

GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 8, 2000

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 2:52 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Vice Chairperson
RODNEY L. MOULDEN	Board Member
ANN RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner
-----------------	--------------

OFFICE OF ZONING STAFF PRESENT:

Jerrily R. Kress,	Director
Sheri Pruitt,	Secretary, BZA
Beverly Bailey,	Office of Zoning
Paul Hart,	Office of Zoning
John Nyarku,	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Arthur Jackson, Office of Planning  
Maxine Brown-Roberts, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

Marie Sansone, Esq.

<u>AGENDA ITEM</u>	<u>PAGE</u>
PRELIMINARY MATTERS .....	4
<u>APPLICATION OF STACY HAMBLIN:</u>	
<u>16550 ANC-6A</u> .....	23
<u>WITNESSES</u>	
KLAUS KLATT .....	24
<u>APPLICATION OF MICHELLE HESTER:</u>	
<u>16621 ANC-3G</u> .....	37
<u>WITNESSES</u>	
MICHELLE HESTER .....	38
<u>APPLICATION OF ALEX R. BOYAR:</u>	
<u>16637 ANC-2E</u> .....	59
<u>WITNESSES</u>	
ALEX R. BOYAR .....	62
EDGAR T. NUNLEY .....	60
<u>APPLICATION OF SASHA BRUCE YOUTHWORK, INC.:</u>	
<u>16622 ANC-6A</u> .....	136
<u>WITNESSES</u>	
DEBORAH SHORE .....	143
GEORGE JOHNSON .....	148
LYLE R. SCHAUER .....	194
JOSHUA HALPERN .....	198

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

(1:51 p.m.)

CHAIRPERSON REID: For those who were here for the afternoon session, unfortunately we ran over this morning and we do apologize for that. We will take a short recess and then continue with the afternoon session.

Do we have any withdrawals or any -- yes, I think that would be appropriate to go ahead and do those so that the people who are here won't have to wait and then only to find out that it is not going forward today.

(Brief Pause.)

MS. BAILEY: Just one moment before you leave. There are two cases this afternoon that are going to be rescheduled. The first one is 16619, Romano Romani and Thomas D. Parry.

The applicant has requested that that case be postponed. The staff is recommending a February date for that. At this point, we don't have a specific date in February, but it will be held in February 2001.

And the second case, Members of the Board, is Application Number 16550, Stacy Hamblin. Again, the applicant is also requesting that that case be rescheduled, and the staff has preliminarily identified a February date for that.

CHAIRPERSON REID: Okay. So we only have what?

MS. BAILEY: We have three cases this afternoon.

1 We have Michelle Hester, Alex Boyar, and the case that was  
2 rescheduled from October 24th, Sasha Bruce.

3 CHAIRPERSON REID: Okay. We have three?

4 MS. BAILEY: Yes, Madam Chair.

5 MS. PRUITT: On the other two cases that have been  
6 rescheduled, we will publish in the District Register the actual  
7 date.

8 CHAIRPERSON REID: Thank you. All right. We will  
9 be back at -- I'm sorry, was there a question? Please come up and  
10 speak in the mike, sir, and give your name and address.

11 MR. WASSEL: Good afternoon. My name is Louis  
12 Wassel, and I am co-chair of the 16th Street Neighborhood  
13 Association. And I have asked for party status in regards to this  
14 request.

15 VICE CHAIRPERSON SOCKWELL: With which one, with  
16 Hamblin?

17 MR. WASSEL: With Hamblin, yes.

18 CHAIRPERSON REID: All right. At the time when  
19 that case is called, sir, then you can come up and request party  
20 status.

21 MS. BAILEY: I'm sorry, sir, but that case, 16550,  
22 Stacy Hamblin, that case is going to be rescheduled. Is that what  
23 you inquired about?

24 MR. WASSEL: Yes. My question is --

25 CHAIRPERSON REID: Oh, that is the one being

1 rescheduled. Okay.

2 MR. WASSEL: My first question is whether there is  
3 any discussion on the rescheduling at this moment?

4 MS. PRUITT: The only thing we have, because our  
5 schedule is very tight, is that we know that we cannot accommodate  
6 it before February. So, as I was saying, we would republish in  
7 the District Register a date once we have determined that, and we  
8 will also send a notice to the ANC and single member district.

9 MR. WASSEL: Okay. My concern is that this is the  
10 third time that the neighborhood has been down here for this case,  
11 and you are asking to have it rescheduled for the fifth time.

12 CHAIRPERSON REID: Fifth time? How many times has  
13 it been before the board?

14 MS. PRUITT: It was dismissed once, and so that is  
15 a separate case. This is a new case, although it has got the same  
16 number. But it was dismissed once, and then this is the second  
17 time it is being continued.

18 MR. WASSEL: My concern is that as a neighborhood,  
19 we have received three notifications on different dates for this  
20 to happen. The first one was the first week of February. The  
21 second one was in June.

22 There was a letter also sent that it was going to  
23 be scheduled in September, and then this one in October. I am  
24 very concerned about this being the fifth rescheduling and having  
25 close to 47 residents trying to write letters and concerns in

1 regards to this application.

2 At what point and what responsibility as citizens  
3 of the block can we keep coming back and taking time out of our  
4 business schedule?

5 CHAIRPERSON REID: Did you say five times, sir? I  
6 think I heard three times; a dismissal, and then a continuation,  
7 and then this is the second continuation request.

8 VICE CHAIRPERSON SOCKWELL: It was called up, and  
9 the representatives weren't there as I recall. It was dismissed.  
10 Then there was a request for reinstatement, and then there was a  
11 scheduled hearing. And then I think that one was rescheduled to  
12 today.

13 So there probably have been five actions on it, but  
14 they weren't all hearings scheduled.

15 MR. WASSEL: That is correct. But nevertheless, as  
16 residents of that block, we have had to come down and make special  
17 times to either see if they are going to be rescheduled, and what  
18 action would take place.

19 I know that it is very easy to dismiss those  
20 hearings as going as reschedules, but nevertheless as individuals  
21 not everybody is properly notified from the BZA.

22 In fact, I would go on record as my notifications  
23 are going to the owner that was there over 10 years ago. I called  
24 down to clarify why my address goes with somebody else's name.

25 So if my notifications aren't getting sent to me

1 directly, I can only infer that other neighbors are not getting  
2 properly notified on these situations, and it really raises a  
3 concern and issue, and I do have the letters dated for three such  
4 situations of this nature.

5 MS. PRUITT: Sir, a couple of things. In reference  
6 to you getting your address, but not the right owner. We get our  
7 list from the tax and revenue, and so we have no ability to change  
8 that. If you call and let us know, and we note the file, we can  
9 do that here.

10 But tax and revenue, you need to discuss with them  
11 on that. We also do three types of posting in case one does fall  
12 through, which is posting in the District Register, which most  
13 residents don't read. We recognize that.

14 We send it to the ANC, and we also send it to your  
15 single member district, which we are not required to, but we do.  
16 And we also send it to your Council person, which we are not  
17 required, but we do. And then we mail out to people within 200  
18 feet.

19 And then the applicant is required to post the  
20 property 15 days before. So we have those many different types of  
21 notice, so that if one does fall through, you do have a due  
22 notice. It is not that every single one has to be met. It is the  
23 due process.

24 And it is hopefully designed to catch -- you know,  
25 so that people who aren't maybe notified one way are notified

1 another way, and so that way their rights are not --

2 CHAIRPERSON REID: Okay. Ms. Bailey, may you can  
3 enlighten us as to the request for the continuation.

4 MS. BAILEY: Well, actually the applicant is here,  
5 and maybe he should articulate his reasons for requesting that  
6 the application is postponed.

7 MR. KLATT: My name is Klaus Klatt, and i am an  
8 architect. I was hired by the Hamblin brothers to represent in  
9 this particular case. Mr. Wassel is well aware of my situation.

10 The first postponement that I had requested  
11 unfortunately was not read by the board while I had some business  
12 to take care of abroad. I had made a request for a continuation,  
13 because for several -- and to me unknown -- reasons, I have in my  
14 possession three letters that I had sent to the ANC to be heard.

15 I never received a response, and at this time I  
16 felt that I was not obligated then to appear and postponed my trip  
17 abroad. The present -- and as Ms. Pruitt so acutely said, the  
18 case was -- instead of being dismissed, it was allowed to be  
19 continued.

20 My latest request for a continuation does not  
21 originate from me, but originates from a Mr. Fentey. Mr. Fentey  
22 has requested about three weeks ago, or four weeks ago, that he  
23 would like more time.

24 He is part of the ANC and he is the commissioner at  
25 the moment for 4C, and he approached one of the owners, Mr.

1 Johnson, who is present here as well, and asked him that a  
2 continuance be requested, which I did by the way. This is why I  
3 am here today.

4 MS. PRUITT: Madam Chair, also -- excuse me, and  
5 not to cut you off, Mr. Klatt, but we have a letter from Mr.  
6 Fentey. It came in late, and so it was in our file, but maybe the  
7 community has not seen it.

8 It was dated November 1st, and it was stamped in  
9 then, but it is only from that single member district. Suzy Fish  
10 signed off on this.

11 CHAIRPERSON REID: Let's get to the reason for it.

12 MS. PRUITT: My understanding was that they wanted  
13 to decide to work out some of the problems.

14 CHAIRPERSON REID: A resolution to resolve some of  
15 the problems?

16 MS. PRUITT: Yes, to resolve some of the issues  
17 that are outstanding.

18 CHAIRPERSON REID: And asked for some more time to  
19 do that.

20 MR. KLATT: And may I just finish, and for this  
21 reason I am requesting that the board decide to give us another  
22 date in court.

23 MR. WASSEL: Could I have a clarification on the  
24 November 1st letter, because I have a copy that was faxed from Ms.  
25 Suzy Fish, who is the actual ANC in the area described, where she

1 is going back to the original motion to disapprove this proposal.

2 MS. PRUITT: Excuse me?

3 CHAIRPERSON REID: What is the question? I'm  
4 sorry, but what is the question, sir?

5 MR. WASSEL: My question was in regards to the  
6 letter that was dated November 1st from Mr. Fentey, and signed by  
7 Ms. Fish, I do have what I believe is the same letter asking that  
8 this application be disapproved. There is no indication of a  
9 continuance.

10 MS. PRUITT: He is correct. We had gotten verbal  
11 requests from Mr. Fentey.

12 CHAIRPERSON REID: Well, all right. It also seems  
13 that there has to be some response from the Office of Planning and  
14 Public Works, DPW, and the Fire Marshal, and that information is  
15 forthcoming.

16 Nevertheless, when we receive a request for a  
17 continuation to help to resolve some of the issues from the ANC or  
18 from a council member, typically we try to accommodate them,  
19 notwithstanding the fact that the ANC is saying that they are  
20 opposed to this.

21 Apparently, there is still some cause to believe  
22 that there is some possibility of some resolution, and I suspect  
23 that's why we do have the request for a second continuation.

24 VICE CHAIRPERSON SOCKWELL: Let me ask Mr. Klatt a  
25 question. When you say no reply from the Police Department,

1 Office of Planning, and Public Works, et cetera, et cetera, are  
2 you saying that those are requests that are made routinely by the  
3 board for reports in connection with cases?

4 MR. KLATT: It is my custom to also approach each  
5 of these agencies. I have not heard any positive or negative  
6 reply from any of them. I did approach and did get an answer from  
7 the Planning Department, however, in the meantime.

8 VICE CHAIRPERSON SOCKWELL: Generally, as you may  
9 not know, the board receives its reports from these agencies as  
10 they choose to grant them. There are not any requirements that  
11 the police department, or the Office of Planning, or Public Works,  
12 provide a report as a requisite to our hearing the case.

13 MR. KLATT: Absolutely. I am fully aware of that,  
14 but I am used to feeling out any of the agencies as to the  
15 possible objections anyone might have in this case.

16 VICE CHAIRPERSON SOCKWELL: Okay. So I guess what  
17 I am saying is -- and, Madam Chair, follow me with this -- we  
18 don't have to reschedule a case because these agencies have not  
19 responded. But we are more willing to reschedule a case if we  
20 believe that a compromise can be achieved that will both save the  
21 board time and certainly perhaps save the community the need to  
22 have to argue for or against, or in some relation to a case.

23 If you can meet with the community, and the  
24 community becomes happy, then we can expedite your case through  
25 the system, and that makes everybody happy.

1                   And that seems to be one of the things that you  
2                   have stated in your letter of October 12th, and so my assumption  
3                   is that that is the most salient reason for your request again for  
4                   a postponement.

5                   MR. KLATT: It is not my doing necessarily, I must  
6                   admit, but I do request it.

7                   VICE CHAIRPERSON SOCKWELL: I certainly understand  
8                   the situation of the community's representatives coming down,  
9                   Madam Chair, on a regular basis for hearings that have not taken  
10                  place. And if we postpone this hearing this time, I think we  
11                  should make it a final postponement.

12                  CHAIRPERSON REID: I would agree. Given the  
13                  situation, I think that would be most appropriate. Can we have a  
14                  motion on the floor?

15                  VICE CHAIRPERSON SOCKWELL: I move that we postpone  
16                  the hearing until a date certain in the year 2001.

17                  CHAIRPERSON REID: February.

18                  VICE CHAIRPERSON SOCKWELL: February 2001, for the  
19                  purpose of allowing the applicant time to continue or solidify  
20                  negotiations, which may reduce or remove the objections of the  
21                  community to the proposed project.

22                  CHAIRPERSON REID: The final one.

23                  VICE CHAIRPERSON SOCKWELL: This being the final  
24                  postponement.

25                  CHAIRPERSON REID: Continuation. I would second

1 it. All in favor?

2 (A chorus of ayes.)

3 CHAIRPERSON REID: Opposed?

4 (No audible response.)

5 MS. BAILEY: The staff will record the vote as four  
6 to zero; motion made by Mr. Sockwell, and seconded by Ms. Reid, to  
7 postpone this case, Application Number 16550 of Stacy Hamblin for  
8 one final time, the date being certain in February of 2001.

9 MS. PRUITT: Madam Chair, just for this office, we  
10 will not only republish in the District Register, but we will send  
11 out to everybody within 200 feet. So they will get a second  
12 notice of the hearing.

13 CHAIRPERSON REID: Okay.

14 MS. BAILEY: Madam Chair, did you want to vote on  
15 the first case to be postponed as well, 16619?

16 CHAIRPERSON REID: We did that by consensus.

17 MS. BAILEY: Consensus? Okay.

18 CHAIRPERSON REID: Thank you. All right. Let's  
19 see. Thank you very much. Now, for the afternoon, we have  
20 Michelle Hester, and the first case of the afternoon has been  
21 continued. So we have three.

22 So we will return about 2:30. We have to take a  
23 short break for lunch.

24 MS. PRUITT: Ms. Mitten has arrived, and she has  
25 some issues with or some concerns with some of the afternoon

1 agenda.

2 CHAIRPERSON REID: Okay. All right. Go ahead.

3 COMMISSIONER MITTEN: Madam Chair, I don't have  
4 anything to add in terms of the discussion about whether or not  
5 the case, case number 16619, be continued.

6 But what I did want to put on the record is that  
7 the application lists the existing use of the property, or present  
8 use of the property, as small lobbyist/consulting office, and that  
9 that would not change, and that is what the variance is for.

10 So what I am suggesting -- and there is also a  
11 piece of letterhead that shows the --

12 CHAIRPERSON REID: Order, please. If you want to  
13 have discussions, please leave this hearing room so that you can  
14 talk outside of it. Thank you.

15 COMMISSIONER MITTEN: -- applicant, their address,  
16 as being at the property, which implies that they are already  
17 occupying the property as an office.

18 And I wanted to suggest that we make a referral to the zoning  
19 administrator to verify whether these people are occupying this  
20 property in accordance with the zoning ordinance.

21 CHAIRPERSON REID: Okay. So you are saying that --  
22 we had a case like that not too long ago, and --

23 MS. PRUITT: It's on The Hill, too.

24 CHAIRPERSON REID: Yes.

25 MS. PRUITT: The staff can draft a letter to the

1 zoning administrator requesting that they verify the use of this  
2 particular property at this time.

3 CHAIRPERSON REID: Okay.

4 MS. PRUITT: And then you will have that  
5 information for the hearing. At least we will certainly draft  
6 them and contact them, and hopefully you will have it for the  
7 hearing.

8 CHAIRPERSON REID: Thank you.

9 VICE CHAIRPERSON SOCKWELL: Madam Chair, as well,  
10 when I looked at the case folder for 16619, I found it lacking in  
11 some of the more definitive information. The site maps don't have  
12 the property indicated specifically and they are difficult to  
13 read.

14 There is no description of the building on the site  
15 plan, or any other plan of the building itself. I found that it  
16 was --

17 MS. PRUITT: Mr. Sockwell, we have noted that, too,  
18 and we have been trying to call in applicants, or at least contact  
19 them and let them know that they need to augment their  
20 application.

21 CHAIRPERSON REID: And also I don't think that they  
22 even had -- I think I had a question about them having the  
23 wherewithal of making a case, and they need to make sure that they  
24 are properly prepared before they come, and I don't think they  
25 were. Okay. We will return about 2:30.

1 (Whereupon, the hearing was recessed at 2:10 p.m.,  
2 and was resumed at 2:52 p.m.)

3 CHAIRPERSON REID: Good afternoon. First of all,  
4 let me first apologize for the delay for starting the afternoon  
5 session. The hearing will please come to order.

6 Ladies and Gentlemen, this is the November 8th  
7 public hearing of the Board of Zoning Adjustment of the District  
8 of Columbia. My name is Sheila Cross Reid, Chairperson. With me  
9 today is Robert Sockwell, Vice Chairperson, and Carol Mitten,  
10 representing the Zoning Commission.

11 Also present and representing the National Capital  
12 Planning Commission is Rodney Moulden, who will be joining us  
13 momentarily. Copies of today's hearing are available to you.  
14 They are located to my left at the door.

15 All persons planning to testify either in favor or  
16 in opposition are to fill out two witness cards. These cards are  
17 located on each end of the table in front of us.

18 When coming forward to speak to the board, please  
19 give both cards to the reporter, who is sitting to my right. The  
20 order of procedure for special exceptions in variances is, one,  
21 statement of the witnesses of the applicant; two, government  
22 reports, including the Office of Planning and the Department of  
23 Public Works.

24 Three, the report of the Advisory Neighborhood  
25 Commission. Four, parties or persons in support, and cross-

1 examinations. Five, parties or persons in opposition; and lastly,  
2 closing remarks by the applicant.

3 Cross-examination of witnesses is permitted by the  
4 applicant or parties. The ANC within which the property is  
5 located is automatically a party in the case.

6 The record will be closed at the conclusion of each  
7 case, except for any material specifically requested by the Board,  
8 and stuff will specify at the end of the hearing exactly what is  
9 expected.

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

14 Please turn off all beepers and cell phones at this  
15 time so as not to disrupt these proceedings. The Board will make  
16 every effort to conclude the public hearing as soon as possible  
17 and before six o'clock p.m.

18 If the afternoon cases are not completed at six  
19 o'clock p.m., the board will assess whether it can complete the  
20 pending case or cases remaining on the agenda. At this time the  
21 board will consider any preliminary matters.

22 Preliminary matters are those which relate to  
23 whether a case will or should be heard today, such as a request  
24 for postponement, continuance, or withdrawal, or whether proper  
25 and adequate notice of the hearing has been given.

1           If you are not prepared to go forward with the case  
2 today, or if you believe that the Board should not proceed, now is  
3 the time to raise such a matter. Does the staff have any  
4 preliminary matters?

5           MS. BAILEY: Madam Chair, just what was discussed  
6 earlier; that Application 16619 will be postponed. That is the  
7 first preliminary matter.

8           The second preliminary matter is 16550, which I  
9 understand is going forward today. We initially had indicated  
10 that that case would be rescheduled until February, but it is my  
11 understanding that that is now going forward.

12           CHAIRPERSON REID: Ms. Bailey, that decision has  
13 not yet been made. However, are you bringing it up as a  
14 preliminary matter, or are you asking that it come forward as a  
15 preliminary matter?

16           MS. BAILEY: That is at the board's pleasure.  
17 Initially, it had been discussed as a preliminary matter. It is  
18 at the board's pleasure as to whether to take it up now, or  
19 whether I should call the case.

20           MS. KRESS: Basically, you took an action, which  
21 was to continue it, and so I think you need to take an action that  
22 says that you are going to formally hear it today.

23           CHAIRPERSON REID: Okay. I think what we will have  
24 to do is to make a motion to, I guess, that would supersede the  
25 other motion, or do we have to take --

1 MS. KRESS: I would just make a motion that you are  
2 going to supersede it and hear it today.

3 CHAIRPERSON REID: We will have to undo that  
4 motion, and that is my whole question here.

5 MS. KRESS: Yes. If you want to supersede the  
6 motion, which was earlier approved, then you have to undo the  
7 earlier motion. That way you are covered on all of that.

8 CHAIRPERSON REID: Right. Okay. Why don't we have  
9 the parties involved come forward. Those persons who are involved  
10 with the Application of Stacy Hamblin, Application 16550, please  
11 come forward.

12 MS. BAILEY: Madam Chair, did you want me to call  
13 the case or just hold off on calling the case?

14 MS. PRUITT: Madam Chair, maybe if we could get a  
15 sense from the folks that are coming to the table now whether  
16 there is adequate representation of the individuals involved  
17 before we reconsider the action that was taken this morning.

18 CHAIRPERSON REID: Well, what I was doing was to  
19 have them come up and make a request as a preliminary matter, and  
20 then once we decide to proceed, then we would make a decision as  
21 to the sequence of that case.

22 MS. PRUITT: Yes, I think that is a good way to  
23 proceed.

24 CHAIRPERSON REID: All right. Preliminary matter.

25 MS. BAILEY: Please sit down and turn the

1 microphone on, and identify yourself.

2 MR. KLATT: My name is Klaus Klatt. I am an  
3 architect in the District of Columbia. I am here on behalf of the  
4 Hamblin brothers in Case Number 16550.

5 I first have to apologize for a misunderstanding  
6 that I was given at first by mr. Fentey, who unfortunately has  
7 arrived just in time, and is able to straighten it out. And for  
8 this reason, I would very much appreciate if you allow me to  
9 present this case in a final, hopefully decisive, manner, which  
10 will be quite short.

11 CHAIRPERSON REID: Mr. Klatt, you are in effect  
12 rescinding the request for a continuation?

13 MR. KLATT: I certainly am, Madam Chair, yes.

14 CHAIRPERSON REID: Okay. Then I move that we  
15 accept the applicant's request for a rescision of the request to  
16 continue Case Number 16550.

17 MS. PRUITT: Second.

18 CHAIRPERSON REID: All right. All in favor?

19 (A chorus of ayes.)

20 CHAIRPERSON REID: Opposed?

21 (No audible response.)

22 CHAIRPERSON REID: Okay.

23 MR. KLATT: Thank you. Would you allow me to ask  
24 the board, however, Madam Chair, on today's roster that my case is  
25 only the third one. I happen to be here, and would I be permitted

1 to state my case now?

2 CHAIRPERSON REID: Are you asking to be taken out  
3 of sequence?

4 MR. KLATT: If it is necessary.

5 CHAIRPERSON REID: You are the last case of the  
6 day, and you are requesting now to allow your case to go forward  
7 as the first case of the day?

8 MR. KLATT: It is not necessary. However, since I  
9 am sitting here and Mr. Fentey has other things to do, yes. My  
10 case is going to be quite short, I promise.

11 CHAIRPERSON REID: Did you just say it is not  
12 necessary?

13 MR. KLATT: I did say that, yes.

14 CHAIRPERSON REID: Is that what you mean?

15 MR. KLATT: I do mean it, because I have  
16 inconvenienced you, unbeknownst to my previous knowledge, and I am  
17 at this moment also inconveniencing the other two applicants that  
18 are here on totally different matters.

19 CHAIRPERSON REID: Well, let me put it this way.  
20 If there is no request to be taken out of sequence and taken  
21 first, then it would go in the order.

22 MR. KLATT: If you allow me to make that request  
23 again, I certainly will at this moment.

24 CHAIRPERSON REID: Thank you. Will you come  
25 forward, please.

1 MR. HALPERN: I am here on another matter.  
2 Speaking for myself, if the gentlemen would accept a short time  
3 limit and state that specifically, I think I would have no  
4 objection.

5 CHAIRPERSON REID: Okay. Given the fact that we  
6 have our most newly elected council member here, and we realize  
7 that his time is very limited, in order to accommodate that, do  
8 you have any objection to allowing them to be taken out of  
9 sequence?

10 It is a quick case. It is my understanding that it  
11 is a very short issue that we will be dealing with, and allow us  
12 to dispose of it as the first case of the afternoon. Is there any  
13 objection?

14 MEMBER MOULDEN: As long as there is no objection  
15 from the other parties.

16 CHAIRPERSON REID: Well, are there any objections  
17 from anyone else here?

18 MR. NUNLEY: Well, Madam Chairperson, I am here on  
19 --

20 CHAIRPERSON REID: Mr. Nunley, could you please  
21 come up here to the board and give us your name.

22 MS. KRESS: He is used to being on this side.

23 CHAIRPERSON REID: Right.

24 MR. NUNLEY: Madam Chairperson, I am Ed Nunley, and  
25 I am here on behalf of Mr. Boyar, Case Number 16637. We do have

1 an issue, and there is a time constraint, and we need to be  
2 somewhere at four o'clock.

3 If Mr. Klatt can take care of this matter very  
4 quickly, then we have no objection.

5 CHAIRPERSON REID: All right. Well, okay. I think  
6 we can move through it relatively quickly. Thank you very much,  
7 Mr. Nunley. Are there any other persons here who will testify in  
8 regard to this particular case or is here for this case? Weren't  
9 you here earlier this morning, sir, on this case?

10 MR. WASSEL: Yes, my name is Louis Wassel, a  
11 resident of the block, and I don't plan on testifying.

12 CHAIRPERSON REID: Okay. Thank you very much.  
13 Then that being the case, we can expedite your case fairly  
14 quickly. Just give us the salient points, and then we will go  
15 through the various stages and hopefully be able to get done with  
16 this in short order.

17 MS. BAILEY: Madam Chair, should I call the case?

18 CHAIRPERSON REID: Yes, please do.

19 MS. BAILEY: Application of Stacy Hamblin,  
20 Application Number 16550, pursuant to 11 DCMR, 3103.2, for a  
21 variance from Subsection 2507.2, to allow subdivision and the  
22 construction of 10 single-family row dwellings in an R-4 District  
23 on an alley lot that does not abut an alley 30 feet or more in  
24 width, and has from the alley access to a street through an alley  
25 or alleys not less than 39 feet in width at the rear of 1406

1 through 1424 Webster Street, Northwest, Square 2699, Lot 64.

2 All those wishing to testify, would you please  
3 stand to take the oath.

4 (The witnesses were sworn.)

5 MR. KLATT: Madam Chair and Members of the Board,  
6 my name again is Klaus Klatt. I just happen to be an architect.  
7 The property in question is bound by four alleys, and each of  
8 these alleys is 16 feet wide. Webster Street and -- well, all  
9 four streets on the outside are not visible on this drawing.

10 However, the only access into the alley lot at the  
11 moment, Lot 64, is from 15th Street on my left. The application  
12 was made more than an year ago to the zoning board, to the zoning  
13 department, to subdivide the individual or Lot 64 into hopefully  
14 10 townhouse lots.

15 The zoning is R-4. In other words, strictly  
16 residential. Because the Hamblin brothers, and Mr. Johnson is  
17 represented here as one of the other partners, we had some  
18 problems that this property could not be developed without a board  
19 of zoning adjustment approval.

20 And to, of course, to make an application for a  
21 building permit, and since it is zoned R-4, it would be logical to  
22 divide the Lot 64 into in this case into 10 individual lots.

23 We then went to the ANC and received a rather  
24 substantial objection to build anything into their back yards,  
25 let's call it, and we tried to obtain certain reactions in a

1 positive way, which to this day was not positive.

2 I have taken it upon myself to go to the various  
3 departments, and as Mr. Sockwell mentioned to me, to find out if  
4 there is anything else that could be done, especially the  
5 Department of Recreation and Parks, who suggested to us that,  
6 well, why don't you make a park out of it.

7 But that would not necessarily help the owners. I  
8 went to the Department of Planning and found another solution in  
9 the very same vain. It would be a so-called recreational easement  
10 then. The main reason why I am here, which is at the suggestion  
11 of the Hamblin brothers and Mr. Johnson, is very simple.

12 When the property was purchased in, I think, 1991  
13 or so -- well, '89 or around that time -- it was purchased for  
14 close to \$5,000. The property had been somewhat in foreclosure.  
15 The City was very happy to sell it.

