

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 10, 2000

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

COMMISSION STAFF PRESENT:

Sheri Pruitt	Secretary, BZA
Beverly Bailey	Zoning Specialist

OTHER AGENCY STAFF PRESENT:

Kenneth Laden	Department of Public Works
Ellen McCarthy	Office of Planning
Mary Vogel	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

C-O-N-T-E-N-T-S

AGENDA ITEM	<u>PAGE</u>
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APPLICATION OF THE MORRIS AND GWENDOLYN CAFRITZ
FOUNDATION/THE FIELD SCHOOL:

16559 ANC-3D 4

PHIL T. FEOLA, ESQ.
 PAUL TUMMONDS, ESQ.
 Wilkes, Artis, Hedrick & Lane, Chartered
 Suite 1100
 1666 K Street, N.W.
 Washington, D.C. 20006-2897
 (202) 457-7814

WITNESS

CLAY KAUFMAN 4
 STEPHEN GRISWOLD 9
 MARY VOGEL 28
 KENNETH LADEN 97

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

(12:57 p.m.)

MR. SWENDIMAN: So, the answer is no at this point.

I believe you stated that the school hours are proposed to be staggered, am I not correct?

MR. KAUFMAN: That s correct.

MR. SWENDIMAN: And so, the 7th and 8th graders would start school at 8:00.

MR. KAUFMAN: Right.

MR. SWENDIMAN: And, I guess the high schoolers, 9th and up, would start at 8:20, is that correct?

MR. KAUFMAN: That s correct.

MR. SWENDIMAN: I believe you also testified that the shuttle service would begin at 7:30?

MR. KAUFMAN: That s correct.

MR. SWENDIMAN: So, if my math is correct, for the 7th and 8th graders there would be a maximum of a half hour to get from the collection points and the Metro stops to the school.

MR. KAUFMAN: That s correct.

MR. SWENDIMAN: And, that assumes, of course, that there are no traffic difficulties or problems during the morning.

MR. KAUFMAN: Correct. Remember, there are fewer 7th and 8th graders than upper school students.

MR. SWENDIMAN: Mr. Kaufman, who is going to pay for

1 the widening of Foxhall Road and the installation of a left-hand
2 turn lane?

3 MR. KAUFMAN: We have agreed to take care of the
4 funding of that one way or another.

5 MR. SWENDIMAN: And, when you say we, we meaning
6 who?

7 MR. KAUFMAN: The Field School has agreed one way or
8 another to find funding for that.

9 MR. SWENDIMAN: I have no further questions.

10 CHAIRMAN SOCKWELL: Thank you.

11 MR. FEOLA: Mr. Chairman, you might want to ask the
12 ANC if it has any questions, it is a party.

13 CHAIRMAN SOCKWELL: Yes.

14 Does the ANC-3D, do you wish to ask any questions
15 at this time?

16 All right, thank you.

17 Normally, at this point we would proceed with
18 Government reports. Based upon the length of time that this
19 hearing appears to be taking, and the fact that it looks like it
20 will continue far into the afternoon, it has been suggested that
21 the next case might we might be well advised to reschedule,
22 because it looks like we are not going to get there. And, we
23 have, unfortunately, this afternoon to end our proceedings at
24 about 6:00 p.m., at which time we would lose our quorum.

25 So, the suggestion is that we pick a date certain

1 to reschedule the St. Mary s Hall Building, Georgetown University
2 Campus. Are the representatives of that case here? Yeah, Paul?

3 MR. TUMMONDS: Mr. Sockwell, Paul Tummonds on behalf
4 of the Applicant in that case, Georgetown University. What day
5 would we be looking at rescheduling this, would it be the 16th?

6 CHAIRMAN SOCKWELL: Staff is going to have to give
7 us a date, and most of the staff is out of the room right now.
8 Do you want to do it tomorrow? No, we ll have to staff has
9 just returned to the room.

10 Mr. Tummonds, give us a moment.

11 Mr. Tummonds, would May 16th work?

12 MR. TUMMONDS: We would gladly accept that date.

13 CHAIRMAN SOCKWELL: And, you would be there is one
14 case for morning session there, and we could put you right after
15 that.

16 MR. TUMMONDS: Great.

17 CHAIRMAN SOCKWELL: All right, we ll make you first.

18 MR. TUMMONDS: Great.

19 CHAIRMAN SOCKWELL: All right, if that is
20 satisfactory, and we don t have any objection, then your case
21 will be moved to May 16th, 9:30 a.m.

22 MR. TUMMONDS: We have no objection to that.

23 CHAIRMAN SOCKWELL: Thank you.

24 I assume you ll want to go to the beach now?

25 I think that at 1:03 p.m., it would be appropriate

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for us to take a 45 minute recess for lunch, returning at 1:48 p.m.

(Whereupon, the above-entitled matter was recessed at 1:03 p.m., to reconvene at 1:48 p.m., this same day.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(2:01 p.m.)

CHAIRPERSON REID: The afternoon session will now resume. My understanding is that you have completed cross examination of the Traffic Management Plan, and we will now proceed to Government reports.

VICE-CHAIRMAN SOCKWELL: The ANC wants to go first because they have to leave.

CHAIRPERSON REID: Oh, really?

VICE-CHAIRMAN SOCKWELL: Yes.

CHAIRPERSON REID: Okay. I've been told that the ANC has requested that they go first, which I don't have a problem with unless anyone has an objection to it, and for the time that I was not here during the cross examination, of course, I will be reading the record. I just wanted to make sure that everyone was made aware of that.

Okay, then we will proceed with the ANC reports.

And also, we scheduled there was another meeting, a hearing that was scheduled for this afternoon, Georgetown, St. Mary's, is anyone here for that particular hearing, because that has now we don't want anyone sitting here all day only to find out that it's been rescheduled to next week. Okay?

All right, thank you.

MR. GRISWOLD: Ladies and gentlemen of the Board, my name is Stephen Griswold. I'm a Commissioner with ANC-3D, and I

1 would like to speak to the ANC s position on this application.

2 As you know, the ANC passed a resolution supporting
3 the application at question here, but I would like to point out
4 that this was qualified support for the application, and I would
5 like to break my comments briefly into two segments, if I could,
6 and I m going to save the traffic issue, which, obviously, is the
7 main contention here, for second, because I d like to just point
8 out a couple of matters that were of great interest to all the
9 members of the ANC. And, those are the conditions which we
10 mentioned in our report, in our recommendation.

11 I was glad to see that the DPW latest report to the
12 Board, dated May 3rd, which I m afraid I only received this
13 morning, I was glad to see that it has incorporated the
14 conditions we asked for. So, what I d like to do in regard to
15 those is simply emphasize for the Board the seriousness with
16 which the ANC wanted you to incorporate those conditions into an
17 approval, if you should decide to approve this application.

18 I think that the conditions that have now been
19 consolidated by the DPW in its May 3rd report consolidating our
20 recommendations with their previous recommendations, as we had
21 asked them to do, as well as representations of the school, I
22 think that that list is crucial to any contemplation of approving
23 this application. And, in particular, I would just want to
24 highlight that that list incorporates a cap on the number of
25 students at the school and a cap on the number of cars that would

1 be entering the school.

2 CHAIRPERSON REID: Okay, excuse me. The list you
3 keep referring to as that list,

4 MR. GRISWOLD: Yes.

5 CHAIRPERSON REID: are you referring to the
6 resolution that was attached to the ANC report, those conditions?

7 MR. GRISWOLD: Yes, ma am, and those conditions

8 CHAIRPERSON REID: Then, if that is the case, then
9 I d like for you to highlight those conditions for the record, as
10 well as the ones that you are referring to, because I don t see a
11 cap on the number of students, or cars in this resolution. Are
12 you saying there s something else?

13 MR. GRISWOLD: No, ma am, that resolution asked as
14 one of the conditions to incorporate some of the representations
15 that had been made in the school s operation plan.

16 CHAIRPERSON REID: Okay, but the only thing about
17 that is, the resolution that we have is the resolution that is
18 before us.

19 MR. GRISWOLD: Yes, ma am.

20 CHAIRPERSON REID: And, I don t I don t know, what
21 is your role as the ANC?

22 MR. GRISWOLD: I m one of the Commissioners.

23 CHAIRPERSON REID: I don t know if we can have it
24 amended to include other things that has not been voted by the
25 full ANC.

1 MR. GRISWOLD: Yes.

2 MS. VOGEL: Madam Chair, could I try to help clarify
3 this?

4 CHAIRPERSON REID: Yes.

5 MS. VOGEL: I think what he may be referring to is
6 the Office of Planning May 3rd report. I m not aware of it, and
7 in that we do have 16 suggested or, I m sorry, it s 23
8 suggested conditions that we, basically, consolidated everything
9 that the ANC and Palisades Citizens Association and all had
10 recommended.

11 CHAIRPERSON REID: Is that what you are referring
12 to?

13 MR. GRISWOLD: Yes, the ANC had seven conditions,
14 and those seven conditions are reflected at least in probably
15 in total with much additional
16 material in the OP report.

17 CHAIRPERSON REID: Okay. In the OP report, point
18 out to me where there is a cap on the number of students or the
19 number of cars, someone, please. I don t see it.

20 MR. GRISWOLD: We are speaking of the May 3rd report
21 from Andrew Altman?

22 CHAIRPERSON REID: That s correct.

23 MR. GRISWOLD: Condition No. 1, that the school will
24 inaugurate staggered hours, it refers to 7th and 8th graders,
25 approximately 50 to 60 students, and 9th through 12th graders, 250

1 to 260 students.

2 CHAIRPERSON REID: Right, but, specifically, this
3 particular condition refers to staggering the hours among the
4 students in certain age categories. If, in fact, there is going
5 to be a proffer of a cap to us, then that needs to be worded such
6 as the number of students will not exceed or there will be a
7 maximum of X number of students. And, what I m saying is that in
8 this report, nor in the ANC report, do I see such a condition
9 being offered to us.

10 MR. GRISWOLD: Well, let me put it this way. First
11 of all, to clarify the confusion about what the list is, I would
12 agree with Ms. Vogel that the DPW s report has fully incorporated
13 the ANC s recommendations, because the conditions we asked for
14 were the ones we specifically listed, plus incorporating by
15 reference their previous report and the school s operating plan.
16 They ve done that beautifully here, and I m happy to say that

17 CHAIRPERSON REID: So, basically, you are saying
18 that the conditions that you all voted on are incorporated. You
19 are stipulating that they have been incorporated in the Office of
20 Planning report, as well as additional additions that have been
21 suggested by the Office of Planning.

22 MR. GRISWOLD: Yes, ma am.

23 CHAIRPERSON REID: And, you want us to adopt the
24 entire your entire report with the resolutions. But, I m
25 saying to you that, again, that what you are asking for is not

1 here.

2 MR. GRISWOLD: Well, let me put it this way then.
3 Our reading of the 50 to 60 students and the 250 to 260 students,
4 as well as the condition number 13, also refers to 260 to 320
5 students. We were assuming that as has been represented to us by
6 the school, that is the maximum, 320, that they will expand to.
7 Perhaps, we would have been better

8 CHAIRPERSON REID: What is the figure that you are
9 saying?

10 MR. GRISWOLD: Three hundred and twenty.

11 CHAIRPERSON REID: Three hundred and twenty, all
12 right, well then, that is the number that when they come back,
13 the Applicant comes back for closing remarks, we will ask them if
14 they are willing to cap at 320.

15 MR. GRISWOLD: Right.

16 CHAIRPERSON REID: As a condition.

17 MR. GRISWOLD: And, in that regard I would point out
18 that we asked them during our hearings, ANC meetings, whether
19 they would be willing to abide by that, they meant that as a cap,
20 and they said yes. So, of course, all I m saying is that I d
21 encourage the Board to do likewise and specifically incorporate
22 that.

23 CHAIRPERSON REID: Sure, okay.

24 MR. GRISWOLD: And, the same for the numbers of cars
25 that they said, because needless to say that s crucial to the

1 whole discussion of safety and impact on the neighborhood.

2 CHAIRPERSON REID: What was the number?

3 MR. GRISWOLD: I think it s 106 in the morning.

4 VICE-CHAIRMAN SOCKWELL: Commissioner, could you
5 give me your name and address, because I don t have that.

6 MR. GRISWOLD: My address?

7 VICE-CHAIRMAN SOCKWELL: Yes.

8 MR. GRISWOLD: It s 4434 Macomb Street, N.W.

9 CHAIRPERSON REID: Okay, that s already in there,
10 the number of vehicles.

11 VICE-CHAIRMAN SOCKWELL: And, it s Stephen, with a
12 P-H, Griswold, G-R-I-S

13 MR. GRISWOLD: W-O-L-D.

14 VICE-CHAIRMAN SOCKWELL: W-O-L-D, rather than
15 like in the movie.

16 CHAIRPERSON REID: Point out to me that the number
17 of cars is included in the OP report.

18 MR. GRISWOLD: Yes, and my purpose here is to again,
19 simply emphasize that our approval, our recommendation of
20 approval was strongly conditioned on all of these factors, and
21 especially on those two.

22 CHAIRPERSON REID: Okay.

23 MR. GRISWOLD: Turning to the second qualifications
24 which informed out decision on this, to recommend approval, is
25 the whole issue of safety, and I will say that the factor that

1 tipped the balance in favor was the stacking land.

2 Now, in that balance tipping, I will say that our
3 recommendation to approve was premised on the assumptions that we
4 were reading from the DPW report, as well as the traffic reports
5 that were before us at that time, namely, that the traffic lane
6 would include would safely stack ten cars.

7 Now, there has since been a traffic report
8 submitted by the Neighbors Against Gridlock, and a response by
9 Grove Slade Associates, on that whole issue of, is the stacking
10 lane safe. The traffic report of the Neighbors says it s not
11 sound, this traffic report is not sound. Now, this all happened
12 after the last ANC meeting. Obviously, we have not convened to
13 independently take a look at that and ask the folks about it, and
14 listen to then the counter response by Grove Slade.

15 I will say that it has caused serious concern as to
16 whether our assumptions are still valid, that that stacking lane
17 is safe.

18 CHAIRPERSON REID: Well, that was raised as an
19 issue. I don t know if you were in the hearing room at that time
20 when it was discussed, and questioned as a concern, and the
21 response was that it would be in compliance with the rules and
22 regulations, and licensing requirements, I don t know, is it
23 licensing requirements, what is it, permitting process of DPW,
24 who is here, and who will give a report, and who will be
25 available for cross examination in case the report is not as

1 conclusive as you d like it to be.

2 But, I think that you would probably be very
3 satisfied with what comes out of this hearing today, as to any
4 questions you have in that regard.

5 MR. GRISWOLD: Yes, and my point here, I think,
6 would be to convey the sense of the Commissioners that I ve
7 spoken to, to urge upon you the gravity of that question. I
8 think it s obviously apparent, and that specifically were there
9 to be some finding on the part of the Board that a ten-car
10 stacking lane is not safe, that, say, it s only three cars, or
11 it s six cars, or it s no cars, that it s simply not safe, then
12 all bets are off as far as whether the ANC would still support
13 this condition.

14 CHAIRPERSON REID: Well, we would get our direction
15 from DWP. I mean, we are not we don t have the authority, nor
16 do we have the expertise, to make that kind of call, and this is
17 why when DPW speaks we will talk to them, and we will question
18 them, and we will satisfy ourselves as to whether or not we feel
19 that the report that they give us is adequate. But, we don t
20 have the capacity to determine whether or not a lane is safe or
21 not.

22 VICE-CHAIRMAN SOCKWELL: Mr. Griswold, it certainly
23 is understandable that your response, the ANC s response, was
24 predicated upon being given information that would allay any
25 fears that a left-turning lane would not be appropriate in this

1 location, and would not be effective based upon the information
2 provided to you by the consultants for the Applicant. And yet,
3 in the hearing we will determine, to the best of our ability,
4 whether or not we think that the testimony given supports or
5 refutes that effectiveness and safety. And, the information that
6 you carry back will be based upon what you hear here today, and,
7 hopefully, it will be satisfactory to either necessitate new
8 thought on the part of the ANC as a whole, or to give them
9 reasonable assurances that once DPW and the District of Columbia
10 as a whole have created this lane, should it be approved as part
11 of the package, then the resulting traffic patterns will be
12 sufficiently safe and workable, that there won t be a problem.

13 CHAIRPERSON REID: We share that concern, please
14 understand that, that we would not want to be in a position of
15 approving an application that would result in an unsafe condition
16 on Foxhall Road.

17 MR. GRISWOLD: If I may simply add to that that
18 there s the issue of safe conditions, as well as the notion that
19 the ten car stacking also safely took cars out of circulation
20 that would otherwise be inclined to route through the
21 neighborhood under the previous plans. In other words, the
22 southbound traffic on Foxhall Road is a great concern, and there
23 remains great concern among the neighbors, including Commissioner
24 Heuer who has submitted a minority statement to you all, there s
25 great concern that if people are not able to safely get into that

1 left lane and turn left that they are simply going to go down
2 Foxhall, turn around through W or Whitehaven, route around the
3 neighborhood, come out and come back up from the south. So, if
4 we don't have a ten car stacking lane that's safe,
5 notwithstanding the school's representation that they only need
6 three, if it turns out that you need more and they are not there,
7 then that's either going to be unsafe, or both unsafe and
8 routing, it will force traffic into our residential streets that
9 we're very concerned about.

10 COMMISSIONER RENSHAW: Commissioner Griswold, is it
11 Heuer who is the single member District Commissioner for that
12 area?

13 MR. GRISWOLD: Yes, ma'am, and she was not able to
14 be here today, she's, apparently, on a prior commitment out of
15 town.

16 COMMISSIONER RENSHAW: I understand.

17 Your meetings, did you discuss at all the situation
18 of having an officer out in the roadway directing traffic,
19 perhaps, in the median strip?

20 MR. GRISWOLD: Yes, that was represented to us. We
21 didn't specifically address it in our recommendations, no, and I
22 don't think it would be fair to say we premised our order, our
23 recommendation, on that, but it certainly probably helped to tip
24 the balance.

25 I will say that there was some concern raised by

1 some of the Commissioners, as well as members of the public,
2 whether that would, not only be not helpful, but downright
3 dangerous to have an officer out there. Again, this gets into an
4 area of expertise where I m not qualified to say what kind of
5 median strip and what kind of stripe line is safe, or helpful, or
6 dangerous. But, yes, that was raised.

