda are
9 available to you on the table at the rear of the
10 hearing room. There is to be no smoking, eating or
11 drinking in the hearing room.

12 All persons planning to testify either
13 in support or in opposition are to fill out two
14 witness cards. These cards are located on each end
15 of the witness tables. Upon coming forward to speak
16 to the Board, please give both cards to the reporter
17 who is sitting to my right. Notice of today's
18 hearing was given by posting the subject property,
19 publication in the D.C. Register, and varied other
20 means.

21 The order of procedure for special
22 exception and variance cases will proceed as
23 follows: (1) Preliminary matters; (2) Statement
24 and witnesses of the applicant; (3) Government
25 reports, including the Office of Planning,
26 Department of Public Works, or others; (4) The

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1 Advisory Neighborhood Commissions; (5) Parties and
2 persons in support; (6) Parties and persons in
3 opposition; (7) Closing remarks by the applicant.
4 Cross examination of witnesses is only permitted for
5 parties in the case.

6 The Board will adhere to the schedule as
7 strictly as possible. Those presenting testimony
8 should be brief and non-repetitive. If you have a
9 prepared statement, you should give copies to staff
10 and orally summarize the highlights. Please give us
11 your statement before summarizing.

12 The Board will be closed at the
13 conclusion of each case except for any materials
14 specifically requested by the Board. The staff will
15 specify at the end of the hearing, exactly what is
16 expected. The decision of the Board in these
17 contested cases must be based exclusively in the
18 public record. To avoid any appearance to the
19 contrary, the Board requests that persons present
20 not engage the members of the Board in conversation.

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

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1 you are not prepared to proceed, now is the time to
2 raise such a matter.

3 Does the staff have any preliminary
4 matters?

5 MS. ROSE: No, Madam Chair.

6 CHAIRPERSON REID: Does anyone here have
7 any preliminary matters?

8 MR. MLOTEK: Thank you, Madam Chair.
9 May it please this Honorable Board, I am Ronald
10 Mlotek. To distinguish the two personas which I
11 wore today, having appeared before this Board
12 earlier this morning on behalf of the United States
13 Government, the Department of State, I am here in my
14 private capacity as a citizen and a homeowner. I am
15 on annual leave from the government.

16 The preliminary matter which I would
17 like to place before the Board concerns the case of
18 the Corcoran School of Art, whose case number is
19 16326. That is our primary preliminary matter.
20 Secondarily, there is a matter of my request to
21 receive recognition as a party. I don't know if
22 that request is considered a preliminary matter or
23 whether we will address it --

24 CHAIRPERSON REID: When the case is
25 called, we will then address that.

26 MR. MLOTEK: When the case is called,

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1 okay. All right, then I'll confine myself to the
2 question of notice.

3 Briefly stated, Honorable Members, I
4 believe -- and I'm supported in this belief by many
5 of my fellow property owners who are with me here
6 today -- that notice in this case was very seriously
7 defective. The case was advertised both in terms of
8 the letter which we received, the property owners
9 within 200 feet, as well as the posted signs on the
10 property, as well as the notice that was given to
11 our Advisory Neighborhood Commission, as a case
12 having to do with the use of property.

13 In fact, a very substantial part of this
14 case has to do with a significant -- in fact, more
15 than doubling in size -- of the parking lot that
16 would serve this facility. This parking lot issue
17 is an integral part of the overall issue of use
18 Since the representations have been made to me and
19 my general understanding is that this whole proposed
20 use of putting a Corcoran School of Art in a former
21 DC public elementary school, Filmore School, would
22 not be feasible if we didn't have parking there for
23 the people. In other words, or that the people
24 would then end up parking on the street and being an
25 impediment, an infringement to the neighbors in that
26 way.

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1 So, the whole issue of how many parking
2 spaces and how they intend to develop and build this
3 parking lot is --

4 CHAIRPERSON REID: Excuse me, but right
5 now, we're just addressing the issue of notice.

6 MR. MLOTEK: That's right. But I'm
7 trying to point out that the issue which was not
8 noticed, i.e., anything having to do with this
9 parking lot, is integral to the part of the case
10 that was noticed, i.e., the use.

11 In the zoning pre-hearing submission
12 which was submitted by the applicant's counsel and
13 was filed here only on March 3rd or 4th, I believe,
14 there is an exhibit, Exhibit E, which shows a very
15 large parking lot to be developed. An architect has
16 been retained, a prominent architect, to do this
17 building of the parking lot. But none of that was
18 noticed. Therefore, those of us in the community
19 who have direct property, residential property
20 interests in what goes on on that side had no idea
21 before a few days ago that, in fact, this was what
22 was going to be proposed and made a part of the
23 proceeding here today.

24 MS. BENNETT: Madam Chair, before you go
25 on -- and I'm saying this in a way that I hope staff
26 is listening to. Usually when we hear a case and

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1 we're talking about a subject of use, use would
2 apply to all facets, as I understand it, of the
3 case. So that you're talking about the use of a
4 facility and all of the accessory things that go
5 along with it, the parking that is going to be
6 accommodating that use, which is an accessory use.
7 It is still a part of the use. I don't know that we
8 generally separately notice that. It is implied in
9 the terms that were already advertised, as I
10 understand it. That's the way I would have accepted
11 it.

12 MR. MLOTEK: Well, with all due respect,
13 Ms. Bennett, my understanding, having practiced
14 before the Board in many other cases, the Embassy
15 cases, they always are viewed as separate matters.
16 In other words, the question of whether a chancery -
17 - in the cases that I have handled -- should be
18 allowed to locate in an area, question of location -
19 - and that's what we understood was being noticed in
20 this present Corcoran case -- is totally separate
21 from the question of construction.

22 In other words, if a chancery wants to
23 move into a building where they require BZA
24 permission, and in addition to that wants to build
25 an addition to that building, or even if they want
26 to put up a flagpole in front of that building which

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1 needs to be sometimes referred to HPRB, that has to
2 be separately noticed. I have seen serious notice
3 questions raised in such cases where that other part
4 was not. So, with due respect, Ms. Bennett, I would
5 have to take exception and to say that use in zoning
6 law is a very specific term of art. It means
7 whether that specific occupant or activity, or
8 course of conduct should be allowed to be carried
9 out in that specific location, in that specific
10 zoning classification area in that neighborhood.

11 Now, if they want to go beyond that and
12 do construction, expand, or as in this case, double
13 the size of the parking lot, rip out an entire large
14 green space area and asphalt it over, I don't think
15 any reasonable person could comprehend that that
16 last thing I mentioned is encompassed within the use
17 -- as they emphasize in the zoning notices that they
18 sent out and posted "use of an existing facility,
19 use of an existing premises." The clear implication
20 to everyone who saw that -- and you can also listen
21 to the views of my other property owners who are
22 here who may wish to also come forward and raise
23 preliminary matters as well. I'm not representing
24 them. I want to make that clear. I'm not their
25 attorney. Any reasonable person looking at that
26 phraseology, "use of an existing premises," to wit a

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1 DC public school for now a new school, a school of
2 art, nobody would think that that also meant a very
3 substantial sort of construction activity as well.

4 MS. RICHARDS: Madam Chairperson, I'd
5 just love to hear from counsel for the other side on
6 this issue. I think it's adequately covered here.

7 Oh, are you also arguing the notice
8 issue?

9 MS. BYRD: Yes, ma'am. I would just
10 like to make one statement.

11 My name is Westy Byrd and I'm an
12 Advisory Neighborhood Commissioner. In fact, I'm
13 the one who made the motion at the ANC to, in fact,
14 support this application. I would like to say
15 several things.

16 One, that the notice that the ANC
17 received is what was in the D.C. Register which is
18 the use of the property, the building. Secondly, at
19 the meeting, the applicant stated to me under
20 questioning "are you doing anything to the
21 exterior?" The answer was "no." Third, I realize
22 that a certain number of parking spaces would go
23 along with this use, but the question is how many
24 parking spaces are required for this sized building?
25 Above and beyond that, parking lots are not allowed
26 as a matter of right in an R-3 zone.

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1 If, in fact, you're going above and
2 beyond the number of parking spaces for that
3 building, it seems to me that would be a separate
4 category on the notice. That you are changing land
5 into a parking lot on R-3 zone land. Thank you.

6 CHAIRPERSON REID: There's a request to
7 hear from the counsel from the other side.

8 So, would you, please? Are you he, sir?

9 MR. THRASHER: I will be saying a few
10 words more that are consistent with what -- same
11 issue. So should we do that before counsel?

12 CHAIRPERSON REID: Okay. This is still
13 preliminary.

14 MR. THRASHER: Thank you.

15 My name is Mike Thrasher. I live in the
16 block of houses, the row of houses that is just
17 south of the Filmore property.

18 When we saw the notice originally, my
19 wife and I -- and I'm only representing myself here
20 -- that the Corcoran wanted to use the Filmore
21 School, it looked like just the Filmore School as a
22 school for art. We thought it was a good idea and
23 we would have supported them.

24 On Monday, we found, almost by accident,
25 that in fact, they not only were going to use the
26 school, they were going to pave over all the green

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1 space, and they were going to cut a hole and have an
2 exit for traffic into the alley that runs behind our
3 house. In other words, they were going to turn that
4 into a street.

5 Under those circumstances, we personally
6 would be opposed to any variance for the Corcoran on
7 that basis. On the other hand, we can't speak,
8 obviously, for the whole community. That's not our
9 role. We don't know what other people think for
10 sure.

11 It seems to me that the best
12 way to approach this problem would be to, in effect,
13 let this be aired out by the community at the ANC.
14 That's the proper forum to get the community's
15 views. If the community as a whole thinks that's a
16 good idea, so be it. But we really haven't gotten
17 the community's views on that particular aspect of
18 what they plan to do. It just strikes me that
19 that's a better way to do it. I mean, if everybody
20 else in the community thinks it's a good idea,
21 that's fine by me but I'm not sure everybody does.
22 I certainly don't.

23 So, that strikes me as the proper forum
24 to get this kind of thing to the public, get their
25 views on the record. We didn't have any notice of
26 it. It was never mentioned at any of the ANC
meetings that this was a part of the plan. So,

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1 let's get it noticed at the ANC level. Let's get it
2 talked out there and let's see what happens.

3 Thank you.

4 CHAIRPERSON REID: Okay, thank you.

5 MS. BENNETT: Let's hear from the
6 counsel from the other side.

7 MR. EASTRIDGE: I'm representing myself.

8 CHAIRPERSON REID: Is this still
9 preliminary matters?

10 MR. EASTRIDGE: Yes.

11 CHAIRPERSON REID: Okay.

12 MS. BENNETT: But you know, my concern
13 is, do we need to hear from everyone? If you would
14 like to associate you with the concern that there's
15 not enough notice, then we can note that and we can
16 hear the response to that.

17 CHAIRPERSON REID: You're concurring
18 with what's already been said?

19 MR. EASTRIDGE: Fine.

20 Two other matters that were not
21 mentioned previously which I think should be
22 considered.

23 My name is Bert Eastridge. I live at
24 1722 34th Street, the lower property, the third
25 from that alley where the Filmore playground abuts.

26 That alley has been in existence since

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1 that property was developed back in 1924. We just
2 learned that Filmore -- I don't know whether the
3 successor -- is going to close that alley, without a
4 hearing, by moving their property line over about
5 five-and-a-half feet. The only way they can make an
6 exit out of that is to fence in part of the alley
7 there to reduce its size to ten feet, which is
8 inadequate for a trash truck or any other truck to
9 get through. We didn't know until a few moments ago
10 -- rather, yesterday -- that last week, the
11 Department of Waste Management down there sent a
12 test crew over there to try to back a trash truck
13 into that alley and couldn't do it without
14 trespassing on the corner five feet of the private
15 property in there before they could succeed in
16 turning. That was after the seventh time of trying.

17 Now they're trying to convert a public
18 alley, trying to close part of it and leave part of
19 it open to use as a private exit for traffic from
20 that parking lot. We had no notice of this, not one
21 inkling of it. No one said a word about it. We
22 haven't had anyone to come around there. It wasn't
23 mentioned at any of the ANC meetings. I don't know
24 whether it was mentioned here or not, but it is
25 certainly in the works. We oppose it strenuously
26 because we had no notice of it and no one has even

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1 brought up the issue of it.

2 MS. RICHARDS: Okay. Did you have one
3 other matter that you said had not been noticed?
4 There's the parking lot allegedly not noticed, the
5 alley closing allegedly not noticed. You said you
6 had one other matter allegedly not noticed.

7 MR. EASTRIDGE: All right. The other
8 matter is they have an alley -- I believe they have
9 a two year lease on that alley, or use of it, and
10 then at the end of it, they have it. There is
11 plenty of space to cut an entrance into there across
12 that street. Now I understand their hesitancy of it
13 because it is an historic area. For my money,
14 Filmore, the building there, is an historic
15 building. It should be treated as such. This is a
16 residential area. This is a commercial venture. It
17 is not private. It is not public.

18 CHAIRPERSON REID: Thank you, sir.

19 MS. BENNETT: Let's hear from the other
20 counsel.

21 CHAIRPERSON REID: Is the counsel for
22 the applicant in this case present? If so, would
23 you please come forward?

24 Oh, okay, Chris Collins, and let us know
25 what your response to these statements would be.

26 MR. COLLINS: Madam Chairman, members of

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1 the Board, my name is Christopher Collins with
2 Wilkes, Artis, Hedrick and Lane. Let me simply
3 respond to the issues as they were raised.

4 First of all, the issue of notice. Mr.
5 Mlotek mentioned chanceries having to have flagpoles
6 noticed and other things. This is not a chancery
7 case, and I'd also take issue with the notice issues
8 that were raised. Every use in the city, as Ms.
9 Bennett was alluding to, even a single family
10 detached dwelling requires parking. If you were to
11 build a house and needed some relief here, you
12 wouldn't say "house with parking" or "store with
13 parking" or "office building with parking" unless
14 you needed a variance from the parking for some
15 reason.

16 Here, there's no variance required for
17 the parking. This is a private school use. There's
18 a written requirement in Chapter 21 of the
19 regulations and we simply have to meet that parking
20 requirement. There's an existing lot. More than
21 half of the area for parking is already paved and it
22 has been used for parking. We're just going to
23 continue the parking on that portion and pave an
24 additional area for parking as well. But that
25 paving will not happen for at least two years, which
26 you will hear about during the course of the

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1 hearing.

2 Let me just check my notes on the other
3 issues that were raised.

4 There was an issue here about providing
5 more parking than necessary and somehow, that throws
6 you into another zoning issue, whether you provide
7 more than the minimum. Is the minimum number of
8 parking the maximum you can provide? Interestingly,
9 or coincidentally, that case was answered by the DC
10 Court of Appeals in a case where someone challenged
11 the Corcoran Gallery of Art when they proposed to
12 build an office building at 17th and New York. That
13 building never went forward. But one of the issues
14 in that case that was alleged by a neighbor in
15 opposition was that the parking garage in that
16 building was providing more than the minimum number
17 of spaces and therefore, they needed some other kind
18 of zoning relief. The Zoning Administrator
19 disagreed with that position. This Board disagreed
20 with that position and the Court of Appeals
21 disagreed with that position. So, this issue of the
22 minimum number of required is the maximum number you
23 shall provide has been answered by the Court of
24 Appeals.