16 Ever since, of course, the Hamblin brothers wanted  
17 to do something with this property, and which as I said was  
18 legally zoned R-4. However, we are only confronted with tax  
19 bills, and which as late as '99 -- I do not have the 2000 tax bill  
20 -- is \$66,000 a year.

21 It is in the highest bracket of the taxation. In  
22 other words, the number five bracket, although again the owner is  
23 not entitled to do anything with the property.

24 We have suggested to the ANC to maybe create  
25 townhouse lots for -- instead of 10, 8 lots, and the last and the

1 first lot shown here is empty, and also here is empty, would not  
2 be developed by the owners, but would be set aside for rental, and  
3 let's say for a dollar a year to the next door neighbors to be  
4 used as parking, their own parking.

5 Unfortunately, I have been involved with this lot  
6 for quite some time now, and found at one time 64 either junked or  
7 individually owned privately parked cars there.

8 It was used as a junk yard as well, and as a boat  
9 yard, and as also a garden. The owner has sent me here just  
10 simply to have a decision made by the board whether this property  
11 can be used for any other purpose.

12 And therefore I am closing my argument, stating  
13 just simply that I have had to notify the owners that there is  
14 absolutely no chance to make a plea to the ANC, to the neighboring  
15 adjoining property owners, to change their minds.

16 Therefore, I would very much like to leave your  
17 decision in your hands. Thank you very much, Madam Chairperson.

18 CHAIRPERSON REID: Thank you. Let's see now. If  
19 there are no questions from the board members, then we will move  
20 now to the ANC report and the Office of Planning Report.

21 We do have an ANC report and we do have an Office  
22 of Planning report, and the Office of Planning basically -- and  
23 their analysis of this particular application has recommended that  
24 the application be denied because of the fact that it failed to  
25 meet its three-prong test as to being granted approval for a

1 variance.

2 And then we also had a letter from the ANC which  
3 basically told or stipulated that -- Mr. Sockwell, if you will.

4 VICE CHAIRPERSON SOCKWELL: The original ANC letter  
5 stated that ANC-4C -- there was a letter from ANC-4C05, which we  
6 received November 1st, which states that ANC-4C, I guess,  
7 reaffirms its resolution not to support the proposed development,  
8 and that resolution was dated January 31st of 2000.

9 CHAIRPERSON REID: Okay. And that was a quorum?

10 VICE CHAIRPERSON SOCKWELL: Yes, there was a quorum  
11 present.

12 CHAIRPERSON REID: And a vote taken to deny?

13 VICE CHAIRPERSON SOCKWELL: Yes. This does not --  
14 this particular resolution doesn't state specifically a quorum and  
15 the vote, but it says resolved by Advisory Neighborhood Commission  
16 4C, and that ANC-4C disapproves the application for a zoning  
17 variance in Case Number 16550.

18 CHAIRPERSON REID: And what is on the second page,  
19 Mr. Sockwell?

20 VICE CHAIRPERSON SOCKWELL: The second page of the  
21 letter -- the letter is on 4C05 stationary, and signed by Suzy  
22 Fish. It says a quorum, established by advisory neighborhood  
23 commission, on Tuesday, February 9th, voted unanimously to oppose  
24 the zoning approval of BZA Application Number 16550.

25 The only statement I would make to the record is

1 that this statement is not on ANC-4C stationary. It is on ANC-  
2 4C05, single member district, stationary, which generally is not  
3 the way that we accept ANC documentation.

4 It should be on the full ANC's stationary, because  
5 it is as well signed by the commissioner of ANC-4C05, and not by  
6 an officer of the full advisory neighborhood commission.

7 We can certainly request some additional  
8 documentation which would be sufficient to correct the record.

9 CHAIRPERSON REID: Well, okay. Along with that ANC  
10 letter is a petition, with several persons having affixed their  
11 signatures thereto, to disapprove this particular application.  
12 And while it is not on the ANC --

13 VICE CHAIRPERSON SOCKWELL: Actually, I think these  
14 pages may be out of sequence now that I look at this copy.

15 CHAIRPERSON REID: Is it?

16 VICE CHAIRPERSON SOCKWELL: Because the resolution  
17 has a page one, and then there is a signature page of residents,  
18 and then there is another page to the resolution which is behind  
19 that page in our file, which does in fact list the commissioners.

20 CHAIRPERSON REID: But it still is not on the --  
21 well, I guess --

22 MS. KRESS: It doesn't have to be on the special  
23 stationary.

24 VICE CHAIRPERSON SOCKWELL: Well, in this case, it  
25 says in Section 2 of its resolution that ANC-4C the following

1 commissioners voted in favor against, or in abstainment of the  
2 above disapproval resolution.

3 And Mr. Fentey is listed as being in favor of the  
4 resolution, and Mr. Young, or whatever, and on and on. So it  
5 looks like there would be a quorum. Mr. Fentey, what is the  
6 quorum for the ANC?

7 MR. FENTHEY: Six.

8 CHAIRPERSON REID: So it was unanimous.

9 VICE CHAIRPERSON SOCKWELL: So there are eight  
10 signatures.

11 CHAIRPERSON REID: All right. Then the ANC will  
12 certainly be afforded the great weight to which it is entitled.  
13 We will next move to persons or parties in support, and persons  
14 and parties in opposition.

15 I'm sorry, but we did have one letter from Council  
16 Member -- well, that's a different one. We had several letters of  
17 opposition that are in the file, and then we had the petition that  
18 we have already noted opposition to.

19 Are there any other persons here who wish to  
20 testify in opposition? If not, closure by the applicant.

21 MR. KLATT: Madam Chair, I would like very much to  
22 have you vote at this moment.

23 CHAIRPERSON REID: Thank you very much. Like a  
24 bench decision, summary order?

25 MR. KLATT: I waive my right to that as well.

1 CHAIRPERSON REID: No, the correct answer is yes.

2 MR. KLATT: Yes, of course.

3 CHAIRPERSON REID: Okay. Board Members, may I have  
4 a motion?

5 COMMISSIONER MITTEN: I just wanted to say one  
6 thing in response to Mr. Klatt's request, because in addition to  
7 having the specific application, he was asking us to tell him what  
8 he can do with the property.

9 And unfortunately we only respond to specific  
10 applications that are put before us. So I just wanted to say  
11 that. And if it will be of any comfort, the Class 5 tax  
12 classification is being phased out. So the tax bill should go  
13 down. So, Madam Chair, I move for denial of Application 16550.

14 CHAIRPERSON REID: And do I have a second?

15 VICE CHAIRPERSON SOCKWELL: I second.

16 CHAIRPERSON REID: All in favor?

17 (A chorus of ayes.)

18 CHAIRPERSON REID: Opposed?

19 (No audible response.)

20 CHAIRPERSON REID: All right. That's it.

21 MS. BAILEY: The staff will record the vote as four  
22 to zero to deny the application; motion made by Mrs. Mitten, and  
23 seconded by Mr. Sockwell, and that will be a full order since this  
24 is a denial.

25 MS. KRESS: That's correct.

1 MR. KLATT: Thank you very much.

2 MR. FENTLEY: Thank you on behalf of ANC-4C.

3 CHAIRPERSON REID: Thank you very much.

4 MS. BAILEY: The next case of the afternoon is  
5 Application Number 16621 of Michelle Hester, pursuant to 11 DCMR  
6 3104.1, under Section 223.1, for a special exception to allow the  
7 establishment of a non-conforming side yard from an addition to an  
8 existing single-family dwelling in an R-1-B District at premises  
9 3604 Quesada Street, N.W., Square 1863, Lot 39. Would you please  
10 stand to take the oath.

11 (All witnesses were sworn.)

12 MS. BAILEY: Members of the Board, the affidavit of  
13 posting was filed and the property was timely posted. The ANC is  
14 recommending approval of the application.

15 We did not receive a request for party status.  
16 Neighbors have signed letters of support for this application, and  
17 the project is now ready to go forward. Madam Chair, did you want  
18 Ms. Hester to identify herself and begin discussing her project?

19 CHAIRPERSON REID: Yes, we do.

20 MS. HESTER: My name is Michelle Hester, and I live  
21 at 3604 Quesada Street. Our plan is --

22 COMMISSIONER MITTEN: Could I just interrupt you  
23 for one minute? Has she been sworn in?

24 MS. BAILEY: Yes.

25 COMMISSIONER MITTEN: Sorry. I missed that part

1 earlier.

2 CHAIRPERSON REID: Go ahead.

3 MS. HESTER: Our project that we would like to  
4 embark on is to add seven feet on to the house so that we can add  
5 to our kitchen and add to a bedroom on the second floor.

6 I think you all have the plan there and the total  
7 addition would be about -- as described, would be about 7 feet  
8 out, and 17 feet wide. In our neighborhood, our house is on a  
9 triangular lot, which makes the addition a little bit tricky.

10 In our neighborhood, in the alley that our house is  
11 on, there are eight houses, and about half of those houses either  
12 abut the alley immediately or very close to it.

13 In fact, my house at one point is about maybe a  
14 foot-and-a-half from the alley, and the new addition as planned  
15 would be further away from the house than part of the house, the  
16 current standing house.

17 The neighbors have been very supportive of this,  
18 and encouraging, and I don't think there has been any objection at  
19 all.

20 CHAIRPERSON REID: So to your knowledge there is no  
21 opposition?

22 MS. HESTER: No, actually people have been very  
23 encouraging about it.

24 CHAIRPERSON REID: I note for the record that I  
25 think that there was one letter in opposition or maybe not. Hold

1 on for one second.

2 MS. HESTER: Was there? I mean, not to my  
3 knowledge I should say.

4 CHAIRPERSON REID: No, they are in support. Okay.  
5 Go ahead. So as far as you know, there has not been any  
6 opposition?

7 MS. HESTER: No.

8 CHAIRPERSON REID: And you talked to your  
9 neighbors?

10 MS. HESTER: I think there are letters there in the  
11 file from all the neighbors who would see the addition. Actually,  
12 more than the neighbors who would see the addition there, because  
13 I think that went down three houses on each side.

14 CHAIRPERSON REID: Okay.

15 MS. HESTER: And that there was no objection.

16 CHAIRPERSON REID: Okay. You are coming under  
17 Section 223. Now, in your application, I didn't see -- wait a  
18 minute. I did see that you addressed the specific zoning  
19 regulation that you are coming under. Can you speak to that,  
20 please? That is, as to Section 223 and how you comply with the  
21 zoning regulations.

22 MS. HESTER: I'm sorry, but I can't speak to that.  
23 Can you expand on that a little bit?

24 CHAIRPERSON REID: All right. This is your first  
25 time here at this board?

1 MS. HESTER: Yes.

2 CHAIRPERSON REID: Okay. Then you are asking for  
3 relief in the form of a special exception.

4 MS. HESTER: Right.

5 CHAIRPERSON REID: And the regulation that pertains  
6 to the relief that you are asking for is Section 223, and part and  
7 parcel of what you do when you come to us is to demonstrate to us  
8 how you comply with that regulations, or why you need the special  
9 exception.

10 MS. HESTER: I will have to admit that my husband  
11 has handled much of this.

12 COMMISSIONER MITTEN: If I could just interrupt. I  
13 think in Exhibit Number -- well, I don't know what exhibit number  
14 is.

15 CHAIRPERSON REID: Are you referring to the  
16 applicant's position?

17 COMMISSIONER MITTEN: Yes, under the building  
18 permit application.

19 CHAIRPERSON REID: She did allude to it somewhat,  
20 and their pages aren't numbered.

21 MS. HESTER: I think I can speak to this.

22 CHAIRPERSON REID: Did you write this? It says  
23 building permit application. I think this is what you were  
24 referring to, Ms. Mitten?

25 COMMISSIONER MITTEN: Yes, Madam Chair.

1 CHAIRPERSON REID: And that is what you submitted  
2 to us as a basis for the relief that you are asking for?

3 MS. HESTER: Yes. I can speak to these three  
4 things easily.

5 CHAIRPERSON REID: Okay.

6 MS. HESTER: The house is actually set forward on  
7 the street so that it has absolutely no bearing on the light and  
8 available space to the neighbors. The neighbor's house to the  
9 left doesn't begin until well after where the addition is, and in  
10 fact they can't even see the addition unless they come out to the  
11 street.

12 And actually because we have an alley next to us,  
13 only the people to the left of us would be affected in any way by  
14 the addition, and as I said, they can't really see it from their  
15 house until they come out their door and walk towards the street.

16 And I think you can see from the plans that our  
17 goal is to have the addition be in character with the house. I  
18 think that as planned that it will -- I mean, our hope is that it  
19 will look like it was always there.

20 It is sort of an interesting house architecturally,  
21 and we don't want to take away from that. When I solicited the  
22 neighbors, I took copies of the plan, of the external plan, to  
23 show them both the front view and the side view, and they seemed  
24 generally pleased with them.

25 CHAIRPERSON REID: Okay. So the addition, together

1 with the original building, is that what you were demonstrating in  
2 the pictures?

3 MS. HESTER: Yes. I think that you can see from  
4 that picture that it really -- that the goal is, and I think it is  
5 well carried out, to make the addition look like it is not really  
6 an addition, but just an extension. That the house has just grown  
7 in a sense.

8 CHAIRPERSON REID: Okay. And then demonstrate in  
9 compliance with paragraphs (a), (b), (c), the applicant will use  
10 graphical representations, such as plans, photographs, or  
11 elevation or section drawings. Okay.

12 MS. HESTER: And I think you have those there.

13 CHAIRPERSON REID: Yes. This is the plan and this  
14 is the addition. All right. Board Members, do you have  
15 questions?

16 MS. HESTER: Can I add something here?

17 CHAIRPERSON REID: Sure.

18 MS. HESTER: I certainly don't want this to  
19 prejudice the application in any way, but if there was any chance  
20 of our adding four inches to that seven feet, we would be very,  
21 very grateful.

22 There is a little mis-measuring, but I don't want  
23 that to prejudice your consideration in any way. Maybe that is  
24 out of line.

25 COMMISSIONER MITTEN: Do you have another drawing

1 to give us that illustrates that?

2 CHAIRPERSON REID: You said four feet, or is it  
3 four inches?

4 MS. HESTER: Four inches, yes.

5 CHAIRPERSON REID: Where? Where would it go?

6 MS. HESTER: It would be 7 feet, 4 inches.

7 MS. PRUITT: The board can amend the application  
8 and Mrs. Hester can resubmit a new drawing with the new dimensions  
9 on it.

10 MS. HESTER: Well, I think if that is the case, we  
11 can just go forward on what we have here.

12 VICE CHAIRPERSON SOCKWELL: Madam Chair, there are  
13 certain elements of the zoning ordinance that we would be possibly  
14 in violation of if we did that.

15 However, because the applicant's plat does not  
16 specifically indicate at which point the 2.75 foot side yard is  
17 achieved, it is only my -- I can only estimate that it is at the  
18 edge of the one-story rear portion of the house depicted on the  
19 plat as shown in one of the photographs submitted.

20 And if one recalls, the zoning ordinance does not  
21 allow us to exceed a particular side yard nonconformity, but would  
22 allow us to meet that same nonconformity up through the 5 foot  
23 side yard being less than the 8 feet required.

24 Now, because I can't tell whether or not the new  
25 porch actually is on a plain parallel to the alley side property

1 line, and therefore parallel to a no deeper and incursion into the  
2 side yard then the first story projection of the existing portion  
3 -- I mean, the four inches may or may not have relevance.

4 I just don't know if -- I have no dimensions to  
5 work with to tell me where the 2.75 side yard is existing, and  
6 what the side yard relationship to the edge of the porch portion  
7 of the new addition. I have no dimensions to tell me that.

8 MEMBER MOULDEN: What you are saying is that plan  
9 does not show the dimensions of it.

10 VICE CHAIRPERSON SOCKWELL: Yes, it does not show  
11 dimensions and so I can't -- I don't have any point of reference.

12 MEMBER MOULDEN: Right. And the drawing is not to  
13 scale and so we can't really measure it. It has been reduced.

14 COMMISSIONER MITTEN: I think that Ms. Hester needs  
15 to clarify something that I think you may be misreading, and  
16 hopefully that I am not misreading; is that there is a one-story  
17 portion that is at the very, very back of the house.

18 And then there is another one-story portion, and  
19 are both those one-story portions existing now?

20 VICE CHAIRPERSON SOCKWELL: No. The photographs  
21 show the existing ones.

22 (Brief Pause.)

23 MS. HESTER: Well, can I just withdraw my  
24 suggestion about the four inches? Is that relevant to what you  
25 are saying or not?

1 VICE CHAIRPERSON SOCKWELL: Yes, to the extent that  
2 I don't have dimensions. I don't have dimensions to determine  
3 what the effect of the 4 inch change would be.

4 MS. HESTER: Well, let me just withdraw it then.

5 VICE CHAIRPERSON SOCKWELL: All right.

6 COMMISSIONER MITTEN: Well, is this existing or  
7 not, the one-story?

8 MS. HESTER: This is not.

9 VICE CHAIRPERSON SOCKWELL: The assumption is that  
10 it is a 2.75 foot side yard.

11 COMMISSIONER MITTEN: I understand.

12 VICE CHAIRPERSON SOCKWELL: I wasn't talking at  
13 you, Carol. I was talking to Mr. Moulden. I was not responding  
14 to your question at all.

15 COMMISSIONER MITTEN: All right.

16 MS. HESTER: And this is actually just a cover over  
17 a porch. It is not further structures, but a cover.

18 VICE CHAIRPERSON SOCKWELL: Actually, a cover over  
19 a porch, a covered porch, becomes a structure by zoning because it  
20 is more than four feet above grade. Once you put a roof on it, it  
21 becomes a structure, regardless of whether or not it is enclosed  
22 totally.

23 CHAIRPERSON REID: All right. So then you are  
24 going to withdraw your request for the 4 inches.

25 MS. HESTER: Yes.

1 CHAIRPERSON REID: All right.

2 MEMBER MOULDEN: I think we need to have this  
3 drawing amended for the record that it reflects the accurate side  
4 yard set back. This drawing is not complete without the actual  
5 dimensions showing the setback.

6 VICE CHAIRPERSON SOCKWELL: The way the zoning  
7 office's computational or compilation is stated, the variances --  
8 the side yard shown as provided is 8 feet and 2.75 feet.

9 So that tells me that the side yard on the right  
10 side of the plat is 8 feet because it is dimensioned. But the  
11 2.75 foot side yard is not dimensioned. It is only my assumption  
12 that it occurs at the end of the one-story portion, which is at  
13 the lower portion of the page.

14 If that is the case, then my assumption is again  
15 without being reconciled by data that your addition does not  
16 exceed that 2.75 foot -- does not reduce the 2.75 foot side yard  
17 in its location as it is depicted on the plat.

18 And my only statement with regard to your request  
19 for four more inches is that based on what you have requested, and  
20 based on what is in our documentation, I know that your proposed  
21 addition should not reduce the side yard to less than 2.75 feet as  
22 it was created. I can't tell whether or not 4 inches more is  
23 going --

24 MS. HESTER: Well, we are very eager to move in,  
25 and --

1 MEMBER MOULDEN: Well, I think the appropriate  
2 thing to do for the record, and for documentation, is to have this  
3 drawing amended to reflect the setbacks.

4 VICE CHAIRPERSON SOCKWELL: Yes, I think the side  
5 yard should be depicted on the plat for our record --

6 MEMBER MOULDEN: Can we do that?

7 VICE CHAIRPERSON SOCKWELL: -- at the point where  
8 it occurs, and I assume that your contractor --

9 MS. BAILEY: Ms. Hester, when you speak, would you  
10 speak into a microphone?

11 VICE CHAIRPERSON SOCKWELL: And that is because  
12 your contractor or your architect, or designer, determined that  
13 the 2.75 feet -- or someone determined that the 2.75 feet as a  
14 side yard on the alley side exists.

15 And yet I don't know -- it is not dimensioned,  
16 while all the other relevant dimensions were provided, and that  
17 one was not.

18 COMMISSIONER MITTEN: Couldn't we if we wanted to  
19 approve this application, couldn't we give it conditional  
20 approval, subject to receiving the amended plan as Mr. Moulden has  
21 suggested, and also provided that the resulting side yard is  
22 consistent with the application, which would be 5.25 feet?

23 VICE CHAIRPERSON SOCKWELL: Well, that's not  
24 correct. The side yard is 2.75 feet.

25 COMMISSIONER MITTEN: No, the side yard that would

1 be created by the addition.

2 VICE CHAIRPERSON SOCKWELL: The side yard created  
3 by the addition -- what you are looking at is a variance of 5.25  
4 feet from 8 feet, which is the minimum --

5 COMMISSIONER MITTEN: Oh, I'm sorry. I have got  
6 you. So I would suggest that instead of what I said in error that  
7 it just be -- that the condition would be that the addition does  
8 not narrow the side yard beyond 2.75, beyond the existing 2.75.

9 MS. HESTER: In other words -- well, I want to be  
10 clear about what we need to do.

11 VICE CHAIRPERSON SOCKWELL: I would be willing to  
12 accept that the addition, which is inclusive of the porch, does  
13 not encroach upon the side yard to reduce it to less than the 2.75  
14 feet of side yard that exists.

15 MS. HESTER: That it does not reduce it?

16 VICE CHAIRPERSON SOCKWELL: Yes, to less than the  
17 2.75 feet. The only thing that makes this slightly difficult is  
18 that it is then a -- without having the right dimensions to work  
19 with, I am telling you that you might be able to increase your  
20 enclosed portion of the addition another 3 feet, because I don't  
21 know what the dimensions are.

22 I am just saying that the overall thing -- I mean,  
23 you could take it out in any way, shape, or form to get to 2.75  
24 feet, and I am not sure that that is the kind of open-ended thing  
25 that I want to give her, because I haven't designed it myself, and

1 I don't have enough dimensions to know what my limiting factors  
2 are and that bothers me.

3 If you are asking me for 4 inches, I guess the only  
4 way I could say yes, you can have 4 inches, provided that that  
5 four inches -- we would approve a 4 inch additional width of your  
6 addition provided it does not in total reduce the side yard than  
7 less than 2.75 feet. That way I'm saying you can get the 4  
8 inches.

9 MS. HESTER: Well, I guess --

10 COMMISSIONER MITTEN: Let us talk and then when we  
11 finally get somewhere, we will bring you in.

12 MS. HESTER: Well, would it be easier for me to  
13 call my architect?

14 VICE CHAIRPERSON SOCKWELL: Well, no. We could  
15 just give you the 4 inches. As long as it is only 4 inches that  
16 you are asking for, I think we can handle that.

17 COMMISSIONER MITTEN: Mr. Sockwell, I thought that  
18 your point and Mr. Moulden's point were really aside from the  
19 issue of the four inches, which is we don't know whether the  
20 addition is narrowing the existing side yard, because we don't  
21 have measurements on the plat.

22 So we need measurements on the plat to show what  
23 the measure of the existing side yard that is created by the  
24 existing rear one-story porch.

25 VICE CHAIRPERSON SOCKWELL: That dimension is

1 assumed because that is what is existing, and that is the only  
2 place a side yard would have been taken from with the existing  
3 configuration of the house.

4 COMMISSIONER MITTEN: And so what do you assume  
5 that to be?

6 VICE CHAIRPERSON SOCKWELL: I assume that at the  
7 edge of the one-story portion, and that is to the alley side, that  
8 from that point to the property line perpendicular, is 2.75 feet.

9 COMMISSIONER MITTEN: Okay. I think that's --

10 VICE CHAIRPERSON SOCKWELL: And yet because I don't  
11 have any dimension from the edge of the proposed porch to the same  
12 property line, I don't know whether four inches -- even though it  
13 may look right, I don't know whether the 4 inches would kick it  
14 over or not.

15 COMMISSIONER MITTEN: And I got that part, but I  
16 think we still need to condition it, because we don't have  
17 measurements, and we need to condition it, and forget the 4  
18 inches. I mean, the 4 inches is just making things needlessly  
19 complicated.

20 VICE CHAIRPERSON SOCKWELL: Well, that's what she  
21 asked for.

22 COMMISSIONER MITTEN: But she knows that she  
23 doesn't want her life complicated.

24 VICE CHAIRPERSON SOCKWELL: I don't know why 4  
25 inches is so critical.

1                   COMMISSIONER MITTEN:    But we still need to have a  
2 conditional approval if we decide to do that, because we need to  
3 know what that measurement is and we don't.

4                   VICE CHAIRPERSON SOCKWELL:   Right.   And we need for  
5 the record to have the plat amended to show the dimensions.

6                   COMMISSIONER MITTEN:    Exactly.   Exactly.   So I  
7 would move that we approve this --

8                   CHAIRPERSON REID:    We are not quite there yet.

9                   COMMISSIONER MITTEN:    Okay.

10                  CHAIRPERSON REID:    We need to go through the  
11 application.

12                  VICE CHAIRPERSON SOCKWELL:   Let me finish my quick  
13 question, because this got off on a particular tangent.  I believe  
14 that from what I am looking at, the openness of your porch, which  
15 is an open porch with a single column at the outer edge, and the  
16 view lines that would be created by the addition, and the fact  
17 that it is on the side that is bordered by a 15 foot public alley,  
18 which gives you an extremely wide side clearance to your next  
19 property, and the fact that there is neither a sidewalk or any  
20 other pedestrian feature there, makes this a fairly acceptable  
21 modification to this particular house under the circumstances.

22                  And the fact that the house fits on to this lot,  
23 which is an unusual trapezoidal lot, it does create a limiting  
24 factor on the amount of space that you can use because of its  
25 shape, and in particular because of its shape.

1                   And therefore I would be amenable personally to the  
2 proposal that you have made, and I see it as providing the widest  
3 point at the Quesada Street side, and the narrowest point deep in  
4 the alley.

5                   And the relationship to the alley of the entire  
6 structure is not really compromised by the addition.

7                   CHAIRPERSON REID: All right. Thank you very much,  
8 Mr. Sockwell. All right. Now we move to the Office of Planning  
9 report. Do we have one?

10                  MS. BAILEY: No, Madam Chair, we don't.

11                  CHAIRPERSON REID: No Office of Planning report.  
12 All right. The ANC report. Basically, 3-G comes out in support  
13 of the application, and with a vote having been taken, we will  
14 give it the great weight to which it is entitled.

15                  And we now move to persons and parties in support,  
16 or persons and parties in opposition. And I don't think we had  
17 any opposition. So closing remarks by the applicant.

18                  VICE CHAIRPERSON SOCKWELL: You might say please  
19 and quickly.

20                  MS. HESTER: Please and quickly.

21                  CHAIRPERSON REID: All right. Do you want a bench  
22 decision and summary order? That's where you can get your  
23 application approved today.

24                  MS. HESTER: I would love that.

25                  CHAIRPERSON REID: Okay. Board Members. Ms.

1 Mitten, may I ask you to bring the motion, because you had started  
2 it earlier with the conditions.

3 COMMISSIONER MITTEN: All right. I move that we  
4 approve this application subject to receiving an amended plat that  
5 specifically shows the dimension of the side yard distance between  
6 the existing one-story porch, and that specifically shows the  
7 dimension that will be created by the addition, the proposed  
8 addition.

9 VICE CHAIRPERSON SOCKWELL: The existing one-story  
10 portion is not a porch. It is an enclosed part of the house.

11 COMMISSIONER MITTEN: Oh, it is. I'm sorry. Maybe  
12 Mr. Sockwell should make the motion.

13 VICE CHAIRPERSON SOCKWELL: No, you were doing fine  
14 if you just say one-story portion rather than one-story porch.

15 MS. HESTER: It is a porch, but you are saying it  
16 is considered a structure. It doesn't make any difference.

17 VICE CHAIRPERSON SOCKWELL: No, the existing rear  
18 portion of your house is enclosed. That low one-story roof  
19 projecting portion along the back side. My assumption is that  
20 your proposed addition does not exist yet.

21 MS. HESTER: Right.

22 VICE CHAIRPERSON SOCKWELL: Okay.

23 COMMISSIONER MITTEN: Okay. Let me start again. I  
24 move for the approval of Application Number 16621, conditioned the  
25 board receiving a revised plat that includes the -- that

1 specifically includes the measurement of the side yard as it  
2 relates to the existing one-story portion of the dwelling.

3 And the measurement as it relates to the side yard  
4 that will be created by the proposed addition.

5 VICE CHAIRPERSON SOCKWELL: At the edge of the  
6 porch.

7 MS. HESTER: Could you hold the picture and tell me  
8 --

9 VICE CHAIRPERSON SOCKWELL: Yes, I can. This is  
10 what we are looking for. We need a dimension there, and we need a  
11 dimension there.

12 CHAIRPERSON REID: And that would have to be  
13 submitted prior to the order being issued, which will be in about  
14 2 or 3 weeks. So if you can get it into us that would be great.  
15 Is there a second?

