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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

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TUESDAY,

MAY 22, 2001

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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
ANNE MOHNKERN RENSHAW	Vice Chairperson
SUSAN MORGAN HINTON	Board Member
ANTHONY HOOD	Zoning Commissioner

COMMISSION STAFF PRESENT:

Sheri Pruitt, Secretary, BZA
 Beverly Bailey, Office of Zoning
 Paul O. Hart, Office of Zoning
 John Nyarku, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Mary Nagelhout, Esq.
 Jennifer Steingasser, Esq.

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

(10:00 a.m.)

VICE CHAIR RENSHAW: The hearing will please come to order.

Good morning, ladies and gentlemen. This is the May 22nd public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Anne Mohnkern Renshaw. I'm the Vice Chair of the Board of Zoning Adjustment. And our Chair, Sheila Cross Reid, will be back with us momentarily.

With me here today is Susan Hinton, representing the National Capital Planning Commission, and representing the Zoning Commission, on my right, is Anthony Hood.

Copies of today's hearing agenda are available to you, and they are located to my left near the door. All persons planning to testify, either in favor or in opposition, are to fill out two witness cards. These cards are located on each end of the table in front of us. Upon coming forward to speak to the Board, please give both cards to the Reporter, who is sitting on my right.

The order of procedure for special exceptions in variances is: 1) statement and witness of the applicant, 2) government reports, including the Office of Planning and the Department of Public Works, 3) the report of the Advisory Neighborhood Commission (ANC), parties or persons in support, parties or persons in opposition, and closing remarks by the

1 applicant.

2 Cross examination of witnesses is permitted by
3 the applicant or parties. The ANC within which the property is
4 located is automatically a party in the case. The record will
5 be closed at the conclusion of each case, except for any
6 material specifically requested by the Board, and the staff
7 will specify at the end of the hearing exactly what is
8 expected.

9 The Sunshine Act requires that the public hearing
10 on each case be held in the open before the public. The Board
11 may, consistent with its rules of procedures and the Sunshine
12 Act, enter executive session during or after the public hearing
13 on a case for the purpose of reviewing the record or
14 deliberating on the case.

15 The decision of the Board in these contested
16 cases may be based exclusively -- must be based exclusively on
17 the public record. To avoid any appearance to the contrary,
18 the Board requests that persons present not engage the members
19 of the Board in conversation.

20 We ask you to please turn off all beepers and
21 cell phones at this time, so not to disrupt the proceedings.

22 The Board will now consider any preliminary
23 matters. Preliminary matters are those which relate to whether
24 a case will or should be heard today, such as requests for
25 postponement, continuance, or withdrawal, or whether proper and

1 adequate notice of a hearing has been given.

2 If you are not prepared to go forward with a case
3 today, or if you believe that the Board should not proceed, now
4 is the time to raise such a matter. Does the staff have any
5 preliminary matters?

6 MS. BAILEY: Madam Chair, good morning. Yes, we
7 do. The preliminary matter has to do with Application Number
8 16618 of The Phillips Collection, and the interested parties
9 are seated at the table.

10 MR. CAIN: Good morning, Ms. Renshaw, members of
11 the Board.

12 VICE CHAIR RENSHAW: Good morning.

13 MR. CAIN: My name is Michael Cain, attorney for
14 the applicant, The Phillips Collection.

15 MR. GELL: My name is Stephen Gell. I'm attorney
16 for the neighbors of The Phillips Collection in opposition.

17 VICE CHAIR RENSHAW: All right. Mr. Cain?

18 MR. CAIN: Since our last hearing, the parties
19 have engaged in organized mediation, which I believe has
20 consumed more than eight sessions, many, many hours, and the
21 parties have worked very hard. And we believe that an
22 agreement, in principle, has been reached with Mr. Gell's
23 clients, but we have not been able to document it, circulate
24 the draft, get everybody's comments, conclusions, signature,
25 and all of that stuff by today.

1 So we have each asked the Board to continue the
2 hearing, and we understand from staff that a date in late June
3 may be possible.

4 VICE CHAIR RENSHAW: Mr. Gell?

5 MR. GELL: Yes, Madam Chair. We're happy to
6 report that the sessions have been very productive. We've
7 reached agreement on what we consider to be the major issues.

8 I can't say that -- since the agreement is not
9 signed, I can't say that there's no chance that we won't come
10 into conflict, but it looks as if with a bit more work we'll be
11 able to reach an agreement that we can then present to you to
12 be incorporated in the record -- in the order.

13 So I would certainly support the request that we
14 postpone this until the 26th.

15 VICE CHAIR RENSHAW: All right. Well, this is
16 good news, that you are proceeding with the mediation and it
17 looks favorable on both sides. That's good news indeed. I'd
18 like to give an opportunity to the other Board members to make
19 a comment on this.

20 Ms. Hinton?

21 BOARD MEMBER HINTON: I'm very happy to hear that
22 the parties are working together, and I think we should give
23 them the chance to finish up what they're doing and grant the
24 request for continuance.

25 VICE CHAIR RENSHAW: Mr. Hood?

1 ZONING COMMISSIONER HOOD: I would agree with my
2 colleagues. I think it's always good, and it makes everybody's
3 job a lot easier, when you come to the table in agreeance.

4 VICE CHAIR RENSHAW: All right. Ms. Hinton,
5 would you like to move?

6 BOARD MEMBER HINTON: I move that we grant the
7 request for a continuance for Case Number -- what's the case
8 number?

9 VICE CHAIR RENSHAW: It's 16 --

10 BOARD MEMBER HINTON: 16618.

11 VICE CHAIR RENSHAW: -- 618.

12 ZONING COMMISSIONER HOOD: I'll second it.

13 VICE CHAIR RENSHAW: All right. Any discussion?
14 All those in favor?

15 (Chorus of ayes.)

16 And the continuance is granted.

17 MR. GELL: Until which date?

18 SECRETARY PRUITT: I'd just like to indicate that
19 the continuance is granted for everybody until June 26th in the
20 afternoon.

21 VICE CHAIR RENSHAW: June 26th.

22 SECRETARY PRUITT: Afternoon session.

23 VICE CHAIR RENSHAW: Afternoon. All right.

24 MR. CAIN: Ms. Renshaw, there is one collateral
25 procedural matter. The neighbors had filed a motion to dismiss

1 the application before the parties were able to come close to
2 an agreement. We have asked for a corresponding deferral of
3 the time within which we must oppose that motion, so that we
4 can hopefully have the motion withdrawn rather than have to
5 have a hearing on it.

6 And I would suggest the 21st of June as a
7 fallback due date in case we don't succeed in reaching
8 agreement.

9 VICE CHAIR RENSHAW: All right. Staff?

10 SECRETARY PRUITT: We actually weren't going to
11 take that up today. We're going to do it at the beginning of
12 the hearing on the 26th.

13 MR. CAIN: Well, this was just for extension of
14 time.

15 SECRETARY PRUITT: Time.

16 MR. CAIN: Okay.

17 SECRETARY PRUITT: But extension of time, that's
18 not a problem. But the actual -- whether or not the motion --
19 the motion from the parties, they will probably defer a
20 decision on it until after they hear the case.

21 MR. CAIN: That's fine.

22 SECRETARY PRUITT: Which is what they typically
23 do.

24 MR. CAIN: Okay.

25 MR. GELL: Just for the record, we would ask for

1 a bit -- that the due date be extended not until the 21st,
2 because that wouldn't give us enough time to put together any
3 additional response, but perhaps a few days before that. I'd
4 say maybe perhaps June 17th.

5 However, we strongly believe that much earlier
6 than that we're going to have a final agreement, which will
7 make it unnecessary to respond to filing the opposition at all.

8 SECRETARY PRUITT: And then at that point would
9 you request that the motion be -- withdraw the motion?

10 MR. GELL: I think if we have a signed agreement,
11 yes, we would have no objection to withdrawing our motion.

12 SECRETARY PRUITT: Okay.

13 MR. CAIN: Thank you very much.

14 VICE CHAIR RENSHAW: Yes. And thank you.

15 All right. Would you call the next case, please?

16 MS. BAILEY: Application Number 16611 of Kenneth
17 Workman, Josef Straka, Carl and Elizabeth Richmond, pursuant to
18 11 DCMR 3104 ad Sections 206 for a special exception to expand
19 and establish a private school, and Section 411 from the relief
20 of the roof structure requirements to allow for the
21 construction of more than one roof structure, a waiver from the
22 roof structure setback requirements and roof structures with
23 walls of unequal height in an R-5-D District at premises 2969
24 Upton Street, Northwest, and 4101 and 4103 Connecticut Avenue,
25 Northwest, Square 2243, Lots 27, 28, and 65.

1 All those persons who were not sworn in at the
2 last hearing last week, and who wishes to testify today, please
3 stand. All those persons who were not previously sworn in, and
4 who wishes to testify today. Please raise your right hand.

5 Do you swear that the information that you will
6 be giving will be the truth? Please say, "I do."

7 ALL: I do.

8 MS. BAILEY: Thank you.

9 VICE CHAIR RENSHAW: All right. Ms. Bailey, will
10 you bring us up to date on where we stand in this case? And I
11 believe that the next step is the cross examination of the
12 applicant by the parties. Is that correct?

13 MS. BAILEY: Yes, Madam Vice Chair, it is.

14 VICE CHAIR RENSHAW: All right.

15 MS. BAILEY: At the last hearing we established
16 the parties of the case, and just briefly they are the
17 Neighbors United for Livable Streets, Van Ness South Tenants'
18 Association, Sirrus LLC, Linda M. Jay, and, of course, ANC-3F.

19 There were several submissions. The timeline has been set,
20 and if you'd like for me to go over that I --

21 VICE CHAIR RENSHAW: Yes, if you would, please.

22 MS. BAILEY: Okay. I think what we spoke about
23 is an hour for the applicant, an hour for the opposition,
24 organizations five minutes each, if I'm not mistaken,
25 individuals three minutes. There is no limit on ANC, on

1 government agencies, and, of course, on cross exam there are no
2 limits.

3 VICE CHAIR RENSHAW: All right. So we are
4 starting with the cross examination of the applicant by the
5 parties. Mr. Brown is -- are you taking the lead today?

6 MR. PATRICK BROWN: No, I was going to raise a
7 preliminary matter.

8 VICE CHAIR RENSHAW: All right. What's your
9 preliminary matter?

10 MR. PATRICK BROWN: Madam Chair, I'm Patrick
11 Brown from Greenstein DeLorme & Luchs. I'm counsel for the Van
12 Ness South Tenants' Association, a party in the matter.

13 Two matters -- one personal, the other a bigger
14 picture of the case. A preexisting schedule of mine requires
15 me to leave about quarter of 1:00 to meet with Mr. Altman at
16 the Office of Planning. That's a difficult meeting to get, so
17 -- and it was long scheduled, so the Board will have to beg my
18 departure.

19 The bigger picture is -- and I'm voicing concerns
20 among the various opposing parties in this case -- is that I
21 have a very strong feeling that we're rushing forward into
22 unknown, unfamiliar territory here. Mr. Laden just filed a
23 report this morning. It's date stamped at 9:47. I think we
24 all have copies of it.

25 The opposing parties are playing catch up. Mr.

1 Laden makes an important point in his -- the first page -- is
2 that the plan that was presented last week had at least seven
3 substantial and new elements to it. And as a result, the
4 community parties are trying to play catch up, respond to
5 those, and I think in an inappropriate manner.

6 Typically, an applicant will file their
7 prehearing statement 14 days before a hearing. That's not just
8 for convenience. That's to allow the parties 14 days to review
9 it.

10 We're less than seven days since we got hold in
11 written form of their material, and yet we're being forced to
12 respond. I think also the issues raised in Mr. Laden's report
13 are rather detailed and substantial.

14 And for me to be expected, and others, to spend a
15 few minutes to review it and incorporate that in going forward
16 is inappropriate. And I think this is a case that while we're
17 trying to move it forward, this may not be one that should move
18 forward now. And I think that the need to move forward is
19 overwhelmed by the need to be educated and have a fair
20 response.

21 So my view, and I speak at least initially on
22 behalf of some of the other opposing parties, but they're here,
23 is it would be inappropriate to go forward this morning.

24 So those are the exact same concerns that were
25 raised last week, and I don't think they're any less, and, in

1 fact, given new information, even more compelling at this
2 point.

3 VICE CHAIR RENSHAW: Thank you, Mr. Brown.

4 I want to acknowledge the presence of our Chair,
5 Sheila Cross Reid, and I will turn the proceedings over to her
6 at this point.

7 CHAIRPERSON REID: Thank you, Ms. Renshaw.

8 Before discussions by Board members, did Mr.
9 Feola have an opportunity to respond to Mr. Brown's objection?

10 MR. FEOLA: Thank you, Madam Chair. For the
11 record, Phil Feola for the applicant.

12 I think Mr. Brown is correct that this is the
13 exact same issue that the Board decided last week and decided
14 to go forward with this hearing.

15 The introduction of Mr. Laden's report today has
16 equally disadvantaged the applicant as well as the opponents.
17 I mean, we all got it at the same time. So we're willing to
18 move forward under those conditions.

19 The opponents have had a week to look at the
20 additional information, which, again, I'll point out does
21 nothing more but address concerns that have been raised by
22 those opponents during the process. Eliminate traffic on Upton
23 Street, the traffic management -- the new traffic management
24 plan does that; eliminate traffic in the alley, the new traffic
25 management plan does that. Provide on-site parking -- this has

1 been in the plans now for almost a month and a half. The
2 opponents all have had copies of those.

3 So to wait and wait and wait I think is just a
4 delaying tactic. The school has obligation. It has a contract
5 to purchase this property that it has to decide this summer
6 whether it's going to or not. And it's a big number for this
7 little school, and it probably will have to walk away from
8 their contract. And maybe the opponent -- that's part of the
9 opponent's strategy. I'm not sure.

10 We have worked hard to find solutions, as opposed
11 to just address the roadblocks that have been in the way. And
12 there is nothing that we haven't tried to address -- the
13 applicant has tried to address in trying to find solutions.
14 And part of the process here, in my 23 years before this Board,
15 is to find solutions, things that try to address people's
16 concerns.

17 So, I mean, I have nothing else to say except I
18 think the Board decided this, and I don't see the prejudice
19 against the opponents any more than against us with regard to
20 Mr. Laden's report. And as Mr. Brown indicated, they've had a
21 week now to look at the new information from the applicant.

22 CHAIRPERSON REID: Ms. Giordano? Thank you, Mr.
23 Feola.

24 MS. GIORDANO: Yes. Cynthia Giordano for the
25 record.

1 I just wanted to echo Mr. Brown's concerns. I
2 think that what Mr. Laden's report does is just identify for
3 the Board and confirm what we were saying last time that there
4 are new elements in this plan.

5 I think the discussion at the very beginning of
6 last time started out with Mr. Brown suggesting that there were
7 new elements, Mr. Feola saying there weren't, and now we have
8 Mr. Laden, an objective party in this matter, saying there are
9 seven new elements to this plan.

10 And in addition to that, some of that information
11 we did have last week, but there are a number of issues raised
12 in this report that I think echo what we were saying last time.

13 Again, the information still isn't there. How do these
14 shuttle buses work? How do these trips go away? How does this
15 Metrocheck plan work?

16 I think the response in italics here that Mr.
17 Laden quoted as being the applicant's response was that their
18 estimate of the transit usage was based upon current transit
19 usage. But that, to me, is not terribly forthcoming. We don't
20 know if the transit usage now is primarily D.C. students, which
21 is understandable that maybe they would be more inclined to use
22 a public transit subsidy successfully, or if this is based upon
23 suburban students.

24 My concern is I just find the information
25 provided to be less than adequate for us to really evaluate at

1 this time.

2 MR. FEOLA: Madam Chair, in all due respect, if
3 Ms. Giordano read Exhibit B in our submission last Wednesday,
4 she would have all the answers to the questions she just
5 raised. She is quoting from Mr. Laden's report, which I agree
6 came in today.

7 But the applicant's explanation of transit usage,
8 who was going to use it, how it was going to work, the shuttle
9 bus system, was in a report she has had a week now, and her
10 consultants have had a week.

11 So I think, again, we're all equally prejudiced
12 by Mr. Laden's report this morning. I don't think it's
13 terribly prejudicial, quite frankly. He says many of the same
14 things he has said before, and we're willing to go forward with
15 that. And I don't see how the opponents, who by the way his
16 report supports, are prejudiced by going forward today.

17 CHAIRPERSON REID: Okay. Thank you, Mr. Feola.

18 I think that, for one thing, my understanding is
19 that the Board members have not had an opportunity to read Mr.
20 Laden's report.

21 MS. SMOLIK: May I actually add a statement to
22 this as well? Jodie Smolik, 2945 Upton Street.

23 I think one of the things important to note on
24 Mr. Laden's report is that he says that the Department
25 recommends a one-year demonstration of the effectiveness of

1 these proposed transportation mitigation measures before the
2 application can possibly, you know, be approved.

3 And this, again, is mitigation including shuttle
4 buses, which they have not determined the sites, as well as a
5 Metrocheck, which could have, you know, been implemented in
6 this past year. So --

7 CHAIRPERSON REID: Wait, wait, wait. Did you say
8 that Mr. Laden's report says that he recommends a one-year
9 what?

10 MS. SMOLIK: Demonstration of the effectiveness
11 of these proposed transportation mitigation measures.

12 CHAIRPERSON REID: Before?

13 MS. SMOLIK: The application is approved.

14 SECRETARY PRUITT: Madam Chair, it's on the fifth
15 page under "Recommendations," last paragraph.

16 MS. SMOLIK: And his concluding sentence is, "We
17 recognize that the full impact of the proposed transportation
18 measures cannot be measured until the school constructs the new
19 building access loop. Therefore, some interim performance
20 measure of effectiveness would need to be developed."

21 And I think that's all what we're saying here is
22 that, you know, there is a credibility issue. These are plans
23 that can be implemented prior to any type of construction, and,
24 you know, that's what kind of we were seeking.

25 CHAIRPERSON REID: This I find baffling, because

1 we don't have the wherewithal to -- if we are going to approve
2 an application -- well, I guess what I'm saying is that, in
3 essence, what you're saying is that he would want the school to
4 go forward with the erection of this addition, and then come
5 back a year later for it to be approved?

6 MS. SMOLIK: No. He's actually talking about
7 Metrochecks and shuttle services.

8 MR. FEOLA: I'd appreciate it if Mr. Laden could
9 testify to his --

10 CHAIRPERSON REID: Yes, I'm getting to that.

11 MR. FEOLA: -- representations, and not Ms.
12 Smolik.

13 CHAIRPERSON REID: But a one-year demonstration
14 of the effectiveness of these proposed transportation
15 mitigation measures that are predicated upon the addition. Is
16 that correct? It's not? Okay. Mr. Laden?

17 MR. FEOLA: Madam Chair, just on a procedural
18 thing, wouldn't it be appropriate to go through the process,
19 get the OP, and Mr. Laden, and if at that time the Board
20 believes --

21 CHAIRPERSON REID: We could do that, Mr. Feola.
22 However, we do have the prerogative of handling it as a
23 preliminary matter if there are some uncertainties, try to get
24 some clarification before we proceed.

25 MR. FEOLA: I understand.

1 CHAIRPERSON REID: Okay. So let --

2 MR. FEOLA: But if we're going to take testimony
3 from Mr. Laden now about his recommendations, it seems out of
4 sequence.

5 CHAIRPERSON REID: Thank you.

6 Just in this one sentence in the recommendation
7 portion, Mr. Laden, could you please explain what you mean by
8 that?

9 MR. LADEN: Yes, Madam Chair. For the record, my
10 name is Ken Laden. I'm the Associate Director for
11 Transportation Planning, D.C. Department of Public Works.

12 In discussing this particular case within our
13 agency, there was some sense that if all of these various
14 measures worked as the school intended that there could be some
15 benefits to the community, but there was some concern as to the
16 effectiveness of the school in delivering the goods in this
17 particular case.

18 So what was suggested was that, if possible, and
19 if it's within the Board's capabilities, that there should be a
20 one-year demonstration of the school's abilities to change the
21 behavior of the way students arrive at the school.

22 CHAIRPERSON REID: You mean before any --

23 MR. LADEN: Or as --

24 CHAIRPERSON REID: -- before the addition, or
25 before they make any changes whatsoever?

1 MR. LADEN: Well, I'm not sure what the Board's
2 discretion or capabilities are. But, basically, before the
3 school would grant -- would be granted final permission to
4 expand into the new building, there are certain elements of the
5 plan that could be implemented, such as the Metrocheck and the
6 shuttle bus. Those could not be tested until the next academic
7 year.

8 So the sense was that, you know, we would like to
9 see some demonstration of the ability to shift the travel
10 patterns that are currently existing before there's a full
11 commitment to the expansion of the school to the new property.

12 CHAIRPERSON REID: Okay.

13 MR. LADEN: But, again, that's -- it's our
14 recommendation in terms of the traffic elements, and I'm not
15 sure that's within the Board's capabilities.

16 CHAIRPERSON REID: Okay. I'm sorry. I did say
17 addition. I meant to say expansion. And what I'm grappling
18 with is the adverse impact is going to be predicated upon the
19 expansion and how the traffic is once there is the expansion.

20 So at this point in time, you're saying -- are
21 you saying that you want them to expand and then after a year
22 come back, and then -- because there is no provisional
23 variance.

24 MR. LADEN: I think what we're suggesting is that
25 the current school with the current enrollment levels --

1 CHAIRPERSON REID: For a special exception -- I
2 mean, there's no provisional special exception. Either we're
3 going to do it or we're not. I mean, how could we -- how do we
4 have them to expand, and then we see how it works out, and then
5 say, "Well, it's not working out," so you just retract?

6 MR. LADEN: Correct. And, again, you're right.
7 You can't do that. So I think what we're suggesting is that
8 the existing school configuration, the existing school
9 enrollment, next year see how many of the existing parents they
10 can get to change their travel patterns to reduce the amount of
11 traffic in the neighborhood currently. And then, if that
12 proves to be successful, then come back and implement the
13 requested expansion.

14 CHAIRPERSON REID: Board members? Are there any
15 comments?

16 BOARD MEMBER HINTON: Yes, I have a comment.

17 CHAIRPERSON REID: Ms. Hinton?

18 BOARD MEMBER HINTON: What I'm thinking about
19 everything that I've heard this morning is I understand DPW --
20 the supplemental report came in just this morning. But there
21 was a reference made to the -- that that is due 14 days in
22 advance.

23 It's actually a government report, so it's due
24 seven days in advance. So at this point, it would have been
25 better to have it seven days ago. But I see that as -- that's

1 not a comment to DPW, because I understand the information came
2 in late.

3 What I'm thinking is for the parties, to be fair
4 to the parties what this Board would have wanted was to have it
5 available for seven days before anyone is asked to talk about
6 it.

7 But I think it's something that we can easily
8 handle if we go forward with the parts of this hearing that we
9 can. And then any party that feels that they would want the
10 opportunity to submit additional information into the record
11 would be able to do that in writing following the hearing.

12 Anybody who wanted to do more research into the
13 DPW report or provide additional comments I think would be
14 allowed to do that. If the comments are so substantial, and
15 the information seems to be so unclear, I think at the end of
16 this hearing we can decide whether we need to have an
17 additional opportunity for just cross examination of the DPW
18 report, and give people time to read the report and come back
19 just for cross of that one issue.

20 But I think there is a lot of parts of this
21 hearing that we can go forward with today. I mean, in my mind,
22 our schedule is full through September. So if we don't do this
23 today, we are not going until September. And I think that's a
24 burden for everybody, and I would rather not have that
25 situation come to bear.

1 I think we can go ahead with questions of the
2 applicant. I think the parties can put their case on the
3 record. The parties' case I don't think is completely based on
4 the DPW report. I think that's a factor. But, obviously, the
5 parties were prepared to go ahead last week. And so I think we
6 can still go ahead with our testimony.

7 And I don't -- I think Mr. Feola is correct that
8 every -- all the parties are going to be equally affected by
9 the report coming in today. And that would be my
10 recommendation.

11 MR. PATRICK BROWN: Can I interject? And I think
12 we've kind of crossed wires slightly. The DPW report coming in
13 today is just a symptom of a larger problem that -- and Mr.
14 Laden has carefully pointed out how different and how much new
15 was in the plan that was for the first time presented a week
16 ago Tuesday.

17 We didn't receive that report until midday the
18 following day. That's where the problem arises. This case is
19 going to come down to -- not to anything other than the traffic
20 issues. I mean, it's one of the enumerated criteria for this
21 special exception, and it's the area where, quite frankly, the
22 controversy and current problems exist.

23 So to come with a new plan, a substantially new
24 plan, drop it on the Board and the community at last week's
25 hearing, finally provide it in writing the next day, and then

1 to expect the parties to go forward in an intelligent way
2 today, is just inappropriate.

3 Mr. Feola -- and he keeps trying to indicate it's
4 something less than it is. There are seven substantial
5 elements to it, which are the cornerstone of his case, on the
6 traffic issue. And they're all new to us, and I don't think
7 it's appropriate.

8 If we had handled this in the normal course, he
9 would have filed 14 days in advance, and we would have had 14
10 days before the hearing date. We've now got less than seven
11 days based on the way things have transpired, and that's wholly
12 inadequate and unfair. And I think proceeding under these
13 circumstances turns the tables on the whole process.

14 CHAIRPERSON REID: Let's hear from --

15 VICE CHAIR RENSHAW: Madam Chair, I was going to
16 say that before we go any further I would like to hear from the
17 two ANC Commissioners.

18 MR. KOGAN: Thank you, Board Member Renshaw.
19 Phil Kogan is my name. I'm the ANC Commissioner for ANC-3F-01,
20 the district that houses the Edmund Burke School.

21 I agree with Mr. Feola that he has worked toward
22 providing solutions. But I would suggest to Board Member
23 Hinton that this project is a project that has been going on
24 for a considerable amount of time. And it's gone through a
25 number of iterations. It's gone through some major changes.

1 I also agree with Mr. Feola that it has been a
2 process of give and take. This project has changed enormously
3 from the initial inception -- and many projects do, but this
4 one in particular has -- to where it was on April 10th when we
5 got our prehearing statement.

6 I believe, and I let you know last week, that I
7 think it has changed again. And I think Ken Laden's report
8 shows that the project has changed again.

9 And my objection here, my problem with the
10 procedure that's being laid out, is that the give and take that
11 we were able to engage in for a period of about 14 months, give
12 or take, that that give and take has now been truncated, and
13 we're being asked to come in here and work in this session to
14 quickly get up to speed on things that we have a lot of
15 questions about, Ken Laden has raised a lot of questions about,
16 that don't really give us the give and take opportunity that
17 we've had up until now. And I think that is a problem from our
18 point of view.

19 BOARD MEMBER HINTON: May I ask a question? If
20 nothing else changed on the project from what you have now, how
21 much time do you think the ANC and the other parties would need
22 in order to maybe have a meeting or two and do some research
23 and work out whatever sort of compromises and recommendations
24 are available?

25 So that when you come back to the Board you have

1 agreed on as much as you're going to be able to agree with, and
2 there may or may not still be some other things. But what sort
3 of timeframe are you thinking that would take?

4 MR. KOGAN: If we went through the plan and made
5 a determination that we would need another meeting, that --
6 another ANC meeting, that meeting would be the third Monday in
7 June. I think it's the 17th. And we would need a week's
8 notice for the community for that meeting.

9 So we would need about two to three weeks to get
10 ready for that, assuming we needed a meeting. If we felt we
11 didn't have to have a meeting, that there weren't significant
12 changes, it would probably be a couple of weeks.

13 And that's kind of the timeframe we've dealt with
14 here with the applicant in terms of being able to look at their
15 revised submissions. We've always had a couple of weeks, 10
16 days, two weeks, maybe more, to go over the submission and get
17 comments back to the applicant.

18 That's what this process has looked like so far,
19 and that seemed to have worked. Again, I think the project has
20 moved considerably from where it was. But we've got data in
21 here that is just laid out. I don't really see an analytical
22 basis for some of the numbers, the shuttle bus numbers, the
23 transit numbers. Those are just laid out. They're not really
24 explained. There's not a narrative to accompany them to
25 indicate how they got there.

1 And we're now to accept that these things will
2 just happen. But I think we need to ask some questions around
3 those things that are being laid out, those numbers that are
4 being laid out, and the methods that get to the numbers, and
5 discuss that with the applicant as we have in the past.

6 We've had a number of different proposals that
7 were made to alleviate the traffic. And after all, that's what
8 this is all about. And we've gone back and forth with the
9 applicant on many of these proposals. I think the leased
10 parking space we dealt with for maybe six months the applicant
11 was going to get a parking lease up on Connecticut Avenue.

12 And as we went back and forth, we realized -- and
13 I think they realized -- that that really wasn't going to work,
14 and they kind of came back to the underground parking solution.

15 And I think we would prefer to go through that same kind of
16 give and take, as Mr. Feola characterizes it, rather than have
17 to come in here and just be up against the wall to comment on
18 something we haven't had adequate time to comment on and to
19 study.

20 CHAIRPERSON REID: Okay.

21 MS. PERRY: I was just going to add that last
22 night when I was writing my statement --

23 CHAIRPERSON REID: Give your name.

24 MS. PERRY: It's Karen Perry. I'm the other ANC
25 Commissioner for this project.

1 Last night we had an ANC meeting, and after that
2 I was writing my statement. And not knowing what Mr. Brown was
3 going to say today, I put in my statement that the neighborhood
4 was at a distinct disadvantage, not having the OP report, not
5 having the DOT report. And that, you know, just getting it
6 this morning does not do us much in preparing for our
7 testimony.

8 I also put in here, just for the record, that the
9 neighborhood has been trying to work with Burke now for almost
10 two years on some of these traffic things. And the
11 neighborhood has not changed what it said over the course of
12 the two years.

13 And the first plan we saw that kind of addressed,
14 where we were coming from, is this new plan. But we are -- and
15 I even put in my statement here that we wanted to see Burke try
16 and mitigate the existing problems that we're having with the
17 existing traffic by using Metro, by using the shuttle buses, to
18 see if it would help us with the current problems.

19 And there's a very distinct difference in this
20 plan from what we were told with just a couple of numbers last
21 week. This plan now uses -- the only access to the parking lot
22 in the rear of the building is Van Ness Street. And now this
23 is putting all of the Burke buses into that back parking lot,
24 all of the visiting buses into the back parking lot, and using
25 a residential street -- and it's a very narrow street with

1 parking on both sides.

2 And it does change the whole complexion of where
3 the Van Ness neighbors were coming from and the consulate in
4 Van Ness East. So there are very distinct differences with
5 this plan versus what we had heard.

6 CHAIRPERSON REID: Okay. Ms. Nagelhout, Corp.
7 Counsel, I would like her to speak.

8 MS. NAGELHOUT: Madam Chair, I would just remind
9 you that the applicant here has the burden of proof to show by
10 a preponderance of the evidence that this request will satisfy
11 all of the requirements for a special exception.

12 And, you know, they've made their case, and now
13 you are at the point where the opposition can start to make
14 their case through cross examination and continue on with their
15 direct case. And if they feel that they don't have enough
16 information or they have doubts or they have -- they question
17 the assumptions that are underlying the applicants' case, that
18 is part of their case, and they can use that to show that the
19 applicant has not, in fact, met his burden of proof to justify
20 a special exception.

21 So I don't think you need to keep on discussing
22 whether -- who should have had what information when. If you
23 want to just -- if you -- how this came about was there was a
24 question raised about whether you want to go on this morning or
25 not. If you do, I think it's -- you can.

1 I mean, that will -- if they don't -- if they'd
2 feel that they didn't have the information far enough in
3 advance, there's two things you can do. One, make a note of
4 their doubt that the applicant has proved its case. And,
5 number two, leave the record open for subsequent filings if you
6 think that's necessary.

7 The Board -- after the Board has heard the
8 opposition, you may have questions yourselves about this late
9 changed information.

10 CHAIRPERSON REID: I think that we had made that
11 assertion at the end of the last hearing, that given the
12 circumstances under which we are operating, the fact that we
13 have reserved this day for the hearing, and the fact that we
14 asked Mr. Laden to give us a report, which he has -- and there
15 are some questions in the report.