7 COMMISSIONER RENSHAW: And, did the Applicant in
8 meetings with the ANC talk about other shuttle bus pick-up
9 points, other than at the two Metro stops?

10 MR. GRISWOLD: Yes, they did.

11 COMMISSIONER RENSHAW: And, did they identify any
12 pick-up points?

13 MR. GRISWOLD: No, they gave a basically similar
14 answer that they ve given today, which is that they were looking
15 into possibilities. I think they had mentioned down on MacArthur
16 Boulevard, and that there were several homeowners who might
17 volunteer to use their driveways as pick-up points, but they
18 specifically said, as they have done today I believe, that they
19 were not committing to any specific pick-up points, but the
20 concept and a commitment to the concept of several more shuttle
21 point pick-ups, in addition to the two Metro stops.

22 COMMISSIONER RENSHAW: Did you discuss at all
23 whether or not there might be drop offs of children on the right
24 side of the road, where parents do not want to turn into the
25 school, but want to continue going south on Foxhall, and there s

1 a lull in the traffic, perhaps, because of jockeying to get in
2 the left turn lane, and the child exits the car and then has to
3 cross the street?

4 MR. GRISWOLD: My recollection is that that was
5 raised and they said they would not permit that. That would be
6 against school rules.

7 COMMISSIONER RENSHAW: So, the officer would be able
8 to monitor that situation if that ever came up?

9 MR. GRISWOLD: I imagine that s their idea, yes.

10 COMMISSIONER RENSHAW: Okay.

11 CHAIRPERSON REID: Any other questions from Board
12 members?

13 Are you

14 MR. GRISWOLD: If I can just kind of wrap it up.

15 CHAIRPERSON REID: oh, you paused and I wasn t
16 sure if you were finished.

17 Go ahead.

18 MR. GRISWOLD: Yes. At the risk of belaboring the
19 point, again, I would hope that now these volley of conflicting
20 traffic reports can be resolved with the assistance of DPW, and,
21 in particular, I may say that there s a widespread perception
22 that their traffic report, the opponents traffic report, has
23 said this stacking lane is not safe, and that Grove Slade has
24 come back and said in their May 9th report that, well, we have a
25 maximum queue of three cars, and, again, this is ambiguous. We

1 have trouble making it out. We are not experts, but we ve asked
2 for it to be put on the table a specific result. Are we talking
3 a ten car stacking lane that is safe, or are we actually talking
4 something less.

5 COMMISSIONER RENSHAW: Madam Chair, another question
6 for Mr. Griswold.

7 At your ANC meetings, when you discussed The Field
8 School, did you invite and have testimony from the police and the
9 fire department, having to do with the safety issues of Foxhall
10 Road?

11 MR. GRISWOLD: I can t testify as to whether they
12 were formally invited or not. I know that the issue came up in
13 the course of one of the meetings, and that they were not there.
14 My own recollection, I would not have been involved in the
15 invitation, the chair would have done that, and I don t know
16 whether they were formally invited.

17 COMMISSIONER RENSHAW: All right.

18 Did Mr. Slade, when he I assume that Mr. Slade
19 appeared before your ANC?

20 MR. GRISWOLD: Yes, he did, on several occasions.

21 COMMISSIONER RENSHAW: And, did he present the
22 accident statistics to your ANC so that you could consider those?
23 He is going to, he said that he would provide that data for the
24 Board, but has he presented it to you? Did he present it to you?

25 MR. GRISWOLD: I remember that the issue came up,

1 and some numbers were put out there. Whether he specifically
2 gave us a written tabulation of any sort I, frankly, don't know.

3 I don't have a recollection of one, but they may be in some of
4 the voluminous proceedings. I was not present at some of the
5 earlier ones, like a year ago when this first started up.

6 COMMISSIONER RENSHAW: Well, I ask the question
7 because we have received a letter from Patricia Markum, who lives
8 on W Street, N.W., and who said that the first D.C. traffic
9 fatality of January 1, 2000 was at 4:00 a.m., on Foxhall Road,
10 and I wanted to know if that piece of material was expressed at
11 the meeting.

12 MR. GRISWOLD: Yes, that incident and several others
13 in recent memory of people at those hearings was discussed and,
14 obviously, informs our strident concerns about both the safety
15 and neighborhood impact of that left turning, southbound traffic.

16 COMMISSIONER RENSHAW: All right.

17 Do you have a copy of the fire department report?

18 MR. GRISWOLD: I do not, no.

19 COMMISSIONER RENSHAW: All right.

20 MR. GRISWOLD: Whether the chair has it, I wouldn't
21 know, but it's possible I don't have complete records. I say,
22 this has been going on for some time.

23 COMMISSIONER RENSHAW: Thank you.

24 VICE-CHAIRMAN SOCKWELL: Let me just say this while
25 we are talking about traffic accidents, let it not be thought

1 that a 4:00 a.m., traffic accident would affect the proposed use.

2 MR. GRISWOLD: Does that call for a response? I
3 think I can add that the same observation was made at the ANC.

4 COMMISSIONER RENSHAW: Thank you for your response.

5 MR. GRISWOLD: It was of questionable relevance, but
6 no one disputes, I think, that it s a dangerous road.

7 I have nothing else to add unless there are any
8 other questions.

9 CHAIRPERSON REID: Do you want to cross examine this
10 witness from the ANC?

11 MR. AGUGLIA: Just a couple of questions.

12 Were you aware of other instances that happened in
13 this year that caused Foxhall Road to close down either partially
14 or completely for some time period?

15 MR. GRISWOLD: I remember that there were
16 discussions of such instances. I don t personally know them and
17 I couldn t name you dates and places, but I remember that there
18 was discussion that Foxhall Road had, in fact, closed down, I
19 think, the day before one of our hearings.

20 MR. AGUGLIA: Due to a traffic accident?

21 MR. GRISWOLD: I don t recall whether it was a
22 traffic accident or construction, but I do remember that there
23 was discussion that the road had been closed within several days
24 prior.

25 Thank you very much.

1 CHAIRPERSON REID: Thank you very much.

2 Ms. Renshaw, do you have the letter from Ms. Heuer,
3 the ANC single member District Commissioner and her position?
4 While he s going back to find that, we do note for the record
5 that the ANC-3D has submitted their report to us, in which they
6 indicated that they had taken a vote and voted in favor of this
7 application with conditions, as outlined in the Office of
8 Planning Report, and as such they will be afforded the great
9 weight to which they are entitled.

10 COMMISSIONER RENSRAW: Ann Heuer, the ANC-3D-06
11 Commissioner, has submitted to the Board a minority report dated
12 May 8, 2000, and she said that she voted against the application.

13 She has serious concerns about traffic safety and congestion on
14 Foxhall Road. She has received a copy of the Neighbors Against
15 Foxhall Gridlock report by the traffic experts, and she states
16 that that clearly points out the safety and congestion issues,
17 and it confirms her concerns about the issues, that she feels
18 that any warning signals, such as a 15 MPH sign on Foxhall Road,
19 will have no effect on commuter traffic, and the gridlock will
20 occur, will only anger commuters and divert them to our
21 residential streets.

22 She mentions the Ward 3 Comprehensive Plan clearly
23 states that any infill project should not worsen existing traffic
24 conditions. This is not true in respect to The Field School,
25 Foxhall Road is already a heavily trafficked thoroughfare,

1 allowing The Field School to locate in this residential area will
2 not improve the situation. She stated she would be out of town
3 today and would not be able to present her opinions of the
4 majority of my constituents to the BZA and, therefore, she is
5 sending this letter advising the BZA that the neighbors most
6 affected remain in opposition to The Field School s application
7 for special exception.

8 CHAIRPERSON REID: And, what was the date of that
9 letter?

10 COMMISSIONER RENSHAW: The date again is May 8,
11 2000, and it is a letter signed by Ann F. Heuer, ANC-3D-06
12 Commissioner.

13 CHAIRPERSON REID: Thank you very much.

14 All right. We ll go now to the Office of Planning
15 report.

16 MS. VOGEL: Good afternoon. My name is Mary Vogel,
17 and I m the Community Planner at the D.C. Office of Planning,
18 located at 801 North Capitol Street, N.E.

19 My report is actually going to cover both our May
20 3rd addendum to our what was dated March 10, 2000 report. That
21 March 10th report was actually not submitted on March 10th, however,
22 because of the ANC meeting that night, and then we kept getting
23 further information that had to that we did, in fact, take into
24 consideration.

25 In terms of traffic, which we are going to cover today, we

1 covered the majority of our report at the March 17th hearing, but
2 in terms of traffic the Applicant has submitted a detailed plan
3 to mitigate traffic impacts. Given the large number of students
4 who currently rely on public transit at its Kalorama location,
5 school officials expect traffic usage to remain high, or transit
6 usage to remain high. We ll be running shuttle vans from
7 Tenleytown and G.W., Foggy Bottom Metro Stations, and additional
8 drop-off sites. The school also will not permit students to park
9 unless they car pool with a minimum number of riders.

10 By these measures, the Applicant s traffic
11 engineering consultant, Grove Slade Associates, anticipates
12 reducing the number of trips to the site during a.m. peak hour to
13 106.

14 The Department of Public Works reviewed the
15 Applicant s report and found most of the proposed measures to be
16 reasonable. It did, however, recommend a left-turn lane to be
17 installed by the school to accommodate vehicles traveling
18 southbound on Foxhall who wish to turn left into the school
19 property.

20 In response to DPW s report, the school reexamined
21 the possibility of putting in a left-turn lane on Foxhall Road
22 that stacks entirely in front of the property and adds a small
23 island. Its traffic engineers found such a lane could meet
24 safety standards, as long as no left turns were made from the
25 lower driveway. Left turns from the school s property will now

1 be made from the upper driveway, where the line of sight is much
2 better.

3 Neighbors Against Foxhall Gridlock had prepared its
4 own traffic impact analysis and planning analysis, prepared by
5 MCV Associates, a northern Virginia traffic consulting firm. We
6 took that analysis into consideration in preparing our report and
7 wanted to respond specifically to some of the points that they
8 raised.

9 First, students who drive, the report suggests that
10 The Field School is overly optimistic in its car pool estimates,
11 because of the D.C. Safe Teenage Driving Amendment Act of 1999,
12 which would restrict the ability of the D.C. students to carry
13 others, that is, D.C. students under 17, or 17 and under, to
14 carry others. However, this law only impacts the ability to car
15 pool of students from D.C., who are 17 and under. The majority
16 who drive are from Maryland and Virginia, and as was testified
17 today the 38 student spaces can be filled by seniors 18 years and
18 older.

19 Percentage of students and staff using public
20 transportation, MCV challenges the 36 percent figure used by
21 Grove Slade regarding public transit usage and suggests that 25
22 percent is more realistic. OP concurs with the higher
23 percentage, given that surveys performed of the parents indicated
24 that approximately 90 percent of the parents would use the
25 shuttle service, but the 36 percent figure, the figure for public

1 transit usage the current location, was used as a conservative
2 estimate. This is also why OP is suggesting that future
3 expansion be dependent on the school s achievement of its traffic
4 reduction goals, however, to be sure that it is actively
5 promoting this transit usage. And, we did, in fact, include that
6 in the proposed conditions.

7 Staff and employees will be required to arrive
8 before 7:30 a.m., that is, before the a.m. peak hour. Service
9 and maintenance traffic was also included during the a.m. and
10 p.m. peak hour traffic in the MCV report, that was not included
11 in the Grove Slade report. The MCV trip generation assumed that
12 all faculty and staff would arrive during the a.m. and p.m. peak
13 hour, as compared to the Grove Slade report that states that all
14 faculty and staff will arrive before the a.m. peak hour, and half
15 would be during the p.m. peak hour. The resulting trip
16 generation from the MCV report is 200, that is, 374 versus 174
17 trips greater in the a.m. peak hour than the Grove Slade report,
18 and 160, that is, 246 versus 86 trips grater in the p.m. peak
19 hour, as compared to the Grove Slade report.

20 Traffic impacts of The Field School, OP notes that
21 some of Foxhall Road s current usage is quite discretionary.
22 Adding a 15 MPH school zone and peak hour traffic officer and at
23 least one traffic light on Foxhall Road will probably persuade
24 some of Foxhall s commuters, especially those from further
25 points, to find alternative routes. The Field School and the

1 planned improvements will likely slow traffic on Foxhall Road,
2 and as some neighbors have pointed out this may be seen as a
3 benefit.

4 Levels of service, with regard to the existing
5 levels of service at the intersection of Garfield and Foxhall,
6 the a.m. volumes in the MCV analysis were higher than the Grove
7 Slade report. Grove Slade videotaped the intersection of
8 Garfield and Foxhall to prove that the operations of this
9 intersection result in queues that clear in every signal cycle
10 during the a.m. peak hour. The p.m. volumes were significantly
11 higher in the MCV analysis than in the Grove Slade analysis,
12 which leads us to think they analyzed the commuter peak hour
13 between 4:00 and 6:00 p.m., rather than the school peak hour
14 between 2:30 and 3:30 p.m., and that s been discussed already
15 today. OP believes the Grove Slade should legitimately be used
16 here.

17 The intersection of Foxhall Road and Whitehaven
18 Parkway, the MCV report presents the intersection of Foxhall Road
19 and Whitehaven Parkway as failing in future conditions with a
20 signal as compared to the Grove Slade report that does not. The
21 MCV report did not optimize the signal timing at this
22 intersection to result in acceptable levels. Shifting some green
23 time from one movement to another would easily make this
24 intersection operate at acceptable levels. This intersection
25 appears to be less of an issue with the left-turn lane solution

1 that is now proposed.

2 The Department of Public Works, the Department of
3 Public Works reviewed both the Applicant s traffic plan and
4 analysis prepared by MCV Associates for Neighbors Against Foxhall
5 Gridlock, and did its own study in response to citizen concerns
6 about the traffic impact for the various institutional expansions
7 scheduled for the Foxhall Road corridor. The DPW plan makes the
8 following recommendations, or actually, the DPW report makes the
9 following recommendations.

10 First, the Board of Zoning Adjustment should
11 require that implementation of the transportation management
12 plan, as detailed in the February 29th memorandum, that is of
13 Grove Slade Associates, be a condition of approval, although DPW
14 does question the use of a traffic control officer as possibly
15 unsafe for the officer, due to the limited sight lines along this
16 stretch of road.

17 DPW recommends that the Applicant widen Foxhall
18 Road adjacent to its property and fund the construction of a
19 left-turn stacking lane for southbound traffic turning into The
20 Field School. DPW feels that this would minimize what it sees as
21 the likely result of a previously right-turn-only restriction,
22 that it would increase the likelihood that some cars will use
23 neighborhood streets to cut through to Foxhall or to turn around.

24 In the event that and number three in the event
25 that the Board does not impose the above condition, DPW

1 recommends that the left-turn prohibition be lengthened to apply
2 from 7:30 a.m., to 9:30 a.m., to coincide with the rush hour time
3 period on Foxhall Road.

4 The Office of Planning believes that the new design
5 for a left-turn lane with stacking and an island addresses both
6 of DPW s first two concerns here. The school intends to move the
7 utilities underground, as they widen the road, and DPW also
8 requested that they lay conduit for the city as well, in case a
9 traffic light is needed in the future. Representatives of the
10 school felt that this would be no problem.

11 I might say that our report well, certainly this
12 March 3rd report, and even our rather, our March 10th report, and
13 even our May 3rd report, were both done before we had access to
14 the new traffic consultant s report for the Neighbors Against
15 Foxhall Road, so I ll speak to that a little bit more in a
16 minute.

17 The Palisades Citizens Association has also
18 recommended that the school be approved, but with several
19 conditions, chiefly that the Department of Public Works do a
20 comprehensive study and implement a series of recommendations to
21 improve traffic flow and minimize the intrusion of traffic bound
22 for the school into the adjacent residential neighborhoods, and
23 they feel strongly that such a step is necessary in relation to
24 all the school activity in the area. And, again, that condition
25 is incorporated in some way in the series of conditions that we

1 listed in our May 3rd report, in fact, it s number 23, requiring
2 the school at least to work with the neighbors to approach DPW to
3 implement such a plan.

4 In terms of, the Palisades Citizens Association is
5 particularly concerned with the recommendation made by DPW to
6 install a traffic light at W Street, and DPW was willing to drop
7 that call for a traffic light at W Street in the face of
8 neighborhood opposition.

9 CHAIRPERSON REID: Ms. Vogel, can I ask you to
10 summarize, just give us the highlights and summarize your report
11 for us, in the interest of time? Thank you.

12 MS. VOGEL: Okay.

13 Well, in terms of parking, the school plan was to
14 provide 128 parking spaces. The zoning regulation required 90
15 parking spaces, and the school felt that its maximum need might
16 be 98. However, they were going to provide the 128 in deference
17 to the neighborhood and the feeling of some neighbors that, in
18 fact, they wanted to assure that none of the neighborhood streets
19 were used for parking.

20 The Office of Planning, like all D.C. agencies,
21 however, is responsible for addressing the Federal Clean Water
22 Act, and the Clean Air Act, and the Chesapeake Bay Agreement, and
23 such things, and so we asked that the school, perhaps,
24 investigate a compromise where space be provided for overflow
25 parking should it actually be needed beyond the projected 98, but

1 that those spaces, perhaps, be paved with a more porous surface
2 to meet both our own and the ANC s concerns.

3 So, let s see, the D.C. Environmental Health
4 Administration had also suggested this possibility of utilizing
5 some kind of porous pavement.

6 In our May 3rd report, again, we had completed this
7 report before we had the new consultant report here, and we will
8 ask that DPW speak to what it s doing in terms of the latest
9 consultant report and how it will address that, because we
10 generally have relied on DPW for this more technical aspect of
11 the traffic consulting.

12 So, let s see, in terms of our recommendation, what
13 we tried to do in these 23 conditions was, basically,
14 consolidate, Mr. Sockwell had suggested that the ANC had only
15 seven conditions, but if you looked at the ANC s conditions they
16 actually referenced a lot of pages in our report and they
17 referenced the entire school operations plan. We figured that,
18 wait a minute, we should go back and put these all down in one
19 place, so that we could be clear as to what, in fact, the ANC was
20 recommending, and in order to give them great weight. We felt
21 that their recommendations in this case were quite reasonable,
22 and so we incorporated these into these 23 conditions.

