GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

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TUESDAY,
FEBRUARY 15, 2005

+ + + + +

The Public Meeting convened in Room 220 South, 441 4th Street, NW Washington, D.C. 20001, pursuant to notice at 10:11 a.m., Geoffrey Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

JOHN G. PARSONS	Commissioner (National Park Service)
GREGORY JEFFRIES	Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Deputy Secretary, BZA
JOHN NYARKU	Zoning Specialist
BEVERLEY BAILEY	Zoning Specialist

OFFICE OF THE ATTORNEY-GENERAL STAFF PRESENT:

SHERRY GLAZER, ESQ.

This transcript constitutes the minutes of the Public Hearing held on February 15, 2005.

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

10:11 a.m.

CHAIRPERSON GRIFFIS: Good morning. Let me call to order our Public Hearing of February 15, 2005, and wish everyone again a very good morning.

I am the Chairperson, Geoffrey Griffis.

Joining me is Vice Chair Ms. Miller and Mr. Etherly. Representing the National Capital Planning Commission is Mr. Mann.

And for this morning's session, representing the Zoning Commission is Mr. Jeffries.

Copies of the today's hearing agenda are available for you. They are located where you entered into this hearing room. I would ask you to pick that up and see where you are on the chronology as we run through this.

There are several very important aspects that I'll go through and perhaps very quickly. But I would remind you if we vary from it.

But, first and foremost, all proceedings before the Board of Zoning Adjustment are recorded. They are recorded in two fashions, the most important being the Court Reporter who sits to my right on the floor. He's creating the official transcript.

Secondly, we are being broadcast live on the Office of Zoning's website.

So, attendant to both of those, I ask that everyone turn off their cell phones and beepers and noise makers at this time. I would also ask when people are coming forward that you first fill out two witness cards. Witness cards are available at the table where you entered into. They are also available at the table where you will provide testimony.

Those two cards go to the Recorder period to coming forward to speak to the Board. The reason is, so of course we can, on the transcript, give you credit for everything that you say, which will be of great import and spell your name correctly for the official transcript.

The order of procedure for Special Exceptions and Variances. First, we hear from the Applicant in the presentation of their case.

Secondly, we'll hear from any Government agencies reporting on the case, Office of Planning, Department of Transportation, etcetera.

Third, we will hear the report of the Advisory Neighborhood Commission.

Fourth, we will hear from persons or parties in support of an application.

Fifth, would be persons or parties in opposition to an application.

And, sixth, finally, we will have an opportunity for any closing summation, rebuttal witness by the Applicant.

Cross examination of witnesses is permitted by the Applicant and parties in the case.

The ANC in which the property is located is automatically a party in the case and, therefore, will be able to conduct cross examination.

The record will be closed at the conclusion of the hearing on the case and I would imagine we would conclude all of our hearings this morning. The important of that is this. This Board will only deliberate on the information that's created in the record, so it's created in the record before us today.

So, anything that you believe we should be taking into consideration should be put into the record. Obviously, it should be pertinent and jurisdictional to the application before this Board.

The Sunshine Act requires that this Board conduct all proceedings in the open and before the public. This Board may, however, enter into Executive Session, both during or after a hearing on a case.

That is for the purposes of deliberating on a case or just reviewing the record.

Executive Sessions are in accordance with the Sunshine Act and they are also in accordance with our rules, regulations and procedures.

Let me ask at this time, anyone that is here present today that is going to testify or is thinking about testifying, if you would please stand and give your attention to Ms. Bailey and I will say a very good morning to Ms. Bailey. She is going to swear you in.

MS. BAILEY: Please raise your right hand.

Do you solemnly swear or affirm that the testimony you will be giving today will be the truth, the whole truth and nothing but the truth?

CHAIRPERSON GRIFFIS: Good. Thank you very much, all of you, and thank you, Ms. Bailey. And, again, a very good morning to you.

The Board at this time will consider any preliminary matters. Preliminary matters are those which state whether a case will or should be heard today. Request for postponements, withdrawals, or whether proper and adequate notice has been provided on the application are areas of preliminary attention and preliminary matters for the Board.

Ms. Bailey, are you aware of any preliminary matters for our attention at this time?

MS. BAILEY: Mr. Chairman, good morning and to everyone, good morning as well.

Staff does not have any at this time, sir.

CHAIRPERSON GRIFFIS: Good. Is anyone present here with any application scheduled in the morning have a preliminary matter, if you would come forward or just give an indication.

Not seeing any indication by those present that we have preliminary matters, let's call the first case for our morning session.

MS. BAILEY: Application Number 17286 of Grace Guggenheim, pursuant to 11 DCMR, 3104.1 for a Special Exception to allow additions to an existing single family semi-detached dwelling under Section 223, not meeting the lot occupancy, Section 43, Rear Yard, Section 44, and nonconformance structure provision in subsection 2001.3.

The property is located in the R3 District at the premises 2912 Cortland Place, Northwest. Square 2103, Lot 60.

CHAIRPERSON GRIFFIS: Good morning.

MR. HORSEY: Good morning, Mr. Chair, members of the Board.

My name is Outerbridge Horsey. I'm an architect and to my left is Grace Guggenheim, my client, and the owner of the premises at 2912 Cortland Place.

We're here before to seek relief on a Special Exception to allow additions all at the roof level to this single-family house. It's in an R3 District. It's an addition to a nonconforming house. The house is nonconforming due to the lot occupancy and the rear yard.

We actually were before this Board for a variance in 1996 and sought relief for those two conditions. They were granted relief. And the proposed additions now do not increase either of those two non-conformities.