16 Nonetheless, there is an opportunity for cross
17 examination as well as the fact that any new information that
18 may not have been presented to the full ANC, we can allow that
19 to happen prior to a decision being made. And I think that we
20 had said that.

21 I think that it would be instructive for us to go
22 ahead with this case today. And Mr. Feola, who is the
23 applicant, is expressing a desire to do so, and if there's any
24 disadvantage to that to -- in my opinion, it would be upon the
25 applicant because of the fact that there is a question -- there

1 is questioning on the part of the community about having
2 additional time.

3 I think that whatever questions you may have
4 could be done through the cross examination. To just continue
5 this case today to me does not make a lot of sense, and I also
6 appreciate very much Mr. Kogan's assertion that in all
7 instances the community has been given an opportunity to try to
8 work things out and to try to have their objections or their
9 concerns aired and to be addressed by the applicant.

10 And that I feel is always good, because I think
11 that from where you were in the beginning to now there has been
12 some progress. And I think that the burden of the whole case
13 today is upon the applicant to demonstrate that they have been
14 able to, to the greatest extent possible, mitigate and diffuse
15 the adverse impact.

16 And if that's not proven, then that means that
17 the onus of responsibility of that would fall upon them. So
18 it's a chance that they're taking, and I would be in favor or
19 inclined to move forward on the case today.

20 MR. FEOLA: Madam Chair, if I might -- Phil
21 Feola. I guess the dilemma we face as the applicant if --
22 because I think Mr. Kogan is correct. I think in a perfect
23 world we could have solved some of these problems, worked
24 through some of the issues, and come back.

25 But, unfortunately, it's not a perfect world, and

1 this Board's schedule is such that we couldn't come back on
2 June 20th after that ANC meeting, because it's not there. So
3 we're faced -- the applicant is faced with looking at today or
4 October I think is what staff told us last time, and that puts
5 a big burden on us.

6 And it -- and you're right. We are taking -- the
7 applicant is taking the risk here that it can prove its case.
8 We think we have. We think we have some answers to some of the
9 questions that have been raised, but it's going to be the
10 Board's decision.

11 I mean, if we could have a BZA hearing on June
12 20th, we'd be supporting Mr. Kogan's request. Unfortunately, I
13 don't think that that's in the cards.

14 CHAIRPERSON REID: No. No, it's not.

15 Ms. Pruitt, are you looking for -- well, the
16 thing about it is the applicant has the burden of proof. The
17 applicant feels confident that they can move forward today, and
18 that they can make their case. So be it. If they can, they
19 can. If they can't, they can't.

20 And I think that the reason why they are willing
21 to take that risk is because of the fact, as Mr. Feola
22 adequately pointed out, that to have -- to wait until October
23 would not be in their best interest. So they have to take
24 their best shot.

25 MS. GIORDANO: Cynthia Giordano for the record.

1 Can I just point out that everybody takes a risk here, not just
2 the applicant. The opposition parties take the risk that an
3 assertion is made that traffic is somehow going to disappear
4 because of a number of measures that are going to be taken by
5 the applicant, where, for instance, a shuttle bus -- they don't
6 know where the shuttle buses are going to come from, whether
7 they have permission to park them anywhere.

8 There are a whole lot of ifs here that could make
9 the plan unimplementable. And so we take a big risk that the
10 Board, in reliance upon an assertion that something can be
11 done, without really the facts to support it, could approve
12 this application, and then we'd have a situation where the
13 traffic is not mitigated.

14 CHAIRPERSON REID: Well, I think I've said that
15 the burden is on the applicant to make their case, and this is
16 what I meant by the risk factor. The opposition has an
17 opportunity to also make a case that there is ample and there's
18 due process for all persons involved here.

19 Now, when I said "the risk," if Mr. -- if the
20 applicant decides that they want to have a continuance, then
21 they can do that, you know, very well. But the point of the
22 matter is -- and I think that given more time they could
23 probably do better as far as mitigating some of the concerns
24 that we have here this morning.

25 But if they are saying that they want to go

1 forward, then the opposition has ample time to be able to count
2 anything they say and make a case in a -- to the opposite of
3 what -- the case that they're making here this morning.

4 So I don't think that the opposition is being
5 prejudiced if, in fact, we go forward today. You have the
6 opportunity to cross examine. You have the opportunity to
7 make, you know, as solid a case as you possibly can.

8 Yes?

9 BOARD MEMBER HINTON: May I ask a question? Ms.
10 Giordano, what I don't understand -- I understand what you've
11 said and your concern. Do you think that if you had more time
12 you would research these issues and be able to put on a better
13 case, a better informed case about what -- the other
14 possibilities of what might happen or what the results of these
15 mitigation measures could be? Is that why you're asking for
16 more time?

17 Because what I see is if we just have more time,
18 we're going to come back here in a month or two months, or
19 whatever, and we're going to have the -- you're going to have
20 the same questions, if there's no more information that comes
21 into the record.

22 So is it really that you want to take what's in
23 the record now and have time to look into it?

24 MS. GIORDANO: There is some of that. But the
25 other part is that I think that people are being asked to take

1 a leap of faith here. That these numbers are -- have been put
2 forth by the applicant by an expert without any information as
3 to how they got to the numbers, whether there is any real
4 validity to the numbers.

5 And my concern is that the Board may take that
6 leap of faith and not really help the opposition test whether
7 or not these numbers make any sense or can be relied on
8 reasonably.

9 BOARD MEMBER HINTON: There's something that we
10 can do in traffic management, and this might be something to
11 think about as we go forward, because I think traffic
12 management is always sort of -- this is what we think will
13 happen. And there is really no way to know exactly what's
14 going to happen, or exactly what the counts are.

15 I think that based on the proposal, and based on
16 the information we're given, it's possible to set expectations
17 or requirements of traffic situations that would have to go
18 along with the approval of the special exception.

19 And so the numbers that we've been given -- I
20 mean, one possibility would be no more than this many cars with
21 the destination of the school will come through this alley in
22 the morning. Whatever that number is, that's where it's set.
23 At any time, if anyone wants to go out and count the cars, and
24 instead of being 10 it's 50, it's easily documented, and then
25 you'd come back and say, "This is a condition of the special

1 exception that's not being met."

2 And I think a lot of these numbers it's possible
3 to put limits on them, and that's -- that would be one way to
4 regulate it, other than sort of, like you said, taking the leap
5 of faith or thinking that these estimates are based on the best
6 knowledge that's available.

7 I don't know how else we would really make sure
8 that it is going to be the way we all hope it will be.

9 MR. PATRICK BROWN: And I'm going to jump in real
10 quick. That's very troubling to me. I mean, a well-
11 intentioned attempt to put some objective standards that
12 everyone knows exist and have to be complied with or not.

13 But, again, a fact of life -- today -- and the
14 fact of life is the school is subject to a 270-student cap.
15 You count heads on any given day. They readily admit to having
16 been out of compliance to the BZA condition for three years or
17 longer -- four. And so we've got a disconnect.

18 And, basically, trust us in the context here
19 isn't going to be good enough, because we've got --

20 BOARD MEMBER HINTON: But the disconnect is in
21 enforcement, and I don't know if anyone has made any attempt to
22 have this enforced.

23 MR. PATRICK BROWN: Well, the ultimate
24 enforcement, quite frankly, is -- and I don't think anybody in
25 this District of Columbia government is willing to take

1 enforcement -- is to revoke their certificate of occupancy.

2 BOARD MEMBER HINTON: Exactly.

3 MR. PATRICK BROWN: And I don't think that's a
4 practical measure. And if I filed a BZA appeal, which I could
5 on behalf of my client, saying they're in violation of their
6 order --

7 BOARD MEMBER HINTON: Right.

8 MR. PATRICK BROWN: -- and be -- we've counted
9 the heads, so, factually, we agree they're not in compliance.
10 And then the Board's only alternative is to revoke their
11 certificate of occupancy.

12 I don't think that's an outcome that we want to
13 have. We want to have something that works, not if it --

14 BOARD MEMBER HINTON: It would be the Zoning
15 Administrator, not the Board --

16 MR. FEOLA: Madam Chair?

17 BOARD MEMBER HINTON: -- and the Zoning
18 Administrator --

19 MR. FEOLA: I think we're way -- we're --

20 SECRETARY PRUITT: Madam Chair, we're getting
21 into testimony now. We need to determine whether or not you're
22 going to go forward.

23 MR. FEOLA: We presented, in response to Mr.
24 Brown, a compliance plan in which the neighbors have the
25 majority of votes, and a way to monitor it. So we're trying to

1 address that.

2 But putting that aside, is there any way that we
3 can find some middle ground here between October and today? I
4 guess that's what I'm hoping is through some more today maybe
5 cross examine the applicant's witnesses, which have no effect
6 on Mr. Laden -- shouldn't have any impact because Mr. Laden's
7 report came in today -- and get that part done, maybe the
8 Office of Planning, which filed its report a week ago, can be
9 put on, and then come back --

10 CHAIRPERSON REID: But, Mr. Feola, I think that
11 still the issue is we have to try to see what we can do,
12 because there is no other date that's available.

13 MR. FEOLA: Well, that's what I'm asking. Is
14 there any couple of hours here and there? I mean, two hours
15 here, two hours there, two hours the next --

16 MS. GIORDANO: If I might just respond, Ms.
17 Hinton. I guess what I'm saying -- I hate to sound like a
18 broken record -- is that this is not exactly just the typical
19 leap of faith. This is a work in progress.

20 A proposal for a shuttle bus has been made, but
21 no -- the applicant has no idea where the shuttle buses come
22 from, where they park, where they have permission to park.
23 This is not a fully fleshed out proposal. That's what we're
24 saying. It's not just the typical, you know, well, you know,
25 maybe this can work, maybe it can't.

1 MR. FEOLA: That's for her to do on cross
2 examination or make her case.

3 MS. PERRY: I would like to suggest --

4 CHAIRPERSON REID: Thank you very much. What's
5 happening is that we're hearing -- everyone is now repeating
6 their position, and we heard it. And what we're going to do I
7 think is take a 10-minute -- we're going to recess, and then
8 we'll make a decision, and we'll be right back.

9 MS. PERRY: Ms. Reid, I would like to add one
10 thing that's not something you've heard, and it's what Ms.
11 Hinton said.

12 CHAIRPERSON REID: Quickly.

13 MS. PERRY: As an ANC and as a neighborhood, we
14 have tried to get enforcement, and we wrote to this Board about
15 problems we were having with Howard and their new campus plan.

16 We received a letter from the Board saying once
17 you make the special exception there's nothing you can do; go
18 to the Zoning Administrator. We have been there.

19 CHAIRPERSON REID: Okay.

20 MS. PERRY: But it doesn't work. Once it's
21 approved, we're dead.

22 CHAIRPERSON REID: Okay. Thank you.

23 (Whereupon, the proceedings in the foregoing
24 matter went off the record at 10:51 a.m. and went
25 back on the record at 11:31 a.m.)

1 CHAIRPERSON REID: Okay. The hearing will
2 resume.

3 All right. Given the situation that we are
4 facing this morning, we feel that -- the Board feels that we
5 want to move forward with the case today in part and get
6 through the applicant's cross examination, the Office of
7 Planning report, the cross examination of Office of Planning,
8 and the DPW report, and cross examination of DPW.

9 Then, we would like to have a subsequent meeting
10 date, hearing date, on Thursday, June 21st, at which time it
11 would give the ANC an opportunity to have met, and then we'd
12 have the ANC report, cross examination, and then the
13 opposition's case that day.

14 So what it does is basically allow us to do both,
15 to have -- not waste this day entirely, take a great portion of
16 the case today, and then finish it on a subsequent day, which
17 would give the applicant -- I'm sorry -- the ANC an opportunity
18 to have met and to be able to respond to some of the material
19 that has come in.

20 And hopefully that -- does that fit well with the
21 schedules of the parties? The applicant and the parties? The
22 opposition? Come up.

23 BOARD MEMBER HINTON: I think we got a nod of
24 agreement from the applicant that that will work.

25 MR. FEOLA: For the record, yes, the applicant

1 finds that an acceptable compromise.

2 CHAIRPERSON REID: Okay.

3 MR. SHINBERG: Milton Shinberg, 2949 Upton. I'll
4 be out of the country until the 22nd.

5 CHAIRPERSON REID: Okay.

6 MR. SHINBERG: Of June.

7 CHAIRPERSON REID: You're a party, and you --

8 MR. SHINBERG: I'm part of a panel that will be
9 testifying.

10 CHAIRPERSON REID: You're part of the panel.

11 MR. SHINBERG: Right.

12 CHAIRPERSON REID: And this is something that
13 would work for us, and also for the applicant. And, Mr.
14 Shinberg, do you think that your report could be in writing and
15 that it could be presented by one of the other members of your
16 panel, the one preferably who is going to do the cross
17 examination, if you have to be out of the country that day? Is
18 that a possibility?

19 MR. SHINBERG: I think that's a serious -- not
20 that I'm such an important person in the world, but we've
21 worked together as a group for these two years. And our
22 operation as a group, our ability to consult as a group on the
23 day of a hearing, during the process of a hearing --

24 CHAIRPERSON REID: Could you submit your --
25 whatever -- your part, could that be given by someone else?

1 MR. SHINBERG: As I say, it's not just --

2 CHAIRPERSON REID: If it's in writing.

3 MR. SHINBERG: -- pieces of paper. It's
4 participation in the process that matters.

5 CHAIRPERSON REID: Well, participation in the
6 process implies -- is your presentation as well as your ability
7 to cross examine. And the question was, could that be
8 accomplished by your having someone to do that on your behalf?
9 Okay.

10 MR. SHINBERG: I understand.

11 CHAIRPERSON REID: All right.

12 MS. PERRY: Ms. Reid, I was going to say, also
13 I'm going to be out of town on that day. I mean, I think when
14 we talked about this Mr. Feola said he could delay even six
15 weeks, knowing that Mr. Shinberg was going to be gone, I'm gone
16 that -- for that long weekend after the ANC meeting in June.

17 CHAIRPERSON REID: No, we were told -- when we
18 were in executive session -- see, let us understand this
19 clearly. Our task is very difficult, because we're trying to
20 accommodate so many people's schedules, and not to mention that
21 our own already-burdened schedule -- we meet once a week now --
22 that we were willing to come in on an additional day a week,
23 which means that would be two days, to try to bring this to
24 some closure.

25 Now, we know that there is no way under God's

1 earth -- on God's earth that we are going to be able to
2 accommodate everyone. No matter what date we pick there is
3 going to be at least one or two people who will say, "I'm out
4 of town. I can't make it that date."

5 But we have to select a date that will at least
6 accommodate most of the people. When we were in executive
7 session, Ms. Pruitt came in and told us that the 21st was the
8 date that appeared to be agreeable to everyone. And then we
9 took the time to go over our case load, our scheduling, we have
10 some huge cases coming up that week, and to determine whether
11 or not we could do it on that date.

12 And then we come out here and now we're told, oh,
13 well, that's not working for at least two -- one party member
14 and one ANC member.

15 MS. PERRY: I think we told Ms. Pruitt that Mr.
16 Shinberg would be gone until the 22nd. She's nodding yes. And
17 he is a vital part of this case.

18 CHAIRPERSON REID: But are you with the ANC?

19 MS. PERRY: I'm with the ANC. And from what I --
20 I have read his statement, and I do think he needs to be here.

21 CHAIRPERSON REID: But we got the impression that
22 the ANC met on the --

23 MS. PERRY: Seventeenth.

24 CHAIRPERSON REID: On the 17th? And the 21st was
25 good for the ANC.

1 MS. PERRY: That's not what we said.

2 SECRETARY PRUITT: My understanding was any time
3 after the 20th was going to be acceptable. And we're limited
4 to Thursdays, and the 28th is HPRB, so that -- this hearing day
5 is gone. This room will physically not be available.

6 So the 21st was the first available day after the
7 20th that I thought was the -- sort of the date that you
8 wouldn't mind continuing it past.

9 Now, your ANC meeting is when?

10 MS. PERRY: Our ANC meeting is on the 17th.

11 SECRETARY PRUITT: Okay. And that's what I
12 thought was sort of the benchmark, that you wanted it after
13 that.

14 MS. PERRY: But I think that last week we lost a
15 key person in the hearing when it was rescheduled.

16 CHAIRPERSON REID: But she should be back by
17 then.

18 MS. PERRY: I know. But we redid the whole --

19 CHAIRPERSON REID: So we lost someone, and we
20 gained --

21 MS. PERRY: -- and she was going to be
22 the lawyer.

23 CHAIRPERSON REID: -- we gained her back.

24 MS. PERRY: Well, I don't know that for a fact,
25 because I don't know what her calendar is like. But Mr.

1 Shinberg is a key part of it last week and today.

2 And I think maybe the neighborhood would have to
3 go back and meet with the ANC and see if the 21st is
4 preferable, or whether we should just go forth today as is and
5 have most of our key players. And some of the people that we
6 had last week we couldn't get this week, and I don't know now.

7 BOARD MEMBER HINTON: Can't Mr. Kogan speak for
8 the ANC as far as can't he be here on the 21st and represent
9 the concerns of the ANC?

10 MS. PERRY: I'm not saying he can't for the ANC.
11 I'm more concerned right now about the neighborhood case. And
12 knowing what the case is and the way the panel was structured,
13 put together, Mr. Shinberg is --

14 BOARD MEMBER HINTON: But you're not in that
15 party, are you?

16 MS. PERRY: No.

17 BOARD MEMBER HINTON: You're not in the
18 neighborhood party? Okay. So --

19 MR. VRICELLA: My name is Robert Vricella. I
20 live at 2947 Upton. I'm a charter member of NULS, and I'll be
21 out of town the 21st also, that whole weekend. And it's --
22 Milton is right. It's a group effort. We've all come together
23 to try and -- you know, we're all citizens. We have jobs to
24 do. You know, we all work. We're all taking time off to be
25 here, and it's very difficult to make that date.

1 MR. FEOLA: Madam Chair, the problem is, putting
2 aside all of the continuances and the delays, if this Board
3 noticed the hearing to be June 21st, we would all have to be
4 here or miss an opportunity. So I don't see why now we have to
5 reshape it around one or two people.

6 They can submit in writing. I respect Mr.
7 Shinberg as an architect. He can submit his testimony in
8 writing. I know this Board will read it.

9 We actually lose because we don't get a chance to
10 cross examine his testimony. We're willing to give that up.
11 You know, and any day when you're talking about a group of 10
12 people, somebody is going to be --

13 CHAIRPERSON REID: We know that.

14 MR. FEOLA: -- busy.

15 CHAIRPERSON REID: Someone is going to definitely
16 not be able to be here. And we don't have --

17 MS. SMOLIK: Madam Chair?

18 CHAIRPERSON REID: We also -- excuse me one
19 second -- considered the 28th as an alternative. However, the
20 28th is the day when the HPRB will have to have this room. So,
21 and then that kicks it into July, and we don't really want to
22 go into July necessarily.

23 Yes?

24 MS. SMOLIK: Jodie Smolik, 2945 Upton Street.
25 And it's going to sound like a broken record, but I can't be

1 available June 21st as well. And as part of this discussion, I
2 think we've been working really hard as members of NULS, and,
3 you know, we are prepared to go on with the case today.

4 I am more than happy -- and I apologize for the
5 time that it has taken you in recess to talk about this. But
6 there are so many parties involved in here that for various
7 reasons have requested a delay.

8 The one thing that I would like to request is
9 that this is a very complex case, and especially with the
10 traffic plan, and what I would like is additional time than the
11 60 minutes I had requested last week, knowing that our case was
12 very detailed. And we have put together a panel to present
13 testimony that is not duplicated. And I would like to, if we
14 do proceed, request more time for today, please.

15 CHAIRPERSON REID: Okay. Thank you very much.
16 In regard to your time request, you already did request more
17 time. And I think we already told you that we can't, because
18 it -- we can't give you more time than we've already granted to
19 the applicant.

20 Yes?

21 BOARD MEMBER HINTON: Madam Chair, is it
22 possible, then -- we have one party that wants to go ahead
23 today. Couldn't we just add that on at the end? That we go
24 through what we were going to go through, we don't have the ANC
25 today as we had planned, but we have the one party that's ready

1 can go ahead today with their case.

2 CHAIRPERSON REID: Do you mean of the parties?

3 BOARD MEMBER HINTON: Yes.

4 CHAIRPERSON REID: That has expressed an interest
5 in --

6 BOARD MEMBER HINTON: The party in opposition
7 that can't be here on the 21st can go ahead with their case
8 today.

9 CHAIRPERSON REID: I have no problem with that.
10 Would that be a viable solution for you?

11 MS. SMOLIK: Okay.

12 CHAIRPERSON REID: All right. We can do that.
13 We can add that to today's portion, and then the rest of it
14 truncate it until the 21st, since you won't be able to be here.

15 MS. SMOLIK: So Van Ness could go at a different
16 time, you're saying?

17 CHAIRPERSON REID: Well, Van Ness can then go on
18 the 21st. Basically -- give me the name of your organization
19 again.

20 MS. SMOLIK: Neighbors United for Livable
21 Streets.

22 CHAIRPERSON REID: Okay. Neighbors United can go
23 today, and then we'll take up the rest of the opposition. But
24 now make sure that if you're going today that you don't -- I
25 think that you've already proportioned your time for the

1 opposition -- that you don't exceed the amount of time that
2 you've been allocated, because then the other persons in
3 opposition, or parties in opposition, will also have to have
4 the opportunity to put their time within that same one hour.
5 So how much time were you allocated within the hour?

6 MS. SMOLIK: Well, that's actually why I was
7 requesting more time, because with the addition of Van Ness
8 receiving party status their issues are completely different
9 than the neighbors on Upton, Tilden, and Connecticut. So
10 that's --

11 CHAIRPERSON REID: How much time were you
12 allocated in the hour?

13 MS. SMOLIK: Well, that's what I was confused
14 about, because I know -- I thought, you know, there's 60
15 minutes for parties. But I thought that Van Ness was given
16 party status separate.

17 CHAIRPERSON REID: They were given party status
18 separate, but the opposition collectively, totally,
19 cumulatively, has an hour.

20 ZONING COMMISSIONER HOOD: Madam Chair, can I
21 just say this?

22 CHAIRPERSON REID: Yes.

23 ZONING COMMISSIONER HOOD: I think when we get to
24 that point we can kind of be flexible. While I -- I think we
25 can compare it to how the applicant presented its case, I don't

1 necessarily think we have to spend an hour -- and no disrespect
2 to anybody -- an hour deciding on how much time they're going
3 to spend. So I think we can kind of make that -- a judgment
4 call as we move forward.

5 CHAIRPERSON REID: Well, still, I think I wanted
6 to be clear that we have already had -- we've set timelines,
7 and we want to stay within those timelines.

8 ZONING COMMISSIONER HOOD: But normally I believe
9 -- well, I know how the Zoning Commission -- we normally kind
10 of adhere to how the applicant is going. We kind of balance
11 the two. And I think when we get to that point, we can balance
12 the two at that point.

13 CHAIRPERSON REID: Yes. But the applicant has an
14 hour.

15 ZONING COMMISSIONER HOOD: Right. But we can
16 kind of balance it.

17 CHAIRPERSON REID: I don't understand what you're
18 saying, because --

19 ZONING COMMISSIONER HOOD: I mean, instead of
20 saying --

21 CHAIRPERSON REID: I think that there's some
22 confusion as to the -- there are several parties. And if, in
23 fact, we say that there's an hour and then allow one party to
24 go forward today and they take up 45 minutes, then that leaves
25 only 15 minutes for the rest of the parties, and I don't want

1 to get into that problem. That's what I was saying.

2 So as long as they all understand that they still
3 have to adhere to a time --

4 ZONING COMMISSIONER HOOD: How much time -- and I
5 forget your name. I'm sorry. Ms.?

6 MS. SMOLIK: It's Jodie Smolik. If we could have
7 --

8 ZONING COMMISSIONER HOOD: How much time were you
9 asking for additional --

10 MS. SMOLIK: Just an additional 10 to 15 minutes.

11 CHAIRPERSON REID: Okay. I don't have a problem
12 with that. My understanding of last week was that you asked
13 for another half an hour, asked for an hour and a half.

14 MS. SMOLIK: We could do it within an hour and 15
15 minutes.

16 SECRETARY PRUITT: Let me just for clarification
17 -- you can do your neighborhood -- NULS, is that the acronym?
18 Can --

19 MS. SMOLIK: Actually, I could do the
20 neighborhood -- we could do the neighborhood in 65 minutes.

21 SECRETARY PRUITT: Your whole case would take 65
22 minutes. How long do you --

23 MS. SMOLIK: Approximately.

24 SECRETARY PRUITT: -- think on --

25 CHAIRPERSON REID: That's for all parties?

1 SECRETARY PRUITT: I'm just trying to -- how long
2 do you think your case would take? Cynthia? If you could all
3 give us an idea of how long you think it would take for you to
4 put on your cases.

5 MR. PATRICK BROWN: For Van Ness, I suspect about
6 10 minutes.

7 SECRETARY PRUITT: Okay.

8 CHAIRPERSON REID: Okay.

9 MS. GIORDANO: My client has a statement that's
10 going to take five minutes, and I'll take three minutes. Okay?

11 CHAIRPERSON REID: So, then, the neighbors will
12 have the bulk of the time, which means that you will have about
13 45 minutes. But you want 10 more minutes, so you'll get 55
14 minutes to -- all right. I don't have a problem with a little
15 bit more time, as long as it's not anything excessive.

16 MS. SMOLIK: Yes. I was actually saying 65
17 minutes for the neighbor part and including probably Mr.
18 Brown's statement, so that would be 60 minutes actually.

19 CHAIRPERSON REID: Okay. So, then, with the full
20 -- all three parties would be about --

21 MS. SMOLIK: 75 minutes.

22 CHAIRPERSON REID: No, I have -- yes, 75 minutes.

23 SECRETARY PRUITT: Okay. So we'll allocate an
24 hour to --

25 CHAIRPERSON REID: I don't have a problem with

1 that. We can stay within that timeframe.

2 Mr. Feola, do you have a problem with that?

3 MR. FEOLA: No, ma'am.

4 CHAIRPERSON REID: Okay. All right. So, then,
5 you have an hour today. Okay. All right. Thank you.

6 Now, let's move forward with cross examination of
7 the applicant.

8 MR. FEOLA: Madam Chair, while the witnesses are
9 coming up here, may I ask a question about procedure?

10 CHAIRPERSON REID: Yes.

11 MR. FEOLA: Given what you just outlined,
12 applicant cross examination, Office of Planning, DPW cross
13 examination, and now NULS presenting their case, are you taking
14 NULS, then, out of order from persons in support?

15 CHAIRPERSON REID: We have to.

16 MR. FEOLA: Which is fine with us, but --

17 CHAIRPERSON REID: We have to, yes, because --

18 MR. FEOLA: Okay.

19 CHAIRPERSON REID: -- Ms. Hinton had brought that
20 up, that --

21 MR. FEOLA: So we can tell --

22 CHAIRPERSON REID: -- that we would take them out
23 of order, allow just that part, the neighbors to do their
24 portion --

25 MR. FEOLA: I gotcha. So we can have our

1 witnesses come --

2 CHAIRPERSON REID: -- so that we could resolve
3 the issue of the fact that Mr. Shinberg can't be here, and
4 someone else can't be here. And then that way we can continue
5 on the 21st at 9:00, and finish up the rest of the case. But
6 we will get through a great portion of it today, hopefully.

7 BOARD MEMBER HINTON: Can I just ask one
8 question? Mr. Feola, how much time do you need for -- or do
9 you -- how much time is needed for persons in support? Because
10 this is the second time these people have come here. Do you
11 have any idea? What are we talking?

12 MR. FEOLA: I think we have 10 or 12 people,
13 three minutes each, so -- in support.

14 SECRETARY PRUITT: Could you please raise your
15 hand if you're here to testify in support? How many people are
16 you supposed to call? 12? So it's about 15 people, I believe.

17 MR. FEOLA: I don't think they will all need
18 three minutes, but they --

19 SECRETARY PRUITT: But since they're not here, it
20 wouldn't be a problem for them to come on the 21st.

21 MR. FEOLA: If they -- if it a problem, they just
22 won't be here. I mean, I think that's going to --

23 SECRETARY PRUITT: Well, we could do the three
24 people better here. I mean, that's --

25 CHAIRPERSON REID: I have no problem with that.

1 Let's just get into the case, and then let's make a judgment.
2 This is like a rather irregular type of sequence anyway, so
3 let's just get into it, and then try to get --

4 MR. FEOLA: Should we bring all of the witnesses
5 up here? Is that the way you want to proceed?

6 CHAIRPERSON REID: Yes. Try to get through as
7 much of it as we can, and if we can even do most people in
8 support today that would be fine. It just depends. Let's just
9 see where we are.

10 MS. SMOLIK: Madam Chair, I'm very sorry to bring
11 up another preliminary matter. Julie Weisman, who was granted
12 party status last week, is on vacation, and Linda Jay, who is
13 an abutter, was also granted. We would like to request that
14 the party status as far as for their cross examination, that
15 two of the other members that had requested party status be
16 able to do the cross examination. That would be Rob Vricella
17 --

18 CHAIRPERSON REID: Whoever you choose to do that,
19 that's --

20 MS. SMOLIK: Is that okay?

21 CHAIRPERSON REID: -- that's up to you.

22 MS. SMOLIK: Thank you.

23 CHAIRPERSON REID: Thank you.

24 MR. GELL: Madam Chair, I'd like to address the
25 chair. I just wanted to make sure that given the procedures

1 you laid out today with regard to a continuance that the ANC
2 would be able to cross examine both today and on the
3 continuance date.

4 CHAIRPERSON REID: Sure.

5 MR. GELL: Okay.

6 CHAIRPERSON REID: Okay. Mr. Brown, you have to
7 leave early, so do you want to go ahead and cross -- so you
8 don't have to leave early? All right.

9 All right. Four parties who are doing the cross
10 examination, correct? Right? Four parties who will cross
11 examine. That means that we have four parties who have been
12 granted party status, and that is Neighbors United for Livable
13 Streets; Van Ness; Sirrus, Ms. Giordano; and then the ANC.
14 Okay.

15 MR. VRICELLA: Shall we begin, Madam Chair?

16 CHAIRPERSON REID: Yes. I said okay.

17 MR. VRICELLA: Oh, okay.

18 CHAIRPERSON REID: Shoot away.

19 MR. VRICELLA: Mr. Shapiro, during your
20 testimony, you discussed the issues associated with Burke's
21 enrollment. What is your --

22 CHAIRPERSON REID: Please give your name before
23 you start.

24 MR. VRICELLA: My name is Robert Vricella. I
25 live at 2947 Upton Street. I'm a charter member of NULS.

1 Mr. Shapiro, what is your understanding of the
2 number of students that Burke can have under the applicable
3 current BZA order?

4 MR. SHAPIRO: I believe it's 270.

5 MR. VRICELLA: How many students are currently
6 enrolled?

7 MR. SHAPIRO: 297.

8 MR. VRICELLA: Under the current BZA order, how
9 many faculty and staff is Burke allowed?

10 MR. SHAPIRO: I believe it's 35.

11 MR. VRICELLA: And how many faculty and staff
12 does Burke currently have?

13 MR. SHAPIRO: Full-time equivalent is 59, I
14 believe. No. Right? Not all on-site.

15 MR. VRICELLA: So 59?

16 MR. SHAPIRO: Yes. Not all on-site, though.
17 There are 56 on-site.

18 MR. VRICELLA: You testified that the school has
19 been a good neighbor and has taken steps to alleviate problems
20 caused by the school's overenrollment. Is that correct?

21 MR. SHAPIRO: Not exactly. I said that the
22 school has taken specific steps to address concerns regarding
23 the impact of enrollment on the neighborhood, and I'm pleased
24 to enumerate those. And I've said that the school has done
25 what it could responsibly to reign in enrollment growth beyond

1 what --

2 MR. VRICELLA: Could you enumerate those, please?

3 MR. SHAPIRO: Yes. The school has relocated
4 where we park our school vans. The school has changed our
5 student parking policies. We've terminated our practice of
6 renting our gym. We rented our gym to community groups.

