

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

Wednesday,

September 4, 2002

The Public meeting convened in Room 220 South, 441
4th Street, N.W., Washington, D.C., pursuant to notice, at 9:36
a.m., Geoffrey H Griffis, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
DAVID ZAIDAIN	Member
CURTIS ETHERLY, JR.	Member
CAROL MITTEN	Member

COMMISSION STAFF PRESENT:

SHERI M. PRUITT, Secretary, BZA
CLIFFORD MOY
JOHN NYARKU

OFFICE OF PLANNING:

STEPHEN YORK
VENITA RAY
JOHN MOORE

- I Application No. 16904 of Capitol Apartment
Property Associates LP
- II Application No. 16905 of Capital Apartment
Property Associates LP
- III Application No. 16902 of Douglas Knoll
Cooperative LP
- IV Application No. 16553 of The George
Washington University

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

(9:36 a.m.)

CHAIRPERSON GRIFFIS: Good morning, ladies and gentleman.

It sounds like the volume is working fine, and welcome back board members. Let me call to order the September 4th, 2002 public meeting.

I want to welcome all of you here. We will go into introductions and then go into what we need to do.

MS. PRUITT: Good morning, Mr. Chair.

(Whereupon, the meeting was recessed at 9:37 a.m., and resumed at 9:40 a.m.)

MS. PRUITT: Good morning, Mr. Chair.

CHAIRPERSON GRIFFIS: Good morning.

MS. PRUITT: This is the September 4th, 2000 public meeting of the BZA. The first item on the agenda is the public minutes. We have quite a few minutes for July and August. Do you want to take them individually, because there are different people voting on each.

CHAIRPERSON GRIFFIS: Yes. I will run through them if that is okay.

MS. PRUITT: Certainly.

CHAIRPERSON GRIFFIS: And let's pick up the July 2nd, 2002, Ms. Renshaw, Mr. Etherly, Mr. Zaidian, Ms. Mitten, and myself are on that. Any corrections or comments on the minutes

1 for July 2nd?

2 Hearing none, then we can move for the adoption of
3 the minutes.

4 VICE CHAIRPERSON RENSHAW: Do you need a motion?

5 CHAIRPERSON GRIFFIS: That was it.

6 VICE CHAIRPERSON RENSHAW: All right.

7 CHAIRPERSON GRIFFIS: But how about a second?

8 VICE CHAIRPERSON RENSHAW: I second.

9 CHAIRPERSON GRIFFIS: Fabulous. All in favor?

10 (A chorus of ayes.)

11 CHAIRPERSON GRIFFIS: July 9. Mr. May is also
12 involved in that, and Ms. Mitten, and the standing board that is
13 here today. Any comments or corrections?

14 MS. PRUITT: We have a proxy from Mr. May voting
15 for approval.

16 CHAIRPERSON GRIFFIS: Okay. Not hearing any, I
17 would move for approval of July 9.

18 MR. ETHERLY: Seconded.

19 CHAIRPERSON GRIFFIS: Thank you. All in favor?

20 (A chorus of ayes.)

21 CHAIRPERSON GRIFFIS: July 16th.

22 VICE CHAIRPERSON RENSHAW: Mr. Chair, on July 9th,
23 there were some cases where I was not present and not voting. So
24 I will abstain from voting for the July 9th minutes.

25 CHAIRPERSON GRIFFIS: Okay. Well, I think either

1 way would be fine with it, because there were cases that you were
2 on, and clearly you would make comments on the cases that you
3 were involved in and not the others.

4 However, we can move on to 16 July, and again I ask
5 if there are any corrections?

6 MS. PRUITT: And we have a proxy from Mr. Hannahan
7 also in the file.

8 CHAIRPERSON GRIFFIS: Indeed, Mr. Hannahan was on
9 that day. I would move for approval for 16 July.

10 MR. ZAIDAIN: I second.

11 CHAIRPERSON GRIFFIS: Thank you very much. All in
12 favor?

13 (A chorus of ayes.)

14 CHAIRPERSON GRIFFIS: July 23rd. Board members
15 participating on July 23rd not present were Ms. Mitten and Mr.
16 Parsons.

17 MS. PRUITT: I have a proxy from Mr. Parsons, and
18 nothing from Ms. Mitten.

19 CHAIRPERSON GRIFFIS: Okay.

20 VICE CHAIRPERSON RENSHAW: So, was Mr. Parsons here
21 on the 23rd?

22 CHAIRMAN GRIFFIS: Mr. Parsons was involved in one
23 of the cases on the 23rd. Any corrections, or comments? If not,
24 I would move for approval of the 23rd of July, 2002 minutes.

25 VICE CHAIRPERSON RENSHAW: Second.

1 CHAIRMAN GRIFFIS: Thank you. All in favor?

2 (A chorus of ayes.)

3 CHAIRPERSON GRIFFIS: And going to July 30, Mr.
4 Zaidain, you have indicated that you were in fact out all day; is
5 that correct?

6 MR. ZAIDAIN: Yes, sir.

7 CHAIRPERSON GRIFFIS: Did you have a note from a
8 doctor or anything of that nature, sir?

9 MR. ZAIDAIN: Actually, I do.

10 CHAIRPERSON GRIFFIS: Okay. Good. Then it is
11 correct on the minutes. You are not listed as present; and Mr.
12 Etherly and Mr. Hood, and Ms. Renshaw, and myself. Any
13 corrections or comments on the minutes?

14 MS. PRUITT: We have a proxy from Mr. Hood to
15 approve.

16 CHAIRPERSON GRIFFIS: Okay. We might want to hear
17 those after the vote, but any further questions or comments? If
18 not, we can move for approval then of the 30th of July 2002
19 minutes?

20 VICE CHAIRPERSON RENSHAW: Second.

21 CHAIRPERSON GRIFFIS: Thank you. All in favor?

22 (A chorus of ayes.)

23 CHAIRPERSON GRIFFIS: Opposed?

24 (No audible response.)

25 CHAIRPERSON GRIFFIS: Very well. Let's move to

1 August 6th.

2 MR. ZAIDAIN: Mr. Chair, I have one question on
3 August 6th.

4 CHAIRPERSON GRIFFIS: Indeed.

5 MR. ZAIDAIN: On page 4.

6 CHAIRPERSON GRIFFIS: Yes.

7 MR. ZAIDAIN: The third bullet point, second
8 paragraph. It says that the Board requested that the applicant
9 prepare a revised TMP and provide it to the City for review. I
10 think that should be DDOT to be specific.

11 CHAIRPERSON GRIFFIS: Let me just find the
12 reference here and look for that. Page 4, the fourth item; is
13 that correct?

14 MR. ZAIDAIN: The third bullet point, second
15 paragraph under that bullet point.

16 CHAIRPERSON GRIFFIS: Then that is the third bullet
17 point, the second paragraph.

18 MR. ZAIDAIN: Indeed. I think that is absolutely
19 appropriate, and if we can just change the wording on that, and
20 to be submitted and reviewed to DDOT; is that correct?

21 VICE CHAIRPERSON RENSHAW: Yes.

22 CHAIRPERSON GRIFFIS: Good. Anything else? Any
23 other comments or corrections? If not, very well. I would move
24 for approval of August 6th, 2002.

25 VICE CHAIRPERSON RENSHAW: Second.

1 CHAIRPERSON GRIFFIS: All in favor?

2 (A chorus of ayes.)

3 CHAIRPERSON GRIFFIS: Opposed?

4 (No audible response.)

5 CHAIRPERSON GRIFFIS: Excellent.

6 MS. PRUITT: Okay. The first case on the agenda,
7 or actually we have two cases together, as you decided to hear
8 them combined, and that is Application Number 16904, of Capitol
9 Apartment Property Associates, L.P., pursuant to 11 DCMR 3104.1,
10 for a special exception for a new residential development under
11 section 353, a special exception to allow a group of buildings to
12 be erected and deemed a single building under Section 410.

13 And a special exception to allow two or more
14 principal buildings on a single subdivided lot under Section
15 2516, for the construction of 96 apartment units in an R-5-A
16 District, at 3701 through 3723, 4th Street, Southeast; and 3708
17 through 3722, 2nd Street, Southeast; and 200 through 208
18 Wilmington Place, Southeast, Square 6092, Lots 25 through 29.

19 Also associated with this project is Application
20 16905, of Capitol Apartment Properties, for the same type of
21 relief. However, it is for 30 units, and it is located at 3817
22 through 3819, 2nd Street, Southeast; and 172 through 174
23 Mississippi Avenue, Southeast, Square 6118, Lot 41.

24 The hearing was on July 30th, and of course the
25 decision date is today. There were several issues that the Board

1 requested from the applicant to be submitted, and they were all
2 submitted timely. And we requested some reports from also
3 government agencies, such as the Office of Planning, and the ANC.
4 This is now before you for a decision.

5 CHAIRPERSON GRIFFIS: Thank you very much. I am
6 sure that we all recall this case, but let me review the new
7 submissions. Let us go through -- and I think I would like to
8 have some discussion on this.

9 First of all, some of the initial things that were
10 requested for submission I think are fairly clear; the revised
11 site plan, and also we were concerned about the existing
12 landscape plan, and it seems to be sufficient in what was
13 submitted.

14 We had also talked about graph papers, and the use
15 of that are clearly shown. And the illustration of the end units
16 of the building. As we know, it was a concern as we were walking
17 through not to have a somewhat not unsafe area to be walking, in
18 terms of those pathways, without windows or some sort of
19 connection to the interior of the buildings.

20 Dumpster locations, and access to, were also issues
21 that was discussed, and I think is fairly well illustrated. I
22 have one concern, in terms of us progressing on this, and that is
23 that I would refer you to the August 26th letter from Mr. Keyes on
24 the second page, after the numbered items.

25 There is a paragraph where it talks about the pull

1 in space for the dumpster. I think at issue for us with this
2 application was the location, the number, and the access. This
3 seems to be talking about sufficient dimensions and sufficient
4 room.

5 And I just want to be clear in my deliberation that
6 in fact that I did not look at whether it was sufficiently
7 dimensioned, but rather that it was sufficiently located and
8 accessible from the piece. So I think if we went forward on that
9 just to be clear. Ms. Renshaw.

10 VICE CHAIRPERSON RENSHAW: Also, Mr. Chairman, the
11 Department of Transportation's report, dated August 2nd, page 2,
12 talks about the applicant should provide a pedestrian island
13 between both driveway entrances, with a minimum width of six
14 feet.

15 So that plays into the positioning of the pull-in
16 for the dumpsters. It may affect the dimensions of the pull-in
17 for the dumpsters.

18 CHAIRPERSON GRIFFIS: Good. I'm glad that you
19 brought that up. I was a little confused about what a pedestrian
20 island would be, or where it would be.

21 VICE CHAIRPERSON RENSHAW: Well, if you reference
22 their plans, do they have a date on them? It says, "New
23 apartments, Bowling Green," and it is the one submitted on August
24 26th, on page 2, where you see an entrance with an arrow pointing
25 in. There would have to be an island, it seems, right at that

1 area. Am I right on that?

2 CHAIRPERSON GRIFFIS: Well, that is the way that I
3 read it, although I am not sure that they have the dimensions to
4 put an island in there. I mean, you have two -

5 VICE CHAIRPERSON RENSHAW: What is the width of
6 that entrance and exit? It looks like the exit is narrower than
7 the entrance.