25 Thirdly, all notices have been given in
26 this case, the notices in advance. The statement of

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1 the applicant was filed here two weeks in advance.
2 Documents have filed into the record here indicating
3 what the proposed use is, including the parking. I
4 did speak with Mr. Thrasher and with his wife,
5 actually, earlier than that. We've been trying to
6 be forthcoming answering questions as they arise and
7 we've tried to accommodate the issues and concerns.
8 I think you'll hear more. My witnesses are not here
9 right now. You'll hear more from Mr. Levy, David
10 Levy, who is the president and director of the
11 Corcoran who had dialogue with the neighbors on
12 several occasions on this issue and other issues as
13 well.

14 This issue of an alley closing, there's
15 no alley closing happening here. There is no
16 enclosure of the alley for the private benefit of
17 the Corcoran here. There's a 15 foot alley that
18 abuts the property on the south. Part of the
19 proposal is after two years when this second phase
20 of the parking lot is paved, to put an opening from
21 the parking lot into the public alley to allow cars
22 to get out to the street. We're talking about a
23 distance of maybe 30 feet from the street to this
24 opening. The cars will not be going behind the
25 houses, will not be going around inside the square
26 in the neighborhood. It's simply a way to let cars

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1 come out to the street.

2 The issue of a curb cut has been raised
3 as a possible alternative. This is a historic
4 district as was mentioned by the last witness and
5 curb cuts are frowned upon in historic districts.
6 Certainly, a number of these people who are active
7 in the ANC know that very well. Mr. Levy will
8 address that issue. I don't want to speak for him
9 on that particular issue at this point, but during
10 the hearing we're going to address the alternative
11 possibility of using a curb cut rather than using
12 the public alley.

13 But I do believe that the Corcoran has
14 the same right as anyone else to use a public alley.
15 It's a public thoroughfare. There's no closure of
16 that alley happening. There's no movement of a
17 property line to encompass the public alley in this
18 case. So, with that, I do believe that these
19 questions of notice would not indicate that this
20 case should be postponed. I think all people who
21 are interested are. I think this can go forward and
22 I think these issues can be developed as the case
23 moves forward.

24 Thank you.

25 CHAIRPERSON REID: Okay, thank you.

26 MS. BENNETT: Thank you, Mr. Collins.

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1 MR. MLOTEK: Can I request one minute of
2 rebuttal?

3 MS. RICHARDS: All right, one minute.

4 MR. MLOTEK: All right. I want to
5 strenuously take issue with what my friend Mr.
6 Collins said.

7 The zoning regulations require only 29
8 spaces. There are 50 there already. This is a
9 special exception case in which the Board is duty
10 bound to consider very, very carefully any sort of
11 impediment to the community, any sort of
12 infringement of the residential community's interest
13 and character there.

14 MS. BENNETT: Which will come out in
15 testimony, right?

16 MR. MLOTEK: I understand. I'm not
17 trying to argue that here. I understand the
18 difference between the substantive and the
19 procedural aspect.

20 All I'm pointing out is that if the
21 essence of this case, which they have the burden of
22 proving, is the interests and welfare of the
23 residential community into which they want to inject
24 themselves, it goes to the very essence of this case
25 that the community have an informed and reasonable
26 opportunity to appear and to participate here today.

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1 We can not do so. We only found out about this 104
2 car parking -- 29 are required.

3 It is absolutely not appropriate at all
4 or apposite in any way, shape or form to argue that
5 104 cars -- that's expanding, ripping out green
6 space and putting in parking for 104 cars where only
7 29 is required by the use -- is equivalent to giving
8 notice of what you're doing by announcing your use.
9 It just isn't. So, it is our position and we'd like
10 to preserve it for the record for potential appeal.
11 We'd like to preserve it, that we are being deprived
12 here of due process and of the right to participate
13 in an informed way, as a community.

14 In addition, you heard one of the ANC
15 Commissioners there, who introduced the resolution
16 and support say that she did not understand at the
17 time this was presented to the ANC. So, even the
18 ANC's participation in this case is not informed, I
19 would argue. So, this matter should be postponed.
20 Thank you.

21 DIRECTOR DOBBINS: Thank you.

22 CHAIRPERSON REID: Madam Director?

23 DIRECTOR DOBBINS: Madam Chair, members
24 of the Board, the Board is only required to give
25 notice as it relates to the zoning relief that's
26 required before the Board. The only zoning relief

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1 that's required before the Board at this point is,
2 in fact, the special exception. Within the context
3 of the special exception, the Board will make some
4 determination about whether this increased number of
5 spaces will have an adverse impact on the community
6 and that would be dealt with in testimony.

7 CHAIRPERSON REID: Okay.

8 DIRECTOR DOBBINS: The witnesses are
9 here. Notice was given as required by the Board's
10 regulations, and there's an opportunity for people
11 to be heard and present testimony and ask questions.
12 If the Board determines at the end of that that the
13 case has not been developed fully enough for the
14 Board to make a decision, then the Board can
15 determine what it will do at that time.

16 CHAIRPERSON REID: I would agree with
17 that.

18 MS. BENNETT: Then we will go forward?

19 MS. RICHARDS: Just for the record, is
20 this going forward as a private school or a trade
21 school?

22 MR. COLLINS: Private school.

23 CHAIRPERSON REID: It's a private
24 school.

25 MR. COLLINS: They have a certificate of
26 occupancy as a private school.

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1 CHAIRPERSON REID: Okay. Based on
2 information before us, it seems to be the consensus
3 of the Board to go forward with this case.

4 Madam Secretary, could you call the
5 first case, please, of the afternoon?

6 MS. ROSE: Yes, Madam Chair.

7 The first case for the afternoon is
8 16323 of Gary and Brenda Nordlinger, pursuant to 11
9 DCMR 3107.2 for a variance from the minimum rear
10 yard requirements of Subsection 404.1 for an
11 addition to an existing single-family dwelling in an
12 R-1-B District at premises 2302 Chain Bridge Road,
13 NW, Square 1413, Lot 80.

14 Would all persons planning to testify in
15 this application please rise to take the oath?
16 Whereupon,

17 ROBERT WILKOFF

18 BRENDA NORDLINGER

19 were called as witnesses, and having been first duly
20 sworn, were examined and testified as follows:

21 CHAIRPERSON REID: We've not had any
22 requests for party status in this case, so we'll go
23 ahead and move forward.

24 Sir, you can begin.

25 MR. WILKOFF: I'm having trouble hearing
26 you. I'm sorry?

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1 CHAIRPERSON REID: I said we have not
2 received any requests for party status for this
3 case, so we will now begin with your testimony.

4 MR. WILKOFF: Thank you.

5 MS. NORDLINGER: We thank you for the
6 opportunity to appear before you and plead our case
7 for this exception.

8 We proceeded in what we thought was the
9 proper manner --

10 DIRECTOR DOBBINS: Madam, you need to
11 give your name and address.

12 MS. NORDLINGER: Sorry.

13 DIRECTOR DOBBINS: That's okay.

14 MS. BENNETT: We know who you are, but
15 the machine doesn't know who you are.

16 MS. NORDLINGER: I understand.

17 I'm Brenda Russell Nordlinger, at 2302
18 Chain Bridge Road NW, DC 20016. We've resided in
19 that house since 1984. With me is our architect.

20 MR. WILKOFF: My name is Robert Wilkoff.
21 I'm with Arkeon Architects at 7503 MacArthur
22 Boulevard in Cabin John, Maryland.

23 MS. NORDLINGER: It might make more
24 sense for Mr. Wilkoff, since he has dealt with the
25 actual permits and everything, to go ahead and
26 address that first.

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1 We also have some other materials for
2 the record if you need any additional documentation.
3 We have letters from both neighbors also.

4 MR. WILKOFF: Should we bring this up at
5 this time?

6 MS. BENNETT: Is that something we
7 already have in the record?

8 CHAIRPERSON REID: What is it that
9 you're submitting?

10 MR. WILKOFF: It's copies of the civil
11 engineering plats, the building permit and the
12 letters from the adjacent neighbors. We assume that
13 you got copies of the recommendations from the BZA.
14 We never received a copy, but we assume that you
15 did.

16 MS. BENNETT: The BZA or the ANC?

17 MR. WILKOFF: I'm sorry, the ANC. I'm
18 sorry.

19 MS. BENNETT: We are the BZA.

20 CHAIRPERSON REID: Has it already been
21 submitted, most of it? It was supposed to be in two
22 weeks ago. Has it already been submitted?

23 MS. NORDLINGER: I think we thought
24 everything that went to the ANC would be sent over
25 to the zoning board.

26 MR. WILKOFF: It's the same thing they

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1 had.

2 MS. NORDLINGER: The stuff from the ANC
3 does not come to the --

4 MS. BENNETT: No, we do not have that.

5 MS. NORDLINGER: You have nothing from
6 the ANC because they said they were going to write a
7 letter of recommendation.

8 CHAIRPERSON REID: Okay, we'll waive the
9 rules and allow you to submit the information that
10 you have. Do you have copies for everyone?

11 MR. WILKOFF: Yes.

12 If I could just give you a real brief
13 scenario of what's happened here --

14 MS. BENNETT: Please.

15 CHAIRPERSON REID: Yes, that would be
16 great.

17 MR. WILKOFF: -- it might be helpful.

18 Just about two years ago, Mr. and Mrs.
19 Nordlinger were away on vacation and while they were
20 gone, there was an accident on the upper level of
21 the house. One of the toilets failed and cascaded
22 water down through the house for approximately two
23 weeks, virtually destroying the interior of the
24 house.

25 MS. BENNETT: Two weeks?

26 MR. WILKOFF: Yes. It did a significant

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1 amount of damage. By the time they got home and saw
2 it, there was mold and mildew just cascading down
3 throughout the entire house. So, they had to vacate
4 the house. It was not liveable.

5 At the time that they needed to have
6 this reconstructive work done, they also undertook
7 to expand the house rearward. We received two
8 copies of plats. One plat that had been done
9 originally when the property was developed and
10 another plat that they had done when they purchased
11 the property in 1984, record house location plats.
12 We used that information, designed the addition,
13 filed for a building permit, received a building
14 permit based on that information, got construction
15 bids and started construction on the project.

16 At the time that the general contractor
17 called for a wall check as required by DC
18 permitting, they were backlogged by about four
19 weeks. About four weeks down the road, they called
20 again and the DC Inspections Office gave them a list
21 of acceptable outside surveyors to come and look at
22 the property. A surveyor was called out. It was
23 Maddox & Associates. They came out. They did a
24 survey of the property and the survey that they did
25 varied from the ones that we had worked with
26 originally.

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1 At this point, we're still not sure
2 which one is correct, but the most recent one
3 indicates that the rear corner of the addition is
4 over the property line by about two feet, eight
5 inches. I'm sorry, the setback -- setback
6 requirement.

7 MS. BENNETT: Now, is it over the
8 property line?

9 MR. WILKOFF: No, no, no, no.

10 MS. BENNETT: Neither one of these looks
11 like it's over the property line.

12 MR. WILKOFF: No, no. It's a
13 complicated project because of the unusual angle at
14 the rear of the yard. It's not a straight rear
15 line.

16 MS. RICHARDS: Plus, there's nothing
17 behind the house except woods.

18 MS. BENNETT: Yes, we saw the pictures.

19 MR. WILKOFF: It's the old Elroy Chalk
20 property, the railroad track property.

21 Therefore, when they came out they put a
22 stop work order on the project. We went through
23 about two-and-a-half months of trying to get that
24 restored. We got a temporary approval to continue
25 with the construction project pending the Board's
26 review. We went through our neighborhood hearing, I

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1 guess just about a month ago, and now we're here to
2 review this very unusual situation with you and ask
3 for your consideration.

4 MS. RICHARDS: Less unusual than you
5 might think.

6 MR. WILKOFF: Really?

7 CHAIRPERSON REID: That's true. That is
8 true.

9 MS. NORDLINGER: I guess the biggest
10 point we'd like to make is that we were really
11 functioning in good faith, believed that we were
12 operating appropriately with the permits and doing
13 everything right. Construction was already up and
14 it has caused great hardship. It's been more than
15 18 months since I've been able to live in my home,
16 at great expense for another, you know, duplicate
17 living costs and additional construction costs. I
18 can't tell you how much I am hoping to be able to go
19 back home, soon.

20 MS. BENNETT: Madam Chair, what is being
21 requested here is a variance from Section 404.1, the
22 minimum yard setback, which is an area variance.
23 According to the administrator's office, there is a
24 27 percent, or a 6.75 foot variance needed.

25 As you know, there's a three-pronged
26 test for area variances. The first is that there

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1 has to be something exceptional or unique about the
2 property. The second is that there can not be any
3 adverse impact on your neighbors. The third is that
4 you can not be impairing the integrity of the zone
5 plan. It looks as though one of the practical
6 difficulties you face and this uniqueness about the
7 land is that angle that you were talking about. It
8 is an irregularly shaped lot.

9 It appears from the submissions that you
10 have given us -- not to mention the other
11 exceptional circumstances, you know, that took place
12 that caused there to be a need for a great deal of
13 rebuilding and so on. You said you have submitted
14 to us some statements from your neighbors?

15 MR. WILKOFF: Yes.

16 MS. BENNETT: What I'm looking for --

17 MR. WILKOFF: There are only two
18 neighbors who are affected by the property on either
19 side.

20 MS. BENNETT: Okay. The Kreibles and --
21 Keith Kreible and Linda Wells.

22 MS. NORDLINGER: Keith Kreible and Linda
23 Wells are parallel. Their house is parallel to
24 ours, but it actually sits back a little more.

25 MR. WILKOFF: I'll let you have the
26 photographs as well, if that's --

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1 MS. BENNETT: Okay, hold on.

2 MS. NORDLINGER: They're the only ones

3 from sitting from their backyard, they'll be able to

4 see the extension on the back of the house. Our

5 other neighbor's house sits perpendicular to ours

6 and farther forward. So, I mean, you'd have to sort

7 of go to the back corner of their house and look

8 around to even be able to see the edge of the

9 addition on the back. No one else can even see it

10 from the street.

11 MS. BENNETT: Both of whom are

12 supportive of your plans.

13 MS. NORDLINGER: Both are supportive.

14 MS. BENNETT: So, there appears to be no

15 adverse impact.

16 CHAIRPERSON REID: And you've received

17 no other objections from neighbors otherwise

18 regarding this particular application when it was

19 posted?

20 MS. NORDLINGER: None.

21 CHAIRPERSON REID: Okay.

22 MS. NORDLINGER: Also, the ANC -- we had

23 anticipated there would be a supportive letter

24 because they were supportive of this. As a matter

25 of fact, they unanimously --

26 CHAIRPERSON REID: I did not see an ANC

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1 report.

2 MS. NORDLINGER: One of our neighbors
3 actually came and personally testified in addition
4 to submitting a letter.

5 CHAIRPERSON REID: Okay. The ANC did
6 not send a report in this particular case.

7 MS. RICHARDS: Which ANC is it?

8 CHAIRPERSON REID: ANC 3-D.

9 MS. RICHARDS: 3-D, okay. I think we
10 can go ahead.

11 CHAIRPERSON REID: Okay. All right.

12 Well, that being the case, let us move
13 now to reports from the government. I don't think
14 we had any.

15 MS. BENNETT: No reports from the
16 government?

17 CHAIRPERSON REID: No reports from the
18 government. The ANC is not present today, nor have
19 they submitted a report.