7 We, at the time, thought that this was a way of
8 reaching out to the community. The community said that they
9 felt that this was non-school-related and, hence, a violation
10 of our BZA order. And so we eliminated the use -- renting out
11 of our gym except as a polling place.

12 We implemented the Metrocheck program for
13 faculty, which has quadrupled faculty use of the Metro. And we
14 have hired police officers -- off-duty police officers -- you
15 have heard Lisa Myers talk about the impact that she has seen
16 on traffic -- to manage traffic flow during morning and
17 afternoon school dropoff and pickup.

18 In addition, we have offered fewer -- in terms of
19 the enrollment itself, the decision, the central part of our
20 decision was to come to BZA to ask for redress of that
21 situation. As I pointed out in my testimony, and in cross
22 examination with some of the Board members, to wholesale
23 cutback would be detrimental to the education of all students.

24 And so what we have done, though, we've graduated
25 -- we've graduated larger classes and have made conservative

1 offers of admission, so that the bump -- what we're calling
2 "the bubble" will go through.

3 MR. VRICELLA: Let's talk about the Metrocheck
4 for the faculty. How many faculty -- before the program was
5 implemented -- how many faculty, since you have offered the
6 plan, have taken you up on the Metrocheck?

7 MR. SHAPIRO: I believe, though I will ask to be
8 corrected by my staff if I'm wrong, we've gone from five
9 faculty using it to 20.

10 MR. VRICELLA: You said you're overenrolled and
11 you came to the BZA to get some relief from the overenrollment.
12 What does that mean?

13 MR. SHAPIRO: We've been trying to come to the
14 BZA for quite some time. We were hoping to come to the BZA at
15 9:30 this morning. We understand that we are overenrolled.

16 MR. VRICELLA: So, basically -- let me just ask.
17 So, basically, you are overenrolled, so -- you know you're
18 overenrolled. So rather than reduce the population, you -- the
19 way you chose to handle it was to come before the BZA to ask
20 for them to increase your population limits.

21 MR. SHAPIRO: Yes.

22 MR. VRICELLA: Okay. Just so we can be clear
23 that that's the course that this -- that's the strategy that
24 the school has taken to resolve their enrollment figures.

25 MR. SHAPIRO: I've explained -- I don't know if

1 I've explained enough times. I hesitate to say the same thing
2 again and again, so you may find my response unsatisfactory.

3 MR. VRICELLA: You've answered the question.

4 MR. SHAPIRO: I've explained why we chose -- how
5 we got to the point where we were overenrolled, why we chose to
6 embark on the course that we have.

7 MR. VRICELLA: If that's the case, I just have a
8 question, why did the school after -- after the neighborhood
9 notified the school that the school was overenrolled, I believe
10 a Ms. Julie Weisman wrote the school a certified letter dated
11 March 10th of 2000 requesting that the school attempt to begin
12 coming into compliance with their enrollment figures. If that
13 is the case, why did the school's population go up the next
14 year?

15 MR. SHAPIRO: As I explained before, when you --
16 if you have a smallish senior class that is going to be
17 replaced by a much larger junior class as they move up to
18 becoming seniors, if you graduate 40 kids and 56 move to take
19 those 40 places, you are right off 16 students higher, your
20 enrollment will increase by 16, unless you reduce your incoming
21 class -- sixth grade -- by 16, for example, the sixth grade --
22 let me finish, okay? -- is 14.

23 So that without wreaking impossible imbalances in
24 the grades, as I have explained in front of ANC a couple of
25 times, to reign in enrollment, to have a senior class replaced

1 by a following class of 16 more, and hold enrollment to the
2 same or one child or two children more, is, in fact, a good
3 thing.

4 MR. VRICELLA: What is the tuition for a Burke
5 student?

6 BOARD MEMBER HINTON: Madam Chair, I don't
7 believe there was any testimony on tuition, and it's not
8 relevant.

9 CHAIRPERSON REID: Stay on testimony, please.

10 MR. VRICELLA: Mr. Shapiro, what happens -- let's
11 assume that this expansion is requested. What recourse does
12 the neighborhood have if you go over enrollment and you go to
13 370? What are we going to do? Short of going to the -- you
14 know, the Zoning Commission or, you know, trying to go to court
15 to get an injunction, what can we do?

16 MR. SHAPIRO: My expectation is that there will
17 be an enormous amount of scrutiny that the school is
18 voluntarily undertaking to place itself under. I have heard
19 the compliance plan described as innovative. Neighbors have a
20 majority voice on that group, which I hope would be duly
21 constituted.

22 There are sanctions that are quite severe,
23 including the reduction of the enrollment cap. It is true that
24 at a certain point if Edmund Burke School was entirely
25 unresponsive, if we crossed our arms and said, "Well, listen,

1 we are out of compliance. The Compliance Board has found us
2 out of compliance, and there is nothing -- and we have no
3 intention of doing anything we said," that your redress then
4 would be through the legal system.

5 And I would expect that at that moment it would
6 be redress that you would take. And my guess, though I don't
7 want to speak for -- I can't speak for anybody else -- is that
8 in the face of that we could expect and would expect that the
9 Zoning Commissioner or the Board of Zoning Adjustment would be
10 very severe in its response.

11 We have built in -- we understand that our being
12 out of compliance with enrollment figures, though other schools
13 have been in exactly the same case as they came before the BZA,
14 we understand that we have forfeited trust in that process, and
15 we undertake the burden of creating a compliance committee
16 which we have done, with monitoring procedures and with severe
17 sanctions.

18 So at this point, to say I think that we have
19 done nothing, that it is only kind of whistling for the future,
20 goes against the fact, in my view, that we have relocated where
21 we park our vans, changed our student policies, terminated our
22 practice of renting the gym, implemented the Metrocheck program
23 with some good success, and hired police officers with some
24 good success.

25 So while it is true that we can't test the

1 compliance plan until we have the compliance committee, I think
2 we have done things. And I expect that if we treated this
3 compliance committee with disrespect or disregard, we would
4 get, and we would deserve to get, tremendously severe sanctions
5 from the District.

6 MR. VRICELLA: All right. Mr. Shapiro, a couple
7 more questions and I'm done for now. Does Burke have its own
8 athletic field?

9 MR. SHAPIRO: It does not. When we hang the
10 banner of our boys and girls -- boys championship volleyball
11 team -- they won the PVAC, boys volleyball team, two seasons
12 undefeated -- it will go into our gym. When we hang the banner
13 for our softball team, PVAC champions, we will hang --

14 MR. VRICELLA: Okay. Mr. Shapiro --

15 MR. SHAPIRO: -- it in the gym.

16 MR. VRICELLA: All right.

17 MR. SHAPIRO: So --

18 MR. VRICELLA: But the answer to the question is
19 you don't have an athletic field for 300 students. Just answer
20 the question yes or no.

21 MR. SHAPIRO: We manage to run a very competitive
22 and very humane athletics program without our own field, yes.

23 MR. VRICELLA: Where does -- well, okay. Do the
24 new expansion plans provide for an athletic field for the now
25 proposed 360-student population?

1 MR. SHAPIRO: They propose indoor -- retrofitting
2 of current spaces to improve them, and increased indoor
3 recreation space, so that we can be an even more attractive
4 urban school than we are. But we do not include outdoor
5 playing fields, no.

6 MR. VRICELLA: Okay. Thank you. Does Burke
7 currently have a school lunch room?

8 MR. SHAPIRO: It does not.

9 MR. VRICELLA: Do the new plans provide for a new
10 school lunch room for the kids?

11 MR. SHAPIRO: It provides for student -- for
12 space that is dedicated for students to study and eat. It is a
13 student lounge. We have and will incorporate healthy food
14 stocked vending machines, so kids will be able to have an
15 eating space, a place dedicated for that purpose.

16 I take you to mean when you say "cafeteria," are
17 there cooking facilities, and we will not -- we do not have
18 those, and we will not have those.

19 MR. VRICELLA: Okay. But just for the record,
20 the school doesn't have a formal lunch room. I understand that
21 to be your testimony.

22 Is it true that some students eat lunch in the
23 neighborhood, off school property?

24 MR. SHAPIRO: Yes.

25 CHAIRPERSON REID: Is that it?

1 MR. VRICELLA: Yes.

2 CHAIRPERSON REID: Okay.

3 MS. SMOLIK: Jodie Smolik, 2945 Upton Street. I
4 would like to continue the cross of Mr. Shapiro.

5 Mr. Shapiro, how many pages are the compliance
6 plan?

7 MR. SHAPIRO: I haven't counted. You have it in
8 front of you. It's --

9 MS. SMOLIK: Actually, I don't. How many pages?

10 MR. SHAPIRO: Two.

11 MS. SMOLIK: Two.

12 MR. SHAPIRO: It is also accompanied by a pledge,
13 so in total I expect the plan is a two-page -- a two-side -- a
14 pledge on two sides and a compliance plan outline of two sides.

15 MS. SMOLIK: So a total of four pages, compliance
16 and pledge?

17 MR. SHAPIRO: In its outline form currently, yes.

18 MS. SMOLIK: With the school's three years of
19 noncompliance that have been outlined, did the school profit
20 from the noncompliance with the 29-plus excess of students?

21 MR. SHAPIRO: We are a not-for-profit
22 institution, so I'm not sure what --

23 MS. SMOLIK: Well, my question is, you know, I
24 understand that \$2.5 million has been raised for the capital
25 campaign. Have any of these funds --

1 MR. SHAPIRO: That's incorrect.

2 CHAIRPERSON REID: That's not -- now, remember,
3 and I don't want to have to keep interrupting to say this, that
4 any cross examination questions should be based upon the
5 testimony --

6 MS. SMOLIK: Right.

7 CHAIRPERSON REID: -- here today.

8 MS. SMOLIK: Actually, Mr. Pruitt did testify as
9 to the amount that has been raised in the capital campaign. It
10 is in his testimony -- Mr. Pruitt, who was here last week.

11 CHAIRPERSON REID: But, then, I think that
12 question would have to be directed to Mr. Pruitt.

13 MS. SMOLIK: Is he here? It is in the written
14 testimony. I have a copy of it.

15 CHAIRPERSON REID: Okay.

16 MR. SHAPIRO: Yes, I can -- I mean, he -- Steve
17 Pruitt did testify to the -- that there was a capital campaign
18 and that money had been raised. He testified that \$1.4 -- not
19 \$2.5 million had been raised.

20 MS. SMOLIK: Is it true that you have purchased
21 property for the proposed expansion? You have closed at
22 settlement?

23 MR. FEOLA: First of all, I don't know what
24 relevance that has. Second of all, he didn't testify to that.
25 But, thirdly, yes, they purchased one of the three properties

1 involved.

2 MS. SMOLIK: Actually, you know, you had just
3 mentioned earlier that this ran the risk of not settling on
4 some of the properties. So I just wanted to clear that up.

5 CHAIRPERSON REID: Okay. But --

6 MR. FEOLA: Then, you should ask me, not --

7 CHAIRPERSON REID: Move forward. Move forward,
8 please.

9 MS. SMOLIK: Here's an important question. What
10 adverse impacts do the neighbors have on the school?

11 MR. FEOLA: He didn't testify to --

12 CHAIRPERSON REID: Was there --

13 MS. SMOLIK: Well, actually, he has kind of
14 alluded to the fact that --

15 CHAIRPERSON REID: No, not alluded.

16 MS. SMOLIK: Okay. He testified to the fact that
17 there's been a lot of hurtful situations with the neighbors in
18 the discussions with the school -- in fact, that the students
19 were hurt and such.

20 And I think my question really has to say, have
21 the neighbors notified the school regarding student trespass,
22 lack of -- parking violations, as well as traffic issues?

23 MR. SHAPIRO: I don't consider myself --

24 CHAIRPERSON REID: The question -- I think what
25 she is asking is, have you received any complaints in that

1 regard?

2 MR. SHAPIRO: We have. And as I believe I
3 testified, the complaints have been rare. We have received a
4 number of complaints. I believe all the complainants except
5 for Julie Weisman are in the room at this moment, as we have
6 received the largest number -- the largest -- the vast majority
7 of --

8 CHAIRPERSON REID: That's okay. Just yes.

9 MR. SHAPIRO: Yes.

10 CHAIRPERSON REID: All right.

11 MS. SMOLIK: In your prehearing statement, you
12 mentioned that the school has provided for green space due to
13 the neighbors' concerns. But is it not true that this green
14 space was a buffer zone that was in the 1983 BZA order, that
15 the school require a buffer zone between Linda Jay's house and
16 the school?

17 MR. SHAPIRO: The neighbors have, in the course
18 of conversation, both requested that we sustain that space and
19 that we do away with that space. And we have understood that
20 the predominant neighborhood wish is for us to sustain it, and
21 we are sustaining it, and we refer to it as a landscaped buffer
22 space between the school and its neighbors to the school's
23 immediate east.

24 MS. SMOLIK: But it is a 1983 BZA order?

25 MR. SHAPIRO: I'm not sure whether that's part of

1 the order or -- I think it's one of the findings of facts at
2 most. I don't believe that it's a stipulation in the order,
3 though I may be wrong.

4 CHAIRPERSON REID: Okay. Where are you going
5 with this question?

6 MS. SMOLIK: Well, just the idea that, you know,
7 this has -- it's not a result of a neighbor concern. This is a
8 -- it's a buffer zone that has to be maintained as part of
9 previous orders.

10 CHAIRPERSON REID: So you want him to --

11 MR. FEOLA: I'll let the record show that there
12 is no such condition in Order Number 13986. And if Ms. Smolik
13 would like to point one out --

14 CHAIRPERSON REID: You wanted to know whether or
15 not that was --

16 MS. SMOLIK: We can do that.

17 CHAIRPERSON REID: You're asking if that is an
18 order?

19 MS. SMOLIK: I know that it was one of the
20 conditions, that there was a buffer zone.

21 CHAIRPERSON REID: Okay. But we're getting a
22 response that it was not a part of the BZA order.

23 MS. SMOLIK: Okay.

24 CHAIRPERSON REID: Okay. So let's move on.
25 Okay.

1 MS. SMOLIK: I have no further questions of Mr.
2 Shapiro, but I have others for other witnesses later.

3 CHAIRPERSON REID: Thank you.

4 Okay. Next one? Next person that's going to
5 cross examine? Mr. Shinberg, would that be you? Mr. Shinberg,
6 please --

7 MR. SHINBERG: Mr. Shinberg. This is Milton
8 Shinberg.

9 CHAIRPERSON REID: Okay.

10 MR. SHINBERG: 2949 Upton Street.

11 Will the garage be operated by attendants?

12 MR. SHAPIRO: When we -- for nighttime use, it
13 will be an attended garage. During the day we will use the
14 system that we are currently using for parking that is some
15 single spaces and some piggyback spaces behind the school. We
16 found that to be successful, and we will continue that. For
17 nighttime parking, it will be -- for nighttime use of the
18 garage, it will be attended.

19 MR. SHINBERG: That is, then, the teachers will
20 park in their spaces, and students will park in their spaces,
21 without assistance?

22 MR. SHAPIRO: Yes.

23 MR. SHINBERG: Thank you. Those are my questions
24 for Mr. Shapiro at this time.

25 MR. VRICELLA: One additional question for Mr.

1 Shapiro.

2 Mr. Shapiro, we talked about the use of -- the
3 lack of the school having an outside gym. Did Burke utilize
4 the State Department property across the street from the school
5 as a gym, as an outdoor field?

6 MR. SHAPIRO: It's my understanding that some
7 time ago -- I am talking about 10 years ago -- that Burke used
8 it. I think in this past year Burke students used that lawn
9 once. We made it quite clear to students that that was not
10 acceptable.

11 I spoke with a representative whose name I
12 apologize for -- escapes me, a representative from the State
13 Department. We had a conversation that she found quite
14 satisfactory. There were some posts in that land that I said
15 were unclear whether Burke had placed them there way back when
16 or not, but that we would undertake the cost to remove them if
17 she wished, and she said, no, that would not be necessary, and
18 that was that.

19 MR. VRICELLA: But, Mr. Shapiro, isn't it true
20 that Burke only stopped using that facility when the State
21 Department notified the school that they were trespassing and
22 in violation of State Department policy?

23 MR. SHAPIRO: No.

24 CHAIRPERSON REID: And there was no testimony
25 about that particular property, and that's not the subject

1 property.

2 MR. VRICELLA: It goes to the point of use -- the
3 school's use of the neighborhood as a campus, and that goes to
4 adverse impact to the neighborhood -- that question.

5 Also, Mr. Shapiro, does the school currently use
6 Howard University's property as --

7 SECRETARY PRUITT: Excuse me. If those are the
8 points you need to make, you should do that in your testimony
9 as opposed to -- I understand your point, but that should be
10 brought up in testimony as opposed to -- you can only cross him
11 on what he presented today.

12 So the adverse impact of the State Department and
13 Howard University, which was not testified to, should be put in
14 the parties' testimony.

15 MR. VRICELLA: Well, can I ask this question
16 then? Well, he -- Mr. Shapiro stated that they don't have an
17 athletic field for 360 students. So can I ask him, where do
18 they propose to use an athletic field?

19 CHAIRPERSON REID: Now, that's a legitimate
20 question.

21 MR. VRICELLA: Okay. Mr. Shapiro, what do you
22 propose to use as an athletic field for your students?

23 MR. SHAPIRO: Let me -- where we have meets?

24 MR. VRICELLA: What athletic field does the
25 school currently use for their students for outdoor activities

1 in the neighborhood?

2 MR. SHAPIRO: We use a number of fields. I think
3 I'm understanding you that --

4 MR. VRICELLA: What's the main field you use?

5 MR. SHAPIRO: Okay. Yes. I think I'm
6 understanding you to ask if we use Howard -- the field at
7 Howard Law School.

8 MR. VRICELLA: I'm asking you a question, what
9 field does the school use for the majority of their outside
10 activities?

11 MR. SHAPIRO: We use many fields.

12 MR. VRICELLA: Okay. But could you name the ones
13 you use in the neighborhood?

14 MR. SHAPIRO: The one closest to us is Howard
15 Field. I'd like to read the order -- the 1983 BZA order, which
16 has a finding of fact back then in '83 said, "The school's
17 outdoor recreational activities are located off the subject
18 site on the grounds of the Howard University Law School
19 approximately 250 feet away. Students walking to the field,"
20 so on and so on, "fewer trips are planned," so on and so on.

21 MR. VRICELLA: So --

22 MR. SHAPIRO: So the 1983 BZA finding of fact
23 acknowledged then that we were using the Howard Field. I have
24 had informal conversation with the dean at Howard Field -- at
25 Howard University, excuse me, who says that he finds nothing in

1 the BZA order that Howard Field is subject to that prohibits
2 their allowing us to use that field. And so, yes, that is one
3 of the -- a number of fields that we do use.

4 MR. VRICELLA: Well, first of all, we believe
5 that's a matter of interpretation. You're wrong in the
6 interpretation. Second of all, I wish there was legal counsel
7 here to give us a ruling.

8 CHAIRPERSON REID: Well, the thing about it is
9 you're testifying, so just keep -- you will have an opportunity
10 to testify.

11 MR. VRICELLA: Sure.

12 CHAIRPERSON REID: So use this time to cross
13 examine.

14 MR. VRICELLA: Well, let me ask you this, Mr. --
15 maybe I can ask Mr. Feola this. Does the BZA have the
16 authority in a finding of fact to overrule a prior decision of
17 the BZA?

18 MR. FEOLA: What prior decision are you talking
19 about?

20 MR. VRICELLA: The adoption of the Howard campus
21 plan that -- if you read --

22 MR. FEOLA: This came before the Howard campus
23 plan.

24 MR. VRICELLA: Well, no, Howard was approved to
25 use that school prior to 1981. That order was issued in 1983.

1 MR. FEOLA: There was a campus plan in '94 that
2 came after this. I have it, if you'd like to read it.

3 MR. VRICELLA: Well, I guess it's a legal
4 question whether a finding of fact can overrule a BZA order.

5 CHAIRPERSON REID: All right. Next person to
6 cross examine? You concluded your -- did you conclude? Okay.

7 MS. SMOLIK: I actually would like to move on to
8 traffic questions for the traffic plan.

9 CHAIRPERSON REID: Okay.

10 MS. SMOLIK: And I guess this can -- this
11 question is addressed to those that performed the traffic
12 survey. How many students from D.C. currently take public
13 transit?

14 MR. ANDRES: Of the existing student population
15 --

16 CHAIRPERSON REID: Give your name, please.

17 MR. ANDRES: My name is Erwin Andres, and I'm
18 with Grove Slade Associates, the transportation and traffic
19 consultants.

20 Of the existing student population, of that
21 student population, 153 students come from the District, 83
22 take transit, which is 54 percent.

23 MS. SMOLIK: How many students from D.C.
24 currently walk to school?

25 MR. ANDRES: We don't have that figure.

1 MS. SMOLIK: Okay. The compliance plan that's
2 mentioned does not refer to vehicles exiting the school. It's
3 more of an ingress plan. What will the parents do who want to
4 head south, west, and east after departure from the private
5 drive?

6 MR. ANDRES: For parents who want to head south,
7 west, or east after exiting, if you wanted to head west, you
8 have the option -- in the proposed plan, as shown on the
9 graphic up there, it will be easy if I break up the directions.

10 So for parents heading east, what they would do
11 is they would -- they would access the Connecticut Avenue site.

12 They would turn right into the site, go through the loading
13 area, and because they're heading east they would turn right,
14 and at that location where Mr. Feola is showing they would drop
15 off their children.

16 And then they would proceed to turn left and head
17 east along Upton Street to destinations east of the school.

18 Similarly, if you're heading south, you would
19 also follow that same route, where you would turn left onto
20 Upton Street and then continue out to Upton and then turn right
21 onto 29th to Tilden, where you would continue -- where you
22 would turn right onto Tilden, and then turn left onto
23 Connecticut Avenue for destinations south.

24 For parents heading west, you actually have two
25 options. You can either turn off of Connecticut Avenue into

1 the site and loop completely around and out and head on
2 Connecticut Avenue, and then turn left at Van Ness to head to
3 destinations west or -- or any other signalized intersection
4 along that corridor to head to destinations west. Or you could
5 follow the same route that the parents that are heading east
6 and south --

7 MS. SMOLIK: So, basically, you're saying those
8 that technically will need to go east, west, or south, will
9 travel on Upton Street, and possibly weave through 29th and
10 Tilden Streets, is that correct?

11 MR. ANDRES: Yes, that's correct.

12 MS. SMOLIK: The stacking on the original
13 prehearing statement on April 10th, which was what I was going
14 on, shows only six stacking spaces. So you may want to switch
15 to that board, and we'll come back to this one.

16 MR. ANDRES: Sure.

17 MS. SMOLIK: What's really curious is that it has
18 increased now from six stacking spaces in their circulation
19 plan to now 17, I believe, in the morning and 19 vehicles in
20 the afternoon, without any changes to this plan. What is the
21 difference between -- I mean, if it is a circulation, then a
22 dropoff point, how are these factored as having 17 to 19 cars?
23 This is a, you know, tripled increase.

24 MR. ANDRES: Sure. Well, as part of our -- as
25 part of our planning and identifying ways to help mitigate the

1 impact of the school, the school wanted to maximize the amount
2 of stacking it had on-site. You are correct in saying that the
3 physical plan doesn't change, and actually our proposed plan
4 that we've presented -- the physical plan hasn't changed.

5 What the school has done is it looked to identify
6 policies that will help take traffic off of the public streets
7 in terms of cuing, and that's what we've done here.

8 If you noticed -- I can walk you through -- what
9 Mr. Feola has up there is the existing morning cue capability,
10 capacity to serve both parents heading to those directions that
11 are south, west, and east, as you have alluded to earlier, and
12 also for parents heading north and west. And that's where we
13 pick up those additional spaces that you are referring to.

14 So we find this as a major improvement that would
15 benefit the community by taking stacking that's currently
16 occurring on Upton Street and basically putting it in the
17 building.

18 MS. SMOLIK: Well, in previous testimony, I mean,
19 you're showing that 105 cars are entering that entrance and
20 making these different turns. And I guess a question that I
21 have is, with a difficult turning ratio as far as also having
22 to drop off the students, what timeframe are you trying to
23 gauge student dropoff if this is -- as testimony has said that
24 dropoff is usually a 30-minute time period?

25 MR. ANDRES: Okay. Well, if you notice that

1 graphic up there, that shows the morning entrances into the
2 school. There's 105 vehicles entering the school.

3 Of those 105 vehicles, 43 are going to parking,
4 so they're not even engaged in this carpool activity. So you
5 have 62 vehicles that would process through the system within a
6 period of half an hour easily, and that's identified by
7 observations by the police officer as well as our observations.

8 MS. SMOLIK: I notice a big circle there that --
9 in the internal garage where you have a possible conflict point
10 with the 45 cars exiting.

11 MR. ANDRES: Yes, that's correct.

12 MS. SMOLIK: And in addition to those cars
13 pulling into the garage. Do you expect delays?

14 MR. ANDRES: Do I expect delays? There are
15 delays associated with any kind of operation.

16 MS. SMOLIK: And who will be managing this
17 conflict point?

18 MR. ANDRES: At that -- if you notice there is
19 one similar to that at that location. And both will be Burke
20 staff who will be designated as staff control people who would
21 ensure that.

22 MS. SMOLIK: Well, I notice that that is located
23 within the physical plant --

24 MR. ANDRES: Yes, that's correct.

25 MS. SMOLIK: -- due to the serious safety there

1 with the cars pulling in as well as the cars exiting. I have a
2 question. The question is this: with the vehicles turning
3 onto Connecticut Avenue, what is going to happen? We know
4 during rush hour Connecticut Avenue is at a Level F. It is at
5 a failure.

6 So what is going to happen with, you know, cars
7 backing up onto Connecticut Avenue, both trying to travel north
8 as well as those that are trying to turn into the building?
9 There's no officer there, nor is there any faculty.

10 MR. ANDRES: I don't understand what you mean by
11 "backing up."

12 MS. SMOLIK: Well, how do you --

13 MR. ANDRES: We haven't testified that there is
14 going to be any backup. We believe that you can process 62
15 vehicles with that amount of stacking fairly efficiently.
16 Right now, you have a condition where you have very limited
17 stacking on Upton Street, and they fairly -- even though there
18 are backups into the travel lanes, because of the fact you have
19 no stacking, we're significantly improving the situation.

20 MS. SMOLIK: Well, the question is this:
21 Connecticut Avenue does operate at a Level F, correct?

22 MR. ANDRES: Well, not Connecticut Avenue, the
23 intersections along Connecticut Avenue.

24 MS. SMOLIK: But with Connecticut Avenue being a
25 commuter fare, it is only two lanes north, correct?

1 MR. ANDRES: Yes, that's correct, during the
2 morning rush hour.

3 MS. SMOLIK: What would happen, since there is
4 parking permitted on Connecticut Avenue, if there's a car
5 illegally parked?

6 MR. ANDRES: Well, actually, it's not -- parking
7 is not permitted on Connecticut Avenue during rush hours.

8 MS. SMOLIK: But what if a car is illegally
9 parked?

10 MR. ANDRES: Well --

11 MS. SMOLIK: During rush hour.

12 MR. ANDRES: -- the same -- what happens if a car
13 breaks down in a travel lane? You will have the same
14 condition.

15 MS. SMOLIK: With the cues backing onto
16 Connecticut Avenue, what in your management plan have you
17 instructed parents to do, if they miss their cue?

18 MR. ANDRES: I'm sorry. I missed that question.

19 MS. SMOLIK: On Connecticut Avenue, entering onto
20 Connecticut Avenue, if the parents miss their cue, what are you
21 advising the parents to do?

22 MR. ANDRES: What do you mean by "miss the cue"?

23 There is --

24 MS. SMOLIK: If there is a backup on Connecticut
25 Avenue and you can't enter the garage, because things can

1 happen with traffic and with illegally parked cars, and with
2 normal backups, what would a car do if they cannot get into the
3 entrance, if it is backed up?

4 MR. ANDRES: Well, that's assuming that it would
5 be backed up. The plan provides for sufficient stacking that's
6 not available today. What we've done is we've directed all of
7 the traffic to Connecticut Avenue in response to a lot of
8 community concerns about traffic on residential streets. So --

9 MS. SMOLIK: Is it not true --

10 MR. ANDRES: -- if we're providing this activity
11 on Connecticut Avenue, where the traffic vines are
12 significantly much more heavier, then I believe it's a benefit
13 for the community that the stacking occurs in this location as
14 compared to on Upton Street or any other residential streets.

15 MS. SMOLIK: Well, are there delays on
16 Connecticut Avenue traveling northbound? I understand there's
17 a left turn arrow only at Van Ness, and often cars will stack
18 there, because they can't make the -- they're waiting for the
19 left turn arrow.

20 MR. ANDRES: Yes, that's correct.

21 MS. SMOLIK: So there may be only one lane of
22 traffic going northbound?

23 MR. ANDRES: Well, there's two lanes of traffic
24 going northbound, but, as you said, people will stop to turn
25 left onto Van Ness.

1 MS. SMOLIK: Is it true that in your traffic
2 analysis that you provided it -- and it does say in their
3 traffic prehearing statement that cars are advised to -- if
4 there is a backup or a miscue, they are to travel north, turn
5 right on Van Ness, turn down the alley, and proceed?

6 MR. ANDRES: I'm not familiar of that -- of where
7 that's written.

8 MS. SMOLIK: It is in the April 10th prehearing
9 traffic analysis by Grove Slade. There is a statement that --

10 MR. ANDRES: Well, yes, as I said, none of the
11 physical plan has changed from April 10th.

12 MS. SMOLIK: So that would be correct, that if
13 you miss your cue you would still go down Van Ness and go down
14 the alley?

15 MR. ANDRES: No. No. They --

16 CHAIRPERSON REID: Okay. What is the correct
17 answer? Because I'm hearing over here something different from
18 what --

19 MR. SHAPIRO: The physical plan has not changed.
20 That is, the architecture and the structure we have worked on
21 improving stacking and management, the management plan.

22 In the highly unlikely event that traffic -- that
23 stacking is created by an insufficiency inside the Burke pickup
24 and dropoff loop, I expect that neighbor -- that Burke cars may
25 very well do what other cars do currently on Connecticut

1 Avenue, which is to stack. This is unfortunate, but this is
2 what happens on Connecticut Avenue.

3 If, in fact, they are wanting to get back into
4 the loop, they will discover a route -- my expectation is that
5 they will have to stack waiting to make the very left turn that
6 other people are waiting to make, so that they can come back to
7 get onto Connecticut Avenue.

8 Parents are not allowed to -- part of the pledge
9 is that they're not allowed to drop off their kids in Van Ness.

10 Clearly, if we -- or in the alley. Clearly, if there is a
11 rogue parent who, instead of dropping his child off in the
12 correct way, circles through the alley, the police officer,
13 Lisa, who we hope will stay with us for quite some time, has
14 already said that she knows the cars and she knows the kids, so
15 that she is going to see that a car is coming down the alley,
16 Burke parent, Burke child, while that car is not stopping, that
17 car is doing something it shouldn't. And she will tell me, and
18 I will speak to that parent.

19 My expectation is that in the unlikely event that
20 there is stacking, cars will either stack on Connecticut like
21 lots of folks already do, waiting for their left turn, or they
22 may go up -- go up and look for the first way to make a left,
23 come back down south on Connecticut, and drop their kid off at
24 the Metro station, and have the kid walk to school.

25 MS. SMOLIK: Are you aware that in your

1 prehearing statement the Grove Slade report does indicate that
2 parents are to turn right on Van Ness and proceed through the
3 alley?

4 MR. SLADE: We are aware of that, and what we're
5 saying is that that has been -- we have improved the plan, so
6 that that's not going to be necessary. And it's going to be
7 prohibited by the pledge and the compliance plan.

8 MS. SMOLIK: So a question going back to the
9 officer on duty on Upton Street and the private school
10 driveway. That is actually a lane in -- this is a question for
11 Mr. Shapiro.