I do note that the BZA paperwork includes a side yard nonconformity, which I'm not aware of and I don't believe exists. So, I'm --

I could just run through the project for you if you like?

CHAIRPERSON GRIFFIS: No. Why don't we open it up to Board questions if they have any.

MR. HORSEY: Okay. Sure.

CHAIRPERSON GRIFFIS: If you're satisfied with that?

MR. HORSEY: That's fine.

CHAIRPERSON GRIFFIS: In addition to clarify, of course, what you said in offering the submission, we did have -- there was a previous variance which set the massing of this. And the proposal is just to add dormers, not changing any of the aspects of the massing, be it the lot occupancy or anything of that aspect.

And this is before us under a Special Exception session because it's an addition to a nonconforming.

MR. HORSEY: Correct.

CHAIRPERSON GRIFFIS: Good. Okay.

Do we have any further information on that side yard? I mean, there's nothing impacted at all. It would just be an existing unchanged aspect and you don't believe that it actually is nonconforming?

MR. HORSEY: Correct.

CHAIRPERSON GRIFFIS: Okay. I think we can move ahead then.

Is there any questions from the Board?

MR. MANN: Yes.

CHAIRPERSON GRIFFIS: Yes, Mr. Mann.

MR. MANN: Somewhere in this submission I see that this project was submitted to the Commission

on fine Arts. Is that correct?

MR. HORSEY: Yes. It was.

MR. MANN: Can you tell me what triggered that submission?

MR. HORSEY: It's across the street, as you see in the -- probably the best document is the excellent Office of Planning report that you have. The aerial photograph you'll see across the street is the portion of what's called Woodley Park. It's connected indirectly to the Zoological Park and so it's incorporated in the Ships Head --

MR. MANN: And what was the outcome of the submission?

MR. HORSEY: I think we submitted it, a copy of it. They approved the current design, which actually --

MR. MANN: You need to just repeat that for the record. We didn't pick you up.

MR. HORSEY: Their purview is over the front of the house and that contains one of our doorways to the side --

MR. MANN: I'm sorry. I'm going to interrupt you again. The Court Reporter is indicated he's not getting you. You just need to be closer to a microphone.

MR. HORSEY: The Commission of Fine Arts has jurisdiction because of the Ship's Head, Lusack, and they approve they approved this submission which shows the dormer on the front and the side and the rear.

MR. MANN: All right. Thank you.

CHAIRPERSON GRIFFIS: Good. And you indicated, of course, they had no objection to the addition. Is that correct?

MR. HORSEY: That's right.

CHAIRPERSON GRIFFIS: Okay. Good.

Any other questions of the Board?

MR. MANN: Did this require -- is it in a historic district?

MR. HORSEY: No. It's not.

MR. MANN: Okay.

CHAIRPERSON GRIFFIS: Okay. Good.

Anything else?

MR. HORSEY: I did submit, make sure you got them, the two letters from the adjoining neighbors, both of them support the project.

CHAIRPERSON GRIFFIS: Yes. We were just handed that. I believe, they're from the Moran family. Is that the way you say it? And also Anderson Lance. Okay. We have both of those. 2910

Cortland and 2914 Cortland.

Good. If there's no other questions, clarifications of the Board, why don't we move on then to the Office of Planning.

MR. MOORE: Good morning, Mr. Chair and members of the Board.

I'm John Moore, of the Office of Planning and we stand in support of the application and therefore on the record.

CHAIRPERSON GRIFFIS: Excellent. Thank you, Mr. Moore.

Is there any questions of the Board in clarifying again a very thorough, excellent analysis from the Office of Planning.

If there's no other questions of the Board, does the Applicant have any cross examination of the Office of Planning?

MR. HORSEY: No.

CHAIRPERSON GRIFFIS: Good. Let me just say again very briefly that as far -- I think it's an excellent report not only getting into the history that past relief outline, but also obviously the direct requirements under 223.

That being said, let's move on. Any other government agency reports? We've talked about CFA.

Mr. Horsey, I don't have any other indication of any other Government agencies reporting on this application. Are you aware of any others?

MR. HORSEY: No.

CHAIRPERSON GRIFFIS: Excellent. Board members? I don't see anything else either.

Let's move to the ANC which is Exhibit Number 22.

Is the representative from the ANC-3C here on this application? Not knowing of any representative, we do have Exhibit Number 22. They are in support of the application.

Is there comments from the Board on this?

Applicant have any comments on the ANC's report?

No comments on the ANC report she obviously presented.

Let's move on then to -- anyone here present persons in support or in opposition to Application 17286, Grace Guggenheim, can come forward at this time to provide testimony to persons present?

Not noting anyone running at the table at this time, I don't believe there is anybody present today to give testimony either in support or in opposition to the application.

It seems to me that runs through my whole agenda on this application.

We'll turn it over to the Applicant for any closing remarks he might have.

MR. HORSEY: I have no closing remarks at this time.

CHAIRPERSON GRIFFIS: Very succinct. Nice. Okay.

Any other comments from the Board?

I think we ought to move ahead on this and I move approval of Application 17286 for a Special Exception under 223 for 2912 Cortland Place, NW. And I'd ask for a second.

VICE CHAIR MILLER: Second.

CHAIRPERSON GRIFFIS: Thank you, Ms. Miller.

I think it is very clear and, in fact, it's appropriate to stand on the record that this application as it is so complete. I take great reliance on the Office of Planning's Report in its analysis. Obviously, there has been no evidence and rather persuasive evidence to the contrary that this would unduly affect the light and air prior to the use and enjoyment of the adjacent.

