

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

AUGUST 6, 2002

+ + + + +

The Public Meeting convened in Room 220 South, 441
4th Street, N.W., Washington, D.C. 20001, pursuant to notice at
10:20 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
CURTIS ETHERLY, JR.	Board Member
DAVID A. ZAIDAIN	Board Member (NCPC)

COMMISSION STAFF PRESENT:

Sheri M. Pruitt, Secretary, BZA
Beverley Bailey, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

<u>AGENDA ITEM</u>	<u>PAGE</u>
<u>APPLICATION OF THE EMBASSY OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA:</u>	
<u>16882</u>	4
<u>APPEAL OF ADVISORY NEIGHBORHOOD COMMISSION 4A:</u>	
<u>16752</u>	8
<u>APPLICATION OF KINGS CREEK, LLC:</u>	
<u>16869</u>	13
<u>APPLICATION OF THE WASHINGTON HOME:</u>	
<u>16836</u>	24
<u>APPLICATION OF THE MORRIS AND GWENDOLYN CAFRITZ FOUNDATION/THE FIELD SCHOOL:</u>	
<u>16559</u>	47
<u>APPLICATION OF U.S. PROPERTY DEVELOPMENT CORPORATION:</u>	
<u>16907</u>	172

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

(10:20 a.m.)

CHAIRPERSON GRIFFIS: Let me call to order the public hearing of August 6, 2002, of the Board of Zoning Adjustment.

I am going to move right into the cases and waive our introduction, so that we can move on with this. And I do believe if anyone has questions of who we are I will give the names for that. Otherwise, let us call the first case.

I am going to juggle the schedule as it is printed in the agenda that was available to you in the hearing room. And I'm going to run down exactly what our schedule is going to be in terms of the cases that we'll hear.

We will first be going to Application 16882, which is the Embassy of the People's Democratic Republic of Algeria. Second, we will go to the appeal of Advisory Neighborhood Commission 4A. Third, we will go to Application 16869 of Kings Creek. Fourth, we will go to the Application 16836 of The Washington Home. Fifth, we will go to the Application 16559 of The Morris and Gwendolyn Cafritz Foundation, known as The Field School. And, sixth, finally for our morning session, by 12:00, we will go to the U.S. Property Development Corporation, Application 16907.

For those I'm sure you are all aware this is a public meeting, which means this is not a public hearing, and so

1 we will be going through our deliberation on each of these cases
2 which we have previously heard for motions or specifics, and
3 those will be evident in -- as the cases are called.

4 So let us jump right into it, then.

5 SECRETARY PRUITT: Good morning, Mr. Chair.

6 CHAIRPERSON GRIFFIS: Good morning.

7 SECRETARY PRUITT: I'm assuming that you're going
8 to defer public minutes to the end?

9 CHAIRPERSON GRIFFIS: Indeed. In fact, for
10 clarification, if people are here to hear our minutes, which I'm
11 sure most of you are because it's darn exciting, we are actually
12 going to go through our morning session, so that we can get
13 through what you probably are more interested in. We will take a
14 break for lunch, resume our public meeting in the afternoon, go
15 through our minutes at that point, and then start our public
16 hearing in the afternoon.

17 SECRETARY PRUITT: The first case on the agenda
18 today is Application 16882 of the Embassy of the People's
19 Democratic Republic of Algeria, pursuant to 11 DCMR Section 1002
20 to permit the expansion of an existing chancery under Section
21 1001 in an R-5-D District located at 2118 Kalorama Road, N.W.,
22 Square 2527, Lot 48.

23 The hearing date was June 11th of this year.
24 Decision date June 11th and August 6th.

25 At the public meeting on June 11th, the Board

1 ascertained that the Notice of Proposed Rulemaking had not been
2 published in the D.C. Register for 40 days in advance of the
3 hearing pursuant to Section 3134.9(c). The Board determined that
4 based on the urgency expressed by the Ambassador for approval of
5 the application, immediate action needed to be taken.

6 So at the June 11th meeting, the Foreign Missions
7 Board took emergency and proposed rulemaking action not to
8 disapprove the application. The Board instructed the staff then
9 to publish the Notice of Emergency and Proposed Rulemaking in the
10 D.C. Register for 40 days. That was done. It was published on
11 the 21st, and the record was closed on the 31st of this year.

12 At the conclusion of the written period, we have
13 not received any written materials or comments. The Board
14 members participating in this particular case were Mr. Griffis,
15 Ms. Renshaw, Ms. Gallagher from NCPC, Mr. Etherly, and Mr.
16 Parsons.

17 The final rulemaking action for the Embassy of
18 Algeria is now before you.

19 CHAIRPERSON GRIFFIS: Thank you very much, Ms.
20 Pruitt.

21 Board members, I would make a motion to take final
22 rulemaking action to not disapprove the application of the
23 Embassy of the People's Democratic Republic of Algeria to
24 construct a chancery building with a small addition in an R-5-D
25 zone district at the premises of 2118 Kalorama Road, N.W. And I

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1 would appreciate a second on that.

2 VICE CHAIRPERSON RENSHAW: Second.

3 CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw.

4 Clearly, the application, in its history that we
5 heard in the case, complied with each of the six requirements
6 that are before us. And I will quickly summarize, but, first,
7 the recommendation of the Secretary of State and the Office of
8 Planning was favorable action on this application.

9 Second, the Historic Preservation Review Board did
10 indicate its approval of the conceptual reconstruction in that it
11 was consistent with the character of the Sheridan and Kalorama
12 historic district.

13 Third, the applicant is providing parking in the
14 rear. Most importantly, the Secretary of State determined that
15 there were no special security requirements related to the
16 parking requirements in this case.

17 Fourth, the Secretary of State has determined that
18 the subject site and area are capable of being adequately
19 protected.

20 And, fifth, the Director of Office of Planning, on
21 behalf of the Mayor of the District of Columbia, determined that
22 favorable action on this application is in the municipal
23 interest.

24 Finally, sixth, it was determined by the Secretary
25 of State that a favorable decision on this application would

1 serve the federal interest.

2 Any other questions/deliberation on this motion?

3 Not seeing any, let me ask for all those in favor, signify by
4 saying aye.

5 (Chorus of ayes.)

6 And opposed?

7 (No response.)

8 SECRETARY PRUITT: We also have a proxy from Mr.
9 Parsons not to disapprove the application. So the vote was five-
10 zero-zero, motion made by Mr. Griffis, seconded by Ms. Renshaw.

11 CHAIRPERSON GRIFFIS: Let's actually revisit that
12 vote. I think it's four, is it not? Ms. Renshaw, myself, Mr.
13 Etherly, and Mr. Parsons.

14 SECRETARY PRUITT: I'm sorry. I neglected to
15 indicate that we also have a proxy from Ms. Gallagher in the
16 affirmative.

17 CHAIRPERSON GRIFFIS: Indeed. Very well.

18 SECRETARY PRUITT: Okay. The next case on the
19 agenda is an Appeal Number 16752 of ANC Commission 4A, pursuant
20 to 11 DCMR Sections 3100 and 3101 from the decision of Michael
21 Johnson, Zoning Administrator, for the issuance of a certificate
22 of occupancy, number 190720, dated May 7, 2001, for an adult day
23 care program for mentally retarded persons, allegedly not meeting
24 the parking requirement under Section 2100 in a C-2-A District at
25 5511 14th Street, N.W., Square 2800, Lot 9.

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1 Hearing dates were September 4th and November 6th
2 of the year 2001. Decision date was November 20, 2001, and
3 August 6, 2002.

4 The appellant is ANC-4A. The appellee is the
5 Zoning Administrator.

6 Appeal Numbers -- BZA Appeal Numbers 16752 and
7 16839 are companion cases associated with the same site. In
8 reviewing the record for the appeal of 16839, it was discovered
9 that the Appellant's Motion for Reconsideration of the Board's
10 order dated December 21, year 2001, dismissing the appeal of BZA
11 Number 16752 was still outstanding.

12 In BZA Order 16752, the appellant appealed the
13 issuance of a C of O dated May 7th, year 2001, permitting the
14 Metro Day Treatment Center -- for purposes of a day care center
15 for the mentally retarded adult development.

16 On December 12th, the Board issued a final order
17 dismissing the appeal as moot, since DCRA had issued Metro Day
18 Treatment a new certificate of occupancy dated August 31st to
19 replace the original one and to permit the use of 5511 14th
20 Street for the purpose of a child care elderly center for 30
21 individuals.

22 On January 18th of 2002, the appellant filed a
23 Motion for Reconsideration of Dismissal of Appeal as Moot and/or
24 Revocation of Certificate of Occupancy 190720 issued May 7th
25 and/or Consolidation of Certificates of Occupancy 190720 and

1 18366.

2 The appellant served the motion on the Zoning
3 Administrator on November 30th, year 2001, and on the property
4 owner, Pamela Coleman, in December 2001. The Board has not
5 received any motions as of date.

6 Basically, this application is before the Board to
7 reconsider the Board to -- for them to reconsider whether or not
8 they're going to reconsider the applicant's request for a hearing
9 or consolidation.

10 CHAIRPERSON GRIFFIS: Thank you. And believe it or
11 not, we weren't spending most of our morning trying to figure
12 this one out.

13 However, Board members, as I'm sure you remember,
14 this has been very complicated, in fact, long and involved. The
15 original case, when we did have a current C of O that was
16 actually up for appeal, we gave quite a bit of time to the ANC,
17 the member bringing the appeal, in order to get his case in
18 order.

19 I can say, perhaps digressing a bit, that I was
20 hoping that there would be a very strong case. I saw a case that
21 could have been made. It was not. That goes to how we decided
22 the last appeal on this.

23 What we have before us now is the reconsideration
24 that has been outlined for the Motion for Reconsideration of that
25 decision of one of the previous orders. Looking at it, reading

1 it through again, I am -- do not find any compulsion for us to
2 open this up and reconsider it.

3 I would move that we deny the request for
4 reconsideration at this time, and look for a second.

5 VICE CHAIRPERSON RENSHAW: Second.

6 CHAIRPERSON GRIFFIS: Thank you very much, Ms.
7 Renshaw.

8 Any other discussion on it needed/required?

9 SECRETARY PRUITT: Excuse me, Mr. Chair. Just for
10 the record --

11 CHAIRPERSON GRIFFIS: Yes.

12 SECRETARY PRUITT: -- there is only three people
13 here who could actually vote on it.

14 CHAIRPERSON GRIFFIS: Indeed.

15 SECRETARY PRUITT: And we do have a proxy from Mr.
16 Hood.

17 CHAIRPERSON GRIFFIS: Oh, very good.

18 SECRETARY PRUITT: So, therefore, you can go
19 forward.

20 CHAIRPERSON GRIFFIS: Very good. That being said,
21 last moments for discussion on the motion. If not, I would ask
22 for all those in favor of the motion, signify by saying aye.

23 (Chorus of ayes.)

24 And opposed?

25 (No response.)

1 Very well. The voices rang out. The proxy for Mr.
2 Hood is?

3 SECRETARY PRUITT: To deny.

4 CHAIRPERSON GRIFFIS: Indeed.

5 SECRETARY PRUITT: I'm sorry, Mr. Chair. Who was
6 -- who made the motion, and who seconded the motion?

7 CHAIRPERSON GRIFFIS: That would be me making the
8 motion.

9 SECRETARY PRUITT: Okay.

10 CHAIRPERSON GRIFFIS: Ms. Renshaw seconded.

11 SECRETARY PRUITT: Because there's only two of you
12 here.

13 CHAIRPERSON GRIFFIS: Thank goodness, because it's
14 the only two actually that deliberated that are here present with
15 us today.

16 SECRETARY PRUITT: Okay. Staff would record the
17 vote as three-zero-two, motion made by Mr. Griffis, seconded by
18 Ms. Renshaw, and Mr. Hood a proxy, to deny. Mr. Etherly and Mr.
19 Zaidain not having heard the case, not voting.

20 Third case on the agenda for today is Application
21 16869 of Kings Creek, pursuant to 11 DCMR 3103.2, for a variance
22 from the floor area requirements under Section 402, a variance
23 from lot occupancy under Section 403, and a variance from the
24 nonconforming structure provisions under Section 2001.3, and
25 pursuant to a special exception to exceed the height provisions

1 of Section 1402 of the Reed-Cooke Overlay under Section 1403, to
2 construct an addition to an existing building for a mixed-use
3 (residential and existing retail) development in an RC/R-5-B
4 District located at 2329 Champlain Street, N.W., Square 2563, Lot
5 103.

6 Hearing dates were April 30th. Decision date was
7 June 4th and today.

8 A little background on this case -- on June 4th,
9 the Board approved the application, which included approval of a
10 special exception to allow the increase -- to allow the building
11 height under Section 1403 of the Reed-Cooke Overlay.

12 Subsequently, in reviewing the record it was
13 discovered that the proposed self-certified application is
14 actually not located in the Reed-Cooke Overlay. Therefore, the
15 applicant's request to exceed the height provision under 1403 no
16 longer applies. Instead, relief requested from building height
17 should have been considered as a variance from the maximum
18 matter-of-right height provisions under Section 400 of the
19 underlying R-5-B District.

20 The office believes that sufficient information is
21 provided in the record to allow the Board to render a decision on
22 the height. Should the Board decide to do so on its own motion,
23 it should reconsider the application as a variance.

24 The Office of Zoning further suggests that you then
25 amend the application to correct -- to reflect the correct

1 zoning.

2 Board members who had participated in this were Mr.
3 Griffis, Mr. May, Mr. Etherly, Ms. Renshaw, and Mr. Levy. I
4 believe Mr. Zaidain did read the record, so he could vote. And
5 we have a proxy from Mr. May on this case.

6 The application is now before the Board to
7 reconsider the application for relief from the height
8 requirements as a variance.

9 CHAIRPERSON GRIFFIS: We do have a proxy from Mr.
10 May?

11 SECRETARY PRUITT: Yes. No, excuse me. We do not,
12 not on this case.

13 CHAIRPERSON GRIFFIS: Okay. Board members, I would
14 make a motion to reconsider this based on what was just stated,
15 and that is the fact that it eluded us also, and it is not the
16 most clear in the regulation. But I think we have brought
17 clarity to it that this -- this site actually is outside of the
18 Reed-Cooke Overlay. Therefore, the height relief that is
19 requested is a variance.

20 I do not -- and we had extensive discussions on
21 this, in terms of whether it would be a variance or a special
22 exception. We were briefed, and the case was presented to us in
23 both forms. I think we have adequate information to deliberate
24 on today.

25 So I would ask for a second on that motion for

1 reconsideration.

2 VICE CHAIRPERSON RENSHAW: Second.

3 CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw.

4 Any discussion on the reconsideration?

5 MEMBER ZAIDAIN: Well, just to clarify, I don't
6 know if Mr. Levy was on the Board when this first happened. I
7 guess I trust the records are correct. But June 4th I was a
8 sitting member, which was the last hearing on this case, so --
9 and I have read the complete record, so I will be participating.

10 CHAIRPERSON GRIFFIS: Good. And the pertinence of
11 the 4 June 2002 is the fact that that wasn't our deliberation
12 session, so that you had been prepared to make the decision on
13 the case --

14 MEMBER ZAIDAIN: Correct.

15 CHAIRPERSON GRIFFIS: -- and, therefore, continuing
16 on this should pose no problem to you. But I appreciate you
17 reiterating that.

18 Any other discussions on the motion for
19 reconsideration? If not, let us move to the variance test
20 deliberation for the height. Clearly, I think we can --

21 VICE CHAIRPERSON RENSHAW: Do you take a vote?

22 CHAIRPERSON GRIFFIS: Oh, I'm terribly sorry. It's
23 always good to take a vote on a motion, isn't it? Therefore, all
24 those in favor, signify by saying aye.

25 (Chorus of ayes.)

1 And opposed?

2 (No response.)

3 Why don't we just record that and see what --

4 SECRETARY PRUITT: I was going to ask you, sir, if
5 you want me to do them individually. Staff would record the vote
6 as four-zero-one, motion made by Mr. Griffis, seconded by Ms.
7 Renshaw. Mr. May not present, not voting.

8 CHAIRPERSON GRIFFIS: Thank you. Originally, this
9 was a CM-2, which allowed a 60-foot height. It was rezoned to
10 the R-5-B that we have before us now. It is within the Reed-
11 Cooke Overlay area. We have obviously established that it is not
12 specifically in that.

13 There is some great pertinence to the overlay and
14 what it outlines, and its importance of how it's creating
15 character -- neighborhood character through mass building use,
16 etcetera. I think it's an important aspect to look at, and the
17 case presented to us did look at how it was to come in compliance
18 with that, and, in fact, be compatible, sympathetic, if not
19 actually additive to the overlay, which is an important piece.

20 As I say, the variance test wasn't laid out. It
21 was clearly pointing to the fact that there's an original and
22 existing structure on this site. It covers almost 100 percent.
23 It's 97 and change percent. That existing structure is not
24 historic.

25 However, it is felt by the developer, and as

1 testified by the neighborhood and surrounding areas, that it is a
2 contributing building, both, one, in its architectural uniqueness
3 and, two, in its uniqueness of tenant, which has been there for
4 quite some time and is an important component to the neighborhood
5 and to the city at large.

6 The developer in that unique -- in those unique
7 elements is, in fact, working to maintain that and maintain
8 continual operation of the tenant, also maintain the building
9 itself, but is proposing to add on to the building in order to --
10 in order to provide residential units.

11 That all is in compliance with the Reed-Cooke --
12 not compliance, is following the intention and spirit of the
13 Reed-Cooke Overlay.

14 In addition, it is providing parking, which is part
15 of the reuse of the existing structure. It is of most difficulty
16 in terms of the height of the existing structure to add anything
17 on top of the building that -- and if it was allowed, even within
18 the 50 feet, it was looking at maybe one, possibly two, stories.

19 The project and the design that was presented to us
20 took great consideration in not creating -- well, it took great
21 consideration in terms of the massing of the building itself, and
22 that massing was to animate the street and not create a full
23 facade and a canyon-like aspect of it.

24 So we have -- stepping back, we have courtyards.
25 We have aspects that allow for light and air in each of the

1 individual units, and, most importantly, into the surrounding
2 area. That moving of mass off of certain stories creates a
3 stacking effect. That stacking effect has increased the height.

4 In order to accommodate both the larger community
5 with the light and air issues, and the light and air into the
6 individual units, that is a required piece. Clearly, it is a
7 practical difficulty. If the zoning requirements are
8 specifically and directly applied to it, it would not allow that.

9 It, in fact, would force the development project to look more
10 like a standard square, stacked building, with no undulation,
11 articulation, or courtyards.

12 In addition, it was in the record the specific and
13 unique aspect of this. It, in fact, I think mitigates a lot of
14 the pure foot dimension of the height, and that is the sloping
15 site.

16 The site slopes south down the road which the site
17 is located on, meaning those properties that are north of it,
18 which would be most affected by its mass and height are actually
19 physically higher, although the building structures themselves
20 may not measure exactly a dimensional height higher, although,
21 interesting, in the photographs, if you look up the street, I
22 believe some of them, if not most of them, are, in fact, taller
23 than the proposed structure.

24 That being said, I believe that there's a strong
25 case for the variance approval in this matter, but I would open

1 it up to others.

2 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

3 CHAIRPERSON GRIFFIS: Yes.

4 VICE CHAIRPERSON RENSHAW: I just want to point out
5 that the design, as it stands now, we are saving on extra height
6 for mechanical equipment, because the mechanical equipment
7 usually is a plus on top of the height -- the proposed height of
8 a building. And here the 69 feet that is requested is not going
9 to have any additional height for mechanical equipment.

10 CHAIRPERSON GRIFFIS: Indeed. So your point is
11 that 69 feet, as we defined the -- measuring the height of the
12 building, would not be, then, in addition to a penthouse.

13 VICE CHAIRPERSON RENSHAW: Yes.

14 CHAIRPERSON GRIFFIS: I see. An excellent point.
15 Others?

16 MEMBER ZAIDAIN: Mr. Chair, just to state briefly
17 my -- I'm losing my voice, so I can't speak to an extent on a lot
18 of cases, but --

19 CHAIRPERSON GRIFFIS: I'll talk for you. No, no,
20 no. I can't do that.

21 MEMBER ZAIDAIN: But I think this is another one of
22 those cases that we've seen -- that we've seen through various
23 avenues that have come to the Board where they were traditionally
24 industrial properties, and the Zoning Commission went through the
25 process of rezoning to residential to encourage this type of

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1 development.

2 And the testimony that we went through in the
3 original public hearing process went through all the issues of
4 height, area, design, and so forth. So I think in correcting the
5 oversight with the zoning, considering that the project has not
6 changed, it would not cause any problems, and I'd support a
7 motion to approve the project.

8 CHAIRPERSON GRIFFIS: Thank you very much.

9 Let me add to that well-said statement that there
10 was no opposition in this case. The ANC came in favor. We
11 actually held the record open to have further submissions from
12 some of the community associations. None were submitted. We did
13 have Office of Planning also in support of the application, as
14 well as the Council Member of Ward 1, Mr. Graham, in support of
15 this application.

16 All being said, then, I think we can make a motion
17 to approve the Application 16869 of Kings Creek, in light of the
18 variance from the height requirement.

19 I am hesitating because I -- do we have a specific
20 -- I know we were bantering back and forth 69 feet.

21 MEMBER ZAIDAIN: I think it was 69, where the
22 requirement was 50 under the R-5-B.

23 CHAIRPERSON GRIFFIS: That I understand. And the
24 documents would then show that it does measure to 69 feet?

25 MEMBER ZAIDAIN: I don't have the plan in front of

1 me.

2 CHAIRPERSON GRIFFIS: Right. That's what I was
3 afraid of.

4 MEMBER ZAIDAIN: Mr. Chair?

5 CHAIRPERSON GRIFFIS: Yes.

6 MEMBER ZAIDAIN: You could just word it as --

7 CHAIRPERSON GRIFFIS: Okay. Well, this isn't going
8 to stop the Board proceeding. It's an interesting piece.
9 There's two dimensions that are shown in the plans, which is what
10 is giving us some -- a bit of a pause. We have 69 feet, two
11 inches, and we have 69.6 feet in the Office of Planning report.

12 I would think that we'd err on the side of caution
13 -- we're talking about a matter of inches -- and approve it for
14 the 69.6 feet, and I would look for a second on that.

15 MEMBER ETHERLY: Seconded, Mr. Chair.

16 CHAIRPERSON GRIFFIS: Thank you very much, Mr.
17 Etherly.

18 Any other discussion/deliberation on this? Then,
19 we can ask for all those in favor, signify by saying aye.

20 (Chorus of ayes.)

21 And opposed?

22 (No response.)

23 SECRETARY PRUITT: Staff would record the vote as
24 four-zero-one to approve the variance. Motion made by Mr.
25 Griffis, seconded by Mr. Etherly. Anne Renshaw and David Zaidain

1 in support. Mr. May not present, not voting.

2 The next case on the application before the Board
3 is Application Number 16836 of The Washington Home, pursuant to
4 11 DCMR 3104.1, for a special exception for the addition to an
5 existing health care (hospice) facility, increasing the number of
6 beds from 201 to 205, and increasing the number of parking spaces
7 from 75 to 173 under Section 219, in an R-1 District at 3720
8 Upton Street, N.W., Square 1825, Lot 818.

