GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING AND ADJUSTMENT

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PUBLIC HEARING
(Continued from February 15, 2005)

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Tuesday, February 22, 2005

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The Public Hearing was convened in the Office of Zoning Hearing Room, Suite 200 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:00 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

JOHN G. PARSONS	Zoning Commission

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Acting Secretary
BEVERLY BAILEY	Zoning Specialist
JOHN K. A. NYARKU	Zoning Specialist

OFFICE OF THE ATTORNEY GENERAL:
SHERRY GLAZER, Esq.

OFFICE OF PLANNING:
JENNIFER STEINGASSER

This transcript constitutes the minutes from the special hearing held on February 22, 2005
A-G-E-N-D-A

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WARD THREE

PHILLIPS PARK, LLC, 2101 FOXHALL ROAD, N.W.
APPLICATION NO. 17276 - ANC 3-D 7

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

9:09 a.m.

CHAIRMAN GRIFFIS: Take a seat and let me call to order the 22nd of February, 2005 special public hearing of the Board of Zoning Adjustments to the District of Columbia. My name is Geoff Griffis, chairperson. Joining me today is Vice-chair, Ms. Miller and also representing the National Capital Planning Commission is Mr. Mann. Representing the Zoning Commission with us is Mr. Parsons. Mr. Etherly will be with us shortly.

Copies of today's hearing agenda are available for you. I'm going to abbreviate some of my openings because we all know what we're here for this morning in this special meeting, but there are very important aspects that need to be understood by those who have been here and are just here for the first time this morning.

All proceedings before the Board of Zoning Adjustment are recorded. They're recorded in two fashions. The most important of course is a court reporter sitting to my right. I would ask anyone that's going to address the Board today that has not previously done, to fill out two witness cards prior to coming forward to speak to the Board. Those two

witness cards go to the reporter prior to having a seat and making yourselves comfortable.

When you first address the Board, I'd ask that you state your name and address for the record. That way of course we can tie all the important testimony you will provide to you in the transcripts.

The order of procedure I am going to skip as we have set that already. We've started this application. We have taken a few things out of order and we need to get right to it.

Cross examination is of course going to be conducted by the applicant of this case, also by the parties and the ANC. We have established three parties in this case, all of which are able to conduct cross examination.

The record will be closed at the conclusion, I would anticipate, of today's hearing except for any additional material that the Board would request. We had started a short list and we'll review all that to make sure that everyone is absolutely understanding specifically that material which will be submitted into the Office of Zoning. After that is received of course the record would be closed and no other information will be accepted into the record.

The Sunshine Act requires that this Board conduct all its proceedings in the open and before the public. This Board may, consistent with its rules of procedure, regulations and the Sunshine Act, enter into executive session both during or after a hearing on a case. That would be utilized for the purposes of reviewing the record and/or deliberating on a specific case.

The decision of this Board in contested cases must be based exclusively on the record that's created before us. That's why it's so important to get everything in that we request and that you want us to know. But also we would ask that people please refrain from engaging Board members in conversation today while the hearing goes on so that we do not give the appearance of receiving information outside of the record.

Let me just ask everyone to please turn off cell phones and beepers at this time so that our transmission is not interrupted or people providing testimony are not abruptly distracted.

That being said, a very good morning. Ms. Bailey with the Office of Zoning is with us on my very far right and welcome quickly back from hopefully a wonderful afternoon.

Ms. Bailey, are you aware of any preliminary matters for the Board's attention?

MS. BAILEY: Mr. Chairman, good morning. To everyone, good morning. The only preliminary matter, Mr. Chairman, perhaps, if there's anyone here today who was not sworn in previously who would be testifying today, perhaps this is a good time to swear them in.

CHAIRMAN GRIFFIS: I absolutely agree. People that are going to provide testimony that weren't here previously, if you would please stand and give your attention to Ms. Bailey. She is going to administer the oath.

(The witnesses were sworn.)

CHAIRMAN GRIFFIS: Good. Thank you very much. Does anyone else present today as a part of this case, application 17276, have any preliminary matters or anything before us?

(No audible response.)

CHAIRMAN GRIFFIS: Very well. Ms. Bailey, why don't we call the first case?

MS. BAILEY: Thank you, sir. And that is application No. 17276 of Phillips Park, LLC for a special exception to allow theoretical lots for 35 single-family detached dwellings under Section 25-16.

The property is located in the R-1-A District. The project also includes construction of 13 single-family detached dwellings as a matter of right. The property is located 2101 Foxhall Road, N.W., Square 1346, Lot 822.

CHAIRMAN GRIFFIS: Good. Thank you very much.

As we had left off, Ms. Gates, a very good morning to you. We are taking the ANC next and then moving on to Government agency reports and then we'll wing it from there. Good morning.

MS. GATES: Thank you, Chairman Griffis. Good morning.

My name is Alma Gates. I'm chair of ANC 3-D. I reside at 4911 Ashby Street, N.W. My home where I've lived for over 50 years is located just west of the proposed Dunmarlin site.

On the evening of February 1st, the night before ANC 3-D's monthly meeting, a new application was delivered to the doors of ANC 3-D Commission members. Twenty-four hours is insufficient time to fully review a new application. But based on the development team of M.B. Visnic, Inc. and Vance Barnes Architect, with whom we had met at two previous meetings, the Commission embraced this application

with conditions. The Visnic-led team offered integrity, a level of sensitivity and reputable assurance that the community would have a development that reflects the quality workmanship of surrounding areas; Wesley Heights, Spring Valley and Colony Hill.

Missing from two lengthy applications or the three presentations before the Commission were a grading plan, a storm water management plan and a construction management plan. On Tuesday, February 15, 2005, still new material was distributed and presented to the Board which may be a function of the evolving nature of the project and its evolving partners.

Mr. Prior spoke publicly for the first time. There was no mention of Ted Visnic. New. consulting members were introduced and we've learned that Messrs. Barnes, Lynn and Pitchford do not have signed contracts. Still the Board was assured that this is well because a peer review process has been put in place.

The subject property is located along Foxhall Road and is surrounded on two sides by federal park land, Glover-Archbold Park and Whitehaven Park. As you have heard, it is an unusual property with 16 acres of steep slopes, rolling hills, wooded areas,

wetlands and a dramatic view of Glover-Archbold Park 120 feet below. The height at Foxhall Road is 280 feet above sea level. So you get an idea of the steepness. Mindful that this parcel is one of two large desirable tracts of land in the city, the Commission conditioned approval of this application on the assurance that its future development is directed, determined and destined by more than a zoning change. Therefore, the final order issued by the Board of Zoning Adjustment for application 17276 must ensure guidance supported by enforceable conditions.

On Sunday, I walked up to the site of the proposed new access drive into Dunmarlin. I stood at the edge of Foxhall Road and imagined that I was in a car attempting to exit the property. Directly ahead of me is a residential dormitory belonging to GW Mount Vernon. To my right, looking north, I could see the traffic light at Field School and the steeply sloping hill that curves in front of the school's entrance. To the south, I could only see an earthen berm, a number of trees and utility poles. I could not see the oncoming traffic, nor could it see me until I leaned into the road. Moving the new drive 50 feet further north would provide a line of sight greater than the current 250 feet and provide less impact to

the trees lining Foxhall Road.

The current absence of a builder/developer who can address the overall time frame, phasing and management of this development project places a special responsibility on the Board and requires measures to be put in place to ensure that impacts to the immediate neighbors, especially Chandra Hardy, the only adjoining residential neighbor, and to the Dunmarlin property are kept to a minimum.

The proposed new entrance is not an acceptable location for construction vehicles. In earlier conversations between the ANC And Mr. Visnic, his vision was to begin staging the existing entrance at 2101 Foxhall Road where there is an established road and a spacious open field area for parking and construction vehicles. There is sufficient space to store equipment and building materials. This is the site of the former Phillips home and the proper place for the project to begin its operations. A surrounding canvas-covered chain link fence would hide the site from view of residents on W Street and not require the immediate removal of interior trees that would be required further south on the property. It would also permit utility poles on Foxhall Road to remain in place. A George Washington University

residential building is immediately opposite the proposed new access drive. Residents would be separated from noise, dirt, construction equipment, workmen and their parked vehicles. Establishment of a construction entrance at 2101 Foxhall Road, the current entrance to the property, is a necessary condition.

A construction management plan thoroughly reviewed and monitored by DDOT must be a condition of approval. The gate of the project opens at 7:00 a.m. and closes at 5:00 p.m. during weekdays and no permits issued for weekend work will be issued. Hours of operation need to be noted and conditioned. A 24-hour hotline needs to be implemented and conditioned. A DDOT-approved heavy construction truck protocol and route needs to be established, implemented and conditioned.

The Board heard that Foxhall Road is slated to be improved and resurfaced beginning this spring. Given its current condition, Foxhall Road cannot wait to be resurfaced until this development is complete. Foxhall Road must be returned to the same condition or better when project-related utility work is complete.

Phasing of the project needs to be

established and conditioned and must include a contingency plan should the current owners not complete the entire development project. It would include directives on how any unfinished work and open land will be addressed.

A condition needs to be put in place to ensure that trees are properly safeguarded and that drip lines are not intruded upon during construction. Tree maintenance, protection of specimen trees and replacement requirements need to be overseen by a registered arborist and conditioned to ensure that all provisions of the Urban Preservation Act of 2002, the Tree Bill, are implemented, if not exceeded. The Board was informed by Mr. Pitchford that it can take years for a tree to die. The condition should include a time frame for specimen trees especially addressed in the Tree Bill.

Throughout the construction phase and beyond, the wetlands that lie at the low point on the property will need special monitoring by all appropriate agencies, Army Corp., National Park Service and D.C. Health. Harmful chemicals, road salts and herbicides must not be used during the construction phase or thereafter. The continued life and health of the wetlands area must be guaranteed as

a condition of approval.

Monthly meetings between the contractor/builder, the immediate neighbors, interested parties and a representative of the ANC at the Palisades Library must be a condition of approval.

A representative of the National Park Service has termed the storm water management plan for the Field School the standard for large projects, including this one. He said that he has been assured that the Dunmarlin proponents will exceed the Field School's measures. Immediate neighbors of Field School and those who live downstream on Hutchins Place might not concur with the choice of the Park Service. One immediate neighbor of the Field School has spent $40,000 on attorney's fees and still has a front yard with standing water. Another neighbor has had a constantly damp basement since the school was built. Water cascading down Foxhall Road has eroded its boundaries and now cascades down Whitehaven Parkway and ends in the yards of residents on Hutchins Place one block below McArthur Boulevard.

The Park Service staff member also commented that his agency participates in conservation easements with private land owners and organizations such as the Nature Conservancy and the Potomac

Conservancy. A look at the site plan for Dunmarlin shows that several houses at the low end of the lot are very close to the wetlands that are only protected by a 20-foot wide buffer. Increasing the buffer from the minimum requirement of 25 feet to 100 feet to prevent the urbanization of this now-vegetated property needs to be a condition of approval.

The plan now is for catch basins to collect water, filter it through sand and discharge it into the wetlands for further processing. The wetlands drain into Glover-Archbold Park's boundary branch and then go on to the Potomac River and the Chesapeake Bay. Mr. Lynn addressed some innovative on site water treatments that characterize low impact development placing rain gardens on every property appears to meet that goal, but the plan is only one week old and its implementation remains unknown. It would be easier and less expensive to treat water on site than let someone else do it by moving the problem downstream. That approach also speaks to responsibility. Water that is captured for on-site irrigation treats water as a resource.

A biologist, Julie Moore, who toured the site in January, commented, "The interesting existing attributes of the property have been largely ignored

in planning the residential development. The natural topographic variation will be reshaped if the current plan is followed, whereas it may be feasible to keep the terrace effect of the contours, at least in the northwestern sector on the steep slope south of the old mansion site. Plans show that existing cover of many mature trees will be removed and scattered individual trees retained. Most of the existing trees are species that are susceptible to impact if care is not taken to maintain their root systems. They currently function as a stand rather than individual trees and thus will be susceptible to wind-throw if they are reduced to isolated representatives. A considerable amount of earth moving will be needed if the property is reshaped to follow current development plans. The high, nearly-level, ridge at the corner of Foxhall Road and W Street will be cut down and material pushed south to make the site more level for homes. Considerable erosion is probable and sediment will quickly impact the wetlands and probably move through the drain into the adjacent parkland. The wetlands will be impacted by both the earth moving and the proposed road system."

Julie Moore recommended minimizing the topographic alterations by using a road lay out that

does not require considerable cut and fill; remove roads from steep slopes; protecting wetlands and using them as an amenity for the development; protect the steep slope at head of drainage north of Whitehaven Parkway, springs may originate there at the old cistern; buffer the wetlands with water tolerant species such as Sweet Bay Magnolia; maintaining groups or groves of trees such as the ones on the southwest-facing slopes of the eastern sector rather than trying to select specimen trees that are easily damaged during construction and are susceptible to wind-throw if isolated as individual trees after having been part of a forest or grove; retain stands of trees as wooded areas that give character to the site and prevent the need for lawns and their maintenance requirements and runoff issues.

This morning we were presented with another grading plan with another set of refinements. While its intention is directed toward tree-saving objectives, it will only save 62 specimen trees, a couple less than before. If the goal of the new grading plan is to save more specimen trees, it has failed. Sixty-two trees on over 16 acres is not a serious goal.

In conclusion, in its February 4, 2005

letter, ANC 3-D submitted a number of conditions based on information that was available at the time of its vote. These conditions were met with approval by those representing the development team and its attorney. I have included them in this testimony and will read them into the record.

Applicant agrees to relinquish all rights/claims to the undeveloped portion of 44th Street, the paper road that abuts the property at 2101 Foxhall Road, remove the concrete slabs and other remnants of the old road bed and work in collaboration with the National Park Service to ensure that the District of Columbia transfers jurisdiction of that portion of 44th Street to the National Park Service.

Applicant agrees to place covenants on the deeds of sale of properties that border the federal parkland that prohibit the placement of structures within the rear yard setback.

Applicant agrees to require that all swimming pools are constructed within the allowable lot foot print.

Applicant agrees to require the Dunmarlin Homeowners Association to institute a policy that would prohibit the use of harmful chemicals, pesticides on properties within the development to

ensure further protection of the natural wetlands.

Applicant agrees to work with DDOT to maintain or improve the natural earthen berm fronting on 2001 Foxhall Road; that's Chandra Hardy's property, and ensure that it is minimally disturbed at Foxhall Road, is reconfigured for the purpose of installing traffic improvement including a traffic signal, an additional traffic lane and a sidewalk.

Applicant agrees not to recommend to DDOT a right-turn only policy from the east side of W Street.

Applicant agrees not to request that DDOT fully signalize the traffic light on Foxhall Road at Field School in accordance with BZA Order No. 16559.

Applicant agrees to work closely with DDOT and assume all costs related to the installation of a new on-demand traffic light at the proposed new Dunmarlin entrance on Foxhall Road.

Given the complexity of this ever-changing application, a bench decision is inappropriate. When conditions are written, ANC 3-D requests that their submissions are given the great weight to which they are entitled under D.C. law. Further, ANC 3-D will work cooperatively with the developer in a peer review of final submissions and the Board in drafting the

final condition for this order. Thank you.

CHAIRMAN GRIFFIS: Good. Thank you very much. I appreciate the testimony today and also the written submission of it.

You noted that you were in receipt of a new site plan? Is that correct?

MS. GATES: Something was e-mailed to us late last night.

CHAIRMAN GRIFFIS: Okay. And I imagine we may see that at some point also.

That being said, appreciate it. You've gone through an awful lot of very substantive things, starting with of course the moving of the new drive, the time frame, the design team, the importance of knowing what this will be in the end and then how long it might take in terms of phasing. Certainly there are some construction issues that relate to I think some temporary aspects, but also clearly long term aspects and that is of course the effects of the wetlands.

You listed the conditions as you had previously at your conclusions. There were the conditions at the beginning or aspects that -- well, they were proposed as conditions. Was that also agreed upon from the overall ANC?

(No audible response.)

CHAIRMAN GRIFFIS: Okay. Just to bring --

MS. GATES: No.

CHAIRMAN GRIFFIS: Very well. Let me take any Board questions at this time. Ms. Miller?

VICE-CHAIR MILLER: I just have a couple, Ms. Gates. I'm just wondering, the 24-hour hotline, what type of problems are you anticipating that would require a 24-hour hotline?

MS. GATES: I honestly hope there won't be any problems, Ms. Miller, but I know that in construction projects such as the Field School at GW, the Board did implement a condition that required a 24-hour hotline just in case something happens. I mean, kids could get into the property or something like that, so you want to be able to notify the appropriate person that there's a problem.

I think it's also useful when construction schedules change because they're pouring concrete or that kind of thing. We had a situation recently where a pour was still going on at 10:30 at night.

VICE-CHAIR MILLER: And my other question goes to, we had a discussion, I think a little bit last week, about this buffer zone being increased from 25 feet to 100 and I was just wondering if you have

some basis for that 100-foot buffer amount.

MS. GATES: Well, I think I would really prefer to use the word "setback" to "buffer." Buffer sort of implies that there are just going to be a lot of trees around there, but the trees could be in someone's back yard. Whereas a setback really sets property aside. This is a wetlands. It's a very special area and it should not be encroached upon. It needs to be set off from the other properties.

VICE-CHAIR MILLER: I was just curious if there's some --

MS. GATES: I also think I heard Mr. Parsons make a comment that he would favor a wider setback than was being proposed.

VICE-CHAIR MILLER: That's right. I know there was discussion last week and I was just curious from your point of view whether there was something about 100 feet versus 75 feet, or where that 100-foot figure was coming from. Okay. Thank you.

MS. GATES: Thank you.

CHAIRMAN GRIFFIS: Mr. Mann?

MR. MANN: I have just a couple of questions. You noted in your testimony that you'd like to move the new drive 50 feet further north. That's 50 feet further north than the proposal that we

saw last Tuesday?

MS. GATES: Yes, I actually have the DDOT road plans. I have not put them up because they're in a big roll, but the line of sight is -- I think the traffic light, if it's agreed to, will solve the problem. But should there be any question about that, the line of sight where it is is very dangerous.

MR. MANN: So the plans that you're talking about you used in determining the 50 feet?

MS. GATES: Was the DDOT drawing.

MR. MANN: Okay.

MS. GATES: And I'm happy to put it out on the table for you to look at.

CHAIRMAN GRIFFIS: Is that something that we have in the record?

MS. GATES: No, I don't think so.

CHAIRMAN GRIFFIS: What is it?

MS. GATES: These are the plans that DDOT is using for their proposed improvements. So these were released in January of this year. They're very current and they show that segment.

CHAIRMAN GRIFFIS: How much are they? I mean, how big are they? How many papers are you talking about? Oh, my. No.

MS. GATES: But, it's really only one

page.

CHAIRMAN GRIFFIS: Indeed. Okay. Well, we're going to need copies of it. How do the Board members feel? I mean, now we're talking about it, we probably ought to look at what we're talking about. So, let's get copies distributed at some point. However you want to facilitate that, we'll put it in as part of your testimony. Applicant and the parties of course are going to need it and I think we need what, 150-200 copies? No, make it 15 and then -- so, and if we can get them reduced, that would be perfect. It looks like those are about what, 24 by 36 sheets?

MS. GATES: Yes.

CHAIRMAN GRIFFIS: Okay.

MS. GATES: At least.

CHAIRMAN GRIFFIS: Good.

MR. MANN: I just had one brief other question. You noted that a biologist Julie Moore toured the site in January. Who is Julie Moore?

MS. GATES: To be honest with you, Mr. Mann, Ann Haas, who was to be with me today, is the Julie Moore contact. I only know here as a biologist.

MR. MANN: Was she there at the request of the ANC?

MS. GATES: As a single-member district,

yes.

MR. MANN: Was Julie Moore touring the site at the request of the ANC?

MS. GATES: Yes.

MR. MANN: Okay. Thank you. One additional question. There was entered into the record last week some information regarding an alternative entrance to the site that was originally proposed I guess during discussions of the development of the --

MS. GATES: The one on W Street that was removed?

MR. MANN: No, the information that was entered into the record last week concerned extending Whitehaven Parkway east of Foxhall and accessing the property through --

MS. GATES: Through the park?

MR. MANN: That's correct.

MS. GATES: Across the park?

MR. MANN: That's correct. There was a written submission last week that addressed that. And I was wondering --

CHAIRMAN GRIFFIS: To be clear, it's by one of the parties in the application. I believe it's the certain residence for --

MR. MANN: That's correct. And I was wondering whether or not you had an opinion regarding the idea of accessing the property, accessing the subdivision through an extension of Whitehaven Parkway.

MS. GATES: I have a very strong personal opinion. I'm very much against that. The Commission, when this piece of parkland was proposed as a drive to the Mayor's Mansion, they were going to use some of it. The Commission took a very strong stand against the use of that parkland for anything other than parkland. So I think it would be fair to say putting a road across it would also be opposed.

CHAIRMAN GRIFFIS: Good. Thank you.

MR. MANN: Thank you.

CHAIRMAN GRIFFIS: Excellent question. Any others? Any other questions?

(No audible response.)

CHAIRMAN GRIFFIS: Just briefly, you had talked about how to deal with the water on site, the storm water management, and you seem to leave it a little bit open.

MS. GATES: I had to leave it a little bit open because frankly I really --

CHAIRMAN GRIFFIS: So you're not aware of

any sort of options that you would actually propose or have us look at?

MS. GATES: Not at this point, no.

CHAIRMAN GRIFFIS: Okay. No, and that was just to clarity. It's a very complex issue that experts will deal with, but I think it's a good point to bring up in terms of our exploration of what other options there are in dealing with that and also in terms of maintaining the adjacent areas in terms of water runoff.

MS. GATES: I do think that the runoff to adjacent areas is going to be critical in your decision making and Mrs. Hardy especially could potentially be very impacted and I think that should not happen.

CHAIRMAN GRIFFIS: Okay.

MS. GATES: Nor do I think the people, as I mention in my testimony, downstream should be impacted by this.

CHAIRMAN GRIFFIS: Right. Right. Very quickly revisiting the aspect of this setback or buffer, what have you, if it was a dimension off of the property line, in your view, what would happen in that area? So if it's a setback, obviously the building would not encroach on that, but what else

would be possible to have happen?

MS. GATES: A road could be put there.

CHAIRMAN GRIFFIS: On the individual lots. I mean, the lots that we were talking about. Would you see a pool being proposed in that area?

MS. GATES: If the pools are to be kept within the setback area, or the footprint area that --

CHAIRMAN GRIFFIS: I guess that's what I'm getting at. You're envisioning this setback from the park or the property line as then defining the building footprint area. So everything would have to occur outside of the setback then.

MS. GATES: Yes. I hope so.

CHAIRMAN GRIFFIS: Okay.

MS. GATES: I mean, I would like to see a nice open -- I would like to see it planted so that it does appear to be a buffer, but it's actually a setback as well.

CHAIRMAN GRIFFIS: Right. But would you see anything precluding a property owner from putting up a private putting green with beautiful grass that's totally open and has a good view to the house, or is it really buffer element that you don't want to see anything?

MS. GATES: The putting green is an

interesting proposal. I suppose --

CHAIRMAN GRIFFIS: A lot of maintenance.

MS. GATES: -- if it were a putting green and it were really a putting green that didn't have a lot of chemical pesticides, etcetera --

CHAIRMAN GRIFFIS: Right.

MS. GATES: -- I wouldn't object.

CHAIRMAN GRIFFIS: I see.

MS. GATES: If it were an open space.

CHAIRMAN GRIFFIS: I see.

CHAIRMAN GRIFFIS: Yes, because they'd have a water --

MS. GATES: People could walk on the putting green?

CHAIRMAN GRIFFIS: -- trap with their, you know, their attention on site. They'd have a little water trap, chip and putt. All right. I'm digressing. Okay. I just wanted to get clarity what your picture is. I mean, we get this -- you know, the words are thrown around all the time, but I think we need a little bit of detail on --

MS. GATES: I really want to see this area separate.

CHAIRMAN GRIFFIS: Right. Okay. Excellent.

Okay. Anything else from the Board?

(No audible response.)

CHAIRMAN GRIFFIS: Very well. Let's move ahead then. Does the applicant have any cross examination of the ANC?

MR. NETTLER: Good morning. Richard Nettler for the applicant. Good morning, Ms. Gates.

MS. GATES: Good morning.

MR. NETTLER: Let me just I guess go back to the first question that Mr. Griffis asked you.

Essentially the last page of the statement that you read this morning, that's what the ANC voted on at their meeting in February, correct?

MS. GATES: Yes, sir.

MR. NETTLER: Okay. So the ANC didn't vote on the preceding pages, correct, or the conditions in those pages?

MS. GATES: That's right.

MR. NETTLER: Okay. And is it correct to say that a lot of the conditions that you put in the preceding pages were conditions that Ms. Hardy asked you to put in?

MS. GATES: Absolutely not.

MR. NETTLER: Okay.

MS. GATES: I considered these conditions

based on additional information that came in. Mrs. Hardy has not asked me to do this. I am very aware of her property. I have been to her property, yes. But she did not ask me to put these in.

MR. NETTLER: Okay. Let's turn to some initial comments that you've made. If you recall back in November when you first met with the contract purchasers of the property, that was a Mr. Vance Barnes' office, correct?

MS. GATES: Yes.

MR. NETTLER: Okay. And I was there and Anky Barnes was there and Philippe Perot was there as well, correct?

MS. GATES: Yes.

MR. NETTLER: Okay. And Mr. Perot, do you know who Mr. Perot is?

MS. GATES: Yes.

MR. NETTLER: Okay. And Mr. Perot is part of the contract purchasers for this site, correct?

MS. GATES: I guess so, yes.

MR. NETTLER: Okay. He explained that at the time that we met, didn't he?

MS. GATES: I don't remember.

MR. NETTLER: Okay. And he's been at every ANC meeting since then with either me and Mr.

Barnes or someone else from my office?

MS. GATES: Yes.

MR. NETTLER: Okay.

MS. GATES: But he has never spoken.

MR. NETTLER: At the ANC meetings?

MS. GATES: Right.

MR. NETTLER: And when you say that on the evening of February 1st you received a new application, isn't what you received the prehearing statement for this matter? Isn't that what was delivered to you, the prehearing statement?

MS. GATES: Yes, but I consider that an application.

MR. NETTLER: You consider the prehearing statement an application? Okay. And that prehearing statement or application that you say it is, it had a site plan in it that was slightly different from the one that was presented before, did it not, because as was explained, it was responding to comments that were made at the prior ANC meeting. Isn't that correct?