Certainly, it stays within character and

scale. I think actually the dormers are quite a nice addition and I think they've been designed quite well in terms of their setting and their articulation. And I will let it go at that.

Any other comments on that?

We have a motion before us. It's been seconded. I'm going to ask for all those in favor state by saying aye.

(AYES)

CHAIRPERSON GRIFFIS: Opposed? Abstaining?

Ms. Bailey.

MS. BAILEY: The vote is recorded as five, zero, zero to approve the application.

Mr. Griffis made the motion. Mrs. Miller second. Mr. Mann, Mr. Etherly and Mr. Jeffries are in agreement.

CHAIRPERSON GRIFFIS: Excellent.

I'd suggest that we issue a summary order on this unless any Board member has an objection and we'll waive our regulations and requirements for that.

Not knowing of any objections, we'll issue a summary order on that.

Thank you very much.

MR. HORSEY: Thank you, Mr. Chair.

CHAIRPERSON GRIFFIS: Have a great day.

MR. HORSEY: And members of the Board.

CHAIRPERSON GRIFFIS: I understand it's about 60 degrees. You can probably start construction today.

Let's move ahead then to the second case of the morning please.

MS. BAILEY: Application Number 17287, of Robin Epstein, pursuant to 11 DCMR 3104.1, for a Special Exception to construct a two-store rear addition to an existing single family row dwelling under Section 223, not meeting the lot occupancy, Section 43, Rear Yard, Section 44, Requirements.

The property is located in the R4 District at the premises at 1542 First Street, NW, Square 552, Lot 199.

CHAIRPERSON GRIFFIS: Good morning.

MR. NUNLEY: Good morning, Chairman Griffis, Board Members and other staff of the Office of Zoning.

My name is Edgar Nunley. I'm here along with the owner of the property, Mr. Robin Epstein.

Before I start any further, I'd like to submit something that didn't get into the record. We have talked with the neighbors on both sides of the

property and one has given us a letter indicating no opposition. The other indicated no opposition verbally, but we'd like to submit this one.

CHAIRPERSON GRIFFIS: That's fine.

MR. NUNLEY: Short and straight to the point then.

CHAIRPERSON GRIFFIS: I'll say. In one sentence, they have no objection.

Good. Well, that's clear. Anything else for us to do?

MR. NUNLEY: Well, at this point we think that we can stand on the record and we'd like to just make ourselves available for any questions the Board may ask.

CHAIRPERSON GRIFFIS: Good. I think that's appropriate also. Obviously, we'll hear from the lot occupancy, also the minimum rear yard and lot area, which is an existing condition from 1909 --

MR. NUNLEY: Yes.

CHAIRPERSON GRIFFIS: -- when this was built. Is that correct?

MR. NUNLEY: That's correct.

CHAIRPERSON GRIFFIS: Good. Has there been any indication from any of -- obviously, submitted opinions from the adjacent neighbors. Have

there been any comments or anything that would tend to lead us to look at whether it was objectionable for light and air use, privacy, the adjacent properties?

MR. NUNLEY: No. We've had no such comments. In fact, we've spoken with neighbors going two houses on either side. They've all indicated support.

Three have given written support. The other gave verbal support and he wasn't able to be here today.

We've also gone to the ANC and the Bates Area civic Association and given a presentation and we've gotten support from both of those entities. And, of course the Office of Planning has given a letter.

CHAIRPERSON GRIFFIS: Right.

MR. NUNLEY: Positive response.

CHAIRPERSON GRIFFIS: And the existing property, as it shows in the photographs, but also in the written documentation, it has a screened-in porch. An existing structure.

MR. NUNLEY: That's correct.

CHAIRPERSON GRIFFIS: and essentially this addition is incorporating that --

MR. NUNLEY: Yes. It will.

CHAIRPERSON GRIFFIS: -- kind of footprint and expanding out as you've indicated, expand the liveable space in this property in the kitchen as it's showing.

Very well. I don't have anything else for the Applicant at this time. Are there other questions from the Board?

Good. Let's move ahead then to the Office of Planning and say a very good morning.

MR. MORDFIN: Good morning, Chairman, and Members of the Board. I'm Stephen Mordfin with the Office of Planning and this is a Special Exception Application pursuant to 223, to permit a rear addition onto a row house.

Please note that the staff report does contain an error. The application request reduced the rear yard to 12.5 feet and not 7.5 feet as is stated in the report.

CHAIRPERSON GRIFFIS: Right. Good. Thank you.

MR. MORDFIN: And this application is in conformance with the provisions of Section 223 in that the request is to add onto a row dwelling. Is permitted as a matter of right in the R4 zone District. Light and air will not be unduly affected,

because of the proposed building addition is to be located in approximately the same location as the former rear porch. Privacy, use and enjoyment will not be unduly compromised because there will be no windows on the sides. And the combination proposed rear yard and a required side of the adjoining property to the rear is 20.5 feet.

The building addition will be visible from Q Street only and will not substantially intrude upon the character, scale and pattern of houses along that frontage.

The proposed lot occupancy is 69.5, .4 percent less than the max of 70 percent permitted under Section 223 and the approval of the subject application will not permit the introduction or expansion of a nonconforming use.

Therefore, the Office of Planning recommends approval of the application as submitted by the Applicant.

And that conclude the Office of Planning's presentation.

CHAIRPERSON GRIFFIS: Excellent. Thank you.

