

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION
PUBLIC HEARING

IN THE MATTER OF:

CHANGE OF ZONING FROM R-4 TO
ARTS/C-2-B FOR 1901, 1903,
1905, 1907, 1909, 1911, 1913, Case No. 98-9
1915, 1917, NINTH STREET,
LOTS 800, 801, 802, 033, 824,
804 IN SQUARE 393.

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

Monday, November 23, 1998

The above-entitled matter came on for public hearing, pursuant to notice,
at 7:00 p.m.

BEFORE:

- JOHN PARSONS, Chairman
- ANGEL CLARENS, Commissioner
- ANTHONY HOOD, Commissioner

ALSO PRESENT:

- VINCENT ERONDU, Commission Staff
- STEFANIE D. BROWN, Commission Staff
- DAVE COLBY, Office of Planning

APPLICANT:

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

7:05 p.m.

CHAIRPERSON PARSONS: Good evening, ladies and gentlemen. I'm John Parsons, Acting Chairperson of the Zoning Commission for the District of Columbia. Joining me this evening are Commissioners Anthony Hood and Al Clarens. I declare this public hearing open.

Case No. 98-9, a petition from the owners of the following properties: 1901, 1903, 1905, 1907, 1909, 1911, 1913, 15 and 17 Ninth Street. Petitioner requests the Zoning Commission for change of zoning from R-4 to ARTS C-2-B. Subject properties comprise lots 800, 801, 803, 033, 824, and 804, all in Square 393.

The nine properties are contiguous and developed with row structures built in the 1900s. The site is located on the southern half of the 1900 block of Ninth Street between T and Florida Avenue.

Square 393 is bounded on the north by Florida Avenue, T Street to the south, 8th Street to the East and Ninth Street to the west. The site is currently zoned R-4 to include the properties from the commercial zone along the 14th and U Street corridors.

The R-4 district permits matter of right development of residential uses, including detached, semi-detached and row single family dwellings and flats, with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet and maximum lot occupancy of 60 percent and maximum height limit of three stories or 40 feet.

Conversions of existing buildings to apartments are permitted for lots, within a minimum lot area of 900 square feet per dwelling unit.

The Arts district is mapped in combination with the underlying

1 commercial and mixed-use zones. It encourages development of a mixture of
2 building uses, residential retail, entertainment, provides for integration of arts and
3 related cultural support uses consistent with the nature and character of the uptown
4 arts mixed-use district required by the comprehensive plan for the Nation's capitol.

5 The C-2-A district permits matter of right load density
6 development, including office, retail and all types of residential uses to a maximum
7 floor area of two point five, with non-residential uses limited to a one and a half floor
8 area ratio. A maximum height of 50 feet and a maximum lot occupancy of 60
9 percent for residential uses.

10 Notice of today's hearing was published in the D.C.Register on
11 October 2, 1998, and the Washington Times on October 1st. This hearing will be
12 conducted in accordance with the provisions of 11 DCMR 3022. The order of
13 procedure will be as follows: first we will deal with preliminary matters and
14 certification of maintenance and posting, identification of parties. Second will be the
15 applicant's case and third, the Office of Planning will be making a report, report of
16 any other agencies that may come before us, and a report of the Advisory
17 Neighborhood Commission, which in this case is 4-A. And then parties and persons
18 who are -- 4-1-B - ah. Let me get that right for the record, what is it?

19 COMMISSIONER HOOD: One B.

20 CHAIRPERSON PARSONS: Four one B. Thank you.

21 COMMISSIONER HOOD: No, no, it's 1B, take four out and it's
22 1B.

23 CHAIRPERSON PARSONS: Took four times. Thank you very
24 much. Then we will hear parties or persons who are in support and followed by
25 parties and persons who may be in opposition.

26 The Zoning Commission will adhere to this schedule as strictly
27 as possible. Those presenting testimony should be brief and non-repetitive. If you

1 have a prepared statement you should give copies to the staff at this end of the
2 table, and orally summarize the highlights only. Please provide copies of your
3 statement before you summarize.

4 Each individual appearing before the Commission must complete
5 two identification cards and submit them to the reporter, I believe he has a supply of
6 them over there, at the time you make your statement. If these guidelines are
7 followed, an adequate record can be developed in a reasonable length of time.

8 The decision of the Commission in this case must be based
9 exclusively on the record. To avoid any appearance to the contrary, the
10 Commission requests that parties, counsel, witnesses, all of you in the room, not
11 engage us in conversation during recess or at the conclusion of the hearing. While
12 the intended conversation may be entirely unrelated to the case that is before the
13 Commission, other persons may not recognize the fact the discussion is not about
14 this case.

15 The staff will be available to discuss procedural questions with
16 you if you have them.

17 All individuals who wish to testify, if you would at this time rise to
18 take the oath.

19 [WHEREUPON, ALL WITNESSES WERE SWORN
20 TOGETHER.]

21 CHAIRPERSON PARSONS: Thank you.

22 MR. ERONDU: One is about the ANC.

23 CHAIRPERSON PARSONS: Your mike is not working.

24 MR. ERONDU: How about using this? Now, the ANC and
25 government agencies usually have as matter of procedure, rules of practice, ten
26 days to submit their report but the ANC will be presenting its report this evening. So
27 instead it's up to the Commission whether to make a determination whether to wait

1 the ten days to accept it or not accept it. That is at the Commission's discretion.

2 However, they did not include any letter for waiver. I wanted to
3 bring it to the attention of the Commission.

4 CHAIRPERSON PARSONS: All right, there is no prior report
5 from the Neighborhood Commission? This is the only one, dated November 23?

6 MR. ERONDU: Yes sir.

7 CHAIRPERSON PARSONS: All right.

8 MR. ERONDU: There is only one.

9 CHAIRPERSON PARSONS: I see no reason not to accept this
10 for the record. Thank you.

11 MR. GUYOT: We ask for a waiver of all --

12 CHAIRPERSON PARSONS: Well, without objection we will do
13 just that.

14 MR. GUYOT: Thank you very much.

15 CHAIRPERSON PARSONS: Have you made copies of this
16 available to the applicant and others?

17 MR. GUYOT: The staff did --

18 MR. ERONDU: Yes.

19 MR. GUYOT: -- but I would --

20 MR. ERONDU: So the next -- the applicant to send it Fed Ex.

21 He or she did indeed maintain the positives forward, but we do receive it in the
22 record. Applicant to come forward and certify that they did maintain the record, I
23 mean the --

24 MS. JACKSON: I didn't hear what you said.

25 MR. ERONDU: You have to come forward and verify that you
26 indeed maintain the questions.

27 MS. JACKSON: Ah, yes. We did post all of the properties with

1 the green poster and we submitted the affidavit within the allowable time frame. We
2 did maintain the motions.

3 CHAIRPERSON PARSONS: So you posted all nine properties,
4 did you?

5 MS. JACKSON: Yes, yes we did.

6 CHAIRPERSON PARSONS: Very good, thank you.

7 COMMISSIONER CLARENS: And we have an affidavit?

8 MR. ERONDU: Yes, -- posted.

9 COMMISSIONER CLARENS: We have an affidavit --

10 MR. ERONDU: Posted.

11 [Several parties speaking at the same time.]

12 MS. JACKSON: Have an affidavit -- pictures of all nine
13 properties.

14 CHAIRPERSON PARSONS: Did you identify yourself? I'm
15 sorry.

16 MS. JACKSON: Oh, Dana Jackson and I'm one of the
17 petitioners.

18 CHAIRPERSON PARSONS: Oh, all right. Thank you.

19 Now we have to go through a procedure to identify parties in the
20 case, and I'm not sure anyone wants to be a party. The Advisory Neighborhood
21 Commission, 1-B, is automatically considered a party here. I should point out that
22 anybody who came to testify is going to have that opportunity and I wondered if we
23 have any other applications for party status?

24 We don't. All right then. We'll proceed.

25 Now if the applicant will come forward, we will proceed with your
26 presentation. Just identify yourselves for the record, we'd appreciate it.

27 MS. JACKSON: My name is Dana D. Jackson and I am one of

1 the petitioner, and the owner -- one of the owners of 1901 Ninth Street, N.W. And in
2 connection with this particular case, I and my husband, Palmer W. Jackson, have
3 served as the representative of all the nine petitioners.

4 What I want to do is just briefly read a brief statement, which you
5 now have a copy of, and I guess after that you would open it up for questions from --

6 CHAIRPERSON PARSONS: Very well.

7 MS. JACKSON: Okay, tonight you will hear from individuals who
8 will express their views on our request for a change of zoning from R-4 to Arts/C-2-B
9 for the nine individual properties fronting the southeastern part of the 1900 block of
10 Ninth Street, N.W. Speaking in support will be: (1) fellow petitioners, (2) property
11 owners and residents who live within the 200 feet radius, and (3) a member of the
12 Central Northwest Citizens Association.

13 In addition to the speakers tonight, I wish to emphasize that the
14 nearest property owners and residents to our property have expressed their support
15 and approval through our signed petition and letters of support, both of which were
16 provided to you in the body of our November 3, 1998, submission, and our
17 November 8, 1998 addendum endorsing our Arts/C-2-B rezoning effort.

18 We do not expect the Zoning Commission to hear from
19 representatives speaking on behalf of either the Westminster Neighborhood
20 Association, the Association nearest our properties, or the Cordoza Shaw
21 Neighborhood Association, because both associations voted to take no position
22 regarding our rezoning effort.

23 Case No. 98-9 represents the fulfillment of the Office of
24 Planning's recommendation and the Zoning Commission's mandate that a petition
25 be submitted by the nine individual property owners, a petition to request a zoning
26 map amendment to Arts/C-2-B for the entire R-4 zoned frontage, which is 190 feet,
27 on the southeast side of the 1900 block of Ninth Street, N.W.

1 The granting of the Arts/C-2-B rezoning request would allow us
2 to actively participate in the significant and constructive initiatives that are bringing
3 about positive changes within the Shaw. Here are but a few of the reasons:

4 Even though the 1990 ARTS Overlay negatively impacted our
5 properties by rezoning them to R-4, and significantly reducing the marketability and
6 allowable uses, our request will serve to enhance the 1990 Arts Mixed Use Overlay
7 and serve to restore our nine individual properties which are mostly commercial in
8 character, to economic viability.

9 The Arts/C-2-B designation would provide we entrepreneurs and
10 our businesses the flexibility to evolve as needed so as to maintain harmony with the
11 growth and changes of residents and businesses in the Shaw community.

12 By virtue of our properties being historically commercial in
13 character and use, we believe that our request is consistent with the changes now
14 occurring in that section of the Shaw community in which our properties are located.
15 We interpret these changes to be complimentary to the Arts Overlay, namely the
16 greater U Street Historic District designation, and the Howard University, Fannie
17 Mae Community Partnership Initiative. These two additional designations will serve
18 to protect and aid in our recapturing the historic and commercial uses of our
19 properties.

20 We would like to believe that the Zoning Commission, our
21 neighbors, neighborhood associations and ANC 1-B would view us as a unique
22 group of individual property owners, the majority of whom are African American and
23 would support our wish to survive and prosper.

24 Thank you for allowing my husband and me, the other eight
25 property owners, and our supporters the opportunity to present our petition for
26 rezoning. Palmer W. and Dana D. Jackson, petitioner representatives. Thank you.

27 CHAIRPERSON PARSONS: Thank you. Are there any

1 questions at this time?

2 COMMISSIONER CLARENS: I only have one brief question and
3 that is, has to do with -- and I didn't see it in the package that you provided us, and I
4 assume that it's all taken care of, but just for clarification. You have -- this is -- it's
5 just an issue of procedure, but how do I know that in fact the nine property owners
6 are co-applicants in this application?

7 MS. JACKSON: Well, some are present tonight, but when we
8 were given the task back in February, at the Zoning Commission's February 9th
9 meeting, our first task was to identify the other eight property owners. And what we
10 proceeded to do was to write each one of them a letter and notify them that we had
11 been asked to undertake this task.

12 Now in our original application which was filed in March of this
13 year, and I think we also had to provide some subsequent documentation in April,
14 part of what we included was individual letters signed by each of the individual
15 owners of the other eight properties. And as I indicated, some of the owners are
16 present this evening.

17 COMMISSIONER CLARENS: And this would be in this
18 package?

19 MS. JACKSON: No, it was in the --

20 COMMISSIONER CLARENS: I see, so this was taken care of,
21 the set down hearing, I assume?

22 MS. JACKSON: Yes, that's correct.

23 COMMISSIONER CLARENS: I see, before I joined the
24 Commission.

25 MS. JACKSON: Because we were told that we could not move
26 forward with following through on the filing of the petition --

27 COMMISSIONER CLARENS: All right, that's it. I think I

1 understand the condition.

2 MS. JACKSON: Okay.

3 CHAIRPERSON PARSONS: Just out of curiosity then, did they
4 sign your petition as well? You've got 50 people to sign this petition.

5 MS. JACKSON: Some did, there were a few that signed who
6 should not have. But there was one particular petitioner, in fact, Mr. Conway Jones,
7 Sr., he signed as the owner of 18 -- 813 T Street which is right up on the corner from
8 us. So he is functioning as a petitioner, but also as an owner of a property that's
9 within the 200 feet radius.

10 CHAIRPERSON PARSONS: I understand.

11 COMMISSIONER HOOD: Ms. Jackson --

12 MS. JACKSON: Yes.

13 COMMISSIONER HOOD: Reading through the material, would
14 you find it an inconvenience in going in front of the Board of Zoning Adjustment? Is
15 that why you are here? For that property, that land, you don't want to go in front of
16 the BZA, you just want to go ahead and make it zoned --

17 MS. JACKSON: Well, what happened --

18 COMMISSIONER HOOD: To be a matter of right?

19 MS. JACKSON: Yes. To give you some background. In 1994,
20 we did go before the BZA. And when we went before the BZA, we filed an
21 application to be allowed to use our property for office, retail and retail-related
22 service use. And at the conclusion of the hearing, rather than giving us that kind of
23 broad coverage, they restricted us to only the current use of the tenant who was
24 trying to occupy our building at the time. And that was limited to hair salon and
25 beauty shop use or barber shop use.

26 And because of having that experience and having to deal with
27 tenants who were trying to make it in the community, but it was just too restrictive,

1 my husband and I made the decision that we would pursue coming back before the
2 Zoning Commission for a map change.

3 We, when we bought the property, we had one tenant that was
4 using it for export/import travel usage. And after they had vacated the property we
5 went through a major renovation to have it set up for just strictly commercial use.
6 And then we had a tenant who came forward, we had listed it with a commercial
7 realtor, and the tenant that came, the potential tenant that came forward wanted to
8 use it for a hair salon. That's when we came before the BZA.

9 She was not able to make a go of it. She was a Howard student,
10 she wanted to come back into the community, and we were willing to try and work
11 with her. After her business failed, then the young couple, the gentleman grew up in
12 the neighborhood, and he wanted to return and try to open up a barber shop.

13 So when we came before the Zoning Commission in January, we
14 were then told after application had been accepted, this spot zoning was illegal. And
15 one of the things that the Office of Planning discovered was that not only had we
16 been affected in terms of the rezoning or ground zoning to R-4, but the eight other
17 property owners adjacent to us, and that's when we were given the charge of going
18 forward and contacting our neighbors.

19 Up until that time, we only knew a few of them.

20 COMMISSIONER HOOD: This is the fact of it being -- that
21 would give it a matter of right. Are you aware of things that can come in up under
22 matter of right within that zoning? For example, a club for inconsistency. And I
23 believe that, I think from my reading, some of the opposition would be because it is
24 taking away the input from the people who are in the community.

25 So I was wondering why you would have too much of an
26 objection to going in front of the BZA and doing the BZA process.

27 MR. JACKSON: I'd like to answer that if I could.

1 COMMISSIONER HOOD: Sure.

2 MR. JACKSON: One of the things that we want to maintain is a
3 business flexibility to do what we want to do with that. There have been rumors
4 about a club coming in there, and that is in fact a rumor. It has been rumored to us
5 that the nine property owners are really acting as one owner so that once this is
6 granted that a club would be -- that buildings would be razed and a club would be
7 constructed there. That is a total rumor.