8 CHAIRPERSON GRIFFIS: Well, I think we can assume
9 that the space between the parking spaces is 20 feet, and the
10 driveway looks to be, with the addition of a curb, 20 feet minus
11 the curb, and so it is roughly that. To put an island in there
12 means that you are progressing -- and although the arrows
13 indicates it, it is one way, and it indicates that you only would
14 have one drive aisle into the facility.

15 VICE CHAIRPERSON RENSHAW: Well, would a pedestrian
16 island promote two-way traffic out of that entrance? Would it
17 turn into an entrance exit?

18 CHAIRPERSON GRIFFIS: It could.

19 VICE CHAIRPERSON RENSHAW: Well, I wasn't clear
20 what the pedestrian island would look like.

21 CHAIRPERSON GRIFFIS: Well, do you think we ought
22 to individually think about whether that is facilitating
23 something that we saw as a concern or not. I think if this was
24 an open driveway and you were crossing 40 feet, you would
25 probably want a pedestrian island so that people had a place if

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1 there were cars coming in and out.

2 There is a gate on these, which means that the cars
3 are going to be stopping. I don't see or my notes don't reflect
4 that that was a major concern that was brought up. Not that it
5 may not be, but I don't remember discussions on that, in terms of
6 crossing that driveway.

7 While we are on that though, and not to lose that,
8 but to add to it, they also have made the comment, in terms of
9 aligning with the adjacent apartment building, the driveway.
10 This site plan is not showing that, and I am not sure whether
11 that has actually been done.

12 MR. ETHERLY: Mr. Chair, if I may, just a question
13 of clarification, perhaps through you to my colleague, Ms.
14 Renshsaw. It would be helpful to me to get some indication as to
15 - I am not sure from DOT's letter what the purpose of the
16 pedestrian island would be, and whether that is a safety issue,
17 or some such thing.

18 It would appear from the preliminary site plan,
19 Parcel A, that you are looking at approximately 20 feet, in terms
20 of that drive aisle as you enter the property, and then continue
21 around to the exiting driveway and I am not certain if that
22 exiting driveway continues to be 20 feet as well after you kind
23 of take the bend.

24 But it appears that that is also 20 feet, but I am
25 just curious as to what the purpose of the aisle would be.

1 CHAIRPERSON GRIFFIS: I think we all are.

2 VICE CHAIRPERSON RENSHAW: I can't help you.

3 CHAIRPERSON GRIFFIS: Okay. Let's --

4 VICE CHAIRPERSON RENSHAW: Because just to point
5 out that with a gate there that is going to close after a car
6 enters, there won't be the risk of having a car exit that
7 entrance, correct?

8 They won't be able to open the gate to get out at
9 that location.

10 CHAIRPERSON GRIFFIS: It has come to my attention
11 that the DDOT reports are perhaps based on the old site plan, and
12 I think it can be a clear assumption that, first of all, that
13 some of the issues that DDOT was bringing up have been remedied.

14 In terms of the island, I think based on the fact
15 that we can't grasp on what would be needed for, or what it might
16 mitigate in terms of any sort of adverse or dangerous condition,
17 I think we can proceed, unless there is further discussion that
18 we need to have on those issues.

19 But I would like to hear any other issues that
20 people might have.

21 VICE CHAIRPERSON RENSHAW: To point out, Mr.
22 Chairman, that while I am on the site plan, that there are no
23 handicapped parking spaces designated close to Building Number 2,
24 and I am just pointing that out.

25 Nor is there any dumpster close to Building 2, and

1 I just cite those two points because, one, there may be
2 handicapped people in Building 2, and would be inconvenienced
3 having to go to the two ends of the parking lot in order to find
4 a handicapped space.

5 And also the dumpster not being there, but it being
6 at the entrance of the exit, is going to mean that Building 2
7 residents are going to have to either walk or drive around the
8 block to access a dumpster to throw away their garbage.

9 And it seems to me that there is going to have to
10 be some kind of a dumpster arrangement closer to Building 2. So
11 I would just point that out.

12 CHAIRPERSON GRIFFIS: And I think you do recall
13 that that was the discussion during the hearing, and if I am not
14 mistaken, perhaps there was even a kind of secondary trash
15 receptacle. Maybe it would be just bins, that then would be
16 moved by somebody to the larger for pickup.

17 Again, programmatic, but excellent points. In
18 terms of the handicapped parking, I think that is an excellent
19 observation also. Our jurisdiction goes only so far with that,
20 and they will be under review by other forces that will impact
21 their placement and counts for that.

22 So, I would have assurance that they would be able
23 to facilitate proper requirements for that, but also the
24 programmatic realities on those buildings.

25 VICE CHAIRPERSON RENSHAW: I have another point,

1 Mr. Chairman.

2 CHAIRPERSON GRIFFIS: Yes.

3 VICE CHAIRPERSON RENSHAW: And that I would like to
4 have a little discussion about this construction management plan.

5 Mr. Keyes has sent this document, dated August 22nd, from Hamill,
6 and he states that it is confirming construction management
7 details, including access routes for construction traffic.

8 And he notes that a fax was sent over to the ANC,
9 but I wonder, has this really been accepted by the developers,
10 because Hamill Builders says that we propose the following
11 schedule, and then goes on to list a few points, over two pages.

12 And we don't have any confirming letter in the file
13 stating that these points have been accepted by the developers
14 other than what Mr. Keyes has stated. This will be a year's
15 worth of construction activity on demolition to finish
16 construction, and I don't see any indication about lighting,
17 about the number of dump trucks roundtrip, which may be difficult
18 to calculate at this point.

19 But there should be some ball park figure in here.

20 No mention of a liaison person, and no mention that there
21 definitely will not be Saturday work. They just propose that it
22 is going to be from 7:00 to 4:00, Monday through Friday.

23 What about noise control, and a very important
24 point, that the developers keep a record of the truckers'
25 licenses and truck registrations.

1 CHAIRPERSON GRIFFIS: Okay. So those are additions
2 that you would propose to have in your construction plans?

3 VICE CHAIRPERSON RENSHAW: Yes.

4 CHAIRPERSON GRIFFIS: I would entertain some
5 discussion on that. My concern is that most of the construction
6 plans that have come up have come from concerns from the
7 community that have been voiced, and from our experience on how
8 to mitigate this.

9 And I seem to recall going through some of these
10 issues, in terms of access, and it didn't seem to be problematic
11 at all. However, I can hear from others on that.

12 MR. ETHERLY: Mr. Chairman, my colleague, Ms.
13 Renshaw, hits on important points. I would just simply note that
14 in terms of the subject property that you do have in relatively
15 close proximity a number of educational institutions, inclusive
16 of Ballou Senior Higher School, and a junior high school, and an
17 elementary school.

18 I believe that the August 22nd document that Ms.
19 Renshaw is referencing provides a fairly detailed layout of what
20 the plans would be for handling the equipment that will be coming
21 on to and exiting the site.

22 I will note back to the August 26th letter from
23 counsel for the applicant that he, in Item Number 7 on page 2 of
24 that letter, the counsel, Mr. Keyes, does note that this letter
25 from Hamill Builders is confirming construction management

1 details.

2 And that would perhaps suggest to me that this is a
3 fairly close to final, if not final, iteration of what the
4 construction management plan is.

5 CHAIRPERSON GRIFFIS: And we can get beyond that in
6 terms of if we make this a condition, we can make it based on
7 this, or a similar plan.

8 Mr. ETHERLY: I would agree, Mr. Chairman.

9 CHAIRPERSON GRIFFIS: Other items? You mentioned
10 lighting, Ms. Renshaw?

11 VICE CHAIRPERSON RENSHAW: Yes.

12 CHAIRPERSON GRIFFIS: Are you talking about
13 construction lighting?

14 VICE CHAIRPERSON RENSHAW: Yes. How is the site
15 going to be lighted during off-hours for security purposes.

16 CHAIRPERSON GRIFFIS: And I would imagine that you
17 are anticipating site protection also?

18 VICE CHAIRPERSON RENSHAW: Correct.

19 CHAIRPERSON GRIFFIS: And site fencing?

20 VICE CHAIRPERSON RENSHAW: Yes.

21 CHAIRPERSON GRIFFIS: And some of that is required,
22 and the other will be common sense because they probably don't
23 want to have all their stuff stolen. But in terms of safety, I
24 would agree. I think we could have specific language that that
25 is directed to adequate and appropriate lighting, and site

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1 protection during construction.

2 VICE CHAIRPERSON RENSHAW: Yes.

3 CHAIRPERSON GRIFFIS: Okay. Anything else?

4 MR. ETHERLY: Mr. Chair, just to clarify in terms
5 of the additional information that was either requested or sought
6 on this case. I believe an opportunity was provided for the ANC,
7 the relevant ANC, ANC-8C, to file a supplemental report, and I do
8 not see one in the file, and I just wanted to confirm that we
9 have not received a supplemental from the ANC in that regard.

10 CHAIRPERSON GRIFFIS: That is my understanding.

11 MR. ETHERLY: Thank you, Mr. Chair.

12 CHAIRPERSON GRIFFIS: Okay. My last issue then
13 also referred to Mr. Keyes' letter, and the last paragraph of the
14 letter, indicates that as you recall that we did have some
15 discussion about whether the community center invoked additional
16 parking requirements.

17 We did not ascertain a count or an understanding.
18 We have indicated in this letter that there was an oral
19 confirmation by the then zoning administrator. However, we do
20 not have it in writing. I would say that we progress and be very
21 clear to the fact that we did not entertain, nor are we approving
22 or denying, a parking variance.

23 This is self-certification, and therefore, they
24 will be under review, in terms of whether that in fact does
25 require parking, and that would be a mess, because then we would

1 have to take a look at the site plan again, and see where they
2 are going to put that parking.

3 However, so as not to stall this, and the
4 application that is in front of us, I think we have enough to
5 move ahead with it, and we will deal with changes if there are
6 any. Any other issues or items that we need to discuss?

7 And I would then just put this into a motion, and
8 we can have further discussion on the motion, if required, and I
9 would move approval of Application 16904, and Application Number
10 16905 for Capitol Apartment Property Associates LP, and that is
11 for a special exception for the new resident development.

12 And a special exception to allow a group of
13 buildings to be erected and deemed a single building under
14 Section 401; and a special exception to allow two or more
15 principal buildings on a single subdivided lot, and that is of
16 course under 2516, and for construction of the 96 apartment units
17 in an R-5-A district at premises at 3701 to 23, 4th Street,
18 Southeast; and 3708 to 22, 2nd Street, Southeast; and 200 to 208
19 Wilmington Place, Southeast.

20 I will be a bit abbreviated on the second
21 application, and that is for the construction of 30 apartments,
22 also in the R-5-A district; and they were an adjacent premises on
23 2nd Street, Southeast, and on Mississippi Avenue.

24 I would add to the motion. I would note in the
25 motion that part of the record was the submission of a

1 construction plan, and that it was to, and should be delivered to
2 the ANC when final.

3 I would ask that -- what I am trying to do actually
4 is not make this a condition per the entire motion. So I would
5 say that the adopted construction plan would also include
6 adequate and appropriate lighting during the construction period,
7 and site protection to ensure public safety.

8 VICE CHAIRPERSON RENSHAW: And you also indicate to
9 add about keeping a record of the licenses of truckers and the
10 truck registration. I think that is very important. Also the
11 addition of a liaison contact for the community. There should be
12 someone responsible who is or who can be reached.