12 CHAIRPERSON REID: Could you introduce yourself
13 for the record?

14 MS. SMOLIK: Oh, I'm sorry.

15 CHAIRPERSON REID: Mr. Slade.

16 MR. SLADE: This is Louis Slade, and I answered
17 the last question.

18 MS. SMOLIK: And please tell me if I'm speaking
19 too quickly. I'm kind of nervous.

20 The police officer on duty at Upton Street -- and
21 you may want to point to that circle there, Mr. Feola -- they
22 are -- it is a school driveway that is adjacent to a public
23 alley.

24 And my question here is that, how is this officer
25 going to actually track offending parents in addition to

1 managing traffic exiting from the school, traffic exiting from
2 the alley, traffic that's going north and south -- I mean, east
3 and west on Upton, in addition to pedestrian traffic of up to
4 360 students that will be crossing the school driveway and the
5 alley to the school?

6 CHAIRPERSON REID: Please identify your name --
7 identify yourself.

8 MS. MYERS: Lisa Myers, 1043 Higgins Way,
9 Hyattsville, Maryland.

10 MS. SMOLIK: Thanks, Lisa. This is a difficult
11 question, because this is a difficult traffic situation. If
12 you're on duty at the Upton alley, this public alley, and then
13 there's a school driveway, and in addition to the idea -- as
14 far as how are you going to be able to track the offending
15 parents who would be using this alley, especially if they've
16 dropped off on Van Ness Street, for example, if they're exiting
17 from the school alley. There's additional traffic from the
18 public alley; there's traffic from the school's driveway
19 exiting the school.

20 In addition, there is traffic east and west on
21 Upton Street, and there are student pedestrians crossing the
22 street and the alley. How do you think -- do you think this is
23 possible, to manage all of these different points of pedestrian
24 and vehicular traffic all at once? And, you know, tracking
25 offending parents?

1 MS. MYERS: Somehow it does work. I know the
2 cars that belong to the school as they're coming down Upton. I
3 mean, far away I know if this car is going to pull in. I'll
4 direct them to pull into the five waiting spaces. Or if
5 they're students that I know are UDC that are going back and
6 forth up the street looking for spaces, the neighbors, I know
7 the cars as they're coming down.

8 So I really feel the -- we have the same officers
9 who work these schools for nine months, so they do start to
10 know the cars. They know where the students are going to walk.

11 I know about what time students are coming down the street,
12 through the alley.

13 The way it looks to me is that it's going to cut
14 down on the alley traffic. And I don't see how I wouldn't know
15 those cars coming down.

16 MS. SMOLIK: Right.

17 MS. MYERS: Those parents coming down, because I
18 know those vehicles. I know which way they go on a normal
19 basis.

20 MS. SMOLIK: But while you're directing traffic,
21 would you be able to take notes on license tags and information
22 to --

23 MS. MYERS: Definitely. We keep a pen here, and
24 anyone who knows a police officer, we write everything on our
25 hands. It's in a matter of seconds. I can write a tag down or

1 memorize it, so -- before you can get to it. That's not a
2 problem.

3 MS. SMOLIK: Even with the number of vehicles and
4 if the vehicle is empty?

5 MS. MYERS: If the vehicles are going to be -- a
6 lower number of the vehicles we are dealing with now, I don't
7 see it to be a problem, because I can handle the vehicles that
8 are there now and I'm the officer that's there three days out
9 of the week now.

10 MS. SMOLIK: Can you point to the position where
11 you're located in the existing plan?

12 MS. MYERS: Well, I move around.

13 MS. SMOLIK: Because normally I understand you're
14 not in -- at that alley point. You're at a different point in
15 front of the school, is that correct?

16 MS. MYERS: I walk from directly in front of the
17 school steps, the south alley, and then I walk down to the
18 north alley. I walk back and forth the whole time. And even
19 when you've come through the alley, I'm usually meeting you at
20 the alley and waving you through, so you see I walk back
21 between both alleys the whole morning for an hour.

22 MS. SMOLIK: What about with student pedestrian
23 traffic being added to this?

24 MS. MYERS: I get the kids across the street
25 safely. I've never had a child to get hurt in front of school

1 or an accident in front of the school.

2 MS. SMOLIK: Thanks, Lisa.

3 MS. MYERS: You're welcome.

4 MS. SMOLIK: A question regarding the stacking.
5 Have you planned out the schedule of how long in that 30-minute
6 timeframe that those 19 vehicles could actually unload? Is
7 there a percentage of the seconds that you have timed it to?

8 MR. ANDRES: Well, in terms of how fast they
9 process through? Well, we've done studies for other schools,
10 and especially for older children who are used to dropping off,
11 it doesn't take long for them to pick up their bag and open the
12 door and get out. So I -- that process is fairly efficient,
13 actually, today under the existing conditions.

14 So when we're increasing the existing stacking
15 from five spaces to 17 in the morning, I don't -- I see that's
16 a significant benefit that currently doesn't happen today.

17 MS. SMOLIK: What is the timeframe?

18 MR. ANDRES: Well, it fluctuates. Well, first of
19 all, of those 17 spaces, we don't foresee the need for using
20 every single one of them. As I mentioned, and which is
21 actually -- which we mentioned today -- today the existing
22 stacking that occurs on Upton Street is about five cars in
23 front, and then usually it spills over a few more vehicles. So
24 you have a significant amount of stacking where you can process
25 that.

1 MS. SMOLIK: What is the timeframe? How long to
2 unload the vehicles?

3 MR. ANDRES: I believe it's in the range of about
4 15 seconds.

5 MS. SMOLIK: Okay. With your route that you're
6 proposing for people traveling from the north traveling south,
7 you had mentioned that cars will actually turn -- I'll wait
8 until the board is up.

9 MR. ANDRES: Okay. Actually, there's another
10 board we'd like to present in response to your question.

11 MS. SMOLIK: Actually, while we're waiting for
12 the board, I know Pat Brown has some traffic questions before
13 he has to leave.

14 CHAIRPERSON REID: Just say your name, Mr. Brown,
15 for the record.

16 MR. PATRICK BROWN: Patrick Brown, counsel for
17 Van Ness Tenants' Association. And I'm not so sure whether
18 it's Frank Schlesinger or Mr. Slade.

19 As to the parking, first, behind the existing
20 building you're showing 24 spaces.

21 MR. SCHLESINGER: Or 25.

22 MR. PATRICK BROWN: Okay. And how many of those
23 spaces --

24 MR. SCHLESINGER: I'm Frank Schlesinger. I'm the
25 architect.

1 MR. PATRICK BROWN: How many of those spaces are
2 stacked? In other words, how many spaces are not fully
3 accessible?

4 MR. SCHLESINGER: One, two, three, four, five,
5 six, seven, eight, nine. Nine.

6 MR. PATRICK BROWN: Nine. And how many of those
7 spaces are less than nine by 19, the standard parking space
8 size?

9 MR. SCHLESINGER: I think they're all -- they're
10 all laid out according to the D.C. Code.

11 MR. PATRICK BROWN: With the exception of the
12 stacking, they're all nine by 19, but then some are stacked?

13 MR. SCHLESINGER: Some are compact. We're
14 allowed up to 40 percent compact cars.

15 MR. PATRICK BROWN: Okay. So, but that's my
16 question. Breaking down between compact and full size --

17 MR. SCHLESINGER: Pardon me?

18 MR. PATRICK BROWN: Do you know what the
19 breakdown between full size spaces and compact --

20 MR. SCHLESINGER: We could provide that for the
21 record.

22 MR. PATRICK BROWN: Yes. I mean, we can come
23 back. I mean, that's --

24 CHAIRPERSON REID: Okay.

25 MR. PATRICK BROWN: And I'll ask the same

1 question as it relates to the indoor parking in the garage. So
2 if we could do that.

3 The indoor garage -- and I don't know if we have
4 a graphic showing that -- but how many of those spaces are
5 stacked, so that access to one space --

6 MR. SCHLESINGER: Twelve.

7 MR. PATRICK BROWN: Pardon?

8 MR. SCHLESINGER: Twelve.

9 MR. PATRICK BROWN: Twelve. So 12 are
10 potentially inaccessible.

11 MR. SCHLESINGER: Well, they're very accessible.
12 They're just stacked.

13 MR. PATRICK BROWN: But you've got to move one
14 car to get to it, potentially.

15 MR. SCHLESINGER: In certain instances, yes.

16 MR. PATRICK BROWN: And then, if we could put up
17 the Van Ness existing and proposed traffic patterns, which is
18 -- there is the existing, and then I think it's probably about
19 right behind it, Phil. Well, you can put one on top and one
20 below. Actually, that's -- it should be -- it's the one with
21 15 cars. I think this is to -- on top. Okay.

22 On the top you're showing 15 vehicles coming
23 along Van Ness and into the public alley into 24 parking
24 spaces. How do you account for there being fewer trips than
25 there are parking spaces? It's a --

1 MR. ANDRES: In answering that question, with the
2 benefits that are realized by the transit subsidies, there is
3 going to be excess parking within the whole site. That will be
4 available for visitors throughout the day. So there's going to
5 be additional spaces available throughout the course of the
6 day.

7 What we would recommend as part of this plan is
8 that in order to reduce the amount of impact on Upton Street --
9 excuse me, on Van Ness and the public alley -- we would
10 designate most of the parking to occur within the proposed
11 garage, therefore leaving additional spaces empty in the rear
12 of the existing building. And that's why you have less space
13 -- less people parking than there are spaces.

14 MR. PATRICK BROWN: So then potentially --

15 MR. ANDRES: And those potential empty spaces
16 would be held for visitors.

17 MR. PATRICK BROWN: So then you might see a --
18 you're projecting a certain number of staff essentially coming
19 into those spaces. But then you're using them -- a constant
20 overflow or back and forth for visitor parking during the
21 course of the day?

22 MR. ANDRES: During the course of the day, there
23 is normal activity associated with the school that they -- they
24 could use those spaces in the back for.

25 MR. PATRICK BROWN: You also, in your new plan,

1 indicate that back there is going to be where the buses are
2 unloading?

3 MR. ANDRES: Well, not unloading. If you notice
4 on that graphic, you have the four shuttles that would do the
5 morning operations in front of the school on Upton Street. And
6 as we mentioned, those -- that shuttle traffic is the only
7 traffic heading westbound on Upton Street.

8 So we're limiting -- or we're restricting the
9 access of the shuttles for the dropoff period only in front of
10 the school -- of the existing school building.

11 MR. PATRICK BROWN: Wasn't there in your plan --
12 and, again, it's so new -- but there was a discussion of using
13 that rear parking area for buses, for storage of buses, and
14 also for visiting buses from other places?

15 MR. SHAPIRO: Yes. There was a question about
16 the use of our vans and visiting vans for athletic meets. And
17 because we will have 11 spaces unused in the back, vans --
18 there has been -- of the 62 visits we've had from teams in the
19 league, 60 have been in vans. There has been some -- once,
20 perhaps twice -- difficulty because the van could not unload in
21 the back lot because all the spaces were taken by faculty.

22 Because we will have 11 spaces available in the
23 back, vans from visiting schools will be able to pull into the
24 back lot, as Phil is indicating, unload kids there, and then
25 park. So none of their activity will take place in the public

1 alley. At the end of the game, of course, they load up in the
2 back parking lot and take off.

3 MR. PATRICK BROWN: Looking up Van Ness Street,
4 currently that's an area where buses and other vehicles from
5 the school park. What's going to prevent that from occurring?

6 CHAIRPERSON REID: What's the question? Mr.
7 Brown? Mr. Brown, what is the question?

8 MR. PATRICK BROWN: Well, again, I'm trying to
9 follow up, because, again, there's been testimony and an
10 admission I think that Van Ness is used currently for buses and
11 parking of school-related vehicles.

12 And I'm just trying to follow up.
13 Notwithstanding the plan that they've proposed is -- what's to
14 prevent the continued use of Van Ness for bus and other
15 vehicles? Because --

16 CHAIRPERSON REID: Okay.

17 MR. SHAPIRO: There will be spaces in the back of
18 the existing school building that are closer to the school and
19 to the gym. So that the bus drivers will, because it's safer
20 and better and more convenient, make use of the spaces in the
21 back of the school that are available for them.

22 MR. PATRICK BROWN: There will be no control at
23 the mouth of the public alley at Van Ness like -- I mean, you
24 have control points on --

25 MR. SHAPIRO: It is -- no, it is true that a bus

1 driver who wants to leave students off farther away from the
2 school, in breach of what would be best for safety and
3 convenience, can leave them I guess in the middle of
4 Connecticut Avenue, I suppose.

5 MR. PATRICK BROWN: But they do that now
6 currently.

7 MR. SHAPIRO: Most -- almost every bus uses the
8 back lot. I think there has been one or two occasions over the
9 past year or year and a half where a bus has parked on Van
10 Ness. In large part that's because there is no space for them
11 in the back of the existing school. That was the condition
12 that we sought to improve.

13 MR. PATRICK BROWN: But the only way to gain
14 access to that back parking lot for buses or other vehicles is
15 Van Ness Street and the alley.

16 MR. SHAPIRO: For the one or two buses that come
17 at the -- for an athletic event, so that that -- to put it in
18 that context, yes, the one or two vans that come in in a day
19 would have access to the back of the existing school through
20 the alley alone. That is true.

21 MR. PATRICK BROWN: Students currently use the
22 alley from Van Ness and also further up from Veazey as a
23 pedestrian access. Do you have any plans to prevent that?

24 MR. SHAPIRO: We will not prohibit students from
25 doing that. We believe that the increase of attractive space

1 in the proposed addition, and, in addition, our retrofitting of
2 existing space in the school may very well have kids -- more
3 kids staying in school.

4 We also think that the kids from the proposed
5 addition, those kids who find themselves at liberty to leave
6 the building, will use the exit from that building, which will
7 take them to Connecticut Avenue, not to the alley.

8 They would have to jump over a wall to get into
9 the alley, so we think that while we will not prohibit students
10 from using -- as pedestrians using that alley, that our
11 expectation is that fewer will use it and more will be using
12 Connecticut Avenue.

13 MR. PATRICK BROWN: Can I ask a quick question
14 for Mr. Slade? And certainly your existing conditions and your
15 proposed conditions build on traffic counts you've taken,
16 correct? When were those counts taken?

17 MR. SLADE: They were taken at various times
18 during the school year. I know one of the counts was conducted
19 in April a year ago. Two years ago, sorry. Two years ago.
20 Time flies when you're having fun.

21 MR. PATRICK BROWN: So you have no more recent
22 counts than that?

23 MR. ANDRES: I need about 15 seconds to look it
24 up.

25 CHAIRPERSON REID: Okay. Mr. Brown, ask another

1 question while he's doing that.

2 MR. PATRICK BROWN: Again, Mr. Slade, earlier in
3 your testimony -- and it's very hard to see -- but above Van
4 Ness is the alley that Veazey -- what I consider the additional
5 public alley that opens up into Veazey Terrace up above, where
6 there's a traffic signal from Connecticut Avenue.

7 Do you still believe that that's not a route that
8 people would use to gain access from Connecticut Avenue to Van
9 Ness Street or the school?

10 MR. SLADE: That sounds like, when did I stop
11 beating my wife? I don't understand what you mean by "do I
12 still believe"?

13 MR. PATRICK BROWN: Well, because you testified
14 that you thought essentially that that was an approach that
15 people wouldn't take, that they wouldn't go to the trouble or
16 use that avenue to gain access to Connecticut Avenue.

17 MR. SLADE: My exact words were, "I'm not aware
18 of it."

19 MR. PATRICK BROWN: Okay. Back in 1995, you
20 represented the Levine School in their expansion, correct? It
21 was BZA Case Number 15984?

22 MR. SLADE: Yes.

23 BOARD MEMBER HINTON: Madam Chair, I don't think
24 there was any testimony in this case having to do with anything
25 that was done with the Levine School.

1 MR. PATRICK BROWN: Well, but he has indicated
2 that he has no experience, no knowledge, no information about
3 what we consider a significant issue, which is access from
4 Connecticut Avenue to the alley system at Veazey and Van Ness,
5 and ultimately its use by the school.

6 I have his testimony --

7 BOARD MEMBER HINTON: Is this cross? Is this
8 information you can put in in your case rather than at cross
9 exam? It sounds like it's information that you have that you
10 want to put into the record.

11 MR. PATRICK BROWN: Well, it goes to the
12 credibility of his report. I'm more than happy not to ask him
13 the questions, because, quite frankly, they will embarrass him
14 because five years --

15 CHAIRPERSON REID: Don't go into all of that.
16 Just keep it to your questions.

17 MR. PATRICK BROWN: We'll be happy to -- it's in
18 the record. And I think we were -- Mr. Andres, you were going
19 to give me the dates for your traffic counts.

20 MR. ANDRES: Yes. As a matter of fact, we did
21 counts in November of 2000 when we looked at the amount of
22 traffic in the alley. In terms of the amount of traffic at
23 some of the external intersections of the site, we haven't
24 updated those counts since the end -- since 1999 when we first
25 started this project.

1 However, we've done extensive videotaping, and
2 we've done extensive calculations to make sure that the levels
3 of traffic in and around the existing location are within the
4 same range as when we did the first count.

5 CHAIRPERSON REID: Okay. Now --

6 MR. PATRICK BROWN: But you haven't done new
7 counts.

8 CHAIRPERSON REID: Well, go ahead and answer that
9 question.

10 MR. ANDRES: No, we haven't. But we've
11 supplemented --

12 MR. PATRICK BROWN: That's fine. That's fine.

13 MR. ANDRES: Okay.

14 MR. PATRICK BROWN: You haven't done new counts.

15 CHAIRPERSON REID: Now, we've spent a
16 considerable amount of time with cross so far. How many more
17 questions do you have? And where are we with that?

18 MS. SMOLIK: I still have traffic questions
19 regarding not only the buses but also the shuttle buses.

20 CHAIRPERSON REID: How many?

21 MS. SMOLIK: Questions? Probably about eight.

22 CHAIRPERSON REID: Oh. Can you please condense
23 that into fewer questions? Because there are other people who
24 have to cross examine as well. I think the ANC has not had an
25 opportunity, and you have been given time to ask several

1 questions.

2 What about you, Mr. Brown?

3 MR. PATRICK BROWN: I'm done for now. And,
4 actually, I would like to part company with the Board briefly
5 to go to my other meeting.

6 CHAIRPERSON REID: Okay.

7 MR. PATRICK BROWN: I think I'll be back. But
8 I'm finished for the time being.

9 CHAIRPERSON REID: Okay. All right. Mr.
10 Shinberg, how many more?

11 MR. SHINBERG: Seven or eight questions.

12 CHAIRPERSON REID: Huh?

13 MR. SHINBERG: Seven or eight questions.

14 CHAIRPERSON REID: Okay. Ms. Giordano?

15 MS. GIORDANO: One question.

16 CHAIRPERSON REID: Okay. All right. Now, Mr.
17 Shinberg and -- I'm sorry -- Ms.?

18 MS. SMOLIK: Jodie Smolik.

19 CHAIRPERSON REID: Smolik -- can you -- Smolik?

20 MS. SMOLIK: Yes.

21 CHAIRPERSON REID: Can you please condense those
22 questions? Because it's -- this segment is going on way longer
23 than what we anticipated.

24 MR. SHINBERG: Okay.

25 MS. SMOLIK: All right.

1 CHAIRPERSON REID: Okay.

2 MS. SMOLIK: I'd like to go back to talking about
3 the traffic direction that parents traveling from the north are
4 to take and --

5 MR. ANDRES: Okay.

6 MS. SMOLIK: In your report -- and it's not
7 conveyed here -- actually, I think it would be more helpful to
8 show our map, please. No, we need the other board, then, that
9 shows the road networks, then.

10 You were saying that cars will actually turn
11 right coming -- during rush hour on Connecticut Avenue cars
12 will turn right onto Van Ness Street. They will then travel
13 all the way up to Reno Road. They'll wait at the light there
14 to turn left. They come down Reno. They wait at the light to
15 turn onto Tilden. And then they come all the way down to
16 Tilden to another light, and then they make a left onto
17 Connecticut Avenue to proceed to the proposed expansion.

18 MR. ANDRES: Well, as part of our circulation
19 plan, just a note of clarification. Our plan doesn't say that
20 you would come down Connecticut and turn right onto Van Ness
21 and then turn left and come --

22 CHAIRPERSON REID: I never heard him say that.

23 MR. ANDRES: -- around. What we identified in
24 our circulation plan is that as you're approaching the school
25 from points north and west, you're going to find your way onto

1 Tilden Street, which means -- and I think Lou Slade can go
2 through this a little bit more clearer than I can.

3 MR. SLADE: Just a moment. I just want to make
4 sure I understand the question. You're asking about routing of
5 --

6 MS. SMOLIK: Right. The routing seems very
7 circuitous, actually. If you see -- actually, I'd prefer the
8 other map, please.

9 Okay. If they're traveling from the north, the
10 plan does state that they will access -- come off of Tilden,
11 but as the route is they have to come off from Reno Road,
12 correct?

13 MR. SLADE: Correct.

14 MS. SMOLIK: So the turns that will be made, they
15 will have to turn right --

16 MR. ANDRES: Yes.

17 MS. SMOLIK: -- at some light. It could be Van
18 Ness, it could be Chesapeake Street, it could be Albemarle
19 Street. But they will turn at a light, they will come up to
20 Reno Road, they will turn at a stoplight. They will come all
21 the way down to Tilden. They will turn at a stoplight, and
22 they will come all the way down to Tilden and Connecticut and
23 turn left at a stoplight.

24 That's many stoplights. In the existing plan you
25 are showing parents that are traveling from the north are

1 taking the public alley from Van Ness Street. There is one
2 light, a left turn signal, at Veazey Terrace. There's a light
3 at Van Ness.

4 You are showing in your own report cars coming
5 through from Van Ness or Veazey Terrace alley into the public
6 alley. The question is this: this is a circuitous route
7 you're trying to switch in the traffic plan. Now people are
8 going to --

9 CHAIRPERSON REID: What you're doing is
10 testifying.

11 MS. SMOLIK: Well --

12 CHAIRPERSON REID: So just ask your question.
13 Because, basically, in --

14 MS. SMOLIK: Okay.

15 CHAIRPERSON REID: -- in the context --

16 MS. SMOLIK: I'm sorry.

17 CHAIRPERSON REID: -- of your asking a question,
18 you are, in effect, testifying. So what you need to do is to
19 abbreviate your questions, make them short and concise, and get
20 the information that you want. And then when you have an
21 opportunity to testify, you can get the information out. This
22 is not the time to do that.

23 MS. SMOLIK: Well, my question is this: if cars
24 presently are accessing the school with only one traffic light
25 at Veazey at Van Ness, what will make them actually change a

1 route to actually use up to four traffic lights in a longer
2 route?

3 MR. SLADE: Well, if I understand your question,
4 the first option you're describing would bring them to the
5 alley. And they can't drop off in the alley. So that simply
6 isn't going to be a choice that they will have.

7 MS. SMOLIK: You can prevent parents from
8 dropping off on Van Ness Street?

9 MR. SLADE: Yes.

10 MS. SMOLIK: There's no officer on Van Ness
11 Street?

12 MR. SLADE: But if the vehicle comes down the
13 alley, it'll be seen and --

14 MS. SMOLIK: What if the car is empty?

15 MR. SLADE: The vehicles are identifiable by
16 recognition and certainly by license tag. You know, this plan
17 will involve communications between the school and the parents
18 before the beginning of the school year, because there will be
19 new parents joining the sixth grade as well as at other grades,
20 and a reminder to the parents who have been coming that there's
21 a plan in place and that they're being asked to comply with it.

22 So the plan will say if you choose to bring your
23 child directly to school to drop off at the school itself, you
24 must enter by approaching from the south on Connecticut Avenue.

25 And then it will -- there will be a description and maps in

1 the packet that will explain how they get here, and they'll
2 follow those routes.

3 If you're asking about the specific route of
4 people coming down Connecticut Avenue, they will be able to
5 choose their own route to get to Tilden. But the most
6 convenient one would be to come down Connecticut Avenue, make a
7 right turn, as you said, and pick up Reno Road.

8 Reno Road is about a block away from Connecticut
9 Avenue in the vicinity of Nebraska. I live up that way, and I
10 often make that choice to shunt over or to shift over to Reno
11 and come down that way rather than come down Connecticut
12 Avenue.

13 MS. SMOLIK: Can you answer the question?

14 MR. SLADE: And there are less traffic signals on
15 Reno Road than there are on Connecticut Avenue. It is actually
16 frequently the better way to head southbound.

17 MS. SMOLIK: So you do not think that parents
18 will weave through the alleys or the streets?

19 MR. SLADE: They won't be able to drop off in the
20 alley.

21 MS. SMOLIK: But do you think they can weave
22 through the streets?

23 MR. SLADE: They're public streets, and they can
24 choose any route they want. But the system is designed to make
25 it most convenient for them to follow the route that we've been

1 talking about.

2 MS. SMOLIK: Okay. If we can go back to the
3 school buses. I'd like to point out on the map -- I have a
4 question on your map. Actually, you can go back to the
5 proposed morning volumes sign.

6 Your map -- why does your map not demonstrate
7 that the drive to the school is actually a dead-end alley to
8 the east of the school where there are six residences?

9 MR. ANDRES: Why that graphic --

10 CHAIRPERSON REID: What was the question? Repeat
11 that again, please.

12 MS. SMOLIK: How come the map doesn't show that
13 that is a dead-end alley?

14 CHAIRPERSON REID: Where?

15 MS. SMOLIK: Where --

16 CHAIRPERSON REID: On Van Ness?

17 MS. SMOLIK: No. This is a dead-end alley.
18 There are six residences.

19 CHAIRPERSON REID: Do you mean behind -- do you
20 mean the parking lot? Okay. Go ahead.

21 MS. SMOLIK: Milton, show it.

22 CHAIRPERSON REID: We can see it. Now, the
23 question is --

24 MR. ANDRES: I guess it --

25 CHAIRPERSON REID: -- why does your map not show

1 that that's a dead-end alley?

2 MR. ANDRES: Because if we blew up the map any
3 more you wouldn't be able to read some of the numbers and the
4 figures. So we just thought it would be a better graphic
5 representation of what we were trying to show.

6 MS. SMOLIK: Do you realize in the circulation
7 plan that that is the -- that alley is the only method of
8 egress for these homes?

9 MR. ANDRES: Yes, we were aware of that.

10 MS. SMOLIK: Where is the best -- would the buses
11 turn around actually?

12 MR. ANDRES: Well, as we mentioned earlier, the
13 shuttle buses that we're talking about are school vans.
14 They're 14-passenger vans, which are slightly longer than a
15 regular car. So, you know, it's -- the maneuvering isn't a
16 difficulty because it currently happens today.

17 MS. SMOLIK: But what about the visiting school
18 buses? They must be larger.

19 MR. SHAPIRO: No. In fact, 60 out of 62 are the
20 same size, are not larger.

21 CHAIRPERSON REID: Okay. I will allow two more
22 questions.

23 MS. SMOLIK: Okay. Going back to the new plan,
24 one of the things that you have mentioned are two very
25 significant items. One is the use of shuttle buses. What

1 sites have you identified?

2 MR. SLADE: As has been testified and stated, we
3 haven't identified specific sites, because it's premature to do
4 so. And the way this is done by all schools who use remote
5 pickup is to work with the parents each year to identify the
6 best locations for shuttle bus pickup. So that changes from
7 year to year and wouldn't even begin for a couple of years once
8 this is approved, because we'd still be a year away from --

9 MS. SMOLIK: So you're saying that the shuttle
10 bus basically can change from year to year?

11 MR. SLADE: Yes.

12 MS. SMOLIK: If people don't use the bus, what
13 will happen to the shuttle bus?

14 MR. SLADE: If people don't use the bus, what
15 will happen to it? Well --

16 CHAIRPERSON REID: If people don't use the
17 shuttle bus?

18 MR. SLADE: -- we haven't --

19 MS. SMOLIK: Yes. If the shuttle bus is not
20 utilized, what will happen?

21 MR. SLADE: We don't anticipate that it won't be
22 used. So we haven't anticipated the answer to your question.

23 CHAIRPERSON REID: Okay. Mr. Shinberg? Thank
24 you.

25 MR. SHINBERG: Milton Shinberg. Some questions

1 for Mr. Schlesinger.

2 What is the minimum aisle width required by the
3 zoning regulations between parking spaces?

4 MR. SCHLESINGER: Twenty-two.

5 MR. SHINBERG: Twenty-two?

6 MR. SCHLESINGER: Yes, 22 feet.

7 MR. SHINBERG: Twenty-two feet. Do tandem spaces
8 -- does the rear space and tandem spaces -- do these spaces
9 count against required parking space requirements?

10 MR. SCHLESINGER: I don't see anything in the
11 ordinance -- in the zoning ordinance that specifically
12 addresses tandem parking spaces.

13 MR. SHINBERG: Okay. What is the gross square
14 footage of the building?

15 MR. SCHLESINGER: It's approximately 28,000
16 square feet above grade and 24,000 below grade, which is the
17 parking area.

18 MR. SHINBERG: Okay. The calculation of the rear
19 yard was measured to what point?

20 MR. SCHLESINGER: The midpoint of the alley.

21 MR. SHINBERG: Okay. The midpoint of the alley,
22 and so it's measured to a public space.

23 MR. SCHLESINGER: Pardon me?

24 MR. SHINBERG: So it's measured to a public
25 space. That is, the midpoint of the public alley.

1 MR. SCHLESINGER: Yes.

2 MR. SHINBERG: Okay.

3 MR. SCHLESINGER: Yes.

4 MR. SHINBERG: The construction plan previously
5 submitted showed that the side yard to the east of the existing
6 building, between the existing building and the immediate
7 neighbor, Mrs. Jay's property, was described in two different
8 ways. It was described on the one hand as being a preserved
9 open green space, and on the other hand as a construction
10 access lane with parking.

11 In the ANC meeting it was just -- it was stated
12 that it would only be used as a green space. For clarification
13 purposes, can any of the people here give a definitive answer
14 permanently? I heard it there. I'd like to hear it here for
15 the record.

16 MR. SHAPIRO: It will be sustained as a green
17 space between the school and its neighbors immediately east of
18 the school.

19 MR. SHINBERG: Thank you.

20 MR. SHAPIRO: You're welcome.

21 MR. SHINBERG: Vans in the alley that we've just
22 been talking about would be limited in size to the kinds of
23 vans we're talking about, these small -- relatively small vans?

24 MR. SHAPIRO: Well, as I said, in the current --
25 the current status is that 60 out of 62 are that size. We will

1 be in -- through PVAC and through our athletic director's
2 conversation be encouraging those two to send kids on buses
3 that are smaller.

4 In the event that -- in the event that we have a
5 larger bus that cannot fit in the back of the school, we have
6 offers from institutions nearby who are happy to have a bus in
7 their parking lot if BZA would allow that.

8 MR. SHINBERG: Mr. Shapiro, the school has
9 represented that it has made, as one of its chief policies, an
10 attempt to get along with neighbors. Are you aware that as
11 recently as a month ago the school was still discharging
12 students from sporting events by parking vans in the middle of
13 the alley that serves these four buildings that are dead end --
14 on the dead-end alley?

15 MR. SHAPIRO: As I've said before, the difficulty
16 -- many of the difficulties that the neighbors experience now
17 are a result of the school's having no alternatives. If
18 parking -- if vans have a place in the -- behind the existing
19 school, as they will in this plan, to park, unload kids, and
20 load kids, that that's exactly what they will do.

21 CHAIRPERSON REID: Two more questions, Mr.
22 Shinberg.

23 MR. SHINBERG: If I responded, it would be
24 testimony instead of a question. So I'll stop there.

25 CHAIRPERSON REID: Okay. Thank you very much.

1 MS. SMOLIK: May I ask one question?

2 CHAIRPERSON REID: No, you cannot, because you've
3 already used up all of the time you had for questions. Thank
4 you very much.

5 MR. SHINBERG: Thank you.

6 CHAIRPERSON REID: Ms. Giordano has an
7 opportunity, and then Mr. Kogan, and then that will conclude
8 the cross examination.

