

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

FEBRUARY 17, 1999

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID, Chairperson
BETTY KING, Vice Chair
JERRY GILREATH, Board Member
REGINALD GRIFFITHS, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANGEL F. CLARENS, Commissioner
ANTHONY HOOD, Commissioner
JOHN F. PARSONS, Commissioner

STAFF PRESENT:

Sherri Pruitt-Williams, Interim Dir., Office of Zoning
Paul Hart, Office of Zoning
Beverly Bailey, Office of Zoning
John Nyarku, Office of Zoning

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P R O C E E D I N G S

(Whereupon, the foregoing matter went on the record at 9:30 a.m.)

MS. REID: This hearing will please come to order.

Good morning, ladies and gentlemen, this is the February 17th Public Hearing of the Board of Zoning Adjustment, District of Columbia. My name is Sheila Cross Reid, chairperson. Joining me today are Betty King, vice chairperson and Jerry Gilreath, representing the National Capitol Planning Commission.

Copies of today's hearing agenda are available to you. They are located to my left by the door. All persons planning to testify, either in favor or in opposition, are to fill out two witness cards. These cards are located on each end of the table in front of us.

Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right.

The order of procedure for special exception and variance cases shall proceed as follows. Statement and witnesses of the applicant, government reports, including Office of Planning, Department of Public Works, ANC, etc., persons or parties in support, persons or parties in opposition, closing remarks by the applicant.

The appeal is a statement and witnesses of the appellant, the zoning administrator, or other government official, the owner, lessee, or operator of property involved, if not the appellant, the ANC within which the property is located, intervener's case, intervener's case, rebuttal and closing remarks by the appellant.

Cross-examination of witnesses is permitted for persons or parties with direct interest in the case. The record will be closed at the conclusion of each case, except for any material

1 specifically requested by the Board, and the staff will specify at the
2 end of the hearing exactly what is expected.

3 The decision of the Board in these contested cases
4 must be made based exclusively on the public record. To avoid any
5 appearance to the contrary, the Board requests that persons present
6 not engage the members of the Board in conversation.

7 At this time the Board will consider any preliminary
8 matters. Preliminary matters are those which relate to whether a case
9 will or should be heard today, such as requests for postponement,
10 continuance, or withdrawal, or whether proper and adequate notice of
11 the hearing has been given.

12 If you are not prepared to go forward with the case
13 today, or if you believe that the Board should not proceed, now is a
14 time to raise such a matter.

15 Are there any preliminary matters? Please come
16 forward.

17 MR. BROWN: Good morning, Madam Chair,
18 members of the Board. My name is Patrick Brown. I'm counsel for
19 Ms. Crary, the appellant in Case No. 16405.

20 By letter dated January 12, filed January 13th with the
21 Board, I requested a continuance of the case, and more importantly,
22 an amendment to the pending appeal which currently involves three
23 building permits at the subject property.

24 The requested amendment was for two additional
25 permits subsequently after filing the appeal discovered in meetings
26 with the Zoning administrator's office.

27 Those now five permits cover the same subject
28 property and the same envelope of issues related to the appeal. And
29 in fact the Board would have a difficult time ruling strictly on the three

1 building permits that are at issue without considering the fourth and
2 the fifth, one of which was issued prior to the appeal being filed; the
3 other was issued after the appeal was filed.

4 Those two permits are remedial in nature, attempting
5 to correct in the first case work that was done without a permit; and
6 two, the second permit was done also in a remedial nature for work
7 that was done beyond the scope of the permits.

8 The issues are the same as to the violations of zoning
9 regulations, because again, it involves work that was done without
10 permits, and was discussed in the other ones.

11 Several procedural points that are important.

12 First, I filed the letter with the Board January 13th;
13 attempted to serve Mr. Sisson, the intervener of the property owner, a
14 copy of that letter by certified mail. That letter was returned to me,
15 and you'll see a copy of the envelope in your package of materials that
16 was filed just yesterday, following up my January 12th letter indicating
17 that three attempts were made to serve that, and it was returned to me
18 on, I believe, February 8th undeliverable.

19 And in fact, Mr. Sisson just received a copy of my
20 letter this morning, as well as a letter that was dated February 12th,
21 filed yesterday, in which Mr. Lorenzo, the acting zoning administrator,
22 consented to first, the amendment of the appeals to include the two
23 permits which he and his office were not aware of until we met on
24 January 5th; and also his consent to the continuance required by that
25 amending of the appeal.

26 I'll also note -- and hopefully it's in the
27 record -- ANC-3D, which has taken up this matter on several
28 occasions, has written a letter supporting both the amendment of the
29 appeal, and the continuance to consider all the issues in a global

1 format.

2

3 The Board will make every effort to conclude the
4 public hearing as near as possible to 6:00 p.m. If the afternoon the
5 cases are not completed at 6:00 p.m., the Board will assess whether it
6 can complete the pending case or cases remaining on the agenda.

7 I think subject to questions from the Board, I think it
8 would be appropriate to bundle all these issues together, in fairness to
9 not only my client, the zoning administrator, and also Mr. Sisson,
10 because you can't consider the three that are pending without
11 discussing and ruling on the two new ones that were found well
12 after -- in fact first came to my notice on January 5th or 6th in
13 meetings with the zoning administrator.

14 So with that, I respectfully request a continuance, and
15 to amend the appeal to include those two building permits.

16 MR. SISSON: If the Board please, I have a
17 preliminary matter I want to address as well.

18 MS. REID: Are you affiliated with this particular case?

19 MR. BROWN: Madam Chair, I have not seen this,
20 and I don't believe it's been filed in the record. So I'm going to object
21 to it being received. It's out of time for purposes of the rules; puts me
22 in an enormous disadvantage.

23 And it appears that, quite frankly, it goes to the merits
24 of the case just from looking at the first page, rather than the
25 procedural issues which are firmly before the Board.

26 MS. REID: Okay. Mr. Brown, just let me get
27 ascertained.

28 You're the -- engineer --

29 MR. SISSON: I'm the property owner, yes, ma'am.

1 MS. KING: Could we have your name and home
2 address?

3 MR. SISSON: Yes. My name is Charles Sisson. I
4 own the home at 3020 43rd Street, N.W.

5 MS. KING: And where's your residence?

6 MR. SISSON: I have lived there -- I've moved out
7 during construction, but I intend to move back.

8 MS. KING: What is your address?

9 MR. SISSON: 9730 Morry Road, Fairfax, Virginia.

10 MS. REID: You're basically opposing his request for
11 a continuance?

12 MR. SISSON: Actually, I am moving that the petition
13 be dismissed.

14 MS. PRUITT-WILLIAMS: Excuse me, sir. We didn't
15 get a chance to look at that. We really shouldn't take this because
16 we're only dealing with the preliminary matter of whether we should
17 even hear the case today.

18 MR. SISSON: Well, that's what I'm addressing.

19 MS. PRUITT-WILLIAMS: No. A dismissal would
20 come after hearing the case. The Board doesn't have the power just
21 to not hear cases if they don't think they're valid. They have to hear
22 them, and then make a decision.

23 MR. SISSON: I think on the basis of jurisdiction the
24 issue of timeliness is an issue that you should consider before you
25 hear the case.

26 My argument is that this appeal has not be brought on
27 a timely basis.

28 MS. PRUITT-WILLIAMS: Sir, you make that
29 argument at the hearing, and not as a preliminary issue.

1 MS. REID: You could request dismissal at the
2 hearing.

3 MS. PRUITT-WILLIAMS: But we haven't even gotten
4 to that yet.

5 MR. SISSON: Okay.

6 MS. PRUITT-WILLIAMS: So this is too premature.

7 MS. REID: So today the issue before us is the
8 request for amendment, and also a request for continuation.

9 MR. SISSON: All right. Then I would argue that the
10 case not be continued because its detrimental to my best interest.

11 First of all, one of the permits that the appellant is
12 asking to be joined here was actually issued in May of 1998, which is
13 seven months ago. And the argument that in some way that was not
14 debatable to him so that he could take it as a part of this appeal,
15 which was filed actually in November of 1998, seems a little bit
16 preposterous to me, honestly.

17 MS. REID: I'm sorry. Could you go over that timeline
18 again, please?

19 MR. SISSON: Sure, I'm sorry. Well, it's contained in
20 this information. But basically I have that the -- I bought the property
21 in November of 1997. I got permits to do the construction in January
22 and February of 1998.

23 MS. REID: Those were the first three permits?

24 MR. SISSON: That's right.

25 MS. REID: Okay.

26 MR. SISSON: And then there was a fourth permit
27 issued in May of 1998 -- I'm sorry, that was a third permit. A fourth
28 permit in August of 1998.

29 MS. REID: Which one was in August?

1 MR. SISSON: Yes, in August 1998.

2 MS. REID: Was it the third or fourth?

3 MR. SISSON: Fourth. And finally the last permit was
4 issued in September of 1998.

5 The appeal was issued in -- the issue was filed in
6 September of 1998.

7 MS. KING: When did construction begin at your
8 property?

9 MR. SISSON: January of 1998.

10 MS. KING: Exterior?

11 MR. SISSON: Exterior construction, yes.

12 In fact, if you'll notice, the next page shows the
13 permits. And then finally you'll see that Mr. Brown was fully aware of
14 what was going on in March of 1998, because he solicited information
15 on the permits that have been issued and the actual building
16 construction plan. So he's been well aware of all this for a long, long
17 time.

18 MS. REID: Mr. Brown?

19 MR. BROWN: I won't dispute that I've been aware in
20 general of this case for some time, actively worked with the zoning
21 administrator's office over time. I think it's relevant, as to the May 17th
22 permit, that, again, my research and the records management branch
23 failed to uncover that, both my personal search and people on my staff
24 at the law firm, both at the time the appeal was filed and subsequently.

25 Only when I met with the zoning administrator's office
26 was that permit made available to me through their personnel which,
27 quite frankly, they were not aware of in the continuum of the process.
28 The appeal was filed in September, and the last permit that was
29 issued was dated October 5th of '98.

1 So again, in a broad spectrum as to the individual
2 permits, it was done in a timely manner, subject to the availability of
3 the records through the normal procedures; and in this case
4 extraordinary procedures of meeting directly with the zoning
5 administrator's office.

6 And the October 5th permit is instructed because it
7 attempts after the appeal was filed to correct work that is the subject
8 of the appeal. So again, the continuum here goes up beyond the date
9 when I filed the appeal.

10 At every turn I've had great difficulty, as the record
11 now indicates, communicating with Mr. Sisson, so that in large
12 measure the product of where we are, and the need for continuance,
13 the fact that he's only now aware today of my request to amend and
14 continue, is the fact that I've had great difficulty contacting him, using
15 prudent methods that I feel, given earlier problems contacting him and
16 unavailability of addresses, were appropriate.

17 So I think in all circumstances, both substantively and
18 procedurally, and for purposes of Mr. Sisson's interest, my client's
19 interest, and the interest of the zoning administrator, that the
20 amendment to include all the issues, and to the continuance, to allow
21 that to occur in a procedurally correct manner to all the parties that's
22 appropriate.

23 I welcome any questions.

24 MS. REID: When you went to research the building
25 permit you're saying that you couldn't find one or two of the permits?
26 It was not there?

27 MR. BROWN: Well, how your research is -- in the
28 basement of 614 H Street is the Records Management Branch.

29 MS. REID: Right.

1 MR. BROWN: I have personally and through my staff
2 looked at the files regularly, and you ask by address. You ask for this
3 address. And the case here, I asked not only for building
4 permits -- which are kept separate from electrical, and plumbing, and
5 other permits.

6 After several times that that occurred, including right
7 before the appeal was filed, at which time I became aware, I believe,
8 the fourth permit.

9 At that time -- they're all kept in a single file by
10 address -- the May permit was not there, and then after I filed the
11 appeal -- in fact, another important permit was applied for, and issued.
12 And again, I did not become aware of that until I believe January 5th
13 or 6th of 1999, when in the course of this case I met with the zoning
14 administrator's staff.

15 And in fact, Mr. Lorenzo, who is acting zoning
16 administrator, was not at that meeting, and certainly his staff was
17 unaware of the two additional permits, and frankly I think it would be
18 fair to say he was equally not aware of them.

19 MS. REID: When you say they were not aware of
20 them, Mr. Brown, how come they weren't aware of them? They were
21 not a matter of their record?

22 MR. BROWN: Well, the zoning administrator's office
23 doesn't keep those records. These permits were issued as a
24 walk-through basis, so that in the course of the issuing of the permits
25 they never reached from the second floor of 614 H Street to the third
26 floor, where the zoning administrator's offices and facilities are.

27 So they went from the second floor, where permits
28 were issued generally in the same day -- permits were issued, and
29 then sent directly onto the system they have to the basement for

1 records management.

2 MS. KING: Mr. Brown, could I ask you, if only one of
3 these five permits were in question you wouldn't be here, is that
4 correct? It's the accumulation of far and other matters that brings you
5 here?

6 MR. BROWN: Oh, absolutely. There's a continuum.

7 MS. KING: No, what you're saying is that if it was any
8 one of the five, you wouldn't be here. But that the combination of the
9 additions to the house that are involved with the five, are what makes
10 it a matter for the DCA, is that what you're arguing?

11 MR. BROWN: Well, that's partially correct. In this
12 case -- and this is an extremely unusual case, because in fact five
13 permits were required for a relatively simply project for an addition.
14 But you certainly have to look at, in this case, each individual permit,
15 because there are discrepancies, both legal and factual discrepancies
16 with respect to each one.

17 But again, looking at it because they were
18 accumulative in nature. They were all the basis for building the end
19 product, which as a total, as well as the individual parts, violates the
20 zoning regulations.

21 One of the problems in considering this case -- and
22 it's going to be a factual issue for this board -- is that permits were
23 issued for work done greatly exceeding those permits, for which then
24 in this case those remedial permits were issued. And you'll note
25 there, to repair existing roof, and to bless work that had already been
26 done without permits.

27 The key is that that work being done not only was
28 without permits, but in this case, violative of the zoning regulations,
29 particularly as it relates to the unique requirements of the Wesley

1 Heights overlay district.

2 MR. SISSON: May I respond to some of the points
3 that Mr. Brown has made?

4 MS. REID: Go ahead, sir.

5 MR. SISSON: Number one, Mr. Brown has been able
6 to contact me at any time he wants. He has my telephone number.
7 He calls me. He called me yesterday to tell me that the letter had not
8 been delivered.

9 He could have called me a number of times to let me
10 know that there was some additional information that was required.
11 He chose not to do; I don't know why.

12 Number two, Ms. Crary lives next-door. She's the
13 appellant. She's known -- I haven't done the construction
14 behind -- undercover, dark, or behind a curtain. This construction has
15 been ongoing since January. It was started in January of 1998. It
16 finished before these -- the construction was concluded before this
17 appeal was filed. The work has been done. It's a matter
18 of record, a matter of history.

19 And in fact, as you will see, I intend to argue that not
20 only is the appeal not filed on a timely basis, but that the doctrine of
21 equitable laches and equitable estoppel also apply in here. And that
22 this appeal was brought way after the fact that this is permitted.

23 Number three, as a say, they have been quite
24 involved and quite in this construction since the day it started. And in
25 fact there was a stop work order issued in April, the first week of April
26 of 1998; interestingly enough, just a few days after Mr. Brown looked
27 at the plans, I can't help but suspect that there was some reason,
28 some connection there.

29 After that stop work order was issued, I did go back

1 myself personally and get the fourth permit, the May permit that is
2 being filed in question.

3 I can't believe that Mr. Brown, who says he's an
4 expert in this area, would not realize that you can't work at a project
5 that a stop work order has been issued without knowing that another
6 permit or some rectification would have been filed.

7 I'm at a little bit of a lost to understand why this is all
8 such a surprise to Mr. Brown.

9 MR. GILREATH: When you -- to get the
10 remedial -- or the modification or what have you -- who's the -- the
11 zoning office -- did they go over with you the zoning and so forth?

12 MR. SISSON: I didn't -- I went to them. I did talk to
13 the director of the Department at that time. I'm sorry, he's been
14 replaced. I don't remember his name. I did talk to him, and he was
15 the one who decided that there should be a permit issued.

16 MR. GILREATH: So they didn't have any problem.
17 You explained to them the fact that you had exceeded --

18 MS. PRUITT-WILLIAMS: Excuse me, we're actually
19 getting into the merits of the case now, and we're not at that stage yet.

20 MS. REID: Let's make a decision on the preliminary
21 matter.

22 MS. KING: I have one more question for Mr. Sisson.

23 Mr. Sisson, you're aware that your advisory
24 neighborhood commission has sided with Ms. Crary.

25 MR. SISSON: Yes.

26 MS. KING: And I understand that asked you to come
27 and talk to them, and you haven't been able to. And part of their
28 request for a postponement is that they would like to give you an
29 opportunity to appear and talk to them before they make a further

1 decision.

2 MR. SISSON: I appeared at their last meeting.

3 MS. KING: When was there last meeting?

4 MR. SISSON: It was Monday of last week.

5 MR. BROWN: They met Monday, February 8th.

6 MS. REID: You said you did appear?

7 MR. SISSON: Yes, I was there.

8 MS. REID: We don't have that.

9 MR. BROWN: They voted to support the appeal, both
10 with respect to the three pending and two additional. They have not
11 filed their letter documenting that. Again, I think there concern was,
12 having dealt closely with them, is that the appropriate issue under
13 consideration now is the amendment and the continuance, which
14 they've already --

15 And I believe that the Board has in their file --

16 MS. KING: We do.

17 MR. BROWN: -- their letter going back.

18 Unfortunately, at that meeting -- I believe it was the
19 11th of January, although Mr. Sisson -- I attempted to give him written
20 notice at that meeting, so did the ANC, he did not attend.

21 MS. KING: My question is answered. Thank you
22 both very much.

23 MR. SISSON: Again, I would repeal to the Board that
24 this matter has been ongoing for 13 months now. I want a resolution.
25 I very strongly urge you not to support a continuance of this hearing. I
26 want to try to resolve it at this point in time.

27 MS. KING: Madam Chair, could we now -- does this
28 have to be re-advertised?

29 MS. PRUITT-WILLIAMS: Yes, it would. If there is

1 some additional comments that have been identified, it would have to
2 be re-advertised.

3 MS. REID: I don't see how we could hear the case,
4 given the fact that it has not been advertised, with those two new
5 permits which are germane to this particular hearing in this case.

6 MS. KING: I agree with you.

7 MR. GILREATH: If this is continued, can we hear
8 from the zoning officers, how they understood -- they have issued the
9 initial permits, and then when they were modified. If this is all
10 legitimate, that's certainly --

11 MS. PRUITT-WILLIAMS: Mr. Gilreath, as a matter of
12 course, usually on appeals, the zoning administrator comes and
13 testifies. But we can make a special request to make sure they're
14 here.

15 MR. GILREATH: I really need to hear what they said.
16 The information that he gave them --

17 MS. KING: Right. But we can't do that today.

18 MR. GILREATH: -- and with some good faith, it
19 strengthens his argument. On the other hand, if there's something
20 that is not clear, then we have something else.

21 MS. KING: I move that we postpone the case to the
22 first available date, and that we require the presence of everyone from
23 the zoning office who is involved in this, so that we can clarify for the
24 legal issues exactly where the fault lies.

25 MR. GILREATH: I second the motion.

26 MS. REID: And also the amendment of the appeal.

27 MS. KING: Oh, yes. And postpone and amend.

28 MR. GILREATH: I seconded it.

29 MS. REID: All in favor, aye. Opposed?

1 And also, the new information from the ANC -- I think
2 that they had on record that there was not an appearance by the
3 intervener, and we would like to have an update from them to reflect
4 the fact that there had been, subsequent to their submission,
5 something that was germane to the case. Correction.

6 MS. PRUITT-WILLIAMS: Madam Chair, we can
7 actually give you the postponement date now. We will actually send it
8 out, but also just for information.

9 MS. REID: Okay.

10 MS. PRUITT-WILLIAMS: The next available date will
11 be the April 21st date. And, for the record, we're going to return
12 Mr. Sisson's submission for now, so that it won't be -- you can submit
13 it for the record later, but right now we're going to return it to you.

14 MR. SISSON: Could I ask one question as a point of
15 order?

16 It is true that a petition or request for a dismissal of a
17 case doesn't have precedence?

18 MS. PRUITT-WILLIAMS: Well, we actually didn't get
19 into the merits of the case.

20 MR. SISSON: No, no. That can't be filed --

21 MS. PRUITT-WILLIAMS: As a preliminary issue?

22 MR. SISSON: -- as a preliminary issue?

23 MS. PRUITT-WILLIAMS: Traditionally, we have not
24 done it that way.

25 MR. SISSON: I thought that appeals or petitions for
26 dismissal have precedence.

27 MS. PRUITT-WILLIAMS: Mr. Clarens, when there is
28 a motion for dismissal, prior to a case being heard, this one when
29 we're talking about, specifically will it be taken up for a dismissal at

1 that time, or at the time of the hearing?

2 This is a preliminary matter right now, this is not the
3 hearing itself. This is where we're trying to ascertain.

4 MS. KING: I don't see how we can, without hearing
5 the case, can decide whether to dismiss it or not.

6 MS. REID: I know the case can be dismissed based
7 on timeliness, or something that is irregular, or something that is
8 abnormal.

9 MS. PRUITT-WILLIAMS: But you have to hear that to
10 make that decision.

11 MS. REID: Well, no, no. In the event there is
12 something that is brought to my attention prior to the case being
13 heard, that would be basis for dismissal, is what we're talking about.

14 MR. CLARENS: My recollection, it's never happened
15 in the time that I served on the BZA exactly as you suggest. It has
16 come as a challenge to the jurisdiction of the Board to hear a case;
17 and therefore, would be challenged on jurisdiction; and therefore
18 asked to dismiss the case or not to hear the case.

19 But what are the basis of the request for dismissal?

20 MR. SISSON: That is my basis, for timeliness.

21 The Board has held in the past that anything later
22 than four months filed after the permits have been issued has not
23 been filed on a timely basis. In fact, I have cases to support that; that
24 anything that is brought to the Board's attention not on a timely basis
25 is dismissed.

26 MR. CLARENS: It seems to me that the Board can
27 hear a request for dismissal, and hear the merits of that. That would
28 be my recommendation. I haven't participated. I don't know exactly
29 what went on before I arrived, but I think that a request for dismissal

1 on the basis of procedural issues would be appropriate before the
2 Board.

3 MS. REID: I think that Mr. Sisson --

4 MR. CLARENS: But I'm not parliamentarian by
5 anybody's -- imagination.

6 MS. REID: He did make a request. Let's put it this
7 way, you certainly can make a request for dismissal. And you did that,
8 and you based it on the issue of timeliness.

9 So would you just like us to take a position on that
10 request?

11 MR. SISSON: I absolutely would. Because, again, I
12 think that -- this date's from permits that they were issued more than a
13 year ago. The construction has been finished --

14 MS. REID: Well, this is kind of after the fact, so just
15 indulge here in this instance, so that we can accommodate you. And
16 in this instance for dismissal of this particular case, what is the
17 pleasure of the Board?

18 MR. GILREATH: Can we get some information?

19 MS. REID: Well, I think we've already decided not to
20 dismiss it; this is just a --

21 MS. PRUITT-WILLIAMS: Mr. Sisson, I just want to be
22 clear.

23 You're requesting that the Board dismiss this case
24 with hearing it, is that correct?

25 MR. SISSON: That's correct.

26 MS. PRUITT-WILLIAMS: We can check with Corp
27 Counsel.

28 MR. CLARENS: But he's suggesting that it can be
29 dismissed on the issue of -- and I don't know. Another issue that we

1 need to talk about is, it's not on the merits of the case. It needs to be
2 dismissed on the merit that it is inappropriate for us to hear it because
3 of timeliness.

