

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING AND ADJUSTMENT

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PUBLIC HEARING

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TUESDAY
JUNE 29, 2004

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE MILLER	Vice Chairperson
JOHN A. MANN II	Board Member (NCPC)
KEVIN HILDEBRAND	Zoning Commission

OFFICE OF ZONING STAFF PRESENT:

BEVERLEY BAILEY	Zoning Specialist
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OFFICE OF PLANNING STAFF PRESENT:

ARTHUR JACKSON	Office of Planning
JOHN MOORE	Office of Planning
KAREN THOMAS	Office of Planning
JENNIFER STEINGASSER	Office of Planning

OFFICE OF THE ATTORNEY GENERAL STAFF PRESENT:

JANICE SKIPPER Esq.,

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Norman M. Glasgow, Jr., Esq.
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Washington, D.C. 20006
(202) 955-3000 (phone)
(202) 955-5564 (fax)

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Allison Prince, Esq.
Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8000 (phone)
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Earle C. Horton, III
 Graves & Horton, LLC
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 Washington, D.C. 20009
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Phil Feola, Esq.
 Shaw Pittman LLP. 2300 N Street, NW.
 Washington, D.C. 20037-1128
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P-R-O-C-E-E-D-I-N-G-S

9:55 a.m.

MR. GRIFFIS: Also my opening remarks contain some very important and interesting things so I will try and make it lively as I go them all.

First and foremost, all proceedings before the Board of Zoning Adjustment are recorded. They are recorded in two fashions. First, the court reporter sitting on the floor to my right is creating the official transcript of our proceedings. Secondly, we are being broadcast live on the Office of Zoning's website.

Attendant to both of those, we ask that people please refrain from making any disruptive noises or actions in the hearing room. Also, I would ask that everyone fill out two witness cards prior to coming forward to give testimony to the Board.

Witness cards are available at the table you entered into -- close to where you entered into the hearing room. Also in front of us where you will give testimony. Those two cards go to the recorder prior to coming forward.

1 Going forward to give testimony the first
2 time I'm going to ask you to do this once and that is
3 turn on your microphone and give your name and your
4 address for the record so that we can give you all the
5 credit of all those important things you will say to
6 us today.

7 The order of procedure for special
8 exceptions and variances is first we hear from the
9 witnesses of the applicant in the applicant's case.
10 We then go to Government reports attended to the
11 application such as Office of Planning or Department
12 of Transportation or any other Government agency that
13 is submitting into the application.

14 Third, we would hear from the Advisory
15 Neighborhood Commission. Fourth would be persons or
16 parties in support of the application. Fifth would be
17 persons or parties in opposition to the application.
18 Sixth, finally, we have closing remarks by the
19 applicant.

20 Cross examination of witnesses is
21 permitted by the applicant and parties in the case.
22 The ANC in which the property is located is
23 automatically a party in the case and, therefore, is
24 afforded the opportunity to cross examine witnesses.

25 Nothing prohibits this Board from giving

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1 good instruction, direction, and limiting time on
2 cross examination and scope of cross examination. I
3 don't anticipate invoking that today but I have to say
4 it just to ensure my availability to do it. I will be
5 very specific if we need to give instruction or move
6 people along.

7 Our record which we will create today
8 during our hearings will be closed at the conclusion
9 of these hearings except for any material that is
10 specifically requested by the Board. We will be very
11 specific as to what information should be submitted as
12 part of your application and when it is to be
13 submitted into the Office of Zoning.

14 After that material is received it should
15 go without saying that the record would then be
16 finally closed and the importance of that is that no
17 other information would be accepted into the record.

18 The Sunshine Act requires that t his Board
19 conduct all its proceedings in the open and before the
20 public. This Board may, however, enter executive
21 session during or after hearing on the case and that
22 would be for the purposes of reviewing the record or
23 deliberating on the case. That would be in accordance
24 with the Sunshine Act and our own rules of procedure.

25 The decision of this Board in contested

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1 cases before us must be based exclusively on the
2 record which is why it's so important to get all the
3 information that you would like us to deliberate on
4 into the record.

5 To avoid any appearance to the contrary of
6 not deliberately solely on the record that is created
7 before us today, we ask that people present today not
8 engage Board members in conversation while the hearing
9 is conducted and during today's session so that we do
10 not give the appearance of receiving information
11 outside of the record.

12 I would ask that people turn off their
13 cell phones and beepers at this time so we don't have
14 any disruption of the proceedings. I think we will be
15 able to move ahead with any preliminary matters.
16 Preliminary matters are those which relate to whether
17 a case will or should be heard today such as request
18 for postponements, continuances, or withdrawals, or
19 whether proper and adequate notice of the application
20 has been provided.

21 If you are not prepared to go forward with
22 a case today or you believe that the Board should not
23 proceed with a case, I would ask that you come forward
24 and have a seat at the table as an indication of
25 having a preliminary matter.

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1 I will ask if staff has any preliminary
2 matters for the Board after I wish them a very good
3 morning to Ms. Bailey. Mr. Moy is out this week. Ms.
4 Bailey is with the Office of Zoning.

5 Ms. Bailey, do you have any preliminary
6 matters for us at this time?

7 MS. BAILEY: Mr. Chairman and members of
8 the Board, good morning. Yes, Mr. Chairman, one
9 preliminary matter and that is Application No. 17176
10 of the International Real Estate and High Tech
11 Investment Group. That case was originally scheduled
12 for hearing today. However, there is a request for it
13 to be postponed and the new date that staff is
14 suggesting is July 27th in the afternoon, Mr.
15 Chairman.

16 MR. GRIFFIS: Very well. Thank you for
17 reminding us of that issue. I have no difficulty
18 unless other Board members have any opposition to
19 granting the postponement to the 27th of July and it
20 will be sometime in the afternoon. If not, let's move
21 ahead then, Ms. Bailey. We can have it scheduled as
22 such.

23 MS. BAILEY: Thank you, sir. May I swear
24 the witnesses in now?

25 MR. GRIFFIS: Absolutely. There are no

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1 other preliminaries and no other indication of
2 preliminaries. If anyone is here to testify today or
3 is thinking of testifying, I would ask that you please
4 stand and give your attention to Ms. Bailey and she
5 will swear you in.

6 MS. BAILEY: Do you solemnly swear or
7 affirm that the testimony you will be giving today
8 will be the truth, the whole truth, and nothing but
9 the truth?

10 ALL: I do.

11 MS. BAILEY: Thank you. Thank you, sir.
12 The first case this morning is Application No. 17175
13 of Douglas Development Corp./Jemal's Wheel LLC,
14 pursuant to 11 DCMR 3104.1, for a special exception
15 from the roof structure requirements under Section
16 411, and a special exception to increase the building
17 height to 50 feet pursuant to Section 1402, and
18 pursuant to 11 DCMR 3103.2, variances from the lot
19 occupancy requirements under Section 772, the
20 residential recreation space requirements under
21 Subsection 773.7, the side yard requirements under
22 Subsections 775.5 and 2001.3, and the parking aisle
23 width requirements under Subsection 2117.5, to permit
24 the development of a 4-story apartment house in the
25 RC/C-2-B District at premises 1701 Kalorama Road, N.W.

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1 (Square 2655, Lot 90). The correct square is
2 2566 and that is Lot 90. The case is ready to go
3 forward, Mr. Chairman.

4 MR. GRIFFIS: Thank you very much. Why
5 don't I have everybody introduce themselves.

6 MR. GLASGOW: Thank you, Mr. Chairman.
7 For the record my name is Norman M. Glasgow, Jr., of
8 the law firm of Holland and Knight. Here with me
9 today is Mr. Kyrus Freeman of the same law firm
10 sitting behind me to my left; Mr. Don Deutsch,
11 representative of the applicant; and then Ms. Janet
12 Haltom of the architectural firm of Hnedak Bobo Group.

13 At the far end of the table is Mr. Steven Sher who
14 will be the expert planning witness.

15 MR. GRIFFIS: Quick clarification. On page
16 5 of your submission of which we have all received and
17 read, your sentence says, "The applicant is prepared
18 to proceed with an alternative upon the Board's
19 direction," so I thought we would get right to the
20 direction. That seems to be speaking to whether you
21 remove the penthouse structures, therefore, reducing
22 the relief for the penthouse structures which then
23 would invoke a relief from the entire residential rec
24 space providing it.

25 MR. GLASGOW: That is correct.

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1 MR. GRIFFIS: Not just the relief from the
2 25-foot dimension. I'll hear Board members of they
3 differ but I think there is absolutely no way that we
4 would want to proceed in that fashion. I think we
5 have proceeded as it was originally submitted and that
6 is with two penthouse structures and the provision of
7 the residential rec on the roof space and coming in
8 under the provisal of not meeting the dimensional
9 requirements.

10 MR. GLASGOW: Then what we would like to
11 do then is ask for a reduction in the square footage
12 that we provide for residential recreation space and
13 the architect will get into the issues that are
14 involved with that because the residential recreation
15 space we have gone through the building code carefully
16 and the amount of recreation space required provides
17 for an occupancy load which creates great practical
18 difficulties and, in fact, hardship to us in this case
19 and would provide for over 600 people to be on the
20 roof. We don't think there's any need for that type
21 of residential recreation space.

22 MR. GRIFFIS: Can you see the fireworks
23 from there?

24 Let me just get some quick clarification
25 to see who else is here with us. Is the ANC

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1 represented today, ANC-1C? Is the Reed Cook
2 Association here? Okay, is anyone else here attended
3 to this application to give testimony? Very well.
4 Okay.

5 Just for clarification then, I'll turn it
6 over to you. My reading of the submissions was that
7 there was 9,000 plus or minus square foot that were
8 required for the residential rec.

9 MR. GLASGOW: That is correct.

10 MR. GRIFFIS: And that was being also
11 provided. You're saying that actually all of that is
12 not being provided based on the occupancy that would
13 create. What is the difficulty with the increased
14 occupancy of that area?

15 MR. GLASGOW: Well, with respect to how it
16 works with the building, the architect is prepared to
17 go through that as to what it does with our occupancy
18 loading and how we have to provide the stairwells and
19 the sizing of those stairwells, how we have to heavy
20 up the existing building to take that kind of
21 occupancy load on the roof through out the building
22 and then on the new story that is being provided. We
23 don't believe there is any rationale for making us
24 provide occupancy for over 600 people on that roof.

25 MR. GRIFFIS: Okay. I'm going to try and

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1 make this easier. How is the occupancy calculated to
2 get 600 because it's not making sense to me if you've
3 got all that space. What do you mean when you
4 calculate the occupancy?

5 MR. GLASGOW: Would you please identify
6 yourself for the record and speak to that, Ms. Haltom.

7 MS. HALTOM: I'm Janet Smith Haltom,
8 architect, from Memphis, Tennessee.

9 MR. GRIFFIS: But you like D.C. an awful
10 lot.

11 MS. HALTOM: I do like D.C. an awful lot.

12 MR. GRIFFIS: Okay. We'll get that on the
13 record. Go ahead.

14 MS. HALTOM: What we've done when we were
15 looking at the recreational space on the roof is we've
16 gone through the codes very carefully. The way you
17 calculate how many square feet per person is based on
18 the codes. Right now we met with the building
19 department and they said, "We are going to calculate
20 it at 15 square feet per person." It results in a
21 total of 636 people that could be on that roof deck.

22 MR. GRIFFIS: That's a serious party.

23 MS. HALTOM: That's a serious party.

24 MR. GRIFFIS: Unfixed tables and chairs?
25 Is that correct? Is that what you are anticipating?

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1 It doesn't matter. The reason I asked the question
2 because it goes to the building code and how the
3 occupancy is actually calculated. So what you're
4 saying to me is when the building code inspector looks
5 at this or the reviewer, it says you've got 9,000
6 square feet. In order to get an occupancy load they
7 are going to say every 15 square feet equals one
8 person.

9 MS. HALTOM: One person. Yes.

10 MR. GRIFFIS: Everybody clear on that? So
11 if you have that amount of space and it's 15 square
12 feet, you're saying by code you are allowed to have
13 600 people up on that deck.

14 MS. HALTOM: Yes. And with that --

15 MR. GRIFFIS: What's the population of the
16 building?

17 MS. HALTOM: There's 48 units in the
18 building.

19 MR. GRIFFIS: That's a lot of guests.
20 Okay. So --

21 MS. HALTOM: With that there are other
22 requirements as soon as you have that many people on
23 the roof.

24 MR. GRIFFIS: I know. I'm going to turn
25 it over to you and not interrupt so you can go in

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1 normal proceedings. I obviously needed to establish a
2 little bit there. Okay.

3 MR. GLASGOW: And I think what we can deal
4 with, Mr. Chairman, as we get into that, we can limit
5 -- of we can limit our occupancy on the deck to 49
6 people that has a big impact as to how you have to
7 provide means of egress and some other things. We can
8 be looking at doing those type of things as a position
9 between no residential recreation space and an
10 inordinate amount of residential recreation space
11 which causes us a great deal of problems.

12 MR. GRIFFIS: Couldn't you also get a
13 waiver for the occupancy and limit the occupancy on
14 the roof and that way you could get a building code
15 waiver for the stair size?

16 MR. DEUTSCH: I want to introduce myself.
17 I'm Don Deutsch with Faison Associates, the developer
18 of the project. We have heard that there have been
19 instances in the District in which that has been done.
20 I know that Janet spoke with the building department
21 specifically asking to do that in order to avoid the
22 assembly requirement that 638 people were put on the
23 building.

24 The particular code reviewers that we
25 spoke with were unwilling to do that even though there

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1 are a few that would. The problem is taking the
2 chance that we build the building and we're approved
3 but at the inspection stage at CO they look at it and
4 say, "Wait a second. You have not sized your stairs
5 for 638 individuals assembly load." Then we have a
6 problem. We really need to deal with this in advance.

7 MR. GRIFFIS: Okay. I think we're
8 understanding. Let's see how we can get through this.

9 MR. GLASGOW: All right. Thank you, Mr.
10 Chairman. With the permission of the Board I would
11 like to deliver a brief opening statement. We are
12 hear seeking relief to permit the conversion of
13 existing warehouse and parking structure originally
14 built as a warehouse for residential use in the Reed
15 Cook C-2-B zoning district.

16 The project obviously presents an
17 opportunity to permit development on a difficult site
18 and building which had some issues involved with it
19 before about a year and a half ago when it was before
20 the Board and the application was withdrawn.

21 The property is also the subject of
22 Application No. 17095 for special exception of the
23 Reed Cook overlay to allow the building to be used as
24 a parking garage. The team here is not part of that
25 application but we understand that there's some

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1 controversy connected with that application within the
2 community.

3 This application presents an opportunity
4 to resolve a number of different issues at one time.
5 We have been pleased to be able to have worked with
6 the Office of Planning and the community with the new
7 developer on this new application. There were some
8 issues that were raised by the Office of Planning and
9 the community during the last application which was
10 16924 which was withdrawn. One was to have
11 only a one-story addition so as to be within the 50
12 feet from the point of measurement of the height of
13 the building and to incorporate and introduce
14 residential units on the ground floor.

15 In addition, the applicant is fully
16 meeting the requirements of Section 1402 with respect
17 to the square footage to be provided within the
18 project for affordable housing. Modification of the
19 proposal in this manner by the new development have
20 resulted in support for the project from the Office of
21 Planning, the ANC, and the Reed Cook Neighborhood
22 Association.

23 And there are some conditions with respect
24 to the ANC, Reed Cook, and OP but basically people now
25 are supportive of this project whereas before there

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1 was a lot of issues connected with it.

2 We are then proceeding with the application.

3 We want relief from the lot occupancy
4 regulations even though the 4th floor addition meets
5 the lot occupancy requirements, relief from the garage
6 aisle width requirements for the four existing pinch
7 points for the existing columns within the garage,
8 side-yard variance to incorporate the north wall of
9 the existing structure which is set back a few feet
10 from the alley to the north, and a variance from the
11 residential recreation space requirements as we have
12 been discussing.

13 We also seek special exception relief
14 pursuant to Section 1402 to permit a building 50 feet
15 in height from the point of measurement. We will
16 continue our roof structure relief request pursuant to
17 the earlier discussion that we had.

18 Significantly this conversion is taking
19 place in a building that is and will remain under FAR.

20 The maximum permitted residential FAR in 3.5 and the
21 Reed Cook C-2-B district and the FAR of the proposed
22 building with the one-story addition is 3.03 FAR.

23 In addition, part of that 3.03 FAR is
24 devoted to parking on the first floor. Absent the
25 conversion of this existing warehouse building the

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1 normal expectation that with an 80 percent lot
2 occupancy and four stories in height, we would have
3 3.2 FAR of residential use that could be achieved and
4 that would be without having to do any affordable
5 housing. With 80 percent lot occupancy you would have
6 four floors and 40 feet in height.

7 Here because of the unique situation of
8 this site, we achieve only a 3.3 FAR with a 50-foot
9 height and we have seven units of affordable housing
10 so we have a lot of pressures on this project and make
11 this a viable project to convert this existing
12 warehouse and parking use into a residential building.

13 In working with this very complicated
14 proposal, which is a relatively small project with
15 only has about 68,000 square feet of gross floor area,
16 48 units, seven of which are affordable housing and 41
17 parking spaces, we are pleased with the consensus that
18 we have been able to achieve for the approval of the
19 lot occupancy variance, side-yard variance, the
20 variance for the location of columns, and the approval
21 pursuant to Section 1402 of the 50 feet in height.

22 Then the area of issue is whether the
23 Board should grant a variance from the residential
24 recreation space requirements. We would like to have
25 a partial variance from those requirements as we have

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1 been discussing. We had asked for a total variance.
2 We are hearing the comments of the Board and we would
3 like to have a variance such that we could have an
4 occupancy load on the roof of 39 persons. Under the
5 building code that is a significant number because
6 that is what keeps us from having to heavy up the
7 building and heavy up the means of egress to that
8 roof.

9 The applicant will present evidence and
10 testimony in support of that variance from the
11 residential recreation space requirements as to how it
12 is impractical and it is unduly expensive to provide
13 in this instance. We have talked about the number of
14 people dealt with in the occupancy load for that roof.

15 We will submit that the evidence will show that this
16 constitutes a practical difficulty and is unduly
17 burdensome on the applicant in a number of ways.

18 Lastly, before proceeding with the
19 testimony of the witnesses, the applicant is amenable
20 to entering into a covenant relating to the affordable
21 housing consistent with that referenced in the Board's
22 order in Application No. 17009 at page 4 which I think
23 was a case that was directly across the street from
24 this application. It was decided by the Board, I
25 think, within this past year. I'll get a copy of that

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1 order.

2 Steven, do you have that order?

3 MR. SHER: July of 2003.

4 MR. GLASGOW: In July of 2003 so it is
5 just within a year's time.

6 MR. GRIFFIS: You said page 4?

7 MR. GLASGOW: Page 4 of --

8 MR. GRIFFIS: Of your submission?

9 MR. GLASGOW: No, no. BZA Order No.
10 17009.

11 MR. GRIFFIS: That was my confusion.
12 Okay. And what was the name of the case?

13 MR. GLASGOW: RWN, Inc. or LLC. RWN
14 Development Group. At page 4 of the order it talks
15 about a post-hearing submission and it says, "The
16 application submitted an outline setting forth
17 standards for regulating the pricing, sale/lease, and
18 resale/release of the affordable housing component."
19 We are amenable to doing that.

20 MR. GRIFFIS: Okay.

21 MR. GLASGOW: If there are no preliminary
22 questions, I would like to proceed with the testimony
23 of the witnesses.

24 Mr. Deutsch, would you please identify
25 yourself for the record? We'll proceed with your

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1 testimony.

2 MR. DEUTSCH: Thank you. Good morning.
3 My name is Don Deutsch and I'm here on behalf of the
4 applicant Faison. As you may be aware, Faison has
5 developed a number of projects in the District
6 including 910 M Street which you granted approval
7 approximately three weeks ago, 400 Mass Ave., the new
8 project that's going on up the street at 4th and Mass
9 which is a 260 unit project. In all we have developed
10 over 300 units in the District in the last couple of
11 years.

12 As Chip mentioned, we are here today
13 seeking various approvals to permit the conversion and
14 expansion of an existing warehouse and commercial
15 building into an apartment house with 48 dwellings
16 including 7 affordable units and 41 parking spaces.
17 The project will only have an FAR of 3.03 which is
18 below the permitted density of 3.5.

19 Janet Holtom is our architect and will
20 talk about the building design. We chose Hnedak Bobo
21 because they are well known for adaptive reuse of
22 warehouse type buildings for residential use and very
23 creative. As I'll mentioned, this is a very difficult
24 building.

25 The site is located at 1701 Kalorama Road,

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1 N.W. and is located in the Reed Cook overlay district.

2 We selected the site for a number of factors
3 including its proximity to Adams Morgan and Dupont
4 Circle areas, as well as a variety of neighborhood,
5 commercial, and residential uses.

6 However, there are a number of practical
7 difficulties associated with the building that require
8 relief that we are seeking here today. First, the
9 site is currently approved with an existing vacant
10 three-story commercial warehouse building with no
11 fully below-grade parking levels requiring a
12 substantial parking area to be included within the
13 building and FAR calculation.

14 The existing building which was originally
15 constructed in the 1930s covers 96 percent of the
16 site. In addition, the floor to ceiling heights of
17 the first and second floors and existing layout of the
18 building are not consistent with the residential
19 building.

20 Second, the site is an unusual shape. The
21 site has five sides. Three and one half of these
22 sides front public space including street frontage
23 along the southern and easter facades and alley
24 frontage along the northern facade and a portion of
25 the western facade.

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1 Third, the problems of an existing
2 building are significant. The structure exist and the
3 loading of the structure has confines that are
4 specific to an existing structure as opposed to a new
5 designed building. This is truly an adaptive reuse
6 with all the attended issues.

7 We have presented our plans to the ANC,
8 the Reed Cook Neighborhood Association, and the Office
9 of Planning and have worked with them on various
10 aspects of the proposal. Although some of them have
11 expressed certain conditions, each of them support the
12 project. With respect to the Office of Planning,
13 although we certainly appreciate their support, the
14 various practical difficulties associated with this
15 project make it impractical to locate some residential
16 recreation space on the roof.

17 Our architect, Janet Haltom, will discuss
18 the specific problems associated with placing all of
19 the required residential recreation space on the roof.

20 In general the requirement to locate residential
21 recreation space is a practical difficulty for the
22 project. We now seek your support and approval in
23 order to proceed with the project.

24 I'll now hand it over to Janet unless
25 there are any questions for me specifically.

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1 MR. GRIFFIS: Thank you very much. A
2 quick question. In your statement and also in your
3 submission, you seem to be resting on the fact that
4 the existing building is creating a uniqueness and a
5 practical difficulty. Is that correct?

6 MR. GLASGOW: That's correct.

7 MR. GRIFFIS: And is there any legal basis
8 on court cases or anything else that the Board could
9 rely on in terms of establishing the existence of a
10 structure as in creating the uniqueness and going to
11 practical difficulty?

12 MR. GLASGOW: Yes. We have cited the
13 Clerics of St. Viator case.

14 MR. GRIFFIS: Yeah, you did site that in
15 your submission.

16 MR. GLASGOW: That's correct.

17 MR. GRIFFIS: Okay.

18 MR. GLASGOW: That case was decided prior
19 to because sometimes there have been questions raised
20 with respect to the application of whether a structure
21 is historic or not. That case was decided before our
22 1978 Historic Preservation Review Board law so that
23 establishes that principle of whether there is a
24 historic building involved or whether there's not.

25 MR. GRIFFIS: I see.

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1 MR. GLASGOW: An existing structure can
2 create the practical difficulty.

3 MR. GRIFFIS: Whether it has even a
4 contributing or any sort of significance, the
5 existence of the building creates that uniqueness.

6 MR. GLASGOW: That is correct. We haven't
7 tied it into any historicity of the building, just the
8 fact that we have an existing building on the site of
9 a unique shape and size. We also have uniqueness with
10 respect to the site. The site slopes 17 feet from
11 north to south with the grade decreasing.

12 We have a very unique shape of the lot as
13 was referenced by Mr. Deutsch and has been shown in
14 the plats that are attached with respect to this site.

15 Also that we have FAR above grade which is unique in
16 this city used for parking.

17 MR. GRIFFIS: Oh, right.

18 MR. GLASGOW: Parking FAR. Having FAR
19 above grade is not unique. Having FAR devoted to
20 parking above grade in the city is unique.

21 MR. GRIFFIS: Okay. And in the prior use.
22 I mean, this was not built for residential.

23 MR. GLASGOW: It was built as a warehouse.

24 MR. GRIFFIS: Okay. Good. Let's proceed.

25 MS. HALTOM: This is our site that we have

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1 just to get your oriented. We've got Kalorama Road
2 right here, 17th Street along here, public alley, and
3 then a public alley back here as well. They talked
4 about it being a five-sided building. You can see the
5 configuration. This parking garage structure right
6 now has an existing ramp that comes up here to get you
7 to the upper levels of the parking garage.

8 MR. GRIFFIS: Is that where your side yard
9 is?

10 MS. HALTOM: Our side yard is along here.
11 Our property line is this point right here coming
12 down and we're about 4 foot 8 inches in from that
13 property line.

14 MR. GRIFFIS: So in that back corner with
15 the confluence of the public alleys is there any
16 structure that's going to be built in that area that
17 is beyond the dark line?

18 MS. HALTOM: I'm going to show you our
19 proposed site plan. This is what we are proposing.
20 We are actually talking about taking a small portion
21 of the existing building down here. In this area
22 we'll remove the ramp that was along here as well and
23 these will become living units.

24 We are proposing to put a sidewalk along
25 here after discussions with the neighborhood

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1 association. We thought that would be an amenity that
2 they would like. We have three parking spaces on the
3 site back here on our property. Are there any
4 questions about the site?

5 MR. GRIFFIS: So the access to the other
6 parking is from Kalorama?

7 MS. HALTOM: The access to the other
8 parking is right through here through an existing
9 garage doors.

10 MR. GRIFFIS: Okay.

11 MS. HALTOM: This is our floor plan for
12 the lowest level. You can see this is where we are
13 coming in through the parking garage. We have
14 numerous parking spaces down here that meet the
15 requirements for zoning. We have 16 standard, one
16 handicap.

17 MR. GRIFFIS: Okay.

18 MS. HALTOM: They meet the size and
19 criteria, yes.

20 MR. GRIFFIS: Okay. The issue is the
21 drive aisle widths so --

22 MS. HALTOM: We have a few pinch points at
23 existing columns.

24 MR. GRIFFIS: Pinch points meaning the
25 open area between the columns?

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1 MS. HALTOM: The open area in this case
2 you can see the open area between this column here and
3 that parking space there is less than the 20 feet
4 required.

5 MR. GRIFFIS: Is there any place that the
6 actual drive aisle is defined by structure like two
7 columns that are in parallel that you couldn't
8 conceivably drive on it?

9 MS. HALTOM: No.

10 MR. GRIFFIS: Okay. So in terms of the
11 dimension of the drive aisle, what's being pushed is
12 the columns are a set area, of course.

13 MS. HALTOM: Yes.

14 MR. GRIFFIS: And then from the
15 dimensional requirement for the parking space, that
16 limits the leftover space.

17 MS. HALTOM: Yes.

18 MR. GRIFFIS: I see. Questions? Everyone
19 clear on that? All right. Let's move ahead.

20 MS. HALTOM: The other thing to note on
21 this plan is the units that are shaded are the
22 affordable units one, two, three, four, five, and we
23 have one market unit on the lower level, seven units
24 total on this floor. Six units, excuse me.

25 MR. GRIFFIS: Okay. No stairs are showing

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1 on those plans. Do those stairs run all the way
2 through the building?

3 MS. HALTOM: This stair here and this
4 stair here are required means of egress for the entire
5 building.

6 MR. GRIFFIS: Right. They are the ones
7 that are going to go up to the roof that we're going
8 to talk about.

9 MS. HALTOM: They are the ones that go up
10 to the roof structure. We have two affordable units
11 on the second floor. You can see one of the unique
12 requirements of this project is the depth of the
13 building. Typically you might see a configuration of
14 a space that is about 1,000, 1,200 square feet but you
15 would see it slanted like 90 degrees here.

16 MR. GRIFFIS: How deep are those units?

17 MS. HALTOM: They are about 53 feet.

18 MR. GRIFFIS: 53 feet?

19 MS. HALTOM: Yes.

20 MR. GRIFFIS: What is the standard
21 residential depth?

22 MS. HALTOM: Closer to 25 or something
23 like that.

24 MR. GRIFFIS: Indeed. So they are twice
25 as deep.

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1 MS. HALTOM: Yes.

2 MR. GRIFFIS: What is the difficulty of
3 having a deep unit? It looks like a nice space.

4 MS. HALTOM: The difficulty of having a
5 deep unit is to get sizes of units that are practical
6 to sell that you get very limited wall space for
7 windows.

8 MR. GRIFFIS: Okay. So you don't get any
9 light or air in the back of those buildings when they
10 get so deep.

11 MS. HALTOM: That's why they are
12 considered lofts. They are true lofts where you have
13 open platform bedrooms.

14 MR. GRIFFIS: That's why people build them
15 usually 25 to 30 feet deep.

16 MS. HALTOM: Right.

17 MR. GRIFFIS: So you get some good light
18 and air.

19 MS. HALTOM: Typically you would have
20 windows in your bedroom.

21 MR. GRIFFIS: Does code require windows in
22 any certain rooms?

23 MS. HALTOM: Codes require windows in
24 every bedroom.

25 MR. GRIFFIS: Okay. So you couldn't put

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1 bedrooms back there so basically --

2 MS. HALTOM: You could not put a bedroom
3 back there that's got closed walls.

4 MR. GRIFFIS: I see. Okay. Let's move
5 ahead. Oh, on that you're showing the corner and the
6 stairs. We're going to get to that briefly so let's
7 hit this home. Why can't you just put those stairs
8 together and make one core and run it up to the roof?

9 MS. HALTOM: Basically the codes require
10 that you have stairs separated by at least a third of
11 the distance of the diagonal of the project and so
12 these have to be as far apart as possible.

13 MR. GRIFFIS: Right. So if there's a fire
14 in the middle, you have two choices to go.

15 MS. HALTOM: You have two choices to get
16 out.

17 MR. GRIFFIS: This is a resident so you're
18 going to have people that live on one end of the other
19 and if the fire starts at one stair. they've got to
20 have a choice to get out the other way. Is the one on
21 your right on A06, is that existing?

22 MS. HALTOM: No, that's new.

23 MR. GRIFFIS: So that's new. Then tell me
24 also the requirements for the exit of those stairs.
25 Do they have to exit right to the sidewalk to the

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1 exterior of the building?

2 MS. HALTOM: The codes require that one
3 stair can exit directly to the outside. That is the
4 stair so when you come down the stair you can exit
5 onto the alley way, a public space. The other stair
6 requirement is such that you can exit from here and go
7 out the lobby so one is lobby and one is outside.

8 MR. GRIFFIS: Basically those are getting
9 you outside, out of the building.

10 MS. HALTOM: Yes.

11 MR. GRIFFIS: Okay.

12 MS. HALTOM: The third floor is basically
13 the same as the second floor. It's when we get to the
14 fourth floor, which is this drawing right here, that I
15 wanted to mention that we're stepping the building
16 back in approximately six feet. We're doing that as a
17 result of talking with the neighborhood and trying to
18 minimize the site lines of the building to, in effect,
19 make the building seem a little bit shorter.

20 MR. GRIFFIS: And offer some great
21 balconies.

22 MS. HALTOM: We offer great balconies,
23 yes.

24 MR. GRIFFIS: Those could see the
25 fireworks, I bet.

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1 MS. HALTOM: This is our roof deck. As
2 you can see, approximately 9,500 square feet of
3 recreational roof deck, the portion that's hatch, that
4 is required by zoning. This area back here would not
5 be roof deck. It would be maintained for mechanical
6 equipment back there. Once you have this much --

7 MR. GRIFFIS: Is it four feet above the
8 roof?

9 MR. GLASGOW: That is correct.

10 MR. GRIFFIS: Okay.

11 MS. HALTOM: Once you have this
12 recreational roof deck space, you are required two
13 means of egress, this one and this one. Also you are
14 required to get handicapped up there so we have the
15 elevator going to the roof deck as well.

16 MR. GRIFFIS: Okay. So let's not move off
17 that one. Give us very quick what are you proposing?
18 My understanding from what you said is you were
19 proposing an occupancy of how many, 49?

20 MR. GLASGOW: 49.

21 MR. GRIFFIS: So let's call it 50 so
22 that's 750 square feet for your residential rec.

23 MR. GLASGOW: That is correct.

24 MR. GRIFFIS: 750 square feet as opposed
25 to 9,400 square feet?

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1 MR. GLASGOW: Right.

2 MR. GRIFFIS: Okay. So let's talk about
3 why we are doing that. Where does the elevator start
4 and stop? When can you take the elevator out?

5 MS. HALTOM: As long as you have any
6 recreational space up there, you will still be
7 required to have the elevator.

8 MR. GRIFFIS: Okay. So the elevator is
9 going 25 square feet or 9,000 square feet.

10 MS. HALTOM: Yes.

11 MR. GRIFFIS: Okay. What are the size of
12 your stairs? Let's say they are 48 inches or whatever
13 they are.

14 MS. HALTOM: They are.

15 MR. GRIFFIS: So what is the population?
16 What is the occupancy that then starts to increase
17 that? Let me ask you. If it increases just off the
18 roof, does it increase all the way through the
19 building or do you just increase it for that one roof
20 level?

21 MS. HALTOM: You have to increase it all
22 the way through the building.

23 MR. GRIFFIS: Okay. So where does it
24 start to increase?

25 MS. HALTOM: When we add 636 people on the

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1 people, then these stairs would have to be twice as
2 wide as they currently are just to support the roof
3 structure.

4 MR. GRIFFIS: Right. So it would be like
5 emptying a stadium.

6 MS. HALTOM: Yes.

7 MR. GRIFFIS: How many can 50 inches
8 satisfy?

9 MS. HALTOM: The existing stairs that we
10 have right now can satisfy approximately 320 people.

11 MR. GRIFFIS: I guess that's where I'm
12 missing. Then why are we looking at a different
13 occupancy proposed? Why wouldn't you maximize the
14 occupancy on the roof for the residential rec that
15 accommodates the standard stair based on the occupancy
16 of the floors below it?

17 MS. HALTOM: Some of the practical
18 difficulty associated with this specific building is
19 that because it is an existing structure, the
20 foundations are existing. All the weight that you add
21 onto the building each time you add additional weight,
22 which is load of people, you have to calculate that
23 into the structure.

24 As soon as you add 50 people or more on
25 the roof, then the codes are going to require this to

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1 be an assembly occupancy which changes the type of
2 building construction that we are allowed to do this
3 building.

4 Not only does it change the roof level but
5 it changes the entire building which means in this
6 case is that our floor slabs that are now a one-hour
7 rating existing construction now have to be beefed up
8 to two-hour ratings. Where we have a T slab
9 construction we have to add another inch and a half of
10 concrete slab on top of everyone of our floor slabs
11 just to meet the rating requirements to make this an
12 assembly occupancy.

13 MR. GRIFFIS: But the assembly occupancy
14 on the roof doesn't change the entire --

15 MS. HALTOM: Yes, it does.

16 MR. GRIFFIS: Interesting. Okay.

17 MS. HALTOM: This is our elevation along
18 17th Street and we're 50 to the point of measurement.

19 You can see the roof structures with the elevator and
20 the stairs are up here. Do you have any questions?

21 MR. GRIFFIS: Yeah, what are the materials
22 of the penthouse? What's the design of it?

23 MS. HALTOM: The existing building is
24 brick and the new construction will be brick as well,
25 and glass.

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1 MR. GRIFFIS: So the stair enclosures and
2 mechanical enclosures are also going to be?

3 MS. HALTOM: Yes.

4 MR. GRIFFIS: And you're showing some
5 limited articulation. I only ask this because, in
6 fact, 411 does give us design jurisdiction. The
7 importance of it and the intent of 411 which regulates
8 the setback and height and all that stuff is the point
9 of not creating visual intrusion from the penthouses.

10 Why don't you talk a little bit in definition about
11 what is being proposed for that.

12 MS. HALTOM: I'm not sure exactly your
13 question.

14 MR. GRIFFIS: What is the design and
15 materials? Do you have any design elevations of the
16 penthouses? You have this overhang that looks like it
17 may be some sort of covering at the door. What is it?
18 What is it made of? What does it look like?

19 MS. HALTOM: What we're doing there is a
20 trellis-like structure that will be supported so it
21 won't be a heavy element. It will be a light and airy
22 component of the elevation.

23 MR. GRIFFIS: So the trellis invokes white
24 wood for me. What is it?

25 MS. HALTOM: It will be metal. Since this

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1 is more of a warehouse building, we are trying to stay
2 in the vocabulary of components of a warehouse that
3 you would see so it will be steel.

4 MR. GRIFFIS: Excellent. So you're going
5 to have a brick penthouse?

6 MS. HALTOM: Yes.

7 MR. GRIFFIS: Similar to the color of the
8 existing?

9 MS. HALTOM: We are actually talking about
10 using a pigmented sealer on the building to darken the
11 brick up a little bit.

12 MR. GRIFFIS: Okay.

13 MS. HALTOM: We've met with the
14 neighborhood and they are in favor of that.

15 MR. GRIFFIS: Well, that says it all for
16 me. Board members, do you need clarification on
17 411.5? You have differing heights and differing --
18 obviously we have two enclosures and one is required.

19 We are looking at differing heights of this. From
20 the application that was submitted, it seems to make
21 logical sense.

22 You don't need all that height to cover
23 some of the mechanical. You need the height in some
24 of the stairs and vice versa so why make them all one
25 when you're trying to limit the intrusion or the mass

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1 of this. Is that correct?

2 MS. HALTOM: That is correct.

3 MR. GRIFFIS: Okay. Is that understood?
4 Do we need to go any further? Mr. Mann, do you have
5 questions?

6 MR. MANN: Not about that. I've got
7 another question about that fire rating but we'll get
8 back to that in a minute.

9 MR. GRIFFIS: On the penthouses?

10 MR. MANN: No.

11 MR. GRIFFIS: Oh, I see. On the floors.
12 Let's go back to it. That's a fascinating question.
13 What is it?

14 MR. MANN: I don't really understand
15 necessarily the implications of the one-hour to two-
16 hour fire rating. Does that have to do with some sort
17 of application that is done to the structure that
18 changes its physical dimensions or is that just the
19 type of materials that's used?

20 MS. HALTOM: That will be a one-and-a-
21 half-inch topping slab that will be poured on the
22 existing slab that will change the slab dimension. It
23 will make it thicker with all the weight associated
24 with that.

25 MR. MANN: And that is on every single

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1 floor?

2 MS. HALTOM: On every single floor.

3 MR. MANN: So it does change the structure
4 of the building slightly because it increases the
5 thickness of each of the floors. Correct?

6 MS. HALTOM: Yes.

7 MR. MANN: And that, in turn, of --

8 MS. HALTOM: Actually, it's quite
9 significant.

10 MR. MANN: Significant in terms of?

11 MS. HALTOM: Structure. Changing the
12 structure for that component.

13 MR. MANN: Because of the change in the
14 physical dimensions or because of the added weight or
15 both?

16 MS. HALTOM: Both.

17 MR. MANN: And then once -- well, then
18 actually that raises another question. Once the
19 weight is added then what sort of effects does that
20 cause?

21 MS. HALTOM: Well, we have that weight and
22 what we have to do is go back and calculate and make
23 sure that the soil foundation can support the loads
24 for all of that. We are already adding another floor.
25 We are starting to add significant weight to this

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1 existing foundation.

2 MR. MANN: And attended to that I supposed
3 it's also obviously more expensive.

4 MS. HALTOM: Certainly.

5 MR. MANN: So that affects the bottom line
6 of the price points that might have to be added.

7 MS. HALTOM: Yes. In effect, we are
8 adding -- when you add the recreational roof space on
9 the roof it's equivalent to adding another story on
10 the building. Normally if you didn't have
11 recreational space up here, you may have designed this
12 for 50 pounds a square foot. Now as soon as you put
13 people up there you have to design it for 150 pounds
14 per square foot. Plus the added weight of each of the
15 slabs getting an inch and a half of concrete on them.

16 MR. MANN: Have any of the studies been
17 done?

18 MS. HALTOM: The preliminary studies are
19 being done right now.

20 MR. MANN: Now, of course, it was
21 originally a warehouse.

22 MS. HALTOM: Yes.

23 MR. MANN: It's more likely that it could
24 support the extra added weight than not?

25 MS. HALTOM: Possibly.

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1 MR. MANN: But the fourth floor, of
2 course, is new so that would change everything.

3 MS. HALTOM: Right. The other requirement
4 is that not only do you have to change the floor
5 ratings, but you also have to change the column
6 ratings as well. They all have to be beefed up to one
7 hour which means --

8 MR. MANN: I'm sorry. Could you repeat
9 that?

10 MS. HALTOM: The structural elements for
11 columns it also changes their requirements for fire
12 ratings where before they didn't have to have any fire
13 rating around them and now they have to have a one-
14 hour fire rating around them.

15 MR. GRIFFIS: And you're saying the floors
16 have to have two hour all the way through the
17 building?

18 MS. HALTOM: Yes.

19 MR. GRIFFIS: Okay.

20 MR. MANN: Is there -- did you do any sort
21 of analysis that substantiates that two-hour rating
22 for every floor?

23 MR. GRIFFIS: Yes. We met with the
24 building department to talk over that issue.

25 MR. MANN: Is that something that we can

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1 take a look at?

2 MR. GRIFFIS: We've got meeting minutes
3 and we've got code analysis. I don't have it with me
4 today but I can provide that.

5 MR. MANN: Would something like that be
6 helpful, Mr. Chairman?

7 MR. GRIFFIS: Yeah, I think for our
8 understanding let's have just a brief code analysis
9 that requires the two-hour rating and occupancy above.

10 MR. MANN: Okay. Thank you.

11 MR. GRIFFIS: Okay. Other questions?

12 MS. MILLER: I have questions related to
13 the residential recreation space.

14 MR. GRIFFIS: Okay.

15 MS. MILLER: I just want to get clarified.
16 Did you say that assembly regulations kick in at 50
17 people?

18 MS. HALTOM: Yes.

19 MS. MILLER: Is that in the building code
20 or in our regulations?

21 MS. HALTOM: The building code. Any
22 building code.

23 MS. MILLER: And could you just state
24 again what kind of requirements kick in at 50?

25 MS. HALTOM: At 50 it changes the floor

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1 slab ceiling assembly from a one-hour rating to two-
2 hour rating which requires an inch-and-a-half concrete
3 slab added to each of the floors. It changes your
4 columns from no rating to a one-hour rating. It also
5 changes your roof assembly at the very top level from
6 no rating to a one-hour rating.

7 MS. MILLER: Okay. Could you flip that
8 down to the roof picture for a minute? That depicts
9 the area that would be for 9,000 square feet of
10 residential rec space. Right?

11 MS. HALTOM: Yes.

12 MS. MILLER: Now, if it were limited to 49
13 people, would you have a smaller area that would be
14 devoted?

15 MS. HALTOM: Yes.

16 MS. MILLER: What would the -- could you
17 just kind of maybe indicate what that area would be?

18 MS. HALTOM: We would probably to it
19 pretty much around this component here so that you can
20 see over the building and look down the street but we
21 haven't worked out the exact location.

22 MR. GRIFFIS: What does 750 square feet
23 look like on that roof?

24 MS. HALTOM: I didn't really figure that
25 but I would say something about in this kind of

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1 configuration.

2 MS. MILLER: And what would the rest of
3 the area be like?

4 MS. HALTOM: We have some serviceable
5 things that have to be up there like mechanical
6 equipment.

7 MS. MILLER: That's in the other half?

8 MS. HALTOM: Yes. We'll screen that. It
9 would be a roofing material.

10 MS. MILLER: And I think I've heard this
11 in other proceedings so I'm wondering if you
12 considered what might be called passive residential
13 recreation space which would be landscaped or garden
14 or something attractive for the people who are up
15 there to view?

16 MS. HALTOM: That would be something that
17 could be considered.

18 MS. MILLER: Okay.

19 MR. DEUTSCH: We certainly want that roof
20 area to be an amenity. The issues for us was the
21 assembly rating on an existing building really. We
22 want this to be an amenity for the building. We want
23 people up there. We want it to look nice. We want it
24 to be a place where people can come but for residents
25 to come, not the entire Adams Morgan.

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1 (Whereupon, the end of Tape 1, Side A.)

2 MS. HALTOM: It would be a little less
3 than half of that.

4 MR. MANN: So where is the -- I guess
5 maybe I'm confused but what is the tipping point
6 between having to switch from a one-hour to a two-hour
7 fire rating?

8 MS. HALTOM: 50 people. Anything less
9 than 50 people.

10 MR. MANN: So it's right at 50 people.

11 MS. HALTOM: 50 people or more is
12 considered an assembly occupancy which changes the
13 entire building construction time.

14 MR. MANN: Okay.

15 MR. GRIFFIS: Next.

16 MS. MILLER: I don't know if you can
17 quantify this but, yeah, I just want to get a good
18 feel for the possibility of going beyond 50. How
19 great a cost is that? Is there a middle ground
20 between 600 and 50? What if it went to 200 or
21 something or once you go over 50 you're just over?

22 MR. GRIFFIS: Let's be absolutely clear.
23 There seems to be two regulating aspects of this. One
24 is the size of the stair which is based on the
25 occupancy of what it can handle. Right? How many

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1 people can you put down and that will give you the
2 dimension of the stair.

3 That we are being told the stairs now
4 sized could not handle the 600 occupants but they
5 could handle 300. Obviously I'm just rounding off
6 numbers. The stairs aren't the issue -- the last
7 issue. It's one issue. The next is above 50. Once
8 you go above 50 you are assembly is what is being
9 testified here today. It's an assembly use.

10 In building code an assembly use is going
11 to have different types of requirements. What we are
12 being told here is in terms of the fire rating for the
13 structure. Anything above 50, anything above 750
14 square feet will add to the one-hour rating on the
15 columns and two-hour rating on the slab.

16 MS. HALTOM: Correct.

17 MS. MILLER: Okay. Does that mean in this
18 instance that 750 square feet has to look different
19 from the rest of the 9,000 and people can't go beyond
20 that 750 square feet? I mean, how does this work?

21 MS. HALTOM: I think we would get creative
22 on how we design that because, as Don mentioned, we
23 want this to be an amenity for the people who live in
24 this building and we just have to look at how we can
25 maximize the visual effect of that and look at

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1 creative ways to landscape or provide features out
2 here so that it's not --

3 MR. GRIFFIS: Let me see if I understand
4 the question because what you're saying is aren't you
5 going to terrace the whole thing and just say, okay,
6 but only 50 people can go up? No, they can't create
7 areas that are occupiable so the hardscape of what you
8 could walk on is going to be 750 square feet.

9 If they have wild grass growing across the
10 rest of it or rice patties in the rear, that may well
11 be. I'm not sure we could -- I mean, is that what
12 you're trying to push to is the design of the rest of
13 the building?

14 MS. HALTOM: Yeah, just trying to figure
15 out the practicality of how it works other than just
16 limiting it to 49 people which it would be, you know,
17 but, okay, only 750 square feet you're saying is going
18 to be occupiable. I wouldn't think consistency would
19 be that different. You could walk to another part of
20 the roof without --

21 MR. GRIFFIS: No. No, you won't be able
22 to.

23 MS. HALTOM: No, you won't be able to.
24 You can only walk in a certain area. That's the
25 reality?

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1 MR. GRIFFIS: That's correct.

2 MS. HALTOM: Okay. That's what I'm just
3 trying to understand how it works. Okay.

4 MR. GRIFFIS: They may have pavers out to
5 service the mechanical equipment but nice big paves
6 through rosebushes on the roof isn't going to happen.

7 If I understand the testimony today, the building
8 code review is looking at what a person could get into
9 at 15 square feet so conceivably anything that you
10 animate to essentially use is going to count towards
11 that which would go to the occupancy of the roof.

12 MS. HALTOM: That's correct.

13 MR. GRIFFIS: We're not supposed to deal
14 with building code which is why this is all so
15 confusing. Okay. Let's move on and we'll get
16 clarification as we go ahead. Anything else you want
17 to show us in the plans?

