

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 29, 2002

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
DAVID A. ZAIDAIN	Member

ZONING COMMISSION MEMBER PRESENT:

PETER G. MAY	Commissioner		
		(Architect	of the
Capital)			

COMMISSION STAFF PRESENT:

Sheri M. Pruitt, Secretary, BZA
Beverley Bailey, Office of Zoning
John K. A. Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

John Fondersmith, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

AGENDA ITEM PAGE

APPLICATION OF PETER ANTHONY AND
MICHELLE PABLO:

16874 ANC-3D 8

WITNESSES

MICHELLE PABLO 8
JOHN R. GUBISCH III 15
ROGER GERSTENFELD 18

APPLICATION OF ALISON GRAY:

16872 ANC-3F 31

WITNESSES

ALISON GRAY 32
JOHN KIRSCH 50
PAUL A. BARRY 60
REENA RACKI 77

APPLICATION OF NATIONAL ASSOCIATION FOR THE
EDUCATION OF YOUNG CHILDREN:

16873 ANC-2B 94

PAUL TUMMONDS, ESQ. 95
2300 N Street, N.W.
Washington, D.C. 20009
(202) 663-8873

WITNESSES

MARK A. GINSBERG, PH.D. 96
WILLIAM J. HARRIS 104

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

9:45 a.m.

CHAIRPERSON GRIFFIS: The hearing will please come to order. This is our Wednesday, 29th of May, 2002 Public Hearing of the Board of Zoning Adjustments, District of Columbia.

My name is Geoff Griffis. I am the Chairperson. Joining me today is Ms. Anne Renshaw, the Vice Chair. And with great enthusiasm and announcement the first day of our new appointment by the National Capital Planning Commission, Mr. David Zaidain.

So we will welcome him and we won't make fun of him today. We'll leave that until next week. And that will be our Board today, which is a quorum. So we can continue.

Let me introduce quickly the Staff. On my very far right, Ms. Beverley Bailey, we welcome you and good morning to you, Mr. Nyarku and Ms. Pruitt.

And Ms. Sansone, Corporation Counsel on my left and Office of Planning Representative which we will introduce when we get to reports.

Copies of today's hearing are available to you. They are at the table close to the door that you entered into.

Please be aware that these proceedings are being recorded so that we ask you to refrain from any disruptive noises or furtive actions in the audience.

And we also ask that when you come forward to

present to the Board, that you speak into the microphone and we'll give you technical assistance if you're not familiar. And we also ask that you state your name and address when first coming up.

All persons planning to testify either in favor or in opposition are to fill out two witness cards. Witness cards are also at the table where you entered into and there are witness cards at the table where you give testimony.

When coming forward to present testimony, you can deliver those two cards to the recorder who is sitting to my right.

The order of procedure for today for both the special exceptions and variances will be first a statement and witnesses of the Applicant, second is the government report, Office of Planning, etc.

Third, we'll get to the reports of the Advisory Neighborhood Commission. Fourth would be parties or persons in support.

Fifth would be parties or persons in opposition. And sixth, finally, we will have closing remarks by the Applicant.

Cross examination of witnesses is permitted by the Applicant or parties, the ANC within which the property is located is automatically a party in the case.

The record will be closed at the conclusion of

each case except for any materials specifically requested by the Board. And we will be very clear on what we intend to have submitted to the Board and the time where submission and when submission is required.

After the record is closed, of course, no other information will be accepted by the Board. The Sunshine Act requires that the public hearing on each case be held in the open before the public.

The Board may, consistent with its Rule of Procedure and the Sunshine Act, enter Executive Session during or after the public hearing on a case for purposes of reviewing the record or deliberating on the case.

The decision of the Board in these contested cases must be based exclusively upon the record. Therefore, we ask persons present not engage any members of the Board in conversation so that we don't give an appearance to the contrary.

I would ask now that we turn off all cell phones and beepers and any other noise-making devices so that we also don't disrupt the proceedings as we move along.

The Board will now consider any preliminary matters for the cases. In the morning, preliminary matters are those which relate to whether a case will or should be heard today such as requests for postponement, continuance or withdrawal or whether proper and adequate notice of the hearing was given.

If you are not prepared to go forward today with

the case or if you believe the Board should not proceed, now is the time to raise such a matter.

Let me first turn to Staff to see if there are any preliminary matters and, if not, I can hear from others and we can move on.

MS. BAILEY: Members of the Board, good morning.

CHAIRPERSON GRIFFIS: Good morning.

MS. BAILEY: Mr. Chairman, Staff does not have any preliminary matters for this morning.

CHAIRPERSON GRIFFIS: Okay. Thank you. Does anyone have preliminary matters for any of the cases in the morning session?

(No response.)

CHAIRPERSON GRIFFIS: In which case, we can call our first case.

MS. BAILEY: Application No. 16874 of Peter Anthony and Michelle Pablo pursuant to 11 DCMR . 3104.1, for a special exception to construct a two-story addition to a one-family dwelling under Section 223, not meeting the side yard requirements, that's Section 405, the lot width requirements, Sections 401 and 2001.3, the property is located in a R-1-A District at premises 4912 Quebec Street, N.W., Square 1474, Lot 20.

All those wishing to testify, please stand to take the oath.

Please raise your right hand. Do you solemnly swear or affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth.

(No response.)

MS. BAILEY: Thank you.

CHAIRPERSON GRIFFIS: Good morning. I'm going to ask you to turn on the mic when you speak and you just push the button right -- there it is.

MS. PABLO: There we go. My name is Michelle Pablo. My husband's name is Peter Anthony. And we live at 4912 Quebec Street, N.W., in Washington, D.C.

CHAIRPERSON GRIFFIS: Very good. I will turn it to you to walk us through your special exception case and I think we can get through this pretty quickly so we're probably just going to interrupt you with questions so that we can get --

MS. PABLO: That's fine.

CHAIRPERSON GRIFFIS: -- to specifically what we need.

MS. PABLO: Okay. Essentially, my husband and I are applying for an 18-inch variance on the side yard nearest to my neighbor who is present with me, Roger Gerstenfeld.

We have an existing family room right now. We bought our house three years ago. And we are essentially building on that same piece of property where the width is

currently -- so the current family room is 18 inch -- where we're building on. We're not asking for any further width. But it's 18 inches too close to the side yard.

CHAIRPERSON GRIFFIS: I see. So the existing wall actually encroaches on the side yard?

MS. PABLO: Yes. Where the existing family room is. But we were not aware of that --

CHAIRPERSON GRIFFIS: I see.

MS. PABLO: -- at the time so we went ahead, we did the plan. And then my builder went down to get the permit and that's when we realized we would need to apply for a variance.

CHAIRPERSON GRIFFIS: Right. Special exception, you mean, not variance.

MS. PABLO: I'm sorry. Special exemption.

CHAIRPERSON GRIFFIS: We don't want to put you through that today.

MS. PABLO: Oops, okay.

CHAIRPERSON GRIFFIS: Ms. Renshaw?

MS. RENSHAW: I would like to ask the Applicant, Ms. Pablo, did you bring any of your plans with you --

MS. PABLO: I did.

MS. RENSHAW: -- to walk us through? That would be helpful. The xerox copies, my xerox copies are kind of poor.

CHAIRPERSON GRIFFIS: Yes, for clarification, you did submit them into the record. And we all got copies. And, as

NEAL R. GROSS

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

Ms. Renshaw stated, we get xeroxed in our files and they are not as clear as we might expect.

MS. PABLO: Okay. Here it is -- do you want me -- here's our actual --

CHAIRPERSON GRIFFIS: Mr. Nyarku, in that we have copies, why don't we just pass that copy down. I don't think -- that's no different than what was submitted, correct?

MS. PABLO: Right. It's not different but it's just clearer.

CHAIRPERSON GRIFFIS: Exactly. And what we can do is return that to you because we have one in the official file. So this is the wall here.

MS. RENSHAW: Is this east?

CHAIRPERSON GRIFFIS: The -- in order to orient --

MS. RENSHAW: Is this east?

CHAIRPERSON GRIFFIS: -- the door is showing --

PARTICIPANT: The door is actually north, I think. So the wall would be the east side.

MS. RENSHAW: Ms. Pablo?

MS. PABLO: Oh, sorry.

MS. BAILEY: That's okay. When -- you need to just speak on the microphone. That's the problem we're having.

MS. PABLO: Sorry.

CHAIRPERSON GRIFFIS: Actually, I think we can figure it out.

MS. PABLO: Do you think that these pictures might help? Should I give you these pictures because it sort of shows what the existing house is and how we're building. Should I submit these?

CHAIRPERSON GRIFFIS: Yes, we can have those.

MS. PABLO: Okay.

CHAIRPERSON GRIFFIS: Did you put these in?

PARTICIPANT: No.

CHAIRPERSON GRIFFIS: Okay. So you've handed us photographs that have a red marker indicating where the addition, second floor addition will be.

MS. PABLO: Right.

CHAIRPERSON GRIFFIS: Which is aligned with the existing --

MS. PABLO: Right. So --

CHAIRPERSON GRIFFIS: -- encroachment on the side yard.

MS. PABLO: -- we're not trying to go out any further than where the existing addition is. The width remains the same. But we are building on. We're building a bedroom on top of our -- on top of that family room.

I could come up and show you the plans if you think that will help.

CHAIRPERSON GRIFFIS: I think we can get through it.

MS. PABLO: Okay.

CHAIRPERSON GRIFFIS: Talk just briefly the materials that the addition is.

MS. PABLO: Okay.

CHAIRPERSON GRIFFIS: It appears to be a brick --

MS. PABLO: It is. Currently we have -- the existing family room is siding and it has an exposed window unit air conditioner that you can see on one of those side yard pictures.

The new addition will be all brick which is consistent with the main structure of the house and we'll obviously have central air conditioning so there will be no exposed air conditioning unit which is more in keeping with the house, more in keeping with the neighborhood and certainly more pleasant for our neighbors.

I'd also like to add that both my neighbors, Roger Gerstenfeld, who would be the most affected, has come to support me on this and has given his written consent. That's in our file.

And the neighbor on the other side of me, the Lorenzes, they also have given written consent. And it's in our file.

CHAIRPERSON GRIFFIS: Okay. And the chimney extension is not dimensioned. Do you know, off hand, what the dimension on the chimney is? Is it on that one?

MS. RENSCHAW: It looks something like this but I
can't --

MS. PABLO: I can --

CHAIRPERSON GRIFFIS: I need the projection.

MS. RENSCHAW: You mean out?

CHAIRPERSON GRIFFIS: Yes.

MS. RENSCHAW: All right.

MS. PABLO: I can give that information in just a
minute.

MS. RENSCHAW: It's saying that the chimney will
project into the required eight foot side yard by three feet.

CHAIRPERSON GRIFFIS: That's fine.

MS. PABLO: The chimney dimension is 5 foot 10 by
18, which is per Code.

CHAIRPERSON GRIFFIS: So it projects out 18 inches.

MS. PABLO: John?

MR. GUBISCH: It looks like it's about 18 inches
roughly.

MS. PABLO: Yes.

CHAIRPERSON GRIFFIS: Eighteen inches. Okay. Ms.
Sansone, how do we look at the chimney in terms of its projection
into the side yard? Allowable, if I'm not mistaken, by Regs,
there's an allowable two foot encroachment of chimney or elements
like chimneys onto the side yard.

In that we're encroaching in 18 inches, do we add

18 and 18, which would be, if my math's correct, is 36, which would make it a three foot, which means it actually is a foot beyond?

MS. SANSONE: Mr. Chairman, I think what the Board would want to do if you're inclined to grant the special exception is just indicate that it includes the chimney projection as shown on the plans.

CHAIRPERSON GRIFFIS: Very good. Okay. We'll take note of that. Board members, I'm sure you understand that if this special exception goes through on this, that we will take into account and make note of the fact that the chimney is included within that expansion into the side yard.

Okay. Any other questions on the plans? Issues? Yes?

MEMBER ZAIDAIN: You had stated that there's an existing addition there and this is going to -- or structure it looks like. And this is not going to encroach out any farther into this side yard set back. I'm a little confused on that.

MS. PABLO: It's the same -- where the existing family room wall is, where that slab is, we're building exactly on that same slab.

MEMBER ZAIDAIN: Okay.

MS. PABLO: So the width is not changing on that dimension into the side yard. So where you see the existing family room is exactly where the new addition will be.

NEAL R. GROSS

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

MEMBER ZAIDAIN: Okay.

MS. PABLO: No further out.

CHAIRPERSON GRIFFIS: Right. So what was submitted as existing conditions, you can see the footprint of the walls there. What is different is the fact that there's a chimney projection on the new.

MEMBER ZAIDAIN: Oh, okay.

CHAIRPERSON GRIFFIS: But the footprint stays the same. I imagine they maybe using the same footings for this so that that line is consistent.

MEMBER ZAIDAIN: Okay.

MS. RENSHAW: But this goes out two feet beyond where they are now.

CHAIRPERSON GRIFFIS: Towards the rear.

MS. RENSHAW: Towards the rear.

CHAIRPERSON GRIFFIS: Right. Which is not an issue for us.

PARTICIPANT: Yes, they meet the rear yard set back.

MS. RENSHAW: Okay.

CHAIRPERSON GRIFFIS: We only have a small side yard set back.

MEMBER ZAIDAIN: Thanks.

CHAIRPERSON GRIFFIS: Okay. I think we're clear. I'll turn it back to you.

MS. PABLO: I really have nothing more to say other than that I think we've gone through the appropriate process, we went to the ANC meeting and got approval.

John Fondersmith wrote a report and recommended it.

And I think what we're adding is much nicer than what we have that's existing there in terms of keeping with the character of the house and the character of Spring Valley.