4 And the question then would be, is there a rule that
5 establishes that -- is it anywhere written in the regulations that appeals
6 have to be presented to the Board within a timeframe. I do not
7 recollect any such rule.

8 There's nothing in the regulations that I can remember
9 that says that appeals must be filed within a certain period of time. If
10 you can point to us, then we might be able to proceed.

11 MS. REID: Perhaps the best thing to do, rather than
12 taking a vote on it today -- excuse me.

13 The best thing to do I think would be for us to
14 continue the case, and then we'll get the proper counsel from Corp
15 Counsel on that issue. And then at the time of the hearing you can
16 still have a request for dismissal. You could submit that, and we could
17 take it up at that time, prior to the case being heard.

18 MR. SISSON: I would point out that Rule 3315.2 says
19 that, "Any person aggrieved by any order, requirement, decision,
20 determination, or refusal made by the administrative officer or body,
21 including the mayor of the District of Columbia, in administration or
22 enforcement of the zoning regulations, may file a timely appeal with
23 the Board, as may be provided by the Board.

24 MR. CLARENS: I see. So it is the discretion of the
25 Board to establish when timeliness is an issue.

26 MR. SISSON: As precedent has been set.

27 The Board has ruled in the past that anything as far
28 back as five months prior to the petition is not filed on a timely basis.

29 MS. KING: Can you give us the legal citation for that,

1 or a case citation?

2 MR. SISSON: Yes, ma'am, I can.

3 MS. PRUITT-WILLIAMS: Excuse me. Unless we're
4 going to rescind your previous motion, this is stuff that should be
5 discussed at the hearing.

6 MR. SISSON: I think this is a preliminary matter.
7 This is what I intended to bring up.

8 MS. PRUITT-WILLIAMS: But, sir, they've already
9 voted.

10 MS. REID: We voted to continue it. But he still has
11 the right to request a dismissal at the hearing.

12 Now, what I was saying is that, it goes to being able
13 to define timeliness. And this is what we have to get advice from Corp
14 Counsel on. That's a vague gray area. And we have to ascertain
15 what is considered reasonableness in regard to timeliness, so that we
16 will have a basis to which to be able to respond to your request for
17 dismissal.

18 MR. SISSON: I would suggest you look at
19 Appeal 14110. That is one of the --

20 MS. KING: You're going to file all of that information
21 for us to read when you file your papers for the hearing on the 21st.

22 MS. REID: Appeal number what, sir?

23 MR. SISSON: I'm sorry, I'll refer it again.

24 MR. BROWN: I offer objection to the arguments
25 being made, Mr. Sisson's making. The question I think is when he
26 makes them those are legitimate issues for this board to consider. But
27 I don't think the Board is in a position, quite frankly, to do that today,
28 particularly having granting a continuance.

29 MS. KING: We have no intention of doing it today.

1 MS. REID: No, we said, Mr. Brown, if in fact,
2 Mr. Sisson does decide to follow appeal -- I'm sorry, request for
3 dismissal, then that could be done at the hearing as a preliminary
4 matter, at the actual hearing.

5 We've already voted to continue this -- we don't want
6 to wipe out his right to make that request, and we'll then address. And
7 in the interim we'll get advice from Corp Counsel as to the best way to
8 proceed under those circumstance with the issue of timeliness, and
9 how that is defined.

10 That is just a very vague and nebulous term. So that
11 we can be able to --

12 MR. BROWN: I have absolutely on objection. I think
13 that's the appropriate way to proceed.

14 MR. GILREATH: Corporation Counsel, I hope they
15 can give us a precedent that the Board in the past has -- in a certain
16 way.

17 MS. PRUITT-WILLIAMS: Appeal number.

18 MR. SISSON: 14110. And there are other court
19 cases that govern this as well. And I will be glad to provide them.

20 MS. REID: All right. Thank you, I appreciate that.
21 Anything else?

22 MR. BROWN: No.

23 MS. REID: Thank you very much.

24 Any other preliminary matters? Please come forward.

25 MR. WATSON: My name is Matthew Watson,
26 counsel for Advisory Neighborhood Commission 2A, with regard to
27 BZA Case Number 16389, George Washington University Hospital.

28 A letter from the chair was submitted to the Board
29 yesterday.

1 MS. PRUITT-WILLIAMS: Excuse me, Madam Chair.
2 This is actually inappropriately before us. We're not hearing this case
3 today. And this type of issue should either be taken up at a public
4 meeting, or when the hearing comes up.

5 MR. WATSON: I understand. The issue is the fact
6 that the traffic expert has been scheduled for surgery on March 1st,
7 and the hearing is scheduled for March 2nd.

8 MS. PRUITT-WILLIAMS: Well, sir, that would be the
9 time to request a postponement. Unfortunately, the applicant isn't
10 here because they weren't given notice.

11 MR. WATSON: The applicant was given notice.

12 MS. PRUITT-WILLIAMS: They weren't given notice
13 from our office. We got it yesterday. It was not put on our agenda.

14 This case is not before the Board today. It can go in
15 the next public meeting agenda, which is the date -- unfortunately, the
16 day after the hearing has been scheduled for.

17 It's more appropriate that it be handled there, because
18 you need to also have the applicant be able to respond.

19 MR. CLARENS: We can't hear it now.

20 MS. PRUITT-WILLIAMS: Exactly.

21 MR. CLARENS: We have an agenda. This is outside
22 agenda.

23 MR. WATSON: The difficulty is that we have a
24 situation. We wanted to give prompt notice because a crucial witness
25 has been scheduled for surgery, and cannot be here.

26 MS. REID: If I may. You can make sure that the
27 Office of Zoning is made aware of that, and they will
28 then -- themselves accordingly. But this is not appropriate for you to
29 make the request when this is not on this agenda for today.

1 MR. WATSON: I understand it's not on the agenda,
2 but there is no public meeting occurring before this hearing.

3 MS. KING: But we're going to all have to troop in on
4 Tuesday morning, and adjourn, or continue the case whatever,
5 probably.

6 MR. WATSON: That would seem to be quite
7 inefficient --

8 MS. KING: It is, but that's --

9 MR. WATSON: -- making this available to you, and
10 the notice has been given to the applicant.

11 MS. REID: Well, notwithstanding that, we still have to
12 conduct ourselves predicated upon the rules and regulations that we
13 operate under.

14 MR. WATSON: We thank you. We made an attempt
15 to provide this in an efficient manner.

16 MS. KING: We appreciate knowing that we'll only
17 have to be here for a very brief time.

18 MR. CLARENS: Well, it's not an efficient manner.
19 This is not an inappropriate manner. It's not an issue of efficiency, sir.
20 This is an inappropriate manner of -- you correspond with the Office of
21 Zoning. You inform them, and then things fall the way they do. And
22 that's all you have to do.

23 You cannot take things out of the -- the Board has an
24 agenda, and they need to follow an agenda. And this is inappropriate.
25 We cannot act on it, we cannot hear you.

26 MR. WATSON: The second matter was a request for
27 an extension of time to file the response to the submission of
28 February 8th.

29 MR. CLARENS: This is inappropriate. Anything

1 dealing with this case is not appropriate before this board.

2 MR. WATSON: Thank you.

3 MS. REID: Thank you.

4 Any other preliminary matters?

5 MS. MCCARTHY: Good morning, Madam Chair,
6 members of the Board. My name is Ellen McCarthy. I'm director of
7 Planning and Land Use Services for the law firm of Robins, Kaplan,
8 Miller & Ciresi. And I'm here today following up on the letter that was
9 sent to you last week requesting a continuance for Case 16404.

10 I communicated with the staff of the Office of Zoning
11 in advance, and with Mr. Schauer, whose appeal it is, the Capitol Hill
12 Restoration Society; and Mr. Schauer graciously agreed to permit us
13 to request a continuance, eventually agreed to a continuance.

14 As I mentioned in my letter, there was a schedule
15 conflict with Mr. Nettler --

16 MS. KING: You said there was a letter sent to us?

17 MS. MCCARTHY: Yes.

18 MS. REID: That was not contained within our
19 packets, was it?

20 MS. PRUITT-WILLIAMS: It should have been.

21 MS. REID: I knew that it was going to be a request
22 for continuance, but I did not --

23 MS. KING: I didn't.

24 MS. REID: -- have one in the file.

25 None of us have that in our file.

26 MS. PRUITT-WILLIAMS: I'm sorry. I just heard from
27 a secretary that it was not sent. But yes, we did receive the letter,
28 and --

29 MS. KING: Could we see a copy?

1 MS. REID: While he's doing that, you can just
2 basically give us the salient points of the letter.

3 MS. MCCARTHY: The salient point of the letter was
4 that Mr. Nettler unfortunately has a contract with the Navy in the city of
5 Los Angeles that required him to be out in California on these dates.
6 And through -- we're not sure how -- this meeting had been put down
7 on this calendar for the 17th of March instead of the 17th of February.

8 So he had agreed to go to this meeting in California, and only
9 discovered when I brought back the agenda for this meeting, after it
10 had been posted on the bulletin board, and I was here for some other
11 research -- he discovered that it was actually the 17th of February. So
12 that's when we called Mr. Schauer, and he agreed, and we sent the
13 letter.

14 MS. REID: Mr. Schauer is in agreement, and he has
15 no objections to it being continued?

16 MR. SCHAUER: Madam Chairperson, we have no
17 objection. We are appellants in this case, and we have no objection to
18 accommodating Mr. Nettler.

19 Thank you.

20 MR. CLARENS: Madam Chair, let me say something
21 in regards to that. I don't have any problem with -- especially if parties
22 are in agreement.

23 However, I am concerned with the fact that in the
24 previous case -- that we heard the request for postponement in the
25 previous appeal case, there was a question as to whether the zoning
26 administrator would be represented or not.

27 In my experience, the zone administrator always, or
28 almost always in my recollection, was present on appeals, because it
29 is their decision that is being appealed. And I don't know how we can

1 make an intelligent adjudication of whether that decision was made
2 correctly or not without the presence of the zoning administrator, or
3 their representative.

4 So I would like to recommend to the Board that they
5 instruct staff to send a letter to Mr. Lorenzo --

6 MS. REID: That's been done.

7 Mr. Clarens, prior to this particular hearing today, we
8 had -- this has been before us two or three times it seems. And we
9 had requested -- and I assume that they were here today because of
10 the fact that knew there was a request for postponement.

11 MS. KING: Is that correct? Did they know that there
12 was a request for postponement, although we did not?

13 MS. PRUITT-WILLIAMS: No, they didn't. Although,
14 we do notice them that this appeal is on our agenda, and we assume
15 that they will be coming.

16 MS. REID: I was making an assumption. So you're
17 saying that they were aware, but they did not --

18 MS. PRUITT-WILLIAMS: We will follow up and call
19 them the day before.

20 MS. REID: Make sure that someone is here, because
21 we cannot function in their absence.

22 MR. CLARENS: Madam Chair, there are two things I
23 would recommend that happen. One is that a formal letter, perhaps
24 even signed by you, explaining the importance of their presence in
25 appeal cases. Because otherwise, it's almost like going to traffic
26 court, and the policemen are not showing up, and the judge dismisses
27 the case in your favor.

28 Because if the person that made the decision that
29 affected the two parties is not here to represent their position, why

1 they make the decision, it's very difficult for the Board to act on it.

2 So I think that some sort of a letter that the staff can
3 draft, and that perhaps you might sign explaining the importance of
4 why it is important for them to be here. And then follow up with a
5 phone call on the day before, reminding them that they must be here.
6 Somebody from their office has to be here that is familiar with the
7 case.

8 MS. KING: Not just somebody, the people; the
9 person or people who are involved in the case.

10 Now, in this case we had somebody show up, and
11 that somebody didn't know --

12 MS. REID: Didn't have a clue as to what was going
13 on, was not involved in it.

14 MS. KING: So I think we have to be a little more
15 specific than saying somebody.

16 MS. REID: Don't just send the janitor; send someone
17 who is --

18 MR. CLARENS: Don't just send the letter. You put
19 that in the letter, that's right.

20 MS. KING: Not only that, but I think that this
21 correspondence, and perhaps a covering letter explaining our
22 concerns; that at the last time this was heard somebody showed up
23 who didn't know anything about the case; and this time nobody
24 showed up at all.

25 And that we should express our concerns to the
26 director of the Department of Consumer and Regulatory Affairs, that
27 this causes great inconvenience to the appellants, and the community
28 representatives, not to mention the BZA. And that they should shape
29 up.

1 MR. CLARENS: And I think if the staff could write a
2 letter, I think it would be wonderful. Because I think that it's crazy not
3 to have the zoning administrator here. Otherwise, I don't have any
4 problem with the postponement.

5 MS. KING: Nor do I.

6 MS. REID: Do we move that we postpone it?

7 MR. GILREATH: I move to postpone the case.

8 MS. KING: Second.

9 MS. REID: Seconded by Ms. King.

10 Do we want to set a date certain?

11 MS. MCCARTHY: Yes.

12 MS. REID: All in favor?

13 Do you know when he would be available?

14 MS. MCCARTHY: He's given me the only other dates
15 that he thought would be a problem, and that was March 10th.

16 MS. REID: Okay, other than that.

17 MS. PRUITT-WILLIAMS: The next available date
18 then would be April 21st.

19 MS. KING: What was the date of your letter?

20 MS. MCCARTHY: It was last week, I believe.

21 MS. REID: Where is the motion to dismiss?

22 MS. KING: This isn't a motion to dismiss. This is a
23 letter requesting a postponement.

24 MS. REID: She's saying that that was in this file, a
25 motion to dismiss.

26 MS. PRUITT-WILLIAMS: The letter came into the
27 office last week in fact. I remember reading it on Thursday. It
28 probably got clocked on Wednesday or Tuesday, but when I went
29 through my in box it was Thursday.

1 It may not be in the file yet.

2 MS. REID: No, no. We're looking for something else.

3 (Whereupon, the foregoing matter went off the record,
4 and back on the record)

5 MS. REID: So we're continuing the case to

6 April 21st?

7 MS. MCCARTHY: Right.

8 MS. REID: And we'll take up whatever has to be
9 done at that time.

10 MS. MCCARTHY: Thank you, Madam Chair.

11 MS. REID: Do we have that letter? If not, then
12 perhaps we can get Ms. McCarthy to fax us a copy of it. Could you do
13 that?

14 MS. PRUITT-WILLIAMS: I've seen the letter. It's
15 probably still in the in box. It just hasn't filtered from my box into the
16 file.

17 MS. REID: Well just as a backup, please.

18 MS. MCCARTHY: Sure.

19 MS. REID: Thank you.

20 Okay. First case of the day.

21 MR. HART: First case of the day. Number 16426,
22 Application of Seung Won Hong, pursuant to 11DCMR 3107.2, for a
23 variance under Section 741 to construct an automotive repair service
24 in an C-3-C District at premises 21 L Street, S.W., Square 684, Lot 22.

25 Staff will note that the address is correct, but the
26 square is actually 648, as opposed to 684.

27 Whereupon,

28 SEUNG WON HONG

29 having first been duly sworn, was examined and testified as follows:

1 MS. PRUITT-WILLIAMS: Madam Chair, one
2 preliminary issue. On this particular case the property was not posted.

3 MS. REID: It wasn't?

4 MS. PRUITT-WILLIAMS: No.

5 MS. REID: You need to speak into mike, give your
6 name, and your address, sir.

7 MR. HONG: My name is Seung Hong. I live in
8 Springfield, Virginia, 8138 Ridgecreek Way. I'm currently operating an
9 auto repair shop in 31 K Street, S.E., been there for last 15 years.

10 Even though the letter from the BZA office stated that
11 sign must be posted, I just missed it, not by purpose. I don't know
12 how I could have missed it. It's the biggest letter on the letter.

13 But as far as all the other requirements, I went down
14 through the list and completed them all.

15 MS. REID: Ms. Pruitt-Williams, in the instances -- I
16 don't think that during my time on the Board I've experienced a case
17 where there was no posting at all.

18 MS. PRUITT-WILLIAMS: Generally we postpone the
19 hearing.

20 MS. REID: Have it posted. Because my concern is
21 that there's a possibility that there are people that would miss who
22 may have some concerns. And if were to move ahead, then we may
23 be remiss in our obligations.

24 Mr. Hong?

25 MR. HONG: Yes?

26 MS. REID: We would have to continue this, and give
27 you the opportunity to post it. And for anyone who had any issues or
28 concerns to have the opportunity to respond, if they so desire.

29 So we couldn't hear the case today.

1 MR. HONG: I did have sign posted prior to filing the
2 BZA variance, future site for --

3 MS. REID: No, no, no. That would be your sign. See
4 there's a zoning office sign -- the orange sign -- that is the required
5 sign. It must be posted on the property.

6 MR. HONG: Also, I've gone to the ANC meeting last
7 Monday, and I was very well received by the neighborhood.

8 MS. REID: Oh, good. That's good.

9 MS. PRUITT-WILLIAMS: Although we have a letter
10 from the ANC requesting that -- they request that we waive the time to
11 allow the report to come in, and if we postpone it we don't have to
12 worry about that.

13 MS. REID: Okay. So then, what would be the --

14 MS. PRUITT-WILLIAMS: April 21st.

15 MS. REID: April 21st. Is that alright with you?

16 MS. PRUITT-WILLIAMS: We can to that by
17 consensus, we don't have to vote it.

18 MS. REID: All in favor of postponing Case
19 Number 16426 until April 21st.

20 MS. KING: I second.

21 MS. REID: All in favor?

22 Okay, Mr. Hong. Then we'll just take this up on the
23 21st of April.

24 MR. HONG: Thank you.

25 MS. REID: Thank you.

26 MS. PRUITT-WILLIAMS: And don't forget to pick up
27 your placards from our office.

28 And Mr. Hong, remember, they must be posted 15
29 days prior to the hearing, at least 15 days. And you also will have to

1 have an affidavit of posting to go along with that. And you can bring
2 that in like the week before. They will be able to help you over there.

3 MS. REID: Mr. Hong, also I would suggest in the
4 interim that you meet with staff, and have them to advise you as the
5 proper way to submit your application, because your application is
6 incomplete. And there are certain things that need to be in this case
7 for us to be able to hear it properly. And they'll assist you.

8 MS. PRUITT-WILLIAMS: Yes, Mr. Hart can help you.

9 MR. HART: Application Number 16429 of James
10 Word, pursuant to 11DCMR 3107.2, for a variance from the parking
11 requirements under Section 2101.1 to provide six parking spaces for a
12 church with 65 seats in an R-4 District at premises 3408 Sherman
13 Avenue, N.W., Square 2841, Lot 866.

14 (Whereupon, the persons, having first been duly
15 sworn, were examined and testified as follows:)

16 MS. REID: For the record, I'd like to disclose
17 that -- the property that we're actually going to be hearing about today
18 is the property that I was involved in the sale of -- representing the
19 seller. I am in no way involved in the property at this time, and I don't
20 think that --

21 MS. KING: When did this sale take place?

22 DR. WORD: I think it was about back in July '98.

23 MS. REID: Last year, 1998. I don't think that it would
24 impair my ability to be impartial in hearing this case, unless there is an
25 objection, at which case I would have no problem with excusing
26 myself.

27 MS. KING: Except that we wouldn't have a quorum.

28 DR. WORD: Good morning, Board. My name is
29 James Word. I am the applicant in 16429, and I'm the pastor of the

1 church, which is located at the address of 3408 Sherman Avenue,
2 which is Square 2841, Lot 866.

3 We're here pursuant to 3107.2 and Section 2101.1 to
4 seek a variance from the parking requirement of 1 parking space for
5 every 10 seats in a church, which is under 2101.2.

6 We have an application I think that is fairly complete.
7 That is probably in front of you.

8 What I would like to do is describe the circumstances
9 that brings us before the Board, so that it's somewhat understandable
10 to you.

11 What I will do is first show you an architectural plan
12 for the building. Let me make a preliminary statement.

13 There is a parking lot that is on the side and front of
14 the property at 3408 Sherman Avenue, but there are technical and
15 practical problems with the parking lot that brings us before the Board.

16 And I don't think you have the application opened
17 before you, but I would like to show a drawing of the property so that I
18 could explain fairly clearly what the technical problem is, and what the
19 practical problem is.

20 I have a copy of the plans in total, and you also have
21 sort of a cut-out, a detail of the parking lot itself around the building.

22 There's definitely a set of plans that are in the
23 application. They should be folded and --

24 MS. KING: Well, I'm not lucky enough to have them.

25 MS. REID: The plans -- this is just a --

26 DR. WORD: That's a detail from the plan.

27 MS. KING: I don't even have a detail to the plan in
28 my folder, Ms. Pruitt-Williams.

29 MS. REID: We need the file itself with the plans, the

1 folded plans.

2 MS. KING: I need a copy of the detail that everybody
3 else seem to have too.

4 MS. REID: Okay. Go ahead and proceed.

5 DR. WORD: This is the architectural drawing
6 showing the outline of the church building itself. This property which
7 is -- somewhat like a triangle. This triangle is the property, and in the
8 front of it there is a paved parking lot that is approximately 22 feet in
9 depth, and approximately 23 feet -- or 24 feet in width.

10 And on the side of the building there's another paved
11 parking lot that is approximately 20 feet in width, and 100 plus feet in
12 length. So there's a fairly large parking lot around the building, in the
13 front and side of the building.

14 MS. KING: So you can provide the six spaces.

15 DR. WORD: We can provide six spaces. There's a
16 problem.

17 The problem is that the parking lot that's on
18 Sherman Avenue side of the building is public space, after the first
19 10 feet of width. So this part doesn't belong to the church, even
20 though if you had to visually inspect it, you would think that it is church
21 property. But in fact it's not; it belongs to the public.

22 And this parking lot is the church's property.

23 MS. KING: And how many spaces do you have
24 there?

25 DR. WORD: There are two potential spaces in the
26 front, because a space has to be 9 x 19. So we can get two cars
27 here, and still have ample space to move around. And we can in fact
28 get five spaces across here, if there is stack parking along the part
29 that belongs to the church, which is 10 feet x 101.

1 MS. KING: So why are you here? I mean, what
2 you've just told is that you can provide six parking spaces.

3 DR. WORD: Seven parking spaces, yes.

4 When we went before the zoning desk, we were only
5 approved for the two spaces because -- I think it's Section 2117 of the
6 zoning regulations says that you're not allowed to park in the front a
7 the building --

8 MS. KING: Infringe on public space.

9 DR. WORD: In the front of a building.

10 MS. KING: Oh.

11 DR. WORD: And the address for this building is
12 Sherman Avenue. So this would technically be the front of the
13 building. So we were only given credit for two parking spaces. And
14 those five were not credited to us.

15 MS. KING: And those five are entirely on church
16 property, or partly on public space?

17 DR. WORD: They're entirely on church property, and
18 there is public space that allows us to maneuver in and out of our
19 private space. And there are also two curb cuts, if you see here, so
20 that we can use one as an entrance, and one as an exit.

