

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

Wednesday

March 1, 2000

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ROBERT N. SOCKWELL	Vice Chairperson
MS. ANNE RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Commissioner
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OFFICE OF ZONING STAFF PRESENT:

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

OTHER AGENCY STAFF PRESENT:

Mr. Rodney Moulden      NCPV

D.C. OFFICE OF CORPORATION COUNSEL

Marie Sansone, Esq.

AGENDA ITEM PAGE

PRELIMINARY MATTERS. . . . .

APPLICATION OF HAROLD SCHNEIBERG:

16301 ANC-1C . . . . .

NORMAN GLASGOW, JR., Esq. . . . .  
Wilkes, Artis, Hedrick & Lane, Chartered  
Suite 1100  
1666 K Street, N.W.  
Washington, D.C. 20006-2897  
(202) 457-7814

WITNESS

RAUL A. SANCHEZ . . . . .

APPLICATION OF ANNIE B. FULLER:

16302 ANC-4B . . . . .

WITNESSES

LENORA FULLER . . . . .  
REYNALDO APARICIO . . . . .

APPLICATION OF THE HEURICH FAMILY:

C-O-N-T-E-N-T-S (Cont.)

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

COMMISSION STAFF PRESENT:

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

D.C. OFFICE OF CORPORATION COUNSEL

Marie Sansone, Esq.

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

(1:11 a.m.)

CHAIRPERSON REID: Good afternoon. The hearing will please come to order. Ladies and Gentlemen, this is the March 1st public hearing of the Board of Zoning Adjustment for the District of Columbia.

My name is Sheila Cross Reid. Joining me today is Robert Sockwell, who will be joining us momentarily, and Mr. Rodney Moulden representing the National Capital Planning Commission.

This is Anne Renshaw, and also representing the Zoning Commission is Mr. Anthony Hood. Copies of today's hearing agenda are available to you. They're located to my left near the door.

Copies of today's agenda are available to you. They're located to my left near the door. All persons wishing to testify either in favor or in opposition are to fill out two witness cards.

These cards are located on each end of the table in front of us. In coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right.

The procedure for special exception and variances is one, statement and witnesses of the applicant, two, government reports, including Office of Planning, Department of Public Works, et cetera. Three, report of the Advisory Neighbor Commission.

1 Four, parties or persons in support. Five, parties  
2 or persons in opposition. Six, closing remarks by the Applicant.

3 We don t have any appeals today, do we? Staff?

4 MS. PRUITT: No.

5 CHAIRPERSON REID: Cross examination of the  
6 witnesses is permitted by the Applicant or parties. -- with in  
7 which the property is located is automatically a party in the  
8 case.

9 The record will be closed at the conclusion of each  
10 case except where any material specifically requested by the Board  
11 and the Staff will specify at the end of the hearing exactly what  
12 is expected.

13 The decision of the Board and these contested cases  
14 must be based exclusively on the public record. To avoid any  
15 appearance to the contrary, the Board requests that persons not  
16 engage with the Members of the Board in conversation.

17 Please turn off all beepers and cell phones at this  
18 time so as not to disturb these proceedings. The Board will make  
19 every effort to conclude the Public Hearing as near as possible to  
20 6:00 o clock p.m.

21 If the afternoon cases are not completed at 6:00  
22 o clock p.m. the Board will assess whether they can complete the  
23 pending case or cases remaining on the agenda. At this time the  
24 Board will consider any preliminary matters.

25 Preliminary matters are those which relate to

1 whether a case will or should be heard today, such as requested  
2 postponement, continuance or withdrawal or whether proper and  
3 adequate notice of the hearing has been given.

4 If you're not prepared to go forward with the case  
5 today and believe that the Board should not proceed, now is the  
6 time to raise such a matter. Does anyone have preliminary  
7 matters?

8 Please come forward.

9 MS. GIORDANO: Good afternoon. For the record my  
10 name is Cynthia Giordano with Linowes and Blocher Law Firm. I  
11 have the second case on the agenda this afternoon, and we re going  
12 to be seeking a continuance.

13 CHAIRPERSON REID: What s the case number please,  
14 Ms. Giordano?

15 MS. GIORDANO: I m sorry, I don t have it in front  
16 of me. I ll just go get an agenda. I m sorry, it s the third  
17 case. 16552, Application of Lynne Hornyak and Michael Petite for  
18 SP Office Use for two units in the Lauren Condominiums.

19 CHAIRPERSON REID: Okay.

20 MS. GIORDANO: We are in the process of, we received  
21 a party request on behalf of another resident in the building.  
22 We re in the process of mediating a civil dispute with that  
23 individual right now.

24 And we think that due to that and some of the legal  
25 issues that were raised about res judicata in the case that it

1 would probably be a good idea to step back, take a little more  
2 time to work with that party and to brief the issue of the res  
3 judicata matter.

4 CHAIRPERSON REID: Is there anyone else here that is  
5 really with a stickler case? Please come forward?

6 MS. SCHNEIDER: Hi, I m Jan Schneider, I presume I,  
7 -- thank you. I presume I m the other resident to whom you  
8 referred.

9 MS. GIORDANO: That s correct.

10 MS. SCHNEIDER: Yes, that s fine with me.

11 MS. GIORDANO: But what I would like to do, I  
12 haven t had an opportunity to talk to Ms. Schneider about this  
13 directly. We just haven t had a chance to get together, but we  
14 were in mediation last week and Ms. Schneider indicated that the  
15 timing of proceeding at this time was problematic for her.

16 We re not seeking a withdrawal of the application.

17 We d like a continuance at this time. We d like to work with Ms.  
18 Schneider and see if we can come to an agreement on a better  
19 timing of this application.

20 But what I would hope is that we might be able to  
21 schedule the case for a next available hearing date which I assume  
22 will probably be not until May or so.

23 CHAIRPERSON REID: Do you want the additional time  
24 so that you can come, try to come to some resolution of your  
25 differences?

1 MS. GIORDANO: That s correct.

2 CHAIRPERSON REID: Okay. Board Members?  
3 Discussion?

4 MEMBER RENSHAW: Madam Chair, I have no difficulties  
5 with a continuance, and I would so move that this case be  
6 continued to the first available date, as set by Staff.

7 CHAIRPERSON REID: When would that be?

8 MS. PRUITT: May 23rd.

9 CHAIRPERSON REID: All right. Second it?

10 COMMISSIONER HOOD: Yeah, I ll second the motion.

11 CHAIRPERSON REID: So what is your pleasure in  
12 regards to this motion? Did you have any comments? Okay. All  
13 right. All in favor?

14 (Chorus of ayes.)

15 Opposed?

16 (Pause.)

17 MS. GIORDANO: Thank you very much.

18 CHAIRPERSON REID: Thank you.

19 MS. SCHNEIDER: Thank you.

20 CHAIRPERSON REID: All right. Are there any  
21 preliminary matters from Staff?

22 MS. PRUITT: No Madam Chair. I mean they related to  
23 that case, so.

24 CHAIRPERSON REID: Okay. All right. Then let me,  
25 let us proceed with the first case of the afternoon.

1 MS. PRUITT: Do you want to talk about the --

2 CHAIRPERSON REID: Oh, the order?

3 MS. PRUITT: Yes. I mean that s not really a  
4 preliminary matter, but.

5 CHAIRPERSON REID: It is the Board s and my  
6 intention that there are some cases this afternoon that are going  
7 to be a little longer, and we have a couple of really short cases.

8 So what we wanted to do is to reverse the order a  
9 little bit and to hear Case No. 16426 first and then Case 16530  
10 second, cause these are relatively short cases and it would give  
11 the rest of the afternoon to larger cases.

12 MEMBER RENSHAW: What is the first one?

13 CHAIRPERSON REID: The first one is 16426. We re  
14 hearing in the Application of Seung Won Hong. I hope I pronounced  
15 his name correctly.

16 MS. PRUITT: Correct. First case of the afternoon  
17 is Application 16426, Rehearing in the Application of Seung Won  
18 Hong, pursuant to 11 DCMR 3104.1 for a special exception under  
19 Subsections 743.1 and section 30, 2302 to construct an automotive  
20 repair service center in a C-3-C District at 21 L Street, S.W.  
21 (Square 648 Lot 22).

22 All those planning to testify would you please  
23 stand and raise your right hand? Mr. Hong, can you stand? Stand  
24 and raise your hand.

25 (Witnesses sworn.)

1 Please proceed.

2 MR. HONG: Hi, good afternoon.

3 MS. PRUITT: Excuse me Madam Chair. I believe that  
4 we have a request for party status in this case, is that correct,  
5 sir? We should do that now, yes.

6 CHAIRPERSON REID: All right.

7 MS. PRUITT: You re requesting part status, is  
8 that, you re Mr. Nathanson?

9 MR. NATHANSON: Yes, that s correct.

10 MS. PRUITT: And you are requesting party, you sent  
11 in a letter.

12 MR. NATHANSON: Yes, that s correct.

13 MS. PRUITT: Okay, the Board needs to make a  
14 determination on that.

15 MR. NATHANSON: Okay.

16 CHAIRPERSON REID: Mr. Nathanson, come forward  
17 please.

18 (Pause.)

19 All right now, I m sorry, did we have a written  
20 request from you.

21 MR. NATHANSON: Yes, and I responded, I was sent the  
22 copy of the requirements of 11 DCMR 3106.2 and I returned it on  
23 February the 7th to this office. I have been in communication  
24 about this case since last year.

25 CHAIRPERSON REID: Uh-huh. Okay. I see, I do have

1 it, I just didn't see it.

2 COMMISSIONER HOOD: Madam Chair while we're waiting,  
3 trying to get that straight, can I just say something about the  
4 application? The application again says a variance to allow  
5 construction of an auto service center.

6 MS. PRUITT: We actually are, that's the original  
7 application Mr. Hood.

8 COMMISSIONER HOOD: Right, but I mean it should,  
9 shouldn't we have something in the file stating that he's coming  
10 back for a special exception?

11 MS. PRUITT: The file does, it has a sua sponte  
12 order that the Zoning Commission then remanded it back, so, and  
13 that should be in your --

14 COMMISSIONER HOOD: Right, I saw that, this was on  
15 the front, and when I looked at it I know that the Zoning  
16 Commission --

17 MS. PRUITT: Confusing.

18 COMMISSIONER HOOD: The Zoning Commission had  
19 specifically did a sua sponte and it was overturned. This  
20 forwards our order.

21 CHAIRPERSON REID: Okay, Mrs. Pruitt, the submission  
22 that was supposed to be in, was in in a timely fashion and he  
23 basically complied with the requirements.

24 MS. PRUITT: Yes, Madam Chair.

25 CHAIRPERSON REID: All right then I have no problem

1 with admitting him as a, giving him party status. Unless there  
2 are any objections. Okay, then we ll grant the party status, sir.

3 MR. N: Thank you.

4 CHAIRPERSON REID: Okay.

5 MS. PRUITT: Mr. Nathanson, you should return to  
6 your seat and let Mr. Hong give his case and then you can come  
7 forward.

8 MR. HONG: May I start?

9 CHAIRPERSON REID: Yes.

10 MR. HONG: Hi, good afternoon. My name is Seung  
11 Hong. I live in 8138 Ridge Creek Way, Springfield, Virginia. I m  
12 also, been a mechanic in D.C., 31 K Street S.E. for the last 15  
13 years.

14 I am the owner of 21 L Street S.W., which is an  
15 empty lot at this time, Zoned 3, C-3-C. I have plans to build an  
16 automotive repair facility, a modern one that conforms to the  
17 modern standards of pollution and safety requirements.

18 And it is located in the vicinity of Washington  
19 D.C. Safety Inspection Station, and also NTB which is a tire  
20 wholesaler. And also an Exxon gas station. I believe that it  
21 fits very well with the surrounding and I also have a strong  
22 support from the community, local community.

23 People who lived in the neighborhood for a long  
24 time, and, with the approval of the Zoning Board I would like to  
25 build a shop that will serve the community for a long time to

1 come. That s it.

2 CHAIRPERSON REID: That completes your. All right,  
3 Mr. Hong, that you are in compliance with regulation 741.1, 743.1,  
4 sorry.

5 MR. HONG: Yes.

6 CHAIRPERSON REID: Sir?

7 MR. HONG: Yes.

8 CHAIRPERSON REID: All right, if you could tell us  
9 how you are?

10 MR. HONG: Well the, the C-3-C zoning, it is allowed  
11 to build a auto service facility with the approval of the Zoning  
12 Board. The Zoning Board I understand will determine whether it,  
13 would not have adverse effect in the neighborhood.

14 The new, the some of the concerns that s been  
15 raised or, like a traffic, and, pollution, of that kind.

16 CHAIRPERSON REID: Uh-huh.

17 MR. HONG: And a modern repair shop does not  
18 generate any hazardous material that would have adverse effect on  
19 the surrounding, and as far as, it has parking within the facility  
20 that wouldn t, would not overflow to the roadways.

21 And because the, because of the existing automotive  
22 related businesses, in the immediate surroundings, I believe it  
23 fits very well with the intent and the purpose of the Zoning  
24 Regulation.

25 CHAIRPERSON REID: Other than the, the opposition

1 that we have gotten from Mr. Nathanson, have you had any other  
2 complaints, or any other people to come forward to oppose your  
3 application?

4 MR. HONG: None. In fact I have a very strong support from  
5 the community. I attended the ANC meeting twice and the other  
6 residents who were attending the meeting at the time, by accident  
7 happened to be already residents who has been used my service in  
8 the past.

9 And they were all happy with me and they had gone  
10 as far as to say that I would be an asset of the community if I  
11 was to be allowed to build an auto repair shop at the proposed  
12 site.

13 CHAIRPERSON REID: Okay, and then if we, regard to  
14 the issue of pollution you re saying that there is no pollution?

15 MR. HONG: No. Any, for instance engine oil that may  
16 result from changing an oil is collected and removed from the site  
17 and we keep the record of pick up.

18 CHAIRPERSON REID: Okay, what about dirt and grease  
19 and it being unsightly?

20 MR. HONG: It will not be unsightly, it would be a  
21 brand new building. Not much different from a new car dealership  
22 that you would go to. Also, the, in fact it would be, we would be  
23 doing a good job in cleaning pollution since more strict emissions  
24 standards of the vehicles requires us to make the cars run better  
25 so they can run cleaner.

1 CHAIRPERSON REID: You mentioned something about  
2 traffic.

3 MR. HONG: Yes.

4 CHAIRPERSON REID: What was the problem as far as  
5 traffic was concerned?

6 MR. HONG: There really is no traffic, concern about  
7 traffic, but I thought it was one of the things I had to mention  
8 since any business customers --

9 CHAIRPERSON REID: Oh you re just saying that there,  
10 as far as you know there is no problem for traffic, noise, lights  
11 --

12 MR. HONG: No.

13 CHAIRPERSON REID: And you provide parking.

14 MR. HONG: Yes.

15 CHAIRPERSON REID: Okay, all right, thank you.

16 COMMISSIONER HOOD: Madam Chair, I just had a few  
17 questions. Mr. Hong?

18 MR. HONG: Yes, sir.

19 COMMISSIONER HOOD: I wanted to find out, where is  
20 the nearest residence?

21 MR. HONG: A lot is --

22 COMMISSIONER HOOD: Approximately how many feet?

23 MR. HONG: I would say at least 600 feet.

24 COMMISSIONER HONG: 600?

25 MR. HONG: Yes. It s completely surrounded by

1 commercial properties.

2 COMMISSIONER HOOD: Okay. Also, for how many feet.

3 How many feet is, how many feet would, how many feet will your  
4 operation be to the street?

5 MR. HONG: Well it has standard curb. I didn't  
6 measure the curb but we wouldn't be invading into the curb.

7 COMMISSIONER HOOD: Okay.

8 CHAIRPERSON REID: Ms. Renshaw? I'm sorry.

9 COMMISSIONER HOOD: So to the, I guess maybe I need  
10 to rephrase my question Madam Chair. How many feet is it, is your  
11 entrance to a drive, to the nearest intersection?

12 MR. HONG: The nearest intersection would be  
13 intersection between the South Capitol Street and L Street, and  
14 that is about, about 80 feet, I would say.

15 COMMISSIONER HOOD: 80 feet to the nearest  
16 intersection?

17 CHAIRPERSON REID: Okay?

18 COMMISSIONER HOOD: Okay, thank you.

19 CHAIRPERSON REID: And then Mr. Sockwell.

20 MEMBER RENSHAW: Yes, Mr. Hong, good afternoon.  
21 Just several questions. How many vehicles do you propose to  
22 service in a day and a week and a year? Have you made those  
23 projections?

24 MR. HONG: Yes. The proposed shop will have six  
25 working bays and six bays we will be able to comfortably service

1 about 20 vehicles a day.

2 MEMBER RENSHAW: All right. Are you selling gas?

3 MR. HONG: We do not sell any gas.

4 MEMBER RENSHAW: No gas.

5 MR. HONG: We have a restriction to keep us from  
6 selling any gas in the future as well.

7 MEMBER RENSHAW: All right. And you said that you  
8 had been to the ANC twice?

9 MR. HONG: Yes.

10 MEMBER RENSHAW: Do you have, do we have a letter in  
11 the file from the ANC?

12 MR. HONG: There was a letter in the Zoning  
13 Commission s file and I noticed that it wasn t there in the Zoning  
14 Board file so I did bring copies.

15 MEMBER RENSHAW: You did bring copies, of 2D?

16 MR. HONG: Yes, uh-huh.

17 MEMBER RENSHAW: 2D?

18 CHAIRPERSON REID: Oh, you do have?

19 MR. HONG: Yes.

20 MEMBER RENSHAW: And if you would pass those out.

21 MS. PRUITT: You have them. In your new arrivals  
22 package.

23 MEMBER RENSHAW: All right.

24 MR. HONG: Also I have additional letters from the  
25 neighborhood residents in support of my application.

1 CHAIRPERSON REID: To submit or you ve already  
2 submitted them?

3 MR. HONG: It s in the Zoning Commission s file, but  
4 I didn t see it in the Zoning Board s file.

5 CHAIRPERSON REID: Well do you want to give it to  
6 staff?

7 MS. PRUITT: You can give them to us Ms. Hong, we  
8 can give them to them.

9 MR. HONG: Some of them you already have.

10 MS. PRUITT: Okay, great. Thank you. Are they all,  
11 oh, it s all the same package. Excuse me, Mr. Hong? These are  
12 duplicates?

13 MR. HONG: Yes.

14 MS. PRUITT: Thank you. You ve done our work for  
15 us. Thanks.

16 VICE CHAIR SOCKWELL: Now, Mr. Hong?

17 MR. HONG: Yes, sir.

18 VICE CHAIR SOCKWELL: A few questions. You said  
19 that you were a mechanic at 31 K Street S.E.

20 MR. HONG: Yes.

21 VICE CHAIR SOCKWELL: And the name of that business?

22 MR. HONG: Is DC Foreign Car Service.

23 VICE CHAIR SOCKWELL: Right.

24 MR. HONG: Since 85, May of 85.

25 VICE CHAIR SOCKWELL: Yes. And DC Foreign Car

1 Service was directly south of the Exxon station, or is that the  
2 following block?

3 MR. HONG: It would be across the street on the  
4 other side of South Capitol Street from the proposed --

5 VICE CHAIR SOCKWELL: I understand. Were you an  
6 owner in that business?

7 MR. HONG: My father is.

8 VICE CHAIR SOCKWELL: Your father owns that  
9 business. Do you have other businesses within that neighborhood?

10 MR. HONG: Not within the neighborhood.

11 VICE CHAIR SOCKWELL: Okay. The principal services  
12 that you would provide at your facility will be what?

13 MR. HONG: Mainly to cope with vehicles that have  
14 failed inspection. The inspection station is nearby, and we would  
15 be mainly serving those cars that need to be reinspected.

16 VICE CHAIR SOCKWELL: Uh-huh.

17 MR. HONG: Problems that were cited at the  
18 inspection. And also, the existing customers that I have.

19 VICE CHAIR SOCKWELL: Uh-huh. Now as I recall the  
20 previous business location is no longer, is that correct?

21 MR. HONG: It s still in operation.

22 VICE CHAIR SOCKWELL: It is still in operation.

23 MR. HONG: Yes. But the building is very old and  
24 very small, and with a lack of long term lease we couldn t make  
25 any major improvements that requires capital investment.

1 VICE CHAIR SOCKWELL: Uh-huh.

2 MR. HONG: And the landlord of our current location  
3 is reluctant to make any long term commitments.

4 VICE CHAIR SOCKWELL: Uh-huh. At one time you had  
5 access to a fairly large lot fronting, not exactly on, but  
6 somewhat behind South Capitol Street, am I correct?

7 MR. HONG: Um, no sir.

8 VICE CHAIR SOCKWELL: Okay. Because at one time I,  
9 if I m, unless I m missing which business you were, there were,  
10 the cars, there were cars in the yard that were damaged cars that  
11 were parked there in plain view for a fairly long period of time.

12 MR. HONG: Um, as a repair shop sometimes we have  
13 cars that are damaged, that we must keep because of the insurance  
14 process, it prevents us from disposing of them. Other than those  
15 occasions we don t keep damaged cars, damaged cars for --

16 VICE CHAIR SOCKWELL: Uh-huh.

17 MR. HONG: -- any long time. Unsightliness is very  
18 much a concern of mine as well.

19 VICE CHAIR SOCKWELL: Uh-huh. And, but for this  
20 particular business, you would be performing more the tuneup and  
21 limited, maybe brake services and things like that, I m asking  
22 you.

23 MR. HOOD: Yes. We are turning towards more of a  
24 faster services rather than in-depth services.

25 VICE CHAIR SOCKWELL: Uh-huh. And for the record, I

1 want to state that I've lived within about two and a half blocks  
2 of Mr. Hong's proposed business for 26 or 27 years.

3 So, I understand the neighborhood, the specific  
4 location, its adjacencies and I have a pretty fair picture of  
5 what was at 31 or is still at 31 K Street on the southeast side.

6 And at that time, that business did have a lot full  
7 of cars. Now, but from what you're planning or have proposed, you  
8 would not be providing a business that would do the same kind of  
9 thing because your principal client flow is going to come from the  
10 inspection station. Is that correct?

11 MR. HONG: Yes.

12 VICE CHAIR SOCKWELL: And how would you advertise to  
13 those people?

14 MR. HONG: Actually the location is, the  
15 advertisement in itself because it's faced, directly facing the --

16 VICE CHAIR SOCKWELL: Okay. Yes, I just thought I'd  
17 ask. --traffic related issues.

18 MEMBER RENSHAW: Mr. Hong, do you intend to operate  
19 a towing service also for those cars that can't make it from the  
20 inspection station?

21 MR. HONG: No.

22 MEMBER RENSHAW: No towing service.

23 MR. HONG: No towing service.

24 MEMBER RENSHAW: All right.

25 CHAIRPERSON REID: Okay, Mr. Moulden?

1 MR. MOULDEN: Madam Chair, I have a question about a  
2 storage, a, I guess, old auto parts, engines, transmissions, and  
3 other parts, how do you plan to accommodate the storage of old  
4 parts?

5 Will they be inside, will it be outside? If  
6 they re outside will they be screened in?

7 MR. HONG: Well that part of the plan is yet to be  
8 planned out exactly, but some parts is beneficial for us to keep,  
9 but some parts just, if it s more trouble to keep then it should  
10 be disposed of.

11 The old shop is an old shop where it s, we, it s  
12 what they call Mom and Pop store, whatever. But a new shop we  
13 have to conform to the new standards, and the appearance of the  
14 shop, which may be hampered by surplus parts or surplus vehicles  
15 is very much of my concern.

16 We have plans to make vegetations and landscaping  
17 work to make the site pretty.

18 MR. MOULDEN: But do you plan to store the parts  
19 inside or outside of the --

20 MR. HONG: Out of, inside of course.

21 MR. MOULDEN: All parts will be stored inside.

22 MR. HONG: Yes. In fact the new shop, proposed shop  
23 is, has plenty of room enough to have its own parts room inside.

24 MR. MOULDEN: Okay, all right. Okay, do you plan to  
25 make any physical improvements to the facility as far as

1 landscaping and just facades? I know the City has various plans  
2 for economic and commercial vitalization. Do you plan to make any  
3 improvements to landscaping, sidewalks, and so forth?

4 MR. HONG: The landscaping in the front view of the  
5 shop, which is on, would be L Street side, has a curb, a slanting  
6 curb, which we re planning to do landscape work. We won t have  
7 unsightly fences, and the building would be a brand new building  
8 which would look nice as well, and I think it would go very, blend  
9 very well with the Exxon station which has been recently renovated  
10 and also next to us which is a U.S. Postal Service, which also has  
11 a very clean building.

12 MR. MOULDEN: Yes, well the reason I asked that, I  
13 didn t notice a detail or any specific site plan that showed any  
14 improvements like that, you know. Do you have anything?

15 MR. HONG: A copy of the plan was in the record.

16 MR. PRUITT: It s in your file Mr. Moulden that Ms.  
17 Reid has.

18 CHAIRPERSON REID: Right here.

19 MR. MOULDEN: Okay. All right thanks.

20 COMMISSIONER HOOD: Madam Chair, may I just ask, I  
21 just have one more question. Mr. Hong where are your grease pits  
22 going to be located? You may have answered this previously, but I  
23 may have missed it.

24 MR. HONG: We will not have grease pits.

25 COMMISSIONER HOOD: Okay, and your hoist, will you

1 have any hoists?

2 MR. HONG: The lifts?

3 COMMISSIONER HOOD: Yes.

4 MR. HONG: It will be above ground, modern, above  
5 ground, that does not use hydraulic oil.

6 COMMISSIONER HOOD: Okay.

7 MR. HONG: I mean underground hydraulic oils.

8 COMMISSIONER HOOD: And they will all be in the  
9 building.

10 MR. HONG: Yes.

11 COMMISSIONER HOOD: Okay.

12 MR. HONG: No work on the car will be performed  
13 outside of the building.

14 COMMISSIONER HOOD: Okay, thank you.

15 CHAIRPERSON REID: Okay.

16 MEMBER RENSHAW: Mr., one more question. Mr. Hong,  
17 it s often the case that drivers drop off cars for next day  
18 service, do you have adequate parking for that so it doesn t end  
19 up looking like a used car lot?

20 MR. HONG: There is plenty of parking in the yard  
21 and also inside the building. There are spaces for approximately  
22 15 vehicles or more depending on the, on whether it s a compact  
23 vehicle or full-sized vehicle.

24 And with the inside being able to store 10 cars, we  
25 have more than enough parking for, so daily planned number of

1 cars.

2 MEMBER RENSHAW: Uh-huh.

3 MR. HONG: And there s a Metro nearby where people  
4 can come and pick up the cars easily.

5 CHAIRPERSON REID: Okay, thank you.

6 VICE CHAIR SOCKWELL: I have another question.

7 CHAIRPERSON REID: You can ask it now or you can ask  
8 it in closing. Okay.

9 VICE CHAIR SOCKWELL: Okay. Mr. Hong?

10 MR. HONG: Yes.

11 VICE CHAIR SOCKWELL: Because your family has  
12 businesses, has another business on the southeast side of the  
13 South Capitol Street in the same vicinity I m sure you re aware of  
14 the fact that virtually all of the new proposals for construction  
15 in that vicinity are for new office buildings.

16 MR. HONG: On the southeast side or southwest side?

17 VICE CHAIR SOCKWELL: On the southeast side.

18 MR. HONG: Um, I m not aware of that.

19 VICE CHAIR SOCKWELL: The Traxx site will become a  
20 new office building. 300 M Street will become a new office  
21 building. Potomac Investments has proposed for the site that s  
22 directly across from what is now called the Mirage, and there is a  
23 plan to turn the building that Nation is in, into an office  
24 building.

25 There are no plans for any industrial or service

1 facilities for that general vicinity as I know then.

2 MR. HONG: Well how that affect me is the fact that  
3 the property owner of which we re currently doing business, is  
4 reluctant to extend us a long term lease which allows us to make  
5 some improvements we really badly need.

6 And that s precisely why the owner of the property  
7 believes that the property will work quite a bit more in the near  
8 future than to -- it down to a lease with us.

9 VICE CHAIR SOCKWELL: That s very true.

10 CHAIRPERSON REID: All right. Let s now have cross  
11 examination. Mr. Nathanson? Is that his name? Mr., are you Mr.  
12 Nathanson?

13 MR. NATHANSON: Nathanson, yes.

14 CHAIRPERSON REID: Yes, please come forward. Do you  
15 have any questions to ask of the Applicant?

16 MS. PRUITT: Mr. Nathanson, if you will you can sit  
17 at that table and you need to push the light so that the mike  
18 comes on.

19 Would you please state your name and address for  
20 the record, please, sir?

21 MR. NATHANSON: Joseph Nathanson, 8 East 76th  
22 Street, New York, New York, 10021. I am part of the ownership of  
23 the lot immediately adjoining the lot which contains the post  
24 office building.

25 It was mentioned that, just some minor points

1 before I get into what I wanted to say.

2 CHAIRPERSON REID: No, no, no. You can only ask him  
3 questions at this point. And then you ll have an opportunity to  
4 testify later. But at this point just to ask, this is cross  
5 examination.

6 MR. NATHANSON: Um.

7 CHAIRPERSON REID: If you have no questions then  
8 that s all right. It s just an opportunity that is afforded you.

9 MR. NATHANSON: Yes. No, I, --

10 CHAIRPERSON REID: No, okay.

11 MR. NATHANSON: I don t challenge anything.

12 CHAIRPERSON REID: All right. Thank you very much.

13 ANC Reports? Is there anyone from the ANC here? We do have a  
14 letter from the ANC, ANC-2D, and they basically have reported that  
15 they support the application with a 6-0 vote.

16 A quorum was present. And that s about it. There  
17 is no one here. All right. Then they did ask their letter had  
18 been submitted later than the time from which they were supposed  
19 to be in so they asked if we would waive our rules. I have no  
20 problem with doing so to allow the letter to come in.

21 And they would be afforded the great weight in  
22 which they are entitled. Any other government reports? Reports,  
23 I don t think from Office of Planning, DPW? Or any other  
24 governmental entity?

25 All right, persons or parties in support of the

1 application? Persons or parties in opposition to the application?

2 Okay, come forward please. And Mr. Hong you can sit back and  
3 allow him, then you come back up and have closing remarks.

4 (Pause.)

5 MR. NATHANSON: As I understand it, this is a, in  
6 effect a down-zoning, and I believe that the proposed use is very  
7 environmentally challenging. Not only is --

8 CHAIRPERSON REID: Sir, first, sir, first you must  
9 give your name and your address. Before you  
10 start --

11 MR. NATHANSON: I m sorry. My address? Joseph  
12 Nathanson, 8 East 76th Street, New York, New York, 10021. I  
13 believe that the proposed use is very environmentally challenging.

14 I say that for several reasons. We know that cars  
15 leave oil. I was, I visited the lot today, the vacant lot, and  
16 the vacant lot is covered with oil today. And there s almost  
17 nobody using it.

18 Secondly, the rear portion of the lot was leased by  
19 the current owner to the postal service, and they re parking  
20 possibly 50 or 100 vehicles there, which is certainly contributing  
21 to the pollution as it is without any further garages or auto  
22 facilities.

23 I also believe that there are many other uses for  
24 that property that will be more community friendly. People don t  
25 have to walk, there s no sidewalk there in front of this property.

1 But if there were a sidewalk, people shouldn't have to walk down  
2 that sidewalk worried about cars coming and going and hitting  
3 them.

4 I believe that there is professional and retail  
5 uses perfectly appropriate for that location, and the property  
6 doesn't have to be down-zoned to affect that.

7 Also I, Mr. Hong correctly said that the post  
8 office upgraded, the Exxon upgraded and this property in the  
9 middle to having an automobile repair facility is a downgrading.  
10 It just doesn't make sense.

11 Further, I understand that the gentleman who  
12 purchased the property knows what it is, knows what the zoning is,  
13 knows what he bought, made a very good deal renting out half the  
14 lot, God bless him, but he doesn't have to have unjust enrichment  
15 by down-zoning and negatively impacting on our property.

16 The history of this case is before the Board. I  
17 don't know why it takes a year to come back. The first go around  
18 wasn't exactly in accordance, it didn't tell us what was going on,  
19 didn't return calls.

20 It became a secret thing. Today it's here. I  
21 don't know what will be tomorrow. I'm not too much on to the  
22 technicalities, but there's a history that should be considered.

23 Further, the physical operation of the premises  
24 should be considered. If you go over there today, you can't walk  
25 on the sidewalk, you've got a fence open. I don't know who's

1 parking on the lot.

2           There are 20 cars parked there. I don t know whose  
3 cars they are, I don t know who s controlling them. It looks like  
4 an, it s not abandoned cars because they all have license plates.

5           But I ll tell you the truth, it doesn t look good  
6 in my neighborhood. And it doesn t look good on L Street either.

7           This is a property, it should be maintained, and if this is the  
8 way a property is going to be maintained, people are going to be  
9 in for a lot of problems here.

10           Just as a side there was a mention that there are  
11 no residents within 600 feet of this property. I don t know if  
12 that s completely accurate. There is a large hotel maybe 200 feet  
13 away, and if my count is correct, there must be a couple of  
14 hundred people sleep there at night, and go out during the day.

15           So we got people within 200 feet of this property.

16           If they re not living permanently they re certainly sleeping over  
17 night or whatever. So I would call them residents as well.

18           If this was a case in New York, and I m not saying  
19 that s the rule here. In New York a financial hardship is the  
20 basis to request a zoning variance. If you can prove some kind of  
21 justifiable financial hardship.

22           I don t know if that s the case here or not. It  
23 certainly is not the case with this property. There is no claim  
24 to any financial hardship. This property was a very good deal for  
25 him. He worked out a good deal, let him stay with it.

1 But to downgrade the neighborhood, it doesn't make  
2 sense.

3 CHAIRPERSON REID: Okay, Mr. Nathanson, just for the  
4 record. This is a special exception and the, they did not, well,  
5 that's not a test for a special exception. It has nothing to do  
6 with financial hardship or, it would, even with the variance if  
7 the project were a difficulty, or undue hardship it typically is  
8 not financial unless it would require a considerable amount of  
9 funds to be able to comply with the existing zoning regulations.

10 So, but that's not the case here. This is a special  
11 exception. The only test here is impact, adverse impact.

12 MR. NATHANSON: I, thank you. And I didn't mean to  
13 make that a point.

14 CHAIRPERSON REID: Uh-huh.

15 MR. NATHANSON: It was just out there in my mind.

16 CHAIRPERSON REID: And a special exception also sir  
17 is not downgrading, not down-zoning. A special exception is to  
18 allow a use in a particular zone with the sanction of the Board of  
19 Zoning Adjustment and, in which they come here to, for us to  
20 determine whether or not, if they're putting that particular  
21 approval of the application would cause any adverse impact.

22 That's the purpose of being here.

23 MR. NATHANSON: Thank you. And I misused the work  
24 down-zoning. I hope I'm correct technically in using the word  
25 downgrading because that's certainly what is, will potentially be

1 involved here.

2 We have a modernized post office. We have a  
3 modernized station. We have very modern businesses across the  
4 street, the 7-11, there s a decent McDonald s there, there s a  
5 decent, there s another station on the other side of the street.

6 The place is coming up. I see they leveled two  
7 block fronts there. They tore down buildings. Something is  
8 coming there. The neighborhood looks fine to me. On the way up.

9 Why do I want car repairs?

10 What, where do you see that in an up and coming  
11 neighborhood?

12 CHAIRPERSON REID: Why do they want what? Car  
13 repairs?

14 MR. NATHANSON: Car repairs. I m sorry. Where do  
15 you see --

16 CHAIRPERSON REID: Oh, car repairs.

17 MR. NATHANSON: -- a car repair shop in an up and  
18 coming neighborhood where people are coming to shop and to do  
19 their business, and to have, not to have all these pollutions  
20 here.

21 CHAIRPERSON REID: Continue.

22 MR. NATHANSON: That s about it. I don t think it s  
23 any benefit to anybody except to the gentleman.

24 CHAIRPERSON REID: Thank you very much.

25 MR. NATHANSON: Thank you.

1 CHAIRPERSON REID: All right. Closing remarks by  
2 the Applicant? Mr. Hong, please come back.

3 COMMISSIONER HOOD: Madam Chair? I was just  
4 wondering, not that I have any, but I don't think we called for  
5 any questions if we wanted to question. Maybe you did and I just  
6 overlooked it. Or didn't hear you.

7 CHAIRPERSON REID: Call for any questions --

8 COMMISSIONER HOOD: To Mr. Nathanson.

9 CHAIRPERSON REID: The Board Members did not so  
10 indicate. I didn't, sometimes I would say but if the Board  
11 Members have a question they'll let me know that they have a  
12 question, and they can. Did you have a questions?

13 COMMISSIONER HOOD: Okay. No.

14 CHAIRPERSON REID: I guess you didn't.

15 COMMISSIONER HOOD: No. I just didn't know what the  
16 time. Well that's okay.

17 CHAIRPERSON REID: Yeah. Usually the Board Members  
18 will put their light on or something and let me know that they  
19 want to. Either they'll --to me that they want to ask questions.

20 If they don't then I assume that they do not and I just allow  
21 them to go back.

22 COMMISSIONER HOOD: Okay.

23 CHAIRPERSON REID: All right, Mr. Hong?

24 MR. HONG: Yes. I do have the part of the lot  
25 leased out to U.S. Postal Service which is next door, and which is

1 also owned by Mr. Nathanson. At the time of the purchase the  
2 lease had, the lease to the Postal Service was already existing as  
3 something.

4 It s a lease that I had resumed from the previous  
5 owner. And I was also told that the post office existing in the  
6 particular location that it is, is only possible with the parking  
7 that I was able to provide.

8 So in fact Mr. Nathanson s leased property is  
9 actually benefitting from my presence there. Had it been another  
10 investor like Mr. Nathanson who has plans to build hi-rise  
11 building, a post office would have had to move out of the area,  
12 which is what they have also expressed to me as well.

13 Also, presently there are cars parked there. I m  
14 not using the vacant lot that I m proposing this auto service  
15 center. It is vacant. But the postal employees are parking at  
16 the present time, and they have asked me and I have told them that  
17 it s okay to park their cars there.

18 The parking lot does not create any pollution. So  
19 the portion of the property that s been leased out to U.S. Postal  
20 Service, which they re using for parking lot for the postal  
21 vehicles, is not generating any pollution.

22 Also, I am not seeking to change the zoning. I am  
23 simply asking for the approval of the Zoning Board for predeemed  
24 acceptable use under C-3-C. So I do not believe that it will be  
25 down zoning. It would be using for the purpose and intent of the

1 Zoning Regulations.

2 Like, and I don't think there'll be any need to  
3 worry about downgrading or having a property that's worth less  
4 later than it is now, because the whole area is developing.

5 I'm not so concerned about how much it will  
6 develop, how fast. I want to be able to serve my customers. And  
7 it is, it will be a community friendly facility.

8 Everyone needs cars to be worked on, and especially  
9 in D.C., a lot of the vehicles are being serviced out of the  
10 District because they often find more convenient places to take  
11 their cars to.

12 So, in fact District residents are taking their  
13 business outside the district --

14 CHAIRPERSON REID: Uh-huh.

15 MR. HONG: -- whereas I propose we can keep some of  
16 that at least in D.C..

17 CHAIRPERSON REID: All right.

18 MR. HONG: Thank you.

19 CHAIRPERSON REID: All right. Mr. Hong. Excuse me,  
20 questions, Board Members?

21 MEMBER RENSHAW: Yes. Mr. Hong I wanted to ask how  
22 many people you would be employing.

23 MR. HONG: Right now we are employing three people.

24 And under, if new shops are, the new shop is allowed to be built,  
25 when it goes into operation we would right away need at least

1 three more technicians.

2 VICE CHAIR SOCKWELL: Mr. Hong?

3 MR. HONG: Yes.

4 VICE CHAIR SOCKWELL: I assume that by going to the  
5 expense of developing your business here with the number of bays  
6 and lifts, that you plan to be in business for many, many years.

7 MR. HONG: Well, I ve been a mechanic for the last  
8 15 years. I started very young. And I like the work and I love  
9 the work. Which is one of the reasons I believe makes me good at  
10 what I do.

11 So I go to work every morning with the, full of  
12 energy to make it a good day. And I have plans to stay in this  
13 business for a long time to come.

14 COMMISSIONER HOOD: Madam Chair, if this is  
15 appropriate. Earlier there was a statement made that this is no  
16 benefit to anyone in the neighborhood. But I also recall in the  
17 file that I see the people most affected who have come forth and  
18 said that this was a good idea, which is the ANCs.

19 And those are the people who would be, if there  
20 were any adverse impact, affected, and I just wanted to state that  
21 for the record that that is in the file.

22 CHAIRPERSON REID: Thank you. Mr. Hong would you  
23 like to request a Summary of Order, or a Bench Decision, which  
24 means that you can receive a response today?

25 MS. PRUITT: Madam Chair you can t do a Summary

1 Order because there s a party in opposition. But you can give a  
2 Bench Decision.

3 CHAIRPERSON REID: Oh, that s right, it s a party.

4 MEMBER RENSHAW: I have another question for Mr.  
5 Hong.

6 CHAIRPERSON REID: Okay.

7 MEMBER RENSHAW: Mr. Hong --

8 CHAIRPERSON REID: Excuse me. Let me ask you this  
9 question.

10 MEMBER RENSHAW: Fine.

11 CHAIRPERSON REID: Would you like the Bench Decision  
12 today? Which means that you can receive a response today but the  
13 Order would have to be done after we have a deliberation. Is that  
14 right Ms. Pruitt?

15 MS. PRUITT: Excuse me?

16 CHAIRPERSON REID: With the party in opposition, we  
17 could do a Summary Order, but the, I mean we can do a Bench  
18 Decision, but the Summary Order, we d have to have a Full Order,  
19 not a Summary Order.

20 MS. PRUITT: Correct.

21 CHAIRPERSON REID: Did I confuse you?

22 MR. HONG: Yes.

23 CHAIRPERSON REID: Okay. You can get a response  
24 today and you have to wait for us to do a Full Order which means  
25 that rather than doing a Short Order, which comes out a couple

1 weeks, a Full Order takes a little bit longer, but at least you  
2 would have a decision.

3 MR. HONG: Yes. What's the other choice?

4 MS. PRUITT: Your other choice is to have the  
5 decision made at the next meeting which would be in --

6 CHAIRPERSON REID: The first meeting in April.

7 MS. PRUITT: -- April. I'm losing track of months.

8 MR. HONG: No. I would like the first choice.

9 CHAIRPERSON REID: Okay.

10 MEMBER RENSHAW: Is it all right, Madam Chair, to  
11 ask, I have a question. Go ahead.

12 VICE CHAIR SOCKWELL: Mr. Hong?

13 MR. HONG: Yes.

14 VICE CHAIR SOCKWELL: I notice that on the drawings,  
15 which I did not have access to before today, the business is  
16 called D.C. Foreign Car Auto Service. Now does that indicate  
17 that you will only be servicing foreign automobiles, as opposed to  
18 American cars as well?

19 MR. HONG: The name will be different because the  
20 plan was actually drawn long before I ever came to the Zoning  
21 Board. That's the name of our business as it is now.

22 VICE CHAIR SOCKWELL: Uh-huh.

23 MR. HONG: When we first started out back in '85, we  
24 called ourselves Foreign Car Specialists because there was much to  
25 be different from foreign cars and domestic cars.

1 Well now there is, no foreign cars, we ll they re  
2 really all foreign and no domestic cars --

3 VICE CHAIR SOCKWELL: True.

4 CHAIRPERSON REID: We intend to provide  
5 comprehensive service for general makes and types of. We will  
6 have to come up with a different name. That I haven t decided  
7 yet.

8 VICE CHAIR SOCKWELL: Thank you.

9 CHAIRPERSON REID: Okay. Excuse me.

10 (Pause.)

11 MEMBER RENSHAW: Madam Chair, may I ask a question  
12 while you re conferring?

13 CHAIRPERSON REID: Yes.

14 MEMBER RENSHAW: I know that the inspection station  
15 has difficulties in getting personnel who are adequately trained  
16 in the new procedures.

17 MR. HONG: Yes.

18 MEMBER RENSHAW: And I wanted to find out from you  
19 if you plans that you re going to be adding staff. If you plan to  
20 do anything in the way of an internship with a nearby High School,  
21 whereby you might interest young people in the City into going  
22 into auto mechanic training?

23 MR. HONG: Actually I thought of exactly that, but  
24 I m not at a stage to make any specific plans regarding that.  
25 That would be a good idea.

1 MEMBER RENSHAW: All right, so could we make sure  
2 that the ANC understands about your interest in this and perhaps a  
3 match could be made? We re just keen on making sure that the  
4 young people have training in fields that, which might keep them  
5 in the City.

6 And here is a new business of yours and it might be  
7 attractive to some of these young people.

8 MR. HONG: Um, yes, and also I plan to, I got to  
9 know the ANC through what I had to do with this Zoning Special  
10 Exception. And it turns out a lot of my customers are involved  
11 quite a bit with the work of ANC, and I intend to participate as  
12 property owner and also business man, in the neighborhood.

13 And I m sure we will have some projects of that  
14 kind coming up. And I intend to fully participate with the ANC.

15 CHAIRPERSON REID: Thank you. We re ready for the  
16 questions. And a motion?

17 COMMISSIONER HOOD: I make a motion we accept Case  
18 No. 16426. Apparently there are no adverse impacts.

19 CHAIRPERSON REID: That we approve. That we  
20 approve. The wording is that we approve --

21 COMMISSIONER HOOD: That we approve.

22 CHAIRPERSON REID: -- the application.

23 COMMISSIONER HOOD: What did I say?

24 CHAIRPERSON REID: Accept this.

25 COMMISSIONER HOOD: Oh.

1 CHAIRPERSON REID: When a Commission, they probably  
2 say accept.

3 COMMISSIONER HOOD: That we approve Application No.  
4 16426. I guess I got caught up in all that was going on. Anyway,  
5 that we approve 16426. It obviously shows that there s no adverse  
6 impacts to the community.

7 It also has the ANC s support. And with that I so  
8 move.

9 CHAIRPERSON REID: I would second it.

10 MEMBER RENSHAW: Second.

11 VICE CHAIR SOCKWELL: Second.

12 CHAIRPERSON REID: Oh, we have three seconds.  
13 That S pretty good. Any other comments? I d just like to say  
14 that we might want to condition it as far as the upkeep is  
15 concerned, to ensure that the premises are kept in a clean,  
16 orderly, and neat manner at all times.

17 And someone else raised an issue about disposal of  
18 waste, oils, and --

19 MR. MOULDEN: And storage of auto parts to make sure  
20 that they re inside, and not stored  
21 outside --

22 CHAIRPERSON REID: Stored property.

23 MR. MOULDEN: -- of the facility.

24 CHAIRPERSON REID: Uh-huh. Did someone mention the  
25 landscaping?

1 MEMBER RENSHAW: I, landscaping is another issue  
2 that I think we should but in the order too.

3 CHAIRPERSON REID: Make sure that the premises are  
4 landscaped in an attractive, a properly landscaped and attractive  
5 manner. And maintained --

6 MEMBER RENSHAW: And maintained.

7 CHAIRPERSON REID: -- at such. With removal of.  
8 Well when we say clean and neat matter it means that no, there  
9 would be no debris or any broken down cars and the like --

10 MR. HONG: Yes.

11 CHAIRPERSON REID: -- that would clear up the lot.

12 MEMBER RENSHAW: Could we also insert in the Order  
13 that the Board encourages the property owner to work with the  
14 School Systems and with the ANC vis a vis some kind of a training  
15 program for --

16 CHAIRPERSON REID: We can t --

17 MEMBER RENSHAW: Can we just insert a, I m afraid  
18 that that s going to be lost.

19 CHAIRPERSON REID: Well we can t, it s not --

20 MEMBER RENSHAW: We can compel.

21 CHAIRPERSON REID: WE don t have the authority to do  
22 that. But what you, the only thing we could do is ask that that,  
23 they establish a liaison. But usually that s when there is a  
24 problem. And there does not appear to be a problem with the  
25 community at this time.

1 You could suggest it but we cannot condition it --

2 MEMBER RENSHAW: Well could we suggest that?

3 CHAIRPERSON REID: And you did.

4 MEMBER RENSHAW: I did.

5 CHAIRPERSON REID: All right.

6 COMMISSIONER HOOD: Ms., Commissioner Renshaw, I  
7 think some time if we ask the Applicant if, like a good faith  
8 effort.

9 MEMBER RENSHAW: Good faith effort.

10 COMMISSIONER HOOD: You know, we can take their word  
11 if they want to try to follow through with this --

12 MEMBER RENSHAW: Very good.

13 CHAIRPERSON REID: That is a great idea. Because  
14 that s something that will be very beneficial to you as well and  
15 at the same time provide a valuable service to the community.

16 And I think that s what the objective is.

17 MR. HONG: Yes. It would be to my --

18 CHAIRPERSON REID: Advantage.

19 MR. HONG: -- interest to do so.

20 CHAIRPERSON REID: Okay. All in favor?

21 (Chorus of ayes.)

22 Opposed?

23 MS. PRUITT: Staff would record it as five to zero  
24 to approve. Motion made by Mr. Hood, seconded by Mrs. Renshaw.  
25 And I d just like to review the conditions. I believe all auto

1 parts shall be held within the building. Landscaping, site should  
2 be landscaped and maintained. And the site should be maintained  
3 in a clean manner. Were there any others?

4 CHAIRPERSON REID: Did you mention about the waste  
5 disposal of oils?

6 MS. PRUITT: No, that s what I was, there were  
7 several conversations going on so I wanted to be sure.

8 CHAIRPERSON REID: Okay. All right.

9 MS. PRUITT: What was it? The, that one?

10 CHAIRPERSON REID: That all, I think, is that what  
11 you call it, waste, oils, what was the correct word for that?  
12 Contaminated oils?

13 VICE CHAIR SOCKWELL: Recyclables.

14 CHAIRPERSON REID: Recyclables are to be disposed in  
15 the proper manner. And I think that s a law isn t it?

16 MS. PRUITT: Yeah, it is.

17 CHAIRPERSON REID: I mean legally, within the legal,  
18 you know.

19 VICE CHAIR SOCKWELL: Madam Chair, let it be known  
20 that a sand filter structure has been provided on the Applicant s  
21 plans to separate oil from water before it is discharged into the  
22 City sewer system.

23 CHAIRPERSON REID: Oh, okay.

24 VICE CHAIR SOCKWELL: That s from lot run off. So  
25 his drainage is being treated before it s discharged.

1 CHAIRPERSON REID: Okay. All right. Thank you very  
2 much. Who had the votes? Is the vote recorded?

3 MS. PRUITT: Yes.

4 CHAIRPERSON REID: All right. Did you --

5 MS. PRUITT: I read it back and recorded it.

6 CHAIRPERSON REID: Okay, I was talking. All right.  
7 Thank you very much.

8 MR. HONG: Thank you very much.

9 CHAIRPERSON REID: And you will receive an Order, a  
10 Full Order, talk to Staff and then they will give you some idea as  
11 to when you can expect it.

12 MR. HONG: Yes. Thank you very much.

13 CHAIRPERSON REID: Thank you. All right. Next  
14 case?

15 MS. PRUITT: Next case on the agenda today is  
16 Application 16530, Application of Frank Jackson, pursuant to 11  
17 DCMR 3103.2, for a variance from a minimum side yard setback  
18 requirement under Section 405 to allow the proposed addition of a  
19 deck to a single-family detached dwelling in an R-1-B District at  
20 2223 Lawrence Street, N.E. (Square 4247, Lot 807).

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

23 (Witnesses sworn.)

24 Please be seated and start.

25 MR. JACKSON: Good afternoon.

1 CHAIRPERSON REID: Good afternoon.

2 MR. JACKSON: My name is Frank Jackson, Jr., and I  
3 live at 2223 Lawrence Street N.E. We want to add a deck on the  
4 left side of our house, and we, the reason we want to build it on  
5 the side of the house is because the back of the house is low, and  
6 it would only be about three feet up from the ground, ground  
7 level.

8 The houses right across the alley from my house,  
9 the heights of the back is about ten feet from the ground. So  
10 that s ideal for building a deck, cause we really wouldn t want a  
11 deck that low to the ground.

12 And if we put it on the side, we could also use it  
13 as a carport. If we had a, we have a side entrance to the  
14 property, and we could come and get out of our car if it s raining  
15 or anything like that. We could go right in from the side door.

16 And the deck wouldn t be a hassle to the  
17 neighborhood. And all of our neighbors approve, and --

18 (Pause.)

19 And we would use the entrance from the second level  
20 to come out on the deck. If the deck was built down low we  
21 couldn t, we would only use it in the evening at night.

22 But if it s built up the deck will be about ten  
23 feet up, ten or 11 feet up from the ground.

24 CHAIRPERSON REID: Okay, Mr. Jackson?

25 MR. JACKSON: Yes.

1 CHAIRPERSON REID: Do you recall you were here  
2 before and I explained to you the purpose if you were coming  
3 before this Board was to demonstrate how you were able to meet a  
4 three prong test.

5 And I, and you didn't understand how that was done,  
6 so I suggested you go and talk to Staff to prepare yourself for  
7 coming this time.

8 MS. JACKSON: Yes.

9 CHAIRPERSON REID: Well did you do that?

10 MS. JACKSON: Yes, we did.

11 CHAIRPERSON REID: And did you, do you have, I  
12 haven't seen it, do you have in your file the information that we  
13 need so that you can show us how, you remember I was saying that  
14 you have to show that.

15 It's a variance, so you have to demonstrate that  
16 the property is unique or unusual or there some kind of special  
17 situation or conditions that are inherent to that specific piece  
18 of property.

19 Did you do that?

20 MS. JACKSON: Yes, --

21 MR. JACKSON: Yes, but what makes it difference is  
22 the property is low at the back.

23 CHAIRPERSON REID: No. I mean, what I'm asking is  
24 did you submit that in your package to us?

25 MS. JACKSON: Uh-huh. Well, this is I think about

1 our third time down here. And she asked the, oh, I m sorry. And  
2 she asked the last time we was here that we get pictures made.

3 Of course the first time we had pictures made, and  
4 you might have it in your -- but all side of the house -- showing  
5 that.

6 CHAIRPERSON REID: Okay. So you re showing --

7 MS. JACKSON: The last time Mrs. Pruitt asked us to  
8 bring in more pictures, for showing the back and sides, and all.  
9 We have those.

10 CHAIRPERSON REID: Okay. So --

11 MS. JACKSON: And she said the letters have already  
12 gone out to my neighbors and said that a petition would be good  
13 too from some of the, a neighbor on each side and two across the  
14 street.

15 CHAIRPERSON REID: Okay. Wait a minute Ms. Jackson,  
16 Ms. Jackson, wait a minute, okay?

17 MS. JACKSON: Uh-huh. Yeah.

18 CHAIRPERSON REID: What you have to do is you have  
19 to demonstrate, and it should be, it should have been in writing  
20 when you came here that there was something. Now you re saying  
21 that there is something unique and unusual about your property  
22 because it slopes down or up, what is it?

23 MR. JACKSON: It s low at the back.

24 MS. JACKSON: Uh-huh.

25 CHAIRPERSON REID: It s low at the back.

1 MR. JACKSON: Right. The houses right across the  
2 street, the properties are high at the back, so it s idea for a  
3 deck. On my block there s only one deck, and it s on the second  
4 level. But --

5 CHAIRPERSON REID: Okay. Well wait, wait Mr.  
6 Jackson.

7 MR. JACKSON: Uh-huh.

8 CHAIRPERSON REID: Nobody, no other property, can  
9 you show that no other property in your neighborhood has the same  
10 kind of slope? You re the only property that has a back that  
11 slopes like that?

12 MR. JACKSON: No. All the properties on my side of  
13 the block, to, all the backs are low. But everybody right across  
14 the alley --

15 CHAIRPERSON REID: Okay, Mr. Jackson, stop right  
16 there.

17 MR. JACKSON: Uh-huh.

18 CHAIRPERSON REID: Please.

19 MR. JACKSON: Uh-huh.

20 CHAIRPERSON REID: What I directed you to do was  
21 talk to Staff to determine what was unique and unusual about your  
22 property. Unique meaning that there are no other properties like  
23 yours, or that feature is not present in the other properties that  
24 would make your property, as a unique property what is it that s  
25 unusual or different or unique about your specific property?