MS. GATES: Are you speaking about the one that was bound in the book, or the one that you delivered as we were talking during --

MR. NETTLER: Well, let's talk first about the one that was bound in the book.

MS. GATES: Okay. Yes.

MR. NETTLER: Okay. And then at that meeting did Mr. Barnes not say that in response to comments made by the Friends of Whitehaven that they had made some additional alterations which they were presenting as well?

MS. GATES: I suppose he did, however, I don't remember us every advocating for a 13th house on W Street.

MR. NETTLER: You don't remember one of the W Street neighbors commenting on the 13th house being on that plan at that --

MS. GATES: No, no. No, no. They commented on it, but I don't remember us every requesting that to be added.

MR. NETTLER: Well, it wasn't made as a request, but it was on the plan, wasn't it?

MS. GATES: Yes, it was on the plan.

MR. NETTLER: Okay. And there was a discussion about that house and the majority of the ANC members recognized that that house was not covered by this application, correct?

MS. GATES: Yes, and that's referenced in the letter as 12 houses.

MR. NETTLER: Okay. No, not covered by

this application because the application the applicant, as the majority of the ANC members --

MS. GATES: No, that's not what you --

MR. NETTLER: -- because the applicant said that this was a matter -- that those 13 houses together with the houses that bordered on Foxhall were matter-of-right houses as distinct from the houses that required special exception approval.

MS. GATES: That's right. We understand their matter of right.

MR. NETTLER: Okay. Thank you. All right. Now with regard to your comment about the traffic and the exiting, from what I understand from your testimony, if a light is placed at where we're suggesting the entrance be on Foxhall, that that might solve the problems that you've commented upon in your testimony. Correct?

MS. GATES: Correct.

MR. NETTLER: Okay. And you're aware, I believe, from an e-mail that was sent to you by my firm that the Department of Transportation has agreed with us to have that light there?

MS. GATES: That's right.

MR. NETTLER: Okay.

MS. GATES: But we haven't heard that from

DDOT yet.

MR. NETTLER: I know, I don't see anybody from DDOT, but that's certainly our representation that we would do that and we've consistently represented that, correct?

CHAIRMAN GRIFFIS: DDOT is present.

MR. NETTLER: Excuse me?

CHAIRMAN GRIFFIS: They're ready to go when you guys are ready.

MR. NETTLER: Oh, good. That's nice. With regard to the movement of the entrance for construction purposes, you're aware, are you not, that if we were to move the exit up closer to W Street, further along Foxhall, that that would preclude us from building the one or two houses on W Street that we had promised to the W Street neighbors would be built first?

MS. GATES: No, I don't know that.

MR. NETTLER: Okay. And you're aware that --

MS. GATES: And I'm not sure I really believe that, but go ahead.

MR. NETTLER: Okay. You don't believe that because you developed a construction plan yourself for the project?

CHAIRMAN GRIFFIS: Okay. Let's move on.

MR. NETTLER: You've suggested, at least personally suggested, not the ANC, a condition regarding the hours of construction that should be utilized for the site. Do you know what the District of Columbia building code --

MS. GATES: 7:00 a.m. to 7:00 p.m.

MR. NETTLER: Okay. There was a discussion of construction staging at the ANC meeting in December by the applicants. Do you recall that?

MS. GATES: No.

MR. NETTLER: Okay. Do you recall in January the discussion about construction staging?

MS. GATES: No, I don't.

MR. NETTLER: Okay.

MS. GATES: I don't think we really focused on that in January.

MR. NETTLER: Do you know what the D.C. Regulations provide for in terms of a buffer between a wetlands area and any development?

MS. GATES: No, I don't. I thought this project was being overseen really by the Army Corp of Engineers.

MR. NETTLER: Well, I understand the Army Corp of Engineers oversees the wetlands area and has

jurisdiction over that wetlands area.

MS. GATES: Correct.

MR. NETTLER: Okay. But do you understand what type of -- under either federal or district regulations what the buffer area --

MS. GATES: No.

MR. NETTLER: Okay. With regard to Ms. Moore --

MS. GATES: Mr. Nettler, I explained Ms. Moore is not my contact. Ann Haas is not here today. I'm sorry, I don't think I can answer that.

MR. NETTLER: Well, there may be something you can answer. The comments that Ms. Moore provided to Ms. Haas, which were subsequently provided to the applicant at that time in January, weren't they?

MS. GATES: I don't know.

MR. NETTLER: You don't recall receiving an e-mail from us responding to Ms. Moore's comments?

MS. GATES: No.

MR. NETTLER: Okay. Do you recall --

MS. GATES: Was it just an e-mail, or was it in the --

MR. NETTLER: It was both a letter and an e-mail.

MS. GATES: I don't think I have it.

MR. NETTLER: Okay. And do you recall Ms. Moore's comments being mentioned at the ANC meeting in February at all?

MS. GATES: Ann Haas wasn't there, so no, I don't remember.

MR. NETTLER: So neither you nor any of the other ANC members raised any of Ms. Moore's comments at that meeting?

MS. GATES: No.

MR. NETTLER: Do you recall with regard to your comments about the chemicals being used, do you recall the testimony that was given by the applicant in terms of what restrictions will be placed in terms of the treatment of any lawns on the site?

MS. GATES: I don't believe any was given. I think I'm the one who raised the issue of prohibiting that.

MR. NETTLER: You didn't hear any testimony on that last week at the hearing here?

MS. GATES: Who would have given it?

MR. NETTLER: You didn't hear that from Mr. Barnes or anybody else?

MS. GATES: I don't think so.

MR. NETTLER: Okay. I have no other questions.

CHAIRMAN GRIFFIS: Thank you. Friends of Whitehaven Park, cross? Any cross?

(No audible response.)

CHAIRMAN GRIFFIS: No cross? Ms. Hardy, cross examination?

(No audible response.)

CHAIRMAN GRIFFIS: And Certain Residents of 4400 Block? Excellent. Can we call you CR? CR4400?

MS. BRADY: That's great. I love that. Mrs. Gates, I just would ask, when you were asked about the Whitehaven solution, the extension, you said a strong personal opinion. Was there a final ANC opinion?

MS. GATES: I don't believe the issue of putting a road across the parkland was actually addressed by the ANC during this course of discussions. However, as I explained, we did take this issue up earlier when Mrs. Casey wanted park land and we had a very strong opinion on it.

MS. BRADY: Are you aware that at the end of the contentious debate over the access to Foxhall Road for the Mayoral Mansion that all parties reached an agreement on extending Whitehaven that in fact the National Park Service transferred jurisdiction but not

ownership of 1.8 acres to the District government and the District had agreed to lease the land to the Casey Mansion for a second access, but this was never implemented because the property was abruptly sold to another party?

CHAIRMAN GRIFFIS: Are you aware of that long history?

MS. GATES: Yes, I'm very aware of that.

MS. BRADY: Okay.

MS. GATES: I believe I testified against it at every opportunity.

CHAIRMAN GRIFFIS: Okay.

MS. GATES: Including the National Capital Planning Commission.

CHAIRMAN GRIFFIS: Okay. Good. And I think we need to move --

MS. BRADY: Thank you very much.

CHAIRMAN GRIFFIS: Well no, I'm not rushing you, but let me just as, Ms. Brady, you asked in your first question about whether the ANC had taken action and you meant pertaining to this particular application and not access, is that correct?

MS. BRADY: Actually, either historically or currently.

CHAIRMAN GRIFFIS: Okay.

MS. GATES: During our first meeting I believe when this came up I remember raising the issue with Mr. Barnes and saying, "Don't go there."

CHAIRMAN GRIFFIS: Okay. But it seems like a lot --

MS. GATES: That this was not going to be something that the Commission would consider.

CHAIRMAN GRIFFIS: Okay. Ms. Brady, just for clarification on your last small question and large testimony, let me get clarification. Are you going to be speaking more on this in your case presentation?

MS. BRADY: I will.

CHAIRMAN GRIFFIS: Good. We'll leave at that then. Any other questions?

MS. BRADY: No more questions.

CHAIRMAN GRIFFIS: Good. Thank you very much. Any other cross?

(No audible response.)

CHAIRMAN GRIFFIS: I think that's it. Then, Ms. Gates, thank you very much. We appreciate you making time in the schedule this morning and I imagine you're off to your next.

Let's continue then. Let's go to agency reports. I think it best to start with the Office of

Planning at this time. Ms. Steingasser, a very good morning and welcome.

MS. STEINGASSER: Mr. Chair and members of the Board, my name is Jennifer Steingasser. I'm with the D.C. Office of Planning.

I understand the Board was hoping that OP would supply a supplemental report. Unfortunately we did not receive any supplemental information until this morning when the offices opened and so we've been unable to provide that information to the Board.

I do know that Mr. Lawson had contacted the District Department of Transportation and Department of Health and arranged for a representative from each of those agencies to be present to address any of the Board's concerns and questions on their reports.

The Office of Planning is supportive of the overall form and character of the development and the applicant's efforts to integrate this project into the broader neighborhood context. Although the project is not part of a trans-slope overlay, the Office of Planning is also very supportive of the applicant's efforts to save the on-site trees and clusters of trees and work with the Park Service to preserve that natural edge. The zoning regulations

Section 2513.3 requires submission of final plans for road, lot locations, landscaping and grading plans. The applicant may elect to submit these final landscape and road plans at a later date, in which case the Office of Planning would recommend conditional approval subject to a later public hearing required by Section 2516.3 and a final decision on the project as a whole.

The Office of Planning also recommends a condition be added, if the Board agrees, that the street system remain open and accessible to the public and that no form of gate or other deterrent be permitted. We're concerned about any future possibility for this to become a gated community.

We will also encourage the applicant to ensure that development on each side of the conforming lots along Foxhall and W Street provide a pedestrian access along those streets in a way that maintains the existing berm that the ANC has stated concerns about.

We've also asked conditions about minimum soil erosion and that would be subject to approval of the Department of Health.

And then there is also a condition in our report that asks that the homeowner's association be conditioned to ensure adequate maintenance of public

open space, roads and the storm water management system in perpetuity.

At this point, that is our final recommendation.

CHAIRMAN GRIFFIS: Excellent. Thank you very much. And we appreciate you taking the time stepping in for Mr. Lawson. Excellent report. Very comprehensive.

Board members, questions of the Office of Planning?

(No audible response.)

CHAIRMAN GRIFFIS: Indeed. Fresh coffee. Okay. Let's move ahead then. Does the applicant -- oh, yes. Mr. Parsons.

MR. PARSONS: Can I just follow up on Ms. Steingasser's comment about the supplemental report?

You do then feel that when this new material comes in that we've asked for at our hearing last week that you would provide us with a revised report?

MS. STEINGASSER: Yes, sir, we would.

MR. PARSONS: All right.

MS. STEINGASSER: We would like that opportunity.

MR. PARSONS: So I assume that would take

a couple of weeks or so. I don't want to close the record without that report in.

MS. STEINGASSER: Yes, we would ask for a couple of weeks to coordinate with DDOT, Department of Health and a theoretical lot sub-division.

MR. PARSONS: Okay.

MS. STEINGASSER: We do coordinate with the other agencies before we make a final recommendation. So we would ask for that and then just to be able to analyze the original application against what's come through. So at least two weeks would be helpful.

MR. PARSONS: Okay. Thank you.

CHAIRMAN GRIFFIS: Good. Anything else? Not immediately? Very well.

Mr. Nettler, no cross?

MR. NETTLER: I understand that there's a representative of the Department of Health here who has to leave at 10:30; I was passed a note, so I think at this point you're probably going to get to him anyway, but I just wanted you to be aware of that.

CHAIRMAN GRIFFIS: Oh, excellent. Thank you. Any other parties in opposition have any cross examination, questions of the Office of Planning?

(No audible response.)

CHAIRMAN GRIFFIS: I hear we were up for rigorous back and forth on this. Very well.

Ms. Miller, questions?

VICE-CHAIR MILLER: Good morning. I just guess I'll ask you about your opinion on the setback question, the point being extending it from 25 feet to 100 feet that's been proposed?

MS. STEINGASSER: At this time I'm not in a position to make a recommendation. I would have to see what that does to the overall lot configuration and to how those lots would be useable, how that area would be useable.

VICE-CHAIR MILLER: Thank you.

CHAIRMAN GRIFFIS: Excellent. If there's nothing else then, none or the parties in opposition have any cross examination of the Office of Planning?

UNIDENTIFIED SPEAKER: ANC --

CHAIRMAN GRIFFIS: Indeed. I'm sorry. And the ANC? Lumped altogether.

MS. GATES: Ms. Steingasser, you mentioned the efforts made to preserve trees. Do you feel that the efforts are adequate given they're only preserving 62 specimen trees?

MS. STEINGASSER: Within the criteria of the zoning regulations against which we reviewed the

project, yes.

MS. GATES: Thank you.

CHAIRMAN GRIFFIS: Very well. If there's nothing further, Ms. Steingasser, thank you again.

Let's move ahead. Why don't we go to -- Ms. Miller's indicated the Department of Health representative is here. Is that correct?

MR. KARIKARI: Yes, sir. Tim Karikari.

CHAIRMAN GRIFFIS: If you wouldn't mind coming forward? How are you this morning? Have a seat. I don't know whether you filled out witness cards yet, but we can get to that after you're finished. Someone will hand that to you. If you wouldn't mind just touching the base of that mike to turn it on and stating your name and address for the record.

MR. KARIKARI: Good morning, ladies and gentlemen. My name is Tim Karikari and I'm the chief of technical review for Erosion and Sediment Control.

CHAIRMAN GRIFFIS: Excellent.

MR. KARIKARI: And the Storm water Management and Flatland Management. I'm with the Department of Health.

CHAIRMAN GRIFFIS: Good. And you have a report to provide today?

MR. KARIKARI: I actually was on the site on Friday. I don't have a comprehensive report, but I'm pretty much aware of what's going on.

CHAIRMAN GRIFFIS: Okay. What's going on?

MR. KARIKARI: One of my engineers, senior engineers has been working with I believe the design engineer Mr. Frank from Greenhorn & O'Mara.

CHAIRMAN GRIFFIS: Yes.

MR. KARIKARI: Unfortunately he's out in training in Texas.

CHAIRMAN GRIFFIS: I see.

MR. KARIKARI: So I had to come in today to fill in for him. But I was responsible for the overall review of another project right on Field School with the storm water management and the whole comprehensive erosion and sediment control system and I have seen the conceptual plan for this new development. And I discussed with Frank that even though we are in agreement with the concept, I would like for them to revisit the issue and see if they can tie in some sort of low-impact development storm water management systems together with what they are doing. In other words, they can look at the whole range of options for storm water management to satisfy our needs. And Frank has indicated that he doesn't have

any problem looking at the whole holistic -- you know, looking at storm water management.

CHAIRMAN GRIFFIS: So what are some of the elements of that? What's missing?

MR. KARIKARI: Some of the elements are that currently the concept shows a comprehensive underground detention piping system.

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: And then it shows a bay saver, which is more for hydrodynamic structure to actually take care of hydrocarbons, oil and greases. I would love to see, you know, incorporated into the whole site design some sort of swale, you know, as part of the landscaping in addition to what they are doing.

CHAIRMAN GRIFFIS: And the swale would do what?

MR. KARIKARI: The swale will normally be a vegetative control grass, convey water, you know, so that it's possible probably to eliminate some of the piping system because that can be very expensive.

CHAIRMAN GRIFFIS: I understanding you're saying the swale would actually be somewhat of a catchment area of rain water that would sit there and then naturally filtrate?

MR. KARIKARI: Naturally will filtrate and then when the soil gets so saturated, it can come into an inlet and go into the underground detention system.

CHAIRMAN GRIFFIS: I see. But how is that not accomplished in the applicant's mission of having these rain gardens in every property?

MR. KARIKARI: Well, we look -- rain gardens are not really feasible for every site, especially where you have high water table, because the whole purpose of the rain garden --

CHAIRMAN GRIFFIS: Are they feasible in this site, or are you saying that on each individual lot on this proposed development may not work well for rain gardens?

MR. KARIKARI: It may not really work well, because I believe, you know, the area looks as if it has a high water table.

CHAIRMAN GRIFFIS: I see.

MR. KARIKARI: We're still waiting for a geotechnical report.

CHAIRMAN GRIFFIS: Okay. So you don't know definitively whether it will work or not, but you have your thought that it probably will not?

MR. KARIKARI: Yes.

CHAIRMAN GRIFFIS: Okay. What else? What

other aspects and elements that might be positive or -- well, what other elements are there out there that the Board might have for an understanding of comparison or contrast?

MR. KARIKARI: I think the way I look at this site, for instance, as part of the concept, if they go in and use perforated pipes, see, they will have to recharge the ground water and charge the wetlands that are further downstream and that is good for the environment.

What in terms of comparisons, at the moment the whole topography flows, kind of slopes towards Foxhall and based on our storm water requirements each developer has to control all the water of their property. So the developer understands that all runoff will have to be contained within the property.

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: No runoff should be allowed to cross property boundaries, adjacent property boundaries.

CHAIRMAN GRIFFIS: And that's something, as you've indicated, of a requirement in the District, is that correct?

MR. KARIKARI: That's part of the --

CHAIRMAN GRIFFIS: As part of its mission of a storm water management plan in which you would be a part of reviewing?

MR. KARIKARI: Right.

CHAIRMAN GRIFFIS: Okay. And has that happened in the other developments that we've been hearing about in the surrounding area?

MR. KARIKARI: Yes.

CHAIRMAN GRIFFIS: It has?

MR. KARIKARI: Yes.

CHAIRMAN GRIFFIS: Okay. I don't have any other questions. Mr. Parsons?

MR. KARIKARI: There is another issue that I think I need to bring to the attention too. Since this is 16 acres, there is a federal requirement called MPDS for storm water construction greater than an acre. This is an additional permit that the developer will have to get from EPA in addition to the local storm water permit.

CHAIRMAN GRIFFIS: So it's an additional review and approval from EPA?

MR. KARIKARI: No, from DOH.

CHAIRMAN GRIFFIS: From DOH?

MR. KARIKARI: We review all the plans and then coordinate with EPA.

CHAIRMAN GRIFFIS: I see. So let me see if I understand you correctly. There's an awful lot of control on this?

MR. KARIKARI: Could you repeat it?

CHAIRMAN GRIFFIS: I'll let it go. Mr. Parsons?

MR. PARSONS: As I understand, the standard on a project like this is retain the 15-year storm. Is that the standard in the District?

MR. KARIKARI: The standard is to retain the two-year flow to the pre-development level and the 15-year flow to the pre-development level. So, there are two standards. In other words, when you develop, you have to make sure that your runoff is controlled to the pristine condition, the matter condition or the grass condition. So it's not just a 15-year. The 15-year is mostly for flat control, or what we call quantity control.

MR. PARSONS: Well, is that what this underground retention system would address?

MR. KARIKARI: Yes.

MR. PARSONS: Now, as I recall on the Field School project, you said you were familiar with that.

MR. KARIKARI: Yes.

MR. PARSONS: There was a much higher standard applied there.

MR. KARIKARI: I need to go back and look at the plans that I approved, but we have two huge storm underground sand filters. Those were designed based on the 15-year storm. The District normally will design based on the 15-year storm except say if you're downstream of a major water body. That's when we request designs based on the 100-year storm to ensure that downstream properties are not impacted. But essentially, you know, basically 15-year storms are what -- 15-year is for detention, two-year is more or less for quality control.

MR. PARSONS: Thank you.

CHAIRMAN GRIFFIS: Mr. Etherly?

MR. ETHERLY: Thank you very much, Mr. Chair.

Let me come back to a question that the Chair asked you kind of broadly and then perhaps kind of drill down a little further.

The broad question is, what concerns you about this particular parcel when you take a look at this project, but even more broadly, when you take a look at this particular parcel of land, what is it that concerns you? You indicated that you may believe

that there is a high water table. There's still a technical report that needs to be done to adequately assess that. And as part of that concern, you talked about the swale. So I want to kind of go through that as little bit, but I want to just start a little broadly with the issue of what concerns you. What problems emerge when you take a look or based on your recollection of your colleague when a look was taken at this parcel, what concerned you about it?

MR. KARIKARI: What concerns me is that all the runoff coming off in impervious area be adequately contained and released in a manner say that it will not cause any adverse impact downstream and to the wetlands.

Another thing that concerns me, that I believe the concept plan addresses, is actually making sure that as -- when it rains, any drops of oil or hydrocarbons are collected in an adequate system treated before this is discharged downstream.

MR. ETHERLY: Okay. And with respect to the issue of the high water table in the swale, do you have any particular thoughts about where the swale would be located on the subject property?

MR. KARIKARI: That is something that I wouldn't be able to answer that I need to see

something beyond the concept plan.

MR. ETHERLY: And is your opinion that if a swale were incorporated into the design of the subject property that that would replace some of the piping that you spoke of earlier?

MR. KARIKARI: If it is done right, yes, it will probably just eliminate a few lines of piping, but at the same time perform the storm water management function that we would like to have, we would like to see, in terms of not impacting water quality.

MR. ETHERLY: Okay. And without getting, I realize that the answer to this probably could be a highly technical one, so without necessarily getting into the full technical aspect of it, you noted that if it were done right. How would you, broadly speaking, incorporate a swale into this project?

MR. KARIKARI: I would like to see swales as usual, you know, behind back yards, you know, where there is green space. As a matter of fact, it's all part of the landscaping system, you know, so if you can just grade your property and channel stuff into swale and bring it into an inlet, you're doing two things. You have grass, you have infiltration, but you design your swale such that you can collect

whatever is coming in there, you know, and bring it into an underground system. The swale serves as some sort of a pretreatment vegetative system.

MR. ETHERLY: Okay. And if you do in fact then incorporate it to an extent in back yards with respect to essentially the southern border of the property, would that necessarily dictate a certain size of back yard that would need to be maintained, once again based on your familiarity with the design of the project at this point?

MR. KARIKARI: Well, based on my familiarity, I couldn't really give you a definitive answer, but I will say this. Yes, if you put in a swale, it depends where you want to put it. There should be some sort of an impact, yes, so that will impact.

MR. ETHERLY: Okay. Is there a minimum size that you would be able to note or identify?

MR. KARIKARI: No, not right now.

MR. ETHERLY: Okay.

MR. KARIKARI: Not until I get into my design manuals and see what designs they have to offer.

MR. ETHERLY: Okay. I appreciate that.

One final question. You noted that there

is a technical report that will be done on the water table. Is that something that DOH is undertaking?

MR. KARIKARI: No, this is normally requested from the developer. It's a geotechnical report. It allows us to know the depth of the water table and to really advise the developer as to whether there's BMPs like bioretension.

MR. ETHERLY: Okay.

MR. KARIKARI: Will it be feasible.

MR. ETHERLY: Okay. With respect to the coordination, my apologies for noting last question, but with respect to the coordination that you spoke of with EPA, could you give a little bit of insight, once again it's probably a complicated process, but I just want to get a sense of what do you coordinate with EPA? What will EPA be reviewing with respect to this?

MR. KARIKARI: EPA reviews what you call a Notice of Intent form. In other words, any project that involves land disturbance of an acre or greater, one has to fill a Notice of Intent form, send it to EPA and EPA then acknowledges that they've received that Notice of Intent. What the form does is it kind of lets the developer know that they have to provide something called a water pollution control, I would say, storm water pollution prevention plan. That's

what it's called.

MR. ETHERLY: Okay.

MR. KARIKARI: In other words, when you do your development you should make sure that all of those little chores like not leaving a lot of dirt on-site, making sure that, you know, as you move along your construction is done in accordance with approved plans, you know, those types of things.

MR. ETHERLY: Okay.

MR. KARIKARI: Is what EPA will review. But, the plans are not approved by the District until we've consulted with EPA and indicated to EPA that the developer has met all the storm water and erosion and sediment control plans.

MR. ETHERLY: Okay. And once again, at this point the major concerns that would emerge for you tend to be the hydrocarbons and oils that you spoke of and the issue of water flow.

MR. KARIKARI: Yes.

MR. ETHERLY: Okay. Thank you, sir. Thank you, Mr. Chair.

CHAIRMAN GRIFFIS: Good. Thank you very much. Any other questions from the Board?

MR. MANN: Yes.

MR. MANN: Yes, Mr. Mann.

MR. MANN: Does your evaluation of this project take into consideration the proposed improvements to Foxhall Road?

MR. KARIKARI: No, I haven't seen that.

MR. MANN: Okay. Thank you.

MR. PARSONS: Last week we talked about rain gardens. Are the swales you speak about, is that another name for a swale is a rain garden?

MR. KARIKARI: No, a rain garden is basically a bioretension system which consists of you do your excavation and then you have a layer of sand, you know, which is basically beneath a photo fiber and then on top you have a soil medium and then you have your plant media. But a swale is basically just a grass channel, grass way that you allow water to -- you allow it to convey this water. Water just comes into an inlet and then from the inlet the water can be allowed to either go into an underground detention system, you know, where it is stored and then discharged at what we would refer to as a reasonable rate which will not cause erosion on property downstream.

MR. PARSONS: So is the rain garden something that occurs on the private property, say as capturing runoff from the roof system?

MR. KARIKARI: Yes, it can occur anywhere. It can capture runoff off parking lots, from the roofs, from other impervious areas and what it does is is it's an effect basically a plant media system. So, you know, it's the landscaping system.

MR. PARSONS: So is that something you would require or urge, or --

MR. KARIKARI: We would normally -- depending on the topography, depending on the nature of the development, you know, we would normally recommend that to the developer and where it's feasible we strongly actually prefer the designer to put in that sort of system. It's cheaper, you know, it's biological in nature and it basically gives you improved water quality.

MR. PARSONS: Okay. At this stage of this development, there is no architecture, there are no ways to evaluate how much asphalt there will be on a driveway, if it is asphalt; it could be some other material, how big the roofs are going to be. How do you calculate the storm water runoff that comes off of a -- which is essentially a site plan at this point?

MR. KARIKARI: Normally what we do is we basically are more interested in storm water coming off what we would call the impervious interconnected

areas. So you come from your roof down your probably downspout, what's coming off your driveway and the way we compute this is that we normally would take the first half inch of runoff which we consider the first flush because with that we probably are able to catch about 80 to 90 percent of the pollutants, initial pollutants, and that is for water quality treatment. So we do a separate design based on your first half inch of runoff.

Then where we anticipate that we will have volume problems or quantity problems, we tack on additional computations for quantity control. And what we normally do is we take the 15-year storm, the difference between the 15-year storm and the two-year pre-development storm, which is basically your matter condition and we use all kinds of engineering principles, we use what you call the Resnick Formula. We have TR-55, we have TR-20, all kinds of models that we can plug numbers in to come up with the volume that needs to be controlled and then the design is done accordingly to meet those requirements.