I have a quick question. It's an excellent report.

On your last -- I believe it's the last page, the last page I have which is your -- the map and footprints of the buildings.

Do you know just off the top of your head, as we look at the footprints of that, it would seem that it is not showing the existing porch, the screened-in porch area. Is that your understanding also?

MR. MORDFIN: It does appear that it doesn't --

CHAIRPERSON GRIFFIS: Okay.

MR. MORDFIN: -- show those porches.

CHAIRPERSON GRIFFIS: Okay. And that's fine. It's just for clarity, because conceivably there are others on the row dwellings on that square. Right?

MR. MORDFIN: Yes.

CHAIRPERSON GRIFFIS: Yes. Indeed. Okay.

Good. Does the Applicant have any questions or examination of the Office of Planning?

MR. NUNLEY: No.

CHAIRPERSON GRIFFIS: Let me just ask. Is the ANC present today, ANC-5C in this application?

Okay. Ms. Miller, questions of the Office

of Planning?

VICE CHAIR MILLER: I just have one question.

On page 2 you say that the building addition replaces the one-store screened-in porch. DCRA requires the Applicant to remove and I'm wondering if you know that porch was required to be removed?

MR. MORDFIN: I believe it was in poor condition, but the Applicant probably can answer that question better.

MR. EPSTEIN: My name is Rob Epstein. I'm the Applicant.

When I bought the property in August, there was a condemnation procedure underway. And when I checked with D.C., they wanted that rear porch removed because of structural problems with it.

CHAIRPERSON GRIFFIS: Condemnation just for that or the whole property?

MR. EPSTEIN: I'm sorry? No, condemnation was for the rear --

CHAIRPERSON GRIFFIS: Just for that rear.

MR. EPSTEIN: On the structural integrity of the rear porch.

CHAIRPERSON GRIFFIS: Okay. I see.

Good.

VICE CHAIR MILLER: Thank you.

CHAIRPERSON GRIFFIS: Anything else? Anything else?

Thank you very much, Mr. Mordfin.

Let's move ahead then. I don't have any other agency submissions in this application.

The site is not located in an historic district. Is that correct?

MR. NUNLEY: No. It is not.

CHAIRPERSON GRIFFIS: Okay. ANC-5C has not indicated that they are present today, but Exhibit Number 23 recommends approval of the application.

I don't know -- is this -- is this. Oh, it does need to be waived, that's right. I had made a note of that.

Is there any objection?

VICE CHAIR MILLER: No objections to waiving it.

CHAIRPERSON GRIFFIS: Good. I think we should take in then Exhibit Number 23 as they had asked for us to request a seven-day filing requirement, unless the Applicant has an objection for us accepting the ANC report?

MR. NUNLEY: No objection.

CHAIRPERSON GRIFFIS: Excellent. Let's move ahead then.

There's indication in this letter obviously some stuff, but there's aspects of a tree stump. Also, the rear wall. Do we need to know anything about -- no. I shouldn't say that.

What can you tell us about that?

MR. EPSTEIN: There was a large tree in the back of the property which I removed and our neighbors to the right, 1544 were very appreciative of that, although upon further examination, we noted that the roots of the tree are probably impacting upon part of the neighbor's yard.

I had to remove that tree stump anyway upon commencement of construction, in order to put my foundation --

CHAIRPERSON GRIFFIS: Right.

MR. EPSTEIN: -- exactly right there. So, I gave him my commitment, oral commitment, but certainly I'll follow through with it to remove the entire tree stump and the roots and replace any damage that may have impacted on his walkway.

CHAIRPERSON GRIFFIS: Okay. Oh, so it's a walkway? It's for a walkway.

MR. EPSTEIN: It's a retaining wall that

leads to a staircase that goes to his basement.

CHAIRPERSON GRIFFIS: Good. So, you're proposing you're going to grind out the stump and then try and get as many roots as possible out.

MR. EPSTEIN: I'm going to remove all the roots.

CHAIRPERSON GRIFFIS: Okay. What kind of tree was it?

MR. EPSTEIN: -- Large.

CHAIRPERSON GRIFFIS: Yes. You know, they can be very destructive forces ripping up sidewalks, foundations and all that.

Ms. Miller, a comment?

VICE CHAIR MILLER: There's also a reference in the ANC report to a retaining wall being fixed?

MR. EPSTEIN: That's part of the same issue. There is a -- In fact, you might even be able to see it in the photograph over here.

CHAIRPERSON GRIFFIS: Yes. I think we have -- Mr. Epstein has it pulled out. The rear yard photograph that you goes with your submission.

MR. EPSTEIN: I reference this photograph. And actually, you can see part of the tree stump here and the retaining wall is just part of the basement

staircase that the neighbor has over there.

CHAIRPERSON GRIFFIS: Okay.

MR. EPSTEIN: So, to the extent that the tree or the tree roots or even my construction would cause any damage over there, we're prepared to repair it immediately.

CHAIRPERSON GRIFFIS: Right. Good.

Okay. Anything else? Any other questions of the Board?

I don't have any other Government reports. The ANC's filing we have gone through.

Let me ask if anyone here is present has person to provide testimony to the Board in Application 17287 of Robin Epstein that's in support or in opposition?

Very well. Let's move ahead to any closing remarks that you might have.

MR. NUNLEY: Only that we would like to request a bench decision and hopefully a summary order.

CHAIRPERSON GRIFFIS: Good. Thank you very much.