And we made sure to go and speak with our neighbors who would be most affected just to make sure it was okay with them and Roger would be the most affected.

So -- and, you know, we just put a lot of time and effort and thought into it so that we wouldn't offend anybody.

CHAIRPERSON GRIFFIS: Good. And so when you say most affected, Mr. Gerstenfeld lives on the side where the side yard is?

MS. PABLO: Right.

CHAIRPERSON GRIFFIS: Okay. Are you having him testify today? Are you calling him as a witness?

MS. PABLO: Yes, I am.

CHAIRPERSON GRIFFIS: This would probably be a great time to throw him in there then.

MS. PABLO: Roger? Here you go.

MR. GERSTENFELD: My name is Roger Gerstenfeld. I live at 4900 Quebec Street, the adjoining house. I'm the house where the side yard is being made smaller than is required by

NEAL R. GROSS

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

Code whatever.

I think the improvement -- what they're doing to the house, is architecturally very nice. I fully consent to whatever they do. I think it actually improves my house by having an nicer house next door.

And I think they're entitled to have a master bedroom which is liveable. You know these Miller houses just didn't have master bedrooms. And it would be nice for my neighbor to live nicely.

And I also want to say they very carefully went over all the details of it with me and explained it very nicely and I appreciated their cooperation.

CHAIRPERSON GRIFFIS: Good. Thank you very much.

MR. GERSTENFELD: Yes.

CHAIRPERSON GRIFFIS: And, you know, I think you just went to the heart of Section 223, which obviously goes towards allowing, under the Regulations, addition to housing. But it has certain requirements and that is not being detrimental to adjacent properties and use.

So we absolutely appreciate those notes that you, in fact, believe that it may actually improve the neighborhood if not your specific property.

Any questions?

(No response.)

CHAIRPERSON GRIFFIS: Good, let's keep this rolling

then, shall we?

MS. PABLO: Okay. Thank you.

CHAIRPERSON GRIFFIS: Sure. Actually you don't --

MS. PABLO: Oh, do I stay?

CHAIRPERSON GRIFFIS: You stay. He can sit.

MS. PABLO: Thank you.

CHAIRPERSON GRIFFIS: You can turn off his mic and let us move to -- let's go right into OP and Mr. Fondersmith is here and we can get through that.

MR. FONDERSMITH: Thank you, Mr. Chairman, members of the Board. I'm John Fondersmith, Development Review Specialist with the Office of Planning, here to present the Office of Planning Report.

The Office of Planning recommends approval of this special exception to allow construction of a two-story addition that you've heard presented.

And as has been said, this is really the kind of case that Section 223 was designed to deal with.

You've got the description of the -- you've had the description of the house. In this case, it does not comply with the side yards, as you've heard, or the lot width requirements under the present requirements.

Of course, this lot was subdivided and the house built back in the 1930s. It's an interesting area, I might add.

As you know, this Spring Valley was probably the first area in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

the District where there was a major departure from the grid. And the introduction of kind of curvilinear streets to respect the topography.

And in this case, there is a fairly substantial fall off to the south of the houses along Quebec Street, including this one. And as we noted, there is a special kind of feature in this case in that there's a linear park south of this property and the other properties along Quebec Street.

And so there is in the rear, of course, a great distance there between this property and the other properties to the south along Hillbrook Lane.

The main issue, of course, is the side yard, as you've heard. And the fact that the existing addition is 6. -- extends a foot and one-half into the side yard. In other words, 6.5 from the property line.

And so they, as you've heard, propose to retain that. They do -- will extend about another two feet to the rear.

And that is about the point where the lot falls off and the topography begins to change.

As indicated, the materials will match the existing house. There's not a zoning issue, of course, with the small extension, the two feet to the rear. Lot occupancy is very small and, of course, there is ample rear yard.

So we've gone through the Section 223 requirements, noting that this will also extend a foot and one-half into the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

side yard. And as has been noted, the chimney protrusion will extend about three feet total; that is, another foot and one-half into that side yard.

And certainly in looking at the site, looking at the building, and we made a site inspection, but going over the plans, the neighboring property that is potentially most affected is the one next door at 4900 Quebec Street.

We looked at that. We don't believe that the light and air available at that house or other nearby houses, and this would be the one on the other side, are affected, adversely affected, unduly affected.

You might note that there are no windows on the east side of the addition, facing the adjacent property. And, of course, as you've heard, the neighbors on both sides have submitted letters into the record that they do not object to the new addition.

In looking at how it would be viewed from the street, the addition is only visible on the left side of the house. It will, of course, be two-story rather than one-story.

Although as you can see from the height -- from the photos, the height of the existing addition which kind of raises up, it won't be -- the two-story addition will not be substantially greater than that.

And the materials are brick and the slate roof to be compatible with the existing house. We don't think there's

any problems with the views of the addition from Quebec Street.

And obviously from Hillbrook Street to the south, let's see, there's approximately 300 feet distance in there through forested park land. So that's not a problem.

They've submitted the photographs that show the relationships. The lot occupancy, as I said before, is not a problem. We do not believe that any additional screening or special design features are needed beyond what has been proposed.

So, in summary, we believe that the rear addition to this house meets the requirements for a special exception under Section 223. And we recommend that the Board approve this special exception.

CHAIRPERSON GRIFFIS: Good. Thank you very much, Mr. Fondersmith. Does the Applicant have any cross examination or questions for the Office of Planning?

MS. PABLO: No, I do not.

CHAIRPERSON GRIFFIS: Okay. Board members?

(No response.)

CHAIRPERSON GRIFFIS: Good. Thank you, Mr. Fondersmith. And, as usual, we appreciate the thoroughness of the report. And also the area history, which is always an interesting tidbit to read late at night as we review our files.

Let us move on then to the ANC. Is the ANC representative here?

(No response.)

CHAIRPERSON GRIFFIS: Okay. And let me just get a gauge. Is there anyone else here attendant to that will testify in this case today?

(No response.)

CHAIRPERSON GRIFFIS: Not seeing any other indication, let us go to the ANC letter. Ms. Renshaw, do you have that in front of you?

MS. RENSHAW: Yes. ANC-3D has sent a letter dated May 6. It's signed by John Finney, the Chair.

And he states that at its regularly scheduled monthly meeting on Wednesday, May 1, 2002, there was a quorum of three present at all times and proper notice of the meeting was given.

And Mr. Anthony came before the Commission and presented the plans. The Commission voted 4-0-0 to support the existing side yard variance. And since the back of the house overlooks a park area, there were no neighbors who would be affected.

And Mr. Finney asks that the decision be given great weight.

CHAIRPERSON GRIFFIS: Good. And I believe it was timely filed so we can give it the great weight it so is worthy of. That's all I have record of in terms of government reports unless other Board members have others.

Let us go to persons in support. We do have a

letter in the record of support from Kevin and Cathy Lorenz, is that how it's stated?

PARTICIPANT: Yes.

CHAIRPERSON GRIFFIS: Okay, of course, Mr. Gerstenfeld has given testimony today. Are you aware of any other submissions of support at this time?

MS. PABLO: No other submissions of support.

CHAIRPERSON GRIFFIS: Okay. Then that's what we have. We do have a letter of concern by Ms. Mary Payne Wilt. Did you get a copy of that letter?

MS. PABLO: I saw it this morning.

CHAIRPERSON GRIFFIS: Okay. As did we. It indicates of -- among several issues of concern it indicates a concern that this may set a precedent for Spring Valley neighborhood.

And it indicates that several neighbors may feel that way but don't want to go in writing as that may hurt feelings, which we absolutely appreciate.

But let me just state first of all that the Board of Zoning Adjustments takes each case individually and on its face. And so we do not set precedents by cases meaning if this is granted that -- clearly it would not mean that by right, your neighbors could encroach on their side yards.

We would put them through the treadmill just like we're doing you. So, that being said, I don't see issues unless

you want to speak to any of the issues that came up in the letter.

I think there are clearly pertinent issues in many cases such as this. But I think the record as has been testified today is showing that these will not actually be of any great magnitude or, in fact, be incredibly detrimental to the overall neighborhood. And certainly not to the adjacent neighbors.

Did you have any comment on the letter?

MS. PABLO: No.

CHAIRPERSON GRIFFIS: Okay. Very well then. That is what I'm showing for us to go through at this point. Any final questions? Anything I've missed? If not, then we can turn to you for -- if you have any closing remarks.

MS. PABLO: I don't really have many closing remarks but just to say that I just want -- there is no precedence that -- I assume this is a process that anybody would have to go through. And I just hope that my neighbors end up realizing that so they don't think that, you know, I've caused this big problem in Spring Valley. That's really it.

CHAIRPERSON GRIFFIS: Good. Thank you very much. Okay. This is a design build project, isn't it?

(No response.)

CHAIRPERSON GRIFFIS: Okay. You don't --

MS. PABLO: You know, can you clarify what design build means for me?

CHAIRPERSON GRIFFIS: You don't need to answer that.

MS. PABLO: Okay.

CHAIRPERSON GRIFFIS: Let me just make a comment --

PARTICIPANT: Answer the question.

CHAIRPERSON GRIFFIS: No, the comment -- I just wanted to know, the drawings that we've just seen, the blueprints that you've submitted, are, I think, exciting to see because they're nice hand drawings which we don't see a lot of these days.

But in any case, that has nothing to do with your application. I just wanted to make that comment.

I think clearly -- let me move that we approve the special exception for Application 16874 to construct the two-story addition to a one-family dwelling under Section 223, which is not meeting the side yard requirements that are evidenced under Section 405, and the lot width requirements, Section 401 and 2001.3. And ask for a second.

MS. RENSHAW: Second.

CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw. Clearly, the case is very straightforward. We have had testimony that shows total compliance with the regulations under 223.

In fact, I think it went above and beyond, as we've seen in some other cases, in 223 coming in of which one of great concern of the Board has always been and will continue to be the

design, the materials, how it actually fits into the neighborhood but also fits into the existing structure.

Clearly, there's no direction either at this point because the Applicant has put forth designs that certainly go beyond what is required and obviously are very concerned with fitting into the existing structure.

There's no opposition. There is the letter of concern. And I think we have dealt with and deliberated on those issues.

The Office of Planning, of course, is recommending approval as is the ANC. And I think we can move forward with this.

Any discussion on the motion?

(No response.)

CHAIRPERSON GRIFFIS: Good. Then I would ask for all those in favor, signify saying aye.

(Chorus of ayes.)

CHAIRPERSON GRIFFIS: And opposed.

(No response.)

CHAIRPERSON GRIFFIS: And we can record the vote on that. Before we record the vote, are you requesting a Summary Order on this? And do you know what that is?

MS. PABLO: I don't know what a Summary Order is.

CHAIRPERSON GRIFFIS: Okay. There are two things that the Board can do. We can do a Summary Order or we can do a

full Order.

A Summary Order is a very quick order. You'll get it, obviously, in less time. A full Order will actually lay out all the findings of fact, conclusions of law. It will go through -- it's a very large piece. It's often done in contested applications.

MS. PABLO: Is a Summary Order just as effective?

CHAIRPERSON GRIFFIS: Even as effective. It absolutely is.

MS. PABLO: I opt for the Summary Order.

CHAIRPERSON GRIFFIS: Very well, then.

MS. BAILEY: The vote is recorded as 3-0-2 to approve the application. Mr. Griffis made the motion, Mrs. Renshaw second, Mr. Zaidain is in support. Mr. Etherly nor a Zoning Commission member is present this morning. And that's a Summary Order.

CHAIRPERSON GRIFFIS: And that's it. Thank you very much.

MS. PABLO: Thanks very much.

CHAIRPERSON GRIFFIS: Appreciate your time.

MS. PABLO: Yes.

CHAIRPERSON GRIFFIS: And have fun.

MS. PABLO: Thank you. Special thanks to Mr. Fondersmith for helping me.

CHAIRPERSON GRIFFIS: Oh, and did you -- I guess

what we'll do is, Ms. Pablo, is just keep those plans that you submitted in today into the record.

MS. PABLO: That's fine.

CHAIRPERSON GRIFFIS: Okay. Good. And then I think we're ready to call the next case.

MS. BAILEY: Application No. 16872 of Alison Gray pursuant to 11 DCMR . 3104.1, for a special exception to allow an accessory apartment under subsection 202.10, the property is located in the R-1-B District at premises 3633 Ellicott Street, N.W., Square 1983, Lot 47.

Is the lady with you going to be testifying today?

(No response.)

MS. BAILEY: Okay. Please raise your right hand. Do you solemnly swear or affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

(No response.)

MS. BAILEY: Thank you.

CHAIRPERSON GRIFFIS: Good morning.

MS. GRAY: Good morning. How are you?

CHAIRPERSON GRIFFIS: Good.

MS. GRAY: My name is Alison Gray. I live in a single-family dwelling at 3633 Ellicott Street, N.W. with my daughter, Sarah Pell, who is nine years old. And I appreciate your giving me the opportunity to appear for you today.

I am seeking a special exception for an accessory apartment in the basement area of my single-family dwelling. As I've set forth in the submission, there's two reasons that I am seeking this exception.

One is financial, so that it can supplement my income. And the second reason is security for my daughter and, in the event of an emergency, if something happened to me or while we are away from the home, just to give the home additional security.

I think all of this is set forth fairly explicitly and thoroughly in the submission so I don't want to waste anyone's time or spend extra time this morning going through everything that's in the written documents.

On April 15th, I believe, there was a hearing before ANC-3F, which approved the Resolution, in a 6-1 vote. Following that hearing, Mr. Arthur Jackson, from your Office, came for a site inspection.

And last week, I also submitted a supplemental filing, which included a petition in support by the vast majority of my neighbors in the area.

