

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY,

NOVEMBER 22, 2005

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:45 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice-Chairperson
CURTIS ETHERLY, JR.	Board Member
JOHN A. MANN, II	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Chairperson
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OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Zoning Specialist
TRACEY ROSE	Sr. Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

TRAVIS PARKER

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JOHN MOORE
JOEL LAWSON
KAREN THOMAS

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from the Public Hearing held on November 22, 2005.

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

9:49 a.m.

CHAIRPERSON GRIFFIS: Excellent. Thank you very much and a good morning to everybody. Let me call to order our Public Hearing of the 22nd of November 2005. My name is Geoff Griffis. This is the Board of Zoning Adjustment of the District of Columbia. I am Chairperson. Joining me today is the Vice Chair, Ms. Miller, and representing the National Capital Planning Commission is Mr. Mann, representing the Zoning Commission with us this morning and this afternoon will be Ms. Mitten. We are expecting our third Member, Mr. Etherly, shortly. However, he is delayed and rather than delaying everyone here, we will move ahead.

Copies of today's hearing agenda are available for you. They are located where you entered into the hearing room. Please, pick one up and you can see where you are on our chronology and the agenda for this morning's session. I'm going to ask several things of everybody and I will be very expeditious in getting through these, but these are very important opening remarks that you should well understand.

First, let me ask that everyone turn off their cell phones, beepers and any sort of apparatus

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1 that may disrupt our proceedings, the attention span
2 of those giving testimony or our transmission of these
3 proceedings. I'm going to ask that when you come
4 forward to speak to the Board, you should have already
5 filled out two witness cards. Witness cards are
6 available for you at the table you entered into and
7 also the table in front where you will provide
8 testimony. Those two cards go to the recorder sitting
9 on the floor to my right.

10 Then when you are ready to provide
11 testimony for the Board, you will just need to state
12 your name and address for the record. You need only
13 do this once and then we can move ahead. Obviously,
14 that is so that we can give you full credit on the
15 transcript that is being set up for the proceedings.
16 And that transcript is the official record of our
17 proceedings and the Court Reporter is creating that.

18 The order of procedure for special
19 exceptions and variances is as follows: First, we
20 will hear from the applicant and their case
21 presentation. Secondly, we will hear from any
22 Government reports attendant to the application,
23 Office of Planning, Department of Transportation,
24 these are agencies that often supply us
25 recommendations or analysis of each application.

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1 Third, we will hear a report from the
2 Advisory Neighborhood Commission. Fourth would be
3 persons or parties in support of an application.
4 Fifth will be persons or parties in opposition to an
5 application. Sixth, we will give an opportunity for
6 the applicant to present any rebuttal witnesses,
7 closing remarks or conclusions in the case.

8 Cross examination of witnesses is
9 permitted by the applicant and parties in the case.
10 We will establish parties in every case prior to
11 moving forward with the body of the hearing and the
12 ANC within which the property is located is
13 automatically a party in the case and, therefore, is
14 able to conduct cross examination.

15 Nothing restricts this Board from limiting
16 the time, the direction, the substance of cross
17 examination. We will use that on a specific basis as
18 is required to keep things on track and within the
19 jurisdiction of that which should be within cross
20 examination.

21 The record will be closed at the
22 conclusion of the hearings today on most cases,
23 hopefully all of them, except for any material that
24 the Board requests. So it should be fully understood
25 that the record is closed at the conclusion of a

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1 hearing on a case, unless the Board specifically
2 outlines why it would be kept open.

3 So the important aspect there, of course,
4 is to note that anything that this Board will
5 deliberate on and decide must be put into the record
6 today. So if you believe that it is not already in
7 the record, you can make that statement in your
8 testimony or provide that in written form and put it
9 into the record.

10 The Sunshine Act requires that this Board
11 conduct all its hearings in the open and before the
12 public. This Board does enter into Executive Session
13 both during and after hearings on a case. Executive
14 Session is used for the purposes of reviewing the
15 record and/or deliberating on a case. Our utilization
16 of Executive Sessions are in accordance with the
17 Sunshine Act and also our rules, regulations and
18 procedures.

19 Let me ask all those that are present
20 today, well, first let me say a very good morning to,
21 Ms. Bailey, who is with the Office of Zoning, on my
22 far left and Ms. Rose also with the Office of Zoning.
23 Ms. Glazer is with us from the Office of Attorney
24 General. I'm going to ask that everyone that is
25 planning to give testimony before the Board today if

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1 you would, please, stand and give your attention to
2 Ms. Bailey. She is going to swear you all in.

3 MS. BAILEY: Please, raise your right
4 hand.

5 (Whereupon, the witnesses were sworn.)

6 CHAIRPERSON GRIFFIS: Good. Thank you all
7 very much. With that done, we can now consider any
8 preliminary matters. Preliminary matters are elements
9 which relate to whether a case will or should be heard
10 today, requests for postponements, withdrawals,
11 whether proper and adequate notice has been provided.
12 These are all elements of which are preliminary
13 matters for the Board's attention.

14 If you are not prepared to go forward with
15 a case that's on our agenda this morning or you
16 believe a case should not proceed this morning, I
17 would ask that you come forward, have a seat at the
18 table in front as an indication of having a
19 preliminary matter.

20 Let me ask, first, Ms. Bailey, if you are
21 aware of any preliminary matters for the Board's
22 attention at this time.

23 MS. BAILEY: Mr. Chairman, Members of the
24 Board, good morning. Yes, sir, there is and it has to
25 do with Application No. 17392, Mr. Movahedi is

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1 requesting a postponement of this case.

2 CHAIRPERSON GRIFFIS: Excellent. Thank
3 you very much and I appreciate you bringing that to
4 the Board's attention. I have reviewed that
5 Application 17392 and understand that there are
6 numerous requests for party status. I think it would
7 be best to keep it on the chronology and not take it
8 up as a preliminary matter, at this time, but take
9 that postponement up in the case proceeding after we
10 establish party status in that case. Unless there are
11 any questions or difficulties with anyone present here
12 with that, we'll keep the chronology of our schedule,
13 at this time.

14 MS. BAILEY: That's the only preliminary
15 matter that staff is aware of, at this time, Mr.
16 Chairman.

17 CHAIRPERSON GRIFFIS: Excellent. Not
18 seeing an indication of any other preliminary matters
19 present before us, why don't we call the first case of
20 the morning then?

21 MS. BAILEY: Application No. 17394 of
22 Patrick and Christina Saudek Cusack, pursuant to 11
23 DCMR 3104.1, for a special exception to construct a
24 rear deck addition to a semi-detached dwelling under
25 section 223, not meeting the lot occupancy

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1 requirements, that's section 403. The property is
2 zoned R-2 and it is located at 2815 Ordway Street,
3 N.W., Square 2068, Lot 72.

4 CHAIRPERSON GRIFFIS: Are you ready? Oh,
5 excellent. Come have a seat. Good. I'm just going
6 to have you state your name and address for the
7 record. You're going to need to turn your microphone
8 on.

9 MR. CUSACK: My name is Patrick Cusack and
10 I live at 2815 Ordway Street, N.W., Washington, D.C.

11 CHAIRPERSON GRIFFIS: Excellent. I think
12 the record is absolutely full on this. It is a
13 special exception under 223. I'll give you an
14 opportunity to make any sort of statements or
15 highlight any of the aspects in this mission or you
16 can, in fact, stand on the record and we can move
17 through the application fairly quickly.

18 MR. CUSACK: The only thing that I would
19 add is that the Office of Planning has already
20 recommended approval, that we have met the burden of
21 proof and the ANC has already met and approved this
22 application.

23 CHAIRPERSON GRIFFIS: Excellent. Thank
24 you very much. I know you have talked to the
25 community, obviously, you have worked with the Office

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1 of Planning which gave their analysis and the ANC.
2 Has there been any indication that this, if was
3 approved, would impair the light and air to the
4 neighboring properties or somehow negatively impact
5 the privacy use of adjoining properties?

6 MR. CUSACK: No, it would not and Francis
7 Randzel, who owns the unit next door, has seen and
8 reviewed the plans and submitted an endorsement of the
9 plans in writing, which is Exhibit 8 in the file.

10 CHAIRPERSON GRIFFIS: Indeed. And she is
11 at 2817 Ordway Street. And it is Exhibit 8 in our
12 record.

13 MR. CUSACK: Yes, he is actually.

14 CHAIRPERSON GRIFFIS: He, forgive me. Is
15 there any indication that this would be out of
16 character as seen from the street or public way?

17 MR. CUSACK: No, it's virtually very, very
18 difficult to see from the street, which is also
19 reported on in the Office of Planning's -- they
20 comment about that.

21 CHAIRPERSON GRIFFIS: Indeed.

22 MR. CUSACK: The Office of Planning.

23 CHAIRPERSON GRIFFIS: Good. Don't steal
24 their thunder.

25 MR. CUSACK: Okay. I'm sorry.

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1 CHAIRPERSON GRIFFIS: He wants to give a
2 good report after all. No, no, I'm just kidding.
3 Okay. Anything else? Any other questions from the
4 Board, at this time?

5 BOARD MEMBER MANN: Yes, I have one brief
6 question.

7 CHAIRPERSON GRIFFIS: Yes, Mr. Mann?

8 BOARD MEMBER MANN: Are you required to
9 submit this project to HPRB?

10 MR. CUSACK: Yes, and I have met with
11 Emily Paulis twice in an informal capacity and she
12 said that so far as Office of Planning gave it its
13 thumbs up and the ANC gave it its thumbs up that we
14 would be good to go.

15 BOARD MEMBER MANN: Thank you.

16 CHAIRPERSON GRIFFIS: Excellent. Thank
17 you, Mr. Mann, excellent question. Is there any other
18 questions from the Board, at this time, of the
19 applicant? Not noting any other questions, we can
20 move ahead then and why don't we go to the Office of
21 Planning for the presentation of their report. The
22 analysis is in the record, excellent and a great
23 photograph, Exhibit No. 23.

24 MR. PARKER: Good morning, Mr. Chairman,
25 Members of the Board. I'm Travis Parker with the

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1 Office of Planning. I'm happy to have my thunder
2 stolen this morning. Unless there are questions from
3 the Board, I will be happy to stand on the record in
4 favor of the project.

5 CHAIRPERSON GRIFFIS: Excellent. Thank
6 you very much. Are there questions from the Board of
7 the Office of Planning? Clarifications? Excellent.
8 In your analysis, to be absolutely clear, clearly in
9 the 223 special exception it is here because it's a
10 nonconforming for lot area and side yard and in your
11 analysis that the addition wouldn't impact any of the
12 areas that are nonconforming. Is that correct?

13 MR. PARKER: That is all correct.

14 CHAIRPERSON GRIFFIS: Indeed. Very well.
15 If there's no questions from the Board of the Office
16 of Planning, it is recommending approval. Does the
17 applicant have any cross examination of the Office of
18 Planning?

19 MR. CUSACK: No.

20 CHAIRPERSON GRIFFIS: Very well. Thank
21 you very much. I thank Mr. Parker. Let's move ahead
22 then to other Government agencies reporting on this
23 application. I don't have any other attendant
24 analysis from agencies. As noted, Mr. Mann's
25 question, this is in a Historic District, and also

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1 included in the Park Historic District, specifically
2 you have indicated that this will go through HPRB and
3 you are working with staff at this time.

4 ANC-3C. Is the ANC represented today, 3C?
5 Not noting any representatives from the ANC present.
6 They had indicated support of the project. Do we have
7 the ANC letter in the record? I don't have an exhibit
8 number on it. Do you have any ANC -- have you seen
9 the official ANC?

10 MR. CUSACK: I haven't seen the official
11 ANC letter, but I did see it mentioned in the Office
12 of Planning's.

13 CHAIRPERSON GRIFFIS: Indeed. The
14 community counsel and the Office of Planning does
15 indicate the ANC considered the project at its
16 September meeting and voted unanimously to support the
17 project. We don't, however, have their actual filing
18 on that. Moving ahead then, I would ask if anyone
19 here is present today to give testimony in Application
20 17394 in support of the application, in opposition to
21 it, now is the time to come forward to speak to this
22 Application 17394.

23 Not noting anyone present, Ms. Ferster, I
24 assume you are not moving forward to give testimony on
25 this application. So as you have a seat in that

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1 second row, we will move ahead not noting any persons
2 present to provide additional testimony or any
3 testimony on this. I will go to the -- we did
4 indicate Exhibit No. 8 in the record, which is a
5 letter of support of the adjacent neighbor. I will
6 turn it over to you for any closing remarks you might
7 have.

8 MR. CUSACK: I have no closing remarks, at
9 this time.

10 CHAIRPERSON GRIFFIS: Very well. Board
11 Members, any additional questions, clarifications of
12 the application? I think the application is
13 sufficiently full on this and I think it's appropriate
14 for us to do a Bench decision on this. And I would
15 expedite that analysis and deliberation by moving
16 approval of Application 17394 for a special exception
17 under 223, which would allow this small addition of
18 the premises at 2815 Ordway Street, N.W., and I would
19 ask for a second.

20 VICE CHAIR MILLER: Second.

21 CHAIRPERSON GRIFFIS: Thank you very much,
22 Ms. Miller. It is pretty clear and I think we have
23 stated numerous times in the past section 223 and the
24 importance of it as being able to accommodate
25 additions that fall within the parameters of section

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1 223 and special exceptions. Obviously, it lends
2 itself to keeping and allows itself adaptations and
3 additions to single-family residences and flats that
4 are nonconforming based on the adoption of our Zoning
5 Regulations and this is an important and very clear
6 and straightforward application that has met the test
7 in the analysis of the Office of Planning. I think
8 it's pretty clear we can rely solely on that.

9 But in our own analysis, looking at the
10 special exception criteria and the 223 specificities
11 of submissions and also clarifying whether it would
12 impair intent, rather impair the light, air, privacy
13 usage to adjacent neighbors, no evidence has been
14 shown that it would. And, in fact, it is fairly
15 persuasive that it would not. I'll open it up to any
16 other deliberation on the motion.

17 If there's no other comments from the
18 Board then, we do have a motion before us. It has
19 been seconded. I would ask for all those in favor to
20 signify by saying aye.

21 ALL: Aye.

22 CHAIRPERSON GRIFFIS: Opposed? Why don't
23 we record the vote, Ms. Bailey?

24 MS. BAILEY: Mr. Chairman, the Board has
25 voted 5-0-0 to approve the application. Mr. Griffis

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1 made the motion, Mrs. Miller seconded, Mr. Mann, Mrs.
2 Mitten and Mr. Etherly are in approval. And are we
3 doing a summary order, Mr. Chairman?

4 CHAIRPERSON GRIFFIS: I see no reason not
5 to waive our rules and regulations and issue a summary
6 order on this, unless there's any opposition from the
7 Board Members or the applicant. Very well. Not
8 noting any, we'll issue a summary order on that. Good
9 luck and enjoy.

10 MR. CUSACK: Thank you very much.

11 CHAIRPERSON GRIFFIS: Thank you very much.
12 Let's move ahead then.

13 MS. BAILEY: The next case is Application
14 No. 17393 of Ellis Denning Properties LLC on behalf of
15 Ernest Murphy, pursuant to 11 DCMR 3103.2, for a
16 variance from the residential recreation space
17 requirement under section 773, and a variance to
18 permit alley access less than 10 feet in width to
19 required parking spaces under subsection 2117.4, to
20 allow the construction of a 28 unit apartment
21 addition. The property is located in the C-2-A
22 District at 1425 11th Street, N.W. It is also known
23 as Square 338, Lots 37, 38, 39, 40, 800, 801, 802 and
24 803.

25 COMMISSIONER MITTEN: Mr. Chairman, before

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1 you get into the substance of this case, I just want
2 to let the Board know that I need to leave for about
3 an hour and I would like to participate in Case 17393,
4 so I would ask the opportunity to read the record and
5 do that. And I have left absentee votes in the event
6 that I can't get back to consider the applications for
7 party status in 17392. But I will be back in about an
8 hour.

9 CHAIRPERSON GRIFFIS: Excellent. Thank
10 you very much. Another preliminary matter from the
11 Board. First of all, let's bring these easels up, so
12 that Board Members can see this a little bit more
13 clearer and closer, plus the fact that you will need
14 to be on a mike when looking at any of the exhibits.
15 So we're going to need that fairly close. And
16 thirdly, I will not be hearing this case. I will be
17 recusing myself as this is the firm of which I was
18 employed not too long ago and I think that we do have
19 three Members that can process this case and I think
20 it would just be more efficient and effective.

21 But I'm going to ask that's actually
22 turned a little bit, so we open it up so that the
23 audience can see it. With that then, I'm going to
24 turn it over to Ms. Miller and we can move ahead with
25 this case, unless there's any other questions at this

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1 time. Very well.

2 VICE CHAIR MILLER: Good morning. Would
3 the parties introduce themselves for the record?

4 MS. BROWN: Yes, good morning, Madam
5 Chairman, Carolyn Brown with the Law Firm of Holland
6 and Knight on behalf of the applicant. To my right is
7 Marc Weller of Ellis Denning Properties. To his right
8 is Laurence Cauder of Hickok Warner Cole and our one
9 witness today will be Steve Sher from our office.

10 VICE CHAIR MILLER: Thank you. I have a
11 preliminary question just to ask you before we begin
12 and that's with respect to who is the owner of the
13 property. Is there some type of contract purchaser
14 involved and just so that I make sure we have the
15 proper authorizations in the file?

16 MS. BROWN: Yes, Ms. Miller, Marc Weller
17 can answer that question.

18 VICE CHAIR MILLER: Thank you.

19 MR. WELLER: We are the contract purchaser
20 and there should be -- the proper authorizations were
21 signed and submitted from Mr. Murphy and they should
22 be in the file. They are in the file.

23 VICE CHAIR MILLER: They are in the file?

24 MR. WELLER: Yes. We saw them in the
25 preliminary package as well and they were submitted

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1 months ago.

2 VICE CHAIR MILLER: And there is
3 authorization in the file for Holland and Knight to
4 represent you in this case?

5 MR. WELLER: I'm authorizing them to
6 represent me.

7 VICE CHAIR MILLER: Right now?

8 MR. WELLER: Yes.

9 VICE CHAIR MILLER: Okay. Well, that will
10 take care of that.

11 MR. WELLER: I can produce something if
12 you would like.

13 VICE CHAIR MILLER: Okay. No, I'm
14 familiar that in the file there is an authorization by
15 Mr. Murphy. So I just wanted to get that resolved for
16 the file.

17 MR. WELLER: Great.

18 VICE CHAIR MILLER: Okay. Also, we have
19 a request for party status in this case, that's at
20 Exhibit 28, by a Mr. Steven Davidson. And he
21 indicates here that he wouldn't be appearing at the
22 hearing, but I just wanted to double check and make
23 sure whether or not he is here. Is Mr. Davidson here?
24 Okay.

25 My Board Members have a party status

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1 before them. It seems to be, he says here that he is
2 responding in writing through this document as an
3 opponent and he doesn't indicate any further requests
4 for participation. It appears to me that this looks
5 more like a document that should be accepted as
6 testimony in opposition in the case, rather than that
7 he should be admitted for party status. But do you
8 all have some comments on this?

9 BOARD MEMBER ETHERLY: I would tend to
10 agree, Madam Vice Chair. I might be inclined to ask
11 whether or not the ANC representative is present and
12 if they would have any comment or concern about
13 proceeding in that course, otherwise, I would be in
14 complete agreement with moving in that direction.

15 VICE CHAIR MILLER: Is a representative of
16 the ANC here? Okay. No one is coming forward. Are
17 there any other comments? I'm also looking over this
18 letter. I'm not sure that it would rise to the status
19 of party intervenor status in any event, so I would
20 suggest we accept this as testimony and add it to the
21 record as that.

22 BOARD MEMBER MANN: Agreed.

23 VICE CHAIR MILLER: Okay then. Okay.

24 BOARD MEMBER MANN: No objection.

25 VICE CHAIR MILLER: Okay. Ms. Brown, do

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1 you want to proceed?

2 MS. BROWN: Yes, thank you. Good morning.

3 VICE CHAIR MILLER: Good morning.

4 MS. BROWN: Again for the record, Carolyn
5 Brown with the Law Firm of Holland and Knight. You
6 should have received in your packets our prehearing
7 statement, which sets forth in detail how we meet the
8 standards for variance relief from the residential rec
9 space requirements and the limitation on parking
10 spaces off an alley less than 10 feet wide.

11 We are pleased to have the full support of
12 the Office of Planning, which has also submitted a
13 report to the record, recommending approval of our
14 application. As the record also indicates, we have
15 the support of the ANC and the community. We are
16 aware of only one person in opposition and that is Mr.
17 Davidson, whose request for party status has now just
18 been accepted as testimony in opposition.

19 Thus, based on the overwhelming support
20 for this project, we are prepared to stand on the
21 record and make only a very abbreviated presentation.
22 If you would like us to make a full presentation,
23 we're happy to do that. But if you would let us know
24 which direction to take, we'll be happy to do it.

25 VICE CHAIR MILLER: Well, I'll hear from

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1 the other Board Members. I think that an abbreviated
2 presentation would be fine. I mean, I certainly don't
3 want you to just stand on the record, at this point,
4 but if, you know, you can show your drawings and
5 highlight some of the major points, then we could ask
6 a few questions. I think that would be a good way to
7 proceed. Okay.

8 MS. BROWN: Thank you. Then I'll turn it
9 over to our first witness, Mr. Marc Weller from Ellis
10 Denning Properties.

11 MR. WELLER: Marc Weller, Ellis Denning
12 Properties. I'll be very brief. We purchased the --
13 excuse me. We are the contract purchaser of the four
14 townhouses. Those are existing townhouses that were
15 built in the 1970s and then we are the contract
16 purchaser of the parking lot next door. The four
17 townhouses contain two units in each one and the new
18 building and the parking lot will contain 20 units.

19 The challenge with the job was somewhat
20 obvious. We went through HPRB and we had to bring
21 sort of by reanimating, we had to bring those existing
22 four townhouses to some level that HPRB would be happy
23 with as well as the new building. So that's what we
24 have tried to accomplish and we feel we have
25 succeeded. We have been working with the neighborhood

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1 now for several months, probably six months on the
2 project, listened to a lot of their concerns and
3 addressed them, made sure that we had enough parking
4 spaces that met the code, which was one for every two
5 units and made sure that the building was up to their
6 liking as well from the exterior, the look of the
7 building from the street, making sure the ANC liked
8 that as well.

9 I guess that's pretty much all I have on
10 this project. I think I'll turn it over to Laurence
11 on the variance requirement.

12 BOARD MEMBER MANN: I have a brief
13 question. When you say that you had to comply with
14 certain requirements from HPRB on the existing
15 townhomes, can you explain that a little further?

16 MR. WELLER: Well, what we are required to
17 do is meet their concerns and address the buildings.
18 They felt as if they were non-contributing, but it
19 wasn't possible to tear the buildings down
20 financially. So we had to sort of find a way to meet
21 in the middle to reanimate those buildings from the
22 exterior and the rear, so that they became then a
23 contributing structure.

24 We think we have, obviously, met their
25 need by their vote, but we think we have gone above

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1 and beyond that by doing things such as removing the
2 front wall, adding some green space in the front,
3 removing or adding full bays, adding windows, new
4 cornice detail, etcetera.

5 BOARD MEMBER MANN: So is this aesthetic
6 requirements in order to come into compliance with the
7 requirements of HPRB?

8 MR. WELLER: Yes, and also for the overall
9 project look. We wanted to improve those townhouses.
10 We weren't comfortable with the way that they looked,
11 the current style of them. I think we have some
12 pictures that we can show you if they are not in -- I
13 think they are in the package that you guys received,
14 the existing townhouses.

15 BOARD MEMBER MANN: They are. Thank you.

16 MR. WELLER: Okay.

17 VICE CHAIR MILLER: Are the existing
18 townhouses vacant?

19 MR. WELLER: They are being vacated as we
20 speak. They are all businesses in there right now.
21 Like there is a realtor in one and a mortgage broker
22 in another, so I think there is two tenants left out
23 of the eight.

24 VICE CHAIR MILLER: Have they been
25 businesses for a while? Do you know?

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1 MR. WELLER: They have been sort of --
2 because of the size of the units and the quality of
3 the building, they have been -- every six months or
4 year or so it seems to have somebody new coming in.
5 He doesn't really have any long-term tenants in there,
6 because of -- you know, I think because of the
7 location hasn't been as desirable and the building
8 space.

9 VICE CHAIR MILLER: Okay. And do you know
10 when they were last used for residences?

11 MR. WELLER: There is one unit that was
12 last used as a residence up until November 1st, but it
13 was only -- it was one first floor unit, 600 square
14 foot unit, and then the woman was retiring and moved
15 to North Carolina.

16 VICE CHAIR MILLER: And how about the
17 others? I'm just wondering if they have not been used
18 for residential for a while.

19 MR. WELLER: The others were all used --
20 as far as I know, excuse me, one of the units has been
21 used for residential by the current owner. He lives
22 there about, I don't know, maybe one or two nights a
23 week, Ernest Murphy. And then the other units have
24 been either vacant or used for businesses.

25 VICE CHAIR MILLER: For a long period of

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1 time?

2 MR. WELLER: For a -- how long? I
3 couldn't tell you how long to be honest with you.

4 VICE CHAIR MILLER: Okay.

5 MR. WELLER: I think the -- my
6 understanding from Mr. Murphy is there has been a
7 problem attracting tenants and clients to 11th Street
8 until recently and so he has had a lot of vacancy and
9 I think he has just taken who he could get to occupy
10 the building.

11 VICE CHAIR MILLER: Okay. Thank you.

12 MR. WELLER: Sure.

13 BOARD MEMBER ETHERLY: Madam Chair, if I
14 may very quickly as we prepare ahead into the
15 architectural presentation, I wanted to just highlight
16 the question that Mrs. Mitten left for me to kind of
17 point out and inquire about. And that is with respect
18 to the four buildings and the addition, as we move
19 into the presentation, if the architect or the
20 appropriate representative could speak to how the four
21 buildings and the addition are all connected to form
22 a single building, as you indicated in the prehearing
23 submittal at page 3, you are proposing, of course, to
24 subdivide the lot, connect the four existing flats to
25 form a single building. And Mrs. Mitten was

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1 interested in exploring a little bit of how that
2 connection is carried out.

3 MR. CAUDER: Okay. Good morning. My name
4 again is Laurence Cauder. I'm with Hickok Warner Cole
5 Architects and I'll get to that point right now then.
6 Just to orientate yourselves very quickly, the red
7 indicates the new construction and the black is where
8 the existing row flats are that Marc Weller was just
9 talking about.

10 If I put up the site plan, the new site
11 plan, part of the rec space that we are providing on
12 the outside is on the rooftops of the existing
13 townhouses that are accessed through one of the new
14 levels of the new building, which is indicated in
15 light there in the middle, the darker gray to the
16 right is our existing row houses. To the left are the
17 existing flats. And you can see that darker shaded
18 area is the new rooftop deck.

19 One of the issues that HPRB had from the
20 very beginning of the project was to, please, limit
21 the access to the amount of rooftop structures on this
22 building of this size. They didn't want to see them
23 from the street. So that actually prevented us from
24 putting additional egress off the roofs, therefore,
25 limiting by code the deck to a certain size.

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1 The trellis piece, which is a little
2 difficult to read on this plan, that forms the
3 connection to the new building to the old building is
4 covered by 50 percent area of wood overneath trellis
5 over these and provides a covered area to sit onto the
6 roof deck. It was held back on the back side of the
7 building, so it was not as visible from the street,
8 from 11th Street, as it might be if it were pushed
9 forward. So that is the connection piece.

10 BOARD MEMBER ETHERLY: So how is access,
11 if you could just walk through very quickly, gained to
12 the roof area? In order to access it, you are
13 accessing it from the addition?

14 MR. CAUDER: You are accessing it from the
15 addition from, I believe it is, the third level right
16 out from the side of the building right above where
17 the trellis area is. So it's through the stairwell
18 from one of the levels of the building.

19 BOARD MEMBER ETHERLY: Okay.

20 MR. CAUDER: Should I explain a little bit
21 of the project in general and just proceed from there?
22 Again, this site plan shows, it may be a little bit
23 difficult to read in the green, but the hatch green
24 area, that's the rec space on grade and the lighter
25 green area you see towards the street is just in

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1 public space, but that's the new green space that we
2 are going to be extending.

3 But you can see from the site that we were
4 rather pinched in as to where we could locate the new
5 building. We aligned the new building with the
6 existing facades and unfortunately the existing
7 structures were poorly sited and allowed for any
8 awkward connections in the front and the rear. We
9 also, of course, held back from the public alley to
10 allow for parking, off-street parking, on the back of
11 the site.

12 So our on-grade recreation space was
13 rather limited. And again, the size of the rooftop
14 structure that we could provide was also limited,
15 because of the code restrictions and HPRB requirements
16 from the design of the building. If we were to
17 provide the interior rec space component, we would
18 have to give up at least two units and we did struggle
19 with trying to figure out what that amenity would be,
20 given the amount of public amenities in the area,
21 which is why the people move to this area to begin
22 with.

23 We would be competing with that and felt
24 that really we couldn't create a viable space inside
25 the building, since all those amenities, like Logan

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1 Circle, are very close to this project.

2 VICE CHAIR MILLER: Excuse me, what would
3 be the impact on the project if you gave up two units?

4 MR. CAUDER: We would -- well,
5 specifically, we would go from 28 to 26 units and, of
6 course, we would reduce the parking spaces by one. I
7 don't know if Mr. Weller can add any other issues to
8 the constraints on the project itself.

9 VICE CHAIR MILLER: So would that have
10 been a feasible project?

11 MR. CAUDER: Well, it's very difficult
12 financially, because we couldn't even make it such
13 that we could tear the existing structures down given
14 the high price point of the existing buildings made
15 that unfeasible, so we had to deal with a lot of the
16 existing conditions to be able to get the number of
17 sales in the building to make the project move
18 forward.

19 VICE CHAIR MILLER: And is there a rec
20 space you are showing at grade level?

21 MR. CAUDER: Yes, in that green area.
22 Principally, there in front of the building.

23 VICE CHAIR MILLER: Yes.

24 MR. CAUDER: That's a common area and
25 that's also a common area in the back of the building

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1 right there.

2 VICE CHAIR MILLER: So what happens at
3 that area? Is it just open green space or what makes
4 it recreational space?

5 MR. CAUDER: It's open lawn, green space
6 landscaped area, yes.

7 VICE CHAIR MILLER: Okay.

8 BOARD MEMBER ETHERLY: And just a quick
9 follow-up. You will have access from the -- how will
10 you access that green space, if you will, at the rear
11 here?

12 MR. CAUDER: There is an exit from the
13 back of the building that there is a path running
14 along the back of the building, between the building
15 and the parking spaces, to that rec space right there.

16 BOARD MEMBER ETHERLY: Okay. Thank you.
17 Thank you, Madam Chair.

18 VICE CHAIR MILLER: I think there is a
19 statement in your application that says if you had to
20 take all the required rec space that goes just to the
21 existing buildings and put it in the new building,
22 that it wouldn't be feasible to establish that much
23 rec space in any kind of meaningful way while
24 maintaining building core elements and reasonably
25 configured living spaces. And I'm just wondering if

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1 you could show that architecturally?

2 MR. CAUDER: What we're putting up here is
3 a typical floor plan. Shaded on the left, of course,
4 for the existing flats and you can see that there are
5 rather small structures. On the right, of course, is
6 the new building. The floor plan is, approximately,
7 5,000 square feet, but it is just such a size by code
8 that we're required to have two egress stairs and we
9 have an elevator for accessibility.

10 Basically, the footprint only allows for
11 one unit at each corner. So there really is a rather
12 -- no other extraneous area to provide some interior
13 of rec space without giving up one of the units
14 entirely or both of the units, as would be required to
15 meet the 20 percent rec space.

16 VICE CHAIR MILLER: Okay. Thank you.

17 MR. CAUDER: All right. Thank you.

18 VICE CHAIR MILLER: Before we move on to
19 Mr. Sher, I think Mr. Mann asked about HPRB
20 constraints that were put on the building and I think
21 it is mentioned that there were constraints on massing
22 and configuration, articulation. Is there anything
23 you want to show us visually to make that point?

24 MR. CAUDER: Yes, that was actually the
25 very first comment that came out of their mouths when

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1 we first met with them, before we even showed them any
2 drawings. And as I said, we worked with them a lot,
3 with Steve Calcot quite a bit in several meetings, and
4 this was one of the drawings that we showed HPRB.
5 Fortunately, they liked the structure very much and
6 actually feel it adds to the building to put that
7 connection on the back.

8 But that is the amount that you would see.
9 We had a lot of site section drawings to show how
10 visible that trellis was from the street. But we
11 worked very hard to keep the height at a minimum.
12 There is basically 8 foot clear from when you stand on
13 the deck to the underside of the trellises. And you
14 can see the smaller penthouse on top of the new
15 structure is also just -- it's as small as it can be.
16 It really is only the elevator overrun and that's
17 about it.

18 VICE CHAIR MILLER: And what is this on
19 top of the existing townhouses?

20 MR. CAUDER: It is some columns with
21 supporting a very tightly nit trellis pieces that
22 provide 50 percent coverage overneath the deck.

23 VICE CHAIR MILLER: That's the trellis?

24 MR. CAUDER: Yes.

25 VICE CHAIR MILLER: Is there any deck

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1 space or balcony space for the four units?

2 MR. CAUDER: For the new units?

3 VICE CHAIR MILLER: No, the old units, the
4 four?

5 MR. CAUDER: No, but they will be allowed
6 to have access through the common lobby of the new
7 portion and get access to the roof from there.

8 MR. WELLER: The rear as well.

9 MR. CAUDER: And the rear as well, of
10 course, yes.

11 VICE CHAIR MILLER: And what's going to be
12 happening on the roof deck? Is that open space or is
13 that some other amenities up there?

14 MR. CAUDER: It is just open space, yes.
15 The trellis doesn't cover the entire deck. It's only
16 the back portion.

17 VICE CHAIR MILLER: Okay.

18 BOARD MEMBER ETHERLY: If I could, Madam
19 Vice Chair? I just wanted to follow-up on your line
20 of questioning and also make sure that I kind of put
21 a pin in Mrs. Mitten's inquiry about the connection
22 between the structures. With respect to the roof deck
23 area, if I'm in one of the four townhomes and I want
24 to access that area, I'll need to come out of my
25 respective unit and enter through, as you indicated,

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1 the common lobby of the new addition, correct?

2 MR. CAUDER: That's correct.

3 BOARD MEMBER ETHERLY: Okay. Or I want to
4 make sure I'm understanding. Is there also a rear
5 access to that area as well? I could go around the
6 front to the lobby or can I go through the rear?

7 MR. CAUDER: Yes, you can. There is a
8 way, pathway through the new building to the rear of
9 the building.

10 BOARD MEMBER ETHERLY: Okay. But it still
11 takes you through the lobby?

12 MR. CAUDER: It still takes you to the
13 lobby, correct.

14 BOARD MEMBER ETHERLY: So it takes you all
15 the way through the lobby?

16 MR. CAUDER: Correct.

17 BOARD MEMBER ETHERLY: Okay. And with
18 respect to any other communication between the four
19 smaller structures and the new addition, is there any
20 other connection point or passage way?

21 MR. CAUDER: No, there isn't. And very
22 early on we had talked about providing an additional
23 staircase in the back of the existing buildings.

24 BOARD MEMBER ETHERLY: Yes.

25 MR. CAUDER: But very early on HPRB voiced

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1 their opposition about how difficult it would be to
2 get something like that approved. They did not like
3 to see another structure being added to the back of
4 the existing flats.

5 BOARD MEMBER ETHERLY: Okay. Was there
6 any consideration given to any other type of internal
7 connection, whether it is larger common lobby space
8 or, I mean, I would hazard a guess it probably would
9 have been rather difficult to do, but did you give
10 some thought to that?

11 MR. CAUDER: We did. Our biggest
12 constraint is that we just met the point where we had
13 to provide two egress stairs. Given that even though
14 there is only four units per floor, and I think that
15 ate up most of our viable area to potentially do that.
16 But it's about that tight, yes.

17 BOARD MEMBER ETHERLY: Okay. Okay. So
18 once again, just the connection point with the
19 addition to the roof deck on the lower structures is
20 accessed at the third floor of the addition?

21 MR. CAUDER: Yes, right, right.

22 BOARD MEMBER ETHERLY: There is a
23 stairwell. From the third floor addition, does that
24 stairwell take you up?

25 MR. CAUDER: Yes.

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1 BOARD MEMBER ETHERLY: Okay. And that
2 takes you out to the roof deck area?

3 MR. CAUDER: Yes.

4 BOARD MEMBER ETHERLY: And if I'm in the
5 lower, if I'm in the four townhomes, I'm coming out
6 accessing through the common lobby of the addition,
7 head upstairs, take that same stairway to the roof
8 deck?

9 MR. CAUDER: Correct.

10 BOARD MEMBER ETHERLY: Okay. And that's
11 the only -- is there a physical connection between the
12 trellis on the lower structures and the actual
13 addition?

14 MR. CAUDER: Yes, it comes right up to the
15 -- if you can imagine, if this view were rotated, it
16 goes right up to the wall of the new structure.

17 BOARD MEMBER ETHERLY: Yes, okay. Thank
18 you. Thank you, Madam Vice Chair.

19 BOARD MEMBER MANN: I have a couple of
20 questions just to follow-up on that. And I'm actually
21 going to kind of step back maybe one step further and
22 say more or less why are you doing this? Why do you
23 need to? And I'm not questioning your, you know,
24 whatever thought process you went through to do it,
25 but, I guess, from a zoning perspective, why do you

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1 need to do this? Why do you need to combine the lots
2 and why do you need to make it one structure? Because
3 I don't -- I guess, this is sort of an unusual
4 connection in my mind.