18 MS. HALTOM: I think that will be it.

19 MR. GLASGOW: I'd like to call the last
20 witness, Mr. Steven Sher.

21 MR. GRIFFIS: Indeed.

22 MR. SHER: Mr. Chairman and members of the
23 Board, for the record, my name is Steven E. Sher,
24 Director of Zoning and Land Use Services with the law
25 firm of Holland and Knight. I apologize for the late

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1 submission to you of this outline. I thought it had
2 been done before I went on vacation and left it in
3 hands to get done but it didn't so there it is.

4 I think what the Board has in front of it,
5 and I will summarize what it is that's in writing
6 here. We've got five areas of relief, variances on
7 the lot occupancy, the side yard, the width of the
8 drive aisle, and the residential recreation space and
9 the special exception for the height to go from 40
10 feet to 50 feet.

11 This is a Reed Cook C-2-B district. The
12 normal height permitted in C-2-B is 65 feet but the
13 Reed Cook overlay limits that to 40 feet provided that
14 you can go back up to 50 feet. If you do half the
15 additional floor area and affordable housing, those
16 calculations have been set forth in our application
17 and we are meeting that standard.

18 MR. GRIFFIS: And you're reading in the
19 Reed Cook overlay in terms of the bonus FAR or the
20 bonus height in terms of if you provide the affordable
21 units. Does that outline or direct where those units
22 are to be within the building?

23 MR. SHER: It doesn't say anything about
24 that at all. In fact, it makes it clear that it is
25 not the additional space that has to be devoted to

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1 affordable housing but it is an area equal to half of
2 the additional space that has to be devoted to those
3 units. We have seven units that make up that 9,000
4 and some odd square feet.

5 MR. GRIFFIS: Go ahead.

6 MR. SHER: On three of the variances we
7 are essentially dealing with existing conditions of
8 the building that create the reason for the variances,
9 the lot occupancy, the side yard, and the parking
10 aisle width.

11 The existing building has a lot occupancy
12 of over 96 percent on the first floor, slightly lower
13 than that on the second and third floors. The fourth
14 floor which is the only new floor in the building will
15 actually be below the permitted lot occupancy.

16 As a nonresidential building there is no
17 lot occupancy requirement at all but once we convert
18 the building from its existing warehouse use to
19 residential, then the 75 percent lot occupancy kicks
20 in and either we have to get a variance or we have to
21 take 3,500 square feet out of the building per floor
22 and that just doesn't seem to be reasonable or
23 warranted.

24 Again, as Mr. Glasgow indicated earlier,
25 the Court of Appeals has indicated that the existence

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1 of a structure can be part of the factors that the
2 Board considers in determining exceptional situation
3 or condition as the basis for a variance.

4 The side yard issue, again, on the alley
5 side of the building which would be on the north side,
6 no side yard is required but if a side yard is
7 provided and has to meet a certain minimum width, the
8 existing side yard does not meet that width and the
9 addition on the top floor is on the line of the
10 building at that point because the setback would be
11 only three feet if you had to go up at that point
12 which creates difficulties for the structure and the
13 design of the building.

14 Essentially we are asking to follow the
15 existing wall of the building up on that north side
16 and, therefore, there would not be a side yard
17 provided for the fourth floor because there isn't --
18 I'm sorry. There would be a side yard but not a
19 conforming side yard provided for the fourth floor
20 because it's following the same line of the building
21 as exist at the moment.

22 As the Chair indicated with respect to the
23 aisle width in the garage, it is the location of the
24 columns vis-a-vis the location of the parking spaces
25 that create the difficulty there. Those dimensions

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1 are slightly less than a foot at the worse case
2 scenario and only four inches in one other location.
3 It's only four points within the garage.

4 From a functional and operational point of
5 view it's pretty clear that the garage will work well
6 and that shouldn't be an issue. It's not that big a
7 garage and there won't be that many times in the day
8 when two cars would want to pass those columns at
9 exactly the same time going in opposite directions.
10 That would seem to suggest granting that variance
11 would be a problem.

12 The Board has been through the question of
13 do we have recreation space and additional relief on
14 the roof structure or do we have no recreation space
15 and the roof structure relief goes away. We are back
16 around to the point of saying we would like to have a
17 reduction in the amount of space.

18 I think you've had those discussions with
19 the architect in terms of while the Zoning Regulations
20 have a requirement, those regulations have to also be
21 read in conjunction with the other codes and
22 ordinances of the District of Columbia and the
23 architect has gone through with you and I think you've
24 heard enough about that that I don't need to add
25 anymore to what happens to the building if you have 50

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1 or more people on the roof and what that does and why
2 that is a difficulty for this particular project.

3 As to the special exception for the roof
4 structures, again that is a situation which this Board
5 has seen a lot of. The means of egress requirements
6 tend to want to push the elements of the stairs as far
7 apart as they can. The Zoning Regulations tend to
8 want to say they should be in one enclosure so in
9 order to put them in one enclosure you've got to build
10 a whole lot more structure up there to connect the two
11 which would serve no purpose whatsoever.

12 What we would like to do is have the two
13 roof structures and keep them at the heights minimum
14 necessary to serve their functions which would mean
15 that we have two with walls of differing height.
16 Again, what compliance would mean would be we would
17 have higher roof structures and more roof structure
18 rather than lower and less which is what seems to be
19 antithetical to what the regulations are suggesting
20 ought to happen on the roof.

21 For all of those reasons, we believe that
22 the Board should grant the relief that we have
23 requested and that we would seek the reduction in the
24 residential recreation space on the roof to no more
25 than 750 square feet or less than 50 occupants at 15

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1 square feet per occupant under the building code.

2 MR. GRIFFIS: Questions?

3 MS. MILLER: I have two questions. One is
4 if we divided the residential recreation space between
5 active and passive, would you not need a reduction in
6 residential recreation requirement? Active meaning
7 certain area allowed only for people and the rest
8 passive.

9 MR. GLASGOW: Ms. Miller, I think we can
10 try to address that with the building code officials
11 because we have the space up there. The issue has
12 come about through Ms. Haltom's meeting with the code
13 officials as to what it is that they want. If they
14 will allow us to placard the space for 49, have a
15 passive area and an active area, and leave it at that,
16 I believe. Mr. Deutsch, would you --

17 MR. DEUTSCH: Yeah, we are definitely
18 amenable to that. Again, our goal is to make it an
19 amenity. The issue for us was the assemblage
20 occupancy. We would love to build it out as is
21 without the consequences attended to the building
22 below.

23 MR. GRIFFIS: So if we took out the whole
24 assembly building code issue, you would be prepared to
25 do something upwards of 300 occupancy on that roof?

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1 MR. DEUTSCH: Except that we couldn't
2 actually -- we would have to have a way to limit it to
3 49 but in terms of the area --

4 MR. GRIFFIS: Is that the stair dimension,
5 249?

6 MR. DEUTSCH: I'm sorry, not 249. I'm
7 sorry. Limited to 49.

8 MR. GRIFFIS: Oh, to 49.

9 MR. DEUTSCH: Yes.

10 MR. GRIFFIS: I'm saying if you get away
11 with -- well, I guess you can't. Okay.

12 MR. DEUTSCH: I think I understand Ms.
13 Miller's question and I understand your goal is the
14 same goal as ours. The difficulty is we will have to
15 get the code officials to agree to look at that as
16 space with a 49 limit.

17 MR. GRIFFIS: Other questions?

18 MS. MILLER: Mr. Sher, I was wondering if
19 you have a copy of the covenant that was in the BZA
20 order 17009 with you? I mean, I remember it but I
21 don't remember the specifics.

22 MR. SHER: I don't have it with me. We
23 can obviously get it out of the file but I don't have
24 it here.

25 MS. MILLER: Okay.

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1 MR. GRIFFIS: The covenant was for the
2 affordable housing which is what you mentioned in the
3 beginning. It was done by the developer. Who was the
4 other signer? Was it the Department of Housing?

5 MR. GLASGOW: The developer was Richard
6 Nang.

7 MR. GRIFFIS: Right. I know, but who was
8 the covenant between?

9 MR. GLASGOW: I can't remember whether it
10 was the District or not.

11 MR. GRIFFIS: The Government must have
12 had, as I recall.

13 MR. GLASGOW: Right, had a role in there.

14 MR. GRIFFIS: And then actually set the
15 parameters for the affordability.

16 MR. GLASGOW: That's correct and that's
17 what they do under the regulations. It's all driven
18 by DHCD so that when we saw what was in that order,
19 that's fine with us.

20 MR. GRIFFIS: Okay. And they would set
21 the ceiling. This is a rental or is it a condo for
22 sale?

23 MR. GLASGOW: Condo for sale.

24 MR. GRIFFIS: It is for sale?
25 Fascinating. Okay.

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1 MS. MILLER: With respect to the
2 affordable housing question of the units, I think that
3 was one of the issues raised by the ANC and OP. I'm
4 not sure that you responded to that question there
5 being only one area or section of the building versus
6 being dispersed throughout.

7 MR. GLASGOW: What we agreed to do is that
8 we would have five on the ground floor and two on the
9 second floor, whereas the regulations don't have any.

10 They do not mandate where the units would be so long
11 as the square footage is provided which we are doing.

12 We started with seven on the ground floor or that
13 area. Seven on the ground floor.

14 We had a meeting with the Office of
15 Planning. They asked if we dispersed them more
16 through the building and we were happy to do that so
17 we did five and two. At some point in time it starts
18 to take its toll on the project with having conditions
19 that aren't in the regulations because when the
20 developer was first looking at the project, I had Mr.
21 Deutsch testify to it, he was told because there is no
22 requirement within the regulations as to where the
23 units go and that drives how it is that you acquire
24 the property and what it is that you think you can do
25 to it.

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1 Since the last case the floor has been cut
2 off the building. We've got residential units on the
3 ground floor. A lot of things have been done that all
4 depress values and then we've sort of been, I don't
5 want to use the word blindsided, but we've been hit
6 with additional requirements that is not in the
7 regulations while we've tried to accommodate.

8 I think there has been a lot of
9 accommodation shown in the fact that we now have no
10 opposition to the case whereas before a lot of people
11 had a lot of concern about the project and the
12 application was previously withdrawn.

13 MR. GRIFFIS: Okay.

14 MS. MILLER: Just as a follow-up, I hear
15 what you're saying about doing things that aren't
16 required by the regulations but you made a statement
17 how it takes it toll on the building. They're asking
18 for something and what is your response as to how it
19 takes it toll or why it may decrease?

20 MR. GLASGOW: Sure. I can have Mr.
21 Deutsch --

22 MR. GRIFFIS: Let's just cut to the quick.
23 If you're talking about limiting the sale, this is a
24 condo. When we talk about the affordable, clearly
25 that's going below market. Common sense I think can

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1 tell you that you are not selling it for what you
2 would do if it was just a straight market so it's
3 taking a toll. Am I correct? Is that what your
4 statement is?

5 MS. MILLER: That's not my question. My
6 question is location within the building.

7 MR. GRIFFIS: Yeah, because they are more
8 valuable as they go up.

9 MR. GLASGOW: The units are more valuable
10 as they go up so we have to trade going up so that's a
11 problem.

12 MS. MILLER: Thank you.

13 MR. GRIFFIS: Whether we agree with that
14 or not, as long as we understand what the issue is.
15 Okay. Any other questions or follow-up? We've got to
16 pick up speed a little bit here and I'm afraid I'm the
17 one that has delayed this so much but last question.
18 If this is a condo, why aren't you building private
19 roof terraces on the roof having access off of your
20 top units?

21 MR. DEUTSCH: That wouldn't be public open
22 space.

23 MR. GRIFFIS: Yeah, I don't care. I want
24 to know why wouldn't you do that to animate the roof
25 and get some people up there. Have you looked at

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1 that? You don't have to answer but have you
2 investigated that possibility?

3 MR. DEUTSCH: The answer is no. We figure
4 -- I mean, to make it more usable for everybody,
5 though. If you make it just private roof terraces,
6 then the people on the third, second, and first floors
7 can't use it.

8 MR. GRIFFIS: You're going to have a lot
9 of extra space. If we were to approve this and 700
10 square feet and you've got a total roof area of
11 probably close to 12,000 square feet, you would have a
12 lot of area for private terrace. It doesn't matter.
13 It doesn't go to this case so I don't want to spend
14 the time doing it. Let's go on. Any other questions
15 from the Board?

16 Mr. Glasgow, anything else?

17 MR. GLASGOW: That completes our direct
18 testimony.

19 MR. GRIFFIS: Excellent. Okay. Let's
20 move on then to the Office of Planning.

21 MR. MOORE: Good morning, Mr. Chair, and
22 members of the Board. I'm John Moore, the Office of
23 Planning. The Office of Planning still stands in
24 support of the application. There's one clarification
25 that we'll seek. The architect mentioned the

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1 possibility, I think, of locating units in the area of
2 the ramp in the rear of the building. Does that cause
3 a reconfiguration or additional units? I don't quite
4 understand.

5 MS. HALTOM: We are removing the ramp and
6 that will not be accommodating any residential indoor
7 space. that will be outdoor space.

8 MR. MOORE: Would there be units in that
9 area?

10 MS. HALTOM: No, there will not be. There
11 will be outdoor patio space, private patio space.

12 MR. MOORE: Okay.

13 MR. GRIFFIS: That hasn't changed from the
14 plans that were submitted in the application, right?

15 MS. HALTOM: That's in the plans.

16 MR. GRIFFIS: There's possibly a bit of
17 misunderstanding there. Okay.

18 MR. MOORE: With that answer being
19 sufficient, we still support strongly that there
20 should be recreation space on the roof. Ms. Miller
21 offered a compromise that could possibly be workable.

22 Finally the last paragraph in the OP report talks
23 about the clustering of the units. We think there
24 should be elsewhere in the building other than on the
25 first floor.

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1 Although we did meet with the applicant
2 and at our first meeting we did discuss moving two of
3 the units from the first floor to the second floor, we
4 now support the ANC and Reed Cook's position that
5 there should be at least three units other than on the
6 first floor. With that, I'll take questions.

7 MR. GRIFFIS: Excellent. Thank you very
8 much, Mr. Moore.

9 Any questions from the Board? Ms. Miller?

10 MS. MILLER: With respect to that
11 clustering, I don't recall how many units there are on
12 the first floor but --

13 MR. GRIFFIS: Five.

14 MS. MILLER: Oh, there's only five total?

15 MR. GRIFFIS: Oh, total?

16 MS. MILLER: Six? All right. So it's not
17 like they could be scattered throughout the first
18 floor. Okay. I don't have any other questions.

19 MR. GRIFFIS: Anything else from the
20 Board? Cross examination from the applicant?

21 MR. GLASGOW: Just a couple questions.
22 Mr. Moore, are you aware of any provision in the
23 regulations dealing with Section 1402 that discusses
24 where the affordable unit should be located within the
25 building?

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1 MR. MOORE: Absolutely not.

2 MR. GLASGOW: I have no further questions.

3 MR. GRIFFIS: Thank you. Okay. Let's
4 move ahead. If there's nothing else from the Office
5 of Planning, then I'll ask again whether ANC-1C is
6 here. Very well. We do have their report. Or do we
7 have their report? Do you have an official report
8 from the ANC?

9 MR. GLASGOW: No, sir.

10 MR. GRIFFIS: I have that which was
11 attached to the OP with conditions. Did you see the
12 report come into the file?

13 MR. GLASGOW: I have a signed copy of a
14 report if you all would like my copy.

15 MR. GRIFFIS: Yeah, let's make copies of
16 that just so we get it into the record.

17 MS. BAILEY: Where is the file addressed
18 to, Mr. Glasgow?

19 MR. GLASGOW: Well, it's addressed to the
20 Chairman and it's got 441 4th Street N.W., Suite 210.
21 It looks like it's Exhibit No. 20 in your file.

22 MR. GRIFFIS: Really? Exhibit No. 20.
23 Yeah, 20 is the notice to the ANC. We're not going
24 to wait for that. We obviously know the ANC report is
25 coming. The OP clearly talked about it. I think the

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1 Board has a full understanding. The question from the
2 Board for the applicant is Condition No. 1 by the
3 Commission was their support was contingent on having
4 a full understanding and some control over mitigating
5 the construction phase of this. What has happened in
6 terms of that and how is that being structured with
7 the ANC and the applicant?

8 MR. GLASGOW: We would be going back to
9 there have been some changes within the Department of
10 Public Works as to how they deal with public space
11 permits and you go back now to the ANC before you get
12 your public space permits. We told them we have no
13 objection to the condition just because we know we are
14 going to have to be doing it in any event with respect
15 to how --

16 MR. GRIFFIS: The public space permit
17 you're saying is going to go into the means and
18 methods, the actual construction staging?

19 MR. GLASGOW: Yes, that's what they do
20 now.

21 MR. GRIFFIS: So if I understand you,
22 there's a whole other agency that regulates that and
23 has oversight over that. Is that correct?

24 MR. GLASGOW: That is true.

25 MR. GRIFFIS: Anyone want to take them on?

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1 Good. Let's move on. So it's pretty clear that you
2 will get into an agreement and go back to the ANC and
3 deal with all those issues.

4 MR. GLASGOW: Yes.

5 MR. GRIFFIS: The Board is very sensitive
6 for several reasons. One, just keeping an open
7 communication with the ANC. Two, we don't like to
8 overstep our bounds and going to construction
9 management agreements goes beyond our jurisdiction.
10 But, three, we are also very well aware of this
11 neighborhood because we've now seen probably 85
12 applications on this block.

13 That's a big joke but, nonetheless, we're
14 aware of the size of the streets and what's happening
15 in that area. We take that under great seriousness
16 when the ANC brings it up. Okay. Any other questions
17 then attended to that? We do have now in the file the
18 copy of the ANC report that was dated June 14, 2004.

19 If there is nothing further on that, then
20 let's move on. We do have the Reed Cook Neighborhood
21 Association. Is anyone here representing Reed Cook?
22 If they are here, they can come forward. I don't see
23 anyone representing the Neighborhood Association.

24 They were also interested in the clustering of
25 the affordable units. They also dealt with the

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1 restructure of not trying to go beyond the height of
2 the roof or the roof structure. I think we have
3 addressed that. Any other questions or follow-up on
4 that from Board members?

5 Okay. Anything else? Is anyone here then
6 to give testimony with regard to Application 17175
7 either in support or in opposition? Follow-up
8 questions?

9 Your April 1, '04, A10 which was the color
10 rendered elevation, it seems to indicate there's some
11 glass in the penthouses or one of the penthouse
12 structures?

13 MS. HALTOM: Yes.

14 MR. GRIFFIS: Is that still anticipated?

15 MS. HALTOM: Yes.

16 MR. GRIFFIS: Where would that be?

17 MS. HALTOM: These wide expanses here.

18 MR. GRIFFIS: No, that's on your floor
19 addition. What about your penthouse structure?

20 MS. HALTOM: Oh, this is glass here and
21 glass in there. It's similar to what is on the
22 colored renderings.

23 MR. GRIFFIS: What does the glass look
24 into?

25 MS. HALTOM: It's just a vestibule.

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1 MR. GRIFFIS: Okay. I'm sorry but can you
2 go back to the plan then?

3 MS. HALTOM: Roof plan?

4 MR. GRIFFIS: Yes. I can probably find
5 it.

6 MS. HALTOM: This portion here, all along
7 here will be glass.

8 MR. GRIFFIS: Okay. So that's the
9 elevator. You walk out of the elevator into that
10 area.

11 MS. HALTOM: Elevator and stairwell. It's
12 a vestibule. Glass vestibule.

13 MR. GRIFFIS: So that also diminishes any
14 sort of massive intensity of these huge structures on
15 top. That's a little bit of humor, too. It fits the
16 architectural language of the building itself.

17 MS. HALTOM: Yes.

18 MR. GRIFFIS: Are you going to have those
19 signs on the corner? Is that what you are proposing?
20 Are they going to be fabric, canvas, or are they
21 metal?

22 MS. HALTOM: We haven't gotten to that
23 point yet.

24 MR. GRIFFIS: It's none of my business
25 anyway so let's move on. Okay. I don't have any

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1 other questions. Do any Board members have any other
2 follow-up questions? Mr. Mann?

3 MR. MANN: I have a question. You
4 probably addressed this earlier but if the roof top
5 deck is considerably smaller, then are both penthouses
6 required?

7 MS. HALTOM: If we reduced it to the 49
8 people or less, which would be about the 750 square
9 feet, then we can eliminate one stairwell to the roof.
10 We just have to have one.

11 MR. MANN: Okay.

12 MR. GRIFFIS: Okay. Anything else?
13 Follow-up? Excellent. Okay. There was a lot to get
14 through on this one. I don't think it is that
15 complicated once we boil it all down. However, the
16 Board has asked, I believe, just for some quick
17 submissions on this. Where are we? We're at the
18 29th?

19 We're going to set this for decision
20 making on the 6th of July which is our normal meeting
21 for decision. That's next week. Isn't it? No, it's
22 the week after. Now, this is the situation that you
23 need to be realistic about. Well, gosh darn it. I
24 don't think we're going to be able to do it. The
25 Board is requesting just that the code analysis be

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1 submitted. That shouldn't take any time to get in.

2 It seems like the Board wants to have a
3 little bit of a better feel of what is being
4 requested, what is the schematic design for the roof
5 if the relief is granted? What is it going to look
6 like and what are you proposing to do? I think you
7 heard the vice chair talk a lot about how would you
8 animate the rest of the roof area without making it
9 occupiable.

10 I don't think we are going to give any
11 specific direction to that but it would be well worth
12 having. The question comes can that be provided by
13 3:00 tomorrow setting this for decision making on July
14 6 or we can put it off for another week to give it a
15 full week to do it.

16 MR. DEUTSCH: We will have it to you by
17 3:00 tomorrow.

18 MR. GRIFFIS: Excellent. Okay. That is
19 submitted to the Office of Zoning here. Ms. Bailey
20 will answer any questions in terms of what that is.

21 Ms. Bailey, anything else then?

22 MS. BAILEY: No, Mr. Chairman.

23 MR. GRIFFIS: I'm sorry. Any closing
24 remarks? Any summations?

25 MR. GLASGOW: No, I don't think we need

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1 that. I think the record is pretty clear in this
2 case.

3 MR. GRIFFIS: I do, too, and I think we
4 can move ahead very quickly on the 6th with this and
5 we look forward to getting that information. I'm
6 going to leave the record open also for anything else
7 attended to the provision of the square footage on the
8 foot. I think it's fairly clear that the Board is
9 trying to push you to make as much available as
10 possible. It's just a great amenity. It's something
11 the city lacks terribly and for us to preclude it from
12 being able to be provided seems to be ridiculous.
13 Clearly I think if there is any direction, that is
14 fairly clear. Okay. If there aren't any further
15 questions on that, then let's proceed. Thank you all
16 very much for being here.

17 MR. GLASGOW: Thank you.

18 MR. GRIFFIS: We look forward to deciding
19 this on the 6th.

20 Ms. Bailey, when you're ready, why don't
21 we call the next case then.

22 MS. BAILEY: The second case this morning
23 is Application No. 17179 of the Heritage Foundation,
24 pursuant to 11 DCMR 3104.1, for a special exception to
25 continue an accessory parking lot (last approved under

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1 BZA Order No. 16250) serving single-family dwellings
2 under Section 214, and pursuant to 11 DCMR 3103.2, a
3 variance to allow accessory parking spaces located
4 elsewhere than on the same lot as the dwellings under
5 Subsection 214.1, a variance to allow the accessory
6 parking spaces to be located more than 200 feet from
7 the area to which they are accessory under Section
8 214.3, and a variance to allow the accessory spaces
9 not being contiguous to or separated by an alley from
10 the area to which they are accessory under Subsection
11 214.4, in the CAP/R-4 District at premises 415, 416
12 and 424 4th Street, N.E. (Square 780, Lots 43, 62, and
13 810).

14 MR. GRIFFIS: That's a mouthful.

15 MS. BAILEY: Yes, it is.

16 MR. GRIFFIS: Thank you very much, Ms.
17 Bailey. Is Mr. Henry Miller here? Henry Miller?
18 Board members, as you are well aware, we have party
19 status application, Exhibit No. 21, from Henry Miller,
20 416 4th Street. I had some questions actually because
21 it wasn't exactly clear to me the basis for granting
22 party status. Why don't I have anyone introduce
23 themselves.

24 MS. PRINCE: Allison Prince with Shaw
25 Pittman. We made several efforts to contact Mr.

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1 Miller because his comments were so inconsistent with
2 all of the other input we had received on the
3 application and we did not hear back from him so I'm
4 not surprised he's not here.

5 MR. GRIFFIS: Okay. Board members, any
6 comments on this?

7 MS. MILLER: If he's not here, I think
8 it's pretty difficult for him to participate as a
9 party so I would be in favor of denying party status.

10 MR. MANN: Yeah, I agree.

11 MR. GRIFFIS: Thank you. I think it fails
12 actually on the substance of granting the party
13 status. I mean, there is a proximity but it's not
14 substantiated with necessarily the impact. Anyway,
15 let's move ahead then. If Mr. Miller shows up, we can
16 take his testimony. Very well. Let's proceed.

17 MS. PRINCE: Good morning, Chairman
18 Griffis and members of the Board. I'm here today on
19 behalf of the Heritage Foundation. This case is a lot
20 simpler than the areas of relief would suggest.

21 MR. GRIFFIS: Good.

22 MS. PRINCE: Heritage owns and operates
23 accessory parking spaces on three alley lots that are
24 located in the interior of square 780 which is one
25 square away from its main headquarters building.

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1 Because heritage as an accommodation to the neighbors
2 allows them to park in these spaces during evening
3 hours, we need variance relief because the accessory
4 parking section 213 specifically does not allow
5 parking for single-family dwellings.

6 In addition, we need relief from the
7 requirement that the use to which the lot accessory is
8 within 200 feet of the lot. Heritage is within 200
9 feet of the lot. However, in the interest of allowing
10 anyone in the vicinity to park in the lots after
11 hours, we need relief from that section. Some of the
12 area restaurants and other neighbors have taken
13 advantage of the lot at night.

14 I have with me today Ted Schelenski who is
15 the Vice President of Finance and Operations for
16 Heritage. He will present the only testimony that we
17 will have today. However, Frank Downes is here as
18 well. He's the Director of Security for Heritage. He
19 is familiar with the daily operation of the lot.

20 There are really three lots because it's
21 three separate alley lots in the world's most
22 complicated alley system. But the lot has been
23 operating for 12 years without incident. It operates
24 in strict compliance with the conditions that govern
25 its operation. We are not seeking any changes to any

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1 of those conditions. We are seeking a 10-year term.
2 The last term was for seven years.

3 The application has been scrutinized by
4 the neighborhood. We have appeared before Advisory
5 Neighborhood Commission twice, ANC-6C. It used to be
6 6A. We have appeared before the Capitol Hill
7 Restoration Society and we have appeared before the
8 Stanton Park Neighborhood Association. We are aware
9 of no opposition to the application with the exception
10 of the one request for party status.

11 We are aware of extensive support among
12 the property owners in the square who regard the lot
13 has highly -- it functions well for them. Provides
14 evening parking and is very, very well maintained and
15 has security in their neighborhood. I think there are
16 several letters of support in the application. Many,
17 many of the neighbors attended the ANC meeting to
18 support the continued use of the lot.

19 If the Board has no questions, I would
20 like to proceed with Mr. Schelenski's testimony and
21 then we can conclude the case.

22 MR. GRIFFIS: A couple of quick questions
23 and clarification. First of all, I think as it boils
24 down, this isn't has complex as it does appear and as
25 it reads. However, these are the critical aspects to

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1 the Board is when does an accessory parking lot become
2 a parking lot.

3 MS. PRINCE: Um-hum.

4 MR. GRIFFIS: And I think that is a
5 clarification. Some of the pause it's given me and
6 perhaps other Board members is when we start granting
7 relief for the use beyond 200 feet, does that not
8 overstep what the accessory is? Is it redefining it?

9 I think the big question is, and one of the
10 statements in the submission talks about in the event
11 that Heritage doesn't need the parking, it can be
12 utilized. At some point in two years

13 Heritage is building a huge parking garage somewhere
14 else and won't use this and will leave this out or is
15 this kind of swing basis after hours that Heritage is
16 not parking there?

17 MS. PRINCE: On a swing basis after hours.

18 I think the Office of Planning misunderstood that
19 statement as well. That is simply the accommodation
20 that Heritage makes to the neighbors to allow parking
21 after hours.

22 MR. GRIFFIS: Great. So this lot doesn't
23 sit empty for periods after the office building is
24 empty?

25 MS. PRINCE: Exactly.

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1 MR. GRIFFIS: I see.

2 MS. PRINCE: Exactly. The distinguishing
3 factor, I believe, between a commercial parking lot
4 and accessory parking as we have in this application,
5 one of the key distinguishing factors is that no
6 spaces are made available for rental by anyone. They
7 are accessory to Heritage's use and neighbors park
8 after hours at no expense.

9 I believe that it doesn't qualify as a
10 commercial parking lot in any way which would be not
11 only. That would be filed under the wrong section
12 number if we were a pure commercial parking lot. They
13 are also banned in the capital interest area of the
14 District.

15 MR. GRIFFIS: We are spending a lot more
16 time focusing on that because it's a huge distinction
17 between accessory and parking at the Capitol Hill
18 interest district. Okay. Capital interest district.

19 Let's just get clarification for the 200 feet. Are
20 all the lots within 200 feet? Is lot 43 within --

21 MS. PRINCE: All the lots are within 200
22 feet of the Heritage property.

23 MR. GRIFFIS: Okay.

24 MS. PRINCE: And all the lots are within
25 200 feet of all the property owners in the square.

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1 But there are occasions. Probably infrequent but
2 there are occasions when restaurants that are located
3 on the other side of Mass Ave would have patrons park
4 in this spot or people that live in the vicinity but
5 not within 200 feet park in the lot. The lot has been
6 around a long time. Importantly the church. The
7 church that is located in the same square as Heritage
8 uses the lot on Sundays.

9 MR. GRIFFIS: And they are not within 200
10 feet?

11 MS. PRINCE: They are within 200 feet. If
12 it were something that had been abused and the lot
13 were overrun with uses that are more than 200 feet
14 away, we wouldn't even seek the relief but it hasn't
15 been and it's just been a very peaceful coexistence
16 where they use the lot after hours. It's predominated
17 by property owners in the square and immediate
18 business owners. There's a restaurant in the
19 immediate square with an occasional use by others.

20 MR. GRIFFIS: Okay. Just for clarity of
21 understanding then, what is the organization of who
22 can use it what we'll call "after hours?"

23 MS. PRINCE: We can --

24 MR. GRIFFIS: Oh, you're going to get to
25 that?

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1 MS. PRINCE: Ted Schelenski can discuss
2 how it's used after hours.

3 MR. GRIFFIS: Any other general questions
4 at this time?

5 MS. MILLER: Well, he's going to discuss
6 it but just with respect to your references about the
7 church using it and restaurants and patrons. None of
8 this is for pay? All of this is --

9 MS. PRINCE: None is for pay. Absolutely
10 not. In fact, the church even uses for some of its
11 services the Heritage conference room at no charge.
12 Heritage is known to be a good neighbor which is
13 probably why we survived the ANC so nicely.

14 MR. GRIFFIS: Let's proceed.

15 MR. SCHELENSKI: My name is Ted
16 Schelenski, Vice President of Finance and Operations
17 for the Heritage Foundation. I'm here today to
18 testify as a representative of the applicant in BZA
19 case 17179 for the renewal of the parking lots at rear
20 415 3rd Street, N.E. and rear 416 and 424 4th Street,
21 N.E. We are seeking a renewal period of 10 years.

22 The property is zoned CAP/R-4 and located
23 in the Stanton Park Section of Capitol Hill. We are
24 seeking special exception and variance approval for
25 the continued use of the lots for a total of 55

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1 accessory parking spaces. The requested relief was
2 originally granted for all the subject lots in 1991 by
3 the BZA in order No. 15579.

4 The site has had a long history of
5 unsuccessful development efforts. In 1984 the Board
6 granted relief that would have allowed mixed use
7 residential and commercial development. This project
8 did not proceed due to financing difficulties. In
9 1988 the Board approved plans for three apartment
10 buildings.

11 This plan also did not proceed. Two other
12 proposals involving residential development of the
13 parcels were proposed. They met with strong community
14 opposition and the use of the subject property for
15 parking lots gained support to address the parking
16 shortages in the immediate area.

17 One of the parking lots has been in
18 operation since 1975. The other two since 1991.
19 Unlike potential residential development of this
20 property, the current parking lot use has not been
21 controversial. Several neighbors in the immediate
22 square strongly support the continued operation of the
23 lots.

24 The applicant is seeking the continuation
25 of a well-controlled and beneficial use of the site

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1 pending its permanent development. The grounds for
2 variance has been established over the course of the
3 subject property's review by the BZA. When compared
4 to the lots surrounding the periphery of the square
5 and with the alley lots in other squares in the
6 surrounding area, it is clear that the subject lots
7 are unusually large.

8 There is also an extensive alley system in
9 square 780 that complicates the development of the
10 lots. The current use of the lots for accessory
11 parking has not generated complaints from the
12 neighbors. The neighborhood directly benefits from
13 the parking lot since the spaces are available at
14 night and on the weekends.

15 Further, no adverse or objectionable
16 conditions are created by the parking lots. The lots
17 are cleaned daily and well maintained. The site is
18 landscaped and there is a security guard on site from
19 10:00 a.m. to 7:00 p.m. The community supports this
20 application. ANC-6C and the Stanton Park Neighborhood
21 Association voted to support the project.

22 The Capitol Hill Restoration Society voted
23 to support the project for a renewal period of 10
24 years. In addition, numerous letters from the
25 community in support of our application have been

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1 filed. For all of these reasons, we believe that the
2 Board should approve the application. Thank you for
3 this opportunity to testify.

4 MR. GRIFFIS: Thank you very much.

5 Any questions from the Board?

6 MS. MILLER: I just have one question
7 basically. Looking back at the previous orders it
8 looks like this parking area was established on a
9 temporary basis and I'm just wondering whether -- and
10 we renew it for a set amount of years but whether you
11 contemplate it really being temporary until the
12 climate is right for development or whether this is a
13 use that you all have gotten used to and the neighbors
14 have gotten used to and expect to continue beyond the
15 10 years you are requesting.

16 MR. SCHELENSKI: I can assure you we have
17 no interest in developing the property in the
18 immediate future. We just finished an \$18.5 million
19 renovation of a building immediately next door to us
20 which has doubled the size of our facility and is more
21 than adequate to house our needs for the foreseeable
22 future so it is primarily for the advantage of our
23 employees to have a place to park.

24 MS. MILLER: And the building that you
25 just did, does that have parking as well or no?

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1 MR. SCHELENSKI: No parking.

2 MS. MILLER: Okay.

3 MR. MANN: When did you say you acquired
4 the lots?

5 MR. SCHELENSKI: We acquired the lots
6 approximately two years ago from Mr. Keyser, the
7 owners of the lots.

8 MR. MANN: What happens to automobiles
9 that are in the parking lot that shouldn't be there?
10 They are towed away?

11 MR. SCHELENSKI: Yes. They would be
12 towed, yes.

13 MR. MANN: And is there -- I guess there's
14 no control over who could potentially park in the lot
15 overnight but just informally it's been people kind of
16 from the neighborhood that know about it or is there
17 any formal mechanism in place?

18 MR. SCHELENSKI: There's no formal
19 mechanism. The lot is just open. To our knowledge it
20 has been predominately the neighbors that completely
21 surround the lot.

22 MR. MANN: Okay.

23 MR. SCHELENSKI: We have signs posted that
24 if there are any questions or problems, that they can
25 contact either our security or Heritage directly.

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1 MR. MANN: How often are there questions
2 or problems?

3 MR. SCHELENSKI: Rarely.

4 MR. MANN: Thank you.

5 MR. GRIFFIS: Are they neon orange and lit
6 up at night?

7 MR. SCHELENSKI: No, they're not.

8 MR. GRIFFIS: It's an excellent point to
9 do and we have actually required that, or at least
10 directed that to happen before in other parking lots
11 that there be a contact right there if there is any
12 difficulty.

13 Okay. Any other questions?

14 MS. MILLER: I have a question with
15 respect to the physical condition of parking lot or
16 whatever. The only thing I have to go on are the
17 pictures that were submitted in connection with the
18 application. My impression is I was asking about the
19 temporary nature of the lot. I think that when
20 it began it was characterized as temporary but it's
21 been going on for many years.

22 It's in an area surrounded by -- at least
23 at some of the perimeters surrounded by residential
24 housing. Basically the point I want to get to is I
25 think that the landscaping looks very weak in this

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1 picture. I saw it referenced in a previous Board
2 order that there was a landscaping plan but we don't
3 have it in our records.

4 MR. GRIFFIS: Are you asking to see the
5 landscaping plan?

6 MS. MILLER: Do you have the landscaping
7 plan?

8 MS. PRINCE: As I recall, because I
9 handled the case back in -- I handled them all. At
10 the time of the last hearing we pointed out that we've
11 had a terrible problem keeping the landscaping healthy
12 and thriving because there's not a water source.

13 Becky Frederickson, who lives in the square, was
14 the head of Trees for the City or some tree
15 organization. We made arrangements with her to plant
16 trees and the trees are, in fact, not showing up
17 nearly as well as they should be on the photographs
18 but the trees are thriving. We can plant other types
19 of vegetation. We are happy to do that. We just
20 haven't had a good track record with it.

21 MR. GRIFFIS: Let's look at this in terms
22 of this is like four squares and the trees are on the
23 perimeter?

24 MS. PRINCE: The trees are in the planting
25 strips that -- let's see. There's a little planting

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1 strip associated with each of the lots. I think it
2 shows on the plat that accompanied the application.
3 It was with the prehearing statement. The final
4 exhibit to the prehearing statements shows the three
5 area lots and shows where the planting areas are.

6 They are in the center of each of the squares
7 where the signage is actually. I can't tell you off
8 the top of my head how many trees are in each of the
9 planting strips but it's more than one and they
10 actually are doing well. They've grown quite a bit
11 since the time of the last hearing.

12 The whole landscaping issue with alley
13 lots is just a chronic problem and we've tried
14 evergreens in various locations and low shrubbage
15 doesn't ever seem to work. This has actually been one
16 of the more successful. I think if you physically
17 went out in the lot, it looks a lot better than it's
18 showing in the pictures. But if the Board would like
19 to suggest additional hardy vegetation, we are
20 certainly willing to give it a try.

21 MR. GRIFFIS: We're big landscaping
22 experts. Maybe we should inspect some shrubs.

23 MS. MILLER: Are you still working with
24 the same person that advised you on the trees?

25 MS. PRINCE: Becky Frederickson?

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1 MS. MILLER: Becky Frederickson, yes.

2 MS. PRINCE: We haven't spoken to her
3 about it. She's happy with the way the trees that are
4 there have turned out and came to support us at the
5 ANC meeting but I'm happy to talk to her again about
6 planting more.

7 MR. GRIFFIS: Weren't these species
8 specified in one of the previous orders?

9 MS. PRINCE: That I don't recall. Did we
10 specify the species? I don't -- I can look.

11 MR. GRIFFIS: I think so. Anyway --

12 MS. PRINCE: There is additional space
13 available to plant additional trees should that be of
14 interest to the Board and we are happy to consult with
15 the tree people about additional trees if that --

16 MR. GRIFFIS: Okay.

17 MS. MILLER: Thank you.

18 MR. GRIFFIS: We'll follow up on that.
19 Any other questions at this time? Okay. Anything
20 else?

21 MS. PRINCE: Nothing.

22 MR. GRIFFIS: Okay. I have a couple quick
23 questions in terms of how this whole application is
24 coming together in terms of the regulations and the
25 relief. When we start talking about 214.1 which

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1 precludes the residential in the District to have the
2 accessory parking but we are talking about granting
3 relief for that, can you just briefly discuss why that
4 wouldn't be a use variance as opposed to an area
5 variance?

6 MS. PRINCE: That section -- over the
7 years we have secured use variance relief for the
8 property so I'm not concerned about the ability of
9 these lots to meet any standard. They are truly white
10 elephant properties but I don't understand the
11 limitation in 214 on single family homes and accessory
12 parking. I'm not sure of the intent. I have never
13 understood it. I'm not sure anyone does.

14 I don't believe that accessory parking
15 would be a use variance for a single family house. A
16 single family house is permitted to have parking.
17 This is a section that specifically permits
18 noncontiguous accessory. I suppose it could be
19 regarded as a use variance. It's probably a hybrid
20 variance. Whatever the heck it is, we got it approved
21 before.

22 MR. GRIFFIS: Let's make it a hybrid.
23 There's some reality in all seriousness about that in
24 terms of any sort of -- in all the accessory and
25 actually the parking lot applications we get because

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1 it is a hybrid between use. It's not necessarily a
2 use that is applauded or it may even be precluded in
3 certain zoned districts.

4 MS. PRINCE: Right.

5 MR. GRIFFIS: Often are provided by
6 adjacency.

7 MS. PRINCE: Right.

8 MR. GRIFFIS: So there's an area relief
9 also. I don't think the Board has any question that,
10 one, you have presented a use variance case. I mean,
11 I think the one piece I see from this both in the
12 written submission and also in the graphic
13 representation, our regulations preclude any
14 residential development in that area on that parking
15 surface based on the access. That is the first one
16 that I saw. You have 10-foot alleys there. You don't
17 have the required dimensional aspect to allow you to
18 develop.

19 MS. PRINCE: Any development is multiple
20 variances.

21 MR. GRIFFIS: Right. So there is no
22 matter of right use of that or
23 development of it. Okay. I
24 think we're going to have to get
25 some clarity on that. Who knows

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1 where we'll get that. Okay.
2 Other questions then? Okay.
3 Let's move ahead with the time
4 that we have and go to the
5 Office of Planning's report.

6 MR. MORTON: Good afternoon, Mr. Chairman,
7 and members of the Board.

8 MR. GRIFFIS: Good morning.

9 MR. MORTON: My name is Steven Morton with
10 the Office of Planning. This application conforms to
11 the criteria contained within Section 214 for
12 accessory parking in that the proposed use and office
13 use is permitted, all variances necessary in order to
14 permit the use by surrounding one-family residents.

15 All the parking is located within an open
16 area and the Office of Planning believes that all the
17 parking is not located within 200 feet of the Heritage
18 Foundation. Therefore, a variance is necessary from
19 the section. The two eastern most lots are more than
20 200 feet from third street. The Office of Planning
21 suggest that variance is necessary for the Heritage
22 Foundation to use the lots.

23 MR. GRIFFIS: Why do you say 3rd Street?
24 Why is that pertinent to us?

25 MR. MORTON: I'm sorry? Oh, the parking

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1 lots, the western -- I'm sorry, the eastern most lots
2 are more than 200 feet from 3rd Street so, therefore,
3 the Heritage Foundation is then more than 200 feet
4 from some of those parking spaces.

5 MR. GRIFFIS: Okay. So what you're saying
6 is the farthest extent of the foundation's property
7 and the farthest extent of the property is more than
8 200 feet?

9 MR. MORTON: Yes, in order to utilize all
10 of the parking spaces.

11 MR. GRIFFIS: Right.

12 MR. MORTON: The parking spaces are not --
13 the parking is not separated by only an alley.
14 Therefore, variance is also necessary to that section.

15 The application conforms with Section 230.3. The
16 proposed parking cannot be provided on site due to the
17 development of the surrounding area and the parking is
18 designed so as not to become objectionable. The
19 Office of Planning recommends approval of the special
20 exception and three variances subject to the
21 conditions contained within the staff report. That
22 concludes the Office of Planning's presentation.

23 MR. GRIFFIS: Excellent. Thank you very
24 much. Let's go right to your conditions. I didn't
25 see anything that was of -- oh, well. Let's take the

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1 applicant. Any questions of the Office of Planning?

2 MS. PRINCE: No questions. I appreciate
3 the clarification of the 200 feet. We regarded the
4 three lots as one property. I think if you do look at
5 the -- so the eastern most lot is within 200 feet but
6 if you technically take into account the separation of
7 the alleys, the other two lots are not within 200
8 feet.

9 MR. GRIFFIS: And they are separate lots
10 though.

11 MS. PRINCE: They are separate lots. They
12 are separated by the alley system so I think his
13 analysis is correct.

14 MR. GRIFFIS: Okay.

15 MS. PRINCE: When we did the 200-foot
16 notice it picked up all of 208.

17
18 MR. GRIFFIS: I understand. So 214.3 is
19 required which is more than 200 feet.

20 MS. PRINCE: Right.

21 MR. GRIFFIS: It is required as the
22 accessory parking for Heritage.

23 MS. PRINCE: Um-hum.

24 MR. GRIFFIS: Okay. And your two
25 conditions in terms of the Office of Planning is that

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1 none of the parking would be leased. Is that correct?

2 MR. MORTON: Yes, that is correct.

3 MR. GRIFFIS: Any other use if this
4 changes in any form or fashion needs to come back to
5 us.

6 MR. MORTON: Yes.

7 MR. GRIFFIS: Okay. I appreciate it.
8 It's an excellent report. I appreciate your summary
9 of it. I do want to touch on a few aspects of it that
10 I think are worth taking a look at. That is, that
11 there was an on-site inspection by you that actually
12 testifies to the condition of its clean nature. Is
13 that correct?

14 MR. MORTON: That is correct.

15 MR. GRIFFIS: And you went through some of
16 the other provisions and conditions of past orders and
17 you found that they are actually in compliance with
18 all of them. Is that right?

19 MR. MORTON: That is correct.

20 MR. GRIFFIS: Okay. Excellent. Good.
21 Any other questions of the Office of Planning?

22 MS. MILLER: Since you actually went to
23 the site, would you say that the total lot could be
24 improved with more landscaping, more trees?

25 MR. MORTON: There are three separate lots

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1 with rectangles inside the landscaping. One has one
2 tree, the other two have two trees. They are
3 insidious trees. At this point in time they are small
4 trees. I don't know how big they will get in those
5 confined areas surrounded by paving. Our landscape
6 architect may be able to demonstrate that you could
7 provide more in there without overloading those little
8 areas there without crowding out the trees by adding
9 more trees.

10 MS. MILLER: Are those the only areas for
11 planting?

12 MR. MORTON: Yes.

13 MR. GRIFFIS: Anything else? Very well.
14 Let's move on then. ANC-6C representative. Is anyone
15 here representing the ANC testifying or presenting
16 their report? We do have Exhibit No. 26. They were
17 recommending approval and they did give an indication
18 of seven years. Is that correct, Ms. Prince? Is that
19 your understanding?

20 MS. PRINCE: The ANC recommended seven
21 years. The Capitol Hill Restoration Society was in
22 support of our request for 10 years.

23 MR. GRIFFIS: Indeed. Is there anyone
24 else here to give testimony for Application 17179
25 either in support or in opposition? Letters of

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1 support, there are quite a few. Exhibit No. 33, 32,
2 31, 30, 29. 28 is the Capitol Hill Restoration
3 Society which has been spoken about.

4 Also, the Stanton Park Neighborhood
5 Association in Exhibit No. 24 is the second letter
6 from the Capitol Restoration Society. I think that's
7 all the letters in the record at this time. Do we
8 have an addition? Someone is stealing all of our ANC
9 reports.

10 MS. MILLER: I was just wondering if the
11 Office of Planning had an opinion on the term?

12 MR. MORTON: The Office of Planning
13 recommended the 10 years in the report.

14 MS. MILLER: Thank you.

15 MR. GRIFFIS: See what happens when we
16 don't have one single document in the application?
17 There it is. I don't have anything else. It seems
18 like we've noted everything else in the exhibits. Ms.
19 Prince, any closing remarks? Summation?

20 MS. PRINCE: No closing remarks. We would
21 simply appreciate prompt action on the application.
22 Our order expires in August and we would like to get a
23 new certificate of occupancy in place as soon as
24 possible.

25 MR. GRIFFIS: Okay. Excellent. We

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1 appreciate that. I think in terms of decision making
2 two points. One, I think -- um. Oh, I do have a
3 question. One of the past conditions and also in some
4 of the written conditions, people obviously are
5 allowed to park there past 7:00.