And I've also submitted pictures and maps of the area that demonstrate that the neighborhood is very diverse in terms of the types of dwellings that are in that neighborhood, which include a church on the corner of my street, which includes a homeless shelter in the basement area of that church.

There is a school across the street from my home. There are duplexes on the street directly behind me. So it's not a neighborhood that is just filled with single-family dwellings, one after another. It's a very diverse and mixed neighborhood.

In reviewing the file last week, I did not see any written objections. I notice this morning when entering the room that there are two of my neighbors that are here that would like to speak.

I think, having talked to them, that their objections, although I'm sure they'll speak for themselves, are less with my particular request for a special exception, but rather that they also, as in the last case, are a little bit concerned about setting a precedent by granting my leave.

And I think that's all I have for right now then.

CHAIRPERSON GRIFFIS: Okay. Thank you. Two things. And I appreciate you setting up reasons for why you want to do this, although in the test of a special exception, of course, we're looking at basically that this, if granted, would be in harmony with the zoning regulations. And obviously wouldn't tend to adversely affect the use of neighboring properties or the intent and purpose of the zoning maps.

And I think you've gone to that in your written submissions and also in your testimony right now in terms of talking about the other uses in the neighborhood and showing that it is diverse in its use.

Secondly, the gentlemen in the back, are you going to testify today? Were you sworn in?

PARTICIPANT: No.

CHAIRPERSON GRIFFIS: Okay. Why don't we do that now so we don't interrupt because it would be better to do it -- if anyone else is -- and you can stay right there. As long as you can see, we'll swear you in.

MS. BAILEY: Do you solemnly swear or affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

(No response.)

CHAIRPERSON GRIFFIS: Good. Okay. Also in 202.10, there is quite a bit of provisions that obviously have to come in to compliance. And I think that the submitted written testimony and drawings, if I'm not mistaken, speak to an awful lot of that in terms of access and doors into the unit.

There is also an issue that you have with the zone that you're in, which is the R-1-B, the lot size is required to be 5,000 square feet. If I'm not mistaken, you're not changing the lot size in any way, but it just isn't coming up to 5,000.

And, more importantly, you're not changing the footprint or the lot occupancy of the house itself. It's a conversion of an interior space. Obviously, your basement, which is existing. So it's an interior renovation.

Okay. If there's nothing further that you want to

present, did you want to call any witnesses? Did you want to go through anything else on this?

MS. GRAY: My architect, Reena Racki is here.

CHAIRPERSON GRIFFIS: Yes.

MS. GRAY: I don't know if she wanted to add anything or if you had any technical questions, she would certainly be happy to address any of those concerns as well.

CHAIRPERSON GRIFFIS: Board members, any questions? I think we're okay at this point.

MS. GRAY: Okay.

CHAIRPERSON GRIFFIS: We'll reserve the right to call her up if needed.

MS. GRAY: Okay.

CHAIRPERSON GRIFFIS: Let's go quickly then to Office of Planning and also, oh, I'm sorry, clarification, Mr. Jackson, who will be presenting the Office of Planning memo works in the Office of Planning, not in the Office of Zoning. But I think we'll let him speak anyway.

MS. GRAY: Okay. Thank you.

MR. JACKSON: Mr. Chairman, members of the Board, my name is Arthur Jackson. I work with the Office of Planning. And I'm presenting the report today on the requested special exception.

Subject property is a single-family lot located on Ellicott Street. If you will refer to the photograph and the

aerial and zoning map that was included in your packet, in the back of your packet, note that the lot is near the intersection of Reno Road.

It's a rather irregularly-shaped lot, however, it still comes close to the minimum lot size of 5,000 square feet. This lot also predates the current Zoning Code in terms of when it was actually created.

The property is a two-story masonry, single-family dwelling and surrounding properties in the area are primarily residential. The Applicant has asked to convert her basement to an accessory apartment.

In the conversion, the existing stair from the first floor, the basement mechanical room would be walled off. Access to the apartment would be through the existing basement door from the rear yard and through a new entrance from the side yard.

Note that the new entrance from the side yard would not be visible from the street because of an existing screening fence that runs along the front property line.

The proposed apartment would constitute about 15.9 percent of the total building area of 3,056 square feet based on the square footage that's on record with the D.C. Department of Tax and Revenue.

Basically, this special exception has to meet a set of standards that are outlined under 201.10, 202.10 in the Zoning

Regulations.

And to be brief, I'll go through those standards and indicate in how this application meets those standards.

The minimum lot area for this accessory use in R-1-B is 5,000 square feet. The lot square footage is a total of 4,747 square feet so it is five percent smaller than the standard.

However, as I stated before, the lot was created in 1939 so it predates the current Zoning Code. And again, the difference in the allowable size and the size of the lot is merely five percent.

The house has to have 2,000 square feet and the house, according to the public record, has a gross floor area of 3,000 square feet.

The accessory apartment may not occupy more than 25 percent of the gross floor area of the house and as proposed, this apartment would occupy approximately 16 percent.

The apartment shall be created through internal conversion of the house only without any additional lot occupancy or gross floor area and the garage space shall not be converted.

That is the case with this application.

The addition of the entrance should not be located such that it does not face the street. As I said, the additional entrance would be on the side yard and not be visible from the street.

The principal dwelling shall be owner-occupied and the Applicant has indicated that they plan to continue to occupy the building.

The aggregate number of persons who can occupy the house should not exceed six. Our Staff has recommended this requirement be a condition of approval since that is the case now and it is not anticipated to change.

The accessory apartment may not be added if a home occupancy has already been located on the premises. When I checked with the Department of Consumer and Regulatory Affairs, they were able to check records back for the last year and one-half. Permits issued prior to that were not available.

So based on that information, Staff concludes that there are no current home occupancy permits on the site and also recommends that that be a condition of approval.

And the Board of Adjustment has the authority to modify or waive no more than two requirements. Staff would support modification of the requirement for this site to allow approval of this special exception with the existing square footage of the lot instead of the required 5,000 square feet.

Based on this analysis, Staff believes that this application meets the requirements of 202.10.

And based on that, we think that the special exception, as conditioned, would be in harmony with the general purpose and intent of the zoning regulations and zoning maps and

will not tend to affect adversely the use of neighboring property.

We think it is consistent with the Comprehensive Plan. We note that the community comments as of the April 15th meeting were in favor of the proposal. Well, not -- were not adverse to the proposal. And we received no negative comments from other government agencies.

With that, the Office of Planning recommends approval of this special exception subject to the following conditions:

As stated before, the property at 3633 Ellicott Street, N.W. shall continue to be occupied by the property owner for the duration of the special exception;

The modification of the minimum lot area requirement should be approved by the Board to allow the use to be established on a lot that has 4,797 square feet instead of 5,000 square feet;

That no person residing on the subject property may make application for a home occupancy permit for the duration of the special exception use; and

That the aggregate number of persons on site should not exceed six.

I should note that the reason we are indicating adding these specific requirements as conditions to the special exception, although they are requirements of the -- that we

reviewed through the evaluation, but just to make sure that they're always very obvious to the property owner and any other person who resides on the property.

And with that, that concludes the Office of Planning report. And we're available for questions.

CHAIRPERSON GRIFFIS: Good. Thank you, Mr. Jackson, and I did take great note that you pointed out 2010I gives the Board the ability to modify or waive not more than two requirements. And you're indicating those two requirements, one of which, of course, is the minimum lot area.

I have a quick question. In terms of your wording on Condition No. 1, which is the property 3633 Ellicott Street, etc., shall continue to be occupied by the property owner. You mean shall continue to be owner-occupied. Isn't that correct?

MR. JACKSON: Yes.

CHAIRPERSON GRIFFIS: Okay. Just to be absolutely clear. You're not mandating that this Applicant needs to stay in the house for the duration of the special exception.

And then the aggregate number, I'll take it as the last condition that you said, we'll take it as -- well, as written, which is the aggregate number of persons that occupy the principal dwelling.

You just stated something else which would mean she couldn't have more than six visitors. But that's clearly not your intention.

So that's fairly clear to me. Let me ask the Applicant if first of all, you have any questions of the Office of Planning. And secondly, if you are absolutely clear of the conditions that they are proposing for this special exception.

And I would draw your attention to the home-occupation permit. Just to make sure that first of all, you understand what that is. And secondly, that you have no future intention on having a home-based business. And if you do, we should probably talk about that.

MS. GRAY: I asked my architect last -- I had a chance to review the report last week when I reviewed the file. I had a question about what that meant because I wasn't sure. And she indicated that it meant a home office.

CHAIRPERSON GRIFFIS: Right.

MS. GRAY: I work outside the home. I have an office in Dupont Circle. And I have no intention of having a home office in any near future as far as I know. So --

CHAIRPERSON GRIFFIS: Okay.

MS. GRAY: I've worked for the same company for 17 years, so --

CHAIRPERSON GRIFFIS: Okay. Good. That's a good clarification. Now the other thing that I have, I'd actually like to ask Corporation Counsel. In terms of most of these recommendations are actually following the regs at 202.10.

I'm wondering, do we have to, in a special

exception, condition it? Or is it by the regulation that it would have to be in compliance with this?

MS. SANSONE: Mr. Chairman, you would not, and I believe this is what Mr. Jackson just stated, you would not need to condition the special condition approval on compliance with the regulation.

However, if you wanted to make sure that in the future, as time goes by, perhaps future property owners or the Applicant wanted to go back and refresh their memory as to what the approval required, it could be stated either within the body of the Order or it could be stated as a condition.

CHAIRPERSON GRIFFIS: I see.

MS. SANSONE: There is no requirement to list them as conditions, however.

CHAIRPERSON GRIFFIS: Okay. Because clearly the recommendations are not far afield. They are following strictly the regulation. So what your point is is that it lends to clarification for future owners which, I think, makes some sense.

Mr. Zaidain?

MEMBER ZAIDAIN: I've got a question about the -- for Mr. Jackson, for the first recommended condition. Is it kind of OP's concern that throughout the duration of the special exception, this could essentially be turned into a multi, well, I don't know if multi-family is the right word to use, but to a two-unit apartment house? Is that basically the intent of that?

NEAL R. GROSS

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

MR. JACKSON: Yes, I think the intent of the regulations, as they currently stand, is to make sure that this is an accessory use to a principal single-family dwelling. The concern would be that this would no longer be an accessory to a single-family dwelling, it would become two apartments or maybe even more.

The normal regulations having to do with single-family dwellings or single-family residences, do have a limit on them of six people, which is where the six person requirement came from.

But it's just to make sure that we don't have an upstairs apartment and a downstairs apartment. And the Applicant indicated clearly that that isn't her intent.

But, again, looking long term, we want to make sure that anybody who acquires the property in the future is aware that this is a requirement and, as such, would not be encouraged to violate it for lack of knowledge.

And also, to make it easier to enforce if there is a situation where there are two apartment dwellings, they can just go back to this approval, the Final Order. And it would clearly state what should be the situation on site.

MEMBER ZAIDAIN: Mr. Chair, can I ask a question of the Applicant?

CHAIRPERSON GRIFFIS: Of course.

MEMBER ZAIDAIN: How many bedrooms are in the main

use, the main single-family dwelling?

MS. GRAY: There are three on the second floor.

MEMBER ZAIDAIN: Okay.

MS. GRAY: And there is an attic space which is finished which is also used as a bedroom space.

MEMBER ZAIDAIN: Okay. So four?

MS. GRAY: Four.

MEMBER ZAIDAIN: Essentially?

MS. GRAY: Yes.

MEMBER ZAIDAIN: Okay. Thank you.

CHAIRPERSON GRIFFIS: Okay. I think the actual designation that OP is trying to ensure that this wouldn't become a flat.

MR. JACKSON: Yes.

CHAIRPERSON GRIFFIS: And that this would maintain an accessory-use apartment. I think that's fairly clear. Any other questions of OP at this time?

MS. GRAY: I don't think so.

CHAIRPERSON GRIFFIS: Okay. Board members?

(No response.)

CHAIRPERSON GRIFFIS: Good. Let's move on then. And we do have a report from DDOT, which is now the Department, no longer the Division. But that means a lot to some and maybe not anything to anybody else.

But that being said, let's go to Mr., I think Mr.

Laden filed the report and it is in -- let me summarize quickly on the May 6, 2002 Exhibit No. 29, the review of the application did not identify any adverse traffic or parking impact associated with the proposal. And accordingly, DDOT has no objection.

We can move on to DHCD. DHCD submitted a report. Did we get clarification about why we have a DHCD report?

MR. JACKSON: Mr. Chairman, the Office of Planning asked them to comment on this.

I think in instances where we're looking at a change in a single family, the clear single family character of an open area or instance where there might be some impact on the long-term goals in terms of providing affordable housing, we often times will send the applications to DHCD just to see if they had any comments on them at all. And this is one of those cases.

CHAIRPERSON GRIFFIS: Okay. Well, Mr. Jackson's memo to the Board, dated May 6, 2002, Exhibit No. 26, indicates that they've reviewed the application and supports the application based on the following statements.

And they give five statements which follow that in the Office of Planning reports. And in the outline description of the project by the Applicant.

Do you have any questions on these reports?

MS. GRAY: I just don't understand who the entity is you just referred to.

CHAIRPERSON GRIFFIS: The Department of Housing and Community Development.

MS. GRAY: Okay.

CHAIRPERSON GRIFFIS: Interesting to see it. All right. But they are in support. That's all I have for government reports. Let's move on to ANC, which is ANC-3F, which also supports the application. Ms. Renshaw, do you have that?

MS. RENSHAW: We have a letter from -- or a resolution from ANC-3F, signed by both Kathy Widst, the Chair, and David Bardine, the former Chair and now the Secretary.

And it states that 3F does not object. It's not supporting and it's not against. But the ANC-3F does not object to the BZA issuing a special exception for an accessory apartment in this case.