16 MEMBER MOULDEN: I will second the motion.

17 CHAIRPERSON REID: All in favor?

18 (A chorus of ayes.)

19 VICE CHAIRPERSON SOCKWELL: And just one thing.  
20 All the neighbors that were across the street or next door, or  
21 next door to next door, all approved it.

22 CHAIRPERSON REID: Now what?

23 VICE CHAIRPERSON SOCKWELL: All the neighbors  
24 approved it, and I was just looking at all of the letters from all  
25 of the neighbors, and looked at where the houses were located, and

1 everybody that was immediately affected approved it.

2 CHAIRPERSON REID: All in favor?

3 (A chorus of ayes.)

4 CHAIRPERSON REID: Opposed?

5 (No audible response.)

6 MS. HESTER: Then I should submit this, or my  
7 architect should submit this?

8 VICE CHAIRPERSON SOCKWELL: Yes. You may bring it  
9 in, but I would suggest that your architect it. He just has to  
10 amend the dimensions, that's all.

11 MS. HESTER: Right. Right. Thank you very much.

12 VICE CHAIRPERSON SOCKWELL: You're welcome.

13 CHAIRPERSON REID: You are quite welcome. Good  
14 luck.

15 MS. BAILEY: The staff will record the vote as four  
16 to zero to approve the application; motion made by Mrs. Mitten,  
17 and seconded by Mr. Sockwell. Ms. Reid and Mr. Moulden to  
18 approve, and Ms. Renshaw not present, and not voting.

19 The next case of the afternoon is Application  
20 Number 16637, Alex Boyar, pursuant to 11 DCMR 3104.1, for a  
21 special exception under Section 2516 to permit the theoretical lot  
22 line subdivision to allow the construction of four single-family  
23 detached dwellings in an R-1-B District at premises 4427 Potomac  
24 Avenue, Northwest, Square 1356, Lots 21 and 22. Please stand to  
25 take the oath.

1 (The Witnesses were sworn.)

2 MS. BAILEY: Members of the Board, the property was  
3 posted, and the affidavit has been properly filled. We do have a  
4 report from the Office of Planning and also from ANC-2E. Both  
5 reports would require a waiver to be accepted into the record.

6 There are five lots of record here for this -- five  
7 theoretical lots of record, and I am not quite sure if you have a  
8 copy of the summary sheet that I prepared. But each lot, each  
9 subdivided lot, is identified.

10 The case is now ready to go forward, unless you  
11 have some other questions of me, Madam Chair.

12 CHAIRPERSON REID: Okay. We have to waive you  
13 said, waive the rules for the late submission of the OP report?

14 MS. BAILEY: And ANC-2E, yes.

15 CHAIRPERSON REID: And the ANC? Okay. Board  
16 Members, are there any objections, or do you want to vote on it?

17 VICE CHAIRPERSON SOCKWELL: It's no problem.

18 CHAIRPERSON REID: Okay. All right. Then we would  
19 so waive the rules for the ANC report and for the Office of  
20 Planning report. Mr. Nunley, I don't think there is any  
21 opposition to this case. Is there anyone else here affiliated  
22 with this particular case?

23 (No audible response.)

24 CHAIRPERSON REID: All right. So as such, feel  
25 free to expedite your case. We have read the materials that have

1 been submitted to us, and so we are familiar with it. So just  
2 tell us what you want us to know, and you can get through this  
3 relatively quickly.

4 MR. NUNLEY: Well, thank you, Madam Chairperson. I  
5 want to go directly to the Office of Planning Report, and discuss  
6 the recommendations. The Office of Planning asked that the  
7 applicant submit a final landscaping and grading plan and we have  
8 that.

9 We submitted it to the Office of Planning, and we  
10 have copies for the Board. Secondly, as to the subdivision  
11 conforming to the requirements of 2516.5(d), and we have complied  
12 with that. I am trying to find my note that tells me where and  
13 how. But we have assured compliance with that. Just one second.

14 (Brief Pause.)

15 MR. NUNLEY: Right. That is the section that states  
16 that if any part of a boundary of a theoretical lot is located in  
17 common with the rear lot line of the subdivided lot of which it is  
18 a part, the rear yard of the theoretical lot shall be along the  
19 boundary of the subdivided lot.

20 In our site plans, and I believe Exhibit G, it does  
21 show that the lot lines do go to the rear of the property in every  
22 case. It may show better in Exhibit C, the plat of computation.

23 Finally, that the applicant submit a revised  
24 preliminary subdivision plat prepared by a licensed engineer  
25 showing easements, shared access driveway, and identifying

1 building envelopes, building setback lines on each dwelling  
2 parcel.

3 Now, we have submitted that in all of the plats  
4 that we have submitted to the board, including the most recent  
5 landscaping plat. In conversations with Mr. Jackson that Mr.  
6 Boyar had just today, we understand his concern about the  
7 easements was -- well, would you pipe in and tell us exactly what  
8 they are.

9 MR. BOYAR: I believe it was a storm water easement  
10 at the adjacent -- adjacent to the entrance to the property that  
11 belongs to Foxhall Square Townhouses, which is adjacent to the  
12 property, and it carries water run-off underneath.

13 It is just a very small section, probably about 7  
14 feet, which is buried underneath my property.  
15 And there is no plan that I have that would impinge upon that.

16 MR. NUNLEY: And finally that the Department of  
17 Health approve a storm water management plan for the subdivision.  
18 Mr. Boyar has met with representatives of the Department of  
19 Health.

20 The building permit process requires an acceptable  
21 storm water management plan be submitted and approved prior to  
22 construction, and so we feel that that particular piece should be  
23 dealt with in the building permit process.

24 VICE CHAIRPERSON SOCKWELL: Would you repeat that,  
25 Mr. Nunley?

1 MR. NUNLEY: That a storm water management plan is  
2 part of -- has to be submitted as part of the building permitting  
3 process. So we feel that a final storm water management plan  
4 should be approved at that time, to be submitted and approved at  
5 that time.

6 VICE CHAIRPERSON SOCKWELL: Thank you.

7 CHAIRPERSON REID: Any other questions, Board  
8 Members?

9 COMMISSIONER MITTEN: Maybe I will begin with the  
10 last issue that you raised about the storm water management. One  
11 of the criteria for evaluating the application has to do with the  
12 relationship of what has been proposed and the environment.

13 And I think that may have been behind it, and we  
14 have someone from the Office of Planning who can speak to that,  
15 but that would help us evaluate the relationship of what is being  
16 proposed to the environment in a more complete way.

17 MR. NUNLEY: Well, Mr. Boyar has had conversations  
18 with the Department of Health.

19 MR. BOYAR: I met out on site with a number of  
20 people from the Department of Health, Abdu Mussi (phonetic)  
21 specifically. I have also had multiple conversations with Tim  
22 Cary-Cary. I have built a bit in the city, and I have worked with  
23 him over the years.

24 And I have gone through over the last few months  
25 some of my ideas with him for the site, and he said that is

1 something that we can work out, and he saw no problem in one or  
2 two different schemes for the site.

3 But that we would get to it once I actually  
4 submitted my plans for construction. When I met with Abdu Mussi  
5 on-site this week, he actually was able to walk the site and see  
6 the site, and the slope, and I walked off where the lots would be  
7 for the four different houses.

8 He felt that there was no concern or impact to the  
9 environment. I went through what I thought I might do, and then  
10 he basically said after that that again it is an issue that I will  
11 take up with the Department of Health once I get through to the  
12 permitting process.

13 But on a sidebar, he said that he didn't see that  
14 there would be any problem with the application.

15 COMMISSIONER MITTEN: So he didn't provide you  
16 anything in writing that said based on what has been proposed and  
17 pending final approval of a storm water management system, that he  
18 is all right with what has been proposed. He didn't provide you  
19 anything in writing?

20 MR. BOYAR: He didn't say that, but he had the  
21 opportunity to say that it would hurt the environment if there was  
22 something that was noticeable, and he didn't do that.

23 COMMISSIONER MITTEN: But you don't have anything  
24 in writing I guess is my question.

25 MR. BOYAR: That's correct, I don't, but he did

1 walk the site with another associate of his.

2 COMMISSIONER MITTEN: Okay.

3 MR. BOYAR: And he did say that it looks like a  
4 great site.

5 VICE CHAIRPERSON SOCKWELL: Let me ask a question.

6 First of all, did Mr. Mussi say that you would have to provide an  
7 environmental impact screening form for this project?

8 MR. BOYAR: Mr. Cary-Cary gave me a form, and I  
9 guess it said that if the construction costs are, I believe, \$1  
10 million or more --

11 VICE CHAIRPERSON SOCKWELL: It is \$1.38 million.

12 MR. BOYAR: Is that in today's dollars?

13 VICE CHAIRPERSON SOCKWELL: Yes.

14 MR. BOYAR: Then I would need to do that, and I  
15 quite honestly don't know if -- at present, I don't think my  
16 construction hard costs will be above that.

17 VICE CHAIRPERSON SOCKWELL: And you are not  
18 producing more than 50 units of housing, nor 50 cars of parking.  
19 If you were required -- and I say this for Ms. Mitten's  
20 information, if the applicant is required to provide the extensive  
21 answers of the environmental impact screening form, then based on  
22 the criteria that require the form, he will have to go through a  
23 multi-phased environmental policy act review, which is less than  
24 an environmental impact statement.

25 But it is far more than the minimal storm water

1 management and sediment control requirements that would be the  
2 minimum. So there are six different divisions of the Department  
3 of Health that would look at the project. As well, the Office of  
4 Planning would look at it.

5 And the Department of Public Works, Transportation,  
6 and the Water and Sewer Authority, would also look at it under an  
7 EIS, and so that is the determination based on costs and extended  
8 development. And in his case it is costs strictly.

9 CHAIRPERSON REID: But weren't they referred to  
10 those entities to be looked at?

11 VICE CHAIRPERSON SOCKWELL: He would not be  
12 referred to anyone other than the Department of Health through  
13 DCRA's permitting process.

14 CHAIRPERSON REID: No, the Office of Planning.

15 VICE CHAIRPERSON SOCKWELL: It wouldn't be referred  
16 to the Office of Planning unless it meets the criteria for an  
17 environmental impact screening form response, which is a multi-  
18 page, very detailed, questionnaire.

19 CHAIRPERSON REID: Okay.

20 COMMISSIONER MITTEN: I had another question. I  
21 seem to have a number of things that are labeled Exhibit G. So I  
22 will make reference to the elevation that was submitted, and I  
23 understand that you are requesting some level of flexibility in  
24 the appearance of the dwelling, because you want to provide an  
25 opportunity for doing custom work.

1 MR. BOYAR: That's correct. That is the house  
2 plan, correct. I put that in just as an example of a style, but  
3 the Palisades is interesting, like in Cleveland Park, it has  
4 colonials, and victorians, and contemporaries, and in some cases  
5 they actually blend pretty well together.

6 I am going to try as best as I can to do custom  
7 homes for the purchasers within hopefully my good taste that  
8 everything blends well together. But I wanted to give them the  
9 opportunity, and not to be constrained by a certain house type.

10 MR. NUNLEY: And the footprint of all of these  
11 proposed houses will be within the confines as they are shown on  
12 the Exhibit G, building footprints.

13 COMMISSIONER MITTEN: I understand about the  
14 footprints. I guess one of the things that is required is that  
15 you submit typical floor plans and elevations.

16 And while some flexibility is permitted, I don't  
17 think unlimited flexibility is appropriate, given that people are  
18 responding to issues related to impact on other properties based  
19 on what they are being shown.

20 And so I guess what I am looking for is there some  
21 way to narrow the amount of flexibility so that there is a more  
22 predictable framework that we are dealing with. I mean, I don't  
23 think we can just say, well, that's fine, or anything else that  
24 looks like something in the Palisades is fine.

25 MR. BOYAR: Sure. Well, it just reminds me of

1 something funny. I don't know if this is the appropriate time for  
2 it, but a friend had suggested calling the place Pirates Cove and  
3 having an abandoned ship with a pirate flag flying up there, and I  
4 sort of vetoed that right away.

5 I think I have got pretty good tastes. I don't  
6 know how that could be written out and legislated. I would be  
7 open to your suggestions. I think that to enhance the value of my  
8 property, it would make sense for me to make it as attractive as  
9 possible, where all the houses blended well together.

10 One of the nice things about my site is that it is  
11 not going to be a cookie cutter project, where all four of the  
12 houses will have the same exact road frontage. I can set some  
13 back from the others as a slight grade to the property, which  
14 allows it not every single house is going to be at the same  
15 elevation as well.

16 So to not have that sort of uniformity, which will  
17 actually make it seem like a much better planned community.

18 COMMISSIONER MITTEN: And I understand that. I  
19 guess what I am driving at is that you are not going to have -- I  
20 don't think it is consistent with this process, that you have sort  
21 of unlimited ability to design the proposed dwelling, even though  
22 if it is a buy right development, you can do that.

23 But you are asking for something special and so we  
24 impose a few more controls, and that is one of the controls. It  
25 is not to say that if you provided us some alternatives in

1 completely different styles that we couldn't approve different  
2 alternatives, and give you even flexibility within that, but I  
3 don't think we can give you unlimited flexibility.

4 VICE CHAIRPERSON SOCKWELL: Madam Chair, do we  
5 under the special exception authority have the right to make what  
6 I would call aesthetic design decisions with regard to the houses  
7 themselves?

8 In that -- I mean, we can't tell him whether it is  
9 brick, or whether it is some other material, or where the windows  
10 should go. He is not asking for bulk or side yard variances and  
11 things like that.

12 He is merely asking for the theoretical lot  
13 division of this particular property. I am not sure. I just want  
14 to know whether or not we can impose any strict controls on his  
15 design. And I do realize that the design that he provided was a  
16 sort of typical -- this is what it could be design.

17 COMMISSIONER MITTEN: Could I just remind you of  
18 another case that we had that is a parallel situation to this that  
19 you might remember how we approached it?

20 VICE CHAIRPERSON SOCKWELL: Yes.

21 COMMISSIONER MITTEN: Is the property on Good Hope  
22 Road. A single family dwelling portion of that property was a  
23 theoretical lot subdivision, and we had requirements or conditions  
24 that we imposed that were related to building materials, and --

25 VICE CHAIRPERSON SOCKWELL: It was a contested

1 case. This is not a contested case.

2 COMMISSIONER MITTEN: Okay.

3 MS. SANSONE: Perhaps I could just point to one of  
4 the regulations which does allow the board to impose conditions  
5 relating to design and screening. So to some extent that is  
6 relevant.

7 CHAIRPERSON REID: We could ask for a revised plan.

8 MS. SANSONE: Actually, there is contested cases,  
9 even though the applicant doesn't have opposition.

10 CHAIRPERSON REID: I mean, even without them being  
11 contested, right, Ms. Sansone?

12 MS. SANSONE: Yes, that's correct. And technically  
13 this is treated as a contested case under the APA, even though it  
14 is not contested with people in opposition. We still classify  
15 these as contested cases for due process and procedural rights  
16 purposes.

17 VICE CHAIRPERSON SOCKWELL: Because the ANC  
18 supported it without conditions, and there were no detractors, my  
19 assumption is that the ANC saw what we saw, and if they didn't, I  
20 would like to know that we are seeing more than they saw or less.

21 MR. BOYAR: Let me just add on that a little bit.  
22 I bought the property back at the end of the winter, and I spent a  
23 lot of time, and I think wisely, working with the adjacent  
24 neighbors, the community association, Foxhall Citizens Community  
25 Association, and the ANC, and asking them what their needs were,

1 and what I thought I would do for the property.

2 And I did go through not only showing them that,  
3 but I told them that I would be building custom homes, and it  
4 would be up to or under my perview. What they were trying to get  
5 at is if somebody wanted a contemporary that mixed well with the  
6 victorian, as well as it worked well together, I wouldn't have a  
7 problem.

8 But I went through this with all of the adjacent  
9 communities -- Foxhall Square, Canal View -- and the ANC members.

10 So they were apprised of that for months, and they were just --  
11 they had problems, no issues, with that at all.

12 VICE CHAIRPERSON SOCKWELL: Would you be amenable  
13 to a condition of approval that you submit final designs to the  
14 ANC for their review? I didn't say approval. I just said review.

15 MR. BOYAR: That would still allow me -- this is my  
16 first time through the BZA. Would that still allow me to get the  
17 theoretical lot line subdivision approved, and so on and so forth?

18 VICE CHAIRPERSON SOCKWELL: Yes, it would just be a  
19 condition of your approval that you would submit your final custom  
20 designs to the ANC for review.

21 MR. BOYAR: Just as a courtesy?

22 MR. NUNLEY: It would be a condition of the order,  
23 Mr. Sockwell?

24 VICE CHAIRPERSON SOCKWELL: It could possibly be a  
25 condition of the order. Now, that is to say that you would not

1 blind side the ANC with some pink and purple albatross that Ms.  
2 Mitten would feel very upset about, as would I. And if it is  
3 subtle shades of pink, maybe not so bad.

4 What Ms. Mitten's issue is -- and while I  
5 understand exactly where she is coming from, my issue would be  
6 that if you are giving the community a fair representation of what  
7 they expect to see, or did, when you met with the ANC, then if you  
8 turn around after you are approved for your theoretical lot lines,  
9 and present, and build something that is entirely different, then  
10 it would not necessarily show forthright dealing with the  
11 community.

12 And we want to make sure, among other things, that  
13 the community is comfortable with what will result from your  
14 efforts. That's all.

15 MR. BOYAR: If I could add that --

16 VICE CHAIRPERSON SOCKWELL: Since you have not  
17 provided us with design plans that are being submitted for permit,  
18 you see.

19 MR. BOYAR: I understand that. I understand. That  
20 is not a problem. I am also planning on moving into one of the  
21 houses that I build, not that that matters to you all, but it does  
22 matter to me as far as the pink and purple house.  
23 Some of the interior walls might be, but I don't --

24 VICE CHAIRPERSON SOCKWELL: At least you are not  
25 color blind.

1 MR. BOYAR: Okay. But I think that would be fine.

2 I have a good relationship with actually everybody that I have  
3 worked with so far there, and I have spent some time to achieve  
4 that.

5 I could have gone in for my BZA application many,  
6 many months ago, but I wanted to make sure that they were all  
7 happy and comfortable, and even the ANC secretary had when she  
8 faxed me the approval of the resolution had a best of luck on the  
9 8th, and was relatively supportive of me.

10 And they are looking forward to me becoming a  
11 member of their ANC. So I think that the answer is yes.

12 COMMISSIONER MITTEN: That sounds like a good way  
13 to handle it.

14 VICE CHAIRPERSON SOCKWELL: Okay. So if you will  
15 accept that, then we can make that as a friendly amendment to your  
16 request.

17 MR. BOYAR: Can I just ask how that works, in terms  
18 of if I am building one house at a time, do I take the plans first  
19 to the ANC for their monthly meeting, and then they say it looks  
20 okay. Then who do I send that resolution to? Do I send it to the  
21 BZA, or --

22 VICE CHAIRPERSON SOCKWELL: No. Actually, because  
23 the ANC is to be notified, albeit not necessarily in a timely  
24 manner, for all building permits at this point, it would be  
25 considered -- it is always considered to be a proactive gesture on

1 the part of a developer to provide the ANC with advance  
2 descriptions.

3 MR. BOYAR: That's fine.

4 COMMISSIONER MITTEN: I just had one more issue  
5 which relates to the Section 2516.5(d). The Office of Planning,  
6 and we will probably hear a little bit more about this, and I  
7 think your position is that the rear lot line -- I lost track of  
8 which way north is, but the rear lot line is -- let me just finish  
9 my question. Just tell me where north is.

10 MR. BOYAR: North is this way.

11 COMMISSIONER MITTEN: I think the point that the  
12 Office of Planning is making is that you have two legal lots, and  
13 all of the rear lot lines for the theoretical lots are oriented to  
14 the southbound rear line of the more southerly two lots.

15 So actually the rear line of the more northerly lot  
16 is -- I mean, their position is that the rear line is the line to  
17 the west. So how do you respond to that?

18 MR. JACKSON: Madam Chair, a point of  
19 clarification. I just wanted to --

20 CHAIRPERSON REID: Give your name.

21 MR. JACKSON: My name is Arthur Jackson from the  
22 Office of Planning. I show clarify something. My reading of this  
23 is that she is correct about what my interpretation was of where  
24 the rear lot line is.

25 And that has to do with the fact that there is no

1 access from -- even though the address of the properties in on  
2 West Potomac, there is no access from West Potomac. So the very  
3 front property line would have to be on Lincoln Road.

4 However, I would defer to the zoning administrator  
5 to make a final determination of exactly where the rear lot line  
6 is. I was just going to stipulate that that should be clarified,  
7 and that they are consistent with that regulation.

8 And so an agreement between us is probably not  
9 appropriate since the ultimate determiner would be the zoning  
10 administrator. So I would just ask that that question be directed  
11 to the zoning administrator.

12 And if they are in compliance, then I am satisfied.

13 COMMISSIONER MITTEN: So you have not done that yet  
14 though?

15 MR. JACKSON: No. I researched it, but that is one  
16 point that I did not research. I thought that somebody from the  
17 zoning administrator's office would be here today, but --

18 COMMISSIONER MITTEN: Okay. That's helpful. Thank  
19 you. So we will get that resolved with the assistance of the  
20 zoning administrator.

21 MR. NUNLEY: Now, let me just interject that Mr.  
22 Boyar had numerous meetings with the Office of the Zoning  
23 Administrator before the proposal came down to here, and he has  
24 spoken numerous times with Mr. Bellow. And Mr. Bellow had  
25 indicated that there would be no issue here.

1                   COMMISSIONER MITTEN: Well, maybe we will just ask  
2 for a specific response on that issue in writing, and we will have  
3 it for the file.

4                   MR. NUNLEY: That's fine.

5                   VICE CHAIRPERSON SOCKWELL: So, Mr. Jackson, it  
6 would be my feeling that that might require a redirection or a  
7 different breakdown of the property if that particular theoretical  
8 lot's rear line was one of the longer phases of the lot, as  
9 opposed to the short phase by definition.

10                  MR. JACKSON: That is correct. However, what it  
11 may require, if that was the case, what I see -- and I would  
12 anticipate that really what you are talking about is looking at  
13 Exhibit G, is just a reorientation of Lot 4.

14                  Because if you reoriented Lot 4 so that the rear of  
15 that lot was towards the same lot lines that I suspected the rear  
16 lot line is, then that would satisfy the requirement, I believe.

17                  Now, again, the final determination would be with  
18 the zoning administrator. I am just suggesting that if it turned  
19 out that the lot lines at the east or west end of the property are  
20 the rear property lines, then it seems like that would just --  
21 that that would affect the last lot, lot number four. The other  
22 three would remain.

23                  MR. NUNLEY: I am at a bit of a disadvantage  
24 because I don't have my code book here in front of me, but Chapter  
25 25, or Section 2516, dictates the front of the theoretical lot

1 lines. Excuse me.

2 (Brief Pause.)

3 MR. NUNLEY: Well, I will put it this way. I know  
4 how I would have interpreted it when I was with the Office of the  
5 Zoning Administrator. And we don't have a problem with getting  
6 something written from the Office of the Zoning Administrator  
7 because we are quite comfortable that he will view it the same way  
8 based on the numerous conversations that we have with them.

9 The concern that I have is a time factor. Mr.  
10 Boyar is under certain time constraints, financing and other  
11 issues, and something like that may -- if not kill the project,  
12 make it very difficult to move forward.

13 I have just been told that we believe that we can  
14 get the letter from Mr. Bellow or from Mr. Johnson, and have it  
15 this week.

16 MR. BOYAR: Just to interject. I actually have  
17 gone through every single item here with zoning. I went through  
18 all the setbacks, and I went through all my calculations with Mr.  
19 Bellow.

20 I don't have any concern that there is going to be  
21 an issue. I am sure that I could get a letter immediately from  
22 him.

23 COMMISSIONER MITTEN: That's fine. It is just that  
24 an issue has been raised by the Office of Planning, and we would  
25 just like to have something that gives us some comfort that it has

1 been dealt with appropriately.

2 MR. NUNLEY: My concern was time. If we can do it  
3 that quickly, then I no longer have that concern.

4 COMMISSIONER MITTEN: I don't have any more  
5 questions, Madam Chair.

6 CHAIRPERSON REID: Mr. Moulden.

7 MEMBER MOULDEN: Yes. I have a question about the  
8 design and I want to go back to that. In the redesign, you are  
9 going to take it back to the ANC, but I was wondering government-  
10 wise does the Office of Planning look at the design and would they  
11 be interested in that also?

12 MR. JACKSON: You mean the ultimate designs of the  
13 buildings?

14 MEMBER MOULDEN: Yes.

15 MR. JACKSON: The property is not in a historic  
16 district, and if you walk around in the area, there is a wide  
17 variety of housing there. Most of it is very attractive and well  
18 kept.

19 But you see brick homes, stone homes, and you see  
20 homes that you are not sure what they are made of, but they still  
21 look pretty good.

22 And I would suggest that if they go to the ANC and  
23 the ANC is comfortable, then the Office of Planning does not have  
24 any concerns about the design, per se. But we would like to make  
25 sure that there are some minimum concerns addressed by the overall

1 development and that's what we have outlined in our reported.

2 MEMBER MOULDEN: So in other words, you don't want  
3 to see a copy of that revised design?

4 MR. JACKSON: No. If that ANC is satisfied, that  
5 is satisfactory to us.

6 CHAIRPERSON REID: Okay. Thank you. Mr. Jackson,  
7 do you want to go ahead and give the OP report?

8 MR. JACKSON: Yes.

9 CHAIRPERSON REID: All right.

10 MR. JACKSON: Yes, Madam Chairman, thank you for  
11 the opportunity to speak before you today. Quickly, Mr. Boyar has  
12 requested to create a hypothetical -- I'm sorry, but a theoretical  
13 subdivision of five tax lots on two adjacent record parcels,  
14 generally located at 4427 Potomac Avenue, Northwest.

15 The subject properties are located immediately west  
16 and south of Lincoln Road, Northwest, and a road that is 12 feet  
17 wide, and that extends southwest from the 4400 block of McArthur  
18 Boulevard, Northwest.

19 This property is also next to an open section of  
20 the Potomac Avenue, Northwest, right-of-way, and other property  
21 owned by the District of Columbia.

22 Mr. Boyar acquired the property in early 2000, and  
23 he would like to subdivide the lots for future residence  
24 development. Because of a lack of frontage along an improved  
25 right of way, and other inconsistencies, the applicant is

1 requesting a theoretical subdivision to create the five lots.

2 The applicant indicated that there would be four  
3 lots for a single family development, and one lot that would be  
4 retained in common ownership by the homeowners association to  
5 provide a said vehicular access to Lincoln Road.

6 After our review of the -- the applicant provided a  
7 plat of computation for Lot 22 and part of Lot 21, Square 1356.  
8 And I will say that is also a preliminary plat.

9 Attached to your staff report is a final plat that  
10 has some additional information; a schematic site plan showing the  
11 suggested building footprints on each parcel, and a typical  
12 building floor plan and typical front facade elevation.

13 Both lots are zoned R-1-B, and under the zoning  
14 regulations a one-story detached dwelling is permitted as a matter  
15 of right in this zoning district. The zoning regulations also  
16 provide that there are standards for lots created in this zoning  
17 district.

18 As per our review of the summary sheets as provided  
19 for each lot, the proposed lots would meet the lot area, lot  
20 width, lot occupancy, floor area ratio, parking space requirement,  
21 front, rear, and side yard requirements of the zoning ordinance or  
22 the zoning regulations.

23 Further analysis involved the Planning Department  
24 looking at what the proposal has to do to be consistent with the  
25 overall zoning regulations. We will stipulate that the proposed

1 single family development is consistent with the R-1-B zoning  
2 district, and that it proposes to stabilize areas and promote  
3 residential development in a suitable environment.

4 The next standard looks at the compliance with  
5 Section 2516. After reviewing those standards, the Office of  
6 Planning made the following determinations. The applicant did not  
7 provide all the materials required under Section 2516.3, including  
8 the estimated existing and preliminary landscaping and grading.

9 I will note that in the application that there was  
10 an attachment that was listed as the landscaping plan, but I did  
11 not receive it. So I am not sure if that just was not submitted  
12 or I just wasn't happy with that.

13 The other point is that some of the standards  
14 requiring a view of the preliminary site plan -- I'm sorry. Some  
15 of the standards require the review of a preliminary site plan  
16 showing all structures, landscaping, and paving.

17 In particular, we need to verify that the front  
18 building wall will face the street, and how the private access  
19 road would intersect the existing street -- again, which is 12  
20 feet wide -- and whether there is adequate screening would be  
21 provided around the perimeter of the property.