23 And, I guess one of those conditions well,
24 several have already been mentioned, but number 13 is that no
25 more than 106 vehicles should be allowed to enter the school

1 property during the a.m. peak hours, 7:30 to 8:30, conformance to
2 this limit should be tied to planned expansion from 260 to 320
3 students. So, we would, in fact, want to see some kind of
4 monitoring, I guess, of this condition, so that we could be
5 assured that that is, in fact, happening.

6 And also, we felt that the size of the parking lot
7 should be reduced to no more than 110 parking spaces, major
8 evening and weekend events should also require car pooling or van
9 pooling from Metro stops. This is, again, referencing back to
10 our earlier recommendation, and then the ANC's strong feeling
11 about limiting the parking as well. And, part of this was based
12 on my conversation with ANC Commissioner Ann Heuer, who expressed
13 that as a very strong concern that the ANC had during its
14 discussion, the parking spaces.

15 So, I guess I could go ahead and conclude. I don't
16 think you want me to read through all of the suggested
17 recommendations.

18 The Office of Planning does recommend conditional
19 approval.

20 CHAIRPERSON REID: Basically, Ms. Vogel, you can
21 highlight a few of them and what our charge would be to take
22 those that you give us, those that the ANC has given us, those
23 that DPW gives us, and our own, and try to, you know, basically,
24 condense them into some type of order, if, in fact, this were to
25 go forward.

1 MS. VOGEL: Sure.

2 CHAIRPERSON REID: But, you know, I think that most
3 of them have already been hit upon, especially those that have
4 not, in addition to the ones that have already been stated, just
5 highlight the ones that some of the other ones.

6 MS. VOGEL: Yes, and thank you, I appreciate that.

7 CHAIRPERSON REID: And, verify, how many altogether?

8 MS. VOGEL: Twenty three.

9 CHAIRPERSON REID: Twenty three?

10 MS. VOGEL: Yes.

11 CHAIRPERSON REID: And, there were

12 MS. VOGEL: Many were part of the school s operation
13 plan and that was already covered.

14 CHAIRPERSON REID: Right. Well, the only thing I
15 was going to say was that, in addition to those 23 you may want
16 to add in the recommendation the cap. I mean, in the condition,
17 I m sorry, the cap of 320 which was included in your discussion,
18 but not as one of the conditions, the cap on the number of
19 students, that is.

20 MS. VOGEL: Yes, okay. Well, I guess we just
21 thought the planned expansion was, in fact, to 320 students, so
22 we would be happy to add that as a condition as well.

23 But, in any case, I think it was, let s see, I
24 figured that at least one through 11 were in the operations plan
25 of the school, so it s only from 12 to 23 that are other, you

1 know, outside of that operations plan. And, I did highlight
2 number 16 already.

3 I did want to mention that

4 CHAIRPERSON REID: Number 16, which is?

5 MS. VOGEL: the school parking lot should be no
6 more than 110 parking spaces.

7 CHAIRPERSON REID: Wait a minute, which one is that?

8 MS. VOGEL: Number 16.

9 CHAIRPERSON REID: Number 16.

10 MS. VOGEL: Yeah.

11 CHAIRPERSON REID: Wait a minute, I thought that I
12 saw earlier 128 with a circle around it.

13 MS. VOGEL: Well, 128 is the number that the school

14
15 CHAIRPERSON REID: Requested?

16 MS. VOGEL: yeah, that they had requested, and
17 they reduced that, and especially in order to meet the request of
18 the ANC that the parking lot should be set back at least 80 feet
19 from the adjoining properties to the south, and they wanted
20 screening vegetation to be installed and maintained in this
21 buffer.

22 CHAIRPERSON REID: Okay, and now

23 MS. VOGEL: And, we concur.

24 CHAIRPERSON REID: did you discuss why you are
25 recommending a lesser amount than what they are proposing?

1 MS. VOGEL: Yes, because the ANC was calling for
2 that quite strongly. In my discussion, again, with Ann Heuer,
3 ANC-3D, she said that this setback of 80 feet was very important,
4 and that the lesser amount of parking that we originally
5 referenced in our report, the 98 spaces, is what she wanted,
6 actually, but in having a discussion then with the Applicant
7 themselves we came up with, you know, the compromise, but what
8 she wanted was 98.

9 CHAIRPERSON REID: So, the Applicant would be happy
10 with the 106?

11 MS. VOGEL: Beg your pardon?

12 CHAIRPERSON REID: You are saying that that was a
13 compromise number that you came up with and negotiated with the
14 Applicant?

15 MS. VOGEL: What ANC-3D wanted, the 98 that ANC-3D
16 wanted, and the 128 the Applicant originally proposed, the
17 compromise was 110 parking spaces.

18 CHAIRPERSON REID: Okay, and then my question, I
19 don't have any question with the 110, my question then was, if,
20 in fact, there were additional parking spaces that would
21 interfere with the request for the 80-foot setback?

22 MS. VOGEL: Well, the lesser parking spaces number
23 of parking spaces, would allow that 80-foot setback far more
24 easily, you know, in the area proposed for parking. If they
25 reduce the number of parking spaces, they can, in fact, get to,

1 you know, can do that 80-foot setback.

2 VICE-CHAIRMAN SOCKWELL: Let me ask a quick
3 question, Ms. Vogel, since we are on that. Is the 80-foot
4 setback driving your parking space reduction, or is your parking
5 space reduction driving your 80-foot setback, because they are
6 two different things with different reasons and different
7 meanings, and they should not be combined as sort of a we ll do
8 it this way to get that situation.

9 MS. VOGEL: Well, I think

10 VICE-CHAIRMAN SOCKWELL: That s, fundamentally, not
11 good planning, if you understand where I am coming from.

12 MS. VOGEL: sure, I certainly do.

13 Well, part of the feeling in terms of the parking
14 spaces in the first place is, you know, if you provide it they
15 will come, so it is also, as I suggested earlier, part of our
16 efforts to address the well, the fact that maximizing the
17 number of parking spaces is not always going to be seen as a
18 positive because of the other things that the Office of Planning
19 has to address, like the Clean Air Act and the Clean Water Act.

20 CHAIRPERSON REID: But, Ms. Vogel, what I m trying
21 to reconcile

22 MS. VOGEL: The zoning requirement is 90, for 90
23 spaces.

24 CHAIRPERSON REID: Yeah, 90, at least 90. But, what
25 I m trying to reconcile is, the issue of one adverse impact

1 factor vis-à-vis another, and I guess it was brought up this
2 morning was the issue of students parking, that not wanting the
3 students to park in the street and imposing penalties, and it
4 appears to me that if parking is provided then that would, you
5 know, negate that concern of the students feeling the need to
6 park in the neighborhood, and then it s going to raise the issue,
7 well, they wanted to have more green space rather than having the
8 paved space for the parking. So, my question to you is, is that
9 the solution, the 110 spaces then would do you think that would
10 preclude any problems with the students, perhaps, parking in the
11 neighborhood? Is that what is driving that?

12 MS. VOGEL: Well, all right, first of all, again,
13 the ANC that represents the area probably discussed this, yeah, I
14 mean I think they did some balancing between, you know, the
15 desire not to have students parking on the street, or any of the
16 school s staff and faculty parking on the street, but I think
17 they felt that one of their other concerns was both from a from
18 some of the environmental factors, like storm water runoff, and
19 also the fact that parking lots generally cause something of a
20 micro climate change, you know, have a heat island effect and
21 that sort of thing. They just wanted to see that

22 CHAIRPERSON REID: Have what kind of an effect?

23 MS. VOGEL: heat island, you know, they cause
24 additional heat in the atmosphere.

25 CHAIRPERSON REID: So, basically, it s kind of a

1 struggle between more parking spaces and more green, with the
2 likely problem of there being students parking in the
3 neighborhood, and I guess it s a toss up as to which is more
4 important. Is it that, if you could solve the problems in
5 parking in the neighborhood by providing parking, but then, on
6 the other hand, too, you want more green space, and you can t
7 have, you know, you can t have it all, so it s got to be some
8 balancing that would be realistic and suitable for that
9 particular situation.

10 MS. VOGEL: Sure.

11 CHAIRPERSON REID: And, is that answer, that s my
12 question.

13 MS. VOGEL: Well, the figure of 110 could be, you
14 know, one of the other issues, I guess, driving the school s
15 request for 128 was just any extra.

16 CHAIRPERSON REID: I mean, this is not my area of
17 expertise, but from a larger point of view, there are ten acres
18 there, it seems to me that both issues should be able to resolved
19 pretty satisfactorily.

20 MS. VOGEL: Well, except that this is fairly steeply
21 sloped land, and, you know, even the parking area was going to be
22 somewhat sloped as well. So, you know, I think that was part of
23 it, but we were trying to accommodate to the ANC s position, who
24 requested a reduction in parking.

25 MS. MCCARTHY: Ms. Reid, let me add something.

1 CHAIRPERSON REID: Ms. McCarthy, are you trying to
2 get in? I m sorry.

3 MS. MCCARTHY: I think as Mary was alluding to, it
4 is a difficult balancing act, but we thought relying on the
5 feedback of the people who are most likely to be affected, the
6 constituents of the ANC, that was the reference, but also this is
7 an issue that is faced I know it was a major issue in
8 Georgetown Day School and other cases, and the process there was
9 to focus more on enforcement, either by requiring students to
10 have decals on their car, and having the school, first of all,
11 establish as a clear policy that anybody who is reported by a
12 neighbor to have parked on their street with a decal, or to even
13 have parked on the street and be seen walking to the school, that
14 that would be dealt with, you know, appropriate punishment or
15 whatever from the school.

16 CHAIRPERSON REID: Ms. McCarthy, I understand what
17 you are saying, and I appreciate it very much. What I m getting
18 to is, lately we ve been getting a lot of complaints about our
19 conditions, and the fact that they are not being, you know,
20 enforced like they should be, and, therefore, not taken
21 seriously. So, my thought then was, creating a scenario where
22 you have less need for enforcement by bridge of the fact that you
23 provide certain things that would make it less likely that you d
24 have the problem in the first place, that s what I was thinking
25 that we might want to look at with these issues, because, let s

1 face it, if there s not enough parking spaces then the kids are
2 going to park in the neighborhood, and then it s going to be a
3 problem that has to be addressed, and how is it going to be
4 enforced.

5 MS. VOGEL: Again, the traffic consultant, though,
6 projected the maximum need would be 98 parking spaces, so, you
7 know, I mean, and again, if you build it they will come.

8 VICE-CHAIRMAN SOCKWELL: Did the Office of Planning
9 take into consideration the Mount Vernon approval, Mount Vernon
10 Campus approval, and the fact that there will be some potential
11 off-site parking generated there? It is probably more
12 appropriate in that environment to consider very carefully any
13 on-site parking reductions as, perhaps, having a collateral
14 negative effect, when combined with other off-site parking
15 conditions that may have been approved and may be forthcoming
16 shortly. And, I think that there are some tradeoffs here, but
17 just as the Applicant has to look at those tradeoffs, the Office
18 of Planning and our other city agencies have to look at those
19 tradeoffs in the context of their report analyses.

20 MS. VOGEL: Well, one possible resolution, too,
21 would be for the neighborhood to accept zone parking, and, of
22 course, call for its strict enforcement.

23 CHAIRPERSON REID: I don t know about that, that
24 might be opening a Pandora s Box.

25 MS. VOGEL: I have it in my neighborhood.

1 COMMISSIONER RENSHAW: Madam Chair, I have several
2 questions for the Office of Planning, Ms. Vogel.

3 Number two, where you talk about the school will
4 strictly enforce car pooling, and that no students can have the
5 privilege of driving to campus without at least two passengers,
6 either students or faculty. Are you creating an unsafe
7 situation? Recent studies have talked to the effect that the
8 safest situation is a student driving by him or herself, and not
9 having any other peers in the car with the student. So, here we
10 are suggesting at least two passengers, and I am not sure that
11 that is wise for this governmental body to be creating a
12 situation which could very well be unsafe, and given the
13 authorities that have been publishing on this subject, counter to
14 what they are recommending.

15 MS. VOGEL: Well, again, you know, our office, as
16 are all the various agencies of the D.C. government, are
17 responsible for addressing the Clean Air Act, and the Clean Water
18 Act, and all, too, and car pooling is certainly one of the ways
19 that we are trying, as a region, to reduce the negative impacts
20 of single vehicle occupancy.

21 So, I guess, you know, another potential condition
22 would be a training session for The Field School drivers or
23 student drivers, in terms of vehicle safety. I don't know.

24 COMMISSIONER RENSHAW: Well, that's why I had
25 recommended that a police person be at this meeting, so that we

1 could talk about this, perhaps, somewhat representatives from the
2 PSA involved in this particular area, because I do not like the
3 idea of recommending and really promoting car pooling among kids,
4 among young students. I don't think that that is a very good
5 idea.

6 Next point, you say that, number three, the school
7 will not start any outdoor athletic event after 6:00 p.m. Is
8 there a cutoff time. We know that the lights go down at 9:00
9 p.m., but what about an outdoor athletic event that starts at
10 5:00 to 6:00?

11 MS. VOGEL: Well, this is in the operations plan for
12 the school, and I guess would be better addressed to, perhaps,
13 Clay would be speaking Clay Kaufman would be speaking for
14 Elizabeth Eli here. We I guess I'll stop there.

15 CHAIRPERSON REID: I think that

16 COMMISSIONER RENSHAW: That gives me an answer, but
17 I am just recommending that, perhaps, the language of OP's
18 recommendation here might be altered so that you are not talking
19 about the start of any outdoor athletic event after 6:00, that
20 you are talking to the point of when these athletic events are
21 going to end, so that the neighbors can get a sense of when,
22 shall we say, peace may return to the valley.

23 All right, you did not mention any outdoor athletic
24 events that might bring the students out onto the streets around
25 there. This is a school that has a cross country team, and are

1 they going to do their cross country from The Field School into
2 the neighborhood? I just didn't understand what you are going to
3 how you are going to address that.

4 You also, the OP report does not have any
5 recommendations to the Board regarding the number of special
6 events. You have a reference to special events in number seven,
7 shutting the lights at 9:00, and not turn on the lights at this
8 parking lot on Saturdays, Sundays, except for special events, but
9 there's no special words on the number of special events that OP
10 is recommending.

11 CHAIRPERSON REID: I think that's three special
12 events.

13 COMMISSIONER RENSHAW: Yes, but it's not in this
14 report.

15 CHAIRPERSON REID: That's one of the conditions.

16 COMMISSIONER RENSHAW: It should be.

17 Number eight, the school will not allow any outside
18 group to rent its facilities. I am questioning or suggesting
19 that OP insert including the parking lot, and I say that because
20 it's going to be very tempting for the Belgian Embassy across the
21 street to inquire of the school for use of the parking lot for
22 special events, and I think that the neighbors might want a
23 condition in this that the parking lot will not be used for
24 embassy events.

25 CHAIRPERSON REID: Let me ask a question here, Ms.

1 Renshaw. One of the conditions also was that The Field School
2 had agreed to allow ground to be used by the neighbors. Now, if,
3 in fact, there is something happening at the Belgian Embassy that
4 would require parking in the neighborhood, wouldn't it be better
5 for them to park there?

6 COMMISSIONER RENSHAW: Well, I think that this is
7 something that should go back to the ANC, and the ANC should
8 discuss it with the other community representatives and decide
9 how you'd like to handle it, and suggest to OP.

10 CHAIRPERSON REID: In our desire to try you know,
11 to impose as many conditions as we can to mitigate adverse
12 impact, at the same time we don't want to inadvertently cause
13 one.

14 COMMISSIONER RENSHAW: Well, that's true, it's a
15 tightrope that you walk here.

16 CHAIRPERSON REID: Yes.

17 COMMISSIONER RENSHAW: But, the other thing to
18 consider is that if you are allowing parking in The Field School
19 for a special event at the embassy across the street the lights
20 go up, they do not go down. In other words, these are events
21 which may go well beyond 9:00, and so you are going to have to
22 accommodate that.

23 VICE-CHAIRMAN SOCKWELL: Well, let me say this, if I
24 may. I have questions about several of your statements, Ms.
25 Renshaw, one of them, with particular interest in being fair, we

1 have no conditions on the Belgian Embassy for events. In that
2 light, should they have a program that requires extensive
3 parking, it would be to our benefit not to force that parking
4 into the community on the streets. I don't think the
5 neighborhood would want that.

6 COMMISSIONER RENSHAW: I --

7 VICE-CHAIRMAN SOCKWELL: I'm not through yet,
8 though, on this. And, allowing them to park on the property of
9 the school is one thing, certainly they can be made aware that
10 the lighting has to be turned out at 9:00, and that would be a
11 condition on The Field School, not on the Belgian Embassy, and
12 what The Field School is required to do has nothing to do with
13 the Belgian Embassy.

14 I would also want to state that with regard to car
15 pooling, I think that it is more appropriate to see a group of
16 kids going to school with other kids and the car full of books,
17 than to see the kids driving around on the weekends with a car
18 full of booze. And, I think that for the children going to The
19 Field School to car pool teaches, to a degree, a certain amount
20 of responsibility, because at that age driving is certainly a
21 privilege and they don't own their own cars from their own jobs
22 most often. But, I think that car pooling is a necessary
23 situation, just like latch-key kids is a necessary situation,
24 which has its negatives. And, I think that we have to be fair in
25 looking at this, and realize that this is a modern age that we

1 have to work with.

2 COMMISSIONER RENSHAW: On the matter of the embassy,
3 I did suggest, once again, that this matter be referred back to
4 the ANC and the other civic associations, and I think that their
5 voice should be heard by the Office of Planning in deciding how
6 you would like this matter handled. And, that should be it.

7 And, I have one other question here. Number 17,
8 where you are talking about screening vegetation must be
9 installed, are you would you also consider inserting in this
10 language some option for fencing or a wall, for instance, should
11 the most direct abutter require that. In other words, it s not
12 just screening vegetation to be installed, but I should think
13 that there may be the need for fencing or a wall.

14 MS. VOGEL: Well, again, we took our lead from the
15 ANC. I think our own preference would, in fact, be the screening
16 vegetation and the berm that the school has already proposed, you
17 know, as being the most natural. It seems that this neighborhood
18 has expressed, you know, some interest in keeping the site as
19 pristine and park-like as possible.