Again, 223 an excellent point of our regulations that has set up the ability of homeowners to come before the Board and not rise to the level of

a variance in trying to make accommodations for changes in one's life. And certainly as Washington in it's historic nature has an awful lot of buildings that were built well before the zoning regulations were actually enacted. And so, our action or codification of the regulations, we created numerous, if not thousands upon thousands of housing that were then nonconforming. And 223 is the vehicle which such exception can be requested for relief of those aspects, this being again another example of that and I think one that rises to the level of support and approval. And I would move approval of Application 17287 for the Special Exception to construct a two-story rear addition to the existing family row dwelling under Section 223, not meeting the lot occupancy, rear yard requirements of 1542 First Street, NW.

Ask for a second?

MEMBER ETHERLY: Second.

CHAIRPERSON GRIFFIS: Thank you, Mr. Etherly. I do appreciate that.

We do have letters of support which we had mentioned. Exhibit 20, Briscoe? Is that correct? Yes.

And we do have the support of the ANC and

most importantly as I find in terms of the analysis and relying on the this specific case, the recommendation and approval from the Office of Planning, Exhibit Number 22, which slates out a full analysis.

The photographs presented by the Applicant and the Office of Planning give excellent context to this and clearly the requirements of the 223 submission that being the documentation and then discussing the aspects of light and air. And they're available in privacy and use to the adjacent neighbors. I don't see anything rising to be persuasive that this would not meet our approval. And, therefore, I obviously do support it.

Let me open it up to others for any other comments.

Very well. Not noting any other additional comments, we do have a motion before us that has been seconded.

I ask for all those in favor signify by saying aye.

(AYES)

CHAIRPERSON GRIFFIS: And opposed? And abstentions?

Very well. Ms. Bailey, if you would not

mind, you can record the vote.

MS. BAILEY: Mr. Chairman, the vote is recorded as five, zero, zero to approve the application. Mr. Griffis made the motion. Mr. Etherly seconded, Mr. Jeffries, Mr. Mann and Mrs. Miller are in support and we're doing a summary order, did you say, sir?

CHAIRPERSON GRIFFIS: Good. I had not said it, but excellent point to bring up. I don't see any reason unless there's any objection by the Board members, we will waive our regulations and issue a summary report. We don't have a party in opposition. This is very straightforward. And the record is substantially full.

So, not knowing any objection, let's issue a summary order.

Good. Thank you all very much. Have a great day. And you're able to enjoy the 60-degree weather too.

Good. Why don't we move on.

MS. BAILEY: Application Number 17284 of Miranda R. Brown, pursuant to 11 DCMR 1303.2 for modification of plans under subsection 3125.8 for a four-story single family detached dwelling that was approved under BZA Application Number 16929 dated

November 22nd, 2002.

The requested modification will allow the construction of a three-story single family, detached dwelling with mezzanine. The property is located R-1B and it's at 3120 Pennsylvania Avenue, SE, Square 5545, Lot 3.

CHAIRPERSON GRIFFIS: Good. Thank you, Ms. Bailey.

Good morning.

MS. BROWN: Good morning, Mr. Chairman, and Board members.

My name is Miranda Brown. I'm the Applicant in this case. I come before you today because DCRA requested that I come and have a modification from an attic to a mezzanine.

CHAIRPERSON GRIFFIS: Fascinating?

MS. BROWN: Fascinating.

CHAIRPERSON GRIFFIS: I mean, you know, you really get into this stuff.

What is the difference between an attic and -- oh, no. We don't want to talk about that.

Good. What can you tell us?

MS. BROWN: I'm here today because DCRA told me I needed to change my attic to a mezzanine.

CHAIRPERSON GRIFFIS: Okay. And just to

be clear in all seriousness, because this is serious business.

The aspect is a modification from a previous order, so there was an approval for this to be -- for it to be built and as the plan has changed during construction or at this point in its history, you've modified it and, therefore, the order has to be modified. Is that correct?

MS. BROWN: Correct. Correct.

CHAIRPERSON GRIFFIS: Okay.

MS. BROWN: DCRA requested that I modify the house.

CHAIRPERSON GRIFFIS: Well, let me be clear on that.

They requested that you - -

MS. BROWN: Yes.

CHAIRPERSON GRIFFIS: -- modify the house?

MS. BROWN: Yes.

CHAIRPERSON GRIFFIS: Take an attic out and make it a mezzanine?

MS. BROWN: Yes. DCRA requested that I do so.

CHAIRPERSON GRIFFIS: Why?

MS. BROWN: They said that I had to do it.

I was hoping today that a representative would be here and could explain why they told me to do it. But I was instructed by DCRA to change it and I did.

CHAIRPERSON GRIFFIS: when in the process did DCRA instructed you? During the permit process?

MS. BROWN: No. No. I have it on here. I have it some place.

Okay. November the 14th. Oh, that's not it. I don't know the exact date, but I was told to change it but that's not the right date.

CHAIRPERSON GRIFFIS: So, when did you actually construct this?

MS. BROWN: The house is still under construction. It's in the dry-walling stage right now and I'm just waiting for a summary order so that I can finish the change.

CHAIRPERSON GRIFFIS: I see.

And so -- but you obviously had permits. Right?

MS. BROWN: Yes.

CHAIRPERSON GRIFFIS: And on 15 November, is that `05?

MS. BROWN: I have two permits.

CHAIRPERSON GRIFFIS: Is it `04 on that? Contract agreement from DCRA. I have that.

MS. BROWN: I have two permits.

CHAIRPERSON GRIFFIS: You have two permits?

CHAIRPERSON GRIFFIS: I have two permits.