9 Yes. You had one question only?

10 MS. GIORDANO: Can I ask two questions?

11 CHAIRPERSON REID: Sure.

12 MS. GIORDANO: Questions of the architect, Mr.
13 Schlesinger. I represent the apartment building immediately to
14 the north, and I'm just --

15 CHAIRPERSON REID: Identify who you represent.

16 MS. GIORDANO: Sirrus LLC.

17 CHAIRPERSON REID: Right.

18 MS. GIORDANO: Which is the owner of the
19 apartment building to the north. And I just wanted to know how
20 the first level of the proposed addition, which contains the
21 drive-through, would be exhausted -- the automobile fumes.

22 MR. SCHLESINGER: I had informal discussions with
23 the Brown Brothers about this, and in that discussion I stated
24 that it hadn't been established yet by our engineers whether
25 the code would require that that space be mechanically

1 ventilated because of the open space that surrounds it.

2 My further understanding, though, is that the
3 school has made a commitment to vent that mechanically, whether
4 it needs it or not. And that is what we will do.

5 MR. JAMES BROWN: My name is James Brown. I'm
6 one of the members of Sirrus. If you vent it, Mr. Shapiro, at
7 the level --

8 MR. SCHLESINGER: Schlesinger.

9 MR. JAMES BROWN: Schlesinger. Excuse me, sir.
10 At the fifth floor level --

11 MR. SCHLESINGER: I wish I were Mr. Shapiro.

12 MR. JAMES BROWN: -- which I think --

13 MR. SHAPIRO: You can be.

14 (Laughter.)

15 CHAIRPERSON REID: All right. Let's stay on
16 track, please.

17 MR. JAMES BROWN: If, in fact, you vent it up to
18 the top, the roof level, which corner of the building would it
19 be vented from?

20 MR. SCHLESINGER: Well, I don't have the drawings
21 in front of me. But I can tell you it would go up through the
22 roof and it would be approximately 40 feet away, if I can --

23 MR. JAMES BROWN: Would it be the -- it would be
24 the northeast corner of the building?

25 MR. SCHLESINGER: No. It would not be on the

1 corner.

2 MR. JAMES BROWN: Okay.

3 MR. SCHLESINGER: These are the stairs and --

4 CHAIRPERSON REID: Speak on the mike. And also,
5 point in such a way that the Board members can see what you're
6 referring to.

7 MR. SCHLESINGER: Okay?

8 CHAIRPERSON REID: Yes.

9 MR. SCHLESINGER: Okay. This is one of the fire
10 stairs. This is the corner of the building. The exhaust vents
11 from both the garage and the turnaround will come up in this
12 general area, through the roof.

13 It will be at least 40 feet away from the
14 property line, from your property line. So it's not coming up
15 anywhere near your property line. It's 40 -- at least 40 feet
16 away. By code, an exhaust vent from a garage has to be at
17 least 25 feet away from an operable window, so we're far in
18 excess of what the code requires.

19 MR. JAMES BROWN: Okay. Thank you.

20 CHAIRPERSON REID: Thank you.

21 MS. GIORDANO: That's all.

22 CHAIRPERSON REID: Okay. Thank you.

23 Okay. Mr. Kogan?

24 MR. KOGAN: Thank you. Phil Kogan, ANC-3F.

25 I'd like to ask Mr. Andres a couple of questions.

1 Mr. Andres, can we look at the chart that shows the stacking
2 spaces, the line of cars going through that entrance to the
3 school? Mr. Andres, could you define a "stacking space"? What
4 is a stacking space?

5 MR. ANDRES: A stacking space is a space where a
6 vehicle, whether it would be during a pickup or the dropoff
7 operations, where it would be attended by a parent or some kind
8 of guardian, where they would discharge a student or pick up a
9 student.

10 MR. KOGAN: And can you define what a drive-
11 through would be? What is a drive-through or a drive-through
12 lane?

13 MR. ANDRES: A drive-through lane is the lane
14 you'd drive through.

15 (Laughter.)

16 MR. KOGAN: Thank you, Mr. Andres.

17 Now, one of the things that confuses me about
18 this presentation is that in your testimony you had described
19 this line of cars -- I'm going to point to them -- as stacking
20 spaces.

21 MR. ANDRES: Yes, that's correct.

22 MR. KOGAN: But it looks to me, as a layperson,
23 as though that's a drive-through lane. So it looks like you
24 have a dual use there for that space. You're using it for
25 stacking, and you're using it for driving through. Is that the

1 case?

2 MR. ANDRES: That's -- yes, that's the case.

3 MR. KOGAN: So it has -- that space has a dual
4 purpose. It has the purpose of stacking vehicles that are
5 coming into the school, and it has the purpose of providing a
6 drive-through that has I think one way in and three outlets. I
7 think you've got one way in, and then you've got a loop that
8 goes back out to Connecticut. You've got a right turn that
9 drops down toward Upton, and then you've got -- you have a
10 route that goes down to the garage.

11 MR. ANDRES: Well, you can access the route that
12 -- that turn down to the garage from the dropoff area.

13 MR. KOGAN: Okay. But I was referring to the
14 point of entering that space off Connecticut Avenue. At that
15 point, you have three options, one of which would be the
16 garage.

17 MR. ANDRES: Well, you'd have two options. It
18 would be difficult for a vehicle to --

19 MR. KOGAN: Okay. The garage access comes at
20 that circular --

21 MR. ANDRES: Yes, that's correct.

22 MR. KOGAN: -- point on the diagram. And I
23 think, then, what you're proposing is to have parents come in
24 and stack -- was it 17 or 19? How many cars stack in there?

25 MR. ANDRES: It's 17 in the morning and 19 in the

1 afternoon.

2 MR. KOGAN: Seventeen in the morning and 17 in
3 the afternoon.

4 MR. ANDRES: Nineteen. Nineteen in the
5 afternoon, Mr. Kogan.

6 MR. KOGAN: Seventeen in the morning and 19 in
7 the afternoon -- excuse me -- would stack. And then there
8 would be some discharge, as you call it, discharge of students,
9 where a student would either get out or get in.

10 MR. ANDRES: Well, I'd like to make myself clear.

11 We have -- what that shows is the capacity to stack. That
12 shows how much space you have and how many vehicles you can
13 accommodate in that area.

14 What we're saying is we don't necessarily need
15 all of that area. What we're saying is that area is above and
16 beyond what's currently provided. That area is -- will be a
17 significant improvement to what's currently provided, and what
18 we're showing is the ability to provide that much if we need
19 it.

20 But what we're saying is we -- based on our
21 observations and based on existing conditions, we won't need
22 that.

23 MR. KOGAN: But the volume of traffic, Mr.
24 Andres, that would be coming into that space in the morning
25 would be 105 cars in your revised plan?

1 MR. ANDRES: Well, no. Actually, it's -- Mr.
2 Feola is pulling it up. It's 62, in that if you notice it is
3 105 making that turn. But 43 of them are actually going
4 straight down into the parking area, and they are not going to
5 be associated --

6 MR. KOGAN: The total volume is 105, that's
7 coming into that -- that point of the building where that
8 circular --

9 MR. ANDRES: Yes, that's correct.

10 MR. KOGAN: -- circular object. Okay. And in
11 the afternoon, the volume is?

12 MR. ANDRES: Mr. Feola is pulling out that
13 graphic. That volume is --

14 MR. KOGAN: It looks like 86?

15 MR. ANDRES: Yes, that's right.

16 MR. KOGAN: Okay. So, then, the ability to move
17 that traffic that's coming to the school in the morning and the
18 afternoon, 105 in the morning, 86 in the afternoon, the ability
19 to move that traffic is dependent on the activity that's
20 occurring in what you call those stacking spaces in that drive-
21 through lane.

22 And so the movement through that lane is really
23 dependent on the movement of the slowest dropoff or the slowest
24 pickup, because you'd have to wait for that person who is in
25 that lane to finish that activity before the other cars could

1 move through.

2 MR. ANDRES: No, that's actually -- that's not --
3 what we're -- what we've proposed is there have been -- I guess
4 there have been talks about using some additional width to have
5 two cars pass through that drive aisle, and we have captured
6 that width.

7 So that the drive aisle -- the width that Mr.
8 Feola shows between his fingers, right in there, would be wide
9 enough to accommodate two vehicles wide.

10 CHAIRPERSON REID: Let me -- I'm a little
11 confused here. Are you saying -- what is the time of the
12 dropoff and the pickup? Over what period of time?

13 MR. ANDRES: In the mornings, the dropoffs are in
14 -- the dropoffs end probably around 8:15, 8:20, in that range.

15 CHAIRPERSON REID: No. What's the time span?

16 MR. ANDRES: Oh, from -- it'll start -- they will
17 start trickling in around 7:45, and then end around 8:15.

18 CHAIRPERSON REID: 7:45 to 8:15.

19 MR. ANDRES: That's in the mornings, yes, that's
20 correct.

21 CHAIRPERSON REID: And the evening is what?

22 MR. ANDRES: In the evening, I believe it's 2:45
23 to 3:45, but -- I believe that's what it is.

24 CHAIRPERSON REID: Okay. What I'm trying to
25 clarify is that the numbers depicted on the drawing is not all

1 of the cars converging at one time.

2 MR. ANDRES: Yes, that's correct. It'll be
3 spread --

4 CHAIRPERSON REID: It is or is not. It is not --
5 it will be -- in other words, it will be over that period of
6 time those cars coming through there.

7 MR. ANDRES: Yes, that's correct.

8 CHAIRPERSON REID: That's a little -- you know, a
9 little different. It looks like it's 86 cars coming at once.

10 MR. ANDRES: Yes. I --

11 CHAIRPERSON REID: That's what I was trying to
12 get a clarity with -- Mr. Kogan, as to what you were asking.
13 Was that all the cars at one time, or was it the cars that were
14 going to be over that time period?

15 MR. KOGAN: Yes, exactly. I think I'm trying to
16 understand how this -- this design will flow, how it will work.
17 There's another --

18 CHAIRPERSON REID: Okay. That's another factor
19 in it is the circulation, and also the time, and also the
20 destination or the direction of the cars at that -- during that
21 time span, where those cars are going to be going ultimately,
22 either to the garage or to the parking spaces, or back out this
23 way or back out that way.

24 MR. SLADE: Madam Chair, there's another --

25 CHAIRPERSON REID: That is a little confusing.

1 MR. KOGAN: As well as the activity going on with
2 each car in terms of the dropoff --

3 CHAIRPERSON REID: Right, right.

4 MR. KOGAN: -- or pickup.

5 CHAIRPERSON REID: Right.

6 MR. SLADE: Madam Chair, there's another thing I
7 want to clarify. The cars that are arriving that go down into
8 the garage are faculty and staff, and they are to be at their
9 desks before the students come in for classes. So for the most
10 part, they're arriving at 7:30 before the parents or guardians
11 begin to arrive to drop the students off.

12 CHAIRPERSON REID: Okay. Wait a minute. Wait a
13 minute. You're saying that in that number, that 105, that that
14 also includes faculty and staff that will not -- that will be
15 going into their designated parking spaces in the garage or the
16 parking area.

17 MR. SLADE: That's correct.

18 CHAIRPERSON REID: And they come at 7:30.

19 MR. SLADE: The 15 that go into the alley, and a
20 part of the 42 that go down into the garage, are faculty and
21 staff.

22 CHAIRPERSON REID: Okay. But I don't think he's
23 referring to the 15 that go into the alley. He's referring to
24 the --

25 MR. SLADE: I know. I'm just trying to give you

1 the whole picture.

2 CHAIRPERSON REID: Okay. But I think that the
3 important aspect of it is it starts at 7:30 and continues for
4 45 minutes with the cars going into very different destination
5 points. Okay.

6 MR. SLADE: That's correct.

7 MR. KOGAN: Okay. And I think also, Mr. Andres,
8 that a key feature of your plan here is that this drive-through
9 and stacking plan that you have will work in such a way that it
10 will be an incentive for parents to use it.

11 Parents will want to come in and drive through
12 and either come back around to Connecticut or go back down to
13 Upton. They will find that a better route than routes they're
14 taking today. Is that the case?

15 MR. ANDRES: Well, what we've done is we've tried
16 to develop a plan that not only addresses the school's issues
17 and the school's needs, but also takes into account the needs
18 of the community, especially when we've worked iteratively to
19 develop a plan that tries to move traffic off of residential
20 streets. That currently happens today.

21 MR. SHAPIRO: If I may add, please, that it's a
22 combination of incentives and disincentives. One of the
23 reasons that we expect that parents will take this route is
24 that, for example, the former routes are no longer available to
25 them.

1 So if they were still allowed to drop their
2 children off in front of the building on Upton Street, would
3 they prefer the inner loop that's -- it's hard to tell. The
4 fact is they are not allowed to drop their kids off in the
5 alley, in the public alley, or in front of the school. So that
6 is the route that they are obliged to use and that they agree
7 to use.

8 MR. KOGAN: Okay. Looking at the plan, Mr.
9 Andres, it looks to me like there is quite a bit of activity
10 going on in a very small amount of space. And I think that
11 from my point of view it looks to me like there is some
12 potential for a breakdown in movement through that loop given
13 the amount of time of dropoff and pickup.

14 Now, I think you've testified at the ANC that you
15 think that dropoff activity can occur in 15 seconds. But I
16 think you'd also agree that there is --

17 CHAIRPERSON REID: Mr. Kogan, is there a question
18 here?

19 MR. KOGAN: There is a question. Is there a
20 potential for breakdown here if dropoff and pickup activity
21 extends beyond the 15-second average that you've calculated?

22 CHAIRPERSON REID: Is there a what for breakdown?

23 MR. KOGAN: Potential. In other words, will it
24 back up?

25 CHAIRPERSON REID: I understand.

1 MR. KOGAN: Will it back up?

2 MR. ANDRES: There is a potential for maybe a
3 little bit longer delays. However, because with the
4 implementation of the transportation management plan, the
5 amount of total traffic coming to the school is less than what
6 is going there today.

7 MR. KOGAN: Okay. I have a question for Mr.
8 Schlesinger. On this drawing here -- I have to point to it.
9 This turnaround point here looks like it would be a very tight
10 turn for cars to make, particularly the number of cars that
11 would be coming through and the type of activity they would be
12 engaged in. Is there a standard, an architectural standard,
13 for designing that kind of turnaround space? Do you need a
14 certain amount of room to do that?

15 MR. SCHLESINGER: I think you have to understand
16 that you're looking at schematic drawings, very preliminary
17 drawings. As we develop these drawings, we would get into
18 issues of turning radiuses and column placement. And if
19 anything had to be adjusted at that point it would simply be
20 adjusted so it would work according to any kind of standards
21 that would be established by any engineering society.

22 Right now, it works schematically. It works as
23 an organizational idea. It probably will have to be fine-tuned
24 as any schematic scheme has to be fine-tuned.

25 MR. KOGAN: Thank you.

1 And my last question is for Mr. Shapiro. I think
2 we've spent a lot of time talking about the traffic issues
3 around the school over the past year, year and a half, and
4 you've come up with a couple of proposals here -- the shuttle
5 bus and the Maryland-Virginia subsidy.

6 Can you tell me why you're not implementing that
7 today? Because they sound like they have some merit, those
8 ideas.

9 MR. SHAPIRO: Regarding the shuttle, I should say
10 that while we have not yet chosen the specific location, as Mr.
11 Slade was talking about, there are a number of locations we
12 have identified as legal and appropriate. So that it is not --
13 the case is that we have a number from which to choose. The
14 case is not that we have done no work and have no idea where
15 these spaces will be.

16 The conversations, as you know, have been going
17 on for some time, and very much the give and take that you've
18 described, and that -- and that Phil and others have described.

19 We did implement the Metrocheck for faculty, and we certainly
20 intend to be, we hope as part of a BZA approval, be
21 implementing the Metrocheck for Maryland and Virginia families
22 next year.

23 We have not had conversations with families yet
24 about the use of shuttles. The alternatives that we wish to
25 remove from them that make shuttles even that more attractive,

1 we can't -- we can't remove those alternatives until we build
2 the building, until we have the internal loop.

3 We can separate some of the components of the
4 traffic management and plan out. You can separate parts out.
5 It is possible to start some of those earlier than others, but
6 it is impossible, quite difficult, to assess the success of the
7 whole plan by implementing part of it outside the context of
8 the whole plan.

9 MR. KOGAN: Madam Chairperson, I would just
10 request that we would have an opportunity to see the drawing
11 with the two lanes that were described here that are not
12 currently shown when those drawings are available. Because I
13 think what we have now is one lane. Thank you.

14 CHAIRPERSON REID: Mr. Kogan, you're done with
15 your --

16 MR. KOGAN: Yes, ma'am.

17 CHAIRPERSON REID: Okay. Did you have additional
18 questions?

19 MS. PERRY: I have a couple of quick ones.

20 CHAIRPERSON REID: Okay. All right. Thank you.

21 MS. PERRY: Hopefully quick.

22 I think one of the issues I'd like to raise is
23 back to the compliance issue and the number of students,
24 because we know that the events were over, the teachers were
25 over by about 29. But I'm looking at an article from September

1 13th written by an Edmund Burke student, September 13, 2000 --

2 CHAIRPERSON REID: Right. But that is not
3 something that was a part of this particular hearing, nor is it
4 part of the testimony.

5 MS. PERRY: It is a part about compliance and not
6 going back to the original numbers.

7 CHAIRPERSON REID: Well, that's kind of a
8 stretch. Well, bring it out in your --

9 MS. PERRY: Well, they said they --

10 CHAIRPERSON REID: -- when you -- bring it out in
11 testimony.

12 MS. PERRY: Okay. Next question, then. One of
13 the things you've said that you're going to do is not have cars
14 drop people off on Van Ness Street, and that they can't do it,
15 and that it's not in your pledge by the way, that the pledge
16 only includes Upton Street.

17 But what is to prevent a car from making the
18 left-hand turn on Veazey Terrace where they have the arrow off
19 Connecticut, stopping on Van Ness Street, dropping their
20 student, going -- Van Ness is a dead-end street. And there's a
21 circle at the end of Van Ness Street.

22 They drop the students off on Van Ness at the
23 entrance to the alley. They go up to the circle at the end of
24 our street. They go around it, or they back up in our
25 driveway, and then they come back out on Connecticut Avenue.

1 Would your Burke compliance officer see them?

2 MR. SHAPIRO: No. The fact is that there are --
3 the creation of the rogue parent scenario, the answer to all of
4 those questions, if there is a parent who is hell-bent to drop
5 their kid off in illegal, unsafe, unmonitored places, and fly
6 in the face of the pledge that they have signed, I expect that
7 that parent -- if that is that parent's first priority -- will
8 be able to do that.

9 One of the ways that we will capture -- I expect
10 that we will capture that is in the -- capture the result of
11 such rogue activity is in the taping which we will be having in
12 the alley and Upton Street. So that it is true that that
13 parent will be able to do exactly what you said.

14 Will there be many parents who wish to so be in
15 breach of the pledge leave their child illegally, farther from
16 the school than they would, when we have a plan where we have
17 more than enough stacking, where we have every reason to
18 believe, based on current experience, that it will be easier,
19 better? I don't expect that there will be many parents. But a
20 parent who is determined to break the rules will.

21 MS. PERRY: Mr. Shapiro, I'm not going to argue
22 with you. And I'm going to make my questions quick, so I'd
23 appreciate some short answers, too.

24 CHAIRPERSON REID: How many more questions do you
25 have? You said you only had a couple.

1 MS. PERRY: Just a couple, only a couple.

2 CHAIRPERSON REID: A couple more?

3 MS. PERRY: Yes. I think it's very important
4 that the monitoring system will not show those drivers. And
5 considering that there's only going to be 90 new students in
6 the school -- or 60 new students, and most people aren't --

7 CHAIRPERSON REID: The question?

8 MS. PERRY: I'm not going to testify. They
9 already come that way.

10 CHAIRPERSON REID: Just get to the question.

11 MS. PERRY: Okay. One of the things that we
12 talked about, and that nobody has discussed, there are three
13 different issues with buses, and three different types of
14 buses. One is the school's shuttle buses, which are the 14-
15 passenger ones. And I'm going to ignore them for now.

16 Two are the school buses that they use for your
17 class trips, those kinds of trips. Those, in the past, have
18 not been parked in the rear of the school, because they've been
19 too big. And the visiting schools that come with their school
20 buses from other schools, these are not 14-passenger vans.
21 They're basically school -- yellow school buses.

22 CHAIRPERSON REID: Is there a question in here
23 somewhere?

24 MS. PERRY: Yes. Van Ness Street is 34 feet wide
25 with parking on both sides. What -- and with one means of

1 ingress and egress. How much of a turning radius are these
2 large buses going to need to get in the alley to access the
3 parking? And will Van Ness residents still have a means of
4 ingress and egress to the street?

5 MR. SHAPIRO: First, I --

6 CHAIRPERSON REID: That's two questions.

7 MS. PERRY: Oh. Sorry.

8 CHAIRPERSON REID: Let him answer the first one,
9 and then the second one.

10 MR. SHAPIRO: First, I need to point out again --
11 sorry -- that of the visiting buses 60 out of 62 were of the
12 kind that we are describing, which will be able to drive down
13 the public alley and back into the yard behind the existing
14 school.

15 They will not have to stop in the alley, because
16 we will be using only 11 spaces behind the existing school, so
17 that they can load and unload there. I do not know the answer
18 to the required amount of turning radius for a large bus.

19 MR. SLADE: You know, I think it's evident that
20 we're not intending to bring big buses back there. The intent
21 is to bring the small buses back there that can maneuver. But
22 we can get the answer to the question about the specifics of
23 whether a large bus can get in that alley from Van Ness, and we
24 could supply that to the Board and to the parties.

25 CHAIRPERSON REID: Okay. Is that satisfactory to

1 you?

2 MS. PERRY: Yes. I'd be interested.

3 CHAIRPERSON REID: Okay.

4 MS. PERRY: And hopefully before our next
5 hearing.

6 CHAIRPERSON REID: Okay.

7 MS. PERRY: Connecticut Avenue in the morning is
8 something I'm very concerned about. It's two lanes in the
9 morning for people having to go to work, access Fannie Mae and
10 the other neighborhood businesses and residences there.

11 The left lane has a turn arrow going left, which
12 is always stacked up waiting for the turn arrow. If Burke
13 cannot move these cars through their building as quick as they
14 estimate, what is the backup going to be to other residents of
15 the neighborhood and businesses?

16 Because even conservatively, 86 cars, not
17 counting -- from what I understand you to say -- not counting
18 the teachers that come earlier, are still going to be coming
19 there within a 30-minute dropoff time in the morning. And
20 that's if enough people use the shuttle bus system.

21 What is that going to do to Connecticut Avenue's
22 normal traffic?

23 MR. SLADE: Let me say something. Let's talk
24 about the numbers. It's 62 cars in the morning we've estimated
25 will be the demand of parents coming to drop off children that

1 are northbound on Connecticut Avenue.

2 Based on surveys of the dropoff operation for
3 children in this age group, on average it only takes 15
4 seconds. So we have abundant capacity -- these stacking spaces
5 we talked about -- to take the fluctuations in demand and the
6 occasional student car that takes longer than the average of 15
7 seconds.

8 So we don't have a scenario where there is a
9 backup onto Connecticut Avenue. Cars will slow down in the
10 curb lane and turn right into our driveway. If it's -- if the
11 cuing operation, if the dropoff operation is not operating well
12 for some particular reason, there will be a short period of
13 time where there will be a couple of cars in the curb lane.

14 It won't cause any kind of significant problem.
15 I mean, after all, southbound we have a carwash just a few
16 blocks north of here that backs up cars in that curb lane every
17 single morning. And the traffic just goes around it. It's not
18 an issue.

19 MS. PERRY: But that lane -- that's four lanes
20 going into town, not two lanes. Okay.

21 CHAIRPERSON REID: You have one more --

22 MS. PERRY: I'll wait and go into real testimony.

23 CHAIRPERSON REID: Okay. All right. So that
24 concludes your questioning as well?

25 Okay. Then, Board members, if there are no

1 comments, then we can now -- we'll recess for lunch, and we'll
2 be back around 2:00, at which time we will then go into the
3 Office of Planning report, and have cross examination and
4 proceed.

5 SECRETARY PRUITT: Excuse me, Madam Chair.
6 Before people leave, there is some news. We were -- one of the
7 cases in the afternoon in July was -- has just been removed.
8 So we can actually move the Burke hearing to July 11th at 1:00
9 p.m., on a Tuesday. Hopefully, that actually allows more --

10 CHAIRPERSON REID: Is that better?

11 SECRETARY PRUITT: -- more people to make it.

12 CHAIRPERSON REID: Or do you want to wait until
13 we come back and tell us whether or not you think that's a
14 better day? Somebody will not be able to make that.

15 SECRETARY PRUITT: I know. How about if you
16 think about it, and when we come back we can discuss it.

17 MR. FEOLA: Madam Chair, can we just tell the
18 persons in support that they will not testify today, then, and
19 let them go home?

20 CHAIRPERSON REID: That they will not testify?
21 Why?

22 MR. FEOLA: Because you said we are only going to
23 do the Office of Planning and then --

24 CHAIRPERSON REID: No, no, no. No. We're going
25 to do the Office of Planning -- let me -- let me be clear. We

1 have the Office of Planning report, the cross examination for
2 Office of Planning. We said that we would have the DPW report
3 --

4 MR. FEOLA: Right.

5 CHAIRPERSON REID: -- cross examination of DPW,
6 and then the opposition portion that pertains to the neighbors.

7 MR. FEOLA: Yes.

8 CHAIRPERSON REID: Neighbors United --

9 MR. FEOLA: Yes.

10 CHAIRPERSON REID: -- and then we'll -- or
11 before. We could go -- we could still do --

12 MR. FEOLA: Well, no, I think we were trying to
13 get the Neighbors United on today, because they had some
14 problems with the June date.

15 SECRETARY PRUITT: But when we come back, it may
16 not -- it may change.

17 CHAIRPERSON REID: But persons in support, how
18 many people do you have?

19 MR. FEOLA: I may have misunderstood. Based --

20 CHAIRPERSON REID: Because we may be able to do
21 some of the people in support.

22 MR. FEOLA: Let us --

23 CHAIRPERSON REID: Okay. All right. It is
24 rather confusing. We're just trying to, you know, make this
25 work. All right.

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(Whereupon, at 1:31 p.m., the proceedings in the foregoing matter went off the record for a lunch break.)

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

(2:25 p.m.)

CHAIRPERSON REID: All right. The hearing will please come to order.

All right. Ms. Hinton will be here momentarily. But we can get started with the Office of Planning report.

SECRETARY PRUITT: Excuse me. Madam Chair, I

1 thought we were going to deal with the potential continuance to
2 July --

3 CHAIRPERSON REID: We thought we would do that --
4 remember, there were some other things that came up as well
5 about keeping it the same. So why don't we just --

6 SECRETARY PRUITT: I think that will affect how
7 the party is going to put their case together. They need to
8 know when they're going to go.

9 CHAIRPERSON REID: Okay. All right.

10 SECRETARY PRUITT: At last -- before we broke
11 there was a possibility of moving the hearing to July 10th in
12 the afternoon. And we wanted to see how that would work with
13 some of -- with the rest of the parties.

14 And upon reflecting upon that, it may be better
15 just to keep the original date, because it gives you the whole
16 day. The 10th you would be limited from 1:00 on, so -- and
17 that's provided that they start at 1:00. So I just wanted to
18 put that in your mind, so that you -- in planning your time you
19 will understand how much time would be allocated.

20 So I don't know if the parties are amenable to
21 moving to July 10th, if there's any controversy or concern,
22 and/or --

23 CHAIRPERSON REID: Is it the 10th or the 11th?

24 SECRETARY PRUITT: The 10th, July 10th, which is
25 a regular hearing day. Or to keep it on our -- on the day that

1 we had already chosen, which would be June 17 -- no, June 21st.

2 CHAIRPERSON REID: July 10th. June 21st. Okay.

3 Mr. Feola, you had a comment?

4 MR. FEOLA: Madam Chair, Phil Feola for the
5 applicant. The dates aren't troublesome to the applicant --
6 July 11th or June 21st. I guess I -- I share Ms. Pruitt's
7 concern that if we have only an afternoon agenda -- the
8 availability of an afternoon before the Board, and we still
9 have to do all of the parties in opposition, all of the persons
10 in support, persons in opposition --

11 CHAIRPERSON REID: Well, not all of the parties
12 in opposition. We're going to have the bulk of the parties in
13 opposition today.

14 MR. FEOLA: I guess if we --

15 CHAIRPERSON REID: The 60-minute part.

16 MR. FEOLA: We're going to still do that today?

17 CHAIRPERSON REID: Yes. No?

18 SECRETARY PRUITT: There was talk of them doing
19 it -- since we were moving it to -- to moving it to that day.

20 CHAIRPERSON REID: But I thought that --

21 SECRETARY PRUITT: And the question was whether
22 or not we'd have time, to be honest, with --

23 CHAIRPERSON REID: Well, my understanding was
24 that Mr. -- for the 21st, Mr. Shinberg couldn't be there. We
25 were going to do it today. Did that change?

1 Okay. So we are doing the neighbors --

2 SECRETARY PRUITT: I believe -- let me just --
3 for clarification, I think -- I believe it may have changed if
4 we move to July 10th, that he would be available.

5 CHAIRPERSON REID: Okay. That's what we have.
6 But, still, we have not made that change yet --

7 SECRETARY PRUITT: Correct.

8 CHAIRPERSON REID: -- from the June 21st to the
9 --

10 SECRETARY PRUITT: July 10th.

11 CHAIRPERSON REID: -- July 10th.

12 SECRETARY PRUITT: Right.

13 CHAIRPERSON REID: Okay. Now, the July 10th --
14 the obstacle there is that we would only have the afternoon.

15 SECRETARY PRUITT: Correct.

16 CHAIRPERSON REID: And on the 21st we'd start in
17 the morning and we would have however long we wanted to take.
18 So --

19 SECRETARY PRUITT: I guess the other question is:
20 how long will the Board be willing to go today?

21 CHAIRPERSON REID: Well, we'll make that
22 determination when we get closer to the time. But if, in fact,
23 the persons in opposition -- the citizens -- I mean, the
24 neighbors went today, then we could -- we wouldn't have that
25 much more to do on the --

1 MS. SMOLIK: Actually, Madam Chair, things
2 changed right before lunch. Actually, Ms. Pruitt did call me
3 up to the desk and asked if we were going to change that date.

4 And we did just discuss it at lunch, and actually several of
5 the witnesses have already left, because we were under the
6 understanding that it was going to be continued.

7 CHAIRPERSON REID: What happened?

8 MS. SMOLIK: When the date was mentioned --

9 CHAIRPERSON REID: What date?

10 MS. SMOLIK: July 11th.

11 CHAIRPERSON REID: Okay. But that actually was
12 not known to the Board members.

13 SECRETARY PRUITT: Before we broke we said
14 there's a possibility of a June 10th date. We were going to
15 determine -- yes.

16 CHAIRPERSON REID: But we hadn't made it -- that
17 determination.

18 SECRETARY PRUITT: Correct.

19 CHAIRPERSON REID: The determination wasn't made.

20 We're doing that right now, as to exactly what the date is
21 going to be. And so, therefore, you're saying that you thought
22 that's what the date was going to be, and, therefore, some of
23 your witnesses left?

24 MS. SMOLIK: That's correct. They had to go back
25 to work.

1 MR. FEOLA: Madam Chair, maybe we can make a
2 compromise here. The applicant would be willing to do this.
3 If we could do the government agencies today and finish those
4 up, and if the Board is willing to have -- come back for their
5 special meeting on June 21st, we can do everyone but the --
6 everything else except for the neighbors, the party -- the
7 Neighbors United, Livable Streets, whatever the name -- NULS,
8 and then rebuttal on the afternoon of July 11th.

9 CHAIRPERSON REID: No, no, no. We're not going
10 on another date. No, no, no. It's either now or -- either now
11 or on the 21st or on another date, whatever that date is.