20 Parties and persons in support? Parties
21 and persons in opposition?

22 Closing remarks by the applicant.

23 MS. BENNETT: Do you have any closing
24 remarks? Would you like for us to dispose of this
25 right now, please?

26 MR. WILKOFF: The only closing remarks -

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1 - okay, we're finished.

2 CHAIRPERSON REID: All right.

3 MS. BENNETT: Madam Chair, I think these
4 applicants have made their case. It's pretty clear,
5 in my judgment anyway, the exceptional conditions
6 that faced them based on conditions of the land.
7 They do not have opposition in their neighborhood
8 about what they're doing. They do face on to what
9 looks like a wooded area in the pictures, anyway. I
10 do not believe that there is going to be any
11 impairment of the integrity of the zone plan.
12 Therefore, I would recommend that we approve
13 Application 16323.

14 MS. RICHARDS: I'll second.

15 CHAIRPERSON REID: All right. All in
16 favor?

17 ALL: Aye.

18 CHAIRPERSON REID: Opposed?

19 MS. ROSE: Who made the second?

20 MS. RICHARDS: I did.

21 MS. ROSE: Okay. Staff will record the
22 vote as 3 to zero with Ms. Bennett, Ms. Richards,
23 and Ms. Reid to grant the application. Ms. Hinton
24 not present and not voting.

25 MS. NORDLINGER: I would just like to
26 say thank you, thank you, thank you so very much.

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1 MR. WILKOFF: Yes, thank you very much.

2 MS. RICHARDS: We practice what we --

3 CHAIRPERSON REID: You should receive
4 your order in about two weeks.

5 MR. WILKOFF: Great, thank you.

6 MS. NORDLINGER: Thank you so much.

7 CHAIRPERSON REID: Okay, next?

8 MS. ROSE: The next application is 16324
9 of St. John's College High School, pursuant to 11
10 DCMR 3108.1, for a special exception under the
11 provisions of Section 206 to allow an addition to an
12 existing gymnasium of a private school in an R-1-A
13 District at premises 2607 Military Road, NW, Square
14 2308, Lots 804 through 807.

15 Would all persons planning to testify in
16 this application please rise to take the oath?
17 Whereupon,

18 PHIL FEOLA

19 THOMAS GERROW

20 RICHARD MULLINEAUX

21 ANNE RENSHAW

22 FRANK CARR

23 were called as witnesses, and having been first duly
24 sworn, were examined and testified as follows:

25 CHAIRPERSON REID: Okay, we don't have
26 any requests for party status in this particular

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1 case either.

2 So, you can go ahead and proceed, Mr.
3 Feola. Go ahead.

4 MR. FEOLA: Thank you, Madam
5 Chairperson.

6 For the record, my name is Phil Feola
7 with the law firm of Wilkes, Artis, Hedrick and
8 Lane.

9 We're here today on behalf of the St.
10 John's College High School which is located at 2607
11 Military Road, NW. With me today are Brother Thomas
12 Gerrow who is the president of St. John's and
13 Richard Mullineaux to his right, who is the school's
14 architect.

15 St. John's campus, for those of you who
16 don't know, is located on the north side of Military
17 Road, bounded on the west by 27th Street and Eutaw
18 Avenue as it comes into 27th Street, Oregon Avenue
19 on the east, and single family housing on the north.
20 The campus is 24 acres in area. It's entirely in
21 the R-1-A zone district and it is in an area that's
22 predominantly single family residential with a
23 generous swath of park land.

24 We're here today seeking a special
25 exception for an addition to this school. The
26 addition, as you'll hear in a few minutes, is to

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1 accommodate an existing student and faculty
2 population. As such, we do not believe it will have
3 an objectionable effect on adjoining or neighboring
4 properties because of noise, number of students,
5 traffic and the like. In addition, the school
6 provides on site now approximately twice as many
7 parking spaces as the zoning regulations require, so
8 we think that we will not have a negative impact
9 caused by parking off campus. Incidentally, the
10 property is designated on the comprehensive plan
11 land use maps as institutional in use which is
12 consistent with St. John's use.

13 With that, I'd like to introduce Brother
14 Thomas.

15 Could you state your name and address
16 for the record, please?

17 BROTHER GERROW: Yes, I'm Brother Thomas
18 Gerrow, the president of St. John's College High
19 School and I reside at the school on Military Road.

20 MS. BENNETT: Can you hold on just a
21 minute?

22 Can we establish who, if any, constitute
23 the opposition in this case? Is there any
24 opposition in this case?

25 MS. RICHARDS: Could you come forward,
26 please?

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1 MS. BENNETT: You needed to speak in the
2 mic. You couldn't speak from the rear.

3 MS. RENSHAW: I'm sorry. I'm sorry.

4 We are here representing Advisory
5 Neighborhood Commission 3-G in Chevy Chase, that has
6 jurisdiction in this case.

7 CHAIRPERSON REID: Are you in support or
8 opposition?

9 MS. RENSHAW: We have issued a statement
10 to the BZA that we are opposed unless there are two
11 conditions.

12 CHAIRPERSON REID: Yes, we have that.

13 MS. BENNETT: All right, we've got that.

14 CHAIRPERSON REID: Thank you.

15 MS. BENNETT: Thank you.

16 Let me ask staff before we go on, we
17 have copies of ANC 3-G's letter but we have page one
18 only, their concerns about the development of Lot 22
19 -- about their concerns about the use of the rear
20 access road. But then when you turn it over,
21 there's nothing. We need a second page.

22 MS. ROSE: Okay. We'll make sure that
23 you get it.

24 CHAIRPERSON REID: I have the second
25 page.

26 MS. BENNETT: I would like a copy of the

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1 second page.

2 MS. ROSE: We'll make sure that you get
3 that.

4 MS. BENNETT: Thank you.

5 MS. RICHARDS: Has there been any
6 resolution of these concerns since you issued this
7 letter?

8 MS. RENSHAW: We have not received
9 anything in writing.

10 MS. RICHARDS: Okay, then we'll go
11 forward. Thank you.

12 MS. BENNETT: All right, thank you.
13 You may proceed.

14 MR. FEOLA: Well, briefly for the Board,
15 tell the Board about the school and the need for
16 this project.

17 BROTHER GERROW: St. John's was founded
18 in the District of Columbia. We began here in 1851.
19 We've been in the District 477 years. The school
20 moved to several sites. In the 1800s we were for
21 years down on Vermont Avenue. In 1947, we purchased
22 the land on Military Road where it's presently
23 located. From 1949 until '59, the ninth grade was
24 held there until the new building was constructed in
25 1959 which is the present building. The gymnasium
26 in the back was built two years later.

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1 Since we've been on that campus, the
2 average enrollment was about 1,000 students. We
3 peaked, I guess, at 1,200 and had around 1,000
4 students. But in the early '90s, the enrollment
5 started to climb and the school, after 142 years or
6 whatever, went coed which has been extraordinarily
7 successful for us.

8 What we presently need is to be able to
9 add to our gymnasium and athletic facilities so that
10 we can provide equal facilities for the young women.
11 We're very proud this year, after only five years of
12 the girls' basketball team, St. John's won the city
13 title this year. In fact, was ranked number one in
14 the region in girls' basketball. But we're still
15 only able to have two girls' teams and we really
16 need, as I say, to be able to add to these
17 facilities to be able to expand that program for the
18 young women who have enrolled at the school.

19 MR. FEOLA: Brother Thomas, have you
20 read the ANC's letter to the Board?

21 BROTHER GERROW: I have read that letter
22 and -- yes, I have.

23 MR. FEOLA: There are three conditions
24 that the Commissioner and Board Member Richards
25 alluded to. The first was the preclusion of use of
26 the access road for anything except emergency

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1 vehicles. Does the school have a particular problem
2 with that restriction?

3 BROTHER GERROW: No, not at all. The
4 only other thing we would need, obviously, is to get
5 law mowers back there since there is no other way to
6 get there. So, some maintenance vehicles would have
7 to get there.

8 MR. FEOLA: The third condition was to
9 enter into an agreement with the ANC or a sports
10 designee for construction matters. Does the school
11 agree to do that?

12 BROTHER GERROW: Absolutely. No
13 problem.

14 MR. FEOLA: The middle condition which
15 I've saved for last is the ANC has asked that the
16 property immediately north of the access road, which
17 is Lot 22, be precluded from development. Would you
18 comment on that, please?

19 BROTHER GERROW: Well, we've only
20 purchased that lot I think around six months ago.
21 In fact, it was accidental. It just happened to be
22 an open piece of land which was for sale, which was
23 adjacent to our tennis courts. It is the smallest
24 buildable lot in that region and I was concerned
25 that a house could be constructed there, next to our
26 tennis courts, and we would end up with complaints

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1 which we've never had. At least in my four years
2 there as president, I've never had any complaints
3 about our students. So, we purchased that.

4 In the meantime, the committee planned
5 to expand the facilities with the co-education.
6 This gym addition came up, and that we needed to
7 have, due to safety regulations, an emergency access
8 to that. So, providentially, we were able to use
9 the driveway which is on that lot to be able to get
10 to the back of that. We never had any intention --
11 still have no intentions -- you know, of building on
12 that. And in point of fact, as I said, we were told
13 it is the smallest buildable lot that you can have
14 in that area. With that road on there, it would not
15 even be possible for us to construct a residence or
16 anything, you know, on that.

17 So, I have great hesitation in making a
18 commitment. St. John's has been here almost for 150
19 years and I just have a great hesitation of making a
20 commitment for something many, many years down the
21 road, you know -- someone perceiving the
22 circumstance. We just don't know what would happen,
23 so I would really hesitate to do that.

24 MS. RICHARDS: Would you be willing to
25 enter into an agreement for a term of nearness?

26 BROTHER GERROW: For a limited number of

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1 years, I would say yes.

2 MS. RICHARDS: Okay, thanks.

3 MR. FEOLA: And I'll point out to the
4 Board, which it obviously knows, is that any
5 construction on that lot which is not in the
6 application would require coming back to this Board
7 anyway.

8 One last question, Brother. Have you
9 had any discussions with the neighbors immediately
10 to the north, adjacent to that access road?

11 BROTHER GERROW: Well, actually, the
12 closest -- the buildings that are going up, it's
13 hard actually to see them from off the campus. But
14 the closest building is what was originally the
15 Buchanan house. It's own by Mr. and Mrs. Patrick
16 Ireland. A year ago, we began looking at this and
17 actually, I had Pat on the committee to involve him
18 in the design of that building. He's the closest
19 resident to that. So, I mean, I directly involved a
20 neighbor in the planning.

21 MS. BENNETT: And where do they live?
22 Where does he live?

23 BROTHER GERROW: Well, he lives --

24 MS. BENNETT: On Lot 23?

25 BROTHER GERROW: Lot 22.

26 MS. BENNETT: But you can not speak from

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1 there.

2 BROTHER GERROW: It's the lot behind the
3 lot we just bought, purchased.

4 MS. BENNETT: Okay. All right. That's
5 23, it looks like, on this. I'm looking at the
6 Sanborn map.

7 MR. FEOLA: That is correct.

8 MS. BENNETT: That's Lot 23?

9 MR. FEOLA: Ms. Bennett, it's Lot 23.

10 MS. BENNETT: Okay.

11 CHAIRPERSON REID: Okay.

12 Mr. Feola --

13 MR. FEOLA: Questions from the Board?

14 MS. BENNETT: I don't have any questions
15 at this juncture. Thank you. I've been slipping my
16 questions in a little at a time.

17 CHAIRPERSON REID: Ms. Richards?

18 MR. FEOLA: I'd next like to call Mr.
19 Richard Mullineaux.

20 MR. MULLINEAUX: My name is Richard
21 Mullineaux. I reside at 9371 Brink Road in
22 Gaithersburg, Maryland. I am one of the principals
23 of Dwayne, Kahill, Mullineaux and Mullineaux
24 Architects in Gaithersburg, Maryland.

25 MR. FEOLA: Madam Chair, I'd like to
26 introduce Mr. Mullineaux's resumé and ask that he be

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1 recognized as an expert.

2 CHAIRPERSON REID: Okay.

3 MR. FEOLA: While I'm going up there,
4 Mr. Mullineaux, are you registered in the District
5 of Columbia?

6 MR. MULLINEAUX: Yes. Yes, I am.

7 MR. FEOLA: Have you testified before
8 this Board as an expert before?

9 MR. MULLINEAUX: Yes, I have.

10 CHAIRPERSON REID: We'll look at his
11 resumé, but typically when someone is already an
12 expert witness, it has already been recognized by
13 this Board, then we would recognize you as such
14 today. Thank you.

15 MR. FEOLA: Mr. Mullineaux, would you
16 describe the project. You'll probably have to
17 describe the site a little bit for the Board.

18 MR. MULLINEAUX: Certainly. Can I speak
19 from here?

20 CHAIRPERSON REID: Yes, use the mic.
21 Just push the button.

22 MR. MULLINEAUX: This is the site plan
23 of St. John's College High School located along
24 Military Road, 27th Street on the west side and
25 Oregon Avenue on the east side with abutting
26 adjacent properties on the north side of the

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1 property.

2 As Brother indicated, the original
3 building was built in 1959, consisting of a two
4 story classroom wings, an auditorium, cafeteria with
5 second story library, as well as a brother's
6 residence. I believe two years later, the gymnasium
7 was built on this location on site. The gymnasium
8 building consists of a main gymnasium as well as
9 locker room and other ancillary supporting
10 facilities along the west side. In 1991, we
11 designed for St. John's, an addition to house the
12 new girls' locker facilities as St. John's went
13 coed.

14 The site is served by two entrances:
15 one entrance at what I consider the front of the
16 building off of 27th Street. At this point serving
17 a smaller parking area, as well as a service area
18 for the brother's residence. There's also a
19 circular drive at the front of the building. The
20 rear of the building is accessed from Oregon Avenue,
21 from this point at an entrance with a driveway to
22 the main parking lot which is located here. The
23 parking lot is currently screened from 27th Street
24 with a masonry wall along the property line.

25 The project consists of additions to the
26 gymnasium complex consisting of a practice gymnasium

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1 of around 7,000 square feet, as well as other
2 support facilities including team rooms, additional
3 team rooms for the gymnasium complex, a new weight
4 room, a new wrestling practice room, and one or two
5 offices as well as some minor storage. In addition
6 to that, we'll be doing some renovations as we
7 displace the existing men's toilet room and then
8 expand the new toilet facilities at this part in the
9 addition.

10 Also as part of the project is the
11 design of a new ticket booth and announcer's box, or
12 press box, located at this point on the site
13 alongside the driveway. This is an existing
14 sidewalk and entrance, gaining access to stairs down
15 to the existing football field.

16 The addition is a two story structure.
17 And at this point, we probably should flip over to
18 the floor plans, if I may. The addition is a two
19 story structure of approximately 37 feet in height.
20 That is approximately two feet below or lower than
21 the existing gymnasium building. Of course, this
22 practice gym does not need quite the volume as the
23 existing main gym, and we also try to keep it
24 somewhat lower to -- maintaining subservience. The
25 ancillary areas at the front of the building are
26 also lower than that and they're probably in the

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1 range of 27 to 28 feet tall.