CHAIRPERSON GRIFFIS: So, you have the initial base building permit?

MS. BROWN: Yes.

CHAIRPERSON GRIFFIS: And you went in for a modification at some --

MS. BROWN: After they told -- yes. They told me I had to have a new permit, so I had a new permit issued. Okay.

No. They said the total permit. The first original permit is B460054. That's for a three-story building based on the first hearing that I had.

Then after the DCRA instructed me to change the house, I was issued permit B466265. That changed the house to a two-story with basement and mezzanine. And I continued to build the house.

And then they told me to apply for an order from this court.

CHAIRPERSON GRIFFIS: So, when they -- when they -- we're going to move off pretty quickly, but so when you got the comments back and the second approved modification permit, DCRA, you weren't given

any reasoning or building code or zoning section that told you that you needed to remove an attic and create a mezzanine?

MS. BROWN: Well, according to the zoning -- DCRA, there's no such thing as an attic in D.C.

CHAIRPERSON GRIFFIS: Oh, boy.

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: Okay. Go ahead.

There is, and in fact it's a defined term in the zoning regulations.

MS. BROWN: It's not in the zoning regulations. They showed it to me. It's not in -- it's not available in the zoning regulations.

CHAIRPERSON GRIFFIS: Okay.

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: I hope the record is --

Go ahead.

MS. BROWN: So --

CHAIRPERSON GRIFFIS: So, they were saying that you called that an attic but there's no such thing as an attic is your understanding that DCRA zoning administrator indicated. Right?

MS. BROWN: Correct. And then there was an issue about the basement. They had a definition of

a basement. So, between the basement and the attic, they decided that I needed a mezzanine.

CHAIRPERSON GRIFFIS: So, you have a basement?

MS. BROWN: I have a basement.

CHAIRPERSON GRIFFIS: First floor?

MS. BROWN: First floor.

CHAIRPERSON GRIFFIS: Second floor?

MS. BROWN: Second floor.

CHAIRPERSON GRIFFIS: And you had an attic?

MS. BROWN: I had an attic and now it's a mezzanine.

CHAIRPERSON GRIFFIS: And now you have a mezzanine.

MS. BROWN: Correct.

CHAIRPERSON GRIFFIS: Mezzanine is really counting it as a story, but neither would an attic. I don't know. I don't know. I don't know.

Okay, last question.

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: Your attic as proposed, could you walk up there and --

MS. BROWN: Yes.

CHAIRPERSON GRIFFIS: -- was there head

height and all that?

MS. BROWN: Yes.

CHAIRPERSON GRIFFIS: Okay. Let's move on.

Good. Okay. So, we have a modification of that, of course, because it was previously approved but it was being built according to the approval of the documents that were --

MS. BROWN: Correct.

CHAIRPERSON GRIFFIS: -- before the Board before? Interesting.

MS. BROWN: It was built -- it's still being according to the documents that were presented to the Board originally and the modification documents.

CHAIRPERSON GRIFFIS: Okay. Okay.

Very well. Anything else you can tell us?

Questions?

VICE CHAIR MILLER: I'm sorry. You know, it's hard to follow exactly what's been changed. But it sounds like you had to make a change to build a mezzanine instead of an attic, so why are you saying there was no change in building according to the documents that were before the Board in the last order?

MS. BROWN: Because they gave me a permit. They told me to change it and we went through an entire process again and I have a permit for it. So, I'm still building according to the codes. I'm still building with the permit.

VICE CHAIR MILLER: Right.

MS. BROWN: I have the permits, let's put it like that.

VICE CHAIR MILLER: But did you make a change in the design so that it's design --

MS. BROWN: Yes. The architect had to make a change in design based on what DCRA told him to.

VICE CHAIR MILLER: And do we have that before us?

MS. BROWN: Yes. Yes. That's what is before you right now.

VICE CHAIR MILLER: The change in the design?

MS. BROWN: The changes in the design.

VICE CHAIR MILLER: Okay. I better look at that.

MS. BROWN: Okay.

VICE CHAIR MILLER: Thank you.

CHAIRPERSON GRIFFIS: Okay. Anything

else you'd like to tell us at this time?

MS. BROWN: No. Not at this time.

CHAIRPERSON GRIFFIS: Very well.

Let's move ahead then to the Office of Planning, Exhibit Number 29. They are recommending approval of this application. Well, I'll let them speak for themselves.

MS. THOMAS: Good morning, Mr. Chairman, Members of the Board.

I'm Karen Thomas from the Office of Planning.

We recommend approval of the request because we believe that it has no new requested modification, did not change the material facts upon which the Board relied in approving the original application. And we have no further comments on that.

CHAIRPERSON GRIFFIS: Good. Does the Applicant have any cross examination of the Office of Planning?

MS. BROWN: No. I do not. I think they did an excellent job.

CHAIRPERSON GRIFFIS: I would agree.

Does any other Board members have any questions of the Office of Planning?

Since there's no further questions of the

Office of Planning, let's move ahead then.

Is the representative from the ANC-7B here? Oh, excellent.

MR. SPAULDING: It was in the bulletin staff. I'm Vince Spaulding, ANC Commissioner for 7B-04, which includes the residence at 3120 Pennsylvania Avenue with the -- in the District.

The Commission met on this matter on the 20th of January `05 and after duly providing a notice to the residents of 3100 block of Pennsylvania Avenue, an area surrounding that particular location, and a motion was passed by four commissioners in favor, two commissioners voting in opposition, that the application be approved.

And within our ANC, we require six persons to be present to have a quorum, so we did, in fact, have a quorum.