MR. PARSONS: Thank you.

CHAIRMAN GRIFFIS: Good. Anything else from the Board?

(No audible response.)

CHAIRMAN GRIFFIS: Are you anticipating submitting something of a report into the record, or this is what we have?

MR. KARIKARI: This is what you have.

CHAIRMAN GRIFFIS: Indeed. Very well.

Let's move ahead. Mr. Nettler, cross examination?

MR. NETTLER: Thank you. You had mentioned that you had been on the site last Friday and that there was another individual who was working with you, correct?

MR. KARIKARI: Yes.

MR. NETTLER: All right.

MR. KARIKARI: A design engineer who is --

MR. NETTLER: Did he show you a geotechnical report that had already been prepared?

MR. KARIKARI: No.

MR. NETTLER: Okay. And so if one had been provided to him, he would have been working off of that in terms of whatever review he was giving to the storm water management plan?

MR. KARIKARI: Yes.

MR. NETTLER: Okay. The swale that you mentioned, you couldn't put a swale on a steep slope, correct?

MR. KARIKARI: No, you couldn't.

MR. NETTLER: Okay. And if you had a swale, it would change the way in which the road system within the project is constructed also, correct?

MR. KARIKARI: Yes.

MR. NETTLER: Okay. Having been on the site, is it possible that swales could be accommodated on the rear yards in the areas to the south of the project? Do you recall the areas to the south?

MR. KARIKARI: South coming down Foxhall, it was McArthur Boulevard or south going on W Street?

MR. NETTLER: South near where the wetlands are. You know, there are the lots that are going to be on the other sides of the wetlands. Is that an appropriate --

MR. KARIKARI: That's a pretty steep area when you get to the back there.

MR. NETTLER: Right.

MR. KARIKARI: But I was thinking more about incorporating, if it's feasible --

MR. NETTLER: Right.

MR. KARIKARI: -- incorporating that in the back where you slope it --

MR. NETTLER: Right. Right.

MR. KARIKARI: -- towards --

MR. NETTLER: But not on the slope, right?

MR. KARIKARI: No, not on the slope.

MR. NETTLER: Okay. Okay. And the water flow and the hydrocarbon issues that said that had to be addressed, from what you were able to determine from the system that was being developed, that's exactly what that system is doing, correct?

MR. KARIKARI: Yes, bay savers are basically for that type of control.

MR. NETTLER: Okay. And the bioretention facilities that were being suggested around the site both on individual properties and I believe also on the median, the teardrops in the rows, those are additional support systems for that storm water management program, correct?

MR. KARIKARI: Yes, but let me just make a point here. Now, if you have what, 47 units? Now, you don't want to put in a bioretention system for each unit because --

MR. NETTLER: I'm not talking about each one, right.

MR. KARIKARI: Okay.

MR. NETTLER: Obviously some don't need it and some should have them on there, right, and it

isn't a question of how large the roof is, it's a question of how good the facility is in terms of whether it takes that -- whatever runoff is being coming off of a house or a road is dependent on whether the facility works, not necessarily the size of the roof.

MR. KARIKARI: I would say that, but you need the roof area to compute your runoff.

MR. NETTLER: Right.

MR. KARIKARI: And design your system so that it can handle that runoff.

MR. NETTLER: Right. So if you have --

MR. KARIKARI: So they're kind of interrelated.

MR. NETTLER: Sorry. Okay. So if you have a minimum development area and you have architectural guidelines that provide for where the building could be on the site, you could use that as a basis for doing calculations to determine what your maximum roof or minimum roof would be so that you can develop a system along those lines?

MR. KARIKARI: Yes.

MR. NETTLER: Right. Okay. I don't have any other questions.

CHAIRMAN GRIFFIS: Good. Thank you. Is

the ANC have any cross?

MS. GATES: Good morning, Mr. Karikari.

MR. KARIKARI: Good morning.

MS. GATES: You mentioned that you are familiar with Field School.

MR. KARIKARI: Yes.

MS. GATES: Have you been working with Field School recently?

MR. KARIKARI: No.

MS. GATES: Has someone from D.C. Health been working with them?

MR. KARIKARI: I know that an inspector, Peter Wilder, you know, is the one who was on site several times from the Department.

MS. GATES: And why was that?

MR. KARIKARI: He was there to make sure that the contractor was doing what was right, you know, building according to those plans that I had approved.

MS. GATES: And did that happen?

MR. KARIKARI: A couple of times that didn't happen, so he cited, he wrote violations against the contractor to make sure that the site would be stipulized, you know, that each time they would be going according to the approved plan.

MS. GATES: And are you aware that the homeowner immediately south of Field School is still having problems even though one of these swales has been put in?

MR. KARIKARI: I am not aware of that, but we did -- I know that -- I can't remember the lady's name, but we went back and forth and --

MS. GATES: Mrs. Shagrew.

MR. KARIKARI: Yes. We decided in fact to put in what I will call an infiltration system right by a retaining wall to make sure that water coming off the field would go through that sand, you know, and not really get onto her property. So, I'm not aware that she is still having any problem.

MS. GATES: I believe she is and I believe another neighbor who's also here today has had a very wet basement as a result of this system.

CHAIRMAN GRIFFIS: Question, Ms. Gates?

MS. GATES: Oh, thank you. Are you aware that another neighbor has also had problems and a wet basement?

MR. KARIKARI: No, I'm not.

MS. GATES: Okay. Once this system is approved by you and we've heard a lot of discussion now about different options, how do you ensure that it

is going to work, and what steps do you take when it isn't working?

MR. KARIKARI: The steps we take is that any storm water management plan that we approve from our office has got a maintenance agreement on it. The maintenance of the system is in perpetuity. So any time we get reports that the system is not working, it is incumbent on the developer of the property or whoever signed the maintenance agreement to make sure that they go in there and ensure that the system is working. Normally we have an inspector on site while the construction is going on and so if it happens to be some sort of a modification that needs to be made in the field, again the inspector has a right to ensure that that change is made. But once it's built, it is the responsibility of whoever has signed that maintenance agreement to ensure that the system is well-maintained so that it can perform its function.

MS. GATES: And what happens when the person who has signed that agreement is no longer in the area?

MR. KARIKARI: Whether this is, whether they are selling the property, we have covenants, storm water covenants, that are deeded so, you know, the new owner --

MS. GATES: So they're on the properties themselves, not just in the hands of the developer?

MR. KARIKARI: Right. The new owner, whoever comes to purchase that property has that responsibility. It's transferrable.

CHAIRMAN GRIFFIS: So the storm water management plan runs with the land, is what you're saying?

MR. KARIKARI: Yes, it does.

CHAIRMAN GRIFFIS: Okay. Next question?

MS. GATES: In this particular case, it appears that some of the water will be directed toward Foxhall Road. Is that correct?

MR. KARIKARI: I need to see the entire design.

MS. GATES: Well, we have talked about the improvements plan for Foxhall, but there is a homeowner who is currently living right there on Foxhall Road whose property stands to be impacted by this. What measures will you take to ensure that doesn't happen?

MR. KARIKARI: Technically or by law, by our regulations, the developer is not allowed to allow water to cross property boundaries.

MS. GATES: But we've seen that happen in

the Field School case.

MR. KARIKARI: Again, I'm not aware of that, but if that's happened, that should have been brought to our attention during the --

MS. GATES: I think it's been brought to your attention several times.

CHAIRMAN GRIFFIS: Okay. But we're talking about this application. So you're saying that --

MS. GATES: I'm just trying to ensure that --

CHAIRMAN GRIFFIS: Right, I understand.

MS. GATES: Thank you.

CHAIRMAN GRIFFIS: But just for clarity, the answer to your question is, as I understand it --

MR. KARIKARI: The answer to my question is that --

CHAIRMAN GRIFFIS: Let me --

MR. KARIKARI: -- the developer should not allow water to cross property boundaries. So if that happens --

CHAIRMAN GRIFFIS: Should not allow, or isn't allowed?

MR. KARIKARI: Must not allow. The law says you cannot --

CHAIRMAN GRIFFIS: So it's not a possibility.

MR. KARIKARI: That's not a possibility.

CHAIRMAN GRIFFIS: They have to maintain the water on the property?

MR. KARIKARI: Yes, you have to maintain --

CHAIRMAN GRIFFIS: That's what the regulations are?

MR. KARIKARI: That's what the regulations --

CHAIRMAN GRIFFIS: Okay.

MR. KARIKARI: Runoff cannot cross property boundaries.

CHAIRMAN GRIFFIS: And what means do you have if that doesn't, if -- you know, water is a fluid thing, as they say. No, that's not --

MS. GATES: It seeks its own level.

CHAIRMAN GRIFFIS: But, you know, this is a science, but it's not always exact.

MR. KARIKARI: Right.

CHAIRMAN GRIFFIS: So, you run into situations. What remedies do you have? I think that's what Ms. Gates is trying to get to. So what can you do? You have a perfect plan and then the

perfect storm comes and water runs somewhere differently. What do you do?

MR. KARIKARI: What we do is that is why you can't design for a 1,000-year storm.

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: That's why you design --

CHAIRMAN GRIFFIS: Okay. But, I'm sorry, but --

MR. KARIKARI: But what we do is if water is crossing property boundaries --

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: -- and the issue is brought to our attention, we have an inspections and enforcement time that makes sure that the developer goes back and corrects the file.

CHAIRMAN GRIFFIS: Okay. And that, I think you did say this morning that you can issue fines. Is that correct?

MR. KARIKARI: Yes, there are several infractions.

CHAIRMAN GRIFFIS: Okay.

MR. KARIKARI: You know, there are kinds of violations.

CHAIRMAN GRIFFIS: And part of the inspection process is obviously to maintain and to

ensure that it was built as designed?

MR. KARIKARI: As designed?

CHAIRMAN GRIFFIS: And if it wasn't, there's ramifications?

MR. KARIKARI: Right.

CHAIRMAN GRIFFIS: Okay. I'm clear.

MS. GATES: Thank you.

CHAIRMAN GRIFFIS: Certainly. Anything else?

(No audible response.)

CHAIRMAN GRIFFIS: Good. Any other cross from parties? Yes, Friends of Whitehaven?

MR. SNAPE: Good morning.

MR. KARIKARI: Good morning.

MR. SNAPE: You mentioned earlier your concerns about hydrocarbons and Mr. Etherly repeated them. Do you have similar concerns about salt runoff or lawn chemical runoff as you do as the hydrocarbons?

MR. KARIKARI: We do, but unfortunately we do have best management practices now, you know, I mean, there's a limit of technology. So, you know, you don't have something that can control that sort of situation.

MR. SNAPE: So is it fair to say that the type of filter that you have, at least the filter

proposal that you have seen with the current proposal, would not capture salts or lawn chemicals? Can you answer that?

MR. KARIKARI: I can answer that. I can see if the bioretention system were feasible, you come in, you know, salt, dependent on the whatever chemistry, the chemistry is, I believe the bioretention system being the living biological system, you know, can really help because it can even work on oils and greases, break them down, because you have active microorganisms in the system.

MR. SNAPE: Right.

MR. KARIKARI: If you went into say an underground sand filter where we have sand and photo fabric and stone, that I couldn't tell you whether it will work 80 or 90 percent. I couldn't tell you that.

MR. SNAPE: That helps me. Let me just ask that one aspect more specifically. Would the biological system you're talking about capture chlorine-based pesticides? Is it capable of doing that, in your opinion?

MR. KARIKARI: Chlorine-based pesticides? I couldn't really answer that unless I saw some figures, research data on that.

MR. SNAPE: Is it your opinion that salts

and lawn chemicals if not properly filtered could adversely impact the wetlands on the parkland and in the adjacent property?

MR. KARIKARI: I would think so.

CHAIRMAN GRIFFIS: That's a pretty broad question, isn't it?

MR. SNAPE: Well, I was trying to get at, and he answered in the affirmative, that --

CHAIRMAN GRIFFIS: Right. I can't imagine how he wouldn't.

MR. SNAPE: Right. I mean, I just wanted to confirm. That's all.

CHAIRMAN GRIFFIS: Okay. But are we talking about different levels? I mean, I think it's an important aspect and what you're getting to is well, oh, you know, what can be treated, how could it be treated and what's going to be the possibility. But your question to me raises some concern because yes, if you dumped, you know, all of Morton's factory into this stream, then there's going to be an adverse impact.

MR. SNAPE: Right.

CHAIRMAN GRIFFIS: But what are we talking? We're talking about 16 acres. What levels are we really dealing with in terms of the salt, the

chemicals? You're talking about road treatment and foul weather and things like that.

MR. SNAPE: That's right.

MR. KARIKARI: And to my knowledge, if you were talking about what were to the be composition of that salt that is put on the road, calcium something, that breaks down. We know that if you're going that way, calcium is a heavy metal and like bioretention systems are excellent at really working on heavy metals, heavy metal removals, for some reason.

CHAIRMAN GRIFFIS: So it would take that out, it would separate it from that which is applied to the road before it got into the water flow?

MR. KARIKARI: Right. I'm looking at mostly, if you're talking about salt on Foxhall Road --

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: -- where I don't know in terms of magnitude how much would homeowners would put on the sidewalk or anything, but I would think that if you were come into -- I mean, if you drove right down your path, driving path, and your sidewalk and you're going to put salt in there, I didn't know how much quantity and I couldn't tell you the dilution rate so that if they came into a storm water system maybe they

would be so diluted that their impact further downstream may be negligible.

CHAIRMAN GRIFFIS: Understood. But wouldn't that be part of your review of the storm water management plan here in this application or any other applications? Wouldn't you have to look at what it's taking out? Or what you're saying is that it would not -- not following, I think your phraseology was best practices --

MR. KARIKARI: Yes.

CHAIRMAN GRIFFIS: -- at this point, is that not a level that you get to in terms of your analysis?

MR. KARIKARI: Yes, we do that and we have BMP storm water management systems that show a certain percentage removal rate, you know, of heavy metals. We look at these things as heavy metals, hydrocarbons. We look at nutrients, nitrogen, phosphorus from fertilizer, you know.

CHAIRMAN GRIFFIS: Okay.

MR. KARIKARI: But in terms of specific salts, I'm not sure this is actually going and I'm not sure that I can really give you a definitive answer as to, you know, the impacts downstream because it depends on the concentrations that are being applied.

CHAIRMAN GRIFFIS: Understood. And that's different than your original answer then. But it then goes to, just a last follow-up, what I think Mr. Parsons was -- excellent question of well, you're saying you have to look at the levels in order to understand whether the system will take them out or what impact it is down the way, down river.

So what is it that starts -- how do you establish what those levels are? I mean, Mr. Parsons was getting into what's the total water, you know, off the impermeable.

MR. KARIKARI: Right.

CHAIRMAN GRIFFIS: But then how do you calculate out that water how much is it grabbing of chemicals that would need to be treated? I guess the direct question is, is there a formula which you establish that?

MR. KARIKARI: I believe that we don't have formula, but I believe that, you know, based on data for monitoring of some of these BMPs, if you're looking at calcium as a component of that, we know that some of our BMPs are pretty good at removing calcium and heavy metals.

CHAIRMAN GRIFFIS: Okay. And this would be specifically looked at in terms of this plan?

MR. KARIKARI: Yes, we can look at this and -- yes, we can look at -- we will --

CHAIRMAN GRIFFIS: Yes, but the question is --

MR. KARIKARI: Yes, but we can --

CHAIRMAN GRIFFIS: I know you can, but the question is, is it part of your review process to look at these types of aspects of salt on the street or lawn care products? Is that your analysis or is that an element that you look at in your review?

MR. KARIKARI: Yes, that's an element.

CHAIRMAN GRIFFIS: Okay.

MR. KARIKARI: When you talk about lawn care, you're looking at -- we look at it from nutrients.

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: Nitrogen, phosphorus.

CHAIRMAN GRIFFIS: Okay.

MR. KARIKARI: So we advise on BMPs that have a capability.

CHAIRMAN GRIFFIS: Okay. Can I be very elementary, as we're not all storm water managements up here; I don't think we're any, but there may an expert or two, but let me just elementarily, is that a word, simplified here. What you're doing is you're

looking at this aspect and all this rain is coming down. As it comes down as a volume of water that's created and what you look at in terms of your analysis of the storm water management plan is where all that goes and then how it exits the site and what is it when it exits?

MR. KARIKARI: Right.

CHAIRMAN GRIFFIS: Is that correct?

MR. KARIKARI: Yes.

CHAIRMAN GRIFFIS: Okay. So you have to take in all these aspects. I mean, conceivably you're assuming that there is a few cars that are leaking a little bit of motor oil here, salts going down once in awhile, all those factor into what you look at in terms of how the water is treated before it leaves the site.

MR. KARIKARI: Right.

CHAIRMAN GRIFFIS: Okay.

MR. SNAPE: Thank you, Mr. Chair. Just to close this loop, Mr. Chair, would it be fair to say on your behalf or your office's behalf that you need more information before you to make these determinations about salt, lawn chemicals and hydrocarbons? Is that what you're saying?

MR. KARIKARI: What I'm saying is as for

hydrocarbons, for instance, based on research, in our regulations it says hydrocarbons should be maintained at 10 milligrams per liter. So there's a definite cut right there, you know, but there is nothing in our regulations that says, "Okay. Salt should be maintained at maybe 2 milligrams per liter." We look at it from a broad perspective that salt may be part of -- may contain heavy metals.

MR. SNAPE: Right.

MR. KARIKARI: And therefore we normally would advocate BMPs that are good at removing heavy metals.

MR. SNAPE: Okay. I may being dense, but I just don't understand. Do you have enough information to make these determinations that you described?

MR. KARIKARI: No, I do not have information on the salt concentrations that you're talking right now.

MR. SNAPE: Does your office have this information to the best of your knowledge?

MR. KARIKARI: To the best of my knowledge, I would have to check on that, on our water quality standards probably.

CHAIRMAN GRIFFIS: Okay. All right.

Anything else?

MR. SNAPE: Yes.

CHAIRMAN GRIFFIS: I'm sorry, then let me interrupt.

Let's get down to the heart of this because this isn't going to go away, this question that you just opened up. What is your schedule of review in a normal project, but specifically in this project?

MR. KARIKARI: Our schedule of review is that once we get a plan --

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: -- you know, we have standard operating procedures, we have things we are looking for.

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: We're looking essentially at hydrology, hydraulics.

CHAIRMAN GRIFFIS: But the point is at what stage -- I mean, it would seem like it would almost be ready for permit stage that you would start reviewing an awful lot of this information. Is that correct?

MR. KARIKARI: Yes, during -- once we get a concept plan, you know, as -- we go through the

review, 10 to 30 working days. We look at a lot of stuff.

CHAIRMAN GRIFFIS: Okay. Because it has to be fairly final?

MR. KARIKARI: Not necessarily, because we might find that things are not being done to our liking, therefore, we can have several reviews of a particular project.

CHAIRMAN GRIFFIS: Okay. Okay. Good. Sorry.

MR. SNAPE: I'm going to change gears slightly, Mr. Chairman. Thank you.

I believe you were here when we had some discussion on setbacks from the wetland. Do you or your office have an opinion on this 25-foot, 50-feet, 75-foot, 100-feet setback discussion we've been having? Do you have an opinion on what is an appropriate setback at this point in time?

MR. KARIKARI: No, I'm not wetlands expert, but I can get to wetlands experts and they can give you an opinion on that.

MR. SNAPE: Thank you. And when would that occur? Is that a part of the process Mr. Griffis was -- I mean, is that later as well, or does that happen relatively soon?

MR. KARIKARI: No, that will come as if the developer files what you call an EISF, an environmental impact survey form. You know, as part of that, certain questions about wetlands come in so if setbacks need to be considered, that is the time when these things are considered.

MR. SNAPE: Okay. Okay. Last two questions relating to wildlife. Are you aware that there is a fox den abutting sort of almost on both the national park property, the Whitehaven property, and this proposed private development? Are you aware of that fox den?

MR. KARIKARI: No, I'm not.

MR. SNAPE: Last question. Are you aware that there was a cerulean warbler, which is a migratory bird species, identified on the Whitehaven Park property that's a proposed species for the endangered species list? Were you aware that there was a cerulean warbler spotted on that Whitehaven property in the last several years?

MR. KARIKARI: No.

MR. SNAPE: Okay. I have no further questions, Mr. Chair.

CHAIRMAN GRIFFIS: What's it look like?

MR. SNAPE: It's a beautiful small blue

bird with white and black bars on its wings.

CHAIRMAN GRIFFIS: Okay. Ms. Miller?

VICE-CHAIR MILLER: I did have two questions. The first one goes to, I think you made some kind of statement about some assessment of yours depended on the concentrations applied and I'm wondering when you do your assessments do you consider recommending any limitations on the quantity or the type of chemicals that are used for instance on the lawn?

MR. KARIKARI: That's difficult for me to answer. We look at it from storm water. We look at it mostly from fertilizer, from nutrients. But I believe that water quality people, you know, the water quality standards, there are certain chemicals that they would not allow to be used on the lawn.

VICE-CHAIR MILLER: And that's in the regulations, in the guidelines?

MR. KARIKARI: Yes, in the water quality standards.

VICE-CHAIR MILLER: Also, is the applicant required to do an EIS in this case?

MR. KARIKARI: I believe so. That information can definitely be gotten from DCRA because they know the zones, you know, and the areas which --

CHAIRMAN GRIFFIS: But here's the question. Is there a federal level of environmental impact study that has to be done? You mentioned the ISF -- or whatever it is, survey form.

MR. KARIKARI: Are you talking about NEPA?

CHAIRMAN GRIFFIS: I don't know.

MR. KARIKARI: NEPA, the National Environmental Policy?

CHAIRMAN GRIFFIS: You're talking about a federal level, not local. Is that correct?

VICE-CHAIR MILLER: Right. The environmental impact statement.

MR. KARIKARI: Well, it wouldn't be the federal component if this private property. If this is private property, the environmental impact screening form is what the District normally requires.

CHAIRMAN GRIFFIS: Right.

MR. KARIKARI: And once that is reviewed, if there is a need to do a full blown environmental assessment --

CHAIRMAN GRIFFIS: Right. So that's an additional step to your review of this storm water management plan, right?

MR. KARIKARI: Yes.

CHAIRMAN GRIFFIS: And your agency reviews

it. How many other agencies review that?

MR. KARIKARI: I believe WASA does. I believe DDOT. I'm not sure whether the Office of Planning probably reviews EISF.

CHAIRMAN GRIFFIS: Ms. Steingasser, do you review those forms?

MS. STEINGASSER: Yes, sir, we do.

CHAIRMAN GRIFFIS: Wow. Okay. So we're now up to four. How many other agencies do you know of?

MR. KARIKARI: These are the ones that come to mind.

CHAIRMAN GRIFFIS: Okay. So if my understanding is correct, then numerous agencies look at this information that's submitted?

MR. KARIKARI: Yes. Yes.

CHAIRMAN GRIFFIS: Okay. Anything else? Mr. Nettler?

MR. NETTLER: Just a few follow-up questions.

CHAIRMAN GRIFFIS: Yes, are we finished with everyone's rounds? Does any other party in opposition have any cross examination?

(No audible response.)

CHAIRMAN GRIFFIS: Okay. That's good.

MR. NETTLER: Just some quick questions.

When you visited the property on Friday, you talked about before about it being a sloping property. There is a house on a lot next to the property. Did you notice that?

MR. KARIKARI: I didn't actually take note of that.

MR. NETTLER: Okay. But if a house is up here and the property entrance is up here and the wetlands area is down here, the water flows this way, doesn't it?

MR. KARIKARI: Right.

MR. NETTLER: It doesn't flow that way, right? It flows south or flows to a lower level, not to the same level, right?

MR. KARIKARI: Right.

MR. NETTLER: Okay. And getting back to this whole permitting issue, you look at a concept storm water management plan initially to see whether it meets the requirements that you're looking for for a site like this, correct?

MR. KARIKARI: Yes.

MR. NETTLER: And then when it comes to permitting, you look to see whether the permit plans, the building plans, are consistent with that concept

that you've gone through, is that correct?

MR. KARIKARI: Right.

MR. NETTLER: Okay. Thank you. That's it.

CHAIRMAN GRIFFIS: All set? Very well. Any other follow-ups from the Board?

(No audible response.)

CHAIRMAN GRIFFIS: Good. Thank you very much. We appreciate you taking the time. Oh, I'm sorry.

MR. SNAPE: I have a question simply relating to that question.

CHAIRMAN GRIFFIS: Yes, let's go.

MR. SNAPE: On water flow.

CHAIRMAN GRIFFIS: On the water flow? Okay.

MR. SNAPE: On the question Mr. Nettler asked, specifically related to that.

CHAIRMAN GRIFFIS: Excellent.

MR. SNAPE: Would it be possible, we all know water does not naturally flow down hill. I think that is common sense. But would it be possible to design a storm water management system where the water flowing on the top part of the property of Foxhall could be diverted south down Whitehaven? Is that a

possible engineering design in your opinion here?

In other words, so the water wouldn't naturally flow down. Is it possible to direct the water so it goes across, then down the other way, not east, but west down Whitehaven? Is that possible to do, in your opinion?

MR. KARIKARI: Well, I believe engineering wise a lot of things are possible, but cost wise and whether they are even feasible to do, that's a whole other situation.

MR. SNAPE: So you're not aware of a proposal to do that in this particular instance?

MR. KARIKARI: No, I'm not aware of that.

MR. SNAPE: Thank you, Mr. Chair.

CHAIRMAN GRIFFIS: Thank you.

MR. ETHERLY: One quick follow-up, Mr. Chair, just very briefly.

In your opinion, is the issue of the swales a deal breaker here?

MR. KARIKARI: No. No, it's not.

MR. ETHERLY: Okay.

MR. KARIKARI: It's just a suggestion --

MR. ETHERLY: Got you.

MR. KARIKARI: -- that I threw out there that, you know, if you're doing site design, this is

one of those options you could consider, you know --

MR. ETHERLY: Okay.

MR. KARIKARI: -- so that you have a holistic design.

MR. ETHERLY: Okay. And just as a quick follow up, we are of course in possession of an environmental assessment that was done for the applicant which runs through all of the obligatory items, underground storage tanks, different environmental actions that may have happened either on the site or in the vicinity of the site. Nothing major was identified. I just wanted to make sure if you were aware of any conditions adjacent to the site or in the vicinity of the site that might be of concern here with respect to storm water runoff or anything. I think it was indicated that there might have been a UST on the Mount Vernon site. There's a Chevron site somewhat adjacent, but none of them appear to raise any issues for the subject site here.