1           This is what we, that is, we have to base the, our  
2 decision on whether or not you were able to demonstrate to us that  
3 you have met your burden of proof, and that burden of proof starts  
4 with the uniqueness or the unusual conditions of your property.

5           And what you re saying so far, and, listen to what  
6 I m saying to you.

7           MR. JACKSON: Okay.

8           CHAIRPERSON REID: Because I keep saying, keep  
9 telling you what we need and you keep saying things that are not  
10 in keeping with the answers we need to hear.

11           If I m asking you well, is there, are there any  
12 other properties like your property? It s oh, yeah, well the  
13 other properties are like my property on this side, but then that  
14 means your property is not unique.

15           We need to hear you tell us what is it that is  
16 different about your property specifically that makes it unique.  
17 That the other properties don t, something that the other  
18 properties don t have.

19           MR. JACKSON: Well the property that I m talking  
20 about isn t, is, the property is in my block, but it s just across  
21 the alley on the next street. And these properties are build  
22 where you can build a deck to the second level.

23           And my property, if I wanted to build a deck on the  
24 second level, that would really create a really big problem for  
25 me.

1 (Pause.)

2 CHAIRPERSON REID: Um.

3 MR. JACKSON: But if I build it on the side, it  
4 would serve as a carport and it --

5 CHAIRPERSON REID: Um. Let me look at these  
6 pictures.

7 MS. PRUITT: May I see those pictures?

8 MR. JACKSON: I have some pictures here of --

9 (Chatter.)

10 Okay, see --

11 CHAIRPERSON REID: This is the back right here?

12 MR. JACKSON: Okay these are, this is my house right  
13 here. This is my house. And all these decks --

14 MS. PRUITT: If you look at the back of Mr.  
15 Jackson s house, in order to put a deck on the second floor he d  
16 have to cut into the roof and reconfigure the windows.

17 MR. JACKSON: These --

18 CHAIRPERSON REID: Okay.

19 MS. PRUITT: For the second floor.

20 VICE CHAIR SOCKWELL: But I don t see the slope that  
21 we re supposed to be looking at.

22 MS. JACKSON: She has the pictures which show us --  
23 The pictures will show the slope. She s got the pictures.

24 (Chatter.)

25 CHAIRPERSON REID: This is the back of his house?

1 Okay. That s the same --

2 MR. JACKSON: Uh-huh. The decks you see is right  
3 across the alley.

4 CHAIRPERSON REID: So he wants --

5 (Chatter.)

6 That s what he wants. See the gist of what I was  
7 saying --

8 (Chatter.)

9 CHAIRPERSON REID: Bear with us for one second,  
10 please. If you ll bear with us for one second please, but we re  
11 trying to determine some things.

12 (Chatter.)

13 MEMBER RENSHAW: Mr. Jackson if you put the deck on  
14 the side, the access to the deck would be from a bedroom?

15 MR. JACKSON: No.

16 MEMBER RENSHAW: What would be the access to the  
17 deck?

18 MR. JACKSON: It would be at the top of the steps  
19 coming up --

20 MS. JACKSON: Going upstairs.

21 MR. JACKSON: -- going upstairs.

22 MEMBER RENSHAW: Oh, so off a hallway upstairs?

23 MR. JACKSON: Off a hallway.

24 MEMBER RENSHAW: Off a hallway upstairs.

25 MR. JACKSON: Right.

1 CHAIRPERSON REID: But Mr. Jackson if you wanted  
2 too, you could put that deck out off the first floor in the back.

3 You have plenty of room back there. What would keep you from  
4 putting the deck on the back?

5 You could make it, you have plenty of space back  
6 there, and then using the side, why couldn t you just use the  
7 sideyard, I mean the side right there for, couldn t he park there  
8 if he wanted to on the side?

9 MR. JACKSON: There s a driveway on the side.

10 MEMBER RENSHAW: There s a driveway and that s, he  
11 wants to build over the driveway.

12 MR. JACKSON: And there s a door on the side.

13 MEMBER RENSHAW: Yeah, we see that.

14 CHAIRPERSON REID: I m saying why can t you park,  
15 still park on the side and have your deck in the back?

16 MR. JACKSON: The deck, cause the deck would be too  
17 low to the ground.

18 CHAIRPERSON REID: Why? What makes the deck too  
19 low?

20 MR. JACKSON: You know --

21 CHAIRPERSON REID: You could still --

22 MR. JACKSON: There s only one deck. There s only  
23 one deck on my side of the street, and that deck is on the second,  
24 on the second --

25 CHAIRPERSON REID: All right, but what s too low?

1 MS. JACKSON: From the back of ours it would be too  
2 low, and I think because, you see is the upper level from the back  
3 is coming.

4 MR. JACKSON: All the decks --

5 MS. JACKSON: It would be too low.

6 MR. JACKSON: They have five, there s, we counted  
7 five or six decks in the next block, and all of them, all these  
8 decks are in the second level. We couldn t put a deck on the  
9 second level the way the arrangement is made.

10 CHAIRPERSON REID: Okay.

11 MR. JACKSON: Now there s one deck on my side of the  
12 street, but that deck is on the second level too.

13 CHAIRPERSON REID: Okay, but what s the, what are  
14 you going to use your deck for?

15 MR. JACKSON: I use. We use the deck for  
16 entertainment.

17 MS. JACKSON: For entertainment and --

18 CHAIRPERSON REID: All right, so, am I, then let s  
19 go back to why can t you put it on the back? What difference does  
20 it make if it s lower or higher for the first floor or the second  
21 floor?

22 MR. JACKSON: At night in the summertime, I can  
23 sleep on the deck. There s, there ll be no steps coming from the  
24 ground level going up to the deck. We can sleep there on our deck  
25 at night if we want to, but if it was on the ground level we

1 couldn t do that.

2 MS. JACKSON: No -- on the ground level.

3 VICE CHAIR SOCKWELL: Excuse me, Mr. Jackson.

4 MR. JACKSON: Uh-huh.

5 VICE CHAIR SOCKWELL: Let me, let me try to put this  
6 into perspective if I may.

7 MR. JACKSON: Okay.

8 VICE CHAIR SOCKWELL: On the side of the house where  
9 you wish to put the deck, you would put it up high.

10 MR. JACKSON: Right.

11 VICE CHAIR SOCKWELL: That would allow you to  
12 continue to park three or four vehicles along the side of the  
13 house underneath it.

14 MR. JACKSON: Right, right.

15 VICE CHAIR SOCKWELL: If you put the deck down low,  
16 it would prevent you from parking anything past your front porch.  
17 So that means you would loose the ability to get cars back into  
18 your lot, you d have to park everything else on the street.

19 MR. JACKSON: If we put the deck down low on the  
20 side we couldn t use it. We couldn t use the driveway.

21 VICE CHAIR SOCKWELL: That s what I m saying.

22 MS. JACKSON: Right.

23 MR. JACKSON: Right.

24 VICE CHAIR SOCKWELL: Isn t that what I just said?

25 MR. JACKSON: Right, right.

1 VICE CHAIR SOCKWELL: Oh, okay.

2 CHAIRPERSON REID: On the side, but on the back --

3

4 VICE CHAIR SOCKWELL: Yeah. So, so we re talking  
5 about the side position of the deck at this point.

6 MR. JACKSON: Right, uh-huh.

7 CHAIRPERSON REID: So what you want to do is have  
8 the advantage of the parking, which is as important to you as  
9 anything with regard to the position of the deck on the side of  
10 the house.

11 Also if you put it up high you d open an extend  
12 that window, I assume and make that into a door so that you could  
13 walk out on the deck.

14 MR. JACKSON: Right, a door. Right.

15 VICE CHAIR SOCKWELL: The problem that you have is  
16 that because it intrudes into the sideyard and reduces it to far  
17 less than what the City would normally allow, you are here before  
18 us.

19 MR. JACKSON: Right.

20 VICE CHAIR SOCKWELL: You don t want to put it on  
21 the back because you don t want it back there.

22 MS. JACKSON: Yeah, the danger of it --

23 VICE CHAIR SOCKWELL: And the reason that you don t  
24 want it back there is first, because it would require you to  
25 completely redo your roof --

1 MR. JACKSON: Right.

2 MS. JACKSON: Right.

3 VICE CHAIR SOCKWELL: -- access to that second  
4 level, which sets back from the first floor.

5 MR. JACKSON: Right.

6 VICE CHAIR SOCKWELL: Which would be an additional  
7 and extensive expense to you.

8 MR. JACKSON: Right.

9 MS. JACKSON: Right.

10 VICE CHAIR SOCKWELL: All right. The second reason  
11 you don t want it on the back, I assume is because the way the  
12 rooms are situated, the room you wish to have access to the deck  
13 from isn t there?

14 MR. JACKSON: Well, I don t know how I would work it  
15 if I put it on the second level, because it would be, you would  
16 have to come out of a bedroom in order to get on the deck --

17 VICE CHAIR SOCKWELL: So what do you come out of on  
18 the second level on the side?

19 MR. JACKSON: You come out of the hallway.

20 VICE CHAIR SOCKWELL: Straight out the hallway, all  
21 right. So, so that, that s the second reason why you don t want  
22 it on the back. And that makes some sense if you want it to be  
23 accessed from a more public part of your home rather than through  
24 a bedroom which would be a private area.

25 MR. JACKSON: Right.

1 VICE CHAIR SOCKWELL: Okay. Thank you.

2 CHAIRPERSON REID: Why couldn't you, this, why  
3 couldn't it be a deck off the first floor on the back? Not the  
4 second floor, but why not a deck on the first floor? A deck is a  
5 deck for entertaining.

6 MR. JACKSON: But a deck would be a --

7 MS. JACKSON: For the safety, for insurance.

8 MR. JACKSON: Safety.

9 CHAIRPERSON REID: I know, I know. I understand. I  
10 understand.

11 MS. JACKSON: And if we wanted to just come out at  
12 night.

13 CHAIRPERSON REID: I understand, but what we're  
14 talking about is being able to follow the Zoning Regulations, and  
15 I'm trying to see what we can do to try to help you here, of  
16 alternatives.

17 MR. JACKSON: Okay.

18 CHAIRPERSON REID: If you want to, if it's for  
19 entertaining or to enjoy it, what have you, and you have room to  
20 put it off, out, off the back of the house, it would seem to me  
21 that you would go ahead and do that, rather than to try to put it  
22 somewhere else and not comply with the Zoning Regulations.

23 MS. JACKSON: It would lack --

24 VICE CHAIR SOCKWELL: Mr. Jackson, let me ask you --

25 COMMISSIONER HOOD: Madam Chair I have a question

1 about the adjoining property I guess. The property that s  
2 oriented here, the property adjacent to where you propose to put  
3 the deck, do you know how much sideyard setback is from the  
4 property line to the house?

5 MR. JACKSON: To the next house?

6 COMMISSIONER HOOD: Yes, uh-huh.

7 MR. JACKSON: Uh, I guess it s about eight, eight,  
8 about eight feet.

9 COMMISSIONER HOOD: Eight feet.

10 MR. JACKSON: Or more.

11 COMMISSIONER HOOD: So it s less setback that you  
12 have shown on your property. You have 13.2 feet.

13 MR. JACKSON: Yes.

14 COMMISSIONER HOOD: Okay.

15 MR. JACKSON: I d say eight feet. Eight or nine.

16 COMMISSIONER HOOD: Well the question I have, what  
17 if your neighbor proposes to put a deck on also?

18 MS. JACKSON: They already --

19 COMMISSIONER HOOD: That s not, that won t leave  
20 much space in between the two homes. And, is there any concern  
21 about privacy?

22 MR. JACKSON: Privacy?

23 COMMISSIONER HOOD: Yes, with the adjacent property?

24 MS. JACKSON: -- anybody.

25 MR. JACKSON: No, it wouldn t be --

1 COMMISSIONER HOOD: Okay, well what I mean --

2 MR. JACKSON: And the neighbors next door, they  
3 approve of it too.

4 COMMISSIONER HOOD: They approve of it, okay.

5 MR. JACKSON: All of them approve --

6 MS. JACKSON: And as the letters went out to all the  
7 neighbors, when I went back when Ms. Pruitt asked me to bring in,  
8 you know, get a petition, I have each, a neighbor on each side of  
9 me and two across the street to bring those in.

10 MEMBER RENSHAW: But Mrs. Jackson your petition  
11 doesn't say where the deck is going to be. It just says a deck.

12 MS. JACKSON: Yeah.

13 MEMBER RENSHAW: No, it doesn't say a side deck.

14 MS. JACKSON: Uh-huh.

15 MR. JACKSON: It should have said that --

16 VICE CHAIR SOCKWELL: Mrs. Jackson?

17 MS. JACKSON: Yes.

18 VICE CHAIR SOCKWELL: If I might ask. Did you show  
19 your neighbors the plan for the deck?

20 MS. JACKSON: Why, no.

21 VICE CHAIR SOCKWELL: So they don't know where it's  
22 going.

23 MR. JACKSON: They know, all of them know where the  
24 deck would be built.

25 MS. JACKSON: Where it's going to be, and before

1 plans --

2 MR. JACKSON: Everybody know it s --

3 MS. JACKSON: -- were already into use, you know.  
4 The time of that. And so everybody, the letters went out to them  
5 and I went back to them, since the last time I was here, and did a  
6 petition.

7 They said they d already received letters and it s  
8 fine with me. I said I had the whole block --

9 VICE CHAIR SOCKWELL: Let me just, let me just make  
10 one more request of you. When you took your plans to the permit  
11 office and were referred to Zoning and then to the Board, did  
12 anyone tell you what you could make your deck out of? Or what you  
13 might not be able to make your deck out of?

14 MS. JACKSON: No.

15 MR. JACKSON: No.

16 VICE CHAIR SOCKWELL: It is possible, and I won t  
17 say this as a matter of fact, but it is possible and quite likely  
18 that because of the distance that you would be from the property  
19 line, that you could not have a wood deck.

20 MR. JACKSON: Okay.

21 VICE CHAIR SOCKWELL: That it would have to be non-  
22 combustible construction if it were approved at that. Which means  
23 it would have to be either steel or concrete.

24 MR. JACKSON: Well we could do that.

25 CHAIRPERSON REID: Okay. Now, if in fact we are to

1 make a decision regarding your variance, you have to first  
2 demonstrate how your property is unique and different and unusual  
3 from all the other properties, and so far you've said that it was,  
4 that the rest of the houses slope down like your house?

5 MR. JACKSON: But --

6 CHAIRPERSON REID: On that side of the street, but  
7 what?

8 MR. JACKSON: But there's not, our house, our house  
9 is the only one that has a driveway.

10 MS. JACKSON: On that side.

11 MR. JACKSON: There's one house on the corner that  
12 have a driveway. But they have a deck on the second level too.  
13 But in the whole block, our house is the only house that has a  
14 driveway that we can drive off the street into the --

15 CHAIRPERSON REID: You put that driveway there,  
16 right?

17 MR. JACKSON: Yes.

18 MS. JACKSON: Yes.

19 CHAIRPERSON REID: Are the other houses so that you  
20 could put a driveway there? I mean this is a detached house. Are  
21 those houses, what is it R? Is it R1? It's a R1 Zone? An R1?

22 So all the properties are detached --

23 MR. JACKSON: Yeah but all of them, some of them,  
24 some of them doesn't have enough room to put a driveway in.

25

1 CHAIRPERSON REID: Okay, you know what I need, and  
2 unfortunately what I m going to have to do is ask Staff to, we  
3 don t have a copy of Sandbourne?

4 MS. PRUITT: Yes.

5 CHAIRPERSON REID: We do?

6 MS. PRUITT: -- can get a copy.

7 CHAIRPERSON REID: No, I mean we don t have one here  
8 so what we need to get one. Okay. I need to get that. We look at  
9 that and we can see if we can help you.

10 MR. JACKSON: Okay.

11 VICE CHAIR SOCKWELL: Madam Chair?

12 CHAIRPERSON REID: Because other than that, I, to be  
13 perfectly honest with you, we re going to try and help you to  
14 reach your burden, and we can look on the Sandbourne for to see  
15 that your property is unique or different.

16 We could start there. But other than that it s  
17 just still not jelling the way they should be for us to be able to  
18 grant you your relief that you re asking for.

19 COMMISSIONER HOOD: Madam Chair, are we going to  
20 take this up under the special exception? Which would make their  
21 case --

22 CHAIRPERSON REID: I don t, I, that was suggested,  
23 but I m not sure if we can do that. And  
24 I --

25 COMMISSIONER HOOD: I believe we can.

1 CHAIRPERSON REID: And if we, what I was thinking  
2 Mr. Hood was if we don t have to go there, perhaps looking at the  
3 Sandbourne might give us what we need. And if that s the case we  
4 can still just do the variance.

5 COMMISSIONER HOOD: Right, but even at that, the,  
6 from what I m hearing, the special exception, I know we can come  
7 down as opposed from a garage to a special exception but I believe  
8 that that will provide them and also save us time today and make  
9 them plead their case a lot easier and simpler, under the special  
10 exception.

11 VICE CHAIR SOCKWELL: Madam Chair? One of the  
12 issues that is apparent to me is that for this, part of the  
13 problem is not that they cannot have a deck. Part of the problem  
14 is the size of the deck that they want to have.

15 The Zoning Ordinance is not preventing them from  
16 having a deck. It is preventing them from having a 12 foot deep  
17 deck. They could, I believe that we could grant a variance to the  
18 eight foot sideyard, down to the five foot minimum, which is  
19 allowed for houses that pre-exist at the 1958 Act, that a deck  
20 which would be approximately eight foot two inches wide, would be  
21 acceptable under that procedure.

22 But the 12 foot deck, which is different from the  
23 hardship of not being able to have a deck at all, the 12 foot deck  
24 is their desired deck, puts us in a position to have to approve a  
25 sideyard of one foot two inches, and I am very uncomfortable with

1 that.

2 CHAIRPERSON REID: So what about, an eight foot deck  
3 would do what?

4 VICE CHAIR SOCKWELL: And eight foot deck would  
5 allow a five foot sideyard, which would be the minimum --

6 CHAIRPERSON REID: I see, a compromise.

7 VICE CHAIR SOCKWELL: Yeah, which would be a  
8 compromise. I think that we could work with.

9 CHAIRPERSON REID: Okay.

10 VICE CHAIR SOCKWELL: But I am very concerned that  
11 we set the precedent of allowing one foot two inch sideyards in  
12 our 1B neighborhoods.

13 CHAIRPERSON REID: Mr. Jackson, could you live with  
14 a eight foot deck, an eight foot deck rather than, a deck somewhat  
15 smaller, but not, but not as large, but still you would have a  
16 deck.

17 MR. JACKSON: I --

18 VICE CHAIR SOCKWELL: The width of a standard  
19 parking space is nine feet. A compact car parking space width by  
20 zoning definition would be eight feet of clear clearance. Your  
21 deck would probably be wide enough with its support posts to allow  
22 you to get your vehicles underneath it.

23 But it wouldn't be ideal for that. And that's, and  
24 the question is really, what you're going to wind up with. And  
25 the other question is that by attempting to allow you a one foot

1 two inch sideyard, we re really vacating the intent of the  
2 Ordinance.

3 Which is to provide minimum sideyards for all  
4 property based on generally existing conditions that are somewhat  
5 more restrictive than the Zoning Ordinance would allow at the  
6 current time, which is a minimum of eight feet.

7 Your house, actually, which has a much wider  
8 sideyard currently than the eight foot minimum, I m suggesting,  
9 could be accommodated with a sideyard that would meet the minimum  
10 of existing conditions as a variance to the eight foot.

11 But to take it down to one foot two inches I think  
12 is putting us in a position to be out of conformance with the  
13 ordinance and its intent. That is my personal feeling about it.

14 CHAIRPERSON REID: Another test too, that s the last  
15 test. You know, you have to make sure that you don t impair the,  
16 granting your variance would not impair an integrity of the Zoning  
17 Regulations from that.

18 So that s another thing that you have to consider.  
19 Another way to go with this perhaps may be to come under a  
20 special exception, which is, I understand that it is a new  
21 provision in the regulations for single-family homes.

22 Which I don t understand. That being the case, Ms.  
23 Pruitt? That being the case, why wasn t that done at first?

24 MS. PRUITT: They came to us with a letter from the  
25 Zoning Administrator s Office for a variance. We have been

1 finding in the past that often the Zoning Administrator s Office  
2 makes some mistakes.

3 Upon reviewing this yesterday with the Corp.  
4 Counsel, we came across the idea that possibly this could come  
5 under a special exception. But typically when we get a letter  
6 from the Zoning Administrator, we do not then go back and double  
7 check to make sure that they are --

8 We take their word is what it is because they are  
9 the true interpreters of the regs.

10 CHAIRPERSON REID: So we couldn t just arbitrarily -  
11 -

12 MS. PRUITT: You could amend it only because it s a  
13 lesser degree of relief you re requesting. The standards for a  
14 variance are much higher.

15 CHAIRPERSON REID: Okay, um. -- Oh, here -- Oh,  
16 okay.

17 (Pause.)

18 -- That s --

19 (Chatter.)

20 Which is right here.

21 (Pause.)

22 Okay, um, all right these, the other houses in  
23 your, right there along the line of your street have a garage?

24 MR. JACKSON: You say?

25 CHAIRPERSON REID: Isn t this his house right here?

1 That s you, oh, yeah, your house has a garage, it s not on this  
2 particular -- All the houses have garages --

3 MR. JACKSON: No, not at all.

4 CHAIRPERSON REID: But yours does. You have a  
5 garage back here.

6 MR. JACKSON: Right.

7 CHAIRPERSON REID: Right here.

8 (Chatter.)

9 Do you have a fireplace?

10 MR. JACKSON: Yes.

11 MS. JACKSON: Uh-huh.

12 (Pause.)

13 (Chatter.)

14 CHAIRPERSON REID: All right. Now, looking at the  
15 Sandbourne Map, it appears that your property, the way that it s  
16 situated on to the land, appears to be, it looks like, is your  
17 house smaller?

18 MR. JACKSON: No, no.

19 MS. JACKSON: No.

20 CHAIRPERSON REID: It s lower. It s lower and it,  
21 on the side, it appears to be more space on the side or something  
22 like that?

23 MS. JACKSON: There s a little more room on the  
24 side.

25 MR. JACKSON: Are you asking me a question?

1 CHAIRPERSON REID: Yeah. I think that. All right.  
2 All right, if in fact it s deemed to be unique. If we, it would  
3 have to kind of be up to our discretion to make that determination  
4 looking at what we can see on the Sandbourne, because you haven t  
5 given us enough information.

6 And now I can understand that it s probably because  
7 you have not been through this process. You really don t, you  
8 know, understand clearly what it is that we re asking for, but we  
9 did that then the next test is that you have to demonstrate why  
10 there was a, why would there be a practical difficulty for you to  
11 be able to comply with the existing zoning regulations?

12 In other words, go ahead.

13 VICE CHAIR SOCKWELL: Madam Chair, looking at the  
14 sideyard, looking at the deck. If we can come to a conclusion, I  
15 would like to suggest for the sake of just basic egress that if we  
16 allow --

17 CHAIRPERSON REID: You have to not use --

18 VICE CHAIR SOCKWELL: Oh yeah, okay. For the sake  
19 of him being able to get back and forth around the side of his  
20 deck in a guaranteed path and a minimum distance from the property  
21 line. I would suggest perhaps a three foot eight inch sideyard  
22 that s based on a, loosely on building code with a 44 inches for  
23 egress.

24 CHAIRPERSON REID: And that would give --

25 VICE CHAIR SOCKWELL: That would give him a nine

1 foot six inch deck as opposed to an eight foot deck, but would not  
2 give him a 12 foot deck.

3 CHAIRPERSON REID: Mr. Jackson, a nine foot six deck  
4 or even a ten foot deck, which gives you two feet or more or less,  
5 two feet less than what you re asking for. Could you live with  
6 that?

7 MR. JACKSON: A 10 foot.

8 VICE CHAIR SOCKWELL: Why not nine six?

9 MS: Well that s just four inches.

10 CHAIRPERSON REID: Let s not split hairs here.

11 VICE CHAIR SOCKWELL: Well, what I m trying to do is  
12 use some rational frame of reference for allowing a variance that  
13 exceeds what I think the minimum of five feet is.

14 CHAIRPERSON REID: Uh-huh. Well.

15 VICE CHAIR SOCKWELL: And the reason for that is it  
16 would give him additional space for his vertical supports and  
17 would allow him to get his vehicles back and forth under that  
18 deck. Unless he buys an expedition --

19 CHAIRPERSON REID: But you re saying that the other  
20 space would allow him to walk around. And the four inches  
21 wouldn t make that much difference.

22 VICE CHAIR SOCKWELL: The three foot eight inches  
23 would mean that the cars parked there because the posts would  
24 define the area that he would be using for the vehicles that they  
25 would always be a way of getting by on that side of the house, and

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MR. JACKSON: We have steps on the side.

VICE CHAIR SOCKWELL: -- it has certain logic.

MS. JACKSON: We have a way of getting by.

MR. JACKSON: Steps, we have steps on the side of  
the house too.

CHAIRPERSON REID: You already have steps.

VICE CHAIR SOCKWELL: Steps on the side of --

MR. JACKSON: On the side.

CHAIRPERSON REID: So --

MR. JACKSON: If --

CHAIRPERSON REID: Okay, so, okay. If we go with  
the ten feet, try to go through with the ten feet, then still, the  
part that involves a practical difficulty for not being able to  
comply with the existing zoning regulations would have to be  
addressed. Do you understand that? All right.

MEMBER RENSHAW: Mrs. Jackson?

MS. JACKSON: Yes.

MEMBER RENSHAW: Mrs. Jackson, on this petition that  
you handed in today.

MS. JACKSON: Uh-huh.

MEMBER RENSHAW: Which name and which address is the  
neighbor who will be directly impacted if your deck is on the side  
of your house?

MS. JACKSON: Oh, uh, Williams. The --

1 MEMBER RENSHAW: -- is that the second one?

2 MS. JACKSON: The second name, uh-huh.

3 MEMBER RENSHAW: Has she given any letter to you  
4 stating in writing that she understands the deck is on the side  
5 facing her property?

6 MS. JACKSON: I spoke with her yesterday and she  
7 said it s fine with her. In fact all the neighbors. And that she  
8 had already received a letter from you, and no opposition from  
9 anyone.

10 MEMBER RENSHAW: And she understands that it s --

11 MS. JACKSON: And they were supposed to appear down  
12 here, the first time. No one came in opposition.

13 MEMBER RENSHAW: All right.

14 MS. JACKSON: And all my neighbors, and I think I  
15 only have about 12 on my block or something, about 12 or  
16 something, and all would have signed if I could have caught them  
17 at home. You know, every one. No one disagreed, you know,  
18 opposed.

19 MEMBER RENSHAW: All right, just as long as she  
20 understands where you re placing it.

21 MS. JACKSON: They understand.

22 CHAIRPERSON REID: The adverse impact part we got to  
23 come back to practical difficulty. Well the adverse impact aspect  
24 of it is there, from what we understand, we ve gotten plenty of  
25 support from your neighbors, from the community, petitions, and

1 ANC are all in favor of your application.

2 MEMBER RENSHAW: The ANC I think is, has not made a  
3 determination --

4 CHAIRPERSON REID: Oh, I m sorry, ANC said they have  
5 not, I m sorry. I saw the letter and I didn t realize that it was  
6 not a letter of support. It says that they wanted to take it up  
7 on their meeting tomorrow.

8 And we could, and they requested that the record be  
9 left open, which we could do that. For them to submit it. But  
10 did you talk to them, and what was their response?

11 MR. JACKSON: We talked to Ms. Goodman.

12 CHAIRPERSON REID: How about Ms. Broadnax?

13 MR. JACKSON: No.

14 MS. JACKSON: Never heard of her.

15 CHAIRPERSON REID: All right, what happened when you  
16 talked to Ms. Goodman.

17 MR. JACKSON: Ms. Goodman said she s going to send a  
18 letter down.

19 MS. JACKSON: She said she d fax the letter down to  
20 the --

21 CHAIRPERSON REID: A letter --

22 MR. JACKSON: Approve.

23 CHAIRPERSON REID: Oh, with, okay. They were in  
24 approval. So they haven t had any complaints in regard to  
25 anything that might cause some disturbance here, neighbors,

1 parking, light, traffic, noise --

2 MR. JACKSON: No.

3 MS. JACKSON: No, no, no.

4 CHAIRPERSON REID: No complaints, okay. Okay.

5 (Pause.)

6 VICE CHAIR SOCKWELL: -- Mr. Jackson? Yeah.

7 Looking at the drawings of your proposed deck, the locations of  
8 the supports are not going to allow you to drive your cars under  
9 that deck anymore.

10 MS. JACKSON: Never heard of that.

11 VICE CHAIR SOCKWELL: You have two rows of posts.  
12 One row is center lined two feet off the side of the house, the  
13 second row is center lined, it looks like about 12 feet back from  
14 the, but this drawing isn't to scale and it says it has a scale,  
15 but the scale doesn't work.

16 So I don't understand how these people that did  
17 this drawing came up with what they're proposing. But it seems,  
18 it's all out of scale, and I can't, I cannot make it work.

19 It doesn't look like you can still drive your cars  
20 underneath there.

21 MR. JACKSON: Uh, the way we explained it to him,  
22 what we wanted, the first line of posts would be about two feet  
23 from the house.

24 VICE CHAIR SOCKWELL: Uh-huh.

25 MR. JACKSON: And the next line would be about ten

1 feet.

2 VICE CHAIR SOCKWELL: So that leaves you eight feet  
3 of clearance.

4 MR. JACKSON: Yes.

5 VICE CHAIR SOCKWELL: And you said that was  
6 unacceptable when we discussed it before.

7 MR. JACKSON: Uh --

8 VICE CHAIR SOCKWELL: I don t understand.

9 MR. JACKSON: That would leave, that would leave  
10 about, yeah, about eight feet. You know, including the steps. It  
11 should still leave about eight feet.

12 VICE CHAIR SOCKWELL: Remember when we discussed  
13 eight foot and nine foot wide parking spaces and the spacing  
14 underneath and you didn t seem to think that was going to work.

15 MR. JACKSON: But see if the posts, if the posts is  
16 two feet from the line, the line is 13 feet. If the posts is two  
17 feet from the line.

18 VICE CHAIR SOCKWELL: Well, let s just assume I had  
19 a misunderstanding of what you were saying, okay.

20 CHAIRPERSON REID: All right. Let s go to practical  
21 difficulty. I think that looking at the pictures and the map. I  
22 mean the pictures that you submitted and the Sandbourne Map, that  
23 now, Mr. Sockwell you said matter of right, he could put the deck  
24 on the back, but if he put the deck on the back it would require,  
25 it would incur a considerable expense to be able to have the deck,

1 have the roof flattened so that they can get the deck on the  
2 second floor, and he would still have --

3 VICE CHAIR SOCKWELL: It would, for him to gain  
4 access from the second floor, should he even wish to do so, and as  
5 he stated the access would be from a bedroom as opposed to from a  
6 hallway, which is a more public space.

7 And because the roof on the rear of the house  
8 slopes up to meet the window line, and therefore does not allow  
9 direct access at the floor level to anything that might be built  
10 at that height, he would have to cut into the roof, restructure  
11 the roof and virtually tear up the ceiling of the area below to  
12 come in with a new at level or at floor level passage way out to  
13 the deck which would be built at some point.

14 It seems to be, present practical difficulties that  
15 are not normally associated with such deck construction.

16 CHAIRPERSON REID: Okay. All right. So that would  
17 be your practical difficulty, which is the second part of the test  
18 that you have to meet and the third part is it would not impair  
19 the intent and integrity of the Zoning Regulations or the map.

20  
21 And to your knowledge does that make sense to you?

22 MR. JACKSON: Yes.

23 MS. JACKSON: That makes sense.

24 CHAIRPERSON REID: All right so, what, so you, are  
25 you basically proffering to us that if it was not impairing the

1 intent and integrity of the Zoning Regulations or the Map and if  
2 in fact you were to have your application approved?

3 MR. JACKSON: Uh-huh.

4 CHAIRPERSON REID: Okay, so stay right there. All  
5 right. Persons and parties. No, ANC Report. We already talked  
6 about the ANC. We ll leave the record open to allow the ANC to  
7 submit their report, but as far as you know they were in approval.

8 They did not object, okay. All right. Persons or  
9 parties in support, persons or parties in opposition? Closing  
10 remarks by the Applicant. Now this is your time to say a few words  
11 or you can ask, and/or you can ask that we give you a decision  
12 today, which is a Bench Decision, Summary Order, meaning that you  
13 would get your Order in a couple of weeks if in fact it was  
14 approved.

15 MR. JACKSON: Uh-huh. Well we ll do that.

16 CHAIRPERSON REID: You ll do that. Okay. All  
17 right. Can I get a motion? Board Members? There is any other  
18 comments?

19 Well I ll, I think, I ll make the motion. I move  
20 that we approve this application and that, and it be amended, the  
21 application be amended to 12, 10 feet rather than 12 feet, and  
22 that I feel they ve made their burden of proof based on the fact  
23 that they have shown that their property is unique in regard to  
24 the other properties in the same line, and their neighborhood, as  
25 far as the side yard is concerned.

1           The side yard area or space. And the size of their  
2 building in comparison to the other properties, and that there is,  
3 the practical difficulty would be that if they were to comply with  
4 the existing regulations they would have to cut into their roof  
5 which would be a considerable expense to be able to put that deck  
6 on the second floor.

7           And that there does not appear to be any adverse  
8 impact, that there seems to be quite a bit of support, letters and  
9 petitions, that are in favor of the application and that it hasn't  
10 impaired the intent or integrity of the Zoning Regulations and  
11 Maps.

12           Could I get a second? No seconds?

13           COMMISSIONER HOOD: I'll second the motion.

14           CHAIRPERSON REID: Okay, all in favor?

15           (Chorus of ayes.)

16           Opposed?

17           MEMBER RENSHAW: I'm going to abstain.

18           CHAIRPERSON REID: Okay.

19           COMMISSIONER HOOD: Madam Chair, I know that you,  
20 that we have voted on the motion, but I want to do a  
21 reconsideration for the simple fact that if we do not include, I  
22 think the ANC requested, and I just thought about that.

23           The ANC had requested that the record be left open  
24 so they can submit. They haven't had time to meet.

25           MEMBER RENSHAW: Uh-huh.

1 COMMISSIONER HOOD: So I don't know what's your  
2 avenue, but I would like to open it back up for reconsideration,  
3 so we can at least put that in there.

4 CHAIRPERSON REID: I did.

5 COMMISSIONER HOOD: You did? Okay, well I didn't  
6 hear you.

7 CHAIRPERSON REID: I did that with my motion.

8 COMMISSIONER HOOD: Okay, I'm sorry, I didn't hear  
9 that part.

10 CHAIRPERSON REID: The first thing I said is that I  
11 leave the record open for the ANC to submit their report. And I  
12 ask --

13 MS. PRUITT: Do you want to take a vote prior to the  
14 ANC report?

15 COMMISSIONER HOOD: Yeah, that's what I was -- That's  
16 why I'm confused.

17 MS. PRUITT: Would you not then hold the record open  
18 and then make sure you take care of this, take this at the next  
19 public meeting?

20 CHAIRPERSON REID: Typically, if we don't have a  
21 letter from the ANC then our assumption is that they're not,  
22 they're not in opposition to this application. And this is the  
23 second time they've come before us.

24 So the ANC has had knowledge for some time. And  
25 this has been the way we've always done it. The only reason why I

1 said, to leave the record open is because the ANC requested that  
2 it be left open.

3 COMMISSIONER HOOD: So they can respond. So that  
4 goes back to my original question for, ask for reconsideration for  
5 the simple reason that if we vote on it and that comes in not  
6 favorable, then we have a problem.

7 Well we don't have a problem. We didn't give,  
8 afford them the great weight that they are afforded.

9 CHAIRPERSON REID: Well, no, no, no, no. That's not  
10 true Mr. Hood.

11 COMMISSIONER HOOD: Well that is true.

12 CHAIRPERSON REID: No it's, well, remember, they,  
13 this is the second time they've come before us. Typically an ANC  
14 will submit something if they're in opposition. If they don't  
15 submit anything then we assume they're not in opposition. That  
16 was my point.

17 COMMISSIONER HOOD: Okay.

18 CHAIRPERSON REID: So, but you're saying that you  
19 think that because they asked to let the, leave the record open,  
20 there may be some doubt.

21 COMMISSIONER HOOD: Due to circumstances, let me  
22 just read the. Due to circumstances beyond our control, ANC-5A  
23 will be unable to take it up, the above referenced case until its  
24 monthly community of the whole meeting on March 2nd.

25 CHAIRPERSON REID: Uh-huh.

1                   COMMISSIONER HOOD: So they re asking us to leave it  
2 open. And I m just confused about the vote. And that s why I  
3 wanted to motion for reconsideration.

4                   CHAIRPERSON REID: Yeah. I feel comfortable with  
5 the vote, but you know, I have no problem with having it, having  
6 the vote as of the next meeting.

7                   VICE CHAIR SOCKWELL: Madam Chair?

8                   CHAIRPERSON REID: Um, I just, I guess I just took  
9 the position that if they didn t oppose, if they opposed it they  
10 would let us know.

11                  VICE CHAIR SOCKWELL: Madam Chair, since the ANC did  
12 not have an opportunity to meet, and since Mr. Hood has raised a  
13 valid point, I would suggest that we rescind the vote pending the  
14 receipt of the property documentation.

15                  CHAIRPERSON REID: Okay.

16                  VICE CHAIR SOCKWELL: Of an ANC meeting.

17                  CHAIRPERSON REID: Okay, but I still contend that  
18 they did have an opportunity to get their letter in the last time  
19 we had the hearing, and they didn t.

20                  MEMBER RENSHAW: It could be the case that the ANC  
21 did not meet last month. There were snow days.

22                  MS. PRUITT: Actually --

23                  MEMBER RENSHAW: We don t know, and it s for the ANC  
24 to explain.

25                  MS. PRUITT: You actually had a letter from a Single

1 Member District. But not from the ANC as a whole.

2 CHAIRPERSON REID: And that, Board Members, District  
3 Representative said --

4 MS. PRUITT: They approved. I mean they have no  
5 problem.

6 CHAIRPERSON REID: There were in approval.

7 MS. PRUITT: But it wasn't a quorum vote.

8 COMMISSIONER HOOD: But that doesn't hold. That's  
9 not great weight.

10 CHAIRPERSON REID: Okay. Well, I don't want to  
11 mince, I don't want to, you know, get bogged down into logistics.

12 If there is a concern about the ANC's position. I felt that,  
13 given the fact that this is the second time that we've had this  
14 Application come before us so that they could present their case.

15 And I'm sure that they're probably anxious to get  
16 started. They have their architectural plans. And I thought that,  
17 that it would be, would be expeditious to go ahead and vote on it  
18 today.

19 Nonetheless, if in fact there is any doubt that the  
20 ANC is in approval of this application, then I have no problem  
21 with the vote being rescinded and taking the vote up at the next  
22 regularly scheduled meeting of the BZA.

23 VICE CHAIR SOCKWELL: Is it possible Madam Chair  
24 that the vote could be held in abeyance or whatever the case may  
25 be, pending receipt of the ANC report. That report could be

1 delivered to the Board Members and we could by a telephone poll be  
2 asked if we had any change, if the ANC decided not to support --

3 CHAIRPERSON REID: I don t know.

4 COMMISSIONER HOOD: But they may even come back with  
5 conditions and those kind of things.

6 VICE CHAIR SOCKWELL: Right.

7 COMMISSIONER HOOD: So that s why I wanted to afford  
8 them the opportunity.

9 VICE CHAIR SOCKWELL: All right.

10 CHAIRPERSON REID: All right. Well do we have to  
11 vote to rescind the vote?

12 COMMISSIONER HOOD: Yes, we do.

13 CHAIRPERSON REID: Okay, well you can --

14 COMMISSIONER HOOD: I make a motion that we rescind  
15 our vote in the affirmative with Case No. 16530, contingent upon  
16 the 5A ANC report and quorum as a whole after they meet on March  
17 the 2nd.

18 MEMBER RENSHAW: Second.

19 COMMISSIONER HOOD: And let me just add that we,  
20 that we vote on that at the next monthly meeting, the next monthly  
21 meeting which will be April.

22 CHAIRPERSON REID: Okay.

23 COMMISSIONER HOOD: The first meeting in April.

24 CHAIRPERSON REID: All right. All in favor?

25 (Chorus of ayes.)

1                   Opposed? I abstain. All right now. Do you  
2 understand what happened? All right, you almost got an approval,  
3 but, but --

4                   MR. JACKSON: Yes.

5                   CHAIRPERSON REID: Just a little technicality. I  
6 think that you have gotten a feel for the ANC position but we  
7 don t. And the Board Members are concerned about that. So rather  
8 than take your vote today we re going to let the ANC give us the  
9 letter after they have their meeting.

10                  And then on our next meeting date which would be  
11 April the 5th?

12                  MEMBER RENSHAW: 5th.

13                  CHAIRPERSON REID: April the 5th. We then will make  
14 a decision. And, just so that, for your own edification and so  
15 that you won t stress about this, I think that you have an idea as  
16 to which way the Board is going, and if you don t have a problem  
17 with the ANC then it s very likely that you will have an approval  
18 I think.

19                  VICE CHAIR SOCKWELL: Madam Chair?

20                  CHAIRPERSON REID: Thank you.

21                  VICE CHAIR SOCKWELL: Is it fair to suggest to the  
22 Jacksons that if they do participate in the ANC meeting and are  
23 questioned that they should let the ANC know that the pending  
24 approval was for a ten foot deck as opposed to a 12 foot deck,  
25 which might help their position with the ANC.

1 CHAIRPERSON REID: They should. You should let them  
2 know that.

3 MS. JACKSON: Okay.

4 CHAIRPERSON REID: All right. So, well, you can  
5 come if you d like for our decision meeting. You don t have to.  
6 There s no public participation. But we will be taking a vote,  
7 and you can some so that you can find out what happened at that  
8 time. Okay? Thank you very much.

9 MR. JACKSON: Thank you. In the event that we will  
10 --

11 MS. PRUITT: Your microphone isn't on.

12 MS. JACKSON: Oh, I'm sorry. In the event that we  
13 can't make it at this ANC meeting, you will then inform --

14 CHAIRPERSON REID: No, you mean the the BZA meeting.

15 MS. JACKSON: I mean --

16 CHAIRPERSON REID: You mean our meeting?

17 MS. JACKSON: Yes.

18 CHAIRPERSON REID: Sure. Staff will inform you.

19 MS. PRUITT: Yes, we will inform you, by --

20 MS. JACKSON: Okay. Very good.

21 CHAIRPERSON REID: And immediately after the meeting  
22 Ms. Pruitt, after our decision, immediately please see that they  
23 are so informed so they can move forward in their project. All  
24 right. Thank you.

25 MR. HART: All right staff will recall the vote as

1 four to one to rescind the vote until our next meeting which is  
2 April the 5th.

3 MEMBER RENSHAW: I think the vote should be recorded  
4 as four to zero to one.

5 MR. HART: Okay. That s correct.

6 CHAIRPERSON REID: Yes, we are. Thank you very  
7 much. All right. We re going to take a five minute recess and  
8 we ll come right back.

9 (Whereupon a short recess was held.)

10 We will now continue with the hearing. Let s have  
11 the, what is it the third case of the afternoon?

12 MR. HART: Case No. 16541, the Potomac Food Company  
13 II, Inc., pursuant to 11 DCMR 3104.1, for a special exception  
14 under Section 214 to continue the use of an existing accessory  
15 parking lot in an R-1-B District at premises 4422 Connecticut  
16 Avenue, N.W. (Square 1971, Lot 822).

17 Those persons planning to testify please stand,  
18 raise your right hand for the oath.

19 (Witnesses sworn.)

20 Thank you.

21 MS. PRINCE: Good afternoon Members of the Board.  
22 I m Allison Prince of Wilkes, Artis. I m here today on behalf of  
23 Potomac Foods to seek approval for the continuation of an  
24 accessory parking lot in the R-1-B Zone, located behind the Burger  
25 King restaurant at 4422 Connecticut Avenue, N.W.

1           The parking lot has been in operation for  
2 approximately 18 years since the time the Burger King was  
3 constructed. It was initially approved by the BZA in 1982 for a  
4 three year term. The most recent term of approval was for five  
5 years.

6           Today we re seeking special exception approval  
7 under Section 214 for another five year term. To orient the Board  
8 this Burger King is located on the west side of Connecticut  
9 Avenue.

10           The parking area that is the subject of the  
11 application is access via an alley that also serves several other  
12 accessory parking areas, that is the parking areas for the Dry  
13 Cleaning Depot, Town and Country Baths and a car wash, an infamous  
14 car wash in the neighborhood, which is next door to our site.

15           The lot contains approximately 16 spaces and has  
16 been operating without significant impact on the community for 18  
17 years. As the witness will describe, it is well maintained, and  
18 it is buffered from the adjacent residential property by a dense  
19 vegetative screen.

20           The lot serves the patrons of the restaurant and  
21 prevents overflow parking on to neighborhood streets. In  
22 preparation for the ANC-3F meeting on February 14th, we became  
23 aware of some concerns from two abutting property owners to the  
24 west.

25           We believe that the conditions proposed by the ANC

1 fully address these issues. The witness today is Danny Lopez, a  
2 District Manager for Burger King, who is responsible for several  
3 restaurants. And he will be testifying today on behalf of the  
4 owner.

5 If the Board has no questions I would like to  
6 proceed with the testimony of Mr. Lopez. He is the only witness  
7 today. Thank you.

8 MR. LOPEZ: Good afternoon. My name is Danny Lopez.

9 I reside at 1305A Woodhouse Court in Germantown, Maryland. I m  
10 here today on behalf of the owner of the subject parking lots.

11 We are seeking special exception approval to  
12 continue the use of the lot for accessory parking to serve the  
13 Burger King restaurant, which is located at 4422 Connecticut  
14 Avenue N.W.

15 The Board of Zoning, the Board of Zoning  
16 Adjustments most recently approved the operations of this lot for  
17 parking purposes for a five-year term in November of 1994. As the  
18 District Manager, I visit the store regularly and oversee the  
19 maintenance of the parking lots.

20 The parking lot contains 16 spaces which serves the  
21 -- customers for Burger King restaurant. It is heavily screened  
22 from residential properties to the west of, by a wooden fence and  
23 mature vegetation.

24 Due to the difference of topography, the parking  
25 lot is located several feet below the residential property on the

1 west. The topography therefore adds to the buffer between the  
2 residential and commercial uses.

3 As set forth in the statement of the Applicant, the  
4 lot meets all requirements of Section 214 regarding pavement,  
5 paving, lot design, lighting, and screening.

6 We met with ANC-3F and secured the ANC s  
7 conditional support for our application. The ANC support was  
8 conditional on our reducing the volume of the speaker associated  
9 with drive-thru for the Burger King.

10 We have made an adjustment to the volume as  
11 requested by the ANC. Further the ANC requested a two-year limit  
12 on your approval of this lot. The ANC also requested that we move  
13 our grease storage container to the inside of the store, which we  
14 will do.

15 The Department of Public Works has recommended  
16 approval of this application. We are in full agreement with the  
17 ANC s conditions regarding the speaker volume and the grease  
18 container.

19 We will also enforce our company policy which  
20 prohibits the use of trash receptacles at the store, of the store  
21 closing for both security and noise reasons. The lot is well  
22 screened from the neighborhood s property.

23 The use will only the neighborhood by preventing  
24 overflow parking into the neighborhood streets. Since we keep the  
25 parking lot in good condition and take prior condition of the

1 property, we strongly recommend your approval of this application.

2 In addition I would like to note that given the  
3 time on -- associated with the processing of an application before  
4 the BZA we will greatly appreciate your approval of this for a  
5 five year term.

6 I m committed to the regular monitoring of this lot  
7 to ensure compliance with the conditions. Thank you and if  
8 there s any questions.

9 CHAIRPERSON REID: Um, well, the first question that  
10 I have is, in regards to the self purification.

11 MS. PRINCE: Yes.

12 CHAIRPERSON REID: The top part wasn t filled out.  
13 It doesn t indicate even what property it is. Or did you submit  
14 something after this? This is what I had in my file Ms. Prince.

15 MS. PRINCE: I d have to look at the application.  
16 Whatever would have been required for the hearing we would have  
17 filled out if it was, let me just check.

18 CHAIRPERSON REID: Uh.

19 MS. PRUITT: You have the main file. We can look  
20 through it if you d like. But that, that s where the original  
21 would be in that file.

22 CHAIRPERSON REID: All right, but where did that  
23 come from?

24 MS. PRUITT: I believe it should be a copy from the  
25 original in that file.

1 CHAIRPERSON REID: Okay.

2 MS. PRUITT: It s Exhibit, no I m sorry, there is no  
3 exhibit number on there.

4 (Pause.)

5 We can look through that if you d like.

6 CHAIRPERSON REID: All right. Board Members, should  
7 you have additional questions?

8 MEMBER RENSHAW: Yes, I do. This Burger King  
9 parking lot is in my neighborhood. And in fact I know the alley  
10 very, very well. I know this parking area very, very well, and  
11 Ms. Prince will harken back to her words about the infamous car  
12 wash that is right next door.

13 And I was struck by the fact that your March 1st  
14 application that you submitted had three pictures of the rear  
15 parking lot. And I have never seen it looking like that. In  
16 other words I have always remembered the parking lot looking like  
17 that, which was your earlier submission.

18 Yes, this. This is how we in the neighborhood  
19 remember the Burger King parking lot. Right here. Because right  
20 there is the car wash. And when the cars go through the car wash  
21 from Connecticut Avenue, they are dumped out into this parking  
22 lot.

23 And we rarely see cars around there parked for the  
24 Burger King, because the Burger King lot also is directly behind  
25 the restaurant. So my question is, since you own this parking

1 lot, correct? Burger King does own that.

2 MR. LOPEZ: Correct.

3 MEMBER RENSHAW: What kind of an arrangement do you  
4 have with the car wash to allow the use of the property for the  
5 car wash? What kind of document do you have?

6 MR. LOPEZ: Um, well, I don t have any document for  
7 them using the parking lot, but you know, they do use it.

8 MEMBER RENSHAW: Do they pay rent to you to use  
9 this?

10 MR. LOPEZ: No, they don t.

11 MEMBER RENSHAW: They don t. What kind of liability  
12 do you have over their use of this parking lot to wipe off all the  
13 vehicles and have them kind of idle there while the drivers are  
14 getting into the cars and driving off?

15 MR. LOPEZ: Yes, they re mainly supposed to use like  
16 once a car is washed, directly across the alley, which is kind of  
17 like in front of their office where they have like a garage there  
18 also.

19 That s usually the, you know, the space that they  
20 use. And then I know like on weekends, well it doesn t show in  
21 the picture, right next to the alley where there s like a  
22 sidewalk. They use part of that.

23 MEMBER RENSHAW: Uh-huh. Well they keep the alley  
24 part clear, which is directly behind the car wash. But they do  
25 take over that parking lot to of course clean off the cars before

1 the owners get back in and drive off.

2 So I m just curious. Today you re coming for a  
3 special exception to use this parking area for another five years  
4 for parking for your restaurant, and it seems that a good amount  
5 of the time it is used for the car wash and we re not giving  
6 permission for the car wash, we re giving permission to you.

7 So, this is what I d like you to explain. See, you  
8 have no legal agreement with these, with the car wash. You just,  
9 informal that they pay you no rent. It seems to be a very lax way  
10 of handling things.

11 (Pause.)

12 MR. LOPEZ: Yeah, so I would you know, I would agree  
13 that you know the car wash would not use our parking lot for their  
14 purposes.

15 MEMBER RENSHAW: Where are they going to go?  
16 Because the other day when it was so lovely, we ve had a couple of  
17 beautiful days.

18 MR. LOPEZ: Uh-huh.

19 MEMBER RENSHAW: I looked in on that alley because I  
20 was right in the vicinity driving by, and it was doing the  
21 bustling business in your parking lot.

22 MR. LOPEZ: Uh-huh.

23 MEMBER RENSHAW: And they re not, if you, if they  
24 don t use that lot then they re going be backed up on Connecticut  
25 Avenue, because they will not be able to go through as quickly.

1 And it is an infamous car wash, I agree with that. So, it just  
2 presents, it seems to me a difficulty for this Board, giving and  
3 okay, or at least hearing your case to give an okay, for us to  
4 give an okay for another several years for you to use it as a  
5 parking lot when you turn over the use very casually to the car  
6 wash to use at their discretion. So.

7 MS. PRINCE: I need to --

8 MEMBER RENSHAW: I want to bring that to the Board s  
9 attention.

10 MS. PRINCE: I ve been out to the lot on several  
11 occasions, and, and when the car wash is in operation I too have  
12 observed the spillover operation. I think I need to understand  
13 the Board s concern.

14 Our case could have been structured to allow that  
15 accessory use to occur on our lot, but it is not. It s, this is a  
16 case that involves only approval for accessory parking for the  
17 Burger King.

18 If it is the Board s wish to legitimize the drying  
19 off of cars on our lot, our application would need to be adjusted.

20 If it s the Board s wish to cease that operation occurring on our  
21 lot that could be addressed in a condition.

22 I think I don t understand what the Board s wishes

23 --

24 MEMBER RENSHAW: Well I wanted to make it very clear  
25 to the Board that it was not, this lot is not strictly used as a

1 parking area for Burger King. And yet you have come in requesting  
2 the continued use of that lot for the Burger King.

3 And all these years it s been used, we feel, in the  
4 community, it s primarily the space of the car wash.

5 MS. PRINCE: Commissioner Renshaw this is, this case  
6 has been before the Board before, and I handled the last case, and  
7 I have to say that at the Advisory Neighborhood Commission, at  
8 that time and on this go around, it was never raised.

9 And it, and we directly contacted abutting property  
10 owners to solicit comments, and it s never been raised. So it s  
11 simply not been something we sought to address.

12 MEMBER RENSHAW: Well they may not use the car wash  
13 like I do.

14 MS. PRINCE: Well, one of the Commissioners on 3F  
15 said she uses it very frequently, and is back there all the time  
16 and is familiar with its operation. And she had an issue with the  
17 speaker volume.

18 So it s simply not an issue that s been brought up.  
19 If, I think from a very practical standpoint the drying off of  
20 the vehicles on our, on the Burger King lot prevents the alley  
21 from being blocked.

22 And that s just a condition that s evolved.

23 MEMBER RENSHAW: Well they would not be allowed to  
24 use the alley.

25 MS. PRINCE: No. Absolutely not. Absolutely not.

1 The car wash is a matter of right use, but no it would not be  
2 permitted to block the alley.

3 MEMBER RENSHAW: Okay.

4 VICE CHAIR SOCKWELL: There s no, no formal use of  
5 that lot under any circumstances by the car wash. It s just an  
6 overflow.

7 MS. PRINCE: it s just an overflow, and I think  
8 there s a historical explanation. That is there was common  
9 ownership at one point in time between the Burger King and the car  
10 wash.

11 CHAIRPERSON REID: That s an accommodation that the

12 --

13 MS. PRINCE: There is no longer a common ownership,  
14 but there was common ownership.

15 CHAIRPERSON REID: No, no, no. I said, the wiping  
16 off of the cars is an accommodation that Burger King allows the  
17 car wash?

18 MS. PRINCE: Correct.

19 CHAIRPERSON REID: And Mrs. Renshaw is that  
20 something that is a detriment or is it something  
21 that --

22 MEMBER RENSHAW: No. I, I just feel that the case  
23 should be structured as to the use of that piece of property. And  
24 I think that there should be some recognition in our files that  
25 that lot is also used as a wipe off area for the car wash.

1 Just so we keep things very clear. And I m not  
2 saying here that I would like the car wash to go elsewhere. In  
3 other words, the drying off area to be done in the mouth of the  
4 car wash, backing up cars onto Connecticut Avenue.