20 COMMISSIONER RENSHAW: And, I respect that, but I m
21 also talking from the experience of living in a neighborhood with
22 a school, with a very active student population, a student
23 population that drives a great deal, and, again, the neighborhood
24 required a wall and it has been very successful and not offensive
25 at all. So, I m just suggesting, again, the neighbors decide.

1 MS. VOGEL: Well, one of the conditions is, in fact,
2 regular meetings between the school and the various
3 representatives of the neighborhood, including the ANC, but many
4 of the other local citizens groups as well, and I guess if they,
5 at some point in the future, were to require that, then the
6 Office of Planning would have no problem, but we would not I
7 don t believe we would want to put it into our recommendations at
8 this point.

9 COMMISSIONER RENSHAW: Thank you, Ms. Vogel.

10 COMMISSIONER MOULDEN: Madam Chair, is it our goal
11 to approve or accept the Planning Department s report today?

12 CHAIRPERSON REID: No.

13 COMMISSIONER MOULDEN: Okay. I think we should move
14 to move on to the DPW report, and before we make a recommendation
15 on these projects that we consider these recommendations from the
16 Office of Planning, along with other conditions, so that we can
17 move forward.

18 CHAIRPERSON REID: I agree.

19 MR. BOLOTIN: Madam Chair?

20 CHAIRPERSON REID: Yes.

21 MR. BOLOTIN: I have some limited questions that I
22 need to have answered, if I may.

23 CHAIRPERSON REID: Sure, you will have an
24 opportunity to cross examine the Office of Planning.

25 MR. BOLOTIN: Thank you.

1 CHAIRPERSON REID: I just wanted to point out, in
2 regards to whatever conditions or suggestions are made here at
3 this time, that it s incumbent upon us to make a final decision.

4 I don t think that in these proceedings, typically, we send a
5 matter back to the ANC for them to make a decision on. We have
6 it before us and we have to decide whether or not we are going to
7 accept, reject, alter, amend, or whatever we want to do. I think
8 that when we get into deliberations we can then discuss the issue
9 as to the use of the parking lot, and whether or not we want to
10 have it restricted, or whether or not we feel that it would
11 relieve some of the parking pressure from the Belgian Embassy.
12 We ll handle it in that vain.

13 Also, I think that we should be mindful of the fact
14 that this is a school, it s not a prison, it s not a jail, and as
15 such we want to carefully balance the needs of the children who
16 are getting an education, a full education, which has all of the
17 other things that go with it, getting back and forth, and the
18 extracurricular what have you, so they will not be deprived, as
19 well as looking at the impact on the neighborhood. And, I think
20 that we can strike a balance somehow along the way so that all
21 entities can somehow be satisfied, hopefully, all entities can be
22 satisfied.

23 COMMISSIONER MOULDEN: A lot of these issues are
24 site plan issues that can be worked out after we hear DPW s
25 report, and we hear all of the testimony and information on this.

1 The site plan is the most important layout of this plan. We
2 can t really make the total decision until we here everything on
3 this case.

4 CHAIRPERSON REID: Right.

5 COMMISSIONER MOULDEN: It may require that we add
6 additional conditions to OP s report, too.

7 CHAIRPERSON REID: Yes, we are kind of like hopping
8 ahead of where we need to be right now.

9 Cross examination of the Office of Planning, Mr.
10 Aguglia, Mr. Bolotin, and Mr. Swendiman.

11 MR. AGUGLIA: I ll try to be I ll try to speed
12 this along, because we have about an hour s testimony that we
13 want to present as part of our opposition.

14 CHAIRPERSON REID: Yes, right.

15 MR. AGUGLIA: All right.

16 Now, Ms. Vogel, you were at the last BZA meeting,
17 correct?

18 MS. VOGEL: Yes, I was.

19 MR. AGUGLIA: All right.

20 And, you were aware that because of the last minute
21 introduction of this new stacking lane that the hearing was
22 bifurcated until today.

23 MS. VOGEL: Yes.

24 MR. AGUGLIA: All right.

25 You were aware that the school had until a certain

1 date, I think it was April 13th, to submit their final plan.

2 MS. VOGEL: Yes, I was.

3 MR. AGUGLIA: And, that we had until May 3rd to
4 submit our opposition, if any.

5 MS. VOGEL: Yes, I was.

6 MR. AGUGLIA: All right.

7 Now, you stated a little while ago that you
8 rendered your recommendation to this Board without the benefit of
9 our expert analysis, isn't that correct?

10 MS. VOGEL: Ah

11 MR. AGUGLIA: We can have this gentleman read it
12 back to her, but is that correct, did you render your decision
13 without the benefit of having our expert analysis?

14 MS. VOGEL: well, our report was also due on May
15 3rd, any addendum to our report was due on May 3rd as well. We
16 didn't get your report until the end of the day, and we were also
17 very reliant upon DPW in terms of interpreting your report. We
18 did, in fact, make a great effort to reach them in order to
19 incorporate some kind of further analysis of your report and were
20 unable to.

21 MR. AGUGLIA: You didn't receive our report around
22 noon on the 3rd?

23 MS. VOGEL: No, I didn't.

24 MR. AGUGLIA: You didn't?

25 MS. VOGEL: No.

1 MR. AGUGLIA: Was it delivered to your office around
2 then?

3 MS. VOGEL: I am not aware that it was.

4 MR. AGUGLIA: But, despite the fact that we had
5 until the 3rd to file it, you did not take it into consideration
6 in making this recommendation to the Board, correct?

7 MS. VOGEL: Well, I didn't address it in the report.

8 MR. AGUGLIA: All right.

9 MS. MCCARTHY: Also, let me add, Mr. Aguglia, that
10 when it comes to technical highway design issues, which was
11 basically what your report addressed, which we did look at before
12 we submitted our report, our report had been written, it didn't
13 raise issues that we felt we were capable of addressing. We are
14 not the Department of Public Works.

15 So, we were aware of the fact that the Department
16 of Public Works had met with had an ongoing series of meetings
17 with you all and with the Applicant, and we felt it was much more
18 appropriate for them, you know, we don't usually deal with AASHTO
19 design standards or the Manual for Uniform Traffic Control
20 Devices and that sort of thing.

21 MR. AGUGLIA: Wouldn't it have been more appropriate
22 to delay your decision pending giving us a fair shot at our
23 presentation? Wouldn't that have been the appropriate thing to
24 do?

25 MS. MCCARTHY: Well, no, I mean, we felt what the

1 appropriate thing to do was, is to say to DPW, these are
2 technical highway design, traffic design questions, we really
3 want you to be here at the hearing today, and they are, and

4 MR. AGUGLIA: So, all right, let me ask you this
5 then. If, in fact, it is proven that our study is correct and
6 the Grove Slade report is incorrect and presents an unsafe
7 hazard, is the Office of Planning prepared to make to change
8 its recommendation to this Board?

9 MS. MCCARTHY: Certainly. If the Department of
10 Public Works told us that upon consideration of the evidence they
11 felt that this was an unsafe situation, we certainly would not
12 recommend that to the Board.

13 MR. AGUGLIA: Okay.

14 VICE-CHAIRMAN SOCKWELL: Mr. Aguglia, just as a
15 matter of procedure, have we qualified your expert as an expert
16 at this point?

17 MR. AGUGLIA: Not yet.

18 VICE-CHAIRMAN SOCKWELL: Okay, so we might want to
19 strike the word expert from your analysis until we've qualified
20 your expert.

21 MR. AGUGLIA: That's fine.

22 VICE-CHAIRMAN SOCKWELL: Thank you.

23 MR. AGUGLIA: Okay.

24 CHAIRPERSON REID: Mr. Aguglia, procedurally,
25 typically that doesn't happen, as far as them having the analysis

1 hearing your report, the order of procedure is the Applicant,
2 and then the government reports, and then the persons in support,
3 parties in support and persons in support, and then the persons
4 and parties in opposition, and, unfortunately, your testimony
5 doesn't fall until after the Office Of Planning report. And, I
6 think that the issue that you raised is a good one, because you
7 are right, they don't have the benefit of what you are going to
8 present before making their analysis, and so, perhaps, we need to
9 revisit how the procedure is done and see if we can try to
10 somehow reconcile that problem.

11 This is the first time this has come up, too,
12 incidentally.

13 MR. AGUGLIA: I am a proponent of what I'll call due
14 process. I think it's unfair for me to put on the Board at the
15 very last minute a very complex argument, or DPW, or OP. I want
16 it out front, delivered to everyone.

17 CHAIRPERSON REID: I think that what we'll do is

18 MR. AGUGLIA: So that, they can understand it and
19 have time to vote on it.

20 CHAIRPERSON REID: Yes, the Zoning Commission member
21 is not here, nonetheless, I think that I will take it up with
22 them to make sure that they take into consideration to see how we
23 can not have a problem like this come up again.

24 MR. AGUGLIA: Right.

25 CHAIRPERSON REID: I appreciate your bringing this

1 to our attention.

2 MR. AGUGLIA: Yes, and, of course, I don't be at the
3 awkward disadvantage for my client that you've had the Grove
4 Slade report for months and you suddenly get mine five minutes
5 during the course of the hearing, with no chance to digest it.

6 CHAIRPERSON REID: Yes, sure.

7 MR. AGUGLIA: All right.

8 But, the point I wanted to know was if, in fact,
9 they were proven wrong that you would, in fact, change your
10 recommendation.

11 Okay. Going to your March report, I don't see any
12 analysis in here of the Ward 3 plan, which highlights that the
13 ward's most outstanding characteristic is its low density stable
14 residential neighborhood and the need to preserve it. Why does
15 your report not address what is considered to be one of the main
16 themes of the Ward 3 plan, which is part of the comprehensive
17 plan?

18 MS. VOGEL: My supervisor would like to address
19 that.

20 MS. McCARTHY: I think I'd like to address that. We
21 did not specifically reference the Ward 3 plan, it's very
22 consistent with the comprehensive plan as a whole, which is, as
23 you know, to support all of the District's stable neighborhoods
24 and to reinforce that.

25 We also looked at, or were aware of, the appellate

1 law, and for some reason the case is escaping me now, the one
2 that said private schools are not, after all, under something,
3 private schools are considered, as you know, in appellate law,
4 and by the fact that they are placed as a special exception, and
5 not as a variance, a use variance, are considered to be something
6 that is quite consistent with the residential character of
7 neighborhoods. So, we did not find that at all at odds with that
8 particular policy of the Ward 3 plan.

9 MR. AGUGLIA: You did not.

10 Were you aware of the more recent case that was
11 decided by the Court of Appeals, in which the court stated
12 reversed the Zoning Commission's decision and sent it back
13 because they had failed to consider all aspects of the
14 comprehensive plan?

15 MS. MCCARTHY: Yes, you are talking about the
16 apartment

17 MR. AGUGLIA: Which is a very recent case.

18 MS. MCCARTHY: right, no, we are certainly aware
19 of that, but as I said, we looked at the comprehensive plan and
20 Ward 3 plan in general and did not find anything about private
21 school use as a private school use to be inconsistent with a
22 residential neighborhood. So, we focused, as the Zoning
23 regulations require, on the specific impacts of a private school
24 to see whether it meets the special exception test.

25 MR. AGUGLIA: You are aware that there are many,

1 many other institutions around this particular site, did you not
2 see that the 1999 Ward 3 plan was sort of a call or cry by the
3 citizens that they wanted to keep the residential neighbor the
4 residential character of their neighborhood? You did not see
5 that as being a direct outcry against the institutionalization of
6 this area?

7 MS. McCARTHY: Actually, the Ward 3 plan was more
8 explicitly directed at commercial encroachment in residential
9 neighborhoods, and the language really was more geared to a
10 number of development battles that were going on at that time,
11 that related to commercial encroachment.

12 MR. AGUGLIA: Even though it says that the primary
13 purpose, it s outstanding characteristic is the low-density
14 stable residential neighborhoods, despite that language, isn t it
15 a fact that in your report, either Ms. Vogel or Ms. McCarthy,
16 your March report at page seven, that you say that the area has
17 already been characterized by a number of institutional uses,
18 such as former Mount Vernon College, St. Patrick s Church and
19 School, and the Krieger Museum and various embassies, is that not
20 correct?

21 MS. McCARTHY: Uh-huh.

22 MR. AGUGLIA: So, aren t you basically saying that
23 we might as well institutionalize this because it s already
24 institutionalized already, and let s just disregard aren t you
25 saying let s just disregard the residential nature of this area?

1 MS. McCARTHY: No, I think we are saying that
2 Foxhall Road, a major commuter arterial such as Foxhall Road, is
3 a different situation than if one were putting a school smack in
4 the middle of a residential neighborhood which has no other
5 institutional uses, which is only accessed by very quiet, what
6 would be termed in traffic engineering collector streets, you
7 know, directly residential streets. This is not entirely a
8 quiet, low-density residential neighborhood, that which is
9 immediately abutting Foxhall Road number one, and, number two,
10 this is a ten-acre site with a school that is relatively small by
11 standards of the site, and the topography, and the way it s
12 laying out. So, we felt that there was nothing inconsistent
13 between the school and the character of the rest of the
14 neighborhood.

15 MR. AGUGLIA: Which studies did you look at to see
16 that, in fact, the size of the property was commensurate with the
17 size of the student body and faculty?

18 MS. McCARTHY: No, I m not saying that. I m well
19 aware of the fact that your study pointed out that as a ratio of
20 open space to campus The Field School is one of the smallest,
21 although

22 MR. AGUGLIA: That s not my question, my question
23 is, what study did you look at to determine, to make to form
24 the basis of your statement that, in fact, that the size of this
25 particular size was good for this particular size of school?

1 MS. McCARTHY: We looked at the layout of the school
2 and the amount of buffering that was provided between the school
3 and the residential neighborhoods, and felt that the site design
4 of the school had buffered it quite well from the surrounding
5 residential impact.

6 MR. AGUGLIA: All right, so you were looking more at
7 buffering than whether or not the site was good for the size of
8 the particular school, is that correct?

9 MS. McCARTHY: Right.

10 MR. AGUGLIA: Now, one of your keynotes in this
11 report and in your May report is the requirement that no more
12 than 106 vehicles enter in the morning, at a.m. rush hour,
13 correct? Is that correct?

14 MS. VOGEL: Yes.

15 MR. AGUGLIA: All right.

16 Isn't the only real way to enforce that, is that
17 if, in fact, there's a traffic officer in front that stops the
18 107th vehicle and every other one after that from coming in?
19 Isn't that the only way that this is going to really work?

20 MS. VOGEL: I don't think that's necessarily the
21 case. We weren't asking for that enforcement on spot, we were
22 asking for some way of monitoring that. We'd leave that plan up
23 to the school as to how that would be monitored.

24 MS. McCARTHY: Mr. Aguglia, we based that
25 specifically on a similar provision that had been created with

1 respect to The Washington International School, and I personally
2 spoke to the person who had been President of the Burleigh
3 Citizens Association when that arrangement was worked out and
4 asked him if that was working effectively as far as they were
5 concerned, and he said the neighborhood was quite happy with that
6 arrangement with Washington International School.

7 MR. AGUGLIA: But, if it doesn't work it's too late,
8 isn't it?

9 MS. MCCARTHY: No. I believe what we said was that
10 the agreement, the arrangement should premise expansion of the
11 school beyond its initial numbers on satisfactory attainment of
12 that particular performance standard.

13 MR. AGUGLIA: All right, but here's my question.
14 Let's assume that double the number of cars, that the school is
15 built and double the number of cars come in than is projected,
16 and it's causing traffic jams, do you think there's any
17 possibility that the school is going to be closed down as a
18 result of that?

19 MS. MCCARTHY: I think what we recommended is not
20 closing the school down, the school has made it quite apparent
21 that they wish to expand when they get onto that site, beyond
22 what their initial enrollment is. What we've suggested is a
23 clause very similar to the Washington International School, which
24 was in exactly the same position, where the school is aware that
25 unless they meet that target the neighborhood has, in effect, a

1 veto power over their expansion.

2 MR. AGUGLIA: So, if there s a monitoring that takes
3 place, and there are more than the 106 cars on a regular basis,
4 then you are saying that this Board should include some sort of
5 stipulation that the school would be prevented from going to 260
6 to 320 students, is that what you are saying?

7 MS. McCARTHY: That s right.

8 MR. AGUGLIA: So, it would be a monitoring with a
9 real effect.

10 MS. McCARTHY: Right.

11 MR. AGUGLIA: Okay.

12 CHAIRPERSON REID: Wait, wait, let me understand
13 what you are putting upon the Board. Now, what did you just say,
14 if what happens?

15 MR. AGUGLIA: What I m saying is, I m trying to if
16 the Board is going to, in fact, adopt this proposal, which we
17 oppose vigorously

18 CHAIRPERSON REID: Right, but

19 MR. AGUGLIA: in order to monitor the number of
20 cars that are going in and out

21 CHAIRPERSON REID: okay, we have to realistic
22 about this, if, in fact, there s a cap of 320 students and 110
23 cars, is it, 106 cars, 106 cars, what you are saying is that if
24 that doesn t happen then the Board would then

25 MR. AGUGLIA: No, what I m saying, let me rephrase

1 it, what I m saying is that their initial enrollment is 260.
2 They want to go to the site where they can expand their
3 enrollment to 320, and add the athletic fields so the kids can
4 play outside.

5 CHAIRPERSON REID: Right.

6 MR. AGUGLIA: What I m saying is, that they are
7 restricted to 260 until we have a sufficient time to monitor to
8 make sure that they don t exceed the limits posted in the Grove
9 Slade report. If they do exceed it, then they can t expand to
10 the 320.

11 CHAIRPERSON REID: Well, see that s what I m saying,
12 we have to be very careful about that, because if they are at 260
13 and we have a condition for them to go to the 320, and they don t
14 meet that condition, you are saying then they would not be
15 allowed to go the 320.

16 MR. AGUGLIA: That s correct.

17 I mean, you yourself said the neighbors were
18 complaining, and I ve heard this from many people, that the Board
19 will impose conditions and they are never enforced, and then the
20 traffic starts, and it s just an unfortunate circumstance.