21 MS. KING: And where is the entrance to your
22 church?

23 DR. WORD: The entrance is on this side of the
24 building, which is Park Road.

25 The problem comes -- it's a historical problem
26 because in the last C of O, and just realistically -- in reality, the
27 building had been used in '50s as a gasoline service station. And the
28 building had two doors on this side -- on the Sherman Avenue side for
29 entrance and exit of customers. And it had a service desk here, and

1 supplies in the area that's now being used as a sanctuary. And this
2 was closed off. It only had a side door that led to an apartment living
3 space upstairs.

4 Since 1952 when the last C of O was filed, the doors
5 on the side -- the main entrance doors have been bricked up, and
6 there's a back door that leads to the side of the podium, and two
7 double doors. Church form doors have been added to the Park Road
8 side.

9 So my argument, in terms of the first leg of it, practical
10 difficulty -- the difficulty we have is that we have ample parking space.
11 It's not situated in a place where we can use it in order to qualify as a
12 church, so that we can get the six spaces we need in order to get the
13 zoning permit.

14 MS. REID: Oh, okay. And Dr. Word, you may want
15 to start in presenting your case, is with the first prong of the
16 three-prong test, and that is with uniqueness. What is it that is unique
17 and unusual about your property. And then you go to practical
18 difficulty.

19 DR. WORD: Okay.

20 MS. REID: Because of the practical difficulty, and
21 your being able to be in compliance with the existing zoning
22 regulations -- and you're actually doing that, but I just need it for the
23 record.

24 DR. WORD: We're talking about the unique situation
25 of the property itself.

26 MS. REID: Well it has to be inherent in the property
27 itself. And looking at the diagram -- you said triangular, but that
28 property is more a trapezoid, more in the shape of a trapezoid.

29 DR. WORD: Right.

1 MS. REID: And go ahead and talk about the unusual
2 or unique aspects of that property that causes a practical difficulty.

3 MR. GILREATH: If the original interest over on the
4 left side had been bricked up, and your interest to your sanctuary is in
5 the front there, is there some kind of -- you still have to define this as
6 saying the front is on the left here.

7 DR. WORD: On the Sherman Avenue side?

8 MR. GILREATH: Yes. What's the regulation that
9 says -- if you ripped up the side --

10 MS. KING: But Jerry, even if he moved it, he's still
11 got to get --

12 DR. WORD: One extra space.

13 MS. KING: -- one -- he's still got to get a waiver for
14 the one space. Because if Park Road then becomes -- from the front,
15 then he loses the two spaces he's got there.

16 DR. WORD: I lose those two. So I need the relief. I
17 need the Board to allow us either to park one here, or give us relief for
18 street parking for one, in addition to the five that are on the side.

19 We bought the church through a -- after foreclosure,
20 but it had been used for a church for a number of years. And it was in
21 the name of Bishop Long. And at the time that we bought it, it was a
22 sanctuary on the first floor; had long since been abandoned as a gas
23 station.

24 What we have on the property is a two-story brick
25 structure where you see the shaded parts here, and there's a
26 basement underneath.

27 Apart from the building itself, and the parking lots that
28 are on the Park Avenue and Sherman Avenue side, there is only a
29 small space in the back of the building, which is this space here,

1 where there's any possibility of expanding it.

2 So the problem for us in terms of making available
3 additional parking is that we cannot -- without destroying the building,
4 and taking part of it down, we cannot extend the parking lot in any
5 direction. And we're land-locked on the backside of it. Because
6 there's an adjacent structure here, and this portion that is -- there's a
7 small easement here that's on the outside of our property line.

8 MS. KING: That's not an alley.

9 DR. WORD: There is an alley. The alley is -- I
10 haven't checked the records. But the alley is used by several
11 buildings that are adjacent to our property, and it is the only access
12 that the other property owners have for reaching a place to place their
13 garbage or to get out from the rear.

14 MS. REID: But the building is also landlocked, and
15 this is a structure here. So you couldn't drive through to Park Road.

16 DR. WORD: The alley is not wide enough.

17 MS. KING: No, no, I can see that on the map.

18 DR. WORD: You can see it on the map.

19 MS. KING: But it's clear to me, in looking at the map
20 of the area, that that is a unique lot in shape and size, and in access.

21 Tell me, have you been in touch with your Advisory
22 Neighborhood Commission?

23 DR. WORD: We met with them twice, as soon as we
24 had made the filing. And I think you have in your application a letter
25 from them. They made two site visits to the property.

26 One of the commissioners lives about a half a block
27 away from the property and is very well aware of the --

28 MS. KING: Does anybody else have the letter from
29 the ANC?

1 DR. WORD: Let me give you a copy of mine.

2 Is anyone missing a copy of the letter from the ANC?

3 MS. KING: No, that's alright. I can see --

4 MS. REID: This letter was, in all fairness faxed to me
5 yesterday, because I called and requested that.

6 MS. KING: I'm seeing it for the first time.

7 MS. REID: And it's supposed to be made available to
8 all other board members this morning.

9 MS. KING: But it was not.

10 DR. WORD: We filed it in a timely manner.

11 MS. PRUITT-WILLIAMS: I understand. It was filed in
12 a timely manner.

13 My understanding is Mr. Hart provided you with a
14 package of items that came in after your package was mailed out on
15 Friday.

16 MS. KING: I did not receive any such thing.

17 MS. PRUITT-WILLIAMS: Okay. We will rectify that.

18 (Whereupon, the foregoing matter went off the record
19 at 10:47 a.m. and went back on the record at 10:47
20 a.m.)

21 MS. REID: Go ahead, proceed. So you're showing
22 us unusual and uniqueness, and the practical difficulty.

23 DR. WORD: The practical difficulty exists, that is -- I
24 mean, we can't expand it. It's landlocked on these two sides. And so
25 the --

26 MS. KING: How many cars do your parishioners use
27 on an average Sunday or Wednesday?

28 DR. WORD: Well, right now we're only using one car;
29 we're using a van.

1 MS. KING: No, no, no. All the members walk to your
2 church?

3 DR. WORD: All the members come in the same van.
4 We only have one driving member at this point; all the rest of them
5 come in the van that the church owns.

6 So we only need one parking space currently. Of
7 course we're hoping that we get other members. It's a tiny church.

8 MS. KING: Sure.

9 MR. GILREATH: Can I ask one more question? I
10 understand only the left side -- you say there's a little bit of parking in
11 there. You have to extend over into the public space, right?

12 DR. WORD: You'd had to cross public space. You
13 wouldn't have to be on public space because you have 10 feet, and
14 you need 9 x 19. So by you have an additional 1 foot of space more
15 than you need for width. And of course, you have 100 feet, so, you
16 can get a parked car there.

17 MR. GILREATH: Is the public space paved as well?

18 DR. WORD: Yes. If you look at this property -- I have
19 pictures that I've submitted as well that shows what the property looks
20 out. The pictures should be in the file, but you can see that it looks
21 like --

22 MR. GILREATH: I don't know what the District's
23 policy is on public property or government property is, but when you --

24 MS. REID: Excuse me. The reporter's having a hard
25 time catching all this, so you have to make sure -- but also for the
26 Board members, please, to speak into the mike.

27 MR. GILREATH: I'm just wondering. If I were in your
28 situation I think I would be inclined to go down to the -- office of D.C.
29 Government, and say I have this situation here. It's paved and so

1 forth. Could I get a lease on this property for about -- an easement or
2 something.

3 DR. WORD: No, we did that already.

4 MR. GILREATH: They -- already, or they won't allow
5 it.

6 DR. WORD: We went to public -- they won't allow it.
7 You cannot in a R-4 support zone lease public property.

8 MS. KING: Not only that, but there's this wrinkle
9 about it being the "front of the building".

10 DR. WORD: That's the other wrinkle.

11 MR. GILREATH: Okay, so it has been explored.

12 DR. WORD: Yes.

13 MS. KING: I know we've got to go through the whole
14 process, but it strikes me that we could give this waiver for a time
15 period, and if during that period Dr. Word's congregation swells
16 enormously, and it becomes a question of an impact o the
17 neighborhood, then it could be reassessed by whoever's on the BZA
18 in the future.

19 But it strikes me that if they have one driving member
20 and one van, and they've got two legal spaces, there would be little, if
21 any, adverse -- in fact no detriment to the public good if we gave him a
22 waiver for a period of years. And then we have to come back and
23 deal with this when his congregation is overflowing his church.

24 MS. REID: Dr. Word, could you speak to us
25 regarding adverse impact. Ms. King just mentioned that.

26 DR. WORD: Yeah. What I was saying about the
27 meetings with the ANC is that members of them -- two
28 members -- visited the property twice, and they took note of the fact
29 that there was a parking space there. But they also looked to see how

1 much street parking exist in the area to determine whether or not they
2 thought it was adverse. On a holiday they found out that there was
3 plenty of free parking

4 The church is located at about a half block from the
5 intersection of Park Road, New Hampshire, Sherman Avenue, and
6 Monroe on one side.

7 MS. KING: You're fairly close to Howard University, is
8 that correct?

9 DR. WORD: We are -- not really close to Howard
10 University.

11 If you can picture the location of the Petworth Metro
12 Station, which is on the corner of New Hampshire and Georgia
13 Avenue, we're about two blocks down.

14 MS. KING: Oh, I know, okay.

15 DR. WORD: But it's a huge intersection, and there is
16 lots of street parking. At the worse time on Sundays -- and we have
17 five pictures in the file -- if you would pull them out. There are five
18 pictures showing that even when other churches are in service, and
19 there are three other churches, there is still lots of street parking.

20 I have photographs that show that on Park Road
21 going east there's at least a half block on both sides of the street
22 where no one parks.

23 And I think the ANC, when they met, their conclusion
24 was that there is such an abundance of parking space -- this shows
25 Sunday, February 2nd. That's what it looks like looking east on Park
26 Road. So there's plenty of parking space during church time. On
27 Sunday, the 14th, east on Park Road.

28 And whereas when you're downtown, for instance,
29 around the churches at Shiloh and Metropolitan, they're doubled and

1 tripled park, including full parking spaces. So there's no lack of public
2 parking space by our church.

3 The same is true when you look north on Sherman
4 Avenue from the property. There's plenty of additional parking space
5 at the height of its use on Sunday. And of course, on Wednesday
6 nights there's no problem parking because fewer members go to
7 prayer meeting.

8 MS. REID: There's no problem with traffic, or noise,
9 or --

10 DR. WORD: There is no problem with traffic or
11 congestion because this area is not a place where cars build up.

12 MS. PRUITT-WILLIAMS: Excuse me, Dr. Word, are
13 those the same photos we have in the file?

14 DR. WORD: These are two additional ones, but you
15 have three showing Sundays before.

16 MS. PRUITT-WILLIAMS: Can you submit those
17 though for the record when you finish?

18 DR. WORD: Yes, I will submit them for the record.

19 What I would ask is, rather than giving us a waiver for
20 a period, I would ask the Board to give us the complete variance,
21 because of the fact that there is no adverse impact.

22 The ANC has agreed unanimously that they feel
23 there's no adverse impact to the community. And if the Board takes
24 cognizance of the fact that we have five parking spaces, we're simply
25 talking about one additional parking space.

26 MS. KING: Dr. Word, I wasn't suggesting that it would
27 be for a period of a year, or even two years; I was thinking about
28 10 years or something like that. In which case the whole situation in
29 terms of parking impact on the neighborhood might be different.

1 DR. WORD: That would be fine actually.

2 MS. KING: By that time you hope that Ms. Reid
3 would have sold you another church, because you will have outgrown
4 the one you have now.

5 MS. PRUITT-WILLIAMS: Generally, the Board does
6 not condition variances for times. Those are usually only for special
7 exceptions. So this would be granted in perpetuity.

8 MS. KING: In perpetuity?

9 MS. PRUITT-WILLIAMS: Yes.

10 MS. KING: To march with the land?

11 MS. PRUITT-WILLIAMS: Yes.

12 DR. WORD: Would you have a problem with that?

13 MS. KING: Well, it just seems to me -- at the moment
14 you've got a van plus a few other people who come to your search.
15 You have the potential to have 60 people there, and possibly as many
16 as 10 cars in the neighborhood, and you have only two legal parking
17 spaces, one of which I presume you don't want to lose because it
18 might well block your front entrance.

19 DR. WORD: We really can't use the -- we have to
20 use the parking lot on the side actually, because this is the main
21 entrance. We don't have entrances from the side.

22 So I wonder if the Board has the authority to take
23 cognizance of the fact that Sherman Avenue is not the front of the
24 building in fact; that Park Road is the front of the building. And
25 therefore allow us, for purposes of the zoning permit, to be credited
26 with five.

27 MS. REID: Well, we can't really do that.

28 MS. KING: Particularly, because if we grant this it
29 marches with the land, and somebody later may come and open up

1 those bricked-up walls on the Sherman Avenue side.

2 MS. REID: Basically, you're asking for a variance for
3 this one automobile.

4 DR. WORD: Well -- no, we're going to have to have
5 four.

6 MS. REID: Okay. I thought you were saying that
7 technically you can park five --

8 DR. WORD: Yes.

9 MS. KING: Technically they can park seven.

10 DR. WORD: We can park all of the cars there. I
11 mean we use the public spaces to park or 10 or 15.

12 MS. REID: The variance was six, and then that would
13 take care of all of it.

14 DR. WORD: Yes, that would take care of it. A
15 variance of four, by the record as she said, because the zoning desk
16 has given us credit for only two.

17 MS. REID: For zoning issues.

18 DR. WORD: For zoning issues we need a variance
19 for four.

20 MS. PRUITT-WILLIAMS: But the other thing is, if
21 Dr. Word's church was to expand and increase, then he would have to
22 come back for more relief. But if doesn't -- if it goes over 65
23 seats -- this will go with the building for the 65 seats.

24 MS. KING: Okay, I buy that.

25 MS. PRUITT-WILLIAMS: And if it goes beyond that,
26 then he has to become back for additional relief.

27 DR. WORD: That's right, because we'd have to get
28 another permit.

29 MS. REID: If his congregation grow and blossom,

1 he'd have to get a bigger church eventually.

2 DR. WORD: That's our hope.

3 MS. KING: Okay. No, I'd forgotten about that. Yes it
4 is tied to the number of parishioners.

5 MS. REID: Are there any other questions?

6 MR. GILREATH: I don't have any more questions.

7 MS. REID: Dr. Word, does that complete your
8 presentation?

9 MR. GILREATH: I wonder if there's anything more I
10 should say. I don't want to prejudice myself.

11 MS. REID: I think you've done enough.

12 DR. WORD: Thank you.

13 MS. REID: You have an opportunity to come back at
14 the end, and ask for a summary order, or whatever today.

15 DR. WORD: Okay. And I'll end here.

16 MS. BAILEY: Dr. Word, do you own that property?

17 DR. WORD: Yes.

18 MS. BAILEY: The question I asked Dr. Word is, did
19 he own the property, and he said yes, he did.

20 DR. WORD: Yes.

21 MS. REID: Okay. Now to government report. There
22 are none. ANC? Is there anyone from the ANC? No one from the
23 ANC. We do have a letter from the ANC; that ANC-1A.

24 MS. KING: Some of us have a letter from the ANC.

25 MS. REID: Some of us have a letter from the ANC.
26 And it said by unanimous vote they had determined that no adverse
27 effect would result for approval of the request.

28 The Commission strongly urges the Zoning Board to
29 approve the request. Now they did not say there was a quorum, so

1 basically we will take note of the fact that the ANC is on record as
2 being in support of this application.

3 Persons and parties in opposition to the application?
4 Persons and parties in support of the application? Closing remarks by
5 the applicant.

6 DR. WORD: I would just say that I -- I just hope you
7 approve the variance for me.

8 MS. REID: -- a summary order with this decision
9 today?

10 DR. WORD: Yes, I would like a summary order to
11 that effect.

12 MS. REID: Okay.

13 DR. WORD: Thank you.

14 MS. KING: I move that we approve this order. I think
15 that he's met his burden of proof clearly. It doesn't have any adverse
16 impact. It's a uniquely shaped lot in a unique location. It would be a
17 great hardship if he weren't able to have the waiver of four parking
18 spaces which in fact do exist, but through a technicality can't be
19 counted. And therefore, I move that we approve this request.

20 MR. GILREATH: I second the motion.

21 MS. REID: All in favor, aye. Opposed?

22 MR. HART: The staff will call the vote as 3 to 0, Ms.
23 King, Mr. Gilreath, Ms. Reid, to grant this summary order.

24 MS. REID: Okay. Dr. Word, you should have your
25 order in about two weeks.

26 DR. WORD: Thank you very much.

27 MS. REID: Congratulations.

28 MS. PRUITT-WILLIAMS: And Dr. Word, if you can
29 get those photos.

1 DR. WORD: Yes.

2 MS. KING: I think they're in the file.

3 MS. PRUITT-WILLIAMS: I believe he indicated there
4 are two more.

5 MS. KING: Oh, two more, I beg your pardon.

6 MS. REID: Okay.

7 (Whereupon, the foregoing matter went off the record
8 at 11:01 a.m. and went back on the record at 1:33
9 a.m.)

1 A F T E R N O O N S E S S I O N [1:33]

2 MS. REID: The hearing will please come to order.

3 Good afternoon, ladies and gentlemen, this is the
4 February 17th Public Hearing of the Foreign Missions Board of Zoning
5 Adjustment of the District of Columbia.

6 Joining me today are vice chairperson, Betty King;
7 Reginald Griffiths representing the National Capitol Planning
8 Commission and representing the National Park Service of John
9 Parsons.

10 Copies of today's hearing agenda are available to
11 you. They are located to my left near the door. Please be aware that
12 this proceeding is recorded electronically, so we must ask you to
13 refrain from any disruptive noises or actions in the hearing room. If
14 you decide to give any information to the Board, do not speak from the
15 audience, but rather come forth to a microphone. State your
16 name and home address, and proceed to make your wish known.

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

20 After we finish this statement, please proceed to pick
21 them up, fill them out, so when your case is called you will have them
22 ready to be handed to the reporter.

23 Upon coming forward to speak to the Board, please
24 give both cards to the reporter, who is sitting to my right.

25 When seated at the witness table, please give your
26 name and home address. I repeat, please give your home address
27 rather than your business address. After this you may proceed to give
28 your testimony or statement.

29 The agenda for this case will proceed as follows.

1 Statement and witnesses of the applicant, government reports,
2 including Office of Planning on behalf of the mayor, reports or
3 recommendations by other public agencies, report of the ANC with
4 which the property is located, persons in support of the applicant,
5 persons in opposition to the application.

6 The record will be closed at the conclusion of each
7 case, except for any material specifically requested by, offered to, and
8 accepted by the Board. The Board and its staff will specify at the end
9 of the hearing exactly what is expected, and the date when the
10 persons must submit the evidence to the Office of Zoning.

11 After the record is closed no other information will be
12 accepted by the Board. The Board has instructed the staff to return
13 any materials received after the record is closed to the person who
14 submitted it.

15 The decisions of the Board in this legislative
16 proceeding must be based exclusively on the public record. To avoid
17 any appearance to the contrary, the Board request that persons,
18 counsel, and witnesses not engage the members of the Board in
19 conversation during any recess, or at the conclusion of this hearing
20 session.

21 While the intended conversation may be entirely
22 unrelated to any of the cases that are before the Board, other persons
23 may not recognize the discussion is not about a case.

24 The staff will be available to discuss procedural
25 questions.

26 At this time the Board will consider any preliminary
27 matters. Preliminary matters are those which relate to whether a case
28 will or should be heard today, such as requests for postponement,
29 continuance, or withdrawal, or whether proper and adequate notice of

1 the hearing has been given.

2 If you are not prepared to go forward with the case
3 today, or if you believe that the Board should not proceed, now is a
4 time to raise such a matter.

5 Are there any preliminary matters? Come forward,
6 please.

7 MS. PRUITT-WILLIAMS: Madam Chair, staff has no
8 preliminary matters.

9 MR. GOODMAN: My name is Robert O. Goodman. I
10 live at 4126 Lomar Terrace in Mount Airy, Maryland. I raise the point
11 that the ambassador of the Republic of Equatorial Guinea has been ill,
12 and he is on his way, but he's running late. I wanted to report that to
13 the Chair.

14 MS. KING: Is he going to be presenting his case, or
15 does he have other people presenting it for him?

16 MR. GOODMAN: He will be making a statement as
17 well.

18 MS. REID: But is he represented by counsel?

19 MR. GOODMAN: He is in deed.

20 MS. REID: And who might that be?

21 MR. GOODMAN: I am.

22 MS. PRUITT-WILLIAMS: Excuse me, Madam Chair.
23 Do you want to deal with preliminary issues for all cases today?

24 MS. REID: Well, we may as well.

25 All right, Mr. Giott.

26 MR. GIOTT: Procedurally, Madam Chairman, did I
27 understand correctly that the Board will only hearing from the single
28 member district in which the site is located?

29 MS. REID: No. ANC, there's a segment for the ANC.

1 MR. GIOTT: Will the ANC-1B be heard also?

2 MS. REID: Are you here for this particular case?

3 MR. GIOTT: Yes.

4 MS. KING: They were noticed in this case, if I'm not
5 mistaken, were you not, Mr. Giott?

6 MR. GIOTT: We were noticed.

7 MS. REID: And you are here for that purpose.

8 MR. GIOTT: That's right. And we did take an action
9 as an ANC. I just wanted to clear up --

10 MS. REID: You will be given an opportunity.

11 MR. GIOTT: Thank you very much.

12 MS. REID: Any other preliminary matters?

13 MS. PRUITT-WILLIAMS: Madam Chair, there's a
14 preliminary matter on the next case, and that's a request for a
15 postponement for Georgetown University.

16 MS. REID: Is anyone here affiliated with Case
17 Number 16427? Is anyone in the room here that's affiliated with that
18 particular case, Georgetown University?

19 MS. PRUITT-WILLIAMS: I believe most of the people
20 knew about it, but I just wanted -- in case someone did not know that it
21 had been -- it's been postponed to March 17th.

22 MS. KING: Has it been postponed?

23 MS. PRUITT-WILLIAMS: Yes.

24 MS. KING: Did we take an action?

25 MS. PRUITT-WILLIAMS: Excuse me?

26 MS. KING: Did we take an action?

27 MS. PRUITT-WILLIAMS: No. This was postponed
28 prior to getting to you.

29 The applicant had submitted their application. It was

1 given a hearing date, and it went up to the register.

2 Right after it went to the register, the applicant called
3 and asked for a different date. It was too late to retrieve the
4 information from the register. So the notices that went out to the 200
5 people have this March 17th date, the corrected date.

6 But just in case someone read the register and not
7 noticed.

8 MS. REID: All right. So that's Case Number 16427.
9 What was the date?

10 MS. PRUITT-WILLIAMS: 17th.

11 MS. REID: Okay. Can we proceed with this case?

12 MS. KING: On the other hand, we can do St. John's,
13 and then go back to Equatorial Guinea, if they prefer.

14 MS. PRUITT-WILLIAMS: You could ask their counsel
15 if he feels uncomfortable starting.

16 MS. REID: Mr. Goodman, would you prefer to
17 proceed at this time, even though the ambassador's not yet arrived, or
18 would you rather us take up the next case? Take up the next case,
19 and then have your case immediately after that.

20 How long do you take before the ambassador will be
21 able to arrive?

22 MR. GOODMAN: He was supposed to have left
23 about 20 minutes ago, and they were at I Street. If you give me a few
24 moments, I'll call and make sure he's on his way.

25 MS. REID: Okay. Maybe the best thing to do would
26 be to just give him about 5 or 10 minutes, and then we can proceed
27 with this case.

