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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING

In the Application of:

- General Board of Church and Society Case No. 16211
of the United Methodist Church;
- H. Nevins and Sherry K. Mones; Case No. 16218
- Inez Cushard Family Trust; Case No. 16212
- Barry Zigas and Jodie Levin-Epstein; Case No. 16219
- Trustees for Harvard University; Case No. 16213
- Providence Hospital, Case No. 16214
DePaul Foundation

Hearing Room 220 South
441 Fourth Street, N.W.
Washington, D.C. 20001

Wednesday,
March 19, 1997

The above-entitled matter came on for
hearing, pursuant to notice, at 9:30 a.m.

BEFORE:

- SUSAN MORGAN HINTON, Chairperson
- HERBERT M. FRANKLIN
- SHEILA CROSS REID
- LAURA M. RICHARDS

STAFF PRESENT:

- MADELIENE H. DOBBINS, Director
- REGINALD C. LYONS, Secretary
- TRACEY WITTEN ROSE, Assistant Secretary

ALSO PRESENT:

- ALBERTO BASTIDA, Office of Planning
- BEVERLY BAILEY, Office of Planning

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

2 10:29 a.m.

3 CHAIRPERSON HINTON: Good morning
4 everybody. We apologize for the late starting of
5 this, but because of the weather and the snow and a
6 lot of other reasons, we're sort of starting a
7 little slowly today.

8 This hearing will please come to order.
9 This is the March 19th hearing of the Board of
10 Zoning Adjustment of the District of Columbia. I'm
11 Susan Morgan Hinton. I'm the Chairperson. Joining
12 me today are the vice-chair, Laura Richards, Sheila
13 Cross Reid, and Herbert Franklin, representing the
14 Zoning Commission.

15 Copies of today's hearing agenda are
16 available to you. They are located to my right near
17 the door. All persons planning to testify either in
18 favor or in opposition, are to fill out two witness
19 cards. These cards are located on the end of the
20 table in front of us. Upon coming forward to speak
21 to the Board, please give both cards to the reporter
22 who is sitting to my right.

23 The order of procedure for special
24 exceptions and variance cases will be as follows:
25 Statement of witnesses of the applicant; government
26 reports including the Office of Planning, the

1 Department of Public Works, the ANC; persons and
2 parties in support; persons or parties in
3 opposition; closing remarks by the applicant.

4 The order of procedure -- we don't have
5 to do that. We have no appeals. Cross examination
6 of witnesses is permitted for persons or parties
7 with a direct interest in the case. The record will
8 be closed at the conclusion of each case except for
9 any materials specifically requested by the Board.
10 Staff will specify at the end of the hearing,
11 exactly what is expected.

12 The decision of the Board in contested
13 cases must be based exclusively on the public
14 record. In order to avoid any appearance to the
15 contrary, the Board requests that persons not engage
16 the Board members in conversation.

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

26 Does the staff have any preliminary

1 matters?

2 MR. LYONS: The staff has none, Madam
3 Chair.

4 CHAIRPERSON HINTON: We are going to
5 change the agenda a little bit and have the case
6 that's scheduled third, that will go second. The
7 case that is scheduled second will go third. We are
8 ready to proceed with the first case.

9 MR. LYONS: The first case is
10 Application 16211 of the General Board of Church and
11 Society of the United Methodist Church, pursuant to
12 11 DCMR 3107.2 and 3108.1, for a variance to allow
13 an addition to an existing nonconforming structure
14 that now exceeds the floor area ratio limitation,
15 will increase the nonconformity and create a new
16 nonconforming open court under paragraph 2001.3(b)
17 and (c), a variance from the open court requirements
18 of Subsection 536.1, a variance from the allowable
19 floor area ratio requirement of Subsection 1203, and
20 a special exception under paragraph 1203.2(b) for
21 mechanical penthouse restrictions for an addition to
22 an existing nonconforming structure in a CAP/SP-2
23 District at premises 100 Maryland Avenue, N.E.,
24 Square 726, Lot 11.

25 All persons wishing to testify in this
26 application, please rise to take the oath.

1 Whereupon, the witnesses were sworn.)

2 CHAIRPERSON HINTON: Before we start the
3 case, I'd like to find out is there anyone in the
4 audience in either support or opposition of the
5 case? We have none and we have no opposition
6 submitted for the record? There was no opposition
7 in my file.

8 MR. LYONS: I don't think so.

9 CHAIRPERSON HINTON: You don't recall.
10 Okay.

11 In cases where there's no opposition,
12 sometimes we go ahead with an expedited hearing
13 which means that you have submitted a lot of
14 information to the record and all the Board members
15 have read that information. We ask you to give a
16 relatively brief presentation of just the pertinent
17 facts.

18 MR. KEYS: Good morning, Madam Chair,
19 Members of the Board. My name is George Keys. I am
20 here to represent a longtime and favorite client,
21 the General Board of Church and Society of the
22 United Methodist Church.

23 This case is one that initially
24 surprised me when it came. I thought that it was
25 both the easiest case that I had seen and then in
26 some respects, the most difficult case that I had

1 seen. Easy in the sense that very little in this
2 case is discretionary with the applicant. The
3 decision to modernize created certain imperatives
4 that simply drove this case. Difficult because I
5 was astounded at the number of variances and special
6 exception that was involved and provide the very
7 simple relief that the applicant really needs, which
8 is to conform this building to meet its evolving
9 requirements and needs, and to bring this building
10 into a contemporary and modern form.

11 This building has received a great deal
12 of attention, both because of its visibility on
13 Capitol Hill, next to the Supreme Court, quite
14 visible from the Capitol. And as a result of its
15 location, it has received the attention of other
16 agencies. You are aware that the Commission of Fine
17 Arts has already reviewed and approved these plans.
18 The architect of the Capitol has had opportunity to
19 comment, and I believe a letter from Mr. Inson is in
20 the record in this case. The Historic Preservation
21 Review Board has completed a consensual review and
22 ANC-6A has been involved with two appearances by the
23 applicant before it.

24 One matter that the Board should be
25 aware of that I don't think has made it to the
26 record yet, the applicant did appear before the

1 Capitol Hill Restoration Society and they did send a
2 letter which I believe arrived prior to the hearing,
3 recommending to the Board approval of this
4 application.

5 MR. LYONS: The Board, if I might add,
6 do have copies of that before them.

7 MR. KEYS: Thank you.

8 I would ask the Board, as we present our
9 case -- and we will do so briefly -- consider
10 whether this case is one that could be subject to a
11 bench decision. I think that the elements of the
12 case are compelling and it would certainly assist
13 the applicant in moving this development process
14 forward to obtain its approvals as soon as possible.

15 I've indicated that the variances that
16 are requested are really mandatory, given the desire
17 to modernize. There are elements of this
18 application that do represent discretion on the part
19 of the applicant. In one case, though the penthouse
20 will have to be enlarged on this structure, we've
21 made a decision with the advice of the architect to
22 try to make the penthouse a more attractive facade.
23 Though the penthouse was featured in the Clint
24 Eastwood movie "Absolute Power", we feel obligated
25 to make it look a little better and I think the
26 architect of the Capitol would agree with that.

1 The other element of discretion involved
2 in this application is the request to deal with a
3 very unsightly and awkward space that would be left
4 once we create this enclosed stairway. We have a
5 suggestion for how we could avoid the problems we
6 can foresee with that awkward space. I think the
7 architect can address our resolution of that.

8 I have with me at the table, the
9 associate general secretary for the General Board of
10 Church and Society, Ms. Martha S. Cline, and she has
11 a short statement from the organization to the
12 Board.

13 MS. CLINE: Thank you.

14 I will keep my comments brief in light
15 of your request and appreciate the chance to add a
16 few more comments into the record, since this
17 building is a very important building to my
18 organization and to the United Methodist Church. We
19 are the original owners of the building, our
20 predecessor agencies through time, and it is a very
21 important place of witness and mission for us as a
22 denomination.

23 When we were looking at the structure,
24 evaluating its condition, what to do to see it into
25 the future we considered several options, one of
26 which was selling it and relocating our agency. We

1 looked at renovating both buildings that are 100 and
2 110 Maryland Avenue and renovating the said
3 structure at 100. Through the extensive evaluation
4 that we did, it was clear that renovating the said
5 building was the best choice to promote our mission
6 and be able to fulfill what we're there for in our
7 presence across the street from the Capitol.

8 We are excited about that because the
9 building has not been renovated since it was
10 originally built in 1923. So, that means we have
11 office spaces that are not conducive to office work.
12 Three floors of the building were built to be
13 apartments and they're now 100 percent office use in
14 the building, and that's not very conducive to
15 office work to be in what used to be apartments. We
16 have a very antiquated heating system. Our electric
17 wiring, plumbing -- I mean, virtually everything,
18 all of the major building systems need to be
19 renewed. We are beneficiaries of very good
20 maintenance in the past, but we are on borrowed time
21 with our building systems. And we
22 additionally look forward to adding life safety
23 features which we have almost none of in the
24 building: sprinklering and the monitored fire alarm
25 system, for instance, and to be able to be fully ADA
26 compliant since that was also a key issue that our

1 agency worked on, that we could now do that with the
2 building.

3 CHAIRPERSON HINTON: Thank you.

4 MR. KEYS: Thank you, Ms. Cline.

5 I'd like to ask the architect to come
6 forward. Our architect is Eric Colbert of Eric
7 Colbert & Associates. I think he can focus quickly
8 on the architectural elements of the existing
9 building and how that, in order to accommodate the
10 modernization needs, what that implied as far as new
11 construction for the property.

12 CHAIRPERSON HINTON: Okay.

13 MR. KEYS: Mr. Colbert?

14 MR. COLBERT: Good morning, Madam
15 Chairperson and Members of the Board. My name is
16 Eric Colbert of Colbert & Associates Architects and
17 I'm the project architect for this development.

18 This is a photograph that I think is
19 very helpful to understand the nature of our Board
20 of Zoning Adjustment issues. You can see here, and
21 this is a larger version of a photograph that you
22 have in the packet that was submitted, shows window
23 air conditioning units which is how they currently
24 cool the building. As you can imagine, this is a
25 huge problem, trying to run a modern office building
26 that way, for two reasons. One is, these units stay

1 in all year round so you get a lot of energy leaking
2 around there. Then also, you can see the staining
3 that's caused on the wonderful stone by these. So,
4 not only are they causing a real energy problem, but
5 they're also actually helping to destroy the
6 building. The other thing that the water damage is
7 doing is it's ruining the windows which need
8 replacing anyway.

9 So, the main objective here is to
10 install a central air conditioning system. In order
11 to do that, we need to have a cooling tower. And
12 this is also a good photograph to look at because
13 this is actually taken by me standing across the
14 street on the lawn of the Supreme Court. The way
15 we've designed the penthouse, this is the existing
16 penthouse which is actually higher than the
17 relatively modest additions that we plan to put on.
18 We worked carefully with the engineer to come up
19 with a cooling tower that's as low a profile as we
20 feel is practical, something that is normally made
21 to accommodate that.

22 This is an elevation showing the
23 proposed development. We're going to put in all new
24 windows and we will be matching the existing profile
25 of the windows, and then cleaning up the stone, and
26 basically restoring the building to its original,

1 beautiful appearance.

2 MR. KEYS: Eric, before we get away from
3 that picture that you just showed, could you
4 identify those red structures on the roof line and
5 explain whether they'll be there at the end of the
6 renovation or not?

7 MR. COLBERT: These are roof vans and to
8 my knowledge, they will probably not exist after the
9 renovation. The other thing that Mr. Keys was
10 mentioning is the fact that even though this
11 penthouse is not visible, for the most part, we
12 still will be cladding it with a nice material.
13 It's currently brick and we intend to cover it with
14 a stone to match the existing building.

15 This is the view facing the Supreme
16 Court and then on the other side -- this is also in
17 your packet. This is the edge of the Capitol
18 grounds, but this is a similarly important shot from
19 the other visible street facade because, again, you
20 can see that the penthouse is not very visible. As
21 a matter of fact, an interesting comparison is to
22 see what's on this building and our addition will
23 just extend a small distance from that and be lower.
24 So that, actually, from both angles that I showed
25 you on the photograph, it will not be visible.

26 These are the proposed elevations.

1 Essentially, we're bringing the building back to its
2 original appearance and then installing the new
3 windows that will be historically correct.

4 The penthouse for the cooling tower was
5 one issue with regard to the zoning. The other most
6 important thing, in my opinion, had to do with a
7 building code requirement. That had to do with the
8 fact that currently, the building only has one
9 enclosed fire exit and that's in this location.
10 There is an existing fire escape in this location
11 where we're planning to install a new stair. That's
12 the main reason for the increase in the floor area
13 ratio, which is relatively modest, going up from
14 37,000 to 38,000 square feet. Because the existing
15 fire escape does not count in the FAR calculations,
16 by putting an enclosed stairway in there to comply
17 with building code regulations, we are increasing
18 the floor area ratio. However, the actual amount of
19 built structure isn't really increasing
20 significantly. The new stair is a little bit bigger
21 than the fire escape that was there because it
22 complies with the dimensions of an enclosed stair as
23 opposed to a fire escape, which is a little bit
24 smaller. But the fact is, there already is an exit
25 in this area.

26 So, those are the two major issues, from

1 my perspective, in terms of zoning relief. This is
2 a typical floor plan. We would be gutting the
3 building, as Martha mentioned. The original
4 construction had apartments on several floors. It
5 hasn't been used that way and the certificate of
6 occupancy doesn't show apartments, but because of
7 the original design we're showing a new core here
8 that will comply with Americans with Disabilities
9 Act. This is the new stairway that will allow for
10 the second -- of egress.

11 On the first floor, there is a one-story
12 addition existing which is a conference room in the
13 back. And so, what we're doing here is, this is the
14 proposed new stairway and then there's an awkward
15 space that's created between the stairway and the
16 one floor auditorium. We're proposing to enclose
17 that and create a little kitchenette area that will
18 help serve this --

19 MR. KEYS: Eric, if I could stop you
20 there just to help orient the Board. We have
21 submitted in our application, this photograph which
22 is identified as number six in the application
23 showing the rear of the structure. If you could
24 perhaps describe the elements that you're speaking
25 of now in terms of the location of the new enclosed
26 fire stair and use this picture as a reference

1 point, just to identify for the Board where this
2 niche is. And as you speak about the one-story
3 auditorium, if you make reference to it, it might
4 help them.

5 CHAIRPERSON HINTON: And maybe I could
6 add a little bit here. I think that what would be
7 most helpful for the Board would be if you would
8 take the exact zoning relief that you need and show
9 us where that is, item by item, and then explain how
10 you meet the test that you need to meet to get a
11 variance, okay?

12 MR. COLBERT: Okay.

13 CHAIRPERSON HINTON: We have read the
14 record and I think we understand the nature of the
15 proposal. But if you would just sort of go through
16 those in order very, very quickly?

17 MR. KEYS: All right. Well, let's start
18 with the stairwell --

19 CHAIRPERSON HINTON: Can we start with
20 the first one here, "variance to allow an addition
21 to an existing nonconforming structure"? The
22 addition is because you're adding --

23 MR. COLBERT: Yes, because --

24 CHAIRPERSON HINTON: -- enclosed stairs
25 that are necessary for your fire access?

26 MR. COLBERT: That's correct. You can

1 see in this photograph that this is a fire escape.

2 CHAIRPERSON HINTON: Right.

3 MR. COLBERT: And that's the second
4 means of egress currently. That doesn't comply with
5 current building code regulations. So, essentially,
6 what we're doing is we're removing this and then in
7 its place, we're putting a real fire stair that's
8 enclosed with a rated enclosure, and that's this
9 element here.

10 CHAIRPERSON HINTON: And because the
11 fire stairs count towards your FAR --

12 MR. COLBERT: Right, and the fire escape
13 does not.

14 CHAIRPERSON HINTON: -- your FAR is
15 increasing?

16 That's right, okay.

17 MR. COLBERT: So, that would be one
18 relief.

19 CHAIRPERSON HINTON: Where is the new
20 nonconforming open court?

21 MR. COLBERT: Conforming -- pardon?

22 CHAIRPERSON HINTON: We have variance
23 relief that will create a new nonconforming open
24 court.

25 MR. KEYS: In this case, Madam Chair,
26 the court that we're speaking of is the area between

1 -- you can see it in the same picture -- the rear of
2 the building and that addition that was erected in
3 1925.

4 That court --

5 CHAIRPERSON HINTON: So, since you're
6 enclosing it, it won't be a court.

7 MR. KEYS: That is correct. But the
8 fire escape narrows that court and it's already a
9 nonconforming court. That is why the additional
10 relief was necessary --

11 CHAIRPERSON HINTON: Okay.

12 MR. KEYS: -- with respect to that.

13 CHAIRPERSON HINTON: And when you're
14 done, there won't be a court at all?

15 MR. KEYS: That's correct.

16 CHAIRPERSON HINTON: Okay. Okay.

17 A variance from the allowable floor area
18 ratio requirement, and I think that deals with the
19 penthouse --

20 MR. COLBERT: Yes.

21 CHAIRPERSON HINTON: -- and also from
22 the mechanical penthouse restrictions. Would you
23 deal with those?

24 MR. COLBERT: Yes. That goes back to
25 the issue of in order to install a contemporary
26 heating and air conditioning system throughout the

1 space, it is necessary to install a cooling tower on
2 the roof. This is First Street and then this is
3 Maryland Avenue. The Capitol is over here. The
4 Supreme Court is here. So, our intention was to
5 install the new penthouse in the most -- set back as
6 far as possible. Also, there's an existing elevator
7 penthouse, so we're connecting to that. However, it
8 doesn't comply in the sense that the zoning
9 requirements stipulate that a penthouse has to be
10 set back at a 45 degree angle from the edge of the
11 property. But we feel that by keeping it back to
12 the back as far as possible, it will be the least
13 visible addition to the existing penthouse.

14 MR. KEYS: Mr. Colbert, the existing
15 penthouse, is it set back --

16 MR. COLBERT: Yes.

17 MR. KEYS: -- consistent with the zoning
18 regulations?

19 MR. COLBERT: That's correct -- I mean,
20 no. The existing penthouse does not comply because
21 it is not set back at a 45 degree angle.

22 MR. KEYS: And the height of the
23 existing penthouse is what?

24 MR. COLBERT: It's approximately I would
25 say 18 feet, but I'm not sure about that.

26 The height of the existing penthouse is

1 12 feet, nine inches.

2 MR. KEYS: And what will be the height
3 of the remodeled or the new penthouse structure that
4 you propose?

5 MR. COLBERT: That would be ten feet,
6 nine inches.

7 MR. KEYS: So, in effect, you're
8 actually lowering the height of this structure? It
9 will still not be a conforming height, but you are
10 reducing the bulk of the penthouse, the height of
11 the penthouse?

12 MR. COLBERT: Right.

13 CHAIRPERSON HINTON: Which zoning reg
14 requires the setback to be at a 45 degree angle?

15 MR. KEYS: That's a regulation that
16 would require that the penthouse be set back from
17 all portions of the building roof, equivalent to the
18 height of the penthouse. That would be Regulation
19 411.11 that contained those and 1203.2B.

20 CHAIRPERSON HINTON: We're looking at
21 the Regulation 1203.2B which I believe is the
22 regulation that applies here.

23 MR. COLBERT: That's correct.

24 CHAIRPERSON HINTON: And what that
25 actually says is provided that the housing is set
26 back from all lot lines of the lot upon which the

1 building is located. I believe your penthouse is
2 set back at least 12 feet from the lot lines, isn't
3 it?

4 MR. COLBERT: That's correct.

5 CHAIRPERSON HINTON: Okay, so you don't
6 have a setback problem. You do have a height
7 problem because this says it shall not exceed ten
8 feet and I believe your proposed penthouse is how
9 high?

10 MR. COLBERT: Ten, nine.

11 CHAIRPERSON HINTON: Ten feet, nine
12 inches. So, it's a variance of nine inches, is that
13 right?

14 MR. COLBERT: Yes.

15 CHAIRPERSON HINTON: Okay. So, we've
16 covered what the relief is needed for. The other
17 thing you need to talk about is how you meet the
18 test for zoning relief for a variance, the three-
19 pronged test.

20 MR. KEYS: Well, yes. I think that's
21 something that I would address --

22 CHAIRPERSON HINTON: Terrific.

23 MR. KEYS: -- once the testimony is
24 done.

25 CHAIRPERSON HINTON: Okay.

26 MR. KEYS: I still think we have not

1 spoken to the issue of the ground floor addition.

2 CHAIRPERSON HINTON: Well, I thought it
3 was clear that the ground floor addition is going to
4 enclose what would otherwise be a nonconforming
5 court and it's going to be used as a kitchen?

6 MR. KEYS: That's correct.

7 CHAIRPERSON HINTON: Okay.

8 MR. COLBERT: Thank you very much.

9 MR. KEYS: At this point, I should add
10 that we do have a representative of the developer
11 here. If there are any questions that the Board may
12 have that would go to the development process or the
13 sequencing and the timing of this process, I'd be
14 happy to have Mr. Holiman offer that information to
15 you if any of the Board members require it.

16 CHAIRPERSON HINTON: Great. We'll see
17 where our questions are.

18 MR. KEYS: All right.

19 CHAIRPERSON HINTON: Okay, thank you.

20 Do you want to address the test for the
21 variance?

22 MR. KEYS: Yes, I would like to deal
23 with the variance test.

24 MR. BASTIDA: Excuse me, Madam
25 Chairperson. On the penthouse, it's not a variance;
26 it's a special exception from the setback

1 requirements.

2 CHAIRPERSON HINTON: Well, I have a --

3 MR. BASTIDA: I mean from the height.

4 CHAIRPERSON HINTON: I have a question
5 about that. Why is that exactly?

6 MR. BASTIDA: Special exception?

7 CHAIRPERSON HINTON: Yes.

8 MR. BASTIDA: Because under the
9 regulations, it's treated as a special exception.

10 CHAIRPERSON HINTON: Well, I went
11 through the special exception regulations with the
12 chart that lists things that can be listed there and
13 I didn't find it. So, maybe you can point it out to
14 me.

15 MR. BASTIDA: I will try.

16 CHAIRPERSON HINTON: Okay. Why don't
17 you look at that and we'll go ahead.

18 MR. KEYS: I think what happens is that
19 if you look at 1203.2B, you see a reference back to
20 411.

21 CHAIRPERSON HINTON: I do see that.

22 MR. KEYS: And when we get back to 411,
23 I think 411.11 creates power in the Board to
24 authorize a deviation from the standards in 1203.2.

25 CHAIRPERSON HINTON: Well, I think --

26 MR. KEYS: -- and I think it's that that

1 the zoning administrator has deemed to be the
2 special exception standard exactly.

3 CHAIRPERSON HINTON: Right. I don't see
4 any reference to 1203.2 in 411.11. If you read the
5 height requirements in 411, they allow the height of
6 a penthouse to be -- it can be as high as it is set
7 back from the roof. There is no ten foot limit in
8 411. So, the ten foot limit is only found in
9 1203.2B. So, I don't see how that can come under
10 the special exception.

11 Nevertheless, I feel we can go ahead
12 with it. I just want to be sure that we actually
13 are dealing with the relief you need, which I think
14 is a variance and not a special exception.

15 MR. KEYS: Well, if that is your
16 interpretation, then we have to address four
17 variances, not three.

18 CHAIRPERSON HINTON: Yes, right.

19 MR. KEYS: I think that they all can be
20 resolved using the variance standard which would
21 require that we establish a condition that's
22 inherent in the property as being the unique source
23 of our difficulty.

24 In this case, we are dealing with a
25 building that was erected in 1923 which was before
26 the adoption of the zoning regulations. This

1 building is nonconforming in several respects. It
2 already exceeds the FAR that's allowed for in the
3 CAP/SP-2 District. The building already exceeds the
4 height of structures that would be allowed. And
5 what that does, it means that any addition to this
6 building creates a need for a variance because under
7 the CAP standards in 2001.3C, we can't add to a
8 nonconforming structure.

9 The fire escape is an essential for this
10 building and that is driven by the physical nature
11 of the structure. The practical difficulty arises
12 from being unable to locate -- you would have to gut
13 a significant portion of the interior of the
14 building to locate the stairway on the inside of the
15 structure. Because of the location of the stairway,
16 in the interior portion of the lot away from public
17 view, we felt that that type of modification, that
18 type of variance would be the least intrusive on the
19 zone scheme. I think certainly acceptable to the
20 major neighboring uses who are really concerned
21 about the site lines from their properties. In
22 fact, a good portion of the balance of the triangle
23 of land on which the building is located is occupied
24 and owned by the General Board of Church and
25 Society. So, this new addition really is contained
26 and is not exposed to public view.

1 The same analysis works for the
2 penthouse. If you accept the need for
3 modernization, the compulsion is to have a
4 sufficient above-roof line space for the cooling
5 tower, for emergency generators. All of these items
6 arise simply from the fact that this building is a
7 nonconforming structure.

8 I think that given the test for the
9 variance, given the elements that derive from the
10 testimony of Martha Cline and from Eric Colbert's
11 testimony, that we've established the basic
12 entitlement for variance relief. Madam Chair, I
13 don't know if either you or the zoning administrator
14 is correct in establishing that as a special
15 exception, but I assume that if we can meet the
16 variance test, that a special exception is a lesser
17 standard. If we can meet that with respect to the
18 penthouse that we should be able to get relief under
19 either standard.

20 CHAIRPERSON HINTON: Yes, and we'll try
21 to figure that out before the end of the hearing.

22 MR. KEYS: Thank you very much.

23 I think that's all we're going to have
24 at this time. I would like to reserve a few minutes
25 after Mr. Bastida's report to offer something in
26 addition.

1 CHAIRPERSON HINTON: In your closing
2 remarks?

3 MR. KEYS: Yes.

4 CHAIRPERSON HINTON: Very good.
5 Are there any questions from Board
6 members?

7 ALL: No, no.

8 CHAIRPERSON HINTON: No, very good.
9 Why don't we move to the report of the
10 Office of Planning?

11 MR. BASTIDA: Madam Chairperson, Members
12 of the Board, for the record, my name is Alberto
13 Bastida with the DC Office of Planning.

14 The Office of Planning submits its
15 report and has determined that, in fact, the
16 applicant has a practical difficulty because of the
17 shape of the building, the shape of the site, the
18 time that the building was built -- it was in 1923.
19 The -- 1958, the Zoning Administration made the
20 building nonconforming.

21 Also, in order for the building to be
22 renovated, it has to meet all of the requirements of
23 the building code and zoning regulations of the
24 District of Columbia. That triggered the building
25 of another enclosed fire stair that, in fact,
26 increases slightly the FAR of the structure which is

1 nonconforming, and also creates a new nonconforming
2 open court because of the layout. It is really a
3 very technical aspect that the Zoning Administrator
4 has determined because of the angle and the distance
5 between the new fire stair to the assembly hall or
6 auditorium, as it is called by the church. Even
7 though the previous nonconforming core is enclosed
8 in accordance, it doesn't have an enclosed court, it
9 creates a new nonconforming court and that requires,
10 triggers a variance because of the need to provide
11 and meet the requirements of the building code and
12 regulations.

13 Regarding the penthouse -- and I'm glad
14 that you made me go back and look at these. If you
15 read 1203.2, it says that it shall not exceed ten
16 feet because it shall not exceed the height of the
17 District in which it is permitted. But this is in
18 SP-2, which the maximum permitted height is 90 feet.
19 The penthouse on the building is way below the 90
20 feet. That's what this is a special exception and
21 is not a variance. That's how the Zoning
22 Administration has historically reviewed that.

23 CHAIRPERSON HINTON: Could you go over
24 that again?

25 MR. BASTIDA: Sure. The building height
26 permitted is 90 feet. That means that the penthouse

1 can go to 100 feet under these regulations, but it
2 can not exceed 100 feet. We are not close to that
3 and that's why this is a special exception and not a
4 variance.

5 You see, it says "house for mechanical
6 equipment or a stairway or a -- penthouse may be
7 erected to a height in excess of that authorized in
8 the district in which it is located" which is 90
9 feet. The idea was when the regulations were
10 enacted, is to provide that the penthouse could rise
11 above the maximum height of the building to which it
12 is serving. In this instance, the penthouse is
13 within the permitted maximum height for that
14 district.

15 CHAIRPERSON HINTON: I agree. But the
16 last sentence says "in any case." It starts with
17 "in any case."

18 MR. BASTIDA: But it's preceded by "in
19 excess of that authorized in the district." So, I
20 think that the first sentence rules that it is up to
21 90 feet without any variance.

22 CHAIRPERSON HINTON: Well, and I don't
23 disagree with you that it could be up to 90 feet.
24 What I do disagree with is that it can be more than
25 ten feet above the roof.

26 MR. BASTIDA: That's how --

1 CHAIRPERSON HINTON: Were this roof at
2 90 feet, then it could be -- were this roof at 80
3 feet, it could be to 90 feet.

4 MR. BASTIDA: That is how historically
5 the Zoning Administrator has interpreted the zoning
6 regulations and has said that if it permits, let's
7 say 60 feet and the building is 40 feet, the
8 penthouse could rise 20 feet. Regardless if it's
9 ten feet or 18.5, depends upon the zoning district.

10 CHAIRPERSON HINTON: And I understand
11 that when we're looking at Section 411 because 411
12 does not have a height limit on a penthouse above a
13 roof. It ties the height of the penthouse only to
14 the setback from the buildings. So, I agree with
15 that interpretation in 411. But I don't agree with
16 it in 1203.2. And I'm not sure if you're talking
17 about it has historically been interpreted in 1203.2
18 to mean that because in 1203.2, it has this extra
19 sentence. It says "in any case", which says to me
20 in any case, no matter what, a roof structure shall
21 not exceed ten feet in height above the roof upon
22 which it's located.

23 MR. BASTIDA: Yes. I see the legal
24 problem that the wording presents. I am going by
25 the historic interpretation of the Zoning
26 Administrator has been permitted --

1 CHAIRPERSON HINTON: Okay, and it's not
2 -- right.

3 MR. BASTIDA: -- and this is not
4 unusual. But even to put your doubts aside, even
5 though you would consider that it would be a
6 variance, still the tests -- they meet the tests.

7 CHAIRPERSON HINTON: Absolutely. Well,
8 we'll determine that.

9 MR. BASTIDA: Yes, determine that. I
10 mean, in the Office of Planning's opinion, they
11 still meet the test. We believe --

12 CHAIRPERSON HINTON: Okay.

13 MR. BASTIDA: -- that that extra test is
14 not applicable, but we agree to disagree and that's
15 not any problem.

16 CHAIRPERSON HINTON: Good.

17 MR. BASTIDA: But in the Office of
18 Planning opinion, the applicant meets the practical
19 difficulty issue. The Office of Planning believes
20 that the addition will not create adverse -- impact.
21 In fact, the building faces an existing property
22 that is still owned by the Methodist church and
23 which is an apartment building. It will not be
24 really hardly seen from the public right-of-way.

25 And the Historic Preservation Review
26 Board in which the district -- excuse me, the

1 building is located within the Capitol Hill Historic
2 District beside the CAP overlay. Both the architect
3 of the Capitol and the Historic Preservation Review
4 Board have determined that they will not adversely
5 impact the character of the historic district or the
6 CAP overlay. Accordingly, the Office of Planning
7 believes that the applicant meets all the tests for
8 the granting of this zoning relief. Accordingly, we
9 would recommend approval of this application.

10 CHAIRPERSON HINTON: Okay.

11 MR. BASTIDA: Thank you. That concludes
12 the Office of Planning presentation. If you have
13 any doubts, I will try -- I mean any questions, I
14 will try to -- you have lots of doubts, but if you
15 have any questions on those doubts, I will try to
16 answer them. Thank you.

17 CHAIRPERSON HINTON: Okay. Are there
18 any questions? No questions.

19 I am looking at the first floor plan and
20 I think I see the area that is the new nonconforming
21 court.

22 MR. BASTIDA: These basically -- and it
23 keeps opening, so it comes to a point that the open
24 court becomes in compliance.

25 CHAIRPERSON HINTON: Right.

26 MR. BASTIDA: But there's a part narrow

1 next to the building --

2 CHAIRPERSON HINTON: Yes.

3 MR. BASTIDA: -- and it's from the new
4 staircase in a northerly direction to the -- I want
5 to call it assembly hall. I don't know why. Maybe
6 because we're talking about a church, but it's not.
7 It's to the conference room.

8 CHAIRPERSON HINTON: Okay.

9 MR. BASTIDA: And it comes to a point
10 that then, it becomes in compliance. And it
11 actually is not a court anymore.

12 CHAIRPERSON HINTON: Right. And the
13 only way to not have this nonconforming court is to
14 make a bigger addition --

15 MR. BASTIDA: That is correct.

16 CHAIRPERSON HINTON: -- with the plans.
17 Okay -- other questions.

18 We'll move to the ANC report. I see
19 nothing from the ANC in the file.

20 MS. RICHARDS: I didn't find anything.

21 CHAIRPERSON HINTON: You didn't either.

22 MR. KEYS: No, we've had no
23 communication from the ANC. As I said, the
24 applicant appeared before the ANC on two occasions
25 in May of this year and presented these plans.
26 There seemed to be concurrence with those plans.

1 We're aware of no opposition.

2 CHAIRPERSON HINTON: Okay. But they
3 didn't take a formal vote?

4 MR. KEYS: Not to my understanding.

5 CHAIRPERSON HINTON: Okay. Very good.

6 MR. KEYS: For the Board, this is Reed
7 Holiman from Stout & Teague, which is the developer
8 in this case. Reed made the presentation to the
9 ANC.

10 Reed, would you report on that?

11 MR. HOLIMAN: Sure.

12 We actually presented our project to the
13 ANC on two occasions. One was to their general body
14 and then the second was at their special committee
15 that deals with development matters. They did take
16 a vote on the project and approved it unanimously.

17 CHAIRPERSON HINTON: The full ANC?

18 MR. HOLIMAN: It was the committee that
19 sees that -- there is a separate committee within
20 the ANC that reviews development projects. We went
21 to the full committee the first time. They directed
22 us -- we went to the full ANC the first time. They
23 directed us to this committee the following week.
24 It's actually the same people, but that's neither
25 here nor there. The committee took a vote to
26 basically support our plan as presented, and that's

1 the same thing that you've seen today.

2 CHAIRPERSON HINTON: Okay, thank you.

3 We'll take that into consideration. But
4 since it hasn't been submitted in writing with all
5 the regulations, it doesn't get the great weight
6 that normally an ANC would be able to have.

7 Concluding remarks, Mr. Keys?

8 MR. KEYS: I think Mr. Bastida did a
9 splendid job of --

10 CHAIRPERSON HINTON: Excuse me. I'm
11 sorry. I need to just check again.

12 Is there anyone in support of the
13 application? Anyone in opposition?

14 Thank you. You can go ahead.

15 MR. KEYS: Thank you.

16 I think Mr. Bastida did an excellent job
17 in summarizing and applying the standards that are
18 applicable to this case. I would like to just
19 redirect the Board's attention to the fact that the
20 adjustments that we are seeking are truly
21 diminimous. If you look at the amount of FAR that's
22 being added to this project given the total FAR of
23 the building, we're under three percent. It's also
24 located at the rear of the building.

25 So, I think we meet the first test of a
26 condition that is unique to this property. We meet

1 the second test in terms of the difficulty of trying
2 to adapt these things and deal with modernization
3 without making these kinds of changes. The last
4 test is that we can do this without having an
5 adverse impact and without deviating dramatically
6 from what our neighbors can expect and what the
7 interests of the architect of the Capitol in dealing
8 with the CAP District can do. We can hide these
9 things. We can improve the appearance of this
10 building, both in the sense of restoring the
11 historic elements of the building that are
12 consistent with the historic standards of the
13 district, of reducing the height of the penthouse
14 and improving the appearance of it by making it with
15 compatible materials. I think all of these elements
16 go to meet that last test.

17 Again, I would ask the Board if it would
18 indulge the applicant with a bench decision today to
19 move this project along. Thank you.

20 CHAIRPERSON HINTON: Thank you.

21 Are we ready to make a decision?

22 MR. FRANKLIN: I am, Madam Chair.

23 CHAIRPERSON HINTON: Very good. How
24 about a motion?

25 MS. RICHARDS: I'll move to approve.

26 MR. FRANKLIN: Second.

1 CHAIRPERSON HINTON: Very good.

2 Is there any discussion?

3 MS. RICHARDS: I think the rationale has
4 been adequately set forth in the discussion on the
5 record.

6 CHAIRPERSON HINTON: Yes, I agree, and
7 also listed in the OP report.

8 Let me call the question. All those in
9 favor?

10 ALL: Aye.

11 CHAIRPERSON HINTON: Opposed?

12 (No response.)

13 CHAIRPERSON HINTON: Summary order.

14 MR. LYONS: Summary order. Staff would
15 record the vote as being 4 to zero to approve the
16 application. Ms. Richards, Mr. Franklin, Ms. Reed,
17 and Ms. Hinton to approve; Mr. Clarens not present
18 and not voting.

19 CHAIRPERSON HINTON: And maybe we ought
20 to be clear about that. Let's approve the variance
21 on the --

22 MR. LYONS: Yes, under 1203.2B.

23 CHAIRPERSON HINTON: Right.

24 MR. LYONS: It's a variance and not a
25 special exception.

26 CHAIRPERSON HINTON: A variance, not a

1 special exception. And I think we ought to make a
2 finding that even though our notification of the
3 hearing listed it as a special exception, it also
4 listed the nature of the relief being --

5 MR. LYONS: Yes, we'll note that in the
6 summary order.

7 CHAIRPERSON HINTON: Great. And so,
8 there's no harm to any party?

9 MR. LYONS: Right.

10 CHAIRPERSON HINTON: Very good.

11 MR. KEYS: Thank you, Madam Chair.

12 CHAIRPERSON HINTON: Thanks.

13 Okay, are we ready to call the next
14 case?

15 MR. LYONS: Sure.

16 The next application is number three on
17 the agenda, Application 16218 of H. Nevins and
18 Sherry K. Mones, pursuant to 11 DCMR 3107.2, for a
19 variance from the rear yard requirements of
20 Subsection 404.1 for an addition to a detached
21 single-family dwelling in an R-1-A District at
22 premises 2208 Foxboro Place, N.W., Square 1341, Lot
23 41.

24 All persons wishing to testify in this
25 application, please rise to take the oath.

26 (Whereupon, the witnesses were sworn.)

1 MR. LYONS: Please be seated.

2 Will the applicant come forward?

3 CHAIRPERSON HINTON: Good morning. Go
4 ahead.

5 MS. MONES: Good morning, members of the
6 Board. I'm Sherry --

7 MR. LYONS: Why don't you use the other
8 microphone?

9 MS. MONES: I'm sorry, you can't hear?

10 CHAIRPERSON HINTON: You might want to
11 speak up a little bit.

12 MR. BASTIDA: And you might want to pull
13 it towards you a little bit, the arm. Pull it
14 toward you, the arm.

15 MS. MONES: Like this? Thank you.

16 I am the owner, half of the owner and
17 also a licensed architect in the District of
18 Columbia. I'm here requesting a zoning variance so
19 that we can put a screen porch of roughly 545 square
20 feet to the rear of our house with decks, in order
21 to connect the house to the garden.

22 Now, you have -- because of weather and
23 so forth, I didn't actually bring boards in -- the
24 plans. I brought copies of everything that I
25 submitted. It's all right here. Would you like me
26 to go through a description of the project, or just

1 address the --

2 CHAIRPERSON HINTON: We have the record
3 and I think that we understand that this is a
4 single-family home?

5 MS. MONES: That is correct.

6 CHAIRPERSON HINTON: And it appears to
7 be built both to the front and rear lot lines? The
8 lot is --

9 MS. MONES: Essentially --

10 CHAIRPERSON HINTON: -- essentially
11 covered --

12 MS. MONES: That's correct.

13 CHAIRPERSON HINTON: -- with the home?

14 MS. MONES: There's a small fraction of
15 the lot which is inside. It's the gray area inside
16 the red setback which are conceivably within the lot
17 line and therefore, could be built upon.

18 CHAIRPERSON HINTON: Right.

19 MS. MONES: And you have a copy of this
20 as well.

21 CHAIRPERSON HINTON: Okay.

22 MS. MONES: But the problem is that
23 there's no alternative location to logically put a
24 screen porch of a useable dimension on this lot.
25 And we didn't want to locate it in the front of the
26 house in the most public area. We wanted it at the

1 rear of the property. And at the rear of the
2 property, we are literally built to the rear yard
3 setback.

4 CHAIRPERSON HINTON: Okay. The area of
5 the screened porch -- the drawings that were
6 forwarded to the Board members don't have dimensions
7 on them. I do see that the full-sized prints are in
8 the record, but the Board members only received the
9 smaller drawing. You gave us a number of 545 square
10 feet. Does that include just the part that's
11 screened, or does it also include the walkways
12 leading towards the back?

13 MS. MONES: The screened area is 545
14 square feet.

15 CHAIRPERSON HINTON: Okay.

16 MS. MONES: That goes into the lot
17 coverage.

18 CHAIRPERSON HINTON: Now, the walkways
19 that are leading to the deck or to the porch and the
20 first set of steps, are those four feet above grade
21 of your yard?

22 MS. MONES: Yes.

23 CHAIRPERSON HINTON: And don't they also
24 count into lot occupancy, anything that's four feet
25 above grade?

26 MS. MONES: They're not covered.

1 CHAIRPERSON HINTON: Is that the
2 requirement?

3 MS. MONES: That was how I went through
4 it with the Building Department.

5 CHAIRPERSON HINTON: Okay. And you are
6 a registered architect --

7 MS. MONES: That is correct.

8 CHAIRPERSON HINTON: -- in the District?

9 MS. MONES: That is correct.

10 CHAIRPERSON HINTON: So, the 545 is just
11 the screen part?

12 MS. MONES: That is correct.

13 CHAIRPERSON HINTON: Okay.

14 MS. MONES: That is all that is
15 considered as part of the lot coverage. Now I have
16 what the Zoning Office provided as far as the
17 calculations. When we went through the
18 calculations, that was --

19 CHAIRPERSON HINTON: The Office of
20 Zoning, the Zoning Administrator? Is that what
21 you're saying?

22 MS. MONES: Correct.

23 CHAIRPERSON HINTON: Okay. And that's
24 on the calculation sheet?

25 MS. MONES: Right.

26 CHAIRPERSON HINTON: Well, I don't see

1 any numbers here that refer to either the existing
2 lot occupancy or the addition. Do you have those on
3 your sheet? Other than the one that was provided
4 which apparently is the total.