5 It s okay. But just to have a document here that  
6 explains what the use of that parking area is. It s not just for  
7 you, but it s heavy use from the car wash.

8 CHAIRPERSON REID: Well, I think that we would be  
9 able to also glean from, like, letters from the community as to  
10 whether or not there was some complaints or opposition regarding  
11 the use of the lot for the wiping off area.

12 And I think I m understanding from the Applicant  
13 and Mrs. Prince that that is the use that is existing, going on,  
14 as an accommodation but it is not a legal use where there are  
15 documents that are actually a lease or anything like that that  
16 gives it a legal right to use it.

17 MEMBER RENSHAW: Correct.

18 CHAIRPERSON REID: In other words Burger King just  
19 doesn t say anything about them using it.

20 MEMBER RENSHAW: Correct.

21 CHAIRPERSON REID: And if the neighborhood, if it s  
22 good for the neighborhood that they don t back up the alley then  
23 it s an accommodation that has been occurring, and if we start to  
24 document it it would have to be substantiated by some type of  
25 legal documentation.

1 VICE CHAIR SOCKWELL: Or even perhaps Madam Chair  
2 just a letter of acceptance.

3 MEMBER RENSHAW: Yeah.

4 VICE CHAIR SOCKWELL: Between the operators of the  
5 car wash and the Burger King. Which would allow at least in this  
6 instance for the use that we re going to be, that we re looking  
7 at, to include --

8 MS. PRINCE: The drying off of vehicles.

9 VICE CHAIR SOCKWELL: The drying off of vehicles as  
10 a courtesy allowed, afforded to the adjacent property owner, with  
11 no money exchanged hands, exchanging hands and no --

12 CHAIRPERSON REID: Not that there s, no other  
13 commercial use, no other commercial use.

14 MEMBER RENSHAW: No.

15 MS. PRINCE: Uh-huh.

16 CHAIRPERSON REID: I think Mrs. Renshaw just wanted  
17 to see something, but we have to be very careful that this is a  
18 land use issue in regards to the car wash using that property.  
19 There is no lease in place. And it s just something that s been  
20 happening.

21 MEMBER RENSHAW: Uh-huh.

22 CHAIRPERSON REID: Then you could get into lease  
23 issues which would be very complicated as to --how it s going to  
24 be used, and to liability, and to insurance, and I don t think we  
25 want to go there.

1 MS. PRINCE: I don t think that s the Board s  
2 concern.

3 MEMBER RENSHAW: No.

4 MS. PRINCE: And we d be happy to present into the  
5 record a letter from Potomac Foods --

6 CHAIRPERSON REID: Something that s saying --

7 MS. PRINCE: -- saying that it s an accommodation  
8 of the property.

9 MEMBER RENSHAW: -- Then it s clear.

10 CHAIRPERSON REID: Okay. All right. Thank you.  
11 Other questions?

12 COMMISSIONER HOOD: Yeah. I just had a question for  
13 Mr. Lopez. I received a letter with some conditions. One of the  
14 concerns, I think I heard you say that you would like for it to be  
15 granted for five years?

16 MR. LOPEZ: Correct.

17 COMMISSIONER HILL: And the ANC is saying, -- First  
18 of all let me ask you this way. Did you adopt all of the  
19 conditions and have no problems with the ANC conditions that they  
20 put forward?

21 MR. LOPEZ: Correct. We ve already been working --

22 CHAIRPERSON REID: That s in their submission that  
23 they have agreed.

24 COMMISSIONER HOOD: Okay, so they agree, but I think  
25 I head him say five. And then they re asking for two, so I was

1 just wanted to --

2 CHAIRPERSON REID: Oh, I m sorry, I didn t hear --

3 COMMISSIONER HOOD: So you re in front of this  
4 Board, you re asking for two now too, am I correct?

5 MS. PRINCE: No. No. We agreed with all the ANC s  
6 conditions with the exception of the two year.

7 COMMISSIONER HOOD: With exception of the two, okay.

8 MS. PRINCE: And that was stated at the ANC meeting.

9 COMMISSIONER HOOD: Okay. Thank you. No further  
10 questions.

11 MR. MOULDEN: Madam Chair? I have a  
12 question --

13 CHAIRPERSON REID: Oh, I see, I m sorry, oh, I m  
14 sorry, before you start. Okay, I see now, when I first looked at  
15 it, at first blush it looked like you were saying that with the  
16 conditions of the ANC without the last sentence says that with the  
17 exception, except the first two and you d still like to get five  
18 years.

19 MR. MOULDEN: Madam Chair, I didn t hear any  
20 complaints or problem from the Committee or ANC about accidents,  
21 whether they were pedestrian or vehicular, but just for the  
22 record, I just wanted to know the last I guess two, three years,  
23 has there been any accidents, vehicular or pedestrian because of  
24 circulation problems, maneuvering from vehicles being parked to go  
25 into Burger King and the car wash?

1 MR. LOPEZ: No, there has not been.

2 MR. MOULDEN: None? Not at all?

3 MR. LOPEZ: Not at all.

4 CHAIRPERSON REID: I just had a couple of questions  
5 with regard to the conditions that were put in the previous Order.

6 And Mrs. Renshaw did say something about the parking surface.  
7 And the condition of it. Has it or has it not been maintained in  
8 good condition at all times?

9 MR. LOPEZ: Yes. We stripe and surface every year.

10 CHAIRPERSON REID: So you comply with that. Ms.  
11 Renshaw did you say something about the way that the picture  
12 looked then and that picture now? I didn't hear --

13 MEMBER RENSHAW: I was talking about car wash  
14 traffic. It was the alley pictures --

15 CHAIRPERSON REID: Oh, okay.

16 MEMBER RENSHAW: and this, nothing to do with the  
17 --

18 CHAIRPERSON REID: Okay.

19 MEMBER RENSHAW: -- condition of the restaurant,  
20 no.

21 CHAIRPERSON REID: And you did establish a community  
22 liaison?

23 MR. LOPEZ: We do seal and stripe the parking lot.

24 CHAIRPERSON REID: Okay, you did establish a  
25 community liaison with the Advisory Neighborhood Commission at 3F?

1 MS. PRICE: I have been the liaison with Scott  
2 Strauss and note that I serve this --

3 CHAIRPERSON REID: What did you say?

4 MS. PRICE: I have acted as the liaison on behalf of  
5 Potomac Foods, and up until 1998 I was in regular communication  
6 with Scott Strauss who is the Single Member District Commissioner  
7 who raised the one issue that we had at the last hearing about the  
8 speaker volume.

9 CHAIRPERSON REID: Uh-huh.

10 MS. PRICE: So every time I had a dealing with  
11 Commissioner Strauss I said how s the Burger King doing? And  
12 every time he said, haven t heard any complaints. And that was  
13 the extent of the follow-up.

14 When we returned to ANC-3F at this time we touched  
15 base with Commissioner Highrich, Heinrich, who s replaced  
16 Commissioner Strauss, and he too had not heard anything. But he  
17 did some visiting of neighbors and was able to solicit some input  
18 to which we reacted.

19 CHAIRPERSON REID: So you serve in the capacity as  
20 the community liaison and you --

21 MS. PRICE: I have in this particular instance. We  
22 recommended a different approach at this time. It seems that the  
23 favorable approach would be to circulate the headquarters number,  
24 Danny Lopez s number to the immediately affected neighbors on the  
25 ANC so their direct communication not to the Store Managers, who

1 do turn over on a fairly regular basis, but to Mr. Lopez and the  
2 headquarters of the District Manager.

3 CHAIRPERSON REID: Uh-huh.

4 MS. PRICE: We feel that s a more direct line of  
5 communication.

6 CHAIRPERSON REID: And you also serve in capacity of  
7 Counsel for the Burger King?

8 MS. PRINCE: Yes.

9 CHAIRPERSON REID: So they could also contact you.

10 MS. PRICE: They could always contact me.

11 CHAIRPERSON REID: And the last thing was, how did  
12 you resolve the issue about the complaints of the loud speaker?

13 MR. LOPEZ: We called the company to have the  
14 speaker serviced and volume turned down.

15 CHAIRPERSON REID: But the last, but your Order  
16 required that you have the volume not to exceed 70 decibels in the  
17 first place.

18 MR. LOPEZ: Right.

19 CHAIRPERSON REID: Was it exceeding that?

20 MR. LOPEZ: No, it s actually less then 70.

21 CHAIRPERSON REID: So you re saying that 70 is  
22 objectionable?

23 MR. LOPEZ: So we agreed to, --

24 CHAIRPERSON REID: 70.

25 MR. LOPEZ: Right.

1 CHAIRPERSON REID: So you re going to lower it even  
2 more to --

3 MS. PRICE: Correct.

4 CHAIRPERSON REID: -- to?

5 MR. LOPEZ: To 60.

6 MS. PRICE: To 60.

7 CHAIRPERSON REID: All right. --

8 MS. PRICE: And it s not at 60 now.

9 CHAIRPERSON REID: And you will be in contact with  
10 the community to find out --

11 MS. PRICE: To get input.

12 CHAIRPERSON REID: Okay.

13 VICE CHAIR SOCKWELL: I believe the Zoning Ordinance  
14 specifies 60 decibels.

15 MS. PRICE: In the Residential Zone.

16 VICE CHAIR SOCKWELL: In a Residential Zone.

17 MS. PRICE: And we re applying the residential  
18 standard to this restaurant because it is on the, the speaker I  
19 should note is in a commercial zone.

20 VICE CHAIR SOCKWELL: Uh-huh.

21 MS. PRICE: The speaker is on the other side of the  
22 alley at about 100 feet from the property line.

23 VICE CHAIR SOCKWELL: Uh-huh.

24 MS. PRICE: Nonetheless, we re applying the  
25 residential standard of 60. And the microphone has been adjusted,

1 and we understand that it s less than 60.

2 VICE CHAIR SOCKWELL: Uh-huh.

3 CHAIRPERSON REID: Okay in regard to the ANC-3F  
4 letter to us, they stipulated that they would not object to the  
5 special exception provided that, well they said two years, and  
6 then the issue about the dumpster in the parking lot. Has it been  
7 replaced or has that been taken care of yet? Or were you in  
8 agreement with that?

9 MR. LOPEZ: Yes.

10 CHAIRPERSON REID: To replace it with a system that  
11 accumulates the kitchen grease inside the restaurant building so  
12 it is disposed of off site? You ve done that?

13 MR. LOPEZ: Right. We, we re working on that. We  
14 already put in a request from the grease company.

15 CHAIRPERSON REID: But you ve agreed to do that.

16 MR. LOPEZ: Yes.

17 MS. PRICE: That can be a condition to the order.

18 COMMISSIONER HOOD: Madam Chair while you re on the  
19 subject of dumpsters. I m just looking here. A picture is worth  
20 a thousand words. And I was looking at here, at this picture. My  
21 concern is the cleanliness of your lot.

22 Do you keep, does someone goes around, and picks up  
23 the trash, and. One thing about it, you were honest. At least if  
24 my eyes don t fail me, it looks like there s a lot of trash back  
25 up in here.

1 If you look at the picture, the middle page.

2 CHAIRPERSON REID: It looks like what?

3 COMMISSIONER HOOD: At least you re not trying to  
4 hide anything, but it looks like there s a lot of trash and it  
5 looks to me like that lot is not kept  
6 up. -- And that s my concern. Do you have somebody that goes  
7 around and picks up the trash?

8 MR. LOPEZ: Yes, we do. We --

9 COMMISSIONER HOOD: They just didn t pick it up that  
10 day when you took the picture.

11 MR. LOPEZ: The, you know, we pick it up a couple  
12 times a day.

13 COMMISSIONER HOOD: Okay.

14 CHAIRPERSON REID: Okay.

15 COMMISSIONER HOOD: I would like to see that put in  
16 the --

17 MR. LOPEZ: And we have also increased the number of  
18 pickups on the dumpster. We took care of that like last week.

19 COMMISSIONER HOOD: Okay.

20 MR. LOPEZ: But you know it is our intention to keep  
21 the parking lot looking clean and free of litter.

22 CHAIRPERSON REID: Okay, those were ANC issues. Are  
23 there any other questions, Board Members? Okay, are there any  
24 other parties of this case except for the ANC. IS the ANC here?  
25 All right, then we do have a letter from the ANC and we are just

1 basically referring to that in part.

2 But for the most part, ANC-3F says that they will  
3 not oppose the special exception and that there was a monthly  
4 meeting with a quorum present consisting of four Commissioners.

5 And that the vote was unanimous, and they did ask  
6 for two years. And we will come to that when we have our  
7 discussion about this particular application. The other things  
8 have been complied with in regard to the dumpster and the reduce  
9 the volume of the audio system.

10 And the issue regarding the frequent turn over of  
11 managers as being dealt with, with the liaison being put in  
12 contact with --

13 MS. PRINCE: Mr. Lopez.

14 CHAIRPERSON REID: -- Mr. Lopez is the, what is your  
15 title?

16 MR. LOPEZ: District Manager.

17 CHAIRPERSON REID: District Manager, as well as Mrs.  
18 Prince. Okay, so that s the ANC, any other government reports? I  
19 don t think we got any from the Office of Planning or DPW or any  
20 other government facilities.

21 Persons or parties in support? Persons or parties  
22 in opposition? Closing remarks by the Applicant.

23 MS. PRINCE: We would be pleased to enter a letter  
24 into the record from the owner regarding the use, the informal use  
25 that s arisen over the years of the lot by the car wash next door.

1 With that submission we would ask for the Board's  
2 approval of the application. The five year term I think is  
3 important for a lot that's been in operation for 20 years.

4 It is a fairly time consuming process to come back  
5 to the Board on a regular basis. I think Burger King is committed  
6 to contact with the community through the liaison process, and by  
7 providing Mr. Lopez's number to the community and the ANC  
8 Commissioner so there are no interim dealings with the people at  
9 the store.

10 And, with the five year renewal we really will  
11 begin the process over again in four years to allow timely  
12 processing of the application. So we would appreciate a five year  
13 term.

14 CHAIRPERSON REID: Okay. Did you ask for a --  
15 decision?

16 MS. PRINCE: We would very much appreciate your  
17 decision today.

18 CHAIRPERSON REID: All right. Thank you. Board  
19 Members? Motion or?

20 MEMBER RENSHAW: The, Mr. Hood do you want to go  
21 first?

22 COMMISSIONER HOOD: No, no, you go right ahead.

23 MEMBER RENSHAW: Well the ANC-3F has asked for two  
24 years. The Applicant has asked for five years. There are a few  
25 worries on behalf of ANC-3F, but the Applicant has stated that it

1 is going to address these issues, and I know that Ms. Prince is  
2 very attuned to making sure that her clients abide by the letter  
3 of the agreement.

4 And we do look for that letter informal, concerning  
5 the informal use by the car wash. But I would like to propose  
6 that the Board perhaps look at a compromise, and since the ANC has  
7 said two, and the Applicant has said five that we put the term for  
8 three years.

9 (Pause.)

10 CHAIRPERSON REID: Discussion?

11 COMMISSIONER HOOD: That was kind of within the  
12 lines that I was in. I was going to say three and a half, but  
13 three is, I mean I think that was a happy medium there between two  
14 and five.

15 VICE CHAIR SOCKWELL: Personally I see the lot as  
16 having limited additional use capability unless it s something in  
17 a non-residential area. I don t see that the lot having been  
18 there as long and having been used for the same purpose for as  
19 long as it has, presenting a problem for a longer term, based on  
20 the limited number of objections to what is taking place on the  
21 lot.

22 I would be willing to accept a period of four  
23 years, as being reasonable based upon the circumstances.

24 CHAIRPERSON REID: I would agree. As a matter of  
25 fact I would, my first thought was five years, to allow them to

1 continue, and the, given in fact that the, these complaints or  
2 objections are predicated upon some items that they have already  
3 agreed to take care of, in addition to strengthening the  
4 relationship with the community as far as any concerns or  
5 complaints are concerned.

6 I have, my concern is the lease that they have, and  
7 if the lease is for a considerable longer amount of time, and the  
8 application is approved for two years, I mean three years, and  
9 they have a longer lease, then it might cause them some problems  
10 eventually.

11 MEMBER RENSHAW: Madam Chair? Madam Chair, I would

12 --

13 CHAIRPERSON REID: But I would go along with the  
14 four. Let me put it that way.

15 MEMBER RENSHAW: All right.

16 CHAIRPERSON REID: I would go along with four.

17 MEMBER RENSHAW: All right. I am, in suggesting  
18 three years, I did not want to move too far away from the ANC  
19 position of two years, and I believe that they scrutinized this  
20 very closely. I know the work of the Chair of 3F and so I thought  
21 that three years was an accommodation on both sides.

22 VICE CHAIR SOCKWELL: I would want to say that four  
23 years I think is all right. But I would, since this is a special  
24 exception, we could condition it on the continued operation of the  
25 same company, and that should there be a change of operational

1 status that it would require a renewal immediately of the, or a  
2 re-application.

3 CHAIRPERSON REID: I don t know if we can do that.

4 VICE CHAIR SOCKWELL: Can we do that, we can t do  
5 that?

6 MS. PRINCE: It s illegal.

7 VICE CHAIR SOCKWELL: We can t. Oh. All right,  
8 well then.

9 CHAIRPERSON REID: It is a good try.

10 VICE CHAIR SOCKWELL: Yeah, it was a good try.

11 MS. PRINCE: Potomac Foods is the owner.

12 VICE CHAIR SOCKWELL: Is the owner.

13 MS. PRINCE: Is the owner.

14 VICE CHAIR SOCKWELL: Uh-huh.

15 CHAIRPERSON REID: We need to get to the --

16 VICE CHAIR SOCKWELL: So the place could become an  
17 Arby s and that might --

18 CHAIRPERSON REID: Go ahead.

19 MEMBER RENSHAW: Madam Chair, I will move three  
20 years with conditions as expressed previously. Including those of  
21 ANC-3F.

22 COMMISSIONER HOOD: Madam Chair, with that I ll  
23 second the motion.

24 MR. MOULDEN: I want to move for four years.

25 CHAIRPERSON REID: We have a motion and a second.

1 COMMISSIONER HOOD: The motion was seconded, you  
2 just have to call for --

3 CHAIRPERSON REID: All right, so, we ask for first a  
4 vote on the year years. Okay. All right. We have the first vote  
5 of a three year motion, it s been seconded. All in favor of three  
6 years?

7 MEMBER RENSHAW: Aye.

8 COMMISSIONER HOOD: Aye.

9 CHAIRPERSON REID: All opposed? Aye.

10 MR. MOULDEN: Aye.

11 VICE CHAIR SOCKWELL: Aye.

12 CHAIRPERSON REID: All right. Now, Mr. Moulden you  
13 can put your motion on the floor. Now you can make your motion.

14 MR. MOULDEN: I make a motion that we approve this  
15 based on four years.

16 VICE CHAIR SOCKWELL: Second.

17 CHAIRPERSON REID: Okay. All in favor? Aye.

18 VICE CHAIR SOCKWELL: Aye.

19 MR. MOULDEN: Aye.

20 MEMBER RENSHAW: Aye.

21 CHAIRPERSON REID: Opposed? Okay.

22 VICE CHAIR SOCKWELL: Abstentions.

23 COMMISSIONER HOOD: I m going to abstain.

24 CHAIRPERSON REID: All right.

25 MS. PRINCE: Thank you.

1 CHAIRPERSON REID: With the, well, no. With the  
2 condition, with the conditions as stipulated in the previous  
3 Order, regarding the --

4 COMMISSIONER HOOD: Excuse me, Madam Chair. We re  
5 voting on whether to approve it or not approve, we were just  
6 voting on three to four years. That s all we were voting on.

7 CHAIRPERSON REID: I, wait a minute. I thought your  
8 motion was to approve it for four years.

9 COMMISSIONER HOOD: Right.

10 CHAIRPERSON REID: Yes.

11 CHAIRPERSON REID: Now with conditions that we were  
12 talking about earlier, I just wanted to make sure that it s on  
13 record.

14 COMMISSIONER HOOD: Okay, I don t want to abstain  
15 then, I want to be recorded as voting in favor.

16 CHAIRPERSON REID: In favor of the four?

17 COMMISSIONER HOOD: Yes, okay. Right.

18 CHAIRPERSON REID: Okay. So we have a unanimous  
19 decision.

20 COMMISSIONER HOOD: Right.

21 CHAIRPERSON REID: Okay. Now the --

22 COMMISSIONER HOOD: Excuse me.

23 CHAIRPERSON REID: Yes. The conditions were, are  
24 the same as the previous Order, five years, maintain this lot in  
25 good condition, the liaison aspect of it with the, not Manager the

1 --

2 MR. LOPEZ: District Manager.

3 CHAIRPERSON REID: District Manger. Not the local  
4 manager but the District Manager and Ms. Prince and that the  
5 loudspeaker would be now reduced, to not exceed 60 decibels. And  
6 there was something else.

7 MEMBER RENSHAW: And the letter --

8 COMMISSIONER HOOD: Madam Chair we had, oh --

9 MEMBER RENSHAW: About the informal use by the car  
10 wash.

11 CHAIRPERSON REID: Okay. I got that.

12 COMMISSIONER HOOD: And also --

13 CHAIRPERSON REID: Something else on the ANC.

14 COMMISSIONER HOOD: Madam Chair, can we also add  
15 that we also, I don t know if we can put. I guess we could put  
16 this in the condition about cleaning up the lot.

17 CHAIRPERSON REID: Oh, yes. We make, well it says,  
18 now the first condition in the previous Order that it was supposed  
19 to maintained in a clean order at all times. -- the parking  
20 surface, vegetation and the fence along the western boundary of  
21 the site should be maintained in good condition at all times, and  
22 I m, with, do you want to add to that, clean --

23 COMMISSIONER HOOD: Let me go back to that Order,  
24 will you please pass --

25 CHAIRPERSON REID: Here. You can add that, more

1 words to it if you d like. And the thing I was saying about the  
2 ANC is that the dumpster. The issue about the dumpster has, is in  
3 the process, so we don t have to put that in here as a condition  
4 do we, necessarily, I don t think.

5 Board Members? Okay.

6 MR. MOULDEN: On the debris, maybe you want to put a  
7 statement in to minimize debris and trash on a consistent basis.

8 CHAIRPERSON REID: Eliminate.

9 MEMBER RENSHAW: Eliminate not minimize.

10 COMMISSIONER HOOD: Yeah, eliminate.

11 MR. MOULDEN: Eliminate debris and trash on the  
12 site.

13 VICE CHAIR SOCKWELL: I think that the Applicant  
14 stated that he was having the site cleaned twice a day?

15 MR. LOPEZ: At least twice a day.

16 VICE CHAIR SOCKWELL: At least twice a day. Maybe  
17 that should be increased --

18 MR. LOPEZ: We have increased --

19 VICE CHAIR SOCKWELL: -- to four times a day or  
20 something like that.

21 CHAIRPERSON REID: As needed.

22 VICE CHAIR SOCKWELL: As needed. With observation  
23 at least four times a day.

24 CHAIRPERSON REID: -- Uh-huh.

25 MR. LOPEZ: Okay.

1 CHAIRPERSON REID: All right.

2 VICE CHAIR SOCKWELL: Condition observed at least  
3 four times a day.

4 MR. LOPEZ: Yes.

5 CHAIRPERSON REID: Okay. Ms. Pruitt do you have all  
6 the conditions?

7 MS. PRUITT: I m working, we re working on that.

8 CHAIRPERSON REID: Okay. You just want to reiterate  
9 them to make sure we ve gotten them all cause I know we were  
10 giving them to you all at the same time.

11 VICE CHAIR SOCKWELL: Did we say anything about free  
12 car wash coupons?

13 (Laughter.)

14 CHAIRPERSON REID: You don t miss an opportunity do  
15 you Mr. Sockwell?

16 MS. PRUITT: Madam Chair?

17 CHAIRPERSON REID: Yes.

18 MS. PRUITT: We have to include, excuse me, all  
19 conditions from the ANC except for the time, it is for a five year  
20 approval. That the loudspeaker --

21 VICE CHAIR SOCKWELL: Four years.

22 MS. PRUITT: Four years, excuse me. The loudspeaker  
23 not exceed 60 decibels. That the informal agreement concerning  
24 the use of the parking lot be added for the record. And eliminate  
25 trash --

1 CHAIRPERSON REID: That wasn't a condition.

2 MS. PRUITT: Okay. And to eliminate the trash on  
3 the site, and that there's at least a visual look at the site four  
4 times.

5 CHAIRPERSON REID: Remove the trash and debris as  
6 needed.

7 MS. PRUITT: As needed, and monitoring --

8 CHAIRPERSON REID: Monitored accordingly.

9 MS. PRUITT: Okay.

10 CHAIRPERSON REID: Cause it may need to be more  
11 times. Was that all the conditions? Board Members, that you can  
12 think of?

13 MS. PRUITT: That's all I have.

14 MS. PRINCE: The liaison?

15 CHAIRPERSON REID: That's still in there, but to  
16 strengthen that with the, a communication being between the  
17 District Manager and Mrs. Prince and the, Community ANC, the ANC.

18 MEMBER RENSHAW: And that there will be this  
19 informal letter. This letter about the informal use by the car  
20 wash.

21 MS. PRUITT: Now, excuse me, Madam Chair. That's  
22 what I was just reading back. That is or is not a condition? I  
23 need to be clear.

24 MEMBER RENSHAW: Yes.

25 MS. PRUITT: Cause I was --

1 MEMBER RENSHAW: Yes.

2 MS. PRUITT: Okay. I just wanted to be sure.

3 CHAIRPERSON REID: I don t know. Wait, wait, wait,  
4 wait, wait.

5 MEMBER RENSHAW: Yes.

6 MS. PRUITT: That s not what was just said, that s  
7 all I wanted to --

8 CHAIRPERSON REID: It s for the file, it s not a  
9 condition that goes in the Order.

10 MS. PRUITT: And that s what I wanted to ask you.

11 MEMBER RENSHAW: It should be cited.

12 CHAIRPERSON REID: I don t think we can do that.

13 MEMBER RENSHAW: Yes, why not?

14 CHAIRPERSON REID: I don t know if we can --

15 VICE CHAIR SOCKWELL: Well it s an informal. I  
16 don t know. Can we?

17 MS. PRINCE: We have no objection to having that as  
18 a condition. We have to submit the letter to the record if it s a  
19 condition to the Order, it won t hold up our C of O in any way  
20 because we ll have submitted it for the record.

21 CHAIRPERSON REID: All right. There s no objection.  
22 Like I said, I didn t know. I just wanted to make sure that  
23 procedurally we re correct. Okay. All right then we move now to  
24 the last case of the day. Is there one more or two more?

25 MEMBER RENSHAW: One. Oh, that s right because we,

1 we had the condominiums was continued. Okay. Now, --

2 MS. PRUITT: The last case of the day is Application  
3 16554. Application of James H. and Julie P. Edmonds for the  
4 Studio House School of the Arts, pursuant to 3104.1, for a special  
5 exception under Section 206 to permit the establishment of an  
6 existing building to be used as a music, to be used for music of  
7 art.

8 The owners will reside on the top two floors in a  
9 D/R-3 District at 2306 Massachusetts Avenue, (Square 2507, Lots 4  
10 and 5). All those planning to testify, could you please stand and  
11 raise your right hand?

12 (Witnesses sworn.)

13 Please be seated. I d just like to indicate that  
14 we will be timing. That s what our timer is for, the Applicant  
15 has an hour. Madam Chair do you want to run through the other  
16 times for --

17 CHAIRPERSON REID: Yeah, let s give them an idea --

18 MS. PRUITT: -- give everybody an idea.

19 CHAIRPERSON REID: May I have a show of hands for  
20 persons in support of the application who will testify? Three,  
21 okay. Persons that are in opposition to the application?

22 MS. PRUITT: Excuse me, Madam Chair, I have a  
23 question. All those who testified are you part of the Applicant s  
24 case?

25 MR. HITCHCOCK: We have received one request from a

1 person to testify in support and we d like to set aside five  
2 minutes out of our 60.

3 MS. PRUITT: Okay. Cause I mean they can also  
4 testify. Your, one of, my point is like your land use person or  
5 your traffic person, they all come within your hour if you d like.

6 MR. HITCHCOCK: Correct, and we, yeah.

7 MS. PRUITT: And then you don t have to cede your  
8 time to that person if you d like.

9 MR. HITCHCOCK: Okay, yeah. I mean, well, for the  
10 record my name is Con Hitchcock I m Counsel for the Applicant in  
11 this case. We have three witnesses to testify, actually four.  
12 The Applicant, Mr. and Mrs. Edmonds, Mr. Oberlander, George  
13 Oberlander, our planning expert and Dr. Everett Carter. If we can  
14 use the full 60 obviously we d prefer to, but we re prepared to  
15 cede time to Mr. Graves who has asked for five minutes.

16 MS. PRUITT: Okay. Great. I will also note that  
17 you have three request for party status that s in your package and  
18 that s from Liz, excuse me, Richard and Elizabeth Turner,  
19 Sheridan-Kalorama (phonetic) Neighborhood Council, and Lois Rice,  
20 Rosalie Auster, Simon Auster and Irving Fincer (phonetic), is that  
21 correct?

22 And if you are all here could you please --

23 CHAIRPERSON REID: Would parties, the parties who --

24 MS. PRUITT: Identify yourselves. Could you please  
25 come forward please and give your name?

1 CHAIRPERSON REID: The ones who requested party  
2 status.

3 MR. TURNER: Richard Turner --

4 MS. PRUITT: Sir, you have to speak from the mike  
5 please.

6 MR. TURNER: Richard Turner.

7 MS. TURNER: Elizabeth Turner.

8 MS. AUSTER: Rosalie Auster, and the other  
9 signatories can't be here.

10 MS. PRUITT: Okay. Thank you.

11 CHAIRPERSON REID: Are, certainly, ma'am, are you  
12 the representative from the Citizens Association or the -- Okay.  
13 All right.

14 MR. HAYES: Alan Hayes for the Sheridan-Kalarama  
15 Neighborhood Council.

16 CHAIRPERSON REID: Okay. Now. They have a, they  
17 have submitted their --

18 MS. PRUITT: -- they submitted timely, in  
19 everything.

20 CHAIRPERSON REID: Okay. In regard to party status  
21 for the Turners, is it, I will assume that you all are married?

22 MR. TURNER: Yes.

23 CHAIRPERSON REID: Then can we have one of you speak  
24 or to do cross examination rather than both of you?

25 MR. TURNER: Richard Turner -- I'm Richard Turner,

1 will speak for about --

2 CHAIRPERSON REID: You re speaking because, I m  
3 assuming that your concerns are about the same, huh?

4 MR. TURNER: My wife and I are both concerned about  
5 the same thing.

6 CHAIRPERSON REID: Exactly. Okay. Thank you. All  
7 right. Mr. Nettler?

8 MR. NETTLER: just for the record, it s Richard  
9 Nettler on behalf of the Sheridan-Kalarama Neighborhood Council,  
10 and I would be doing the cross examination on behalf of the  
11 Neighborhood Council. Mr. Hayes is here as the representative of  
12 the Council.

13 CHAIRPERSON REID: All right. Okay. Let s get  
14 started.

15 MS. PRUITT: Madam Chair just for the record to be  
16 clear, so you re granting party status to these three who have  
17 requested it?

18 CHAIRPERSON REID: Oh, I m sorry, I didn t say that,  
19 but I have no problem with accepting them, I mean allowing them to  
20 have party status given the fact that they have submitted their  
21 request and that s all in writing in a timely fashion and they  
22 appear to be in compliance with the requirements.

23 If there are any objections from Board Members, I d  
24 like to hear them. Other than that, we have, I have no problem  
25 with it.

1 MS. PRUITT: Okay. Just to continue then, parties  
2 would have 15 minutes that will also be timed. If there s any  
3 organizations, generally they re five minutes, and individuals are  
4 three. So that everybody understands the ground rules, but we ll  
5 keep time for you also.

6 CHAIRPERSON REID: Is the ANC here?

7 MS. PRUITT: Yes.

8 CHAIRPERSON REID: Okay. Ms. Pruitt, clarify that a  
9 little better. Parties have 15 minutes.

10 MS. PRUITT: Correct.

11 CHAIRPERSON REID: And that would be broken down to  
12 the five minutes for the organization and three minutes for an  
13 individual, is that what you re saying?

14 MS. PRUITT: Usually you, these, are all these  
15 parties in opposition?

16 CHAIRPERSON REID: Yes.

17 MS. PRUITT: The new regs actually call for all  
18 parties in opposition then to be grouped within an hour and they d  
19 divvy up their time however they feel.

20 CHAIRPERSON REID: Okay, but what did you mean by 15  
21 minutes?

22 MS. PRUITT: Well, we, you could do it either, we  
23 have done it in 15 minute increments before. If you really want,  
24 and there s three parties that actually would be less than an  
25 hour, but they are actually allowed up to an hour.

1           The opposition party is.    And then they can  
2 determine how they want to divvy up their hour under the new regs.

3           CHAIRPERSON REID:   Okay, you re saying that  
4 opposition time is an hour for all the parties combined and then  
5 among them they are to decide how much each will take --

6           MS. PRUITT: Correct.

7           CHAIRPERSON REID: Is that what you re saying?

8           Has that been done or do we do it?

9           MS. PRUITT: No, they actually, actually you ask  
10 them to do it.   Because you really don t know who parties are  
11 until the day of the hearing, because it s not --

12          CHAIRPERSON REID: So we give them time to do that?

13          MS. PRUITT: This is a new regulation --

14          CHAIRPERSON REID: Yeah, --

15          MS. PRUITT:   -- so we re kind of working out the  
16 kinks.

17          CHAIRPERSON REID: Yeah. Let s see how we can  
18 accomplish that.   If they have an hour and they re going to divvy  
19 it up they have an attorney for the Association and then we have  
20 individuals.   So, I guess give them a couple of minutes, to  
21 determine and tell us how they want to do it?

22          MS. PRUITT: If that s your choice, sure.

23          CHAIRPERSON REID: All right. Well then, I know, I  
24 don t know any other way to do it. Okay. Well, let me give you a  
25 couple of minutes to kind of caucus a little bit and decide how

1 you want to divvy up your time.

2 COMMISSIONER HOOD: With that Madam Chair can we  
3 take a three minute break?

4 CHAIRPERSON REID: Uh-huh. Sure. We ll recess for  
5 three minutes.

6 (Whereupon a short recess was held.)

7 All right, proceed with the case at this time.

8 MR. EDMONDS: Good afternoon, Madam Chair, Members  
9 of the Board. My name is Jim Edmonds and with my wife Dr. Julie  
10 Edmonds I m pleased to be here today to share a dream. A dream  
11 with which we would like to become reality, a dream with which we  
12 would like to share with you.

13 Let me tell you a little bit about myself. I m a  
14 native Washingtonian. I ve lived in the City most of my life. I  
15 went to John Burrows Elementary, Taft Junior, took eleven years of  
16 private music in Washington D.C.

17 After 23 years of working with the World Bank I  
18 retired in 1998, opened a store in Falls Church and excuse me,  
19 1988. I purchased a store in Falls Church, Virginia called Fox s  
20 Music. Fox s provides musical instruments, sheet music and just  
21 about everything else musical that teachers and educators  
22 throughout the Metropolitan Area would want.

23 Fox s has been described as a place where all the  
24 music teachers go by the Washington Post. This is not a rock  
25 shop, it s not a guitar shop, it s not a slick store, it s an

1 educational store.

2 We currently provide the largest selection of  
3 classical music in Maryland, D.C., and Virginia. I also operate a  
4 school with, along with the store in Northern Virginia, and we've  
5 taught hundreds and hundreds of children over the last 13 years.

6 We offer instruction to all band and string  
7 instruments. We're again, not a rock shop. I'm very proud of the  
8 music education program that we've built at Fox's and my dream has  
9 been for many years to open a school here in the Washington D.C.  
10 Area in order to give the children in Washington the same learning  
11 opportunities, the same appreciation of music that I've been able  
12 to offer in the state of Virginia.

13 The problem was finding the right building. A few  
14 months ago I found it. The Allison Pike Barney Studio House,  
15 located at the Sheridan Circle fits the bill perfectly. In a few  
16 minutes I'm going to show you a short video, not a professional  
17 video, I took it myself, which will take you inside the landmark.

18 It will give you an idea of how we propose to  
19 operate the studio, the school of the arts, and how it will  
20 operate as a non-profit corporation here in the Washington D.C.  
21 Area.

22 First of all Allison Pike Barney was a pioneer.  
23 She built the studio house at the turn of the century. She had a  
24 vision for making this building a Center for the Arts and had a  
25 vision which today stands.

1 She created the Barney Senior House. She created  
2 the Sylvan Theater which still operates down Monument Ground each  
3 summer. The Studio House has six stories, including a basement  
4 and a sub-basement, two first floors which have been landmarked or  
5 designed to use for art exhibitions and musical performances.

6 Only the top two floors were used by Mrs. Barney  
7 for her residents. Julie and I and our daughter will use the top  
8 two floors as our residence if the application is approved.

9 We ve listed our house for sale, in fact we now  
10 have a contract. We ve started moving furniture in, after  
11 Christmas, in December, and we plan to be fully in there once  
12 we ve concluded this case.

13 I can assure the Board that if approval is granted  
14 we ll be living on the top two floors. In 1960 Mrs. Barney s  
15 daughters donated the Studio House to the Smithsonian Institute.  
16 The Smithsonian used it primarily for office space, for  
17 receptions, for tours, for entertaining, as well as for some  
18 apartment usage by visiting scholars.

19 The building was closed to the public in 1991, and  
20 the Smithsonian began looking for a buyer. Julie and I bought the  
21 building late last year. And with your approval we d like to open  
22 the School of the Arts during the next academic year.

23 Let me summarize how the school would operate and  
24 explain why we ve satisfied the requirements for the special  
25 exceptions. Let me draw your attention to Table 1 in our pre-

1 hearing submission. I m only going to summarize it here, you may  
2 want to look at it in detail because I m sure it s going to raise  
3 a lot of questions.

4 MR. HITCHCOCK: For the record --

5 MR. EDMONDS: It appears that Page 5 at the  
6 beginning of the pre-hearing submission for the convenience of the  
7 Board. Private music lessons will be staggered. A group music  
8 class for about eight young children will be held in the morning,  
9 however, individual music lessons for up to nine students in nine  
10 studios will be given after school.

11 It will be a half day on Saturdays and these  
12 student lessons, these private lessons would all be given in the  
13 basement, where there are now two studios and where we propose  
14 adding an additional seven studios.

15 A group art class for eight adult students and one  
16 teacher, four nights a week, and finally the maximum number of  
17 teachers on the premises at any one time in taking all into  
18 account would be 17 students and ten faculty members.

19 It is not an intensive usage for a school. It s  
20 considerably less than the levels which have been provided for the  
21 Levine School and the Van Ness Center. And I might add you ll see  
22 there are recommendations in the file, endorsements in the file  
23 from the Levine School of Music.

24 Let me talk about another facet of our program. An  
25 essential ingredient of the school music program is giving

1 students the opportunity to perform. I m a pianist. I remember  
2 my first recital 50 years ago. I played The March of the Wooden  
3 Soldiers.

4 I remember how scared I was. I remember because I  
5 had to perform, excuse me. That was 50 years ago and I still play  
6 the same piece from memory today. A vital method for building  
7 self confidence in young students and teaching them the rewards of  
8 persevering.

9 It s also in having to get up before an audience  
10 and perform. Through my experience, few things are more  
11 satisfying for children than finishing a piece and hearing the  
12 approval from family members and from other members of the  
13 audience.

14 There s a problem nowadays in terms of music  
15 teachers being able to find teaching facilities, whether it s  
16 because of the litigious society, whatever, churches have closed  
17 their doors, women s clubs, libraries, community rooms, which were  
18 traditionally the sites for student recitals are gone.

19 Studio House would address this problem by  
20 providing a first class facility where students could learn from  
21 skilled teachers having experience in performing in a historic  
22 landmark that years ago opened its doors to certain giants in the  
23 arts such as Enrico Caruso, Sara Bernhart, Ana Pavlova,  
24 Presidents, their wives.

25 What better opportunity could we offer than to

1 allow these children to perform at the same location? There s  
2 another facet of the program which I d like to describe. As  
3 important as it is for the children to have the experience for  
4 performing music themselves, it s also important for them to hear  
5 and learn from professional musicians.

6 That is why Studio House would offer guest recitals  
7 for outside musicians who would perform for the students and be  
8 available to discuss the music with them. There are many groups  
9 here in town such as the Washington Guitar Society which Charlie,  
10 the late Charlie Bird performed with.

11 String trios from the National Symphony Quartets  
12 made up from musicians from other orchestras, I know they would  
13 welcome the opportunity to perform. I know that they would share  
14 their insights with the students.

15 I imagine too that some neighbors would welcome the  
16 opportunity to attend these recitals and that s why as a part of  
17 our commitment to give back to the community we re willing to open  
18 these recitals to the public.

19 We d welcome them to attend at no cost. To be  
20 sure, we would accept donations, but no one would have to pay to  
21 hear some of the top musicians the City has to offer.

22 Let me add that my commitment to giving back to the  
23 community is not something new. As we said in our application,  
24 we ve given, we will be giving scholarships to needy students in  
25 the D.C. Public School System.

1           We presently offer such scholarships in our  
2 Virginia School and will make such a commitment to the District  
3 Zoning Board at this stage. I've long believed in making music  
4 education available to students regardless of their economic  
5 situation, and let me give you a few examples.

6           A few years ago I received a Certificate of  
7 Appreciation from Wynton Marsalis when I made a donation of  
8 thousands of dollars to the Filmore Arts Center. A copy of the  
9 Certificate and a photograph of Mr. Marsalis presenting this award  
10 is attached in the file.

11           You'll also see accommodations from the Chambers of  
12 Commerce and other people in the Arts, but in any event, I've also  
13 arranged that my counterparts, the Levine School of Music, this is  
14 something done a number of years ago, which has also submitted a  
15 letter, whereby I donated flutes, some 20 flutes.

16           Levine donated the teachers at the time. And we  
17 gave the flutes to the Adams School at 19th Street. We gave them  
18 an opportunity to study free of charge among talented teachers, an  
19 opportunity these children might otherwise have never received.

20           For all of these reasons, the House of, the Studio  
21 House, School of the Arts, can and will be an important  
22 contribution to the community and to the children of the City.

23           Let me talk to you a moment about the impact. By  
24 staggering hours of operation we will minimize the number of  
25 students present at any one time. To reduce the concerns about

1 noise, we will not have any performances outdoors.

2 The principal recital areas on the second floor  
3 which seats 90 people is located in the rear of the House where  
4 there is no common wall in the building next door, no common wall  
5 with the building next door at 2304 Mass Avenue.

6 The studios will also be built with sound proof  
7 partitions, and there s a diagram in the file for those partitions  
8 by the way. There is a party wall in front of the house next to a  
9 small parlor on the first floor, and a small recital room on the  
10 second floor.

11 We plan to install in front of that party wall a  
12 special acoustical curtain of the sort typically used to deaden  
13 sound. And I believe that this will be sufficient to address any  
14 concerns.

15 Okay, let me talk for a moment about traffic and  
16 parking. When the Smithsonian laid out and marked in the yard  
17 next to the Studio House nine spaces. We ve measured the area and  
18 we can park nine cars at the site using stacked parking.

19 This is the number of spaces the Zoning Regulations  
20 would require during a one hour, during any one hour, Monday  
21 through Thursday evenings, when music and art classes will be  
22 going on simultaneously.

23 For all other times, Friday and Saturday, the  
24 regulations contemplate a need for only seven spaces, and we would  
25 exceed that. We do not anticipate the stacked parking will pose

1 an issue.

2 Teachers arrive at roughly the same time, classes  
3 will start at 3:00 p.m., teachers will leave at approximately the  
4 same time when the classes end at 8:00 p.m. As for parents, my  
5 experience in my other school is that they tend not to stay on the  
6 premises.

7 If this is a concern if the Board so instructs we  
8 would accept a condition to advise parents in writing that they  
9 should not attend or not remain on the premises during the  
10 lessons.

11 To assure a smooth flow of traffic we ll hire a  
12 security guard, a parking attendant, who would escort students to  
13 and from the parents vehicle. Interrupting myself for a moment,  
14 you ll see on the video indeed that there are four lanes of  
15 traffic here, and you ll see that in fact this is not generally  
16 necessary, but it gives a very clear picture of this.

17 This will reduce the time the cars need to stop.  
18 It will save parents the effort of having to park, get out of the  
19 car, come into the building and return to the car and leave.

20 There is a curb lane right in front of the Studio  
21 House as well as our driveway, so we do not foresee any problem.  
22 The concern has been expressed about the number of recitals that  
23 we re planning to hold, and about the demand for parking.

24 Let me call your attention to Table 2, Page 7 in  
25 the pre-hearing statement which summarizes our plans.

1 CHAIRPERSON REID: What tab is it?

2 MR. HITCHCOCK: It s the statement at the very  
3 beginning of the pre-hearing statement before any of the tabs  
4 Madam Chair.

5 CHAIRPERSON REID: Okay.

6 MR. HITCHCOCK: It s also in No. 3 of the original  
7 application.

8 CHAIRPERSON REID: Okay.

9 MR. EDMONDS: Dr. Carter, our traffic specialist is  
10 also going to address this problem to some extent. We propose 40  
11 student recitals on Friday evenings and Sundays, on Sunday  
12 afternoons, during the Fall and the Spring season.

13 Those are the times the most convenient for parents  
14 and for teachers. They are also off peak hours when parking  
15 restrictions are less severe. Each parent would present 15  
16 students. Each teacher will present 15 students, and from my  
17 experience on the average each student will be accompanied by  
18 about two people.

19 Thus, student recitals would bring in about 45  
20 people to the Studio House. We propose 24 guest recitals during  
21 the same time periods with 12 during the Fall and Spring seasons  
22 and 12 during other times of the year.

23 These recitals would be in the large Studio salon  
24 which can hold up to 90 people. You ll see pictures of this as  
25 well. We understand the concern that this activity would increase

1 the demand for parking even though the recitals would take place  
2 during off-peak hours.

3 And to accommodate this concern we have contacted  
4 and will provide not only the nine spaces on the premises but in  
5 addition we ve made arrangements at the Westin Fairfax Hotel,  
6 located two blocks away to provide ten additional spaces during  
7 Friday and Sunday performances.

8 Exhibit 16 shows you a letter from the Hotel.  
9 We re doing this at our expense so that we can offer 19 off-street  
10 parking spaces at recitals. I want to take another minute to  
11 simply say that we ve had a reception there prior to Christmas.

12 Indeed we had 150 guests. We heard no complaints  
13 from either the attendees or from the community. We really  
14 believe that this is generally a residential area, however and  
15 area with quite a bit of parking. The reception was on Saturday  
16 afternoon.

17 At this time am I permitted to move away from the  
18 mike and start the video?

19 CHAIRPERSON REID: How long is your video, sir?

20 MR. EDMONDS: About 12 minutes.

21 CHAIRPERSON REID: Okay.

22 (Pause.)

23 VICE CHAIR SOCKWELL: Mr. Edmonds, you can push that  
24 television so it s more horizontal or parallel to the Board s  
25 table so the audience can see it more. Yeah. Yes, that would

1 help them. We re fine.

2 Take your time.

3 (Pause.)

4 If you would like, I don t know if this will work  
5 for that or not, but we provide a laser pen if you want to be  
6 closer to a mike, if that will help you, but it may not show up on  
7 the screen.

8 MR. EDMONDS: There s audio on the screen so I ll be  
9 quiet.

10 VICE CHAIR SOCKWELL: Oh, okay. It s on the front  
11 far right.

12 MEMBER RENSHAW: When you talk, Mr. Edmonds we ll  
13 turn this off.

14 (Video showing.)

15 This video will cover three broad areas,  
16 essentially the historical aspects of the building. Two, access  
17 to the proposed school, concentrating on the traffic and the  
18 entrances, and third, the parking on the premises and also in the  
19 community.

20 The Studio House located at 2306 Mass Avenue was  
21 built by Mrs. Allison Pike Barney, a patron of the Arts, and was  
22 used as a performance area, a teaching facility and a place where  
23 artists could come in the Washington Area to discuss mutual  
24 interests.

25 The House actually contains about 11,000 square

1 feet, approximately 2,000 of it being sub-basement or basement,  
2 which will be used for studios, designed in small cubicles.

3 The first and second floor have historic  
4 designations and that s an aspect which I want to introduce you to  
5 right now. The entrance way contains a small courtyard which will  
6 be a plus during the teaching sessions as kids will be escorted to  
7 this holding area, this courtyard, and where they ll be secure and  
8 where they will be allowed to check in.

9 This is a first floor area, and you can see one of  
10 the stages over the lounge chair, the large lounge chair. It s  
11 actually a performance area which can be used for 30 or 40 people.

12 So this will be an ideal location for individual  
13 recitals where up to 20 to 40 parents and in-laws can come to  
14 attend. This is a first floor dining room where Allison Pike  
15 Barney invited some of the guests, including Enrico Caruso, Ana  
16 Pavlova, a famous Russian dancer, the wives of Presidents,  
17 including Presidents themselves, Taft and McKinley.

18 The room is actually decorated in furniture which  
19 was purchased from the estate making this really a very, very  
20 musical and interesting historic location. It s charming, it s  
21 very interesting, and as a teaching facility can be used for small  
22 groups and meetings among teachers.

23 This room is actually used as a museum to show the  
24 paintings and material which Allison Pike Barney had drawn during  
25 her parish years about 1920. Again, her belongings. We re now on

1 the second floor, you can see the Studio with the curtains on both  
2 sides, a piano in the salon.

3 So this could also be used for a small recital,  
4 perhaps up to 30 people. The -- Studio or area of the house is  
5 this very large salon which can be used for larger recitals.

6 Note the historic tile created by the Mercer Tile  
7 Company, notice the loft for musicians as well as the stained  
8 glass windows and the historical furniture. All of which belong  
9 to the Barney House, to the Barney s family, some of the furniture  
10 owned by the family.

11 This is the painting easel used by Mrs. Barney. We  
12 know this because there s a rather well accepted biography of  
13 Alice Pike Barney and some of the things that she did for the  
14 City.

15 Just to comment for a moment, the Barney Senior  
16 House which is one of the largest charitable organizations for  
17 elderly people in the City was started by the Barney family, Alice  
18 Pike Barney.

19 The Sylvan Theater still in operation down on the  
20 Monument grounds was begun by Mrs. Barney. She s left her mark,  
21 and quite honestly one of the aspects in our attempting to achieve  
22 something here is the, to provide a memorial to one of the first  
23 women of the Arts in the Country.

24 A memorial and certainly the first women of the  
25 Arts in the Washington D.C. Area. The chandeliers and the fine

1 art work throughout actually reminds you a little bit of a castle.

2 All of the windows are stained glass throughout.  
3 As you can see from the lamps and the fixtures, it s just  
4 absolutely one of the most wonderful sights in the City.

5 This fireplace and its mantel were likely brought  
6 here from Cincinnati, her family home. It s clearly well over 100  
7 years old. As you can see it is a Christian motif behind it and  
8 all the symbols from the unions and the builders and the people  
9 who constructed the home.

10 The home was constructed by a Mr. Wattie B. Woods,  
11 who built a number of homes in the -- Area. This house was  
12 overbuilt. Please notice that the walls are 18 inches thick, and  
13 totally sound proof. This particular French door goes to the  
14 front balcony.

15 This is a third floor area looking out one of the  
16 French doors. It, again, overlooks the circle, you can see --

17 We ll be discussing this traffic as how it passes  
18 in front of the house.

19 -- a little of the artwork. Okay, let s discuss  
20 access to the building. This is particularly applicable to the  
21 students who will be using this. This is the back of the front of  
22 the House, we re in the courtyard area, and this is a door which  
23 students will be expected to enter.

24 And they ll be kept away from historical areas,  
25 other than when recitals are -- This is coming right in the door,

1 entering what would be the Registrar s Office, cubby holes for the  
2 teachers, an area where all students will be required to pass,  
3 checking in before they go to their studio.

4           There are three studio areas in the basement area,  
5 which is where I believe household help may have resided in small  
6 bedrooms. This is another one. Actually this about 12' x 12', a  
7 good size studio as a separate --

8           Again these walls are not common with the house  
9 next door.

10           -- This, what was formally a kitchen area back  
11 when the House was, had domestic servants in it. This is a  
12 basement area, and it s the area where individual studios, some  
13 five additional studios would be constructed.

14           It s approximately 30' x 25'. The cubicles of the  
15 studios that would be put here would be about 8' x 8'. We would  
16 respect the integrity of the windows, that s very important to  
17 teachers.

18           Teachers like light.

19           But it s very important for viewers to understand  
20 that none of the historical area would be, would be touched.  
21 Important to access of the building of course is the parking and  
22 the drop-off. This is the circle, as you can see there are three  
23 parking spaces here for the public.

24           These vehicles are parked somewhat away from the  
25 curb because there was snow and because there was abutments. But

1 even notwithstanding that, there s actually room to drop off  
2 students and still have two lanes for traffic to pass.

3 This is looking east and this circling wide enough  
4 for drop-off and pick-up. This is now looking west. The Studio  
5 House is on your left, and look as traffic passes, you know in two  
6 lanes there s certainly ample room for drop-off.

7 It s now 3:30 in the afternoon. Rush hour is  
8 approaching. -- you ll see two cars passing at one time here,  
9 simultaneously, so you can see that there s still room to back out  
10 out of the driveway. There s two cars exactly the same.

11 There are long spurts with no traffic, and that s  
12 because a block west of us is a traffic light, which allows the  
13 large gaps with no automobiles coming in.

14 Professor Carter has described, who is the  
15 Professor -- from the University of Maryland, expert in traffic  
16 has described this as one of the least congested circles in the  
17 District of Columbia, and it s really very, very true.

18 It is literally no problem. This is, there is  
19 little or no traffic during rush hour coming in, even to the point  
20 where they don t restrict the parking on the side. You still have  
21 the residential parking even though it s rush hour coming in and  
22 rush hour going out.

23 And that s, that s because the street is so wide at  
24 this point. This is our buddy General Sheridan. And I think the  
25 light may have turned green again, there seems to be a spurt

1 coming.

2 But again, never is there a time when you don't  
3 have an opportunity where pausing that you can't back out. As I  
4 indicated it's now 3:30 and our traffic study shows the patterns  
5 as being very, very, very, very slow.

6 There's very, very little congestion in this area.  
7 This is on a work day, at about 3:30 to 4:00, just during the  
8 last snow as a matter of fact, and, I guess, okay, we must have a  
9 light up there. It's difficult to describe, which is why we  
10 wanted to take this video to show you that access to the building  
11 is very, very light.

12 Here is the, here is where you have those spaces in  
13 front of it as I pointed out. Okay, the light may have turned  
14 green. There is some traffic coming now.

15 VICE CHAIR SOCKWELL: Mr. Edmonds? We're looking  
16 south?

17 MR. EDMONDS: You're looking west.

18 VICE CHAIR SOCKWELL: We're looking west.

19 MR. EDMONDS: On the house -- This is west looking -  
20 -

21 Also, you may be aware that this is actually the  
22 major route into the City. We're about three blocks from Dupont  
23 Circle. There's major bus lines on this Massachusetts Avenue  
24 route, and of course the subway which is seven and a half minutes  
25 walking time from Dupont Circle.

1           Here we go. This car has pulled off, to look at  
2 map, I m not sure, but it was not -- I want you to watch.

3           This is a vehicle that s actually stopped to either  
4 read a map or to, it s right in front of the Studio House.

5           I had to show you the House again. It s just  
6 absolutely gorgeous. This is the dead of winter, however there  
7 are plenty of rhododendrons and azaleas and certainly one of the  
8 best kept secrets in Washington.

9           This is the driveway to the back part of the house.  
10 Notice the carriage house on the right --

11           This will be very important in later discussions.

12           Right now there are two vehicles, my own and a  
13 friend s. As you can see, there s ample room to get by the cars  
14 and into the back. The Smithsonian as you ll note from the  
15 report, from the application, actually had nine spaces marked out  
16 in the, on the asphalt here.