28 Then what we'll do, Mr. Goodman, is give you five
29 minutes or so, and then we'll proceed with your case because

1 Mr. Griffith and his department both have to leave. So if we switched
2 it around it would be cumbersome.

3 MR. GOODMAN: I understand, Madam Chair, and I
4 will go and make the phone call.

5 MS. PRUITT-WILLIAMS: Madam Chair, we do have
6 another preliminary issue we can deal with.

7 MS. REID: Okay.

8 MS. PRUITT-WILLIAMS: On the application of
9 16430. Is the applicant here, for St. John's?

10 It's a small issue, so I don't think it will be a --

11 The notice has the application's address as 3400 O
12 Street, which is what the application also indicated. But the actual
13 address, I believe, is 3200 O Street?

14 MR. BROWN: I believe it's 3240.

15 MS. PRUITT-WILLIAMS: The bottom line, the
16 address is different that what was on the application and what was
17 sent out in the notice.

18 MS. REID: So the notice was sent out with a different
19 address?

20 MS. PRUITT-WILLIAMS: No the notice was sent out
21 correct, based on the application. The application was inappropriately
22 filled out. There's a mistake on that.

23 MS. REID: Okay. That's what I'm trying to ascertain.

24 MS. KING: The notices went out to the people to the
25 proper 200 people?

26 MS. PRUITT-WILLIAMS: That's what we need to find
27 out.

28 MS. REID: Okay, Mr. Brown.

29 MR. BROWN: The 200-foot property listing was done

1 in accordance with where the building physically is --

2 MS. PRUITT-WILLIAMS: To the 3200.

3 MR. BROWN: -- regardless of the address. And, in
4 fact, it went beyond the 200 feet. But the written notices that went out
5 were based on the physical location of the property and it's correct
6 place. Those went out, I assume --

7 MS. PRUITT-WILLIAMS: They went out in a timely
8 manner, yes.

9 MR. BROWN: -- they went in a timely manner.

10 The property itself was posted on its various street
11 frontages in an appropriate manner.

12 The ANC has taken up the matter. We've gotten
13 letters of support from adjoining property owners, so that I think all the
14 requirements, or the purposes of notices were completely served by
15 the events that occurred in accordance with the procedures.

16 MS. KING: But we published the wrong address, is
17 that correct?

18 MS. PRUITT-WILLIAMS: We published the address
19 that was given to us in the application, which happened to be the
20 wrong address.

21 MS. REID: That's exactly what we're trying to
22 ascertain. I understand the fact that it was on the application.

23 MS. PRUITT-WILLIAMS: Correct. However, notice
24 went to the correct MS people, and the property was posted. So there's
25 notice on two different fronts.

26 MS. REID: What was put in the D.C. Register?k

27 MS. PRUITT-WILLIAMS: This.

28 MS. REID: The incorrect one?

29 MS. PRUITT-WILLIAMS: The incorrect address, yes.

1 The zoning relief is the same. It's just the actual physical location of
2 the building.

3 MS. KING: And I don't think that any of the people
4 who live within 200 feet of St. John's Church have any doubt that
5 St. John's Church is in the 3200 block, not the 3400 block,
6 so -- Madam Chair, it seems to me that there's no reason to abort this
7 hearing.

8 MS. PRUITT-WILLIAMS: We can just amend the
9 application.

10 MS. REID: To my knowledge, there is no opposition
11 to this particular case.

12 MS. KING: On the contrary; there's widespread
13 support.

14 MS. REID: None. Okay. Then I think that we'll
15 probably be on pretty safe ground to proceed -- from the fact that the
16 property was noticed, and the people did receive their notices in 200
17 feet, it should be okay.

18 MS. PRUITT-WILLIAMS: So we'll take this up after
19 the foreign mission case.

20 MS. REID: Right. We'll proceed with the case today,
21 Mr. Brown.

22 MR. BROWN: Thank you very much, Madam Chair.

23 MS. REID: Are you ready? Okay. Please, come
24 forward.

25 MR. HART: Madam Chair?

26 MS. REID: Yes.

27 MR. HART: This is Application 16428 of the
28 Chancery of the Republic of Equatorial Guinea, pursuant to 11DCMR
29 1002.1 to permit a new chancery use by the Embassy of the Republic

1 of Equatorial Guinea in an R-5-C District at premises 2020 16th
2 Street, N.W. at Square 175, Lot 805.

3 (Whereupon, the persons, having first been duly
4 sworn, were examined and testified as follows:)

5 MS. REID: You can proceed.

6 MR. GOODMAN: Madam Chair, my name is Robert
7 Oliver Goodman. I'm an attorney here in the District of Columbia. I'm
8 here with His Excellency, Ambassador Pastor Micha Ondon Bile, the
9 ambassador of the Republic of Equatorial Guinea.

10 Also testifying today, interpreting for the ambassador,
11 will be Ms. Mari-Cruz Andeme, his diplomatic attache.

12 By way of introduction, the Republic of Equatorial
13 Guinea is a small country located near the equator on the west coast
14 of Africa. It is a developing democratic nation, seeking investments by
15 American and international companies in its economic development
16 and infrastructure.

17 Equatorial Guinea has a population of approximately
18 530,000 inhabitants, and an land area of 17,433 square miles.

19 The government of Equatorial Guinea has an
20 abundance of natural resources. Approximately 1,000 of its citizens
21 live in the United States. Almost 75 percent of them live in the New
22 York City area.

23 In 1995, the Republic of Equatorial Guinea sought
24 and received permission to establish an embassy in the United States
25 of America. The purpose of that embassy is to engage in contacts
26 between American businesses, ecclesiastical institutions, and leaders
27 in the higher education community.

28 Its first office, 1375 square feet, established in July of
29 1995, was located at 1511 K Street, N.W., Suite 401, in Washington,

1 D.C. That office was vacated before December 1998 for a current
2 temporary quarters at 1712 I Street, N.W., Suite 410, in Washington.
3 It was only the intent of the government to find and locate an embassy
4 in a building that it owned for the purpose of carrying out its mission.

5 We have been members of the United Nations since
6 1968, and have a mission in New York City where we represent our
7 government there in that international body.

8 In September of 1998 we purchased the property at
9 2020 16th Street, Square 175, Lot 805, with the intent to locate our
10 embassy there. We notified the Office of Foreign Missions of the U.S.
11 Department of State of our intent, and they did not object.

12 The Department of State recently sent a letter in full
13 support of the location of the embassy on the premises. We also
14 contacted the Board of Zoning Adjustment of the Government of the
15 District of Columbia. The hearing today before the BZA is the result of
16 that notification.

17 As you know, 2020 16th Street is in the District zone
18 R-5-C residential commercial. The government has no plans to alter
19 the charming exterior characteristics of the building, and will use the
20 property for residential and commercial use purposes.

21 The interior is tastefully decorated in an elegant and
22 timeless style. There's a one-bedroom apartment located on the first
23 floor, where the former housekeeper lived. This apartment will be
24 occupied by permanent embassy staff for security purposes.

25 The upper levels of the home will be used exclusively
26 for offices and temporary VIP quarters by traveling members of the
27 delegation of our nation, and/or temporary distinguished visitors and
28 guests.

29 There are four or five permanent members of the

1 embassy staff. Two are diplomats; the other two are citizens of the
2 Republic of Equatorial Guinea and also a South American country.

3 The ambassador, on the other hand, lives with his family in
4 Virginia, so he will not be living at the quarters.

5 Summary. The Government of the Republic of
6 Equatorial Guinea takes this opportunity to express our application
7 before you. We want to make sure that you understand that we want
8 to be good neighbors; conduct our business in a manner that will not
9 disturb or negatively impact the neighborhood. The location of our
10 embassy on 16th Street will enhance the quality of life and property
11 values in the community. The building is in an historic district, and
12 will be a wonderful venue for the embassy.

13 In preparation for this meeting we had two open
14 house events, which we invited our neighbors to come and see the
15 interior of the building. At those meetings -- one on the 31st of
16 January and the other on the 7th of February -- Ambassador Bile and
17 his family and the staff and their families were present. We had a
18 good turnout, and we had a good response.

19 I would like now to submit to the Board some folders,
20 some written materials, on the Republic of Equatorial Guinea. I have
21 four copies.

22 At this time I'd like to introduce His Excellency, the
23 Ambassador of the Republic of Equatorial Guinea, Pastor Micha Ondo
24 Bile.

25 AMBASSADOR BILE: I would like to say a few
26 words, but my English is not no good. With that I will pass that to
27 speaking in Spanish.

28 TRANSLATOR ANDEME: We'd like to thank you for
29 this opportunity for having him here to explain our case. He is ill right

1 now. He was briefly hospitalized yesterday. He's still at home, but he
2 had to come for Virginia to attend this meeting, which is very, very
3 important for us.

4 This case that we're discussing right now, the opening
5 of our chancery at 2020 16th Street, is not a lucrative business. My
6 government has purchased this building, a little bit over a half million
7 dollars. This is like a lot of money to my government, to our country.
8 We don't have that kind of money offhand all the time, which means
9 that it's very, very important for us to establish this relationship with
10 the United States of America.

11 And in doing so, which is the purchase of the building,
12 the people living in the zone, we always considered their concerns,
13 and they are very important to us. We don't want to antagonize them,
14 or we don't want to undermine their concerns, which are very
15 reasonable. And not just only the people living in that particular area,
16 but the whole District of Columbia.

17 I want the Board to understand that the strengthening
18 enhancement of the relations between both countries will not only
19 benefit citizens from Equatorial Guinea, but also it will benefit citizens
20 from the United States, as well as our neighbors in that particular
21 zone. Because what we're trying to do here is to promote business
22 communication at all levels, so that the standard life of citizens in
23 Equatorial Guinea could be higher, and as well benefit citizens here in
24 the United States.

25 Thank you very much

26 (End of translation)

27 There's a statement that he has prepared that will
28 perhaps explain most of the concerns that he has about the neighbors
29 living in that area, and other comments that other institutions have

1 made on this case, their reports.

2 So if I may -- shall I state my name?

3 My name is Mari-Cruz -- I am the attache of the
4 embassy. I live on 2020 16th Street, N.W., Washington. And I will
5 read the statement that the ambassador prepared for this hearing.

6 "As the ambassador of the Republic of
7 Equatorial Guinea, before the United States of America and the United
8 Nations, I stand here today to comply to one of the supplemental rules
9 and practice required by the Board of Zoning Adjustment, which
10 follows other various sequences which to the best of my knowledge I
11 have observed.

12 It's always been my government's desire to
13 strengthen and enhance bilateral relations with this great nation. After
14 all -- discovery in my country -- various American oil companies sell in
15 Equatorial Guinea, resulting in an extreme need to fully strengthen
16 these ties.

17 In April last year I was drawn to the beautiful building
18 that sits on 2020 16th Street, N.W., not only for its outside physical
19 beauty, nor for its interior capacity to host the service of fermenting
20 international and valuable relationships, but I was also drawn by the
21 entire neighborhood which holds a rich and classy appearance, a fact
22 I have ever, nor will ever undermine. A -- resolution -- I will illustrate
23 below.

24 From day one we have worked with the State
25 Department, and had to ensure that we met all requirements, both
26 dictated by the Federal Government, as well as the District
27 Government.

28 For the first part we have complied with the
29 regulations that govern the purchase, an establishment of a chancery.

1 I refer to the documents that I enclosed in our case files.

2 We are under the same situation of having complied
3 with the District Government's demands. We were asked by the BZA
4 to meet with two ANCs that are directly affected by our case.
5 Unfortunately, we only met with ANC-1B, and not with ANC-1C. I
6 personally feel overwhelmed by this unusual situation, because we all
7 know that 2020 16th Street pertains to ANC-1C; however, I wish to
8 inform you that the embassy was never formally, nor officially advised
9 by ANC-1C to attend any meeting.

10 Yesterday, an apology was made to my staff by an
11 ANC-1C representative during an emergency meeting called by the
12 embassy. On the other hand, we had attended ANC-1B's meeting,
13 thanks to the courteous endeavor of Commissioner Giott. After brief
14 discussions, ANC-1B voted in support of our appeal.

15 Now I would like to briefly comment on the various
16 and reasonable concerns I've learned neighbors of this zone have,
17 and also comment briefly on the reports presented by some
18 institutions.

19 Number 1, Number of diplomats. The Planning Office
20 inaccurately states that our embassy employs four diplomatic staff
21 members. This is incorrect. We only have two diplomatic members
22 and another two non-diplomatic. This is important because it answers
23 the question of the number of vehicles with diplomatic tags that the
24 embassy will be using on daily basis.

25 Number 2, Use of the 4th Floor. This floor will be
26 used for ministers that might visit Washington, D.C. only on official
27 businesses. That is during celebrations -- for example, the World
28 Bank, they hold in August every year a two-week seminar. I will
29 sometimes have ministers come to attend those meetings. That's the

1 only time we will have the floor used.

2 Diplomatic business. We maintain constant
3 diplomatic relations with bodies of the Federal Government. When we
4 do so it is always at their quarters, therefore five visitors a week for
5 diplomatic business in our embassy, as the Office of Planning
6 states -- that is not true either. Sometimes we might
7 have -- ambassador to ambassador visitors or visits to our chancery.

8 The State Department never approves our decision,
9 nor our process of acquiring the building. Please refer to State
10 Department documents that I enclose in our case file.

11 While we do share the Dupont Circle Citizens
12 Association's view, that this is a proud and viable neighborhood, I am
13 here to assure them that its main characteristics will not change by our
14 occupying the building. The neighborhood will continue to be stable,
15 and furthermore, productive and successful. We are indeed good
16 quality neighbors, and the State Department has already valued our
17 existence as an utmost importance. We will definitely improve the
18 neighborhood to a richer and proud one.

19 Number 6, The parking. The former owner of
20 2020 16th Street had three parking spaces; one which is the garage,
21 another two spaces at the back of the lot, the rear of the building.

22 The embassy has acquired the same number of
23 spaces, therefore the neighbors are currently under the same parking
24 situation by Ms. Gigliotti -- that's the former owner, Ms. Gigliotti.

25 The neighbors are currently under the same situation
26 with parking when Ms. Gigliotti was the owner; and we have not
27 worsen anything. We do not intend to acquire further parking, not
28 on-site, not off-site.

29 All our visitors will arrive by public transportation. All

1 visitors that we anticipate will be from the D.C. area; that is, no one
2 will come from Burke, Virginia, or Richmond, Virginia,
3 Baltimore -- places far like that. And if they come from Baltimore, they
4 stay in hotels, and then they come by cab or by bus to the embassy,
5 which is how we are doing our business right now.

6 To the embassy two vehicles will be driving in and out
7 everyday from Monday to Friday. Only delivery vehicles might be
8 seen from time to time. This is so because we are supplied every two
9 months. That's office supplies; paper, pencils, etc., etc.

10 Traffic congestion can never -- accord -- with courier
11 services. They come on a motorcycle, bicycle. They drop the
12 passports, and they pick them up and they go away.

13 Garbage removal. The embassy's currently paying
14 the city authorities for the service, and remain to do the same.

15 The previous owner had five people occupying the
16 building. Our embassy will have between four and five -- the same
17 amount of people. That number is not expected to increase in the
18 foreseeable future.

19 Number 9. We feel we have complied with all
20 requirements set, especially parking. But we are very, very willing to
21 work and be participants with the neighbors on issues that affect us
22 both.

23 Once our offices are closed, there will be a permanent
24 staff member living under normal residential circumstances. We have
25 used before -- for security purposes. This is because she will watch
26 over our belongings -- country -- government things in the office while
27 the offices are closed.

28 Thank you very much for your consideration, and for
29 your time.

1 MR. GOODMAN: Madam Chair, that concludes our
2 presentation.

3 MS. REID: Board members, did you have any
4 questions?

5 MR. GRIFFITHS: I have several questions. And I
6 think you've answered most of them, but I just want to be clear, make
7 them concise for the record.

8 As I understand it, there were formerly three
9 automobiles, and you anticipate having no more than that, only three
10 automobiles at the property?

11 MR. GOODMAN: We have two. We have two
12 diplomatic automobiles.

13 MR. GRIFFITHS: You have two diplomatic, but the
14 total number of automobiles --

15 AMBASSADOR BILE: Three.

16 MR. GRIFFITHS: -- would be three?

17 AMBASSADOR BILE: Yes.

18 MR. GRIFFITHS: All right. Then you say that you
19 have two non-diplomatic staff and two diplomatic staff. And so the
20 occupancy of the building during working hours would be four or
21 possibly five?

22 AMBASSADOR BILE: That is correct.

23 MR. GRIFFITHS: You indicate that after hours there
24 will be at least one person, or perhaps two. You didn't say two, but I'm
25 just asking.

26 TRANSLATOR ANDEME: Just one person.

27 MR. GRIFFITHS: Just one person staying in the
28 property.

29 TRANSLATOR ANDEME: Yes.

1 MR. GRIFFITHS: And you expect how many visitors
2 per week, including business.

3 TRANSLATOR ANDEME: We can say a maximum of
4 five. It won't even get to that.

5 MR. GRIFFITHS: Drop-offs, passports, everything.

6 TRANSLATOR ANDEME: Okay, yeah, five a week.
7 Okay.

8 MR. GRIFFITHS: You include five. But you might
9 have -- even if you double that it would be 10 or so.

10 You seem to have less activity right now than a
11 residential area, residents, but we'll see.

12 Your fourth floor will be for guest ministers possibly
13 two weeks a year?

14 AMBASSADOR BILE: Yes.

15 TRANSLATOR ANDEME: Yes. One time a year, but
16 for a period of two weeks in August.

17 MR. GRIFFITHS: How many guest ministers at one
18 time?

19 TRANSLATOR ANDEME: Two, because these are
20 World Bank meetings, Minister of Finance and Minister of Planning.

21 MR. GRIFFITHS: So at worst you would anticipate
22 less than -- let's say less than 10 to be safe --

23 TRANSLATOR ANDEME: Oh far less than --

24 MR. GRIFFITHS: -- in the office space, the chancery,
25 at any time?

26 TRANSLATOR ANDEME: Any time.

27 MR. GRIFFITHS: Thank you.

28 MS. KING: You purchased this house without a
29 contingency for getting zoning approval to use it as a chancery, is that

1 correct?

2 MR. GOODMAN: It was a situation where the owner
3 was anxious to get out -- It was a situation where the previous owner,
4 Ms. Gigliotti, to get out. And reading the regulations and talking to the
5 people at State, it was assumed that there was a presumption in favor
6 of operating embassy locations in historic districts. And we checked
7 and found that the 16th Street corridor was considered to be an
8 historic district, although it is not --

9 MS. KING: But you're aware that it's not in the
10 diplomatic overlay.

11 MR. GOODMAN: That is correct, we knew that.

12 MS. KING: And you were aware of that when you
13 purchased the property?

14 MR. GOODMAN: That is correct.

15 MS. KING: Thank you.

16 MS. REID: I have a question. Do you do any
17 entertaining at the chancery?

18 TRANSLATOR ANDEME: Yes. We have designed a
19 plan.

20 MS. REID: I'm sorry?

21 TRANSLATOR ANDEME: Yes. We will entertain
22 receptions. Is that your question?

23 MS. REID: Yes.

24 TRANSLATOR ANDEME: But we will do them
25 off-site, we won't do it in our building.

26 MS. REID: No, that was my question. You will not
27 have --

28 TRANSLATOR ANDEME: Oh, we won't have them
29 there.

1 MS. REID: You won't have receptions, or you won't
2 be entertaining at that facility --

3 TRANSLATOR ANDEME: No, not at that --

4 MS. REID: -- even though you may have them at
5 other places in the city.

6 TRANSLATOR ANDEME: At other places, yes.

7 MS. REID: What are the hours of operation?

8 TRANSLATOR ANDEME: From 5 to 9, ma'am. I'm
9 sorry, from 9 to 5.

10 MS. REID: Okay. Monday through
11 Friday. No Saturday and Sunday?t

12 TRANSLATOR ANDEME: No Saturdays and
13 Sundays.

14 MS. REID: Thank you. No other questions
15 Thank you very much. I'll bring you back up for
16 closing remarks.

17 We'll now have government reports, the Secretary of
18 State.

19 Ms. Pruitt-Williams, do we have an Office of
20 Planning?

21 MS. PRUITT-WILLIAMS: We do. You do have a
22 report in your package.

23 MS. REID: Yes, but I mean -- Oh, I see. We don't
24 have a representative.

25 MS. PRUITT-WILLIAMS: No, we will not have a
26 representative.

27 MS. REID: Okay.

28 MR. MLOTEK: Good afternoon. May I please this
29 honorable Board. I am Ronald Mlotek, legal counsel of the Office of

1 Foreign Missions, United States Department of State.

2 I am pleased to appear before you today as part of
3 our statutory role in assisting the Board of Zoning Adjustment -- the
4 Foreign Missions Board of Zoning Adjustment -- in adjudicating
5 chancery cases under the Foreign Missions Act.

6 As you know, I presume, we have submitted for the
7 record a statement from the deputy director of the Office of Foreign
8 Missions, Deputy Assistant Secretary, Theodore Stricker. That's in
9 the record; I will not regurgitate it right now. Just to highlight the
10 central points which fall within our province under the Foreign
11 Missions Act and under six criteria by which these cases are to be
12 decided.

13 First of all -- that letter was, by the way, dated
14 January 27th. First of all, the Department of State finds that there is
15 no special security requirement or parking-related requirement for this
16 chancery if it were to be approved at this location.

17 Second, we would point out, as we do in all of these
18 cases, that assisting embassies in obtaining adequate and secure
19 facilities in which to conduct our operations does fulfill the international
20 obligation of the United States under the applicable treaties that
21 regulate diplomatic relations.

22 And third, we point out that there is an interest in the
23 area of reciprocity between Equatorial Guinea and the United States
24 of America, although we do not have an embassy there now. We
25 closed our embassy in 1994 for fiscal and budgetary reasons, but we
26 are planning and in principle have approved reopening a presence
27 there in the form of a consular agency, basically to look after the
28 interest of the growing number of American citizens who are beginning
29 to travel to Equatorial Guinea in connection with the oil industry and

1 petroleum-drilling operations there.

2 So for those reasons, the Department supports this
3 application, and requests the Board to act favorably upon it.

4 I will of course hold myself open for questions, either
5 at this point or later. I would also like to ask the Board's leave, in the
6 event that some subsequent witness or group of witnesses should
7 raise points that impinge upon the federal interest, for permission to
8 address the Board again on those subjects, particularly if an issue of
9 international law or diplomatic relations law should be raised; or if
10 some aspect of the Foreign Missions Act should come into play.

11 And in this regard, finally, I would just like to respond
12 to something Member King raised with the applicant directly.

13 She mentioned that the area is not within the
14 diplomatic overlay. And that is of course, true. But to my
15 understanding, the diplomatic overlay does not apply one way or
16 another -- in other words, there were no areas mapped, either within
17 or without the diplomatic overlay, that were in medium high density
18 zones such as this.

19 Because under the Act, an area that is medium high
20 density is presumed to be -- the general area is presumed to be an
21 appropriate area for chancery locations. Specifically, I would refer you
22 to the Foreign Missions Act in the U.S. Code at Section 4306(b)(2).

23 It says, "The chancery should also be permitted to
24 locate in any area which is zoned medium-high, or high density." This
25 is zoned medium-high I believe, medium-high density, residential.
26 Subject to disapproval by the Board.

27 The diplomatic overlay applies to the second section
28 (b)(2)(b). I just read you (b)(2)(a); (b)(2)(b) says, in addition to the
29 area I just mentioned, medium-high or high density residential, "a

1 chancery shall also be permitted to locate in any other area,
2 determined on the basis of existing uses", which includes office,
3 institutional uses, etc, as an area that would be suitable.