5 MR. WELLER: Marc Weller again. The
6 reason why we had to combine the lots was pretty
7 simple. There was no possible way to maximize the
8 space and make this a viable deal by doing them
9 individually. There was a lot of FAR left over on the
10 existing site, because the zoning was changed after
11 these buildings were built to the right, to the
12 existing townhouses. And we were able to combine the
13 lots and then make it a viable project. Without it
14 being combined, it's not a project that is viable.

15 BOARD MEMBER MANN: Okay. And just having
16 the wall between the -- the common wall doesn't meet
17 the requirements of making it one structure?

18 MR. WELLER: No.

19 BOARD MEMBER MANN: Because there has to
20 be some sort of --

21 MR. WELLER: I would like Steve or
22 Laurence to speak to that.

23 BOARD MEMBER MANN: Okay.

24 VICE CHAIR MILLER: I think this would be
25 a good time for Mr. Sher to speak to that.

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1 MR. SHER: Madam Vice Chair, Members of
2 the Board, for the record, my name is Steven E. Sher,
3 the Director of Zoning and Land Use Services with the
4 Law Firm of Holland and Knight. If you look at the
5 definition of building, it's written kind of in the
6 reverse of the way you might expect it to read. It
7 says "The existence of communication below the level
8 of the main floor shall not be deemed to make a
9 building, two portions of a building one building."

10 So the way that that has been interpreted
11 around the other way is the existence of communication
12 at or above the level of the main floor has been
13 deemed to create a single building. If we had just
14 party walls separating the four existing buildings and
15 the new building, they wouldn't be connected. As Mr.
16 Weller indicates, he had density reasons that he was
17 trying to do.

18 The other factor for combining the
19 property was to get the number of parking spaces. We
20 have 20 units in the new wing of the building, if you
21 will. We don't have room to get 10 parking spaces on
22 that lot behind the building. If you go back to the
23 site plan, which I think was down here on the bottom,
24 yes, we would, in effect, have only six parking spaces
25 or maybe it's only five and a half on the site of the

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1 apartment house as the lot exists now.

2 What we have done is we have lined up 10
3 parking spaces along the alley here and four along the
4 alley on the south side of the property. That gets
5 the 14 parking spaces necessary for the 28 units and
6 the combined building. So it was for those two
7 reasons that we put this all into one record lot.

8 VICE CHAIR MILLER: Just to make it
9 clearer though, if you didn't combine the lots and
10 they were separate buildings, what would the
11 consequences be?

12 MR. SHER: Well, this --

13 VICE CHAIR MILLER: You would have how
14 many less fewer? You would have fewer parking spaces
15 or what?

16 MR. SHER: This building would be smaller
17 and it would only have, at a maximum, I guess assuming
18 you still need the handicap van space, you would be
19 able to only get four parking spaces on the lot as the
20 lots are currently drawn.

21 VICE CHAIR MILLER: Why would the building
22 be smaller if it went up to a common wall?

23 MR. SHER: Because you would only be able
24 to figure the 2.5 FAR permitted under C-2-A on the
25 land area of that lot, which is -- I was just looking

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1 for the lot and the size of the lot. It's actually --
2 yes, it's actually a series of existing record lots.
3 No, I'm sorry. It's a series of existing tax lots,
4 800, 801, 802, 803, and they are each 13 feet more or
5 less wide by 95 feet deep. So you have a smaller lot
6 area over which to take the FAR.

7 VICE CHAIR MILLER: I guess I know this
8 isn't basically the issue, we're getting a little
9 sidetracked, but if you did combine the lot but you
10 didn't have the trellis and it was up to the
11 Commonwealth?

12 MR. SHER: You would have a lot.

13 VICE CHAIR MILLER: You would have the
14 same size building, right?

15 MR. SHER: No. You wouldn't be able to
16 have the same size building, because this building as
17 designed is using FAR not used on these four lots as
18 they exist. So there is more than 2.5 FAR in this
19 building as it exists on this lot. In addition, you
20 can see the way it's designed.

21 A piece of the building actually extends
22 behind the other things. But those four existing tax
23 lots total 13, 26, 39, 40, about 52 feet wide by 95
24 feet deep. If I run back and get my calculator I can
25 tell you how much FAR you can get out of that, but

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1 it's less than the square footage that is in this
2 building right now, because this building has utilized
3 unused FAR from these four lots when you combine the
4 whole thing.

5 MR. CAUDER: If I may, too. When we met
6 with the Office of Planning and we met with HPRB on
7 this project, this exact site is designated as a site
8 that is supposed to -- that they targeted and circled,
9 Ms. McCarthy and Steve Cochran. This was targeted and
10 circled in a book stating that it was to be developed
11 with high density, higher density than what had been
12 done there.

13 And that is what led us to where we're at
14 right now and that was -- this was, you know, a
15 conversation six or seven months ago and that's what
16 led us through HPRB under that and that's what brings
17 us here today. They wanted as much density as they
18 could get here. They would have loved to have seen,
19 you know, even more than what we're putting on but it
20 just wasn't possible without a zoning change.

21 VICE CHAIR MILLER: Okay. I mean, the
22 impression I'm getting is that if you didn't have the
23 trellis and you did that, either you would need some
24 other kind of zoning relief or you wouldn't have a
25 viable project. Is that correct?

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1 MR. SHER: Well, if we left the design
2 exactly as it is and we didn't connect the buildings,
3 yes, we would have multiple buildings on a single
4 record lot for which the regulations do not allow, so
5 we would be here for some other kind of relief.

6 VICE CHAIR MILLER: Exactly.

7 MR. SHER: If we had to do that.

8 VICE CHAIR MILLER: Exactly. Okay. Thank
9 you.

10 MR. SHER: Sorry.

11 VICE CHAIR MILLER: No.

12 MR. SHER: Maybe I should have gotten
13 there a long time ago.

14 VICE CHAIR MILLER: No, that's fine.

15 BOARD MEMBER MANN: Just to follow-up,
16 does that trellis -- does the area underneath the
17 trellis count against FAR then?

18 MR. SHER: Yes, it does.

19 BOARD MEMBER MANN: Okay.

20 MR. SHER: It's already in lot occupancy
21 because it's on top of the --

22 BOARD MEMBER MANN: Yes.

23 MR. SHER: -- footprint of the existing
24 buildings, but it does count on FAR.

25 BOARD MEMBER MANN: Okay.

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1 VICE CHAIR MILLER: Okay. You can proceed
2 with whatever else you would like to discuss.

3 MR. SHER: Okay.

4 VICE CHAIR MILLER: With respect to the
5 variances.

6 MR. SHER: As the Board is aware, we're
7 here asking for two variances and we have had some
8 discussion, a little bit, about both. One is on the
9 residential recreation space and I think Laurence has
10 talked about why we have as much space as we have, why
11 we can't have any more on the roof.

12 We don't have any on the roof of the
13 addition because we had to bring stairs up to the
14 roof, because HPRB was trying to get us to keep the
15 height down. We have as much as we can get with the
16 one means of egress on the roof here and when you look
17 at the site plan you see virtually every square foot
18 of space on this lot is accounted for one way or
19 another. It's building, it's parking or it's rec
20 space.

21 So you're sort of at the middle of the
22 conjunction of all that and it's a puzzle about how
23 much you can put in there. We have maxed out what we
24 can. I think the Board has heard many times about
25 whether residential rec space is really something

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1 whose time has come and gone, and I think even Ms.
2 Mitten would have said, and did say at the Zoning
3 Commission, it is an idea whose time has come and gone
4 and maybe they will do away with it at some point, but
5 that hasn't happened yet so we're here, given the
6 current regulations.

7 The other point of that is, and I know you
8 have heard this story before too, this is going to be
9 -- once this project is developed, it's going to be
10 turned over to the owners as a condominium and how
11 much rec space do you burden the ownership of 28 units
12 with down the road for maintenance and upkeep and so
13 forth.

14 The second variance that we're asking for
15 is on the requirement that you not take access to
16 require parking spaces off an alley less than 10 feet
17 wide. We discovered, lo and behold, that the
18 north/south alley at the east side of the property is
19 slightly less than 10 feet wide. It's 9 feet, 9
20 inches. So where it says he's holding his fingers 3
21 inches apart, we're that far short on the alley.

22 What we have done to, I won't say mitigate
23 that, but to, offset that is we have set our parking
24 spaces, the ones that are numbered van through 10 on
25 the east side of the property, we have set them 1 foot

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1 off the property line. So we have, in effect, created
2 the 10 feet that the regulations otherwise require.

3 Of course, we don't own the property to
4 the north. We can't acquire it and widen the alley
5 all the way out to the street here but, given what
6 happens here, this alley is wide enough. You can get
7 to 11th Street or to 10th Street through that
8 effectively widened alley, 10 feet and then 10 feet
9 out to the east and west.

10 What is the reason for the variance here?
11 Well, again, we have 28 units. We have to provide a
12 minimum of 14 parking spaces. Again, as you can see
13 from the site plan, there is not a lot we can do in
14 terms of getting parking on this lot. We have a line,
15 four off the alley here, the other 10 off the alley on
16 the east side.

17 Since we're not demolishing the buildings
18 here, we can't build an underground garage that
19 occupies the whole property. The limits of any garage
20 that we could construct even if it were -- it's
21 technically possible but economically probably not
22 possible. The limits of the garage would have to be
23 under the new portion of the building. The new
24 portion of the building is only 52 feet wide.

25 When you start adding in the dimensions of

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1 the parking spaces, the aisles that have to go there,
2 you just -- you don't get there. You can't ramp down.
3 You could put one level, but then you wind up costing
4 yourself four units on the lowest level.

5 So I think, again from the site plan, it's
6 pretty evident that the parking is arrayed in about
7 the only way it could be arrayed, which is along the
8 perimeter of the property and, therefore, we have the
9 technical requirement for the 3 inch variance on the
10 spaces that abut the east/west alley, the north/south
11 alley on the east side of the site.

12 I think we have demonstrated that the
13 property meets the three prong test of the variance
14 provisions and we would request that you approve the
15 application.

16 VICE CHAIR MILLER: I just want to
17 understand better what's happening with the parking
18 spaces. Are you having parking spaces begin further
19 back or are you actually -- are you adding onto the
20 width of the alley?

21 MR. SHER: No. This, the parking spaces
22 are all 19 feet deep but we have set them in 1 foot
23 from the property line so that they will be striped
24 and the stripe will end 1 foot in from the alley.
25 That property remains part of the subject property.

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1 We're not going through an alley
2 dedication process, which I'm not sure the District
3 would take just for our property anyhow, because I
4 don't think they would want the whole thing done and
5 we can't do that, because this is all that we own.
6 But we have just effectively created that width for
7 the turning movements and the radius required to get
8 in and out of these spots.

9 VICE CHAIR MILLER: Thank you. Did we
10 have exact figures? Is this 9.75, 9.9, the alley?
11 I'm hearing different things, just so --

12 MR. SHER: My understanding is it's 9
13 feet, 9 inches which is 9.75.

14 VICE CHAIR MILLER: The same? Okay.

15 MR. SHER: It's 3 inches short.

16 VICE CHAIR MILLER: One is inches, one is
17 three quarters. Okay.

18 MR. SHER: Right.

19 VICE CHAIR MILLER: Got it. Thank you.

20 MR. SHER: Converting inches to metrics or
21 whatever, 9.75. We thought it was 10 when we started
22 and then we discovered it wasn't.

23 VICE CHAIR MILLER: Okay. Are you all
24 finished with your presentation?

25 MR. SHER: I'm done unless you have any

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1 questions.

2 VICE CHAIR MILLER: Okay. My Board
3 Members? Okay. Then we can go to Office of Planning.
4 Good morning, Mr. Moore.

5 MR. MOORE: Good morning, Madam Chair and
6 the Board. I am John Moore with the Office of
7 Planning. We stand in support of the application. I
8 would like to add that there is a comment in our
9 report from DDOT regarding the parking spaces. They
10 have no problem with it.

11 VICE CHAIR MILLER: How common is it for
12 an alley to be less than 10 feet? Is this an unusual
13 situation, this 9.75?

14 MR. MOORE: Not really. As a matter of
15 fact, when I first did the report, according to all
16 our maps it said 10 feet. So on the report it would
17 have been 10 feet. It was the applicant that pointed
18 out that it was smaller than it should be, but there
19 are some isolated situations where the alleys are less
20 than 10.

21 VICE CHAIR MILLER: Anybody else have any
22 questions? Okay. I don't have any other questions.
23 It was a great report. Thank you very much.

24 MR. MOORE: Thank you.

25 VICE CHAIR MILLER: I will ask again. I

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1 don't think anyone else has come in, but is there
2 anybody here from the ANC? Oh, Ms. Brown, I assume
3 you have seen the Office of Planning report?

4 MS. BROWN: Yes, I have and we fully
5 support it.

6 VICE CHAIR MILLER: Okay. Is there
7 anybody here in support of the application? Anybody
8 here in opposition to the application? Do my Board
9 Members have any other questions? Okay. At this
10 point then, I will turn it over to you, Ms. Brown, for
11 any closing remarks you want to make.

12 MS. BROWN: Thank you, Madam Vice Chair.
13 Based on the evidence of record, the prehearing
14 statement submitted and the testimony you have heard
15 today, we believe the applicant has met its burden of
16 proof in meeting the test for variance relief for the
17 residential recreation space and parking spaces off an
18 alley that is less than 10 feet in width.

19 We, therefore, ask you to grant the
20 application preferably from the Bench today and, if
21 it's appropriate, we would also ask for a summary
22 order. Thank you very much.

23 VICE CHAIR MILLER: As Ms. Mitten has made
24 the statement before she left that she wanted to
25 participate in this case and read the record, I'm

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1 going to set this off for decision making. So I think
2 our next decision making is December 6th.

3 So do we have any problems with that date,
4 anybody? We were just checking how quickly she could
5 get the transcript to make sure that that date would
6 be okay. Is there a problem?

7 MS. BROWN: There's not a problem.
8 There's a question.

9 VICE CHAIR MILLER: Yes, go ahead.

10 MS. BROWN: We haven't had the benefit of
11 Mrs. Mitten's direct questions and I'm wondering if
12 there is any way that we should be -- if there are
13 other questions or how we are going to be able to make
14 sure that we have addressed her concerns if she is
15 only reading this on the record. If you would like us
16 to file something supplemental on the connection to
17 give her greater comfort, we would be happy to do so.

18 VICE CHAIR MILLER: I understand Mr.
19 Etherly asked the question that she was interested,
20 which did go to the trellis issue. If there is
21 something more that you would like to file, the record
22 can be left open for that. I mean, I can't read her
23 mind to know either to what extent that is necessary,
24 so I wouldn't say it's required. I think you
25 addressed it, you know, on the record.

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1 MR. SHER: Madam Vice Chair, if I might
2 just add a couple of thoughts on that issue if that's
3 the issue that Ms. Mitten has asked you to defer in
4 order to be able to discuss. And, obviously, I can't
5 read her mind either, so I'm presuming that based on
6 Mr. Etherly's question.

7 The Commission, I know, has had some
8 concern and the Board has had some concern about what
9 constitutes a connection between a single building.
10 Obviously, we were here for relief on two specific
11 areas of the regulations, the residential rec space
12 and the width of the alley.

13 If the Zoning Commission decides it wants
14 to change the regulations somehow or create some
15 different definition or different construction, if you
16 will, of the regulations about how you connect parts
17 of a building to be a building, that is something the
18 Commission can do. But I think based on the
19 regulations that are in effect today and the
20 definition that we read before, we believe that we
21 have got a building that meets the requirements of the
22 regulations and I'm not sure to what extent the Board
23 is appropriately getting into that question or not.

24 But in any event, we think we -- at least
25 I know in another BZA case that the Board had, I won't

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1 say months ago, I think it was several weeks ago, you
2 propounded the question of whether a trellis could be
3 a connection and at least in that case, the Board, I
4 think, came to the conclusion that if the cover was
5 more than 50 percent, 50 percent or more solid, then
6 that was a sufficient connection.

7 We stated on the record that that's what
8 our connection would be. We have described why and I
9 think we can go into it in more detail if you want the
10 record to reflect that, why the connection can't be
11 made elsewhere in the building. Mr. Cauder did that
12 and we can put the drawings up again and speak to that
13 further.

14 I just want to make sure that the record
15 is complete on the point and that we don't come back
16 and have a situation where you -- as you said, we
17 don't know what the questions would have been, so we
18 don't know how to answer them, but that's the only
19 reason for the statement.

20 BOARD MEMBER ETHERLY: Just to kind of add
21 to the dialogue. Prior to Mrs. Mitten's departure she
22 didn't indicate in any great detail. I will just read
23 for the record her precise wording to the question
24 that she inquired, which was "In Case No. 17393, will
25 you ask how the flats are being connected to each

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1 other and to the addition to form a single building?"
2 And that was the extent of her question.

3 I would tend to agree with Mr. Sher's
4 characterization that the explanation and the
5 testimony that has been provided on the record
6 satisfies my view in terms of the answer to that
7 question, but I agree perhaps with the caution and
8 prudence of the Vice Chair in terms of just making
9 absolutely certain that we have put that question to
10 bed satisfactorily.

11 But without also being able to read Mrs.
12 Mitten's mind, I'm just not sure, Madam Chair, if it's
13 necessary to perhaps invite a deeper written submittal
14 on that.

15 VICE CHAIR MILLER: I'm not inviting it.

16 BOARD MEMBER ETHERLY: Yes.

17 VICE CHAIR MILLER: I'm not seeking it.
18 I think that you're correct. You have addressed the
19 variances. You have answered the question as I
20 understand it. I just wouldn't preclude it. But
21 because she asked that we just -- that she have an
22 opportunity to read the transcript and participate in
23 the decision making, that is why we're postponing it.
24 It's not to look at that particular issue in
25 particular.

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1 BOARD MEMBER ETHERLY: Perhaps just to be
2 on the safe side, recognizing that we may be putting
3 it close in terms of having the transcript back in
4 time, I wouldn't necessarily be opposed to a very
5 short submittal in writing.

6 I mean, there is no -- I was about to say
7 there is no opposition, per se, although we do have
8 some testimony in opposition, but perhaps a short
9 brief statement that just further elucidates this that
10 we could get in with some certainty prior to the
11 December decision making date might be helpful to
12 assuage any concerns that Mrs. Mitten might have.

13 I'm just offering that as a suggestion.
14 I don't know if we have the time to do that prior to
15 the 6th, but I'm open to that. Otherwise, I'm fine
16 with the record staying as it is and we'll just move
17 forward and have the appropriate dialogue with Ms.
18 Mitten at the appropriate time.

19 MS. BROWN: If I could just state for the
20 record that the case that we're relying on for this
21 trellis connection is BZA Case 17331. I believe it
22 may be 332, but the address is 1229 E Street, S.E.

23 VICE CHAIR MILLER: Mr. Mann has a
24 question with respect to the trellis issue since we're
25 getting this all on the record right now anyway.

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1 BOARD MEMBER MANN: Why is the trellis
2 even necessary? You said that it had to be an above
3 ground connection. If there is a door from the new
4 building onto the roof deck of the now combined
5 building, why is the trellis necessary at all?

6 MR. SHER: In my view the trellis was
7 necessary because all that does is connect this
8 building to this building, but it doesn't connect this
9 building to this part of the building, this part of
10 the building to that part of the building. Remember
11 these are four separate houses, buildings, I don't
12 call them houses because they are not all residential.

13 They are four separate buildings with
14 party walls separating them, so we needed to create a
15 connection that brought all five of these into one
16 building and we couldn't do it through the buildings,
17 because the floor plates are so tight on the ground
18 floor. And we couldn't do it at the back, because we
19 needed the residential rec space and because you get
20 into the parking space at the end here.

21 So we wound up doing it on the roof as the
22 best way to do that. It does count on FAR. We talked
23 about that before and it is a part of the building.

24 BOARD MEMBER ETHERLY: This is perhaps as
25 a follow-up to Mr. Mann's question. This is perhaps

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1 getting a little too arcane. So it's not the stair,
2 per se, that creates the connection that satisfies the
3 definition of building for the Zoning Reg purposes,
4 because the stairwell essentially just brings you onto
5 the roof technically of one building.

6 What you're arguing, what you're saying,
7 is it is the trellis that creates the connection to
8 form the single building, because the trellis carries
9 you, essentially carries the communication from the
10 addition across the other four structures.

11 MR. SHER: Yes. It is communication under
12 roof within the building even though it's not a solid
13 roof.

14 BOARD MEMBER ETHERLY: Correct.

15 MR. SHER: But it is a roof.

16 BOARD MEMBER ETHERLY: As per the earlier
17 decision.

18 MR. SHER: From which you can go from one
19 part of the building to the next part of the building,
20 to the next part of the building to the new addition.

21 BOARD MEMBER ETHERLY: Okay. But this
22 stairwell connection simply takes you from the
23 addition up somewhat to the roof of the next building?

24 MR. SHER: It's how you get from the
25 building, the existing building at the northern end of

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1 those four, into the new building.

2 BOARD MEMBER ETHERLY: Okay. There is --

3 MR. SHER: You have to do that, too.

4 BOARD MEMBER ETHERLY: Got you. There is

5 no --

6 MR. SHER: Otherwise, you're just there.

7 BOARD MEMBER ETHERLY: So there is no part

8 of the stairway itself that verges into that first

9 structure there.

10 MR. SHER: Right.

11 BOARD MEMBER ETHERLY: The stairwell

12 itself is technically completely within the addition?

13 MR. SHER: Correct.

14 BOARD MEMBER ETHERLY: Okay. Understood.

15 Thank you.

16 VICE CHAIR MILLER: Okay. I think we all

17 have a good feel for that issue. If you think you

18 need to supplement -- okay, because I think if you

19 referenced the case, I think we can all look back at

20 that case. That's not the main issue before this

21 Board in any event.

22 Okay. Then in which case, are there any

23 other problems with setting this to a December 6th

24 decision?

25 MS. BROWN: No, Madam Vice Chair.

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1 VICE CHAIR MILLER: Okay. Then let's do
2 that.

3 MS. BROWN: Okay.

4 VICE CHAIR MILLER: And the record will be
5 closed today. Thank you very much. Thank you.

6 CHAIRPERSON GRIFFIS: Excellent. Very
7 well. Let's move ahead.

8 MS. BAILEY: Mr. Chairman, I am going to
9 read the next case as it's advertised but with the
10 understanding that there is a request for the variance
11 relief to be changed at some point.

12 And that is Application No. 17392 of Babak
13 Movahedi, pursuant to 11 DCMR section 3103.2, for a
14 variance from the use provisions to allow the
15 conversion of a single-family dwelling to general
16 office use under subsection 350.3. The property is
17 located in the Dupont Circle/R-5-B District at 1700 Q
18 Street, N.W., Square 156, Lot 264.

19 CHAIRPERSON GRIFFIS: Thank you very much.
20 Well, we thought from this morning that we might bring
21 a little bit of clarity for this case and then we have
22 now just received Exhibit No. 36. Let me ask. Is the
23 applicant present today? Is an applicant's
24 representative present today? Not noting any
25 respondents to that, Ms. Ferster, would you mind

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1 coming up?

2 Board Members, I assume that you have now
3 all been given Exhibit No. 36 which indicates that the
4 applicant is unable to be here present and actually
5 has not engaged a new representative or attorney. Let
6 me have everyone introduce themselves.

7 MS. FERSTER: Andrea Ferster for Dupont
8 Circle Citizens Association.

9 CHAIRPERSON GRIFFIS: Excellent.

10 MR. BROWN: Kenneth Brown from Williams
11 and Connolly for six objectors to this application.

12 CHAIRPERSON GRIFFIS: That's like an
13 official title, isn't it, six objectors. Okay.

14 MR. BROWN: It's a much shorter title.

15 CHAIRPERSON GRIFFIS: Yes, indeed.

16 MR. BOWIE: Good morning. Darren Bowie
17 representing ANC 2-B.

18 CHAIRPERSON GRIFFIS: Excellent. Thank
19 you very much. And, Ms. Ferster, you are representing
20 the DCCA. Is that correct?

21 MS. FERSTER: That's correct.

22 CHAIRPERSON GRIFFIS: Okay. Well, there
23 we are. Thanks for showing up. I'm not sure we can
24 do anything with this without the applicant here.
25 Actually, our anticipation was to establish party

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1 status in this case and then have the parties talk to
2 the motion for a postponement and then perhaps even
3 proceeding with the case today. I'm not sure what we
4 will do, but I would be happy to hear two seconds
5 worth of your thoughts.

6 MS. FERSTER: Mr. Chairman, we were not
7 served with the request for a postponement,
8 presumably, because we have not been granted party
9 status application.

10 CHAIRPERSON GRIFFIS: Right.

11 MS. FERSTER: So we would appreciate if
12 you would go ahead and hear our request for party
13 status, because we would like to be on the service
14 list.

15 CHAIRPERSON GRIFFIS: Indeed.

16 MS. FERSTER: The applicant had counsel at
17 the time we filed our request and could have filed an
18 opposition, did not. So, you know, I think it would
19 be advantageous.

20 CHAIRPERSON GRIFFIS: Right.

21 MS. FERSTER: Just to get us as a party.

22 CHAIRPERSON GRIFFIS: Here is my
23 difficulty to just to put -- and make sure you all
24 understand where I'm coming from and I think the Board
25 is, is that if we -- I think we have an opportunity to

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1 establish party status today. We have all the
2 submissions in. It has been in the record for some
3 time.

4 However, I would not be able to have any
5 of you speak to it. We would have to decide based on
6 the submitted record, because if we hold as your case
7 is, well, the applicant had time to submit written,
8 however, they also may have anticipated an ability to
9 have a time for oral presentation or opposition.

10 So I would bar that from anybody and we
11 would move ahead based on the written record. I
12 haven't gone through this in any sort of deliberation
13 with the Board, so we need to hear from everyone here
14 also. But that's the only way I see that we could
15 proceed with this. Frankly, for me personally, I
16 know, this is a frustration just to be caught in this
17 situation for many levels, but not to mention that we
18 have the time to deal with it and it doesn't look like
19 we have.

20 But let me just go down and hear last
21 comments on that without the substance of the
22 establishment of intervenor or party status.

23 MR. BROWN: Again, this is Ken Brown from
24 Williams and Connolly. I guess our position on that
25 is that it seems somewhat ironic, is one word and

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1 that's the word I'll use, for an application for a
2 continuance which may or may not have been granted had
3 Mr. Movahedi been present today. To, in essence,
4 automatically be granted because he sends a letter at
5 the very last moment saying that he scheduled a
6 medical procedure for yesterday and is on painkillers,
7 and so he doesn't show up and that means that his
8 motion is automatically granted in effect.

9 That seems wrong. It doesn't seem fair,
10 especially given the lengths to which we have gone to
11 make ourselves available and present today.

12 CHAIRPERSON GRIFFIS: Okay.

13 MR. BOWIE: Mr. Chairman, the ANC, we have
14 no position on the request for a continuance or we
15 also have no objection to the granting of party status
16 for the other folks who have requested that.

17 CHAIRPERSON GRIFFIS: Yes. Actually,
18 that's not what I want to hear or can hear, but rather
19 we could proceed today with getting into that
20 position. Okay. Comments?

21 VICE CHAIR MILLER: I'm just speaking off
22 the cuff, because this is a new situation for us, this
23 application, that the applicant is not here. We
24 didn't anticipate that. I'm just wondering if we can
25 hear arguments regarding party status from these three

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1 individuals since they are here and since they have
2 put themselves out to be here.

3 CHAIRPERSON GRIFFIS: But doesn't that
4 prejudice the applicant for not being here?

5 VICE CHAIR MILLER: Well, what I was going
6 to say is I'm just throwing this out.

7 CHAIRPERSON GRIFFIS: Sure, sure.

8 VICE CHAIR MILLER: And if you disagree,
9 you know -- and then given if we do grant the
10 postponement, which is I think likely, that there is
11 enough time that the applicant could read the
12 transcript and submit a written response. It's just
13 an option.

14 CHAIRPERSON GRIFFIS: So then we would
15 take up -- so we could conceivably grant temporary
16 party status until the applicant had time to brief the
17 issue?

18 VICE CHAIR MILLER: Well, we might be able
19 not to rule. No, we wouldn't rule on that today but
20 we could rule on it after we get a response from the
21 applicant and maybe in advance of the hearing, so that
22 they could serve then papers on the parties.

23 MR. BROWN: Mr. Chairman, if I may. The
24 only additional point that we would make is that any
25 prejudice that the applicant would experience in this

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1 case, it's so plainly self-inflicted that we believe
2 it shouldn't weigh heavily in the Board's calculation.

3 CHAIRPERSON GRIFFIS: I don't want to walk
4 too far down the path of equities here, but any other
5 opinions on proceeding today on granting party status?
6 Any opinion?

7 VICE CHAIR MILLER: Mr. Chairman, it will
8 also give us an opportunity to ask questions which we
9 don't have if we just read the pleadings and decide on
10 the pleadings.

11 CHAIRPERSON GRIFFIS: Pardon? Say that
12 again. Say that again.

13 VICE CHAIR MILLER: Again, I'm saying we
14 have the parties before us and we have an opportunity
15 to ask questions, whereas if we just -- I don't know.
16 If one option was just to decide on the papers, we
17 wouldn't be able to follow-up with questions like we
18 normally do.

19 CHAIRPERSON GRIFFIS: That's correct.
20 Right. That's the way I see it framed for today just
21 in terms of utilizing our time. We essentially close
22 the record now on the written submissions, which is no
23 one -- putting an application for party status in does
24 not ensure you an opportunity to orally brief the
25 Board. That is it. We can decide specifically and

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1 directly and only on the written submission.

2 And so my point is that with the applicant
3 not here, however all the requests for party status
4 are here, that we could seal the record, essentially,
5 for our preliminary matters, take up the party status.
6 We would somewhat be hindered perhaps if we had
7 questions or something of that nature. However, I
8 think substantively we would not have anybody present
9 today speak to their application and then try and make
10 decisions based on that.

11 Otherwise, essentially, what you're
12 requesting is that we make a decision today, but keep
13 the record open for the applicant to object to our
14 decision.

15 VICE CHAIR MILLER: No, no, that's not
16 what I'm saying. I'm saying we let these parties,
17 these individuals that are seeking party status, speak
18 to the party status question. We leave the record
19 open for the applicant to respond in writing.

20 CHAIRPERSON GRIFFIS: Oh, I see, not make
21 a decision today.

22 VICE CHAIR MILLER: No, and then we
23 decide.

24 CHAIRPERSON GRIFFIS: We might as well do
25 that some other time.

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1 VICE CHAIR MILLER: We decide before the
2 case goes to hearing and then they would be served
3 with the papers.

4 CHAIRPERSON GRIFFIS: I see. Yes, I do
5 see. It's more complicated. Okay. Any other
6 comments, questions? Mr. Etherly?

7 BOARD MEMBER ETHERLY: Granted, it most
8 certainly is an unusual circumstance, but perhaps
9 ultimately speaking not unheard of where we have had
10 difficulties arise at the last minute with an
11 applicant or, you know, any number of other potential
12 parties.

13 All that being said, I am perhaps inclined
14 to agree with the Chair in that, I think, if we were
15 to move forward today, I think the pleadings are
16 substantial enough that we can deal with the questions
17 of party status today and get that resolved and have
18 some productive outcome for the time of the Board and
19 the parties that are here today.

20 I think it would be, from the standpoint
21 of due process, probably the only option that we would
22 have to proceed today. I tend to agree that perhaps
23 the Vice Chairman's suggestion, I, too, understand it.
24 I definitely understand it. It perhaps is a little
25 more complicated than, I think, we would need to be.

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1 I would just as soon deal with the pleadings that we
2 have, resolve the party status issue today and then
3 kind of just go from there in terms of setting the
4 next date.

5 CHAIRPERSON GRIFFIS: Excellent. I
6 absolutely agree. Ms. Miller?

7 VICE CHAIR MILLER: I don't know if you
8 would just -- I mean, our other option is just to
9 postpone and deal with everything --

10 CHAIRPERSON GRIFFIS: That's right, and do
11 absolutely everything later.

12 VICE CHAIR MILLER: -- the next date.

13 CHAIRPERSON GRIFFIS: That's right.

14 VICE CHAIR MILLER: Yes.

15 CHAIRPERSON GRIFFIS: Which means that the
16 folks that are here today that may be granted party
17 status at some time would not be served any sort of
18 additional filings. As was mentioned, even the
19 request for a postponement was not, obviously, served
20 as it should not have been to these individuals.
21 Communication would be lacking, I think.

22 This is what I propose, that we move ahead
23 today with the written filings that we have. I want
24 to ask some specific questions of a technical nature
25 of the filings, but will not have any substantive

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1 responses by those that are here today in terms of
2 briefing their input, I mean, their submissions and
3 then we could make decisions based on that.

4 Well, let's digest that for a quick second
5 and, I think, I'm going to ask the questions that
6 won't get us into too much of a difficulty. But we
7 have several requests for party status, obviously, and
8 Mr. Brown has indicated that he is representing the
9 six in opposition, the group of six. Who are those?

10 MR. BROWN: Right. That's John Evans,
11 David Mallof, Alaire Rieffel, Michael Trister, Nancy
12 Campbell and Ralph Johanson.

13 CHAIRPERSON GRIFFIS: Mike Johanson?

14 MR. BROWN: Ralph Johanson.

15 CHAIRPERSON GRIFFIS: Ralph Johanson?

16 MR. BROWN: Yes, sir, not Ralph Johnson.

17 It was Michael Trister.

18 CHAIRPERSON GRIFFIS: Yes, indeed. He had
19 not put in an individual request for party status. Is
20 that correct?

21 MR. BROWN: I believe that's incorrect.

22 CHAIRPERSON GRIFFIS: Do I have it?

23 MR. BROWN: I believe that's incorrect
24 actually.

25 CHAIRPERSON GRIFFIS: Oh, it is.

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1 MR. BROWN: The other one is misspelled.

2 CHAIRPERSON GRIFFIS: Exhibit 24. Oh, got
3 you. It's not Ralph. It's Mike. Got you. Johanson,
4 Johanson.

5 MR. BROWN: Right. Michael Trister and
6 Nancy Campbell are a married couple and they submitted
7 one joint application because they own the same
8 property.

9 CHAIRPERSON GRIFFIS: Aye-aye-aye. Let me
10 ask you a quick question from OAG, if in their
11 opinion, would it be possible for the Board to
12 continue with some limited questions on clarification
13 of the filings that we have today, which may get into
14 some of the substantive elements of party status, and
15 then make decisions today.

16 Is it your opinion that this would deny
17 due process of the applicant?

18 MS. GLAZER: Well, Mr. Chair, I would
19 recommend, if you're going to continue the case, that
20 you take everything up at the continued date of the
21 hearing, including the party status requests.

22 CHAIRPERSON GRIFFIS: Why?

23 MS. GLAZER: Because I think that it would
24 be a denial of due process or could be for the
25 applicant. The applicant would not have an

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1 opportunity to comment on the applications or make any
2 argument or submit any evidence in opposition to the
3 request.

4 VICE CHAIR MILLER: What about the
5 proposal that I threw out whereby they would have an
6 opportunity today and the applicant could respond in
7 writing?

8 MS. GLAZER: I don't think that that would
9 necessarily solve the due process problem.

10 CHAIRPERSON GRIFFIS: Good. I think it
11 may be the consensus of the Board that we should
12 proceed today and, quite frankly, I don't have any
13 difficulty saying it on the record. If it is a
14 problem that we have created, then we will move to
15 cure that problem when it's evidenced to us that a
16 problem was created, but I'm not so convinced.

17 I think we always show undue caution in
18 terms of preserving process and due process,
19 obviously, of applicants and participants. And in
20 this particular case, I think that there is such
21 sufficiency of submissions that we should move ahead
22 with it, at this time, and if the applicant has
23 concerns, they can be raised at later times.

24 So with that, let's get directly to the
25 questions. Mr. Brown, my first question to you as you

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1 are representing the six request for party -- they
2 have all indicated in their individual submissions
3 certain elements arising from noise, traffic, the
4 commercialization, let's say the violations or what it
5 might do to an R-4/R-5 Zone.

6 The question is, first of all, you are
7 representing them all as a single entity. Is that
8 correct?

9 MR. BROWN: No, not a single entity. It's
10 a mutual representation of six individuals.

11 CHAIRPERSON GRIFFIS: Okay. Right. But
12 it would create one party in terms of all those
13 individuals have those same issues. It's one party in
14 opposition that you would be representing.

15 MR. BROWN: Their interests are certainly
16 100 percent aligned.

17 CHAIRPERSON GRIFFIS: Okay.

18 MR. BROWN: And to the extent that the
19 concern is whether there would be duplicative
20 argumentation or anything like that, the answer is
21 absolutely not.

22 CHAIRPERSON GRIFFIS: No, the concern is
23 this and it goes to even a broader question beyond
24 your six, is that part of the test of establishing
25 party status and the most critical, I find, is answers

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1 to the question 6 on our application, and that is how
2 is the individual unique or distinctly impacted or
3 affected outside of the general public? And if you
4 are telling me that you are representing six parties,
5 they all have the exact same concerns, I have to say
6 well, the uniqueness is kind of lost there.

7 However, in one entity, there is that
8 aspect of uniqueness in representing those issues.
9 However, before you answer that one, you then need to
10 tell me why or just speak briefly to the aspect of how
11 you are differentiating then from the interests of
12 DCCA and Ms. Ferster's representation and how those
13 elements are not identical or duplicative or lacking
14 of unique stature.

15 MR. BROWN: Well, as individuals, they are
16 -- my clients certainly are uniquely situated as
17 compared to the general public. They are all
18 neighbors on the same block as 1700 Q Street and, as
19 such, they would suffer disproportionately as compared
20 to the general public.

21 CHAIRPERSON GRIFFIS: Yes.

22 MR. BROWN: From the relief sought by the
23 applicant in this case. As compared to each other,
24 they are -- can I say that they are somehow unique
25 from each other? I mean, they are, you know, also

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1 located in different locations along the block, but
2 the answer is by and large the harms that they would
3 suffer, should the application be granted, are similar
4 to each other, but not similar to the public at large.

5 And as compared with the DCCA, the DCCA as
6 an entity is not a neighbor, per se, of the applicants
7 and if anything, the harm that my clients would suffer
8 would be greater than the DCCA's, given that the
9 physical proximity of my clients to the applicants.