9 Hearing dates were April 2nd, June 25th, and July
10 9th of this year. Decision date is today.

11 On April 2nd, the Board granted party status to
12 Citizens Concerned about the Home's Expansion, which was in
13 opposition, and they are represented by Jonathan Graham. Of
14 course, ANC-3F is automatically a party in this case.

15 At the June 25th meeting, public meeting, the Board
16 bifurcated the case and determined that the July 9th hearing
17 would only address the proposed building addition, and a hearing
18 would be scheduled for September 10th that would focus on the
19 increase in the proposed parking.

20 The Board bifurcated the case to render a decision
21 on the increase in beds prior to the expiration of the
22 applicant's Certificate of Need on September 20th. Additionally,
23 the Board determined that the building addition and corresponding
24 increase in number of beds could be separated from the requested
25 increase in number of parking. The additional beds would not

1 result in a significant increase in the number of visitors to the
2 site.

3 At the July 9th meeting, the Board requested the
4 following information and established the following timeline. On
5 July 29th, submission of proposed findings of fact on the
6 building addition only. August 6th, a decision on the addition
7 -- of the increase of four beds to the existing hospice. August
8 10th, of course, which would be the continuation of the hearing
9 in reference to the increase of parking.

10 CHAIRPERSON GRIFFIS: September 10th, I believe.

11 SECRETARY PRUITT: Yes, September. Excuse me.

12 In relationship to the building addition, the Board
13 requested the following: applicant provide proposed findings of
14 fact, and also for the Citizens.

15 As previously stated, at the July 9th meeting, the
16 Board decided that it would vote on the building addition and
17 increase in the number of beds and scheduled the hearing for the
18 parking on September 10th.

19 On July 29th, the Citizens Concerned About the
20 Home's Expansion and ANC-3F submitted joint findings of fact.
21 They were submitted timely, sir.

22 Board members participating in this was Mr.
23 Griffis, Mr. Zaidain, Mr. Etherly, and Mr. May. And this is one
24 we do have a proxy from Mr. May on.

25 CHAIRPERSON GRIFFIS: We may well need it.

1 SECRETARY PRUITT: So what's before you today is
2 the voting on the addition of the building itself.

3 CHAIRPERSON GRIFFIS: Indeed. Good. Thank you
4 very much.

5 Yes. Board members, I think it was fairly clear to
6 -- well, first of all, I think we ought to state the fact that
7 there was some urgency relayed to the Board in terms of
8 determining -- or in terms of bifurcating this case. And I think
9 there has been quite a bit of information that has come in, and
10 it is -- it is fairly complicated, and I'm willing to take some
11 discussion on that in the beginning.

12 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

13 CHAIRPERSON GRIFFIS: Yes.

14 VICE CHAIRPERSON RENSHAW: Before we get into a
15 discussion, I would like to point out three things. First of
16 all, on the transcript cover page for the July 9, 2002, hearing
17 my name is indicated as member present, and I was out of town
18 that day. So that cover sheet should be corrected.

19 CHAIRPERSON GRIFFIS: Good.

20 VICE CHAIRPERSON RENSHAW: The second to indicate
21 is that I have read the record for the hearing on July 9 and am
22 ready to participate in the meeting.

23 And, third, I just want to note that the
24 applicant's findings of fact and conclusions of law has
25 predetermined my vote, just to bring that to the Board's

1 attention. And I just want to say that I feel that that is
2 absolutely out of place.

3 CHAIRPERSON GRIFFIS: Okay. I'm not sure I follow
4 all that, but perhaps we'll get some clarification on that.

5 VICE CHAIRPERSON RENSHAW: On page 6 of the
6 applicant's submission dated July 29, the proposed findings of
7 fact and conclusions of law, you will have the vote recorded as
8 four to one to zero, with Griffis, Etherly, Zaidain, and May
9 approving, and Renshaw to oppose.

10 Now, I cannot say at this point whether I am going
11 to join with Mr. Keys in that vote, but who knows.

12 CHAIRPERSON GRIFFIS: Indeed. I did notice that.

13 VICE CHAIRPERSON RENSHAW: I just would caution
14 attorneys not to presume the vote before it's taken.

15 CHAIRPERSON GRIFFIS: Very well. Probably well
16 worth saying.

17 Let us get into the heart of the matter on this,
18 then, and look to -- clearly, we had the addition, which is I
19 think clear enough. I don't think I need to describe -- in terms
20 of the addition to the existing facility.

21 What is interesting about this case, and I think
22 what makes it difficult, or let's just say complex, is the fact
23 that there is also within the original application the
24 reconfiguration and expansion of the existing parking.

25 Now, clearly, with the addition on The Washington

1 Home facility, it is up to the Board to determine the parking
2 requirements. I think we've adequately stated, based on the fact
3 that there was the urgency in moving ahead on the addition that
4 we could, in fact, deal with it separately and knowing full well
5 that in the near future, 10 September, we would be taking up the
6 larger issue of the parking itself.

7 There has been quite a bit of submissions, as I
8 began to state, not in agreement with us bifurcating this case.
9 There has been talk about the importance of leverage in
10 discussing with the applicant -- with The Washington Home in
11 terms of determining the parking. That, to me, is of little
12 concern of whether we are able to give leverage or not leverage
13 to one position or the other.

14 However, it is important for this Board member in
15 looking at the entire case and how one affects the other, and
16 whether we actually have or have been persuaded by the new
17 submissions to go one way or the other on the addition itself, or
18 is it actually stronger to hear it all together.

19 I am open for discussion on that. I've got a lot
20 more to say, so you might want to jump in.

21 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

22 CHAIRPERSON GRIFFIS: Yes.

23 VICE CHAIRPERSON RENSHAW: On this business of
24 voting today, this bifurcation business, I recall that there was
25 a sense of pressure, at least on -- I felt a sense of pressure

1 because of the whole business of the certificate of need. And
2 that has -- there was this alarm over a deadline, and we had, at
3 the time, no information over any extension possibilities or
4 probability. And so the whole aspect of bifurcation came up.

5 However, that alarm has been removed, and so we can
6 settle back from that and talk today about whether or not we are
7 at the point where we should go ahead and vote.

8 I can approach this case from the parking needs of
9 four additional beds, and can conclude that we do have a problem,
10 because there really is no room for additional parking tied to
11 four new beds. The four new hospice beds are needed. I think
12 that that has been established, that the parties seem to agree
13 that there is a need in the city for hospice beds, and in a ward
14 which has a mushrooming number of elderly and frail people as
15 assisted living and senior retirement homes are built and/or
16 expanded.

17 But it all comes back to one of the points as to
18 how do we handle the parking. Now, the ANC and the community
19 have articulated concern about institutional expansion in
20 residential zones, and I should amend that to read incremental
21 institutional expansion in a residential zone.

22 And The Washington Home has been -- and it's in the
23 record -- The Home has been on the move. There was additional
24 properties that The Home has acquired, although the exact amount
25 of property has not been stipulated.

1 So if the BZA approves four beds, with incomplete
2 construction, landscaping, parking tied to four beds, and an
3 incomplete understanding of staffing, because the attorney for
4 the applicant has said that The Home is overstaffed, the
5 applicant is really halfway there to a parking lot expansion,
6 which we have not yet determined.

7 Even four beds are in a case exacerbating an
8 already huge problem in the neighborhood over traffic and
9 parking. And there is no indication via solid plans for any
10 transit subsidy, shuttle buses, taxis, use of nearby commercial
11 parking lots, carpooling, and there is no indication about
12 reorganizing and remanaging the existing parking lot, which leads
13 me to believe that The Washington Home is not on track to
14 accommodate the visitors and the medical staff for four new beds.

15 And there is no indication from The Home that they
16 are doing anything to restrict, prohibit, curtail, the illegal
17 parking in the fire and ambulance lanes, which absolutely must be
18 left open to service the existing patients, and, if we approve,
19 the four new hospice beds.

20 CHAIRPERSON GRIFFIS: So if I understand you
21 correctly, you believe that we should not move ahead with a
22 decision on --

23 VICE CHAIRPERSON RENSHAW: Exactly.

24 CHAIRPERSON GRIFFIS: -- the bifurcated case.

25 VICE CHAIRPERSON RENSHAW: Exactly. I think it's

1 too intertwined, and we've got to resolve this parking lot issue,
2 which plays back to the four beds. And we should not separate.

3 CHAIRPERSON GRIFFIS: Others?

4 MEMBER ZAIDAIN: Mr. Chair?

5 CHAIRPERSON GRIFFIS: Yes.

6 MEMBER ZAIDAIN: I think I support what Ms. Renshaw
7 is saying, although I'm coming from a different angle. In all
8 due respect for the Chair trying to balance the schedules of all
9 the parties and accommodate The Washington Home's certificate of
10 need situation, which I think has been kind of diluted since that
11 meeting where we bifurcated it, I've really been struggling with
12 how to separate them.

13 When you're dealing with an addition to any type of
14 use -- I mean, if it was a business or whatever -- there's always
15 the zoning issue of parking. Whether they're adding, you know,
16 10,000 square feet, 1,000 square feet, or whatever, when they go
17 to develop that site, there's always a zoning requirement for
18 additional spaces.

19 CHAIRPERSON GRIFFIS: When you say "use," you mean
20 intensity of use, correct? Not a use change.

21 MEMBER ZAIDAIN: No. Well, expansion of a use.

22 CHAIRPERSON GRIFFIS: Right. Intent, okay.

23 MEMBER ZAIDAIN: And I think to say -- to move
24 forward with discussing the addition without addressing parking
25 in some circumstance for that addition, I think we may be remiss

1 in doing that. I don't -- you know, as we've struggled through
2 this, I'm not sure that bifurcating the case was the best way to
3 go. And as I said, I do respect you. I know you were trying to
4 balance everybody's interests and schedules, and I definitely
5 would not want to be in your position in that circumstance.

6 But I just think that if we are going to move
7 forward with dealing with the addition today, we need to deal
8 with parking in some respect. Clearly, they're adding -- they're
9 going to expand the parking facility to 98 spaces, or they're
10 proposing to do that.

11 Clearly, they're addressing above and beyond what
12 the additional four beds may generate, but I think we need to
13 deal with what those additional four beds may generate. It may
14 be one space.

15 In the zoning regulations -- and I know we're
16 beyond that because of the special exception process and --

17 CHAIRPERSON GRIFFIS: Well, we're not beyond it,
18 but the Board defines the parking requirement for the special
19 exception.

20 MEMBER ZAIDAIN: Well, I'm just saying that if
21 everything was matter of right, and there were no need for
22 variance or special exceptions or whatever, if somebody was going
23 to add three spaces on to a -- or four beds on to a community
24 residential facility, they would be required to add, you know,
25 one or two spaces, you know, depending on how many beds they have

1 in total.

2 CHAIRPERSON GRIFFIS: Good. And I do think that's
3 a good beginning point to --

4 MEMBER ZAIDAIN: Right.

5 CHAIRPERSON GRIFFIS: -- start to give us an
6 understanding and look to the zoning regulations on how it does
7 -- how it would calculate --

8 MEMBER ZAIDAIN: Right.

9 CHAIRPERSON GRIFFIS: -- for that use.

10 MEMBER ZAIDAIN: Right. And I just think in, you
11 know, an environment where -- you know, even in D.C. with public
12 transportation, people still drive. And I think when you're
13 going to discuss the realistic planning aspects of an expansion
14 of the use, you have to deal with what kind of vehicular traffic
15 that expansion is going to generate.

16 And that's kind of where I'm struggling. I mean,
17 obviously, there is additional spaces that they are looking for
18 which are separate issues. But as I said, I think if we're going
19 to move forward with the addition, we have to address parking in
20 some respect.

21 CHAIRPERSON GRIFFIS: Okay. And your point
22 actually goes directly to the requirements for the special
23 exception I believe is what you're going to. And that is in
24 looking at this, even for the four-bed construction, for a
25 special exception it still needs to be addressed -- that

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1 adequate, appropriately located and screened off-street parking
2 is to be provided for the needs of the occupants, employees, and
3 the visitors of the facility.

4 MEMBER ZAIDAIN: Right.

5 CHAIRPERSON GRIFFIS: Okay. And to that, I have no
6 difficulty in taking responsibility for the decision of
7 bifurcating the case, although it was a full Board's decision and
8 we do have a Board that makes all the decisions, and, therefore,
9 that's why we have this discussion again, and we can, in fact, be
10 wise and revisit our own decision.

11 Mr. Etherly?

12 MEMBER ETHERLY: Thank you very much, Mr. Chair. I
13 haven't seen anything in our -- in the recent additions to the
14 record to suggest that we still don't necessarily have the
15 urgency as it relates to the certificate of need for the
16 facility.

17 Of course, my colleagues are familiar with the
18 contents of the record and will note Exhibit Number 12, which is
19 the State Health Planning and Development Agency, otherwise known
20 as SHPDA's notice of official action regarding the certificate of
21 need. And that exhibit does state that the certificate of need
22 is valid until September 20, 2002.

23 Of course, I believe there is a procedure that
24 would be outlined that would provide for the ability to seek an
25 extension in that regard, but I don't think it is necessarily

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1 within the purview of this body to second guess SHPDA or to
2 perhaps put that agency in a position of having to offer an
3 extension.

4 I agree, in part, with -- with my colleague Mr.
5 Zaidain with respect to the need to consider parking to some
6 extent in this regard. But I supported the bifurcation of this
7 case, because of -- because of the certificate of need urgency,
8 which I think is still valid, but also because I think we can
9 take a look at parking in part with regard to the proposed
10 addition, but still not necessarily have to resolve the equally
11 important question, which is whether or not 95 additional spaces
12 is exactly what you need in this particular regard.

13 Clearly, there is some -- I won't say dispute or
14 difference in the record. If you take a look at the applicant's
15 supplemental information, which is Exhibit Number 32, regarding
16 the subject property, you'll note in the traffic -- in the
17 traffic analysis that the applicant's own expert notes that the
18 addition of four beds will require four parking spaces to meet
19 the parking need for this expansion.

20 I'll also note, returning back to Exhibit Number
21 12, that SHPDA notes that an additional four beds would require
22 one additional RN per shift. So, once again, I agree with Mr.
23 Zaidain that there is some evidence in the record, and I believe
24 also Ms. Renshaw would concur that there is some evidence in the
25 record which suggests that there may indeed be the need for some

1 additional parking capacity.

2 But whether or not that additional parking capacity
3 for the addition by itself is 98 spaces I think we can still get
4 at separately.

5 The bottom line is I see -- I see the applicant
6 having satisfied the conditions as they're laid out in Section
7 219.1 with regard to health care facilities in an R-1-B zone, and
8 would still support our decision to bifurcate this matter and
9 would be prepared to move forward.

10 I think the need has been demonstrated. I think
11 with respect to the issue of traffic impact, as is -- as was
12 alluded to in 219.3, there shall be adequate, appropriately
13 located and screened off-street parking provided for the needs of
14 occupants, employees, and visitors to the facility.

15 I think if you were just simply to separate this
16 issue of the expansion and take a look at 219.3, I think -- I
17 think we're there. Once again, at a later date, we will deal
18 with the issue of whether or not 95 additional spaces is what's
19 going to be needed here.

20 That's a little bit of a convoluted analysis. I've
21 run through a couple of different things, Mr. Chairman. But the
22 bottom line is I'm still in favor of the bifurcation and would be
23 prepared to move forward on this component of the application
24 today.

25 Thank you, Mr. Chair.

1 CHAIRPERSON GRIFFIS: Good. Thank you very much.
2 I think that did cover quite a bit of good information.

3 Well, it appears that we have a two-step process
4 here. I would ask that people focus on being deliberative in
5 action and looking at the first, and that is whether we continue
6 with the bifurcation of the requested relief.

7 VICE CHAIRPERSON RENSHAW: Mr. Chairman, just
8 before you get into that, I just want to point out that 219.3,
9 where it says, "There shall be adequate, appropriately located
10 and screened off-street parking to provide for the needs of
11 occupants, employees, and visitors to the facility," at present,
12 that is not the case. And we cannot and should not be voting on
13 any additional increments to parking that it's going to impact or
14 worsen a bad situation.

15 MEMBER ETHERLY: Mr. Chair, I will note, just as we
16 get some clarification perhaps about our procedural posture here,
17 that we did I believe entertain a formal motion to bifurcate at
18 our prior proceeding. And I might perhaps ask some guidance from
19 staff as to if we -- if we dealt with it in that regard.

20 MEMBER ZAIDAIN: No, we didn't.

21 VICE CHAIRPERSON RENSHAW: No. There was no vote
22 on that.

23 MEMBER ETHERLY: Okay.

24 VICE CHAIRPERSON RENSHAW: It is not in the
25 minutes.

1 MEMBER ETHERLY: The reason why I'm inquiring is if
2 there was no vote on a formal bifurcation, there then, of course,
3 could not be a consideration, because there was not a vote.

4 CHAIRPERSON GRIFFIS: Couldn't one argue, then,
5 that there is no bifurcation if there wasn't a vote?

6 MEMBER ETHERLY: I mean, procedurally, of course, a
7 motion could be -- a motion could be made to table or, you know,
8 otherwise postpone action, just move this all forward to -- I'm
9 trying to be expeditious in working us through where we are here,
10 because I think it's kind of clear that we have a little bit of
11 distance between prospective ends of the dais here.

12 CHAIRPERSON GRIFFIS: Well, this -- I think I
13 understand where you're going, Mr. Etherly, and I -- let me see
14 if I can put it into context, and that is this. We had quite a
15 bit of submission that came in. Clearly, when we talked about
16 the bifurcation, there was an awful lot of concern because cases
17 were established based on both together. Even the submissions
18 that are happening now, it is somewhat difficult to separate some
19 of the issues.

20 I think it can be clearly separated. However, is
21 this case stronger in our -- in hearing it all together? It may
22 well be. There are some questions. Even some of the proposed
23 conditions that are coming in would be stronger and more
24 effective both for The Washington Home, but also for the
25 community, if, in fact, perhaps we looked at them together and

1 dealt with them together.

2 I do agree that although I was heightened in my
3 awareness of trying to expedite this, I am not beyond
4 reconsidering my own thinking on that, and I think I could be
5 moved, in fact, to hearing the entire piece together on the 10th
6 of September, as it is not that far away, based on the fact that
7 I believe it will make a stronger record for us to deliberate
8 upon.

9 And, therefore, if it's a stronger record, it will,
10 mostly importantly perhaps, have a stronger product and outcome.

11 So I would look for someone to give direction on
12 that, if so inclined.

13 MEMBER ZAIDAIN: Before we get to that, just so --

14 CHAIRPERSON GRIFFIS: Okay.

15 MEMBER ZAIDAIN: -- just so I can be clear on how I
16 would vote if a motion is made, which I kind of see is coming,
17 just to throw a question up to the other Board members, does
18 anyone on this Board feel that there has been adequate testimony
19 to develop a standard by which there could be a certain amount of
20 parking approved, or at least discussed, to just compensate
21 specifically for the addition?

22 MEMBER ETHERLY: Let me --

23 MEMBER ZAIDAIN: Do you follow what I'm saying?

24 MEMBER ETHERLY: Yes. Let me take a little -- a
25 little step at that, Mr. Zaidain. Coming back to the traffic

1 management study and the SHPDA data, or at least the SHPDA
2 certificate of need report, once again, the traffic -- the
3 traffic expert for the applicant notes that, in addition, it will
4 require four parking spaces to meet the parking need for this
5 expansion. That's the traffic management expert's opinion.

6 MEMBER ZAIDAIN: Okay. I haven't gotten that far.
7 What page are you on?

8 MEMBER ETHERLY: That's -- I'm sorry -- page 9 of
9 what is Exhibit Number 32. It's supplemental information
10 provided by the applicant dated December 21, 2001. So page 9 of
11 that document notes that four additional -- four parking spaces
12 would be needed to meet the parking need for the expansion.

13 The SHPDA report notes that one additional RN per
14 shift would be needed to accommodate the expansion. It doesn't
15 make a reference to what that would generate from a parking space
16 standpoint. So if that answers your question.

17 What I'm getting at -- and we had some discussion
18 about this when we -- when we dealt with the issue of
19 bifurcation, and the reason why I felt bifurcation was possible,
20 and still is possible, is clearly there is -- there is going to
21 be a need for some additional parking provision on site.

22 I am entirely in step with Ms. Renshaw when she
23 observes that, clearly, The Washington Home is not going to be
24 able to get away with not doing anything from a parking
25 standpoint. The --

1 MEMBER ZAIDAIN: You mean if the addition is --

2 MEMBER ETHERLY: With respect to additional
3 parking. Absolutely.

4 Now, however, put that in the context of 219.3.
5 There shall be adequate, appropriately located and screened off-
6 street parking to provide for the needs of occupants, employees,
7 and visitors to the facility.

8 As you look at this question of the expansion and
9 whether or not there is anything in the record that speaks to
10 219.3, I believe that getting -- let me hold that point in
11 abeyance for a moment and deal with the bigger -- the bigger
12 animal which is sitting out there, which is the additional 95
13 spaces.

14 Whether or not the addition -- whether or not 95
15 additional spaces are coming down the pike obviously is a
16 decision that, at this point, we bifurcate, we put off. Is there
17 still enough in this record to support a finding that there is
18 adequate, appropriately located and screened off-street parking
19 to provide for the needs of occupants, employees, and visitors?
20 I think there is.

21 For the expansion -- and, once again, there is
22 where you start walking a fine line -- for the expansion you
23 don't necessarily need to have 98 new spaces to cover those
24 additional -- those additional four beds.

25 MEMBER ZAIDAIN: Right. Well, that's what I was

1 saying. That's why I think there are two separate issues in the
2 sense that there are clearly more spaces needed for the addition,
3 but there are spaces that are needed for the addition. We
4 haven't addressed that. We're just taking parking one thing,
5 addition the other.

6 And I don't think it's -- I think we should have --
7 we need to -- if we're going to continue on this way, we need to
8 address what parking is required for the addition itself. And
9 like you said, the traffic expert testified as saying that they
10 would need four spaces, and they are not -- they may or may not
11 be adequate, but clearly that's where we need to go, because
12 that's -- in every -- any planning instance, that's what policy
13 you have to deal with.

14 VICE CHAIRPERSON RENSHAW: Well, it's fine to
15 discuss the standard -- the parking standard for the four new
16 beds. But I would then apply that to the situation, the parking
17 situation, and bring it up at the September 10th meeting.

18 CHAIRPERSON GRIFFIS: Very well. I think we've had
19 adequate time to air all of our views on this. It seems to me
20 that this Board is moving in the direction of continuing the
21 entire case on the 10th of September under the undue caution that
22 it, in fact, may weaken the entire application if we take it
23 separately.

24 Let me have last-minute opposition points to that,
25 and then -- or any other comments on that. If not, we can --

1 MEMBER ZAIDAIN: So what is your suggestion? Just

2 --

3 CHAIRPERSON GRIFFIS: We could take it as a
4 consensus of the Board that we continue and finish the entire
5 case on the 10th of September, which is only a few weeks away.