5 MS. MONES: That's correct. That's all
6 I have. That's all that they were interested in.

7 CHAIRPERSON HINTON: And you provided
8 that number to them?

9 MS. MONES: Well, we took it off the
10 plat, that's correct. In other words, I provided
11 them with a plat that had that.

12 CHAIRPERSON HINTON: That had what?

13 MS. MONES: The total lot area.

14 CHAIRPERSON HINTON: Okay. The 7,500
15 square feet?

16 MS. MONES: Correct.

17 CHAIRPERSON HINTON: And the lot
18 occupancy?

19 MS. MONES: Right. The lot occupancy is
20 40 percent. That was not an issue as far -- I mean,
21 the only variance was the rear yard setback.

22 CHAIRPERSON HINTON: Anytime there's an
23 addition that's requested, I think some of the
24 things that need to be considered are the rear yard
25 setbacks, side yard setbacks, the lot occupancy,
26 floor area ratio if its in that district --

1 MS. MONES: It's not.

2 CHAIRPERSON HINTON: -- I mean, those
3 are all the things that have to be looked at, so
4 that's what we're attempting to do is look at all
5 the requirements.

6 MS. MONES: Okay.

7 CHAIRPERSON HINTON: Because the
8 information that was given to me had no dimensions
9 on, I could not get any feeling for how those
10 calculations were made, or what was measured. So,
11 that's why I'm trying to get the information from
12 you.

13 MS. MONES: Okay. They're on the plans
14 which you have. There's a calculation -- it has all
15 the dimensions and it has the calculation of the
16 square footage.

17 CHAIRPERSON HINTON: If you'll just bear
18 with us for a minute.

19 MS. MONES: Certainly.

20 CHAIRPERSON HINTON: We're just trying
21 to figure this out.

22 One of the reasons we need to be careful
23 about this is the numbers that we have received are
24 very close to the maximum lot occupancy. It's
25 listed at 38. I think it's 38.4.

26 MS. MONES: That's correct.

1 CHAIRPERSON HINTON: If you go over the
2 40 percent, then you need a variance, another
3 variance.

4 MS. MONES: Right, and we do not in this
5 case.

6 CHAIRPERSON HINTON: Well, that's what
7 we're looking into. I think there may have been an
8 error in the calculations of what actually goes into
9 lot occupancy. Any structure in -- we're going to
10 look up the regs, but the structures in your
11 required rear yard that are four feet above grade
12 count towards lot occupancy, whether or not they're
13 covered, whether or not they have a roof.

14 It appears to me that both of those
15 walkways and the steps leading down, that those also
16 are going to count towards your lot occupancy.
17 Since you are very close, they may well put you over
18 in which case, you would need another variance. So,
19 the Office of Planning is looking into that as far
20 as those calculations.

21 For the purposes of moving the hearing
22 along, why don't --

23 MR. BASTIDA: Could I ask a couple of
24 questions, Madam Chairperson?

25 CHAIRPERSON HINTON: You want to ask
26 them now?

1 MR. BASTIDA: Yes. It will facilitate
2 me to determine what --

3 CHAIRPERSON HINTON: If it will help,
4 yes, please.

5 MR. BASTIDA: If I may?

6 The 545 square feet, I'm looking at your
7 plat plan which you have hatched as the proposed
8 covered porch?

9 MS. MONES: Correct.

10 MR. BASTIDA: Are you looking at that so
11 we can talk about pears and pears and apples and
12 apples? You don't have a copy of that?

13 MS. MONES: I didn't bring the plans --
14 oh, I'm sorry, I do have that.

15 MR. BASTIDA: The plat plan.

16 MS. MONES: I'm sorry. I did not bring
17 the plans with me because I did not realize that
18 they would be an issue.

19 MR. BASTIDA: Madam, do you mind taking
20 that and that way, we can talk and put it on the
21 record? That's the plat plan that you submitted?

22 MS. MONES: I do have a copy of that.

23 MR. BASTIDA: Okay. So you have a copy
24 of the plat plan in front of you?

25 MS. MONES: I do.

26 MR. BASTIDA: Correct?

1 MS. MONES: Yes.

2 MR. BASTIDA: I am trying to determine
3 that the 545 --

4 MS. MONES: Is within the hatch area.

5 MR. BASTIDA: -- is the hatch area?

6 MS. MONES: That is correct.

7 MR. BASTIDA: The areas that are
8 indicated as stairs and balconies --

9 MS. MONES: Right.

10 MR. BASTIDA: -- were not included in
11 the 545?

12 MS. MONES: That is correct. Because in
13 discussion with the Building Department, we went
14 over that and they absolutely told me to exclude it.

15 MR. BASTIDA: And what was the technical
16 explanation by which they deleted it?

17 MS. MONES: Because they were not
18 covered.

19 MR. BASTIDA: I think that the Zoning
20 Administrator erred in providing that information
21 that way. Because anything that is above 48 feet
22 that intrudes into the --

23 MS. MONES: Forty-eight inches.

24 MR. BASTIDA: -- forty-eight inches,
25 thank you -- that intrudes into the rear yard goes
26 to lot occupancy. Anything below four feet would

1 not be considered. So, perhaps some of the stairs
2 and most of the proposed deck would not be included
3 in the calculations perhaps but, in fact, you don't
4 have a true magnitude of the required relief in
5 front of the Board. That also could determine the
6 Office of Planning position on recommending in favor
7 against it. If you were to exceed the 40 percent
8 lot occupancy, perhaps the Office of Planning would
9 recommend against it.

10 MS. MONES: Okay. All I can provide you
11 is the calculations that were provided to me, after
12 the Building Department reviewed the plans.

13 MR. BASTIDA: Let me ask you a question.
14 Is that tied to the house with -- the two wings that
15 has some steps in between are necessary for the
16 adjoining of the deck or can that be deleted from
17 your proposal?

18 MS. MONES: It's very central to the
19 concept because the object here was to build a
20 screened porch that would be a transition element
21 from the house -- and the major part of the house is
22 a level above the garden. And so, the object was to
23 be able to get back to the house from the garden.

24 Now, if it presents a problem, we could
25 consider -- you know, it's really very central to
26 the design concept.

1 MR. BASTIDA: I don't know, Madam
2 Chairperson. It's very difficult at this point for
3 the Office of Planning trying to establish what can
4 be done and work with the applicant. Perhaps since
5 the applicant is willing to work with the Office of
6 Planning to resolve these, you might would like to
7 continue the hearing until that issue is resolved.
8 That way, you can do it at your next meeting,
9 hearing date or whatever to try to work it out.
10 Because I honestly think that if the applicant
11 exceeds the maximum permitted lot occupancy, I think
12 that the Office of Planning will not be able to
13 determine that there is a practical difficulty for
14 the magnitude of the relief requested.

15 CHAIRPERSON HINTON: And it's clear to
16 me too that we can't go forward without knowing. We
17 need to have a determination of what the proposed
18 lot occupancy is --

19 MR. BASTIDA: Correct.

20 CHAIRPERSON HINTON: -- and I don't
21 think that the Board members need to sit here and
22 make those calculations.

23 I appreciate your proposal and I think
24 that would be great. However, if you, working with
25 the applicant results in a proposal that does exceed
26 that lot occupancy, then this would have to be

1 readvertised.

2 MR. BASTIDA: I think that you should
3 ask your staff person, but I believe that it's not
4 needed because the magnitude of the relief is
5 already advertised. You're not increasing the
6 magnitude of the relief. There is an area variance.

7 CHAIRPERSON HINTON: Well, but it would
8 be two variances, wouldn't it?

9 MR. BASTIDA: But the test is the same
10 for both.

11 CHAIRPERSON HINTON: The test is the
12 same for both.

13 Why don't we give that some thought.
14 Why don't we continue this matter and give the
15 applicant an opportunity to work with the Office of
16 Planning to go over the calculations of the proposal
17 and see if an additional variance is needed. If so,
18 if you would prefer to make some changes to your
19 proposal so that that second variance isn't required
20 --

21 MR. LYONS: Madam Chair?

22 CHAIRPERSON HINTON: Yes?

23 MR. LYONS: I can directly contact Mr.
24 Nunley about how he calculated it. I have a feeling
25 that he may have used the rising grade in the back
26 and perhaps made some determination of average grade

1 level where this might fall below that average grade
2 level.

3 CHAIRPERSON HINTON: Okay.

4 MR. LYONS: But I can check with him to
5 see exactly how he determined that.

6 CHAIRPERSON HINTON: That's going to be
7 important and please, make sure Mr. Nunley
8 understands that the rising grade is not on the
9 subject lot. It's on an adjacent lot. I think that
10 the regulation is on the lot.

11 MR. LYONS: Oh, yes, of course.

12 CHAIRPERSON HINTON: So, that would be
13 good. Why don't you do that? And are you agreeing
14 that we need to continue?

15 MR. LYONS: Yes.

16 CHAIRPERSON HINTON: Are you suggesting
17 that the applicant wait to hear from you on the way
18 the calculation was done before they work with the
19 Office of Planning to make any necessary changes?

20 MR. LYONS: Yes.

21 CHAIRPERSON HINTON: It sounds like we'd
22 better continue this for a couple of months?

23 MR. FRANKLIN: I would hope, Madam
24 Chair, that we would not have to continue it for
25 that long.

26 CHAIRPERSON HINTON: Do you want to try

1 our second hearing date in April and see what
2 progress we've made by then? Can we add this case
3 to the agenda?

4 MR. LYONS: April 23rd has been
5 advertised. I think we can add this case to that
6 agenda.

7 CHAIRPERSON HINTON: Do we need to
8 advertise again since we're continuing to a date
9 certain?

10 MR. LYONS: If a lot occupancy variance
11 is needed, we may need to advertise it.

12 CHAIRPERSON HINTON: So, in that case,
13 on April 23rd, we could --

14 MR. LYONS: It would have to go to May.
15 April 23rd has been advertised. We are well within
16 the 40 days.

17 CHAIRPERSON HINTON: And this is
18 something the staff can handle?

19 MR. LYONS: Yes.

20 CHAIRPERSON HINTON: Okay.

21 MR. BASTIDA: Madam Chairperson?

22 CHAIRPERSON HINTON: Yes?

23 MR. BASTIDA: My offer to work with the
24 applicant would be that an additional variance is
25 not required because otherwise, I think the Office
26 of Planning will not look at the proposal favorably.

1 CHAIRPERSON HINTON: I think we're clear
2 on that. So, if there is a determination that the
3 calculations were done incorrectly and in fact, the
4 proposal in front of us needs two variances, then
5 the applicant could consider working with the Office
6 of Planning. Or on your own, figure out a way to
7 only need the one variance because I think the
8 Office of Planning is advising you that you are not
9 likely to get their support for two variances.

10 MS. MONES: Madam Chairperson, I think
11 there's an easy solution which is to remove the
12 decks, which would be nice but they're not central
13 to what we're trying to accomplish.

14 CHAIRPERSON HINTON: Do you want to do
15 that today or do you want to --

16 MS. MONES: Yes. I mean, clearly, I
17 would like to take a look at it again, but I see no
18 reason not to do that and not to simplify it. We're
19 really just seeking a simple screened porch addition
20 here and not to tie it back to the house, as I would
21 prefer doing, simplifies it. You know, we still get
22 three-quarters of what we're attempting to
23 accomplish here. So, that might be an easy
24 solution.

25 Is it possible that we could go ahead
26 and do that. Then if I have a problem --

1 CHAIRPERSON HINTON: We could go ahead
2 at this point with a modified request to have just
3 the screened porch, which we understand to be 545
4 square feet.

5 MS. MONES: Correct.

6 CHAIRPERSON HINTON: And after our
7 decision, we would ask you to submit revised plans
8 showing just the screened porch and having those
9 other parts removed.

10 MS. MONES: Okay. Now, can we do the
11 deck off the screened porch that does not rise, as
12 long as it's within 48 inches of the ground?

13 CHAIRPERSON HINTON: Of the ground, it
14 doesn't count towards lot occupancy.

15 MS. MONES: It can have the deck there.
16 Because what I'll need to do is rework the stairs
17 and the --

18 CHAIRPERSON HINTON: Yes. Now, you need
19 to go through the process, but I don't believe that
20 that would trigger the need for a variance. So, as
21 far as --

22 MS. MONES: So, a solution that does not
23 trigger a second variance would be acceptable?
24 Which is what I would be doing.

25 CHAIRPERSON HINTON: We're getting on to
26 a slippery slope at this point. The Board can't

1 hear or make a decision when we don't have the
2 proposal in front of us. The proposal really has to
3 be drawn so that we can see it.

4 Now, with your agreement, we can
5 understand what removing parts would be like and we
6 can move ahead thinking just about the screened
7 porch. But when you talk about adding other parts
8 that we haven't seen, we really can't deal with
9 that.

10 MS. MONES: No, no. I'm just suggesting
11 that what we would delete would be everything above
12 48 inches.

13 MS. RICHARDS: Madam Chairperson --

14 CHAIRPERSON HINTON: I'm assuming those
15 are the two wings that go back, the two wings?

16 MS. MONES: The wings from the stairs
17 that go back to the house, starting at the bottom of
18 the stairs.

19 CHAIRPERSON HINTON: Right, right.

20 MS. MONES: Okay. But you see there's
21 deck around the porch as well.

22 CHAIRPERSON HINTON: I do.

23 MS. MONES: And that's what I was
24 referring to.

25 CHAIRPERSON HINTON: Yes, that's not a
26 problem.

1 MS. MONES: That can remain. Okay,
2 that's exactly what I was referring to.

3 CHAIRPERSON HINTON: Because it appears
4 from the drawing that that's lower than 48 inches
5 above the grade.

6 MS. MONES: Correct.

7 CHAIRPERSON HINTON: Is that true?

8 MS. MONES: Right.

9 CHAIRPERSON HINTON: So then that part
10 of the deck is not a problem.

11 MS. MONES: Okay. That's what I was
12 referring to --

13 CHAIRPERSON HINTON: So, that can stay
14 the way it is on the drawings?

15 MS. MONES: Right, yes. Everything from
16 the steps up will be removed.

17 CHAIRPERSON HINTON: Right. Okay, good.

18 MS. MONES: I don't think there's any --

19 CHAIRPERSON HINTON: Okay, are we ready
20 to move ahead? You're fine with that? Okay.

21 So, you have a screened porch that you'd
22 like to add to the rear of your house?

23 MS. MONES: Correct.

24 CHAIRPERSON HINTON: Okay. And it's 545
25 square feet?

26 MS. MONES: That is correct.

1 CHAIRPERSON HINTON: Right. And it
2 appears from the drawings to be a one-story kind of
3 enclosure?

4 MS. MONES: That is correct.

5 CHAIRPERSON HINTON: Okay. You might
6 want to address the test for variance, the three-
7 pronged test?

8 MS. MONES: Right. We have an
9 exceptional property situation which deprives us of
10 a reasonable use of the property. That stems from
11 the very shallow and very odd shape of the lot. In
12 addition, we have land within the building
13 restriction lines, but it's not of a dimension or a
14 size or in the right location that would accommodate
15 what we're trying to accomplish here. Therefore, we
16 have no alternative location for this porch
17 addition.

18 The property line is at the bottom of a
19 very steep slope. I have a section here which gives
20 you an idea of -- it is quite steep and --

21 CHAIRPERSON HINTON: Would you hold that
22 up?

23 MS. MONES: Certainly. Would you like
24 me to put it on the --

25 CHAIRPERSON HINTON: That would be fine.
26 We have a reduced copy of that in our files, too.

1 MS. MONES: Our property line -- the
2 land is flat out to our property line and then at
3 the edge of the property line, it immediately starts
4 going up and it goes up quite steeply. At the top
5 of the hill is a fence line of the rear property,
6 the adjacent rear property. The fence line is
7 roughly 32 feet beyond our property line. So, we
8 have our 25 feet and then there's the 32 feet where
9 their fence line is located. The porch would be
10 more than 30 feet from that fence. Just by looking
11 at the land, it's not a practical place to build.
12 We have the concurrence of the neighbor on that
13 property supporting our zoning variance application.
14 I believe that it's in recognition of the fact that
15 it's really not buildable land anyway.

16 There's no detriment to -- the second
17 issue would be no detriment to the public good.
18 First of all, what we're proposing to put is not
19 visible by any of our neighbors and all of our
20 neighbors have supported. They have been informed,
21 have reviewed the plans and have supported our
22 project. In fact, I think it's fair to say that
23 this will enhance our property and by association,
24 add value to theirs as well. So, everyone is really
25 very supportive of this, as well as the ANC. I
26 believe you've gotten a letter from the ANC. I

1 presented the project to the ANC and they have
2 unanimously supported this project as well.

3 Third, I believe that there's no
4 impairment to the intent, purpose and integrity of
5 the zone plan from granting us relief for this
6 addition because the land immediately to the north
7 really does not lend itself to development, as I
8 just discussed. It's a reasonable and customary
9 feature that we are adding to the property and it is
10 more than 25 feet from our neighbor's fence line.
11 That pretty well concludes my position on this.

12 CHAIRPERSON HINTON: Okay, thank you.

13 Questions from the Board members?

14 Mr. Franklin?

15 MR. FRANKLIN: I have no question. I
16 have an observation when it's timely.

17 CHAIRPERSON HINTON: Okay. I have a
18 couple of questions.

19 One of your reasons for showing an
20 exceptional condition of the property is the
21 location and configuration of the structure on the
22 lot takes up all the building portions. Is this a
23 new house? It appears from the photos that it's not
24 too old.

25 MS. MONES: It was built in '85-'86.

26 CHAIRPERSON HINTON: Relatively new.

1 Are you the original owner?

2 MS. MONES: No. No, we purchased it not
3 quite three years ago.

4 CHAIRPERSON HINTON: One other thing
5 that you said peaked my interest, that a screened
6 porch is a usual and customary part of a single-
7 family home. I'm assuming you're thinking single-
8 family home.

9 MS. MONES: Correct.

10 CHAIRPERSON HINTON: What are you basing
11 that on?

12 MS. MONES: Well, my husband who moved
13 from Maryland had a customary home with a screened
14 porch and he would like to have the same feature in
15 our house here. It's the kind of thing that's
16 consistent with a single-family residential home.
17 It would be for our private use and an element that
18 we believe would make owning and living in this
19 property more delightful and enjoyable.

20 CHAIRPERSON HINTON: Okay. Part of the
21 test for a variance is -- I want to get the wording
22 just right on this because it's important -- that
23 there is a condition of the property that makes it a
24 practical difficulty to develop the property in
25 accordance with the regs and deprives the applicant
26 of reasonable use of the property.

1 CHAIRPERSON HINTON: From the kitchen,
2 you go down steps to the garage?

3 MS. MONES: Right. It goes around and
4 after the first run of steps, the screened porch
5 comes off from there.

6 CHAIRPERSON HINTON: But those steps
7 need to be eliminated because --

8 MS. MONES: No, no, no. They're
9 interior to the house.

10 CHAIRPERSON HINTON: So, access to this
11 porch is from the garage?

12 MS. MONES: Is from the inside. No,
13 it's from the -- it's adjacent to the kitchen.
14 There are steps that go down to the lower level and
15 this goes off of that. So, it is accessible from
16 the kitchen.

17 CHAIRPERSON HINTON: And there isn't any
18 access to your patio?

19 MS. MONES: It's from the lower level,
20 not from the main level of the house. Is that what
21 you mean?

22 CHAIRPERSON HINTON: That's what I mean.

23 MS. MONES: There's an open patio.
24 There's a patio on-grade in the rear and this would
25 be adjacent to that. There is a --

26 CHAIRPERSON HINTON: Adjacent to it and

1 up about a half-a-level.

2 MS. MONES: There is a deck off the
3 kitchen which we considered enclosing, but it will
4 be visible to the neighbors and it also will be
5 adding to the bulk of the house that I don't want to
6 do. It isn't the kind of a solution. It will not
7 enhance the view of the house from the road, and
8 it's visible from the public roadway.

9 CHAIRPERSON HINTON: The deck off the
10 kitchen. And where is that?

11 MS. MONES: The deck off the kitchen.
12 There's a deck off the kitchen.

13 CHAIRPERSON HINTON: Is that shown on
14 here?

15 MS. MONES: Yes. It's over the garage.

16 CHAIRPERSON HINTON: There's a deck over
17 the garage.

18 MS. MONES: Over the garage.

19 CHAIRPERSON HINTON: And that's
20 accessible from the kitchen?

21 MS. MONES: That is correct.

22 CHAIRPERSON HINTON: But it's not
23 covered?

24 MS. MONES: That is correct.

25 CHAIRPERSON HINTON: So, you could eat
26 out there, but not when it's raining?

1 MS. MONES: That is correct.

2 CHAIRPERSON HINTON: Okay.

3 MS. MONES: But we wanted was this
4 transition element that was on a lower level that
5 gave us access to the garden.

6 CHAIRPERSON HINTON: Right, okay.

7 Would you like to make your comment now,
8 Mr. Franklin?

9 MR. FRANKLIN: No, it's been overtaken
10 by new information so I'll withdraw it.

11 CHAIRPERSON HINTON: Okay.

12 Why don't we move to the Office of
13 Planning report?

14 MR. BASTIDA: Good morning, again, Madam
15 Chairperson, Members of the Board. For the record,
16 my name is Alberto Bastida with the Office of
17 Planning.

18 The Office of Planning recommends
19 approval of this application provided that the
20 maximum lot occupancy is not exceeded. The
21 practical difficulty resizing in several points, has
22 been spelled out in the Office of Planning report of
23 March 12th. The main difficulty in this instance is
24 the irregularly shaped and shallowness of the lot.
25 When the house was first built, it was built as a
26 matter of right and it was so located as not to

1 require any deviations from the zoning regulations.
2 Any additions to the house that if were not being so
3 shallow it could be done in the back, would require
4 a deviation from the zoning regulations and in this
5 instance, triggers a variance from the rear yard
6 requirements.

7 The Office of Planning believes that
8 there will be no negative area impacts. The house
9 abuts to the rear, a very large estate which is the
10 Cafritz Estate. It's over nine acres, I think. As
11 a matter of fact, the slope that goes upward from
12 the rear of the house to the adjacent property is
13 fenced at the top of that steep embankment, which
14 gives the house -- this lot -- the appearance that
15 that is their rear yard, which it's not. Because
16 the fence is at the top of the grade so accordingly,
17 there is a tremendous distance there -- about 40, 50
18 feet on that.

19 So, we believe because of that, there
20 would be no negative area impacts or impacts on the
21 zone plan for the city. Based on that, the Office
22 of Planning recommends approval of this application.
23 This has been because of the public hearing and the
24 new information that appeared, it has taught me that
25 I would have to calculate all the slots for the
26 Zoning Administrator. I took his computations as

1 being correct.

2 I would like to point out, even though
3 I'm not trying to rehash the problem, but if you
4 were to close the record now, the applicant would
5 have to submit the plans. The plans will have to be
6 sent to the Zoning Administrator to determine if, in
7 fact, it complies to see which decision you are
8 going to take. So, it's going to take two or three
9 months to resolve it. The applicant has made a very
10 expeditious decision trying to see that they will
11 not exceed the lot occupancy. I think that perhaps
12 the applicant will be better served by having a
13 postponement of four weeks, if she would request
14 that. I mean, it's up to the applicant to request
15 it. This office would work with the Zoning
16 Administrator to expeditiously get the findings on
17 the calculations. She would have a couple of days
18 to really think the design issue and so on, and the
19 Office of Planning will be glad to work with her on
20 an expeditious fashion. I am saying these out of
21 concern that the applicant might not, making a very
22 expeditious decision, do what is best for her. But
23 that is for her to determine.

24 That concludes my remarks. I will be
25 glad to try to answer any questions you might have.
26 Thank you.

1 CHAIRPERSON HINTON: Okay. Are there
2 any questions? No.

3 I have a question. I'm a little concern
4 about your determination that this is an irregularly
5 shaped lot. In some of the maps that are in the
6 record, there are actually a couple of other cul-de-
7 sacs shown. It appears to me that not only on this
8 cul-de-sac which is Foxboro, but also the one to the
9 north which I can't read the name because there's a
10 hole in it. This is not at all an irregular shaped
11 lot for the end of a cul-de-sac.

12 Now, it also appears to me that the lots
13 on this road were designed to squeeze in as many
14 single-family lots as could fit, which is normal.
15 It resulted in having seven single-family lots with
16 a couple of them rather small, rather than maybe
17 having six or five that would have nice deep lots
18 that you might find on a street that wasn't a cul-
19 de-sac. And so, I'm trying to understand. I would
20 think that when the Board looks at the shape of a
21 lot when we're considering a variance, we have to
22 think about the fact that this is the end of a cul-
23 de-sac where lots usually are this shape. And that
24 would make it usual rather than extraordinary.

25 Did that enter into your consideration
26 at all? Are you comparing this to the shape of a

1 lot that maybe would be on one of the streets, grid
2 streets of the city?

3 MR. BASTIDA: The main emphasis from our
4 review is how shallow the lot is. Because even if
5 it were a perfect rectangular lot, because of the
6 shallowness, it limits the area in which you could
7 build. So, it necessitates the location of this
8 house within very confined parameters to meet with
9 all the requirements of the zoning regulations.

10 CHAIRPERSON HINTON: Okay. And then the
11 other part of the variance test is that it deprives
12 the owner of reasonable use of the property. So,
13 are you saying that this rather large home on this
14 lot isn't reasonable because it doesn't have a
15 screened porch?

16 MR. BASTIDA: No, I am not saying that.
17 What I'm saying is if the lot is not buildable
18 because of the shallowness as a matter of right, but
19 there is still within the parameters of the
20 development, especially of the lot occupancy, I --
21 what is the opinion of the Board is we're depriving
22 the applicant of a reasonable use of their lot or
23 not, I can not --

24 CHAIRPERSON HINTON: Well, that's part
25 of the test of the variance which I --

26 MR. BASTIDA: But you see, it is not.

1 Even if they want to do something else and not
2 necessarily a porch, that's what I can't -- I have
3 to be more generic.

4 CHAIRPERSON HINTON: Well, what's
5 triggering the variance is the fact that this porch
6 is covered and four feet above grade. It could be a
7 deck less than four feet above grade and if it
8 weren't covered, it wouldn't --

9 MR. BASTIDA: It would because it is
10 above four feet above grade that it would be. The
11 majority, I think, will -- the lot occupancy.

12 CHAIRPERSON HINTON: But I'm saying if
13 it were not four feet above grade, it could extend
14 into the rear yard, couldn't it?

15 MR. BASTIDA: That is correct.

16 CHAIRPERSON HINTON: Okay.

17 MR. BASTIDA: It could extend into the
18 rear yard for a maximum of, I think, 12 feet because
19 it can only cover 50 percent of the rear yard.

20 CHAIRPERSON HINTON: Right. That's
21 right.

22 MR. BASTIDA: Or they could have a deck
23 in there for the 12 feet.

24 CHAIRPERSON HINTON: Okay.

25 One other thing I wanted to know if you
26 thought about is that there's been discussion about

1 the adjacent property and the fact that there is a
2 steep slope, fence is at the top of the slope.
3 That's the existing condition. Are you aware of any
4 agreement or covenant that says that that won't
5 change? That that would never be developed?

6 MR. BASTIDA: No. The only thing I am
7 aware is the applicant contacted the Cafritzs and
8 tried to buy that part of the property from them so
9 they would, in that way, be in compliance with the
10 regulations and they could build as a matter of
11 right. The Cafritzs were not interested in selling
12 any part of their property and in return said that
13 they would be glad to support their application.
14 But that is something that could change and you're
15 correct in that respect.

16 CHAIRPERSON HINTON: Okay. Okay, very
17 good.

18 The ANC. Is there anyone here from the
19 ANC? No. We have a letter in our file from ANC 3-D
20 that is in support. The vote was 7 to zero.

21 Is there anyone in support of the
22 application? Anyone in opposition?

23 Would you like to make closing remarks?

24 MS. MONES: Certainly. I would hope
25 that you would look favorably upon our application.
26 We feel as though we would do anything to conform to

1 -- we are not interested in doing anything that's
2 not in conformance with the zoning code. It's just
3 that the area of land that is around the house is
4 not useable for a screened porch. We would like to
5 do that in the rear for all the reasons that I've
6 suggested. All of our neighbors really are most
7 supportive, as well as the ANC.

8 I guess I would hope that you would
9 understand from our perspective that this is a
10 feature that would truly enhance our use of our
11 property. We would hope that you would see the
12 rationale and be able to clear the way for us.

13 CHAIRPERSON HINTON: Okay, thank you.

14 I should mention in the record, there
15 are a number of letters of support, or actually,
16 signatures of support from the residents of the
17 street that this --

18 MS. MONES: That's correct.

19 CHAIRPERSON HINTON: -- lot is located
20 on and the adjacent street.

21 MS. MONES: Correct. It's all of our
22 neighbors and they are all most positive to see this
23 go forward.

24 CHAIRPERSON HINTON: And there's no
25 opposition?

26 MS. MONES: That is correct.

1 CHAIRPERSON HINTON: Okay.

2 Board members, we can either make a
3 bench decision or we can contemplate and set this
4 for decision in April.

5 MR. FRANKLIN: Well, I am ready to move,
6 Madam Chair, to approve it today if my colleagues --

7 MS. RICHARDS: Do we need revised plans
8 before we vote?

9 CHAIRPERSON HINTON: The question is
10 whether we should have revised plans before we vote
11 and I think that would be a really good idea. So,
12 why don't we set this for April if the applicant is
13 able to provide the plans in that time.

14 MR. LYONS: Can the applicant produce
15 the plans by April 2nd?

16 MS. MONES: I think so. The problem is
17 that I'm going to be away. Do they have to be here
18 by April 2nd? I can probably work that out.

19 CHAIRPERSON HINTON: Well, if they're
20 not here on April 2nd, we couldn't make our decision
21 on the 9th. We would have to wait until May.

22 MS. MONES: Oh, so you would do it on
23 the 9th?

24 CHAIRPERSON HINTON: We would make a
25 decision on the 9th if the revised plans are here.

26 MS. MONES: Okay. I'm pretty sure I can

1 accommodate that. I can do that.

2 CHAIRPERSON HINTON: Now, the other
3 thing is, when we look at the plans, we'll have to
4 be able to be sure that there is not another
5 variance needed.

6 MS. MONES: Correct.

7 CHAIRPERSON HINTON: But we're assuming
8 that if you make those changes, that's going to be
9 the case.

10 MS. MONES: That is correct.

11 CHAIRPERSON HINTON: Okay. So, you
12 think by the 2nd?

13 MS. MONES: I think it's a minor
14 revision, really.

15 CHAIRPERSON HINTON: Okay, very good.

16 MR. LYONS: Then the Board will make a
17 decision on the application at its April 9th
18 meeting.

19 MS. MONES: Okay. And you want
20 architectural plans that you have in your
21 possession -- the corrections will be made on that.
22 Is that what I understand?

23 MR. LYONS: It would be revisions to
24 those plans, yes.

25 MS. MONES: Okay, yes.

26 CHAIRPERSON HINTON: A new set of plans.

1 MS. MONES: Correct.

2 CHAIRPERSON HINTON: Yes. If you have
3 any other questions, you can talk to the secretary
4 or our members of the staff.

5 MS. MONES: Okay, thank you. So, the
6 date would be the 9th then?

7 CHAIRPERSON HINTON: Our meeting will be
8 on the 9th.

9 MS. MONES: Okay. Will I be informed
10 again?

11 MR. LYONS: We can talk to you about
12 that, that process.

13 MS. MONES: Thank you.

14 MR. LYONS: The next case of the morning
15 is Application 16212 of the Inez Cushard Family
16 Trust, pursuant to 11 DCMR 3108.1, for a special
17 exception under Section 213 to continue to operate a
18 27 space parking lot approved under BZA Order No.
19 15919 dated May 27th, 1994 in an R-2 District at the
20 rear of 4926 Wisconsin Avenue, N.W., Square 1671,
21 Lot 30.

22 All persons wishing to testify in this
23 application, please rise to take the oath. Please
24 raise your right hand.

25 (Whereupon, the witnesses were sworn.)

26 MR. LYONS: Please be seated.

1 Will the applicant come forward?

2 MR. CATE: Madam Chair, Members of the
3 Board, my name is Dennis Cate and I represent the
4 Inez Cushard Family Trust, the applicant for this --
5 With me are Carol Patterson, the co-trustee of the
6 trust and Cathy Mitchell, co-owner of the Wild Bird
7 Center. The Wild Bird Center leases the parking lot
8 and operates on a day-to-day basis.

9 I'll briefly go through how we believe
10 that the applicant meets the requirements for the
11 special exception.

12 As we've already stated, the property is
13 Lot 30 at Square 1671. It is triangular in shape
14 and is surrounded by a 15 foot wide public alley.
15 It contains, according to tax records, 8,367 square
16 feet and is zoned R-2. We've proposed the
17 continuation of a parking lot which was approved
18 most recently in 1994 in Case Number 15919. As part
19 of that application, we installed an automatic gate
20 to secure the parking lot from unauthorized use and
21 also to preclude use outside of the authorized
22 hours. Because of that installation, two parking
23 spaces were lost. So, actually, we're requesting
24 approval of 25 parking spaces rather than the 27
25 spaces noted.

26 The operation of the parking lot will be

1 the same as that previously approved. We are
2 requesting the addition of limited weekend hours for
3 the employees and customers of the store located at
4 4926 Wisconsin Avenue, N.W. Currently, the parking
5 lot's permitted hours are 7:00 a.m. to 7:00 p.m.,
6 Monday through Friday. We are requesting in
7 addition to that, that the lot be allowed to be open
8 from 9:00 a.m. to 7:00 p.m. on Saturdays and 11:00
9 a.m. to 6:00 p.m. for the employees and for the
10 customers of 4926 Wisconsin Avenue retail space.
11 That space is occupied by the Wild Bird Center which
12 leases the parking lot and operates it on a day-to-
13 day basis.

14 After the Office of Planning report was
15 submitted to the Board, I spoke with Mr. Bastida
16 regarding the requested operating hours for the
17 weekend. We discussed the discrepancy in his
18 condition versus what we had applied for and Mr.
19 Bastida has stated that the Office of Planning has
20 no objections to the weekend hours inasmuch as ANC-
21 3E has recommended approval of the application with
22 those weekend hours. Mr. Bastida will present that
23 and confirm as well.

24 The application was presented to ANC-3E
25 on October 24th and ANC-3E has voted to support the
26 application. Their report is in the file. Other

1 than the expanded hours of operation, this is the
2 same application that was approved in 1994.

3 The current application meets the
4 conditions for the grant of special exception. I'll
5 just quickly go through the different provisions
6 that are met. Section 213.1 requires Board of
7 Zoning Adjustment approval, and we are seeking that
8 now. Section 213.2 requires the parking lot to be
9 located -- 200 feet of an existing commercial
10 district. The entire lot is within 200 feet of the
11 existing commercial district, fronting on to
12 Wisconsin Avenue. Section 213.3 requires the lot to
13 be contiguous to or separated only by a public alley
14 from that commercial district. It is separated only
15 by a 15 foot public alley.

16 Section 213.4 requires compliance with
17 Chapter 23 and Section 2303 applies to parking lots.
18 The lot continues to be paved and the entrance is
19 not located within 40 feet of a street intersection.
20 There is no on-site lighting and the lot operators
21 have committed to regular inspection and cleanup.
22 The lot continues to be screened from residential
23 properties by the existing masonry wall. A metal
24 guardrail continues to constitute the lot boundary
25 across the public alley from the commercial
26 district. There is no attendants' booth and no

1 vehicle is permitted over a lot or building line or
2 into public space. As required by the previous
3 grant of special exception, an automatic gate has
4 been installed to control access.

5 Section 213.5 requires the lot not
6 result in dangerous or otherwise objectionable
7 traffic conditions, and not adversely effect the
8 present character and future development of the
9 neighborhood. The parking lot has been in existence
10 for some time and has been operated since 1994 with
11 the automatic gate. We believe that the owner and
12 the operators have shown that the parking lot can be
13 a good neighbor. The owner and the operators have
14 received no objections to the operation of the
15 parking lot. Hours have been strictly enforced and
16 the parking lot has been well maintained. The
17 operators pick up the lot on a regular basis, and
18 the owner has contracted for someone to come out and
19 pick up the lot and repair potholes and walls and so
20 forth on an as-needed basis.
21 The lot is not large and it now has two less spaces
22 than previously approved. It is not expected to
23 generate heavy volumes of traffic. Therefore, we
24 believe the lot will not result in dangerous or
25 objectionable traffic conditions, or effect the
26 character and development of the neighborhood

1 adversely.

2 Section 213.6 requires the lot be
3 reasonably necessary and convenient to other uses in
4 the vicinity and likely result in a reduction of
5 over-spilled parking. The parking lot serves
6 monthly parkers who work or attend school in this
7 area, as well as customers and employees of the Wild
8 Bird Center. Without this parking lot, they would
9 be searching for on-street parking. The lot is
10 convenient for the renters and the customers and
11 likely reduces the need to park on the streets, and
12 thus, reduces over-spilled parking.

13 Section 213.7 requires that -- spaces
14 serve residential use of short-term parking needs of
15 retail -- There are monthly tenants, but a majority
16 of the spaces -- for the customers of the retail
17 space at 4926 Wisconsin Avenue. Section 213.8
18 requires the Board to submit the application to the
19 Department of Public Works. It has been noted that
20 it has been submitted. We have seen no report from
21 the Department of Public Works. The Office of
22 Planning has recommended conditional approval of
23 this application and it finds that the applications
24 meets the standards for the grant of special
25 exception.

26 Other than the condition regarding the

1 weekend hours, we have no problem with the
2 conditions recommended by the Office of Planning
3 report. We would request, therefore, that in the
4 light of the fact that the parking lot has operated
5 as a good neighbor since the last approval, the fact
6 that both ANC-3E and the Office of Planning have
7 recommended approval, and our belief that we meet
8 all of the requirements for the grant of special
9 exception, we request the favorable action of the
10 Board, subject to conditions submitted by the Office
11 of Planning report, subject to the condition of
12 hours being changed to reflect the requested hours.

13 Thank you. Ms. Patterson would like to
14 make a short statement and then Cathy Mitchell as
15 well. If there are any questions, we'd be happy to
16 answer them.

17 CHAIRPERSON HINTON: All right. Why
18 don't we finish with your statements and then we'll
19 take questions all at once.

20 MR. CATE: Okay.

21 MS. PATTERSON: Madam Chairperson,
22 Members of the Board, my name is Carol Cushard
23 Patterson. I'm the daughter of Inez Cushard. I'm
24 the co-trustee of the Inez Cushard Family Trust
25 which owns the parking lot at the rear of 4926
26 Wisconsin Avenue, N.W.

1 We were last before the Board of Zoning
2 Adjustment in 1994 for a special exception to
3 continue a parking lot use that had been in effect
4 for some years. As part of that special exception
5 approval, we had an automatic gate installed and
6 have provided hands-on attention to the parking lot
7 in conjunction with the owners of the Wild Bird
8 Center who operate the parking lot on a day-to-day
9 basis.

10 In addition to the regular pickup of any
11 trash on the lot by the Wild Bird Center, I have
12 continued to contract with a gentleman who stops by
13 to clean and repair the parking lot. My telephone
14 number was distributed to the owners of the
15 surrounding properties during the last approval
16 process, and I would be happy to provide my home
17 telephone number to any other owners who may have
18 moved into the area. I am available to hear any
19 complaints or concerns regarding the parking lot so
20 that I can address and try to resolve them.

21 I can say that since the last approval,
22 I have received no complaints. I believe that we
23 have shown our intention to be good neighbors and
24 have lived up to that intention. We will continue
25 to be good neighbors and request that you approve
26 our parking lot special exception for five years.

1 At the end of that time, we expect to come back
2 before the Board with a request to continue the
3 parking lot with a similar record of being good
4 neighbors and no complaints.

5 Thank you for your time. If you have
6 any questions, I'd be happy to answer them.

7 CHAIRPERSON HINTON: Thanks.

8 MS. MITCHELL: Good afternoon, Madam
9 Chairperson and Members of the Board. My name is
10 Catherine Mitchell. I am a co-owner of the Wild
11 Bird Center store at 4926 Wisconsin Avenue, N.W.

12 We rent the parking lot located to the
13 rear of 4926 Wisconsin Avenue, N.W., and operate it
14 on a day-to-day basis. We have been responsible for
15 the day-to-day operation of the parking lot since
16 the parking lot's special exception was approved in
17 1994. We pick up the lot on a regular basis and
18 secure it from unauthorized use. An automatic gate
19 was installed as part of the 1994 special exception
20 and this gate only operates during the hours
21 permitted by the special exception.

22 We are a community oriented store and
23 our business depends on being good neighbors. We
24 believe we have been good neighbors, both in the
25 store and with the parking lot. We think this is
26 evidenced by an absence of complaints regarding the

1 operation of the parking lot and the fact that our
2 application for the special exception, which
3 includes weekend hours for the parking lot, was
4 unanimously supported by ANC-3E.

5 We are asking to continue the parking
6 lot special exception as it has been in existence
7 since the last approval, with the addition of
8 weekend hours. We are asking that limited Saturday
9 and Sunday hours be permitted to accommodate our
10 employees and customers. Although there are no
11 restrictions on weekends for street parking, it is
12 more convenient for our customers and employees to
13 use the parking lot rather than to search for
14 parking spaces and to take spaces away from the
15 neighboring residents. We think the weekend parking
16 availability would be a great assistance to our
17 business and help us to remain a part of the
18 community. The weekend hours we propose are from
19 9:00 a.m. to 7:00 p.m. on Saturdays, and 11:00 a.m.
20 to 6:00 p.m. on Sundays. These hours would permit
21 our employees time to close the store and do some
22 paperwork and still get to their cars before the
23 gate is automatically locked.