2 I know this is going to fall over,
3 Brother, so if you could grab the photograph off of
4 there? Thank you.

5 This is the lower floor plan of the
6 project. The existing gymnasium is above a crawl
7 space. Over at this end of the gymnasium is an
8 existing rifle range. The lower level addition
9 consists of a new entrance lobby at this point, new
10 wrestling room, some small toilet facilities, and
11 then a number of new team rooms and a couple offices
12 -- team rooms and two offices here.

13 The upper floor plan consists of the new
14 proposed practice gymnasium. The practice gym will
15 be accessed both from the new lobby below, which is
16 at this point, as well as the existing lobby and a
17 new corridor to the gymnasium. A new weight room
18 has been proposed in here. The current weight
19 equipment is down in the lower level adjacent to the
20 rifle range. There will be new toilet facilities
21 also.

22 The project has been proposed in the
23 same rose colored brick as the existing building
24 which we used in 1991. We've also introduced in
25 '91, two accent bricks to liven up the very plain,
26 1950s exterior of the building. As you can see in

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1 our artist's rendering, that accent -- tan accent
2 brick accents the building, ties into the new
3 windows. This is, of course, looking at the new
4 lower level entrance, or entrance lobby and this is
5 back at the existing entrance lobby. This being the
6 ancillary spaces and this being the main gym beyond.

7 MR. FEOLA: Mr. Mullineaux, I don't
8 think you mentioned how big the new press box is in
9 terms of height and size.

10 MR. MULLINEAUX: It's a -- let's pull
11 out that board, if I may. The press box has been
12 designed so as to keep its bulk or volume down as
13 much as possible. This is a view from the access
14 drive or parking lot side, looking at the ticket
15 window along with a new fence with masonry piers
16 alongside the driveway. This is a view from the
17 football stadium side, of course, with the second
18 story raised up to allow the visual access of the
19 football field for the press box and the announcer's
20 box. That's a small plan of the area.

21 MR. FEOLA: Is there anything in these
22 two additions to the campus that would create an
23 objectionable condition to adjoining properties, in
24 your opinion?

25 MR. MULLINEAUX: No, sir.

26 MR. FEOLA: Thank you.

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1 Madam Chairperson.

2 CHAIRPERSON REID: Do you have any

3 questions?

4 MS. BENNETT: I have none. Oh, yes.

5 Could you show us the access road? You

6 had a board that showed the site plan and the access

7 road that the use of which the ANC would like you to

8 restrict to -- I think I see it.

9 MR. MULLINEAUX: Yes, ma'am.

10 MS. BENNETT: From the left-hand side,

11 isn't it?

12 MR. MULLINEAUX: Yes, correct.

13 The access road will come in at this

14 point and then go along behind the existing tennis

15 courts and come up to the rear of the existing

16 gymnasium building, accessing the rear of the

17 gymnasium addition. That's an accommodation to the

18 building code which requires minimum perimeter

19 access to buildings for, of course, fire fighting.

20 MS. BENNETT: Okay. And Lot 22 is right

21 down there adjacent to it?

22 MR. MULLINEAUX: Phil, could you help me

23 with that, please?

24 MS. BENNETT: Is it not? That's it.

25 Okay.

26 MR. MULLINEAUX: Oh, I'm sorry. I

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1 thought it said Lot 23 for a second.

2 MS. BENNETT: No. Lot 23 is beside it,
3 or behind it.

4 MR. MULLINEAUX: Excuse me.

5 MS. BENNETT: Okay, thank you.

6 CHAIRPERSON REID: Did you say that
7 there was an agreement with the ANC, or you were in
8 the process of constructing one? What's the status
9 of that agreement, please?

10 MR. FEOLA: The ANC requested, as a
11 condition of your order, that the applicant enter
12 into a binding construction agreement with it. It
13 listed in it certain things that should be
14 discussed, at least, to be put in that agreement.
15 We do not, at this time, have that agreement. We
16 are willing to live with that condition if this
17 Board desires to approve this application and
18 attaches that condition. The school is happy --

19 CHAIRPERSON REID: So, you are amenable
20 to the conditions that --

21 MR. FEOLA: -- to meet with the ANC and
22 work out a construction agreement.

23 CHAIRPERSON REID: Okay.

24 MR. FEOLA: Obviously, we don't have a
25 contractor yet. We're a little bit far away from
26 actually putting pen to paper on something like

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1 that.

2 MS. BENNETT: But the condition might be
3 that you enter into a construction agreement with --

4 MR. FEOLA: And that is acceptable to
5 the school, that's correct.

6 MS. BENNETT: And Brother Thomas, you
7 said you would be amenable to restricting
8 development on Lot 22 for a time certain, as opposed
9 to kind of perpetually forever and ever?

10 BROTHER GERROW: I think if it is a
11 short term, I would have no problem with that,
12 correct.

13 MS. BENNETT: All right, thank you.

14 CHAIRPERSON REID: We thank you.

15 Cross examination. Does the ANC have
16 any cross examination questions for the applicant?
17 You do not?

18 MS. RENSHAW: We don't have any
19 questions.

20 MR. CARR: We'd like some
21 clarifications.

22 MS. RICHARDS: You'll have an
23 opportunity.

24 CHAIRPERSON REID: This is it. This is
25 the their chance for cross examination.

26 MS. BENNETT: For clarification.

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1 CHAIRPERSON REID: If you have something
2 that you need clarified, sir, then perhaps you might
3 want to come to the mic and ask the question of the
4 applicant. This is your opportunity to do so.

5 MR. CARR: The clarifications we have
6 are with regard to this lot and driveway. There's
7 been three trials to --

8 MS. BENNETT: Identify yourself for the
9 record.

10 MR. CARR: I'm Frank Carr. I'm the ANC
11 3-G-02. I'm the single member district. St. John's
12 is in my area.

13 When the school was built, they would
14 have liked to have had a front exit off of 27th
15 Street. 27th Street, as the map shows it here,
16 turns into Eutaw and there's a very sharp curve
17 right there.

18 MS. BENNETT: Okay, you're testifying a
19 little bit. What areas of clarification do you
20 think the applicant can address to your
21 satisfaction?

22 MR. CARR: No, I just wanted -- I don't
23 need to have them address it. I just wanted to
24 explain our position a little bit.

25 MS. BENNETT: Oh, okay. So, you can do
26 that at another time.

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1 CHAIRPERSON REID: Okay, you can do that
2 later.

3 MS. BENNETT: We thought you needed
4 clarification from the applicant.

5 MR. CARR: No.

6 MS. BENNETT: Okay.

7 CHAIRPERSON REID: Okay.

8 All right, government reports. I didn't
9 see one from any of the different departments in the
10 file.

11 So, we move now to the Advisory
12 Neighborhood Commission. Please come forward.

13 MS. RENSHAW: Madam Chairperson and
14 members of the Board of Zoning Adjustment, I'm Anne
15 Renshaw. I am the single member Commissioner for 3-
16 G-03, representing the abutters across the street
17 from St. John's school. I'm also the chairman of 3-
18 G. With me is Frank Carr, who represents 3-G-02,
19 the site of the St. John's school. I, myself, have
20 been a long-time resident of the District. I am a
21 neighbor. I reside at 2910 Military Road and I have
22 used the grounds of St. John's constantly since I
23 have moved into the area, lo those many years ago.

24 Our concern about Lot 22 off of Eutaw
25 and 27th Street right at the curb really stems from
26 our involvement with that piece of property dating

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1 back to 1991. I myself testified before the BZA
2 when that piece of property was under consideration
3 to change to a private school, both the house and
4 the lot, the front lot, which is now owned by St.
5 John's. We expressed at that time, grave
6 reservation about the expansion of an institutional
7 zone into a residential neighborhood. We still have
8 that concern.

9 St. John's has been -- and I want to
10 emphasize and reinforce this -- a most wonderful
11 neighbor. We're not here in any adversarial
12 circumstance. But we are very concerned about the
13 institution moving out into a neighborhood and that
14 impact on the residential quality of that area. We
15 are concerned, and why we built this into our letter
16 of, shall we say, quasi support, is because we do
17 not want to see that small piece of ground, albeit a
18 very small building lot, turned into any use but
19 emergency access. In other words, Brother Thomas
20 made a remark that he had no difficulty with using
21 that as, of course, an emergency access, but there
22 would also be lawn mowers. Well, that's a use that
23 had not come before the Commission. So, if it's a
24 lawn mower, could it be something more like, again,
25 laundry trucks to access the back of the gymnasium.

26 So, we are very concerned. We feel the

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1 need for a buffer between the residential atmosphere
2 area and the institution. We are asking that that
3 piece of ground be left just undisturbed.

4 MR. CARR: I'll just second what she had
5 to say. She's covered my points very well.

6 MS. BENNETT: Thank you.

7 CHAIRPERSON REID: Thank you.

8 Okay?

9 MS. BENNETT: Madam Chair, I have no
10 questions.

11 CHAIRPERSON REID: Ms. Richards?

12 MS. RICHARDS: None, but I'd like to
13 hear --

14 Do you have any questions? I may have a
15 question later. Do you have any questions, Brother
16 Thomas, of them? Okay.

17 CHAIRPERSON REID: Mr. Feola?

18 MR. FEOLA: No, ma'am.

19 CHAIRPERSON REID: All right. You said
20 you may have some questions alter?

21 MS. RICHARDS: No, maybe not. I'm just
22 thinking. Okay, go ahead.

23 CHAIRPERSON REID: Stay right there.

24 Parties and persons in support? That
25 would be you with conditions, correct? Oh, I'm
26 sorry, you're the ANC.

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1 Parties and persons in opposition?

2 Okay, then we'll go now to closing
3 remarks by the applicant.

4 MR. FEOLA: Thank you, Madam
5 Chairperson.

6 Phil Feola for the record.

7 The school, I think, as Ms. Renshaw has
8 indicated, has tried to be a good institutional
9 neighbor and nothing in the ANC resolution is
10 contrary to what the school's intentions are. I
11 think the issue of never using Lot 22 or precluding
12 development on it, it is almost saying the double
13 negative. There is no, as you can see, picture of a
14 building on that lot right now. There can not be a
15 building on that lot unless the applicant comes back
16 to this Board, so it seems almost a nullity to say
17 you can't have development on a place where you
18 haven't asked for a development, that you need a
19 special exception for development for.

20 So, I think what Brother Thomas'
21 reservation is what that preclusion is 50 years in
22 the future, and not that the school could not live
23 without some reservation on it for a short period of
24 time in the near future, which is between now and
25 the next BZA application. The neighborhood would
26 have absolutely every opportunity to make arguments

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1 -- I assume good arguments -- that the institution
2 shouldn't be allowed to be drawn further to the
3 north.

4 In any event, the reason that it's even
5 part of this application is, as has been testified,
6 to provide that emergency access to the back of the
7 building. We then can stipulate that that access,
8 while it might be for maintenance of that building,
9 fixing the bricks and the windows and the things
10 that go there, and driving lawn mowers back, would
11 not be used for delivery vehicles and the like.

12 I think with that, we would urge the
13 Board to adopt this application. We think we meet
14 the test. The school has been a happy neighbor in
15 this community for 50 years and we would encourage
16 the Board to do that from the bench and possibly
17 with a summary order so that the project can be
18 built.

19 Thank you.

20 CHAIRPERSON REID: Okay, you're welcome.

21 BROTHER GERROW: Yes, I think that I'd
22 just like to add one thing if I could. I think one
23 of the concerns with that driveway was that -- I
24 know that there was a great deal of controversy when
25 the gym went up 40 years ago, or whatever it was,
26 because there was at that time, access on to 27th

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1 Street. The accommodation was made at that time
2 that the access from the parking lot was limited to
3 Eutaw Avenue.

4 The one thing I had to say is that the
5 only reason we're putting in a road is because we're
6 required to. The last thing I want to do is add
7 expense, you know, of putting a road in the back of
8 the building. We're simply required to do that. It
9 in no way connects with the parking lot. I think
10 some of the neighbors weren't 100 percent sure of
11 that and thought that it was a way for us to be able
12 to exit, you know, from the lot. As I said, the
13 only thing that it can be used for is emergency
14 vehicles or, as I said, maintenance at times. You
15 know, we would obviously need some times to use
16 that. But the road goes nowhere. It's just a brief
17 little thing in the back of the building and we
18 certainly could never, and would not, connect the
19 parking lot. It's impossible to do that.

20 CHAIRPERSON REID: Okay.

21 BROTHER GERROW: Thank you, ma'am.

22 CHAIRPERSON REID: All right, Board
23 members, what is your pleasure?

24 MS. RICHARDS: Well -- that with regard
25 to the -- I mean, the basic proposal is fine. With
26 regard to the opposition's condition, I think we can

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1 condition the requirement that they enter into the
2 construction agreement, and there are some
3 standardized terms.

4 CHAIRPERSON REID: Okay, do you want to
5 make a motion?

6 MS. BENNETT: We need a motion.

7 MS. RICHARDS: Okay, I so move that we
8 approve subject to these conditions, all right?
9 That would be that the parties enter into a
10 construction agreement pursuant to the customary
11 terms and conditions that those agreements normally
12 provide, and that there be good faith on both parts
13 to add anything that's peculiar to this particular
14 set of circumstances. I think they can work that
15 out.

16 Second, I think that a condition use of
17 the 27th Street to emergency and maintenance
18 vehicles. I think that will make clear that the
19 delivery vehicles can't come through there.
20 Emergency and property maintenance only.

21 CHAIRPERSON REID: Only.

22 MS. RICHARDS: Then, of course, that
23 would be subject to any complaints that would be
24 raised upon a subsequent special exception.
25 Although these special exceptions that entail new
26 construction usually -- I mean, once they're up,

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1 they're up. There's not too much you can do about
2 them.

3 As to the use of the lot, I'm quite sure
4 it's beyond our jurisdiction in the scope of this
5 application, to further limit construction.
6 Apparently, there is some willingness for a term of
7 a year limitation on construction. That's something
8 the parties have to work out between themselves. We
9 can not reach it. So, that's my motion.

10 MS. BENNETT: I would second.

11 CHAIRPERSON REID: All right. All in
12 favor?

13 ALL: Aye.

14 CHAIRPERSON REID: All opposed?

15 MS. HINTON: Abstain.

16 MS. ROSE: Staff will record the vote as
17 3 to zero with Ms. Richards, Ms. Bennett, and Ms.
18 Reid to grant the application. Ms. Hinton
19 abstaining.

20 CHAIRPERSON REID: Summary order.

21 MS. ROSE: Summary order with
22 conditions.

23 CHAIRPERSON REID: With the conditions
24 as specified by Mrs. Richards.

25 MS. RICHARDS: Yes, the two conditions
26 are that you limit the use of that 27th Street area

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1 to vehicular and maintenance emergency.

2 MS. BENNETT: It's the new access road
3 that enters on to Eutaw Avenue, actually.

4 MS. RICHARDS: That's it. It's limited
5 to emergency and property maintenance vehicles,
6 nothing else.

7 MS. BENNETT: So, the delivery trucks
8 can not go up in there.

9 MS. ROSE: I was thinking about the
10 first one, the enforceability of --

11 MS. RICHARDS: Oh, the parties must
12 enter into, or the applicant must enter into with
13 the ANC a construction agreement. It should contain
14 the usual terms of these agreements.