13 CHAIRPERSON GRIFFIS: Okay. The first one, I don't
14 see any problem with that, and I think it is a responsible thing
15 to do, is to make a number available, if not posted, to call, and
16 it is fairly common on a site construction board. So we would
17 have a number that would be called if there were any concerns or
18 emergency. The same with the license plates. I am not --

19 VICE CHAIRPERSON RENSHAW: The licenses.

20 CHAIRPERSON GRIFFIS: Oh, the driver licenses.

21 VICE CHAIRPERSON RENSHAW: The licenses, and as
22 part of the construction management plan, there be the inclusion
23 of the point that the developer or the builder keep a record of
24 the truckers' licenses and registrations.

25 CHAIRPERSON GRIFFIS: Don't they have to do that?

1 VICE CHAIRPERSON RENSHAW: No.

2 CHAIRPERSON GRIFFIS: Really?

3 VICE CHAIRPERSON RENSHAW: But it is good planning
4 though, and it is good experience on that one.

5 CHAIRPERSON GRIFFIS: Indeed. I am a little
6 concerned about just overstepping our bounds for that. I think
7 that it is an excellent idea, and it is certainly something that
8 they should do if they don't already do, and so I don't have any
9 great objection if we wanted to add that as a note of directive
10 in their construction plan. Anything else?

11 MR. ETHERLY: Mr. Chairman, I am prepared to second
12 the motion, and I will just note that I believe you identified
13 Section 401 as the relevant exception, or rather relevant section
14 for the special exception, and I just wanted to note that is 410,
15 I believe.

16 CHAIRPERSON GRIFFIS: Oh, I'm terribly sorry.

17 MR. ETHERLY: I won't quibble with the Chair on his
18 regulatory knowledge, but I just wanted to cite that. Otherwise,
19 I would be prepared to second your motion, Mr. Chair, and do so.

20 CHAIRPERSON GRIFFIS: Good. Thank you. Further
21 discussion? Let me just reiterate the two points that I did make
22 in terms of the parking that was an issue, in terms of the
23 accessory community building, and clearly we are not making any
24 judgment on that, be it a count, be it a denial, or be it an
25 approval of a variance if it is so required.

1 Also, in terms of the dumpster in the pull-in area,
2 we were not getting into the actual dimensions of that, but they
3 appear to be appropriate, and clearly our focus is on the site
4 and on the access.

5 So that being said, any other comments or
6 discussions? Very well. All those in favor signify by saying
7 aye.

8 (A chorus of ayes.)

9 CHAIRPERSON GRIFFIS: Opposed?

10 (No audible response.)

11 CHAIRPERSON GRIFFIS: Do we have proxies on that?

12 MS. PRUITT: We have a proxy from Mr. Hood. The
13 staff will record the vote as 4 to 0 to 1, to approve. The
14 motion made by Mr. Griffis, seconded by Mr. Etherly. And I just
15 want to make sure that I have this correct.

16 The motion is to approve, with the understanding
17 that the construction management plan would include adequate and
18 appropriate lighting on the site during the construction phase,
19 with a community contact person, and the developer's recordation
20 of the truckers' licenses.

21 CHAIRPERSON GRIFFIS: Good. And I think to be
22 specific, it wasn't a community liaison, but it was a number that
23 would be posted for calls for concerns or emergencies.

24 VICE CHAIRPERSON RENSHAW: And the community
25 representatives, the ANC should have a name to contact, along

1 with a number.

2 MS. PRUITT: And do we need a full order?

3 CHAIRPERSON GRIFFIS: Yes. I don't see any reason
4 why we would need a full order, unless others do. Very well, we
5 can do that, unless there is a request from the applicant, who I
6 believe is here, for a full order.

7 (Discussion off the record.)

8 CHAIRPERSON GRIFFIS: Then a summary order. Thank
9 you very much. And let's move on to the next case. I do believe
10 that we need Mr. Zaidian on this one.

11 MS. PRUITT: The next application before the Board
12 is Application Number 16902 of Douglas Knoll Cooperative LP,
13 pursuant to 11 DCMR 3104.1, for a special exception to allow a
14 child development center for 90 children and 20 staff, under
15 Section 205; and pursuant to 11 DCMR 3103.2, for a variance from
16 the off-street parking requirements under Section 2101, in an R-
17 5-A District, at 2017 Savannah Terrace, Southeast, Square 5894,
18 Lot 40.

19 The hearing date was on July 23rd, and at the end of
20 the hearing the board left the record open for several -- for
21 three items to be submitted by the applicant, and a government
22 report. All of these were submitted, and the applicant tried to
23 make an attempt to receive an ANC report.

24 However, we have called them and they have not been
25 able to get anybody in touch with that. As I said, we are in

1 receipt of all of the requested information. However, the Office
2 of Planning and DDOT supplemental reports were filed late, and
3 therefore, the board must waive them in, in order to consider
4 their comments.

5 Participating members include Mr. Griffis, Ms.
6 Renshaw, Mr. Etherly, Mr. Zaidian, and Ms. Mitten. This is now
7 before you for a decision.

8 CHAIRPERSON GRIFFIS: Thank you very much. First
9 of all, is there any objection to waiving in the supplemental
10 reports?

11 (No audible response.)

12 CHAIRPERSON GRIFFIS: As indicated, we had one from
13 OP and also from DDOT. Not seeing an objection, I will take that
14 as a consensus approval and acceptance. All right. Who wants to
15 start this one off? Very well. I will.

16 There was a -- I know that you all recall that
17 there was a lot of discussion about the cul-de-sac, and the
18 access into the facility parking, and adequate parking, whether
19 it be parking and drop off in that sense.

20 So let us -- and we do have - let me get to it. I
21 think it may be valuable to go down, unless others want to take a
22 different direction, to go into the proposed conditions. I think
23 that will start us on our deliberative process.

24 MR. ETHERLY: The one submitted by the applicant?

25 CHAIRPERSON GRIFFIS: Indeed, yes. It is dated

1 August 15th, 2002, and I don't have an evidence number on it, but
2 it is in the file. Okay. The first condition is the offer is
3 for 10 years, and the number of teachers and staff will not
4 exceed 20; and children, ages 6 (sic) to 12. Let's take those
5 three together.

6 MR. ETHERLY: Mr. Chair --

7 CHAIRPERSON GRIFFIS: Yes.

8 MR. ETHERLY: I don't have any issue with proposed
9 condition number two, the number of teachers and staff shall not
10 exceed 20, nor the age range, which would be between six weeks
11 and 12 years old.

12 In the limited amount of time that I have been on
13 the board, I have seen a varied number of ranges with respect to
14 condition number one, in terms of the approval period for the
15 facility. While I am not overly concerned with the 10 year
16 approval period.

17 I might be inclined to perhaps suggest a shorter
18 time frame, perhaps somewhere in the neighborhood of 7 to 8, but
19 I would be open to any further comment from my colleagues.

20 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I would
21 support a period of 7 years, and in that support my colleague's,
22 Mr. Etherly, comments.

23 CHAIRPERSON GRIFFIS: Okay. Let me step back for
24 just a second and just reiterate the fact that I don't know if we
25 need a formal motion on this, but we did amend this application.

1 And that was to include half of the basement level
2 at 2017 Savannah Terrace. As you recall, they were going to have
3 some of the child care operations happening there, and if I am
4 not mistaken, it actually currently does, or I believe that is
5 correct, and that's why in fact it wasn't, or my understanding of
6 why it wasn't in the original application.

7 But just for our clarity and duration, we are
8 talking about that also. Okay. Seven years. Any other comments
9 on that? I don't think there is, as Ms. Renshaw said, any change
10 in terms of the staff members, and the children's ages.

11 VICE CHAIRPERSON RENSHAW: Number 4.

12 CHAIRPERSON GRIFFIS: Indeed. The conditions --
13 under the conditions requested by Mr. Clarence (phonetic), it
14 states that there shall be no more than 98 children on the site
15 at one time, and yet his other letter to the board, dated August
16 15th, speaks about the total number of children, 90, as part of
17 the original application, meaning that would be the limit of the
18 number of children serviced by the child development center. So
19 at that point it would have to be clarified.

20 And again it was my understanding that the total
21 number of children enrolled would be 90 and that that would be
22 the cap.

23 MR. ETHERLY: Ms. Renshaw, just to make sure that I
24 am clear, is it our concern that proposed condition number four
25 might simply be superfluous? That this might not be necessary,

1 or --

2 VICE CHAIRPERSON RENSHAW: It is going to be
3 necessary to state the number of children serviced by the child
4 development center, but under Number 4 of the conditions proposed
5 by the architect, Mr. Clarence, you could have three times as
6 many children, and they would just be rotated in and out, and it
7 states here that there shall be no more than 90 on the site at
8 one time.

9 Therefore, those 90 children could go at 4:00, and
10 in come another 90 children, or something like that. Perhaps the
11 -- I mean, I understand where you are going now. I mean, perhaps
12 the remedy there is to substitute the worth for one, and just as
13 a quick off suggestion, and if that is where we need to be. But
14 I understand what you are saying.

15 CHAIRPERSON GRIFFIS: Well, I think what she is
16 trying to get to is what the condition is. Is it enrollment, or
17 is it the number of children on site.

18 VICE CHAIRPERSON RENSHAW: And I thought it was
19 enrollment.

20 CHAIRPERSON GRIFFIS: Day care centers often have
21 children that may just come in the morning, and then one that
22 comes just in the afternoon. Now, that is two children.
23 However, it is one child on-site at a time. So you are not
24 adding on to the population, but you are facilitating opportunity
25 for numerous children.

1 So Ms. Renshaw brings up an excellent point,
2 because we have a discrepancy in the applicant telling us what it
3 is going to be. And so I think we need to establish whether it
4 is enrollment, or whether it is on-site. I think the most
5 important concern for us is clearly on-site, in terms of how the
6 --

7 VICE CHAIRPERSON RENSHAW: How was it advertised?

8 CHAIRPERSON GRIFFIS: That's a good point.

9 MS. PRUITT: Just as it is written in the agenda.

10 CHAIRPERSON GRIFFIS: For 90 children.

11 MS. PRUITT: For 90 children.

12 CHAIRPERSON GRIFFIS: And 20 staff.

13 VICE CHAIRPERSON RENSHAW: So, therefore, it is a
14 cap of 90 children, but it does not say that I the advertising
15 that it would be on-site at one time.

16 CHAIRPERSON GRIFFIS: I see.

17 MS PRUITT: Generally, Ms. Renshaw, in the
18 advertising, we would not put that. You know, a maximum of 90
19 children on site at one time. It would just indicate in the
20 advertisement the number of children, and that would be the
21 result of the hearing and the details as to that.

22 VICE CHAIRPERSON RENSHAW: But it could impact if
23 you are going to have no more than 90 children on site at one
24 time, that could impact parking and traffic circulation, and
25 noise, as the children leave and walk home from the site. So

1 again it is just confusion that we need to clarify.

2 CHAIRPERSON GRIFFIS: Okay. What would you
3 propose, Ms. Renshaw?

4 VICE CHAIRPERSON RENSHAW: Well, what I would
5 propose is that the enrollment be 90 children.

6 CHAIRPERSON GRIFFIS: Okay. Any discussion on that?

7 MR. ZAIDAIN: Yes. Just to kind of explore that.
8 Let's say we cap the enrollment at 90, and so they could no have
9 more than -- I am trying to think of a way to explain this as I
10 have a thought in my head.