24 We have provided our telephone numbers
25 to the neighbors in the past to register any
26 complaints or to report any problems. If any

1 resident of the surrounding properties does not have
2 our numbers, we would be happy to provide them so
3 that we can be apprised of any concerns or questions
4 and act on them as quickly as possible.

5 We believe that the parking lot as
6 proposed meets the requirements for a special
7 exception. We request that the special exception be
8 approved for a period of five years. We have been
9 good neighbors and will continue to be good
10 neighbors. We request that this special exception
11 application be approved with the limited weekend
12 hours requested.

13 Thank you for your time. If you have
14 any questions, I would be happy to answer them.

15 CHAIRPERSON HINTON: Thank you.

16 Are there any questions from the Board
17 members? None.

18 Okay, let's move to the Office of
19 Planning.

20 MR. BASTIDA: Madam Chairperson and
21 Members of the Board, for the record, my name is
22 Alberto Bastida with the DC Office of Planning.

23 The Office of Planning submitted its
24 report on May 12th and recommended favorable in this
25 application. I will not go through all the
26 subsections since the applicant did an excellent job

1 going through them. I will go directly to the
2 conditions.

3 One of the points is the Office of
4 Planning referred this application to the Department
5 of Public Works. The Department of Public Works did
6 not provide the Office of Planning with a report in
7 this case.

8 CHAIRPERSON HINTON: Okay.

9 MR. BASTIDA: The conditions of the
10 Office of Planning proffered to the Board a very
11 similar, not identical, to the ones that the Board
12 imposed in 1994. The applicant or the lessee for
13 the applicant is doing an excellent job now. This
14 was a parking lot by which was very controversial
15 and there was a lot of complaints. That has been
16 eliminated since the last time. So, the Office of
17 Planning would recommend that the Board approves
18 this application with those conditions and changing
19 the hours of operation for the parking lot on
20 Saturday from 9:00 a.m. to 7:00 and on Sundays from
21 11:00 to 6:00.

22 That concludes the presentation of the
23 Office of Planning. If you have any questions, I
24 will try to answer them. Thank you.

25 CHAIRPERSON HINTON: Any questions?

26 MS. REID: In regard to the hours of

1 operation of the parking lot, in the written
2 recommendation, you recommended that it be
3 operational from 7:00 to 7:00 Monday through Friday
4 and then 7:00 to 4:00 on Saturday. Did I just hear
5 you say that you are recommending now that it be
6 7:00 to 7:00 Monday through Saturday, and Sunday
7 from 11:00 to 6:00?

8 MR. BASTIDA: That is correct.

9 MS. REID: So, in other words,
10 basically, you amended your written report?

11 MR. BASTIDA: That is correct. Why?

12 MS. REID: No, no, no. I said to comply
13 with what they are requesting in their application?

14 MR. BASTIDA: Well, that is correct, but
15 it is based on their approval of their neighbors and
16 the ANC that, in fact, they have become good
17 neighbors and they foresee there would not be
18 negative impacts by the other hours of operation.
19 That's why I revised the Office of Planning report.
20 The Office of Planning was not in receipt in their
21 office on the ANC's position on that matter. The
22 Office of Planning believes that it is better to err
23 on the side of caution than on the other side.

24 MS. REID: Okay, thank you.

25 MR. FRANKLIN: Madam Chair?

26 CHAIRPERSON HINTON: Yes?

1 MR. FRANKLIN: Does the Office of
2 Planning -- I don't have the report right at hand.
3 Do they concur with a five-year extension in this
4 permit?

5 CHAIRPERSON HINTON: That's a good
6 question. Are you wondering whether it could be
7 longer or shorter?

8 MR. FRANKLIN: Well, I think the
9 previous conditions were three years and the
10 applicant -- or five?

11 CHAIRPERSON HINTON: Yes.

12 MR. FRANKLIN: Yes, I see what happened.
13 Approval shall be incurred at five years.

14 MS. MITCHELL: Same conditions that were
15 acceptable changing the time -- our cooperation, I
16 think.

17 MR. FRANKLIN: Maybe I misread the
18 record. I have the impression that there was an
19 extension.

20 CHAIRPERSON HINTON: It was three
21 before. The first time it was approved it was for
22 three.

23 MR. FRANKLIN: It was three, yes. Okay.

24 MR. BASTIDA: Condition number one of
25 the Office of Planning recommends five years.

26 MR. FRANKLIN: Yes, okay. Thank you.

1 CHAIRPERSON HINTON: Okay. I have no
2 questions of the Office of Planning.

3 Do we have an ANC representative? We
4 don't. We have a letter in the record from ANC-3E.
5 Actually, we have two letters and I'm going to go to
6 the most recent which is from the 3rd of February.
7 The ANC has voted to support the application by a
8 vote of 5 to zero. I think that all the information
9 is included in the letter so that we should give
10 this recommendation by the ANC great weight.

11 Are there any persons in support or
12 persons in opposition?

13 Seeing none, would you like to make
14 concluding remarks?

15 MR. CATE: Just a simple request that
16 based on the record before the Board, we request
17 your favorable action on our request.

18 CHAIRPERSON HINTON: Okay. Since
19 there's no outstanding information, maybe we can try
20 to make a decision today, if the Board members are
21 agreeable.

22 Do I hear a motion?

23 MR. FRANKLIN: I move, Madam Chair, to
24 approve the application in accordance with the
25 recommendations of the Office of Planning.

26 MS. REID: I second it.

1 CHAIRPERSON HINTON: Very good. That
2 would be as modified today with the new hours.

3 MRS. ROSE: Can we just go over the
4 hours one more time so we won't have to wait for the
5 transcript?

6 CHAIRPERSON HINTON: We don't have to go
7 over the conditions. I'm sure we've read them all
8 there, 1 through 14, as listed in the OP report.
9 But the hours have been modified as the applicant
10 requested, to be 7:00 a.m. to 7:00 p.m., Monday
11 through Friday; 9:00 a.m. to 7:00 p.m., Saturday;
12 and 11:00 a.m. to 6:00 p.m., Sunday.

13 Okay, we're properly moved and seconded.
14 All those in favor?

15 ALL: Aye.

16 CHAIRPERSON HINTON: Opposed?

17 (No response.)

18 MR. LYONS: I'm sorry. I didn't get who
19 seconded the motion.

20 CHAIRPERSON HINTON: Ms. Reid, did you
21 second?

22 MS. REID: I did.

23 CHAIRPERSON HINTON: You did.

24 Yes, Ms. Reid.

25 MR. LYONS: Staff would record the vote
26 as being 4 to zero to approve the application. Mr.

1 Franklin, Ms. Reid, Ms. Richards and Ms. Hinton to
2 approve; Mr. Clarens not present and not voting.
3 And I assume a summary order?

4 CHAIRPERSON HINTON: Summary order,
5 thank you.

6 MR. LYONS: Yes.

7 MR. CATE: Thank you very much.

8 CHAIRPERSON HINTON: Thanks for doing
9 such a good job.

10 MR. LYONS: The last case of the morning
11 is Application 16219 of Barry Zigas and Jodie Levin-
12 Epstein, pursuant to 11 DCMR 3107.2, for a variance
13 to allow an addition to an existing nonconforming
14 structure that does not now meet the side yard
15 requirements and will create a new nonconforming
16 rear yard under Paragraph 2001.3(b) and (c), and a
17 variance from the rear yard requirements of
18 Subsection 404.1 for an addition to a detached
19 single-family dwelling in an R-1-B District at
20 premises 3335 Quesada Street, N.W., Square 2010, Lot
21 15.

22 All persons wishing to testify in this
23 application, please rise to take the oath. Please
24 raise your right hand.

25 (Whereupon, the witnesses were sworn.)

26 MR. LYONS: Please be seated.

1 Will the applicant come forward?

2 MR. FRANKLIN: Madam Chair, before the
3 applicant does begin, I would like to state that I
4 am personally acquainted with the applicants and
5 feel it incumbent on me to recuse myself from
6 participation in this case.

7 CHAIRPERSON HINTON: Okay, thank you,
8 Mr. Franklin.

9 Could you give your name and home
10 address for the record?

11 MR. ZIGAS: My name is Barry Zigas and
12 my home address is 3335 Quesada Street, N.W., in
13 Washington.

14 MS. LEVIN-EPSTEIN: Jodie Levin-Epstein,
15 3335 Quesada Street, N.W.

16 CHAIRPERSON HINTON: Thank you. You may
17 proceed.

18 MS. LEVIN-EPSTEIN: What I'd like to do
19 is very briefly tell you, Madam Chair and Members of
20 the Committee, why it is we are seeking a variance.

21 We moved into our home in 1985. When we
22 moved in, I remember asking the person from whom we
23 bought the home why it was she was moving. She said
24 "to get a bigger place." I couldn't understand. We
25 had two young children and we were giving each of
26 them a room, which they hadn't had. Though then our

1 children were small and they sat in our lap, and now
2 they're teenagers and they can't. Even if they
3 could, they wouldn't, and that is why we are here.
4 We need to expand our family room. We need it to be
5 a room in which our family can all be in together.
6 We go in front of the television set and our son,
7 who is now 6'1" needs to stand up because there's no
8 room for him. So, that is basically why we are
9 here.

10 We have gotten lots of support from our
11 neighbors. Nine of them have signed petitions in
12 support, as you'll see from the materials that you
13 have. What you can't know is the enthusiasm they
14 have all expressed to me as I got a chance to sit
15 around kitchen tables and show our plans to them,
16 and their interest in having us stay as neighbors.
17 And that is, indeed, also part of our interest is to
18 stay in the same house. When we went to the ANC,
19 they also unanimously supported our request.
20 Indeed, one of the members visited our property and
21 mentioned that at the ANC meeting.

22 So, in short, we really love our house.
23 We love our neighborhood and our neighbors. We wish
24 to expand the family room in order for us all to be
25 able to stay in there comfortably together. Thank
26 you.

1 MR. RUBIN: Good morning. My name is
2 Jeff Rubin. I'm an architect. I've been working
3 with Barry and Jodie for about six to eight months
4 now developing this scheme. I'm going to go through
5 a sort of a step-by-step analysis of this project.

6 I'd like to first step over to the
7 boards I have here. Copies of these drawings should
8 have been forwarded to you. I'm going to basically
9 describe existing conditions first.

10 CHAIRPERSON HINTON: Thank you. We did
11 receive copies of the drawings.

12 MR. RUBIN: Okay.

13 The existing property is a fairly
14 typical center hall colonial. It was built in 1935.
15 It's located on Quesada Street in Northwest DC. The
16 site itself is 3,680 square feet in area and it is
17 bounded by an alley along one side, an alley to the
18 rear, the street on the front, and an adjoining
19 property owner next door. As I mentioned, this
20 house was built in 1935. It is nonconforming due to
21 the lot area.

22 One of our principal arguments is that
23 this lot is exceptionally small. That is really the
24 crux of the practical difficulty that we are
25 presented with. This is an R-1-B zone. R-1-B
26 requires a lot area of 5,000 square feet with 50

1 feet of frontage. Our lot is much smaller than
2 that. It's 3,680. It is only 46 feet wide and 80
3 feet deep. If you take the R-1-B regulations and
4 interpolate from them, a 5,000 square foot lot
5 that's 50 feet wide would have to be 100 feet deep.
6 When you go and see the site, just as the ANC
7 Commissioner that represents an area saw it, the
8 first thing that strikes you is "wow, it's small."
9 I assure you, this is a small lot and I will
10 demonstrate that.

11 We must demonstrate that there is
12 something exceptional about this piece of property
13 that would afford us an opportunity to get a
14 variance. The term "exceptional" is an important
15 issue here. When we get into a zoning definition,
16 we must refer to Webster's Dictionary for that word
17 "exceptional." I would just like to read to you
18 what that exact word means. It's important to our
19 case. Exceptional is "being out of the ordinary;
20 uncommon; better than average; superior."

21 It's important for the Board to
22 understand, we do not have to be the most
23 exceptionally small lot in Washington to afford the
24 opportunity to get a variance. We just have to
25 demonstrate that we are out of the ordinary, that we
26 are uncommon. To that end, I would like to give you

1 a Sanborn map which is actually taken from the
2 Office of Planning. As you're probably familiar, a
3 Sanborn map basically is a large site plan of the
4 neighborhood. When I first looked at this project,
5 what struck me was how small and shallow this lot
6 is. I have done a further analysis of that
7 which I'd like to explain to the Board members. The
8 Sanborn map you see shows our site which is
9 highlighted in yellow with a little bit of red on
10 it. It says "site." I hope you can relate that to
11 the site plan up here. The dotted area and the
12 heavy black line represents the six full squares
13 which are included on the Sanborn map taken from the
14 Office of Planning report. There are 226 lots
15 within this area. In yellow are highlighted
16 lots which are equal or smaller in size. You will
17 see there are very few in this general neighborhood.
18 As a matter of fact, there are only 14. That means
19 that out of 226, there are only 14 that are smaller
20 and equal. Many of these are approximately the same
21 size. I think if you look at the perimeter of this
22 drawing, you'll see other lots which are also
23 larger. It is my opinion, if we begin to
24 extrapolate this, you will find that a lot that's
25 3,680 in an R-1-B zone in this general vicinity is,
26 indeed, exceptionally small per the exact definition

1 of Webster's. Remember, we don't have to be the
2 smallest. We just have to be uncommon or out of the
3 ordinary.

4 If you will notice, in our particular
5 block directly adjoining our property, there are
6 several other properties highlighted. These
7 properties are basically the same size or slightly
8 smaller than ours. I just want to make a point to
9 the board. The fact that a lot next door may be the
10 same size or smaller does not mean that that lot,
11 indeed, also, is not exceptionally small. Again, we
12 don't have to be the smallest in the whole
13 neighborhood. We just have to be uncommon or out of
14 the ordinary. So, I don't want you to be misled
15 because the next door neighbor's lot is the same
16 size saying, "hey, you can't get a variance. The
17 next door neighbor is the same size." So, I'd like
18 to establish, we are an exceptionally small lot and
19 that falls definitely within the criteria of the
20 zoning regulations.

21 Now, the second step to this is we have
22 to demonstrate a practical difficulty. Okay, we've
23 got this small lot. That's not enough. We have to
24 show because the lot is so small, it presents my
25 clients with a practical difficulty in a reasonable
26 development of the property. Again, this is the

1 site plan. The manilla is the existing site plan.
2 This is the house with a prior addition and a garage
3 back here. Again, I want to note what, in fact, is
4 a land-locked lot surrounded by alleys on two sides,
5 another unique characteristic. Of the 14 lots in
6 this general area, it is the only one that is
7 surrounded by two alleys thereby denying any
8 opportunity to purchase additional property or in
9 any other way expand the property to conform to
10 zoning regulations.

11 I'd like to direct you to the existing
12 floor plan of the house. This is the first floor.
13 We enter through the center. There's a living room
14 here, dining room, kitchen, and existing -- I
15 wouldn't use the word "family room." It's a very
16 small room. I guess you could call it a den. I
17 don't want to mislead you with the power of what a
18 word means. It's a room and it's small. It was
19 added in the '60s or '70s, I believe. Upstairs are
20 three bedrooms and two bathrooms. In addition,
21 there is a garage at the rear of the property. From
22 a zoning perspective, it's a storage building. It's
23 too small to technically meet the criteria for a
24 parking spot.

25 Now, what we are proposing to do is
26 shown in this site plan. We propose to tear down

1 the garage, which is here, and to tear down the
2 previous addition. In its place, we'll build a two-
3 story structure that you see in the floor plans
4 here. This would create a new family room, a
5 breakfast area, a kitchen and a powder room.
6 Upstairs, we would enlarge one of the bedrooms, add
7 some closet space which is sorely needed in these
8 houses, and a master bathroom.

9 Now, I looked at this project initially
10 for a matter of right solution. It's certainly my
11 preference to do that. It is a time consuming
12 process to come before the Board and I'd rather just
13 be able to design it without a variance, but I found
14 I could not do it. Our matter of rights solution
15 allows us, I believe, 11 feet of projection into the
16 rear yard. We've already got this previous addition
17 that is ten feet and it is impractical for them.
18 You've heard them say that. I've been over there.
19 It's just too small to use. As further evidence of
20 that, we're willing to tear it down in order to get
21 something that makes sense to build.

22 What I've shown is a family room here
23 that the exterior is 16 feet and it's about 15 feet
24 wide. I feel that is a reasonably sized room for
25 this neighborhood. That's based on my experience in
26 working in this neighborhood personally, many times,

1 in a practice that's devoted solely to remodeling
2 houses. I do not believe we can have a decent
3 family room in 11 feet of exterior space which
4 translates to 10 feet 7½ inches of interior space.
5 I think all of you have a good feeling for
6 distances. Ten-and-a-half feet is not a whole lot
7 of room. These five feet are critical to us. Five
8 feet is not a lot to ask. It seems minor, but it is
9 very critical to this project.

10 In addition, upstairs, we didn't need the space. I
11 have then set the addition back. So, the upstairs
12 part really doesn't need a variance. It's the first
13 floor where it is critical.

14 If you look at the elevations, this is
15 the alley side of the project. This is the rear.
16 This is the opposite side. You can see how this
17 first floor addition does project out into an area
18 we would need a variance for. The second floor has
19 been recessed back. We didn't need it there. Also,
20 by stepping it back, it provides additional light
21 and air for the neighboring properties. It also
22 affords, I think, a more aesthetically appealing
23 design. Instead of having a straight rigid face at
24 the rear, we've stepped it back. It's good for
25 everybody. Just as tearing down this garage, which
26 is barely usable, is also good for the immediate

1 community. I feel this project definitely qualifies
2 under the technical guidelines as a practical
3 difficulty.

4 Now, there is a couple other criteria
5 here. Are we going to impair the intent of the
6 planning and zoning regulations? It is my opinion
7 we are not. This will still remain a single-family
8 home. Barry and Jodie are going to live there with
9 their sons. That isn't going to change. The
10 variance that we're requesting is a modest variance.
11 It's five feet. I have done other projects of this
12 nature in this immediate neighborhood with small,
13 modest variances to overcome these small lots. It's
14 extremely helpful to get these few extra feet to
15 make these things work.

16 Lot occupancy is very important. We are
17 33 percent today. We're only going to 37½. Again,
18 a very modest incremental increase. We are still
19 under the 40 percent allowable. The reason that lot
20 occupancy is still so low is because we're tearing
21 down the old garage. So, we're taking something
22 down to build more, but the amount we're building
23 more is very small and modest.

24 Finally, will it be a detriment to the
25 public good? I think this is extremely part of this
26 particular project. Barry and Jodie have spoken

1 with all of their immediate property owners. They
2 have signed a statement of support. In addition,
3 several other neighbors have signed statements of
4 support. The ANC has voted unanimously to approve
5 this. One of the ANC Commissioners personally went
6 out and looked at the property. We also have a
7 letter from the City Councilwoman from Ward 3 in
8 support. That should have been in the file and it
9 was faxed down yesterday. If it is not in the file,
10 I have copies here for you.

11 I believe for all these reasons, this is
12 not going to be a detriment to the public good.
13 There is no opposition that I am aware of on this
14 project. I think that concludes our initial
15 presentation for now.

16 CHAIRPERSON HINTON: Thank you.

17 Do Board Members have any questions?

18 No?

19 Could you go over two things for me:
20 the interior dimensions of the existing room that's
21 used as a family room and your proposal for that
22 family room?

23 MR. RUBIN: Let me get that plan up
24 there.

25 The existing room is approximately --
26 it's 10 feet on the exterior, less the wall's

1 thickness. So, it's about 9'7½ inches on the
2 interior. The width this way is about 21 feet with
3 a small powder room there. That's what's there now.
4 We're proposing to add a new family room which will
5 be about 15'6" one way and about 16 feet the other
6 way.

7 CHAIRPERSON HINTON: Okay, thank you.
8 Office of Planning report, please?

9 MR. BASTIDA: Madam Chairperson, Members
10 of the Board, for the record, my name is Alberto
11 Bastida with the DC Office of Planning.

12 The Office of Planning submitted its
13 report on March 12th. The Office of Planning
14 believes that there is nothing exceptional about the
15 property to justify the requested variance that
16 results into a practical difficulty. The applicant
17 could build a smaller matter of right addition with
18 a 355.6 square foot -- 11 feet by 32.33 feet rather
19 than the 517.28 square foot frame, 16 by 32, 33. It
20 would still be afforded a sizeable first-floor
21 family room and kitchen and a second floor bedroom,
22 den and master bathroom.

23 Specifically, the matter of right
24 addition could provide a family room measuring
25 approximately 11 by 11 and a kitchen and breakfast
26 area measuring approximately 15'5" by 14 feet. The

1 second floor portion of such an addition could be
2 built as currently proposed since it would meet the
3 rear yard depth requirement. In addition, the
4 applicants could retain the existing garage and
5 continue using it for storage as a matter of right
6 if the smaller addition is built.

7 Area impacts: based on the opinion of
8 the residents of the area, the Office of Planning
9 believes that the proposal will not have any area
10 impacts. The Office of Planning believes that the
11 impact that the proposal that requires an intrusion
12 into the rear yard will have a negative impact in
13 the intent purpose and integrity of the zone plans.
14 Accordingly, the Office of Planning recommends that
15 the applicant build a matter of right addition.

16 The Office of Planning would like also
17 to point out that the applicant is building, and is
18 not part of this application, a small cover entrance
19 to the house that it will enhance the front facade
20 of the house and will provide additional square
21 footage of cover. Accordingly, the Office of
22 Planning recommends the denial of this application.

23 That concludes our presentation. If you
24 have any questions, I will try to answer them.
25 Thank you.

26 CHAIRPERSON HINTON: Are there any

1 questions?

2 MS. RICHARDS: No, I have none. That
3 was quite concise.

4 CHAIRPERSON HINTON: Okay, I have no
5 questions.

6 Any members of the ANC here? I see
7 none. We have a letter in the record from ANC-3G
8 which --

9 MR. LYONS: Madam Chair, I'm sorry to
10 interrupt. The applicant, I don't know, was
11 afforded an opportunity to cross examine OP.

12 CHAIRPERSON HINTON: Would you like to?
13 I'm sorry, you're right, yes.

14 MR. RUBIN: I would like to simply
15 address the OPP report in my closing statement if
16 that is okay?

17 CHAIRPERSON HINTON: Thank you. Yes.

18 The ANC report. We have a letter from
19 ANC-3G in the record. We also have nine letters of
20 support from neighbors and we have no opposition,
21 other than the Office of Planning.

22 Closing remarks?

23 MR. RUBIN: Just as a technical matter,
24 I just want to clarify this. In fact, I do not
25 believe that it's considered opposition in the sense
26 of someone else. In other words, I do not believe

1 that it means opposition -- the fact that his report
2 has been read in that manner.

3 CHAIRPERSON HINTON: They're not a
4 person in opposition.

5 MR. RUBIN: Exactly. I believe there is
6 a distinction though. I think that's an important
7 distinction. That's all. I just want to make that
8 point. Thank you.

9 I'm going to address this report because
10 I think it's key to your understanding this project.
11 We disagree on this. I must admit this very
12 conclusive evidence I have here, when I met with Mr.
13 Bastida, I did not have it. I had not looked at it.
14 To me, the project was, very simply, so small I
15 didn't need to go to those kind of lengths to prove
16 it. I then went into very careful analysis of it
17 which you see before you.

18 At Mr. Bastida's urging, I looked up the
19 definition of exceptional from Webster's Unabridged
20 Dictionary because I wanted to get right to the
21 point of this matter. I don't want the OP report to
22 dissuade you. This is really a question for the
23 Board to determine, not OP. I feel that this site
24 plan I've shown you is dramatic evidence that we
25 are, in effect, an exceptionally small lot. We
26 don't have to be the smallest. You just have to be

1 uncommon and out of the ordinary. I feel we've
2 shown that.

3 I feel we've also shown that the
4 existing house with that modest addition in the
5 back, it just doesn't work. We're willing to tear
6 it down. And that OP, in their report, says that
7 they felt a family room that's 11 by 11 would be
8 adequate. Now, I ask you, in this neighborhood to
9 have a family room to gather your family in the room
10 that is the size of a bedroom, I feel it's
11 reasonable to want something a little bit bigger. I
12 really do.

13 If we follow the OP recommendation, this
14 would be our matter of right solution. If we left
15 the garage up, which they recommend, we would be
16 just a couple feet away from it. You'd be looking
17 right out at the garage. Furthermore, the garage
18 just takes up more of the rear yard. To me, that
19 type of solution does not make any sense. It would
20 be better to tear that garage down and build out a
21 little further, providing more openness for Jodie
22 and Barry, and everyone in the neighborhood. I
23 think it's a better solution. I really do. I think
24 it meets all the technical criteria that you need to
25 approve it.

26 I hope I've addressed the OP remarks and

1 have alleviated any concern you may have about that.
2 I do believe we've met the technical criteria.
3 We've carried the burden of proof on this.

4 Finally, I want to mention the ANC vote.
5 The Board is instructed to give that vote great
6 weight by written instructions. I ask that the
7 Board give that vote great weight, and also take
8 into account the immediate neighbors. The people
9 that are directly are all in favor of this. I think
10 it's a good project and I hope that you can support
11 it.

12 Jodie, do you have anything to add, or
13 Barry?

14 MR. ZIGAS: I would just like to address
15 the group and just say that, you know, we've lived
16 in this house since 1985. We love living in the
17 neighborhood. We're active in the neighborhood.
18 Our kids were active in all three schools that serve
19 the area because our kids either have been in the
20 schools or are currently in the schools. We're
21 active in the life on the street with other
22 neighbors.

23 As Jeff said, when we began this
24 enterprise, we really weren't looking for an excuse
25 to ask for a variance or go through a lengthy
26 process and we really did struggle with what could

1 be done. But the impulse behind our doing the
2 planning and approaching Jeff to help us with it was
3 because the current room simply does not meet our
4 needs. Adding one other foot isn't going to make a
5 difference one way or the other.

6 So, we looked for a solution that would
7 be economical in terms of what was needed, that
8 would meet our needs, and we thought would be a good
9 design solution and that would meet with the
10 approval of our neighbors. And as you've heard, all
11 of them not only approve of it, but they're kind of
12 excited that we're going to do it. So, for us, this
13 is really a matter of giving us the ability to fully
14 enjoy the property, to stay in a house that we like
15 in a neighborhood we love, and to utilize the space
16 as effectively as we can as a family room which was
17 really what that space was intended to be.

18 The other solutions that we've been
19 through with Jeff, frankly, aren't worth the
20 trouble. It's just, you know, to get that extra
21 space, as the OP has suggested, is not worth what it
22 would take to get. We seriously looked at it and
23 decided it's not. So for us, this is the right
24 solution. I think it's a good solution for the
25 community and one that we hope you'll approve.

26 Thanks for the opportunity.

1 CHAIRPERSON HINTON: I have one
2 question. How is the garage used now? It's not a
3 garage, but--

4 MR. ZIGAS: The garage is used just for
5 storage.

6 CHAIRPERSON HINTON: It's a storage.
7 It's not used to park --

8 MR. ZIGAS: No, it's impractical, I
9 think, in terms of location for really being a car
10 garage, but also, it's a small garage. I mean, our
11 car probably wouldn't even fit in there now. We've
12 never tried to use it as a garage. I think the
13 previous occupants also used it as a storage. You
14 know, it's valuable to us as storage, but it has no
15 other function.

16 CHAIRPERSON HINTON: Okay, thank you.

17 MR. BASTIDA: Madam Chairperson?

18 CHAIRPERSON HINTON: Yes?

19 MR. BASTIDA: I just would like to make
20 a clarification, if I may?

21 CHAIRPERSON HINTON: Yes.

22 MR. BASTIDA: When I met with Mr. Rubin,
23 I said an exceptional condition that results in --
24 let me restate it -- that deprives the applicant of
25 a reasonable use of the property. So, the word
26 exceptional by itself is not to be taken aside.

1 It's exceptional in conjunction with the reasonable
2 use of the property.

3 CHAIRPERSON HINTON: Exactly.

4 MR. BASTIDA: I just wanted to clarify
5 that. Thank you.

6 CHAIRPERSON HINTON: Very good. Thank
7 you.

8 MR. RUBIN: Can I make one very quick
9 remark?

10 CHAIRPERSON HINTON: We really are --

11 MR. RUBIN: In light of the fact there
12 is no actual opposition, if the Board would consider
13 a bench decision, we would appreciate it.

14 CHAIRPERSON HINTON: Sure.

15 MR. RUBIN: Thank you.

16 CHAIRPERSON HINTON: Very good. Okay.
17 Board members, are you ready to decide?

18 MS. RICHARDS: I think so, yes.

19 CHAIRPERSON HINTON: Yes.

20 Ms. Reid, are you ready?

21 MS. REID: Well, I believe I have a
22 question in regard to -- issue.

23 CHAIRPERSON HINTON: A question that
24 you'd like the Board to talk about?

25 MS. REID: Right.

26 CHAIRPERSON HINTON: Would you want to

1 do that now?

2 MS. REID: Well, we could. We could.

3 CHAIRPERSON HINTON: Okay.

4 MS. REID: Prior to making a decision.

5 MS. RICHARDS: Why can't we do that in
6 context of discussion on a motion? I'm willing to
7 make a motion.

8 MS. REID: Okay.

9 CHAIRPERSON HINTON: That sounds good.
10 While it's all fresh in our minds, why don't we
11 attempt to deal with it?

12 MS. REID: Okay.

13 MS. RICHARDS: I'll move approval.

14 CHAIRPERSON HINTON: I'll second for the
15 sake of discussion.

16 Go ahead.

17 MS. REID: Well then, that's okay. My
18 question was in regard to how we were going to weigh
19 the practical difficulty issue and I was leaning
20 toward a favorable response. I didn't know how the
21 other Board members felt about it. So, it's a moot
22 point now.

23 CHAIRPERSON HINTON: Okay.

24 MS. RICHARDS: I'm willing to address
25 the practical difficulty element. I think that the
26 size of the lot speaks for itself. It's a

1 substandard lot. I've always approached the test as
2 once we've determined that there is an unusual or
3 exceptional condition of that sort, then rather than
4 trying to dictate the specific limits of the relief,
5 I just look to see whether the relief that's been
6 proposed to us is reasonable. This seems
7 reasonable.

8 MS. REID: I concur with that reasoning.
9 I also want to add that in looking at the amount of
10 space that they're willing to forfeit in order to
11 achieve the space they need for the addition, to me
12 seems to be a very fair and usable compromise.
13 Because the space that they're asking for is just a
14 little bit larger than what they're compromising for
15 the garage. As well as the fact that I was
16 impressed by the fact that they're willing to set
17 back the upper level to be able to afford more open
18 space for that particular property as well as, I'm
19 sure, to appease the neighbors. That's all I wanted
20 to say.

21 CHAIRPERSON HINTON: Okay, very good.

22 I guess I also agree. Because this is a
23 shallow lot, the depth of the addition that can be
24 placed here is limited. It's limited to 11 feet.
25 When we look at that 11 feet and the internal size
26 and configuration of the rooms that that would

1 allow, I agree that an 11 by 11 family room is
2 substandard. It is unusually small and probably
3 unreasonably small.

4 There are two variances here. The first
5 one, which is an addition to a nonconforming
6 structure that does meet the side yard requirements,
7 that variance would be needed for any addition, at
8 least the way I'm understanding this. If you
9 continue the sides of the structure straight back,
10 you would be extending the nonconformity of the side
11 yards. You would need --

12 MR. BASTIDA: Madam Chairperson?

13 CHAIRPERSON HINTON: -- you would need
14 that variance. And so, the other variance is the
15 five foot into the rear yard which we'll still have
16 15 feet.

17 MR. RUBIN: It's 20.

18 CHAIRPERSON HINTON: Twenty feet, thank
19 you.

20 Twenty feet. In addition to the fact
21 that there's an existing structure that's going to
22 be removed. So, the change in the actual amount of
23 open space in the rear yard almost seems to balance.

24 Now, Mr. Bastida, did you have something
25 to say?

26 MR. BASTIDA: Right. The side yard

1 paragraph -- and I can look at the zoning
2 regulations -- allow -- if the property was built
3 prior to 1958 and the side yard is at least five
4 feet in width, they can add it as a matter of right
5 and remain with the five feet. They can not
6 decrease it. But they can build it as a matter of
7 right. So, a matter of right addition would not
8 require a deviation from the side yard.

9 CHAIRPERSON HINTON: So, the first
10 variance is for creating a nonconforming rear yard.
11 It only deals with the rear yard.

12 MR. BASTIDA: Because they are not doing
13 a matter of right, it triggers the other one. Let's
14 say if they were to build a matter of right
15 addition, then the side yard variance is not
16 required.

17 CHAIRPERSON HINTON: Even though the
18 depth of the side yard is going to change?

19 MR. BASTIDA: That is correct.

20 CHAIRPERSON HINTON: Okay, very good.

21 MR. BASTIDA: Because of the side yard,
22 you know, requirements.

23 CHAIRPERSON HINTON: Yes, very good.

24 I think we're ready to vote unless
25 there's anything else that we want to say?

26 We've moved and seconded. All those in

1 favor?

2 ALL: Aye.

3 CHAIRPERSON HINTON: Opposed?

4 (No response.)

5 MR. LYONS: Staff would record the vote
6 as being 3 to zero to approve the application. Ms.
7 Richards, Ms. Hinton and Ms. Reid to approve; Mr.
8 Franklin not voting having recused himself; Mr.
9 Clarens not present and not voting.

10 MR. RUBIN: Thank you very much.

11 MR. LYONS: And I assume we can issue a
12 summary order in this case?

13 CHAIRPERSON HINTON: Summary order.

14 We are adjourned until the afternoon.

15 (Whereupon, the meeting was recessed at
16 1:01 p.m., to reconvene later this same day.)

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1 permitted for persons or parties with a direct
2 interest in the case. The record will be closed at
3 the conclusion of each case except for any materials
4 specifically requested. The Board and the staff
5 will specify at the end of the hearing, exactly what
6 is expected.

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

12 The Board will make every effort to
13 conclude the public hearing as near as possible to
14 6:00 p.m. If the afternoon cases are not completed
15 at 6:00, the Board will assess whether it can
16 complete the pending cases which remain on the
17 agenda.

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

1 Does the staff have any preliminary
2 matters?

3 MR. LYONS: None, Madam Chair, generally
4 but there is a request filed by an applicant, the
5 applicant in 16216, Barbara Smith Coleman. It's a
6 request for a postponement.

7 Is a representative of Ms. Coleman
8 present?

9 MR. GLASGOW: Madam Chair, for the
10 record, my name is Norman M. Glasgow, Jr., of the
11 law firm of Wilkes, Artis, Hedrick & Lane. We have
12 submitted a letter to the Board dated February 27,
13 1997, after discussions that we have had with the
14 single-member district representative and other
15 persons in the community, that we wanted to have a
16 two month postponement during which time the
17 applicant would have further discussions as to how
18 to proceed in the case.

19 CHAIRPERSON HINTON: Very good.

20 We don't need to vote on this, do we?

21 MR. LYONS: No, ma'am.

22 CHAIRPERSON HINTON: And you've
23 requested a two month continuance or postponement?

24 MR. GLASGOW: Correct, yes.

25 CHAIRPERSON HINTON: Very good.

26 MR. LYONS: Staff would recommend May

1 21st at 2:00, the first case in the afternoon.

2 CHAIRPERSON HINTON: Very good.

3 Okay, that's the only matter that you
4 had, preliminary matter?

5 MR. LYONS: Yes.

6 The first case in the afternoon is
7 Application 16213 of the Trustees for Harvard
8 University, pursuant to 11 DCMR 3108.1, for a
9 special exception under Section 210 for further
10 processing of an approved campus plan to allow
11 alterations and additions to the Director's house,
12 the Administration building and Fellows Houses C and
13 D of the Center for Hellenic Studies in an R-1-B
14 District at premises 3100 Whitehaven Street, N.W.,
15 Square 2155, Lot 802.

16 All persons wishing to testify in this
17 application, please rise to take the oath. Please
18 raise your right hand.

19 (Whereupon, the witnesses were sworn.)

20 MR. LYONS: Please be seated.

21 CHAIRPERSON HINTON: Please give your
22 name and home address for the record and then
23 proceed.

24 MR. WILLIAMS: My name is Richard
25 Williams. I'm an architect. My address is 1909 Q
26 Street, N.W.

1 CHAIRPERSON HINTON: Thank you.

2 MR. BROOK: My name is Sam Brook. My
3 address would be the same, 1909 Q Street, N.W.,
4 Washington, DC.

5 CHAIRPERSON HINTON: Thank you. Okay.

6 MR. WILLIAMS: My name is Richard
7 Williams. I'm an architect representing the
8 Trustees for Harvard University today. Good
9 afternoon.

10 I'd like to start off with a very brief
11 history of what the Center for Hellenic Studies is
12 and what their need in this particular case might
13 be. The Center for Hellenic Studies is a study
14 center in ancient Greek studies, which includes
15 philosophy, literature, archaeology that's
16 administered by Harvard University. It's
17 essentially composed of fellows that come to
18 Washington to this facility for one academic year to
19 pursue post-doctoral studies. That being the case,
20 most of them are in mid-career, potentially in their
21 30s and 40s, working on a book, perhaps taking an
22 absence from an academic -- or seeking some other
23 academic post.

24 The Center was founded in 1961 and has
25 been operating on this property since then. The
26 buildings were actually constructed and completed in

1 1963. Today, the Center consists of ten fellows,
2 two co-directors, some staff, and occasionally, some
3 visiting scholars that come to the Center.

4 Having been there for 35 years, they are
5 beginning to experience some growing pains. Their
6 current needs include a desire to expand the library
7 which is pretty much busting at seams at this point.
8 They desire to add additional stack space to see
9 them well into the next century. They've also been
10 fortunate to expand their endowment to the degree
11 that they can now add two additional fellows, making
12 a total of 12 to come to the Center every year.
13 They would also like to be able to accommodate, or
14 rather to provide accommodations for visiting
15 scholars on an occasional basis.

16 I'd like to actually stand and maybe
17 describe the site, and explain both the existing
18 conditions and then what our proposed solution might
19 be.

20 CHAIRPERSON HINTON: That's good.
21 You'll need to use the microphone, but you can move
22 that.

23 MR. WILLIAMS: Okay.

24 The Center is actually located on a 6½
25 acre site. It's immediately to the north of
26 Dunbarton Oaks Park and it's immediately south of

1 Whitehaven Street, which is a dead-end street to the
2 west of Massachusetts Avenue, just beyond the Rock
3 Creek Bridge which is currently being repaired.
4 It's bounded on the east by the new Italian Embassy
5 which is under construction, and to the west by the
6 existing Embassy of Denmark. Across Whitehaven
7 Street, there are a number of single-family
8 residences. It is in the DR-1-A District which may
9 conflict with what you see on your actual order, but
10 I believe that has been confirmed by Ms. Bailey of
11 the Office of Planning.

12 CHAIRPERSON HINTON: Yes.

13 MR. WILLIAMS: We've been before the
14 Board before and it has always been reviewed under
15 that jurisdiction. So, I assume it hasn't changed.

16 The Center consists really of one major
17 administration building that houses its library and
18 its offices and studies for fellows, and then the
19 rest is all residential. This is the administration
20 building here. There are six small two-story
21 cottages which flank the private entry drive which
22 comes off of Whitehaven Street. There's a house for
23 the directors themselves, and there's a suite of
24 apartments for unmarried fellows which our firm
25 actually did about three or four years ago and came
26 before the Board at that time. There's a small

1 equipment storage shed and that really comprises all
2 of the structures on this site.

3 Having looked at a number of master
4 planning alternatives to accommodate these needs,
5 the Trustees have decided to pursue a fairly
6 minimal, in our opinion, low impact route which is
7 to accommodate the additional fellows by altering
8 two of the single-family houses, houses C and D, and
9 converting them from single-family detached
10 residences into two-family detached residences;
11 essentially, an apartment on the lower level and an
12 apartment on the lower level. In order to
13 accommodate the number of bedrooms they need, we
14 propose additions to both of these houses, single
15 story additions, that would result in a three-
16 bedroom apartment on the lower level which would be
17 ADA accessible for House D, and a two bedroom
18 apartment on the lower level of House C. Both
19 houses would have two bedroom units on the upper
20 floors.

21 The library expansion would perhaps be
22 the least impact of all from a zoning point of view.
23 We would be taking an existing courtyard at the main
24 upper grade level -- this is a building which is
25 heeled into a hill, so it becomes a two-story
26 structure here, a single-story structure here. We

1 propose excavating the courtyard, extending the
2 existing stacks in that space, and then putting back
3 a paved and skylit courtyard above. So,
4 essentially, no change in footprint, or really, use
5 for that matter. However, to also accommodate a new
6 elevator for ADA standards, an egress stair and some
7 expanded librarians' offices, we propose two fairly
8 modest corner additions that would be two-story.
9 Essentially, it would be an extrusion of the
10 existing administration building, so it's not a new
11 architectural statement in any way.

12 Finally, we proposed to add to the
13 director's residence which consists of a two-story,
14 main block and a single-story wing. It has a garage
15 and an apartment for a border. We propose a second-
16 story addition -- again, no change in footprint --
17 to create two apartments for visiting scholars.

18 We have some photographs that have been
19 submitted as part of the record showing the various
20 components of the Center. The predominant
21 experience really are these two-story cottages that
22 flank the entry drive. This actually is House D,
23 one of the ones we are doing an addition to. This
24 is House C. This is the space between House C and
25 House B here.

26 This photograph shows the approach to

1 the administration building which here, is a single-
2 story structure. The two-story rear of that same
3 building is the library which faces the director's
4 residence. This is the existing courtyard of the
5 administration building. It's really just a lawn
6 panel and some shrubbery around the edges. The
7 fellow studies and a corridor circulate around this
8 courtyard.