15 MS. ROSE: And those usual -- I'm just
16 thinking about --

17 MS. RICHARDS: Well, you know you can't
18 start before 7:00 a.m. You can't block --

19 CHAIRPERSON REID: Removal of trash and
20 debris, noise.

21 MS. RICHARDS: I mean, certainly
22 incorporating the provisions of the ANC letter. I
23 mean, you know, counsel for the applicant does a
24 gazillion of these things. He'll spit it out of his
25 computer. Okay.

26 And you know, if there's anything

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1 particular that this neighborhood requires in such a
2 contract, then the applicant shall act in good faith
3 to accommodate. That's the condition.

4 CHAIRPERSON REID: Okay, right.

5 Mr. Feola, thank you.

6 MR. FEOLA: Thank you very much.

7 CHAIRPERSON REID: You should have your
8 order within about two weeks.

9 CHAIRPERSON REID: Okay, next case,
10 please?

11 MS. ROSE: The next case is Application
12 16325 of Greenwood Associates, pursuant to 11 DCMR
13 3108.1, for a special exception under the provisions
14 of Section 734 for the alteration and repair of an
15 existing structure to allow a food delivery service
16 in a C-2-A District at premises 3827 Pennsylvania
17 Avenue, SE, Square 5672, Lot 803.

18 Would all persons planning to testify in
19 this application please rise to take the oath?
20 Whereupon,

21 CYNTHIA GIORDANO

22 ROSS PEEBLES

23 GREGORY SOLLITTO

24 were called as witnesses, and having been first duly
25 sworn, were examined and testified as follows:

26 MS. ROSE: Would the applicant come

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1 forward?

2 CHAIRPERSON REID: Okay, do we have any
3 other parties -- application? We did not get any
4 requests for party status.

5 So you may go ahead and proceed.

6 MS. GIORDANO: Good afternoon, Madam
7 Chair, members of the Board, my name is Cynthia
8 Giordano with Lennos & Blocker Law Firm,
9 representing the applicant this afternoon. First,
10 I'm going to put your mind at ease. We're not all
11 going to testify this afternoon. We're just showing
12 off our Papa John's fashions.

13 MS. BENNETT: We wondered. We knew Papa
14 John was coming to town, but he's --

15 MS. GIORDANO: We just have a couple of
16 witnesses and the rest of the people are here to
17 provide support and answer any questions that might
18 come up. We have a mixture of people from the
19 operations side and the real estate side.

20 Seated to my right is Ross Peebles. He
21 is the Regional Vice President for Operations for
22 Papa John's in the region, includes this region.
23 Greg Sollitto is with Papa John's real estate
24 department. We have others that I won't introduce
25 right now, other than to say that they can answer
26 questions. Although I do want to recognize the

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1 store manager that's going to be the store manager
2 at this location. She is currently an assistant
3 manager at their Tenleytown store, so she's
4 receiving a promotion. She's going to be managing
5 this location. She's also been a 23 year resident
6 of the Hillcrest neighborhood, but she just moved
7 out of the city, unfortunately, to Forestville,
8 Maryland.

9 MS. BENNETT: Mitchellville, probably.

10 MS. GIORDANO: Forestville, Lafonde
11 Braxton.

12 I just want you to raise your hand.
13 She will be directly responsible for
14 this store and she has been on site recently,
15 processing some employment applications for the
16 store.

17 CHAIRPERSON REID: Let me just ask, is
18 there anyone here in opposition to this application?
19 Okay.

20 MS. GIORDANO: Okay. So, we're going to
21 try to make this very brief. I know you have a long
22 day.

23 This case involves a special exception
24 for a food delivery service at 3827 Pennsylvania
25 Avenue, SE. The property is a vacant storefront
26 located in the Fairfax Village Shopping Center at

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1 the corner of Pennsylvania Avenue and Alabama
2 Avenue, SE. The objective of the special exception
3 is to allow the lessee of the subject property,
4 which is Papa John's Pizza, to operate a food
5 delivery service there. Papa John's has already
6 built out a store there and plans to occupy the
7 store as a matter of right.

8 As a matter of right in this zoned
9 district, Papa John's can operate a combination
10 carry-out and food delivery service. The zoning
11 regulations provide that if in excess of the sales
12 of a store are from delivery orders, then you have
13 to get a special exception which allows food
14 delivery service. Their projections tell them that
15 the sales revenues from the delivery orders is going
16 to be right about 70 percent, but they want to be in
17 compliance with zoning. And they want to make sure
18 that in the event that it exceeds 75 percent, that
19 they're in compliance with zoning.

20 So, that's the purpose of the
21 application and explains why they are building out
22 that store now. They plan to open it in early
23 April. They anticipate that a lot of their sales
24 will be derived from carry-out business because
25 they're located adjacent to a substantial amount of
26 residential development, including the Fairfax

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1 Village condominiums.

2 At this point, I would just like to
3 provide the Board with a little briefing on who Papa
4 John's is and what the nature of their establishment
5 is, what they sell and how they operate. Then we'll
6 talk specifically about the impacts that this kind
7 of operation might have at this location. I have a
8 little brochure here, or a copy of a brochure that
9 provides some information.

10 At this point, I'd like to ask Mr.
11 Peebles to just give a little overview of Papa
12 John's.

13 MR. PEEBLES: Okay. My name is Ross
14 Peebles. I live in Cockeysville, Maryland, and I'm
15 a regional vice president for the Northeast Region.

16 We are a company of 1,560-plus
17 restaurants from coast-to-coast. Our headquarters
18 are in Louisville, Kentucky. I'm responsible, among
19 other stores, of the 63 restaurants in the Northern
20 Virginia, Washington, Baltimore corridor. We're
21 hoping to make this our 64th restaurant at the
22 corner of Alabama and Pennsylvania. We only do one
23 thing and that is make a pizza. Our motto is
24 "better ingredients, better pizza." We don't make a
25 motto of getting it to you in 30 minutes or less
26 where there could be a possibility of dangerous

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1 driving.

2 Briefly, I'll give you a scenario of
3 what our operations are. We open between 11:00 in
4 the morning until about 12:30 in the evening. Only
5 during lunch hours and the dinner hours do we have
6 in excess of three to four people in the store. Our
7 ratio corporate-wide and also in my area is
8 approximately 70 percent delivery and 30 percent
9 carry-out. We don't anticipate this to be any
10 different.

11 MS. RICHARDS: Sir, you just said
12 delivery. What is the delivery region for this
13 store?

14 MR. PEEBLES: I'm sorry?

15 MS. RICHARDS: What's your delivery
16 radius for this store?

17 MR. PEEBLES: It should be no more than
18 ten minutes, a ten minute drive.

19 MS. RICHARDS: How many delivery
20 vehicles are you going to maintain?

21 MR. PEEBLES: In this area, we are
22 running about seven to eight drivers, but at no time
23 do we ever have more than three to four in the store
24 at a time because they're delivering.

25 MS. GIORDANO: If we can just maybe
26 break this down a little bit and sort of explain

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1 kind of what your peak times are and how many
2 delivery vehicles you might have during those times,
3 and then off-peak how many.

4 MR. PEEBLES: Okay. Peak time is
5 between 11:30 and 1:30. That usually requires one
6 to two persons inside to manufacture the product,
7 and one to three persons to deliver the product. It
8 then drops down to usually one person inside and one
9 person delivering the product up to the dinner hour
10 of about 5:30 -- or between 5:30 and 6:30. At that
11 point, it will increase again to two to three people
12 inside and four to seven delivery drivers again.
13 But there should be no more than three to four in
14 the store at one time. That drops off at
15 approximately 7:30, and then we're back to one to
16 two people inside and one to two persons delivering
17 until close.

18 MS. RICHARDS: Since this is , as you
19 noted, a residential neighborhood, who do you
20 anticipate coming to buy pizza at 12:30 at night?

21 MR. PEEBLES: That's the reason we only
22 have one person delivering.

23 MS. RICHARDS: Okay.

24 MR. PEEBLES: We anticipate that we
25 might not have very much at all in this area. If
26 that's the case, we can look at cutting back on our

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1 hours, and we do that in other areas.

2 MS. BENNETT: Do your peak times not
3 change over the weekend?

4 MR. PEEBLES: I'm sorry?

5 MS. BENNETT: Do your peak times not
6 change over the weekend?

7 MR. PEEBLES: No, they stay
8 approximately the same. Friday and Saturday night
9 is the bulk of our business, but the time of day is
10 essentially the same.

11 MS. BENNETT: Oh.

12 MS. RICHARDS: Isn't that interesting?

13 MS. BENNETT: That is interesting.

14 MS. GIORDANO: If I could just mention,
15 Ms. Richards, that I think you should have -- I have
16 a copy, but I haven't checked your file to see if
17 you do -- a letter from ANC 7-B. Do you have that?

18 CHAIRPERSON REID: I don't have one in
19 my file. I don't know, it might have come in later.

20 MS. BENNETT: Yes, we do.

21 CHAIRPERSON REID: May I see it?

22 MS. GIORDANO: I just wanted to mention
23 that they did list a number of concerns that they
24 raised about the operation when we met with them.
25 The first one was hours of operation, and we did
26 discuss that issue. They had no problem with the

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1 hours of operation that Mr. Peebles just explained.
2 In fact, there was a bit of an element of -- they
3 were concerned about security and they were
4 concerned about loitering around the store.

5 We agreed to provide security cameras in
6 front, and also along the side of the building which
7 traditionally has been a problem for loitering. So,
8 I guess from an operational standpoint through
9 having the store in operation and having activity
10 there can cut both ways in terms of, you know,
11 making the shopping center feel more secure. And
12 so, ultimately, they did not have a problem with the
13 hours of operation and they did support the
14 application.

15 MS. RICHARDS: And you're going to deal
16 with the litter? I mean, litter is not going to be
17 a problem, right? Okay.

18 MS. GIORDANO: Maybe we could just
19 explain sort of what's done on premises, how the
20 products that you use are brought to the premises
21 and how they're disposed of, so we can get a handle
22 on what litter is produced?

23 MR. PEEBLES: Like I said, we only make
24 pizza. We don't do wings and we don't do salads.
25 We don't do all the other things that might
26 accentuate the amount of garbage that you might

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1 have.

2 We bring our ingredients in from outside
3 and manufacture there. And the boxes, which
4 obviously go to the customer, so we don't have paper
5 to throw away. The amount of garbage is minimal.

6 MS. RICHARDS: Thank you.

7 CHAIRPERSON REID: Would you please
8 address Section 734, how you will be in compliance
9 with it?

10 MS. GIORDANO: Okay. 734, let me just
11 get that in front of me. I think probably the best
12 thing might be to sort of go right to the impact
13 section that deals with noise, lighting, security,
14 trash, and cover those because those are
15 traditionally the ones that have their problems
16 with. The Zoning Administrator in their memo have
17 dealt with parking and some of the other issues.

18 This is an existing shopping center.
19 There is parking provided out front. The shopping
20 center is already built out. We're merely occupying
21 a store front that has been vacant for some time.

22 MS. BENNETT: Are there any parking
23 spaces allotted for use by --

24 MS. GIORDANO: There are not.

25 MS. BENNETT: -- the vehicles?

26 MS. GIORDANO: No, there are not. The

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1 Zoning Administrator did not break down, sort of the
2 number of parking spaces for this store, but found
3 that there was adequate parking for the shopping
4 center as a whole. The community looked at the
5 issue and we looked at the issue as to whether those
6 parking spaces would be adequate for our use.
7 Whether that parking lot is already over capacity
8 and it's not. We believe that there's adequate
9 capacity for our delivery vehicles. During our
10 times of operation and peak times, we've looked at
11 the parking lot and determined that there doesn't
12 seem to be a situation where the parking lot is
13 full.

14 I'm going to try and stop testifying now
15 -- I just realized I was -- and let Mr. Peebles talk
16 a little bit about the delivery vehicles and sort of
17 what demand for parking they produce, how much of
18 the time they're out -- off premises, and how much
19 time they're on the premises and how that's managed
20 by Papa John's. It will give you a little bit
21 better sense of how much parking Papa John's feels
22 would be necessary.

23 MR. PEEBLES: All right, let me first
24 say that the drivers are not contract drivers. They
25 are on our payroll. They go through an extensive
26 amount of training. NBRs are required by every

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1 driver, obviously a driver's license, and we have
2 strict regulations as to their driving history. As
3 I mentioned before, because they are in and out with
4 the deliveries, they're never there all at once
5 taking up parking space. That's really the best way
6 I know how to demonstrate it.

7 MS. GIORDANO: Would you say that most
8 of the time they're on the clock, they're off
9 premises rather than on? And how many deliveries do
10 they traditionally take at one time?

11 MR. PEEBLES: At once, they take no more
12 than three deliveries at one time. We try to stay
13 in between one and two deliveries. And as far as
14 being on the premises, I've never looked at it as a
15 ratio but their purpose is to come into the store,
16 pick up the pizza and take it back out. So, they're
17 only there for a minimum amount of time.

18 MS. GIORDANO: And how does Papa John's
19 manage how many drivers are on at any one time? If
20 you find that you have more drivers than you need,
21 how do you deal with that situation?

22 MR. PEEBLES: If we have more drivers
23 than we need, we just take them off the clock and
24 send them home.

25 MS. GIORDANO: So, in essence, if there
26 is a situation where a lot of drivers are on the

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1 premises at one time waiting for an order, Papa
2 John's would deal with that situation by -- not
3 because of the transportation impacts, but because
4 the drivers aren't going to be making the money that
5 they would want to make, you would reduce the amount
6 of drivers for that shift?

7 MR. PEEBLES: Yes, the number of drivers
8 is based on the needs for service at that time.

9 MS. BENNETT: Okay, you were going
10 through 734.

11 MS. GIORDANO: Yes, okay. So, in terms
12 of the parking issue, and then I think that we have
13 covered the issue of loitering. Some of the ANC
14 addressed that issue.

15 Security: The ANC was very concerned
16 about increasing security, not only in our store
17 but, you know, around the center in general. We
18 agreed to install these cameras. In addition, we
19 have talked with the police District Sergeant
20 Dinelli is the commanding officer there, I guess.
21 We have agreed to provide a desk and a phone, and to
22 create a police work station in the store to
23 encourage the police to be on the property more.
24 That was something that the community had requested
25 and that we were able to arrange.

26 As far as sound and noise goes, I'd like

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1 Mr. Peebles to just comment on what kind of noise is
2 generated by this use, typically.

3 MR. PEEBLES: The noise is minimal.
4 It's basically inside the store with the oven.
5 Odors that come out of the store -- the way I would
6 equate it is odors to a bakery, except it is pizza
7 orders. We have one exhaust fan that goes up
8 through the roof and that's basically all there is.
9 It's a very simple operation.

10 MS. BENNETT: Did you address 734.4
11 about the refuse dumpster, its location and the
12 like?

13 MS. GIORDANO: There's an existing
14 refuse dumpster in the parking lot out front which
15 we would use. We're not adding a dumpster. There
16 doesn't appear to be a need for an additional
17 dumpster, so we would just be utilizing that. That
18 is in the front of the shopping center rather than
19 to the rear which faces the residential community.
20 In fact, I think there's a picture of that dumpster
21 because I posted a sign on it in the record.