17           They re very difficult to see through the camera,  
18 but I m going to try to walk you through that. This car actually  
19 straddles the white line that is difficult to see there, but  
20 anyway, there are actually two spaces.

21           And again as you can see, the automobiles are not  
22 close to the edge where they certainly could be, and further,  
23 there s absolutely no difficulty in getting through. Now, two  
24 that you can see it s relatively easy for an automobile to pass  
25 through, and people to still traverse it.

1           There is some question about actually whether all  
2 nine spaces would be required to be used and certainly whether --

3           The spaces are marked off at 10' x 20', which is a  
4 foot more than required by the City.

5           But according to the Code we certainly meet the  
6 requirements for the number of teachers we intend to have. Again,  
7 you can see the lines here showing the spot. You can see the  
8 lines in the ground here showing another spot.

9           All of these spaces are 20' x 10' which is, which  
10 is larger than the -- Code requires. As you can see a little  
11 debris here, but that s from the repair of the Carriage House.  
12 There s actually a space here --

13           We ve had to replace the roof on the Carriage  
14 House, which also has --

15           -- for two automobiles, and if you don t use all  
16 nine spaces, ample room to turn around and to pull out. Looking  
17 back north, again, two spaces, quickly on your right, and ability  
18 to pull out with little problem onto the Massachusetts Avenue.

19           Also note that this area here as well as on the  
20 other side --

21           There is ample space for expansion, however, we d  
22 kind of like to avoid it because we d like to save the tree and  
23 the planter area that s along there. There is some planter area  
24 there.

25           On the other side.

1 We don t feel that it has to be taken out.

2 About six feet.

3 But would allow for some expansion if it was  
4 necessary. Exiting the building, again, very little problem, and  
5 again, I m going to make a continuous run so that you can, so that  
6 you can see that there is a little difficulty in pulling out.

7 Notice in fact there s no traffic here. You can  
8 see the, you can still see the snow and the --

9 It s now 3:40.

10 We re very proud of the fact that this is one  
11 continuous --

12 Plenty of time to pull out onto the road, back out  
13 on to the road, continue around to the circle, on up to Dupont  
14 Circle.

15 One more very quick part I m going to show you.  
16 This is taken from the room --

17 This is the second floor of the Studio House where  
18 attempting to show the ease with which you can park out of the  
19 driveway, drive out of the driveway in reverse, without affecting  
20 the traffic.

21 You can see traffic is passing.

22 Not our car.

23 Sorry, I was just showing how the van is pulling  
24 up. It can stop and traffic can still pass with ease. A student  
25 can certainly enter the vehicle and pull away without disrupting

1 any --

2 This is pretty dramatic, but this is not the way we  
3 would ordinarily do it. Of course we would -- and pull out. Again  
4 we would have an attendant, a security person, which would not,  
5 which would mean that the parent would not --

6 Here we re duplicating the drop-off this time. As  
7 you can see a full two lanes of traffic are unimpeded. Dropping  
8 off the student, pulling away. And approaching the entrance of  
9 the school, easily dropping off students.

10 I m going to end it here, it s basically just  
11 repeating at that point. And I know everybody s tired, I know we  
12 have a lot of people to talk. One thing that I will, is Professor  
13 Carter going to speak next or will he be next?

14 UNIDENTIFIED SPEAKER: Mr. Oberlander.

15 MR. EDMONDS: Oh, Mr. Oberlander. One of the things  
16 that I want you to remember when Dr. Carter speaks is that he has  
17 some statistics of, I believe of accidents in this area, and I  
18 think you re going to find it s quite impressive.

19 MR. HITCHCOCK: One clarification in response to Mr.  
20 Sockwell s question in case it was not heard by all Board Members.  
21 When the traffic was flowing it was coming from upper-northwest,  
22 eastbound and southbound, through the Circle, heading for  
23 downtown.

24 That s the flow of the traffic during the  
25 operations in an eastbound area towards the City, for the parking

1 map again, for the Board s convenience, the very last page of our  
2 pre-hearing submission contains the layout for where the parking  
3 would be consistent with the Zoning Regulation for nine full  
4 spaced vehicles on the premises. And then --

5 CHAIRPERSON REID: Um.

6 MR. EDMONDS: That s the end of my presentation. I  
7 hope you ll call me with. I want to draw your attention finally  
8 to the fact that there are probably six, eight, or nine -- in the  
9 file, not only from the Smithsonian, --

10 CHAIRPERSON REID: You should speak into the mike  
11 sir.

12 MR. EDMONDS: Oh, sorry. But from a number of  
13 people in the City, including the Levine School, including the  
14 Filmore School, including the Smithsonian, including the Friends  
15 of the, Alice Pike Barney House.

16 VICE CHAIR SOCKWELL: And just for clarification --

17 MR. EDMONDS: We do have one from the Smithsonian.

18 VICE CHAIR SOCKWELL: -- the parking space sizes are  
19 not in the Boca Code, they are a Zoning Ordinance.

20 MR. HITCHCOCK: They re 19' x 9' we, I m sorry.

21 VICE CHAIR SOCKWELL: Yeah, but that s a Zoning  
22 Ordinance, not a Boca Code requirement.

23 MR. HITCHCOCK: Okay. Yeah.

24 MR. EDMONDS: I apologize, I m not sure what a Boca  
25 Code is.

1 CHAIRPERSON REID: I have a question. On the film  
2 there was the drop-off and it demonstrate about backing up out  
3 into that, into the circle. What time of day was that?

4 MR. EDMONDS: Until you saw the -- that was one  
5 continuous film. It started at 3:30 and ended at about, thereof  
6 or about ten minutes till 4:00. It was a weekday, it was a  
7 business day, it was, if I recall it was a Thursday, and clearly  
8 it was every bit normal.

9 CHAIRPERSON REID: Well, --

10 VICE CHAIR SOCKWELL: If I might state Madam Chair  
11 that the traffic flow along Massachusetts Avenue would be  
12 strongest in the southbound or westbound, or it s a eastbound  
13 direction during the morning rush hour in.

14 It would be strongest on the other side of the  
15 circle in the outbound direction in the afternoon.

16 MR. EDMONDS: Exactly, and that s coordinated with  
17 our schedule, by the way Mr. Sockwell.

18 CHAIRPERSON REID: I see. Okay.

19 MR. HITCHCOCK: Madam Chair, our next witness is Mr.  
20 George Oberlander who is our planning expert. I m not sure if Mr.  
21 Oberlander is familiar to the Board if I should qualify him as an  
22 expert.

23 VICE CHAIR SOCKWELL: By the way, there s one other  
24 thing I would want to say. Because the Bridge is still out, which  
25 is the Q Street Bridge, there is a reduction in traffic flowing in

1 that eastbound direction at all times.

2 MR. EDMONDS: We addressed that Mr. Sockwell, I, we  
3 don t believe there s any increase on the P Street Bridge just  
4 simply because of the, sorry, we don t believe there s a  
5 reduction, we believe there is an increase on the P Street, but as  
6 far as the area in front of the school on Massachusetts Avenue,  
7 people would still traverse past the school

8 VICE CHAIR SOCKWELL: But they wouldn t, they  
9 wouldn t be tending to use the outbound, the outer lane as much by  
10 virtue of the fact that they want to make that turn.

11 MR. EDMONDS: That s quite true. Yeah.

12 CHAIRPERSON REID: Um.

13 MR. NETTLER: Excuse me, point of clarification, are  
14 you going to have cross examination after everyone or after each  
15 witness?

16 CHAIRPERSON REID: Well, it s probably easier to  
17 just have it after each witness. But before you Mr. Nettler, I  
18 wanted to find out if the Board Members have any questions of this  
19 witness regarding that, the video. Okay. Now, I think --

20 COMMISSIONER HOOD: Madam Chair, I think that, I  
21 have a question but I think I need to hear from the traffic expert  
22 first. But it is going to be pertaining to the video.

23 CHAIRPERSON REID: Oh, okay. All right, then you  
24 can address it at that time.

25 COMMISSIONER HOOD: Can I do it at that time? Okay.

1 All right.

2 CHAIRPERSON REID: But I think that it would be  
3 easier to do the cross examination after each one, so go right  
4 ahead.

5 MR. NETTLER: All right, excuse me, unless someone  
6 else, one of the other parties wants to start with cross  
7 examination, I don't have a problem going last. Okay.

8 MR. HITCHCOCK: Madam Chair, it might be easier,  
9 since this is sort of a unified thing to hear from all of the  
10 three witnesses and have them all here to answer questions. So we  
11 don't have answers while Mr. Carter can answer that in more  
12 detail. We've got 26 minutes, I think we could wrap everything up  
13 within that time and tender all the witnesses then.

14 CHAIRPERSON REID: The only thing about that is that  
15 sometimes it's difficult for people to remember their questions  
16 when you've had quite a bit of testimony and this way we, we're  
17 trying this way because this tends to be a little bit more  
18 specific and they can kind of ask direct questions directly after  
19 someone has testified.

20 MR. NETTLER: Thank you. Mr. Edmonds, my name is  
21 Richard Nettler, I'm Counsel for the Sheridan-Kalarama  
22 Neighborhood Council. Mr. Edmonds, you had stated in the  
23 beginning of your testimony that you plan to be fully in the  
24 premises once this case is concluded.

25 Does, are you suggesting that if you don't get, do

1 not obtain the special exception relief that you re not going to  
2 be moving into the premises?

3 MR. EDMONDS: No, I didn t make an insinuation at  
4 all about that. We ve already made plans, we already have a  
5 contract on our house to sell. We ll probably get a settlement in  
6 60 days in likelihood because we ve been so close to it that we ll  
7 do it over a period of time.

8 I m not saying, on the other hand that we won t  
9 make other alternatives if in fact we don t get our approval.

10 MR. NETTLER: Okay. What s the condition, I saw on  
11 the video that you had gone through portions of the house and the  
12 basement area as well where the studios are. What s the condition  
13 of those studios today?

14 MR. EDMONDS: The Smithsonian when they sold it had  
15 a condition they call it Museum Stage, Museum Quality, which, if  
16 you ve ever gone to a museum of course you know, it s certainly  
17 not close to that, but it s in every way liveable.

18 And there s certainly no, there are no flaws. You  
19 may have recalled seeing some powder cracks along one wall in that  
20 basement studio, but we ve had Pro-Tec, a home engineering firm  
21 come in and it s gotten a clean bill of health from every light  
22 plug, every switch, every, each of the two heating units, and  
23 we re quite pleased and quite satisfied that we can move in over  
24 night.

25 MR. NETTLER: Yet, there are portions of that

1 building that are sinking?

2 MR. EDMONDS: No longer.

3 MR. NETTLER: No longer. Okay.

4 MR. EDMONDS: I can address that if you d like.

5 MR. NETTLER: Sure.

6 MR. EDMONDS: James Madison Cutts who is one of the  
7 preeminent engineers in the City, in fact was under contract with  
8 the Smithsonian Institute, and I believe it was some nine years  
9 ago, when corrective measures were taken to stop the slippage.

10 And as my neighbors well know, it was very, very  
11 important. The engineering firm was called back weeks ago,  
12 actually, months ago now, at the time where we signed the  
13 contract. And they provided us a letter indicating that there s  
14 been absolutely no deterioration, no further slippage in ten  
15 years.

16 MR. NETTLER: Okay. I noticed in the application  
17 that you filed that the house is on one lot, Lot 5, is that  
18 correct?

19 MR. EDMONDS: That s correct.

20 MR. NETTLER: And the garage is on Lot 4?

21 MR. EDMONDS: Correct.

22 MR. NETTLER: Okay, what s the principal use for Lot  
23 4?

24 MR. EDMONDS: I m not sure what you re --

25 MR. HITCHCOCK: Can I clarify an answer to that --

1 MR. NETTLER: Well, I m asking him a question.

2 MR. EDMONDS: Well, the actual lots are attached.  
3 You may in fact know that there are, if you ve seen the schematic  
4 drawing, you ll see that there s actually stairwells from one side  
5 to the other. Lot 4 is the one which contains the primary  
6 residence. Lot 2 is the one that contains the historic building  
7 which was used for carriages, about 100 years ago.

8 But they re both shown registered together with  
9 both the zoning --

10 MR. NETTLER: Well it s for you to answer the  
11 question, not him.

12 MR. EDMONDS: They are treated together.

13 MR. NETTLER: Well each of them. There s a record  
14 lot for one building and there s a record lot for another  
15 building. Are you familiar with the regulations that apply to the  
16 use of records lot in the District of Columbia?

17 MR. EDMONDS: I believe so, yes.

18 MR. NETTLER: Okay. Are you familiar that unless  
19 these are subdivided into one record lot, that you have a  
20 principal use, each lot has a separate principal use. What, Mr.  
21 Hitchcock, if you could answer the questions themself, I d  
22 appreciate, could you tell me what the principal use is of a lot  
23 that contains the garage?

24 MR. EDMONDS: I was pointing out in my dialogue, the  
25 garage will also be part of our teaching facility.

1 MR. NETTLER: But what is the principal use of that  
2 lot? A lot can only have one principal use. What is the  
3 principal use of that lot?

4 MR. EDMONDS: The primary use will be for parking.

5 MR. NETTLER: It will be a parking lot or a parking  
6 garage?

7 MR. EDMONDS: Both.

8 MR. NETTLER: Okay, and --

9 MR. EDMONDS: And as I mentioned on the second floor  
10 of the building there would be, that would also be used as a  
11 school.

12 MR. NETTLER: Okay, but the primary use, the  
13 principal use, excuse me, the principal use is that of a parking  
14 lot or a parking garage.

15 MR. EDMONDS: Exactly.

16 MR. NETTLER: Okay, do you have a Certificate of  
17 Occupancy for a parking lot or a parking garage on that lot?

18 MR. EDMONDS: No.

19 MR. NETTLER: Okay, are you going to be seeking  
20 special exception relief to obtain the use of that lot as a  
21 parking lot or parking garage?

22 MR. EDMONDS: Of course, if it s necessary.

23 MR. NETTLER: Okay so then if you obtain the special  
24 exception relief for the school use, you re going to be applying  
25 again for another special exception for the parking lot use?

1 MR. EDMONDS: I assume so --

2 MR. HITCHCOCK: I have to object, you re dealing  
3 with really question of laws. I understand it, if I may respond.

4 I mean he s asking for a legal interpretation, as I understand  
5 it, you know, if I may cite the Board to Exhibit 1 at the  
6 beginning of the application, which I think may clarify the  
7 questions as to where Mr. Nettler is going.

8 CHAIRPERSON REID: Where is your Exhibit 1?

9 MR. HITCHCOCK: Exhibit 1 is in the application that  
10 we filed in December. It looks like this, it is the --

11 CHAIRPERSON REID: And you filed this with --

12 MR. HITCHCOCK: It came in with the application as  
13 part of your package --

14 CHAIRPERSON REID: You don t remember, you re not  
15 referring to your submissions, this?

16 MR. HITCHCOCK: No, I m referring to the initial  
17 submission in December, which --

18 CHAIRPERSON REID: Oh, you had --

19 MR. HITCHCOCK: Right, here it is.

20 MS. PRUITT: It s -- here.

21 MR. HITCHCOCK: If there s not a tab for it I  
22 apologize.

23 CHAIRPERSON REID: Oh, oh --

24 MS. PRUITT: We copied it so it s not in the binder.

25 MR. HITCHCOCK: Okay.

1 CHAIRPERSON REID: But we have it.

2 MR. HITCHCOCK: Yeah, to clarify that I think that  
3 that answer s clearly with respect to where Mr. Nettler is going,  
4 with the legal issue. I mean his question really asks for a legal  
5 interpretation. You will notice there that the building on Lot 4  
6 is not entirely contained on Lot 4, part of it is on Lot 5, namely  
7 the stairs leading across that would be in connection with the use  
8 of the Studio House for the lessons.

9 You will note also on Lot 5 that there are tow  
10 uses, there s the stucco garage, which will be used for lessons as  
11 well as parking, and the asphalt drive that will be used for the  
12 parking.

13 The parking with a service uses that are in whole  
14 or in part on both lots. And I think that s where the questioning  
15 is going. So, from our perspective, the fact that the use on Lot  
16 4 is in part, the parking on Lot 5, in part services a use that is  
17 on 4 as well as 5, relates to why it can properly be there and  
18 have the parking serve both.

19 MR. NETTLER: If I may respond. First of all the,  
20 Mr. Edmonds has stated that he s familiar with the regulations,  
21 whether --

22 MS. PRUITT: Mr. Nettler? It s probably best done  
23 in your cross examination, I mean in your testimony.

24 MR. NETTLER: Well I think it s important for --

25 CHAIRPERSON REID: Well this is in regards to the

1 objection.

2 MS. PRUITT: Okay.

3 CHAIRPERSON REID: I think.

4 MR. NETTLER: And, I ll get to the whether it s best  
5 done in my testimony, but I, with regard to the objection this is  
6 not necessarily a legal issue Mr. Edmonds has stated that he s  
7 familiar with the regulations. I m asking about what the  
8 principal uses are for those different portions of the site that s  
9 supposedly included in this application.

10 And it goes directly, actually to a very important  
11 issue, which is --

12 MR. EDMONDS: But excuse me Mr. Nettler, it sounds  
13 like you re just simply trying to trick me, and I m not sure that  
14 being, not being a lawyer or a zoning expert that I can t rely on  
15 my attorneys. Of course I m familiar with the Zoning Regulations  
16 to the extent that it s necessary at my level.

17 CHAIRPERSON REID: Okay, does that answer your  
18 question?

19 MR. NETTLER: No it doesn t answer my question. I,  
20 if I can continue to ask the questions I d appreciate it, because  
21 it does go to the very heart of an issue that he certainly  
22 recognizes is very important here, and that s the ability to use  
23 the one of those lots as a, for parking for the uses that are  
24 being proposed, and in fact the issue regarding, and an issue  
25 regarding the traffic study that s been prepared and how it

1 relates to the impacts on the neighborhood.

2 CHAIRPERSON REID: Uh-huh. But that question has  
3 been answered, hasn't it?

4 MR. NETTLER: Well he's, his answer I guess then is  
5 that his principal use for Lot 2 was going to be that of the  
6 parking lot and parking garage. I guess that was the last answer  
7 he gave.

8 CHAIRPERSON REID: Yeah, I think that's what he  
9 said.

10 MR. NETTLER: Right, and I was going to.

11 CHAIRPERSON REID: Is that correct, sir?

12 MR. EDMONDS: That's correct, yes.

13 CHAIRPERSON REID: All right.

14 MR. NETTLER: Okay, and my follow-up question to him  
15 was why did he not seek to have a, what, was he planning on  
16 getting additional special exception relief to allow him to use  
17 that for that purpose after this hearing was concluded on the  
18 special exception relief that he was seeking for the school that  
19 he is intending to locate partially on one lot and partially on  
20 the other lot?

21 MR. HITCHCOCK: May, I, before you --

22 MR. NETTLER: When the, when that, any answer to  
23 that question was objected to by Mr. Hitchcock.

24 MR. HITCHCOCK: Yeah, I mean it's a question that  
25 asks a lay person for a conclusion of law as to why the

1 regulations apply. And I think, you know, the answer to that is  
2 two-fold, and that s, I was hoping Mr. Oberlander could talk about  
3 this from a planning standpoint.

4 You have in here, the regulations Mr. Nettler is  
5 referring to does allow parking if the parking is accessory at  
6 least in part to the building on the premises. And you ve got at  
7 least in part Studio House partly here on No. 5.

8 You ve also, I mean, just in terms of the space,  
9 you know, more of it would be devoted to parking than to the  
10 garage, but you ve got both buildings to be serviced here.

11 CHAIRPERSON REID: But that s the same answer that  
12 you gave before, right?

13 MR. HITCHCOCK: Well that s correct, but I mean he s  
14 asking a question why don t, you know, why, you know, asking the  
15 Applicant why didn t you seek this relief or that relief, which is  
16 a legal question.

17 CHAIRPERSON REID: But that s been answered. Well,  
18 yes. It s been answered.

19 MR. NETTLER: Well he never answered that aspect of  
20 it, that was when it was objected to was why he, he acknowledged  
21 that if he needed the special exception --

22 CHAIRPERSON REID: But it s answered now. So let s  
23 move on to the next question.

24 MR. NETTLER: Maybe Mr. Hitchcock, as, I ll move on.  
25 And if Mr. Oberlander is going to address it then I will question

1 him about the issue as well.

2 CHAIRPERSON REID: Okay.

3 MR. NETTLER: You stated that there s going to be 17  
4 students and 10 faculty members at any one time on the premises,  
5 is that correct?

6 MR. EDMONDS: That s correct.

7 MR. NETTLER: And that is what period --

8 MR. EDMONDS: About an hour during the day.

9 MR. NETTLER: And what period of the day is that?

10 MR. EDMONDS: I believe that was the 4:00 to 8:00 or  
11 the 4:00 to 5:00.

12 MR. NETTLER: I have three different answers going  
13 on here. If you can tell me what the real one is I d appreciate  
14 it.

15 MR. HITCHCOCK: This is a team effort.

16 MR. EDMONDS: Yeah, the time where the maximum use  
17 that s referred to would be between 7:00 and 8:00.

18 MR. NETTLER: Okay, so the demonstration that you  
19 gave us on the video from 3:00 to 4:00 wasn t reflecting the  
20 traffic conditions when the property was going to use at it s most  
21 intense period, was it?

22 MR. EDMONDS: It does represent when it would be  
23 most intense, indeed it would in fact lightened up at a later  
24 period.

25 MR. NETTLER: So that time period that you had on

1 the video was the 7:00 to 8:00 time period?

2 MR. EDMONDS: No, that was from, that was just at  
3 about 4:00 o'clock, from 3:30 to 4:00 o'clock.

4 MR. NETTLER: From 3:30 to 4:00 o'clock on what day?

5 MR. EDMONDS: Um, Thursday.

6 MR. NETTLER: Thursday, and what was the date? Do  
7 you remember what date it was of the year, of the month?

8 MR. EDMONDS: I don't remember the date.

9 MS. EDMONDS: It was obviously after that snow.  
10 Can't I answer?

11 MR. NETTLER: No, you can't answer.

12 MR. EDMONDS: Okay, it was obviously after that  
13 snow.

14 (Laughter.)

15 MR. NETTLER: The snow that was in December, that  
16 snow that was in February?

17 MR. EDMONDS: No, it was actually, we purchased it -  
18 -

19 MS. EDMONDS: --

20 MR. NETTLER: Excuse me, Mr. Edmonds, please answer  
21 the questions.

22 MR. EDMONDS: I'm sorry, I can't remember, it's been  
23 within the last two weeks.

24 MR. NETTLER: Within the last two weeks, but you  
25 don't know what date?

1 MR. EDMONDS: I know it was on a Thursday.

2 MR. NETTLER: It was a Thursday. Do you know if  
3 that day was a holiday?

4 MR. EDMONDS: I know that it wasn't.

5 MR. NETTLER: But you don't know what date it was.

6 MR. EDMONDS: I could figure it out with a calendar.

7 MR. NETTLER: If you could do that at some point I'd  
8 appreciate it.

9 MR. EDMONDS: Okay.

10 MR. NETTLER: The, and your testimony is that then,  
11 that time period, that 3:00 to 4:00 on that Thursday reflects the  
12 same conditions that would exist at 7:00 to 8:00 when it's, when  
13 you would have the 17 students and the 10 faculty members?

14 MR. EDMONDS: I think it does, yes.

15 MR. NETTLER: Okay. Do you know why your traffic  
16 consultant used a different time period from both, from either the  
17 3:00 to the 4:00 or 7:00 to 8:00 in order to do his traffic count?

18 MR. EDMONDS: I believe it was just a matter of  
19 scheduling, but I believe he also covers that time period at one  
20 point in his report.

21 MR. NETTLER: The 3:00 to 4:00 or the 7:00 to 8:00?

22 MR. EDMONDS: I believe both.

23 MR. NETTLER: Both time periods. Okay. But you're  
24 not sure. You think he does.

25 MR. EDMONDS: I'm pretty certain.

1 MR. NETTLER: Okay. When you provided information  
2 to your, I m assuming you provided information to a traffic  
3 consultant about the use of the premises, correct?

4 MR. EDMONDS: Sure.

5 MR. NETTLER: Okay, and did you give him a break  
6 down as to either on half hour, 45 minutes, hour basis, as to the  
7 timing of the classes that were to be evaluated in terms of their  
8 impact on the traffic?

9 MR. EDMONDS: Our approach was actually from the  
10 other side where in fact he did his study, and we compared it with  
11 the impact on the numbers we, we didn t wiggle the figures or  
12 change them because of it. We ve in fact had a very rigid  
13 schedule throughout, and I m sure Mr. Carter was aware of it.

14 MR. NETTLER: So, for example in this, the times  
15 that you, and I understand that you had staggered the class  
16 instruction, correct?

17 MR. EDMONDS: Well, the staggerings are a natural  
18 phenomenon. I mean the lessons are given in 15 minute segment and  
19 you break that down to numbers in a 15 minute segment you re  
20 probably talking about six students and teachers delay and some  
21 teachers are on time, so you even have a staggering effect in that  
22 period of time.

23 MR. NETTLER: Okay, and in order for Mr. Carter to  
24 address the impact that that staggering has on traffic, parking  
25 issues, and that neighborhood, was he given a schedule as to how

1 that staggering actually would exist, how that staggering would  
2 take place?

3 MR. EDMONDS: We discussed it, we didn't give him an  
4 exact schedule as I told you.

5 MR. NETTLER: So, do you recall seeing such a  
6 schedule in his report?

7 MR. EDMONDS: No.

8 MR. NETTLER: Okay. Now you also mentioned that  
9 there were going to be a number of recitals, I think your total is  
10 about 64 during the year, does that sound familiar?

11 MR. EDMONDS: --

12 MR. NETTLER: Mr. Hitchcock just told you it was  
13 yes, so --

14 MR. EDMONDS: No I was doing them with both  
15 semesters with the 64, yes, that's correct.

16 MR. NETTLER: Both semesters, so that's 64 in what,  
17 in --

18 MR. EDMONDS: In a year.

19 MR. NETTLER: In a year. Is that a 12 month period  
20 or is that a nine month period or what?

21 MR. EDMONDS: It would run in cycles, but it's a 12  
22 month period.

23 MR. NETTLER: 12 month. And is that what, more than  
24 one recital --

25 MR. EDMONDS: Oh, I'm sorry, I answered that

1 incorrectly. No, I meant that it would be for a 12 month period,  
2 but it would be primarily a Spring season and a Fall season.

3 MR. NETTLER: And so how many in the Spring season,  
4 how many in the Fall season?

5 MR. EDMONDS: About half for each.

6 MR. NETTLER: So it s about 30 something over a  
7 three month period?

8 MR. EDMONDS: I think it s 32 for a five month  
9 period.

10 MR. NETTLER: So that s approximately one and a  
11 quarter a week, is that correct?

12 MR. EDMONDS: I believe it s more than that, it  
13 would be two per week.

14 MR. NETTLER: More than that? Two recitals per  
15 week. And those two recitals per week would be bringing about 45  
16 to 90 people twice a week to the premises?

17 MR. EDMONDS: Generally it would be 45 at the small  
18 recital and perhaps up to 80 or 90 for the outside.

19 MR. NETTLER: Okay, and where are they parking? In  
20 that nine spaces that you have?

21 MR. EDMONDS: No, in the, our traffic expert s going  
22 to comment on that at one point during that time we in fact found  
23 some 35 spaces available that as you may have seen from my  
24 explanation we ve in fact contracted space with a local hotel  
25 which we feel will be adequate for those.

1 MR. NETTLER: And are you getting a special  
2 exception for that parking also?

3 MR. EDMONDS: No, we meet the requirements with the  
4 spaces which we have.

5 MR. NETTLER: Well let me try and understand that.  
6 You have nine spaces and then --

7 MR. EDMONDS:

8 MR. NETTLER: You have seven spaces?

9 MR. EDMONDS: No, nine.

10 MR. NETTLER: Nine. Nine spaces, and those nine  
11 spaces, and I have been to the premises, so I do recall where  
12 those nine spaces are located. At least one of those spaces is in  
13 the area that you described as the, as the ingress and egress  
14 area, I guess as I've described it, as ingress and egress, isn't  
15 that correct?

16 MR. EDMONDS: That's correct.

17 MR. NETTLER: So how do the, and the other eight  
18 spaces are parked, the other eight cars would be parked one behind  
19 each other, correct?

20 MR. EDMONDS: That's correct.

21 MR. NETTLER: Okay, and so where under the, whether  
22 it's a Zoning Regulation, or the Boca Code is the access into  
23 those spaces and out into that parking area, and out of that  
24 parking area that's required?

25 MR. EDMONDS: We're not planning to provide spaces

1 for the general public. And when people have to exit from the  
2 property indeed cars would have to be pulled out.

3 MR. NETTLER: But, so how does that comply with the  
4 regulations? The regulations require a certain width of access in  
5 and out of a parking lot.

6 MR. EDMONDS: I don t think the regulations apply  
7 for performances. The regulations which we re using in fact apply  
8 to teaching and teaching facilities.

9 MR. NETTLER: All right, so let s talk about the  
10 nine cars. Where s the access in and out of that parking lot  
11 according to the regulations?

12 MR. EDMONDS: For the teachers?

13 MR. NETTLER: For the teachers, the nine cars that  
14 are being parked there?

15 MR. EDMONDS: I m not sure I understand your  
16 question, but we do have --

17 MR. NETTLER: There s supposed to be an access lane,  
18 where is it?

19 MR. EDMONDS: There doesn t have to be an access  
20 lane. Why does there have to be an access lane?

21 MR. NETTLER: Well what if the individual that parks  
22 first in this parking lot has to get out while the other people  
23 are still parked there, how does that?

24 MR. EDMONDS: As indicated we in fact have, plan to  
25 have an attendant on full time, in fact, as pointed out in the

1 video, two of these spaces were moved, pulled out into the  
2 driveway, you could access, you could exit from virtually any of  
3 the other spaces.

4 MR. NETTLER: And is there a fire land in there  
5 also?

6 MR. EDMONDS: There is not.

7 MR. NETTLER: There is not. So how does the fire  
8 engine get in there if there s some emergency?

9 MR. EDMONDS: I don t know that one is required  
10 there.

11 MR. NETTLER: Okay, but you re not sure.

12 MR. EDMONDS: I m certain that my lawyer would have  
13 told me if it was required.

14 MR. NETTLER: Okay.

15 MR. EDMONDS: Is there one required, sir?

16 MR. HITCHCOCK: --

17 MR. NETTLER: Are you asking your lawyer or are you  
18 asking me?

19 MR. EDMONDS: No, I m asking you.

20 MR. NETTLER: Well I m not your lawyer.

21 MR. EDMONDS: Okay, well we re not certain. As far  
22 as we know there s not one required.

23 VICE CHAIR SOCKWELL: Mr. Nettler?

24 MR. NETTLER: Yes.

25 VICE CHAIR SOCKWELL: May I interrupt just briefly.

1 You do claim to be very knowledgeable about the Ordinances, don't  
2 you?

3 MR. NETTLER: Yes, I do.

4 VICE CHAIR SOCKWELL: That's good. Because you  
5 mentioned the Boca Code again, which has no relevance to parking.

6 MR. NETTLER: No, I was only doing it because he had  
7 mentioned it --

8 VICE CHAIR SOCKWELL: All right, well let's go with  
9 historic structures. Historic structures qualify for a waiver of  
10 parking and loading requirements, do they not? Are you aware of  
11 that, sir?

12 MR. NETTLER: Are you asking me if I'm --

13 VICE CHAIR SOCKWELL: I'm asking you if you're aware  
14 of that.

15 MR. NETTLER: I'm certainly aware of that.

16 VICE CHAIR SOCKWELL: Good, okay.

17 MR. NETTLER: That's not what the Applicant is  
18 presenting in his application --

19 VICE CHAIR SOCKWELL: I understand that. But you  
20 are aware of that. I just asked the question.

21 MR. NETTLER: I'm certainly aware of that.

22 VICE CHAIR SOCKWELL: The second question is that  
23 you understand Chapter 20's non-conforming uses requirements and  
24 the definitions therein? And Section 199 as well.

25 MR. NETTLER: Well I'm not sure that Chapter 22's

1 non-conforming uses --

2 VICE CHAIR SOCKWELL: Chapter 20, not 22.

3 MR. NETTLER: Chapter 20 non-conforming uses is  
4 what s applicable here.

5 VICE CHAIR SOCKWELL: It has sections on non-  
6 conforming structures and non-conforming uses of land, et cetera,  
7 and the grand-fathering of certain things based on historical  
8 presence and the fact that no new structures might be built.

9 MR. NETTLER: And I m also aware that the  
10 Smithsonian is a Federal, as a Federal entity is not required to  
11 comply with those regulations --

12 VICE CHAIR SOCKWELL: That wasn t the question that  
13 I asked. That wasn t my question.

14 MR. NETTLER: I m certainly aware what Chapter 29  
15 says.

16 VICE CHAIR SOCKWELL: 20. 20. Chapter 20, sir.

17 MR. NETTLER: I m certainly aware what Chapter 20  
18 says, 22, or 29.

19 VICE CHAIR SOCKWELL: Okay, no further questions. I  
20 just want to make sure that you understand which references you re  
21 making because you are asserting that the Applicant doesn t  
22 understand those things and yet you re making some of the same  
23 mistakes.

24 MR. NETTLER: No, I m not, no, the Applicant has  
25 made a representation that he understands the Regulations. I m

1 asking him questions related to what his understanding is. I  
2 haven't made a reference to any particular Regulation, whether  
3 it's Chapter 20, 22 or 29.

4 I haven't made any representations with regard to  
5 Section 214, whether it's Section --

6 VICE CHAIR SOCKWELL: Well Mr. Nettler, I understand  
7 what you're saying, but, I'm just asking you to be as  
8 knowledgeable of the Regulations that you are questioning your  
9 opponent on as he is supposed to be knowledgeable of those same  
10 Regulations.

11 Therefore, it qualifies your questions.

12 MR. NETTLER: Well Mr. Edmonds had made  
13 representations regarding the impact of his use of this parking  
14 area on the neighborhood and, which is one of the issues that must  
15 be addressed in terms of granting a special exception.

16 I'm asking him questions regarding the use of that  
17 parking lot, and then whether he has any knowledge about  
18 regulations that may or may not apply to his use of that parking  
19 lot.

20 He's certainly free to testify as to whether he  
21 does or does not have that knowledge, and we're certainly free to  
22 present testimony as to whether this complies with that or how it  
23 impacts it.

24 I haven't seen any representation, and I don't  
25 believe there's been any application for a waiver from the

1 regulations that apply to parking for a historic structure, which  
2 of course there, one could have been sought.

3 That would obviously have an impact on what would  
4 be the traffic and parking impacts in this neighborhood. But  
5 that s an issue that I m trying to test him on and that s where  
6 I ve been going.

7 VICE CHAIR SOCKWELL: Please continue.

8 MR. HITCHCOCK: If I could just deal with one thing.  
9 Mr. Nettler is an expert -- testify, he is not here as an expert  
10 on Zoning issues and legal questions of Zoning. And to the extent  
11 the questions are dealing with questions of law.

12 They may be more appropriately addressed in another  
13 forum, so I m going to object to questions that strictly ask for  
14 legal interpretations. And he said he s not an expert. He knows  
15 what he knows in connection with the case.

16 So I think he would testify this is the first  
17 Zoning case he s ever been involved in. So giving him questions,  
18 cross examination about intricacies with this witness are not  
19 best.

20 Mr. Oberlander is an expert on planning and land  
21 use and zoning issues and could address those as well.

22 MR. NETTLER: I have no problem with that. I would  
23 therefore move to strike those portions of his testimony which he  
24 specifically stated, and I quote, that the regulations require a  
25 need for seven spaces under the Zoning Regulations. To the extent

1 he s making a representation to that and he doesn t have the  
2 capacities for doing that, then that should be understood in that  
3 context.

4 MR. EDMONDS: Yeah, I apologize if I miss spoke,  
5 however, you know, one of the things that must be realized here is  
6 that we know about the historical exception. Regarding the  
7 parking and the information that we ve given, we ve provided,  
8 because certainly it would be interesting to the Council.

9 But in fact I know what I feel we have to know as  
10 far as the historical designation is concerned. Sorry, if I  
11 interrupted you.

12 CHAIRPERSON REID: -- requesting that, can someone,  
13 oh, can you turn your mike off down here, we had some feedback.  
14 Okay so you re requesting that that part be stricken from the  
15 record in regard to his assertion about the parking spaces that  
16 are --

17 MR. NETTLER: Complying with the regulations.

18 CHAIRPERSON REID: -- complying with the  
19 regulations, and I think that in order to be consistent here, that  
20 if he s not going to testify as to being an expert or  
21 knowledgeable on regulations that he not proffer any regulation  
22 related assertions, and let that be done by the traffic expert,  
23 instead, and then that can be questioned by Mr. Nettler. Is that  
24 all right?

25 MR. NETTLER: Thank you Madam.

1 CHAIRPERSON REID: All right, thank you.

2 MR. NETTLER: All right, let me go back then to the  
3 recitals, the, both the ones bringing in the 45 people and those  
4 brining in 80 to 90 people. Now I understand from your testimony  
5 that, and I know that your position is that they re not required  
6 to have a parking space for each of those.

7 But aside from the ten or so spaces at the hotel  
8 that s been offered and the spaces that I think you ve stated are  
9 already going to be taken up at the premises, where, where do you  
10 see those people leaving their cars who are coming to those  
11 recitals?

12 Or where do you see the majority of the people, are  
13 you, or do you have any plan for dealing with the majority of  
14 those people who are coming to the premises and may be using cars?

15 MR. EDMONDS: That s about four questions,  
16 but --

17 MR. NETTLER: Sorry about that.

18 MR. EDMONDS: -- I don t believe, we don t believe  
19 that there s a problem. And as indicated earlier, we ve in fact  
20 had a reception with more than 150 people there, at that  
21 appropriate time, to also check, in fact we ve had no problem.

22 We believe that the community can absorb that  
23 number. Oh, I mentioned that.

24 MR. NETTLER: Just a very few, that would be two or  
25 three.

1 CHAIRPERSON REID: I d like to try to move this  
2 along. Give the other party an opportunity to ask their questions  
3 so we can kind of keep some reasonable time frame here with this  
4 case, thank you.

5 MR. NETTLER: You said that the curb lane in front  
6 of the Studio House was going to be used for the drop off for  
7 individuals coming, both students or individuals coming for  
8 recitals.

9 How often is that curb lane used for parking?

10 MR. EDMONDS: Do you mean how long will we, how  
11 often will we be using it, or?

12 MR. NETTLER: No, how often do, you ve been there,  
13 you ve had the property for I guess now a few, four or five months  
14 or six months. How often is that curb lane used for parking by  
15 others?

16 MR. EDMONDS: Well it s regularly used by others.

17 MR. NETTLER: Okay. Is it used for parking  
18 primarily on the weekends, and at night?

19 MR. EDMONDS: It s generally free on weekends, and  
20 many times at night. There are four spaces out in front of the  
21 buildings there.

22 MR. NETTLER: And those four spaces are used by who,  
23 do you know?

24 MR. EDMONDS: My neighbors use them occasionally,  
25 and during the work day I notice that there are Embassy employees

1 that use those.

2 MR. NETTLER: Okay, now you have experience with a  
3 school in Virginia, correct?

4 MR. EDMONDS: Correct.

5 MR. NETTLER: Okay, and about how many recitals a  
6 year do you have at that school?

7 MR. EDMONDS: Well one of the objectives here is to  
8 provide a place for recitals, and that s one of the problems  
9 inherent in the school out there. We don t have enough to  
10 currently, in fact in the 13 years we ve seen that the, is that, I  
11 don t know whether you were listening or not, but the number of  
12 spaces have dried up.

13 We have this, this is a definite problem. We re  
14 unable to get the community rooms, the churches, the libraries, to  
15 afford the space. So, I m sorry to elaborate, but the question  
16 was answered.

17 The fact is that in fact not enough. We don t have  
18 enough spaces. Perhaps, a dozen a year.

19 MR. NETTLER: You have about a dozen a year. And  
20 about how many people were coming to those recitals?

21 MR. EDMONDS: Generally, about two per child. If a  
22 teacher has about, if a teacher has 15 in her domain, she would  
23 have those 15 at a recital. About four minutes to a performance  
24 session, taking up about an hour.

25 MR. NETTLER: So that s about 40 to 45 people?

1 MR. EDMONDS: About 45 people, yes, sir.

2 MR. NETTLER: Okay, and that s about 12 times a  
3 year?

4 MR. EDMONDS: Correct.

5 MR. NETTLER: Okay. And that s also over a five  
6 month period, that same type of five month period?

7 MR. EDMONDS: Um, yes.

8 MR. NETTLER: Okay, and then what type of parking  
9 was provided for those individuals, or was there?

10 MR. EDMONDS: I hope you didn t misunderstand me.  
11 Those places were away from our school, away from our operation.  
12 So it would very often depend on that facility whether it was a  
13 church or a library, what have you. So I can t really --

14 MR. NETTLER: Okay. Why didn t you have them at  
15 your school?

16 MR. EDMONDS: We didn t have the space.

17 MR. NETTLER: Didn t have the space. Okay. Parking  
18 space or just space period.

19 MR. EDMONDS: Oh, we had parking, but we did not  
20 have stages or performance space.

21 MR. NETTLER: You had made reference to the Levine  
22 School. Are you familiar with the operations of the Levine  
23 School?

24 MR. EDMONDS: Yes, I am.

25 MR. NETTLER: Do you know how many recitals they

1 have a year?

2 MR. EDMONDS: I have it in my records, I m not sure  
3 how readily available it is, it s not many.

4 CHAIRPERSON REID: Mr. Nettler? Mr. Nettler, I  
5 don t think that that question has any relevance to the testimony  
6 that was given here today.

7 MR. NETTLER: Okay, I have no other questions.

8 CHAIRPERSON REID: Thank you. All right.

9 MR. HITCHCOCK: I have several on redirect.

10 MR. NETTLER: Is there other witnesses, other parties to  
11 provide an opportunity to cross examine?

12 MR. HITCHCOCK: Oh, I m sorry.

13 CHAIRPERSON REID: How many people are going to --  
14 Okay. --

15 MR. TURNER: I am Richard Turner, I m the next door  
16 neighbor. We ve had some informal conversations with the Edmonds,  
17 and I just wanted to clarify one thing about the curb spaces out  
18 in front of our houses, cause I wasn t quite sure in looking at  
19 the video.

20 In some cases it looked like you were using the  
21 parking spaces that were right against the curb parking spaces for  
22 the drop off. And in others the, other cases it shows that you  
23 were dropping off out in the lane of, in the lane of traffic.

24 And I wasn t sure whether you intended to use, were  
25 you going to go back and try to get the parking spaces removed

1 from the curb lane and have them designated as the drop off zone?

2 Or were you going to use the ones out in the circle as the drop  
3 off zone?

4 My personal concern is that we park in those  
5 parking spaces and I don t want to lose them.

6 CHAIRPERSON REID: Pose your question, pose your  
7 question -- pose whatever you say in the form of a question. You  
8 cannot testify at this time. You will be given an opportunity to  
9 testify, but you cannot testify, you just have to, at this point,  
10 direct questions to the witness.

11 MR. TURNER: My question is do you intend to use the  
12 curb lanes where the parking spots are now, as your drop off zone,  
13 or do you intend to use the ones out in the circle?

14 MR. EDMONDS: The video clearly showed in my  
15 estimation that you could use either. In fact there were two  
16 different situations -- and it was brought about by traffic which  
17 had used the space and then pulled out.

18 In one instance we were able to drop off on a  
19 double parked basis, where the student got out and proceeded to  
20 the courtyard in front of the School. And in another instance we  
21 pulled right into that curb parking space there.

22 Does that answer your question?

23 MR. TURNER: Well I guess my question is, which lane  
24 are you intending to use for the drop off, the parking spaces or  
25 the lane out in the traffic?

1 MR. EDMONDS: I thought I answered that. We felt  
2 that we could use both. But indeed there s been no effort to  
3 block those spaces for our school.

4 MR. TURNER: All right, I guess I ll address my  
5 other concerns on that later on.

6 CHAIRPERSON REID: Okay. Thank you. There is no  
7 redirect in these proceedings sir. But you will have an  
8 opportunity at the end for closing remarks at that time. You can  
9 rebut, if you d like. Okay.

10 MR. HITCHCOCK: Thank you Madam Chair.

11 CHAIRPERSON REID: Okay, next witness? Please.

12 MR. OBERLANDER: Madam Chair and Members of the  
13 Board. My name is George Oberlander, I m a urban planning expert.  
14 You have a copy of my statement before you and I m just going to  
15 try to highlight my statement because of the duration of time and  
16 to --

17 CHAIRPERSON REID: Okay, but, Mr. Oberlander, you,  
18 did you request that he be accepted as the expert witness?

19 MR. HITCHCOCK: We did Madam Chair, should I qualify  
20 him?

21 CHAIRPERSON REID: Please. We don t have, do you  
22 have a resume?

23 MR. HITCHCOCK: His resume appears as Exhibit 18, if  
24 he could give a one minute summary perhaps?

25 CHAIRPERSON REID: All right. And have you appeared

1 before us before as an expert witness?

2 MR: OBERLANDER: I have appeared before this Board,  
3 not this Membership, as a representative of the National Capital  
4 Planning Commission for the last 31 years.

5 CHAIRPERSON REID: Okay. All right.

6 MR: OBERLANDER: In fact I have supervised Mr.  
7 Moulden and I have supervised Sherri Pruitt as Staff Members.

8 CHAIRPERSON REID: Okay, why don t you allow to us  
9 that you have appeared before the Board as an expert witness, and  
10 typically that s --

11 MR: OBERLANDER: And I ve been before the Zoning  
12 Commission more times than before the Board of Zoning Adjustment.

13 CHAIRPERSON REID: I think you ve demonstrated that  
14 you certainly would be more than qualified as such. I have no  
15 problem with accepting you as an expert witness.

16 MR: OBERLANDER: I appreciate that, thank you.

17 CHAIRPERSON REID: Unless any of the Board Members,  
18 --

19 VICE CHAIR SOCKWELL: Some of us have appeared  
20 before Mr. Oberlander.

21 MR: OBERLANDER: That s right.

22 (Laughter.)

23 MR. NETTLER: No I have no objection, but I would  
24 like a copy of the --

25 CHAIRPERSON REID: Resume? The statement.

1 MR. NETTLER: the statement that was handed out.

2 CHAIRPERSON REID: All right you can receive a copy.

3 Do we have extra copies? Okay.

4 MR: OBERLANDER: Yes.

5 CHAIRPERSON REID: All right.

6 MR. NETTLER: Thank you.

7 CHAIRPERSON REID: Go ahead.

8 MR: OBERLANDER: As I have already indicated I was  
9 with the Planning Commission for 31 years as the Associative  
10 Executive Director for District Affairs. Historic preservation  
11 was one of my responsibilities besides the overall planning of the  
12 City before home rule and after home rule, the federal interests  
13 that the Planning Commission has in planning matters of the  
14 District Government.

15 So I m here today to address the land use and  
16 historic preservation issues of this application. As you know the  
17 Barney House is a District of Columbia and National Register  
18 Historic Landmark.

19 In fact this has been pointed out by Mr. Edmonds,  
20 the two interior floors, the first and second floors are also  
21 designated as historic on the D.C. Inventory of Historic Places.

22 I want to emphasize that there are only six  
23 buildings in the City out of 29,500 that have their interiors  
24 designated as well as the exteriors. And this makes this building  
25 extremely special.

1           This means that the structure, a 20th Century  
2 revival architectural style, cannot be altered on the outside, as  
3 well as virtually no structural changes would be allowed on only  
4 the two designated interior floors.

5           The partitions in the basement would be allowed  
6 under the Building Code of the District of Columbia, and using the  
7 Building Code of the District of Columbia uses the Boca Code,  
8 that s why that was referenced.

9           But in any event, those two floors that are the  
10 Historic District s designation can not be altered and the basic  
11 point I want to make back to residential use. In fact the  
12 building has never been exclusively a residential building.

13           It has always from the very beginning been a arts  
14 and crafts and studio building on the two floors that the video  
15 showed and the upper floors as residential.

16           There s insufficient time at this hearing to  
17 describe all of the history of this very special historic  
18 landmark. You ll find in the application Exhibit 6, the approved  
19 1995 National Register Form which nominated the property to the  
20 National Register, if you have any particular interest in reading  
21 that thick document.

22           I will only highlight the National Register  
23 criteria that the property meets and it s areas of special  
24 significance. These are the properties associated with events  
25 that have made significant contribution to the Broad patterns of

1 our history.

2 The property is associated with the lives of  
3 persons significant to our past, and the property embodies a  
4 distinctive characteristics of a period where the method of  
5 construction represents the work of materials or possess high  
6 artistic values, or represents a significant distinguishable  
7 entity whose components lack individual distinction.

8 The areas of significance include the social  
9 history, architecture, art and performing arts. Now with respect  
10 to the land use of this property, the property has been used for  
11 more than residential use ever since it was built.

12 The use of the building is documented in the  
13 Massachusetts Avenue Architecture, a book that the Fine Arts  
14 Commission has published back in 1971. I have Volume 1 here, the  
15 application contains the portions dealing with the Barney House  
16 which start on Page 378 and goes on to Page 387.

17 There are pictures of all of the floors as they  
18 were originally furnished and constructed. And that is Exhibit 11  
19 of the application. The Commission of Fine Arts noted that the  
20 building, which includes studio and stage facilities was designed  
21 as a private cultural center for artistic pursuits and informal  
22 entertaining.

23 When Mrs. Barney moved out of the house, the  
24 property continued to be used for residential purposes and as a  
25 Peruvian Embassy from 1925 to 1926, the Columbian Legation,

1 another foreign government entity in 1936 to 1938, the National  
2 Capital Film Laboratories Incorporated from 1939 to 1940, and the  
3 American Association of Museums from 1962 to 1970.

4 The Smithsonian Institution acquired the building  
5 in 1960 and continued to use it as a museum. It contained the  
6 traveling exhibition services of the Smithsonian. It has offices,  
7 studios, entertainment and reception space, and the residences for  
8 visiting dignitaries and Smithsonian scholars.

9 The Studio House was open to the public from 1979  
10 until 1991. Since the property became vacant in 1994, a group  
11 called the Friends of Alice Pike Barney Studio House proposed to  
12 create a public/private partnership to raise funds necessary to  
13 re-open the Studio House to the public, and that is Exhibit 12 of  
14 the application.

15 The Friends concluded in their proposal at that  
16 time in 1994 that at this point in the life, Studio House has a  
17 limited range of viable uses. And that it is uniquely suited to  
18 the institution, meaning Smithsonian Institution, proposed plan  
19 for exhibition, performance, space and low-level office, and/or  
20 residential use.

21 The organization feels that because of the limited  
22 square footage and unique room arrangement, and I emphasize, the  
23 building no longer lends itself to full scale residential  
24 occupancy, and the commercial use of the house is not practical.

25 As you ve seen in the video the building gives the

1 outside appearance of a residential building, however, they cannot  
2 establish residential accommodations within the historic interior  
3 designated floors where performance and studio space exists.

4 In fact the original design of the building created  
5 this difficulty by placing two floors of performance space in the  
6 middle of the structure. The property has not been residential  
7 only for most of its life.

8 I provide you this background to indicate that the  
9 property has been used as a mixed-use, quote, since it is  
10 constructed, since its construction, even though the Zoning for  
11 this area was R3 from 1958 to 1984, when the Massachusetts Avenue  
12 Sheridan Circle Area was re-zoned to D-R-3. This mixed-use zoning  
13 category was created to allow chanceries to locate in such  
14 designated area as a matter of right by a specially composed BZA  
15 Board of review and possible disapproval.

16 I m sure you re familiar with all of that process.

17 This arrangement developed as a result of the Foreign Missions  
18 Act of 1982. As you know Section 206 of that Act provides a  
19 chancery shall be permitted to locate and I quote, in any other  
20 area determined on the basis of existing uses, which include  
21 office and institutional uses, including but not limited to any  
22 area zoned mixed-use, diplomatic or special purpose.

23 Now, I made a existing land use survey, and, to  
24 summarize that I m sure you re all familiar, if you ve been to the  
25 area recently or if you ve been to the area 20 years ago, it was

1 that way 20 years ago, a good number of chancery is mixed in with  
2 residential properties.

3 My summary of the numbers by Square Nos. and the  
4 squares in question are Square 2507, 2506, 2517, 2516 and 2511,  
5 which I consider the proximity to the subject property.

6 In square 2507 there are, which is the subject  
7 square, the south side of Massachusetts Avenue, there are 28  
8 buildings and 15 appear in the residential use. I didn't make  
9 surveys on the inside, but I looked at it from the outside, and 12  
10 are in chancery or diplomatic use, and the subject history  
11 property that make up the 28 in that square.

12 In Square 2506, 2517, 2516, and 2511, there are 13  
13 chancery or diplomatic uses and three residential uses facing  
14 Massachusetts Avenue, and Sheridan Circle on the north side.

15 There are more chanceries within the interior parts  
16 of the blocks, but I did not survey those because they are not  
17 directly facing out on to Massachusetts Avenue or the Circle.

18 From this existing land use survey it is clear that  
19 the area examined, the immediate vicinity of the subject property  
20 is predominantly used for the mixed use chancery diplomatic use.  
21 The survey area contained a total of 25 chanceries and 18  
22 residential uses.

23 I'm very much familiar professionally with this  
24 area due to the fact that I supervised the Planning Commission  
25 Staff and worked with the District Office of Planning in the re-

1 zoning of this Area back in the 1980's.

2 The subject area has the characteristics of a  
3 residential area, which is preserved by the historic district  
4 designations on both sides of Massachusetts Avenue. The Area was  
5 and is now however an existing mixed-use area, as defined and  
6 specified for chancery use in the Foreign Missions Act.

7 That is why the D diplomatic overlay as it was  
8 called or the D re-zoning was added to the R-3 classification.  
9 In conclusion this summary has highlighted the historic nature of  
10 the property and the area.

11 It has identified the use of the property from its  
12 original construction as a residence and a Center for the  
13 Performing Arts, art exhibits and musical performances. The  
14 predominant existing land use in the area are mixed uses, and  
15 mainly foreign government chancery offices and diplomatic uses.

16 Not to allow the current owner to re-establish, and  
17 I emphasize this is the re-establishing, it s not new  
18 establishing, it s the re-establishing of the Performing Arts  
19 Center in the form of a music and art studio, would be contrary to  
20 the historic preservation of this special structure.

21 In fact the proposal increases the square feet of  
22 residential space over that used by the Smithsonian Institution  
23 for many years. Two interior floors which are also historically  
24 designated may not be altered into smaller residential spaces,  
25 allowing these floors to continue to be used as studio space is

1 directly in keeping with the District of Columbia Historic  
2 Landmark and Historic Preservation Act of 1978, which this Board  
3 is sworn to uphold.

4 The Act has a matter of public policy, and that is  
5 the preprocuration (phonetic) of properties of historical and  
6 cultural and aesthetic merit. That s a quote from the Act. The  
7 Barney Studio House is one of those properties.

8 Requiring the, requiring the owner to use these two  
9 floors for residential use would be contrary to the intent of this  
10 Act. I would like to add in terms of the research that I did in  
11 this case, before I get questioned by Mr. Nettler later.

12 There is a map that I d like to offer to you which  
13 is the assessor s map which shows the two lots, Lots 5 and Lot 4  
14 in Square 570, whatever, the, 5707, 50, 2507, excuse me, as  
15 combined.

16 And that should clear up the question of whether  
17 the garage, which is also going to be used for studio purposes and  
18 accessory building or principal building, the obviously the garage  
19 was originally constructed as an accessory use to the Barney House  
20 itself, and it was placed in 1902 on a separate lot.

21 But the tax assessor s record show it as combined,  
22 and I offer that as an exhibit if you d like to have that. I also  
23 will offer as an exhibit, a reference to I made to all of the lots  
24 and, in those Squares 2506, 2507, 2516, and 2517.

25 With that I d be pleased to answer any questions

1 the Board may have.