And I'm just looking here to see when they met. It doesn't say. But they voted, yes they did, they voted 6-1-0 at a duly-noticed public meeting with a quorum present on April 15, 2002.

CHAIRPERSON GRIFFIS: Good. Okay. Do you have any -- the ANC member is not here, is that correct?

(No response.)

CHAIRPERSON GRIFFIS: Okay. All right. Let us go to persons or parties in support or in opposition actually. Anybody that wants to testify in this case, why don't you come forward now? That would be great. And also, Ms. Gray, if you

want, after testimony, you have cross examination ability --

MS. GRAY: Okay.

CHAIRPERSON GRIFFIS: -- of any of the witnesses so if you -- I can walk you through that if --

MS. GRAY: Okay, thank you.

CHAIRPERSON GRIFFIS: -- you don't understand. And good morning to you, gentlemen.

MR. KIRSCH: Good morning. Thank you for allowing us to participate.

CHAIRPERSON GRIFFIS: Of course.

MR. KIRSCH: This is Paul Barry, 3628 Everett Street, very close by. And my name is John Kirsch. And I live at 4923 Nebraska, yes, but I won't eliminate the Northwest 20008 from that.

CHAIRPERSON GRIFFIS: Okay. And in that we don't have a large plan, do you want to just indicate kind of adjacency to the Applicant's property?

MR. KIRSCH: Okay. I -- that was my --

CHAIRPERSON GRIFFIS: Is that what you're doing?

MR. KIRSCH: Yes.

CHAIRPERSON GRIFFIS: I will let you continue then.

MR. KIRSCH: I will do that. Our concerns are the use of single-family homes for other than single-family usage, multi-family rental units, group houses, student houses, dorms, frat houses, things like that.

As Alison said, we may not be focusing specifically on her situation, but the general situation that exists. Paul is probably less than 100 yards from the particular house, if you need to know that. And I'm probably, you know, within the same range.

But our situation is that in the immediate area, less than a block away from us and maybe less than 100 yards in some cases, we have had as many as six group homes, okay?

At 3626 Everett, next door to Paul, 4919 Nebraska, next door to me, 3626 Fecendent Street, around the corner from me, you know, less than 100 yards, and 4831 Nebraska, which might be a block and one-half away.

And 4927 Nebraska, next door to me, and 3631 Everett, right behind me, were group houses within the last couple of years.

So at one time, within the last five years, I was completely surrounded with group houses in what started out as a total single or as a single-family neighborhood. Now I probably can't go back 50 years and say that there wasn't something else there.

So right now, I have an AU Frat House within a few doors of me, six to eight people living next door with their attendant motorcycles and each has a vehicle.

Paul has probably four to five people and as many as eight in the house next to him. And I don't know how many

people live at 4831 Nebraska.

But they have converted their front lawn to a parking lot. And there's a big parking lot there, you know, that you may -- are you familiar with that if you've been in the neighborhood?

Okay. So -- and there is always any number of cars there and that may be an AU Frat House. Okay. The problems, of course, with this are overloaded facilities, parking, which is a big problem, and the little or no maintenance that comes with these kinds of places.

The frat house at 3626 Fecendent is really a problem. You know, they have nice sofas that they leave outside all year long and sit on. I think it has since been moved after our last -- and, you know, there are any number of little animals that live in there.

The unruly behavior that comes with things like this. On December 8 of last year, there were 200 people at a party there.

They were selling big cups that commemorated the date. The police were -- there were eight or ten police cars there at any one time. And so --

CHAIRPERSON GRIFFIS: Hopefully not engaged in the party.

MR. KIRSCH: No, no, no.

CHAIRPERSON GRIFFIS: Okay. Good.

MR. KIRSCH: No, they were on the street. And, you know, so they were using our yards and that for, you know, recreational and health facilities and --

CHAIRPERSON GRIFFIS: Let me ask you a quick question on these houses because what I'm going to need to do is just kind of focus your attention to --

MR. KIRSCH: Sure. And I'll get through it quickly.

CHAIRPERSON GRIFFIS: Right. Because we don't have any control over that. You painted a picture which is important to us.

MR. KIRSCH: Yes.

CHAIRPERSON GRIFFIS: And I appreciate that. Do you know if these are matter of right group housing?

MR. KIRSCH: What is that?

CHAIRPERSON GRIFFIS: Do you know if they're actually legal under Zoning?

MR. KIRSCH: I don't know that.

CHAIRPERSON GRIFFIS: Okay. Maybe you can get that. Well, don't let me interrupt the flow.

MR. KIRSCH: Paul will speak --

CHAIRPERSON GRIFFIS: If you want to just continue on.

MR. KIRSCH: Yes. And I don't know that --

CHAIRPERSON GRIFFIS: Okay.

MR. KIRSCH: And to be very -- to get to the point is, this -- by having this notice to be here, you've given us the opportunity to speak to someone who will stare and look back at us and that. So that's why we're here, you know, we've been, you know, calling faceless people and things like that. But --

CHAIRPERSON GRIFFIS: Oh, and before I forget --

MR. KIRSCH: So --

CHAIRPERSON GRIFFIS: -- this is something -- this is not involved in this application. But I think it may be important for you if you have time right after this to go into the Office of Zoning, familiarize yourself with how it works.

MR. KIRSCH: Sure.

CHAIRPERSON GRIFFIS: Because you can actually look to properties and you may even have an opportunity to talk to a staff member about specific properties, whether they have any sort of relief granted, whether they are matter of right. And that may help you in terms of continuing dealing with some of the problems.

MR. KIRSCH: Right. And these problems go up and down. I mean the group of people next to me now are very nice people, you know, except they don't own it and they have all sorts of activities going on there. And they're good enough. The frat house isn't.

Okay, let me go on. So we see these sort of activities here as the first step to more multi units. You know,

you say you can put six people in this house, okay, so make the basement into a six unit.

Or make the up -- the second floor into a, you know, four people living there and rent it out. And then someone live in the basement.

You know, so it all starts out innocently. Next door to me, the house immediately next door, 4927 Nebraska, the guy built a basement apartment in there. I'm sure he didn't apply but had his daughter in there and that was fine and, you know, nice kids and all that kind of stuff.

So he moves on, sells it, and immediately this thing is advertised as a two-unit building, you know, with the real estate person coming around, you know, live in the bottom, rent the top, this, that.

And, you know, I got in their faces a little bit and they changed it. But then they made it into a group house for probably two or three years.

It has since converted back, someone bought it and it's back to sort of single family in there now.

But it all starts out innocently. You know, I may want to put my grandmother, if I had one, in my basement someday, too. But --

CHAIRPERSON GRIFFIS: And I think the difference with this application --

MR. KIRSCH: Yes.

CHAIRPERSON GRIFFIS: -- is two-fold. One, it may start out innocently but whether they went through, actually, the proper relief --

MR. KIRSCH: Oh, they did.

CHAIRPERSON GRIFFIS: -- they probably did not.

MR. KIRSCH: No, they did actually go through -- I mean we credit Alison for --

CHAIRPERSON GRIFFIS: Well, and that's my point is this application is actually doing that.

MR. KIRSCH: Sure.

CHAIRPERSON GRIFFIS: And you note, I'm sure you noted the Office of Planning's report. And they are very concerned.

MR. KIRSCH: No, no. We --

CHAIRPERSON GRIFFIS: In fact, the regulations are very --

MR. KIRSCH: Right.

CHAIRPERSON GRIFFIS: -- direct and stringent, in fact, with this kind of accessory use. And that's why they are asking for the condition --

MR. KIRSCH: Sure.

CHAIRPERSON GRIFFIS: -- of the property to be owner occupied.

MR. KIRSCH: No, we understand that.

CHAIRPERSON GRIFFIS: Okay.

MR. KIRSCH: We understand that this one went through. Now, I doubt if these others have gone through. Those 6, when there were the 6, were probably out of 20 houses, probably 30 percent of the immediate area was group housing. And that, you know, might have been 6 out of 25. But they were all very close.

So anyway, the other one, 3631, which Paul will get to, Everett, across from him, which was a group, that was also marketed as a group house until we went in and complained to the real -- you know, they were market -- it had been one so they were marketing it, you know, and telling people how they could make a lot of money on it and do all these things like that.

CHAIRPERSON GRIFFIS: Well, I think after today --

MR. KIRSCH: But anyway --

CHAIRPERSON GRIFFIS: -- you are going to have the resources to combat that, if you have issues. Because you are going to get a contact in the Office of Zoning that you are going to be able to talk to and they can help you through any of the specific properties.

MR. KIRSCH: Okay. All right. So briefly, summary, our primary concern is this evolution from a single-family neighborhood to, you know, to these other activities. To a commercial neighborhood, as such.

Paul Barry, who I introduced earlier, has a few comments.

CHAIRPERSON GRIFFIS: Okay, before we go to him, let me ask you the direct question.

In light of what you've heard today and your understanding of this application, are you -- what is your position with this specific application, noting, and the Board clearly notes your concern with --

MR. KIRSCH: Yes.

CHAIRPERSON GRIFFIS: -- the changing character of the neighborhood that might be, but noting that this will be in compliance with the conditions as set forth in 2002.10, which would require, of course, an owner-occupancy and accessory unit down below.

What is your position on the application today?

MR. KIRSCH: I don't want to beg off on a position, but Paul will cover that in his conclusion, our positions on that specifically.

CHAIRPERSON GRIFFIS: Okay.

MR. KIRSCH: Okay.

CHAIRPERSON GRIFFIS: So you'll be joined in your position.

MR. KIRSCH: Does that make sense? That he has it?

CHAIRPERSON GRIFFIS: Great. Okay.

MR. BARRY: My name is Paul Barry. And I live on Everett Street, which is the next one -- our yards back up on the same alley with Alison.

I, too, want to commend Alison for going through the proper procedures. I do know that none of those group homes were legal.

And, in addition for example, the one next to me when I moved in, I knew that it was an owner-occupied place in which the owner, who we had met and talked to quite a bit before we bought the house, was allowing other people, who were supposedly close friends, to live in the house.

As it turned out, that wasn't exactly true. She did live in the house and occupied the first floor. But -- and nothing was advertised, but the turnover of four or five other people kept going on and on.

When she sold, she sold to a single-family owner, someone working for a foreign embassy here in Washington. We met -- she went through the trouble of introducing us to the family buying the house, who assured us they would live in it as she had.

And, in fact, their family was large enough, they would not be renting any part of it to anyone else.

It turned out, although it was true that this family worked for a foreign embassy, they had no intention of living in it. One lives in Italy and one lives in Australia.

That same thing is true. I've been maintaining that property for 26 years because no one else will. So I do have some general concerns with what happens.

Now, I went through a lot of trouble to try to get the proper channels to get that problem taken care of. And not ever being able to get a hold of any of the owners, nothing happened to it. So, I kind of gave up on that.

What I did do, as Jack mentioned, when I -- when a home went on sale again, I would talk to a realtor and say, "Since you know that it's not legal, then don't advertise it that way. And you make sure that it goes to a single-family owner or someone who intends, at least, to live in the property."

And interestingly enough, there were three realtors involved over a period of time. They all said, "Why, I never heard tell of such a thing. I had no idea that this had been an illegal house but I'm glad you told me."

So that's -- I say that only to say that that's one of the reasons we've been able to retrieve some of those homes.

But my biggest concern, if I can put it -- about what -- even though Alison has done an exceptional job of making it clear the specific and limited purposes for which she wants to put this addition on, I disagree with VDOT that there's no parking problem in our specific area.

Our couple of streets in a row there have a serious problem because there are so many apartment buildings nearby. You can't come home after ten o'clock at night and get a parking place. Not in the last two years.

One of the thing that happens is a lot of times

when you have some people in apartment buildings who have zone stickers that they shouldn't have. How they get them, I don't know. But that's a problem.

The meter maids come around about once a month, at the most. So it's worth paying 120 dollars a year to get six tickets or so for the year and park in front of my house all year. So we do have some problems with parking.

It's our experience, of course, that wherever you have one person more in a house, you don't necessarily only have one vehicle. They do have visitors, they do have -- ours is considered a safe street, traffic-wise, my street.

Alison's is a little more busy, but nonetheless, it's a safe street because it's close to Connecticut Avenue and it's close to Nebraska on the other end. So that we -- the more people that we have that -- it does cause a bit more of a problem than we have now.

CHAIRPERSON GRIFFIS: Let me just address that before we get too far.

MR. BARRY: Sure.

CHAIRPERSON GRIFFIS: In the report submitted by Mr. Laden, and I would also encourage you to look at the letters in the case file, but DDOT is not indicating that there is no parking or traffic problems in the area. I think they'd be the first to --

What their specific point was that because the

Applicant -- the house has a garage that can accommodate two cars, that they don't anticipate that there's any adverse parking impact associated with the proposal.

So basically with the zoning regulations, what would be required and what they're looking at in terms of common sense, if there is parking available.

But again, that doesn't -- clearly doesn't address if there are larger impacts with, you know, the increased density or the illegal parking.

MR. BARRY: Okay. The -- so that, as I say, my concern, another concern that I have is we know that there have been a lot of informal renting, so to speak, in other words people who do not ask for exceptions and go through the legal way of doing that.

And most of them don't talk about it. But we know they're supposedly all friends and what have you. With the -- if one exception is granted, I've heard you very clearly that, you know, it has to be very specific.

And Alison has told me, obviously, it takes an awful lot of work to get it done and get it done the right way. But nonetheless, in my view, it might encourage other people to do the same thing. If they see it granted once.

We have the -- it was mentioned here today, that we have a very varied neighborhood. But in one sense, we don't. Other than a church and the attendant schools that are nearby,

there aren't any homes, themselves, that are anything other legally than single-family dwellings. And it's been that way.