9 These are photographs of the director's
10 residence and its one-story wing. This chipboard
11 model represents the addition that we plan above
12 that one-story wing that already houses the garage.
13 As you can see, every structure at the Center is
14 fairly consistent in terms of its architectural
15 treatment, painted white, either masonry or stucco.
16 We propose to keep very much within that same
17 pallet.

18 We have some fairly detailed elevations
19 and architectural drawings. I don't know whether
20 that is of interest to the Board or not.

21 CHAIRPERSON HINTON: I think actually
22 you've given us enough detail and we do have the
23 plans. They were circulated.

24 MR. WILLIAMS: Okay.

25 CHAIRPERSON HINTON: So, we know where
26 the additions will be located.

1 MR. WILLIAMS: Let me just go back to
2 the table.

3 In terms of the zoning criteria at the
4 Center, being in an R-1-A District, there is no FAR
5 criteria but there is a 40 percent percentage of lot
6 occupancy. This is a very low density campus.
7 Currently, I believe, there is about 7.65 percent
8 lot occupancy and we would be pushing that to 8.77,
9 well below the allowable limit. All the structures
10 are two stories or less, well under the 40 foot
11 height limit allowable. All the side yard criteria
12 and rear yard are easily met.

13 The parking is entirely accommodated on-
14 site. We do propose to add two additional spaces by
15 extending one of the -- Sam, perhaps you can
16 actually show that on the site plan -- by extending
17 one of the sort of common parking lots which is
18 opposite the apartment structure that we did in
19 1992. All told, I believe there are about 17 spaces
20 currently and we propose to increase that by two.
21 There also are plenty of opportunities at each of
22 the residential driveways and there's a garage at
23 the director's residence to accommodate the
24 residence parking. So, in no instance, would we be
25 spilling out onto Whitehaven Street and require any
26 off-site parking.

1 Harvard University does host a function
2 at least once-a-year where all incoming freshmen
3 actually come to a small party here. Even on those
4 circumstances when there's several hundred people,
5 all parking is still accommodated by just pulling
6 off to the entry drive. So, I don't think that's
7 actually a factor.

8 Essentially, I could save this for final
9 remarks, but we feel that we meet the criteria for
10 special exception. We don't imagine that there is
11 an adverse effect or impact on our neighbors. The
12 studious atmosphere of this place and the low
13 density is thoroughly in keeping with the
14 neighborhood in particular, and in R-1-A District in
15 general.

16 Thanks very much.

17 CHAIRPERSON HINTON: Thank you.

18 Are there any questions from the Board
19 members?

20 MR. FRANKLIN: I just have one just for
21 elucidation. Who are the Trustees for Harvard
22 University?

23 MR. WILLIAMS: It's an administrative
24 board that sits at Harvard University.

25 MR. FRANKLIN: Well, the legal
26 governance of the University is the president and

1 fellows at Howard University.

2 MR. WILLIAMS: Correct.

3 MR. FRANKLIN: Is this distinguished
4 from that?

5 MR. WILLIAMS: Well, it is to some
6 degree, and unfortunately, the directors of the
7 Center are out of the country, aren't able to be
8 here to better answer that question.

9 MR. FRANKLIN: Oh.

10 MR. WILLIAMS: But the facilities of a
11 like kind are the various study centers at Dunbarton
12 Oaks right across the valley. They have a facility
13 in Florence, Italy, and they all operate under the
14 aegis of an administrative board, the Trustees for
15 Harvard University. They're actually self-endowed
16 and self-supporting facilities, but the terms of
17 their deeds of land, in some instances and/or
18 endowment in other instances, required the
19 administrative oversight of the University. So,
20 it's a special body. Ultimately, these projects are
21 approved by the president and the overseers, but as
22 a matter that's presented to them by the special
23 trustees.

24 MR. FRANKLIN: I see. Okay. Thank you.

25 CHAIRPERSON HINTON: Okay. Are there
26 other questions? No.

1 Why don't we move to Office of Planning?

2 MS. BAILEY: Madam Chair, good
3 afternoon. Members of the Board, my
4 name is Beverly Bailey with the Office of Planning.

5 The Office of Planning is recommending
6 conditional approval of this application, Members of
7 the Board. For some light housekeeping chores, the
8 project is advertised as being in the R-1-B
9 District. However, it's actually zoned DR-1-A.

10 Secondly, since the facility was
11 constructed, the applicants have been to the Board
12 on two previous occasions, in 1987 and '93, for
13 minor adjustments to the campus. The project has
14 been submitted to the Commission of Fine Arts for
15 review and that final decision is being awaited the
16 applicant. The ANC has voted unanimously to support
17 the application.

18 One of the things that the applicant --
19 we had stated in our report is that a landscape plan
20 was to be provided. Did you happen to get a chance
21 to submit that into the record?

22 MR. WILLIAMS: Not before the Board.
23 That's a condition that the Commission of Fine Arts
24 has actually requested as part of -- perhaps I need
25 to step back a minute and explain.

26 MS. BAILEY: Well, if I can just finish

1 and then you can explain.

2 MR. WILLIAMS: Okay.

3 MS. BAILEY: I'm sorry.

4 Lastly, Members of the Board, the Office
5 of Planning is recommending that a campus plan be
6 prepared for this campus. Our reasons for doing so
7 I'll just briefly identify. Number one, other than
8 the information that's in the files, we have no
9 comprehensive report on the site or on the school.
10 A campus plan is a requirement based on the section
11 of the regulations that the applicant is applying
12 under. It would gather all of the planning related
13 documents related to the site in one source. It
14 would provide an opportunity for the applicant to
15 assess any future development that may be warranted
16 at the site. It would inform all interested
17 parties, the city, the neighborhood residents, the
18 community concerning the school's future development
19 plans. It would identify the built out of the site,
20 and lastly, it would provide a comprehensive
21 composite of the history of the site. All of this
22 would be in one document.

23 So, in our view, it's important to
24 gather all of this information and put it in one
25 place. Notwithstanding, we understand that minor
26 modifications have been made in the past. I can't

1 understand why one hasn't been prepared before. I
2 just know where we are now.

3 Based on that lengthy talk, again, we're
4 recommending approval of the application and I'll be
5 pleased to answer any questions that you may have.

6 CHAIRPERSON HINTON: Thank you.

7 Are there any questions? No. Seeing
8 none --

9 Do you have any questions of the Office
10 of Planning?

11 MR. WILLIAMS: I'd just like to respond
12 briefly. We've had this conversation so this is not
13 news to Ms. Bailey.

14 We are fully aware that this was in the
15 R-1-A District. We could not seem to convince the
16 actual zoning desk that that was the case, despite
17 various meetings and letters. So, I call upon the
18 discretion and judgment of the Board to clarify this
19 matter.

20 Number two is that we actually did
21 receive concept approval from the Fine Arts
22 Commission, but there was a minor change in the plan
23 regarding one of the houses since that approval was
24 granted back in July of this year. For that reason,
25 we have presented to the Commission -- which has
26 essentially decided to review this project mostly at

1 the staff level. And we're on their appendix item
2 to their agenda tomorrow. So, for that reason, a
3 minor detail of this plan is pending an approval
4 that we anticipate receiving tomorrow.

5 CHAIRPERSON HINTON: Okay.

6 MR. WILLIAMS: And I concur with Ms.
7 Bailey's desire that perhaps an official campus plan
8 need be submitted. In the past, the two times we
9 have been before the Board in the past, this has
10 been the way this small campus has been interpreted.
11 It was not conditional at those two times, but I
12 could see the wisdom in doing it from this point on.

13 CHAIRPERSON HINTON: Yes, okay.

14 Is there a landscape plan?

15 MR. WILLIAMS: Not at this time. There
16 will be as part of the final working drawing
17 submitted to the Commission of Fine Arts.

18 CHAIRPERSON HINTON: When do you think
19 that plan would be available?

20 MR. WILLIAMS: Probably June, July at
21 this point. The primary component that that plan
22 would be addressing would be the exact detailed
23 planting of the courtyard within the building, as
24 well as potential foundation planting at the
25 additions to the administration building and to the
26 residences. Those of you who have been to the

1 Center, including Ms. Bailey, know that they
2 actually maintain their campus in an impeccable way.
3 They have a crew of their own landscape people. In
4 the past, they've often done many of these things
5 themselves in an in-house manner, if you will. But
6 in this instance, because the Fine Arts Commission
7 has requested it, we will certainly be submitting
8 this plan. I did not know that that was a
9 requirement for the Board as well.

10 CHAIRPERSON HINTON: Generally, when we
11 look at site development if there are building
12 additions, we also review the site work at the same
13 time and whether that changes in grading, the
14 removal or the addition of trees and shrubs. We
15 just generally look at it all together.

16 MR. WILLIAMS: I see.

17 CHAIRPERSON HINTON: Normally, the
18 projects that come before us are ready to go for a
19 building permit --

20 MR. WILLIAMS: I see.

21 CHAIRPERSON HINTON: -- and that's what
22 triggers coming to the BZA. So, normally, projects
23 have advanced that far that the information is
24 available.

25 MR. WILLIAMS: In our case, the
26 construction is not planned until about a year from

1 now. We are really just beginning our design
2 development phase. So, in terms of the normal
3 sequence of work, architecturally, it's actually a
4 little premature for us to engage a landscape
5 architect. We would be delighted to submit the plan
6 at such time, as a matter of record.

7 CHAIRPERSON HINTON: Let me ask Ms.
8 Bailey.

9 Did you find the site to be impeccably
10 maintained?

11 MS. BAILEY: Yes.

12 CHAIRPERSON HINTON: You did?

13 MS. BAILEY: Yes.

14 CHAIRPERSON HINTON: So, based on that
15 information, perhaps we could go ahead with the
16 building additions that we see and ask that the
17 comprehensive landscape plan be prepared as part of
18 the campus plan that's going to come later.

19 MR. WILLIAMS: Sure.

20 MS. RICHARDS: I have one question. I
21 didn't see any provision about permanent faculty
22 housing. I suppose there is none?

23 MR. WILLIAMS: There really is none. I
24 mean, in a sense, the fellows themselves are self-
25 directed. They are faculty, actually, as a rule
26 themselves, at other institutions. So, they're here

1 really to take a sabbatical and work on a research
2 project. But there are visiting lecturers that come
3 in and they have special colloquia throughout the
4 year. But there really is no permanent teaching
5 faculty at all.

6 CHAIRPERSON HINTON: Okay. Any other
7 questions? Okay.

8 MR. BASTIDA: Excuse me, Madam
9 Chairperson.

10 CHAIRPERSON HINTON: Yes?

11 MR. BASTIDA: I think that if the
12 University were to prepare a master plan prior to
13 any potential future development, that would address
14 some of the concerns that the Board has regarding
15 master plan and so on because the schematic would be
16 there. It would be much easier if that condition
17 were to be attached to your order that social plan
18 would be prepared prior to any future development --
19 additional future development.

20 CHAIRPERSON HINTON: So, you have a
21 recommendation for a condition of campus plan within
22 three years of approval. Then we would add, or
23 prior to any future --

24 MR. BASTIDA: Development.

25 CHAIRPERSON HINTON: -- development
26 proposals.

1 MR. BASTIDA: Yes. It would be better
2 three years, but since they are very conscientious
3 in maintaining this site, the Office of Planning
4 would rather be lenient rather than strict.

5 CHAIRPERSON HINTON: Oh, I see.

6 MR. BASTIDA: -- of their wonderful
7 track record. But it is very important that that
8 master plan is to be prepared prior to any other
9 potential development.

10 CHAIRPERSON HINTON: Good idea. Okay.

11 Let's move to the ANC report. Is there
12 anyone here from the ANC? No.

13 We have two letters from the ANC in the
14 record. One from ANC-2E, which is where the
15 facility is located. They have offered their
16 support. We have a letter from 3C which,
17 apparently, is adjacent to the property. They offer
18 no objection. Other than the ANC, we have no
19 support or opposition from any persons or parties.
20 Okay?

21 MR. WILLIAMS: If I may, I believe that
22 letters of support were actually submitted as part
23 of the record by --

24 CHAIRPERSON HINTON: Letters of support?

25 MR. WILLIAMS: -- by neighbors.

26 CHAIRPERSON HINTON: I'll look again.

1 MR. LYONS: They were just put before
2 the Board.

3 CHAIRPERSON HINTON: Oh, oh, oh, right.
4 You're right. These are the ANCs. Okay.

5 Why don't you and Mr. Franklin take a
6 look at those?

7 MR. FRANKLIN: Yes, I have those in my
8 packet, yes.

9 CHAIRPERSON HINTON: We have letters of
10 support that because you're submitting them late,
11 you're asking for a waiver. The waiver is so
12 granted. The letters are from neighbors?

13 MR. WILLIAMS: Yes.

14 CHAIRPERSON HINTON: Okay. Oh, a total
15 of six, so that's seven. Seven letters of support.

16 MS. REID: On a letter of support, there
17 is a note and I can't really read that note. It
18 speaks to impact as far as --

19 MR. WILLIAMS: Is this from Mr.
20 Henderson?

21 MS. REID: Yes.

22 MR. WILLIAMS: Yes.

23 MS. REID: Could you speak to that?
24 First of all, do you know what he's saying?

25 MR. WILLIAMS: Yes, I do know what he's
26 saying.

1 MS. REID: Because I can hardly read it
2 -- what I see is, it says that things are totally
3 out of hand down here between the somebody and the
4 somebody, constructions workers, a gridlock. And
5 asked that the construction crews park on a lake
6 Center property.

7 Can you address that please?

8 MR. WILLIAMS: Yes, I can.

9 Whitehaven Street does have some parking
10 problems on it, I think as a rule, because of the
11 number of embassies there and the staff for those
12 embassies coming on a daily basis. Under the best
13 of circumstances, it has been impacted. With the
14 Italian Embassy currently under construction, it is
15 extremely impacted.

16 We will be working with a very reputable
17 construction manager, the firm of Whiting-Turner, on
18 this project. I can assure you, but we can make
19 this a matter of record, that all subcontractors,
20 suppliers and personnel for the constructor will,
21 indeed, park on the premises. They've planned to
22 construct this during a five-month window of
23 opportunity when the entire Center will be shutdown.

24 CHAIRPERSON HINTON: Good.

25 MR. WILLIAMS: So, they will have
26 complete access to the entire campus and certainly,

1 will be able to accommodate all the parking needs
2 within the campus itself.

3 MS. REID: Okay, I would like to note
4 for the record that Mr. Henderson initially stated,
5 "I have no objections to the changes as proposed."
6 Then he made a footnote with an objection.

7 MR. WILLIAMS: Right, but he knows --

8 MS. REID: I'm glad you clarified that.

9 MR. WILLIAMS: -- that he's talking to a
10 friend and not a foe in this matter.

11 MS. REID: Okay. I think that's good.

12 MR. FRANKLIN: His footnote was a plea.

13 CHAIRPERSON HINTON: Okay.

14 Do you have any concluding remarks?

15 MR. WILLIAMS: No, I don't believe so.

16 CHAIRPERSON HINTON: Are we ready to
17 make a decision, Board members? Great. How about a
18 motion?

19 MR. FRANKLIN: I move approval, Madam
20 Chair, in accordance with the recommendations of the
21 Office of Planning.

22 MS. RICHARDS: And I'll second that.

23 CHAIRPERSON HINTON: You would second
24 that.

25 And I want to just make sure we're all
26 reading from the same page. We're going to

1 condition our approval that a campus plan be
2 prepared and submitted within three years, or prior
3 to any future development proposals. And let's make
4 a second condition that all the construction
5 vehicles and employees of those companies will park
6 on the property.

7 MR. FRANKLIN: It's three years or
8 before a development proposal, whichever comes
9 earlier.

10 CHAIRPERSON HINTON: Having a motion on
11 the floor, all those in favor?

12 ALL: Aye.

13 CHAIRPERSON HINTON: Opposed?

14 (No response.)

15 CHAIRPERSON HINTON: Thank you.

16 MR. LYONS: Staff would record the vote
17 as being 4 to zero to approve the application. Mr.
18 Franklin, Ms. Reid, Ms. Richards, and Ms. Hinton to
19 approve; Mr. Clarens not present and not voting.

20 And the issuance of a summary order?

21 CHAIRPERSON HINTON: Yes, thank you.

22 MR. WILLIAMS: Thank you very much.

23 MR. LYONS: The last application of the
24 afternoon is numbered 16214 of Providence Hospital,
25 DePaul Foundation, pursuant to 11 DCMR 3108.1, for
26 special exceptions under Sections 205 and 206 to

1 establish a child development center of 150 students
2 and 26 staff, and a private school of 150 students
3 and 26 staff in an R-5-A District at premises 4401
4 Eighth Street, N.E., Square 3894, Lots 828 and 814.

5 All persons wishing to testify in this
6 application, please rise to take the oath. Please
7 raise your right hand.

8 (Whereupon, the witnesses were sworn.)

9 MR. LYONS: Please be seated.

10 CHAIRPERSON HINTON: Before we get
11 started, why don't we see if we can identify who
12 would be interested in being a party to the case.

13 Okay, is there any interest in the
14 audience in being a party, either in support or
15 opposition? Party status lets you participate more
16 fully in the hearing and it requires that you be
17 notified of certain things. Those are the --

18 Yes, you are interested? Anyone
19 interested, please come up to the microphone.

20 The ANC is automatically a party. So,
21 we're looking for other than the ANC.

22 Please give your name and home address
23 for the record.

24 MR. ESHELMAN: My name is William
25 Eshelman, 2300 M Street, Washington, DC, for the
26 Institute of Our Lady of Mount Carmel.

1 CHAIRPERSON HINTON: No, we have to talk
2 about why you want to be. Mr. Eshelman?

3 MR. ESHELMAN: Yes.

4 CHAIRPERSON HINTON: And what is your
5 interest in this case?

6 MR. ESHELMAN: Our interest is set forth
7 basically in the letter that I sent over Monday to
8 the Board. It relates to the use that is proposed
9 to be placed on this building. The fact that 1,000
10 square feet of this building sit on property that's
11 owned by the Institute itself. Also, that the
12 building is located and its longest length on a
13 private road that we share with Carroll Manor and
14 Providence Hospital.

15 CHAIRPERSON HINTON: Well, and you are -
16 -

17 MR. ESHELMAN: An attorney.

18 CHAIRPERSON HINTON: You represent the
19 adjacent property owner?

20 MR. ESHELMAN: Correct.

21 CHAIRPERSON HINTON: And that is the
22 Institute of Our Lady of Mount Carmel?

23 MR. ESHELMAN: The Carmelites.

24 CHAIRPERSON HINTON: The Carmites. Just
25 the Carmites? Was it wrong what I said?

26 MR. ESHELMAN: That is correct. We just

1 call them the Carmelites.

2 CHAIRPERSON HINTON: Very good. And you
3 are in support or opposition?

4 MR. ESHELMAN: I think at this point,
5 we're opposed to approval at this time.

6 CHAIRPERSON HINTON: Okay. We're going
7 to grant you party status.

8 MR. ESHELMAN: Thank you.

9 CHAIRPERSON HINTON: We'll abbreviate
10 that as the Carmelites. Is that okay?

11 MR. HEDGPETH: My name is Verne
12 Hedgpeth. I live right in the vicinity of this
13 building. I believe it's going to have a bad impact
14 on the neighborhood with the traffic.

15 CHAIRPERSON HINTON: Okay. Do you live
16 within 200 feet of the property?

17 MR. HEDGPETH: I would say yes.

18 MR. LYONS: Your specific address?

19 MR. HEDGPETH: 4315 Tenth Street, N.E.

20 MR. LYONS: Kent?

21 MR. HEDGPETH: Tenth, eight, nine, ten.

22 CHAIRPERSON HINTON: Tenth Street, N.W.

23 And could you spell your last name?

24 MR. HEDGPETH: H-E-D-G- --

25 CHAIRPERSON HINTON: I'm sorry?

26 MR. HEDGPETH: H-E-D-G-P-E-T-H.

1 CHAIRPERSON HINTON: You need to
2 identify how your interest could not be represented
3 by the ANC. How are your interests different than
4 what the ANC is?

5 MR. HEDGPETH: It's about the same,
6 really.

7 CHAIRPERSON HINTON: Do you think that
8 your interests would be represented by the ANC?

9 MR. HEDGPETH: Pretty much, yes.

10 CHAIRPERSON HINTON: Okay.

11 MR. LYONS: Are they here?

12 CHAIRPERSON HINTON: Is the ANC here?
13 Very good. Would you be happy being part of
14 represented by the ANC?

15 MR. HEDGPETH: Yes.

16 CHAIRPERSON HINTON: Okay, very good.
17 And that goes for anyone else in line.
18 If your interests are similar to what the ANC is
19 representing, then you're part of their party.

20 MS. MASON: My name is Stacy Mason and
21 I'm a resident of Ward 5. I am president of Parents
22 of the National Child Day Care Association. My
23 three-year-old daughter, Chedale Young, has been a
24 student at AZ Bates Center since February 1996.
25 During this time, I have seen my special little girl
26 develop and grow as a --

1 CHAIRPERSON HINTON: Okay, excuse me.

2 MS. MASON: Yes?

3 CHAIRPERSON HINTON: You'll have an
4 opportunity later to make a statement.

5 MS. MASON: Oh, okay.

6 CHAIRPERSON HINTON: Right now, we're
7 trying to find out, do you want to be a party? Do
8 you need to be specially notified of the results of
9 this hearing? Do you need to cross examine the
10 other parties?

11 MS. MASON: I need to be specially
12 notified.

13 CHAIRPERSON HINTON: Okay. You need to
14 tell us why.

15 MS. MASON: No.

16 CHAIRPERSON HINTON: Excuse me, you --

17 MS. MASON: No.

18 CHAIRPERSON HINTON: No?

19 MS. MASON: No.

20 CHAIRPERSON HINTON: Okay, are you in
21 support or opposition?

22 MS. MASON: Support.

23 CHAIRPERSON HINTON: You're in support.
24 You'll be able to speak as a person in support,
25 okay?

26 MS. MASON: Oh, okay. Okay.

1 CHAIRPERSON HINTON: Very good, thank
2 you.

3 MR. CAIN: Madam Chairman, my name is
4 Bernard Cain. I'm here to support the community.
5 I'd like to reserve any time, if I have any
6 questions after hearing all the testimony of the
7 proponents.

8 CHAIRPERSON HINTON: You might want to
9 be a party later? Is that what you're saying?

10 MR. CAIN: Yes.

11 CHAIRPERSON HINTON: Do you own property
12 within 200 feet --

13 MR. CAIN: In the District in Ward 5.

14 CHAIRPERSON HINTON: Within 200 feet of
15 the facility?

16 MR. CAIN: No, I don't.

17 CHAIRPERSON HINTON: Why can't your
18 interests be represented by the ANC?

19 MR. CAIN: I want to have the
20 opportunity to speak about anything I may hear at
21 this hearing, that's all.

22 CHAIRPERSON HINTON: Well, you have an
23 opportunity to speak either in support or
24 opposition.

25 MR. CAIN: Thank you. Thank you.

26 CHAIRPERSON HINTON: We're just trying

1 to find out who needs to be a party. We don't know
2 yet.

3 MR. CAMERON: I'm David Cameron. I live
4 at 1514 Jackson Street, N.E.

5 CHAIRPERSON HINTON: Is that near this
6 site?

7 MR. CAMERON: Within five or six blocks
8 from there.

9 CHAIRPERSON HINTON: Five or six blocks.

10 MR. CAMERON: Yes.

11 CHAIRPERSON HINTON: Why are you seeking
12 party status?

13 MR. CAMERON: I just wish to come out in
14 favor of the National Child Day Care taking the
15 project and I want to note that --

16 CHAIRPERSON HINTON: Okay, you'll have
17 an opportunity to speak later.

18 MR. CAMERON: Okay, thank you.

19 CHAIRPERSON HINTON: Very good. Thank
20 you.

21 So, we have --

22 MR. LYONS: It appears just two parties,
23 Madam Chair?

24 CHAIRPERSON HINTON: The ANC and the
25 Carmelites.

26 MR. LYONS: That's correct.

1 CHAIRPERSON HINTON: Is that what you
2 have?

3 MR. LYONS: Yes.

4 CHAIRPERSON HINTON: That's what I have.
5 Very good.

6 Okay. Ready to start.

7 MR. GLASGOW: Thank you, Madam
8 Chairperson.

9 For the record, I am Norman M. Glasgow,
10 appearing on behalf of the applicant. The owner of
11 the property is Providence Hospital, the DePaul
12 Foundation. We are here presenting a case on behalf
13 of the National Child Day Care Association for the
14 establishment of a private school for 50 students
15 and 12 staff, and a child development center of 100
16 students and 40 staff for the building located at
17 4401 Eighth Street, N.E. So, I want to take a
18 minute and make sure that the Board understands we
19 are modifying the application as to the intensity of
20 the request.

21 CHAIRPERSON HINTON: Would you repeat
22 those numbers?

23 MR. GLASGOW: Sure. It's 50 students
24 and 12 staff for the private school as opposed to
25 the 150 that's advertised; and the child development
26 center of 100 students and 40 staff instead of the

1 150 students.

2 MS. RICHARDS: Okay, the first figures
3 you gave there were 50 students and how many staff?

4 MR. GLASGOW: And 12 staff.

5 MS. RICHARDS: Okay.

6 MR. GLASGOW: That's for the private
7 school. And for the child development center, 100
8 students and 40 staff. Those revised numbers of
9 students and staff reflect a change from what was
10 originally submitted by the applicant but the
11 revision -- those revised numbers are reflected in
12 the applicant's statement which was filed March 5th,
13 the Office of Planning report that was previously
14 filed, and the report of the Department of Human
15 Services. All those reflect the revised numbers.
16 So, they are all aware of what is presently being
17 presented today.

18 The site is slightly over one acre in
19 size and is presently improved with a structure
20 containing approximately 38,000 square feet of floor
21 area which was previously last used as a classroom
22 and dormitory for the Catholic University before its
23 acquisition by Providence Hospital.

24 Here with me today is Mr. Thomas Taylor,
25 seated to my far right, who is the chairman of the
26 Board of Directors of the National Child Day Care

1 Association, and Mr. Travis Hardman to my immediate
2 right who is its executive director. In addition,
3 in the front row is Mr. Charles Bryant and he is
4 being submitted as the architect and a land planning
5 witness. I have a copy of his resumé. Mr. Bryant
6 has been accepted previously as an expert witness by
7 the Zoning Commission but I do not believe he has
8 previously been accepted as an expert before the
9 Board of Zoning Adjustment.

10 The next witness will be Mr. Robert
11 Morris, traffic engineer, who has previously been
12 accepted as an expert witness by the Board. In
13 addition, we will be presenting as an expert
14 witness, Mr. Richard Nero in Land Planning. He has
15 been accepted as an expert witness by the Board.
16 Lastly, we will be presenting as a witness, Mr.
17 William Davis of DBW Development Group, who is an
18 expert in financing and development of institutional
19 properties. I have a copy of his resumé for
20 submission to the Board.

21 As the Board has seen from the line at
22 the microphone, there are a number of persons in
23 support and in opposition to the application. We
24 are aware of that as we were going through the
25 process and those that met with the ANC. Before
26 proceeding with the testimony of the witnesses, with

1 the approval of the Board, I'd like to present a
2 brief opening statement as to the nature of the
3 application.

4 CHAIRPERSON HINTON: That would be fine.
5 Could we get a sense of the time you
6 expect your presentation --

7 MR. GLASGOW: For our direct
8 presentation, we believe that it will take about 45
9 minutes to an hour.

10 CHAIRPERSON HINTON: And how many
11 witnesses do you have?

12 MR. GLASGOW: I believe it is six
13 witnesses.

14 CHAIRPERSON HINTON: And that would be
15 about an hour for everybody?

16 MR. GLASGOW: That is correct.

17 CHAIRPERSON HINTON: Okay, very good.

18 MR. GLASGOW: We submitted a detailed
19 statement of applicant which is in the record, which
20 I assume the members of the Board have reviewed and
21 are familiar with. We plan on utilizing that. That
22 is now part of the record. That is part of our
23 presentation and is part of the basis upon which we
24 submit that we've met the burden of proof. So,
25 we're going to try to elucidate and elaborate on
26 that rather than going back through specifically,

1 everything that's in the statement of applicant.

2 CHAIRPERSON HINTON: Good. We
3 appreciate that. We did receive your statement and
4 we've all read it.

5 MR. GLASGOW: The application is filed
6 pursuant to Sections 205 and 206 of the regulations
7 for relief to establish both a child development
8 center with 100 children and 40 staff and a private
9 school providing parent life skill classes for 50
10 students and 12 staff at the subject property. As
11 we submit in there, we will review a couple of the
12 exhibits in the opening statement and then proceed
13 on with the witnesses.

14 The applicant has submitted that
15 statement. The proposed operator of the facility
16 has over 30 years' experience in the District of
17 Columbia and the National Child Day Care Association
18 is the largest and oldest non-profit child care
19 provider in the city.

20 As will be testified to by the
21 witnesses, the building is quite large and is fully
22 capable of meeting the programmatic and regulatory
23 requirements to operate the child development center
24 and private school on the property. We have an acre
25 of land, a 38,000 square foot building with respect
26 to the floor area. The property is located in R-5-A

1 zone and is within a large area encompassing
2 Providence Hospital and other institutional uses in
3 the area with a designation on the comprehensive
4 land use map as institutional. Mr. Nero will be
5 covering that in detail because we do believe that
6 that is an important aspect of the case. While we
7 are zoned R-5-A, we are within -- the colors that
8 are on the land use map -- the blue area which
9 designates the institutional land use area on the
10 comprehensive planned use map.

11 Subject property is surrounded by
12 institutional uses on its north, east, west and due
13 south frontages. Residential use is diagonally and
14 confronts the property at a southeast frontage. At
15 pages 7 through 17 of the statement, that's where we
16 go through all the detail as to how it is that we
17 meet the burden of proof for the special exceptions
18 which are requested.

19 Turning quickly to the exhibits, Exhibit
20 A is the Sanborn map of the subject property. It
21 shows the subject site outlined in red. You can see
22 the institutional uses such as the Carmelite Center,
23 which is to the north of the subject property; the
24 Ethnic Fair Center which is to the west of the site.
25 Carroll Manor is located further north of the
26 property. Also, you have the Vincent Professional

1 Building which is shown as being to the southwest of
2 the site. The residential neighborhood is to the
3 southeast of the property. So, it is, in a sense,
4 surrounded by almost all sides by institutional
5 uses.

6 Exhibit B is a copy of the zoning map
7 showing the subject site located within the R-5-A
8 area. Those two large blocks of property shown on
9 the map, that is where the institutional designation
10 is on the comprehensive plan land use map, where you
11 see that there are almost no streets or any other
12 protrusions into those pieces of the site. So, we
13 are within that institutional area and Mr. Nero will
14 exhibit a copy of a portion of the comprehensive
15 plan land use map depicting that.

16 CHAIRPERSON HINTON: Which two large
17 blocks are you referring to?

18 MR. GLASGOW: Where it shows R-5-A, this
19 piece on the north of Barnum and this piece on the
20 south of Barnum Street are both designated in the
21 institutional land use category.

22 CHAIRPERSON HINTON: Thank you.

23 MR. GLASGOW: Exhibit C just shows an
24 outline of the site. As we said, it's over an acre
25 in size. D is the memorandum of Mr. Nunley which we
26 have modified with respect to today's application,

1 so that it's a total of 50 students, 100 in the
2 child care center and not 150 of each.

3 Photographs of the subject property are
4 included. The subject building will remain and be
5 rehabilitated and converted to the use for the child
6 care center and the school. Mr. Bryant will cover
7 that. Outlines of testimony are Exhibits F and G.
8 H is the traffic report of Mr. Morris. He will be
9 dealing with that. Then Exhibit I is a fax sheet
10 concerning the National Child Day Care Association.
11 We have a letter attached as Exhibit J from Council
12 Member Thomas in support of the application. Our
13 site plan that we are requesting approval of today
14 in connection with this application is Exhibit K.

15 You will notice as a part of that site
16 plan, on the east frontage, there is a piece of the
17 applicant's building which protrudes on to the site
18 that's owned by the Carmelites. You will also note
19 that we are showing no access or parking off of that
20 eastern frontage. Hopefully, that will address some
21 of the concerns that exist. Our parking area is in
22 our side yard on the west frontage and in our rear
23 yard. We will not be using any access over the
24 eastern frontage of the property. The portion of
25 the building that protrudes on to the Carmelites'
26 property is permitted by recorded instrument to

1 remain. We are not going to be utilizing or
2 touching that portion of the property.

3 CHAIRPERSON HINTON: I don't understand
4 "recorded instrument to remain".

5 MR. GLASGOW: There's a recorded
6 instrument. We don't believe title issues are
7 necessarily properly before the Board. But in the
8 event that they are raised, there is an instrument
9 that was recorded in the recorder of deeds dated
10 December 21, 1989, recorded with the recorder of
11 deeds February 5th of 1990 which as an attachment
12 has an encroachment condition. It states that "the
13 grantee accepts the above described property subject
14 to the encroachment onto such property by the
15 building owned by grantor" -- that is the
16 predecessor in interest to the applicant here --
17 "that is shown on a certain survey by Land Tech
18 Associates." That is the 30 foot piece of building
19 that has been sitting for a period of time on the
20 Carmelites' piece of property. This building was
21 originally constructed in the early 1900s.

22 MR. FRANKLIN: Who is the grantee in
23 that document?

24 MR. GLASGOW: I knew as soon as I folded
25 this up, I would need to find it again. Hold on one
26 second. Okay, I have it in front of me.

1 The document is entitled "Easement.
2 This easement is made as of the 21st day of
3 December, 1989, by and between the Catholic
4 University of America as the grantor, and the
5 Institute of the Sisters of Our Lady of Mount
6 Carmel," or Carmelites, as the grantee.

7 CHAIRPERSON HINTON: So, in laymen's
8 terms, the ownership of the lot was going from
9 Catholic University to the Carmelite Sisters. Is
10 that right? The Carmelite Sisters were
11 acknowledging that this existing building that is
12 mostly on the adjacent lot actually overhangs the
13 property that they were purchasing?

14 MR. GLASGOW: Well, they acknowledge in
15 this. I don't know when the actual conveyance
16 occurred to the Carmelites. But through this
17 easement, they're acknowledging that there is a
18 piece of the building that Catholic University was
19 using at that point in time, evidently, as part of
20 its classroom and dormitory facility was on the
21 Carmelites' property. All right, they acknowledge
22 that through the Exhibit B which talks about
23 encroachment conditions of that recorded document.

24 CHAIRPERSON HINTON: Okay, sure.

25 MS. REID: Now, I'm confused here
26 because are you saying that the Carmelites received

1 from Catholic University, an easement? It's a
2 recorded easement, or is it actually an
3 encroachment?

4 MR. GLASGOW: Yes, there's a recorded
5 easement that reflects that there is this
6 encroachment. Where there's an acknowledgement that
7 this encroachment exists.

8 MS. REID: Okay, that's where I was
9 confused. I got a little confused here when you
10 were calling the actual land or the actual part of
11 the property that goes beyond the property line as
12 an encroachment. I guess it's just a matter of
13 terminology. But in essence, what you're saying is
14 that they have easement to be there?

15 MR. GLASGOW: Yes. Yes. They have
16 recognized that this will remain.

17 MS. REID: Okay. Okay.

18 CHAIRPERSON HINTON: There's an easement
19 and does the easement address the use of the
20 building?

21 MR. GLASGOW: No.

22 MS. REID: Did you submit the actual
23 instrument as a part of your application?

24 MR. GLASGOW: No, we did not. We have
25 anticipated that a title issue may be raised. We
26 don't believe that it is properly before the Board.

1 It's really for the parties to address if there's a
2 title issue. But to the extent that it is relevant
3 or that there is an issue, there is this document
4 which states that this encroachment may remain.

5 MR. FRANKLIN: Well, it may become
6 relevant in a sort of indirect way, Mr. Glasgow,
7 because as I read the letter in opposition, or
8 apparently in opposition from the Carmelites, they
9 are raising the matter of title in such a fashion as
10 to suggest that unless that is satisfied to their
11 satisfaction, they may continue to oppose, you know,
12 the application.

13 I agree with you. I don't think that
14 this Board sits to resolve title disputes. But it
15 might be useful if we had that particular document
16 in the record so we might be able to refer to it,
17 you know, as needed.

18 MR. GLASGOW: Right. I introduce it
19 into the record for whatever purposes it may serve
20 with respect to this proceeding.

21 MR. FRANKLIN: Right.

22 MR. GLASGOW: We have also amended our
23 application because of our concern about eliminating
24 that issue that there is no portion of the building
25 that encroaches will be used for other than matter
26 of right purposes. So, the building is large enough

1 that we can utilize our programs and facilities in
2 the other portions of the building that are not part
3 of the encroachment.

4 CHAIRPERSON HINTON: I believe that's in
5 the record in your statement.

6 MR. GLASGOW: Yes.

7 CHAIRPERSON HINTON: Yes.

8 MR. GLASGOW: All right. We have
9 attached a series of orders in which similar relief
10 has been granted. If there are no further questions
11 from the Board members, I'd like to proceed with the
12 testimony of the witnesses.

13 CHAIRPERSON HINTON: All right. And
14 what I would like to do to hopefully move the
15 hearing along as quickly as possible, I would like
16 to have all of your witnesses give their testimony.
17 Then we will have Board questions at the end of all
18 of the witnesses, okay?

19 MR. GLASGOW: Thank you, Madam Chair.

20 I would like to call the first witness,
21 Mr. Thomas Taylor.

22 MR. TAYLOR: Good afternoon. I'm Thomas
23 Taylor and president of the Board of the National
24 Child Day Care Association.

25 I'd like to say that 33 years ago I got
26 started in this program. There were a group of

1 citizens that were very interested in the condition
2 of child day care in the District of Columbia at
3 that time. The Head Start Program was just
4 beginning and we formed a group called the Child Day
5 Care Association. I was appointed the first
6 executive director. We developed programs which we
7 felt were good for young children. We believe
8 firmly that every child needs to have quality in its
9 life, and that we would present programs and centers
10 that could care for children, help them to grow
11 physically, emotionally, intellectually to the best
12 of their ability.

13 That's what we have done over the period
14 of years. We've developed over 20 centers
15 throughout the city in various aspects of the city.
16 We feel that anyplace that one of our centers goes
17 is a help to that particular community because we
18 work not only with the young children, but with
19 their families in an attempt to strengthen family
20 life.

21 I was there for 15 years and when I
22 left, another director came in and stayed for
23 another 15 years. She went to even higher levels
24 and has now been appointed by the president to be
25 the director of the National Head Start Program. We
26 know that Head Start, of course, is the program

1 which has been most helpful in getting the community
2 to understand the importance of early childhood
3 development. We continue with that. Our Head Start
4 Program has expanded over the years and now we have
5 a young executive director who can tell you about
6 the specific kind of things that we want to do at
7 Brady Hall. That's Travis Hardman who is to my
8 left.

9 Shall he go ahead?

10 MR. GLASGOW: Yes, please.

11 MR. HARDMAN: Good afternoon, Madam
12 Chair, and Members of the Board. Again, my name is
13 Travis Hardman, the executive director of the
14 National Child Day Care Association.

15 As our Board president, Tom Taylor, has
16 already provided you with a brief history of NCDCA
17 programs and philosophy, we are very proud of our
18 history of service. As the largest provider of
19 publicly funded child care services in the District,
20 we have a duty to continue to expand our program to
21 meet the needs of the families in the District of
22 Columbia.

23 Throughout the history of our
24 organization, we have expended thousands of dollars
25 in renting space in church basements, in public
26 housing projects, and other spaces that were not

1 suitable for a child care program. The board of our
2 organization requested that we locate a new facility
3 for a state-of-the-art child development center
4 where we could serve up to 100 children and meet the
5 needs of our children and families in a first class
6 way.

7 After looking at numerous locations
8 throughout the District of Columbia, we located a
9 facility that is ideal for our purposes. It is an
10 institutional building with plenty of interior space
11 that can be configured for classrooms and other
12 requirements of a child care facility. It's a
13 sufficiently large site to accommodate both parking
14 and a children's playground. The building known as
15 Brady Hall was operated by Catholic University as a
16 classroom and dormitory building prior to its
17 acquisition by Providence Hospital. The Hospital
18 has never been able to make use of the building for
19 its needs so it has sat vacant for several years.

20 Although the building is in a
21 residential zone, it is completely surrounded by
22 other institutional buildings. Our architects and
23 other professionals have concluded that changing the
24 building from an institutional classroom building
25 into an apartment building would be quite costly.
26 However, utilizing it for an educational use such as

1 we have proposed, i.e., for classrooms, for training
2 parents in job skills is a cost effective renovation
3 option. We hope that the Board of
4 Zoning Adjustment realizes that there is a crying
5 need for additional child care slots in the District
6 of Columbia as nearly 60 percent of the children
7 under the age of six have parents in the work force.
8 The Metropolitan Washington Council of Governments,
9 also known as COG, estimates that available
10 regulated child care services in the District falls
11 short of meeting the needs of approximately 62
12 percent of the potential demand. In Ward 5
13 specifically where Brady Hall is located, the 1990
14 census shows that there were over 5,000 children
15 from ages zero to four residing in the area. But
16 the licensed homes and child care centers could only
17 accommodate approximately 2,000.

18 Given the enactment of the new Welfare
19 Reform Legislation, it is estimated that the demand
20 for additional subsidized child care spaces for
21 existing and former welfare clients will increase by
22 approximately 280 percent. I also want to mention
23 at this point that in the District, there's an
24 estimated need for 4,500 additional child care slots
25 based on the Welfare Reform. Those are figures that
26 come directly out of the Office of Early Childhood

1 Development.

2 In our discussions with the residents of
3 the neighborhood surrounding Brady Hall, we have
4 stressed that we'll reserve up to one-half of the
5 child care slots for children from Ward 5. We have
6 also indicated that we intend to serve children and
7 parents who are not on welfare, as well as those who
8 are. Parents who can afford to pay for NCDCA
9 services will be charged on a sliding fee scale
10 based on family income and family size.