12 Now, you're saying that -- are you saying that
13 you can't go today? Because when we left this meeting the
14 understanding was that you were going to go today and we --

15 SECRETARY PRUITT: There was some
16 miscommunication, clearly.

17 CHAIRPERSON REID: I don't know how.

18 SECRETARY PRUITT: I take responsibility if I did
19 --

20 CHAIRPERSON REID: I don't know how, because when
21 we left it -- we left it at you were going to do your part
22 today, and we went through a considerable amount of time making
23 it so that you could do it today.

24 MS. SMOLIK: Well, in addition to being called
25 out -- up to the desk right before lunch, I was also called

1 into, as we arrived in at the 2:00 time slot, to say that given
2 the time -- it being 2:30, that it was already too late, and
3 that --

4 CHAIRPERSON REID: Who said that?

5 SECRETARY PRUITT: I said it may be too late.
6 We had that -- that was one of the issues that -- which we just
7 raised, that if -- it's 2:30 now. By the time we -- we may not
8 be able to get through everybody, and that was my question as
9 to why -- how long the Board was going to go.

10 MS. SMOLIK: In addition, that there would have
11 to be, you know, time not to rush the Office of Planning, and
12 Department of Public Works report, and cross examination.

13 CHAIRPERSON REID: Who said that?

14 SECRETARY PRUITT: When I was talking to the
15 applicant or to the people, I said there may be -- because of
16 the time, we may not be able to get through everything.

17 CHAIRPERSON REID: Okay. Well, what we need to
18 try to make sure we do is to go by what the Board states. And
19 then if there is any change, then that would be predicated upon
20 what the Board had -- after having spoken to the Board members
21 --

22 SECRETARY PRUITT: Correct.

23 CHAIRPERSON REID: -- make a determination,
24 because this is what has caused this most unfortunate situation
25 now, because we had already decided how this was going to be

1 done. And so now you can't go on the 21st.

2 MS. PERRY: Ms. Reid, may I --

3 CHAIRPERSON REID: I'm sorry. Now you can't go
4 -- you can't go today, and you can't go on the 21st. Is that
5 correct?

6 MS. SMOLIK: But we could go on that Tuesday,
7 July 10th.

8 CHAIRPERSON REID: I understand that.

9 MS. SMOLIK: At 1:00?

10 CHAIRPERSON REID: I understand that. But you
11 can't go today, and you can't go on June 21st.

12 MS. SMOLIK: That's correct.

13 SECRETARY PRUITT: Can you do anyone today? Can
14 you do part of your case today?

15 MS. PERRY: Ms. Reid, if I can interject for a
16 minute. We had a discussion at lunch among all of the parties
17 involved, and we do feel that we -- you would see a much better
18 case and a more concise case, given what everybody knows having
19 been through this -- this is most people's first time before
20 the Board.

21 That if we can delay until July 10th, everybody
22 can be present for our case. We can have -- do a much better,
23 more concise case, and we can get it done in that one
24 afternoon. And I think you would -- you'll see the results of
25 this added to --

1 CHAIRPERSON REID: I don't know how you could
2 possibly say that, because, one, you've never been to the Board
3 before, and so, number two, you would not -- you would have no
4 idea how much time it will take. This is why we were trying to
5 get part of it done today, so that we would have less to do on
6 the next meeting date.

7 MS. PERRY: I understand that. But I think what
8 happened before lunch, and this is just my own perspective, is
9 that everybody got excited when Ms. Pruitt said there had been
10 a cancellation and assumed that meant we could go ahead and do
11 it and -- rightly or wrongly, it's --

12 CHAIRPERSON REID: All right. Well, there's
13 nothing we can do right now to undo what has been done, so let
14 us just go ahead and proceed.

15 MS. SMOLIK: Actually, we do have a serious
16 issue. Our traffic consultant is paid by the hour, and so
17 right before when I just talked to Ms. Pruitt when we came in
18 and was told that this was going to be continued because of the
19 timeframe he is gone. In addition to -- he's our expert
20 witness.

21 CHAIRPERSON REID: You already told us that.
22 You're --

23 MS. SMOLIK: Well, no, I didn't mention that our
24 traffic expert --

25 CHAIRPERSON REID: But he's one of your

1 witnesses.

2 MS. SMOLIK: He's an expert witness.

3 CHAIRPERSON REID: You told us that. You said
4 your witnesses were gone. So I understood that when you said
5 it the first time.

6 So the point I'm making is that given the
7 situation, the further situation that we already had on an
8 already very convoluted kind of situation, that we now have to
9 look at July 18th as -- the 10th -- July 10th as the next
10 meeting date.

11 And that date we only have the afternoon, so
12 that's a constrained time, and that may not -- that is going to
13 -- it will kind of pinch things more than what we -- I would
14 have liked to have seen. If we could have done it on the 21st,
15 and then had the entire day just in case, it would have been
16 much better.

17 MR. FEOLA: Madam Chair, Phil Feola for the
18 record. The way I understand it, the key person that can't be
19 here on the 21st is Mr. Shinberg and --

20 CHAIRPERSON REID: There were two people -- three
21 people who couldn't be here.

22 MR. FEOLA: Yes, but there are people that aren't
23 here today that came here last week and said they couldn't be
24 here today, Ms. Weisman in particular. So I'm not sure why the
25 people, except for the expert who will be here, I assume, on

1 the 21st, can't just submit their statement in writing or have
2 somebody else deliver it. I don't understand why we're dancing
3 all the way around for one of many neighbors here.

4 ZONING COMMISSIONER HOOD: Madam Chair, can I
5 just say one thing to Mr. Feola? I think I've heard you say
6 that twice today. Realistically, if you couldn't make it,
7 because I've seen attorneys that couldn't make it, you would do
8 everything you could to try to get a date to accommodate
9 yourself.

10 I mean, you wouldn't have somebody else in your
11 firm come forward when you've been the main person on this
12 case. And I think that's where they're going. So I think
13 we're getting to a general consensus of the 10th.

14 Let's not bring anything else on it, and let's
15 move forward with what we have. We've already wasted 15 -- 10
16 to 15 minutes this afternoon. We would have been halfway
17 finished the Office of Planning report. At some point in time,
18 we're just going to have to hold your feet to the fire and just
19 move forward. Thank you.

20 VICE CHAIR RENSHAW: And, Madam Chair, Ms. Hinton
21 and I just checked the record for July 10, and we are scheduled
22 to start at 1:00. So that gives us an extra hour. Not 2:00.
23 You had said to start July 10 at 2:00. We can start July 10 at
24 1:00.

25 CHAIRPERSON REID: If I said 2:00, I -- I didn't

1 mean to say 2:00. We always start at 1:00.

2 VICE CHAIR RENSHAW: That's what was told to us,
3 2:00, because --

4 CHAIRPERSON REID: Who said 2:00?

5 SECRETARY PRUITT: I certainly thought I said
6 1:00, because it's on the agenda as 1:00.

7 CHAIRPERSON REID: It's always 1:00.

8 SECRETARY PRUITT: And it's always 1:00.

9 VICE CHAIR RENSHAW: I was just trying to clarify
10 that we can start at 1:00 on July 10, and let's move forward.

11 CHAIRPERSON REID: Yes. We have much more to
12 finish in less time on that date. Nonetheless, if that is
13 agreeable to everyone, no matter who cannot make it on that
14 date, who is not here possibly, then I think that the majority
15 of the people here are in agreement that July 10th would be the
16 date.

17 Okay. Now, let's try to get through as much as
18 we can today. The Office of Planning report?

19 MS. STEINGASSER: Yes, ma'am. If it pleases the
20 Board, what we'd like to do is the Office of Planning report
21 followed by DPW report, and then cross examination of the staff
22 as opposed to separating the two out, since the DPW report is
23 --

24 CHAIRPERSON REID: All right. Let's see if
25 that's agreeable to everyone, because the Office of Planning

1 report is kind of extensive. Is everyone in agreement to that?
2 Any of the parties have any problems with both reports being
3 given together, and then cross examination?

4 MR. FEOLA: The applicant does not.

5 CHAIRPERSON REID: Unless there is an objection.

6 Okay. Fine.

7 MS. STEINGASSER: Okay. The Office of Planning
8 has always been aware that this was a highly contested case and
9 had great importance to both parties. And when the information
10 came to us we reviewed the application and the information, and
11 we met with both the neighborhoods, the ANC, and the applicant
12 on several occasions.

13 We went to -- heard the school's plans, and as
14 well as we heard the neighborhood concerns about the existing
15 school and the projected problems that they felt would be a
16 result of the proposal.

17 We reviewed the application against the special
18 exception standards, as set out in the zoning regulations,
19 Section 206, and the standards being noise, traffic, number of
20 students, other conditions, and parking.

21 With regards to the number of students, OP felt
22 that the increased enrollment requested of 90 additional
23 students for a building with 28,000 square feet was not an
24 objectionable density for the area. It was in line with the
25 permitted densities that would be in that area.

1 The applicant has stated that the student per
2 square foot of area would increase from one student per 135
3 feet to one student per 200 square feet. And we, again, felt
4 that was not an objectionable situation.

5 With regard to noise, we felt that the addition
6 was oriented towards Connecticut Avenue, which is a major
7 arterial. It spread the school over four additional lots
8 representing 14,000 square feet, and pulled the school away
9 from the adjoining neighborhood. We felt that the noise would
10 be contained within the building, mostly during the hours when
11 the neighbors would be away during the day. And on weekends at
12 night, it would be, again, oriented towards Connecticut Avenue.

13 There is an outdoor terrace and open space in the
14 school, but it is at the roof level. And, again, we thought
15 that would be mitigated by its orientation towards Connecticut
16 Avenue.

17 With parking, OP was satisfied that the 48
18 proposed parking spaces provided by the applicant within the
19 two underground parking levels was sufficient to mitigate any
20 adverse impact that would result from an increase in student
21 enrollment or staff employees.

22 Otherwise, objectionable conditions that the
23 neighborhood expressed they had seen we felt could be
24 accommodated by the new addition, including the -- adding the
25 additional outdoor space on the property for the students, the

1 additional square footage both in land and building for the
2 students.

3 We were quite aware, however, that the major
4 issue of this project is traffic, and both the -- as that
5 related to the number of increased students being dropped off,
6 the existing situation, and the proposed circulation that would
7 result within the new design.

8 With that, we had to lean to Public Works, who
9 are the traffic planning experts. They were unable to
10 recommend in favor of the project, and, therefore, OP was also
11 unable to recommend approval of the project.

12 MR. LADEN: Good afternoon, Chairperson Reid,
13 members of the Board. For the record, my name is Ken Laden.
14 I'm the Associate Director for Transportation Planning, D.C.
15 Department of Public Works.

16 The Department and my office has been heavily
17 involved in this case for some time now. We've been having
18 extensive meetings with both the applicant and the parties. We
19 submitted two different documents to the Board providing our
20 comments on this particular case.

21 Our first set of comments dated May 3rd, in
22 summary, indicates that there is an existing traffic
23 congestion, and we think traffic safety problem, at the school
24 -- the way students are being dropped off, the way the alleys
25 are being used -- and we had some concerns.

1 We felt, however, that the Edmund Burke School's
2 initial program of mitigation measures offered some improvement
3 to the traffic congestion and traffic safety problems at the
4 school. However, we were still concerned that even with the
5 mitigation measures that we saw that the neighbors -- the
6 surrounding neighborhood would continue to experience traffic
7 congestion problems, and, therefore, the Department did not
8 support the application.

9 As you know, last week there was a hearing. Some
10 additional information was provided at the hearing. We also
11 received some additional information by messenger mail on the
12 17th of May. We took a look at that. We had subsequent -- we
13 had additional meetings with both the applicant and the parties
14 to get some further clarification of what was being
15 recommended.

16 And as a result, we drafted a memo last evening,
17 which was delivered this morning. I apologize if that drew any
18 confusion, but we -- we did want to be able to respond today to
19 the information that was provided last week and subsequent to
20 last week's hearing.

21 I'll try to summarize that very quickly. We did
22 find that the school had made some additional efforts to try to
23 mitigate the traffic related to school operations. As you
24 know, they've offered to expand the employee and student
25 transit subsidies program.

1 They have offered to provide a shuttle bus
2 service. They have offered to provide further special events
3 management, encouraged drivers to use various locations to drop
4 off their students. They've recommended a pledge process where
5 parents would promise to observe certain requirements.

6 They've talked about the development of a
7 transportation compliance committee, which would monitor the
8 operations of the school transportation program, and they've
9 discussed various sanctions.

10 Over the course of the last few days, we've been
11 trying to get clarification of how these would operate and how
12 these would be monitored. The rest of my comments that were
13 submitted today was my attempt to sort of summarize the issues
14 that we had and some of the preliminary responses that we had
15 back from the applicant as we met with them and sort of
16 discussed the details of their plan. And, again, these are my
17 characterizations of their responses to these various
18 questions.

19 As a result of these discussions, I think the key
20 issue is I think I put up -- I've asked that we put up the
21 board here that shows the impacts. For us, the key issues I
22 think are twofold. One, does the plan the school has offered
23 provide a measure of safety for the students? Can the students
24 be dropped off and get to school with some reasonable assurance
25 they're not going to get run over?

1 The second issue is, what impact does this
2 traffic management plan have on the local residents? Can they
3 anticipate that there will be less drive-through traffic on
4 their local street system?

5 And I think the sense is is that if -- if the
6 school could deliver on all of these recommendations, if the
7 school could get the 36-odd parents to take the transit
8 subsidies, and if the additional students could be directed
9 towards shuttle buses, and the various other measures that
10 they're recommending could be put in place and demonstrated to
11 be effective, then there may be some hope here.

12 But the question is: what happens if the school,
13 through its best efforts, markets the transit subsidies and the
14 shuttle bus service, and has the other directives, and the
15 parents say, "Well, you know, I'm driving down Connecticut
16 Avenue anyway to go to the office. It's no sweat to drop my
17 kid off, and, you know, that's the most convenient thing. And
18 thank you very much." And we end up with the same situation we
19 have now, but multiplied by another 60 potential students.

20 So that's sort of why we ended up with this very
21 awkward recommendation that the Department offered, which is,
22 can there be some mechanism for demonstrating the school's
23 ability to change behavior and get students to -- get parents
24 and students to adopt a different way of getting their kids to
25 school every day?

1 And until, you know, we can see some evidence of
2 that, we're sort of relying upon the school's offer to make
3 their best efforts, and to accomplish certain performance goals
4 in terms of redirecting students.

5 Unfortunately, once, you know, the Board has
6 issued its order, I'm not sure what remedies we really have to
7 do the fine-tuning other than, again, rely upon the best
8 efforts of the school to try to achieve these goals.

9 So I recognize we're putting the Board in a
10 difficult position, but basically we're concerned that, you
11 know, if these measures don't work we may end up with a
12 situation where, again, cars are dropping students off in ways
13 that are unsafe and that we have traffic going through
14 residential streets which is causing congestion and other
15 problems for the local residents.

16 Again, that's the basic position where we are.
17 And at this point, we'll take any questions from the Board or
18 the applicant or the parties.

19 CHAIRPERSON REID: Mr. Laden, as I had mentioned
20 earlier, the -- starting with your recommendation that there be
21 -- that you recommended a one-year demonstration of the
22 effectiveness of these proposed transportation mitigation
23 measures before the application is approved.

24 And, again, I'm not sure I understand what you're
25 saying here. You're saying that you know that the Board can't

1 approve it, and then come back and do an assessment based on
2 what has occurred in a year. And if we approve it, then we
3 would have them to go ahead with the addition, and then after a
4 year, if it's determined that it's not working, then what?

5 MR. LADEN: Well, again, I think the nature of
6 our recommendation is that we would attempt to divert as many
7 of the students as possible to other means of getting to the
8 school, whether it is through the Metro subsidy or whether it's
9 through a shuttle bus service, using the existing school and
10 the existing student population.

11 CHAIRPERSON REID: Now, who would do that?

12 MR. LADEN: The Edmund Burke School.

13 CHAIRPERSON REID: Say that again.

14 MR. LADEN: That under the recommendation the
15 Edmund Burke School would attempt, during the next academic
16 year, to divert as many students to other forms of getting to
17 school, whether it be the Metro subsidy or whether it be a
18 shuttle bus service.

19 And we sort of monitor that effort with the
20 existing school building and the existing school population and
21 determine whether or not there is a commitment by the parents
22 and the school to have a beneficial impact.

23 CHAIRPERSON REID: Okay. But now, remember, and
24 this is where I have a problem, what is before this Board is
25 the application for the addition --

1 MR. LADEN: Correct.

2 CHAIRPERSON REID: -- and the accompanying
3 adverse impact that that may bring about. So if you're going
4 to assess it based on what is already existing, that's really
5 not going to give a true indication as to what the impact would
6 be for the addition and the -- you know, the increased amount
7 of students. We couldn't assess that.

8 Even if we could give a -- there was such an
9 animal as a provisional special exception, which there isn't in
10 the first place, so given what I just said, what would your
11 recommendation be? Because what you recommended we can't do.

12 MR. LADEN: I think you put your finger on the
13 catch 22. I think I indicated in my summary as well that we
14 recognize that the school really can't do a full drill of their
15 transportation management plan without the construction of the
16 new building --

17 CHAIRPERSON REID: Right.

18 MR. LADEN: -- and the construction of the
19 traffic loop, and the cuing, and all of that. So this would be
20 a partial drill, and you're right, that's an inherent dilemma
21 in our recommendation.

22 CHAIRPERSON REID: So the partial drill would not
23 be a viable or valid analysis, because it would not take into
24 consideration what's before us, and that is that addition --

25 MR. LADEN: Right.

1 CHAIRPERSON REID: -- and the traffic or the
2 parking problems that would be inherent with the increased
3 enrollment. This --

4 MR. LADEN: Correct. It would only be a measure
5 of the effectiveness of the school to market the shuttle bus in
6 the transit subsidy.

7 CHAIRPERSON REID: But for them to incur that
8 expense, and then find that it's not working, is not something
9 that, you know, we want to do.

10 MR. LADEN: Well, again, I think the key to our
11 acceptance of the application is the ability to redirect
12 parents to other forms of getting their kids to school.

13 CHAIRPERSON REID: But you can't do that until
14 after they actually go ahead with the addition. So --

15 MR. LADEN: I agree. That's why I say that there
16 would need to be --

17 CHAIRPERSON REID: Well, you have put us in a
18 pickle.

19 MR. LADEN: Correct. That's why I said there
20 would --

21 CHAIRPERSON REID: Well, thank you very much.

22 MR. LADEN: -- need to be some sort of interim
23 performance standard that the school and the neighbors would
24 agree to that if they could reduce their student deliveries by
25 parents by X percentage, or by X numbers, then we would have a

1 basis to feel confident that the school can deliver the goods.

2 What we're concerned with is that we all agree
3 that, you know, the charts here provide a formula, but if the
4 -- the parents don't adopt the formula and implement what's
5 being recommended by the school, then we end up with a traffic
6 problem that's been magnified or that's been added to.

7 CHAIRPERSON REID: But that's always the -- the
8 gist of what we're asking DPW is to give us an assessment based
9 on the case before us. And it's always speculative, because
10 nobody knows, unless they have a crystal ball, exactly what's
11 going to happen given the information that's being given to us,
12 the proposals or the analyses, and it's anybody's best guess.

13 You know, so then based on that, we rely on you
14 to give us what you think is going to -- if you think that what
15 they are proposing to us is viable or if it's practical, or if
16 it's valid, and that's what I wanted to hear, and when you say
17 that it would be -- if this happened or that happened --

18 MR. LADEN: It is all three things. It is
19 viable, it is practical, and I think it's valid.

20 CHAIRPERSON REID: If --

21 MR. LADEN: If the parents buy into it. If the
22 school is committed to the program and buys into it. Again,
23 what we're trying to avoid is a situation which perhaps has
24 happened previously where promises are made with good
25 intentions, and for reasons that are beyond the control of the

1 applicant, they can't deliver the goods, or they can deliver
2 the goods for a year or two, and then they can't deliver the
3 goods. And if that's the case, then the neighborhood is
4 impacted.

5 But, again, I think the school has made a
6 commitment to offer a compliance monitoring process with some
7 tweaking and good faith efforts by all of the parties -- could
8 make this work very successful. This could become a model for
9 something that could be applied elsewhere in the city.

10 So I'm having the same quandaries that you have,
11 in that I'm trying to figure out a way to make this work and
12 yet provide the community with a safety net, so that they're
13 not left with a failed situation in their neighborhoods.

14 BOARD MEMBER HINTON: May I ask a question? Mr.
15 Laden, you referred to performance standards, and it strikes me
16 that that might be a good idea here because even if we were to
17 agree, and the school were to agree, that -- put the whole
18 project on hold, and for the next year demonstrate the
19 effectiveness of these proposals, at the end of the year we'll
20 have a certain number of students taking the shuttle, and a
21 certain number taking Metro.

22 There is no guarantee that that would happen the
23 year after or five years from now. So that is my concern, that
24 even -- you have a certain population of students and teachers,
25 and that changes every year. And demonstrating what will work

1 this year may not work next year. And a lot of it is going to
2 have to do with how serious the school is at enforcing and
3 insisting.

4 But it seems to me -- is there a way to make
5 performance standards that could -- that could be enforced year
6 after year, regardless of the population, who the parents are,
7 or what methods are used? Based on the numbers that were shown
8 here, there are a certain number of cars that are going to come
9 to the school during this half hour, peak half hour.

10 That's something that can be counted any day, I
11 would think, or on most days and can be monitored. So it seems
12 like if we set performance standards that DPW says, okay, these
13 standards are, one, acceptable, and, two, better than what's
14 there now, then if the addition is built and the extra students
15 come on board, any day there could be a count of -- is it
16 really 135 cars, or is it 200 cars today?

17 And maybe one day wouldn't be fair, so you count
18 three days in a row. And if the school is allowed to have 135
19 cars drop off students, and they're having 200, then there's a
20 problem. And then we find out how we -- we start -- the Zoning
21 Administrator, because we don't -- this Board doesn't enforce,
22 but the Zoning Administrator does. And they do have violations
23 that they can assess.

24 So is that even -- is that workable from your
25 point of view?

1 MR. LADEN: I think it is workable. And, again,
2 I think the school, in its most recent submittals, laid out a
3 formula for doing that. I think one could develop performance
4 standards for vehicular deliveries, and I think one could
5 monitor that. They've identified ways of doing that.

6 The question is, you know, the ability to which
7 there is viable sanctions available to the community to ensure
8 that the school adheres to their -- whatever performance
9 standards are established.

10 BOARD MEMBER HINTON: Okay. So that's something
11 we need to think about if -- because we've heard from a number
12 of different sources that going through the Zoning
13 Administrator's office for enforcement is not an effective way
14 of dealing with this. So maybe Corp. Counsel can help us come
15 up with some ideas for other sanctions.

16 ZONING COMMISSIONER HOOD: Madam Chair, I just
17 have a couple of questions.

18 Mr. Laden, I see you again within the last 17
19 hours.

20 (Laughter.)

21 But one of the things -- I see a recommendation.

22 I think it would be a worthwhile recommendation considering
23 what I have in front of me. The only issue I have is, can it
24 be done less than a year? Maybe to try for 30 to 120 days.

25 Mr. Laden?

1 MR. LADEN: I don't live in the neighborhood,
2 but, again, I think it's got to be long enough to be meaningful
3 but short enough that it doesn't penalize the school. So,
4 again, I think there's a -- I think there's a possibility for
5 maybe getting an accurate depiction for a shorter period of
6 time. I think 100 days may be a little bit too short.

7 ZONING COMMISSIONER HOOD: Okay. My rationale
8 for asking that was because I'm trying to be fair. And also,
9 it's obviously the traffic issue. I mean, that's all we've
10 been hearing is traffic. So to say that we're putting the cart
11 before the horse, I disagree with my colleagues.

12 I think that it's worthwhile sometimes to put it
13 out there and see if it's going to cause an adverse impact on
14 the community. And I think with all of the recommendations and
15 which the school is trying to do in the TMF, I think that that
16 will be a starting point.

17 I do agree with Commissioner -- I mean, I'm sorry
18 -- Board Member Hinton that it's possible it may happen one
19 year and it may not happen the next year. But I also will say
20 that -- to that that if it happens one year, then that will
21 show -- I really believe that the school will have a good faith
22 effort to make sure that it continues to happen, so they can
23 mitigate the problems they're having with the community.

24 The other thing is, you mentioned the safety for
25 the students. There was a board where it showed how the

1 students were going to get from the old -- the existing site to
2 the new proposed addition. Thank you, Mr. Feola, if you can
3 put that up.

4 And I asked this at the last hearing. Would you
5 consider that a safety mechanism, and that's how the kids are
6 going to be going from the existing school over to the proposed
7 addition? I believe that's -- is that an alley, or is that a
8 street? An alley. They're going to be going through the
9 alley.

10 MR. LADEN: They've got two things going there.
11 There's the alley, the public alley which is on the right side,
12 and then there's the private drive which belongs to the school
13 on the left side. That's a definite conflict point for both
14 pedestrians and for the cars that are both wanting to turn out
15 of the alley and turn out of that private drive.

16 That's why that red dot is very important.
17 That's the police officer, off-duty police officer, assigned to
18 make sure that the cars and pedestrians cross safely, and from
19 what I heard earlier so far she hasn't lost one yet.

20 ZONING COMMISSIONER HOOD: Okay. But,
21 unfortunately, sometimes -- there's always that room for human
22 error.

23 MR. LADEN: I understand. But, yes, that is a
24 potential conflict point. And the police officer, or whoever
25 is monitoring that particular point, would need to be, you

1 know, alert to what's going on.

2 ZONING COMMISSIONER HOOD: Okay. Thank you.

3 Ms. Steingasser? Since we're taking them both at
4 the same time, Ms. Steingasser, I just wanted to ask you, the
5 reason for the Office of Planning denying this -- recommending
6 denial, is it because of the traffic? Is that basically the
7 sole source, the traffic?

8 MS. STEINGASSER: Yes, sir. We felt that the
9 land use was not separable from the traffic, that the traffic
10 was the major issue in this case. It's what we heard from the
11 neighborhood, and it's what we heard from Public Works as well.

12 ZONING COMMISSIONER HOOD: Okay. Thank you, Ms.
13 Steingasser. And thank you, Mr. Laden. Thank you. No further
14 questions.

15 VICE CHAIR RENSHAW: Madam Chair, I have a few
16 questions for Mr. Laden.

17 Thank you for your testimony, by the way, and
18 also for your two submittals that we have in the file. First
19 of all, on the alley situation, this alley is currently one way
20 going south. Was it ever a two-way alley? How did it become a
21 one-way alley?

22 MR. LADEN: I'm not familiar with the history of
23 that. I would have to research that and get back to you. But
24 my understanding is that it is currently a one-way alley south.

25 VICE CHAIR RENSHAW: But I wanted to find out if

1 -- how did it become the one-way alley south?

2 MR. LADEN: What I'll need to do is check with
3 our Bureau of Traffic Services and have them research that.

4 VICE CHAIR RENSHAW: All right.

5 MR. LADEN: I just don't know the answer to it.
6 Let me make a note of that.

7 VICE CHAIR RENSHAW: All right. And the other
8 point was to ask if your traffic plan has been reviewed by the
9 Fire Department.

10 MR. LADEN: No, it has not.

11 VICE CHAIR RENSHAW: Do you plan to do that?

12 MR. LADEN: I wasn't planning to. But if you
13 think that would be worthwhile, we can certainly --

14 VICE CHAIR RENSHAW: I always think that it's
15 worthwhile, because that alleyway has got to be two ways for
16 rescue vehicles. It has to be kept free for two-way traffic,
17 as I understand it.

18 MR. LADEN: Well, one of the things I can do is
19 check to see if when the alley designation was changed from two
20 ways to one way, that might have been coordinated with the Fire
21 Department. But I'll doublecheck --

22 VICE CHAIR RENSHAW: Would you check that?

23 MR. LADEN: -- and ask that specific question,
24 too.

25 VICE CHAIR RENSHAW: All right. Now, you stated

1 in one of your two reports that DPW was against using the alley
2 as a drop for students. Do you still consider that to be a
3 major recommendation, that the alleyway be not used as a
4 dropoff for students?

5 MR. LADEN: Correct. The alleyway is used by a
6 number of different types of drivers, and we just feel it would
7 be best not to block the alley with having parents drop
8 students off.

9 VICE CHAIR RENSHAW: Okay. All right. If I
10 could ask you a few questions about the traffic light. In your
11 first report, you were leaning towards a traffic light at the
12 corner of Connecticut Avenue and Upton Street. And then, in
13 your second report, you've pulled back from that
14 recommendation. But that's a bad -- an F intersection?

15 MR. LADEN: Correct.

16 VICE CHAIR RENSHAW: In any case, it's a bad
17 intersection. So you had made the statement -- and I just want
18 to clarify it for the record by asking you, what are the
19 criteria to have a traffic light installed at a particular
20 corner?

21 You say in your first report that the Burke
22 School would need to pay for the installation of a traffic
23 signal. And I am assuming that you haven't ruled that out
24 altogether, if, indeed, it -- if there is a need, there is a
25 request from the community that the traffic signal go forward.

1 So what are the criteria for putting up a traffic
2 signal?

3 MR. LADEN: My understanding in talking to
4 representatives from our Bureau of Traffic Services, who
5 perform those analyses and make those determinations, is that
6 there are federal requirements that need to be met if the
7 stoplight is to be purchased or installed using federal funds.

8 I'm not sure what those are off the top of my
9 head, but I can get those for you. My recollection is that
10 they had looked at the installation of a signal at this
11 location and found that they didn't meet the federal warrants.

12 My thinking in making my first recommendation
13 back on May 3rd to add a signal at this location was that I
14 wanted to try to disperse the traffic coming out of the private
15 drive as quickly as possible in different directions, so that
16 no one block took the burden of traffic coming out of that
17 driveway.

18 And I thought placing a traffic signal there
19 would allow people to get back to Connecticut Avenue without
20 having to weave through the residential streets, go over to
21 29th and ultimately to Tilden or through the alley to Tilden
22 Street, which is a current process that's used.

23 However, again, because I've been told that, you
24 know, they weren't sure whether or not it would meet the
25 federal warrants, I thought it might need to be provided with

1 either local funds or with assistance from the school.

2 However, with the most recent traffic plan that
3 was offered last week, if parents are no longer allowed to use
4 Upton Street and only shuttle buses serving the dropoff points
5 would be using Upton, there would be no need for the additional
6 signal.

7 I think also some of the residents had expressed
8 a concern about putting a signal on Upton Street because they
9 felt it would attract more commuter drive-through traffic. It
10 would become a viable alternative to Tilden Street and would
11 encourage perhaps even more traffic through the street.

12 So for those two reasons -- the reduced school
13 dropoff on Upton and the potential that we might be actually
14 encouraging more traffic on Upton -- I've pulled that
15 recommendation out of our list of mitigation measures.

16 VICE CHAIR RENSHAW: But I just want to
17 understand that it is or is not possible for the city to accept
18 private funds to install a traffic signal in the city.

19 MR. LADEN: Correct. That does happen with
20 development projects where they have garages that require
21 signals. I think in the Field School case we asked them to
22 install a left turn signal to allow traffic from Foxhall to get
23 into the campus safely.

24 VICE CHAIR RENSHAW: And then, is it on the city
25 to maintain, or is it on the institution to maintain that

1 light?

2 MR. LADEN: No, it would be the city's
3 responsibility to maintain once it's installed.

4 VICE CHAIR RENSHAW: All right. Thank you.

5 The question -- a question about buses, shuttle
6 buses or athletic buses that come to the school. I'd like to
7 know whether you have analyzed where these buses -- the shuttle
8 buses are going to idle. This is a concern in my neighborhood,
9 because of buses coming to private schools, and even city buses
10 bringing students to special schools, and they idle in the
11 neighborhood.

12 Have you looked at where these shuttle buses may
13 idle?

14 MR. LADEN: Well, again, according to the traffic
15 plan, it appeared as though the shuttle service was going to be
16 operating from two locations to be identified based upon
17 coordination with the parents, and that they would be running
18 for basically 15 minutes before school opening.