8 We are acting independently. We have a vision and individual
9 futures in the Shaw. We do not plan to do that.

10 COMMISSIONER HOOD: While it may be a rumor, if this
11 happens -- and I'm not saying whether it will or not.

12 MR. JACKSON: Well, it could happen anywhere.

13 COMMISSIONER HOOD: But I'm saying, that would take away
14 the matter of right for the people who live in that neighborhood to be able to have
15 some type of input to what goes in their community --

16 MS. JACKSON: Well, could I --

17 COMMISSIONER HOOD: I'll end it on that.

18 MS. JACKSON: Okay.

19 CHAIRPERSON PARSONS: I think we are doing just fine.

20 Thank you very much. You will have an opportunity to come back at the end of the
21 hearing and say anything you'd like.

22 MR. GUYOT: Mr. Parsons, can we cross examine them on their
23 testimony?

24 CHAIRPERSON PARSONS: I'm sorry, certainly. Come back if
25 you would. The ANC Representative, Mr. Guyot, would like to ask you a few
26 questions.

27 MR. GUYOT: Mr. Melcher would like to cross examine on two

1 issues, on the civic associations and on the petition. I think both are important and
2 both need more --

3 COURT REPORTER: Can you address the microphone?

4 CHAIRPERSON PARSONS: Yes, let's see if we can get that
5 working. It requires a switch on the side.

6 PARTICIPANT: On the off side there, the bottom -- somewhere
7 there.

8 MR. GUYOT: I think it's on.

9 CHAIRPERSON PARSONS: I'm afraid it's not. The recorder is
10 more important than anybody else here because I want to make sure we get those
11 words.

12 [Asides.]

13 CHAIRPERSON PARSONS: You might want to place it on the
14 podium, it will be a little more comfortable for you, if it will reach.

15 MR. MELCHER: You approached the Westminster
16 Neighborhood Association earlier this year. Is that correct?

17 MS. JACKSON: That's correct.

18 MR. MELCHER: And initially the Westminster Neighborhood
19 Association took a position in opposition to this zoning request. Is that correct?

20 MS. JACKSON: We were advised at the June meeting that they
21 had voted to oppose the petition prior to fully understanding what we were going
22 forward for.

23 MR. MELCHER: Now, isn't it also correct that one of the
24 applicants from your group is in fact a member of the Westminster Neighborhood
25 Association, and lives on Westminster Street?

26 MS. JACKSON: Yes, he does.

27 MR. MELCHER: And, okay, I have a couple of other questions.

1 You've owned this property since 1988, is that correct?

2 MS. JACKSON: That's correct.

3 THE COURT: And during the time period from 1988 until today,
4 for approximately how long has that property been in some sort of commercial use?

5 MS. JACKSON: It has been in some sort of commercial use
6 since we owned the property.

7 MR. MELCHER: Actually, I can probably, viable as commercial
8 property as opposed to being available perhaps for rent as a commercial property.

9 MS. JACKSON: Would you restate? I mean --

10 MR. MELCHER: For what period of time during this ten year
11 period has there ever been an actual commercial applicant conducting any business
12 in that --

13 MR. JACKSON: Well it has been available for rent, it has been
14 rented up until 1996 or 7 --

15 MS. JACKSON: Uh, '97.

16 MR. JACKSON: Okay, and we have elected ourselves not to
17 rent it again for commercial purposes right now until we --

18 MR. MELCHER: You purchased the property in 1988?

19 MR. JACKSON: That's correct.

20 MR. MELCHER: And after 1988, was there a tenant when you
21 purchased this property?

22 MR. JACKSON: Yes.

23 MS. JACKSON: Yes.

24 MR. MELCHER: And what was the tenant in 1988?

25 MS. JACKSON: Export/Import Travel.

26 MR. MELCHER: And when did that tenant cease to be a tenant?

27 MS. JACKSON: In '92.

1 MR. MELCHER: And at that point you had no tenant until when?

2 MR. JACKSON: We renovated the building.

3 MR. MELCHER: And you had no tenant until when?

4 MS. JACKSON: We had no tenant until '94.

5 MR. MELCHER: Until '94.

6 MS. JACKSON: Not through our renovation.

7 MR. MELCHER: And from '94 to '96 you had a tenant?

8 MR. JACKSON: Yes.

9 MS. JACKSON: Yes, '97.

10 MR. MELCHER: So roughly four of the ten years that this
11 property has been owned by you, you had a tenant actively engaged in some sort of
12 commercial business, correct?

13 MR. JACKSON: That's true. But you have to understand what
14 our objectives were in terms of whether we wanted a tenant or not. The building is
15 vacant now by choice.

16 MS. JACKSON: Because the restricted zoning --

17 MR. MELCHER: Did either of you in any way testify or
18 participate in the public hearings that were held on the uptown Arts Overlay district?

19 MS. JACKSON: No.

20 MR. JACKSON: No.

21 MR. MELCHER: Okay. Are you aware that there is a public
22 charter school that's going to be installed in the Odd Fellows building approximately
23 100 feet -- less than 100 feet from the building that you are choosing to --

24 MR. JACKSON: We are aware according to the newspaper that
25 the Odd Fellows received one million dollars from the Community Development
26 Block Grant and that a number of --

27 MS. JACKSON: Potential uses --

1 MR. JACKSON: -- potential uses will be for that building.

2 MS. JACKSON: Theater, gymnasium --

3 MR. JACKSON: Now that's according to the newspaper article
4 and that's all that we know.

5 MR. MELCHER: Now, in testimony you said that the rezoning of
6 your property as R-4 affected it negatively and reduced its marketability. Have you
7 ever attempted to sell this property as a residential property?

8 MR. JACKSON: Sell the property?

9 MR. MELCHER: Have you ever attempted --

10 MR. JACKSON: That's now our --

11 MR. MELCHER: Have you ever attempted to sell it as a
12 residential --

13 MS. JACKSON: No.

14 MR. MELCHER: Have you ever attempted to develop it as
15 residential property?

16 MS. JACKSON: No.

17 MR. JACKSON: We just developed it commercially --

18 MR. MELCHER: Have you ever attempted to rent it as a
19 residential property?

20 MR. JACKSON: It's --

21 MR. MELCHER: So you have absolutely no idea what the
22 economic viability of this property as a residential property is, do you?

23 MR. JACKSON: As property owners of additional property, as
24 owners of properties that are --

25 MR. MELCHER: But you -- but this particular property you never
26 had an opportunity --

27 [Parties speaking over each other.]

1 CHAIRPERSON PARSONS: Mr. Melcher, slow it down a little
2 bit here, will you?

3 MR. JACKSON: Are you going to argue or let us answer the
4 question?

5 MR. MELCHER: Okay.

6 MR. JACKSON: We own additional properties other than this
7 property. What our plan or vision for ourselves is to have a variety of properties,
8 properties that are zones residential. Properties that are zoned commercial. It's a
9 part of our business, our personal business package.

10 Now when we thought about renovating the business, we had an
11 additional vision. We put an enormous sum of money into that building to have it
12 renovated because of our vision. What we are trying to do is to number one,
13 recapture our investment while at the same time helping to contribute positively to
14 the Shaw community. That's what we are doing.

15 MR. MELCHER: Now, you've discussed your investment in your
16 particular property, have any of the other eight properties that are applying for
17 rezoning here had substantial renovation investment to your knowledge?

18 MR. JACKSON: They have not had substantial renovation, but
19 the properties are commercial in character. They are historically commercial in
20 character. Many of them have been grandfathered in in terms of their commercial
21 use. Of the nine properties, only two of those properties are residential.

22 MR. MELCHER: Now correct me if I'm wrong here, but in fact
23 each of those nine properties is a Victorian rowhouse which was originally built as
24 residential property.

25 MR. JACKSON: Each of those properties are commercial in
26 character except for the two. Many of them today still serve, they were
27 grandfathered in commercial uses. Of those nine, the majority of them are used as

1 commercial or have been changed or approved by the BZA for commercial use.

2 MR. MELCHER: But in fact they were built as residential
3 houses.

4 MR. JACKSON: I can't argue that point with you. It's a question
5 of when they were built.

6 MR. MELCHER: Now going again to your -- going again to your
7 residential viability, isn't it in fact true that the four properties directly across the
8 street from your property have recently been renovated as residential properties and
9 are rented to tenants. Isn't that correct?

10 MR. JACKSON: I would assume so.

11 MR. MELCHER: And isn't it also correct that in the 800 block of
12 T Street, directly below your property, an entire block along the properties have
13 recently been renovated all as residential properties.

14 CHAIRPERSON PARSONS: Mr. Melcher, I think you are
15 straying into testimony here. You will have plenty of opportunity to do that.

16 MR. MELCHER: Well, if I may. They brought up the issue of
17 economic viability and I'm simply trying to show that they simply have no idea
18 whether residential property is in fact viable or not. There are other properties in the
19 neighborhood that are residential property which clearly go to show that there is
20 economic value.

21 MR. JACKSON: Mr. Melcher, I think you stated all this in your
22 resolution that you stood outside and handed out. And the Commissioners have a
23 copy of that. I think you are wasting our time and everyone else's time here.

24 MR. MELCHER: If I could just finally, these petitions that you
25 submitted to the Board. Now I haven't seen the most recent ones that you
26 submitted, and I don't know how they differ from the ones that you submitted the
27 Advisory Neighborhood --

1 CHAIRPERSON PARSONS: There are five sheets with ten
2 names per sheet.

3 MR. MELCHER: How many?

4 CHAIRPERSON PARSONS: Five.

5 MR. MELCHER: I have two sheets with a total of 17 names, and
6 isn't it correct that we went through these names at the Advisory Neighborhood
7 Commission meeting and that 14 of the 17 were in fact either commercial tenants or
8 commercial property owners in the 1900 block of Ninth Street. Is that correct?

9 MS. JACKSON: That's correct, at the time that you are talking
10 about. It was at the October 14th ANC meeting. But since then the petition has
11 been in process. We were just sharing it with you at the time of the ANC meeting.
12 But we have since received a substantial number of residential signatures of
13 property owners and residents of the area.

14 In fact, the 800 block of T Street that you focused on at that
15 particular ANC meeting, the residents signed our petition, plus Mr. Conway Jones is
16 an owner of 813 T Street.

17 MR. JACKSON: In addition to that, in order to make it easier for
18 the Board to understand that petition, we included a copy of the LUX Directory of
19 owners and we identified in the LUX Directory on the LUX Directory that they have a
20 copy of, the property owners so they could match the property owners in the LUX
21 Directory with the petition. So it should work out pretty well.

22 We also have letters from WMATA and from Level Inc., the two
23 largest property holders in the area stating their position on the matter. That's also
24 included in the package.

25 MS. JACKSON: I would like to make a point of clarification that
26 we did submit a total of seven petitions in our November 8th agenda. We gave you
27 two additional petitions that were completed. So there were five in the original

1 sheets and two additional.

2 CHAIRPERSON PARSONS: Oh, all right. Thank you. Thank
3 you Mr. Melcher, Mr. and Mrs. Jackson.

4 MR. GUYOT: I would like to cross examine on the question, on
5 Mr. Hood's question and how it was responded to and what was not included.

6 CHAIRPERSON PARSONS: One question then.

7 MR. GUYOT: On Mrs. Jackson custom, yes.

8 CHAIRPERSON PARSONS: All right.

9 MR. GUYOT: Good evening Mrs. Jackson.

10 MS. JACKSON: Good evening.

11 CHAIRPERSON PARSONS: Could you identify yourself for the
12 record.

13 MR. GUYOT: My name is Lawrence Guyot. I'm the Chairman of
14 ANC 1-B. Ms. Jackson, I want you to go back to your question, your response to
15 Commissioner Hood's question about the appearance before the BZA. Do you have
16 a copy of the letter that the BZA gave you directing you to deal with the ANCs?

17 MS. JACKSON: A copy of the --

18 MR. GUYOT: Of the order from the BZA directing you to deal
19 with the AN -- and attempted to help you -- is the fact that you don't have a copy of
20 the letter why you left that out of your answer to Mr. Hood's question?

21 MS. JACKSON: No, in terms of when we appeared before the
22 BZA --

23 MR. GUYOT: Yes.

24 MS. JACKSON: -- just for clarification we did appear in '94
25 before the ANC 1-B when we were going forward with our request for the BZA
26 application that we had filed at the time. And they voted to support us. And in fact
27 when the order was issued in November of '94, the ANC was provided a copy of the

1 order.

2 MR. GUYOT: That's not what I --

3 MS. JACKSON: Okay, what do you mean?

4 MR. GUYOT: What I'm saying is -- isn't it -- do you have a copy
5 of the -- I want to deal with your response to Mr. Hood's question.

6 MS. JACKSON: Okay.

7 MR. GUYOT: Could you explain to me and to the Commission
8 why you did not include the specific order of the BZA in its reference of your
9 application to the ANC?

10 MS. JACKSON: I'm trying to understand, we are before the
11 Zoning Commission, so I'm trying --

12 MR. GUYOT: Yes. Mr. Hood asked you specifically a question
13 that went to your participation before the Board of Zoning and Adjustment. And I
14 appeared -- I want to understand why the most important part was left out.

15 And that simply will go to the question of why did you not inform
16 Commissioner Hood that the Board of Zoning Adjustment instructed you that the
17 only way to possibly work this out was for you to take the application back to ANC 1-
18 B.

19 MR. JACKSON: No, no, that's -- if I may make some clarification
20 here, okay? We have, we have gone, we went before the BZA in 199 --

21 MS. JACKSON: Four.

22 MR. JACKSON: Four, but after 1994 we went before the Zoning
23 Commission, okay? That was the last case that we were in front of the Zoning
24 Commission.

25 The Zoning Commission did not hear our case because they
26 said our issue was spot zoning. Okay? Then the last instruction that we received
27 from the Commission was that we should be -- that we come to the Commission as

1 a group of property owners.

2 MR. GUYOT: Come to the ANC Commission?

3 MR. JACKSON: No, wait, wait, that we come to the Commission
4 that we seek the approval of the ANC.

5 And it goes back to my communication with you by telephone
6 and letter --

7 MS. JACKSON: In February.

8 MR. JACKSON: -- that I shared with the Commission that's in
9 the package. It goes back all the way to February of this year.

10 MR. GUYOT: So, Mr. Jackson, I take it that both of you take the
11 position that the Board of Zoning and Adjustment did not instruct you to deal with the
12 ANC --

13 MR. JACKSON: I said we did.

14 MR. GUYOT: Oh they did.

15 MR. JACKSON: And we dealt with you.

16 MS. JACKSON: In terms of '94.

17 MR. GUYOT: I'm only dealing with testimony, I'm not dealing
18 with anything else. And I want to know why was Mr. Hood, Commissioner Hood's
19 question responded to without making, without dealing with the fact that the BZA
20 said to you go to the ANC --

21 MR. JACKSON: No, you are mixing apples and oranges. When
22 you say BZA that takes us back to '94. The BZA -- we are talking about the last
23 instructions we received were from the Zoning Commission, okay? This forum here,
24 not the BZA, and the last forum we were in was with the Zoning Commission in
25 which they told us that our issue before them was spot zoning. Okay?

26 MR. GUYOT: Mr. Jackson --

27 CHAIRPERSON PARSONS: May --

1 [Everyone talking at once.]

2 MR. GUYOT: Yes, by all means, Mr. Parsons.

3 CHAIRPERSON PARSONS: Okay, are you saying that there
4 was a BZA order that denied their application and sent them back to the ANC?

5 MR. GUYOT: That's exactly what I'm saying.

6 MR. JACKSON: That's not true.

7 MS. JACKSON: No, that's not true.

8 CHAIRPERSON PARSONS: Without that order before us, I
9 guess we are both handicapped aren't we? All three of us, I guess.

10 MR. JACKSON: But that's not the case.

11 MR. GUYOT: That's why I wanted to go to the testimony, Mr.
12 Parsons.

13 MR. JACKSON: That's not the case.

14 CHAIRPERSON PARSONS: Well, I understand there is a
15 different point of view, but without the evidence we really don't know.

16 MR. JACKSON: The last forum we were in, okay, was the
17 Zoning Commission. There was no BZA order to take us back to the ANC. There
18 was the resolution recommended by the Office of Planning that was approved by the
19 Zoning Commission that we proceed with what we proceeded with.