4 So in other words, the Board is suppose to, in the
5 cases under (b)(2)(b), determine first whether the area is suitable, and
6 then, two, whether this specific location within the area is suitable.

7 And years ago -- as Mr. Griffiths knows because he
8 was heavily involved in that process. Years ago, when the Foreign
9 Missions Act was first passed in '82, thereafter in 1983 an impetus
10 began from the National Capitol Planning Commission and the Zoning
11 Commission to try to define, to pre-define, those areas under (b)(2)(b);
12 in other words, the areas that would be deemed to be appropriate on
13 the basis of existing use. And that, Ms. King, is what became known
14 as the "diplomatic overlay".

15 But this case is not brought under 4306(b)(2)(b); it's
16 brought under 4306(b)(2)(a), which the diplomatic overlay was never
17 meant to apply to. And I just wanted to correct that for the record.

18 MS. KING: So you feel that the fact that this is a
19 totally residential block is immaterial?

20 MR. MLOTEK: No, it is not immaterial at all. It is not
21 immaterial at all, and the Board can and should under the six criteria
22 take that into account.

23 All I'm saying is, that in a normal case an
24 embassy -- in other words, in the case that was brought under
25 (b)(2)(b), where the diplomatic overlay has some applicability, the
26 Board in such a case has two questions to decide; one, is the entire
27 area appropriate in the Board's view; and number two, is that
28 particular site appropriate. That's because the diplomatic overlap
29 comes into play there.

1 In a case under (b)(2)(a) there's only one hurdle, or
2 one test that must be examined. Because under the statute itself the
3 area is determined. Whatever you or I may think, the area, the entire
4 area, is presumed statutorily to be appropriate for chancery location,
5 because the Act itself says, "they shall be permitted to locate there,
6 subject to disapproval".

7 Then there is only the second test to be looked at as
8 to whether that specific site. And the question you raised of course,
9 Ms. King, would relate to that specific site, as to whether that entire
10 block is residential, and whether it would impede the residential
11 character of the block, and that's perfectly appropriate.

12 All I'm saying is that it should not be held against this
13 embassy, or against this application that the site is not in the
14 diplomatic overlay.

15 MS. KING: Did the State Department warn the
16 Government of Equatorial Guinea that there was this problem of
17 meeting zoning approval, since it was outside of the diplomatic
18 overlay?

19 MR. MLOTEK: Well, without getting too far into the
20 conversations between the Department of State and a foreign
21 government, let me simply say that we do in all cases counsel
22 embassies extensively about the zoning realities, and the likelihood or
23 lack of likelihood of gaining approval before this board in cases where
24 they must come to this board for approval.

25 This case, of course, they did purchase the property
26 without a contingency, and we made them aware as we do in other
27 cases that there could be opposition, and that our diplomatic approval
28 notes in all cases state that we cannot guarantee successful outcome
29 before this board. That's our standard operating procedure.

1 MS. KING: Thank you.

2 MR. MLOTEK: You're very welcome.

3 MS. REID: Any questions?

4 Okay, thank you, Mr. Mlotek.

5 MR. MLOTEK: Thank you very much.

6 MS. REID: Office of Planning report. Vice Chair
7 Betty King will -- summary.

8 MS. KING: The Office of Planning has
9 recommended -- as the mayor's designee in matters relative to foreign
10 missions, the Office of Planning recommends denial of this
11 application. In part -- I will not read the entire opinion, which
12 everybody has before them, but on page 5 --

13 MS. REID: I don't think the audience can hear you
14 that well, Ms. King.

15 MS. KING: Oh, I beg your pardon. I'm sorry, let me
16 start again.

17 As the mayor's agent, designee, in matters relative to
18 foreign missions, the Office of Planning recommends denial of this
19 application. I will not read the entire opinion, which is before members
20 of this panel, but I will read two sections.

21 One is on page 5 under Section 101.7, Municipal
22 Interest. The Office of Planning has said, "The applicant would
23 introduce a non-residential use in this area of 16th Street, which is
24 presently totally residential in character.

25 In addition, during the discussion of the diplomatic
26 overlay as part of the Foreign Missions Act this area was never
27 considered suitable for the location of foreign missions."

28 The chancery, in the Office of Planning's opinion,
29 would have a deleterious impact on the residential character of this

1 portion of 16th Street.

2 And then the final paragraph on page 6 says, the
3 recommendation of the Office of Planning is that they're of the opinion
4 that the applicant has not met the burden of proof under Section 102
5 of 11DCMR, relative to the location of the proposed foreign chancery
6 in an R-5-D zone district.

7 "This proposed office use as a chancery would have a
8 deleterious impact on the character of this section of 16th Street which
9 is totally residential. The proposal would exacerbate the existing
10 parking problems with the area. This area has not been considered
11 suitable for chancery use.

12 Based on the above analysis, the mayor's designee in
13 matters relative to foreign missions, the Office of Planning
14 recommends denial of this application."

15 And this document was signed by John -- transition
16 coordinator for the Office of Planning.

17 MS. REID: And I'll also note that the federal
18 interest -- it's not updated. It says the Department of State closed its
19 embassy in Malabo, the capitol of Equatorial Guinea in 1994, but the
20 representative from the Secretary of State, Mr. Mlotek, informed us
21 that they do intend to reopen the embassy there in deference to the
22 number of American citizens who are now moving there to participate
23 in the oil industry, for the record.

24 MR. GRIFFITHS: Madam Chairman, for the record,
25 what you just read with respect to the U.S. presence overseas is not a
26 municipal matter.

27 MS. REID: I read it as a federal interest.

28 MR. GRIFFITHS: But this is something from the
29 Office of Planning?

1 MS. REID: Yes, this is under the federal interest
2 portion of the Office of Planning report.

3 MR. GRIFFITHS: Well I guess what I'm saying is that
4 the Office of Planning, while it can comment on anything, has rather
5 not so weighty influence on the federal interest. That's the way the
6 Act is drawn up.

7 MS. REID: Okay. Thank you for your input in that
8 instance.

9 MS. KING: It's for that reason that I didn't read that
10 section of the report.

11 Under government reports, I note that we have
12 nothing from the Commission in Fine Arts, nothing from the
13 Preservation Review Board, nothing from the Corporation Counsel.

14 However, we do have letters from four members of
15 the City Council. Jim Gram, who is the councilmember for Ward 1,
16 and three at-large members; the Honorable Phil Mendelson; the
17 Honorable David Katanya; and the Honorable Carol Schwartz. All four
18 have opposed the granting of permission for the establishment of the
19 chancery at 2020 16th Street.

20 MS. REID: Okay. Thank you.

21 Now, report of the ANC; ANC-1C and 1B -- I think it's
22 located in both of those jurisdictions.

23 MS. PRUITT-WILLIAMS: It's located in 1C.

24 MS. REID: 1C, would you come forward, and then we
25 will have testimony from 1B.

26 MR. LETZINGER: I'm Eric Letzinger. I live at 1621 T
27 Street, N.W., Apartment No. 306. And I am the ANC commissioner for
28 1C-08, which is the single member district in which this property that
29 we're discussing today is located.

1 A little bit of background. The ANC Commission 1C
2 met on February 3rd at our monthly meeting on Wednesday to
3 officially discuss this issue in light of significant residential opposition
4 to the proposed usage, and we during that meeting elected to oppose
5 the proposed usage for a transferee for this building.

6 MS. KING: Was a quorum present, and was it duly
7 advertised that this was going to come up at that meeting?

8 MR. LETZINGER: Yes, it was.

9 MS. REID: First of all, do we have a letter? Did you
10 send a letter?

11 MR. LETZINGER: Yes.

12 MS. REID: Do you have it, Ms. King?

13 MS. KING: I don't, no.

14 MS. REID: I don't think --

15 MR. LETZINGER: You should have everything.
16 Everything's been faxed in, and sent according to due process.

17 MS. REID: I have a -- resolution of Advisory
18 Neighborhood Commission 1C. This is signed by Richard Mason.

19 MR. LETZINGER: That's the resolution itself.

20 MS. KING: Okay. But it doesn't say -- in order for us
21 to give great weight we have to know that it was duly advertised, and
22 public meeting, and a quorum was present, and what the vote was, in
23 order to give great weight.

24 MS. REID: There's not a letter here.

25 MR. LETZINGER: Okay. Here are the two pages
26 that were faxed to you, and you're only holding the second sheet, so
27 I'm not sure what happened in your administrative process.

28 MS. REID: Could you please give it to the staff so
29 that we could take a look at it?

1 MR. LETZINGER: Right.

2 MS. REID: Thank you.

3 MS. KING: Could we see it, Sherri? I don't think we
4 need copies made.

5 MS. REID: Basically, it's dated February 5th, "To
6 whom it may concern, enclosed is the certificate of the resolution
7 passed by the Advisory Neighborhood Commission 1C" --

8 MS. KING: There was a quorum.

9 MR. LETZINGER: There was a quorum in all of
10 our meetings. We're a good commission. All of our meetings are
11 publicly advertised thoroughly, and we have tremendous attendance
12 at our meeting.

13 MS. KING: You have nine members. How many
14 attended this meeting?

15 MR. LETZINGER: Seven of the nine.

16 MS. KING: And how many voted in support of the
17 resolution?

18 MR. LETZINGER: All but three.

19 MS. REID: So four people out of nine members?

20 MR. LETZINGER: There were two that abstained and
21 two that were -- let's see, two abstained and two that were absent.

22 MS. KING: And your rules are that an affirmative vote
23 requires a majority of those present in voting, is that correct?

24 MR. LETZINGER: Yes.

25 MS. KING: Okay, thank you.

26 MS. REID: Notwithstanding the fact that verbally you
27 are -- reporting -- but in the submission to us it does not indicate that
28 there was a present, or that a vote was taken.

29 MS. KING: Just for a future reference.

1 MR. LETZINGER: That's good to know. And one
2 piece of information. We're a relatively new commission, so I'm sure
3 there's a ball or two that we've dropped.

4 MS. REID: Okay. Then what you should do is just
5 consult with staff, and let them apprise you as to what is the proper
6 format for this commission each time you do so.

7 MR. LETZINGER: Great.

8 MS. REID: Okay. Go ahead and continue.

9 MR. LETZINGER: I know this is another piece I need
10 to have, which is basically a letter from the Commission authorizing
11 me to speak on behalf of the Commission with respect to this issue.

12 MS. REID: You're the chair person of the --

13 MR. LETZINGER: I'm not the chairperson.

14 MS. REID: You're a single member. Okay.

15 MR. LETZINGER: Right. But I have authorization
16 from the Commission to --

17 MS. REID: Okay.

18 MR. LETZINGER: -- right.

19 MS. KING: And he represents the SMD in which
20 2020 16th Street is located.

21 MS. REID: And we'll waive that letter of authorization
22 into the record.

23 MS. KING: Oh, and we better waive the covering
24 letter from the resolution in as well.

25 MS. REID: Actually, the covering letter should have
26 been a part of the record. It was not, so therefore we just weigh the
27 record to acceptance of the record. It's probably here, but it's just not
28 part of our packages.

29 Okay, go ahead.

1 MR. LETZINGER: Okay. Essentially, the
2 issues -- there's a little bit of background. The issues that are the
3 most pressing to our neighbors in 1C-08 are the fact that this is -- 16th
4 Street, a lot of people think of it as a commercial strip, given it's sort of
5 corridor in nature, high traffic, etc.

6 The area of 16th Street that we're talking about is a
7 very, very residential area. There's nothing like this for 10 blocks.
8 The folks who live in this neighborhood have chosen our long,
9 long-standing residence.

10 Folks who live in this stretch have lived there for
11 many, many years, and basically have chosen this neighborhood, and
12 have chosen to stay in this neighborhood because of its residential
13 nature.

14 The opposition to the use of this building on behalf of
15 my neighbors is rooted essentially in the desire to keep this a
16 residential neighborhood, and a slippery slope is what we're afraid of,
17 with respect to it's non-residential use.

18 And obviously we all spend a significant number of
19 hours of our lives circling the block, looking for parking, which is a
20 significant problem. I'm sure as you all as District residents -- and I
21 don't know if any of you live in my neighborhood, but we circle the
22 block often, and obviously a non-residential use, a potentially heavily
23 traffic environment is something that makes us nervous, for obvious
24 reasons.

25 As this issue sort of became -- sort of surfaced in our
26 neighborhood, we took a very rationale approach to surveying the
27 folks in our neighborhood.

28 We've got one of these great D.C. neighborhoods
29 that's about half African American and half white population, so we

1 basically stood on -- myself and a series of neighbors undertook a
2 process where we basically stood outside of the building as people
3 walked by in our neighborhood, and received basically 125 signatures,
4 asking people how they felt about a chancery moving in to this
5 building; how does that sound to you; is that something you're looking
6 for; is it something you're not looking for. If you're not looking for it,
7 here's this opportunity to express that vote.

8 We has zero people express the fact that this was
9 something that they were wanting in their neighborhood. The ANC
10 took this into consideration, and given the overwhelming support -- or
11 giving the overwhelming opposition, we had a packed house at the
12 meeting, and we took action, recognizing that our position -- or our
13 role as ANCs are to serve as the mouthpiece of the community, we
14 heard it loud and clear. Felt very confident about the process that we
15 had gone through.

16 MS. KING: Did you submit that petition as part of the
17 record?

18 MR. LETZINGER: No, I'm holding it.

19 MS. REID: Go ahead.

20 MS. KING: Sorry.

21 MR. LETZINGER: Is that something that I should be
22 doing?

23 MS. KING: Are the signatories residents of that
24 immediate neighborhood, or are they just passersby?

25 MR. LETZINGER: Yeah, we have their exact
26 address. We have their address, their home address, their zip code,
27 their apartment number, the whole deal. And, yes, they are --

28 The purpose of this, mind you, was for us. This was
29 for us. This is not presenting some statistic or significant study that

1 demonstrates anything. This was to make sure that the ANC was
2 informed before we moved ahead, making sure that in fact we weren't
3 acting upon the opinions of a few; and making sure that we were
4 acting on the opinions of the entire neighborhood.

5 I think what you'll hear today is an impressive
6 presentation from a slew of residents. There a number of buildings in
7 the area that you will hear from residents who live in each one of
8 these buildings around.

9 You will hear from associations who represent
10 multiple buildings and multiple interest in the neighborhood. And
11 again, the theme that you'll hear is based on essentially parking and
12 the lack thereof, and essentially a strong, strong interest in preserving
13 our residential nature of our neighborhood, and our strong desire to
14 preserve that.

15 I think that wraps it up. I think if there's -- 141 names,
16 as opposed to 125. But is there an opportunity at this point to submit
17 this as part of the record? Can I do that now?

18 MS. REID: Sure.

19 MR. LETZINGER: Then on behalf of our efforts to
20 survey the line, I submit 141 names and addresses of neighbors who
21 feel similar.

22 MS. REID: Question. Did the Republic of Equatorial
23 Guinea appear before your ANC to answer any concerns that you may
24 have had? Did you have an opportunity to discuss your issues with
25 them?

26 MR. LETZINGER: Yeah. Unfortunately -- and I do
27 think this is really unfortunate. Unfortunately, we had a
28 miscommunication. ANC-1B and ANC-1C, neither one of us formally
29 invited the chancery to our meetings. We both verbally invited them.

1 And 1B was successful in getting that verbal communication to
2 actually translate into having the chancery folks come out to the
3 meeting, and they had a productive meeting.

4 One of our commissioners, Eleanor Johnson, invited
5 verbally the ambassador himself, so we all collectively thought that we
6 had appropriately invited. And what I learned yesterday in a meeting
7 with Mr. Goodman, the counsel for the chancery, is that English is not
8 the first language of the ambassador, and apparently the invitation
9 from Commissioner Johnson didn't make it. It was given, but I think
10 there was a communication breakdown -- given sort of English as a
11 non-primary language, there was a miscommunication there
12 apparently.

13 MS. KING: Did any of you attend the
14 receptions -- either of the two receptions that were held at the
15 proposed chancery?

16 MR. LETZINGER: Yes, yes. We had two
17 commissioners go to those meetings.

18 MS. REID: Okay, thank you.

19 MR. LETZINGER: And many neighbors went to those
20 meetings.

21 MS. REID: Thank you very much.

22 MR. LETZINGER: Thank you.

23 MS. REID: Before you leave, sir, one question, sir.

24 MR. GRIFFITHS: You mentioned that there was no
25 use of this kind within 10 blocks.

26 MR. LETZINGER: Yes.

27 MR. GRIFFITHS: What did you mean by that?

28 MR. LETZINGER: The nearest chancery is 10 blocks
29 north, which is I think Lithuania, which is up closer to 16th and

1 Columbia; 10 blocks roughly, 8 blocks.

2 MR. GRIFFITHS: Okay. I'm not sure what the
3 Nigerians are doing on P Street right now.

4 MR. LETZINGER: What's that?

5 MR. GRIFFITHS: The Nigerians on P Street, the
6 chancery there.

7 MR. LETZINGER: E and what?

8 MR. GRIFFITHS: 16th. But I don't know.

9 MR. LETZINGER: Yeah, right. I was trying to think
10 which would be closer there.

11 MR. GRIFFITHS: Well, you said 10 blocks. I'm just
12 estimating 10 blocks. It's within 10 blocks.

13 MR. LETZINGER: Corcoran, Swann -- seven block?

14 MR. GRIFFITHS: Believe it.

15 Are you concerned only about chanceries? Is the
16 agency only concerned about chanceries, or non-residential uses?

17 MR. LETZINGER: Non-residential uses.

18 MR. GRIFFITHS: So there are no other
19 non-residential uses within that area, within 10 blocks?

20 MR. LETZINGER: Oh, yes there are.

21 MR. GRIFFITHS: I know it. But that's why I'm asking.
22 I don't want to read into your words the wrong message, so I'm trying
23 to clarify that.

24 MR. LETZINGER: Right. There are plenty of non-
25 residential uses within 10 blocks of that particular -- there's plenty of
26 drycleaners. I get my hair cut around the corner. And the gym is
27 around the corner. We live in the city.

28 MR. GRIFFITHS: But on 16th Street.

29 MR. LETZINGER: On 16th Street. On 16th Street,

1 let's see, going down -- yeah, there are actually non-commercial -- or
2 non-residential uses on 16th Street. There are a couple non-profit
3 associations that are --

4 MR. GRIFFITHS: I just wanted to clarify in my own
5 mind.

6 MR. LETZINGER: Yeah.

7 MS. REID: Any other questions, Board members?

8 Okay, thank you.

9 MR. LETZINGER: Okay, thank you.

10 MS. REID: Mr. Giott.

11 MR. GIOTT: My name is Lawrence Giott. I'm an
12 ANC commissioner in 1B-04. I attended the open house, at which
13 time I informed everyone present that 1B would be hearing this at our
14 next regularly scheduled meeting.

15 We had a quorum present, and I'd live the waive of
16 the rules so I can introduce the position taken by 1B.

17 MS. REID: So ordered.

18 MS. KING: Mr. Giott, could you explain the
19 geography of 1C, 1B, and 2020 16th Street for me?

20 MR. GIOTT: We're talking across the street.

21 MS. KING: Okay. Directly across the street.

22 MR. GIOTT: Exactly.

23 MS. KING: Thank you.

24 MR. GIOTT: And significantly, we're talking about the
25 corner of 16th & U, where the National Republican Women have a
26 large gathering almost weekly.

27 Madam Chairman, we are here today due to country's
28 business. This is the international frame of reference of the Board of
29 Zoning and Adjustment. I think that it is very clear that you have the

1 opportunity and you have the prerogative of approving this site in an
2 R-5-B zone.

3 Imagine this were a church. Would there be any
4 doubt about the ability of the church to set up there? This is about the
5 international relationship of two countries; this is not about how
6 popular this is to any number of people who live in that immediate site.

7 The parking problem we consider dealt with. The
8 invitation that was sent to me to attend the open house said, that they
9 owned a parking facility -- a parking space -- and they had leased on a
10 long-term basis two others.

11 The letter from the State Department that I read, that's
12 available to you in the file, makes no mention of any circumvention by
13 the applicant; nor was any heard in the testimony of the gentleman
14 from the State Department.

15 And Madam Chairman, I apologize for not knowing
16 the rule about not questioning federal testifiers, but my only purpose
17 would have been to establish what he has established, and what the
18 letter from his superior establishes; that there was no circumvention.

19 MS. REID: Mr. Giott, just for clarification, there's no
20 cross-examination --

21 MR. GIOTT: I understand. I understand.

22 MS. REID: -- of any applicant or witness.

23 MR. GIOTT: I understand. And I just wanted to say, I
24 would have not had sought it had I known that.

25 MS. REID: No problem.

26 MR. GIOTT: Now, Madam Chairman, what we're
27 about here is, the ANC-1B heard from representatives of -- we heard
28 from Mr. Goodman, and we asked him a couple of questions. One,
29 had the parking been dealt with; two, if he and/or his client had known

1 about the 1C meeting, would they have attended. Both of those were
2 asked in the affirmative.

3 We asked also, have you conferred with the State
4 Department about this purchase. He told us yes.

5 We then had a heated discussion. Some people
6 attempted to remove this from our agenda. The votes were there to
7 prevent that from happening, after which there was an open
8 discussion about this and all of its parameters, and a majority of those
9 who established the quorum voted in favor of this application. And I
10 might say, Madam Chairman, quite enthusiastically.

11 We see this as a national issue. We were very glad
12 to be given the opportunity to say to a country, yes, this is America.
13 We're about openness, we're about diversity, we're about international
14 rapprochement that parallels any other country anywhere in the world.
15 This is about Americanism.

16 MS. REID: Any questions, Board members?

17 Mr. Giott, thank you very much.

18 In this instance with the 1B not being the ANC in
19 which it was located, do they still get the great weight?

20 MS. KING: I don't believe so. They are given the
21 weight that any association, and particularly an elected association,
22 but not the great weight that is given to the ANC in which the actually
23 physical location --

24 MS. REID: We will note for the record the position of
25 the ANC-1B, which basically had a quorum, and had a majority vote in
26 support of this application.

27 MR. GIOTT: Madam Chairman, I hope you would
28 also note, of the people who signed the petition, how many of them
29 were under the belief -- falsehood -- maybe at the time that they

1 signed, that there was circumvention by the applicant. And how many
2 of them were told that there is in fact a parking problem, when in fact a
3 parking problem does not exist.

4 I simply hope that you would --

5 MS. KING: Could we have the petition, please?

6 MS. REID: We will see the petition, and we will look
7 at it, Mr. Giott.

8 MS. KING: We don't need multiple copies, just so we
9 can see one, and everybody can read what the preface to it is.

10 MS. REID: Okay. Persons in support of the
11 application, please come forward.

12 Mr. Pernell, were you sworn?

13 MR. PERNELL: No, I'll take it now. I was out in the
14 hallway.

15 MS. REID: If there's anyone else here, who will be
16 testifying today, who has not been sworn, please stand up?

17 (Whereupon, the persons, having first been duly
18 sworn, were examined and testified as follows:)

19 MR. PERNELL: Good evening, Madam Chair and
20 Board members. Can you all hear me?

21 My name is Daniel Pernell, III, and I am chairman of
22 the 6A Commission on Capitol Hill. I have the responsibility of
23 networking and assisting 13 individual commissioners, and a listening
24 ear to some 28,000 constituents who are voters and taxpayers on
25 Capitol Hill.