6 VICE CHAIRPERSON RENSHAW: I think that's a very
7 wise thing to do.

8 CHAIRPERSON GRIFFIS: Mr. Etherly, are you okay
9 with that?

10 MEMBER ETHERLY: I'll accept that, Mr. Chairman.

11 CHAIRPERSON GRIFFIS: Mr. Zaidain?

12 MEMBER ZAIDAIN: I would be in agreeance with that.

13 CHAIRPERSON GRIFFIS: Okay. I appreciate the
14 Board's consensus. We also have an issue, the fact that we have
15 four members on the Board, and it would have been even more
16 cumbersome to try and split a vote on that.

17 That being said, let us not leave any of this
18 information behind in the submissions today. We will add it to
19 the entire file, and we will reconvene this on the 10th of
20 September.

21 SECRETARY PRUITT: Mr. Chair, staff, then, would
22 record the vote as four-zero-one, motion made by you, seconded by
23 Mr. Etherly, to reconvene on September 10th to discuss both the
24 parking and the increase in the number of beds.

25 CHAIRPERSON GRIFFIS: Thank you very much.

1 SECRETARY PRUITT: The next case on the agenda is
2 Application 16559 of The Morris and Gwendolyn Cafritz
3 Foundation/The Field School, pursuant to 11 DCMR 3104.1 for a
4 special exception to establish a private school under Section 206
5 for a maximum of 320 students and a maximum of 74 staff and
6 faculty in an R-1-A District at 2301 Foxhall Road, Square 1341,
7 Lots 856, 861, 878, and 879).

8 Hearing dates for this case were March 15th, year
9 2000; March 29, 2000; May 10, 2000; and July 25, 2000. Decision
10 dates were September 5, 2000; October 3, 2000; November 8, 2000;
11 and July 3, 2001.

12 In way -- by way of background, by a letter dated
13 July 16, 2002, the law firm of Shaw Pittman, on behalf of The
14 Field School, submitted a request to approve an interim
15 modification to conditions 13 through 24 dealing with traffic
16 management of the previously approved BZA Order 16559.

17 The modifications would be for a temporary period
18 of six months, after which the original conditions would
19 automatically be reinstated. The letter also requests, pursuant
20 to Section 3129.3 of the zoning regulations, a waiver of the six-
21 month filing time for modifications.

22 On July 30th of year 2002, ANC-3D submitted a
23 letter in response to the proposed modification. ANC-3D supports
24 the interim traffic measures as outlined in a July 5, 2002, memo
25 from Ken Laden of DDOT, with one condition -- that the addition

1 would be that right-hand turns be permitted for vehicles leaving
2 the campus at any time.

3 On July 26, year 2002, the law firm of Jeffery
4 Bolotin, on behalf of the Foxhall Crescents South Gate Homeowners
5 Association, submitted a letter in response requesting that the
6 Board deny the modification.

7 By letter on July 29th, Neighbors Against Foxhall
8 Gridlock submitted a letter in opposition to the modification.

9 And, finally, by letter dated July 29th, from the
10 law firm of Jackson and Campbell, representing Ms. Sylvia
11 Shugrue, submitted a letter in opposition to the requested
12 modification.

13 The Board members who participated in the original
14 case were Mr. Parsons, Ms. Cross Reid, Mr. Sockwell, Mr. Moulden,
15 and Ms. Renshaw.

16 Section 3129.6 of the zoning regs state, "No member
17 shall vote on a requested modification of plans unless the member
18 participated in the vote of the original decision or read the
19 record." The record in this case is over 3,000 pages long and
20 contains seven folders.

21 Because of the voluminous nature of the case, it's
22 staff's opinion that the final order issued on December 19th, the
23 year 2000, provides a comprehensive discussion on all issues,
24 including traffic. Additionally, staff believes that the final
25 order contains sufficient details to allow the Board members the

1 opportunity to participate in this decision.

2 Therefore, staff recommends that the full Board
3 consider the review of the written submitted materials in
4 reference or associated with the modification and the final order
5 only. Should the Board decide -- the Board should formally
6 decide if the materials submitted are permitted to decide -- are
7 sufficient to decide the motion, and, if so, that requirement
8 3129 must be waived pursuant to 3101.6.

9 The proposed modification requests approval of an
10 interim measure until final measures, as required in the BZA, can
11 be completed.

12 The applicant's motion for a waiver of a six-month
13 time period and limitations are now before you.

14 Just to break it down even further, you actually
15 have three votes. The first vote would be on Section 3129, which
16 is the reading of the record, indicating that no member who did
17 not read the record -- you would either waive or deny that. The
18 second one would be the waiver of the six-month time limitation.

19 And the third vote would be on the modification itself.

20 There are some conditions associated with it in
21 some of the reports, so you could also add that.

22 This case is now before you for decision, and we do
23 have a proxy from Mr. Parsons.

24 CHAIRPERSON GRIFFIS: Thank you very much.

25 I suggest we take them up one at a time. The first

1 is, as indicated, the modification of rules as outlined in
2 3129.6, which is, in fact, the requirements for reading the
3 record.

4 I think it was clear in the information that was
5 provided the order was a full and complete order. In fact, if
6 I'm not mistaken, it held up to appeal, so it was, in fact, a
7 stronger order. I find it sufficient in looking at the limited
8 scope of information that we are needing to deliberate on today,
9 in terms of getting me prepared.

10 The other aspect of it is, as we will hopefully get
11 into, is that this is not, let us say, a traditional modification
12 of an order, and I will speak more on this. But it is not a
13 traditional, but, rather, an internal or a temporary provision
14 that will then look to having a complete project in compliance
15 with the original order.

16 That being said, I'm fully prepared to move ahead
17 and waive the rules as outlined in 3129.6.

18 Yes, Mr. Zaidain.

19 MEMBER ZAIDAIN: I'm in -- I agree, and I don't
20 agree with you. I think I'm in --

21 CHAIRPERSON GRIFFIS: That's not going to be
22 helpful at 11:30 in the morning.

23 MEMBER ZAIDAIN: I know. But I -- I know we've got
24 a lot of issues to hash out here with this. I don't think that
25 just reading the order is sufficient in this -- in any instance

1 to modify a case that has gone through the appropriate process.

2 As painful and as grueling as it may be for Board
3 members, if the record is 3,000 pages long, the length of the
4 record and the work that that would require us to do should not
5 be a reason to waive this rule.

6 However -- well, let me back up. If that were the
7 only kernel of the issue we were dealing with here, then -- then
8 I would not be in support of waiving the rule.

9 However, I think what we're looking at here is
10 something completely different in the sense that we are not --
11 what we're deliberating is not a modification of the order in the
12 traditional sense, because the end product of what was approved
13 and what was issued will be the same. This is an extraordinary
14 circumstance where, unfortunately, we do not have clear rules to
15 guide us, and I think that's what we should be looking at.

16 Calling it a modification I think is -- is a
17 misnomer, because we're not modifying it. We're -- we are
18 dealing with a situation that has clearly arisen that is
19 jeopardizing the timing of the project, and the Department of
20 Transportation has recommended certain issues to deal with it,
21 etcetera, and we can get into all of that if we get that far.

22 CHAIRPERSON GRIFFIS: I agree with you.

23 MEMBER ZAIDAIN: I don't think by saying the record
24 is too long and the order is fine is sufficient to waive the
25 rule.

1 CHAIRPERSON GRIFFIS: Indeed.

2 MEMBER ZAIDAIN: I think --

3 CHAIRPERSON GRIFFIS: Indeed.

4 MEMBER ZAIDAIN: I think we need to look at it in
5 another sense.

6 CHAIRPERSON GRIFFIS: And added to that, we did
7 have a recent submission, and it was, in fact, responded to by
8 all of the parties that were involved. So we have been briefed
9 on this specific issue.

10 I think you bring up an excellent point. We do not
11 have a definition of what is an interim or a temporary
12 modification, and the reason in this circumstance -- for
13 instance, in another application, we may not have tied our order
14 to a C of O. That would have had, at the completion of the
15 project, certain things that would come into play. During the
16 construction phase, things could have been done outside of the
17 order until it came to complete compliance.

18 This being very specific, again, we don't have a
19 definition of process for temporary or interim, so we have to
20 label it what we know. So I do agree with you this is a specific
21 and particular case. And if I'm not mistaken, I'm hearing that
22 you would be prepared to move on with this.

23 MEMBER ZAIDAIN: Yes, as long as I -- I would -- I
24 mean, we've got a lot of issues to deal with beyond what we're
25 discussing here. But I would be in favor of moving forward, with

1 the understanding that this is not a modification of an order as
2 laid out in, you know, Section 31 of the zoning regulations.

3 CHAIRPERSON GRIFFIS: Good. I think it's an
4 excellent clarification. I would also urge all of the Board
5 members that we do focus on getting to the other issues that I
6 think you alluded to, Mr. Zaidain, and I would like to hear
7 those.

8 So, Ms. Renshaw?

9 VICE CHAIRPERSON RENSHAW: Yes. Mr. Chairman, I am
10 the original member here on the Board who sat through those 3,000
11 pages, and can say from that kind of historical perspective that
12 this Board should read the record. I know that it's nail-biting
13 time and you would prefer not to perhaps spoil some summer
14 private time by taking this to the beach, but I do feel that you
15 should get acquainted with the issues and the personalities
16 involved in this case before we get into the modification.

17 We have been very strict on reading the record. It
18 came up twice this morning. I had to do this with The Washington
19 Home case -- sit for a couple of hours going through pages after
20 pages of a previous hearing, and it acquainted me and
21 reacquainted me with the issues.

22 I feel that this temporary order is tied to those
23 basic points that have been brought out in the case itself, and I
24 feel very strongly that the Board members should enter the case
25 at the front door and walk to the rear door where we are now.

1 And you should not be allowed to come in by the
2 back door and rejudge the case, even though it's only the
3 temporary interim parking or traffic management plan that we are
4 looking at, which is, we also should note, insufficiently
5 presented, because 3129.2 talked about modification of approved
6 plans where it said the request shall be in writing, shall state
7 specifically the modifications requested and the reasons
8 therefor, and shall include a copy of the plans for which
9 approval is now requested.

10 And I might point out that we don't have all of the
11 plans in hand, so that is another point. We've got to step back
12 and get this information and make sure that all of the parties
13 have whatever information the Board needs to consider this, well,
14 modification if we want to use that word, or change -- temporary
15 change in the traffic plan.

16 CHAIRPERSON GRIFFIS: Good. Thank you, Ms.
17 Renshaw, for the important points that you have brought up. Let
18 me address a few of them.

19 First of all, in terms of reading the entire
20 record, I would totally agree with you in the circumstances of
21 this morning and other cases when we are deciding in a case,
22 clearly, I would want all Board members to have read the case and
23 be appropriately briefed to deliberate on a case. This is not an
24 identical or even parallel situation that we're dealing with
25 here.

1 Secondly, you indicated that we were rejudging the
2 first case, and, therefore, needed to note the facts, I believe,
3 and the personalities involved. I, again, disagree. We are not
4 rejudging a case here. It cannot be said too strongly the fact
5 that we are not changing the standing original order, and that
6 will be binding and will hold.

7 What we -- and, in fact, when I started looking at
8 this, I think it was clear to me that we needed -- and I needed
9 to assess whether this temporary and minor change in any way
10 actually modified, changed, curtailed the end order, which would
11 then make a permanent change. It would also affect the whole
12 proceeding of the special exception.

13 I have not found any of that, and I am not, in
14 fact, moved to believe that with the additional testimony, or the
15 additional deliberation today. So --

16 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

17 CHAIRPERSON GRIFFIS: Yes.

18 VICE CHAIRPERSON RENSHAW: Just to react, this is
19 not a minor change. You used that word rather loosely. This is
20 a major change, insofar as it's going to affect the school and
21 the community for a period of time.

22 Now, one party says six months. Add to that
23 whenever you deal with a bureaucracy there are going to be snags,
24 there are going to be extensions, there is a lot of roadwork to
25 do out there, and the community and the school may be looking at

1 a year. We don't know. We don't have anything presented to us
2 from the city, or from the contractor, that this project will be
3 finished at a date certain.

4 So when I talk about the first case and rejudging,
5 it is to bring to the point that we have to look at putting in
6 place something that is going to overlay this first case and get
7 everyone through this interim period until such time as the
8 roadwork improvements are completed.

9 We do not have sufficient information, and it
10 behooves the Board members to go back and just acquaint
11 themselves, because they did not sit on the first case, acquaint
12 themselves with all of the issues, so that they can then judge
13 this modification, this alternative traffic management plan that
14 is being overlaid on the old.

15 CHAIRPERSON GRIFFIS: Indeed. I appreciate your
16 point, and I hear it. I think the important piece that you just
17 brought up is the fact that, how do we, in this interim plan,
18 provide -- and I think this is where we need to go. What are the
19 issues that we don't think are, in fact, sufficiently flushed out
20 for us?

21 And bottom line, as we look at the big picture
22 here, we're looking at an entire school, whether it is opening
23 within a matter of weeks or not opening. That is hanging in the
24 balance.

25 Additionally, in that balance is the safety of the

1 people, pedestrians that live in the area, and the children's
2 safety. I do not believe that anyone -- in fact, by the fact of
3 the matter that the order was approved and the special exception
4 and the construction of the school is -- I don't think it's a
5 question whether the school should open or not.

6 What we have is a particular circumstance which is
7 now our responsibility in many aspects of whether they open in
8 September. I believe we need to get to the heart of the matter
9 and move beyond our rules and the process at this point.

10 It is somewhat what we have to deal with and get
11 to, as I say, the heart of the details of the matter and how we
12 can -- if, in fact, we are moved in that direction -- make sure
13 that the temporary provisions that are outlined and that will be
14 implemented guarantee a level of safety in that area, so that the
15 school can open in September.

16 SECRETARY PRUITT: Mr. Chairman, just for your
17 information, we do have a proxy in the affirmative to go forward
18 from Mr. Parsons.

19 CHAIRPERSON GRIFFIS: Hmm. Was that --

20 VICE CHAIRPERSON RENSHAW: But Mr. Parsons -- did
21 Mr. Parsons vote on waiving the rules?

22 SECRETARY PRUITT: Yes, he did. He voted on all
23 three things.

24 CHAIRPERSON GRIFFIS: Should we call in all our
25 votes and see where we are?

1 MEMBER ZAIDAIN: No.

2 CHAIRPERSON GRIFFIS: Let us take last-minute
3 comments on that, and, if not, I would like to proceed.

4 MEMBER ZAIDAIN: Well, I just -- I'm sure Mr.
5 Etherly wants to get in here eventually, but I just -- I think
6 both the Chair and Ms. Renshaw brought up excellent issues that
7 we need to deal with. But I don't think that would prevent us
8 from moving forward. I think once we -- if we do get past this
9 waiver of the rules, that once we get there we can hash all of
10 this out, because this is really the crux of the matter, on
11 whether or not this interim transportation plan is going to work.

12 I don't know if there's enough information to make
13 that determination at this point. However, I don't feel that --
14 I don't feel that this necessitates reading the record, in the
15 sense of dealing with an interim measure, because the order will
16 remain the same. That's my position.

17 CHAIRPERSON GRIFFIS: Thank you.

18 MEMBER ETHERLY: Mr. Chair, just very briefly, I'll
19 echo Mr. Zaidain's comments regarding the weight and seriousness
20 of the questions before us.

21 3129.6 is there for a reason. When it says that no
22 member shall vote on a request for modification unless that
23 member participated in and voted on the case, that is there for a
24 reason. 3101.6, however, does enable this body to waive its
25 rules for good cause, and that, too, is there for a reason.

1 Very briefly, I agree with you, Ms. Renshaw.
2 Normally, I would see 3129.6 as being very close to sacrosanct.
3 It's a way of ensuring that there's a level of familiarity, a
4 level of understanding of the issues that arise in a particular
5 case.

6 3101.6, however, which allows this body to waive
7 its rules for good cause I think anticipates, contemplates, the
8 fact that while rules are set forward to help us govern a
9 process, often times we have to be sure that we don't allow them
10 to themselves become the process. And that's why I think it is
11 appropriate in this matter to move forward.

12 I think the good cause for waiving of 3129.6 in
13 this matter is, one, we want to be able to move this body forward
14 in terms of doing the work of the residents of the District of
15 Columbia.

16 Mr. Zaidain made a point, which is not lost on me,
17 which is that the nature of this -- of this modification, if we
18 choose to call it that, is such that I would anticipate being put
19 in a position to reopen this entire record, because then I
20 believe you do start running into some issues with regard to
21 familiarity, although I will note that the order that was put
22 together in this particular matter was extraordinarily detailed,
23 almost painstakingly so.

24 I'll also highlight, as part of my good cause
25 rationale, as the Chairman noted, there is a context here, a set

1 of circumstances, which I think this body would do very well to
2 keep very much in mind as it moves forward in deliberating on
3 this, and that is what kind of position conceivably the applicant
4 or the movement of this motion would be placed in were we not to
5 move forward. That is not lost on me.

6 And then, finally, I'll note that, as we move
7 forward and deliberate on this matter, Ms. Renshaw, I will most
8 certainly be looking to you very, very closely, because of your
9 expertise and your experience with regard to the issues on this
10 matter.

11 But for those reasons, Mr. Chair, I'm inclined to
12 move forward, support the waiver of the rules and move forward in
13 deliberating on the substance of the matter.

14 Thank you.

15 CHAIRPERSON GRIFFIS: Thank you very much.

16 I would make a motion that --

17 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

18 CHAIRPERSON GRIFFIS: Yes.

19 VICE CHAIRPERSON RENSHAW: Just to point out that
20 3129.7 talks about limited -- modifications of plans shall be
21 limited to minor modifications. And this is no minor, shall we
22 say, procedure. This is a major temporary change.

23 Again, this is going to be with the community and
24 with the applicant for a period of time. So this, again, is not
25 a minor modification, and I want to break that out because we

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1 need to address that, too. It's part of the deliberation as to
2 whether or not we should move ahead.

3 CHAIRPERSON GRIFFIS: Well, I appreciate that. I
4 think it was addressed. I'll let others speak to that, and I
5 appreciate your opinion on the fact of whether -- that this is,
6 in fact, a major modification.

7 When I look at major modifications and my
8 understanding of the definition as opposed to other, I -- and
9 specifically with this, I think what was important to look at
10 was, what were the material changes of the original order? And I
11 found in assessing and reading through this information that, in
12 fact, this does not change the substance of the final product,
13 the final order.

14 And I think we do have to look at the instant plan,
15 the interim plan, that is before us in order to mitigate any
16 dangerous situations. And I think that's where we should go.
17 And, therefore, I do not believe -- I do believe that this can be
18 looked at as a minor or interim modification.

19 Others on that?

20 VICE CHAIRPERSON RENSHAW: Then, you're saying
21 interim equals minor.

22 CHAIRPERSON GRIFFIS: I believe there is --

23 VICE CHAIRPERSON RENSHAW: I am saying that interim
24 equals major.

25 CHAIRPERSON GRIFFIS: Indeed.

1 VICE CHAIRPERSON RENSHAW: As presented in the
2 papers that we have before us.

3 CHAIRPERSON GRIFFIS: I understand. And I think
4 other Board members understand your opinion also.

5 Is that correct? Questions of Ms. Renshaw on her
6 opinion? Very well. Any others?

7 That being said, I would move that we waive
8 requirements of 3129 in terms of reading the record in order to
9 continue on our deliberation of this, and I'd ask for a second.

10 MEMBER ZAIDAIN: Mr. Chair? I don't know if I'm
11 jumping the gun here. I was going to say, can we add 3129.3 on
12 there? Because I don't -- or are we going to take that up
13 separately?

14 CHAIRPERSON GRIFFIS: Oh. Well, we didn't discuss
15 it, and it was my indication that it was breaking it out in three
16 motions. So, no, we're taking that up next.

17 MEMBER ZAIDAIN: Okay.

18 MEMBER ETHERLY: Seconded, Mr. Chair, on your
19 motion.

20 CHAIRPERSON GRIFFIS: Thank you very much.

21 Any other final discussions on the motion? Very
22 well. All those in favor, signify by saying aye.

23 (Chorus of ayes.)

24 And opposed?

25 VICE CHAIRPERSON RENSHAW: Opposed.

1 CHAIRPERSON GRIFFIS: Why don't we record that
2 vote.

3 SECRETARY PRUITT: Motion made by Mr. Griffis,
4 seconded by Mr. Etherly. Mr. Zaidain, and Mr. Parsons by proxy,
5 to approve, and Ms. Renshaw in opposition. So it's four-zero-
6 one.

7 CHAIRPERSON GRIFFIS: Thank you very much.

8 VICE CHAIRPERSON RENSHAW: Four-one-zero.

9 CHAIRPERSON GRIFFIS: Let us look to 3129.3, which
10 is waiver of the requirement for the time of six months. I don't
11 know if there's numerous discussions that are needed on this, but
12 I will open it up. Let us try to take two minutes to discuss
13 this. This is not out of the ordinary for us.

14 Timing is always a difficult issue with
15 construction projects, especially something of this magnitude,
16 not to mention the fact that there is public area and involvement
17 in terms of the construction timing and the process.

18 So that being said, comments, if -- in fact, let me
19 put it into a motion that we do waive our rules that are outlined
20 in 3129.3, and ask for a second.

21 MEMBER ETHERLY: Seconded, Mr. Chair.

22 CHAIRPERSON GRIFFIS: Thank you. Discussion on the
23 motion? Not seeing any indication of any, I'd ask for all those
24 in favor, signify by saying aye.

25 (Chorus of ayes.)

1 And opposed?

2 VICE CHAIRPERSON RENSHAW: Opposed.

3 CHAIRPERSON GRIFFIS: Thank you.

4 SECRETARY PRUITT: Staff would record the vote
5 again as four-one-zero, motion made by Mr. Griffis, seconded by
6 Mr. Etherly. Mr. Zaidain in support, Mr. Parsons in support by
7 proxy, Ms. Renshaw in opposition.

8 CHAIRPERSON GRIFFIS: Thank you very much.

9 Lest we think we've dispensed of the issue, I will
10 clear that up and say that we have obviously not. Let us get
11 into the heart of this, because we have, in fact, I think started
12 to touch on an awful lot of the important pieces to what was, in
13 fact, submitted on this very expedited schedule.

14 Again, I think what we need to do is keep in mind
15 several things -- the larger picture, and that is the children's
16 and the people's safety in that area, the opening of an academic
17 institution in September. And, thirdly, in all of that, we look
18 to whether this modification in any way changes the material or
19 final product.

20 Now, I think it's been fairly conclusive that it
21 doesn't. If we have or need other questions on that, we can go
22 to that. We do have questions in terms of what is the interim
23 plan, and I want to -- in order for us to get through this today,
24 I want to be a little unconventional.

25 We have quite a bit of submissions with regard to

1 this, addressing quite a bit -- quite a few specifics. I think
2 it is of utmost importance that the Board knows exactly what it
3 is deliberating on. And, therefore, I am going to ask the
4 indulgence of the Board, if it becomes necessary, to bring the
5 applicant and the parties to the table.

6 I will not open a hearing on this. We are, in
7 fact, looking for clarifications of the submitted documents that
8 are before us today. I will conduct it very expeditiously if we
9 get to that manner.

10 I will do it in this framework. I will be asking
11 direct questions that will hopefully be very, very succinct. I
12 will ask for very succinct answers. I will then allow Board
13 members to do a followup quick question if that is required.