Because we're so close to, on both ends, to Connecticut Avenue, which has commercial property, and on both sides, north and south of us, because that's true, I think that granting any use for specifically, legally that it is, for rental purposes, tends to see a neighborhood begin to do the same thing.

We have a, you know, we have blocks not that far away from us that have gone one by one, by allowing rental units one by one. And then other people granting it.

It turns into an area that is looked at as a small area that will be -- and the single-family dwelling classification may very well be taken away from a whole area if you have too many of these types of rental units allowed.

And that's why I say it's the first time that we've had a chance to say, you know, there have been many, many things done with regard to several of those group homes to try to get the problem taken care of.

But I'm willing to admit right along with the Zoning people that it's not an easy thing to do. The police had came out several times but said we can't find an owner to talk to and we can't find -- and although this woman who lives and her husband who live in Australia and sometimes in Italy, they have a manager.

But she's not officially a manager. And she

refuses to admit she is a manager, although she collects the rents. She refuses to take care of the property because she's not a manager.

I mean she knows that I know. And the owner knows that I know. So we've had some of those problems and, you know, you get -- you work on them and you get tired and you kind of drop it.

So we've been successful in taking care of it by other means. And this is just another concern we have generally for our neighborhood. We did not -- Alison came and asked me specifically if I would sign a statement saying I had no objection, which was what was presented to the ANC.

And, unfortunately, I didn't see the notice for the ANC meeting. So I wasn't there.

But nonetheless -- and I don't know whether they knew that I was going to, myself anyhow, was going to present, you know, some objections or concerns about the application.

Thank you.

CHAIRPERSON GRIFFIS: So where are you in your position on the application?

MR. BARRY: My position is -- or our position is that because of what I fear for -- regardless of what you may say --

CHAIRPERSON GRIFFIS: Yes.

MR. BARRY: -- what may happen in the future --

CHAIRPERSON GRIFFIS: Yes.

MR. BARRY: -- I object to the granting of the application.

CHAIRPERSON GRIFFIS: Okay. Thank you very much. And thank you both for your time here.

You've raised quite a few issues. And I think that they -- most of which go beyond the scope and our jurisdiction for this particular application.

But I want to address a couple of them. First of all, in terms of the, let's call it the domino theory of the one building goes and thereby the rest may tend to go.

I would point -- and I think it would be worth you getting a quick overview from Zoning staff in that you have a zoning designation of R-1-B.

There are certain limitations that will always be inherent in that. And I would probably guess that the areas that you've seen change in terms of units and rental units that are adjacent that you might be talking to are probably in a less restrictive zone.

In fact, there's an R-2 zone that abuts your R-1-B, which is less restrictive and so obviously it goes higher and conceivably it continues after that. My point being that we do not set precedent, which I've stated.

More importantly, we do not write the zoning regulations. We are not allowed to change zoning regulations.

That's the Zoning Commission.

And if, in fact, it was -- if, in fact, we did something that then let everyone else in the neighborhood start putting in multi units, that would, in fact, be changed in the regs and we would have no jurisdiction. And frankly, we would be taken to Court by probably close to a hundred people.

I'm not sure if that's clear to you but my point being it's important to note that -- why I say we don't set precedent. It is exactly that.

Because we cannot set precedent. Because we cannot, by right, give people the ability to do what we may grant or may not grant today. Or at any other time.

The other issues bringing up in terms of the group homes, group homes clearly are a concern for numerous neighborhoods, if not all neighborhoods. And depending on who has the houses and all that. And I won't get into that. It's very complex.

But I share your concern. And I would just focus your attention to what the legalities of these that are in the neighborhood, as I stated, you need to focus on the definition of family, family goes to whether it -- the number of occupants in a building. And that will make it legal or not legal, depending on that.

Again, Staff, I think, will bring more clarification. But I think that's the important piece to go to.

The other direction, and it's the last I say because it's outside the scope of this application, is I'm sure you're doing it, but clearly copying your Council Member on everything that you do would be very helpful.

The other piece is the fact that there are numerous agencies that will need to focus their attention on each of these specific properties. You know, from property maintenance that may be DCRA or Building Code and such.

There may be zoning issues. And there are obviously issues that the metropolitan police would be concerned about and perhaps the fire department also.

And that's where I think a Council Member can bring all of those together, helpfully, and have it focused, rather than having individuals kind of take a stab at it and not really know whether they have control or change it. That being said, let us go to -- did you have questions? Yes?

MS. RENSHAW: I just wanted to say to Mr. Kirsch and Mr. Barry, this is outside the scope of this application, but just to urge you to keep in touch with the ANC, specifically your single-member District Commissioner who can, on your behalf, take up these issues with the City government.

So that where you said you were at least talking to someone today, face to face, you would have a single-member District Commissioner with whom you could discuss these matters face to face.

And I do want to say to the Board that we are experiencing in this ANC and in my ANC, properties that go rental and the owners are out of the area and these properties do have a rapid changeover and often are group homes. So I can sympathize with what has been said today.

CHAIRPERSON GRIFFIS: Good, thank you, Ms. Renshaw.

MS. RENSHAW: Yes.

CHAIRPERSON GRIFFIS: Just to note it again, someone is paying the taxes on this. And so they have to have an address. So the City knows where they are reaching to owner or the owner's agent. So, yes, Mr. Zaidain?

MEMBER ZAIDAIN: Mr. Chair, it is my understanding, have you seen the Office of Planning report and the recommendations that they are recommending that we add to the approval if we grant it? In terms of keeping it owner occupied and limiting the amount of people in there? Have you seen that?

MR. KIRSCH: We haven't seen it. We heard it.

MEMBER ZAIDAIN: Okay. And you don't think -- you don't feel that that will help alleviate the situation in terms of this particular property or address your concerns?

CHAIRPERSON GRIFFIS: I'm just going to turn your mic if you talk.

MR. BARRY: I can't say that it won't -- some of the things I heard certainly alleviate some of the things that I had in mind, yes. But -- and I brought the group homes up not

because they are the best or the worst example.

But because I don't think any one of them started out as a group home. They started out by allowing one person in and then that person knew someone else and what have you.

MEMBER ZAIDAIN: Right.

MR. BARRY: So I'm just saying that allowing anything officially for rental purposes is the only time, if that's the only one that's going to be in our area where something has been granted officially. And when anything is granted officially, my antennae go up.

And I say there will be other people who think it may be worth their while, they're allowing someone to stay there for 300 bucks or 400 bucks now. But if they put in a good unit, then it could be 750. So it may spur other people on.

And as you say, they are all considered on an individual basis but I'm sure that if I wanted to do it tomorrow, I would certainly cite the fact that you had granted one for Alison.

CHAIRPERSON GRIFFIS: True. But you'd also be required on a 2002.10 to have it owner occupied.

MEMBER ZAIDAIN: Right.

MS. RENSHAW: Yes.

MR. BARRY: Yes.

CHAIRPERSON GRIFFIS: Okay.

MEMBER ZAIDAIN: And if it were not to become owner

occupied, then it would then it would --

CHAIRPERSON GRIFFIS: Right.

MEMBER ZAIDAIN: -- the special exception would discontinue.

CHAIRPERSON GRIFFIS: So, right.

MEMBER ZAIDAIN: Right?

CHAIRPERSON GRIFFIS: So if it was rented out, the special exception would be void. And, in fact, they wouldn't be able to rent it.

MEMBER ZAIDAIN: Okay.

MR. BARRY: All right.

MS. RENSHAW: Mr. Chairman, I'd like to ask Mr. Kirsch and Mr. Barry whether they discussed with the Applicant whether or not her potential renter was going to definitely use that one space in the garage, thus keeping a car off the street? And whether she had agreed to one person only in the basement unit?

MR. BARRY: Let me answer that. Alison was very good about coming around to each of us within the boundaries that she thought were included. And then specifically for me, we had quite a long conversation.

She made all those things very clear to me. And I said to her at the time, I'm not sure I will officially object, but I certainly have some concerns that I'd like to -- and I told her what my concerns were. So, yes, she made that very clear.

I personally don't think that -- we have about eight or nine people who have a garage. No one uses them as a garage at the moment but -- it's not easy to go in and out of the garage all the time. But hers is one of the easiest ones to go in and out of, I'll grant that.

But nonetheless, when you -- no matter where you live, you do have visitors and other people coming around. And one car draws a couple more usually. At least for periods of time that make it difficult in parking when you go home at night.

MS. RENSHAW: I don't believe the Applicant and Mr. Kirsch and Mr. Barry know that we're going to have additional cars in the neighborhood because of the closure of the Tinley Firehouse.

And the truck is going to be housed, at least as we understand now, over at Engine 31. So there will be at least four additional cars in the neighborhood per day from the different platoons working on the truck or assigned to the truck unit.

MR. KIRSCH: We would save the firehouse issue for another time and forum.

CHAIRPERSON GRIFFIS: I think that's a great idea.

MR. KIRSCH: We have concerns with --

MS. RENSHAW: Indeed, indeed. But again, any concerns go to your ANC person --

MR. KIRSCH: Yes.

MS. RENSHAW: -- and appear before your ANC please.

I was just pointing out that there will be additional cars in the neighborhood.

MR. BARRY: Thank you.

MR. KIRSCH: Being washed in the parking lot there at all hours, and flooding the back yards, and --

CHAIRPERSON GRIFFIS: All right. A quick clarification for the record, I cited 2002.10, which I meant 202.10. But hopefully everyone else knew that. Okay.

Anything else? Any other questions? Okay. Let's hold for two seconds. Let me just run through the rest. And gentlemen, thank you both very much for taking --

MR. BARRY: Thank you.

CHAIRPERSON GRIFFIS: -- the time to come down today and express your concerns. And let us go to the petition -
-

MR. KIRSCH: Thank you.

CHAIRPERSON GRIFFIS: -- that is in the file which also was submitted by Ms. Gray, which is indicating 24 signatures in support of the special exception application and addresses going down them range from Ellicott to Reno to Everett, Nebraska, and that is on file.

I don't believe anyone else -- oh, I'm sorry, I don't mean to overlook you. Go ahead please.

MS. RACKI: Thank you very much. My name is Reena

Racki. And I live at 3754 Jocelyn Street, N.W. and I'm an architect. And my office is at 5520 Connecticut Avenue, N.W.

First of all, I wanted to say is my house is one block off Connecticut Avenue. And I think in the zoning or in a city, when you have major avenues with commercial use, multi-family housing, retail and so on, if you live close to an avenue, there are the advantages of public transportation and the amenities of that avenue.

But the disadvantages are that you do have additional traffic. On my street, there's additional traffic. But we don't object because we can walk to all those amenities on Connecticut Avenue.

And it does make sense to have a higher density on the major avenues to support the commercial and it gives the communities a sense of community.

The other thing that I wanted to mention is as an architect in northwest Washington, I go into many, many houses. And I find that there are many, many illegal apartments in the basements of these houses.

And what concerns me always that these are - they're there and they're a fire hazard. Usually they aren't two means of egress. There are no fire separations. And very occasionally, there is a fire and somebody gets killed.

So I think Alison's attempt to do everything according to the strict aspects of the law, that is the way I

always recommend doing things.

And I do feel that the City should be supportive of different family types. Alison is a single mother with a small child. She lives in the house by herself.

And having another person living in the basement will be very helpful to her. She has no intention of having more than herself, her daughter, and one person in the basement.

And I think just as probably the District of Columbia would also support a granny unit to -- there are many different kinds of families today and if somebody applied for a special exception for their grandmother or their mother to live in the basement, and they were going to do it legally, I think that should be supported.

Things that have already been mentioned are that the change to the accessory apartment will not affect the exterior of the house in any way. It's entirely interior. The house is about 3,000 square feet and the apartment is less than 500.

So I don't think there will be any crowding in the house or in terms of cars on the street because Alison has a car.

And if the tenant has a car, there's a space for them. So they would be just like a single family.

If they have visitors, there will be more cars on the street. And I don't think one can really object to traffic and parking when you live so close to a major avenue.

NEAL R. GROSS

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

I think the same thing would apply on Wisconsin Avenue. There's higher-density housing there and they are going to park on the side streets.

And that's why I support -- when DHDC supported in favor of this application, I agree with them. Because I think there's a tremendous shortage of affordable housing in the city.

And affordable can be a teacher or a fireman or a student. And this kind of accessory apartment, if properly done and legally done, contributes to affordable housing in the proper manner.

As I said, in opposition to the hundreds and hundreds of houses that I've seen that have illegal units in the basement, which are a real fire hazard. So those really are my main points.

CHAIRPERSON GRIFFIS: Good. Thank you very much. Questions Board members?

(No response.)

CHAIRPERSON GRIFFIS: Do you want to, Mr. Zaidain, why don't you pose your question to the Applicant. She can come back up to the table and we --

MEMBER ZAIDAIN: Actually I think --

CHAIRPERSON GRIFFIS: -- can prepare for her closing.

MEMBER ZAIDAIN: -- Ms. Racki cleared up the -- there is a two-car garage there. And you only have one vehicle.

So you will be making one space available for whoever rents the apartment?

(No response.)

MEMBER ZAIDAIN: Okay. And just another point of clarification to make sure I understand. There's one means of ingress and egress to this apartment aside from going through the house or whatever? Correct?

MS. RACKI: There will be two legal means of egress from this apartment. It will not be the stair that's inside the house.

MEMBER ZAIDAIN: I'm sorry, could you repeat that?

MS. RACKI: The main stair in the house, the central staircase --

MEMBER ZAIDAIN: Yes.

MS. RACKI: -- will not be the means of egress. We are having two additional means of egress.

MEMBER ZAIDAIN: Okay. That lead to the outside --

MS. RACKI: Lead directly --

MEMBER ZAIDAIN: -- outside of the house?