21 CHAIRPERSON REID: Well, we have to determine the
22 best way to be able to consummate something like that, and it s
23 not it s not within our purview to simply say that if this
24 doesn t happen than that, you know, because there is no mechanism
25 that we know of that can adequately measure or monitor that event

1 actually occurring or not occurring. So, we have to be very
2 careful about how we proceed with that.

3 Now, there is conceivably a manner in which that
4 could be accomplished, I don't know what it is right now, but it
5 can't just be done arbitrarily, to say, well, if this doesn't
6 happen that doesn't, because the order that we put out is very
7 clear as to what is supposed to happen, but there is no mechanism
8 in there to allow for adjustments if they don't. That's what I'm
9 saying.

10 MR. AGUGLIA: I respectfully disagree. You could
11 have them on a year's probation, so to speak. You could have a
12 neutral person monitor.

13 CHAIRPERSON REID: Well, whether you agree or not,
14 Mr. Aguglia, we don't have that kind of authority, you see,
15 that's what I'm trying to let you understand. We had the same
16 problem with another school some time ago I mean, a few weeks
17 ago, where it was proffered through the Office of Planning that
18 we let them go occupy there for a year and then after a year
19 revisit the situation and then make a decision, and it was made
20 very clear that we cannot do that.

21 So, the point I'm making is that, the objective
22 can, perhaps, be accomplished in another way, but it will not be
23 done with us putting in the order if this doesn't happen then
24 that will happen. It's just now allowed. We don't have that
25 authority. That's the whole point I'm trying to make.

1 And, I understand your concern, and when we discuss
2 it in our decision making, that will be considered, and we ll see
3 how we can address it, but it can t be addressed like that,
4 because there s just no provision for us in the regulations to be
5 able to do that.

6 So, I don t want you to have an illusions.

7 MS. McCARTHY: Okay, Madam Chair, a couple of ways
8 that we had thought of to approach that. One is, as the
9 Washington International School did it, was an agreement that was
10 drawn up between the school and the neighbors that was covenanted
11 to run with the land, and which the school agreed to and the
12 neighbors agreed to, and in which the school agreed not to seek
13 an expansion unless the conditions were met, and that agreement
14 was then incorporated in the final order by the Board of Zoning
15 Adjustment.

16 A second approach is to provide in the order
17 approval for only a certain number of students, and then if they
18 wish to expand their certificate of occupancy to encompass
19 additional students they have to come back and request an
20 increase.

21 I don t know if there s a way to do that without
22 having to do a full hearing.

23 CHAIRPERSON REID: The whole point I m making is
24 that that s something we cannot do. We cannot do that, but
25 that s a different order. If, in fact, we mandate that there be

1 260 students, and that is what will be in this particular order,
2 and then if, in fact, they want to increase it after so much time
3 has passed then they have to come back before the Board and that
4 will be a different order.

5 MS. McCARTHY: Right, that s what I m saying, that s
6 one possibility, is just approving a certain level and requiring
7 them to come back. I assume, and I m trusting that the legal
8 minds out there can come up with a way of doing that that maybe
9 doesn t require starting from ground zero and coming back again.

10 CHAIRPERSON REID: Well, that s two different
11 applications, unless now, if, in fact, the community and the
12 Applicant, the opposition and the Applicant have an agreement
13 among themselves that, you know, they want to include as a part
14 of the order, that s one thing, but it s not something that we
15 can do as far as giving them so much I mean, allowing them to
16 start with a certain number and then after so much time if they
17 have not violated any of the conditions to add more to it.

18 MR. FEOLA: Madam Chairperson, Phil Feola for the
19 Applicant, and maybe we can cut through a few of these things.

20 There are a whole series of monitoring things that
21 can be done. We ve all ran over these traffic counters that are
22 put in driveways, we can have them certify that for a certain
23 period of time, Mr. Aguglia s clients can look at them, and check
24 them, and we can submit them to the Board. In fact, this Board
25 has a precedent of requiring continuing reports from private

1 schools every three years to see where enrollments are. They are
2 open to the public, opponents can look at them, look at the
3 enrollment figures and, basically, there s a way that this Board
4 can feel comfortable, opponents can feel comfortable, that if
5 there is a condition it s being met.

6 If you don t meet a condition in that zoning order
7 you are subject to a \$1,000.00 fine, period. If that report comes
8 in and there s 107 cars clicking over that driveway in the
9 morning, the Zoning Administrator probably won t close the school
10 down, I ll concede that to Mr. Aguglia, but there s a civil
11 infractions requirement, it s \$1,000.00 a day fine, it s
12 \$365,000.00 a year. I would suggest that a non-profit school is
13 going to do what it can to get that number from 107 to 106.

14 And then finally, we don t disagree with the Office
15 of Planning. We are willing, the school is willing, to live with
16 a bifurcated condition. Open the doors at 260, and you are
17 permitted to expand to 320 some time in the future, provided that
18 you don t exceed the 106. So, we can live with the exact
19 exactly what I heard I think I heard Mr. Aguglia say, although,
20 I respect that he s still opposing the application, a bifurcated
21 cap, start at 260, go to 320, but only if we meet all the
22 conditions.

23 So, I just wanted to sort of cut through that, and
24 I think we are way past where we should be in terms of cross
25 examining the Office of Planning.

1 MR. AGUGLIA: Were you at all skeptical, Ms. Vogel,
2 about the 106 being the correct number of the a.m. peak hour
3 trips into the school?

4 MS. VOGEL: No, I wasn't. I guess having heard the
5 testimony of at the ANC-3D meeting, and at our last hearing of
6 various members of the school and people associated with the
7 school, I felt that they would, in fact, reach that commitment.
8 I felt the traffic management plan was, you know, of the nature
9 that would get them there.

10 MR. AGUGLIA: So, you believe that every teacher
11 will be there before 7:30, every single teacher, every day?

12 MS. VOGEL: Well, I can't say there wouldn't be some
13 exceptions, but, yes.

14 VICE-CHAIRMAN SOCKWELL: Mr. Aguglia, let me ask you
15 a question, sir.

16 MR. AGUGLIA: Yes.

17 VICE-CHAIRMAN SOCKWELL: Did you attend public
18 school?

19 MR. AGUGLIA: Did I attend public school?

20 VICE-CHAIRMAN SOCKWELL: Yes, sir.

21 MR. AGUGLIA: Uh

22 VICE-CHAIRMAN SOCKWELL: Ever?

23 MR. AGUGLIA: Ever attend public school? Private
24 schools.

25 VICE-CHAIRMAN SOCKWELL: Okay.

1 Well, in public schools, which I attended, the
2 teachers were there on time, the students were supposed to be
3 there on time, and we were always there on time. Perhaps, unlike
4 this Board, we always started on time.

5 But, I do mean to say that it s an issue that is
6 normal to schools, that the instructors are there when classes
7 are supposed to start. It s been going on that way as long as I
8 can remember, and I don t think that it s any different in
9 private school, and I don t think there s a basis for your
10 question.

11 MR. AGUGLIA: All right.

12 Were you aware that there s 145 students that would
13 be taking shuttle buses, either from the Metro or drop-off point,
14 which is 45 percent and not 36 percent? Were you aware of that?

15 MS. VOGEL: Yes, my understanding was that the 36
16 percent were people who would actually be using public
17 transportation to get to whatever drop-off point. You know,
18 they d be actually taking the Metro, getting out at the Metro
19 Station, and then getting the shuttle bus.

20 The other percentage, what s that, the other nine
21 percent, would be people or students who would be dropped off by
22 parents, either at the Metro Station or at some other pick-up
23 point. So, I didn t see any inconsistency there.

24 MR. AGUGLIA: So, your feeling was that even though
25 the present system is a one-step system, they would go to a two-

1 step system that would be actually more children taking public
2 transportation.

3 MS. VOGEL: Well, taking the vans, if you are
4 calling those public transportation.

5 MR. AGUGLIA: Yes, I m sorry.

6 MS. VOGEL: Okay, yes, I thought that was
7 reasonable.

8 MR. AGUGLIA: And, you were not phased by the
9 teenage driving law that I ve given to the Board in a prior
10 pleading as having an impact on the number of students who can
11 drive, other students?

12 MS. VOGEL: No. Well, you know, again, I understood
13 that the school was only going to provide 38 spaces for student
14 parking, and that they had 50 to 60 seniors per session, and so
15 these spaces would largely be given to seniors who are largely 18
16 and over anyway, so, or are 18 years old. And, my understanding
17 of the and the other factor was the fact that many of the
18 students who drive currently at least are from Maryland and
19 Virginia.

20 MR. AGUGLIA: Do you know the make-up of the
21 children in the school, from jurisdictions?

22 MS. VOGEL: I do know that 40 percent are from D.C.
23 I guess, yeah

24 MR. AGUGLIA: You do know

25 MS. VOGEL: and 60 percent are from Maryland and

1 Virginia.

2 MR. AGUGLIA: Ms. Eli testified that 43 were from
3 Virginia, 117 were from D.C., and 52 were from Maryland, so it
4 appears that there are more children living in D.C., than outside
5 D.C.

6 MS. VOGEL: Okay, thank you.

7 MR. AGUGLIA: Were you aware that when Mr. Slade
8 submitted his latest revised plan for the 3rd stacking lane, that
9 in his cover letter to the Board he said that he was relying on
10 his December analysis and not his February trip generation
11 analysis? Were you aware of that?

12 MS. VOGEL: Could you repeat the question?

13 MR. AGUGLIA: Were you aware of the fact that when
14 Mr. Slade submitted his revised stacking plan

15 MS. VOGEL: Yeah.

16 MR. AGUGLIA: on April 3rd to the Board, that he
17 indicated that he was relying on his December 13th trip generation
18 and not his February trip generation?

19 MS. VOGEL: I

20 MR. AGUGLIA: Were you aware of it, yes or no?

21 MS. VOGEL: yes, I was.

22 MR. AGUGLIA: You were?

23 MS. VOGEL: Uh-huh.

24 MR. AGUGLIA: All right.

25 Did you realize that under his December trip

1 generation he s showing in and out a total of 320, did you
2 understand that?

3 MS. VOGEL: Yes.

4 MR. AGUGLIA: And that, compared to our witness, Mr.
5 Mehra, that we had 374, that that was not as big a difference, as
6 is indicated in your report?

7 MS. VOGEL: Well, my report, the portion of the
8 report that I read, was actually that addressed that issue, was
9 the March 10th report?

10 MR. AGUGLIA: Yes.

11 MS. VOGEL: Yeah, and that this memorandum from
12 Grove Slade is for April 3rd, so, you know, the dates are
13 considerably different. I mean, he was relying on this and the
14 December 13th, his own December 13th report, on April 3rd.

15 MR. AGUGLIA: All right, yes, on April 3rd he s
16 relying on his December 13th trip generation report, which shows
17 320 cars in and out, not 174 as stated in your report. Were you
18 aware of that?

19 MS. VOGEL: Yes, I was, and I guess I figured that
20 as the firm has some tendency to be conservative in terms of the
21 way it analyzes things.

22 MR. AGUGLIA: But, isn t the 320 in his report
23 relatively close to our expert our witness 374 in and outs, as
24 opposed to your 174?

25 MS. VOGEL: Oh

1 MR. AGUGLIA: That s the point I m making, I m on
2 page four, and you are showing that our witness is way off the
3 a.m. peak hours compared to Grove Slade, and what I m asking you
4 is, isn t it a fact that

5 MS. VOGEL: Page four of what? I m sorry, I don t
6 understand.

7 MR. AGUGLIA: Page four

8 MS. VOGEL: Of our report?

9 MR. AGUGLIA: of your March report.

10 MS. VOGEL: Okay.

11 MR. AGUGLIA: The very last sentence, and you are
12 critiquing our report versus the Grove Slade report and showing
13 how there s a significant difference, and this is my question.
14 If you take Mr. Slade at his word that he s relying on the
15 December report for the new traffic study, his total in and out
16 is 320. Therefore, the comparison that you should have made
17 should have been 374 to 320, isn t that correct?

18 MR. FEOLA: Madam Chair, I want to object to that
19 question, and this is not my witness, and this is highly out of
20 the ordinary, but Mr. Aguglia is putting words in Mr. Slade s
21 mouth. Mr. Slade, I thought very clearly, explained to the Board
22 the use of the December 13th memorandum wasn t for trip
23 generation, it had nothing to do with trip generation. What he
24 said is the trip generation dropped as a result of transportation
25 management techniques that the school agreed to put in place.

1 What he was using the December 13th memorandum to comparison with
2 was the left turn in movement. There was no left turn in
3 movement on April 19th. The trip generation that Mr. Slade
4 testified to, which will result from this school coming here, is
5 going to be the numbers that show up in the March report, not the
6 numbers that showed up in the December 13th, before we put in
7 place a transportation management program.

8 So, it s not fair for Mr. Aguglia to take a piece
9 of one thing and ask the Office of Planning another question. If
10 he wants to bring Mr. Slade back and answer that question, we can
11 do that.

12 CHAIRPERSON REID: Mr. Aguglia, the questions that
13 you are asking of Ms. Vogel are those that pertain to the report
14 that was done by Mr. Slade?

15 MR. AGUGLIA: That s correct, because she was making
16 the comparison of the two reports, and I m telling her that she s
17 made the wrong comparison.

18 MR. FEOLA: Then you need to have an expert come in
19 and say they ve made the wrong comparison.

20 CHAIRPERSON REID: Okay, Mr. Feola, let me just try
21 and understand. Basically, what you are questioning is the
22 validity of her analyses.

23 MR. AGUGLIA: Yes.

24 CHAIRPERSON REID: Okay, that s all right.

25 Overruled.

1 You may answer that question.

2 MS. VOGEL: I guess I m still uncertain as to what
3 analysis he

4 CHAIRPERSON REID: Would you repeat that, phrase it
5 for her so that she can understand?

6 MR. AGUGLIA: I ll rephrase it.

7 If, in fact, Mr. Slade was relying on his December
8 report to support the trip generation for the new left-hand
9 stacking lane that he introduced on April 3rd, if, in fact, that s
10 the case

11 MR. FEOLA: He didn t say that, he didn t rely on
12 that for trip generation. Mr. Aguglia is saying that.

13 CHAIRPERSON REID: All right, wait a minute.

14 MR. AGUGLIA: I just said assuming he did.

15 CHAIRPERSON REID: No, you can t do that. If you
16 are referring to something that is in her report where she
17 alluded to numbers that were presented by Mr. Slade, that s okay,
18 but you can t, you know, take it to that extent of assuming. If
19 you keep it on that level of her responding to the basis for her
20 analysis, the premise for her analyses, then that s okay. Stay
21 with that.

22 Ms. Vogel, do you understand what he s asking you?
23 Can you help her, please?

24 MS. VOGEL: Only vaguely, I m sorry.

25 VICE-CHAIRMAN SOCKWELL: Maybe Mr. Aguglia should

1 start with, it is my belief that.

2 CHAIRPERSON REID: No, no, you can't do that.

3 VICE-CHAIRMAN SOCKWELL: No, it personalizes it, so
4 if he's wrong he's wrong.

5 CHAIRPERSON REID: He's asking her how she came to
6 her conclusion based on information that was given to her, right?

7 That's the question, in essence, isn't it?

8 MR. AGUGLIA: If the December report is the correct
9 report that Mr. Slade was relying on, don't the differences
10 between our expert analysis and their analysis significantly
11 dwindle, that's what I'm asking. And then, the Board can make its
12 own determination as to whether or not Slade is relying on the
13 December report or the March report. It's page 11 of the
14 December 13th Grove Slade report.

15 MS. VOGEL: I have that.

16 MR. AGUGLIA: Okay.

17 MR. AGUGLIA: Two more questions and then I'll be
18 done, because we need to move along. I'm sorry.

19 While you are preparing to answer that question,
20 did you understand that the flashing beacons report submitted as
21 part of Mr. Slade's reports, related only to crossings, school
22 crossings?

23 MS. VOGEL: No, I'm sorry, back to your previous
24 question here.

25 MR. AGUGLIA: Okay.

1 MS. VOGEL: The 374 versus 174

2 MR. AGUGLIA: Versus 320.

3 MS. VOGEL: oh, versus yeah, versus the 320,
4 right, we were, in fact, relying on the February 29th report for
5 total numbers and

6 MR. AGUGLIA: And, not the December report?

7 MS. VOGEL: Right, exactly.

8 MR. AGUGLIA: My question is, if the December report
9 was the report that Mr. Slade, in fact, was relying on, would you
10 not agree that the difference between our analysis and his
11 analysis is significantly diminished?

12 MS. VOGEL: Well, if that s the case, I suppose I
13 would say that, but

14 MR. AGUGLIA: Were you aware that the report in the
15 Slade the statement in the Slade report about the traffic
16 beacons, flashing beacons slowing down traffic related to the
17 school crosswalks, were you aware of that?

18 MS. VOGEL: No, I was not.

19 MR. AGUGLIA: Okay.

20 Last question, from the testimony you heard today,
21 do you believe now that the true a.m. peak hour for in and out
22 for this school would be a later time?

23 MS. VOGEL: I m sorry?

24 MR. AGUGLIA: From today s testimony, considering
25 the athletic events that go on at the school, that the p.m. rush

1 hour stated by Mr. Slade is correct or incorrect?

2 MS. VOGEL: Well, the school peak hour period, we
3 felt that the majority of the the concentrated trips would, in
4 fact, fall between the 2:30 to 3:30 time slot, 40 percent, and
5 the others would be so much more staggered that, in fact, that
6 was the best to use.

7 MR. AGUGLIA: All right, thank you.

8 CHAIRPERSON REID: Thank you.

9 MR. BOLOTIN: Ms. Vogel, not to be repetitive, but I
10 have some problems with some of the answers that you ve given.

11 I m looking on page four of your March 3 report,
12 under percentage of students/using public transportation, if you
13 go down one, two, three, fourth line down, the statement is, But
14 the 36 percent figure (the figure for public transit usage at the
15 current location) was used as a conservative estimate. I think
16 Mr. Aguglia referred you to the fact that on the Grove Slade
17 report of February 29, 2000, which I believe you testified is the
18 data you used, that number is 45 percent, not 36 percent, using
19 public transportation.

20 CHAIRPERSON REID: Okay. Now, Mr. Bolotin, we ve
21 already established that some time ago, two or three times
22 already, so let s not be repetitive.