MR. KARIKARI: I'm not even aware of that.

MR. ETHERLY: Okay. Excellent. Excellent. Thank you, sir. Appreciate it.

Thank you, Mr. Chair.

CHAIRMAN GRIFFIS: Good. Follow up from the ANC?

MS. GATES: Mr. Etherly asked it. Thank you.

CHAIRMAN GRIFFIS: Oh, very well. Good job. Excellent. If there's nothing else, no other cross?

(No audible response.)

CHAIRMAN GRIFFIS: Very well. Thank you very much.

MR. KARIKARI: Right.

CHAIRMAN GRIFFIS: Appreciate you coming down and providing this important information for us.

As I have noted, we have gone through the police department. DDOT is here, is that correct? And are there other government agencies that are requesting to give testimony?

(No audible response.)

CHAIRMAN GRIFFIS: Okay. Good. We're just going to take a 10-minute and then we'll start with Department of Transportation and then we'll get to the Park Service.

(Whereupon, at 10:50 a.m. off the record until 11:09 a.m.)

CHAIRMAN GRIFFIS: Very well. Let's resume. Let me ask if those folks present that came in after the swearing in, if you haven't been sworn

in, administered the oath, if you wouldn't mind standing at this time and giving your attention to Ms. Bailey on my far right.

(The witnesses were sworn.)

CHAIRMAN GRIFFIS: Good and I think we're ready. Department of Transportation we'll start with. Then we'll go to the Park Service.

Is there a representative from DHCD here today? Department of Housing and Community Development?

(No audible response.)

CHAIRMAN GRIFFIS: Not noting any. Very well.

MS. SIMPSON-MASON: Good morning, Mr. Chair and --

CHAIRMAN GRIFFIS: If you wouldn't mind, you just need to turn that on. There's a button on the base. Perfect. Thank you.

MS. SIMPSON-MASON: Okay. Good morning, Mr. Chairman, members of the Zoning Commission. My name is Ann Simpson-Mason and I manage the Neighborhood Transportation Planning Program for the Department of Transportation.

MR. BULLOCK: Good morning. My name is John Bullock and I'm also with the Department of

Transportation, the Ward 3 transportation planner.

Okay. I know that you have our testimony, our analysis of the project on your record already and we're here to answer any questions if there are any.

CHAIRMAN GRIFFIS: Excellent. We have in position, it's Exhibit 24. It's dated January 31st. Is that your most recent?

MS. SIMPSON-MASON: That's right.

CHAIRMAN GRIFFIS: Okay. You'd just like to stand on the record then. We have it before us. If there are any questions from the Board?

(No audible response.)

CHAIRMAN GRIFFIS: I know there are, but we're going to give them a moment to get ready.

MR. BULLOCK: Sure.

CHAIRMAN GRIFFIS: Let's start first of all, in terms of, there's been an awful lot of testimony, obviously a project of this size goes through numerous iterations, how much time did you spend on looking at some of the iterations specifically looking at the ingress and egress with the traffic flow and the impact to the surrounding area and then on this particular site?

MR. BULLOCK: Well, our first knowledge of the project in our discussions with the transportation

consultant actually began in October, so we have seen it go from the draft stage to the stage that it is now.

CHAIRMAN GRIFFIS: Okay. And is there an official position or any sort of analysis that was done in terms of the positives or negatives of having -- well, how would you compare numerous accesses in and out of the site compared to what we're looking at now, which is it seems to be getting less and less?

MR. BULLOCK: I think the number of access points that you have now is probably the best view that we've seen as of yet because you do you have one access on W and you also have another one on Foxhall and it's not overburdening one street versus another.

CHAIRMAN GRIFFIS: I see. Okay. So the variety and the options of leaving out on W or Foxhall is what you think is a positive aspect to the traffic flow for the surrounding area and also for the particular site?

MR. BULLOCK: Yes, in addition to the signalization of the --

CHAIRMAN GRIFFIS: Okay.

MR. BULLOCK: -- entrance on Foxhall.

CHAIRMAN GRIFFIS: It came up earlier in Mr. Mann's question, I don't know if you wanted to

address that, Mr. Mann, in terms of an additional access on the Foxhall across the park land. Was that something that was looked at all going to the signalized intersection at that point?

MR. BULLOCK: That was not something that was looked at. What we had in front of us was the access point for W, but we didn't look at the access for Whitehaven.

CHAIRMAN GRIFFIS: Okay. Good. Yes, Mr. Parsons?

MR. PARSONS: There's been some discussion before you arrived or at last week's hearing that there's some proposal to improve or repave, or do something to Foxhall Road. Do you have any knowledge of that?

MR. BULLOCK: That's correct. Yes, the repaving project actually is slated to begin in the spring of this year, most likely around May. And what that would entail for this section of Foxhall is pretty much just, as I mentioned, just a regular resurfacing.

MR. PARSONS: So there's no proposal at this point to coordinate, if you will, the idea of a turning lane and so forth into this facility with what you're doing or will be doing this spring?

MR. BULLOCK: I know that that was mentioned as something that the developer wanted to look into as making that left turn lane and we're fine with that. We think that actually may be a beneficial thing to include.

MR. PARSONS: So the trouble is synchronizing two projects --

MR. BULLOCK: Right.

MR. PARSONS: -- so one doesn't tear up the other's work, huh?

MR. BULLOCK: Exactly.

MR. PARSONS: Are you going to be doing anything with the drainage on Foxhall, or is this simply a milling and paving job?

MR. BULLOCK: It pretty much is a milling and paving job, yes.

MR. PARSONS: Okay. So capturing some of the water off Foxhall and diverting it to another watershed, if you will, headed to the west is not something that is proposed as part of this project?

MR. BULLOCK: Not to my knowledge.

MR. PARSONS: Thank you.

MR. MANN: There's been some discussion of a proposal to install an on-demand stop light at the entrance to this project.

MR. BULLOCK: That's correct.

MR. MANN: Can you comment on that?

MR. BULLOCK: Yes, we're also in concurrence with the idea to put that traffic signal there and as we know that would be approximately 300-400 feet south of the intersection at W and Foxhall. This was something that we've been looking at for a while, particularly having a traffic signal at the intersection of W of Foxhall.

MR. MANN: How does an on-demand stop light work?

MR. BULLOCK: Well, what we're looking at now is actually having a fully-actuated system. What we'd like to do for that traffic signal there, have it fully-actuated so it has detection signals coming from, or detection systems coming from both directions on Foxhall and come from W. That would be Foxhall, or coming from the Dunmarlin site.

MR. MANN: Is there a difference then between on-demand versus the fully-actuated service, or is it the same thing? The use of on-demand was floated last week, but I don't know if there's actually any technical difference between an on-demand stop light and a fully-actuated stop light. Is there?

MR. BULLOCK: Not to my knowledge.

MS. SIMPSON-MASON: I believe there is. The fully-actuated is a detection from all approaches and it's my understanding that our traffic services administration plans to move in that direction on all our traffic operations within the next four years.

MR. MANN: Is the installation of a fully-actuated stop light anticipated at that intersection?

MS. SIMPSON-MASON: We are going to recommend it.

MR. MANN: If this development moves forward as proposed, then your recommendation would be to install a fully-actuated?

MS. SIMPSON-MASON: Fully-actuated.

MR. MANN: And would you have any recommendation as to when that traffic light should be installed?

MR. BULLOCK: I would think, I mean, beginning of the project. I mean, that's something that we think would benefit. I mean, also with the construction that's going on, that would be beneficial to have that at the outset.

MR. MANN: At the commencement of the project?

MR. BULLOCK: Yes.

MR. MANN: Okay. Thank you.

CHAIRMAN GRIFFIS: Good. Excellent information. Let me just review, see if I understand. What's happening, proposed or perhaps DDOT's recommendation for the intersection of W and Foxhall, that's signalized?

MR. BULLOCK: I'm sorry. Could you repeat that? I'm sorry.

CHAIRMAN GRIFFIS: What did you state as the recommendation for W and Foxhall?

MR. BULLOCK: Well, previously there was a traffic study that was conducted for the Palisades area and in that area there was a warrant conducted for the intersection or W and Foxhall. And actually that intersection warrants a signal. Now, with the traffic signal positioned 300 feet south of that W Street intersection, we feel it does do a service in that area and it actually helps the flow of traffic in that area and also the ingress and egress from the site.

CHAIRMAN GRIFFIS: I see. So as opposed to putting a signal, a light at W, you would put at the entrance to the proposed development?

MR. BULLOCK: That's correct.

CHAIRMAN GRIFFIS: And then there would be one down south of that and then north of that?

MR. BULLOCK: That's correct.

CHAIRMAN GRIFFIS: And what would be proposed for W Street, just a stop sign or anything that would deal with the traffic on Foxhall, or would that just be a flow-through intersection for Foxhall traveling north and south?

MR. BULLOCK: I don't believe we have any --

MS. SIMPSON-MASON: There is a stop sign.

MR. BULLOCK: There is already stop sign on --

CHAIRMAN GRIFFIS: Stop sign on W.

MR. BULLOCK: Yes.

CHAIRMAN GRIFFIS: Right. Entering Foxhall. But Foxhall wouldn't be impeded at that intersection then?

MR. BULLOCK: No, I don't believe so.

CHAIRMAN GRIFFIS: Okay. And, I'm sorry, Mr. Mann was getting to an interesting question, but maybe it's just terminology, but on-demand signal? What is that?

MR. BULLOCK: You know, I must say, I'm more familiar with the fully-actuated system and I haven't used the terminology of on-demand.

CHAIRMAN GRIFFIS: So conceivably they're

the exact same thing, but maybe we'll get some clarification otherwise. I don't think it's absolutely critical, but it's a fascinating piece to try and understand.

Okay. Anything else? Mr. Etherly?

MR. ETHERLY: Thank you very much, Mr. Chair.

If we could, let's take a virtual walk of Foxhall or down Foxhall on the direction.

MR. BULLOCK: Okay.

MR. ETHERLY: Let's start north of the subject property at the Field School light. That intersection currently is signalized and that would be what we would refer to as a actualized, actuated signal?

MR. BULLOCK: Actuated, yes.

MR. ETHERLY: First of all, let me confirm what you've taken a look at. We received an additional submission last week which has kind of in the middle of the packet, this is kind of the hard copy of a PowerPoint presentation, and there is a diagram of the subject property and the road network, future condition summary with Dunmarlin. Have you seen this?

MS. SIMPSON-MASON: Yes.

MR. BULLOCK: Okay. Yes, we have.

MR. ETHERLY: Okay. At the top dealing with the Field School intersection first, the caption for that particular intersection notes that traffic signal located at Field School driveway continues to operate with low overall delays. Would you agree with that statement --

MR. BULLOCK: Yes.

MR. ETHERLY: -- based on your experience?

MR. BULLOCK: Yes.

MR. ETHERLY: Okay. As we move south along Foxhall and we come to W Street, to somewhat confirm what you just shared with the Chairman, that intersection is currently regulated by stop signs.

MR. BULLOCK: That's correct.

MR. ETHERLY: And is that a four-way stop?

MR. BULLOCK: Two-way.

MS. SIMPSON-MASON: Two-way.

MR. ETHERLY: Just a two-way? Along W Street?

MR. BULLOCK: Yes.

MR. ETHERLY: So Foxhall traffic has the right-of-way?

MR. BULLOCK: Yes.

MR. ETHERLY: With respect to, first,

there was some testimony from the ANC which spoke to site lines as you look south along Foxhall and even as you look north looking towards the W Street intersection and also looking toward the W Street intersection north of it and then south at W Street on Foxhall looking up. Does DDOT have any concern with regard to sight lines and feels that in addition to whatever other measures may be implemented at the W and Foxhall intersection that there might need to be some mitigation measures with respect to sight lines; i.e., tree trimming or other types of things to ensure adequate visibility for motorists?

MR. BULLOCK: Well actually, on our visit out there we did recognize that there are sight line issues. We feel that the signal will help with the lane of traffic in giving motorists an opportunity, for traffic to stop for them to make that turn. So we think that may help. But, possible trimming may also be something that could assist in this.

MR. ETHERLY: Okay. As you move towards, let me come down Foxhall and come to Whitehaven Parkway, which presently is signalized, correct?

MR. BULLOCK: Yes.

MR. ETHERLY: The caption on the particular presentation display that I pointed to you

notes there that traffic signal located at Field School, and I can't quite see what that next piece of text is, but it continues to operate with low overall delays. You would also agree with that statement as well?

MR. BULLOCK: Yes.

MR. ETHERLY: Based on your experience or based on your site visit, any sight line issues with respect to that intersection?

MR. BULLOCK: At W?

MR. ETHERLY: Yes. No, at Whitehaven Parkway.

MR. BULLOCK: At Whitehaven?

MR. ETHERLY: Whitehaven and Foxhall.

MR. BULLOCK: Not particularly.

MS. SIMPSON-MASON: No.

MR. BULLOCK: No.

MR. ETHERLY: Okay. Okay. Now, with respect to traffic that would be exiting the proposed development, and we're talking once again about that newly created intersection that would have an on-demand signal apparatus, if you will, it's your sense that an introduction of an access point to Foxhall at that particular point will not compromise or in any way further complicate what you already see at W and

Foxhall or at Whitehaven and Foxhall?

MR. BULLOCK: No, I don't think it would complicate it. In fact, I think it may make things a little bit safer on that stretch of road.

MR. ETHERLY: Okay. Okay. I think that covers it for the moment for me, Mr. Chair. Thank you.

CHAIRMAN GRIFFIS: Good. Thank you. Anything else? Yes, Ms. Miller?

VICE-CHAIR MILLER: I'm pretty sure you've been saying that the additional access road from the site to Foxhall makes the traffic situation safer. Would more roads make it even more safer, or not necessarily, meaning additional roads from the project to Foxhall?

MR. BULLOCK: You'd be thinking on Foxhall?

VICE-CHAIR MILLER: Exiting to Foxhall or W, but as of now they're having that one additional road, is my understanding.

MR. BULLOCK: We hadn't really considered that, but I don't necessarily see that it's something that may be beneficial. I think that it might be sort of problematic to have too many entrance and exit points on Foxhall.

VICE-CHAIR MILLER: Okay. And as I understand it, this traffic light is going to be paid for by the applicant, is that correct?

MR. BULLOCK: Fortunately yes, that's correct.

VICE-CHAIR MILLER: So what they do need though would be your approval, DDOT's approval?

MR. BULLOCK: That's correct.

VICE-CHAIR MILLER: And then you're saying you support it?

MR. BULLOCK: And also, yes, and sign off on design, yes.

VICE-CHAIR MILLER: Okay. And in general, how is that going to be incorporated with the Foxhall Road improvements, or any of the construction here? Are they being integrated, coordinated in any way?

MR. BULLOCK: I think once we get approval, we definitely will coordinate both projects.

VICE-CHAIR MILLER: And when are the Foxhall improvements going to begin?

MR. BULLOCK: That's scheduled for this spring, approximately May.

VICE-CHAIR MILLER: Okay. That's all my questions. Thank you.

MR. MANN: I'd like to follow up, if I

could about the Foxhall improvements again.

What is the purpose of the improvements to Foxhall?

MR. BULLOCK: Well, it covers a wide section of Foxhall there of several intersections. Some are safety improvements that were also outlined in the Palisades transportation study and some are just improving the roadway being that it's worn down in some areas.

MR. MANN: Improving the quality of the road?

MR. BULLOCK: Yes, that's correct.

MR. MANN: But it's not the purpose of the improvements to increase capacity?

MR. BULLOCK: Not at this particular location, no.

MR. MANN: Okay. Thank you.

CHAIRMAN GRIFFIS: Excellent. Anything else from the Board?

(No audible response.)

CHAIRMAN GRIFFIS: Very well. Mr. Nettler, cross?

MR. NETTLER: Good morning.

CHAIRMAN GRIFFIS: Actually I'm going to have you, if you wouldn't mind, we're going to get

feedback on those two microphones. If you could just separate them a little bit and then possibly turn --

MR. NETTLER: I just have one question. Mr. Parsons had asked you about the storm water runoff on Foxhall and about whether it was part of the project and when you said it was not part of the project, you meant it was not part of your project, correct?

MR. BULLOCK: That's correct. Yes.

MR. NETTLER: But do you have an understanding that is something that we are working on alleviating?

MR. BULLOCK: Yes, I believe the responsibility of the developer. Yes.

MR. NETTLER: Okay. And your understanding is that the mere fact that you're paving Foxhall is not going to preclude us from dealing with the storm water runoff on Foxhall that we've committed ourselves to doing?

MR. BULLOCK: That's correct.

MR. NETTLER: Okay. Thank you.

CHAIRMAN GRIFFIS: Good. Thank you. Does the ANC have any cross?

MS. GATES: Good morning.

MR. BULLOCK: Good morning.

MS. GATES: Mr. Slate has very nicely let me borrow the sheet so we're all on the same page.

And currently the plan is -- maybe I have this too loud. Currently the plan is for residents who live on Foxboro Place to come into the Dunmarlin development and exit onto Foxhall because W Street is so dangerous. And on this diagram you can see the relationship of the light at Field School to the proposed development entrance, as well as W Street.

Mr. Bullock, I know that you're fairly new to DDOT and you're probably not aware that when George Washington University expanded, one of the agreements that was signed off on by the mayor --

MR. NETTLER: I think I have an objection.

CHAIRMAN GRIFFIS: Relevancy.

MR. NETTLER: Well, relevancy is one, but --

MS. GATES: I'm getting there, Mr. Nettler.

CHAIRMAN GRIFFIS: Okay. Hold on. Let's hear the objection.

MR. NETTLER: I think she's going to ask a question are you aware of --

MS. GATES: All right. I will rephrase.

CHAIRMAN GRIFFIS: Wait, wait. I can't

hear both at once.

MS. GATES: I will rephrase.

CHAIRMAN GRIFFIS: I can actually, but the transcript can't. The objection is?

MR. NETTLER: Well, Ms. Gates can't ask the witness if he's -- preface it that he's not aware of something and then ask a question about something that she's assuming he's not aware of.

CHAIRMAN GRIFFIS: I see.

MR. NETTLER: First, she has to establish whether he's aware of something before she can ask a question about it.

CHAIRMAN GRIFFIS: Good. Excellent point. Ms. Gates, did you want to establish that?

MS. GATES: Yes, thank you.

Are you aware that when GW expanded the mayor, Mr. Trachtenburg, Foxhall Citizens Association and the Palisades Citizens Association signed an agreement that there would be no traffic light placed at W Street?

MR. BULLOCK: Yes, through your communication from the ANC to the Board I was made aware of that agreement. Yes.

MS. GATES: And yet you are still proposing that a new light -- wouldn't the warrants

that exist for W Street also exist for the new Dunmarlin site?

MR. BULLOCK: As I think it's applicable, yes.

MS. GATES: Given the fact there is probably going to be considerable concern expressed at this proposal to put a light there, would you consider moving it to the Dunmarlin entrance?

MR. BULLOCK: I think that's what we already have proposed, that it is at the Dunmarlin entrance rather than at the W Street entrance.

MS. GATES: Did I misunderstand?

MR. BULLOCK: Yes.

MS. GATES: I thought you said you were going to put it at W Street.

MR. BULLOCK: No, it's actually 400 feet south from W Street.

MS. GATES: Oh, I'm sorry.

MR. BULLOCK: So it's at the Dunmarlin --

MS. GATES: Thank you for tolerating.

CHAIRMAN GRIFFIS: I had to ask the same question.

MS. GATES: I thought I understood you were putting at W Street.

Then I really don't have any more

questions.

CHAIRMAN GRIFFIS: Very well. Thank you, Ms. Gates.

Friends of Whitehaven?

MR. SNAPE: No, Mr. Chair.

CHAIRMAN GRIFFIS: No? Ms. Hardy, any cross?

(No audible response.)

CHAIRMAN GRIFFIS: Certain residents?

MS. BRADY: CR44.

CHAIRMAN GRIFFIS: CR44. Front and center.

MS. BRADY: Good morning.

MR. BULLOCK: Good morning again.

MS. BRADY: Mr. Bullock, I believe you both responded that DDOT did not consider an egress onto an extension of Whitehaven Parkway?

MR. BULLOCK: Correct.

MS. BRADY: Are you aware of any other government agency that might have looked at this alternative for this particular project?

MR. BULLOCK: I'm not aware of that.

MS. BRADY: If that project, if that alternative were to be considered, are you aware of what stakeholders, what parties, what groups would

have to be involved in that decision?

MR. BULLOCK: Well, I think that necessarily would have to be the Park Service, the ANC and the protected community residents in that area.

MS. BRADY: If in fact it were decided that a more elegant solution to the Phillips egress could be offered by the use of a Whitehaven solution, do you think that DDOT would be willing to host a meeting, a group meeting of the parties that might be interested in this solution or might have stakes in this solution?

MR. BULLOCK: As you mentioned, it wasn't something that was on the table previously, but it would be something we would be open to listening to.

MS. BRADY: Okay. Thank you very much.

CHAIRMAN GRIFFIS: Good. Thank you. Anything else then? Any others? Follow-ups? Follow-up from the Board? Questions?

(No audible response.)

CHAIRMAN GRIFFIS: Good. Thank you, all, very much. We appreciate you being here. It's obviously very important to hear from you personally and get through some of the detailed questions that we have and we appreciate always receiving your reports into these applications.

Let's move ahead then to the Park Service. I believe Mr. Murphy is here.

MR. MURPHY: Good morning, Mr. Chairman, members of the Board. My name is David Murphy and I am speaking today for the National Park Service and specifically Rock Creek Park which has administration over the portion of Glover-Archbold Parkway and Whitehaven Parkway, which is adjoining the subject development proposal.

Primarily my comments will be dealing with storm water management, both on this site and in the surrounding area.

Foxhall Road is an interesting road because historically it was called Ridge Road. In fact it was called Ridge Road until about the 1920s and because it unusually is right on the spine of a ridge separating the two watersheds, one going to the Potomac and one going indirectly to the Potomac via what is now Glover-Archbold Parkway. That was called Foundry Branch. At the bottom of Foundry Branch of course was Mr. Foxhall's foundry, so thus it all comes to full circle.

I brought an aerial photo and I provided two copies for you and a larger panel. One is to show that the three developable tracts, one already being

developed, being the Field School, separated by housing and W Street from Phillips and then on down the St. Patrick's property separated by a portion of the Whitehaven Parkway corridor.

The Field School was subject to an extensive design consideration and to the extent that nearly two pages of stipulations were provided under the Board of Zoning Adjustment decision dated November 8th, year 2000. Those conditions were very specific and rather notable in that they dealt with storm water management in a very exact way.

The previous testimony you heard a good deal of discussion about Field School, but I wanted to point out, and that's why the second photo you have has the topographic lines and those are on 10-foot contour intervals, but what I also did on the panel to the right over here is highlighted basically the drainage corridors for Field, for Phillips and for St. Patrick's to point out that there are a number of drain ways that were historically on the sites. Fields, that design dealt with the gross drainages, one being toward 44th Street and then another generally down obliquely and down toward W.

After hearing testimony last week about the difficulties with the adjoining properties in here

and apparently in here, I did give a field survey of that area and the surrounding embankments and as far as myself and our hydrologist could tell, what it appears to be is that the bulk of the water coming out of Fields and draining into Whitehaven, or into Glover-Archbold is handled very well by the storm water system. What appears to be a difficulty is some grading anomalies in this vicinity here and on the back of the ball field, which is there, that did actually not get addressed in the storm water management plan because the reliance was that the water from the fields would go into the management system, the structures.

Recapping the concept of Field School is that there are the roof top drainages from the buildings and the ball field drainages were going into storm water receiving structures that dealt with the oil and grit from that as well as from the parking lot going into that and then they were placed into large tanks that were basically along the ball fields and then that water was released by pipe down into the 44th Street corridor, which was a very large horizontal tank, which again had oil grit separation structures to be maintained by Field and then it would be released down into Glover-Archbold Park. The whole

idea of this was to retain, according to the District standard, the 15-year storm event, however, there was an oversize of the pipes and so essentially it handles the 25-year storm event. So it deals with the first flush, the first two-year flow, which is highly erosive, but also highly contaminated and then on up to the 25-year storm event. And that, as I understand, is about the five-inch rainfall in 24 hours. So we're dealing with a very -- not the perfect storm, Mr. Chairman, but it's pretty memorable.

So what we said, and in fact it's ironic, when Fields started and approached the Park Service, we said there were three issues. There was storm water, storm water and storm water. And I use that facetiously, but it is exactly what the issue was. So that when I was contacted by Phillips, the proponents, I said, "Look at Field, look what they did, because that is the issue again." And I think that the developer has started a design. You've heard many variables and design nuances, whether there should be swales, whether that water should be modulated before it goes into underground tanks, should it be cleaned before it goes into the underground tanks, should it be cleaned after it comes out of the underground tank

before it goes into the wetland and should it be monitored and managed and released at a very controlled level before it goes into the park? And the answer is yes.

So, I won't go into all the details. We look forward to seeing the storm water management plan. We will spend a great deal of time considering it, pointing out where it could be possibly either tweaked or improved, but the goal is to have the storm water released into the park at no greater a rate, no greater a concentration than it is now.

Why is that important? Because Phillips, unlike Field, Phillips basically releases all of its water -- all the water drains out of this corner here. It runs down into a creek that's in Whitehaven, goes under a berm that apparently was the unbuilt section of 44th Street here and then on into the drainage area down into the main stem of Glover-Archbold Park. As a comparison, with that single point of release there, St. Patrick's has possibly one, two and three and you can see on the topographic lines how those come out. But basically, St. Patrick's will drain into Whitehaven or does into Whitehaven, but it also drains directly into Glover-Archbold to the south.

Another piece is the drainage off of Ridge

Road, which is why I will continue to say Ridge Road. Ridge Road is an anomaly in that because the rainwater hitting it can go to either watershed. And so it isn't a question. We have strongly and we will continue to oppose transferring water from one watershed into another. This one is -- it's on the back of the turtle, as it were, which way it goes is which way the turtle's heading at the time.

So we are suggesting that this water from -- and I'm a little bit confused because I don't have these drawings -- they're -- it's the same photo, so if you look at the one with the topography, in front of you will see that there is a drainage down or there's Whitehaven Street as built. We have reviewed the desk and counter maps that the District of Columbia has for the storm water and the sewer system and we find that there's a 30-inch pipe down Whitehaven Street and then that goes down to McArthur Boulevard tying into a I think a 60-inch, four-foot-five-inch pipe. It does not go down, according to their drawings, into Hutchings. And you've heard comments that there is a property owner on Hutchings Place that was adversely affected by the drainage on Whitehaven. It is our opinion in drive by that many of the storm inlets are not maintained or have clogged

on Whitehaven Street and the grade and crown of McArthur Boulevard probably means that there's over wash across McArthur and then I can see how there would be water ending up in front lawns down on Hutchings. There's two low properties that don't seem to be much higher than the pavement. So perhaps this is an issue that the District needs to look at as far as curb gutter drains, cleaning drains and so on. How much the applicant gets involved, I don't know.