11 Let's look at it the other way. If it was on-site,
12 they could have an enrollment of 180 students, but they could not
13 have more than 90 at a time. So that would allow them to have --
14 to be able to keep a 90 student population on the site when,
15 let's say -- well, I keep using the word students, to have
16 children on site when there may not be -- well, there may be
17 children enrolled in the program that don't need to be there
18 every day.

19 So by capping the enrollment at 90, it forces them
20 to kind of keep their business down. Am I explaining myself
21 correctly?

22 VICE CHAIRPERSON RENSHAW: Yes, you are explaining
23 yourself correctly. I am just concerned about the traffic
24 circulation and the noise control, because again I went through
25 the hearing thinking that the enrollment was going to cap at 90

1 children.

2 MR. ZAIDAIN: Right. Well, I will throw this
3 question to the board. How realistic is having a shift of 90
4 kids coming in during the morning, and then a shift of 90 coming
5 in the afternoon. To me, it seems like it is a day to day thing.

6 They could possibly have a set of 90 on a Monday,
7 and a difference of 90 on a Tuesday; and in that instance, I
8 don't think the impact would be the same. It would be more if
9 there were a changing of children at midday, and I guess my
10 question is whether that is something that we want to get into.

11 VICE CHAIRPERSON RENSHAW: Anyone else?

12 MR. ETHERLY: Mr. Chairman, I am somewhat inclined
13 to side with the statement that you made earlier, which is that I
14 believe the critical thing may very well be the number of
15 children that are on-site at any given time, because I think the
16 critical question, which is not necessarily our purview, but
17 perhaps falls under perhaps other arms of the District
18 Government, is ensuring that there is sufficient staff on-site to
19 deal with the children that are on-hand.

20 I would be inclined to ensure that at any given
21 point there are no more than 90 children on-site, but provide the
22 applicant with the leeway and the flexibility to have enrollment
23 that may exceed that number.

24 I went back through the earlier file just to see if
25 there were any further guidance perhaps from other agencies, and

1 we do have a June 18th letter, Exhibit Number 23, from Valerie
2 Ware, who is the program manager with the child and residential
3 care facilities division, but unfortunately that letter does not
4 reference a specific number.

5 It just simply expresses the agency's approval for
6 the facility at the subject property. But I am inclined to cap
7 the number of children on-site at any given time at 90, but
8 perhaps provide the applicant with some flexibility, in terms of
9 the enrollment number.

10 CHAIRPERSON GRIFFIS: Okay. Two points. First, the
11 population we usually get into because of what Ms. Renshaw is
12 talking about, the traffic and parking impact, and all of that.
13 We don't have to cap it.

14 I mean, as you have just indicated, first of all,
15 the building code has been established, and the occupancy of the
16 building. Secondly, it is going to be licensed for a certain
17 amount. We can take the whole thing out, just so we don't always
18 assume that we always have to do that.

19 Ms. Renshaw has brought up a good point, and I just
20 want to air all of this for everyone's consideration, and her
21 point is that if in your scenario, Mr. Zaidain, you had 90 kids
22 in the morning, and a different 90 in the afternoon, and you have
23 the staff, that staff has to get those kids out and take those
24 kids in.

25 It is not as if it is just the same child. So

1 there is an additional piece. However, we have two more minutes
2 to focus on the entire thing, and so let's take 10 more seconds
3 to figure out how we want to proceed, and I think what we might
4 want to do is look at a 90 child enrollment.

5 And if in fact, because that in fact was indeed
6 given to us by the applicant, and I think that is a good starting
7 point, and we can move on from that, and frankly if that is a
8 huge catastrophe for them, they can make a simple modification,
9 and it will bring up clarity for us.

10 And I think we are running more in the unclear area
11 at this point, and so it would be hard to deliberate further on.

12 Yes, sir?

13 MR. ZAIDAIN: I was understanding your proposal to
14 cap it and using enrollment, as opposed to on-site?

15 CHAIRPERSON GRIFFIS: Yes. I am looking at a 90
16 children enrollment, which is directly from their attorney's
17 letter.

18 MR. ZAIDAIN: Right. That was in the original
19 application.

20 CHAIRPERSON GRIFFIS: Under condition five, as it
21 has been proposed, it is clear it would be immediately adjacent
22 to a facility, and I don't see any difficulty with that. The
23 center operation was also as indicated not changed, from 7:00
24 a.m. to 6:00 p.m., and providing trash removal two times per
25 week. Any questions or concerns on that; five, six, or seven?

1 MR. ZAIDAIN: Well, the way they have it worded, it
2 says two times per week, whereas appropriate. I would assume
3 that two times per week is the minimum.

4 CHAIRPERSON GRIFFIS: Oh, thank you for bringing
5 that up. I think we are going to lose all of this.

6 MR. ZAIDAIN: I think we should on the fine
7 language.

8 CHAIRPERSON GRIFFIS: Yes. They have proposed
9 condition eight, the center shall use its best efforts to
10 schedule deliveries of materials and other goods at non-peak
11 hours. I don't know why we need to be so evasive.

12 Let's just say that the center will schedule
13 deliveries.

14 And on nine, I would go in the same direction. The facility will
15 mitigate any parking problems in the area, and encourage the
16 hiring of local personnel, and the use of public transportation
17 by staff.

18 MR. ZAIDAIN: Well, there is parking problems in the
19 area, but they are not responsible for it. The facility shall
20 mitigate any parking problems in the area. That is what we are
21 looking at. Is that too broad?

22 VICE CHAIRPERSON RENSHAW: There was a point
23 brought up by DDOT. No, the Office of Planning, stating that
24 DDOT approved the application with the following condition; on
25 the street parking spaces during the times needed for drop-off

1 and pickup of children, and then we have two conditions to
2 consider from Mr. Hood. I'm sorry, from Ms. Mitten rather.

3 That she is suggesting that the pickup and drop-off
4 at the facility will be in accordance with the plan recommended
5 by DDOT, and the operator of the facility will institute a
6 procedure whereby all children will be escorted by an adult
7 between the drop-off point and the building.

8 CHAIRPERSON GRIFFIS: Okay.

9 MR. ZAIDAIN: I guess the question is can we
10 substitute those requirements for part of number nine, mitigating
11 the parking problem? Would that cover that?

12 CHAIRPERSON GRIFFIS: Yes, and I agree with you. I
13 was a bit hasty. I think that condition number nine, the
14 facility will mitigate parking problems in the area, that should
15 be "by" and not "and." By encouraging the hiring of local
16 personnel, and the use of public transportation by staff.

17 And then I think it is appropriate to add in a few
18 of these. If I am not mistaken, also, Board Members, that the 8-
19 1/2 by 11 faxed plan of the cul-de-sac is indicating three
20 parking spots at that drop-off.

21 I am assuming, and perhaps we shouldn't, but I am
22 assuming that those would be approved by DDOT and demarcated at
23 some point, because they are on a public street.

24 VICE CHAIRPERSON RENSHAW: But there were to be
25 some parking spaces reserved on the street, because as I remember

1 the diagram, there was a straight parking area that went into a
2 street, the name of which I do not have.

3 CHAIRPERSON GRIFFIS: Right.

4 VICE CHAIRPERSON RENSHAW: And there were to be
5 some on-street parking spaces right at the entrance of that
6 driveway.

CHAIRPERSON GRIFFIS: If you recall,
7 it was a very long walk, and I think there was - that the
8 discussion of it was that there was always going to be adequate
9 parking, but if you look at it, in my mind the common sense would
10 be that people wouldn't necessarily walk all the way in.

11 I think that a lot of the discussion that we had
12 was that they were creating surface parking in the area, and that
13 isn't shown on the recent diagram. And what I am saying that
14 your point of could you not have an area where you would pull up
15 and drop off --

16 VICE CHAIRPERSON RENSHAW: And the cul-de-sac is
17 the answer.

18 CHAIRPERSON GRIFFIS: Right. And they were
19 indicating that it was the cul-de-sac. I think our intention is
20 good in terms of the specifics that we are laying out here. I
21 mean, we have the drop-off area, and they are proposing the cul-
22 de-sac.

23 Ms. Mitten is putting together an excellent point,
24 and if you recall in the hearing, if I am not mistaken, it was
25 one of the employees, if not the director, of the child care

1 center that said that the children are not their responsibility
2 until they enter the building.

3 And I think what Ms. Mitten is trying to deal with
4 here is, well, that is a heck of a long walk all the way up, even
5 though it is on-site. And so she is looking for a procedure that
6 the children will be escorted.

7 So it is just a plan from the school that parents
8 are required to walk the child all the way up to the school, or
9 it is known whose responsibility it is so that there is no
10 misunderstanding.

11 Okay. The other piece that we did not talk about,
12 in terms of that, and I would add that it isn't in the directive,
13 but we will say it now, was that there was going to be pedestrian
14 located lighting on that path.

15 As you recall, we had extensive discussions about
16 this, that it is a nice path as you walk up to the facility
17 during the day. However, at night it looks to be an area that is
18 somewhat unpatrolled one might say, and so we wanted to make sure
19 that there was adequate lighting in that area.

20 I seem to recall that there was building attached
21 lighting, and that there was an indication that they might put
22 some site and pedestrian scale lighting there, and I would think
23 that would be an excellent direction to take.

24 MR. ZAIDAIN: Yes. According to the DDOT memo, it
25 says that they are requesting that the applicant contact DDOT's

1 curbside management division developing this center, and I think
2 that would be a good condition in order to get these improvements
3 in.

4 CHAIRPERSON GRIFFIS: Okay. Anything else?

5 MR. ETHERLY: Just to piggyback on Mr. Zaidain's
6 point. I think a point of clarification is that I think DDOT's
7 comment is directed to the issue of signage for three spots that
8 would be dedicated.

9 I mean, the applicant could of course work with
10 DDOT and Public Works as well as far as security lighting.

11 CHAIRPERSON GRIFFIS: If I am not mistaken, you are
12 saying that first of all that we would require them to do that,
13 and so we would have some assurance that these parking spaces go
14 to implementation?

15 MR. ETHERLY: Yes, at the relevant time.

16 CHAIRPERSON GRIFFIS: And if I am not mistaken, Mr.
17 Zaidain's point also is the fact that once you are in discussion
18 with DDOT that you can also talk about lighting.

19 MR. ETHERLY: Absolutely.

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. ETHERLY: Absolutely.

22 CHAIRPERSON GRIFFIS: Very well, I would move for
23 approval of Application 16902 of the Douglas Knoll Cooperative
24 LP, for a special exception to allow a child development center.
25

1 And for the variance from the off-street parking
2 requirements under Section 2101 in an R-5-A district at the
3 premises of 2017 Savannah Terrace, Southeast. The motion would
4 in fact incorporate as revised the nine conditions, which we can
5 restate if needed. Oh, I'm sorry, 10. Okay. We need a second.
6 Are we going to have further deliberation on this, if needed?

7 VICE CHAIRPERSON RENSHAW: I second.

8 CHAIRPERSON GRIFFIS: Thank you very much. Okay.
9 Let me briefly go over those conditions, and what was moved was
10 for a 7 year approval facility, and teaching staff of 20, and
11 ages of the students from 6 weeks to 12 years, and 90 children
12 enrollment, and areas adjacent to the facility, and operation
13 hours are from 7:00 a.m. to 6:00 p.m., and the center will
14 provide trash removal at a minimum of two times per week.

15 The center will schedule delivery of materials and
16 other goods at non-peak hours. And nine was the facility's best
17 efforts to mitigating parking problems in the area, and braking
18 problems in the area, and the hiring of local personnel, and the
19 use of public transportation by staff.