6 If I recall correctly, the towing sign
7 says it can be towed between 8:00 and 7:00 or whatever
8 the times are. My question is when does it start and
9 when does it stop? When do they have to leave in the
10 morning?

11 MR. SHER: Technically 8:00 but the
12 security guard doesn't come on until 10:00 and so
13 generally speaking we don't police the area unless
14 employees have arrived and there aren't anymore
15 spaces. The employees that park there it's first
16 come, first serve. If all the spaces are filled,
17 someone may go out there and determine if there are
18 cars illegally parked after 8:00 p.m. Typically we
19 don't start looking until around 10:00 in the morning.

20 MR. GRIFFIS: Okay. But your sign says
21 between 8:00 and 7:00. Is that correct?

22 MR. SHER: Yes.

23 MR. GRIFFIS: You will be towed or can be
24 towed?

25 MR. SHER: Right.

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1 MR. GRIFFIS: How else do you deal with
2 cars that are illegally parked?

3 MR. SHER: Well, we contact the Capitol
4 Hill Police. They come out and ticket the car first
5 before we call for towing to take place.

6 MR. GRIFFIS: I see.

7 MR. SHER: We call them, they come over,
8 write an illegal parking ticket, and then we call the
9 towing service.

10 MR. GRIFFIS: I see. Okay.

11 MR. SHER: Let me make one other comment
12 about the landscaping that has come up. We've tried a
13 whole bunch of things. We've got a landscaping
14 company that takes care of the front of our building.

15 The grass just gets trampled to death. The flowers
16 get stomped over. We've tried bushes and they haven't
17 survived. We are happy to try whatever you would
18 recommend but I would also say that we've tried a
19 whole bunch of things unsuccessfully to try to make
20 the area look as nice as possible.

21 MR. GRIFFIS: Good. We appreciate that.
22 We're going to set this for a decision on the 6th.
23 What I would like to do is -- oh, man. I'll keep the
24 record open for a draft order submission and we can
25 have that in if it's possible -- well, I'll keep it

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1 open for when it comes in. Anything else? Keep the
2 record open for anything else? I don't think we need
3 to.

4 I think it's clear the direction of the
5 Board. We obviously want to support the endeavors of
6 landscaping a building in that area so we'll see how
7 we do. Obviously the conditions in the past have
8 dealt with that and have required it in a general
9 aspect so we will see how we can continue that
10 endeavor. Anything else? Questions?

11 MS. MILLER: I guess just to clarify where
12 I'm at on the landscaping. I mean, I've heard office
13 of planning and I've looked at the pictures so I don't
14 have a real clear image of actually what it looks like
15 out there. I'm also sensitive to the fact that I
16 don't want you to waste money putting in things that
17 aren't going to grow, etc.

18 Having heard that you do have a tree
19 expert that you've been working with and there might
20 be places where it can be increased or improved. I
21 think that would be a positive thing for this lot
22 given the fact that there are so many residents that
23 look out on that lot in addition to the people that
24 are using it. Thank you.

25 MR. GRIFFIS: Good. Last word. Follow-up

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1 on that then. In the proposed order and conditions,
2 the applicant might want to look at the '92 order of
3 which condition No. 4, "Landscaping would cover five
4 percent of the lot. Landscape plans shall include
5 minimum of four male ginkgo trees. Applicant shall
6 retain flexibility to increase the amount of
7 landscaping area."

8 Just getting some definition, I don't
9 think -- my opinion in reviewing this is we would not
10 draft a condition that was so specific in terms of the
11 type of tree or what have you but the intent of which
12 could be measurable and actually be doable. There it
13 is then. Anything else? Very well. Staff? Any
14 other questions then procedurally?

15 MS. PRINCE: Thank you for your time.

16 MR. GRIFFIS: Thank you all very much for
17 your time. Appreciate your patience with us this
18 morning.

19 Let's call the next case of the morning
20 then.

21 MS. BAILEY: Application No. 17150 of
22 First Baptist Church, SW, Inc., pursuant to 11 DCMR
23 3103.2, for a variance from the number of stories
24 requirements under Subsection 400.6, a variance from
25 the lot occupancy requirements under Section 403, and

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1 a variance from the nonconforming structure provisions
2 under Subsection 2001.3, to allow the construction of
3 a four story addition (church offices and classrooms)
4 to an existing church building in the R-4 District at
5 premises 710 Randolph Street, N.W. (Square 3131, Lots
6 41 and 833).

7 MR. GRIFFIS: Good morning. I'll have you
8 introduce yourselves for the record.

9 MR. CLARKE: My name is Alonza Clarke.
10 I'm the Chairman of the Board of Trustees of First
11 Baptist Church. Would you like my address also?

12 MR. GRIFFIS: Yes, for the record.

13 MR. CLARKE: My address is 923 Millponds
14 Court in Mitchellville, Maryland. 20721 is the zip
15 code.

16 MR. GRIFFIS: Okay. And you're going to be
17 presenting the application today, the continuation of?

18 MR. CLARKE: Yes.

19 MR. GRIFFIS: Okay. I'll turn it over to
20 you and you can introduce your witnesses as they
21 speak.

22 MR. CLARKE: Thank you, Mr. Chairman, and
23 members of the Board. We appreciate the opportunity
24 to appear before you this morning. I would just give
25 a brief introduction and I will defer to the architect

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1 to give a more detailed introduction.

2 We appeared before this Board at the
3 November -- I'm sorry, at the April meeting and we
4 agreed to a continuance to allow us more time to
5 resolve some outstanding issues with the residents
6 that live in the immediate community. Subsequent to
7 that meeting we did meet with the community on at
8 least two occasions and we met with the ANC on at
9 least two occasions.

10 We believe that we have successfully and
11 satisfactorily resolved most of the issues with the
12 residents. Those we have not resolved we believe we
13 can resolve during the design and construction. There
14 are some things we have to include in the contract in
15 order to resolve those issues.

16 At your April meeting we were also given a
17 copy of the memo from the Office of Planning and we
18 were asked to provide additional comments and to
19 respond to that memo in writing. A response was
20 submitted, I believe, on July 15th and the architect
21 will address that in more detail at that time.

22 Subsequent to our last meeting we also
23 have a petition that we circulated that contained the
24 list of names of persons in Ward 4 that are in support
25 of this project. We apologize that we did not get it

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1 to the Board earlier but with the Board's permission I
2 would like to present it to you at this time if that
3 is permissible.

4 MR. GRIFFIS: That's fine. You can give
5 it to staff.

6 MR. CLARKE: With the Board's permission
7 at this time I want for the architect to give a more
8 detailed introduction. Would you introduce yourself.

9 MR. RAITHEL: Good morning. My name is
10 Thomas Raithel.

11 MR. GRIFFIS: I'll have you turn off your
12 mike. We seem to be getting feedback on that one.

13 MR. RAITHEL: Thomas Raithel. I'm with
14 the Campus Architects, 2930 Macomb Street, N.W., D.C.
15 20008. I've been retained by the church to provide
16 architectural services in relation to the BZA
17 application. The current proposal involves variance
18 relief to permit addition to a nonconforming use, to
19 increase the permitted lot occupancy, and to permit an
20 increase in the maximum number of stories from three
21 to four.

22 The application for an addition to the
23 First Baptist Church under consideration before you is
24 a regeneration of an earlier application No. 15164
25 approved in a unanimous bench decision by the Board of

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1 Zoning Adjustment on October 25, 1989.

2 The previous application is referenced in
3 some detail in the Office of Planning memorandum dated
4 April 13, 2004. The previous application involved a
5 special exception to expand an existing child
6 development center and variances from the rear yard
7 requirements, lot occupancy, and number of stories
8 from three to four for the proposed subdivision and
9 construction of an addition to a church containing
10 ancillary facilities and the expansion of a child
11 development center.

12 A proposal of the same size, height, and
13 use is before you today. Some changes mitigating its
14 physical impact on the surrounding community has been
15 incorporated after meeting with the residents in the
16 nearby community. The surrounding community is stable
17 and has not physically changed in the intervening
18 years.

19 The Office of Planning memorandum
20 pertaining to the prior application recommended the
21 application be approved without reservation in that
22 the shape of the property and its age predates the
23 1958 Zoning Regulations.

24 The long distinguished history of
25 providing community services to the Petworth area was

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1 also noteworthy in their report. The Department of
2 Public Works, Office of Planning and Policy Memorandum
3 also found no objection to the prior proposal.

4 I would like Mr. Sam Malone to present the
5 program for the addition so you understand what is
6 going to take place and why the church is requesting
7 the BZA application.

8 MR. MALONE: Mr. Chairman, my name is
9 Samuel Malone. I am the Vice Chairman of the Board of
10 Trustees of the First Baptist Church and I reside at
11 4661 Cherry Valley Drive, Rockville, Maryland.

12 Mr. Chairman, the First Baptist Church has
13 been in operation for over 142 years. We've been at
14 the 712 Randolph Street location since May of 1958
15 having relocated from 6th and G Streets, S.W. due to
16 the redevelopment land agency program in that area.

17 We maintain a full-service church
18 operation with worship services on Sunday, weekly
19 prayer services and Bible study, and other church
20 organization and community services during the week.
21 This also includes a child development center and a
22 senior citizens daycare program. In our child
23 development program we are licensed for 100 students.

24 We do operate and we do service approximately 75
25 seniors at our senior center every weekday at the

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1 senior center.

2 For a number of years, and actually a
3 number of decades, we have recognized the need for
4 additional space to effectively carry out our
5 Christian education training requirements at the
6 church.

7 As was previously stated, actually over 14
8 years ago we did make application before this Board
9 and received approval for an expansion project
10 somewhat identical to the project that is currently
11 being considered by this Board today. We decided not
12 to proceed with the expansion at that time and focused
13 our efforts on major upgrades of the church building
14 and its infrastructure. Such things as roof, pews,
15 electrical and mechanical components of the HVAC
16 systems, windows and lighting systems.

17 The four-story structure proposed today
18 will accommodate 14 to 16 multi-purpose rooms that
19 will be used as classrooms, office, meeting space, and
20 as otherwise needed by the various church ministries.

21 There are no new or proposed programmatic activities
22 that will take place in the expanded facility. The
23 additional space or rooms will allow us to more
24 efficiently and effectively accommodate the activities
25 we are currently housing in our very undesirable and

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1 inadequate space.

2 Some of the activities that we will
3 attempt to better accommodate are as follows: Our
4 Sunday school classrooms. We have six departments in
5 our Sunday school and in those six departments we have
6 about 15 separate classes. Some of these classrooms
7 today take place in hallways. They are bulging out of
8 the small rooms that we have had. They are in
9 overcrowded rooms where it is not very efficient for
10 conducive study.

11 Other classrooms actually take place
12 between the pews and the sanctuary. In addition to
13 that, the space will allow us to better accommodate
14 our weekly Bible study and prayer services and our
15 Christian educational classes. We have scheduled
16 classes throughout the year. It will accommodate the
17 Scouting program, vacation Bible school which is a
18 community program, AA meetings, computer training
19 program of classes that we have that is available to
20 the community.

21 Also they will accommodate home
22 improvement classes, meeting places for various
23 neighborhood organization and associations. Financial
24 planning seminars, health and wellness seminars, legal
25 aid type workshops for seniors. These are all ongoing

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1 type programs that will be accommodated in that space.

2 In summary, the proposed expansion is not
3 desired but urgently needed for the First Baptist
4 Church to perform its current duties and serve the
5 community as a Christian institution. Thank you.

6 MR. GRIFFIS: Thank you very much.

7 MR. MALONE: If there are no questions at
8 this time, I would like for the architect to discuss
9 some of the details of the proposed design.

10 MR. GRIFFIS: First of all before you get
11 into that, there is this whole question of three
12 stories, four stories. We're talking about four
13 stories. Is that correct?

14 MR. RAITHEL: Yes. We initially put in a
15 request for four stories. I'll get into this with you
16 in the design. It is a building with four floors.
17 Due to the need to connect to the existing two floors
18 in the adjacent -- well, in the main building right
19 now there's a 12-foot height difference. That pushes
20 the ground floor, the lower floor actually well below
21 the sidewalk level. In effect, the Zoning Regulations
22 would define that as a basement. Yes, we can actually
23 revise or waive the variance for a four-story building
24 and actually define this as a three-story building
25 with a basement if the Office of Planning would also

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1 agree to that. My concern was that --

2 MR. GRIFFIS: But a basement is a story.
3 Are you saying it's three stories and a cellar?

4 MR. RAITHEL: No, a basement. It's
5 defined as where the adjacent grade is in relation to
6 the ceiling of the lower level. If it is defined as a
7 basement, then it is not a story above grade. It is
8 four floors.

9 MR. GRIFFIS: Okay.

10 MR. RAITHEL: My concern is in DCRA I
11 wanted to make sure that we had the permission to do a
12 four-floor building rather than a four-story building
13 just in the fact that if the DCRA and Zoning Office do
14 not agree that it is a basement, I want to make sure
15 that we can have these four floors. They are needed.

16 MR. GRIFFIS: Okay. The definition of
17 story in 199 indicates in the second paragraph that
18 for the purpose of determining maximum number of
19 permitted stories, the term "story" shall not include
20 cellars, stairway or elevator, penthouses, or other
21 roof structures provided that the total area of all
22 roof structures would be in accordance with the
23 regulations. Cellars are not a story but basement is.

24 MR. RAITHEL: Then we would maintain our
25 four-story height.

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1 MR. GRIFFIS: Right. Okay. Well, there
2 it is. Okay. Question?

3 MS. MILLER: I just have a quick question
4 with respect to I think you referenced an Office of
5 Planning memorandum recommending approval of the
6 relief in the previous order.

7 MR. RAITHEL: Yes.

8 MS. MILLER: Or one of the previous
9 orders. I don't think I have that in the record. Do
10 you have that?

11 MR. RAITHEL: I do have a copy.

12 MS. MILLER: Could we get that in the
13 record?

14 MR. RAITHEL: Sure. Give me a moment.

15 MR. GRIFFIS: Okay. Very well. We're
16 going to make copies of that and put it in the record
17 and why don't we just proceed then with what you want
18 to tell us. The other quick question we need to
19 address is it appears that in the kind of elbow of the
20 alley from the existing building to the proposed
21 addition that a court is created. Is that your
22 understanding?

23 MR. RAITHEL: It is an open space. It has
24 a heating and ventilating system. If I might, I'll go
25 over there and explain it to you. Is there a mobile

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1 mike?

2 MR. GRIFFIS: We do have a hand-held
3 somewhere around. Oh, here it is on this side.

4 MR. RAITHEL: Hello? Can you hear me?

5 MR. GRIFFIS: That's good. It won't
6 amplify that much. It's mostly for the recorder so he
7 can pick you up.

8 MR. RAITHEL: (Off mike.)

9 MR. GRIFFIS: Did you do an analysis at
10 all as a court as you are creating a court and whether
11 your analysis might tell me whether it's open or
12 closed and then the required dimension of it?

13 MR. RAITHEL: (Off mike.)

14 MR. GRIFFIS: Okay. Thanks very much.

15 MS. MILLER: I just have a quick question
16 as a follow-up on you saying you're not adding parking
17 because you're not adding staff. Are you increasing
18 use or do you anticipate increasing use of the
19 facility with this addition?

20 MR. GRIFFIS: He was saying this wasn't
21 for the increase of the programs but to satisfy those
22 programs that were being already functioning within
23 the building and get the kids out of meeting in the
24 hallways and the pews which we won't tell the fire
25 marshal about. Does that make sense?

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1 MS. MILLER: So the answer is no, I guess.
2 I bring that up just in connection with Office of
3 Planning reference to 2100.7 that talks about
4 additional parking if you are increasing the use up to
5 25 percent. Okay.

6 MR. RAITHEL: (Off mike.)

7 MR. GRIFFIS: I'm a little confused. The
8 recent submission, A1, sheet A1. Do you have that,
9 Board?

10 MR. RAITHEL: This?

11 MR. GRIFFIS: Yes. Can you show me on the
12 elevation what I'm looking at in terms of the ground
13 floor in the plan?

14 MR. RAITHEL: This is the front doorway
15 down here.

16 MR. GRIFFIS: So you're saying that's a
17 handicapped access but I see stairs on the plan and I
18 don't see any stairs on the elevation. They may not
19 show. It's just cut back?

20 MR. RAITHEL: (Off mike.)

21 MR. GRIFFIS: Right. I understand that.
22 So now when you talk about the handicap or the access
23 into the building, then it's off of that ramp, not the
24 straight walk into the entrance. That makes more
25 sense. And you have planters there. Those are all on

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1 public space. Is that correct?

2 MR. RAITHEL: No.

3 MR. GRIFFIS: I mean, rather, the ramp and
4 the planter and the stairs are on public space.

5 MR. RAITHEL: A good portion of it is,
6 yes.

7 MR. GRIFFIS: Okay.

8 MR. RAITHEL: More than half.

9 MR. GRIFFIS: That's actually one of the
10 complaints in the record by one of the adjacent
11 neighbors is having all that structure outside which
12 isn't in character with the rest of the neighborhood.
13 Is that correct?

14 MR. RAITHEL: Yes. It would impact pretty
15 much most of that front of the building. There's no
16 other way to get handicap access.

17 MR. GRIFFIS: Does it break the sidewalk
18 line? Is the sidewalk 20 feet deep?

19 MR. RAITHEL: There's a stone wall running
20 along here which we don't go beyond that stone wall.

21 MR. GRIFFIS: And does the stone wall
22 carry down to the residential? Are there front yards
23 elevated above the sidewalk?

24 MR. RAITHEL: Yes.

25 MR. GRIFFIS: So there's a stone retaining

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1 wall for each of them.

2 MR. RAITHEL: Yes.

3 MR. GRIFFIS: So that line which defines
4 your sidewalk line is carrying around the corner
5 around your property.

6 MR. RAITHEL: Yes.

7 MR. GRIFFIS: So, in fact, it's somewhat
8 disruptive but it's actually not disrupting the
9 sidewalk line and the sidewalk dimension.

10 MR. RAITHEL: We don't disturb the
11 sidewalk at all.

12 MR. GRIFFIS: Okay. So the access -- just
13 to really beat this one down, the cuts that you're
14 making in the wall are stairs which are characteristic
15 of the adjacent residences. Right? I mean, that's
16 what they have also. And the ramp is another cut in
17 which is giving access which is what cuts any of the
18 rest of the retaining walls.

19 MR. RAITHEL: Correct.

20 MR. GRIFFIS: Okay. That's a little bit
21 more clear. Okay. Let's move ahead.

22 MR. RAITHEL: (Off mike.)

23 MR. GRIFFIS: Do you have to have two
24 egress stairs in that section?

25 MR. RAITHEL: Yes.

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1 MR. GRIFFIS: It's too far of a distance
2 from any other fire stair in the existing building?

3 MR. RAITHEL: The building does not
4 qualify for a single egress.

5 MR. GRIFFIS: This one?

6 MR. RAITHEL: Yes.

7 MR. GRIFFIS: But it's connecting to the
8 existing building. Correct?

9 MR. RAITHEL: Yes, but they are separate.

10 MR. GRIFFIS: I understand. Okay. That
11 makes sense.

12 MR. RAITHEL: We cannot use the egress
13 capability in the existing church as a second means of
14 egress for this new building.

15 MR. GRIFFIS: Right.

16 MR. RAITHEL: We cannot do that.

17 MR. GRIFFIS: Okay.

18 MR. RAITHEL: The typical layout of the
19 floor on floors three and four is classrooms front and
20 back with the core in the center. As you can see, the
21 core is more than one-third of the floor which is not
22 very efficient but we need this space. It's a flat
23 roof with roof-top mounted HVAC systems and a small
24 penthouse for the elevator.

25 The second floor of the facility connects

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1 to the sanctuary floor of the church and also contains
2 church offices and a pastor's study in addition to the
3 multi-purpose classrooms which is typical as you find
4 on each floor.

5 MR. GRIFFIS: Okay. I don't think we need
6 to go much further into the interior space. What I
7 understand you testifying to is the fact the small
8 space of this interior is taken up so much
9 predominately by a core, the two stairs.

10 MR. RAITHEL: That's correct.

11 MR. GRIFFIS: And that's what's pushing
12 you to increase the lot occupancy request. Is that
13 correct?

14 MR. RAITHEL: That and the need for space
15 to adequately house --

16 MR. GRIFFIS: Right. Yes.

17 MR. RAITHEL: Yes, in effect.

18 MR. GRIFFIS: To make usable space for
19 those space requirements that you have with your
20 program. Okay. So now why an extra floor?

21 MR. RAITHEL: To accommodate the space
22 requirements of the church.

23 MR. GRIFFIS: Okay.

24 MR. RAITHEL: For the number of occupants,
25 the number of people attending.

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1 MR. GRIFFIS: And how many members are in
2 the church?

3 MR. CLARKE: Active members I would say
4 about 800 to 900. On the rolls maybe 1,500 to 1,700.

5 MR. GRIFFIS: Wow. That's a big church.

6 MR. CLARKE: It's a pretty big church,
7 yes.

8 MR. GRIFFIS: Is it growing?

9 MR. CLARKE: Not in the last few years.
10 Most urban churches are suffering from people going to
11 the suburbs but we've pretty much stayed about the
12 same.

13 MR. GRIFFIS: That's changing. They're
14 all coming back. Right?

15 MR. CLARKE: Right now we're staying about
16 the same. We're not growing very much in number.

17 MR. GRIFFIS: Okay. That is big. Okay.
18 Again, just very directly, the expansion of the
19 massing, I mean, the additional floor and the lot
20 occupancy is based on, the motivating factor. Not
21 that that is a substantiation of the test or criterion
22 but the motivating factor is to accommodate the
23 overflowing areas in the existing structure.

24 MR. RAITHEL: That's correct.

25 MR. GRIFFIS: Okay. Ms. Miller.

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1 MS. MILLER: Is the existing townhouse or
2 whatever it is, existing house, used by the church
3 right now for programs or classrooms?

4 MR. CLARKE: Yes, it is. He mentioned the
5 computer center on the first floor. The computer
6 center is housed in one or two other offices. We also
7 have Sunday School there on Sunday morning.

8 MS. MILLER: I'm just curious. Maybe
9 you've already said this but the difference between
10 what the townhouse, or whatever kind of house this is,
11 can accommodate and the new addition can accommodate,
12 what are you gaining in there?

13 MR. CLARKE: The townhouse is very
14 limited. It only has one or two offices that are
15 usable and it's small. If you can remember what the
16 house looks like, it just won't accommodate the office
17 setting. We need additional office spaces. That's
18 why we are requesting the new addition to provide
19 those additional spaces. That is an old house that
20 needs to be updated or something anyway. It's not
21 designed for an office space. It's a townhouse.

22 MS. MILLER: Okay.

23 MR. GRIFFIS: Any other questions?
24 Anything else you want to point out attention to?

25 MR. RAITHEL: No, I like to be brief.

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1 MR. GRIFFIS: Okay.

2 MR. CLARKE: May I just make one comment
3 to Mrs. Miller question? Also, it's not connected to
4 the church but the main thing is we want to provide
5 access for the handicapped which we don't have at this
6 particular time. That's one of the main reasons we
7 want to request this addition.

8 MR. GRIFFIS: Okay.

9 MR. RAITHEL: I'd also like to just point
10 out that the prior application lot occupancy variance
11 was for 87 percent and this current application is for
12 just under 79 percent so it is somewhat less than the
13 previous approved application.

14 MR. GRIFFIS: Okay. Go ahead.

15 MS. MILLER: Do we have in the record a
16 letter or anything from the immediate neighbor to the
17 house that is going to be raised where the addition
18 would be?

19 MR. CLARKE: No, we do not.

20 MS. MILLER: Have you talked with that
21 neighbor?

22 MR. CLARKE: We've talked with that
23 neighbor. In fact, they were involved with the
24 meetings we've held. We've talked with them.

25 MR. GRIFFIS: That's the 700 block. Is

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1 that not correct?

2 MR. CLARKE: That is correct. I think we
3 know what their concerns are. Let's look at the
4 letter in the record, Exhibit No. 32, and go right to
5 it. First of all, they are obviously very concerned
6 about any sort of damage that would take place to
7 houses that were adjacent. Now, that's going to step
8 out of our jurisdiction but you can talk briefly to
9 how you are anticipating doing that, going in and
10 inspecting the houses.

11 I would imagine your insurance company is
12 going to what you to do that. I'm going to race
13 through all of these and we'll get to them. I'll stop
14 at the ones I want answers for. What is the
15 construction type of the party wall between the new
16 building, the proposed new, and the residential?

17 MR. RAITHEL: The structure itself is
18 envisioned to be precast concrete with masonry in-
19 fill. It would be very sound, as sound attenuating as
20 possible.

21 MR. GRIFFIS: How thick is it?

22 MR. RAITHEL: Probably eight-inch block
23 in-fill.

24 MR. GRIFFIS: Okay.

25 MR. RAITHEL: Plus other sound

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1 attenuating --

2 MR. GRIFFIS: It's going to be a CMU?

3 MR. RAITHEL: In-fill. The structure
4 itself would be precast.

5 MR. GRIFFIS: Even on the party wall?

6 MR. RAITHEL: Yes.

7 MR. CLARKE: Mr. Chair, the existing party
8 wall will not be disturbed. We are going to build a
9 wall inside of the existing party wall. In essence
10 we'll have two walls.

11 MR. GRIFFIS: You have to build something
12 in the party wall.

13 MR. CLARKE: I mean, it's going to be
14 thicker because the existing wall will stay as is but
15 we're going to build a wall for this particular
16 structure.

17 MR. GRIFFIS: So you're going to put new
18 construction above the existing party wall?

19 MR. CLARKE: A new wall inside of it, yes.

20 MR. GRIFFIS: All right. I understand. I
21 think I understand what you're saying. You're not
22 going to take down their wall and expose their whole
23 house.

24 MR. CLARKE: Correct.

25 MR. GRIFFIS: Thank goodness we don't have

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1 to go that far back in what we're actually going to
2 do. I understand that. Maybe that needs to be
3 relayed but I understood that. You're looking at a
4 six to eight-inch masonry wall no matter what it is,
5 precast CMU in-fill. Of course, you'll have your
6 finish on the interior drywall or whatever.

7 MR. RAITHEL: That's correct. Sound bats,
8 gypsum wallboard systems.

9 MR. GRIFFIS: Okay. I don't know if you
10 now exactly what is there now but it's a masonry party
11 wall. Correct?

12 MR. RAITHEL: Yes.

13 MR. GRIFFIS: It's a brick wall. Twelve
14 inches?

15 MR. RAITHEL: Probably 12 inches in the
16 basement and eight inches above. It's typically what
17 we found in structure this age.

18 MR. GRIFFIS: An inch of plaster on each
19 side?

20 MR. RAITHEL: Yes.

21 MR. GRIFFIS: Okay. So conceivably what
22 you're doing is you're replacing it with something
23 that is analogous to what's there?

24 MR. RAITHEL: Yes.

25 MR. GRIFFIS: Okay.

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1 MR. RAITHEL: It would probably be at
2 least 16 inches of masonry.

3 MR. GRIFFIS: Okay.

4 MR. RAITHEL: The elevator which does have
5 vibration is placed on the opposite side of the
6 building away from that house.

7 MR. GRIFFIS: Next question which I think
8 was a good one to raise in terms of the impact of the
9 directly adjacent neighbor. If the elevator clearly
10 was riding up on that party wall, that would raise
11 some concern for them. Tell us what was your
12 discussion with the adjacent neighbors in how you are
13 going to proceed with the construction and what kind
14 of agreements you might have had or your understanding
15 of what that is in case there is any sort of damage
16 and then time to remedy damage or anything of that
17 nature.

18 MR. CLARKE: Yes, we have had a discussion
19 with them regarding that. Basically what we agreed to
20 do is to have an inspection of the homes prior to
21 construction and when doing construction. What we
22 assured them is that we are going to have the geotech
23 engineers, as well as structural engineers to monitor
24 this project.

25 If there is any damage, certainly it will

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1 be taken care of by insurance. They asked about time
2 frame for resolution. We couldn't tell them a time
3 frame because it depends on the severity of it. If
4 it's just a crack, it would take no time to fix but if
5 it was something more major, it may take longer. We
6 certainly told them it would not be a lengthy process.

7 MR. GRIFFIS: I think you have a full
8 grasp of the understanding of what you will need to do
9 and I think that is important to do. I know that the
10 Board in numerous previous applications of similarity
11 in terms of in-fill and adjacency to existing
12 buildings and also to existing residences.

13 It has come up by the applicant and also
14 residents that they just do good photographic
15 documentation and each might want to do that. If they
16 were here, I would tell the adjacent neighbors to do
17 the same. They keep their own but obviously you all
18 want one document that everyone works off of. Okay.
19 That being said, for quick clarification, I didn't see
20 it but the church is not historically designated. Is
21 that correct?

22 MR. RAITHEL: No.

23 MR. GRIFFIS: It seems like it could.
24 It's a very attractive structure. But it doesn't need
25 that to have its attractiveness noted. Any other

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1 questions?

2 MS. MILLER: I have a few. I'm not sure
3 if this is the right time but I didn't really hear the
4 applicant make its case yet for how it fulfills the
5 variance test, the three prongs of the variance test.

6 MR. RAITHEL: The statement in the record
7 is what we have.

8 MS. MILLER: You're resting on that
9 statement?

10 MR. RAITHEL: I believe we do.

11 MS. MILLER: Okay. Then I'll just rest on
12 that statement. I think the comment was made that you
13 had the community support now but I have in the record
14 a June 18th letter from the ANC that says that they
15 voted to oppose with one abstention but they were
16 willing to revisit, I think, the issue if you address
17 their concerns. This letter is written June 18th so
18 what it sounds like to me is that the concerns haven't
19 been addressed yet and I'm wondering if you want to
20 comment on that.

21 MR. CLARKE: Yes, I would. As indicated,
22 we met with the residents in the immediate area. We
23 gave them assurances such as the noise and the
24 resolution of cracks and those types of things. I
25 don't know whether they were submitted to you or not.

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1 I'm not sure exactly where they are on that but we
2 assured them that we would take care of those kinds of
3 situations.

4 So there are some issues that they still
5 raise even though we feel that either we resolve them
6 to this point or we resolve them during the
7 development of design and construction. I just can't
8 make that tangible until it really happens. I can
9 tell them and I'm not sure they really accept what I
10 told them but until it really happens, that's the only
11 way we can make it tangible to them.

12 MS. MILLER: Okay. I think maybe after we
13 hear from the Office of Planning you might respond to
14 some of their concerns because the ANC does reference
15 Office of Planning's issues in their letter.

16 MS. BAILEY: Ms. Miller, if I'm not
17 mistaken, Mr. Jones, are you not with the ANC, Mr.
18 Timothy Jones?

19 MR. JONES: Yes, I am.

20 MS. MILLER: Oh, okay. Then you'll be
21 able to elaborate on this. Okay. My last question, I
22 think, goes to the parking. I understand that you're
23 not increasing -- you're saying you're not increasing
24 your use and, therefore, you wouldn't need to increase
25 your parking. I do have asterisks, though, that this

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1 was an issue when we last were here. It sounds like
2 you have so many members and I'm just wondering what
3 is the parking situation?W

4 MR. CLARKE: Well, it's tight. It's tight
5 as with all intercity churches but we are able to
6 accommodate everybody. Again, we don't foresee any
7 increase in the parking but it's tight.

8 MR. MALONE: And there are three or four
9 other churches in that immediate area as well that
10 contribute to it. It's just an urban problem that you
11 have when you have churches located in the intercity.

12 MR. GRIFFIS: That's why you've got to get
13 the church members to move back in the city. So you
14 don't have any off-site parking or any sort of
15 agreements.

16 MR. CLARKE: At this time we do not but
17 that is one thing we are looking into but at this
18 point we do not have any off-site parking.

19 MR. GRIFFIS: Okay. Let's move ahead
20 then. Anything else before we go to the Office of
21 Planning? Anything else? Okay. I'll return to you
22 for any sort of summation and conclusions that you
23 want. Okay. Let's move ahead then.

24 MR. MORTON: Good afternoon. I'm Steven
25 Morton with the Office of Planning and this

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1 application is for three area variances to permit the
2 expansion of existing church building. The existing
3 development is not conforming because it exceeds the
4 maximum lot occupancy of 40 percent allowed within the
5 R-4 district for churches.

6 The applicant proposes to demolish an end-
7 unit rowhouse on an adjoining lot and expand the
8 existing church building. The proposed building
9 addition will exceed the maximum number of required
10 floors by one-third resulting in four floors more than
11 the maximum three permitted.

12 The lot occupancy of the subject property
13 will increase from 66.25 percent to 79.13 percent,
14 almost one-third more than the maximum 60 percent
15 permitted. The property does not result in an
16 extraordinary or exceptional situation. Although it
17 is not rectangular in shape, it is large in that it
18 consist of 14,815 square feet in area and has a
19 minimum lot width of 114 feet.

20 The existing development of the site to a
21 lot occupancy of 66.25 percent in excess of the
22 maximum permitted 40 percent indicates that the shape
23 of the lot has not precluded the development of the
24 site, but rather than the applicant has maximized the
25 use of the property.

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1 Therefore, the Office of Planning
2 concludes that there is no extraordinary exceptional
3 situation to justify the granting of a variance and
4 that the variances cannot be granted without
5 substantial detriment to the public good and without
6 substantially impairing the intent, purpose, and
7 integrity of the zone plan as embodied in the Zoning
8 Regulations and map.

9 The Office of Planning recommends denial
10 of the application and that concludes the presentation
11 from the Office of Planning.

12 MR. GRIFFIS: Thank you very much.
13 Questions from the applicant for the Office of
14 Planning?

15 MR. CLARKE: We have none.

16 MR. GRIFFIS: Okay. Board members? Ms.
17 Miller.

18 MS. MILLER: What does the Office of
19 Planning see as the public detriment and impairment to
20 the intent, purpose, and integrity of the zone plan if
21 this application were to be approved?

22 MR. MORTON: If this application were to
23 be approved in that we don't see anything exceptional
24 or unusual about the property that would justify the
25 increases. And also that the increases are

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1 substantial enough that they would have an impact on
2 the neighborhood.

3 There is nothing usual about the property
4 and the shape that would cause parts of it to not be
5 able to be developed or parts of it to be unusual or
6 create an unusual situation where the applicant
7 wouldn't be able to take advantage of the property.

8 MS. MILLER: Would it be out of character
9 with the nature of the zone or the neighborhood?

10 MR. MORTON: It would be out of character
11 in the neighborhood in that the buildings would be
12 taller and that the lot would be more developed than
13 the surrounding area would permit -- surrounding
14 zoning would permit.

15 MS. MILLER: I also have a question with
16 respect to something you said on page 4 of your report
17 which goes to the adaptability of the existing
18 rowhouse for Sunday school and after-school
19 development programs, that it should be looked at
20 almost separately as a different type of application.

21 Do you know where I am? Next to the picture.

22 MR. MORTON: Yes. Okay.

23 MS. MILLER: You want me to read it? I
24 mean, I think it's an interesting statement. I'll
25 read it for the record. "The application states that

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1 the existing rowhouse is not easily adaptable for
2 Sunday school and after-school development programs.
3 However, this argument is more appropriate for the
4 replacement of the rowhouse and not for their
5 replacement of the rowhouse in combination with the
6 enlargement of the nonconforming church structure."

7 MR. MORTON: What was meant by that is
8 that we understand that the existing rowhouse is not
9 easily adaptable for Sunday school and after-school
10 programs. We don't take issue with that. To me that
11 makes sense.

12 However, to justify the variances to
13 replace that with a building that would be more
14 amenable to Sunday school and after school could
15 possibly be justified but this is an application more
16 than that. It's also to increase the nonconforming
17 structure and increase the lot occupancy and combined
18 all together with the nonconforming structure.

19 We feel that it's more than just the
20 replacement of something to provide for the after
21 school and the Sunday school, but it also has all
22 these other aspects to it that relate to the lot
23 occupancy and the nonconforming nature of the existing
24 building.

25 MS. MILLER: I just want to make sure that

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1 I understand. You think this could come back in a
2 different form whereas the townhouse could be made
3 adaptable and perhaps get some relief?

4 MR. MORTON: I don't know if the townhouse
5 itself can become adaptable or maybe another structure
6 on that lot can be constructed that can be made to
7 accommodate the after-school and the Sunday school
8 programs.

9 MS. MILLER: Okay. Thank you.

10 MR. GRIFFIS: Anything else? Good. Thank
11 you very much. Let's go to the ANC report then. Are
12 you going to be presenting that? Excellent. If you
13 wouldn't mind, just turn your microphone on and state
14 your name and address for the record.

15 MR. JONES: My name is Timothy Jones. My
16 address is 737 Rock Creek Church Road, N.W. I am the
17 Advisory Neighborhood Commissioner for SMD-4C-08 and
18 4C chair.

19 MR. GRIFFIS: Did you want to make a
20 statement or are you just presenting the letter from
21 the ANC?

22 MR. JONES: The letter should be on file.

23 MR. GRIFFIS: It is. Okay. Did you have
24 anything to add or you are just here for questions?

25 MR. JONES: I'm just here for questions

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1 basically, yes.

2 MR. GRIFFIS: Excellent. I think the
3 first question would be that your letter indicated
4 that you were persuaded by the Office of Planning's
5 report. Were there specific elements within the
6 report that were brought up in the ANC?

7 MR. JONES: Yes. I think the Office of
8 Planning's report referenced the parking issue was
9 nothing more than a gray area which wasn't fully
10 addressed. That is the one that comes to mind most
11 readily.

12 MR. GRIFFIS: Okay. Good. Thank you.
13 Any other questions from the Board? Now would be the
14 time.

15 MS. MILLER: Okay. Just to clarify, this
16 was the question I addressed to the applicant. In
17 reading the letter it reads to me since it's dated
18 June 18th that the ANC is opposed to the application
19 because it says that you are opposed unless the
20 applicant and their architects can address the
21 concerns of the community and the issues raised by the
22 Office of Planning. I guess for clarification I would
23 ask you if all your issues have been addressed or
24 whether the ANC opposes the application.

25 MR. JONES: Well, the ANC voted in support

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1 of the community and in opposition to the First
2 Baptist Church's request for zoning relief. In
3 conclusion it indicated that the Advisory Neighborhood
4 Commission will reconsider the application if the
5 concerns of the community and Office of Planning have
6 been met by the applicant and this architect.

7 MS. MILLER: Okay. And it is the report
8 that we give great weight to anyway. This is where
9 the ANC is at.

10 My final question, I guess, to you is I
11 have in my notes from the last time an issue about
12 parking but I don't really recall Office of Planning
13 addressing parking or even the ANC specifically saying
14 what the parking problem is. Are there major parking
15 problems?

16 MR. JONES: Currently there are major
17 parking problems that exist within the community, yes.

18 I think the church trustee referenced the fact that
19 there are other churches in the area. I don't want to
20 point the finger which church but all of them serve to
21 exacerbate an existing problem.

22 MS. MILLER: Okay. Thank you.

23 MR. GRIFFIS: Cross examination of the
24 ANC?

25 MR. CLARKE: No, Your Honor. I have one

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1 point of clarification if I may.

2 MR. GRIFFIS: Okay. Let me see if we are
3 finished up then. Any follow-up for the ANC? Okay.
4 What I'm going to do just to be formal in this, is
5 there anyone here to give testimony as a person in
6 favor or in opposition of the application? Nothing no
7 one else in the hearing room at this time, I assume no
8 one else is here to give testimony. I'll turn it over
9 to you for any conclusion, summations, however you
10 want to --

11 MR. CLARKE: Thank you, sir. I would just
12 like, I guess, to clarify the church membership number
13 I gave you. We define active members as paying
14 members and there are about 800 paying members but
15 there are not 800 members there every Sunday. The
16 number of members that attend every Sunday is in the
17 range of about 400 members so it's not the 800 that I
18 referred to earlier but the number enrolled still is
19 about 1,600.

20 I just have a question for the Office of
21 Planning. He indicated that the existing house may --
22 if I understood him correctly, we may consider razing
23 that house and reconstructing something on that site
24 but it just will not fit our needs. It's so small.
25 It's a rowhouse. It's very small. We are still

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1 having concerns of the neighborhood in terms of noise.

2 The same concern was raised even if we do
3 that. It won't satisfy the existing community. I
4 just don't think that's feasible for us. We would not
5 turn it down just for the computer center and the
6 classroom but to incorporate it into fulfilling larger
7 needs that we have. It just happens to be there and
8 we own it and we just want to incorporate that space
9 into a much larger need that we have.

10 That's all we have, Mr. Chairman.

11 MR. GRIFFIS: Very well. Thanks. One
12 follow-up from where I started early on. What's the
13 height in the back in the rear portion where the court
14 is created? What would be the height of that area
15 there? Do you know the elevation?

16 MR. RAITHEL: Forth-nine feet, 48 feet.

17 MR. GRIFFIS: Okay. I'm going to have you
18 turn that mike off.

19 MR. RAITHEL: It's roughly the alley
20 elevation and the ground floor. The lowest level is
21 approximately at the same elevation and a few inches.

22 MR. GRIFFIS: Okay. And if I recall
23 correctly, in this zone, which is R-4, the court
24 requirement is going to be four inches per vertical
25 height per foot of height. Is that your

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1 understanding?

2 MR. RAITHEL: Yes. The Office of Zoning
3 did not bring this up.

4 MR. GRIFFIS: The Office of Planning?

5 MR. RAITHEL: Zoning Office.

6 MR. GRIFFIS: Okay. I view this fairly
7 strongly. That would be a court created by the
8 addition of the structure. I'll allow you any
9 opportunity to address that in terms of the relief
10 that would be needed in terms of a variance from 406.

11 Well, there it is. Or it can essentially rest on the
12 test for the variance in the other conditions 2001.3
13 which you are already in under. Does that make sense?

14 MR. RAITHEL: Yes. I would let it rest as
15 it is.

16 MR. GRIFFIS: Okay.

17 MR. RAITHEL: It wasn't identified as an
18 additional variance.

19 MR. GRIFFIS: Right. This is a self-
20 certified application. Is that correct?

21 MR. RAITHEL: No. Letter from Office of
22 Zoning.

23 MR. GRIFFIS: Or letter from the Zoning
24 Administrator?

25 MR. RAITHEL: Yes.

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1 MR. GRIFFIS: This is a referral? You got
2 kicked out of a permit?

3 MR. RAITHEL: That's correct.

4 MR. GRIFFIS: Sure enough. I'm sorry. I
5 have your file, don't I? Forgive me, it is. Exhibit
6 No. 1.

7 (Whereupon, the end of Tape 2, Side 2.)
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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2:35 p.m.

MR. HORTON: -- and 403.2 of the Zoning Regulations.

MR. GRIFFIS: Lot area width and lot occupancy. Correct?

MR. HORTON: Yes, sir.

MR. GRIFFIS: Okay.

MR. HORTON: My clients purchased the property several months ago and I've taken a look at what we can do on the property and that's what is bringing us here today because there's not a lot we can do by the current condition of the property.

The current condition of the property there is no structure situated on the property. According to current Zoning Regulations -- building regulations, the applicants are not able to construct any structure because there's no structure there to convert from anything, from single family to a multi-family structure. We are here under the Board's

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1 jurisdiction under the Zoning Regulations to talk
2 about 401.3 and 403.2. Let me just start with the lot
3 area and width.

4 The uniqueness of the property is pretty
5 straightforward. It's only 14 feet wide in actuality.

6 There are some that would say it's 13.9 feet wide.
7 The lot area is only, say, approximately 1,372 square
8 feet of land. Under the Zoning Regulations to build
9 any structure you need 18 feet wide lot and 1,800
10 square feet of area. We would submit to the Board
11 that this is a unique property.

12 The practical difficulty is pretty much on
13 its face, that since we do not have an 18-foot wide
14 lot and 1,800 square feet of land, we cannot build any
15 structure under the Zoning Regulations so my clients
16 or anybody would be stuck with just a vacant piece of
17 land sitting in a residential neighborhood with other
18 uses as well.

19 MR. GRIFFIS: Do you know when that was
20 subdivided?

21 MR. HORTON: Say that again?

22 MR. GRIFFIS: Do you know when it was
23 subdivided?

24 MR. HORTON: I do not. In the Lesk Book I
25 had learned that there used to be a structure situated

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1 on the property of 605 square feet and I think it
2 probably at the most was maybe one story. There was a
3 raze permit back in 2002. My conversations with
4 people in the area were that the structure had been
5 there for a long time.

6
7 MR. GRIFFIS: So clearly this isn't a new
8 subdivision within the last two or three years.

9 MR. HORTON: No, no.

10 MR. GRIFFIS: It's a lot that has been in
11 existence for some time.

12 MR. HORTON: So having discussed the first
13 two prongs of uniqueness and practical difficulty, to
14 me that brings me to the third prong of impact and
15 comprehensive plan. We are proposing now under our
16 amended application to do a two unit flat that would
17 be consistent with the height, restricted everything
18 else under the Zoning Regulations. Obviously Union
19 Station is a couple blocks away.

20 It has Metro. It's close to bus routes.
21 It would be consistent because it's in an historic
22 district with the dwellings in the area with historic
23 features. We don't think there would be any impact on
24 the community or the comprehensive plan for the lot
25 width and area variance request.

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1 MR. GRIFFIS: Okay. Do you have any
2 elevation system? Do you have any plans with
3 dimensions on it? Lastly, are you not creating a
4 court in the rear where your terrace is and is that a
5 compliant core?

6 MR. HORTON: Let me just take the first
7 one last -- I mean, the last one first, the court. I
8 do not believe so. In the rear yard we are going to
9 have our 20-foot setback. We are going to have one
10 parking space back there so the rest would be just
11 common space, grass.

12 MR. HILDEBRAND: Yes, but is the stair at
13 the front of the property or at the back? Do you have
14 an overall site plan that relates this to the street
15 in any way?

16 MR. HORTON: Well --

17 MR. HILDEBRAND: In relation to the
18 sidewalk and the building setback line?

19 MR. HORTON: Let me just say this is sort
20 of I guess -- this is what we submitted with our
21 original application. This is not in conformance with
22 our new one since we have changed our application. I
23 would say that this has sort of been -- they have been
24 trying to really look at this and see how they can
25 make this work.

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1 MR. GRIFFIS: Let me say to you that the
2 Board is looking at this and wanted to make it work
3 also but it's funny having been handed this we can't
4 tell what the front and what the back of it is. We've
5 got a long way to go and very, very quickly to get the
6 Board's understanding of just what we're looking at
7 and whether it's compliant or not.

8 MR. HORTON: Okay. The left side of the
9 paper is the front of the building. The right side is
10 the rear of the building. The stairs are on the front
11 side.

12 MR. GRIFFIS: The front.

13 MR. HORTON: Yes.

14 MR. GRIFFIS: Where it creates a court.

15 MR. HILDEBRAND: Where is the -- is your
16 property line at the left-hand side of the stair or is
17 it at the face of the building? That is the window,
18 wall, and the door?

19 MR. HORTON: My understanding from this is
20 that there will be a 10-foot setback.

21 MR. HILDEBRAND: Okay. I definitely need
22 to see more relation to the site than this. Typically
23 on the hill you have a property line and you build to
24 the property line. Then you have a front yard that is
25 called public parking. It looks as though it's your

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1 front yard but it's actually city property and then
2 you have sidewalk. My question to you is are you
3 setting your building even further back than your
4 property line?

5 MR. HORTON: Okay. Well, let me just take
6 that for purposes so I'm clear. You're saying the
7 public space, the sidewalk is what you're calling your
8 front yard. Then you're talking about we're going to
9 have further setback from the sidewalk?

10 MR. HILDEBRAND: I'm trying to understand
11 your project in relationship to the adjacent buildings
12 and the public areas adjacent to it, the sidewalk, the
13 street.

14 MR. HORTON: Okay. That's a good place to
15 start. If you look in the application in the pictures
16 we provided of the neighboring properties, this should
17 be numbered as Photo No. 1 that has the caption at the
18 bottom, "Extremely narrow width of lot."

19 MR. HILDEBRAND: Yes.

20 MR. HORTON: So we're talking about 10
21 feet from the sidewalk which is on the property --
22 which we are thinking is on the property line. Let's
23 say this sidewalk is public space, the end of the
24 sidewalk and our property line. Is that clear enough
25 or no?