MS. RACKI: -- to the outside --

MEMBER ZAIDAIN: Okay.

MS. RACKI: -- so you don't have to go through the house because if there's a fire in the house, there's no -- it really wouldn't work.

MEMBER ZAIDAIN: So there's a rear and the side, is

that what we're talking about?

MS. RACKI: In the rear and at the side, yes, exactly.

CHAIRPERSON GRIFFIS: There's an existing rear and you're going to be adding a side entrance?

MS. RACKI: Yes, exactly.

CHAIRPERSON GRIFFIS: Why don't you come up, Ms. Gray, because none of that got on the record.

MS. GRAY: In response to your question, I was just saying there already is an existing rear door to that --

MEMBER ZAIDAIN: Okay.

MS. GRAY: -- space.

CHAIRPERSON GRIFFIS: Right. And just to recover it, you will be adding a side?

MS. GRAY: Right.

CHAIRPERSON GRIFFIS: Okay. And I think the plans submitted show that. Is that correct?

MEMBER ZAIDAIN: Right. Yes, they do.

CHAIRPERSON GRIFFIS: Okay.

MS. RACKI: They do.

CHAIRPERSON GRIFFIS: So we have that on the record. Okay. Any other questions at this time?

(No response.)

CHAIRPERSON GRIFFIS: Then I would give you the opportunity to make any sort of closing remarks that you wanted,

if needed. Not required.

MS. GRAY: I don't think I have many closing remarks. I would just like to say that I sympathize with Mr. Barry and Mr. Kirsch also.

As a home owner in that area, I don't want to see it turn into a neighborhood of group homes.

And I think, just to reiterate what Reena said, I'm trying to do it legally. And I want any tenant that I'm allowed to have to be safe.

And I don't think I should be penalized for doing it legally as opposed to illegally, to put it bluntly.

So, I appreciate you giving me the opportunity to speak today.

CHAIRPERSON GRIFFIS: Yes, that is the double-edged sword when you come forward, you often run into problems. But -- and we appreciate it and obviously we advocate for doing it legally.

And I think this is an interesting situation that you've got neighbors that can come and, not in great viciousness but in good concern and articulation, raise some major issues for the overall area.

MS. GRAY: Yes.

CHAIRPERSON GRIFFIS: Okay, I would move approval of the Application 16872 of Ms. Alison Gray for a special exception to allow an accessory apartment under subsection 202.10

at the premises of 3633 Ellicott Street, N.W. I would include, with the motion for approval, the recommendations of the Office of Planning.

And I think it would probably be pertinent to make them conditions on the special exception, clearly noting that we are just reiterating the standing zoning regulations. And that this -- and any other, but this specific application would have to be in compliance with that.

Those conditions I think that ought to be stated in the Order would be that the property, 3633 continue to be owner occupied, and that no persons residing in the subject property would make application for home occupation permit, and that the aggregate number of persons that occupy the principal dwelling and the accessory apartment combined would not exceed six.

I think it is clear in the -- that in taking action on this special exception that we are waiving the requirement of the minimum lot area. Clearly it's been shown -- well, let me have a second. And then I can speak to the motion.

MS.RENSHAW: Second.

CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw. Clearly, I think the information given in the application shows that this is an interior renovation thereby not affecting any of the FAR, lot occupancy or any other issues that may be associated with the lot coverage.

It is a standing lot area which was constructed, as

OP indicated, in 1930. So it's an existing condition. It is not changing.

Okay, others?

MEMBER ZAIDAIN: I have a suggestion. It seems like we may be able to add a condition to address some of the parking things. And I just wanted to get the Board's reaction to possibly adding a condition saying that one space in the two-space parking garage must be made available to the rentee or whatever of the apartment. And I wanted to see what the Board's reaction was to that.

CHAIRPERSON GRIFFIS: That the parking space should be available for -- does the Applicant have any objection or comment on that?

MS. GRAY: I don't have any objection to that. It makes sense for the occupant, the tenant to use the garage parking because the rear entrance is along with the garage.

CHAIRPERSON GRIFFIS: So they're going to be entering the site from that way.

MS. GRAY: So they would be using it.

CHAIRPERSON GRIFFIS: All right. I mean I don't have any objection to that. We can make that a condition.

MEMBER ZAIDAIN: Yes, I'm just suggesting it as a condition that might provide some level of comfort to --

CHAIRPERSON GRIFFIS: Okay.

MEMBER ZAIDAIN: -- making it a condition.

CHAIRPERSON GRIFFIS: Okay. Ms. Renshaw, you --

MS. RENSHAW: Yes, another comfort condition, so to speak, and that is to require that this 487-square foot apartment unit be for one person because of the small space.

CHAIRPERSON GRIFFIS: I don't think --

MS. RENSHAW: And that ties into the parking, one car for that person.

CHAIRPERSON GRIFFIS: Right. Without creating conditions that one, are hard to enforce and two, may be beyond or may be covered by others, be it Building Codes and reality, frankly, I think we've put an occupancy on the entire structure.

And I think that is strong enough and it goes to the regulations that are stated. To make an additional provision on that --

MS. RENSHAW: But the occupancy for the entire structure is six?

CHAIRPERSON GRIFFIS: Correct.

MS. RENSHAW: And there are two in the family.

MS. GRAY: Correct.

MS. RENSHAW: And that leaves the possibility of putting four in the basement. And I think with that small size -

-

CHAIRPERSON GRIFFIS: I think we could probably get

--

MS. RENSHAW: -- I would --

CHAIRPERSON GRIFFIS: -- the housing inspectors out there for that.

MS. RENSHAW: -- I was just suggesting that it be limited to one and that would be in conformance to the parking arrangement, the use of one space in that garage.

CHAIRPERSON GRIFFIS: Well, I don't want to take a long time because if we actually go to that, if we go in our jurisdiction, if we go to zoning and if we look at one unit or we look at units and then the parking requirements on it, we would actually -- they would actually be over what would be required if we start doing multi units. They'd have -- depending.

But, you know, right off the top, you usually have one parking space for two units, depending on the zone districts.

So I'm not sure there's a direct tie there that we could go to to limit the unit.

I can't imagine your anticipation is that more than two people would be living in a 483-square foot apartment. Is that correct?

MS. GRAY: That's correct.

CHAIRPERSON GRIFFIS: Yes.

MEMBER ZAIDAIN: It seems like that would be a Building Code issue.

CHAIRPERSON GRIFFIS: I think it would be.

MS. RENSHAW: Well, we've counted in the neighborhood with many more than that in basement apartments.

And could not get it changed, even with asking inspectors to come out and take a look.

CHAIRPERSON GRIFFIS: So you've had like three or four people in a small apartment?

MS. RENSHAW: Five.

CHAIRPERSON GRIFFIS: One bedroom?

MS. RENSHAW: Five.

CHAIRPERSON GRIFFIS: Five?

MS. RENSHAW: Yes.

CHAIRPERSON GRIFFIS: Well, again, I think there are other agencies that have direct jurisdiction over that. And I think that the size will actually limit the occupancy. And we will limit the occupancy based on 202.10. And that would be keeping it to not exceeding six persons, which I can't imagine that would ever even get close to.

MS. RENSHAW: However, this runs with the property.

And I'm just concerned that should the Applicant sell her home and move away from the area, then someone who buys her property would then also have the right to continue a rental apartment in the basement. And they may not be as, shall we say, as sensitive to the neighborhood as the Applicant, Ms. Gray, is.

So I just think in line with the concerns that the Office of Planning has recommended to the BZA to place on this application, that we also keep in mind that this unit would be best for no more than two. And put that in as a condition.

NEAL R. GROSS

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

Because the Applicant today has stated that she would agree to that and I feel that it would be wise to place that within the conditions.

CHAIRPERSON GRIFFIS: I think that's perfectly appropriate to have the language of not more than two in the basement unit.

MS. GRAY: I don't have any problem with that. I think that's --

MEMBER ZAIDAIN: So to make sure I understand, it would be no more than six the entire structure, with the limit of two in the accessory.

MS. RENSHAW: Exactly.

CHAIRPERSON GRIFFIS: And the no more than six goes to the definition of family.

MEMBER ZAIDAIN: Right.

CHAIRPERSON GRIFFIS: So that's going to stand. So there it is. I think that's very clear. Any other comments, discussion on the motion? Then, all those in favor, signal by saying aye.

(Chorus of ayes.)

CHAIRPERSON GRIFFIS: And opposed?

(No response.)

CHAIRPERSON GRIFFIS: And let me also ask Ms. Gray, are you requesting a Summary Order?

MS. GRAY: That's fine.

CHAIRPERSON GRIFFIS: Did you want me to describe the difference?

MS. GRAY: You did in the last application.

CHAIRPERSON GRIFFIS: Yes.

MS. GRAY: So I think I understand it.

CHAIRPERSON GRIFFIS: I appreciate your not having me repeat that. Then we'll do that. Go for Summary. We can record the vote when Staff is ready.

MEMBER ZAIDAIN: Mr. Chair?

MS. RENSHAW: I would -- Mr. Chair?

CHAIRPERSON GRIFFIS: Yes.

MS. RENSHAW: Mr. Zaidain has a comment.

MEMBER ZAIDAIN: Well, I was going -- did you amend the motion to include those two conditions?

CHAIRPERSON GRIFFIS: No, I snuck it by so you guys were cut out.

(Laughter.)

CHAIRPERSON GRIFFIS: Yes, I absolutely did. And I'm sorry I didn't make a motion.

MEMBER ZAIDAIN: I just wanted to clarify that for the record.

CHAIRPERSON GRIFFIS: And have it seconded. But that's absolutely appropriate to clarify that. I figured since we are just a closed group here today, the three of us, we can assume that it was carried. But it did, indeed.

MEMBER ZAIDAIN: Thank you for that clarification,
Mr. Chair.

MS. BAILEY: The vote is recorded as 3-0-2 to
approve the application. Mr. Griffis made the motion, Mrs.
Renshaw second, Mr. Zaidain is in approval. Mr. Etherly and the
Zoning Commission member, neither are here today.

And briefly, Mr. Chairman --

CHAIRPERSON GRIFFIS: Yes.

MS. BAILEY: -- the conditions, very fast.

CHAIRPERSON GRIFFIS: Good.

MS. BAILEY: The property at 3633 Ellicott shall be
owner occupied, no person residing in the property shall make
application for a home occupation permit for the duration of this
special exception use, the aggregate number of persons that
occupy the principal dwelling and the accessory apartment
combined shall not exceed six, one on-site parking space shall be
made available to the -- for the tenant of the building or the
structure.

And lastly, the accessory apartment shall be
limited to no more than two persons.

CHAIRPERSON GRIFFIS: Absolutely perfect. Everyone
in agreement?

MS. RENSHAW: Yes.

CHAIRPERSON GRIFFIS: Good.

MR. JACKSON: Mr. Chairman?

CHAIRPERSON GRIFFIS: Yes, Mr. Jackson?

MR. JACKSON: Just a point of clarification.

CHAIRPERSON GRIFFIS: Yes.

MR. JACKSON: Did you mean that it would be the apartment, one parking space would be reserved for the apartment use?

CHAIRPERSON GRIFFIS: Right.

MR. JACKSON: It sounds like the -- I didn't understand when she said accessory unit or unit or structure. I'm wondering if you want to clarify and say just one reserved for the apartment use.

CHAIRPERSON GRIFFIS: Right. And I believe she stated the accessory apartment.

MS. BAILEY: The accessory apartment shall be limited --

CHAIRPERSON GRIFFIS: Okay.

MS. BAILEY: -- to no more than two persons.

CHAIRPERSON GRIFFIS: Right. And then before that was the parking space.

MS. BAILEY: Okay. One on-site parking space shall be made available for the user of the accessory apartment --

CHAIRPERSON GRIFFIS: Good.

MS. BAILEY: -- or tenant.

CHAIRPERSON GRIFFIS: Good. Anything else?

(No response.)

CHAIRPERSON GRIFFIS: Very well. Thank you very much.

MS. GRAY: Thank you very much.

CHAIRPERSON GRIFFIS: I appreciated everybody's time down here today and all the testimony that we heard. And we wish you good luck.

Let us move quickly on so that we can finish our morning schedule in good time and call the next case.

MS. BAILEY: Mr. Chairman?

CHAIRPERSON GRIFFIS: Yes?

MS. BAILEY: The last case of the morning is the National Association for the Education of Young Children, Application No. 16873, pursuant to 11 DCMR . 3104.1 for a special exception to continue the use of an existing parking lot under Section 213, the property is located in the Dupont Circle Overlay District, and it's zoned R-5-B, at premises 1522-1526 Church Street, N.W., Square 194, Lots 50-52.

Please stand to take the oath. Do you solemnly swear or affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth and nothing but the truth?

PARTICIPANT: Yes.

MS. BAILEY: Thank you. Mr. Chairman, a real quick comment. Mr. Tummonds just handed to me the parking layouts so if that's okay, I'll just pass that up as soon as I find it.

CHAIRPERSON GRIFFIS: That's great, yes. And let's just right into it and good morning to all of you. Thank you for your patience.

MR. GINSBERG: Good morning.

MR. TUMMONDS: Good morning. Mr. Chairman, members of the Board, I'm Paul Tummonds on behalf of Shaw Pittman. As Ms. Bailey discussed, we are here today to present BZA application for the continued use of a parking lot for the National Association for the Education of Young Children.

Due to the overwhelming support that this application received from the Office of Planning, the Department of Transportation, ANC-2B, as well as the adjacent neighbor, St. Luke's Episcopal Church, we have shortened our presentation for you this morning. And we're going to rely on the materials that we've submitted in the record of this case.