20 MS. JACKSON: And when we went before the BZA, we were
21 approved for our use. And because the ANC, we had gone before the ANC --

22 MR. JACKSON: And they approved our use.

23 MS. JACKSON: -- and they had voted to support us, the order
24 also identified the Chairperson at the time, that she would receive a copy of the BZA
25 order that we had been granted approval. I think our case was 1-5-9-9-6.

26 MR. JACKSON: Sure, Mary Treadwell was the President at the
27 time.

1 COMMISSIONER CLARENS: So Mr. Chairman, so let me see if
2 I understand it correctly. You've to BZA once and the BZA granted a use variance to
3 your property for specific use.

4 MS. JACKSON: Right.

5 COMMISSIONER CLARENS: Which was a --

6 MS. JACKSON: Hair salon.

7 COMMISSIONER CLARENS: Hair salon. And this, it being a
8 variance, was not conditioned.

9 MS. JACKSON: No.

10 COMMISSIONER CLARENS: And so there could not have been
11 a condition ordering you to talk to the ANC. The ANC would have been part of the
12 case --

13 MR. JACKSON: Sure.

14 COMMISSIONER CLARENS: -- as it normally is in any BZA
15 case.

16 MR. JACKSON: That's correct.

17 COMMISSIONER CLARENS: But after the order issued, the
18 order grants the use variance unconditionally --

19 MR. JACKSON: Right.

20 COMMISSIONER CLARENS: -- because variances are not
21 conditioned. And that was the only occasion.

22 What you have found since then is that the certificate of
23 occupancy issued as a result of the BZA order can only be issued for a --

24 MS. JACKSON: Hair salon.

25 COMMISSIONER CLARENS: -- hair salon.

26 MS. JACKSON: Barber shop.

27 COMMISSIONER CLARENS: And that limits your ability to

1 market the property as a commercial property --

2 MS. JACKSON: Right.

3 COMMISSIONER CLARENS: -- which has been the historic use
4 of the property --

5 MR. JACKSON: That's correct.

6 COMMISSIONER CLARENS: -- over the past, for a long time.

7 MR. JACKSON: Twenty five years, yes.

8 COMMISSIONER CLARENS: At least 25 years.

9 MS. JACKSON: In fact, that area was zoned C-M-1 prior to
10 being found --

11 MR. JACKSON: When our building was --

12 MS. JACKSON: Renovated.

13 MR. JACKSON: -- renovated, it met a C-M-1 standard.

14 MR. GUYOT: That was a mistake, I believe.

15 MS. JACKSON: Yes, it was a mistake.

16 MR. JACKSON: Yes, it was a mistake and that's what we
17 brought to the Board and the explanation was, well, we as a city made a mistake in
18 terms of granting your construction drawings. And the issue has always been, well,
19 we appreciate the fact that a mistake has been made, but how do we recapture our
20 investment?

21 CHAIRPERSON PARSONS: Good summary.

22 MR. GUYOT: We just have testimony from this applicant on the
23 Office of Planning's recommendation. And I'd like to ask them a question on that.

24 CHAIRPERSON PARSONS: Does this end tonight or does this
25 continue --

26 MR. GUYOT: This gentleman just testified about the Office of
27 Planning's recommendation. -- Mr. Jackson just finished testifying about the Office of

1 Planning's recommendation and it is -- I want to question him on that, if I may.

2 CHAIRPERSON PARSONS: Even though the Office of Planning
3 report is not before us yet?

4 MR. GUYOT: This ruling by --

5 CHAIRPERSON PARSONS: Are you talking about the Office of
6 Planning's recommendation of last Spring?

7 MR. GUYOT: In your order, in this Zoning Commission's Order
8 No. 846. It goes to the specific recommendation that Mr. Jackson just testified on.
9 My concern is the testimony was incomplete. And if you turn to page -- the last page
10 --

11 CHAIRPERSON PARSONS: Of what?

12 MR. GUYOT: Of your order 846.

13 COMMISSIONER CLARENS: Eight four six.

14 CHAIRPERSON PARSONS: Well, that's not before me at the
15 moment, but maybe I can find it.

16 COMMISSIONER CLARENS: What's the date of that order, Mr.
17 Guyot?

18 MR. GUYOT: Oh, the date is May 11, 1998.

19 CHAIRPERSON PARSONS: I'm afraid that's not before us.
20 What's the subject of that order?

21 MR. GUYOT: The subject of that order goes right to the
22 question I've been trying to get an answer to. It says the Commission concurs with
23 the Office of Planning rationale that the rezoning of the site by itself would constitute
24 spot zoning.

25 The Commission believes that the two alternative proposals
26 suggested by the Office of Planning, that is an application to the Board of Zoning
27 and Adjustment for a special commercial use, or a petition for a rezoning to C-2-B

1 supported by the Advisory Neighborhood Commission 1-B would be a better
2 approach in dealing with the nonconformity of the property in question.

3 That's what I've been trying to get them to say since I've been
4 here, Mr. Parsons.

5 CHAIRPERSON PARSONS: Well, -- the only thing they didn't
6 bring with them is your support.

7 MR. GUYOT: No, no, Mr. Parsons. What I am concerned about
8 is the incompleteness of the response to Commissioner Hood's question. That's,
9 and I appreciate your allowing me to cross examine.

10 CHAIRPERSON PARSONS: Thank you. I think we are done for
11 now.

12 We now have a request from the Office of Planning to waive our
13 rules to accept the report that they have submitted as of November 17th. Our rules
14 provide that these have to be submitted 10 days prior to the hearing and that was
15 not able to occur because of their other priorities. Is there any objection to waiving
16 our rules on that?

17 [No response.]

18 CHAIRPERSON PARSONS: All right, all right, then we will
19 proceed. Mr. Colby, why don't you summarize this report for us, if you would.

20 MR. COLBY: Is this thing on? Am I getting recorded?

21 CHAIRPERSON PARSONS: You might have to slide -- just this
22 one, I guess.

23 MR. COLBY: Thank you. I will briefly summarize some of the
24 history which has been touched on tonight. On August 25th, 1997, the Jacksons did
25 petition the Zoning Commission to change the zoning of their specific property at
26 1901 Ninth Street -- I guess it was 1909 --

27 MS. JACKSON: Nineteen-O-one.

1 MR. COLBY: Nineteen-O-one Ninth Street from R-4 to Arts/R-5-
2 B. Noting the -- well, and then the Commission denied the applicant's request, as
3 has been pointed out tonight, noting the potential for that to constitute illegal spot
4 zoning, and recommended the applicants either seek special exception relief from
5 the BZA or organize the neighboring property owners and petition the Commission
6 for Arts/C-2-B zoning for that 190 feet of frontage, and to seek approval of the
7 community and the ANC specifically.

8 The applicants have responded with the current petition which is
9 before you. In February 1990, as was pointed out, the properties were rezoned from
10 C-M-1 to R-4 as part of the uptown Arts Overlay. Pursuant to the comprehensive
11 plan, the Office of Planning played a major role in that rezoning.

12 And according to the applicants, that rezoning has caused a
13 considerable hardship for seven of the nine properties which are the subject of this
14 application. The applicant points out that those seven properties are commercial in
15 character, and have been used for commercial uses and are unsuitable for
16 residential use.

17 And because of that and because of the inability to lease or sell
18 the properties for commercial uses or to readily substitute more viable commercial
19 uses, the frontage has become considerably depressed and run down, which is, I
20 would say, is the state of that frontage today.

21 The Comprehensive Plan generalized land use map designates
22 the northern half of that square for mixed use, moderate density residential and
23 moderate density commercial. In essence, moderate density residential and
24 commercial use. It's also in the Uptown Arts Special Treatment Area which reflects
25 the purposes of the Uptown Arts Mixed Use Overlay zone district. The southern half
26 of the square is designated for moderate density residential use.

27 The properties which are the subject of this application for

1 rezoning are in the residentially designated portion of the square.

2 The Uptown Arts Mixed Use Overlay district was put in place to
3 eliminate inconsistencies between the Comp Plan and zoning for the 14th and U
4 Street areas. The Comprehensive Plan designation of mixed use residential and
5 commercial, which was to encourage arts use specifically, along with frontage of U
6 and Florida Avenue in a designation generally of rowhouse residential away from
7 that corridor is consistent with the goals of the Plan to encourage pedestrian activity,
8 provide for an increased presence of the arts, expand business and job
9 opportunities, expand the area's housing supply and encourage adaptive re-use of
10 older buildings.

11 And as noted in our report, or reports actually, the zoning line
12 between residential and mixed use residential or commercial was drawn to reflect
13 the above objectives, not necessarily to reflect and continue the existing commercial
14 and industrial uses away from the main commercial corridor.

15 In essence, well, I'll get to that in a moment. But there is one of
16 the major issues is where should that line have been drawn? If we were redrawing
17 the line today, would we draw it in the same place?

18 The applicants have requested a change in zoning. I would point
19 out there are some areas in our report where we talk about a 90 foot height limit as a
20 possibility under C-2-B development and 6 FAR. In fact, the permitted use under
21 the Arts Overlay with bonuses is 4.5 FAR, which I think is probably very unlikely,
22 although certainly possible. And the height would still be 65 feet.

23 Some of the bonus, some of the uses which would provide that
24 additional density would be legitimate theater, department store, drug store,
25 hardware store, and various arts uses.

26 Again, those are more likely on U Street I think than on Ninth
27 Street.

1 And then let me jump as there have been a number, the
2 applicant's application has pointed out a fairly extensive attempt to gain the
3 community's support, and as we point out that's been with mixed results. I think
4 that's what you are hearing tonight.

5 And let me jump finally to the end of our recommendation. We
6 note that this appears to be a, what I term a classic case in which a broad area wide
7 rezoning with lofty goals, wonderful goals, is superimposed over a mixed use area.
8 Again, we are running into that same problem in the SP zone where the zoning
9 permits a mix of uses, and then you come in later and try and untangle them in
10 some way and say this will be residential and this will be commercial.

11 But, when the rezoning was in fact justified in the name of
12 revitalization of the area, the Arts Overlay Rezoning, there was no accompanying
13 mechanism to go beyond that initial zoning to implement the goals.

14 The issues raised always seem to pit those who would wait for
15 the goals to be realized against those who can't wait and who would modify the
16 original zoning, compromising by doing so, some of the desired outcomes in the
17 interest of getting something started by way of redevelopment.

18 And let me point out that its a judgement call as to whether you
19 are willing and able to wait and whether there is something about these properties or
20 this situation that makes you say maybe this line was drawn in the wrong place.

21 We have concluded on the basis of at least the testimony we --
22 not the testimony, excuse me, the information that we had, and on the basis of the
23 condition of the area, that the wait is not likely to produce any revitalization of that
24 area on its own. When a property has been in commercial use, it takes a major
25 effort to bring it back into residential use, once that change has occurred. And to
26 look at the properties, it's clear that while the properties across the street to the west
27 are largely residential, they look residential and to my knowledge, they have been

1 residential for in continuous use in the past as residential, if I'm not mistaken.

2 Whereas the properties that we are talking about, that the
3 applicant is representing, are for the most part residential in character, clearly, I
4 mean commercial in character. Clearly when you look at them and unlikely to be
5 easily marketed or marketed at all for residential use.

6 Thus, we, I guess, jumped on one side, we haven't jumped to
7 one side or the other, and we felt that while we participated in setting the goals and
8 they are very significant goals for the U Street area, that this street coming down to
9 the south of U is not making any progress toward meeting those goals. And
10 probably the commercial use of this, the more valuable commercial use of this Ninth
11 Street portion of the U Street corridor would not have a significant negative impact
12 and might even have a positive impact on the further redevelopment of desired
13 development of U Street.

14 So that's our report and I'd be happy to answer any questions as
15 best I can.

16 CHAIRPERSON PARSONS: Okay, thank you. Are there any
17 questions? Mr. Clarens?

18 COMMISSIONER CLARENS: Is there -- let me share with you
19 my concern and maybe the Office of Planning might have some insight as to how we
20 can address it.

21 It seems to me that there is a certain level of wisdom in
22 establishing a narrow corridor of commercial zone along a major artery like U Street.
23 And that beyond that the concept is that then residential areas would be helped
24 along and encouraged.

25 MR. COLBY: As a concept, that is correct.

26 COMMISSIONER CLARENS: And as a concept I think that that
27 sounds reasonable.

1 The density difference between the Arts Overlay C-2-B, is that
2 what it is?

3 MR. COLBY: Yes.

4 COMMISSIONER CLARENS: And an R-4 zone is significant,
5 isn't it, in terms of height and density?

6 MR. COLBY: It's, I think that the -- it is, the potential is there for
7 a higher density. There is no question. Three and a half FAR is certainly higher,
8 I've forgotten what R-4 is, 5.9 or something like that. So that's a significant
9 difference.

10 COMMISSIONER CLARENS: And the height is different -- what
11 is -- 65 feet?

12 MR. COLBY: Sixty five feet, yes, versus 40.

13 COMMISSIONER CLARENS: Versus 40.

14 MR. COLBY: Yes, that's true. If this area, this strip were, and of
15 course, the strip to the north, which is more developable, I mean, I think one of the
16 points that is not really directly before you is the application for an historic district in
17 the area. I don't know what it will do specifically to this frontage, but I suspect and
18 so I can't say more than what I think, but I think it will have an impact on preserving
19 these structures.

20 I personally don't think that anybody is going to tear down these
21 houses and there is no economic sense there to tear them down and build
22 something super large. To build to the -- zone which the applicants are seeking.
23 They are really seeking a zone which is adjacent, which is a commercial zone, so
24 that they can use the properties as they are currently meant to be used, which is,
25 have been used for years, which is in commercial use, or mixed use because there
26 are some residential properties too.

27 COMMISSIONER CLARENS: But the nature of this is nature of

1 this as an historic district is not --

2 MR. COLBY: It is not certain.

3 COMMISSIONER CLARENS: Yes, it is not certain.

4 MR. COLBY: Not completely.

5 COMMISSIONER CLARENS: So in theory, these properties, in
6 theory, these properties could be developed to the 3.5 --

7 MR. COLBY: It could, in theory it could.

8 COMMISSIONER CLARENS: -- in a BUD application they could
9 even go to a higher density and higher height.

10 MR. COLBY: They could, yes.

11 COMMISSIONER CLARENS: Under C-2-B, under BUD, under
12 C-2-B.

13 MR. COLBY: Not likely away from U Street, but in basically a
14 backwater area, but they could. That's a possibility. And that's the case in an area,
15 in an area of zoning like this, where you are not talking about a specific project or
16 controls, but you are really talking about what could happen. That could, very
17 unlikely, but it could happen.

18 COMMISSIONER CLARENS: And I know that you don't work
19 that closely with the BZA in your capacity as a staff in the Office of Planning, and
20 probably I should know the answer to my question, but the BZA cannot grant across
21 the board variances that cover a number of commercial uses.

22 MR. COLBY: That's -- well, I don't know that for a fact, that's my
23 understanding, as I think it is yours, and borne out by the record that we have before
24 us tonight, yes. And if they could, that would solve the problem. The community
25 could -- because different uses have different impacts potentially. And I think that's
26 the problem.

27 If it were possible for the BZA to do that, I think that would solve

1 the ANC's problem, it would, I believe, solve the applicant's problem, and we'd all go
2 away happy and we would have solved it. At least, yes, I think that would solve
3 everybody's problem. But I don't think that's a possibility.

4 COMMISSIONER CLARENS: And there is no alternative for the
5 Zoning Commission that the zoning classification that has been applied for an that
6 your office is recommending approval of. Meaning there is no possibility of an
7 intermediate zone that might allow the uses in question without granting a, the
8 expansion of the density.

9 And I understand the additional problem then that comes which
10 is basically what I'm -- the question about whether there might be a transitional zone
11 that transitions between the residential area and the commercial area. And there is
12 nothing in the books that would fit that category?

13 MR. COLBY: Well, I don't think, I don't -- in part I don't know the
14 complete answer, whether C-1 for instance, which is very restrictive in height and
15 bulk, would serve the purposes of -- it might, of the retail uses that are reasonably
16 likely to occur for these properties.