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1 MR. GRIFFIS: Say it again? You have the
2 sidewalk?

3 MR. HORTON: The end of the sidewalk. We
4 are going to have a 10-foot setback from the end of
5 the sidewalk.

6 MR. GRIFFIS: Okay. You have photographs
7 in here. Where does the stair start in relation to
8 the adjacent buildings?

9 MR. HILDEBRAND: If you look at your Photo
10 6 where is the corner of the staircase that is closest
11 to the street in relationship to the scar on the
12 adjacent building where the one-story structure had
13 been?

14 MR. HORTON: I would submit we don't have
15 an approximate -- an exact measurement but we would
16 say it would be close to where that scar would start
17 for the neighboring property. On Photo 6 on the right
18 side, that property would probably be right around the
19 beginning of that building.

20 MR. GRIFFIS: That's where the stair would
21 start?

22 MR. HORTON: That's where the stair would
23 start. Yes, sir. The lot is 100 feet long. The
24 building if you look under our new -- what we
25 submitted today, the stair is approximately 20 feet

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1 long. Then the family room if you look on your second
2 page drawn to scale is 16 feet. The light well, that
3 area is eight feet, the dining room is 10 feet, the
4 kitchen is 16 feet, and then we have a 20-yard
5 setback.

6 MR. GRIFFIS: Okay. This is what I
7 propose. I hate to do this but I think it's going to
8 take up more of your time and more of our time getting
9 through all this right now today. What I would
10 propose is a couple of things that have come right up.

11 First of all, we need dimensions on the plans.

12 Secondly, I need you to take a look at that
13 front porch and the terrace to see if that is a court
14 or not. If that is a compliant court, then we are all
15 set but we need that dimension. Then if it isn't,
16 either amend your application or figure out how you
17 want to deal with that.

18 We definitely need to see this on a plat
19 or some sort of site plan so that the orientation can
20 be -- you've said two things that we don't have
21 verification of and we believe you, but the record has
22 got to reflect that, and that is you are providing
23 parking so we would need to show a compliant parking
24 space.

25 And then elevations would be of critical

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1 nature just to indicate that the height is in
2 compliance with the height restriction. I think what
3 I would like to do, and this will give the opportunity
4 for Office of Planning also to take a look at this if
5 they need to amend or even substantiate their past
6 memo and review of this.

7 I would like to give you a week just to
8 throw this together and come back on the 13th. It's
9 actually two weeks but a week for you to put it
10 together to get to us. On the 13th we'll put you on
11 the first case of the afternoon and we'll knock this
12 thing out. It's coming together. I just don't think
13 it's worth your time right now getting through this
14 and our time right now trying to help you get through
15 it all. Any reactions to that? Does that pose any
16 difficulty in coming in on the 13th?

17 MR. HORTON: We just have to do it. I
18 mean, you make a valid point and we just have to get
19 the architect to give us what you need.

20 MR. GRIFFIS: Yeah. I don't think it's
21 going to take you that much time. Conceivably if you
22 can get it all done out there right now, we are going
23 to be here for a long time. Maybe we could put you
24 back on the schedule this afternoon but I think it's
25 well worth getting those ironed out and then we can

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1 get through this really quickly. Okay. Any last
2 comments? Yes, Mr. Hildebrand.

3 MR. HILDEBRAND: Can I just ask when you
4 do your site plan that you go all the way out to the
5 curb of the street at least so that we get an idea of
6 how this is fitting into the neighborhood. Perhaps at
7 least give the initial corner of the two adjacent
8 structures to set it back from the edge of the street.

9 MR. GRIFFIS: That's critical really for
10 us because, first of all, it is also a requirement for
11 the file and application. You are going to have to
12 resubmit a plat with the building footprint on it.
13 What we're asking for is much more graphic
14 representation. Show us where this building sits and
15 then show us its relation to the adjacent buildings
16 front and back because you are really trying to
17 utilize and animate both sides.

18 Okay. Anything else? Okay. Good. I
19 appreciate it and I appreciate your accommodating
20 that. I think it's going to be for the benefit of
21 everybody in this particular case. So let's do that.

22 Let's continue this on to July 13th. Are you sure
23 schedules accommodate that? I mean, I'm flexible,
24 quite frankly. If we don't hear you the rest of
25 today, you know, I'll fit you in if that's not a good

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1 day.

2 MR. SHARMA: I can do it. That's fine.

3 MR. GRIFFIS: The 13th?

4 MR. SHARMA: Yes.

5 MR. GRIFFIS: Excellent. So we'll do it
6 in the afternoon on the 13th. Good. Thank you very
7 much. Ms. Bailey.

8 MS. BAILEY: Mr. Chairman, do we need a
9 date for the documents to come into the file or just
10 leave that open-ended?

11 MR. GRIFFIS: No, let's not leave it open-
12 ended. Is it possible to get all of that in by next
13 Wednesday 3:00? Not a problem? Okay. That obviously
14 allows us not to get it handed to us right before we
15 come out. Wednesday, 3:00 next week. The date is?

16 MS. BAILEY: July 7th.

17 MR. GRIFFIS: 7th of July. Yes? Good.
18 Thank you. Appreciate it. We'll see you on the 13th.

19 Okay. Let's move on.

20 MS. BAILEY: Application No. 17180 of
21 Francis Yates, pursuant to 11 DCMR 3104.1, for a
22 special exception to construct a sunroom addition to
23 the side of an existing single-family dwelling under
24 Section 223, not meeting the lot occupancy
25 requirements (Section 403), the side yard requirements

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1 (Section 405) and nonconforming structure provisions
2 (Subsection 2003.1), in the R-1-B District at premises
3 6520 8th Street, N.W. (Square 2973, Lot 100).

4 MR. GRIFFIS: Very well. Let's proceed.
5 Good afternoon. How are you?

6 MR. LENK: How are you? My name is David
7 Lenk, representative for Patio Enclosures, 13230
8 Marina Way, Woodbridge, Virginia 22191. Present on
9 behalf of Francis Yates, 6520 8th Street, N.W.,
10 Washington, D.C. 20012.

11 MS. KIDD: My name is Pat Kidd.

12 MR. GRIFFIS: You need to touch the base
13 of your microphone. There's a little button.

14 MS. KIDD: Okay. My name is Pat Kidd.
15 I'm representing Commission 4-B.

16 MR. GRIFFIS: Oh, good. Welcome.

17 MR. YATES: My name is Francis Yates and
18 I'm the applicant.

19 MR. GRIFFIS: Indeed. Good afternoon to
20 you, sir.

21 Okay. Who's going to present? Excellent.
22 Did you fill out your witness cards? Just because
23 you wear a name tag doesn't mean you don't have to
24 fill out your witness cards.

25 MR. LENK: I actually filled one

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1 out for you.

2 MR. GRIFFIS: Okay. Good. Thank you.

3 MR. LENK: During my evaluation of
4 projects when I am aware that a variance is required,
5 first of all, I try to redesign the room to
6 accommodate not only the homeowner but also the Board.
7 Secondly, I try to change the size of the project.
8 Third, I try to relocate the project to another part
9 of the home. In this case, it wasn't feasible as far
10 as design for the home and function for the rest of
11 the house.

12 MR. GRIFFIS: Let me interrupt you for two
13 things. One, can I have that microphone on the edge
14 turned off, Ms. Kidd? Thank you. I don't know why
15 but we are getting terrible feedback. Secondly, let's
16 make absolutely everything clear because, boy, we pay
17 too much attention to detail around here.

18 MR. LENK: Oh, yes.

19 MR. GRIFFIS: Your statement in opening
20 said you were here for a variance. You are actually
21 here for a special exception.

22 MR. LENK: Special exception. That's
23 true.

24 MR. GRIFFIS: Section 223 special
25 exception which is in addition to nonconforming

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1 structure for certain aspects of which you are coming
2 in for not leaving a lot occupancy and also the side
3 yard requirements and then nonconforming structure
4 which is pretty straightforward so why don't we get
5 right to the chase and you tell me will this impair
6 the light and air available to neighboring properties?

7 MR. LENK: Okay.

8 MR. GRIFFIS: That's a question. What's
9 the answer?

10 MR. LENK: The answer is compliance with
11 Section 223. The light and air available to
12 neighboring properties shall not be unduly affect.
13 The only property potentially impacted by this
14 proposal is a neighboring single-family detached
15 dwelling on the south, Lot A23.

16 The addition would extend four feet
17 further into the yard but this should not simply
18 increase visibly into the neighboring rear yard
19 because the wooden fence would continue to surround
20 the side of the rear yard. The addition roof would
21 reach a height of nearly 11 feet. Shadows cast by the
22 addition would be predominately east to west which
23 would have a minimal impact on the property to the
24 south.

25 MR. GRIFFIS: Okay. Let me interrupt you

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1 because Mr. Jackson is here from the Office of
2 Planning. He's going to go through his memo. You are
3 representing the applicant here, the homeowner. Is
4 that correct?

5 MR. LENK: That's correct.

6 MR. GRIFFIS: Is your addition going to
7 affect the light and air privacy of the adjacent
8 neighbors?

9 MR. LENK: No.

10 MR. GRIFFIS: Why?

11 MR. LENK: Because, one, it's made out of
12 glass so it's uninhibited view. Two, because of the
13 sunlight. The way it's directed it's not going to
14 cast a shadow. Of course, not that it would matter
15 but the neighbor has no challenges with the addition.

16 MR. GRIFFIS: Okay. And they haven't
17 raised any objection or any sort of concern that it
18 might unduly impact that aspect. As you have
19 indicated, and also in the photographs, Exhibit No. 7
20 shows there's a wood -- I can't really tell but a wood
21 stockade fence in between the properties.

22 MR. LENK: That's correct.

23 MR. GRIFFIS: Okay. The Office of
24 Planning is going to note this but answer the question
25 directly how easy is it to add material to the roof of

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1 this? I noted in the plans that were sent in that you
2 have a roofing panel anywhere from three to whatever,
3 five inches thick.

4 MR. LENK: Correct. Adding an asphalt
5 single to match the existing single is not a
6 challenge. It's easy to do. We've done that in the
7 past.

8 MR. GRIFFIS: Okay.

9 MR. LENK: Note that the existing roof
10 structure that we use is completely water proof and
11 there's not really any need for shingles as far as
12 function due to the fact that it's not required to
13 exceed code.

14 MR. GRIFFIS: Okay. And in your color
15 palette that is stock for your panels which is white,
16 beige, silver, and black or something.

17 MR. LENK: Actually it's white, sandstone,
18 and bronze.

19 MR. GRIFFIS: Okay. Good. What is your
20 opinion on whether it would visually intrude on the
21 character, scale, and the architecture of the existing
22 and the adjacent houses?

23 MR. LENK: I think that being it's a
24 sunroom and it's made out of glass with white trim it
25 would stick with the architectural integrity of the

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1 home as it is.

2 MR. GRIFFIS: Why?

3 MR. LENK: Well, because the house has
4 white accents on windows and the house itself is
5 actually red.

6 MR. GRIFFIS: Red brick.

7 MR. LENK: Yes, red brick.

8 MR. GRIFFIS: Okay. There it is. Any
9 other questions from the Board?

10 MS. MILLER: Just for the record, did you
11 confer with the neighbors who are the closest to this?

12 MR. LENK: Oh, yes, I did.

13 MS. MILLER: Okay. You don't have
14 anything in writing from them but they indicated it's
15 not a problem?

16 MR. LENK: Yes, there's no issues with
17 them at all.

18 MR. GRIFFIS: Mr. Hildebrand.

19 MR. HILDEBRAND: Yes. You said the height
20 of the structure was 11 feet. I'm assuming that's to
21 the ridge line at the center of the roof?

22 MR. LENK: That's the ridge line.

23 MR. HILDEBRAND: And at the eave it's what
24 height?

25 MR. LENK: Seven foot.

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1 MR. HILDEBRAND: So you are planning on
2 having this on the slab on grade. You're not
3 elevating it to meet the floor line of the existing
4 house?

5 MR. LENK: That's correct. It will be
6 height slab on grade.

7 MR. HILDEBRAND: You can still step down
8 into the room?

9 MR. LENK: Correct.

10 MR. HILDEBRAND: Your standard details
11 show curving underneath the slab. Are you going to
12 reuse the existing slab that is there and provide a
13 footer?

14 MR. LENK: Correct. We are going to
15 remove part of the existing and put in footings and
16 set the structure on top.

17 MR. HILDEBRAND: It seemed like what was
18 setting your setback from the property line was the
19 existing slab. If you are going to cut off the slab
20 and replace it, would you be able to move that wall
21 back some from the property line?

22 MR. LENK: Actually, certain parts of the
23 project were cutting into the existing slab. Other
24 parts we're underpinning the existing edge of the
25 concrete slab that is already there. Now, one of the

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1 recommendations that I have was for a four-foot
2 setback for the side yard. The idea of a four-foot
3 yard setback was recommended due to concern for
4 maintenance of the neighboring fence.

5 Unfortunately, a loss of 36 square foot
6 would mean not being able to accommodate the guest
7 furnishings that were needed in this case. A side-
8 yard setback of two feet is what we're asking for and
9 would be no endurance on maintenance from either side
10 of the fence. In fact, the fence that was built there
11 was built on the neighboring side of the fence.

12 Another neat thing that is interesting
13 about this is that if need be for maintenance on the
14 fence that we could actually remove glass and screen
15 panels to accommodate space for any maintenance on
16 that fence.

17 MR. HILDEBRAND: So you're saying that the
18 existing slab goes all the way up to two feet to the
19 property line, not the three and a half that is in
20 your application?

21 MR. LENK: I don't want to say that's
22 correct. Let's see.

23 MR. HILDEBRAND: That's fine. Thank you.

24 MR. LENK: Okay.

25 MR. GRIFFIS: What is the dimension of the

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1 proposed enclosure?

2 MR. LENK: 14 by 18.

3 MR. GRIFFIS: You're saying that there's
4 difficulty if it was 12 by 18?

5 MR. LENK: Correct. The reason being
6 really when it comes down to it is accommodating --
7 Mr. Yates has quite a large family and his furnishings
8 for that. That would be the main -- considering that
9 the main idea for the four-foot setback was due to
10 maintenance on the fence. What I'm saying is that
11 maintenance is no issue with this design structure and
12 also the neighboring property.

13 MR. GRIFFIS: Okay. Any other questions
14 of the Board? Any questions? Okay. Anything else
15 you want to let us know right away? Yes, Mr. Yates.

16 MR. YATES: I would just like to comment
17 about the setback of four feet. The way the patio is
18 structured, when you come out of the family room there
19 are three steps coming into the patio which is about
20 another three feet.

21 If you move it back in two more feet, then
22 you have to also consider the three feet that I'm
23 actually loosing because I've got to walk down into
24 the patio so it would be a very small footprint if I
25 move it back two more feet from the plan that is

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1 submitted.

2 MR. GRIFFIS: Okay. Understood.

3 MS. KIDD: I also would like to add
4 something. I'm the ANC.

5 MR. GRIFFIS: Yes. Actually, what we're
6 going to do is I'm going to get to you.

7 MS. KIDD: Okay.

8 MR. GRIFFIS: This is the time for the
9 applicant to present their case and be barraged by
10 ridiculous questions from the Board and then we move
11 on. I think we are ready to move on. Let's go to the
12 Office of Planning. Mr. Jackson is here with us today
13 to present the Office of Planning's report. After the
14 Office of Planning I will go to you, Ms. Kidd, to
15 present the ANC report.

16 MR. JACKSON: Mr. Chairman and members of
17 the Board, my name is Arthur Jackson, D.C. Office of
18 Planning. Briefly I will summarize the Office of
19 Planning's report. Essentially the Office of Planning
20 stands on the record and with that our recommendation
21 is approval subject to -- I recommend approval with a
22 special exception to increase the allowable lot
23 occupancy to 44 percent and reduce the required side
24 yard setback along the southern property line to four
25 feet with the condition that singles be installed on

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1 the addition roof that resemble the shingles on the
2 dwelling. With that, that concludes our summary of
3 the Office of Planning's report and we stand available
4 to answer questions.

5 MR. GRIFFIS: Okay. In terms of the
6 addition of shingles on the building, that is in order
7 to keep it compliant with the 223 requirements of
8 keeping in character with the architecture of the
9 existing and the character of the area. Is that
10 correct?

11 MR. JACKSON: Our observation was that the
12 addition was sufficiently screened from the rear and
13 the side of the alley side. Since it's 11 feet tall
14 and the wall around it is only seven, the roof extends
15 well above the fence that is in the front. Our
16 thought was that if they added shingles, they either
17 match the front porch or the addition that is already
18 on the house and that would be consistent with the
19 existing building.

20 We didn't think that the white structure
21 of the sunroom would be that different -- would look
22 that odd from the street because the front of the
23 residence is white painted wood so the actual white
24 color of the building structure wasn't strange. It's
25 just that we didn't see any brass or white roofs on

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1 any other buildings in the area. That's why we
2 suggested the shingles.

3 MR. GRIFFIS: Okay. That makes sense.
4 Any other questions? Ms. Miller.

5 MS. MILLER: Can you respond to their
6 comment that the shingles only come in white or brown
7 or sandstone and they don't come in gray? Are any of
8 those colors acceptable for blending in with the
9 neighborhood?

10 MR. JACKSON: Our observation was that
11 there weren't any roofs with those colors either. We
12 really just looked around the immediate area. If they
13 have examples of roofs -- now, of course, we have the
14 aerial that we are reusing for our analysis. Most of
15 the roofs are gray, light gray, or kind of a reddish
16 color.

17 We thought that they could probably find
18 some shingles that would match those shades fairly
19 easily which is why we just suggested the gray because
20 there are at least two shades of gray that are used on
21 the house right now.

22 MS. MILLER: Could you also respond to
23 their remarks regarding the setback, that it was
24 difficult for them to do that?

25 MR. JACKSON: In our discussions with the

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1 agent, we asked questions about how the building would
2 actually work. If you have a two-foot area to work
3 in, you basically can't stand there. You need more
4 than two feet to stand and move any amount. Now,
5 there are various options that come with the addition.

6 As they explained to me, it's completely
7 custom made. It can be any size or shape. The option
8 of having solid panels on the interior seems
9 reasonable, or the option to be able to take out the
10 doors also seems reasonable. What was described to me
11 when I asked about the proposal was that the windows
12 around that side would not move. The only windows
13 were the front and the back.

14 As such you couldn't open the windows to
15 get to the outside to perform maintenance on the
16 existing addition if there was a problem on the ground
17 level with the other patio that was left or with the
18 fence. You just wouldn't be able to get in there and
19 do any work.

20 Now, the other concern was that the plans
21 as they represented them had an overhang such that the
22 overhang would also be at the 7'6" level. Essentially
23 if you had a two foot overhang that was 7'6", your
24 fence was two feet away, and you were trying to get in
25 there and do anything, you were pretty well limited in

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1 your ability to move any equipment or just move
2 persons.

3 If they have a recommendation of how they
4 could provide access to this area and to the exterior
5 of the building that does not require the setback,
6 that's plausible because when I was on site I did
7 speak to the property owner and we talked about
8 whether or not they needed to maintain the area that
9 is there now. It's paved all the way to the fence
10 such that currently it wouldn't be an issue.

11 I can see that it is possible that over
12 time with the new construction that problems would
13 occur and at this point we just didn't see how they
14 could -- how a property owner or a service person
15 could get into a two-foot space and perform any task
16 with regard to either the structure that they're
17 adding, the remaining patio that's there, or the
18 fence. That was the basis of our recommendation.

19 MS. MILLER: Thank you.

20 MR. GRIFFIS: Any other questions from the
21 Board?

22 MR. HILDEBRAND: Could you speak to the
23 side-yard setbacks on the adjacent houses? Are they
24 typically five feet? I'm looking at your photograph
25 at the end of your report.

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1 MR. JACKSON: I visited the Office of the
2 Surveyor and looked at the plans that they have for
3 the area. Most of them are not very good so we went
4 to the RGIS system and measured on the aerial.
5 Looking at the GIS and just making quick measurements
6 of buildings within the area, it seems like at a
7 minimum they are usually around five feet.

8 The anomaly on this side, of course, is
9 that this building predates the current Zoning
10 Regulations and at the time this house was built the
11 side-yard setback was taken from the center of the
12 alley which is the only reason why there is a two-foot
13 side-yard setback on the north side.

14 Other than that, most of the yards had
15 around five feet. In our discussions in the office we
16 thought that recommending four feet is a good space
17 just to perform most operations. We think about
18 mowing grass initially but, of course, you wouldn't be
19 mowing grass here but just for mechanical operations.

20 It wouldn't seem that five feet would be
21 necessary just for that purpose. Three feet seems
22 like it might not be enough so that's where we came up
23 with the four foot dimension. I would say that most
24 of the homes in the area appear to have at least a
25 five foot dimension on the side yard.

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1 MR. GRIFFIS: Good. Anything else? Does
2 the applicant have any cross examination of the Office
3 of Planning?

4 MR. LENK: Actually, there's a couple of
5 things I wanted to state. There might have been a
6 communication breakdown as far as communication with
7 Mr. Jackson. That wall facing the fence, those
8 panels, those glass and screen panels, can be moved.
9 They are on wheels. They roll back and forth. And
10 they can be removed completely and taken off so you
11 have open space to maneuver to get fixed, repair,
12 maintenance, whatever the case may be for the fence.

13 MR. GRIFFIS: The whole thing is sliding
14 glass panels.

15 MR. LENK: Correct.

16 MR. GRIFFIS: You can pop off the screen?

17 MR. LENK: Correct.

18 MR. GRIFFIS: And walk right out.

19 MR. LENK: Right. Exactly. No. 2 is the
20 overhang on the structure is one foot. We don't have
21 two-foot overhangs. And No. 3 is there is existing
22 two-foot setback -- I'm sorry. The Board previously
23 approved Application 11797 November 20, 1974, granting
24 a variance of the same applicant to allow addition to
25 extend the nonconforming two-foot side setback along

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1 the northern boundary for a carport.

2 MR. GRIFFIS: A who? Carport?

3 MR. LENK: Family room. Sorry.

4 MR. GRIFFIS: Okay.

5 MR. LENK: That's it.

6 MR. GRIFFIS: Good. In order to make that
7 a cross examination question, I'll ask Mr. Jackson,
8 are you aware of that?

9 MR. JACKSON: Yes.

10 MR. GRIFFIS: Okay. Thank you very much.
11 Very well. If there is nothing else for the Office of
12 Planning, let's go to the ANC. Ms. Kidd is here from
13 4B. Is that correct?

14 MS. KIDD: Yes.

15 MR. GRIFFIS: Excellent. I would have you
16 turn on your microphone and you can present your
17 report, please.

18 MS. KIDD: We had an opportunity to
19 discuss this particular exception in detail on
20 Thursday, May 27, 2004. Any questions that we had, we
21 had an opportunity to also discuss it with the owner
22 and also Zoning. We had a quorum. Eight out of nine
23 were present at the meeting and we approved this
24 particular application on 17180. Based on any kind of
25 questions that may have been asked here, we are

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1 satisfied.

2 MR. GRIFFIS: Excellent. Thank you very
3 much. Questions from the Board? Is there any cross
4 examination from the applicant?

5 MS. KIDD: Oh, I wanted to make one more
6 point, please.

7 MR. GRIFFIS: Sure.

8 MS. KIDD: We do have some signatures. We
9 did go through the neighborhood and we did get
10 signatures on all impacted residents.

11 MR. GRIFFIS: And that is attached to your
12 report.

13 MS. KIDD: Yes, it is.

14 MR. GRIFFIS: Excellent. We appreciate
15 that. I also note that one of the contingent aspects
16 of your approval was that proper notice had been
17 provided to all the homeowners. Of course, we do have
18 that as complied within our application. Anything
19 else? That's for Ms. Kidd, actually. Anything else,
20 Ms. Kidd?

21 MS. KIDD: No, that's it.

22 MR. GRIFFIS: Any questions from the
23 Board? Excellent.

24 Mr. Yates, cross examination.

25 MR. YATES: The only comment, again, I

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1 would like the Board to consider --

2 MR. GRIFFIS: How about questions? Do you
3 have any questions of the ANC?

4 MR. YATES: No questions.

5 MR. GRIFFIS: Okay. Hold that comment and
6 that is going to be your closing remarks.

7 MR. YATES: Okay.

8 MR. GRIFFIS: Is there anyone here
9 attended to 17180 to give testimony as a person either
10 in support or opposition to this application? Now
11 would be your time. Not seeing any, last questions
12 from the Board?

13 MS. MILLER: I just have a question for
14 Office of Planning with respect to the point that was
15 made that a variance for a two-foot side yard was
16 granted on one side of the home. I don't know what
17 the Office of Planning's position or was on that. Do
18 you?

19 MR. JACKSON: There was no Office of
20 Planning report on that case. There was a variance
21 granted because there was a practical difficulty found
22 because of the change in zoning regulations and the
23 fact that the house did not meet the required setback
24 at the time.

25 MS. MILLER: Okay. And do you see a

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1 difference between the two feet on one side of the
2 house and the two feet that is now at issue in this
3 side of the house?

4 MR. JACKSON: A this point since the
5 Office of Planning did not review the previous report,
6 I can only go on based on what our analysis has been
7 in this case. In this case, as with previous
8 applications that have dealt with side-yard side backs
9 that are extraordinarily narrow or appear not to be
10 manageable.

11 Looking at the long-term maintenance of a
12 facility, we are sticking with our recommendation that
13 the four foot seems reasonable but we would note that
14 the applicant and the agent have made a reference to
15 the ability to remove panels from the inside which was
16 not my understanding at the time. That is to say, my
17 understanding was that there were two permanent walls
18 that were not moved.

19 The only movable walls would be front and
20 back. This is additional information but we would
21 rather continue with our recommendation based on a
22 more conservative approach of allowing a permanent
23 space to be available for work as opposed to removing
24 panels back and forth.

25 MS. MILLER: Okay. And my last follow-up

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1 question on that, is it important that there be a
2 side-yard width greater than two feet with respect
3 access for maintenance in general and not just for the
4 sunrooms being added? Maintenance into the backyard
5 from the front or is there another reason other than
6 maintenance of this structure?

7 MR. JACKSON: Well, we also note that the
8 existing setbacks on the other dwellings in the area
9 is around the four and five-foot range so even though
10 this would be less than the five foot that is required
11 in the Zoning Regulations, this is not that different
12 from what actually exist throughout the neighborhood.

13 MS. MILLER: Okay. Thank you.

14 MR. GRIFFIS: Any other questions of the
15 Board? Last questions? Very well. Mr. Yates.

16 MR. YATES: Yeah. My comment is back to
17 the recommendation of setting it back four feet.
18 Again, if we set it back four feet, with three feet of
19 the steps coming down into the patio, the footprint
20 would be very small.

21 MR. GRIFFIS: What if you built it up and
22 put it on level with your sunroom?

23 MR. YATES: Built it up?

24 MR. GRIFFIS: Yeah. Why not put it on a
25 platform?

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1 MR. YATES: That would probably be around
2 \$20,000 more. Actually, out of my family room you
3 step down into the patio.

4 MR. GRIFFIS: I understand.

5 MR. YATES: It would be too costly.

6 MR. LENK: And to make a note on that,
7 actually it would be more of an issue with neighboring
8 properties.

9 MR. HILDEBRAND: But you would still have
10 nine to 10 feet clear from the edge of the steps to
11 the side wall if you were to pull it back the
12 additional two feet. Do you feel that's unusual? I
13 mean, the rest of the room -- I mean, the stair itself
14 is a very small thing. Do you feel 10 feet is not an
15 acceptable width to have as an interior room
16 dimension?

17 MR. YATES: Are you talking about raising
18 it up to make --

19 MR. LENK: They are saying from the end of
20 the steps to the proposed 12-foot projection instead
21 of the 14. Is that not --

22 MR. YATES: It would be less than 10 feet.

23 MR. LENK: It would be between nine and 10
24 depending on how thick the wall is and how far your
25 steps actually are.

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1 MR. YATES: If you move it in two feet and
2 I'm already losing three feet coming out. That 14
3 feet that we're talking about from the wall to the
4 end, if you subtract three feet from that, you are now
5 down to 11 feet and you subtract two more feet, you're
6 down to nine feet which wouldn't be acceptable to me.

7 MR. GRIFFIS: How wide are the stairs
8 going out, five feet?

9 MR. LENK: Five feet. And they are
10 somewhat centered within the room.

11 MR. GRIFFIS: Right.

12 MR. LENK: Did you look at all at putting
13 the addition on the back of the house instead of in
14 the side yard?

15 MR. YATES: Yes, we did look at that and
16 to do that we had to actually modify the family room
17 which I have a bay window and I would have to take
18 that bay window out and move the wall and then build.
19 That would be, again, quite costly.

20 MR. GRIFFIS: Okay. Anything else?
21 Closing remarks?

22 MR. LENK: No. Well, one little thing. I
23 appreciate your consideration on this case.

24 MR. GRIFFIS: That was it? Whew.

25 MR. HILDEBRAND: I wanted to clarify one

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1 thing that the Office of Planning said. The current
2 code requirements would be an eight-foot side yard
3 even though the neighbors typically have a five-foot
4 side yard.

5 MR. JACKSON: No, that would be a minimum
6 of five feet.

7 MR. HILDEBRAND: In R-1-B it's not eight
8 feet?

9 MR. JACKSON: This still comes under the
10 provision -- I'm turning to the Zoning Regulations
11 where a house that predates the current Zoning
12 Regulations can have a minimum side yard of five feet,
13 I believe.

14 MR. HILDEBRAND: Even if the house
15 footprint didn't approach that close to the property
16 line initially?

17 MR. JACKSON: Let me find that section.
18 Section 405.8. In the case where a building exist on
19 or before May 12, 1958, the side yard less than eight
20 feet wide an addition may be made to the building
21 provided that the width of the existing side yard
22 shall not be decreased, and provided further that the
23 width of the existing side yard shall be a minimum of
24 five feet.

25 There is a caveat in the Zoning

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1 Regulations that allows for an expansion of buildings
2 that predate current Zoning Regulations looking at the
3 fact that most of the -- a lot of properties in the
4 District do not meet the current width and area
5 requirements.

6 MR. HILDEBRAND: Mr. Chairman, I would
7 like to make a motion that we approve the application
8 with the conditions established by the Office of
9 Planning with the addition of shingles of shingles for
10 the roofing and the setback of four feet in lieu of
11 the two feet requested.

12 MR. GRIFFIS: Excellent. Is there a
13 second?

14 MR. MANN: Second.

15 MR. GRIFFIS: Thank you, Mr. Mann. Speak
16 to the motion further, Mr. Hildebrand? No need. I'm
17 just giving you the opportunity.

18 MR. HILDEBRAND: No.

19 MR. GRIFFIS: Very well. I think it's
20 fairly clear in terms of the layout of Section 223 the
21 parameters that need to be met. I think what has been
22 discussed and testified to today, all those issues
23 have been addressed with the concern as raised by
24 Office of Planning, one, keeping the visual character.

25 This is going to be very visible both

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1 from, as the Office of Planning said, the side and
2 rear, but also the front if that wooden fence on the
3 property was to be removed which it may well be as
4 this is a glass enclosure that would be fully viewed.

5 I think there are several aspects to that. One, Mr.
6 Hildebrand has indicated the setback.

7 Not only is it an important aspect for the
8 maintenance of the property line of which we've seen
9 numerous times in terms of getting onto adjacent roofs
10 or getting into areas, but also it goes, I think, to
11 the keeping of the character of the houses and the
12 massing on the block which I think was fairly well
13 indicated on the aerial photograph just of the
14 adjacent properties.

15 That being said, I would support the
16 motion. I think the shingles are also an important
17 aspect in terms of tying this in, especially with its
18 location on the side of the existing property. I'll
19 let others speak to the motion. If there are no other
20 comments, then I would ask for all in favor of the
21 motion signify by saying aye.

22 ALL: Aye.

23 MR. GRIFFIS: Opposed? Record the vote.

24 MS. BAILEY: The vote is recorded as four,
25 zero, one to approve the application. Mr. Hildebrand

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1 made the motion, Mr. Mann seconded, Mrs. Miller and
2 Mr. Griffis are in agreement, Mr. Etherly is not
3 present today.

4 MR. GRIFFIS: Next case. She's going to
5 call it. Have a seat. No need for you to go
6 anywhere. Are you presenting also 17182? Yes?

7 MR. LENK: Yes, 182 and 181.

8 MR. GRIFFIS: Right.

9 MS. BAILEY: Speaking of which, that --

10 MR. GRIFFIS: Do you want to -- go ahead.

11 MS. BAILEY: That is the application of
12 Jeffrey Booth, 17181, pursuant to 11 DCMR 3104.1, for
13 a special exception to construct a sunroom addition to
14 the rear of an existing single-family dwelling under
15 Section 223, not meeting the lot occupancy
16 requirements (Section 403), and rear yard requirements
17 (Section 404), in the Foggy Bottom Overlay District/R-
18 3 District at premises 914 1/2 25th Street, N.W.
19 (Square 16, Lot 862).

20 MR. GRIFFIS: Good. Are you alone on this
21 one?

22 MR. LENK: Yes, I am.

23 MR. GRIFFIS: Flying solo?

24 MR. LENK: Yes, flying solo today.

25 MR. GRIFFIS: After last one we'll move

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1 you right into this one.

2 MR. LENK: I appreciate that.

3 MR. GRIFFIS: Okay. Let's go. Anything
4 else you want to give us on this case? Additional
5 information or specifics for the record? Whatever you
6 want.

7 MR. LENK: All right. So in this
8 particular case, I'm not sure if you are aware but the
9 main function for this project is to eliminate water
10 from the home. I don't know if you can see the
11 pictures but it's actually about seven or eight feet
12 drop-off from the edge of the property.

13 It's set in the back, the rear of the
14 property. It's not a functionable space for
15 entertaining or anything of this nature like we
16 normally would. It's actually also a hazard the way
17 it is and that's one of the reasons we're why we're
18 looking to do the solarium.

19 MR. GRIFFIS: Wait a minute. I'm totally
20 lost. You've got a window well which is part of the
21 cellar level?

22 MR. LENK: We have a window well.

23 MR. GRIFFIS: And you have a door.

24 MR. LENK: And we have a door.

25 MR. GRIFFIS: Your photographs are showing

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1 a ladder going down into that area.

2 MR. LENK: That's correct.

3 MR. GRIFFIS: What are you saying, that
4 this glass enclosure is going over that area?

5 MR. LENK: That's correct. The glass
6 enclosure is going over that area.

7 MR. GRIFFIS: So you're not going to
8 access the cellar level from the exterior and the rear
9 anymore?

10 MR. LENK: That's correct.

11 MR. GRIFFIS: Okay. So what do you do?
12 What happens to that window? I don't understand.

13 MR. LENK: Okay.

14 MR. GRIFFIS: Are you pouring grade to hit
15 the building again?

16 MR. LENK: No. Bear with me on this. The
17 brick retaining wall that we see here from the
18 picture, that is where the B wall, the front side of
19 the curved or the straight-eaved solarium will sit on
20 top of. We are using that as the foundation. We are
21 basically covering up that well because, as you can
22 see, there is no railing.

23 MR. GRIFFIS: So you are going to cover up
24 the well. From the first level of residential there's
25 that concrete stair that is coming up. Is that

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1 remaining? Wasn't there an elevation or something in
2 there somewhere? Can you walk out the blue door?

3 MR. LENK: You can walk out the blue door.
4 That's correct. We are basically building it from
5 where the railing is for the stairs from the blue
6 door.

7 MR. GRIFFIS: Do you occupy that space
8 that you are enclosing with glass?

9 MR. LENK: It's not to be occupied.

10 MR. GRIFFIS: Okay. And if you were going
11 to access that, it would be out of the cellar level
12 anyway?

13 MR. LENK: It would be out of the cellar
14 level. That's correct.

15 MR. GRIFFIS: Okay. Now I'm with you.
16 All right. Good. The whole reason is to?

17 MR. LENK: Two fold.

18 MR. GRIFFIS: Mitigate water?

19 MR. LENK: Mitigate water and avoid a
20 hazard in case there are animals, people.

21 MR. GRIFFIS: So aside from an area drain
22 and a guardrail, you propose a glass enclosure?

23 MR. LENK: Correct.

24 MR. GRIFFIS: Okay. Makes sense. All
25 right. Let's go.

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1 MR. HILDEBRAND: Are you extending the
2 foundation walls up to the top of the concrete level
3 so that this thing actually sits at the same level as
4 the door? You are clearing the head of the window on
5 the back wall of the existing house. Correct?

6 MR. LENK: Ah, Jesus.

7 MR. HILDEBRAND: Because your whole thing
8 is six feet, five inches tall.

9 MR. LENK: Six feet, five inches tall so,
10 in this case, yes, we are going to clear that window.

11 It's going to raise just above that window and we are
12 actually going to build up the foundation a little
13 bit.

14 MR. HILDEBRAND: With a brick wall?

15 MR. LENK: Correct. That's right.

16 MR. GRIFFIS: Did you present this to the
17 Historic Preservation Review Board?

18 MR. LENK: Yes, and it's been approved.

19 MR. GRIFFIS: Yeah, that I know. Okay.
20 Anything else you want to tell us? I'm skipping right
21 to the G23 because I think it's fairly clear outside
22 of that we don't know what it is and where it's going,
23 but it's fairly clear in terms of how the structures
24 on the adjacent side that obviously you're not going
25 to impact the light, air, and privacy.

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1 This is a very enclosed area in the rear
2 of this building so I'm going to go right to that. As
3 it went through the Historic Preservation, I'm not
4 that concerned with trying to make an assessment of
5 whether it would impair the visual character.

6 Not to mention I don't think you can see
7 this very much except from the absolute rear. If
8 there is nothing else you want to add to this, let's
9 go to the Office of Planning and I'll give you an
10 opportunity just to make any summations at the end if
11 you have any.

12 Mr. McGettigan, how are you? Are you
13 presenting?

14 MR. McGETTIGAN: Ms. Thomas.

15 MR. GRIFFIS: Look at that.

16 MS. THOMAS: Karen Thomas, Office of
17 Planning. I'll stand on the record if you have any
18 questions.

19 MR. GRIFFIS: Excellent. Thank you very
20 much. Good report. The photographs are always of
21 great utilization. Any questions from the Board?

22 MS. MILLER: Did this go to the ANC?

23 MS. THOMAS: I'm sorry. At the time of
24 the report we had no comments from the ANC and we
25 weren't aware that it did go to the ANC. We knew that

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1 it went to Historic Preservation Board and they had
2 approved it.

3 MS. MILLER: Does the applicant know if it
4 went to the ANC? Do you know if it went to the ANC?

5 MR. LENK: Yes.

6 MR. GRIFFIS: You presented it to the ANC?

7 MR. LENK: Actually, a co-worker.

8 MR. GRIFFIS: This project when to the
9 ANC?

10 MR. LENK: Correct.

11 MR. GRIFFIS: Okay. Do you know what the
12 outcome of their motion was?

13 MR. LENK: I know it was approved. Do I
14 have specifics on that?

15 MR. GRIFFIS: That's right. We couldn't
16 believe you if you did because we need it from the
17 ANC.

18 MR. HILDEBRAND: I just want a
19 clarification. This is a single-family home. This is
20 not a house with a flat in the basement that is a
21 separate apartment?

22 MR. LENK: No, this is a single-family
23 home.

24 MR. GRIFFIS: Okay. Do you know what the
25 width of the property is?

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1 MR. LENK: Fourteen, 15 feet.

2 MR. GRIFFIS: Yeah, it's small. Let me be
3 clear what I'm asking here. You have an eight-foot,
4 six-inch wide dimension on what you're proposing.
5 Correct?

6 MR. LENK: Correct.

7 MR. GRIFFIS: Okay. What does it look
8 like? It seems to me then if it abuts the existing
9 party wall on one side, it stops at the stair going
10 into the other. What is the elevation at the stair?
11 is that also the glass panel?

12 MR. LENK: Correct.

13 MR. GRIFFIS: Okay. So it's glass panel,
14 glass panel, and then solid brick and then it's grass
15 or the roofing.

16 MR. LENK: Correct. It's actually a
17 solarium so it's going to be majority glass.

18 MR. GRIFFIS: Okay. I must be slow today.
19 Any other questions? Ms. Miller?

20 MS. MILLER: I just have one question.
21 Was there any conferences with neighbors? Are you
22 aware of any?

23 MR. LENK: Yes. Everyone has been
24 informed. There's been no objections.

25 MS. MILLER: Okay.

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1 MR. GRIFFIS: We talked about ANC-2A.
2 Historic Preservation did, of course, review and
3 approve this so let us move on. If anyone here
4 regarding 17181 to give testimony as persons either in
5 support or in opposition, come forward now. Not
6 noting anybody coming forward to give testimony, we'll
7 turn to you for any closing remarks you might have.

8 MR. LENK: No. Thanks again.

9 MR. GRIFFIS: Indeed. Once again, Board
10 members, we have a Section 223 that is in front of us.

11 I would move approval of special exception of
12 Application 17181 which would allow this glass
13 enclosed rear addition of nominal dimension to enclose
14 a window well. I would ask for a second.

15 MS. MILLER: Second.

16 MR. GRIFFIS: Thank you very much. It is
17 fairly clear that 223 is written in order to mitigate
18 any impact of which this could not by any stretch
19 really begin to start to impact the light, air, and
20 privacy use of the adjacent properties as it is
21 enclosed by large brick party walls. I think we've
22 flushed out all of the other issues attended to that.

23 Other comments speaking to the motion? If there are
24 none, let me ask all in favor signify by saying aye.

25 ALL: Aye.

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1 MR. GRIFFIS: Why don't we record the
2 vote.

3 MS. BAILEY: The vote is recorded as four,
4 zero, one to approve the application. Mr. Griffis
5 made the motion, Mrs. Miller seconded, Mr. Mann and
6 Mr. Hildebrand are in agreement, and Mr. Etherly is
7 not present today. Summary order, Mr. Chairman?

8 MR. GRIFFIS: Indeed. By regulation we'll
9 issue a summary order. Okay. I think we are ready
10 for the final next case. Not final case, the next
11 case.

12 MR. LENK: Final patio enclosure.

13 MR. GRIFFIS: I don't want to do this one.
14 Oh, did I say that on the record? That was just a
15 joke. Let's call it.

16 MS. BAILEY: Application No. 17182 of
17 Tyrone Brown, pursuant to 11 DCMR 3104.1, for a
18 special exception to construct a sunroom addition to
19 the rear of an existing single-family row dwelling
20 under Section 223, not meeting the lot occupancy
21 requirements (Section 403), rear yard requirements
22 (Section 404), and side yard requirements (Section
23 405) in the R-5-A District at premises 1385 Barnaby
24 Terrace, S.E., (Square 5923, Lot 49).

25 MR. GRIFFIS: Thank you, Ms. Bailey.

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1 That's all right. Someone had the right idea. We
2 can't process the case this afternoon.

3 MR. LENK: I was continuing.

4 MR. GRIFFIS: Yeah. Well, we have to do
5 that formally. I don't know who you talked to or who
6 has been indicating it but here is the difficulty. Of
7 course, as you are well aware, how this all was
8 established is a single property but there are
9 hundreds of townhouses on this so it's under a special
10 section of the BZA.

11 What we are at a loss to find out or what
12 we need is the previous orders and all of the land use
13 calculations that went into the original approval.
14 One of the most specific ones is the FAR. What we
15 need to know is what the overall FAR for this project
16 was when approved and some sort of formula that tells
17 us what then the portion or percentage of FAR was
18 portioned to this specific property.

19 That way we can tell you whether you can
20 still come in under a 223 or if you decide to proceed
21 whether you are in a variance from the FAR. It may
22 sound absolutely complicated. I know the Office of
23 Zoning staff understands this very well so they would
24 answer questions from you if you had. I know Office
25 of Planning had also indicated that they wanted to

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1 postpone this in order to find the record from the
2 prior. Am I correct that you have requested the
3 archives already?

4 MR. McGETTIGAN: Yes, I have.

5 MR. GRIFFIS: Okay. So they are on their
6 way. I would keep in close communication with the
7 Office of Planning. I have no idea how long it's
8 going to take to get that out of archives. I don't
9 know if staff does. Were you given any indication?

10 MR. McGETTIGAN: I requested it more than
11 a week ago but I haven't heard that it's been in yet.

12 MR. GRIFFIS: So clearly it could be a
13 week.

14 MR. McGETTIGAN: It could be more.

15 MR. GRIFFIS: A week or more. Okay. What
16 I think we ought to do is move this to the 6th.

17 MS. BAILEY: No.

18 MR. GRIFFIS: I'll run out of humor
19 shortly.

20 MR. McGETTIGAN: The 6th of what year?

21 MR. GRIFFIS: Exactly. Ms. Bailey, do you
22 have a recommendation for a date?

23 MS. BAILEY: Mr. Chairman, on July 27th
24 the third case, 17095, Sun Service, we dealt with that
25 site this morning. I'm not quite sure if that is an

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1 appropriate location or not.

2 MR. GRIFFIS: Let's put it in the
3 afternoon of the 27th. Did you have any scheduling
4 problems with that afternoon case on the 27th?

5 MR. LENK: May 27th?

6 MR. GRIFFIS: No, July 27th.

7 MR. LENK: July 27th.

8 MR. GRIFFIS: I can do May 27th. That's
9 open.

10 MR. LENK: July 27th sounds good.

11 MR. GRIFFIS: In the afternoon. The 27th
12 of July we'll move this on to. Now, to be absolutely
13 clear, the Office of Planning, I think, is
14 facilitating getting the information and such. You
15 are going to need to seriously look at it in terms of
16 how that impacts your application and what it changes
17 and what it does not change.

18 I think the Office of Planning would avail
19 themselves to have a discussion with you about what
20 the impacts were so they will fully understand what
21 they are looking at. The Office of Zoning staff I
22 know is very well versed in this. I would take all
23 the assistance without being a great big bother on all
24 those folks. Take all that you can. Mr. McGettigan,
25 questions?

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1 MR. McGETTIGAN: I just wanted to alert
2 you that I will not be here on the 27th.

3 MR. GRIFFIS: Okay. Is that a difficulty
4 in us continuing? Do you want us to pick a new date
5 or do you want to have someone present your memo?

6 MR. McGETTIGAN: I'll have someone present
7 my memo.

8 MR. GRIFFIS: We are fairly flexible. The
9 issue is if we move past the 27th we're into September
10 as we won't be having hearings in August. If there's
11 no rush from the applicant's standpoint, that would be
12 easier for us in our schedule.

13 MR. McGETTIGAN: July is a good time.

14 MR. GRIFFIS: Okay. Excellent. Thank you
15 all very much. Let's move this to the 27th of July.

16 MS. BAILEY: And the Office of Planning's
17 report will be due a week ahead of time, Mr. Chairman,
18 July 20th?

19 MR. GRIFFIS: Yes. The 20th is what we're
20 anticipating for the OP report. I think we would have
21 some flexibility. Obviously we would love to see this
22 as quickly as possible. We are also going to need to
23 keep an update on whether we get the file in or not.
24 I always have questions. I order things from archive
25 and they never show up.

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1 MR. McGETTIGAN: I can get it to you by
2 the 20th.

3 MR. GRIFFIS: Excellent. Good. We're
4 done then. Thank you very much. Appreciate it.
5 Okay. We're going to take five minutes. The next
6 case, of course, is 17149. Why don't we get set up
7 and get ready to go and we'll be right back.

8 (Whereupon, at 3:50 p.m. off the record
9 until 4:07 p.m.)

10 MR. GRIFFIS: Let's resume.

11 MS. BAILEY: Continuation of Application
12 No. 17149 of Sidwell Friends School, pursuant to 11
13 DCMR 3104.1, for a special exception allowing
14 additions and enhancements to an existing private
15 school and to increase enrollment from 780 to 825
16 students under Section 206, in the R-1-B and C-2-A
17 Districts at premises 3825 Wisconsin Avenue, N.W.
18 (Square 1825, Lot 816).

19 MR. GRIFFIS: Good. Thank you very much.
20 I also have a reminder anyone that is here today that
21 will provide testimony that has not previously filled
22 out witness cards you can do so and give them to the
23 recorder on the floor to my right. Let me
24 just update. We were going to receive the revised
25 elevations. Are they in the record? Are they coming

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1 in today?