2 VICE CHAIR SOCKWELL: Mr. Oberlander, generally just  
3 to clarify combined lots. A & T lots which are Assessment and  
4 Taxation lots are lots created for the purpose of combining tax  
5 bills into a single easily workable payment for the owner of lots  
6 that are in single ownership, the same ownership.

7 The existence of an A & T lot, which would  
8 generally be an 800 lot number assigned for assessment and  
9 taxation purposes, would have no bearing on the existence of  
10 individual lots from the standpoint of recorded deeds that would  
11 be still underlying to separate Lots 4 and 5 yet they might be a  
12 Lot 804 for tax purposes. That s just a clarification, sir.

13 MR: OBERLANDER: Well, and if I could further  
14 clarify, the practice of the District of Columbia has been over  
15 this 31 years that I was with the Planning Commission, is never to  
16 assemble lots together unless the owner was redeveloping the site  
17 and then the owner would come in for a lot of record.

18 There was no re-subdivisions because the only  
19 agency in the City that has subdivision authority is the Planning  
20 Commission.

21 VICE CHAIR SOCKWELL: Well, I m not sure that I  
22 understand exactly what you mean by that. The subdivision of land  
23 for the purpose of development, is a requirement under the  
24 building regulations, and that subdivision of land would be  
25 required under most circumstances except those in which the lot is

1 encumbered by a highway plan overlay where then the lot cannot be  
2 subdivided under the laws of the District.

3 But what I am saying is that that subdivision would  
4 be required only if new construction were initiated on the  
5 property, not for the renovation of existing buildings dated prior  
6 to --

7 MR: OBERLANDER: That s exactly right, but what I  
8 was referring to is that when land is assembled and lots lines are  
9 eliminated per se, it s usually done through a record lot rather  
10 than a re-subdivision.

11 And the re-subdividing authority is only with the  
12 Planning Commission and there has never been such while I was  
13 there with the Commission.

14 VICE CHAIR SOCKWELL: Well I guess it s a matter of  
15 terms. And the only thing I m saying is that the term for  
16 creating a single lot of record out of multiple lots is  
17 subdivision. And that s --

18 MR: OBERLANDER: Not --

19 VICE CHAIR SOCKWELL: And that s per the Office of  
20 the Surveyor, which, in which such subdivisions would be recorded.

21 And I ve participated in many of them. So I m only telling you  
22 what is on the forms, and I can even present them to you if you  
23 have any --

24 MR: OBERLANDER: I appreciate that very much, but  
25 the, there is a subdivision regulation which the District has and

1 that is enforceable through the Planning Commission. And it has  
2 never been utilized, but the, the way around re-subdividing has  
3 been through the recording of a single lot.

4 MEMBER RENSHAW: Madam Chair, if I may just break in  
5 for a moment. I have to go, I have a previously scheduled  
6 appointment. But I just want to indicate that I will be voting on  
7 this case. I will be reading the record, and I m going to hate to  
8 miss all of the testimony but I will catch up with the printed  
9 words. Thank you.

10 (Pause.)

11 MR. MOULDEN: For the record I d also like to  
12 indicate that Rodney Moulden will be leaving for, to attend  
13 another Board Meeting and I will read the records in order to make  
14 a vote.

15 (Pause.)

16 COMMISSIONER HOOD: Madam Chair, can we kind of get  
17 a feel for about how much longer, I know we have a number of  
18 people who ve been waiting to testify, but if we can get a feel we  
19 know where we all are, and then we can kind of give a guestimate  
20 about how much time we should be.

21 CHAIRPERSON REID: Yes. We were, that s correct.  
22 We were, 6:00 o clock is usually the time that we take an  
23 assessment. I was asking you first before I did that were you all  
24 right for time, time wise?

25 COMMISSIONER HOOD: I was just trying to get a

1 guestimate to see how long --

2 CHAIRPERSON REID: Oh, before you could answer  
3 first, okay.

4 CHAIRPERSON REID: Yeah, before I.

5 CHAIRPERSON REID: Mr. Nettler, do you have cross  
6 examination questions for?

7 MR. NETTLER: I did but I thought this was a good --

8 CHAIRPERSON REID: I agree, but nonetheless, can you  
9 answer my question? Do you have questions for him?

10 MR. NETTLER: Yes, I do.

11 CHAIRPERSON REID: And do you have questions for him  
12 as well? All right, and we have how many more witnesses Mr.  
13 Hitchcock? The, Mr. Carter?

14 MR. HITCHCOCK: Dr. Carter is our last witness.

15 CHAIRPERSON REID: Dr. Carter.

16 MR. HITCHCOCK: And we have 12 minutes remaining.

17 CHAIRPERSON REID: Okay. All right. And then how  
18 many persons in support are testifying?

19 MS. PRUITT: One.

20 CHAIRPERSON REID: One person, two?

21 MR. HITCHCOCK: Dr. Carter is with us. Mr. Graves  
22 is the person. I don t believe there are any parties in support.  
23 Mr. Graves would be --

24 CHAIRPERSON REID: Not parties --

25 MR. HITCHCOCK: -- a person in support.

1 CHAIRPERSON REID: One person in support? Okay.  
2 All right, and then we have what was it eight people in  
3 opposition. But you re not going to be testifying individually,  
4 correct? You will be. No, no.

5 MS. PRUITT: You have three parties who are in  
6 opposition and then you have individuals who are in opposition.  
7 Could the individuals who are not represented in the parties  
8 please identify by raising their hands?

9 CHAIRPERSON REID: Two others.

10 VICE CHAIR SOCKWELL: You have the ANC Member as  
11 well --

12 MS. PRUITT: Of course, ANC is also another person.

13 CHAIRPERSON REID: And did you allocate, was the  
14 time allocated as to how much time? Could you let Staff know?

15 MR. NETTLER: Yes, I did.

16 MS. PRUITT: Yes.

17 CHAIRPERSON REID: Oh, okay. Cause I don t, I  
18 wasn t made aware of it. Okay. So, then, with the cross  
19 examination of the, Mr. Hitchcock, do you anticipate a great deal  
20 of cross examination for the people, persons in opposition or the  
21 parties in opposition?

22 MR. HITCHCOCK: I do have questions on the basis of  
23 the written statements, yes.

24 CHAIRPERSON REID: Okay. All right. Then, it s  
25 hard to gauge the time, because the Applicant still has 12 minutes

1 and then the opposition has an hour, and that does include cross  
2 examination time, so I would, my best guess would be that we d be  
3 here for at least another hour and a half, between 7:30 and 8:00  
4 o clock.

5 MS. PRUITT: You also still have --

6 COMMISSIONER HOOD: You and I are on the same  
7 wavelength. I was looking at about an hour and a half, and then  
8 I ll be fine.

9 CHAIRPERSON REID: Is that fine? Is that right with  
10 you Mr. Sockwell? How are you?

11 VICE CHAIR SOCKWELL: Fine.

12 CHAIRPERSON REID: Okay. All right then what we ll  
13 do is we will have cross examination to Mr. Oberlander and then  
14 we ll break, we ll take a ten minute break and then we ll finish  
15 the rest of the case tonight.

16 MR. HITCHCOCK: I did have one question for Mr.  
17 Oberlander apropos of the previous exchange with Mr. Edmonds to  
18 ask him if he could refer to Exhibit 1 which shows the uses on  
19 both lots and ask if he has a comment on that. I think we got the  
20 building with Studio House extends on the both lots and that the  
21 use therefore would be on both lots, to which the parking would be  
22 accessory.

23 MR: OBERLANDER: The drawing that I m referring to  
24 is I believe Exhibit 1 in the original application. If you note  
25 the stairwell at the back of the building comes across the lot

1 line between Lot 5 and Lot 4, so technically speaking the building  
2 footprint including its stairways and the stairwells and, go over  
3 two lots.

4 And the, the wall along the west side of the lot,  
5 which is 36.1 feet long, is right on the property line. So the  
6 point of Mr. Nettler, I believe is trying to make is an extremely  
7 technical point and the usage of this property has been in, for,  
8 ever since 1902 is really one lot.

9 It s been recorded as two, but it is really in  
10 effect a one lot operation with a principal building and an  
11 accessory garage.

12 VICE CHAIR SOCKWELL: And I assume that the property  
13 has always been transferred as a single piece of activity for such  
14 transference --

15 MR: OBERLANDER: I can t testify to that, I have not  
16 searched the exact language of the transfers in each case.

17 VICE CHAIR SOCKWELL: Uh-huh. Well --

18 MR: OBERLANDER: Since the surveys show five and Lot  
19 5 and Lot 4, in all likelihood you know, it was --

20 VICE CHAIR SOCKWELL: Uh-huh.

21 MR: OBERLANDER: When I bought my piece of property  
22 in Bethesda, there was a sliver of land that was another lot and  
23 on that plot of land there are two lots, but you know, those are,  
24 as I said it s a very highly technical point that Mr. Nettler was  
25 raising.

1 VICE CHAIR SOCKWELL: Yes it was.

2 MR. HITCHCOCK: May I inquire of Mr. Oberlander on  
3 that, which may clarify Mr. Sockwell s question? I mean Mr.  
4 Oberlander, to your knowledge, the building passed from, including  
5 the building and the side area passed from Mrs. Barney to her  
6 daughters, is that correct?

7 MR: OBERLANDER: That is correct, and it is recorded  
8 in the Commission of Fine Arts document that Massachusetts Avenue  
9 Architecture Volume 1 and it shows since Mrs. Barney lived there  
10 who else has lived there as a result of the City and telephone  
11 directory list since 1904.

12 MR. HITCHCOCK: But then the property was  
13 transferred by the Barney daughter or daughters to the Smithsonian  
14 in 1960. Both lots then.

15 MR: OBERLANDER: That s correct.

16 MR. HITCHCOCK: And then from the Smithsonian to the  
17 Edmonds s in 1999.

18 MR: OBERLANDER: That is not shown in this because  
19 this was published in 1972.

20 MR. HITCHCOCK: But that list shows phone numbers  
21 indicating who was on the premises and there was not a break in  
22 the ownership chain to your knowledge, correct?

23 MR: OBERLANDER: Exactly, right.

24 MR. HITCHCOCK: Thank you.

25 CHAIRPERSON REID: One other housekeeping matter

1 before cross examination. I forgot to ask Ms. Sansone, is that  
2 time frame good for you?

3 MS. SANSONE: Yes, Madam Chair.

4 CHAIRPERSON REID: Okay, and also the reporter, is  
5 that time frame good for you? Okay, you re all right. And, okay.  
6 All right.

7 (Pause.)

8 MR. TURNER: This is Richard Turner, asking, when  
9 you did the survey of the area with regard to what was residential  
10 and what was embassy use, did you make a distinction between  
11 Embassadorial residences versus chanceries?

12 MR: OBERLANDER: Well the, the word Embassy means  
13 the Ambassador s residence, but the chancery users or the foreign  
14 governments misuse that term in many instances. There are some  
15 Embassadors living in the Area, but the predominant Diplomatic use  
16 is really a chancery use.

17 I did not distinguish by number the number of  
18 Embassadors versus the number of chanceries.

19 MR. TURNER: So you didn t, you didn t note that on  
20 the Circle that many of them are Embassadors residents and not  
21 Chanceries?

22 MR: OBERLANDER: Well, I did not --

23 MR. HITCHCOCK: I m going to object to the form of  
24 the question. Many is sort of assumes a statement in fact. If  
25 Mr. Turner wants to identify which ones that s one thing, but

1 there s an assumption in that question.

2 CHAIRPERSON REID: Okay. I m going to sustain. Mr.  
3 -- Okay, sustained. Mr. Turner, can you be more specific in your  
4 questioning sir? When you say many, can you ask a more direct  
5 question?

6 MR. TURNER: Well, did you know that the Turkish  
7 Embassy which is closest was an Ambassador s residence and not a  
8 chancery?

9 MR: OBERLANDER: Yes, I do know that that was  
10 recently converted back to a Ambassador s residence, yes. But  
11 that s one.

12 MR. TURNER: It s the closest one.

13 MR: OBERLANDER: Yes.

14 CHAIRPERSON REID: Thank you. All right, Mr.  
15 Nettler?

16 (Pause.)

17 MR. NETTLER: You are familiar with the District  
18 Zoning Regulations, are you not?

19 MR: OBERLANDER: Yes.

20 MR. NETTLER: Okay.

21 (Laughing.)

22 Now since --

23 MR: OBERLANDER: Which version, the 1958 version or  
24 the 1995 or --

25

26

E-V-E-N-I-N-G S-E-S-S-I-O-N

(6:00 p.m.)

1  
2  
3 MR. NETTLER: The ones of the Year 2000 and all  
4 their changes and permutations. The --

5 MR: OBERLANDER: That we know about --

6 MR. NETTLER: That we know about, that s correct,  
7 apropos I guess of earlier today. The, since 1974, are you, is it  
8 your testimony, in response to the question that Mr. Sockwell  
9 asked, that there haven t been any, that the, any subdivision, and  
10 I use 74 as home rule date, that any subdivision that s been  
11 applied for with the Office of Surveyor must come before the  
12 Planning Commission for approval?

13 MR: OBERLANDER: According to the statutes that  
14 exist on the books, there is a, I ve forgotten what year it was  
15 passed, but there is a subdivision regulation for the District of  
16 Columbia, which is administered by the National Capital Planning  
17 Commission.

18 And during the time that I was with the Planning  
19 Commission, there was only one or two actual re-subdivisions of  
20 land or the creation of splitting one lot into more than one,  
21 during that time.

22 MR. NETTLER: If I was to tell you that there s been  
23 about maybe 500 to 1000 subdivisions every year since 1974, which  
24 apparently all but two have come before you, would that surprise  
25 you?

1 MR: OBERLANDER: Well it s a matter of the  
2 definition of what you mean by subdivision.

3 MR. NETTLER: Either, the, excuse me. Let s deal  
4 with that first. The definition of subdivision is what s  
5 contained in those subdivision regulations that you just referred  
6 to, which is the division or assembly of land into one or more  
7 lots of record. Let s use that --

8 MR: OBERLANDER: If that s the definition it  
9 surprises me that there were that many. I know of the practice  
10 that has been going on in the City for many years, in terms of the  
11 assemblage of land for redevelopment purposes, and doing it  
12 through the method of recording the lot without a formal re-  
13 subdivision or what I call a re-subdivision of land that is the  
14 assemblage of land and re, formally removing the lots, the lot  
15 lines from the tax map.

16 MR. NETTLER: Okay, but you re not aware of the, if  
17 you accept my statement that the 500 to 1000 subdivisions that are  
18 done, by using that definition, have not come before the --

19 MR: OBERLANDER: Oh, yeah, they have not, for sure.

20 MR. NETTLER: Okay. Now, in response to the  
21 question, in response to your testimony about the, the A & T lot  
22 number, I, is it correct you are aware that a tax lot is not the  
23 same as a record lot?

24 MR: OBERLANDER: Yes.

25 MR. NETTLER: Okay, now are you familiar with the

1 zoning, those Zoning Regulations which apply to the use of record  
2 lots for parking use, or any other principal uses, or any other  
3 uses?

4 MR. OBERLANDER: Well generally, I can't tell you  
5 the number off hand, I'd have to look it up.

6 MR. NETTLER: Okay you sat, you were here today this  
7 afternoon, and you heard the application 16522, 16541 of the  
8 Burger King in which they were seeking a special exception under  
9 Section 214 to continue the use of an existing accessory parking  
10 lot in an R-1-B District, correct?

11 MR. OBERLANDER: That's correct.

12 MR. NETTLER: All right, and you heard that Burger  
13 King owned those two lots, did you not?

14 MR. OBERLANDER: Yes.

15 MR. NETTLER: And you heard as well that those two  
16 lots were contiguous to each other, correct?

17 MR. OBERLANDER: Correct, yes.

18 MR. NETTLER: Okay. Are you saying it's a highly --

19 MR. OBERLANDER: I've also used that wash, that car  
20 wash place from time to time.

21 MR. NETTLER: So are you saying that this is a  
22 highly technical issue? The fact that you have one record lot in  
23 which the building might be located and another record lot in  
24 which the accessory parking might be located?

25 MR. OBERLANDER: No, the, the question that you

1 posed earlier, as I understood it was dealing with the accessory  
2 usage or principal usage of the lot. The, in my definition and in  
3 my research on this particular property, the garage that exists  
4 there, which was a carriage house, originally, was accessory, not  
5 principal to the lot upon which it s facing.

6 MR. NETTLER: Okay, but we re not here for re-  
7 zoning, right?

8 MR: OBERLANDER: No.

9 MR. NETTLER: Were not here for a chancery use,  
10 correct?

11 MR: OBERLANDER: Absolutely.

12 MR. NETTLER: We re not here for a use variance,  
13 correct?

14 MR: OBERLANDER: We re here for --

15 MR. NETTLER: Wait, wait --

16 MR: OBERLANDER: We re here for a mixed-use  
17 property.

18 MR. NETTLER: We re not here for a use variance,  
19 correct?

20 MR: OBERLANDER: Right.

21 MR. NETTLER: We re not here for an area variance,  
22 right?

23 MR: OBERLANDER: Right.

24 MR. NETTLER: We re here for a special exception.

25 MR: OBERLANDER: Right.

1 MR. NETTLER: But you, because, correct me if I m  
2 wrong, you are not claiming that this mixed use is grandfathered  
3 and therefore you come under the special exception provisions for  
4 changes in non-conforming uses, are you?

5 MR: OBERLANDER: No, the use is not grandfathered,  
6 the historic building --

7 MR. NETTLER: Okay.

8 MR: OBERLANDER: -- designation is.

9 MR. NETTLER: All right, now, if a use is not  
10 grandfathered for a, for purposes of the, for the non-conforming  
11 use provisions, then tell me why Section 214 of the Zoning  
12 Regulations does not apply to this situation which says that if  
13 you have a lot that is accessory, one which you have accessory  
14 parking, for an adjacent lot, that you need a special exception  
15 approval to use that for that purpose.

16 MR. HITCHCOCK: I m going to object to the question  
17 which characterizes the regulation in a certain way that doesn t -  
18 -

19 MR. NETTLER: Well let s, I ll rephrase it --

20 MR. HITCHCOCK: Okay.

21 MR. NETTLER: Are you familiar with Section 214 of  
22 the Regulations?

23 MR: OBERLANDER: Yes.

24 MR. NETTLER: All right, and what are Section 214  
25 govern?

1 MR: OBERLANDER: It deals with accessory parking  
2 spaces in the R-1 Zone.

3 MR. NETTLER: And does it govern accessory parking  
4 in any other zones, do you know?

5 MR: OBERLANDER: All it says is that this is in the  
6 R-1 District.

7 MR. NETTLER: Okay, do you know if there is a  
8 provision with regard to the R-3 Zones that allows you to have  
9 accessory parking on a lot other than your own, on a record lot,  
10 other than the record lot of which the principal building is  
11 located, without going before the Board of Zoning Adjustment? --

12 VICE CHAIR SOCKWELL: Gentlemen, may I interrupt  
13 briefly? Section 214.1 states specifically accessory passenger  
14 automobile parking spaces elsewhere than on the same lot or part  
15 of a lot on which the main use is permitted, and I ll stop there,  
16 because the steps do project over the lot line.

17 The steps are part of the building, the building is  
18 part of the principal use, the accessory parking is accessory to a  
19 principal use on that lot, period. Period.

20 MR. NETTLER: And, well I m not here --

21 VICE CHAIR SOCKWELL: Period. And that s, and  
22 that s period with regard to what s there now. Okay? So we have,  
23 I m just telling you that this is going nowhere. Mr. Nettler and  
24 I both understand the Zoning Regulations quite well, and I don t  
25 intend to have you guys dance on this issue, because Mr. Nettler

1 wants to create a point that is not really in existence.

2 MR. NETTLER: Well it seems to be a point that the  
3 Zoning Administrator --

4 VICE CHAIR SOCKWELL: Everything else that you ve  
5 said is fairly true, but you re getting into an area where you re  
6 not correct, period.

7 MR. NETTLER: Well I m simply relying upon what I ve  
8 been advised by the Zoning Administrator in similar context and  
9 similar cases --

10 VICE CHAIR SOCKWELL: Which Zoning Administrator?

11 MR. NETTLER: Both the exist, the present Zoning  
12 Administrator and past Zoning Administrator, going from Feahey  
13 through the present.

14 VICE CHAIR SOCKWELL: Do you have that in writing?

15 MR. NETTLER: I don t have it in writing.

16 VICE CHAIR SOCKWELL: Can you submit it to us?

17 MR. NETTLER: No, I don t --

18 VICE CHAIR SOCKWELL: All right, then --

19 MR. NETTLER: -- self certification case, and there  
20 is an issue here with regard to parking and --

21 VICE CHAIR SOCKWELL: Then I believe that the  
22 circumstance really is that we ve accepted the fact that the  
23 existing building projects on to Lot 4.

24 MR. NETTLER: And you had a testimony from the owner  
25 who, his testimony is that the principal use of that other lot is

1 not a use that is not the residential use, that it s either the  
2 parking use or something else. And that, that is for purposes of  
3 zoning relevant to whether that lot can be subject to Section 214  
4 or not.

5 VICE CHAIR SOCKWELL: Historically speaking the  
6 building has been in existence since when?

7 MR. OBERLANDER: 1902.

8 VICE CHAIR SOCKWELL: The parking lot has been in  
9 existence throughout the life of the building as an accessory, as  
10 a lot on to which part of the building projects. The garage has  
11 been there since I assume close to 1902 or sometime prior to 1958.

12 It s pre-existing and its use up to and perhaps not  
13 necessarily including what is being proposed, is grandfathered  
14 under pre-existing, and the lot, and the building, exist  
15 contiguously.

16 And therefore, the Burger King example was not  
17 relevant because the Burger King lot is separated by an alley.

18 MR. NETTLER: The, I beg to differ --

19 VICE CHAIR SOCKWELL: And there are office buildings  
20 downtown, if I might continue, that rest on more than two lots,  
21 and they are legal, absolutely and totally legal, and they were  
22 built after the 1958 Zoning Ordinance was put into place. And  
23 they re on 800 lot numbers, and the underlying lots are still  
24 there.

25 And by the way about subdivisions anyway and the

1 deed descriptions of all property, the underlying original lots  
2 are always referenced. There is never any loss of the underlying  
3 lots.

4 And from that standpoint --

5 MR. OBERLANDER: Because --

6 VICE CHAIR SOCKWELL: -- the subdivision has not  
7 taken place in the formality --

8 MR. OBERLANDER: Exactly.

9 VICE CHAIR SOCKWELL: -- situation that you re  
10 discussing, I understand that.

11 CHAIRPERSON REID: Okay, good luck. Let s do this.  
12 We have beat this to death this evening. And I think that Mr.  
13 Nettler your intent was to bring out a point which you did --

14 MR. NETTLER: That s one point.

15 CHAIRPERSON REID: And I don t think we need to  
16 belabor this issue as to whether or not the lot, whether or not  
17 the building and the lot are contiguous or whether or not the back  
18 set of stairs actually are on both lots, extend over to the second  
19 lot, will in effect make this be one lot.

20 I think that --

21 MR. NETTLER: That s not the point that I was  
22 making, but I will address that issue in our matter and I will go  
23 into --

24 CHAIRPERSON REID: Well, then if it s not then I m  
25 not understanding where you re going with this, because my

1 understanding was that you were trying to establish that the  
2 second lot was an accessory lot.

3 And you posed the question and they answered that,  
4 the principal lot in effect had the stairway that went, that  
5 extended over to the second lot was in effect meant that it was  
6 considered to be the same lot.

7 And that was my understanding. Are you saying that  
8 that was not what you were trying to --

9 MR. NETTLER: No, I don't see anywhere in the Zoning  
10 Regulations where it says that, but I --

11 CHAIRPERSON REID: Where it says what?

12 MR. NETTLER: -- understand what Mr. Sockwell's  
13 point is --

14 CHAIRPERSON REID: Where it says what?

15 MR. NETTLER: -- about the, his reference to  
16 Section 214.1, but rather than belabor the issue with Mr.  
17 Oberlander, since it seems to be more of an issue between the  
18 Board and us, I would rather raise that issue, I will address that  
19 aspect of it.

20 CHAIRPERSON REID: Yeah. I think that we, I think  
21 that we, I, understand and Mr. Sockwell and Mr. Hood have gotten  
22 the answer, and then it's up to us to be able to use it in the way  
23 that we deem to be most appropriate.

24 MR. NETTLER: I'll move on.

25 CHAIRPERSON REID: Thank you.

1 MR. NETTLER: All right. Let s go back to the  
2 points about the mixed-use issue that you ve alluded to. Is it  
3 your testimony that from a planning prospective, that, is it  
4 solely your testimony actually that from a planning perspective a  
5 mixed-use of this R-3 property is appropriate?

6 MR. OBERLANDER: D-R-3.

7 MR. NETTLER: D-R-3 property.

8 MR. OBERLANDER: Absolutely. That s what the D-R-3  
9 was in fact established for as I indicated in my testimony of the  
10 Foreign Missions Act.

11 MR. NETTLER: Okay, now the D though was created for  
12 chancery uses, correct?

13 MR. OBERLANDER: That s a diplomatic use which  
14 includes chanceries and embassies.

15 MR. NETTLER: Okay, and this is not going to be used  
16 for a chancery or an embassy, right?

17 MR. OBERLANDER: That s true.

18 MR. NETTLER: So the D portion of the D-R-3, has  
19 nothing to do with this, does it?

20 MR. OBERLANDER: That s no so because this is, the  
21 area in which this property, the, both lots or one lot, is a D-R-3  
22 which is a mixed-use category.

23 MR. NETTLER: But Mr. Oberlander this isn t a  
24 Foreign Mission Board Zoning Adjustment case, is this?

25 MR. OBERLANDER: No, but it s, the issue here Mr.

1       Nettler is that it s a mixed-use zone, and this property is re-  
2       establishing itself as a mixed-use building.

3                 MR. NETTLER: So this is a mixed-use zone like an SP  
4       Zone is, is that what you re saying?

5                 MR. OBERLANDER: In fact some of the SP Zones, yes,  
6       were a DSP zones as of 1984.

7                 MR. NETTLER: So why does the Applicant need a  
8       special exception to obtain this use that you re saying this zone  
9       has been zoned for?

10                MR. OBERLANDER: No, the, it s not a mixed-use, it s  
11       not the special exception for mixed-use, but rather special  
12       exception for the indicated exceptions which are the, I ve really  
13       forgotten at the moment, roughly --

14                MR. NETTLER: -- because the underlying zone is a  
15       residential zone -- overlay, isn t that correct?

16                MR. OBERLANDER: -- But the music school portion of  
17       the mixed-use requires a special exception from the Board, yes.

18                MR. NETTLER: Okay. Now, since 1960 the property  
19       has been owned by, the two lots have been owned by the  
20       Smithsonian, correct?

21                MR. OBERLANDER: Right, until last year.

22                MR. NETTLER: All right, and the Smithsonian  
23       doesn t, isn t subject to the local zoning --

24                MR. OBERLANDER: Is not subject to the local zoning,  
25       no.

1 MR. NETTLER: Okay. Did you, in your research on  
2 this were you able to uncover between 1958 and 1960, any  
3 certificates of occupancy for this property?

4 MR. OBERLANDER: I did not search for certificates  
5 of occupancies, no.

6 MR. NETTLER: Okay, did you, did you, is that just  
7 for that period or for the period before 1958 also?

8 MR. OBERLANDER: I, as I said, I did not look to see  
9 the certificate of occupancies for this property, at all.

10 MR. NETTLER: Okay, so you re not testifying that  
11 there s any particular grandfathered use here.

12 MR. OBERLANDER: No, but there is a provision in the  
13 regulations exempting historic sites from meeting all of the  
14 certain regulations, including the Zoning Regulations.

15 MR. NETTLER: Really? Where is that provision?

16 MR. OBERLANDER: It s in the, I believe it s in the  
17 Zoning Regulations.

18 MR. NETTLER: There s a Zoning Regulation that says  
19 that a historic site is exempt from the Zoning Regulations?

20 MR. OBERLANDER: No, not from the strict  
21 interpretation of the various standards in the Zoning Regulations.

22 MR. NETTLER: Okay, other than parking what else is  
23 it exempt from under that regulation?

24 MR. OBERLANDER: Well that s the main part of it.

25 MR. NETTLER: Well, it s the main, it is the only

1 one?

2 MR. OBERLANDER: I can t recall at the moment.

3 MR. NETTLER: I have no other questions.

4 CHAIRPERSON REID: Thank you. Okay, Mr. Hitchcock,  
5 why don t we break at this point before you bring your last  
6 witness. It s 6:20 and we ll break until 6:30, okay?

7 MR. HITCHCOCK: Thank you.

8 (Whereupon a short recess was held.)

9 CHAIRPERSON REID: Okay, let s get started.

10 MR. HITCHCOCK: Yes. Madam Chair, a procedural  
11 question at the beginning. May Mr. Oberlander be excused, having  
12 completed testimony?

13 CHAIRPERSON REID: He s, and also he has been cross  
14 examined.

15 MR. HITCHCOCK: Yes.

16 CHAIRPERSON REID: So I don t think that there is  
17 any, unless there is an objection by the opposition. Mr. Nettler?

18 MR. NETTLER: No.

19 CHAIRPERSON REID: All right, then I have no problem  
20 with it. Board Members? Okay.

21 MR. HITCHCOCK: Okay.

22 CHAIRPERSON REID: Then we have no problem with  
23 that.

24 MR. HITCHCOCK: Okay. Our final witness is our  
25 transportation expert who has testified a number of times before

1 this Board previously, Dr. Everett Carter, and I would ask that he  
2 be accepted as an expert on the transportation, traffic, and  
3 parking issues here.

4 CHAIRPERSON REID: Okay. Mr., obviously he has  
5 appeared before us so many times. We know him very well. I don't  
6 think that there would be an objection from any of us. Okay,  
7 please proceed.

8 MR. HITCHCOCK: Okay. And his resume is in the  
9 record as Exhibit 18.

10 CHAIRPERSON REID: Yes.

11 MR. CARTER: For the record my name is Everett  
12 Carter. I reside at 10509 Unity Lane, Potomac, Maryland, 20854.  
13 Tonight I'm going to try to summarize the material that's in the  
14 record and my report. 2306 Mass Avenue is and on Sheridan Circle,  
15 in fact the property abuts Sheridan Circle, it's the only access,  
16 there's no alley.

17 Sheridan Circle has only three legs, most of the  
18 circles have four, five, or sometimes even six legs. So this  
19 circle by definition has fewer points of conflict than most  
20 circles.

21 The circle also controls the traffic to move in a  
22 counterclockwise direction. No left turns are there, and  
23 therefore it improves the safety. As a matter of fact I did a  
24 safety, an accident study of this circle, all the elements of this  
25 circle.

1           There were a total of three accidents per year for  
2 1995, 1996, and 1997. Three of those were injury accidents and  
3 six of them were property damage only, primarily sideswipes and  
4 rear-ends. So there was, it is a very safe, and it s way below  
5 the City average in terms of the accident rates.

6           The data that we collected or had to look into, we  
7 went to the D.C. Department of Public Works, we got a layout of  
8 the Sheridan Circle showing that the roadway width from the  
9 circle, curb, to the property curb is 40 feet, so if you take,  
10 only take three eleven foot lanes that s 33 feet.

11           So it s a very wide lanes in this circle. We have  
12 found some 1984 traffic counts, basically for this circle and I  
13 did do an analysis of those, but it s not included in what you  
14 have, it s been submitted to you this evening and we found the  
15 level of service was somewhat lower or worse than it was when our  
16 accounts we did in 1999, December of 99.

17           We did a traffic study in December of 99, and I  
18 still have the Sheridan Circle. We also did a traffic study and  
19 on Friday from 7:15 to 8:15 that was the highest hour we actually  
20 did it from 7:00 to I think 8:25 when we quit because it was  
21 starting to slack off.

22           And that was done because at the ANC meeting two  
23 nights before on the 9th of February they said Friday nights are  
24 terrible. So we said well let s go out and look at it and we ll  
25 get a traffic study.

1                   What we found I ll get into in a moment. We also  
2 looked at transit service. Very good transit service at this  
3 location. It s been testified it s less than a half a mile from  
4 Dupont Circle, Metro s Train Station.

5                   There are also four Metro Bus Lines, total a 44 of  
6 buses and, from 3:00 to 8:00 p.m., about a seven and a half minute  
7 headway, which is good, very good service. We looked at off-  
8 street parking, and there s nine on the site which meets the  
9 Zoning Requirements and it s in my report on Page 8, the details.

10  
11                   I don t have time to go into all of those right  
12 here. We also have arranged for ten spaces in the Westin Fairfax  
13 Hotel, approximately two blocks away. Home Street we did a  
14 preliminary study in mid-December 99.

15                   We found some limited curb spaces that were vacant  
16 during mid-day. The study on Friday this 11th of February also  
17 included a study of parking, and what we were looking for was how  
18 many vacant spaces we had, and in my report Table 2 shows this by  
19 tour.

20                   A tour was going around all those streets one time,  
21 and I did that about every 20 minutes from about 7:00 to about  
22 8:15 or a little over, and the area I studied was north of the  
23 Circle and from 24th Street to 22nd Street primarily.

24                   The other thing I might mention is the parking  
25 regulations, Section, Title 8, Section 2406 points out the

1 restriction of parking, and the difference between an office  
2 building that is part of an Embassy and a residence.

3 And the office buildings, even though some of the  
4 signs don't have the day, the times on them, it goes from,  
5 typically from 9:00 in the morning on the south side of Sheridan  
6 Circle to 6:30, after 6:30 most parking restrictions are, go off  
7 City-wide.

8 The analysis we did we looked at trip generation,  
9 assuming the worst case which would be half hour lessons for every  
10 student and some students have 45 minute lessons, some have an  
11 hour, a one hour lesson.

12 So this is, that's the worst case. -- we ended up  
13 with a total of 18 drop-offs and 18 pickups per hour. So we  
14 tested this against the capacity and level of service using the  
15 worst case of 18 drop-offs and 18 pick-ups, and we found the level  
16 of service existing traffic which was the traffic count we did,  
17 December 9th, 1999, we found those to be level of service B or  
18 better.

19 A level of service for traffic existing existing  
20 plus the site the levels of service remain unchanged cause we're  
21 only adding 36 trips maximum. And these are very acceptable  
22 levels of service.

23 You'll see Table 1 in my report, and these, it  
24 gives you the details. The thing that I'd like to talk about now  
25 is the queuing. The reason I'm looking at queuing cause this was

1 brought up as a problem.

2 When I was out there the first morning that I met  
3 Mr. Edmonds, at the site, I observed traffic for about 30 minutes  
4 in the morning, from about 7:45 to 8:15 and I saw no back-ups that  
5 morning, none in that half hour period.

6 When I was out there with the students that were  
7 helping me do the counts in the evening, p.m. peak on January the  
8 9th, I m sorry, December 9th, I found very small back-ups when the  
9 signal at P Street, I m sorry, the signal at Florida Avenue and  
10 22nd Street stopped Wisconsin Avenue on three or four occasions,  
11 one or two vehicles came into the Circle.

12 Other than that there were no, there was no queuing  
13 in the Circle. I shouldn t say none, there was a little queuing  
14 westbound, but again it was three or four vehicles typically when  
15 they were held up by the signal at 24th and Mass Avenue.

16 Finally in looking at safety I did look at the  
17 accidents that I mentioned. I also, as a professional am aware of  
18 the safety situation, and parking is such that there are very few  
19 spaces in front of the, in front of or near this site.

20 There s one space immediately to the left as you re  
21 facing the house looking at the house, and that s been addressed.

22 If that is vacant that s the ideal space to use to drop-off and  
23 pick-up. If it s not available you can park across the driveway,  
24 pardon me, stop across the driveway, not park, and let the student  
25 out and immediately pull back into traffic.

1           Finally, I d like to leave some time for my  
2 attorney to ask questions cause I think I ve gone over this pretty  
3 fast realizing we had very little time, and as the proposed Studio  
4 House will not have any significant impact, the numbers of trips  
5 that it generates will have no significant impact on capacity.

6           On parking I did do the parking analysis, as I  
7 said, I mentioned that. What I found was in Table 2, over 30  
8 vehicle spaces were vacant in that place from 24th Street to 22nd  
9 Street from California Street to Decatur Street, all those blocks  
10 in between.

11           I found up to 38 I believe in one tour. So there  
12 was a fair amount of parking on that Friday night. Now whether  
13 that s true of all Friday nights, it s a one night sample. But it  
14 certainly leads me to the conclusion that there is some parking  
15 available.

16           And by encouraging people to park at public garages  
17 and not bother looking I think you can probably not have a  
18 requirement for more than 15 or 20 spaces when you have these  
19 events.

20           And with that I would like to recommend that this  
21 application be approved because I have not found from a  
22 transportation standpoint any great problems. Thank you very  
23 much. I d be happy to answer questions of the Board, but from my  
24 attorney first, please.

25           MR. HITCHCOCK: I have several follow-up questions.

1 With respect to the parking, Dr. Carter, are you referring to the  
2 chart that s the very last exhibit, --

3 MR. CARTER: Yeah.

4 MR. HITCHCOCK: -- the last page on Exhibit 14. For  
5 clarification this was to replicate available on-street parking  
6 during the Friday night recitals. These were valid legal parking  
7 spaces these that you found?

8 MR. CARTER: Yes, they were. Quite a few of  
9 neighborhood parking.

10 MR. HITCHCOCK: Uh-huh. And they were, I, okay.

11 MR. CARTER: But it s after 7:00 o clock. So you  
12 could park there for two hours and then the restriction is off.

13 MR. HITCHCOCK: Okay. Did you provide a copy of  
14 your preliminary report to the Department of Public Works back in  
15 January?

16 MR. CARTER: Yes, I did.

17 MR. HITCHCOCK: And talk with the staff at the time?

18 MR. CARTER: I talked to the Staff some time in  
19 January, I don t remember the date.

20 MR. HITCHCOCK: Okay, okay. You saw earlier the  
21 videotape Mr. Edmonds narrated showing the eastbound flow of  
22 traffic past Studio House at 3:30 to 4:00, did you not?

23 MR. CARTER: Yes, I did.

24 MR. HITCHCOCK: And you, your survey of peak hour  
25 traffic was between 5:00 and 6:00 also, on a Thursday, was it not?

1 MR. CARTER: Yes, it was also on a Thursday.

2 MR. HITCHCOCK: Was the level of eastbound traffic  
3 heading towards downtown past Studio House at 5:00 and 6:00 the  
4 same, significantly more, significantly less than what you saw on  
5 the videotape if you can venture an opinion?

6 MR. CARTER: Oh, it was somewhat more, but not, it  
7 wasn't double, no where near double.

8 MR. HITCHCOCK: And it would not, and it does not  
9 affect your conclusion that the level of service during peak hour  
10 was still B or better?

11 MR. CARTER: That's what we found from our data.

12 MR. HITCHCOCK: Okay. Have you had occasion in the  
13 least year or so to examine traffic conditions at any other  
14 circles in Washington D.C.?

15 MR. CARTER: Yes, I have.

16 MR. HITCHCOCK: Could you describe what that circle  
17 was and what your findings were?

18 MR. CARTER: Washington Circle, and I found that in  
19 the morning peak, 23 Street backed up all the way to I Street. A  
20 very serious queuing problem and the level of service -- at the  
21 circle.

22 MR. HITCHCOCK: And you testified on, before the  
23 Board in that case to that effect.

24 MR. CARTER: Yes, I did. That was the George  
25 Washington Hospital, replacement hospital.

1 MR. HITCHCOCK: Okay. One or two other questions.  
2 The videotape showed the Jersey Wall I think in front of the  
3 Turkish Embassy and just to clarify your understanding that pick-  
4 up and drop-off will occur behind, or to the west of the Jersey  
5 Wall

6 MR. CARTER: That s my understanding of the plan.

7 MR. HITCHCOCK: Right. So there is unimpeded  
8 access, or access is not impeded by the Jersey Wall in terms of  
9 children getting to, out of cars or into cars?

10 MR. CARTER: No, it should not be.

11 MR. HITCHCOCK: Okay. And with respect to the  
12 recitals you surveyed the Friday evening situation, did you, do  
13 you have an opinion with respect to the likelihood of congestion  
14 on a Sunday afternoon?

15 MR. CARTER: Yes, I do. I ve been to, oh, half a  
16 dozen Embassy events, in this vicinity on Sundays and I ve never  
17 had a problem finding parking on the street.

18 MR. HITCHCOCK: Okay, I have no further questions,  
19 and will leave it to the Board for questions at this point.

20 CHAIRPERSON REID: Thank you. Board Members, do you  
21 have questions?

22 COMMISSIONER HOOD: Madam Chair, I just have a  
23 situation I m trying to, I would want to put in front of either  
24 Mr. Carter or Mr. Hitchcock, you can direct it to whoever. My,  
25 one of my concerns, if all the parking space on site, I believe we

1 said there are eight plus the other piece there, I think it s a  
2 total of nine, am I correct? Okay.

3 Is it first then, for example, if the first person  
4 gets in all, fills the capacity and the first person wants to come  
5 out, is there any room for them to maneuver, some room to maneuver  
6 to get out or does everybody have to move to get the first car  
7 out?

8 MR. EDMONDS: I tried to show in the video that in  
9 fact there would be ability to leave if two cars were moved.  
10 There would have, but to answer your question directly two cars  
11 would have to be moved out in order to allow anybody to get out.

12 And we feel that that s very --

13 COMMISSIONER HOOD: Okay, so if I m the first car  
14 in, and I m trying to capture, recapture what I saw. I m the  
15 first car and I m parked all the way to my right, if I m going in  
16 to the right.

17 MR. EDMONDS: Correct.

18 COMMISSIONER HOOD: You would only have to move two  
19 cars to get out?

20 MR. EDMONDS: To allow you to get out, that s  
21 correct.

22 COMMISSIONER HOOD: Okay, now, in your traffic study  
23 Mr. Carter, did you allow for that because you, those cars are  
24 going to either back into the Circle or are going to have to go  
25 around the block. I just see mass confusion.

1 MR. CARTER: If there s two cars it could be about  
2 the same as two cars that have just dropped off a student three  
3 minutes apart, and so it would be very little difference from  
4 that. The backing out, if they back out there s a curb space  
5 there they can back out into the, into that.

6 And the width of the roadway there is 40 feet from  
7 between the two curbs, so you can back out and still have room for  
8 two lanes without any problem. I mean I m not saying you ll never  
9 have an accident but there s room to avoid accidents.

10 And essentially the first car would go around the  
11 block, go around the Circle, I assume, unless they didn t, if they  
12 wanted to come back.

13 MR. HITCHCOCK: Mr. Hood if I, I m sorry. If I may,  
14 if I could direct your attention to the layout on the very last  
15 page of the pre-hearing statement we filed two weeks ago. And I  
16 think that may answer the question. You will note according to  
17 there and this will recap some of Mr. Edmonds s testimony, Cars  
18 No. 1 and No. 9 are somewhat close.

19 Do you have it?

20 COMMISSIONER HOOD: So what you re saying is when  
21 you back the car out, you re going to be, over enough to the point  
22 where it won t, you ll still have two lanes of traffic.

23 MR. CARTER: Yes.

24 MR. HITCHCOCK: Uh-huh.

25 COMMISSIONER HOOD: Now, I said, I noticed also in

1 the film, and forgive me cause that s been about three hours ago,  
2 but I noticed on the film that when you backed out those spots  
3 were empty. Is that a no parking area?

4 MR. CARTER: There is one section of no parking  
5 there, yes, as I recall.

6 COMMISSIONER HOOD: On the same side of the curb  
7 where you back out on that side, is that a, I notice it was  
8 conveniently weren t any cars parked there, is that a no parking  
9 area?

10 MR. HITCHCOCK: Yes. It is no parking, it is right

11 --

12 MR. NETTLER: The questions are being directed to  
13 Mr. Carter. Mr. Hitchcock --

14 MR. HITCHCOCK: I m sorry. --

15 COMMISSIONER HOOD: Well what I did, let me just  
16 state for the record what I asked. I asked to give them to Mr.  
17 Carter, but the thing was I also asked Mr. Hitchcock to direct it  
18 to who he needed to direct them to.

19 So I think they are satisfying what I needed to  
20 here. Okay, but I m not clear. Is that a no parking?

21 MR. HITCHCOCK: That is correct because it is next  
22 to the Korean Embassy as Dr. Carter will now demonstrate.

23 MR. CARTER: Yeah, there s a sign that says no  
24 parking anytime.

25 COMMISSIONER HOOD: No parking anytime.

1 MR. CARTER: Anytime. It doesn't say no stopping,  
2 it says no parking.

3 COMMISSIONER HOOD: Okay, no further questions Madam  
4 Chair, at this time.

5 VICE CHAIR SOCKWELL: Mr. Carter.

6 MR. CARTER: Yes, I'm sorry Mr. Sockwell.

7 VICE CHAIR SOCKWELL: I'm sorry, I have two  
8 questions. One, you stated that you did a survey of available on-  
9 street parking in the general vicinity of the building.

10 MR. CARTER: Yes, I did.

11 VICE CHAIR SOCKWELL: And you said that you found up  
12 to 38 cars, but perhaps an average of about 30 cars during the  
13 times that you checked. 30 spaces.

14 MR. CARTER: I'm sorry?

15 VICE CHAIR SOCKWELL: You said you found up to 38  
16 spaces on one observance and an average of 30 spaces in the  
17 neighborhood, is that what you said?

18 MR. CARTER: No.

19 VICE CHAIR SOCKWELL: What did you say?

20 MR. CARTER: I said I found up to 38 and every tour  
21 that I made I drive around and note the number of spaces in each  
22 block.

23 VICE CHAIR SOCKWELL: Uh-huh.

24 MR. CARTER: And no time did I find under 30. 32  
25 was I think the lowest.

1 VICE CHAIR SOCKWELL: All right. Let me ask you  
2 this question in relation to that question. Was this parking  
3 subject to residential parking?

4 MR. CARTER: Yes.

5 VICE CHAIR SOCKWELL: Were there, so there were  
6 signs that would say Zone X parking two hours unless sticker, et  
7 cetera, so, and the time frame for residential parking is  
8 generally up to 6:30 p.m. or 8:30 or what?

9 MR. CARTER: It goes up to 8:00 or 8:30, one of the  
10 two.

11 VICE CHAIR SOCKWELL: All right, so there would be a  
12 limitation on the availability of that street parking during most  
13 of the operational hours of this facility?

14 MR. CARTER: Yes.

15 VICE CHAIR SOCKWELL: All right.

16 MR. CARTER: The reason I looked at this was the ANC  
17 said Friday night is horrible, you can't find parking, there's a  
18 lot of queuing. So I was looking at Friday night which coincided  
19 with the 7:00 to 9:00 Friday night recitals.

20 VICE CHAIR SOCKWELL: Uh-huh.

21 MR. CARTER: So it was, it seemed to fit what we  
22 wanted to find out. So on a typical Friday night, if, I don't  
23 know if this is typical, but the one I studied there was parking.

24 VICE CHAIR SOCKWELL: Uh-huh.

25 MR. CARTER: Now the neighborhood parking was in

1 effect, but is in effect if you parked up, let s say 6:30, then  
2 you could stay parked until 8:30 legally but the band goes off --

3 VICE CHAIR SOCKWELL: Uh-huh. After the --

4 MR. CARTER: -- you could remained parked.

5 VICE CHAIR SOCKWELL: Uh-huh.

6 MR. CARTER: And the other part is it wasn t all  
7 residential. Some of it was diplomat parking --

8 VICE CHAIR SOCKWELL: Uh-huh.

9 MR. CARTER: -- that went off at 6:30.

10 VICE CHAIR SOCKWELL: All right, but in accordance  
11 with, where is that chart? I just want to look at the operational  
12 times. Lesson schedule 3:00 to 8:00, 7:00 to 9:00, the question  
13 would be whether or not on weekdays the parking would be available  
14 during the times that people would need to be parked.

15 MR. CARTER: Well.

16 VICE CHAIR SOCKWELL: If there is a need for  
17 significant overflow. Now 30 spaces of course would be more  
18 recital oriented than lesson oriented.

19 MR. CARTER: Right.

20 VICE CHAIR SOCKWELL: And the question would be to  
21 you if you feel that there s adequate availability of parking for  
22 the times that instructors primarily instructors and parents would  
23 use this facility.

24 MR. CARTER: Well it s anticipated that they  
25 wouldn t be looking for street parking. But I m sure human

1 nature, a few of them might look for street parking.

2 VICE CHAIR SOCKWELL: Well there would be  
3 circumstances where there would be recitals, and I think we've  
4 established that there might be as many as two individuals per  
5 student attending a recital, which puts a particular parking  
6 demand on the facility, and I'm just asking a question if that  
7 parking demand would be absorbed by adequate parking for the  
8 duration of such recitals.

9 And I don't know that we ever discussed the  
10 duration of such recitals.

11 MR. CARTER: Two hours.

12 VICE CHAIR SOCKWELL: Two hours.

13 MR. CARTER: Yes.

14 VICE CHAIR SOCKWELL: Okay, so --

15 MR. CARTER: And the Friday night and Sunday  
16 afternoon.

17 VICE CHAIR SOCKWELL: Uh-huh.

18 MR. CARTER: So the weekdays except Friday there  
19 would not be any recital.

20 VICE CHAIR SOCKWELL: So Friday night could be  
21 impacted by a two hour restriction.

22 MR. CARTER: Right.

23 VICE CHAIR SOCKWELL: On parking, given the fact  
24 that people need to arrive in time to establish themselves in a  
25 recital room.

1 MR. CARTER: Right.

2 VICE CHAIR SOCKWELL: And should have enough time to  
3 basically mill around afterwards congratulating and discussion the  
4 issues. The other question is, I had a second question and I  
5 think I didn't finish writing it down so I may have to back away  
6 from that second question.

7 CHAIRPERSON REID: All right Mr. Sockwell if it  
8 comes back to you obviously you can ask later, I think perhaps  
9 when they have the closing remarks. Mr. Nettler?

10 COMMISSIONER HOOD: Madam Chair, could I just ask  
11 one other question? Mr. Carter, I notice in your report, and I  
12 believe it was your report, where you said there's more adequate  
13 parking two or three blocks away? Did I read that in your report?

14 MR. CARTER: Uh.

15 COMMISSIONER HOOD: I read it somewhere, I'm just  
16 not sure where.

17 CHAIRPERSON REID: Yeah, the chart that shows  
18 parking spaces and how far away they were.

19 COMMISSIONER HOOD: Right, it was a statement that  
20 said, I think I read a statement in the submission that said two  
21 or three blocks away.

22 MR. HITCHCOCK: If I may respond I would cite Mr.  
23 Hood Exhibit 15 which is the letter from the Westin Fairfax  
24 wherein they advised that they will make available ten spaces  
25 during the recital times on Friday evening and Sunday afternoon.

1                   Again, the recitals will not be held at the same  
2 time of the lessons, so, in addition to the nine spaces on site,  
3 this letter confirms that there will be ten additional spaces that  
4 the Edmonds will pay for out of their own pocket.

5                   And that s what, I believe, is that what you were  
6 referring to Dr. Carter?

7                   MR. CARTER: Yes.

8                   COMMISSIONER HOOD: Okay. And also the, is that the  
9 same thing in relation to the 35 spaces that you spoke to earlier?

10                  I m sorry, what s your name? I m sorry.

11                  MR. EDMONDS: My name is Jim, Jim Edmonds.

12                  COMMISSIONER HOOD: Mr. Edmonds.

13                  MR. EDMONDS: That would be in addition to the 32,  
14 38 spaces which Mr. Carter found.

15                  COMMISSIONER HOOD: Okay. Thank you.

16                  MR. EDMONDS: Just one contributing point is that  
17 our experience shows that there s less than two, no more than two  
18 per student, generally, the same thing applies to recitals.

19                  CHAIRPERSON REID: All right, Mr. Nettler? You want  
20 Mr. Turner first, okay.

21                  MR. TURNER: Regarding the backing out of the  
22 driveway, you indicated that there was a no parking zone that you  
23 could back into. Is there not in fact Embassy parking out on the  
24 curb lane that you would be backing into?

25                  MR. CARTER: I don t remember without looking. Do

1 you want me to look?

2 (Pause.)

3 No the Embassy space is further down from the no  
4 parking zone. I m sorry, there s diplomat parking after 7:00 in  
5 the morning, after I m sorry, after 9:00 in the morning, as well  
6 as 7:00 at night I believe or 6:30, 6:30 at night.

7 MR. TURNER: So in fact the space that you would be  
8 backing into would be parking spaces?

9 MR. CARTER: No, the, immediately there s no parking  
10 any time.

11 MR. TURNER: Is that not the Korean driveway that  
12 you re backing into?

13 MR. CARTER: No.

14 MR. TURNER: Backing in front of?

15 MR. CARTER: No. I m sorry, that is a little  
16 further away, no parking.

17 MR. TURNER: You, so would you not in fact be  
18 parked, backing in front of the Korean driveway?

19 MR. CARTER: It depends on the size of the car. If  
20 you back out, you might go all the way on to part of the back  
21 bumper maybe in the driveway, but you shouldn t have the whole car  
22 that far out.

23 MR. TURNER: What is the distance from the Edmonds  
24 driveway to the Korean driveway?

25 MR. CARTER: This is, if these are the two driveways

1 --

2 MR. TURNER: Is it not less than the length of a  
3 car? Would you not in fact be pulling back in front of the Korean  
4 driveway?

5 MR. CARTER: This is a one inch equals 30 feet. It  
6 looks like it s about ten feet or maybe 12 feet.

7 MR. TURNER: So your answer is it s 10 feet. So how  
8 long is, how long is a car?

9 MR. CARTER: About 16 feet.

10 MR. TURNER: So you would in fact be pulling back in  
11 front of the Korean driveway.

12 MR. CARTER: Well that s what I said, i said the  
13 back bumper may go into the driveway a little bit, but not the  
14 whole car.

15 MR. TURNER: Thank you.

16 CHAIRPERSON REID: Thank you. -- Oh, okay.

17 VICE CHAIR SOCKWELL: Mr. Carter, I m in front of  
18 you, sir.

19 MR. CARTER: I m sorry.

20 VICE CHAIR SOCKWELL: I m over here. I m sorry. I  
21 did remember my particular question, and that is with regard to  
22 the backing out, and actually this question should be asked of the  
23 Applicant, but I have a question for Mr. Carter, and that is it is  
24 consistent with most pulling in and pulling out of driveways that  
25 might cross in front of other driveways.

1                   It would be consistent to assume that one would  
2 cross an adjacent driveway in any vehicle movement if the two  
3 driveways are close together.

4                   MR. CARTER: That is correct, sir.

5                   VICE CHAIR SOCKWELL: The same with pulling into and  
6 out of alleys that are next to entrance driveways, you have to  
7 cross the front of that driveway.

8                   MR. CARTER: Of course.

9                   VICE CHAIR SOCKWELL: Thank you. And for the  
10 Applicant, my question is, you suggested that there would be  
11 employed at the premises an individual to act as a security person  
12 and one to assist with those people disembarking and or lighting  
13 and getting back into cars to reduce the time period that students  
14 would spend getting into and out of any car that pulled up in  
15 front of the facility.

16                   You said that that person would be employed.

17                   MR. EDMONDS: That s correct.

18                   VICE CHAIR SOCKWELL: Could not that same person be  
19 expected to assist with the backing of vehicles out of the parking  
20 lot or is that not something that has been considered?

21                   MR. EDMONDS: No, precisely. Indeed Mr. Sockwell,  
22 we had, I thought I had mentioned that in fact this would be a  
23 security/attendant position.

24                   VICE CHAIR SOCKWELL: Right, but you didn t mention  
25 the parking lot at all and that, you mentioned specifically the

1 dropping off and picking up of students.

2 MR. EDMONDS: But you are correct, yes, we would  
3 indeed have that person on 100 percent of the time that lessons  
4 and recitals are going on, and that person could be utilized to  
5 assist in backing out of the driveway.

6 VICE CHAIR SOCKWELL: All right, thank you.

7 CHAIRPERSON REID: Mr. Nettler?

8 MR. NETTLER: Yes, thank you.

9 (Pause.)