23 MR. BOLOTIN: My question is, why the figure of 45
24 percent wasn t used rather than 36 percent. That s a simple
25 question. It seems to me it s 45 percent on the math, 145 over

1 320, and the figure on line four is 36 percent.

2 MS. VOGEL: Sure. We were not considering the
3 school s vans necessarily public transportation, and the 36
4 percent that we were referring to here was those taking the
5 Metro, Metro Rail or Metro buses.

6 CHAIRPERSON REID: The response to that question
7 earlier was, it does not consider the fact that there were
8 students picked up at locations other than the Metro Station, and
9 this is why

10 MS. VOGEL: Or, even being dropped off by their
11 parents at the Metro Station.

12 CHAIRPERSON REID: Do you remember?

13 MR. BOLOTIN: I m just confused, it just seemed from
14 doing the math that the 145 over 320 is 45 percent.

15 CHAIRPERSON REID: We established that. Mr. Aguglia
16 asked the question, don t you remember we went through that same
17 whole exercise?

18 MR. BOLOTIN: I do remember that, I just wasn t
19 satisfied as to why the 36 percent figure was used rather than
20 the 45.

21 CHAIRPERSON REID: Because she didn t take into
22 consideration the other sites where the kids would be picked up.
23 This was just for the Metro Station, apparently.

24 MR. BOLOTIN: Okay.

25 MS. VOGEL: Yes, as I said, we weren t considering

1 the school s vans as public transportation.

2 MR. BOLOTIN: On that same paragraph, weren t you
3 somewhat suspicious when it stated that 90 percent of the parents
4 would use a shuttle service, yet only 36 percent used it to the
5 old campus, which is in walking distance of Metro service today?

6 MS. VOGEL: No, it was I thought they were quite
7 different issues. Thirty-six percent actually use public
8 transportation today, we felt the same ratio would use public
9 transportation. Again, this 90 percent of parents saying they
10 would be willing to, you know, accommodate the school s needs in
11 a recent survey, when the school explained, you know, the kind of
12 transportation management plan needed, said they would be willing
13 to drop off at sites other than the school for shuttle pick-up,
14 and, no, that seemed very reasonable to us, that rather than
15 taking a very congested road that they would, in fact, be quite
16 willing to drop off, perhaps, right on their way to work, you
17 know, at sites on their way to work, rather than have to go out
18 of their way to go over to the school.

19 MR. BOLOTIN: Even though that might add 20 minutes
20 to a typical student s commute waiting for shuttle buses, that
21 had no impact on you?

22 MS. VOGEL: Well, it would, perhaps, lessen the
23 parents commute. So, you know, we felt that was reasonable.

24 MR. BOLOTIN: As a matter of policy, why doesn t the
25 Department of Planning state that the Teenage Driving Act, which

1 is applicable to the District of Columbia and its citizens, not
2 apply to Virginia and Maryland, that is, that teenage drivers who
3 are driving into the District of Columbia to attend school here
4 afford the same protections to District of Columbia citizens as
5 is applicable to District of Columbia drivers, why can't we
6 protect those people?

7 CHAIRPERSON REID: Well, that's not something that
8 that's out of purview. That's not something that we can take up
9 here, Mr. Bolotin.

10 MR. BOLOTIN: But, the Office of Planning seems to
11 state that the majority drive from Maryland and Virginia, so the
12 three per car can still be met. I'm just asking as a matter of
13 planning and policy, why doesn't the Department of Planning state
14 that we want the Act to apply to students coming to the school?

15 CHAIRPERSON REID: How could they do that? I mean,
16 that's not a realistic question, Mr. Bolotin. Move to your next
17 question, please.

18 MR. BOLOTIN: Sure.

19 Is there any reason why the Department of Planning
20 didn't recommend that the school use access that is presently
21 has, other than the Foxhall Road? Ms. Vogel, that's really a
22 question for you. I don't know if Ms. McCarthy really needs to
23 assist you on that. You are the one who wrote this report. It's
24 a pretty straightforward question.

25 MS. VOGEL: Simply because it wasn't in the

1 application. I mean, we were dealing with this specific
2 application.

3 MR. BOLOTIN: But, there are a number of things not
4 in the application that you've imposed as conditions, why
5 couldn't a condition be that they use an existing access point
6 that they have, other than on Foxhall Road? This whole
7 presentation today is based upon traffic considerations, why
8 wouldn't the Department of Planning, in its authority, state that
9 there ought to be some other location looked at for access the
10 school already enjoys?

11 MS. VOGEL: Well, again, back to an issue we
12 discussed earlier about Foxhall Road, Foxhall Road is a kind of
13 major arterial type of street, whereas, or major commuter
14 thoroughfare at least, whereas the other access point would be a
15 residential street.

16 MR. BOLOTIN: Well, we have a left-hand stacking
17 lane that we've been talking about for the past four or five
18 hours in order to deal with the problems on Foxhall Road,
19 wouldn't that be alleviated if you would suggest that other
20 access points be used?

21 MS. BAILEY: Madam Chair, in all fairness, the rules
22 are that the Office of Planning should be cross examined on what
23 has been presented as testimony, and if that is something that
24 Mr. Bolotin is concerned about he can make that directly to the
25 Board, those comments, but the rules are that the cross

1 examination should be limited specifically to what has been
2 testified to.

3 CHAIRPERSON REID: Thank you, Ms. Bailey.

4 MR. BOLOTIN: I have no further questions.

5 CHAIRPERSON REID: All right.

6 Mr. Swendiman.

7 MR. SWENDIMAN: I ll try to be brief and see how far
8 we can go, Alan Swendiman on behalf of Sylvia Shagrue.

9 Ms. Vogel, I think you ve indicated that the Office
10 of Planning has given conditional approval, correct?

11 MS. VOGEL: Yes.

12 MR. SWENDIMAN: To the application.

13 MS. VOGEL: Recommending conditional approval,
14 right.

15 MR. SWENDIMAN: Are you aware of a memorandum that s
16 dated May 9th from Mr. Lewis J. Slade to Mr. Kenneth G. Layton,
17 dated May 9, 2000?

18 MS. VOGEL: Could I have a moment to look for it?

19 MR. SWENDIMAN: Sure, and I call your attention only
20 because you are CC d on it.

21 MS. VOGEL: Oh, okay, yes.

22 MR. SWENDIMAN: Have you read this?

23 MS. VOGEL: Yes, I have.

24 MR. SWENDIMAN: Just calling your attention to page
25 two, the provision entitled Design of Entrance, looking at the

1 second paragraph, picking up with the sentence that begins, We
2 have always noted that the maximum queue for left turns is three
3 vehicles or no more than 75 feet of storage, thus the balance of
4 at least 175 feet is available for deceleration purposes.
5 Having reviewed this, what is your understanding of the left turn
6 capacity that s being proposed?

7 MS. VOGEL: Well, this is the kind of thing that the
8 Office of Planning relies on the Department of Public Works to
9 analyze for us, and I think the Department of Public Works
10 representative is here today. So, I d like to defer that
11 question.

12 MR. SWENDIMAN: So, the answer is you don t have any
13 understanding with regard to that particular provision in this
14 memorandum.

15 MS. VOGEL: I think DPW can handle it.

16 MR. SWENDIMAN: Okay, no further questions.

17 CHAIRPERSON REID: Thank you.

18 All right. We ll go now to let s see, we have
19 federal government reports, DPW, and the National Park Service,
20 are you going to testify? All right.

21 And, we do have a report from the fire department
22 and from the written reports from the fire department and the
23 Metropolitan Police Department.

24 So, let s go now to DPW.

25 MR. LADEN: Good afternoon, my name is Kenneth

1 Laden, I m the Administrator for Transportation Planning in the
2 D.C. Department of Public Works. I m here to just try to
3 summarize our position with respect to the specific application.

4 I believe everyone has copies of the various correspondence that
5 we have received and that we have generated relating to the
6 specific case.

7 The Department of Public Works has reviewed the
8 testimony or the statements that have been prepared by the
9 Applicant and by the opponents to this specific action. We have
10 met with representatives of The Field School traffic consultants,
11 and we ve also met with the representatives of the Neighborhoods
12 Against Gridlock, and we ve attempted to take all of this
13 information into account as our position on this particular case
14 has been evolving, and I stress the word evolving, because this
15 has been trying to hit somewhat of a moving target here.

16 Basically, in reviewing the initial application, we
17 supported most of the traffic management plan as provided by the
18 Applicant. We did have some concern about the policy which would
19 require everyone arriving at the school to make right turns only
20 to enter the property. We were concerned that that might
21 generate unnecessary traffic on the adjacent residential streets,
22 and we were concerned about how one would implement or enforce
23 such a provision. Our concern was that drivers, especially if
24 they were in a hurry, or for whatever reason, might want to
25 attempt to make that left turn, and without an appropriate place

1 for them to stack up and wait for traffic to clear heading
2 northbound that there could be a potential problem.

3 As I think earlier stated, we also had a bit of a
4 concern with the recommendation of putting a traffic control
5 officer at the entrance to the school. We were concerned that if
6 they were placed in the street, in Foxhall Road, that that could
7 present a possible safety hazard as well.

8 As a result of looking at the application and
9 looking at the other information we had available to us, we asked
10 the traffic engineers or the traffic consultants for the
11 Applicant to go back and look at the possibility of whether or
12 not a left-turn lane would help mitigate what we saw as a
13 potential problem for access to the property, and I think we
14 included that in our initial comments or testimony to the Board,
15 that we thought that this was a good idea.

16 The engineers or the traffic consultants for the
17 Applicant came back with a proposal. It provided for moving the
18 southern entrance to a new location to accommodate a left-turn
19 stacking lane that they claimed had adequate visibility to allow
20 safe turning motions into the property.

21 We have taken a look at their proposal, and we also
22 received testimony last week, I believe, from a traffic
23 consultant hired by the Neighbors Against Gridlock, and in the
24 report from the Neighbors Against Gridlock they indicated that
25 the site lines for the proposed left-turn stacking lane was not

1 adequate for the configuration of the roadway. They also
2 indicated some concern about the shaping and length of the
3 tapering area, and also some concerns about other site lines for
4 other types of turning motions into and out of the property.

5 We've begun to take those into consideration, and
6 we also asked for a response from the Applicant's traffic
7 engineers as to their interpretation of the AASHTO rules which
8 were used in trying to develop both the proposal for the left-
9 turn stacking lane and also by the opponents to the application
10 who had some concerns about it.

11 We are still in the process of reviewing all that
12 information. We also want to make additional site visits
13 ourselves to determine what is or what would be an appropriate
14 distance. And, again, while there may be standards in books, or
15 professionally sanctioned guidelines, they are guidelines and
16 standards that are based to meet, you know, universal conditions
17 and I think we need to somehow take those standards and apply
18 them to this particular case as best as possible.

19 And, again, it's a question of to what level of
20 hazardous driving conditions, or to what level of inattentive
21 drivers, or to what level of reckless driving, does one attempt
22 to engineer a road. If everyone drove the posted speed limit, 25
23 MPH, and paid their full attention to what they were doing, then
24 probably the AASHTO standards or something less than that might
25 be appropriate, and might be 99.9 percent safe, but,

1 unfortunately, we have to sometimes engineer the conditions where
2 people don't drive the posted speed limit, don't pay full
3 attention, and, perhaps, on occasion do drive more recklessly
4 than we would like. So, again, I think our basic point is that
5 while we have both sets of positions on what is an appropriate
6 design standard for this left-turn lane and for the taper and
7 other site requirements, we want to go out and take a second look
8 at that. We want to apply what we feel are the appropriate
9 design standards to provide as much safety as possible, in
10 determining what level of engineering or what distances are
11 required to make this intersection as safe as possible.

12 Our bottom line position is, we are not going to
13 recommend to this Board, or anyone else, that a left-turn lane be
14 established if it cannot be done safely, and before we can make a
15 definitive decision as to whether this would be a safe lane, we
16 do want to take a second look at it.

17 We also, I think, do need to indicate that the
18 information that we have to date is a concept plan, it is not
19 detailed engineering. All of it is a lot of it, I should say,
20 is based upon looking at maps and charts which show elevation,
21 and going out and sort of eyeballing the situation by placing
22 things adjacent to the roadway and trying to figure out at what
23 point you see them and at what point you don't. Again, I think
24 we would need to get to the point of more detailed engineering to
25 determine whether or not the distances that are being proposed

1 are absolutely optimal for this given situation.

2 So, my instructions, I should say, to my staff and
3 to the traffic engineers within our department is that I wanted
4 them to go back and take a look at both sets of data, take a look
5 at the standards that were used in coming up with these
6 conflicting opinions, and conduct additional site visits to
7 determine what is the appropriate criteria and whether or not the
8 site plan, as currently proposed by the Applicant, is adequate,
9 or whether or not certain modifications are required to make that
10 turning motion safe. And, if we find that the physical
11 configurations out there do not provide enough room to make a
12 safe left turn into the property, then we would withdraw our
13 recommendation for a left-turn lane.

14 So, with that, I m, I guess, available to answer
15 any questions the Board may have, or the Applicant, or the
16 opposition.

17 CHAIRPERSON REID: I m sorry, Mr. Laden, for some
18 reason I was under the impression that was the purpose of your
19 being here today, was to give us an analysis as to whether or not
20 that left-hand lane was safe or not. But, you are saying instead
21 that you don t know, that you have to go into further analysis
22 and look at the studies, and site plans, and all of that, that
23 doesn t give us too much to go on.

24 MR. LADEN: Well, I understand your concerns, but
25 I m not in a position today, based upon the date at which we ve

1 received this information and our ability to review it and make a
2 definitive decision, to be able to say here today that we feel
3 that the current left-turn stacking lane is going to meet all of
4 the requirements or whether we might ask them to change aspects
5 of it in order to make it a little more safe.

6 CHAIRPERSON REID: Well, that is the essence of this
7 particular case, that s what s driving this case, is whether or
8 not the decision that you make, DPW makes, as to whether or not
9 that lane is safe or not, will determine will greatly influence
10 the outcome of this case, so what can we do? When can it be
11 ready? We can t make a decision unless we have that.

12 MR. LADEN: I understand, and what I have instructed
13 our traffic engineers and my staff to do is to provide me with
14 their final recommendation Monday of next week, and so I would
15 hope to have that to the Board by Tuesday of next week.

16 CHAIRPERSON REID: And worse is the fact that the
17 people who are attending this hearing, all the parties, I would
18 think would want to cross examine you based upon what you present
19 as your finding, or your recommendation in regard to that lane.

20 MR. LADEN: Well, I understand.

21 CHAIRPERSON REID: The left-turn lane, the safety of
22 that left-turn lane, so at this point I ll tell you what we are
23 going to do, we are going to recess for about ten minutes so that
24 we can discuss this.

25 Before you cross examine, let us recess so that we

1 can try to get our arms around this particular situation and then
2 continue, because, basically, you really don't have too much to
3 cross examine on, do you?

4 MR. AGUGLIA: No, we don't. As a point of
5 clarification, the burden of proof is on the declarant to make
6 his case. Mr. Laden has said he doesn't have sufficient design
7 plans from them in order to make that determination, so my answer
8 to this is, if they are out, they can refile their case some time
9 later.

10 MR. FEOLA: That's ridiculous. Mr. Aguglia, we are
11 talking about private property. Mr. Laden is talking about
12 public property. This Board, with all due respect, doesn't have
13 the authority to tell Mr. Laden how to build his roads. What
14 this Board does have the authority to do, if it is inclined to
15 approve this application, is to make a condition of that approval
16 on private property a left-turn lane in the public space that is
17 satisfactory to Mr. Laden and DPW. It has nothing to do with
18 burden of proof or anything else on the private property, and
19 that's the simplest thing I believe this Board, if it is inclined
20 to approve this application, could do, and we are willing

21 CHAIRPERSON REID: Thank you.

22 MR. FEOLA: the Applicant is willing to say

23 CHAIRPERSON REID: Thank you.

24 MR. FEOLA: if we can't build it, we can't build
25 it, we don't have approval.

1 CHAIRPERSON REID: Thank you.

2 MR. FEOLA: We think we can build it.

3 CHAIRPERSON REID: We ve heard from both sides,
4 thank you very much.

5 Ms. Renshaw?

6 Mr. Sockwell?

7 COMMISSIONER RENSHAW: I have a couple of questions.

8 VICE-CHAIRMAN SOCKWELL: Well, my one question to
9 Mr. Laden is that, at this point in time, lacking a complete, or
10 a more complete analysis from your staff, you are still working
11 on the assumption that the left-turn lane is a feasibility item
12 to discuss. I mean, in other words, you haven t ruled it out.

13 MR. LADEN: That is correct, and in our opinion a
14 left-turn lane is a preferred approach. We just want to make
15 sure that that left-turn lane can be constructed and operated
16 safely. We ve got one set of opinions that it can be done, and a
17 conflicting set of opinions that it cannot be done. We ve just
18 received the one set of information on May 3rd, the other
19 yesterday at 3:00, so, again, our feeling is that rather than
20 make a snap judgment where we may be wrong and create a dangerous
21 situation, we would prefer to take another couple of days to make
22 sure that what we are recommending is going to work most
23 effectively and safely.

24 VICE-CHAIRMAN SOCKWELL: Have you been to the site,
25 Mr. Laden?

1 MR. LADEN: No, I have not, but my staff has, and
2 our traffic engineer has.

3 VICE-CHAIRMAN SOCKWELL: All right. So, it would
4 be, I think, necessary to have your staff available in a hearing,
5 as opposed to yourself alone, because you are interpreting the
6 report of your staff and that s a normal procedure, but in this
7 case we would want to, perhaps, question your staff about
8 specific things, in particular, site lines, and there are some
9 technical questions which as one who has researched
10 transportation for the Department of Transportation I can
11 certainly ask, and I would want to put them to the people who
12 have been to the site and have analysis behind them on this
13 particular project.

14 MR. LADEN: Correct, and I would have preferred they
15 be here also. Unfortunately, the engineer who has been working
16 on this case had a court hearing today that he could not avoid,
17 so I apologize for that.

18 MR. AGUGLIA: As a point of due process
19 clarification, so to speak, if the Board is inclined to continue
20 to hear such testimony, that any written documents that go to Mr.
21 Laden from either party be served on the other party.