17 The problem that I am aware of is that, and can speak to, is that
18 it's a fairly small strip, and in some sense becomes a spot, if you will, of some
19 special transition zoning --

20 COMMISSIONER CLARENS: I understand that.

21 MR. COLBY: -- in that location, which we would --

22 COMMISSIONER CLARENS: And the theory of eliminating spot
23 zoning, because you are extending an existing zone, therefore --

24 MR. COLBY: We extended it all the way to the north to touch an
25 existing zone. And basically redraw the 1990 --

26 COMMISSIONER CLARENS: Boundary.

27 MR. COLBY: -- boundary by doing that.

1 COMMISSIONER CLARENS: Push it down.

2 MR. COLBY: By moving it down. And as the ANC points out,
3 there -- I guess I call them theoretical, but good theoretical reasons, and there is no
4 question, for holding the line. That's a line that they like. They like the sound of the
5 revitalization of that area.

6 And the only problem is how fast is that occurring and would
7 commercial viability of this block be a benefit to the community, the larger
8 community and the larger U Street area, even though you lost in doing that the
9 potential for a cleaner, stronger residential component to the south. And is that likely
10 to occur in spite of the testimony we've heard about some revitalization?

11 I don't think -- I'm not aware, or it didn't come out in the
12 testimony yet, anyway, that the properties that have been renovated for residential
13 use were not residential all along. I mean, did they, were they renovated from
14 commercial use? And if so, that's a significant difference.

15 CHAIRPERSON PARSONS: I sense we will have some
16 testimony about that.

17 COMMISSIONER CLARENS: Yes, I do sense that too. And my
18 final issue is the reason that a down zoning is not a taking is because there are,
19 there are procedures by which relief can be sought by the owner of the property that
20 has been down zoned to maintain the use?

21 MR. COLBY: In part it's clearly, in part there is a safety valve
22 which is the BZA and in part it's because in an area rezoning, I believe property
23 goes up and down and you net out in a sense --

24 COMMISSIONER CLARENS: You net out for the area --

25 MR. COLBY: -- the greater --

26 COMMISSIONER CLARENS: -- you don't net out for the
27 individual property owner.

1 MR. COLBY: Yes.

2 CHAIRPERSON PARSONS: Mr. Colby, without being too
3 redundant here, I wanted to follow up on Mr. Clarens' points. You have an exhibit
4 behind page six of your report which is a map depicting the area. And I notice to the
5 north on this same square, we have uses that are obviously interim, like a parking
6 lot, used cars, that kind of thing.

7 And, is it at all probable that somebody could assemble this
8 entire block, including the case we are hearing tonight, and come forward with a
9 project that is not anticipated? That is to demolish these structures --

10 MR. COLBY: I can answer that. In theory that could happen.
11 There is residential property to the south which is very valuable and is unlikely,
12 relatively valuable, and is unlikely to be part of that, one. Two, there is so much
13 essentially vacant land in that square already, shown as parking or used cars, that
14 one could very readily assemble that and it would probably be a larger property than
15 you would really want or need to do whatever it was that you had in mind to do, of a
16 commercial nature.

17 And three, of course, the historic district, which we don't know for
18 sure, will be there and how it will protect those Victorian properties.

19 But, so I think while it is possible, that's I would say highly
20 unlikely that it would occur.

21 CHAIRPERSON PARSONS: So those kinds of developments,
22 the scale of the development of this kind, has not occurred to this whole area since
23 1990. Of course, not much else has happened in the city either.

24 MR. COLBY: No, it's been mostly, there has been some new
25 development, as I think most people are aware along U Street, and a little on 14th
26 Street.

27 CHAIRPERSON PARSONS: Right.

1 MR. COLBY: But mostly it has been reuse of existing buildings.

2 CHAIRPERSON PARSONS: Okay. Any more questions? Mr.
3 and Mrs. Jackson, do you have any questions for Mr. Colby?

4 MS. JACKSON: Well, the only thing that I wanted to -- clarify
5 and that has to do with the historic designation. Because we appeared at the
6 November meeting of the Cordoza Shaw and they have been actively involved in
7 spearheading the efforts to establish the Greater U Historic Preservation District,
8 and we will be within the boundaries of that historic designation. And that was one
9 of the questions they put to us, because it does take effect December 3rd, and
10 therefore there would be some say as to what we would do with our properties.

11 And as we have stated, we are nine individuals and I know it's
12 not our intention and what we want to do is --

13 COMMISSIONER CLARENS: It does take effect? It has been
14 designated as an historic district?

15 MS. JACKSON: Yes, it has. And we were told that --

16 COMMISSIONER CLARENS: And it will take effect on
17 December 3rd, and you will have to go through historic reservation Board review to
18 do any work in that area?

19 MS. JACKSON: Exactly. And that was a question that they
20 posed to us.

21 CHAIRPERSON PARSONS: Good to know. Thank you. Does
22 the ANC have any questions?

23 MR. GUYOT: Yes sir.

24 CHAIRPERSON PARSONS: The two man team arises.

25 MR. GUYOT: Mr. Colby, I'm going to show you a copy of 12355.
26 -- Mr. Colby, I've given you a copy of 12355, which is the law that controls all
27 economic development in the District of Columbia. It has been passed. You are

1 familiar with it. The Congress has not overturned it.

2 And if we go to the designation of areas on page 29, the area
3 closest to the property we are discussing is Section 4. The Georgia Avenue area
4 shall consist of any square located on or abutting Georgia Avenue beginning at the
5 intersection of Florida Avenue, N.W. and north of Georgia Avenue, north to the
6 Eastern Avenue, N.W.

7 This is on page 28, we find out that these are the areas
8 designated for economic development which gives the National Capitol
9 Revitalization Corporation, a nine member Board, the right, unlimited right to
10 development.

11 Now, did you take this piece of legislation in consideration when
12 you analyzed the possibilities, and I'm sure you used the existing lines when you
13 analyzed this. But did you take this bill into consideration?

14 COMMISSIONER CLARENS: We don't have a copy of that in
15 front of us, do we?

16 MR. GUYOT: I'll be glad to.

17 COMMISSIONER CLARENS: Is this it, we have a copy here.

18 MR. GUYOT: You have a copy, okay.

19 CHAIRPERSON PARSONS: Mr. Colby just passed it down to
20 us.

21 MR. COLBY: The answer is, you asked did I or did we take into
22 account the Georgia Avenue target area when we, I guess, recommended -- came
23 to our recommendation on this property. The answer is, we did not specifically take
24 it into -- I did not specifically take it into account.

25 However, because I don't think of this area as Georgia Avenue,
26 it's near to Metro. You can walk to the site and walk to the Metro. It's really, Ninth
27 Street is really Ninth Street and not really, and not part of Georgia Avenue.

1 That's not to say that if something wonderful finally occurs along
2 Georgia Avenue, which is a pretty long avenue and in fact, shouldn't be looked at as
3 one avenue for redevelopment. It's like New York Avenue, it needs to be looked at
4 in pieces.

5 I'm not sure that we would have changed our recommendation
6 for this particular frontage of stores. I don't know, frankly, whether that impact would
7 have made this more desirable for residential. I doubt it. Whether it would have, but
8 I don't know, whether it would have made it more attractive for commercial, whether
9 a commercial -- if this were rezoned commercial, whether these would soak up
10 potential economic development somewhere else, I kind of doubt it. But it's --
11 because this is really small potatoes compared to Georgia Avenue which is, you
12 know, a capitol G. It's a real long avenue with a lot of commercial frontage.

13 So, I don't think we would have changed. I think we would have
14 seen these properties as distressed, needing some help. I wouldn't have thought
15 that the Georgia Avenue help would have helped them and don't know how it could
16 have helped them in fact.

17 That's a long answer to your question.

18 MR. GUYOT: I understand. I appreciate that. My concern is,
19 you and I both agree, based on 12355 that the Development Corporation will have
20 unlimited power as it relates to development in that area.

21 MR. COLBY: And a lot of choices to make.

22 MR. GUYOT: A lot of choices. Did you take into consideration
23 the economic zoning application pending before HUD which includes some of those
24 census tracks and Prince George's County, hooks up --

25 MR. COLBY: Empowerment zone.

26 MR. GUYOT: Exactly. The empowerment zone. Because some
27 of the census tracks that we are dealing with are impacted.

1 My concern is the applicant has dependent, testified so much on
2 economic development. And my concern is I want to do everything possible to
3 make sure that the interests for people that elect us is considered in all the decisions
4 that are made on this case.

5 COMMISSIONER CLARENS: Mr. Guyot, the area that you have
6 in question does not include, this is a clarification, does not include the property
7 before this Commission at the present time. Is that correct?

8 MR. GUYOT: Mr. Clarens, you are correct, you are absolutely
9 correct, as usual. And that is precisely my point. It is clear the city has made --

10 COMMISSIONER CLARENS: No, no, you missed the point.

11 MR. GUYOT: I'm sorry.

12 COMMISSIONER CLARENS: You will have an opportunity to
13 testify.

14 MR. MELCHER: If I could ask a couple of questions here. Mr.
15 Colby, Mr. Clarens addressed the issue of the Arts Overlay district and the way that
16 it impacted upon, or commercial zoning impacted or overflowed to the area. Is it in
17 fact true that Ninth Street, Tenth Street, and Eleventh Street, all the way over to
18 Fourteenth Street, that this sort of half way in the middle of the block zoning was
19 adopted at that time to sort of give a transition or a buffer zone between the fully
20 commercial area of U Street and the residential to the south. So that each of these
21 blocks is in fact roughly similar to the zoning that exists on Ninth Street?

22 MR. COLBY: Yes, And we pointed that out earlier in the prior
23 case and in, you know, the set down of this case, that it's a tough -- I'm not sure I
24 would have drawn the line. I understand the theory. And a lot of what was done in
25 such a huge area was a theory. There wasn't a very precise line setting.

26 It was set with consultant assistance in a way to backup the
27 theory. And the theory was just that, you've got to contain the commercial and you

1 want it along U Street, and you want it to be viable, and you want the arts to be up
2 there. And behind that you need the residential. And there really was no thought
3 about transition. I mean, there was none.

4 And in fact, if you will, the transition was an area like Ninth
5 Street, which was commercial and residential. I mean it's a mixture. The
6 commercial goes on down Ninth beyond this point. Ninth Street is really a mixed
7 use street all the way down.

8 MR. MELCHER: Now, you said that you were unaware of the
9 previous use of buildings along the 800 block of T Street and the other side of Ninth
10 Street. So you are not aware that in fact the vast majority of those buildings were
11 renovated from vacant shells that had been sitting there for quite some period of
12 time?

13 MR. COLBY: No, I'm not. And I don't, yeah, I don't know, and I
14 assume -- I don't know what the use was either. Because -- but I don't know that.

15 MR. MELCHER: And in formulating the opinions of the Office of
16 Planning, did you consult with any real estate agents regarding the current
17 residential property situation in this area?

18 MR. COLBY: No.

19 MR. MELCHER: So you are not aware that in fact the current
20 market conditions for properties from Seventh to Fourteenth Street, that properties in
21 that area tend to stay on the market, in the current real estate market, for less than
22 two weeks before an offer is made?

23 CHAIRPERSON PARSONS: You are beginning to testify again.
24 We can't wait to hear from you.

25 COMMISSIONER CLARENS: But don't do it that way.

26 MR. MELCHER: And I guess my further question, on your map
27 here, I guess it's page six, you've listed along Florida Avenue where it meets U

1 Street and the number of businesses located there, you've termed struggling
2 commercial development. Can you explain why that term was used?

3 MR. COLBY: When we put the -- when our office was involved
4 and we walked the length of U Street and down Florida Avenue, and I walked that
5 area today, I don't see at this end of U Street, a whole lot of difference from what
6 was there before. In some cases it's more distressed than what was there before.

7 If that's a poor choice of words, the point is that there is a lot of,
8 there is vacant space, there is certainly under utilized space, and the businesses
9 appear to be fairly marginal. They, depending on, I don't know -- there doesn't seem
10 to be a -- they don't seem to be very viable. And that's an impression based strictly
11 on a walking, you know, I don't live in the area so I can't -- maybe you will be able to
12 tell me that that's a wrong judgement.

13 MR. MELCHER: So you made no contact with business owners
14 --

15 MR. COLBY: No.

16 MR. MELCHER: Had no concrete discussion of their current
17 business situation, how long they had been in business, whether the building had
18 been recently renovated as commercial, no conversations like that whatsoever?

19 MR. COLBY: You mean along Florida Avenue?

20 MR. MELCHER: Yes.

21 MR. COLBY: No.

22 MR. MELCHER: And did you have any of that sort of
23 conversation with any of the business owners along the part of Ninth Street that's
24 currently zoned commercial?

25 MR. MELCHER: No. But, it's pretty clear that the Ninth Street
26 properties, that they are what they are. You can tell by looking at them that they are
27 very quiet businesses. Except for the --

1 MR. MELCHER: What do you mean by quiet?

2 MR. COLBY: I mean that they don't do a lot of business in the
3 residential area. Now clearly there are clubs and liquor stores and other uses to the
4 north in the commercial area.

5 MR. MELCHER: No other questions.

6 CHAIRPERSON PARSONS: Well gentlemen, why don't you
7 stay where you are because the next -- do you have another question Mr. Guyot?

8 MR. GUYOT: I have just one last question.

9 CHAIRPERSON PARSONS: All right.

10 MR. GUYOT: In your testimony sir, you talked about whether or
11 not we'd make this change and whether or not we'd wait. And I got the impression
12 that was tied into economic development.

13 Can we -- can you and I, based on our knowledge of 12355
14 accept the fact that economic development as we know it is going to be accelerated
15 at an unprecedented rate in the District of Columbia because of this?

16 MR. COLBY: I don't want to -- I don't want to denigrate the
17 potential of economic development, which has been looking for some focus in the
18 District of Columbia for many, many, many years. I think that putting this focus on it
19 is very desirable and very admirable. I would, we'll have to wait and see.

20 I am not convinced yet that it's going to make that much change.
21 Those corridors are very large corridors, long corridors. I hope so.

22 CHAIRPERSON PARSONS: All right, any more questions of Mr.
23 Colby? Anything else you'd like to say?

24 MR. COLBY: I won't top that.

25 CHAIRPERSON PARSONS: All right, okay. I presume there is
26 no report of other agencies that you are aware of, Mr. Colby?

27 MR. COLBY: No, there are not.

1 CHAIRPERSON PARSONS: So why don't we proceed then to
2 the report of the Advisory Neighborhood Commission which we have before us and
3 accepted into the record.

4 MR. GUYOT: Yes.

5 CHAIRPERSON PARSONS: Please proceed.

6 MR. GUYOT: We have a resolution that was passed by the ANC
7 at a public meeting on October 14th. The resolution states:

8 "Whereas, the Uptown Arts
9 Overlay district was created to encourage a
10 mix of arts oriented commercial and
11 residential uses along the U Street corridor,
12 and

13 "Whereas, there continue to
14 be a large number of commercially zoned
15 properties along the U Street corridor which
16 are vacant and are not being used as
17 anticipated in the Uptown Arts Overlay
18 district, and

19 "Whereas, the lower half of
20 the 1900 block of Eighth, Ninth, Tenth,
21 Eleventh, Twelfth, and Thirteenth Street are
22 currently zoned residential and was so
23 designated to create a buffer between the
24 commercial uses on the upper half of each of
25 those blocks and along U Street and the
26 residential areas, and

27 "Whereas, in reliance upon

1 the zoning changes effected by the
2 implementation of the Uptown Arts Overlay
3 district residents have purchased, rented and
4 renovated residential properties in areas
5 directly south of the commercial zones along
6 the U Street corridor, and

7 "Whereas, a change in the
8 zoning designation of the southeastern half
9 of the 1900 block of Ninth Street from R-4 to
10 C-2-B would adversely impact the residents
11 in the immediate area surrounding these
12 properties,

13 "It is hereby resolved that the
14 ANC Commission 1-B opposes the zoning
15 changes proposed in BZA Case No. 98-9
16 which would change the current residential
17 R-4 zoning designation of the southeastern
18 half of the 1900 block of U Street -- of Ninth
19 Street,

20 "It is hereby further resolved
21 that the Chairman of ANC 1-B Commission is
22 directed to convey the Commission's
23 opposition in writing to the Board of Zoning
24 Adjustment --

25 not to the Board of Zoning Adjustment and that should be the Board of Zoning --

26 "not later than October 21,
27 1998.