10 Professor Cater, you were asked, I think it was  
11 towards the end of the questions that Mr. Hitchcock asked you  
12 about your testimony about another circle, and that was in the  
13 George Washington University Hospital Case.

14 MR. CARTER: That s correct.

15 MR. NETTLER: The Board didn t accept your testimony  
16 in that case, did it?

17 MR. CARTER: I don t know what you mean by they  
18 didn t accept --

19 MR. NETTLER: Well they didn t agree with you that  
20 your conclusion in that case that I believe that the use that the  
21 special exception was being saw would have an adverse impact, did  
22 they?

23 MR. CARTER: Well they approved the Hospital if  
24 that s what you mean.

25 VICE CHAIR SOCKWELL: If I might interrupt and I

1 apologize, Mr. Nettler, I don't, we didn't accept the relevance of  
2 non or unrelated circumstances, i.e. a circle or a building or a  
3 location that's not germane to this particular location.

4 And I really don't think that we should bring  
5 another circle into the case or we will be going around in  
6 circles.

7 CHAIRPERSON REID: No another case --

8 MR. NETTLER: I absolutely agree, it goes to the, --

9 VICE CHAIR SOCKWELL: But it's another circle and  
10 it's another case.

11 MR. NETTLER: I think it was offered more, I hope it  
12 was offered more in terms of the credibility of the testimony  
13 given with regard to the findings in any particular --

14 VICE CHAIR SOCKWELL: Unfortunately I don't have  
15 access to that testimony and would not be able to confirm or deny  
16 whether or not it was credible.

17 MR. HITCHCOCK: If I may respond, we heard at the  
18 ANC meeting some individuals who testified that Sheridan Circle is  
19 the worst circle for traffic in the City, and anticipating that  
20 that may come from some future witness I asked Dr. Carter the  
21 question for that reason.

22 MR. NETTLER: Well actually Dr. Carter if it was, if  
23 the calculations that you made for this case, and your studies are  
24 incorrect, would that undermine the position you've taken with  
25 regard to the impact that this has on the neighborhood, the

1 traffic studies that you did? If those studies are incorrect?

2 MR. CARTER: Not really because 36 trips worst case  
3 and a better case you may only have 25 trips. 25 trips an hour is  
4 not much of an impact when you distribute them in different  
5 directions, you're talking about 12 trips and if it's 25, 12 trips  
6 is not going to change much.

7 MR. NETTLER: But if your, not with regard to the  
8 number of trips coming to the premises, but with regard to the  
9 usage of that circle by the, by other vehicles, if that usage was  
10 incorrect, wouldn't that have an impact on your own analysis with  
11 regard to the ability of whether it's the dropping off, whether  
12 it's the parking, whether anything else related to this particular  
13 use, wouldn't it have an impact on those findings that are made by  
14 you?

15 MR. CARTER: That's a different question. The  
16 question you asked, would it have a difference, make a difference  
17 on my conclusions. It would not make a difference on my  
18 conclusions about the impact, but yes, if it, it would require a  
19 new analysis, which if I have different numbers it's going to be  
20 different, of course.

21 MR. NETTLER: Okay, well we'll get to that in a  
22 second then. Let me just ask you one other question about the  
23 Friday that you visited to see how many parking spaces there were  
24 on a Friday night. That was the Friday before the President's Day  
25 weekend, wasn't it?

1 MR. CARTER: I m not sure.

2 MR. NETTLER: You re not sure. Do you remember the  
3 date?

4 MR. CARTER: Yeah, the 11th. February 11th.

5 MR. NETTLER: And that Monday was it not President s Day?

6 VICE CHAIR SOCKWELL: It was the next week.

7 MR. NETTLER: The next week, all right.

8 MR. CARTER: The following week.

9 VICE CHAIR SOCKWELL: The 19th and 20th.

10 MR. NETTLER: The, let s look at your findings.  
11 Let s go each one of them on your first analysis that was done in  
12 December. In your Exhibit No. 2 to your report, where you looked  
13 at the peak hour from Sheridan Circle in 1999. Excuse me.

14 (Pause.)

15 Bear with me a second. Okay. You have this as  
16 Exhibit 2, you have that in front of you? Your Vehicle Turning  
17 Movements at Sheridan Circle 1999 Peak, P.M. Peak Hour?

18 MR. CARTER: Yes. Yes, I do.

19 MR. NETTLER: Okay. Now this p.m. peak hour was  
20 what time?

21 MR. CARTER: I think in our case it was 5:15 to  
22 6:15. I m not, I don t remember right off hand without looking it  
23 up.

24 MR. NETTLER: You don t remember what, you don t  
25 remember.

1 MR. CARTER: I don t remember the exact but it was  
2 5:00 to 6:00 or 5:15 to 6:15.

3 MR. NETTLER: Okay, now you have in this particular  
4 exhibit, if you look at the bottom of the exhibit where you have  
5 traffic coming off of Massachusetts Avenue to the Circle, and you  
6 have traffic coming around the Circle, you have 870 cars going,  
7 coming off of Massachusetts Avenue, correct?

8 MR. CARTER: Yes.

9 MR. NETTLER: And 14 cars coming around the circle.  
10 All right?

11 MR. CARTER: Yes.

12 MR. NETTLER: So that s a total of 844 cars after  
13 you come to the point where they intersect, correct?

14 MR. CARTER: No it s 884.

15 MR. NETTLER: 884, excuse me, 884, correct?

16 MR. CARTER: Yes.

17 MR. NETTLER: Okay. Then if you take, going around  
18 the Circle up to your, doing a counterclockwise up to where it  
19 gets to 23rd Street, you have 251 cars going off to 23rd Street  
20 and 986 cars going further around the Circle. That adds up to  
21 1237 cars, correct?

22 MR. CARTER: Right.

23 CHAIRPERSON REID: Excuse me, Mr. Nettler, where are  
24 you?

25 MR. NETTLER: This is Exhibit 2 of the Traffic

1 Report that was filed with the, I believe this is a pre-hearing  
2 statement or the application.

3 MR. HITCHCOCK: It s Exhibit 8 of our December  
4 submission if that will please help Madam Chair.

5 MR. NETTLER: That adds up to 1237 cars, doesn t it?

6 MR. CARTER: Yes.

7 MR. NETTLER: Okay, what happened to the other 400  
8 cars?

9 MR. CARTER: I don t know.

10 MR. NETTLER: You don t know.

11 MR. CARTER: That s some --

12 MR. NETTLER: Did they go into the Alice Pike Barney  
13 Studio House?

14 MR. CARTER: No. We had three different people  
15 counting, and I m not sure what happened.

16 MR. NETTLER: So you, so these figures could be  
17 completely wrong.

18 MR. CARTER: Not completely wrong it s --

19 MR. NETTLER: Well some, one figure is right, but  
20 another figure is wrong.

21 MR. CARTER: That s what I would guess.

22 CHAIRPERSON REID: What page?

23 MR. HITCHCOCK: Page 4.

24 CHAIRPERSON REID: Because --

25 VICE CHAIR SOCKWELL: I got it.

1 MR. NETTLER: But the figures don t add up, do they?

2 MR. CARTER: No, they don t.

3 MR. NETTLER: Okay. Tell me whether these took into  
4 account the, what would happen when the Bridge would be, with the  
5 Bridge either being opened or closed? What are these figures  
6 based on?

7 MR. CARTER: These are actual counts.

8 MR. NETTLER: Right, and what would happen with the  
9 Bridge, if the situation changed with regard to the Bridge that s  
10 closed now.

11 MR. CARTER: Well the best thing I can do is I did  
12 an analysis of the only data I had which was 1984, which I  
13 provided to you earlier this evening.

14 MR. NETTLER: Okay, let s look at that 1984  
15 analysis, okay?

16 MR. CARTER: Okay.

17 MR. NETTLER: That, I believe was submitted to the  
18 Board this evening.

19 MR. CARTER: This evening.

20 MR. NETTLER: That has, it says Exhibit 6 Vehicle  
21 Turning Movements at Sheridan Circle, 1984, P.M. Peak Hour. Now  
22 that is with the Bridge being open? Is that correct?

23 MR. CARTER: Yes, both P and Q were open at that  
24 time.

25 MR. NETTLER: Okay, so this has 1,330, if you look

1 at the bottom of the exhibit, 1,331 trips coming off of  
2 Massachusetts Avenue and 347 trips coming around the Circle as  
3 opposed to 14 trips coming around the Circle. That s about what,  
4 are you, 90 percent of that figure, would you say?

5 MR. CARTER: I m sorry.

6 MR. NETTLER: Well your 884 figure is what  
7 percentage of the figure that would actually come around that  
8 Circle when the Bridge gets open?

9 MR. CARTER: I don t know, I m not sure what you  
10 mean.

11 MR. NETTLER: Okay, you re at 844 trips, they re at  
12 13, they re at, what is that, 1,678 trips.

13 MR. CARTER: Right.

14 MR. NETTLER: So it would be 1,678 trips coming  
15 around the Circle when the Bridge gets opened, at least based on  
16 1984 times, which may of course be different now, but at least  
17 based on 1984?

18 MR. CARTER: Yeah, I believe they could be  
19 different, that was, that s one reason I did this late because 84  
20 is old and I didn t feel comfortable using old data.

21 MR. NETTLER: So you used data that doesn t actually  
22 match, does it? The 884 trips coming around the Circle and the  
23 1,237 that seem to be going further around that Circle. So you  
24 thought that was more reliable than the figures that were done by  
25 DPW back in 1984?

1 MR. CARTER: Well, yes, I did.

2 MR. NETTLER: Okay. And then you did a further  
3 study.

4 MR. CARTER: Did you look at the level of service on  
5 this?

6 MR. NETTLER: Let me just ask you further. You  
7 looked, then you did a further study in February of the same area,  
8 and if you can, now this is getting to the pre-hearing statement.  
9 And this is Exhibit 5, Friday Evening Vehicle Turning Movements  
10 at Sheridan Circle 7:15 through 8:15.

11 MR. CARTER: Uh-huh.

12 MR. NETTLER: That, is that s a different period  
13 than the time period you did for your 1999?

14 MR. CARTER: This is 19, yeah it s 2000, sorry. Yes,  
15 it s a seven to, 7:15 to 8:15.

16 MR. NETTLER: Okay, and correct me if I m wrong, but  
17 now you have more trips coming around the Circle then you did at  
18 your --

19 VICE CHAIR SOCKWELL: Mr. Nettler would you help us  
20 out by just referring to the page numbers that you are in as you  
21 flip back and forth. It s a little bit difficult to follow you.

22 MR. NETTLER: Page 7 of the --

23 MR. CARTER: Excuse me. Mr. Sockwell --

24 VICE CHAIR SOCKWELL: Yes.

25 MR. CARTER: It was submitted this afternoon.

1 VICE CHAIR SOCKWELL: Okay.

2 MR. CARTER: So it s a --

3 VICE CHAIR SOCKWELL: Oh, all right, so it s not  
4 those --

5 MR. CARTER: It s Figure 6.

6 VICE CHAIR SOCKWELL: All right, got it. Okay. I m  
7 back in --

8 MR. NETTLER: And it s Exhibit B, Appendix B, Pages,  
9 actually it s much easier to look at Pages 6 and 7 to look at the  
10 --

11 MR. CARTER: I m sorry.

12 MR. NETTLER: -- differences between 19, excuse me,  
13 Pages 2 and 7, to look at the differences between what supposedly  
14 was the count in 1999 and what is supposedly the count on February  
15 11th, 2000.

16 (Pause.)

17 VICE CHAIR SOCKWELL: Two and seven, got it, okay.

18 MR. NETTLER: Okay. Now on, in, so in, on February  
19 11th, 2000, you re using a later time period than you were using  
20 on, in 1999, yet you re coming up with more trips coming around  
21 the Circle than you had during the supposed rush hour in 1999,  
22 correct?

23 MR. CARTER: Yes, a few more.

24 MR. NETTLER: Well, 64 as opposed to 14, correct?

25 MR. CARTER: Right.

1 MR. NETTLER: But you still have a discrepancy if  
2 you add them up between what s coming into the Circle and what s  
3 going around the Circle, do you see that?

4 MR. CARTER: Yeah, you ve got about a --

5 MR. NETTLER: So you still don t have an explanation  
6 for that discrepancy either?

7 MR. CARTER: My explanation would be that the  
8 students who were doing the counting didn t synchronize their  
9 watches and so we had a surge of traffic that was picked up in one  
10 time period that s on the verge of the 15 minutes or the hour.

11 I mean that s the only thing I can --

12 MR. NETTLER: Okay, but these are figures that  
13 you re relying upon, are they not?

14 MR. CARTER: Yes, they are.

15 MR. NETTLER: Okay, so we really can t blame the  
16 students. These are things that --

17 MR. CARTER: No, no, I m saying that s the very  
18 possible explanation.

19 MR. NETTLER: Okay. Well let s take the 7:00  
20 o clock time for when these recitals start. Okay? People aren t  
21 going to start looking for parking around 7:00 o clock. At 7:00  
22 o clock. They re going to be looking for parking before 7:00  
23 o clock, correct?

24 MR. CARTER: That s correct.

25 MR. NETTLER: Okay, did you do an analysis of the

1 availability of parking before that time period?

2 MR. CARTER: I started about five minutes before  
3 7:00.

4 MR. NETTLER: Five minutes to 7:00. Isn't it more  
5 reasonable that people would be looking for parking before five  
6 minutes to the time when the recital is supposed to begin?

7 MR. CARTER: Yes, but this was, the purpose of that  
8 was primarily to find out whether there was a real parking problem  
9 on Friday evenings, which was told to us by the ANC at their  
10 meeting two nights before.

11 MR. NETTLER: Okay, and I guess getting back to the  
12 question that Mr. Sockwell asked you, then you then, to determine  
13 that there was a parking problem, you were relying on spaces that  
14 actually couldn't be used by people who were coming to this site,  
15 because they are residential parking spaces, isn't that correct?

16 MR. CARTER: They're legal spaces after 6:30.

17 MR. NETTLER: But for residents in the area.

18 MR. CARTER: For two hours or more.

19 MR. HITCHCOCK: I'm going to object to the question,  
20 it contains an assumption that people would be coming from  
21 elsewhere when that may not be the case.

22 MR. NETTLER: Well we're talking about driving to  
23 here, we're not talking about people walking. We're just focused  
24 now on the driving people coming to this site. I don't know what

25 --

1 CHAIRPERSON REID: Just let me respond to this  
2 objection please. The, let me understand, is your objection is  
3 because the assumption is made about where the people were coming  
4 from?

5 MR. HITCHCOCK: Yes, and the question dealt with the  
6 residential parking spaces. I think it may have been addressed  
7 before that to the extent parking restrictions end at 6:30, it may  
8 not be an issue to the extent they end at 8:30.

9 Somebody arriving between 6:30 and 7:00 would not  
10 be affected either, so.

11 CHAIRPERSON REID: All right, let me, before, Mr.  
12 Nettler, where are you going with this?

13 MR. NETTLER: Well I m trying to show that the  
14 parking, that parking and traffic analysis is not credible. It s  
15 based on, first of all it s based on assumptions of his students  
16 that don t match, that don t, match.

17 Second it s based on assumptions regarding  
18 available parking that aren t accurate.

19 CHAIRPERSON REID: And then, go ahead, and your last  
20 question was in regard to the origin of the people who were  
21 parking.

22 MR. NETTLER: I was then going to get into that,  
23 that s correct. I haven t --

24 CHAIRPERSON REID: Okay, now that, that, I would  
25 agree is not something that you, you re speculating.

1 MR. NETTLER: Well he s the traffic expert.

2 CHAIRPERSON REID: And then he can t tell you where,  
3 I mean, where the parkers originated.

4 MR. NETTLER: No, I m asking him, well, he can or  
5 can not testify as to whether he s been told where most of the  
6 people who are coming to these recitals are coming from. I can or  
7 could not ask that.

8 CHAIRPERSON REID: Yeah, but I think that the point  
9 that s being objected to is it s hard to ascertain what cars are  
10 those cars that are for the people coming to the concert and what  
11 cars are for people going elsewhere in the, you know, the shops or  
12 the --

13 MR. NETTLER: Well he s already made, has testimony  
14 --

15 CHAIRPERSON REID: -- dining or whatever, or people  
16 who live there.

17 VICE CHAIR SOCKWELL: Madam, Madam Chair, excuse me.  
18 I do believe that some of the questions being directed at Mr.  
19 Carter are going to be relevant to Mr. Carter s understanding of  
20 what the Applicant had intended or proposed or what the  
21 Applicant s assertions were to Mr. Carter with regard to the  
22 origin of students and teachers and recital participants based on  
23 the assumption that the Applicant had some idea of how these  
24 things were attended in his Virginia location.

25 As well it would be to the Applicant s interest to

1 be able to at least express in terms of the fact that this is a  
2 District of Columbia facility, is it intended to cater primarily  
3 to District of Columbia people?

4 Is it intended to cater primarily to the  
5 neighborhood? But those are things that may have been given to  
6 Mr. Carter as marching orders, they may not have been. Maybe Mr.  
7 Carter s analysis is based primarily on existing 1984 data and  
8 limited and hypothetical data that has been produced with the  
9 assistance of students whose supervision might not have been as  
10 tight as it needed to be.

11 But those are things that we have to get to.

12 CHAIRPERSON REID: Okay Mr. Sockwell what s your  
13 point?

14 VICE CHAIR SOCKWELL: My point is that I m not sure  
15 that Mr. Carter can answer the questions without assistance.

16 CHAIRPERSON REID: From the Applicant?

17 VICE CHAIR SOCKWELL: From the Applicant.

18 CHAIRPERSON REID: Okay.

19 MR. NETTLER: I would like to ask Mr. Carter first  
20 whether he was given the information then.

21 CHAIRPERSON REID: Okay.

22 MR. NETTLER: Were you given information by the  
23 Edmonds as to the makeup of the student body where they would be  
24 coming from or, or the makeup of the people who d be coming to the  
25 recitals?

1 MR. CARTER: Yes. We, this was discussed, and  
2 basically he felt he would be serving the entire City of  
3 Washington D.C. However, it would probably serve more people from  
4 the neighborhood somewhere between the Levine School to the north  
5 and maybe some other school to the south, and be serving an area  
6 that is now pretty void of music schools.

7 And my assumption on the trip generation and on the  
8 assignment was that it would be about half the people coming from  
9 Mass Avenue from the southeast, half coming from the northwest.

10 MR. NETTLER: So, but those, those, the half that  
11 you re talking about from northwest or the half from Massachusetts  
12 Avenue, those are people that are expected to be driving to the  
13 premises?

14 MR. CARTER: Not necessarily. We discussed that and  
15 some of the people in the neighborhood within a few blocks would  
16 probably walk, at least in good weather.

17 MR. NETTLER: What was the assumption made as to the  
18 percentage of people that would be driving to the premises?

19 MR. CARTER: We did not get into that. We just  
20 looked at the worst case situation that everybody drove.

21 MR. NETTLER: Oh, that everybody did. Okay.

22 MR. CARTER: That was the assumption we had.

23 MR. NETTLER: Okay, and when you talk about from the  
24 Levine School to the north you re talking about from Van Ness,  
25 Connecticut to the north and what school to the south?

1 MR. CARTER: I m not sure of what schools are there.

2 MR. NETTLER: Okay, was there any discussion about  
3 people coming from Maryland or Virginia also?

4 MR. CARTER: The discussion was there would probably  
5 be very few.

6 MR. NETTLER: There would be very few. Were you  
7 given any figures as to where the students would be coming from?

8 MR. CARTER: No, I mean we don t, he doesn t know  
9 that yet until the school is in place.

10 MR. NETTLER: Okay, were you given any figure as to  
11 where the instructors would be coming from?

12 MR. CARTER: Same answer.

13 MR. NETTLER: So you don t know that either.

14 CHAIRPERSON REID: Mr. Nettler, how many more  
15 questions do you have?

16 MR. NETTLER: That may have been the last one but  
17 let me just check.

18 CHAIRPERSON REID: Okay. All right. But let s move  
19 on. Okay.

20 MR. NETTLER: That s all. I have no other  
21 questions.

22 CHAIRPERSON REID: Thank you Mr. Nettler.

23 VICE CHAIR SOCKWELL: Mr. Carter I have one  
24 question for you sir. Mr. Nettler has pointed out some  
25 inaccuracies in your numbers.

1 MR. CARTER: Right.

2 VICE CHAIR SOCKWELL: Are those inaccuracies  
3 something that can be corrected easily by revisiting the data?  
4 Are these typographical errors? Are these errors that you believe  
5 could be straightened out so that at least the numbers that you  
6 present are numbers that are quantify-able?

7 At this point the numbers have been discredited and  
8 it is difficult to assume any of the numbers to be correct based  
9 on the fact that two and two have not actually equaled to four.

10 MR. CARTER: Well, if you look at the 84 data that  
11 didn't match either. It's the nature of traffic I guess, I'm not  
12 sure why.

13 VICE CHAIR SOCKWELL: Well I'm just saying were the  
14 numbers that are supposed to add together to produce an overall  
15 number correct or incorrect, that's all?

16 MR. CARTER: We could go back and look at the raw  
17 data. I think it's still in the computer. We used automatic  
18 counters that were downloaded by the computer and to see if  
19 there's any data errors there. If there's not any there we could  
20 do a new study, a new count.

21 VICE CHAIR SOCKWELL: What was the actual use of the  
22 students if I might ask?

23 MR. CARTER: Pardon me?

24 VICE CHAIR SOCKWELL: What did the students do that  
25 you used to assist you?

1 MR. CARTER: They did the counting. I counted one  
2 of the locations, and I had two students that counted the other  
3 two locations. I counted it at 23rd and Circle and one counted at  
4 the eastern part of Mass and Circle, the other, the last student  
5 counted at the western part.

6 And both of these students have had experience.  
7 One of them worked, did a lot of this last summer when he worked  
8 for a consultant in Baltimore. And so he s done counting before,  
9 and it s not, it s not the students that are, not know what they  
10 are doing, they know what they re doing. So I don t have a good  
11 explanation for it.

12 VICE CHAIR SOCKWELL: I see. Well it, I can t say  
13 what the Board will do but it seems that if there s a way of  
14 cleaning up your numbers at least so that we know the numbers are  
15 more correct, and I m sure Mr. Nettler would want to have correct  
16 numbers to assail if he has to, rather than numbers that he can t  
17 even be sure of, it might be very helpful.

18 MR. CARTER: We could redo the count, a different  
19 day, on a different day. I mean this week or next week.

20 VICE CHAIR SOCKWELL: Well we ll have to look into  
21 that, thank you.

22 CHAIRPERSON REID: All right, thank you. That was  
23 your last witness, correct?

24 MR. HITCHCOCK: Yes, with 46 seconds to spare.

25 CHAIRPERSON REID: Pretty good. Okay, ANC Reports?

1 I don t think we have an Office of Planning Report.

2 MS. PRUITT: No we don t Madam Chair.

3 CHAIRPERSON REID: Okay, and any other government  
4 reports? Okay. Thank you Mr. Carter.

5 (Pause.)

6 MS. BUMBALO: Good evening, my name is Linda  
7 Bumbalo, I am Chair of Advisory Neighborhood Commission 1D.

8 CHAIRPERSON REID: Ms. Bumbalo, during the cross  
9 examination portion you were aware of the fact that you could have  
10 asked questions if you so desired?

11 MS. BUMBALO: No, I wasn t.

12 CHAIRPERSON REID: Oh, okay. Because it was brought  
13 to my attention, so when I asked for cross examination parties,  
14 and ANC as an automatic party has a right to ask questions and  
15 when I asked it was just brought to my attention that you never  
16 did ask any questions and I didn t know if you knew that you did  
17 have the right to cross examine.

18 MS. BUMBALO: No, and I have appeared here before  
19 and never been advised that either. So, no I was not aware of  
20 that.

21 CHAIRPERSON REID: Okay, well, just, for future  
22 reference --

23 MS. BUMBALO: Okay.

24 CHAIRPERSON REID: -- all ANC, any party, and  
25 that s part of the problem, sometimes people don t realize what

1 the procedures are and what the rules are and what they can and  
2 cannot do, but it, when you are afforded the, well, all ANCs are  
3 automatic parties, but one of the privileges that parties have is  
4 to cross examine and to receive all information which you would  
5 automatically do.

6 But were there any questions that you did have?

7 MS. BUMBALO: Well I did make some notes on my  
8 statement based on some of the testimonies.

9 CHAIRPERSON REID: Did you? Well, if you d like we  
10 could allow you to direct questions, you know, some questions if  
11 you, if there was some pressing issues that you thought you wanted  
12 answered today.

13 MS. BUMBALO: I think most of the questions that I  
14 would have were answered.

15 CHAIRPERSON REID: They ve been answered, okay.

16 MS. BUMBALO: Uh-huh.

17 CHAIRPERSON REID: All right. Thank you.

18 MS. BUMBALO: Okay. At a duly noticed public  
19 meeting of the Sheridan-Kalorama ANC-1D held on February 9th,  
20 2000, with a quorum present, the Commission discussed the above  
21 referenced application to permit the establishment of the music  
22 school on the premises.

23 The Applicants, Mr. Hitchcock, the attorney for the  
24 Applicants, and Mr. Carter, the Traffic Consultant were present,  
25 and presented the proposal to the residents of the neighborhood.

1 The properties, the Barney Studio House, located on the northwest  
2 quadrant of Sheridan Circle.

3 The issues that were discussed were the inadequate  
4 parking, traffic congestion, the nature of the proposed operation,  
5 the intense use of the building, the impracticality of the  
6 proposed solution of dropping off and picking up students, and the  
7 proposed residential use of the upper level of the House.

8 Zoning Regulations require that the proposes school  
9 is to be located so that it is not likely to become objectionable  
10 to adjoining and nearby property because of noise, traffic, number  
11 of students or otherwise objectionable conditions.

12 A special exception is granted if it will not tend  
13 to affect diversely the use of neighboring property. The number  
14 of students is objectionable. The Applicant proposes a very  
15 intense use of the property with a constant stream of persons  
16 arriving and departing every day and or night of the week.

17 The proposed schedule of a two hour morning class,  
18 half hour lessons, which is what we were led to believe they would  
19 be, for nine persons between 3:00 p.m. and 8:00 p.m. which is the  
20 end of the last class, and a two hour art class from 7:00 to 9:00  
21 p.m. on Monday through Thursdays, means that approximately 117  
22 persons would be entering and leaving the house on each of these  
23 days.

24 If all of these persons and arrive and depart by a  
25 motor vehicle there will be 234 vehicle trips every day. There

1 would be an equivalent intense use of the House on Fridays with a  
2 morning class, afternoon classes and evening recitals.

3 On Saturdays approximately 99 persons would be  
4 arriving and departing throughout the day, with 198 vehicle trips.  
5 There will be recitals on Sunday as the application proposes 64  
6 recitals a year, more than one per week, and the largest recital  
7 space holds 90 persons.

8 The Applicant s proposal for meeting the parking  
9 requirements is objectionable because it is unrealistic and  
10 unsafe. While just about every available piece of the sideyard is  
11 measured off for the nine required parking spaces, no mention is  
12 made of the fact that the only car that can leave the sideyard,  
13 this as you have to understand was submitted seven days ago, and I  
14 cannot offer new testimony, is, no mention was made of the fact  
15 that only one car can leave the sideyard without moving other cars  
16 onto the street is the last car in.

17 Also there is a wall on both sides of the entrance  
18 to the sideyard and a large tree that you saw in the video that  
19 has narrowed the driveway where it meets the sidewalk. Either all  
20 of the cars would have to be backed out so they can enter Sheridan  
21 Circle going forward, or all of the cars would have to be, to back  
22 out into Sheridan Circle.

23 It is extremely difficult to back out given the  
24 narrow opening between the walls. In fact it was partially  
25 demolished, you could see that on the video, recently by a vehicle

1 going through the opening, and the large tree narrows the opening.

2 And in fact I backed out of that in the dark in the  
3 beginning of January when I visited the property and it required  
4 two people for me to back out. I needed one person looking out  
5 the passenger side and me looking out the driver s side.

6 Because of this dire situation and the great  
7 inconvenience it is the belief of the residents of the  
8 neighborhood that the teachers, the Applicants state that they  
9 would be using the parking, will not use the sideyard, but would  
10 park on residential streets.

11 In addition while the parking requirements are  
12 technically met according to the application, there are only seven  
13 parking spaces for nine teachers according to the regs, that s all  
14 that s required.

15 The Applicant will also have a registrar, a  
16 director, and security guard on site, the Applicants have not  
17 satisfactorily answered the question of where they will park given  
18 their statement that they, and given the statement that the  
19 Applicants will reside in the house, they have not answered where  
20 they will park.

21 There is likely to be demand for parking be  
22 students who are drivers as well. The proposal of the Applicant  
23 to have students dropped off in the curb lane is unrealistic,  
24 unsafe and objectionable. The curb space immediately before the  
25 House consists of two driveways, and I think this was pointed out

1 that the spaces is actually I think only about three or four feet  
2 between the two driveways.

3 The one to the left is the Korean driveway, the  
4 Applicants and the active one used by the Korean Chancery. Beyond  
5 that there are only two parking spaces that I counted because the  
6 other, while people have said there are four parking spaces, I  
7 believe there are two and then the next two are diplomatic  
8 parking.

9 One of the two parking spaces that I think are  
10 available all day is inaccessible from the side lot because of a  
11 concrete jersey barrier. It is actually located in front of the  
12 adjoining residence as well. It goes beyond the Turkish Embassy.

13 It is located, the jersey barriers are located  
14 there for security reasons for the nearby Turkish Embassy. That  
15 parking space in front of there is probably the only parking that  
16 may be available to that residence.

17 There is no rear parking. Therefore there is curb  
18 space for one car to drop off and pick up students, although as  
19 many as 18 will be arriving and leaving at approximately the same  
20 time.

21 One car would have to pull out into the lane of  
22 traffic going around the Circle. Other cars waiting to drop off  
23 or pick up students then would have to back up into Massachusetts  
24 Avenue traffic going around the Circle.

25 And I think it s already been stated the traffic

1 study presented by the Applicant was criticized at the ANC meeting  
2 as being inadequate because the Q Street bridge is currently  
3 closed for construction and therefore the traffic that uses the  
4 lane in Sheridan Circle to access the Bridge is not currently  
5 using it.

6 The Bridge, a major cross town thoroughfare is  
7 scheduled to reopen in August 2000, just before the proposed  
8 school proposes to begin operations. The proposed use of a  
9 security guard to assist the drop off procedure does not cure the  
10 traffic congestion and the safety hazard will result.

11 It was stated at the ANC meeting that the guard by  
12 law cannot direct traffic. So the suggestion that the traffic  
13 guard could help with cars backing out I don t know how fly-able  
14 that is.

15 The inadequacy of parking was addressed by numerous  
16 nearby residents. One who lives near the Barney House stated that  
17 he cannot get a repair man to come to his house because there s no  
18 place to park.

19 It was pointed out that the nearby streets are  
20 already congested with cars, many of which are parked illegally  
21 for events at the nearby Church of the Pilgrims. In addition  
22 there are Foreign Missions nearby which use a great deal of the  
23 on-street parking at all hours of the day and night.

24 Many of the embassies have affairs on weeknights.  
25 When the Netherlands reopened its embassy which is only I believe

1 a block from here, they had three nights in a row of 1,000 cars  
2 each. There was discussion about the nature of the proposed  
3 school, which the residents found objectionable.

4 Despite the proposed non-profit status, the  
5 residents believe that the Applicants will be using the House for  
6 commercial and business purposes. It is financially expedient for  
7 the Applicant to maximize the use of the space by creating nine  
8 spaces, cubby hole spaces for music lessons.

9 I believe when Mr. Edmonds ran the video and he  
10 pointed out the former kitchen area where he would have five,  
11 build five studios, in fact it is six, not five, and that is in  
12 Exhibit 2, for music lessons, and using the upper space and a one  
13 and a half story garage for art classes.

14 In fact the Applicant in response to a question  
15 about the need for the immediate use of the House as a music  
16 school stated that they were not running a charity.

17 While the Applicant states this mixed-use is  
18 consistent with the original use of the House by Mrs. Barney, it  
19 is not. Mrs. Barney had a salon for celebrity performances, was  
20 herself an artist, and did not have money making ventures  
21 occurring on a seven day a week basis.

22 In addition, Mrs. Barney resided in the House.  
23 Neither one of the Edmonds is a music teacher. The Edmonds  
24 despite the application indicating that the present use of the  
25 property is owner occupied do not reside in the house.

1           At the ANC meeting there was no indication given at  
2 the house we occupied by the owners. The fact that the Applicants  
3 were misrepresenting their application the occupancy of the House  
4 did not appeal to the residents at the ANC meeting.

5           There is no assurance that other aspects of the  
6 proposal are true representations of the uses to which the House  
7 will be put. It was also pointed out at the meeting that during  
8 the recent snowstorms the side lots in front of the Barney House  
9 remained un-shoveled, indicating bad faith to those who raised the  
10 issue about the neighborliness of the Applicants.

11           And you could see in the video the unmelted snow on  
12 the front sidewalk. Numerous letters and phone calls were  
13 received by the Commissioners in opposition to the application and  
14 the letters were submitted. There were about 70 persons in  
15 attendance of the meeting. No one spoke in support of the  
16 application.

17           A straw vote was taken, all voted to oppose the  
18 application. It was motioned and a resolution was passed to  
19 oppose the application. And I was appointed to represent the ANC  
20 in this matter.

21           CHAIRPERSON REID: All right, Ms. Bumbalo, you did  
22 indicate that there was a vote taken.

23           MS. BUMBALO: A straw vote was taken and then the  
24 Commissioners voted to oppose this.

25           CHAIRPERSON REID: There was a quorum present.

1 MS. BUMBALO: Yes.

2 CHAIRPERSON REID: When you say a straw vote.

3 MS. BUMBALO: We, well we always do this when we ask  
4 the residents who were in support of this and oppose this.

5 CHAIRPERSON REID: Okay, but then the, the ANC, the  
6 full, you had a quorum of the ANC.

7 MS. BUMBALO: Yes, yes.

8 CHAIRPERSON REID: And the vote was taken.

9 MS. BUMBALO: Yes, yes. All to, but all two of the  
10 two Commissioners were there and voted to oppose this.

11 CHAIRPERSON REID: Okay, and --

12 COMMISSIONER HOOD: So, Madam Chair, so you only  
13 have two Commissioners in your --

14 MS. BUMBALO: Yes.

15 CHAIRPERSON REID: We talked about this, I remember  
16 the last time, and that was a quorum, and I asked whether or not -  
17 -

18 MS. BUMBALO: We need two to have a quorum.

19 CHAIRPERSON REID: -- you have two people --

20 MS. BUMBALO: Because one is only 50 percent.

21 CHAIRPERSON REID: -- acting capacity of a quorum,  
22 and I was, my understanding was yes, they, they could do that.  
23 But anyway, you will be afforded the great weight to which you are  
24 entitled. You raised several issues and we ll get back to, that,  
25 it s, the Applicant have any questions? Cross examine?

1 MR. HITCHCOCK: Yes, I have some. If the Board is  
2 finished I have a few questions.

3 CHAIRPERSON REID: Okay. I don t know if the, did  
4 you have any questions?

5 COMMISSIONER HOOD: I had one question for Ms.?

6 CHAIRPERSON REID: All right.

7 MS. BUMBALO: Bumbalo.

8 COMMISSIONER HOOD: Bumbalo. I wanted to look down  
9 so I made sure I pronounced it correctly.

10 MS. BUMBALO: That s right.

11 COMMISSIONER HOOD: You mentioned, and this is  
12 something I asked about earlier. Backing out you said when you  
13 went down to visit it one night, when you backed out you said you  
14 had to have two people, you had to look one way.

15 MS. BUMBALO: Yes.

16 COMMISSIONER HOOD: And the other person had, my  
17 question to you is, why would you have to put a lot of emphasis on  
18 the driver s side? I m just curious.

19 MS. BUMBALO: Well because there s a wall there, and  
20 there s a tree there. When you re backing out of the driveway.

21 CHAIRPERSON REID: Wait a minute --

22 MS. BUMBALO: While you re not looking at traffic,  
23 you have to avoid the wall and the tree, which actually is really  
24 growing, I mean it s right at the driveway, it s a huge tree. So  
25 you have no latitude to even, you know, six inches or a foot and

1 you re smash into a tree.

2 And you need somebody else to look into oncoming  
3 traffic, the passenger would have to look, and it was dark. It  
4 was, I don t know exactly what time it was, it was 7:00 or 8:00  
5 o clock at night in January. So it was dark out. So visibility  
6 was very limited.

7 COMMISSIONER HOOD: And also you stated that I  
8 believe you stated that you would have to move a number of cars as  
9 opposed to just one to get out?

10 MS. BUMBALO: Well that s what we assumed, but  
11 obviously that has, people have said different things today.

12 COMMISSIONER HOOD: Okay.

13 CHAIRPERSON REID: -- move on into that. --  
14 testimony where they were saying --

15 COMMISSIONER HOOD: Yeah, they responded to it. I  
16 wanted to get, I wanted to hear her side, cause she actually has  
17 been in there, and --

18 MS. BUMBALO: Right, it s very narrow. I don t see  
19 how people who are parked in the rear could get out if just two  
20 cars were moved.

21 CHAIRPERSON REID: Okay. Thank you.

22 COMMISSIONER HOOD: Okay. Thank you.

23 VICE CHAIR SOCKWELL: Ms. Bumbalo, where do you  
24 reside, yourself?

25 MS. BUMBALO: Where do I reside?

1 VICE CHAIR SOCKWELL: Yes.

2 MS. BUMBALO: On S Street N.W., which is one of the  
3 streets mentioned as available for parking.

4 VICE CHAIR SOCKWELL: Uh-huh. And just from your  
5 experience when the Bridge was open.

6 MS. BUMBALO: Uh-huh.

7 VICE CHAIR SOCKWELL: And that means that it was  
8 collecting traffic from Florida Avenue, at that traffic signal  
9 that s right there at the confluence of the two Bridge  
10 connections.

11 MS. BUMBALO: Right.

12 VICE CHAIR SOCKWELL: How did you, what did you,  
13 what was your experience with traffic in the afternoons,  
14 especially during the rush hour period, in the southbound  
15 direction or eastbound direction from Mass Avenue?

16 MS. BUMBALO: Well there s a great deal more traffic  
17 there for the very reason that people who are going across town  
18 want to use Q Street rather than P Street because P Street is  
19 backed up in all directions for people trying to get on to Rock  
20 Creek Parkway at rush hour.

21 VICE CHAIR SOCKWELL: At 6:30.

22 MS. BUMBALO: So if you re not going to get on to  
23 Rock Creek Parkway you use the Q Street Bridge. So it is very  
24 busy. I have had to wait to enter the Circle many times.

25 VICE CHAIR SOCKWELL: So, just in your, in your

1 estimation you would say that during the Bridge closing, all  
2 traffic going around that Circle is thru traffic at that point.

3 MS. BUMBALO: No, there is still traffic that does  
4 make the turn there.

5 VICE CHAIR SOCKWELL: Uh-huh.

6 MS. BUMBALO: Uh, and then they will turn left on Q  
7 Street to go to Florida.

8 VICE CHAIR SOCKWELL: Uh-huh.

9 MS. BUMBALO: That avoids the back up on Mass Ave.,  
10 and Florida, if they are going down 22nd.

11 VICE CHAIR SOCKWELL: Uh-huh.

12 MS. BUMBALO: So there is still traffic going that  
13 way to avoid Mass and Florida.

14 VICE CHAIR SOCKWELL: I see. Thank you.

15 MS. BUMBALO: Or to go across town on Q Street.

16 VICE CHAIR SOCKWELL: Uh-huh.

17 CHAIRPERSON REID: Okay, Mr. Hitchcock?

18 MR. HITCHCOCK: Thank you Madam Chair. Ms. Bumbalo,  
19 you object to the total number of students even though the total  
20 number at any time would be 17, is that correct?

21 MS. BUMBALO: It s a cumulative total?

22 MR. HITCHCOCK: Correct, the nine music students and  
23 the eight art students during the Monday through Thursday 7:00  
24 p.m. to 8:00 p.m. period, that you object to that as an excessive  
25 use, objectionably high number?

1 MS. BUMBALO: I think so, given the comings and  
2 goings and the traffic that would be involved.

3 MR. HITCHCOCK: For traffic concerns, not the number  
4 of students itself. Okay. Well let s talk about that, and you  
5 acknowledge then that other than during that one hour peak period  
6 the maximum number of students would be nine.

7 MS. BUMBALO: That s what your statement says.

8 MR. HITCHCOCK: Okay. And that the, the eight art  
9 students are adult students, not children.

10 MS. BUMBALO: You re talking about the evening  
11 class?

12 MR. HITCHCOCK: Yes, the art students. Is that your  
13 understanding?

14 MS. BUMBALO: That s what you ve said they will be.

15 MR. HITCHCOCK: All right, now, so in other words  
16 the worst case scenario would involve parents dropping off 18  
17 students with 18 vehicles or picking up, I m sorry, dropping off  
18 or picking up 18 students at 5:00 o clock, 5:30, 6:00 o clock or  
19 something of that nature, is that correct?

20 MS. BUMBALO: I m saying that s what would happen,  
21 yes.

22 MR. HITCHCOCK: Is it been your experience that if  
23 you tell people to arrive at a certain time that they will all  
24 arrive exactly at the same point in time?

25 MS. BUMBALO: Well, as a parent who had four

1 children going to lessons, if I was paying for it I wanted them  
2 there on time to get their full lesson. Yes, so I would assume  
3 everyone would try to arrive in time for their lesson.

4 MR. HITCHCOCK: Okay, but don't some, for a 5:00  
5 o'clock lesson might some people arrive at 4:55 and some at 4:56  
6 and some at 4:57?

7 MS. BUMBALO: Yes.

8 MR. HITCHCOCK: Okay. And with the attendant there  
9 to help the children, isn't it likely that would minimize the time  
10 that parents were being, that children, the parents had to stay at  
11 the curb?

12 MS. BUMBALO: That's a possibility, yes.

13 MR. HITCHCOCK: Okay. Would your concerns about  
14 queuing be abated if the school modified the starting times so  
15 classes would begin at say 4:00, 4:05, 4:10, 4:15, that sort of  
16 thing?

17 VICE CHAIR SOCKWELL: Excuse me, Mr. Hitchcock, I'm  
18 going to have to object to that myself, --

19 MR. HITCHCOCK: Okay.

20 VICE CHAIR SOCKWELL: -- because Ms. Bumbalo is the  
21 spokesperson for the Advisory Neighborhood Commission's decision  
22 as opposed to a person who could speak for the Advisory  
23 Neighborhood Commission's re-assessment of anything.

24 MS. BUMBALO: Uh-huh.

25 VICE CHAIR SOCKWELL: And that, that is something

1 that she could not answer.

2 MR. HITCHCOCK: Uh-huh. Okay. Fair enough, thank  
3 you. We were talking about the total number of movements, and  
4 although I recognize from some of the inquiry there s a question  
5 about the numbers, Dr. Carter found about 900 vehicle movements  
6 around Sheridan Circle during the peak evening rush hour.

7 Do you recall that part of the testimony?

8 MS. BUMBALO: Yes.

9 MR. HITCHCOCK: Okay, and this is adding 18 or  
10 basically 1.5 percent increase, is that correct?

11 MS. BUMBALO: These would not, this would not be  
12 thru traffic, however.

13 MR. HITCHCOCK: Okay, but we re adding 18 vehicles  
14 at most, is that correct?

15 MS. BUMBALO: I think so.

16 MR. HITCHCOCK: Okay, and your concern is that the  
17 addition of 18 vehicles coming into a Circle where there are 900  
18 poses traffic congestion and safety concerns?

19 MS. BUMBALO: The ANC s concern was with the total  
20 number of students who would be coming and going for the extended  
21 hours.

22 MR. HITCHCOCK: Okay, but a moment ago you told me  
23 that it was the number of vehicles more than the number of  
24 students, isn t that correct?

25 MS. BUMBALO: That is the ANC s objecting to the

1 number of vehicles.

2 MR. HITCHCOCK: Okay. Your testimony suggested the  
3 situation may be unsafe. Were you here earlier when Dr. Carter  
4 testified that over a three year period there were no accidents to  
5 persons or, and only an average of three a year to property  
6 damage, fender benders in the Circle?

7 MS. BUMBALO: Yes, I was here, I head that.

8 MR. HITCHCOCK: Okay, do you think that would affect  
9 the ANC s view of the issue?

10 MS. BUMBALO: I can t speak for that.

11 MR. HITCHCOCK: Okay, fair enough. The traffic,  
12 you re aware there is a traffic light at 24th Street, is that  
13 correct?

14 MS. BUMBALO: At 24th and Mass, yes.

15 MR. HITCHCOCK: Correct, and that that limits  
16 eastbound entrance into the Circle, for the time that the traffic  
17 light is in effect, doesn t it?

18 MS. BUMBALO: Yes, it does.

19 MR. HITCHCOCK: Okay, and doesn t that provide some  
20 margins --

21 MS. BUMBALO: But there is traffic coming down 24th  
22 Street in from S Street because there is a green light for people  
23 to go south, or what I call south or east on Mass Ave. So traffic  
24 is not completely stopped, there is traffic coming through from a  
25 different, the traffic that has the green light is entering.

1 MR. HITCHCOCK: Do you mean R Street?

2 MS. BUMBALO: No, I mean S, I mean 24th.

3 MR. HITCHCOCK: Okay, but --

4 VICE CHAIR SOCKWELL: Mr. Hitchcock, may I interrupt  
5 again? I would prefer and perhaps Madam Chair you would agree  
6 with me, that the questions be directed as if to the ANC in such a  
7 manner as they state do you believe that the ANC would or did  
8 consider X or Y, or do you believe that the ANC might consider  
9 something else.

10 That way Ms. Bumbalo can very effectively tell you  
11 that she really doesn't know, --

12 MR. HITCHCOCK: Okay.

13 VICE CHAIR SOCKWELL: Because she was participant,  
14 but she really isn't speaking as the Advisory Neighborhood  
15 Commission.

16 MR. HITCHCOCK: Uh-huh.

17 VICE CHAIR SOCKWELL: She is speaking for the vote,  
18 and is discussing issues as they were discussed by the ANC, but  
19 you, you're asking her in a vein that makes it seem like she could  
20 give an answer that would stand for the Advisory Neighborhood  
21 Commission's position and I don't think she can do that.

22 MR. HITCHCOCK: Well I'm trying --

23 MS. BUMBALO: The regs say I cannot offer any new  
24 testimony, from what I understand I can't --

25 VICE CHAIR SOCKWELL: The questions are being asked,

1 he s putting them to you in a way --

2 MS. BUMBALO: Yes, no, I understand.

3 VICE CHAIR SOCKWELL: -- that I don t believe that  
4 you can effectively answer them.

5 MS. BUMBALO: Yeah. I can t speak for issues that  
6 were not addressed at the ANC.

7 MR. HITCHCOCK: Well I, and then that goes to the  
8 point that I m making which is that if there are facts that were  
9 not considered, were they considered by the ANC? I mean, and, and  
10 I m, I would respectfully request I be asked, entitled to, what  
11 weight those facts were given.

12 I mean, isn t the fact that there s a traffic  
13 signal at 24th Street that limits entrance into the Circle provide  
14 a margin of safety for the southbound/westbound traffic?

15 MS. BUMBALO: This wasn t discussed.

16 MR. HITCHCOCK: Okay. You stated there that you  
17 thought, the ANC had a belief that faculty would park on the  
18 street. Could you explain the reasoning as to why faculty would  
19 park on the street for five hours when there s off-site parking?

20 MS. BUMBALO: I believe it was said at the ANC  
21 meeting that because the parking, the side yard as I define it,  
22 was so difficult to get in and out of that it would be avoided.

23 MR. HITCHCOCK: Okay. You re aware, did you, did  
24 the ANC consider the fact that the Smithsonian had nine spaces on  
25 the site for a number of years?

1 MS. BUMBALO: You presented that at the ANC meeting.

2 MR. HITCHCOCK: Okay, so you were. And let me show  
3 you, this was in the materials that we served on you, the layout  
4 I m referring here to the very last page of our pre-hearing  
5 submission, which was the last page of Attachment 3 and it  
6 contains that layout of the nine spaces.

7 Let me hand it to you --

8 MS. BUMBALO: -- my purview at this point.

9 MR. HITCHCOCK: Well I believe it is because you  
10 testified that it was so tight to get out, so I m trying to find  
11 out what could be done to mitigate that situation, and if it  
12 means, and you also testified about an access lane, and if you  
13 pave over some of the grass on both sides, perhaps leaving the  
14 tree, perhaps not, wouldn t that deal with the concern?

15 COMMISSIONER HOOD: Madam, Madam Chair I do think  
16 that --

17 MS. BUMBALO: I cannot address that.

18 COMMISSIONER HOOD: Hold on. Madam Chair I do think  
19 that is not within her purview, because she would be, she s not an  
20 expert.

21 CHAIRPERSON REID: All right.

22 COMMISSIONER HOOD: She would be speculating and I  
23 just ask --

24 MR. HITCHCOCK: Okay.

25 CHAIRPERSON REID: All right, I would agree with

1 that.

2 MR. HITCHCOCK: Okay.

3 CHAIRPERSON REID: Now, Mr. Hitchcock?

4 MR. HITCHCOCK: Uh-huh.

5 CHAIRPERSON REID: Several people have objected to  
6 the line of questioning. So can you please be more specific and  
7 more direct to the testimony that s been given.

8 MR. HITCHCOCK: Okay.

9 CHAIRPERSON REID: And questions that Mrs. Bumbalo  
10 would have the ability to answer, and we can get through this  
11 relatively quickly.

12 MR. HITCHCOCK: Okay.

13 CHAIRPERSON REID: How many more questions do you  
14 have?

15 MR. HITCHCOCK: Probably ten. I --

16 CHAIRPERSON REID: Ten?

17 MR. HITCHCOCK: Yeah, well, we were dealing here  
18 with a three page single spaced statement that is entitled to  
19 great weight.

20 CHAIRPERSON REID: Well can you, okay. Well can  
21 you, can you in any way combine questions or I guess --

22 MR. HITCHCOCK: My questions quote directly from the  
23 written statement, I mean for example my next question was could  
24 she explain why it is the neighbors would consider a non-profit  
25 school to be a commercial or business purpose?

1 VICE CHAIR SOCKWELL: Why don t you ask her why did  
2 the ANC, did the ANC consider that, rather than neighbors, because  
3 she represents the Advisory Neighborhood Commission, and the  
4 larger ANC, not the SMD. She --

5 MR. HITCHCOCK: Uh-huh.

6 VICE CHAIR SOCKWELL: -- represents one of or both  
7 of those two individuals that have to vote yes, no, with no  
8 abstentions or they don t --

9 CHAIRPERSON REID: But he can ask her does she know  
10 the answer to the question. If you don t know the answer to the  
11 question, because someone else said it or it was thrown out at the  
12 meeting, then you don t have to answer it, you can say I don t  
13 know --

14 COMMISSIONER HOOD: But let me --

15 VICE CHAIR SOCKWELL: And the paving issue is one  
16 that would have been a negotiation with the ANC prior to coming to  
17 this meeting if it were, if it would reduce the parking problem,  
18 not something that I think he should bring up at the meeting.

19 It would have been something that you would have  
20 offered to the ANC long before it got here.

21 MR. HITCHCOCK: Well I m what I m trying to deal  
22 with Mr. Sockwell, with due respect --

23 VICE CHAIR SOCKWELL: There s no T in my last  
24 name.

25 MR. HITCHCOCK: -- if I might, I m sorry, I

1 apologize, as somebody whose first name is Cornish I am sensitive  
2 to those issues and it s also, it s, I won t say past my bed time  
3 but, --

4 CHAIRPERSON REID: It s getting late.

5 MR. HITCHCOCK: -- one of the problems with the  
6 statement is that it is very carefully worded to say for example  
7 residents believe, now are we supposed to assume from that that  
8 that is ANC testimony as well? It s carefully worded that I can t  
9 tell without asking questions the way that I m asking them. So  
10 that s --

11 MS. BUMBALO: These were, this is what was discussed  
12 at the ANC meeting, and that s what residents stated.

13 MR. HITCHCOCK: And do you accept --

14 CHAIRPERSON REID: Ah, ah --

15 COMMISSIONER HOOD: Madam Chair, just in line with  
16 Mr. Stockwell, I mean Mr. Sockwell --

17 CHAIRPERSON REID: Oh, no, you didn t.

18 COMMISSIONER HOOD: I know, I know it s going to  
19 come back to me, but it s getting late.

20 VICE CHAIR SOCKWELL: Mr. Hitchcock you re  
21 vindicated it s okay.

22 COMMISSIONER HOOD: I know I m going to pay for that  
23 one. But don t you also represent the Single Member District? Is  
24 that --

25 MS. BUMBALO: I am a, yes, each Commissioner has,

1 this is a --

2 COMMISSIONER HOOD: No, I mean this is in your  
3 Single Member District --

4 MS. BUMBALO: -- yes it is.

5 COMMISSIONER HOOD: Okay, thank you.

6 CHAIRPERSON REID: Okay, Mr. Hitchcock, go ahead,  
7 and then if you don t know then all right.

8 MR. HITCHCOCK: All right then.

9 CHAIRPERSON REID: All right.

10 MR. HITCHCOCK: Okay. Ms. Bumbalo is it, the  
11 Edmonds s are proposing uses that would open this landmark  
12 facility to the general public. Is the ANC opposed to that  
13 purpose?

14 MS. BUMBALO: To opening this to the general public?

15 MR. HITCHCOCK: Yes, it s a National Landmark, the  
16 interiors are on the D.C. Inventory of Historic Sites.

17 MS. BUMBALO: I don t know the answer to that  
18 question.

19 MR. HITCHCOCK: You don t know the answer to that  
20 question.

21 MS. BUMBALO: It was not discussed.

22 MR. HITCHCOCK: Okay. The ANC I take it was also  
23 unmoved by Mr. Edmonds s record of commitment to the community as  
24 donation of flutes to the Adams School, his donation of musical  
25 instruments to the Filmore Arts Center, that didn t affect any

1 kind of positive way your decision?

2 MS. BUMBALO: It certainly appears that way.

3 MR. HITCHCOCK: What is it? That he did it or that  
4 it didn't affect your decision?

5 MS. BUMBALO: His, the statements that you say what  
6 he did did not affect the decision.

7 MR. HITCHCOCK: Okay. And so then the ANC was  
8 similarly unmoved by Mr. Edmonds' commitment to provide  
9 scholarships to public school children in the District so they can  
10 get music lessons at no cost?

11 CHAIRPERSON REID: Wait a minute, was that part of  
12 the testimony today?

13 MR. HITCHCOCK: Yes, it was, it was in the written  
14 statement, and Mr. Edmonds orally testified it to her.

15 CHAIRPERSON REID: No, no, no. No, no, no, the  
16 testimony from Ms. Bumbalo.

17 MS. BUMBALO: No. It was not.

18 CHAIRPERSON REID: You're supposed to be asking her  
19 on her testimony.

20 MR. HITCHCOCK: Okay, and if she, her testimony is  
21 that she is reporting what was, she has based on what happened at  
22 the ANC Committee --

23 CHAIRPERSON REID: All right, but there was not, no,  
24 but Mr. Hitchcock there was no representation that there were any  
25 promises of donations by the Applicant so we don't want to go into

1 that.

2 Keep specifically on the testimony of Mrs. Bumbalo  
3 today.

4 MR. HITCHCOCK: Okay, all right, what I m trying to  
5 drive at Madam Chair is things that were said at the ANC meeting  
6 that were omitted from the statement.

7 CHAIRPERSON REID: I know what you re trying to  
8 drive at, but I don t know if this, this isn t, I don t think this  
9 is the correct the venue for it.

10 MS. BUMBALO: Okay.

11 CHAIRPERSON REID: You can do that in your, now you  
12 do have an opportunity at closing remarks.

13 MR. HITCHCOCK: Uh-huh.

14 CHAIRPERSON REID: Okay.

15 MR. HITCHCOCK: Okay. Ms. Bumbalo, do you  
16 anticipate that, do you know whether the ANC would support any  
17 other granted special exception for this building?