11 I think this is also an important point,
12 given where we are at this hearing. Residents of
13 the area have expressed the fear that we will seek
14 to obtain permission from the Board of Zoning
15 Adjustment to serve 50 parents in a training
16 facility at one time, and then we will expand beyond
17 that at a later time. I just want to state for the
18 record that the National Child Day Care Association
19 has no intention of exceeding the parameters that we
20 have requested and are willing to be bound by the
21 conditions of the BZA order as to the number of
22 children in the child development center, as well as
23 the number of students in the school.

24 One final point which relates to the
25 Carmelite Sisters. We do not view our program as
26 competition with the Carmelite Sisters. We feel

1 that we can exist for the mutual advance of
2 children, families and the community. First, the
3 Carmelite Sisters is a private, Catholic educational
4 institution which seeks to impart religious values
5 to its students. However, the National Child Day
6 Care Association -- we are a non-profit, secular,
7 publicly-funded institution which can not, by its
8 charter, teach religion. Secondly, we are organized
9 and funded to provide pre-school education primarily
10 to Head Start children.

11 Third, as I said earlier in my
12 testimony, the need for child care is so great that
13 I believe strongly that the National Child Day Care
14 Association and the Carmelite Sisters' program can
15 not meet the overall tremendous need of child care
16 in the District of Columbia.

17 Lastly, we feel that we can work in
18 collaboration with our neighbors as we always have.
19 As Mr. Taylor has mentioned, we are in a number of
20 communities around the city and we've always been an
21 asset in working collaboration and in partnership.
22 Thank you.

23 Oh, one last point. For the record, I
24 do want to state that we do have petitions in
25 support of the application from residents of Ward 5.

26 CHAIRPERSON HINTON: All right. Those

1 have not been previously submitted to us?

2 MR. GLASGOW: No, they have not.

3 MR. HARDMAN: They have not.

4 CHAIRPERSON HINTON: Okay, thank you.

5 MR. GLASGOW: I would like to call the
6 next witnesses, Mr. Charles Bryant and Mr. Robert
7 Morris.

8 CHAIRPERSON HINTON: Mr. Morris has
9 already been recognized as an expert --

10 MR. GLASGOW: Correct.

11 CHAIRPERSON HINTON: -- and we will do
12 that again today. Mr. Bryant may not have been in
13 front of the BZA before recognized as an expert, is
14 that right?

15 MR. BRYANT: I have been before the BZA
16 before, but I do not recall having been recognized
17 as an expert.

18 CHAIRPERSON HINTON: Okay.

19 MR. LYONS: Madam Chair, Mr. Bryant has.

20 CHAIRPERSON HINTON: He has and we'll
21 continue to do so today.

22 MR. FRANKLIN: Unless you've lost your
23 expertise.

24 MR. BRYANT: It will escape. I hope
25 not.

26 Madam Chair, my name is Charles Irving

1 Bryant. I am a practicing architect in the District
2 of Columbia. My firm has been involved in the
3 restoration and rehabilitation of major structures
4 across the city for some 30 years as a part of our
5 routine practice of architecture. In that regard,
6 we also have served as construction manager for a
7 day care facility that was rather similar in its
8 activities as this one, a 30,000 square foot
9 facility for children licensed in the District of
10 Columbia. That is the Edward Mazique Child Care
11 Center.

12 Brady Hall is located on Varnum Street
13 in northeast Washington. The building's
14 architecture is unique. It's a very nice sort of
15 baroque facility. The structure of the building is
16 very sound. It has some 38,000 square feet of space
17 and it was designed primarily for use as a dormitory
18 building. Because of that use, there are certain
19 what would be considered to be functionally obsolete
20 aspects of the building for any kind of general use.
21 However, it is an excellent space resource for the
22 kind of use that the National Child Day Care
23 facility would like to put it to.

24 It is a sound building structurally.
25 Its finishes and architectural features need
26 restoration. The building makes a strong

1 architectural statement in its presence and is the
2 kind of facility when well maintained is of value to
3 its location. Currently, the building is not in the
4 best state of repair. It has been somewhat rundown.
5 It needs new windows and it perhaps needs some roof
6 repair. In the course of inspecting the building,
7 we had occasion to see some rodents on the site.
8 It's boarded up and in its current utilization
9 circumstance is not a good neighbor to the
10 community. The uses that are projected can be
11 facilitated in the building; a good and commodious
12 facility for children and the other activities
13 requested there is entirely possible.

14 We have been able to, within the
15 available site configuration, generate more than the
16 number of parking spaces that would be required for
17 the activity in the building on the site. You have
18 before you, essentially, the same document that we
19 have placed here. In a general sense, the main
20 building which is this part, would be rehabilitated.
21 New systems would be installed in the building. New
22 windows would make it an energy conservative place.
23 The exterior and the landscaping would be restored.
24 The building would have handicap access features.

25 The service area to the building is on
26 this part, on the north side of the building. The

1 parking is all in the space on the west of the
2 building and in this area. The area which is in the
3 U between the wings of the building on the back
4 would be used within a fenced enclosure and
5 landscaped enclosure as the playground for the
6 children which is a situation that ensures that once
7 a fence is placed at this area, there is not going
8 to be -- it will be a relatively easy area to police
9 and maintain a safe circumstance for young people.
10 The entry into the building is by way of new ramp
11 access at this point, and a ramp access into this
12 area will ensure access for the handicapped.

13 It's my feeling that this facility is an
14 excellent resource. That the use proposed at this
15 point is compatible with the use in the surrounding
16 areas. It's my feeling that this is potentially a
17 strong facility to carry out the program of a day
18 care facility.

19 MR. GLASGOW: Mr. Morris, would you
20 please identify yourself and proceed with your
21 statement?

22 MR. MORRIS: Thank you.

23 I'm Robert L. Morris, traffic engineer
24 and transportation planner. My home address is 9109
25 Rouen Lane, Potomac, Maryland 20854.

26 Good afternoon, Madam Chairperson,

1 Members of the Board. I have prepared a traffic
2 analysis. It's Tab H, I believe Mr. Glasgow said,
3 in the application before you. I'll just touch on
4 the highlights of that. I have indicated what the
5 existing conditions are. I did not note in my
6 report public transportation. There is an H8 metro
7 bus that connects the Brookland Catholic University
8 metro rail station on the red line with this
9 property. It comes down Taylor Street, about a five
10 minute walk from the bus stop.

11 CHAIRPERSON HINTON: A what walk?

12 MR. MORRIS: A five-minute walk.

13 CHAIRPERSON HINTON: Five-minute walk,
14 okay.

15 MR. MORRIS: Yes. The site would have
16 31 parking spaces which exceeds the code requirement
17 of 28. I calculate a peak need for 29 spaces which
18 is consistent with the code requirement.

19 The principal issue as far as traffic is
20 concerned focuses on the intersection of Varnum
21 Street and Tenth Street. The people in the
22 neighborhood have noted that there is congestion
23 there. They have concern about the traffic coming
24 through there. I have made a number of observations
25 there. I have traffic counts. I must tell you that
26 the level of service during both the morning and

1 evening peak hour is A, which is the best possible
2 level of service. But the people in the
3 neighborhood have a good point and the reason is
4 this. There is access to Providence Hospital, that
5 driveway, approximately 50 feet east of this
6 intersection at Tenth and Varnum. What happens with
7 just one lane of traffic moving in each direction,
8 when somebody is going east on Varnum Street, east
9 of Tenth Street, wanting to turn into Providence
10 Hospital, if the traffic is backed up from the
11 intersection at Tenth Street, they can't get in.
12 That causes a backup going east, so you have kind of
13 a snarl at the intersection of Tenth and Varnum.
14 That's what causes the problem that the neighborhood
15 quite rightly perceives.

16 But as I must report to you that in
17 terms of level of service, it is a level of service
18 A. Now, I'd also note that traffic coming to the
19 site and leaving the site would not add to that
20 particular problem. The traffic coming up Tenth
21 Street will turn left to go west on Varnum and then
22 up the private street, Eighth Street, to get to the
23 site access.

24 So, my bottom line, Madam Chairperson,
25 is that there would be no adverse impact resulting
26 from the proposed use of the subject property in

1 terms of traffic engineering. There is adequate
2 parking on the site and from a traffic engineering
3 viewpoint, this would be an appropriate use of the
4 subject property.

5 MR. GLASGOW: I'd like to call the next
6 two witnesses, Mr. Rick Nero and Mr. Willam Davis.

7 Mr. Nero, would you please identify
8 yourself for the record and proceed with your
9 testimony?

10 MR. NERO: Good afternoon, Madam
11 Chairman, Members of the Board. My name is Rick
12 Nero. I'm an urban planner with the law firm of
13 Wilkes, Artis, Hedrick & Lane.

14 I have reviewed the application of the
15 National Child Day Care Association for consistency
16 with the purpose and intent of the zoning
17 regulations and map, as well as the applicable
18 provisions of the comprehensive plan. The proposed
19 child development center and private school use
20 could not have found a better location to operate.
21 The subject building and the lot that it is sited on
22 are both large enough so as to eliminate any
23 possibility of overcrowding or impacts on light and
24 air to adjacent properties.

25 The subject property was built in 1909
26 and has been used since that time for institutional

1 purposes, including classroom and dormitory use.
2 The use of the building as an educational facility
3 predates the construction of the nearest dwelling
4 units to the subject site. As is shown in the
5 applicant's photographic exhibit, the subject
6 property is located in an enclave of institutional
7 uses and those have been described previously by
8 previous witnesses.

9 The subject premises is located in the
10 R-5-A District. The R-5-A District permits the
11 occupancy of the subject property by a variety of
12 matter of right uses including a hospital, clinic,
13 museum, private club, fraternity house, dormitory,
14 and sanitarium. The subject property does not
15 directly abut any dwelling unit. The nearest
16 dwelling unit to the subject property is located to
17 the southeast, diagonally across Varnum Street.

18 The applicant has demonstrated that it
19 has met the burden of proof necessary for the
20 approval of special exceptions for a child
21 development center and private school. In summary,
22 the applicant complies with the provisions of
23 Sections 205 and 206. The architect for the project
24 has testified that the child development center has
25 been designed to meet applicable code and licensing
26 requirements. The traffic expert has demonstrated

1 that the child development center and private school
2 will not create any unsafe traffic conditions and
3 that no adverse condition will result from the
4 picking up and dropping off of children. There is a
5 safe and amply sized outdoor play area tucked in
6 between the two wings of the building. The location
7 of the play area provides an excellent buffer
8 between the nearest dwellings. There is also more
9 than enough parking to accommodate the employees and
10 visitors to the site.

11 The application complies with the
12 statutory requirement for special exception approval
13 under Section 3108.1 and that the uses proposed
14 would be in harmony with the general intent and
15 purpose of the zoning regulations and map, and that
16 the use will not effect adversely, the use of
17 neighboring property.

18 Lastly, I would like to point out that
19 the proposed use is supported by several elements of
20 the comprehensive plan. The proposed use is
21 certainly consistent with the policies and
22 objectives contained in the human services element
23 of the plan. The approval of the application will
24 allow the delivery of needed services to the
25 community. Additionally, the proposed use at this
26 location is consistent with the land use element of

1 the comprehensive plan.

2 The subject property is located within a
3 large area designated for institutional use on the
4 generalized land use map of the comprehensive plan.
5 I've got a blow-up of that comprehensive plan. As
6 you can see, this large blue area is institutional
7 designation. The subject property is indicated in
8 white on that.

9 CHAIRPERSON HINTON: The yellow on there
10 is residential?

11 MR. NERO: The yellow is residential, as
12 is the tan. The green areas are open space and park
13 areas. The pink and purple areas are industrial and
14 commercial uses.

15 CHAIRPERSON HINTON: Thank you.

16 MR. NERO: Sections 112.11 and 112.12 of
17 the comprehensive plan states that "to the extent
18 that they are relevant, the objectives and policies
19 of the District element of the plan shall be
20 considered in plan unit development, campus plans,
21 special exceptions" -- a situation like we have
22 today -- "variance and other decisions. The BZA
23 shall evaluate the proposal in conjunction with the
24 applicable sections of the plan text and map."

25 CHAIRPERSON HINTON: Would you start
26 over again to the extent that they are relevant?

1 MR. NERO: Okay. Let's see, Sections
2 112.11 and 112.12 of the comprehensive plan states
3 that "to the extent that they are relevant, the
4 objectives and policies of the District element of
5 the plan shall be considered in plan unit
6 development, campus plans, special exceptions,
7 variance and other decisions, the BZA shall evaluate
8 the proposal in conjunction with the applicable
9 sections of the plan text and map."

10 The proposed institutional use is a
11 perfect fit, in my opinion, for this location from a
12 land planning and zoning perspective. That
13 concludes my testimony.

14 MR. GLASGOW: Mr. Davis, would you
15 please identify yourself for the record and proceed
16 with your testimony?

17 MR. DAVIS: Certainly.

18 My name is William A. Davis, Jr. I'm
19 the president of DBW Development Group. DBW
20 specializes in helping non-profit organizations,
21 churches, and universities to develop real estate.
22 We've been in business since 1988, but I've actually
23 been involved in this specialized niche of the real
24 estate market since 1984. I've helped universities
25 to build apartment buildings. I've overseen the
26 development of probably the state-of-the-art child

1 care center in the District today which is the
2 Edward Mazique Parent-Child Center over on 13th
3 Street. That's a 30,000 square foot building that
4 is licensed for 150 children.

5 As Mr. Hardman pointed out in his
6 testimony, child care in the District and throughout
7 the country, really, as it began to grow, there were
8 very few buildings that really were designed for a
9 child care center. These centers got pigeon-holed
10 into church basements, basements of public housing
11 projects and other kinds of buildings. Today, the
12 President, Mrs. Clinton and everyone is talking
13 about the need for state-of-the-art child care. If
14 we're going to have that, we're going to have to pay
15 real attention to the kind of buildings that we put
16 children from ages 2 to 6 in. My firm is committed
17 to trying to develop the highest quality kind of
18 child care centers in this city.

19 I was astounded as I read the ANC
20 submission to you, that they argued that putting a
21 child care center in this institutional building
22 would bring criminal elements to this community.
23 We've got here the largest, most established child
24 care outfit in this city, operating some 15 centers
25 all over the city. In over 30 years, I asked the
26 head of the Child Care Center, has any of the

1 neighbors in any of the other areas where you
2 provide services complained to the police that you
3 brought criminal elements into the neighborhood?
4 And the answer is no. There is no evidence at all
5 that this center is going to have that kind of
6 detrimental impact on the neighborhood.

7 How did we proceed to find this
8 building? Well, when the board of directors of the
9 National Child Day Care Association asked my firm to
10 develop a new facility, the first thing I did is I
11 went all over the city. I had four real estate
12 brokers looking all over the city for sites. We
13 found vacant pieces of land in different places.
14 I've looked at more used car buildings and tried to
15 figure out how to retrofit them into child care
16 centers than you can imagine. When one
17 real estate broker showed me Grady Hall, here I
18 found a building that was an educational building,
19 had been used as an educational building. It
20 already has classrooms and an auditorium in it. So,
21 I went to see the head of Providence Hospital and
22 discussed our program, and they thought it would be
23 a perfect fit. The executive vice-president of
24 Providence Hospital is here today to testify on why
25 the hospital thinks this would be a very good use
26 for this building.

1 Another thing that astounded me and it
2 made it very difficult to enter a sort of a rational
3 dialogue with the ANC is that if you ask them their
4 position about the building, they think we should
5 tear this beautiful historic building down. They've
6 asked the hospital to tear it down and make a public
7 park out of it. Now that is to an argument against
8 any use of the building. It's not an argument
9 against our use of the building. It's an argument
10 against any use of the building. And so, we found
11 it very difficult to engage in a rational discussion
12 on that basis.

13 Another thing that's very difficult
14 about trying to set up a child care center like this
15 is getting the finance. Mr. Hardman, the executive
16 director and I, went to eight different banks in
17 this town trying to finance this project. We
18 eventually were very lucky -- it was partially luck,
19 some skill -- in getting two major banks in this
20 town, namely Industrial Bank and Nations Bank, to
21 agree to finance this project. Industrial Bank came
22 forward with the best terms and we accepted their
23 offer. They offered to lend us \$2.4 million
24 amortized over 25 years to finance this project.
25 They took a very careful look at this building and
26 our uses and determined that this was a good space

1 for us to be in.

2 CHAIRPERSON HINTON: I think we're
3 getting a little bit beyond zoning issues, sir.

4 MR. DAVIS: Okay, okay, I'm sorry.

5 CHAIRPERSON HINTON: That's okay.

6 MR. DAVIS: We did an environmental
7 first phase assessment of the building to see
8 whether -- we knew that we'd find some asbestos and
9 other things in the building. We have our
10 assessment and know how to deal with the
11 environmental issues. We did a survey of the site.
12 When we found the encroachment on the Carmelites'
13 land, I authorized the Commonwealth Title Company to
14 do a title report to assure us that, indeed, we
15 could get clear title and they assured us of that.

16 One other point I want to touch is the
17 issue raised in the ANC submission about the fact
18 that originally, we asked this Board to grant us
19 special exceptions for 300 students rather than 150
20 students. That occurred back last November when we
21 filed the application. As our architect and other
22 engineers got into the building and did a study of
23 how this building needed to be renovated, we
24 concluded that it was best to reduce the numbers of
25 children so that we could accommodate everyone
26 comfortably, have enough parking spaces, et cetera.

1 When we did go to see the ANC officials, we told
2 them immediately that we were reducing the number
3 that we were going to request from the BZA to 150 in
4 total. I appeared at two ANC community meetings,
5 gave out a flyer that said exactly the same numbers
6 that you have in your report from us. And so, I
7 don't think there was any intent to mislead the
8 community. It's just that we, after further study,
9 decided that we should request a smaller number of
10 slots for the special exception.

11 One last thing, the Carmelites in their
12 letter to you, indicate that they are concerned
13 about conflicts in terms of drop-off space for
14 children. As our architect pointed out, our drop-
15 off space will be on our side yard coming in Eighth
16 Street. The Carmelites' facility, all their
17 children -- where the red light is is where our
18 drop-off space is. The Carmelites come in on an
19 asphalt road behind our building, directly to their
20 play yard and child care center. So, there's
21 absolutely no conflict whatsoever between where the
22 children will be dropped off for the two facilities.

23 I think I'll stop there, but I'm quite
24 willing to answer any questions.

25 MR. GLASGOW: Madam Chair, the only
26 reason why the financing issue was brought up was

1 with respect to the conditions that were requested
2 by the Office of Planning. We agree with all of
3 them except number one, because of the financing
4 issue. Because it was a five-year -- approval shall
5 be for a period of five years.

6 Then a slight modification of condition
7 six. It says the children shall be --

8 CHAIRPERSON HINTON: Could you give us
9 one minute to get those reports out?

10 MR. GLASGOW: Oh, sure.

11 CHAIRPERSON HINTON: Then we can look at
12 them with you, okay?

13 MR. GLASGOW: Sure. It's page 9 of the
14 OP report.

15 CHAIRPERSON HINTON: The OP report?
16 Page 9?

17 Okay, thank you. Could you go over
18 those again?

19 MR. GLASGOW: Sure.

20 With respect to the conditions, we, the
21 applicant, submits that it agrees to all the
22 conditions except for one and then a modification of
23 condition six. One is the approval shall be for a
24 period of five years. Because of financing for this
25 type of project, we think it will be very difficult
26 for us to have only five year approval.

1 CHAIRPERSON HINTON: What are you
2 requesting?

3 MR. GLASGOW: We are requesting an
4 approval of the special exception for this user.

5 CHAIRPERSON HINTON: With no time limit?

6 MR. GLASGOW: That is correct.

7 CHAIRPERSON HINTON: And number six?

8 MR. GLASGOW: Number six, "the children
9 shall be escorted into the building by a staff
10 member." We would insert the words "or parent when
11 they are dropped off." That is how the National
12 Child Day Care Association operates its other
13 facilities.

14 CHAIRPERSON HINTON: Very good.

15 MR. GLASGOW: But we believe the Office
16 of Planning may also be making a comment with
17 respect to condition number one.

18 CHAIRPERSON HINTON: Okay.

19 MR. GLASGOW: That concludes our direct
20 presentation.

21 CHAIRPERSON HINTON: Okay. I have a
22 couple of questions. I think I'll start. Then
23 anything I miss, the other Board members can join in
24 on.

25 Mr. Hardman -- I also have questions for
26 Mr. Morris, if you want to come forward.

1 Mr. Hardman, you quoted some numbers
2 from COG about 62 percent of children are not
3 served. Is there a year associated with those
4 numbers? Was that in 1995, or 1996?

5 MR. HARDMAN: I believe those were 1995
6 numbers.

7 CHAIRPERSON HINTON: So, do you know if
8 those numbers take into consideration the Welfare
9 Reform that has occurred since then?

10 MR. HARDMAN: I'm quite sure that they
11 do not.

12 CHAIRPERSON HINTON: They do not?

13 MR. HARDMAN: They do not.

14 CHAIRPERSON HINTON: Okay.

15 Mr. Morris, I have two questions.
16 First, could you explain the drop-off? Where the
17 children that are brought to the site by vehicle,
18 where they would be dropped off and how the vehicles
19 would turn around? It's not clear to me. Are they
20 going to drive into that paved area or do they just
21 drive past? And where is the entrance that the
22 children will be brought into?

23 MS. MITCHELL: I believe that --

24 CHAIRPERSON HINTON: You want the
25 architect? Anybody, anybody who knows.

26 MR. BRYANT: The drop-off point is here.

1 You enter the property at this point. There is
2 sufficient space for probably easily ten automobiles
3 to line up as they approach this drop-off space at
4 this point. To leave the site, the auto may turn in
5 the driveway, reverse out, and come this way, option
6 one. Second option is turn this way, reversing, and
7 going out so.

8 CHAIRPERSON HINTON: And where is the
9 entrance where the child care --

10 MR. BRYANT: Into the child care, the
11 entrance is here. The child is dropped off at this
12 point, goes through a gate at this point and over to
13 the entrance into the ramp to the basement level, to
14 the ground floor level.

15 CHAIRPERSON HINTON: If it is the policy
16 that parents bring children into the school, did I
17 hear that right? Is that always or is it a staff or
18 a parent?

19 MR. HARDMAN: It's either. It's
20 either/or.

21 CHAIRPERSON HINTON: Staff or parent.

22 MR. HARDMAN: Right.

23 CHAIRPERSON HINTON: So, if a parent is
24 to bring a child in, how will that work?

25 MR. BRYANT: If a parent is bringing the
26 child, that parent would probably come along the

1 sidewalk here and into the same general area, to an
2 entry at that point.

3 CHAIRPERSON HINTON: What if a parent
4 drives and brings the child in?

5 MR. BRYANT: If a parent drives, the
6 parent will be coming along Varnum Street, making a
7 turn into the property at this point, coming down to
8 the drop-off point.

9 CHAIRPERSON HINTON: So, they'll leave
10 their car there at the drop-off while they take
11 their child in?

12 MR. DAVIS: They can leave their car at
13 any of the spaces.

14 MR. BRYANT: All these are parking
15 spaces along here and there are also all of the
16 parking spaces along here which are a part of it.
17 So that, if the parent has to take the child in, he
18 or she may take any parking space that is here or
19 here, or for that matter, along here in order to
20 take the child into the building.

21 CHAIRPERSON HINTON: Okay. And some of
22 those spaces will be blocked if there are cars
23 queuing to get to the drop-off point.

24 MR. BRYANT: That's correct. Some of
25 these spaces might be blocked. None of these would
26 be blocked and none of these would be blocked.

1 CHAIRPERSON HINTON: Okay.

2 MR. BRYANT: And we think since we have
3 in excess of parking spaces, that that would be
4 advantageous to the prospect of blocking.

5 CHAIRPERSON HINTON: There's a total
6 of 31 --

7 MR. BRYANT: Total of 31 provided, yes.

8 CHAIRPERSON HINTON: -- on the site?
9 Okay.

10 Okay, now I think this is for Mr.
11 Morris, but whoever. All the children will be
12 arriving at the same time in the morning?

13 MR. HARDMAN: No.

14 CHAIRPERSON HINTON: It's a staggered
15 arrival?

16 MR. HARDMAN: No, it's a staggered
17 arrival, correct.

18 CHAIRPERSON HINTON: And during what
19 hours?

20 MR. HARDMAN: Typically, between the
21 hours of 7:00 a.m. and 7:45 a.m.

22 CHAIRPERSON HINTON: So, within 45
23 minutes, you'll be receiving 100 children?

24 MR. HARDMAN: Approximately, correct.

25 CHAIRPERSON HINTON: Some of those
26 children are probably in families, right?

1 MR. HARDMAN: Yes.

2 CHAIRPERSON HINTON: These are children
3 between three and five years old, is that right?

4 MR. HARDMAN: Correct.

5 CHAIRPERSON HINTON: So, how many
6 vehicles do you estimate will be here during those
7 45 minutes bringing children in and leaving?

8 MR. HARDMAN: Our best estimate is
9 approximately 30 vehicles because I want to make
10 another point that a large number of our parents
11 also take public transportation. So, the public
12 transportation in addition to families, as you
13 stated earlier, makes that number right around 30.

14 CHAIRPERSON HINTON: I didn't see any
15 information in what was submitted in a breakdown of
16 the 100 children in the day care, what the estimate
17 is of how many would be arriving by car and how many
18 would be arriving by public transit and how many
19 might be walking. Then a further breakdown of the
20 numbers that are coming in cars, how many cars would
21 that be over the 45 minute period.

22 So, that's why when I look at the
23 transportation report, it seems a little light to me
24 because none of those items are discussed. There's
25 a number in the report that says, "well, we're
26 estimating it will be 50 cars", I think?

1 MR. MORRIS: Fifty trips during the peak
2 hour. The highway peak hour is 7:30 to 8:30.

3 CHAIRPERSON HINTON: Yes. And that's
4 really unclear to me. It doesn't even discuss the
5 difference between the child care and the private
6 school. It just says 50.

7 MR. MORRIS: That's for both.

8 CHAIRPERSON HINTON: I mean if it's 100
9 children and they're only aged three to five,
10 there's not going to be more than three per family.
11 I mean, probably, you know. There are twins and
12 triplets and things, but there's only three, four,
13 and five years -- they can only be three years. So,
14 I would think you're only going to get maybe two
15 children or one child per family which means, you
16 know, you have almost a trip per child which is 100
17 trips. Now, if they're all not coming by car and I
18 understand that, but we need some information about
19 where these numbers came from.

20 The other thing that really should be
21 probably made clearer is where is the public
22 transit? How far from the site? Because the
23 farther it is away with a three to five-year-old,
24 the less likely you are to use it, I would think.

25 MR. MORRIS: Right. Let me make it
26 clear, I'm talking about the highway peak hour, the

1 street peak hour, which is 7:30 to 8:30. The
2 testimony you just had said that you would get most
3 of your children between 7:00 and 7:45. So, we're
4 not talking about the same hours. I understand your
5 question, but I just want to --

6 CHAIRPERSON HINTON: Okay.

7 MR. MORRIS: -- make sure you understand
8 that my 50 trips during the peak hour referred to
9 7:30 to 8:30, okay?

10 CHAIRPERSON HINTON: Well, I understand.

11 MR. MORRIS: Okay.

12 CHAIRPERSON HINTON: Okay.

13 MR. MORRIS: You asked about the
14 proximity of the transportation. It is Taylor
15 Street and Tenth Street is the bus stop, which
16 brings you from the red line metro at Brookland.
17 That's the five minute walk that I referred to,
18 okay?

19 CHAIRPERSON HINTON: Are there sidewalks
20 along the entire length of that walk?

21 MR. MORRIS: Yes. On Tenth Street?
22 Yes, Tenth Street and Varnum Street, yes.

23 CHAIRPERSON HINTON: Okay. Is that a
24 five minute walk with a child?

25 MR. MORRIS: It depends on how fast the
26 child walks.

1 CHAIRPERSON HINTON: Now, wait a minute.
2 We can not have any kind of comments from the people
3 in the audience, okay? Because we're recording and
4 it makes it impossible to pick up on the microphone.
5 So, as funny as some of this may seem -- I mean, I
6 think that's important when we're talking about --

7 MR. MORRIS: Sure it is.

8 CHAIRPERSON HINTON: -- people that are
9 bringing children, and maybe more than one child.

10 MR. MORRIS: Right. Right.

11 CHAIRPERSON HINTON: Right.

12 MR. MORRIS: Okay, it may be six
13 minutes. Yes, that's difficult. It's about 1,200
14 feet from the bus stop to the subject site.

15 CHAIRPERSON HINTON: That's about a
16 quarter of a mile.

17 MR. MORRIS: Little less than a quarter
18 of a mile, that's correct.

19 CHAIRPERSON HINTON: How long is the bus
20 trip from the metro? How long does that take once
21 you get on the bus?

22 MR. MORRIS: How long does it take?
23 Four minutes according to metro time table.

24 CHAIRPERSON HINTON: Okay. And a
25 quarter-mile walk.

26 MR. MORRIS: Right.

1 CHAIRPERSON HINTON: What was your
2 estimate on how many people would be using public
3 transit, just of the child development?

4 MR. MORRIS: On the child development, I
5 didn't assign any of those to public transportation.
6 I said 25 percent would walk from the general
7 neighborhood. I had 50 percent of those in cars
8 arriving during the peak hour. And I'd say again,
9 I'm talking about 7:30 to 8:30 now, not 7:00 to
10 7:45. At two per car, that gives me a total of 38
11 trips - 19 coming in, 19 coming out.

12 You're frowning. Let me finish.

13 CHAIRPERSON HINTON: Okay.

14 MR. MORRIS: Using those calculations, I
15 came up with 38 trips for the children at drop-off.
16 None of the staff, faculty will be arriving during
17 peak hours. They'll all be there by 7:00, okay?

18 Of the adults, 50 adults, I have
19 assigned roughly 10 more trips coming in. Thirty-
20 eight plus 10 is 48 and I rounded it off to 50.
21 That's how I got to the 50. Now, apparently, you
22 have some question about how I got that 38 because I
23 saw a frown on your face?

24 CHAIRPERSON HINTON: Well, we have 25
25 percent are walking, is that right?

26 MR. MORRIS: Yes, right.

1 CHAIRPERSON HINTON: So, that's 25
2 children.

3 MR. MORRIS: Twenty-five children
4 walking, yes.

5 CHAIRPERSON HINTON: Okay, so we have 75
6 percent that are coming by car?

7 MR. MORRIS: Right. Fifty percent of
8 those, I said will come during this peak hour, 7:30
9 to 8:30, okay?

10 MR. HARDMAN: Some are coming on public
11 transportation also.

12 MR. MORRIS: No, no. Well, I understand
13 that. But I assumed for the purposes of the
14 children, no public transportation. Although
15 you're asking how long it takes to walk with a child
16 and so forth.

17 CHAIRPERSON HINTON: But you assumed
18 none?

19 MR. MORRIS: My assumptions were 25
20 percent would walk in from the neighborhood. Fifty
21 percent of the remainder who come by car would
22 arrive during that peak hour, 7:30 to 8:30. At an
23 average of two per car, that works out to 38
24 children, okay? 38 cars, 19 coming in, two going
25 out. That's how I got my 38 and then I added
26 another ten to that and rounded it off to 50.

1 CHAIRPERSON HINTON: Okay. And how did
2 you get your average of two per car? Is that a
3 statistical average with this day care provider?

4 MR. MORRIS: I asked the day care
5 provider what do they typically get? I can tell you
6 that I've made measurements at a number of
7 Montessori schools. I'm not sure exactly how
8 comparable this is, but I got an average of a little
9 better than two children per car going to Montessori
10 schools.

11 CHAIRPERSON HINTON: Do they deal with
12 the same age group, three to five?

13 MR. MORRIS: I'm sure they have a
14 broader range group than just three to five.

15 CHAIRPERSON HINTON: Okay. So, that
16 number may be different.

17 MR. HARDMAN: One point I would like to
18 make on our experience of the child care provider,
19 that a number of the parents -- in most of our
20 centers, the majority of the parents do take public
21 transportation. The distance hasn't been an issue,
22 especially when we talk about the need for quality
23 child care, and the quality child care in a
24 neighborhood near where you reside.

25 CHAIRPERSON HINTON: I would think that
26 if you have statistics on that sort of thing, your

1 other day care centers, the distance of those to a
2 bus line or to metro and the statistics on the
3 numbers of uses, that would be really helpful, if
4 you have that information. It's hard for us to
5 figure out how, exactly, all these people are going
6 to get to the site.

7 The other thing that's really kind of
8 confusing this issue is that we have a peak hour at
9 the intersection, but I think we have a different
10 peak hour at this site.

11 MR. MORRIS: Yes, I agree with that,
12 certainly.

13 CHAIRPERSON HINTON: So, one of my
14 concerns is, it seems like there's going to be a bit
15 of a traffic snarl with -- you don't have a good
16 turnaround situation. Now, I don't think you do. I
17 don't know as a transportation planner. I would
18 think it would be much better if people did not have
19 to do a three point turn there, which is what they
20 have to do to get back out. So, that's going to
21 complicate things.

22 The numbers that we're looking at are
23 the peak for an intersection that really isn't
24 related to where I think your traffic problem is
25 going to be, which is on your site, when people want
26 to come in and turn around and leave.

1 MR. MORRIS: Our peak hour for our site
2 is going to be 6:45 to 7:45, that's right.

3 CHAIRPERSON HINTON: Right. And you'll
4 have how many vehicle trips at that time, during
5 that hour?

6 MR. MORRIS: I didn't calculate that,
7 but your staff, obviously, is going to be arriving
8 between 6:45 and 7:00. And let me see, what do I
9 have?

10 Now, I used for the staff, I figured the
11 number of parking spaces we would need and I guess I
12 can translate that into the number of trips. COG
13 shows 52 percent in this area using public
14 transportation. COG also shows 1.4 persons per car.
15 That may be a little high. I don't know. That's
16 through the central area, the downtown. But using
17 those figures, I figured 56 staff. We have 52 and
18 there's also a health clinic and I threw in another
19 four to make it a total of 56. Using 52 percent
20 transit for the 56 staff, 1.4 persons per car,
21 that's 19 cars. If they all arrive in the 6:45 to
22 7:45, I guess that's your answer. There would be 19
23 people.

24 However, all the staff don't arrive at
25 7:00, as I understand it, because you have the child
26 day care that goes from 7:00 to --

1 MR. HARDMAN: To 6:00 p.m.

2 MR. MORRIS: -- 6:00 p.m. So, you have
3 some of the staff will arrive at 7:00 and stay until
4 when, 2:00?

5 MR. HARDMAN: Three.

6 MR. MORRIS: Until 3:00, and then others
7 will arrive at, say, 10:00 and leave at 7:00,
8 something like that. But using the total staff, the
9 56 staff, I have 19 cars. So, that gives you some
10 indication. Maybe it's only 60 percent of that.
11 It's not a large number, in any event.

12 CHAIRPERSON HINTON: But it's 76 trips
13 for the children and then whatever staff happens to
14 fall in that hour.

15 MR. MORRIS: Oh, not in the hour. For
16 the children, I've got 38 trips.

17 CHAIRPERSON HINTON: You had 38 and that
18 was half of the cars in the peak hour, which was
19 only 15 minutes.

20 MR. MORRIS: Well, that was for my 7:30
21 to 8:30 period and I multiplied by two. I have 100
22 times .75, for 75 percent coming by automobile --

23 CHAIRPERSON HINTON: Right.

24 MR. MORRIS: -- times .5 arriving during
25 the peak hour, okay?

26 CHAIRPERSON HINTON: Well, but see,

1 here's where we're getting into the problem. The
2 peak hour on this site for when the children arrive
3 --

4 MR. MORRIS: Okay.

5 CHAIRPERSON HINTON: -- is from --

6 MR. MORRIS: 6:45 to 7:45.

7 CHAIRPERSON HINTON: Is that what we
8 said earlier? What time do the students arrive, the
9 children?

10 MR. HARDMAN: I said 7:00 a.m., to 7:45.

11 CHAIRPERSON HINTON: 7:00 to 7:45.

12 So, you're saying 6:45 to 7:45 is when
13 most of the staff and the children arrive?

14 MR. MORRIS: Right.

15 CHAIRPERSON HINTON: So, that's 75 cars
16 for children and 19 cars for staff.

17 MR. MORRIS: No, no, no. I was figuring
18 two per car. It may be less than that. Seventy-
19 five children, okay, not -- excluding those who
20 walk, 75 children come by automobile, okay? Start
21 with that?

22 CHAIRPERSON HINTON: And you're assuming
23 two per car?

24 MR. MORRIS: Two per car.

25 CHAIRPERSON HINTON: Which probably is
26 not quite enough.

1 MR. MORRIS: Maybe, okay. So, maybe
2 it's 40 instead of 38. You know, I don't know. I'm
3 just going on the basis of what past experience here
4 is and what I've seen at Montessori schools which
5 may not be directly comparable.

6 CHAIRPERSON HINTON: Right. So, say 40
7 plus the staff, which is 19 during that hour?

8 MR. MORRIS: Total staff throughout the
9 day. You know, maybe 60 percent of those arrive
10 before 7:00. But some of them will be coming in at
11 10:00 and staying until 7:00, for example. So, if
12 we say 60 percent of those, we're talking about
13 maybe 12 cars for the staff.

14 CHAIRPERSON HINTON: Okay.

15 MR. MORRIS: So, 12 plus 38 is 50.

16 CHAIRPERSON HINTON: Okay. Does that
17 help?

18 MR. MORRIS: Well, it's not a big
19 number, but I understand. You know, I certainly
20 understand where these folks are coming from. They
21 see a problem and they don't want to aggravate the
22 problem. The point I make is that these are not big
23 numbers. That the problem that exists has nothing
24 to do with the actual intersection they're concerned
25 with. It's the conflict of going into Providence
26 Hospital. And quite frankly, if somebody were to

1 put up a sign that said "Do not block driveway", I
2 think that would solve that problem, but that's not
3 something we can do.

4 But in any event, what we're talking
5 about, relatively small numbers not adding to the
6 problem that these people perceive. As I say,
7 unless you're going to tear down the building and
8 make a park out of it, as the ANC apparently would
9 like to have, you're going to have something on the
10 site. It's going to generate traffic and it's going
11 to generate more traffic during the street peak hour
12 than this is going to do. This comes mostly before
13 the street peak hour.

14 CHAIRPERSON HINTON: Okay. If you
15 wouldn't mind, could you just explain one more time
16 where that traffic problem is and why all the people
17 coming to this site won't be involved in it. That's
18 my estimation of what you said.

19 MR. MORRIS: That's correct, yes.

20 CHAIRPERSON HINTON: Okay. Could you
21 explain that?

22 MR. MORRIS: Sure.

23 Do we have a figure that shows --

24 CHAIRPERSON HINTON: Yes, a map that
25 shows the roads would be good.

26 MR. MORRIS: Well, if you can look at my

1 report on page 2, that's Exhibit H. Do you see
2 that?

3 CHAIRPERSON HINTON: I do.

4 MR. MORRIS: Okay. And you see I've
5 indicated where the site is.

6 CHAIRPERSON HINTON: I see that.

7 MR. MORRIS: Now, if you look to the
8 right at the end of where it says Lieutenant Joseph
9 P. Kennedy Institute where the word Varnum starts,
10 the letter V, okay?

11 CHAIRPERSON HINTON: That's Varnum and
12 12th, is that right?

13 MR. MORRIS: That is Varnum and 12th,
14 right. This does not show the entrance to the
15 hospital. To the left where Oru Place is indicated,
16 the O in Oru?

17 CHAIRPERSON HINTON: Yes.

18 MR. MORRIS: Do you see that?

19 CHAIRPERSON HINTON: Yes. It's at the
20 top of -- Tenth Street.

21 MR. MORRIS: That's Tenth Street. So,
22 that's a T intersection. Tenth Street ends right
23 there.

24 CHAIRPERSON HINTON: Okay. Go ahead.

25 MR. MORRIS: That's the intersection
26 that's the problem we're talking about. Immediately

1 to the right of that -- it doesn't show on the map,
2 but just about where the R is in Oru is a driveway
3 going into Providence Hospital. What happens is,
4 you have cars going west on Varnum Street -- the
5 intersection of Tenth and Varnum Street is
6 controlled by stop signs. It's an all-way stop.
7 You have to stop at each approach. So, cars going
8 west on Varnum Street, past that driveway, come to
9 Tenth Street and of course, stop. If you have maybe
10 three cars -- it doesn't take anymore than three
11 cars to come there and stop -- they block that
12 driveway. If, at that time, there's somebody going
13 east past Tenth Street and wanting to make the left
14 turn into the hospital, then you have the blockage.
15 If there are cars behind them, then you can't get
16 into the intersection of Tenth and Varnum.

17 CHAIRPERSON HINTON: Okay, so the people
18 proceeding north on Tenth Street --

19 MR. MORRIS: Right.

20 CHAIRPERSON HINTON: -- that want to
21 turn right on Varnum --

22 MR. MORRIS: Yes.

23 CHAIRPERSON HINTON: -- may be
24 prohibited from turning right because that traffic
25 has backed up because they can't turn into
26 Providence Hospital.

1 MR. MORRIS: Well, it can back up into
2 that intersection, that's correct.

3 CHAIRPERSON HINTON: And it seems to me
4 that Tenth Street really is the most likely way
5 people will get to this site.

6 MR. MORRIS: Oh, they will get to this
7 site, yes. But they won't be making a right turn.
8 They'll be making a left turn when they get --

9 CHAIRPERSON HINTON: And as long as
10 they're behind somebody trying to make a right turn,
11 they're not going to be able to go anywhere.

12 MR. MORRIS: They will have to wait
13 until that person makes a right turn, that's
14 correct.

15 CHAIRPERSON HINTON: So, it seems like
16 all the vehicles going to this site, although
17 they're not causing the problem, they're going to be
18 stuck in it. They'll exacerbate it because they're
19 another vehicle taking up room on the road.