22 The proposal does not meet the standards of Section  
23 2516.5(d), and as I stated, we will defer to the zoning  
24 administrator to make a final determination about whether or not  
25 that is done. But I think it is important to ask that specific

1 question of the administrator.

2           There were concerns about storm water management on  
3 the property, and we feel that final approval of the application  
4 should be deferred to allow the applicant to provide more complete  
5 information.

6           A review of the comprehensive plan overall, and the  
7 ward plans for this area, indicate that this proposal as presented  
8 in general terms meets the goals of the comprehensive plan.

9           The Advisory Neighborhood Commission ANC-2E  
10 considered the application on October 20th, and I understand that  
11 you have a copy of their letter of approval. I have copies here  
12 if you don't in your packet.

13           Aaron Katz, president of the Canal View  
14 subdivision, HOA, wrote a letter of support that is attached to  
15 the staff report. As far as Agency comments are concerned, the  
16 fire department has expressed no objections to this proposal, and  
17 attached is a copy of the fire department's report and to your  
18 report.

19           And the Office of Public Works at that time had not  
20 seen the plan and expressed some concerns about not having  
21 complete information. I should note that in discussion or in  
22 talking with the Department of Public Works that they indicated  
23 that they -- oh, I have got a letter here from the Department of  
24 Public Works that outlines their reaction.

25           CHAIRPERSON REID: Do we need a waiver for that?

1 MS. SANSONE: Since all government reports are due  
2 seven days before the hearing, we should waive the requirement to  
3 accept this.

4 CHAIRPERSON REID: Okay.

5 MR. NUNLEY: May we at least see a copy of that?

6 CHAIRPERSON REID: Sure.

7 MR. JACKSON: The Department of Public Works  
8 received our request for information about the proposed  
9 subdivision. We noted that --

10 CHAIRPERSON REID: Are you going over this report  
11 now?

12 MR. JACKSON: Well, I was going to briefly  
13 summarize it so that you didn't have to read it.

14 CHAIRPERSON REID: Okay. Unless anyone has any  
15 objection, we will waive the record to accept the report into the  
16 record, and Mr. Nunley had asked to review it first.

17 MR. JACKSON: Oh, I thought he just wanted to see  
18 it, but okay.

19 (Brief Pause.)

20 MR. NUNLEY: We have no objection to waiving that.

21 MR. JACKSON: All right. So did you vote to waive  
22 it?

23 CHAIRPERSON REID: No. What I had said was that  
24 unless anyone had any objection, and Mr. Nunley, agent for the  
25 applicant, wants to see it.

1 MR. JACKSON: The Department of Public Works stated  
2 briefly that they noted that the subdivision would be located at  
3 the terminus of Lincoln Road, a 20 foot wide burrow coming from  
4 McArthur Boulevard.

5 Note that on the plat that it is actually 12 feet  
6 wide, but there is also an 8 foot easement dedicated for highway  
7 purposes, and that is on private property just south of Lincoln  
8 Road.

9 The proposed terminus or proposed element will be  
10 landlocked, with no other access than Lincoln Road, and the road  
11 will be extended into the property development as a private street  
12 to serve the development.

13 They indicated that they were not concerned about  
14 the traffic generation. However, they were concerned that two way  
15 traffic circulation on Lincoln Road would be very difficult as a  
16 two hour residential parking permit is allowed on the south side  
17 of that segment of Lincoln Road.

18 Yet, 13 townhouses are currently using the road in  
19 this fashion. That was somewhat unclear. So I called and tried  
20 to get a further explanation of their opinion.

21 I think overall that they are of the opinion that  
22 they could not come out in opposition of this proposal because  
23 they approved the development of 14 townhouses on Lincoln Road,  
24 and they approved the establishment of permit parking along the  
25 street.

1           They cannot unilaterally remove parking from the  
2 street. It would have to take the agreement of all of the  
3 property owners next to it who are currently using the parking.  
4 So they expressed no opposition to the establishment of these four  
5 houses on the subject property, with access directly to the  
6 street.

7           And that's where that stands. We also did get to  
8 talk to the Department of Health, and the storm water management  
9 representatives, and they confirmed that they met with the  
10 applicant in the field, and they did not -- they said that things  
11 could be worked out.

12           I was not able to contact them, and they left a  
13 message, and I had been trying for a couple of days to contact  
14 them and get more details about it. But I think the general gist  
15 was that they thought it could be worked out.

16           And as such, they felt fairly confident that this  
17 would not create a significant problem. The planning department's  
18 concern really had to do with the fact that it appeared that if --  
19 and I think the first thing we should do is turn to the plat that  
20 was submitted by the applicant showing the easements  
21 in the existing subdivision.

22           I think that plat is Exhibit B. Okay. You will  
23 note on Exhibit B that we have two lots, Number 22 and 21, the  
24 existing two-story framed dwelling which will be demolished for  
25 the development, and of course a drainage easement.

1           You will note the drainage easement at the end of  
2 Lincoln Road. That drainage easement is located there apparently  
3 specifically to catch run-off that comes down Lincoln Road. That  
4 would also be in the middle, essentially at the very edge of his  
5 driveway coming into the property.

6           What our concern was, was that the subsequent plans  
7 did not show that easement, although he indicated that he would  
8 simply be relocating the -- well, okay. That the receptacle would  
9 still be there.

10          I guess our question was how are we going to get a  
11 driveway in around it, and how wide would the driveway be, and how  
12 the circulation worked. So it was unclear, although through  
13 discussion -- we had a general discussion about how we would  
14 approach it.

15          The specifics of how it would work were kind of  
16 unclear. At the time the real concern was that the Department of  
17 Public Works had said that they would not normally approve a two-  
18 way driveway that was less than 16 feet. Of course, this is 12.

19          When the Planning staff discovered that there was  
20 an easement on the adjacent property, we assumed that the property  
21 owner, the developer, would be allowed to at least widen the  
22 driveway to -- to use the existing street that is now being used  
23 for parking, and the easement that is currently on the private  
24 property and being used for parking, that could become part of the  
25 driveway coming in.

1 Now with the existing permit parking on that  
2 section, and the likelihood that that cannot be removed, we are  
3 still back to the 14 foot street. The planning staff had some  
4 concerns, but the Department of Public Works felt that this could  
5 work essentially because it is only four dwellings.

6 So the question that we had then was just how would  
7 they work it out, and how would the alignment be set up, and then  
8 there were other issues of parking available on-site for the  
9 houses that are there, and where would they put the parking.

10 There were just some unclear -- it was unclear  
11 because there was not a specific site plan showing all these  
12 elements and just how it all worked together.

13 Now, I have no doubt that there are various options  
14 for addressing these issues, and I am sure that they can be --  
15 that with the thoughts and discussions that have gone on with the  
16 city staff and with the design professional that they can put down  
17 on paper a plan that will work.

18 It is just that my concern was that there are so  
19 many issues that could conflict one against the other. For  
20 instance, if you put in a nice layout for the parking plan, but  
21 then you have landscaping.

22 And in looking at the preliminarily landscaping  
23 plan which the applicant submitted, I see trees in a tree strip  
24 that is 3 to 4 feet wide, where normally you would look for a  
25 minimum of 7 feet for a tree, just because they will need that

1 space for the roots.

2 Is this the plausible approach? I don't think so.

3 Or if it is used, then you have to look at the spacing of the  
4 trees. So if you are putting the trees there, then how might the  
5 rear orientation of the shifting of the driveway affect where you  
6 are going to put your storm water management structures.

7 And again the other issues that are raised in my  
8 staff report, a more detailed site plan showing all the owners  
9 that are going to be on the site, probably would address those  
10 issues.

11 And I think that what was brought into today and  
12 was handed me in the hall really is much better, but it still is  
13 seen as being a little preliminary. But I will leave it to the  
14 board to decide whether or not that is sufficient to move on.

15 So in light of all of those concerns, we think that  
16 conceptually that this is a good plan. It is the most -- it is an  
17 appropriate use for the site, but we would like to recommend, or  
18 still would like to recommend that the board give conditional  
19 approval only for today, and that final approval will be subject  
20 to certain conditions.

21 And where the applicant would submit a final  
22 landscaping and grading plan as required under Section 2516.3(b),  
23 and that the subdivision conform to 2516.5(d), and that the  
24 applicant submit a revised preliminary subdivision plan showing  
25 all easements and shared access driveway, and identifying building

1 envelope.

2 Now, I should explain that by building envelope,  
3 what he is showing now is a building footprint. In terms of a  
4 building envelope, what I was talking about was just lines showing  
5 the setbacks, and not the actual footprint of the building.

6 This would give you the flexibility to put a  
7 building in any shape you want within the footprint, but it would  
8 show where the building has to go.

9 MR. BOYAR: We have done that.

10 MR. JACKSON: Well, what you are showing is the  
11 building footprint and not the envelope. Is that on the new plan?

12 MR. NUNLEY: That is on all the plans. That is not  
13 the footprint. That is the design envelope. It can be smaller,  
14 but no larger.

15 MR. JACKSON: Okay. Usually the building footprint  
16 reflects -- okay. It is a 25 foot setback. The building envelope  
17 reflects a 25 foot setback uniformly from the property line.

18 It doesn't necessarily outline the building. What  
19 you have on your plans is the building footprint, and not the  
20 building envelope.

21 VICE CHAIRPERSON SOCKWELL: Well, generally, Mr.  
22 Jackson, as an architect, I show envelope the way that you are  
23 suggesting a footprint would be shown.

24 And I show a footprint to show the extent of all  
25 excavation that would wind up being built space, even if it

1 extended only below grade and not as part of the super structure.

2 So we have a difference in our education on how the term should  
3 be used.

4 MR. JACKSON: Okay.

5 VICE CHAIRPERSON SOCKWELL: Now, Fairfax County  
6 requires the way that I stated it, and therefore at least I can  
7 say that there is somebody with qualifications, rather than just  
8 using my own impression.

9 But I think generally a footprint is intended -- at  
10 least in architectural terms -- to indicate the extent of  
11 disturbed earth.

12 MR. JACKSON: Well, I am using it in the context of  
13 showing the extent of where development is allowed outside of the  
14 setbacks, or inside of the setbacks.

15 VICE CHAIRPERSON SOCKWELL: Well, an envelope would  
16 generally meet the zoning criteria in the District of what is  
17 allowed above grade, which is the only part that would actually  
18 have building implications.

19 MR. JACKSON: Well, let's go to Exhibit G.

20 MR. NUNLEY: I think the labeling here is what may  
21 be throwing us off. Whoever did these plans say building  
22 footprints, which implies that is the perimeter of the actual  
23 building.

24 It's not. It is designed to show the maximum  
25 allowable buildable space on that site. And as you will see, it

1 shows the side yard setbacks, and it shows the rear yard setbacks,  
2 and the front yard setbacks.

3 MR. JACKSON: Well, the rear yard setback is 25  
4 feet.

5 MR. NUNLEY: And it is showing the 25 feet.

6 MR. JACKSON: It is showing 35 feet. You see, the  
7 only thing is that you actually have more space to build in than  
8 is being shown. It should be 25 and 25 --

9 MR. NUNLEY: No, no. This is the intended maximum  
10 buildable area on this site, and it fits well within the  
11 regulations. The 25 feet is a requirement, but you can meet the  
12 requirement and have more. So here this is --

13 MR. JACKSON: I am not arguing that. I am saying  
14 that for the sake of flexibility that you can show 25 in the  
15 front, and 25 in the back, and you can build within that area.  
16 Now, you restricted yourself to 35 feet, which is fine.

17 But you can give yourself 25 feet in the front, and  
18 25 in the back, and you can build anywhere within that area.  
19 That's all I am saying.

20 MR. JACKSON: Right.

21 VICE CHAIRPERSON SOCKWELL: For example, on lot 3 -  
22 -

23 MR. JACKSON: But this is what we are comfortable  
24 with.

25 MR. BOYAR: Well, we could compromise on the term

1 and call it buildable area and leave the footprint, versus the  
2 other alone, and call it buildable area.

3 MR. NUNLEY: No, I understand what you are saying,  
4 and we could have done calculations and averaged it out, and it  
5 would have been 25 feet on this side, and less than 25 feet on  
6 this side, averaging out to 25. But we determined not to do that.

7 MR. JACKSON: Okay. If you want to limit yourself,  
8 that is fine with me. Okay. And finally that the Department of  
9 Health approve a storm water management plan for the subdivision.

10 As per your discussions with the Department of Health, however,  
11 if they are not concerned about the storm water run-off, then I  
12 will delete or agree to withdraw that as a recommended condition.

13 VICE CHAIRPERSON SOCKWELL: Would you repeat that?  
14 I didn't get it all.

15 MR. JACKSON: Oh, the last --

16 VICE CHAIRPERSON SOCKWELL: Yes, just the last.

17 MR. JACKSON: That the Department of Health  
18 approves a storm water management plan for the subdivision. Our  
19 concern was that this could be somewhat difficult given the fact  
20 that the storm water management -- the property is such of a size  
21 that storm water management could actually be on someone else's  
22 property next door.

23 But given the response from the Department of  
24 Health, if they are not concerned about that issue, then I would  
25 agree to delete that recommendation.

1 MR. NUNLEY: Well, let me just add that that would  
2 not be allowed under the building code, and so we couldn't build.

3 You are saying that storm water management would be over on  
4 someone else's property; is that what I heard?

5 MR. JACKSON: It appeared that that would be a  
6 possibility.

7 VICE CHAIRPERSON SOCKWELL: Maybe because of the  
8 direction to which the property slopes off.

9 MR. JACKSON: It slopes to the west.

10 VICE CHAIRPERSON SOCKWELL: Yes. And the issue is  
11 that there are any number of ways of handling the storm water  
12 management. Since you are in this particular location, and since  
13 there have been some new storm water management initiative toward  
14 biosystems and things like that, you may be able to do this  
15 without pumping, or without some of the more traditional tanks and  
16 what not.

17 But you would have to meet the Department of  
18 Health's requirements for storm water management regardless, and  
19 it puts it in their court rather than ours.

20 MR. JACKSON: Exactly.

21 VICE CHAIRPERSON SOCKWELL: And since it is an  
22 external thing to the zoning process, I would think that we could  
23 leave it up to them, because right now I don't think that anybody  
24 is getting out of the permit office without extensive review.

25 MR. JACKSON: Mr. Sockwell, I guess my only thought

1 was that when we initially visited the site, not being clear on  
2 how water could get out, I thought this could be a situation where  
3 the inability to provide appropriate storm water management could  
4 terminate the project.

5 In essence that they would get approval by the BZA,  
6 and then come back to the Department of Health and not be able to  
7 do the development because they could not meet those requirements.

8 But I am satisfied now that they have met and  
9 discussed it with them, that the natural process will work  
10 everything out.

11 VICE CHAIRPERSON SOCKWELL: Yes, the biosystems are  
12 now being used to handle waste, including parking lot run-off. So  
13 they may be able to meet this without having to do an expensive  
14 pumping or storm water management tank system, but they are going  
15 to have to do something, and I agree with you. It will be on-  
16 site. I do want to -- well, I guess you are not through yet.

17 MR. NUNLEY: Thank you for your time and I am ready  
18 for questions.

19 VICE CHAIRPERSON SOCKWELL: Okay. There was  
20 discussion about this easement, the drainage easement.

21 MR. NUNLEY: Yes.

22 VICE CHAIRPERSON SOCKWELL: And what is the  
23 facility that is there now?

24 MR. JACKSON: There appears to be a storm drain  
25 that goes back towards McArthur Boulevard.

1 MR. BOYAR: No, it actually is a catch basin  
2 towards the end of Lincoln Road, and it catches the water run-off,  
3 and then it goes diagonally across my property as I think you will  
4 see in Exhibit B for about 7 feet.

5 But it is buried underground many, many feet. And  
6 then it just goes across to the adjacent community's parking lot.

7 MR. JACKSON: Well, where does it come out?

8 MR. BOYAR: It ultimately comes out in the -- right  
9 around the large retaining wall that is right on the edge of my  
10 property, and then goes to the area that is the saving and  
11 accepting, which is that triangle that is taken out.

12 And just also to let you know that I have met out  
13 on the site a number of times with the water and sewer authority,  
14 Jim Sibonski, and also Mr. Truong, who before he was there was  
15 with the Department of Health.

16 And he spent a lot of time, and he felt very  
17 comfortable. I mean, all of these things -- I mean, I am not  
18 going to put words into his mouth, but he knew exactly what I was  
19 doing. He knew about the BZA application and if they ever had any  
20 issues they would have brought it up.

21 And also the Department of Health walked the site  
22 as well. There were never any issues that there would be a  
23 problem with it. They just said there will be a solution, and we  
24 will work it out jointly.

25 VICE CHAIRPERSON SOCKWELL: But you are saying

1 there actually is a pipe that goes diagonally across your  
2 property?

3 MR. BOYAR: Yes.

4 VICE CHAIRPERSON SOCKWELL: Which is an established  
5 de facto WASA easement for drainage?

6 I mean, that's what it would be, because it has  
7 been there, and they have the right to continue to utilize it  
8 unless you provide some alternative.

9 MR. BOYAR: It is actually not WASA, and I asked  
10 them. It is actually belonging to the townhome community. The  
11 people at WASA thought that it was theirs, but they could not find  
12 it.

13 So they just deferred to the other, and quite  
14 honestly, it is completely clogged and it has not been maintained  
15 in many years.

16 VICE CHAIRPERSON SOCKWELL: But because it exists,  
17 it could present you problems, because it exists, regardless of  
18 the fact that it is on your property. Well, it can't belong to  
19 someone else if it is on your property, per se, easily.

20 But it can certainly become a requirement for you  
21 to maintain because it services adjacent property, and it exists  
22 on your land.

23 MR. BOYAR: It just passes through, if that means  
24 anything. It is just bisecting for just a short span of space.  
25 It goes from, I believe, the Foxhall Square or Foxhall Mews

1 townhome community, and through mine, buried underground, and then  
2 shortly thereafter to another community.

3           Again, I have brought out a number of folks from  
4 WASA, and the Department of Health, who had no issues with that at  
5 all. And during the final engineering process all that stuff will  
6 be addressed to the satisfaction of the city.

7           VICE CHAIRPERSON SOCKWELL: There is nothing in  
8 your deed description that mentions this piece of equipment?

9           MR. BOYAR: I'm sorry?

10          VICE CHAIRPERSON SOCKWELL: There is nothing in  
11 your deed description that mentions this piece of equipment?

12          MR. JACKSON: As a recorded easement.

13          VICE CHAIRPERSON SOCKWELL: As a recorded easement,  
14 yes.

15          MR. BOYAR: Yes.

16          VICE CHAIRPERSON SOCKWELL: There is?

17          MR. BOYAR: Yes.

18          VICE CHAIRPERSON SOCKWELL: But does the recorded  
19 easement stop with that square, or does it stop with the passage  
20 of water through your site in the pipe that is currently clogged  
21 up?

22          MR. BOYAR: Are you asking if --

23          VICE CHAIRPERSON SOCKWELL: Yes, I guess I am just  
24 trying to find out whether or not you knew the extent to which  
25 this is going to encumber your development.

1 MR. BOYAR: The process started back in the early  
2 spring, and that's when I had first brought out the folks from  
3 WASA, including Mr. Truong, and had discussions with Mr. Carey-  
4 Carey.

5 VICE CHAIRPERSON SOCKWELL: You see, if you say it  
6 is not theirs, then it is not their responsibility, and they  
7 really don't care because they are not worried about it.

8 MR. BOYAR: Right.

9 VICE CHAIRPERSON SOCKWELL: My only question was  
10 whether or not its existence -- and as you say, it is serving an  
11 adjacent community. If its existence means that it either has to  
12 stay there or you have to manage the water that is going into that  
13 system, regardless of whether it has been maintained or not,  
14 whether you have to manage the water that is going into that  
15 system, along with any water that you generate.

16 MR. BOYAR: And I am not an expert on this, and  
17 that's why I brought in the other folks from the city agencies,  
18 but when the water does enter this catch basin, it is immediately  
19 buried underground, and goes through my property for a very short  
20 distance, and then it does not appear to discharge on to my site.

21 The easement actually shows it bisecting through  
22 that small little area to the adjacent property.

23 COMMISSIONER MITTEN: Do we have a plat that shows  
24 where the pipe goes, because if we do, I don't have it.

25 VICE CHAIRPERSON SOCKWELL: I am assuming that it

1 is going into his property and something is happening to it. I  
2 mean, there may be a possibility that it is bisecting or is  
3 hitting to the far end of your property, and may actually continue  
4 to drop with the land, and may exit a headwall into the Potomac.

5 MR. BOYAR: Let me just add that part of my  
6 homeowners association will -- the fee -- will take care of the  
7 maintenance of whatever storm water system the city requires that  
8 I put in, whether that is a sand filter, or if there are any other  
9 designs that the city says that I can build that will be part of  
10 what my HOA will take care of, in addition to road maintenance and  
11 such.

12 VICE CHAIRPERSON SOCKWELL: And believe me that I  
13 understand that part, but my only consideration was that perhaps  
14 this was an issue that might be an albatross that you have not  
15 fully determined the impact of because it is serving someone other  
16 than your property. But it is on your property.

17 MR. BOYAR: And I had asked Mr. Truong, and he  
18 didn't seem to think that it was any problem for me to develop the  
19 site at all.

20 VICE CHAIRPERSON SOCKWELL: Okay.

21 MR. BOYAR: And I know that I have worked with him  
22 over the years on a lot of these storm water end-use.

23 VICE CHAIRPERSON SOCKWELL: And as have I, but the  
24 problem is that it is not a public facility, and he can tell you  
25 anything that he wants. And in particular it is not ours, and we

1 don't think that it is a problem.

2 But it is yours, and I just wanted to make sure  
3 that if you are going to develop it that you are aware of what  
4 might be the implications of its existence.

5 MR. BOYAR: Sure.

6 MR. JACKSON: I just had one other question for  
7 clarification. Have you determined whether or not you can  
8 actually build a road on top of this pipe?

9 MR. NUNLEY: I defer to Mr. Boyar on that.

10 MR. JACKSON: My question was I wondered if he had  
11 determined whether you can actually extend the road over this  
12 pipe.

13 MR. BOYAR: I'm sorry, but what was the question?

14 MR. JACKSON: I just wondered have you determined  
15 that you can actually build a driveway on top of this pipe?

16 MR. BOYAR: Yes. I don't have to do much in the  
17 way of excavation for a private driveway. The impact to that area  
18 is going to be negligible.

19 MR. JACKSON: Okay. I wasn't too sure.

20 CHAIRPERSON REID: Any other questions?

21 COMMISSIONER MITTEN: Is it Mr. Jackson from the  
22 Office of Planning?

23 MR. JACKSON: Yes.

24 COMMISSIONER MITTEN: Was there a referral made to  
25 the National Park Service?

1 MR. JACKSON: No, there wasn't.

2 COMMISSIONER MITTEN: I ask that because if you  
3 look at the base map, it looks actually like they are an abutting  
4 property owner, and if they are not, they are certainly close by.

5 And one of the criteria that we are supposed to be evaluating on  
6 is the visual impact on parks.

7 MR. JACKSON: Ms. Mitten, I should clarify that  
8 what you have -- okay. When you look at the plat there, or are  
9 you looking --

10 COMMISSIONER MITTEN: I was looking at the base.

11 MR. JACKSON: Which exhibit are you talking about?

12 COMMISSIONER MITTEN: Exhibit A.

13 MR. JACKSON: Exhibit A? Okay. You should note  
14 that there -- you can verify this if I am saying the wrong thing  
15 here, but there is a public right of way, the former Potomac  
16 Avenue, Northwest, right of way, which is unopened.

17 There is Park land on the north side that is on the  
18 corner of this lot, but then there is Park land across the right  
19 of way on the south side.

20 COMMISSIONER MITTEN: Okay.

21 MR. JACKSON: So that the largest portion of park  
22 land is really a hillside that runs down to Canal Road. So this  
23 development, I do not think, would have any more impact on the  
24 Park land than would the townhouses to the north, and to the east,  
25 and to the west.

1 I would think thought that they would have been  
2 notified as an adjacent property owner through the Office of  
3 Zoning. But I did not follow it up with a direct --

4 COMMISSIONER MITTEN: Maybe Mr. Boyar has something  
5 to add.

6 MR. BOYAR: I guess you see my hand going up.  
7 Sorry about that. I was terrible in school, too. The very first  
8 person that I met with was Dave Murphy. He is the contact person  
9 for any development. He was very, very involved with the Canal  
10 View development, which is the adjacent community, which actually  
11 had the issue.

12 And I believe that there was some sort of long  
13 drawn out process with the BZA regarding the National Park Service  
14 and the cutting of trees. And then the visibility of the houses  
15 from Virginia even.

16 And Mr. Murphy was the first person that I met on  
17 site with when I started to develop the plans for the community,  
18 just because I knew that that was going to be an issue.

19 And he brought out one of the Park Service rangers  
20 with him, and they went through their concerns, and we sent him  
21 back a memo basically addressing what we were planning on doing,  
22 and going through the zoning regulations on the height and such of  
23 the buildings.

24 And he basically -- well, he didn't basically, but  
25 he told us that if there was a problem that we would hear from

1 him. But he was the very first person that I spoke to about the  
2 development.

3 COMMISSIONER MITTEN: Okay.

4 VICE CHAIRPERSON SOCKWELL: Could you submit a copy  
5 of that letter to the record?

6 MR. BOYAR: That I had sent to him?

7 VICE CHAIRPERSON SOCKWELL: Yes.

8 MR. BOYAR: Sure.

9 VICE CHAIRPERSON SOCKWELL: Did he respond in  
10 writing?

11 MR. BOYAR: No.

12 CHAIRPERSON REID: Okay.

13 COMMISSIONER MITTEN: I actually had another  
14 question.

15 MR. BOYAR: Let me just add that the letter was  
16 actually addressed not to him, but to the head of the capital area  
17 region. I can't remember her name, but that is who it would be  
18 addressed to.

19 VICE CHAIRPERSON SOCKWELL: I know who you are  
20 talking about.

21 COMMISSIONER MITTEN: This is for Mr. Jackson also.

22 I understand that the Department of Public Works doesn't have an  
23 issue about the amount of traffic that is going to be generated  
24 and that is understandable.

25 Do you have any guidance that you could give us on

1 how we can, if it is necessary, condition this so that when the  
2 property is under construction, since Lincoln Road is so narrow,  
3 how that can all be handled, because that strikes me as something  
4 that will be problematic.

5 MR. JACKSON: Our recommendation is that the final  
6 plans for this development be brought back to the board for your  
7 approval, and at that time the proposed conditions at the time of  
8 construction could also be part of the package.

9 COMMISSIONER MITTEN: Could you assist us in  
10 drafting some conditions that would offset any unpleasant  
11 conditions that might arise during construction?

12 MR. JACKSON: Well, what I would do is that I would  
13 look forward to getting a detailed plan from the applicant, and  
14 then I would work with the Department of Public works to see  
15 whether it was adequate, and where there needed to be changes and  
16 changes made, and then forward that information to the commission.

17 COMMISSIONER MITTEN: All right. Mr. Boyar, did  
18 you want to add something?

19 MR. BOYAR: I did. Thank you. The main concern of  
20 the townhomes adjacent to my property, just north of my property,  
21 one of their concerns was the construction traffic. And I  
22 explained to them that the world is not perfect.

23 You may hear trucks at seven o'clock in the  
24 morning, but my site is 250 feet long. I have more than ample  
25 space. It is almost a blessing to have an in-fill site in the

1 city with that kind of space that all construction traffic can  
2 park and idle on my property.

3 I don't have to worry about it idling on McArthur  
4 Boulevard, or Lincoln Road, but I went through that with them. I  
5 did also tell them -- and this is part of the process that I have  
6 spent many months establishing a relationship with them, is that I  
7 told them that if I have a tremendous piece of equipment that is  
8 coming in, I will call the homeowners association president and  
9 ask them the best way to notify the neighbors, whether it is  
10 putting notices on the cars, or whatever. But I did establish a  
11 discussion about that exactly.

12 COMMISSIONER MITTEN: Okay. We are just trying to  
13 make sure that all the conversations that you have had with  
14 people, and you have understandings with people, but to the extent  
15 that they are important to the board that they be put in writing.  
16 That's what we are just trying to capture all of that.

17 MR. BOYAR: But I just wanted to let you know that  
18 I had addressed that.

19 COMMISSIONER MITTEN: I understand. Thanks.  
20 That's all I have.

21 VICE CHAIRPERSON SOCKWELL: Your site slopes off  
22 over 20 feet from front to rear, or edge to edge, and so that  
23 looks like a slope of about 1 foot in 10, a little less than 1  
24 foot in 10, which seems to be reasonable to say that you can park  
25 your vehicles at one end and not have any difficulty moving back

1 and forth.