26 I am here today as a single-member district advisory
27 neighborhood commissioner, and as an African American resident of
28 the District of Columbia for more than 30 years now.

29 Madam Chair, I am also here today to support the

1 embassy of the Republic of Equatorial Guinea in the United States of
2 America in Washington, D.C. This Republican country is strategically
3 located in the Gulf of Guinea. I've visited that French Guinea on a
4 number of occasions when I was in the service with my parents and
5 family.

6 I am a former member of the Library of Congress who
7 founded Blacks In Government, and I understand the need for this
8 country -- this new country -- to have a home in the Nation's Capitol.

9 I came from a military family, and I travel to other
10 countries, and I had the opportunity to live overseas. I know this
11 country has, and it will offer great possibilities to other blacks in the
12 city, knowing that the population now is 75 to 84 percent black -- and I
13 don't mean foreign blacks -- in the District of Columbia.

14 This embassy wants to be in the diverse community
15 that we have in Washington, D.C. They are here today to express
16 that, in which they have done so already.

17 Ambassador Bile and his staff have done everything
18 in their power not to disturb or cause any disorder to the community at
19 large, or to any members of the surrounding community of the
20 embassy. They have consulted and inquired to the State Department
21 and to the District of Columbia Board of Zoning Adjustment for
22 carrying out the proper procedures for providing adequate parking
23 space to comply with BZA requirements.

24 Ambassador Bile and his staff went out to the
25 community in an effort to answer any and all questions concerning the
26 embassy. In their already -- acquired -- facility they had a number of
27 house meetings there to also get acquainted with the community and
28 the ANCs.

29 Madam Chair, I end my statement by saying I do

1 support the Republic of Equatorial Guinea in the United States by
2 saying, I understand that people have a right to examine, to observe
3 with great care, to inspect critically in their own community.

4 I'm an advocate of scrutinizing any business,
5 organization, or an embassy coming into the community, but it's a
6 problem when one commission votes for it, and another one votes
7 against it. And we know there's a problem there. There's some
8 questions and concerns that not being answered. I don't think the
9 fault is on the Republic of Equatorial Guinea; I think the fault is on the
10 community not being properly informed on the coming of this
11 embassy.

12 I think the reason I came forth because I've been
13 fighting for a number of years for the rights of individuals, and mainly
14 rights of African Americans being in the community. This embassy
15 would be an avenue to open negotiations with the community. I think
16 it would be a community that is in need of such an embassy in the
17 area.

18 I came up out of the embassy family for many years,
19 and I've been there now. And I just want to say I'm here in support of
20 them. Thank you.

21 MS. REID: Any questions? Okay, thank you, Mr.
22 Pernell.

23 Persons in opposition to this application? May I see a
24 show of hands?

25 I ask that you come up in groups of three or four at a
26 time, in a panel, and try to be as brief as possible in your testimony,
27 and not be redundant; not reiterating the same issues, or the same
28 things that have been previously said by another witness.

29 MS. KING: There's an easel over here, if you've got a

1 map, or a display of some kind.

2 MS. REID: Proceed.

3 MR. COUMARIS: Shall I start?

4 MS. REID: Yes.

5 MR. COUMARIS: Good afternoon, ladies and
6 gentlemen. I have copies of --

7 MS. REID: You need to give your name, sir, and your
8 address.

9 MR. COUMARIS: My name is Tom Coumaris. My
10 address is 1413 S Street, N.W. I'm the advisory neighborhood
11 commission, as Mr. Giott is from the Advisory Neighborhood
12 Commission 1B. I am the commissioner for 1B-01.

13 I have copies of a letter that submitted. Do you want
14 copies of the letter now?

15 MS. REID: You've already submitted it?

16 MR. COUMARIS: No. Shall I get copies?

17 Feel free to ask me to speak up; people do it all the
18 time in my neighborhood.

19 I'm used to talking when other people are speaking,
20 so that's why my voice is kind of low sometimes.

21 Good afternoon. My name is Tom Coumaris. I'm the
22 advisory neighborhood commissioner for District 1B-01, which directly
23 is across 16th Street from this property. I've represented this
24 neighborhood for 10 years now, and my family has roots in this
25 neighborhood back to 1902.

26 Through regular neighborhood meetings and informal
27 discussions with neighbors I'm able to keep abreast of the mood of the
28 neighborhood. There have been few issues in my neighborhood
29 which have aroused so much opposition as this proposed incursion of

1 the non-residential use into our part of 16th Street.

2 I've heard strong opposition and phone calls from
3 residents of the Brittany Condominiums, the Northumberland
4 Co-Op, and many residents of 16th Street, 15th Street, and Caroline
5 Street.

6 This opposition has not surprised me. My neighbors
7 cherish the essential residential nature of our portion of 16th Street.
8 We realize that our neighborhood, and especially our part of 16th
9 Street, is very wonderful but very fragile an oasis of mixed density
10 residential life in the center of the city.

11 As any of you who have walked in the area of 16th &
12 Caroline or 16th & New Hampshire know what I mean. We're almost
13 a village atmosphere. We're residents of fine homes, and fine
14 buildings, know each other. They stand out front. They talk to each
15 other over fences and on the sidewalk.

16 It's a very friendly type of neighborhood where we
17 don't have a lot of high density, and people know each other, and it's
18 sort of an anchor for the downtown area of the city. I'm convinced that
19 it is the fine homes on 16th Street which has kept the dignity of our
20 neighborhood through troublesome times.

21 In other cases I have heard that however nice
22 residential areas may be, compromise is made necessary by
23 economic development and revenue gain to the city. However, here
24 we have a case where this variance will actually cost the city
25 considerable tax revenue by removing the property from the tax rolls.

26 There is no compelling reason to allow this applicant
27 to allegedly provide parking by renting the last two spaces from, I
28 believe, a 22-unit building which itself is not presently in compliance
29 with parking.

1 When you add the parking situation that already
2 exists in our neighborhood, and unfortunately, there is one -- when
3 you add to this mix the number of diplomatic license plates, be it two,
4 be it three, or be it four -- we've heard various numbers here -- you're
5 going to exacerbate a situation that is already making a lot of people
6 think about not living there anymore. It's making it less habitable.

7 Also a big concern in our neighborhood is the historic
8 district. We love our neighborhood and we love its historic
9 significance. We have actually, almost I think five, historic districts
10 that almost converge at this one area. We have multiple layers of
11 socioeconomic history behind this neighborhood.

12 It's a very, very significant historic area, and we would
13 be bringing in a chancery which would have diplomatic community
14 from the historic district. I mean, we have to believe that they would
15 do the best, but it would pretty much be up to them because they do
16 have the diplomatic community. We don't have any other organization
17 in our neighborhood presently which is immune from the historic
18 preservation laws.

19 As for the matter of the vote by ANC-1B --

20 MS. REID: Excuse me. I've had an opportunity to
21 kind of peruse that particular area -- this corridor that you're getting
22 ready to get into --

23 MR. COUMARIS: Yes, ma'am?

24 MS. REID: -- is not germane to this particular
25 hearing, so I cannot allow that.

26 MS. KING: I absolutely concur.

27 MS. REID: It is not germane. You have to
28 specifically stay with the issue regarding this application only. Any
29 other things is extraneous which we cannot allow to be put into the

1 record.

2 MS. KING: The next paragraph I think is permissible.
3 But the first paragraph of the second page is not I think. Your
4 statement about it not being passed in accordance with by-laws, I
5 think is germane, but not --

6 MS. REID: Sure, you may go into that, but not the
7 extraneous part.

8 MR. COUMARIS: Well, I think briefly what I would
9 ask is that the BZA be fair. If one commissioner, Mr. Giott from
10 LaTroy Park, is allowed to speak, then certainly the commissioner --

11 MS. KING: You're allowed to speak, but it is not --

12 MR. COUMARIS: But when it comes to taking the
13 position of the ANC, there's not -- one commissioner who had any
14 more weight than another --

15 MS. REID: You can do that, sir. However, the
16 information that you have put forth in this particular paragraph is
17 detrimental information to other parties that we can't allow here.

18 MR. GRIFFITHS: So it's not substantiated here.

19 MS. REID: And not substantiated.

20 MR. GRIFFITHS: So let's just leave it out.

21 MS. REID: So we cannot allow it.

22 MR. COUMARIS: Okay. Well, basically I would just
23 ask that when you look to the position of ANC-1B, you ask for a letter
24 of representation from the chair, or some sort of authorization. And
25 you also recognize that ANC-1B is a very large ANC, the largest in the
26 city, which stretches from 16th Street almost to North Capitol Street.
27 And that I am the single member who is "the" most affected by this.

28 My district is directly across the street from this
29 proposed area. And as far as our rules go, we are supposed to have

1 an advertised agenda. We did not have any advertised agenda at
2 this. This was a total surprise to us when we came to the meeting; it
3 was prearranged.

4 And I think you should give whatever testimony you
5 get the amount of weight that it deserves, but don't necessarily think
6 that you're listening to a position of the people who were affected by
7 this zoning variance.

8 In concluding, I guess as the duly elected
9 representative for the residents directly across 16th Street from this
10 application I can tell you firmly that there is not one single person I
11 know in the area, within miles of this area, who's in favor of this
12 application.

13 On the other hand, I know of hundreds of people in
14 my district -- and I've only got 2,000 people in my district. But I know
15 of hundreds of people in my district who are very, very strongly
16 opposed to this application for the reasons that I stated. Thank you
17 very much.

18 MS. REID: Questions?

19 MR. GRIFFITHS: The ANC-1C had a survey that was
20 signed by many people in the area. I assume that some of those
21 people lived in 1B.

22 MR. COUMARIS: Possibly.

23 MR. GRIFFITHS: Possibly. Okay.

24 MR. COUMARIS: I haven't seen them.

25 MR. GRIFFITHS: What is the timing between that
26 survey when it first began and the meeting of ANC-1B?

27 MR. COUMARIS: To be honest, I don't know when
28 that survey was done; I haven't seen the survey. So I wouldn't know
29 what the timing is.

1 MR. GRIFFITHS: I see.

2 MR. COUMARIS: I know that ANC-1C met
3 approximately one week before ANC-1B met.

4 MR. GRIFFITHS: And did you partake in the survey?

5 MR. COUMARIS: No, I did not.

6 MR. GRIFFITHS: You did not. But you did know
7 about the meeting of ANC-1B?

8 MR. GRIFFITHS: Yes, I knew about the meeting of
9 ANC-1B because we always meet the same week of every month. I
10 knew about the meeting of ANC-1C because it was advertised in
11 advance, and it was advertised that this would be on the agenda.

12 MR. GRIFFITHS: Okay. I was asking about 1B.

13 With respect to the meeting on 1B which you say you
14 knew about, and the fact that there had been some activity in the
15 community, but we're not sure about the timing of that activity with
16 respect to the survey, there were a number of people at the 1B
17 meeting, is my understanding, and there was great discussion about
18 this at the 1B meeting.

19 MR. COUMARIS: No, there was no notice to
20 anyone --

21 MR. GRIFFITHS: I didn't ask about notice.

22 MR. COUMARIS: There was no notice to the public.

23 MR. GRIFFITHS: I did not ask about notice. I asked
24 how many people would you estimate were at the 1B meeting?

25 MR. COUMARIS: Approximately -- are you talking
26 about commissioners also?

27 MR. GRIFFITHS: No, I'm talking about total people.

28 MR. COUMARIS: The public?

29 MS. KING: All the commissioners, everybody in the

1 room.

2 MR. COUMARIS: 15 to 20

3 MR. GRIFFITHS: You say 15 to 20.

4 MR. COUMARIS: 15 to 20, which is large, we had a
5 number of -- applicants that night.

6 MR. GRIFFITHS: So you consider that large?

7 MR. COUMARIS: Yes.

8 MR. GRIFFITHS: So in this large meeting of ANC-1B
9 there was a good deal of discussion, pro and con, etc.

10 MR. COUMARIS: Among the audience.

11 MR. GRIFFITHS: With whomever participated.

12 MR. COUMARIS: Among the members?

13 MR. GRIFFITHS: Whoever participated?

14 MR. COUMARIS: Yes, sir.

15 MR. GRIFFITHS: And then there was a vote taken.

16 MR. COUMARIS: Correct.

17 MR. GRIFFITHS: And the results of the vote was
18 what?

19 MR. COUMARIS: I don't remember the exact
20 numbers. I think it was 4 in favor, and 3 opposed, and the rest of the
21 members abstained.

22 MR. GRIFFITHS: But as a result of all of this
23 discussion, there was a vote taken, and the results of the vote for 1B
24 was in favor of this application.

25 MR. COUMARIS: The ultimate vote, yes, was in
26 favor of this application.

27 MR. GRIFFITHS: Okay.

28 MS. REID: Mr. Coumaris, the letter that you
29 submitted does not have a signature, and we would need to have a

1 signature for the letter to authenticated.

2 Would you please, for the record, make sure that
3 there is one that has your signature.

4 MR. COUMARIS: Sure.

5 MS. REID: Thank you.

6 MR. BROWN: My name is Dennis Brown. I reside at
7 1820 16th Street, N.W. I've occupied and owned that building for the
8 last 25 years. I am an architect, and have practiced in the District of
9 Columbia for the last 27 years.

10 I'm an also a member a past president of the Dupont
11 Circle Citizens Association, and currently president of the Dupont
12 Circle Conservancy, which is the neighborhood historic preservation
13 group, dealing with the 16th Street historic district, Strivers Row,
14 Massachusetts Avenue, as well as the Dupont Circle historic district.

15 I'm here as the official representative of the Dupont
16 Circle Citizens Association, regarding their position on this matter for
17 which they have submitted testimony, written testimony to you.

18 I would like to confine my oral remarks to two areas,
19 one in terms of that related to the 16th Street historic district and the
20 location of embassies within the general Dupont Circle area, and how
21 DCCA views the impact on residential parking in this area.

22 MS. KING: One moment. Let me just point out to my
23 colleagues that there's a letter from Margaret Young, president of the
24 Dupont Circle Citizens Association, authorizing you to speak on behalf
25 of the association.

26 MR. BROWN: You are aware, the only other
27 embassy which is located within the 16th Street historic district is an
28 Nigerian embassy, which is at the opposite end of the historic district
29 from this proposed application, just one block north of Massachusetts

1 Avenue.

2 The building which they purchased, which we
3 supported and endorsed enthusiastically, was that they bought a very
4 large mansion, one of the significant contributing structures to the 16th
5 Street historic district that was vacant and in very bad disrepair. And
6 they proceeded to do a very elegant and wonderful restoration of that
7 building, making it a contribution to the neighborhood and to the
8 community.

9 Also that property is located in that part of the historic
10 district which is designated both in the comprehensive plan in terms of
11 zoning, and the Ward 2 area neighborhood plan as being of mixed use
12 for residential -- hi-rise residential, as well as for professional and
13 embassy types of use.

14 But all those kind of uses take place south
15 approximately aligned at R street. All of the uses north of our street
16 within the 16th Street historic district are residential. And that is in
17 accordance with the plans for this area to keep that area residential.

18 As you are also aware Dupont Circle area in general
19 has numerous embassies located certainly within our association's
20 boundary, probably about somewhere between 15 to 18 embassies.
21 And all those are congregated on streets, in areas where other types
22 of non-residential uses are located, such as association, law offices,
23 and other professional kinds of organizations; New Hampshire
24 Avenue, and certainly along Massachusetts Avenue. This area is not
25 one of those areas where embassies have located, or have we
26 supported having embassies locate.

27 In terms of the parking issue I think one thing that has
28 not been brought up, although the embassy has indicated that they
29 are not going to change the current parking usage in terms of the

1 number of spaces. But as an embassy they have a matter of right to
2 on-street, designated, diplomatic parking, which will remove parking
3 available to residents in that area.

4 MS. KING: Do you know how many spaces they're
5 entitled to?

6 MR. BROWN: I do not. It's at least one, and probably
7 two.

8 So we are in support of denying this application, along
9 with the other parties who are going to appear before you with
10 testimony. And we do not believe this is an appropriate area for the
11 embassy to locate. We certainly welcome them to the area and to the
12 neighborhood, but there are sufficient areas properly zoned for their
13 type of occupancy other than locating in what is 100 percent
14 residential area. Thank you.

15 MR. BIEN: I'm Charles Bien. I'm a resident of
16 2022 16th Street, which is right next to the proposed chancery at
17 2020. I'm also a professional city planner, and have been such for
18 over 35 years practicing all over the country, and publishing on zoning
19 and other matters, and a member of the American Institute of Certified
20 Planners.

21 I am here to speak both as a professional planner and
22 as an interested party, being a resident and property owner next-door
23 for 22 years.

24 I think it would be helpful, perhaps it would be helpful,
25 to very briefly run through the area we're talking about. You've heard
26 repeatedly that it is residential only, and it always has been residential
27 only. There never has been -- in over 100 years this neighborhood
28 has existed as a residential only neighborhood. There never has been
29 anything but residential use, and residential use only, in the area for

1 over a century.

2 MS. KING: Mr. Bien, let me be devil's advocate for a
3 moment.

4 MR. BIEN: Yes, ma'am, please.

5 MS. KING: Did not the previous owner have a home
6 occupation in the building?

7 MR. BIEN: The previous owners were two ladies who
8 lived their with their maid who had to two children. Okay, so the
9 previous statement that there were five people; there were actually
10 three adults and two little children, because we had a 3-year old that
11 played with them. Because one of them was about 6 and the other's
12 about 4.

13 MS. KING: There's never been a home occupation
14 there?

15 MR. BIEN: Well, let me keep going.

16 MS. KING: Oh, sorry.

17 MR. BIEN: One of the women owned two
18 businesses, a property management business, and I believe a trash
19 collection business out in Rockville. And each day she would drive
20 out to one of her two businesses that she owned and operated.

21 The other owner was a brilliant woman with a Ph.D. in
22 strategic planning from Wharton, who was semi-retired. She had
23 done a lot of computer simulation -- regression analysis, worked for
24 the State Department under contract, with a contract firm. She
25 -- worked -- with that firm.

26 Occasionally, she would review or write reports on her
27 own computer. I don't consider that an office use. I mean, when I
28 write a report or write an article on my home computer in our library, I
29 don't consider it an office use.

1 MS. KING: Okay, thank you.

2 MR. GRIFFITHS: For tax purposes it is.

3 MR. BIEN: No. My accountant won't let me get by
4 with it, because it has to be a certain percentage of square foot, and
5 parameter, and everything else, and I don't meet the test. And I don't
6 think she did either, I don't know. You can check the IRS records.

7 Anyway, it was never an office use, is what I'm trying
8 to say. My wife will testify to the previous use of it, so I'm not going to
9 bore you with hearing it again.

10 But the point is, these pictures are to set the stage a
11 little bit. Unfortunately, these photographs don't do justice. I think
12 your file pictures of the application.

13 So you'll see there's single-family homes, there's
14 apartments. The building in question is here; we live here. So there's
15 one family, rowhouses, condominiums, renters, co-ops on this block
16 face.

17 As you turn the corner on V Street, it's the typical
18 pre-World War I rowhouse, with a little porch in front kind of house that
19 covers V Street. Around about 1900 to 1915 those were built. Low
20 density on V Street.

21 As you go across the street you come in to large
22 apartment buildings, this building and the Northumberland. This is the
23 Brittany.

24 By the way, all of these buildings, including the
25 Balfore, which was built in the 19th century -- all of these buildings,
26 tenants associations, condominium associations, co-op associations
27 are on record, in writing, in your files formally opposing it.

28 Every organization in the neighborhood of property
29 owners and tenants that exist has opposed this thing in record on your

1 files, and all of these too.

2 Behind the property -- and this is very important,
3 because while there are, and has been mentioned, there are
4 embassies on 16th Street, we all know them, the Australian Embassy
5 at Scott Circle. Half a block up across the street, the Nigerian
6 Embassy which Dennis Brown just mentioned.

7 As you go all the way up to the top of the hill, just past
8 Meridian Hill or Malcolm X Park, you get into the cluster of the Italian
9 Embassy, which was built during the Mussolini government as an
10 embassy; the Cuban delegation; the Polish Embassy; and the
11 Lithuanian delegation in a kind of cluster up there; all of which that are
12 built on huge properties, isolated with transition space between them
13 and other properties, also in a cluster of embassies.

14 This is not that case. This is a 1920s rowhouse, the
15 last building built on the block. A building by the way which was not
16 identified, when the 16th Street historic district was created, as a
17 contributing building. So it would not be entitled to any subsequent
18 exemption from parking requirements if it were converted to other than
19 a one-family house.

20 So the parking problem would not be exacerbated if
21 you would turn this down, and it would attempt to be converted to
22 something else.

23 But it is on a dead-end alley, and that's very
24 important. There's a dead-end alley, and it's hard to read on this
25 aerial photograph from Mr. Griffith's organization, the National Capitol
26 Planning Commission. Let's see if I can get the thing right here.

27 We're talking -- this is U Street. I'm sorry, this is
28 U Street. This is 16th Street. The property in question is here.
29 There's a dead-end alley. This little white line is this dead-end alley.

1 It's only 10 feet wide, plus there's utility poles in the right-of-way, so it's
2 even less than 10-feet wide.

3 If I remember right, the standards width for alleyways
4 in the District of Columbia is 15 feet wide, so you have a very -- and
5 you can kind of see that in this photograph, a very tight constricted
6 space.

7 This is the wall of the 3rd District Police Station. So
8 there's no added security by this being on the street because you've
9 got the 3rd District right there already.

10 So you have a very tight narrow alleyway. This is the
11 garage of the property in question. There's a cul de sac. This was
12 taken when we had the ice storms, so the end of the property line is a
13 little blurred.

14 This is a low-income -- I believe it's a 47-unit
15 apartment building. It's quite large.

16 MS. KING: Is that The Washington?

17 MR. BIEN: No, this is on U Street. The Washington
18 House is a block and a half a way, across the street from -- Bekeman
19 Place -- at 16th & Florida.

20 So these are the three spaces, two of which they're
21 claiming to rent.

22 MS. KING: I'm looking at this, and I'm seeing a sort of
23 J alley.

24 MR. BIEN: No, it's a dead-end -- well, I don't know
25 what you mean by J.

26 MS. KING: Well, it's sort of a sideways J.

27 MR. BIEN: It's a square J. The line goes straight
28 back, and then there's a square turnaround area. That's what this is;
29 this is a turnaround area.

1 MS. KING: I see. But also halfway down that
2 straight-of-way --

3 MR. BIEN: There's another alley that cuts in, yes.
4 But you can't drive -- that's so narrow you can't drive down it; you turn
5 into the properties.

6 MS. KING: Okay, fine.

7 MR. BIEN: It's really basically unusable, that
8 intersection.

9 MS. KING: I see.

10 MR. BIEN: But people do park down next to the
11 police station illegally, but that's beside the point.

12 MS. KING: Now where's the police station on this
13 model? Here's the building.

14 MR. BIEN: This is the fire station, and this starts the
15 police station property, which then goes to 17th Street.

16 MS. KING: So this is the police station?

17 MR. BIEN: Right, all the way over to 17th. And these
18 are the rowhouses I was talking about.

19 MS. KING: Right.

20 MR. BIEN: What I'm trying to get across here is that
21 this is a very tight, congested space. What I'm trying to get across
22 here is that as you'll see in the written testimony, there are 173
23 housing units on the 2000 block of 16th Street alone. How that was
24 done was go out and count mailboxes in the apartment buildings, and
25 that sort of thing. And there are 338 housing units in the 2000 block of
26 New Hampshire and 16th taken together.