14 At that point, I will ask any parties to direct any
15 questions to the Chair as to the rebuttal or cross examination of
16 the questions given, and I hope that we will move quickly through
17 that. At the end, I will assess whether we want to have last-
18 minute statements or clarifications. And I would ask everyone's
19 patience and participation in this if we get to that point.

20 However, I would like the Board to start off first
21 in taking some discussion on some of the issues.

22 Ms. Renshaw, you're trying to jump in there. Let
23 me allow you.

24 VICE CHAIRPERSON RENSHAW: Well, I -- I was just
25 reacting to your comments about questioning those who are

1 attached to this case and wanting to know, are representatives
2 from all parties here with us today? Because I --

3 CHAIRPERSON GRIFFIS: Are those parties who aren't
4 here today, could you --

5 (Laughter.)

6 No, we can't do that. I believe I have been given
7 an indication that all parties are, in fact, represented today.
8 Does anyone have information to the contrary?

9 DIRECTOR KRESS: No, the ANC I don't believe is
10 here. I don't believe all parties -- I believe the major parties
11 in opposition are here.

12 CHAIRPERSON GRIFFIS: I see.

13 DIRECTOR KRESS: As well as the applicant, and the
14 applicant was going to try to get a representative of -- of
15 transportation to be here to also be available.

16 CHAIRPERSON GRIFFIS: And he wished to be here.
17 Thank you very much. Now --

18 VICE CHAIRPERSON RENSHAW: This is something that
19 has come up very suddenly.

20 CHAIRPERSON GRIFFIS: Indeed.

21 VICE CHAIRPERSON RENSHAW: And I am a little -- I
22 am concerned about the fact that we have not had appropriate
23 time, if we're going to go this route, to make sure that all of
24 the parties -- and that includes the Advisory Neighborhood
25 Commission -- are here with us.

1 CHAIRPERSON GRIFFIS: Good. And I will note your
2 concern. I think the Board shares that concern.

3 My point, in fact, is that we will not be opening
4 up to hear a great amount of new testimony. We are having
5 clarification of the submitted testimony that is before us.
6 Therefore, we have had responses to the substance of most of it.

7 I think the Board, in its deliberation, perhaps needs a little
8 bit more detail.

9 If there are questions about what's about to
10 happen, I would appreciate -- you can come up to the table and we
11 can hopefully answer -- I believe I saw a hand raised. No.
12 Okay.

13 MS. BAILEY: Sir, you need to be on a microphone.

14 CHAIRPERSON GRIFFIS: Yes. If you're going to say
15 anything, you have to be on the microphone.

16 MEMBER ZAIDAIN: Mr. Chair, while he's on his way
17 up, I just wanted to ask a quick question.

18 CHAIRPERSON GRIFFIS: Yes.

19 MEMBER ZAIDAIN: DDOT is one of these parties we're
20 referring to, because I think we're all really happy to see Mr.
21 Laden out in the audience.

22 CHAIRPERSON GRIFFIS: Indeed so.

23 MEMBER ZAIDAIN: So --

24 CHAIRPERSON GRIFFIS: Okay. Good.

25 I'm sorry. Yes, sir.

1 MR. BOLOTIN: Yes. I'm Jeffery W. Bolotin,
2 appearing on behalf of the Foxhall South Gate Homeowners
3 Association. I note that the principal opponent, which was the
4 Citizens Against Gridlock, are not represented at these
5 proceedings today. That was my only statement.

6 CHAIRPERSON GRIFFIS: Okay. Thank you.

7 VICE CHAIRPERSON RENSHAW: And is Ms. Shugrue's
8 attorney with us today? Thank you.

9 DIRECTOR KRESS: I would just note for the record
10 that while the Neighbors Against Foxhall Gridlock are not here,
11 they do support the statements submitted by Jeffery Bolotin.

12 MEMBER ZAIDAIN: And, Ms. Renshaw, did you just ask
13 if Ms. Shugrue is here?

14 VICE CHAIRPERSON RENSHAW: Ms. Shugrue's attorney.

15 MEMBER ZAIDAIN: Okay. Well, one thing, I don't
16 know if this makes any bearing on the fact that the Neighbors
17 Against Foxhall Gridlock has never presented it, but I did notice
18 when I was reading the order that she is part of that
19 organization. I don't know if that can -- how that plays into
20 that, but I just thought that was odd, since we've -- we have had
21 that issue come up in the past about somebody being part of an
22 organization and then also being a party in it themselves.

23 But I noticed that in the order, that not only is
24 she a party under herself, but she is part of that organization.

25 So she kind of has dual --

1 VICE CHAIRPERSON RENSHAW: And is the immediate
2 abutter to the property.

3 MEMBER ZAIDAIN: Right.

4 VICE CHAIRPERSON RENSHAW: So --

5 CHAIRPERSON GRIFFIS: Yes.

6 MR. SWENDIMAN: My name is Alan Swendiman. I'm
7 appearing on behalf of Sylvia Shugrue, who is the adjoining
8 property owner on the south. She is unable to attend personally
9 today. I'm not sure how she got on the neighborhood -- who are
10 the principal opposition to the application, but throughout, and
11 at the very beginning, she has been separately represented and
12 has been a separate party throughout the proceedings.

13 CHAIRPERSON GRIFFIS: Indeed. Thank you.

14 Okay. Well, I think we know what we have in front
15 of us, and who is here and who is not here, and I think it will
16 be important to be very brief if we do have to have a detailed
17 explanation of that testimony that is, in fact, in the record at
18 this time.

19 I want to run through a few of the pieces that I
20 think were evidenced in all of the submissions. Clearly, we're
21 looking at a temporary -- what is called a temporary traffic plan
22 in order to accommodate the opening of the school. There is the
23 long-range plan for road and sidewalks, lighting, clearly making
24 traffic pattern better off in terms of accommodating the school
25 that is now well on its way to being completely constructed.

1 Several of the issues that came up were pollution
2 by idling cars; also, exit of the property. I assume that it was
3 entrance also of the adjoining neighbor -- exit and entrance of
4 the adjoining neighbor's property.

5 The uniformed officer was talked about as a
6 difficulty in terms of the time. I don't think it was a
7 difficulty of the officer being there, but, rather, no time was,
8 in fact, indicated of when the officer would be there. Perhaps
9 we can make a leap and assume that it would be at opening and
10 closing the school, but I think we could probably get that
11 clarification if needed.

12 The Foxhall Crescents South Gate Homeowners
13 Association listed off quite a few of the issues, some of which
14 we've briefly touched upon. They indicated that there was no
15 showing of a final plan. I think we need to discuss a little bit
16 about that and what that actually -- or what is meant by that.

17 They did discuss that this is a material change.
18 We have had several opinions on this. I do believe that it is
19 not, as it doesn't change, as I have indicated, the substance of
20 the final order, or the final product, let us say.

21 There was also a bit of discussion on the payment
22 of the roads reconfiguration and the work that was to be done on
23 that. I, at this point, have no indication that that has any
24 relevancy to us today, and would appreciate not hearing anything
25 on that topic unless some sort of relevancy can be brought to the

1 Board's attention.

2 We have issues of the turning and also --

3 VICE CHAIRPERSON RENSHAW: We also have issues of
4 shuttle bus staging, traffic routes to be used by teachers and
5 staff.

6 CHAIRPERSON GRIFFIS: Right. The issue with that
7 is that just the specifics of how that is going to be programmed,
8 correct? Location of where those pickups are and what
9 accommodations and plans are being made in order to accommodate
10 those at those locations.

11 VICE CHAIRPERSON RENSHAW: And contact with the
12 appropriate and affected Advisory Neighborhood Commission for
13 review.

14 CHAIRPERSON GRIFFIS: Never forget the ANCs.

15 Are there specific issues that Board members felt
16 were not entire -- or needed more illumination in terms of the
17 specific plans? There is a stop sign being installed. There are
18 the flashing lights that are being installed. The officer on
19 duty, the official clearance, other issues that we need to
20 discuss.

21 VICE CHAIRPERSON RENSHAW: Yes. I'd like more
22 discussion from the appropriate party on number 7, and I'm
23 looking at Mr. Laden's July 5th report, which is prohibiting
24 students by private car and the parents from dropping and picking
25 off students -- picking up students, or dropping off/picking up.

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1 CHAIRPERSON GRIFFIS: And what -- in that detail,
2 how that's going to be accomplished, what kind of notification or
3 program is --

4 VICE CHAIRPERSON RENSHAW: How is it going to be
5 handled? What are the plans? How are they going to make it
6 happen? How are they going to guarantee that it happens?

7 CHAIRPERSON GRIFFIS: Okay.

8 VICE CHAIRPERSON RENSHAW: And I'm very concerned
9 about the stack-up of traffic going into the school, making that
10 right-hand turn, and causing the abutter's driveway to be
11 blocked. What is the city going to do about making sure that her
12 driveway entrance is kept open?

13 CHAIRPERSON GRIFFIS: Okay.

14 MEMBER ZAIDAIN: We're creating a list of issues
15 that --

16 CHAIRPERSON GRIFFIS: No, not necessarily. I was
17 hoping to elicit some discussion of some of the issues that
18 perhaps we can answer ourselves on the Board. Otherwise --

19 VICE CHAIRPERSON RENSHAW: But, you see, we can't
20 answer these.

21 CHAIRPERSON GRIFFIS: Indeed. Okay. Any other
22 unanswerable questions?

23 MEMBER ZAIDAIN: I have a lot of them, but -- I
24 don't have a lot of them.

25 CHAIRPERSON GRIFFIS: Mr. Zaidain, please.

1 MEMBER ZAIDAIN: No. I was just -- I mean, if
2 we're just laying out the issues, I mean, I think, you know, Ms.
3 Renshaw is correct. I mean, the letter says -- it's just a
4 strange situation we're in. I think we just need to get some
5 more information from the parties and hash this out, whether or
6 not it's a good idea or not, whether or not we're proceeding
7 appropriately.

8 As I've reiterated when we were discussing the
9 waivering of the rules, I mean, there's nothing really here to
10 guide us.

11 CHAIRPERSON GRIFFIS: Okay.

12 MEMBER ZAIDAIN: Just as long as we don't --

13 CHAIRPERSON GRIFFIS: Okay. As you focus on -- if
14 as you focus on the submission with the temporary traffic plan
15 that we have in front of us --

16 MEMBER ZAIDAIN: Well, I --

17 CHAIRPERSON GRIFFIS: -- what are the issues? Are
18 you unclear, for instance, where the stop sign is to be located?

19 MEMBER ZAIDAIN: No. No. I think one of my
20 biggest issues is timing. I mean, there's a lot of things going
21 on here in this transportation management plan.

22 CHAIRPERSON GRIFFIS: Okay.

23 MEMBER ZAIDAIN: I'm not prepared to make a
24 determination on whether or not they are going to be effectual or
25 not. I'm just saying you're dealing with a lot of coordination

1 of ANCs, Department of Transportation, and all productive
2 agencies. I'm just saying let's talk about the timeframe and
3 where the six-month timeframe came on.

4 And then, also, there has been some, you know,
5 citation of possible federal funds coming in. And God knows if
6 there's federal funds in it, they're not going to be able to get
7 the paperwork filled out in six months.

8 CHAIRPERSON GRIFFIS: Well, some of this is going
9 to be beyond what we need to get into. I'm understanding that
10 this point is --

11 MEMBER ZAIDAIN: I disagree, because if we -- if we
12 operate on a timeframe of six months, and we don't -- we are not
13 -- we are not iron-clad positive on all of this can be taken care
14 of in six months, we're going to be right back up here on six
15 months and one day.

16 CHAIRPERSON GRIFFIS: Well, my -- what I would
17 suggest that -- as part of our deliberation that we speak to --
18 you bright up an excellent point and that is timing, and then the
19 insurance of meeting that deadline.

20 And I think the Board needs to, within its purview,
21 jurisdiction, and reality, set those milestones. And I think we
22 need to, in setting that time, again realize that we have
23 opportunities to be updated if we need to. But as that runs that
24 time in a temporary manner, we need to make sure that all of the
25 provisions are adequate, so that it can, in fact, be a safe

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1 condition as it continues, if that makes some sense.

2 MEMBER ZAIDAIN: I agree with you.

3 CHAIRPERSON GRIFFIS: What I don't want to do --
4 and, Mr. Zaidain, what I don't want to do is spend an hour trying
5 to figure out if and where federal funds are that are going to
6 pay for this.

7 MEMBER ZAIDAIN: I'm not going to -- I mean, I'm
8 not going to make a big issue. I mean, I'm just -- I'm
9 illustrating a point that I just -- we need more information.

10 CHAIRPERSON GRIFFIS: Okay. And that's well said.

11 MEMBER ZAIDAIN: That's all I'm saying.

12 CHAIRPERSON GRIFFIS: Good. Anything that we can
13 take care of ourselves in terms of deliberation? Any discussion?
14 Or is it more appropriate that we go straight to the questions?

15 VICE CHAIRPERSON RENSHAW: Straight to the
16 questions.

17 CHAIRPERSON GRIFFIS: Indeed. Why don't we do
18 that, then.

19 If I could ask the representative of the applicant,
20 representative of the parties that are here, and Mr. Laden
21 representing the Department of Transportation, to come up to the
22 table. If I could have someone -- people raise their hands if
23 they think they should be at the table and I have not indicated
24 that they are to be at the table. Not seeing any, then I think
25 we have completeness, and we actually have enough chairs, too,

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1 which is a fabulous thing.

2 Why don't I do this. I'm going to start on my
3 right, the table's left, and just have everyone introduce
4 themselves, so that the Board knows entirely who is in front of
5 us. And then, I believe we should direct our questions to the
6 applicant. Yes?

7 MR. FEOLA: Thank you, Mr. Chairman. For the
8 record, my name is Phil Feola with the law firm of Shaw Pittman.
9 I'm here on behalf of The Field School.

10 Just as a matter of technicality, the application
11 was filed in the name of the previous owner. Since that
12 application was filed, The Field School is now the property owner
13 of that property.

14 CHAIRPERSON GRIFFIS: Good.

15 MR. FEOLA: It is no longer The Cabritz Foundation.

16 CHAIRPERSON GRIFFIS: Very good. Thank you.

17 Is that not working?

18 MR. LADEN: Good morning. My name is Ken Laden.
19 I'm the Associate Director for Transportation Policy and
20 Planning, D.C. Department of Transportation.

21 CHAIRPERSON GRIFFIS: Thank you much, Mr. Laden.
22 And I heard a rumor that you're actually on vacation.

23 MR. LADEN: That is not true.

24 (Laughter.)

25 MR. BOLOTIN: Good morning. I'm Jeffery W.

1 Bolotin, attorney for Foxhall Crescents South Gate Homeowners
2 Association.

3 CHAIRPERSON GRIFFIS: Thank you.

4 MR. SWENDIMAN: And I'll reintroduce myself. I'm
5 Alan Swendiman, appearing on behalf of Sylvia Shugrue, with the
6 law firm of Jackson and Campbell.

7 CHAIRPERSON GRIFFIS: Good. Gentlemen, you have
8 all heard some of the issues that are coming up. I think,
9 clearly, we are looking to ensure a proper plan to be
10 implemented.

11 So let me go, first, to you, Mr. Feola. Can you
12 give us an indication -- and it must be said that there are two
13 dates that are floating around in the submissions currently. Can
14 you give us an indication of the final complete -- the date where
15 the final roadwork will be completed?

16 MR. BOLOTIN: I think, Mr. Chairman, that it's
17 probably a question for DDOT, since the work is being done by the
18 city --

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. BOLOTIN: -- under their auspices.

21 CHAIRPERSON GRIFFIS: Oh, actually, what we're
22 going to do is sometimes we do get feedback, so we'll just have
23 one mike on at a time. Thank you.

24 Good. Then, Mr. Laden, if you're prepared to
25 address that. Thank you.

1 MR. LADEN: Yes. The design plans are being
2 finished. They should be completed this month. We will then
3 procure the construction contractor in the month of September;
4 begin, hopefully, construction in October; be completed in
5 January. There's always an issue with respect to weather, but we
6 would expect under normal circumstances we should be completed in
7 January of 2003.

8 CHAIRPERSON GRIFFIS: Okay. Thank you. Followup
9 questions by the Board?

10 VICE CHAIRPERSON RENSHAW: Yes. Mr. Laden, do you
11 have any time built in, padding, in case something goes wrong?

12 MR. LADEN: I believe when we put that schedule
13 together it was an ambitious schedule, but it included some
14 padding. Again, the one issue might be if there's a horribly wet
15 winter that could delay things somewhat, but under normal
16 circumstances we think we should be able to complete construction
17 in January.

18 MEMBER ZAIDAIN: Just to make sure I understood you
19 correctly, you're almost complete with the design process? Is
20 that what you said?

21 MR. LADEN: Yes, I believe so. The designs are
22 nearly complete.

23 VICE CHAIRPERSON RENSHAW: And, Mr. Laden, if it
24 looks like you're not going to be finished in January 2003, at
25 what point are you going to let the Board know, or how are we

1 going to handle extensions? In other words, that you -- the
2 weather has been bad, something happens in -- with
3 subcontractors, how are you going to handle that situation?

4 MR. LADEN: Again, it depends on how the Board
5 would like that handled. If the Board decides that it would like
6 to have a monthly status report, we could perhaps, you know, send
7 a memo to Board staff. Or if there's some other arrangements the
8 Board would like to have made to be kept up to date as to the
9 design and the construction process, we're willing to work with
10 the Board. So at this point, we'll wait for instructions from
11 the Board in that regard.

12 CHAIRPERSON GRIFFIS: Indeed. And I think that's
13 appropriate to do, and I appreciate you availing yourself to
14 that. And I think something of that nature may well be -- may be
15 wise to do. In fact, my initial thought was if we are looking at
16 January '03, that we would set this for a status hearing of some
17 sort perhaps in December. We would possibly have monthly reports
18 given to the Board, so that we could keep up to date, so that we
19 don't get surprised come December.

20 In December we may not need to meet, or we may need
21 to meet. That I'm just throwing out, but it's not in stone at
22 this point. But I think that's probably an encouraging step to
23 take in that respect.

24 Let us, while Mr. Laden is here, go to specific
25 questions of the temporary plan that we have in front of us. Are

1 there any questions in regard to --

2 VICE CHAIRPERSON RENSHAW: On the timing issue, if
3 the Board has exhausted its questions, would it be appropriate
4 for the two attorneys to --

5 CHAIRPERSON GRIFFIS: Oh, I'm sorry.

6 VICE CHAIRPERSON RENSHAW: -- comment on that?

7 CHAIRPERSON GRIFFIS: Good. As I just created this
8 process, I will have to be reminded of what we're going to do.
9 Exactly so, Ms. Renshaw, and well said. Let me go down the panel
10 and take questions regarding that.

11 MR. BOLOTIN: Yes, I have two questions.

12 CHAIRPERSON GRIFFIS: Sure.

13 MR. BOLOTIN: The first question I have is the
14 design has not been formulated, and the community hasn't seen it.

15 I don't know how you today can judge whether or not the plan is
16 being carried out. The community hasn't seen the plan. We
17 haven't seen it. We haven't been able to find it. And in the
18 hearing, there were a number of cross examinations.

19 Mr. Zaidain, you made the comment before about
20 reading the record.

21 CHAIRPERSON GRIFFIS: Okay. Your question is: how
22 can we deliberate on this if we don't actually have the design in
23 front of us, is that correct?

24 MR. BOLOTIN: If the design is not prepared, how
25 can the timetable be set, without looking at what the design is?

1 MEMBER ZAIDAIN: Mr. Chair, I would -- when you say
2 "the design," are you referring to the improvements that have
3 been held up technically and --

4 MR. BOLOTIN: The improvements on Foxhall Road,
5 yes.

6 MEMBER ZAIDAIN: Right. That are going -- that
7 this is -- that are being held up, and this is why we need the
8 intermediary step.

9 MR. BOLOTIN: Correct. My understanding is those
10 plans have not been finalized.

11 MEMBER ZAIDAIN: Right. Well, I don't -- not to
12 answer the question, but I would assume that they would have to
13 be --

14 CHAIRPERSON GRIFFIS: Reflective of --

15 MEMBER ZAIDAIN: -- that they would have to be
16 designed in strict compliance with this order, or no C of O could
17 be issued.

18 CHAIRPERSON GRIFFIS: Mr. Laden, when you indicate
19 that the designs are not done, are you referring to the fact that
20 the construction documents for this is not done? Have there been
21 substantial design changes to the plan that's being drafted?

22 MR. LADEN: No. My understanding is that the
23 design plans and specifications that are being prepared are
24 consistent with the zoning order, and what's being prepared now
25 are the biddable plans and specifications that a construction

1 firm would use to build the roadway.

2 CHAIRPERSON GRIFFIS: Okay. And when is your
3 assessment that those might be completed?

4 MR. LADEN: My understanding was that the design
5 plans and specifications should be completed in August.

6 CHAIRPERSON GRIFFIS: August. And I believe you
7 said that, but --

8 VICE CHAIRPERSON RENSHAW: Mr. Bolotin, is it your
9 wish to take a look at these biddable plans? Is that what you --

10 MR. BOLOTIN: My clients and I have, from the
11 beginning of the hearings, have always asked for a copy of the
12 completed plan, so we could have our experts look at it to make
13 sure they comply with all of the federal guidelines.

14 CHAIRPERSON GRIFFIS: And in your submission, when
15 you say that you needed a showing of the final plans, that, in
16 fact, is what you're speaking to. Is that correct?

17 MR. BOLOTIN: That is correct.

18 CHAIRPERSON GRIFFIS: Okay. Yes?

19 MR. BOLOTIN: I had --

20 CHAIRPERSON GRIFFIS: Oh, I'm sorry.

21 MR. BOLOTIN: I have a second question.

22 CHAIRPERSON GRIFFIS: Indeed.

23 MR. BOLOTIN: The second question was more
24 practical. That is, it would appear that the school will be in
25 session while construction on Foxhall Road is being -- taking

1 place. And it seems to me that no one ever visualized the fact
2 that we have an operating school, ingress and egress of students,
3 faculty, and visitors, while construction was going to be
4 undertaken on Foxhall Road.

5 It seems to me that acts to, number one, a great
6 safety concern with regard to that. And, number two, there has
7 to be a time delay taking into effect that there will be an
8 ongoing school while large improvements are being done to Foxhall
9 Road. It seems to the opposition that that is not safe and ought
10 not to be done while school is in session.

11 CHAIRPERSON GRIFFIS: Okay. And let me just give a
12 little bit of direction in terms of -- I'm not looking for
13 testimony, especially at this point from you, but, rather, asking
14 you to give us questions and pose questions to myself that will
15 help us in formulating our own cross examination or questions to
16 Mr. Laden.

17 So I believe, if I'm not mistaken, your question
18 is, in fact, how does the Board continue in its deliberation
19 without understanding the realities of the construction process
20 as the school opens in September?

21 Mr. Laden, in outlining the road construction, are
22 there standard provisions that are made in terms of accommodating
23 continual traffic flow when road work is being done? Do you see
24 any substantial problems or shutting down of the area or unsafe
25 conditions in trying to accommodate an open school and the road

1 construction that will come to completion in January '03?