22 Yesterday s report was sent to Ms. Vogel and to
23 DPW, and we were not CC d. In fairness to Mr. Feola, as soon as
24 I called him he immediately delivered, but I would like to have
25 an open fair play, that anything written by either side is served

1 on the other side and reviewed, so Mr. Laden and the parties have
2 a full opportunity to review it.

3 CHAIRPERSON REID: Okay, thank you.

4 COMMISSIONER RENSHAW: Yes, Madam Chair.

5 Mr. Laden, first of all, I would hope you would go
6 to the site to have a site visit, so that you, too, would be able
7 to interact with your staff here at our next hearing.

8 You seem to have concern about, and rightly so,
9 about traffic on adjacent streets, but Foxhall Road is
10 residential R-1A, correct?

11 MR. LADEN: I believe so, yes.

12 COMMISSIONER RENSHAW: All right.

13 MR. LADEN: I ll take your word for that.

14 COMMISSIONER RENSHAW: We are getting some
15 clarification over here, but you seem to be designating or
16 emphasizing the fact that side streets are residential and
17 Foxhall is other than residential, and I just wanted to make that
18 point to you, as to how it came across.

19 I have a question about Mount Vernon, are there
20 stacking lanes at Mount Vernon?

21 MR. LADEN: I m not aware as to whether there are or
22 not.

23 COMMISSIONER RENSHAW: All right. When you are in
24 the vicinity, would you check, please?

25 Is Foxhall Road at capacity now?

1 MR. LADEN: I think there are times of the day where
2 there is back-up on Foxhall. I m trying to remember if there was
3 any sections of that road that are at Level F. There may be
4 under certain circumstances, but, by and large, in non-rush hour
5 certainly not, during rush hour there are times where it is,
6 perhaps, at capacity along segments of the road.

7 COMMISSIONER RENSHAW: Could you supply that data as
8 to what times and where along Foxhall Road, please?

9 MR. LADEN: Certainly.

10 COMMISSIONER RENSHAW: And, at what point will
11 traffic conditions and traffic count deteriorate the value of the
12 property along Foxhall Road?

13 MR. LADEN: That I can t state. I think that
14 property values are probably based upon a number of
15 considerations, traffic being, perhaps, one of them, but I can t
16 say at what point or what level of traffic the property values
17 would be affected.

18 COMMISSIONER RENSHAW: All right.

19 The Office of Planning has as its number 23
20 recommendation, that the school work with the neighbors to
21 approach the Department of Public Works to implement a series of
22 traffic calming measures to protect the residential neighborhoods
23 from commuter encroachment, and I d like to know if there are any
24 traffic calming measures now in effect on any surrounding
25 streets, and if yes, what streets, and whether any traffic

1 calming measures have been put into effect for Foxhall Road at
2 this time.

3 MR. LADEN: Taking your questions in reverse order,
4 I m not aware of any traffic calming approaches that are being
5 taken specifically for Foxhall Road. I think as mentioned
6 earlier, there is a traffic signal which is being proposed for
7 Whitehaven Parkway and Foxhall, that s not really a traffic
8 calming device, at least some don t consider that to be such, but
9 to answer the earlier question that did arise, that traffic
10 signal is under design now, and I believe I was told by our Head
11 of Traffic Signals that it should be in operation by this time
12 next year, May or June 2001. But, again, to get back to your
13 question, the city is developing traffic calming strategies for
14 applications throughout the city. I don t believe anything has
15 been specifically targeted for this area, but certainly because
16 of the level of traffic and the types of land uses this would be
17 an area that we would consider a good candidate for traffic
18 calming in the future.

19 COMMISSIONER RENSHAW: And, given the limited staff
20 of the Department of Public Works, and given the unlimited
21 requests by neighborhoods for traffic calming measures, how is
22 DPW going to organize the queue, because this is an area right
23 here which is demanding attention right now. There are
24 neighborhoods in the city which have been in line for up to 15
25 years and haven t seen any action. So, I m just wanting to get

1 realistic here, and to have the neighbors understand that,
2 perhaps, their very important traffic calming requests may not
3 see the light of day for a while. So, I m asking, what about the
4 queue, how does the neighborhood know where it stands when it
5 approaches DPW to get some instant help?

6 MR. LADEN: Yes. The Department is planning to
7 supplement its existing staff with consultant assistants to help
8 with a variety of neighborhood traffic issues.

9 Where we have in terms of how the queue would
10 work, I think we would most likely begin with those traffic
11 studies that are mandated, either legislatively or through other
12 official action of the District government, and then we would
13 attempt to prioritize other neighborhood generated requests for
14 traffic calming or traffic studies, in terms of where we would
15 get the biggest bang for the buck, so to speak, in other words,
16 where we would see the most improvement in terms of overall
17 traffic conditions and neighborhood preservation.

18 COMMISSIONER RENSHAW: Neighborhood preservation,
19 thank you very much.

20 Thanks.

21 CHAIRPERSON REID: Okay.

22 Now, we will take a ten-minute recess.

23 (Whereupon, at 4:21 p.m., a recess until 4:47 p.m.)

24 CHAIRPERSON REID: Okay, we are going to resume the
25 afternoon.

1 Obviously, given the fact that we have a bit of a
2 problem with the DPW report, and predicated upon the fact that
3 the DPW report is of extreme importance in this case, we are
4 going to have to make some adjustments, obviously, in order to be
5 able to try to be as fair and as impartial as possible with this
6 particular proceeding, and as such Marie Sansone, our counsel,
7 will discuss what the next step should be.

8 MS. SANSONE: Thank you, Madam Chair.

9 Well, unfortunately, the DPW report is a pivotal
10 part of this case, and it probably does not make much sense to
11 try to proceed further on the traffic issues with the cross
12 examination or public comments today, only to have to come back
13 and address those later once DPW is prepared to go forward with
14 its final report.

15 So, I believe it s the Board wish that the hearing
16 would be continued to a date certain that would afford DPW enough
17 time to complete its report, distribute it to all the concerned
18 parties and other government agencies, who would then have the
19 opportunity to review it, discuss it, perhaps, modify their own
20 reports, and then we would proceed at the completion of this
21 hearing with everybody on the same page as to where DPW stands
22 and, ultimately, this could, perhaps, help shorten up and make
23 the hearing more efficient, although, unfortunately, given the
24 Board s calendar I don t think we have a lot of flexibility in
25 terms of being able to accommodate this really in a very short

1 time, it would probably be a longer delay.

2 CHAIRPERSON REID: Thank you very much, Ms. Sansone,
3 and also we are going to need the members of your staff who
4 constructed the report and who were involved in making the
5 analysis, so that they can also be cross examined and questioned
6 by the Board as to the premise on which they were able to draw
7 their conclusions.

8 MR. LADEN: Correct.

9 VICE-CHAIRMAN SOCKWELL: If possible, we d like to
10 have some kind of graphic, if you can that will be if you can
11 use graphics that have been developed by the Applicant or the
12 opponents in this case to assist you in getting that together,
13 that will be fine, but we would need something that you can talk
14 from that we can discuss and that you can be cross examined by as
15 part of your report.

16 MR. LADEN: Correct, certainly.

17 COMMISSIONER MOULDEN: I just want to make the
18 comment that DPW, just be sure that they get the most up-to-date
19 site plan and information on the adjoining streets and so forth,
20 so they can assess the site properly from a traffic circulation
21 standpoint, and pedestrian access to, as part of the revised
22 report.

23 And, you do have staff with the adequate
24 transportation background who can assess the site plan and look
25 at traffic related information and concerns about the site?

1 MR. LADEN: Yes, we do.

2 COMMISSIONER MOULDEN: Okay.

3 VICE-CHAIRMAN SOCKWELL: If I might suggest that
4 while we are continuing this case for DPW s input, it might be
5 advisable for the Applicant s traffic consultant to take the
6 various versions of its report, complete them as a single revised
7 edition that has all the information in it, all the missing pages
8 which we now, on the Board, have, in some form or another, and
9 submit that both to us and to the opponents so that

10 CHAIRPERSON REID: In the proper sequence.

11 VICE-CHAIRMAN SOCKWELL: in the proper sequence,
12 so that we can know exactly what numbers are really the current
13 numbers for generating any of the conclusions that have been
14 discussed over this hearing process.

15 CHAIRPERSON REID: Okay, the two attorneys, Mr.
16 Feola, can you come up, having heard what we are deciding to do
17 at this time, would that be something that is workable for you,
18 and we looked at the calendar and the date that appears to be the
19 first available date that would accommodate the continuation of
20 this hearing would be, what is it, July

21 MS. BAILEY: July the 11th, Madam Chair, in the
22 afternoon.

23 CHAIRPERSON REID: July we d then reserve the
24 entire afternoon of July the 11th, for us to be able to conclude
25 the hearing. Is that within your scheduling, is there a problem

1 as far as your scheduling is concerned?

2 The parties, any of the parties, the ANC, is the
3 ANC still here?

4 MR. FEOLA: He had to leave.

5 MS. BAILEY: July 11th is on a Tuesday.

6 MR. AGUGLIA: I am having major surgery June 3rd, and
7 I ll be out of commission a month, that s why I m limping so
8 badly.

9 CHAIRPERSON REID: June 3rd.

10 MR. AGUGLIA: June 3rd.

11 CHAIRPERSON REID: Okay, July

12 MR. AGUGLIA: At least a month.

13 CHAIRPERSON REID: 3rd, this is July the 11th now,
14 is that going to afford you

15 MR. AGUGLIA: What I will have to do is advise the
16 Board, roughly, June 1st, if I m physically capable of even coming
17 into the hearing.

18 CHAIRPERSON REID: Okay. We don t want to schedule
19 a time, you know, if this is what you are anticipating and what
20 you have to go through, you don t really know how you are going
21 to be feeling, so but you will be able to

22 MR. AGUGLIA: I will advise the Board on or about
23 June 1st if I m physically capable of attending.

24 Now, one of our experts

25 CHAIRPERSON REID: June 1st or July 1st?

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MR. AGUGLIA: Uh

CHAIRPERSON REID: You mean July 1st.

MR. AGUGLIA: How much advance time do you need?

CHAIRPERSON REID: Well, June 1st

MR. AGUGLIA: I m sorry, July 1st.

CHAIRPERSON REID: you won t have had the surgery
on June 1st.

MR. AGUGLIA: The operation is June 3rd, a Saturday
morning.

CHAIRPERSON REID: Okay. So then, by July 1st you
will

MR. AGUGLIA: I will advise the Board if I m
physically capable of

CHAIRPERSON REID: Okay, and then, if not, if you
are not quite ready then we are going then we d have to then

MR. FEOLA: Excuse me, Madam

VICE-CHAIRMAN SOCKWELL: We can teleconference you
from your

MR. FEOLA: Chair, with all due respect, Mr.
Aguglia is a friend and a colleague, and I appreciate his
surgery, but he is a representative of a law firm that has 300
lawyers. I don t think we need to the school has to wait to
accommodate Mr. Aguglia s surgery. We can do it sooner, before
his surgery, or

MS. BAILEY: Well, we have the only date that we

1 had for a possibility of that was June 27th, and that would be
2 adding an additional hearing date to your already scheduled,
3 because you have hearings scheduled for June 7th, and June 13th, and
4 June 20th.

5 MR. AGUGLIA: I can tell you right now that June 27th
6 is going to be extremely difficult for me to make. I can't even
7 get into a car for the first three or four weeks.

8 MR. FEOLA: No, I wasn't suggesting it should be
9 before July 11th, but I'm just saying

10 CHAIRPERSON REID: Oh, I'm sorry, I'm sorry, I was
11 doing the same thing, trying to figure out what date no, we
12 said June 27th, and I was not remembering that, you know, that
13 would not work for you.

14 So

15 MR. FEOLA: Madam Chair, if I might, the Applicant
16 finds itself in a very, very strange position. We didn't think,
17 and we still don't think, a left-turn lane is needed. We heard
18 testimony of that today from Mr. Slade. Obviously, the opponents
19 think differently.

20 The Department of Public Works suggested that it
21 might be a way to avoid cut-through traffic in the neighborhood.

22 We took a look at it, we are willing to do it, we engineered it
23 and at a concept level, and are willing to pay a half million
24 dollars to improve a public right-of-way.

25 Now, we are quibbling over the engineering of that

1 entrance, which hasn't been designed, which neither Mr. Aguglia's
2 expert, or Field School's expert, or this Board can quite
3 honestly evaluate, with the exception of Mr. Sockwell, and it's
4 Mr. Laden's road, it's his department that's going to be able to
5 decide whether or not this works or not works.

6 The school is very willing, if this Board is
7 inclined, to allow this Board to make a decision and condition on
8 building that left-turn lane that DPW says is safe. If they

9 MR. AGUGLIA: No.

10 MR. FEOLA: let me finish, if they say no, end of
11 game, we go home.

12 CHAIRPERSON REID: Well, Mr. Feola

13 MR. FEOLA: There's no approval.

14 CHAIRPERSON REID: in the first place, remember
15 now that the OP report and the ANC report is predicated upon the

16
17 MR. FEOLA: Building a left-turn lane.

18 CHAIRPERSON REID: that left-turn lane.

19 Now

20 MR. FEOLA: Your theoretical approval could be
21 condition on building a left-turn lane.

22 CHAIRPERSON REID: but, if, in fact, it is
23 determined that the lane cannot be built

24 MR. FEOLA: Then case denied.

25 CHAIRPERSON REID: then

1 MR. FEOLA: It s a provision that can t be met.

2 CHAIRPERSON REID: it may very well be that there
3 are some other alternatives that could be worked out, you know,
4 for that particular

5 MR. FEOLA: Then the Applicant would have to come
6 back, as Mr. Aguglia has said, with the burden of proof to prove
7 that there is some other way to do it.

8 All I m suggesting is that we could get into
9 months, and months, and months of battle of the experts. Our guy
10 says one thing, Mr. Aguglia s guy says something else. We can
11 bring in 12 other experts, and, you know what, it doesn t matter
12 what they say because it s what DPW says that counts.

13 VICE-CHAIRMAN SOCKWELL: Well, Mr. Feola, I think
14 that there are two things I d like to clear up. One is, we
15 wouldn t be quibbling over it, the term doesn t set right with
16 me.

17 MR. FEOLA: I apologize.

18 VICE-CHAIRMAN SOCKWELL: The left-turn lane in
19 itself

20 MR. FEOLA: I agree with you, I used the wrong word,
21 this Board takes its charge very seriously, and I didn t mean any
22 disrespect.

23 VICE-CHAIRMAN SOCKWELL: Absolutely.

24 The left-turn lane in itself is an instrument being
25 suggested to alleviate a potentially dangerous situation, or to

1 provide access in a situation where access would otherwise be
2 impossible or certainly not prudent to the proposed development.

3 Therefore, the adequacy of the left-turn lane from a conceptual
4 point of view has not yet been thoroughly ascertained. It is up
5 to the Department of Public Works, whose charge it is to both
6 design the roads, plan the roads, and pretty much feasibly assess
7 the possibilities in uncertain environments, to come up with a
8 report, documentation, technical personnel to answer our
9 questions so that we can effectively evaluate the potentials.

10 Without that information, we are back to square
11 one, because it has been the offer that a left-turn lane in the
12 southbound direction be provided.

13 Now, the opposition has based part of its case on
14 whether or not that left-turn lane works. We, as a Board, are
15 evaluating against information in hand, information to be
16 provided, and information that we haven't been able to quite
17 quantify because the report seems to have gotten a little fuzzy.

18 So, we are taking the time to clean all that up and
19 find out where we are, and I don't think anyone would object to
20 us coming to a conclusion with the proper set of parameters, and
21 the right data, and the right people to talk to.

22 So, we've got to do this, and I understand your
23 objection. I would also understand your objection to postponing
24 the hearing because Mr. Aguglia has to go into surgery and there
25 are 300 attorneys, but at the same time I'm sure if you were in

1 the same shoes, and you were running your case and found that you
2 had to disappear once you had established your own strategies,
3 that it would not be comforting to think that you would put the
4 case in the hands of someone else.

5 MR. FEOLA: No, just the opposite.

6 VICE-CHAIRMAN SOCKWELL: You would do it if it
7 occurs, but it s

8 MR. FEOLA: Just the opposite, I would absolutely be
9 comfortable giving it to one of my partners.

10 VICE-CHAIRMAN SOCKWELL: Well, good, then under the
11 circumstances I accept that, but this Board will make the
12 decision.

13 CHAIRPERSON REID: Ms. Renshaw?

14 COMMISSIONER RENSHAW: I hope that given the point
15 that we are going to have to continue this case that the next
16 time we do have what I have asked for before, and I ll ask for it
17 again, the fire and police representative on hand, because I do
18 want to talk about the safety of this road. I d like to know the
19 accident statistics, we ve asked for them, and we hope we get
20 them the next time around, and I would like to hear from these
21 officials at our next hearing on this case, because we are
22 looking at the safety of Foxhall Road and we need to be reassured
23 as to its condition, how it has been handled, when there has been
24 accidents in the past, that the road can accommodate width-wise,
25 traffic-wise the emergency vehicles that would have to access the

1 site, because, again, we are putting a number of young people on
2 that site, and we have to know that public safety vehicles can
3 reach them, or reach anyone in an emergency on that road.

4 CHAIRPERSON REID: Okay.

5 Now, we are looking for a date that works for
6 everyone.

7 MR. AGUGLIA: The July, was it 16th, date, 11th, July
8 11th.

9 MS. BAILEY: July 11th.

10 MR. AGUGLIA: July 11th was inappropriate for Mr.
11 Mehra, who is going to be out of the country. What is the next
12 date, please?

13 MS. BAILEY: Madam Chair, July 11th, July 25th there
14 are hearings scheduled. What s open in July is the 18th, there
15 isn t anything scheduled for the 18th of July.

16 CHAIRPERSON REID: I thought you had something
17 penciled in.

18 COMMISSIONER RENSHAW: You are right, we were there.

19 MS. BAILEY: You are absolutely right. You are
20 absolutely right, so July is out, August is when you are in
21 recess, so September.