2 And that's looking at your final grades, as opposed  
3 to your existing grades. You have been out on the site and I  
4 haven't, and Mr. Jackson has been on the site. Does it look like  
5 it is passable. Would we want to --

6 CHAIRPERSON REID: All right. Are you done  
7 questioning?

8 VICE CHAIRPERSON SOCKWELL: Ms. Mitten --

9 CHAIRPERSON REID: How many more questions do you  
10 have?

11 VICE CHAIRPERSON SOCKWELL: I just wanted to ask  
12 Ms. Mitten a question. Would you want the developer to submit a  
13 construction management plan?

14 COMMISSIONER MITTEN: That would be perfect.

15 VICE CHAIRPERSON SOCKWELL: Okay.

16 CHAIRPERSON REID: All right. Ms. Bailey, are you  
17 recording the things that are being asked for?

18 MS. BAILEY: Yes, Madam.

19 CHAIRPERSON REID: All right. That concludes the  
20 questioning of the Office of Planning report, and we will now move  
21 to the ANC. Mr. Sockwell, if you have that.

22 VICE CHAIRPERSON SOCKWELL: The Advisory  
23 Neighborhood Commission 2-E has written a letter, dated November  
24 1st of 2000 regarding this application.

25 "Dear Members of the Board, at its regularly

1 scheduled meeting of October 30th, 2000, which was duly noticed  
2 and at which all the members were present, the following motion  
3 was passed. The vote for this motion was unanimous. ANC-2E  
4 supports the proposed project at 4427 Potomac Avenue that  
5 constructs four houses, with a special exception. Sincerely,  
6 Peter Paulsfer, Chair, ANC-2E."

7 And it is on ANC-2E stationary and all the  
8 commissioners are listed at the bottom.

9 CHAIRPERSON REID: With a quorum and a vote taken?

10 VICE CHAIRPERSON SOCKWELL: With a quorum,  
11 unanimous.

12 CHAIRPERSON REID: Okay. And this board will give  
13 the ANC report the great weight to which it is entitled. We move  
14 now to -- there are no persons in support or in opposition of this  
15 case. So we move to closing remarks.

16 MR. BOYAR: Just to recap a few things here. I  
17 spent an awful lot of time with not only the neighborhoods  
18 adjoining my property, but also I believe all of the departmental  
19 agencies, and most recently the Office of Planning, but the  
20 Department of Health, Zoning, Structural, which I am pretty  
21 comfortable with, Transportation, and so on, they saw no issues  
22 that were any different than any other job site that is just going  
23 to be worked out during the typical process of building these  
24 houses.

25 But I feel pretty comfortable that there should not

1 be any problems there. But I have taken a long time to work with  
2 them. I have also have a pretty good sized lot here. It is  
3 almost 37,000 square feet.

4 And in talking with the neighbors, I scaled down a  
5 number of homes that I am even asking to put in there, four, and I  
6 am not putting in any more than that, and they were all tickled  
7 that I was not going to be over-building the site.

8 So the sites actually have some nice land, and I  
9 would note that one lot house has just 5,000 square feet. The  
10 average, I think, is about 9,000 square feet per lot.

11 The adjoining neighbors that I spoke to about the  
12 traffic on Lincoln Road had no problem with me about the four  
13 houses. The only thing they asked me if I could help them with  
14 was to try and get Lincoln Road paved because the city wasn't  
15 responding to any of their requests. But I don't know if I can  
16 help them with that.

17 And then addressing the final grade, which is not  
18 going to deviate much from the existing grade, which is nice. It  
19 has got a nice rolling feel, but it is not hilly.

20 At the very, very end where it does slope off a  
21 bit, there are not going to be -- there won't be much other than  
22 just lushly landscaped spaces over there.

23 MR. NUNLEY: As Mr. Boyar said, he has taken a long  
24 time, and a lot of consideration has gone into the development of  
25 this project. And we understand the concerns of the Board

1 consistent with Section 2516, and the concerns of the Office of  
2 Planning.

3 We would like to request that if the Board feels  
4 comfortable that they would approve this application, contingent  
5 upon receiving this other document in support, such as the  
6 construction management plan and the letter from the Office of the  
7 Zoning Administrator, which we can get to you very, very quickly,  
8 before the end of this week actually, so as not to necessitate a  
9 second hearing on this if that is at all possible.

10 VICE CHAIRPERSON SOCKWELL: Mr. Boyar, I have one  
11 question in particular here in just looking at your plans. You  
12 see but one tree on the site that is worth saving, and that is the  
13 21 inch maple.

14 MR. BOYAR: Could you point that out?

15 (Brief Pause.)

16 MR. BOYAR: As I went through the site with the  
17 homeowners next door, and also the ANC and the other associations  
18 that I meet with, I told them that it is in my best interests --  
19 the whole property is -- the perimeter is surrounded with trees.

20 Depending on the footprint of the houses and where  
21 I excavate, as long as I don't cut into the root hole, it is my  
22 intent to save as much as I can. I will get rid of the weed trees  
23 and there are quite a number of those there.

24 But there is some nice trees that I would like to  
25 save if possible, but I will leave that to the architect that is

1 working with the customer, and try and build that into the house  
2 if you will. But I would like to if it is possible. Otherwise, I  
3 will have to cut it down and replant other trees.

4 VICE CHAIRPERSON SOCKWELL: Well, my assumption is  
5 that this site has never been built upon.

6 MR. BOYAR: It has.

7 VICE CHAIRPERSON SOCKWELL: It has?

8 MR. BOYAR: Yes. There is a --

9 VICE CHAIRPERSON SOCKWELL: Well, when I say built  
10 upon, I mean, yes, there is a little house up at the front end  
11 that you are going to tear down. But the --

12 MR. BOYAR: And there is also a barn that is  
13 collapsed.

14 MR. JACKSON: That is collapsed, yes.

15 VICE CHAIRPERSON SOCKWELL: Okay. But most of the  
16 vegetation is old and if all possible one of the things that we  
17 would hope that you might do is find a way -- and of course within  
18 the limitations of your customer's custom requests, since this is  
19 not a subdivision that they going to buy as built. They are going  
20 to build as modified from your plans.

21 But we would hope that you could influence them  
22 into thinking of the value of existing vegetation is greater than  
23 the value of 4 inch caliper new trees that take 25 years to grow  
24 when it comes to major trees, if they don't fall into the living  
25 room.

1 MR. BOYAR: Well, I, like you, agree with that. I  
2 mean, it makes perfect sense, and it actually creates an immediate  
3 neighborhood feeling when you have something like that, and I hope  
4 that we can work within that.

5 That's why also when I have the building footprint  
6 that I can play with the shifting of the house, so that I might be  
7 able to avoid cutting into the root ball.

8 VICE CHAIRPERSON SOCKWELL: I would just like you  
9 to think green.

10 MR. BOYAR: And just because you say that, I am  
11 also one of the -- one of volunteer things that I do is that I  
12 help advise the FAR Southwest/Southeast CDC, which is the first  
13 green, all green, CDC in the city.

14 And I have helped them, and they are also  
15 associated with a church group with their real estate development  
16 in the FAR southwest/southeast. So I do have some experience and  
17 some desire, too, to maintain as much green as I can.

18 VICE CHAIRPERSON SOCKWELL: Thank you.

19 CHAIRPERSON REID: Okay. Thank you very much. All  
20 right. Board Members, is there a motion?

21 VICE CHAIRPERSON SOCKWELL: I move that we approve  
22 the project request --

23 CHAIRPERSON REID: With conditions?

24 VICE CHAIRPERSON SOCKWELL: Yes, with conditions.  
25 That would be developed as quickly as possible so as not to

1 encumber the applicant for too long a period.

2 The Office of Planning to provide conditions and  
3 the board to provide conditions based on the discussions that we  
4 have had.

5 CHAIRPERSON REID: Well, don't you want to just go  
6 ahead and --

7 VICE CHAIRPERSON SOCKWELL: Enumerate?

8 CHAIRPERSON REID: -- set forth the conditions at  
9 this time? I mean, the ones that were in the Office of Planning  
10 report, I think all except  
11 -- there are one or two that Mr. Jackson then rescinded.

12 But specifically on page 10 of the Office of  
13 Planing Report, which conditions do you want to include. And then  
14 add whichever ones that you feel would be appropriate.

15 VICE CHAIRPERSON SOCKWELL: Well, Mr. Jackson, do  
16 you want to state the conditions that you feel most wedded to?

17 MR. JACKSON: Yes. The submission of a final  
18 landscaping and grading plan; that the subdivision conform to  
19 2516.5(d). And the applicant does not seem to want the  
20 flexibility to move the building around. So just for a point of  
21 clarification.

22 Are you saying that your building footprints are  
23 going to be where your building is going to be, or do you want the  
24 flexibility to move within the buildable area on the lot?

25 MR. BOYAR: I feel comfortable that I can within

1 the perimeters that I have drawn up build within those.

2 MR. JACKSON: Okay. Then the final condition would  
3 be that the final plan become part of this approval. So the final  
4 development plan would be part of this approval.

5 VICE CHAIRPERSON SOCKWELL: And that final  
6 development plan would be a generalized plan, because there is the  
7 custom aspect of these houses, and we don't want to lock him.

8 MR. JACKSON: Certainly. That would be the site  
9 plan, the landscaping plan, and --

10 VICE CHAIRPERSON SOCKWELL: Would you want the  
11 zoning administrator's acceptance of the applicant's contention of  
12 rear lot to be submitted as part of the record?

13 MR. JACKSON: Yes.

14 VICE CHAIRPERSON SOCKWELL: Okay.

15 CHAIRPERSON REID: And then your conditions?

16 VICE CHAIRPERSON SOCKWELL: And I would want -- and  
17 since I mention it, and I don't want to take it from Carol Mitten,  
18 but Carol Mitten would want a construction management plan to be  
19 submitted giving your general hours of construction, methods of  
20 bringing materials in.

21 And how you are going to organize the site.  
22 Basically, where you are going to put most of your storage and  
23 things like that.

24 MR. JACKSON: Mr. Sockwell.

25 VICE CHAIRPERSON SOCKWELL: Yes, sir.

1 MR. JACKSON: Just a point of clarification. It  
2 would probably be advisable if they were to confer with an ANC, or  
3 their neighbors, to make sure that they are aware of it and that  
4 they concur before they bring it back to us.

5 VICE CHAIRPERSON SOCKWELL: Yes.

6 MR. JACKSON: So that they don't get a plan  
7 approved here, and then go back to the ANC and neighbors, and they  
8 say, well, this is not what we agreed to and not what we expected.

9 MR. BOYAR: I have no problem bringing it to Scott  
10 Polk, who is the ANC commissioner for that space. And once I get  
11 this information, I will give it to him, and then have him sign a  
12 note as I attach it to the record here.

13 CHAIRPERSON REID: All right. Now, how are you  
14 going to do that, Mr. Sockwell? We need to review it before it  
15 becomes part of the final order.

16 VICE CHAIRPERSON SOCKWELL: Yes. We would want to  
17 have the opportunity to look at that plan. If the ANC -- and here  
18 again you are talking about the single member district in which  
19 the property is located, and we generally are talking about the  
20 Advisory Neighborhood Commission that includes your single member  
21 district.

22 So if they have -- if you can communicate with the  
23 ANC and they can quickly review the plan, maybe they can sign off  
24 on it, or initial it, or something, that shows that they have all  
25 looked at it.

1           But something to expedite, as we don't want to hold  
2 you up any longer than necessary. But it is important that what  
3 is proposed is acceptable. Part of that, of course you know, is  
4 going to be that the city will require you to have an erosion  
5 control plan that would be part of your site organization for  
6 construction.

7           But the construction management plan would speak to  
8 the hours that you are going to operate, the number of days a  
9 week, and some of the other general aspects of how you plan to  
10 manage your construction. And you are building one house at a  
11 time.

12           So the length or the duration of construction for a  
13 house would be important, especially the hard construction,  
14 because once they starting painting, they are not going to make a  
15 lot of noise. But until the shingles are on there is going to be  
16 a lot of banging.

17           CHAIRPERSON REID: I think, Ms. Sansone, that the  
18 way to do this perhaps would be to -- if we have a summary order  
19 submitted today, and then have the revised plans to be submitted  
20 by a review of the ANC. Now, are we saying the full ANC, or just  
21 the single member district, or just a representative, or what?

22           VICE CHAIRPERSON SOCKWELL: Well, the single member  
23 district is probably -- depending upon the border of your SMD,  
24 your single member district representative may be sufficiently  
25 empowered to look at it.

1 But the community won't see it as a hole, or won't  
2 have an opportunity to see it, unless there is an ANC meeting  
3 called, and I don't know how that ANC operates, and whether the  
4 SND is going to have a meeting, or whether it is going to be a  
5 full ANC meeting, which is what I assume.

6 MR. BOYAR: Are you asking that I make a  
7 presentation in front of the whole community, as well as just the  
8 SND, or if I may just give it to them?

9 VICE CHAIRPERSON SOCKWELL: Let me make this  
10 suggestion. Rather than go to the full ANC, because we don't have  
11 any opposition to this, the SMD representative and your immediate  
12 adjacent neighbors should see your construction management plan.

13 CHAIRPERSON REID: Where I was going with this, Ms.  
14 Sansone, is that at our -- when our next meeting dates or hearing  
15 dates, and prior to the order being issued, we could review it at  
16 that time and make a decision as to whether or not it is  
17 acceptable to us in the form in which it was submitted. How is  
18 that?

19 MS. SANSONE: That would work, sure.

20 CHAIRPERSON REID: Okay.

21 VICE CHAIRPERSON SOCKWELL: And you would submit  
22 also the park service letter that you sent as part of our record.

23 CHAIRPERSON REID: All right. Now, Ms. Bailey.

24 MS. BAILEY: Madam Chair.

25 CHAIRPERSON REID: Now, should we give a time line

1 as to when we want that to be in, so that we can then make a  
2 decision or review it, basically?

3 MS. BAILEY: Okay. Can I just please go over the  
4 things that I have heard?

5 CHAIRPERSON REID: All right. Sure.

6 MS. BAILEY: Okay. The applicant is to submit the  
7 final design of the floor plans to the ANC for review.

8 CHAIRPERSON REID: To the single member district  
9 representative. It does not have to be the full ANC, and the  
10 community. That means the neighbors in the community around which  
11 the project will be located.

12 MS. BAILEY: The applicant is to request from the  
13 zoning administrator figures concerning the rear lot lines.

14 VICE CHAIRPERSON SOCKWELL: Ms. Bailey, it would be  
15 --

16 MS. BAILEY: The assessment of where the rear lot  
17 lines are?

18 VICE CHAIRPERSON SOCKWELL: Yes, acceptance of the  
19 rear lot line as proposed for the proposed development as proposed  
20 by the applicant.

21 MS. BAILEY: Okay. The applicant is to provide a  
22 letter that was submitted to the National Park Service when they  
23 contacted them about the project. Finally, a construction  
24 management plan is to be submitted. Are those the things that --  
25 are all of those the things that are being requested?

1 CHAIRPERSON REID: Yes.

2 VICE CHAIRPERSON SOCKWELL: Yes.

3 MS. BAILEY: Okay.

4 COMMISSIONER MITTEN: I heard a few more.

5 VICE CHAIRPERSON SOCKWELL: Yes.

6 COMMISSIONER MITTEN: The Office of Planning  
7 recommended that we request a final landscaping and grading plan,  
8 which is required.

9 MS. BAILEY: Now, they submitted one today. Is  
10 that not acceptable?

11 MR. JACKSON: Is that a final?

12 MR. NUNLEY: Yes.

13 MR. BOYAR: Yes.

14 VICE CHAIRPERSON SOCKWELL: It is the final  
15 preliminary non-customized version.

16 MR. JACKSON: Exactly.

17 MR. BOYAR: My landscape designer actually has been  
18 out on the site, and she has walked it, and she drafted this up.  
19 I didn't know that I needed one until I spoke to Mr. Jackson  
20 about that.

21 CHAIRPERSON REID: Yes, we have that.

22 MR. JACKSON: Okay. Then all I want is -- are you  
23 saying this is your site plan, too?

24 MR. BOYAR: Well, I have a very detailed site plan  
25 that you have a copy of. What are you looking for specifically on

1 the plan?

2 MR. JACKSON: Showing all the pavement, curb,  
3 gutter, where your units are, showing the easements.

4 MR. BOYAR: Mr. Jackson, is this all the stuff that  
5 is going to be determined during the permitting process?

6 VICE CHAIRPERSON SOCKWELL: Yes. Mr. Jackson, the  
7 issue that we have been trying to grapple with is whether or not  
8 what he submits, if formal, is to be adhered to specifically,  
9 because he states that there is a customization here at the level  
10 of house that he is going to build.

11 MR. JACKSON: Right.

12 VICE CHAIRPERSON SOCKWELL: And we didn't ask him  
13 the cost per year, or the sale price, or the relevant sales price.  
14 What is the square footage of the houses?

15 MR. BOYAR: Again, it will be determined by the  
16 homeowners, but I would think it will probably be 3,000 to 4,000  
17 square feet.

18 VICE CHAIRPERSON SOCKWELL: And at about 400 a  
19 square foot?

20 MR. BOYAR: Hard costs?

21 VICE CHAIRPERSON SOCKWELL: Yes.

22 MR. BOYAR: Oh, please.

23 VICE CHAIRPERSON SOCKWELL: Well, sales cost.

24 CHAIRPERSON REID: Moving right along.

25 VICE CHAIRPERSON SOCKWELL: Yes, moving right

1 along. Basically, all I am saying is that they are custom high-  
2 end houses, which they are going to be based on the materials,  
3 then you want the flexibility to orient them and adjust them  
4 according to individual tastes of the purchasers.

5 But that is within the perimeters that you set in  
6 your design. So we are interested, and Mr. Jackson is interested,  
7 in seeing a fairly hard piece of evidence.

8 And I am suggesting that while if you submit it,  
9 you can put on it subject to customization so that it doesn't say  
10 that this is it. But what Mr. Jackson feels that the Office of  
11 Planning's interest is in seeing is a more definitive description  
12 of what you are going to build.

13 Because what this compromises basically is  
14 sketches, and sketches don't exactly meet the Office of Planning's  
15 requirement for reviewable documentation. Am I more or less  
16 correct?

17 MR. JACKSON: Yes. And in fact if you did  
18 something to the same scale as the landscape plan, that would be  
19 adequate.

20 CHAIRPERSON REID: Okay. Did you have any other  
21 ones that you wanted to bring up?

22 COMMISSIONER MITTEN: I just wanted to clarify that  
23 Ms. Bailey said that it would be the floor plans that would be  
24 submitted to the ANC, the customized floor plans. I think the  
25 more important thing is elevations. So if we could just add that.

1 CHAIRPERSON REID: The construction management  
2 plan, did she say that?

3 COMMISSIONER MITTEN: Yes.

4 CHAIRPERSON REID: Okay.

5 COMMISSIONER MITTEN: Okay. That's fine.

6 CHAIRPERSON REID: All right. Then --

7 MR. NUNLEY: I just have one comment. Excuse me.  
8 As we were sitting here, we were talking, and we can have all of  
9 this in within a two week period.

10 CHAIRPERSON REID: All right. Ms. Bailey, with  
11 that kind of time line, two weeks, would then put it on our  
12 calendar, our agenda, for what date? It doesn't have to be a  
13 meeting date. It could be a hearing date. Whatever comes the  
14 quickest.

15 MS. BAILEY: The 21st. Two weeks would be the 21st  
16 of November, and on the 21st, you have --

17 VICE CHAIRPERSON SOCKWELL: Wait a minute. They  
18 would have to have it in about a week ahead of time for us to be  
19 able to review it to have it on that calendar. So maybe we are  
20 talking about the week following that.

21 MS. BAILEY: That would be the 28th.

22 CHAIRPERSON REID: That sounds more realistic,  
23 because then you would have two weeks to get it ready, and then  
24 you need to be able to get it in here to us so that we have it the  
25 Friday before.

1 MR. BOYAR: I understand that. One question that I  
2 have is -- and since I have not done this before, if I bring it in  
3 then, when would I actually have the recorded lots?

4 There are some considerations that I need to work  
5 within, and if it means that if I have to spend all of my time the  
6 next week to get all this information sooner to you, I would do  
7 that.

8 VICE CHAIRPERSON SOCKWELL: You are allowed to file  
9 for your building permit while your lot recordation process is  
10 being done. You just won't be issued your building permit for any  
11 particular house until that is completed. Am I not correct, Mr.  
12 Nunley?

13 MR. NUNLEY: No, that's correct.

14 MR. BOYAR: One of the things that is possibly not  
15 surmountable, but it is going to be a challenge, is that since I  
16 did take an awful long time, and I worked with the communities and  
17 the government agencies, I had a short term loan that is actually  
18 going to be ballooning at the end of -- well, actually, in  
19 December.

20 I have no problem refinancing it once I have  
21 legally separate recorded lots, and that is my concern as to when  
22 that would be.

23 VICE CHAIRPERSON SOCKWELL: Well, I mean, you have  
24 to initiate that process with the surveyors office, right?

25 MR. BOYAR: Well, they have already drawn up the

1 plan of computation.

2 VICE CHAIRPERSON SOCKWELL: All right.

3 MR. BOYAR: It has already been determined, and  
4 actually drawn up by them. So it is just waiting, I guess, for  
5 the order from here to sign it.

6 VICE CHAIRPERSON SOCKWELL: Okay. All right.

7 MR. NUNLEY: I think his concern is that he is  
8 willing to -- I said two weeks, and he is willing to try to get it  
9 done within one week if we can one week sooner time to be back  
10 here before the board.

11 VICE CHAIRPERSON SOCKWELL: Madam Chair,  
12 if he can it in within a week, then it would still put us an extra  
13 week out, and we would have enough time to review it. If it comes  
14 in in time for it to be mailed on a Friday packaged to us prior to  
15 the following week's meeting --

16 CHAIRPERSON REID: You mean couriered out to us?

17 VICE CHAIRPERSON SOCKWELL: Yes.

18 CHAIRPERSON REID: So that is the 21st?

19 VICE CHAIRPERSON SOCKWELL: Yes.

20 CHAIRPERSON REID: That would then mean that you  
21 would have to have it in by what date next week, in order for it  
22 to be heard?

23 MS. BAILEY: The 21st? We would like to have it by  
24 at least the 16th, no later than the 16th.

25 CHAIRPERSON REID: What day is that?

1 MS. BAILEY: That's on a Thursday.

2 CHAIRPERSON REID: Next Thursday, the 16th, would  
3 that work?

4 MR. BOYAR: Sure.

5 MR. JACKSON: Madam Chair, the Office of Planning  
6 would like -- I would just ask now that we get a waiver because we  
7 are not going to get ours into the mail, but the way things are  
8 looking, we should just have a one pager saying everything is  
9 okay.

10 CHAIRPERSON REID: Okay. So once you receive it,  
11 and you receive it at the same time, I have no problem with that  
12 Monday or Tuesday before the meeting or hearing -- well, it will  
13 be a hearing date, that you would just fax over to us what your  
14 position is.

15 MR. JACKSON: Okay.

16 CHAIRPERSON REID: Or just simply to indicate that  
17 you have received it and have reviewed it.

18 MR. JACKSON: That you, Madam Chair.

19 VICE CHAIRPERSON SOCKWELL: Do you want us to waive  
20 the rules now?

21 (Laughter.)

22 MS. BAILEY: So, Madam Chair, let me just repeat  
23 that a decision will be made on this application the morning of  
24 the 21st of November prior to the start of the agenda for that  
25 morning.

1 All information is due from the applicant by  
2 Thursday, November 16th, and the Office of Planning's report  
3 should be submitted prior to the meeting on the 21st.

4 CHAIRPERSON REID: Okay. I will second the motion.  
5 We didn't have a second, and so I will go ahead and second it.  
6 All in favor?

7 (A chorus of ayes.)

8 CHAIRPERSON REID: And no opposed. Okay. Thank  
9 you. You should have your order in about 2 or 3 weeks. Okay.  
10 Great. Thank you and good luck. All right. The Board will take  
11 a five minute break and be right back.

12 (Whereupon, the hearing recessed at 5:22 p.m., and  
13 the hearing was again called to order at 5:33 p.m.)

14 CHAIRPERSON REID: The last case of the evening,  
15 Ms. Bailey, please call it.

16 MS. BAILEY: Sure. Application Number 16622 of  
17 Sasha Bruce Youthwork, Incorporated, pursuant to 11 DCMR 3104.1,  
18 for a special exception under Section 335.1 to continue the  
19 operation of a youth residential care home facility for five  
20 additional residents, for a total of 15 residents and rotating  
21 staff, in an R-4 District at premises 22 Maryland Avenue,  
22 Northeast, Square 96 1, Lot 803.

23 Madam Chair, and Members of the Board, we have  
24 received reports from the Office of Planning, and the Office of  
25 Planning is recommending approval of the application.

1 We did receive a report from the zoning and  
2 licensing committee of the ANC-6A, and a waiver is needed. That  
3 report was received late. We also have a request from two persons  
4 for party status; and that is Mr. Lyle Schauer with the Capital  
5 Hill Restoration Society, and Mr. Joshua Halpern. I am assuming  
6 that those persons are in the audience.

7 And lastly the property was posted and the  
8 affidavit was properly filed. I am not quite sure if at this  
9 point that you want to ascertain party status for the two persons  
10 who have requested it.

11 CHAIRPERSON REID: Yes. Please come forward if you  
12 are requesting party status. All right. Mr. Schauer.

13 MR. SCHAUER: Yes, Madam.

14 CHAIRPERSON REID: All right. You wanted to  
15 request party status?

16 MR. SCHAUER: I put in the request for party  
17 status, yes.

18 CHAIRPERSON REID: From the Capital Hill  
19 Restoration Society?

20 MR. SCHAUER: Yes.

21 CHAIRPERSON REID: Given the fact that we often see  
22 you with cases of this nature as a representative of the Capital  
23 Hill Restoration Society, I have no problem with you being granted  
24 party status.

25 We can vote on it, Board Members, unless you have

1 some objection. All right. Hearing no objection, Mr. Lyle  
2 Schauer has requested party status, and that will be so moved.

3 COMMISSIONER MITTEN: Well, as long as it is Mr.  
4 Schauer on behalf of the Capital Hill Restoration Society.

5 CHAIRPERSON REID: It is, on behalf of the Capital  
6 Hill Restoration Society.

7 COMMISSIONER MITTEN: I second that.

8 CHAIRPERSON REID: All right. All in favor?

9 (A chorus of ayes.)

10 CHAIRPERSON REID: All right. Opposed?

11 (No audible response.)

12 CHAIRPERSON REID: Okay. Thank you. Next.

13 MR. HALPERN: My name is Josh Halpern, and I reside  
14 at 515 - 10th Street, Northeast, which is in the same square and  
15 immediately behind the Sasha Bruce House.

16 CHAIRPERSON REID: Okay. Mr. Halpern, would you be  
17 more impacted than anyone else who lives on that block?

18 MR. HALPERN: My back yard is about 10 to 20 feet  
19 from the playground used by the Sasha Bruce House, and that is set  
20 forth in the letter that I wrote to you, and therefore I have  
21 asked for party status.

22 And I also have a petition from other people who  
23 live on the streets basically immediately adjacent to t he Sasha  
24 Bruce House, about 20 people.

25 CHAIRPERSON REID: Are you representing those

1 people?

2 MR. HALPERN: Only insofar as the petition, which I  
3 wish to present to you.

4 CHAIRPERSON REID: Okay. And my question again is,  
5 sir, is there anything about your property that makes it uniquely  
6 affected by the application?

7 MR. HALPERN: Yes. It is the one that is closest.  
8 Basically, my back yard is separated and receives the most notice  
9 from their back yard because of the shape of the lot.

10 CHAIRPERSON REID: All right. Board Members.

11 MR. HALPERN: And actually I can show -- I have a  
12 picture that can illustrate that for you.

13 CHAIRPERSON REID: All right. Can you give it to  
14 the staff, please.

15 (Brief Pause.)

16 MR. HALPERN: All right. This is my property, and  
17 this is my back yard, and this is my house where I sit, and it is  
18 immediately opposite their -- this is their playground, and I can  
19 see right into their house.

20 CHAIRPERSON REID: All right. Is there any  
21 discussion about this particular application for party status?

22 MR. HALPERN: You could also refer to the letter  
23 which I sent, which is part of the record.

24 CHAIRPERSON REID: The triangular shaped property  
25 is yours? No, the one that you outlined. That is the only one we

1 are talking about.

2 MR. HALPERN: My property is here.

3 CHAIRPERSON REID: But all I am saying that this is  
4 not a line of demarcation if their line is here, their property  
5 line is here?