10 CHAIRPERSON GRIFFIS: Greater or
11 different?

12 MR. BROWN: Well --

13 CHAIRPERSON GRIFFIS: I'm not sure how we
14 measure the greater.

15 MR. BROWN: Yes, it's a difficult question
16 to answer, but, I think, when you are dealing with
17 somebody who is, you know, almost directly across the
18 street from the subject property --

19 CHAIRPERSON GRIFFIS: Understood.

20 MR. BROWN: -- I think you have a strong
21 argument that greater is appropriate, is the
22 appropriate term. I would also note that, you know,
23 my clients, given their unique situations compared to
24 the public at large, have chosen to retain this law
25 firm to represent them and I think that they should be

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1 afforded their choice of counsel.

2 CHAIRPERSON GRIFFIS: You mean we should
3 grant because they picked your law firm? Is that what
4 you said? No, I'm just kidding. Okay. Well said.
5 And I think that's very clear. Any follow-up
6 questions?

7 MR. BROWN: Should I not answer that one?

8 CHAIRPERSON GRIFFIS: Yes. Any follow-up
9 from the Board?

10 VICE CHAIR MILLER: Yes.

11 CHAIRPERSON GRIFFIS: Ms. Miller?

12 VICE CHAIR MILLER: And this is probably
13 addressed in the pleadings, but if you could just
14 highlight it right now?

15 MR. BROWN: Certainly.

16 VICE CHAIR MILLER: You are referring to
17 unique ways in which your clients are affected and
18 that they are different from the public and they are
19 different from DCCA. What are those unique ways in
20 which they are affected?

21 MR. BROWN: Well, my clients believe, and
22 we think with good basis, that should the application
23 be granted, everything from the amount of noise to the
24 amount of pedestrian traffic to more importantly the
25 commercialization of their very block would be a very

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1 real end very likely possibility and, to that extent,
2 they are being residents of that block. They are
3 plainly situated in a different way from the public at
4 large.

5 VICE CHAIR MILLER: And how many homes are
6 on this block? This is six out of how many?

7 MR. BROWN: I confess that I don't know
8 the exact answer to that question, but the answer is
9 also complicated by the fact that on Wine and Q Street
10 are single-family residences by and large, but on the
11 same block on the 17th Street side, there are
12 apartment buildings. I'm informed that there are 31
13 single-family residences lining Q Street between 17th
14 and 18th. All right. But then, again, on that block
15 there are apartment buildings and I'm not sure how
16 many.

17 CHAIRPERSON GRIFFIS: Okay. I don't think
18 we need to do a housing count here.

19 VICE CHAIR MILLER: No, I just wanted to
20 get a context of whether these six are different from
21 the rest of the homes on the block. They are closer
22 or whatever or, you know.

23 MR. BROWN: Well --

24 CHAIRPERSON GRIFFIS: They are all
25 represented by his firm. That's interesting.

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1 MR. BROWN: Well --

2 VICE CHAIR MILLER: But we don't have any
3 other homes on this block coming in.

4 CHAIRPERSON GRIFFIS: We have what we
5 have.

6 VICE CHAIR MILLER: We have the six. Yes.

7 MR. BROWN: Well, five of them are within
8 200 feet.

9 VICE CHAIR MILLER: Okay.

10 MR. BROWN: Not all of them are.

11 CHAIRPERSON GRIFFIS: Right. I think we
12 got it. Anything else? Any other quick questions?

13 VICE CHAIR MILLER: Thank you.

14 CHAIRPERSON GRIFFIS: Mr. Meehan, you had
15 put in a request for party status. Is that correct?

16 MR. MEEHAN: (Speaking off mike.) I'm --

17 CHAIRPERSON GRIFFIS: Oh, I'm sorry.

18 COURT REPORTER: Please, step up to the
19 mike?

20 CHAIRPERSON GRIFFIS: Yes, that's Exhibit
21 No. 28. Okay. And you are the Single Member
22 Commissioner of 2B-03. Is that correct?

23 MR. MEEHAN: That's correct.

24 CHAIRPERSON GRIFFIS: And if you wouldn't
25 mind just stating your name for the record?

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1 MR. MEEHAN: My name is Bob Meehan, also
2 known as Robert S. Meehan, my signature. And most of
3 the participants are also in my Single Member
4 District, but that's not why I'm here. As I said in
5 my letter, we had the disadvantage of not knowing how
6 the case would be reviewed by the ANC, so I wanted to
7 establish the possibility of status depending on what
8 the outcome of the ANC would be.

9 CHAIRPERSON GRIFFIS: But status isn't
10 established on whether the ANC is fully taking up your
11 position or not. I mean, you are still represented by
12 the ANC and the ANC is automatically a party in the
13 case. So I'm not sure what you are trying to
14 preserve.

15 BOARD MEMBER ETHERLY: I think, if I
16 understand, basically, you were trying to do a
17 placeholder. You were trying to make sure that you
18 had some posture here in the case, because the ANC had
19 not taken action, at that point.

20 MR. MEEHAN: That's correct. And my
21 interest was amplifying the ANC's position regarding
22 the Comprehensive Plan for which we have been spending
23 five or six months and as I saw our report, the report
24 went really to the test of the variances and special
25 exceptions.

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1 BOARD MEMBER ETHERLY: Okay.

2 MR. MEEHAN: But did not go to the plan.
3 So I thought if it's an interest to the BZA, I would
4 be happy to amplify our comments in terms of the plan.

5 CHAIRPERSON GRIFFIS: Absolutely. And I
6 think there's a couple of ways you can do that, but
7 let me just get clarification in terms of your request
8 for party status. Now that the ANC has taken a
9 position, are you still maintaining that you would
10 like individual party status in this case or are you
11 prepared to present testimony as a person in this
12 case, in which venue you could address those types of
13 issues?

14 MR. MEEHAN: Well, I'm a novice at this.
15 It took me enough time just to try to figure out the
16 Comprehensive Plan.

17 CHAIRPERSON GRIFFIS: Sure.

18 MR. MEEHAN: Clearly, my interests could
19 be met if the chair of the ANC would -- is allowed to
20 amplify his comments beyond the report to incorporate
21 the Comprehensive Plan.

22 CHAIRPERSON GRIFFIS: Well, that's
23 something that could possibly take place. But let me
24 be perhaps more clear. There is two ways. There are
25 numerous ways, but there are two specific ways that

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1 one can participate in a case before the BZA, not as
2 an applicant, and that would be as a party in the case
3 and that's what we're trying to establish here who the
4 parties are. And parties have opportunities and
5 responsibilities.

6 They are a full and equal participate as
7 an applicant is before this Board. So they are able
8 to conduct cross examination, do submissions and
9 filings and motions. They are also obligated to do
10 filings and briefings as the Board requires. And you
11 are responsible for presenting an entire case and your
12 case might be in opposition to the application or one
13 can come in and, as a person, provide testimony,
14 evidence for the Board. Just come, take your three
15 minutes and give information to the Board of which
16 goes into the record and the Board deliberates on.

17 On those two levels, which way are you
18 anticipating that you would like to participate?

19 MR. MEEHAN: I think that went over my
20 head.

21 BOARD MEMBER ETHERLY: Well, here is where
22 I think we are, Mr. Chair. If I understand the ANC's
23 submittal at Exhibit No. 30, Mr. Bowie is, as the
24 Chair of ANC-2B, the designated representative of the
25 ANC, correct?

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1 MR. MEEHAN: Yes.

2 BOARD MEMBER ETHERLY: So at the point
3 where the ANC would give or provide its presentation
4 to the Board, Mr. Bowie would be that representative.
5 You were hopeful that by putting in a placeholder
6 request there is an opportunity for the ANC to bring
7 additional comments forward regarding the
8 Comprehensive Plan, which aren't necessarily detailed
9 in your actual written submittal.

10 MR. MEEHAN: I see. The discussion at the
11 ANC --

12 BOARD MEMBER ETHERLY: Well, I --

13 MR. MEEHAN: All right.

14 BOARD MEMBER ETHERLY: Yes, let's hold off
15 on that.

16 MR. MEEHAN: But the point is is that
17 because of the extensive work I've done on the
18 Comprehensive Plan and that there seems to be no other
19 body that would be focusing on the Comprehensive Plan
20 as it affects our area and how this and the process --

21 CHAIRPERSON GRIFFIS: So you want to get
22 that information in about the Comprehensive Plan?

23 MR. MEEHAN: Yes.

24 CHAIRPERSON GRIFFIS: Do you think you can
25 do that just in providing testimony or do you want to

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1 cross examine the applicant, witnesses? Do you want
2 to present an entire case?

3 MR. MEEHAN: I think I can do that just by
4 providing testimony.

5 CHAIRPERSON GRIFFIS: Okay. Good. I
6 think that's pretty clear.

7 MS. FERSTER: Mr. Chair?

8 CHAIRPERSON GRIFFIS: Yes.

9 MS. FERSTER: Let me just say on behalf of
10 DCCA that DCCA to the extent that Mr. Meehan wishes to
11 be part of and to the extent that you grant DCCA party
12 in opposition status, we would intend to present Mr.
13 Meehan's testimony as part of our opposition case.

14 CHAIRPERSON GRIFFIS: Okay.

15 MS. FERSTER: That was our plan.

16 CHAIRPERSON GRIFFIS: Good. And just for
17 absolute clarity in every case, of course, the Office
18 of Planning also, as part of their analysis, goes to
19 the Comprehensive Plan. So there are actually
20 numerous ways of which the Board is given information
21 in terms of compliance with the Comprehensive Plan.
22 But we look forward to seeing that and we'll take this
23 then as written submission, as testimony. We will
24 call you when we call persons to provide testimony.
25 And then, of course, if there is a party that is

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1 established here that wants to incorporate you as a
2 witness, then so be it. That's the way that that case
3 presentation will be formulated.

4 Okay. Any other questions,
5 clarifications? All right. Then we can move on to
6 DCCA. Is there any questions from the Board regarding
7 their submission? Ms. Ferster, you have -- well, let
8 me ask, first of all, there it is. Any questions,
9 clarifications? Okay. It's Exhibit No. 27.

10 BOARD MEMBER ETHERLY: I have no
11 questions, Mr. Chair.

12 CHAIRPERSON GRIFFIS: Okay. The
13 importance as I look at establishing party status and
14 one goes to again my always duplicative comments of
15 party status applications is the answer to the last
16 question, No. 6, in the application and that is how is
17 a person or an entities interests significantly or
18 distinctly, distinctiveness is really what we're
19 getting to. And when you look at DCCA, I think it's
20 very clear in terms of their filing and I know the
21 Board is familiar with its purpose. And it is in
22 order to protect and preserve the traditional
23 residential character of Dupont Circle neighborhood.

24 It comes with a different perspective as
25 I am knowledgeable of the group and in these filings,

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1 specifically, and their representation or broader
2 spectrum with specific issues that go and are
3 attendant directly to these aspects in this
4 application. Are there any clarifying questions that
5 is required then? Yes, Ms. Miller?

6 VICE CHAIR MILLER: I have a couple. How
7 does DCCA get authorization from its members to take
8 a position or participate in a case like this?

9 MS. FERSTER: My understanding is DCCA's
10 board is elected to make these decisions. Now, to the
11 extent that they also have input into specific
12 decisions, but the board has inputted specific
13 decisions by its membership, I'm unclear. Now, DCCA's
14 president is here and he would be happy to answer that
15 question, I'm sure.

16 CHAIRPERSON GRIFFIS: Yes, let's have
17 that.

18 MR. GLEW: Mr. Chairman and Members of the
19 Board, for the record, my name is Bill Glew. I'm the
20 President of the Dupont Circle Citizens Association.
21 Ms. Ferster has accurately described our process. The
22 board is elected by the membership at an annual
23 meeting. Our bylaws provide that the board is
24 empowered to act on behalf of the association.
25 Specifically, the bylaws authorize the organization to

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1 appear before Government agencies in matters exactly
2 such as this one.

3 And, you know, we are a small political
4 organization. We get a lot of input from members on
5 an informal basis. We didn't -- you know, we don't --
6 it's not our normal practice to do a plebiscite on
7 something like this, but I can tell you that there has
8 been a lot of interest and unlike in some other issues
9 really only a single point of view expressed as to
10 what we should do here.

11 CHAIRPERSON GRIFFIS: But in going forward
12 on this case, specifically in the formulation of the
13 position and the arguments in the case presentation,
14 is that something that the board would come together
15 and actually have a formal motion and a vote for? Are
16 you designated to represent based on prior
17 discussions?

18 MR. GLEW: Yes, yes. I mean the board
19 voted to retain Ms. Ferster to advise us in this
20 matter and to -- and I am the board's authorized
21 representative, the organization's authorized
22 representative and have full authority to act on
23 behalf of the organization and to collaborate with
24 other entities that you may grant party status to to
25 present our point of view to the Board.

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1 CHAIRPERSON GRIFFIS: Okay. Follow-up?

2 VICE CHAIR MILLER: Thank you very much.
3 I have just a question about another point in the
4 application for party status with respect to
5 requesting, this is maybe separate, but it's in that
6 application, individual party status to Alexis Rieffel
7 and Patricia Steel.

8 MS. FERSTER: The individuals are prepared
9 to proceed, to basically proceed as members of DCCA if
10 you grant DCCA party status.

11 VICE CHAIR MILLER: Thank you.

12 CHAIRPERSON GRIFFIS: But isn't Rieffel,
13 is that how you say it? I'm sorry. R-I-E-F-F-E-L?

14 MS. FERSTER: Yes.

15 CHAIRPERSON GRIFFIS: Rieffel. Mr. Brown,
16 aren't you representing her?

17 MR. BROWN: There is a husband and a wife
18 and right, Alaire Rieffel is the wife and I am
19 representing her.

20 CHAIRPERSON GRIFFIS: Alaire.

21 MR. BROWN: Alexis Rieffel is the husband
22 and he originally was in Ms. Ferster's camp.

23 MS. FERSTER: But I said Mr. Rieffel has
24 indicated that if DCCA is granted status as party in
25 opposition, he will not seek separate individual

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1 status.

2 CHAIRPERSON GRIFFIS: Fascinating.

3 MR. BROWN: And I confess that the reasons
4 behind this are not completely clear to me, either,
5 but it seems like it's not an issue given this. May
6 I make one more point?

7 CHAIRPERSON GRIFFIS: Well, sure.

8 MR. BROWN: It's just that we have worked
9 closely with Ms. Ferster and with the DCCA throughout
10 these proceedings so far. We have planned a
11 coordinated presentation before this Board as well, so
12 there would be no duplicative questioning of witnesses
13 or anything of the kind. I just wanted to make sure
14 that the Board was aware of that.

15 CHAIRPERSON GRIFFIS: Good. That's
16 appreciated. That is excellent comments. Obviously,
17 that's the way we would proceed and the direction
18 would be pretty stern in terms of that and any sort
19 of, you know, recrossing on the same issues or
20 questions that doesn't serve --

21 MR. BROWN: We understand and appreciate
22 that.

23 CHAIRPERSON GRIFFIS: Okay. Well, I'm not
24 sure of all those, that family household and which
25 side they are on, but nonetheless, I think it's pretty

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1 clear the representation and that's the other aspect
2 of, in all sincerity, an entity formulating and moving
3 ahead and how many members deep it is. Well, frankly,
4 that's up to you in terms of how you want to proceed
5 in getting additional information.

6 DCCA, I think, is representing, not think,
7 I know it is representing the membership and those
8 that reside in the general geography. Okay. Any
9 other questions, clarifications? Very well. I would
10 like to go then in reverse order. I would like to
11 take up the request for DCCA as represented by Ms.
12 Ferster and I would ask for anyone on the Board
13 present today if they have any opposition to granting
14 party status to voice that, at this point.

15 BOARD MEMBER ETHERLY: No opposition, Mr.
16 Chair.

17 CHAIRPERSON GRIFFIS: Excellent. Thank
18 you.

19 VICE CHAIR MILLER: No opposition.

20 CHAIRPERSON GRIFFIS: Mr. Mann, any
21 opposition?

22 BOARD MEMBER MANN: No, I'm not opposed to
23 that.

24 CHAIRPERSON GRIFFIS: Very well. Mr. Moy
25 or Ms. Bailey, if you are aware, I would take it as a

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1 consensus of the sitting Members, at this point, to
2 grant party status to the Dupont Circle Citizens
3 Association, based on their written submission,
4 Exhibit No. 27. And do you have any additional
5 information on that in terms of other Members that are
6 not present or Zoning Commission Member?

7 MS. BAILEY: I do not, Mr. Chairman. Are
8 you speaking specifically of Mrs. Mitten, whether she
9 left?

10 BOARD MEMBER ETHERLY: Mr. Chair, I'll
11 just note for the record as we are potentially chasing
12 down some additional paperwork that I will just state
13 very clearly that I believe the written submission and
14 the written submission only of DCCA more than
15 satisfactorily rose to the level of addressing the
16 party status requirements as outlined in our Zoning
17 Regulations.

18 I just make that statement because I am
19 sensitive to the concern that was expressed by OAG
20 regarding our moving forward in the absence of a
21 representative from the applicant and, of course, the
22 applicant himself. So I'll just note for the record
23 that I believe the written submittal, which was in the
24 file in a timely fashion, was indeed more than
25 sufficient on the part of DCCA to satisfy the party

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1 status requirements.

2 CHAIRPERSON GRIFFIS: Right. Exhibit No.
3 27.

4 BOARD MEMBER ETHERLY: Correct, that would
5 be Exhibit No. 27.

6 CHAIRPERSON GRIFFIS: Good. I absolutely
7 agree with that.

8 VICE CHAIR MILLER: I would agree with
9 that also.

10 CHAIRPERSON GRIFFIS: Okay. Just for
11 clarification, I was aware that there was absentee
12 votes on the party status, I believe, from Ms. Mitten,
13 the Zoning Commissioner and I don't know if Mr. Moy
14 found those or not, but we have no opposition, at this
15 point, to granting from the four seated Members and
16 one or two, if there is any additional votes on that.

17 MR. MOY: Yes, sir, Mr. Chair. Ms. Mitten
18 has, in her absentee ballot, voted to approve the
19 party status for the Dupont Circle Citizens
20 Association.

21 CHAIRPERSON GRIFFIS: Very well. Then we
22 will take that as a consensus of the entire Board to
23 grant party status, at this time, to DCCA. Let's move
24 ahead then to the group. And, Mr. Brown, how would
25 you like this group characterized?

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1 MR. BROWN: We have referred to ourselves
2 as objectors for convenience purposes more than
3 anything else and if the Board is comfortable with
4 that, that's fine.

5 CHAIRPERSON GRIFFIS: All right. Let's
6 take any other concerns, deliberations on that. Board
7 Members?

8 BOARD MEMBER ETHERLY: Mr. Chair?

9 CHAIRPERSON GRIFFIS: Yes?

10 BOARD MEMBER ETHERLY: I would be in
11 support of the objectors' application for party
12 status. I think the written submittals, in my
13 opinion, also very adequately lay out, in a
14 satisfactory manner, the requirements for party
15 status. I think it is important to note that perhaps
16 if we were looking at these individual members, I
17 might perhaps be somewhat more aggressive in terms of
18 probing some of the party status questions that were
19 explored and some of the questions, the Q&A.

20 What convinces me here, Mr. Chair, and I'm
21 not taking language directly from the party status
22 portion of our regulations, but where we have an
23 aggregation, if you will, and I'm not trying to create
24 a new test here, but I am somewhat compelled when I
25 see a number of residents come forward, go through the

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1 organizational steps of securing counsel in the hopes
2 of arguing their particular case.

3 Once again, that is not a ground for party
4 status anywhere in our regulation, but I do find that
5 to be a compelling argument in terms of looking at the
6 formal requirements of party status. As everyone is
7 aware and as my colleagues are aware, of course, when
8 we look at the environmental, economic, social and
9 other impacts that are likely to affect a potential
10 party, individual or that an individual's property, I
11 am moved by the fact that there is a collection of
12 persons here.

13 I think the Chairman's question earlier on
14 to the representative of the objectors was, indeed,
15 the appropriate one. Because I perhaps was initially
16 struggling with what sets your group apart from any
17 other concerns that may be raised by the ANC or
18 potentially by DCCA or any other organization that
19 would argue. But where there is a perhaps critical
20 massing of residents, adjacent property owners, I do
21 find that to be a compelling ground for a favorable
22 outcome as far as the party status application of the
23 objectors, Mr. Chair. So that's my ground for being
24 supportive of that motion.

25 CHAIRPERSON GRIFFIS: Good. Thank you

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1 very much. And I think I absolutely agree with you.
2 I looked at it a little bit differently in terms of
3 the aggregate and I think the group, I mean,
4 obviously, makes a stronger and viable application.
5 And as I see it, as we are looking at all of these
6 together, which is again what we would need to do, I
7 think we have the micro-focus, the circle of impact
8 for this application is represented by Mr. Brown and
9 the parties.

10 The larger circle then goes to DCCA and
11 the ANC, and I think they are distinct in terms of the
12 focus and the issues. If they all combine in a
13 cohesive case presentation, that's fine. But I think
14 the whole point and purpose of this is to make sure
15 that all aspects are adequately represented, factually
16 presented for the Board to establish a full record on
17 that case and, therefore, be able to adequately
18 deliberate. I absolutely agree with you, Mr. Etherly,
19 and I do support the granting of party status to the
20 opposition party represented by Mr. Brown. Others?
21 Ms. Miller, Mr. Mann?

22 VICE CHAIR MILLER: I would concur in
23 supporting party status. I think that this group of
24 six are differently impacted than those represented by
25 the DCCA and the ANC and the general public, but not

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1 necessarily from one another. And in that they are
2 going to be presenting their case as a group, as one
3 party, I think they definitely should have party
4 status in this case.

5 BOARD MEMBER MANN: I would also support
6 the request.

7 CHAIRPERSON GRIFFIS: Excellent.

8 BOARD MEMBER ETHERLY: And I'll note, Mr.
9 Chair, just as I did in the case of the prior party
10 status application for DCCA, that I also felt that the
11 written submittals on the part of the six objectors
12 were very complete and I am basing my decision
13 entirely on the written record that was submitted with
14 regard to that application. I thought it was very
15 comprehensive, both in terms of the individual
16 submittals and then, of course, the overall submittal
17 submitted by counsel.

18 CHAIRPERSON GRIFFIS: Good. Mr. Moy, any
19 additional information on this?

20 MR. MOY: Yes, sir, Mr. Chair. We also
21 have an absentee ballot from Carol Mitten granting the
22 approval of party status for Kenneth Brown or the
23 objectors in this case.

24 CHAIRPERSON GRIFFIS: Very well. We'll
25 take it as a consensus of the Board then and

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1 establish, Mr. Brown, your representation of
2 opposition individuals as a party in the case. I
3 don't see any other requests for party status, unless
4 I have missed something horribly, which can be brought
5 to my attention right now.

6 So those that are here today, well, there
7 it is. We have read all the names. The ANC, of
8 course, is automatically a party in the case and we
9 don't establish that. Okay.

10 MR. BROWN: Mr. Chairman?

11 CHAIRPERSON GRIFFIS: Yes?

12 MR. BROWN: May I just make one point?

13 CHAIRPERSON GRIFFIS: Sure.

14 MR. BROWN: Forgive me if this is
15 unnecessary, but I just want to make it clear that
16 technically the objectors are being represented by my
17 firm, Williams and Connolly and not by me personally.

18 CHAIRPERSON GRIFFIS: Oh, right. Exactly.

19 MR. BROWN: Thank you.

20 CHAIRPERSON GRIFFIS: I didn't go to law
21 school. I don't get all those formalities right. But
22 I appreciate that. Okay. Let's move ahead then. We
23 do have a request for postponement and I'll hear some
24 comments to it if people need to speak to it. But the
25 bottom line is the applicant is not here today. So

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1 I'm not sure how we get over that threshold. I don't
2 know that everyone here understands or is aware of the
3 recent filing, but let me ask those that are now
4 parties and the ANC. Did you receive Exhibit No. 36
5 this morning as you were sitting here?

6 MR. BROWN: Only this morning, yes.

7 CHAIRPERSON GRIFFIS: Indeed. And that's
8 when we did.

9 MR. BOWIE: I have not. I did not receive
10 it, Mr. Chair, although I did speak with Mr. Movahedi
11 yesterday and he did indicate to me that he would be
12 requesting a postponement on these grounds.

13 CHAIRPERSON GRIFFIS: Okay. Well, for the
14 benefit of everyone --

15 MS. FERSTER: And Mr. Moy did share it
16 with us this morning. Thank you, Mr. Moy.

17 CHAIRPERSON GRIFFIS: Okay. For the
18 benefit of everyone else here, the letter is addressed
19 to the Board and it says unfortunately, that the
20 applicant would not be able to appear as he had a
21 recent injury and is having some procedure and is on
22 painkillers. Attached to it is something from the
23 hospital and something from the doctor, prescription
24 and there we have it. Any other additional comments
25 on that? I don't think we need any.

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1 Obviously, I don't think we can proceed
2 today without the applicant present. So we need to
3 start to establish the next hearing on this. Of
4 course, the Board is somewhat patient in a
5 postponement under the circumstances. Whether it
6 would have that amount of patience in a similar
7 situation on a second time, I'm not so sure or clear.
8 It is an awful lot of scheduling, obviously, as you
9 all are aware and the Board is aware in terms of our
10 time in getting through cases.

11 That being said, I have looked diligently
12 this morning, starting last night, to find a time
13 where this can fit in very quickly. It does not serve
14 us or, I'm sure, all of you to put this off great
15 lengths of time. Our schedule, of course, and our
16 filing requirements is set months in advance. I have
17 just approved a schedule well into April, which fills
18 all of our Tuesdays.

19 However, I do not and cannot see pushing
20 this off that far and would like to set this for the
21 first case in the afternoon of January 17th. Of
22 course, I would ask first if there was any difficulty
23 from the applicant's scheduling. That they are not
24 being present, I cannot do that. I'm going to ask
25 that of those parties and the ANC who are here today

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1 noting full well that the understanding that I'll hear
2 any major difficulties.

3 There are a lot of people that need to be
4 coordinated with this, so that there might be some
5 difficulty does not mean that we would reschedule it.
6 And also, as you take into weighing those comments on
7 the 17th, the next date from the 17th I do believe will
8 be in, Mr. Moy, you can correct me I think it is well
9 into, the first few weeks of April. So that being
10 said.

11 MR. BROWN: January.

12 MR. BOWIE: January is acceptable to the
13 ANC.

14 MS. FERSTER: January is acceptable to
15 DCCA.

16 CHAIRPERSON GRIFFIS: Okay. I know it's
17 appeals. I mean, it's fine. Okay. Moving ahead
18 then, we have set the 17th first in the afternoon.
19 Any other procedural questions then from those present
20 today? Any clarification we can bring? Ms. Miller
21 was bringing up the fact of our requirements in the
22 regulations in terms of prehearing submissions. And
23 as you are all well-aware, it looks like there may
24 well be a change in the request for relief in this
25 case.

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1 I don't need to highlight a lot of our
2 regulations as I'm sure everyone is going to be aware
3 of it. We're not setting a filing schedule for this,
4 because we don't know what is actually to be filed and
5 we are not requesting anything into it. However, now
6 that you are parties, you will be served by any other
7 additional filings in this, so conceivably if there
8 are changes to the relief sought in this case, you
9 will be served on it and, therefore, can be prepared
10 to address that as we move forward on the 17th.

11 Okay. Very well. If there's nothing
12 further then, any other clarifications, no other
13 questions? I thank you all and I appreciate you being
14 here this morning and we will see you on the 17th of
15 January, gosh, that's '06 isn't it? How about that.
16 Okay. January '06 and there it is. Have a pleasant
17 morning.

18 Ms. Bailey, are you aware of any other
19 business for the Board this morning?

20 MS. BAILEY: No, Mr. Chairman.

21 CHAIRPERSON GRIFFIS: Excellent. If
22 there's no further business for the Board, let's
23 adjourn our morning session.

24 (Whereupon, the Public Hearing was
25 recessed at 11:45 a.m. to reconvene at 1:17 p.m. this

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

1:17 p.m.

CHAIRPERSON GRIFFIS: And I call to session our afternoon hearing of the 22nd of November 2005. My name is Geoff Griffis. I am Chairperson. Joining me today is Ms. Miller, the Vice Chair, and Mr. Etherly. Representing the National Capital Planning Commission is Mr. Mann and representing the Zoning Commission with us is Ms. Mitten. Good afternoon to all of you and to all of you here.

Copies of today's hearing agenda are available for you. Hopefully, you didn't need to check where you are on the agenda as we're going to get right to it and we have the one case in the afternoon set. However, there are some very important things to go through in my opening statement and I would hope that everyone fully understands this, but let me get through.

First of all, I'm going to ask that everyone turn off cell phones, beepers, any sort of noise making devices that they have so that we don't disrupt anyone giving testimony but, most importantly, we don't disrupt the transmission of our proceedings, the important transmission that we have and there are several attendant things to it, is creating the

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1 official transcript.

2 The official transcript is created by the
3 recording and the Court Reporter, who has just left
4 the room, but is still recording as he is not here,
5 sitting on the floor to my right. Attendant to that
6 there are several things.

7 First of all, when coming forward to speak
8 to the Board, you will need to state your name and
9 address once into the microphone and that microphone
10 should be on. Obviously, that puts you on the record.
11 We also ask that you fill out two witness cards.
12 Witness cards are available where you came into the
13 hearing room. They are also available on the table
14 where you will provide testimony. Those two cards go
15 to the recorder prior to coming forward to speak to
16 the Board. That being said, you would be ready and
17 off and running.

18 Normally, I would say that all
19 proceedings, as are recorded, but they are also
20 broadcast. We are not being broadcast yet. Some of
21 you may know, most of you may not know, we have just
22 gone through a major renovation to make it more
23 accommodating for the public to be here in our
24 proceedings and to utilize the Office of Zoning.

25 All the wiring is not completely fixed up,

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1 but it will be shortly and, at that point, we would be
2 broadcast live on the Office of Zoning's website.
3 However, for clarification today, we are not going to
4 be.

5 The order of procedure for our proceedings
6 this afternoon will be as follows: First, we will
7 hear from the applicant and the presentation of their
8 case. Secondly, we will hear from any Government
9 agencies reporting to that case, any analysis.
10 Obviously, we have Office of Planning and Department
11 of Transportation and the like.

12 We will then go to any -- rather, we will
13 go to the report of the Advisory Neighborhood
14 Commission and the presentation of their
15 recommendations on this application. Fourth, we will
16 go to persons or parties in support of the
17 application. Fifth would be persons and/or parties in
18 opposition to the application. And, sixth, finally,
19 today we will get to the applicant's closing remarks,
20 summations or any rebuttal witnesses and testimony
21 that they might have.

22 Cross examination is permitted by the
23 applicant and parties that are established in a case.
24 The ANC within which the property is located is
25 automatically a party in the case and, therefore, will

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1 be a participant as a party, but also will be able to
2 cross examine witnesses.

3 Nothing prohibits this Board from placing
4 restrictions, time, direction, substantive
5 restrictions on cross examination. I will give direct
6 indications of whether you are moving outside of scope
7 with your cross examination or being redundant, but
8 we'll get to that on a case-by-case basis as needed.

9 The record is closed at the conclusion of
10 hearings on a case. So if we finish our hearings
11 today, no other information would be accepted into the
12 record and it's important to understand this aspect.
13 The Board will deliberate and make its decision only
14 on that record that is created before us in these
15 proceedings. So it is absolutely important for you to
16 provide the oral testimony or the written testimony to
17 fill the record, so that the Board can deliberate
18 sufficiently and fully.

19 At the end of the hearing we will close
20 the record, except for any material that we think
21 should be submitted into the record and there will be
22 no question of what should be submitted into the
23 record and when it should be submitted. And, as I
24 say, we will make it very clear what you are to be
25 filing and when you should be filing it into the

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1 Office of Zoning.

2 The Sunshine Act requires that this Board
3 conduct all its hearings and proceedings in the open
4 and before the public. This Board does enter into
5 Executive Session both during and after hearings on a
6 case and we use those sessions for reviewing records
7 and also deliberating on cases. This Executive
8 Session is in accordance with our rules, regulations
9 and procedure and it is also in accordance with the
10 Sunshine Act.

11 We will actually, for clarification, be
12 concluding today's session not later than 5:45. The
13 hearing room is going to be utilized by a special
14 meeting of the Zoning Commission and, quite frankly,
15 they outrank us, so they are going to kick us out.
16 But I think that's plenty and sufficient time to get
17 through what we need to today and so we're going to
18 utilize all the time that we have, and I think I will
19 update as we get closer to that hour if there are
20 additional aspects that need to be addressed.

21 With that, let me say a very good
22 afternoon to Ms. Bailey, she is on my very far right,
23 Ms. Rose and also Mr. Moy with the Office of Zoning.
24 And Ms. Glazer with the Office of the Attorney General
25 is with us also.

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1 I am going to ask everyone that is wishing
2 to provide testimony or testifying today if you would,
3 please, stand and give your attention to Ms. Bailey
4 and she is going to swear you in.

5 MS. BAILEY: Please, raise your right
6 hand.

7 (Whereupon, the witnesses were sworn.)

8 CHAIRPERSON GRIFFIS: Thank you all very
9 much. At this point then, the Board will consider any
10 preliminary matters. Preliminary matters are those
11 which relate to whether a case will or should be heard
12 today, requests for postponements, continuances,
13 withdrawals, whether proper and adequate notice has
14 been provided. These are elements of preliminary
15 matters that should come to the Board's attention.

16 If you are not prepared to go forward with
17 a case this afternoon or you believe a case should not
18 proceed this afternoon, I would ask that you bring
19 that and those elements to the attention of the Board
20 by coming forward and having a seat at the table in
21 front of us.

22 Let me ask, Ms. Bailey, if you are aware
23 of any preliminary matters for the Board's attention
24 at this time.

25 MS. BAILEY: Mr. Chairman, Members of the

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1 Board, good afternoon.

2 CHAIRPERSON GRIFFIS: Good afternoon.

3 MS. BAILEY: There is only one case on the
4 docket this afternoon, Mr. Chairman, and staff does
5 not have any preliminary matters associated with the
6 case.

7 CHAIRPERSON GRIFFIS: Excellent then.
8 Thank you very much. And not noting any other
9 indications of people present here having preliminary
10 matters for the Board's attention, let us move ahead
11 and call the first case of the afternoon.

12 MS. BAILEY: Application 17383 of The Lab
13 School of Washington, pursuant to 11 DCMR section
14 3104.1, for special exceptions to permit an increase
15 in faculty and staff from 94 to 190, and an increase
16 in student enrollment from 310 to 330, at 4759
17 Reservoir Road, N.W., and to permit the use of 4749
18 Whitehaven Parkway for administrative offices under
19 section 206, and for accessory parking spaces for an
20 existing private school under section 214. The
21 property is zoned R-1-B. It's located at 4749
22 Whitehaven Parkway, N.W., and 4759 Reservoir Road,
23 N.W. It's also located in Square 1372, Lot 25 and
24 Square 1374, Lot 840.

25 There is a request for party status, Mr.

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1 Chairman.

2 CHAIRPERSON GRIFFIS: Excellent. Thank
3 you very much. That is our first order of business.
4 Actually, I will make it our second. I want to make
5 sure that everyone here and the applicant and their
6 representatives are aware of the filings that we have
7 received today, so I will just make sure.

8 Ms. Bailey, you can assist me and the last
9 exhibit number, at this point, is 49. Is that
10 correct?

11 MS. BAILEY: I have 50, Mr. Chairman.

12 CHAIRPERSON GRIFFIS: How about that?
13 Okay. So we'll check our records to make sure
14 everyone has all the filings that are in as I know the
15 Board has just been handed several, which we will
16 possibly get to. However, let's step back and move to
17 the request for party status at this time.

18 Does the Board Members have initial
19 comments, questions? And, Reverend Jordan, you are
20 present today. Is that correct? Indeed. We have the
21 request for party status. We also have a filing which
22 illuminates more of the issues also, but it is clearly
23 getting into the issue of safety.

24 Are there any questions or clarification?
25 Not noting any questions or clarification from the

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1 Board, it seems to be fairly straightforward in the
2 application.

3 Let me ask the applicant's representatives
4 if they want to introduce themselves for the record.

5 MS. PRINCE: Allison Prince with Pillsbury
6 Winthrop Shaw Pittman.

7 CHAIRPERSON GRIFFIS: Thank you. Ms.
8 Prince, do you have a position on the application for
9 party status?

10 MS. PRINCE: We have no objection to the
11 application for party status.

12 CHAIRPERSON GRIFFIS: Okay. Mister or
13 Reverend Jordan, I have one quick question of you and
14 I'm actually going to have you come up so that you can
15 answer it, and I will ask it while you come forward.
16 I just want to make a quick clarification. Of course,
17 there are several ways to participate in every case.
18 Two of the most clear are as a party and then the
19 other is as a person, you know, providing testimony.

20 You are prepared to participate at the
21 higher threshold of a party and that is in terms of
22 presenting a case and cross examining witnesses and
23 filings that the Board might require?

24 REV. JORDAN: Yes.

25 CHAIRPERSON GRIFFIS: Okay. There it is.

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1 Board Members? Ms. Miller?

2 VICE CHAIR MILLER: I think that a case
3 has clearly been made here that there is a school that
4 is situated across from where proposed parking spaces
5 might be located, which would affect the safety of the
6 children attending this school and this is Reverend
7 Jordan's, I gather, school and church and I think he
8 is in a unique position to represent their interests.

9 CHAIRPERSON GRIFFIS: Okay. So you have
10 no objection to granting the party status?

11 VICE CHAIR MILLER: No objection.

12 CHAIRPERSON GRIFFIS: Is there any other
13 objection from the Board of granting party status of
14 Reverend Jordan?

15 COMMISSIONER MITTEN: No objection, Mr.
16 Chairman.

17 CHAIRPERSON GRIFFIS: Not noting any,
18 excellent. Then I take it as a consensus of the Board
19 that we establish Reverend Jordan as a party in the
20 case. We will call you up as the time is appropriate.