But we stand by our desire to have the water from Foxhall put into the existing Whitehaven Street 30-inch storm sewer because that then does not direct the storm water down into the natural landscape of Whitehaven Parkway to the east. It also addresses, either it can be directly or indirectly, the issue of the private property in this corner and the water coming down Foxhall as it does now and will when they repave it with no curb and gutter. When the District does that it will continue to come down here and then right now because of the way the temporary structures have been built, it's sloughs off and down into Whitehaven Parkway and is causing a continuing pattern of erosion down in this general area which then drops back onto the applicant's property. The solution in our opinion is to put it into Whitehaven and manage it

as a storm system.

The other piece is on storm water. W Street has a newly-built curb, gutter and drain which times into outfall that we had worked with the District and with Field School and it drops in here. We are adamant in not wanting anymore unregulated water going into that W Street water system because it would then basically potentially reverse the efforts that we've accomplished with Fields. The developer has indicated that the storm water from the roofs and the driveways and other impervious surfaces would be directed within Phillips.

There is some minor erosion on the 44th Street roadway as built. It does not look like it will be any worse. One side comment was that there is a commitment and we applaud it to not oppose and to in fact support the transfer of jurisdiction of this section of 44th Street to the park for park purposes. That area has a good deal of fill, pieces of pavement that are probably 70 years old the size of these desks combined. It looks pretty rough, but all that fill has not impacted the reforestation of the area. So while we applaud the idea of cleaning it up for a visual event, we are extremely concerned that cleaning it up could damage the trees, which is really what the

value of the forest next to Glover-Archbold.

Glover-Archbold is a continuous seamless crown essentially. There are very breaks in the crown of trees, therefore the interior dwelling species, migratory birds, wetland area, despite the combined sewer that runs down the middle of this, the old Arizona Avenue corridor, it is a very high-quality forestland, very high-quality park and it certainly fulfills the interests of Mr. Glover who gave in 1923 the 77 acres to the District for park and playground purpose and Mrs. Archbold who gave essentially by 1933 another approximately 20 acres and thus you have this hyphenated name for the park. A little quick history on that. Their intent was to have park and playground and children's playground. That is a very broad stipulation and that is how it's managed. If you are aware, Arizona Avenue was a corridor that was closed and transferred for park purposes and that occurred about the time of the termination of the desire to build the Three Sisters Bridge. This would have been the ramp to go up across the river and up to Tenleytown.

Again, we are anticipating the receipt of the storm water management, the new grading plan, minor improvements or minor changes, I presume, to the

site plan and we look to those and we'll basically hold comment on that. I would like to point out there was a discussion and testimony earlier that talked about park service wanting a three-foot fence along the boundary and what that is is that was a truncated discussion, if you will. The original proposal had a border road along Whitehaven and that was modified. But what our concern was that the border road would act as an adequate barrier. And so psychologically and physically there would be a separation between park and development. This is something that all through the city there are many border roads that basically the properties face the park and there is an emotional and psychological separation between park. This goes back to Mr. Olmsted articulating it in the 50s and he pointed out that this was the safest that he could see to protect the parks.

The problem that he articulated, Frederick L. Olmsted, was that if you have back yards abut a park they tend to grow, they tend to expand into the park. Now that could be somebody wanted to expand their tennis court, encroach just a little bit, go over and help the park help by maintenance, throw their dead leaves over, all of them are deleterious to the park and all of them in a hundred-fold instances,

we've got problems in the city. If we can avoid that, that's fine. We've heard it wasn't a gated community, but we understand that in one of the drawings it says there's a fence. There should be a substantial five or six-foot fence, it should be architectural, if the property lots back up on parkland.

One of the things you've heard is that structures will not be built in a buffer or the setback or hasn't been identified. One of the problems we've had very recently is that the -- or itemization of structures in rear lots is then modified into zoning code to allow fences and retaining walls and we're saying emphatically we do not want to see any kind of building, grading, retaining wall structure in any buffer no matter how deep it is, or the setback.

So I think that the applicant has indicated, or I understand will present conceptual cross sections to show how they anticipate the setback from the edge of the park, or the edge of their property onto rear yard developments such as swimming pools and patios and to the buildings themselves and we will look for that with great interest.

The buffer around the wetland is stipulated by the Corp of Engineers to be minimally 25

feet. The wetland had a good deal of opportunity to expand when you're talking about swales and so on. So we're not, at this point, ready to comment on that other than to say we are aware that the Corp of Engineers by regulation stipulates a minimum of 25 feet.

The soils on the site. I understand now there's a geotechnical survey. We've not seen it. We look forward to seeing that because one of the issues will be will the soil be capable of handling infiltration, returning of the ground water into the ground. We've also heard that there's possibly a high water table, which is sort of counter indicative of soils that will allow infiltration. So there may be some design issues that we're not aware of, but I'm not sure anyone else has articulated.

Also, getting into soils, there's various proposals for fill and grading. It looks to be a cut and fill exercise to a point where the soils that are moved from one point within the site will be used as structure. We're not sure, having our experience in this stream valley, and other sites, including Field, which had failures, whether that soil has the structural capability of supporting either buildings or houses. So it remains to be seen on that. That

isn't to say that it isn't, but I'd say a soil scientist needs to work at it.

That is the essence of my comments. We look forward to future opportunities to either comment on subsequent site plans that are provided on this project. If you have any questions, I'd be happy to answer them.

CHAIRMAN GRIFFIS: Good. Thank you very much. Questions from the Board?

MR. MANN: Yes.

CHAIRMAN GRIFFIS: Mr. Mann?

MR. MANN: Whitehaven Parkway and Glover-Archbold Park in the vicinity of this property. How are they used today?

MR. MURPHY: Glover-Archbold Park has an extensive trail system through it. There are vest-pocket parks or nodes with some open fields, meadows and so on. Primarily it's a natural area. It's heavily impacted by the almost 90-year-old combined sewer system. That has been separated to an extent, but storm water in this valley is an extreme problem because of the continuing incremental hardening of the surrounding areas.

Whitehaven Parkway, as you may be aware, extends all the way over to the vicinity of the

Observatory Circle. It was envisioned as a connecting link. There are trails in portions of it. Right now, this section between Foxhall and the stream valley, it's basically a natural area.

MR. MANN: But it sounds like the only use of it in this vicinity then is trails, that people utilize the park mostly on trails.

MR. MURPHY: Trails and habitat.

MR. MANN: Yes. Okay. And are there any access points to these trails from the vicinity of this property?

MR. MURPHY: There is a trailhead on what is now the 44th Street right of way. It is marked. It is on the trail map brochure for Rock Creek so that the access down into Glover-Archbold is via the W Street terminus. The problem is the deeply incised stream valleys, the rather sensitive soils, and those are areas that aren't deeply incised, so we have numerous volunteer trails, a operated maintained low-impact trail, but cross the creek, crossing Foundry Branch is the difficult point. And so finding those crossings and working them out where they don't damage the park is a key.

MR. MANN: And there's something that I didn't quite understand regarding the fence. The

fence, as we've stated in the application, was three feet tall. But are you saying that your preference would be that it be five to six-feet?

MR. MURPHY: Well, what's happened is that from the discussion point where we were talking three foot, which would be a psychological fence.

MR. MANN: Yes.

MR. MURPHY: It's now become back yards, the edge of what the homeowners association or the homeowners would be required to maintain and we found that a five or six-foot fence ranging from a black vinyl coated chain link or a wrought iron picket, depending on what the desire of the developer is, really would set the point. Right now there is a fence, an old chain link fence that doesn't truly follow the boundary between Whitehaven and the Phillips estate. We're not even sure who put it up. But basically because the area has some problems with invasive species; it is heavily vine covered, so it's a maintenance problem to keep it for another 40 years. So if we are left to manage it, we will leave it as it is because it does little harm, though it does little good either. But then again, there's nobody wanting to go across that border anyway, so it's sort of an interesting anomaly.

MR. MANN: So a fence along the property would prohibit any access to the park land from those properties?

MR. MURPHY: Yes.

MR. MANN: Okay. And finally, regarding the potential transfer of the 44th Street corridor to the Park Service, if I understand, you endorse that proposal but have some reluctance because of the cost associated with removing the crumbling road and maintaining the tree cover?

MR. MURPHY: Well, this is not a road. It's fill.

MR. MANN: Right.

MR. MURPHY: And it was pavement from points unknown. By the ages of trees, this would --

MR. MANN: Oh, I see. This is not crumbling pavement. It was fill material that --

MR. MURPHY: This is fill material.

MR. MANN: I see.

MR. MURPHY: Large panels of pavement. Concrete. It's almost a collection of historic paving types of the District because most of it, in fact all of it, predates 1930 as far as we can tell and given the age of the trees, that's pretty good.

MR. MANN: Interesting.

MR. MURPHY: The difficulty is it looks like a pile of rubble. The good thing is that that rubble has supported some very substantial trees. So they found a way in there. Our concern is that if we're directed, or the applicant is directed, or anyone's directed to clean it all out, unless it's done by hand, it probably will do more harm than good. We have no evidence on our initial survey of that of any contaminants other than very old asphalt, which is not truly a contaminant by EPA standards, so we are looking at it as something that we can accept without the reservations unless it's stipulated that somebody has to clean it up to a point of making it very hostile to the trees that are there.

MR. MANN: But it's only an aesthetic concern.

MR. MURPHY: It's only an aesthetic concern.

MR. MANN: I see. Thank you.

CHAIRMAN GRIFFIS: Yes.

VICE-CHAIR MILLER: There's been some suggestion in these proceedings that the setback for the homes abutting the park be increased from 25 feet to 100 feet and I'm wondering if you have an opinion on that.Whitehaven

MR. MURPHY: Well, at this time, we had asked for cross sections to describe what would be in the various portions of the setback. I'd rather hold and actually have an opportunity to see how that is being presented with the existing proposed setback and then see how that relates. One of the difficulties is that rear lots can have many things depending on the owner of the lot over each five or seven-year cycle, or 10-year cycle. We have watched very natural backyards evolve into tennis courts. We found a rear yard that -- well, you don't want to have the storage shed in the yard, so you put it over in the park because nobody will notice. So those are the kinds of things. It keeps our patrol rangers very busy and it is a constant effort on our part to protect the parks from well-meaning and perhaps unknowing adjoining owners.

So in answer to your question on what is the setback, the setback or what should be the setback, the setback really relates to what is put in that setback or what isn't, if it's as indicated by Chairman Griffis, a putting course, we would have some concern because if you're walking down the park and you look over and you see a putting course, well there must be something, there must be some setback, there

must be some distance. In previous hearings on other issues we've talked about how people perceive where the park is or where private property is almost by the bulk and looming of the buildings and structures. So, it's a psychological issue as much as an ecological issue.

And so I'd say that we're very sensitive to it, but we haven't seen what is being proposed to a point we can comment.

VICE-CHAIR MILLER: And my other questions go to the fence which called a psychological fence, and I'm not exactly sure what you meant by that, but one of my questions, is it possible to have any access through that fence, or does the whole thing have to be solid?

MR. MURPHY: Well, as I said, the original proposal was for a border and one of the questions was, well would people come from the park into the community and how. And at that time, there was no discussion of a fence. So, our reaction is well perhaps there should be something low that you could step over but it would still point out where the boundary was. Then the whole site plan changed so that there is a change there.

The topography along the 44th Street right

of way probably lends itself to an ornamental fence along that back and then on Whitehaven there is a need for a fence, if that is rear lot. As far as providing access, well providing access could mean an exclusive access for the community versus public access. We are not inclined to the point of being downright opposed to providing exclusive access to parkland from a particular development. So if it were access for the public, then that would be one issue. If it were not, then it's basically we can deal with the homeowners association as a unit and deal with that accordingly. But as far as access and there's probably not a need for it because it's a very low area in that corner where that drainage is and where the downfall of the wetland is.

Probably the best idea would be to have any trails or any access for -- to skirt that and if people wanted to be there, they'd be there to watch birds or for the real values of the park rather than just to get through it as a corridor.

VICE-CHAIR MILLER: Thank you.

CHAIRMAN GRIFFIS: Anything else?

MR. ETHERLY: Yes, Mr. Chair, very briefly.

We've talked quite a bit, Mr. Murphy, and

I think rightfully so about kind of the psychological and emotional importance of the park and perhaps to an extent the psychological and emotional importance of -- for those of us who are tennis players and golfers making sure our games continue to stay somewhat at a decent level, but I won't even talk about the girth of my handicap.

Be that as it may, I want to kind of push a little bit on your thinking or perhaps the Park Service's thinking about that buffer because I think part of what I'm hearing is I think you have a clear sense, maybe you're not saying it, but I think you have a clear sense about how close you want structures to encroach or not to encroach on the park. And so I wanted to talk a little bit about that because there was a little bit of an exchange with Mrs. Miller regarding that buffer zone. I mean, in your mind is there a minimum distance at which you want to keep structures away from the boundary of the park?

MR. MURPHY: I think in fairness buffer can be -- well, Baltimore-Washington Parkway, we're striving for a 600-foot buffer. In other areas a 20-foot buffer is adequate. The difficulty in this one is that this is in the bottom of a drainage and that everything on this side and also on the St. Patrick's

side of this valley will, if built out, 25-foot, if the edge of building 40-foot tall were put within 25 feet, it would loom and overwhelm the sense of space. Now, what is the actual angle of sight line and setback? I don't know. Right now I'd say it even varies within this because there's 100-foot elevation change within this tract.

MR. ETHERLY: Yes.

MR. MURPHY: There is almost a 70-foot elevation change between Foxhall next to Mrs. Brady's house and where it drains out at the bottom of the hill. But it's an increasing drainage. If you look at the topography, you'll see it's almost a harmonic flow rather than a very steep cut. But it would seem that there would be a need to have more setback, more buffer, more on the slope. The thing that our earlier pieces that -- if you notice that's an odd notch. It looks like an upside-down shotgun stock. That's about the only way I can describe it, but if you'll -- that Whitehaven corridor is very wide at Foxhall and then there's a corner down there and so the issue is if a house was put there and the house was put 25 feet back, you'd look down Whitehaven corridor and you'd see that house rather than see the corridor, rather than see the woods. So there is a problem there, but

as far as quantification, I leave that to the applicant to --

MR. ETHERLY: And I appreciate that because there clearly is perhaps going to be a unique impact on the part of each of the residential developments on the park and so there might not necessarily be one cookie cutter approach to take with respect to the overall piece. But I at least wanted to kind of pursue that a little further.

MR. MURPHY: Well, let me just say, I think 25 feet, if you hewed to that line exactly, I think that would be very short-sighted on this tract and there needs to be that variation, just as you're describing.

MR. ETHERLY: Okay.

MR. MURPHY: There needs to be a consideration on how to do that. Now, I think that in some areas 100 feet would be clearly in order, but in some areas not and I think it would be presumptuous on my part to paint a picture without seeing the drawing.

MR. ETHERLY: Okay. Final question with respect to the water and very simply I want to be sure I understand where you want the water to go.

Based on the topography of the subject site, the water wants to go southeast, correct?

MR. MURPHY: And that's going to go there.

MR. ETHERLY: And it's going to go there?

MR. MURPHY: Yes.

MR. ETHERLY: But you referenced the piping along Whitehaven. Was that a 30-inch pipe?

MR. MURPHY: There's a 30-inch pipe under the -- I guess it's in the center of Whitehaven that starts at the signal at Whitehaven and Foxhall and it runs down, and i wish I'd brought all the drawings I have.

MR. ETHERLY: That's okay.

MR. MURPHY: The counter maps that the District has provided me, and I'll share those with you, which shows and I think it goes all the way down. It includes the storm drains down at Hutchings and I think there would be a value in having that in the record.

CHAIRMAN GRIFFIS: So let's get to his question first before we look at that.

MR. ETHERLY: But the question is, for whatever the ultimate storm water plan is, whatever the management plan is ultimately, you would like a linkage with that pipe?

MR. MURPHY: For that bit of drainage that is neither in one watershed or the other because it's

on the old Ridge Road.

MR. ETHERLY: I see.

MR. MURPHY: The old Foxhall Road.

MR. ETHERLY: I see.

MR. MURPHY: So it's about a two-and-a-half-acre impervious surface that right now is running down uncontrolled, as you heard the DOT say. They're just going to do a paving. They're not going to put in a storm system, which in a way is good news for most of Foxhall, but a little tough here.

MR. ETHERLY: Okay.

MR. MURPHY: So this is an opportunity to solve that.

MR. ETHERLY: Okay. Understood. Is that part of the problem though, that you do have this little bit that's not accounted for and does this exacerbate that?

MR. MURPHY: It will have an effect on the capacity of the storm water system within Phillips. But all that would just to have mean is that their system would have to be larger. But the other thing is, as pointed out on road salt, right now Glover-Archbold gets obviously road salt from some areas, but here would be an opportunity on one section of the stream to be able to control that amount of salt

that's coming off of Foxhall. Now within the development, there are other ways to manage salt.

MR. ETHERLY: Okay.

MR. MURPHY: I mean, just by restricting the types, unlike the District.

MR. ETHERLY: Okay. Final question. Soil. We've talked about water. We've talked about my high golf handicap. And I'm going to have a tennis player also as well, but that's not here nor there. With respect to soil, you talked about a geotechnical survey and you were aware that one was being done?

MR. MURPHY: I had heard that in testimony earlier today.

MR. ETHERLY: Okay. Okay. What do you need to see or not see with respect to that type of study? I mean, what kind of question will that study answer for you?

MR. MURPHY: Well, I think that as the record -- if the soils are not capable of structural support, then they would not be usable if there was mass grading and then that's fairly easy. That's a civil engineering issue and we would rely on that to be dealt with. But if there is a reliance on the soils to be -- for percolation for the surface water to go in or there is modifications to the headwaters

around the spring, which this pond is spring-fed; and it's hardly a pond, it's a marshy area, there's always a possibility that a decision will be made that doesn't recognize the limitations of the soil types or recognize the inability of the soil to either take the water or to retain the water.

MR. ETHERLY: We have as part of the exhibit list I believe that was submitted by the applicant and I am looking at what is Tab Q, which is labeled, "Phillips Estate Wetland/Waters Jurisdictional Determination." It might have been prepared by Environmental Systems Analysis. But I want to take a look at a component of that and it's this map here that I'm looking at.

MR. MURPHY: I don't have it with me.

MR. ETHERLY: The portion of the text that refers, under the site description, and particularly the flagged wetland delineation, reads as follows. And that is, "That Phillips Estates is comprised of three soil types, all of which are considered highly erodible, but without hydric wetland soil or hydric inclusions, a wetland source within ditches. The most dominant soil is mapped as Manner-Irving land with 15 percent plus slopes then followed by Chillums silt loam." I won't read the parenthetical. "All the

soils are acidic and shallow with rock within a few feet of the surface."

Is that getting us in the direction of what a geotechnical study or survey would answer, or does that description in any way begin to answer the question that you're asking, whether or not the soil can handle the water?

MR. MURPHY: That's probably a quote from the soil map of the District of Columbia.

MR. ETHERLY: Okay.

MR. MURPHY: And what we have understood is that that's the first flag. You look at that and determine what questions to ask.

MR. ETHERLY: Okay.

MR. MURPHY: And then --

MR. ETHERLY: And the geotech survey will answer those questions?

MR. MURPHY: That's correct.

MR. ETHERLY: Okay. Thank you.

MR. MURPHY: That's what we rely on.

CHAIRMAN GRIFFIS: Good point. Okay. Anything else from the Board?

(No audible response.)

CHAIRMAN GRIFFIS: Oh, you're going to put those maps in? Do you have extra copies also for the

parties and the applicant?

MR. MURPHY: Mr. Chair, I'll make copies available of the extra drawings.

CHAIRMAN GRIFFIS: Okay. But does the applicant have a copy in front of them now?

MR. MURPHY: They have the reenlarged prints. They're on the easel.

CHAIRMAN GRIFFIS: Okay. But not the maps?

MR. MURPHY: But not in hand.

CHAIRMAN GRIFFIS: Okay. Mr. Nettler, you ready for cross?

MR. NETTLER: Yes. Good afternoon. Mr. Murphy, do you recall getting a copy of a geotechnical report that was done last fall by Schnabel Engineering?

MR. MURPHY: No, I don't recall it.

MR. NETTLER: Do you recall getting a copy of the application that was filed with the Board in November?

MR. MURPHY: Yes.

MR. NETTLER: Okay. Do you recall the environmental impact statement that was submitted as one of the exhibits to it?

MR. MURPHY: Is that in the EISF? In the

District --

MR. NETTLER: The District. Well, actually it was just an environmental assessment that was done. Do you recall?

MR. MURPHY: I recall a document that had that sort of title, yes.

MR. NETTLER: Do you recall reading the reference to the soils analysis that was done in that document?

MR. MURPHY: No, I don't.

MR. NETTLER: I believe we have it as a part of the application, but let's move on.

CHAIRMAN GRIFFIS: It's Tab T, I believe.

MR. NETTLER: I think it was T, is that correct?

CHAIRMAN GRIFFIS: Right. It's your Phase I Environmental.

MR. NETTLER: Right, which makes reference to the geotechnical report that was done at the time and the conclusions from that geotechnical report, which are the questions that were asked with regard to Q, which were then on the wetlands map that was -- I shouldn't be testifying. Sorry.

I know you've talked about the problem with the storm water runoff on Foxhall. You

understand that the applicant has offered to take that storm water runoff and connect it into Whitehaven?

MR. MURPHY: Yes, I am.

MR. NETTLER: Okay. Let's deal instead with the buffer area. When the first proposal that the applicant did, I think, as you mentioned, had a road running around a portion of the site that came around from Whitehaven Parkway over to Glover-Archbold, correct?

MR. MURPHY: Yes.

MR. NETTLER: Not around the entire border of the site, correct?

MR. MURPHY: That's correct.

MR. NETTLER: Okay. And that in a sense acted as a psychological buffer, correct?

MR. MURPHY: It provides in many areas in the city a very effective separation between residential activities and park activities.

MR. NETTLER: Okay. And the applicant then proposed to you as well a landscaping plan for landscaping along the border of the park also, correct? Do you recall that? A number of trees that were going to be put in around the border of the park?

MR. MURPHY: In the context of the edge of the roadway, how to separate the roadway because there

was, I think -- I don't recall the dimension, but it was approximately 20 feet from the edge of the park to the edge of the pavement, there was a landscape plan proposed.

MR. NETTLER: Okay. Again to enhance the psychological buffer between the park and the development that was going on on the other side of both the road and the trees, correct?

MR. MURPHY: Sure.

MR. NETTLER: Okay. And the applicant in response to the concerns by Friends of Whitehaven then altered that road system to provide for a number of houses that would back up, and I think that's in your hand, to back up into, that have rear yards that back up against the park, correct?

MR. MURPHY: That's correct.

MR. NETTLER: And it still provided for that landscaping component, correct?

MR. MURPHY: I didn't know it was the same landscaping, whether it was as a stylized illustration or if it was the same.

MR. NETTLER: Okay.

MR. MURPHY: But, yes.

MR. NETTLER: Okay. And also I understand your suggestion is to have fences along that area,

whether they're wrought iron or whatever, again to provide that understanding that there's an aesthetic break between where the park starts and where this development project is, correct?

MR. MURPHY: As this plans shows and as the indication by the application was that it was a fence, then we would support that.

MR. NETTLER: Okay. And so the question I'm going to ask of you is about this 25-foot buffer. If you have the fence and you have the trees, and you have 25-foot buffer, at least as what you were seeing, and you have these covenants that are placed on the property that preclude anybody from doing anything, a fair amount of the things that you've identified that you have concerns about in the rear of those properties, where is there houses then becoming part of the park? Isn't that buffer still existing because it's got the fence, got the trees and it's got that covenant over it that precludes anybody from putting anything in there?

MR. MURPHY: Well, when I first saw this drawing, which was in the field, I did ask specifically to see a presentation and analysis of how the buffer, the fence, the edge, the setbacks and so on, which I've already testified this morning, without

understanding it in a way that anyone can look at it and understand what the concept is, I think it's unfair to say 25 feet here and this will have -- there's a better way to present what the concept is than black letter.

MR. NETTLER: Well, but your concern is that somebody gets the impression that they could do anything in their back yard and essentially becomes then doing something in the park, either from the side of the private property owners or from the side of the people who are enjoying the park, correct?

MR. MURPHY: I think you lost me.

MR. NETTLER: Your concern is that people, from an aesthetic prospective or from an encroachment perspective, damage the park because there's either something that's going on on their side of the property that is a concern because it's encroaching onto the park and become -- and you lose the definition between the park and that private property, or because when you look at it from the private property's perspective, you've lost any definition between somebody's rear yard and the park.

MR. MURPHY: Well, nature, and I think human sensitivity, abhor straight hard lines and a hard separation between any ecological function is not

a natural part of the landscape and I recall, not at this site, but at others, I've had children perceive that the adjoining property extends far into the park because of the way it's built out and that is part of the concern and I think that's from my personal experience, but I think good design says that you want to blend and make the separation lines indistinct.

MR. NETTLER: Okay. So there's a tension there between having a fence up that has a hard boundary and the idea of having open space which at least gives you the perception that the park is broader than it may actually be, or unaffected as you may want it not to be?

MR. MURPHY: Well --

MR. NETTLER: Obviously a fence -- I'm sorry. Is that correct?

MR. MURPHY: In a perfect world, you don't need fences. But I'd say for the last 1,000 years we've been putting fences up. The original proposal had no fence. The proposal now has one. We are not at the point of knowing whether a fence is absolutely necessary.

MR. NETTLER: Well, wait a minute. The proposal, the prospect of a putting a fence in there is not our suggestion. The prospect of putting a

fence in there was your suggestion. Isn't that correct?

MR. MURPHY: No, actually it was -- no. No. I left it in the field as an open issue. I pointed out that there were some contradictions in use patterns between park and the community and I was surprised at the first site meeting to find that there was no fence at all and I said, "Well, you should think about that and provide some sort of presentation that indicates how the park and the development would interface and if a fence was needed, that's fine." I have to date not seen an articulation of that that makes me particularly comfortable in saying I know what is being proposed.