6 MR. HALPERN: Yes.

7 CHAIRPERSON REID: And this is your house?

8 MR. HALPERN: Yes, and I have a view into there.

9 CHAIRPERSON REID: This is where the play area is?

10 MR. HALPERN: That's correct.

11 CHAIRPERSON REID: Is there a house right here?

12 MR. HALPERN: No, that is a back yard. That house  
13 faces that way, and so there is a separation of about 10 or 15  
14 feet between the two houses.

15 CHAIRPERSON REID: Okay. Where is your house?

16 MR. HALPERN: My house is on 10th Street.

17 CHAIRPERSON REID: Your house is over here on 10th  
18 Street?

19 MR. HALPERN: Right.

20 CHAIRPERSON REID: Oh, I see, and then this is your  
21 back yard that extends over to abut the subject property?

22 MR. HALPERN: Yes. So as I sit there, I can see  
23 right into their back yard.

24 CHAIRPERSON REID: Okay. All right. Do you see  
25 that, Mr. Sockwell?

1 VICE CHAIRPERSON SOCKWELL: Yes.

2 MR. HALPERN: Let me give you one that I have not  
3 scribbled on, Mr. Sockwell.

4 CHAIRPERSON REID: All right. Board Members, any  
5 discussion about this particular application for party status?

6 (No audible response.)

7 CHAIRPERSON REID: Any objections, or would you  
8 like to make a motion?

9 COMMISSIONER MITTEN: Madam Chair, I move that Mr.  
10 Halpern be accepted as a party in this case.

11 MEMBER MOULDEN: I second.

12 CHAIRPERSON REID: Okay. All in favor?

13 (A chorus of ayes.)

14 CHAIRPERSON REID: Opposed?

15 (No audible response.)

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

17 Now, the applicant, please come forward. And I do apologize for  
18 the lateness of the evening. This was a long day, I'm sorry, and  
19 there was nothing that we could do. But we will try to get you  
20 out as soon as we can. All right. Yes, go ahead.

21 MS. SHORE: I am Deborah Shore, and I am the  
22 executive director of Sasha Bruce Youthwork. This is Mr. George  
23 Johnson, who is the director of the Sasha Bruce House, which is  
24 the property in question.

25 The organization operates a number of programs in

1 the city. This particular program -- and really our sort of  
2 center of the organization, is the Sasha Bruce House, which serves  
3 runaway and homeless teenagers from all over the city.

4 But with a special large number coming from this  
5 particular neighborhood where we are, and from the far northeast  
6 and southeast.

7 CHAIRPERSON REID: Okay. Excuse me. Did you give  
8 your address?

9 MS. SHORE: 1022 Maryland Avenue, Northeast. I  
10 have never done this before either, and so forgive me.

11 CHAIRPERSON REID: That's okay. We will help you  
12 through it, and will you give us the first name of the Bruce House  
13 again?

14 MS. SHORE: Sasha Bruce House.

15 CHAIRPERSON REID: And give me your affiliation  
16 with the Sasha Bruce House.

17 MS. SHORE: I am the executive director of the  
18 organization, which is called Sasha Bruce Youthwork.

19 CHAIRPERSON REID: Oh, okay. And Sasha Bruce House  
20 is one of the programs that you run?

21 MS. SHORE: Correct.

22 MR. JOHNSON: And I am the program director of the  
23 Sasha Bruce House.

24 CHAIRPERSON REID: Okay. Thank you. Go ahead.

25 MS. SHORE: This application really has been a

1 while in coming because we have had -- the demand for the services  
2 of this part of our organization has been pretty consistent over  
3 the last number of years. We were very fearful of this process  
4 for good reason.

5 But we finally determined that it was really  
6 important for us to get this permission to be able to serve a  
7 larger number of young people because the city agencies, the city  
8 as such, that the number of young people that come knocking at the  
9 door, or for whom there is no place to go, is very pressing, and  
10 we feel that very directly.

11 The program exists as a temporary shelter for young  
12 people with intensive counseling services, lots of family  
13 counseling, and the main focus of our counseling, and the main  
14 focus of our counseling, is an effort to return young people to  
15 their families in a more organized and happier state.

16 We also help them with scheduling, and we helped  
17 really stabilize their lives. A lot of these young people have  
18 had really quite unbelievable backgrounds and experiences, such  
19 that we often have very intensive involvement with them for a  
20 period of time, of 3 to 4 weeks typically.

21 But then we also continue and follow up with them  
22 as part of aftercare. The building and the grounds are large.  
23 The building could easily accommodate this number of young people.

24 The grounds also have a capacity to handle, if you will, many  
25 people, without seemingly causing a problem.

1           And on that note, I want to say that we have had  
2 people write letters in opposition, and in only one case have we  
3 ever had that person come and speak to us, and in that case, as  
4 was outlined in the letter, he felt that our staff responded very  
5 well.

6           And in the case of any of the other people, we have  
7 never had -- you know, a complaint. We have not known of these  
8 issues, and whatever issues there are that people feel have to do  
9 with noise or that they are not feeling like we are supervising  
10 when the kids are outside well enough, that is certainly something  
11 that we can respond to.

12           We have been operating this program for 19 years,  
13 and we are a strong organization, and we feel that we do a really  
14 excellent job with kids. We have gotten national awards for the  
15 kind of work that we have done.

16           We are in fact being asked to create a curriculum  
17 for the kind of counseling that we provide to these young people.

18           And so I say all of this to say that this is part of our fear,  
19 was that it would unearth some problems.

20           And I guess that I just want to say that we are  
21 open to working with our neighbors. We feel that we are good  
22 neighbors. You know, people have complained about some things,  
23 and that we have really tried to respond to them in each case.

24           And I wanted to specifically say that we only saw a  
25 letter that came today from a group of people that live a number

1 of blocks away, and one of the things that it mentions, which we  
2 would like to say is also a real issue, is that on one side of us  
3 there is a -- I believe it is a national park service park, and  
4 that is utilized by a lot of people in the neighborhood to drink

5 And we get a lot of bottles into our yard, and  
6 often we are targeted as the -- there is an assumption that our  
7 young people are participating in that, and that is absolutely not  
8 the case. I mean, the young people that we serve are well  
9 supervised, and we know where they are.

10 And we feel that it is really important for the  
11 city to respond positively to this because we really are the only  
12 shelter of our kind. So it is in the best of all possible worlds.

13 We would be in a huge park somewhere, and so nobody would be  
14 bothered by us.

15 But we do the best that we can and we are very  
16 willing to respond to what our completely new issues that people  
17 have brought to us, which is noise, putting up some shrubbery that  
18 would provide a barrier.

19 We already told our neighbor here that we would be  
20 glad to do that. We had no idea that that was a problem to him.  
21 We cut down some undergrowth about a year-and-a-half ago and  
22 apparently it has made it worse.

23 We really wish to have this happen, obviously. I  
24 really worry about if it were not to happen where these young  
25 people would go. We are a city that has more than our fair share

1 of serious social problems, and Sasha Bruce is in a very good  
2 position to provide services. So I will let my colleague say a  
3 few things.

4 MR. JOHNSON: Just quickly. I have been with the  
5 agency now for --

6 CHAIRPERSON REID: Your name and address, please.

7 MR. JOHNSON: George Johnson, 1022 Maryland Avenue,  
8 Northeast. I have been with the agency now for about 13 years,  
9 and I really felt that we were good neighbors. I never got the  
10 sense that the neighbors were in opposition in any kind of way of  
11 what we do at the facility.

12 I never felt that the things that happened at our  
13 facility or around the neighborhood that created a serious risk to  
14 anyone in the neighborhood. And as Mrs. Shore mentioned, when  
15 things were brought attention, we immediately got them addressed.

16 And so had we known that these other things were --  
17 you know, that people were thinking these other things, had they  
18 brought those things to our attention, they would have been  
19 definitely addressed.

20 The location of Sasha Bruce House is at the corner  
21 of 11th and Maryland Avenue, which is kind of a major throughway,  
22 you know, and often times -- and there is a stop shop there, and  
23 often times people will drive by late at night, or whenever, and  
24 just throw trash, and beer bottles, and everything on the sidewalk  
25 and such.

1           And often times we get blamed for that, but that is  
2 not us, and that is not our kids. We don't do that, but we do our  
3 best to try to kind and keep things in order, and keep the  
4 surrounding grounds clean.

5           I know now that each day that I come to work that  
6 the first thing is walk around to pick up the beer bottles and  
7 such, and toss them in the dumpster. There was a complaint that  
8 the trash was kind of building up, and often times that wasn't our  
9 trash. That was trash from some of the neighbors who put that in  
10 our dumpster.

11           So instead of kind of trying to compete with that,  
12 what we did is that we added an additional trash pick up day, and  
13 that seemed to kind of help resolve that issue better. So I say  
14 that just to say that this is good service for the young people  
15 and families in the community in the D.C. area.

16           And, you know, we do what we can. We do what we  
17 can. And it would be a disservice to the community to not provide  
18 this additional space so that young people who have no place to go  
19 can have some place to go during a crisis situation.

20           MS. SHORE: And it has come as sort of a surprise  
21 to us that there is some opposition, although I have to say that I  
22 think that we also have people who are from that neighborhood and  
23 who volunteer, and who have provided support to us.

24           And if you look at our donor base, it is quite a  
25 mixture of people. We have a lot of supporters as well. And we

1 would very much like your support to be able to make sure that if  
2 a young person knocks on the door at midnight and has no place to  
3 go, we are not in a position that we can't serve them. I think  
4 that's all.

5 CHAIRPERSON REID: Okay. I have a couple of  
6 questions. The kids that you have there at your facility are 14  
7 years old and up, or what are the ages?

8 MS. SHORE: Seventeen and under. We don't  
9 typically have very young children. It is not a family shelter.  
10 It is mostly teenage. So, 11 to 17.

11 CHAIRPERSON REID: A what?

12 MS. SHORE: Ages 11 to 17.

13 CHAIRPERSON REID: All right. One of the  
14 complaints that we had was in regard to noise and the play area.  
15 What percentage of the youth that you have at the facility play  
16 out in the yard?

17 MR. JOHNSON: Well, we have a very structured  
18 program, and we have some blocks of free time where the kids can  
19 go out play in the yard, which is basically -- what's there is a  
20 basketball court, and they have a little picnic area there.

21 And so when that happens, most of the kids usually  
22 go out. I mean, you are talking about 10 kids at the most that  
23 would go out and play basketball outside.

24 However, between the hours of 4:00 to 6:00, we do  
25 have an aftercare program, and that aftercare program is for kids

1 that have completed the residential portion of our program, but  
2 still come back for that additional support. They may be on the  
3 premises between the hours of 4:00 to 6:00, which may add to --

4 MS. SHORE: Meaning there are more kids on the  
5 basketball court.

6 CHAIRPERSON REID: And how many?

7 MR. JOHNSON: There are about 10 additional.

8 CHAIRPERSON REID: You have at your facility about  
9 what, about 14 kids?

10 MR. JOHNSON: Ten.

11 MS. SHORE: Yes, 10.

12 CHAIRPERSON REID: And you house 10?

13 MR. JOHNSON: That actually live there are 10, yes.

14 MS. SHORE: Now, if we have this increase, we may  
15 have to reduce the number of kids that we provide aftercare  
16 services to out of that facility. We do have some other programs,  
17 and we are talking about that because we want to be sure that we  
18 are able to provide all the services.

19 So I don't think that there would be that many more  
20 kids that we would plan on being in the facility at any given  
21 time.

22 CHAIRPERSON REID: So you have 10 living there and  
23 10 who are in aftercare.

24 MS. SHORE: For two hours a day at most and not on  
25 the weekends.

1 CHAIRPERSON REID: Okay. And you have a basketball  
2 court in the back of the house?

3 MS. SHORE: Well, it is really in the front of the  
4 house, but it backs up on to our neighbor. The house sits up on a  
5 hill, and when you walk up the stairs to go into the house, before  
6 you -- and kind of where the house is facing a huge yard, is a  
7 very large yard.

8 It also backs up on to F Street, and so it is --

9 CHAIRPERSON REID: What is the lot size? Okay. It  
10 looks like about how many square feet approximately?

11 MR. JOHNSON: It is probably about 13,000 square  
12 feet or so or maybe more.

13 CHAIRPERSON REID: Okay. Then the basketball court  
14 portion, is that more away from the neighbors? The reason that I  
15 ask is because generally a basketball court, just by its  
16 definition, is noisy with the basketball court, and the cement.

17 And also along with the basketball game goes a lot  
18 of yelling, and screaming, and cursing, and what have you. That  
19 is all part and parcel of it. So I would think that that may be a  
20 bit noisy.

21 MS. SHORE: Well, you know, it is not directly in  
22 front of where this gentleman's property abuts ours, and there is  
23 another house, or is it two other houses, that also are in the  
24 same relationship.

25 It is actually closer to the house that is next

1 door on Maryland Avenue who have not presented any complaint to us  
2 about that.

3 CHAIRPERSON REID: Well, that's not my question.  
4 My question was isn't that kind of noisy, the basketball court?

5 MS. SHORE: Well, it is a pretty good distance.  
6 The truth is that 10 days ago I would have told you really that it  
7 is not for anyone else, because this is a huge area, but obviously  
8 now there is some issue here.

9 CHAIRPERSON REID: Is the site of the basketball  
10 court such that it is not disruptive.

11 MS. SHORE: You mean to the house?

12 CHAIRPERSON REID: No, not to the house. To the  
13 neighborhood.

14 MEMBER MOULDEN: What is the distance of the  
15 basketball or recreational area to the nearest neighbor, and what  
16 time is recreation allowed?

17 MR. JOHNSON: Well, from 4:00 to 6:00 is the time  
18 that there is a lot of activity on that basketball court.

19 MEMBER MOULDEN: They are restricted from 4:00 to  
20 6:00?

21 MR. JOHNSON: It is not really restricted from 4;00  
22 to 6:00, but the major --

23 MEMBER MOULDEN: So they could be out there at  
24 eight or nine o'clock at night? Are there lights out there?

25 MS. SHORE: No, there is no lights actually.

1 MR. JOHNSON: I have a structure of the program and  
2 how it is structured from hour to hour if you would like to see  
3 that.

4 CHAIRPERSON REID: And what about on the weekends?

5 MS. SHORE: But there are times when the kids are  
6 on the basketball court later to that.

7 MR. JOHNSON: Yeah. I mean, there are. One or two  
8 kids could go on the court and shoot hoops. When you say  
9 basketball court, we have one -- it is a half-court. It is not  
10 like two baskets. It is just a small area, like a back yard  
11 basketball court kind of thing.

12 MEMBER MOULDEN: Are there other recreational  
13 activities besides basketball?

14 MR. JOHNSON: Not usually. The young people just  
15 sometimes hang out in the yard, and talk, and --

16 MS. SHORE: It is much more than that.

17 MEMBER MOULDEN: Is it screened; is the fence  
18 screened?

19 MR. JOHNSON: When you say screened --

20 MEMBER MOULDEN: Well, sometimes the fence is  
21 screened, and it is galvanized fence, and it can be screened with  
22 some type of board-on-board, or maybe plastic.

23 MS. SHORE: No, it's not.

24 MR. JOHNSON: No.

25 MS. SHORE: It's not, and in fact we told this

1 gentleman that we know that the noise and the site is the problem,  
2 but either a fence or shrubbery there, to put fast growing pine  
3 trees, it seems like it would provide a lot of cover to his  
4 property.

5 MEMBER MOULDEN: Do you know the actual distance?

6 MS. SHORE: I don't.

7 MR. JOHNSON: I could only estimate.

8 MS. SHORE: I don't, but we could do that.

9 CHAIRPERSON REID: Also, the --

10 MS. SHORE: And when you say the distance, if you  
11 wanted us to do that, it would be -- you see, the basketball court  
12 sits on, say, the first fourth of the lot, and going over, you  
13 know, there is quite a bit more area.

14 MEMBER MOULDEN: Before you get to the residential  
15 area? I mean, the nearest home.

16

1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 (6:00 p.m.)

3 MS. SHORE: Well, no, before you get to F Street,  
4 before you get to the street. Now, there is a house that is  
5 actually relatively close. Mr. Halpern's back yard backs up on to  
6 -- in the second quadrant of the back yard, you know.

7 And then on F Street, there is another house that  
8 is next door to our property. It is a very unusual lot. I don't  
9 think that there is anything that I have seen in the neighborhood,  
10 or anywhere actually.

11 It was a very grand house at some point, and so it  
12 has a huge ground, and there was actually a sunken goldfish pond  
13 when we first moved in. It is terraced down to F Street. It is  
14 quite extensive.

15 MR. JOHNSON: If I could just do this to kind of  
16 give you a picture of where this basketball court is. Okay. This  
17 is the basketball court, and this is the basketball goal right  
18 here. And in the back of the basketball court, there is a house,  
19 which extends alongside there, and then there is --

20 CHAIRPERSON REID: Well, you don't have to do it  
21 like that. We have the map right here, and so why don't you just  
22 show us on the map.

23 VICE CHAIRPERSON SOCKWELL: My assumption is by  
24 looking at this photograph that I am looking at the basketball  
25 goal. Looking at your photograph along the -- I guess this is the

1 Maryland Avenue side, around the corner from that is the  
2 basketball goal, and there is a house adjacent to it over there.

3 MS. SHORE: And his house -- I want to just show  
4 you this, but his back yard starts somewhere around here.

5 CHAIRPERSON REID: Here it is right here. This is  
6 your property line right here, and this is Mr. Halpern's property.  
7 His house is on 10th Street, and it backs up to --

8 MS. SHORE: To us?

9 CHAIRPERSON REID: Well, he said that -- well, no,  
10 how is that possible, because he said it comes across here like  
11 that. Here is how he drew this.

12 VICE CHAIRPERSON SOCKWELL: He can't draw his house  
13 across other people's homes.

14 CHAIRPERSON REID: That's what I asked. I asked  
15 how is it that you are affected.

16 MR. HALPERN: That's why I gave you --

17 CHAIRPERSON REID: Mr. Halpern, can you come  
18 forward, please, because I didn't understand that.

19 MR. HALPERN: My house is right here, and this is  
20 the back yard here and these are other houses. The basketball  
21 court is here. The basket itself is about here. And, of course,  
22 the children come out here, and I sit -- I have an office -- I sit  
23 back here at my window, and I can view right across the yards, and  
24 that is about 10 or 15 feet.

25 CHAIRPERSON REID: Oh, I see what you are saying.

1 MR. HALPERN: I get the noise because the noise  
2 travels directly.

3 VICE CHAIRPERSON SOCKWELL: Of course.

4 CHAIRPERSON REID: And that is a view. The  
5 impression I got was this, that your house --

6 VICE CHAIRPERSON SOCKWELL: What you were drawing  
7 was incorrect. They don't understand this as quickly as I do.

8 MR. HALPERN: Well, be that as it may.

9 VICE CHAIRPERSON SOCKWELL: That's because it is a  
10 property issue, and I deal with property issues all the time.

11 MR. HALPERN: Okay.

12 CHAIRPERSON REID: So in other words, while your  
13 property does not abut --

14 MR. HALPERN: That is correct.

15 CHAIRPERSON REID: But you are saying that the  
16 noise travels. Okay. I have got you. That makes more sense.

17 COMMISSIONER MITTEN: She wants you to point it out  
18 where it is.

19 MR. HALPERN: It is right there.

20 CHAIRPERSON REID: Okay. We have that straight.

21 MS. BAILEY: But your property does not abut their  
22 property.

23 VICE CHAIRPERSON SOCKWELL: No, it doesn't.

24 CHAIRPERSON REID: We just went through that.

25 MR. HALPERN: But I also understand that noise

1 travels in a straight line.

2 CHAIRPERSON REID: Okay. You will have a chance to  
3 talk or to testify, Mr. Halpern. Now, another thing I wanted to  
4 find out was the residence, is that the proper terminology?

5 MS. SHORE: Yes, that is one of our client's  
6 residence.

7 CHAIRPERSON REID: And the residents that are  
8 there, you said they are mostly runaways?

9 MS. SHORE: Yes, and apparently there was a problem  
10 with the notification. We applied for a youth residential care  
11 home, which is reflective of the young people that we are serving  
12 there, which are young people that are not involved in the court  
13 system.

14 And our application clearly shows that, but Mr.  
15 Schauer, when I met with the Capital Restoration Society, caught  
16 that when you all gave us our notification -- and I guess that's  
17 what it is, that it showed that this was for a youth  
18 rehabilitation home.

19 And I made the assumption that the reason that that  
20 might have been was because we took over a facility where this  
21 building was previously utilized by the city, and they had a youth  
22 rehabilitation home certificate of occupancy, which we just  
23 carried over.

24 But we did not apply. We do not mean to apply for  
25 a youth rehabilitation home, which is a much more restrictive

1 application. We meant to apply for the youth residential care  
2 home.

3 VICE CHAIRPERSON SOCKWELL: That's what it says on  
4 your application, youth residential care home.

5 MS. SHORE: Right, but when we got notice -- and we  
6 did try to call the office.

7 CHAIRPERSON REID: When you got notice from who?

8 MS. SHORE: Mr. Schauer.

9 MR. SCHAUER: May I speak to that?

10 VICE CHAIRPERSON SOCKWELL: Just turn on the  
11 microphone and identify yourself.

12 MR. SCHAUER: My name is Lyle Schauer, and I am the  
13 zoning chair of the Capital Restoration Society, and I am a party  
14 in this case representing the society.

15 The problem was that in the -- first of all, in the  
16 application, and in the zoning administrator's letter, the  
17 reference is made to Section 303 of the regulation, which is for a  
18 youth care home, residential care home.

19 But the notice that was put out, you will notice,  
20 from this office indicates that it is under Section 335 and not  
21 303. So even though the wording then proceeds to go on to  
22 describe a youth residential care home facility, the section that  
23 is referred to is a rehabilitation home, which is a much more  
24 serious kind of operation.

25 And as Ms. Shore points out, kids in that kind of

1 home are under court supervision and treatment for offenses that  
2 have been committed, and much more serious.

3 CHAIRPERSON REID: And are you saying that came  
4 from the this office?

5 MR. SCHAUER: Yes. The application, you will  
6 notice, that Ms. Shore put was under Section 303, and the zoning  
7 administrator's letter also says 303.

8 MS. SHORE: We did call the office, and were told  
9 to be just sure to bring it up when we were here that it could not  
10 be corrected afterwards, and it didn't have implications, since it  
11 was clear what we applied for.

12 CHAIRPERSON REID: Okay. Ms. Bailey, we will make  
13 sure that those corrections are made, right?

14 MS. BAILEY: Yes, Madam Chair.

15 CHAIRPERSON REID: All right. Thank you. So,  
16 okay, that's the confusion. Now, describe to me the -- give me a  
17 profile of the average client that comes to your home.

18 MS. SHORE: Well, the average age is about 15. The  
19 average client comes often because there has been tremendous  
20 difficulty in school. They have been failing in school, or they  
21 have been truanting.

22 The parents are very concerned, although in a  
23 substantial number of the cases there is a single mom, and so that  
24 is who we are dealing with as the parent. The young person who  
25 has had for some -- you know, in often some very unique ways, some

1 difficulty that is either brought them to the attention of  
2 somebody at the school, somebody in a church that they might be  
3 associated with.

4           Somebody who would bring them, or they themselves  
5 have gotten to the point where they have decided to leave home.  
6 And often those situations are ones that are -- where there has  
7 been serious abuse, where there is some serious problems in the  
8 family that aren't so easy to resolve in a few short weeks.

9           But sometimes not. Sometimes it is adolescent  
10 struggling. So it runs the gamut certainly, but what happens is  
11 that a young person either comes on their own, or we get a call  
12 from either a parent, or another interested adult, and they come  
13 to the program.

14           And there is an initial, enormously involved if you  
15 will, interviewing process, where the rules and regulations are  
16 explained, where there is an effort to assess the situation that  
17 they are in, and also to welcome them, you know, to make them feel  
18 comfortable.

19           For some of the young people -- and we have had  
20 young people who have been living in a car for a week before  
21 coming.

22           MR. JOHNSON: These young people usually don't have  
23 a criminal background, and they are there because they are in  
24 crisis, you know, and where at their home the mother is either  
25 going to get hurt or the kids are going to end up getting hurt.

1 So there is a need for a time out. So they are not there because  
2 of any criminal type action.

3 MS. SHORE: And for a lot of these young people, we  
4 consider it a tremendous strength that so many of the young people  
5 come on their own to us, because for many of them there are  
6 options on the street.

7 They are not options that many of us would consider  
8 viable, but for many of these young people, it is not that they  
9 don't know how to at least try to make it on the street, and they  
10 choose not to, and they come in to a very structured environment.

11 They know that they have to get up, and they know  
12 they have to go to school, and they have to -- if they don't go to  
13 school, we have tutoring that goes on. There is a group every  
14 day. There is lots of counseling.

15 CHAIRPERSON REID: So these youths are troubled.  
16 They are not delinquent, and they are not in a criminal sense --

17 MR. JOHNSON: And it is not a rehab center.

18 MS. SHORE: Absolutely.

19 CHAIRPERSON REID: -- in the criminal system. They  
20 are basically more emotionally troubled than anything else?

21 MS. SHORE: Yes. And for some of these young  
22 people, they would be called or what used to be called persons in  
23 need of supervision.

24 CHAIRPERSON REID: And how long do they stay?

25 MS. SHORE: They stay 3 to 4 weeks, unless -- there

1 are times when a young person would stay longer than that when  
2 they can't really go home. And in some of our other programs that  
3 we have, we have long term living situations, apartment living  
4 programs for young people who really don't have a family to go  
5 back to.

6 So that is a case where we have worked and would  
7 work hard to try to find someone in their natural network that  
8 they could live with, because that is always a better  
9 circumstance. But when they can't, then we have a couple of  
10 places that they can come and live with.

11 But they have to again go through a fairly hefty  
12 interviewing process, and agree, you know, to the rules of that  
13 program.

14 CHAIRPERSON REID: Thank you.

15 MEMBER MOULDEN: Is your program connected to any  
16 social services or human services, or foster care programs?

17 MS. SHORE: We are funded by both the foster care  
18 system and what is called the social services system, and where  
19 the foster care system is under a receiver at the moment. So that  
20 is the only reason why it is separate.

21 MEMBER MOULDEN: You don't get referrals maybe from  
22 Maryland, or is it just the District, or --

23 MS. SHORE: Well, we have kids from Maryland, and  
24 we have some kids that come from long distance.

25 MEMBER MOULDEN: The reason why I ask you that is -

1 -

2 MS. SHORE: Like Seattle, and --

3 MEMBER MOULDEN: -- because I know that this is a  
4 critical concern and issue about foster care and finding homes for  
5 youths.

6 MS. SHORE: Right. But that critical issue, which  
7 we are only sort of involved in a marginal way, because we don't  
8 do traditional foster care as an agency. We do sort of non-  
9 traditional foster care, in that we will often place young people  
10 who are 16 and older.

11 So for most of the young people that are in the,  
12 quote, foster care system, have been found to be abused or  
13 neglected, which is not our population typically anyway. You  
14 know, finding foster care for them is not something that we have  
15 done.

16 MEMBER MOULDEN: It sounds like you provide a good  
17 service for that specific need for the community, but is there any  
18 way that you can sort of mitigate some of the issues or concerns  
19 that the community has, or is there anything that you can do to  
20 increase alternatives, and maybe to address the community concerns  
21 with noise and --

22 MS. SHORE: Absolutely.

23 MEMBER MOULDEN: -- what may appear to be one  
24 thing, but it may not be, you know.

25 MS. SHORE: Yes, yes, yes.

1 MEMBER MOULDEN: And that way you may cover both  
2 sides. I mean, you can't argue that you are not providing a  
3 service that is needed in the community. I mean, Time Magazine  
4 just did a big article about the care of kids who are in foster  
5 care, and finding homes for youths in society.

6 MS. SHORE: Right.

7 MEMBER MOULDEN: So it is a definite need, but I  
8 think that you need to look at alternatives to just mitigate some  
9 of those concerns that have impacted the community, or what may  
10 appear to be something that could impact it.

11 MS. SHORE: We very much would like to think that  
12 we can work with these issues, and intend to, and wish to, and as  
13 I say, it really does come as something of a surprise. And it  
14 hurts a bit, because we feel that we are not able to do a lot with  
15 the neighborhood because we are busy doing what we do.

16 But we feel like we have been trying to be good  
17 neighbors, and anything that is brought to us, we have responded  
18 to. So to hear that there are issues that people feel and that  
19 would take this opportunity to surface, you know, doesn't feel  
20 wonderful to us.

21 But certainly it is perfectly legitimate to be able  
22 to not be bothered in your own house. And it is a huge space.  
23 There are lots of things that I think that we can do.