21 With that let's turn -- Ms. Prince, if you
22 wouldn't mind just affirming that you have received
23 all the filings today or should we make sure that you
24 have them? We have one, Exhibit 49, from Alma Gates
25 who we are concerned, but has gone in with a torn

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1 retina. Do you have this filing?

2 MS. PRINCE: I do not have the Alma Gates
3 filing.

4 CHAIRPERSON GRIFFIS: Okay. Well, let's
5 make sure we have copies of that and we'll get it out
6 to you, and the others are letters that are coming in
7 and 50, but I think it's good to get that. All right.
8 While that is being processed, let's turn it over to
9 you for opening statements.

10 MS. PRINCE: Good afternoon, Chairman
11 Griffis and Members of the Board. I am Allison Prince
12 with Pillsbury Winthrop Shaw Pittman and I am here
13 today on behalf of The Lab School of Washington.
14 We're fully prepared to proceed with the case today.

15 Nonetheless, I want to note at the outset
16 that given the concerns that have been raised about
17 the application by DDOT and the Office of Planning, we
18 expect that posthearing submissions and perhaps even
19 an additional hearing may be required.

20 Last week DDOT suggested that Lab prepare
21 a Traffic Management Plan. We finalized a TMP over
22 the weekend and submitted it to DDOT yesterday. I
23 have a copy for the Board. Clearly, DDOT has not had
24 time to comment on the TMP and we welcome DDOT's
25 input. We want to work together to resolve DDOT's

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1 concerns.

2 The application involves four parts.
3 First, it involves an increase in the faculty and
4 staff cap from 95 to 182 to reflect the existing
5 number of faculty and staff at The Lab School.
6 Second, we seek an increase in the enrollment cap from
7 310 to 330 to reflect the current enrollment at the
8 school.

9 Third, we seek permission to use parking
10 spaces that will be located in public space to meet
11 the parking requirement for the school for a five year
12 period only. Finally and forth, we seek permission to
13 use a newly acquired house on Whitehaven Parkway for
14 administrative purposes for the school.

15 The most significant request stems from
16 the faculty staff parking situation. Lab is an
17 international leader in the education of learning
18 disabled children. It's an incredible place. The
19 entire approach to education is novel, cutting edge
20 and perhaps, most important, highly successful. It's
21 just about the most amazing school that you could ever
22 visit.

23 And that success derives from many
24 factors, one of which is a remarkable student/faculty
25 ratio. There is a staff member for every two

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1 students. It is a wonderful ratio. Yet, it has
2 created the problem that is before you today. There
3 are too many faculty and staff members given the
4 number of parking spaces.

5 Further, Lab has never properly counted
6 all of its employees. In the past Lab has counted
7 only teachers and administrative staff toward its
8 faculty and staff cap. As a result, the faculty and
9 staff numbers presented to this Board in 1997 in
10 connection with the construction of the gymnasium were
11 understated.

12 While the order allowing the gymnasium
13 capped faculty and staff at 95, there were additional
14 non-teacher staff members at that time who were not
15 counted, speech, occupational and physical therapists,
16 not typical employees at any other kind of school but
17 employees at The Lab School. Some work only a
18 fraction of the week, but they are all employees and
19 they should have been counted.

20 Why does The Lab School have such a large
21 staff and why has it grown since '97? Sally Smith,
22 the director, will explain why the staff is critically
23 needed. I will explain why it has grown. First, it
24 hasn't grown all that much. Back in '97 there were a
25 total of 149 employees, not 95. There were 41

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1 occupational, speech and language therapists alone.

2 Also, since '97 the requirements of
3 federally mandated Individual Education Plans have
4 resulted in the need for even more supportive services
5 for Lab's children. For example, when an individual
6 child's IEP requires one-on-one occupational therapy,
7 an additional therapist may need to be hired in order
8 to meet the requirement of the IEP.

9 Also, due to medical advances over the
10 past 20 years, babies are living who wouldn't have
11 lived before and extremely premature babies tend to
12 have very severe developmental disabilities and The
13 Lab handles the issues associated with prematurity and
14 the babies that were born 10 and 15 years ago are the
15 babies who are now Lab School students who need a lot
16 of supportive services.

17 Also, parents and schools are now more
18 educated about learning disabilities which results in
19 earlier diagnosis and testing. So the number of
20 employees has increased since '97 to address the
21 increased severity of children's disabilities and to
22 address the requirements of IEPs.

23 The parking supply on campus is simply not
24 adequate to handle the current number of employees.
25 There are 87 or 89 legal spaces on campus depending on

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1 how you count them, the traffic engineer can address
2 that, and another 20 can be added through stacked
3 parking. But that does not meet the legal requirement
4 of 130 spaces nor the actual demand.

5 As a result, there is spill-over parking
6 onto neighboring streets and onto neighboring
7 commercial property. This is not an acceptable
8 condition and The Lab School wants nothing more than
9 to make it better. Lab has been working on a solution
10 for about three years.

11 The obvious logical solution would be to
12 reduce the parking demand and to increase the supply
13 on campus. Lab has worked actively to reduce demand.
14 A shuttle bus service was initiated in October of this
15 year and has operated with great success. Students
16 are now not permitted to drive unless exceptional
17 conditions exist. Only five students qualify for
18 driving. This one step alone has taken several cars
19 off the streets. Many other facets of the TMP will
20 further reduce demand.

21 Reducing demand is a lot easier than
22 increasing the parking supply on the campus. The site
23 is heavily constrained. Wetlands, the historic Castle
24 Building and footprints of other buildings leave
25 almost no room for additional parking on the campus.

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1 We have studied the existing site exhaustively in our
2 search for an appropriate location for more parking
3 and there are few options.

4 The site now contains adequate room for
5 on-site queuing, which allows a highly successful
6 drop-off and pickup system. The queuing room cannot
7 be compromised. The site is so constrained that a
8 parking variance may be the more appropriate relief in
9 this case, but the school is committed to trying to
10 secure a win-win situation that will address the
11 school's needs and benefits the neighborhood. To that
12 end Lab decided to pursue the angled parking spaces
13 and accompanying sidewalk which requires special
14 exception relief if they are to count toward Lab's
15 requirement.

16 The only other logical solution is to
17 reduce the number of faculty and staff. That is the
18 one solution that Lab has and will continue to resist
19 since the faculty and staff ratio is so central to the
20 school's mission and its ability to serve the students
21 and comply with the requirements of IEPs.

22 We are seeking only a short-term five year
23 solution to solve this immediate crisis. The long-
24 term solution is clear. Lab must build a parking
25 structure or acquire spaces off campus and there are

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1 many possibilities that exist today that may well come
2 to fruition within the next five years, but are not
3 available immediately, and there is an immediate
4 problem that requires an immediate solution.

5 Before filing this application, Lab
6 attempted to identify any potential off-site locations
7 for accessory parking. We have contacted both
8 commercial and institutional property owners in the
9 area. Unfortunately, we have not identified a single
10 off-site location on private property that can offer
11 more than a few spaces. We are continuing to pursue
12 this effort but we are not optimistic that we will
13 find a good solution even for the short-term.

14 We began considering the addition of
15 angled parking spaces and a sidewalk along lower
16 Whitehaven three years ago. The late John Finney, who
17 was then the chairman of ANC-3D, specifically
18 requested that we pursue that alternative noting the
19 importance of a sidewalk for the community.

20 In addition, there is precedent for the
21 successful operation of angled parking spaces at the
22 other end of Whitehaven. Six years ago St. Patrick's
23 School secured a public space permit to locate,
24 approximately, 40 angled parking spaces on upper
25 Whitehaven. St. Patrick's installed those spaces and

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1 a sidewalk and they have functioned beautifully since.

2 With the addition of the angled parking
3 spaces on lower Whitehaven, there will be a continuous
4 sidewalk from Foxhall Road to Macarthur Boulevard.
5 There will be no reason for students to continue to
6 walk in the roadway of lower Whitehaven.

7 The BZA's permission is not required to
8 allow for the installation of the angled spaces since
9 they are located in public space. This is a matter
10 for the Public Space Division. In this case, however,
11 the BZA's permission is required to allow Lab for a
12 five year period to count the angles spaces toward its
13 parking requirement. If the angled spaces in public
14 space are permitted to count, Lab will satisfy its
15 legally required amount of parking spaces without
16 requiring a variance.

17 We realize that this is not and cannot
18 serve as a long-term solution. The public space
19 permit can be revoked at the city's will but this is
20 a solution that will solve an immediate problem and
21 will provide the community with a sidewalk.

22 Over the past years we have reached out to
23 many of our neighbors. Lab is largely surrounded by
24 other institutional users. All of the surrounding
25 institutions are aware of the application. St.

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1 Patrick's extended its strong support early on,
2 undoubtedly based on the successful operation of its
3 angled parking spaces. They also greatly appreciate
4 the idea of a new sidewalk, an extended sidewalk.

5 We have also spoken to some residents who
6 reside near the school. We have had extensive
7 discussions with Our Lady of Victory, the church that
8 is located at Macarthur Boulevard and at the western
9 end of Whitehaven Parkway. We have spoken to the
10 local firehouse.

11 In addition, even before filing these
12 plans with the Board of Zoning Adjustment, we secured
13 extensive DDOT commentary on the functionality of the
14 angled spaces. It was only after the spaces were
15 deemed technically sufficient that we proceeded to the
16 Board of Zoning Adjustment.

17 We believe that this Board is presented
18 with a win-win opportunity. Lab will build angled
19 spaces and a sidewalk at considerable expense. The
20 community will have an increased parking supply and a
21 sidewalk. Lab will be provided with the time it needs
22 to create a permanent solution to solve the parking
23 supply issue.

24 We made three appearances to ANC-3D.
25 Unfortunately, the ultimate solution from the ANC

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1 requires the dismissal of 35 staff members and a
2 reduction in the overall enrollment by 20 students, of
3 20 students by the fall. We do not believe this is an
4 appropriate or constructive solution. The Lab
5 School's mission to educate learning disabled children
6 must be taken into account in determining the best way
7 to accommodate the faculty and the staff that it
8 needs.

9 Finally, I would like to emphasize to the
10 Board that under the Glenbrook Road Case, educational
11 uses are highly favored. Also, the Board has long
12 recognized that the BZA must apply a more flexible
13 standard in determining hardship when a public service
14 or nonprofit entity is the applicant in the variance
15 case. Although this is a special exception and not a
16 variance case, the public service component of The Lab
17 School use must be considered in weighing the impact
18 of the use.

19 I have three witnesses today, Allyn
20 Kilsheimer, who is on the board of The Lab School and
21 will be presenting the plans, the traffic engineer,
22 Marty Wells, and John Amatetti from VIKA. In
23 addition, Sally Smith, the Director of The Lab School,
24 will serve as our first witness.

25 I did want to go over a few items for the

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1 record. We submitted revised plans with the
2 prehearing statement. I don't think it was clear
3 enough on the revised plans that certain parking
4 spaces were removed from the plan at the request of
5 Our Lady of Victory. The seven spaces that are
6 directly across from an entrance to Our Lady of
7 Victory have been removed. They are shown in a green
8 bubbled area in plans that I will submit for the
9 record.

10 In addition, it's quite remarkable but The
11 Lab School students have built that model. The model
12 I think will help you understand how constrained The
13 Lab School site is. I think some of the students who
14 built the model are actually here today. We neglected
15 to bring digital photographs for the record. I will
16 submit them for the record, but those are our future
17 architects that we have at The Lab School.

18 And finally, the Transportation Management
19 Plan I already submitted to Tracy and it should be
20 distributed to you. We unfortunately had the
21 impression from our earlier meetings with the
22 Department of Transportation that they found the
23 angled spaces to be an acceptable solution.
24 Otherwise, we would have done the TMP that is now
25 being requested a lot sooner and I apologize for the

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1 delay, but we are simply trying to work things through
2 as they arise.

3 If the Board has no questions, I would
4 like to proceed with the testimony of Sally Smith, the
5 Director of The Lab School.

6 CHAIRPERSON GRIFFIS: Good. We're going
7 to have a couple of quick preliminary questions for
8 you, Ms. Prince, and I appreciate you noting the
9 changes on the VIKA Plan. I don't know if you have
10 that in front of you, but let me ask just an
11 additional clarification. I note the bubbled in red
12 spaces that are to be removed, so they are not in the
13 count, so two direct questions.

14 What is the total count now then of the
15 angled parking?

16 MS. PRINCE: 43.

17 CHAIRPERSON GRIFFIS: Okay. So it's 43.
18 And I note that there are some parallel spaces on the
19 north side or top side of the drawing with letters.
20 Those are not being counted in those 43?

21 MS. PRINCE: They are not being counted.

22 CHAIRPERSON GRIFFIS: Okay. Good. We
23 have another quick clarification question. Let's go
24 to Ms. Mitten on the application.

25 COMMISSIONER MITTEN: My question pertains

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1 to 4749 Whitehaven Parkway.

2 MS. PRINCE: Yes.

3 COMMISSIONER MITTEN: And I just wondered
4 if you had thought about the provision of section
5 2500.1? It says "Any accessory use or accessory
6 building shall be located on the same lot with the use
7 or building to which it is accessory." So this is
8 not, because it's across the street, this accessory
9 building won't comply with that provision. So I was
10 thinking that there might be a variance needed. Did
11 you think about that?

12 MS. PRINCE: We've encountered that issue
13 before and the Board has always taken the position
14 that a campus can be separated by a street. We have
15 the identical condition that exists for St. Patrick's.
16 The St. Patrick School is largely located on the south
17 side of Whitehaven, but we proceeded to this Board to
18 get permission to construct the gym on the north side
19 of Whitehaven. No variance was required in connection
20 with that application.

21 There may be a difference in how the Board
22 is now approaching cases. The gym is about three
23 years old. But three years ago, well, it has been in
24 operation three years. Five years ago, the Board
25 determined that it was a campus and that we don't need

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1 relief, variance relief from that section for
2 campuses.

3 COMMISSIONER MITTEN: I would actually
4 like to just keep that as an open issue.

5 MS. PRINCE: Yes.

6 COMMISSIONER MITTEN: Because when we
7 speak of campuses and, you know, the Zoning Commission
8 has confronted this and we were discussing campus
9 plans, that's a different -- first of all, that
10 applies to universities.

11 MS. PRINCE: Yes.

12 COMMISSIONER MITTEN: And there was a
13 pretty strong sentiment that in revisiting the campus
14 plan requirements that we were not going to be
15 including anything other than universities at the
16 moment.

17 MS. PRINCE: Yes.

18 COMMISSIONER MITTEN: So I think sort of
19 extrapolating from the private school provisions to
20 say that those, you know, are treated more like
21 campuses, I think, is maybe not necessarily something
22 that I would embrace, because we have been encouraged
23 to make a distinction between campuses and private
24 schools.

25 MS. PRINCE: Yes.

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1 COMMISSIONER MITTEN: So maybe that's just
2 something that you can address in a further filing.

3 MS. PRINCE: We can address it in a
4 further filing and if you -- I mean, I think, there
5 are many examples of other independent schools that
6 have a similar condition, but we have no objection to
7 requesting a variance, if that is the direction that
8 the Board wants to go in. I know that this issue came
9 up, I believe, in the NCS case, perhaps Ruthanne
10 Miller would remember better than I.

11 I think an issue came up in that case as
12 to what is an accessory building? What does
13 constitute an accessory building? And, I think, there
14 is an argument to be made that for elementary schools
15 and high schools, that each building is its own
16 principle building. There was a court case in NCS
17 that grappled with that issue, so I can explore it
18 further. But should the Board determine that they
19 would prefer us to go the variance route, we're happy
20 to pursue that.

21 COMMISSIONER MITTEN: Okay. I'm just
22 thinking, you know, the use is one thing. But, I
23 mean, clearly, this is not a teaching building, so, to
24 me, it is an accessory building. Because, you know,
25 I could argue and maybe under other circumstances

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1 would argue that it is an accessory use as well.

2 MS. PRINCE: Yes, yes.

3 COMMISSIONER MITTEN: But under 2500.1 it
4 doesn't really matter.

5 MS. PRINCE: Yes.

6 COMMISSIONER MITTEN: I just see this as
7 an adjunct and so that's why I see it falling under
8 that provision. But we're happy to be educated on the
9 subject.

10 MS. PRINCE: I think it's one of those
11 many, many areas in the regulations where there has
12 been longstanding practice that conflicts with the
13 actual language in the regulations.

14 COMMISSIONER MITTEN: Okay. Thank you.

15 CHAIRPERSON GRIFFIS: I don't see it as
16 distinct as that, but rather that the section 206 is
17 not inclusive of all the different iterations that we
18 have found.

19 MS. PRINCE: Yes.

20 CHAIRPERSON GRIFFIS: I don't think there
21 is a private school that I have sat on that hasn't
22 addressed this issue.

23 MS. PRINCE: Yes.

24 CHAIRPERSON GRIFFIS: But it's been
25 different in each particular case.

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1 MS. PRINCE: Yes.

2 CHAIRPERSON GRIFFIS: And, I think, the
3 distinctive aspect is the distance or the street in
4 this one. However, I mean, I know in the recent cases
5 it was looked at as a whole and I think there was and
6 there is some distinction even though we may use the
7 same words of campus.

8 MS. PRINCE: Yes.

9 CHAIRPERSON GRIFFIS: But there is clearly
10 a distinction between the university and college
11 campuses and the private schools. What we do with
12 this one specifically I'm not sure, but I want to get
13 it. There is no reason to have that hanging out. I
14 think we should have clarification of what we are
15 doing, at this point.

16 MS. PRINCE: Yes.

17 CHAIRPERSON GRIFFIS: Let me hear others.

18 VICE CHAIR MILLER: Well, just on that
19 note, I think, at first blush what looks different in
20 this case is that it may be on a different lot. You
21 were referring to NCS. I think in that case, all the
22 buildings were on the same lot.

23 MS. PRINCE: They were on the same lot,
24 but the St. Patrick's gymnasium is unquestionably on
25 an entirely separate lot and there are no classroom

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1 uses that occur in that gymnasium and that was a
2 special exception only. That's the only one that
3 comes to mind. I'll think of 15 others when I leave
4 this table.

5 CHAIRPERSON GRIFFIS: Right.

6 VICE CHAIR MILLER: Well, I don't think we
7 are going to be deciding that today.

8 CHAIRPERSON GRIFFIS: Let's take up all
9 the questions and then figure out what we'll do with
10 this.

11 VICE CHAIR MILLER: Ms. Prince, on another
12 note, I just want to make sure I understand your
13 position. With respect to the staff and faculty creep
14 that happened since 1997, are you attributing that
15 primarily to including therapists and other types of
16 part-time staff that weren't contemplated before when
17 you were responding to a count for faculty and staff?

18 MS. PRINCE: We're attributing it to the
19 fact that the therapists literally were not counted,
20 whether full-time or part-time in '97. If you'll
21 notice, the faculty/staff ratio was fairly remarkable
22 in '97, not counting the faculty and staff with the
23 faculty and staff, the entire faculty and staff, we
24 get this incredible 1 to 2 ratio or 2 to 1 ratio.

25 VICE CHAIR MILLER: I guess --

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1 MS. PRINCE: That was the oversight.

2 VICE CHAIR MILLER: I understand that,
3 because I think you were saying that when you counted
4 all those individuals and the number was really
5 greater, it was really 149 as opposed to a lower
6 number.

7 MS. PRINCE: Yes.

8 VICE CHAIR MILLER: But then my next
9 question is then there is an additional 30 something
10 that were added later.

11 MS. PRINCE: Yes.

12 VICE CHAIR MILLER: Is that for the same
13 reason, because the school wasn't thinking of them as
14 to be counted in faculty?

15 MS. PRINCE: We have a chart that explains
16 how the number has grown. The number has grown in a
17 few ways. There are some increased administrative
18 positions. The therapists actually have not grown.
19 They have grown by one. It seems to be primarily
20 administrative positions and support positions and I
21 think Sally Smith from The Lab School can explain in
22 more detail the nature of that growth.

23 VICE CHAIR MILLER: Okay. What I'm
24 hearing you saying is, you know, there was a need for
25 this growth, and that's why there was growth? But was

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1 it also -- but you are growing not in compliance with
2 the BZA Order and I'm wondering did that happen
3 because you didn't think they were to be counted as
4 faculty/staff or is that not the case?

5 MS. PRINCE: It's so hard to unravel this
6 one. I would say that the growth just happened
7 because the demand was there and the additional
8 personnel were needed. I don't think that the school
9 had directly foremost in its mind its cap. I don't
10 think they fully dissected the manner in which the cap
11 had been calculated in '97 and it wasn't until they
12 really sat down and studied all the numbers that they
13 understood the magnitude of the situation we were
14 facing.

15 VICE CHAIR MILLER: Okay. And with
16 respect to the student growth, was that a result of
17 admissions?

18 MS. PRINCE: The student growth is --

19 CHAIRPERSON GRIFFIS: Can I interrupt?
20 You're going to have witnesses --

21 MS. PRINCE: Sure.

22 CHAIRPERSON GRIFFIS: -- talk about this
23 specifically, right?

24 MS. PRINCE: We will.

25 CHAIRPERSON GRIFFIS: I mean, for Ms.

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1 Prince --

2 VICE CHAIR MILLER: Okay.

3 CHAIRPERSON GRIFFIS: I think it's
4 appropriate to have the direct questions of the legal
5 analysis of this, but she isn't providing the actual
6 testimony you're after.

7 MS. PRINCE: Sally Smith can address the
8 student growth.

9 VICE CHAIR MILLER: Okay.

10 CHAIRPERSON GRIFFIS: And as I understood
11 your opening statement, you were going to call them to
12 do that and you were just going to talk about why
13 legally the calculation had increased, but not the
14 numbers had increased.

15 MS. PRINCE: Correct.

16 CHAIRPERSON GRIFFIS: Is that correct?
17 Okay.

18 VICE CHAIR MILLER: Fine. I'll reserve
19 that for that witness.

20 MS. PRINCE: Thank you.

21 VICE CHAIR MILLER: Thank you.

22 CHAIRPERSON GRIFFIS: Anything else?
23 Follow-up questions? All right. Let me get to very
24 quickly, it seems to me, I want to spend two minutes
25 on this, because I think we have an opportunity, one,

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1 to figure out exactly what we're doing today and have
2 it argued or followed-up. But, Ms. Prince, I don't
3 know if you are willing, let's say, to address whether
4 this building is actually an accessory use or an
5 accessory building by the definition in the Zoning
6 Regs.

7 It would be under Chapter 25 as it's
8 established if this building is established as that,
9 then I think we would be looking for some relief under
10 Chapter 2500.1. It seems to me it does fall into the
11 definition.

12 MS. PRINCE: Of accessory building or a
13 principal building?

14 CHAIRPERSON GRIFFIS: Yes.

15 MS. PRINCE: I would really appreciate the
16 opportunity to address that in a posthearing
17 submission.

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. PRINCE: I think the issue has far
20 reaching impacts for a number of the independent
21 schools. I think the NCS court case is very relevant,
22 because that weighed in on what is accessory and what
23 is principal. And I recall from that case a
24 determination that each building constituted a
25 principal building.

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1 CHAIRPERSON GRIFFIS: Right.

2 MS. PRINCE: Although, I have not reviewed
3 it in some time.

4 CHAIRPERSON GRIFFIS: Right.

5 MS. PRINCE: So I suggest we proceed if
6 there is ultimately a decision that we need to be
7 readvertised for a variance, we will comply in any way
8 required.

9 CHAIRPERSON GRIFFIS: Okay. Good. I
10 think we addressed that. That's fine then. We'll set
11 a schedule for that filing and have that and in turn,
12 obviously, will be served that and we'll have an
13 opportunity to respond to it. It's an interesting
14 aspect, because in 199, of course, we don't define --

15 MS. PRINCE: We don't get any help.

16 CHAIRPERSON GRIFFIS: -- accessory
17 buildings, because that would be a clear way to go
18 today. So once again, we find our regulations are of
19 interesting aspect. Okay. With that then, let's move
20 ahead. We have that before us. We have a couple of
21 questions, obviously, that are coming up. Let's
22 continue.

23 MS. SMITH: I'm Sally L. Smith. I live at
24 3216 Cleveland Avenue, N.W., 20008. Good afternoon,
25 ladies and gentlemen.

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1 CHAIRPERSON GRIFFIS: Good afternoon.

2 MS. SMITH: I'm the founder and Director
3 of The Lab School of Washington and I live in Ward 3
4 and practice in Ward 3. I founded The Lab School in
5 1967, because I was unable to find appropriate
6 educational opportunities for my child, who was
7 intelligent and had severe learning disabilities.
8 There was nothing at that time. There were a group of
9 us that needed something and so I went in there for
10 two years to start it.

11 39 years later, I'm also there and since
12 1976 professor in charge of the Learning Disabilities
13 Program under Special Education, a master's degree
14 program at American University. I believe that
15 everyone can learn. It's up to us, the adults, to
16 figure out how. And in that spirit, I've devoted my
17 career to designing innovative teaching approaches
18 involving all the yards and experiential learning to
19 teach academic skills to children and adults who have
20 central nervous system dysfunction and special needs
21 as a result.

22 Our students have failed in regular
23 classrooms. Not once, but twice or three times often.
24 We have to use unorthodox teaching methods to help
25 them learn. Yes, we use computers and we use story

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1 telling, but we use special approaches using art to
2 teach science, woodwork to teach math, art and drama
3 to teach history and geography to children elementary
4 school.

5 We continue to emphasize project learning
6 in junior and senior high school. Our students with
7 central nervous system dysfunction have often failed
8 before they enrolled with us. Yet, over 90 percent of
9 our students go on to college. The Lab School
10 fulfills, I believe, a pressing need in the District
11 of Columbia Metropolitan area.

12 Currently, we can only accept one
13 applicant out of every 16 who apply. We try and take
14 the child who needs us the most. The need is so great
15 that we're disappointed that we cannot accept more
16 students. We have reached the limit of our current
17 property and, in fact, we have made a school in
18 Baltimore and we're designing one in Philadelphia. I
19 believe in small schools within a larger school. So
20 we're at a very good size right now.

21 Because our students have incredibly
22 special needs, The Lab School has been obliged to
23 provide numerous related services not required in a
24 traditional school setting. These include speech and
25 language therapy, occupational therapy, occasionally

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1 physical therapy, tutoring, psychological assessment,
2 psychotherapy, social work and other consultation
3 services.

4 Other schools may have one psychologist or
5 one speech language pathologist, we have a large
6 number of these more medically trained therapists,
7 because of the severity of our children's needs. We
8 can, in fact, change lives if we teach our children
9 appropriately. Because many of our children are
10 funded by the District of Columbia, the school has to
11 meet any requirements imposed by the District as part
12 of a particular student, individual planning IEP.
13 It's a federal mandate.

14 Because students with special needs
15 require so much more individual attention, each one of
16 our kids could use one teacher to himself. As a
17 matter of fact, we have almost it's like it comes to
18 two for every one child and still it is extremely
19 difficult. In many of our classes, such as reading,
20 students receive individualized instruction on a one
21 to one basis or three or four students to one teacher.
22 Other classes are organized in small groups of up to
23 12 in a class and there we have help with my AU
24 graduate students and some people training to be
25 tutors.

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1 Our school instructions for students in
2 the kindergarten up through 12th grade. In 1987, I
3 founded the night school to address the city's need
4 for adult literacy programs. Most of the students
5 that are in the night school are living in Ward 6, 7
6 and 8. The night school offers individualized
7 programs at a very affordable price to help these
8 adults to learn successfully, many of them to pass the
9 GED or to enter or reenter college, occasionally some
10 go on to graduate school and need our help and many of
11 them to improve their job skills. Many of them take
12 two buses and a metro to get to us.

13 The class size is very small. For one
14 class they pay only \$28 per evening and many students
15 receive scholarships from the school. Class size is
16 small and we want to make sure that they receive
17 individualized attention, which is why we have them in
18 groups of five or under. Classes meet on Tuesday and
19 Thursday evenings. Although, the night school
20 provides an important service to the District, it is
21 a small part of our Lab School program and we consider
22 it an accessory use to the school.

23 Since relocating to its current location
24 at 4759 Reservoir Road, N.W., in 1982, we have really
25 tried to be a good neighbor. We know the importance

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1 of being good neighbors. We have received relatively
2 few complaints about our students or our activities
3 and when we do receive, Peter Braun, who has been our
4 liaison for many, many years, has attended to them
5 immediately.

6 In 1998 after constructing the new
7 athletic building, the school implemented the
8 Community Swim Program, which allows neighbors, other
9 members of the community to use the swimming pool,
10 basketball courts and other athletic facilities that
11 we have at very low cost. We host local swim teams,
12 swim clubs and provide space for swimming lessons. We
13 also offer basketball training for neighborhood
14 children and frequently host birthday parties for them
15 on weekends.

16 For the past two years, we have given a
17 Halloween celebration in cooperation with the
18 Palisades Citizens Association and the Fire Department
19 for the children in the neighborhood and we had
20 hundreds this year. The Fire Department also uses our
21 fitness facilities for free as well as our copy and
22 other equipment.

23 We like working with our neighbors. Our
24 gymnasium serves as the emergency shelter for Our Lady
25 of Victory School with whom we have had excellent

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1 relations over the years. The new sidewalk will
2 enable OLV students to walk safely up Whitehaven to
3 the gymnasium during emergency drills or actual
4 emergencies.

5 As you may know in the 1997 case that
6 approved the new gymnasium, the Board approved a
7 maximum student enrollment of 310 students and a
8 faculty cap of 95 full-time equivalent. During the
9 last eight years, we have experienced a more minor
10 increase in student enrollment. We have enrolled 330
11 for the last few years because of the pressing need
12 and also because our junior class is involved in an
13 apprenticeship program and half of them are out. Out
14 of a class of 36 to 38 students, half of them are out
15 in the morning, the other half are out in the
16 afternoon.

17 However, the school has experienced a
18 great increase in faculty and staff and
19 administrative. We currently employ a total head
20 count of 182 teachers and other professionals, that's
21 including everybody who is there for a few hours up to
22 full-time. This dramatic increase stems mainly from
23 our unique employment needs and method of calculating
24 the number of faculty and staff employed by the
25 school. It's also related to needing more

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1 administrators to help spread our kind of education.

2 At the time of the 1997 case and for some
3 time after, we believed that the cap applied to
4 traditional full-time teachers and administrators.
5 Even today, the school employs only 78 full-time
6 teachers. The school understands that the Board has
7 since required that schools provide an actual head
8 count for faculty and staff. We did not understand
9 that then. In the 1997 case, we did not count the
10 related service professionals and aids, faculty and
11 staff.

12 In 2003, the school was contacted by ANC-
13 3D and asked about its compliance with the approved
14 student enrollment and faculty staff caps. The ANC
15 required a count of all resource and other
16 professionals. In response to that, the school
17 performed an audit of its employees and determined
18 that it had a head count of, approximately, 180 total
19 employees, when you counted everybody who walked in
20 the place, the varying part-time people and all the
21 resource professionals.

22 As a result, we have been working
23 arduously with the ANC and our neighbors all around
24 through Board Member Allyn Kilsheimer meeting
25 continually with people to try and find solutions. We

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1 know we have a parking and traffic problem. We are
2 trying to work to resolve it, to make it better. And
3 this application is the culmination of that process
4 where we're trying to seek solutions.

5 CHAIRPERSON GRIFFIS: Thank you very much.

6 MS. PRINCE: Would the Board like to ask
7 questions of the witnesses as a panel at the close of
8 testimony or question one by one?

9 CHAIRPERSON GRIFFIS: Why don't we take
10 them one at a time and then we'll move on to the next,
11 as we're getting into very substantive pieces as we
12 move ahead. Can I ask you, IEP has been thrown around
13 a couple of times. What is IEP?

14 MS. SMITH: Individualized Educational
15 Plans, which when you have a child who has a
16 handicapping condition, you're required by Federal and
17 State Government to write up a plan of goals of how
18 you are meeting this child's needs. It makes the
19 school accountable.

20 CHAIRPERSON GRIFFIS: I see. So there is
21 an assessment.

22 MS. SMITH: Yes, there's an assessment.

23 CHAIRPERSON GRIFFIS: And then there is a
24 program based on the assessment?

25 MS. SMITH: Right.

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1 CHAIRPERSON GRIFFIS: That you have to
2 comply with.

3 MS. SMITH: And we are accountable to
4 provide those services and work toward the child
5 making that kind of progress.

6 CHAIRPERSON GRIFFIS: Excellent.

7 MS. SMITH: For many years special
8 education was thought of as a caretaking operation
9 where people just sort of babysat the children and
10 didn't teach them and try and reach to the highest
11 goals.

12 CHAIRPERSON GRIFFIS: Right. Okay. So
13 for that, that ties directly into, as you're talking
14 about, the amount of required teachings and staff, and
15 as you have indicated, medically trained therapists.
16 So based on an IEP requirement, that also can
17 translate not only to specific programs, but who would
18 actually implement those programs for the individual
19 students.

20 MS. SMITH: And it would be the teachers
21 along with speech language therapists.

22 CHAIRPERSON GRIFFIS: Right.

23 MS. SMITH: Occupational therapists,
24 psychologists, social workers.

25 CHAIRPERSON GRIFFIS: Right.

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1 MS. SMITH: And occasionally physical
2 therapists.

3 CHAIRPERSON GRIFFIS: Good. And for
4 clarification, you brought up, and in your written
5 submission it's also there, in terms of the night
6 school and there is an enrollment at the night school
7 and you have indicated the importance of that. Are
8 those students that are there, those are adult
9 students?

10 MS. SMITH: These are adults ranging from
11 age 19 to about 60.

12 CHAIRPERSON GRIFFIS: Okay. And those are
13 not counted in the student enrollment of 310 or 330?

14 MS. SMITH: No, no.

15 CHAIRPERSON GRIFFIS: Okay.

16 MS. SMITH: They come in when the children
17 have left.

18 CHAIRPERSON GRIFFIS: Right. Okay.
19 That's all I have right now. Other questions? Ms.
20 Miller?

21 VICE CHAIR MILLER: Good afternoon. I
22 started this with Ms. Prince, but I heard you say
23 something and I want to just follow-up on what you
24 said, which sounded like the school is at its maximum
25 with respect to the number of students it could

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1 accommodate. I think that communities have a fear of
2 enrollment creep. That, you know, even if we say
3 okay, you can go to 330, then, you know, five years
4 from now you're going to be at 400 or something.

5 So I'm wondering if you can just say a
6 little bit more as to is the 330 number really the
7 right number?

8 MS. SMITH: It's the one we have kept to
9 for quite a number of the last few years and it fits.
10 It certainly fits this present site. And the thing is
11 that within the big school, we have children who are
12 kindergarten age to 10 years of age. They have one
13 person in charge of them, because I believe in the
14 small school's theory.

15 And we have children who are more like 4th
16 to 6th grade, it's called an intermediate program, and
17 they have one person in charge. And then junior high
18 and then high school and even the night school has its
19 own head. And that person is responsible to know
20 every student, the profile of every student, who the
21 teachers are, if the AU students work there or the
22 tutor trainees, who they are. That person is
23 responsible so that what we are combatting is our
24 children need to feel that you know them and you care
25 about them and you can work with them. And they can't

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1 just be in a warehouse of kids unidentified.

2 VICE CHAIR MILLER: Am I correct that the
3 IEP process is part of a court process, so that you
4 are under court obligations to comply with the IEP and
5 the number of and types of therapists that are
6 required for the students?

7 MS. SMITH: Right and to make sure that if
8 it's -- I know, most of our children are severely
9 learning disabled, therefore, they need more of those
10 medically driven services, whether it is occupational
11 therapy or speech language or psychotherapy and we
12 have to not only produce it, but the amount of
13 paperwork that has to go out is unbelievable. It
14 takes hours and hours, because your document -- if you
15 have spent 45 minutes with a child, you document what
16 you did in each session with that child. And, you
17 know, we have increased secretarial staff much more as
18 a result and assistance.

19 VICE CHAIR MILLER: And do you also use a
20 number of volunteers?

21 MS. SMITH: No.

22 VICE CHAIR MILLER: No? They are all paid
23 staff?

24 MS. SMITH: No, we have tutor trainees.
25 In other words, people who are being trained. We have

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1 15 people that are being trained in tutoring.

2 VICE CHAIR MILLER: For instance --

3 MS. SMITH: They work in the classrooms in
4 the morning.

5 VICE CHAIR MILLER: Are they counted as
6 your paid --

7 MS. SMITH: They are not.

8 VICE CHAIR MILLER: No, okay. Okay.

9 MS. SMITH: But, as a matter of fact, a
10 good more than a third of them ride the van now. And
11 then we have eight AU students that are in training
12 that work in the classroom. Some of them are also
13 using the shuttle.

14 CHAIRPERSON GRIFFIS: But for this
15 application and for zoning purposes, they would be
16 characterized as volunteers. Is that correct?

17 MS. PRINCE: They are not on the plan.

18 VICE CHAIR MILLER: Right.

19 MS. SMITH: Yes, they are not on the plan.

20 VICE CHAIR MILLER: Right.

21 CHAIRPERSON GRIFFIS: Okay.

22 VICE CHAIR MILLER: Do you have a count
23 for the greatest number of staff and faculty that are
24 on the campus at a certain time?

25 MS. PRINCE: We'll try to get you that.

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1 VICE CHAIR MILLER: They have that. Okay.
2 This is somewhat of a traffic problem, but I think
3 that issue -- but I think that you have made a
4 statement like now you are realizing there is a
5 traffic/parking problem. Do you have a feel for when
6 a problem -- there became a problem with traffic and
7 parking? I mean, it sounds like somewhere between the
8 last order and this date.