1 "And it is hereby resolved
2 that the Chairman of the Advisory
3 Neighborhood Commission 1-B is directed to
4 take what other means may be necessary
5 including testifying or designating another
6 commission to testify to convey the
7 opposition of the Commission to BZA -- to
8 Board of Zoning Case No. 98-9."

9 And it's signed by me as the Chairman of the Commission and the Secretary.

10 I want to -- there is another section that I want to deal with and
11 that is the Advisory Neighborhood Commission 1-B at its regularly scheduled
12 meeting held on October 14, 1998, at which a quorum was present, voted to oppose
13 an application for the rezoning of the southeastern half of the 1900 block of Ninth
14 Street, N.W.

15 Attached is a copy of the resolution which I just read, passed by
16 the Commission with regard to Case No. 98-9.

17 The ANC is concerned with sustainable, controlled development
18 in the U Street corridor. We are also concerned with sufficient, affordable housing
19 along the U Street corridor. The current Uptown Arts Overlay district encourages a
20 proper mix of residential and commercial development.

21 The current zoning divides the 1900 block of Ninth Street
22 between the exclusively commercial zone to the north and along U Street and the
23 residential property to the south.

24 Our opposition is based upon the existing character of the
25 neighborhood in which this rezoning is proposed.

26 First, the subject properties are Victorian rowhouses and are
27 most suited for needed residential development in the growing U Street corridor.

1 Second, most of the buildings along the 800 block of T Street
2 directly south of the subject property have recently been renovated and are
3 exclusively residential, either owned or occupied or as affordable rental housing
4 property. The buildings in the southwestern half of the 1900 block of Ninth Street,
5 directly across the street from the subject properties, are also exclusively residential
6 and several have been recently renovated for such use.

7 Obviously, a zoning change such as is contemplated in this
8 application would adversely affect the residents in these areas. It also would
9 adversely affect residents in the residentially zoned blocks to the south, east and
10 west.

11 Further, the Maya Angelou charter school recently purchased the
12 Odd Fellows building at the corner of Ninth and T. This school which provides year
13 around structured instruction to potentially at-risk students should be shielded by the
14 existing residential buffer from the commercial development on the northern half of
15 the 1900 block of Ninth Street.

16 And I might add that on Sunday morning, Sunday Morning
17 showed a segment about this great school, which now is located in the 2100 block of
18 Eleventh Street. And as soon as Donatelli & Klein does its development on the old
19 Children's Hospital, they will be moving out of that building. So this is not
20 conjecture. The DHDC has appropriated the money and this plan is in motion.

21 The applicant will --

22 [Participant, off mike.]

23 CHAIRPERSON PARSONS: I'm sorry, we can't allow you to
24 engage in conversation like that. Thank you.

25 MR. GUYOT: The applicants will argue that the subject
26 properties certainly contain a number of grandfathered commercial uses. While this
27 is true of two of the properties, those grandfathered uses are restricted and limited.

1 A rezoning would open up all of the subject properties to any and
2 all uses permitted in Arts/C-2-D zoning. The community would have little, if any,
3 input into the type of businesses that might be established in these properties,
4 including businesses that could generate excess trash, noise, garbage, alcohol use,
5 and other problems which are not desired in a residential area.

6 While the Uptown Arts Overlay district has had a positive effect
7 on the U Street corridor, there still remains numerous commercial properties which
8 are currently zoned Arts/2 and have yet to be developed. This is especially true
9 along the eastern portion of the U Street corridor where the subject properties are
10 located.

11 We need a good mix of both commercial and residential, as
12 demonstrated by the recent residential renovations across the street, from the
13 subject properties, and directly south in the 800 block of T Street. Residential
14 development of these properties is a viable option.

15 But it is more than a viable option, it is a necessary option as the
16 area grows and the available pool of residential properties is occupied. Keeping the
17 subject properties residentially zoned will not prohibit any business from locating in
18 this area because there are more than sufficient vacant commercial properties along
19 U Street directly north of the subject properties, and Mr. Colby testified to that fact.

20 We request the Zoning Commission deny this zoning application
21 and keep all of this, keep this all important buffer between the commercial and
22 residential uses, and to encourage the development of affordable housing in this
23 important area of the city.

24 CHAIRPERSON PARSONS: Thank you Mr. Guyot.

25 MR. MELCHER: I could add to that, Mr. Parsons, to further
26 comments in response to --

27 CHAIRPERSON PARSONS: Now you are a member of the

1 ANC?

2 MR. MELCHER: I'm the Vice Chairman of the ANC, that's
3 correct.

4 MR. GUYOT: Absolutely.

5 MR. MELCHER: I was particularly disturbed, and I sort of had
6 some comments I was going to make, and I think I've revised them a bit. To hear
7 Mr. Colby refer to this area as a backwater, those of us that live there certainly don't
8 feel that it's a backwater. And the housing prices in the area certainly don't reflect
9 that it's a backwater.

10 I can name several properties within a block or a block and a half
11 of these properties, residential properties that have sold well in the \$200,000 range.
12 My own personal residence previous to where I live now, being one of them.

13 It's not a backwater. This area is an extremely viable, fast-
14 developing area. No it hasn't gone as quickly as we all would have liked to have
15 seen back in 1990 when it was all rezoned. That's an absolute fact.

16 But in fact, it is happening. And the properties in the 800 block
17 of T Street, directly below these properties that are applying for rezoning, the
18 properties across the street, were in fact vacant, for the most part shells. They were
19 sitting there empty, they were crack houses, they were burned out shells, and in the
20 last two or three years, residential developers have come in, they have put the
21 money into making these buildings work, and they are currently all occupied
22 properties.

23 There is no reason why the properties that are part of this
24 application could not also make that same adjustment to residential property. The
25 money is there to be made.

26 The problem is, is we have at least in the Jackson, people that
27 purchased the property ten years ago and didn't do what should have been done

1 which is to actively become involved in making this a viable neighborhood. They
2 have sat on this property, and now, now that it is economically viable because the
3 neighborhood is on its way up, and it's on its way up fast, they are in here asking for
4 a special favor. I don't think this Zoning Commission nor the residents of this city
5 should be giving that to them.

6 These properties were zoned residential for a reason. They
7 were zoned residential to give a buffer between those of us that live to the south and
8 the commercial that we all wanted to see along the U Street corridor. And to take
9 that away from us is to take away that area that let's me sleep at night because I
10 don't have to listen to the noise, but knows that I can get out my front door and walk
11 two blocks and be in a very viable commercial corridor.

12 Now, Mr. Colby again referred to some of these properties as
13 struggling commercial development. In fact, the particular block there between
14 Eighth and Ninth Street on the north side of Florida has five properties that were
15 recently, as in within the last three or four years, renovated into commercial space
16 and uses. There is a restaurant, there is a florist, there is a hair salon, there is a
17 church/meeting space. They are all viable economic businesses that are active.

18 Which is not to say that there aren't empty buildings along U
19 Street. There most certainly are. And certainly in the 900 block of U Street that is
20 the case.

21 And that's where those of us that live in this community expected
22 to see this commercial development. Not in our backyards, a block away. But as
23 anyone who lives in the city can tell you, a block is a world away sometimes. And
24 that's what we are trying to protect here is our backyard. If we go a block away, we
25 have the commercial development we all want and need.

26 But these properties are in the residential area. The school
27 going in across the street, the residential development that's occurred around it, say

1 that the choice is not, as Mr. Colby said, between letting it sit there and commercial
2 development. The choice really is, do we let the commercial come down, or do we
3 have viable residential development?

4 I think that there is no question that the real estate market in this
5 area is so high that these properties, if given the opportunity to develop into
6 residential property, would happen within the next year. There is just no question in
7 my mind.

8 CHAIRPERSON PARSONS: Okay. Do I hear any questions?

9 COMMISSIONER HOOD: Yes, I have one for Mr. Guyot and Mr.
10 Melcher. First of all, who is the SMD Commissioner?

11 MR. MELCHER: I am.

12 COMMISSIONER HOOD: You are. You SMD.

13 MR. MELCHER: That's correct.

14 COMMISSIONER HOOD: Did you have an SMD meeting with
15 the people who live there in your area?

16 MR. MELCHER: I've had meetings with the PSA that represents
17 the area to the east of Ninth Street. I've had meetings with the Westminster
18 Neighborhood Association, and with the Cordoza Shaw Neighborhood Association.

19 Between those three groups, I basically have covered all the
20 people that would be --

21 COMMISSIONER HOOD: The surrounding people that actually
22 live in the area.

23 MR. MELCHER: That's correct. And if you want a further report
24 sort of on what happened, Norman Wood, who is my predecessor and who is part of
25 the community to the east and lives on Eighth Street, is adamantly opposed to this,
26 as are the people in his organization.

27 COMMISSIONER HOOD: That's the former chairman?

1 MR. MELCHER: That's the former Chair.

2 COMMISSIONER HOOD: Okay, at one time, maybe under the
3 former chairman, did the ANC support the rezoning at one time?

4 MR. MELCHER: I think what the ANC supported was the
5 application of the Jackson's for a special use exception. I think it was separate. It
6 was to put in -- and they can correct me if I'm wrong, it was put in the barber shop
7 instead of the travel agency that had been there. Or something to that effect. It was
8 not an overall zoning change, it was a special use exception.

9 COMMISSIONER HOOD: Would I be correct in saying, I believe
10 your opposition is basically due to taking away the input from the community and
11 also being able to have some say so in what type of businesses would eventually go
12 into this corridor?

13 MR. MELCHER: I'm not sure that's correct. I think that there is
14 a very strong feeling among many of the residents in the area that they purchased
15 and/or renovated their homes on the expectation that they would have this buffer
16 between themselves and commercial development. So there is a real feeling that it
17 doesn't matter what type of commercial development is there, that they don't want it.

18 They expected this to be ultimately become residential. There
19 was an understanding when people moved in that some of these properties in fact
20 had grandfathered uses. But not all of them. And they were specific uses, as the
21 grandfathering allowed. Not whatever may come under C-2-B zoning.

22 CHAIRPERSON PARSONS: So you feel then, we shouldn't
23 speculate, but let me try. If the Jacksons went forward to use this property for
24 beauty salon or BZA case, the ANC would support or object to that?

25 MR. MELCHER: I think they still would object to that. If that was
26 other than the grandfathered use. I mean, I think that we can't object to the
27 grandfathered use, they have that as a matter of right.

1 CHAIRPERSON PARSONS: Okay, anything else?

2 COMMISSIONER HOOD: Yes, so basically what you want all
3 this to remain is R-4, residential.

4 MR. MELCHER: That's correct.

5 CHAIRPERSON PARSONS: Mrs. Jackson would you like to
6 engage these gentlemen?

7 MR. JACKSON: Yes.

8 CHAIRPERSON PARSONS: I guess you are going to need to
9 move this microphone, if you would. Mr. Melcher did. I suppose you could put it in
10 your hand, but -- whatever you'd like.

11 MR. JACKSON: Okay, I'll put it in my hand. The first thing --

12 [Asides.]

13 MR. JACKSON: The first question is that there was a
14 requirement that people within 200 feet be notified of the change that we proposed.
15 We believe that we have met that standard by receiving the signatures of the
16 majority of people that live within 200 feet of our property. The property owners, the
17 very people that you speak of across the street from us, who own the property, have
18 signed our petition.

19 So, the question boiled down and we kept asking you, you say
20 you represent the community, but you have not. We can prove you do not represent
21 the people of that that city requires that have a voice in this matter. Those nearest
22 to us.

23 Also, Mr. Melcher, you are a part of the Westminster Association
24 and the Cordoza Shaw Neighborhood Association also. When we presented our
25 cases --

26 CHAIRPERSON PARSONS: Mr. Jackson, you are doing the
27 same thing we tried to stop Mr. Melcher from doing.

1 MR. JACKSON: Okay, okay.

2 CHAIRPERSON PARSONS: And you will have an opportunity
3 to summarize at the end of the hearing, if you'd like to do that.

4 MR. JACKSON: Okay, okay. Well, my wife has some
5 questions.

6 CHAIRPERSON PARSONS: All right. Let's try the other half of
7 the team.

8 MS. JACKSON: I just had a question in terms of the buffer, the
9 T Street buffer that you spoke of. Could you tell me what the zoning designation is
10 for the 1800 block of Eleventh Street?

11 MR. MELCHER: Of Eleventh Street?

12 MS. JACKSON: Yes.

13 MR. MELCHER: The 1800 block of Eleventh Street?

14 MS. JACKSON: Yes.

15 MR. MELCHER: Certain portions of it are residential and certain
16 portions of it are commercial.

17 MS. JACKSON: The zoning, the official zoning designation for it.

18 MR. MELCHER: Right, certain portions of it are commercial and
19 certain portions are residential. What type of commercial it is, I'm not exactly sure.
20 I'm not sure what that has to do with this.

21 MS. JACKSON: Now you spoke to the fact in your resolution --

22 MR. MELCHER: The 1900 block of each of those streets -- I
23 didn't make any reference to the 1800 block.

24 MS. JACKSON: No, but the reason I'm pointing out the 1800
25 block is that the 1800 block is below T Street, going in the direction of S. And you
26 have stated that the reason for the boundary designation being drawn as it is, is that
27 there is this, as we call, imaginary T Street buffer that you referred to in your

1 resolution. And I might add that we did provide the Commission with a copy of your
2 resolution as well as a rebuttal to it beginning on page 54, step by step.

3 And one of the points that we noted was to look at the properties
4 that fall below the T Street buffer. And that's why my question to you is, do you know
5 what the zoning designation --

6 MR. MELCHER: I know that they have a zoning for commercial
7 use. Yes, I've stated that.

8 MS. JACKSON: Commercial use?

9 MR. MELCHER: Yes.

10 MS. JACKSON: Okay. So the zoning --

11 MR. MELCHER: However, the lower half of the 1900 block of
12 Eleventh Street in fact does have a residential zoning, as I said. As does the
13 eastern half of the 1800 block of Eleventh Street.

14 MS. JACKSON: So would you say that your argument that the T
15 Street is the definite boundary for between commercial and residential use is
16 flawed?

17 MR. MELCHER: No because the block of the 1800 block of
18 Eleventh Street was in fact historically a commercial area, that during the Uptown
19 Arts Overlay district was remained that way. They didn't take it away or change it at
20 that time. And that was a decision that was made at that time.

21 But each of the other blocks that I referred to in fact is residential
22 in the lower half.

23 MS. JACKSON: Could you speak to the Odd Fellows building,
24 which is also below the T Street buffer, and the property that you have indicated will
25 be the new location of the charter school. Will there be other businesses or uses of
26 that property in addition to just the charter school?

27 We have been led to believe that businesses will be located for

1 commercial use in that property.

2 MR. MELCHER: That's not correct. In fact the school itself has
3 an intention of running training center in the lower half of that school, that is correct.
4 But that is a training center for the students, not a commercial zoned use.

5 MS. JACKSON: One final question, Mr. Melcher. Where do you
6 reside?

7 MR. MELCHER: Currently I live in the 1100 block of S Street.

8 MR. MELCHER: So you are outside of the 200 feet radius of our
9 property?

10 MR. MELCHER: That's correct.

11 CHAIRPERSON PARSONS: Okay, Ms. Jackson, well done.
12 Anything, other questions? Anybody?

13 PARTICIPANT: Yes.

14 CHAIRPERSON PARSONS: I'm sorry, we don't permit
15 questions from the audience. Only parties to the case. So we will proceed to the
16 next part of our hearing.

17 COMMISSIONER HOOD: I just had a quick -- I want to follow up
18 and make sure, you are SMD ANC Commissioner for that area?

19 MR. MELCHER: That is correct.

20 COMMISSIONER HOOD: Thank you.

21 CHAIRPERSON PARSONS: Thank you gentlemen. Now, we
22 will move to people who are supporting this application.

23 MR. JONES: [Off mike.] -- my hand testify, but I have problems
24 getting up and down.

25 CHAIRPERSON PARSONS: Sir, what -- are you opposed to
26 this or in support of?

27 MR. JONES: I'm opposed.

1 CHAIRPERSON PARSONS: Why don't you come forward right
2 now. Do you need assistance? Are you all right?

3 [Asides.]