24 And I guess the other thing is that there are some  
25 people that -- well, one of the people that wrote a letter, I had

1 a long conversation with last night, and George has talked to him  
2 a couple of times.

3 And at the end of this conversation, I said to him,  
4 well, you have been doing all this catering and cooking, and  
5 stuff, and why can't you come over and volunteer with us to do  
6 cooking with kids. You know, teach them to cook.

7 And so that is the other thing, which is that I  
8 think we need to reach out to the community and perhaps if people  
9 know more about what we are really doing, it will feel better for  
10 them to be in the neighborhood, and not be concerned by us.

11 CHAIRPERSON REID: Okay. Mr. Sockwell, we want to  
12 move it along now.

13 VICE CHAIRPERSON SOCKWELL: Yes. I wanted to say  
14 two things. One, you are in a position to feel uncomfortable  
15 about coming to the board, because you felt that the problem  
16 issues might come to light during your application for more  
17 children. I mean, that's what you said at the beginning.

18 So obviously there is an awareness of the potential  
19 -- and you took a long time to bring this before the board, and  
20 that there was an awareness of issues.

21 MS. SHORE: No, no.

22 VICE CHAIRPERSON SOCKWELL: And there is always --  
23 and when I say that, I mean that you know that in your community,  
24 because you have been with this business that you have owned for a  
25 long time, that --

1 MS. SHORE: Well, it is a non-profit. I don't own  
2 it.

3 VICE CHAIRPERSON SOCKWELL: Well, you are listed as  
4 owner in your letter.

5 MS. SHORE: I am the president of the corporation,  
6 and I am the founder of the corporation, but it is a non-profit  
7 organization.

8 VICE CHAIRPERSON SOCKWELL: Okay. But I am just  
9 saying that the term owner was used, and so I just referenced what  
10 was in your documentation. But you realize that there can be  
11 community concerns, and it always helps to bring the community  
12 closer to your operation rather than attempting to sort of shut  
13 them out.

14 That way you get more support, and you at least  
15 might even prevent some of what has been suggested as descriptions  
16 of profanity used against people walking by and all of that. And  
17 I am in no position to say what that came from.

18 But I did want to say that you might want to  
19 reorient the basketball court so that the goal is at the opposite  
20 end of the playing surface. That way the noise, which is  
21 generally generated closer to the goal, would be oriented away  
22 from the more residential part of your environment.

23 You cannot prevent the visual aspect of the  
24 children playing, but you can certainly move the noise to the  
25 other end.

1 MS. SHORE: But I didn't want to imply to you  
2 though that I felt like there were all these issues. I did not  
3 know of these issues.

4 VICE CHAIRPERSON SOCKWELL: I am not saying that  
5 there are -- I am not asking you to respond to that.

6 MS. SHORE: What I mean though is that sometimes  
7 there are a lot of different ideas that people have about  
8 teenagers in our society, and those issues are not -- people don't  
9 always like feel warm and fuzzily about our teenagers. But I do,  
10 but not everybody does.

11 VICE CHAIRPERSON SOCKWELL: I understand. I grew  
12 up in a depressed neighborhood, with very poor children all around  
13 me, of which I include myself as one. And now that is fashionable  
14 Adams-Morgan. I mean, everything changes. It just depends on who  
15 is there when.

16 MS. SHORE: Right.

17 CHAIRPERSON REID: Let's move on, please. Thank  
18 you very much, Mr. Sockwell. Now, let's move on to the Office of  
19 Planning report.

20 MS. SANSONE: Madam Chair, did you wish to allow  
21 cross-examination by the parties?

22 CHAIRPERSON REID: I'm sorry, but did you wish to  
23 cross-examine?

24 MR. SCHAUER: I do indeed.

25 CHAIRPERSON REID: I'm sorry. I forgot that.

1 MR. SCHAUER: Ms. Shore, I gather this is a 24-7  
2 supervision house; that is, 24 hours a day, 7 days a week?

3 MS. SHORE: Yes.

4 MR. SCHAUER: How many staffers do you have?

5 MS. SHORE: We have -- there are 17 full-time  
6 staff.

7 MR. SCHAUER: Seventeen?

8 MS. SHORE: Seventeen. There are three shifts of  
9 staff, and there are two overnight staff, 11 to 7.

10 MR. JOHNSON: There are three shifts; 7:00 a.m. to  
11 3:00; and 2:30 to 10:30, and then from 10:00 to overnight, or the  
12 overnight shift, which there are two staff on the overnight. And  
13 then on average on the 2:30 to 10:30 shift, there is an average of  
14 four, and sometimes five people on that shift.

15 And that is excluding the volunteers that come out  
16 and help out on the 24 hour hot line.

17 MR. SCHAUER: And are any of these staffers  
18 residents in the house?

19 MS. SHORE: No. No, they don't live there.

20 CHAIRPERSON REID: Well, what about the overnight  
21 counselors?

22 MS. SHORE: The overnight counselors are expected  
23 to be awake during that whole time, and there is a male and a  
24 female.

25 CHAIRPERSON REID: No, the question was are there

1 any -- do they live there?

2 MR. JOHNSON: No, Madam.

3 MS. SHORE: No, they don't live there.

4 CHAIRPERSON REID: They just come to work?

5 MS. SHORE: They just come to work, yes. They do  
6 the midnight shift.

7 MR. SCHAUER: I have no more questions.

8 CHAIRPERSON REID: Thank you. Mr. Halpern, do you  
9 have any questions?

10 MR. HALPERN: Yes. Ms. Shore and Mr. Johnson, you  
11 were at a meeting at the ANC that wasn't a meeting about a week  
12 ago? There wasn't a quorum?

13 MS. SHORE: Yes.

14 MR. HALPERN: At that time what did you say about  
15 the use of the house?

16 MS. SHORE: I think we said the same thing that we  
17 said today.

18 MR. HALPERN: I distinctly recall you saying that  
19 you were tutoring people in there, and certainly the number of  
20 people in the house is greater than 10 or 20 that one sees around  
21 during the day.

22 MR. JOHNSON: No.

23 MS. SHORE: That's not true.

24 MR. JOHNSON: We do provide tutorial services for  
25 the kids that are in the program.

1 MR. HALPERN: And not from the neighborhood?

2 MR. JOHNSON: No, not from the neighborhood.

3 MR. HALPERN: And how about -- well, it is  
4 difficult to define, but let's say young adults, but are the young  
5 adults who are in your residential living program, do they come to  
6 the house at any time?

7 MS. SHORE: Who are in the other residential living  
8 programs?

9 MR. HALPERN: Yes.

10 MS. SHORE: No, not typically, unless there is a  
11 party, like Thanksgiving. The services are provided in other  
12 residential programs for them.

13 MR. HALPERN: Well, that's kind of not what you  
14 were saying at the ANC meeting, and there are people there who can  
15 testify if the record is left open.

16 MS. SHORE: I don't understand what you remember me  
17 saying. That has always been true.

18 MR. HALPERN: I remember you saying that there was  
19 an after care program in the house?

20 MS. SHORE: Yes. We described that. There is an  
21 after care program from 4:00 to 6:00.

22 MR. HALPERN: Which is only 10 people in the after  
23 care program.

24 MS. SHORE: Yes, typically.

25 MR. HALPERN: On average, and the 10 people in the

1 house?

2 MS. SHORE: In the residential program, right.

3 MR. HALPERN: So there are at least 20 people in  
4 there.

5 MR. JOHNSON: From 4:00 to 6:00, there may  
6 potentially be that.

7 MS. SHORE: From 4:00 to 6:00 only. They don't  
8 stay for dinner, and dinner happens at 6:00.

9 MR. JOHNSON: And with the after care, sometimes  
10 they are not even there, because we have therapeutic horseback  
11 riding, which would take the kids out to a place in Maryland to do  
12 that.

13 We have a high gain program which is away from the  
14 facility, and there are other special activities where they are  
15 away from the facility.

16 MR. HALPERN: Okay. Now, I am giving you what I  
17 got from the community partnership for the homeless, and that  
18 lists your capacity as 15. And I can give you many other sources  
19 that I have found that lists your capacity as 15.

20 MS. SHORE: Well, what we do on some occasions is  
21 have foster care. We have a number of foster care homes that we  
22 utilize.

23 MR. HALPERN: No, this is specifically for the  
24 shelter.

25 MS. SHORE: Well, we don't have a capacity of 15.

1 CHAIRPERSON REID: Well, my understanding is that  
2 the relief that is being sought here today is for up to 15.

3 MS. SHORE: Right.

4 CHAIRPERSON REID: So the capacity for 15 must be  
5 there. I don't see anything that is surprising about that.

6 MR. HALPERN: No, this is listed as their in-take,  
7 and it is listed in many other places as being 15. And Ms. Shore  
8 said again at the non-meeting at the ANC that many times they  
9 don't turn anyone away. They have a no turn away policy.

10 MS. SHORE: That's true.

11 MR. HALPERN: That's true.

12 MS. SHORE: That's true.

13 MR. HALPERN: Which means that if there are 10  
14 people there, and someone comes, they won't turn them away.

15 MS. SHORE: That's right, and that's true, and we  
16 have had more than 10 kids on occasion because we don't believe  
17 that anyone should be sent back out to the street.

18 CHAIRPERSON REID: Well, the main thing here is  
19 that the request here today is for 15, and there is a capacity of  
20 15 there?

21 MS. SHORE: Absolutely.

22 MR. HALPERN: Yes, except that one would expect  
23 coming here that they would have kept to their current ceiling,  
24 which is 10, which is to give you another --

25 MS. BAILEY: Mr. Halpern, you understand that the

1 documents that you are giving us we will be keeping?

2 MR. HALPERN: Yes.

3 CHAIRPERSON REID: Okay.

4 MR. HALPERN: Now, we have heard this estimate of 3  
5 to 4 weeks for an average person, right? And I have also heard  
6 estimates, and I have written documentation and various things  
7 that you say you serve 1,200 runaways a year.

8 MS. SHORE: No, 1,200 young people.

9 MR. HALPERN: Young people.

10 MS. SHORE: Yes.

11 MR. HALPERN: So, 1,200 young people a year.

12 MS. SHORE: Yes.

13 MR. HALPERN: Now, if your capacity is 10, and  
14 there are 365 days, there is 3,650 bed days. You divide that by  
15 1,200, and that means that you have about 3 days a person. So  
16 something here does not add up.

17 MS. SHORE: Wait a minute. We operate 13 youth  
18 programs. Some of those youth programs -- we have never in any of  
19 our literature said that we serve 1,200 young people at 1022  
20 Maryland Avenue. We are talking about 13 programs.

21 MR. HALPERN: Well, it wasn't quite put that way.

22 MS. SHORE: Well, I'm sorry, but that is what's  
23 true, and that's consistent with everything that we have ever  
24 written, and that was a mistake.

25 CHAIRPERSON REID: Well, okay. She answered and

1 that's all you have to do, is to give an answer, and you don't  
2 have to elaborate so much. He asked you a question, and you gave  
3 an answer, and then go on to the next question, Mr. Halpern.

4 MR. HALPERN: Okay. Let me present to you some  
5 more evidence. This is from something called Children's Express.

6 It is from Mr. Johnson, and he says that -- and again it is the  
7 three week average. And again the point that I am trying to make  
8 is that they have been operating above capacity, above the 10.

9 And our fear in the neighborhood is that if this  
10 special exemption is granted, 10 has become 15 already, and 15  
11 will become 20.

12 CHAIRPERSON REID: Well, this is not your time to  
13 testify. This is to ask cross-examination questions. It says  
14 here the average stay is three weeks. What is the point that you  
15 are making here, Mr. Halpern? I'm missing it.

16 MR. HALPERN: Okay. There is other information  
17 that says about the 1,200. But I can't find --

18 MS. SHORE: He is calculating and saying that  
19 something is wrong with this picture, but the 1,200 is for 13  
20 youth programs, the Sasha Bruce House being one.

21 CHAIRPERSON REID: How many more questions do you  
22 have, Mr. Halpern?

23 MR. HALPERN: Only one more question. The only  
24 people that use that house are the people who are in the shelter  
25 program, and some additional -- maybe up to 10 additional from

1 another program?

2 MS. SHORE: Yes. There are some additional staff  
3 people there.

4 MR. HALPERN: No, no, that's acceptable.

5 MS. SHORE: You know, that are in the basement, and  
6 --

7 CHAIRPERSON REID: You answered the question.  
8 Thank you. Now, the Office of Planning report, please.

9 MS. BROWN-ROBERTS: Thank you, Madam Chairman, and  
10 Members of the Board. My name is Maxine Brown-Roberts, from the  
11 Office of Planning. The Office of Planning supports the request  
12 for an increase in the number of residents from 10 to 15.

13 Sasha Bruce has been providing shelter and services  
14 for children for approximately 19 years, and there is a demand for  
15 these services due to a reduction in government services.

16 The children at this center are not drug or violent  
17 offenders with criminal records. The proposal does not increase  
18 the building size, or the staff, the number of staff numbers.

19 There have been a few incidents of disturbing  
20 conduct from some children, and it has been reported by some  
21 neighbors, and the staff at Sasha Bruce has responded  
22 satisfactorily in the opinion of the Office of Planning.

23 However, we would request that there be more  
24 vigilant supervision and that the concerns of the neighborhoods be  
25 taken more into consideration. And we would also suggest or

1 recommend that Sasha Bruce set up some sort of community  
2 involvement with the surrounding neighbors in order to forestall  
3 some of the complaints.

4 The staff also agrees that some of the noise issues  
5 that has been brought up could be addressed through some screening  
6 and would recommend again that Sasha Bruce meets with the  
7 community to address this.

8 Trash collection has also been a problem in the  
9 community, and the applicant responded by building a brick yard to  
10 house the trash receptacles, and have increased the number of days  
11 for trash pickups, and we would also recommend that this be  
12 monitored.

13 The subject site is in an R-4 zone, and is subject  
14 to the following provisions as outlined in Section 303. This  
15 section recommends that no other property containing community  
16 based residential facility for several or more persons in the same  
17 square or within 500 feet of the property.

18 There are no other community residential based  
19 facilities within the same square or within 500 feet.

20 CHAIRPERSON REID: Okay. Excuse me one second, and  
21 let me interrupt you for one minute. One is that on your page  
22 two, it says Section 332.1. That is not correct, right? It is  
23 section 305 or rather Section 303. The subject site is in the R-4  
24 zone.

25 VICE CHAIRPERSON SOCKWELL: It is 303.1.

1 CHAIRPERSON REID: So your number two reflects the  
2 wrong section, and that is important.

3 MS. SANSONE: Madam Chair, I think their section is  
4 correct. Section 332.1 refers to special exceptions in the R-4  
5 zone, and it refers you back to 303 --

6 CHAIRPERSON REID: All right. I just wanted to  
7 make sure.

8 MS. SANSONE: The citation in the notice is to a  
9 different section, 335, and that's where the error is. I think  
10 335 was meant to be --

11 CHAIRPERSON REID: Okay. And also given the time  
12 and the lateness of the hour, and we have to be out of here, could  
13 you just stipulate that in the opinion of the Office of Planning  
14 that the applicant does or has complied with Section 303.

15 MS. BROWN-ROBERTS: Okay. And not go through all  
16 of them?

17 CHAIRPERSON REID: Exactly, and all the elements  
18 thereof.

19 MS. BROWN-ROBERTS: Okay. The Office of Planning's  
20 recommendation is that the applicant has met with all of the  
21 following provisions as outlined in Section 303, and the Office of  
22 Planning would therefore recommend approval of this special  
23 exception.

24 CHAIRPERSON REID: Okay. With conditions, right?

25 MS. BROWN-ROBERTS: Right, with the outlined

1 conditions.

2 CHAIRPERSON REID: Okay. And then we will go over  
3 the conditions at the end, and you can help us through that.

4 MS. BROWN-ROBERTS: Yes, I will.

5 CHAIRPERSON REID: Thank you so much.

6 MS. BROWN-ROBERTS: You are welcome.

7 CHAIRPERSON REID: Is there any questions of the  
8 Office of Planning?

9 MR. HALPERN: Yes.

10 CHAIRPERSON REID: All right. You have to come to  
11 the mike.

12 MR. HALPERN: Where is the Madison Women's Shelter?

13 MS. BAILEY: Sir, she did not testify as to --

14 MR. HALPERN: She testified that there was no house  
15 or no community based within 500 feet.

16 MS. SHORE: That's true.

17 MR. HALPERN: Where is the Madison Shelter?

18 MS. BROWN-ROBERTS: I am not sure where that is.

19 MR. HALPERN: Can I give you a map?

20 MS. SANSONE: Mr. Halpern, you can present  
21 testimony about that shelter in your direct if the Office of  
22 Planning is not aware of it.

23 CHAIRPERSON REID: She may not be aware of it, Mr.  
24 Halpern.

25 MR. HALPERN: She may not be aware of it, but

1 should I do that on direct?

2 CHAIRPERSON REID: Yes. When you testify, you can  
3 bring that out.

4 MR. HALPERN: But can I also point out that it is  
5 the Goding School with one "o" and not the Gooding School? That  
6 is on page one of the letter.

7 CHAIRPERSON REID: Of what letter?

8 MR. HALPERN: The Ann M. Gooding School is really  
9 the Ann M. Goding School; G-O-D, and not  
10 G-O-O-D.

11 CHAIRPERSON REID: You mean that is a correction  
12 that you wanted to point out?

13 MR. HALPERN: Yes, that is a correction.

14 CHAIRPERSON REID: And that is on one page?

15 MR. HALPERN: That is on page one, with site and  
16 area description, at the last sentence of that paragraph.

17 CHAIRPERSON REID: Oh, okay. So, it is  
18 G-O-O-D-I-N-G?

19 MR. HALPERN: No, G-O-D-I-N-G. I mis-spelled it,  
20 too, but I voted there last night.

21 CHAIRPERSON REID: All right.

22 MR. HALPERN: Also, are you aware of the  
23 playground?

24 MS. BROWN-ROBERTS: Yes, sir.

25 MR. HALPERN: The Sherwood Playground.

1 MS. BROWN-ROBERTS: The playground across the  
2 street.

3 MR. HALPERN: Why didn't you list it here? It is  
4 in the next square.

5 MS. BROWN-ROBERTS: There is no particular reason.

6 MR. HALPERN: Are you aware that the Goding School  
7 is now being used as a special education facility?

8 MS. BROWN-ROBERTS: No. When I went up there, I  
9 looked at that, and it was a Saturday when I went there.

10 MR. HALPERN: So you didn't talk to the principal?

11 MS. BROWN-ROBERTS: No, the --

12 MS. SHORE: Wait a second. The --

13 CHAIRPERSON REID: Well, wait a minute. You can't  
14 all talk at the same time. Now, wait a minute. The question with  
15 regard to this special education school, is that a community based  
16 residential facility?

17 MR. HALPERN: No, but the Madison Shelter is.

18 CHAIRPERSON REID: Then how is that relevant?

19 MR. HALPERN: Because it shows the excess use of  
20 the neighborhood and it reflects on parking, because the teachers  
21 have to park, and that is one block away.

22 CHAIRPERSON REID: Okay. Next question.

23 MR. HALPERN: My next question is that you make a  
24 statement here about the Sasha Bruce House is the only short term  
25 shelter for young people in Washington, D.C. Is not Boys Town

1 listed partially as providing short term shelter?

2 MS. SHORE: I can answer that. Boys Town does not  
3 provide short term shelter, except for young people that are  
4 already designated by the abuse and neglect system, which is  
5 different.

6 MR. HALPERN: And is this also going to be true of  
7 the Boys Town facility on that is going to go into Pennsylvania  
8 Avenue?

9 MS. SHORE: Yes, I understand it. Absolutely.

10 MR. HALPERN: They are not going to provide any  
11 short term shelter?

12 MS. SHORE: No, not of the kind that is off the  
13 street. No, not absolutely not.

14 MR. HALPERN: Please bear with me for a second  
15 here.

16 (Brief Pause.)

17 MR. HALPERN: It says here, Boys Town of  
18 Washington, services, and I gave you the book.

19 MS. SHORE: Wait a minute. Is this the community  
20 partnership by the way?

21 MR. HALPERN: Yes.

22 MS. SHORE: It was completely changed. That  
23 listing was so incorrect that it was changed.

24 MR. HALPERN: Maybe so, but in other listings -- I  
25 can only go by the record. Long term residential, emergency

1 shelter, and foster care, and parent training.

2 MS. SHORE: Well, that does sound correct. I mean,  
3 what we would call ourselves is short term shelter, and on a 24  
4 hour basis. That's not what they do. They get referrals from the  
5 city, and take those referrals and work with them for actually a  
6 much longer period of time typically, typically 2 or 3 months.

7 MR. HALPERN: Well, I gave it away, but there is a  
8 listing that I had that didn't make -- that does list referral  
9 policies, and I don't remember that being true for Boys Town, be  
10 that as it may.

11 Again, I can only go on the evidence that I have.  
12 Let's go back to your statements here. With reference to  
13 statement 303.3; did you measure the distance, either on a map, or  
14 actually measure it between the Madison shelter and the property  
15 for Sasha Bruce, the Sasha Bruce property?

16 MS. BROWN-ROBERTS: What I did was that I got a  
17 list from the Health Department, and looked and measured 500 feet  
18 from the Sasha Bruce.

19 MR. HALPERN: On what?

20 MS. BROWN-ROBERTS: Pardon me?

21 MR. HALPERN: On what, a map?

22 MS. BROWN-ROBERTS: On a map, yes.

23 MR. HALPERN: And the map showed all the property  
24 lines?

25 MS. BROWN-ROBERTS: Yes.

1 MR. HALPERN: Or you measured corner to corner?

2 MS. BROWN-ROBERTS: You had to measure from each  
3 property line.

4 MR. HALPERN: Okay. I will come back to that on  
5 direct.

6 CHAIRPERSON REID: Okay.

7 MR. HALPERN: Let's see. Now, in terms of parking,  
8 did you make any survey of parking in the neighborhood and  
9 pressure on the parking?

10 MS. BROWN-ROBERTS: When I went there, I noticed  
11 that there were, I think, three parking spaces on the side, and I  
12 noticed that there was on-street parking. The two times that I  
13 drove through the community, I didn't see that there was a problem  
14 there.

15 MR. HALPERN: Well, I will introduce evidence on  
16 direct that that is not true. Okay. What I won't quarrel with is  
17 your final statement that they provide a useful service.

18 CHAIRPERSON REID: Is that a question?

19 MR. HALPERN: No.

20 CHAIRPERSON REID: Thank you. All right. The ANC  
21 report.

22 MS. SANSONE: I don't believe that the ANC has a  
23 report because --

24 CHAIRPERSON REID: I am just asking if there was an  
25 ANC report. We have this letter from the ANC.

1 MS. SANSONE: It is from the single member.

2 MS. BROWN-ROBERTS: Madam Chairman --

3 CHAIRPERSON REID: Martin Fields, single member  
4 district, yes.

5 MS. BROWN-ROBERTS: I spoke to Mr. Fields, and  
6 apparently they are having a meeting tonight to discuss this  
7 issue.

8 MS. SHORE: But we did go to two other meetings.

9 CHAIRPERSON REID: But they were noticed, correct?

10 MS. SHORE: Pardon me?

11 CHAIRPERSON REID: They were noticed?

12 MS. SHORE: Yes, they were.

13 MS. BROWN-ROBERTS: Yes, they were.

14 CHAIRPERSON REID: Typically, when we don't receive  
15 anything from them, we assume that they are not opposed to the  
16 application. We did receive one from Mr. Fields, who basically  
17 says that -- well, not much. He doesn't say too much.

18 So, anyway, he doesn't say one way or the other.  
19 Okay. Now, moving on. First there is the parties in support, and  
20 persons or parties in opposition, please come forward.

21 MS. SHORE: Do we move back?

22 CHAIRPERSON REID: Yes.

23 MR. HALPERN: I think that between us, Ms. Shore  
24 and I can provide you a rather sad chronology of what he ANC  
25 didn't do.

1 CHAIRPERSON REID: Okay.

2 MR. HALPERN: They had a meeting of the zoning  
3 commission, or the zoning subcommittee, about 3 or 4 weeks ago,  
4 which created that letter, and then two weeks ago there was a  
5 called meeting, for which there wasn't a quorum.

6 And on Sunday, Mr. Fields called this meeting at a  
7 very curious time. So I think the assumption that they not having  
8 a letter here is an indication of position is not one that I would  
9 make.

10 CHAIRPERSON REID: Well, whether you would make it  
11 or not, Mr. Halpern, is not the issue here. The fact of the  
12 matter is that in the dozens of cases that we hear every year, if  
13 in fact we do not receive a letter from the ANC, then we always  
14 make the same assumption that they are not opposed to it, because  
15 in the event there is opposition from the ANC, there is no doubt  
16 that we are very much made aware of it.

17 So the assumption is not a light assumption. It is  
18 something that is more in keeping consistently with what has been  
19 the practice here at the BZA, and I have been here for 6 years.  
20 So you now have an opportunity to speak if you would like.

21 MR. HALPERN: Would you like to go first?

22 MR. SCHAUER: Madam Chair and Members of the Board,  
23 for the record, my name is Lyle Schauer, and I am the zoning  
24 chair for the Capital Hill Restoration Society, and I reside at  
25 1107 Independence Avenue, Southeast, and our offices for the

1 society are at 420 - 10th Street, Southeast.

2 I submitted a letter on the results of our zoning  
3 committee meeting, in which we indicated conditional support.  
4 Now, I cover two items in this letter. One, the confusion that we  
5 saw between Section 303 and 335, which has already been disposed  
6 of.

7 The other question dealt with the problems that the  
8 neighbors were having with this facility, and we are made aware of  
9 a complaint from one of our members about a recent incidence of a  
10 disturbing conduct by one of the residents.

11 She complained and told us, and to the staff of the  
12 Sasha Bruce House, and felt that the staff had addressed the  
13 problem promptly, and she had no further reason to complain.

14 So I think that the context that I made in the  
15 neighborhood generally followed that train; that there was a  
16 modest level of discomfort with the premises, or with the  
17 operation, but that the staff seemed to be on top of it.

18 Now, I am concerned about the increase of staff by  
19 50 percent, because I think as a general rule of thumb, the  
20 problems of supervision increase as the square of the number of  
21 residents, rather than an arithmetic progression.

22 So an increase of 50 percent in the number of  
23 residents means something more than twice as much supervision is  
24 needed, and that bothered me a little bit, because Ms. Shore  
25 indicated that there would be no increase in staff.

1 I don't quite understand how this is done, and  
2 maybe she can cover that on rebuttal. But that troubled me. And  
3 also I must admit that I was troubled by the information that  
4 there is an after school or after hours program.

5 I was not aware that there was such an operation  
6 going on. I don't believe that it came up in our committee  
7 meeting, unless perhaps I dozed off at that point. But I don't  
8 believe it did.

9 So I am a little concerned about that, because I  
10 don't see how they are operating that program under their existing  
11 CFO, or how they would operate it under the new CFO that would be  
12 issued as a result of this special exception.

13 And again I leave that issue to you as members of  
14 the board. Finally, I did appreciate the Office of Planning's  
15 suggestion that there should be some interplay between Sasha Bruce  
16 and the neighbors. I think that is always good.

17 I am not sure that it always works as well as it  
18 might, but I think that the principle is good. What I would like  
19 to see in addition is a condition put on this special exception, a  
20 condition in terms of time.

21 And we would suggest that it be limited to 5 years.

22 It is my experience that operations that may rub badly against  
23 the neighbors are much more likely to play very strictly if they  
24 know that they are going to have to come back before this board in  
25 5 years, because at that point, if the neighbors are aggrieved,

1 they can come in and unload on you people.

2 And you can then address whatever the problems are  
3 that have been brought up. If you don't call them back, you are  
4 never going to find out about these things. So I do appreciate  
5 the Office of Planning's suggestion about some kind of  
6 organization to contact the neighbors.

7 But I think it has to be reinforced by a time limit  
8 on the special exception, and I would understand from Ms. Shore's  
9 testimony to our committee, and in further conversations with her,  
10 that Sasha Bruce would have no problem with a time limit.

11 So I would suggest that you condition the special  
12 exception appropriately. That's all I have, Madam Chair, and  
13 Members of the Board. Thank you very much.

14 CHAIRPERSON REID: Thank you. Mr. Schauer, I just  
15 want to be clear. Your letter says that you conditionally support  
16 and would like to see a 5 year term, and you recommended a  
17 condition to the final approval. Are you testifying in  
18 opposition?

19 MR. SCHAUER: Well, I have to, because it came  
20 under 335, and we were dead set against 335.

21 CHAIRPERSON REID: Okay. With that correction  
22 then, you are in support with the condition?

23 MR. SCHAUER: Basically, yes, we are in support of  
24 it, but the only way I could come in to oppose 335 effectively is  
25 to appear as an opponent.