9 MS. SMITH: Well, I know that the traffic
10 engineer will be talking about it.

11 VICE CHAIR MILLER: Okay.

12 MS. SMITH: We have a turnaround time of
13 nine minutes of getting students off the campus.

14 VICE CHAIR MILLER: Okay. Okay. I'll
15 save those questions for the traffic engineer. Thank
16 you.

17 COMMISSIONER MITTEN: Mr. Chairman?

18 CHAIRPERSON GRIFFIS: Ms. Mitten?

19 COMMISSIONER MITTEN: I just had a few
20 questions about the night school.

21 MS. SMITH: Yes.

22 COMMISSIONER MITTEN: You said that the
23 enrollment is not counted in the cap, but can you tell
24 us, approximately, what the enrollment of the night
25 school is?

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1 MS. SMITH: 70 adults.

2 COMMISSIONER MITTEN: 70?

3 MS. SMITH: 70.

4 COMMISSIONER MITTEN: And the number of
5 faculty and staff that are present while night school
6 is in operation?

7 MS. SMITH: Well, about four or five
8 adults have a teacher each and there is one
9 administrator with an assistant. So the math would be
10 probably about 12 teachers, maybe 13 teachers.

11 COMMISSIONER MITTEN: Okay.

12 MS. SMITH: And two administrators.

13 COMMISSIONER MITTEN: Okay.

14 MS. SMITH: And it is in the evening from
15 5:30 to 10:00.

16 COMMISSIONER MITTEN: Okay. And I don't
17 know that I saw this in the traffic study and I'll ask
18 Mr. Wells, but do you know if that period of time was
19 studied, the period after 5:00 p.m.?

20 MS. SMITH: I'm sorry, I don't. Mr. Wells
21 will be able to tell you.

22 COMMISSIONER MITTEN: Okay. Okay. Thank
23 you.

24 CHAIRPERSON GRIFFIS: Good. Anything else
25 from the Board?

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1 BOARD MEMBER MANN: Yes.

2 BOARD MEMBER ETHERLY: I defer to Mr.
3 Mann. Well, actually, if I could, Mr. Chair, let me
4 just follow-up on Mrs. Mitten's question. But this is
5 a question that will go back to Mrs. Prince, rather
6 than to Mrs. Smith. Following up on the night school
7 question, it is your sense, Mrs. Prince, the OP report
8 kind of alluded to it somewhat, that there is any
9 zoning significance, if you will, or any zoning
10 implication because of the night school and its
11 operation?

12 MS. PRINCE: I've been aware of the night
13 school since its inception and I have always regarded
14 it as an accessory use. It's not a degree conferring
15 program. It provides an incredible community service.
16 I don't really -- given what The Lab School's mission
17 is, it is such a logical extension of that mission.
18 Sally can correct me, but I understand that they
19 actually test adults to diagnose disabilities late in
20 life.

21 BOARD MEMBER ETHERLY: Okay.

22 MS. PRINCE: They have had a big sign up
23 for 20 years that talks about the night school. So I
24 have regarded it as accessory. It is only Tuesday and
25 Thursday nights. It's a two night a week program. I

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1 don't know. If it's not accessory to The Lab School
2 use, I don't know what it is.

3 BOARD MEMBER ETHERLY: Okay. Okay. Thank
4 you. Mrs. Smith, anything that you would like to add
5 to that?

6 MS. SMITH: Yes, just that it's very
7 exciting to see night school adults be able to keep
8 their jobs, be able to graduate from college, get
9 their GEDs and become more productive and we feel it
10 is just an extraordinary experience, because with
11 children you have to have a bit of a hidden agenda.
12 With the adults they are coinvestigators with you and
13 they are in there all the time and they work so hard.
14 It's just very exciting from an educator's point of
15 view to work with these adults.

16 BOARD MEMBER ETHERLY: Okay. Excellent.
17 Thank you. Thank you, Mr. Chair.

18 BOARD MEMBER MANN: Mr. Chair?

19 CHAIRPERSON GRIFFIS: Yes, Mr. Mann?

20 BOARD MEMBER MANN: Now, did you say that
21 in 2003 the ANC requested that you provide greater
22 clarity and information?

23 MS. SMITH: They came to us, yes.

24 BOARD MEMBER MANN: And do you know why
25 they were requesting that information?

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1 MS. SMITH: No. At the time we wondered
2 why. I guess, traffic. I don't know. Do you,
3 Allison?

4 MS. PRINCE: I believe the ANC was aware
5 of the overflow parking that was occurring, which our
6 traffic report definitely confirms. I mean, the ANC
7 was aware of it and they figured something must be
8 going on at The Lab School that we had this spill-over
9 parking occurring.

10 BOARD MEMBER MANN: So it sounds like they
11 were, from what you know, interested mostly in the
12 parking issue and that's why they were requesting
13 information. And did they provide guidance on what
14 sort of numbers they were looking for like on how to
15 count enrollment numbers or FTEs or staffing numbers?

16 MS. SMITH: Allyn Kilsheimer was working
17 with them starting then when Mr. Finney was trying to
18 help us, at that time, so I think Allyn's testimony
19 will give you all that information.

20 BOARD MEMBER MANN: Okay. Thank you.

21 CHAIRPERSON GRIFFIS: Anything else? Very
22 well. Let me ask, I know Ms. Gates is not with us
23 today, but is there anyone else here present
24 representing the ANC, ANC-3D? Very well. Reverend
25 Jordan, do you have cross examination of the witness?

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1 No cross. Thank you very much.

2 MS. SMITH: Thank you, sir.

3 CHAIRPERSON GRIFFIS: You can call the
4 next witness.

5 MS. PRINCE: Our next witness is Allyn
6 Kilsheimer, who is on the board of The Lab School. I
7 would like to have Allyn considered an expert in this
8 case. He has got a pretty incredible resume that I'll
9 share with you. He was the lead architect for -- the
10 lead engineer for the reconstruction of the Pentagon
11 and he managed to squeeze in a lot of pro bono service
12 for The Lab School in the midst of that, which is
13 really remarkable. But he has been the person
14 singularly responsible for formulating the approach
15 that The Lab School has elected to take.

16 CHAIRPERSON GRIFFIS: Excellent. And you
17 are submitting his resume or specifics. Is that
18 correct?

19 MS. PRINCE: We just sent it up.

20 CHAIRPERSON GRIFFIS: Good. We'll take a
21 moment and we'll just review that and have the Board
22 ask any questions they might need, otherwise we will
23 have -- and if we can provide Mr. Jordan with a copy
24 also, Reverend Jordan, if you have extras? Good. The
25 Board Members are in receipt. Ms. Prince, just a

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1 clarification. Mr. Kilsheimer is being proffered as
2 an expert witness in structural engineering?

3 MS. PRINCE: I believe structural
4 engineering, although the resume seems to allude more
5 to civil engineering. Allyn oversaw the whole layout
6 and design of the angled parking spaces. He also
7 studied all the options on the main campus for adding
8 a parking structure.

9 CHAIRPERSON GRIFFIS: Oh, I see. Okay.

10 MS. PRINCE: Allyn, are you civil or
11 structural?

12 MR. KILSHEIMER: There's no such a degree
13 as structural engineering degree. You get a bachelor
14 of science in civil engineering, a master of science
15 in civil engineering and then you specialize in
16 various parts of that.

17 CHAIRPERSON GRIFFIS: Right. Indeed.
18 However, just to qualify him, I mean, we would have it
19 as civil engineering and then, obviously, we can
20 encompass in the other, but both elements are going to
21 be talked about in terms of the layout of the parking
22 and then also the elements of the structured parking,
23 which had difficulty. Okay. Good. Any questions,
24 clarifications, anything? Very well. Any objection?
25 Oh, Ms. Miller, did you have a question?

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1 VICE CHAIR MILLER: I was just wondering
2 if you had comparable experiences with respect to
3 laying out parking?

4 MR. KILSHEIMER: Yes, ma'am. Yes, ma'am.

5 VICE CHAIR MILLER: And well, could you
6 just tell us a few?

7 MR. KILSHEIMER: I have done about 10
8 million square feet of parking. I have done 150
9 buildings just in the City of Washington. We lay out
10 parking there. We work with VIKA from John Amatetti's
11 office to do that on site. We work inside of
12 buildings, this building, almost every building in
13 town. So and about \$30 billion worth of buildings all
14 over the country. So we have a lot of experience in
15 laying out parking.

16 VICE CHAIR MILLER: Okay. You convinced
17 me.

18 MR. KILSHEIMER: Okay.

19 CHAIRPERSON GRIFFIS: Indeed. Anything
20 else? I won't speak to it having been in the
21 profession, if you didn't know, Mr. Kilsheimer, then
22 you probably hadn't done much in this city or in this
23 region, but that being said, not noting any
24 objections, we'll take it as a consensus then and
25 establish as an expert in civil engineering with

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1 testimony that will be provided also in structural
2 engineering. Mr. Kilsheimer, let's move ahead.

3 MR. KILSHEIMER: My name is Allyn
4 Kilsheimer. I'm a registered civil engineer in 26
5 states and work in all 26 states as well as many
6 foreign countries. I have been practicing civil
7 structural engineering for 46 years. I have had my
8 own practice for 36 and in a couple more years I'll
9 figure out how to do it right.

10 I am a member of the board of trustees of
11 The Lab School. I'm a member of the board of trustees
12 of a number of other schools. When you do what I do
13 for a living, especially in the last 10 years, you
14 like to be around kids when you can and help people
15 when you can, because the rest of the stuff we see is
16 pretty difficult.

17 I live in Ward 3. I live on Glenbrook
18 Road. I don't know where we were looking and
19 something in Glenbrook Road with schools before, but
20 I live on Glenbrook Road. I have lived in the City of
21 Washington for 61 years. My office has been in the
22 City of Washington for 36 years. I am one of the very
23 rare original Washington people.

24 I began working with The Lab School. I
25 have not had a child with The Lab School and a friend

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1 of mine had a child there and when they were doing the
2 gymnasium, Jimmy thought that the boy thought he knew
3 something about construction, which he didn't, which
4 he admitted and he asked me to come over and explain
5 a couple of things to The Lab School, which is
6 generally how you get sucked into these things. And
7 so I've been there ever since.

8 I usually take on one school every year or
9 two to do something with or some community group that
10 provides assistance to various types of folks. And I
11 very rarely stay as long as I have on this one. I
12 usually do what I'm planning to do and then move on.
13 This is a very special place, which I think Sally has
14 explained to you, but I used to eat out of trash cans
15 and worked in gas stations and really have come from
16 the bottom to wherever I am right now.

17 And I can tell you that I remember working
18 with people that were very limited in what they could
19 do and to see what The Lab School does, you just sit
20 there and watch these kids and it's just incredible.
21 And that's all I will say about the school.

22 After the gym and the pool building were
23 built, which I kind of made sure happened a certain
24 way, I got busy because people were flying planes into
25 buildings and I had to do Oklahoma City, the 1st World

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1 Trade Center, Pentagon, was involved in the 2nd World
2 Trade Center. And in 2001, I believe, I went to one
3 board meeting, it's all I had time for, and Mr. Finney
4 had contacted The Lab School to talk about parking,
5 that's all I was told.

6 So I got in touch with Mr. Finney, who
7 unfortunately, since is deceased, and have sat with
8 him. We talked about issues and the issues that he
9 expressed to me was that there was -- there were
10 people from The Lab School that were parking on the
11 street and we didn't talk about the number of people.
12 We didn't talk about how you counted them. We didn't
13 talk about anything like that.

14 And it was clear to me given the
15 configuration of the site, and I can explain, you can
16 just look at the difference in grade in the site here
17 and the buildings that you can see, which is this is
18 the gym and pool that was built. This classroom was
19 added. This is the castle. This is a Carriage House.
20 And this is private property over here and long there.
21 This is the fire station. This is the PEPCO
22 Substation. This is the Wetlands.

23 This model is done by some kids at the
24 school, so I even asked them not to put the parking
25 spaces on, because I didn't want anybody to count

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1 parking spaces on the model, since these kids were
2 doing this on their own. In any case, it's a very,
3 very difficult site. And one of the things that civil
4 engineers do is they look at geology also and have to
5 do foundation systems. So part of what I'm going to
6 talk about is part of that.

7 So when I went back and forth, Mr. Finney,
8 who was very kind in understanding my situation of not
9 having a lot of time, and he unfortunately was getting
10 sicker and sicker and a long story short, we decided
11 between he and myself that putting diagonal parking on
12 the street would solve a lot of the parking problems
13 and would also provide a sidewalk. Because right now,
14 when you walk down from Foxhall Road towards
15 Reservoir, Macarthur, when you get to where The Lab
16 School is, there is no sidewalk on either side of the
17 street. There is no curb and gutter. There is two
18 catch basins. The street is very poorly paved, if you
19 can use those terms. And the drainage is where the
20 water happens to run when it builds up.

21 The overgrowth on the one side of the
22 street on The Lab School side is so heavy that if you
23 wanted to park a car up along there parallel, you have
24 to park off the street some in "the street." And then
25 there is cars parked on the other side of the street,

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1 which is why we showed them lettered in the drawing
2 that we gave you.

3 Mr. Finney -- I appeared at an ANC meeting
4 back in 2002, I believe. I was the only one there.
5 And by the way, if the ANC meetings -- I'm the one
6 that is in attendance at my request, I didn't want to
7 have -- I didn't think there should be a popularity
8 contest and certainly if I'm there, that's not going
9 to win any popularity contest. But I thought it was
10 important that we explain what we are doing very
11 clearly and succinctly and professionally, so I am the
12 one who asked the school not to be in attendance at
13 these meetings and not to have people that were for
14 the program in attendance at these meetings.

15 And if I had my way, I wouldn't have had
16 a lawyer there either, but I didn't have a choice. In
17 any case, I do kid around a lot. Mr. Finney in that
18 meeting, Mr. Finney and the board, whoever was on the
19 board at that time, agreed they would not take
20 exception to this diagonal parking and that was three
21 years ago. So after we did this and Mr. Finney got
22 pretty ill, it was clear he couldn't function any
23 longer and Alma Gates took over as the ANC Chair and
24 I began working with Alma Gates, who I had not known
25 previously.

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1 I met with Alma and Ms. Heur at Alma's
2 house several times at their request. I go to work at
3 2:00 in the morning. Alma would set her alarm for
4 4:30 and call me up at 4:30 in the morning sometimes
5 to talk about issues and then go back to sleep. But
6 we thought we were well on the path of having this all
7 worked out. I met with St. Patrick's principal. I
8 met with Our Lady of Victory. I thought the person
9 who was the person I had to talk to, it turns out it
10 was the principal and I should have been talking to
11 somebody else, but I didn't know that.

12 And I met with the people in the fire
13 station. I'm a consultant to the District Fire
14 Department and a number of other places like that to
15 talk about Alma had said that they might want to have
16 an ambulance access to the rear of the fire station.
17 And while they would like that, they don't have --
18 their property doesn't have proximity to the street,
19 so they would have to work something out with PEPCO.
20 And as you all probably know, working something out
21 with PEPCO is a little complicated.

22 So we, at one point, thought we were going
23 to leave a space to have ambulance access to the back
24 of the fire station, but they have taken that out at
25 the present time. When we were dealing with the fire

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1 station, they have a hose tower. I know Father Jordan
2 knows what this is. But the hose tower it had been in
3 disrepair, we rebuilt parts of it for them and painted
4 for them, because The Lab School wanted to be part of
5 the community service of what's happening in the
6 neighborhood.

7 We met with Lars Exthorn from the
8 Department of Transportation, the chief traffic
9 engineer, highway engineer, who -- for the District.
10 I was impressed. He called me at 8:00 at night
11 several times, an employee to be still working on
12 things that hey, I thought was pretty great. We went
13 through and they had suggestions. John Amatetti, who
14 will speak later, from VIKA and I have worked together
15 for 30 years or so and I think I sucked John into
16 helping us on this thing. And John is the chairman of
17 VIKA Incorporated.

18 This is a civil engineering firm that does
19 nothing but land planning and site utilization
20 situations. I have worked probably on 30 to 50
21 buildings with John and his folks. So they came back
22 with -- DOT came back with some ideas that they would
23 rather see this and rather see that. And John adapted
24 the plan to whatever DOT wanted. And the way I
25 remember it is DOT sent a letter that said that from

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1 a traffic standpoint in regards to the parking, that
2 what we were planning was acceptable to them. It
3 didn't talk about the traffic flow and it didn't talk
4 about the traffic in the neighborhood.

5 In any case, my life gets a little
6 complicated and I must tell you I was not pushing very
7 hard, although just before every board meeting I got
8 really serious about understanding what I had to be
9 doing for the next board meeting. And we realized
10 that we had to raise money and we figured we had to
11 raise about a quarter of a million dollars to do the
12 sidewalk, the curb and gutter, paving.

13 And, in fact, we had decided that instead
14 of putting new paving where the cars were going to
15 park in the diagonal parking, we were going to use, I
16 think it's called, grasscrete, which is little blocks
17 that has grass growing through it, so you're not
18 increasing the impervious surface. You are actually
19 letting the water drain through.

20 We talked to a number of contractors. I
21 have a relatively strong personality convincing them
22 they were going to assist in providing services to us
23 if we got the right to do this. We need some
24 retaining walls back along when you get towards
25 Macarthur Boulevard. So we went through, while we

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1 were doing that, as I told Mr. Finney, a lot of
2 different studies on the site itself.

3 And I just brought these with me. These
4 are small drawings. They had 12 different options
5 that we studied and I can show you on the model
6 probably easier if you are interested in it. One
7 study was to tear down these two houses that we own.
8 Now, the house that was talked about earlier today is
9 across the street here. And I think St. Patrick's
10 owns those two. And Our Lady of Victory is there. To
11 tear this down and build a below-grade parking
12 structure there.

13 And the use per square foot was incredibly
14 high, because you couldn't get efficiency in getting
15 ramps in and I would have had gone down to almost to
16 China to get enough parking. And you couldn't do it
17 geologically, because you have to hold up the street
18 and this gymnasium and you had a sheeting and shoring
19 problem here.

20 Then we looked at okay, let's brace the
21 walls of the gym, let's tear out the slab, build a new
22 garage underneath the gym. And I have done that on
23 three or four Government buildings and other stuff
24 before. I looked at that. The problem is with the
25 very tall wall system like this, the possibility of

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1 success without a failure of collapse was probably
2 50/50 and I didn't think that was a reasonable thing
3 to do.

4 I then looked at tearing down the Carriage
5 House and building parking there. I believe that
6 someone would -- when we asked to tear this down would
7 ask for this to be put on the Historic register and
8 that would preclude us tearing it down. We looked at
9 out front here, because that's the biggest area. And
10 when we looked at the front area, the problem is that
11 there is a 50 foot or so grade difference from here to
12 here. There is a 20 foot here. There is a 30 foot
13 there. This is a brownstone sandstone building that
14 has, essentially, no mortar in the joints. It has no
15 footings. It just has a piece of stone laid in the
16 ground and it works by gravity.

17 Gravity buildings, when you start to dig
18 next to them, especially, when there are high water
19 levels, don't work too well. And this site is too
20 small for a slurry wall, which we have done downtown
21 a lot in big sites, which is digging a hole in the
22 ground without digging a hole in the ground. You dig
23 up the dirt and put in cement at the same time. So
24 when you finish, you built a wall without digging it
25 out.

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1 We looked at that and we said okay, we
2 can't get too close to this, but the bigger problems
3 were these neighbors over here, which were, I forgot
4 their names now, but they got to know me really well
5 when we were doing the gym, because they were upset
6 with some noise issues sometimes. I would go over and
7 try and help them understand what we were doing.

8 In this area right here, if you note,
9 Georgetown University has that parking structure in
10 front of it on Reservoir Road. Well, the problem with
11 that is if we did something like that here, one or two
12 levels below and one level above, these neighbors here
13 and here, I believe, if we filed for a permit, they
14 would just go berserk. They didn't like what we did
15 over here. This is obtrusive to the site of the
16 property. I don't think we would ever get a right to
17 do it.

18 In addition to that, in order to build a
19 building here, all the cars, and this is where the
20 truck, the bus queuing is, all that would be on the
21 street for two years, plus all the construction
22 workers. And so when you looked at that and said
23 that's not really a viable option for the school.
24 It's not really a viable option for the neighborhood.

25 Then we looked at the Wetlands, these

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1 Wetlands here. The Wetlands used to be here. In
2 fact, the stream that feeds the Wetlands is piped
3 underneath the gymnasium and we got the rights from
4 the Corps of Engineers to make this the Wetlands area
5 and we traded off. In order to build over here in the
6 Wetlands, A, we have a real water problem and more
7 importantly, we have to, essentially, get Wetlands
8 someplace else and trade with Wetlands someplace else.

9 Wetlands currently in the current
10 development market is something that people are always
11 interested in getting, because then they have the
12 right to build buildings someplace else, so we would
13 be in an incredibly competitive market and I don't
14 know where we could do it. In addition to that, this
15 Wetlands area is just one of the teaching tools that
16 the school uses for understanding the environment and
17 they use it pretty substantially.

18 So we looked at all these different
19 options. We looked at cutting a retaining wall in
20 here and in here to get some more parking. We picked
21 up eight spaces and we were too close to the property
22 line. No matter what we did and again, I can walk you
23 through every one of these drawings, the red lines
24 represent the studies that we did. No matter what we
25 did, we couldn't get it to work. And money wasn't the

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1 issue.

2 I have said to the ANC and I have said to
3 the board that I believe, given sufficient time, I can
4 raise the money to build a parking garage, if we have
5 the property. We, in fact, have gotten people to
6 donate the money to do this work out here if we get
7 the right to do it. That's where that money is coming
8 from. So I then -- when I started meeting with the
9 new ANC group as they raised issues, I would try to
10 address the issues they had. There was a concern at
11 one point to try and get a little more green space on
12 the corner, so we added this little piece into this.

13 We, essentially, would look at all the
14 different things that were being raised by different
15 people and tried to adjust to them. We also began
16 looking at things like I talked to the chairman of the
17 board of CVS, the chairman of the board of Safeway.
18 I talked to the German Embassy and the only way I can
19 talk to them, since I'm German, and we have even
20 talked to G.W. Actually, Alma made that contact for
21 us and I'm on the board down there, so I can't push
22 too hard, but we've been going back and forth and will
23 they give us spaces for five years.

24 And we're in the mode of how many do you
25 want? 50. When do you want them? As soon as you can

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1 give them to us. What time? When do you want to give
2 it to us? We're in that mode right now. I don't know
3 if we're going to be successful with that or not.

4 I looked at off-site property and given
5 today's condominium market, if nothing else, you
6 understand that any space that can have something
7 built on it is really hot property right now and
8 really worth a whole lot of money. And we certainly
9 can't compete with the developers that can get \$2
10 million for a condo.

11 I even looked at seeing if we could build
12 a deck over the reservoir over here, but I decided I
13 wouldn't push that too far. In any case, we have
14 looked at everything possible. So starting about --
15 we went to the last ANC meeting. And again, at each
16 ANC meeting I heard what people were saying and
17 usually it was the ANC that was saying it. There was
18 one or two people that came and gave us some comments
19 and I heard what they were saying. We tried to
20 accommodate what they were saying.

21 In the last ANC meeting is when I first
22 met Father Jordan and he was relatively new to Our
23 Lady of Victory, at that time, and I had met him and
24 I heard his concerns. And his concerns, as I
25 understood it, were the safety of students who were

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1 dropped off by parents from Our Lady of Victory over
2 here and walked across the street, because there is no
3 sidewalk or anything and no crosswalk. Walked across
4 the street to his school. And then there is a
5 driveway in the school.

6 And I heard his concern about turning the
7 corner for the fire trucks and I had already talked to
8 the firemen about that. And this little island that
9 is added here was added at DOT's request, but
10 certainly if that were gone or made tighter, then that
11 would be a lot less of a concern. And I understood
12 the Father's concern about safety.

13 So that's again the sidewalk goes from
14 here all the way down to here. This crosswalk is here
15 and here and here. This is back-in parking just like
16 it is at St. Patrick's and it all seems to work pretty
17 well. I met on Saturday with the Father and we went
18 through a whole bunch of different issues and, in
19 fact, the drawing that we filed with the BZA has those
20 seven spaces not included. It is shown on the drawing
21 as not included, this updated drawing that, Allison
22 was being very nice, the things on the drawing were
23 mistakes that my office made that will be corrected
24 and that's why we drew it in the red.

25 Like we had a parking space in front of a

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1 fire hydrant, as an example, so we put in the two fire
2 hydrants at the spacing and distance required. In
3 talking to the Father, one of the things that we
4 talked about was he has, his school has some needs
5 also and Our Lady of Victory School is here. There is
6 a driveway that goes like this following a property
7 line.

8 One of the things on the drawings that you
9 have in front of you we show a loop being built on his
10 property to go through public space and on his
11 property to allow a drop-off on his property and in
12 public space to allow parents who are coming this way
13 or this way to drop their children off, so they don't
14 drop them off on the other side of the street, if
15 that's necessary.

16 And what I told the Father was that we
17 would help him with that design and if we got that
18 approval within the same time frame as and if we got
19 this approval, we would build that for the school.
20 That led to -- one thing led to another and I started
21 talking about joint development that we had done with
22 St. Matthew's and St. Patrick's downtown and we came
23 up with this. I came up with a plan and he seemed to
24 like the idea.

25 And it's in very, very infancy stages,

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1 which is behind the school there is a large paved
2 area, behind Our Lady of Victory. It's roughly 160
3 feet by 210 feet. It has access off of W Street
4 directly across from the Safeway and it is -- if you
5 know where the Columbia Hospital for Women was and we
6 built the berm up around the outside so it didn't look
7 as tall of a building. The Macarthur Boulevard side
8 has that berm up in front of it.

9 So the thought was if we could find a way
10 to structure a joint development with Our Lady of
11 Victory getting somehow the two entities to own the
12 property in such a way as it counted as parking on our
13 property as well as they can count it on their
14 property, the macadam surface that's currently there
15 is used as the only play area the school has, that Our
16 Lady of Victory has. And so the thought was to do
17 similar to Georgetown University, Georgetown Day
18 School and National Cathedral is to build a below-
19 grade structure, make the top of it green area that is
20 planted, it has playing fields on top of it, so the
21 kids are playing on a grassy area, rather than on a
22 macadam area.

23 It puts two to three levels of parking
24 depending on what the need is and what the borings
25 are. We haven't done any borings yet, so I don't

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1 know. It could put two levels to three levels of
2 parking below grade. There can be some ancillary
3 spaces for Our Lady of Victory there and the playing
4 field on top could be used by Our Lady of Victory and
5 shared sometimes with The Lab School, if that's what
6 the deal is that was agreed to.

7 And during the time that that development
8 was to occur, if it were to occur, the -- we would see
9 if we could work a way for Our Lady of Victory
10 children to be able to come play and use the
11 facilities of The Lab School, if it works from a
12 schedule standpoint, it puts no more cars on the
13 street, it does dig dirt out and I sat through so many
14 ANC meetings about dirt. And I could tell you like
15 the Corps of Engineers, there's going to be four
16 trucks a day, but that would be an outright lie,
17 similar to what they said. But it's more like 40
18 trucks a day. But it's over with before you know it.

19 And the traffic can be controlled, so it
20 doesn't go through the neighborhood. I know that.
21 Georgetown Day School is doing that very well right
22 now. So the plan is, and the reason that the five
23 year time frame that I asked for came up, I figured it
24 was going to take me time to find land, time to raise
25 money, time to file for a permit, time to get a

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1 building permit, which as you know in the District
2 takes some time, and then time to build the facility.

3 Well, the nice part is that if we were
4 able to do -- and we actually have four pieces of
5 property that we looked at, but they are not available
6 yet. They are not available because the owners are
7 doing something with maybe another piece of property
8 for a school and they are not willing to sell
9 something before they know what they are doing there.
10 We have an elderly gentleman who is hanging around and
11 he controls his property and he doesn't want to talk
12 to anybody at the present time.

13 So we are really looking at every place we
14 can, but the idea is that in five years, you know, and
15 I have said to the ANC as long as I'm around, I am
16 known in this country and other places as being a
17 person who is a person of his word and if anybody can
18 do it, I can get it done. And I'm telling you unless
19 I drop dead or get shot, this is going to happen.
20 It's going to happen in a five year period. And we
21 will raise the money that's necessary through all the
22 resources that we have to solve this problem.

23 But I can't solve the problem right away
24 and the only way to solve the problem right away is to
25 have the temporary parking spaces on Whitehaven

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1 Parkway. One of the things that one of the ANC
2 Commissioners said at the last meeting was what are
3 you going to do at the end of five years? I said
4 well, we thought we would leave the sidewalk there.
5 And she didn't like it. She wanted green space. I
6 said you know what, we'll plow it under again if
7 that's what you want. It's a little silly to me, but
8 that's what we'll do.

9 So the end result is for whatever reasons
10 The Lab School did not have all the counts before,
11 because they didn't understand what was being asked
12 and answered it the best they could. My job is to
13 move forward not backwards. I can't cover all those
14 issues. All I can do is move forward and that's what
15 the intent is.

16 CHAIRPERSON GRIFFIS: Excellent. Thank
17 you very much. Do we have follow-up questions from
18 the Board, further clarifications? Ms. Miller?

19 VICE CHAIR MILLER: Did you say how many
20 spaces you anticipated that underground parking
21 facility could accommodate?

22 CHAIRPERSON GRIFFIS: Which one?

23 MR. KILSHEIMER: Between Saturday and
24 today I haven't worked it out yet, but it depends on
25 how many levels. I mean, the way we got the

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1 dimensions is the Father and I walked off the paces
2 and my feet are bigger than his, but he takes bigger
3 steps so I don't know the exact dimension. John
4 Amatetti, if we get the right from Our Lady of
5 Victory, will do a survey for us of the property.

6 CHAIRPERSON GRIFFIS: What were the
7 approximate dimensions you were saying?

8 MR. KILSHEIMER: 157 by 206 or something
9 like that.

10 CHAIRPERSON GRIFFIS: At let's say 400
11 square feet a car which would be --

12 MR. KILSHEIMER: Yes, pretty much.

13 CHAIRPERSON GRIFFIS: -- very inefficient.

14 MR. KILSHEIMER: Yes, that would be
15 inefficient.

16 CHAIRPERSON GRIFFIS: We could do a
17 calculation.

18 MR. KILSHEIMER: And this is efficient
19 space.

20 CHAIRPERSON GRIFFIS: Right. So you're
21 talking about several hundred.

22 MR. KILSHEIMER: You could.

23 CHAIRPERSON GRIFFIS: Just to get a
24 perspective for Board Members.

25 VICE CHAIR MILLER: Thank you.

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1 CHAIRPERSON GRIFFIS: On how many, three
2 levels of below grade?

3 MR. KILSHEIMER: I think the idea would be
4 to do two levels.

5 CHAIRPERSON GRIFFIS: Sure.

6 MR. KILSHEIMER: And the first level above
7 would be a space that could be used for back of house
8 services for Our Lady of Victory.

9 CHAIRPERSON GRIFFIS: I see.

10 MR. KILSHEIMER: Because the Father --

11 CHAIRPERSON GRIFFIS: I see.

12 MR. KILSHEIMER: -- suggested they might
13 be in need of something.

14 CHAIRPERSON GRIFFIS: But even in two
15 would it be your testimony that you are talking about
16 several hundred spaces?

17 MR. KILSHEIMER: That is how much you
18 could probably build. Yes, sir.

19 CHAIRPERSON GRIFFIS: Okay. Anything
20 else?

21 VICE CHAIR MILLER: I just want to try and
22 understand the history here just a little bit with
23 respect to when this became an issue or a problem. I
24 think you said in 2002 you were going to ANC meetings
25 with Mr. Finney.

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1 MR. KILSHEIMER: Yes. 2001 is when I
2 first knew about the issue.

3 VICE CHAIR MILLER: Can you just tell me
4 what was the issue in 2001? Is it the same issue as
5 it is now or is it just it was beginning to get --
6 people were beginning to have trouble finding parking
7 spaces?

8 MR. KILSHEIMER: I don't think the issue
9 has ever been that anybody was trouble having --
10 having trouble finding parking space. I know it's
11 like on my street when one of the embassies has a
12 party, they find parking spaces and it aggravates me
13 and I understand that problem.

14 I think what -- Mr. Finney raised the
15 issue. I don't know why he raised the issue with me.
16 I didn't understand the parking issue at all. I
17 didn't even understand how many teachers we had and I
18 didn't understand any of that. I just knew that it
19 was a great place for kids and all you had to do was
20 go stand in that gym the first time they used it and
21 it made everything worthwhile.

22 But the long story short is I don't know
23 why it came up, but it's clear when I see Peter Braun
24 out there in the mornings trying to get buses and, you
25 know, there's 17 buses from like the District of

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1 Columbia that come onto our site to drop kids off that
2 actually come onto the site.

3 For the majority of the time there are no
4 buses that actually park on Whitehaven, although
5 occasionally a driver will do that and we try to do
6 something about that as soon as we know about it.
7 Parents are not supposed to drop their kids off on
8 Whitehaven. Some of them do that. It's pretty hard
9 to play policeman at all times, although the police
10 have been there recently to assist in that matter.

11 We are doing everything we can to keep the
12 majority of the stopped traffic for drop-offs and
13 buses and all that stuff on The Lab School property.
14 We do have to keep fire exits open. If we didn't have
15 to worry about fire exits, I can get 140 cars on this
16 property. They wouldn't be zoning cars because they
17 would be stacked back-to-back.

18 In fact, I think we can get 158 even with
19 some buddy park spaces by using the property that we
20 have on Whitehaven, the driveways there, but they
21 don't count because they are buddy spaces so we didn't
22 count any of those. I think we show that on the
23 summary on the left hand side. So I don't know why
24 Mr. Finney brought it up. I just know that he and I
25 were the ones that began working on it.

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1 VICE CHAIR MILLER: Thank you.

2 CHAIRPERSON GRIFFIS: Anything else?
3 Follow-ups? Very well. Reverend Jordan, cross? No
4 cross? Thank you very much.

5 MR. KILSHEIMER: Do you want me to leave
6 these here or you guys --

7 CHAIRPERSON GRIFFIS: Ms. Prince, are you
8 submitting those into the --

9 MS. PRINCE: We'll be submitting copies
10 for the record. They are simply studies of alternate
11 locations that were looked at for a parking structure
12 on the campus.

13 CHAIRPERSON GRIFFIS: Right.

14 MR. KILSHEIMER: With respect to --

15 CHAIRPERSON GRIFFIS: I mean, quite
16 frankly, I don't see the need to have the drawings in.
17 I think the explanation was excellent.

18 MS. PRINCE: The explanation, oh,
19 excellent.

20 CHAIRPERSON GRIFFIS: In terms of walking
21 through the areas, I think it's pretty self-
22 explanatory. One follow-up question in terms of the
23 alternative for the below grade or the structured
24 parking on the front below where there is now surface
25 parking. My understanding of your testimony was that

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1 the main reason not to pursue that is that you would
2 have somewhat of an unsightly structure that faced
3 this avenue and the residences across the avenue.

4 MR. KILSHEIMER: Actually, there's three
5 reasons for it. The first is the stability of the
6 Castle.

7 CHAIRPERSON GRIFFIS: Oh, indeed, indeed.

8 MR. KILSHEIMER: And finding a way to use
9 this space because you can see from the surface
10 parking you need that much space just to be able get
11 vehicles around and park.

12 CHAIRPERSON GRIFFIS: Right.

13 MR. KILSHEIMER: So you have to go all the
14 way to that spot.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. KILSHEIMER: And it's the stability of
17 the Castle. We had some emergency work done that I
18 brought some guys in, because the stone was falling
19 off on the other side. It's a very old building. The
20 second was that we would have to take all this traffic
21 that is here, the cars and the bus queuing, and put it
22 on the street for two years.

23 CHAIRPERSON GRIFFIS: Right. That I
24 understand.

25 MR. KILSHEIMER: And then the third was

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1 that the only way to do it and try and keep it up out
2 of the ground as much as possible, but still in the
3 ground, was to have one level sticking above grade
4 behind where these trees are now.

5 CHAIRPERSON GRIFFIS: Right.

6 MR. KILSHEIMER: Which obviously would
7 die, but to have it above grade like at Georgetown
8 University.

9 CHAIRPERSON GRIFFIS: Right.

10 MR. KILSHEIMER: And given the concern
11 that the neighbors here and here had before, I didn't
12 feel that that was a viable option.

13 CHAIRPERSON GRIFFIS: Okay. Did you look
14 at it in terms of the efficiency of what those decks
15 would be in terms of the drive aisles or the access up
16 onto the grade because the grade would be above where
17 you enter into the structure? Is that --

18 MR. KILSHEIMER: Yes. The idea is that it
19 would be very inefficient parking on top of that.

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. KILSHEIMER: But I wasn't looking at
22 efficiency.

23 CHAIRPERSON GRIFFIS: I see.

24 MR. KILSHEIMER: Because that really
25 affects -- that's a cost relationship. I was looking

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1 at how do we get the cars we need forgetting about
2 efficiency.

3 CHAIRPERSON GRIFFIS: Okay.

4 MR. KILSHEIMER: We looked at one way
5 drive aisles. We looked at parking on two sides. We
6 looked at diagonal parking. We looked at parallel on
7 some sides and perpendicular on other sides. So we
8 really looked at lots of different studies inside that
9 area.

10 CHAIRPERSON GRIFFIS: Sure. Okay. Good.
11 Thank you very much.

12 MR. KILSHEIMER: Thank you.

13 CHAIRPERSON GRIFFIS: Very comprehensive
14 testimony. Ms. Prince, I think we're ready for the
15 next.

16 MS. PRINCE: We have Marty Wells. He has
17 been -- he is an expert in traffic and has been found
18 such by this Board many times before, but I have his
19 resume if you want to look at it again.

20 CHAIRPERSON GRIFFIS: I don't have any
21 need to see it again. We can put it into the record.
22 We don't need to take the additional time unless other
23 Board Members need additional time to review it. Is
24 there any objection?

25 Reverend Jordan, did you have any opinion

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1 on the expert witness of Mr. Wells? No opinion. Is
2 there any objection or comments voiced by the Board?
3 Not noting any, we'll take it as a consensus. Mr.
4 Wells, welcome again as an expert witness in
5 transportation engineering, traffic control and the
6 like.