20 And added is nine -- and are we pulling this out as
21 a separate condition, or nine was going to get, Mr. Zaidain, your
22 language with DDOT?

23 MR. ZAIDAIN: Well, Exhibit 9 covers the use of
24 personnel and public transportation by staff, and what about the
25 conditions by OP?

1 MR. ETHERLY: Well, the OP conditions, Mr. Chair,
2 appear to be very similar to the DDOT conditions.

3 CHAIRPERSON GRIFFIS: Right.

4 MR. ETHERLY: And perhaps the easiest way is to use
5 number 9 as you read it, and number 10 could be the DDOT
6 condition; and then number 11 could be -

7 CHAIRPERSON GRIFFIS: Correct.

8 MR. ETHERLY: And then number 10, the DDOT
9 condition, would be to have places on the cul-de-sac.

10 VICE CHAIRPERSON RENSHAW: And could we attach the
11 diagram to that?

12 MR. ETHERLY: I think it would be appropriate, and
13 then direct the applicant to contact DDOT's curbside management
14 division before opening the center to work out signage and
15 lighting issues.

16 CHAIRPERSON GRIFFIS: Good. Okay. That should be
17 clear. Let me just state -- yes?

18 MS. RAY: One point. Venita Ray from the Office of
19 Planning. As I look over our supplemental filing, it looks like
20 I had number one that was cut off, and we didn't realize that,
21 because that was our commission.

22 It was the receipt of the dedication of those three
23 spaces, because in the applicant's letter, where they are stating
24 that the agreement with DDOT to allow the drop-off in the cul-de-
25 sac, they mention that -- well, in here they say that for

1 signage, or that they mention that they thought that their
2 agreement with DDOT would be for the application for the
3 dedication of those three spaces, and we just wanted to be clear
4 that they need to actually go into the curb side management and
5 apply for those three spaces.

6 It just doesn't say that the application is for
7 those dedications or for those three spaces. So we apologize. I
8 am just looking at it and it must have just got cut off.

9 CHAIRPERSON GRIFFIS: Excellent, and I think that
10 does bring some clarification, because my concern was that we
11 were requiring a landowner to have on-street parking, which isn't
12 part of their control.

13 MS. RAY: No, those three spaces need to indicate
14 the times that they are being dedicated to them, and without
15 that, with the application, we would not support it.

16 CHAIRPERSON GRIFFIS: Okay. Is everyone clear on
17 what that is then?

18 MR. ZAIDAIN: So we would amend condition number 10
19 then to reflect that?

20 CHAIRPERSON GRIFFIS: Yes. Right. I think it was
21 all saying the same thing.

22 MR. ZAIDAIN: Okay.

23 CHAIRPERSON GRIFFIS: And 11 is that the facility
24 will program -- actually, we can just adopt that language that
25 Ms. Mitten has submitted, approved pursuant to the procedure

1 whereby all children will be escorted by an adult between the
2 drop-off point and the building. Anything further? If not, may
3 I ask for those all in favor to signify by saying aye?

4 (A chorus of ayes.)

5 CHAIRPERSON GRIFFIS: Opposed?

6 (No audible response.)

7 MS. PRUITT: The staff will record the vote as five
8 to zero to approve; motion made by Mr. Griffis, and seconded by
9 Ms. Renshaw, and the proxies to approve on the conditions set
10 forth.

11 CHAIRPERSON GRIFFIS: Do we have anything left for
12 this morning?

13 MS. PRUITT: Well, G.W., of course.

14 CHAIRPERSON GRIFFIS: Well, that was a joke for the
15 record, but however, let me just update everybody. We are
16 awaiting our other board member that needs to deliberate on the
17 next case.

18 I am going to break now and we will reconvene no
19 later than 11:00 o'clock. If in fact -- and we are awaiting Ms.
20 Mitten, who is actually detained due to other responsibilities.
21 And if in fact she is not here by then, we will proceed without
22 her and without her joining us. So with that update, we could be
23 back earlier.

24 (Whereupon, the meeting was recessed at 10:38 a.m.,
25 and reconvened at 11:12 a.m.)

1 CHAIRPERSON GRIFFIS: On the record. We are
2 anticipating being joined by an additional member, but I believe
3 we can start into the next case as soon as we call it. And just
4 for clarification, when we are joined, I will reiterate any of
5 the discussion that we have had so that we can have a
6 participating member at that time. So with that --

7 MS. PRUITT: Mr. Chair, the last case of the
8 morning agenda is Application Number 16553, The George Washington
9 University, pursuant to 11 DCMR 3104.2, for a special exception
10 for the review and approval of the University Foggy Bottom Campus
11 Plan, years 2000 to 2010, under Section 210 and Section 507.

12 The boundaries are as follows: Pennsylvania Avenue
13 on the north, 19th and H, and 20th and G Streets on the east; F
14 Street and 23rd and G, and 24th Street on the west. It also
15 includes a portion of Square 122, extending south of F Street
16 along 19th Street, N.W.

17 Within the campus plan boundaries the property
18 owned by the University is devoted to a variety of University
19 uses, including, but not limited to, classrooms, dormitories,
20 library, research, office, support, assembly, athletic and
21 hospital purposes.

22 These uses will be continued under the Campus Plan
23 in a variety of existing and new buildings, in an R-5-D, R-5-E,
24 C-3-C, and SP-2 districts. I won't list the squares because
25 there are so many of them.

1 This is actually before the board for
2 certification. Certification is the last thing that you have to
3 do, and there are several preliminary issues that need to be
4 addressed prior to certifying the case, and there are about six
5 items that were submitted late that the board would need to waive
6 in if they are going to consider them in their discussion.

7 And those items are Foggy Bottom Association
8 Exhibit 369, GW's response to parties, Exhibit 370, ANC's request
9 for an extension until August 29th, Exhibit 372, and the submitted
10 comments on the 29th, Exhibit 373, and ANC submitted a request to
11 amend page 9 of its August 29th submission, Exhibit 376.

12 CHAIRPERSON GRIFFIS: Very well. The board members
13 all have those items? I believe that everyone was issued those.

14 I am going to hold on waiving and accepting those documents for
15 a couple of minutes.

16 And I think we can begin a bit of our discussion on
17 what is before us, and then return to that, and hopefully with
18 the addition of the member. So once again, we are looking at the
19 George Washington University plan that was submitted, and I think
20 that an important piece of this is that in reading all of the
21 submissions, I want to just make a quick statement perhaps for my
22 own clarification. But we are looking to certify this plan.
23 This plan is clearly one that has many purposes.

24 It is not our board member's plan. It is the
25 University's plan, and it is anticipated that perhaps it is being

1 used for other things. We are looking at it specifically for the
2 compliance with the order, and there are certain things that we
3 will go through in a detailed fashion. We are not
4 recrafting it, and we are not going in and opening up the case
5 again. So in that respect it seems to be fairly straightforward.

6 That keeps it general. In the specific, it may not be so.

7 I would like to in all of the submissions that we
8 have, I would like to begin, and I think it would be appropriate,
9 and effective, and efficient, if we looked to the -- I have a bit
10 of a hesitation, in that I am not sure how we proceed.

11 And the fact that we have not waived in a report
12 that I want to begin with, I guess we could have had this cleared
13 up before we came out here. However, I did not anticipate this
14 situation. Any guidance?

15 VICE CHAIRPERSON RENSHAW: I believe the answer is
16 wait for Ms. Mitten.

17 CHAIRPERSON GRIFFIS: I would rather not err and
18 step into an area that I don't anticipate from my perspective
19 that we would have difficulty waiving in these reports, but I
20 think it would be important to wait for Ms. Mitten.

21 She had telephoned us and said that she was on her
22 way, and so it should not be much of a further delay. I guess we
23 could just see if anyone has any good jokes at this point. We
24 don't have any other business for this morning do we?

25 MS. PRUITT: No, sir.

1 CHAIRPERSON GRIFFIS: Very well. Then it is my
2 mistake to come out again, and let us take a few more minutes. I
3 do not believe that Ms. Mitten was too far off. Let me just also
4 indicate that I have information that we will not have a quorum
5 for the hearings next week.

6 And so provisions are being made to cancel that
7 public hearing. It is in fact the first time that I am being
8 told that this has every happened in the history of the BZA. We
9 were looking to reschedule those. However, the cases that are
10 continued on that date have already been reserved dates, and so
11 we will be continuing them on those dates.

12 I will be more specific clearly when we have time
13 to do that, unless there are other specific questions to it.
14 But, Ma'am, you had a question; is that correct?

15 AUDIENCE MEMBER: It has to do with the enforcement
16 of an order.

17 CHAIRPERSON GRIFFIS: Enforcement?

18 AUDIENCE MEMBER: Yes.

19 CHAIRPERSON GRIFFIS: Why don't you sit down and
20 make yourself comfortable. We have got time to kill. We are
21 going off the record now.

22 (Whereupon, at 11:20 a.m., the meeting was
23 recessed.)

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

(1:05 p.m.)

CHAIRPERSON GRIFFIS: Okay. We do appreciate everyone's patience, and I would like to resume very quickly the September 4th public meeting. We have one last item for deliberation. We have called the case, and so I think we can jump right in.

We had several issues that we need to deal with first, and I will restate very briefly that we have late filings, numerous ones, and I believe that the board members have a list in front of them, and I believe it was stated on the record, but I will briefly describe them as the Foggy Bottom Association, and the G.W.U. submitted response to the ANC-2A requested extension until the 29th.

And the ANC submitted comments, and the ANC-2A submitted two requests to amend page 9 of its August 29th submission, which was submitted on the 3rd. Are these exhibits are 369, 370, 372, 373, and 376.

I would like to hear any objections to waiving our rules and accepting these, and if not, we can take it as a consensus to take these in.

MS. MITTEN: No objection.

CHAIRPERSON GRIFFIS: Very well.

VICE CHAIRPERSON RENSHAW: No objection.

CHAIRPERSON GRIFFIS: Thank you. I think that will

1 kick us into discussion. What I would like to do as stated
2 previously is that I would like to focus the board's attention on
3 the Foggy Bottom West End Advisory Neighborhood Commission, the
4 ANC-2A submission of August 29th, and the other supplemental as it
5 pertains, and I think it would be effective and efficient in
6 terms of the time that we have to go down on each of these
7 enumerated items, and take them one at a time.

8 There are other items that are raised on the other
9 submissions and that we can get to. However, this one seems to
10 cover some of the redundancies of the submissions. If there is
11 no objection to that, I think we could move right into it. I
12 would like to call your attention then to the second page.

13 Well, actually, a quick point of clarification. In
14 reading the ANC, above the numerical issues, there is a reference
15 to a table of pages with changes in quotes guide. I did not
16 receive that and have not seen it. I am not sure that any other
17 board members did.

18 I don't find that lacking. I am assuming that was
19 something that was just distributed among the parties. I think
20 it is clear enough for us to continue on this, unless others
21 disagreed, but I wanted to make a note of that. Let's go to 1.1.

22
23 I am not going to read all of these, because it is
24 in front of you, and I believe that all of the parties have been
25 served all of this documentation. But it goes to updating

1 property changes, campus boundary changes for the spring of 2002,
2 and not updating the undergraduate enrollment and numbers.

3 Now, my understanding of that is, first of all,
4 that I don't think -- well, first of all, I think that is fine to
5 update, and in fact what I think what we have submitted as part
6 of the conditions of the order may in fact address that.