2 MR. LADEN: No. Our understanding is that there
3 will be constant flow of traffic maintained on Foxhall Road
4 during the reconstruction phase. There may be brief periods of
5 time where equipment movements require very, very, very short-
6 term blockages of traffic.

7 As with all projects, the construction firm will be
8 required to file a construction management plan or strategy which
9 outlines what kinds of traffic controls they will put in place
10 where the signs and barrels will need to be located. So we
11 normally handle this on all projects, and I don't think this
12 would be a particular problem with the operations of the school.

13 CHAIRPERSON GRIFFIS: Okay. And as part of that
14 construction management plan, is it a requirement of the District
15 that the contractors clean the site or the roadway each day? Is
16 that part of a standard requirement? Are you aware?

17 MR. LADEN: Yes, I believe normally the contractor
18 is responsible for maintaining a clean site.

19 CHAIRPERSON GRIFFIS: Okay. And you're not -- and
20 your statement in terms of the construction area, you're
21 certainly not indicating -- at least I have not heard that this
22 will not be noticeable, but will not, in fact, totally curtail
23 the traffic flow through the area. Is that correct? I mean,
24 there will be some impact, am I right?

25 MR. LADEN: Sure. Correct. Whenever you have

1 construction, there will be some traffic impacts. There will be
2 some delays. You know, we would encourage people who have the
3 option to use other locations or other means of traveling through
4 the area, as we would with any construction project in the city.

5 VICE CHAIRPERSON RENSHAW: Mr. Laden, if I may, we
6 have a big concern in the upper northwest about the lack of
7 medical transports in the upper northwest. And our two medical
8 transports have been reassigned out of our area at the present
9 time, and one of them is down on -- in the Palisades area. And
10 that's going to mean that coming from Palisades they would
11 probably have to use Foxhall Road. With construction, with
12 school traffic, how is that going to be handled?

13 MR. LADEN: I would think that there shouldn't be
14 any significant delays resulting from that. Again, any sort of
15 ambulance or fire equipment would get priority routing through
16 the construction zone area, so I -- I don't envision that that
17 would present a significant problem.

18 VICE CHAIRPERSON RENSHAW: But there will be plenty
19 of room on the side of the road for cars to move over to allow
20 emergency vehicles through? That's a very narrow road, very
21 narrow. And there is no relief on either side for any accident
22 vehicles or emergency vehicles to traverse that way, or to be
23 parked that way for a small period of time. So how are you going
24 to handle that?

25 MR. LADEN: Well, again, I think that will be --

1 you know, the details of that can be looked at in terms of the
2 construction management plans, the traffic plans during
3 construction. Again, throughout the city, we often have very
4 congested streets that emergency equipment needs to move through.

5 You're right that Foxhall is a fairly narrow road,
6 but, you know, what we would ask is that, obviously, the cars in
7 front of the emergency vehicle move forward and move to the side
8 where they can allow the emergency vehicle to pass.

9 So, again, there might be some brief delays, you
10 know, of a matter of a few seconds. But normally people
11 cooperate with fire or EMS equipment that's trying to get through
12 a crowded city.

13 CHAIRPERSON GRIFFIS: I know city folks do. I'm
14 not so sure about all of the rest of the drivers in the city.

15 Okay. Let's go to the end of the table. And this
16 will, as I'm seeing -- may snowball down into you, because you
17 have two issues in front of you in order to frame your questions
18 to the Board. And that is, first, the timing, and also now we've
19 brought up the construction.

20 MEMBER ZAIDAIN: Before we move off this topic, I
21 wanted to ask a --

22 CHAIRPERSON GRIFFIS: We're not moving off the
23 topic.

24 MEMBER ZAIDAIN: Oh, okay.

25 CHAIRPERSON GRIFFIS: What I wanted to do is -- but

1 if you have a question that's pertinent for the Board --

2 MEMBER ZAIDAIN: Well, I just -- you know, I think
3 a good point has been brought up with this with the construction
4 schedule, and I know that contractors have to submit a
5 construction management plan.

6 We have these strategies in front of us on how to
7 mitigate, you know, this -- these kind of stop-gap measures until
8 the construction is completed, and then there is also talk about
9 an interim transportation management plan.

10 What my general question is is to Mr. Laden is in
11 the development of this interim transportation management plan, I
12 would assume that all of the -- this is going to be done after
13 the construction management plan has been submitted, so there's
14 no conflicts or -- there's just a lot of strategies floating
15 around, and I just want to make sure that we're all coordinated
16 and there's no conflicts.

17 CHAIRPERSON GRIFFIS: Your point is, though, that
18 they don't, on a temporary basis, build something that they'd
19 have to remove, then, for the --

20 MEMBER ZAIDAIN: No, no. What my -- my point is is
21 there's talk of an interim transportation management plan.

22 CHAIRPERSON GRIFFIS: Right.

23 MEMBER ZAIDAIN: And the contractors are going to
24 submit a construction management plan to mitigate the
25 construction impacts. I want to make sure they're all

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1 coordinated.

2 CHAIRPERSON GRIFFIS: Good point. Okay.

3 MEMBER ZAIDAIN: That's my point.

4 CHAIRPERSON GRIFFIS: So you're asking Mr. Laden
5 whether they're coordinated.

6 MEMBER ZAIDAIN: Yes. And that's an open-ended
7 question.

8 CHAIRPERSON GRIFFIS: Okay.

9 MEMBER ZAIDAIN: I don't know if you can give us
10 some detail on that or -- or what your thinking is on that.

11 MR. LADEN: Again, in that we -- we do not have a
12 construction contract or contractor yet hired to do this job,
13 there obviously hasn't been any plan filed. The document that we
14 prepared and submitted was an attempt to come up with an
15 operating plan for The Field School and some physical
16 improvements that would allow them to operate while there's a
17 construction activity occurring on Foxhall Road.

18 What we could do is provide to the contractor, once
19 they're selected, a copy of the, you know, zoning order, the
20 original zoning order, and whatever other documents might get
21 approved by the Board today, so that as they work through their
22 construction management plan they'll be aware of what the
23 requirements are. But right now, we're sort of still dealing in
24 the hypothetical.

25 MEMBER ZAIDAIN: Yes. Actually, you just made a

1 statement that may answer my -- a followup question. One was
2 when you developed these 11 strategies, was the thinking to
3 mitigate the opening of the school in the absence of the required
4 improvements, or were they done to compensate for the
5 construction traffic?

6 And I thought I just heard you say that this is to
7 take into account the construction impacts as well as the school
8 opening. Do you follow me?

9 MR. LADEN: I think I do. When I was looking at
10 the several alternative recommendations that were provided by the
11 school with respect to being allowed to open prior to the
12 physical construction of the improvements on Foxhall Road, what I
13 was looking for was a means of trying to follow the original
14 zoning order as much as possible in coming up with a mechanism
15 that reflected the operational needs of the school.

16 I think the construction zone requirements, in
17 terms of where they set up their barrels or their detours during
18 short periods of time, or how they handle trucks around the area
19 where they have their staging area for equipment and all of that,
20 will be handled by the construction management plan, which,
21 again, will have to follow after a contractor is selected.

22 VICE CHAIRPERSON RENSHAW: Mr. Laden, you mentioned
23 the word "detour." Is this construction going to mean that
24 traffic -- through traffic will be detoured off of Foxhall Road
25 for a section of the roadway, but allow the school traffic to

1 enter the school property?

2 MR. LADEN: No, that is not what I meant.

3 VICE CHAIRPERSON RENSHAW: So --

4 MR. LADEN: What I meant was that the -- the road
5 may bend a little bit in order to allow traffic to get through
6 the construction zone, but, no, I did not mean detour in that
7 sense.

8 VICE CHAIRPERSON RENSHAW: So this roadway will be
9 open completely during the construction period.

10 MR. LADEN: It will be open for two-way traffic.
11 Again, a small portion of the road may have to be, you know,
12 temporarily closed to allow for construction equipment to move
13 through, but it will allow for two-way traffic at all times.

14 CHAIRPERSON GRIFFIS: Indeed. I'm giving a moment
15 to make sure we're ready to proceed to the end of the table. Two
16 issues that you have in front of you, sir. I can restate them if
17 you need.

18 MR. SWENDIMAN: Yes, sir. As I understand, it's
19 timing. My question is: what happens in the event that after
20 six months the construction is not completed? That is, what does
21 the school do, and what does the Board do? Does the school cease
22 operations? Does the Board order them to cease operations? Is
23 it extended?

24 CHAIRPERSON GRIFFIS: Good.

25 MR. SWENDIMAN: In terms of -- I will defer, Mr.

1 Chair, the question with regards to the management --
2 transportation management plan.

3 CHAIRPERSON GRIFFIS: Okay.

4 MR. SWENDIMAN: Because I have a question with
5 regard to that.

6 CHAIRPERSON GRIFFIS: I think you may have an
7 excellent question that needs to be understood. And I think it's
8 a question that we will answer. What happens if we do look to a
9 January '03 deadline?

10 So, let us go on, then, if we're ready, to other
11 questions and specifics. I'm sorry. Does he get an answer to
12 that question?

13 VICE CHAIRPERSON RENSHAW: Yes, yes.

14 CHAIRPERSON GRIFFIS: Not at this point, no. I
15 mean, I think it's going to be something that we'll -- we are
16 deliberating on fully. I'm not prepared to --

17 VICE CHAIRPERSON RENSHAW: Well, can Mr. Feola
18 answer that?

19 CHAIRPERSON GRIFFIS: No, I don't think he can. We
20 are going to set what happens if that deadline is not met.

21 VICE CHAIRPERSON RENSHAW: Well, certainly, in the
22 planning for this temporary modification, the school has looked
23 at alternate plans. I mean, if one thing doesn't happen, another
24 thing will kick in.

25 CHAIRPERSON GRIFFIS: Well, Ms. Renshaw, this is my

1 thinking.

2 VICE CHAIRPERSON RENSHAW: Any long-range planning?

3 CHAIRPERSON GRIFFIS: This is my thinking. I'm not
4 sure I want to hear speculation. I want to be very decided. If
5 we move ahead -- for instance, if we have a motion right now that
6 is approved, I would assume that we'd have a condition that if
7 January '03 came and it was not complete, we would have some sort
8 of punishment, and how we define that punishment is totally up to
9 us, whether it mean that the C of O would be revoked and they'd
10 be in noncompliance with the BZA order, or the school shut down.

11 Well, that may be it.

12 Whether there's an extension or a period of time to
13 do it, I do -- I don't think it's valuable for -- you can
14 disagree with me and I'll allow it, but I don't think it's
15 valuable for Mr. Feola to give us our -- his speculation on what
16 we should decide in terms of what should happen on January '03.

17 MR. BOLOTIN: Mr. Chairman, if I --

18 CHAIRPERSON GRIFFIS: Yes.

19 MR. BOLOTIN: -- if I may for a second. Your
20 testimony or statements -- I'm sorry -- beforehand presumes that
21 there is no school in existence today. That, in fact, if you
22 were to deny the request today, this school would be out, and
23 you're saying that we have to look at the students. As I
24 understand it, this school is located in Kalorama, is able to
25 carry on its business in Kalorama. You --

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1 CHAIRPERSON GRIFFIS: So your question is whether
2 there's any --

3 MR. BOLOTIN: You act as if it's a brand-new school
4 coming to the District and the students have no other place to go
5 if, in fact, you deny the modification. And I thought that was
6 the premise of your statement, which I think is unfair and
7 biased.

8 CHAIRPERSON GRIFFIS: I appreciate you bringing
9 that up. And I will -- I will give you a clue of why I was
10 looking at it that way. First of all, with any case that comes
11 in front of me, that is what I look at, and that is what I
12 deliberate on. So whether this school owns campuses elsewhere,
13 if it's not in this case, I'm not aware of it.

14 Your question to me -- so I do not believe that it
15 biased me, but, rather, focused me on the specific information
16 that I need to deliberate on. Your question is, if I'm not
17 mistaken -- I'll rephrase -- are there alternatives if the school
18 cannot open in September or as closed in January? That may well
19 be something that the Board is interested in finding out.

20 And why don't we pose the question quickly to Mr.
21 Feola. Are there alternatives that have been looked at for other
22 sites to open in September? There has now been the statement
23 about a Kalorama facility. Is that still in use? Or what is --
24 what is the --

25 MR. FEOLA: The school is currently located on

1 Wyoming Avenue. It has a physical capacity of about 204
2 students, which was the capacity of the school when it came
3 before this Board a few years ago. As you know, the Board's
4 order allows the school to expand to 260 students, and is opening
5 on Foxhall Road.

6 The school obviously, as Ms. Renshaw has suggested,
7 has looked at alternatives if this Board turns down this
8 modification. And it will have to rent space or do something
9 else that I think is a waste of this Board's time to go through
10 all of those potentials.

11 Any of them put a hardship on the school because
12 they are paying a mortgage payment on Foxhall Road, and would
13 have to go ahead and spend more money someplace else. So I -- if
14 this Board turned us down now, we would have to find an
15 alternative. If this Board imposes a punishment of you can go
16 now, but if DPW doesn't finish the work by January 1 you have to
17 move out, we would have to have alternatives.

18 Maybe the first alternative is we don't move in to
19 start with. I don't know. We haven't gotten to that point.

20 We are asking this Board to make a decision pretty
21 shortly, so we know which alternative to proceed on. It's that
22 simple.

23 CHAIRPERSON GRIFFIS: Okay. And it is my
24 assumption that the school would not put the students in the
25 school if it wasn't, in fact, safe for them to get to and from

1 the facility. I don't think you'd refute that, is that correct,
2 Mr. Feola?

3 MR. FEOLA: Absolutely not. And I think it's
4 important to -- and this is a little bit of a statement/question
5 posed to the Chair for Mr. Laden. And it's important to remember
6 we're talking about a public right-of-way that this Board has no
7 jurisdiction over to start with.

8 This Board approved the special exception provided
9 that -- that that public right-of-way could be made safe for
10 existing vehicular traffic and the students that would be coming
11 to that site. The entire transportation program was adopted as a
12 recommendation from the owner of that right-of-way, then
13 Department of Public Works.

14 It wasn't the only way that that roadway could be
15 made safe to accommodate this school. It was a way, and this
16 Board found it as an acceptable condition to opening -- to
17 approving a special exception. The opponents opposed that. They
18 had a different way to do it, and they challenged it.

19 Mr. Laden, representing now the Department of
20 Transportation, has another way -- that he said, for a short
21 period of time, this roadway could be safe, so as to ensure a
22 special exception. I personally think it's a waste of this
23 Board's time to do -- to look at the minutia of a construction
24 management plan for a public road that Mr. Laden's department
25 does hourly every day of the year. But if we need to go down

1 that way, we're willing to.

2 MR. BOLOTIN: Mr. Chairman, not to be
3 argumentative, the Board's order was very specific, and it said
4 prior to a certificate of occupancy being issued, certain things
5 had to be done.

6 CHAIRPERSON GRIFFIS: Correct.

7 MR. BOLOTIN: Mr. Laden proposed those things as a
8 part of his testimony. And the point that Mr. Zaidain made
9 before was if the entire record was read -- and I'm not trying to
10 argue with your decision that you made -- someone may in reading
11 that entire record find that the assumption that you made that
12 the school would not occupy unless it was safe, and that the
13 people who are entrusted with the transportation plan are
14 completely accurate in what they do, we've had four
15 transportation plans that were submitted as part of the record.

16 Someone reading the full record might find that
17 there are real questions as to whether or not the competency
18 exists to make those determinations, and that's why I think the
19 Board, when it issued its order -- Ms. Renshaw was there --
20 stated that prior to the issuance of the certificate of occupancy
21 these things must take place because of the difficulty I believe
22 the Board had in sorting through the expert testimony that was
23 given on behalf of the school and its opponents.

24 Thank you.

25 CHAIRPERSON GRIFFIS: Well, and I appreciate that,

1 but the connection to the certificate of occupancy just sets a
2 time milestone. Does it not, sir? It has no -- it has no review
3 process that would do the coordination that Mr. Zaidain was
4 talking about, and that being the construction management plan
5 with the implementation plan.

6 MR. BOLOTIN: No, I absolutely disagree with you.
7 The importance of the certificate of occupancy was that the Board
8 made as a condition the fact that all of these things would be in
9 place, the road widening --

10 CHAIRPERSON GRIFFIS: I understand that.

11 MR. BOLOTIN: -- the light would be in place, so
12 that would be safe. That's exactly what they found. That's what
13 the whole case was about.

14 CHAIRPERSON GRIFFIS: And so your question is: can
15 the Board believe that the Department of Transportation, in its
16 submission, outlined a temporary traffic plan. Their statement
17 is that it is safe, and you are calling into question whether
18 they are actually accurate in that assessment.

19 MR. BOLOTIN: I think the foremost question was
20 that they were asked to perform a task that they needn't to
21 perform. They needn't tell you whether or not this interim plan
22 is safe. We never should have gotten to an interim plan.

23 The only reason why we have an interim plan is
24 because the school wants to, contrary to the Board's order,
25 occupy its space prior to the time of the C of O.

1 Mr. Laden wasn't asked the question, do you believe
2 that this should be occupied once a C of O is given and the
3 roadwork is done? He would say yes. That's what the Board
4 found. That's what my testimony was throughout the hearing.

5 You're now coming to me with a different state of
6 facts. The different state of facts is, is there something else
7 I can do, short of these safety conditions, to allow the school
8 to occupy for an unlimited period of time?

9 CHAIRPERSON GRIFFIS: Well, I don't think Mr. Laden
10 is saying short of, but in alternative to. And I think that's
11 what's being presented to us.

12 I don't disagree with you that we are at a case
13 that we're trying to decide whether they can, in fact, occupy
14 before the -- they can pull their C of O before they have the
15 final plan. Clearly, that is a step away from the original BZA
16 order, but that is why we're here. So by definition of why we're
17 here, I can't throw it out, or I should not say we won't
18 deliberate on it, because clearly it's not in compliance.

19 MR. BOLOTIN: I understand that. That's why I was
20 taking exception at the beginning statement that where would the
21 school be, and, well, you have to look at the students first.
22 And I was glad the testimony has clarified that there are
23 alternatives such as the existing campus until the C of O is
24 issued and the road improvements done.

25 CHAIRPERSON GRIFFIS: Good. Thank you. Okay.

1 MR. SWENDIMAN: Mr. Chair, I will try to avoid
2 making statements and taking your direction and pose it in the
3 form of a question, or give a premise first. That is, some of
4 the conditions that were imposed by the Board in its order were
5 directed towards trying to mitigate the impact on Sylvia Shugrue,
6 who is on Foxhall Road adjoining the south side.

7 My question is: under the interim plan, as it is
8 called, what attempts are going to be made to mitigate the effect
9 of removing those conditions? And how is the plan going to
10 mitigate the impact on Ms. Shugrue?

11 CHAIRPERSON GRIFFIS: Okay. And if I'm not
12 mistaken, mitigating impacts as outlined are the basic access to
13 and from the property. And then, did you want to include the
14 pollution in that?

15 MR. SWENDIMAN: Yes, sir.

16 CHAIRPERSON GRIFFIS: Okay. Mr. Laden, let me turn
17 that to you, because I think it is a fairly pertinent question,
18 whether it was looked at, and I would add to that, if I may, on
19 that question, what sort of provisions are being anticipated for
20 the temporary pedestrian access through the area?

21 I'll restate it if it's not clear.

22 MR. LADEN: No, I understand the question. I'm
23 just trying to sort out how I'm going to answer it.

24 Taking them in reverse order, I believe that a
25 sidewalk either has been constructed or is being constructed to

1 allow for the safe passage of pedestrians in the area.

2 CHAIRPERSON GRIFFIS: There's currently not one,
3 and there's a new one being put in.

4 MR. LADEN: Correct.

5 CHAIRPERSON GRIFFIS: Okay. And so to your
6 knowledge, though, there's no temporary path or surface that's
7 being provided until the new nonexistent sidewalk goes in.

8 MR. LADEN: Not that I'm aware of, no.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. LADEN: With respect to the traffic impacts,
11 again, through any sort of construction zone, there is going to
12 be some additional measure of congestion. There will be some
13 additional measure of delay. Typically, there are individuals
14 out there from the construction firm that help move the traffic
15 through the area.

16 Again, the interim, short-term traffic plan that
17 was offered by the school and modified by the Department in my
18 comments of July 5th were primarily focusing on how to get the
19 students and faculty in and out of the school property safely.

20 Some of the adjacent property owners, including Ms.
21 Shugrue, will be impacted by the construction and will be
22 impacted by traffic on Foxhall, both during construction just as
23 they are currently.

24 So, again, given the fact that we're trying to
25 limit the amount of turning movements into the property through

1 our -- the interim traffic control recommendations, we hope that
2 that will provide sufficient mitigation that Ms. Shugrue will be
3 able to get in and out of her property as she currently is.

4 CHAIRPERSON GRIFFIS: Okay. And if I understand
5 you, your indication is that the traffic controlling and the
6 management will enable the traffic to keep moving, and that is
7 the objective of that. By so doing, one, you don't have the
8 idling cars that are in the area; and, two, it would conceivably
9 create the access in and out of the private residence. Is that
10 -- am I correct in that?

11 MR. LADEN: Correct. By using the shuttle bus
12 service, we're trying to reduce the number of vehicles coming in
13 and out during this interim short-term phase, and that should,
14 number one, reduce the air pollution, and it should reduce the
15 potential for congestion.

16 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

17 CHAIRPERSON GRIFFIS: Yes, Ms. Renshaw.

18 VICE CHAIRPERSON RENSHAW: I'd like to ask Mr.
19 Laden three things. Again, what are you going to do about
20 keeping Ms. Shugrue's driveway open? Do you have plans --

21 CHAIRPERSON GRIFFIS: I think that's what he was
22 addressing.

23 VICE CHAIRPERSON RENSHAW: Well, it wasn't specific
24 enough for me. I didn't really get an answer to that.

25 MR. LADEN: Again, I believe the construction will

1 be occurring solely in front of The Field School property. We
2 will, you know, through the construction phase maintain access to
3 all of the driveways that are along Foxhall Road.

4 CHAIRPERSON GRIFFIS: And it actually brings up an
5 interesting point. I think in the submission, my understanding
6 is that the concern is that cars are going to be backing up far
7 enough that you won't be able to pull in or pull out of the
8 driveway.

9 MR. LADEN: That's correct.

10 CHAIRPERSON GRIFFIS: One, is there any specific
11 that's dealing with that? The other piece of it, though, now
12 that I think about it, we ought to take a look at is, is there
13 construction that may close that off for a temporary use?

14 MR. LADEN: No. There should be no construction
15 that --

16 CHAIRPERSON GRIFFIS: Right.

17 MR. LADEN: -- that closes her access. And, again,
18 I think just as currently, when you pull out of any driveway or
19 city street, you sometimes have to wait for traffic to clear.
20 But certainly her driveway is not going to be continuously
21 blocked by traffic as a result of this interim traffic control
22 plan.

23 CHAIRPERSON GRIFFIS: Are there any provisions that
24 are made during roadwork that -- that ensures the driveway -- I
25 mean, how is that done? When a new road goes down, and it's

1 going by driveways, what are the details that are involved?