2 MR. FEOLA: They are coming in today.

3 MR. GRIFFIS: That's fine. And all the
4 other stuff. I note that you did provide -- if I'm
5 not mistaken, this is the presentation that we saw
6 last time which was the slide show.

7 MR. FEOLA: That is correct.

8 MR. GRIFFIS: Excellent. Okay. So where
9 are we? I thought last we left off we were going to
10 hear from the Office of Planning first but you guys
11 look like you are ready to go.

12 MR. FEOLA: For the record, Phil Feola for
13 Sidwell Friends School. There were three items that
14 the Board asked for last time. One had to do with the
15 penthouse relief on the middle school with the
16 additional penthouses that were shown. Then the
17 garage elevations from Wisconsin Avenue as it affected
18 Zartman House. Then finally a brief memorandum from
19 us about the lot occupancy how it's calculated that
20 Board Member Hildebrand asked for.

21 MR. GRIFFIS: So you want to present all
22 those into the record? That's fine. Let's move
23 ahead.

24 MR. FEOLA: And I thought it would be
25 easier to let Mr. Kieran explain the architectural

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1 things as we go forward.

2 MR. GRIFFIS: Excellent.

3 MR. KIERAN: Hi. I'm Stephen Kieran,
4 architect for Sidwell Friends School. I apologize for
5 the lines missing but this will become clear in some
6 subsequent images. This green roof is the roof of the
7 new building. This outline is the roof of the
8 existing structure.

9 The roofscape of this building is very
10 much a fifth facade for this building and it is part
11 of the environmental design agenda, the lead platinum
12 certification agenda for the building. What you
13 are seeing on the new roof is, first of all, vegetated
14 roof that is part of the rain water collection
15 program. It holds rain water and meters it out
16 slowly. That's the green tone there.

17 Secondly, these structures are natural
18 ventilation penthouses often referred to as solar
19 chimneys. They take heated air from the top and use
20 it to draw air naturally out of the building.
21 Thirdly, as part of the roofscape we are taking all of
22 the multiple plants on the campus, multiple mechanical
23 plants which are very, very inefficient and don't
24 contribute to energy reduction. We are replacing them
25 all with a single central plant that is in the

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1 basement of this building.

2 These three structures here are cooling
3 towers that will serve that central plant for that
4 entire campus. In between each of the cooling towers
5 and the ventilation shafts are rooftop skylights,
6 again, contributing to natural daylighting of the
7 building interior.

8 On the existing roof structure there are
9 solar thermal units that face in toward the campus and
10 those eat hot water for use in the building. They
11 preheat it. There are also photo-voltaics for
12 gathering the sun's energy and generating electricity
13 from it along this side of the roof. In between all
14 these there are operable skylights, again,
15 contributing to the daylight program in the building.

16 In section, basically, again, these lines
17 have dropped out of this image on Mike's projector
18 here but this is the solar chimney here and behind it
19 is the skylight, rather the cooling tower. In between
20 all those are the operable skylights, again, with a
21 vegetated roof on this side.

22 MR. FEOLA: Mr. Chairman, because it's
23 hard to read, if you don't mind, I can pass out the
24 hard copies.

25 MR. GRIFFIS: That would be a good idea.

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1 MR. KIERAN: In the existing building we
2 are replacing an existing air handling unit in the
3 same place. The height above the roof is 8'1". You
4 can see here some of the solar thermal collectors they
5 project seven feet above the roof line. And then the
6 PV panels are basically on the roof line itself. It
7 gives you some idea of the overall roofscape of the
8 building.

9 From the corner of the driveway up into
10 the Washington Home and 37th Street this is what
11 you'll see. You'll see these three units above the
12 roof. They are architecturally aligned with these
13 solid panels and the building's wall and they are
14 aligned behind with the solar chimneys, the thermal
15 ventilation chimneys for the entire structure.

16 MR. GRIFFIS: The one in the corner you're
17 showing in that perspective sketch --

18 MR. KIERAN: It has an elevator behind it
19 and then a cooling tower.

20 MR. GRIFFIS: Right, but the first
21 penthouse is seven feet high. Is that correct? Above
22 the roof?

23 MR. KIERAN: This penthouse is higher with
24 the dunnage on the roof. Let me go back to this
25 image. On the existing building they are 8'1" high.

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1 On the new building they're higher, though. With the
2 dunnage on the roof it's about 15'6" to the top on the
3 new building.

4 MR. GRIFFIS: Oh, indeed. I'm looking at
5 the existing wing. That makes sense. So it's 15'6"
6 setback 12 feet.

7 MR. KIERAN: Yep. That's correct.

8 MR. FEOLA: Mr. Chairman, given where we
9 are and given what we learned last week, we would
10 kindly like to amend our application to have this roof
11 plan approved under 411 which, as you can see, is not
12 in a single enclosure as required.

13 I think what I've learned in the last week
14 is that the ability to have a roof that contributes
15 environmentally is virtually impossible to have under
16 existing Zoning Regulations without relief from this
17 Board as Mr. Kieran just explained. It is possible
18 clearly that we could put a wall around all three of
19 these structures but it doesn't seem practical or
20 aesthetically pleasing.

21 For those reasons, we would -- and I just
22 passed out a memorandum done by Karen Timberlake that
23 explains the rationale in more detail for the need to
24 have the multiple roof structures at these different
25 heights.

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1 MR. GRIFFIS: Specifically we are looking
2 at 411.3 and 411.5, if I'm not mistaken, which is a
3 single enclosure and setback. Is that right? No, I'm
4 wrong.

5 MR. KIERAN: One further comment. If, in
6 fact, we did have a single enclosure, it would cost us
7 all of the roof top skylights for daylighting of the
8 classrooms because in these locations there are
9 service wings of the building that are not blocking
10 daylight into the building.

11 There were also some questions about the
12 Wisconsin Avenue elevations of the parking structure.
13 We've developed these for your review here today.
14 This is the playing field elevation right here. We
15 are now looking basically to the south along Wisconsin
16 Avenue so the upper school is here. The roof top of
17 the Zartman House is back in here and the Cogot Art
18 Center is here. This is the driveway that runs
19 alongside the Johnson Pavilion.

20 You can see the garage here and the
21 playing field atop it. The garage will have a wire
22 lattice that is covered with ivy against Wisconsin
23 Avenue and will present itself basically as a
24 evergreen ivy wall along the edge of the street.

25 You can see it here looking the other

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1 direction. We're looking south on Wisconsin Avenue
2 toward the Johnson building owned and operated by
3 Fannie Mae. You can see brick piers or pylons in
4 here, again, with the ivy structure covering the
5 armature of fencing along Wisconsin Avenue with the
6 garage below.

7 Here is a view as we have turned down into
8 the campus. Zartman House is to the right over here
9 and this is the view from the south that questions
10 were asked about last week. This is an entrance to
11 the garage directly. This is the entrance to the
12 drop-off drive down at the bottom. Again, you can see
13 this ivy armature with the field level screening
14 projecting slightly above it there.

15 In detail it looks like this. There are
16 brick piers about 20 feet on center with a metal
17 armature behind it that the ivy is trained to grow
18 against. Then behind all of that an athletic fencing
19 to keep the balls within the field. We are looking at
20 the upper school behind in that view.

21 There were also some questions about the
22 lighting in the garage. There are three types of
23 lighting provided here. First, there are downlights
24 and those are located only underneath the entrance
25 drive over against the school. The garage itself, the

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1 entire area out here seen in this lighting diagram
2 below, is uplit. These lights are hung in between the
3 concrete structures so they can't be seen from the
4 outside. They throw light up onto the underside of
5 that deck and down onto the garage floor. They cannot
6 be seen from outside because of their position and the
7 fact that they are uplights.

8 Then, thirdly, there are some pole lights.

9 They are metal halide luminaries. They present
10 themselves along the sidewalk in between the garage
11 and Wisconsin Avenue, and also along the campus side
12 of the building. They are shielded to prevent
13 emission of light in undesirable directions which is
14 all directions save immediately out to their sides so
15 they do not project light up. They are used to
16 illuminate the sidewalk along Wisconsin Avenue curb
17 and the curb line for added security.

18 With regard to the improvement that we
19 referenced on the Zartman House views, you can see
20 here now that the tennis courts in front of the campus
21 project along Wisconsin Avenue in front of the Zartman
22 House and often have windscreen on them and really
23 block a lot of the view and present a rather unsightly
24 --

25 MR. FEOLA: Mr. Kieran, before you go to

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1 that, could you kindly show the Board where the
2 entrance of the parking garage will be if this project
3 is approved?

4 MR. KIERAN: Rodman Street is right across
5 here at the traffic light so we are going to be using
6 this signalized intersection for the entrance to the
7 parking garage. The entrance to the garage will be
8 right through here approximately. The edge of the
9 garage is right about here so we are basically
10 removing that whole tennis court from the site lines
11 to the Zartman House. This is the edge of the garage.

12 This is the Rodman Street entrance at the
13 signalized intersection that will provide the new
14 entrance to the campus here. You can see the way in
15 which this opens up long views to the Zartman House
16 that are now blocked as shown in the prior image by
17 all the tennis fencing extending along the campus.

18 In essence, we are extending the open lawn
19 along Wisconsin Avenue to widen the views of Zartman
20 and then framing those views with ivy colored brick
21 pillared walls along the remainder of Wisconsin
22 Avenue.

23 MR. FEOLA: Mr. Chairman, the last piece
24 that was requested was the calculation as to whether
25 or not the lot occupancy included the parking garage

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1 and, I guess, why not. I will pass out a memorandum
2 we did that walks us through the Zoning Regulations.

3 Essentially in a nutshell accessory
4 structures, which I think everybody would agree that
5 the parking garage is an accessory structure, if it's
6 below the main level of the main building, which in
7 this case is the upper school which is a fact here, it
8 does not count by definition in the Zoning Regulations
9 against lot occupancy. I'll pass that out for the
10 Board.

11 MR. GRIFFIS: Okay. And you know right
12 off what the section is regarding the accessory
13 parking below the main floor of the residential -- the
14 main floor of the main building? It should say that
15 in there. Correct?

16 MR. FEOLA: Yes, it's in the definitional
17 section 199.1

18 MR. GRIFFIS: Okay.

19 MR. HILDEBRAND: So to clarify, the drop-
20 off location, the students will not be entering the
21 building immediately at what would be essentially a
22 new main entrance level. You are still going to have
23 the upper floor as the main entrance level for the
24 building.

25 MR. FEOLA: That's correct. There will be

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1 an entrance from the parking garage into the basement
2 level, if you will, of the school for convenience sake
3 but the main entrance of the level is at the playing
4 field level. Does that make sense? Which is on top
5 of the structure.

6 MR. GRIFFIS: Okay. What else?

7 MR. FEOLA: Questions on any of the
8 material presented. Cross-examination.

9 MR. MANN: I have a question.

10 MR. GRIFFIS: Yes, Mr. Mann.

11 MR. MANN: The pole lights along Wisconsin
12 Avenue, are those in the public right-of-way?

13 MR. GRIFFIS: Weren't they on Wisconsin?

14 MR. MANN: Were they along Wisconsin?

15 MR. GRIFFIS: I thought they were on the
16 other side. You said they are on Wisconsin on the
17 sidewalk.

18 Try that mike instead of the one on the
19 end. One of these seems to kick it off all the time.

20 MR. KIERAN: Does this one work? You're
21 referring to the pole lights?

22 MR. MANN: Yes.

23 MR. KIERAN: That you see right along
24 here?

25 MR. MANN: Right.

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1 MR. KIERAN: The property line for most of
2 Wisconsin Avenue is, in fact, the side wall of the
3 garage so we're building at the property line. These
4 poles as positioned here are outside of that line.

5 MR. GRIFFIS: Outside of the property
6 line?

7 MR. KIERAN: Yeah.

8 MR. GRIFFIS: I'm sorry to interrupt you
9 because he brought up a comment off the record which I
10 think needs to be reiterated now because I didn't
11 understand that. Is this going to be coordinated with
12 some sort of public space or DDOT or whoever does our
13 beautiful Washington standard lights?

14 MR. KIERAN: Yes. It has to be approved
15 by --

16 MR. GRIFFIS: Indeed. So that goes to the
17 direct question then you are showing images of actual
18 fixtures. Are those definitive of what is being
19 proposed in this?

20 MR. KIERAN: They are representative of a
21 metal halide fixture that is shielded from above so it
22 doesn't emit light above. That is definitive. We do
23 not want any light going up. We are going to adhere
24 to the dark skies provisions of the lead.

25 MR. GRIFFIS: What about down lights?

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1 MR. KIERAN: These lights should be pretty
2 definitive. This is a very typical parking garage
3 light. It's tucked up in between a structure. This
4 light is used along the entry and drop-off drive at
5 the edge of the school. Those are definitive.

6 Because of the aesthetic issues involved with
7 these lights we are going to cut through a design
8 review on those but we wanted to put something in to
9 show that the intent is it's shielded so no light goes
10 up. All light comes down.

11 MR. GRIFFIS: Okay. I would like to
12 follow-up. What is the difference between the ceramic
13 halide and the metal halide luminaries. In terms of a
14 pedestrian walking by what is the difference the way
15 that light appears? What color is it?

16 MR. KIERAN: It's a white light. It's not
17 a sulfur yellow light. It's a clear white light.

18 MR. GRIFFIS: And both are, the ceramic
19 and the metal?

20 MR. KIERAN: Yes.

21 MR. GRIFFIS: Okay. I'm sorry.

22 MR. KIERAN: It's simply a different
23 fixture type, not a different lighting source.

24 MR. GRIFFIS: Indeed. Did you have
25 follow-up?

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1 MR. MANN: Well, it sounds like you kind
2 of got to what I was going to say and that is I just
3 wanted to ensure that lighting was coordinated with
4 either DDOT or DCOP and their proposed lighting master
5 plan for the District of Columbia.

6 MR. GRIFFIS: Good.

7 MR. FEOLA: We obviously have to do that.

8 It might be a bit of a challenge to have the District
9 deviate if, in fact, this is a better way to go in
10 terms of lighting the street. We hope to work in that
11 direction for the frontage of Wisconsin Avenue from
12 Quebec through the property.

13 MR. GRIFFIS: What is the advantage of
14 providing the pole light fixtures under this plan? I
15 mean, what are you getting? Why not allow it to be
16 the standard Washington light?

17 MR. KIERAN: Well, we could certainly go
18 in that direction. Those lights do emit some light
19 up. This would not. We are trying to adhere really
20 to a higher standard of design in terms of controlling
21 uplight.

22 MR. GRIFFIS: In terms of the actual
23 reality of what it's trying to illuminate, is that
24 trying to illuminate the upper deck of the parking?

25 MR. KIERAN: This is really trying to

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1 illuminate the sidewalk along Wisconsin Avenue.

2 MR. GRIFFIS: Okay.

3 MR. KIERAN: That's really for the safety
4 of pedestrians and the security of pedestrians along
5 Wisconsin Avenue, something that the pole lighting
6 there does not do a great job of.

7 MR. GRIFFIS: Right. Especially at 15
8 feet high. Okay. I understand.

9 Any follow-up questions? Okay. What
10 else?

11 MR. FEOLA: That's all we have. I don't
12 know if there is cross examination. I will put in a
13 letter from Mr. Saxenian to Nancy McWood, Chair of
14 ANC-3C agreeing to the construction management plan
15 that they proposed.

16 MR. GRIFFIS: Excellent. We'll take that
17 into the record. Last question for the architects
18 just for reference. There's a berm currently up that
19 then terminates with the top of the tennis courts. I
20 think the tennis courts are there where the parking
21 garage is set to go. Am I correct in my recollection
22 from the past that the top of the deck will be at the
23 same level at the tennis court? You don't need to
24 show me. If you understanding what I'm saying, you
25 can just answer it.

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1 MR. KIERAN: The berm in the field at
2 their present elevation, the proposed new elevation is
3 approximately a foot higher than the existing
4 elevation.

5 MR. GRIFFIS: Right. Okay. A foot
6 higher. And it doesn't berm anymore, though. It's
7 more of a straight structure.

8 MR. KIERAN: It's straight structure with
9 an ivy-covered lattice in front of it.

10 MR. GRIFFIS: And the brick piers. Okay.
11 Excellent. Any other questions from the Board? Very
12 well. Let's go to cross examination. Is there any
13 cross of the new information testimony that has been
14 received?

15 MS. PERRY: I just have a question.

16 MR. GRIFFIS: Ms. Perry.

17 MS. PERRY: Karen Perry for ANC-3F. How
18 high is that fence to control the balls flying out
19 onto Wisconsin Avenue?

20 MR. FEOLA: The fencing that controls the
21 balls is eight feet high along Wisconsin Avenue and
22 along the northern and southern edges it is 10 feet
23 high. It is, in fact, somewhat lower than what is
24 there now. However, it does meet the standards for
25 lacrosse in terms of height.

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1 MR. FEOLA: Although Sidwell has very good
2 shooters so they won't go over the fence.

3 MR. GRIFFIS: That's not questioning the
4 accuracy of the mid-fielders. Okay. I'm sorry but
5 what is it made of again? It's not totally
6 definitive. Is that correct?

7 MR. KIERAN: Okay. The fencing that holds
8 balls within the field that is at the innermost layer
9 is black chain link athletic fencing.

10 MR. GRIFFIS: Okay.

11 MR. KIERAN: And the out layer is a metal
12 fencing. It's either going to be a black aluminum or
13 a black painted steel armature that supports the ivy.
14 It's ornamental metal.

15 MR. GRIFFIS: There is a chain link fence
16 there now. Correct?

17 MR. KIERAN: There is chain link fence
18 there now. Most of it is galvanized.

19 MR. GRIFFIS: As you say, the screens.
20 Okay. Any questions of the Board? Rather, let's do
21 further cross examination. No? Okay. Let's move on.
22 Thank you very much.

23 Let's move on to the Office of Planning
24 and we welcome a presentation of their report.

25 MS. THOMAS: Good afternoon Mr. Chairman,

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1 members of the Board. I'm Karen Thomas with the
2 Office of Planning recommendation on Sidwell Friends
3 application for renovation and expansion of the
4 existing campus buildings on Wisconsin Avenue.

5 Relief is also being requested from the
6 roof structure requirements to enhance the efficiency
7 of the proposed addition to the Sidwell Abbott Middle
8 School. The applicant is also requesting an increase
9 in the number of students from 780 to 850.

10 A major feature of the proposal involves
11 construction of an underground parking structure to
12 accommodate parking and campus. Further requested
13 relief or analysis of examined variables under which
14 relief should be granted include in the location
15 traffic, parking, number of students, other conditions
16 as well as community comment agreeing with the
17 applicants, series of presentations to the community.

18 I'll highlight the main points on these.

19 With respect to location, while the campus
20 does not directly abut any residences, it is separated
21 by a driveway from the Washington Home and at its
22 closest point by 44 feet. We did recognize the
23 concerns of area residents expressed about proximity
24 to the home and what the impact noise and lighting may
25 have from the proposed tennis courts.

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1 While OP had no direct information or
2 complaints from the home, the applicant's report did
3 reflect these concerns and in conversations with OP
4 and we're satisfied that the school will make efforts
5 to address any privacy and noise issues by way of
6 landscaping, use of the courts, and lighting.

7 In addition, OPM understands that the
8 applicant will continue dialogue with the home to
9 address these issues. In addition, we believe that
10 the new middle school's design would create a
11 courtyard play area which is better contained in noise
12 from other activities during the daytime.

13 With respect to traffic and parking, the
14 applicant amended its original submission for
15 underground parking beneath the existing athletic
16 field in an effort to respond to the community's
17 concern that all parking be contained on campus. An
18 additional level was included in this increasing
19 number of spaces by 111 for a total of 323 spaces, 307
20 underground, and 16 to remain at the circle.

21 OP relies on DDOT's expertise for analysis
22 of the traffic studies and according to their report
23 they did not oppose a limited drop-off and pickup of
24 5th and 6th graders on 37th Street. Due to the
25 location of this middle school being directly adjacent

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1 to the 37th Street curve, according to their report
2 this would reduce the current drop-off activity on
3 this street by about 90 vehicles even with increasing
4 the current student count to 850.

5 The applicant would have to continue
6 working with DDOT's Traffic Safety Administration
7 before DDOT is able to comment on the proposed
8 retirement of the traffic signal at Wisconsin Avenue
9 and Rodman Street and to discuss its construction
10 management plan.

11 OP supports DDOT's and the community's
12 request to strongly increase mass transit by both
13 students and employees to 10 percent in order to
14 reduce vehicle travel to and from the campus and
15 achieve a higher vehicle occupancy rate through
16 carpooling.

17 We both support, OP and DDOT, the
18 construction of a parking garage on the campus since
19 additional parking spaces will reduce the impact of
20 on-street parking on neighbor streets. We support the
21 applicant's proposal of environmental features as part
22 of the design element since they add value to the
23 community by increasing the amount of green space and
24 capturing and reusing storm water on its premises.

25 We believe this recapture effort would be

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1 a new feature in the neighborhood where none currently
2 exist and we strongly encourage designs as proposed
3 for the middle school.

4 In addition, the applicant's request for
5 relief of the middle school's roof structure on the
6 new addition is an effort to enhance space efficiency
7 for an increase in classroom space. We have no
8 objection because light and air to any other building
9 would not be affected if the stairwell were located at
10 the end of the building.

11 With respect to the request for student
12 cap increase to 850, OP supports the community's
13 concerns with respect to the student enrollment and
14 its potential impact on traffic and parking in
15 neighborhood streets. I recommend that the increase
16 be tied to the applicant's adoption, implementation,
17 and operation of its traffic management plan which was
18 devised with the community's input.

19 We support the community's efforts to
20 mitigate adverse impacts due to construction and
21 traffic as issued in their construction management
22 plan and Sidwell's traffic management plan which was
23 drafted again with the help of the community.

24 For the record, and we submit a
25 supplemental report, we would like to clarify our

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1 recommendation as follows; that enrollment may be
2 increased to no more than 800 students beginning
3 September 2004 in conjunction with a traffic
4 management plan.

5 That enrollment may be increased to no
6 more than 825 students one year after the certificate
7 of occupancy is issued for the parking garage subject
8 to the applicant's admitting evidence of compliance
9 with the BZA order including the traffic management
10 plan to the Zoning Administrator's Office and DDOT
11 submitting a report to the Zoning Administrator that
12 the garage is operating successfully.

13 Approval of an increase in enrollment to
14 no more than 850, six years after the certificate of
15 occupancy is issued for the parking garage subject to
16 the applicant's submitting evidence of compliance with
17 the BZA order including the traffic management plan to
18 the Zoning Administrator's Office and DDOT and DDOT's
19 submission of a report to the Zoning Administrator
20 that the TMP is operating successfully.

21 In addition, at the beginning of each
22 school year but in no event later than October 15th
23 the school shall provide the Board and the Zoning
24 Administrator and DDOT documentary evidence to
25 demonstrate its enrollment figures and compliance with

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1 the terms and conditions of the BZA order including
2 the traffic management plan. Sidwell shall also
3 provide an annual report to ANC-3C and ANC-3F due no
4 later than December to include enrollment, staff, and
5 certification that they comply with the BZA order.

6 Again, OP would like to mention that we
7 support the community's input and the construction
8 management plan and any other contract they revise
9 with Sidwell in order to insure successful project
10 which will benefit the neighborhood. We have no
11 problems with any of the conditions being adopted if
12 the Board feels that they are enforceable.

13 That concludes our report. Thank you.

14 MR. GRIFFIS: Thank you very much. So
15 from your supplemental report, you are now changing
16 the time and the enrollment maximum after a time
17 period of compliance. Is that correct? From 850 over
18 five years to 825 over one.

19 MS. THOMAS: That's correct. We tried to
20 phase the increase over a period of at least six
21 years.

22 MR. GRIFFIS: Okay. And you've outlined
23 here that the compliance obviously was submitted to
24 the Zoning Administrator for their review and review
25 for compliance.

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1 MS. THOMAS: That's correct.

2 MR. GRIFFIS: Okay. So you are
3 envisioning that as kind of an automatic in terms of
4 not having any sort of continued public process. It
5 wouldn't come back to us is what you are suggesting.
6 Is that right?

7 MS. THOMAS: That's correct. And to keep
8 the ANC informed.

9 MR. GRIFFIS: Sure. Okay. Good. Any
10 other Board questions for the Office of Planning?
11 Really? Okay. We'll let it go. Thank you very much.

12 It's an incredibly thorough report. I'm sure the
13 Board is going to have some questions to come back to.

14 I note a lot of the coordination as you've
15 indicated and somewhat summarized with DDOT in terms
16 of pushing for the issue of Metro check and Metro
17 riding, which I think is incredibly important, even
18 with the building of or proposed building of
19 structured parking.

20 I would highlight also for the Board's
21 attention the buffering and concern with the
22 Washington home which is also discussed somewhat
23 briefly in terms of the location of the school and
24 some of the ideas of how that can be achieved and
25 accomplished.

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1 Well, okay. Let's move on. Does the
2 applicant request examination of the Office of
3 Planning? No questions? Does 3C have any questions
4 of the Office of Planning?

5 MS. McWOOD: Nancy McWood for ANC-3C. I
6 just actually have one question and this is in regards
7 to the supplemental report. I just want to make sure
8 that I understand. The Chairman talked a bit about
9 this but I want to just take it a step further.

10 If the -- you said in order for the
11 automatic increase enrollment to occur that the Zoning
12 Administrator would have to be presented with evidence
13 of compliance with the TMP and the DDOT, I believe,
14 would also have to weigh in. If the Zoning
15 Administrative finds that there is not compliance, how
16 would not work? What would be the process?

17 MS. THOMAS: I believe they would submit a
18 report to the Board that they are not in compliance
19 and they would have to then come before the Board.
20 The cap wouldn't be automatically increased then.

21 MS. McWOOD: So the cap would only be
22 automatic if both DDOT and the Zoning Administrator
23 find that there is compliance with the traffic
24 management plan and that the garage is successfully
25 operational?

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1 MS. THOMAS: That's correct. In
2 compliance with the communities input in the traffic
3 management plan as long as it stays in compliance.

4 MS. McWOOD: Would the Zoning
5 Administrator and/or DDOT be required to go to the
6 ANCs for community input?

7 MS. THOMAS: No.

8 MS. McWOOD: All right. Thank you.

9 MR. GRIFFIS: Unless that community input
10 somehow had to do with the compliance of all the
11 conditions in the order of the TMP. Correct? I mean,
12 part of that compliance is coordinating or mitigating
13 problems that arise.

14 MS. STEINGASSER: That's correct.

15 MR. GRIFFIS: But it wouldn't go to a
16 public process to get opinions. There should be some
17 measurable factual way to see whether there is
18 compliance or not compliance.

19 MS. STEINGASSER: That's correct.

20 MR. GRIFFIS: Okay. One concern I have,
21 have you thought about, say, this was adopted, which I
22 pretty much guarantee it won't be word for word. Here
23 it is. You say that the enrollment may be increased
24 to no more than 825 students one year after argument
25 on these issues for the parking garage subject to the

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1 applicant's submitting evidence of compliance with the
2 BZA order.

3 Of course we would have applicant
4 submitting evidence. Is this a one shot time? One
5 year they are not in compliance. Does that mean they
6 don't have an opportunity again? They have to be in
7 compliance for the full year? Are they in compliance
8 right at the time of submission?

9 MS. STEINGASSER: They would need to
10 maintain a steady six years of full compliance before
11 they could reach their 850. What we are trying to do
12 is find a trigger. We thought the trigger could be
13 the completion of the parking garage and its operation
14 for one year.

15 If they are compliant for that entire
16 period leading up to that one year pass the completion
17 of the parking garage, there would be an automatic
18 increase to 825. Then they would need to maintain
19 compliance for the next five years before they could
20 get the 850. If they fail to maintain that
21 compliance, then they would not get an automatic
22 enrollment and they would need to come back to the
23 Board for any requested increase.

24 MR. GRIFFIS: Wow. Okay. So say they
25 miss it the first year and then do it one year, six

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1 months in from their certificate of occupancy and they
2 have compliance, does then the five years start from
3 the one year, six months?

4 MS. STEINGASSER: The five years is tied
5 to -- it's all based on the C of O -- the date of C of
6 O for the parking garage. That's what we're tying it
7 to. Whenever they trigger that -- whenever they
8 choose to go to 825 or 850, it would be no sooner than
9 those dates. Yes, it's not meant to be a punitive
10 schedule.

11 MR. GRIFFIS: Right.

12 MS. STEINGASSER: It's meant to be a
13 schedule of increase that accommodates what we
14 understand the school's need is for both their
15 enrollment needs and their physical needs of the
16 parking garage and to get their construction built, as
17 well as the community's concerns about understanding
18 when and under what circumstances and how far the
19 enrollment cap would go.

20 Of course, if the school wanted to come
21 back with alternate requests at any time, they would
22 be free to do so and then they would be in the public
23 process but we are trying to find kind of an alternate
24 that would allow them to move forward in a manner that
25 met their needs and addressed the community's needs.

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1 We figured some trigger points tied to the success of
2 that parking garage.

3 MR. GRIFFIS: Okay. So if I understand
4 what you're saying, in fact, the recommendation No. 2,
5 enrollment may be increased to no more than 850
6 students but cannot be applied for prior to one year
7 from the issuance of certificate of occupancy. After
8 one year, once they start showing compliance, they go
9 to 825 and then after compliance and time, they go to
10 850 if they so choose.

11 MS. STEINGASSER: That's correct.

12 MR. GRIFFIS: Now I understand. Okay.
13 Any other questions? Follow-up from the Board? Yes,
14 Mr. Hildebrand.

15 MR. HILDEBRAND: Was there ever any
16 discussion on increasing the teacher cap with the
17 increase in enrollment just as a --

18 MS. STEINGASSER: It was our understanding
19 that there would be no increase in the faculty.

20 MR. HILDEBRAND: No increase. The 190
21 would stand.

22 MS. STEINGASSER: Would stand.

23 MR. HILDEBRAND: Thank you.

24 MR. GRIFFIS: Okay. Anything else? Any
25 other follow-up questions? Yes.

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1 MS. PERRY: How many times did the Office
2 of Planning meet with Sidwell roughly?

3 MS. STEINGASSER: Roughly three, four
4 times.

5 MS. PERRY: How many times did you meet
6 with the neighborhood or attend the ANC meetings where
7 this issue was discussed?

8 MS. STEINGASSER: We were never contacted
9 by the neighbors that there are any concerns with the
10 Office of Planning.

11 MR. GRIFFIS: Which issue? Are you
12 talking about the student increase?

13 MS. PERRY: Just in general because there
14 have been a lot of concerns raised by the neighborhood
15 at our various meetings and I was just curious as to
16 whether the Office of Planning factored that into
17 their report.

18 MR. GRIFFIS: I see. In terms of -- help
19 me understand.

20 MS. PERRY: In terms of student
21 enrollment, traffic on 37th Street, parent pickup and
22 drop-off.

23 MR. GRIFFIS: Do you have any direct
24 concerns with this issue raised in terms of
25 incremental increase of students?

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1 MS. PERRY: Yes, contrary to both our ANC
2 resolution and the resolution of ANC-3C.

3 MR. GRIFFIS: Okay. Good.

4 MS. PERRY: Which we'll hear testimony on
5 later.

6 MR. GRIFFIS: That's right. We have a
7 whole case presentation, in fact, which we'll pay
8 great attention to.

9 MS. PERRY: Is anybody going to testify
10 today from DDOT?

11 MS. STEINGASSER: It's our understanding
12 that DDOT will not be present to testify.

13 MS. PERRY: Is there a way that we can ask
14 them to come because a lot of their report we have
15 concerns and questions on as to how they derived some
16 of their analysis.

17 MS. STEINGASSER: The Office of Planning
18 has requested that DDOT be present and, I believe, the
19 Office of Zoning has also requested on behalf of the
20 BZA.

21 MR. GRIFFIS: There is a standing
22 invitation here.

23 MS. PERRY: I'm just wondering who can
24 answer our questions is what I'm getting at.

25 MR. GRIFFIS: That's an excellent

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1 question. Lacking subpoena power I'm not sure how to
2 get them here. This is not the first case and,
3 believe me, in all our cases especially where they
4 have put in a substantive report we ask that they do
5 come down.

6 I think they are not as adequately staffed
7 as some agencies in order to have people here all the
8 time. But perhaps we can make an inquiry again. The
9 Office of Zoning can do that and the Office of
10 Planning can also. If this does continue past today,
11 we can let people know when they will be available at
12 our next hearing if we have another hearing.

13 MS. PERRY: I think we would request that
14 because a lot of the issues on parent pickup and drop-
15 off, the use of 37th Street, Office of Planning
16 referred to DDOT's report as the basis of some of
17 their conclusions.

18 MR. GRIFFIS: Right.

19 MS. PERRY: But until we can get to the
20 basis of theirs and how they arrived at some of these
21 things, it's hard for the Office of Planning to make
22 recommendations based on the DDOT report.

23 MR. GRIFFIS: I certainly think they can
24 avail themselves then of any sort of questions you
25 have in regards to what their analysis was or what the

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1 outcome of their analysis was.

2 MS. PERRY: Okay. Let me try one. Are
3 you aware that DDOT promised in response to resident
4 concerns that a traffic study be done of 37th Street?

5 MR. GRIFFIS: That's a little problematic
6 here because --

7 MS. PERRY: I think that's why we're
8 getting at it.

9 MR. GRIFFIS: No. I think what you ought
10 to get to is the conclusion. Start questioning their
11 conclusions. I mean, is their conclusion of
12 recommendation because DDOT promised a transportation
13 plan? Or can you stand by your recommendations in
14 terms of drop-off and pickup or student enrollment
15 based on the fact that DDOT promised to do a study and
16 didn't fulfill the promise?

17 MS. PERRY: I guess the question also is
18 did DDOT do the study before making that
19 recommendation?

20 MR. GRIFFIS: Even better question.

21 MS. STEINGASSER: I couldn't answer that.
22 I really don't know. I understand your concern but I
23 don't know.

24 MS. PERRY: Also in the DDOT report they
25 referred that the students and/or visitors to the

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1 school should first park on Yuma Street and then on
2 37th.

3 MS. THOMAS: I can answer.

4 MR. GRIFFIS: What's the question?

5 MS. PERRY: I think the question is did
6 they study Yuma Street and 37th Street as to how many
7 unrestricted parking places are there or whether they
8 would need to remove parking that is residential?

9 MS. STEINGASSER: I understand the
10 community and both the ANC's concerns over traffic.
11 We really can't answer for DDOT on how they -- what
12 actual detailed engineering steps they took to their
13 conclusion. OP based its conclusions on their written
14 report and through conversations we had.

15 They are confirming that they did indeed
16 support the application and that they felt that at 850
17 there would be no adverse impact. They confirmed that
18 and we based our conclusion on that. How they got to
19 that point we really can't address that level of
20 detail.

21 MS. PERRY: I think then our ANC would
22 request that we try and have another hearing and have
23 DDOT here because it's crucial to the application.

24 MR. FEOLA: Mr. Chairman, on behalf of the
25 applicant I'm going to object to that. In the first

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1 instance the report speaks for itself. Second
2 instance, certainly Ms. Perry and the ANC knows how to
3 contact Mr. Laden or any of his staff and ask the
4 question directly.

5 MS. PERRY: We have. We haven't gotten a
6 response, Mr. Feola.

7 MR. FEOLA: I can't on behalf of the
8 applicant force DDOT to act. I think holding the
9 record open is not going to serve anybody well because
10 you don't have subpoena power. We can't force them to
11 come. I think the applicant is willing to stand on
12 the recommendation.

13 MR. GRIFFIS: I can promise snacks. Maybe
14 they'll show up. No, that doesn't work. Okay. Let's
15 do this. Let's continue on and see how far we get
16 with this. You have the opportunity to do a full-
17 blown case. Obviously you know what the game is here
18 in terms of what we are reviewing. The Board is not
19 unfamiliar with all these issues and I think has a
20 great comprehension to understand these.

21 Any questions raised I think will be able
22 to be deliberated on. I'm going to do all that I can
23 while this proceeds this evening and we'll see. If
24 this continues on, then we certainly have another
25 opportunity. If we finish tonight, we're going to

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1 have to some how address that situation if there are
2 things left open. Okay. Anything further? Follow-
3 up? Additional questions?

4 MS. McWOOD: Nancy McWood for ANC-3C. Mr.
5 Chair, I just want to add that after the first hearing
6 I also contacted Mr. Tagerline and Mr. Laden and asked
7 that DDOT testify. Mr. Laden, I believe, has been out
8 of town since that first hearing. I was told that he
9 was out of town. At any rate, I have not heard a
10 response but I want to make it clear that ANC-3C also
11 feels that it is imperative that DDOT be here to
12 answer questions.

13 MR. GRIFFIS: Right. I don't think
14 anybody opposes DDOT showing up. I think them
15 presenting their report would be fine.

16 Let's proceed. Any follow-up from the
17 Board? Any other questions for the Office of
18 Planning? Very well. Then let's move on to ANC-3C if
19 you are ready to present your case.

20 MS. McWOOD: Good afternoon. I'm Nancy
21 McWood, the Chair of Advisory Neighborhood Commission
22 3C. I'm going to present the testimony that actually
23 was prepared by Commissioner Trudy Reeves who is the
24 Commissioner for the single member district that
25 includes Sidwell.

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1 Since April 2003 ANC-3C commissioners and
2 I have attended several community meetings held by
3 Sidwell Friends. Sidwell representatives appeared
4 before the Historic Review Committee, the Planning and
5 Zoning Committee, and before 3C Commission at several
6 public meetings.

7 At the public ANC-3C meeting on April 17
8 ANC-3C unanimously approved a resolution conceptually
9 supporting the Sidwell BZA application. The
10 Commission request that the conditions approved by
11 ANC-3C in Resolution No. 17 and Resolution No. 18 be
12 listed as conditions of any BZA order pursuant to this
13 application.

14 In Resolution 17 we applauded Sidwell for
15 choosing designs to create an environmentally friendly
16 campus. We also encouraged Sidwell to further a
17 friendlier environment by taking stringent efforts to
18 reduce the number of cars being driven to the campus
19 by students, parents, and faculty.

20 The Commission has especially expressed
21 concern over the large number of students who drive to
22 school and park in the neighborhood. The number of
23 students who drive has been estimated to be 30 percent
24 of all high school students or 150 students. We would
25 like to see this number reduced through a strictly

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1 enforced student driving policy established by
2 Sidwell.

3 In order to relieve the neighborhood of
4 the large number of cars parked on the street by
5 Sidwell students and faculty, ANC-3C supports the
6 construction of the below-grade parking garage
7 provided, that this parking garage will contain a
8 minimum of 300 co-compliant parking spaces and will
9 allow Sidwell to provide parking for all staff and
10 students on campus.

11 We understand that there may be times that
12 Sidwell will require additional parking such as during
13 parent/teacher conferences, sporting events, and
14 performances and that during these times there may be
15 overflow onto the neighborhood streets. However, any
16 overflow into neighborhood streets should be limited
17 and planned for. An advanced notification should be
18 provided to the neighborhood.

19 Under no circumstances should Sidwell
20 students, teachers, parents, or visitors be permitted
21 to park in areas restricted to residents while at
22 school functions even if they have residential
23 permits. Additionally, ANC-3C recommends that all
24 buses, both Sidwell and visiting buses, be required to
25 park on campus.

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1 Across 37th Street from Sidwell is the
2 Phoebe Hearst Public Elementary School to which many
3 out-of-area students are driven each day in the same
4 block that Sidwell students are dropped off. During
5 drop-off and pickup times 37th Street is congested and
6 hazardous. It presents a very dangerous situation
7 when parents in a hurry to get to their offices and
8 other activities drop-off and pickup young children.

9 Therefore, ANC-3C strongly recommended
10 that once the underground garage is built, the drop-
11 off and pickup of students on 37th Street be
12 restricted to 5th and 6th graders only. All other
13 drop-offs should take place off Wisconsin Avenue in
14 the new underground garage which should allow a
15 sufficient queuing area. The drop-off and pickup on
16 37th Street should be monitored and controlled by a
17 Sidwell crossing guard. Cars permitted to drop-off
18 students on 37th Street should have a card or sticker
19 prominently displayed.

20 Because the Historic Preservation Review
21 Board has not yet finalized its approval of the site
22 plan, specifically the location of the meeting house,
23 and has already indicated that they are not going to
24 review the middle school or the gymnasium buildings.
25 ANC-3C request that any significant changes to the

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1 site plan be subject to ANC-3C review prior to
2 consideration by the BZA.

3 MR. GRIFFIS: What is your understanding
4 of your last statement? They are not going to review
5 the other building?

6 MS. McWOOD: Yes. I've had extensive
7 conversations with the Historic Preservation Office
8 staff because there was some confusion in our ANC
9 about the degree of evaluation of the HPRB
10 application. HPRB is determined that the landmark
11 only extends from Quebec Street to Approximately just
12 north of the meeting house -- just north of Zartman
13 House. Excuse me.

14 MR. GRIFFIS: The other buildings are far
15 outside their jurisdiction?

16 MS. McWOOD: That's right.

17 MR. GRIFFIS: Okay.

18 MS. McWOOD: I have an e-mail to the
19 effect that -- well, in fact, I think the staff report
20 also addresses that. They don't feel that it's part
21 of the landmark. They've indicated that part of the
22 campus has been built on. It's part of the academic
23 sort of quadrant on the campus. What they are really
24 looking at --

25 MR. GRIFFIS: No, I understand your

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1 position. I think we're going to get a different one.

2 Hold on just a moment. Thank you. Let's continue
3 then.

4 MS. McWOOD: Okay. Sidwell Abbott Middle
5 School is located on 37th Street and faces Hearst
6 Elementary School and Hearst Recreation Center. The
7 addition to the middle school will extend to the NE
8 corner of the campus and will face residences on 37th
9 and Tilden and because of its height may be visible
10 from residences on Upton Street.

11 The building will be very long and present
12 a massive institutional view from neighboring streets.

13 Because ANC-3C has not been presented with a detailed
14 landscaping plan, we cannot fully opine on the visual
15 impact on the neighborhood.

16 Our resolution recommends that the middle
17 school addition facing 37th Street be indented to the
18 west to give a visual break in the length of the
19 building and to provide the mature trees and public
20 space a greater chance of survival. Our resolution
21 also recommends that the landscaping plan on 37th
22 Street and along the north border of the property
23 include numerous tall evergreens to shield views of
24 the proposed extension from the street and immediately
25 neighbors.

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1 Sidwell currently has exceeded their 1996
2 BZA enrollment cap by 20 students, or 2.6 percent
3 overage with a total enrollment of 800 students. Our
4 resolution recommends that increases in enrollment be
5 phased in as follows:

6 (1) The existing cap of 780 be increased
7 to cover the current enrollment of 800 students until
8 the garage is built.

9 (2) Once the garage is built, all student
10 and staff parking is contained on campus and the
11 traffic management plan is implemented, ANC-3C would
12 recommend a new special exception application for 825
13 students. However, we recommend that the parking and
14 traffic conditions must show significant improvement
15 with the implementation of the traffic management plan
16 before the increase to 825 students is approved.

17 (3) Once the traffic management plan has
18 been implemented successfully, for a period of one
19 year ANC-3C recommends that Sidwell be required to
20 return to the BZA for any further inquiries above 825
21 student or staff cap if needed.

22 Because of Sidwell's history of
23 noncompliance with BZA enrollment caps, our resolution
24 recommends that Sidwell provide an annual report to
25 ANC-3C and ANC-3F due in December annually to include

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1 enrollment and staff levels and a certification that
2 they are in compliance with the BZA order. We also
3 recommend that Sidwell hold quarterly meetings open
4 and preannounced to the neighborhood and that a copy
5 of the minutes be sent to both ANC-3C and 3F.

6 On June 7th ANC-3C held a special public
7 meeting for the sole purpose of finalizing a
8 construction management plan. Given the number of
9 construction projects and the sequential nature of the
10 construction, ANC-3C believes it is important that an
11 enforceable CMP be incorporated into the conditions of
12 the BZA order.

13 Central to our plan is the creation of a
14 liaison committee comprising two representatives from
15 Sidwell, one each from the Washington home, the Hearst
16 Elementary School, the Hearst Recreation Committee,
17 and the Cleveland Park Citizen's Association. One ANC
18 representative each from ANC-3C and 3F and one from
19 McLean Gardens and four from impacted neighborhood
20 streets. I believe that is actually three. I think
21 that's a typo.

22 While there are stated requirements
23 regarding construction routes, entrances, noise,
24 hours, and a complaint process, there is considerable
25 flexibility provided for the liaison committee to

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1 react to situations and construction needs as they
2 arise.

3 Most importantly, the CMP provides
4 neighbors with some predictability and protections for
5 quality of life during a long construction period. At
6 the same time, it gives the school stated construction
7 related allowances and restrictions that will allow
8 them to plan efficiently and avoid unnecessary
9 controversy with the neighborhood.

10 ANC-3C has dedicated many hours to
11 achieving uncontested support for this application.
12 Sidwell agreed to follow our recommendations in many
13 instances including the delay of scheduling this
14 proceeding so that we could have more time to work
15 with the neighborhood and school.

16 We are very grateful that they understood
17 the benefit of listening to their neighbors and
18 reacting with substantive changes to their proposal.
19 While we have conditioned our support and we feel
20 strongly that those conditions must be included in the
21 BZA order, we are also very pleased that we can state
22 that we endorse the proposal and look forward to
23 continuing to work with Sidwell and the neighbors on
24 any other issues that may arise in connection with
25 this master plan.

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1 That's the end of my remarks, Mr.
2 Chairman.

3 MR. GRIFFIS: Thank you very much.
4 Regarding the construction management plan, what is
5 your opinion of the ANC and the school sign that?
6 Would it be binding?

7 MS. McWOOD: Well, it would be a contract
8 under those circumstances if the ANC and the school
9 signed it so it would be binding to the extent that
10 anyone was willing to litigate it if there was
11 noncompliance.

12 MR. GRIFFIS: Okay. So you think the only
13 enforceability would be if you litigated it somehow?

14 MS. McWOOD: Well, there would also, I
15 supposed be the -- if Sidwell were required to come
16 back, for example, for an enrollment increase --

17 MR. GRIFFIS: I mean, the construction
18 management plan is somehow to mitigate the concerns of
19 the committee during construction. Coming back for a
20 new special exception, construction is either going to
21 be done or it's going to be a whole in the ground mess
22 or nothing. What role would you see the building
23 inspector or DCRA playing in enforcing compliance of a
24 construction management plan?

25 MS. McWOOD: Well, as the Board knows

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1 well, if there is a condition in the zoning order, not
2 only can the zoning administrator enforce it but also
3 anyone can file a complaint with the Office of Zoning
4 to say that there's a material matter where they are
5 out of compliance. The community would then have
6 assistance from the Office of Zoning in trying to
7 bring them into compliance.

8 MR. GRIFFIS: Right. I think we've set up
9 a fantastic system here. However, it's a system in
10 order to enforce and measure from compliance with
11 zoning issues. I mean, just any condition can't be
12 enforced by the Zoning Administrator.

13 MS. McWOOD: I understand that but I think
14 when you're looking at adverse impact, I can't imagine
15 anything that has the potential to be more adverse
16 than a major construction project, particularly a
17 construction project that is going to be phased in and
18 will continue for a number of years.

19 MR. GRIFFIS: Okay. Let's take your one
20 condition if we adopted a construction management plan
21 and traffic is the heading. Wisconsin Avenue should
22 be construction entrance for all construction projects
23 unless the committee finds that a different entrance
24 is warranted for the project.

25 Are we then the enforcer of the

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1 committee's recommendation? Say this school doesn't
2 follow the recommendation that the committee wants, to
3 helicopter in all materials. Of course, it would be a
4 little absurd to make this hypothetical. Are we now
5 in charge of getting the Zoning Administrator out
6 there and enforcing the committee's decision to
7 airlift all materials onto the site?

8 MS. McWOOD: No, I don't think so.

9 MR. GRIFFIS: How would we not be?

10 MS. McWOOD: Well, because in that case
11 you would be enforcing the existence of a construction
12 liaison committee and the numerous details that are in
13 the plan. But the liaison committee would be able to
14 override some of these considerations.