22 As far as dangerous or objectionable
23 traffic conditions, that was an issue that was
24 raised by the ANC as well. I think that Mr. Peebles
25 has addressed that, that Papa John's, they do have
26 delivery vehicles but the drivers are carefully

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1 screened in terms of their driving records. It is
2 not Papa John's primary objective to get the pizza
3 out quickly. Their logo is "better ingredients,
4 better pizza." That's really the thrust of their
5 marketing rather than, sort of, you know, making a
6 break-neck speed through the neighborhood.

7 Their drivers are employees. They're
8 managed by Papa John's. They will follow company
9 policy as far as ingress and egress into this
10 parking lot, not double-parking on neighborhood
11 streets. If that's a problem, we've talked to the
12 neighborhood commissioner, Chairperson Roscoe Grant,
13 and we've set up a good sort of line of
14 communication, I believe. So that, if that becomes
15 a problem, it will be brought to Papa John's
16 attention and they will, through their management,
17 talk to the drivers about it. So, we don't
18 anticipate any dangerous or objectionable traffic
19 conditions as a result of the use.

20 So, I think that we have addressed
21 sounds, odors, noise, lights. The existing
22 lighting of the shopping center is adequate. We
23 didn't have any concerns raised about that. Papa
24 John's will, if anything, bring more lighting
25 because there's a lot of glass in their store front.
26 They will be operating until approximately 12:30 at

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1 night, so I think that it will be a lighted store
2 front as opposed to a dark one which it has been for
3 some time.

4 The ANC addressed also the issue of
5 landscaping which is not in the conditions, but I
6 wanted to raise that issue. I want to ask Mr.
7 Sollitto if he would like to comment on sort of how
8 that issue was raised and how we've responded.

9 MR. SOLLITTO: My name is Greg Sollitto.
10 I'm from Sea Ranch Lakes, Florida. I'm the Director
11 of Property Administration for Papa John's.

12 The discussions with the ANC have been
13 very fruitful and in many ways, we want the
14 residents to feel secure because obviously, we want
15 them to come to our stores. We do have our
16 employees working in the store.

17 With regard to the landscaping, there
18 were two problems there. One was security and the
19 other one was sort of hygiene. They had been used
20 for sort of impromptu port o'johns. What we did was
21 during construction we removed the landscaping.
22 Actually, the ANC said "what happened to it?" We
23 explained and they said, "no, we thought it was a
24 good idea to take it out. What are you doing?"

25 We've already started in the front of
26 the store replacing it with a lower growing holly

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1 variety with mulching. What we plan to do on the
2 side of the building where there's excess vacant
3 land and because there were old stair steps that
4 came down and a sidewalk, it sort of became a
5 hangout. So, we've got a plan to remove those,
6 terrace it down, re-landscape it with lower growing
7 varieties of greens. I'll be talking with Lillian
8 Chapman who is the garden club woman in the
9 community and I've been getting her input as to some
10 of the varieties and where they want to have some
11 planting beds.

12 That will all be fenced with a very
13 attractive fence which is in keeping with the
14 Fairfax Village homes next door. It's an iron with
15 brick columns. We have bids in on the iron. The
16 brick columns, we're still getting the bids back.
17 We'll install that around there and it should keep
18 it nice and clean and attractive, and also eliminate
19 the security concerns as much as we can. Between
20 that and the cameras and any other --

21 Oh, yes, the police work station.
22 Sergeant Dinelli has given his commitment for that.
23 Also, the shopping center manager has said that he's
24 going to look into various items to upgrade the
25 shopping center overall, seeing as how he's gotten a
26 national tenant now and he'd like to attract others,

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1 -- cash checking and maybe a few more. So, it's
2 going pretty well.

3 MS. RICHARDS: Okay.

4 CHAIRPERSON REID: Was there a lighting
5 plan or a landscaping plan submitted in your
6 submission?

7 MS. GIORDANO: No, there wasn't. As I
8 indicated, we're really not changing the lighting in
9 the shopping center. The landscaping grew out of
10 discussions with the ANC. We have submitted a plan
11 to them --

12 MR. SOLLITTO: Yes.

13 MS. GIORDANO: -- which, as Greg
14 indicated, we're getting bids on and getting some
15 input from them. I have a copy of that plan if
16 you'd like to see it?

17 CHAIRPERSON REID: Yes, we would.

18 You said that the lighting was as it is
19 in the existing shopping center. Do we have any
20 indication of how that is arranged, or situated?
21 Can you describe it to us?

22 MS. GIORDANO: Let me see if I can get
23 some help with that.

24 MS. BENNETT: You need to come forward.

25 CHAIRPERSON REID: Give your name and
26 give your address.

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1 MS. BRAXTON: Lafonde Braxton, manager
2 of the store.

3 CHAIRPERSON REID: And your address.

4 MS. BRAXTON: Pardon me?

5 CHAIRPERSON REID: And your address.

6 MS. BRAXTON: The store's address or
7 mine?

8 MS. BENNETT: No, your home address.

9 MS. BRAXTON: Okay, 6520 Laconing
10 Street, Forestville, Maryland 20747.

11 The existing lighting that's there now
12 is six poles which have fluorescent lights on them.
13 They go about, I guess, 50 feet in the air and they
14 have two lights on each pole so they face different
15 directions. They face the building, the parking
16 lot, and at least a good portion of Pennsylvania
17 Avenue. So, it's completely lit.

18 CHAIRPERSON REID: Okay.

19 Any other questions?

20 MS. RICHARDS: No, I have no further
21 questions.

22 CHAIRPERSON REID: All right. Is there
23 a representative from the ANC here, present? Okay.

24 MS. BENNETT: I didn't know if you all
25 had brought some samples.

26 MS. GIORDANO: We were asked that at the

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1 ANC as well.

2 MS. BENNETT: I'll bet you were.

3 CHAIRPERSON REID: Government reports.
4 I don't think that we had specifically -- did we?

5 MS. RICHARDS: I didn't see any
6 government reports.

7 CHAIRPERSON REID: Okay, no government
8 reports.

9 All right, there was no one in
10 opposition here. Those persons and parties in
11 support of the application?

12 MS. RICHARDS: Note taken.

13 CHAIRPERSON REID: Then closing remarks?

14 MS. GIORDANO: I just wanted to add one
15 other thing that I neglected to point out in Mr.
16 Grant's letter, the issue of sit-down facilities.
17 This is something that Papa John's does not
18 typically do, to have a table and chair format in
19 their store. But there was an interest on the part
20 of some of the residents in having a couple of
21 tables and chairs in the front part of the store,
22 and we've agreed to do that. There was also concern
23 on behalf of some of the residents that that might
24 encourage loitering.

25 So, we agreed to do it on a temporary
26 basis and see how it works, and see how it's working

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1 for the ANC and the community. Then to reserve the
2 option to remove those if we all agreed that it
3 wasn't having a positive impact. So, I did want to
4 note that.

5 I don't have any other remarks other
6 than to say that I think it has been a very positive
7 experience with the community. We had detailed
8 discussions and a lot of input from the community,
9 and we're very happy to have their support for this
10 location.

11 MS. BENNETT: I know you are.

12 MS. RICHARDS: It makes it easier,
13 doesn't it?

14 MS. BENNETT: It sure does.

15 CHAIRPERSON REID: I would move approval
16 of the application.

17 MS. BENNETT: I would second, Madam
18 Chair.

19 MS. RICHARDS: Are we going to put the
20 landscaping plan in as a condition?

21 CHAIRPERSON REID: Yes.

22 MS. RICHARDS: Okay.

23 CHAIRPERSON REID: I think that the
24 approval of the application, it's within the general
25 purpose and intent of the zoning regulations and the
26 map. There is not a lot of adverse impact upon

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1 neighboring property and that it does not impair the
2 intent of the zoning regulations substantially.

3 With the conditions that are normally
4 attributable to this type of application such as
5 some of the conditions that were laid out in the
6 letter from the ANC which were in regard -- I think
7 that we will indicate both your hours of operation,
8 for one thing.

9 MS. BENNETT: The hours of operation as
10 I understand it are 11:00 a.m. to 12:30 a.m.?

11 CHAIRPERSON REID: Is that Monday
12 through Sunday?

13 MS. BENNETT: Every day of the week.

14 MR. PEEBLES: It really comes down to
15 demand.

16 MS. GIORDANO: But outside envelope.

17 MR. PEEBLES: Outside envelope, Fridays
18 and Saturdays, we can stay open until 1:30.

19 MS. GIORDANO: I think what we told ANC
20 was 1:00 was when we expected might be the latest
21 time for Friday and Saturday.

22 CHAIRPERSON REID: Okay, will you
23 reiterate the hours, please? Monday through Friday,
24 what are they?

25 MR. PEEBLES: Monday through Friday,
26 11:00 until 12:30.

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1 CHAIRPERSON REID: Until 12:30. Then
2 Saturday and Sunday?
3 MR. PEEBLES: Saturday and Sunday 11:00
4 to 1:30, but I was not at the ANC meeting. So, if
5 we agreed to 1:00 --
6 MS. RICHARDS: 1:00 a.m.
7 MS. BENNETT: Okay, 1:00 a.m.
8 MR. PEEBLES: -- that's fine.
9 CHAIRPERSON REID: 1:00 a.m., okay.
10 MS. ROSE: I thought it was Friday and
11 Saturday.
12 MS. GIORDANO: Friday and Saturday.
13 MR. PEEBLES: What did I say?
14 MS. GIORDANO: Saturday and Sunday.
15 MR. PEEBLES: Sorry.
16 MS. BENNETT: Friday and Saturday.
17 MS. ROSE: So, it would be Sunday
18 through Thursday?
19 MS. GIORDANO: Yes.
20 MS. ROSE: Thank you.
21 CHAIRPERSON REID: All right. Trash
22 collection?
23 MS. GIORDANO: Trash collection is
24 handled by the overall shopping center.
25 CHAIRPERSON REID: Okay. Okay.
26 MS. BENNETT: The landscape plan would

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1 be one of the conditions, and we would refer to it
2 by exhibit.

3 CHAIRPERSON REID: You're going to
4 submit an acceptable landscape plan. The ANC will
5 approve it, or they will be in agreement with it.

6 MS. HINTON: They've already submitted
7 it. This is it.

8 MS. GIORDANO: It's already been
9 submitted to them and they've already approved it.

10 MS. BENNETT: Number of staff.

11 MS. HINTON: So, you want the condition
12 to say that landscaping will be in accordance with
13 the plan submitted?

14 CHAIRPERSON REID: Yes.

15 MS. BENNETT: That's right.

16 Can you give us a number of staff,
17 please?

18 MR. PEEBLES: Total number of staff, or
19 the staff on hand at any particular time?

20 MS. HINTON: The maximum number.

21 MS. BENNETT: Staff you expect to be on
22 the premises at any one particular time.

23 MS. HINTON: The maximum.

24 MS. BENNETT: Understanding that they
25 are delivery people. Generally, we do hours of
26 operation and number of staff.

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1 MR. PEEBLES: Not counting delivery
2 people, is that what you're asking?
3 MS. HINTON: Counting.
4 MS. BENNETT: No, we're counting.
5 MR. PEEBLES: Counting delivery people -
6 -
7 MS. BENNETT: Give us your outside
8 again.
9 MR. PEEBLES: Friday night --
10 MS. GIORDANO: Do you want to confer
11 with some of the other operations people?
12 MR. PEEBLES: Yes, because I want to be
13 sure that I understand your question.
14 MS. BENNETT: Okay, that's all right.
15 MR. PEEBLES: A low of four to a high of
16 13 to 14.
17 CHAIRPERSON REID: Wow, that's a big
18 range.
19 MR. PEEBLES: Again, the drivers are a
20 big part of that and they're not on the premises a
21 large percentage of the time.
22 CHAIRPERSON REID: Okay.
23 MR. PEEBLES: Or a long percentage of
24 time.
25 CHAIRPERSON REID: Let's see if we can
26 condense this down a little bit. A minimum of four

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1 on the premises, you said to a maximum of 14? The
2 drivers would be people who are coming and going so
3 they would not necessarily be counted as --

4 MR. PEEBLES: I am counting the drivers
5 in that count.

6 MS. BENNETT: But they're bodies. From
7 time-to-time their bodies would be on the premises
8 waiting for the things they're getting ready to take
9 out.

10 MR. PEEBLES: Well, it's not so much
11 waiting, as just picking it up and leaving.

12 MS. BENNETT: Just picking it up? I
13 think it's all right.

14 MS. HINTON: Why don't we just say up to
15 15?

16 MS. BENNETT: Yes, up to 15. I think
17 that's no more than fair.

18 CHAIRPERSON REID: No more than 15 at
19 any given time.

20 MS. BENNETT: Especially given the type
21 of facility this is, you know. I think that's all
22 right.

23 CHAIRPERSON REID: And you spoke about
24 security.

25 MR. PEEBLES: In terms of?

26 MS. BENNETT: Mounted cameras and the

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1 like --

2 MR. PEEBLES: The police work station
3 which we welcome.

4 CHAIRPERSON REID: Yes, yes, okay.

5 MS. RICHARDS: I wouldn't necessarily
6 make that a condition.

7 MS. BENNETT: But I wouldn't condition
8 it.

9 MS. GIORDANO: The police may not want
10 it there forever.

11 MS. BENNETT: Right. And it involves
12 another city agency over which we have absolutely no
13 control.

14 CHAIRPERSON REID: Okay. Are there any
15 other conditions from any of the Board members?

16 MS. RICHARDS: No, I don't think so.

17 CHAIRPERSON REID: All right. All in
18 favor?

19 MS. BENNETT: Hold on. Hold on. Do we
20 want to do a specified time? Mrs. Richards raised
21 that she would prefer not to have a specified time?

22 MS. RICHARDS: Well, I guess I'm --
23 about a term of years for a special exception.

24 What's your lease on the property?

25 MR. SOLLITTO: Oh, our lease on the
26 property is 10 years and I believe there is four or

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1 five, five-year options. I might be wrong. There
2 might only be two five-year options. It's like 20
3 years, or 30 years.

4 MS. BENNETT: I would then suggest
5 colleagues, a five-year term.

6 MS. RICHARDS: Okay. All right, that's
7 fine.

8 MR. SOLLITTO: Okay, we have a ten year
9 lease.

10 CHAIRPERSON REID: A ten year lease with
11 five years --

12 MS. GIORDANO: Obviously, five years can
13 be a blink of an eye and it takes like a year to get
14 here by the time you file.

15 MS. BENNETT: I know, but we're
16 streamlining our process and we don't have a
17 backlog.

18 MS. GIORDANO: You don't have a backlog
19 but the Zoning Administrator does.

20 MS. BENNETT: Oh, well, now there's
21 that. There is that.

22 How do you feel?

23 MS. HINTON: I would recommend that we
24 go longer than that. I think ten years isn't
25 unreasonable. We have put a number of conditions on
26 the operation that at any time, if the operation

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1 gets out of compliance with those conditions, anyone
2 could come back.

3 MS. RICHARDS: Well, let's not pretend
4 that enforcement is a real option. Do you want to
5 go for seven and we'll compromise?

6 MS. HINTON: I really think less than 10
7 is a bit unreasonable when you consider that it does
8 take a year for an applicant to get here.