MR. NETTLER: Okay. So would you rather us not have a fence then?

MR. ETHERLY: Well, Mr. Nettler, let me ask it this way because I think we're probing around it, but as part of what I was getting at, let's just assume that there is a fence there. Is it human nature that once that fence is there my presumption as a homeowner, and let's say I'm a fairly aggressive homeowner, and that fence is there, so perhaps my presumption is I'm going to be able to do darn well whatever I want up to the edge of that fence, whether

it's a tennis court, putting green or a swimming pool with a receding horizon. If you use the boundary of the park as your black letter line and you work your way back to the residence, is there a sense on the Park Service's part that there's a certain distance within which you don't want to see a swimming pool or a tennis court or structure come within to the edge of the fence, if there is a fence there? My sense is that what you're talking about is there's a visual impact that you have as you're in the park looking outside of it and if we're not careful with what you do relative to those back yards, I could be in the park enjoying a wonderful day, but at the same time if I'm right up next to that fence, there could be a swimming pool or tennis court and there's the base line two feet from the fence.

MR. MURPHY: And I would say that's exactly our concern.

MR. ETHERLY: Okay. And you would be worried about that?

MR. MURPHY: Yes.

MR. ETHERLY: Okay.

MR. MURPHY: And to have an unknown or to have it -- and as I understand it, there's an architectural standard that's drafted, I've seen a

two-page outline as it was described, haven't seen the details, I've heard of structures, but I'm also looking at other cases where structures can include a retaining wall. I don't know. And therefore, I think it remains for the applicant to show what their idea is to at least give us an ability to comment, hopefully it's only constructive, on how that layout is.

MR. ETHERLY: Okay.

MR. MURPHY: But I would say going back to -- it isn't only a 30-foot, it isn't only 100-foot. There's a great deal of range in here that I think the design could accommodate very easily.

MR. ETHERLY: Thank you. I apologize for the interruption. Thank you.

MR. MURPHY: Thank you.

CHAIRMAN GRIFFIS: Good. Mr. Nettler?

MR. NETTLER: Okay. You're aware that there is, at least in the applicant's view, a component of this project that's being developed as a matter of right. There's about nine houses on W Street and I think there's four houses on Foxhall.

MR. MURPHY: I'm aware that was the way it was presented, yes.

MR. NETTLER: Okay. Let's take this ninth

house that's on the edge of W Street and near where it meets 44th Street. If the applicant is correct that this is a matter of right, there is no opportunity for you to address the issue of having a fence there or somebody building into their side yard or whether that's a rear yard, correct? There's no BZA hearing. There's no Commission of Fine Arts hearing. There's no Historic Preservation Review Board hearing. It's a matter-of-right development?

MR. MURPHY: Are you speaking as if, and this is labeled Building 13, I think.

MR. NETTLER: Right. Well, there's 13 houses. There's nine on one and there's four on the other. That's Nr. 13.

MR. MURPHY: If that was an individual house, single-family, separate from all this development, the owner would have certain rights. We would have some objection on the edge where it would affect tree roots base, but beyond that there would be very little.

MR. NETTLER: Right.

MR. MURPHY: In play that we would have.

MR. NETTLER: And this is a 16-acre site and it could be divided up in such a way that you have, let alone 13, that you had certainly more than

13 matter-of-right sites here, rather than pursuing this. That's theoretically, correct? Isn't that true?

MR. MURPHY: As I understand it, yes.

MR. NETTLER: Okay. So the tension here --

UNIDENTIFIED SPEAKER: -- Park Service, Mr. Chair?

CHAIRMAN GRIFFIS: Right.

UNIDENTIFIED SPEAKER: (Off microphone.)

CHAIRMAN GRIFFIS: Understood.

MR. NETTLER: Well, if I can connect that, I think we'll see it immediately.

So the tension here really is how to both protect the Park Service on the one side, protect the park on the one side and accommodate what are private property rights on the other side, correct?

MR. MURPHY: Correct.

MR. NETTLER: Okay. And this provides an opportunity to this hearing here, provides an opportunity to try to come to some type of, I wouldn't say accommodation, am I correct, but really to try to come up with a means of both mitigating impacts of new development and as providing for ways of dealing with the litany of issues that are addressed under the

theoretical subdivision regulations, correct?

MR. MURPHY: As I understand the process, yes.

MR. NETTLER: Okay. So the idea of how you separate the park both visually and how you protect the park aesthetically as well as protect the park from encroachments and protect the park from storm water management issues is a function of the varying plans that are being developed for this site and how you can to some extent maximize, but certainly to accommodate both the private interests and the park's substantial interest in protecting itself, correct?

MR. MURPHY: Well, that seems to underscore the evolution of the various site plans that have come forth.

MR. NETTLER: Okay. Now with regard to the storm water management plan that you've seen, from your perspective, we're going back to I guess the first part of your testimony, from your perspective, not including Foxhall, which we've dealt with already, from your perspective, having a plan that is consistent in its both in the way in which it's developed to the extent possible and in its impact like what's being done at the Field School is what you

would like to see. Is that correct?

MR. MURPHY: That's correct.

MR. NETTLER: Okay.

MR. MURPHY: And I'd like to point out that this one is slightly different in that the only downstream owner, with the exception of a portion of the private property on Foxhall, and I'm not sure that's rather indirect flow, but the Park Service is the receiver of all the storm water and there's no private property that be crossed.

MR. NETTLER: Right. Right. And we understand that. Now let's then deal with the Whitehaven. You've heard there's been some submissions to the Board and there's been some cross examination made of individuals about the concept of using the Whitehaven Parkway, which borders this site, as some type of street instead of the traffic plan that's been proposed, the interior traffic plan that's proposed by the applicant. Would you like to see Whitehaven paved?

MR. MURPHY: Whitehaven Parkway is part of the park system of the nation's capital. We are mandated to preserve the scenery and the environment within it for the park and so with that as a preface, no, we wouldn't.

MR. NETTLER: Okay. Thank you.

CHAIRMAN GRIFFIS: Very well. Thank you. The ANC has left? Okay. Friends, cross?

MR. SNAPE: Mr. Murphy, when would you anticipate completing your review of a storm water management plan? Do you have an idea of when you might get what you consider a final plan and when you would finish review of that? I'm confused on timing.

MR. MURPHY: Well, we were involved in the Field School storm water plan right up to its construction and through its construction because there's always some modifications that come up. We were involved in Field, make it very clear, on those areas that were directly impacting us. And we relied on Field and the contractors to develop according to plans that the District had reviewed. So we met, I don't know how many staff hours, but I would say there were probably 15 different meetings on it over the course of the time. And the reason is that it's an unusual plan. It's certainly state of the art for the District of Columbia.

CHAIRMAN GRIFFIS: Let's cut to the chase though.

MR. MURPHY: Yes.

CHAIRMAN GRIFFIS: Aren't you trying to

figure out when and how this review is going to happen?

MR. SNAPE: And relatedly what lessons have you learned from the Field School that are applicable here? I mean, what does the Park Service want out of the storm water management system either proposed or yet to be proposed by the applicant? That I think is a direct way of asking.

MR. MURPHY: That the greatest level of water quality can be provided, the protection of the wetland qualities on parkland and because this water is in the United States, we would assume the Corp of Engineers would also require it. So that's quality. And on quantity, we've already heard that there would be a release rate of two CFS, cubic feet per second, into the park.

MR. SNAPE: And so you have not seen the level of detail yet that you need to see to make that determination?

MR. MURPHY: No, we've not.

MR. SNAPE: Okay. I want to move to migratory birds now. Are you aware that the Park Service has data in its possession back from the 1950s and the Rachel Carson Society, Shirley Briggs, on migratory bird observances and bird observances in and

around Whitehaven Parkway and Glover-Archbold Park? Are you aware of that?

MR. MURPHY: I'm aware of a substantial database. I wouldn't be surprised that this area was included.

MR. SNAPE: Have you or anyone in the Park Service had any discussions with your sister agency at the Department of Interior, the U.S. Fish and Wildlife Service, about the migratory bird impacts, either on this proposal or related proposals as it impacts --

MR. NETTLER: I'm going to make an objection both as to relevancy and it's beyond the scope of his direct testimony

CHAIRMAN GRIFFIS: Indeed. Did you find in his testimony how it related to other agencies first that were referred to or actually the specific impact regarding?

MR. SNAPE: Well, Mr. Murphy explicitly mentioned as an issue and concern the impact on migratory birds and the concern about the conservation of migratory birds and the premise of my question was simply stating a fact that the Fish and Wildlife Service, its sister agency, is the agency responsible for migratory bird treaty conservation in this country as a matter of law.

CHAIRMAN GRIFFIS: And in then the relevancy to the case, would you find that it comes under 2516?

MR. SNAPE: I sure do. I think it does -- the surrounding environment and whether it fits with surrounding neighbors. The surrounding neighbors is the Park Service and they have migratory birds on their property.

CHAIRMAN GRIFFIS: 2516 goes to the environment where land or water supply, water pollution, soil erosion or sediment waste and management -- and so I think it's appropriate, but let's get a quick answer on this. Was there reference to other agencies regarding the impact of migratory birds or other animals?

MR. MURPHY: We manage the park and we manage the park tree cover to address myriad wildlife issues, one of them being migratory birds habitat.

CHAIRMAN GRIFFIS: His direct question is, did you refer to other agencies for this specific element?

MR. MURPHY: No.

CHAIRMAN GRIFFIS: Okay.

MR. MURPHY: No, and wouldn't have a reason to frankly.

CHAIRMAN GRIFFIS: Interesting.

MR. SNAPE: Have you, can you access the Whitehaven parkland from Foxhall Road, Mr. Murphy?

MR. MURPHY: Yes.

MR. SNAPE: Are you aware that the Friends of Whitehaven and other concerned citizens have helped the Park Service with the invasive species problem, on the exotic species problem on the Whitehaven parkland? Have you been aware of those efforts?

MR. MURPHY: I'm aware of the overall program.

MR. SNAPE: Has the Park Service done any surveying under the National Historic Preservation Act including but not limited to things like Native American artifacts? Has that been done in this instance?

MR. MURPHY: On what site, sir?

MR. SNAPE: Has there ever been a survey of National Historic Preservation Act-type items like Native American artifacts on the Whitehaven parkland?

MR. MURPHY: The Whitehaven Parkway has been reviewed by our regional archeologist, so I presume that's what you're referring to.

MR. SNAPE: It is and answers my questions. That completes my questions, Mr. Chair.

Thank you.

CHAIRMAN GRIFFIS: Thank you. Others? Yes, Ms. Hardy?

MS. HARDY: Thank you. Mr. Murphy, good afternoon. You said that you would like to see the water on the ridge taken all the way down to the drain at Whitehaven and Foxhall.

MR. MURPHY: That's correct.

MS. HARDY: The developers, there is currently, as you know, no drain, no storm drain system between the Field School and that drain at Whitehaven and Foxhall. Is that correct?

MR. MURPHY: There is a drain at the top of what would be at Foxhall and W. There's an inlet that was recently put in, so there would be some management. I don't know how that system completely works.

MS. HARDY: There is none between W and the one at Whitehaven and Foxhall.

MR. MURPHY: That's correct.

MS. HARDY: Okay. Now the developers told me that they were going to have a drain between W and their access road. But then this apparently was changed in discussions with you for something new and the water along what you call the ridge would get

along from W to Whitehaven. Is that correct? That's the agreement you have made with the developer?

MR. MURPHY: Well, the concern we had is that the water between W and the entrance, the roadway entrance, would be collected and directed into the Phillips estate and then on through into the park. What we suggested is because that is very urbanized water, it's basically the drainage off of Foxhall, that it be directed to Whitehaven --

MS. HARDY: And you've said they've agreed to do this.

MR. MURPHY: They have indicated in writing that they would.

MS. HARDY: But have they explained exactly how they would do this since -- will it go along Foxhall Road and is it included in DDOT's plan, or will they dig up the road after DDOT has finished it and put a pipe down the road?

MR. MURPHY: I don't know.

MS. HARDY: You don't know how they plan to pipe it down?

MR. MURPHY: No, I do not. I haven't seen the drawings, so I don't know.

MS. HARDY: Thank you.

CHAIRMAN GRIFFIS: Thank you, Ms. Hardy.

Others? Certain residents? No? Indeed. Very well. Thank you very much.

MR. MURPHY: Thank you.

CHAIRMAN GRIFFIS: Oh, hold on. We do have a few more Board questions.

VICE-CHAIR MILLER: Mr. Murphy, I just have a couple of questions. One is with respect to the parkland that's abutting where some of the proposed homes will be, are there certain elements in the park that these homes would need protection from and for that reason need a fence such as we heard there might be homeless people living in the park, or are there certain animals they need protection from? I mean, is the fence just for psychological reasons or is it for other reasons, if there be a fence?

MR. MURPHY: Fences keep good neighbors. I don't know about a questionable legal activities. Would it be a security fence? No. Would it keep people from climbing over the fence and going into the private property or the other way around? No, because no fence really does that. Would it keep deer out? Probably not because deer can hop a five-foot fence very easily. It's rather interesting to watch. Foxes have a way of getting around them no matter what. The smaller mammals probably would come and go as they

please, much to the consternation I'm sure of the landscapers interests and the private development.

So the fence is essentially a way 50 years from now to say that's still parkland and that's private land.

VICE-CHAIR MILLER: Okay. And also what I seem to be hearing you saying in the cross examination, or not hearing you saying, was you didn't have a strong position one way or another on whether there should be a fence.

MR. MURPHY: If no fence is put there, then you all need to be assured and we will have to be assured that 50 years from now this thing won't amoeba-like creep down into the park as it is elsewhere. And frankly, I don't know of anything more functional than a fence to keep that from happening.

VICE-CHAIR MILLER: Okay. And then my final question is, with respect to the setback question, it sounded like you were saying it depends on the individual lots and sites how much of a setback should be required or would be a good idea. And then you said something like so therefore you'd like to review the applicant's plan. And my question is, do you have any general guidelines you want to say that would govern evaluating the setback, in which

situations you might need more, in which situations you might need less, or is it just looking at their plans?

MR. MURPHY: Well, in walking it with the applicant and their contractors in the field, it became obvious that a setback to a hard line would make the -- then I have to look at it in the worst possible case and say, "Well, then they'll buildings and everything right up to that line." And what I said is that they need to look at this as a tiering and say, "All right. If there's a border and then there's a natural buffer area, which they've alluded to as the landscape plan, and then there's an area in a back yard that could be a more refined landscape but would not have any elevations and steps and -- so let's say 25 feet of one style of landscaping and then a band of 25 for -- arbitrarily 25 feet of very restricted use of the land for built structures and then the next 25 feet may be where the swimming pool and the tennis court could go and the next 25 feet would be the building and hopefully the building wouldn't rise 50 feet straight up, that there would be a certain amount of stepping back.

Now, my feeling is the architectural standards and the landscape plan will probably answer

that. And if they don't, we'll suggest that they should.

VICE-CHAIR MILLER: Thank you.

MR. MURPHY: Thank you.

CHAIRMAN GRIFFIS: Great. Any other questions from the Board?

(No audible response.)

CHAIRMAN GRIFFIS: Very well. Thank you. Whoa, we lost him already. No, no, you were finished.

Okay. That being said, are there any other government agencies that are present now? I named off a few. I think we've heard from all. They've all been cross examined and presented their reports, as had the ANC. We are at 12:35-13:40. We're scheduled to continue this until 12:00. We've run a little bit over.

I'd like to get this scheduled to finalize our last session where we will all meet, I certainly anticipate. That would be the first in the afternoon on the 8th of March. Let me have parties or applicant, any difficulties in meeting that?

Let me also ask as people are checking the schedule, are there persons present either in support or in opposition to the application that are here today that were anticipating giving testimony?

Anybody here, just raise a hand. Persons. You guys are all parties. You guys have more fun. We got to schedule a big amount of time. If we have questions, please, let's bring it all up here. I don't want to waste anybody's time in terms of getting stuff done this afternoon. But obviously anything you say has to be said up here.

MS. BRADY: The Colony Hill Citizens Association which is the homes just south of the Brady estate were not able to come today. They gave me a written statement that they wanted read today. So I think they are a --

CHAIRMAN GRIFFIS: Excellent. I think you can just put it into the record.

MS. BRADY: Okay.

CHAIRMAN GRIFFIS: That would be great. And if you wouldn't mind providing all the applicant and other parties with a copy of that.

MS. BRADY: Okay.

CHAIRMAN GRIFFIS: While I have you, have you figured out how you're going to divide the time with the rest of the parties and the presentation of your cases? You have no more than 80 minutes.

MS. BRADY: No, we haven't discussed that.

CHAIRMAN GRIFFIS: Okay.

MS. BRADY: But my take is that we could, three of us would be happy with a total of 80 minutes without a problem.

CHAIRMAN GRIFFIS: How about 60? Twenty each?

MS. BRADY: Well, maybe. I'm not in a position to negotiate until I talk with my buddies.

CHAIRMAN GRIFFIS: How much time do you need for your --

MS. BRADY: We actually would like a half an hour. There are two of us that are presenting and I think we can do it in a half an hour. But I do have a problem with March 8th. I know, I'm sorry.

CHAIRMAN GRIFFIS: Okay. What's the difficulty?

MS. BRADY: I have a corporate board meeting in North Carolina I must attend.

CHAIRMAN GRIFFIS: So you're going to be out of town?

MS. BRADY: Yes. Is there --

CHAIRMAN GRIFFIS: Is there what?

MS. BRADY: You don't want to start this afternoon? We're all here. Just get it done.

CHAIRMAN GRIFFIS: All right. Is there any objection to doing that? Does anyone else have

concerns in terms of continuing this afternoon? I don't think it's a big possibility. I'm going to have to take three minutes for the Board. Setting this we had prior commitments that actually have been rescheduled, but I will assess that. If there's no major objection, what we might end up doing is getting through -- you're prepared to go right now, is that correct?

MS. BRADY: Yes.

CHAIRMAN GRIFFIS: Is the Friends also prepared to go immediately?

MR. SNAPE: Yes.

CHAIRMAN GRIFFIS: Ms. Hardy, you're ready to go?

MS. HARDY: (No audible response.)

CHAIRMAN GRIFFIS: Okay. I cannot see that we'd get through everybody, but let me see how much time we actually have. Any objection to doing that, Mr. Nettler?

MR. NETTLER: I have no objection.

CHAIRMAN GRIFFIS: Okay. Let's take just two minutes.

(Whereupon, at 12:46 p.m. off the record until 12:48 p.m.)

CHAIRMAN GRIFFIS: Okay. Ms. Brady, we'll

take you today. We're going to take seven minutes right now to get organized. Everyone get on their phones, if they need to, as we will. I would imagine we will be leaving out of here no later than 2:30 today. And I don't anticipate getting into the other case presentations, but, Ms. Brady, as you're not available on the 8th, we would then hold the 8th in the afternoon, call this as the first case in the afternoon and finish it. Good?

(No audible response.)

CHAIRMAN GRIFFIS: Okay. We'll be back.

(Whereupon, at 12:48 p.m. off the record until 1:05 p.m.)

CHAIRMAN GRIFFIS: Good. Let's resume. Whenever you're ready.

MS. BRADY: Mr. Griffis and members of the Board, we live on W Street and Foxhall Place and are the neighborhood and neighbors who border the Phillips estate on the north. We are united in the concerns expressed in this letter regarding the development of the Phillips estate.

We do not oppose in principle the development of the Phillips estate. We have realized for some time that the property would not remain in its undeveloped state forever. From the first time we

met as a group after hearing rumors of the development, we have taken a pragmatic approach to our dealings with the development and the developer. From the outset we identified three principle concerns and communicated them to the developer. Traffic safety, including ingress and egress to and from the development and traffic on Foxhall Road. That's our paramount issue. Our second issue was with preserving the character of our neighborhood. And our third issue was the density of the development.

We have met with the developer and his team on a number of occasions and we were very appreciative of the presentations that were made to us regarding the details of the development and the apparent willingness of the developer to listen to us and address our concerns. But we were very distressed recently to find out that two significant changes had been made from the first presentation to the ANC until the final ANC meeting earlier in February when the ANC conditionally endorsed this project.

So our recent concerns were the first change that we made was the apparent departure of Ted Visnic as the developer/builder for the project. In all of our meetings with the developer, the record of Ted Visnic as the developer/builder of high-quality

projects was extolled and Mr. Visnic presented to us a development philosophy with which we were generally comfortable. His departure presents a significant uncertainty with respect to the assurances that we have been given regarding the quality of the development. Given the past failed attempts to develop this piece of property, we would hope that the BZA would require more information about the legal commitment of the key players to deliver this project as it is currently being described. The owner/partners in WAHA 3 and Phillips Park LLC are unknown to us at this time. We would certainly prefer that the developer/builder have local roots, a local reputation and a commitment to the local community.

Then the second change that came about recently was this ninth house along the south side of W Street. And I won't go into that any more. I think we've all heard over and over again about this, but to us, to find out that a ninth lot was going to be added without consulting with us was a breach of commitment that the developer had made with us in our earlier discussions. So what that did to us was to raise a concern that all of the consultation and agreement that we had had with the developer was only being done to get BZA approval and that it would not continue in

the continuing relationship with the neighborhood.

Now, on with our three principle concerns. Again, the traffic. Well, let me just note that with the exception of these two issues raised above, the leaving of Ted Visnic as the developer/builder and then the addition of the ninth house on W Street, other than those two concerns, we feel like that the character of our neighborhood and the density of the development have been addressed. So as long as the plans that were presented to us and show to us are scrupulously adhered to, then we were okay with those two concerns. But then the paramount final issue that we had, which is our major concern, is the traffic safety and I'd like to spend the rest of my time talking about that.

Number one, just to give you the environment, current traffic conditions on Foxhall Road are dangerous. Two lanes, narrow, curvy, hilly and just dangerous. The DDOT Palisades traffic study which was dated August 2002, noted that Foxhall Road carries over 16,000 two-way daily vehicles, which is a large number for a two-lane road. We know that the average speed is well in excess of the 25-mile per hour posted and that was confirmed again by the police officer who testified last week. The road had become

a major commuter route between Northern Virginia and Bethesda. GW's purchase of Mount Vernon College and then the Field School relocation to the Kafritz estate, both of which were subsequent to the Palisades traffic study, but these two items have added significant traffic and congestion to the road.

The corner of Foxhall Road and W Street is one of the most dangerous intersections in the city. The traffic study projected a level of service degradation from B to F, which would be a failure, if no potential improvements were made and this conclusion was based on data that did not include the Phillips estate or the Brady estate, except for the assumption that the mayoral mansion would be there and the impact would be equal to that of three single-family homes.

And the Metropolitan Police Department did a survey, I think at the request of the Office of Planning, and noted that excess speed is common on Foxhall Road. The police officer who was here testified that Foxhall Road is more dangerous than other roads in the area and the fact that he observed two accidents within 41 minutes of each other while he was trafficking or giving tickets for speeding on Foxhall Road. So again, the current traffic

conditions on Foxhall Road are dangerous.

Additional development will exacerbate this traffic problem. This is a total of 32 acres that's being looked at, not all of it at this hearing, but the Phillips estate and the Brady estate together, 32 acres, and the problem will increase if it's not properly provided for, transforming a dangerous situation into a possible deadly situation. We're looking at 47 homes on 16 acres on the Phillips estate and the Brady estate, which is owned by the Friends of St. Patrick's, have already stated their intention to put a high school there, possibly part of their middle school and some private residences going into that 16 and a half acres.

The Phillips estate developer has proposed a new Foxhall Road access 400 feet south of the intersection of W Street and Foxhall Road, but we feel that this does not eliminate the hazard. The traffic impact analysis, their justification for the new access point on Foxhall Road, was based on, number one, that it would eliminate the driveways that would be there if by-right units that were on Foxhall Road directly accessed Foxhall Road. And also they based it on that it would be better than using the W Street intersection. The flaw to us in this traffic argument

is that neither of those solutions, W Street or having four or five more homes on Foxhall with driveways going directly into Foxhall, is really a viable solution to say that this is a better alternative too. There's going to still be a line of sight problem due to the berm on the east side of Foxhall Road and also a similar -- if you stop and think about it, there's a similar traffic configuration at Whitehaven and Foxhall as is being recommended at this new intersection on Foxhall Road; i.e., a traffic light, a turn lane and accidents have continued to happen at Whitehaven and Foxhall Road. What happens is that speeders abusing the turning lane just -- you know, it's a way to get around the slow car in front of you and they pull out in that turning lane. Mr. Slade even said himself that he was nearly run off the road as someone tried to do that at Whitehaven. The same thing is more than likely going to happen at the new egress on Foxhall Road.

So we believe that DDOT's approval of this solution, and we put the solution in quotes, was hasty. The Palisades traffic study in 2002 supported a traffic signal at Foxhall Road and W Street, but per the ANC, and we heard it again this morning, an agreement between George Washington University Mount

Vernon Campus and the community precluded the installation of that light. So we had a very dangerous intersection there, but because certain citizens were concerned that if you put a light at Foxhall at W Street, all of a sudden people would use W Street as a thoroughfare. So the light ended up going further south at Whitehaven.

But now the logic is being applied that since this new access road is near the W Street intersection, DDOT should approve an on-demand light at this new access. Arguably, the new access road is safer with a traffic signal than without one, but that, we think, is not the relevant question. The relevant question is, where should the access road be located?

Let's not answer the question based on the 2002 study which did not assume a development on the Phillips estate or the placement of a high school and residences on the Brady estate. Creating another bad intersection to accompany the one at W Street is not a solution.

Optimal solution. A traffic light was recently installed at the T intersection where Whitehaven Park dead ends into Foxhall Road. To accommodate traffic entering St. Patrick's and George

Washington University Mount Vernon Campus. This intersection is located directly between the Phillips estate and the Brady estate at the point where there is a narrow sliver of property referred to as Whitehaven Park owned by the U.S. Park Service Lot 804 running from Foxhall Road through to Glover-Archbold Park. And I've asked the Park Service to leave the schematic up and, you know, we can see that piece of Park Service land there. It goes from Foxhall Road all the way back to Glover-Archbold Park.

Fact: the U.S. originally purchased this land, these four acres that we're talking about, Lot 804, from the Brady estate in 1948 for the very purpose of extending Whitehaven Parkway across Foxhall Road to serve as a connector road between Arizona Avenue and the Rock Creek and Potomac Parkway. Later the land was deeded to the National Park Service.