7 And I am referring to the August 28th submission,
8 Exhibit 377, and others can give their opinion if they disagree,
9 but clearly the issue here was the fact that there were 1999 or
10 older numbers used in the submitted document.

11 Again, that doesn't change the substance or even
12 the enforcement of the order itself. However, it seems to be
13 logical that the most up to date numbers might have been used.
14 It seems to me that we now have those in-hand, and I don't see
15 any reason why we couldn't just have this as an attachment to the
16 document itself.

17 MS. MITTEN: I agree, and as you noted then, I
18 think that most of the parties knotted the fact that the numbers
19 are not, you know, current numbers, in the document, and so this
20 would be a way of introducing the current numbers into the
21 document.

22 So I would agree that it should be an attachment to
23 the campus plan submittal that was filed on May 3rd.

24 CHAIRPERSON GRIFFIS: Okay. The attachment on May
25 3rd, 2002.

1 VICE CHAIRPERSON RENSHAW: And this is the August
2 28th GW file from --

3 CHAIRPERSON GRIFFIS: Correct.

4 VICE CHAIRPERSON RENSHAW: Just to comment that it
5 was a requirement by Condition 17 that these numbers be audited,
6 so that we should have in the file some independent verification
7 of these numbers.

8 CHAIRPERSON GRIFFIS: And that brings up an
9 interesting issue, and I think it is absolutely pertinent to do
10 that, in terms of compliance with Condition 17. It is my
11 understanding that we are using this for two reasons. One would
12 be to update the numbers, and we can move ahead with that as was
13 just discussed.

14 And your point is that in compliance with Condition
15 17, that the phrasing is an audited consensus, and so clearly it
16 is an independent verification of the numbers.

17 MS. MITTEN: But just to be crystal clear, that is
18 an enforcement issue, and a compliance issue is an enforcement
19 issue, and that would be up to the zoning administrator to pursue
20 if there is something lacking there, as opposed to something that
21 is before us today.

22 VICE CHAIRPERSON RENSHAW: But it should only be a
23 matter of course that when these numbers are supplied under
24 Condition 17, that they be an audited consensus as the condition
25 requires.

1 MS. MITTEN: Yes, that is what is required.

2 CHAIRPERSON GRIFFIS: Good. Let's move on to 1.2
3 of the ANC document.

4 MS. MITTEN: And if I could, I think that in my
5 notes as we are going through this, 1.1, and 1.2, and 1.3 and
6 1.4, really were issues related to just having updated
7 information in the campus plan document, and I think the August
8 20th submission accomplishes that.

9 And to the extent that as the ANC suggests that
10 there would be then some showing that there was a lack of
11 compliance, that jus says in 1.5 that is outside the scope of
12 what is before us, and it is also outside the jurisdiction of
13 this BZA to actually enforce the order.

14 So those would be things that if there is any
15 concern, we would suggest that there be a referral to the zoning
16 administrator.

17 CHAIRPERSON GRIFFIS: Good, I would agree. Let's
18 go to 1.5, and I think in its own wording, but in the substance
19 also, this appears to be -- or not appears, but is a compliance
20 issue. What we are talking about are numbers that are over
21 current FTE maximum number of undergraduate students prescribed
22 in Condition 9(b).

23 With what we have before us today, there is --
24 well, as a compliance issue, it is out of our jurisdiction,
25 unless others have notes on that.

1 MS. MITTEN: I agree.

2 CHAIRPERSON GRIFFIS: And 1.6. Go ahead, please.

3 MS. MITTEN: My memory of 1.6 is that that is
4 beyond the scope of what is before us today. That really cuts to
5 what is the requirement in order to comply for reporting, and
6 that is an issue that has already been decided.

7 CHAIRPERSON GRIFFIS: Very good, and this is
8 talking about including or not including the graduate student
9 numbers. Okay, 1.7 then.

10 MS. MITTEN: The part of 1.7 that is on page 3 I
11 again a compliance issue.

12 CHAIRPERSON GRIFFIS: The substantive piece of that
13 is the second -- paragraph 9, which goes to issues of non-
14 compliance. 1.7, again, I think is outside of our scope. In
15 terms of transparent presentation, it is clearly speaking about
16 the University's compliance with the BZA orders, and to the
17 accuracy of full-time graduate students.

18 And 1.8, again we are in issues of reporting
19 numbers and compliance with the standing BZA order.

20 MS. MITTEN: And the final sentence of 1.8, it says
21 that the BZA needs to amend the campus plan order in order to
22 require earlier reporting and so on. That is outside the scope
23 of what is before us today.

24 And if we discover that the reporting requirement
25 is not accomplishing what was intended, then I suppose that

1 someone -- and I assume the ANC -- could petition the BZA to
2 amend the order at some later time.

3 CHAIRPERSON GRIFFIS: Okay. 1.9 is talking about
4 the presentation of data to the zoning commission in its
5 application before the commission, and the last sentence speaks
6 to the ZC not raising any issue of GW's non-compliance with the
7 enrollment numbers and approved all four GW's special exceptions
8 in the application, and that seems to be again a compliance
9 issue, and clearly I see outside of our scope and jurisdiction.
10 And 1.10, unless people disagree on that, then 1.10 --

11 MS. MITTEN: That is clearly outside of our scope.

12 CHAIRPERSON GRIFFIS: Indeed. I was just looking
13 to summarize it, but it is what it is. Let's go to 2.1.

14 VICE CHAIRPERSON RENSHAW: Mr. Chairman --

15 CHAIRPERSON GRIFFIS: Yes.

16 VICE CHAIRPERSON RENSHAW: A question as to whether
17 we should discuss at this point, or discuss later on, corrections
18 that may be needed in the campus plan document, and how we are
19 going to handle that, or suggest that some corrections be
20 handled.

21 CHAIRPERSON GRIFFIS: Well, what I am hoping is that
22 we will hit any corrections if need be by going through each of
23 the issues that are brought up. Are you finding that we are not
24 doing that?

25 VICE CHAIRPERSON RENSHAW: Well, I want to refer

1 back to the document itself, and whether there is going to be any
2 corrections in the document, the Foggy Bottom Campus plan
3 document.

4 CHAIRMAN GRIFFIS: Okay. I think that there is
5 absolutely going to be an opportunity for board comments, and
6 what I thought would be appropriate would be to address the
7 submissions first, and then we have quite a few things that I
8 think we can rapidly get through, but there are numerous things
9 to get through.

10 This I found to be the most comprehensive, in terms
11 of its scope and the issues that it was addressing. So as soon
12 as we get through this, then we can move on to others. In which
13 case, moving on to having two bulk-sized FAR issues, on 2.1, it
14 references page A-11 of Appendix F, which is talking about the
15 GFA, gross floor area, adjustments in 1985, and the subtraction
16 of certain properties.

17 The issue that comes in with this is the zoning and
18 the applicable properties that are to be calculated, and those
19 that are not. And it is clear in reading that there are
20 residential zones only that go into this calculation. Therefore,
21 the two properties that are actually cited -- and correct me if
22 my notes are not correct, but the two properties that are cited,
23 1900 Penn, and Square 121, both in my investigation are in C-3-C
24 zones, and therefore would not be part of that calculation.

25 MS. MITTEN: I would agree, and I think maybe I

1 should make a more expansive comment. I think that we can deal
2 with the entirety of the bulk and size, and FAR issues together,
3 which is just to make note of the section that applies, in terms
4 of aggregating the FAR, Section 210.3, where only the
5 residentially zoned properties that are included in the
6 aggregation.

7 I think that where there is some confusion -- and I
8 recall being confused when I first started to look at the campus
9 plan lo those many years ago. There is a calculation that shows
10 all of the FAR together, and it also shows he breakdown, and I
11 was hoping to put my hands on. Here is the appendix. Actually,
12 it is Appendix H, the space summary.

13 CHAIRPERSON GRIFFIS: Indeed.

14 MS. MITTEN: It is only the calculation at the --
15 for instance, on the projected, that is noted to be residential
16 districts, R-5-D/E, which is a projected FAR of plus or minus
17 3.5, and then there is a total number below that, and that is not
18 the relevant aggregation. It is the one above, the residential
19 districts only.

20 And I could certainly understand why there might be
21 confusion on that point, but I think that the material that is
22 presented in the campus plan is accurate, and I don't believe
23 that we approved the prospective building projects that would
24 cause the university to be out of compliance with the maximum
25 density permitted if they were all constructed if we look at the

1 residential zones only.

2 CHAIRPERSON GRIFFIS: Okay. And I think that
3 clarification actually covers as I think you just stated 2.2,
4 2.4, and 2.5, and also 2.6. The one issue in 2.6 which stands
5 out is that it is a statement that in its own projections, that
6 is, in the University's projections of the calculations, the GFA
7 and FAR, they would exceed the allowable FAR.

8 In that, clearly with the order and the standing
9 order, it would have to be in compliance.

10 MS. MITTEN: Right.

11 CHAIRPERSON GRIFFIS: And so projections, be that
12 as it may, they are plus or minus figures in Appendix H, and
13 clearly it would not be able to just by being stated as a
14 projection be able to be constructed out of compliance, and be
15 without some further steps, be that what they may.

16 All right. Anything else then on bulk, or rather
17 bulk-sized FAR issues as labeled? If not, let's move on to
18 three, the campus boundary. I think that -- well, let me just
19 bring it up that in terms of the campus boundary, it is somewhat
20 related, but there was other issue and comment about there was
21 black and white issues of Figure E, the proposed land use, that
22 did not correlate with the color land use maps as in the bound
23 copies.

24 We have received the corrected black and white that
25 does directly correspond from what I have been able to assess

1 with the color copies. I think the important thing to realize is
2 that clearly -- well, it is my understanding -- and I think I am
3 correct -- that the color copies in the bound submission are
4 actually the ruling document, but it is always good of course to
5 have everything say the same thing.

6 So that being said, let's go to campus boundary
7 3.1, the first paragraph, I believe, it is citing a quote that
8 actually appears on page 23 and not on page 22, and it is talking
9 about campus boundaries, to include Square 43, 58, 81, and I
10 frankly don't know what we are supposed to do with this
11 paragraph, and maybe more directly, I am not sure that we can do
12 anything, in terms of what is perhaps being asked.

13 MS. MITTEN: I think that what my understanding is,
14 is that rather than just having a neutral statement, they want --
15 that the community was looking for something that was more like
16 what gave rise to the boundary change, and we are looking for the
17 why, and not just the outcome, which I think that goes into the
18 category of it is not - you know, this is a document that the
19 university has written, and we don't necessarily embrace every
20 statement in it.

21 It is only those portions of it that relate
22 directly to the order, and the enforcement of the order. So at
23 this juncture, all that matters is where the boundaries are, and
24 not how they came to be. If someone wants to know the why of it,
25 they can read the record.

1 CHAIRPERSON GRIFFIS: Indeed. And so your point
2 is, and I would agree, that text changes are not necessarily
3 something that we need to do unless they affect specifically the
4 order, and compliance with the order.

5 And that being, and if I can reiterate what you
6 said, is that any action that we had today does not mean that we
7 agree or actually ratify any of the other statements included and
8 written by the university in the plan.

9 VICE CHAIRPERSON RENSHAW: Yes.

10 CHAIRPERSON GRIFFIS: Okay.

11 VICE CHAIRPERSON RENSHAW: And that very much needs
12 to be highlighted, Mr. Chairman.

13 CHAIRPERSON GRIFFIS: Okay.

14 MS. MITTEN: I think we might after we get through
15 this have a specific proposal that might cover it.

16 CHAIRPERSON GRIFFIS: Yes, and we can summarize
17 some stuff. Let's go to the University's 3.2, where it is
18 talking about the stealth enclosed boundary and University use
19 expansion through the PUD modification case.