15 MR. GRIFFIS: But can't the committee come
16 back and say -- but can't the committee and the ANC
17 come back and say, "Look, they didn't take the
18 direction." It says unless the committee finds that a
19 different entrance is warranted so the committee gave
20 different direction. They would be outside of
21 compliance. That is neither hear nor there. That's a
22 smaller issue. Perhaps this is a bigger issue. How
23 is that a nexus of the relief sought? How is that
24 mitigating the permanent situation of which they are
25 here to be approved or denied?

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1 MS. McWOOD: Because what they are
2 requesting is to build buildings.

3 MR. GRIFFIS: But building buildings is a
4 matter of right. What isn't a matter of right is the
5 relief that is sought in the special exception to
6 certain uses in certain areas.

7 MS. McWOOD: So it's not a matter of right
8 in this particular circumstance because this is in an
9 R1B zone where a school needs to have a special
10 exception in order to build a building or even to
11 exist.

12 MR. GRIFFIS: Take out school.
13 Construction of buildings is matter of right. We have
14 zoning. We have districts for zoning that tell you
15 what you are to build. Right? And then we have
16 relief for those which go outside for whatever reason.

17 The given is that construction is within
18 the parameters of all that we have from historic to
19 zoning. Construction is a matter of right. How do we
20 then go back to saying that the construction in and of
21 itself is someone a detrimental impact when we are
22 looking at the permanent situation?

23 MS. McWOOD: I think I understand your
24 point, Mr. Chairman. I think that you have to look at
25 the zoning circumstances here and the zoning

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1 circumstance is that this is not residential
2 construction. That would be a matter of right.
3 Someone is going to build a house, an addition. That
4 would be a matter of right.

5 This is a school that plans to build a
6 parking garage and several very large building
7 including a gymnasium and an addition to a school that
8 could be a free-standing on its own. I think under
9 those circumstances in a residential zoned district
10 that more is required in order to protect the
11 neighborhood from adverse impact.

12 MR. GRIFFIS: Okay. Any other questions
13 from the Board? Mr. Mann.

14 MR. MANN: You have the increase in the
15 student cap linked to the successful implementation of
16 a traffic management plan, but how would you go about
17 measuring the successful implementation of a TMP?

18 MS. McWOOD: I think for the neighborhood
19 it will probably be relatively obvious because one of
20 the things that we would be requiring is that there be
21 no parking on residential streets. The neighbors are
22 very aware when students are parking in the
23 neighborhood.

24 I think if that were removed from the
25 neighborhood, that would be quite apparent. The other

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1 aspect of it is limiting pickup and drop-off in 37th
2 Street to 5th and 6th graders. Again, I think in time
3 that will also be readily apparent if it is being
4 limited to those students.

5 There's an additional issue there which I
6 think Sidwell plans to address so we didn't raise it
7 in our testimony but students are being dropped off
8 all over the place, not just at 37th Street entrance.

9 We are hopeful that Sidwell is going to
10 enforce the pickups and drop-offs other than on
11 Wisconsin Avenue at the parking garage be limited
12 solely to that entrance and not a block away here or a
13 block away to the south which is often the case now
14 because the queue gets to be long and parents get
15 frustrated and so they have made arrangements to pick
16 up their children on Tilden or some other street.

17 I think on many of these things the
18 neighborhood really wants to work with the school and
19 my impression is that the school is cognizant of many
20 of these issues. I think if we have the ability to
21 enforce them, then I expect that the neighbors will be
22 in a position to come back and say indeed they have
23 complied with the TMP. They will know.

24 MR. GRIFFIS: You're going to do it by
25 consensus?

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1 MR. MANN: Yeah, by consensus or by -- it
2 sounds like perhaps the lack of a complaint shows
3 compliance. Who would keep track of that?

4 MS. McWOOD: ANC-3C normally in these
5 kinds of circumstances we seek out the neighbors. We
6 would I'm sure hold a public meeting or a special
7 meeting of the ANC or include it on our agenda and
8 invite their neighbors we well as the school to come
9 in.

10 Plus, we are also asking that the school
11 come to us once a year to talk to us about compliance.

12 I would hopeful that we would know right along the
13 way how things are progressing. We wouldn't wait
14 until the school was ready to file another BZA
15 application.

16 MR. GRIFFIS: I think Mr. Mann meant
17 pushing it to the further extent. We've been involved
18 in a lot of these. I mean, we hear from the
19 community, too. We hear from the applicant's. We
20 hold big public hearings and we walk away with 10
21 different opinions of what we heard and there's only
22 five of us here. Who is the end arbiter? Where do
23 you get to the fact of compliance?

24 One of the things this Board has been
25 trying to do now for several years on any conditions

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1 and anything that we put on orders no matter what it
2 is, private schools or big commercial buildings is our
3 conditions have to be understandable, measurable, and
4 enforceable. They have to be absolutely clear. If we
5 crafted them and they are that crystal clear, who is
6 going to decide whether there's compliance with these
7 TMPs or construction management plan or anything else?

8 MS. McWOOD: Well, like I said, I think
9 the TMP has some measurable factors to it such as the
10 pickup and drop-off on 37th Street and no parking on
11 the neighborhood. At the ANC we deal with these sorts
12 of issues all the time. We have to take the pulse of
13 the neighborhood. We have to weigh what different
14 people are saying and I have to say --

15 THE DEFENDANT: Let me ask directly then.
16 You just had your public hearing and the TMP is up
17 and you have 15 people testify that they are in
18 compliance and three testify not. Are they in
19 compliance or not?

20 MS. McWOOD: Well, in our particular case
21 our ANC commissioners also go out to the site.

22 MR. GRIFFIS: So they have two votes to
23 everyone's one vote.

24 MS. McWOOD: No, that's not true but, I
25 mean, they would take --

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1 MR. GRIFFIS: How would you decide it?

2 MS. McWOOD: The ANC commissioner would
3 take it seriously.

4 MR. GRIFFIS: What is your process for
5 deciding that? Or do you think you're getting 100
6 percent agreement within the community, all the
7 commissioners and everyone that shows up for the
8 hearing?

9 MS. McWOOD: Well, I can tell you what the
10 process was this time to arrive at this decision. We
11 held a --

12 MR. GRIFFIS: Was this a consensus
13 decision?

14 MS. McWOOD: By the ANC or the by the
15 neighborhood?

16 MR. GRIFFIS: By the entire community.

17 MS. McWOOD: I would say that --

18 MR. GRIFFIS: You would say? That doesn't
19 sound definitive. Was it or was it not.

20 MS. McWOOD: It was definitive.

21 MR. GRIFFIS: Every single person that
22 lives around this community and is a part of ANC-3C
23 agrees with exactly what you just submitted?

24 MS. McWOOD: That's not exactly what I
25 said.

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1 MR. GRIFFIS: I'm just trying to find
2 clarity in what you said.

3 MS. McWOOD: Approximately --
4 conservatively 95 percent of the people that we heard
5 from, and we had one special meeting where there were
6 probably more than 100 people there.

7 MR. GRIFFIS: I think we made the point.

8 Mr. Mann, next question.

9 MR. MANN: Well, this probably still is
10 the same question. I don't doubt that any of those
11 methodologies work. I'm just wondering if there's a
12 methodology that could be more easily quantified or a
13 procedure or process that could be written by which
14 those things could be measured that everybody can
15 understand and agree to.

16 MS. McWOOD: I think what we anticipated
17 in our resolution in terms of monitoring compliance is
18 that DDOT would be intimately involved with that and
19 that they are the professionals. In addition to what
20 we would hear from the community, they would evaluate
21 it based on their professional tools.

22 MR. GRIFFIS: Thank you very much. Cross?
23 Questions, Mr. Feola?

24 MR. FEOLA: I just have one question.
25 Thank you, Mr. Chairman.

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1 Ms. McWood, you indicated that the only
2 resource the ANC would have if it entered into the
3 construction management plan with the school would be
4 to litigate. Is it not true that there is a mediation
5 process specifically called out for in the agreement?

6 MS. McWOOD: You're quite right, Mr.
7 Feola. There is a deviation process in our
8 resolution. That's right.

9 MR. FEOLA: Thank you. That's all I have.

10 MR. GRIFFIS: Thank you. Let me ask you
11 just one technical question in terms of the
12 submission, the written submission of your testimony
13 today, and then the actual motion. Are all of the
14 conditions that you -- I was trying to number them as
15 you were going down in your written testimony. Are
16 they identical to that in the resolution?

17 MS. McWOOD: Yes, they are.

18 MR. GRIFFIS: Okay. So that's the bullet
19 point so we can look at in terms of the conditions
20 that being recommended by the ANC.

21 MS. McWOOD: Yes, I believe that
22 Commissioner Reeves wrote this testimony. In many
23 cases she consolidated several of the bullets so I
24 would refer you back to the resolution which is very
25 comprehensible.

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1 MR. GRIFFIS: Good. Obviously if we get
2 to any sort of final filings -- you can package it the
3 way you want. I just want to make sure that when we
4 look at all this information we make sure we are
5 reviewing everything that we should be. Okay.

6 Ms. Perry, does the ANC have any cross?
7 Excellent. Thank you very much. Let's move on then.

8 Ms. Perry, are you ready?

9 MS. PERRY: Commissioner Wiss is going to
10 present our ANC-3F testimony today. But once again I
11 would like to raise an issue that our ANC is very
12 concerned about and that because this will become a
13 precedent-setting case like a lot of them do. You
14 know it happens.

15 We still don't know. They applied today
16 for special exception relief of the rooftop structure
17 but ANCs cannot testify on anything that was not
18 before us the night of our resolution or anything
19 that's come up since these hearings have begun.

20 One of questions we had asked of the BZA
21 staff at the time was whether the campus plan and the
22 staging could be done. We heard about it when the
23 first answer was from the Attorney General two weeks
24 ago.

25 We are still concerned about the

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1 theoretical lots and whether Sidwell is going to ask
2 for the special exception under that section because
3 this is more than one principal building on a campus
4 or on a large lot. It hasn't gone through the large
5 lot review process.

6 I think the reason I'm raising it, it says
7 -- well, we don't have and the Board doesn't have
8 anything that shows where these theoretical lot lines
9 would be drawn so we can't tell whether each of these
10 buildings whether they are principal buildings
11 complies with all the requirements of 2516 for side
12 yards, rear yards, etc.

13 In addition, an accessory building is not
14 allowed to exceed one story or 15 feet as measured
15 from the middle of the side of the accessory building
16 which faces the main building. In this case we're
17 looking at a new gym that is more than one story from
18 the plans we saw and we have no way of measuring it if
19 you are going to consider the gym as an accessory
20 building, which I would assume you are. But the
21 Quaker Meeting House we're assuming would be a
22 principal building and not accessory.

23 I guess what we're asking is for
24 clarification and whether there will be another chance
25 for us to testify on some of these new issues after

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1 our July 19th ANC meeting because we don't have these
2 answers and these are questions we have been raising
3 now for almost two months.

4 MR. GRIFFIS: We've been meeting for two
5 months?

6 MS. PERRY: No, but we raised these issues
7 with BZA staff and that's when we heard that they were
8 going to be sent over to the Court Counselor, now
9 Attorney General, and we would get a response. Our
10 first response was two weeks ago.

11 MR. GRIFFIS: Have you ever gotten a
12 response from the Attorney General outside of a public
13 hearing?

14 MS. PERRY: No, but we thought we might
15 hear from the BZA staff whether it was theoretical
16 lots or whether staging was allowed over such a long
17 length of time.

18 MR. GRIFFIS: You mean after asking for so
19 long of a time you thought you might get an answer?
20 Is that what I understand?

21 MS. PERRY: Yeah.

22 MR. GRIFFIS: Okay.

23 MS. PERRY: We thought --

24 MR. GRIFFIS: When you say staging time,
25 I'm thinking construction. I'm wondering what are we

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1 doing.

2 MS. PERRY: When we asked the BZA staff
3 and they said they were going to ask the Attorney
4 General, we thought we might get an answer before our
5 ANC meeting where we had to discuss these things, not
6 the day of the hearing, even if it was an informal
7 answer so we knew whether to include them. I think we
8 are still asking about the theoretical lots which are
9 principal buildings.

10 MR. GRIFFIS: Okay.

11 MS. PERRY: How do we measure them.
12 Another concern, for the first time we heard last week
13 that the middle school rear is what's facing the
14 residential neighborhood and not the front which
15 usually the front of the building faces the street and
16 this is using a rear yard set back versus a front yard
17 from the street. I guess we have questions that we
18 think we should be able to testify to that we can't at
19 this point.

20 MR. GRIFFIS: Understood.

21 MS. PERRY: And they haven't applied for
22 some of those special exceptions yet or modified their
23 application other than from the roof structure that we
24 saw today.

25 MR. GRIFFIS: Understood. Let me just

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1 make a note here. First of all, I am somewhat pleased
2 that you didn't hear from the Attorney General or the
3 OZ staff outside of the hearing.

4 MS. PERRY: I knew you would be.

5 MR. GRIFFIS: Especially, as you said,
6 informally discussing with them as you are a party in
7 the case.

8 MS. PERRY: Well, we weren't at that
9 point.

10 MR. GRIFFIS: Well, even in an
11 investigation. First of all, somehow we would have to
12 be included. I mean, wouldn't you want us to know
13 what's going on? They're not going to make the
14 decision. I think it was handled correctly in that as
15 far as I was briefed on it we were told it was our
16 decision to make which may worry me but it shouldn't
17 worry you at all.

18 MS. PERRY: But it does worry us.

19 MR. GRIFFIS: Indeed.

20 MS. PERRY: Because we need to know
21 whether it's a one-story accessory structure, a two-
22 story, where we measure from.

23 MR. GRIFFIS: I understand that.

24 MS. PERRY: I mean, I think we should know
25 what the theoretical lot lines are even for the middle

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1 school. That is an issue that the ANC would address,
2 even though we support Sidwell in its expansion, let
3 me make that clear, but there are zoning issues.

4 MR. FEOLA: Mr. Chairman, if I might for
5 the record, Phil Feola. This is way out of line with
6 what the application is. I think the ANC is free to
7 testify on the application. We didn't apply for
8 theoretical lots because they're not applicable. We
9 didn't apply for accessory buildings because it's not
10 applicable.

11 This is a campus. Every single private
12 school campus in the city, St. Johns, Moray, you name
13 them, they've had multiple buildings on their
14 campuses. None of them have theoretical lots. How do
15 you measure the parking for a school? Are you going
16 to put the parking required for the middle school
17 under the middle school on that theoretical lot when
18 the standard for measuring parking is two spaces to
19 every faculty and staff?

20 What if that faculty member goes across to
21 the upper school? Different theoretical lot under Ms.
22 Perry's suggestion. It makes no sense at all. The
23 test for 206 is the entirety of the school, not
24 individual buildings. We stand with their
25 application. The ANC had ample opportunity to look at

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1 the application and comment on it. We're not
2 interested in adding additional relief unless this
3 Board directs us to.

4 MR. GRIFFIS: Okay. Is it then your legal
5 analysis that 206 not only encompasses those aspects
6 but actually anticipates those aspects that you are
7 looking at, a school that may have separate buildings
8 in the same area or on the same lot?

9 MR. FEOLA: Reading 206 it calls for
10 objectional conditions caused by number of faculty
11 staff, students, cars, and other objectionable
12 conditions. I think we would go nuts. The Board
13 would go nuts, the staff would go nuts if we had to
14 look at each individual building within the campus to
15 say that has 12 faculty members but the header school,
16 which goes over both, has to go between both buildings
17 so he counts as a half, or she counts as a half. It's
18 just not practical.

19 Then the parking and loading all fits the
20 entirety of the campus. It makes no sense.
21 Theoretical lot subdivision came in the '80s well
22 after 206 was well established. It was specifically
23 and significantly only to address single family
24 residential development for the largest states that
25 were being carved up in Ward 3 for housing

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1 developments. We stand with the application and would
2 like to proceed under that guise.

3 MR. GRIFFIS: Very well. It's your
4 application.

5 MS. PERRY: I think we would stand with
6 our interpretation. Campus plans normally in staging
7 are handled by the Zoning Commission. It's covered in
8 the regs on campus plans. This is more than one
9 building and 206 normally applies to a school.

10 MR. GRIFFIS: University campus plan.

11 MS. PERRY: Yeah.

12 MR. GRIFFIS: Okay.

13 MS. PERRY: And this is then --

14 MR. GRIFFIS: Go ahead.

15 MS. PERRY: That's okay. We would stand
16 -- we would like to talk --

17 MR. GRIFFIS: Understood. We've got the
18 rear yard/front yard issue of the accessory
19 structures, 2516 theoretical lot lines, all those
20 under the same. You have your ANC meeting on the 19th
21 of July. Okay.

22 MS. PERRY: Even for us to testify on 411
23 with the modification of the application today.

24 MR. GRIFFIS: Haven't you been designated
25 to present the case?

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1 MS. PERRY: It makes no difference. Our
2 by-laws only allow us to --

3 MR. GRIFFIS: Does that really preclude
4 you from acting as a party in this application?

5 MS. PERRY: Not really because normally
6 there's more time in between hearings as you know.
7 Normally we don't have three weeks in a row. We have
8 time to go back to the ANCs with the changes.

9 MR. GRIFFIS: And do resolutions.

10 MS. PERRY: In our resolutions --

11 MR. GRIFFIS: I mean, you're not saying
12 that your cross examination questions have been
13 approved and voted on by the entire ANC. Have you?

14 MS. PERRY: If you remember last week Mr.
15 Feola stopped Commissioner McWood from answering
16 certain questions because they were not based on her
17 ANC resolution.

18 MR. GRIFFIS: I'm just asking you. You
19 seem to be stepping out a little bit further than just
20 the ANC.

21 MS. PERRY: We can't at one point be
22 stopped from asking those questions by the applicant's
23 attorney because it wasn't in our resolution and then
24 at the same point say we can.

25 MR. GRIFFIS: He just objected to it.

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1 MS. PERRY: Yeah.

2 MR. GRIFFIS: Okay.

3 MS. PERRY: He wasn't overruled.

4 MS. WISS: I believe I need to be sworn in
5 first or does that get waived?

6 MS. BAILEY: Do you solemnly swear or
7 affirm that the testimony you will be given today will
8 be the truth, the whole truth, and nothing but the
9 truth?

10 MS. WISS: I do. Good afternoon. My name
11 is Cathy Wiss. I am Commissioner in ANC-3F-06. I
12 have organized my testimony by the conditions that we
13 requested be incorporated into the Board's order so
14 that you can follow along. This testimony is to
15 explain what our thinking was when we voted for them.

16 Our first condition was that the first
17 phase of construction include a two-level garage with
18 307 zoning compliant parking spaces. The parking
19 garage is being built to accommodate on-campus
20 vehicles being driven to Sidwell than the school's
21 existing parking lot.

22 This is an important first step in
23 complying with Section 206.3 which provides that ample
24 parking space but not less than that required in
25 Chapter 21 of this title shall be provided to

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1 accommodate the students, teachers, and visitors
2 likely to come to the site by automobile.

3 At the moment Sidwell does not allow its
4 students to park on campus. This has created
5 perennial parking problems in the neighborhood. Not
6 only does Sidwell students park on the street in both
7 unrestricted and restricted spaces, they have been
8 observed parking on private property.

9 ANC-3F first learned of this problem two
10 years ago when we were working on the Washington Home
11 parking lot case. Residents told us Sidwell students
12 were parking in the Home's lot contributing to the
13 overflow situation. In allowing the home an increase
14 in parking spaces, this Board had to take the unusual
15 step of requiring the Home to gate its parking lot to
16 keep others like Sidwell students out.

17 One student apparently parks habitually in
18 the driveway of an unoccupied house in Tilden Street.

19 The Wells Traffic Study reports that students also
20 park on the private parking lot at McLean Gardens.
21 ANC-3F hopes that once the parking garage is built,
22 these students find their way to it.

23 Condition No. 2. All students, faculty,
24 and staff be required to park on campus.
25 Unfortunately, Sidwell still asks this Board to give

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1 its students the option of parking on neighborhood
2 streets even after the parking garage is built. The
3 basis for this request is that some blocks do not have
4 residential parking restrictions. These 88
5 unrestricted parking spaces are used by many others
6 coming to the neighborhood.

7 Post office customers and personnel, as
8 well as visitors to nearby homes, Fannie Mae, the
9 small office building at Wisconsin and Quebec Street,
10 the health club and shops, the Washington Home, Hearst
11 School and Hearst playground. Allowing Sidwell
12 students to park on the street would take away parking
13 for these other uses.

14 Even though Sidwell has asked its students
15 to park in unrestricted spaces only, they often choose
16 to park in restricted spaces anyway. Residents
17 alerted Sidwell to the problem as early as September
18 2002 when they wrote a letter notifying the school
19 that eight student cars parked repeatedly in the 3600
20 block of Tilden Street. Some of these students were
21 still parking there a month later.

22 On May 20, 2004, I observed a student park
23 in a restricted space on Tilden Street even though
24 several unrestricted spaces on 37th and Quebec Streets
25 were available. Why did she do this? Was it because

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1 the unrestricted spaces are much further from the
2 classroom building? They are considerably further.
3 They are a very long walk. Requiring all students
4 to park on campus seems to be the only way to prevent
5 them from parking in restricted spaces. It's also
6 what the zoning regulations require.

7 We then have two conditions that all
8 student, faculty, and staff cars be registered with
9 the school, provided stickers, and that no students be
10 allowed to park in the parking spaces on the streets
11 and that Sidwell develop a traffic management plan
12 which includes monitoring the neighborhood for
13 violators of the requirement for on-campus parking and
14 sanctions for such violations.

15 Measures to register and identify student
16 cars and to monitor the neighborhood for parking
17 infractions have been used successfully by other
18 schools in our area. ANC-3F also request that Sidwell
19 institute a system sanction such as fines to give some
20 teeth to this policy. So far simply writing letters
21 and perhaps talking to students has not worked.

22 Condition No. 5. Sidwell adopt a
23 transportation management plan including, carpooling,
24 and shuttle buses from the Bethesda campus and local
25 metro stops and demonstrate that it can reduce

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1 vehicular traffic to the campus by 15 percent.

2 A surprisingly large number of students,
3 faculty, and staff drive to Sidwell even though it is
4 on a busline and not far from two metro stations. In
5 addition, Sidwell owns at least five buses that could
6 be used to transport groups of students from the
7 suburbs, the Bethesda campus, or a subway station as
8 other schools do.

9 This Board has required other institutions
10 to take measures to reduce vehicular traffic in order
11 to be granted a special exception. A transportation
12 management plan that reduces traffic congestion and
13 pollution is in keeping with Sidwell's desire to
14 develop a green campus.

15 Condition No. 6. That enrollment be
16 capped at 800 students, that's 20 above the current
17 BZA order, until completion of the garage and that
18 there be no enrollment increase until Sidwell has
19 demonstrated that all students, teachers, faculty,
20 visitors are parking on campus for one year.

21 The zoning regulations do not provide for
22 increases in enrollment to pay for new buildings like
23 a parking garage. The parking garage is being built
24 to come into compliance with Section 206.3. A less
25 expensive alternative would be to put in a larger

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1 surface parking lot but that would leave little space
2 for the other building Sidwell wishes to build. Thus,
3 Sidwell stands to gain by building this garage, not
4 just the neighborhood or the city.

5 Given the past problems with traffic and
6 student parking in the neighborhood at current
7 enrollment of 800, ANC-3F cannot be certain that
8 Sidwell will be able to control traffic and parking
9 well enough even with the garage to receive an
10 immediate nod for an enrollment increase to 850
11 students.

12 More students means more traffic will be
13 generated and more parking needed. A one-year test of
14 the school's ability to park all vehicles on site and
15 to manage traffic would give this Board the means of
16 knowing whether an increase in enrollment to 850
17 would, as Section 206 requires, not likely become
18 objectionable to adjoining and nearby property.

19 Furthermore, Sidwell has a long history of
20 noncompliance with its enrollment caps, something that
21 troubles ANC-3F. For the past five school years
22 Sidwell has exceeded its cap of 780 students and is
23 planning to do so again next year. These students
24 represent a substantial amount of tuition that the
25 school would not have realized if it had followed this

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1 Board's order, money that could be seen as offsetting
2 the cost of the parking garage.

3 Because students have already been
4 accepted for next fall and cannot now be refused
5 admission, ANC-3F recommends that this Board increase
6 the enrollment cap to 800, the number of students
7 admitted for fall 2004.

8 Condition 7. That all student drop-off
9 and pickup including 5th and 6th grade students be on
10 the grounds of Sidwell and not on 37th Street or any
11 neighborhood residential street.

12 At a meeting on February 2, 2004, I first
13 asked Sidwell to discontinue drop-off and pickup for
14 middle school students on 37th Street. Other ANC-3F
15 commissioners have also repeatedly asked that all
16 drop-off and pickup be accommodated through the
17 Wisconsin Avenue entrance to reduce congestion on 37th
18 Street, promote safety of students and others
19 traveling through the area, eliminate satellite drop-
20 off and pickup sites on surrounding streets, and
21 reduce speeding through the neighborhood.

22 Drop-off and pickup for the Sidwell Middle
23 School creates congestion even when Hearst Elementary
24 School across the street is not generating traffic
25 simultaneously. I first encountered complete gridlock

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1 from the middle school pickup in early January when
2 driving home from a meeting.

3 It apparently was a day for early
4 dismissal at Sidwell. There were no other cars on the
5 road except those picking up middle school students
6 but these were parked on both sides of the street and
7 the middle of the street as well. There's no way to
8 get through. It took several minutes before I could
9 drive home.

10 Congestion occurs in the morning as well.

11 Cars weave in and around each other as some drop-off
12 students more quickly than others, thus using both the
13 parking and travel lanes. Some simply do not bother
14 to pull over to the curb to drop-off students.

15 Because 37th Street, like all nearby
16 streets, is narrow, it's only 30 feet wide, an
17 interesting conflict occurs when northbound garbage
18 trucks and trucks servicing the Washington Home, must
19 travel through the area at the same time as Sidwell
20 drop-off. They all seem to be scheduled for just a
21 little before 8:00 in the morning.

22 Because these large trucks cannot pass
23 another vehicle on 37th Street while cars are parked
24 on both sides of the street, they can be stopped for
25 several minutes by the steady stream of Sidwell cars

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1 traveling south. Long lines of cars build up behind
2 these trucks. They are trying to go north toward
3 Upton Street but they can't get through basically.

4 They can block Tilden Street as well as congest 37th
5 Street.

6 Using public streets for student drop-off
7 and pickup can be unsafe. In October 2003 while
8 driving through the neighborhood I almost hit a young
9 student who darted out onto Upton Street to meet his
10 mother who was parked on the north side of Upton
11 Street. This could easily have been a horrible
12 situation for both of us.

13 Sidwell has said it wants to keep 5th and
14 6th grade drop-off and pickup on 37th Street so as to
15 protect the younger students from the older students.

16 What could be more dangerous about the older students
17 than the possibility of being hit by an automobile on
18 city streets?

19 That same afternoon as I continued to the
20 corner my path was impeded by several other cars
21 picking up Sidwell students. They were parked
22 illegally in a crosswalk blocking the way and
23 visibility of oncoming cars from all different
24 directions. This situation is illustrated on page 14
25 of Tab D of Sidwell's February 13, 2004, application,

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1 which shows a car parked right at the intersection
2 with its doors open.

3 It turns out that many families use the
4 3600 and 3700 blocks of Upton Street. The 4000 and
5 4100 blocks of 37th Street and the 3600 block of
6 Tilden Street as satellite pickup points for middle
7 school students. This disrupts traffic and creates
8 hazards for students and drivers.

9 It annoys residents who complain that
10 their privacy is invaded when the streets facing their
11 houses become temporary parking lots for Sidwell.
12 This problem has only intensified since Sidwell
13 instituted a policy to prevent congestion that parents
14 refrain from lining up by the middle school before
15 school lets out. Parent who arrive early simply park
16 elsewhere in the neighborhood. On May 26th
17 about 30 students were using the satellite pickup
18 point at Upton and 37th Street.

19 We've also had a number of complaints from
20 residents that parents often show little respect for
21 the neighborhood in other ways. They do drive through
22 the Washington Home parking lot. I've witnessed one
23 black SUV do it on a number of occasions. They do U-
24 turns on 37th Street and Tilden Street. They turn
25 around in resident's driveways.

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1 Over the past year ANC-3F has been working
2 with residents of streets to the north of Sidwell on
3 traffic calming. After DDOT approved traffic calming
4 devices for Upton Street, residents of other streets
5 asked for traffic calming measures as well. One
6 reason is that Sidwell parents driving to the middle
7 school are perceived as speeding on neighborhood
8 streets.

9 One resident e-mailed ANC-3F in December
10 2003, "I live on 37th between Warren and Beezee and
11 all the Sidwell traffic spills off southbound Reno at
12 Windom or Yuma to skip the light and come blasting up
13 27th Street."

14 Limiting drop-off and pickup to only
15 students of 5th and 6th grade and their siblings will
16 not cure these problems. DDOT estimates a reduction
17 from 240 to 221 vehicles. That's only 19 cars when
18 you take away the 7th and 8th graders.

19 ANC-3F has suggested measures Sidwell
20 could take to accommodate all drop-off and pickup from
21 the Wisconsin Avenue entrance including widening the
22 entrance driveway and creating a special middle school
23 path to separate younger and older students.

24 Condition No. 8. That Sidwell changed the
25 main entrance to the expanded middle school from 27th

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1 Street to the courtyard on Wisconsin Avenue side of
2 the building so it faces the center of the campus in
3 order to discourage parent pickup and drop-off from
4 37th Street and surrounding streets.

5 Sidwell's design for the middle school
6 addition shows a large entrance on 37th Street closer
7 to Tilden Street than the current entrance. Because
8 this entrance would be directly opposite the entrance
9 to Hearst School, it could cause traffic conflicts if
10 used for more than a fire door. Also, it is fairly
11 close to Tilden Street and the driveway to the
12 Washington Home's parking lot. Any queue could easily
13 block access to the lot or the intersection of 37th
14 and Tilden.

15 Interestingly, Sidwell now claims the
16 front of the middle school is on the courtyard, not
17 37th Street. It should then not be so difficult to
18 redesign the courtyard entrance as the main entrance
19 to the middle school and eliminate this over-designed
20 entrance on 37th Street.

21 Condition No. 9. That the lighted tennis
22 courts to be used in the evenings be located away from
23 the Washington Home and placed on the Wisconsin Avenue
24 side of the campus. The proposed new tennis courts
25 near the upper school are very close to the property

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1 line with the Washington Home and would overlook
2 resident rooms and terraces.

3 Lighting for night games would be highly
4 objectionable. Sidwell and the Washington Home signed
5 an agreement on June 14, 2004, that, "Sidwell Friends
6 will not light the two tennis courts at the north edge
7 of the campus nor use them after 9:00 p.m. without TWH
8 consent. The Washington Home notes that it would be
9 difficult to play tennis after 9:00 without lighting."

10 Condition No. 10. That Sidwell adopt a
11 construction management plan in consultation with
12 impacted institutions, residential neighbors, and ANC-
13 3C and ANC-3F. Commissioners from ANC-3F did meet
14 with Sidwell and others to work on a construction
15 management plan but considered the plan Sidwell
16 submitted with the prehearing statement only a draft
17 and not final. As of our ANC meeting on June 2nd,
18 ANC-3F has not agreed to any construction management
19 plan.

20 Condition 11. That Sidwell adopt a
21 detailed landscaping plan showing type, size, and
22 location of trees to be planted in order to screen the
23 middle school, new gym, and new tennis courts from the
24 homes on Tilden, 37th, and Upton Streets and from
25 residents to the Washington Home and that this plan be

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1 accepted in writing by ANC-3C, ANC-3F, and the
2 Washington Home.

3 The plan Sidwell submitted to ANC-3F
4 appears to be an initial sketch. It shows an intent
5 to plant, "Canopy trees, flowering trees, and
6 broadleaf evergreen shrubs" to screen the middle
7 school addition. These would be partially on its own
8 property and partially on the property of the
9 Washington Home.

10 No indication of exact location, size, or
11 type of tree is given making evaluation of the plan
12 impossible. Furthermore, the plan seems to ignore
13 that several trees already exist on the Washington
14 Home's property in this area. Will Sidwell be
15 planting on top of them, digging in their critical
16 root zones? ANC-3F questions why Sidwell should not
17 be required to plant trees on its own property.

18 As for screening the gym from the
19 Washington Home and residences on Upton Street, the
20 landscaping plan proposes, "Vines and perennials
21 planted on metal fence." If the existing metal fence
22 in this area is any indication, the new fence will be
23 covered with poison ivy, Virginia Creeper, and other
24 assorted vines.

25 Even if well maintained, such a fence

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1 could never screen the gym because the gym will tower
2 over the home. I can't remember exactly but it's
3 considerably higher than the home. Screening in this
4 area is important because a number of tall trees will
5 be cut down for the driveway behind the new gym.
6 Here's a picture showing trees that will have to be
7 cut down. This is the fence that has poison ivy on
8 it.

9 MR. GRIFFIS: Are you going to put that in
10 the record?

11 MS. WISS: I can put this if you would
12 like in the record.

13 MR. GRIFFIS: You have to now.

14 MS. WISS: Okay. I will. On June 14th
15 Sidwell and the Washington Home entered into an
16 agreement that Sidwell Friends will install and
17 maintain landscaping that is generally consistent in
18 nature with the plan already submitted to TWH for the
19 area between the property line adjacent to the middle
20 school addition and TWH parking lot.

21 The final composition of this area will
22 also be subject to input from residential neighbors.
23 In addition to the landscaping described in No. 1
24 above, Sidwell Friends will design and install
25 mutually agreed upon landscaping along the south edge

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1 of TWH property. Maintenance of that landscaping will
2 be the responsibility of TWH. ANC-3F has not
3 agreed to any landscaping plan but request that a more
4 detailed plan be presented that can be incorporated
5 into the Board's order.

6 Condition 12. That Sidwell adopt a strong
7 tree protection plan for existing trees on the
8 Washington Home property including the tall hedge by
9 the proposed tennis courts with a commitment to
10 replace in kind any of these trees damaged in
11 construction. Many trees on the Washington Home
12 property are very close to the property line including
13 the evergreen hedge near resident rooms and terraces
14 of the Washington Home.

15 Because construction activities like
16 digging, driving heavy equipment, and blasting can
17 damage roots or trees and kill them, ANC-3F ask that
18 Sidwell work with the home to protect trees and
19 replace them if construction activities cause them to
20 die. This is especially important because these trees
21 screen Sidwell's buildings from the Home and
22 residences on surrounding streets.

23 Condition 13. That Sidwell hold quarterly
24 meetings open to all residents and so on and so forth.

25 Such meetings have been effective in resolving issues

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1 at other schools.

2 Condition 14. That Sidwell provide on a
3 monthly basis a calendar of school events with
4 anticipated number of attendees in writing to
5 residents and also on its website and to ANC-3F by e-
6 mail. This will ensure that residents will know when
7 to expect a greater number of people and cars coming
8 to campus. It should also help Sidwell plan for
9 events. In the past, events have spilled out into the
10 neighborhood and also on the grounds of Hearst School
11 and recreation center.

12 Finally, Condition No. 15. That Sidwell
13 provide to ANC-3F on a yearly basis a report
14 certifying that it's in compliance with its BZA order.

15 This revision will help ANC-3F determine whether
16 Sidwell remains in compliance with its BZA order,
17 particularly on the enrollment cap, traffic management
18 and enforcement, landscape plan, and construction
19 management plan. Thank you.

20 MR. GRIFFIS: Thank you very much. In
21 Condition No. 15 what would you take as a
22 certification? Help me understand how it would be
23 certified that they are in compliance.

24 MS. WISS: Well, what other schools have
25 done with us -- and I don't know if they filed this

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1 with the BZA or not. Mr. Feola is familiar with this
2 because he does file them with ANCs. He will file a
3 report of a few pages on behalf of a school and I
4 would envision that he would say current enrollment as
5 of September if X and --

6 MR. GRIFFIS: How do you certify it? What
7 do you mean by having a certified submission?

8 MS. WISS: It doesn't say it's a certified
9 admission. It's their certification. It's their
10 attestation. They are showing.

11 MR. GRIFFIS: You just want them to write
12 you a report?

13 MS. WISS: That's right. The word doesn't
14 mean they are getting it notarized or anything.

15 MR. GRIFFIS: Okay.

16 MS. WISS: They are saying it will be
17 correct.

18 MR. GRIFFIS: In your quarterly meetings
19 in Condition No. 13 you envision those being just more
20 of being able to have the form in which to communicate
21 concerns and get responses for those. Is that
22 correct?

23 MS. WISS: That's correct. It has worked
24 well at other schools. I think Sidwell has said they
25 would be willing to do this.

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1 MR. GRIFFIS: And do I understand 12 is
2 you want Sidwell to adopt a tree protection plan for a
3 property adjacent to their own?

4 MS. WISS: Well, they are doing a lot of
5 digging right to the property line and there are trees
6 that are very close to the property line.

7 MR. GRIFFIS: I understand. It would be
8 any sort of mitigation of damage during construction.

9 MS. WISS: That's correct. And
10 replacement of the trees if they end up causing them
11 to die.

12 MR. GRIFFIS: Okay. You cited an
13 illustration that made your point. In Tab D of
14 Sidwell's filing of 13 February, 2004, page 14, page
15 14 is all text as I looked at it.

16 MS. WISS: It's in the Wells Traffic
17 Report, I believe. I can correct that.

18 MR. GRIFFIS: I just need to find it and
19 I'll correct it.

20 MS. WISS: Or I could.

21 MR. GRIFFIS: Wells Traffic Report. We're
22 in Tab G? No, that's the memo.

23 MR. FEOLA: Mr. Chairman, you're looking
24 at the prehearing submission.

25 MR. GRIFFIS: Did I get the wrong

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1 submission?

2 MR. FEOLA: Ms. Wiss is looking at the
3 application so there's a document that's earlier in
4 the record.

5 MS. WISS: If you'd like, I can pass up my
6 copy.

7 MR. FEOLA: Mr. Chairman, it's actually
8 marked as Exhibit 10 in the record, the traffic impact
9 study, if that helps.

10 MR. GRIFFIS: We didn't get the color
11 copy. We just got the boring black and white. Okay.
12 So tell me what picture are you looking at?

13 MS. WISS: It's the picture in the upper
14 left corner, afternoon pickup at 37th Street, Upton
15 Street.

16 MR. GRIFFIS: And you are indicating that
17 is clearly evident of a car parked in the
18 intersection?

19 MS. WISS: There's a car parked -- sort of
20 a silver-colored car parked on 37th Street in the
21 cross walk and there's a black car parked on Upton
22 Street very close to the cross walk. These are not
23 legally parked cars. They are too close to the
24 intersection so when you're trying to drive through,
25 you can't get around them easily and you can't see

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1 through them. At the same time, people are opening
2 doors.

3 MR. GRIFFIS: Okay. Condition No. 3 I
4 think it's obvious that the entire Board understands
5 the reality of not being able to park somewhat
6 adjacent or having an inundation of nonresidential
7 parkers parking all over the place, but Condition No.
8 3 goes to us restricting -- not just restricting or
9 limiting but prohibiting parking in restricted or
10 nonrestricted parking spaces.

11 The two questions that are frankly asked
12 every time, how do you know whose car it is? If you
13 had a zone sticker that allowed you to park within the
14 zone, how is it that we could preclude them or
15 prohibit them from parking there?

16 MS. WISS: I guess when we were discussing
17 this, the way I see the whole thing working is
18 students want to park on campus and so in order to do
19 that they need to register their cars and get a decal.

20 Let's say a student doesn't register, doesn't get a
21 decal, and parks on the street?

22 We do have -- the only way we really know
23 is we get called from residents. It's possible,
24 though, if the school were to use somebody to
25 circulate and see a student getting out of a car

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1 parked on Tilden Street, let's say, they could be
2 reported to the school.

3 MR. GRIFFIS: How would you know it's a
4 student?

5 MS. WISS: Well, when I was out there
6 observing I watched a young woman park her car. She
7 was young. She reached into her car, she picked up
8 her books, and she then walked across the street and
9 up the steps into the Sidwell campus. I did make an
10 assumption but it seemed pretty clear that she was
11 going off to class.

12 MR. HILDEBRAND: Did she have a valid zone
13 sticker for that zone?

14 MS. WISS: I didn't go and actually look
15 at her car because I had at that time been told that
16 students had been asked to park only in the
17 unrestricted spaces. The point I was really trying to
18 make for that was that even though unrestricted spaces
19 were open and available to her, she chose to park in
20 the restricted spaces. Does she have a right to park
21 there if she has a sticker? Yes, although, you know,
22 a lot of times when you have schools you're trying to
23 get them not to take up the spaces of the residents
24 and, thus, become an objectional condition.

25 MR. GRIFFIS: Right. I don't think we

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1 disagree. Okay. Have you discussed with the school
2 in all your conversations this aspect of the narrative
3 between Condition 5 and 6, and that is utilization of
4 their buses and shuttles?

5 MS. WISS: We have discussed this with
6 them.

7 MR. GRIFFIS: What is your understanding
8 of why they don't? Seems to be a great idea.

9 MS. WISS: Some people do and a lot don't.
10 I don't really have a great handle on this.

11 MR. GRIFFIS: Okay.

12 MS. WISS: My sense is --

13 MR. GRIFFIS: Do you recall me asking them
14 last hearing?

15 MS. WISS: I wasn't here and I wish I had
16 been because I would be much more up on being able to
17 respond to that question.

18 MR. GRIFFIS: I asked them the direct
19 question why didn't they bus. It seems to be logical
20 to set up nodes of which students are dropped off and
21 they are bused in and bused out. The financial impact
22 of that is so excessive because of the spread of
23 student enrollment that it may be more -- that was
24 their answer. Then I continue and say it may be more
25 cost effective to build the parking structure.

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1 Now, that's the reality of today's deal
2 with the emphasis on cars in this culture.
3 Nonetheless, that's what they -- I was actually more
4 interested whether you had further substantive
5 discussions with the school about investigating that
6 opportunity.

7 MS. WISS: I can say that we have
8 discussed it generally. We haven't gotten down to any
9 specifics. I think from the ANC's point of view we
10 seem to be aware of other schools that are able to
11 work with their parent population to come up with
12 schemes to reduce driving to school. I can't say why
13 it works for them and why --

14 MR. GRIFFIS: What school are you talking
15 about?

16 MS. WISS: Well, we know that Field School
17 apparently prohibits students from driving to campus
18 altogether. At least this is the rumor that we're
19 hearing. We know that Field school has buses that
20 take students from many of the subway stops down to
21 their campus on Fox Hall Road.

22 I know St. Andrews School out in Bethesda
23 was running buses from the Friendship Heights subway
24 stop so that if students could get to Friendship
25 Heights, they could be bused to Bethesda. St. Andrews

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1 has moved to Potomac and I'm not sure what they are
2 continuing to do now.

3 There was a way of establishing nodes,
4 certain points where students from a given area could
5 all just be picked up and then bused to the school
6 which seems to make an awful lot of sense. Frankly, I
7 can't see why parents wouldn't be in favor of it
8 because they don't have to drive.
9

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1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 (6:00 p.m.)

3 MR. GRIFFIS: They have to drive to get to
4 the bus stop.

5 MS. WISS: Well, that may not be as long
6 as driving all the way into Sidwell. If you come in
7 from Virginia you're driving pretty far.

8 MR. GRIFFIS: Are you aware of the drop-
9 offs for Field? I mean, are they fairly local in the
10 District or are they out in Maryland or Virginia?

11 MS. WISS: Well, you know, I haven't --

12 MR. GRIFFIS: Ms. Perry knows.

13 MS. WISS: Okay. Good for you.

14 MR. GRIFFIS: How many are there? So you
15 know all of them?

16 MS. PERRY: Well, I think there's two of
17 them. The Cleveland Park is one of them and, if I'm
18 not mistaken -- I forgot the other one. And Tentley
19 is the other one.

20 MR. GRIFFIS: So they're local. They are
21 in town.

22 MS. PERRY: They are local.

23 MR. GRIFFIS: Okay. That's understood.
24 Oh, well. I won't belabor the point. There it is.
25 Any other questions, Mr. Hildebrand? Any questions of

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1 the ANC? I know this is my reoccurring theme in this
2 particular case but in terms of requiring stickers on
3 cars and prohibiting parking off campus and all that,
4 does the ANC have any sort of really substantive non-
5 passionate maybe more legal discussion on whether this
6 Board has that jurisdiction?

7 Perhaps I'm so sensitive about a court
8 ruling of one of our recent cases regarding a
9 university and talking about conditions that were
10 written that were well beyond our jurisdiction that
11 had no basis for this Board to be deciding or to be
12 implementing.

13 No evidence is actually presented that it
14 would cure anything within which the Board had in
15 front of it to approve. It's just a direct question
16 whether you have or have not but is there any
17 discussion or is it kind of the full understanding
18 that you come in here and whatever we write we enforce
19 and that way we can hold people to it?

20 MS. WISS: Well, I would go back to
21 Section 206.2. It's the start of what a special
22 exception should be. You determine with reasons what
23 would be not objectionable to the nearby and adjacent
24 residents for traffic, parking, and so on. To me the
25 scheme would be designed to make traffic and parking

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1 not objectionable to nearby residents. I guess the
2 only thing I can see that would be some slight
3 difficulty is if --

4 MR. GRIFFIS: I think I understand what
5 you're saying.

6 MS. WISS: This is not an unusually
7 onerous restriction to require that students register
8 and get a decal. I mean, this is done everywhere.
9 Offices do the same thing.

10 MR. GRIFFIS: I understand.

11 MS. WISS: Usually in an office situation
12 you can't afford to park on the street because you get
13 tickets at the meters or the parking lot is too
14 expensive so you end up saying, "Yes, I'll get my
15 decal and register.

16 MR. GRIFFIS: I understand. Just to
17 follow-up, the configuration of this Court has not
18 been overturned by the Court regarding any private
19 school but, nonetheless. Mr. Hildebrand.

20 MR. HILDEBRAND: Is it your opinion in its
21 current operation that Sidwell is objectionable to the
22 neighborhood because of the parking?

23 MS. WISS: We have received an awful lot
24 of complaints by e-mail from the neighborhood, yes.

25 MR. HILDEBRAND: Thank you.

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1 MR. GRIFFIS: Because of parking.

2 MS. WISS: Parking, traffic, everything.

3 MS. PERRY: If I may -- sorry, Cathy.
4 Parking on residential streets has been one of the
5 number one complaints that we have received by
6 Sidwell --

7 MR. GRIFFIS: It's our number one, too, on
8 every application.

9 MS. PERRY: -- by Sidwell's own student
10 transportation study. Approximately 124 students are
11 parking off campus right now on residential streets.
12 There are only 88 unrestricted parking places in that
13 area.

14 MR. GRIFFIS: How do you define the area?

15 MS. PERRY: Quebec Street 3738, Upton,
16 Tilden, 37th.

17 MR. GRIFFIS: Okay.

18 MS. PERRY: I'm doing the blocks around
19 there.

20 MR. GRIFFIS: Okay.

21 MS. PERRY: And by their own study, and
22 I'm looking at it, some of those students are parking
23 in McLean Gardens in their parking lot which is
24 private property.

25 MR. GRIFFIS: Right. That was testified to

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1 already.

2 MS. PERRY: I think parking --

3 MR. GRIFFIS: You're saying basically you
4 have 40 kids out there driving that have to park in
5 restricted areas that shouldn't be because all the
6 unrestricted just on the pure map is being filled by
7 the student parking.

8 MS. PERRY: And we have other institutions
9 there including the post office and residents who need
10 these residential parking places and/or the
11 unrestricted ones.

12 MR. GRIFFIS: Okay. That's a current
13 condition and so now when we talk about building --

14 MS. PERRY: That's without an enrollment
15 increase. That's based on current numbers.

16 MR. GRIFFIS: Sure. Sure. So now there's
17 a parking structure that's being proposed and you're
18 coming in support of that because is it the testimony
19 that will alleviate those --

20 MS. PERRY: We would hope.

21 MR. GRIFFIS: -- the strange students that
22 are going around parking in restricted areas?

23 MS. PERRY: We would hope.

24 MR. GRIFFIS: What you're saying is in
25 your testimony that you think that the Board needs to

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1 make sure that happens and you're offering conditions
2 that ensure that kids park on campus. I feel so old
3 calling them kids.