20 MR. MORRIS: Well, exacerbating it to
21 the extent that they have to wait for that to clear
22 up. But as soon as they get to that intersection,
23 they can make the left turn and go. They're not
24 going to stop anybody behind them. They're not
25 going to interfere with anybody else --

26 CHAIRPERSON HINTON: Well, they will to

1 the extent that they back up to the next street --
2 all the streets farther to the south.

3 MR. MORRIS: Well, if I'm driving up
4 Tenth Street and I want to go to this site and
5 there's a car in front of me waiting to make a right
6 turn because the road is blocked, okay it's true,
7 anybody behind me is waiting for me. But as soon as
8 that's clear, as soon as I can get to the
9 intersection, I make my left turn. I don't effect
10 them for more than a second or two until I can make
11 my left turn and get through.

12 I would be effected by the problem, but
13 I wouldn't be exacerbating it --

14 CHAIRPERSON HINTON: Exacerbate, is that
15 how it goes? Okay, well I guess we'll have to think
16 about that. But that's clearer to me.

17 Does everyone understand where that is
18 and how that's going to work?

19 MS. RICHARDS: Oh, sure. I had to drive
20 my husband to Providence every day for two weeks.

21 CHAIRPERSON HINTON: Oh, so you --

22 MR. MORRIS: You're familiar with it
23 then, I'm sure.

24 CHAIRPERSON HINTON: -- very familiar
25 with it.

26 MR. BRYANT: Madam Chairperson?

1 CHAIRPERSON HINTON: Yes? Did you want
2 to speak to this issue?

3 MR. BRYANT: Yes, I wanted to add
4 something. You made a very astute observation that
5 turning around at this point might be a problem.
6 There is an aspect of this street -- first of all,
7 this street is a part of the property. It's really
8 like a private driveway and it is not a through
9 street. So, it's not a situation where traffic is
10 going back and forth.

11 The street dead-ends so that the need to
12 turn around in this area is not fraught with any
13 traffic hazard that's measurable. I wanted to
14 mention that because I recognize that if this were a
15 street going up and down in a normal sense, turning
16 around there is a very different situation. That is
17 not the case.

18 CHAIRPERSON HINTON: Okay, thank you.

19 MR. BRYANT: Indeed.

20 CHAIRPERSON HINTON: Thanks.

21 MR. FRANKLIN: Mr. Bryant however, while
22 you're up there, with regard to the parking spaces
23 that might be blocked during that period, who would
24 be parking there?

25 MR. BRYANT: This space is available for
26 the parking of the occupants in the building, the

1 staff.

2 MR. FRANKLIN: Staff?

3 MR. BRYANT: The staff, yes.

4 MR. FRANKLIN: Would it help at all if
5 there was some control so that spaces near that
6 three point turn area could be left open for a
7 period of time so that there's much more room for
8 maneuvering and that the staff was confined to
9 further down toward the dead-end?

10 MR. BRYANT: Yes, that is true and that
11 is, of course, an administrative control procedure
12 that could be implemented.

13 MR. FRANKLIN: Is there any suggestion
14 that during any period of time there might be a
15 queuing condition that would spill over onto Varnum
16 Street?

17 MR. BRYANT: I would not anticipate that
18 the rate of movement and the probability of
19 everybody arriving within such a tight knot of time
20 would generate a spill over into Varnum Street. And
21 if it tended to be the case, this area -- this part
22 of the street is a relief valve in that regard.

23 MR. FRANKLIN: Also, perhaps Mr. Morris
24 can answer this. Is there any indication of what
25 traffic was stimulated by this facility when it was
26 operating years ago?

1 MR. MORRIS: I tried to get that
2 information and I couldn't, Mr. Franklin.

3 MR. FRANKLIN: It was operating as a
4 dormitory?

5 MR. MORRIS: As a dormitory for Catholic
6 University, I believe.

7 MR. FRANKLIN: And not a classroom?

8 MR. MORRIS: No.

9 MR. FRANKLIN: There were some classes
10 as well? Presumably, there was a certain amount of
11 parking on site at that time as well.

12 Are you adding all the parking? Do you
13 happen to know whether there was parking there
14 previously?

15 MR. DAVIS: The best I -- I found one
16 student lived in that dormitory in the 1960s. Back
17 in those days, people had cars -- students had cars
18 too, and they drove to the building and parked on
19 the street. There was no dedicated parking --

20 MR. FRANKLIN: On-site.

21 MR. DAVIS: -- outside. Now, we're
22 creating it for the child development center.

23 MR. FRANKLIN: So, would it be
24 reasonable to infer that since most students -- and
25 this was college?

26 MR. DAVIS: Catholic University.

1 MR. FRANKLIN: Yes -- would have the use
2 of a car, or many of them. That there was a
3 considerable amount of traffic during the course of
4 the day to and fro from this facility?

5 MR. DAVIS: Yes, it is reasonable to
6 conclude that.

7 MR. FRANKLIN: Thank you.

8 CHAIRPERSON HINTON: I have some
9 questions about the students in the private school.
10 No one testified about it, so I don't know who to
11 ask.

12 MR. HARDMAN: You can ask me.

13 CHAIRPERSON HINTON: What's the
14 enrollment going to be? There's a statement that
15 there will be 50 students on the site at a time. It
16 seems like you have morning classes and afternoon
17 classes, is that right?

18 MR. HARDMAN: Correct.

19 CHAIRPERSON HINTON: So, what kind of
20 total enrollment are you looking at for the school?

21 MR. HARDMAN: The total enrollment is
22 50. But we estimate that -- this is based on
23 experience also -- we don't typically have more than
24 25 students at one time. For clarification, the
25 students in this regard are actually parents that
26 have children enrolled in the program.

1 CHAIRPERSON HINTON: All the students
2 have -- all the parents --

3 MR. HARDMAN: Typically, the school
4 consists of parents who have children enrolled in
5 the program. Typically, the courses are parenting
6 skills, financial management, GED preparation, child
7 development associate training, these kinds of
8 training programs -- computer training also.

9 One point I do want to make here is that
10 obviously, with a GED course or a course in early
11 childhood development, not every parent in the
12 center is going to participate in that kind of a
13 program. So, basically, the school is for parents
14 that have an interest in these areas. As I
15 mentioned earlier, parenting skills, financial
16 management and other courses that are offered. Most
17 of them are in the form of a workshop.

18 CHAIRPERSON HINTON: So, they're mostly
19 workshops?

20 MR. HARDMAN: Mostly workshops, correct.

21 CHAIRPERSON HINTON: And I would assume
22 of varying lengths, depending on the subject?

23 MR. HARDMAN: Yes.

24 CHAIRPERSON HINTON: I mean, it might be
25 a one-time or a six week, right?

26 MR. HARDMAN: Exactly.

1 CHAIRPERSON HINTON: Workshops.

2 MR. HARDMAN: My understanding is that
3 for the purposes of the zoning, it's called a
4 private school. But in our practical use, it's for
5 the parents that are considered the students in this
6 regard.

7 CHAIRPERSON HINTON: Okay. So then, we
8 have zoning categories like social service center,
9 family service center, things like that. How is
10 this use different in that if you have a child
11 development center and then you have programs,
12 private school workshops that are only open to
13 parents of those children?

14 MR. GLASGOW: Madam Chair, we're getting
15 into a legal issue that we discussed the uses of the
16 property, the type courses that were being given,
17 and who it was open to with the Zoning
18 Administrator. The Zoning Administrator ruled that
19 we did, in fact, meet the criteria for a private
20 school.

21 CHAIRPERSON HINTON: Okay. My question
22 is how is it different? I'm just trying to
23 understand.

24 MR. GLASGOW: Well, like a social
25 service center and those, we, for instance, when you
26 get into the definitional section in the regulations

1 -- all right, well you have the community-based
2 residential facilities. For instance, this does not
3 meet any of the criteria for an adult rehabilitation
4 home. It's not a community residence facility.

5 CHAIRPERSON HINTON: Well, it's not a
6 residence facility at all, is it?

7 MR. GLASGOW: No.

8 CHAIRPERSON HINTON: So, it wouldn't be
9 under the CBRFs.

10 MR. GLASGOW: Yes, I'm looking under the
11 CBRFs.

12 CHAIRPERSON HINTON: That's what I'm
13 saying. Well, don't you have to be a residential
14 facility to be under there?

15 MR. GLASGOW: Well, yes, it's all these
16 different type of homes and everything, so that you
17 find a different classification within the
18 regulations that deals with that. What we saw that
19 this was under the regulations was a private school.

20 MS. RICHARDS: Excuse me. I'm confused
21 as to how CBRFs came up. I thought we were talking
22 about social service centers versus the child care
23 facilities.

24 MR. GLASGOW: Well, I don't see a
25 social -- yes, there's no definition of that.

26 CHAIRPERSON HINTON: What about a

1 community service --

2 MR. GLASGOW: So, I'm trying ot find a
3 term that we can deal with under the regulations.

4 MS. RICHARDS: Okay.

5 CHAIRPERSON HINTON: Is there a
6 community service center.

7 MR. GLASGOW: No, CBRFs are what we have
8 that have the special licensing under our
9 definitions. You're right, Ms. Richards.
10 I'm just trying to find something that relates to
11 what we're talking about --

12 MS. RICHARDS: Right, yes.

13 MR. GLASGOW: -- that's defined in the
14 regs.

15 CHAIRPERSON HINTON: And this was the
16 closest fit that you could find, that what you're
17 telling me? A child development center and a
18 private school.

19 MR. GLASGOW: That is correct, for what
20 it was that we were doing.

21 CHAIRPERSON HINTON: Okay. I'll ask the
22 same question of our staff then and see. Maybe
23 there's something else.

24 Okay, those are all the questions I had.
25 Do the other Board members have any questions?

26 Why don't we go with Ms. Reid?

1 MS. REID: In regard to the enrollment,
2 what percentage of the enrollment do you anticipate
3 coming from the immediate community in which you're
4 going to be operating?

5 MR. HARDMAN: We define the immediate
6 community as Ward 5, and that 50 percent of the
7 enrollment would come from the immediate community.

8 MS. REID: I'm not sure if the
9 definition of immediate would necessarily mean Ward
10 5. Ward 5 is quite broad geographically. I think
11 I'm referring more to the neighboring community in
12 which you're going to be operating. Do you have any
13 breakdown as to what percentage of enrollment will
14 come from that immediate vicinity?

15 Where I'm going with that is, I would
16 think that the percentage of enrollment that comes
17 from that immediate vicinity would have a great
18 bearing on the traffic impact. It may thereby
19 alleviate same. This is where I'm trying to get
20 some idea.

21 MR. HARDMAN: I can just speak to our
22 past experience in the communities that we're
23 located in as far as where we provide child care
24 services. There is a large portion in all those
25 communities that come from the immediate area. We
26 didn't --

1 MS. REID: Large meaning about
2 approximately what percentage?

3 MR. HARDMAN: I would say anywhere from
4 50 to 70 percent.

5 MS. REID: Okay. Go ahead.

6 MR. HARDMAN: Well, do you have another
7 question?

8 MS. REID: No, no. I was going to say,
9 if that is the case, if -- you're anticipating as
10 being your market area with 50 to 70 percent of the
11 enrollment coming from that immediate vicinity, then
12 certainly, that would diffuse a lot of the issues
13 with driving, with traffic.

14 MR. HARDMAN: Yes, that's correct.

15 MS. REID: Are you saying this is, in
16 fact, what you anticipate?

17 MR. HARDMAN: We anticipate, as I said,
18 50 to 70 percent, but we're looking closer at 50
19 percent from this immediate area. This is, again,
20 as I said earlier, based on our experience with
21 other child development centers in the District.

22 MS. REID: Okay. That being the case
23 then, would not the figures that Mr. Morris came up
24 with need to be adjusted accordingly to closer fit
25 the enrollment population which you are going to be
26 marketing? Because what I'm hearing from his

1 traffic report, it's predicated primarily on people
2 driving. Most of the people who are going to be
3 attending or enrolling in the school driving to the
4 facility. And from what I'm hearing from you, it
5 sounds like perhaps there would not be as much
6 traffic anticipated accordingly because of the fact
7 that you are going to be pulling from your immediate
8 community for enrollment. A lot of the people who
9 would be coming there, bringing their children would
10 be walking.

11 MR. HARDMAN: Basically, we're looking
12 at a situation, as I said earlier on, our experience
13 as a child care provider. I think Mr. Morris has to
14 be conservative in his estimate so that we can have
15 more-or-less a scenario of what the traffic could
16 look like to the center. So, we didn't want to
17 approach it in a fashion that said that we knew for
18 sure. But we're looking at this based on our past
19 experience.

20 MR. DAVIS: Might I add one thing?

21 MS. REID: Certainly.

22 MR. DAVIS: There's another group that
23 we shouldn't forget that may be bringing their
24 children to this center. This is a large
25 institutional area, lots of institutions:
26 Providence Hospital, Catholic University, Trinity

1 College, Hospital for Sick Children. There are all
2 sorts of institutions in this -- this is an
3 employment center in our town. When this center is
4 established, some of those people who work in these
5 institutions are going to want to put their child in
6 this child care center because it's close to work.
7 To the extent they work at Providence Hospital, they
8 have a parking space at Providence Hospital and
9 they'll walk the kid over.

10 MS. REID: Okay.

11 MR. DAVIS: We don't know how many
12 people that is though right now.

13 MS. REID: Right, right.

14 MR. GLASGOW: We can leave the record
15 open and run a scenario of what we believe will
16 occur as to this site and have Mr. Morris run a set
17 of numbers on that and submit those for the record,
18 in addition.

19 MS. REID: Well, that certainly would be
20 wonderful if you could do that.

21 CHAIRPERSON HINTON: Ms. Richards?

22 MS. RICHARDS: My question went to the
23 traffic related to the kitchen. I was looking at
24 the perspectus page that said that there are going
25 to be meals prepared for your satellite centers. Is
26 that still -- this was in part of your package. Can

1 I still rely on this as part of the plan?

2 MR. DAVIS: Where is that in the
3 package? I'm sorry.

4 MS. RICHARDS: Part of Tab H where it's
5 describing the activities here.

6 MR. DAVIS: Tab H is the traffic report.

7 MS. RICHARDS: I always tear my packages
8 apart so, it's the page that looks like this.

9 It says "the centralized site will
10 consist of the comprehensive health care plan at the
11 clinic, the training center, and the agency's
12 central kitchen where over 200,000 meals are
13 prepared for our child care centers: UPO, DC Public
14 Schools, Head Start" -- et cetera. So, I wanted to
15 ask about --

16 MR. DAVIS: Well, let me answer the
17 question anyway.

18 MS. RICHARDS: I told you I tore the
19 package apart. I don't know where I got it anyway.

20 CHAIRPERSON HINTON: Okay, the heading
21 is "Comprehensive Child and Family Development
22 Center Prospectus."

23 MR. DAVIS: I'll tell you what we told
24 the community when we visited with the ANC.

25 MS. RICHARDS: Well, I mean, no matter
26 what you told them, what were you --

1 MR. DAVIS: Well, I want to be
2 consistent. This program has two vans. Those vans
3 -- we have dedicated parking spaces for the vans.
4 Those vans leave twice-a-day. Two vans leave at
5 10:00, which is off-peak hours. They go to the
6 other centers and they come back at 1:30. Then one
7 of the vans leaves at 2:30 again and comes back at
8 4:00. So, that's the impact on the traffic.
9 There's virtually no impact on the traffic because
10 it's off-peak hours delivering sandwiches to the
11 other centers.

12 MS. RICHARDS: And the two vans also
13 covered the delivery to the Head Start Programs at
14 the schools and the other places listed on the
15 perspectus as being served by this kitchen?

16 MR. DAVIS: Yes, the two vans are what
17 covered all the centers in the National Day Care
18 Center.

19 MS. RICHARDS: Okay. But what about the
20 meals that are being delivered to the Head Starts?

21 MR. DAVIS: Yes.

22 MS. RICHARDS: Okay.

23 MR. HARDMAN: That includes the meals
24 delivered there also.

25 MS. RICHARDS: That's everything?

26 MR. HARDMAN: Yes.

1 MS. RICHARDS: Okay. I looked at your
2 breakdown of space that's allocated to the different
3 functions. Would the kitchen space be included as
4 part of the child care space since it's not a
5 separate listing?

6 MR. DAVIS: It is part of the child
7 development center.

8 MS. RICHARDS: Okay. And that 300,000
9 meals is an annualized figure?

10 MR. HARDMAN: Yes.

11 MS. RICHARDS: Okay. So, on a daily
12 basis, how many is it, more-or-less? Because that's
13 what we look at, kind of the daily impact.

14 MR. HARDMAN: Right. Daily, it would be
15 under 1,000.

16 MS. RICHARDS: Under 1,000, okay.

17 MR. HARDMAN: Yes.

18 MS. RICHARDS: My other question was,
19 now, you have some of your other facilities, centers
20 that have kids up to 14. This one is going to be
21 limited to the little kids?

22 MR. HARDMAN: Correct.

23 MS. RICHARDS: Only the three to fives,
24 okay.

25 MR. HARDMAN: Correct.

26 MS. RICHARDS: And you're closing five

1 of your 15 centers and consolidating those programs
2 at this site? That's what was somewhere in the
3 package. Mount Moriah was one, Central Kitchen, and
4 Arthur Capper and a couple of others. You're going
5 to close those and consolidate your programs, those
6 programs here?

7 MR. HARDMAN: No, actually, the
8 confusion I think is that the central office and the
9 kitchen do not have child development centers at
10 those sites.

11 MS. RICHARDS: Okay.

12 MR. HARDMAN: And the Arthur Capper
13 facility, that was based on financing. That
14 facility itself will not close.

15 MS. RICHARDS: All right. So, this is a
16 new facility. All the other existing places where
17 children go will still be open?

18 MR. HARDMAN: You were correct about the
19 Mount Moriah site. That would be one site that
20 would be closed as a result of the opening of this
21 facility.

22 MS. RICHARDS: But that's the only one?

23 MR. HARDMAN: Right.

24 MS. RICHARDS: Everything else is new?
25 How many kids in Mount Moriah now?

26 MR. HARDMAN: There are approximately 70

1 children.

2 MS. RICHARDS: But they're not all
3 coming here?

4 MR. HARDMAN: No. To clarify this also,
5 we're opening another site in Ward 5 that's in close
6 proximity to the Mount Moriah site. So, this is,
7 for all intents and purposes, a brand -- a new site.

8 MS. RICHARDS: Okay, thanks.

9 CHAIRPERSON HINTON: The agency's
10 central kitchen will be located at this site?
11 That's a question. Will it be?

12 MR. HARDMAN: Yes.

13 CHAIRPERSON HINTON: Ms. Richards, which
14 use is that under? Is that under child care or
15 private school?

16 MR. GLASGOW: It's under the child care.

17 CHAIRPERSON HINTON: Well, that doesn't
18 really seem too customary to me to have a central
19 kitchen that prepares and then sends food to other
20 locations.

21 MR. GLASGOW: Well, I guess it depends
22 on what the percentage is of the meals that are
23 prepared on site for on-site and off-site. Because
24 we have a kitchen there in the facility. We have
25 the 100 children coming per day, plus we also have
26 the staff and have the students.

1 CHAIRPERSON HINTON: Well, you have 100
2 children. So, are there 100 meals prepared?

3 MR. GLASGOW: Yes.

4 CHAIRPERSON HINTON: One lunch per
5 child?

6 MR. GLASGOW: Well, actually, no,
7 because there is a snack prepared for each child
8 which is considered a meal, as far as our operation
9 is concerned.

10 CHAIRPERSON HINTON: So, two meals per
11 child?

12 MR. GLASGOW: A lunch and a snack,
13 correct.

14 CHAIRPERSON HINTON: A lunch and a
15 snack. But you have 300,000 meals that are prepared
16 from the central kitchen.

17 MR. GLASGOW: That's correct.

18 CHAIRPERSON HINTON: So, Mr. Glasgow, I
19 don't -- you were saying what's the percentage.
20 Tell me what the percentage is.

21 MR. GLASGOW: Well, I don't know it
22 offhand as far as that number. We can do the
23 mathematical calculation and see what the number is.

24 MR. FRANKLIN: Well, is the central
25 kitchen ancillary to this facility?

26 MR. GLASGOW: Yes, it is ancillary and

1 part to this facility.

2 MR. FRANKLIN: How much traffic is it
3 going to generate as such?

4 MR. GLASGOW: The vans that they just
5 talked about.

6 MR. FRANKLIN: How many trips, I should
7 say.

8 MR. HARDMAN: Two trips per day.

9 MR. MORRIS: Well, it's four: two in
10 and two out.

11 MR. FRANKLIN: Two in, two out.

12 MR. HARDMAN: Two trips out per day.

13 MR. FRANKLIN: By vans of what size?

14 MR. HARDMAN: Caravan size. It's just a
15 regular van.

16 MR. FRANKLIN: Okay. We're not talking
17 about what is commonly called trucks or trailers?

18 MR. HARDMAN: No.

19 MR. MORRIS: Fifteen footers.

20 MS. REID: What time do they generally
21 pick up --

22 MR. HARDMAN: Typically, between the
23 hours of 10:00 a.m. and 11:00 a.m.

24 MS. REID: Okay, so that traffic would
25 not be at the same time or coincide with the traffic
26 plan that Mr. Morris gave us initially?

1 MR. MORRIS: That's correct.

2 MS. REID: Basically, it would have no
3 bearing on it.

4 MR. HARDMAN: No, not at all.

5 CHAIRPERSON HINTON: The public school
6 Head Start Program, does that provide breakfast or
7 lunch?

8 MR. HARDMAN: I didn't understand your
9 question.

10 CHAIRPERSON HINTON: The public school
11 Head Start Program, what meal does that provide?

12 MR. HARDMAN: Oh, lunch. Let me clarify
13 that. The public school program, that's a site for
14 17 infants, so it's not -- I don't want you to
15 confuse it by thinking it's the entire public school
16 system. It's a Head Start site that serves 17
17 infants.

18 CHAIRPERSON HINTON: Okay.

19 MR. HARDMAN: But it's operated by the
20 DC Public School's Head Start Program. That might
21 be part of the confusion when you see public school.

22 CHAIRPERSON HINTON: Right. And it's
23 listed here as one of the things that the meals
24 serve, and it says "and the DC Public School
25 Headstart Program." So, you might note that that's
26 one site that serves 17, is that right?

1 MR. HARDMAN: Correct.

2 CHAIRPERSON HINTON: Okay. There was
3 some, I thought, confusion about the delivery of
4 products to the site, food and things like that.
5 Would someone like to just clarify for the record,
6 is that one truck per week? Two trucks per week?

7 MR. MORRIS: The food delivery, that's
8 one per week. That's a large truck, once per week.

9 CHAIRPERSON HINTON: Tractor trailer?

10 MR. MORRIS: Yes.

11 CHAIRPERSON HINTON: Are there other
12 deliveries?

13 MR. MORRIS: Just with vans and small
14 trucks, but just the one tractor trailer per week.

15 CHAIRPERSON HINTON: Now, if the central
16 kitchen wasn't at the site, would you still have a
17 tractor trailer coming once-a-week?

18 MR. HARDMAN: No, we would not.

19 CHAIRPERSON HINTON: I guess those items
20 would be delivered in a smaller truck? I mean,
21 you're still going to get some kind of food
22 delivered because you still have the meals for the
23 children that are going --

24 MR. HARDMAN: Well, it would be the same
25 as any other center. They would be approached by a
26 van.

1 CHAIRPERSON HINTON: A van.

2 MR. HARDMAN: So, if it was done in that
3 case. But given the size of this facility -- we're
4 talking about 100 children -- it would probably have
5 the meals done right there on site at the kitchen
6 that was within that site at Brady Hall.

7 CHAIRPERSON HINTON: Okay. Do you have
8 a loading area for that tractor trailer?

9 MR. GLASGOW: Yes. There's an area
10 where it can go because of when those trucks
11 generally arrive and where it would be doing the
12 drop-off.

13 CHAIRPERSON HINTON: Could we have
14 somebody show that on the plan?

15 MR. GLASGOW: Yes, Mr. Bryant can show
16 where that would be.

17 CHAIRPERSON HINTON: Where's the
18 kitchen?

19 MR. BRYANT: The kitchen is in the
20 ground level of this space. There's a wrap and
21 loading dock area access into the kitchen area and
22 this space is reserved for the vehicle, service
23 vehicle deliveries along this edge.

24 CHAIRPERSON HINTON: So, a tractor
25 trailer is going to get in there by doing what?

26 MR. MORRIS: It's going to pull up ahead

1 and back in and then pull straight in. Pull
2 straight in and back.

3 MR. BRYANT: Pulls in, reverses at this
4 position --

5 MR. MORRIS: And then pulls straight
6 out.

7 CHAIRPERSON HINTON: Okay. Do we have
8 any other questions? No.

9 I have one thing I need to look at.
10 Okay, I'm going to read this and I might have a
11 question later. But I think we're concluded with
12 our questions.

13 We have actually two parties. Let me
14 ask the two parties. Do you have cross examination
15 for the applicant? Do you need a few minutes to
16 confer? Why don't we take a five minute break then?
17 Thanks.

18 (Whereupon, off the record at 4:36 p.m.,
19 until 4:52 p.m.)

20 CHAIRPERSON HINTON: Let's reconvene,
21 please, everybody? Can we come back to order,
22 please?

23 Okay, we were about to ask the parties
24 if they had any questions for cross examination of
25 the applicant?

26 MR. ESHELMAN: We do.

1 CHAIRPERSON HINTON: Mr. Eshelman, yes?

2 MR. ESHELMAN: Thank you for the short
3 break. I appreciate it very much.

4 I have initially, a question for Mr.
5 Morris -- a series of questions for Mr. Morris.

6 CHAIRPERSON HINTON: Okay. You can stay
7 there.

8 For the record, this is Mr. Eshelman,
9 representing the Carmelites.

10 MR. ESHELMAN: Eighth Street is a
11 private road, is it not?

12 MR. MORRIS: Yes, it is.

13 MR. ESHELMAN: Now, it's not dead-end,
14 is it?

15 MR. MORRIS: I believe it is.

16 MR. ESHELMAN: Doesn't it go back to
17 Carroll Manor?

18 MR. MORRIS: Yes, but it doesn't go all
19 the way through. Anybody who goes up that street
20 has to turn around and come back down.

21 MR. ESHELMAN: Now, do you know what
22 kind of a facility Carroll Manor is?

23 MR. MORRIS: It's, I believe, a nursing
24 home.

25 MR. ESHELMAN: And did you calculate how
26 many emergency vehicles may have to go back into

1 that center?

2 MR. MORRIS: I did not.

3 MR. ESHELMAN: Was there any
4 consideration given to the times when emergency
5 vehicles would be expected into that center at all,
6 Carroll Manor?

7 MR. MORRIS: Did not make any such
8 estimate.

9 MR. ESHELMAN: Did you consider the fact
10 that there's a Police and Fire Clinic that is also
11 going to be located within the immediate area of
12 Eighth Street?

13 MR. MORRIS: Yes, directly opposite
14 Tenth Street at Varnum.

15 MR. ESHELMAN: Did you calculate that in
16 your traffic calculations?

17 MR. MORRIS: I took that into
18 consideration, yes.

19 MR. ESHELMAN: Did you consider staff
20 parking in connection with the drop-off of children
21 at the center? I was behind the chart, but my sense
22 from the testimony was that the parents, if they
23 were to escort the children in, would pull into the
24 parking places there. I don't know how many there
25 were, but was staff parking considered in the
26 availability of parking places versus the number of

1 parents who may be wanting to escort their children
2 in or the number of staff who would be available?

3 MR. MORRIS: Yes.

4 MR. ESHELMAN: To escort them in.

5 MR. MORRIS: Sure. When I calculated
6 the number of parking spaces for the staff, it was
7 for the total staff, if you will recall.

8 MR. ESHELMAN: What's that number? That
9 number was -- was that number --

10 MR. MORRIS: Forty-two.

11 MR. ESHELMAN: Fifty-two?

12 MR. MORRIS: Right, a total of 52,
13 that's correct. Yes, and as I said, some of those
14 would arrive before 7:00 and some of those would
15 arrive later in the morning, 10:00. So that, the
16 ones who would be coming later, we would not need
17 spaces for them. So, there would be spaces
18 available at all times while the parents are
19 dropping off the children.

20 MR. ESHELMAN: Okay. How many spaces?

21 MR. MORRIS: Well, I figured 19 spaces
22 total for the staff. If we're talking about 60
23 percent of those coming in first thing in the
24 morning, that would leave at least seven spaces
25 available, plus the excess. I figured a total
26 demand, peak demand at 29, and we have 31 spaces.

1 MR. ESHELMAN: Peak demand of 29, 19 of
2 which would be used by staff at any one time,
3 correct?

4 MR. MORRIS: That's the maximum
5 accumulation for staff, yes.

6 MR. ESHELMAN: Which would leave 20 that
7 would be available for parents wishing to pull in to
8 drop their children off?

9 MR. MORRIS: Approximately that, yes.

10 MR. ESHELMAN: Now, would those places
11 all be on the front of the building or would staff
12 be designated to part somewhere other than the
13 entrance where the children would be coming in?

14 MR. MORRIS: Well, as was suggested
15 earlier, there's some of the spaces in the front
16 that could be reserved to prevent blocking those
17 spaces. But obviously, that's easily handled with
18 an administrative decision to keep certain spaces
19 open. The staff, for example, would be required to
20 park -- the ones who come in early would be required
21 to park certain places so they'd leave space open
22 for parents.

23 MR. ESHELMAN: Is there any rule of
24 thumb on the number of pedestrian accidents per trip
25 that you use in the traffic business? I mean, like
26 the number of cars passing at a certain point, is

1 there a statistic of how many pedestrian incidents
2 that would be involved?

3 MR. MORRIS: No, there's no such
4 statistic, to the best of my knowledge and I've been
5 doing traffic engineering for more than 40 years.

6 MR. ESHELMAN: In traffic in general
7 though, isn't it fair to say that where there are
8 high concentrations of children, there's more danger
9 of children darting in front of vehicles, things of
10 that sort?

11 MR. MORRIS: No, not when they're
12 accompanied by parents or staff. The danger with
13 children darting in front of cars, as I know
14 unfortunately from personal experience, is when
15 they're playing at home and they dart out to chase
16 after a ball. They're in a controlled situation
17 here.

18 MR. ESHELMAN: Okay. You gave no
19 consideration to emergency vehicles going back to
20 Carroll Manor, correct?

21 MR. MORRIS: I don't know what you mean
22 by no consideration. I did not estimate the number
23 of emergency vehicles that would go there, no.

24 MR. ESHELMAN: Did you consider
25 emergency vehicles in route to Providence Hospital
26 during the hours in question?

1 MR. MORRIS: I made no such estimate of
2 that, no.

3 MR. ESHELMAN: So, that would be over
4 and above whatever you testified to in terms of
5 congestion. If there were, say, a fire at Carroll
6 Manor, then they would have to get down Eighth
7 Street to it with a hook and ladder, correct?

8 MR. MORRIS: Obviously, they would. But
9 when you say I didn't take into consideration these
10 things, they're all part of existing traffic and I
11 measured existing traffic. Obviously, I didn't see
12 any three alarm fires that fire engines were
13 responding to, but I'm sure that occurs on occasion.

14 MR. ESHELMAN: How wide is Varnum
15 Street?

16 MR. MORRIS: Thirty-four feet.

17 MR. ESHELMAN: How much parking is
18 allowed on it, both sides?

19 MR. MORRIS: No, just the south side.

20 MR. ESHELMAN: So, how many lanes pass
21 in each direction?

22 MR. MORRIS: One lane in each direction.

23 MR. ESHELMAN: All right. How wide is
24 Eighth Street?

25 MR. MORRIS: It's a private street. I
26 don't know. It's probably also a 34 foot street.

1 MR. ESHELMAN: What's the condition of
2 Eighth Street? Did you view it?

3 MR. MORRIS: Yes, of course. I drove
4 over it, surely.

5 MR. ESHELMAN: Is it in good repair?

6 MR. MORRIS: No.

7 MR. ESHELMAN: Does it have a lot of
8 potholes in it?

9 MR. MORRIS: It has potholes.

10 MR. ESHELMAN: Now, when you put a
11 tractor trailer on Eighth Street, is that going to
12 improve the condition of Eighth Street?

13 MR. MORRIS: It's not going to improve
14 it. It's not likely to particularly deteriorate it.

15 MR. ESHELMAN: Have you considered the
16 impact on the traffic pattern of the poor condition
17 of Eighth Street, or are you going to improve Eighth
18 Street as part of this package? I didn't see that.

19 MR. MORRIS: To the best of my
20 knowledge, that is not part of the package.

21 MR. ESHELMAN: Now, Eighth Street is how
22 many lanes?

23 MR. MORRIS: It would be one lane in
24 each direction.

25 MR. ESHELMAN: Any parking on Eighth
26 Street?

1 MR. MORRIS: I don't know any
2 restrictions against it since it's a private street.

3 MR. ESHELMAN: But as I understand the
4 testimony -- and again, I was behind the chart --
5 you propose to put a tractor trailer in, down Eighth
6 Street and then back it in beside the day care
7 center, is that correct, or the child care center?

8 MR. MORRIS: That's correct.

9 MR. ESHELMAN: Now, am I correct that
10 you're proposing to back it over the area that had
11 previously been testified would be a playground?

12 MR. MORRIS: No.

13 MR. ESHELMAN: I thought that was where
14 the playground was going to be, in that area
15 adjacent to the building there that the tractor
16 trailer would back up into.

17 MR. MORRIS: The tractor trailer is
18 going to back into a driveway. It's not a
19 playground.

20 MR. ESHELMAN: Well, we'll ask where the
21 playground is going to be. I must have just
22 misunderstood.

23 When we're talking about walking to the
24 -- how many did you say you thought would walk to
25 the facility?

26 MR. MORRIS: Twenty-five percent.

1 MR. ESHELMAN: Twenty-five percent.
2 Now, Mr. Reed had testified, I believe, that he
3 considered the immediate vicinity anywhere within
4 Ward 5. Is your 25 percent number composed of
5 children from anywhere within Ward 5?

6 MR. MORRIS: No, within walking
7 distance.

8 MR. ESHELMAN: And what is walking
9 distance?

10 MR. MORRIS: Half-a-mile.

11 MR. ESHELMAN: Was any consideration
12 given for the need within a half-a-mile for
13 increased day care, that you're aware of? It may
14 not be a question for you.

15 MR. MORRIS: It's not a question for me.

16 MR. ESHELMAN: Now, we had some
17 discussion of commercial traffic and we've talked
18 about one tractor trailer. Would vendors be
19 delivering to the central kitchen daily, things like
20 bread, vegetables, et cetera?

21 MR. MORRIS: You'll have to ask the
22 operator of the facility.

23 MR. ESHELMAN: Did you consider any
24 deliveries other than the tractor trailer?

25 MR. MORRIS: Certainly, the vans. Two
26 vans per day, two trips for each one.

1 MR. ESHELMAN: Okay. When you talk
2 about vans, are we talking about step vans? I see
3 poultry trucks, sometimes 2½ ton trucks that make
4 commercial deliveries. Is that what you're talking
5 about?

6 MR. MORRIS: No, these are vans that
7 would be owned by the day care center and they would
8 be your normal type van. Not the step van you're
9 referring to, but the kind of van that you would go
10 out and purchase to -- that would carry maybe ten
11 people.

12 MR. ESHELMAN: So, there are going to be
13 no commercial deliveries other than the tractor
14 trailer?

15 MR. MORRIS: I didn't say that. You'll
16 have to ask the operator of the facility.

17 MR. ESHELMAN: But you did not consider
18 commercial deliveries in the traffic report that you
19 made, other than the tractor trailer?

20 MR. MORRIS: I made my evaluation based
21 on peak hour conditions and the questions you're
22 asking me are all trips that would be generated off-
23 peak hour and would not aggravate the existing
24 condition that the community is concerned with.

25 MR. ESHELMAN: Well, I used to run in
26 the morning between 6:45 and 7:45.

1 CHAIRPERSON HINTON: Excuse me. You
2 can't testify.

3 MR. ESHELMAN: I understand.

4 CHAIRPERSON HINTON: You can do that
5 later.

6 MR. ESHELMAN: It seems like the
7 commercial deliveries occur in the morning in those
8 hours, 6:45 to 7:45 to restaurants, et cetera.

9 MR. MORRIS: The vans that were
10 testified to earlier, one leaves at 10:00 and comes
11 back, I believe about 2:00. The other one comes
12 back -- maybe earlier. One goes out and comes back
13 by 4:00. So, their earliest van goes out at 10:00
14 and the last van comes back at 4:00.

15 MR. ESHELMAN: I mean deliveries to the
16 central kitchen, not the vans of the day care
17 center.

18 MR. MORRIS: Are you talking about the
19 tractor trailer?

20 MR. ESHELMAN: No, I'm talking about
21 deliveries to the center for things like bread,
22 vegetables, and fresh meat, poultry, that sort of
23 thing.

24 MR. MORRIS: I don't know what those
25 deliveries are.

26 MR. ESHELMAN: In other words, you

1 didn't consider any of that sort of possibility?

2 MR. MORRIS: The possibility exists.
3 You can bring one of these vehicles in every morning
4 and it's not going to affect your traffic
5 conditions. You can conjure up all kinds of truck
6 deliveries, but you're going to have a difficult
7 time adding more than a couple of vehicles in the
8 peak hour. We're concerned with peak hour
9 conditions because that's the worst case condition.

10 MR. ESHELMAN: But you would agree with
11 me that a truck has a greater impact on traffic
12 than, say, an automobile, passenger car?

13 MR. MORRIS: No, sir. I would not agree
14 with that. It depends on what kind of truck you're
15 talking about. A tractor trailer obviously has a
16 greater impact. A van certainly does not.

17 MR. ESHELMAN: Step van?

18 MR. MORRIS: A step van can operate with
19 the same acceleration, same operating conditions as
20 an automobile. It has not as good a turning radius,
21 but it can accelerate as fast as an automobile.

22 MR. ESHELMAN: Did you give any
23 consideration to the health clinic having an impact
24 on traffic?

25 MR. MORRIS: Yes.

26 MR. ESHELMAN: What was that?

1 is it?

2 MR. GLASGOW: No.

3 CHAIRPERSON HINTON: So, we are here.

4 MR. GLASGOW: So, the increment that is
5 a matter of right use is not relevant to the
6 consideration of the Board. It's the special
7 exception. Otherwise, you're trying a case on part
8 of what is a matter of right use in the context of
9 the special exceptions.

10 CHAIRPERSON HINTON: Well, isn't a lot
11 of the traffic that's in the level of service that's
12 being discussed matter of right traffic, so to
13 speak? I mean, generally, in traffic issues, we
14 look at the amount of traffic that's on the roads
15 and we don't distinguish between matter of right
16 traffic and special exception traffic.

17 MR. GLASGOW: Well, that traffic is
18 there and he's considering the level of service of
19 an intersection. Here, we are before the Board with
20 a special exception, part of which is to deal with
21 what the traffic impacts are with respect to the
22 special exception. If you mix in what are matter of
23 right uses, then the question is, on what basis is
24 the Board granting or denying the application,
25 matter of right uses or the special exception?

26 CHAIRPERSON HINTON: Well, I think we're

1 trying to establish what the existing and the future
2 traffic conditions are going to be. Mr. Morris
3 already testified that he's considered a future fire
4 station that's coming on line.

5 MR. GLASGOW: Correct.

6 CHAIRPERSON HINTON: So, how is that
7 different than this future health clinic that's
8 coming on line?

9 MR. GLASGOW: Because the health clinic
10 is located on this particular site and they were
11 questions with respect to the utilization of this
12 site. We're stating that we have certain uses that
13 are permitted as a matter of right.

14 CHAIRPERSON HINTON: Well, I think we're
15 talking about traffic in the area.

16 MR. GLASGOW: Well, I think at some
17 point then you're, in a sense, outside the bounds of
18 what the special exception criteria is for deciding
19 the application.

20 CHAIRPERSON HINTON: We traditionally
21 look at the traffic that's on the surrounding roads
22 as it exists and as it's expected to be. If there
23 are uses that we know that are coming on line, we
24 generally add those into the projected figures,
25 whether those uses are on the site or off the site.
26 As Mr. Morris has already testified that he knows

1 that there is a fire station coming on line so he
2 added those into the proposed -- or to the expected
3 figures.

4 MR. GLASGOW: All right. Well, I've
5 noted my objection. I'm ready for the Chair to
6 rule.

7 CHAIRPERSON HINTON: Okay. It's
8 overruled.

9 Why don't we continue with the
10 questions?

11 MR. ESHELMAN: How much traffic would
12 there be associated with that, that you considered?

13 MR. MORRIS: Between 6:45 and 7:45, you
14 would have staff coming. You would not have people
15 coming to the health clinic for services.

16 MR. ESHELMAN: Would those people coming
17 to the health clinic be associated with the school
18 or the day care center necessarily, or additional
19 people?

20 MR. MORRIS: The people who need
21 services of the health clinic? You'll have to ask
22 the people who will operate the facility. That's
23 not a traffic issue.

24 MR. ESHELMAN: That's it.

25 CHAIRPERSON HINTON: That's it?

26 You're representing the ANC?

1 PARTICIPANT: I'm Commissioner Derek
2 Parks and this is the Chairman Joseph Bowser -- ANC.

3 CHAIRPERSON HINTON: The way we normally
4 handle cross examination is normally one person from
5 each party can ask questions. So, we need to ask
6 you just to consolidate your questions and have one
7 person ask them.

8 MR. BOWSER: Will we have an opportunity
9 later on to put something on the record?

10 CHAIRPERSON HINTON: Absolutely. This
11 is just for questions of the applicant. You have an
12 entire part of the hearing where you can put your
13 case on the record.

14 MR. BOWSER: Okay. My question would be
15 how many cars did you state from the Police and Fire
16 Clinic that you expect to be in that area?