7 MR. WELLS: Thank you.

8 CHAIRPERSON GRIFFIS: Certainly.

9 MR. WELLS: Good afternoon. My name is
10 Marty Wells, president of Wells and Associates and we
11 were retained by The Lab School to evaluate the
12 application that is before you this afternoon.

13 Current Lab School traffic and parking
14 demands were determined by our firm based on traffic
15 counts, parking occupancy counts and pedestrian
16 surveys. We necessarily had to interview people as
17 they came on and off the property, because we're very
18 aware that there is spill-over parking in the
19 neighborhood and we wanted to capture all of the
20 demand.

21 We did that on Wednesday, October 19th of
22 this year. We determined that The Lab School's 182
23 faculty and staff and 330 students currently generate
24 about 297 a.m. peak hour trips, 174 school p.m. peak
25 hour trips, that is when school lets out, and 121

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1 commuter p.m. peak hour trips. Unfortunately, these
2 populations generate a peak parking demand of 175
3 spaces.

4 The Lab School has an on-campus parking
5 supply of 107 spaces. If you count all the nooks and
6 crannies in which cars are parked, 87 of these spaces
7 are marked self-parking spaces, we believe comply with
8 the municipal regulations. You may have also heard
9 the number 89 spaces. I believe there are two spaces
10 in question in the northwest corner of the building
11 that, in our opinion, do not have sufficient drive
12 aisle dimension to count those towards a legal
13 requirement.

14 CHAIRPERSON GRIFFIS: So they are sized
15 correctly but the drive aisles according to the
16 requirements and the regulations don't meet?

17 MR. WELLS: I think so.

18 CHAIRPERSON GRIFFIS: Okay.

19 MR. WELLS: That is correct. The number
20 of spaces required by regulation, whether you're
21 looking at 107 or 87 spaces, clearly that is less than
22 175 spaces which is the peak demand. The number of
23 spaces required by regulation also exceeds the on-site
24 parking supply.

25 The regulations would require, by our

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1 calculations, 130 parking spaces based on 182 faculty
2 and staff. Again, two spaces for every three faculty
3 and staff plus the 330 students, looking at one space
4 for every 10 assembly seats in the largest assembly
5 area for high school students.

6 This is 23 more spaces than the practical
7 on-campus supply of 107 spaces and it's 43 more spaces
8 than the current on-campus supply of 87 legal spaces.
9 In other words, we need 130. We ain't got them on
10 site whether you're looking at legal spaces or all the
11 practical spaces.

12 The consequence of this shortage is spill-
13 over parking. Of the 175 Lab School parkers, we
14 identified 91 of them were parked on the campus. 84
15 were parked off campus and those 84 were on public
16 streets, mostly Reservoir Road but also Whitehaven
17 Parkway and other streets, public streets, and they
18 were in off-street parking lots. You may know that
19 the CVS lot is a popular place for people to park even
20 if they are not CVS customers.

21 On the advice of DDOT, Mr. Ken Laden, a
22 Transportation Management Plan could reduce The Lab
23 School's peak traffic and parking impacts. An
24 appropriate goal for the plan would be to, since we
25 have this imbalance of parking demand and parking

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1 supply, increase the supply, decrease the demand,
2 bring them back into balance or bring them into
3 balance.

4 The school has proposed to construct the
5 43 angled parking spaces on the north side of
6 Whitehaven Parkway adjacent to the school. These 43
7 spaces along with the 87 legal spaces not so
8 coincidentally add up to 130 spaces, which is the
9 municipal requirements.

10 The actual parking demand of 175 spaces
11 could be reduced if we encouraged or even required
12 faculty and staff to ride in carpools or to take
13 public transportation. You may know that The Lab
14 School currently operates a free shuttle bus service
15 between the Tenleytown/AU Metro Station and the
16 campus. That is a fairly new feature. The Lab School
17 also is looking at extending that service to the
18 Roslyn Station.

19 Just today the school approved a \$105
20 transit subsidy. That is the maximum amount permitted
21 pre-tax for faculty and staff to encourage public
22 transportation use. The school is also reviewing a
23 guaranteed ride home for faculty and staff who may
24 fear that they need their car in case they need to go
25 home in the middle of the day because of a sick child

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1 or some other type of emergency.

2 And, in fact, our TMP, our Transportation
3 Management Plan that was provided to you earlier
4 today, outlines many of these steps. That plan was
5 shared yesterday with Ken Laden at DDOT. He is
6 supportive of this effort. He wants more specifics,
7 you might not be surprised, and he pledges to work
8 with the school and the neighborhood in developing an
9 appropriate TMP.

10 You might also have heard in earlier
11 testimony that high school students are prohibited
12 from driving to school, except in hardship cases.
13 There are five such cases currently.

14 The angled parking spaces in and of
15 themselves, it's my belief, will add no additional
16 traffic. There will be no net increase in traffic due
17 simply to the angled spaces. People who are parking
18 elsewhere would instead park in these angled spaces.
19 It obviously would have an impact on the distribution
20 of the existing traffic. People who park a block or
21 two away instead would park in these angled spaces.
22 That will draw more traffic to the Macarthur
23 Boulevard/Whitehaven Parkway intersection.

24 Now, admittedly, that intersection
25 operates at capacity in the morning commuter peak hour

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1 and morning school peak hour, but it operates
2 generally at acceptable levels of service at other
3 times of day. It is difficult at most times of day to
4 turn off of Whitehaven Parkway onto Macarthur
5 Boulevard. That intersection or that junction is not
6 controlled by a signal.

7 There are signals at both ends of
8 Reservoir Road, the east leg and the west leg where it
9 intersects Macarthur Boulevard. And as a practical
10 matter what motorists have to do is they rely on the
11 gaps created in the Macarthur Boulevard traffic by
12 those existing signals to make the turns on and off of
13 Whitehaven Parkway, and also people rely on people to
14 be courteous to let them out or let them in.

15 To put the numbers in perspective, the
16 intersection of Macarthur and Whitehaven carries
17 roughly 2,000 to 3,000 peak hour trips. Those are 60
18 minute numbers. We did our original analysis on the
19 proposal for 50 spaces.

20 That would have generated 40 trips in the
21 morning school peak hour, 13 trips in the school p.m.
22 peak hour and about three trips during the commuter
23 peak hour. These are very small numbers in
24 relationship to the total traffic using these
25 intersections. Frankly, this amount of traffic is not

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1 going to affect, perceptibly affect, levels of service
2 or delay at the intersection.

3 The issue of safety has been raised
4 regarding the angled spaces. These spaces would be
5 constructed. If permission is granted to build them,
6 they would be constructed to DDOT's standards.
7 Whitehaven Parkway effectively would be widened as
8 part of this proposal.

9 Currently, Whitehaven, the width varies.
10 There is no fixed curb in many of these sections here.
11 It's an irregular pavement edge, but generally it's
12 about 32 to 33 feet. That pavement would be widened
13 by another 5 feet for a site line for the angled
14 parking spaces. Then the angled parking spaces
15 themselves would be 18 feet deep.

16 Moreover, some of that 32 to 33 feet of
17 pavement today is being used for parallel parking on
18 the school side of Whitehaven Parkway. Those parallel
19 parkers would no longer be there so there is more
20 clear distance for fire trucks, emergency vehicles,
21 ordinary vehicles, ordinary cars.

22 Motorists can back into and pull out of
23 these angled spaces with the same ease or, frankly,
24 greater ease than the existing parallel parking
25 spaces. The 6 foot sidewalk would be built where

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1 there is no sidewalk today. If one wants to walk from
2 the east end of Whitehaven Parkway to the west end,
3 you would do that by walking down the middle of this
4 street. There is no sidewalk on the north side or
5 south side.

6 Another measure of the workability of
7 these spaces is what we all see at the east end of the
8 block. This is not a radically new idea. There are
9 angled parking spaces at the east end of Whitehaven
10 Parkway, the same side of the street we're talking
11 about, adjacent to St. Patrick's. They have worked
12 well.

13 I have spoken to the Metropolitan Police
14 about this. They are aware of no safety issues or
15 efficiency issues with the existing angled spaces and
16 at least the officer I spoke to would anticipate no
17 problems with these spaces.

18 Just a couple of other comments in
19 anticipation of one of your questions. That's a
20 dangerous thing to do, to anticipate your questions,
21 but a question was asked about number of employees.
22 We have been told there are 182 employees. They are
23 not all there at the same time and it varies from day-
24 to-day, but the number of employees ranges from -- at
25 7:00 in the morning, 7:00 a.m. until noon, ranges from

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1 170 to 179.

2 On Wednesdays, and we counted on a
3 Wednesday, the number is 177. That is what the
4 schedule says. At noon to 4:00 it ranges from 172 to
5 179. On Wednesdays it's 177. And in the
6 afternoon/early evening between 4:00 and 8:00 p.m. it
7 ranges from only 31 to 39. On Wednesdays it's 38.
8 Now, these numbers do not include seven interns and 15
9 tutor trainees. These are not data I collected, but
10 data provided to me by the school.

11 A question was raised about the evening
12 classes. Evening classes, it's my understanding are
13 held on Tuesdays and Thursdays. We did count a
14 Wednesday, which is not Tuesday or Thursday but
15 clearly with the reduced number of faculty and staff
16 in the late afternoon/early evenings, the critical
17 peak hour is in the morning. That concludes my
18 prepared remarks.

19 CHAIRPERSON GRIFFIS: Excellent. Thank
20 you very much. Let me ask you just quickly. In your
21 opening you indicated that you had provided the TMP to
22 Mr. Laden at DDOT and were looking forward to their
23 comments. They wanted additional information and were
24 going to provide back analysis and review.

25 What is the timing on that coordination?

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1 Do you have any idea?

2 MR. WELLS: I spoke to Ken this morning
3 and he did not give me a timetable. He gave me a
4 pledge to work with the school and the neighborhood.

5 CHAIRPERSON GRIFFIS: And your experience
6 has been, are we five, 10 years off, is it three
7 weeks?

8 MR. WELLS: I think it will be within five
9 years, yes. That is up to Mr. Laden. I would think
10 it would be a matter of weeks. I am mindful of the
11 holidays.

12 CHAIRPERSON GRIFFIS: Okay. Okay. Good.
13 That is all I have right now. Others? Ms. Miller?

14 VICE CHAIR MILLER: Was there a TMP done
15 in 1997?

16 MR. WELLS: Not by me.

17 MS. PRINCE: There was no TMP done in '97.

18 VICE CHAIR MILLER: Okay.

19 MS. PRINCE: TMPs are a relatively new
20 phenomenon in BZA cases.

21 VICE CHAIR MILLER: So do we have any
22 measurement of the difference in traffic conditions
23 now than in 1997, the last order?

24 MR. WELLS: I have none. I would offer up
25 to you, we did take a look at some of the traffic

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1 patterns a couple of years ago, in 2003. Things have
2 gotten somewhat better.

3 I know just my general knowledge of the
4 area, they got significantly better when the driveway
5 to the school was aligned with the Reservoir, this,
6 what I will call the east leg of Reservoir and
7 Macarthur Boulevard. That four leg intersection, the
8 fourth leg is the school's driveway. So the driveway
9 is controlled now by a traffic signal where it was not
10 before.

11 The school has over time made incremental
12 improvements. There is now an off duty police
13 officer. That seems de rigueur now for most
14 independent schools but, indeed, they have
15 Metropolitan Police off duty uniformed controlling the
16 traffic at the entrance.

17 They have, by their own description and by
18 our observation, improved the traffic flow and reduced
19 the impacts on the public streets. And recently, the
20 school has implemented the shuttle bus service which
21 I think is a step in the right direction. It's a
22 resource that we can do more with and that's what
23 we're proposing to do.

24 VICE CHAIR MILLER: And with respect to
25 the shuttle bus, have you been able to measure the

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1 impact on either parking or traffic from the shuttle
2 bus?

3 MR. WELLS: It has been modest so far.
4 The school keeps track of the number of daily
5 passengers and the average is about 10 to 12
6 passengers a day. It's a free service, but to date
7 that is without any subsidy for the real fare which is
8 on Metrorail or Metrobus. The day we surveyed there
9 were 14 people who took the shuttle. Now, whether
10 they all formerly drove before or not we don't know,
11 but that is an impact of a modest 14 passengers. It
12 can only go up from there I think.

13 VICE CHAIR MILLER: Okay. So, basically,
14 it's your opinion that traffic has gotten better since
15 1997. How about parking? How has that changed?

16 MR. WELLS: I --

17 VICE CHAIR MILLER: Do you have a basis
18 even to --

19 MR. WELLS: It had improved a little bit
20 from 2003, not a huge change. I cannot speak to 1997.

21 VICE CHAIR MILLER: Well, why can you
22 speak to 2003? What happened then?

23 MR. WELLS: We did some survey work for
24 the school back then.

25 VICE CHAIR MILLER: Oh, okay.

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1 MR. WELLS: Not associated with an
2 application.

3 VICE CHAIR MILLER: I guess I'm still
4 trying to figure out what has prompted the concern
5 about the parking situation, whether it's conditions
6 that were growing worse or whether it's people paying
7 attention to counts at the school or both.

8 MR. WELLS: I think the bottom line to
9 this case is there is just a lot of faculty and staff
10 and this kind of school requires these numbers of
11 faculty and staff for these numbers of students. I
12 think the school has an increased level of
13 consciousness about this and are taking actions to
14 address the problem.

15 VICE CHAIR MILLER: Were you able to
16 identify the impact of the school on the traffic?

17 MR. WELLS: The school, we identified the
18 number of trips generated by the school. That is part
19 and parcel of the traffic that went into evaluating
20 the levels of service. We did also look at what the
21 levels of service would be if we, indeed, had 95
22 faculty and staff and only 310 students. There would
23 be less traffic.

24 It would not -- the Fs that we measured in
25 the morning would not become Es or Ds. They would

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1 still be Fs and the reason is there is so much
2 traffic, general public traffic, the 2,000 to 3,000
3 vehicles, that if you reduced the number of trips by
4 a small amount, it doesn't change the level of service
5 calculations. So yes, we did look at it. That's in
6 our report.

7 VICE CHAIR MILLER: Thank you.

8 COMMISSIONER MITTEN: Mr. Chairman?

9 CHAIRPERSON GRIFFIS: Yes?

10 COMMISSIONER MITTEN: I just had a couple
11 of additional questions.

12 CHAIRPERSON GRIFFIS: Good.

13 COMMISSIONER MITTEN: In your report at
14 page 4 you make mention of the fact that the parking
15 spaces for faculty and staff are assigned according to
16 tenure?

17 MR. WELLS: Yes. I don't like that, but
18 that's what they do. They number the spaces and they
19 assign spaces to individual teachers.

20 COMMISSIONER MITTEN: So given that you
21 were describing a situation where not the full
22 compliment of faculty or staff is there at all times,
23 is Space No. 25 always reserved for the same person or
24 how does that work?

25 MR. WELLS: That's a good question. By

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1 our observation, those numbered spaces, they are not
2 all filled but they are almost always filled. I
3 assume they are assigned to full-time staff and Sally
4 or Peter could answer that. Sally is nodding yes to
5 that, to my --

6 MS. SMITH: And replacement staff if
7 someone is not there that day.

8 MR. WELLS: And according to Mrs. Smith,
9 if somebody is absent, replacement staff, whoever
10 replaces them would park there if they drove.

11 COMMISSIONER MITTEN: So if you're
12 substituting for Mrs. Jones, you get to use her
13 parking space the day you're substituting for her? Is
14 that the idea?

15 MR. WELLS: Apparently.

16 COMMISSIONER MITTEN: Okay. And is this
17 regulated by like stickers or do people know whose car
18 is whose and that's how they -- how is it monitored?

19 MR. WELLS: I assume it's self-policed.
20 If you know your number and if a space you are
21 considering parking in does not have your number, you
22 don't belong there.

23 COMMISSIONER MITTEN: Okay.

24 MR. WELLS: I think that's the way it
25 happens.

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1 COMMISSIONER MITTEN: Okay. So it's very
2 clear who should be parking on the site and who needs
3 to find another place to park?

4 MR. WELLS: Correct. I mean, the theory
5 of this is you have an assigned space. If you don't
6 have an assigned space, you have to look for public
7 transportation or parking elsewhere.

8 COMMISSIONER MITTEN: Okay. And is this
9 an area that has the RPP?

10 MR. WELLS: Some streets do, some streets
11 do not. There are some unrestricted spaces in the
12 area.

13 COMMISSIONER MITTEN: Okay.

14 MR. WELLS: And I guess this is pretty
15 much like anywhere else in the city. The parallel
16 parking on Whitehaven Parkway along the school is RPP
17 and most of the people that park there have the Zone
18 3 sticker.

19 COMMISSIONER MITTEN: Um-hum.

20 MR. WELLS: By my observation they are not
21 people who live on that block because there are very
22 few of them. I suspect they are faculty and staff
23 that live in Ward 3.

24 COMMISSIONER MITTEN: Okay.

25 MR. WELLS: And park there legally. Now,

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1 there are some. I see Virginia tags. I see Maryland
2 tags and they are not Ward 3 residents, but most of
3 the people who park there do bare the Ward 3
4 residential permit.

5 COMMISSIONER MITTEN: Do you have any idea
6 why certain areas there wouldn't have the restriction
7 or it's just nobody ever asked for it?

8 MR. WELLS: That's what I -- I can only
9 assume that the residents didn't request it.

10 COMMISSIONER MITTEN: Okay.

11 MR. WELLS: Would it be going too far to
12 think that they don't mind those people parking in
13 front of their homes? One could infer that.

14 COMMISSIONER MITTEN: But one might be in
15 error in doing that.

16 MR. WELLS: One might.

17 COMMISSIONER MITTEN: Also on page 4 of
18 your report there is reference made to a written
19 policy that staff members are given regarding traffic
20 and parking. Can we get a copy of that policy?

21 MR. WELLS: Yes.

22 COMMISSIONER MITTEN: You addressed to a
23 limited degree about night school and I guess what I
24 would be curious to know, since you didn't survey on
25 a Tuesday or a Thursday, is since we're dealing with

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1 a different kind of student, we have fewer faculty but
2 we have adults who are coming.

3 MR. WELLS: Right.

4 COMMISSIONER MITTEN: And I would be
5 interested in knowing what proportion of the students
6 drive directly to the campus.

7 MR. WELLS: Your question is a fair one.
8 We'll investigate that.

9 COMMISSIONER MITTEN: The other thing is
10 I didn't get a chance to read through the
11 Transportation Management Plan carefully, but at the
12 end it says that in terms of like ongoing like status,
13 checking the status annually, that the report would
14 describe the TMP goal.

15 And what I'm wondering, and there is some
16 language that sort of generally states the goal, but
17 I'm wondering what you would specifically state as the
18 goal.

19 MR. WELLS: Specifically, firstly, Ken
20 Laden has asked that we work with him and that he will
21 work with us and the neighborhood. He has asked
22 specifically for goals for shuttle bus ridership,
23 numbers of people carpooling. That is what he has
24 asked for.

25 I think my advice to the school would be

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1 let's establish a specific peak parking goal and if we
2 get there by shuttle bus or carpool, it doesn't matter
3 as long as we get there. Give us some flexibility for
4 the individual measurements.

5 But a goal, I'm not saying this is the
6 goal, but a goal may be provide 130 parking spaces if
7 the angled spaces were granted and make sure that your
8 peak parking demand does not exceed 130 cars parked at
9 any point in time. That would be a specific goal and
10 we might get there. Likely we would get there or the
11 school would get there through the transit subsidies
12 and shuttle, free shuttle bus service.

13 That likely is how they would get there,
14 but their neighbor, St. Patrick's, has been very
15 successful with their carpool initiative. Most of the
16 potential carpoolers are faculty and staff not parents
17 dropping off kids to speak to the parking issue, but
18 that might be another way to do it.

19 That's a long-winded way of saying maybe
20 the specific goal is to bring the parking demand down
21 from 175 to another number like 130 or some other
22 number that we all agree on.

23 COMMISSIONER MITTEN: Well, I mean, just
24 speaking as one Board Member, I think that given that
25 traffic is bad in the peak hours here anyway that the

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1 focus should be on reducing driving, as opposed to
2 accommodating parking. And it seems to me that even
3 though in your report you describe something that
4 would be called a plan, that there really hasn't been
5 a plan.

6 So we're in the very beginning stages of
7 trying to implement something and you have the
8 experience and others have the experience of dealing
9 with schools that have been pushed a lot harder over
10 a lot longer period of time, so let's just use the
11 lessons that they have learned.

12 MR. WELLS: We're playing catch up here.

13 COMMISSIONER MITTEN: Um-hum.

14 MR. WELLS: Yes, and we recognize that.
15 DDOT recognizes that.

16 COMMISSIONER MITTEN: So I look forward to
17 the fleshed out version of the Transportation
18 Management Plan and just would ask you to focus on
19 figuring out ways to motivate people to take public
20 transportation.

21 MR. WELLS: Yes.

22 COMMISSIONER MITTEN: Thank you.

23 MR. WELLS: This Board may be a great
24 motivator.

25 COMMISSIONER MITTEN: Thank you, Mr.

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1 Chairman.

2 CHAIRPERSON GRIFFIS: Thank you. I think
3 actually there has been two statements today that
4 reinforce that aspect and I tend to agree that in this
5 area and an awful lot of areas in the city where we
6 have that space demand.

7 The first statement was reducing demand is
8 easier than providing additional spaces, which is
9 pretty clear and fairly logical and you yourself, Mr
10 Wells, indicated that increasing the supply but also
11 decreasing the demand is the way to go.

12 MR. WELLS: Yes.

13 CHAIRPERSON GRIFFIS: I think we would all
14 be looking for something of that nature. How we would
15 be the motivator, I'm not sure specifically and
16 implementing, but I know that we would be very
17 supportive of that. Ms. Miller, you had additional
18 questions?

19 VICE CHAIR MILLER: I just wanted to ask
20 you again about this, was it a guaranteed ride home?

21 MR. WELLS: Yes.

22 VICE CHAIR MILLER: Is that like a
23 flexcar, a zipcar, something like that?

24 MR. WELLS: It is not like that.

25 VICE CHAIR MILLER: It seems that's the

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1 thing though.

2 MR. WELLS: It's actually something that
3 is very infrequently used. Actual experience suggests
4 that it's not very frequently used but you would say
5 to an employee, for example, if you carpool or if you
6 take our free shuttle service and you get a call that
7 your child is sick at school and you need to go home
8 at 10:30 in the morning, you have -- you don't have a
9 car of your own, we guarantee that you will get home.
10 We'll pay your -- we'll call the cab. We'll pay the
11 cab fare to get you there or --

12 VICE CHAIR MILLER: Oh, I see.

13 MR. WELLS: Or one of our staff members
14 will drive you.

15 VICE CHAIR MILLER: You don't specifically
16 have a car there for people to use?

17 MR. WELLS: Well, Mr. Laden has asked.
18 There is a great, new initiative in the city, car
19 sharing. That is one of the elements of the plan, to
20 offer up two flexcar or zipcar, a parking space on the
21 campus for their use. Frankly, they generally like to
22 be on the street so they can serve a larger market
23 than one institution.

24 VICE CHAIR MILLER: It just sounded like
25 a new concept. I don't know whether --

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1 MR. WELLS: It's actually a very old
2 concept.

3 VICE CHAIR MILLER: At schools?

4 CHAIRPERSON GRIFFIS: No, for carpooling.

5 MR. WELLS: At places of employment.

6 CHAIRPERSON GRIFFIS: Right. Yes. It's
7 essentially used downtown for the commuters coming in.
8 Am I right?

9 MR. WELLS: Right, yes. The Council of
10 Governments --

11 CHAIRPERSON GRIFFIS: Right.

12 MR. WELLS: -- is a player here.

13 VICE CHAIR MILLER: Right. No, it's the
14 first time I have heard it in the context of a school
15 case. Sounds good.

16 CHAIRPERSON GRIFFIS: And, of course, the
17 ever-popular 1-800-DRANKTOOMUCH for a free cab ride
18 home.

19 MR. WELLS: The Drunk Bus.

20 CHAIRPERSON GRIFFIS: Okay. Never been
21 used by me, I got to say on the record.

22 MR. WELLS: You're not under oath though,
23 right?

24 CHAIRPERSON GRIFFIS: That's right.

25 MR. WELLS: Great.

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1 CHAIRPERSON GRIFFIS: Touche. Okay. That
2 wakes us up a little bit here. Any other questions
3 from the Board for Mr. Wells?

4 BOARD MEMBER MANN: No.

5 CHAIRPERSON GRIFFIS: Excellent. Again,
6 a very thorough report but also the testimony
7 provided. Actually, one follow-up question just for
8 clarification, because you made a statement early on
9 and I'm not sure I understood it. And that is if you
10 provided all these additional parkings that you would
11 actually increase the amount of traffic to the area.

12 And I follow the logic, though let me see
13 if I do, I follow the logic in that cars, because
14 there is now parking provided or additional parking,
15 would come into the area to utilize that, whereas
16 before they wouldn't.

17 MR. WELLS: No, I think I meant to say
18 something differently.

19 CHAIRPERSON GRIFFIS: Okay, good.

20 MR. WELLS: These parking -- a school of
21 thought and my way of thinking, the space itself
22 doesn't generate traffic. It's the faculty and staff
23 that generates the traffic.

24 So just providing those spaces alone won't
25 increase the number of trips, but somebody who may

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1 have driven down Macarthur Boulevard and turned onto
2 U Street to park in the CVS lot might instead continue
3 down Macarthur Boulevard, make the left onto
4 Whitehaven and park in one of those angled spaces.

5 CHAIRPERSON GRIFFIS: I see.

6 MR. WELLS: So that's a trip that goes
7 through the Whitehaven/Macarthur intersection.

8 CHAIRPERSON GRIFFIS: Right.

9 MR. WELLS: That would go through that
10 intersection that didn't before.

11 CHAIRPERSON GRIFFIS: Okay. But not
12 definitively. It could have passed through that
13 intersection and been counted.

14 MR. WELLS: Oh, yes. Oh, absolutely,
15 absolutely.

16 CHAIRPERSON GRIFFIS: That's what I wasn't
17 understanding.

18 MR. WELLS: Yes.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. WELLS: For example, somebody may have
21 come from the Georgetown direction.

22 CHAIRPERSON GRIFFIS: Right.

23 MR. WELLS: Gone through that intersection
24 to park at CVS. Instead they would simply turn right
25 onto Whitehaven and park.

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1 CHAIRPERSON GRIFFIS: Right. Okay.
2 That's pretty clear. Very well. If there is nothing
3 further from the Board, Reverend Jordan, any cross?
4 No cross on Reverend Jordan's side. I think we are
5 complete with Mr. Wells.

6 MR. WELLS: Thank you.

7 MS. PRINCE: We have one final witness
8 only if you need to here from him. John Amatetti from
9 VIKA is with the engineering firm that actually laid
10 out the spaces and knows the locations of the
11 telephone poles and hydrants and all the information
12 that is shown on the plan. I'm not sure you need to
13 hear from him, but I wanted you to know that if you
14 have highly technical, specific questions or
15 environmental concerns, Mr. Amatetti is here to answer
16 them.

17 CHAIRPERSON GRIFFIS: All the exciting
18 stuff. Any questions from the Board?

19 MS. PRINCE: He won't be disappointed if
20 you --

21 CHAIRPERSON GRIFFIS: Right. I don't
22 myself have any and there's not an indication of any.
23 Reverend Jordan, did you have any need to get into the
24 technicalities?

25 REV. JORDAN: No.

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1 CHAIRPERSON GRIFFIS: Very well. I think
2 we are -- just a quick question, Ms. Prince, I'm sure
3 you can answer for clarification. There is no
4 additional curb cuts being sought for this?

5 MS. PRINCE: No.

6 CHAIRPERSON GRIFFIS: Okay. And actually,
7 the one question I think you can answer also, Mr.
8 Wells talked about it and I think others. Maybe it
9 was the written. Oh, okay. I'm set with that. I
10 don't think we have any need then.

11 MS. PRINCE: That completes our direct
12 presentation. I would like to reserve a little bit of
13 time for a closing statement.

14 CHAIRPERSON GRIFFIS: Of course.

15 MS. PRINCE: But otherwise we're complete.

16 CHAIRPERSON GRIFFIS: We'll get you that,
17 absolutely. Let me just take a quick assessment of
18 how many people are here today to provide testimony,
19 persons here to present to the Board. We have one,
20 two, three, four, six, seven. Okay. We have about
21 seven or so. I suggest we just take five minutes
22 right now, stretch our legs. We'll get back to it and
23 keep going on this.

24 (Whereupon, at 3:25 p.m. a recess until
25 3:48 p.m.)

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1 CHAIRPERSON GRIFFIS: Very well. Let's
2 resume. Before we took a break I asked how many
3 people were here. We had about six or seven
4 individuals, persons to give testimony. And what I
5 thought I would do is call all those folks up now if
6 they wanted to and then we could have the persons
7 testimony, and then you would be free to go or,
8 obviously, free to stay.

9 Otherwise, we would stay with our
10 chronology and hear from agency reports. I'm open if
11 people -- I don't know who is going to respond to it,
12 but are people pressed for time is really what I need
13 to figure out. Not really? Okay. Yes?

14 However, Reverend Jordan, you are being
15 dealt with differently because you're a full party in
16 this case and, therefore, you're here for the
17 duration. Well, okay. So I don't see any need to
18 really fluctuate in terms of the chronology.

19 Let's move right ahead then to the Office
20 of Planning's report and we'll move ahead with that.
21 Good.

22 MS. THOMAS: Good afternoon, Mr. Chairman,
23 Members of the Board. I am Karen Thomas with the
24 Office of Planning. The Lab School of Washington is
25 requesting special exception relief under section 206

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1 to increase the maximum student enrollment from 310 to
2 330 students, faculty and staff from 95 to 182, to use
3 the property located at 4749 Whitehaven Parkway for
4 administrative offices for the school and to install
5 angled parking spaces in a public right-of-way along
6 Whitehaven Parkway as accessory parking spaces.

7 As stated in our report, OP is
8 recommending approval for special exception relief to
9 allow use of the former residence owned by the school
10 for use as administrative offices with a condition
11 that any associated staff, faculty, volunteers or
12 other school personnel be part of The Lab School's
13 total enrollment or employment cap.

14 However, with respect to the increased
15 student enrollment and faculty and staff, we do not
16 recommend approval of the requested increase for the
17 student cap from 310 to 330, and recommended that the
18 cap be decreased to the previously approved 310 no
19 later than the 2007/2008 school year.

20 We cannot recommend approval at this time
21 of the increase in faculty and staff due to the
22 related traffic and parking issues. OP understands as
23 well that the night school has been operating for 20
24 years but no explicit BZA approval has ever been
25 granted. It has been represented to OP that the night

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1 school focuses primarily on literacy for adults and
2 adult tutoring.

3 OP strongly supports these efforts but is
4 unclear if the use requires additional BZA approval as
5 part of The Lab School or possibly as a community
6 service center. We would request that additional
7 information be provided to the BZA regarding its
8 number of students, faculty, staff and volunteers, its
9 hours of operation or any other special programs.

10 The applicant's most recent BZA Order No.
11 16273 was conditioned to allow no more than 310
12 students and 95 faculty and staff. OP believes that
13 the increase of 20 additional students is directly
14 proportional to faculty and staff increase due to the
15 curriculum needs and requirements of the student
16 population. This increase has led to adverse impacts
17 on neighborhood streets due to increased traffic to
18 the school and resulting in overflow parking on
19 neighborhood streets.

20 The applicant's traffic study shows the
21 number of inbound and outbound vehicles during the
22 peak morning and afternoon times with a modal split
23 revealing that 100 percent of all persons arrive and
24 depart by private vehicles or school buses. As such,
25 the traffic entering and leaving the site generates a

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1 significant on-site parking demand which ultimately
2 results in overflow parking on neighborhood streets.

3 Since the applicant has stated that the
4 students' needs drive the number of teachers and
5 special assistants needed to meet program curriculum
6 requirements, we cannot recommend approval of the
7 increase in the student cap to 330 students at this
8 time.

9 Based on the applicant's submitted traffic
10 study, it showed that the school generated a demand
11 for 175 parking spaces during the morning and 154
12 spaces in the afternoon. The traffic study concluded
13 that the parking demand exceeds the current supply,
14 on-site supply, of 68 spaces during the peak, sorry,
15 during the morning peak hour and 56 spaces during the
16 afternoon.

17 With respect to the adverse impact on the
18 number of vehicles that come to the school and require
19 on-site parking, the applicant has proposed to locate
20 additional spaces along Whitehaven Parkway upon DDOT's
21 approval of a public space permit.

22 The school has also attempted to address
23 the increased traffic to the site with provision of a
24 recently purchased shuttle bus to provide access to
25 the school from the Tenley/AU Metro Station between

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1 the hours of 7:30 a.m. and 5:00 p.m. for its volunteer
2 staff of, approximately, 22 persons. OP supports this
3 initiative to reduce the number of vehicles coming to
4 the school, as well as a restriction on student
5 driving to the campus.

6 While OP understands that contemporary
7 program requirements are adjusted over time to address
8 the special needs of students that attend this school,
9 no additional information has been provided to us
10 regarding the program requirements. And, in addition,
11 no detailed information was provided regarding the
12 number and type of faculty, full-time, part-time,
13 temporary for OP's or DDOT's analysis.

14 OP believes that the school needs a
15 Traffic Management Plan to address the current demand
16 in the short-term. However, for the long-term the
17 school needs to consider on-site parking accommodation
18 to relieve traffic on neighborhood streets, to
19 mitigate the adverse impacts along Whitehaven Parkway
20 and Macarthur Boulevard and at the school's
21 intersection. We understand that there has been
22 discussions with the ANC about a parking garage and we
23 believe that this could be a solution to the parking
24 situation.

25 We are not convinced at this time that the

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1 increases in the student and faculty cap can be
2 granted without a negative impact on the neighborhood.
3 The unauthorized increases have had a significant
4 impact on the school's parking supply with an
5 attendant overflow on neighborhood streets. OP also
6 supports DDOT's position that a public right-of-way
7 should not be designated to provide the required
8 parking area for this school.

9 While we are not satisfied that sufficient
10 information was provided regarding the type of faculty
11 and no information was provided regarding Lab's night
12 school program for adults, OP would encourage
13 continuous work with DDOT to address the traffic
14 needs. Therefore, we stand on our report as
15 submitted. Thank you.

16 CHAIRPERSON GRIFFIS: Good. Thank you
17 very much. Are there question from the Board of
18 Office of Planning's report?

19 VICE CHAIR MILLER: Yes.

20 CHAIRPERSON GRIFFIS: Ms. Miller?

21 VICE CHAIR MILLER: I have some questions.

22 Good afternoon.

23 MS. THOMAS: Good afternoon.

24 VICE CHAIR MILLER: Do you have any
25 knowledge of the parking and traffic situation in 1997

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1 when the last order was issued?

2 MS. THOMAS: No. I understand the
3 question you're asking as you asked the applicants
4 before, but it's -- Alma Gates informed me that they
5 started to monitor. I think it was just out of
6 concern when they noticed some parking, but I don't
7 have any formal information.

8 VICE CHAIR MILLER: Do you have any
9 opinion based on, well, what the impact of the 20
10 additional students would be on the parking and
11 traffic situation?

12 MS. THOMAS: Well, we would have preferred
13 a much more detailed breakdown of the number of
14 faculty and staff, which we see is directly related to
15 the number of students due to the program and
16 curriculum requirements. We did not have that
17 breakdown as requested, but we do see some correlation
18 between the number of students and the number of staff
19 requirements due to curriculum and program
20 requirements that the students need, the attention
21 that they need.

22 VICE CHAIR MILLER: Right. I mean, that's
23 what I have heard, that there is such -- that the
24 ratio, there is so many faculty to students that if
25 you increase the students, you're increasing the

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1 faculty as well.

2 But what I don't hear that much is well,
3 what does that mean? How does that translate to the
4 impact on traffic and parking in the neighborhood
5 exactly?

6 MS. THOMAS: Well, I think if we know and
7 with DDOT's help, you know, what is full-time, what is
8 part-time, how they come and go at the different
9 periods of the day, I think DDOT would have helped
10 with a better analysis with respect to the traffic
11 situation or the parking demands at different times of
12 the day.

13 Like, for instance, full-time staff, how
14 long do they -- I mean, is that for full day, you
15 know, different periods in time, is staff coming and
16 going? How does that work?

17 VICE CHAIR MILLER: Right. I would say
18 also with the shuttle bus and how is that affecting
19 it. You know, how bad is the problem? What exactly
20 is the problem?

21 MS. THOMAS: Right.

22 CHAIRPERSON GRIFFIS: Don't we have that
23 information?

24 VICE CHAIR MILLER: I don't think so. Oh,
25 with respect to the Office of Planning's position

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1 against providing the public space for parking for the
2 private school, is that position also just for a
3 temporary basis?

4 Is the Office of Planning opposed to that
5 for five years or just opposed to that for a permanent
6 solution?

7 MS. THOMAS: We're opposed to it as a
8 permanent -- for a permanent solution and DDOT, as
9 stated in DDOT's report as well, we would stand by
10 that, that DDOT -- page 2 of their report states that
11 DDOT would prefer zoning and BZA applicants to satisfy
12 accessory parking requirements on the subject
13 property. That is a position we would take as well.
14 We believe that this is required parking and required
15 parking shouldn't be placed elsewhere.

16 VICE CHAIR MILLER: Right. But is Office
17 of Planning opposed to that as a temporary measure
18 until the permanent solution is found within five
19 years?

20 MS. THOMAS: We would hinge that on DDOT's
21 recommendation.

22 VICE CHAIR MILLER: Okay.

23 COMMISSIONER MITTEN: Can I just jump in
24 here on that point, because I think it's a really
25 important point especially since we heard Mr.

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1 Kilsheimer talking about the fact that the parking in
2 public spaces would be a temporary solution, but that
3 the permanent solution would also be off-site.