2 MR. LADEN: Well, again, that's handled sort of on
3 a case-by-case basis. We have -- for instance, we are currently
4 working on starting construction on a roadway where there's a
5 firehouse. So one of the stipulations of the construction
6 management plan for that particular project is that they maintain
7 24-hour access to the fire equipment.

8 There may be a one- or two-day period when we're
9 pouring cement on their driveway that they need to relocate the
10 equipment. So -- and in this case, it's nothing nearly as
11 significant as that.

12 CHAIRPERSON GRIFFIS: Because it's going to the --
13 that construction, that example is --

14 MR. LADEN: It's right in front of --

15 CHAIRPERSON GRIFFIS: -- in front of the --

16 MR. LADEN: Correct. But, I mean, this is
17 something we -- again, we do every day with all construction
18 projects, where we're always impacting adjacent properties, and
19 we work with them. I've never known where we've completely
20 closed a road and required somebody to vacate their property
21 because they can't access it or leave it -- exit it.

22 CHAIRPERSON GRIFFIS: Okay.

23 VICE CHAIRPERSON RENSHAW: Mr. Laden, how many cars
24 or vehicles traverse Foxhall Road now during the a.m. and the
25 p.m. rush? Can you bring those figures to mind?

1 MR. LADEN: I don't have the a.m. and p.m. rush.
2 I'd have to go back and look at the original plan. I did have
3 some -- some daily figures that I was looking at on our traffic
4 counts from 2001, which is the most current data we have. And I
5 believe that the -- the estimated daily traffic on Foxhall Road
6 was somewhere in the neighborhood of 17,000 cars a day.

7 VICE CHAIRPERSON RENSHAW: But that could swell;
8 there could be peaks in the morning and peaks in the afternoon.

9 MR. LADEN: Absolutely.

10 VICE CHAIRPERSON RENSHAW: All right. Have you
11 projected what kind of a backup there will be around the school
12 if, indeed, you have problems getting cars into the school or
13 shuttle buses into the school?

14 MR. LADEN: Well, again, we don't envision that
15 there will be significant backups as a result of the school
16 operations, in that during this interim short-term period -- in
17 that I believe, number one, we're limiting the number of vehicles
18 that would be coming to the property by requiring the use of the
19 shuttle bus service.

20 So we would expect during this interim phase we
21 would have less vehicles coming into the school property than you
22 would have during the normal conditions after the full
23 construction.

24 Secondly, I believe that all of the traffic coming
25 in to the property will be right turn-ins, so there will not be

1 any stacking in the southbound Foxhall Road. And, again, with
2 right turns into the property, that there would not be
3 significant delays in terms of the traffic on Foxhall itself.

4 MEMBER ETHERLY: Mr. Chair, just to pick up on
5 that.

6 Mr. Laden, ANC-3D suggests consideration to a right
7 turn only out of the property policy. Any response in that
8 regard? And I'll also highlight -- I believe this is a point
9 that Mr. Swendiman may have raised or will raise -- the need for
10 the traffic control officer at that location. There was some
11 discussion in the earlier proceedings regarding safety and sight
12 line issues there.

13 Could you respond to those two particular items and
14 whether or not anything has changed in that regard?

15 MR. LADEN: Yes. I also wrestled with the notion
16 as to whether the exiting from the property during this interim
17 short-term phase would be limited to right turn in or would allow
18 right and left turns. And, frankly, I think I could support the
19 ANC's position on right turn out only.

20 My only concern there was that for those cars
21 turning out, if they wanted to head in the other direction, they
22 would have to -- to find some alternative route to get southbound
23 again on Foxhall Road. But, again, I think there are sufficient
24 alternatives to allow that. And, again, we don't expect to see,
25 during this interim phase, a lot of exiting traffic.

1 With respect to the traffic control officer, again,
2 I think that can be handled in a number of different ways. To a
3 certain extent, there are some advantages if there is a left turn
4 out, left turn from the property out onto Foxhall to having
5 someone there who could possibly aid in that movement.

6 But then again, on the other hand, there is other
7 arguments that the traffic control officer can sometimes create a
8 sense of false confidence perhaps. So here again, I'm willing to
9 support the ANC's position with respect to the traffic control
10 officer at the site.

11 MEMBER ETHERLY: And with respect to the -- just to
12 pick up real quickly before I forget this thread, Mr. Feola.
13 With respect to the right turn only out of the property, would
14 there be an attendant concern that that might create more street
15 traffic on the residential side streets if you were to do that?
16 I'm trying to just think of both sides of that particular
17 argument.

18 MR. LADEN: Sure. Yes, is the reverse side of that
19 particular issue. And, again, I think that can be handled -- the
20 school is making certain commitments as to how faculty and staff
21 and the shuttle service will be approaching the school, so as to
22 minimize impact on local neighborhood streets. And perhaps a
23 similar policy could be developed for exiting the school also,
24 again, to minimize impacts.

25 But, again, I think I want to clarify that this is

1 for the short-term interim phase only, with a reduced number of
2 vehicles, because of the other conditions we are requesting.

3 MEMBER ETHERLY: Okay. Thank you, Mr. Laden.

4 Thank you, Mr. Chairman.

5 MR. FEOLA: Mr. Chair, just -- the school is
6 willing to abide by either alternative, either the ANC's or Mr.
7 Laden's --

8 CHAIRPERSON GRIFFIS: The right turn -- right out
9 or the left and right turn.

10 MR. FEOLA: -- original report. Either one works
11 for the school.

12 CHAIRPERSON GRIFFIS: Well, for clarification, if
13 there was a right turn only, would you still assume that there
14 would be a traffic monitor there, or a traffic officer -- what's
15 the phrase we're using on this thing? Would there be a person
16 directing traffic outside the entrance?

17 MR. FEOLA: Again, I think the school is willing to
18 follow DDOT's recommendation, if that makes sense, for safety and
19 traffic flow purposes. I guess if DDOT thinks differently, the
20 answer is no.

21 CHAIRPERSON GRIFFIS: I see.

22 MR. BOLOTIN: Mr. Chairman, for the record, both of
23 those points were rejected in the Board's order, both the right-
24 hand turn only and the traffic control officer, clearly rejected
25 in the Board's order. And that's the difficulty we have. We're

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1 wrestling with things. Mr. Laden says there's no need to wrestle
2 with things.

3 CHAIRPERSON GRIFFIS: Okay. Thank you.

4 MR. SWENDIMAN: Mr. Chair?

5 CHAIRPERSON GRIFFIS: Yes.

6 MR. SWENDIMAN: If I just may ask a question. I
7 guess in part my confusion is, based on what's been said, what is
8 the Department now recommending with regard to a traffic control
9 officer there? Because it's not clear to me anymore.

10 CHAIRPERSON GRIFFIS: I was going to that,
11 actually. I wrote it down, so I wouldn't forget it.

12 Why don't we clarify the fact that -- I mean,
13 you've heard the two options. Which one would you actually
14 recommend? Is it the right-turn only? You have indicated that
15 -- I'll turn to you. You know what you're being asked.

16 MR. LADEN: Correct. I would link the two. If the
17 Board decides that the -- the applicant would be limited to right
18 turn onlys out of the school property, then I would suggest that
19 a traffic control officer is not required. But that if the
20 school is allowing right and left turns out of the property, that
21 there should be a traffic control officer to help facilitate that
22 move.

23 CHAIRPERSON GRIFFIS: Okay. Does that bring
24 clarification?

25 MR. SWENDIMAN: Yes, sir. So long as I then know

1 what the Board's -- when you vote and impose -- decide what the
2 modification is, which way we're going. And, certainly, having a
3 traffic control officer there seems to me still has an impact.

4 Mr. Laden has talked about the smooth flow of
5 traffic on Foxhall. My question is: how do you ensure a smooth
6 flow of traffic both in the rush hour morning and the rush hour
7 evening with a traffic control officer there? That's the concern
8 Ms. Shugrue has is that it will, in fact, back up.

9 And it goes back, again, if we do have a traffic
10 control officer, what times will he or she be there? I assume --
11 I take your assumption, Mr. Chair, it's during the school hours,
12 but it's -- testimony in the case talked about the fact that the
13 students left over an extended period of time -- for example, in
14 the afternoon.

15 CHAIRPERSON GRIFFIS: Right.

16 MR. SWENDIMAN: So I'm trying to get some idea of
17 how long that traffic officer is going to be there.

18 CHAIRPERSON GRIFFIS: Good. And I think that's
19 important. I think my point was that it would be at the peak
20 times of in flow and out flow.

21 But let me see if I'm clear on what you're saying.
22 You're saying that, in fact, the off-duty or the traffic flow
23 officer would be in assistance to mitigating the backup of
24 traffic on that. Is that correct?

25 MR. SWENDIMAN: No, I would say the opposite.

1 CHAIRPERSON GRIFFIS: You think it actually adds to

2 --

3 MR. SWENDIMAN: Well, it, in fact, would add to it,
4 because you're going to have to stop the traffic. As I
5 understand the plan --

6 CHAIRPERSON GRIFFIS: What if -- I'm sorry to
7 interrupt you. But what if we had right turn only and an officer
8 there that was actually directing that flow? Does that scenario
9 sound more positive in mitigating the concerns of the backup
10 traffic?

11 MR. SWENDIMAN: Well, just my experience is is that
12 with a traffic control officer, he or she is going to have to
13 stop traffic.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. SWENDIMAN: It's not going to be a smooth flow.
16 If you've got a right-hand turn only coming out of there, and
17 you don't have a traffic officer, that certainly eliminates the
18 possibility of -- mitigates, let's put it this way, the backup,
19 it seems to me, going north on Foxhall, which passes Ms.
20 Shugrue's property.

21 Keep in mind that under the plan -- and I certainly
22 do understand that the school is proposing that, you know, cars
23 be eliminated. At least initially during the interim period,
24 there's going to be vans and etcetera, etcetera. But under the
25 plan, all traffic is routed north, so that however they get onto

1 Foxhall going north they ultimately have to go by Ms. Shugrue's
2 property.

3 That's where they're going, so the question, then,
4 is -- with the traffic control officer, are we going to have
5 somebody who is going to be stopping traffic to allow ingress and
6 egress during the morning hours and during the evening hours?
7 And that can only result in a further backup.

8 Under the plan, the proposed plan under the
9 conditions, as I understand it -- and certainly we'll have Mr.
10 Feola and Mr. Laden correct me -- I believe that the traffic
11 light there was to be activated depending on the traffic coming
12 into the stacking lane as well as going out. So it wasn't a
13 constant red light on a sequence basis. It was an activation.

14 When you have a traffic control officer, it seems
15 to me that you've got to back traffic up in order to allow people
16 to exit -- enter and exit, and that's where I see the backup
17 coming both in the morning and in the evening, depending upon how
18 long those hours are that the traffic control officer is there,
19 and whether -- also, whether you're going to be able to make --
20 even with the officer not there during the off times, there are
21 people who are going to have to leave the school for one reason
22 or another -- the ability to make that left-hand turn as they try
23 to inch out.

24 CHAIRPERSON GRIFFIS: Right. Okay. That's clear
25 to me.

1 Okay. Let's pick up the pace here if we can. I
2 think this is running fairly smoothly, but let's go to another of
3 the quick questions, and I had several, however. Do you want to
4 take up the shuttle placement? Why don't we just talk about
5 that, Mr. Feola, if you wouldn't mind just indicating what the
6 proposed or definitive areas are for pick up.

7 MR. FEOLA: Mr. Chair, thank you. The school
8 submitted a more detailed plan to the Department of
9 Transportation and copied the Advisory Neighborhood Commission
10 and the Office of Planning that addressed -- I think they were
11 conditions number 8 and number 10 of Mr. Laden's memo for the --
12 relative to the places where the shuttle would pick up, and also
13 then the route that faculty would be required to take to get to
14 the school.

15 I'd be happy to share that with the Board. The
16 place where the shuttle is to be located, and the place where we
17 have permission to locate it is at the Memorial United Methodist
18 Church at New Mexico and Nebraska Avenues. And the church has
19 given us permission to allow our shuttle buses to utilize their
20 parking lot, which they -- which we have observed are essentially
21 vacant in the morning rush hour and in the evening when we'd need
22 to use them.

23 And we -- as the plan will show, there will be a
24 shuttle bus at that location during the entire timeframe. So
25 that one will come sit, pick up students, and will not leave that

1 location until the second bus comes to avoid a situation where
2 children are going to be in inclimate weather. So the parents
3 can drop off their child. The kid will get on the bus and wait
4 until the next bus comes, and then the bus will take the group to
5 the school coming north on Foxhall and right into the school.

6 VICE CHAIRPERSON RENSHAW: And how does it get to
7 be north on Foxhall?

8 MR. FEOLA: Read from the plan. It says -- I'll
9 read to you from the plan. Exit the church lot and turn right
10 onto New Mexico Avenue. Proceed on New Mexico Avenue until it
11 becomes Tunlaw Street. Proceed on Tunlaw and turn right onto
12 37th Street. Proceed on 37th Street and turn right onto
13 Reservoir Road. Proceed on Reservoir Road and turn right onto
14 Foxhall. Proceed on Foxhall and turn right into the campus. And
15 then there's a reverse order. Again, I'll be happy to submit
16 this to the Board, which is detailed.

17 CHAIRPERSON GRIFFIS: Good. And are you aware of
18 how that's going to be advertised to the parents?

19 MR. FEOLA: The school is -- has sent out
20 notification, assuming that this Board would approve it, to the
21 parent body and the faculty staff that would -- and attaches the
22 entire DDOT plan as well as these locations that do a number of
23 things, including prohibit parents from bringing their child to
24 the campus and showing them where those alternative locations
25 are. And then they'll just follow it up with continual -- those

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1 kinds of notifications.

2 CHAIRPERSON GRIFFIS: Okay. So it's part of the
3 mailings that are going out over the summer preparing for the new
4 year --

5 MR. FEOLA: Yes.

6 CHAIRPERSON GRIFFIS: -- that's coming up. Okay.

7 VICE CHAIRPERSON RENSHAW: Has that been brought
8 before the ANC?

9 MR. FEOLA: It has been presented to the ANC. That
10 is correct.

11 VICE CHAIRPERSON RENSHAW: Which ANC? 3F?

12 MR. FEOLA: 3D.

13 VICE CHAIRPERSON RENSHAW: 3D.

14 MR. FEOLA: That's where the property is located is
15 in 3-D.

16 VICE CHAIRPERSON RENSHAW: And they've signed off
17 on it? It signed off on it?

18 MR. FEOLA: They have not taken a position, as far
19 as I know, on it.

20 CHAIRPERSON GRIFFIS: Okay. We have an issue in
21 terms of that submitted report. We need to be very clear on
22 whether we're taking in new information or not in this case.

23 MEMBER ETHERLY: Mr. Chair, just to clarify.

24 CHAIRPERSON GRIFFIS: Yes.

25 MEMBER ETHERLY: The report that we may or may not

1 take into the record, was that the report that Mr. Laden relied
2 on in preparing his July 5th memorandum?

3 MR. FEOLA: No, it's a report in follow up to Mr.
4 Laden's July 5th memorandum.

5 MEMBER ETHERLY: Okay.

6 MR. FEOLA: He required that the staging area and
7 the faculty route be preapproved by his office and his engineers.
8 And that was submitted in response to that memorandum.

9 MEMBER ETHERLY: Okay. Thank you, Mr. Chair.

10 MR. SWENDIMAN: May I ask a question? I assume that
11 what has been presented to the Board now is the interim
12 transportation management plan referenced in the applicant's
13 report. And, if so, would just make note that, on behalf of Ms.
14 Shugrue, we never received a copy of this, and I believe, in
15 fact, that it carries a date after the last ANC meeting, although
16 I was not there, so I will certainly defer to Mr. Feola if it was
17 raised at the ANC meeting.

18 MR. FEOLA: And maybe I should clarify. The
19 document that you may or may not take into account is not the
20 transportation management plan. It is details responding to Mr.
21 Laden's memorandum. And so it wasn't intended to be part of the
22 record in this matter.

23 I think part of transportation management plans
24 have to be flexible. I mean, they have to work. And if this
25 particular location, after two weeks, doesn't work, we need to go

1 with Mr. Laden and find the place it works. The whole idea is to
2 get the parents to utilize the remote locations, get on the bus,
3 and take the kids.

4 If we put this remote location, you know, at the
5 Connecticut and Van Ness metro stop, and none of the parents come
6 that way, then we would not be fulfilling the obligation. So
7 this is a -- in my opinion, this is a refinement of the
8 transportation management plan which was submitted into the
9 record as part of -- it may change. It may change with DDOT's
10 permission and with the ANC's comments.

11 CHAIRPERSON GRIFFIS: All right.

12 VICE CHAIRPERSON RENSHAW: Mr. Feola, you are
13 talking about -- when you say your refinement of the traffic
14 management plan that's been submitted into the record, you're
15 talking about the July 5th -- Mr. Laden's July 5th?

16 MR. FEOLA: Yes, ma'am.

17 VICE CHAIRPERSON RENSHAW: But we have problems
18 with Mr. Laden's July 5th memo, because it talks about an interim
19 transportation management plan that does not include it.

20 MR. FEOLA: Does not include -- I'm sorry.

21 VICE CHAIRPERSON RENSHAW: Does not include what
22 this interim transportation management plan is. This is what we
23 are trying to flush out.

24 MR. FEOLA: I think Mr. Laden's memo outlines the
25 transportation management plan.

1 VICE CHAIRPERSON RENSHAW: It did not outline it
2 sufficiently. Hence, all these questions. And it left a big
3 question in our mind when, for instance, on number 8, the
4 proposed shuttle bus staging area and required shuttle bus route.

5 Question: where is it? Shall be described in an interim
6 transportation management plan. Where is it?

7 So that's why we have all of these questions to you
8 and want copies of the report.

9 Mr. Chairman, I'm asking for those.

10 MEMBER ETHERLY: I mean, if I understand you
11 correctly, Mr. Feola, is that -- the August 1 document, the
12 interim plan as related to details for item number 8 and item
13 number 10, that was laid out in Mr. Laden's July 5th document.

14 MR. FEOLA: That's correct.

15 MEMBER ETHERLY: Gotcha. Okay.

16 MR. SWENDIMAN: Mr. Chair, if I might just ask
17 another question. I'm just a little bit confused, and that's
18 certainly possible to do. Do I understand correctly that Mr.
19 Laden's memorandum of July 5th is the interim transportation
20 management plan described in number 8? It's not. Is there an
21 interim management plan?

22 CHAIRPERSON GRIFFIS: Mr. Feola?

23 MR. FEOLA: No. The transportation management plan
24 that the school proposes is essentially Mr. Laden's memorandum.
25 That's the plan. The plan has some details, as Ms. Renshaw has

1 indicated, that were not flushed out.

2 CHAIRPERSON GRIFFIS: The temporary plan.

3 MR. FEOLA: This is all the -- the whole thing is
4 temporary.

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. FEOLA: The details -- the staging area and the
7 faculty routing are the subject of the August 1st submission to
8 DPW and the ANC. Answering those questions that Ms. Renshaw
9 said, where is the staging area going to be? How are the buses
10 going to go? Where are they going to pick up? How often? All
11 of those -- the specificity of the TMP as proposed by Mr. Laden.

12 CHAIRPERSON GRIFFIS: And your point is that it's
13 somewhat a give and take as you submit it and you get comments
14 and you might change the details of what is included in the
15 August 1, which is why it wasn't submitted into the record.

16 MR. FEOLA: Yes. I think if you look at virtually
17 any transportation management plan that this Board has approved
18 as a condition of the BZA -- of a BZA approval, there are
19 inherent flexibilities given to the applicant to work with
20 neighborhoods and DPW, or now DOT, to make sure that it works.

21 And, again, the goal is to minimize vehicular
22 traffic. And just to pick a staging area today that we think
23 will work and to find out that, well, maybe not enough kids are
24 getting on the shuttle. It has to be moved over five blocks.
25 That's why there is that inherent flexibility.

1 VICE CHAIRPERSON RENSHAW: And we ask these
2 questions -- they may be full of minutia, but we ask the
3 questions just to make sure that problems are not being exported
4 to other jurisdictions.

5 MR. FEOLA: I understand.

6 CHAIRPERSON GRIFFIS: Okay. I'm going to do this
7 -- this Board has got to stretch its legs. However, I want to
8 run through some very quick questions, and then we'll see where
9 we are in getting the information that we need.

10 First of all, Mr. Feola, number 7 of the issue is
11 that you're going to prohibit kids from accessing the school in
12 private cars. What are the parameters -- how is that going to be
13 accomplished?

14 MR. FEOLA: How is it -- I'm sorry. How is it
15 going to be accomplished?

16 CHAIRPERSON GRIFFIS: Yes. How are you going to
17 prohibit students from driving into the school?

18 MR. FEOLA: They will not be allowed to drive onto
19 the campus.

20 CHAIRPERSON GRIFFIS: Okay. So there will be
21 someone there that will actually monitor --

22 MR. FEOLA: Yes.

23 CHAIRPERSON GRIFFIS: -- if a student's car pulls
24 in.

25 MR. FEOLA: There will be a school personnel that

1 will not allow a student or a parent with a student to come onto
2 the campus, without prior permission. There might be some
3 disabled situation, or temporary disabled, but we'll have to
4 work, again, with Mr. Laden on those particulars. But as a flat
5 rule, neither a parent with a student or a student will be
6 allowed --

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. FEOLA: -- access onto the campus.

9 CHAIRPERSON GRIFFIS: So, obviously, there won't be
10 student parking on the campus.

11 Is that clear? Any clarification questions on
12 that?

13 VICE CHAIRPERSON RENSHAW: Yes. How are you --

14 CHAIRPERSON GRIFFIS: We'll go to Ms. Renshaw
15 first.

16 VICE CHAIRPERSON RENSHAW: How are you going to
17 prohibit students being dropped off, say, a block away and
18 walking to the school, or dropped off because the traffic is
19 stopped, slow traffic and the parent lets the child out of the
20 car?

21 CHAIRPERSON GRIFFIS: I think we're talking about
22 behavior modification. How does that happen?

23 VICE CHAIRPERSON RENSHAW: That's Mr. Laden's
24 bailiwick. Driver modification. Driver behavior modification.

25 MR. LADEN: I'll take a pass on that one. No. The

1 -- again, I think the attempt here was to -- to limit the amount
2 of school-related traffic coming through this area while the
3 roadway was under construction. And so we thought that a -- a
4 remote drop-off site with a limited number of -- or an
5 appropriate number of shuttle buses would be the best solution
6 during this short-term construction phase.

7 CHAIRPERSON GRIFFIS: I think that's clear.

8 MR. LADEN: But I think that, you know, Department
9 of Transportation is not going to be out there monitoring what
10 parents do.

11 CHAIRPERSON GRIFFIS: I can't imagine --

12 MR. LADEN: We'll rely upon the school to --

13 CHAIRPERSON GRIFFIS: And, actually, I disagree
14 with Ms. Renshaw, because I don't think it's a question to you.
15 I think it goes to the school, and I think it goes to how the
16 school implements its programs. And in terms of the shuttle
17 buses, is it carrying the students? Does it know how many are
18 actually implementing it? Thereby noting the ones that aren't on
19 it that would obviously be taking other modes of transportation.