17 MR. MORRIS: I didn't state, sir.

18 MR. BOWSER: I mean, you said you
19 projected something. What was your projection based
20 on?

21 MR. MORRIS: I have a projection, a
22 traffic study that was done for Providence Hospital
23 by O.R. George and Associates, which took into
24 consideration the number of oncoming land uses and
25 that was one of them. So, they are included in the
26 traffic that I show in my report.

1 MR. BOWSER: Okay, so you're saying that
2 that little small amount, 96 and 46, they're
3 included in that?

4 MR. MORRIS: I'm sorry, what's the 96
5 and 46?

6 MR. BOWSER: I mean, you had some
7 figures. I don't know what the exact figures were,
8 but you had some figures in the report that you
9 submitted here. Are those the figures you're
10 talking about?

11 MR. MORRIS: The figures in my report
12 show the amount of traffic going through the
13 intersection of Tenth Street and Varnum Street and
14 they're included in that.

15 MR. BOWSER: Okay, well, yes, okay.
16 They're included in that?

17 MR. MORRIS: Yes, sir.

18 MR. BOWSER: Okay. Now, did you take
19 into consideration that that Fire and Police Clinic
20 would be operating for 16 hours?

21 MR. MORRIS: Sure. We focused on the
22 peak hours, as I mentioned, 7:30 to 8:30 and 5:00 to
23 6:00.

24 MR. BOWSER: Okay, that's all. Because
25 it would seem to me that you would make a rational
26 assumption that a 16 hour operation, at least one

1 car per hour would come through that. So, it could
2 double more than that, but that's fine.

3 That's all I have to say.

4 MR. ESHELMAN: I would like to ask Mr.
5 Bryant a question.

6 With regard to the encroachment, if I
7 understand the design that you've put together for
8 this building, the central kitchen is going to be in
9 the northeast corner, which is the area of the
10 encroaching portion of the building, correct?

11 MR. BRYANT: The north wing, yes.

12 MR. ESHELMAN: How would that not be
13 used so as not to cause a conflict with the existing
14 zoning on the --

15 MR. BRYANT: There are at least two ways
16 in which it could happen. There are -- is to not
17 occupy the space at all. The other is to occupy it
18 only for a use that would, in fact, be a matter of
19 right use.

20 MR. ESHELMAN: Okay. I suppose your
21 plan is to rehabilitate that portion of the building
22 as well, not to let it continue to decay?

23 MR. BRYANT: The plan would be to
24 address that area in a projected matter of right use
25 that would protect the property and the building.

26 MR. ESHELMAN: And it's adjacent to the

1 kitchen?

2 MR. BRYANT: Yes, it is.

3 MR. ESHELMAN: So, what would that use
4 be?

5 MR. BRYANT: Storage is one use to
6 which it could be put as a matter of right.

7 MR. ESHELMAN: So, have you projected
8 that in your plan?

9 MR. BRYANT: No, we have not at this
10 time.

11 MR. ESHELMAN: Okay, what have you
12 projected in your plan at this time?

13 MR. BRYANT: We have not finalized our
14 plans for that area of the building pending the
15 resolution of these conversations.

16 MR. ESHELMAN: But it would not be
17 permitted to continue to decay in any event?

18 MR. BRYANT: No, I would -- I would not
19 think that would be in the interest of the owners,
20 present owners or future owners, and I would not
21 recommend that it be allowed to continue to decay.

22 MR. ESHELMAN: Has there been any
23 consideration given to drop objections from the
24 other owners of Eighth Street, to dropping children
25 off in front of Brady Hall? Are you aware of any
26 objections from other owners on Eighth Street?

1 MR. BRYANT: No, I am not aware of any
2 objections.

3 MR. ESHELMAN: That's all I have.

4 MR. PARKS: The question I have for Mr.
5 Bryant is in reference to --

6 CHAIRPERSON HINTON: Sir, could you
7 identify yourself for the record?

8 MR. PARKS: I'm Commissioner Derek
9 Parks, 5805.

10 CHAIRPERSON HINTON: Thank you.

11 MR. PARKS: The question I have for Mr.
12 Bryant, the architect, is pertaining to the land use
13 in which Brady Hall sits on.

14 I notice here in the diagram that two
15 portions of the rear of this building encroaches on
16 to the Carmelite Sisters' property. I believe in
17 the meeting we had with you that you stated that you
18 wanted the Sisters to trade this portion of the
19 property for the back portion that was sitting on
20 your property. Is that correct?

21 MR. BRYANT: Yes.

22 CHAIRPERSON HINTON: Please don't
23 answer. Could you get a microphone, please?

24 MR. GLASGOW: Madam Chair, that was not
25 part of this witness' testimony on direct
26 presentation, so I object to the question.

1 CHAIRPERSON HINTON: Could you repeat
2 the question?

3 MR. PARKS: In our community forum that
4 we held -- the ANC, during the presentation on
5 February 11th, Mr. Bryant and associates stated to
6 us that this -- I call it a finger portion, the
7 north portion of land that sticks out like a little
8 finger.

9 CHAIRPERSON HINTON: Yes, I see it.

10 MR. PARKS: Here on the map -- they
11 wanted to swap this property for the 21 feet by 48
12 feet that encroaches on to the Carmelite Sisters'
13 property. Even today, sitting here, they still
14 haven't adequately attest to how they're proposing
15 to rectify this legal matter. There still is a lot
16 of legal entanglement with this building that hasn't
17 been resolved at this point.

18 CHAIRPERSON HINTON: Okay. First of
19 all, I agree that there wasn't testimony about that
20 finger portion being swapped. It's not in the
21 hearing at all. It's not in what was written and it
22 wasn't talked about, so it's not a proper cross
23 examination question.

24 I believe the attorney, in the very
25 beginning of the hearing, did talk about the title
26 to the property and the easement and the

1 encroachment, and the status of that part of the
2 building that seems to be on the adjacent lot.

3 MR. PARKS: Right, okay.

4 I have a question for Mr. Davis, William
5 Davis.

6 CHAIRPERSON HINTON: Okay.

7 MR. DAVIS: Yes, sir?

8 MR. PARKS: You alluded to earlier about
9 the vehicle that will be delivering produce to
10 proposed site of 441 Eighth Street.

11 MR. DAVIS: Which is Brady Hall, yes.

12 MR. PARKS: Which is Brady Hall, right.

13 At our forum that we entertained your
14 presentation, you never made it clear exactly what
15 type of vehicle was making a delivery.

16 MR. DAVIS: And there's a reason why we
17 didn't make it clear.

18 MR. PARKS: Today, you're stating that
19 there is a tractor trailer. The reason why I'm
20 getting to that, the tightness of Varnum Street in
21 the 900 block. The street dead-ends. It's just
22 hard to see where this truck is actually going to
23 turn around at.

24 MR. DAVIS: That is more of a question
25 for the architect, but I can answer part of your
26 question.

1 MR. PARKS: Okay.

2 MR. DAVIS: Which is why I didn't
3 testify about the tractor trailer.

4 MR. PARKS: Please do.

5 MR. DAVIS: Okay. One of the residents
6 of the community asked a question about the kitchen
7 and what was going to happen with the kitchen. Just
8 as I was about to answer it and Travis Hardman, the
9 executive director was about to answer it, you said,
10 "hey, I don't want to hear any of this stuff. I
11 want to talk about something else." So, we never
12 got a chance to answer it.

13 MR. PARKS: Well, you can answer it at
14 this time.

15 MR. DAVIS: Okay, I'll be glad to.

16 We have projected one tractor trailer
17 coming once-a-week. We're going to try to make sure
18 that that delivery occurs at a time that is
19 definitely not in the peak traffic. We're going to
20 try to pick a time when it can occur when it has no
21 impact really on the traffic. That's number one.

22 Now, to the extent that other delivery
23 trucks come to the facility, where again, we have it
24 within our power to make sure that those trucks come
25 at a time where there will be no impact on the
26 traffic. That's what I would have said if I had had

1 a chance to answer the question at the community
2 meeting.

3 MR. PARKS: Now, at this time, you just
4 stated that there will be more trucks making
5 deliveries? Am I hearing you correctly?

6 MR. DAVIS: Well, I'm saying to the
7 extent that there is any delivery vehicle -- there
8 is going to be not only trucks that are related to
9 the kitchen, but there may be a truck delivering
10 furniture to the center, or trucks delivering some
11 other goods to the center. We will try to make sure
12 that whenever there is a need to have a delivery
13 involving a truck coming to the center, that it
14 occurs in off-peak traffic hours.

15 MR. PARKS: Well, I can understand a
16 truck making a delivery for furniture. That's
17 unscheduled. But in the meeting, we asked you about
18 -- and I'm quite you can give a reasonable amount of
19 vehicles that's going to make deliveries on a daily
20 basis.

21 MR. DAVIS: Right.

22 MR. PARKS: This question is why I'm
23 asking you now because it was never really clarified
24 at the two meetings that we held. But now today,
25 I'm hearing that there's a tractor trailer. Now
26 there's a possibility of other produce vehicles

1 making deliveries also. But I still haven't heard a
2 real number.

3 MR. DAVIS: Well, I did talk to the
4 executive director about that. We project no more
5 than three trucks a week of any type.

6 MR. PARKS: And approximately what
7 times?

8 MR. DAVIS: That is something, as I
9 testified, that once we're in the building and we
10 see what the traffic conditions are like, we're
11 going to make sure that those trucks deliver at
12 times that have no impact on peak hours of traffic
13 in the area.

14 Now, I've been out at that area many
15 times and stood in the middle of the street, and
16 there's been absolutely no traffic at the corner of
17 Eighth and Varnum Street during most of the day. If
18 you were to go out there, you'd see that it's
19 virtually a vacant piece of --

20 MR. PARKS: Not cutting you off, but may
21 I ask at this moment, what times of the day are you
22 standing there that you don't observe any traffic --

23 MR. DAVIS: Well, I've been there a lot
24 --

25 MR. PARKS: -- coming through? I'm
26 assuming we're talking about Tenth and Varnum?

1 MR. DAVIS: No, I'm talking about Eighth
2 and Varnum.

3 MR. PARKS: Eighth and Varnum.

4 MR. DAVIS: This is where the Brady Hall
5 is.

6 MR. PARKS: Okay.

7 MR. DAVIS: Okay? If you were to go out
8 on an average day and stand on the street at Eighth
9 and Varnum around 10:00 until about 4:00, it's
10 virtually no traffic. The reason there's virtually
11 no traffic is that these institutions -- and once
12 the people get to the institutions to go to work,
13 you know, then there's the casual visitor that
14 comes.

15 I want to also point out in answer to
16 Mr. Eshelman that there is another way, a very
17 important access way to Carroll Manor that does not
18 come down Eighth Street. It comes through that big
19 parking lot at Providence Hospital. If I were going
20 to get a fire vehicle to Carroll Manor, I would
21 consider taking that route over Eighth Street.

22 CHAIRPERSON HINTON: Okay, we're in
23 cross examination at this point, so -- yes, try to
24 just ask questions and you just answer the questions
25 that are asked, okay?

26 MR. DAVIS: I'm sorry, okay.

1 MR. PARKS: Madam Chair, he touched on a
2 question I was going to ask later. But since he has
3 already touched on it, I guess the door is open for
4 me to ask a question.

5 MR. DAVIS: Whoops, I did that. Okay.

6 MR. PARKS: I understand from the fire
7 department that to enter Carroll Manor in which you
8 are speaking about, their emergency route is Twelfth
9 Street, north on Twelfth Street to -- correction,
10 west on Varnum Street to Eighth Street and then they
11 proceed right, northbound on the so-called Eighth
12 Street which is not a roadway.

13 MR. DAVIS: It's not a public --

14 MR. PARKS: Public roadway.

15 MR. DAVIS: Yes.

16 MR. PARKS: That leads to the main
17 entrance to Carroll Manor, okay. You're correct in
18 reference to traffic coming through the parking lot,
19 but the main emergency and access to Carroll Manor
20 is the so-called 4400 block of Eighth Street. That
21 is the emergency route that the fire department and
22 police department uses.

23 CHAIRPERSON HINTON: Okay, Mr. Parks,
24 you're pretty much testifying here.

25 MR. PARKS: Okay. I'm just --

26 CHAIRPERSON HINTON: You'll have all the

1 opportunity in the world to testify for your own
2 case. You just need to ask questions if you have
3 any questions.

4 MR. PARKS: Okay. All right.

5 The second question I have is pertaining
6 to this package that was delivered on March 5th that
7 I was never privileged to have received. Any
8 particular reason why I didn't get a copy of them
9 until today?

10 MR. DAVIS: Well, the lawyers prepared
11 the package and they were required to submit it to
12 the BZA by March 10th. I don't know whether there's
13 a requirement that we also submit one to ANC. I
14 think it becomes part of the public record and
15 anybody can consult the package.

16 MR. PARKS: Well, pertaining to our
17 meeting that we had in early February, we asked you
18 to be straightforward in giving us information
19 pertaining to exactly what your plans were. Can you
20 answer this at this point, why the application has
21 been changed at least five times from the original
22 application?

23 MR. DAVIS: Well, I'm going to give you
24 an answer and I'll give our counsel to give you an
25 answer.

26 MR. GLASGOW: Mr. Davis, I'm raising

1 objection.

2 MR. DAVIS: Oh, okay.

3 MR. GLASGOW: I objected to the question
4 as it is beyond the scope of his direct examination.

5 CHAIRPERSON HINTON: Actually, I
6 remember someone testifying that there were changes.
7 That it had been --

8 MR. GLASGOW: Yes, I explained that in
9 the opening statement.

10 CHAIRPERSON HINTON: Okay.

11 MR. GLASGOW: I can't get cross examined
12 but I stated that we had submitted a change to the
13 application. We've cut the number of students and
14 persons in the day care center in half. It was
15 originally filed at 300 and it's now at 150.

16 CHAIRPERSON HINTON: And I think you
17 stated that as the architects looked into the --

18 MR. DAVIS: I said that.

19 CHAIRPERSON HINTON: You did?

20 MR. DAVIS: Yes.

21 CHAIRPERSON HINTON: So, he did.

22 MR. DAVIS: I'm willing to answer.

23 CHAIRPERSON HINTON: Yes, let's just --

24 MR. DAVIS: I'll repeat what I said when
25 I was testifying. Last winter in November whenever
26 we filed the application for the first time, we were

1 not certain exactly how many students we wanted to
2 put in this building. To be on the safe side, and
3 I'll take the fall for this, I asked high. Then our
4 architect got into the building with the engineers
5 and we looked at the day care requirements, the
6 parking requirements. The architect came back and
7 he said, "you've got too many children to meet the
8 code requirements. You've got to cut down from 150
9 to 100."

10 Then I asked the executive director of
11 the program, I said "we submitted an application
12 that said 150 students in the private school
13 training program. Are you really going to have 150
14 students sitting there in a classroom?" He said,
15 "no, we're never gong to have that many students.
16 The most we'll ever have at any one time is 50." So
17 then, I alerted our attorneys to the fact that we
18 needed to reduce the number in our application.
19 They said "when we file a statement, we'll reduce
20 it."

21 We had a meeting with you and Mr. Bowser
22 before the --

23 CHAIRPERSON HINTON: I think that you've
24 answered it.

25 MR. DAVIS: Oh, okay.

26 CHAIRPERSON HINTON: Thank you.

1 MR. PARKS: I have another question. At
2 our community meeting that I set up, I notice on the
3 application it has Norman H. Glasgow, Jr., Wilkes &
4 Artis law firm. Is that correct? I think at the
5 time of doing the presentation, you informed me that
6 they were not the participants. But I find today --
7 I mean, can you please iterate who's handling what
8 for National Day Care Association? I was under the
9 assumption when we met that you were the PR man.

10 CHAIRPERSON HINTON: Well, I think it's
11 kind of clear from the testimony today.

12 MR. PARKS: I just wondered because
13 there has been a lot of flip-flop back in
14 information as to who's handling what.

15 CHAIRPERSON HINTON: Okay.

16 MR. DAVIS: Mr. Glasgow is our --

17 MR. PARKS: Let me ask you this last
18 question then. I'll get away from that.

19 MR. DAVIS: Okay.

20 MR. PARKS: Is it true that the National
21 Child Day Care Association has a contract with Human
22 Services to provide for the AFDC Real Chance
23 program?

24 MR. DAVIS: Would you mind if I referred
25 that question to the executive director?

26 MR. PARKS: Oh, you didn't --

1 MR. DAVIS: It's not within my area of
2 expertise.

3 CHAIRPERSON HINTON: Did anybody testify
4 to that today?

5 MR. DAVIS: I don't think anyone
6 testified to it.

7 CHAIRPERSON HINTON: So, you can't ask
8 it in cross examination.

9 MR. PARKS: Okay. That's all I have for
10 Mr. Davis.

11 MR. DAVIS: Thanks.

12 CHAIRPERSON HINTON: Any other
13 questions? No?

14 Mr. Parks?

15 MR. PARKS: No.

16 MR. ESHELMAN: If I may, Madam Chairman,
17 I have one follow-up for Mr. Morris, one short
18 follow-up and that will be it.

19 CHAIRPERSON HINTON: Sure.

20 MR. ESHELMAN: Mr. Morris, do you know
21 how many children arrive starting at 6:45 at the
22 Carmelites' Scilli School next door to the
23 property?

24 MR. MORRIS: No, sir.

25 MR. ESHELMAN: Did you give any
26 consideration to the number of children or trips

1 that are made to that school or from that school
2 during the 6:45 to 7:45 period?

3 MR. MORRIS: Well, whatever trips are
4 being made are already included in the traffic
5 analysis. Not 6:45 to 7:45, it's actually 7:00 to
6 9:00 with the peak hour being 7:30 to 8:30. But
7 whatever trips are being made between the hours of
8 7:00 and 9:00 are included.

9 MR. ESHELMAN: How many trips are there
10 into the school there?

11 MR. MORRIS: I have no idea.

12 MR. ESHELMAN: Now, if there are 55
13 children in the school, how many trips would that
14 equate to during those peak periods, based on your
15 experience?

16 MR. MORRIS: It depends on how they
17 arrive and the times they arrive, and how many
18 children per vehicle.

19 MR. ESHELMAN: Now, you said they were
20 included in your traffic calculation.

21 MR. MORRIS: Sure. Any traffic that's
22 going through that area is included in the traffic
23 counts.

24 MR. ESHELMAN: Who included it, you?

25 MR. MORRIS: Yes, the counts that were
26 made included traffic going there, going to

1 Providence Hospital, going anywhere.

2 MR. ESHELMAN: I see.

3 MR. MORRIS: But I can't give you a
4 breakdown as to who was going where.

5 MR. ESHELMAN: You had counts made?

6 MR. MORRIS: I made them.

7 MR. ESHELMAN: You made them?

8 MR. MORRIS: And there was a traffic
9 projection made by O.R. George & Associates.

10 MR. ESHELMAN: And they were a
11 subcontractor to you?

12 MR. MORRIS: No.

13 MR. ESHELMAN: They were a consultant to
14 you?

15 MR. MORRIS: No.

16 MR. ESHELMAN: Well, what's their
17 relationship to this?

18 MR. MORRIS: They made a study for
19 Providence Hospital.

20 MR. ESHELMAN: How does that study
21 relate to this?

22 MR. MORRIS: Because they made a
23 forecast of what the traffic conditions would be
24 like including the number of approved but
25 undeveloped improvements. I wanted to know what the
26 traffic conditions would be like with those other

1 developments included.

2 MR. ESHELMAN: At what points in the
3 grid, the traffic grid, was O.R. George concerned
4 with? Twelfth and Varnum? Tenth and Varnum? Or
5 some other point?

6 MR. MORRIS: A number of points, but I
7 just focused on Tenth and Varnum.

8 MR. ESHELMAN: Okay, thank you.

9 MR. PARKS: I've got a question for, I
10 guess, Mr. Davis or Mr. Hardman in reference to the
11 vehicles that are going to be coming to and from the
12 facility.

13 CHAIRPERSON HINTON: Okay. And then is
14 that your last question?

15 MR. PARKS: Yes, at this time.

16 CHAIRPERSON HINTON: Why don't we hear
17 the question and then we'll see who can answer?

18 MR. PARKS: All right.

19 There was a question earlier in
20 reference to the number of vehicles and I believe in
21 our initial meeting, you had made reference that
22 basically, the majority of parents delivering their
23 kids to a proposed site would be by public
24 transportation. Is that correct?

25 MR. HARDMAN: That is correct.

26 MR. PARKS: So, at this time, you are

1 projecting exactly how many vehicles of delivering
2 the kids to this proposed facility?

3 MR. HARDMAN: In my testimony, I said
4 approximately 30. I'll say it again, a large
5 number, 50 to 70 percent based on our experience at
6 other centers, is where we come up with that number
7 as far as the number that will be actually
8 transporting children to the facility.

9 MR. PARKS: All right. I remember you
10 telling before that you had identified -- correct me
11 if I'm wrong -- or someone in your organization had
12 identified at least 50 kids from the immediate area
13 -- which -- S&D that will be attending that
14 facility. Do you have any information to support
15 that?

16 MR. HARDMAN: My 50 percent figure was
17 based on Ward 5. I also stated in my testimony that
18 the need for child care was going to increase 280
19 percent based on the Welfare Reform legislation.
20 It's easy to determine that a large number of those
21 parents, given the geographic area, will come from
22 Ward 5.

23 MR. PARKS: So, it's basically the
24 geographic area, Ward 5 as a whole, not a
25 particular--

26 MR. HARDMAN: My testimony spoke to Ward

1 5 as a whole.

2 MR. PARKS: As a whole, all right.

3 Are you aware that there are other day
4 care facilities along Twelfth Street and Tenth
5 Street?

6 MR. HARDMAN: Yes, I am aware.

7 MR. PARKS: All right.

8 MR. HARDMAN: And I also testified to
9 the fact --

10 CHAIRPERSON HINTON: You've answered the
11 question. Thank you.

12 MR. HARDMAN: Oh, okay.

13 MR. PARKS: All right. That's it.

14 CHAIRPERSON HINTON: Very good.

15 Why don't we move to the Office of
16 Planning report if you're still awake over there?

17 MS. BAILEY: Wide awake.

18 For the record, my name is Beverly
19 Bailey.

20 Members of the Board, as you can tell,
21 traffic is clearly the principal issue at this site.
22 Now, I wasn't aware of the O.R. George study. I'm
23 not sure if the calculations in that study were
24 taken into consideration with this project or with
25 this area. I can't imagine there being all these
26 traffic problems if the study was for the entire

1 area.

2 The Office of Planning is recommending
3 that a detailed traffic study be prepared of the
4 area and specifically, I'm speaking of Twelfth
5 Street, the railroad tracks, Buchanan Street and
6 Varnum Street. It appears, Members of the Board,
7 that these issues have been a community concern for
8 quite some time. It's not anticipated that this
9 project is going to be the sole generator of traffic
10 in that area. Obviously, from what we've heard
11 today, the problems already exist now. With that
12 said, and of course there's much more discussion to
13 that -- but to be brief, we're recommending approval
14 of the application. We have listed eight conditions
15 in our report for approval.

16 The applicant indicated that there are
17 concerns with number one and number six. Number one
18 indicates that approval should be for a period of
19 five years. The Office of Planning is recommending
20 approval for ten years. I won't go through all of
21 the other recommendations unless you would like for
22 me to. But I would mention number six. The
23 applicant is proposing to have parents as well as
24 staff to escort the children into the building and
25 we don't have a problem with that.

26 To touch on very lightly, some of the

1 other areas, it would be very helpful to have had a
2 map to show all of the neighboring facilities in
3 this area. For example, we've heard of Carroll
4 Manor. We've heard of the clinic where the Police
5 and Fire police officers would be located. We've
6 heard of single-family residential housing. We've
7 heard of Providence Hospital. But there isn't a map
8 to show, in a composite way, how all of these things
9 fit together. There are maps that show bits and
10 pieces of it. How Eighth Street connects into
11 Carroll Manor, I don't have something to offer you
12 to show you how that connection is made. How
13 Buchanon feeds into it -- it doesn't, but how the
14 back of Carroll Manor feeds into the Providence
15 Hospital parking lot, that kind of thing.

16 The last point that I have concerns how
17 the application was advertised, I believe under what
18 is available to the city in terms of the zoning
19 regulations. The Zoning Administrator, the
20 applicant and the city did the best that it can.
21 What we're talking about is a family center and
22 there isn't a specific section in the regulations
23 dealing with family centers. That's something that
24 appears to need addressing by the Zoning Commission.
25 So, what we have is a private school and we have a
26 day care center, but we don't have a family center

1 as such, which is, in essence, what would be
2 required for this project. I'm hoping you're
3 following me.

4 With all of that said, Alberto, would
5 you like to add something?

6 MR. BASTIDA: Yes.

7 The Office of Planning is aware of the
8 definitions, but the Office of Planning can not play
9 this role of the Zoning Administrator. So, I am
10 positive -- the Office of Planning is positive that
11 the Zoning Administrator, based on the existing
12 zoning regulations, has to provide the best possible
13 alternative to put this project in front of the
14 Board. We are sympathetic to the dilemma that the
15 Board has, not only today but in the future, and we
16 have made those comments regarding a better
17 definition of what the functions that are to occur
18 at this facility should be in a different category
19 and should be addressed by the Zoning Commission.
20 But today, this is what we have. It would have a
21 child development center and a private school.

22 Secondly, you know that traditionally,
23 the Office of Planning has been very concerned about
24 negative impacts of traffic-related matters. The
25 Office of Planning always has deferred to the
26 Department of Public Works regarding those matters.

1 Unfortunately, this application was referred to the
2 Department of Public Works and we received no
3 comment from them. Our expertise is on zoning, not
4 on traffic analysis. Accordingly, we'd tried to
5 give the Board the best possible overview, but we
6 can not make a technical find, recommendation,
7 because it is beyond our expertise.

8 Thirdly, condition number six, "the
9 children shall be escorted into the building" could
10 be rephrased by saying "the children shall be
11 properly escorted into the building by a responsible
12 individual". That way, it could be anybody with any
13 function, or anything. We're concerned about the
14 safety of the children going there and that
15 responsibility can be taken care of by any
16 responsible individual that the child development
17 center so chooses to encharge with that awesome
18 obligation of the lives of those small children.

19 That concludes the Office of Planning
20 presentation. If you have any questions, we'll try
21 to answer them. Thank you.

22 CHAIRPERSON HINTON: Thank you.

23 Any questions?

24 MR. FRANKLIN: I have one, Mr. Bastida.
25 The dilemma referred to eludes me. Why is this not
26 a private school which, at least I can tell, is not

1 defined in the regulations?

2 MR. BASTIDA: This is really the role of
3 the Zoning Administrator, but I will try to help you
4 with it. But there is not a definition of private
5 school but there is a private school regulation.
6 The Zoning Administration -- and I was not privy to
7 the negotiation with the Zoning Administrator to
8 determine the classification -- determined that the
9 only way to put this properly in front of the Board
10 was with two issues: a child development center and
11 a private school.

12 MR. FRANKLIN: And is that wrong?

13 MR. BASTIDA: I beg your pardon?

14 MR. FRANKLIN: And what would be the
15 problem with that? Why is there a dilemma with
16 that?

17 MR. BASTIDA: Maybe the word "dilemma"
18 was poorly chosen. It is that it might be better if
19 the Zoning Commission were to look more
20 comprehensively at the child development center and
21 realize that a child development center at the time
22 the regulations were enacted were more of a
23 custodial nature and that was basically it. New
24 findings and new development on the concept of child
25 care has included the well being of the parents and
26 other services that have to be provided in order to

1 obtain the well-being of our children. Accordingly,
2 it has evolved in that nature. It has evolved that
3 way and perhaps the Zoning Commission will have to
4 look at the definition of a child development center
5 to go beyond the custodial nature as it is presently
6 defined in the zoning regulations.

7 MS. BAILEY: What is occurring, and we
8 have seen this in previous applications, to look at
9 the family as a whole, as a unit not just individual
10 parts of the family. But to look at the children,
11 the parents and so forth and the home situation, and
12 look at all of this in a comprehensive way. There
13 isn't a section in the regulations that deals with
14 this. The family needs to be looked at as a unit
15 which is what the applicant is proposing to do here.
16 We've had this occur before. This isn't the first
17 time.

18 MR. FRANKLIN: Well, it seems to me,
19 this discussion is dealing with educational policy.
20 There are students going to be here and there are
21 going to be teachers here. The fact that they may
22 have a holistic attitude toward what they're
23 teaching is irrelevant from a zoning standpoint.

24 So, I think this is a diversion from
25 what the basic issue is before the Board and I don't
26 see any problem with it at all. It's a school. It

1 just happens to have a certain philosophy as to how
2 it's going to teach, but that has nothing to do with
3 how many vehicles are going to come and how many
4 students are going to be there and how many teachers
5 are going to be there.

6 MR. BASTIDA: Well, it does have to do
7 with the zoning regulations, Mr. Franklin, with all
8 due respect, because the regulations in a way, have
9 been left behind by the new philosophy on how to
10 handle our children and take care of our children in
11 these institutions. Accordingly, the Zoning
12 Administrator was in a difficult position to
13 establish under which compartment of the zoning
14 regulations they would put this case in front of
15 you. That has created a series of questions not
16 only perhaps for a couple of Board members and from
17 the community.

18 Unfortunately, we are not the Zoning
19 Administrator so we can not explain the rationale
20 for doing that. But with the Head Start programs,
21 which it goes to a more holistic approach to child
22 development centers and the health, not only
23 physically but mentally of children, a child
24 development center has a -- beyond, as I perceive,
25 to have the regulations define a child development
26 center. And that's where we're coming. It's

1 nothing directed to this case. It was since if
2 there is a member of the Zoning Commission, I wanted
3 to bring that to your attention so you'd take it
4 into consideration and do as you believe would be
5 best for the city and the administer for the zoning
6 regulations.

7 MR. FRANKLIN: Yes.

8 Madam Chair, I don't want to belabor the
9 point. I just don't see it as having any particular
10 relevance to the policies as it relates to the
11 adverse impacts on the neighborhood. So, we'll let
12 it rest at that point.

13 CHAIRPERSON HINTON: Okay. Let's move
14 on.

15 Are there any other questions for OP?
16 No.

17 I had one question. I didn't notice
18 anywhere in the OP report that referenced the
19 central kitchen facility and the meals that would be
20 prepared and then delivered off-site. Did you
21 understand that that was part of the proposal and is
22 that taken into consideration in your assessment of
23 the impacts?

24 MS. BAILEY: You said delivery of meals
25 off-site? This is the first time I've heard that.
26 I mean, I'm sure there was testimony here, but I was

1 not privy to that prior to today.

2 CHAIRPERSON HINTON: Okay.

3 MS. BAILEY: I understand that there
4 would be a central kitchen but not delivery of meals
5 off-site.

6 MS. REID: I'd like to know where that -
7 - came from? Did you find it in your package?

8 CHAIRPERSON HINTON: I found it. Let me
9 find it again.

10 MS. REID: What tab is it under?

11 CHAIRPERSON HINTON: It's under the tab
12 that deals with financing.

13 MS. REID: What number?

14 CHAIRPERSON HINTON: I'm looking for it.

15 MS. BAILEY: I think it's Tab I.

16 CHAIRPERSON HINTON: Oh, and that's the
17 other thing that I was looking for.

18 MS. BAILEY: It's Tab I, the last page
19 under Tab I.

20 MR. BASTIDA: It's a document dated
21 March 5, 1997 from Norman M. Glasgow, Jr., if you
22 know him.

23 MS. REID: Not that one.

24 CHAIRPERSON HINTON: It's called
25 "Comprehensive Child and Family Development Center
26 Prospectus." And just to answer your question, Mr.

1 Franklin, I think part of the dilemma that we've
2 been seeing in recent cases is that sometimes
3 programs that are under a child care CFO expand into
4 doing training and counseling for adults. Once it
5 goes beyond child care, it no longer fits in the
6 definition of a child development center. If you
7 look under this Tab I, the first sheet, one of the
8 categories is social services. It talks about the
9 kinds of social services that this program offers.
10 And when you start talking about counseling and
11 crisis intervention and acting as advocates for
12 parents, you sort of may have gone beyond the
13 definition of a private school. You've certainly
14 gone beyond the definition of a child development
15 center because that can only, under the definition,
16 treat people under the age of I think it's 18.

17 MR. FRANKLIN: Well, as you know, Madam
18 Chair, there is no definition of private school in
19 the regulations.

20 CHAIRPERSON HINTON: Well, I do. I
21 agree. But I was just trying to help you understand
22 what part of the problem is. It's fitting --

23 MR. FRANKLIN: Well, I hear what you're
24 saying and I'd like to understand, and perhaps I'm a
25 slow learner, but I don't understand how any of this
26 necessarily relates to the degree to which there

1 will be adverse impacts on the surrounding
2 neighborhood. I mean, there will be, perhaps, more
3 trips generated but that's something we analyze in
4 our normal way of looking at these cases. The fact
5 that something is being done in a holistic way and
6 people are being taught something that is
7 unconventional or is not traditional, seems to me
8 not terribly relevant to -- You know, as long
9 as they are coming in as a private school, we'll
10 look at how many teachers there are, how many staff
11 people, how many students, how much coming and going
12 and the like. The fact that they are being taught
13 parenting skills and other things is part of the
14 curriculum.

15 CHAIRPERSON HINTON: Well, yes, I agree.
16 I think the effort is try to find out what is
17 happening so we can identify the number of trips.
18 That's really the only reason, just so we know what
19 the impact may be on the community.

20 That was my only question for the Office
21 of Planning. Let's see, we have cross examination
22 of OP starting with the applicant.

23 MR. GLASGOW: No cross examination.

24 CHAIRPERSON HINTON: None.

25 And the parties, Mr. Eshelman? No.

26 Mr. Parks?

1 MR. PARKS: No, I do not have anymore.

2 CHAIRPERSON HINTON: Okay. The ANC is
3 next. This is the point in the hearing where the
4 ANC gets to make their case.

5 MR. BOWSER: My name is Commissioner
6 Joseph Bowser. I'm Chairperson of the ANC-5A.
7 Myself and Commissioner Parks will be testifying in
8 this case today.

9 My first concern is the application
10 itself, when they talked about the total of 300, 150
11 students and 150 private staff or whatever. I think
12 in the testimony here, I think we all are wondering
13 what, really, is this facility going to be? When
14 you talk about you're going to downgrade to 40 or 50
15 and you have a facility that can handle 300 and some
16 students or more, I have to question what will
17 happen later on down the line.

18 So, I think that these changes have been
19 made to try to pretend that they're going to meet
20 the needs of what the community or somebody else
21 wants. I really don't think that that's the real
22 rationale. I think even with the drawings that they
23 presented, everybody is confused. I sat down and
24 talked with them before they got to this Board and
25 told them to give us some good drawings that
26 everybody could see and understand. We have no idea

1 it was clear that a traffic study was not submitted.
2 ANC-58 did a traffic study and it is part of the
3 record. It's part of -- in our proposal, and we did
4 it on the 10th of March. It talks about the areas
5 that were talked about, Varnum Street. We're
6 talking about Varnum Street. There's 500 and some
7 cars going in and out. There's 600 going in.
8 There's 624 going out. Tenth and Varnum that was
9 talked about, there's 1,655 cars that come out and
10 966 that's going out in another area. This was a
11 ten hour study, so this means that this is --
12 traffic going in and out all day long, going back to
13 those facilities.

14 When you get up at the other end of
15 Varnum Street where you talk about Eighth Street,
16 that's a cul-de-sac. Some of these 500 and some
17 cars are going to those other buildings. You can't
18 turn around in it. If you look on our report, it
19 states that a truck came in there for 15 minutes and
20 blocked the traffic. So, that was a 15 minute
21 traffic -- because it couldn't turn around, it had
22 the whole community upset because -- move their car
23 so they could get in and out of this community.

24 So, I want to talk to Mr. Franklin. If
25 you're talking something that is acceptable to the
26 community, that the regulations say that you must

1 consider and that you must give great weight to.
2 These figures represent a strong objection to the
3 community. If you put one more traffic car in
4 there, that's too much coming in and out of Fifth
5 Street.

6 Now, we also talked about the Police and
7 Fire Clinic that's going to bring in additional
8 concerns. It should be in the back of the ANC
9 report, back there. Yes, R. It should look like
10 this. That's going to bring some additional traffic
11 in and that's going to be a 16 hour impact to
12 traffic in that community. The most likeable way --
13 patterns of how people travel that they're going to
14 travel, it's going to be Varnum Street because
15 there's stop signs and no lights. That's subject to
16 travelling Twelfth Street coming in in that exit.
17 It's the closest exit to that. So, they tell me
18 that this is what we need to consider are these
19 things that gives a direct impact on that community.

20 That street that they're talking about
21 going in and out where they want to put off-street
22 parking at, that's only an easement now. That has
23 trees in it. They'll have to tear the trees down to
24 grade some off-street parking. I don't understand
25 how Planning or anything could sit down and support
26 a project like that that nobody in here, not even

1 Zoning and Planning as they talked about,
2 understands what's going on. They haven't clearly
3 given to the community, to the ANC -- they were
4 asked up front to do that. You can put all those
5 maps up there. You can talk all you want. Nobody
6 knows what that -- building is going to look like or
7 what they're going to do with it. It wasn't put in
8 the record, but that part of the building that's on
9 somebody else's property -- and all this stuff on
10 somebody else's property, it's very important to
11 what's going to happen.

12 You can't tell me down the line -- and
13 what has happened in that whole area because I live
14 in that area. I'm very familiar with that area.
15 Even with the Providence Hospital area, as you begin
16 to add on, and add on, and add on, it brings
17 additional traffic in it. It causes an adverse
18 effect on any community. And as we all know,
19 traffic causes the worst impact. It causes on the
20 streets, on safety. And when you talk about when
21 you bring in other people, in fact, crime and all
22 increases. People walk and they do break in cars.
23 They do other things. You can not convince me --
24 and I'm a 30 year resident in that area right on the
25 back -- I live on the back of Buchanon Street the
26 lady was talking, so I know every building and every

1 rock that's been coming up in that area, what the
2 effect on traffic --

3 The reason why Providence Hospital is
4 turned around the way it is is because my diligence
5 in talking about the traffic on Buchanon Street.
6 They were going to exit and enter on Buchanon Street
7 and they knew the community wouldn't accept that.
8 So, they turned it around another way to do this.
9 We can not afford to have not one more traffic in
10 that area. Those people on Varnum Street
11 particularly, have been done a disservice in all
12 these many years to have all that traffic coming up
13 there.

14 If you look at this traffic study that
15 we did, that was a ten hour traffic study. It was
16 done by an official means of Public Works, which was
17 stated in here. He used the Department of Public
18 Works' figures and he had no idea what figures he
19 used. But you can -- they're incorrect. They're
20 not true and they do not represent what's going on
21 in this area. This is what the regulations say. If
22 it has an adverse effect upon the community and this
23 sure impacts upon the community very adversely, very
24 adversely.

25 That's all I have.

26 CHAIRPERSON HINTON: Mr. Parks?

1 MR. PARKS: Yes, I just want to give my
2 statement. I guess Commissioner Chairman Bowser
3 pretty well summed it up. But I'll speak in
4 reference to the traffic reports that was done by
5 the Department of Public Works on the 10th of March.

6 It is a great impact of traffic in that
7 area. Within a five to six block radius of Brady
8 Hall, there is residential parking to our limit
9 because of the influx of traffic. You have Vincent
10 Building that's located at 817 Varnum Street. That
11 has a parking capacity of 88 parking spaces. You
12 have Carroll Manor that has also a parking space of
13 at least -- about 80 parking spaces on that lot for
14 Carroll Manor. Providence parking lot itself is
15 spilling over on to the street because they can no
16 longer handle the influx of traffic that's coming
17 into that facility. If I'm not mistaken, their
18 parking capacity for Providence is approximately
19 2,500. Not bearing the traffic that goes into the
20 Association of Retarded Citizens on Varnum Street,
21 900 Varnum.

22 And with the addition with the Police
23 and Fire Clinic coming in at 920 Varnum Street right
24 at the intersection, that really is going to have a
25 real burden with the added traffic. Because on any
26 given day, there's anywhere from five to maybe

1 approximately 800 officers that visit that clinic
2 over in Blue Plains right now. So, that traffic
3 will right now -- even with Providence scheduling
4 their appointments on an hourly basis, those
5 vehicles and those officers and firemen and
6 corrections officers are coming to that facility,
7 along with Secret Service is going to have a lot of
8 impact on the parking. Providence can not maintain
9 the parking that they have right now.

10 CHAIRPERSON HINTON: Okay. We've had --

11 MR. PARKS: So, you know, like I said,
12 on the north side of Varnum Street, there is no
13 parking at all. The street is really not that wide.
14 On any given day when two cars are passing, they are
15 fairly close to one another.

16 CHAIRPERSON HINTON: Okay. So, we've
17 had a lot of testimony about traffic from the other
18 Commissioner. Are there any other issues that you'd
19 want to testify to?

20 I asked a question. Are there any
21 other--

22 MR. BOWSER: Yes, I have one other one.

23 CHAIRPERSON HINTON: Mr. Parks, did you
24 have any other issues you wanted to testify to?

25 MR. PARKS: Yes.

26 In reference to Providence, the hall

1 foundation, it is my understanding that the National
2 Child Day Care Association, when we first met with
3 them, they didn't make us aware of all these
4 documents. With just a little investigative work,
5 uncovered these documents. I'm assuming that a
6 Providence letter here to Wilkes, Artis law firm,
7 DePaul owns Brady Hall located at 44 -- well, it's
8 in your package, Exhibit 5, which is --

9 The DePaul Foundation, owners of Brady
10 Hall, is requesting the zoning approval is
11 requesting the zoning approval so that the sale of
12 the property can be completed.

13 MS. REID: Excuse me. -- the sections
14 are alphabetized. We don't have a Section 5.

15 MR. PARKS: We have Exhibit K --

16 MR. BOWSER: I think simply what that is
17 saying is that that agreement doesn't necessarily
18 say that the DePaul Foundation is agreeing with this
19 purchase. It depends on whether you approve this or
20 not. What we're asking is that you don't approve
21 this application, assuming that the DePaul
22 Foundation has already agreed to sell this property
23 to the child development center because this clearly
24 states that that's not the case.