19 So that would be a relatively short period of
20 time where they would be supposedly idling at the pickup point
21 and while the students are getting on board the bus.

22 Once they arrive at the school, it's my
23 understanding that they would be dropping off the students in
24 front of the existing school. Once those students are dropped
25 off, they would not need to idle there, because they're not

1 picking anybody up.

2 They would at that point, when they're finished
3 making their rounds, go around and back through the alley to
4 the parking area behind the school. So with this plan I
5 wouldn't see idling entering into the picture.

6 There was no afternoon shuttle service being
7 provided, so that I don't think we would have a situation where
8 the shuttle buses would be cued up in front of the school and
9 idling for 15 or 20 minutes in the afternoon.

10 VICE CHAIR RENSHAW: All right. So the answer is
11 that you really haven't examined idling on the streets by the
12 buses.

13 MR. LADEN: Correct. But we don't think there
14 will be any substantial idling.

15 VICE CHAIR RENSHAW: You don't.

16 MR. LADEN: And, again, I think our air quality
17 regulations prohibit buses from idling. Now, I don't know
18 whether they apply to shuttle buses. I'd have to check that.

19 VICE CHAIR RENSHAW: All right. If you could --

20 MR. LADEN: I know that's true for tour buses.

21 VICE CHAIR RENSHAW: Okay. All right. Let's
22 see. Have you inquired of the school how many, if any,
23 students are going to driving themselves to school?

24 MR. LADEN: I forget the specific number. I
25 think maybe the school could give us that information. Again,

1 my understanding is that it's -- the burden of proof is on the
2 students to demonstrate that they have to drive, and that
3 that's a fairly limited number.

4 Again, I think they will be limited to the number
5 of available parking spaces as to how many students would be
6 available or would be able to drive. It's my understanding
7 under the school's proposed program that students would not be
8 allowed to park in the street.

9 VICE CHAIR RENSHAW: All right. Across the
10 street from the existing school there are about -- between
11 Connecticut -- just off of Connecticut Avenue there is a --
12 what looks to be a professional building, a low rise, there's a
13 parking lot on the right side of Upton Street as I remember it.

14 MR. LADEN: Okay. I'll take your word for that.

15 VICE CHAIR RENSHAW: Because I think in your
16 report you had mentioned something about that, and I wondered
17 if you had analyzed the impact of the alley, the enlarged
18 alleyway with a new driveway, on that parking space for those
19 professional businesses across the street.

20 MR. LADEN: I don't remember referring to that.
21 And, again, I think that's the second element of the May 3rd
22 recommendations that were amended as a result of the most
23 recent modifications. I think at one time the school talked
24 about widening the alley from the parking area behind the
25 school to the Upton Street to allow two-way traffic.

1 But upon further consideration of that, I think I
2 mentioned in my comments dated yesterday that the alley should
3 remain the existing width, and that we might want to consider
4 widening the driveway area so that, as stated earlier, cars who
5 have dropped off their children and want to proceed out would
6 be able to get around cars that may still be cued.

7 VICE CHAIR RENSHAW: Then you explain the trash
8 pickup for the school and for the houses that are down Upton
9 Street but on the same side of the street as the school.

10 MR. LADEN: Again, I think from previous
11 conversations with the applicant that maybe they could do a
12 better job of explaining this. There was going to be a loading
13 and trash pickup just north of the dropoff loop in the far sort
14 of northeast corner of the property.

15 I don't know whether the trash collections for
16 the attached housing to the east of the school get alley or
17 front end collection. Assuming it's alley, again, the trash
18 trucks would access the public alley from Van Ness Street and
19 pick up the trash behind the residential properties.

20 VICE CHAIR RENSHAW: And come out onto Upton
21 Street?

22 MR. LADEN: They could. Again, depending on what
23 the remainder of their route is, I'm not sure whether they
24 would use Upton or, again, whether they would go up to Van
25 Ness. It kind of depended on where they went next.

1 And, again, I'm theorizing. The residents could
2 maybe tell us how they do it. But, theoretically, they could
3 also go south to Upton.

4 VICE CHAIR RENSHAW: Well, perhaps one of the
5 residents will address this situation. Given the size of that
6 street --

7 MR. LADEN: Which street? I'm sorry.

8 VICE CHAIR RENSHAW: Upton Street. Given the
9 size of Upton Street, if the school were to erect the proposed
10 addition, and the number of students increased, is that going
11 to be critical mass? In other words, I want to know how much
12 more can that street absorb, if any?

13 MR. LADEN: Well, again, our position was that
14 that street should not take any more traffic than what it's
15 currently experiencing. And what we were looking for were
16 mechanisms whereby the school could, if possible, reduce the
17 number of vehicle trips that they generate.

18 Again, they're not the only factor here that is
19 leading towards traffic congestion in the neighborhood. We've
20 got several other schools. We've got several other
21 institutions, all of which have an impact. And then, of
22 course, if at any point in time Connecticut Avenue has a
23 disruption, then these local streets become bypasses.

24 So I guess the short answer to your question is
25 we've -- you know, we feel Upton is taking as much traffic as

1 it can. And to the extent possible, we're looking towards the
2 school to minimize their contributions to that congestion.

3 VICE CHAIR RENSHAW: Do you feel that the
4 compliance pledge that has been offered by the school is going
5 to be a remedy, a successful remedy?

6 MR. LADEN: If it's enforced, I think it would
7 be.

8 VICE CHAIR RENSHAW: If it's enforced.

9 MR. LADEN: In other words --

10 VICE CHAIR RENSHAW: Enforced by the school?

11 MR. LADEN: Correct. The compliance pledge puts
12 the parents on notice. They can't claim they didn't know what
13 the ground rules were. And if the school and this compliance
14 committee monitored it and seriously, you know, applied the
15 rules, then I think that it could be an effective mechanism.

16 VICE CHAIR RENSHAW: And one last question. Do
17 you feel that the compliance committee, as proposed, is putting
18 too much on the community? In other words, one more -- what
19 shall we say -- burden on the community to undertake -- what do
20 you feel?

21 MR. LADEN: Well, yes, it is an additional
22 burden. But, again, it's a question of what the community
23 feels is important to their quality of life. From what I've
24 seen over the past couple of months, there is not a lack of
25 enthusiasm by the local residents to get involved in the

1 community life of the school.

2 And for, you know, a couple of residents, I mean,
3 to -- to help monitor the situation and ensure their quality of
4 life, I would think that, you know, they may find that to be to
5 their own self-interest.

6 VICE CHAIR RENSHAW: Thank you.

7 BOARD MEMBER HINTON: I just had one other
8 question, Mr. Laden. And that is, I don't recall anyone
9 talking about sort of what the matter of right development
10 would be on this lot if the school did not expand. And how
11 does that -- the traffic effects of matter of right development
12 weigh into your decision about whether this should be allowed
13 to go ahead or whether it is too much?

14 MR. LADEN: We didn't look at that.

15 BOARD MEMBER HINTON: You didn't look at that at
16 all.

17 MR. LADEN: In this case, we did not look at
18 that. We just looked at what was on the table, and that was
19 difficult enough to get a handle on, since it kept shifting.
20 The planning office may have some indication as to what the
21 matter of right development is and what the impacts would be,
22 but I -- we did not look at that as part of our analysis.

23 BOARD MEMBER HINTON: Okay. Thank you.

24 I would, then, ask Ms. Steingasser the same
25 question.

1 MS. STEINGASSER: We did a rough calculation of
2 what a matter of right use would be based on the zoning
3 regulations, both in height -- it would be -- the property
4 zoned R-5-D, which is a medium to high density residential
5 area, it's identified on the comp plan as a high density
6 residential area. It would allow a height of 90 feet and a
7 floor-to-area ratio of 3.5.

8 Using a rough estimate of 800 square feet for an
9 apartment complex, we estimated that a building between 55 and
10 60 units could be built on the site.

11 CHAIRPERSON REID: Does it also include hotels?
12 A mall?

13 MS. STEINGASSER: Oh, there are other uses. We
14 went with just the primary residential units. Other by-right
15 uses would include public schools by-right use. Hotels would
16 not be a by-right use. Hospital clinics, museums --

17 CHAIRPERSON REID: Institutions.

18 MS. STEINGASSER: -- certain institutional uses,
19 community-based residential facilities of a certain resident
20 cap would be by-right use also. And then, of course,
21 apartments of various combinations.

22 CHAIRPERSON REID: Okay.

23 BOARD MEMBER HINTON: Thank you.

24 CHAIRPERSON REID: Other questions? All right.
25 Thank you very much.

1 Cross examination of DPW? Mr. Feola, did you
2 want to start?

3 MR. FEOLA: Thank you, Madam Chair. For the
4 record, Phil Feola. A couple of questions for the Office of
5 Planning to start with.

6 I take it from your report and from your
7 testimony, Ms. Steingasser, that the Office of Planning doesn't
8 find the site inappropriate for school use. Is that correct?

9 MS. STEINGASSER: That is correct. We do not
10 feel it's an inappropriate site.

11 MR. FEOLA: And but for traffic, the other tests
12 of the special exception -- noise, number of students, or other
13 objectionable conditions -- the Office of Planning does not
14 find -- finds that this application meets those tests. Is that
15 what I understand from your report?

16 MS. STEINGASSER: With the exception of any
17 spinoff effect that they may have regarding traffic, yes, we
18 felt that they did meet the test for no adverse impact.

19 MR. FEOLA: Mr. Laden, if I might, in your May --
20 let me get the dates right here. Last report. You indicate in
21 the beginning -- you state, if I might say this here of the
22 various parking and circulation patterns proposed by the
23 school, alternative 1F is the one that you find the least
24 objectionable.

25 I don't think the Board has the background to

1 know that there were others. Is 1F the one that is before the
2 Board today?

3 MR. LADEN: Let me back up for just a second for
4 clarification. That's our May 3rd --

5 MR. FEOLA: Yes. Sorry.

6 MR. LADEN: -- testimony.

7 MR. FEOLA: Yes.

8 MR. LADEN: Which was our -- I guess our first
9 statement. Throughout this process of looking at this
10 particular application, there were a number of transportation
11 measures being recommended by the school, and suggestions made
12 by the residents.

13 At one point it led to a series of about six or
14 seven different scenarios where access to a parking garage
15 would be provided either off of Connecticut or off of a public
16 alley, or access to the drive-in/dropoff loop was coming from
17 different directions. And the exit mechanisms varied as to
18 whether they -- the cars exited back onto Connecticut or onto
19 Upton.

20 This scenario that's on the board that appears to
21 be before the committee now is the 1F option, which we feel did
22 the best job of dispersing -- well, first of all, keeping the
23 traffic -- as much traffic as possible on Connecticut Avenue
24 for access to the site, but allowed for various dispersal
25 routes from the property after the students were dropped off.

1 MR. FEOLA: I just wanted to make sure that the
2 Board understood that the 1F in your report was the one that
3 they were seeing.

4 MR. LADEN: That is correct.

5 MR. FEOLA: You state in that May 3rd report that
6 the -- and I'm going to quote this -- "proposed mitigation
7 measure offered by the school would improve traffic congestion
8 and safety over existing conditions." That's the end of the
9 quote.

10 I assume you're talking about not the
11 transportation management plan per se, which you've elaborated
12 on, but on what I'll call the hard scape -- the parking, for
13 example. Would the provision of the 50 parking spaces be an
14 improvement over existing conditions?

15 MR. LADEN: Yes, I believe so.

16 MR. FEOLA: And would the provision of onsite
17 cuing -- that is, cuing that is not in the public right of way
18 -- be an improved condition?

19 MR. LADEN: That is correct also.

20 MR. FEOLA: And would the access to the school,
21 the primary vehicular access to the school, which I believe now
22 is only on Upton Street and the public alley, being provided on
23 Connecticut Avenue be an improvement?

24 MR. LADEN: I think that has the potential to be
25 an improvement. Again, I think with the plan that was before

1 us on May 3rd, there would have been an increase in the number
2 of cars coming to the school.

3 The way that those cars got to the school was
4 still an issue to us, but we did feel that the physical
5 improvements or the physical modifications being recommended in
6 the 1F scenario have the potential to reduce traffic congestion
7 on the local streets.

8 MR. FEOLA: Is it true -- is it not true that if
9 this application were denied the existing conditions will just
10 continue?

11 MR. LADEN: That's one possible scenario. Again,
12 the -- I think the school has within its control the ability to
13 deal with -- the parents who are dropping children off at the
14 school have the ability to employ other mechanisms to relieve
15 congestion in the neighborhood.

16 But, certainly, this physical modification of 1F
17 would not be available without the application being provided
18 -- or approved.

19 MR. FEOLA: But all pickup and dropoff, whatever
20 the number is, would have to occur on Upton Street, would it
21 not? Or in the alley?

22 MR. LADEN: Correct. But I think your original
23 question was whether or not by denial of this application the
24 existing conditions would continue, and I guess what I'm saying
25 is that the school has it within its powers to implement

1 transportation management policies, namely the shuttle service
2 and the Metrocheck program that could improve conditions
3 without necessarily having the building -- or having the
4 application approved.

5 MR. FEOLA: But however many cars come to the
6 school would have to be on Upton Street.

7 MR. LADEN: It would be Upton Street, and,
8 theoretically, there may be continued use of some of the other
9 informal dropoff points that have developed over the years.

10 MR. FEOLA: You stated in that May 3rd report
11 that despite the improvement over existing conditions that
12 local residents, with the plan in place, would -- and I think
13 the quote is "would continue to experience occasional short-
14 term traffic congestion."

15 Short term -- are you talking about minutes,
16 hours, all times of the day? Could you elaborate on that a
17 little bit?

18 MR. LADEN: Yes. They vary. There is obvious
19 period for half an hour or so in the morning when there is --
20 there would be congestion as a result of the existing scenario.

21 And in the afternoons there may be short periods
22 -- actually, those periods may be a little bit longer in that
23 parents may arrive and cue in the street waiting for their
24 students to come out. There has also been evidence that during
25 some special events at the school, especially in the evenings,

1 that there's occasional congestion problems.

2 So there are different periods of the day when we
3 believe that there could be traffic congestion. They may last
4 for as short a period of time as 15 to 30 minutes, or they
5 could last slightly longer than that.

6 MR. FEOLA: With regard to the events, is it your
7 opinion that the provision of the parking underground off of
8 Connecticut Avenue would or would not help alleviate that
9 particular short-term congestion?

10 MR. LADEN: I think the parking below the new
11 addition would be beneficial.

12 MR. FEOLA: Those are all my questions.

13 CHAIRPERSON REID: Is that it, Mr. Feola?

14 MR. FEOLA: That's it.

15 CHAIRPERSON REID: Okay.

16 MR. VRICELLA: Mr. Laden, are you -- I'm, for the
17 record, Robert Vricella, 2947 Upton Street.

18 Are you aware of the Mayor's traffic study or the
19 Mayor's plan to convene a traffic study of DPW and OP to look
20 at traffic congestion on Connecticut Avenue?

21 MR. LADEN: Yes, I am.

22 MR. VRICELLA: Have you examined Burke's plan in
23 context or in relation to the Mayor's study?

24 MR. LADEN: I believe the Mayor was talking about
25 a future study that was to be performed. And certainly as part

1 of that study we would look at the major traffic generators
2 along that section of Connecticut Avenue. And all of the
3 institutions and commercial businesses would be looked at as
4 part of that analysis.

5 MR. VRICELLA: Do you think that it's prudent for
6 this Board to consider this plan in isolation to a larger study
7 of Connecticut Avenue, given that, you know -- the rush hour
8 lane issue and the possible blockage and stacking of
9 Connecticut Avenue during rush hour?

10 MR. LADEN: Well, I understand what you're
11 saying. My understanding -- well, my sense is that the traffic
12 study that the Mayor has talked about we are going to try to
13 get started later this year, and that the modifications that
14 the school is planning would probably still be in design or
15 construction, so that the full impacts of this may not be
16 available except through the reports and the information that
17 we presently have before us.

18 But, again, I think what we typically do is look
19 at the existing land uses, the types of traffic that they
20 generate, calculate a reasonable level of background increase
21 in traffic, and apply those to the existing infrastructure and
22 decide what modifications to the infrastructure are required to
23 try to mitigate whatever traffic problems exist.

24 MR. VRICELLA: I'm not a traffic expert, so is it
25 or is it not prudent to -- to either delay this or go forward?

1 And as a traffic expert, what is your opinion?

2 MR. LADEN: My sense is that we -- there is
3 traffic congestion on -- I'm going to have to give you a long
4 answer, I'm afraid. I'm sorry.

5 There is already traffic congestion on
6 Connecticut Avenue. This particular area we acknowledge is
7 congested, and that's one of the reasons why we suggested that
8 the traffic analysis be conducted along Connecticut Avenue.

9 There are a number of institutions which lead
10 toward that congestion. There are some features of the
11 topography that lead toward that congestion. You don't have a
12 full street grid to deal with all of the traffic that's there.

13 Can we put the brakes on the city while we
14 analyze situations? No, I don't think so. We've got other
15 areas of the city where major traffic studies are underway as a
16 result of significant growth in the city, and that's just part
17 of the dynamics that we're living in right now.

18 So I guess the short answer to your question is
19 no.

20 (Laughter.)

21 MR. VRICELLA: Fair enough. Mr. Feola I think
22 talked to you about existing conditions, and you've stated that
23 this plan would improve existing conditions. Is that correct?

24 MR. LADEN: If fully implemented, yes.

25 MR. VRICELLA: If fully implemented. Now, what

1 are the existing conditions in terms of student population and
2 faculty? I mean, I guess we all stipulate that they're over
3 their BZA limits with --

4 MR. LADEN: Correct.

5 MR. VRICELLA: So, in fact, if -- we don't know
6 what the correct existing condition would be had they followed
7 the BZA order that they should have been following. Is that
8 correct?

9 MR. LADEN: Correct.

10 MR. VRICELLA: So, really, we really don't know
11 what -- basically, if they were doing what they were supposed
12 to do, then you have a completely different analysis, right?

13 MR. LADEN: Correct. And, again, what I think I
14 was saying is that the existing situation that, you know, I've
15 observed being out there several times is that cars are using
16 the alleys, cars are backing in and out of alleys, backing in
17 -- you know, making T-turns in the middle of the street, and
18 there is just a lot of potential there for personal injury or
19 property damage.

20 And I think trying to bring some sort of a
21 rational order to this current chaotic situation, if it could
22 be successfully implemented, would have some advantages.

23 MR. VRICELLA: In your experience with traffic
24 and traffic situations and history of how traffic problems
25 develop, what is a good way to predict future traffic patterns

1 and future behavior of people?

2 MR. LADEN: People will take advantage of
3 whatever situation or conditions exist that gets them in and
4 out of where they want to go. In other words, they'll do
5 what's most expedient for their needs.

6 MR. VRICELLA: So is the expedience of getting --
7 for a parent to get to the school changed by the school's plan?

8 In terms of the traffic light at Veazey, for example, that
9 left turn lane coming south from Connecticut, in particular.

10 MR. LADEN: I'm sorry. Run the last part of that
11 question by me again.

12 MR. VRICELLA: Well, I'm asking that question in
13 context of the ease of traveling to the school, as it currently
14 exists today, is that changed by their traffic plan?

15 MR. LADEN: I guess the short answer to the
16 question is not necessarily. Again, parents will tend to do
17 what's most -- or I should say anyone will tend to do what is
18 most expedient or convenient to them.

19 But we all sort of observe the basic norms of
20 driving, and hopefully parents, if given incentives to utilize
21 other forms of transit or if other forms of dropoff are
22 available to them, I think, you know, they may be willing to
23 take advantage of it -- again, if they know that they're being
24 monitored and that there will be sanctions if they don't.

25 MR. VRICELLA: So basically we have no idea that

1 -- whether that will work.

2 MR. LADEN: That's why --

3 MR. VRICELLA: We have absolutely no idea.

4 MR. LADEN: That's why I suggest that there needs
5 to be some demonstration of the ability to the -- for the
6 school to deliver.

7 MR. VRICELLA: So your recommendation, just so I
8 can get this correct, your testimony is that this Board either
9 should: a) deny this application --

10 PARTICIPANT: Objection. He made his testimony.

11 MR. VRICELLA: I'm asking a question. His
12 testimony is that this Board either A --

13 CHAIRPERSON REID: Sustained. That's not
14 appropriate, because that is not what was in his
15 recommendation.

16 MR. VRICELLA: Okay.

17 CHAIRPERSON REID: But you can say what was.
18 Maybe go with the B -- start with the B or the C.

19 (Laughter.)

20 But the A wasn't there.

21 MR. VRICELLA: Let me rephrase the question.

22 CHAIRPERSON REID: Okay.

23 MR. VRICELLA: So your recommendation is to wait
24 a year, however the Board gets to that, and see if they can
25 implement some of these things so that we can test the school's

1 good faith in implementing some of these policies.

2 MR. LADEN: I think my recommendation would be to
3 see whether or not the school is successful in modifying the
4 behavior of their student population and their -- the way
5 they're getting to the school before a final decision is made
6 on constructing the new building.

7 MR. VRICELLA: The last question for you, Mr.
8 Laden. Do you think that the school, by violating their
9 population of faculty limits, has contributed to the existing
10 situation as we have today, which I think we're all agreed is
11 unacceptable?

12 MR. LADEN: Yes. I think the current student
13 population, along with the other uses in the neighborhood, are
14 all contributing to that problem.

15 MR. VRICELLA: And did you analyze their plan in
16 taking into account the Levine School auditorium that is yet to
17 be built?

18 MR. LADEN: Again, yes, we are aware of the
19 Levine School auditorium. Again, I'm not sure exactly what the
20 hours of peak operation would be there and whether or not they
21 would conflict and how often they would conflict with
22 operations of the school. But, yes, that's a -- that horse is
23 out of the barn, and we did -- we are aware of it, and we did
24 refer to it in our initial comments of May 3rd.

25 MR. VRICELLA: Can I ask a couple of questions of

1 Ms. Steingasser?

2 CHAIRPERSON REID: Oh, sure.

3 MR. VRICELLA: She has kind of got off scot-free
4 here.

5 (Laughter.)

6 I believe your testimony, Ms. Steingasser, was
7 that this school is compatible with the city policy, the use --
8 the land planning policy of the city.

9 MS. STEINGASSER: I said it was an appropriate
10 use for the location.

11 MR. VRICELLA: Okay. Have you considered the
12 fact that this property is so close to a Metro station and it's
13 zoned residential, and that the city is --

14 MS. STEINGASSER: That's exactly what made us
15 conclude that it is an appropriate use for the location.

16 MR. VRICELLA: Okay.

17 MS. STEINGASSER: It does provide transportation
18 alternatives. It's a natural extension of the schools from the
19 residential to the high -- high intensity commercial -- major
20 arterial of Connecticut Avenue.

21 MR. VRICELLA: Are you aware from a land planning
22 standpoint that the city is losing population and it's
23 important to bring back residents of the city?

24 CHAIRPERSON REID: There has not been any
25 testimony to that effect regarding population. Stay with the

1 testimony.

2 MR. VRICELLA: Okay. Well, that's a land
3 planning issue. Does the city have a land planning issue to
4 encourage residential development?

5 CHAIRPERSON REID: It has to be germane to this
6 particular case, specifically to this case.

7 MR. VRICELLA: I was trying to lay a foundation.

8 CHAIRPERSON REID: Not broadly.

9 MR. VRICELLA: Okay.

10 CHAIRPERSON REID: Just ask the question. Not
11 broad, but just specific to this particular case.

12 MR. VRICELLA: Okay. Does the city have a policy
13 that they would like to encourage residential development near
14 Metro stations?

15 MS. STEINGASSER: Yes, it does.

16 MR. VRICELLA: Does this school proposal conflict
17 with that policy?

18 MS. STEINGASSER: No, it does not.

19 MR. VRICELLA: It does not. Okay. Have you
20 analyzed, from a planning standpoint, the fact that that
21 property is going to be taken off the tax rolls?

22 MS. STEINGASSER: No, we've not done a financial
23 analysis of the site.

24 MR. VRICELLA: Okay.

25 MS. STEINGASSER: There's no guarantee any future

1 use might not also be tax-exempt.

2 MR. VRICELLA: Is it correct that if this
3 property were developed in the current zone it was developed
4 that it would contribute to the city tax base?

5 MS. STEINGASSER: It would depend on what the
6 future use might be. There are many permitted by-right uses as
7 well as special exception uses that could be accommodated in
8 this zone.

9 MR. VRICELLA: Okay. No further questions.

10 CHAIRPERSON REID: Thank you.

11 MS. SMOLIK: Hi. Jodie Smolik, 2945 Upton
12 Street.

13 My questions are for Ken Laden. Ken, do you
14 believe that there -- Connecticut Avenue will experience
15 delays, especially during the morning rush hour traveling
16 northbound with the school entering into their entrance? And
17 possibly also in the afternoon and evening rush hours?

18 MR. LADEN: It's possible that on occasion there
19 might be slight delays. As cars are turning into the driveway
20 there would need to slow down, and that could, to a minor
21 degree, affect traffic flow on Connecticut Avenue.

22 MS. SMOLIK: And have you considered pedestrian
23 safety on that Connecticut Avenue sidewalk with the cars
24 entering and exiting?

25 MR. LADEN: Yes. That is the other major

1 conflict point in the proposed plan. Along with the alley
2 exited on Upton Street, the crosswalk there on Connecticut
3 Avenue at the entrance to the parking garage and the drive-in
4 loop would need to be monitored by the school representative
5 stationed there to make sure that the pedestrians can safely
6 cross.

7 MS. SMOLIK: Can, actually, a staff person do
8 that if they're inside the building?

9 MR. LADEN: I think that they can control the
10 cars that are coming out of the garage area or coming out of
11 the loop. But, again, they would have to be positioned in such
12 a way that they could really monitor both activities or the
13 school would need to identify a second person at that location,
14 one to monitor the crosswalk and the cars pulling in, and
15 another to monitor the point where the drive-in loop intersects
16 with the cars getting into the garage.

17 MS. SMOLIK: And could there be an additional
18 conflict point with the cars exiting northbound on Connecticut
19 with those exiting the parking garage in the evening?

20 MR. LADEN: Well, yes. Again, there would need
21 to be somebody at that point in the afternoon that would make
22 sure that cars pulling in to pick up students are not
23 conflicting with cars coming out. Again, my understanding,
24 however, is that that -- that driveway would be wide enough to
25 accommodate two automobiles.

1 So you would have -- you know, the pull-in lane
2 on the right would be for cars coming into the loop, and really
3 all you'd need to do is make sure that as cars are exiting the
4 loop, coming back to Connecticut Avenue, that they are looking
5 to their right to make sure there's not somebody coming out of
6 the garage at the same time. And, again, having somebody there
7 to monitor that could make that work.

8 MS. SMOLIK: So adding that with pedestrian
9 safety, that would be two people.

10 MR. LADEN: Again, I think depending on how --
11 how busy that operation is, and for how long a period of time
12 that occurs, one person may be able to manage it, or if it
13 becomes too much of a Chinese fire drill they could perhaps put
14 a second person there.

15 MS. SMOLIK: Questions regarding car cuing -- if
16 a parent comes in the evening, and their child is not ready to
17 be picked up, and somehow they're not available at the dropoff
18 zone, what would the parent do?

19 MR. LADEN: Well, again, my thinking is that the
20 driveway area -- or I should say the private drive, which is
21 parallel to the existing public alley, should be wide enough so
22 that one lane of cars could cue and other cars that were able
23 to pick up their students could collect them and still be able
24 to exit that private drive.

25 So there is a possibility there of some number of

1 cars to stack and wait for students to be picked up. It's
2 obviously not an infinite number, but a certain number of cars
3 would be accommodated within that loop.

4 MS. SMOLIK: If the cars miss their cue, do you
5 think they will be taking Van Ness and the alley as stated in
6 the Grove Slade report?

7 MR. LADEN: Our recommendation is that the public
8 alley be not -- not be used as a drive-through or a pickup
9 point related to the school.

10 MS. SMOLIK: Just a few final questions regarding
11 the shuttle bus and Metrocheck. How vital are they to this
12 entire traffic plan?

13 MR. LADEN: They're critical.

14 MS. SMOLIK: And did the school provide you any
15 reason why they could not give a Metrocheck for Virginia and
16 Maryland students as well as offer shuttle bus currently this
17 year?

18 MR. LADEN: I've not discussed that with them.
19 You'd have to ask them that question.

20 MS. SMOLIK: I know we've had many meetings, and
21 the concept of student enrollment has come up. We've talked
22 about, you know, enrollment of students equals cars. Have you
23 asked them if they could lower their enrollment?

24 MR. LADEN: Yes, I have.

25 MS. SMOLIK: Going back to the final part about

1 shuttle buses, does it concern you that the school in response
2 to your question said that the school will adjust the shuttle
3 bus service if actual usage does not meet their goals? Does
4 that statement concern you?

5 MR. LADEN: No, it doesn't. I think, again, it's
6 -- what's really needed here I think is a commitment to make
7 this whole scenario work. It could be that the Metrocheck is
8 more widely accepted than the school is guesstimating and that
9 that becomes the solution that works.

10 And the shuttle bus parents may not feel
11 comfortable with in inclement weather or other situations, and
12 as a result the shuttle bus may need some adjustment year to
13 year to make it work.

14 But if the overall effect is to reduce the number
15 of vehicles coming into the school to a manageable number,
16 which I believe their goal sets, then it would basically work
17 for us. In other words, I'm looking at more the outcome rather
18 than the means to that outcome.

19 MS. SMOLIK: Going back to the shuttle buses, if
20 they are dropping off on -- in front of the existing school at
21 Upton Street, we already know that Upton Street and Connecticut
22 Avenue operates at a level of F. How are these buses to turn
23 onto Connecticut Avenue to go back to the eastern part of their
24 pickup part zone without using public alleys?

25 MR. LADEN: What they would need to do is both --

1 again, under the plan that's been recommended, there would be
2 two shuttle services, one coming from the east and one coming
3 from I believe the north. They would need to turn right onto
4 Connecticut Avenue, and find a mechanism to turn around and get
5 to wherever their pickup point is.

6 That could be done by making a left turn at one
7 of the traffic signals and going back down Connecticut Avenue
8 or -- again, it's really a function of where the pickup point
9 is and what's the best way to get back there, because I think
10 at that point the key is to try to get back to the pickup point
11 as quickly as possible so students aren't having to wait for a
12 long period of time.

13 MS. SMOLIK: So, basically, they'd have to use
14 the public alley between Upton and Tilden Street?

15 MR. LADEN: Not necessarily. They may be using a
16 public street to effect that. It's a question of where they're
17 going and what's the quickest way to get there. It could be
18 that they would use a street, or it could be that they would
19 use an alley.

20 Our preference would be that they, again, use the
21 public street system, which is intended to take the traffic.
22 The alley should be used, in my opinion, for deliveries and for
23 access to properties that are on that block.

24 MS. SMOLIK: Right. So that leaves the only
25 streets really being Connecticut Avenue and Upton Street.

1 MR. LADEN: Well, again, depending on where the
2 dropoff point is, there will probably -- the two shuttle buses
3 -- we're talking about two shuttle buses -- would need to use
4 other streets to get to wherever their pickup point is and
5 where -- the streets they use will be determined by where those
6 pickup points are.

7 And I think we've been told that those may change
8 year to year depending upon where the parents are coming from
9 and what would be the most convenient location for them to drop
10 off their kids.

11 MS. SMOLIK: Fifty percent of the students remain
12 after school for after-school activities, and so their
13 dismissal time is after 6:00 p.m. Being that it is in the
14 middle of rush hour, do you think during this pickup plan that
15 Connecticut Avenue and this plan for traffic will be impeded
16 because of Connecticut Avenue during rush hour during -- and 50
17 percent of the students remaining after school?

18 MR. LADEN: Even with 50 percent of the students
19 remaining after school, a significant portion I think may still
20 be using mass transit. In those instances where parents are
21 picking up their children for, you know, after-school events, I
22 think that the existing loop system and the private drive that
23 they're proposing could accommodate that traffic.