4 CHAIRPERSON PARSONS: He's almost there.

5 MR. JONES: I'd like to stand. I've been sitting too long.

6 CHAIRPERSON PARSONS: Ah, yes. The one thing I'd like to
7 say, I'm not asking any questions, is this.

8 CHAIRPERSON PARSONS: If you could tell us -- if you could
9 tell us who you are.

10 MR. JONES: I'm Conway Jones and I own the property at 1911
11 Ninth Street and 813 T Street. And the property on that side of the street, I think
12 there are approximately three or four units that's been used for residential. The
13 others are commercial. Mine at 1911 next door was commercial. The second door
14 down, the young lady here, is commercial. All the way down to Florida Avenue.
15 Starting at the corner, barber shop, after nineteen barber shop, it's -- I think there are
16 about four buildings in that block that have been used commercial.

17 And we have lived and worked there. And I think you fail to
18 realize one thing. That is this. For the revitalization of our city, and looking at Ninth
19 Street as being the main street coming down, you have more free traffic going
20 through there than you have on Fourteenth Street, more free traffic than you do on
21 Eleventh Street, more free traffic than you do on Seventh Street. That is one, it's
22 right on the corner or in the triangle off of Florida Avenue and the intersection of U
23 Street, going down to Seventh Street, back, and to come from Seventh Street up to
24 Eighth Street you have all this, no residents, none whatsoever.

25 So you just have about five or six houses, three on T Street, I
26 think, one that I own, and about three on Ninth Street that are residential.
27 Everything else is commercial.

1 Now what you are trying to do to us is this, say well, we'll take
2 your pants off and spank you because you are trying to make an honest living by
3 having a commercial building. And it's not fair. And how are we going to revitalize
4 our city. With the cynics that are born about eight blocks down, you have Empire
5 City is going down, how are the people going to get there?

6 And if you look at Washington, D.C., Washington, D.C. is the
7 capitol of the United States -- the capital of the world, and the people in Seattle,
8 Washington, Bangor, Maine, Miami, Florida, paying taxes to support this city. They
9 are paying taxes to support this city. And this city was designated as a capitol for all
10 of the people in the United States, not just the few who live in Washington, D.C.

11 And we must realize too, I was told that the inner city was full of
12 shops, we don't have but one department store downtown in Washington. But for
13 shops, for commercial use and for the people in the city to shop in one concentrated
14 area in order that they might save financial transportation, protect their children from
15 the traffic, provide an area where they can go for recreation, getting away from the
16 home, and the other end of the city was for residential. You had the schools, you
17 had the parks, you have the playgrounds, and you have everything else that the kids
18 can come in to see.

19 You are bringing the kids into Washington on Ninth Street, all the
20 traffic is running out on Ninth Street, you can't park there now. And running out of
21 the Ninth Street, involve themselves in a hazardous condition. He is involving
22 themselves, that poor child, in the heart of all the crimes, dope addicts and
23 everything else right now.

24 You go through and the fellows are standing out there. I take my
25 dog with me everyday when I go down to my office. I have an office there, a real
26 estate office there. In the building in which I am was a building Madame Walker
27 owned back in 1919. She, before that really. And she was the first African American

1 millionaire, woman. So we have a little historical stuff there.

2 Then you look at what Howard University is doing. They are
3 setting up an enclave where people can come from the rest of the United States to
4 visit. You want to go to Howard University to see what's happening. You want to go
5 down to see what's happening, they are setting it up. So if you don't have
6 someplace for the child coming from Bangor, Maine, to sleep, to eat, to visit, how
7 are you going to survive in a city like this?

8 Now there is no way in the world that you can tax us to death,
9 there is no way in the world that you are taxing us to death like you are doing now to
10 support this city. And there is no way in the world that you can have rent control,
11 and I have problems, I have probably -- on T Street, people been in there five or six
12 months back in the rent. Said why don't you fix it up? I can't fix it up, I don't have
13 the money.

14 I have property on Fourth Street, back in the rent. Property on
15 Florida Avenue, 407 Florida Avenue, vacant. Fourth Street, vacant. Nineteen ten --
16 1410 Ninth Street, vacant.

17 Those are properties I have interest in. And I'm not asking, I'm
18 just like to ask this young man here how many properties does he have in that
19 particular area? I'm not being facetious, I'm not trying to embarrass you. I just want
20 to know, how many properties does he have in that area?

21 CHAIRPERSON PARSONS: Can you -- we are not going -- Mr.
22 Jones --

23 MR. JONES: I was just asking him how many properties did
24 they have in that area. And I'm sorry, I'm not being facetious and I'm not trying to
25 insult him, but we are trying to deal with facts. We are trying to deal with revitalizing
26 the city, that is not the capitol of Washington, D.C., but is the capitol of the United
27 States and the way we are travelling now, it is the capitol of the world. And it's the

1 deadest capitol of the world.

2 I lived on five continents. I lived on five continents. When I said
3 I was there at least two and a half years. I lived on five continents. And this is the
4 deadest city that we have for the leadership of any country. I hate to say it because
5 it's my city, it's my city and I own property in this city. And I'm not trying to defend or
6 fight or do anything to embarrass anybody, but we have to be realistic about what
7 we are going to do in Washington, D.C.

8 Are we going to survive in Washington, D.C. or are we going to
9 move our capitol to between the Missouri River and Mississippi, which would be an
10 ideal spot for it because -- in the country. And there is no way in the world that
11 Washington can survive on homesteading population. There is no way in the world
12 we can survive. There is no way in the world we can do it.

13 CHAIRPERSON PARSONS: Thank you very much. Very proud
14 testimony.

15 MR. JONES: I hate to say it, I'd just like to ask the young man
16 again, what properties do they own in that area?

17 CHAIRPERSON PARSONS: Well I think what they are here for
18 is to represent the citizens who live in the area, rather than to testify on their
19 ownership.

20 All right, who else would like to testify in favor? I see a hand to
21 the rear. Do you want to come up and join him, the other gentlemen, do you want to
22 come up and join him. Then we can move on. We have three chairs here and we
23 won't have to spend time shuffling about.

24 MR. CROCKET: My name is William Crocket and I'm a small
25 business person. I have a pest control business in the Ninth --

26 CHAIRPERSON PARSONS: Please sit down.

27 MR. CROCKET: -- in the, at 1924 Ninth Street. I've been there

1 since 1980, probably longer than most of the people there.

2 When I moved there I had to change the zoning from residential
3 to C-1 or something of that nature. I never received notice in 1990 or anytime about
4 the change of the zoning to the way it is presently.

5 COMMISSIONER CLARENS: Where is your property? I'm
6 sorry.

7 MR. CROCKET: Nineteen twenty four Ninth Street. That's on
8 the west side.

9 COMMISSIONER CLARENS: On the west side.

10 MR. CROCKET: Yes, we also --

11 MR. JACKSON: Across the street from our property.

12 MR. CROCKET: The residential aspects of that block does not
13 fit well. And Mr. Johnson said, the street is too fast, there is too much activity, it
14 brings about undesirable people, you get a lot of trash and debris because the city
15 has not made any special provisions for that block for picking up trash, enforcing the
16 laws, zoning with the alleys and things are not free. There is a lot of illegal building.
17 And it makes me think there is some kind of conspiracy going on for that particular
18 block.

19 Ninth Street is the main thoroughfare. For my business I could
20 go to Maryland, Southeast, Virginia, anywhere by just taking Ninth Street, N.W.,
21 which would be New Hampshire, or even to Baltimore.

22 When the people go to the convention center or MCI from the
23 hotels uptown, Wisconsin Avenue, they come through Ninth Street. Everything
24 flows through Ninth Street. Ninth Street needs some attention. It needs police
25 protection. It needs the commercial space back. It's not a good place to raise
26 children.

27 And we have, the buildings that are there bring about Section 8

1 people, and the Section 8 people want to come there so that they can utilize, you
2 know, the streets, the drug activity there. They feel perfectly comfortable there. But
3 the business establishments would rather not have that activity.

4 I really think that the zone should just take up that whole 1900
5 block, both sides. On my side even, we have businesses, beauty parlors, and
6 restaurants and things of that nature that are not included. They are included in that
7 residential zone. And it hurts that neighborhood for it to be broken up as it is.

8 CHAIRPERSON PARSONS: Thank you very much, Mr.
9 Crocket. Any questions?

10 COMMISSIONER CLARENS: Only to clarify where it is that --
11 I'm looking at a map here that shows U Street and Ninth Street and where exactly is
12 it that you are located? From U Street you are in the first block south of U Street?

13 CHAIRPERSON PARSONS: We are looking at the same map,
14 Mr. Crocket, so what's the label on your property? Can you read that? It's a little
15 hard to read.

16 MR. CROCKET: There is a painted parking lot there, and then
17 there is the electric shop, the grill, the hair salon, that's 1924 is the residential
18 property there. You have a residential, but it's mixed use.

19 CHAIRPERSON PARSONS: So you are running your pest
20 business --

21 MR. CROCKET: I live and work there.

22 COMMISSIONER CLARENS: I see, and you are zoned
23 appropriately. You are zoned C-2-B.

24 MR. CROCKET: Right.

25 CHAIRPERSON PARSONS: Do most people live above, are the
26 upper floors of these buildings residential, that have commercial uses on the ground
27 floor? As you are, you say you live there --

1 MR. CROCKET: A number of them are, a number of them are.

2 CHAIRPERSON PARSONS: Thank you.

3 COMMISSIONER HOOD: Mr. Crocket, you said something in
4 your testimony, as a business person, it kind of raised a flag when you say how
5 much trash was going uptown. I'm concerned that they businesses are allowing this
6 amount of trash to be out in front of their businesses. That's also taking away from -
7 - let me finish.

8 I know the District has problems, but as a business person, I
9 would hope that the businesses on the corridor are going out in front of their
10 respective businesses and picking up trash. I mean to sit back and say --

11 MR. CROCKET: Do you want to hear from me?

12 COMMISSIONER HOOD: Yes, let me hear.

13 MR. CROCKET: Well, actually that corner right there has a lot of
14 draft. Do you know what I mean by draft? When the trucks pass through, when the
15 air blows, all of the trash blows to that end of town.

16 You also have a problem where there is no alley pick up. When
17 we finish this case, I'd like to come back with a zoning problem for opening up the
18 alleyways to the back of those properties. Because all the trash comes out and it's
19 set directly in the front every day. From the residential people, so to speak.

20 The commercial people have to have their trash picked up. I
21 have to pay to have someone pick up my trash. So I'm not the one, or the
22 businesses are not the people who set the trash on the street, it's the residential
23 people who do that.

24 COMMISSIONER HOOD: Well regardless, we all have to work
25 whether you are business or residential --

26 MR. CROCKET: We do sir, but --

27 COMMISSIONER HOOD: -- and I would hope that -- this would

1 not be forced, but that really is an alarming statement for you to make that
2 businesses not going in front of your property and picking up trash. I have a
3 problem with that.

4 MR. CROCKET: We do, we do that sir. But we still need you to
5 understand the uniqueness of that block. Whether it's trash, whether it's drugs,
6 whether it's fire protection, whether it's police, you need to understand the unique
7 situation on that block. And it is unique.

8 COMMISSIONER HOOD: Thank you.

9 CHAIRPERSON PARSONS: All right. Have all you gentlemen
10 filled out witness cards?

11 MR. CROCKET: Yes.

12 CHAIRPERSON PARSONS: Good. Who wants to go next?

13 MR. LEWIS: I do.

14 CHAIRPERSON PARSONS: Go ahead sir. Actually I'm afraid
15 these microphones aren't working. So the important one is the little square one on
16 the table which the recorder can pick up.

17 MR. LEWIS: Okay. My name is William Lewis, and I am a
18 resident for nine years, 940 Westminster Street which is one block from my current
19 also -- see I'm a resident and business owner. I own 1905 Ninth Street.

20 I bought that property in 1995 and I moved into Washington in
21 1989. I've been living in Westminster Street now, as I said, for nine years.

22 Before that I worked as an economist for the National
23 Association for Blacks in Higher Education and also as a consultant to the
24 Congressional Black Caucus Foundation.

25 I bought this property as an investment for my family to become
26 an entrepreneur. When I bought the property, I did not know that the second floor --
27 it was a resident, it was a mixed use property, commercial liquor store downstairs,

1 deli, and it was a residential establishment upstairs. And I signed a contract in
2 agreement with the previous owner to continue with the current resident.

3 I didn't realize at the time, but the owner was selling the property
4 because it was a crack house over top of the business. For nine to ten months I
5 tried to get the police to remove the individuals who were using my property as a
6 crack house. And, you know, and there is one entrance, you enter into the store,
7 you also go upstairs.

8 The police couldn't help me with that and I had to proceed a
9 laborious route to try to get the people out. Once those people were out, I made a
10 commitment to myself and my wife that we would never rent residential because the
11 area is not suited for residential. We don't have the neighborly type individuals who
12 usually look out for your property, look out for others.

13 Most of those properties that have been created residential were
14 created in the last year or two. One person bought four houses and turned them all
15 into Section 8 houses. So you have drugs coming out of the top, the bottom, the
16 side, the back, of these properties that just really started.

17 In addition to that, you have individuals who really don't reside
18 there, who come to these establishments late at night, and they are the ones who
19 litter the place with trash.

20 Personally, in my building, I have an individual who helps me
21 maintain, who sweeps the whole block. And the gentleman who just spoke, he
22 sweeps my half, this gentleman who just spoke sweeps the other half. Between
23 those two people, they keep the block clean, in general.

24 And I'm just pointing out that, you know, as an individual who
25 lives in their neighborhood, and also has a business there, I don't see any other
26 residents from the particular neighborhood, well, I'm not going to say any. But let's
27 say Mr. Melcher, for example. I have never seen him utilize or go to any of the

1 residents, any of the business or using any of the facilities in that particular
2 neighborhood. That neighborhood is designated commercial for the people that are
3 living and using that, in that area.

4 Most people who have moved into the city recently come in, they
5 turn their way in, they work outside of their residence, they come in to live, they go
6 back out to do their shopping. We, on the other hand, live and work in the
7 community. I walk to work, I walk home. The people know me. I think that I might
8 be, I might enjoy one of the most favorable relationships with the community
9 because I employ many of the individual men who need work, who look for me to
10 gain money. And I don't say I'm employing them in a large way, but sometimes I
11 have odd jobs and I do have one employee who works for me and he has a family.
12 And he uses the income he gets from my business as a subsidy, I mean as primary
13 income for his family. And he does very well with that.

14 Now, the other guys in the neighborhood would like to work as
15 well. And I think that if you allow more businesses to come in who can employ these
16 people, we'd have a better overall relationship. We currently enjoy a very good
17 relationship, mixed property use. The people who live there as Mr. Jackson has
18 pointed out, are completely in favor.

19 We've got most of the signatures of people who live there
20 indicating that they would like a restaurant to come to maybe to eat. We currently
21 don't have any food establishments that sell food. If you want to buy food in the
22 1900 block of Ninth Street, you've got to go somewhere else. Okay?

23 I would like to provide that need, or that service for the people
24 who really want that. And I have a deli, but my deli has not been up to par because,
25 of course, unfortunately I don't have the financing and the backing to bring it up to
26 level. But I hope that will come over time.

27 I also think that prospective wise, the Ninth Street corridor is a

1 natural, is a natural corridor for development. I mean, you know, you have U Street
2 and at U and Florida where the streets change and Ninth Street begins, is a natural
3 route for traffic and business development straight down to the MCI corridor, well the
4 Ninth Street corridor which leads to the MCI building.

5 I'm wondering will the founders of this current zoning, were they
6 aware of the MCI and the Convention Center development in this particular
7 neighborhood? We are maybe nine or ten blocks from the newly designated
8 convention center. Which I think the ANC or others fought vehemently to no avail.
9 Because it's a natural corridor that connects these two communities.

10 And I would also like to point out that with the development of the
11 new convention center means more employment for people in our area, which they
12 would have more resources and have more needs to naturally have more services
13 provided. Most of the people who live in our neighborhood are not transient. They
14 don't commute. They don't drive. They don't have the facility to jump in their car
15 and run to the store.

16 So most of the shopping is done in the immediate area. We
17 have a Giant. Most of the residents, and I say most of the residents because I'm
18 talking about the people who have lived and live there, walk to the Giant and they
19 walk home.