20 Of course, that is in front of the Zoning
21 Commission, and the ANC contends that it is improper, and that
22 the University should have applied specifically to the BZA. This
23 is something that I think we can refer to corporation counsel for
24 their opinion, and clearly they read it and did not advise us
25 that that was an incorrect step.

1 MS. MITTEN: Could I say something on that point?

2 CHAIRPERSON GRIFFIS: Yes.

3 MS. MITTEN: Which is that I think that one of the
4 things that -- I mean, there are many threads that go through
5 these documents, but one of the threads was that the fact that
6 the campus boundaries changed caused the community some
7 consternation, and what I think the board did maybe for the first
8 time, and particularly as it related to GW, was to decide that it
9 was the board's responsibility to set the campus boundaries, and
10 not the university's.

11 The university could propose boundaries, but where
12 the boundaries ended up were the responsibility of the board, and
13 this I guess relates somewhat in part to the paragraph 3.1, but
14 it was anticipated by the board in the original campus plan
15 order, not some back door thing that was done by the zoning
16 commission, that if the modification for the PUD at 1957 E Street
17 were approved, that the boundary would -- that the campus
18 boundary would be expanded.

19 And that is in our amended condition number two,
20 the BZA condition number two, and in Order F of the last sentence
21 of it.

22 "In addition, in the event that the zoning
23 commission approves the University's application for modification
24 of the approved PUD for Square 122, the campus boundary shall be
25 redrawn to include the PUD property in Square 122 once at least

1 193 beds for undergraduates are made available there."

2 And so I think the issue there is that while the
3 community may not agree with the outcome, I do think that issue
4 was before the BZA and was properly deliberated and decided on,
5 and the decision is reflected in Condition Number 2.

6 CHAIRPERSON GRIFFIS: Thank you. Moving on to 3.3.

7 I don't see how this applies to our deliberations today, unless
8 others can point me to that. I would also include in 3.4 -

9 MS. MITTEN: I think maybe just to make a little
10 note before we move off of 3.3, I think the idea of Section 210.6
11 is that if you have a plan for a specific site on the campus, and
12 then you take whatever was planned for that site, and you move it
13 elsewhere, then you basically have a site on campus that has no
14 plan associated with it, which is why there needs to be
15 consideration before the commission on what will be done there.

16 That is the meaning of 210.6. So I don't see that
17 as being circumstances related to Square 122.

18 CHAIRPERSON GRIFFIS: And 3.5 speaks to a loophole
19 in the campus plan regulations, and it is being asserted that the
20 university can completely avoid the special exception process. I
21 think it is pretty clear that the regulatory body at this point
22 is the zoning commission for that, and so the special exception
23 wouldn't necessarily be pertinent, I believe, in what they are
24 addressing on this.

25 MS. MITTEN: Well, I think the point there, which

1 is that it is a shortcoming of the campus plan regulations, to
2 the extent that you want all of the campus and campus related
3 uses contained in the plan.

4 I mean, we have addressed this issue, and we have
5 had to confront this issue, but I don't think we have
6 successfully addressed it yet with the George Washington. We had
7 this issue with American University, and I am sure we are going
8 to have it in some of the other cases.

9 As the regulations are now, we can't control where
10 the university buys property, and if they go into zones that are
11 not -- that permit these uses as a matter of right that are
12 university related, that they are permitted, and there is no
13 additional control, and that's true, and there is nothing that
14 the board can do about that at the moment.

15 And therefore there is no buffer zone that the
16 community can rely on to be a wage between itself and the
17 university.

18 CHAIRPERSON GRIFFIS: Yeah, I think you bring up a
19 specific point that it is probably an excellent idea and should
20 be done. But I think Carol is succinct in saying that we clearly
21 -- that this board does not have the jurisdiction or the control
22 to limit or stop a purchase.

23 MS. MITTEN: And the buffer zone that we tried to
24 created, in terms of off-campus housing of undergraduates, was
25 challenged in court, successfully challenged in court. So our

1 attempt to use the existing regulations to address the issue has
2 failed. But I think it should be recognized that we made an
3 attempt with the tools that were in front of us.

4 CHAIRPERSON GRIFFIS: Right. And it can't be
5 overstated that clearly we have to work within our own
6 regulations, and so we work with what we have, and that gives us
7 jurisdiction and non-jurisdictional areas. Okay, 2.6. I am not
8 sure that any action is actually being requested in this.

9 MS. MITTEN: I think it is actually expanding on
10 some of the issues that have been raised above.

11 CHAIRPERSON GRIFFIS: Right. Okay. I think that
12 takes us to seven also if I am not mistaken. 2.8 appears to me
13 to be asking for a correction from an expectation or a
14 speculation of numbers, unless others see that, see other issues
15 in that.

16 MS. MITTEN: Well, I think in part that it is just
17 a stylistic point about the way the statements are being
18 presented that the community take issue with, and again just say
19 that we don't embrace necessarily every statement there,
20 discussion-wise, that is included in there.

21 And also to the extent that there are actions being
22 taken that depart from what is the stated philosophy in its land
23 use planning within the campus -- I mean, if the uses are
24 permitted within the campus, within the proposed land uses, then
25 that is what is permitted, and whether or not that is necessarily

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1 in lock step with the philosophy that is put forward.

2 CHAIRPERSON GRIFFIS: Very well. Any other
3 comments on Section 3, campus boundary? If not, let's move on to
4 Section 4 then, traffic and parking. The first issue is 4.1. It
5 talks about the traffic parking study, which cited and described
6 the Kennedy Center parking as the optional satellite lot.

7 This statement indicates that it is under massive
8 renovation and therefore not available to the university. I
9 don't see that as an undue burden to edit that, and to bring it
10 up to date, in terms of correction of the plan. It seems to be
11 straightforward enough, in that it is a satellite also, and
12 perhaps if it is noted or known, it could be noted when the
13 completion date of that facility will be made.

14 VICE CHAIRPERSON RENSHAW: But in the interim,
15 where are the cars going to be going? That is the question,
16 because this is a big project at the Kennedy Center displacing a
17 lot of parking.

18 MS. MITTEN: Let's -- well, if I could, there is
19 two issues. One is the Kennedy Center can no longer be counted
20 towards the minimum number of required parking spaces for the
21 campus. So it is not -- well, in terms of the enforcement of the
22 campus plan, it doesn't have any impact.

23 Now, before we get into any kind of discussion
24 about the Kennedy Center and the construction, we have to
25 remember that we are confined to the record, and so whatever we

1 know about the Kennedy Center, if it is not reflected in the
2 record, we may or may not be able to make a notation.

3 I think it is a worthy notation if there is
4 information in the record that in fact for some period of time
5 this area that was noted in the traffic study as being an area
6 where people can park, and not that that would be counted towards
7 the minimum, but that they can park, and if it is out of
8 commission for an extended period of time, it would be nice to
9 note that.

10 But only if we have information in the record that
11 would permit us to make that notation, and the record of the
12 campus plan, this doesn't put it in the record.

13 CHAIRPERSON GRIFFIS: I understand. So you are
14 saying that it may not be appropriate for us to update the
15 current situation?

16 MS. MITTEN: I just want to know what -- I mean, I
17 just don't want to do something that is -- that is in effect
18 taking something into the record improperly.

19 CHAIRPERSON GRIFFIS: Right. I am just going back
20 to the site, and I just want to read this through.

21 (Brief Pause.)

22 CHAIRPERSON GRIFFIS: Am I correct in stating, Ms.
23 Mitten that the Kennedy parking, which I think I just looked at,
24 but I think it was 18 spaces, is not part of the count of the
25 overall -- or it doesn't go to fulfilling the required parking

1 lot?

2 MS. MITTEN: Correct. But I guess the area that is
3 truly relevant is not actually on page 26, but on page 27,
4 because the notation on page 26 of the traffic study is the
5 existing transportation management plan.

6 As it relates to the future transportation
7 management plan, which I believe is incorporated through the
8 order, is number three on page 27, the second paragraph, "The
9 Kennedy Center bus will continue to provide convenient on-demand
10 service from the Kennedy Center satellite parking garage to the
11 23rd Street and I Street intersection.

12 So there is the inference, at least, that there is
13 something happening over at the Kennedy Center satellite parking
14 garage as part of the transportation management plan. So, again,
15 if it is possible to make a notation with whatever is already in
16 the record there that says that is temporarily not being able to
17 be implemented, that would be worthwhile.

18 CHAIRPERSON GRIFFIS: Well, you bring up an
19 interesting point. Well, we don't know. Is there parking
20 available or is there not? But there it is. So you are
21 proposing that we note this site on page 27, number 3, that
22 indicates that there is shuttle bus service continuing; is that
23 correct?

24 MS. MITTEN: Yes, but I am also saying that if
25 there is information in the record that says that the Kennedy

1 Center parking garage will not be available until whenever until
2 this construction is done, we could add a notation to that
3 effect.

4 But we can't on the strength of the letter from the
5 ANC.

6 CHAIRPERSON GRIFFIS: Very well. So we can request
7 the staff to investigate that and we can on our own also look
8 into it as to the site of the Kennedy Center. Okay, 4.2
9 indicates that the traffic and parking study went through
10 analysis, which is precluded by time constraints. Comments?

11 MS. MITTEN: Well, I don't think there is anything
12 in the traffic and parking study that needed to change to conform
13 with the order, and so I don't know that there is anything that
14 has changed in that regard.

15 So while they may have wanted more time, I don't
16 think there is anything that is substantive that has changed.

17 CHAIRPERSON RENSHAW: Okay. Ms. Renshaw, did you
18 want to bring up changes that you have found, or did you want to
19 continue to submission?

20 VICE CHAIRPERSON RENSHAW: Well, continue through
21 the submissions I think at this point. But just to note that
22 this ANC document is as you have said, Mr. Chairman, is a very,
23 very comprehensive document.

24 And if there are suggestions here for corrections
25 to be made in the statistics to the campus plan document, perhaps

1 the university could do that and just have it as an addendum to
2 its campus plan.

3 CHAIRPERSON GRIFFIS: Indeed. I think what we will
4 do as we wrap this all up, we will go through everything that we
5 are looking at changing, and I think that it may be well
6 appropriate that there is an attachment addendum of changes.
7 That being said, I would absolutely agree with you that the ANC
8 put together an excellent report, and I think it has been stated
9 clearly and that we have gone through all of those issues.

10 I would like to go the Commissioner of ANC-2A05,
11 Dorothy Miller's, August 5th submission. I believe that there are
12 several things that we can highlight and deal with here. I think
13 it is important to do because I think that there is great
14 thoroughness here, in terms of understanding, and reading, and
15 analyzing the document.

16 I was struck with reading -- and I can make a
17 general statement, and we can go into specifics if we need to --
18 that there was an awful lot of requests to change the text, and
19 to change the meaning to perhaps, as more of a complete picture
20 let us say, to some of the narrative parts of the plan.

21 I don't necessarily disagree, but I just don't
22 believe that with what we have in front of us that we can go in
23 and start editing that as we have stated several times already.
24 I take, for instance, and let's just go down to the first issues.

25 Oh, and we did cover number one, which was a very

1 important one, and that is the black and white revised math that
2 was submitted and does show or is related to the exact same
3 information as to color and land use mass.