9 MS. RICHARDS: I guess I can live with
10 10.

11 MS. BENNETT: Well, I'm easy.

12 CHAIRPERSON REID: Okay, so we're saying
13 the term will be 10 years.

14 Are we ready now to vote?

15 MS. RICHARDS: Yes, we're ready to vote.

16 CHAIRPERSON REID: Okay.

17 MS. BENNETT: We have a -- there's a
18 motion on the floor. Okay.

19 CHAIRPERSON REID: Okay, all in favor?

20 ALL: Aye.

21 CHAIRPERSON REID: Opposed?

22 MS. ROSE: Staff will record the vote as
23 4 to zero, with Ms. Reid, Ms. Bennett, Ms. Richards,
24 and Ms. Hinton to grant the application and the
25 issuance of a summary order with conditions.

26 CHAIRPERSON REID: You will have your

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1 order out in about two weeks.

2 MS. RICHARDS: Did you have a question,
3 Ms. Giordano?

4 MS. GIORDANO: No, I don't. Thank you
5 very much.

6 MR. PEEBLES: Thank you.

7 CHAIRPERSON REID: Thank you.

8 MS. GIORDANO: Bring pizza next time.

9 MS. BENNETT: That's right. Next time,
10 bring samples.

11 CHAIRPERSON REID: Yes, go ahead and
12 call the case.

13 MS. ROSE: The next application is 16326
14 of the DC Public Schools and the Corcoran Gallery of
15 Art, pursuant to 11 DCMR 3108.1, for a special
16 exception under the provisions of Section 206 to
17 establish an art school on the first and second
18 floors of an existing school building in an R-3
19 District at premises 1801 35th Street, NW, Square
20 1297, Lot 851.

21 Would all persons planning to testify in
22 this application please rise to take the oath?

23 MR. COLLINS: Excuse me, Madam Chair,
24 there are some people who are not in the room who I
25 know are going to be participating in this case. I
26 think they're just caucusing out in the hallway.

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1 They're coming now.

2 Could they be sworn when they come in or
3 should we wait?

4 MS. BENNETT: Well, they should come in
5 because we're getting ready to get started.

6 CHAIRPERSON REID: Well, they should
7 come on in so everybody can be sworn at the same
8 time.

9 MS. ROSE: Thank you, Mr. Collins.

10 CHAIRPERSON REID: Mr. Collins, how long
11 do you anticipate your case taking?

12 MR. COLLINS: We anticipate, Madam
13 Chairperson, that our case will take no more than 30
14 minutes, 30 or 40 minutes.

15 CHAIRPERSON REID: Thirty to 40 minutes?

16 MR. COLLINS: Thirty to 40.

17 CHAIRPERSON REID: Okay.

18 What about the opposition?
19 Approximately how long do you think you will need?

20 MR. MLOTEK: Madam Chairperson, Ron
21 Mlotek.

22 I think most of them want to speak on
23 their own right. As I said, I don't represent them,
24 so it's up to the Board as to what its mind and
25 disposition is to allow the citizens to speak about
26 the perceived detriment to their property interests.

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1 My own opposition would, I suppose, take about 10 to
2 15 minutes, something like that.

3 CHAIRPERSON REID: What we're dealing
4 with is that after 5:00, we will no longer have a
5 quorum. So, if we could not have to continue it,
6 then that would be great. If, perhaps -- well, we
7 always like to hear each individual speak. If one
8 person or two people could possibly summarize the
9 group's issues, then we could perhaps finish today.
10 That's what we're trying to juggle here.

11 MR. MLOTEK: I understand. But again,
12 since I don't represent them, you'll have to get
13 their views and disposition on that.

14 Just two other quick things. First of
15 all, I want to again, before this specific session
16 begins, to remind that I do have a request pending
17 to be accorded party status because I would like the
18 right of cross examination.

19 CHAIRPERSON REID: That, we will afford
20 you party status.

21 MR. MLOTEK: Pardon?

22 CHAIRPERSON REID: Yes, that will be
23 granted.

24 MR. MLOTEK: I see. Thank you.

25 Madam Chairperson, with respect to your
26 comment about the need to adjourn at 5:00, Mr.

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1 Collins wants to convey to the Board something that
2 he and his side and our side have been discussing.
3 It will have a bearing.

4 CHAIRPERSON REID: Okay.

5 MR. COLLINS: I know that Mr. Mlotek
6 does not speak for the group as a whole, but we were
7 caucusing outside on an issue regarding the parking
8 for this building. As you will hear during the
9 course of the presentation, there is a paved area
10 now that's proposed for parking, and then parking
11 will be expanded at some point in the future.

12 We are talking having the hearing today,
13 getting the facts out, and then jointly requesting
14 that the record be left open so that we would not
15 have a decision in the course on April 1 which would
16 require our post-hearing submissions by next
17 Wednesday, but rather hold it open for another month
18 which allows us some time to talk and come to an
19 extent that we can agree -- and I hope we can --
20 about the parking expansion and how we buffer the
21 parking area and treat the landscaping, and things
22 of that nature, the details.

23 MR. MLOTEK: So, in other words, I guess
24 the bottom line on that is there may be a need for a
25 subsequent meeting, in any event, before this body.

26 CHAIRPERSON REID: I think that what I'm

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1 understanding Mr. Collins to say is we will proceed
2 today and leave the record open for post-hearing
3 submissions predicated upon your getting together
4 and meeting, and trying to resolve whatever issues
5 you have, and then to submit that before we have our
6 meeting. He was asking that it not be for the next
7 meeting, but maybe the subsequent one right after
8 that.

9 MR. COLLINS: That's correct.

10 MR. MLOTEK: Right.

11 CHAIRPERSON REID: That was my
12 understanding of what you were just saying.

13 MR. COLLINS: That's correct. So, we
14 would not be artificially with a deadline of next
15 week because I don't think that we can even come
16 together in that time with any kind of meaningful --

17 CHAIRPERSON REID: One second, please.

18 If, in fact, we were to have the post-
19 hearing submissions and just proceed today with the
20 post-hearing submissions, we're unfortunately not
21 going to have the same Board members. So, it may be
22 in your best interest to let us postpone it.

23 MS. BENNETT: What we're saying, some of
24 us are not going to be here perhaps in May. So,
25 what would have to take place would be that two
26 other people or so read the record. It may be,

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1 since you're asking for some time to work some
2 things out, that we don't hear it today, period.
3 That whoever actually is going to vote on the case
4 get a chance to hear it as opposed to reading the
5 record. That's what we're --

6 MR. COLLINS: I understand and I
7 understand your point, Ms. Bennett. We are on a
8 very tight schedule. We had originally asked for an
9 expedited hearing and expedited decision in this
10 case, in any event. We appreciate the fact that
11 we're scheduled in March. I'm concerned about a
12 postponement far in advance, whether you have a date
13 open in April.

14 CHAIRPERSON REID: April 15th? As an
15 alternative date, would that be suitable for you?

16 MR. COLLINS: If possible, if we could
17 go ahead with the issues of the school today and
18 then be able to keep the record open to talk about
19 the parking. Even I understand that would require
20 people to read the record, but if it's possible to
21 do that, that would be our preference.

22 MS. HINTON: I think also we need to
23 keep in mind that we only have an hour at this
24 point. From what the applicant said and the parties
25 said, there's no way we can complete this hearing
26 today. So, no matter if we start it, it will be

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1 continued to another date which will likely be the
2 April 15th date.

3 So, realizing that, it's probably better
4 to have the whole hearing at one time and to have
5 the Board members up here who are the ones that are
6 going to be making the decision.

7 MS. BENNETT: We also have another case
8 pending, 16298. They've been sitting here patiently
9 for some hours. If we proceed with the Corcoran,
10 we're likely not to be able to hear from them.

11 MS. HINTON: Right, and even if we
12 didn't have another case, there's no way we can
13 finish this one today.

14 CHAIRPERSON REID: You're going to have
15 to have another hearing anyway. So, Mr. Collins,
16 rather than having new Board members having to read
17 the record, it would probably be better to have the
18 actual Board members who would hear your case and
19 then be able to -- a decision based on the
20 information put before them.

21 MR. COLLINS: If it's April 15th, do you
22 know when during the day, or at what point it would
23 be?

24 DIRECTOR DOBBINS: It would be the first
25 case of the afternoon, 1:00.

26 CHAIRPERSON REID: Is that good?

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1 DIRECTOR DOBBINS: One -- the Board has
2 determined that it would start its afternoon
3 sessions at 1:00 beginning April 15th. One o'clock.
4 MR. COLLINS: Okay.
5 MS. HINTON: Mrs. Dobbins reminded us
6 that if all the issues are worked out by then, you
7 could end up with a bench decision on that date.
8 So, we encourage you to work out all the issues.
9 MR. COLLINS: Good point.
10 DIRECTOR DOBBINS: It would be just like
11 being on the April agenda.
12 MR. COLLINS: Thank you.
13 MR. MLOTEK: Thank you very much.
14 CHAIRPERSON REID: Thank you. Thank you
15 very much.
16 Ms. Rose, next case please? The last
17 case of the day?
18 MS. ROSE: The last case is 16298,
19 application of Trinity Housing Corporation of
20 Washington, pursuant to 11 DCMR 3108.1 and 3107.2 --
21 (People talking in hearing room.)
22 CHAIRPERSON REID: I'm sorry, if you
23 have completed your business here today, would you
24 kindly leave the room and dispense with the chatter?
25 Thank you.
26 MS. ROSE: The last application is 16298

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1 of Trinity Housing Corporation of Washington,
2 pursuant to 11 DCMR 3108.1 and 3107.2 for a special
3 exception under Subsection 213.1 to establish
4 parking lots in a residential district, a variance
5 from Subsection 213.2 to establish a parking lot
6 that is not located in its entirety within 200 feet
7 of an existing commercial or industrial district in
8 a residential district, and a variance from
9 Subsection 213.3 to establish a parking lot that is
10 not contiguous to or separated only by an alley from
11 a commercial or industrial district in a residential
12 district, for parking lots in the R-5-B District at
13 premises 1417, 1493 and 1507 Meridian Place, NW,
14 Square 2684, Lots 556, 557 and 558.

15 Would all persons planning to testify
16 who were not previously sworn, please rise to take
17 the oath?

18 Whereupon,

19 SUSAN STURMAN

20 ATHEL LIGGINS

21 MARION BROOKS

22 GWENDOLYN SIMMONS

23 were called as witnesses, and having been first duly
24 sworn, were examined and testified as follows:

25 MS. STURMAN: Good afternoon, Madam
26 Chair, members of the Board. My name is Susan

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1 Sturman and I represent Trinity Housing Corporation
2 of Washington and its sponsor, Trinity AME Zion
3 Church. Gwendolyn Simmons is my colleague on this
4 matter.

5 As you heard, we're seeking a special
6 exception and variance to the DC zoning laws in
7 order to construct a parking lot at 1417, 1493 and
8 1507 Meridian Place, NW. As you know, we first
9 appeared before this Board on February 18, 1998, and
10 at that time Robert Tucker, who is the head of ANC
11 1-A and one of his constituents objected to the use
12 of the property as a parking lot. Their concern was
13 that they had not had an opportunity to review the
14 plans and they wanted to do that before they
15 approved the use.

16 At the Board's direction, the hearing
17 was postponed until today. A community meeting was
18 held and an ANC meeting was held. On February 24th,
19 the Trinity Housing Corporation represented by
20 Doctor Liggins and myself, presented the plans to
21 the community as well as a copy of the zoning
22 application which we delivered to you. Mr. Tucker
23 and the community had questions regarding the
24 development. We responded to those questions.

25 On March 9th, the ANC met and they
26 approved the plans and the use of the property as a

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1 parking lot. We understand that Mr. Tucker has
2 filed with you, a copy of the ANC letter that shows
3 the approval of the ANC. We have additional copies
4 of that letter if you do not have a copy in the
5 file.

6 CHAIRPERSON REID: Would you please give
7 it to the secretary?

8 MS. STURMAN: Mr. Tucker from the ANC is
9 not present today, and the one resident who had
10 objected originally also is not present. We are not
11 sure --

12 CHAIRPERSON REID: So, there is no one
13 here in opposition of this case?

14 MS. STURMAN: That's right.

15 CHAIRPERSON REID: Okay. All right.

16 MS. STURMAN: This property has been in
17 limbo for at least the past 14 years. It has had
18 two owners during that time and it has been the
19 subject of several proposals for development. The
20 prior owner was a DC redevelopment land agency who
21 sold the property to Trinity Housing Corporation.
22 Based on analysis on discussions with the community,
23 they decided that the property should be used as a
24 parking lot.

25 We're going to present testimony here
26 today that shows that we can meet the necessary

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1 zoning modifications if the property is developed,
2 and meet all the necessary procedures under the DC
3 zoning regulations in order to do that development.
4 We will present testimony that under its present
5 state, the property is not and can not be used by
6 the owner of the property or by the community. We
7 will show that if the development does not progress
8 as proposed, that the use of the property will be
9 inhibited and it will not benefit the community.

10 Ms. Marion Brooks from the Department of
11 Housing and Community Development will speak first.
12 She will discuss the history of the property, its
13 ownership by the RLA, and how it came into the
14 possession of the current owner. She will testify
15 as to the RLA's determination of the best use of the
16 property and how the RLA has restricted its use to a
17 parking lot.

18 Next, Doctor Athel Liggins who is
19 president of the board of directors of Trinity
20 Housing Corporation and chairman of the board of
21 trustees for Trinity AME Zion Church will testify to
22 the churches in the community's need for this
23 additional parking. He'll discuss the development
24 of the lot, how the need will be accommodated within
25 the harmony and the spirit of the zoning
26 regulations, and discuss the community's involvement

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1 in making this decision to develop the property as a
2 parking lot. He will also discuss the hardship that
3 the applicant and the church and the neighborhood
4 would undergo if this property is not developed as a
5 parking lot.

6 Then finally, Mr. Randall Marshall of
7 the architectural firm Navy Marshall & Associates
8 who designed the parking lot, will give an overview
9 of the proposal of the design and construction. The
10 plans are included in your application. He'll
11 confirm that the parking lot will conform to all the
12 relevant requirements of the DC Urban Renewal Plan
13 in Section 2303 of the DC regulations.

14 We'd like to present you with written
15 copies of the testimony that's going to be presented
16 verbally today. We'll begin with Ms. Brooks and her
17 discussion.

18 CHAIRPERSON REID: Just let me interject
19 something. We'd like to hear specifically about the
20 special exception component of your presentation and
21 how you comply with 213. The historical background
22 was submitted within your application and we do have
23 that, and we've read it. So, in the interest of
24 time -- and that we're going to be losing our quorum
25 at 5:00, I'd just like for you to please present the
26 salient points as they are germane to how you comply

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1 with the zoning regulations and adverse impacts.

2 MS. STURMAN: Perhaps Mr. Marshall can
3 discuss that. He designed the parking lot and he
4 can explain the way that the design conforms to the
5 regulations.

6 CHAIRPERSON REID: Exactly. Thank you.

7 MR. MARSHALL: Shall I swear?

8 CHAIRPERSON REID: Yes.

9 Whereupon,

10 RANDALL MARSHALL

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

13 MR. MARSHALL: I'm Randall Marshall,
14 architect, president of the firm, Navy Marshall &
15 Associates. We're the responsible firm for
16 designing this parking lot for Trinity Church at
17 Center Street -- Meridian and Center Street.