CHAIRPERSON GRIFFIS: Excellent. Thank you.

MR. SPAULDING: We sent a letter in. I guess you have it in your files?

CHAIRPERSON GRIFFIS: Yes. We do. Exhibit Number 30.

MR. SPAULDING: Right.

CHAIRPERSON GRIFFIS: Good. Any

questions of the Board?

This is the second time you've seen this, is it not?

MR. SPAULDING: No. The -- actually, I guess since I was being a commissioner, this is the first time I've seen it.

CHAIRPERSON GRIFFIS: Okay. So, you weren't on in the original application?

MR. SPAULDING: No.

CHAIRPERSON GRIFFIS: In 2002?

MR. SPAULDING: No.

CHAIRPERSON GRIFFIS: Okay.

Well, good. Does the Applicant have any cross examination of the ANC member?

MS. BROWN: No. I do not.

CHAIRPERSON GRIFFIS: Very well. Again, thank you very much. We appreciate you coming down and presenting that to us. And we will afford that the great weight as our requirements allow us.

Let's move ahead then. Don't have any other agency or associations or ANC reports.

Let me ask if there are people present today on Application 17284 to provide testimony. Persons to provide testimony?

Excellent. If you wouldn't mind. Anyone

that is going to do that, why don't we fill the table and what I'm going to ask as you state your name and address for the record. And I would also ask that you indicate whether you are in support or in opposition of the application.

While those folks are getting ready, it's a fascinating piece this whole story and don't let me delay you. Just come forward and have a seat and make yourselves comfortable.

If you have submissions, they are going to go to staff at the far end of the dias and they will distribute.

But this whole aspect of attic and mezzanine and I think the way I'm reading it is that there might be some issue of whether it complied with the story.

Mr. Moy? See if you agree with me. I don't believe the attic counts toward a story. If you read the definition of stories, although it doesn't enumerate the fact that attics are not counted, obviously as aspects as they say what is or is not counted, doesn't mean anything not mentioned is totally incorporated into it.

And you'd have to go to another aspect of that as well if it was a story, it would certainly go

towards gros square foot, which would then be translated in some jurisdictions in the District zoning into FAR, or Floor Area Ratio. And it's fairly clear that if an attic provides a certain headroom above 6'6", that I would go to count towards floor area and anything below that would not. So, that's probably where the difficulty or maybe the difficulty arises. But automatically counting towards story, I don't think it is absolutely spelled out in the regulations.

But that's as long a delay as I needed to get everyone comfortable up here and situated.

So, why don't we move ahead with testimony and I'll start on my right.

MS. SMITH: Okay. My name is Joyce Smith, and, you know, there ought to be an in between, between opposed and proponent.

I don't technically oppose the building. My issue is the height of the dwelling.

I don't know if any of you all have come out to our neighborhood, but the dwelling as it is being built is so much out of sync with our neighborhood.

I've listened to the other testimonies that you all have today talked about other houses.

And I don't know whether or not we were given the same kind of examination in our neighborhood as some of the other issues before this Board -- this hearing.

I don't know what the height restriction is for the zoning. And I don't know whether or not how you classify a basement. My definition of a basement was that it had to be at least three/fourths below ground with windows abutting the next house.

Ms. Brown's basement is totally above floor. If that's the definition of a basement then, you know, I don't have any opposition.

But I need to know are there new definitions for basement? And, if so, that needs to be explained to us.

My opposition is not the house itself, but the height of the house.

CHAIRPERSON GRIFFIS: Okay. Excellent. And you brought up two very decided, succinct points.

One is height of the building allowed in this zoned district. This is an R1B district and the height of the building is allowed to be 40 feet. That's 40 feet measured from the measuring point of the front of the building to the ceiling of the upper most story.

Second now the basement. There's a

difference between basement and cellar for zoning purposes.

The zoning indicates that a cellar is that level which its ceiling is no more than four feet above the adjacent grade. That's a cellar.

A basement obviously is that which has a ceiling above four feet of the adjacent grade and there's no maximum for that.

Now, the issue for zoning purposes with a basement is that it counts towards story, FAR. FAR is a calculation in the zone district which you're in.

But most importantly in terms of the R-1B, it would count towards the story. And so that would go to the maximum stories allowed in this district.

Is that clear?

MS. SMITH: It is clear. So, in other words, the basement can -- the basement is counted as the first floor or not? It's counted as a basement and then the next floor is the first floor and then the second floor and then the mezzanine is the third floor, not the fourth floor?

CHAIRPERSON GRIFFIS: Right.

MS. SMITH: Okay. Okay.

CHAIRPERSON GRIFFIS: Right. The basement would start the counting of the stories, so

you'd have a basement, first floor, second floor, second story.

MS. SMITH: Okay. That needed to be made clear to me.

CHAIRPERSON GRIFFIS: Okay.

MS. SMITH: And then I guess, Ms. Brown is within her right to have this big tall -- it just goes to the esthetics of our neighborhood. I mean, that's my opposition.

CHAIRPERSON GRIFFIS: Right.

MS. SMITH: That's all I have to --

CHAIRPERSON GRIFFIS: Now, did you -- were you aware or did you participate in the previous variance?

MS. SMITH: And the -- no. Because -- see I've known -- it's really kind of unfortunate because I've known this family for ever and ever. So, when Miranda said -- I'm calling her Miranda, because she's Miranda to me.