4 MS. PERRY: I guess we would like to see
5 all students park on campus.

6 MR. GRIFFIS: Okay. How do you feel about
7 having an offering of free parking? There's no fee
8 and students would not be charged for parking on
9 campus. Do you think that opens up the opportunity
10 that more students would opt for that very quickly as
11 opposed to driving around trying to park in an
12 abandoned building's driveway?

13 MS. PERRY: I've heard two different
14 viewpoints on this. Some people feel that students
15 should be charged for parking, that it would
16 discourage them from driving. My personal experiences
17 with Howard University School of Law and UDC where I
18 live, we do charge for parking. We have found that
19 students that cannot afford it or that want to drive
20 do drive anyway and then they use the residential
21 streets. I would hope that parking would be free.
22 That would be my personal viewpoint.

23 MR. GRIFFIS: That seems to be a larger
24 systematic change that would need to happen in terms
25 of driving habits. Okay. I had one other question

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1 but I can't remember it. There it is. Okay. Any
2 other questions from the Board? Cross? No questions?
3 Ms. McWood is not here.

4 MS. PERRY: Mr. Espenschied is here
5 from --

6 MR. GRIFFIS: Cross examination? Okay.
7 Thank you very much. We appreciate it. We're going
8 to take just a five-minute break that in reality will
9 be a 10-minute break. When we resume we'll hear from
10 persons to give testimony in support of the
11 application. And also in opposition to the
12 application.

13 Can I see a show of hands so I can kind of
14 judge our timing on how many people plan to testify
15 today? Okay. We have about 10 people to get to
16 today. Mr. Feola, how much time do you need for
17 closing or rebuttal witnesses? Are you prepared to do
18 that today?

19 MR. FEOLA: We are. Ten minutes at the
20 max.

21 MR. GRIFFIS: Excellent.

22 (Whereupon, at 6:11 p.m. off the record
23 until 6:34 p.m.)

24 MR. GRIFFIS: Wow, that 10 minutes went
25 fast. That's the problem when you go out and then you

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1 get caught up in all this business again. Why don't
2 we fill the panel. Why don't we do those in support
3 first and in opposition. I'm going to fill the chair
4 so when you're ready, come on up. I need three more
5 volunteers.

6 I'll dispense with the order in terms of
7 support and opposition. Just fill the chairs. What
8 I'll ask is that you make it very clear at the very
9 beginning where you are. Obviously that's what you
10 should be saying immediately. I'll remind everybody
11 we have three minutes per person. I'm going to be
12 watching the clock which is behind all of you.

13 I'm not going to turn the clock on here
14 because it's terribly obnoxious when it screams at the
15 end of your three minutes. You're just going to have
16 to be considerate of me when I start interrupting you
17 because it will be close to three minutes. Let's have
18 three more people that are ready to roll and then
19 we'll fill it up after that.

20 All of you have been sworn in? Okay,
21 let's do that. Why don't we all stand. Anyone that
22 hasn't been sworn in yet that's going to speak tonight
23 you can give your attention to Ms. Bailey when she's
24 ready and she will administer the oath.

25 MS. BAILEY: Please raise your right hand.

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1 Do you solemnly swear or affirm that the testimony
2 you will be given today will be the truth, the whole
3 truth, and nothing but the truth?

4 ALL: Yes.

5 MR. GRIFFIS: Okay. We are going to run
6 the clock so you have an idea of where your time is
7 going. I will pay direct attention to it but you can
8 also look at it. Whenever you're ready.

9 MS. ZANTON: My name is Eleanor Zanton. I
10 live at 3707 Ingamar Street in Chevy Chase, D.C. I'm
11 a member of the Board of Sidwell Friends and a member
12 of the Religious Society of Friends. I've been a D.C.
13 citizen since 1962, 42 years. Lived in Cleveland Park
14 for 19 years.

15 Was PTA president at John Eaton Elementary
16 School, sister school to Hearst. My husband and I
17 served on the committee of 21 in the early 1980s that
18 oversaw the renovation and addition to John Eaton. We
19 played many touch football games on Hearst field.

20 I simply wanted to say that I believe all
21 the schools, both public and independent, that reside
22 in Cleveland Park provide an enormous benefit to the
23 neighborhood as well as, obviously, to the students
24 who attend. It makes the neighborhood extremely
25 attractive. It certain helps to raise the prices of

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1 real estate because it makes an easy walk to the
2 schools.

3 I also did want to say that having
4 children who went to Sidwell Friends that the middle
5 school was scruffy even 31 years ago. This has been
6 -- this is a school that has not paid attention to its
7 outer clothing and it's time. It really is time.

8 MR. GRIFFIS: Thank you very much.
9 Questions from the Board? Actually, what we're going
10 to do is run down the whole panel. I'll have you stay
11 where you are. You'll take questions from the Board
12 and then, of course, you are availing yourself to any
13 cross examination questions from all the parties and
14 the applicant. Let's keep going and then I'll have
15 you turn off your microphone. You have a procedural
16 question?

17 MS. BEELAR: I have a procedural question
18 which is I would request I have a PowerPoint
19 presentation. It runs three minutes and two seconds.

20 I would really hope that the Chair, Mr. Feola, Mr.
21 Saxenian who is filing will allow me the extra two
22 seconds. I did pair it down. I just can't get it any
23 slimmer.

24 MR. GRIFFIS: That's pretty exact. I
25 think we'll role with it.

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1 MS. BEELAR: Thank you, sir.

2 MR. GRIFFIS: Sure. Did you want to go
3 next?

4 MS. BEELAR: Yes.

5 MR. GRIFFIS: I see. Okay. And your name
6 is?

7 MS. BEELAR: My name is Barbara Beelar. I
8 live at 3505 Tilden Street. I am supporting the
9 project of civil application with a number of
10 conditions which I detailed here.

11 MR. GRIFFIS: Okay.

12 RECORDED VOICE: This application is a
13 master plan approach. Even phase I is still in the
14 conceptual stage. There are outstanding community
15 concerns and these are raised in a petition endorsed
16 by 168 impacted households. Unresolved issue
17 of transportation policy. The current policies are
18 flawed and Sidwell is unwilling to exercise
19 enforcement control.

20 The transportation plan as submitted to
21 the BZA is lacking. The traffic study has erroneous
22 conclusions. The TMP has narrow goals. There's no
23 enforcement or penalties to ensure compliance.
24 Concerns are overflow parking and 37th Street drop-
25 off. Zoning issues. There are questions about

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1 current and future compliance with 206.2 and 206.3.

2 Unresolved issues financial risk. Sidwell
3 says they need increased enrollment to 850 students to
4 cover the cost of the garage. There's an alternative
5 view. The garage is a transportation policy choice
6 made by Sidwell. In this choice there are no limits
7 on the number of teachers, staff, visitors and
8 students who choose to drive to campus.

9 Under 206.3 Sidwell must provide ample
10 parking. Therefore, the garage is a project
11 requirement necessary to comply with zoning
12 regulations. There are other viable transportation
13 alternatives available.

14 Middle school design. Materials presented
15 to DCA are inaccurate and inconsistent. They are
16 multiple models, sketches, drawings, and design
17 options which are confusing.

18 What is the review process? The
19 architectural drawings are not available so we cannot
20 assess possible zoning violations. Potential issues
21 include the number of towers, side-yard setback, and
22 there are questions whether the extension is in
23 harmony and whether it would be objectionable to
24 adjoining and nearby property.

25 Landscape plans. Plans are not available

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1 for review. Of particular concern are plans for the
2 middle school. There is a need to replace the green
3 and open space buffer.

4 What is the review process? We cannot
5 review landscape plans. We need to know whether the
6 landscape plans will mitigate adverse impact. We have
7 two recommendations: That you maintain the current
8 enrollment level until the garage is built and there
9 is a one-year successful demonstration of TMP.

10 Recommendation two: Approve phase one with the
11 condition ANC and BZA approved plans for the garage
12 and middle school as well as landscape plan.

13 MR. GRIFFIS: Very well. Thank you very
14 much. That presentation also coincides with the
15 notebook that was presented. Is that correct?

16 MS. BEELAR: That's correct. The actual
17 presentation is on the blue sheets in the notebook.
18 What I would really want to have said beyond a
19 PowerPoint presentation are on the green sheets and
20 various supplemental materials are on the white paper.

21 They are tabbed by the four areas of concern that we
22 have listed. I hope those are useful to the Board for
23 their review.

24 MR. GRIFFIS: Good. And this has also
25 been served on the parties and the applicant? And the

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1 ANC has theirs? Thank you.

2 MS. BLACK: Good afternoon, Mr. Chairman.

3 My name is Martha Black. I reside at 3510 Quebec
4 Street, N.W., two blocks from the Sidwell Friends
5 School. I have lived in the neighborhood since
6 September of 1969.

7 I have been a neighbor during four
8 construction projects at Sidwell. The first was the
9 addition of two floors at the middle school in 1970.
10 Then it was the building of the gym, art center, and
11 maintenance building, addition of classrooms, and an
12 addition to the upper school.

13 Each project has been disruptive to the
14 surrounding neighbors but all have been mercifully
15 brief. The current application to BZA is a master
16 plan for additions of three new facilities and
17 renovations to three current facilities. When first
18 presented to the community in July of 2003 Sidwell
19 projected that the construction could take seven to
20 eight years. They have now added a respite time
21 between the construction of the garage and the middle
22 school addition and renovation and the rest of the
23 project of up to five years presumably to raise the
24 money to complete their concept plan.

25 A project of this magnitude will be

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1 enormously disruptive to the neighborhood. While we
2 wish the school well in its academic programs, we are
3 concerned about the health and safety of our residents
4 during this massive undertaking. My ongoing worry is
5 that we still do not know what you are being asked to
6 approve. A master plan and concepts are good ideas,
7 good first steps, but the design of the middle school
8 addition and the renovation of the existing building
9 is not final.

10 Drawings shared at the ANC-3C meeting June
11 7th showed for the first time a shed on the roof of
12 the existing middle school. By Wednesday, June 9 at
13 lunch a few neighbors were shown a drawing where
14 suddenly the middle school had bay windows. By the
15 first BZA hearing those elements were gone and we now
16 were shown four structures on the middle school
17 addition that exceeded the elevation of the roof line.

18 We do not know what materials are going to
19 be used on the facade. The 40-foot elevation noted in
20 the Office of Planning report does not take into
21 consideration the grade elevation on the site from the
22 street level of at least 15 feet. Nor does it address
23 the four air exchange vents and the stairwell.

24 ANC-3C resolution 017 states, "Any
25 significant change to the site plan as presented to

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1 the ANC-3C and the HPRB will be subjected to ANC-3C
2 review prior to consideration by this BZA. What
3 constitutes change? Should there be a time when no
4 further changes are allowed?

5 The middle school construction approval
6 process based on today's plans will in all probability
7 not be the way the extension and the renovation will
8 be built. In a project of this magnitude it would
9 make good common sense to approve each and every
10 phase. Considering and voting on plans for any
11 building still so much on the drawing board just makes
12 no sense. It does not assure that the buildings will
13 be compliant to Zoning Regulation.

14 I would urge the BZA to consider action on
15 individual phases of this project. Approval and
16 concept is great but I feel realities are what should
17 be addressed by this body. Thank you.

18 MR. GRIFFIS: Thank you very much.

19 MS. HOWE: My name is Marilyn Howe. Good
20 afternoon. I live at 3423 Quebec Street, N.W. Since
21 our return to Washington, D.C. two years ago I have
22 continued my practice of walking with a purpose. I
23 combine walks and errands. As a pedestrian one gains
24 a whole different perspective on many things.

25 One thing I have noticed and loved is the

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1 residential nature of my neighborhood. I sincerely
2 appreciate having two schools, a wonderful
3 recreational field, and the Washington Home Hospice in
4 the immediate neighborhood among our homes. However,
5 on many of my walks I observed on 37th Street that two
6 schools have their drop-off and pickup on this street.

7 This generates an enormous number of cars
8 coming into the area. It is a steady stream of
9 vehicles. It would seem that a traffic management
10 plan be in place. It would seem necessary that a
11 traffic management plan be in place. It should be one
12 that states all student parking be on campus and that
13 plan be enforceable.

14 All things need to grow at times and
15 change with the times. This is a process. I do think
16 there are ways to carry out this process with as
17 little disruption to the neighbors, residential, and
18 institutional as possible. That is what I am asking
19 in the matter of the Sidwell expansion plan. The
20 Washington Home Hospice is a legal residence to many
21 of its patients. That brings a residential component
22 to this institution.

23 I just wanted to read a letter dated April
24 30th that I wrote to Mike Saxenian about an
25 observation during one of my walks. "Dear Mike. This

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1 morning the parent of a Sidwell student parked in the
2 Home Hospice lot apparently to carry into the school a
3 student project. The Home security guard approached
4 this parent.

5 I do not know what the exchange was
6 between them but the parent continued on into the
7 school leaving her vehicle in the Home lot for
8 whatever amount of time the parent needed to
9 accomplish what she set out to do.

10 After the parent was gone into the school,
11 I did tell that guard that I thought it was
12 disrespectful to the patients in the Home that a
13 person would do this. She agreed." Then I thanked
14 him for any help that he could provide. Thank you.

15 MR. GRIFFIS: Thank you. What was the
16 date of that letter?

17 MS. HOWE: April 30th.

18 MR. GRIFFIS: When did you observe that?

19 MS. HOWE: That day, April 30th, 2004.

20 MR. GRIFFIS: Good. Thank you all very
21 much. The committee of 21 you indicated you were a
22 member of, that's not going to become the committee of
23 100? No, what is the committee of 21?We

24 MS. HOWE: Well, at least then, and I
25 don't know if the public school plan has changed, but

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1 it was a committee of citizens who were local to the
2 school or who had been a parent at the school who were
3 asked to help advise the school on its architectural
4 expansion.

5 MR. GRIFFIS: And was that Eaton and
6 Hearst?

7 MS. HOWE: It was at John Eaton.

8 MR. GRIFFIS: Okay. I see.

9 MS. HOWE: I believe it was about 1981.

10 MR. GRIFFIS: So you sat on that and gave
11 advice on the design.

12 MS. HOWE: And my husband did as well.

13 MR. GRIFFIS: Okay. And did they have a
14 huge expansion?

15 MS. HOWE: They built another -- they had
16 some underground and they changed the playground
17 entirely and they added on a wing and made everything
18 look nicer. We chose the architects and so on.

19 MR. GRIFFIS: Hopefully you were pleased.
20 Okay.

21 Ms. Black, correct? You had indicated
22 that you weren't sure about what you were looking at
23 and how we were to approve something that maybe isn't
24 so defined. You mentioned something --

25 MS. BLACK: I do have those concerns, yes,

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1 sir, because the plans seems to change rather quickly.

2 I just don't know where the process goes once we have
3 finished hear in a public testimony setting and what
4 safeguards there are that eventually a final plan has
5 been seen and evaluated by this group.

6 MR. GRIFFIS: Right. The first condition
7 of any order would be attach the drawings or the
8 drawings that were submitted into the application
9 which we would review. From here I think it's fairly
10 straight forward in terms of the zoning envelope that
11 we're looking at. You seem to emphasize a lot the
12 design which I think is an excellent point to do.

13 I guess what I'm wondering is whether you
14 think that we are going to be reviewing all of the
15 design iterations. Let me be clear. I think that our
16 charge is to review those elements that need relief or
17 impact the areas that are getting relief and so if the
18 material, the facade or anything of that nature, is it
19 your opinion that might then kick back into an issue
20 that would be covered under 206?

21 MS. BLACK: I think because of the nature
22 of the residential area surrounding the school which
23 are more traditional in construction materials as well
24 as design, that it's entirely possible something might
25 be considered for a facade at the school that would

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1 not be in keeping with the rest of the neighborhood.

2 Yes, sir, that is one of my concerns.

3 MR. GRIFFIS: Okay. Good.

4 MR. HILDEBRAND: Mrs. Black, you had
5 mentioned that you had been through four renovation
6 projects at the Sidwell campus. Did any of those
7 renovations include large displacement of the student
8 body into temporary structures?

9 MS. BLACK: I cannot address that, sir. I
10 was not aware of them at the time or I have
11 conveniently managed to forget them as I have aged
12 myself.

13 MR. HILDEBRAND: I understand that
14 completely.

15 MS. BLACK: I just don't remember, sir.

16 MR. GRIFFIS: Your last recommendation,
17 Recommendation 2, it reads, "Approve phase one with
18 condition ANC and BZA approval of architectural
19 drawings for a garage and middle school and landscape
20 plan." Are you saying that the actual approval should
21 be phased just as the master plan and construction is
22 looking to be phased in?

23 MS. BEELAR: Let me give an example of
24 what happened today. Today is the first time since
25 December 1 of 2003 that I have seen an actual real

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1 drawing for the garage. I still think that what we've
2 seen probably has some questions. I'm not sure that
3 the chain link fence that is 10 foot high on the ends
4 really came out in the picture.

5 I can appreciate technicalities but this
6 is the first time that has been presented in a public
7 environment. There are very few people in the
8 community here and the ANCs have not had a chance to
9 look at it. I sort of balance that with having had
10 the opportunity to sit through the GDS application
11 last week because we were waiting our turn.

12 The contrast with what they presented to
13 you which seems to me a much more appropriate way.
14 They presented you with, "Here is the current
15 building. Here is the new building with very detailed
16 drawings. Is his how it's going to look from the
17 neighbor's yard and see how we've accommodated and
18 reduced the impact."

19 MR. GRIFFIS: Right.

20 MS. BEELAR: That is because this is
21 changing and you are basically asking for -- Sidwell
22 is asking for approval of 10 years or more of
23 construction. Phase one is the garage and the middle
24 school. Then we get the gym and the meeting house and
25 the various renovations.

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1 I had no idea in the second case about the
2 middle school. I've gone through all of my visuals of
3 the middle school. Last week was the first time we
4 saw the four towers which you, yourself, raised issues
5 of zoning concern as to whether they were compliant as
6 presented.

7 I think things can pop up and this is of
8 great concern because, one, to assure that they are in
9 compliance and, two, we're going to have to live with
10 them. Right now that middle school keeps growing.
11 They had up until this last drawing there was a
12 setback on the northeast corner that was going to be
13 two stories to set back the massiveness of the three-
14 story structure which is diagonally across the street
15 from a residential property.

16 In this drawing that was presented last
17 week, that setback, which has been used as an example
18 of how sensitive they are to the community, no longer
19 exist. Instead what we have is they have now extended
20 the porch I believe as a way to aesthetically mitigate
21 and reduce the size.

22 MR. GRIFFIS: I understand.

23 MS. BEELAR: But that is moving it into
24 the neighborhood further.

25 MR. GRIFFIS: Right. So your concern is

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1 that you don't really know what it is.

2 MS. BEELAR: We don't know what it looks
3 like.

4 MR. GRIFFIS: Okay. Any other questions
5 from the Board? Cross? No questions? Ms. Perry? 3-
6 C, any cross? Um, it is getting late. You should
7 have been here for breakfast with us. Okay. Let's
8 get the next panel. Thank you all very much. We
9 appreciate your patience in staying this evening.

10 MS. BEELAR: I'm sorry. I forgot as a
11 procedural question one of the residents who was
12 planning to testify has been here since quarter to
13 3:00 and had to leave. Her name is Tish Alsop and she
14 will be presenting to you a letter which I hope you
15 will keep the record open for it in consideration that
16 she stayed as long as she could physically.

17 MR. GRIFFIS: Okay.

18 MS. BEELAR: Thank you.

19 MR. GRIFFIS: You want to start or start
20 at the other end?

21 MR. HERTZ: My name is Tom Hertz. I live
22 in Mt. Pleasant and my son attends Hearst Elementary
23 School. I'm the chair person of the LSRT and what
24 I've just handed into the Board is an outline of my
25 comments and also a letter from my principal stating

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1 that I'm the person on the school who is working on
2 trying to sort out these issues of the construction
3 management plan. I don't have party status, as you
4 know, but I do represent the school in this matter.

5 As you know, Hearst Elementary sits
6 directly across from 37th Street across from Sidwell
7 Friends School and given our proximity to the proposed
8 construction I think it's inevitable that our 160 pre-
9 K through third graders their parents and their
10 teachers, there's about 20 or 30 staff people, will be
11 adversely affected by the noise, dust, and general
12 disruption associated with the construction project.

13 We wish to be clear that we do not oppose
14 the project. However, we are concerned with
15 minimizing the negative impact. I should clarify that
16 we are really only focusing on the construction phase.

17 We have nothing to say about the permanent situation.

18 We are concerned about the construction phase.

19 We might have something to say about it
20 but our LSRT has not really had a chance to talk about
21 the overall picture. We are working on the
22 construction management issues. I'm mindful of the
23 concerns that were raised by the Board earlier about
24 what is appropriate and isn't appropriate in the
25 construction management plan.

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1 But I do feel that the plan that Mr.
2 Saxenian and the ANC-3C have agreed on which I
3 understand has been agreed to with minor modification
4 from what I have here on June 7th. We think that's a
5 terrific document and that the construction liaison
6 committee is a valuable asset.

7 We would strongly urge the Board to
8 include that construction management plan as a
9 condition of the zoning order. I would argue that
10 construction liaison committee can sort of take care
11 of itself once it's in place. It works by suasion and
12 by getting people to talk to each other and we think
13 that is meaningful in this case.

14 However, I also note that there are
15 several things that are not specifically in the
16 construction management plan. Although they might be
17 addressed down the road, we think specificity would be
18 helpful and I would like to list the following:

19 Number one on my memo, better noise-
20 abatement protections including requiring that
21 disposal chutes be acoustically lined, requiring that
22 Sidwell provide the services of an engineer to help us
23 figure out how we can keep the sound impact on our
24 students down.

25 Maybe sound-deadening curtains or baffles

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1 on doors, maybe white noise generators for the pre-K
2 kids whose classrooms face 37th Street at nap time and
3 other ideas that we haven't thought of. A little help
4 in that department would be much appreciated.

5 Perhaps more fundamentally we would like a
6 blanket prohibition of blasting and pile driving while
7 Hearst is in regular session which I said was 8:45
8 a.m. until 3:15 p.m. The construction management plan
9 does talk about notice being required for blasting and
10 points out that blasting is not expected to happen.
11 There is no mention of pile driving but that is pretty
12 noisy and pretty repetitive and hard to work around.
13 We were hoping that might be ruled out during 8:45 to
14 3:15 during a school year.

15 Point two in my memo. The timing of
16 construction includes the fact that the Hearst school
17 year, the DCPS school year, extends into late June
18 which is longer than the Sidwell School year. One of
19 the things that reassures us about all of this is that
20 Sidwell has to work around its own students as well so
21 presumably they are not going to be doing things that
22 are completely disruptive.

23 But there is that period when we are in
24 session and they are not and I can imagine that they
25 might be eager to get started on some of the more

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1 disruptive stages of the operation as soon as their
2 kids are gone. We just want to recognize that our
3 kids are still there for about three more weeks, at
4 least the way the calendar lined up this year.

5 That also relates to the issue of Saturday
6 work hours in the construction management plan of ANC-
7 3C. There is a negotiated amount of Saturday time.
8 We actually would support more Saturday time, of
9 course, since our students are only there Monday
10 through Friday. I just thought I would throw that in
11 there if there needs to be some adjustment to
12 accommodate our longer school year.

13 Point three relating to dust and air
14 quality. I note that a lot of our students have
15 asthma and we have lost parents in the past because of
16 their concerns that we don't have full-time nurse
17 coverage. I put a line in there that if the problem
18 is deemed severe as measured by air quality paid for
19 by Sidwell, that Sidwell might be able to help us out
20 by letting our kids use their school nurse on the
21 three days a week that we don't have nurse coverage.

22 If there is anyway to know when the
23 activities that raise particularly large clouds of
24 dust, if there are particular activities that are
25 particularly dusty, if they could be scheduled when

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1 our kids are not running around on the playground that
2 would be helpful.

3 And if playgrounds and sidewalks could be
4 hosed down promptly after such types of activities and
5 as needed through the year. And just every effort be
6 made to minimize dust using shrouds, spraying, etc. I
7 might add that the construction management plan speaks
8 of a fence that is on the clause of the plan called
9 site management.

10 The school shall require the temporary
11 construction of chain link or other fencing around the
12 parameter of the construction area. It occurs to me
13 that a solid fence would provide better noise
14 protection and more dust protection so we would vote
15 for a more substantial fence than a chain link fence
16 on the 37th Street side.

17 I'll try to wrap this up. The traffic and
18 site management clauses of the construction management
19 plan, there are so many different recommendations
20 around traffic and site management. Our main concern
21 is that 37th Street be clear of all construction
22 related traffic during pickup and drop-off times.
23 They are mentioned in the ANC-3C construction
24 management plan as being 7:30 to 8:45 and 3:15 to
25 6:00.

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1 What we are a little bit concerned about
2 is that the language is a little bit vague about
3 whether there could be a crane parked on 37th Street,
4 whether all sorts of materials -- it says materials
5 must be stored on site but it's not clear to me
6 whether that precludes Sidwell from putting a chain
7 link fence out into 37th Street to sort of incorporate
8 that into the site.

9 MR. GRIFFIS: Okay.

10 MR. HERTZ: We would like to be perfectly
11 clear that 37th Street needs to be clear at all times,
12 especially of any related traffic that the
13 construction generates during pickup and drop-off.

14 MR. GRIFFIS: And the rest of your points
15 are in your written submission. Is that correct?

16 MR. HERTZ: The rest of my points are in
17 my written submission. That is correct. If I could
18 just draw your attention to one or two more things
19 about the construction management plan that we
20 particularly are interested in. It will just take one
21 second.

22 MR. GRIFFIS: I think we can get it.

23 MR. HERTZ: Well, we endorse the plan and
24 we hope that all of this is made part of the
25 application.

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1 MR. GRIFFIS: We read it all.

2 MR. HERTZ: Thank you.

3 MR. GRIFFIS: I allowed you to go, I was
4 going to say, a little bit over but way over your
5 time.

6 MR. HERTZ: I note I was granted some
7 leeway when I was denied party status.

8 MR. GRIFFIS: That's not why you were
9 granted leeway but rather that you were representing
10 an organization and often times you get a little bit
11 of additional time but we do have this in the form of
12 written submission.

13 MR. HERTZ: Thanks very much.

14 MR. GRIFFIS: Thank you. Let's move on
15 then.

16 MS. PIGMAN: My name is Nancy Pigman and I
17 live at 3515 Quebec Street. I'm a Sidwell parent and
18 a strong supporter of the school. However, I'm also a
19 neighbor with some continuing concerns about the
20 Sidwell application before you.

21 First, the application should contain a
22 comprehensive traffic management plan which would
23 require all students, faculty, staff, buses, and
24 visitors to park on campus, prohibit students from
25 parking on residential neighborhood streets, have

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1 stiff enforcement penalties for repeat offenders
2 including, if necessary, expulsion. Other private
3 schools have done this.

4 Most important adopt further measures to
5 encourage more students to take public transportation.

6 Lastly, restrict student drop-off and pickup on 37th
7 Street to 5th and 6th grade students only and have an
8 effective and safe system in place to do this.

9 Second, require this plan to be
10 operational for one year before consideration of an
11 increase in student enrollment from their current
12 level of 800. I oppose the school's request for
13 increase in the enrollment cap to 850, 70 more
14 students than their current cap and 50 more than last
15 year's actual enrollment.

16 I find their argument for the possible
17 need for this increase in student revenue to pay for
18 the extra garage level specious. Of they are going to
19 continue to allow students to drive to school, they
20 should have provided for the on-campus parking and
21 financing to accomplish this in their initial
22 planning.

23 Of course, they could charge for parking
24 as they do for their shuttle bus students.

25 Both ANCs have included these recommendations in

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1 their resolution and I would urge the Board to include
2 them in your actions on this application.

3 Finally, I was particularly disturbed by
4 the June 1st DDOT report to the planning board in
5 which it is recommended if sufficient student parking
6 is not found on campus, students should park on Quebec
7 Street.

8 My block of Quebec Street has parking on
9 only one side, many small children, and is already a
10 speedway thoroughfare for postal vehicles, trucks and
11 cars because there are no traffic lights at either end
12 of Quebec Street, either on Wisconsin Avenue or Reno
13 Road. Conversely, there are no residences on 37th
14 Street. This DDOT report clearly showed no in depth
15 comprehensive review of the traffic and parking
16 problems in this neighborhood.

17 Finally, I do want to commend Sidwell for
18 many of the other measures that they have taken and
19 included in their multi-year plan. I particularly
20 want to commend them for deciding to take some voucher
21 students. Thank you very much.

22 MR. GRIFFIS: Thank you.

23 MR. ESPENSCHIED: My name is Peter
24 Espenschied. I'm a member of the Planning and Zoning
25 Committee of ANC-3C but I am testifying now as an

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1 individual. I want to speak in response to questions
2 raised by Board members about the requiring of car
3 registration and about making use of the parking
4 garage compulsory for students who drive to school and
5 generally about the attaching of conditions and the
6 monitoring of them.

7 The school as a practical matter would
8 have no difficulty in getting all students who drive
9 cars to school to register those cars with the school.

10 It needs only to require such registration as a
11 condition of enrollment and of continued attendance at
12 the school. Other schools have found that this works.

13 A good nearby example is the Birk School.

14 The BZA can certainly include in its
15 special exception order conditions which include the
16 requirement that the school require registration of
17 all student car and require that all students park in
18 the school's garage.

19 This kind of BZA requirement is so clearly
20 germane to traffic conditions which are by statute
21 within the purview of the BZA in evaluating special
22 exception applications that there is really no danger
23 of a court reversal like what happened in the George
24 Washington University case.

25 In addition, there is the fact that

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1 Sidwell is receptive to this and other conditions
2 which have been attached to the support of ANC-3C and
3 ANC-3F. The monitoring committee which would be
4 included in those conditions tends to be self-
5 enforcing as shown by experience with other local
6 schools.

7 I have been and am on such a committee and
8 the experience has been that even against a background
9 of hostile relations between school and neighborhood
10 and that is not the case with Sidwell. The existence
11 of a committee structure within which people have to
12 meet and discuss problems leads to a working out of
13 those problems.

14 The scheme of conditions that has been
15 proposed to you by both ANCs has a good history and I
16 hope that you will adopt it. Thank you.

17 MR. GRIFFIS: Thank you very much.

18 MS. LOWENSTEIN: My name is Frances
19 Lowenstein and I'm a homeowner within 200 feet of the
20 Sidwell Friends School campus. In fact, if you looked
21 on one of their exhibits when they showed you the
22 Zartman new entry and you could see some residences in
23 the background, mine was one of those three houses.

24 MR. GRIFFIS: We knew that.

25 MS. LOWENSTEIN: We are very close to the

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1 campus. I will just follow some of the outline in my
2 remarks. We definitely oppose any student drop-off on
3 37th Street. The traffic situation is currently at
4 gridlock and the only relief will be to ban all
5 student drop-off on 37th Street, not just allowing 5th
6 and 6th grade students as being proposed.

7 Our streets are dangerous and clogged
8 during morning drop-off and afternoon pickup as well
9 as at times with sports and other events making
10 backing out of our driveway nearly impossible at times
11 and always unsafe. This constant traffic from drop-
12 offs and pickups is noisy, pollutes our neighborhood,
13 and adversely affects our property which we have owned
14 for nearly 29 years.

15 We also oppose any overflow parking that
16 has been suggested that overflow parking could park on
17 a residential street, first on our block, on Quebec
18 Street, and then on 37th Street. We already have too
19 much traffic on our narrow streets.

20 Our family car was damaged several years
21 ago by a Sidwell Friends student driver backing into a
22 parking space across from our street. Many cars
23 parked on these streets are sideswiped. The mirrors
24 are broken off. We see this all the time. It's just
25 too narrow.

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1 We also request proposed landscaping plans
2 in final. We have not really as yet seen any detailed
3 landscaping plans for the entire campus project. On
4 the side of the campus where we live, we don't know
5 what Sidwell plans to do to improve the campus borders
6 along 37th Street and Quebec Street. Our current view
7 across Quebec Street is of a tall concrete wall topped
8 by a chain link fence which creates an objectional
9 impact on our property.

10 During this campus-wide renovation project
11 the parameter should be landscaped attractively to
12 minimize the austere look of the current boundaries as
13 has been done successfully in other northwest school
14 area renovations. Creating a buffer along 37th Street
15 and Quebec Street in the form of a green screen is
16 something that we've been politely asking Sidwell
17 officials to do for over 20 years but without result.

18 We also oppose any lighted tennis courts.

19 This issue has surfaced unexpectedly and late in the
20 application process and we have only recently become
21 aware of it. The goal from night lighting of tennis
22 courts on Wisconsin Avenue or any location on the
23 Sidwell property is a condition that would adversely
24 affect the use and enjoyment of our residential
25 property and we find it extremely objectionable.

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1 There are already some lights on the
2 campus now on a shed in the middle of the property
3 which glows right into one of our bedrooms so we don't
4 want anymore lights from the campus.

5 We also oppose increasing student
6 enrollment and we also support demonstrating -- the
7 demonstration of a traffic management plan as long as
8 one year passes and then we would support an increase
9 in student enrollment if Sidwell has satisfactorily
10 followed the plan.

11 I did want you to know that we do agree
12 that Sidwell does need to renovate their campus. In a
13 matter of full disclosure, my two sons are graduates
14 of Sidwell Friends School. Thank you.

15 MR. GRIFFIS: Thank you very much. Have
16 you reviewed where the proposed tennis courts are to
17 be in the master plan?

18 MS. LOWENSTEIN: I've seen it on a number
19 of drawings but I assume that the ones on Wisconsin
20 Avenue are going to be in somewhat the same location
21 as where some of them are.

22 MR. GRIFFIS: Are those the ones --

23 MS. LOWENSTEIN: They are on Quebec Street
24 and Wisconsin currently. There are three courts.
25 There's one court right on Quebec Street and two

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1 courts, the teacher's court on Quebec Street and then
2 there are two courts.

3 MR. GRIFFIS: And your concern is that if
4 they light those that that light will shine into your
5 windows?

6 MS. LOWENSTEIN: Oh, absolutely.

7 MR. GRIFFIS: How far down Quebec are you?

8 MS. LOWENSTEIN: Well, we are the third
9 house down. We overlook the soccer field. We've been
10 opposed for many years any lighting of the Phoebe
11 Hearst tennis courts which are diagonally across from
12 our house. We would certainly oppose any lighting of
13 the Sidwell courts on Wisconsin Avenue. There is
14 already a glow from the street lights but that's part
15 of city living but you don't want to add more to this
16 if you don't have to.

17 MR. GRIFFIS: Right.

18 MS. LOWENSTEIN: They successfully have
19 had a very active tennis program and tennis club for
20 many, many years. A lot of members in the
21 neighborhood are members. The courts are not lighted
22 at night and it's been very successful. They also
23 have other programs like the soccer club. Why not
24 light the soccer field then which is right across the
25 street.

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1 If they are going to light it, they might
2 as well light the whole campus and then we've have a
3 full flow effect. I'm not trying to make light of
4 this. It's really something that would impact and we
5 couldn't plant big enough trees to grow fast enough to
6 block this out.

7 MR. GRIFFIS: Understood. I think your
8 point is well taken that you abut open area. I mean,
9 all the fields and the tennis courts so any lights
10 that might be shining to illuminate the area might be
11 directed and there would be nothing to impede them to
12 your property. Okay. I think that's fairly clear.

13 Good. Other questions from the Board?
14 Any other questions or follow-up?

15 Mr. Hertz, let me ask you, have you
16 reviewed in your position with, I think, the LSIRT --
17 is that correct? -- the actual provisions in the
18 building code that go through all the construction
19 requirements and regulations?

20 MR. HERTZ: No, I'm not by any means an
21 expert on building codes.

22 MR. GRIFFIS: Have you really looked at
23 them or read them at all?

24 MR. HERTZ: No, we have not. We have
25 struggled to keep up with the construction management

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1 plans and their various versions and we've had input
2 from members of our parent community who are
3 architects and suggest, "Ask for this and ask for
4 that."

5 MR. GRIFFIS: A lot of what you were
6 talking about in terms of fencing out on public area
7 and all that, even going down to glass, I think it may
8 well be worth the time to look at what's actually
9 covered and then how that might be remedied within the
10 system that is already created. I don't think it's
11 lost on the Board your emphasis.

12 Certainly it is not lost on this Board
13 that Hearst is across the street and any sort of
14 impact for the utilization of the children going to
15 that facility is an important aspect for us as a
16 review of the entire application.

17 MR. HERTZ: If there are better ways to
18 achieve these same protections and you can give me
19 advice on how to get there from here, I would much
20 appreciate it.

21 MR. GRIFFIS: Anything else? Mr.
22 Hildebrand.

23 MR. HILDEBRAND: There are noise control
24 requirements for construction within the city that all
25 contractors have to follow everywhere. Certainly I

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1 think you made a valid point that Sidwell doing any
2 construction during the school season would be
3 affecting their students as well as yours so they are
4 very likely to be cognizant of that and take
5 mitigating steps to reduce the noise as much as
6 possible.

7 MR. GRIFFIS: In terms of dust reduction
8 for large demolition, it's also fairly covered. I
9 mean, how well is one person's example. I think the
10 other thing you're suggesting because this is
11 obviously a reoccurring thing and I think it's fairly
12 clear. My opinion is attaching construction
13 management plans to zoning orders and it's difficult
14 for jurisdictions.

15 I think the absolute clarity or one of the
16 things that we've seen in past applications which I
17 think works very well is to ensure that the applicant,
18 that the property owner who is going to be hiring the
19 contractor that's going to do the work actually have
20 within the contractor's contract a management plan and
21 how they do it and what their responsibility is in
22 cleaning the site each and every day.

23 It's not above and beyond. I don't think
24 the school wants a bunch of dust flying everywhere and
25 material flying everywhere and chain link fences

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1 closing off sidewalks and no one be able to walk
2 anywhere. I think you all want the same thing so it
3 seems very -- it seems a stronger way to go about it
4 is to work directly with the school and have them
5 write that into any sort of GC, general contractor's
6 management plan, that they have to uphold to.

7 Heck, they can put monetary penalties if
8 it doesn't comply that way. A lot of that is pretty
9 standard in contrast to begin with. But in terms of
10 like site cleanup and daily cleanup, the District does
11 regulate a lot of that, the coming and going.

12 MR. HERTZ: Is there a role for the Board
13 in encouraging that to happen in the months ahead or
14 that just something that we have to -- we, the various
15 parties, have to privately hash out with Sidwell?

16 MR. GRIFFIS: I think you have the Board's
17 encouragement. I mean, I think the applicant will not
18 have understood anything we said in this case or all
19 the past cases if they didn't think we wouldn't
20 encourage that aspect. I think in our deliberations
21 you will probably hear a substantial amount more of
22 encouragement and direction. How far it goes beyond
23 that I don't know at this point.

24 MR. HERTZ: Is the construction liaison
25 committee a valid way to keep an eye on things as the

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1 project unfolds?

2 MR. GRIFFIS: I think the Board
3 understands the position that people have testified to
4 in terms of the need and necessity and what is thought
5 would be the importance of a liaison committee.

6 Okay. Anything else, Mr. Hildebrand?

7 MR. HILDEBRAND: Just the other point I
8 would like to make to you as a Hearst parent is you
9 might encourage the school to take proactive steps on
10 their own to try to mitigate the construction as it
11 moves forward. You can certainly add filters to your
12 fresh air intakes for your air handling systems to
13 keep any dust that might be generated from coming into
14 your systems. You could look at storm windows on
15 particularly sensitive areas for small children, too.

16 MR. GRIFFIS: Okay. Thank you all very
17 much. Oh, any cross from the ANCs? Okay. Thank you.

18 I appreciate your patience with us.

19 Mr. Feola, are you prepared to conclude
20 this evening?

21 MR. FEOLA: Not yet.

22 MR. GRIFFIS: Oh, I'm sorry. I only
23 counted eight. There actually was ten.

24 MR. GUYOT: I'm Henry Guyot. I live at
25 4108 38th Street. That's a half a block from Upton

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1 Street which is the first street north of Sidwell
2 Friends that flows through from Wisconsin to Reno
3 Road.

4 MR. GRIFFIS: Indeed. You were involved
5 in the Washington Home case. Were you not?

6 MR. GUYOT: Yes, I was.

7 MR. GRIFFIS: Welcome back.

8 MR. GUYOT: I'm going to try to be very,
9 very brief. My major concern is that we are making
10 some progress on solving traffic problems but when you
11 shift traffic from one place to another, it can be
12 bad. I believe that the correction of the problem on
13 37th Street is long overdue. I'm happy to see that it
14 looks like this may be corrected in the future.

15 But I'm concerned about the linkage
16 between that correction and the cap on the number of
17 students. I think this is a bad precedent. I know
18 that it's a precedent and I know that it's a common
19 practice to let institutions grow because they seem to
20 have difficulty staying the same size and some kind of
21 changes are necessary.

22 The idea of buying a correction of an
23 egregious problem by increasing the student cap
24 ignores the fact that there are going to be many other
25 businesses and institutions in the area that would

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1 like to solve their problems by maximizing in some
2 fashion or another their usage of not only their space
3 but the space surrounding them in terms of bringing
4 them customers, students, etc.

5 I would like to point out that I have just
6 seen that drawing of the garage myself. I think of
7 Wisconsin Avenue as being, if not my front yard, I
8 think of it as being a major part of my neighborhood.

9 I don't know if you looked at it very well but, in my
10 opinion, it is not very attractive. It impinges upon
11 the street itself, the density of it.

12 It's going to make it not nearly as nice
13 as it is right now to walk by that green space. That
14 throws the problem onto Fannie Mae to provide a little
15 bit of a sense of openness and rest and relaxation.
16 We've lost it on the Sidwell Friends side in that
17 section of the highway.

18 If you draw a line through Fannie Mae
19 through Sidwell, through Hearst, and on down you have
20 a brief little bit of residences on Springhill Lane
21 and the you are into the embassy complex. You have
22 only four streets that go through. You have
23 Connecticut, you have Reno Road, 37th, and Wisconsin
24 Avenue.

25 It's like a narrow passage in the

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1 mountain. You've got these large boulders which
2 generate lots -- forget the analogy. You've got large
3 traffic generators in that narrow passageway and their
4 traffic is going to get to them one way or the other.

5 MR. GRIFFIS: Understood.

6 MR. GUYOT: The cap is not a trivial
7 issue.

8 MR. GRIFFIS: Okay.

9 MR. GUYOT: Thank you.

10 MR. GRIFFIS: Thank you very much.

11 MS. SHANNON: Thank you for the
12 opportunity to testify today. My name is Amy Shannon.

13 I live at 3521 Quebec Street, N.W. two blocks away
14 from Sidwell Friends School. Potential negative
15 effects on the neighborhood can be minimized before
16 construction starts and a contribution by the BZA to
17 the well being of Cleveland Park in exercising good
18 judgment can last many years beyond the time the last
19 construction worker leaves the site.

20 A sound enforceable traffic plan that
21 significantly reduces the numbers of Sidwell teachers,
22 visitors, parents, and students who drive to campus
23 would provide an environmentally friendly and low-cost
24 solution to the congestion on surrounding streets,
25 especially 37th Street. It would eliminate the need

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1 for overflow parking on surrounding neighborhood
2 streets except under special circumstances.

3 If Sidwell Friends School chooses to
4 resolve the parking problem by increasing the size of
5 the parking structure, it cannot be allowed to shift
6 the financial risk of its freely made decision to the
7 BZA or to the community by requesting an increase in
8 the enrollment cap in order to pay for the
9 construction of the garage.

10 Any increase in the enrollment cap now
11 exceeded by 20 students should come only after the
12 parking structure is finished and the school has
13 completed a successful one-year demonstration of the
14 traffic management plan.

15 Sidwell Friends School plans to phase in
16 the expansion of the school over a period of years and
17 is requesting permission to do so even though there
18 are significant unresolved issues for the first phase.

19 Those issues which include the enrollment level,
20 traffic management plan, garage, middle school and
21 landscape designs should be completed with ANC and BZA
22 review and approval before phase one as a whole should
23 be approved.

24 With respect to the other phases of the
25 construction, those should be considered only at the

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1 time construction would be imminent in order for the
2 ANC and the BZA to consider the final designs of the
3 later phases under a then current regulatory
4 environment.

5 A construction management plan that is
6 enforceable would also go a long way to help limit any
7 negative affects on the neighborhood. The
8 enforceability can be established by forming a
9 contract between Sidwell and relevant neighborhood
10 organizations and institutions with rights and
11 responsibilities on both sides. A process established
12 by both parties to the contract for the resolution of
13 infractions and problems can be contained in the
14 construction management plan. Thank you.

15 MR. GRIFFIS: Thank you very much. One
16 brief question. You mentioned in your opening that
17 the 37th Street correction was before us or something
18 of that nature. What did you mean by that? What is
19 the correction of 37th Street?

20 MR. GUYOT: I'm talking about the drop-off
21 and pickup of students from Sidwell Friends, the
22 requests that are being made by the ANCs.

23 MR. GRIFFIS: This is for the 5th and 6th
24 graders?

25 MR. GUYOT: No, I'm not talking about

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1 that. Some people -- well, the request has been made
2 by some people to have all students picked up and
3 dropped off on Wisconsin and if they have a parking
4 garage there and they are not allowing parking by
5 students, they should substantially reduce the problem
6 that currently exist.

7 MR. GRIFFIS: What do you want?

8 MR. GUYOT: I would like to see my
9 neighbors able to have some relief from the situation
10 that exist.

11 MR. GRIFFIS: The relief is no traffic on
12 37th Street? Tell me. It's your testimony. I just
13 need to understand it.

14 MR. GUYOT: My testimony is that I am in
15 support of my neighbors who have requested shifting of
16 the drop-off and pickup to Wisconsin Avenue.

17 MR. GRIFFIS: Okay.

18 MR. GUYOT: I want the Commission to be
19 aware of the fact that is very likely going to
20 increase the congestion at Upton Street and Wisconsin
21 and Quebec and Wisconsin. And that there will be in
22 spite of whatever kinds of plans are put together,
23 there will be ad hoc traffic flowing through other
24 neighborhood streets that don't flow there right now.

25 MR. GRIFFIS: That goes to your statement

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1 of once you kind of move traffic from one place, it
2 goes somewhere else.

3 MR. GUYOT: Yes.

4 MR. GRIFFIS: Okay. You used interesting
5 analogies talking about Wisconsin Avenue. Somewhere
6 in there was the criticism, if I understand, of the
7 parking structure.

8 MR. GUYOT: Today is the first time I saw
9 it.

10 MR. GRIFFIS: Yeah, me too. You've
11 indicated that it disrupts the rest and relaxation.

12 MR. GUYOT: Yes.

13 MR. GRIFFIS: But then you follow up and
14 say on this highway.

15 MR. GUYOT: Well, okay. It's on a major
16 arterial or whatever you want to call it.

17 MR. GRIFFIS: Okay. So I guess I'm trying
18 to balance those two. I mean, I think in your own
19 mind it's a large arterial traffic flow area. Is it
20 appropriate to have these rest stops, these rest and
21 relaxation stops? I don't think anyone is going to
22 quibble with you that Fannie Mae across the street is
23 a beautiful looking instead of green space.

24 MR. GUYOT: For awhile.

25 MR. GRIFFIS: You may know more than I do

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1 then. For awhile? What do you mean?

2 MR. GUYOT: I've lived in the neighborhood
3 for 36 years so I have watched the transitions of
4 various types and they increase densification in that
5 neighborhood. When I moved there Johnsons had a
6 little white farm house on the corner of Van Ness
7 Street and Wisconsin.

8 MR. GRIFFIS: Right. I guess that is what
9 I question, too. What is appropriate.

10 MR. GUYOT: So I recognize that change
11 occurs. I'm not saying that -- I guess my problem is
12 that I see Sidwell buying status with a green plan
13 which has some questions as to when all economics are
14 worked out what the net green is with the additional
15 materials that are required and the additional cost of
16 putting this in then puts them in a bind for meeting
17 the traffic requirements.