25 CHAIRPERSON HINTON: Okay.

26 MR. BOWSER: So, we want to clear that

1 up.

2 CHAIRPERSON HINTON: Okay, we have that.
3 Anything else?

4 MR. BOWSER: That's it.

5 CHAIRPERSON HINTON: Mr. Parks, is that
6 all?

7 MR. PARKS: That's it.

8 CHAIRPERSON HINTON: Okay. Could you
9 stay at the table for a moment because we need to
10 give the parties an opportunity to cross examine.

11 Applicant, do you have any cross
12 examination?

13 MR. GLASGOW: I have one question for
14 Mr. Bowser. The report, the traffic report, are you
15 submitting that as a study, an official report, from
16 the Department of Public Works on this case?

17 MR. BOWSER: They took the case, yes.
18 They took the report. They did the study. Yes, I
19 am.

20 MR. GLASGOW: Then I'm going to have the
21 Board request whether or not that that is -- check
22 the record and check with the Office of Planning
23 because their report says there is no DPW report in
24 this case.

25 MR. BOWSER: All they had to do was read
26 my report and they would have seen that it was in

1 there. I submitted my report at the time --

2 MS. BAILEY: We don't have an official
3 report from the Department of Public Works.

4 CHAIRPERSON HINTON: Nor does the Board.
5 The Board hasn't received anything from DPW. The
6 traffic study that was attached to the ANC report
7 looks like this. At the bottom, it says "done by
8 DPW on March 10th", but there's no DPW letterhead.
9 This is no transmitted to the Board from DPW.

10 MR. GLASGOW: That's all I wanted to
11 clarify.

12 CHAIRPERSON HINTON: You wanted to make
13 that clear for the record.

14 MR. GLASGOW: All right.

15 CHAIRPERSON HINTON: Sure.

16 MR. BOWSER: Could we get them to submit
17 something with their letterhead?

18 CHAIRPERSON HINTON: We'll see --

19 MR. BOWSER: I didn't know that was
20 required.

21 CHAIRPERSON HINTON: Well, they know
22 it's required because they were asked to submit and
23 they didn't. If we don't decide today, we might
24 leave the record open for them to submit.

25 MR. GLASGOW: I have no further
26 questions.

1 CHAIRPERSON HINTON: Okay.

2 Mr. Eshelman, do you have any questions?
3 Okay.

4 The Office of Planning -- we have a
5 party in opposition so you are next.

6 Thank you. You gentlemen are done.

7 Actually, we just passed our 6:00 so I
8 need to make an assessment of time.

9 Mr. Eshelman, how long do you expect --

10 MR. ESHELMAN: Fairly short. Not an
11 hour half-an-hour, 20 minutes.

12 CHAIRPERSON HINTON: Twenty minutes?

13 MR. ESHELMAN: Fifteen minutes.

14 CHAIRPERSON HINTON: Fifteen minutes?

15 MR. ESHELMAN: Sure. I like 15. I like
16 that.

17 CHAIRPERSON HINTON: I think 15 is fair,
18 given that the applicant had an hour. So, let's try
19 to keep it 15 or shorter.

20 MS. RICHARDS: Could you also ascertain
21 how many individual persons, not parties, will be
22 testifying?

23 CHAIRPERSON HINTON: How many persons,
24 either in support of opposition -- oh, wait a
25 minute. Should we have done persons
26 in support first?

1 MS. RICHARDS: No, they come after.

2 MR. LYONS: No, they follow the ANC.

3 CHAIRPERSON HINTON: After parties,
4 okay.

5 How many persons are going to want to
6 testify? One? No one else? If you're going to
7 want to testify, raise your hand? If you're going
8 to want to talk to us, raise your hand? One, two
9 three, anybody else?

10 MS. RICHARDS: There's a fourth one
11 there. Could everyone raise their hands up high and
12 keep them high?

13 CHAIRPERSON HINTON: Stand up if you
14 want to talk to us. Five, is that everybody? Okay,
15 and we'll probably limit that testimony to about two
16 to three minutes per person. So, we're looking at
17 half-and-hour.

18 MS. RICHARDS: Okay.

19 CHAIRPERSON HINTON: Okay. Mr.
20 Eshelman?

21 MR. ESHELMAN: Fair enough. Thank you,
22 Madam Chairman. I appreciate it.

23 CHAIRPERSON HINTON: Thank you.

24 MR. ESHELMAN: I think if there is
25 anything that characterizes this application here,
26 it is that we have a significant number of loose

1 ends. I submit to you that the number of loose ends
2 would argue against any kind of a definitive
3 favorable resolution at this time on this
4 application.

5 Just to start out with, I would like to
6 use as a template, the concerns that the Institute
7 of Our Lady of Mount Carmel expressed in our
8 correspondence to you on Monday. Those were
9 basically four. One was the necessity for
10 additional day care right here -- on our facility.
11 Now, we've heard a lot of good words here today
12 about increasing requirements for day care because
13 of various legislation that has been promulgated by
14 the last Congress, regulations, et cetera. I would
15 submit --

16 CHAIRPERSON HINTON: Could you hold just
17 a minute?

18 We have a what?

19 MR. GLASGOW: Point of clarification,
20 Madam Chair. Is the attorney testifying as a
21 witness, or is he presenting a closing statement
22 here?

23 MR. ESHELMAN: I'm just testifying.

24 MR. GLASGOW: No, no, no.

25 MR. ESHELMAN: On behalf of Our Lady of
26 Mount Carmel.

1 CHAIRPERSON HINTON: Okay. The attorney
2 can not testify. You can do sort of a summary
3 statement in the beginning but in order for the
4 facts, you have to present --

5 MR. ESHELMAN: All right. Then I'll
6 touch on it and then I'll present the Superior here
7 as a witness.

8 CHAIRPERSON HINTON: Witnesses, very
9 good.

10 MR. ESHELMAN: Okay. I'm trying to
11 truncate this thing here for us.

12 We don't think that the best interest of
13 the community is going to be served by putting us
14 out of business. That's our concern. We've
15 provided day care here for some time and we've done
16 it as a non-subsidized entity. We're a community of
17 mendicants which means we basically live on what we
18 beg and what's given to us. We receive no federal,
19 state, local, any other kind of money. And so, we
20 have a concern here that this is something that
21 we've been doing and that this is going to cause
22 trouble for us in terms of our ability to continue
23 to provide this service to this community. Sister
24 Lelia will tell you about that.

25 The concern is that there's never been
26 anything shown to us that would demonstrate why this

1 wouldn't be detrimental to us. Also, we are
2 concerned about the safety of our children. We're
3 concerned about the safety of our children because
4 of increased traffic, which is another issue that we
5 raised here. Traffic that's going to be increased
6 by a clinic which we have asked and we'll have
7 testimony here to indicate that we don't understand
8 why there has to be a clinic right here hard on one
9 of the premier medical facilities in the city. Why
10 duplicate facilities and increase traffic in an
11 already congested area without some kind of an
12 analysis of it? And we haven't seen anything to
13 indicate that there has been such an analysis. We
14 may be wrong about that, but I haven't seen it and
15 we haven't heard it here either.

16 Also, we're concerned about the fact
17 that because of the lack of definition in the way
18 that this is going to be approached, that they will
19 not be able to complete this project. Now, we have
20 a vacant building that already, we've had testimony,
21 we've got rodent infestations in it. It's a
22 problem. It's a magnet for all kinds of vandalism,
23 et cetera, in the area. But if we get into it and
24 we start construction, and because there's a title
25 problem which I don't think has been cleared up on
26 the record -- and admittedly, it's not the job of

1 this Board to decide that. But if there is one and
2 something happens and we start work and we can't
3 complete it, we're going to be left worse off than
4 when we began this exercise.

5 So, those are basically our concerns
6 with the thing. What I'll do now is, I would like
7 to ask Mrs. Chestnut to testify.

8 MRS. CHESTNUT: Hello, my name is Sheila
9 Chestnut. I am a parent of a child that attends the
10 day care that is presently there which is called
11 Scrilli School.

12 I am concerned because in the summertime
13 when the kids are out on the playground, the parents
14 park on the service road which is the property of
15 the Sisters. I feel that the congestion of other
16 parents that's going to pick up their children is
17 going to endanger the safety of the children, the
18 parents that come there. All types of accidents
19 are prone to happen at that location.

20 I am very concerned. I live in that
21 community and I don't see a need for another day
22 care center. We have one that services the
23 neighborhood now. We also have on the other side a
24 day care. We have elementary schools in that
25 facility. I also want to point out to the Board
26 that basically, that community is senior citizens.

1 There are not a lot of little kids in that
2 community. There are some. I'm not saying there
3 aren't any, but that area doesn't need that many day
4 care facilities.

5 They have schools -- they have Bunker
6 Hill Elementary School, you can send your child int
7 here when they're four. You have other schools
8 around that area that also allow kids to come in
9 early. I believe it's Brookland Elementary School.
10 They have a program there. So, I don't see a need
11 for another one and my concern is the safety for my
12 child and the safety for the community.

13 I witnessed an accident there the other
14 day. The lady had a seizure. Traffic could not get
15 past -- they couldn't even get to Eighth and Varnum
16 Street because the fire truck was right there. The
17 traffic had to turn around, detour and go through
18 Carroll Manor to get to the building they needed to
19 get there. So, if the accident is there, people can
20 not get to their destination. I know for a fact
21 because I have someone at Carroll Manor. I use
22 Eighth Street to get to Carroll Manor. I don't use
23 Providence Hospital parking lot to get to Carroll
24 Manor. The majority of people going to Carroll
25 Manor use Eighth Street.

26 CHAIRPERSON HINTON: Okay, thank you.

1 Do you have other witnesses? Any
2 witnesses, could they come up to the table? Is this
3 the only other one?

4 SISTER SARAFINA: My name is Sister
5 Sarafina. I am a member of the Institute of Our
6 Lady of Mount Carmel.

7 MR. ESHELMAN: What is your position at
8 the Institute, Sister?

9 SISTER SARAFINA: Sir?

10 MR. ESHELMAN: What is your position?

11 SISTER SARAFINA: I opened the school,
12 okay? So, we are very concerned about what they
13 want to do. We see many problems for the future.
14 We are concerned for our safety of our children and
15 our parents because there will be a lot of traffic
16 and a lot of accidents. We worry about it so much.
17 We can not -- we can not be responsible for the
18 damage can be to the people to the neighborhood, to
19 our children and to our parents.

20 So, we oppose this private school and
21 the child development -- what they want to do.

22 MR. ESHELMAN: What about building a
23 child development center next to your child day care
24 center. What is your view on that, having the child
25 care center right next door to your --

26 SISTER SARAFINA: Against.

1 MR. ESHELMAN: Why?

2 SISTER SARAFINA: Because we don't work
3 for business. We work just to live. We have not
4 profit above anything from the school. We just work
5 all day long. We do good to the children and we
6 help their parents -- some problems. We love the
7 children. We do our best. All the sisters work in
8 their own best ability. We feel we would be
9 destroyed. We feel we will lose everything -- other
10 -- to leave. That's my feeling.

11 MR. ESHELMAN: Has anyone ever told you
12 or shown you that there is a need for more day care
13 than you're able to provide?

14 SISTER SARAFINA: No.

15 MR. ESHELMAN: How long is your waiting
16 list at the Scrolli School?

17 SISTER SARAFINA: We don't have a
18 waiting list because we have enough children
19 according to the permit -- so we don't keep people
20 on a waiting list.

21 MR. ESHELMAN: Are you subsidized by a
22 state government?

23 SISTER SARAFINA: Nothing.

24 MR. ESHELMAN: By a private foundation?

25 SISTER SARAFINA: No, nothing.

26 MR. ESHELMAN: By the federal

1 government?

2 SISTER SARAFINA: No, not one penny.
3 Nothing at all. Nothing.

4 MR. ESHELMAN: When a child is ill at
5 your center, where do you take the child for medical
6 care?

7 SISTER SARAFINA: We have permission
8 from the parents -- they give us permission -- first
9 of all, we call them right away, the parents. If it
10 is an emergency, we call Providence Hospital.

11 MR. ESHELMAN: Okay.

12 SISTER SARAFINA: You know, we can walk
13 there.

14 MR. ESHELMAN: Has there ever been an
15 instance or a time when Providence Hospital was
16 unable to handle whatever the problem was that arose
17 with the child?

18 SISTER SARAFINA: No. No.

19 MR. ESHELMAN: That's all. Thank you,
20 Sister.

21 SISTER SARAFINA: Okay, thank you.

22 CHAIRPERSON HINTON: We have a couple of
23 questions. I have two questions. What age children
24 does your community serve?

25 SISTER SARAFINA: I can not hear her.
26 The age from 2½ up to 5.

1 CHAIRPERSON HINTON: You have an outside
2 play area for children?

3 SISTER SARAFINA: Yes, we have a
4 playground, lots of space, yes.

5 CHAIRPERSON HINTON: When your children
6 are outside, does the staff watch them and make sure
7 that they don't run out into the street or get lost?

8 SISTER SARAFINA: Oh, yes. All the
9 sisters -- there's a fence all around the playground
10 and always there are four or five sisters watching
11 the children. Oh, yes.

12 CHAIRPERSON HINTON: Okay. So, a child
13 development center on the property next to you, how
14 would that endanger the safety of those children?

15 MR. ESHELMAN: Her concern is the
16 increased population next door. How would the child
17 day care center effect the safety of your children?

18 SISTER SARAFINA: We don't know what's
19 happening. We don't know. They don't have any
20 space at all for the children to play outside, no
21 space. I know the children must have certain space
22 even outside on the playground. It's a children
23 law. Wherever you go, they will set the space for
24 each child. Where do they put all these children
25 outside? I don't understand that. I think all the
26 time, where?

1 MR. ESHELMAN: You mean anywhere on the
2 lot?

3 SISTER SARAFINA: No, the --

4 CHAIRPERSON HINTON: Well, my question
5 is, how will that endanger the safety of the
6 children that you care for?

7 SISTER SARAFINA: Specifically, it is
8 because of too much traffic. We have a road there.
9 They want to make the parking, it's impossible.
10 First of all, it is our property and they can not
11 cut through our property.

12 CHAIRPERSON HINTON: So, it's the safety
13 of the children when they're coming and going from
14 your facility, but not while they're under your
15 care?

16 MR. ESHELMAN: She says the safety when
17 they're coming and going, not while they are on the
18 facility.

19 SISTER SARAFINA: Yes, right. Yes.

20 MR. ESHELMAN: That's correct, Madam
21 Chair.

22 CHAIRPERSON HINTON: Ms. Reid, did you
23 have a question?

24 MS. REID: Yes. I'd like to know how
25 close exactly is your school to the proposed school
26 of the applicant? What is the proximity?

1 MR. ESHELMAN: She needs to know what's
2 the distance between Brady Hall and our school?

3 SISTER SARAFINA: Well, I never measured
4 it, but it's not much.

5 MS. REID: Approximately?

6 SISTER SARAFINA: Twenty feet. Twenty
7 feet, about.

8 MS. REID: Twenty feet.

9 SISTER SARAFINA: It's not much.

10 MS. REID: Also, what is the name of
11 your school?

12 MR. ESHELMAN: The name of the school?

13 SISTER SARAFINA: Scilli School.

14 CHAIRPERSON HINTON: You can't testify
15 from the audience, please.

16 SISTER SARAFINA: It's called Scilli
17 School. Scilli is the name of our foundress.

18 MS. REID: Scilli School?

19 MR. ESHELMAN: Scilli.

20 MS. REID: Okay, is your school --

21 SISTER SARAFINA: S-C-R-I-L-L-I.

22 MS. REID: Okay. Is your school a day
23 care center or is it a child development center?

24 SISTER SARAFINA: It is a private.

25 MR. ESHELMAN: Is it a day care center
26 or a child development center or both?

1 SISTER SARAFINA: It's a day care. The
2 teacher teaches the children.

3 MR. ESHELMAN: What does the teacher
4 teach?

5 CHAIRPERSON HINTON: Okay, either you
6 know or you don't know.

7 MR. ESHELMAN: She knows. She's just
8 having trouble understanding. My Italian is not
9 real good.

10 What do you do at the day care center?
11 Tell them what you do there.

12 SISTER SARAFINA: Well, I am not a
13 teacher. I -- but Sister Freda is a good teacher,
14 okay. She can answer all the programs she has, all
15 right?

16 CHAIRPERSON HINTON: Okay.

17 MS. REID: My last question is in regard
18 to your day care center, is it a Catholic day care
19 center? So the instruction and everything is
20 oriented toward the Catholic religion or not? The
21 reason why I'm asking is because I know that some
22 people like to send their children to Catholic
23 schools for the education that they receive there.
24 I'm just trying to draw the difference between your
25 school and what the applicant is going to be doing.
26 There's a difference in the type of education that

1 one obtains from the Catholic school than from one
2 who's non-religion.

3 MR. ESHELMAN: I understand.

4 Ms. Reid, I'll present Sister Freda who
5 will describe for the Board in more detail, what it
6 is exactly that they do since she runs that program,
7 the educational aspect of it which goes more to your
8 question.

9 I presented Sister Sarafina here because
10 (a) her English is better and she's like the number
11 two in the organization there. If you have no other
12 questions for her, I'll present Sister --

13 MS. REID: Well, just basically not to
14 prolong this, I was trying to get an idea as to the
15 difference in the two schools and the apparent
16 threat that Sister has for this new day care center
17 to see if whether or not the children who come to
18 her would still come to her because of who she is
19 and whether or not that would make any difference as
20 far as the day care center that is being proposed.
21 It would be the type of people who may --

22 MR. ESHELMAN: Different.

23 MS. REID: -- different, who may not
24 want to necessarily go to a Catholic school. That's
25 basically what I was asking. As far as the
26 education is concerned, I mean, other than the fact

1 that it's a Catholic school, I am sure that the
2 curriculum and a program where the children are
3 learning and developing. Even though it's called a
4 day care, I was just informed by the Chairwoman that
5 day care and child development are one in the same.
6 Wherein, to some people day care means simply where
7 a child is being taken care of, a more sophisticated
8 babysitting service, and child development is a more
9 sophisticated program, a curriculum where the
10 children are actually engaged in learning activities
11 throughout the day. Or a combination of learning
12 and recreational or physical activities during the
13 day.

14 I'm clear now, so we can just move on to
15 the next.

16 SISTER SARAFINA: They have a program.
17 They have music activity. They have a art. They
18 teach them to write their name. Not -- babysitting,
19 no. We are not, no. The sisters don't do that.

20 MS. REID: Thank you. I thank you for
21 clarifying that for me.

22 CHAIRPERSON HINTON: Okay.

23 MS. RICHARDS: I have one quick
24 question. In view of your competition testimony,
25 what's the fee to attend your school? How much does
26 it cost?

1 SISTER SARAFINA: How much do they pay,
2 the tuition?

3 MR. ESHELMAN: Yes, how much tuition?

4 SISTER SARAFINA: Very minimum.

5 MR. ESHELMAN: How much is that?

6 SISTER SARAFINA: \$208.00 a month.

7 MS. RICHARDS: \$208.00 or \$280.00?

8 SISTER SARAFINA: Month.

9 MR. ESHELMAN: \$208.00.

10 MS. RICHARDS: \$208.00 a month?

11 MR. ESHELMAN: \$280.00. \$280.00.

12 MS. RICHARDS: \$280.00, what, per month,
13 per child?

14 MR. ESHELMAN: Correct.

15 MS. RICHARDS: Thank you.

16 Do most of your children come from the
17 immediate neighborhood?

18 MR. ESHELMAN: Where do they come from?
19 Are they from the neighborhood?

20 SISTER SARAFINA: They come all over the
21 place. It's a different.

22 MS. RICHARDS: All over the city?

23 SISTER SARAFINA: Near and far, you
24 know.

25 MS. RICHARDS: From all over the --

26 SISTER SARAFINA: Mostly some of them

1 because their parents work in the hospital and they
2 bring the children to us.

3 MS. RICHARDS: All right. So, you're
4 not drawing solely from Ward 5?

5 SISTER SARAFINA: Yes. We have them
6 from all over the place.

7 MS. RICHARDS: Thank you.

8 SISTER SARAFINA: You're welcome.

9 MR. FRANKLIN: I have a question. Do
10 you know what the tuition will be at the proposed
11 school?

12 MR. ESHELMAN: Do we know what the
13 tuition will be at the proposed school? The one
14 they want to put in Brady Hall.

15 SISTER SARAFINA: I don't know.

16 MR. ESHELMAN: No.

17 SISTER SARAFINA: I don't know.

18 MR. FRANKLIN: So, how can you come to a
19 conclusion that will undercut your population?
20 First of all, I'm not sure that this Board looks at
21 competitive situations. Our regulations don't tell
22 us that we should construe something that was
23 competitive as necessarily an adverse impact.

24 But for the moment, putting that aside,
25 your position, Mr. Eshelman, is that one of the
26 reasons we should turn down this application is that

1 it has a competitive adverse impact on the Scilli
2 School. I'm asking now how you can come to that
3 conclusion without doing an analysis of what the
4 comparative tuition is, among other things?

5 MR. ESHELMAN: Subsidy. Subsidy.

6 MR. FRANKLIN: Well, what is the
7 comparative tuition?

8 MR. ESHELMAN: Just the bare fact, Mr.
9 Franklin, of subsidy, bearing no relationship to the
10 market.

11 At this point I think, really, from our
12 standpoint it depends on what the status is going to
13 be of the programs that the day care center in Brady
14 Hall is going to be participating in.

15 MR. FRANKLIN: Well, the Scilli School
16 is not market driven. We were just told that a few
17 minutes ago.

18 MR. ESHELMAN: That's correct. That's
19 correct.

20 MR. FRANKLIN: And you're saying that
21 the other school is not market driven.

22 MR. ESHELMAN: That's correct.

23 MR. FRANKLIN: So, aren't they the same?

24 MR. ESHELMAN: But they can operate
25 below cost because they have sources of funds other
26 than their students.

1 MR. FRANKLIN: Well, what are the costs
2 at the Scilli School in terms of -- are the
3 salaries paid to the sisters at all comparable to
4 what would be paid in another school?

5 MR. ESHELMAN: \$15.00, \$20.00 a month,
6 food, and housing, I think.

7 MR. FRANKLIN: That doesn't sound to me
8 like it's market driven.

9 MR. ESHELMAN: It's very austere.

10 MR. FRANKLIN: It's very austere, right.

11 MR. ESHELMAN: Yes.

12 MR. FRANKLIN: So, if possible -- I'm
13 just speculating --

14 MR. ESHELMAN: I understand.

15 MR. FRANKLIN: -- on the basis of the
16 facts before us, we're dealing with two institutions
17 that are both not market driven.

18 MR. ESHELMAN: Yes, but with a mandate -
19 - well, there's been a lot of language about we want
20 to increase day care availability, quality day care.
21 There's a big need and so forth.

22 MR. FRANKLIN: Sure.

23 MR. ESHELMAN: I'm merely putting this
24 out as a concern, not necessarily an objection. But
25 as a concern because the effect of this may very
26 well be to cause a reduction in day care to the

1 extent of the children that we service on account of
2 the fact that we are not subsidized, we're operating
3 literally on a shoe string and hand-to-mouth,
4 without any government to back us up or any federal
5 programs, or any endowments of any sort.

6 MR. FRANKLIN: I understand.

7 MR. ESHELMAN: That's really our only
8 concern, not --

9 MR. FRANKLIN: But the tuition that is
10 charged is probably -- I don't know anything about
11 the level of tuitions in this field. I'm beyond
12 that stage. But it seems to me that level of
13 tuition is not comparable to what a market driven or
14 profit oriented child development --

15 MR. ESHELMAN: That's correct.

16 MR. FRANKLIN: -- center would charge.
17 There are a lot of child development centers that
18 are related to government agencies. In fact, when I
19 think of it, they charge a great deal more than
20 \$280.00 a month.

21 MR. ESHELMAN: More like \$200.00 a week.

22 MR. FRANKLIN: Yes.

23 MR. ESHELMAN: But that's just our
24 concern.

25 CHAIRPERSON HINTON: Okay. Where are
26 we?

1 MR. ESHELMAN: Okay, Sister Freda.

2 CHAIRPERSON HINTON: Well, I think we've
3 covered that. We've been satisfied.

4 MR. ESHELMAN: Okay. Okay.

5 Then I think we're pretty much complete.

6 CHAIRPERSON HINTON: Okay.

7 MR. ESHELMAN: So, cross examination.

8 CHAIRPERSON HINTON: Yes.

9 Does the applicant have cross
10 examination?

11 MR. GLASGOW: No cross. I think we can
12 cover the point in the closing argument.

13 CHAIRPERSON HINTON: Very good.

14 Mr. Parks, any cross?

15 MR. PARKS: No, I have a statement.

16 CHAIRPERSON HINTON: Okay, no statement.

17 We are going to move on to persons in
18 support. We're done with this party.

19 Persons in support. Everyone who thinks
20 this is a great idea come up to the table.

21 MS. RICHARDS: There was a young mother
22 who was here. Has she left?

23 PARTICIPANT: She had to leave.

24 MS. RICHARDS: All right.

25 CHAIRPERSON HINTON: Your name and home
26 address for the record, and then please give your

1 testimony.

2 MR. COOK: My name is Edward F. Cook.
3 I'm the senior vice president at Providence
4 Hospital. My home address is 274 Thorbridge Court,
5 Severna Park, Maryland.

6 My statement starts good afternoon, but
7 we'll start it good evening. Members of the Board
8 of Zoning Adjustment, as the senior vice president
9 of Providence Hospital and DePaul Foundation, we are
10 the current owners of the subject property known as
11 Brady Hall. We have advertised the sale of this
12 property for approximately the last six years with
13 the hope of attracting a use for the site which
14 would be capable of renovating this handsome
15 building as well as being compatible with the land
16 use in the area.

17 The marketing of this property has been
18 complicated given the size of the building, the
19 physical condition of the property and the
20 restrictive nature of the R-5-A zoning. As stated
21 previously, the building has been vacant for many
22 years and requires a significant economic investment
23 simply to make it usable. All of the building
24 systems are dysfunctional and will have to be
25 completely upgraded. Despite the best efforts of
26 Providence and DePaul Foundation to secure the

1 building, it has been vandalized and does not
2 presently contribute anything positively to the
3 community's image.

4 When the National Child Day Care
5 Association approached us and was identified as a
6 potential purchaser of the property, we at
7 Providence and the Foundation felt strongly that the
8 proposed use would be an excellent fit, not only for
9 the building but for the community as well. The
10 Brady Hall site is located on the fringe of a
11 residential community adjacent to several
12 institutional uses, including the Association for
13 Retarded Citizens, Carroll Manor Nursing Home which
14 is owned by Providence, the Vincent Professional
15 Building, and the Carmelites Day Care Center. All
16 of these uses are tucked away in a quiet park-like
17 enclave accessed by this private roadway we've heard
18 so much about.

19 The use of Brady Hall site by the
20 National Child Day Care Association as a child
21 development center and a private school for parents
22 will be consistent with the institutional uses of
23 other area properties. As explained in the BZA
24 application itself, National Child Day Care
25 Association has a long and distinguished history of
26 providing comprehensive services for families.

1 Providence Hospital experiences on a daily basis the
2 social, economic and health care challenges that
3 impact families in today's society. Clearly,
4 National Child Day Care is in the business of
5 helping to strengthen families, particularly those
6 families who are most at risk and who are, perhaps,
7 for the first time in their lives, taking steps
8 towards a life without welfare.

9 The Advisory Neighborhood Commission has
10 expressed its concern that the proposed child
11 development center and private school will upset the
12 sanctity of the neighborhood. To these concerns I
13 would point out that Providence Hospital's
14 admissions policies do not discriminate against
15 patients from outside Ward 5. We receive and treat
16 daily persons from all walks of life and from all of
17 the city's wards.

18 The ANC has also expressed their desire
19 that we raze the existing structure and convert this
20 lot to a public park. Unfortunately, due to the
21 outstanding mortgage of approximately \$450,000 on
22 the property, this would not seem to be a prudent
23 use of hospital funds. With the advent of Welfare
24 Reform, it has become apparent that we all,
25 irrespective of political boundaries, must find
26 creative solutions to the problems which have

1 permeated our families.

2 One item that's not on my presentation,
3 but there is some question that was raised was
4 clinic space in the building. I know from another
5 source that basically, the clinic space that the
6 National Child Day Care Association is proposing,
7 they are actually negotiating with physicians, the
8 Gerald Family Practice Group that's in one of our
9 buildings at Providence, who is looking for
10 different space than we have available. They are
11 talking to them. We have no more spaces available
12 in our clinic buildings, so that is why Dr. Gerald
13 and his group is looking elsewhere for space.

14 In closing, I would just like to urge
15 the Board to approve the National Child Day Care
16 application as I feel it meets the special exception
17 criteria. Thank you for your time and
18 consideration. I'll gladly answer any questions.

19 CHAIRPERSON HINTON: Thank you.

20 Are there any questions, Board members?

21 MS. RICHARDS: Just one -- well, two, I
22 guess. How long have you had the building?

23 MR. COOK: We have had it on the market
24 for about six years. I don't know how long we've
25 actually owned it to be perfectly honest with you.
26 Probably eight or nine, maybe even longer.

1 MS. RICHARDS: Probably what? I didn't
2 hear you.

3 MR. COOK: Eight or nine. It might be
4 longer. I'm not 100 percent sure.

5 MS. RICHARDS: What had you expected to
6 do with it when you acquired it?

7 MR. COOK: I believe -- and there may be
8 some people in the room better to answer it than I.
9 I believe we used it for housing for some priests or
10 some seminarians at some point. To be quite honest
11 with you, when it was originally purchased and the
12 way the titles -- I don't know what was in anybody's
13 mind at that given point.

14 MS. RICHARDS: Thank you.

15 CHAIRPERSON HINTON: Mr. Franklin, did
16 you have a question?

17 MR. FRANKLIN: No. The clinic use is a
18 matter of right use, is that correct?

19 CHAIRPERSON HINTON: Great. Okay.

20 Questions from the applicant? No.

21 Do we do cross of witnesses? Do we?

22 No. Never mind.

23 Thank you.

24 Anyone else in support? Seeing none.

25 Persons in opposition? I think there
26 were three or four of you. Anyone that wants to

1 speak in opposition can come up to the table. Is
2 there anyone else? I see one person standing.
3 Anybody else? Nobody else. Okay.

4 MR. RANDOLPH: Good evening.

5 CHAIRPERSON HINTON: We need your name
6 and home address for the record.

7 MR. RANDOLPH: My name is Alphonso
8 Randolph. I live at 4312 Tenth Street, N.E.,
9 Washington, DC.

10 Okay, I've been living at 4312 Tenth
11 Street for 27 years. I have seen the neighborhood,
12 you know, come and go. As far as back on Varnum
13 Street where you're talking about this Brady House,
14 this building has been, I'd say vacant for 20 years.
15 So, for 20 years now, the kids used to go back
16 there. Catholic University used to have a -- back
17 there. Galludet used to have something in that
18 building. So, that's what I'm trying to say. But
19 the building has been vacant for 20 years.

20 All of a sudden, I can understand
21 Providence wanting to sell this. Sure, they'll sell
22 it to anybody, understand? But I don't see no point
23 in selling -- I don't have anything against child
24 care, not at all. We've got about three or four
25 child care in that neighborhood, Ward 5. We've got
26 enough, as far as that's concerned.

1 As far as this building, we don't need
2 another child care back there. As far as the
3 traffic that will occur back there. I can stand on
4 my porch and watch Tenth and Varnum. Now we've got
5 Police and Firemen Clinic is coming up in four
6 months. So, that's why I oppose it.

7 Any questions?

8 CHAIRPERSON HINTON: Thank you.

9 Any questions from the Board? No.
10 Okay, very good.

11 Anyone else in opposition? Is there
12 anyone else in opposition? Okay, this is the last
13 person then. If there's anyone else, stand up now.
14 Okay, this is the last person.

15 We need your name and home address for
16 the record.

17 MR. PRINCE: My name is Lonnie Prince.
18 I live at 1005 Urell Place, N.E.

19 Some of my objections have been spoken,
20 but I'd like to amplify them a bit. My concerns are
21 the parking, traffic, foot traffic. What benefit is
22 it for me? I get nothing out of it. What does it
23 improve? I don't see any improvement. It's all
24 negative. I don't see anything positive about it at
25 all.

26 There are day care centers, Tenth

1 Street, Twelfth Street, Michigan Avenue, all over in
2 that area. Most of the people on my block are
3 retired people and don't have any children. It's
4 inconvenience. I live in a detached home right in
5 front of a dwelling for severely handicapped people.
6 The parking is terrible. We have residential
7 parking. It's not enforced. I can understand why
8 because of the lack of funds, or whatever it is. If
9 I order groceries, I want to wash my car, I have to
10 wait until the people leave to go out and do those
11 sort of things. We have two automobiles. It's
12 really inconvenient. It's not going to help me at
13 all and I don't think it will help anyone in the
14 community, personally.

15 That's all I have to say.

16 CHAIRPERSON HINTON: Thank you.

17 Any questions?

18 We are at closing remarks.

19 MR. GLASGOW: Very briefly. I only want
20 to cover about three points.

21 First of all, with respect to the access
22 and to the issues raised by the Scilli School, off
23 of Varnum Street, N.E., the access to the Scilli
24 School lot is off of this portion of Varnum Street.
25 This asphalt driveway that leads up to the Scilli
26 School building to the rear of the building which is

1 where the play area is and where the drop-off area
2 is for that facility. That is pursuant to
3 conditions of BZA Order Number 15286, which is the
4 application that approved the Institute of Our Lady
5 of Mount Carmel Child Development Center for 65
6 persons.

7 So, I will enter that order into the
8 record so that prima facie, by virtue of that order,
9 there is no safety traffic conflict with respect to
10 that facility. Their pick-up and drop-off point is
11 at the rear of their building. Their play area is
12 at the rear of their building. We have no access
13 over that point. There was testimony from Mr.
14 Bryant with respect to the fence that's been
15 constructed here, and our play area is in here. So,
16 unless there's a violation of the BZA order, there's
17 no conflict.

18 Next, with respect to the business
19 competition issue which was touched on by
20 Commissioner Franklin. I had a citation for the
21 record that business competition -- this is a cite
22 from a 401 NE 2nd 634. The case was decided in
23 1980, Jesse v. City of Taylorville, at page 634, the
24 opinion: "Zoning, however, can not be used to
25 protect the economic interests of existing
26 businesses without the express delegation of such

1 power to the municipality." That's pretty much
2 general Hornbook law on that issue. And so, I'd
3 give that citation to the record.

4 Lastly, with respect to the use and the
5 appropriateness of the use, we do have the
6 comprehensive plan land use map. Certainly, we're
7 going to be relying on that issue. If you're going
8 to have these type of facilities, they are permitted
9 by special exception in the R-5-A zone, but more
10 particularly, where you have a situation where
11 there's a designation of institutional use on the
12 land use map for this type of use. I mean, we can
13 understand where anywhere we want to put this type
14 of use, there may be extreme concern on behalf of
15 the local community. Then the question is, where do
16 you put these type of facilities?

17 We believe that this is an a very
18 appropriate location and one of the better locations
19 that could be found, given the size of the site and
20 where it is that we can put the children's play
21 area; the access off of a private road. There's no
22 queuing on any public street. It's all on a private
23 drive that we have where there would be any queuing.
24 The amount of parking that we can provide, the open
25 space and the size of the building. There are very,
26 very few locations such as this and it will permit

1 us to put back a building that has been admitted by
2 everybody, to be derelict in the community for some
3 lengthy period of time. We can put it back to
4 usable service.

5 For the rest, we would rely on the
6 testimony of the witnesses that we have and the
7 statement that we have in the record. With that,
8 that concludes the applicant's presentation and
9 closing argument.

10 CHAIRPERSON HINTON: Okay. We've
11 concluded the case.

12 I've made some notes of things I think
13 ought to be submitted to the record. So, I would
14 prefer not to make a decision at this point, but to
15 hold it over until one of our decisional meetings.

16 Ms. Richards, why don't you go first.

17 MS. RICHARDS: All right.

18 I'd like some additional information on
19 the uses that have been designated as part of the
20 child development center but don't really deal
21 solely with this particular group of kids.

22 I'd like a breakdown of space showing
23 the amount of actual, like space being devoted to
24 the central kitchen uses because I see that your
25 documents indicate that you have like formal
26 contracts with other entities in addition to serving

1 your various facilities. That's sort of like a
2 commercial adjunct to your overall operation.
3 That's like you've got a commercial kitchen
4 subsidiary to your chain of like child development
5 centers. So, I would like to see the amount of
6 space actually allocated to the kitchen space and
7 the office space.

8 Also, you're planning to consolidate
9 your central administrative offices, so I'd like to
10 see a space breakdown. You know, not just square
11 footage but on some kind of drawing -- and it
12 doesn't have to be a formal drawing -- showing how
13 much of it is going to be central administration as
14 opposed to, we'll say, you know, the school
15 director's office associated with this particular
16 group of 100 children.

17 That's it for me.

18 CHAIRPERSON HINTON: Okay. In addition
19 to that -- and maybe it's the same thing -- I would
20 like to see a floor plan of the building. I'm
21 assuming this whole process started when you applied
22 for some kind of permit?

23 MR. GLASGOW: We applied for a
24 certificate of occupancy. For an existing building,
25 you don't have to have plans. You can apply with a
26 CFO and get a denial of a CFO.

1 CHAIRPERSON HINTON: Okay. And I
2 understand that there needed to be a number of
3 renovations to the building before you could occupy
4 it?

5 MR. GLASGOW: Yes, that is true.

6 CHAIRPERSON HINTON: So, can we see
7 floor plans for the renovations?

8 MR. GLASGOW: Yes, yes. Whatever plans
9 we have, we'll get in.

10 CHAIRPERSON HINTON: Okay. As Ms.
11 Richards said, it would be helpful if you could show
12 the spaces allocated to the different uses.

13 Ms. Bailey talked about a plan that I
14 thought was a very, very good idea, and that is a
15 plan that shows all the institutional uses in the
16 area. Some of this is shown on different maps.

17 MR. GLASGOW: Yes.

18 CHAIRPERSON HINTON: But if you could do
19 one plan that shows Carroll Manor, Providence
20 Hospital, where the new fire station will be and all
21 the streets that we've talked about so it's easy for
22 us to see, you know, on one sheet. It may have to
23 be bigger than 8½ by 11, but so we can see all these
24 uses and how they might be related. It would also
25 help if we could see the building where the
26 Carmelite Child Development Center is so that we can

1 see how far apart those are.

2 We apparently have asked DPW for a
3 report and haven't received that yet, so we will
4 leave the record open for DPW to submit a report if
5 they can do that within the time frame that these
6 other things are going to be received.

7 Mr. Franklin or Ms. Reid, do you have
8 any other --

9 MR. FRANKLIN: I just have one minor
10 thing and that was, I think it would be useful to
11 know how administratively, you could control the
12 parking so that the turnaround area at the drop-off
13 does not result in a queuing condition that will
14 spill over into Varnum Street.

15 CHAIRPERSON HINTON: Okay. Ms. Reid?

16 MS. REID: Yes. Mr. Morris had stated
17 that he would submit to us a revised traffic plan to
18 take into consideration some of the discussion that
19 occurred today -- some testimony that occurred
20 today.

21 CHAIRPERSON HINTON: Right, and that
22 would substantiate some of the assumptions that are
23 in the report. Where the 50 vehicles came from, the
24 peak hour for this facility compared to the peak
25 hour for the adjacent intersection; those sorts of
26 things. I think it's clear in the record what we're

1 looking for in that.

2 Ms. Richards?

3 MS. RICHARDS: I've got one other thing.
4 We've spoken of a clinic, but the file makes
5 references to two separate clinics: the
6 comprehensive health care program, an on-site
7 pediatric/family practice clinic which will provide
8 health care services to uninsured children. Then
9 there's a separate reference to a private family
10 practice, a clinic operated by a private physician
11 group. If there could be some explanation of these
12 two things and how they work together or don't work
13 together. And if you're planning to
14 provide health care services to children, this just
15 refers generally to uninsured children. There was
16 testimony that the only services provided would be
17 to those of the children and their parents who were
18 enrolled at this particular site. If there is any
19 incompleteness in that representation, could we have
20 any additional information on that point we need?

21 MR. GLASGOW: Okay.

22 CHAIRPERSON HINTON: The central
23 offices, which use are you looking at those under?
24 Are the central offices considered part of the day
25 care?

26 MR. GLASGOW: Both. It's ancillary to

1 both.

2 CHAIRPERSON HINTON: Okay. And you're
3 going to give us a space breakdown of how --

4 MR. GLASGOW: Yes. Yes.

5 CHAIRPERSON HINTON: -- much space is --
6 Anything else? I think that about wraps
7 it up.

8 Mr. Lyons, let's talk about time.

9 MR. LYONS: With the information that
10 the Board is requesting, I believe the Board is
11 looking at a May decision.

12 CHAIRPERSON HINTON: I think that's
13 reasonable.

14 MR. LYONS: Yes.

15 MS. REID: Mr. Lyons?

16 MR. LYONS: Yes?

17 MS. REID: Different ones are saying
18 that they can't hear you. Could you please speak a
19 little louder?

20 MR. LYONS: Oh, sure.

21 The items that the Board has requested
22 to be submitted to the record should be filed by
23 April 16th with service on the other parties. That
24 would include the report of the Department of Public
25 Works.

26 CHAIRPERSON HINTON: If it's available.

1 MR. LYONS: If it's available.

2 Responses to the submissions made on the
3 16th and proposed findings that any party wishes to
4 submit will be due by April 30th. The Board at its
5 May 7th meeting will consider a decision in the
6 application.

7 CHAIRPERSON HINTON: We're adjourned.

8 Thanks, everybody, for hanging in there.

9 (Whereupon, the hearing was adjourned at
10 7:01 p.m.)

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