18 I can say, as a bottom line, that we've
19 done a lot of parking lots. We've designed this
20 facility to DC zoning code and to the RLA code for
21 screening, for size of the parking spaces, et
22 cetera. If you want to ask me any specific
23 questions, I'll be happy to answer them. But we are
24 asking for no variances on code procedures.
25 Everything is according to code.

26 CHAIRPERSON REID: Did you give your

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1 address?

2 MR. MARSHALL: It's 1221 Mass Avenue,
3 NW, Washington, DC.

4 CHAIRPERSON REID: Thank you.

5 MS. STURMAN: Excuse me, Mr. Marshall.
6 The parking lot is going to be fully landscaped, is
7 that right?

8 MR. MARSHALL: That's correct. We're
9 putting the screening around the lots as required by
10 the RLA code.

11 MS. STURMAN: And you're going to have
12 it fully paved with all weather paving?

13 MR. MARSHALL: That's correct. We're
14 having it fully paved for all weather use, all year
15 round use.

16 MS. STURMAN: And ingress and egress is
17 going to be unaffected? It's currently used as a
18 parking lot so --

19 MR. MARSHALL: There will be absolutely
20 no traffic congestions as a result of this parking
21 lot. It's a small lot and it's on very lowly
22 travelled streets.

23 MS. STURMAN: And it is going to be
24 lighted as well?

25 MR. MARSHALL: It will absolutely be
26 lighted for security reasons.

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1 CHAIRPERSON REID: Are you finished?

2 MR. MARSHALL: Yes, ma'am.

3 CHAIRPERSON REID: Okay, could you go
4 over all of the points under 213? You've
5 highlighted a few of them, but I think they would
6 like you to address each one of them specifically.

7 MS. STURMAN: Okay. If you could go
8 through your testimony line-by-line 2313 and the
9 compliance with 2313?

10 MR. MARSHALL: You mean, reiterating
11 what I just said?

12 MS. STURMAN: Yes, to make sure we've
13 hit every single part of that.

14 CHAIRPERSON REID: The ones that you've
15 already indicated, sir, you need not. But the ones
16 that you did not, I would appreciate it if you
17 would.

18 MR. MARSHALL: Okay, I mentioned that
19 it's to the dimensions of the DC zoning ordinance.
20 It's landscaped in accordance with the RLA
21 requirements. I won't indicate all the numbers.
22 You have the numbers here. No vehicle or any part
23 of the vehicle will project across the property
24 lines. The entrances and exits will be at least 40
25 feet from the intersection. That's required by
26 code. There will be perimeter lighting around the

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1 site. I think lastly that the landscaping will be
2 at least five percent of the lot design by Navy
3 Marshall & Associates.

4 CHAIRPERSON REID: Okay.

5 MS. STURMAN: Shall we proceed to Ms.
6 Brooks?

7 CHAIRPERSON REID: Yes.

8 MS. STURMAN: Okay, Ms. Brooks from the
9 DC Department of Housing and Community Development.

10 MS. BROOKS: Good afternoon, Madam
11 Chair, members of the Board, and ladies and
12 gentlemen. I am Marion F. Brooks, a real property
13 disposition coordinator and project manager with the
14 District of Columbia Department of Housing and
15 Community Development. I'll refer to it from here
16 on out as DHCD.

17 CHAIRPERSON REID: Okay, Ms. Brooks,
18 excuse me, give your address please?

19 MS. BROOKS: 51 N Street, NE, in
20 Washington, DC.

21 CHAIRPERSON REID: That's not your home
22 address.

23 MS. BROOKS: Oh, my home address? Okay.

24 My home address is #4 Staton Drive, in
25 Upper Marlboro, Maryland.

26 CHAIRPERSON REID: Your testimony is

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1 essentially regarding the history of the parking
2 lot?

3 MS. BROOKS: Yes, ma'am.

4 CHAIRPERSON REID: Background with the
5 RLA?

6 MS. BROOKS: Yes, ma'am.

7 CHAIRPERSON REID: We have that
8 information. Again, we have that information, so if
9 you could just summarize with just a couple of
10 sentences, you know, because we've already read it.
11 We're all right -- with the information having read
12 the file.

13 MS. BROOKS: Okay. Well, in summary,
14 the bottom line is that the city had made an effort,
15 for a number of years, to develop this site. The
16 fact that the development came to a parking lot was
17 really from the impetus of the community, the ANC,
18 who basically resisted anymore town house
19 developments or residential developments because of
20 the high density of the area and the lack of parking
21 in the area.

22 So, when Trinity came back again with a
23 proposal -- because initially, they came in to build
24 a 60 unit residential facility for the elderly --
25 and they met with community resistance, they did
26 revise that plan and came back to the table with the

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1 concept of a church-owned/community parking
2 facility. The thought in mind was that they use the
3 land as a parking lot for the church members on
4 Sunday, because that was a very hard time for the
5 church members for parking and oftentimes on Wednesday
6 nights when they had their midweek services. But
7 during the rest of the week, they would make
8 arrangements with the community to allow the
9 residents of the community to use the lot. The
10 community was very enthusiastic about that idea.

11 The District looked at the Urban Renewal
12 Plan and we found that within that residential area,
13 accessory parking was available. We determined that
14 it was accessory parking, so it could be an
15 appropriate use under the -- land agency's urban
16 renewal plan. We then presented it to the
17 Redevelopment Land Agency Board Council and it was
18 approved. From that point on, we transferred the
19 land to them to begin development.

20 We're here today because we are
21 supporting Trinity's proposed development, and we
22 have pledged to them that we will do everything
23 within our power to help to see that not only the
24 church but the community got some parking relief in
25 that area.

26 CHAIRPERSON REID: Thank you, Mrs.

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1 Brooks. We appreciate your testimony.

2 MS. BROOKS: Thank you.

3 CHAIRPERSON REID: Okay.

4 MS. STURMAN: Next, we'd like to have
5 Doctor Liggins speak as to the need for parking in
6 this area and the use of the parking by both the
7 church and the community.

8 CHAIRPERSON REID: Again, that's clear
9 from the record. We've already read it and we have
10 the information.

11 DOCTOR LIGGINS: One of the things I
12 just wanted to mention -- and I say good afternoon
13 to all of you --

14 CHAIRPERSON REID: Yes.

15 DOCTOR LIGGINS: I'd like to mention the
16 fact that we have met on several occasions with the
17 community folks in order that they would have an
18 input as well as what we're trying to do for the
19 community. To beautify the area, to make it
20 accessible to the neighbors so that they can utilize
21 this space, especially those that parking is very
22 difficult. In fact, it's almost non-existent for
23 anybody that's living in the community unless you
24 have this space to park in.

25 The other night I passed through there
26 to count the number of cars that were on the lot and

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1 you go anywhere from 39 to 49 cars are parked there
2 almost any evening, simply because there's no place
3 for the people to park. If they didn't park there,
4 they'd have to walk several blocks which would be
5 dangerous for many of the women who work at night.
6 So that, even the little children -- we had a
7 meeting just the other day with the community folks
8 and we had petitions. We had over 80-some people
9 who signed indicating that they would like to see us
10 develop this to beautify the neighborhood.

11 And so, we've worked very diligently and
12 hard with the people in the community. I've worked
13 almost ten years trying to see what we could do for
14 them. It has been a wonderful cooperative effort on
15 the part of the community because they see the
16 benefit and the need of it. When we have people in
17 church -- our church seats about 700 people and when
18 they come on Sundays, without this area, there is no
19 place for the neighbors to park, no place for our
20 people to park. So, we've been very thankful that
21 the DC government has allowed us to purchase this
22 land and RLA has made it possible. I think that all
23 of us will benefit from it.

24 CHAIRPERSON REID: Thank you, Doctor
25 Liggins.

26 MS. STURMAN: Since we have no

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1 opposition, we'd like to have Gwendolyn Simmons
2 provide a summary of the testimony and a closing
3 statement.

4 CHAIRPERSON REID: You'd like to do
5 what?

6 MS. STURMAN: We'd like to have
7 Gwendolyn Simmons provide a closing statement since
8 there is no opposition.

9 CHAIRPERSON REID: Oh, oh, but wait. We
10 still have to go through the various steps.

11 Board members, are there any questions?
12 Okay.

13 Ms. Hinton, no question?

14 MS. HINTON: No.

15 CHAIRPERSON REID: Okay. I don't think
16 we have any government reports on this particular
17 case.

18 The ANC was not present. However, they
19 did submit a letter in which they were in support of
20 this application. There was a quorum present and
21 they would be afforded the great weight to which
22 they're entitled. I think that in the meetings that
23 you all have had, certain things had come out
24 regarding the use of the lot and let's see what
25 other conditions.

26 You are familiar with the conditions

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1 from the ANC?

2 DOCTOR LIGGINS: Yes, I am.

3 CHAIRPERSON REID: Okay.

4 DOCTOR LIGGINS: We have agreed on
5 those.

6 CHAIRPERSON REID: You have agreed on
7 these conditions? Okay, very well.

8 All right. There was no opposition.
9 Persons in support. Because there was no
10 opposition, so now, you can do your closing remarks.

11 MS. HINTON: There is a letter of
12 opposition in the file, Ms. Reid.

13 CHAIRPERSON REID: Okay.

14 I don't have it, Mrs. Hinton. Would you
15 please --

16 MS. HINTON: It was with the material we
17 received today. It's from an individual, Cheryl
18 Berger.

19 CHAIRPERSON REID: Oh, yes, I did see
20 that.

21 MS. HINTON: Right. She is just a
22 person in opposition and she lists a number of
23 concerns.

24 CHAIRPERSON REID: Yes, I do have it
25 now.

26 Are you familiar with the letter of

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1 opposition from a Cheryl Berger?

2 DOCTOR LIGGINS: Yes, she was at the
3 meeting and also, as I said, out of the petitions
4 and out of the letters and everything we got, we had
5 close to 100 supporters and only one person who was
6 in opposition. That was Mrs. Berger, who wasn't in
7 opposition -- she had a number of questions that she
8 wanted cleared up.

9 CHAIRPERSON REID: Were those questions
10 answered, like the issue regarding how are the lots
11 are to be managed?

12 DOCTOR LIGGINS: Yes, all of that.
13 We've answered those.

14 CHAIRPERSON REID: Corporation's
15 liability is someone is injured on the lot? Are you
16 at any point thinking in terms of converting the lot
17 to a commercial parking lot?

18 DOCTOR LIGGINS: No, that's not our
19 objective. Not at all.

20 CHAIRPERSON REID: Okay.

21 MS. HINTON: That wouldn't be allowed
22 under the zoning.

23 CHAIRPERSON REID: Yes, I'm just talking
24 to her issues.

25 How does the corporation plan to
26 accommodate Metro subway parking in one to two

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1 years? I don't think that's really relevant.

2 Okay, now --

3 MS. SIMMONS: I just wanted to summarize

4 briefly.

5 CHAIRPERSON REID: Okay, now who --

6 MS. SIMMONS: My name is Gwendolyn

7 Simmons. I'm also --

8 CHAIRPERSON REID: Give me your name?

9 MS. SIMMONS: It's Gwendolyn Simmons.

10 CHAIRPERSON REID: Okay.

11 MS. SIMMONS: And I am also an attorney

12 with Hessel & Eloise, PC.

13 CHAIRPERSON REID: Okay, are you giving

14 the closing remarks?

15 MS. SIMMONS: Yes.

16 CHAIRPERSON REID: Okay.

17 MS. SIMMONS: And do you need my

18 address, home or office?

19 CHAIRPERSON REID: Yes, please, home

20 address.

21 MS. SIMMONS: 2950 Van Ness Street, NW,

22 #724, Washington, DC 20008.

23 As you have heard from our witnesses

24 today and have seen from the exhibits and other

25 material that was submitted, using parcel 20 as a

26 parking lot was not a decision that was arrived at

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1 quickly or impulsively. This decision literally
2 involved years of discussion and study by the
3 church, the community and the District of Columbia.

4 The District's Redevelopment Land Agency
5 was very sure of this decision and restricted the
6 property to parking lot use in the deed and the
7 sales contract, transferring the contract to Trinity
8 Housing Corporation. I just want to stress, and I'm
9 sure you realize at this point, that the property is
10 effectively worthless if it can not be used as a
11 parking lot because of that restriction.

12 As Ms. Brooks and Doctor Liggins have
13 demonstrated, the neighborhood in which the parking
14 is located is a heavily congested area in great need
15 of parking. The need is so great, in fact, that the
16 neighborhood residents and the church members have
17 been parking on the property for years in spite of
18 the fact that it has never been formally developed
19 as a lot.

20 We believe that the planned use of a
21 parking lot were further the public good and not be
22 a detriment to it. The proposed parking lot would
23 serve both the church and the surrounding community.
24 As Doctor Liggins has indicated, the church has
25 graciously offered to cover all costs of the
26 facility. There would be no cost to residents who

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1 choose to park there. The ANC and the church have
2 entered into a written agreement setting forth the
3 terms for sharing the lot. The ANC, of course, has
4 reaffirmed its support of this project.

5 Even the one resident, Ms. Berger, who
6 has submitted correspondence to the Board voicing
7 some objections to the development, clearly has
8 acknowledged in her correspondence the parking
9 problem in the community. Her objections seem to
10 run more toward the administration of the lot than
11 to the existence of the lot altogether. And of
12 course, one reason that the lot has not been better
13 administered is that it just couldn't be unless we
14 have the necessary variances and exceptions
15 approved.

16 Because the church was built prior to
17 the adoption of the current zoning regulations, it
18 was not required to have off street parking. By
19 creating off street parking, the lot would bring the
20 church into closer harmony with the intent of the
21 existing regulations. The lot would reduce the
22 number of cars parking on the narrow neighboring
23 streets without affecting existing traffic
24 conditions and abutting properties. Mr. Marshall
25 has reported that the lot can and will be
26 constructed in accordance with the zoning

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1 regulations and in the existing Urban Renewal Plan.

2 So, in summary, on behalf of Trinity
3 Housing Corporation of Washington, we request that
4 you approve the special exception and the zoning
5 variances requested in our application in order that
6 the parking lot may be constructed and serve the
7 parishioners of the church and the neighboring
8 residents. Thank you.

9 CHAIRPERSON REID: Okay, thank you.

10 This particular case will be deliberated
11 on, I think, the April 1st meeting -- the next
12 meeting of the Board. We are unable to render a
13 bench decision or a summary order because of the
14 fact that one of the Board members who heard the
15 first portion of the case is not here, and she'll
16 have to read the record, okay?

17 MS. SIMMONS: Thank you.

18 CHAIRPERSON REID: All right, thank you.

19 MS. ROSE: So, there are no further
20 documents?

21 CHAIRPERSON REID: At this time?

22 MS. ROSE: That you would like to get
23 from anyone?

24 CHAIRPERSON REID: Not that I -- I don't
25 think so.

26 MS. ROSE: Okay.

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1 MS. HINTON: Madam Chair, we need a
2 moment to concur on the time --
3 CHAIRPERSON REID: You mean the meeting?
4 MS. HINTON: Yes.
5 CHAIRPERSON REID: Okay. Just one
6 moment.
7 Okay, it will be at the April 1st meeting, okay?
8 All right, thank you very much.
9 MS. SIMMONS: Thank you.
10 CHAIRPERSON REID: All right. This
11 concludes today's hearing. Thank you.
12 (Whereupon, the hearing was concluded at
13 4:34 p.m.)

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