22 MR. FEOLA: Again, Madam Chair, I have to apologize
23 about being so obnoxiously protesting this, but this case started
24 last year, December, in response to a request from Mr. Aguglia
25 and his traffic consultant, who now can t be here at the next

1 hearing date, DPW encouraged the left-turn lane, that was on
2 March 29th. We submitted it, Mr. Aguglia and his people needed
3 more time to look at it. We delayed it until today. Now we are
4 going to delay it even past July 11th, because his traffic
5 consultant can't be around. Well, everybody has different
6 schedules. I mean, I tell you, Mr. Aguglia can tell you, if he
7 got a court appointment he can't say, with the exception of
8 surgery, and have a pretty good excuse why he can't have somebody
9 else take his place, we are all fungible, none of us are
10 irreplaceable, you know.

11 CHAIRPERSON REID: Mr. Aguglia, is there a
12 possibility of

13 MR. FEOLA: I mean, does Mr. Mehra have a
14 substitute, is there somebody else in his firm that can deliver
15 his report? We've seen it in writing.

16 I mean, when Mr. Slade was out of town we brought
17 an associate to the ANC meeting, three of them.

18 MR. AGUGLIA: Let's not forget that we've had to
19 deal with the December Slade report, the February Slade report,
20 the April 3rd change in the whole

21 MR. FEOLA: Please, we've been through this, these
22 are all requests that Mr. Aguglia made.

23 CHAIRPERSON REID: The question is, is that a
24 feasible solution to the problem, is to have someone who

25 MR. AGUGLIA: I would ask that someone from Mr.

1 Mehra s firm would take his place on July what are we at?

2 CHAIRPERSON REID: July 11th.

3 And then, the other question was in regard to
4 yourself, if you were unable to make it, is there someone else
5 who would be able to step in to

6 MR. AGUGLIA: No.

7 MR. FEOLA: Is there not another lawyer at Hunton &
8 Williams who does zoning? How about Davis Houston?

9 MR. AGUGLIA: David Houston?

10 MR. FEOLA: Yeah, one of your partners.

11 MR. AGUGLIA: I don t know David Houston. There s
12 no other attorney in the D.C. office who does D.C. zoning.

13 CHAIRPERSON REID: Okay.

14 So, December I mean, I m sorry, July 11th, and was
15 there another date, wasn t there a date in July, the last part of
16 July?

17 MS. BAILEY: The last Wednesday in July is the 26th,
18 but you have a hearing scheduled for the 25th. Possibly

19 CHAIRPERSON REID: What about July 25th?

20 MR. AGUGLIA: That s fine.

21 MR. FEOLA: That s in case Mr. Aguglia isn t
22 available on July 1st, or is that 11th, well, he s going to let us
23 know on July 1st.

24 CHAIRPERSON REID: Well, we have to kind of make a
25 decision now, because of the scheduling and, you know, the 40-day

1 notice for cases to be put on the calendar.

2 MR. FEOLA: Oh, other cases.

3 MR. AGUGLIA: I would respectfully request for the
4 25th, because Mr. Mehra will be here and I ll have a much better
5 chance of being here.

6 CHAIRPERSON REID: All right.

7 Now, Mr. Swendiman and Mr. Bolotin, does that day
8 work for you?

9 MR. BOLOTIN: It certainly does.

10 CHAIRPERSON REID: All right.

11 MR. FEOLA: I would like July 11th, I mean I think
12 this thing has stretched you know, this whole school and
13 faculty could fit in this room, I mean, we are really making a
14 mountain out of a mole hill, and to put it off another three
15 months

16 CHAIRPERSON REID: Okay, thank you, Mr. Feola.

17 Does that work for everyone else, because there may
18 be a revised Office of Planning report as well. Ms. Vogel, July
19 that would be a.m.?

20 MR. AGUGLIA: Let s do the a.m.

21 CHAIRPERSON REID: A.m., all right, obviously, it s
22 going to conflict with someone somehow, but, Mr. Feola, worst-
23 case scenario, you don t have a problem with someone stepping in
24 for you if need be.

25 MR. FEOLA: No, ma am.

1 CHAIRPERSON REID: Okay. Well, that is comforting
2 to us then, that you can arrange that.

3 All right.

4 MS. BAILEY: Madam Chair, should we go over time
5 lines for when things are due?

6 CHAIRPERSON REID: Yes, please.

7 MS. BAILEY: Okay.

8 The 25th, that s when the hearing is continued for,
9 in the morning.

10 CHAIRPERSON REID: July 25th.

11 MS. BAILEY: July 25th.

12 CHAIRPERSON REID: 9:30?

13 MS. BAILEY: 9:30 a.m.

14 Submissions will be due by the 14th, 14th of July
15 submissions are due.

16 MR. FEOLA: Why so long?

17 CHAIRPERSON REID: No, what about reports the
18 DPW report is supposed to be ready next week, so once that s done
19 then they will have to be distributed to the parties in the case,
20 and then have a chance to respond to it, so that s what we need
21 to set up, Ms. Bailey.

22 MS. BAILEY: Okay.

23 We can next Friday, would that be okay, Madam
24 Chair, for DPW s report?

25 CHAIRPERSON REID: What s the date?

1 MS. BAILEY: That s June 16th.

2 CHAIRPERSON REID: Mr. Laden, would that work for
3 you? DPW report due by June 16th.

4 MS. BAILEY: I m sorry, Madam Chair, let s go back a
5 little bit.

6 CHAIRPERSON REID: I mean, not June 16th, May 16th.

7 MS. BAILEY: Next Friday will be May 19th.

8 CHAIRPERSON REID: May 19th.

9 MR. LADEN: Yes.

10 CHAIRPERSON REID: All right, so then any responses
11 to your report would be due when?

12 MS. BAILEY: June 2nd, which is on a Friday.

13 MR. AGUGLIA: Responses will be due from both
14 parties?

15 MS. BAILEY: All parties.

16 MR. AGUGLIA: All parties, to the DPW report due May
17 19th.

18 MS. BAILEY: Is that doable?

19 MR. AGUGLIA: I can be writing it as I m going into
20 the surgery room, so I can do it.

21 CHAIRPERSON REID: Okay, great, so on the 2nd of June
22 responses are due.

23 MS. BAILEY: Responses are due.

24 CHAIRPERSON REID: So, everything is in to us by
25 that date, and to everyone else, right?

1 MS. BAILEY: And, that s it, responses, and
2 everything should be submitted. We have a July 25th hearing date,
3 so when do you want everything to come in? I mean, it s up to
4 you. Do you want everything to be in by July or June, Madam
5 Chair?

6 CHAIRPERSON REID: I thought that you said that the
7 responses were due in by June 2nd?

8 MS. BAILEY: June 2nd.

9 CHAIRPERSON REID: Then what?

10 MS. BAILEY: Then we go to the next hearing date
11 is in the hearing date is in July, so when do you want I
12 mean, that s it. Let me go over it again.

13 CHAIRPERSON REID: No, no, you don t have to go over
14 it again, June 2nd is the date that you said all responses would
15 be in, and that would be that would be the

16 MS. BAILEY: The responses to DPW s submission.

17 CHAIRPERSON REID: Right, okay.

18 MS. BAILEY: And then, you need a date for when all
19 the things are due, things that Ms. Renshaw has asked for, things
20 that Mr. Sockwell has asked for.

21 CHAIRPERSON REID: Well, we can put that we can
22 make that at the end of June or the first part of July.

23 MS. BAILEY: Okay.

24 Do you want to go with July the 7th, which is on a
25 Friday?

1 CHAIRPERSON REID: I have no problem with that.

2 VICE-CHAIRMAN SOCKWELL: That s fine, additional
3 documents.

4 CHAIRPERSON REID: When everything is supposed to be
5 in.

6 All right, now, also in regard to the issue that
7 was raised by Mr. Aguglia, DPW Office of Planning would then
8 have your report, correct, all the information that you wanted to
9 submit OP would have it, as well as the DPW report, and as such
10 they could then if, in fact, they choose to, they can submit a
11 revised report.

12 MR. AGUGLIA: Yes.

13 MS. VOGEL: Will there be a little delay between
14 when their report is due and when our s is? I mean, if they are
15 due the same day, and then we get the

16 CHAIRPERSON REID: Well, the reports, everything is
17 due on

18 MS. BAILEY: The 7th of July.

19 CHAIRPERSON REID: the 7th of July, which will
20 give you, approximately, a month to respond.

21 MS. VOGEL: Okay, as long as

22 CHAIRPERSON REID: Longer than a month.

23 MS. VOGEL: Right.

24 CHAIRPERSON REID: Okay, now, does that take care of
25 everything?

1 MR. FEOLA: Mr. Sockwell wanted a consolidated Grove
2 Slade report.

3 CHAIRPERSON REID: Right.

4 MR. FEOLA: What is the deadline for that? June 2nd,
5 as well?

6 MS. BAILEY: July 7th I m sorry, we said all
7 submissions are due July the 7th, I m sorry, I didn t mean to

8 CHAIRPERSON REID: July 7th?

9 MR. FEOLA: Well, that s fine, it could be sooner.

10 CHAIRPERSON REID: Okay, how long will it take Mr.
11 Slade to, you know, not revise, but restructure and to

12 MR. FEOLA: A week, in a week.

13 CHAIRPERSON REID: All right, so can it be due the
14 same day as the DPW report

15 MR. FEOLA: Sure.

16 CHAIRPERSON REID: which is May 19th? Okay?

17 MR. FEOLA: Yes.

18 CHAIRPERSON REID: All right.

19 COMMISSIONER RENSHAW: Madam Chair?

20 CHAIRPERSON REID: Yes.

21 COMMISSIONER RENSHAW: I have an article that I
22 would like to be included in the record, and we have copies for
23 the Applicant and the opponents, and it s entitled, it s a
24 Washington Times article dated March the 22nd of 2000, on Teen
25 Motorist Safer Driving Alone Study Concludes, and

1 CHAIRPERSON REID: I don t know if you can do that,
2 Ms. Renshaw.

3 COMMISSIONER RENSHAW: I inquired of corp counsel if
4 that s possible.

5 MS. SANSONE: Madam Chair, I believe it would be all
6 right as long as we distribute copies to the Applicant and
7 parties, in case they wish to address any of the material.

8 CHAIRPERSON REID: What is the purpose of the
9 article?

10 COMMISSIONER RENSHAW: The purpose of the article is
11 to have reflections by the parties, if possible, because of the
12 car pooling aspect of this case.

13 CHAIRPERSON REID: I don t think that is
14 appropriate. I think that that would prejudice one side or the
15 other, coming from a Board member, because, obviously, the
16 submission is there is a basis or a rationale for the
17 submission, and I think that s to bolster the contention that the
18 persons that was made earlier regarding how many people should
19 be in a car, and I don t think that that is appropriate for us to
20 put into this case. We don t usually submit materials into the
21 case.

22 COMMISSIONER RENSHAW: Well, I inquired in advance
23 and, hence, I asked if this could be. In other words, I did
24 check in advance, and, therefore, I brought it to the attention
25 of the Board, because it is a significant study.

1 CHAIRPERSON REID: You did, and that s okay, but I
2 don t think that the article should be submitted. I don t think
3 that that s appropriate. I don t know how the other Board
4 members feel about it, if you d like to speak on it.

5 COMMISSIONER RENSHAW: If it is circulated to all
6 those who would like to have a copy, and especially to the
7 Applicant and the parties, I don t see what the objection would
8 be.

9 CHAIRPERSON REID: Let me get a feel for it from the
10 other Board members.

11 COMMISSIONER MOULDEN: What is the article?

12 CHAIRPERSON REID: And also, from the Applicant as
13 well.

14 MR. FEOLA: We don t have a problem with it. I don t
15 know what it is, but we ll look at it.

16 CHAIRPERSON REID: Okay.

17 MR. AGUGLIA: Not only do we not have a problem, we
18 have a similar article that we were going to submit as part of
19 our testimony about teenagers, Can You Hear This Message About
20 Teen Driving.

21 The only thing we would like clarified, Madam
22 Chair, is when is the OP report due? What we have is May 19th the
23 DPW report, as well as the consolidated Grove Slade report is
24 due, June 2nd responses are due from all parties, July 7th from
25 all parties, meaning the Applicant and opponents July 7th is

1 when the agency information is going to come in from fire and
2 police. We don't know when the OP report is due.

3 CHAIRPERSON REID: Ms. Bailey?

4 MS. BAILEY: I would suggest, Madam Chair, that you
5 make it July 7th as well, unless for some reason you need it
6 earlier, but all government agencies reports

7 MR. BOLOTIN: Madam Chair, I would very much like to
8 get that report earlier than later, and it seems to me a week
9 after everybody else's response is in, that is, that June 9th we
10 have OP's report. That would be helpful to us.

11 CHAIRPERSON REID: In regards to the article, we are
12 uncertain about it, and as such, typically when that happens my
13 position has always been that if we are going to err we err on
14 the side of caution and, therefore, not allow the article to be
15 submitted can we come back to order and not allow it to be
16 submitted. We know of the article, and we have been told about
17 it, but we don't to in any way prejudice either side. And,
18 again, when we are not sure then it's best to not do it, that's
19 my position. We just don't want to have any problems subsequent
20 to this.

21 Okay, now, we have the time lines, does everyone
22 have the time lines? Should she repeat it again? What we'll
23 have her to do is to have it typed up and make sure that everyone
24 gets a copy of it. All right? And then that way we won't have
25 any misunderstanding.

1 MR. AGUGLIA: So, when is it due?

2 CHAIRPERSON REID: The OP report?

3 MR. AGUGLIA: Yes.

4 CHAIRPERSON REID: You asked that that be on the 9th
5 of June.

6 MR. AGUGLIA: I m sorry, I didn t hear a response to
7 that.

8 CHAIRPERSON REID: Ms. Bailey responded that that
9 was okay, and Ms. Vogel agreed. Ms. Vogel, was that your
10 understanding?

11 MS. VOGEL: Could you repeat it?

12 CHAIRPERSON REID: Okay, repeat it, let s go over
13 the time line one more time, please.

14 MS. BAILEY: DPW s report is due May 19th, in
15 addition, Grove Slade s revised report is also due at that time.
16 That s May 19th. June 2nd is responses from all the parties to DPW
17 and the Grove Slade report. July the 7th, all submissions are
18 due, and July the 25th will be the next hearing date in the
19 morning.

20 Now, what s at question is when is OP s report due,
21 and that, Madam Chair, the Applicant is saying that they would
22 like for it to be due on June the 9th.

23 CHAIRPERSON REID: Okay, that s not a question, Ms.
24 Bailey, I think we ve established that.

25 MS. BAILEY: Okay.

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Well, OP s report is due on June the 9th.

CHAIRPERSON REID: Right.

MS. BAILEY: Okay, and that s

CHAIRPERSON REID: No, then everything was due by

MS. BAILEY: All reports are due by July the 7th.

CHAIRPERSON REID: Correct.

MS. BAILEY: All submissions are due.

CHAIRPERSON REID: All right.

VICE-CHAIRMAN SOCKWELL: Did we have a date, Ms.
Bailey, on all additional documentation?

CHAIRPERSON REID: July the 7th.

MS. BAILEY: July

VICE-CHAIRMAN SOCKWELL: That s July the 7th?

MS. BAILEY: Yes, sir.

VICE-CHAIRMAN SOCKWELL: Okay.

CHAIRPERSON REID: Everything else.

MR. FEOLA: What is everything else?

CHAIRPERSON REID: Whatever we forgot. That s the
catch-all day.

VICE-CHAIRMAN SOCKWELL: There shouldn t be anything
else.

MS. BAILEY: Well, some of the things, Madam Chair,
that were spoken

CHAIRPERSON REID: Fire, police, whatever.

MS. BAILEY: traffic accident survey.

1 MR. FEOLA: We ll make that part of the Grove Slade
2 report.

3 VICE-CHAIRMAN SOCKWELL: Fireworks you didn t shoot
4 off on the 4th.

5 MR. FEOLA: We can make that part of the Grove Slade
6 revised report.

7 MS. BAILEY: Traffic counts taken.

8 CHAIRPERSON REID: Okay.

9 The gentleman from the National Park Services, can
10 you come forward, please? My understanding is that you prefer to
11 give your testimony on the subsequent date, and I didn t address
12 it to you, but does that date work for you as well?

13 MR. MURPHY: My name is David Murphy, representing
14 the National Park Service, yes, Madam Chairman, that would be
15 fine. We can accommodate that.

16 CHAIRPERSON REID: And, you will give your report on
17 that date?

18 MR. MURPHY: It s your pleasure, but it would appear
19 that that would be probably more convenient for all.

20 CHAIRPERSON REID: Okay.

21 Sorry you had to come and stay all day

22 MR. MURPHY: No problem at all.

23 CHAIRPERSON REID: just to find out at the end of
24 the day that we are going to reschedule it, but some things can t
25 be helped.

1 All right, thank you very much.

2 July 25th is the hearing date, 9:30 a.m.

3 MR. SWENDIMAN: Madam Chair?

4 CHAIRPERSON REID: Yes.

5 MR. SWENDIMAN: If I may just have you iterate that
6 copies of any documents be served on all parties, on behalf of
7 Ms. Shagrue, we tend not to get anything. I was handed a copy of
8 Mr. Laden s memorandum this morning.

9 CHAIRPERSON REID: Ms. Sansone, could I ask you to
10 give those instructions so that everyone is clear?

11 MS. SANSONE: Yes, Madam Chair, any documents
12 submitted by the parties should be submitted on all other
13 parties, including Ms. Shagrue s attorney, as well as the ANC, as
14 an automatic party to the case.

15 In addition, it might be helpful to clarify that
16 DPW will be submitting copies of its report to the parties. I m
17 not sure what DPW s intent was, in terms of distribution of its
18 report.

19 MR. LADEN: Normally, we would submit our report to
20 the Office of Planning for distribution to the other parties to
21 the case, but if you d like we can get copies of all of the other
22 parties and serve them independent. whichever the Board prefers.

23 CHAIRPERSON REID: Yes, the parties who want to be
24 served, and Ms. Bailey will provide you with the names and
25 addresses of all the parties.

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MR. LADEN: Fine.

CHAIRPERSON REID: And, in addition to that, anything that any parties have not received yet, make sure that everyone is served with everything during this time, I guess is the best way to put it, so that there is no accusation as to materials that, you know, that everyone does not have is not privy to.

I think that s all, is that it for today?

Any other comments, questions? Are we all straight? All right.

Thank you very much. This then concludes today s hearing.

(Whereupon, the hearing was concluded at 5:25 p.m.)

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