Our only witness is Dr. Mark Ginsberg, immediately to my right, Executive Director of NAEYC. Mr. Ginsberg will address the actions that NAEYC has taken since the last time this parking lot came before the Board, which was approved in the year 2000.

Then, if you have any questions with regards to the operation of the lot, Mr. Bill Harris, who is the Associate Executive Director for Finance and Operations is here to answer any questions regarding operational issues.

With that, I will let Dr. Ginsberg present his

testimony.

DR. GINSBERG: Thank you, Paul. And good morning.

The National Association for the Education of Young Children, NAEYC, was founded in 1926. We are a national, professional, non-profit association, devoted to facilitating the work of early childhood educators and others who work with and on behalf of young children.

And in helping to make available and accessible to all young children in our nation as well as their families, high quality earlier childhood programs.

Our national headquarters have been in D.C. for many years. We fully occupy several buildings, two smaller buildings on Connecticut Avenue and our main headquarters building which is at 1509 16th Street, adjacent to the parking lot on Church Street that is the subject of today's meeting.

Since moving to our 16th Street location, we moved into the building in '93, we continually have been working with the neighborhood which is notoriously short on public access parking, to make our parking lot available to the public without fee during the evenings and on weekends.

Just for the record, most evenings and weekends, it is filled to capacity with cars belonging to neighbors as well as guests of the neighbors. There are 19 spaces in the lot. At one point, there were 21. It's now 19, in large part because of some of the improvements we made to the lot over the last few years

since our last meeting with you.

In the last few years, as Paul mentioned, we've been working in close collaboration with our neighbors to improve the lot. A number of things that we have done include the installation of a more major lighting system, repaving to the facility, changes to the access pattern to the lot to accommodate the request by the neighbors that the access be only through an alley.

There are some photos of that before you. We've planted trees and done other landscaping. And generally have maintained the condition of the area. In fact, we have our building maintenance staff inspect and clean the lot every working day.

We've also worked collaboratively with our neighbors with respect to our current request to you this morning. To our knowledge, there is full support by our neighbors for NAEYC to be granted permission as well as the authority to continue using this property, which is adjacent to - - on the other side of an alley from our headquarters building, the picture to the left.

The larger building is our 16th Street headquarters small alley to the left of that, which Paul is talking about, is the egress into an alleyway. And then the lot is off to the left, right behind the building that you see there.

And that's the area to the lot. We have clearly

posted signs that allow for staff use during the day. But open use in the evenings. And again, it is filled to capacity virtually every night.

We're asking that we be granted permission and the authority to continue using this property as a parking lot, which has been the use for many years. And, as Paul mentioned, our petition unanimously was supported recently by the ANC for the neighborhood.

And I think there is also a letter of support in the file from our largest institutional neighbors, St. Luke's Church. St. Luke's Church has the three adjacent parking lot, little pieces which Paul is pointing to right now.

We've also had communication with virtually everybody in the neighborhood. And, to the best of our knowledge, all of our neighbors are supportive of this as they really do appreciate the use of the lot on weekends and in the evenings as well.

And there is no known opposition. We thank you for your consideration. And certainly look forward to answering any questions and engaging in any dialogue.

CHAIRPERSON GRIFFIS: Well, thank you very much.

DR. GINSBERG: Sure.

CHAIRPERSON GRIFFIS: And it's fairly clear in all the submissions that this is a different application than perhaps was the one before us before. I did not have the pleasure of

seeing that. But I noted in the submission that there was some opposition to that.

DR. GINSBERG: You know, I should say, just for the record, too, that in the previous time, that was the period of time when I first came to the organization. And Mr. Harris took over the role as our Associate Executive Director.

And through the years, I think we've made a real commitment not only to the neighborhood but to being a very good and important organization in this city working on behalf of children. So we're proud of those accomplishments.

CHAIRPERSON GRIFFIS: Good. And I don't think anyone questions the nature and the definition of what you're doing. The substance of your organization. And clearly we're talking about parking here, which --

DR. GINSBERG: Right.

CHAIRPERSON GRIFFIS: And it's clear to me but just to reiterate, all of the landscaping, the lighting, and the signage is new from the previous Order.

And basically that was done over that period of time in the two years that we've had the Order in effect, which obviously shows good effort on your part to accommodate one, the regulations, but two, also, the neighborhood's concerns.

I had, and I know we've just been handed this layout that kind of indicates the location of, for instance, the evergreen planting and brick wall, which is also shown on the

photographs on the board that you presented today.

CHAIRPERSON GRIFFIS: Right.

CHAIRPERSON GRIFFIS: And the photographs are just similar in submission to the case in the application. But there was, if I'm not mistaken, there was reference to an Exhibit 33, which was a landscape plan. And I'm not sure that I had that. I could not find it. Was that submitted?

MR. TUMMONDS: Exhibit 33, it was Exhibit 33 of 16548 --

CHAIRPERSON GRIFFIS: Right.

MR. TUMMONDS: -- which was the previous application.

CHAIRPERSON GRIFFIS: Oh.

MR. TUMMONDS: And it was the landscape plan which was in effect --

CHAIRPERSON GRIFFIS: Which created this?

MR. TUMMONDS: Right, yes.

CHAIRPERSON GRIFFIS: Okay.

MR. TUMMONDS: Came about to the parking lot in its current situation.

CHAIRPERSON GRIFFIS: Right. And that was my assumption. But just for clarification, that exhibit wasn't submitted as part of this one?

MR. TUMMONDS: Right. Yes, it was 16548, Exhibit 33.

CHAIRPERSON GRIFFIS: Okay. Any other questions from the Board?

(No response.)

CHAIRPERSON GRIFFIS: Clearly, the access into this is from the alley side. The parking layout is as shown in the recent submission. The buffering is along Church Street, which is clearly the most important impact area. And that's where we're seeing the evergreens and the brick wall.

The signage is at the entrance and that's the only signage that's there, correct? Where you -- the vehicular entrance into the parking lot?

DR. GINSBERG: There's actually two signs --

CHAIRPERSON GRIFFIS: Okay.

DR. GINSBERG: -- that are posted. So people see -

-

CHAIRPERSON GRIFFIS: At the entrance off the alley?

DR. GINSBERG: There's one in the entrance to the alley and I think there's one on the lot itself near where that light pole actually would be, but lower down.

CHAIRPERSON GRIFFIS: I see. Okay. So there's one in the lot --

DR. GINSBERG: There's one in the lot.

CHAIRPERSON GRIFFIS: -- which would indicate if you --

DR. GINSBERG: There's three signs, I'm sorry.
There are three signs.

CHAIRPERSON GRIFFIS: Okay.

DR. GINSBERG: They're all the same sign. But
there are three --

CHAIRPERSON GRIFFIS: Right.

DR. GINSBERG: -- of them posted.

CHAIRPERSON GRIFFIS: Okay. So there's one at the
entrance and approximately one on each side, maybe mid --

DR. GINSBERG: Exactly.

CHAIRPERSON GRIFFIS: -- span down?

DR. GINSBERG: Yes.

CHAIRPERSON GRIFFIS: Okay. In case you fly by the
first sign when you're parking, you'll be able to see it.

DR. GINSBERG: You can't miss it.

CHAIRPERSON GRIFFIS: Okay. And what kind of
provisions do you have, although there are signs posted and
towing enforced, have you -- I don't really care if you've towed
or not, but --

DR. GINSBERG: Actually, we haven't.

CHAIRPERSON GRIFFIS: -- do you have someone -- do
you have a towing company under contract? You're fully prepared
to enforce that 8:00 to 5:00?

MR. HARRIS: Yes, we -- well, I'm Bill Harris.

CHAIRPERSON GRIFFIS: Yes.

MR. HARRIS: So you can hear another voice here. Yes, we've actually had occasions where we've called the parking enforcement authorities to ticket individuals who were parked illegally. We found that none of them really were neighbors.

CHAIRPERSON GRIFFIS: I see.

MR. HARRIS: They were just individuals working in the neighborhood.

CHAIRPERSON GRIFFIS: During the day?

MR. HARRIS: But we did not have anyone towed.

CHAIRPERSON GRIFFIS: Okay. During the day, though?

MR. HARRIS: During the day.

CHAIRPERSON GRIFFIS: And the District parking enforcement will ticket on that lot?

MR. HARRIS: Yes, they will.

CHAIRPERSON GRIFFIS: I see, okay. And then -- and this may be just my non-clarification and we have several parking applications in today. After hours, how do you regulate the use and who parks there?

DR. GINSBERG: It's really open.

CHAIRPERSON GRIFFIS: It is?

DR. GINSBERG: Yes. It's really open.

CHAIRPERSON GRIFFIS: Okay. So it's first come, first serve.

DR. GINSBERG: It's first come, first serve.

CHAIRPERSON GRIFFIS: As long as they're out by 8:00?

DR. GINSBERG: Yes. And then the staff when they come to work on Monday, and the neighbors have been very good -- we really haven't had problems with cars, neighborhood cars being in spaces on a Monday morning or during the week. People are very respectful of each other.

I might add, too, that at the ANC meeting, right before our conversation with the ANC, there was a presentation about parking in the neighborhood. And the shortage of parking in the neighborhood.

And several members of the ANC expressed their appreciation because it does ease the parking difficulties, particularly in that section of town.

CHAIRPERSON GRIFFIS: Good. Well, and I think it's only going to increase in terms of parking demand.

DR. GINSBERG: That's right.

CHAIRPERSON GRIFFIS: Until we change our entire public transportation system which probably won't be until next year or so. Okay. Other questions of the Applicant?

MEMBER ZAIDAIN: Yes.

CHAIRPERSON GRIFFIS: Mr. Zaidain?

MEMBER ZAIDAIN: Looking through, you reference Exhibit E in terms of your lighting?

DR. GINSBERG: Yes.

MEMBER ZAIDAIN: And I -- just from looking, you know, looking through this last night and looking through it again today, I take it you're just showing where the poles are?

MR. TUMMONDS: I think that and to also show that that was one of the conditions in the prior Order --

MEMBER ZAIDAIN: Right.

MR. TUMMONDS: -- was to install the lighting to ensure security. And just to show you that that was, in fact, done.

MEMBER ZAIDAIN: Okay. And you don't have any complaints from surrounding business owners or neighbors or anything about the lighting?

DR. GINSBERG: No, in fact, the lighting was designed and installed with the help of the neighbor who is our local ANC Commissioner who actually helped to pick out the light fixture that on behalf of the neighborhood, they would prefer there.

MEMBER ZAIDAIN: Okay.

DR. GINSBERG: So, in fact, that's it. You can see it in the picture. It really does light up the lot but it's pretty focused on the lot.

MEMBER ZAIDAIN: Right.

DR. GINSBERG: And, again, the alley is to the -- if you're looking this way, towards you would be the alley. And on the other side, the focus on would be Church Street.

And then straight ahead is another surface parking lot. So it really doesn't impede or go anywhere near anybody's dwelling, the light in the evening.

MEMBER ZAIDAIN: Okay. Thank you, Mr. Chair.

MS. RENSHAW: Mr. Chairman, just to follow along with the lighting, in Exhibit E, there is a close up of one of those lights. And it looks broken.

CHAIRPERSON GRIFFIS: Is it broken?

DR. GINSBERG: No.

MS. RENSHAW: The glass on it looks broken.

CHAIRPERSON GRIFFIS: I think it's a reflection on the glass.

MS. RENSHAW: Very good. So we can --

DR. GINSBERG: No, it's all operational.

MR. HARRIS: Oh, absolutely.

DR. GINSBERG: Yes.

MS. RENSHAW: All right. Very good. So we can attest that it is not a broken light.

DR. GINSBERG: Oh, no, absolutely. That's --

PARTICIPANT: Oh, I see, here's the unit -- it's just the lighting.

DR. GINSBERG: Yes, it must be the design of it, it's absolutely working.

MS. RENSHAW: Okay.

MEMBER ZAIDAIN: Are they --

MS. RENSHAW: Go ahead.

MEMBER ZAIDAIN: Are they timed, as in like when the sun goes down, they automatically come on? Something like that?

DR. GINSBERG: Yes.

MEMBER ZAIDAIN: Light sensitive? Okay.

MS. RENSHAW: I would like to ask you about the first picture in the lot which shows a burgundy-colored car. Is that parked on the street or is that parked illegally?

CHAIRPERSON GRIFFIS: Where is --

MS. RENSHAW: Per your parking layout? It's Exhibit E.

CHAIRPERSON GRIFFIS: It would be on the Church Street side.

DR. GINSBERG: No, it's in the lot. This car here, Bill.

MR. HARRIS: Oh, yes. That car there is actually one of our staff was parked there temporarily. He really does not have a -- I understand he does not have a quote unquote line. It's not a space lot. No. It's not one of the assigned spots here.

But I recognize the car and he's one of our staff. And he was there temporarily and does not --

DR. GINSBERG: Not somebody who is --

MR. HARRIS: -- park there on a regular basis.

MS. RENSHAW: So temporarily is not all day?

MR. HARRIS: No, no. It's not.

MS. RENSHAW: Every day?

DR. GINSBERG: No.

MS. RENSHAW: All right.

DR. GINSBERG: I probably shouldn't have taken the picture when I did. I didn't realize. But we caught him.

MS. RENSHAW: Was he fined?

DR. GINSBERG: I don't know.

MS. RENSHAW: In the old Order that is Exhibit G --

DR. GINSBERG: Yes.

MS. RENSHAW: -- on page 3, you said that -- you state a number -- or we state in No. 7, a designated person shall police the parking lot on a regular basis. And that is yourself?

MR. HARRIS: It's one of my staff.

MS. RENSHAW: It's one of your staff.

MR. HARRIS: Yes.

MS. RENSHAW: And they do that how many times a day? Or just once a day?

MR. HARRIS: It's done once a day when they first come in.