20
21 And that's just a clarification I think that we
22 need to have an understanding that the fact that the school
23 clearly understands, perhaps better than we do because we don't
24 do it, that there are provisions made so that this kind of
25 situation isn't encouraged or continued.

1 VICE CHAIRPERSON RENSHAW: This may impact the
2 school traffic coordinator, the officer -- off-duty officer in
3 the street who may find him or herself involved with this
4 situation.

5 CHAIRPERSON GRIFFIS: Okay. Mr. Feola?

6 MR. FEOLA: I would -- I should allow the school's
7 -- the school's responsible person for this management plan
8 probably to address this, because if you really want the answers,
9 you need to ask him. He's right here.

10 CHAIRPERSON GRIFFIS: Indeed. Let's take this
11 succinctly. As I'm racing through these questions, you can tell
12 at the speed we're progressing, can't you?

13 MR. FEOLA: Mr. Clay Kaufman.

14 CHAIRPERSON GRIFFIS: Good. Good afternoon, sir.

15 MR. KAUFMAN: Hi. We have -- I have a chart
16 detailing student by student exactly how every single student in
17 the school is getting to school, and I would also make note of
18 the fact that in the original order we promised that 80 students
19 would be delivered to school by metro shuttle, which is not what
20 we're discussing here. And I don't intend to discuss it.

21 But we actually have 170 students arriving by metro
22 shuttle. So when we're talking about these students in the
23 temporary plan, it's only the last 90 students that we're talking
24 about that are affected by this temporary drop off. The other
25 170 already are planning to come by metro shuttle, and that is

1 completely -- that is taken care of, and it is not at issue here
2 today.

3 CHAIRPERSON GRIFFIS: Okay. And what you're
4 stating is these 90 students are actually named students. You
5 know exactly --

6 MR. KAUFMAN: Yes.

7 CHAIRPERSON GRIFFIS: -- who they are. And is
8 there an attendance or a checkoff on the shuttles when they are
9 picked up and -- or is attendance taken at the school as they're
10 dropped off from the buses?

11 MR. KAUFMAN: We haven't decided whether the driver
12 would take it or whether -- when they get to the school. But we
13 will be, you know, keeping track of how everybody gets to school.

14 CHAIRPERSON GRIFFIS: Okay.

15 MR. KAUFMAN: Because we --

16 CHAIRPERSON GRIFFIS: Good. Clarifications on that
17 from the Board?

18 VICE CHAIRPERSON RENSHAW: So just to clarify, the
19 metro shuttle is a private bus service that picks the kids up at
20 the metro?

21 MR. KAUFMAN: Yes.

22 VICE CHAIRPERSON RENSHAW: And a couple of metros
23 or just one metro site?

24 MR. KAUFMAN: Three.

25 VICE CHAIRPERSON RENSHAW: Three metro sites. And

1 they are Friendship Heights and --

2 MR. KAUFMAN: Foggy Bottom and Cleveland Park. And
3 those are, again -- those have been taken care of, and those are
4 -- that's 170 students that we are -- that are already taken care
5 of that are not affected at all by the temporary plan.

6 CHAIRPERSON GRIFFIS: Okay. Thank you very much.

7 Let me run down the panel. Are there questions
8 involved in this?

9 MR. BOLOTIN: Yes. I only had one question.

10 CHAIRPERSON GRIFFIS: Yes.

11 MR. BOLOTIN: I'll accept what the school says on
12 face value about its own students and its own parents. The
13 question we had for the Chair was: how do we ensure that sports
14 teams or visitors don't come to the school and try to make the
15 normal left in? Because there are a lot of sports teams, I'm
16 sure, and extracurricular activities. How do those visitors from
17 other schools, parents of other participants --

18 CHAIRPERSON GRIFFIS: Right. Good question.

19 MR. BOLOTIN: -- know that?

20 CHAIRPERSON GRIFFIS: Outside of the normal day
21 population. Let me continue down and accumulate all of the
22 questions, if there's any related. No further questions.

23 Do you want to field that?

24 MR. KAUFMAN: We are in touch with, you know, the
25 coaches, the drivers, the other schools for -- in terms of that.

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1 And we'll, you know, communicate that plan. We always send
2 directions out to other schools who are coming to visit our
3 campus for a basketball game or something, and if they ask for
4 directions we will give them the map that tells them they can
5 only make a right turn in. It's very simple to --

6 CHAIRPERSON GRIFFIS: Okay. But your anticipation
7 is outside of the daily population coming and going, that sports
8 teams and for other activities, they would actually be utilizing
9 the campus and be utilizing the temporary interim traffic
10 pattern. Is that correct?

11 MR. KAUFMAN: And on a rare -- I mean, we don't
12 have that money. We have a soccer field, but we don't -- you
13 know, there's -- cross-county meets don't happen at our campus.
14 So it would be just -- you know, there might be a couple of
15 soccer games in which 15 students would be brought from the
16 outside on a bus.

17 But, again, that's a rare occasion. And by the
18 time the -- you know, the spring comes -- again, even in the
19 spring we don't have the baseball field. You know, so it's not
20 like we are -- we'll have many, many people coming in. There
21 might be a couple when we have a home soccer game, and we could
22 reschedule them to make them away soccer games if it was
23 necessary to in the fall.

24 CHAIRPERSON GRIFFIS: I see. Follow up?

25 MR. KAUFMAN: None.

1 CHAIRPERSON GRIFFIS: Okay. Thank you.

2 All right. That's all I have.

3 VICE CHAIRPERSON RENSHAW: Has the school notified
4 the ANCs in the Friendship Heights, Foggy Bottom, and Cleveland
5 Park area, three separate ANCs, that there will be -- The Field
6 School will be running shuttles from the metro site?

7 MR. KAUFMAN: Well, we've been in communication
8 with the other schools in the area, and they know that we're
9 running a shuttle.

10 VICE CHAIRPERSON RENSHAW: My question is: have
11 you been in touch with the ANCs and let them know with an FYI
12 that The Field School will be running a shuttle service for its
13 students?

14 MR. KAUFMAN: I don't know if I can answer that.
15 That's an ANC question, rather than a transportation plan
16 question.

17 MR. FEOLA: No. The answer is no.

18 VICE CHAIRPERSON RENSHAW: Will you?

19 MR. FEOLA: We certainly can.

20 VICE CHAIRPERSON RENSHAW: Thank you.

21 MEMBER ZAIDAIN: Mr. Chair, I have a quick
22 question. Just some -- actually, a point of clarification first.
23 This interim traffic management plan, this was created in
24 response to Mr. Laden's memo. Did I hear that correctly earlier
25 via the Gorove Slade Associates? Obviously, I haven't read it,

1 because we just got it. But I just wanted to know where this
2 came from. Anyone?

3 CHAIRPERSON GRIFFIS: Mr. Feola?

4 MR. FEOLA: The interim traffic management plan --
5 you're talking about the one that's dated August 1st?

6 MEMBER ZAIDAIN: Right.

7 MR. FEOLA: Is that correct?

8 MEMBER ZAIDAIN: Yes.

9 MR. FEOLA: That is a refinement of the traffic
10 management plan that the Department of Public Works has proposed
11 as an interim solution here.

12 MEMBER ZAIDAIN: And now when you say that, the
13 interim solution is the memo dated July 5th --

14 MR. FEOLA: Right.

15 MEMBER ZAIDAIN: -- from Mr. Laden.

16 MR. FEOLA: Right.

17 MEMBER ZAIDAIN: Okay.

18 MR. FEOLA: This takes that plan and adds some
19 details to it that were not known at the time.

20 MEMBER ZAIDAIN: Okay. And then a very quick
21 question for Mr. Laden. What specifically did you review to
22 arrive at your opinion or recommendations for your memo dated
23 July 5th? I brought up the construction management plan, which
24 obviously because of the untimeliness you were not able to use.
25 But what specifically did you use to formulate these? Can you --

1 MR. LADEN: Yes. Basically, what I did is I -- I
2 was reviewing a -- a document that was prepared by the
3 transportation consultants for The Field School, which was sent
4 to the Department of Public Works, providing a number of
5 alternative approaches for interim access to the school during
6 this fall.

7 And I also reviewed the BZA order prepared by this
8 Board to determine, you know, what the -- the original conditions
9 were. And I wrote the July 5th memo to BZA staff indicating
10 those terms and conditions which I felt could provide for short-
11 term interim access to the school that was consistent with the
12 basic principles of the BZA order.

13 MEMBER ZAIDAIN: Thank you.

14 MR. BOLOTIN: Mr. Chair?

15 CHAIRPERSON GRIFFIS: Yes.

16 MR. BOLOTIN: If I may, and I see the tide of water
17 is rushing over us here. If you look at point number 35 of the
18 Board's order --

19 CHAIRPERSON GRIFFIS: I wouldn't assume that.

20 MR. BOLOTIN: Okay. If you look at point 35 --

21 CHAIRPERSON GRIFFIS: But water analogies probably
22 aren't great as we've been sitting up here for five hours and
23 probably need a restroom break.

24 (Laughter.)

25 MR. BOLOTIN: If you look at point 35 that Mr.

1 Zaidain looked at, the neighborhood and the ANC was never a party
2 of this construction management plan or the interim. Point 35 of
3 the Board's order specifically said that the applicant shall meet
4 with neighbors and community representatives. This was all done
5 without the community's input.

6 It was presented at one meeting at the ANC. The
7 community has never had a chance to really input, and that it was
8 a requirement of point 35 of the Board's order, which apparently
9 is also being disregarded. Sorry to be argumentative.

10 CHAIRPERSON GRIFFIS: That's all right. I
11 appreciate that pointing to the facts.

12 First of all, let me -- well, let me also turn to
13 both of you. Are there any objections to this Board accepting
14 the August 1st report that was handed to us? And that is labeled
15 as the interim traffic management plan conducted by Gorove Slade
16 Associates.

17 MR. BOLOTIN: I would say so, because the ANC has
18 never had an opportunity to view that, the Wesley Heights
19 Citizens Association, who has had a big impact in deciding that
20 access is going to go through Foxhall Road and not through 44th
21 Street. Had it, you would not have seen any one of us here in
22 opposition.

23 I think that their input was not received, and a
24 number of people's input has not been received.

25 CHAIRPERSON GRIFFIS: Okay. So you object to the

1 Board looking at this and deliberating on it.

2 Yes, sir.

3 MR. SWENDIMAN: Mr. Chair, I would concur as well.

4 I have not had an opportunity to look at it, and Ms. Shugrue has
5 not seen it as well.

6 CHAIRPERSON GRIFFIS: Very well. I will hold it
7 and not take it into the record, then. As Mr. Feola had
8 indicated, you hadn't actually anticipated putting it in.

9 Board, if you would not mind passing all your
10 copies down in this direction, and we will return it.

11 MEMBER ETHERLY: Mr. Chair, I will just note for
12 the record, however, that as we flushed out some questions in
13 particular that Ms. Renshaw had, however, there are some very
14 important details in the August 1 document that -- will they
15 require some subsequent response? I mean, I think any
16 affirmity --

17 VICE CHAIRPERSON RENSHAW: I'd like to read this.

18 MEMBER ETHERLY: -- that might be perceived because
19 other parties or participants haven't had an opportunity to
20 review the document can at least, in part, be addressed by having
21 a copy of the document forwarded to all of the parties. Just a
22 suggestion.

23 CHAIRPERSON GRIFFIS: I agree with you.

24 VICE CHAIRPERSON RENSHAW: Which should be done,
25 Mr. Chairman, because this has been integral to plans that are

1 going to possibly be put into action.

2 CHAIRPERSON GRIFFIS: Okay. Well, we're going to
3 think about that for 10 minutes.

4 Any other quick questions we want answered before
5 we take a brief recess? Good. Then, we're going to do that.
6 We'll be back at 1:30.

7 Now, for those showing up for our 1:00 afternoon
8 session, I would advise you that we will take this for another
9 half an hour when we return. And then we will take a quick lunch
10 break, which will be about 20 minutes. So I would assume that we
11 would be back in and call the afternoon closer to 2:30.

12 So there is ample time to enjoy this gorgeous day
13 that I assume is going on outside behind us. So take in that
14 fresh air, and we will see you all, you folks in front of us now,
15 in 10 minutes, and others towards 2:30.

16 (Whereupon, the proceedings in the foregoing matter
17 went off the record at 1:15 p.m. and went back on
18 the record at 2:15 p.m.)

19 CHAIRPERSON GRIFFIS: I cannot apologize enough for
20 the time we have taken on this. And with that, I would like to
21 jump quickly back into it and try and finish our brief
22 deliberations on our Application 16559.

23 When last we left, we had questions answered and
24 cross examination on these. I am prepared to hear from Board
25 members on how you would like to proceed at this time.

1 VICE CHAIRPERSON RENSCHAW: Mr. Chairman, I
2 recommend to the Board that the applicant and Mr. Laden confer
3 and give back to the Board an alternative traffic management plan
4 that reflects the questions and the debate this morning and to
5 this afternoon, and to attach to that document a construction
6 management plan that would be the applicant's communication to
7 the contractor or, rather, the city's application to the
8 contractor doing the roadwork.

9 CHAIRPERSON GRIFFIS: Okay. Board members,
10 everyone understand the recommendation from Ms. Renschaw on how we
11 would proceed? Let me outline, in fact, that if we do that,
12 clearly, we're not getting that done today. We do not meet in
13 August. That would make us set for submissions of that type of
14 documentation with responses and go to possibly October,
15 depending on our schedule, for a date.

16 I am of a slightly differing opinion. Clearly,
17 this could have been an incredibly detailed submission to the
18 Board, so that we might not have had so many questions, or
19 insecurities let's call it, about certain things.

20 I think, one, it does reflect the fact of how
21 seriously the Board takes the public safety. And whether it be
22 temporarily or permanently, clearly, we're talking about a
23 temporary provision.

24 However, I think it was very assisting in having
25 answers to questions that were specifically raised by the Board

1 members, and I think that the Board should, in fact -- and I do,
2 in fact, focus on how we create a temporary traffic plan that
3 will address the safety of, one, the school, but also, as the
4 school is part of the larger community, that community and those
5 that come in and out of it.

6 With that, and with the fact that we do have a
7 deadline, whether -- and we did hear that conceivably there are
8 other options of other facilities or campuses that can be used.
9 I'm not sure why we want to rely so strongly on that, if we can,
10 in fact, be secure that something of a temporary nature can be
11 implemented.

12 So, other Board members?

13 MEMBER ETHERLY: Mr. Chairman, I agree with your --
14 with your remarks in response to my colleague's suggestion. I
15 believe we have exhaustively dealt with the request in front of
16 us here. I would be inclined, Mr. Chairman, to make a motion
17 that we approve the request for modification of BZA order,
18 pursuant to Section 3129 of the zoning regs, to approve an
19 interim modification to conditions number 13 through 24 of the
20 BZA Order Number 16559.

21 My motion would reflect that the modification of
22 these conditions would only be for a temporary period of time --
23 six months -- and then the original conditions of Order Number
24 16559 would be reinstated automatically.

25 The conditions that would be adopted pursuant to

1 this motion, Mr. Chairman, would be reflected -- would mirror
2 those conditions that were laid out in the July 5th memo as
3 provided by the Department of Transportation under Mr. Laden's
4 signature.

5 I will not go through those conditions in their
6 entirety, but those are conditions consisting of 11 separate
7 clauses. Mr. Chairman, that is my motion, and I would be
8 inclined to seek a second.

9 CHAIRPERSON GRIFFIS: Thank you very much. I
10 second the motion.

11 MEMBER ETHERLY: Mr. Chairman, to follow up with
12 the discussion, if it would be appropriate to do so at this time
13 on the motion, once again, I think we have exhaustively breached
14 a number of very significant issues here. And I am more than
15 certain that the movant, the applicant, understands the
16 seriousness with which this body takes the issue of modifying a
17 preexisting order.

18 But at the same time, I understand the
19 circumstances which have resulted in the applicant coming forward
20 at this particular time. I understand, of course, that a number
21 of my colleagues have some concerns about some perceived
22 infirmities with respect to the submittal of July 5th from the
23 Department of Transportation.

24 I would beg to disagree with that, or at least
25 differ in that I think it was a very -- a very detailed approach

1 to some very significant questions.

2 Mr. Chairman, I would -- I would also note that --
3 actually, let me pause for a moment, Mr. Chair, because I
4 neglected to include clarification on the issue of the right turn
5 or left turn or both egress out of -- out of the facility.

6 As my motion originally stood, that question would
7 be resolved to allow both a left and right turn exit out of the
8 property, and I'm comfortable with that. I'm comfortable with
9 that outcome, Mr. Chairman. I just wanted to highlight that,
10 because I know we had some specific discussion on that particular
11 issue.

12 But just continuing with speaking to the motion
13 itself, Mr. Chairman, I believe we have a very detailed plan in
14 our possession that has been arrived at after some substantial
15 discussion between the applicant and the Department of
16 Transportation -- a plan that I believe takes into consideration
17 the considerable traffic pressures that already exist in the
18 vicinity of the subject property, takes into consideration
19 concerns that have been raised by a number of parties,
20 unfortunately some of whom are not represented here.

21 But at the same time, through written submissions
22 that are in the record and through testimony that we received
23 today in response to questions, I think we've -- I think the
24 proposed conditions, once again, which are interim only for a
25 six-month period endeavor to take into account adjacent

1 neighbors, access to driveways, and I believe also, very
2 importantly, the issue of safety -- safety as it relates to staff
3 and students of the facility, as well as other motorists and
4 other vehicles that are making use of the neighborhood.

5 I was very hardened to get the additional
6 discussion regarding the use of the shuttle bus that will be
7 bringing students onsite. More detail about the staging area was
8 I think very greatly appreciated.

9 And with that, Mr. Chairman, I'll pause -- I'll
10 pause there.

11 CHAIRPERSON GRIFFIS: Thank you. Others speaking
12 to the motion or in opposition? It's not a requirement.

13 VICE CHAIRPERSON RENSHAW: It's not a requirement
14 but a necessity. I made the recommendation that Mr. Laden and
15 the applicant get together and give us a better document because
16 we need a better document. What Mr. Laden has given us through
17 the applicant is, to my mind, an unfinished document.

18 It is en route to an alternative traffic management
19 plan, but it is not there. There are holes, and those holes
20 were, shall we say, exposed today when we brought Mr. Laden and
21 the applicant to the table along with the attorneys for one
22 community group and also the immediate abutter.

23 And we had, really, quite a fascinating exchange of
24 information, but that information is out there to be repackaged.

25 And it's not for this Board to do that assignment. It's for the

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1 applicant and for DDOT to do that assignment and give it back to
2 the Board.

3 I am concerned about Mr. Etherly's statement about
4 six months. Well, from what to what? We know perfectly well, or
5 we can surmise, that there will be delays. I know Mr. Laden said
6 there was some padding in the six-month timeframe, but there is a
7 good chance that it's going to be extended. And then what?

8 Safety in the area has not been buttoned down yet.
9 There is going to be rerouting of traffic -- these buses --
10 through the community. No sidewalks in the area that I can
11 remember, and I go up and down Foxhall Road from time to time.
12 And so that is not, shall we say, firmed up.

13 The hours of the traffic police person, that's not
14 definite. Well, maybe if they turn right, the traffic policeman
15 doesn't have to be there. Maybe if they turn left and right,
16 yes, the traffic police person has to be there. But it's still
17 up in the air.

18 The ANCs and the community have not really seen
19 these important documents, and I'm talking about this alternative
20 management plan or traffic management plan and the construction
21 management plan.

22 And this is not a finished document. We are not
23 ready to assume that this is the alternative traffic management
24 plan for The Field School. It's not there.

25 CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw.

1 MEMBER ZAIDAIN: Mr. Chair?

2 CHAIRPERSON GRIFFIS: Yes.

3 MEMBER ZAIDAIN: I'll just be brief. Despite the
4 outcome of the vote, I would like to applaud both the Office of
5 Zoning and the Department of Transportation for working with the
6 applicant, as well as trying to preserve the integrity of a BZA
7 order. And I apologize because I'm losing my voice as I'm
8 talking, so -- and I've got four hours to go.

9 But I think there are too many questions that are
10 left hanging in the air for us to approve this for such an
11 undefined process. Obviously, we are on kind of an odd territory
12 with this being an interim measure for a BZA order, and I think
13 this would be an excellent process for very concise, clearly-
14 defined issues that come up during the construction of a project,
15 especially when you're coordinating agencies.

16 And I think with the fact that there are so many
17 questions, we are going to compromise what we're doing in terms
18 of allowing representation from the parties, which were accepted
19 back during the regular process, and things such as that.

20 So I am not -- I will not be voting in favor of the
21 motion. I just would like to applaud both those agencies for
22 working with the applicant.

23 And I would like to recommend to the Zoning
24 Commission, if Ms. Mitten can hear me in the other room, that
25 they come up with some guidance on these types of situations, so

1 that we can effectively deal with them in the future.

2 CHAIRPERSON GRIFFIS: Thank you.

3 MEMBER ETHERLY: Mr. Chair, I just wanted to share
4 a piece of information from a letter of July 20th, where Mr.
5 Finney, I believe, lays out very well and very cogently their
6 realization of the need to reach a workable -- workable
7 resolution to this current issue.

8 I will only note that the reason why my initial
9 motion did not include the right turn only option out of the
10 campus is, as Mr. Finney's letter noted, that could conceivably
11 lead to some increase in traffic and felt that the option to do
12 left turn and right turn out of the campus, with the presence of
13 the uniformed officer, will assist in ensuring that backups are
14 kept to a reasonable minimum.

15 Of course, you can't, I don't think, envision a
16 scenario where we're going to be able to completely prevent,
17 outlaw, overrule, backups in the District of Columbia on any
18 street. It's just a fact of life.

19 I believe with the plan that's been laid out, once
20 again, by -- by The Field School and by the Department of
21 Transportation, the presence of these very, very specific
22 conditions, and then also the presence of the officer, I think --
23 I think that we're taking significant steps towards obviating and
24 mitigating any negative impacts.

25 Thank you, Mr. Chair.

1 CHAIRPERSON GRIFFIS: Thank you very much, Mr.
2 Etherly.

3 VICE CHAIRPERSON RENSHAW: But that's just it. We
4 -- these are not specific enough, and we're not -- again, we are
5 not at a point where we should take the document and say, "Run
6 with it," because we need to have more information supplied to us
7 in writing.

8 CHAIRPERSON GRIFFIS: Right.

9 VICE CHAIRPERSON RENSHAW: I have a document that's
10 written all over with how, what are they talking about, where is
11 the staging area.

12 CHAIRPERSON GRIFFIS: I don't think anyone --

13 VICE CHAIRPERSON RENSHAW: You know, all of that.

14 CHAIRPERSON GRIFFIS: -- misunderstands your
15 opinion.

16 VICE CHAIRPERSON RENSHAW: Of course. But I am
17 just saying we are moving ahead with a document that really does
18 not protect.

19 CHAIRPERSON GRIFFIS: Good. Thank you.

20 VICE CHAIRPERSON RENSHAW: I want to make that
21 point.

22 CHAIRPERSON GRIFFIS: I will take the opportunity
23 to have the last word on this motion, and that is this. First of
24 all, we do have, and we have been able to hear, we have the
25 submissions from Mr. Laden who I, as a Board member, rely upon as

1 an expert and trust the judgment out of his office and
2 department.