After months of contentious debate over a second access to the Foxhall Road for the mayoral mansion on the Brady estate, all parties reached agreement on extending Whitehaven across Foxhall onto NPS parkland. Originally the Casey Mansion Foundation sought to get the entire National Park Service four acres for access into the Brady estate. Then the National Park Service offered an access easement for

a small portion of the four acres in return for a conservation easement on the mansion property itself. The final resolution was that NPS transfer jurisdiction, but not ownership, over 1.8 acres to the District government. The District would have leased the land to the Casey Mansion Foundation for a second access off of Foxhall Road. Keep in mind, it did not cut all the way back to the park. It was just on the front area, the 1.8 acres closer to Foxhall Road.

Step two of this process never was implemented as the Casey Mansion Foundation abruptly sold the property to another party. However, what we take away from looking at this whole situation there was that the Community Citizens Association, the Foxhall Community Citizens Association, voted to support this jurisdiction transfer and three environmental organizations, Defenders of Wildlife, Audubon Nature Society and Friends of Whitehaven Park, eventually supported the solution but asked for a park on the site saying, "That we believe the achievement of a large new park may help to balance the loss of Whitehaven parkland and would be an acceptable political compromise."

So the current situation is a little bit different than what existed during this mayoral

debacle.

The current situation, you now have two large parcels of land that we're looking at, that are being looked at and to us it seems like that there are some unbuildable wetlands that exist on the Phillips estate and there is room for exchange and compromise if some agreement could be reached, if agreement was reached with the Casey Foundation and the mayoral, that all the parties could be happy, we can't understand why the sum agreement can't be reached here because in fact there's more land in which to try and make everybody's desired intent met.

The developer of the Phillips estate apparently recognized that the safest location for the principle ingress and egress to their development would be to extend Whitehaven along the south side of the Phillips estate so that the light at Whitehaven could be used, however, the developer told us that they were advised by the Park Service and the ANC quote/unquote not to go there as it would be too contentious.

Other groups have also recognized the natural ingress/egress for the Phillips estate. A group within the Foxhall Community Citizens Association which originally opposed the access for

the Brady Estate through the NPS land noted "carving out parkland for an access road for the mayor's mansion opens the door to residential construction of the 15-acre Harare Track." A plan dating from the mid-80s shows a planned access road across the parkland to the Harare land at the same point the foundation proposes a road. So everyone who's looked at this property from a development point of view or from a conservation point of view recognizes that it is the natural ingress/egress to Foxhall Road.

The sliver of Park Service property is overgrown and it's dangerous in its current condition. Allowing it to be used as a safe point of access for both the Phillips and the Brady developments would be in the best interest of traffic safety and would also provide a safe accessible entry point to Glover-Archbold Park.

Any objective review of this situation would conclude that this is the only solution that would not further exacerbate the already-dangerous traffic condition on this section of Foxhall Road. But timing is difficult because no plans have been submitted by the Friends of St. Patrick's regarding the development of the Brady Estate.

This solution that we're proposing has the

support of both the residents of W Street and Foxhall Road which border the Phillips estate on the north and the Colony Hill Neighborhood Association, which is comprised of the residents whose properties border the Brady estate on the south. And I gave to Ms. Bailey a copy of the Colony Hill Neighborhood Associations testimony for the record.

Though this solution requires patience and earnest negotiation on the part of several government agencies, federal and local, several citizens associations and at least two developers. We are asking all the stakeholders to make such an effort for the safety of the current and future residents as well as the children who will be attending the neighborhood schools. Our efforts could be well-rewarded.

We also would like to note that in our cross examination of DDOT this morning we asked DDOT if they might be willing to coordinate a meeting of all interested stakeholders to look at other solutions and their answer was yes.

So our recommendations to the BZA are three. Number one, we urge the BZA to postpone its decision the Phillips estate in hopes of precluding an inadequate piecemeal response to the traffic problems raised by the Phillips estate development, a solution

quote/unquote, which would be very difficult to reverse in the future. The postponement would provide time for all concerned parties of the Foxhall Road area to attempt to find a comprehensive solution which could provide benefits and safety for all concerned. A postponement would also give the applicant an opportunity to complete whatever legal arrangements need to be made so that the owners and developers can be more fully introduced to the BZA and the neighborhood. Additionally, a postponement would also give the applicant an opportunity to submit their final plans required under the zoning regulations and noted by the Office of Planning as not yet available.

Second recommendation. We urge the elimination of the recently proposed ninth house on the south side of W Street that was in the public notice as a matter-of-right house. The ninth house on the W Street increases the total to 13 houses.

And then lastly we urge the creation of a mechanism for formal coordination between our neighborhood and the developer/builder. Thank you very much.

And now Mr. Lou Nivens, who's also a resident, he's one of the certain residents as well, will speak.

MR. NIVENS: There we go. Thank you and we certainly appreciate the indulgence of the BZA in accommodating our schedules and the fact that we couldn't be here on March the 8th.

I regret that we have been posed here as objectors or testifying in opposition to the development. I don't think we are in opposition to this development. It's much better than other things might have been and if anything, I think we would like to appear here as an amicus curiae or amicus BZA. We are not opponents of this development, but we do have some very serious concerns which you've already heard.

Essentially we have three points that we're making. The 13th house you've heard a good deal about. I think there's already been some movement in our direction and possibly we heard some discussion last week that there might be some of these properties where a single-home buyer would acquire two lots. That would be a great solution as far as the location of these last two houses, 12 and 13. Maybe that will happen. We also understand that the houses that are directly on W Street are matters-of-right homes and not technically before the BZA. So that's something that we hope and are confident that the builder has already heard our objections and is trying to meet,

and we appreciate that.

Secondly, we would like to be ex officio non-voting members of the design committee. We heard last week that the developer opposed the idea of having a representative from our neighborhood on their design committee. I think the argument was they wanted our design committee. Our houses were built in the late 70s and 80s. It's true, we weren't involved in that either. We are subsequent owners, most of us, and we would like to take part. They are coming into our neighborhood and I think have every intention of being good neighbors and wanting to be solicitous of our feelings and concerns. And we would urge that a condition be made in your approval of this application that one of our people could be an ex officio non-voting member of their design committee. Maybe this is something we could reach agreement on.

And finally, just to reiterate what Maggie has already testified to, it is very important, in our view, that you view this application in connection with and in conjunction with the application you are surely going to be receiving for the Brady Estate in the next year or two. I don't know when they will be ready to proceed, but we do know that they're talking about a high school and you're talking about literally

hundreds of people. It's not just these 43 homes, but literally hundreds of people. If we have a high school being there, they're going to have to get to the eastern side of Foxhall Road every day. And today we have 11 houses. It just is mind boggling and I think it does cry out for some sort of a comprehensive solution. We hope and we understand feelings are very high.

Now, we heard from the Park Service representative today when he testified that asphalt in and of itself does not violate environmental standards. So it isn't the building of a road, a 12-foot road, across this property that creates the environmental hazard, and we do hope that people can be open and have an open mind and that perhaps as they did in the case of trying to build or get the approvals that they needed for the mayoral estate that that same willingness to be reasonable and that same openness might conceivably be demonstrated again here. We are gratified that DDOT is willing to host such a meeting. I can't imagine that the developers of both of these estates wouldn't be very happy with that sort of a solution. It is much better than the one that is proposed.

And finally, I would like to leave you

with some photographs. You saw a wide expanse presented to you the other day of this particular property, or the particularly-proposed access looking both north and south, but taken from the far side or the GW side, GW University side of the street. I wanted to give you this picture and I'll just bring it up. It gives you an idea of what --

CHAIRMAN GRIFFIS: You can just hold it up there because Ms. Bailey's going to have to take it and put it into evidence.

MR. NIVENS: Okay. All right.

CHAIRMAN GRIFFIS: But you can describe them for us.

MR. NIVENS: Well, sure. I am standing here. This is exactly where the entrance is going to be. And I don't know whether you can see, there's one car. It's the only one that you -- you couldn't see more than this one car. Now, granted there's a light here. We understand that this is going to be built with a light, but it's still nice to be able to see where you're turning in case somebody is still trying to speed up Foxhall, somebody is trying to get through the light that's down at Whitehaven, which isn't very far away from this. But it gives you some idea what the sight line really is to the left, or looking

southbound on Foxhall. It gives you a much better view than anything that's been presented so far. This is why we don't think that this is a very good idea, that this is not the optimal idea. Sure, it's better with a light than without a light and if it were only this development that you were thinking about, this might indeed be what you will do. But you're going to be back again looking at access and egress to Foxhall Road for a high school, however many more houses or whatever else might be proposed for the development of the Phillips estate. Do it on a comprehensive basis. This isn't something that you are not sure is going to happen. You know it's going to happen. It's already been announced. And St. Patrick's has already acquired this land. We'd like to see a comprehensive solution. If it involves two entrances, so be it, but we just don't think it will. Thank you.

CHAIRMAN GRIFFIS: Good. Thank you both very much. Let's take more questions. First of all, I just wanted to make a quick comment on the asphalt. I believe Mr. Murphy from the Park Service was commenting on the fill as non-contaminated or non-specified material in contamination, not necessarily roads. But I may be mistaken.

Let's go to comprehensive plan of the

area. I think this is a critical point that you bring up, but is there anything in your understanding our regulations or our process that would allow us to look at that or to halt an application before us? Certainly, I can assert we don't have the jurisdiction to launch a comprehensive plan or a master plan of the whole area, as much as I'd like to be involved in it.

I guess my direct question is, what's the vehicle that you're actually asking us to pursue to facilitate that concern?

MR. NIVENS: I don't know that any of us are experts on zoning law or even what your limitations might be. And obviously the solution can't come from you. It has to come from the city. It has to come from DDOT and it has to come from the Office of Planning and so on. I guess what we would be asking for is an order, if you do have to resolve this, that is flexible enough to permit a change of this magnitude to occur, assuming the city and all the various factions that would have to agree to it are able to do so. In other words, that you don't walk into cement. No pun intended.

CHAIRMAN GRIFFIS: Right.

MR. NIVENS: This particular entrance and egress, if a better one can be found -- we're

convinced it can be found and that reasonable people will find it. So I think what we're looking for is flexibility in terms of your order if that's what we're dealing with. And you know that better than we do.

CHAIRMAN GRIFFIS: Okay. Good. And I think that's an excellent point to bring up. Lastly, on that aspect, have you had conversations with the Office of Planning, Mr. Lawson, who as doing the actual analysis?

MS. BRADY: No, we've not had an opportunity to do that yet.

CHAIRMAN GRIFFIS: Okay. But you've seen the report of course?

MS. BRADY: Right.

CHAIRMAN GRIFFIS: Right. Okay.

MS. BRADY: And I will certainly make sure that they receive a copy of what we submitted today.

CHAIRMAN GRIFFIS: Indeed. Let's go to starting with the conditions that you're proposing. First of all, of course I assume you understand any condition that we would put to an order would go to directly that which relates to the case and directly go to trying to mitigate or eradicate a potential problem or potential adverse impact. When looking at

Condition 4, as I've drafted it in here, as an ex officio member non-voting member of the design review committee, can you just tell me succinctly what is it that that would actually tend to mitigate or what are the problems that you actually are anticipating might happen?

MR. NIVENS: I don't know that we see any particular problems, but there apparently is going to be, and I think it's desirable that there be some latitude with respect to the type of construction, the style of architecture that might be permitted in this proposed development. I think that in and of itself is good. I just think we might have something to contribute. We're going to be looking at it and I think it's something where we might have some ideas that would be of value to the people who are immediately concerned.

CHAIRMAN GRIFFIS: Okay.

MR. NIVENS: Suggestions.

CHAIRMAN GRIFFIS: So your second concern in your case presentation is to preserve the character of the surrounding neighborhood and community. Is architectural character of these proposed houses an aspect of that?

MR. NIVENS: Of these new homes?

CHAIRMAN GRIFFIS: Yes. I mean, I guess I'm trying to get to directly, if you want to be on the design review committee, are you trying to maintain a certain design that would preserve the character of the neighborhood and then I need to know, well what is your perception of the character of the neighborhood?

MR. NIVENS: I don't think we have in mind the preservation of any particular character. I mean, our own home is incompatible architecturally with every other home in the cul-de-sac. Again, it was built 15 years before we got there.

CHAIRMAN GRIFFIS: Right.

MR. NIVENS: We liked it and we bought it. I don't think we start with any preconceived notions. We certainly don't start with any prejudice against anything. We'd just like to participate.

CHAIRMAN GRIFFIS: Okay. Good. Which goes to your third condition of creating a mechanism of formal coordination between the neighborhood and developer. There's two questions that I have pertaining to both those. One, going back to the ex officio, what influence would you actually have if you were non-voting? Are you just scheduling another meeting or do you have an anticipation that you'd

actually be able to influence something?

MR. NIVENS: It wouldn't be anything more than the ability to persuade.

CHAIRMAN GRIFFIS: Okay. Persuasive ability. Excellent.

In terms of the creation of a formal mechanism, are you looking at that during the construction or until the entire build out of all the houses, or is it maintaining a communication with the association that might be set up? What's the time line?

MS. BRADY: Well, I would think it would be throughout the entire, through the construction and after the development is set up. I mean, it's part of the argument from the developer/builder is that they would like for our little quote/unquote fragmented neighborhood to become part of theirs and I think we would too. And I think it would be a good a mechanism to ensure that. And I think if we can -- you know, the additional access that their development might give us to head south on Foxhall Road would be very, very beneficial, you know, and I see us being very grateful for that and wanting to be a part of their neighborhood. So I would see it continuing.

CHAIRMAN GRIFFIS: In your mind, on the

information that you've been provided and looked at in terms of this case presentation or outside, what do you think the total development time line is?

MS. BRADY: Oh, you know, I would say five years, but that's -- I have no technical basis on which to make a --

CHAIRMAN GRIFFIS: No, I understand.

MS. BRADY: Yes.

CHAIRMAN GRIFFIS: The direct question is getting your perception of what --

MS. BRADY: Right.

CHAIRMAN GRIFFIS: So that's exactly what I need to know.

Let's go then, what I find is -- well, my last, I guess, item, the access.

MS. BRADY: Yes.

CHAIRMAN GRIFFIS: And the Whitehaven, the Foxhall access. Do you have, are you presenting anything that actually draws out what you've now described in several iterations?

MS. BRADY: No. Because, you know, I see that as the first step of if these group of stakeholders would be willing to meet and sit down and do honest negotiation round the table, I would think that would -- you know, some of the -- that would be

the first discussion. But if you look at that piece of property, you know, the four acres that the Park Service owns, and you know it's shape to me means that you don't have to get into the back side of that. You know, we're talking about trying to have access up closer to Foxhall Road then give the back side of it the opportunity for us to have some -- a nice access into Glover-Archbold Park and to clean up the Whitehaven Park so that people can actually use that as an entrance to Whitehaven Park as well. I don't think that's what we've heard. People do come in there, but it's very overgrown now and, you know, it just seems that there is an opportunity there.

And I think also given some of the contour of the land and some of the issues that have already been discussed with the lots on the southeast corner of the Phillips estate, you know, maybe there's some room for some negotiation here on some exchanges or easements or whatever, that land that's not critical to their development, that the Park Service could make better use of and exchange or for use of some of the Park Service land to get out to Foxhall Road.

CHAIRMAN GRIFFIS: It's all very complicated.

MS. BRADY: Well, it doesn't have to be.

CHAIRMAN GRIFFIS: You're bringing up a lot of issues and of course on adjacent property, but I think it's good thinking that you're doing holistic thinking. But see, I have difficulty, and I'm not sure the five people up here are picturing the exact same thing and I'm not sure they're picturing what you're describing. I mean, when you talk about you having access into the park, what do you mean? You mean, walking from your property? You mean you're able to --

MS. BRADY: No, I mean the public. How do you turn this on?

CHAIRMAN GRIFFIS: So how is the public accessing it?

MS. BRADY: Well, where is this little thing going? Lou, am I shooting you with it? Oh, here we go. I got it up on the wall now. Where is it? I really putt better than this, I promise you. I did? Oh, there it is. Okay. You have to -- oh, you have to hold the button. Engineers.

Okay. So if you have access off of Foxhall Road here and then have up into the Phillips estate in this area, and again, I mean, I'm just, you know, this is just what comes to my mind and down into the Brady estate here where the high school would be

and some homes and whatever, and then I don't see the need to carry that, you know, when we talk about the Whitehaven solution, some people have made it sound like you're talking about putting a road all the way through here. That wouldn't be what I would envision. You know, I don't think you need to do that. The main thing you need to do is just have a way for the people who live on the east side of Foxhall Road to get out to Foxhall Road because we don't have --

CHAIRMAN GRIFFIS: So it's proposed on the site plane that we're looking on this application obviously the interior road or roads would have to be reoriented to connect --

MS. BRADY: Yes.

CHAIRMAN GRIFFIS: -- down to that intersection?

MS. BRADY: Yes, exactly.

CHAIRMAN GRIFFIS: You would remove the mid portion access onto Foxhall.

MS. BRADY: Yes.

CHAIRMAN GRIFFIS: And just move it down to a four-corner --

MS. BRADY: Where the line of sight is much better and a stop light already exists and it gives a user to the south of it, a future user that's

going to have heavy traffic demands access as well.

CHAIRMAN GRIFFIS: Right. It would coordinate with the adjacent proposed or perhaps potentially proposed.

On the berm, or the line of sight difficulty --

MS. BRADY: Right.

CHAIRMAN GRIFFIS: -- was it your understanding that that was going to be reduced in the development plan in terms of regrading?

MR. NIVENS: I think not enough. Chandra's property would not be affected. She doesn't have to consent to any of this.

CHAIRMAN GRIFFIS: Okay.

MR. NIVENS: I think what if I recall correctly they were talking about reducing the little piece that would lead up to Chandra's property by roughly 50 percent. I think that's what I heard the developer testify to.

CHAIRMAN GRIFFIS: But in your --

MR. NIVENS: I think this photograph speaks for -- I mean, you can almost see that it just isn't going to be enough. The high point here is Chandra's property.

CHAIRMAN GRIFFIS: Okay. And in your

understanding if a traffic light was going there, I'm going just to address what's being proposed at this point, if a traffic was there, would that reduce or --

MR. NIVENS: Sure. I mean, people said it would be safer, but no one has used the word "safe" yet. Everybody says it's safer. No question that a traffic light would make it safer.

CHAIRMAN GRIFFIS: Well, even the way you describe it, with all these suburban commuters speeding down the road and not stopping for --

MR. NIVENS: They are rascals.

CHAIRMAN GRIFFIS: -- going on the wrong lanes, I'm not sure what would be safe.

MS. BRADY: Well, that's --

CHAIRMAN GRIFFIS: Which goes to another issue. I mean, I understand that you've actually described the Whitehaven intersection as still dangerous.

MS. BRADY: Yes.

CHAIRMAN GRIFFIS: Because of that, because of -- and we often have, in every application when we deal with traffic, the testimony comes with, "Look, how many laws are being broken. It's clearly not safe." I'm not sure how we have, how we're empowered to change that condition because what we

look at as the assessment of the traffic and the roadways as if they were properly utilized --

MS. BRADY: Right.

CHAIRMAN GRIFFIS: -- and some specifics of how they are not. But in this whole iteration, which maybe moves us kind of off point with this specific application, but do you see anything that could happen to make that more safe in its existing condition as it's supposed to be utilized and used?

MS. BRADY: Well, I think the issue to make that more safe is once again reducing the speed on Foxhall Road. So, you know, how the --

CHAIRMAN GRIFFIS: But not the speed limit. Just the speed the drivers are driving.

MS. BRADY: Well, if the speed limit was adhered to --

CHAIRMAN GRIFFIS: Right.

MS. BRADY: -- it probably would be safer. But you still have the mindset of people, and I don't know how you deal with this, the mindset -- and because I have been -- I have seen it. You know, you're in that right lane and you're going to go north on Foxhall Road and all of a sudden somebody -- and you're going the 25 miles and hour and the guy behind you, or gal, doesn't want to go 25, so they zip around

you, get in the left turn lane only --

CHAIRMAN GRIFFIS: Right.

MS. BRADY: -- and, you know, and beat you to the light so that they then -- it narrows back down to two lanes.

CHAIRMAN GRIFFIS: How long has that light been in existence?

MR. NIVENS: About a year.

MS. BRADY: Yes, maybe a little bit longer than a year, but not -- that was --

CHAIRMAN GRIFFIS: And have you seen a difference in that intersection or traffic flow?

MS. BRADY: No, I think putting the left turn lane in, and they did stripe it there, not all the way back up Foxhall, but I think that has helped. The stop light doesn't help because the stop light never changes. I mean, I'm being a little bit facetious, but if you're coming up Whitehaven Road to Foxhall and want to turn left, you have to wait through, if you watch the walk and don't walk, you have to go through three cycles of the walk and don't walk before it turns. Now, we've talked to DDOT about that and in fact they're going to try and do something about the synchronization of that. But, I don't know that the light has helped.

CHAIRMAN GRIFFIS: What kind of light? Is that like a self-centered light?

MR. NIVENS: It's a light that during rush hour does turn and it has greatly facilitated the ability of people traveling northbound on Whitehaven to do so, or I should say eastbound on Whitehaven. They can make left turns now onto Foxhall.

MS. BRADY: Right.

MR. NIVENS: They can make right turns. That used to be quite a challenge for them.

MS. BRADY: Yes.

MR. NIVENS: So I think the major beneficiary has been students or parents of the students who are dropping kids off at the various schools that are on Whitehaven.

MS. BRADY: And the reason, the final reason, I think, that was the push to get that light in was that GW agreed to use that intersection for the buses that they run up from their downtown campus up to the Mount Vernon campus. Their little buses come up the left -- and get in that left turn lane, turn left and go down on Whitehaven and then turn right into the GW campus. Those buses do not use W, or are not supposed to use W Street intersection for access to the campus.

CHAIRMAN GRIFFIS: I see. Okay. Lastly, and I'm sorry, one other issue comes up, you talked about conditioning a legal commitment to have this developed.

MS. BRADY: Well, it just sounded like everybody doesn't have a contract yet and we really felt like when we first met with the developer and Mr. Visnic was involved, you know, we knew who we were dealing with, we knew his -- they gave examples of the two developments in particular that he had done in the area. We could see them if we wanted to. He clearly has a reputation that's built on his work here. You know, we could feel, we could touch, we could -- you know, and now all of a sudden we don't know who it is. And when I think it was Ms. Gates when she asked I believe it was the architect, "Do you have," you know, "Do you have a legal, are you legally committed, or do you have your contract," the answer was, "Not yet. In progress," or whatever.

So, you know, that just makes us wonder who it is that's going to be taking this development forward. And we have had experiences in the past with that piece of property that development started and didn't finish.

CHAIRMAN GRIFFIS: Okay. I think it's

understood and I think one, I don't want raise expectations of how much control we could actually bring to this. Certainly to require developers to do the project that we look at, I wouldn't mind having that jurisdiction and power and utilizing it in several other applications we have. But nonetheless, clearly the requirements for our regulations have been met in terms of the authorization for the application to be brought.

In terms of continuing contracts with a design team, I think it is more safely addressed in your concern and your recommendations for conditions and that's the communication aspect that might arise. Outside of that, I don't see a lot of specificity that we would get into except for, and very directly, you indicated that you might have, not necessarily have, but might have a lack of confidence in the plans or in agreements that were struck.

MS. BRADY: Right.

CHAIRMAN GRIFFIS: Certainly our order would be very specific in whatever direction it goes and it would have a time frame attached to it.

MS. BRADY: Right.

CHAIRMAN GRIFFIS: And obviously would be understandable and enforceable. So, any sort of

agreements or plans would be attached to that as we would find that they would be germane to the application itself.

Let me open it up to others. Ms. Miller?

VICE-CHAIR MILLER: As a follow-up on that line, I have the impression that the developer has changed but the design team has not changed and that certain individuals such as Mr. Barnes and Mr. Pitchford who has testified here are individuals with whom the community is very comfortable with. Is that the case with your neighborhood, or am I mistaken?

MS. BRADY: I don't think it is the case. I mean, Mr. Barnes we met with and he was the one -- but we did meet with Mr. Visnic. I don't think we've met with the other gentleman that I'm aware of. And although Mr. Barnes is certainly an architect, what was pointed out to us was the design of Mr. Visnic's homes and I don't know if Mr. Barnes in fact was the architect in these other developments, but the developments -- you know, we were told, "Go to Great Falls and look at such and such. Go to Potomac and look at such and such." You know, those were Visnic neighborhoods or Visnic developments.

VICE-CHAIR MILLER: I heard that then I believe from the ANC, from Ms. Gates, who was very

concerned that these individuals be given contracts because she had such confidence in them. But, that's not your situation. Because that also goes to the point of whether or not you needed to be represented on their design committee.

MS. BRADY: Right.

VICE-CHAIR MILLER: If you felt that there was somebody there who you had such confidence in, you might not feel that way.

MS. BRADY: Right.

CHAIRMAN GRIFFIS: But the main --

MR. NIVENS: I think we do. I mean, certainly with respect to Mr. Barnes, I think we have supreme confidence as far as that's concerned.

VICE-CHAIR MILLER: Okay.

MR. NIVENS: It's one of the reasons we think we could make a contribution to the committee, I mean, is the fact that we think we could work with him and we hope he's part of it.

MS. BRADY: But I think that's based on his reputation and not the -- I just don't want to lose the fact that when Mr. Visnic was involved they were his developments that were shown us.

MR. NIVENS: Right.

MS. BRADY: As I say, I don't know who the

architect was. I'm not trying to comment on Mr. Barnes not being -- either being a good or a not good architect. Not at all. But when it was held out to our neighborhood, it was held out as a Visnic development.

VICE-CHAIR MILLER: Okay. With respect to this other big question I think about having a comprehensive view of the traffic solutions, which I think is ideal if it could work. One of my questions is when you ask for a postponement, what would even have in mind?

MS. BRADY: How much time?

VICE-CHAIR MILLER: Time wise, would you have a few months to bring all the stakeholders together, or would you be saying, oh, a few years?

MS. BRADY: No, I mean, you know, given the real estate prices in this city, you can't ask somebody to sit on that piece of land for a long time. I would think a few months. It should be apparent at that point whether we could reach some negotiation. I mean, I think that a lot of the work has been done. Unfortunately, it brings up such bad images in everybody's mind and, you know, that's what we just have got to get past and what we have to realize is that with all the conflict that there was then, they

still reached agreement and step one of that two-step arrangement had already been implemented. From everything I've read on line and with newspaper sources and public sources, the National Park Service had already transferred that jurisdiction of that 1.8 acres. So if in fact they were able to, now we've got two pieces of property that we can help mediate some of the concerns of the Friends of Whitehaven and some of the other groups and maybe end up with a solution that's better for everybody than what's currently being proposed.