18 MS. BUMBALO: That was not discussed at the meeting.

19 MR. HITCHCOCK: Okay, was it discussed at the  
20 meeting, was the sentiment discussed that this building should be  
21 residential only?

22 MS. BUMBALO: There were persons there who indicated  
23 that it could be used for residential purposes only.

24 MR. HITCHCOCK: And were there people there who said  
25 it should be used for residential purposes only?

1 MS. BUMBALO: I don t recall that.

2 MR. HITCHCOCK: Okay, so the ANC is not taking a  
3 position that this should be used for residential only, or are  
4 you?

5 MS. BUMBALO: This isn t, this, the ANC s statement  
6 goes to your application.

7 MR. HITCHCOCK: Uh-huh.

8 MS. BUMBALO: Not to what you are asking.

9 MR. HITCHCOCK: Okay. No further questions, thank  
10 you.

11 CHAIRPERSON REID: Thank you. Mr. Nettler, do you  
12 have questions, Mr. Nettler? Okay. All right.

13 MR. NETTLER: Just two questions.

14 CHAIRPERSON REID: All right.

15 MR. NETTLER: Actually probably just one question.

16 CHAIRPERSON REID: Okay.

17 MR. NETTLER: You were asked by Mr. Hitchcock about  
18 the, some of the basis for the position that was taken by the ANC,  
19 particularly with regard to the number of students who would be  
20 coming to the premises.

21 Do the ANC in taking its position and considering  
22 the impact that the number of students would have, also consider  
23 the cumulative impact of having the number of recitals and at the  
24 same time that the 7:00 to 9:00 period on Friday and the number of  
25 people coming to those recitals as well?

1 MS. BUMBALO: Yes, that was discussed about the  
2 number of recitals and the Friday night recitals in particular.

3 MR. NETTLER: And the number of that would be  
4 throughout the year the --

5 MS. BUMBALO: Yes.

6 MR. NETTLER: Okay, no more questions.

7 CHAIRPERSON REID: Thank you. Mr. Turner has left?

8 MR. NETTLER: He doesn't know when we're going to  
9 finish but he's trying to get back.

10 CHAIRPERSON REID: Okay. All right. Thank you very  
11 much, Ms. Bumbalo. Now, persons or parties in support of the  
12 application, please come forward. And the persons in support you  
13 have three minutes. Parties have five, persons have three --

14 MR. GRAVES: Yielded time. He's yielded time.

15 CHAIRPERSON REID: Huh? He yield his 46 seconds?  
16 You want that?

17 MR. GRAVES: I'll take the 46 second.

18 CHAIRPERSON REID: All right. So you have 33, four  
19 minutes, okay?

20 MR. GRAVES: My name is Frank Graves. I live on  
21 Columbia Road.

22 CHAIRPERSON REID: Your address, sir?

23 MR. GRAVES: 1930. I submitted an Exhibit No. 33.  
24 Please use the February 29, 2000 version of that. There was a  
25 February 28 which you may have, but look at the February 29. Ms.

1 Pruitt I think has a copy of that from me today for distribution  
2 to you.

3 CHAIRPERSON REID: So this, so basically, this is,  
4 this supercedes the other one? --

5 MR. GRAVES: Yes. They re virtually the same, but  
6 there are several statements which are, have been added to the 29.

7 CHAIRPERSON REID: Okay, I have the 29.

8 MR. GRAVES: Okay, the 29 is the latest and best  
9 issue of that.

10 CHAIRPERSON REID: All right. Okay.

11 MR. GRAVES: About this proposal, and I should  
12 introduce myself as being an expert in several fields. One is in  
13 urban planning. I was a consultant of the New York City Planning  
14 Commission, and also as a Traffic Engineer because for nearly a  
15 year I studied on behalf of the Mayor s Office in New York,  
16 something called the Lower Manhattan Expressway, which was a  
17 viaduct to run two miles and cost \$6 billion to connect the  
18 Holland Tunnel with the Brooklyn Williamsburg and Manhattan  
19 Bridges.

20 When I became aware of the fact that there would be  
21 an ANC meeting on this application, I went to it. I spoke neither  
22 in favor of nor against the application. Having given it very  
23 serious thought, and having visited the site, examined the back-  
24 out problem, the pickup and drop-off problem, the parking problem,  
25 the access to and travel around the Circle, I have to say that the

1 Carter study merits complete support.

2           Whatever deficiencies there are in that are not  
3 telling. If one stops to think that at the 1,237 vehicles which  
4 would be coming around the Circle, at the peak hour, plus or minus  
5 a few hundred, only three out of every two hundred cars passing  
6 the Studio House would be pulling over to either do drop-offs or  
7 pick-ups.

8           That arithmetic is in my paper. Now, moreover, if  
9 one examines the Circle, one finds that it has a high crown which  
10 descends towards the Circle for those vehicles which are traveling  
11 through and tips the other way almost until 23rd Street, to  
12 separate out those vehicles which are pulling over to the side.

13           The two inner lane areas amount to 30 feet in  
14 width, which is rather wider than the standard avenue width in the  
15 District, street width, plain width in the District.

16           This leaves 16 feet on the right hand side if one  
17 takes out that 30 or possibly only 28 feet in the middle. If one  
18 looks at the pictures which were shown on the screen here, if that  
19 were to be replayed for you, you would see actually mud, ground  
20 dirt, on the outer lane and blacktop on the inner lanes, where the  
21 vehicles were traveling and the wind from their tires and the  
22 continuous motion scattered the dirt, indicating how little used  
23 the parking lane is.

24           Now I personally with my own hundred foot tape and  
25 somebody at the other end shown that there is 150 feet from the

1 tree stump, which is smack in the middle of the property and the  
2 tree, public tree space, to the last available spot northwesterly  
3 around the Circle for a queue to form including blocking,  
4 temporarily the two curb cuts.

5 How many seconds do we have, three seconds?

6 CHAIRPERSON REID: Ah, no, that they, I think they  
7 gave you the first, huh?

8 MR. HART: He got -- minutes.

9 MR. GRAVES: Thank you. In any case --

10 CHAIRPERSON REID: He s, but wait a minute, wait one  
11 second. He hasn t been speaking for four minutes.

12 AUDIENCE MEMBER: Yes, he has.

13 AUDIENCE MEMBER: The clock is on four minutes.

14 MR. HART: Give him another minute.

15 CHAIRPERSON REID: Yeah, well you just, you just got  
16 in to it, didn t you? All right.

17 MR. GRAVES: The fact is --

18 CHAIRPERSON REID: Let us give you, there s, you had  
19 so much, but can you just summarize for us this time --

20 MR. GRAVES: I will say this --

21 CHAIRPERSON REID: -- what I see in your submission  
22 sir is that you analyzed the various possibilities and why they  
23 would be ruled out.

24 MR. GRAVES: I looked at alternatives.

25 CHAIRPERSON REID: First, yeah --

1 MR. GRAVES: That was the first thing to do.

2 CHAIRPERSON REID: That was the first thing you did.

3 You should summarize that and then just bring us to the summation  
4 that you have at the end, please.

5 MR. GRAVES: If the BZA turns down the Edmonds  
6 proposal, only the alternatives will survive. One has been tested  
7 and failed, that was the neighbors trying to set up an endowment  
8 together with the Smithsonian.

9 Excellent ideas but they didn't work. So I say  
10 that's ruled out. The second one is diplomatic ownership and that  
11 should be ruled out because it could destroy the property as we  
12 all know sometimes happens. Institutional ownership is  
13 unsatisfactory, because of the inflexibility within the building,  
14 and it would cut out public access from all purposes, for most  
15 purposes.

16 And private occupancy would also cut off public  
17 access to the 99 percent of the property which is worth saving,  
18 which is those two remarkable floors indoors. It's not the stucco  
19 out front or that patch of grass, or those two wonderful trees,  
20 it's what's indoors on stories one and two.

21 And so I've said here that you have a heavy  
22 responsibility to historic preservation and preserving public  
23 access to this place. And it cannot be operated on a shoestring.

24

25 There has to be a significant financial budget and

1 a long term commitment to save this place and make it publically  
2 available, and only the Edmonds proposal as far as I can tell,  
3 and I ve given this tremendous thought, meets these stringent  
4 requirements.

5 If anyone else can come forward and do what they re  
6 doing with less intensity, and I ve compared in here there  
7 intensity versus the Levine School --

8 CHAIRPERSON REID: We saw that.

9 MR. GRAVES: You can see that this is not an intense  
10 use. So, at the end then I simply say with all the reasons given  
11 for why there s safe conditions there, as one who has lived  
12 personally through brownstone restoration in New York City.

13 And if you know anything about that, you know  
14 what s involved, it s an honor to vouge for these people and what  
15 they re trying to do to bring back to life this remarkable  
16 institution which was invented by Alice Pike Barney using her own  
17 very substantial money from the Pike family and from her husband  
18 Barney. Thank you. Mr. P --, Mr. Graves?

19 Let me just say that I found your submission to be  
20 very enlightening.

21 MR. GRAVES: Thank you.

22 CHAIRPERSON REID: And I appreciate the way you  
23 framed the issue for us.

24 MR. GRAVES: Thank you.

25 CHAIRPERSON REID: And to give us an analysis of the

1 various uses and why or why not it would be applicable in this  
2 particular instance, as well as your analysis of the use of this  
3 particular facility to Levine School, which is obviously one, the  
4 closest, I don't want to say competitor, but the closest similar  
5 type of facility of, for music training.

6 And I hate that we had to rush you, but I think  
7 that we got the gist and we certainly do have your full  
8 submission, and I thank you very much.

9 MR. GRAVES: Thank you ever so much.

10 CHAIRPERSON REID: Cross examination?

11 MR. NETTLER: Please.

12 CHAIRPERSON REID: Mr. Nettler?

13 MR. GRAVES: I have only February 28 here.

14 CHAIRPERSON REID: An extra copy to Mr. Nettler?  
15 Did you read the February 28th version Mr. Nettler?

16 MR. NETTLER: No.

17 CHAIRPERSON REID: Oh, so you haven't seen it.

18 MR. NETTLER: I just have this version.

19 CHAIRPERSON REID: Uh-huh.

20 MR. NETTLER: How long have you been involved with  
21 the Alice Pike Barney Studio House? Both in terms of the  
22 organization that was set up to negotiate with the Smithsonian or  
23 any other endeavor regarding the use of that property?

24 MR. GRAVES: I've lived in Washington D.C. since  
25 1971, since I came back from Nigeria where I cleared the Port of

1 Lagos, and I've lived at the same address since 1973. I became  
2 acquainted with the Edmonds's last year and became aware of the  
3 fact that they were in a very strong musical tradition as I am  
4 myself.

5 MR. NETTLER: All right, let's take the period  
6 between, excuse me --

7 MR. GRAVES: And my interest in this building  
8 started about five weeks ago when I realized that in fact there  
9 was opposition to what, as I had heard about it from Jim Edmonds,  
10 was an extremely worthwhile objective of his. And so when I  
11 realized that there was a problem with neighbors, with traffic and  
12 so forth, I thought I would put my expertise to the test and see  
13 if I could not find out at least more about it.

14 And the more I found out the more pleased I was  
15 that the things seemed to fit perfectly with the invention of Mrs.  
16 Barney and with the needs of the Area.

17 MR. NETTLER: So in the past five weeks is when you  
18 got involved, is that what you're saying?

19 MR. GRAVES: Yes, yes, that's right.

20 MR. NETTLER: Okay, so you aren't aware of any  
21 efforts made by the Alice Pike Barney Studio House Organization to  
22 find other uses for the premises, or are you?

23 MR. GRAVES: No, indeed I was, because I read the  
24 record. Jim Edmonds lent me the application documents. I went  
25 through those, and that's the reason that I have here a statement

1 that a group of neighborhood activists worked from 1994 to 1999.

2 It was four and a half years, I put five years, to  
3 rescue Studio House, the historically protected studio and salon  
4 of Mrs. Alice Pike Barney but failed. They tried but could not  
5 find 1,000 donors to pay \$1,000 each for renovations cooperatively  
6 with the Smithsonian, which owned the property and which was to  
7 share in program and upkeep costs.

8 The program was to include art exhibitions, public  
9 performances and uses in educational --

10 MR. NETTLER: And that s what the Edmonds have told  
11 you was the effort that was made, is that correct?

12 MR. GRAVES: The Smithsonian finally put the Studio  
13 House --

14 MR. NETTLER: Excuse me, was that the effort that  
15 the Edmonds had told you that was made for this?

16 MR. GRAVES: It is precisely what they intend to do,  
17 yes.

18 MR. NETTLER: Okay, so you re not aware as to  
19 whether the Smithsonian actually was able to discuss, actually was  
20 willing to discuss any future use for the premises other than the,  
21 those who they sought for it themselves, with the Alice Pike  
22 Barney Organization that was created as an attempt, in an attempt  
23 to find the --

24 MR. GRAVES: I have no idea about their  
25 negotiations. All I know is they failed. And to me it s a zero -

1 - when you fail --

2 MR. NETTLER: And your knowledge as to why they  
3 failed is based on representations that were made by the Edmonds .

4 Is that correct?

5 MR. GRAVES: No. I simply know they failed.

6 MR. NETTLER: Okay.

7 MR. GRAVES: I mean all I have, I could call Philip  
8 Hughes I suppose and ask him, but you know, they failed. And so  
9 that s the, as far as I m concerned they failed and we have to  
10 move on, that s all.

11 MR. NETTLER: Okay now, you ve said that the only,  
12 the only possibilities other than what s being proposed today are  
13 efforts or uses or other things that you ve related in your  
14 statement that are either failed or that are, or that are  
15 uneconomical, is that correct?

16 MR. GRAVES: No, I said they will cut off public  
17 access. Much worse the historically protected rooms, contents,  
18 facade and site could well be entirely destroyed by any foreign  
19 government. So that --

20 MR. NETTLER: That s with regard to a transfer use.  
21 Have you --

22 MR. GRAVES: You mean uses --

23 MR. NETTLER: That s with regard to a chancery use  
24 in terms of the public access. Have you done any analysis as to  
25 whether a less intense use of the premises before a school or, as

1 in --

2 MR. GRAVES: Yes, I have because I know brownstone  
3 renovation. I know what it costs to upgrade a building. And as  
4 I ve said here there has to, this property cannot be kept going on  
5 a shoestring. There has to be a significant, and by that I mean a  
6 couple of hundred thousand dollars ever year.

7 COMMISSIONER HOOD: Excuse me, excuse me. Madam  
8 Chair if I may interrupt. We have a letter that was submitted to  
9 us, dated, describing this conversation that s going on. Are you  
10 aware that we have this in our records?

11 MR. NETTLER: Yes, you ll see I m on the Advisory  
12 Board of the Alice Pike Barney --

13 COMMISSIONER HOOD: Yeah, I was, this is a support  
14 letter too I want you to know, but --

15 MR. NETTLER: Yes, there s no one here to testify as  
16 to who voted for that with that letter.

17 COMMISSIONER HOOD: Oh, okay.

18 MR. NETTLER: But I --

19 COMMISSIONER HOOD: But I think that conversation we  
20 do have in writing and I was just going to ask the Chair if we  
21 could just move to the next --

22 MR. NETTLER: Oh, I have moved on, I moved on to the  
23 other uses that --

24 COMMISSIONER HOOD: Okay.

25 VICE CHAIR SOCKWELL: Mr. Nettler are you attempting

1 to discredit the letter and the organization that sponsored it?

2 MR. NETTLER: Well I can deal with that in  
3 our --

4 VICE CHAIR SOCKWELL: No, I m just asking a  
5 question. It is a yes or no answer.

6 MR. NETTLER: Yes, but not --

7 VICE CHAIR SOCKWELL: You say you re on the Board.

8 MR. NETTLER: Not through this witness.

9 VICE CHAIR SOCKWELL: But you re saying you are  
10 attempting to, you would like to discredit that letter to some  
11 degree.

12 MR. NETTLER: Yeah, I certainly will.

13 VICE CHAIR SOCKWELL: Uh-huh. Okay, just trying to  
14 figure out who your friends are.

15 MR. NETTLER: It s not a question of who my friends  
16 are, it s a question of what --

17 CHAIRPERSON REID: All right, please let s move on.

18 MR. NETTLER: That s not what I m trying to get into  
19 there.

20 CHAIRPERSON REID: Let s move on please.

21 MR. NETTLER: The, so your testimony is the only use  
22 that will ensure a both public access and at the same time  
23 something that s economical is the exact type of use that s  
24 presented by the Applicants.

25 MR. GRAVES: No, I would never go so far as to say

1 exact. In other words there might be occasionally an  
2 entertainment for people who might contribute an endowment. I  
3 would never limit it to it exactly this, but of course, the  
4 President of every university has people --

5 MR. NETTLER: And do you know that, you stated that  
6 it would take hundreds of thousands of dollars to maintain this  
7 thing. Do you know what the financial arrangement is that the  
8 Edmonds have?

9 MR. GRAVES: I have not --

10 MR. NETTLER: Do you, you do know what the financial  
11 arrangement the Edmonds s have with regard to this --

12 MR. GRAVES: I ve been given some private  
13 information as to what their costs are and I have to say that from  
14 what I know of that they ring a complete truthful bell with me  
15 because they represent the kind of numbers that I know about.

16 I ve owned real estate, and I know what kind of  
17 thing it is to own a, I don t know first hand what it would be  
18 like to own an 11,000 square foot building on Sheridan Circle with  
19 all that vibrating traffic out front.

20 And it s 100 years old. Nature is an enemy of  
21 every building ever built and --

22 MR. NETTLER: Thank you very much.

23 CHAIRPERSON REID: All right, thank you. Do we have  
24 questions? All right go ahead Ms. Bumbalo.

25 (Pause.)

1 MS. BUMBALO: Are you here as an expert Mr. Graves?

2 MR. GRAVES: What?

3 MS. BUMBALO: Are you here as an expert?

4 MR. GRAVES: Yes, I am.

5 MS. BUMBALO: You were not presented as an expert.

6 MR. GRAVES: Well, I m sitting, you re asking me a  
7 question. I am an expert. Ask me anything.

8 CHAIRPERSON REID: He was not presented by --

9 MS. BUMBALO: You were not presented as an expert,  
10 you were presented as a supporter.

11 CHAIRPERSON REID: We would recognize as an expert,  
12 nonetheless, he has presented himself, he has presented himself as  
13 an expert.

14 MS. BUMBALO: He has presented himself, yes. Okay.  
15 Could you tell me what Advisory Neighborhood Commission you live  
16 in?

17 MR. GRAVES: I live in 1C.

18 MS. BUMBALO: Okay.

19 MR. GRAVES: With the Edmonds down the street.

20 MS. BUMBALO: Okay, the Zoning Regulations talk  
21 particularly to considering whether it s objectionable to  
22 adjoining or nearby property. Do you live nearby?

23 MR. GRAVES: Nearby what?

24 MS. BUMBALO: The Barney House?

25 MR. GRAVES: I live within a six minute walk of the

1 vice.

2 MS. BUMBALO: But you don t live in the ANC.

3 MR. GRAVES: I live within --

4 MS. BUMBALO: Do you live in the ANC-1D?

5 MR. GRAVES: No, I do not live in the ANC, I live in  
6 IC.

7 MS. BUMBALO: Thank you.

8 MR. GRAVES: I ve already told you that.

9 CHAIRPERSON REID: All right. Thank you. All  
10 right, now, persons and parties in opposition to this application.

11 That s where we are now. And come up, I m sorry, now, you all  
12 will move away from the table and then the opposition will come  
13 up.

14 And you ll have a chance to -- okay. Who else is  
15 in opposition? Will you please come up, all together? You d like  
16 to have a panel?

17 MS. PRUITT: Well they ve divvied their time up  
18 Madam Chair already.

19 CHAIRPERSON REID: They what?

20 MS. PRUITT: They ve already decided how they re  
21 going to present their time. They re going to do it in individual  
22 groups, is my understanding. They have the hour, and she s, and  
23 they have already talked about whose, how much time each party  
24 would get within that hour.

25 CHAIRPERSON REID: Ms. Pruitt I wasn t in any way

1 trying to change that, I just asked them all come up as a panel.

2 MS. PRUITT: Okay, I just wanted them to, I don't  
3 think, they weren't sure of that.

4 CHAIRPERSON REID: The time frame that they, however  
5 they've decided to do it is fine, but I just asked them to come up  
6 at the same time.

7 Persons and parties in opposition, can you please  
8 come up. Have a seat, ma'am. Thank you. Now, let's see. How  
9 many people are going to be testifying Mr. Nettler?

10 MR. NETTLER: Well for the Sheridan-Kalorama  
11 Neighborhood Council there will be two.

12 CHAIRPERSON REID: Uh-huh, and then you're an  
13 individual, you're a party, okay. Individual, --

14 MR. NETTLER: And Mr. Turner, hope, may be here by  
15 the time that we get to him.

16 CHAIRPERSON REID: All right.

17 (Pause.)

18 Okay, Mr. Nettler?

19 MR. NETTLER: The woman will go, the lady will go  
20 first as a party and then the Sheridan-Kalorama Neighborhood  
21 Council will follow.

22 CHAIRPERSON REID: Okay, all right.

23 MS. AUSTER: Good evening.

24 CHAIRPERSON REID: Good evening.

25 MS. AUSTER: Madam Chair and Members of the Board.

1 I m Rosalie Auster, one of the residents in the 2300 Block, six  
2 houses north of the Barney House.

3 VICE CHAIR SOCKWELL: How do you spell your last  
4 name?

5 MS. AUSTER: A-u-s-t-e-r.

6 VICE CHAIR SOCKWELL: Thank you.

7 MS. AUSTER: You have a letter --

8 CHAIRPERSON REID: Uh-huh.

9 MS. AUSTER: -- from myself and my contiguous  
10 neighbors already, they couldn t be here for a variety of reasons.

11 And I ve lived here in the District for 35 years, 29 years on  
12 this Block in this house.

13 Only two of the resident neighbors happened to get  
14 the notice, and so I had to subsequently canvas the neighborhood  
15 and bring it to their attention, and to that end I have a letter  
16 to be entered tonight.

17 CHAIRPERSON REID: Okay.

18 MS. AUSTER: Okay, shall I bring it up?

19 CHAIRPERSON REID: Uh-huh, give it to the Staff,  
20 please.

21 MS. PRUITT: Thank you.

22 MS. AUSTER: I also had a petition signed and that  
23 will be presented later by one of the other members of the  
24 Sheridan-Kalorama group. Those, I ve been listening to the  
25 experts and been very much aware of how they ve had a very narrow

1 window of time which they ve looked at what goes on.

2 And I ve decided it would be a good idea to present  
3 myself as an expert because I know intimately every foot of  
4 parking space between 23rd Street and Massachusetts Avenue, and  
5 California Street and 24th Street, which is four blocks away.

6 Not anywhere, anything you re happy to walk after  
7 9:00 at night or in ice and snow. All of us in our stretch, not  
8 all of us, most of us in that stretch from 23rd to 24th Street do  
9 not have off-street parking. And we have to scramble for parking  
10 on the street with groceries et cetera.

11 Usually I can find a parking space after 9:00 at  
12 night, but I just think the Edmonds have a guardian angel that  
13 they were able to get the take that they were able to get because  
14 you can never find anything in the afternoon at 3:00 o clock, or  
15 almost never.

16 All of us work with the exception of one man who is  
17 approaching 100 years of age and it just makes it very, very  
18 difficult. The other thing that struck me as I listened to the  
19 testimony tonight was everyone talking about how parking was  
20 possible, nights, weekends, and so forth.

21 But good heavens, if all of those people parked  
22 then when the residents come home where do we park, they will have  
23 all have been taken by this other traffic. And it also says that  
24 we are to have no relief from this on weekends and at night, the  
25 traffic.

1 I ve never seen 35 legal spaces unoccupied in that  
2 neighborhood in 29 years, and in those four blocks. Potential,  
3 perhaps. In fact the two spaces in front of the Barney House and  
4 the Turners house are the only two spaces in that entire block  
5 from 23rd to 24th Street on either side of the street that I ve  
6 restricted from morning rush hour or evening rush hour that you  
7 can park there for 24 hours every day of the year except for snow  
8 emergencies.

9 I don t have any more to say right now.

10 CHAIRPERSON REID: Thank you very much for your  
11 testimony. Was there any cross examination of this witness?  
12 Okay. Mr. Hitchcock.

13 MR. HITCHCOCK: --

14 CHAIRPERSON REID: Okay, he s going to allow you to  
15 sit there.

16 MR. HITCHCOCK: Thank you Mrs. Auster. Do you have  
17 any evidence to contradict Dr. Carter s assessment that the  
18 additional traffic generated by this school would not pose a  
19 difficulty to the movement of traffic around Sheridan Circle?

20 MS. AUSTER: No.

21 MR. HITCHCOCK: Okay. And were you here when he  
22 testified that over a recent three year period there were no  
23 injuries to persons and only an average of two accidents a year of  
24 the Circle?

25 MS. AUSTER: Yes, I m, but I m not addressing safety

1 issues. And I think he did say there were two injuries.

2 MR. HITCHCOCK: Well, no, what it was was an  
3 average, fender benders, property damage. I'm referring to the,  
4 what prompts the question is the statement, the written statement  
5 saying that the proposed use will more than likely increase the  
6 risk of accidents as cars stop in the right turn lane.

7 Is your concern with respect to parking limited to  
8 the afternoon classes, the 3:00 to 8:00 classes, or the recitals?

9 MS. AUSTER: All of them.

10 MR. HITCHCOCK: All of them, okay. Is it your  
11 belief, is it your testimony that you think that the faculty will  
12 try to park on the street during the 3:00 to 8:00 period?

13 MS. AUSTER: Well I think that's within human  
14 nature, but I can't have the crystal ball.

15 MR. HITCHCOCK: To park on the street.

16 MS. AUSTER: Uh-huh.

17 MR. HITCHCOCK: Okay, even though there are  
18 residential restrictions available?

19 MS. AUSTER: Not all of them.

20 MR. HITCHCOCK: Not all. What are, you mean there  
21 are some that are just available with no limitations.

22 MS. AUSTER: That's right.

23 MR. HITCHCOCK: Okay, and somebody would do that  
24 rather than park off-site if there's free off-site parking --

25 MS. AUSTER: Well I would if I were in their shoes.

1 MR. HITCHCOCK: You d park on the street rather  
2 than off-site?

3 MS. AUSTER: Yeah.

4 MR. HITCHCOCK: Okay.

5 MS. AUSTER: In that off-site if I had to move cars.

6 MR. HITCHCOCK: Okay. Suppose that you succeed in  
7 blocking the use of this building as a school. Do you think that  
8 the traffic or parking situation would be improved if there was  
9 another non-residential use via an exception? If there was a, you  
10 know, an office use of the sort the Smithsonian had for um-teen  
11 years?

12 MS. AUSTER: That s speculative, I can t address  
13 that.

14 MR. HITCHCOCK: Okay, so it might be better, it  
15 might be worse?

16 MS. AUSTER: No telling.

17 MR. HITCHCOCK: Okay. You ve mentioned also, your  
18 written statement talked about contractors and service people  
19 coming to your home. They don t come during the time of the  
20 recitals do they, Friday evenings or Sunday afternoons?

21 MS. AUSTER: No, they come weekdays.

22 MR. HITCHCOCK: Okay. And one final comment on the  
23 -- you said that some neighbors did not get notice of the hearing?

24 MS. AUSTER: As far as I was able to determine, only  
25 two of us received the mail, the written notice.

1 MR. HITCHCOCK: Okay, but four of you, well, three  
2 households signed it.

3 MS. AUSTER: Uh-huh.

4 MR. HITCHCOCK: Okay. And I believe your name  
5 appeared in the application as somebody who should receive notice,  
6 did it not?

7 MS. AUSTER: I did.

8 MR. HITCHCOCK: Okay.

9 MS. AUSTER: I can't remember who the other one was.

10 MR. HITCHCOCK: Okay. I believe the others did  
11 appear as witnesses to get the notice. I thank you. I have no  
12 other questions.

13 CHAIRPERSON REID: Thank you. Is there any other  
14 cross examination of this witness? All right, thank you very  
15 much. All right.

16 (Pause.)

17 MR. TURNER: I am testifying in opposition to the  
18 application. My wife and I --

19 CHAIRPERSON REID: Your name sir, and your address.

20 MR. TURNER: Yeah. My name is Richard Turner, my  
21 wife is Beth Turner, and my address is 2304 Massachusetts Avenue.  
22 We're directly next door to the house. We share a party wall  
23 with the Edmonds house.

24 CHAIRPERSON REID: Uh-huh.

25 MR. TURNER: We're very concerned about the adverse

1 effect of the proposed use at 2306, with regard to noise and  
2 traffic. And we purchased a home in this area because we believe  
3 that the R-3 Zoning would protect the amenities of the  
4 neighborhood and provide a stable environment for our family.

5 We do not believe that the intense use proposed for  
6 the music school and the recital hall in the application is  
7 appropriate. We re particularly concerned about the recital hall  
8 and some of that intense activity.

9 As I said our home shares a party wall with 2306.  
10 Our bedroom and our children s bedrooms are along the party wall  
11 and next to the proposed recital halls. The entry way of 2306 is  
12 adjacent and just below our bedroom window.

13 Now since December we ve seen how the Edmonds have  
14 occasionally used the house and that, you know, for occasional  
15 use, normal residential scale kind of entertaining and all would  
16 not be a problem.

17 But the intense and continuous use proposed in the  
18 application, the proposed weekly evenings and on proposed 40  
19 weekends a year would be a major accommodation for us. We can  
20 clearly hear the piano playing through the wall even when the  
21 windows are closed.

22 There s been some statement to the effect that  
23 there, the walls are sound proof. They are three bricks thick,  
24 but there s been considerable settlement on all of those  
25 properties.

1 All the houses are built on fill, the walls have  
2 settled, the walls are cracked, the interior brick is cracked, and  
3 over the years it s been patched with plaster. So that although  
4 it may not appear that way there are, there are holes that  
5 sometimes allow the sound to go through, and we do hear the music  
6 when it comes through the wall.

7 And we don t believe that hanging a curtain on the  
8 other side is really going to make much difference in that regard.

9 Also some of the mitigation that would be required for the noise  
10 to, coming through the wall would be difficult to achieve with the  
11 historic restrictions that are in place on the property.

12 Now the previous uses of 2306 or the most recent  
13 use by the Smithsonian Institute was not as intense as the  
14 proposed use. The most recent Smithsonian use was primarily  
15 residential for one or two or several visiting scholars a year,  
16 with some public hours for occasional house tours and occasional  
17 entertaining.

18 It s quite different from the intense and  
19 continuous use proposed in the application. Almost any matter of  
20 right use not requiring an exception would be more in line with  
21 the previous uses and less abusive of the neighborhood, we  
22 believe.

23 Now, if the Edmonds were to live in the residence  
24 and also have it a recital hall, there s the question of the  
25 separations between the residential use and the assembly use, the

1 recital hall use that s not really addressed in the application  
2 adequately.

3 VICE CHAIR SOCKWELL: What type of separations do  
4 you mean?

5 MR. TURNER: There s fire separations that would be  
6 required between the assembly use and the residential use. It s  
7 an open stair. There s no door separating the residential section  
8 from, no fire doors separating the residential from the public  
9 assembly spaces.

10 There should be a two hour separation with which  
11 would be required a special kind of plaster or drywall that would  
12 not be able to be accommodated with the historic restrictions  
13 because you can t remove any of the materials in the public, in  
14 the restricted floors.

15 VICE CHAIR SOCKWELL: Well not wishing to make  
16 discussion of this, those are Building Code issues and not Board  
17 of Zoning Adjustment issues --

18 MR. TURNER: Well I believe that --

19 VICE CHAIR SOCKWELL: But they re not something that  
20 we would rule upon because we do not issue building permits.

21 MR. TURNER: Well, it s something that would need to  
22 be dealt with.

23 VICE CHAIR SOCKWELL: And the Historic Wilson  
24 Building is the same thing and has been handled quite effectively,  
25 so I m just saying that it s not impossible. I m just telling

1 you. We don t talk about that here.

2 MR. TURNER: Well I think in their application they  
3 say that they would be able to move right into it the way it is  
4 and I don t know that that s going to be the case. Um, --

5 VICE CHAIR SOCKWELL: But again, approval here would  
6 not affect whether they got rejected someplace else. Right?

7 MR. TURNER: That s true.

8 VICE CHAIR SOCKWELL: Thank you.

9 MR. TURNER: Um, we re also concerned about the  
10 parking and traffic problems that would arise from the proposed  
11 use, and the application does not accurately state or at least  
12 what we had read in the earlier submission on the application, did  
13 not adequately address the parking and traffic situation.

14 The actual situation as we know it and as we can  
15 see and experience every day is that there are three parking  
16 spaces in front of the Korean Embassy, they are restricted to the  
17 Embassy, to Embassy use.

18 Then there s the Korean driveway, and then there s  
19 the 2306 driveway. The, we re real concerned that we, we don t  
20 want to lose the scarce public parking curb side spaces that are  
21 in front of our house or in front of the Barney House.

22 There s just two spaces there, and then beyond that  
23 are Embassy spaces which never come open, they re always, they re  
24 always Embassy use. Those two spaces are used on a regular basis  
25 and are one of the few unrestricted Embassy spaces that are

1 around.

2 And regardless of the parking attendant  
3 arrangements that they propose, their spaces are usually filled  
4 and the drop-off and pickup would have to occur out in the traffic  
5 lane.

6 There s also the issues of the cars backing out of  
7 the driveway. Now that parking area that they have in reality  
8 only has three or four spaces that you can get in and out of  
9 without moving all the cars.

10 If you have to back a car out of that driveway, you  
11 back it out and pull it in front of the Korean Embassy driveway.  
12 That takes care of one car. You still have to get several other  
13 cars out of there. Those cars would have to back out into traffic  
14 and then you ve also got cars trying to drop off in front of the  
15 building there.

16 In addition the Korean Embassy is used, but that  
17 driveway is used quite extensively. There s a lot of traffic in  
18 and out of there. And in fact my son was almost hit by a car  
19 coming out of the Korean Embassy.

20 We have to watch that very carefully because of the  
21 traffic, and they, they just don t, they don t look or slow down  
22 when they come and go.

23 VICE CHAIR SOCKWELL: How old is your son, sir?

24 MR. TURNER: He s six.

25 VICE CHAIR SOCKWELL: And you let him out on that

1 street without an escort?

2 MR. TURNER: No, he was out there with us. He was  
3 standing right next to me --

4 CHAIRPERSON REID: Let s stay, let s stay germaine  
5 to the issues for this particular application, Mr. Sockwell.

6 VICE CHAIR SOCKWELL: Okay, fine. He asked  
7 questions, I was concerned.

8 MR. TURNER: Well I wouldn t, I don t know why it  
9 would suggest I had him out there alone, he was --

10 CHAIRPERSON REID: Sir, please.

11 MR. TURNER: I ll go on. The drop-off zone would  
12 inevitably occur out in the traffic. It would block traffic, and  
13 the traffic situation will be worse in the future when the Q  
14 Street Bridge is open, there ll be more traffic there.

15 At least that s what we believe will happen. Also  
16 our experience in parking in those spaces out in front is that  
17 it s very difficult to pull out of those parking spaces. The cars  
18 come around the Circle very quickly.

19 They don t slow down. It s hard to even pull out  
20 of the parking spaces. I don t know how, how that could work with  
21 people dropping off and the volume of traffic that this  
22 application would generate.

23 We believe the onsite parking is insufficient for  
24 the 90 seat recital hall use and as I said before we re very  
25 concerned about that. The evening parking restrictions on the

1 spaces out front don t, doesn t go out until about 6:30 and the  
2 Turkish Embassy spaces are not available further down.

3 We have spoken to the Edmonds informally about our  
4 concerns, they ve, they spoke to us once and then we, they came  
5 back over again to look at the noise situation, and you know we,  
6 we like the Edmonds very much and we d love to have them as  
7 residential neighbors, but we re, we re just not comfortable at  
8 all with the music hall and recital hall use.

9 We re also concerned that that recital hall use is  
10 really used as a public hall and that it could be used, the way it  
11 seems to us in the application is it s not necessarily restricted  
12 to any particular musical use.

13 It could be used for any group or corporate  
14 function, you know, through rental to outside groups. And we d be  
15 concerned that if it was rented out to, for weddings or corporate  
16 functions if there was liquor served or if those activities went  
17 on.

18 And we re, we would want to see some, some kind of  
19 restriction or understanding about what those alternate uses,  
20 other uses would be besides their school uses when they would rent  
21 it out to outside groups.

22 There s also a financial incentive to do that if  
23 it s not restricted in some way. We believe the special exception  
24 does not meet all the technical requirements or the intent of the  
25 Zoning Regulations as we understand them.

1           And we believe that the goal of the zoning in a  
2 residential area should protect residents from objectionable uses  
3 of adjoining properties and promote healthy neighborhoods, and we  
4 think that this application would detract from that goal in our  
5 opinion.

6           Consequently we are opposed to granting the special  
7 exception and request that it not be approved.

8           CHAIRPERSON REID: Mr. Turner, did you assess with  
9 the Edmonds the issue of the noise, the hearing the music? Was  
10 there any discussion of there s soundproofing materials that could  
11 be installed could there not?

12           Was there any discussion of trying to mitigate  
13 that?

14           MR. TURNER: They did not propose any particular  
15 mitigation of that. I understand from being here tonight that  
16 they are proposing a use of some sort of curtain inside the  
17 facility.

18           VICE CHAIR SOCKWELL: If I might add to that, and  
19 you were here at the beginning of the presentation. In a way that  
20 the Edmonds spoke to that they spoke of building a soundproof  
21 wall inside of that wall that would be specifically a  
22 soundproofing installation and not a curtain as I recall Mr.  
23 Edmonds testimony to be.

24           CHAIRPERSON REID: I didn t hear anything about, I  
25 didn t hear curtain. That s what you?

1 VICE CHAIR SOCKWELL: Yeah, he said something about  
2 a curtain and that wasn't what Mr. Edmonds said, I was very  
3 attuned to what Mr. Edmonds was trying to say there.

4 MR. TURNER: The sound --

5 MR. HITCHCOCK: May I speak to that?

6 VICE CHAIR SOCKWELL: Yes.

7 MR. HITCHCOCK: For --

8 MR. NETTLER: Objection, this is not time for him to  
9 speak to --

10 MR. HITCHCOCK: I won't take it out of your time --

11 VICE CHAIR SOCKWELL: You might be right there.

12 MR. HITCHCOCK: Okay.

13 CHAIRPERSON REID: At the closing remarks. Make  
14 your notes and we can address whatever.

15 MR. TURNER: What we had discussed was the sound  
16 partitions that were in the basement recital rooms. That's what,  
17 when I had talked to them. But our personal discussions back and  
18 forth did not get into the mitigation.

19 CHAIRPERSON REID: Okay.

20 VICE CHAIR SOCKWELL: Yeah, this evening Mr. Edmonds  
21 spoke specifically to the party wall and to a sound deadening  
22 installation which was something to me as an architect was much  
23 further than a curtain. I do have one question for you if I  
24 may.

25 MR. TURNER: Yes.

1 VICE CHAIR SOCKWELL: And that, the use of the  
2 recital hall as a public hall was not a representation that the  
3 Applicant made and does require specific licensing by the City,  
4 separate --

5 MR. TURNER: Well it doesn't, when I read it it  
6 didn't restrict the use, it says it can be rented to outside  
7 groups at certain, for outside musicians or outside events. And I  
8 don't know that that's particularly well specified in that  
9 application as to exactly what that is or that it's restricted in  
10 any way.

11 And that's a concern to us.

12 VICE CHAIR SOCKWELL: Uh-huh.

13 CHAIRPERSON REID: Okay, thank you. All right, any  
14 questions of this witness? Okay.

15 MR. HITCHCOCK: Well it might be easier if I switch  
16 places with Mr. Nettler because I have, I wanted to show you  
17 several, Mr. Turner, several items on the map that might help you  
18 with the cross examine.

19 CHAIRPERSON REID: Okay. Mr. Nettler has no  
20 objection?

21 MR. HITCHCOCK: Okay. It deals with the -- wall  
22 issue.

23 Mr. Turner good evening. First of all let me just  
24 ask one thing. You referred to this as an R3 neighborhood and  
25 that's in fact not a correct characterization of the zone is it?

1 MR. TURNER: DR3.

2 MR. HITCHCOCK: DR3, which is, contemplates mixed-  
3 use, correct?

4 MR. TURNER: Yes, residential and diplomatic  
5 overlay.

6 MR. HITCHCOCK: Okay, thank you. Now, let me ask a  
7 couple questions dealing with the party wall issue and for the  
8 Board s convenience this is Exhibit 1. And the upper, my question  
9 to Mr. Turner, the upper right hand wall, the upper right hand  
10 corner has the little words party wall showing the common wall  
11 between the Edmonds house and your house, is that correct?

12 MR. TURNER: That s correct.

13 MR. HITCHCOCK: And that is the part of the building  
14 that is closest to Sheridan Circle.

15 MR. TURNER: That s right.

16 MR. HITCHCOCK: Okay, and the remainder of the House  
17 after about 34 or so feet is detached.

18 MR. TURNER: It steps back, yes.

19 MR. HITCHCOCK: It steps back, okay. Very good. And  
20 it is your testimony that I think your bedroom and your kid s  
21 bedroom is along the party wall on the second floor?

22 MR. TURNER: That s right.

23 MR. HITCHCOCK: Okay. Let me now turn to, later in  
24 the same exhibit the individual floor showing the first levels.  
25 They look like this and this is either an Exhibit 3 in our opening

1 submission or, which is also at the end of our pre-hearing  
2 submission. And bear with me.

3 Okay. You ve been inside Studio House several  
4 times?

5 MR. TURNER: I ve been in there with the Edmonds ,  
6 yes.

7 MR. HITCHCOCK: Okay, and does this, I m looking at  
8 the page called Barney Studio House First Level Historic  
9 Designation. Does this look like the layout of the building?

10 MR. TURNER: Yes, it does.

11 MR. HITCHCOCK: Okay, and the party wall is next to  
12 the area of performance Stage No. 1 is that correct?

13 MR. TURNER: That s correct.

14 MR. HITCHCOCK: Okay, um, and do you know, and  
15 there s also then this parlor area over there where there s a  
16 seating area of 40 to 55 people.

17 MR. TURNER: Yes.

18 MR. HITCHCOCK: Okay, now the, let me turn the page  
19 to where it says Barney Studio House Second Level Historic  
20 Designation. Does this appear to be the layout of the floor?

21 MR. TURNER: Yes, it does.

22 MR. HITCHCOCK: Okay. And your testimony is that  
23 your, the common wall is in the lower left hand corner of the  
24 page, near the area of Performance Area 3.

25 MR. TURNER: Yes.

1 MR. HITCHCOCK: Okay. And the piano that you say  
2 you heard is located in this area, is that correct?

3 MR. TURNER: I don t know where the piano was when I  
4 heard the music. It was not at a time when the Edmonds were  
5 trying to make any sort of sound test. It was before I had even  
6 met the Edmonds and they were playing the piano through the wall  
7 and I heard it through the wall.

8 I had, there were other people with me in the  
9 house.

10 MR. HITCHCOCK: Uh-huh.

11 MR. TURNER: And they also heard it.

12 MR. HITCHCOCK: Okay. Do you remember from when you  
13 went into the House where the piano was located? Do you remember  
14 a piano?

15 MR. TURNER: I think when I went into it with the  
16 Edmonds it was in the front room.

17 MR. HITCHCOCK: It was in the front room on the  
18 second floor.

19 MR. TURNER: Yes.

20 MR. HITCHCOCK: Okay, and do you remember, that it  
21 was a grand piano?

22 MR. TURNER: Yes, there was a grand piano.

23 MR. HITCHCOCK: Okay, and what was the level of  
24 sound that you could hear? Was it just muffled? Or was it clear  
25 and distinct? How, what was the, I m just trying to get an idea

1 of how loud or distinct it was.

2 MR. TURNER: It didn't sound like it was in the same  
3 room, it sounded like I was hearing it through a wall. It was  
4 somewhat muffled.

5 MR. HITCHCOCK: Somewhat muffled, okay. You heard  
6 Mr. Edmonds talk about installing a curtain in front of the party  
7 wall here that would be acoustical curtain or padding that could  
8 be covered by a curtain let's say. Are you familiar with such  
9 types of curtains in your experience?

10 MR. TURNER: I'm not that familiar with it, I'd have  
11 to look at the detail of it, I haven't seen that.

12 MR. HITCHCOCK: You're an architect as I remember.

13 MR. TURNER: I'm an architect, I'm not a sound  
14 expert.

15 MR. HITCHCOCK: Okay, thanks. So it's possible then  
16 that if something could be worked out with the right kind of  
17 curtain, that might address the concern? You don't know? But  
18 maybe?

19 MR. TURNER: Well, my point is just that it should  
20 be addressed, and there should be something that we could look at  
21 to see what, you know, to see what would be done.

22 MR. HITCHCOCK: Okay. Let me ask you this. I mean  
23 suppose that the piano were to be moved say back to the principal  
24 area for any recitals. Do you think that would, where there's no  
25 common wall. Would that help to address the concern?

1 MR. TURNER: It might, it would just, it would  
2 depend, you d have to, I believe that you d have to run some tests  
3 to sort of see what sound you heard with the piano in various  
4 locations.

5 The two rooms are completely open to each other.

6 MR. HITCHCOCK: Well the two rooms are open to each  
7 other, but it s just the foyer connecting, correct?

8 MR. TURNER: Yes, how wide is that foyer?

9 MR. HITCHCOCK: Okay, well, let s take a look. It s  
10 also the --

11 MR. TURNER: It s about half the width of the room.

12 MR. HITCHCOCK: Okay, about 30 feet would you say?

13 MR. TURNER: Uh-huh.

14 MR. HITCHCOCK: Okay, and the total length from the  
15 back of, you can probably read this better than I can. From the  
16 back of the wall to where the party wall is how much? Could you  
17 make a, you could probably make a better guess than I could.

18 MR. TURNER: It s about 50 some feet.

19 MR. HITCHCOCK: 50 some feet.

20 MR. TURNER: 50, 56 feet.

21 MR. HITCHCOCK: Okay, so it s 56 feet.

22 MR. TURNER: 65 feet. Something like that.

23 MR. HITCHCOCK: Okay. So you could move, so this is  
24 a point roughly 55 feet or so from where the party wall is.

25 MR. TURNER: Yes, I understand you re saying you

1 could move the piano and it might make a difference and it s  
2 possible it would.

3 MR. HITCHCOCK: That s all I m asking. Okay, you  
4 expressed concern about let s see. I mean let me, oh, one other  
5 question on the piano thing. I suppose though that if a private  
6 family owned it and had someone in the house who practiced piano  
7 that you would still hear the music.

8 MR. TURNER: Yes, it just would not be at the  
9 intense use level that they re proposing. It wouldn t be  
10 continuously.

11 MR. HITCHCOCK: Okay, the intense use from the  
12 recitals, correct?

13 MR. TURNER: Recitals and receptions and things like  
14 that.

15 MR. HITCHCOCK: Well let s just, we haven t, there s  
16 nothing in the proposal dealing with receptions. We re talking  
17 about the recitals, I understand your point. I mean, the lessons  
18 will be downstairs in the soundproofed studios, correct?

19 MR. TURNER: That s what you ve said.

20 MR. HITCHCOCK: Okay. You ve expressed a concern  
21 about, let s talk about, you ve referred to receptions. Is there  
22 anything in the application to indicate that that s what they plan  
23 to do to rent it out to outside entities for weddings or the like?

24 MR. TURNER: In my discussions with them they said  
25 that they might want to do that. It s not, that s not, it doesn t

1 say in the application that they are going to hold weddings there  
2 or rent it out for weddings or corporate functions. But in our  
3 discussions they said that they did not want to be precluded from  
4 that.

5 Now since that time they may have changed their  
6 opinion of that, but it doesn't say that they won't do that. And  
7 that was my concern.

8 MR. HITCHCOCK: Uh-huh. Okay, so if there was some  
9 condition dealing with that, that might address your concern.

10 MR. TURNER: Well my concern with regard to any  
11 conditions would be how that would be enforced. I certainly don't  
12 want to be in a position of being a policeman to try to enforce  
13 that or having to go and complain about it.

14 I would be concerned about how that would be set up  
15 such that it would not be something where it would be acrimonious  
16 for me to go over and say something about it.

17 You know, that's the kind of concern we have,  
18 because we, we would want to get along with our neighbors and not  
19 have a situation where we would be interfering with their  
20 operations over there if we complained about it.

21 And that's just the concern that we have.

22 MR. HITCHCOCK: Okay. You also mentioned a concern  
23 about a liquor license. Is that a concern that could be addressed  
24 by a condition and I you know, recognize the point you just made.

25 MR. TURNER: Yes, I suppose it could. It's just I

1 know, my concern is based on some experiences in other parts of  
2 the neighborhood where that s been an issue where they ve had  
3 rented out the house or events and then they get temporary liquor  
4 license and they just keep getting one temporary liquor license  
5 after another.

6 I wouldn t, you know, I wouldn t be interested in  
7 that. I would want it to be restricted such that that s not, not  
8 going to be the case.

9 MR. HITCHCOCK: Okay.

10 CHAIRPERSON REID: Mr. Hitchcock?

11 MR. HITCHCOCK: Uh-huh?

12 CHAIRPERSON REID: How many questions do you have?

13 MR. HITCHCOCK: Three.

14 CHAIRPERSON REID: Quick ones?

15 MR. HITCHCOCK: Quickly, yes. Your written  
16 statement talked about a concern about people hanging around  
17 outside the building after, during student recitals. When the  
18 performers are in fact children isn t it more likely that with a  
19 7:00 to 9:00 o clock recital that you re not going to have  
20 intermissions or that sort of concern?

21 MR. TURNER: I don t know how they re going to run  
22 those recitals. I do know that our experience that when they did  
23 have some parties there people stood out front and smoked and I  
24 could smell the smoke in my bedroom.

25 MR. HITCHCOCK: Okay. And do you think that would

1 be a concern that, with a recital for children?

2 MR. TURNER: I don t know what restrictions they are  
3 going to put on people smoking. I just, it just was a concern.  
4 It happened and we could smell the smoke and I just wondered  
5 whether that would be the case when they had other functions  
6 there, whether they re children, there will be adults coming to  
7 the functions or whether they had outside music events that would  
8 be there that would draw people that that would be a situation  
9 that would occur.

10 MR. HITCHCOCK: Okay. My third and final question,  
11 how long have you lived at the house?

12 MR. TURNER: We ve lived there sine December.

13 MR. HITCHCOCK: Okay, thank you. Thank you Madam  
14 Chair.

15 CHAIRPERSON REID: Thank you Mr. Turner.

16 MR. NETTLER: --

17 CHAIRPERSON REID: Oh, sorry.

18 MR. NETTLER: I think he answered it in his last  
19 statement.

20 CHAIRPERSON REID: Uh-huh. You don t have a  
21 question. Okay, thank you Mr. Turner. All right, next witness.

22 MR. NETTLER: Well that was mine. That s his case,  
23 now we have the party of Sheridan-Kalorama. Excuse me. I d like  
24 to make a brief statement on behalf of Sheridan-Kalorama and then  
25 present the two witnesses that we have. And I will be brief.

1 CHAIRPERSON REID: Now who are your two witnesses?

2 MR. NETTLER: Mr. Hayes and Steve Peterson who is a  
3 traffic engineer.

4 CHAIRPERSON REID: Okay, and is there anyone else  
5 who is going to testify in opposition? Okay, well why not allow  
6 him to go before.

7 MR. NETTLER: That s fine.

8 CHAIRPERSON REID: Okay. Why don t you come up sir,  
9 and so you can present yours before the --

10 MR. BOWSER: Thank you Madam Chairman. My name is  
11 Richard Bowser, and I live at 2331 California Street. I have  
12 submitted a two-page letter that is based on the predication of  
13 what we understood from the ANC meeting.

14 Some of these requirements have grown such as the  
15 number of concerts that they were, or recitals as gone from 46 to  
16 60 something now. What I d like to do is talk about the  
17 practicalities of some of these issues.

18 We talk about traffic, and the traffic situation.  
19 If you re a soccer mom and you re bringing your kid there and he  
20 plays the trombone, you re going to open your door, you re going  
21 to get out, you re going to open the trunk, you re going to have  
22 two kids kidding around and all this while you re in a major  
23 traffic cariot.

24 The second thing, practicality of this traffic has  
25 not been spoken to. The realities of children, parents and trying

1 to drop somebody off on a busy schedule has not been pointed out.

2 I d hope to say that this helps. The second thing  
3 I d like to say is I have great sympathy for Mr. Turner. If I had  
4 a six year old, and at 9:00 o clock at night I have 90 people in  
5 the next room applauding, I don t care what kind of curtains you  
6 have up.

7 If you have windows, those are open imports where  
8 sound travels, and a six year old trying to get asleep at night,  
9 every Friday night, every Sunday afternoon, evening with six or  
10 seven kids in an area playing where there are windows, there is  
11 noise.

12 And I m afraid that you know if it were mine, I  
13 wouldn t be as kind as Mr. Turner. The third thing I d like to  
14 point out that no one has raised at this issue, Sheridan Circle  
15 has a monument 200 feet from the Barney House.

16 And that monument is for the, memorializes the  
17 terrorist car bombing death of two individuals on Sheridan Circle.

18 We have a major security station in front of the Turkish Embassy,  
19 and when we re talking traffic the secret service actually parks a  
20 car half way into the lane, as you come off of that Circle.

21 And when you get a stoplight and that car in there  
22 and you get traffic going across that Bridge it backs up and it  
23 backs up violently fast. People coming off of that Circle are not  
24 expecting to see a car in the lane and they slam on the brakes.

25 And I have seen it, I have been in it, and it

1 happens at 30 to 40 miles an hour with traffic, it s trying to  
2 make a light. They come around that Circle thinking they re going  
3 to catch it and it s a surprise.

4 And when you throw that with somebody opening their  
5 car door to get in the trunk and get a trombone out, I m afraid we  
6 have a disaster in the making. But from a security standpoint,  
7 the 200 cars between 112 and 200 cars parking in front of an  
8 adjacent facility opening a trunk size luggage coming in and out  
9 it becomes a commonplace thing.

10 The U.S. Diplomatic Corps would not allow that  
11 within 150 feet of any building that the U.S. has a security  
12 rating of three or higher on. And I know where I speak on that.

13 If we are talking about potential terrorist threats  
14 we have to address today s world and the neighborhood we re in.  
15 We have Egypt across the street, we have Turkey. Both are high  
16 threat areas. Across the street we have the Irish Embassy which  
17 is subject to bombing.

18 We have Greece which sometimes doesn t have the  
19 most stable of the nations in that area. Up and down the area,  
20 Ivory Coast up the street is currently doing construction which  
21 further restricts traffic in that area.

22 We have a serious concern as neighbors of the ANC  
23 of the potential of outright terrorism acts as a political  
24 statement by other areas. And now we re going to throw kids in  
25 the mix.

1           And the last thing I d like to raise on this is  
2           that I was singularly impressed by the presentation they made at  
3           the ANC. I felt like I was watching a commercial version of the  
4           Music Man. And I felt like we were being treated like the  
5           citizens of River City.

6           I have a Fine Arts Degree. I have been a  
7           professional musician in my life. I am not impressed with the  
8           business that they are performing here. I think this is a  
9           convenient performance spot for all of their various locations  
10          around the area, and solves a problem for them.

11          But does not investigate the nearby commercial  
12          resources on Connecticut Avenue, the underground or other sources  
13          nearby there that could serve the same function without losing a  
14          residential potential and thrusting a commercial entity into the  
15          middle of an area that has already been under stress from the  
16          State Department allowing office type facilities over the  
17          objections of the neighborhood.

18          I would hope that the Board carefully looks at all  
19          these issues with a practical light, and realizes that the entire  
20          ANC meeting voted unanimously against this. And I would hope that  
21          you would follow through. Thank you.