27 That includes -- these buildings are on New
28 Hampshire. This building is on both. We counted it as on 16th Street
29 for purposes of our survey. This is the Brittany Apartment. And there

1 are 47 housing units in this building, which is a low and
2 moderate-income unit, all of which tenants opposes, as I said before.

3 But there are only 68 parking spaces on the 2000
4 block of 16th Street, both on and off-site parking. And the on-street
5 parking is subject to rush hour traffic restrictions.

6 So there's a total of 68 on and off-street parking
7 spaces on the 2000 block of 16th Street. Only 18 on-street parking
8 spaces on the 2000 block of 16th. This is all in the written testimony
9 that you'll see these figures repeated.

10 There's 30-minute parking restrictions on V Street in
11 front of the police station; 17th Street is permanently all one-side only
12 for police cars in the block where the police station is. There's a.m.
13 and p.m. restrictions on various other streets, including U and V.

14 There's roughly a 5 to 1 ratio of apartment units to
15 parking spaces in the immediate area, the immediate area being this
16 building on U Street and the 2000 blocks of 16th & New Hampshire.

17 Now as I read the zoning code it says, it's a 2 to 1
18 ratio on-site, but we're saying 5 to 1 already exists in terms of housing
19 units per parking space when you add on-street and on-site. So if you
20 just did the on-site, I don't know what it would be, 20, or 30, or 40 to 1.

21 We've got a parking problem obviously. Renting we
22 believe will not solve the parking problem; it's a temporary solution,
23 even if there's a right to renew on the lease. The two rental spaces
24 the embassy's talking about are these two. There's only three for this
25 low-income building that denies ever in the future any of the
26 occupants of having those two.

27 On-site parking is the only solution, but there is no
28 room for on-site. Virtually 100 percent of the lot is covered with
29 existing structure, so there's no room to put any more parking on site.

1 MS. REID: Sir, are you nearing the wrap-up of your
2 presentation?

3 MR. BIEN: Yes, ma'am. One more point is all I want
4 to make. I'll make it very briefly. I don't want to turn you off.

5 MS. REID: We just have other people waiting.

6 MR. BIEN: Yes. I want to make one other point in
7 conclusion. The point of the historic preservation district I think has
8 been well stated by Mr. Brown, which we, of course, endorse.

9 This is an R-5-D. The application says R-5-C, but it is
10 an R-5-D zone. If it were an R-5-C we wouldn't even be here today,
11 because it wouldn't even be allowed to put it in. So that was an error
12 in the application.

13 But it's an R-5-D zone, and this black line is a rough
14 outline of a blow-up of the comprehensive plan for the area. You will
15 see that there are varying densities within that R-5-D zone. The
16 density of the block in question, this little red spot, is the property.
17 This lighter tan color only calls for single-family, rowhouse, and garden
18 apartment density, something that really is less than an R-5-D zone in
19 intensity.

20 Other portions of the existing R-5-D zone call for hi-
21 rise apartment buildings, something which is more in character with an
22 R-5-D zone. If this were an R-5-C zone, clearly there wouldn't be any
23 question about what goes in or not, since there's no diplomatic
24 overlay.

25 What we're arguing is that the official land use policy
26 of the city, while not the only thing that you consider, and necessarily
27 the dominant thing that you consider, should be considered. And
28 citations of -- just for the record -- citations of the comp plan,
29 Sections 101.1, 102.1, 102.2, 112.5, and 112.6, all say that the fact

1 that this is a less dense zone -- residential zone in this immediate
2 area, should be taken into account in interpreting whether or not to
3 grant the use. Thank you very much for the time to talk.

4 MS. REID: Any questions?

5 The next witnesses in opposition, please come up.
6 You can come up three or four at a time.

7 How many others are there? There's three more, two
8 more? Four. Okay, can you come up, please?

9 MR. PARSONS: Madam Chairman, I have an
10 unavoidable conflict and have to leave, but I want to assure --

11 MS. REID: At 4:00?

12 MR. PARSONS: No.

13 MS. REID: At what time?

14 MR. PARSONS: The meeting's at 4:00, I'm leaving
15 now.

16 Anyway, I want to assure that I will review the record.

17 MS. REID: Mr. Miller, do you want to come up?

18 Thank you.

19 And these are the last four? Okay.

20 Mr. Parsons has to leave, but he will read the record
21 to be able to participate in the decision.

22 MS. SELLIN: I'm Ann Sellin, and I'm representing the
23 Residential Action Coalition, established in 1983 to protect the
24 residential quality and historic features of the neighborhood.

25 MS. REID: Ma'am, will you give us an address.

26 MS. SELLIN: Give you a what? Oh, it's
27 1834 16th Street, N.W.

28 MS. KING: And do you have an authorizing letter
29 from your organization to --

1 MS. SELLIN: Our president is here, and --

2 MS. KING: Do we have an authorizing letter?

3 MS. REID: We still need a letter.

4 MS. SELLIN: Well, I have testimony, and she can
5 authorize it.

6 This property is within our boundaries. RAC
7 members voted unanimously at a regular membership meeting on
8 January 27, 1999, to oppose this application. And I'll cut out some of
9 the testimony in favor of time.

10 The city has made a cogent case for the BZA
11 rejecting this building for a chancery use. The staff report states flatly
12 that during the discussion of the diplomatic overlay as part of the
13 Foreign Missions Act this area was never considered suitable for the
14 location of foreign missions.

15 The chancery would have a deleterious impact on the
16 residential character of this portion of 16th Street. It further states that
17 this section of 16th Street is totally residential. The proposal would
18 exacerbate the existing parking in the area.

19 Jim Gram, councilmember for Ward 1, makes a
20 strong statement by letter to you about the adverse impact as related
21 to the comprehensive plan, and three other members of the Council
22 have written.

23 My testimony focuses on the specific reasons for
24 these deleterious effects as they relate to the zoning regulations, and
25 the peculiar conditions of the 2000 block of 16th Street between U and
26 V.

27 And by the way, we have mentioned several other
28 embassies on 16th Street. The Nigerian Embassy was occupied in
29 the '60s by Nigeria; vacated when they moved to M Street. It is in a

1 special purpose zone.

2 We begged through diplomatic channels, to architects
3 who were designing the new capitol of Nigeria -- we begged and
4 pleaded with them to move back to 16th Street and restore their
5 embassy. It took 12 years, but they did it. And we were very happy
6 that they're now located in the SP zone, a wonderful -- tauten mansion
7 on O Street.

8 The chancery needs four parking spaces to meet the
9 needs of two floors of office use and two separate living units. The
10 proposal is to apparently waive the requirements, at least of one of the
11 spaces, and to locate one in the present garage at 2020 16th, and
12 locate two more among the Tudor style apartments at 1603 U Street.
13 And that was shown in the picture that Mr. Bien showed you.

14 The proposal to permit two parking spaces behind the
15 apartment building at 1603 U Street would create a 100 percent
16 non-conformity use for that building, that apartment building. Any
17 decision to reallocate required spaces would have decidedly adverse
18 impact on the neighborhood.

19 The apartment building at 1603 U provides two spaces
20 behind. A dumpster occupies a third potential space. It has 22
21 apartment buildings, and by regulation must provide 7 parking spaces.
22 So it is already non-conforming by 5 required spaces.

23 By permitting chancery parking in those spaces,
24 meant to serve residents, the BZA would be creating a 100 percent
25 use non-conformity for that apartment building, clearly in opposition to
26 the intent of the zoning regulations, and certainly a deleterious
27 restriction to the many residents of the block who are already horribly
28 squeezed for parking.

29 Immediately adjacent to the proposed chancery is an

1 apartment building at 2008 16th Street with 28 units. And
2 immediately south at the corner of 16th & U is the eight-story Balfore
3 apartment building with 53 units.

4 The backs of both these buildings, which back up to
5 the alley, have no parking for residents. They face the alley where the
6 two parking spaces are proposed to be transferred to chancery use.

7 I live two blocks away on 16th Street in a rowhouse.
8 Since I and my husband have one car and a vacant space, we rent
9 that space to a neighbor living in a nearby apartment. There's such a
10 demand for parking by residents, we have never once had to advertise
11 the space, because when someone gives it up words spreads so
12 quickly, so new neighbors standing at the door asking to immediately
13 fill the slot. Any parking should be dedicated to residents use.

14 Dangerous conditions could result. The alley in
15 question is entered from V Street and dead-ends in the area where
16 the three apartment buildings containing 85 units back up to it.
17 There's a city wall to the west which makes a 90-degree turn
18 eastward. Signs on the wall claim that parking is prohibited next to the
19 walls in order to ensure that fire lanes stay free.

20 I've looked at that alley four times in the past two
21 weeks during working hours. There have always been one or two
22 cars illegally parked in those fire lanes. Permitting chancery parking in
23 this area would only exacerbate the situation.

24 Chanceries are notorious for not paying parking
25 tickets, and the city has great difficulty in collecting from foreign
26 governments. Actually, only the State Department can enforce
27 payment by threatening reprisal against the government, a route
28 which it is loathe to take for obvious reasons.

29 If there's increased illegal parking in this dead-end

1 area the blocking of the fire lanes would be even worse. Those lanes
2 are meant for fire trucks in order to protect the 85 apartment dwellings
3 adjacent. The waiving of just one space by the BZA would further
4 worsen intolerable parking conditions for residents.

5 The Office of Planning has determined that a
6 chancery must provide four parking spaces. The chancery apparently
7 proposes to waive one space. This block is unusual in that it houses
8 the 3rd District Police Station on V Street and a fire station on
9 U Street. Because many of the policemen and firemen come to work
10 from various areas of the city and suburbs, some unfortunately
11 commute by car, and these cars have to be parked on the streets. But
12 the most obvious occupants of street spaces during working hours are
13 the St. Elizabeth's employees.

14 A survey taken February 16th at 10:00 a.m. and
15 February 11th at 2:00 p.m. -- these are working days -- revealed to me
16 that 9 of the 18 legal street spaces in the 2000 block of 16th
17 N.W. -- for -- St. Elizabeth stickers. These commuters work at 1601 V
18 where they minister to disabled children, and the license plates were
19 from Maryland, Virginia, and Delaware. This is the block across from
20 V Street from the block in question.

21 The cars park all day and are never ticketed. On
22 V Street curb parking is so scarce, it is not unusual to find three or four
23 police cars parked double in front of the station, and sometimes on the
24 grass along 17th Street.

25 The one on-site parking space -- as the photograph in
26 the file shows, and Mr. Bien showed in his photographic display -- is in
27 a non-conforming garage which actually impinges on the alley. It has
28 a wooden structure on the left-hand side that comes over on the alley
29 about two inches -- and that's a very narrow alley -- making it more

1 difficult to maneuver a car in and out of the garage.

2 The garage according to the regulations should be set
3 back 7 feet from the back building line on this 10-foot wide alley. The
4 regs read, "When a private garage is abutting an alley, it shall be set
5 back at least 12 feet from the center line of the alley upon which it
6 opens."

7 The reason being to permit quick maneuverability of a
8 car in and out of a garage. With a dead-end alley this situation is
9 particularly bad because you're blocked on one end of a maneuvering
10 car; you can't go out of the dead-end part of the alley. You're stuck
11 there.

12 2020 16 Street is also a non-conforming building
13 occupying well over 90 percent of the lot, rather than 75 percent called
14 for in the zoning regulations.

15 The proposed intensification of use from single-family
16 to chancery puts a strain on the entire block and neighborhood. It
17 would be harmful to the residents and to the economic interest of the
18 city to permit the location of the chancery in an area found to be
19 unsuitable by the Office of Planning.

20 Chanceries are in a position to outbid a residential
21 buyer when a rowhouse comes on the market, creating an unfair
22 situation for the purchaser who would create no intrusion in the
23 neighborhood. That purchaser would pay both income and land taxes
24 if he were residential, and a chancery is exempt from this of course.

25 In zones which pit residents against limited office
26 space, such as the SP zones surrounding downtown in the northwest,
27 the residential occupants have been almost entirely squeezed out
28 since the 1958 zoning regulations created a SP zone, because
29 residents are simply unable to compete economically against offices.

1 Chanceries are better off in commercial zones where
2 they don't pre-empt residential buildings. Areas found appropriate for
3 chanceries by the Office of Planning, such as
4 those -- inappropriate -- such as those in R-5-C and D residential
5 rowhouses areas and apartment zones where parking is particularly
6 difficult, should be protected and enhanced by the Board of Zoning
7 Adjustment, not further commercialized. This would serve the
8 economic health of the city and enable the stability and protection the
9 residents of these neighborhoods want. Thank you.

10 MS. KING: No questions.

11 MR. TURNER: Good afternoon. My name is Dan
12 Turner, and I live at 2026 16th Street, Unit 4, which is only three doors
13 away from this property. I am also the president of the Condominium
14 Board for our building. We're a building -- a condominium -- of five
15 units, so I'm speaking for the Condominium Association as well.

16 I've been a resident of 2026 16th Street since the
17 beginning of 1996, and have been a resident of the District for
18 14 years. In late 1995 I was drawn to the neighborhood by the quality
19 and the uniqueness of the buildings, and by the obvious residential
20 character of the surrounding streets.

21 In the past three years I've come to know and speak
22 with many of my neighbors on 16 Street, V Street, and New
23 Hampshire Avenue. We have a number of problems and concerns in
24 our diverse little residential community, and we talk among ourselves
25 almost on a daily basis. It's been a real pleasant surprise for me
26 that we have developed this kind of neighborliness in a center of a
27 large city.

28 We have made improvements to our property in both
29 the front and the back to make life more pleasant and safe for

1 ourselves and for our neighbors. We completely remade the garden
2 in the last year, and the landscaping in the front on 16th Street we've
3 added lighting along the walkway in front and bright flood lights in
4 back on the alley to increase everybody's safety. We've done
5 these things, and more, to improve our little part of the neighborhood.

6 Among the five units in our building four of the five of
7 us have cars that we either park in the two spaces behind our property
8 or on the surrounding streets. I've parked on the surrounding streets
9 since the beginning of 1996, and finding a space has become more
10 and more difficult.

11 We have many people parking in the neighborhood
12 during the day who work a number of blocks away, or who work at the
13 police's 3rd District station. At night we have people from the suburbs
14 parking here on their way to Adams Morgan or to the U Street
15 businesses. We need help with these existing problems, and we
16 should not add to our parking problems with new business at
17 2020 16th Street.

18 Allowing the house at 2020 16th Street to become a
19 chancery will detract from our efforts to create and maintain a friendly
20 residential neighborhood. Its use as an office will change the
21 character of our block.

22 As residents of a large city, we have to make an even
23 greater effort to encourage and protect our sense of neighborhood.
24 Thank you very much.

25 MS. REID: Thank you. Questions?

26 MR. GRIFFITHS: Just one.

27 You say you are constructing a new condominium
28 building, a five-unit?

29 MR. TURNER: No, no, no. It's existing. That's our

1 building.

2 MR. GRIFFITHS: What did you say with respect
3 to -- I thought you said something about --

4 MS. KING: You did hear him say the verb
5 constructing; perhaps mistakenly.

6

7 MR. TURNER: Oh, I'm sorry. I didn't mean that, no.
8 It's an existing condominium that's been there since early '80s.

9 MR. GRIFFITHS: I think he used the word
10 construction --

11 MR. TURNER: Oh, our garden in the front.

12 MR. GRIFFITHS: That was different. I heard that
13 statement.

14 MR. TURNER: Oh, is that right? Okay. No.

15 MR. GRIFFITHS: What did the condominium in the
16 '80s replace?

17 MR. TURNER: I think it was a single-family home.

18 MS. KING: How many units in the condo?

19 MS. REID: There were five units?

20 MR. TURNER: Yes. It's a five-story building.

21 MS. REID: One bedroom or two-bedroom?

22 MR. TURNER: All two-bedroom. There are seven
23 residents in our building.

24 MS. BIEN: My name is Susan R. Bien. I live at
25 2022 16th Street, N.W. I'm here today to ask this BZA Board to deny
26 application 16428 for a proposed chancery and embassy use at
27 2020 16th Street, N.W.

28 Since November of 1977 2022 has been home for my
29 husband and me, and it's been the only home our 3-year old has ever

1 known. Over the past 22 years we've watched our neighborhood go
2 from an area with a high vacancy rate to a much sought-after area for
3 residential living.

4 When I'm asked about where I live, I say the
5 16th Street's historic district. The 16th Street historic district reflects
6 the proud tradition of a residential neighborhood for over 100 years.
7 The tradition is also reflected in the adjacent nearby Strivers Row
8 historic district of
9 African American historic residences.

10 It's ironic. All of our hard work to build a viable
11 residential neighborhood would be undone by allowing an office
12 building at 2020 16th Street.

13 The word chancery is just a fancy word for office
14 building, because numerous workers will grow in numbers along with
15 the number of daily visitors. Also, if there is an additional residential
16 use of this property, it will only add to the problems.

17 The front facade of 2020 is deceptive; the building
18 inside is small. The building has a stairway system, that while it's very
19 attractive, it's large size eats up a lot of square footage, and cannot be
20 easily altered.

21 As the previous owners of 2020 were packing up to
22 move to McLean, Virginia, one of them said to me they were doing us
23 a favor and selling their home for a chancery because it would
24 increase the value of our property next-door.

25 This is not a matter about money; it's about saving a
26 residential neighborhood. Thank you.

27 MR. MILLER: My name is David Miller. I reside at
28 2034 16th Street, N.W., four houses north of the proposed chancery. I
29 won't take a great deal of your time. I have several points I'd like to

1 raise.

2 I moved into the area in 1985 when approximately
3 60 percent of the buildings on that block were vacant. And I watched
4 residents repair them, renovate them, remodel them, and in that time I
5 watched that neighborhood become a community, the residential
6 community.

7 The second point I want to make is the point Susan
8 just made very eloquently, and that is we are talking about an office
9 building. It's an office building in a townhouse. In my professional
10 capacity as a builder and developer in the area for the last 20 years I
11 seriously question whether this building can be converted legally into
12 an office building. I know it will not be an efficient one.

13 I question that primarily on issues of safety, zoning as
14 well, but matters of egress. The building when I first moved there had
15 fire escapes both front and rear. It no longer has those. It's my
16 understanding they could not be replaced. With a center stair, I
17 question whether this building can be cut into an office building and
18 receive a C of O, unless it's with some special diplomatic exceptions.

19 The parking issue I think has been beaten to death. I
20 support it. We all have that problem.

21 The second to last question I want to raise is the word
22 that I think is the most important in this hearing, in this deliberation
23 that you have. I haven't heard that word yet today, and that word is
24 precedence. This will be the first, and if you allow this, it won't be the
25 last. Because if you allow one, why not take two or three other
26 townhouses and turn them into office buildings, and our residential
27 character is lost.

28 This is not a personal issue against the Republic of
29 Equatorial Guinea. We've been very impressed with their approach.

1 I've met with them. We wish them well. It was an excellent strategy. I
2 might suggest that the price that they paid for the building -- and it's
3 sort of my business to keep track of prices -- was a reasonable price.
4 They may well be able to put this building back on the market and turn
5 a tidy profit. Thank you.

6 MS. REID: Thank you. Vice President?

7 MS. KING: No questions.

8 MS. REID: Thank you, Mr. Miller.

9 MS. KING: I have some questions for the applicant, if
10 that helps you determine whether they come back or not.

11 MS. REID: Okay. Well, we'll just ask them back up.

12 We'll now have the applicant come back up, please,
13 and to give a few closing remarks.

14 MS. KING: And answer questions.

15 MS. REID: Would the applicant like to make any
16 closing remarks?

17 MR. GOODMAN: Sure. I'll keep it very short.

18 There is a traffic problem at 2020 16th Street. Being
19 aware of that problem, the Embassy of the Republic of Equatorial
20 Guinea took steps to ensure that we would have reasonable parking
21 available for the operation of the embassy.

22 At our meeting at 1B we had close to 100 people
23 present at that meeting, and the discussion was with the
24 neighborhood and the commissioners. As a result of our presentation
25 and the people who listened to us, they voted in favor. At ANC-1C we
26 were not notified of the meeting, and we did not have an opportunity to
27 talk to the people in ANC-1C.

28 We had a choice to make, whether to go forward or to
29 ask for a continuance. And we made the choice to go forward

1 because we were convinced after talking to some of these people that
2 their minds were already made up, and no matter what we said, or
3 what we did, or how we tried to accommodate them, they would be
4 opposed to the embassy.

5 They talk about residential characteristics of the
6 neighborhood, when in fact two doors down there is a temple,
7 religious temple, that is occupying that space. No mention of that
8 space throughout the entire afternoon. It certainly is not residential.

9 When we met with Mr. Letzinger we made it clear that
10 we wanted to work with the people in the neighborhood, and try to
11 accommodate their interest. We understand that it's the first one in a
12 neighborhood that they might be against. They seem to be opposed
13 not to cars, necessarily, but only those cars that have diplomatic
14 license plates.

15 The alley is in fact 10 feet wide. There is a space at
16 the end of the alley where our parking spaces are located. And they
17 seem to think that if we don't occupy those spaces, I guess they will
18 not be occupied.

19 I'd like to give to the Commission a copy of the
20 parking area behind the building. Clearly there are four spaces there.
21 Clearly there's an alley there.

22 There is an alley. It is small, but it is accessible. It
23 has been used for parking by the previous owner. It is used for
24 parking by whoever has the money to pay for that spot.

25 We rented that spot, leased it in good faith, and we
26 should be able to park there. There's no suggestion here that those
27 parking spaces will not be used. The opposition only wants to restrict
28 the use from the Embassy of Equatorial Guinea.

29 We have done everything possible. We have

1 contacted the State Department. We've worked with the
2 neighborhood. We've opened our homes and opened our hearts to
3 have the people come and see that we intend to upgrade in a safe
4 and orderly manner.

5 If you would take a look at the entire street, it is
6 residential, yes, but the congestion is not caused by 2020 16th Street.
7 The congestion is caused by 2008 and 1603, which has a number of
8 individual condominium homes. And the police department, and the
9 9th Fire Engine Department. So the congestion will not be
10 exacerbated by the use of that building by the Republic of Equatorial
11 Guinea.

12 As far as traffic flow is concerned, we'll be operating
13 during the daytime between normal business hours, 9:30 to 5:00.
14 Most people will be working at that time, and the spaces that they do
15 have will be vacated. And we will be using only those spaces that we
16 have rented or used within our space.

17 I would like also to submit to the Board a view of our
18 building, along with the parking situation, and 2008 which is on the
19 corner.

20 MS. KING: Mr. Goodman, your client attempts to
21 decline to have a diplomatic parking space on the street reserved?

22 MR. GOODMAN: We will certainly entertain that if
23 that comes before us.

24 MS. KING: How many would the chancery be entitled
25 to?

26 MR. GOODMAN: That I do not know. I would have
27 to go, as we have, to the Office of Foreign Missions, and talk to
28 Mr. Richard Massey. Perhaps Mr. Ron Mlotek --

29 MS. PRUITT-WILLIAMS: Perhaps Mr. Mlotek will be

1 able to answer that for you.

2 MR. MLOTEK: For the record, this is Ron Mlotek of
3 the Office of Foreign Missions, once again, to answer the question
4 that has arisen several times.

5 MS. KING: Board Member King, first of all, I want to
6 make it clear, there is no absolute legal entitlement under international
7 law to parking spaces in front of embassies. This is something that
8 years ago the District of Columbia through its regulatory processes,
9 and the Department of Public Works and the Bureau of Traffic there
10 promulgated, possibly at the behest of the State Department many,
11 many years ago, but before my time.