VICE-CHAIR MILLER: And who have you raised this idea with? DDOT, you said?

MS. BRADY: Just this morning, you know, within the -- we've -- the DDOT rep.

VICE-CHAIR MILLER: Have you talked to the applicant about it?

MS. BRADY: No. We started to talk this morning right before the meeting, but there wasn't time.

VICE-CHAIR MILLER: And you haven't talked to Office of Planning?

MS. BRADY: Have not talked to Office of Planning.

VICE-CHAIR MILLER: Okay.

MS. BRADY: It took us forever just to get this paper together.

VICE-CHAIR MILLER: Okay. Thank you.

CHAIRMAN GRIFFIS: Who's next? Mr. Mann?

MR. MANN: I just have a brief question. Under your scenario to provide access of Whitehaven, does that still allow access to the development from W?

MS. BRADY: We would hope so because we would love to have safe access to go south on Foxhall.

MR. MANN: Okay. So there are no changes to that portion of their proposal?

MS. BRADY: That's right. That's right.

MR. MANN: It's simply just to move the other access south?

MS. BRADY: Right.

MR. MANN: Okay. Thank you.

CHAIRMAN GRIFFIS: Good. Thank you.

MR. ETHERLY: Okay. Let's start with Foxhall and then we'll work our way in.

MS. BRADY: Okay.

MR. ETHERLY: I just want to be sure I kind of understand some of the ramifications of what you're suggesting and make sure to extent you understand.

With respect to Foxhall first, it's my sense then that it's your position that the Grove/Slade assessment of the traffic conditions or the level of service along Foxhall are somewhat off the mark in terms of the actual conditions of Foxhall going both north and south. Essentially, putting it bluntly, Foxhall is just a nightmare and your concern is not adding to that nightmare?

MS. BRADY: This is true.

MR. ETHERLY: Okay. With respect now to Whitehaven and Foxhall, actually, let me back up a little bit. With respect to your testimony, there were two pieces that continue to give you pause about the introduction of an additional entrance onto Foxhall. One was the berm and the picture was very helpful in terms of visualizing that a little bit. I massaged that issue with some of my earlier questions.

MS. BRADY: Yes.

MR. ETHERLY: Is not that problem mitigated by simply regrading or eliminating the berm? I mean, once the berm is gone, you have no line of sight issue.

MS. BRADY: I think the berm is located on -- continues on property other than just the Phillips estate property.

MR. NIVENS: That's the problem, is it -- I mean, Chandra, most of what you see here, as what is referred to as the berm, belongs to Chandra.

MR. ETHERLY: Okay.

MR. NIVENS: And is not --

MR. ETHERLY: So there might be some issues in terms of working that out? Okay.

MS. BRADY: And what we didn't get into was, all right, let's say we go ahead and accept that egress and then let's say two years from now the Brady estate comes in and you've got to have -- so do you want three traffic lights now between -- you know, and in fact, where the traffic light ought to go, if you're going to have an extra light anywhere, is at W Street. I mean, DDOT said that in August of 2002.

MR. ETHERLY: Okay.

MS. BRADY: But the people on the west side of Foxhall Road made sure that didn't happen.

MR. ETHERLY: And that's where your presentation was very helpful perhaps as one of the few board members who has, you know, perhaps not as much familiarity as some of our other, my other colleagues might have with this. It was very instructive in terms of giving me a sense of just how many different slices of this pie there are here.

MS. BRADY: Yes.

MR. ETHERLY: With respect to Whitehaven, and that's put it politically, with respect to Whitehaven, you noted that you have instances of people trying to beat --

MS. BRADY: yes.

MR. ETHERLY: -- northbound traffic by using that turn lane.

MS. BRADY: Yes.

MR. ETHERLY: Can you help me visualize that a little better just so I understand it?

MS. BRADY: Oh, yes.

MR. ETHERLY: This is the left turn lane that would take you into --

MS. BRADY: Whitehaven.

MR. ETHERLY: Exactly. So what you have happening, what your experience is, is that you have people who will attempt to use that lane to kind of skirt in front of the traffic that's --

MS. BRADY: Because Foxhall narrows. Just north of the Whitehaven light Foxhall narrows to two lanes.

MR. ETHERLY: Okay.

MS. BRADY: And I mean narrows because there's not much shoulder there. And so, all of a

sudden, and you're approaching from Reservoir Road heading north. There's a hill, so you're line of sight is not clear up to the light at Whitehaven.

MR. ETHERLY: Okay.

MS. BRADY: And they have put signs there now that left turn lane only, narrows, you know, but you have instances where people are going too fast even read those signs.

MR. ETHERLY: Okay.

MS. BRADY: And so you start out up that grade and particularly because you're going uphill some cars aren't going as fast as the other cars and you -- you know, somebody who wants to get out, you know, who's in a hurry, they just get in that left lane and I have personally -- I've witnessed one accident and I have personally witnessed at least five times over a period of five years or so almost accidents where the car that's in the left turn lane guns up and then the car in the right lane gets angry because, you know, hey, this guy's cutting me off, so they both continue. And so all of a sudden they're facing the ongoing traffic lane come back.

MR. ETHERLY: Okay.

MS. BRADY: And there's not room. You know, there's very little room at that point. There's

a fire hydrant there, as a matter of fact.

MR. ETHERLY: Okay. So essentially it's NASCAR there?

MS. BRADY: Yes.

MR. ETHERLY: Okay.

MS. BRADY: It was kind of like yesterday's final.

MR. ETHERLY: Okay. Let's move inside the subject property now. So if I understand, perhaps the question that you responded to from Mrs. Miller earlier with regard to the current site plan, it sounds as though you would have a preference for something a little closer to the previous site plan where you had a more southward-oriented access road, if you will, that went around --

MS. BRADY: Yes.

MR. ETHERLY: -- what would appear to the rear yards.

MS. BRADY: You know, I wouldn't even venture an opinion on that because I would want to go to the table and say to the developers and the others, "Tell us what you think. What can you do that would help you and help us solve that problem?" So maybe that is the one, but you know, I'm not even going to say I would --

MR. ETHERLY: I mean, if you look at the lay out of the subject property and if the effort is to move traffic as much as possible away from Foxhall or to prevent the introduction of an additional bottleneck from the side, there's going to have to be some way of accessing the interior, the internal part of the subject property.

MS. BRADY: Right. There is going to have to be a road coming off of the interior down into -- if there's an extension of Whitehaven.

MR. ETHERLY: Yes.

MS. BRADY: And we also have our concerns for our neighbor Ms. Hardy. We wouldn't want whatever access there to be to affect her property in a negative way. So, you know, I don't know. But I can't help but think reasonable people with 16 acres of land and they only need a very small portion of it can't figure this out.

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

CHAIRMAN GRIFFIS: Mr. Parsons?

MR. PARSONS: I wanted to talk briefly about this unlucky house number 13.

MS. BRADY: Okay.

MR. PARSONS: You show your opposition to

this, but you don't really say way. It's in the context of a breach of faith.

MS. BRADY: Okay.

MR. PARSONS: Is there some other reason?

MS. BRADY: Density. Density. Our discussions with the developer from the get go concern the density on W Street. And, you know, originally it was just going to be eight and now in the same amount of land the ninth house has been squeezed in.

MR. PARSONS: So this somehow tips the balance?

MS. BRADY: Yes. Yes, it does.

MR. PARSONS: Okay. Now I wanted to talk about the access issue without beating it to death although I think my colleagues have done that.

What we've been doing, we the BZA have been doing is we dealt with Field School by putting a light in there to accommodate the need of that particular institution.

MS. BRADY: Right.

MR. PARSONS: We did the same thing at Whitehaven.

MS. BRADY: Yes.

MR. PARSONS: And have proposed to do a similar proposal here. And presumably there would be

one on the Brady estate at St. Patrick's. And why in your mind wouldn't that introduce a new rhythm, if you will, to this --

MS. BRADY: Right.

MR. PARSONS: -- rural road that is becoming a speedway by having four traffic lights rather than two?

MS. BRADY: Actually, I agree with you. I think the more traffic lights on Foxhall Road you lessen the speed of the traffic and I think that's the culprit. However, when a solution we think exists to put -- to have the use of the stop light for the Phillips estate be one where there are three lanes, a left turn lane already and an existing light and would also accommodate the traffic coming out of the Brady estate, to us it seems like a safer alternative and the line of sight there is much better. If you need another traffic light on Foxhall, if you find that the traffic continues to increase such that you really need it, then put it at W Street. I mean, the original opposition to that traffic light, as we said earlier, where the residents on the west side of W Street who didn't want W Street becoming a thoroughfare. So they moved the stop light, even though DDOT said this intersection needs a stop light,

warrants a stop light. The little warrants and the -- I never understood that.

But anyway, so they put the stop light down at Whitehaven and got the bus traffic going into GW to go in there. Okay. So it's not going to be a thoroughfare for GW traffic. They've already handled that. So if you find you then need another stop light, you know, that the one at Whitehaven after Brady gets developed, Brady estate, after Phillips estate, if you need another one, then put it up at W Street where people coming from both sides are going up hills, they can't see. You know, what's been lost in all of this discussion are the poor people who are coming west on W Street up to Foxhall Road. The person who wants to turn north there still has a big problem, you know, even with this solution.

MR. PARSONS: So if we were to suggest a light at W Street and eliminated the access to Foxhall to this community, that would bring this community's traffic onto W Street as its entrance.

MS. BRADY: I think you can -- I don't think you want to put a light at W Street without having access off of the Phillips somewhere else because if you have all of the traffic from the Phillips coming to the W Street intersection, even

with a light, the line of sight there is so bad that, you know, you're going to have a lot of angry people when the light changes and whatever. I think this Phillips estate development is big enough that it deserves to have two access/egress. The one onto --

MR. PARSONS: Somehow I thought that would be your response.

MS. BRADY: Surprise.

MR. PARSONS: That is, you wouldn't want all these people using W Street --

MS. BRADY: Well, you know --

MR. PARSONS: -- access to --

MS. BRADY: Hey look, you know, I have a daughter who's in high school. When she graduates from high school, we're downsizing, you know? I'm not going to be around. But, you know, if you've lived at this intersection and watched your neighbors have accidents and you watched other people in accidents and now you're talking about putting two more developments in, it really doesn't take a mental giant to figure out that you go to do something here, you know? I'm sorry, but I really --

MR. PARSONS: So I guess in response to my question --

MS. BRADY: Yes, I'm sorry.

MR. PARSONS: -- you don't feel solving these one at a time, introducing four traffic lights in this mile-long section --

MS. BRADY: Right.

MR. PARSONS: -- is a good idea?

MS. BRADY: I don't. You know, and my feeling is that now when you still have your two parcels of land on which you can help perhaps give easements to Park Service or to conservationists or to just plain old good citizens, whatever, while you still have the two parcels of land to work in this negotiation, this is the prime time to make this solution work. Once you lose one of these to being already developed and already having a quote/unquote solution, then I think it would be more difficult to come together and get a solution that makes sense for everybody.

MR. PARSONS: So I guess the real difficulty, as the chairman has pointed out, is we have no jurisdiction.

MS. BRADY: I understand that.

MR. PARSONS: And this development is 18 months or so ahead of the other one in its planning.

MS. BRADY: I would guess. But, I would also think that this could be beneficial enough to the

Friends of St. Patrick's that they might be willing to sit down and into a binding agreement, you know, os that when in fact they do come to you, that's already been worked out. I mean, I don't think that you have to know exactly what's going on the Brady estate, you know, to know exact -- to get some type of access agreement and egress agreement.

MR. PARSONS: Now, I know you're not a traffic expert, but you've already pointed out that the section to the south is four lanes.

MS. BRADY: Right.

MR. PARSONS: And the principle access to the Brady estate is on that four-lane section.

MS. BRADY: Yes, it is.

MR. PARSONS: Do you think that's an unsafe --

MS. BRADY: I can only say what I've heard from the people who have been very vocal. The Colony Hills Neighborhood Association, and you have their testimony, and they are the neighborhood that's immediately south on Hoban Road there. I think I have heard reference that using that exit, that that would be used as an exit, but it can't handle all of it. You know, I don't have enough information to say that. I know what they're most concerned about is that they

do not want that estate exiting onto Hoban Road there on the paper 45th continuation, you know. So, you know, they're in support of our recommended solution that if we could have the egress/ingress up at the Whitehaven, it would give a second. I think the idea is to use the existing exit off the Brady estate, but I'm sure it's going to need more than one.

MR. PARSONS: So the problem for us here today is this idea is 24 hours old?

MS. BRADY: No. I'd say it's three weeks old, two weeks old.

MR. PARSONS: But this is the first time you've described it to anybody?

MS. BRADY: Well, the neighbors have been talking about it. We talked it about with Mr. Barnes' architect originally and were told, "I'm sorry, but we were told that the National Park Service and the ANC said, 'Don't go there. We can't consider it.'" So, you know, what we ran into when we first started talking about it, quite honestly, was everyone said after the contentious debates that went on during the mayor, this will never happen. And that might be the case.

MR. PARSONS: Okay. Thank you.

MS. BRADY: You're welcome.

CHAIRMAN GRIFFIS: Excellent. Thank you. Any other questions from the Board at this time?

VICE-CHAIR MILLER: Could you just remind me, I think there was a reference to an existing agreement preventing a traffic light at W Street in connection with George Washington University.

MS. BRADY: That was an agreement, I think now, I think Alma Gates has left and she could clarify this, my -- see, GW signed an agreement with the neighborhood agreeing a whole bunch of things having to do with traffic and one of which was to not use the entrance on W Street as a main entrance, that their buses and they would encourage their students as well, the ones are in cars, to use the one over on Whitehaven. So I think that was the agreement. I think that the W Street residence at that time didn't want a light at W Street because at the time there was not a light at Whitehaven. So if you put the light at W Street, then people trying to get to GW probably would go up where there's a light, or the people trying to get out of GW would go where there's a light as opposed to where there is not one.

CHAIRMAN GRIFFIS: So it's your understanding there was an agreement that was signed and that it was --

MR. NIVENS: Yes, I think that agreement was actually part of the BZA order. It was attached to the BZA order. There's another factor with the light at W that I think you need to be aware of and that is that the line of sight coming from the north proceeding south, as you make a little turn --

CHAIRMAN GRIFFIS: Right.

MR. NIVENS: -- where the Field School is now, it just comes on you so suddenly, that even reasonable people would not be able to stop in time. And I think that's a factor that makes W Street a less than desirable candidate for a light and I think it's the reason that DDOT has never pushed the light at W.

CHAIRMAN GRIFFIS: Any other?

(No audible response.)

CHAIRMAN GRIFFIS: Good, let's go to cross. Mr. Nettler?

(No audible response.)

CHAIRMAN GRIFFIS: No cross? Friends? Yes?

MR. SNAPE: I think everyone will be happy to know I have three yes and no questions for you.

MR. NIVENS: What if we differ?

MR. SNAPE: Well, you can -- it's my attempt to have these be yes or no answers.

These are all for Mrs. Brady. Are you familiar with National Park law as it relates to road or any other kind of development on parkland?

MS. BRADY: No.

MR. SNAPE: Okay. Second question, have you done or commissioned any studies on how a road would impact the parkland's wetlands or wildlife?

MS. BRADY: No.

MR. SNAPE: Last question. Do you know why the mayor's mansion proposal to develop part of the parkland fell apart?

MS. BRADY: It's my understanding that it didn't fall apart. Part two.

MR. SNAPE: I would like a copy -- my last question is, could you please provide me with a copy of the letter that you quoted in your testimony?

MS. BRADY: I'd be happy to.

MR. SNAPE: And I'll address that issue in my testimony for sure.

MS. BRADY: Very good.

MR. SNAPE: Thank you.

CHAIRMAN GRIFFIS: And what letter were you referring to?

MR. SNAPE: She quoted a letter in her testimony today --

CHAIRMAN GRIFFIS: All right. Let's go to the source. Ms. Brady, do you know what letter he's speaking of and what is it?

MS. BRADY: I think where it says that a resolution was reached. That?

MR. SNAPE: No.

MS. BRADY: No?

MR. SNAPE: It was a letter that you quoted from --

MS. BRADY: Oh, the three environmental groups?

MR. SNAPE: -- Defenders of Wildlife, Friends of Whitehaven and Audubon.

MS. BRADY: Yes. Yes, I know. Yes, and I will tell you exactly -- I will get you a copy of it. If you go to the Foxhall website, Foxhall Community Citizens Association website and go through -- who was the commissioner who's passed away? John Finney?

MR. SNAPE: John Finney.

MS. BRADY: Yes. It was his quote, I believe, but that's exactly where I got it and I'd be glad if you give me your e-mail address, your card, I'd be glad just to send it to you.

CHAIRMAN GRIFFIS: You're going to put

into the record?

MS. BRADY: Okay.

CHAIRMAN GRIFFIS: So you can just put a hard copy in that --

MR. SNAPE: Mr. Chair, I will not note my objection yet to that until I see it, but again, we have the opportunity to do testimony. We'll address that issue on March 8th.

CHAIRMAN GRIFFIS: Okay. Great. Ms. Hardy, is she still present? Any other cross?

(No audible response.)

CHAIRMAN GRIFFIS: Very well. Looks like we got through it.

MS. BRADY: Thank you very much.

CHAIRMAN GRIFFIS: Good. Thank you both very much. Do appreciate it.

Okay. Let's just review what we need to do next. We have two other case presentations. We could conceivably have persons' testimony at the March 8th hearing and then we will go for two -- rather any rebuttal witnesses and then we'll go to cross of those, and then closing.

In terms of Board members, if you wouldn't mind focusing on, we've kind of started to generate a little list. Are you anticipating that anything would

be submitted -- actually, Mr. Nettler, let me ask you a couple of quick questions because some of the pieces came up today. There was talk of a section, there was talk of a new plan that was delivered. Is that coming into the record prior to the 8th?

MR. NETTLER; yes, we were going to submit it all today, but I think what we'll do is prepare a book for everyone so you'll have it before the meeting.

CHAIRMAN GRIFFIS: Okay. Is it going to take anyone by surprise in the parties?

MR. NETTLER: I don't think so. No, because what we've been doing is we've been taking all of your comments from the last hearing and we've been responding to them.

CHAIRMAN GRIFFIS: Okay.

MR. NETTLER: And finalizing the things that we were asked to finalize.

CHAIRMAN GRIFFIS: Good. That's excellent. What I don't want to do is get too much of the time of, you know, we didn't see this or when did get it and all of that.

MR. NETTLER: It's not going to be a surprise.

CHAIRMAN GRIFFIS: But let's go to others.

Board members, any other issues to make sure that we have focused on in terms of submissions? Mr. Parsons?

MR. PARSONS: Well, there was a dialogue between Mr. Nettler and Mr. Murphy earlier about soils and geology, analysis of the soils and so forth. I think what Mr. Nettler was trying to point out is that I guess that you've already done this?

MR. NETTLER: Correct.

MR. PARSONS: And I refer to that. It's Tab P and it's an environmental site assessment. And on page 7 it only says exactly what is on that following sheet.

MR. NETTLER: Right. I think in reference --

MR. PARSONS: It's readily read.

MR. NETTLER: Right.

MR. PARSONS: And then there's four or five soil borings maps in the appendix. Is that what you mean by --

MR. NETTLER: No, no. What I thought he had referenced the report that was done by Schnabel. I can provide a copy.

MR. PARSONS: Because I can't find that in the material so far.

MR. NETTLER: Okay.

CHAIRMAN GRIFFIS: I believe it's in there. I actually saw that today, so I think you could --

MR. NETTLER: I'll provide a copy of that.

CHAIRMAN GRIFFIS: Yes, we might want an additional copy. I am quite certain I looked at that today.

MR. PARSONS: Well, you saw a fax possibly from Schnabel.

CHAIRMAN GRIFFIS: Is that right?

MR. PARSONS: But that's just data of nine holes drilled in the site.

MR. NETTLER: I haven't --

CHAIRMAN GRIFFIS: I thought I saw --

MR. PARSONS: At Tab --

CHAIRMAN GRIFFIS: Do you have that?

MR. PARSONS: Right. That's what I got in my hand. Yes.

MR. NETTLER: That's not what I was referring to.

MR. PARSONS: Oh, good. Well, if you're going to submit that, that's fine. That's exactly what I had in mind.

MR. NETTLER: Yes, it's a multi-page report.

MR. PARSONS: Good.

CHAIRMAN GRIFFIS: Yes, Ms. Miller?

VICE-CHAIR MILLER: Mr. Chairman, I just want to say that if this Board were to even consider a more comprehensive context for the traffic solutions, I would think that Ms. Brady would need to confer with Office of Planning with applicant to see if there is even a slim possibility of that for us to even consider, so perhaps you could submit something on that in the next couple of weeks before the next hearing. I mean, I'm just throwing it out as a suggestion. But it seems to me if it's going to be considered at all, we would --

CHAIRMAN GRIFFIS: I'm not sure what you're asking.

VICE-CHAIR MILLER: We were asked to consider a vague kind of postponement of traffic solutions in this case so that the stakeholders for the Brady estate and the Phillips estate could all get together and see if maybe there's a more logical solution to the whole area.

CHAIRMAN GRIFFIS: But what do you want Ms. Brady to do?

VICE-CHAIR MILLER: Well, to confer with the other stakeholders and see if this is even

something that's there to be considered. Because if the applicant's against it, Office of Planning says it's not realistic, ANC says it's not realistic --

CHAIRMAN GRIFFIS: I see.

VICE-CHAIR MILLER: -- then we know where we stand.

CHAIRMAN GRIFFIS: Okay. So float the idea and get back to us.

VICE-CHAIR MILLER: Yes.

CHAIRMAN GRIFFIS: Good. Okay. Mr. Nettler, let me ask you directly, there's obviously been some testimony that was brought up in terms of changing your entire access in your road in your interior site. Can you tell me today whether that's actually something that you will address and could yo do that today, or --

MR. NETTLER: We're not going to change the access.

CHAIRMAN GRIFFIS: Okay.

MR. NETTLER: It's simply --

CHAIRMAN GRIFFIS: Good. In that case --

MR. NETTLER: We've been told by the ANC, Park Service and other community members it's simply not going to happen and we're not --

CHAIRMAN GRIFFIS: Okay. You will address

that also in your closing and in any rebuttal.

MR. NETTLER: Okay.

CHAIRMAN GRIFFIS: So we'll get some further information on that. Okay. Good. I think we all know where we are. Anything else I'm missing?

(No audible response.)

CHAIRMAN GRIFFIS: Good. Any questions from the applicant or any of the parties involved in terms of what we're doing next? Yes?

MR. SNAPE: Mr. Chair, this very well is my ignorance of the BZA procedure. Am I correct in understanding that Mr. Nettler will present the revised site plan and the storm water management plan during his presentation on March 8th and in what context does that occur? I'm just not familiar with that process. It would help me understand our role.

CHAIRMAN GRIFFIS: Good. Mr. Nettler, when is he going to get it?

MR. NETTLER: He's going to get it when I submit it here. We're going to put it together for the parties and for the Board beforehand and then, as I said, it's responsive to the questions that have been raised at the last hearing.

CHAIRMAN GRIFFIS: Okay.

MR. NETTLER: And you'll have it before

that hearing

CHAIRMAN GRIFFIS: And how much time do you need? On the 8th we're obviously going to need it at 3:00 the Wednesday prior, which is what date, Ms. Bailey?

MS. BAILEY: Mr. Chairman, you caught me a little bit off guard.

CHAIRMAN GRIFFIS: I'm sorry. I knew I would.

MS. BAILEY: Let's see. The Wednesday before the 8th --

MR. ETHERLY: Is the 1st.

MS. BAILEY: Yes.

CHAIRMAN GRIFFIS: It's the 1st.

MR. NETTLER: Yes, it's actually been completed. And I talked about with Anky and we just want to put it together in a way that it's easily readable. I have these papers all over the place.

CHAIRMAN GRIFFIS: Indeed. And totally understood. So, but there's no difficulty in meeting that deadline?

MR. NETTLER: No. No.

CHAIRMAN GRIFFIS: Is there an even closer deadline that you could submit to?

MR. NETTLER: Tuesday would probably be

just as well.

CHAIRMAN GRIFFIS: So a week from today?

MR. NETTLER: Right.

CHAIRMAN GRIFFIS: Okay. So look for it a week from today. Certainly no later than Wednesday at 3:00 you'll be served. Hopefully you guys have all figured out how you're being served and what's the fastest, easiest, most economical way to do that.

Okay. Any other procedural questions?

MR. SNAPE: Thank you. That --

MR. NETTLER: We actually sent copies. I know you have -- last night you heard reference to the ANC and other people saying that they had received something.

CHAIRMAN GRIFFIS: They've seen them.

MR. NETTLER: Right.

CHAIRMAN GRIFFIS: Right.

MR. NETTLER: So we'll put it together in a booklet.

CHAIRMAN GRIFFIS: Okay.

MR. SNAPE: I appreciate that. Thank you. My question is a procedural question as it relates to this hearing. Will Mr. Nettler present this as a part of their rebuttal, or is it a part -- and will we have an opportunity to then ask questions about it? I

mean, are we starting the process over again or is that a part of his rebuttal?

CHAIRMAN GRIFFIS: No.

MR. SNAPE: I'm confused on how we're dealing with that new proposal.

CHAIRMAN GRIFFIS: Good. That's an excellent question. First of all, when you present your case, you will open, give us the heart of it and then close your case. You'll obviously be cross examined on it. We will then go to rebuttal witnesses. They've heard the entire case; the applicant has, and they are afforded another opportunity to rebut with their witnesses. You'll be able to cross examine each of those witnesses and then you're participation from the hearing standpoint is concluded. Then we will go to the conclusion summation remark, which no additional testimony would be provided. It's a summation of the applicant. And then the Board will assess any sort of findings, facts, conclusions or draft orders or anything else that we might think. So that's where we'd be.

MR. SNAPE: Thank you.

CHAIRMAN GRIFFIS: So you're certainly going to cross examine any of the rebuttal witnesses that are coming in and I'm sure they're going to be

short, succinct and directly to the point, mostly covered by all the written submissions that they'll put in so we won't need a lot of testimony and questions.

MR. SNAPE: Thank you for your indulgence.

CHAIRMAN GRIFFIS: Did I say that on the record? Okay. I thought I was thinking it. Good. Anything else?

(No audible response.)

CHAIRMAN GRIFFIS: Great. Thank you all very much. Appreciate your patience. If there's no other business, Ms. Bailey, for the Board today, I would adjourn the morning special public hearing.

(Whereupon, the hearing was concluded at 2:22 p.m.)