4 So I think it's important for it wouldn't
5 be on-site. It would be on -- if the most recent idea
6 comes to fruition, it's going to be across the street
7 at Our Lady of Victory. Isn't that right? I just
8 want to be sure I heard that right. So I think
9 there's two issues. One is --

10 MR. KILSHEIMER: Actually what I said
11 was --

12 COMMISSIONER MITTEN: No, no, you can't
13 testify from back there. Sorry. So I think it's
14 important for the distinction to be made about there
15 is a solution that is in public space. That's point
16 number one. And then point number two is it's off-
17 site.

18 So I think that those two points need to
19 be examined almost independently of each other because
20 the solution, we don't want to send The Lab School off
21 trying to devise a solution that is off-site that we
22 also wouldn't support because we just in general don't
23 support a solution that is off-site.

24 MS. THOMAS: I would agree. I would
25 clarify that to say public space, to emphasize that

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1 it's public space. We didn't agree on using public
2 space as a policy of providing --

3 COMMISSIONER MITTEN: Okay. I just wanted
4 to --

5 MS. THOMAS: Yes.

6 COMMISSIONER MITTEN: Okay.

7 MS. THOMAS: That's correct.

8 VICE CHAIR MILLER: On another note, I
9 just want to follow-up on your statement with respect
10 to use of the former residence as administrative
11 offices, that there be a condition that no student
12 activity be allowed at the location. Can you explain
13 that?

14 MS. THOMAS: Yes. We just wanted to make
15 sure that at no time that possibly they convert it to
16 use it for classroom space or convert part of it and
17 have classroom activities. ANC was concerned that
18 they have students crossing over since it's across the
19 street and we wanted to ensure that that didn't happen
20 as well, just use it as offices for the school.

21 VICE CHAIR MILLER: Is it a safety
22 concern? Is that what the issue is?

23 MS. THOMAS: Yes.

24 VICE CHAIR MILLER: Okay.

25 MS. THOMAS: Yes.

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1 CHAIRPERSON GRIFFIS: Anything else?
2 Nothing else. Well, as a follow-up, there has been an
3 awful lot of information that was submitted today.
4 One, some clarification perhaps of the faculty/staff,
5 but also the TMP.

6 Has your position changed at all in terms
7 of that information? Well, there it is.

8 MS. THOMAS: We would have to look at the
9 ongoing work with DDOT and the applicant with respect
10 to the TMP and measure that impact and look at it a
11 little bit further. I couldn't make a decision on
12 that today.

13 CHAIRPERSON GRIFFIS: Okay. Good. So it
14 would be valuable to keep the record open for a
15 supplemental report based on the information that we
16 have received and then based on the anticipated review
17 and analysis of DDOT of the TMP?

18 MS. THOMAS: That is correct.

19 CHAIRPERSON GRIFFIS: Okay. Anything else
20 then from the Board? Very well. Does the applicant
21 have any cross of the Office of Planning?

22 MS. PRINCE: Just a few questions for
23 Karen.

24 MS. THOMAS: Sure.

25 MS. PRINCE: Are you aware, Karen, that

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1 all the traffic counts that have been done by the
2 traffic engineer were done with the 330 student
3 enrollment in place, that that is an existing
4 condition?

5 MS. THOMAS: That's correct.

6 MS. PRINCE: Right. And you mentioned you
7 were contacted by Alma Gates of the ANC. Were you
8 contacted by other members of the community or have
9 you only conferred with Alma about this application?

10 MS. THOMAS: No, only -- yes.

11 MS. PRINCE: Only Mrs. Gates?

12 MS. THOMAS: Yes.

13 MS. PRINCE: All right. You mentioned
14 that you didn't have information about the total
15 faculty/staff, that you're familiar with the 182
16 number?

17 MS. THOMAS: Right.

18 MS. PRINCE: And are you familiar with the
19 traffic engineer's report that identified the peak
20 demand at 175?

21 MS. THOMAS: 175.

22 MS. PRINCE: So that's responsive to your
23 issue that you had. Okay.

24 MS. THOMAS: Right. We just needed some
25 further breakdown, further clarification as to the

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1 staff.

2 MS. PRINCE: All right. I mean, we have
3 information that explains the number of faculty and
4 staff there at any one time that is very consistent
5 with the 175 peak demand number that the traffic
6 engineer had, but we'll share that with you.

7 Just philosophically, do you believe it
8 would be a preferable condition for The Lab School to
9 not increase the parking supply in public space? If
10 their only opportunity for increasing the parking
11 supply is in public space as a short-term solution, do
12 you think it's a preferable option to not increase the
13 parking supply?

14 If your only choice is to add parking in
15 public space right now, would it be better to simply
16 not add it knowing what you know with the information
17 that you have?

18 MS. THOMAS: We can speak to -- I mean, it
19 would hinge on a lot of things. If DDOT -- we leave
20 that up to DDOT because, as you said, this provision
21 of the parking in public space wouldn't be a BZA
22 question, per se.

23 MS. PRINCE: Correct.

24 MS. THOMAS: Right.

25 MS. PRINCE: Right.

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1 MS. THOMAS: We would leave that up to
2 DDOT. We would still either insist that there either
3 be a parking waiver, a variance, if you ask for a
4 variance, but then we also believe that you should
5 provide required parking.

6 Let me reiterate, not in public space but
7 elsewhere could be as -- your parking garage may be a
8 solution. But on a temporary basis if DDOT said that
9 they would allow that, it may not be a BZA question.
10 You would still have to come up with your spaces.

11 MS. PRINCE: No more questions.

12 CHAIRPERSON GRIFFIS: Reverend Jordan, any
13 cross of the Office of Planning? Very well. Follow-
14 up? Nothing. Okay. The much talked about DDOT, is
15 there a representative from DDOT present? Not noting
16 any, one more question, Ms. Miller.

17 VICE CHAIR MILLER: I just want to ask
18 Office of Planning. Do you still feel that you would
19 need further information from the applicant with
20 respect to the breakdown of the faculty and employees
21 in order to reassess this or further assess this case?

22 MS. THOMAS: Yes, yes. They indicated
23 that they would provide that to us.

24 VICE CHAIR MILLER: Okay. Thank you.

25 CHAIRPERSON GRIFFIS: Excellent. We'll

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1 make note then of Exhibit No. 28 which is a submission
2 from DDOT. We're also noting that the record is
3 anticipated to stay open for additional filings as we
4 move forward with the TMP. I would note that this is
5 not in a Historic District.

6 We would now move to the presentation of
7 the ANC's report, ANC-3D. Again, I would ask if there
8 is anyone here representing the ANC. Ms. Gates did
9 put in her letter this morning and it is in the record
10 and we have taken note of that and the applicant and
11 parties have that. Yes, Ms. Prince?

12 MS. PRINCE: I had one issue to mention
13 with respect to the ANC report and I know Ms. Gates is
14 not here to present the report. I would move to
15 strike the ANC report. I was present at all three ANC
16 meetings and, unfortunately, the manner in which the
17 final meeting was conducted I believe was in violation
18 of longstanding procedures with respect to the
19 operation of ANCs.

20 We were engaged in extensive dialogue with
21 the ANC in a total of seven hours of meetings. At the
22 final meeting, there was additional presentation from
23 the traffic engineer and from the team, Allyn
24 Kilsheimer and myself.

25 There began discussion about the

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1 possibility of seeking a postponement of today's
2 hearing and, at that point, the ANC went into a
3 private session ostensibly to discuss the possibility
4 of postponement. But the private session extended to
5 over an hour of discussion among the ANC Commissions
6 in which the members of the audience did not
7 participate with the exception of being asked to
8 answer one question.

9 At the end of the private session, the ANC
10 presented its pre-formulated resolution that had been
11 worked out apparently in the private session and the
12 resolution had nothing to do with a postponement
13 request. And I believe that deprived the applicant of
14 the opportunity to understand the decision making
15 process that resulted in the resolution that was
16 adopted by the ANC. And I believe that that violates
17 common administrative procedures because it was not an
18 open meeting as it was advertised to be.

19 Now, I understand that the ANC isn't here
20 to present the report, but I really would like the
21 Board's thoughts on that particular practice because
22 I have never witnessed it in an ANC meeting. And I
23 know questions have come up over the years about the
24 Board going into executive session or the Commission
25 going into executive session, and I know the Office of

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1 the Attorney General has always advised that when that
2 happens the Board has a responsibility to explain the
3 decision making process that occurred in that
4 executive session and I don't believe that occurred
5 here.

6 So I wanted to raise it and I wanted to
7 bring it to the Board's attention, because I thought
8 we deserved to at least hear more about the rationale
9 behind the resolution.

10 CHAIRPERSON GRIFFIS: Good. Well, I
11 appreciate you bringing that up. It seems to be quite
12 a few issues and let me see if I can address them all.
13 First of all, I'm not sure that that would rise to the
14 level of us striking it from our record, but rather
15 not affording it great weight in terms of our
16 deliberation if proper procedural requirements under
17 our regulations were not met.

18 In terms of speaking to that, I don't know
19 how fruitful that would be for the Board to give an
20 opinion or an understanding of that. Certainly, what
21 we look for in any of our deliberation submissions and
22 deliberation on those submissions would be substantive
23 elements, and the ANC is to bring that representation
24 from the larger community into substantive and
25 definitive aspects. And if you're saying that you

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1 don't believe in your understanding of that process
2 that that was actually done, well, that certainly is
3 troublesome to me personally.

4 But further than that I'm not sure how far
5 we go with this and especially without an ANC member
6 present to address this concern. But let me ask
7 others if they have comments on that or regulatory
8 cites.

9 COMMISSIONER MITTEN: Mr. Chairman?

10 CHAIRPERSON GRIFFIS: Yes?

11 COMMISSIONER MITTEN: I think you're right
12 in that our rules really speak to the manner in which
13 the report is rendered to the Commission and that
14 we're not here to judge the degree to which the ANC
15 conducts themselves appropriately because, you know,
16 we would have to look at transcripts of their meetings
17 and all that. And I suspect that this ANC is not the
18 only one that doesn't follow all the rules of
19 procedure, given some of the ANC meetings I have
20 attended myself.

21 I think it is troubling because I know
22 that the Board and the Commission are very mindful of
23 the rules regarding open meetings and decision making
24 in private, and I can say that I have not participated
25 in any executive sessions that involve decision making

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1 that should have been done in public. We frame issues
2 and so on, but it's very important that the public
3 understand, especially for elected officials, why
4 people are making the decisions that they are making.

5 So I am troubled by the report that you're
6 giving us about how this decision was rendered, but I
7 don't think we can do anything other than accept the
8 report as it has been submitted and go from there.

9 CHAIRPERSON GRIFFIS: Okay. Others?

10 VICE CHAIR MILLER: I think that this does
11 go to the question of giving the ANC great weight and
12 certainly before I would decide the issue one way or
13 the other, I think that the ANC should have an
14 opportunity to give its side.

15 I just pulled just for the record the
16 statute that talks about the open meetings with
17 respect to the ANC and I think it does directly go to
18 great weight. I just want to read in part, D1, "Each
19 Commission shall consider each such action or actions
20 in a meeting with notice given in accordance with
21 section 14(c), which is open to the public in
22 accordance with section 14(g)."

23 And then it goes on to say about "The
24 issues and concerns raised and the recommendations of
25 the Commission shall be given great weight during the

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1 deliberation by the Government entity," which would be
2 us in this case. But I think the great weight
3 statute, which is also incorporated in our
4 regulations, is very important and it imposes
5 responsibilities upon the ANC and they need to fulfill
6 those responsibilities in order to get the great
7 weight.

8 So I think that your issue goes to that
9 and I would certainly suggest that we, you know,
10 entertain the great weight issue but after the ANC has
11 an opportunity to respond.

12 CHAIRPERSON GRIFFIS: Okay.

13 COMMISSIONER MITTEN: Mr. Chairman?

14 CHAIRPERSON GRIFFIS: Yes?

15 COMMISSIONER MITTEN: My concern is that
16 if we try and fully flesh out whether or not the ANC
17 complied with the rules for conducting meetings in the
18 open, that we will be having a hearing on that because
19 that requires a fair amount of, you know, fact finding
20 on our part and I don't think that is the role of the
21 Board.

22 VICE CHAIR MILLER: I just want to say
23 that, you know, I have been there. I have been an ANC
24 Chair and Commissioner and I think it's important to
25 protect the way that body operates and why they are

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1 afforded great weight, and that is because we trust
2 that they represent the community and the way they do
3 that is by giving the community an opportunity to be
4 heard, you know, before they make their
5 recommendations. I don't know. I think it's an
6 important concept.

7 CHAIRPERSON GRIFFIS: Good.

8 VICE CHAIR MILLER: I don't know if we
9 have to have a whole big hearing on it.

10 CHAIRPERSON GRIFFIS: Right.

11 VICE CHAIR MILLER: But the issue has been
12 raised and I would hesitate just to ignore it and give
13 the ANC great weight regardless.

14 CHAIRPERSON GRIFFIS: I think there is
15 some logic in between both. I think Ms. Mitten brings
16 up a serious concern and I think we would not go that
17 far into the depths of establishing it, but to keep
18 the record open and request that the ANC clarify the
19 process of which -- which we have done before.

20 If they were here we might say how did you
21 publicly announce the meeting and other criteria. So
22 we can certainly request that and have that put into
23 the record and, obviously, we won't go further than
24 that. And we will have to render our decision very
25 quickly on whether great weight is afforded or not and

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1 move ahead into the substance of what is being
2 reported.

3 Anything further on that issue then from
4 the Board's perspective? Anything else on that, Ms.
5 Prince?

6 MS. PRINCE: Nothing else.

7 CHAIRPERSON GRIFFIS: Okay. One of the
8 substantive issues that I wanted to bring up for the
9 Board's attention in some of the filings from the ANC,
10 and I'm looking specifically at Exhibit 31, which is
11 the Office of Planning's report, and I think that this
12 was attached. It certainly was attached in my
13 delivery of the packet, but it is the November 8th
14 ANC-3D letter to the Board which goes to quite a few
15 things.

16 And I wish they were here because their
17 conclusion sentence or paragraph gave me some
18 interest. And one of the sentences indicates that a
19 Commission member read from their recommendations in
20 the capitalized Report of the Private School's Task
21 Force and started -- cited the provision that requires
22 clean hands prior to coming to the BZA for a special
23 exception.

24 That seems to be -- it's frankly not
25 something that I am familiar with at all in terms of

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1 regulation or law in the District of Columbia and it
2 seems to, in that conclusionary remark, be stated as
3 if it is and I wanted to ask for some clarification.

4 I don't know if the Board Members
5 specifically have any detailed information of what
6 that is or what the task force is or what the report
7 was, but it's certainly not something that -- well,
8 perhaps our attorneys would correct me if I'm wrong,
9 but it's certainly not something that I have been told
10 that we are under requirement to look at or, in fact,
11 are regulated by.

12 But we can't get further clarification on
13 that, so we'll just leave that out as a rhetorical.
14 Anything else then from the Board Members on the ANC?
15 Very well. Let's move ahead then and I think, at this
16 point, we should go to Reverend Jordan's case
17 presentation if you're prepared at this point, and
18 then we'll move ahead to all of the testimony.

19 I will get the case presentations out of
20 the way first. Then I will have persons in support of
21 the application and then persons in opposition, and it
22 looks like we will finalize most of the hearing today.

23 REV. JORDAN: Good afternoon. Milton
24 Jordan is my name. I am the recently-appointed pastor
25 at Our Lady of Victory's Church and School on

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1 Macarthur Boulevard.

2 I'm in a unique position, I suspect, to
3 say that I come in opposition. I'm in opposition in
4 part, you might say, of what is going on in the
5 proposal and the time that I applied for party in the
6 case was at a time before we had all of the proper
7 documents from the school in which they were asking
8 for a significantly larger number of parking spaces
9 across from the school.

10 I brought the matter to our parish council
11 and to the school board at our school and I stand here
12 or sit here saying to you that they, except for one
13 who had a child at The Lab School and abstained, that
14 they opposed all of the parking spaces across the
15 street directly in front of our school because of the
16 congestion that it would cause, that they perceived as
17 being caused by the additional, those spaces, at the
18 times of the day when our parents are dropping off the
19 school children on the other side of the street where
20 there is no sidewalk and where there are no curbs and
21 it's difficult as it is already.

22 I have met with Mrs. Smith and some of her
23 staff, and as well with Allyn and Mr. Braun on
24 Saturday when our discussion led to the inventive idea
25 of digging holes in my backyard, as you might say. We

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1 firmly support what The Lab School is doing in the
2 educational program that it offers young people who
3 have learning disabilities. It's not something new to
4 me. I started a similar program in New York City back
5 in '72 when it was a brand new item on the educational
6 field.

7 I wanted to clarify, too, since it was
8 mentioned several times, my affiliation or my
9 recommendation or concerns with the Fire Department.
10 I was a firefighter. I drove a fire truck and I have
11 worked subsequently to my priesthood as chaplain in
12 New York City, Philadelphia and Scranton and then down
13 in southern Maryland where I was for a couple of
14 years.

15 All of my opposition was based on simply
16 one item and I think it was said by Allyn and others.
17 It was on the issue of safety for our children there
18 and other children as well across in that congested
19 street. Whitehaven Parkway is much wider at the
20 northern end than it is at the southern end if I have
21 got my directions right. At the top of the hill by
22 the university campus it's much wider. At least it
23 seems to be that way when you come down the hill. It
24 narrows in with all of the cars there.

25 There are not the congestive areas that

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1 you have at the bottom of the parkway as you have at
2 the top, to my perception. You have the university
3 buildings across the street and another public
4 building. I think it must be the pool area there and
5 there is a large lawn that goes up to them, so we
6 don't have the congestion up there at least to the
7 driver of the car going down that hill.

8 But, again, I am not here to down The Lab
9 School. I want, as I offered in my discussions, to
10 help in any way that we can once I feel comfortable
11 with the safety issues for our children and our
12 parents. I do hope that we are able to work closely
13 with The Lab School on possibly putting an underground
14 garage where we can work, that provided as you said,
15 a significantly large number of parking spaces.

16 I don't have that large a need each day
17 for our faculty. It's about 35, a staff of about five
18 cars. So we were minimal in terms of the school. My
19 hope is that, you know, with Allyn and Mrs. Smith that
20 I and the Archdiocese of Washington can work together
21 to work out a collaboration between the parish and the
22 school and the entire neighborhood, because I think if
23 we can do this, it becomes a situation that provides
24 assistance to everyone involved.

25 So I come to say that yes, I am opposed to

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1 it across the street from our school. That's my
2 opposition because of my parish council and my school
3 board. It seems to have been -- that part seems to
4 have been resolved by the removal of some of the
5 spaces since I applied for this position.

6 And secondly, I would raise the issue for
7 The Lab School to look carefully on the plans that
8 they brought in today. We had suggested, I had even
9 spoken about this with them, of adding a circular half
10 street, you might say, to catch into our driveway
11 partially over public property, but also over property
12 over which we have no control because we don't own all
13 the property that is in front of our school.

14 There is a sliver owned by a gentleman who
15 owns four acres behind us that we're all trying to get
16 to give us their property. He is the gentleman that
17 was spoken about as just not moving and everybody on
18 that block wants Mr. Hornblower's property. So there
19 is a part of that driveway, too, there that would have
20 to be handled by someone else besides the two of us.
21 So that is my petition or my presentation this
22 afternoon.

23 CHAIRPERSON GRIFFIS: Excellent. Thank
24 you very much. So if I understand you correctly, you
25 are still concerned about the safety but it has been

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1 reduced, that level of concern, because of the parking
2 that has been removed from in front --

3 REV. JORDAN: That parking, correct.

4 CHAIRPERSON GRIFFIS: -- of your facility.
5 And let me understand more fully your concern for the
6 students going into your school. It was the traffic
7 that would be created by those coming in to park in
8 those new parking spots?

9 REV. JORDAN: That, yes, with the parking
10 the way the design for me is that it's the back-in
11 parking. It's still going to back parking up --
12 traffic down the street.

13 CHAIRPERSON GRIFFIS: Okay.

14 REV. JORDAN: Towards Macarthur Boulevard
15 from the other side of the street.

16 CHAIRPERSON GRIFFIS: Okay.

17 REV. JORDAN: At a time when everybody is
18 coming to school at the same time.

19 CHAIRPERSON GRIFFIS: Right.

20 REV. JORDAN: When three schools are
21 coming together at the same time on that block.

22 CHAIRPERSON GRIFFIS: Right.

23 REV. JORDAN: With the school buses and
24 the parents, it was -- and we have the shortest amount
25 of load space, you might say, or drop-off space at our

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1 parish school there. It became -- for us it was a
2 difficulty.

3 CHAIRPERSON GRIFFIS: Okay. And do you
4 have a drop-off plan that you asked to be implemented?
5 Is it either side of the street? Is it in front of
6 the school?

7 REV. JORDAN: We drop off on one side,
8 although, of course, parents do drop them off on the
9 other side.

10 CHAIRPERSON GRIFFIS: Sure, sure.

11 REV. JORDAN: And just the kids come down
12 and walk across the corner.

13 CHAIRPERSON GRIFFIS: Sure.

14 REV. JORDAN: But as a specific laid out
15 plan, there is the drop-off there.

16 CHAIRPERSON GRIFFIS: Okay.

17 REV. JORDAN: You know, and some do come
18 in from the other side on W Street, but that's a
19 minimal number. It's mostly at that corner because
20 that's the entrance to the school.

21 CHAIRPERSON GRIFFIS: Right. I guess I'm
22 trying to understand if they are dropped off on the
23 school side, then what is the impact of cars that are
24 parking on the other side?

25 REV. JORDAN: The backup as they are

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1 parking.

2 CHAIRPERSON GRIFFIS: The backup?

3 REV. JORDAN: Of all the people turning
4 in.

5 CHAIRPERSON GRIFFIS: Right.

6 REV. JORDAN: From Macarthur Boulevard
7 going up.

8 CHAIRPERSON GRIFFIS: And where are the
9 students at that point?

10 REV. JORDAN: Some are on that side. The
11 parents are not supposed to do that.

12 CHAIRPERSON GRIFFIS: I see.

13 REV. JORDAN: But they are dropping them
14 off there.

15 CHAIRPERSON GRIFFIS: Okay. Now, does the
16 sidewalk help in the safety in terms of the backing up
17 aspect?

18 REV. JORDAN: I would imagine the parking
19 -- a sidewalk would help it to some degree if our kids
20 would use that on that side.

21 CHAIRPERSON GRIFFIS: Yes.

22 REV. JORDAN: But that's not our -- it's
23 not the primary drop-off side.

24 CHAIRPERSON GRIFFIS: Sure.

25 REV. JORDAN: It's on the other side.

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1 CHAIRPERSON GRIFFIS: Sure. But just
2 mitigating any sort of safety issue for --

3 REV. JORDAN: It would take it down from
4 a 10 to an 8.

5 CHAIRPERSON GRIFFIS: I see. Okay. Good.
6 And then if they came up that sidewalk, in your
7 understanding, is there a safe place to cross over to
8 the Our Lady of Victory Church?

9 REV. JORDAN: It's at the corner of
10 Whitehaven and Macarthur.

11 CHAIRPERSON GRIFFIS: Oh, so they would
12 have to come down the sidewalk to the corner?

13 REV. JORDAN: Yes, I think to be frank,
14 because you're not visualizing it, I guess. It's not
15 that far a distance.

16 CHAIRPERSON GRIFFIS: Right.

17 REV. JORDAN: I mean, it's no more than
18 25, 30 feet, I would imagine.

19 CHAIRPERSON GRIFFIS: Okay.

20 REV. JORDAN: Or 40 feet.

21 CHAIRPERSON GRIFFIS: Okay. But there is
22 no provision for crossing mid block?

23 REV. JORDAN: No, there is not.

24 CHAIRPERSON GRIFFIS: Okay. And there is
25 no sidewalks on your side. Is that correct?

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1 REV. JORDAN: No, there are. There is in
2 front of our school to our driveway and then that's a
3 minimal amount, but then up the other part where
4 people are dropping them off as well, there is none.

5 CHAIRPERSON GRIFFIS: Okay. Okay. Good.
6 Thank you. Other questions? Ms. Miller?

7 VICE CHAIR MILLER: I just want to make
8 sure I understand your position. It sounds like, but
9 correct me if I'm wrong, that you're not opposed to
10 the application even though you do have some lingering
11 safety concerns.

12 REV. JORDAN: Well, I'm concerned that
13 what you put in never goes away.

14 VICE CHAIR MILLER: Do --

15 REV. JORDAN: I mean, they know that I
16 think --

17 VICE CHAIR MILLER: Does that mean you
18 want it to only be a temporary solution?

19 REV. JORDAN: Right. That is an issue
20 that does not directly impact us, the above area
21 immediately. Whether it comes and goes in five years
22 is something else. You know, I think in terms of
23 speaking as a member of that community I just see it
24 as it will create a traffic jam there at those peak
25 hours only, and I would -- that's why I really wanted

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1 to work with The Lab School to put the parking garage
2 in on the other side, you know.

3 VICE CHAIR MILLER: And are there any
4 other measures that you would like to see instituted
5 that might alleviate that situation at all?

6 REV. JORDAN: Yes, widen the street about
7 30 feet for both sides, for everybody, and it would be
8 fine. No, I don't think so. I mean, I don't -- I'm
9 not prepared to tell you that I have a plan in my
10 head.

11 VICE CHAIR MILLER: Okay. And have you
12 talked with DDOT?

13 REV. JORDAN: No.

14 VICE CHAIR MILLER: No?

15 REV. JORDAN: I have only talked with the
16 representatives of the school, Lab School.

17 VICE CHAIR MILLER: Okay. Thank you.

18 REV. JORDAN: Sure.

19 CHAIRPERSON GRIFFIS: Good. Good. Any
20 other questions from the Board? Any cross? Ms.
21 Prince.

22 MS. PRINCE: Just a few questions, Father
23 Jordan, so I can make sure I'm clear on the concerns.

24 REV. JORDAN: I left my glasses at home so
25 we're going to do a great job here.

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1 MS. PRINCE: All right. The Lab School
2 did offer to eliminate and, in fact, shows as
3 eliminated the seven parking spaces that are located
4 across from the location where some OLV parents drop
5 off their children, correct?

6 REV. JORDAN: Right, since we had our
7 meeting.

8 MS. PRINCE: Since you had your meeting.

9 REV. JORDAN: Before that we did not have
10 that.

11 MS. PRINCE: So that's --

12 REV. JORDAN: Again, we didn't get
13 materials from the school.

14 MS. PRINCE: Right. So you regard that as
15 a favorable improvement?

16 REV. JORDAN: Yes.

17 MS. PRINCE: And are you aware that this
18 plan, I believe, involves the addition of some
19 crosswalks on Whitehaven?

20 REV. JORDAN: I'm not aware of that.
21 Okay.

22 MS. PRINCE: Also, where the angled
23 parking space is proposed, parallel parking now occurs
24 with its associated traffic movements. So do you
25 regard the traffic movements associated with the

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1 current parallel parking to be significantly different
2 from that associated with the angled parking, the
3 turning maneuvers and the --

4 REV. JORDAN: If we put this in?

5 MS. PRINCE: I'm saying this area now is
6 all filled with parallel parking.

7 REV. JORDAN: Right.

8 MS. PRINCE: So people have to maneuver in
9 and out of those spaces today.

10 REV. JORDAN: I don't see there's going to
11 be any difference, no, from what I have asked a few
12 people.

13 MS. PRINCE: Okay. And so you don't
14 regard the angled spaces as any different than the
15 current parallel spaces in terms of a safety issue?

16 REV. JORDAN: Not in terms of safety,
17 other than you're going to have an increased number of
18 them as opposed to how few you would have there.

19 MS. PRINCE: Right. That's true. There
20 are more angled spaces than there are parallel spaces.
21 And are you --

22 REV. JORDAN: I would see that as an issue
23 because of the backing in, just the different -- same
24 as backing in straight.

25 MS. PRINCE: A greater number.

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1 REV. JORDAN: As opposed to backing in on
2 an angle.

3 MS. PRINCE: And are you aware that Lab
4 School would have these spaces used by teachers who
5 arrive at school long before the drop-off at Our Lady
6 of Victory?

7 REV. JORDAN: I don't think that -- we
8 talked about it in the office the other day with Mrs.
9 Smith and the staff. We all come around the same
10 time, their faculty and our faculty, and our parents
11 come as early as 7:00 with their children.

12 MS. PRINCE: Although most of your drop-
13 off and pickup occurs at the opposite end of your
14 property?

15 REV. JORDAN: No.

16 MS. PRINCE: Onto your parking area.

17 REV. JORDAN: No, it happens right here.
18 The majority of parking is right there.

19 MS. PRINCE: And not in your existing
20 parking area?

21 REV. JORDAN: No.

22 MS. PRINCE: Where there is ample room for
23 queuing?

24 REV. JORDAN: No, they don't come. That's
25 where they depart but not where they drop off.

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1 MS. PRINCE: So the majority of parents
2 drop off in this location and not on the parking lot
3 location?

4 REV. JORDAN: Correct.

5 COMMISSIONER MITTEN: Just for the clarity
6 of the record, when you say this location, since we
7 can't see what you guys are pointing at --

8 REV. JORDAN: Okay.

9 MS. PRINCE: Yes.

10 COMMISSIONER MITTEN: Could you just help
11 us out for later?

12 REV. JORDAN: The majority of our parents,
13 from what the principal tells me because I'm new
14 there, drop-off on the corner of Whitehaven, on
15 Whitehaven at the corner of Whitehaven and Macarthur.
16 In the afternoon at the opposite side of our property,
17 there is a school on that corner that we have been
18 discussing.

19 There is a residence with a priest there
20 and then there is the church. Then there is a large
21 parking lot that goes behind the actual CVS building.
22 In the evening that is the queue-up for the wait for
23 picking up the children. In the morning there is --
24 there are some that come walking through there, but
25 the significant number is at the front door of the

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1 school on Whitehaven.

2 MS. PRINCE: Although if the school had
3 serious safety considerations, they could be using
4 their on-site queuing area for drop-off as well as
5 pickup?

6 REV. JORDAN: Well, the problem there is
7 in the morning we have morning masses and there are a
8 number of cars that are parking in there that would
9 interfere with the queuing --

10 MS. PRINCE: With the morning mass.

11 REV. JORDAN: -- as you have it in the
12 evenings.

13 MS. PRINCE: And The Lab School mentioned
14 to you that they are more than happy to ensure that
15 the spaces that are used along Whitehaven would be
16 dedicated to faculty who arrive early, before
17 conflicting with drop-off?

18 REV. JORDAN: I don't think they arrive
19 that much earlier from the study that my principal
20 gave me and which we talked about the other day when
21 I met with Mrs. Smith.

22 MS. PRINCE: All right. I have no more
23 questions.

24 REV. JORDAN: Okay.

25 CHAIRPERSON GRIFFIS: Thank you very much.

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1 If there is nothing further from the Board, Reverend
2 Jordan, thank you.

3 REV. JORDAN: Thank you.

4 CHAIRPERSON GRIFFIS: Appreciate it.

5 REV. JORDAN: Thank you very much.

6 CHAIRPERSON GRIFFIS: Let's move ahead
7 then. Let me ask for all those persons present in
8 Application 17383, persons in support of the
9 application, if you would come forward to provide
10 testimony. I'm going to allot three minutes for each
11 person giving testimony. I won't turn the buzzer on
12 as it makes a horrible noise when it goes off, but I
13 will keep track of it and interrupt you when you get
14 close.

15 Is anyone in support, persons in support
16 to provide testimony? The same rules go for those in
17 opposition. Opposition persons to provide testimony.
18 Let's fill the table. Witness cards. Have you
19 presented witness cards over?

20 MS. QUIRK: Yes, I did.

21 CHAIRPERSON GRIFFIS: Good, good. Please,
22 everyone, yes, whenever you're ready just come up and
23 we'll just go right down the table. One, two, three.
24 I know. We're going to jumble it up. Okay. Just to
25 be clear, I do divide these things but noting it

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1 doesn't matter. We'll gain all the information.

2 So anyone that is going to give testimony,
3 please, this is going to be the opportunity for
4 persons to provide testimony. After these five are
5 finished I can fill another table and continue, so
6 don't lose your opportunity, but be clear that now is
7 the time to provide testimony.

8 Let's move ahead. We'll start on my
9 right. I'm going to have you share microphones. Yes,
10 if would like to start?

11 MS. QUIRK: Sure.

12 CHAIRPERSON GRIFFIS: Great. And just to
13 be absolutely clear, all your cards have gone over to
14 the recorder so he doesn't give me a hard time?

15 MS. QUIRK: Yes, sir.

16 CHAIRPERSON GRIFFIS: And more
17 importantly, you. You're just going to state your
18 name and address for the record and then move right
19 ahead.

20 MS. QUIRK: I'm Mary Quirk, 4228 Fessenden
21 Street, N.W., Washington, D.C. 20016, born and raised
22 living in the same house, looking for parking
23 everywhere in D.C, have offered up parking spots to my
24 ANC who did not take up parking offered, Fessenden
25 Street. So anyway, trying to find parking, trying to

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1 be a good neighbor and participating in the ANC
2 meetings ever since ANCs were created.

3 My son went to J&E and Prospect Learning
4 Center but did not progress. He was accepted into Lab
5 School and graduated. Whenever I went to the school
6 for meetings I parked legally and respectfully. When
7 I went into the school building I was asked where I
8 parked. When I told them I had parked legally, they
9 were ensuring that I was a good neighbor and ensuring
10 a good neighbor policy.

11 And in this day and age, there is food,
12 clothing, shelter and transportation. Add that as a
13 fourth necessity of life. And I think the District
14 needs The Lab School. The Lab School is unique, as
15 you all have heard from professional people, and it is
16 serving all wards of the District. I will stop there.

17 CHAIRPERSON GRIFFIS: Excellent.

18 MS. QUIRK: Thank you.

19 CHAIRPERSON GRIFFIS: Thank you very much.

20 MS. RANDOLPH: Good afternoon. Valerie
21 Randolph, 1540 6th Street, N.W., Washington, D.C.,
22 Ward 2. I come this afternoon to tell you that I have
23 had 17 wonderful years as a Lab School parent. I have
24 two, an 8th grader and an 11th grader, and I also have
25 a graduate in year 2000 who is now currently in

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1 graduate school at Temple University.

2 Had it not been for The Lab School of
3 Washington, I tell you, I don't know what I would do.
4 I'm telling you, I have three children. The Lab
5 School has the No Child Left Behind for real. They
6 understand. The teachers are just dynamic. The
7 school has been totally invaluable to me and my
8 husband. And I say again, I have three children.

9 I can't even fathom the staff being
10 reduced with the child/student ratio. It is so
11 important for them to be a part of that community. I
12 do hope that at some point that we can resolve the
13 parking issues and all of the issues that go along
14 with getting everything going, because we do need The
15 Lab School to continue their very, very positive
16 enrichment for our children. So I thank you for this
17 testimony.

18 CHAIRPERSON GRIFFIS: Thank you very much.

19 MS. HICKS: Vicki J. Hicks, 1850 47th
20 Place, N.W. 20007. I am here on behalf of my
21 neighbors on 47th Place. I have been a resident of
22 D.C. for 24 years and I have lived on 47th Place since
23 1994. So in a little bit I will address the problems
24 we have seen since 1997.

25 First, I would like to say we need to put

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1 aside emotion. The Lab School is wonderful. We all
2 agree that it serves a need, but it's in a
3 neighborhood and we need to look at the totality of
4 this neighborhood and understand that we have become
5 a parking space for all the schools.

6 We have not only The Lab School. We have
7 St. Patrick's and it's going to have a high school
8 before long. We have Georgetown Day. We have the
9 Field School. We have Our Lady of Victory. We have
10 the River School. I can't name all of them there are
11 so many.

12 And in the morning rush, I mean, today for
13 instance, this is a holiday week. It took me 10
14 minutes to go from 47th Place, which is right at the
15 Drinking Water Reservoir, down to where Macarthur and
16 Reservoir and Foxhall, excuse me, Canal, Foxhall and
17 Macarthur all come in. That's untenable and this was
18 during, you know, a holiday weekday rush hour.

19 I would ask for you to hear from the ANC.
20 They represent the neighborhood and I would ask that
21 you schedule another hearing for the ANC to be able to
22 appear. I understand Mrs. Gates had a medical
23 emergency, you know, but I think it's imperative for
24 the ANC to be heard. What you have heard from the
25 school, it's their side. It's sugar coated and the

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1 ANC represents those of us who live in the
2 neighborhood. So I would ask you to hear fully from
3 the ANC.

4 In 1997 The Lab School expanded
5 exponentially. They built the gymnasium. They have
6 increased the number of students and faculty. Since
7 then my street has become a horrific traffic jam on
8 some mornings because people are trying to avoid the
9 light at The Lab School where Reservoir, Lab School
10 and Macarthur all come in together. It's
11 counterintuitive.

12 DDOT, we have been working with them. The
13 backup is going west of Macarthur during the morning,
14 but that is difficult. You're raising your eyebrow.
15 Yes, it's difficult to understand that the backup is
16 because there is now a light for exits from The Lab
17 School and they have taken the time off Macarthur
18 westbound and have not taken any off
19 Macarthur/Reservoir eastbound or Reservoir westbound.

20 So the traffic, instead of sitting on
21 Macarthur going westbound, is using 47th Place as the
22 cut-through to go to Reservoir then to turn west to
23 meet back up with Macarthur. I don't know if you know
24 what 47th Place looks like. It's a very steep street.
25 It's not quite two car spaces wide and we now have a

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1 Do Not Enter sign during morning rush to try to keep
2 a lot of the traffic off our street during the
3 morning, because it has become a dangerous situation.

4 And Officer McElwee, who will be speaking
5 after me, has witnessed our problems in the mornings
6 and it may very well be a problem in the afternoon.
7 I'm just not there. In the afternoons though
8 Reservoir does back up from The Lab School all the way
9 to Foxhall on many occasions for pickups after school.