18 I'm saying there is a certain amount of
19 balance that just isn't there. Then they have their
20 garage set very close to the street which destroys
21 what otherwise is a -- if that were -- I don't need to
22 draw anymore pictures. I'm simply saying that plain
23 gardens --

24 MR. GRIFFIS: Very quickly, you say
25 destroy. You're using some great powerful words.

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1 MR. GUYOT: Yes.

2 MR. GRIFFIS: What is the difference?
3 There is a berm there now that is a green berm. It's
4 a green little hill and it is being replaced with a
5 green wall, a structure wall. The height is testified
6 as being a foot different. What is the destruction?

7 MR. GUYOT: Okay. It's a foot higher than
8 the ground level. The height of the garage is a foot
9 higher than the ground level?

10 MR. GRIFFIS: That's the testimony that
11 came in today.

12 MR. GUYOT: I saw the picture and I --

13 MR. GRIFFIS: It looked big, didn't it?

14 MR. GUYOT: It looked very big to me and I
15 walk that sidewalk very often. The present one the
16 ground slopes backwards. Not very much but it's
17 relief.

18 MR. GRIFFIS: Right.

19 MR. GUYOT: I'm too familiar with standing
20 next to a wall when traffic is going by and hearing
21 reverberations but I was not aware it was only a foot.
22 A foot can be an important thing. I'm not going to
23 press the point on pure ignorance.

24 MR. GRIFFIS: I think I understand your
25 point. In fact, it was one of my concerns also which

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1 is why the question was asked. Okay. Any other
2 questions from the Board? Any cross? Cross from the
3 ANC parties? Very well. Thank you both very much.
4 Appreciate you being here this evening.

5 Now, Mr. Feola, is there anyone else for
6 testimony tonight?

7 MR. FEOLA: Thank you, Mr. Chairman. We
8 will be mercifully brief.

9 MR. GRIFFIS: I hope so but I'm going to
10 interrupt you before you even start here.

11 MR. FEOLA: Okay.

12 MR. GRIFFIS: First of all, you've heard
13 an awful lot of questions about the final plans and
14 the design. What I need to figure out is whether the
15 record is staying open for additional submission for
16 the designs or whether we have, in fact, what is being
17 called final for approval that would obviously run in
18 the order.

19 Let me add to that the question that was
20 brought up in some of the testimony about the Historic
21 Preservation Review Board's jurisdiction over other
22 structures and, frankly, over the entire area. I
23 would have you clarify your understanding of what that
24 jurisdiction is perhaps first and then we can get into
25 if you are anticipating additional submissions. Then

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1 I have a few other points.

2 MR. FEOLA: Thank you. Actually the
3 second point was the first one I was going to talk to
4 and that is the Historic Preservation Review Board and
5 Office of the Attorney General can confirm this. The
6 jurisdiction of the Historic Preservation Review Board
7 goes to the lot of an historic landmark. This entire
8 15 acres is on one lot. It is Lot 816 and Square 825.

9 This is our application to the Review Board that was
10 for the entirety of the campus. I'll turn it in for
11 the record.

12 MR. GRIFFIS: Okay.

13 MR. FEOLA: Mr. Chairman, the Review Board
14 reviewed the entire master plan.

15 MR. GRIFFIS: They have reviewed it.

16 MR. FEOLA: They have reviewed our master
17 plan and on page 3 of their staff report, which they
18 adopted unanimously -- it's in Exhibit E of our
19 prehearing submission dated May 14 -- it goes through
20 the master plan and says, "With the exception of the
21 meeting house the proposed changes have little if any
22 physical or visual impact on the landmark." It goes
23 on to talk about those changes.

24 MR. GRIFFIS: So --

25 MR. FEOLA: Excuse me. Let me finish. At

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1 the end it says, "The staff recommends the Review
2 Board support the overall master plan but encourage
3 the applicant to explore a more compatible location of
4 the meeting house."

5 They have reviewed the master plan. They
6 have jurisdiction to review every building that is
7 built on this lot. Whether they choose to do it or
8 not is not my call. They have decided that, for
9 example, the middle school may not impact but they
10 have already said in their comments, and I have the
11 transcript, that they are concerned about the parking
12 structure and how that marries up.

13 I fully expect when we apply for a
14 building permit that is going to be reviewed to the
15 Historic Preservation Division which will put it in
16 front of the Review Board. That is the law and
17 there's nothing we can do to avoid it if we wanted to
18 so we are not intending to.

19 MR. GRIFFIS: Your anticipation is that
20 once the permit documents are prepared for submission,
21 that you are preparing for a full HPRB presentation?

22 MR. FEOLA: We will file actually concept
23 for each building as well if they choose.

24 MR. GRIFFIS: I don't care what they do
25 with it. I'm trying to anticipate what you view as

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1 the reality. So if the parking structure goes first,
2 you are going through a concept review and then for a
3 final review if you are not on consent calendar with
4 HPRB.

5 MR. FEOLA: Yes.

6 MR. GRIFFIS: Okay. And, therefore, going
7 to the other than final plans that which were
8 supplemented today and that which we have in the
9 submission is what we're looking at for our review.

10 MR. FEOLA: That is correct. We would
11 argue that it is every bit as detailed as most of the
12 architectural schematics that this Board reviews as
13 you look through the variety of pieces, the building
14 height, the building bulk, the building mass, how it's
15 located, where it's sited.

16 Clearly if that changes, as some of the
17 neighbors seem to be concerned about, we have to come
18 back to this Board. If this Board approves a set of
19 plans and we want to make it a story taller or move it
20 40 feet away from a line now, we have to come back.
21 We understand that.

22 MR. GRIFFIS: Well, what is your
23 understanding about why we are hearing so much that
24 they don't know what it is and no one has seen any
25 plans?

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1 MR. FEOLA: I mean --

2 MR. KIERAN: Can I make a statement about
3 that?

4 MR. FEOLA: Sure.

5 MR. KIERAN: We have been working with the
6 neighborhood and meeting with the neighborhood for
7 quite some time. There have been developments in
8 response to neighborhood questions. The so-called
9 reference to the one-story bay or porch, for example,
10 is something that came out of a dialogue with the
11 neighborhood. That has been going on for quite some
12 time. What you have before you with the amendments
13 today is what we intend to go forward with.

14 MR. GRIFFIS: Okay. So it's a long
15 involved process that has been changing as it is
16 evolving. To the other side of that answer, am I
17 correct that you've been showing all these and they
18 have been out there?

19 MR. KIERAN: That's correct.

20 MR. GRIFFIS: That's pretty articulate for
21 8:00 at night. Right?

22 MR. KIERAN: Yes.

23 MR. GRIFFIS: Okay. Understood. I think
24 it should be clear obviously that when we deliberate
25 on all the issues that are coming up, obviously we

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1 have the plans that are in front of us and we don't
2 look at revisions. Even though a bunch of us maybe
3 think of ourselves as designers, we don't sit around
4 and design revisions or think about what you could or
5 couldn't do. This is it. We've got the snapshot and
6 this is where we go from here.

7 Okay. Also in terms of the submission
8 from last, the dates of the master plan. This is kind
9 of a new iteration for the Board to be grappling with
10 and dealing with in terms of the more open-ended
11 approval and having this ongoing. We're to look at
12 the dates pretty much on what was submitted.
13 Actually, some of the most specifics, I believe, were
14 on the slide presentation with the buildings. Is that
15 correct? That's the kind of timing we're looking at?

16 MR. KIERAN: One of the things I as going
17 to request of the Board at the end of the hearing is
18 permission to file a more definitive phasing schedule.

19 I think Board Member Hildebrand asked about it.
20 We've been talking to construction people but in the
21 week we had we couldn't pull it together so that was
22 one of the things we were going to request.

23 MR. GRIFFIS: Tell you what I'm going to
24 do. Let me let you close because you're probably
25 going to hit on all the rest of the pieces.

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1 You want to follow-up on that?

2 MR. HILDEBRAND: Just this was a three-
3 year construction phasing plan. One thing that we
4 haven't talked about during this process what, if any,
5 temporary facilities will be needed on site to replace
6 buildings that are under renovation or being added to.
7 Have you given that any thought yet in your
8 construction phasing concepts?

9 MR. GRIFFIS: Most directly, one of the
10 academic facilities is going to have to close down and
11 what is the temporary provision for the students?

12 MR. SAXENIAN: We're hopeful that we won't
13 need temporary structures. We are building the
14 addition to the middle school. We have very
15 purposefully staged this project in a way to try to
16 avoid that, building the addition to the middle school
17 first and then renovate the existing building over the
18 course of a summer and then other buildings.

19 In fact, other buildings are sequenced in
20 such a way that we can build a new structure before we
21 vacate an old one. In the case of the gym that we'll
22 build, we'll build the gym and then we'll vacate some
23 existing gym spaces that can get converted to arts
24 purposes.

25 MR. HILDEBRAND: So you'll address that in

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1 your statement to us later?

2 MR. SAXENIAN: We will.

3 MR. FEOLA: Thank you. I'd just like to
4 ask Mr. Wells a couple of questions about traffic if I
5 might.

6 Mr. Wells, you've heard ANC-3F suggest
7 that all pickup and drop-off -- no pickup and drop-off
8 should occur on 37th Street as opposed to what we have
9 proposed which is 5th and 6th graders only. Could you
10 comment on that, please?

11 MR. WELLS: Yes. Simply put, I believe
12 Wisconsin Avenue and the drop-off lane that is
13 integral to the parking garage simply would not have
14 enough capacity to accommodate all campus-wide drop-
15 offs. I think some of the traffic burden needs to be
16 shared by 37th Street. I think we have struck the
17 right balance here of moving some traffic from 37th
18 Street to Wisconsin Avenue and leaving some of that
19 traffic on 37th Street.

20 MR. FEOLA: I believe Ms. Wiss testified
21 that the ANC-3F's analysis was that there would only
22 be a reduction of 19 pickups and drop-offs on 37th
23 Street if this project were approved. Is that your
24 conclusion as well?

25 MR. WELLS: I believe Ms. Wiss was quoting

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1 from the DDOT report. I think some clarification is
2 required here. The DDOT report sites current daily
3 total for drop-off activity of 240 vehicles and that
4 will be reduced to 221 vehicles if drop-offs were
5 restricted to vehicles containing a 5th or 6th grader.

6 The difference there is 19.

7 MR. FEOLA: Some clarification required
8 here. 240 is, in fact, the current level of drop-off
9 activity for the morning peak hour and the school PM
10 peak hour. That is not a daily total. That is the
11 combination of an AM and PM peak hour.

12 MR. WELLS: On the other hand, 221 is the
13 correct number, but that, in fact, is the daily total
14 under the restriction of 5th and 6th graders. The
15 more appropriate comparison, the apples to apples
16 comparison, is the current AM and PM peak hour total
17 of 240 against a projected AM and PM peak hour total
18 of 136 vehicles. The difference there is 104
19 vehicles. 240 minus 136 is 104. That's at the
20 current 800 student level.

21 If and when the enrollment is in fact
22 expanded to 850 students, that reduction would be 92
23 vehicles so it's more significant than the 19. Now,
24 bear in mind that is just the difference between the
25 drop-offs for the middle school. In fact, we're

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1 reducing traffic on 37th Street even further by moving
2 the high school drivers from 37th Street into the
3 Wisconsin Avenue garage.

4 The garage is clearly is going to be the
5 most convenient parking space for high school
6 students. It's covered, it's big enough, and it is
7 immediately adjacent to the high school. It's going
8 to be a much more attractive place to park than 37th
9 Street, Tilden Street, or any other Street for that
10 matter.

11 We think the combination of these two
12 actions also is going to free up space on 37th Street
13 next to the middle school so parents won't wish in the
14 future to pick up or drop-off students at the
15 intersection of Upton and 37th Street which was shown
16 in the photograph in our report that Ms. Wiss referred
17 to.

18 Perhaps no good deed goes unpunished but
19 the goal of our report, the aim of our report was to
20 be fair and balanced, solve real world problems, not
21 just manipulate data. Simply put, I guess what I'm
22 saying to you is the Sidwell traffic and parking plan
23 that we've presented to you I believe will work.

24 MR. FEOLA: One last question, Mr. Wells.
25 There's been a lot of discussion about traffic on

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1 37th Street. Is there anything that Sidwell is doing
2 now with its pickup and drop-off that is illegal or
3 not allowed under District of Columbia law or traffic
4 policy?

5 MR. WELLS: I don't think it's illegal.
6 Clearly what Sidwell has done they have not waited for
7 a decision from this Board. They, in fact, have
8 already addressed at least partially the drop-off and
9 pickup issues on 37th Street by creating more of a
10 time difference between the pickup at the end of the
11 day creating more of a 15-minute difference between
12 the pickup periods for the Phoebe Hearst Elementary
13 School and the Sidwell Middle School. Nothing
14 illegal, immoral, or fattening about it.

15 MR. FEOLA: Mr. Chairman, that's all I
16 have for Mr. Wells if you want him to stay for
17 questions or not.

18 MR. GRIFFIS: Any questions from the
19 Board? Any cross for Mr. Wells? You're on the edge
20 of your seat. Do you have any? Okay. We'll continue
21 down.

22 MR. FEOLA: I just have one question for
23 Mr. Kieran. There has been some suggestion, I
24 believe, from ANC-3C about intending the middle school
25 addition to the west. Could you comment on that?

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1 MR. KIERAN: I'm not entirely sure what
2 they are referring to. At the main entryway to it
3 there already is a large open view panel that is
4 slightly intended on that side of the building to mark
5 the new entrance onto 37th Street. As was described,
6 it's not a singular long facade. It already is broken
7 up by the lobby which is reflected on the facade of
8 the building on that side.

9 MR. FEOLA: And what is the land use
10 immediately across 37th Street from the addition?

11 MR. KIERAN: The Hearst School.

12 MR. FEOLA: And to the north?

13 MR. KIERAN: The Washington Home.

14 MR. FEOLA: Is it the Home building?

15 MR. KIERAN: No, it's the parking lot.

16 MR. FEOLA: So is it safe to say that the
17 addition will have virtually no visual impact on
18 residential uses in the neighborhood?

19 MR. KIERAN: That is certainly my opinion.

20 MR. FEOLA: Those are all my questions for
21 Mr. Kieran.

22 MR. GRIFFIS: Good. Thank you. What we
23 are just looking to in terms of getting clarification
24 on that and this talk of intent, was it over one of
25 the entrances kind of mid-way down 37th Street?

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1 MR. KIERAN: I'm not exactly sure what
2 they are talking about in terms of intents but between
3 the proposed new building at basically the southerly
4 edge of the new building as it comes up against the
5 old building, that is where the passage of the lobby,
6 the stair tower, the lobby comes through to the front.

7 That is reflected out on that front elevation with
8 the glass lobby coming forward to the front.

9 MR. GRIFFIS: Okay.

10 MR. HILDEBRAND: Am I reading your plan
11 correctly on page one of your latest submission that
12 shows that the addition -- the face of the addition on
13 37th Street is actually at a different angle than the
14 old building so that you create an offset angle.

15 MR. KIERAN: That's correct.

16 MR. GRIFFIS: Good. Any other questions?
17 Clarifications? Cross?

18 MR. ESPENSCHIED: For ANC-3C Peter
19 Espenschied. I want to ask the architect, first, I'm
20 not sure that I heard something you said. Did you say
21 that there would be no visual impact as a result of
22 the construction? Would you clarify what you said
23 about visual impact?

24 MR. KIERAN: I believe I was asked whether
25 or not first there would be any visual impact to the

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1 Hearst -- I was asked what was across the street. The
2 Hearst school is across the street, another
3 institutional building. Second, what is to the north
4 of the building. That's the Washington Home. No
5 visual impact there. The neighbors, in my opinion,
6 will be able to see this structure. If there is any
7 impact it would only be a positive impact.

8 The structure that's there now with its
9 metal mansard roof is, in the opinion of many,
10 including myself, rather homely. We intend to
11 integrate that roof, that structure with a new one and
12 develop a more unified presence so if there is any
13 visual impact it should be entirely positive.

14 MR. ESPENSCHIED: Okay. Well, I don't
15 think that we have any difference of opinion about the
16 mansard roof but the visual impact on Hearst school
17 from across the street --

18 MR. GRIFFIS: The question was -- you're
19 trying to clarify what his answer was to a specific
20 redirect question and it was the impact, the visual
21 impact to the residential.

22 MR. ESPENSCHIED: Just for the residential
23 area.

24 MR. GRIFFIS: That's the answer.

25 MR. ESPENSCHIED: Okay. All right. That

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1 clarifies it. One other point. I believe you said
2 that you were not clear on what ANC-3C had meant about
3 indenting to the west the middle school addition. Was
4 that correct?

5 MR. GRIFFIS: I think it came out of
6 testimony from, I think -- there it is -- this evening
7 the testimony of how the plans had changed and there
8 was a descriptive nature which I was actually
9 picturing right in the corner that was being set back
10 and then it came in and there were bay windows and
11 then they disappeared. We were trying to get
12 clarification of that.

13 MR. ESPENSCHIED: Okay. Well, I thought I
14 had heard the architect say that it was not clear to
15 him what ANC-3C had meant by requesting that the
16 middle school addition be intended to the west. Is
17 that correct that was not being understood?

18 MR. KIERAN: I'm not sure what facade of
19 the building you were referring to. The courtyard
20 facade, the front facade?

21 MR. ESPENSCHIED: It's the facade on 37th
22 Street. The problem that 3C was focused on there is
23 that the extension of the wall, so to speak, along
24 37th Street should be broken up by an indentation that
25 could be accomplished by a slight turning of the new

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1 part on it axis. Not a moving of it but a slight
2 rotation.

3 MR. FEOLA: Mr. Espenschied is testifying.

4 MR. GRIFFIS: I know.

5 MR. ESPENSCHIED: Sorry. I wanted to
6 clarify.

7 MR. GRIFFIS: Did they do it?

8 MR. ESPENSCHIED: I don't believe so.

9 MR. GRIFFIS: Okay. Any other questions?

10 MR. ESPENSCHIED: No. Thank you.

11 MS. WISS: Cathy Wiss for ANC-3F.

12 MR. GRIFFIS: Do you have a question?

13 MS. WISS: Yes, I do, about the middle
14 school addition.

15 MR. GRIFFIS: Okay.

16 MS. WISS: You have, I take it, been out
17 to the area and seen what is across the street and
18 down the street and so on?

19 MR. KIERAN: I have.

20 MS. WISS: Have you observed any houses in
21 the area?

22 MR. KIERAN: I have.

23 MS. WISS: And would you say there are
24 some houses close by and some that are further away?

25 MR. GRIFFIS: Oh, boy. We are going to

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1 get quickly to the substance, aren't we? Ask it all
2 at once. Get right to it.

3 MS. WISS: These houses, are they at the
4 same elevation as the middle school? Are they higher
5 or are they lower?

6 MR. KIERAN: It depends on where they are.
7 The ones on Quebec Street are higher. The ones down
8 on Tilden Street are lower.

9 MS. WISS: And the ones on Upton Street,
10 37th Street between Tilden and Upton?

11 MR. KIERAN: It depends where they are.
12 The site slopes rather dramatically from south to
13 north.

14 MS. WISS: So basically as you go north
15 they get lower?

16 MR. KIERAN: That's correct.

17 MS. WISS: And then this middle school
18 addition is about three stories. How high is the
19 roof?

20 MR. KIERAN: The middle story addition
21 complies precisely with the zoning ordinances in this
22 district. It is exactly 40 feet from the grade as
23 measured in accordance with the description of
24 requirement of the zoning ordinance from the grade
25 level to the ceiling of the third floor.

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1 MS. WISS: Okay. Well, that doesn't give
2 us a whole lot. I think I recall seeing one site plan
3 that said that 37th Street itself was something like
4 355 feet above sea level and the third floor was
5 something like 392. I don't know what the ceiling is
6 but as the slope goes down, we're getting a great
7 disparity from the top of the building to where you
8 would be at eye level at those houses. Wouldn't you?

9 MR. KIERAN: That's correct but may I ask
10 what the point of this is?

11 MS. WISS: The point of this is wouldn't
12 the middle school be visible from these houses because
13 it actually is quite tall compared to the houses?

14 MR. GRIFFIS: Whew. That was a long way
15 to get to that one. How about a specific street, a
16 specific house you're interested in, or an area? Are
17 you saying you've tried to establish that the grade is
18 dropping going north?

19 MS. WISS: It is. As you go toward Upton
20 Street it's getting lower.

21 MR. GRIFFIS: Okay. So what is the visual
22 impact on Quebec and neighborhoods north?

23 MR. KIERAN: You could ask Mr. Graham, for
24 instance. He, I believe, owns the residence that is
25 closest. I believe he has written a letter in support

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1 of this. He came to the school and we had lunch with
2 him and showed him the plans.

3 MR. GRIFFIS: Okay. What is the street
4 up? That's Quebec. Is that correct? I'm sorry.

5 MS. WISS: Quebec is in 3C actually.
6 That's why I keep talking about Upton because that's
7 in our ANC. So is Tilden.

8 MR. GRIFFIS: Upton is up, right?

9 MS. WISS: Yeah.

10 MR. GRIFFIS: That's easy to remember.

11 MS. WISS: Actually, I was thinking about
12 Mr. Robin who did have some concerns.

13 MR. GRIFFIS: Can you see it from across
14 the Washington Home from those residents that are
15 north of the Washington Home?

16 MR. KIERAN: It would certainly depend on
17 the time of year. At this time of year?

18 MR. GRIFFIS: Because of the trees. Okay.
19 Do you know the relative elevation of that street and
20 the relative elevation to the top of the upper-most
21 story in the proposed addition?

22 MR. KIERAN: I could approximate it for
23 you. I would say at that point in the elevation where
24 the new structure meets 37th Street it's probably a
25 dozen feet or so up to the main level of the building.

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1 On top of that we have the zoning envelope of the
2 building which is another 40 feet to the ceiling.

3 MR. GRIFFIS: What is the relative
4 elevation on the corner and then on Upton?

5 MR. KIERAN: I couldn't say. They
6 continue to slope down to the north.

7 MR. GRIFFIS: So it slopes down.

8 MS. WISS: My recollection from the
9 Washington Home case is it goes down to about 343, 38
10 at the corner of Upton and 37th.

11 MR. GRIFFIS: What about right here at the
12 point of the addition that is proposed?

13 MS. WISS: My recollection in looking at
14 the site plan, and I don't have it with me, but it's
15 something like 355.

16 MR. GRIFFIS: Okay. Good enough. I think
17 I get an idea of what you're trying to prove. So the
18 point is you have this structure that sits up here.
19 This is going to be great for the written transcript
20 when people have to read this years from now wondering
21 what we did.

22 So you have this structure that's built
23 and you're trying to get us to understand the fact
24 that as the slope drops to Upton the visual impact
25 increases because the houses sit here and this

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1 building sits here?

2 MS. WISS: That's my sense. It won't --

3 MR. GRIFFIS: What is that sense based on?

4 I mean, my sense in just addressing to explore very
5 briefly this aspect, I think the Board is well aware,
6 first of all, the landscaping of the Washington Home.

7 Boy, if we don't remember the landscaping there, I'm
8 not sure what we did.

9 In all seriousness, as you move away, I
10 would think more logically as the grade elevated, the
11 visual impact would be more pertinent for those that
12 were above it that could look across rather than those
13 that drop that fall underneath the landscape as the
14 building rises. Maybe I'm wrong.

15 MS. WISS: I think it's like looking at a
16 skyscraper from afar. You are quite aware of it
17 sticking out there.

18 MR. GRIFFIS: Yeah.

19 MS. WISS: That was just my point, that it
20 won't be invisible because people will just sort of
21 look up at it.

22 MR. GRIFFIS: Right. I think that's a
23 great analogy. It would take a skyscraper to see
24 quite a bit. We'll take it under advisement.

25 MR. FEOLA: Mr. Chairman, I would just

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1 point out as a matter of law that a single-family
2 house built in that location could be the exact same
3 height as the middle school being proposed so it would
4 have the same effect. Whatever effect it has, it
5 would have the same effect there.

6 MR. GRIFFIS: Good point.

7 MR. HILDEBRAND: May I comment?

8 MR. GRIFFIS: Yes.

9 MR. HILDEBRAND: Since we spent a lot of
10 time meeting with neighbors on 37th Street, as you
11 know, you have a letter from Mr. Graham who is perhaps
12 the only house that can really get a view of this
13 addition, but we have also spent a fair amount of time
14 with Mr. and Mrs. Braven and they have expressed
15 comfort in the same way that Mr. Graham did that we
16 have a process that will meet their needs.

17 MR. GRIFFIS: Okay.

18 MR. HILDEBRAND: I really don't think
19 there is a big issue about the people who have direct
20 visual impact. With regard to the home, the first
21 residential units are about here.

22 MR. GRIFFIS: I understand the issue. Mr.
23 Feola has established tonight legally someone could
24 live in a skyscraper. I think that's what it was.

25 MS. PERRY: I just want to object to

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1 something because neither Mr. Braven nor Mr. Graham
2 are here so we can't cross examine them.

3 MR. GRIFFIS: I'm not really that
4 concerned with specific individuals' testimony or
5 opinions. It is said that there is a letter in the
6 record so it's in the record. That is perfectly
7 appropriate to bring up. I'm more interested in what
8 was the exploration of what is the visual impact
9 across the area.

10 MS. PERRY: Can I ask a question because
11 now I'm totally confused by Commissioner Wiss'
12 question and the answer. We were told that the
13 building measured 40 feet from the courtyard side
14 which would comply with zoning. But if the front of
15 the building were on 37th Street where a front is, how
16 high is the building from 37th Street which is what
17 most residents are going to view. We believe it's
18 approximately 50 something feet which would not then
19 comply with zoning if the front of the building --

20 MR. GRIFFIS: Do we know that?

21 MR. KIERAN: In terms of the zoning code?

22 MR. GRIFFIS: She's asking a specific
23 question of what --

24 MR. KIERAN: From 37th Street, as I
25 testified for Ms. Wiss, Mike tells me 10. I said 12

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1 feet to the first floor level from the street so that
2 would add 10 to 12 feet to the 40 foot height to the
3 ceiling.

4 MS. PERRY: So it's approximately --

5 MR. KIERAN: 52 feet.

6 MR. GRIFFIS: And that's taken from where?

7 MS. PERRY: 37th Street.

8 MR. KIERAN: That's taken from 37th
9 Street. As the Board is well aware, that is not how
10 the height of the building is measured by the zoning
11 ordinance.

12 MR. GRIFFIS: But if we wanted just a
13 relative dimension, which is being asked for, and you
14 took it from the curb on 37th Street to the ceiling on
15 the upper most story --

16 MR. KIERAN: 50 to 52 feet.

17 MR. GRIFFIS: 50 to 52 feet. Okay.

18 MR. KIERAN: And it's what the existing
19 middle school building is. It's just a continuation
20 of the current building.

21 MR. GRIFFIS: So the height doesn't
22 increase and that shows in the perspective, although
23 perspective is not something that is -- well --

24 MR. KIERAN: It shows in the elevations as
25 well.

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1 MR. GRIFFIS: Indeed. And it continues
2 the height of the existing structure.

3 MR. KIERAN: That's correct.

4 MR. GRIFFIS: Okay. Good. Anything else?

5 MR. FEOLA: One or two questions for Mr.
6 Saxenian and I think we are done. Mr. Saxenian,
7 you've heard some comments about the landscaping and
8 some concerns of protecting the property line between
9 the school and the Washington Home this evening. Have
10 you had discussions with the Washington Home? Please
11 elaborate for the Board.

12 MR. SAXENIAN: Yeah. In fact, the Home
13 was the first institution that we contacted after we
14 completed our master plan in, I think, February of
15 1992. We've had substantial -- 2002. I'm sorry.
16 It's late.

17 MR. GRIFFIS: Didn't phase me. I was
18 right with you.

19 MR. SAXENIAN: Substantial ongoing
20 conversations with them that culminated in an
21 agreement that we have with them where they express
22 support for our plans and we agree to provide some
23 landscaping and a number of other things I think we're
24 going to be putting on the record.

25 The Home did an extensive review of what

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1 we are planning. They hired an architect, a landscape
2 architect and zoning counsel. They are fully aware of
3 what we are doing and they are comfortable with our
4 plans and they have said so in the agreement that we
5 are submitting.

6 MR. GRIFFIS: Is part of the agreement in
7 the aspect of any sort of damage that you create in
8 construction to their landscape and remediation of
9 those?

10 MR. SAXENIAN: I don't think we actually
11 say that in the agreement.

12 MR. GRIFFIS: Okay.

13 MR. SAXENIAN: But we have said many times
14 anything we break we are going to fix on neighboring
15 properties.

16 MR. GRIFFIS: Sounds like the Quaker thing
17 to do. Okay. Anything else?

18 MR. FEOLA: Just one last question. There
19 have been a lot of concern about the traffic
20 management plan. Would you just briefly repeat some
21 of the things that are in it very briefly because some
22 of them were critiqued this evening as not being in
23 it.

24 MR. SAXENIAN: Yeah. In fact, almost
25 everything -- most things that were mentioned as

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1 important to include are in our plan. There are two
2 broad categories, parking and traffic. Parking we
3 have said that we will require all students who drive
4 to campus to register their cars with the school. We
5 will require them to identify them with stickers or
6 some other such identifier.

7 That will include a telephone number for
8 people to call and it will identify them as Sidwell
9 Friends School students that will require them to park
10 if they are off campus. We are providing ample
11 parking on campus and we believe that they will
12 naturally flow to the most convenient parking which is
13 in the garage adjacent to the upper school.

14 In the event that they do park off campus,
15 we are restricting that to unrestricted parking spaces
16 on nonresidential sides of streets. Regarding
17 traffic, we are eliminating any drop-off for pickup
18 except in the two designated areas, one on 37th Street
19 and the other one in the new parking structure. We
20 will be doing a whole host of things to move people on
21 the metro or other alternative transportation.

22 We will extend the student subsidies
23 currently available through the District to out of
24 state students as well. We are providing already
25 metro check for employees. We will provide

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1 coordination for carpools so, for example, providing
2 lists of people living adjacent to each other so that
3 they can coordinate on carpools, provide preferential
4 drop-off and parking opportunities for people who
5 carpool.

6 We are looking into the possibility of
7 providing Zipcars so that people who come by
8 alternative transportation but need to run an errand
9 don't have to drive to campus that day. We try to do
10 that with hybrid cars. Bike racks, massive education.

11 Let me just say one thing about why I think education
12 is so important.

13 We hear a lot about we need sanctions but
14 I think it's really about education and changing
15 people's views. My one anecdote about that is that
16 when I moved to my neighborhood in 1992, and it was
17 '92 in this case, no one biked to work except me and
18 now 12 years later out the dozen closest houses five
19 people bike to work so I think that the example of
20 people doing things and the education can actually
21 change behavior very substantially.

22 That is what it's all about. It's not
23 about forbidding people to drive to school. It's
24 about educating them about the alternatives and
25 providing opportunities and incentives. How do we

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1 feel about Office of Planning's recommendation that we
2 get to 10 percent of people arriving by alternative
3 transportation in their report?

4 We feel great about that. I mean, I hope
5 that we get to 20 percent. I hope, as I said last
6 week, that we come back to you in 10 years and ask to
7 convert our lower level of parking to program uses.
8 We think about transportation in the same way we are
9 thinking about saving energy or managing storm water.

10 MR. GRIFFIS: Good. Thank you very much.

11 Forgive me if I overlooked it but as to the Zipcar.
12 Is that written in the transportation management plan?

13 MR. SAXENIAN: I don't know. I think it's
14 in our statement to the applicant.

15 MR. GRIFFIS: I'll find it.

16 MR. SAXENIAN: There's a Zipcar and
17 there's another company as well.

18 MR. GRIFFIS: That seems to be a good idea
19 so if there is some sort of appointment that a student
20 has to get to, they wouldn't necessarily have to
21 drive. They could utilize that. Okay.

22 MR. SAXENIAN: We don't think we have all
23 the answers yet. We are still exploring how to do
24 this but, for example -- well, anyway.

25 MR. HILDEBRAND: I just had one follow-up

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1 question. There was a comment made and it may have
2 been offhand that there was going to be a fee for
3 parking that could potentially discourage students
4 from using the garage. What is the school's intent in
5 that regard?

6 MR. SAXENIAN: We haven't formulated any
7 policy yet. We don't have an intent to impose a fee.

8 I think we recognize that if we did that, we would
9 have to put some other measures in place to prevent
10 students from leaking off campus.

11 MR. GRIFFIS: Anything else? Cross?
12 Questions?

13 MS. WISS: Cathy Wiss for ANC-3F. I don't
14 really want to keep this going any longer but --

15 MR. GRIFFIS: Short and sweet.

16 MS. WISS: I would like to know how you
17 would give examples and educate people to get them not
18 to drive to school.

19 MR. GRIFFIS: Excellent. That will take
20 the rest of the evening.

21 MS. WISS: They can be brief.

22 MR. GRIFFIS: I understand the statement
23 and I thought the answer was well and obviously cross
24 examination is to help you present your case but
25 importantly to get us to understand the case so here

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1 is my understanding of what he was saying.

2 Just as I was saying earlier on, it's a
3 systematic change. It's not just about the Sidwell
4 students. It's about everybody and how to utilize our
5 cars and how dependent we become and how we subsidize
6 driving cars. That's why our metro fares are going
7 up. Is that correct?

8 MR. SAXENIAN: That is correct. I think
9 we have a special opportunity because we are in a
10 school and our whole curriculum is going to be
11 shifting in the direction of sustainability. I just
12 came back last night early for this hearing from a
13 conference on educating about sustainability and
14 transportation is a big piece of it.

15 MR. GRIFFIS: So they have a perfect
16 opportunity that we really need to not only support
17 them but direct them to do is that they have to
18 capture a group that has to listen to them, unlike a
19 lot of us that don't have to pay attention to the
20 experts. I think we ought to really look at what they
21 are proposing and different alternatives and keep it
22 open for that kind of creative thinking and support
23 and applaud more of it.

24 I'm sorry. Go ahead. Does that answer
25 your question?

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1 MS. WISS: I was just going to say that I
2 like that idea. Yes, student seminars, letters to
3 parents. I'm not sure how you could do it but there
4 is great opportunity to be creative and really work on
5 it.

6 MR. SAXENIAN: We'll put you on the task
7 force.

8 MR. GRIFFIS: Okay. Good enough. Enough
9 jokes. It's after 8:00.

10 MR. FEOLA: Just a couple minutes of
11 concluding remarks by Mr. Saxenian.

12 MR. GRIFFIS: Perfect.

13 MR. SAXENIAN: First of all, let me thank
14 you for all the time you have put in. We recognize a
15 lot of late hours in order to get this concluded and
16 we do very much appreciate that.

17 In conclusion, we think we've come forward
18 with a plan that really does present a win/win for the
19 school and for the neighborhood. We think that it's a
20 real asset to the neighbors and to the school and to
21 the city that we are thinking about the next decades
22 rather than just about the next project.

23 We have come up with a proposal that would
24 reduce traffic on 37th Street by 60 percent, move
25 student parking on campus which is the two most

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1 apparent concerns of our neighbors, resolve some of
2 the traffic problems on Wisconsin Avenue by using
3 traffic signals and a lot of on-campus queuing space,
4 and address storm water concerns. There are a number
5 of things but most apparently a big increase in the
6 pervious surfaces on campus as well as other state of
7 the art storm water management techniques.

8 We are offering to start this whole
9 project with a very expensive investment in the
10 traffic and parking management structure for us to
11 think about that. One of the benefits of having a
12 long-range plan is that we can think about making that
13 kind of a big up-front investment.

14 If we were to disaggregate the project, as
15 some of our neighbors have suggested today, it would
16 become very difficult for the school to build this
17 massive underground parking structure with a green
18 roof and all these sort of attributes that bring us
19 the benefits that we list here on the slide.

20 We really would ask the Board to consider
21 approving the whole project, approving it with some
22 flexibility about timing and we will, as Phil said,
23 come back with more information on that. And
24 approving the increase to 850 students because, as I
25 said last week, we really need that in order to

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1 mitigate the financial risk associated with this
2 ambitious undertaking. Thank you very much.

3 MR. FEOLA: Mr. Chair, I would just wrap
4 up by asking as you deliberate on this case just to
5 remember that in all the expert testimony you heard,
6 OP, DDOT, Mr. Wells, there has been no indication that
7 this project will create adverse conditions as that is
8 defined in Section 206. Even the ANCs support the
9 project with a number of conditions.

10 I think the challenge hopefully as you
11 deliberate on this project is creating an order that
12 makes sense, is balanced, and accomplishes what
13 everybody wants to see happen is to allow Sidwell to
14 do some of the good things and satisfy its needs.
15 With that I would like to stop talking and go home.
16 I'm sure you would as well.

17 MR. GRIFFIS: Thank you very much. I do
18 appreciate everybody's effort in this. Let's set the
19 schedule. We are not requiring any obviously
20 additional public hearings on this but there are some
21 submissions that we would like.

22 First of all, with the unavailability of
23 DDOT in terms of being here in person for cross
24 examination, the Board is going to keep the record
25 open for questions to be submitted for DDOT. Those

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1 questions will go directly to them and then answers
2 will be submitted or distributed. Then we will have
3 opportunity for responses to those questions.

4 Basically we are covering cross and any concerns
5 of DDOT in written statements. That is actually three
6 filings. Ms. Bailey is an expert in getting all this
7 organized for me. I'm going to lay it out and take
8 questions. Then we will put dates to all of this.

9 Second, I'm going to leave the record open
10 for briefing on two legal issues. The first legal
11 issue is that of Section 2516 which I think everyone
12 is aware of. And the other is attended to the
13 structure and the measuring point of the middle
14 school.

15 MR. FEOLA: Could you repeat that, sir?

16 MR. GRIFFIS: The measuring point. Going
17 to the rear yard the issues of the rear and the front
18 of the building establishing and the measuring point
19 for the height of that structure.

20 MR. FEOLA: So it's the rear yard and the
21 measuring point. Are you getting to height or are you
22 getting to yard or both?

23 MR. GRIFFIS: I think we're doing both.

24 MR. FEOLA: For the front of the building
25 it doesn't require a yard so I guess it could up to

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1 the property line.

2 MR. GRIFFIS: Okay. Those should be
3 submitted and responses would be accepted. The record
4 is going to stay open for any anticipated letters of
5 those that were here to give testimony but could not
6 provide it. Anyone that did give testimony can put
7 written submission in.

8 Of course, how am I going to know if
9 people were here waiting to testify and didn't? We're
10 obviously not looking for a flood of letters but
11 obviously the record can stay open until the date set
12 by Ms. Bailey on that. I think that's it.
13 Okay. We'll decide this in the first meeting in
14 September.

15 MR. FEOLA: Mr. Chairman, one request from
16 the applicant. This may not be necessary but Ms.
17 Beelar gave us a pretty thick book today that we
18 really haven't had a chance to look through.

19 MR. GRIFFIS: Oh, indeed. The filing and
20 the PowerPoint presentation.

21 MR. FEOLA: Well, the PowerPoint was self-
22 explanatory but there were a bunch of e-mails.

23 MR. GRIFFIS: There's an awful lot of
24 information and the Board hasn't looked at that.
25 Absolutely I think we will keep the record open for

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1 responses to the submission from the parties and the
2 applicant of the Beelar recommendations to the BZA.

3 MR. FEOLA: Thank you.

4 MR. GRIFFIS: Oh, wow. There's a whole
5 bunch of stuff in here. Interesting. So we do need
6 August. Okay. Go ahead.

7 MS. PERRY: What about the roof plan? Can
8 we make comments on that? That was just presented
9 today for the first time.

10 MR. GRIFFIS: Oh, yeah. Yeah.

11 MS. PERRY: It wasn't covered. That's why
12 I'm raising it.

13 MR. GRIFFIS: Right. Okay. No, I
14 appreciate you bringing that to our attention. The
15 roof plan in my understanding didn't change from last
16 we saw it. It was now just discussing how it didn't
17 comply with 411. Is that your understanding?

18 MS. PERRY: We never saw those three extra
19 chimneys or those three whatever.

20 MR. GRIFFIS: Oh, I see.

21 MS. PERRY: That was the first time we saw
22 it was today.

23 MR. FEOLA: They are in the 14 submission.
24 They just weren't highlighted.

25 MR. GRIFFIS: I saw them. There it is.

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1 We'll leave it open for a written --

2 MS. PERRY: The roof plan.

3 MR. GRIFFIS: -- response to the roof
4 plan. Well, actually, you know, there it is. That's
5 exactly what you're going to do but it's to the
6 special exception for the relief under 411.

7 MS. PERRY: Um-hum.

8 MR. GRIFFIS: Okay. All right. Anything
9 else we're missing? That's it on my list. Do Board
10 members have anything else? Okay.

11 Ms. Bailey, would you like to go over that
12 list first or you want to set the dates?

13 MS. BAILEY: Maybe we can start with the
14 dates, Mr. Chairman.

15 MR. GRIFFIS: Excellent. Let's set this
16 decision on September 14th.

17 MS. BAILEY: Okay, September 14th at the
18 Board's public meeting. Is it possible for the ANC to
19 get their questions to us by July 13th? These are the
20 questions to DDOT. You have a meeting on the 19th?

21 MR. GRIFFIS: You think your questions
22 have to be approved by the entire ANC?

23 MS. PERRY: We'll do it.

24 MS. BAILEY: So July 13th all the
25 questions to DDOT from the ANCs.

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1 MR. GRIFFIS: Submit them to the record
2 and we are going to distribute them to DDOT.

3 MS. PERRY: Okay.

4 MR. GRIFFIS: Everything we are going to
5 mention is a submission into the record. You can
6 serve it on DDOT if you would like. You are going to
7 serve it obviously on OP and everybody else. Okay,
8 the 13th.

9 MS. BAILEY: Mr. Chairman, will three
10 weeks be sufficient to give DDOT to get a response
11 into us?

12 MR. GRIFFIS: From the questions?

13 MS. BAILEY: From the questions. If we
14 got them on the 13th, August 10th perhaps for DDOT to
15 respond?

16 MR. GRIFFIS: Plenty of time.

17 MS. BAILEY: Okay. Now, will the
18 community be responding to DDOT's comments?

19 MR. GRIFFIS: Yes.

20 MS. BAILEY: And that would be August
21 24th. Are you with me, Mr. Chairman?

22 MR. GRIFFIS: Yes.

23 MS. BAILEY: The other documents that are
24 to come in, August 31st, Mr. Chairman? I'm sorry.
25 Yes, August 31st for all of the documents from Mr.

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1 Feola and the residents who did not get an opportunity
2 to speak today. They can be submitted prior to but no
3 later than August 31st. Is that acceptable, sir?

4 MR. GRIFFIS: That's fine.

5 MS. BAILEY: And the decision will be
6 scheduled for September 14th. The only thing that I
7 didn't hear you ask for were findings of fact and
8 conclusions of law. Will we be asking for those?

9 MR. GRIFFIS: Yes.

10 MS. BAILEY: Anything else, sir?

11 MR. GRIFFIS: No, although we do need two
12 steps. If the 31st we have as the final -- well, I
13 guess --

14 MR. FEOLA: Mr. Chairman, we can do our
15 responses to Ms. Beelar's package and the construction
16 phasing plan certainly before that. Pick a day in
17 August. Then they would have time to respond. I
18 don't know if Ms. Beelar would respond to our
19 response.

20 MR. GRIFFIS: No.

21 MR. FEOLA: Never mind.

22 MR. GRIFFIS: Ms. Beelar is not a party in
23 this case. She only gave testimony. She gave quite a
24 bit of testimony so we are offering for responses from
25 all the parties and applicant to her submissions.

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1 MR. FEOLA: I guess the only thing that we
2 submit that would be commendable is the phasing plan.
3 Is that correct?

4 MR. GRIFFIS: Right. That's right. When
5 did you anticipate submitting that?

6 MR. FEOLA: We can do it, say, two weeks.
7 That gives us enough time to work with the
8 construction management plan.

9 MR. GRIFFIS: And responses. What's the
10 first date for responses back, Ms. Bailey? The DDOT
11 questions were August 10th?

12 MS. BAILEY: DDOT response August 10th,
13 yes. And then the community to respond to what DDOT
14 has filed would be the 24th of August.

15 MR. GRIFFIS: Good. Responses to the
16 construction phase of the master plan phasing on the
17 10th.

18 MS. PERRY: We have to respond by the
19 10th?

20 MR. GRIFFIS: He's going to be no later
21 than the 13th. He said he was going to be fairly
22 expeditious in this. Is that correct? In the
23 construction phasing of the master plan? When are you
24 going to submit that?

25 MR. FEOLA: Within the next two weeks.

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1 MR. GRIFFIS: By the 13th?

2 MR. FEOLA: Yes.

3 MR. GRIFFIS: So we have all those dates.

4 MR. ESPENSCHIED: Did you set the date for
5 the proposed findings of fact and conclusions of law?

6 MR. GRIFFIS: I think that's the last one.

7 MS. PERRY: Before we go there, on the
8 briefing on Section 2516 we submit on the 31st and the
9 applicant does and we don't have a chance to --

10 MR. GRIFFIS: No.

11 MS. PERRY: Okay.

12 MR. GRIFFIS: It's a legal briefing.

13 MS. PERRY: Okay. I just want to double
14 check.

15 MR. GRIFFIS: Good. That's a good
16 clarification. We want to know exactly how you feel
17 about it legally because that's what it is.

18 MS. BAILEY: I just wanted to say that we
19 will send a letter to DDOT to remind them.

20 MR. GRIFFIS: Great. Can we run down the
21 whole thing again?

22 MS. BAILEY: Do I have to?

23 MR. GRIFFIS: I can try.

24 MS. BAILEY: Let's see. July 13th the ANC
25 is to send their comments to the Office of Zoning.

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1 Thereafter we will forward them to the Department of
2 Transportation. At that time also Mr. Phil Feola will
3 be sending submission to us. DDOT is to respond by
4 August 10th. August 24th the community may respond to
5 DDOT. August 31st findings of fact and all other
6 information from the parties. September 14th public
7 meeting and decision.

8 MR. GRIFFIS: Excellent. Is that clear
9 with everybody? Does that coincide? Questions?

10 PARTICIPANT: Is there any relation
11 between the decision day and the election day being on
12 the same day?

13 MR. GRIFFIS: What do you mean, the
14 primary? I don't know. They are both Tuesdays?
15 Well, we fully intend to be here. We vote early.
16 Okay. Any other questions? Clarifications on
17 schedule or procedure? Anything else I can answer?

18 MS. PERRY: I'm just concerned because the
19 ANC with people's vacation schedules and we're not
20 lawyers and don't have them on our board of having
21 findings of fact and everything in by August 31st plus
22 the briefs and everything else. Is there anyway it
23 can be a little bit later? I mean, we don't have
24 somebody, staff people to just spit this out or
25 attorneys. I guess I'm concerned.

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1 MR. GRIFFIS: Okay.

2 MS. PERRY: With this rush schedule and
3 trying to get everything produced and run through
4 people.

5 MR. GRIFFIS: I think we are going to need
6 to do the best we can.

7 MS. PERRY: One of the pieces -- I mean,
8 you're in as a party also which we have a lot of
9 parties that aren't attorneys, for that matter, and
10 this is the application and the burden that is put on
11 you. You're not required to but obviously you are
12 given the opportunity.

13 MS. PERRY: You know we will, though.

14 MR. GRIFFIS: Indeed. As everything I do
15 on the Board, I balance all the information and the
16 application that comes to us but, I'll tell you the
17 truth because it's late at night, I care most about
18 the Board and its schedule and the impact we have.
19 Now, August gives us an awful lot of good time as we
20 don't have public hearings to get through the case
21 that we have in front of us and also to deliberate.

22 If we start putting this out through
23 September, I'm already looking at our September
24 schedule, the decision making will be hurt the longer
25 we keep this going. So I'm going to ask that all of

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1 us work together on this schedule. We have two months
2 to get this done and I think we can make it there by
3 the 14th.

4 Okay. Anything else? Any other
5 clarifications? Great. Thank you all very much. It
6 has been a very productive day for everybody. If
7 there is no other business for the Board, then I would
8 adjourn the afternoon session.

9 (Whereupon, at 8:46 p.m. the hearing was
10 adjourned.)
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