20 And so, you know, I'm pointing out that it's a very well knitted
21 community. And we have a very favorable repoir with most of the residents in the
22 area. And I can attest to that.

23 I would also like to point out that I'm a member of the
24 Westminster Neighborhood Association and that Mr. Melcher brought this issue up
25 before the Association without any information or knowledge of it. And I just
26 happened to be involved in the association, and I invited Mr. Jackson because I
27 don't know if he is aware that I, you know, own property or not. But I invited Mr.

1 Jackson to come to a meeting and Mr. Jackson came and presented his case and
2 the Westminster Association decided they didn't want to oppose it.

3 The same thing with the Shaw Cordoza Association, they
4 decided they didn't want to oppose it. Because the people who need that service,
5 who live within the 200 foot radius need it and want the service.

6 And we don't see our current, you know, the change in that little
7 natural corridor to be any threat or any harm to the newly, the new residents or
8 future residents in the area.

9 CHAIRPERSON PARSONS: Thank you very much.

10 MR. CROCKET: Thank you.

11 CHAIRPERSON PARSONS: Any questions?

12 COMMISSIONER HOOD: I just wanted to correct a statement.

13 The Westminster Neighborhood Association voted to take no position.

14 CHAIRPERSON PARSONS: Yes.

15 MR. LEWIS: Well yes, but they were deciding, they decided
16 that.

17 COMMISSIONER HOOD: That's what is in the record. They
18 voted to take no position.

19 MR. LEWIS: But they had decided to oppose it until we --

20 COMMISSIONER HOOD: -- writing, if you could submit us
21 something that's in writing, I don't know if we can --

22 MR. LEWIS: Oh, yes, I think I can --

23 COMMISSIONER HOOD: -- association --

24 MR. LEWIS: But I can certainly -- the initial goal was to oppose
25 it. And after hearing Mr. Jackson they decided that they would take no stand as
26 opposed to take a negative stand.

27 COMMISSIONER HOOD: He is saying the same thing, I think.

1 CHAIRPERSON PARSONS: Okay. I think he reached the table
2 first. You must be Mr. Calhoun.

3 MR. CALHOUN: That's correct.

4 CHAIRPERSON PARSONS: We have your statement before
5 us.

6 MR. CALHOUN: I'm not going to read my statement verbatim.

7 CHAIRPERSON PARSONS: Excellent.

8 MR. CALHOUN: I'm just going to highlight a few points --

9 CHAIRPERSON PARSONS: All right, sir.

10 MR. CALHOUN: -- in my statement. I'm not a party to the
11 petition, however, I'm in favor of the petition because I have lived on Westminster
12 Street for 25 plus years. Come next May I'll be 65 years of age.

13 And I've been a resident of Shaw and have lived at the same
14 residence in the Westminster community for this entire period of time. I've been
15 extensively involved in the local community since I moved here from Denver,
16 Colorado about 25 years ago.

17 I've got a Masters in hospital administration and comprehensive
18 health planning. And I was employed and retired from the Medicare program.

19 I'm very active in the Washington community and have been
20 active for at least the last 20 years. I'm presently on the District of Columbia
21 Democratic State Committee and I'm ex-Chair of the Ward I Democrats as well as a
22 past chair and a precinct leader. And currently I'm working with the D.C. Democratic
23 State Committee and I'm active in fundraising, on the Education Committee and
24 State and Co-Chair of the Statehood Committee.

25 My community involvement also goes back when I served as
26 Ward I Coordinator for the D.C. Service Corporation, which was the forerunner for
27 the D.C. home rule effort. As well, I've been a member of the Shaw PAC Advisory

1 Committee, the Shaw Business and Professional Association, the Board of Advisors
2 for the Shaw Community School, the Shaw Jr. High School, a member of the Third
3 District Police Advisory Committee, a member of the Ward I Council, a member of
4 Central Northwest Federation of Civic Associations.

5 And I want to clarify, I'm not here speaking on behalf of the
6 Association. However, if you notice in the petition that Mrs. McNair who is President
7 of the Civic Associations name is on the petition. So I can imagine that it can be
8 assumed that Mrs. McNair is in support of this. She knows exactly what's going on
9 over there.

10 One of the points I would like to make is that the whole 25 years
11 I've been here, I've seen nothing but boarded property. And I think that most of the
12 residents are interested in getting the boards off the property, both residential and
13 commercial properties. However, if we deny the zoning I think that the rezoning, I
14 think that we will have more properties boarded up because they are continually
15 increasing in numbers.

16 Much of the property along Ninth Street is RLA property,
17 something we can't do anything about, to start with.

18 But, and I think there is another concern I have. Just last week
19 at dusk, I had walked out of the Metro store and there was a raid in one of the so-
20 called residential, four residential places that have been renovated. I stood out and
21 within 20 feet of hearing a bullet shot from the raid. There were 14 police cars and
22 the whole bit.

23 But I think that until we resolve this issue and get the boards
24 down and get tenants in those buildings, that we can continue to expect much more
25 of the same thing.

26 I'm also empathetic in that I've had some experience in business
27 and business administration. And I do know that it's very difficult for trying to be

1 objective. It's very difficult for business people to maintain a building if they can't get
2 proper financing. And I think one of the issues has to deal, has to do with rezoning
3 in order to get a reputable establishment to look at refinancing some of the things.

4 I have the two letters, my first notice of this situation were two
5 letters in my e-mail. One from Mr. Melcher which was addressed to the community.
6 And I was sort of upset because I think that Mr. Melcher tends to play on the
7 emotions of people and he sort of gave us the fear of these things coming in. You
8 can, and I quote, have a medium density development including office, retail housing
9 and mixed uses of a maximum height of 65 feet. This would include bars, liquor
10 stores, beauty shops, nail parlors, convenience stores, and etc.

11 So what? You know, if people are -- if these are honest living
12 establishments in which people are making an honest living, I would tend to support
13 these things.

14 There are various activities, and evidently they are doing quite
15 well, some of them are doing quite well. And the businesses that will not survive will
16 flush themselves out.

17 We also have in terms of controls -- one other point we have the
18 Cleveland Elementary School there which is within the 200 feet buffer, and which
19 will control any expansions that the entrepreneurs would like to entail or take on, if
20 they decide to expand their buildings. So there are sufficient controls in to cover any
21 future change in usage of the buildings, along with the historic preservation which
22 was approved this past week.

23 And that's my statement.

24 CHAIRPERSON PARSONS: Thank you very much. Any
25 questions of Mr. Calhoun?

26 COMMISSIONER CLARENS: I only have one question Mr.
27 Calhoun. Obviously you are quite familiar with the area and have a long history of

1 involvement in the area. The -- in reference to your questions about sort of making
2 the whole area more social/economically stable, so that this illegal activities might be
3 eliminated, would you say that a properly -- let's see the question I'm trying to say.

4 I think we all agree with the intention that you have. My question
5 is whether you can achieve that by increasing the area of commercial use or by
6 reinforcing the residential, you know, assuming that the conditions for the
7 appropriate kind of residential use, obviously not crack housing --

8 MR. CALHOUN: I understand what you are saying.

9 COMMISSIONER CLARENS: Basic scenario, in an ideal world,
10 and I know that obviously we don't live in an ideal world. In an ideal world, a
11 residential zone properly developed would be a more stable zone than a commercial
12 zone, or at least one that would, that would enhance the quality of life of the entire
13 neighborhood. Is that -- am I wrong? I mean --

14 MR. CALHOUN: As you look at that whole block, there are only
15 four houses that I can recall on the west side of the street, which are suitable for
16 residential purposes. And personally I made a statement in there, I wouldn't even
17 want to live north of T Street, from the activity. You can go there, I can walk up
18 there at 2, 3, 4, 5:00 in the morning, and I see nothing but people. It's like Broadway
19 at 12:00 Noon. It's mass of people standing out there, and I think it's all for the
20 wrong reasons.

21 And what I'm saying is that --

22 COMMISSIONER CLARENS: On Ninth Street.

23 MR. CALHOUN: On Ninth Street, right in front of the buildings
24 that we are talking about. And also the all the way up to U Street, it's mass of
25 people. This is one reason they have problems with keeping the trash clean.

26 COMMISSIONER CLARENS: So what you are saying is that
27 even those conditions, residential development there would be difficult at best.

1 MR. CALHOUN: I think it would be.

2 COMMISSIONER CLARENS: But commercial development,
3 how commercial development would then facilitate the elimination of those
4 conditions?

5 MR. CALHOUN: Well, I think once you've gone that way, you
6 can't go back. You we restored the fronts of these buildings, and except for the four
7 houses that I mentioned earlier, and it's, they are not amendable to going back to
8 residential uses.

9 COMMISSIONER CLARENS: No my question is, how would
10 commercial development of that area, of that particular block that we are talking
11 about now, would facilitate the elimination of those adverse conditions that you are
12 talking about. Those criminal activities, that kind of behavior, that kind of use which
13 we all agree are not conducive to --

14 MR. CALHOUN: I think the property owners who are close
15 around and were held accountable for what goes on in their buildings. There are
16 ways of penalizing tenants, commercial tenants, if they don't keep up the standards,
17 community standards.

18 And I think one of the things I've noticed is that there hasn't been
19 any enforcement of standards in this area.

20 COMMISSIONER CLARENS: Okay.

21 CHAIRPERSON PARSONS: Okay, thank you Mr. Calhoun.
22 Yes, ma'am, you've been quite patient.

23 MS. FAUNTREY: Yes, my name is Renee Fauntrey and my
24 address is 1903 Ninth Street. I've been in the area most of my life. I grew up at
25 Ninth and S, 933 S Street, and I've seen the property change.

26 The 1800 block used to be commercial on both sides. And when
27 they did the revitalization in the 60s, it was changed to residential, with the exception

1 of the Odd Fellows Hall. In the 1900 block, on my side, the U Street corridor, which
2 has the used cars, that property is basically owned by Metro, and they plan to put
3 out bids to develop it. So the car lots probably won't be there in another 20 years,
4 some type of building will be there.

5 So when you split the block, you are telling us, the nine of us,
6 that as little people, we don't rate. We pay commercial rates now, we pay
7 commercial taxes. But we are penalized if we sell. You cannot sell this commercial
8 property. It's down zoned, therefore, no commercial person that wants to develop a
9 business there will want to come in there under our grandfathered clause. They
10 don't want to come in -- I'm a real estate company. If they don't want to come in as
11 an office, they can't do anything with the property.

12 COMMISSIONER CLARENS: You are a co-applicant? Are you
13 one of the nine properties?

14 MS. FAUNTREY: Yes, I'm one of the nine properties.

15 COMMISSIONER CLARENS: Okay.

16 MR. FAUNTREY: You've got one residential building, which is a
17 two-unit building. They just sold because they could not get commercial zoning.
18 The three story building, which is the only three story building which has been
19 vacant for 20 years or most of my life, would be the only one they could develop as
20 a residential on that side.

21 And in regards to the trash and debris, the streets are cleaned in
22 the morning. We do clean the streets. The activity at night brings it back. But, I
23 mean, we can't sweep the street every day and pay a commercial trash person to
24 take our trash every day, when we get no help from the city.

25 You've got poor residential people on the opposite side that have
26 no alley, therefore, their only resolve is to put their trash out front. If they put their
27 trash out front and a dog comes by, or the wind comes by, the trash is blown on the

1 street.

2 So I mean, we are in a Catch 2 situation. And I think it's unfair to
3 ask us to take that burden. You have four houses on T Street that are residential.
4 But what about Eighth Street? That block is totally vacant. It's going to be
5 developed. Is it going to be developed down the middle? Half of Eighth Street is
6 going to be commercial, and then the nine lots that fall, was it -- simultaneous --
7 beside us, are they going to be done residential? Then is the trash going to be
8 picked up in the alley for them and not for us?

9 I mean, I thought it was unfair for a start. But when I saw the
10 zoning, it was supposed to be rezoned R-4, I thought it was for the complete block.
11 If it was for the complete block, I wouldn't feel singled out and, how should I say,
12 picked on. But I mean, for us not to have to be residential, I think it's unfair.

13 CHAIRPERSON PARSONS: I understand. Any questions?

14 COMMISSIONER HOOD: I'm just a little confused. You want it
15 to remain R-4 zoned?

16 MS. FAUNTREY: No, I want to be commercial.

17 CHAIRPERSON PARSONS: No, she asked if we take R-4 all
18 the way up to U Street.

19 MS. FAUNTREY: Yes, if you want to do that, take R-4 all the
20 way up to U Street.

21 COMMISSIONER HOOD: So the whole thing would be R-4?

22 MS. FAUNTREY: Yeah.

23 CHAIRPERSON PARSONS: She feels she is being singled out
24 because it stops halfway down the block.

25 MS. FAUNTREY: Or give us, make the whole block commercial.

26 COMMISSIONER HOOD: So you are not in support of --

27 MS. FAUNTREY: I am in support --

1 COMMISSIONER HOOD: -- say do one or the other.

2 MS. FAUNTREY: Do one or the other. Yes, but personally --

3 COMMISSIONER HOOD: I'm getting confused.

4 CHAIRPERSON PARSONS: She would obviously rather have
5 this --

6 MS. FAUNTREY: I'd rather have commercial since I was
7 commercial.

8 CHAIRPERSON PARSONS: She is saying she is being treated
9 unfairly and she is not proposing another zoning case that we hear next month.

10 MS. FAUNTREY: No, but I mean we should be commercial, we
11 were commercial.

12 COMMISSIONER HOOD: Yes, so you would like to see --

13 MS. FAUNTREY: I would like to stay commercial. But I mean if
14 you, you know, if you are going to make it residential, then make the whole block
15 residential.

16 COMMISSIONER CLARENS: Yes, but that would fly then
17 against the idea that U Street corridor is a commercial corridor.

18 MS. FAUNTREY: Yeah, but we are a part -- it's a square. We
19 are a part of that square. So, I mean, it's unfair to divide the square and say we who
20 have been commercial for 30 some years, you have to be residential. And it's not --
21 if I keep my property and pass it down to my children, they can't use it for
22 commercial purposes.

23 COMMISSIONER HOOD: So you live on that block?

24 MS. FAUNTREY: I have a business on that block.

25 COMMISSIONER HOOD: You have a business on that block?

26 MS. FAUNTREY: Yes, I'm 1803.

27 COMMISSIONER HOOD: Do you live in that neighborhood?

1 MS. FAUNTREY: Not any more. I grew up at 930 S Street.

2 COMMISSIONER HOOD: But you no longer live in that
3 neighborhood?

4 MS. FAUNTREY: No I don't.

5 CHAIRPERSON PARSONS: Okay, thank you very much, Ms.
6 Fauntrey. Are in support as well?

7 MS. STUMBO: Yes, yes. All right, thank you, my name is Circe
8 Stumbo. I live at 916 T Street, which is between Ninth and Tenth on T, just south of
9 these properties.

10 I didn't come here tonight to testify, but I felt like I wanted to
11 clarify at least a couple of things in the neighborhood, one in response to a question
12 you had earlier.

13 I am a member of the Westminster Neighborhood Association. I
14 am a very active member and I just thought that it would be helpful to go through the
15 process that we went through as a neighborhood association, just to make sure it's
16 clear what the decision was.

17 In June at a regular scheduled meeting, we amended and,
18 correct me if I'm wrong on how the process worked, but we amended the agenda at
19 the time of the meeting, to add the issue of the rezoning of Ninth Street. We had a
20 discussion about it with Glenn Melcher presenting the case, and we, at that time,
21 voted to oppose the rezoning.

22 We then heard from the Jacksons. They came and attended our
23 July meeting at which point we voted to reconsider. And what that requires,
24 according to Robert's Rules, is that people who voted in favor of the motion at the
25 previous meeting, say, no, I want to reconsider that. So we had the motion to
26 reconsider. We spoke with the Jacksons. We discussed it a bit. We weren't
27 prepared to make a decision.

1 They came again to the August meeting, at which point we
2 continued to discuss it and weren't prepared to make the decision. And then finally
3 in September we explicitly voted to take no position. And I think, I hope I
4 characterized this correctly, I believe the reason was we had some people who were
5 vehemently opposed, some people who were strongly in support, and a lot of people
6 who were ambivalent.