12 But it's not a legal requirement that comes from
13 international law, or treaty, or anything like that, or federal statutory
14 law.

15 The District of Columbia zone regulations specify the
16 following: 60 feet -- maximum, or the lesser of -- 60 feet or the front
17 footage of the property, whichever is the less.

18 Now at 60 feet you could I think squeeze in about
19 three cars. Legally I think a parking space is --

20 MS. KING: 19 feet.

21 MR. MLOTEK: 19 feet.

22 MS. KING: How wide is the building?

23 MR. GOODMAN: We have the plat here. It is
24 20 feet x 100 feet deep.

25 MS. KING: So 20 feet wide you'd have one parking
26 space in front of the building.

27 MS. REID: Mr. Goodman, also this picture that you
28 submitted, I'm not really sure what -- are you trying to -- the case,
29 or --

1 MR. GOODMAN: Yes, I'm showing you the area
2 where the embassy's located.

3 Madam Chair, the picture you have shows you the
4 street -- including the building and the multi-use --

5 My building is the -- pink -- building next to that.

6 MS. REID: Oh, okay. And that building beside it is an
7 apartment building?

8 MR. GOODMAN: Yes, ma'am.

9 MS. KING: And the other building -- these are the
10 single-family homes.

11 MS. REID: Okay. Thank you.

12 MR. GOODMAN: With your permission, Madam
13 Chair, I'll turn the mike over to Ambassador Bile. Do you have any
14 comments, sir?

15 MS. KING: I have one more question. Excuse me,
16 Your Excellency.

17 Is there any intention to make any alterations, do any
18 construction? Because the plans that we've been shown -- so living
19 rooms, dining rooms, kitchens, bedrooms, but no office space.

20 MR. GOODMAN: No alteration. The front bedroom is
21 going to be the ambassador's office. It has a fireplace.

22 MS. KING: So the plans that we have do not
23 accurately reflect what will occur?

24 MR. GOODMAN: They do accurately reflect what is
25 and what --

26 MS. KING: But it shows that the second floor -- it has
27 a living room, dining room, kitchen, and so forth. And the first floor
28 has a bedroom.

29 MR. GOODMAN: The kitchen will remain the same,

1 and what is now the dining room will be a conference room. And the
2 front of that on the second floor will be the ambassador's suite.

3 MS. KING: And there will be no changes in the
4 partitions?

5 MR. GOODMAN: I'll leave that to -- you have
6 someone to present?

7 TRANSLATOR ANDEME: The second
8 floor will be used as the main office section, having that bedroom turn
9 into the ambassador's office. We'll just insert a table, and a few other
10 furniture, not changing structures of the walls, or the -- the -- will still
11 remain there; the kitchen will stay there. Nothing will be removed from
12 the basic structure of that second floor.

13 Moreover, we understand that if our appeal is
14 approved we will have to comply with our fire escape regulations, for
15 which we will call either the State Department or the fire department to
16 advise us the best way. We do know that we need a fire escape. If
17 we are approved, of course, we will have that in the back of the
18 building.

19 MS. KING: You would then have to get permission
20 from the Historic Preservation Review Board to add the fire escape at
21 the rear of the building, is that correct?

22 TRANSLATOR ANDEME: We don't know that. We'll
23 have to go to the Historic --

24 MR. GRIFFITHS: Mr. Mlotek, you will answer that?

25 MR. MLOTEK: Yes. Board Member King pointed at
26 me, so -- Yes, yes.

27 Optimally, we would like to see all of these sorts of
28 renovation issues joined together and consolidated before the Foreign
29 Missions Board of Zoning Adjustment, and that way the Board itself

1 can look at them.

2 However, it's not a violation, but anything for them to
3 do it in the other manner, going to the Historic Preservation Board to
4 see if they can work out something to get staff approval; put it on the
5 consent calendar if there isn't a problem.

6 Many chanceries do in fact do it this way, chanceries
7 that have been in place for many years, not just moved into the
8 neighborhood. So therefore, they have no BZA case to which they
9 could join these other renovation issues.

10 To precisely answer your question, yes, they would
11 have to. We do get into some technical legal questions though about
12 what the jurisdiction of the Historic Preservation Review Board is vis a
13 vis this body, the Foreign Missions Board of Zoning Adjustment.

14 So that -- just to narrowly answer your question. So
15 that if they went to the Historic Preservation Review Board, and there
16 was a need to have a full scale Historic Preservation Review Board
17 hearing, a contested case hearing, rather than a consent calendar
18 type of situation, then we would have to advise them to come back
19 here. So then this board would again assume jurisdiction over these
20 other issues beyond location.

21 MS. KING: Now, it was suggested by somebody who
22 testified in opposition that in fact if there was a historic preservation
23 issue that arose, that with their diplomatic immunity the chancery, the
24 embassy, could simply ignore the provisions of the Historic
25 Preservation Review Act.

26 Is that correct?

27 MR. MLOTEK: No, Ms. King, it is not correct. I would
28 like to implant in everyone's mind the following requirement of the
29 Foreign Missions Act. This is federal law. It pre-empts everything

1 else, and covers all such matters in the District of Columbia.

2 This is Section 4306(g), entitled Compliance With
3 District of Columbia Building and Related Codes.

4 "The Secretary of State shall require foreign missions
5 to comply substantially with District of Columbia Building and Related
6 Codes in a manner determined by the Secretary to be not inconsistent
7 with the international obligations of the United States."

8 Substantially here, I can tell you as a matter of actual
9 practice for the last 17 years of practice under the Foreign Missions
10 Act, 1982 to date, substantially has never meant anything else than
11 full. And the Congress used the word substantially simply to allow a
12 slight amount of wiggle room if we were talking about something
13 extremely sensitive, like the communications room of the embassy
14 where we wouldn't want fire inspectors to go into, or something like
15 that. But certainly nothing to do with historic preservation.

16 With regard to historic preservation, substantial -- I
17 cannot conceive of how you would substantially comply with historic
18 preservation laws without fully complying with them, because you
19 either get the approval, or you don't get the approval.

20 MR. GRIFFITHS: Mr. Mlotek is it fair to say that this
21 Board could receive the position of the Historic Preservation Review
22 Board, and then this board could act, and could make whatever it
23 wished a condition of approval, so that the chancery would have to
24 comply?

25 MR. MLOTEK: Yes, in my opinion you could do that,
26 Mr. Griffiths.

27 MS. REID: Any other questions, Board members?

28 MS. KING: I don't believe so, no.

29 MS. REID: Okay. Then this will conclude the Foreign

1 Missions hearing for the day.

2 MS. PRUITT-WILLIAMS: Excuse me, Ms. Reid. I
3 wasn't sure if the ambassador had a statement.

4 MS. REID: Oh, I'm sorry. I thought that he had made
5 a statement through the interpreter.

6 Does that conclude your case?

7 MR. GOODMAN: Yes.

8 MS. PRUITT-WILLIAMS: Also, one other thing for the
9 record. I just want to amend the application. It was raised here that
10 the application has R-5-C. It's actually R-5-D. It is correct, so it is
11 before the Board correctly. I just wanted to put that on the record.

12 MS. REID: Thank you.

13 And we will be making a decision during our
14 deliberations meeting on March --

15 MS. PRUITT-WILLIAMS: That will be your first
16 opportunity --

17 MS. REID: Wednesday, March 3rd we'll take this up
18 in our meeting at that time.

19 MR. GOODMAN: Will be contacted by the staff?

20 MS. REID: You may attend the meeting if you'd like.
21 It's not mandatory, but if you like you are welcome to attend that
22 meeting to hear our deliberations on this case.

23 MS. KING: Would it be appropriate, Madam Chair, to
24 have plans that show the actual use that is intended for the interior of
25 the building?

26 MS. REID: I thought the response was that the
27 intended use is exactly as it is now.

28 MS. KING: No, but if you look at the plans, it's
29 bedrooms, and living rooms, and kitchen.

1 MS. REID: Oh, I see. You want it to be designated.

2 MS. KING: Yes. They're talking about residential use
3 on the ground floor, rooming house use on the fourth floor, and that
4 the two intervening floors will be used as offices.

5 Under the plans that are before us now those office
6 spaces, living rooms, and dining rooms and stuff.

7 MS. REID: I understand.

8 Mr. Goodman, you understand.

9 MR. GOODMAN: Yes, I do.

10 MS. REID: Could you please submit that for the
11 record so that we will have that for our meeting; we'll be able to look at
12 it?

13 MR. GOODMAN: Yes ma'am.

14 MS. REID: As showing properly how it's going to be
15 utilized.

16 MS. PRUITT-WILLIAMS: Mr. Goodman, just for the
17 record, can we please make sure you get it into us probably by
18 February 25th or 24th?

19 MR. GOODMAN: Come back to you?

20 MS. PRUITT-WILLIAMS: Your revised plans.

21 MR. GOODMAN: Oh, yes.

22 MS. PRUITT-WILLIAMS: So that we can have them
23 in time to go out to the Board, that's all. Thank you.

24 MS. REID: This concludes the Foreign Missions
25 hearing for today, and we'll recess for about five minutes.

26 (Whereupon, the foregoing matter went off the record
27 at 4:00 p.m. and went back on the record at 4:34
28 p.m.)

29 MR. HART: Application Number 16430, of St. John's

1 Church pursuant to 11DCMR 3108.1, for a special exception under
2 Section 205 and 320.3 to increase the number of children in the
3 present child development center from 36 to 45 children and increase
4 in current staff from 7 to 9 in an R-3 District at premises 3240 O
5 Street, N.W., Square 1231, Lot 144.

6 Those persons coming to testify, please raise your
7 right hand, and stand.

8 (Whereupon, the persons, having first been duly
9 sworn, were examined and testified as follows:)

10 MS. KING: Madam Chair, may I suggest that there
11 appears to be no one in opposition to this case. The case has been
12 well documented in the papers that are before us. I note that the
13 Advisory Neighborhood Commission is in favor of this. And I would
14 therefore suggest that we ask Mr. Brown to make the salient points of
15 his case, and then we can get on to deciding.

16 MS. REID: I agree with you, Ms. King. I don't think
17 that we could ask for a sweeter case this late in the day. Based on
18 the records before us, I think we all agree that there doesn't seem to
19 be anyone who is in any way opposed to this, and to the contrary
20 everyone seems to be delighted that this is going to be occurring.

21 So I'm sure Mr. Brown, having been here many times
22 before, will give us the salient points, and expedite the case, and
23 basically get through it in short order.

24 MR. BROWN: I'd be happy to.

25 For the record, my name is Patrick Brown. I'm with
26 the law firm of Greenstein, DeLorme & Luchs, P.C. If nothing else, I
27 would like to introduce my team here.

28 Next to me is Ms. Jean Rainey. She's the president
29 of the Board of Directors of the St. John's school. To my right is Julie

1 Cook, who is the vice president of the Board of Directors for the
2 preschool. And then next to her is Kathy Price, who is the actual
3 director of the preschool, all of them prepared to answer any
4 questions you should have.

5 This is an application under Section 205 to expand
6 the existing previously approved child development center, as stated
7 to go from 36 to 45 students; increase the hours of operation for 8:30
8 to 6:30 p.m. Monday through Friday; and to run the school all year
9 round.

10 We're in a unique situation, while one the ANC
11 support, with one condition, that there be biennial review -- or biennial
12 discussions and reporting with the school. That's obviously
13 acceptable as a condition by the applicant. There are several letters
14 of support in the record. I do not believe the Office of Planning or
15 DPW have submitted anything in writing.

16 Briefly, under the criteria of this case --

17 MS. KING: Actually, let me correct that. The
18 Department of Public Works has said that they have no objection to
19 the request. That was dated today's date. I'm sure that the staff will
20 provide you with a copy.

21 MR. BROWN: With that, there are no opponents I
22 believe. Under the criteria, briefly, which is all addressed in the
23 pre-hearing statement submitted. The center is currently properly
24 licensed, and would expand those licenses to meet the expanded
25 student population.

26 Traffic and pick-up are both issues that are dealt with
27 in the statement. Traffic is minimal, with half of the students coming
28 from the zip code. The other half are able to use Potomac Street in
29 especially designated pick-up and drop-off area where there's

1 short-term parking and space available.

2 Then in the afternoon they're met by the staff who
3 take them out. Several staff members take them out to the cars,
4 depending on their time of departure, which is staggered depending
5 on the child's program participation.

6 As before in the original order, no off-street parking is
7 required given the nature of this project, and the historic district, and
8 the historic building. Off-street parking for the staff is provided, and
9 paid parking in the vicinity, and will continue to be so provided. Every
10 staff member who in fact needs parking will be provided parking.

11 Internal to the site is the play area, which is more than
12 adequate to serve the existing students as well as the additional ones.
13 Improvements are going to be made to the playground, new
14 equipment, which can be accommodated, and it's used on a
15 staggered basis so that all students are not present at any one time in
16 the play area.

17 One change from the previous is, the school has
18 decided not to use the Hyde School across the street as a play area.
19 They can meet their needs internally to the site. It's safer. It has
20 better equipment, more age-appropriate equipment for their students
21 than going across the street. And so that's no longer a need, as it was
22 once.

23 There's no other child development centers within a
24 thousand feet, so that's no longer an issue. And I think the
25 Department of Public Works have indicated no objections.

26 Under the criteria, both generally as a special
27 exception and those laid out, taken broadly as the record would
28 reflect, that there will be no objectionable conditions generally or
29 specific to any of these issues related to the operations.

1 And I would ask the Board to, first, render a bench
2 decision, and also a summary order to allow prompt action for
3 purposes of enrolling students for the summer program that they'd like
4 to hopefully institute this year. So, some sort of quick action by the
5 Board would be -- facilitate that.

6 The conditions laid out in the original order as
7 modified by this application would be applicable, and we ask that the
8 approval be for a 10-year period of time, given the track record that's
9 been established, and the minor nature, the change, and the condition
10 that the school and the ANC will maintain a regular reporting system,
11 so that that will be done on a more informal basis, rather than more
12 frequent visits here to the Board. Obviously, any changes would have
13 to come back to the Board, so that there's a good level of certainty
14 and ongoing scrutiny of the project.

15 With that, I'd ask the Board's approval.

16 MS. REID: Okay. Mr. Brown, just for the record, you
17 hit on some of the stipulations for 205, but you didn't go over all of
18 them, did you? You briefly kind of --

19 MS. KING: I think he did. I think he touched most --

20 MR. BROWN: I tried to. I've got a list here in front of
21 me. They kind of cross over in some places. I may have taken two in
22 one breath.

23 But the general criteria is licensing and code issues,
24 traffic, and the pick-up and drop-off of the students.

25 MS. REID: You did. I just looked at them just to
26 make sure, because you didn't kind of go in order.

27 In regard to the play area, you mentioned that they
28 were not going to be using the Hyde School; they would be able to
29 accommodate the play activities on site. And I just wondered why

1 they were going to Hyde School in the first place. Just wondered.

2 MR. BROWN: And this was before my time, but I am
3 told that it was an option that they thought about, but then when it
4 came time to implement it, it was found that the equipment at the
5 Hyde School was too old for their students. It's an elementary school
6 as opposed to the younger students, as well as logistical issues as far
7 as the heavy use of Hyde School. So it never was really used, and
8 will not be.

9 MS. REID: With the addition of the increased
10 enrollment, is there provisions being made for trash pick-up, additional
11 trash pick-up? Obviously with additional students there will be --

12 MS. KING: Do you serve meals? Do the students
13 bring brown bags or are they on --

14 MS. RAINEY: Only half of the students stay for lunch,
15 and they bring their own lunch.

16 I'm Jean Rainey, 4000 Cathedral Avenue, N.W. Our
17 trash is picked up with that of the church twice weekly. And so there
18 is no problem. It's only nine additional children, so there's not a great
19 increase in the amount of trash.

20 For lunch the children do bring their own -- those who
21 stay for the lunch program -- that's an optional program -- the children
22 do bring their own sandwiches. So there's no food prepared on site.

23 MS. REID: Okay. Any other questions, Board
24 members?

25 MR. HOOD: I only have a question. I would want to
26 respond to Mr. and Mrs. Mast -- I believe that's the way to pronounce
27 their last name. They were concerned about the expansion into the
28 future for the school.

29 Would you kind of elaborate on that, if you planned on

1 doing some more expansion, or were you just going to cut it off here?
2 Anything down the road that you're planning to do? We can address
3 that.

4 MR. BROWN: I'm not familiar with that letter, but I
5 think that Ms. Rainey can --

6 MS. PRUITT-WILLIAMS: We have a copy here for
7 you, if you'd like.

8 MS. RAINEY: I could only say that this would be the
9 absolute limit of our space. The church has been very kind in allowing
10 us to use as much space, and in fact that's the reason we came back
11 to you, is because they did make additional space available to us.

12 But there is no more space available, and the church
13 conceivably --

14 MR. HOOD: So you're at your limit now.

15 MS. RAINEY: We're at our limit.

16 MR. HOOD: Okay, thank you.

17 MS. REID: Do you have a copy of --

18 MS. PRUITT-WILLIAMS: Madam Chair, I understand
19 it's in this statement that Mr. Brown submitted, the conditions in the
20 previous order. Is that what you're looking for?

21 MS. REID: Yes.

22 MS. KING: On the statement of reasons and support
23 of application. I've got it here.

24 MS. REID: I have the first page of the summary order
25 of April 7, 1996, but when it was faxed to me it got put on the same
26 page.

27 MS. KING: These are his proposed amendments to
28 the conditions, plus he has already said -- I just note, Madam Chair,
29 that Advisory Neighborhood Commission 2E at a duly announced

1 meeting on February 2nd with a quorum present, adopted a resolution
2 in support of this special exception. And they would like us to include
3 a condition that biennially the child development center and the ANC
4 would review any inquiries used for -- well, any matters of concern to
5 the community regarding the child development center, I think is a
6 neater way of saying it.

7 MS. REID: And there was a quorum present.

8 MS. KING: There was a quorum present, and it was
9 passed, unanimously.

10 MS. REID: So they should be afforded the great
11 weigh to which they are entitled.

12 MS. KING: Exactly so.

13 MS. REID: Mr. Brown, do any of the other witnesses
14 want to testify at this time?

15 MR. BROWN: I think we've covered all the bases.

16 MS. REID: You don't need to?

17 Any questions by Board members?

18 MR. GILREATH: The additional nine students -- you
19 see any kind of increase in the traffic, the pick-up and the drop-off?
20 Are the streets able to accommodate these?

21 MR. BROWN: If I could, if you could draw your
22 attention to the map there. One, you start with the issue that the
23 factual background or historical background is that half the students,
24 50 percent of the students are local, and can be anticipated to walk, or
25 be carried, depending on their age. Those numbers would follow
26 through in the additional nine students, so we're talking about a
27 minimal increase there.

28 If you look at Potomac Street, it's one way going -- it
29 dead-ends at O, but it's one way going toward M Street and the river.

1 For purposes of the neighborhood that's a great street
2 because it's low volume; it doesn't start anywhere. It goes
3 somewhere, but very few people feed into it. So that for purposes of
4 traffic, and pick-up that's an ideally situated spot also for purposes of
5 the existing parking restrictions that gives a place for it to occur, and
6 some turnover.

7 So the anticipation is that they existing traffic issues
8 are negligible, and the incremental change will be --

9 MR. GILREATH: Kind of remain so. Okay.

10 MS. REID: Okay. We now go to government reports.
11 We had just the one from DPW that Ms. King had mentioned earlier.

12 MS. KING: Yes, they have examined all the issues
13 relating to parking and transportation. And we do not believe that
14 increasing the number of students and the operating hours will
15 significantly impact the parking in the neighborhood. Accordingly,
16 DPW has no objections to the applicant's request.

17 MS. REID: Okay. And the ANC letter from 1E was
18 already read into the record, so we have that -- 2E was already read
19 into the record.

20 Persons and parties in opposition to the application?

21 MS. PRUITT-WILLIAMS: The record will show that
22 there actually is nobody in the audience.

23 MS. REID: Persons or parties in support of the
24 application? Seeing none, closing remarks by the applicant.

25 MR. BROWN: Just briefly, I think we've touched upon
26 each and every one of the special exception criteria laid out, and the
27 applicant has made the case for the requested relief. And again,
28 request that it be by bench decision and a summary order, so that
29 they can go about starting up their summer program under the terms

1 of the order.

2 MS. KING: Madam Chair, I move approval of this
3 application --

4 MS. REID: I second it.

5 MS. KING: -- for a period of five years, during which
6 time the leadership of the child development center will meet on at
7 least a biennial basis with the ANC to discuss any matters or
8 concerns.

9 MS. PRUITT-WILLIAMS: Excuse me, Madam Chair.
10 I just wanted to bring the Board's attention that the applicant is
11 actually asking for approval for 10 years.

12 MS. KING: That's what I said.

13 MS. PRUITT-WILLIAMS: You said five.

14 MS. KING: Oh, I beg your pardon. Ten years. I have
15 no problem with 10 years, and the ANC doesn't either. I'm sorry, I'm
16 reading two pages at once; I'm getting cross-eyed.

17 The child development center shall operate from
18 8:30 a.m. to 6:30 p.m. year round.

19 MS. REID: Monday through Friday.

20 MS. KING: No, year round. Is it Monday through
21 Friday?

22 MS. REID: Monday through Friday year round.

23 MS. KING: Year round. Okay.

24 The maximum number of students shall be 45, ages 2
25 and one half to 5 years. That remains the same. The maximum
26 number of staff shall be 9.

27 Is that full-time equivalence, or is that nine actual
28 bodies? Nine actual bodies, and never to be more than nine actual
29 bodies.

1 MS. PRUITT-WILLIAMS: Excuse me, Ms. King. I do
2 have a question, because this did come up on another child
3 development case, because the ages of your children dictate the
4 number of people that you need to have with them.

5 So nine people are what you need for the ages of the
6 children that you're proposing to have. I just didn't want to put you in a
7 bind where if you change your children's age, you even need more,
8 and we would have conditioned you out of that.

9 MS. KING: Drop off and pick up of the children -- on
10 Potomac Street, and a staff person should be present to receive -- I'm
11 adding and discharge the children, because I believe you said you did
12 that when they're dropped off and picked up.

13 All deliveries to the child development center shall
14 coincide with deliveries made to St. John's church. Trash will be
15 picked up at least twice per week. Outdoor play shall be in the fenced
16 yard of the church rectory.

17 Efforts shall be made to reduce demand for parking
18 by encouraging staff to walk, to use public transportation, and the
19 applicant will continue to arrange for off-street parking as possible in
20 the Georgetown community.

21 Is that it? I think that covers all the bases.

22 MR. BROWN: The biennial ANC report.

23 MS. KING: I put that in the 10 years, that during
24 which period, at least biennially, you all will meet with the ANC to
25 discuss concerns.

26 MS. REID: That was the only stipulation by the ANC?

27 MS. KING: Right.

28 MS. REID: Okay. All in favor, aye. Opposed?

29 MR. HART: The staff will call the vote as 4 to 0 to

1 grant -- Ms. King, Ms. Reid, Mr. Hood, and Mr. Gilreath. This is with a
2 summary order.

3 MS. REID: That concludes this hearing, and
4 Mr. Brown you will have your order in about two weeks.

5 MS. PRUITT-WILLIAMS: And John Nyarku is the
6 project manager.

7 (Whereupon, the foregoing matter went off the record
8 at 4:34 p.m.)