10 They mentioned the night school. I am
11 quite concerned that this wasn't known to the Board
12 and I think that needs to be considered in any
13 application for the expansion of The Lab School. They
14 also have a church that meets there. You're probably
15 not aware of that. I believe it's on Sundays and
16 maybe one evening during the week. I think you need
17 to factor that in and not just look at the traffic
18 during rush hour morning and evening. It's just a
19 continual traffic pattern for The Lab School.

20 And I also want to sort of put down a
21 marker, too, about the parking garage. The
22 neighborhood will be opposed to the parking garage if
23 it brings additional traffic to the neighborhood. So
24 don't base your vote on the temporary spaces based
25 upon you think there might be a parking garage

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1 solution in five years, because this is -- it's a
2 neighborhood.

3 You know, you have to consider that we
4 live there 365 days a year and other people are just
5 coming in to drop their kids off and pick them up from
6 all these schools. So anything that would bring more
7 traffic in our neighborhood we're going to be
8 opposing.

9 CHAIRPERSON GRIFFIS: Good. I will have
10 you just sum up here.

11 MS. HICKS: And, well, got right to it.
12 I agree with the ANC that The Lab School must live
13 within their current strictures that the BZA gave them
14 several years ago and not be allowed to expand. Thank
15 you very much for the opportunity.

16 CHAIRPERSON GRIFFIS: Thank you, Ms.
17 Hicks.

18 OFFICER McELWEE: Good afternoon, Ladies
19 and Gentlemen of the Commission. I was under the
20 impression I was going to have more than three minutes
21 to speak. I have quite a bit of information here,
22 probably about 10 minutes worth. I am the traffic
23 officer and I was asked through my lieutenant to
24 conduct a survey along Whitehaven Parkway in regards
25 to the proposed parking spaces.

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1 CHAIRPERSON GRIFFIS: Good. I'm going to
2 have you just state your name for the record and I
3 think we can afford a little bit more time.

4 OFFICER McELWEE: Thank you. My name is
5 Anthony McElwee, M-C-E-L-W-E-E, and I am the traffic
6 officer for the 2nd District of the Metropolitan
7 Police Department.

8 CHAIRPERSON GRIFFIS: Okay.

9 OFFICER McELWEE: I was asked at the
10 beginning of September to conduct a survey of traffic
11 during peak hours between 7:30 a.m. and 9:30 a.m. in
12 the morning and 2:30 p.m. to 4:30 p.m. in the
13 afternoon.

14 What I found was that this road is heavily
15 traveled. We'll start with you have the three schools
16 there plus you also have the George Washington
17 University that has a lot of bus transportation that
18 goes through Whitehaven Parkway. The schools are
19 usually letting out at the same time, which means that
20 we have two officers which are paid by St. Patrick's,
21 I believe, to direct traffic to assist with the
22 traffic flow. They do help.

23 However, traffic does back up and I have
24 seen personally it backs all the way up to Foxhall
25 Road as well as it backs up slightly down towards

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1 Macarthur Boulevard. The officers permit the traffic
2 to move in and then periodically they let the traffic
3 that is commuting through continue on and out through
4 the peak hours at the time.

5 I also noticed that Whitehaven Parkway is
6 used almost, if I may say, as a small bypass from
7 Foxhall to Macarthur Boulevard to avoid, I guess,
8 Reservoir Road that are down there with the traffic
9 and it's obvious. I have seen it. The other problem
10 that I observed and I addressed with the issuance of
11 several parking tickets is the parents or caretakers
12 are stopping and they are parking and people are
13 getting in and out and it's making problems worse.

14 The other thing is the buses. There's
15 buses and they are from The Lab School and I just
16 addressed this issue with a gentleman. I don't know
17 his last name. His first name I believe is Greg. And
18 it was last Wednesday and they moved the buses off the
19 street. They are not there at all times, but
20 sometimes they are there when they shouldn't be there
21 and it also impacts on the problem.

22 I would say that any more traffic than
23 what is there now is going to be a problem for the
24 safety flow of the traffic and especially for the
25 children. I see a lot of children crossing the

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1 street. Of course, kids will be kids. They don't
2 always cross where they are supposed to.

3 As far as the angled parking, I have to
4 disagree with Mrs. Prince about the -- I believe her
5 exact words were they had no problems up there at St.
6 Patrick's when they are backing in. Several times
7 when they try to back in, because it's angled parking,
8 if you're going north on Whitehaven and I guess a
9 faculty member needs to back in, well, the traffic
10 backs up behind them so now they can't back in without
11 the car behind them going into the opposing lane,
12 because they can't back up because there is traffic
13 behind them. It doesn't always happen but it has
14 happened. I have seen it.

15 In a perfect world, if it was a one way
16 street going north up towards Foxhall where they could
17 back into the angled parking, where if there was a
18 vehicle behind them they could pull up without going
19 into the opposing lane, that may work. I can't see
20 how it could feasibly happen safely every day if you
21 think of the way they have to awkwardly turn.

22 If someone is coming southbound and they
23 want to back into that spot, they have to do almost
24 like a 180 to back up. And with all the traffic that
25 is present there plus the pedestrians, it's tough and

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1 it's just a matter of time before someone has an
2 accident or someone is struck by a vehicle.

3 In my summation, there is just too much
4 traffic back there now. Any more traffic is going to
5 make it even worse.

6 CHAIRPERSON GRIFFIS: Good. Thank you
7 very much. Let me have you wait for two seconds while
8 we have this panel here and we won't have to move the
9 mikes, and don't go anywhere because we're going to
10 have some Board questions and also a possibility of
11 cross examination.

12 But, first of all, I want to thank you all
13 for being here and it's fascinating, the opening
14 remarks of food, shelter, clothing and transportation.
15 And I think the Board is well familiar with the
16 importance of transportation and transportation/
17 parking in terms of that aspect.

18 Ms. Randolph, I also want to thank you for
19 your testimony providing the importance of this school
20 and how it has been important to your family and how
21 it continues on for others.

22 Ms. Hicks, let me just address first of
23 all your concern in terms of the ANC and having the
24 Board hear from the ANC. I'm not sure that it's going
25 to necessitate an additional hearing requirement, but

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1 I also want to ensure to you that we have submissions
2 from the ANC and they are lengthy submissions and we
3 will read everything. Whether it's stated to us
4 today, if it's in the record it is something that we
5 will read and deliberate on.

6 Our whole questioning of great weight
7 factors into how we balance off all the information,
8 and I think we will get to that. Whether it's an
9 additional hearing that we have to have everyone come
10 out for, I'm not sure it will move to that, but I do
11 want to ensure that we will hear from the ANC and
12 their information.

13 Officer McElwee, it's interesting and I
14 appreciate you bringing this factual evidence to the
15 Board's attention, but let me ask you one question.
16 You said that there is a problem with this backing
17 into the 180, the angled parking. And I guess I'm not
18 visualizing it as opposed to the difficulty in
19 parallel parking, because isn't parallel parking
20 allowable on the street currently?

21 OFFICER McELWEE: Yes, it is.

22 CHAIRPERSON GRIFFIS: Okay. So is it my
23 misunderstanding of what it would take or how it would
24 block? I mean, conceivably, if someone is parallel
25 parking you're stopping traffic behind you. And is it

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1 not faster actually to pull in on an angle? I mean,
2 you tell me. What is the difference of the two?

3 OFFICER McELWEE: Well, when parallel
4 parking you can pull in frontwards and then work your
5 way in and get part of your vehicle off the road.

6 CHAIRPERSON GRIFFIS: If you grew up in
7 New York like me, sure.

8 OFFICER McELWEE: Correct.

9 CHAIRPERSON GRIFFIS: But folks I have
10 seen around this city, I don't think so.

11 OFFICER McELWEE: The angled parking and
12 what I'm seeing, this is just during peak times.

13 CHAIRPERSON GRIFFIS: Sure.

14 OFFICER McELWEE: The traffic is just so
15 backed up with all, you know, the students coming, the
16 faculty coming, the vehicles are bumper-to-bumper.
17 There will be a spot and then that person will want to
18 get into the spot, but the person behind them won't
19 know what the other person is doing in front of them
20 and they will ease up a little bit. And then the
21 other car will come up and by this time, there is not
22 enough room to back into the angled spot.

23 CHAIRPERSON GRIFFIS: Right.

24 OFFICER McELWEE: So what will happen now
25 is that person will stay there until the other person

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1 moves, and then maybe a minute or two will go by and
2 then another person behind the third car or the second
3 or third car will go around and in the opposing lane
4 to go around and that other car will back up. Then
5 that other vehicle will proceed to back up. It
6 interferes with traffic during peak hours.

7 CHAIRPERSON GRIFFIS: Sure, sure.

8 OFFICER McELWEE: And it's very
9 noticeable.

10 CHAIRPERSON GRIFFIS: Tipping the balance
11 of some need for good driver education, too, perhaps,
12 but we can't solve all those problems.

13 OFFICER McELWEE: If we could slow the
14 people down a little bit.

15 CHAIRPERSON GRIFFIS: That --

16 OFFICER McELWEE: They are always in a
17 hurry.

18 CHAIRPERSON GRIFFIS: That is absolutely
19 true. Okay. Other questions from the Board? Ms.
20 Miller?

21 VICE CHAIR MILLER: Just following up on
22 that, just in your opinion and I know you're not
23 necessarily a traffic expert, but you watch a lot of
24 traffic and you mentioned, or you deal with a lot of
25 traffic, in that case if it were a one way you

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1 wouldn't have the same type of problem.

2 Is that a realistic option for that street
3 to be one way during that peak hour?

4 OFFICER McELWEE: Not really, no.

5 VICE CHAIR MILLER: No?

6 OFFICER McELWEE: But if it was a one way
7 street it would be a lot safer, because what concerns
8 me is when the vehicles go into the opposing lane to
9 go around the vehicle that is backing up.

10 VICE CHAIR MILLER: Yes, do you --

11 CHAIRPERSON GRIFFIS: Do you think speed
12 would be increased if it became a one way street?

13 OFFICER McELWEE: That's hard to tell.
14 Peak hour down there, there is really -- speed is not
15 an issue. There is just so much congestion down
16 there.

17 CHAIRPERSON GRIFFIS: Okay. I'm sorry.
18 Go ahead.

19 VICE CHAIR MILLER: In your opinion, do
20 you think if the schools coordinated their starting
21 times that that might alleviate some of the
22 congestion?

23 OFFICER McELWEE: That's hard for me to
24 answer. I would have to say no, the way that -- from
25 what I have seen down there and I have been down there

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1 for two years. I mean, I worked the traffic detail
2 two and a half years ago for St. Patrick's and it has
3 been bad. Traffic has been heavy and it's just, you
4 know, mostly during the peak hours.

5 And I don't know what time all the schools
6 let in and what schools, what time, but I don't think
7 that would help, I mean, unless it's like an hour and
8 a half before.

9 VICE CHAIR MILLER: Because they are
10 mixing in with the commuters. Is that it?

11 OFFICER McELWEE: Correct.

12 VICE CHAIR MILLER: Okay.

13 OFFICER McELWEE: And commuting is also a
14 big problem there, people cutting through, and I have
15 stopped several people and asked them why and their
16 answers were when I interviewed them, I wanted to
17 avoid Foxhall and I wanted to avoid Reservoir. And
18 we're getting a lot of, you know, spillage for the
19 commuters in that respect.

20 VICE CHAIR MILLER: You also made
21 reference to sometimes the buses from The Lab School
22 are parked illegally or something.

23 OFFICER McELWEE: I wouldn't say they are
24 parked illegally. I mean, I don't know the particular
25 statute. I know there is one out there, if they are

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1 not unloading or loading, they are not supposed to be
2 parked there. And I addressed that issue to the
3 gentleman, I believe his name was Greg, and he agreed
4 and he has since rectified the situation. I haven't
5 seen the buses there other than unloading and loading.

6 VICE CHAIR MILLER: And if you did see
7 them there, do you just tell them to move on
8 basically?

9 OFFICER McELWEE: Well, he was -- they
10 were given a warning and I don't have the statute on
11 me, but they would be issued an NOI, I believe it's
12 for \$250, if they are parked without unloading or
13 loading.

14 VICE CHAIR MILLER: Okay. Thanks.

15 COMMISSIONER MITTEN: I have a question
16 for Officer McElwee. Now, we confer in all of these
17 cases and practically every school that exists in this
18 immediate area has been to the BZA, and we confer with
19 DDOT and they advise us. And so, in part, if there is
20 a bad situation that is attendant to schools, it's as
21 a result of the collective efforts of the Board and
22 DDOT.

23 But do you, given that you are on the
24 ground every day observing the situation, confer with
25 DDOT to advise them about what you see, so that they

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1 can make constructive suggestions to us when we have
2 a case before us?

3 OFFICER McELWEE: Do I confer to them? I
4 do not confer to them, no, or have they asked me to,
5 for my opinion.

6 COMMISSIONER MITTEN: So there is a
7 Traffic Division of MPD and you do your thing and
8 DDOT, who is like the traffic expert for the city, you
9 guys just function completely independently? You
10 don't --

11 OFFICER McELWEE: Well, we'll work
12 together. If there is an issue to be addressed, if
13 DDOT asked us to look at a particular incident or
14 location, and they did not request us. We were
15 requested by ANC.

16 COMMISSIONER MITTEN: Okay.

17 OFFICER McELWEE: To just conduct the
18 survey and to offer our opinion and the facts that we
19 saw out there at that location. DDOT, I know in the
20 past DDOT has -- they will get together with the
21 Police Department. In this case they haven't, at
22 least to my knowledge. I haven't spoken to anybody
23 from DDOT.

24 COMMISSIONER MITTEN: Have you in the
25 cases of other schools been consulted or are these

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1 other kinds of situations where you get consulted by
2 DDOT?

3 OFFICER McELWEE: I have never personally
4 been consulted or did I consult with DDOT in my career
5 here as a Metropolitan Police Officer.

6 COMMISSIONER MITTEN: Okay.

7 OFFICER McELWEE: I know it happens maybe
8 above me in the hierarchy, but not at my level.

9 COMMISSIONER MITTEN: Okay. Thank you.

10 CHAIRPERSON GRIFFIS: Yes?

11 VICE CHAIR MILLER: I have a question for
12 Ms. Hicks or a couple of questions. Is your concern
13 primarily traffic congestion or do you also have a
14 concern with parking on your street?

15 MS. HICKS: My street, it's mostly just
16 the traffic.

17 VICE CHAIR MILLER: Traffic.

18 MS. HICKS: Because we're so steep, people
19 don't like to have to walk up and down. Now, the
20 German Embassy is also there and we have parking
21 issues sometimes with the German Embassy, and I find
22 that people try to park on Reservoir first and then,
23 if they have to, they park on my steep street.

24 VICE CHAIR MILLER: And did I understand
25 you correctly? You said something about ever since

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1 there was a light put in, there has been a traffic
2 problem.

3 MS. HICKS: Before The Lab School expanded
4 back in '97 there was a traffic light that was solely
5 for the intersection of Macarthur and Reservoir. It's
6 a strange little intersection. Well, it's this one
7 right here where that island is. There now is a light
8 for people exiting The Lab School and it's supposed to
9 be triggered by traffic coming from The Lab School.

10 Evidently, what DDOT did is they took all
11 of the time off from westbound Macarthur to allow for
12 time to come out of The Lab School and they didn't
13 take any off Reservoir east or west. It's kind of
14 where Reservoir and Macarthur come together. It's a
15 very odd intersection.

16 VICE CHAIR MILLER: And when was that that
17 the light was put there?

18 MS. HICKS: I would say it was '97 or
19 whenever the gymnasium was built and we had the
20 expansion of The Lab School.

21 VICE CHAIR MILLER: And have you talked to
22 DDOT about that?

23 MS. HICKS: Yes, I have talked to them,
24 emails. I have talked to Wanda Penn Mills and then
25 Nagussy, I don't remember his last name, and we have

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1 been working with 2nd District to try to enforce a Do
2 Not Enter during morning rush also. So we have been
3 working with all the D.C. agencies that we possibly
4 could.

5 VICE CHAIR MILLER: Okay. Thank you.

6 CHAIRPERSON GRIFFIS: No other follow-ups.
7 Any cross, Ms. Prince? No cross. Thank you all very
8 much. Let's move ahead then. Are there others to
9 provide testimony? I know we have one already on the
10 deck. Anybody else who would like to provide? Very
11 well. You get the honored role, picking any seat you
12 want. Go ahead.

13 MS. DAVIS: My name is Anne Davis. My
14 address is 4331 Hawthorne Street, N.W., Washington,
15 D.C. 20016. I am a neighbor and I am not affiliated
16 with The Lab School, but I have to say I have been
17 very pleased with what a good neighbor The Lab School
18 has been.

19 I have a young son who actually has
20 learning disabilities and while he is not a student at
21 the school, I understand that the offerings that The
22 Lab School have is exceptional. What they provide for
23 special education, as I am familiar with that offered
24 in D.C., Maryland and Virginia, is truly exceptional
25 and I drive all over the county and into Maryland and

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1 Virginia to get services for my son. And I have to
2 say, to have something this close is truly a gem.

3 In addition to that, I have to say their
4 community service, what they provide to the community
5 is really exceptional for a school. I have so many
6 neighbors who are members of the pool. I have
7 neighbors whose sons have had birthday basketball
8 parties on the courts.

9 Children have learned to ride their
10 bicycles, their bicycle riding class in the OT area
11 and lots of children receiving speech and language or
12 OT services at this school in addition to gymnastics
13 classes. So I think a lot of the traffic that is
14 there on the weekends or on these off hours are from
15 neighbors who live very close to the school and that
16 is truly exceptional.

17 I have to say in addition to being such a
18 wonderful neighbor today that I view as a gift the
19 parking spaces, the thought and the consideration and
20 particularly the sidewalk on the side of this street.
21 This is an area that we traffic frequently.

22 I have a young son who is enamored with
23 the Fire Station on the corner and we park in that
24 grassy area and try -- I have several children, so
25 trying to keep them all safe from the cars coming

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1 around the corner and to get into the Fire Station to
2 deliver brownies or to try out the lights on the fire
3 truck, it would be very welcome to have a sidewalk so
4 that I could feel comfortable taking my children.

5 In addition, I traffic this street
6 frequently just in the general course of my day, and
7 walking down the middle of the street very often are
8 large groups of children from GW and this is quite
9 dangerous. And I think it will be very nice to have
10 a sidewalk for them to be on for their safety and for
11 the safety of those driving as well. Thank you.

12 CHAIRPERSON GRIFFIS: Excellent. Thank
13 you very much, Ms. Davis. We appreciate you being
14 down here today and that is actually an interesting
15 perspective of the benefits of the sidewalk and
16 parking for not only Lab School but for the
17 surrounding area and how it would benefit others, and
18 I think you said delivering brownies to the Firehouse,
19 which is something we ought to really take into
20 serious consideration.

21 But it is amazing to hear your testimony
22 and describing The Lab School as, essentially, the
23 community center or community amenity and how many
24 people actually use it and the services and probably
25 more than you stated in terms of the open area and off

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1 hours that people may go up and just be on campus, so
2 to speak. Appreciate you bringing that to the Board's
3 attention.

4 Follow-up question, Ms. Miller?

5 VICE CHAIR MILLER: Ms. Davis, hi. Were
6 you living at your address in 1997?

7 MS. DAVIS: Yes, I was.

8 VICE CHAIR MILLER: And have you noticed
9 an appreciable change in traffic or parking?

10 (Whereupon, at 5:00 p.m. the Public
11 Meeting continued into the evening session.)

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E-V-E-N-I-N-G S-E-S-S-I-O-N

5:00 p.m.

MS. DAVIS: We frequent the area because on the weekends we also use the playground at St. Patrick's and we use those new parallel, the angled parking spaces up at the top. The area has changed very dramatically from the standpoint of who is in that space.

The George Washington University was not there when we were first into our house and it was a much smaller college and I think there are, you know, many shuttle buses coming from GW that has added traffic. And I think that those students walking down the middle of the street weren't there prior to from the university.

St. Patrick's has obviously expanded quite a bit on both sides of the street and, you know, continues to expand. And I believe Our Lady of Victory has also added maybe a pre-K or a nursery. So, really, it's just the nature in our area of all the schools expanding in one extent or another and everyone looking for space.

Traffic-wise, I think that has always historically, in my opinion, been a congested area just since growing up in the area. This is an area

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1 where people come in from the suburbs to get into the
2 city. This is an intersection that has commuter
3 traffic that has nothing to do with the schools. So
4 I think it has always been a heavily congested area.

5 In my mind, I haven't noticed a difference
6 in traffic as a result of the schools, per se, but I
7 will say foot traffic I have noticed a difference in,
8 the students from Georgetown, GW, who weren't there
9 before and some of the other people walking down the
10 street. I have certainly noticed a lot more people
11 walking.

12 VICE CHAIR MILLER: Is that a problem?

13 MS. DAVIS: I think a sidewalk would be a
14 gift to the community.

15 VICE CHAIR MILLER: Okay.

16 MS. DAVIS: I think it's dangerous. Other
17 women I know who are driving their children around in
18 cars particularly in areas or times when it's, you
19 know, getting a little dark, it's hard to see
20 sometimes and there is not as much lighting on that
21 street as some of the other streets. So it would be
22 nice to have them in these large groups on the
23 sidewalk as opposed to walking down the middle of the
24 street.

25 VICE CHAIR MILLER: Thank you.

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1 CHAIRPERSON GRIFFIS: Good. Anything
2 else? Any other questions? Any cross, Ms. Prince?
3 No cross? Thank you very much, Ms. Davis, appreciate
4 it. Let's move ahead then. Is there anyone else that
5 would like to provide testimony, persons to provide
6 testimony this afternoon? Very well. I don't have
7 any other formal filings.

8 We will take note there are letters in the
9 record ranging from Exhibit 32, 21, 33, 34 all the way
10 up to in the 40s and we have had additional filings in
11 the record today and obviously note that the Board
12 will read all of those prior to making its decision on
13 this.

14 But, Ms. Prince, I think we would be ready
15 now for any rebuttal testimony and closing remarks
16 that you might have.

17 MS. PRINCE: We have some brief rebuttal
18 testimony from Marty Wells and then I have brief
19 closing remarks.

20 CHAIRPERSON GRIFFIS: Good.

21 MR. WELLS: One listening to the testimony
22 this afternoon might conclude that, from some
23 witnesses, not this one but some witnesses, that
24 angled spaces are inherently unsafe. That is not
25 true. That is not DDOT's position.

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1 DDOT has design standards, design
2 requirements for angled spaces. There are angled
3 spaces near the Convention Center. There are angled
4 spaces in this neighborhood, the neighborhood we're
5 sitting in now. There are angled spaces on the
6 opposite end of the block that we're talking about
7 today.

8 DDOT may be opposed to the devotion of
9 these spaces to The Lab School in public space for
10 policy reasons, but they did earlier opine that the
11 proposed spaces are acceptable, that they meet DDOT's
12 design requirements. That is per a DDOT memorandum to
13 Allison Prince dated 18 February 2005.

14 Chairman Griffis, you mentioned that you
15 thought it was easier to back into an angled space or
16 I inferred from your question that it would be easier
17 to back into an angled space than a parallel space.
18 I think that is true. I think the art of parallel
19 parking is becoming something of a lost art on many
20 people.

21 All due respect to certain people
22 testifying earlier, people back into parallel parking
23 spaces in this town. You do not go front into a
24 parallel parking space. One has to maneuver by
25 backing in. The same is true but easier for an angled

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1 parking space.

2 Some of the testimony we heard from
3 witnesses was that a wider street would be a safer
4 street on Whitehaven Parkway, that it's safer, the
5 angled spaces at the east end of the block than it
6 would be to provide those same angled spaces to the
7 west side of the block, because the east end is wider
8 than the west end.

9 It is wider because there is no parallel
10 parking there and the street was widened, in fact, to
11 put in the angled parking space. Whitehaven Parkway
12 at the east end towards Foxhall was the same width as
13 the west end before the angled parking spaces were
14 installed.

15 I think also the fact that some motorists
16 pass around a person maneuvering into a parking space,
17 some of that may be attributable to the lack of
18 pavement markings on Whitehaven Parkway. Some wise
19 person on another case provided a signing and striping
20 plan for Whitehaven Parkway that was not implemented
21 and that should be revisited, I think.

22 Finally, accident history. The accident
23 history of the angled parking spaces is good. I met,
24 spoke with Officer Woodland, who is the traffic
25 control officer on different days for St. Patrick's

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1 and for Lab School. She is aware of no specific
2 accidents that have occurred as a result of these
3 angled spaces. So I deeply respect people who wear
4 uniforms and men of the cloth and I offer opposing
5 views with some trepidation, but those are my views
6 and thank you for listening to me.

7 CHAIRPERSON GRIFFIS: Thank you. Anything
8 else?

9 MS. PRINCE: Very brief closing comments.

10 CHAIRPERSON GRIFFIS: Good. Let me just
11 take follow-up questions then just on that testimony.
12 Is there any for Mr. Wells?

13 VICE CHAIR MILLER: I just have a couple
14 questions for you.

15 MR. WELLS: I respect the Board Members,
16 too.

17 VICE CHAIR MILLER: You know, we heard
18 some concerns from the officer about, you know, the
19 cars getting too far ahead of the spaces and then
20 blocking traffic because they want to back up,
21 etcetera.

22 Is it a possibility to have a traffic
23 director during peak hours helping with the parking of
24 those spaces?

25 MR. WELLS: In theory it is. I would not

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1 want and it always drove me crazy that -- when school
2 personnel are on a public street directing traffic.
3 I would prefer that that be an off-duty uniformed
4 police officer. Certainly, in theory that could be
5 done.

6 CHAIRPERSON GRIFFIS: Directing people in
7 backing up into spaces?

8 VICE CHAIR MILLER: You know, into the
9 spaces.

10 MR. WELLS: To just --

11 VICE CHAIR MILLER: A traffic control
12 person. But you're saying they don't do it very well
13 unless they are a police officer. Is that what you're
14 saying?

15 MR. WELLS: I would not want somebody who
16 is not deputized or anyone who does not have
17 authority, legal authority, to be in a public street
18 directing public traffic.

19 VICE CHAIR MILLER: Right.

20 MR. WELLS: Now, in the case of St.
21 Patrick's, those angled spaces, the 2nd District
22 apparently sees no need to have a uniformed traffic
23 control officer out there specifically directing
24 traffic coming in and out, backing in or pulling out
25 of those angled spaces.

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1 So if you need proof, just look at how
2 those spaces are operated. Look at the accident
3 history and see how they operate. You really don't
4 need the officer to do that.

5 CHAIRPERSON GRIFFIS: Well, let's go
6 directly to it. When you were making your observation
7 and your staff were doing the reports on the peak
8 hours or anytime, did you observe that area where
9 there is now this similar parking?

10 MR. WELLS: In a few months you're going
11 to hear lots and lots about our observations about
12 Foxhall Road and Whitehaven Parkway. Yes, we have
13 been out there.

14 CHAIRPERSON GRIFFIS: Indeed. And have
15 you seen this example of the concern which Mr. McElwee
16 had indicated, that you have backed up cars waiting
17 for someone to maneuver into an angled spot and then
18 other cars going into the wrong directional lane
19 creating an unsafe condition?

20 MR. WELLS: That happens from time to time
21 in part because where is my lane? That pavement has
22 no markings on it. There is no center line. There
23 are no lane lines marked on the pavement. That may
24 lend to some of the confusion there.

25 CHAIRPERSON GRIFFIS: Okay. So stripes on

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1 the street.

2 MR. WELLS: But, of course, as one is
3 backing into an angled space, any motorist behind them
4 will have to stop. The same is true of parallel
5 parking spaces.

6 CHAIRPERSON GRIFFIS: Right. Okay.

7 VICE CHAIR MILLER: One last question.
8 Would it also be helpful or not also. Would it be
9 helpful if Our Lady of Victory and The Lab School had
10 different start times?

11 MR. WELLS: Of course it would.

12 VICE CHAIR MILLER: For those particular
13 spaces.

14 MR. WELLS: Of course it would. Is this
15 a practical possibility? I don't know. I don't know.

16 VICE CHAIR MILLER: Okay. Thank you.

17 CHAIRPERSON GRIFFIS: Very well.

18 MS. PRINCE: I will proceed with my
19 closing remarks. Lab School is looking for a
20 realistic common sense short-term solution to a
21 parking problem that it readily admits exists. They
22 seek to add to the supply to achieve a number that is
23 consistent with the legal requirement and they seek to
24 reduce the demand, so that it comports with the
25 supply.

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1 We could have asked for a variance. You
2 may just notice looking at the topography of the site
3 and all the numerous constraints that we're really a
4 classic variance case. We can't meet the parking
5 requirement on our property for reasons that very much
6 relate to the site's topography and conditions on the
7 site. But we didn't seek a variance and we didn't
8 seek a variance because then we would be hiding from
9 our parking problem.

10 We spill-over onto the neighborhood and we
11 accept that. We need to increase the supply. We
12 investigated every conceivable, every possible way of
13 increasing the supply off our campus, once we realized
14 that it wasn't feasible to seek more spaces on the
15 campus. And I believe we have investigated every
16 suggestion that was given to us from the ANC and there
17 were numerous, as well as explored many of our own.
18 And we believe the angled spaces are the best solution
19 to this problem on a short-term basis.

20 I don't know if you looked at the
21 photographs that we attached to our prehearing
22 statement, but we have a photograph of lower
23 Whitehaven and the existing parallel parking at
24 Exhibit B in the prehearing statement. And then
25 later, we have a photograph of the angled spaces at

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1 the other end of Whitehaven that have operated
2 successfully, that's Exhibit D.

3 I'll just note that in seven hours of ANC
4 meetings, there was no mention of the St. Patrick's
5 spaces. And I found that curious, because I guarantee
6 that if the St. Patrick's spaces were functioning
7 badly, they would have been held out as the poster
8 child example of why they shouldn't be permitted at
9 the opposite end of the street. But, in fact, there
10 was no discussion of the St. Patrick's spaces by any
11 attendees at the meetings nor the ANC Commissioners.
12 And I believe that is because they function well.

13 I think they function well. The numerous
14 times that I have been there, those are the spaces
15 that I use. And you will note, we didn't stage the
16 photograph. These cars are dutifully spaced, pointed
17 out just the way they should be using the space for
18 the exact purpose for which they were intended.

19 In terms of community benefit, the
20 community doesn't just gain the sidewalk, which I
21 believe is a superb benefit to have a continuous
22 sidewalk from Foxhall to Macarthur, they also gain the
23 ability to use those spaces on evenings, weekends and
24 with a school like Lab that does provide a lot to the
25 community on the weekends, in particular the Swim

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1 Program, which has 250 members alone, these spaces
2 will be invaluable not just to Lab School faculty.

3 So we viewed applying to the Board for a
4 special exception and demonstrating that our benefits
5 outweigh our detriments was far preferable than to
6 seek to hide from our parking requirement by asking a
7 variance. The variance approach was suggested by the
8 ANC, because it was so opposed to the concept of the
9 angled spaces, and I maintain that we have a much
10 greater opportunity for a win-win by acknowledging our
11 requirement and trying to meet it on a temporary basis
12 in public space.

13 So we ask you to consider all of our
14 efforts. I think Allyn Kilsheimer covered very
15 carefully the numerous efforts to study the existing
16 site, to study opportunities in the neighborhood and
17 give us the time to do what we need to do to meet our
18 demand on a permanent basis, but give us the
19 opportunity to address the short-term problem in the
20 manner that we have proposed. Thank you for your time
21 today. You have been very patient.

22 CHAIRPERSON GRIFFIS: Thank you very much.
23 The last opportunity for any follow-up questions from
24 the Board? Very well. Let's go through then where we
25 go from here. We have had several things come up that

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1 we wanted to put into the record. I'm going to list
2 off mine. I know Ms. Bailey keeps a copious list also
3 and other Board Members and the applicant.

4 Starting with we were going to have the
5 applicant brief the variance and the accessory
6 building issue. We're going to keep the record open
7 for that, obviously, Reverend Jordan would be able to
8 respond to that as the ANC. Ms. Mitten had requested
9 the parking instruction sheet. I believe it was put
10 on page 4 of Mr. Wells' report from the school. We
11 will have that into the record.

12 We are going to keep the record open for
13 DDOT's review and analysis and further recommendation
14 of the TMP. And then we would keep the record open
15 for the Office of Planning's supplemental report
16 attendant to all of those issues, but specifically and
17 directly in coordination with DDOT.

18 That's what I have at this point. Are
19 there other indications? Ms. Miller, are you aware of
20 some?

21 VICE CHAIR MILLER: I have two others in
22 my notes, maybe this is included, I'm not sure, but
23 one was the breakdown of the types of employees and
24 when they are on campus that Office of Planning was
25 looking for. And then my last one is that the ANC

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1 have an opportunity to respond in writing to the great
2 weight issue that was raised.

3 CHAIRPERSON GRIFFIS: Good point. Indeed.

4 COMMISSIONER MITTEN: I have one
5 additional thing, which is I believe I had put the
6 question to Mr. Wells about whether or not he could
7 provide us with some information about the number of
8 students enrolled in the night school who drive.

9 CHAIRPERSON GRIFFIS: Right.

10 COMMISSIONER MITTEN: So the modal split.

11 CHAIRPERSON GRIFFIS: Indeed. Good. It's
12 substantial. Did we leave anything out, Ms. Bailey?

13 MS. BAILEY: Perhaps you said, Mr.
14 Chairman, a little differently than I have it written
15 here and that is Mrs. Mitten had asked for a copy of
16 the parking policy.

17 CHAIRPERSON GRIFFIS: Okay. Good. I
18 think we have that. That's the same piece. Okay.
19 Good.

20 MS. BAILEY: Okay. And that's it, sir.

21 CHAIRPERSON GRIFFIS: Excellent. Very
22 well. We can have that all in by 3:00 tomorrow?
23 Let's set schedule here and be realistic again going
24 to -- I'm not sure how, maybe Office of Planning can
25 assist in looking at this time table, Ms. Prince, in

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1 terms of when we might be able to receive something
2 from DDOT. Of course, they not being represented here
3 any speculation on that? Are we four weeks away?

4 MS. PRINCE: We would be four weeks away
5 where we did not have two holidays intervening.

6 CHAIRPERSON GRIFFIS: Oh, indeed.

7 MS. PRINCE: I think our ability to work
8 with DDOT, to have time to work with DDOT is
9 absolutely critical and I would really -- I mean, for
10 once, I'm not putting time pressure on you guys. If
11 you could give us a little more time, we would like
12 really at least six weeks given the two holidays we
13 face to work with DDOT and the ANC. I mean, once DDOT
14 comes up with a report, the ANC will want an
15 opportunity to look at it and comment on it. So I
16 would appreciate at least six weeks.

17 CHAIRPERSON GRIFFIS: See you next year.
18 Okay. Well, we have got the first Tuesday in
19 February.

20 MS. PRINCE: Excellent.

21 CHAIRPERSON GRIFFIS: The first Tuesday in
22 March. We also have the first Tuesday in April. I'm
23 fairly flexible. I would rather have it closer than
24 further away, as, you know, we have read all this and
25 we would have to reread an awful lot of it to get to

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1 that point. But do you think February is time enough
2 or is it more insurance to do March?

3 MS. PRINCE: I would be more comfortable
4 with March.

5 CHAIRPERSON GRIFFIS: Board Members, any
6 difficulty with that? Any concerns? Let's do that.
7 There it is. We've got an awful lot said, but we're
8 not going to have filing dates set except for our
9 standard. We're going to want things in two weeks
10 prior to the final decision making. We're going to
11 have to have -- I mean, we are really relying on an
12 agency to give recommendation, which will then be
13 served on everyone and then responses will come in
14 accordingly.

15 MS. PRINCE: Right.

16 CHAIRPERSON GRIFFIS: I don't know if we
17 need to refine it more, responses, I'm going to use
18 everyone's judgment of paper conservation in terms of
19 that. Clearly, I think, you understand what we would
20 need to be seeing. What was I going to say? I don't
21 know.

22 MS. BAILEY: Set a date.

23 CHAIRPERSON GRIFFIS: Oh, yes, I think if
24 we get 14 weeks prior to the decision and we haven't
25 heard back substantially, which you will know better

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1 than us, because we won't have the record in front of
2 us, and you don't have sufficient information or feel
3 that that's appropriate, we just need an update either
4 from the ANC or from the applicant, so that we can
5 reschedule this or deal with it at that point. Two
6 weeks prior will give us an opportunity for in public
7 session a week before to make any sort of adjustment
8 to the record or decision making if we're to put it
9 off, is the point.

10 Good. Okay. Anything else then? Any
11 other clarifications? Yes?

12 COMMISSIONER MITTEN: I would just ask if
13 the Office of Planning and sort of being our liaison
14 back to DDOT, if you would encourage them to consult
15 with MPD, because I was just really disturbed by the
16 fact that you have these two important agencies that
17 deal with traffic that are, generally speaking, not
18 talking to each other.

19 CHAIRPERSON GRIFFIS: Yes, that's an
20 interesting point and absolutely, I think that's an
21 important piece, especially with specifics to this.
22 Okay. Anything else then? Yes?

23 VICE CHAIR MILLER: What's the date?

24 CHAIRPERSON GRIFFIS: What is the date?
25 I don't know. What did I say, March?

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1 COMMISSIONER MITTEN: March.

2 CHAIRPERSON GRIFFIS: The first Tuesday in
3 March will be our -- and that date is the 7th.
4 Excellent, the 7th of March, which is the first
5 Tuesday, which is when we schedule our decision
6 makings in the morning. Any difficulty with that
7 date? Okay. Very well. If there is nothing further
8 then, everything is clear on what the record is being
9 left open for, Ms. Bailey, anything else for the
10 Board's attention this afternoon?

11 MS. BAILEY: No, Mr. Chairman.

12 CHAIRPERSON GRIFFIS: Excellent. Thank
13 you all very much.

14 MS. PRINCE: Thank you.

15 CHAIRPERSON GRIFFIS: We appreciate
16 everybody being down here. And if there is no further
17 business before the Board, let's adjourn the afternoon
18 session.

19 COMMISSIONER MITTEN: Good job.

20 (Whereupon, the Public Hearing was
21 concluded at 5:21 p.m.)

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