1 CHAIRPERSON REID: Okay. I understand. I see also  
2 in your letter where you testified different, and also helped to  
3 clarify some of the confusion. We very much appreciate that.

4 MR. SCHAUER: Thank you.

5 CHAIRPERSON REID: Thank you. Okay. Mr. Halpern.

6 MR. HALPERN: Well, the first thing that I would  
7 like to say is that I, and I think all of the neighbors, are in  
8 support of Sasha Bruce's petition that you forgive them the filing  
9 fee. That's in the record. That being said, I have a petition,  
10 which I have copies of.

11 CHAIRPERSON REID: You have to give it to the  
12 staff, and the staff has to give it to us. I'm sorry, but that is  
13 just how we have to do it.

14 MR. HALPERN: From many of the neighbors, and the  
15 reason they are not all is not -- well, I went out on Sunday night  
16 and started getting this, and I have not been able to reach  
17 everybody.

18 And I will be honest and say that of the people  
19 that I reached, three people did not want to sign for various  
20 reasons, ranging from support to Sasha Bruce, or as one gentleman  
21 said, he wasn't much impressed with the supervision, but he didn't  
22 want to harm the children in any way.

23 Basically, we are asking that this petition be  
24 rejected at this time. I would like to present some direct  
25 evidence. The actual distance as measured with a hundred foot

1 tape measure by me, and then verified against maps -- I forget the  
2 name of the survey, but I think Mr. Sockwell will be very familiar  
3 just from the style of it. Let's see if I can find that.

4 Yes, it is the base survey of 1956, and it is 447  
5 feet, and I will give you plus or minus 3 feet. It is 4 50 feet  
6 from property line to property line.

7 VICE CHAIRPERSON SOCKWELL: I measured it at 470  
8 feet, plus or minus, and I think you are wrong.

9 MR. HALPERN: Okay. But it still is under -- we  
10 can go out there with a tape measure, but the point is --

11 VICE CHAIRPERSON SOCKWELL: No, we only use the  
12 surveyors materials.

13 MR. HALPERN: Oh, I see. You added up all these  
14 things.

15 VICE CHAIRPERSON SOCKWELL: Yes. I actually used a  
16 relationship which matched your distance, that's all, just to  
17 compare.

18 MR. HALPERN: Okay. Right. And so it is under 500  
19 feet, and that's just true, which points -- and if you also look  
20 at the map that I gave you, you will see that the Sherwood  
21 Playground is quite close. The District is preparing to break  
22 grounds to rebuild a play center there at the north end of the  
23 property.

24 We are told that it is real soon now, or as soon as  
25 D.C. has a budget. The Goding School, as I said, is there. And

1 you may not recognize it, but directly across from my house on  
2 10th Street is the world famous Finley Boxing Club, which also has  
3 lots of people who come and park.

4 So simply to say that parking is not a problem  
5 there is, I think, not as true as you might believe. For example,  
6 what I have done here is that I have some pictures standing at the  
7 crossroad of F and 12th, which again I will offer for the record.

8 These were taken Sunday afternoon before the  
9 Redskins game, and everybody was out shopping, and you can see  
10 that it is pretty well parked up.

11 MS. SHORE: Wait a minute, F and 12th?

12 MR. HALPERN: I'm sorry, F and 11th. I wrote it  
13 wrong.

14 CHAIRPERSON REID: All right. Madam, you can't  
15 speak from the audience.

16 MS. SHORE: I'm sorry.

17 MR. HALPERN: So, F and 11th Street. Parking is a  
18 problem, and it is particularly a problem for the people on  
19 Maryland Avenue because they don't have neighborhood parking  
20 restrictions for reasons that I don't quite understand, but it's  
21 true.

22 CHAIRPERSON REID: Okay. This was when?

23 MR. HALPERN: This was taken Sunday at about 2:00  
24 or 3:00 in the afternoon.

25 CHAIRPERSON REID: Okay.

1 MR. HALPERN: And this does not show Maryland  
2 Avenue, which also was quite parked up at the time. I would like  
3 to make some comments on the trash. You have heard said that the  
4 Sasha Bruce House after complaints built a concrete retaining  
5 area.

6 You have also heard said that a lot of the trash is  
7 because the neighbors throw the trash into it. I would like to  
8 show you a picture of that area, which clearly shows a gate. It  
9 is gated.

10 So you will have to now believe that we toss  
11 everything over the gate into the containers, which you notice are  
12 overflowing; and I would like to show you a picture I took on  
13 Sunday. Remember, they knew that the hearing was going to be  
14 today, and you would think that everything would spic and span.

15 CHAIRPERSON REID: Well, Mr. Halpern, before you go  
16 any further, let me ask you something here. This trash, in all  
17 fairness, seems to be bagged up and probably to be picked up. I  
18 don't see any trash spilled over or --

19 MR. HALPERN: Well, as I understand the rules for  
20 establishments like this, the containers must be closed at all  
21 times to hold down rats, and there are complaints about rats in  
22 the trash.

23 CHAIRPERSON REID: I'm sorry, but that's a DCRA  
24 requirement? I am not familiar with that. Are you, Mr. Sockwell?

25 VICE CHAIRPERSON SOCKWELL: The

1 Department of Health would establish for this service facility  
2 administration, or another regulatory agency that deals with such  
3 facilities, would establish the requirements.

4 Now, DCRA would not normally establish the  
5 requirements, unless it is under one of their regulatory functions  
6 dealing with these types of facilities.

7 CHAIRPERSON REID: Are you saying that they need a  
8 dumpster, or they need to have those big trash --

9 MR. HALPERN: Well, I am saying several things.  
10 First of all, an open dumpster that is overfilled is a very easy  
11 place for rats and mice to go.

12 CHAIRPERSON REID: Well, when I say dumpster, I am  
13 referring to the commercial dumpsters that are required for  
14 businesses and are enclosed; or on the other hand, those big trash  
15 receptacles that are --

16 MR. HALPERN: They have dumpsters.

17 VICE CHAIRPERSON SOCKWELL: The dumpsters shown  
18 here would normally be equipped with a lid. The picture does not  
19 show enough of it for me to know that the lid is or isn't there.

20 CHAIRPERSON REID: But basically we get your point.  
21 We get your drift.

22 MR. HALPERN: Okay. And in the second picture, you  
23 can see that it is not covered, and there are complaints in the  
24 neighborhood, especially along F Street, of rats and mice, and I  
25 have a resident rat right now who is too smart for me. So this is

1 a serious complaint.

2 MR. HALPERN: Is it your testimony that aside from  
3 Sasha Bruce, all of the neighbors provide the proper containers  
4 and maintain them, and is it your testimony that only the Sasha  
5 Bruce House could be the source of rats?

6 MR. HALPERN: From what I observed of their houses  
7 in going by, I saw no open trash containers in the front yards of  
8 the houses along F Street, nor along 10th Street, nor along 12th  
9 Street.

10 VICE CHAIRPERSON SOCKWELL: And what about rear  
11 yards? I mean, we are talking about rats. We are not talking  
12 about some --

13 MR. HALPERN: No, we are talking about rats that  
14 have been observed on F Street.

15 VICE CHAIRPERSON SOCKWELL: Right. But are you --

16 MR. HALPERN: And in my back yard.

17 VICE CHAIRPERSON SOCKWELL: Well, my suggestion is  
18 that with only photographs of one facility, there is no way that  
19 we can compare the quality of maintenance of trash receptacles  
20 within the neighborhood.

21 MR. HALPERN: Now, I am not --

22 VICE CHAIRPERSON SOCKWELL: There just is no way to  
23 do that.

24 MR. HALPERN: -- a sanitary engineer, which you  
25 would need a professional opinion.

1 VICE CHAIRPERSON SOCKWELL: You don't need to be.  
2 No, I don't. You have given an opinion which is not professional,  
3 and you are asking the board to respond to it. So if you are not  
4 an engineer --

5 MR. HALPERN: This was an order of magnitude --

6 VICE CHAIRPERSON SOCKWELL: Just let me finish,  
7 please, please. If on one side you are saying that one needs to  
8 be an engineer, and yet you are supporting your contention and not  
9 being an engineer, how can we effectively accept your position or  
10 not accept your position?

11 You are saying that this is the case, and this is  
12 where the rats come from, but then you are saying, but you really  
13 need an engineer to make that determination. I am just trying to  
14 figure out where you are.

15 MR. HALPERN: I am saying several things. First, I  
16 have clearly established what the situation is in this concrete  
17 rivet by the pictures, and there can be no doubt that those are  
18 unsanitary conditions.

19 Second, I am saying that while I have not gone into  
20 everybody's kitchen, and I have not gone behind everybody's fence,  
21 I have not observed anything that approaches that state of being  
22 unsanitary in any house along F Street or on 10th Street.

23 VICE CHAIRPERSON SOCKWELL: But you have provided  
24 no evidence to the contrary.

25 MR. HALPERN: Well, you have --

1 VICE CHAIRPERSON SOCKWELL: You have only shown us  
2 one situation and that's all.

3 MR. HALPERN: -- pictures which show you the general  
4 state of repair along the street.

5 CHAIRPERSON REID: I think that --

6 VICE CHAIRPERSON SOCKWELL: We understand what you  
7 are trying to provide us, and --

8 CHAIRPERSON REID: Wait. Wait.

9 MR. HALPERN: And if you leave the record open --

10 CHAIRPERSON REID: Excuse me, but I think that this  
11 particular issue has been given enough time. I understand your  
12 point, Mr. Halpern, and I understand your point, Mr. Sockwell, and  
13 in the end, we will take into consideration all of it, and make  
14 our decision accordingly.

15 MR. HALPERN: Right. I would like to give you one  
16 other piece of evidence.

17 CHAIRPERSON REID: Okay.

18 MR. HALPERN: This is -- and I have multiple copies  
19 of this, but this is the strategic plan for homeless continuum of  
20 care services in the District of Columbia.

21 This is the strategic plan which is available on  
22 the website of the community for community partnership for the  
23 prevention of hopelessness. Hopefully you got the ones that were  
24 marked. In it on page 19, if you turn the page over, it says  
25 support additional 20 beds for homeless youth by April of 2000.

1 I should point out that in the current plans that  
2 Boys Town is going to provide 36 beds, 20 of which will be long  
3 term, and 16 of which will be short term.

4 Therefore, it is my contention that within the  
5 strategic planning process of the District of Columbia that the  
6 additional five beds are in excess at Sasha Bruce, and if you turn  
7 over to the FY 2001 budget, you will see that 52 beds are provided  
8 for youth. That would be on the third page of the document that I  
9 gave yo.

10 Now, let me come down to kind of where Mr. Schauer  
11 was. We have talked about this a lot in my immediate  
12 neighborhood, and our general feeling is that the Sasha Bruce  
13 Youthworks provides a needed service, but provides it badly for 10  
14 people.

15 The amount of supervision is minimal on the street.  
16 The person that Ms. Shore referred to as having had this nice --  
17 who wrote the letter, and I believe that is Mr. Gunther or Gunter,  
18 is also a signature on the petition that I gave you.

19 So I am not quite so sure that he is on her side or  
20 I wouldn't be quite so sure that he is on her side. At least not  
21 in the petition that I gave you.

22 CHAIRPERSON REID: Who?

23 MR. HALPERN: Mr. Gunther.

24 CHAIRPERSON REID: And who is he?

25 MR. HALPERN: He is the person -- he is one of the

1 people who wrote the letter that is in the record. He is the  
2 third signature from the bottom, and his wife is the second  
3 signature from the bottom, Joel Buchanan.

4 Another neighbor, Micki Holmes, the fourth  
5 signature from the top, lives in the house directly on the side of  
6 the Sasha Bruce House. She just moved in. It used to be Section  
7 8 housing. She said that she got in there, and she didn't know  
8 what was happening, and the kids came over and wanted liquor.

9 The people living there in the past had given them  
10 liquor, we assume. They were a pretty rough bunch. Now, you can  
11 say, well, how do I know that they are from the Sasha Bruce House.  
12 Well, you know, they don't wear signs saying they are from the  
13 Sasha Bruce House.

14 But you see them going in and out, and they yell,  
15 and they throw rocks, and they are not the most -- they have not  
16 had an easy life, and we really feel that at this point that Sasha  
17 Bruce has not shown an ability to supervise the children that they  
18 have in the shelter.

19 There have been complaints in the past by many  
20 people. You know, I have talked to maybe 20 or 30 people in the  
21 past 3 days, and a lot of them said that they complained. And  
22 they said, you know, but nothing happens. So why should I  
23 complain?

24 I think at this point, you know, that Mr. Sockwell  
25 can say, well, how can you prove that they complained? Well, I

1 don't have affidavits from them now. I could get them, I suppose,  
2 if you keep the record open.

3 So what does the neighborhood, or what do the  
4 immediate neighbors want? And again we talked about this. We  
5 want you and we want Sasha Bruce to kind of go away for a year.

6 And if they can show in the next year that they can  
7 supervise the children in the shelter, and they can -- that there  
8 won't be trash strewed around the shelter, and that the kids don't  
9 play badly with us, we will support this.

10 CHAIRPERSON REID: Wait a minute. You say that you  
11 want them to go away for a year?

12 MR. HALPERN: Withdraw the application and go away  
13 for a year and show that you can do the job, and come back.

14 CHAIRPERSON REID: Oh, I see. In other words,  
15 exist as they are, and then delay their application for another  
16 year.

17 MR. HALPERN: Yes.

18 CHAIRPERSON REID: That is what you are advocating?

19 MR. HALPERN: Yes. We are advocating that they not  
20 only do that, but that they -- we don't necessarily want that they  
21 play well with us. We want that they supervise the children.

22 VICE CHAIRPERSON SOCKWELL: Mr. Halpern, I mean  
23 only to ask two questions. One, if that is the wish of the  
24 signers of your petition, why was that not stated in the top  
25 documentation?

1           And, second, it would have been appreciated had  
2 you also placed in that petition that these neighbors of the Sasha  
3 Bruce House accepted you as their spokesperson for conditions  
4 related to this application, because you are acting as their  
5 spokesperson, regardless of the fact that they have signed this.

6           MR. HALPERN: Right.

7           VICE CHAIRPERSON SOCKWELL: Those were two things,  
8 one of which we certainly think or I certainly think may not be an  
9 unusual request among neighbors. But it is better when these  
10 people have stated that you are their spokesperson.

11           And I know that you have spent a lot of time  
12 speaking with them and trying to assess their positions.

13           MR. HALPERN: The short answer is that at five  
14 o'clock on Sunday I went out into the neighborhood, and I went  
15 back after listening to people and I created this.

16           CHAIRPERSON REID: Mr. Sockwell, would you like to  
17 have that submitted for the record prior to a decision being made?

18           VICE CHAIRPERSON SOCKWELL: Can you do that?

19           MR. HALPERN: I can go ask. I am easier with that  
20 than I am with the request that I be their spokesperson.

21           CHAIRPERSON REID: I'm sorry, but you are more  
22 comfortable with what?

23           MR. HALPERN: With going back and redoing this, and  
24 going back and showing it to everybody, and saying would you sign  
25 on to this. Let me -- the idea about the postponement only came

1 up about 48 hours ago after I had gathered considerable  
2 signatures.

3 CHAIRPERSON REID: The idea about what?

4 VICE CHAIRPERSON SOCKWELL: A postponement.

5 MR. HALPERN: Postponing. You know, it was  
6 somebody's idea, and it was a good idea.

7 CHAIRPERSON REID: Oh, that. Okay. Well, I mean -  
8 -

9 MR. HALPERN: Everybody that I talked to after that  
10 thought it was a good idea and I am stuck with the petition that I  
11 have.

12 CHAIRPERSON REID: Well, if you are alleging here  
13 that that is what we want, then we need to --

14 MR. HALPERN: Well, then let me say that is what I  
15 want.

16 CHAIRPERSON REID: Okay. And that's better.  
17 That's better. Thank you. If there is any cross-examination of  
18 this witness, and if there is not, then closing remarks by the  
19 applicant.

20 MS. SHORE: I find this very difficult, and  
21 painful, and frankly also a bit -- you know, it gets at my  
22 professionalism frankly to say that we don't after 25 years know  
23 how to run a youth program, and that somehow people who see things  
24 from some distance can tell that. So, I guess --

25 CHAIRPERSON REID: Excuse me. Excuse me. In your

1 closing remarks --

2 MR. HALPERN: What am I supposed to do?

3 CHAIRPERSON REID: Okay. Well, let me explain.  
4 Use this time to basically reaffirm your relief that you are  
5 asking for and why you think it is important.

6 MS. SHORE: All right.

7 CHAIRPERSON REID: It is not necessary to go into a  
8 defensive mode in regard to opposition, because that is the nature  
9 of these cases. People come and they have their own issues, and  
10 they have the right to air them.

11 Nonetheless, your role is to convince us that the  
12 relief that you are asking for is something that is legitimate,  
13 and it is something that is needed, and it is something that you  
14 feel that you are entitled to, and that you are deserving of. Use  
15 it for that.

16 MS. SHORE: All right.

17 CHAIRPERSON REID: And don't belabor it.

18 MS. SHORE: All right. I will try and do that. I  
19 would like to appeal to this board to support our application. I  
20 honestly believe that we run a very strong and good program. I  
21 think that it is clear that we have some community issues, and I  
22 am very willing to establish a community advisory board, or call  
23 the neighbors to us and work with them.

24 And hope that we can actually work through some of  
25 these relationships. We have certainly found that to be true in

1 the past. But the need for this service is enormous, and there is  
2 no one else in the city that is providing that.

3 And I think that you can check in many, many places  
4 and find that that is the case. We are in a very good location  
5 really, and I think the problems that people have brought to you,  
6 and therefore to us, are ones that we really can deal with, and we  
7 will do our best.

8 I think you can be assured that we will do our best  
9 to reach out to the community, and to take care of the problems  
10 that have been already identified, and to figure out where we can  
11 go, in terms of keeping some better feedback loop going so that  
12 this doesn't only come up or come to us because of a public  
13 hearing such as this.

14 CHAIRPERSON REID: Okay. This is what I would  
15 suggest that you do. First, number one, you have heard the  
16 concerns of the community, and there will not be a decision made  
17 today, because of the fact that we have a party in opposition.

18 So that means that we have to have a full order,  
19 but in the interim, whatever you can do to try to ameliorate some  
20 of the adverse impact issues. For example, the trash. What we  
21 have seen today is that while there has been evidence to try to  
22 contain the trash better, there is still more work to be done.

23 And we would like to see evidence that you are  
24 taking steps to better ensure that there is not an issue as far as  
25 trash debris or rodent problems. So it is not to in any way to

1 indicate that we think that you are the only people who may have  
2 rodents.

3           Nonetheless, obviously because of the nature of  
4 your business, that is something that you should try to  
5 demonstrate to us, and also the procedure by which trash is picked  
6 up on a regular basis, we need to know that.

7           We also need to know the establishment of the  
8 community liaison, and which was recommended here today as a  
9 measure of being able to react or be more proactive to some of the  
10 problems that may occur that are just -- well, I guess that it is  
11 something that is not uncommon when you have young people around,  
12 even if there is a home where you have a couple of kids, and there  
13 will be noise, and there will be problems.

14           But given the nature of your business, and the fact  
15 that you do have children, obviously we are aware of the fact that  
16 it is impossible for you to have perfect children and on  
17 complaints ever.

18           But nonetheless whatever you can do to try to  
19 better contain the behavior, and to alert them to what the  
20 problems are in that community, and I guess also to assist them in  
21 understanding what it means to be a good neighbor and how to  
22 conduct themselves properly.

23           The basketball court, on the other hand, I think  
24 that is something that would go a long ways to mitigating some of  
25 the adverse impact, if in fact -- I don't know whether it would be

1 a matter of putting it -- maybe moving the basketball court to the  
2 other side where it is more away from neighbors, and that noise  
3 can be muted somewhat.

4 MS. SHORE: Yes.

5 CHAIRPERSON REID: Well, not muted, but it could be  
6 lessened somewhat, because that is a problem area. And if you  
7 could get those things to us prior to us making the decision, then  
8 it would go a long ways in demonstrating to us that, number one,  
9 you take very seriously the concerns of the people around you.

10 And with the community liaison entity being  
11 established, then I am sure that it would probably work not just  
12 for the community, but also for you, because as you said earlier,  
13 you were able to get a volunteer or two who may be interested once  
14 they understand and know what you do to perhaps support you and  
15 work with you into making your establishment a better  
16 establishment, while at the same time helping to defuse some of  
17 the problems.

18 And actually, to be perfectly honest with you,  
19 quite frankly I don't think your problems are insurmountable. I  
20 have not heard anything that was really an extremely serious  
21 situation, where there was some type of weapon, or drugs, or  
22 things of that nature, that plague neighborhoods throughout.

23 So these things that the neighbors are asking for  
24 and that they are concerned about, I don't think it is too much  
25 for you to try to work with them, or try to demonstrate to them

1 that you are concerned about their quality of life in that  
2 particular neighborhood.

3 MS. SHORE: We will certainly do our best to do  
4 that, you know. Sometimes people are truly interested in that,  
5 and other times that's not what is true. We have had that, but we  
6 certainly will try.

7 CHAIRPERSON REID: The decision will be made on  
8 this particular case at our next regularly scheduled meeting,  
9 which is the first Wednesday in December.

10 MS. BAILEY: That is the first Tuesday in December.

11 CHAIRPERSON REID: Tuesday, I'm sorry. We are on  
12 Tuesdays now. Tuesday, December what?

13 MS. BAILEY: The 5th.

14 CHAIRPERSON REID: The 5th.

15 MS. SHORE: We were supposed to have an election  
16 yesterday, which didn't exactly happen did it?

17 CHAIRPERSON REID: The things that we are asking  
18 for should be in by when?

19 MS. BAILEY: The applicant has to serve the parties  
20 all of the documents that they are going to provide to the board.

21 Is it possible to have that served on the Office of Planning,  
22 this office, the Office of Zoning, and the applicants by November  
23 17th; is that possible?

24 MS. SHORE: That is 10 days from now. When you say  
25 that we need to serve all of the applicants, with what documents?

1 CHAIRPERSON REID: Not applicants. The parties.

2 MS. SHORE: Oh, I mean the parties.

3 CHAIRPERSON REID: The parties; the Office of  
4 Planning, the board, and the parties that are here and who have  
5 testified here today.

6 MS. SHORE: And with what -- what are the  
7 documents? I didn't hear documents. I heard --

8 VICE CHAIRPERSON SOCKWELL: Well, evidence of --

9 CHAIRPERSON REID: Well, here is what you do. Meet  
10 with the staff, Mr. Hart or Mrs. Pruitt, and they will explain to  
11 you exactly what you need to do.

12 MS. SHORE: Okay. That sounds fine.

13 VICE CHAIRPERSON SOCKWELL: Can we add to the  
14 requirements of the applicant that they present us with some kind  
15 of documented house rules by which your residents are expected to  
16 abide to?

17 MS. SHORE: Absolutely.

18 CHAIRPERSON REID: Also, I would suggest that with  
19 the liaison, that you attempt to involve the ANC, perhaps a  
20 representative from the ANC, on that liaison committee, as well as  
21 maybe from the Capital Hill Restoration Society. Mr. Schauer,  
22 would that be something that you would be interested in having or  
23 to see done?

24 MR. SCHAUER: Probably not. We are -- I think that  
25 this is something that has to be dealt with by the neighbors

1 themselves. I don't think we can help there.

2 CHAIRPERSON REID: You are not a neighbor?

3 MR. SCHAUER: Well, we cover the whole area.

4 CHAIRPERSON REID: So that is not something that  
5 you would want to get directly involved in. But nonetheless those  
6 persons who are directly involved in living around there, it would  
7 be a good idea if they were involved in the community liaison.

8 MR. SCHAUER: And the ANC, of course.

9 CHAIRPERSON REID: The ANC, absolutely.

10 VICE CHAIRPERSON SOCKWELL: Can they submit --

11 CHAIRPERSON REID: Now, Mr. Halpern, we don't --

12 MR. HALPERN: I have a procedural question.

13 CHAIRPERSON REID: Okay. Fine.

14 MR. SCHAUER: Will the record remain open, and if  
15 so, until when?

16 CHAIRPERSON REID: Ms. Bailey, the record remains  
17 open until --

18 MS. BAILEY: Just for the items that we have talked  
19 about today.

20 CHAIRPERSON REID: Was there something that you  
21 wanted to submit that --

22 VICE CHAIRPERSON SOCKWELL: Yes, we wanted him to  
23 submit his petition with some modification if he could.

24 CHAIRPERSON REID: The petition, yes.

25 MR. HALPERN: I am going away tomorrow, and I won't

1 be back until the 19th of November. I will try my best and try to  
2 hand it off to someone.

3 CHAIRPERSON REID: Well, under these circumstances,  
4 Mr. Halpern, we would allow you to do it when you get back, and we  
5 can waive the record to allow you to submit it at that time when  
6 you return.

7 MR. HALPERN: And there is another piece of  
8 evidence that I would like to see submitted if possible, and that  
9 is the reports of the Sasha Bruce House for that location to their  
10 funding agencies showing the nightly census for the past month, or  
11 year, or whatever they have.

12 CHAIRPERSON REID: The nightly census?

13 MR. HALPERN: How many people are in the house as  
14 reported to the funding agencies in the reports that they submit.

15 MS. SHORE: We don't have a funding agency that we  
16 do nightly reports to. We do report to one of the agencies, but  
17 we only report -- well, we don't do that.

18 CHAIRPERSON REID: Are these also a concern to the  
19 board members?

20 VICE CHAIRPERSON SOCKWELL: I am not sure that that  
21 is necessary for this board to act. Therefore, I would discourage  
22 it. But I would like photographic evidence and something to show  
23 that you have cleaned up the trash area and provided secure  
24 containers. That is important.

25 CHAIRPERSON REID: And let me also along those

1 lines say that if the dumpster or whatever it is, the trash  
2 receptacles, what daily plan do you have for disposal?

3 For example, maybe a child has a chore to take the  
4 trash out, but if I know children like I do, they will take the  
5 trash out and just throw it down there rather than -- you know.

6 VICE CHAIRPERSON SOCKWELL: Like a basketball over  
7 the fence.

8 CHAIRPERSON REID: So you are going to have to  
9 almost police it, because this is a big concern, and make sure  
10 that does not fall through the cracks.

11 MS. SHORE: We felt like we were doing a lot  
12 better, and adding the day to --- we now have trash pickup three  
13 days a week.

14 CHAIRPERSON REID: Well, the objective is the --

15 VICE CHAIRPERSON SOCKWELL: Well, pickup is one  
16 thing, but the control is the other.

17 CHAIRPERSON REID: When you have an institution in  
18 a residential area, in an R-4 zone, there are always areas of  
19 contention, and the most important thing is that the community  
20 wants to be respected and to exist and have a decent quality of  
21 life.

22 And if you are there, then I don't think that what  
23 they have asked for today is anything insurmountable. That is  
24 just a very small thing; noise abatement, trash, trash control,  
25 and that's the least that could be done to help mitigate some of

1 the issues that have been raised.

2 VICE CHAIRPERSON SOCKWELL: An unsecured trash  
3 becomes a problem because there are rats and there are tree rats,  
4 and tree rats are squirrels. And squirrels will get into anything  
5 that is in a plastic bag.

6 CHAIRPERSON REID: And thank you for your  
7 participation today and your indulgence.

8 MS. BAILEY: Madam Chair, there is an outstanding  
9 matter, and I think Mr. Halpern touched on it lightly, and the  
10 applicant had requested a fee waiver.

11 Now, if that is no longer a request, then certainly  
12 it is moot. But there was a request for a fee waiver. Do you  
13 still want --

14 MS. SHORE: The amount of the fee was, I think,  
15 \$1,200.

16 CHAIRPERSON REID: We are aware of the fee waiver,  
17 and that will be taken up at the time that we make our decision.  
18 We will deliberate and at that time we will discuss and take a  
19 motion as to whether or not the fee can be waived. But we are not  
20 doing a decision today.

21 MS. BAILEY: Okay. Do you know when you are  
22 supposed to submit your information to the board?

23 MS. SHORE: I know when, November 17th. But we do  
24 need to talk to you about the documents that you mentioned.

25 MR. HALPERN: I will try and talk to someone also.

1 CHAIRPERSON REID: Well, again, we are not going to  
2 deliberate until December 5th. So if you can get it in a week  
3 before, then we can waive our record to allow you to do so and we  
4 will gladly accommodate you. Okay. So, thank you very much and  
5 that concludes today's hearing.

6 (Whereupon, the hearing was concluded at 7:20 p.m.)  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17