3 I think that I am in agreement that there was more
4 specificity that we needed, and we went to trying to uncover some
5 of that and discuss it. I think this motion will be called, and
6 we'll see what happens.

7 However, I do want to state the fact that I am
8 fairly disappointed that this Board could not have spent more
9 time, in fact, evidencing those issues and then dealing with the
10 remedies of how we could proceed with it. It is totally within
11 our jurisdiction to address every issue that has come up, and I
12 think we have now stepped away from taking that opportunity to,
13 in fact, tighten up what could have been an even better order.

14 With that, I am going to call the vote, and ask for
15 all those in favor of the motion, signify by saying aye.

16 (Chorus of ayes.)

17 And opposed?

18 VICE CHAIRPERSON RENSHAW: Opposed.

19 MEMBER ZAIDAIN: Opposed.

20 CHAIRPERSON GRIFFIS: And we can record the vote.

21 SECRETARY PRUITT: Staff would record the vote as
22 three to two to approve the modification with a proxy from Mr.
23 Parsons.

24 VICE CHAIRPERSON RENSHAW: Would you detail what --

25 SECRETARY PRUITT: Accepting the conditions of Mr.

1 Laden's report.

2 VICE CHAIRPERSON RENSHAW: Would you detail Mr.
3 Parsons' proxy?

4 SECRETARY PRUITT: That's exactly what it said.

5 VICE CHAIRPERSON RENSHAW: Would you say it again,
6 please? I didn't hear it.

7 SECRETARY PRUITT: His proxy says modification --
8 he approves the modification, with the conditions as outlined in
9 Mr. Laden's report and/or the conditions outlined in Mr. Laden's
10 report and the ANC, either one.

11 CHAIRPERSON GRIFFIS: Thank you very much. That
12 was the motion. However, I would like to continue on my thought,
13 and that is this. I think there were some interesting points
14 that were raised that I don't believe there would be any
15 objection if they, in fact, were addressed. Some of those I want
16 to label or run through now.

17 First of all, I don't think it is objectionable, as
18 a six-month timeframe has been laid out, that we actually -- and
19 I would like to move that we require a filing by the applicant to
20 submit the construction schedule, its full intention, and where
21 it is in meeting that schedule.

22 I would also like to have part of that submission
23 its indication of compliance with the original BZA Order Number
24 35. In addition to that -- and if we have problems, we can break
25 these out, but I do not anticipate we will do that. These will

1 go up or down.

2 I would like to have a pedestrian safety plan put
3 together that indicates how it will be addressed during the
4 construction period. Noting the fact that there are no sidewalks
5 currently there, one cannot assume that it's the safest place to
6 be walking. Noting the fact that there are sidewalks going to be
7 created, it will become more safe.

8 However, in the interim and temporary provision, I
9 think it would be important to safeguard anybody that did decide
10 to do the good thing and walk. And, therefore -- and I would
11 assume that it would be as simple as a construction fence with
12 leveled, compacted earth for a walking surface.

13 I would hope that we would be able to see something
14 like that, and that that would be, in fact, implemented.

15 I also agree with some of what Ms. Renshaw was
16 saying, and I do not think we want to dissuade Mr. Laden and his
17 office from continuing to look at this and to continue
18 discussions and refinements of these.

19 I would request that this Board receive those
20 refinements. And when I say "the Board," I also mean the other
21 parties involved. But I would think it important for us, as we
22 continue to monitor this. Also, within that, it would be helpful
23 -- the question was asked and perhaps can be restated, is what
24 was -- what were the documentations and the analyses done to
25 create the original report that was done by the Department of

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1 Transportation?

2 I would also include in that --

3 MR. LADEN: May I ask a point of clarification on
4 that last item?

5 CHAIRPERSON GRIFFIS: Certainly.

6 MR. LADEN: On the report, are you referring to the
7 July 5th memo --

8 CHAIRPERSON GRIFFIS: Yes.

9 MR. LADEN: -- or the --

10 CHAIRPERSON GRIFFIS: Yes, indeed. And it came out
11 of a statement that you said there were numerous things that you
12 relied upon to create that one document. And just to fill out
13 the record for us, it would be important to have those on file.

14 DIRECTOR KRESS: What about the interim 8 and 10
15 information that was submitted today? Do you want to address --
16 that was not taken into the record.

17 CHAIRPERSON GRIFFIS: Actually, I'm going to hold
18 that out for right now.

19 DIRECTOR KRESS: I'm sorry.

20 CHAIRPERSON GRIFFIS: Let me stop the motion there
21 and ask for a second.

22 VICE CHAIRPERSON RENSHAW: Could I clarify one
23 thing?

24 CHAIRPERSON GRIFFIS: Of course.

25 VICE CHAIRPERSON RENSHAW: You said move a

1 requirement on a construction schedule. That was your first
2 point. I would like to suggest that it be not only the schedule
3 but the construction management plan.

4 CHAIRPERSON GRIFFIS: What are you asking? We
5 don't want to schedule the construction management plan. You
6 want the construction management plan to be submitted or --

7 VICE CHAIRPERSON RENSHAW: To be submitted.

8 CHAIRPERSON GRIFFIS: -- updated where it is?

9 VICE CHAIRPERSON RENSHAW: And the construction
10 scheduling, with construction scheduling.

11 CHAIRPERSON GRIFFIS: I see. I see. I don't see a
12 big complication. I mean, we'll be copied on as that document --

13 MEMBER ZAIDAIN: Well, from a timing standpoint, is
14 that -- is that possible with your design process?

15 MR. LADEN: What I can do is provide the Board with
16 a current construction schedule. The construction management
17 plan would not be available until the construction firm is hired.

18 CHAIRPERSON GRIFFIS: Exactly.

19 MR. LADEN: And under contract, so that would come
20 at a later point.

21 CHAIRPERSON GRIFFIS: Right. And that's why I say
22 we'd be copied as that's created.

23 MR. LADEN: Correct.

24 CHAIRPERSON GRIFFIS: I want to make sure people
25 understand what that means.

1 MR. LADEN: Correct.

2 CHAIRPERSON GRIFFIS: Right. I think that's what
3 we're asking.

4 MEMBER ETHERLY: Seconded, Mr. Chair.

5 CHAIRPERSON GRIFFIS: Thank you, Mr. Etherly.

6 Any further clarification/discussions? I would
7 ask, then, that all those in favor of the motion, signify by
8 saying aye.

9 (Chorus of ayes.)

10 And opposed?

11 (No response.)

12 SECRETARY PRUITT: Staff would record the vote as
13 four-zero-one for submission of information as listed by Mr.
14 Griffis. Motion made by Mr. Griffis, seconded by Mr. Etherly.
15 Mr. Parsons not present, not voting.

16 CHAIRPERSON GRIFFIS: Good. I have one more
17 motion, and I now do want to take up the fact and let me hear
18 whether -- well, I'm going to change my opinion, and I'll ask for
19 the support of the Board on this, in that I took back the report
20 and have not looked at it. We are asking, actually, for
21 information that will come in that will be -- I would imagine
22 this would be added.

23 I would suggest that we accept the report into the
24 record at this point. If there's no objections to that, I can
25 take that as a consensus. But I can hear any objections at this

1 time. Very well, then, we'll accept, and I will call it the
2 August 1, 2002, report.

3 Last motion. I think the condition number 9, which
4 dealt with the turning, I was a little unclear and was hoping to
5 get more clarity, but this is where I'm landing with it. I think
6 it is -- in order to take on the utmost caution, it seems to me
7 to be a very rationale plan to allow only right turns.

8 VICE CHAIRPERSON RENSHAW: But we have right and
9 left and --

10 CHAIRPERSON GRIFFIS: Yes, I know, and that's my
11 trepidation.

12 DIRECTOR KRESS: You can still change that at this
13 point. You can change that as a separate motion, if you wish.

14 CHAIRPERSON GRIFFIS: Indeed. Indeed. And I think
15 -- and the point would be it is anticipated in the leaving of it.
16 Here is my honest position. I think this is something that the
17 Board took very seriously, and I think needs to be discussed.

18 And so I would like to make the motion that we, in
19 fact, modify condition 9 and institute a right turn only when
20 leaving the facility.

21 MEMBER ETHERLY: I'll second that, Mr. Chair.

22 CHAIRPERSON GRIFFIS: Good. Any discussion on
23 that?

24 MEMBER ETHERLY: Mr. Chair, if I could piggyback --

25 VICE CHAIRPERSON RENSHAW: So that is teachers --

1 that covers teachers, school staff, students, parents, for all
2 events, etcetera, right turn only, through this interim period.
3 And, again, I need clarification as to the six months. Does that
4 go to January 2003?

5 CHAIRPERSON GRIFFIS: Right. We'll get that. My
6 understanding is number 9 was actually dealing with the teachers
7 in the school, and what it -- my reading of that was that that
8 was the balloon time, that the most amount of traffic that was
9 going to happen in a short matter of period, and that would, in
10 my understanding, create also some of the more dangerous
11 scenarios when you have the larger traffic going.

12 So in that respect, I would say we'd leave the --
13 we'd leave the wording as is, which is teachers and staff, and
14 they would be required to turn right.

15 VICE CHAIRPERSON RENSHAW: What about special
16 events during this period?

17 CHAIRPERSON GRIFFIS: Whether they turn right or
18 left? I think special events would happen on an off period that
19 would not actually create the -- create the situation that this
20 provision is actually trying to address. So I don't think it
21 would actually be purposeful for putting in.

22 VICE CHAIRPERSON RENSHAW: I disagree.

23 CHAIRPERSON GRIFFIS: Okay. Mr. Etherly?

24 MEMBER ETHERLY: Yes. I just wanted to highlight
25 -- I'm supportive of the thrust of the motion, Mr. Chair. The

1 only reason why I didn't originally, once again, limit it to
2 simply right turn was there was some discussion during an
3 exchange between myself and Mr. Laden where some concern was
4 expressed about the right turn only option generating some
5 additional residential traffic in terms of some of the
6 residential side streets.

7 But I agree with you. I would rather err on the
8 side of being more restrictive and trying to find the safest --
9 safest kind of plan of exit that we can find. So I am in support
10 of your motion, but I did want to just highlight that, because
11 that did emerge in the conversation that we had today.

12 CHAIRPERSON GRIFFIS: Good. Others?

13 MEMBER ETHERLY: Thank you, Mr. Chair.

14 VICE CHAIRPERSON RENSHAW: Are we voting on that?
15 Then, I have a question.

16 CHAIRPERSON GRIFFIS: Yes. Anyone else on the
17 right turn? Very well. All those in favor, signify by saying
18 aye.

19 (Chorus of ayes.)

20 And opposed?

21 (No response.)

22 Okay. That's all I have.

23 VICE CHAIRPERSON RENSHAW: I don't know that it's
24 necessary for a motion, but I can make a motion that we also
25 require --

1 DIRECTOR KRESS: Could we record the vote on that
2 last one very quickly? Thank you.

3 VICE CHAIRPERSON RENSHAW: I need my lunch.

4 SECRETARY PRUITT: I believe -- I just also want to
5 make sure I have the motion correct. Motion to reopen the record
6 and accept the August 1st letter into the record and modify
7 condition 9 to state only right turn out of the schools can be
8 made out of -- right turn out of the school can be made.

9 And motion made by Mr. Griffis, seconded by Mr.
10 Etherly, and the vote is five-zero-zero.

11 DIRECTOR KRESS: It can't be five.

12 SECRETARY PRUITT: Excuse me. Four-zero-zero.
13 I've been here too long. Sorry.

14 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I make a
15 motion that we have the traffic routing outlined and submitted
16 also for the shuttle buses and the teachers and staff. And that
17 would be number 8 and number 10 in the July 5th report.

18 CHAIRPERSON GRIFFIS: I'm just trying to understand
19 what you're looking at. So as they're outlining in number 8,
20 which is the shuttle buses, and number 10, which is identifying
21 the required traffic route, you're actually asking them to --

22 VICE CHAIRPERSON RENSHAW: Identify the shuttle bus
23 route and identify the traffic route.

24 CHAIRPERSON GRIFFIS: Okay.

25 MEMBER ETHERLY: Mr. Chair?

1 CHAIRPERSON GRIFFIS: Yes.

2 MEMBER ETHERLY: I will note that --

3 VICE CHAIRPERSON RENSHAW: For teachers and staff.

4 MEMBER ETHERLY: My colleague may want to take a
5 look -- and, once again, we just accepted it into the record
6 today, so we haven't had an opportunity to review it in full.
7 But the August 1 document outlines, in fairly extensive detail,
8 the shuttle bus access route, both exit -- entry and exit into
9 the campus.

10 CHAIRPERSON GRIFFIS: Okay.

11 MEMBER ETHERLY: And then under employee policies
12 it provides very specific guidance as to employee approaches for
13 the morning as well as -- as well as afternoon when departing
14 work. So that may already be addressed.

15 VICE CHAIRPERSON RENSHAW: And I'd also like to ask
16 that the communication with the three ANCs, where the metro
17 shuttle will have pick up points, be introduced into the record,
18 too.

19 CHAIRPERSON GRIFFIS: Good. Okay. I don't have
20 any problem with that. Does anybody have a problem with that
21 motion? I take that as a consensus. I would reiterate it that
22 it's just the documentation of that -- the conditions 8 and 10 as
23 outlined.

24 Excellent. Yes, that was a consensus of the Board.

25 We can record that whenever you're ready.

1 SECRETARY PRUITT: Motion to provide documentation
2 on conditions 8 and 10 by consensus by the Board, so it would be
3 four-zero-one.

4 DIRECTOR KRESS: And communications with all three
5 of the ANCs.

6 SECRETARY PRUITT: Thank you.

7 CHAIRPERSON GRIFFIS: Very well. I think that's
8 it.

9 Yes, Mr. Laden?

10 MR. LADEN: I just wanted to request a
11 clarification on the last item.

12 CHAIRPERSON GRIFFIS: Yes.

13 MR. LADEN: The notification to the three ANCs,
14 that's relating to notification about the three metro collection
15 points, subway collection points?

16 VICE CHAIRPERSON RENSHAW: Subway collection
17 points, where the bus is going to be staged.

18 CHAIRPERSON GRIFFIS: All right. Okay. Any other
19 questions/clarifications? Very well. I thank you all for your
20 patience. I will also -- the last detail on this -- timing. It
21 is the assumption of the Board in what we've just done that the
22 timing started the 1st of August. The six months would run to
23 the 1st of January. So that is our six months, in my
24 understanding of what we have just produced. Yes?

25 MR. LADEN: Would it be the end of January?

1 CHAIRPERSON GRIFFIS: January is included in the
2 six months.

3 MR. LADEN: All right.

4 CHAIRPERSON GRIFFIS: Thanks very much for that.
5 Someone will give me a calendar for my birthday, I'm certain.

6 However, I wish you all a great day, a pleasant
7 afternoon, and I, again, appreciate everybody's patience running
8 through this.

9 Okay. When staff is ready, we can call the last
10 case in the morning. No, actually, we're not in the afternoon
11 session yet. We're still finalizing the morning. Believe me,
12 I'm with you on that.

13 While we're about to call the session, this is what
14 we will do. This next decision-making will take a matter of
15 moments, I guarantee you, as opposed to the other -- I did not
16 say that at the beginning of the other one. And then we will --
17 I need to get food in the Board members, and so I am going to
18 look at -- we're going to recall at 3:15. We've got to keep this
19 moving.

20 Okay. Let's call our next case.

21 SECRETARY PRUITT: Mr. Chairman, this is the last
22 case of the morning agenda. Application 16907, application of
23 U.S. Property Development Corporation, pursuant to 11 DCMR
24 3104.1, for a special exception from the ground floor retail
25 requirement under Section 1901, and pursuant to 11 DCMR 3103.2,

1 for a variance from the lot occupancy requirement under Section
2 772, and a variance from the residential recreation space
3 requirement under Section 773, to allow a mixed-use
4 (residential/retail) development in the Arts/C-3-A District
5 located at 1522 through 1526 14th Street, N.W., Square 209, Lot
6 98.

7 Hearing date on this was July 23rd. Decision date
8 was July 23rd and today.

9 On the 23rd, the Board approved the variance from
10 the lot occupancy and recreation space and deferred action on the
11 special exception relating to the required retail and service
12 uses under Section 1901. Based on the information presented at
13 the public hearing, the Board expressed some concern about
14 reducing the retail requirement space from 50 to 44 percent.

15 The applicant submitted modified plans at the
16 hearing, and it requested the flexibility to further reduce the
17 amount of first floor area dedicated to retail, service, or arts
18 from 50 to 40 percent.

19 The Board requested that the applicant provide
20 additional justification for the approval of this special
21 exception. Additionally, the Board requested that the applicant
22 investigate the possibility of providing arts and arts-related
23 use in the proposed development. Currently, this applicant has
24 not -- their proposal does not have any arts-related use in the
25 project whatsoever.

1 The status -- the Board requested the applicant
2 work with the Office of Planning to explore the possibility of
3 providing arts-related uses in the project and would file a
4 report. The Board is in receipt of a report from OP filed
5 Monday, July 29th, timely. The Board received a report from the
6 applicant. It was filed one day late, basically.

7 This is now before you for decision, sir.

8 CHAIRPERSON GRIFFIS: Thank you very much.

9 First of all, I'm not going to reiterate the entire
10 case on this, because I think the record is fairly full.
11 However, there was concern on the Board in terms of the
12 residential recreation space and/or -- well, and, more
13 importantly I might say, the arts overlay requirement.

14 Looking at the Office of Planning submission, I
15 think, once again, there is a very wise recommendation, and I
16 would like to, in order to expedite this, indicate that -- I
17 would make a motion that we approve the reduction of the required
18 retail and service floor area for Application 16907, in
19 conformance with the conditions outlined by the Office of
20 Planning.

21 And that allows for flexibility, which was asked
22 for by the developer, and, as you know, the flexibility and the
23 importance of that was, first of all, the unique shape of this
24 property and the floor plan.

25 But also, the -- let's call it the fickle nature of

1 retail tenants and finding retail tenants, and especially for
2 smaller footprint tenants. They are one of a kind, by
3 definition, and, therefore, not necessarily ensuring exactly how
4 much space they would need, require, or actually utilize.

5 However, the Office of Planning I think has struck
6 an excellent balance of, if not retail, then residential
7 recreation, which goes to fulfilling I think the intent of the
8 overlay, if not the exact spirit of it.

9 So I can look for a second on that.

10 MEMBER ZAIDAIN: I'll second that.

11 CHAIRPERSON GRIFFIS: Thanks. And then, any
12 discussion? Any other -- Mr. Zaidain?

13 MEMBER ZAIDAIN: I'd just like to say I was a
14 little disappointed with what we received back, in the sense that
15 we -- I think we were looking for something creative to do -- or
16 to come out of that flex space, but I think it's a good project.

17
18 And I would just encourage the developer, with the
19 flexibility that we're giving them, to put something in that
20 space that satisfies either the residential requirement or the
21 intent of the arts overlay district, which is some type of art
22 use. I think since that is the zoning district, that intent is
23 there for a reason. Some people may scoff at it trying to
24 encourage art-type uses, but I'm not one of them, so I'd like to
25 say that for the record.

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1 CHAIRPERSON GRIFFIS: Well, nor is anyone in that
2 overlay. Good.

3 MEMBER ETHERLY: True.

4 CHAIRPERSON GRIFFIS: Thank you much.

5 And it does point -- you know, this was an
6 interesting case in terms of the -- what I understand is in front
7 of the Zoning Commission in terms of mixed-use zoning areas. It
8 points out -- I mean, this is very specific and small, but it
9 points out the difficulty of the market or the marketability of
10 retail space. While trying to encourage that, what kind of
11 incentive might be developed in order to offset any sort of
12 difficulty?

13 Ms. Mitten?

14 COMMISSIONER MITTEN: Mr. Chairman, I would just
15 like to propose a modification to the language that the Office of
16 Planning has included, because I don't think it's precise enough.

17 CHAIRPERSON GRIFFIS: Excellent.

18 COMMISSIONER MITTEN: And it's language that I'm
19 pretty sure that I understand what they're going after because
20 it's included in the first paragraph on page 2, and then it's
21 repeated in the condition, which is there was a debate going on
22 between the applicant, their proposed use of the -- of the space
23 that's in question as storage space.

24 And the Office of Planning is saying, no, we would
25 rather have it be residential recreation space or another non-

1 residential use, seemingly not storage. So I would like to
2 propose an amendment that would say to the condition that the --
3 the difference between 40 percent and 47.7 percent be designated
4 for residential recreation space and/or occupied by non-
5 residential uses as listed in Sections 1907 and 1908 of the
6 Uptown Arts Mixed-Use Overlay District.

7 MEMBER ZAIDAIN: Just to clarify that, are you
8 talking about requiring the balance of the variance?

9 COMMISSIONER MITTEN: Correct.

10 MEMBER ZAIDAIN: Which would be from -- I thought
11 the requirement was 50 percent for some reason.

12 COMMISSIONER MITTEN: It is. I believe that Mr.
13 Griffis' motion was --

14 MEMBER ZAIDAIN: Right.

15 COMMISSIONER MITTEN: -- sort of a mirror of what
16 the Office of Planning had proposed, which they proposed just
17 flat out granting the variance to 47.7, and then there was this
18 supplemental language that would apply if they went below 47.7.

19 MEMBER ZAIDAIN: Okay. So what you're saying is
20 allowing them the flexibility, and then wherever that comes in,
21 in between 40 and 47, the balance.

22 COMMISSIONER MITTEN: Yes.

23 MEMBER ZAIDAIN: Okay.

24 CHAIRPERSON GRIFFIS: And, Ms. Mitten, for -- in
25 order that I follow it, are you -- you're just adding in 1907 and

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1 1908 to be specific. You're not changing the language that's in
2 there. Are you removing another allowable non-residential use?

3 COMMISSIONER MITTEN: Well, that would permit
4 storage, if you just left it vague.

5 CHAIRPERSON GRIFFIS: That's an excellent point.
6 So you are, in fact, taking that out.

7 COMMISSIONER MITTEN: Right.

8 CHAIRPERSON GRIFFIS: Excellent.

9 COMMISSIONER MITTEN: I'm substituting I guess.

10 CHAIRPERSON GRIFFIS: Everyone okay on that? I
11 think that's excellent.

12 Any other suggestions? Questions?

13 That's why we invited Ms. Mitten.

14 All those in favor, signify by saying aye.

15 (Chorus of ayes.)

16 And opposed?

17 (No response.)

18 Thank you all very much. I'll see you in 15
19 minutes.

20 SECRETARY PRUITT: Excuse me, Mr. Chair. I didn't
21 get the second on that particular case.

22 CHAIRPERSON GRIFFIS: Mr. Zaidain.

23 SECRETARY PRUITT: Thank you.

24 CHAIRPERSON GRIFFIS: Indeed.

25 VICE CHAIRPERSON RENSHAW: And that was on the

1 amended motion.

2 SECRETARY PRUITT: Correct.

3 CHAIRPERSON GRIFFIS: Right. What day is it today?

4 Indeed, it's still the 6th of August 2002.

5 Thank you all very much.

6 (Whereupon, at 2:55 p.m., the proceedings in the

7 foregoing matter were adjourned.)