4 Item 2, page 23, the first full paragraph, the
5 campus plan boundaries were changed by the BZA order, bringing up
6 an issue of clarity of the process, or positions, or whatever is,
7 but this sentence reads -- and I am reading this now, that GW
8 never requested the change in the campus boundaries at any time
9 during the proceedings.

10 Again, it has been a long process in history, and I
11 don't think the document, the submitted document by the
12 university, is the document that will relay what happened and all
13 the specifics that happened, and I don't think we can look to it
14 to do that.

15 Item 3, page 23, the first full paragraph, states
16 at the beginning that this translates to 3.47 FAR. We have
17 touched on this a little bit. This is -- or it is my understand
18 talking about the projections to the FAR. It is established at a
19 cap of 3.5, and there is calculations and perhaps some difference
20 in discrepancies seen by others.

21 Again, it goes either into how do we regulate
22 projections, but also in compliance with the order itself. Is
23 that what others also see?

24 VICE CHAIRPERSON RENSHAW: Yes.

25 MS. MITTEN: Yes, and I don't see -- well, maybe it

1 is because I work with numbers all the time, but to me 3.47 and
2 3.5 as the cap is 3.5, and those are more or less the equivalent
3 of each other.

4 If there was some reason to suggest that there was
5 something in excess of 3.5, that would be of concern, even if it
6 was at multiple decimal places. But for this purpose, 3.47 is as
7 good as 3.5 if the cap is 3.5.

8 CHAIRPERSON GRIFFIS: Let me have others highlight
9 issues in Ms. Miller's submission if we need to. I think that
10 covers a lot to the extent that I wanted to address directly, and
11 we can certainly go through each and every item if you would
12 like.

13 MS. MITTEN: I had a couple of things just to sort
14 of highlight just like you said.

15 CHAIRPERSON GRIFFIS: Good.

16 MS. MITTEN: The next one happens to be number
17 four. There is a sentence that has been deleted in the latest
18 campus plan submission on page 23, and that is this sentence,
19 "Such property will be devoted only to uses that are permitted as
20 a matter of right under the zoning applicable to each case."

21 And so there is some concern by Mrs. Miller that
22 this is being deleted. Well, first I want to say that sentence
23 is non-binding on the university. The fact that it was bantered
24 about is non-binding.

25 The second is that I think the reason that it has

1 been deleted is because they don't want to suggest that they are
2 not free to seek a special exception or planned unit development
3 for properties outside the campus plan.

4 So I think that that maybe is a significant
5 deletion, but it is not significant to us. On number five, I
6 think that the list of residence halls, I think the punctuation
7 is incorrect, and that it does imply that there are twice as
8 many.

9 So the punctuation either needs to be corrected
10 using parentheses as is suggested, or using semi-colons. But
11 that should be corrected, because that is I think unclear.

12 CHAIRPERSON GRIFFIS: And you are talking about
13 Item Number 5 of Ms. Miller's, but it is referencing page 26, the
14 first paragraph?

15 MS. MITTEN: Yes.

16 CHAIRPERSON GRIFFIS: Okay.

17 MS. MITTEN: Then the other point that I just
18 wanted to highlight is on page 3, paragraph (a), where there is a
19 discussion about the mid-block crossings, and there is at least
20 an inference that the mid-block crossings are a violation of the
21 D.C. traffic law.

22 And while I am not familiar with all of the
23 provisions of the D.C. traffic law, I am aware of the mid-block
24 crossings on other streets, just as a general knowledge. But
25 also DDOT reviewed this, and DDOT did not reject the idea of mid-

1 block crossings. So they still have to go through an approval
2 process.

3 But given that DDOT didn't reject it, I have to
4 infer from that that they are not de facto illegal. So I think
5 we can satisfy ourselves that we haven't included something that
6 is illegal as a possibility for dealing with some pedestrian
7 related issues.

8 And most of the other issues that are raised in Ms.
9 Miller's submission either relate to updating figures, or are
10 more in the category of what I would call stylistic issues that
11 we have already discussed.

12 CHAIRPERSON GRIFFIS: Very well. Of the other
13 submissions, items that would not be redundant that we want to,
14 and that we need to address --

15 MS. MITTEN: Did you say other submissions?

16 CHAIRPERSON GRIFFIS: Yes.

17 MS. MITTEN: I guess one thing that I just feel
18 that I want to say is some of what we are being urged to do,
19 particularly by the Foggy Bottom Association, in terms of trying
20 to get a handle on the number of students living in the
21 community, we tried.

22 We tried to accomplish something there, and we have
23 been unsuccessful. But it is not for the lack of trying, and I
24 think perhaps that people have lost sight of the fact that we
25 have tried diligently to work within the existing regulations to

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1 try and craft something that would alleviate the pressure on this
2 community, and we have not been successful.

3 But it is not -- I mean, I think we were open, and
4 that is what the whole remand was about, and reopening the record
5 to get additional information to try and craft something that
6 would survive a legal challenge, and we just have failed so far.

7 But I think we are committed to trying to help. We just haven't
8 quite hit on the right formula yet.

9 CHAIRPERSON GRIFFIS: Indeed. I do think it is a
10 difficult issue, and I think we all appreciate it, and we all
11 appreciate the balance of what is trying to be struck here.
12 Okay. Are there other submission items that want to be
13 highlighted or need --

14 VICE CHAIRPERSON RENSHAW: Just to take note, Mr.
15 Chairman, that Mr. McCloud has submitted a letter, dated August
16 5th, and his points cover again how many students are in the
17 Pennsylvania House, for instance, and where are the students
18 going to be housed.

19 And will GWU be held to a building code and
20 environmental standards for its on-campus housing. So we take
21 note of Mr. McCloud's statements, and we do have the letter from
22 the president of the Foggy Bottom Association, dated August 12th,
23 and with suggestions that the final order should insist upon and
24 provide a significant decrease in the number of students forced
25 to live in the surrounding off-campus neighborhoods by virtue of

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1 insufficient on-campus housing.

2 And the cap on the number of undergraduates upon
3 which the percentage required to live on campus or outside Foggy
4 Bottom West End is calculated, and to be specific as to the
5 determination of compliance and non-compliance.

6 CHAIRPERSON GRIFFIS: Good. Thank you.

7 VICE CHAIRPERSON RENSHAW: And that is signed by
8 both the president and the vice president, Ronald McCloud
9 (phonetic) and Barbara Stalegent (phonetic).

10 CHAIRPERSON GRIFFIS: Yes. I had noted McCloud's
11 letter, and the last paragraph definitely caught my attention
12 about being held accountable to building code and environmental
13 standards.

14 I don't believe that this board or the zoning
15 commission relinquished building code requirements, nor do I say
16 could they, or certainly environmental. I think this may be more
17 -- well, so clearly it is not within our jurisdiction and not
18 something that we did.

19 And we would absolutely expect that structures were
20 in compliance with both Federal and local building codes. That
21 is -- yes?

22 VICE CHAIRPERSON RENSHAW: Just to put on the
23 record the fact that the parties have taken a great deal of time
24 and attention to bring to the board's review items where they
25 feel there should be perhaps extra readings, extra scrutiny, and

1 we want to assert that this information is all very valuable and
2 important for the record of the case.

3 CHAIRPERSON GRIFFIS: Well said. Are there other
4 specific items then that were not picked up on the submissions
5 that the board members want to walk through or address? Now
6 would be the time, or frankly any other direction that one might
7 feel necessary to go.

8 MS. MITTEN: Well, just in keeping with the
9 discussion that we have had in bits and pieces related to some of
10 the text in the campus plan document that is not really relevant
11 to the actual implementation of the campus plan, or the
12 enforcement of it, but really are more stylistic issues, I would
13 recommend that when we make our final decision that we reaffirm
14 our findings and conclusions as represented in our Order F,
15 especially with respect as we have emphasized to the university's
16 impact on neighboring property.

17 And compliance with Section 210 of the zoning
18 regulations, as those were stated in our prior orders in the
19 campus plan proceeding, and that our -- the board's that is --
20 findings and conclusions will govern in the event of any
21 inconsistency between our orders and the campus plan document.

22 So the order, if there is any inconsistency, the
23 order is what will govern, just to make that crystal clear. I
24 think that it would be clear anyway, but just to make it very
25 clear.

1 CHAIRPERSON GRIFFIS: Good, and I think that is
2 appropriate to put into a motion if you would like to do so.

3 MS. MITTEN: Certainly. Without having to repeat
4 all of that, I would just --

5 CHAIRPERSON GRIFFIS: Exactly.

6 MS. MITTEN: -- move that we certify the campus
7 plan with the -- under the condition that I just stated, and also
8 that we allow some latitude in terms of making an amendment to
9 the -- that I think could just be an attachment or something to
10 the campus plan related to the Kennedy Center parking garage
11 after the staff investigates that issue, in terms of its
12 availability and what is in the record in that regard.

13 And also that we sort of elevate the August 28th
14 submission from the university to becoming an attachment to the
15 campus plan, as opposed to just another document floating in the
16 record, because this will satisfy our desire to have updated
17 enrollment figures and so forth in the campus plan document.

18 CHAIRPERSON GRIFFIS: Okay. If I can restate that.
19 Your motion is to certify the GW campus plan and that is for the
20 years of 2001 to 2009, is that correct, as submitted on the May
21 3rd, 2002, with the supplement of August 26th?

22 MS. MITTEN: August 28th.

23 CHAIRPERSON GRIFFIS: Is it August 28th? No, I was
24 just going --

25 MS. MITTEN: Okay.

1 CHAIRPERSON GRIFFIS: As the approved campus plan,
2 and that would also include the language that you stated, but
3 also an attached addendum of revisions, and that would at this
4 point include we anticipate the punctuation as noted on page 26?

5 MS. MITTEN: Yes.

6 CHAIRPERSON GRIFFIS: The attachment of the 28th of
7 August 2002 GW submission, which goes to numbers, current
8 numbers, and then the Kennedy Center parking; is that correct?

9 MS. MITTEN: Yes.

10 CHAIRPERSON GRIFFIS: Okay.

11 VICE CHAIRPERSON RENSHAW: Mr. Chairman, there was
12 the case of the missing A-14 of Appendix A that has been sent in.
13 Would that be incorporated into this kind of attachment?

14 MS. MITTEN: That is part of the -- oh, August 26th?

15 CHAIRPERSON GRIFFIS: Right.

16 VICE CHAIRPERSON RENSHAW: And the corrected map
17 regarding Square 55.

18 MS. MITTEN: Also August 26th?

19 VICE CHAIRPERSON RENSHAW: And the punctuation, you
20 did mention.

21 CHAIRPERSON GRIFFIS: Is that a second, Ms.
22 Renshaw?

23 VICE CHAIRPERSON RENSHAW: Yes.

24 CHAIRPERSON GRIFFIS: Very well. Any other
25 discussion, deliberation, or clarifications? In which case, I

1 would ask for all of those in favor of the motion as stated to
2 signify by saying aye?

3 (A chorus of ayes.)

4 CHAIRPERSON GRIFFIS: And opposed?

5 (No audible response.)

6 CHAIRPERSON GRIFFIS: All right.

7 MS. PRUITT: The staff will record the vote as 3 to
8 0 to approve, the motion made by Ms. Mitten, and seconded by Ms.
9 Renshaw.

10 CHAIRPERSON GRIFFIS: Very well. Thank you all
11 very much, and that would end our public meeting for September
12 4th, 2002.

13 (Whereupon, at 1:59 p.m., the meeting was
14 concluded.)

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