7 So, that was the final decision of the neighborhood association
8 was to take no position. So I don't think it's fair to suggest that the neighborhood is
9 all in favor or all opposed. It's very mixed attitudes within the neighborhood that
10 directly touches that area.

11 The other thing I wanted to just clarify is that the charter school
12 does currently operate Untouchable Taste Catering, which is a business. I am not
13 clear whether or not they intend to move the location to the charter school at Odd
14 Fellows, but they do operate that business and they do intend to operate a computer
15 and technology business of some sort. The students would be the employees and
16 the idea is that it would service the community for our computing needs, for those of
17 us who do not have access to that technology. So just a clarification on that one.

18 And then you did have one question and certainly it would be my
19 hope that as the businesses continue and as Mr. Lewis has been able to do, that
20 hopefully some more jobs will be created in the community which is a large, we
21 hope, positive impact on the community. Okay?

22 CHAIRPERSON PARSONS: Thank you very much. That's very
23 helpful. Any questions?

24 COMMISSIONER CLARENS: Yes, excuse me, yes, can you
25 stay here for a minute?

26 MS. STUMBO: Yes.

27 COMMISSIONER CLARENS: So your position is in favor of this

1 rezoning?

2 MS. STUMBO: My personal position is.

3 COMMISSIONER CLARENS: Your personal position. And the
4 idea here is that the Ninth Street block between T and U Street is in fact either not
5 being used at all, or if it is used it is used as a commercial area. This would not be
6 perceived in the neighborhood as an encroachment of the commercial area into the
7 residential area because the residential area doesn't really start until it gets to T
8 Street?

9 MS. STUMBO: That certainly is my impression, and we've been
10 in the neighborhood for five years. When we moved there, we saw the business
11 signs on Ninth Street and we knew that there were residential properties across the
12 street from this, but it had always been our personal impression that these were
13 businesses there. And when we bought, we bought the property knowing that.

14 And the idea of a buffer, you know, who is going to buffer the
15 buffer? It just seemed, it seems like Ninth and T makes an appropriate, for that
16 particular individual case. And I know there is a lot of complex issues involved, but
17 certainly for us as residents of T Street, we are comfortable with it.

18 COMMISSIONER CLARENS: All right, thank you.

19 MR. GUYOT: I have a question. May I?

20 CHAIRPERSON PARSONS: No, we don't allow questioning --

21 MR. GUYOT: Okay.

22 COMMISSIONER CLARENS: Just plain testimony.

23 CHAIRPERSON PARSONS: Does that take care of everybody
24 in support. Maybe there is somebody here in opposition?

25 MS. BERMAN: I'm 1917 Ninth Street, and I'm not as smart as all
26 them and don't speak

27 COMMISSIONER CLARENS: No, you need to speak.

1 CHAIRPERSON PARSONS: Why don't you come forward so
2 we will have you on the record.

3 MS. BERMAN: Okay.

4 CHAIRPERSON PARSONS: We won't keep you long.

5 MS. BERMAN: I'm Maxine, and I'm the owner, my father had it
6 many, many years. It was always a business. He put in a bathroom, and he was
7 always concerned with tenants, with charging reasonable rent and things like that.
8 He always was concerned with the convenience and very caring, and my mother
9 too, about whoever was in the building. And if they rented it, they wanted to make
10 sure that the renters could make something in it. They just weren't working for the
11 owners. And those things were very important.

12 I'm 1917, I believe I'm the first place with the Yens.

13 COMMISSIONER CLARENS: You are a petitioner.

14 MS. BERMAN: Uh huh. But right next to me, I think nearly on
15 my wall, is a grocery store. And I just think the chance, it is a business, and from the
16 outside and the inside is a business. And I think upstairs was mixed use because
17 some of the people that have lived, have rented there, I've encouraged them to live
18 upstairs, explained to them that the rent would be so much more if they rented a
19 place, and it would help them and they would do better if they did live upstairs.

20 So quite a few have lived upstairs and been very pleased. And
21 therefore they have been able to make a little something from downstairs, and not
22 pay expensive, not pay the rents. Because even in a little old room, it's \$75. And
23 upstairs just three very nice rooms, and there is a smaller room for a little office.

24 So I am, mine begins at 1917 Ninth. I have no chance of renting
25 it and I have no chance of ever selling it if it is not made into, if it's commercial. I
26 never knew anything about the change. I never received anything about my
27 property. I always thought it was commercial, and if I didn't know, and if I tried

1 renting it, if I were renting it or trying to sell it, I would tell the people, renting or
2 selling, that it's commercial because that's what I would believe, if it hadn't been for
3 Mr. and Mrs. Jackson.

4 So that's what I would have believed because I never had any
5 idea and I have think highly of all the people near me and Mr. Crocket, everyone
6 here. And no one with whom I spoke knew anything about a change. And it's just,
7 it's nine little places. It's nine little places. And everybody is there to contribute
8 something and also so people in the area can have a few little places to go into that
9 maybe they would be denied without them.

10 I'd like to thank you all for listening. I appreciate it, we all do.

11 CHAIRPERSON PARSONS: Thank you very much.

12 MS. BERMAN: Thank you very much.

13 CHAIRPERSON PARSONS: Now, I'll ask again. Is there
14 anybody here in opposition that wishes to testify?

15 [No response.]

16 CHAIRPERSON PARSONS: All right, Mr. and Mrs. Jackson, did
17 you have any closing remarks you wanted to make?

18 MS. JACKSON: I think the primary point that we would like to
19 leave you with tonight is that it's our opinion as the nine individual property owners
20 and petitioners, that we met the standard in terms of that we were required to meet,
21 related to the residents and property owners within the 200 feet radius.

22 As was indicated since July, once we became aware that the
23 Westminster Neighborhood Association had raised a concern with what we
24 proposed to do, we immediately began to make contact with the representatives. In
25 fact, in your package we gave you on the 3rd of November, we provided you with
26 copies of the minutes of all the meetings that were held beginning from June, as well
27 as the letter that Westminster provided.

1 The reason it's worded take no position was because previously
2 they had voted to oppose this, and our position is we would go back to the
3 associations was to say either support us or if you don't want to go to that point, then
4 just take a position of no position. So I mean that's how that phrasing came about.

5 And the same is true with the Cordoza Shaw Neighborhood
6 Association. We attended their September meeting, made a presentation, and they
7 also decided to table the matter until the October meeting. And the October meeting
8 was held the night following ANC meeting of October 14th. And what occurred at
9 the Cordoza Shaw meeting in October, which was the 15th, we, as we usually do,
10 would always get up and make a presentation to respond to any additional
11 questions.

12 I mean, we provided documentation. We provided copies of the
13 1990 overlay. We were always up front in terms of what the zoning change
14 represented in terms of what was allowable.

15 But we always made the point that we were committed to
16 bettering the community. We talked about a business association on that block,
17 anything that would get control so we could monitor ourselves and work together as
18 a collective entity to improve the area.

19 When we went to the Cordoza Shaw Neighborhood Association,
20 after we made our presentation, a person in the audience made a motion to oppose
21 our zoning request and Glenn Melcher, who was there in attendance, immediately
22 seconded the motion so that the motion to oppose was on the table. The
23 Association voted twice to oppose our rezoning request, and both times it did not
24 pass.

25 And at that point another motion was on the table to table it until
26 the November meeting, which was held last week. And at that particular meeting,
27 my husband and I appeared before the Cordoza Shaw Neighborhood Association

1 and basically the discussion was generally that they had no problems with what we
2 were proposing. And then they just opted to take the same stance as the
3 Westminster, and that is to use the same terminology of take no position.

4 So, in terms of the three neighborhood associations that we have
5 approached, none have come out and voted to oppose what we are considering
6 doing. And as we have indicated, we have always made the point at each of the
7 individual meetings, that we are there to help in the betterment of the community.

8 MR. JACKSON: I'd just like to comment that the charge that you
9 gave us really inspired us because it took us out of our homes and it made us go
10 back into the community and meet with our neighbors. Then by doing that, we are
11 really all charged to make that block a very special block, both from an economic
12 standpoint and from a safety standpoint.

13 We have communicated with the neighbors and the owners. We
14 now know each other's skills. We have borrowed a number of the skills of
15 individuals in this room and used them to our benefit. We will continue to do that.

16 We are coming together. We'd like to be given the opportunity to
17 work together as businesses. We see forming business associations or joining
18 existing business associations. We feel challenged to make that everything that
19 everyone in this room wants it to be, and that is a very proud block in this fine city of
20 Washington, D.C.

21 MS. JACKSON: And in fact, at the Cordoza Shaw Neighborhood
22 Association, we were recognized as a new member. We joined that association as
23 a business.

24 MR. JACKSON: We joined as a business. And we are going to
25 be actively involved.

26 CHAIRPERSON PARSONS: Okay, thank you very much.

27 COMMISSIONER CLARENS: What's going to prevent the

1 residents, let me ask you, across, it's difficult because the map that I have has no
2 numbers, so we cannot refer to any numbers in here. So it's kind of a handicap.

3 On the west side of Ninth Street there is a number of properties
4 that on the map that is in front of us, which is actually part of the Office of Planning
5 report, there is a series of uses starting with the paved area, the electrical supply,
6 the grill, a hair salon, a residence, a boarded up building, another residence, and
7 then a series of residences all the way down to the corner building which in our map
8 that I have is vacant.

9 MR. JACKSON: Right.

10 COMMISSIONER CLARENS: So, now, these residences are
11 occupied as residential buildings?

12 MR. JACKSON: Yes they are, yes they are occupied, the
13 majority of them. In fact you heard from one of the residents tonight, Mr. Crocket.
14 Another situation here is we were charged with receiving the support of the owners
15 of those properties.

16 COMMISSIONER CLARENS: Of those properties, I could to be
17 one, two, three, four, five, six, seven, eight, nine, residences, how many of those
18 residences are supporting your application?

19 MR. JACKSON: On our petition, if you cross reference the
20 signature of those particular addresses with the LUX Directory, it will show you that
21 the owners of those buildings support our petition.

22 MS. JACKSON: For example --

23 COMMISSIONER CLARENS: Of all the buildings?

24 MR. JACKSON: I didn't map all of them, but the majority of
25 them. And if you want me to count it out, how many of that, I can do that if you give
26 me a minute.

27 MS. JACKSON: We can show you, we can show you. The

1 property that you cited at the corner of T and Ninth is vacant. That fronts T Street.
2 So that the first property that fronts Ninth Street is 1902 Ninth Street. So you are
3 dealing with 1902, 1904, 1906, 1908, all the way up to the corner of U Street.

4 In our package, we have a --

5 MR. JACKSON: We have a LUX Directory here.

6 MS. JACKSON: -- keyed and what we did was highlight those
7 who signed our petition. For example, you see 1904, 1906, 1908. So that we did
8 purposely reach out and consult with the owners and the residents of those
9 properties to advise them of what we are doing and to obtain their signature and
10 support.

11 COMMISSIONER HOOD: To reference, piggyback on
12 Commissioner Clarens' question, it looks like you only have three in that block in
13 which he is talking about, three out of nine. Am I correct? Because you highlighted
14 -- you have 1904, 1908 and I guess 28 is somewhere down the block somewhere
15 else.

16 MS. JACKSON: Well see, in part, they don't fall in sequence.

17 CHAIRPERSON PARSONS: In sequential order. They are not
18 in sequential order.

19 MS. JACKSON: They move around. Like for example, you have
20 to go by the lot number.

21 COMMISSIONER HOOD: Okay, I see that.

22 MS. JACKSON: For example, Lot 825, which is 32, that's 1912
23 Ninth Street. Lot 826 is 1910 Ninth Street.

24 COMMISSIONER HOOD: The orange marking means --

25 MS. JACKSON: The orange marking meant that the property
26 was vacant. It was --

27 COMMISSIONER HOOD: The green one means they had --

1 MS. JACKSON: They signed the petition. That's correct. And,
2 we put a pink mark, like on the next page, for example the properties on T Street,
3 the 800 block of T Street, which are numbers 43, 44, 45 and the pink mark means
4 that in addition to signing a letter of support was sent to you. And then the blue
5 represents all the properties that were either owned by WMATA or Metal Inc. And
6 Metal Inc. is owned by a doctor who lives in Potomac. And in our November 8th
7 package, we included a letter that he sent to us, a letter of support, and he owns
8 seven.

9 COMMISSIONER HOOD: And I don't remember, what was
10 name of your business again?

11 MS. JACKSON: Our business? In terms of --

12 MR. JACKSON: Well the last business that was in our property
13 was Moe's Barber Shop.

14 COMMISSIONER HOOD: A barber shop, okay. And that's
15 down at the end here and it's now vacant.

16 MR. JACKSON: Yes.

17 MS. JACKSON: That's correct, yes. It says barber vacant, yes,
18 that's us.

19 COMMISSIONER HOOD: Again, we don't have addresses, we
20 are trying to make --

21 MS. JACKSON: Right, right.

22 COMMISSIONER HOOD: That's 1901.

23 MR. JACKSON: Yes.

24 MS. JACKSON: That's 1901 and you heard from --

25 COMMISSIONER HOOD: Do you have something proposed to
26 doing that, that you have coming on down the pipe later on?

27 MR. JACKSON: Not really, but it's an incentive to do something.

1 Okay, it's an incentive for our family. And that's just the way we have approached
2 our businesses. It creates a new direction for our daughter and for us.

3 MS. JACKSON: And our grandchildren.

4 MR. JACKSON: And our grandchildren.

5 MS. BERMAN: And I'd like to say that --

6 CHAIRPERSON PARSONS: Maxine, you have to come forward
7 please. I really don't think we need anymore --

8 MS. BERMAN: Okay.

9 CHAIRPERSON PARSONS: Okay? I really don't. And --

10 MS. BERMAN: Can I say one more thing?

11 CHAIRPERSON PARSONS: All right. Come on.

12 MS. BERMAN: I think that everybody who wants it, all the
13 people here, and I think anyone in the world would be thrilled to live near all of them.
14 They care about the man on the street. And when someone said they go within their
15 nine years, the Jacksons, the Jacksons would be the first to help somebody that
16 couldn't help themselves. And so would our trustee Mr. Jones, and so would Mr.
17 Crocket, and so would, I'm sure, all those who have spoken. And I think that's very
18 important, because I think that helps the neighborhood.

19 CHAIRPERSON PARSONS: Thank you very much.

20 MS. BERMAN: They care about someone other than
21 themselves.

22 COMMISSIONER HOOD: Any more questions of us?

23 CHAIRPERSON PARSONS: I don't think so. Thank you.

24 Thank you for bringing this seemingly simple but very complex issue before us.

25 Ladies and gentlemen, I want to thank all of you for attending
26 tonight and assisting with your testimony. The record in this case will now be
27 closed. Parties in this case, that is the ANC and the applicants are invited to submit

1 proposed findings of fact and conclusions of law to us, and any party who submits
2 proposed findings and conclusions will do so by December 16th.

3 MR. JACKSON: What was that? I missed that?

4 CHAIRPERSON PARSONS: You are invited to present to us
5 what we call findings of fact and conclusions of law which would be the basis upon
6 which we would make a decision. And both parties, that is the ANC and yourselves,
7 are invited to do that by December 16th.

8 You are reminded that your findings should not include findings
9 stating how the witnesses testified. Findings should be based, those findings a party
10 believes the Commission should make based upon the testimony and other
11 evidence in the record. Citations to exhibits and transcripts are appropriate and
12 encouraged.

13 To assist the parties in the preparation of these findings of fact
14 and conclusions of law, a copy of the hearing transcript, if he is able to make sense
15 out of this tonight with our difficulties, will be available in about two weeks. And we
16 will contact you when they are available and you can purchase them from the
17 recording firm.

18 The Commission will make a decision on this case in one of its
19 regularly monthly scheduled meetings. We hope on January 7, if the schedule
20 permits. These meetings are generally held at 1:30 -- will be held at 1:30 on that
21 Monday, or succeeding first Mondays of every month.

22 Any person who is interested in following this case further can
23 contact the staff for when actually we will be undertaking that decision.

24 If we take a positive action, that is to approve this, we have to
25 submit it to the National Capital Planning Commission for their review, called the
26 Federal Impact Review. And then the Commission would take final action at a
27 subsequent meeting after their review.

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I thank you very much and declare this hearing closed.

(Whereupon, the above-entitled matter was concluded at 9:48

p.m.)