24 Certainly, we would require that the operation of
25 that loop be done in such a way so that traffic does not back

1 up onto Connecticut Avenue during evening rush hour.

2 MS. SMOLIK: Final question. In your May report,
3 you said that, you know, you're in opposition of this plan.
4 And my question is: I'm assuming that that position remains.
5 However, you did state that, you know, your question had to be
6 with parents using the path of least resistance, and cars and
7 parents continuing to weave through the neighborhood streets
8 and alleys to drop off and pick up their students. Do you
9 still believe that?

10 MR. LADEN: Well, I believe given the recent
11 modifications to the plan which the school has proposed, there
12 is the potential to reduce the overall traffic volume that the
13 school generates. And what I've indicated in my position that
14 was dated yesterday, the 21st, the concern that we have is we'd
15 like to see a demonstration of that ability to reduce the
16 volume of traffic that the school generates, because, again, we
17 have a concern that while the school may make its best efforts
18 to market the strategies, parents could just find them
19 inconvenient and choose not to opt in to the volume reduction
20 elements of the plan.

21 MS. SMOLIK: Thank you.

22 CHAIRPERSON REID: Okay. Mr. Shinberg?

23 MR. SHINBERG: Milton Shinberg.

24 Mr. Laden, is it your understanding that the
25 proposals that the school is marketing for taking care of some

1 of the traffic impact assumes that it's trying to bring back
2 impact levels to the 270 level of school population, or to the
3 295, or 299 level? Are you -- has that been made clear to you?

4 MR. LADEN: No, it is not. And, again, I'm not
5 sure exactly how the modal split of how students are arriving
6 is geared back to a student population level. In my opinion,
7 the student population level, while important, is not -- let's
8 just say my main concern is the impacts of that student
9 population rather than the raw number.

10 If they could get 100 percent of their student
11 population to take transit to school, then the student
12 population is less a problem. But I guess the short answer to
13 your question is, no, we did not try to draft a formula that
14 equated the modal split to a student population level.

15 MR. SHINBERG: So at this point, in regard to
16 that chart or any other kind of numerical representation that
17 you've seen, or at least that's in this representation, we
18 don't know whether the school is -- although they're saying
19 it's less than it currently is because of the organization of
20 the plan or the way the site is used, or these different kinds
21 of incentives, whether it's not just better but better to a
22 certain extent.

23 MR. LADEN: Well, again, I think the table
24 indicates that the assumptions built into their assumptions is
25 at the student population of 360. So this, in a sense, is a

1 proposed performance measure or targets -- a better word is
2 targets -- that this is -- these are proposed targets that the
3 school would attempt to accomplish with a student population of
4 360.

5 MR. SHINBERG: I understand. But if it's -- if
6 the end result is that the impact is proportional to 360, the
7 school has, based on your testimony, failed in its objective,
8 which is to have less impact than 360 would have.

9 MR. LADEN: If I understand the question
10 correctly, if -- yes, if these transportation measures did not
11 work, and parents continued to bring students at the same rate
12 that they currently do with a population of 296, 297, then,
13 yes, there would be more cars coming into the neighborhood at
14 360.

15 MR. SHINBERG: And at this point, the analysis
16 that you provided isn't specific on a quantitative basis to
17 establish the degree to which they have come down from 360 to
18 299, or from 360 to 270. You're making a qualitative statement
19 rather than a quantitative statement.

20 MR. LADEN: That is correct.

21 MR. SHINBERG: Okay.

22 Ms. Steingasser, a question for you about the --
23 your approach to examining the site for evaluation. Have you
24 looked at the site, this site, in conjunction with the existing
25 school? Have you approached it in toto, or just the new site?

1 MS. STEINGASSER: We looked at it more in total.

2 MR. SHINBERG: In toto. Okay. So when you make
3 statements about adverse impact or objectionable condition, and
4 you've made a statement about the Connecticut Avenue site being
5 acceptable because increase in noise is okay because it's
6 mostly directed toward Connecticut Avenue, that's appropriate
7 because you're not talking specifically -- you're not talking
8 in toto. You're really talking about that piece.

9 MS. STEINGASSER: I --

10 MR. SHINBERG: Do I gather --

11 MS. STEINGASSER: I'm not sure if that's
12 question, but I don't believe I ever stated that an increase in
13 noise was acceptable.

14 MR. SHINBERG: I'm trying to restate your
15 statement and seeing if I got it right.

16 MS. STEINGASSER: Well, then, I guess the answer
17 would be no. The --

18 MR. SHINBERG: Okay.

19 MS. STEINGASSER: What I stated was that the
20 noise that might be generated from the site could be mitigated
21 to its location along Connecticut Avenue.

22 MR. SHINBERG: Are you assuming that -- all of
23 the additional population that is on the Connecticut Avenue
24 site?

25 MS. STEINGASSER: No, sir.

1 MR. SHINBERG: Okay. So that if you are thinking
2 in toto, there may be a general increase of intensity of use on
3 both sites.

4 MS. STEINGASSER: Yes.

5 MR. SHINBERG: And if the 360 students, then, on
6 both sites, for instance, are -- some of those students being
7 next to Ms. Jay's property immediately to the east, and there
8 is more noise in the buffer zone between the school and her,
9 there is likely to be more noise, for example. That's a
10 possibility.

11 MS. STEINGASSER: It's a possibility.

12 MR. SHINBERG: Okay. And I might -- and that
13 might be reflected in some of the other conditions of
14 objectionable conditions.

15 MS. STEINGASSER: Such as?

16 MR. SHINBERG: Well, the ones that are listed in
17 -- under the 206 rules.

18 MS. STEINGASSER: Number of students, traffic,
19 parking, noise, and other conditions. I don't believe so. I
20 think when we looked at the property, both as it exists -- we
21 looked at what was there, we looked at what was proposed, and
22 then we looked at the total effect of the overall proposal.

23 The square footage per student went up. The
24 square foot both of the land and the building increased, so
25 that there was more space per student and not less. There is

1 substantially more parking, which both DPW and OP felt was
2 mitigated, as well as the -- we had heard just recently
3 starting in March that the students were in the neighborhood.
4 And I felt that the existing plan provided additional outdoor
5 space on-site for the students to be in.

6 MR. SHINBERG: So it's your testimony, then, that
7 in whatever respect objectionable conditions should be
8 evaluated, they should be done in terms of the combined sites
9 and the impact of those combined sites on the neighborhood?

10 MS. STEINGASSER: Yes.

11 MR. SHINBERG: Okay. Thank you.

12 MR. FEOLA: Madam Chair, just a procedural -- now
13 I'm getting old and my memory is failing me. But I thought
14 last week the chair directed Neighbors For Liveable Streets to
15 appoint one or two people to do cross examination. And now
16 we're on our third person here, and it seems to be going on.

17 MR. SHINBERG: I'd be happy to respond to that.
18 It was due to the fact that the --

19 MR. FEOLA: No, I didn't ask you. I asked the
20 chair.

21 CHAIRPERSON REID: Okay. Who was the third
22 person, because I --

23 MR. FEOLA: The gentleman that was here, Ms.
24 Smolik, and Mr. Shinberg. They were all with the same party,
25 so --

1 CHAIRPERSON REID: He's right. There were
2 supposed to be two people who --

3 MR. FEOLA: And one of them couldn't be here.

4 CHAIRPERSON REID: Yes, there were supposed to be
5 two people who were supposed to cross examine.

6 MS. SMOLIK: That's Linda Jay.

7 MR. FEOLA: And I guess I don't have a problem,
8 if we could wrap it up, but --

9 CHAIRPERSON REID: Did you say three? No, with
10 the neighbors. Then, there was Linda Jay separately. She had
11 a separate -- she was an abutter, wasn't she?

12 MS. SMOLIK: Yes. And she's here actually.

13 CHAIRPERSON REID: Okay.

14 MS. SMOLIK: But she wanted to defer her cross
15 examination status to Milton Shinberg.

16 CHAIRPERSON REID: Okay.

17 MS. SMOLIK: She's here. She can speak if you'd
18 like.

19 CHAIRPERSON REID: Okay. No, no, no. Thank you.

20 (Laughter.)

21 Mr. Shinberg is fine.

22 MR. SHINBERG: And in any event --

23 CHAIRPERSON REID: Are you wrapping now?

24 MR. SHINBERG: In any event, I am done.

25 CHAIRPERSON REID: Okay. Thank you.

1 MR. SHINBERG: Thank you.

2 CHAIRPERSON REID: All right.

3 MR. SHINBERG: Thank you all, and my apologies
4 for my cell phone going off.

5 CHAIRPERSON REID: Was that you?

6 MR. SHINBERG: That was me. My apologies.

7 CHAIRPERSON REID: Okay. Mr. Brown?

8 MR. PATRICK BROWN: Again, Patrick Brown. I'm
9 glad to be back.

10 (Laughter.)

11 I promised Mr. Altman that I would be kind to Ms.
12 Steingasser. Actually, I would like to ask Mr. Laden several
13 questions. You've indicated that -- and particularly as it
14 relates to the use of Veazey Terrace and -- from Connecticut
15 Avenue and the alley system between Veazey Terrace and Van
16 Ness, and then Van Ness to Upton, that that's a product of
17 being convenient to parents for purposes of accessing the
18 school?

19 MR. LADEN: That is correct.

20 MR. PATRICK BROWN: And that as a general matter,
21 that convenience is an attractive nuisance that draws them to
22 that proposal as opposed to alternatives that may not be as
23 attractive?

24 MR. LADEN: I would agree.

25 MR. PATRICK BROWN: So that this plan currently

1 as proposed doesn't have any affirmative steps to cease the use
2 of the alley system. When I say "affirmative," other than
3 offering, you know, options that you hope are more enticing,
4 there's no affirmative "thou shalt not," there's no control
5 points, there's no security, nothing like that, nothing
6 affirmative to stop the use of the public alleys.

7 MR. LADEN: I think there are a couple of
8 affirmative steps the school is proposing in terms of their
9 traffic management operations. They are proposing a pledge
10 that parents would need to sign indicating that they would not
11 use the alleys, and that they would not use the local streets,
12 that they would use designated routes and alternative means of
13 getting their children to school.

14 I think there was also an affirmative step taken
15 by the school in its willingness to establish a monitoring
16 committee, and to consider sanctions for parents who do not
17 comply with their signed pledges.

18 MR. PATRICK BROWN: And, again, it goes back to
19 the whole concern you have and asking for the demonstration
20 period. If this doesn't work at 360 students, are traffic
21 conditions substantially worse than they are now?

22 MR. LADEN: Yes, they would be.

23 MR. PATRICK BROWN: Okay. If, in fact -- let me
24 ask a scenario. Currently, the school is -- and rough numbers
25 -- 10 percent over their permitted cap of 270. They are 27

1 students above. If, in fact, they were through -- in
2 circumstances which they described as beyond their control,
3 found themselves 10 percent over the 360 student cap, so they
4 were just a hair below 40 students, would that have a
5 substantial or have an effect, an adverse effect, on traffic
6 conditions?

7 MR. LADEN: Depends on how successful the school
8 is in getting students to take alternative forms of
9 transportation. If all of those additional students are
10 driving to school, or their parents are driving them to school,
11 then, yes. If all of those students are taking transit
12 religiously, then, no.

13 MR. PATRICK BROWN: And going back to my earlier
14 question -- if, in fact, the plan, through no fault of
15 anybody's, but just the plan doesn't work, and you had 360 plus
16 the 10 percent overflow, you'd have an increasingly worse
17 situation than you would at 360 or at the 299 level that
18 currently is unacceptable.

19 MR. LADEN: Again, assuming that the school is
20 not successful in modifying their current rate of how students
21 are getting delivered to school, then, yes, the increased
22 population would lead to increased traffic.

23 MR. PATRICK BROWN: Okay. That's it. Thank you.

24 CHAIRPERSON REID: Thank you.

25 Let's see. ANC, Mr. Kogan, did you have

1 questions? Okay. Come on. This is the last one for the DPW,
2 right? All right. Okay. DPW or either Office of Planning.

3 MS. PERRY: Mr. Laden, in looking at the Burke
4 pledge, are you aware that it says that parents cannot drop off
5 students on Upton Street, but it does not refer to --

6 VICE CHAIR RENSHAW: Ms. Perry, excuse me. Would
7 you give your name, please.

8 MS. PERRY: Oh, I'm sorry. I'm Karen Perry from
9 ANC-3F.

10 CHAIRPERSON REID: Go ahead.

11 MS. PERRY: The pledge refers to not dropping off
12 on Upton Street, but says nothing about not dropping off on Van
13 Ness Street. I've circled it here if you need to see it.

14 MR. LADEN: Okay. Yes. Let me take a quick look
15 at it. Yes. It says, "Families may not drive west on Upton.
16 Families may not drop off or pick up students in front of the
17 school or on Upton. Families may not utilize the public alley
18 between Van Ness and Upton Streets or the alley between Upton,
19 Tilden" -- I'm sorry -- "Upton and Tilden Streets."

20 So they list the alleys. They list Upton. They
21 list Tilden, but they do not list Van Ness, and that should be
22 added to the list of streets that parents would agree not to
23 use for drop off.

24 MS. PERRY: I believe you were on Van Ness Street
25 and on Upton Street when you were coming out to inspect the

1 neighborhood. Did you see some Burke parents dropping off
2 students coming out of the alley on Veazey Terrace, dropping
3 off on Van Ness, and then not continuing through the alley to
4 Upton Street but making U-turns on the street?

5 MR. LADEN: Yes, I did.

6 MS. PERRY: To go back to Connecticut Avenue. Is
7 that acceptable?

8 MR. LADEN: No. We would not want the alleys to
9 be used as throughways to drop students off, because then --

10 MS. PERRY: And the private --

11 MR. LADEN: -- the students are left in the
12 alleys to fend their way to school, which, again, we don't
13 think is an appropriate practice.

14 MS. PERRY: In the Burke pledge, it also says,
15 "For families traveling south, one must approach Connecticut
16 Avenue," etcetera. Keep in mind that the Kiss and Ride on the
17 western side of Connecticut Avenue near the Metro entrance, and
18 large sections of Tilden coming from the park are all safe and
19 suitable places to drop off students without entering the cue
20 line, which I assume means that these were the sites that Burke
21 was at least planning on using their first year.

22 Is that accurate, or is this not a good
23 statement, that parents should just drop their kids off on
24 Tilden?

25 MR. LADEN: Well, again, you're I think correct

1 in indicating what the pledge provides. But I'm not sure
2 whether that constitutes the school's recommendation with
3 respect to where their dropoff sites are going to be.

4 My interpretation of what that says -- and this
5 is just my interpretation; the school can perhaps give their
6 own clarification -- is that they want to let the parents know
7 that in addition to taking a route that would eventually get
8 them to Tilden Street and go north and get in the cue, there
9 may be locations along Connecticut Avenue where it would be
10 safe for them to pull off, drop their children off and then
11 have their children walk the remaining blocks or cross the
12 street to get to the school.

13 Again, we don't have any problem with that,
14 provided that the parents can pull off of Connecticut Avenue
15 safely and be able to access or get back onto Connecticut
16 Avenue safely, and that there is a safe mechanism for the
17 children to cross the street.

18 And, again, I think there is a number of
19 intersections with crosswalks and traffic signals, and there is
20 an underground passage at the Van Ness Metro station, which
21 would allow students who are dropped off on southbound
22 Connecticut Avenue to get across to the east side of the road.

23 MS. PERRY: Okay. Has it been your experience
24 with shuttle buses or shuttle vans to various locations that
25 parents leave their kids for any length of time in the snowy

1 weather, cold weather, waiting for a bus to -- a shuttle van to
2 come pick them up? Or would they just go ahead and take them
3 straight to the site?

4 MR. LADEN: That's going to vary. I can remember
5 walking through snowdrifts -- no, I'm not going to go there.

6 (Laughter.)

7 You're absolutely right. When there's lousy
8 weather, the shuttle bus system may be a weak link, and parents
9 may choose to opt to drive their kids to school that day. Same
10 may be true when there's a science fair and they've got, you
11 know, a trunk full of paraphernalia that they need to get to
12 school.

13 So there will be exceptions to the rule, and
14 lousy weather and shuttle buses do not make good mates.

15 MS. PERRY: Okay. It's my understanding that the
16 Burke traffic control officer is just there in the morning rush
17 hour and then for afternoon pickup. But the way the building
18 is configured, students are going to be going back and forth
19 from one building to the other, or have the possibility of it,
20 because the computer rooms, the new library, is in one wing,
21 and a lot of students will be in the other.

22 Are you concerned about safety during the day at
23 lunch hours when the students go out for lunch and go through
24 the alley, or going back and forth between buildings during the
25 day, that there is nobody at that location?

1 MR. LADEN: No, I'm not. The reason is there
2 would not be a cue of cars coming out of that Upton Street
3 access point, because there wouldn't be dropoffs or pickups
4 occurring during midday. They would need to look, you know, up
5 the alley to make sure there wasn't somebody, you know, driving
6 through the alley, but it would be no different than any other,
7 you know, walking experience in the city. You just need to
8 keep your heads up and look at where you're going.

9 MS. PERRY: Okay. Van Ness Street now is the
10 entrance to Howard University's School of Law for their
11 traffic, trucks, etcetera. Did you analyze what the impact of
12 traffic would be if the alley was made two ways again and cars
13 were coming -- we would have an alley coming from Upton to Van
14 Ness and Veazey to Van Ness, what the impact of traffic would
15 be to the residents of Van Ness Street?

16 MR. LADEN: No, I did not look at that. We did I
17 think at one point offer a suggestion of making the public
18 alley north of -- on the northern half of that block from Upton
19 to Van Ness one way going northbound in an attempt to further
20 disperse traffic. But I was told I would get lynched by the --
21 I'm sorry. I shouldn't say that. I was told that the Van Ness
22 residents would not appreciate that suggestion, so I dropped
23 it.

24 MS. PERRY: We've talked about shuttle buses --

25 CHAIRPERSON REID: Ms. Perry?

1 MS. PERRY: -- and this will be my last question.

2 CHAIRPERSON REID: Okay.

3 MS. PERRY: But did you analyze the 62 buses that
4 come from visiting teams that are going to come in off the Van
5 Ness Street entrance at night when there's cars parked on both
6 sides, into the rear alley, and the rental buses that Burke
7 uses, that said the average number of students on each of these
8 trips is 25, which is a bigger bus than the shuttle vans as far
9 as Ms. Renshaw's question of buses idling and --

10 MR. LADEN: Yes, this --

11 MS. PERRY: -- access to the alley.

12 MR. LADEN: This whole process has been one of
13 trying to balance negative impacts from alternative approaches
14 to try to solve problems. We found that wherever we turned to
15 solve one problem you created another.

16 This is one of those instances where I think what
17 the school is proposing is the least of the available negative
18 impacts that are out there. The events that are at the school,
19 where they're going to be using, from what we hear,
20 predominantly shuttle buses, have to find some place to drop
21 those individuals off and then park.

22 They could do that on Connecticut Avenue, and
23 that would cause a problem. They could do that within the
24 traffic loop, or they could do that on Upton Street, and that
25 would impact those locations. It seems like in terms of

1 balancing and trying to minimize the impacts, the quickest,
2 easiest, solution would be for the shuttle buses to pull into
3 the alley and park behind the existing school, and be out of
4 everybody's way.

5 What we did recommend in our May 3rd
6 recommendations, which carry forward into the May 21st
7 recommendations, was a provision that the shuttle buses and the
8 charter buses and other visiting school buses should not be
9 parking on the local streets or in the local alleys or blocking
10 the local streets or local alleys.

11 MS. PERRY: Thank you.

12 CHAIRPERSON REID: Thank you.

13 Ms. Giordano, did you have -- no questions?

14 Okay. Now, what I'm thinking about -- and Ms.
15 Perry and Mr. Kogan, let me know what -- how you feel -- what
16 we have left to do is persons or parties in support, and then
17 we -- well, we have ANC reports, persons or parties in support,
18 and the opposition.

19 Now, we're going to be moving into the -- to
20 complete this on July 10th. And my thought was to allow the
21 persons or parties in support to go finish today, and then
22 allow the ANC and the opposition to go on the 8th of July,
23 which will give the ANC an opportunity to have met and to then
24 revise the report before giving the report. If you'd like to
25 do that, I can allow you to do that, or you can go today.

1 MS. PERRY: I think that would be very helpful.

2 MS. BAILEY: Ms. Perry, you need to speak on a
3 microphone, ma'am.

4 MS. PERRY: I'm sorry. I think that would be
5 acceptable to the ANC. Let me just check with Commissioner
6 Kogan.

7 MR. KOGAN: Yes. Phil Kogan, ANC-3A-05. I agree
8 with Commissioner Perry that --

9 CHAIRPERSON REID: Okay.

10 MR. KOGAN: -- that that would work best for us.

11 CHAIRPERSON REID: Okay. Then, why don't we then
12 just finish up the persons or parties in support for today, and
13 then that will be the stopping point.

14 Mr. Feola, are your people here?

15 MR. FEOLA: No. After the announcement earlier
16 that we were only going to do the Office of Planning, the
17 Department of Public Works, and the Neighbors for --

18 CHAIRPERSON REID: Okay. So do you have any
19 persons in support here?

20 MR. FEOLA: I don't believe so.

21 CHAIRPERSON REID: One? Just one? Okay. So you
22 don't have the people.

23 MR. FEOLA: We'll have to run the risk that we
24 don't --

25 CHAIRPERSON REID: Well, no. I mean, we can -- I

1 think that on the 8th we'll have the entire afternoon. I'm
2 sorry. Why do I keep saying that?

3 (Laughter.)

4 On the 10th of July, we have -- we'll have --
5 we'll do persons or parties in support, and we'll -- no, the
6 ANC first, cross examination of the ANC, persons or parties in
7 support, the opposition has an hour, a little over an hour
8 because they asked for about an hour and 10, 15 minutes. Then
9 we should be able to finish on the 8th, so we can -- I mean, on
10 the 10th. So, basically, we can stop around about now.

11 VICE CHAIR RENSHAW: Would the gentleman who is
12 here in support like to just give his case, or does he want to
13 come back?

14 CHAIRPERSON REID: Well, would you --

15 MR. FEOLA: I guess I'd just as soon put it all
16 together in the same --

17 CHAIRPERSON REID: Okay.

18 MR. FEOLA: -- same --

19 CHAIRPERSON REID: Then this will be a clean
20 break point.

21 MR. FEOLA: Yes, ma'am.

22 CHAIRPERSON REID: And we can just pick up on
23 July 10th with the ANC report. That gives you an opportunity
24 to have Matt revise your report based on the information that
25 you've gotten, the new information and everything. And persons

1 or parties in support, and the opposition, and that's it. That
2 finishes up this case.

3 MS. PERRY: May I just get a clarification, so
4 there's no confusion at the next hearing. The Neighbors United
5 are getting about an hour and 10 to 15 minutes, the NULS
6 organization?

7 VICE CHAIR RENSHAW: That's right.

8 MS. PERRY: Okay.

9 CHAIRPERSON REID: Yes, that was -- we basically
10 agreed to let them have a little bit more time. Mr. Feola
11 didn't have a problem with it.

12 MS. PERRY: Okay.

13 CHAIRPERSON REID: And then the other --

14 MS. PERRY: Van Ness South would get about 10
15 minutes is what I think they asked for?

16 CHAIRPERSON REID: Right. And then, Ms. Giordano
17 said she needed about five --

18 MS. PERRY: To eight minutes. Okay. I just
19 wanted to make sure.

20 CHAIRPERSON REID: Five to eight minutes. And I
21 don't think that that's insurmountable.

22 In the meantime, if, in fact, there is an
23 occasion for both sides to come closer to some type of
24 understanding, predicated upon the fact that there has been
25 additional information, there has been further modifications,

1 and the like, and hopefully by that time we have an opportunity
2 -- you'll have an opportunity to bring us something that would
3 be more agreeable or more acceptable to both sides.

4 I don't think you're that far apart. I think
5 that the concerns of the neighbors and the community is very
6 well made known, and that the applicant is extending and trying
7 to meet those concerns. And who knows? Maybe this can all
8 work out somehow miraculously by the 10th of July.

9 Thank you very much for your time. Are there any
10 more comments?

11 VICE CHAIR RENSHAW: Could we go -- we had asked
12 Mr. Laden for some information, and I wondered if we could go
13 over that.

14 CHAIRPERSON REID: Okay. Well, Ms. Pruitt isn't
15 here. Mr. Hart, did you note the requests that were being
16 made? I did have a couple -- the ANC requested that there be
17 drawings submitted of the two lanes rather than the one lane.
18 Mr. Feola? Remember they asked for that, and you said it was
19 there but you really can't see it? So if you could just --

20 MR. FEOLA: I'm sorry. I was --

21 CHAIRPERSON REID: The ANC -- I think Ms. Perry
22 or Mr. -- was that you, Mr. Kogan, who asked for that?

23 MR. KOGAN: I think in the cross examination I
24 had asked a question about that line of traffic, and the --

25 MR. LADEN: Oh. We can provide that.

1 CHAIRPERSON REID: Showing the two lanes. And
2 that -- of course, about how large buses would be able to turn
3 around when they drop students off. Mr. Feola? Okay. That
4 and -- was there anything else that I've missed?

5 MR. HART: Yes. Madam Chair, I have a couple
6 here.

7 CHAIRPERSON REID: Okay.

8 MR. HART: Please bear with me. This is from Ms.
9 Renshaw to DPW. She requested that DPW submit its report to
10 the Fire Department for its response.

11 CHAIRPERSON REID: Wait. Let me just ask --
12 wasn't it sent -- Ms. Steingasser, did you -- in your report,
13 did you not refer it to DPW and the Fire Department, the Police
14 Department, and all of that?

15 MS. STEINGASSER: No, ma'am. We referred it to
16 DPW. We did not refer it to the Fire Department. They would
17 typically review circulation during the building permit
18 process.

19 CHAIRPERSON REID: Oh. So not at this point.

20 MS. STEINGASSER: Not at this point.

21 CHAIRPERSON REID: So that will happen.

22 MS. STEINGASSER: Yes, ma'am.

23 CHAIRPERSON REID: Okay. So that may be
24 premature.

25 VICE CHAIR RENSHAW: I don't think it's

1 premature. I think it should be done now, and, hence, I
2 requested it.

3 CHAIRPERSON REID: But it has to --

4 VICE CHAIR RENSHAW: Mr. Laden, is that a
5 particular difficulty?

6 MR. LADEN: Well, my understanding of the three
7 requests that I have here is, one, to research and determine
8 why the alley was changed from two ways to one way southbound
9 for that portion from the school parking area down to Upton
10 Street; and was the Fire Department coordinated during that
11 process.

12 The second question was to investigate what are
13 the federal requirements for traffic signals. And then the
14 third was a determination as to whether shuttle buses can idle
15 on public streets.

16 CHAIRPERSON REID: Oh, right.

17 MR. LADEN: So my understanding was to look at
18 the decision -- was that the review of the Fire Department was,
19 did that occur during the decision to make the alley one way?

20 VICE CHAIR RENSHAW: That would be fine.

21 CHAIRPERSON REID: Okay.

22 VICE CHAIR RENSHAW: If I could just ask if there
23 has been any accident data collected for Upton and Connecticut
24 intersection.

25 CHAIRPERSON REID: That whole --

1 VICE CHAIR RENSHAW: And Van Ness, that whole
2 corridor along in there. It would be good to have the accident
3 data.

4 MR. LADEN: So that's Upton Street and
5 Connecticut and Van Ness and Connecticut.

6 VICE CHAIR RENSHAW: And Van Ness and Veazey
7 also.

8 CHAIRPERSON REID: The first one was, why was the
9 alley made one way?

10 VICE CHAIR RENSHAW: One way, and when.

11 CHAIRPERSON REID: Those are the questions that
12 you want answered by Mr. Laden.

13 VICE CHAIR RENSHAW: Yes. He will coordinate the
14 responses.

15 CHAIRPERSON REID: Okay. Also, whatever that
16 response is -- that you want for the Fire Department --

17 VICE CHAIR RENSHAW: That's right.

18 CHAIRPERSON REID: -- Mr. Laden. Okay.

19 All right. Were there any other requests?

20 MR. HART: No, that's it.

21 MS. BAILEY: Excuse me. I have another one,
22 Madam Chair.

23 CHAIRPERSON REID: Okay.

24 MS. BAILEY: Corp. Counsel is to come up with an
25 idea for sanctioning. The Board would want to consider the

1 development of performance standards. I think Board Member
2 Hinton was interested in ideas that Corp. Counsel could come up
3 with for sanctioning the application.

4 CHAIRPERSON REID: Okay. Ideas for sanctions and
5 performance standards?

6 MS. BAILEY: Yes, ma'am. I think Mrs. Hinton had
7 mentioned that. I don't know if she still wants the
8 information or not.

9 CHAIRPERSON REID: She does.

10 VICE CHAIR RENSHAW: I have an additional
11 question for the applicant, because it came up in discussion
12 about the parking garage. And I wasn't quite sure whether or
13 not there would be any overnight use of the garage by anyone
14 else -- in other words, other than school.

15 MR. FEOLA: No.

16 VICE CHAIR RENSHAW: All right. So that answers
17 that. No use of the garage at night.

18 And then, the other point was just a small one
19 but important, whether the compliance agreement, through the
20 families, would also be directed at staff of the families. In
21 other words, there are occasions when nannies or housekeepers
22 bring children to school and have zero knowledge of any kind of
23 compliance.

24 CHAIRPERSON REID: They don't know. And also,
25 there was one other thing --

1 VICE CHAIR RENSHAW: So the answer is yes, they
2 will be brought into this.

3 CHAIRPERSON REID: There was one other thing that
4 came up regarding that pledge, that Van Ness Street be added to
5 that, and be sure to submit the revised pledge to the Board.

6 Mr. Hart, do you have the timeline?

7 MR. HART: Yes.

8 CHAIRPERSON REID: Just one second, please.

9 MR. SHAPIRO: I'm sorry. My name is David
10 Shapiro. Yes, we will add Van Ness to the pledge. That was
11 the intent, so we will make that explicit. And, no, there is
12 no overnight use of the garage by non-school folks.

13 VICE CHAIR RENSHAW: And, yes, the nannies will
14 be worked in --

15 MR. SHAPIRO: And, yes, the staff of families
16 will be --

17 VICE CHAIR RENSHAW: -- to the pledge.

18 MR. SHAPIRO: -- beholden to the pledge.

19 VICE CHAIR RENSHAW: All right.

20 CHAIRPERSON REID: Okay. Timelines?

21 MR. HART: The timeline will actually -- the
22 request as I heard it, all of your requests by -- for the
23 Board, so I would request that we have them here at the very
24 latest the 3rd of July, in time for the 10th -- the July 10th
25 meeting.

1 Understand that the 4th is a holiday, so it would
2 be expedient to have it on the 3rd, so it can get to the Board
3 on Thursday. So we would want it here on the 3rd of July.
4 Thank you.

5 VICE CHAIR RENSHAW: Madam Chair, one other
6 matter about the compliance plan in the -- it talked about the
7 compliance committee, but the ANC is not mentioned as being a
8 part of this compliance committee. Is that by design, or just
9 by omission?

10 MR. FEOLA: No. Actually -- I'm sorry. Phil
11 Feola. We thought that the ANC would appoint the citizen
12 neighborhood members. Whether it's an ANC Commissioner or not
13 it would be up to the ANC. That was the thinking behind it
14 anyway.

15 VICE CHAIR RENSHAW: I think that that should be
16 spelled out in your agreement as --

17 MR. FEOLA: But we'll also --

18 VICE CHAIR RENSHAW: -- for submission to the ANC
19 for its consideration.

20 MR. FEOLA: Okay.

21 CHAIRPERSON REID: Okay? Mr. Feola, is that all
22 right? I mean, are you okay with that?

23 All right. Comments, questions, points? Are we
24 all straight? All have our marching orders? So then we'll see
25 you -- resume on July 10th at 1:00. 1:00. 1:00. Okay? We'll

1 start with the ANC.

2 (Whereupon, at 4:25 p.m., the proceedings in the
3 foregoing matter went off the record.)

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