DR. GINSBERG: In the morning.

MR. HARRIS: In the morning. And then actually during the day, we have another staff who just goes out and checks the lot just to make sure that the correct staff are

parking in their appointed places.

MS. RENSHAW: All right.

DR. GINSBERG: There had been many problems with trash in the lot. It had been used -- it needs to be maintained regularly to be kept clean.

MS. RENSHAW: So you have a maintenance person out there?

MR. HARRIS: Yes, a maintenance staff member.

MS. RENSHAW: In the parking lot?

DR. GINSBERG: Yes, one of our staff. We have several people whose roles are to be the maintenance people in our building. And it's part of their job description.

MS. RENSHAW: Okay. Thank you.

CHAIRPERSON GRIFFIS: Okay. And just for clarification, of course, your testimony today is that at least five percent of the lot is landscaped. Is that correct?

MR. HARRIS: If that's part of the --

DR. GINSBERG: I would think, yes.

CHAIRPERSON GRIFFIS: Yes, it's part of the old Order, it's part of the regulation.

MR. HARRIS: Yes, we definitely followed --

CHAIRPERSON GRIFFIS: So, to make sure we're --

MR. HARRIS: -- the procedure.

CHAIRPERSON GRIFFIS: Okay. Any other questions?

MS. RENSHAW: Just to ask is one or more space

designed for handicap parking?

MR. HARRIS: Yes, we have two.

MS. RENSHAW: What numbers would they be?

MR. HARRIS: They would be --

MS. RENSHAW: No. 1 and 2 on the --

MR. HARRIS: It's actually on the far ends of each.

It's No. 9 and No. 10.

MS. RENSHAW: No. 9?

MR. HARRIS: Actually it's the far ends of each lot.

MS. RENSHAW: All right. Thank you.

CHAIRPERSON GRIFFIS: Okay, if there's no other questions, why don't we move on to Office of Planning's report. Why do I have -- okay. Good morning.

MR. MOORE: Good morning. Good morning, Mr. Chairman and members of the Board. My name is Stephen Moore from the Office of Planning. The Office of Planning recommends approval of this application and is willing to stand on the record unless the Board has any questions.

CHAIRPERSON GRIFFIS: All right. Well, that's the easy way out. But since we're so close to lunch time and this is -- I appreciate that. I think that's absolutely appropriate.

Let us, Board members, if we have any questions of Office of Planning's report?

(No response.)

CHAIRPERSON GRIFFIS: It was fairly clear that they outlined and went through some of the history and the regs. And I think we're okay on that. Did the Applicant have any questions of the Office of Planning?

MR. TUMMONDS: No questions.

CHAIRPERSON GRIFFIS: You were in receipt of the report?

MR. TUMMONDS: Yes, we did. As well as DDOT report.

CHAIRPERSON GRIFFIS: Okay. Okay, good. Let us then move on to Department or DDOT's report submitted May 23, 2002. It is Exhibit 26. Do either of you have that in front of you?

MS. RENSHAW: Just a minute.

CHAIRPERSON GRIFFIS: All right. Not to worry. I'll pick it up. They have reviewed the application and they are addressing the transportation elements. And to summarize, they have no objection to the proposal.

ANC-2B, which has been discussed already, recommends the approval. It is Exhibit 22. Ms. Renshaw, do you have that?

MS. RENSHAW: Yes, Mr. Chairman.

CHAIRPERSON GRIFFIS: If you can just summarize the time and date.

MS. RENSHAW: The letter is dated May 20, 2002.

And it's signed by Vince McCone, the Chairperson. And Mr. McCone states that at ANC-2B's meeting on May 8, 2002, this Application 16873 was considered and it was unanimously approved and they support it for a period of five years.

And I was just looking here for the vote. Let's see -- the vote is not -- oh, 6 of 7 Commissioners in attendance, a quorum at a duly called public meeting, the motion was unanimously approved for a period of five years.

CHAIRPERSON GRIFFIS: Good. And for clarification, the ANC has put a time limit on it and the request for this application, is there a time being requested by the Applicant?

DR. GINSBERG: No, there really wasn't. And I think, as I recall the conversation, they thought that that's what they could do. And I don't know if that's true or not. But --

MR. TUMMONDS: I mean, it's -- our view is that we would request approval for at least five years. Typically, it's been -- I've worked on other parking lot cases where it's been ten years, fifteen years. The ANC, yes, they believed that the most that they could approve was for five years.

And they noted that in 2000 when this case was brought before them, they thought two years was appropriate, just because of --

CHAIRPERSON GRIFFIS: Right.

MR. TUMMONDS: -- the history they had before.

CHAIRPERSON GRIFFIS: Right.

MR. TUMMONDS: And so that's what --

CHAIRPERSON GRIFFIS: Well, and I think that was a successful time limit. I mean, obviously, it was time enough to remedy all the situation, to come back and have obviously a more supported application than in the past.

MR. TUMMONDS: Right.

CHAIRPERSON GRIFFIS: So I think we should -- we will need to deliberate on time period.

Let me ask quickly, Office of Planning, whether they had discussed or would recommend any sort of time period on it? And whether they had any other conditions? I mean I note that they are recommending approval of the application but whether they are -- well, there it is.

MR. MOORE: We had not discussed this with the Applicant. We did receive the ANC recommendation that included the five-year recommendation for approval. And are in agreement with that.

CHAIRPERSON GRIFFIS: And would you have problems with the -- well, there, okay. They are in agreement with the ANC time period. Okay. That takes it for government reports. Let's run down -- we do have letters of support from St. Luke's Episcopal.

I don't show indication of any other submitted support letters or letters of opposition. Am I correct? Are you

aware of any other submissions?

MR. TUMMONDS: Yes, that's the only letter we know of.

CHAIRPERSON GRIFFIS: Okay. Noting that there is no one sitting behind you, I'm assuming no one else is here to testify in support or opposition. Can you -- then let's go -- quick question. In terms of trash pickup, you've testified to the fact that you have someone going through and picking up trash, which I think is expected of your own parking lot.

That you actually open it up to public use, I think is a -- you should be applauded for picking up the trash for that kind of use. But in terms of that, you've testified that it is daily pickup.

DR. GINSBERG: It is.

CHAIRPERSON GRIFFIS: Is it enough that, you know, it would create an additional requirement for trash pickup or is it accommodated within your normal commercial trash pick up on the site.

MR. HARRIS: I would think one time during the day is appropriate because then at that point, it's all staff there. And staff are inside the building. So no one is really at the parking lot --

CHAIRPERSON GRIFFIS: Okay.

MR. HARRIS: -- until the evening hours where trash may develop again.

CHAIRPERSON GRIFFIS: So if you pick up the trash, do you have a dumpster close by --

MR. HARRIS: Yes.

CHAIRPERSON GRIFFIS: -- that it goes into --

MR. HARRIS: Exactly.

CHAIRPERSON GRIFFIS: -- and it doesn't -- it's not creating enough that actually is --

MR. HARRIS: No.

CHAIRPERSON GRIFFIS: -- making more of a burden on the trash pickup that that dumpster may be overflowing or anything?

DR. GINSBERG: Oh, no, no, no, no, no. It's an occasional soda can or something. We have kind of seen it as part of our on-going building maintenance.

CHAIRPERSON GRIFFIS: Yes, okay. Good. And how often do you have trash pickup on the building?

MR. HARRIS: It's done once a week.

CHAIRPERSON GRIFFIS: Okay. Good. Other clarifications? Questions to the Applicant?

(No response.)

CHAIRPERSON GRIFFIS: Then let us turn to the Applicant for closing remarks, if there are any.

MR. TUMMONDS: Just really quickly. We, again, note all the support for this application. We would request that the Board approve the application for a period of at least five

years. And we would request that a Summary Order be granted.

Thank you.

CHAIRPERSON GRIFFIS: Good. Thank you very much.

MR. HARRIS: Thank you.

CHAIRPERSON GRIFFIS: Okay. I would move then approval of the special exception for Application 16873 for the use of an existing parking lot under Section 213 at the premises 1522-1526 Church Street, N.W. I would ask for a second on that motion and then go to discussions of conditions, if we have any.

MS. RENSHAW: Second.

CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw. I think, first of all, the condition -- we will put a time limit on this special exception. I'd like to have a quick discussion on that.

I think five years is clearly appropriate. I would even be open to longer than that. Probably not more than ten, however.

I think clearly this Applicant has made excellent efforts and show the concern of the past Order that we can have great insurance that this will be continued. So we can pick that up if people have opinions.

Actually, I would just -- maybe we advocate for splitting the difference of five to ten and just start discussion at eight?

MS. RENSHAW: Could we start the --

CHAIRPERSON GRIFFIS: Like an auction, you know.

MS. RENSHAW: Yes, right. I don't have a gavel, though, I'm kind of at a disadvantage here. But I would start the discussion actually at five.

CHAIRPERSON GRIFFIS: At five?

MS. RENSHAW: Yes.

CHAIRPERSON GRIFFIS: Okay.

MS. RENSHAW: Having sat on the original case, I mean, several years ago, two years ago.

CHAIRPERSON GRIFFIS: Yes.

MS. RENSHAW: And noting the great improvements that you have made --

DR. GINSBERG: Thank you.

MS. RENSHAW: -- and the case you presented to the Board. I applaud what you've done.

DR. GINSBERG: Thank you.

MS. RENSHAW: -- and the attention to the parking area, not only for yourselves but for the community as a whole. But I feel that five years, an extension to five years would be adequate.

CHAIRPERSON GRIFFIS: Mr. Zaidain, you have an opinion?

MEMBER ZAIDAIN: Yes, I would agree with Ms. Renshaw. Five years seems to be a good bench mark. I mean, at that time, you know, things can change in five years and it might

be a good time, then to come back and reassess the situation.

I mean obviously they are good stewards of the lot. But, you know, in five years time, they may still not be there. It may be different administration or whatever. So I would agree with five.

CHAIRPERSON GRIFFIS: Okay. Good. Then we'll include in the motion a condition of approval for five years. I would move on to -- frankly just restate a lot of the conditions for clarity and for the record. But listing those conditions, in Condition No. 2, I would indicate as during evening and weekends, the parking lot would be made available to members of the community and to nearby churches.

I would also add that the parking lot shall be posted with a sign which limits the use during the day. And I'm taking this from the previous Order and that's Condition 5, so we can get the language on that.

I would also have condition that the parking lot be kept free of refuge and debris, and paved, landscaped and, of course, according to the regulations at least five percent of the lot shall be landscaped.

And they also include a designated person, which is happening now, patrolling the parking lot on a regular basis, Monday through Friday, for security purposes.

Striping and lighting would also be the condition, as stated previously. And I think last, would just -- actually

we could add it into -- and I'll make this clear for Staff because I'm jumping around here, if there's difficulty.

I would add in the condition that all parts of the lot shall be kept free of refuge, debris, and shall be paved or landscaped. At least five percent of the lot shall be landscaped. And that maintenance and upkeep of the landscaping, as shown currently, be done.

MS. RENSHAW: Yes. That's No. 10, isn't it?

CHAIRPERSON GRIFFIS: Well, it is kind of No. 10, but I don't want to reference Exhibit No. 33, which isn't part of this record. And so what I'm saying is that they're not actually creating a proposed landscaping, they're actually maintaining --

MS. RENSHAW: Continuing, yes.

CHAIRPERSON GRIFFIS: -- the existing. So, anything else in terms of clarifications, conditions?

MS. RENSHAW: And it's for five years.

CHAIRPERSON GRIFFIS: And it's for five years.
Okay.

SECRETARY PRUITT: Excuse me.

CHAIRPERSON GRIFFIS: Yes.

SECRETARY PRUITT: I just want clarification, please. You're basically saying that all parts of the parking lot shall be kept free of debris and the existing landscaping shall be maintained?

CHAIRPERSON GRIFFIS: That's correct. Right.

Exactly. Right. Existing landscaping and they had a maintenance contract which goes to their operations. And I think that's it.

So, I can ask then for all those in favor, signify by saying aye.

(Chorus of ayes.)

CHAIRPERSON GRIFFIS: And opposed?

(No response.)

CHAIRPERSON GRIFFIS: Fabulous. We can, in fact, record the vote and a Summary Order was requested. And I think that is appropriate at this point.

MS. BAILEY: The vote is recorded as 3-0-2 to approve the application. Mr. Griffis made the motion, Mrs. Renshaw second, Mr. Zaidain is in agreement. Mr. Etherly is not here today. Or a Zoning Commission member.

And Mr. Chairman, did you need for me to go through these conditions?

CHAIRPERSON GRIFFIS: I don't think so unless the Applicant is wondering what I said.

DR. GINSBERG: No, I think we got them.

CHAIRPERSON GRIFFIS: You think you have all of them?

DR. GINSBERG: Yes.

CHAIRPERSON GRIFFIS: And quite frankly and straightforwardly, a reiteration of all the conditions --

DR. GINSBERG: Right.

CHAIRPERSON GRIFFIS: -- of the previous Order except for Condition No. 3, which is not pertinent.

DR. GINSBERG: That's fine.

CHAIRPERSON GRIFFIS: And Condition No. 1 was changed to five years.

DR. GINSBERG: That's fine, we appreciate your support of this.

CHAIRPERSON GRIFFIS: Good. Then I think --

MR. TUMMONDS: Thank you.

CHAIRPERSON GRIFFIS: -- we're done. I thank you all. And I absolutely applaud you for the efforts and the work that you've done. And clearly it has been a success.

DR. GINSBERG: We appreciate that, thank you.

CHAIRPERSON GRIFFIS: Good. And I wish you then a good rest of the morning and afternoon. And we will adjourn our morning session for the 29th of May, 2002.

(Whereupon, the foregoing matter went off the record at 11:53 a.m.)