22                   CHAIRPERSON REID: Thank you.

23                   VICE CHAIR SOCKWELL: Before you go, I would like to  
24                   ask you --

25                   MR. BOWSER: Yes, sir.

1 VICE CHAIR SOCKWELL: -- some quick questions.

2 One, how long have you lived in the neighborhood?

3 MR. BOWSER: 12 years.

4 VICE CHAIR SOCKWELL: Where do you live?

5 MR. BOWSER: 2331 California and I walk by that area  
6 minimally once a week. I drive that area every morning sir.

7 VICE CHAIR SOCKWELL: Yes, you said there was  
8 speeding in the neighborhood. What has the neighborhood done to  
9 deal with that issue?

10 MR. BOWSER: We constantly raise the issues of  
11 trying to get the police to enforce the parking and the speeding  
12 regulations in the neighborhood at the ANC meetings and I think  
13 the record will show that.

14 VICE CHAIR SOCKWELL: All right. How many bombings  
15 or serious threats have you seen in the neighborhood sine you ve  
16 been there 12 years?

17 MR. BOWSER: Sir, I had a car with four secret  
18 service agents and oozie machine guns protecting the house next  
19 door when it belonged to the OAS. I came home to find that and  
20 they appropriated my driveway for three days running.

21 We have had two --

22 VICE CHAIR SOCKWELL: When did that, when did that  
23 occur?

24 MR. BOWSER: This was about four and a half years  
25 ago.

1 VICE CHAIR SOCKWELL: Uh-huh.

2 MR. BOWSER: This was right after there was an  
3 assassination attempt on his, on the ambassador when he was in  
4 Central America. We have had two cases that did not make the news  
5 of having attache bombs in driveways.

6 VICE CHAIR SOCKWELL: So --

7 MR. BOWSER: And, let me finish. We do have a major  
8 secret service station 150 feet from the door of this facility.  
9 They don t put those there because it s a convenient location.  
10 They put it there because there is a constant 24-hour a day, seven  
11 day a week threat by Armenians against the Turkish.

12 VICE CHAIR SOCKWELL: I don t want to let your  
13 feelings of security scare Mr. Turner who has just moved into the  
14 neighborhood and --

15 MR. BOWSER: I m sure he understands this.

16 VICE CHAIR SOCKWELL: But you re making it sound  
17 like the neighborhood is very dangerous.

18 MR. BOWSER: Sir, when you are in that neighborhood,  
19 you have, the problem we have is the more commercial and the more  
20 business type entities that enter that facility or in that area,  
21 the more it becomes that you accept non, unknown persons walking  
22 the neighborhood, cars entering the area, things parked on the  
23 street et cetera, et cetera.

24 We are raising this issue with the City and with  
25 the State Department at the same time. It s not just the school.

1 But I will tell you at this point I have been robbed in my home  
2 bringing in the groceries because you take customary, you get used  
3 to seeing cars that you re not used to.

4 VICE CHAIR SOCKWELL: Was it a Turkish, and Armenian  
5 or

6 CHAIRPERSON REID: Let s go on --

7 MR. BOWSER: That s beside the point. What I m  
8 saying it s a security issue as far as the neighbors are  
9 concerned.

10 CHAIRPERSON REID: Thank you.

11 VICE CHAIR SOCKWELL: Fine.

12 CHAIRPERSON REID: All right, cross examination Mr.  
13 Hitchcock?

14 MR. HITCHCOCK: Yes, thank you Madam Chair. I  
15 would like to hand up -- I forgot to do so before but, a letter  
16 which I received from the secret service in response to a letter  
17 we sent in Exhibit 16, which I d like to show to Mr. Bowser here.

18 MS. PRUITT: Mr. Hitchcock you ve got to make sure  
19 you re on the mike, that s all.

20 MR. HITCHCOCK: I apologize. I would show --

21 MR. TURNER: Are you providing us a copy as well?

22 MR. HITCHCOCK: Sorry, Richard. And I would ask  
23 you if you could take a moment to look at that letter and see if  
24 that speaks to any of the security concerns that you have.

25 (Pause.)

1 MR. BOWSER: I understand what this letter says,  
2 that they have no objection to the secret  
3 service --

4 MR. HITCHCOCK: Thank you very much.

5 CHAIRPERSON REID: All right, that s it? Thank you.  
6 Thank you very much. Okay. Mr. Nettler? Now.

7 MR. NETTLER: We will not be taking 45 minutes.

8 CHAIRPERSON REID: Thank you.

9 MR. NETTLER: But thank you, thank you very much.  
10 I, although I have a brief --

11 CHAIRPERSON REID: Mr. Nettler, I ve been asked, I m  
12 sorry, for a five minute break.

13 MR. NETTLER: That s fine.

14 CHAIRPERSON REID: A quick break because people just  
15 need to have just a little stretch, and then your case and then  
16 there s cross and then there s closing remarks. And hopefully we  
17 can get out of here relatively quickly.

18 COMMISSIONER HOOD: Madam Chair, can we get a feel  
19 for that, where we are? How much time. You said not 45, so.

20 MR. NETTLER: I mean from our standpoint I have two  
21 witnesses, they re probably not going to take more than ten to 15  
22 minutes, at least of that 45 minute time, so.

23 CHAIRPERSON REID: And we have cross.

24 COMMISSIONER HOOD: Okay. Thank you.

25 (Whereupon a short recess was held.)

1 CHAIRPERSON REID: Please come back to order. Mr.  
2 Nettler --

3 MR. NETTLER: Thank you very much. My name is  
4 Richard Nettler, and I m here on behalf of the Sheridan-Kalorama  
5 Neighborhood Council. I just want to make a few remarks prior to  
6 Mr. Hayes and Mr. Peterson testifying.

7 There s been some discussion as you know about some  
8 issues regarding the use of the two record lots and how the Zoning  
9 Regulations apply to that. I m not going to go over those at this  
10 point.

11 I will leave that for further discussion and  
12 proposed findings of fact and conclusions of law, except to note  
13 that there is in the regulations a distinction between the way  
14 commercial properties are dealt with in under similar  
15 circumstances such as the downtown area and residential areas.

16 As you know, special exceptions unlike use  
17 variances or area variances are situations in which the, the  
18 Zoning Commission has recognized that a use is appropriate for a  
19 particular district or whether it be residential or commercial,  
20 but it has recognized that that particular use may, unlike other  
21 uses that it recognizes as appropriate and considers as a matter  
22 of right, may have a particular adverse impact on an area that is  
23 different than what the matter of right uses are.

24 And for that reason it give the Board the authority  
25 to regulate that and to evaluate it under a number of different

1 factors. And those factors don't require that the Applicant  
2 address every single adverse impact to the satisfaction of anybody  
3 who is suggesting an adverse impact.

4 And it certainly recognizes that as you know with  
5 the number of schools that have come before you whether private  
6 schools or in other circumstances that schools themselves are not  
7 anathema to residential areas.

8 But the issue really then focuses on what those  
9 adverse impacts are and how you deal with those impacts or can you  
10 deal with those impacts in light of the proposal that's made  
11 before you.

12 In this case, and actually in that context as well,  
13 referencing the, I think a statement made by Mr. Sockwell about  
14 the Boca Regulations. In Levie (phonetic) versus Board of Zoning  
15 Adjustment the Court specifically recognized that in special  
16 exception cases while this Board may not have the authority to  
17 resolve, whether it's Boca Code Regulations, whether it may be  
18 alley closing issues, whether it may be any other types of issues  
19 that other agencies have the responsibility for resolving, they  
20 may be relevant to the consideration that the Board has to give to  
21 the adverse impact analysis.

22 Even if they're not issues that get resolved. So  
23 if there are Boca Code issues that are, that are out there, even  
24 though you may not have the responsibility for resolving them,  
25 they may go into the whole analysis that has to take place in

1 addressing what are relevant issues to any particular application.

2 And you must determine whether those are issues  
3 that are relevant to any particular application because of the  
4 adverse impacts that have been raised with regard to them. Also,  
5 and I think with regard to this specific application, I think the  
6 point raised and questioned also by Mr. Sockwell about whether  
7 this is a public assembly or a school raises another issue.

8 And that is if you look at the recital aspect of  
9 this application, recognizing that this is an application for a  
10 special exception for a, for a private school use, where, when  
11 does the recital aspect of this become something more than a  
12 accessory to the public school and essentially become itself the  
13 real use that s being sought here or have in terms of the both the  
14 number of persons that are coming to the property for those  
15 recital use and therefore require a different type of special  
16 exception than the one that s being sought.

17 I would submit that from the testimony that s been  
18 given by the Applicant certainly it would seem to suggest that the  
19 recital aspect of this case has become something more than the  
20 public school aspect of it.

21 Cause it may very well be that you can conclude  
22 that a public school use of these premises may be appropriate in  
23 certain conditions, if you should conclude, but that the recital  
24 use in all its parameters has gone beyond what you would normally  
25 expect to see in this area given its impacts whether it s traffic,

1 noise and other recognized impacts.

2 So you have before you on the basis of this  
3 application you have a testimony from a traffic expert, which I  
4 think has been demonstrated to be unreliable, and in fact in his  
5 own testimony if the figures that you relied upon are not accurate  
6 then as he stated that testimony should not, those conclusions may  
7 not be reliable as well.

8 And I think with regard to the, to Mr. Oberlander s  
9 testimony the testimony as to, you know, the historic character of  
10 the building, the fact that this is a mixed-use in the sense that  
11 a diplomatic overlay exists, are essentially irrelevant.

12 What are relevant to the consideration that you  
13 have to make with regard to the special exception use are specific  
14 to the use as it s been proposed, and I would submit that Mr.  
15 Oberlander s testimony actually is not enlightening with regard to  
16 that, those issues that you have to address.

17 And what you re left with then of course is with  
18 the testimony of the Applicant himself as to his proposed use and  
19 what his beliefs are as to its impacts, which are not, which are  
20 at issue here by the, by those in the neighborhood and by the  
21 Advisory Neighborhood Commission.

22 Lastly with regard to Friends of Alice Pike Barney  
23 Studio House letter, while I m not here to testify, and while I m  
24 noted on here as the Advisor, on the Advisory Board of the Friends  
25 of Alice Pike Barney Studio House, I note that the letter is not

1 signed, at least the copy that I have, isn't signed by anybody, as  
2 a Member of the Advisory Board, as the attorney for the Friends of  
3 Alice Pike Barney Studio House, as the person who put together the  
4 Friends of Alice Pike Barney Studio House, this is the first I've  
5 ever seen or heard of a position being taken by somebody on behalf  
6 of the Alice Pike Barney House and I don't know who, whether they  
7 have discussed this with other Members of the Advisory Board or  
8 other Officers but it's, it certainly doesn't contain a signature  
9 on it.

10 So I guess maybe the question that Mr. Sockwell  
11 also issued as to who my friends are is maybe an apt one in some  
12 context. Having said all that I would like to present as our  
13 first witness Mr. Hayes who has been asked by the Sheridan-  
14 Kalorama Neighborhood Council to act on its behalf and presenting  
15 testimony with regard to this application.

16 Thank you.

17 CHAIRPERSON REID: Thank you very much.

18 MR. HAYES: Good evening. My name is Alan Hayes, I  
19 live at --

20 CHAIRPERSON REID: Your mike please Mr. Hayes.

21 MR. HAYES: Oh, sorry. Good evening, my name is  
22 Alan Hayes. I live at 2234 Q Street, N.W. From my front window I  
23 can see the Q Street Bridge and I can also see the front of the  
24 Turkish Embassy which faces on to 23rd Street.

25 So my property is just around the corner from the

1 Alice Pike Barney House. First I would like to indicate that you  
2 have in front of you a number of signatures on a petition that we  
3 have gathered. There are 67 people who have signed this petition.

4 These by and large I would point out are neighbors  
5 that are very close to Sheridan Circle. These are not spread out  
6 all over the City. They are all confined to ANC-1D. And in fact  
7 there are parts of the ANC that weren't covered because the, we  
8 thought they were too far away.

9 Ms. Pruitt I'll give you the --

10 (Mr. Nettler falls down on the floor.)

11 CHAIRPERSON REID: Are you okay?

12 MR. NETTLER: Oh, I'm fine.

13 VICE CHAIR SOCKWELL: These late hearings do that.

14 (Laughter.)

15 MR. NETTLER: It's been a long time since I've been  
16 at a late hearing.

17 MR. HAYES: Secondly I want to enter into the record  
18 a letter from representative Eleanore Homes Norton, which is  
19 written to Secretary Madam Albright at the State Department. And  
20 in this letter, and this is very recent, February 10th, 2000.

21 In this letter Ms. Norton is asking for the State  
22 Department to deal with problems from embassies and chanceries  
23 that have a very high degree of concentration in the Sheridan-  
24 Kalorama neighborhood.

25 On the second page at the top of the page she ends

1 that paragraph by saying, Moreover the presence of such  
2 chanceries is greatly aggravating in already impossible parking  
3 situation in this dense neighborhood.

4 The, I d like to review a few of the things that I  
5 have submitted. In a letter to the Board of Zoning Adjustment --

6 CHAIRPERSON REID: Okay, sir, before you continue.  
7 The letter that is written by Eleanore Homes Norton to Secretary  
8 Albright is submitted for what purpose?

9 MR. HAYES: On the second page she talks about the -  
10 -

11 CHAIRPERSON REID: I ve read the letter.

12 MR. HAYES: -- The presence of the chanceries is  
13 greatly aggravating an already impossible parking situation.

14 CHAIRPERSON REID: Okay, now how does that relate to  
15 this particular case?

16 MR. HAYES: Well, this, Sheridan Circle is right in  
17 the middle of this area. And one of the things we ve been  
18 discussing is the parking problem.

19 CHAIRPERSON REID: Okay, but this is more in  
20 relation to a chancery isn t it?

21 MR. HAYES: No, no. This is the parking in the  
22 neighborhood.

23 CHAIRPERSON REID: Okay, wait a minute. It says,  
24 more of the presence of such chanceries is greatly aggravating an  
25 already impossible parking situation in this dense neighborhood.

1 MR. HAYES: Yeah, and the Sheridan-Kalorama --

2 CHAIRPERSON REID: So basically what you re saying  
3 is that you are drawing an analogy --

4 MR. HAYES: No, I m saying that Ms. Norton is  
5 commenting on the fact that parking is a problem in the Sheridan-  
6 Kalorama Neighborhood.

7 CHAIRPERSON REID: Oh, is that all?

8 MR. HAYES: Yeah.

9 CHAIRPERSON REID: Okay. Well, I was just trying to  
10 see how you were relating that to the --application before us.

11 MR. HAYES: Well there s been a lot of discussion  
12 about parking and --

13 CHAIRPERSON REID: All right, I see.

14 MR. HAYES: I m going to talk about it in a moment  
15 as well.

16 CHAIRPERSON REID: All right, I just thought that it  
17 was something more involved than that.

18 MR. HAYES: No.

19 CHAIRPERSON REID: All right.

20 MR. HAYES: I d like to focus on just two or three  
21 issues in my letter.

22 CHAIRPERSON REID: Sure, uh-huh.

23 MR. HAYES: And let the rest stand on the record,  
24 and some of it has been discussed at great length by other people.

25 The first thing I would like to point out is that,

1 as, has been noted. The Q Street Bridge is closed, has been  
2 closed sine last September, I believe, and is due to open again in  
3 August of this year.

4 Living on Q Street, I can tell you that there is a  
5 lot of traffic going across that Bridge into Georgetown. The  
6 traffic that goes across the Bridge can only come to the Bridge  
7 from two sources. It either, actually three. It can come on to Q  
8 Street off of 22nd, Florida, at that point they re the same  
9 roadway, or it can come from downtown, it comes up Massachusetts  
10 Avenue and it s forced to go around Sheridan Circle and turn right  
11 on to 23rd Street and again right on to Q Street at the Bridge.

12 The reason that it has to come up to Sheridan  
13 Circle is because of the configuration of the one-way streets  
14 along Massachusetts Avenue. When the Bridge is opened it is not  
15 at all unusual in the evening to find traffic backing up at the Q  
16 and 23rd Street light and backing into Sheridan Circle.

17 There s a lot of traffic that comes around that  
18 circle and turns right on to 23rd and it s, that s a very short  
19 block, and it s, if there s a light there that traffic backs right  
20 up into the Circle.

21 There has been some discussion about, and there  
22 will be some more I believe about the safety issues --

23 CHAIRPERSON REID: Yeah.

24 MR. HAYES: -- of children getting out of cars in  
25 front of the Barney House. One of the, having lived in that area

1 and driving in that area frequently, when you are going towards  
2 Sheridan Circle from 24th Street, this is coming down from the  
3 northwest, going towards the center of town, as you approach the  
4 Circle, there is a small diamond shaped piece of ground in between  
5 the entrance to the Circle and the exit from the Circle on  
6 Massachusetts Avenue.

7 And in fact on that little diamond shaped piece of  
8 ground is the, is a sign, a big sign that says that the traffic in  
9 the Circle has the right of way. You have to yield. And as you,  
10 traffic coming down there, typically goes very fast.

11 The other night I was driving down from 24th Street  
12 into the Circle and the group of cars I was in the middle of was  
13 traveling at about 35 miles an hour. As you come towards the  
14 Circle, particularly when there is traffic coming around the  
15 Circle that has the right of way, your attention is focused to  
16 your left at the traffic coming towards you in the Circle.

17 And the question, and if you re on Massachusetts  
18 Avenue, the thing that you have to consider is who has the right  
19 of way, and are you going to try and get in front of that guy or  
20 are you going to slow down and go in behind him.

21 Once you enter the Circle, someone here earlier  
22 testified that it s about 100 feet to the front of the Barney  
23 House. And I submit it s like one, one and a half seconds and  
24 that really is not an awful lot of time to react if now you have  
25 some people parked or double parked as has been suggested, loading

1 and unloading children.

2 And the problem is that it isn't just one, it's 18  
3 times potentially every half hour. And that's a lot of loading  
4 and unloading. Talking about the parking problem, there's a  
5 neighbor of mine who has also submitted a letter for the record,  
6 and he had a medical emergency today, he had planned on being here  
7 and giving testimony himself, but I'd like to read a couple  
8 sentences from his letter.

9 CHAIRPERSON REID: Do we have it? Have you  
10 submitted the letter yet?

11 MR. HAYES: --

12 CHAIRPERSON REID: And what's his name?

13 MR. HAYES: His name is Alan N. and Heather K.  
14 Jacobs.

15 CHAIRPERSON REID: Just one second, I don't think we  
16 have it. Yes.

17 MR. HAYES: It's Exhibit No. 27?

18 CHAIRPERSON REID: Uh-huh. We do have it. Okay.  
19 We've read it but you just want to basically hit on a couple of  
20 items from it?

21 MR. HAYES: Yeah, just --

22 CHAIRPERSON REID: Okay.

23 MR. HAYES: On Paragraph 2.

24 CHAIRPERSON REID: Uh-huh.

25 MR. HAYES: The first half of the paragraph.

1 CHAIRPERSON REID: Uh-huh.

2 MR. HAYES: The proposed application will further  
3 overwhelm the parking in our already overly congested neighborhood  
4 which is inundated with parked cars from foreign embassies and  
5 people visiting the commercial neighborhood of P Street and Dupont  
6 Circle.

CHAIRPERSON REID: Okay.

7 MR. HAYES: The Church of the Pilgrims, which is  
8 located approximately one block south of the property, we re  
9 talking about Sheridan Circle, and directly behind our house as  
10 many functions which are held mostly on weekend evenings, and by  
11 weekends, these are, when the Church rents the property to  
12 organizations which are not affiliated with the church.

13 By weekend evenings, this is normally Friday or  
14 Saturday or Sunday. And there is an event there at least once  
15 every week. People attending these events park illegally along Q  
16 Street in our rear alley, not only blocking the use of our garage  
17 but also inhibiting the ingress and the egress of emergency  
18 vehicles.

19 And I would suggest that the concerts and the  
20 performing, guest performing artists with up to 90 people are  
21 going to contribute to this kind of problem, just enhancing it, on  
22 weekends.

23 CHAIRPERSON REID: Okay.

24 MR. HAYES: Lastly, let me just touch and add to  
25 what Mr. Turner said. He spoke of the problems of potentially

1 renting the House for weddings or other functions, corporate  
2 functions and so on. We have two examples, one is H.H. Leonard  
3 that started out as a museum and now she has affairs in her row,  
4 series of row houses that require buses to bring all the people  
5 in.

6 The other is attached, there s an article from the  
7 Current talking about problems at Tudor Place which is a museum  
8 which has been allowed to have events like this and the complaints  
9 that are being made by Mr. Crockitt (phonetic), a Georgetown  
10 resident has to do with all the problems created with parking.

11 And I would like to suggest that we don t know what  
12 these recitals and guest performances are apt to lead to but we  
13 certainly don t want to have situations similar to H.H. Leonard or  
14 Tudor House.

15 VICE CHAIR SOCKWELL: Mr. Hayes?

16 MR. HAYES: Yes.

17 VICE CHAIR SOCKWELL: While the Tudor House is one  
18 thing, H.H. Leonard s is a very, very different animal. And I  
19 would submit that it is irrelevant to this. It s neither a single  
20 historic building, nor was it developed anywhere near the same way  
21 that this particular property has existed for its many, many  
22 years.

23 And therefore I would want not to use that as a  
24 good example. It s a great place to go, but it isn t a good  
25 example to compare to this.

1 MR. HAYES: Well, the fact that --

2 VICE CHAIR SOCKWELL: And they, and they, they  
3 rented it primarily, and I mean it s been through so many years  
4 and so many battles for so many reasons, that it isn t, it isn t  
5 relevant to this. And I don t think that you really see it as a  
6 similar institution.

7 You can use it because of the congestion, but it  
8 isn t anywhere near similar to this.

9 MR. HAYES: Mr. Sockwell, the question is not, has  
10 not, is not related --

11 VICE CHAIR SOCKWELL: Nor is it on a circle, by the  
12 way.

13 MR. HAYES: -- is not related to what, the question  
14 is what, if the application as it sits right now is approved the  
15 way it sits, the question is what can this become? And --

16 VICE CHAIR SOCKWELL: But it cannot, it cannot  
17 become an H.H. Leonards because it is on a circle.

18 MR. HAYES: Well, H.H. Leonards is on O Street.

19 VICE CHAIR SOCKWELL: Yes, exactly.

20 MR. HAYES: As a matter of fact it s very narrow  
21 there.

22 VICE CHAIR SOCKWELL: That s true, but it s not on a  
23 circle.

24 MR. HAYES: Yeah, but the --

25 VICE CHAIR SOCKWELL: And it s not on a through

1 major arterial street, is it.

2 MR. HAYES: No but we re talking --

3 VICE CHAIR SOCKWELL: All right. So we re not  
4 talking about apples and apples. That s all I m talking about.  
5 That s the only, that s the only reference I m making. Apples and  
6 apples it is not. And you would agree with me there, would you  
7 not sir?

8 MR. HAYES: The things that are of concern to us --

9 VICE CHAIR SOCKWELL: You re not going to answer the  
10 question, I withdraw it. Thank you.

11 CHAIRPERSON REID: Okay, continue.

12 MR. HAYES: The things that are of concern are the  
13 granting of liquor license, one day liquor licenses, and the large  
14 numbers of people that can become invited to such ancillary  
15 affairs that have nothing to do with the school -- and that s our  
16 concern.

17 CHAIRPERSON REID: Okay, thank you very much.  
18 Cross-examination?

19 MR. HITCHCOCK: Mr. Hayes, you, you spoke about the  
20 diamond shaped area in the curb lane of Sheridan Circle as one is  
21 approaching from the northwest. Doesn t that tend to funnel  
22 traffic towards the traffic lanes in the Circle rather than  
23 towards the House?

24 MR. HAYES: Yes.

25 MR. HITCHCOCK: Okay, so doesn t that really provide

1 some sort of buffer as far as your safety concerns are concerned?

2 MR. HAYES: Well not if, not if these cars have to  
3 double park. And not if there are cars constantly coming in and  
4 out.

5 MR. HITCHCOCK: Okay. With respect to the Church of  
6 the Pilgrims, just for the record, that is, the Church of the  
7 Pilgrims is located between 21st and 22nd, P, and Q, is that  
8 correct?

9 CHAIRPERSON REID: No, no.

10 MR. HITCHCOCK: No, 22nd, --

11 MR. HAYES: Between 22nd, and 23rd.

12 MR. HITCHCOCK: 22nd and 23rd, okay, so that is  
13 essentially east of the property in question, correct?

14 MR. HAYES: It s south and east.

15 MR. HITCHCOCK: South and east, okay. Your  
16 testimony, you stated in your testimony and I was writing it down  
17 that they have many functions on weekend evenings, is that  
18 correct?

19 MR. HAYES: Yes.

20 MR. HITCHCOCK: And once every week?

21 MR. HAYES: At least once.

22 MR. HITCHCOCK: At least once every week. What kind  
23 of function did they have there last weekend?

24 MR. HAYES: Sunday night they had a AA meeting.

25 MR. HITCHCOCK: Okay. And how many people do you

1 think attended that?

2 MR. HAYES: I don t know. The room they hold it in  
3 will hold up to 200 people I believe.

4 MR. HITCHCOCK: Okay, and the Church of the Pilgrims  
5 has on-site parking, does it not, on the 22nd Street side of the  
6 building?

7 MR. HAYES: I m not sure they allow that to be used  
8 for these functions.

9 MR. HITCHCOCK: Okay and they also

10 MR. HAYES: Because all of 23rd Street and  
11 everything on Q Street and our back alley often are clogged up  
12 with cars going to these meetings.

13 MR. HITCHCOCK: Okay. So there may be some room  
14 there, but you don t, on site for this, but you don t know, is  
15 that your testimony?

16 MR. HAYES: That s correct.

17 MR. HITCHCOCK: Okay, and they also have a driveway  
18 that runs from Q to P within the property, don t they?

19 MR. HAYES: No.

20 MR. HITCHCOCK: No. Okay. You had some concern --

21 MR. HAYES: Excuse me.

22 MR. HITCHCOCK: Yes.

23 MR. HAYES: You may be referring to the alley.  
24 There s an alley back there.

25 MR. HITCHCOCK: I m referring to, there is a street

1 that slopes down along 23rd Street parallel to 23rd Street.

2 CHAIRPERSON REID: 23rd and Florida.

3 MR. HITCHCOCK: Yes, within the property. I ll  
4 withdraw the question.

5 MR. HAYES: Yes.

6 MR. HITCHCOCK: Okay. You cited delegate, or excuse  
7 me, Congresswoman Norton s letter about the problems with  
8 embassies and chanceries. I mean wouldn t that be an argument in  
9 favor of granting this application so it didn t turn into a  
10 chancery or embassy?

11 MR. HAYES: No. I was referring to the fact that  
12 she says that parking is a problem in this area.

13 MR. HITCHCOCK: Uh-huh. Okay, and the fact that the  
14 Edmonds s have done things like approached the Westin Fairfax and  
15 the like doesn t, doesn t affect your conclusion?

16 MR. HAYES: No.

17 MR. HITCHCOCK: Okay. Thank you, I have no further  
18 questions.

19 CHAIRPERSON REID: Okay, thank you very much. Mr.  
20 Nettler you have one last witness?

21 MR. NETTLER: Yes, Mr., excuse me. Yes, Mr.  
22 Peterson.

23 CHAIRPERSON REID: Okay.

24 MR. NETTLER: Who I would proffer as a expert  
25 traffic engineer who has appeared before you on numerous occasions

1 and has been so qualified.

2 CHAIRPERSON REID: Okay so is there any objection,  
3 of Mr. Peterson?

4 MR. NETTLER: Yes.

5 CHAIRPERSON REID: Appearing as an expert witness?  
6 If he s been already accepted by the Board as an expert witness,  
7 typically we would allow him to, and if there s no objection from  
8 the Applicant we will allow you to do so, sir.

9 MR. PETERSON: Thank you ma am. Yes, I have been a  
10 witness here many times, probably not before this Board, there  
11 seems to have been some changes in the Board since the last time I  
12 was here.

13 MR. NETTLER: Would you give your name and address.

14 MR. PETERSON: For the record I m Stephen G.  
15 Peterson, I m a Traffic Planning and Engineering Consultant with  
16 an office in Gaithersburg, Maryland at 16628 South Westland Drive.

17 Jokingly during the break I said to Dr. Carter that  
18 if I had turned in a paper as a student of his with the bust in  
19 the traffic volumes on the Circle he probably would have been very  
20 upset with me.

21 And I think that is a, has got to be a concern to  
22 the Board in terms of the fact that there s a 40 percent  
23 difference between the volumes that entered the Circle from the  
24 west end on Massachusetts Avenue and the volumes that exit that  
25 link in front of the site at 23rd Street.

1                   Furthermore, when you go back and look at Dr.  
2 Carter s 1984 count that he got from the Department of Public  
3 Works and submitted to you this evening, if you compare the  
4 entering volumes during the evening peak hour at the west end of  
5 the Circle at Mass Avenue with the count that the District of  
6 Columbia has as their count is 90 percent higher.

7                   So I hardly think that these are small  
8 discrepancies in data. Furthermore what s even more interesting  
9 with their count is that we re, Dr. Carter had 17 cars proceeding  
10 around the Circle, the District count has 347.

11                   And that goes to the point just made that the  
12 traffic in the Circle has the right-of-way and that the attention  
13 of the drivers coming down Mass Avenue who have to yield is to  
14 play this game of who gets in, its first fender in, if they can  
15 beat the guy coming around the Circle.

16                   As was also pointed out there is a no left turn for  
17 traffic coming outbound on Mass Avenue, the only way to get to the  
18 Q Street Bridge when it s open is via Mass Avenue to the Circle  
19 and then south on 23rd, because there is a no left turn  
20 prohibition on, facing westbound traffic on Mass Avenue.

21                   And therefore the Q Street Bridge is fed from two  
22 different directions. One from 23rd Street by traffic that comes  
23 out Mass Avenue or actually can come off of R Street through a  
24 little cut through if it wants to go south on to the Circle and  
25 into Georgetown.

1           So these, for all intents and purposes the most  
2 heavily used link on that Circle is in front of this site. The  
3 issue that then, well, then I also will take issue with the  
4 analysis that has been presented to you in terms of quantifying  
5 level of service on the basis of an analysis that is essentially  
6 looking at volume versus capacity.

7           Since 1985 the Highway Capacity Manual has defined  
8 level of service in terms of vehicle seconds of, average vehicle  
9 seconds of delay, vehicles per second delay.

10           And therefore it s inappropriate to equate a result  
11 from a capacity of a, creating a lane volume analysis to a level  
12 of service. And as the author of the, of a paper on critical lane  
13 volumes in 1971, I ve been very, I ve been following this over the  
14 long period of time.

15           And while we did use critical lane volume analysis  
16 to equate the level of service for many years, since 1985 it s not  
17 a valid comparison. A more valid comparison would have been to  
18 use analysis techniques, computer based analysis techniques which  
19 can look at a circle like Sheridan Circle as what it really is, as  
20 a roundabout.

21           If you go through the high -- capacity --check the  
22 ten characteristics of a roundabout, at least seven of them, this  
23 Circle, excuse me, qualifies for at least seven of them.

24           Therefore, I don t think the Board really has  
25 before it a valid evaluation of the operation of that traffic

1 circle, or roundabout as it would be more property called.

2 Furthermore, the fact that the Q Street Bridge is  
3 closed and is not, the Circle is at least 30 per, or at least 25  
4 percent less traffic it may be as much as 50 percent less traffic  
5 in it now, than there will be when the Bridge is open.

6 It creates a totally different set of circumstances  
7 that you re dealing with for an operation that starts at 3:00  
8 o clock in the afternoon and proceeds through until 8:00 o clock  
9 in the evening.

10 Interestingly, it s interesting to note that the  
11 time period for the video that you saw was roughly 3:00 to 4:00.  
12 The count that Dr. Carter, in Dr. Carter s report does not start  
13 until 4:30. Furthermore, going to your point Mr. Sockwell that  
14 there s, the actual use of the Circle is evenly balanced inbound  
15 and outbound in the evening peak and is probably more so inbound  
16 in front of the site because of the loop up and around the Circle  
17 to get to the Q Street Bridge when it s opened.

18 The issue in this case is not the volume of traffic  
19 that this site generates in terms of its 18, the potential 18  
20 trips. The issue is pickup and drop-off with a heavy emphasis on  
21 pickup.

22 Any of you who have a, have seen schools operate,  
23 know that parents on the pickup end of the trip will typically  
24 arrive early and they will park and wait. Where do they park and  
25 wait on Sheridan Circle? Do they double park against the

1 diplomatic parking that exists in front of the Korean Embassy?

2 Do they continue around the Circle? They can't  
3 circulate blocks very well in this neighborhood without going down  
4 23rd, left on Q, left on 22nd and back up Mass, another left onto  
5 Mass. There's hardly a circulation route that we would want to  
6 encourage.

7 I think Dr. Carter was at an extreme disadvantage  
8 without having a management schedule for how these classes were  
9 going to operate because it is the management of those, of that,  
10 those classes that is going to determine how much queuing, how  
11 much parking we get on that Circle.

12 And I think given the prior description of how  
13 drivers literally work or drive that Circle, having a row of  
14 double parked cars waiting for children to come out is going to  
15 create situations from a, from the determination of an impact upon  
16 traffic that the Board must make that are not in my judgement  
17 tenable.

18 The, I've got the, the paper that you will have  
19 before you lists the various things that, the sets that go  
20 through, that people will go through to drop children. This  
21 attendant that we speak of is 60 feet from the front of that, from  
22 the front of the building to the point where he has to, will  
23 assist children out of a car.

24 Sixty feet at the design walking speed of four feet  
25 per second it takes him 15 seconds to get from the door to the

1 car, we go through an unloading operation, we get a child out of a  
2 car seat, we unbuckle him, we get his instrument out of the car,  
3 and then he escorts him back to the door, it s another 15 seconds.

4 In the meantime somebody has arrived to pick up a  
5 child that has just finished a class so then he s waiting. And he  
6 goes through that same process again to put a child, strap him  
7 into a car, or be sure he gets into his car seat, if we re not  
8 going to have the driver of the car get out and do it, load his.

9 The vision that goes through my mind is the  
10 Volkswagen with the base fiddle on the roof, but that may be an  
11 exaggeration, but at this hour of the night it s the vision that  
12 comes into mind.

13 I think that this application fails to demonstrate  
14 to the Board of Appeals a management scheme that can be relied  
15 upon to prevent problems. In fact the only evidence that I ve  
16 seen or heard is on Page 8 of the, of Dr. Carter s Report which  
17 talks about the fact that lessons are scheduled for different  
18 lengths.

19 But there s no definition of what that is. The  
20 presence of the attendant, I ve just dealt with that. A single  
21 attendant is not only doing just moving cars in and out of the  
22 lot, potentially.

23 Yes, agreed, all cars don t arrive precisely at the  
24 same time, but there is a time element that each one must dwell at  
25 the curb to do what they re going to be doing. And finally the

1 suggestion that you will instruct parents when to drop off and  
2 pick up their children does not provide me as a professional  
3 engineer a lot of security as to how that is really going to be  
4 managed.

5 And if they don't do that who's going to enforce  
6 it? How are you going to enforce it? And as was indicated  
7 earlier, there is diplomatic parking west of the driveway for both  
8 the subject site and the Korean Embassy, which is in effect until  
9 6:30 in the evening.

10 I'd be glad to respond to any questions that you  
11 may have. Thank you.

12 MR. NETTLER: First, Mr. Peterson, let me just ask  
13 you, did you come to any conclusions regarding the reports that  
14 you had reviewed regarding, as to the recitals, both the timing,  
15 the numbers of people attending those recitals as it may affect  
16 both the traffic around the Circle given the number that I think  
17 you heard probably the Applicant testified to today and its impact  
18 on those issues?

19 MR. PETERSON: The, I don't see the addition of 36  
20 or 50 cars to the Circle as has been indicated, it's a very small  
21 percentage of the total volume. The issue is not the number of  
22 cars circulating the Circle. The issue is the number of cars that  
23 must be accommodated in the parking.

24 First park, unload, then depart, then the  
25 following, the pick-up, must park, must get the child, and the

1 fact that people do, they do come together, they do wait, and  
2 there really is no specific waiting area for people that are  
3 waiting to pick up their child.

4 And I don't consider double parking adjacent to  
5 diplomatic parking on the street as an appropriate way to  
6 accommodate that problem. I might add that the parking spaces  
7 that were looked at, the comment has been made you need to make,  
8 you need to move one or two, actually if you get cars five and six  
9 out of the far back end of the lot, if you look at the spaces, the  
10 space, there's two spaces that block that.

11 So you would really have to move three cars and  
12 we've got one attendant and where is he going to put those cars?  
13 He's going to back them out on the street and double park them  
14 against the diplomatic parking, if somebody has to get out early.

15 Again, I don't think that is a, these are issues  
16 that are to me not well presented in the application. They're  
17 issues which I would think the Board would be concerned about from  
18 the view of their findings of the adequacy of traffic  
19 accommodation, and I don't believe that you have enough evidence  
20 in this application to be able to come to a, to make a judgement  
21 on those issues. Thank you.

22 MR. NETTLER: Thank you.

23 CHAIRPERSON REID: Thank you. Board Members, do you  
24 have any questions? Okay. Cross examination?

25 MR. HITCHCOCK: Thank you Madam Chair, in the

1 spirit I ve heard Board Members stayed in the past, I ll try to be  
2 brief and let Dr. Carter speak for himself. A couple of questions  
3 the traffic that we re talking about during the 3:00 to 8:00 p.m.  
4 period is coming westbound southbound down Massachusetts, correct?

5 If it s passing in front of Studio House?

6 MR. PETERSON: Oh, not site traffic, but other  
7 traffic?

8 MR. HITCHCOCK: Well, yeah, I mean let s focus on  
9 the 3:00 to 8:00 p.m. operations when the lessons are taking  
10 place. The traffic that passes in front of Sheridan House, or in  
11 front of Studio House is the most part coming from the west and  
12 then either going down Q Street or continuing down Massachusetts?

13 MR. PETERSON: As of today, however, we reopen the Q  
14 Street Bridge there is another component that s equal to  
15 approximately a third of that which comes down Mass Avenue which  
16 will be circulating on the Circle and it s the traffic that has  
17 the right-of-way, which is the traffic that somebody trying to  
18 back out of a driveway has got to be concerned about.

19 MR. HITCHCOCK: Okay. Let me ask you this question.  
20 Somebody coming southbound eastbound on Massachusetts, might want  
21 to turn on to 23rd Street, to get to Rock Creek Parkway, correct?

22 MR. PETERSON: Yes. That s one way they get, the  
23 one they turned on to 23rd Street they have two options. One is  
24 to continue on 23rd Street down to 22nd, or they turn left on to Q  
25 Street and go across doing whatever they want to do further to the

1 east.

2 MR. HITCHCOCK: Okay. And they might also, but as I  
3 understand your concern is that when the traffic, when the Q  
4 Street Bridge reopens some of this traffic might turn either east  
5 or west onto Q Street?

6 MR. PETERSON: My concern is that this traffic that  
7 is now diverted to streets such as P Street or other routes in the  
8 City will return to its preferred route which is outbound on Mass  
9 Avenue, around Sheridan Circle, in front of the site, right turn  
10 on to 23rd Street and right turn on to Q.

11 And that is a pattern that existed. It shows up in  
12 the 1984 count that Dr. Carter introduced this evening. I would  
13 proffer that it is probably, I can, there s probably less traffic  
14 even in a count that s 15 years old than there will be when the Q  
15 Street Bridge reopens.

16 MR. HITCHCOCK: But isn t it possible though that  
17 when the Q Street Bridge reopens some of the outbound traffic,  
18 traffic leading downtown might go off, take a, head west on Q  
19 Street and never come to the Sheridan Circle at all?

20 MR. PETERSON: It can t get there because of the  
21 left turn prohibition on Mass Avenue westbound at 22nd Street.

22 MR. HITCHCOCK: What if it comes up 22nd and then  
23 tries to go?

24 MR. PETERSON: It can do, some people will do that.

25 But it s, --

1 MR. HITCHCOCK: Don t some people do that every day?

2 MR. PETERSON: Some, when the Bridge is open, yes,  
3 but they, I, I come back again to the fact that the count  
4 submitted by your witness demonstrates that there was up to twice  
5 as much volume in some locations on that Circle in 1984 then there  
6 are today.

7 MR. HITCHCOCK: Okay. Let s move on to another  
8 subject. You see pick-up and drop-off in the curb lane is the key  
9 issue, and you ve stated there was no management scheme that would  
10 solve the problem, although you ve cited the fact some lessons  
11 might begin, might be 45 minutes in length.

12 Were you here when Dr. Carter also made the  
13 suggestion about having lessons start at say 4:00, 4:05, 4:10,  
14 that sort of thing?

15 MR. PETERSON: I don t know if that suggestion came  
16 from him or it was a question by you to one of the witnesses if  
17 that would have alleviated the concerns of the ANC. I think  
18 that s where that question arose. I didn t hear Dr. Carter make  
19 that as a proffer.

20 MR. HITCHCOCK: Okay, well what about your concern,  
21 would that address your concerns as a management scheme?

22 MR. PETERSON: It s at least something that should  
23 be explored. It is not in the application before the Board of  
24 Zoning Adjustment at this point, so they can t, I don t see how  
25 they can judge whether it has merit or not.

1 MR. HITCHCOCK: Okay, but you re the transportation  
2 expert. You think it might address the problem.

3 MR. PETERSON: It is a, at least it s a start in  
4 terms of addressing the problem. I don t know whether it can  
5 address it or not cause I have no idea from reading the  
6 application as to really how many students we re dealing with,  
7 what their headways are between classes, their, this is the kind  
8 of.

9 A schedule of the operation of this school whether  
10 it be 10:00 to 12:00 in the morning or from 3:00 to 8:00 in the  
11 evening, or from 7:00 to 9:00 in the evening when the recitals  
12 occur, it s not there.

13 MR. HITCHCOCK: Okay, thank you.

14 CHAIRPERSON REID: Thank you Mr. Hitchcock. No  
15 other cross examination? Okay. It s 10:00 o clock. I can t  
16 believe it. Thank you. Mr. Nettler, closing remarks? No I m  
17 wrong. Mr. Hitchcock, closing remarks?

18 MR. HITCHCOCK: May I ask first if Dr. Carter has  
19 any comments in the way of rebuttal?

20 CHAIRPERSON REID: Mr. Carter, that is not --That  
21 would not be appropriate in these proceedings. At this point we  
22 want to just bring some closure to this particular case.

23 You have the opportunity to give closing remarks  
24 and you can then address in your closing remarks any redirect that  
25 you wanted to do that you spoke of earlier, and this is the

1 appropriate time to do that, okay?

2 MR. HITCHCOCK: Thank you Madam Chair. I want to  
3 make a couple of points. I probably will not cover each and every  
4 specific that was reserved at this point but we will have the  
5 opportunity on findings of fact and conclusions of law, so our  
6 written statement will cover that.

7 CHAIRPERSON REID: Yes.

8 MR. HITCHCOCK: This is an unusual case because  
9 we re dealing with a rather unusual landmark. A landmark because  
10 of its exterior and a landmark with the two interior floors.  
11 We ve heard testimony about difficulty in terms of trying to use  
12 such a landmark that was built and designed for performance space  
13 for exhibitions as something other than some of the prior uses  
14 that it had.

15 The Smithsonian held on to this property for 39  
16 years. The Smithsonian couldn t make a go of it. The Friends  
17 Group came along five years ago and said we will raise a million  
18 dollars to join in an effort to have this Smithsonian use this  
19 building for mixed-use office and for performance and exhibition  
20 space.

21 That didn t go anywhere. And the Smithsonian sold  
22 it. The Edmonds s are coming along now five years later after  
23 that effort failed to say we will do something along the lines  
24 that Alice Pike Barney did.

25 We will restore a residential use to this building.

1       Something it has not had for decades, something that we  
2 respectfully submit should be important to the neighbors given the  
3 pressures for uses here for non-residential means.

4               The other thing that they are doing is offering a  
5 private school. Not offices, but something that will open up this  
6 public landmark to the children of the City, will make it  
7 available to people who can come and enjoy the unique building  
8 that you saw on the tape.

9               I respectfully suggest that all the elements for an  
10 exception have been met here. With respect to noise noting will  
11 take place outdoors, there are thick walls. The basement where  
12 most of the, where the music lessons will take place, the studios  
13 in the basement will be soundproofed and there s been no  
14 opposition to that.

15              We ve talked about the concern that the next-door  
16 neighbors have. It s about one instrument, the piano that s in  
17 the second floor, and I m sure there s a way to address that  
18 concern such as using it only in the rear parlor, the 90 seat  
19 parlor in the back.

20              There are things that can be done to address that.

21       The number of students, 17 at one time, one hour of the week.  
22 That is not a lot. But the real concern here is with the traffic  
23 and parking, and let me talk about some of those issues.

24              I think Dr. Carter s testimony talked about some of  
25 the discrepancies that may have taken place between some of the

1 students, but I think the fundamental fact remains that this is a  
2 Circle that functions smoothly and you saw the traffic on the  
3 video which was like 3:30 to 4:00 when lessons were being held.

4 And he also testified that what he observed being  
5 out there between 5:00 and 6:00 was not that much more difficult  
6 in terms of access. You ve got an excellent safety record in the  
7 Circle.

8 We ve got the letter in from the secret service.  
9 There s not a security concern. We have tried to deal with these  
10 issues in every way that we can. We ve staggered the hours of  
11 operation so that there will be nothing during the morning rush  
12 hour.

13 We have tried to limit the art classes to after  
14 6:30 when some of the residential, when some of the embassy spots  
15 open up. We ve limited the recitals in number as well as in time  
16 to off peak periods, again when residential parking is there, and  
17 again when it is convenient for parents and students.

18 We ve got an attendant to make sure the drop-off  
19 and pick-up will move smoothly. We really don t think there will  
20 be 18 cars appearing at one time. But there are things that can  
21 be done to deal with it.

22 Let me point out as well that what we re really  
23 doing here is not that radically different from what the Board has  
24 done in several other cases. We attached as Exhibit 11 the  
25 Board s decision recently involving Metropolitan Day School, which

1 had a far more extensive traffic use.

2           There to I would point out as a footnote, the  
3 Applicant came in and said we will deal with some of her concerns  
4 about parking by making spaces available off-site, and the Board  
5 approved that as a means of alleviating some of the concern.

6           We've done the same thing here. The Levine School,  
7 which is in upper-northwest Washington is an R-1-A Zone, and it's  
8 far more intense in its usage than what we're talking about here  
9 as Mr. Graves testified.

10           So, I think that it will work. The parking, the  
11 on-site parking. There has been stacked parking on this site for  
12 decades. That's the way the Smithsonian used it. And in terms of  
13 questions of practicality. What may have been glossed over in the  
14 presentation, during the bulk of the lesson period, the spaces  
15 will be taken by the teachers.

16           And one of the things that the Edmonds's are doing  
17 with the school is coordinating it with, through the registrar so  
18 everyone's going to be arriving at the same time and everyone will  
19 be leaving at roughly the same time, the 8:00 o'clock period.

20           And there are things that can be done if a teacher  
21 for example has to leave early to go in for a dental appointment,  
22 for example. There is flexibility. The concerns that all of a  
23 sudden you'll have to move eight or nine cars to let one person  
24 out are just not going to happen. Teachers will know, they will  
25 understand the routine, and it's not going to be a concern.

1           Mr. Edmonds also stated in his testimony that from  
2 his experience in Virginia he doesn't anticipate that parents will  
3 stay for lessons, and if the Board wants a condition to that  
4 effect that is something that certainly we would be happy to  
5 consider.

6           In terms of the recitals, we've tried to, there has  
7 been no criticism that I've heard of of the concept of students  
8 recitals, there's been some criticism of the numbers, the 45  
9 people, and we've addressed that.

10           With respect to the guest recitals, Mr. Nettler  
11 suggested that we may be tipping over the line into some kind of  
12 public hall type of thing. We are holding 12 recital, I'm sorry  
13 24, proposing 24 a year of two hours each.

14           By contrast the school will be in operation for  
15 over 40 hours during the week, so this is really minimal and it  
16 really does have the educational purpose of letting students hear  
17 professional music, talk to musicians, and have a benefit that  
18 just is simply not available at the present time.

19           And let me close by saying, as I think Mr.  
20 Edmonds's testimony pointed out, you're dealing here with an  
21 Applicant who is no stranger to giving back to the community and  
22 trying to work with the community.

23           There's the exhibits in the records of things that  
24 he did to try to bring music lessons to children at the Adams  
25 School in 19th Street and Adams Morgan. There was the award he

1 received from Wynton Marsalis at the Filmore Arts Center here in  
2 the District.

3 These were done while he was running a school out  
4 in Virginia but as a Washington resident he wants to do things  
5 here in the City. And there are numerous other awards that  
6 they ve given over the years.

7 There will be the scholarship program. Here is  
8 someone with a record of trying to do good things for the children  
9 of the City. It s a venture that we hope that the Board will  
10 approve. With that I have no further comments and appreciate your  
11 attention at this late hour.

12 CHAIRPERSON REID: Thank you. Before we conclude I  
13 did have just a couple quick questions for Mr. Edmonds. In regard  
14 to your testimony you had today, one is, very quickly, do you live  
15 in the House?

16 MR. EDMONDS: I do not live in the House.

17 CHAIRPERSON REID: All right.

18 MR. EDMONDS: I have some of my furniture in the  
19 house. I m currently living about six blocks away.

20 CHAIRPERSON REID: Okay, in the submission that you  
21 gave to the Board, that was submitted to the Board is, it said  
22 that you had moved into the House and you lived in the first, on  
23 the top two floors, --

24 MR. HITCHCOCK: May I respond to that?

25 CHAIRPERSON REID: Yes.

1 MR. HITCHCOCK: I take responsibility for that.

2 CHAIRPERSON REID: Uh-huh.

3 MR. HITCHCOCK: I spoke with the Edmonds s shortly  
4 before we filed and indicated to them that if they were in the  
5 House there may be a benefit in terms of getting a lower filing  
6 fee for owner occupancy. And they told me then that they would  
7 move in promptly.

8 And I drafted that part of the report accordingly.

9 When I told them there was no exemption, I think what happened is  
10 they stopped moving in, but I didn t say, what are you going to do  
11 now? But I think he will testify --

12 CHAIRPERSON REID: Okay.

13 MR. HITCHCOCK: -- that I mean they, they do have  
14 furniture on the top two floors, and as he said if this is granted  
15 they will live there.

16 CHAIRPERSON REID: They will live there. They  
17 intend to be owner occupants but they do not at this time.

18 MR. HITCHCOCK: No. I mean given the uncertainty I  
19 think they wanted to wait until the matter, until the dust had  
20 settled in the matter.

21 CHAIRPERSON REID: Okay, and secondly, the operation  
22 of the studios, the music studio, is it, it s going to be a for-  
23 profit operation? It s a commercial, business entity?

24 MR. EDMONDS: This is has been raised a number of  
25 times by people of the ANC. I mean the non-profit status does not

1 prevent us from taking money any more than a church takes a  
2 collection.

3 CHAIRPERSON REID: All right.

4 MR. EDMONDS: We certainly must make money to  
5 operate.

6 CHAIRPERSON REID: Okay. Well then, the, are there  
7 going to be any other types of activities --

8 MR. EDMONDS: There will be no commercial sales or  
9 retail sales ma am, at all, zero.

10 CHAIRPERSON REID: Are you going to lease the  
11 facility to other entities for other types of events, weddings?

12 MR. EDMONDS: Absolutely not.

13 CHAIRPERSON REID: Okay. And will there ever be  
14 liquor served on the premises sold or served?

15 MR. EDMONDS: There would never be liquor on the  
16 premises.

17 CHAIRPERSON REID: Okay, thank you.

18 MR. HITCHCOCK: May I add just one point on that --  
19 Exhibit 13 contains the articles of incorporation as a non-profit  
20 corporation.

21 CHAIRPERSON REID: Uh-huh.

22 MR. HITCHCOCK: And Mr. Edmonds s statement  
23 indicated that they intend to seek tax exempt status under 501C3  
24 of the Internal Revenue Code so they would have to operate to  
25 preserve the tax exempt status as a non-profit educational

1 institution.

2 CHAIRPERSON REID: Thank you.

3 MR. HITCHCOCK: Which we provide an extra --

4 CHAIRPERSON REID: Okay. Other Board Members? No  
5 questions. All right. And this will finally conclude today s  
6 hearing.

7 MS. PRUITT: Madam Chair, I just would like, we will  
8 take just some closing dates for everybody to be sure.

9 CHAIRPERSON REID: And I should also, I m sorry, I  
10 didn t mention that this particular case will be deliberated at  
11 the next --

12 MS. PRUITT: That s what I wanted to --

13 CHAIRPERSON REID: Yeah, at our next meeting, which  
14 will be April the 5th.

15 MS. PRUITT: April, no, no, yeah, April the 5th.

16 CHAIRPERSON REID: April the 5th.

17 MS. PRUITT: And we would like to have draft orders  
18 by March 27th since you re closing the record at this time,  
19 correct?

20 CHAIRPERSON REID: One disk.

21 VICE CHAIR SOCKWELL: Madam Chair just one question  
22 on the liquor item.

23 CHAIRPERSON REID: Uh-huh.

24 VICE CHAIR SOCKWELL: What was your specific on the  
25 liquor? Were you saying that there would be absolutely no liquor

1 served in the premises to guests --

2 CHAIRPERSON REID: I, no, no --

3 VICE CHAIR SOCKWELL: I mean was that your  
4 indication or was the indication that there would be no liquor  
5 sold on the premises?

6 CHAIRPERSON REID: My question was would there be  
7 any liquor sold or let me put it this way, any alcoholic beverages  
8 sold on the premises or served on the premises?

9 MR. HITCHCOCK: The answer is no.

10 MR. EDMONDS: And the answer is no.

11 MS. PRUITT: I m sorry, that has to be of course  
12 only in relationship to the school. I mean we can t, you can t  
13 necessarily govern him from not serving liquor --

14 VICE CHAIR SOCKWELL: No, you re talking about his  
15 residential use, and if he lives there he can drinks all he wants.

16 MS. PRUITT: Right. --

17 CHAIRPERSON REID: First of all, first of all I did  
18 not, I did not in any way indicate one way or the other. My  
19 question was simply will there be any alcoholic beverages served  
20 or sold on the premises and the answer was no.

21 MS. PRUITT: I guess I just wanted to be sure you  
22 were --

23 VICE CHAIR SOCKWELL: Yeah, and I don t think Ms.  
24 Reid meant with regard to his residential occupancy of the  
25 property. That s all

1 MS. PRUITT: Just trying to keep the record as clear  
2 as possible.

3 VICE CHAIR SOCKWELL: Am I correct?

4 CHAIRPERSON REID: No, I did not in any way, if I  
5 did infer, I did not intend to, the, I thought we were referring  
6 to the Studio that is the subject of this application today.

7 VICE CHAIR SOCKWELL: Right, right. Okay.

8 CHAIRPERSON REID: And that was the concern of the  
9 opposition was that there had been some discussion of or some  
10 rumor about alcoholic beverages being served or sold on the  
11 premises.

12 VICE CHAIR SOCKWELL: Uh-huh.

13 CHAIRPERSON REID: And that s -- okay. All right,  
14 now, so do you have the date line? Draft orders.

15 MS. PRUITT: Just for clarification the record is  
16 closed as of now. You re not requesting any additional  
17 information, correct?

18 CHAIRPERSON REID: No, I did not.

19 MS. PRUITT: Closed as of now and that draft orders  
20 will be due on March 27th which is a Monday.

21 CHAIRPERSON REID: Mrs. Renshaw and Mr. Moulden will  
22 read the rest of the record and they will also participate in the  
23 vote. All right, thank you. And I would like to especially thank  
24 everyone for your patience and your indulgence at such a late  
25 hour. We did not have any idea this would go for so long, but

1       yeah, you have to do what you have to do.

2                       VICE CHAIR SOCKWELL: And you ve set a new record  
3       for this session of hearings because the last one ended at 10:00  
4       o clock and you beat it by 13 minutes.  14 minutes.

5                       COMMISSIONER HOOD: I just want you to know that the  
6       Zoning Commission has the record.

7                       (Whereupon the hearing in the above entitled matter  
8       was concluded.)

9  
10