When Ms. Brown told me she was going to build a house, you know, she talked to me. And she said, I really want my house to be similar to yours. So, I thought, well, fine. It's going to similar to mine. I don't have any opposition. So, why should I come to the hearing. I just didn't.

But in hindsight, we probably all should. Everybody on the block should have come. But we were just, you know, we were trusting. I just thought it was going to be similar to the houses. I thought her house would be similar to our home.

I knew she couldn't build a stone house because our house is of stone. You can't build that. You can't buy that kind of stone anymore. But I at least thought it would look similar to the rest. It wouldn't be so different.

That's my -- that's my, yes. That's my --

CHAIRPERSON GRIFFIS: What kind of stone do you have?

MS. SMITH: I have -- it's that Italian stone. The gray and the, you know, it's one of those stones that you can't buy anymore probably.

It was built -- the Italians built that whole area.

CHAIRPERSON GRIFFIS: Really?

MS. SMITH: So, you know, it's real stone and brick.

CHAIRPERSON GRIFFIS: We still have some quarries going. We can probably find some of the stone. Don't give up on that.

MS. SMITH: But, you know, I wouldn't want

to, you know --

CHAIRPERSON GRIFFIS: When the next one that comes through.

MS. SMITH: Personally, I would -- I mean, that's just unrealistic to think that.

CHAIRPERSON GRIFFIS: No. I understand.

MS. SMITH: You know what I'm saying?

CHAIRPERSON GRIFFIS: Yes.

MS. SMITH: I'm not being difficult.

CHAIRPERSON GRIFFIS: Right. The material cost and the craftsmanship have obviously changed in this day and age. But there's other -- I think in the next, if there is other things that happen in the neighborhood, the best is not necessarily to come down here. Obviously, it's great to come down here and participate in a public hearing, but to sit down and look at the documentation, because often times no matter what, professional designers talking to each other often hear different things.

But when you look at the actual graphics and documentation, then you can understand it a bit more.

MS. SMITH: Right.

CHAIRPERSON GRIFFIS: Okay.

MS. SMITH: Okay.

CHAIRPERSON GRIFFIS: But we appreciate you bringing all those aspects to our attention at this time.

Yes, ma'am?

MS. BROWN: Good morning.

CHAIRPERSON GRIFFIS: I'm sorry, just before you go too far, what I'm going to do -- what I thought we would do is have the panel, but let me ask the Applicant if you have any cross examination? Any questions?

MS. BROWN: I just have one statement. No --

CHAIRPERSON GRIFFIS: It's just cross examination right now.

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: You can keep your statement to the conclusion.

MS. BROWN: Okay. Okay, then.

CHAIRPERSON GRIFFIS: No cross?

MS. BROWN: No cross.

CHAIRPERSON GRIFFIS: Good. Thank you very much. Okay.

Let's move ahead.

MS. NESBITT: Good morning and thank you guys for allowing us to come and voice our concerns.

When Joyce and the neighborhood and we had talked about Ms. Brown building her home back in 2002, we thought -- we was delighted. We thought great. This property is finally being built up. It would great and the assumption was that it would be similar to the homes in our neighborhood.

If you looked at some of the pictures I presented up to the front there, this house extends all the way through our whole neighborhood -- our backyards. It doesn't align up with any of the houses. Even if it would have just been brought back maybe 10 more feet, we would have still had a cut-off in our backyards. That did not happen.

And none of that came up until August 12th of 2004, at which time we started becoming alarmed and presenting things to the -- what is it, the DCRA at that time writing letters, getting an attorney involved. It wasn't as if we waited until this house was suddenly built to decide to start voicing our concerns about the size of this house and the length of this house.

Over the next two weeks, this house went from being one flat to a four-story home with a roof on the top almost.

Again, we continued to voice our concerns

about all of this and our attorney at that time, he's still representing us, Mr. Nicholas, wrote a letter also to DCRA to find out what was going on.

The permit that we had also pulled from Mrs. Miranda Brown during that time that was issued in March 19th, `04, said that this house was still going to be a three-story, single-family dwelling. And at that time, they were going to adjust the soil because the soil was unstable.

That did not even come close to what was being put up on this property at that particular time or is continuing to be built on this property at this continuing time.

At that time, an inspector came out and said that, oh, there's no problems. It's staying within 40 feet and the length is fine. We continued to pursue this agreement with this house and with the construction of this house and we finally received the letter on December 22nd which said that the DCRA did not approve the home being built at that time and they put a stop work order on it.

CHAIRPERSON GRIFFIS: What do you mean, didn't approve the house being built?

MS. NESBITT: This is the letter that we received on September 23rd and it said, we have

reviewed the plans and the variance orders from the Board of Zoning and Adjustment, the BZA, to allow the property owner to deviate from the norm lot, the sides and size of the requirements of the R1B residential zone.

However, in our review of the plans and the BZA order, we found no evidence of the Board's intent to allow the relief to build a fourth floor at the property. For this reason, we have issued a stop work order until we can finalize research to determine if the added fourth floor is legally constructed. Any additional work performed at the work site will be subject to the property owner to fines and penalties.

That was at the time. That was the last we heard.

CHAIRPERSON GRIFFIS: So, that's what this is?

MS. NESBITT: That's what -- and suddenly after we received this letter, then we got changes of what this house was going to be. We're now going to have an attic and an above-ground basement. And it was okay for it to be this long and so forth and so on.

CHAIRPERSON GRIFFIS: Right.

MS. NESBITT: Through all of this time,

Ms. Brown has never come to any of us and said, what can we do to try to make this work, so that you guys don't have to have my wall of her house -- if you looked at these pictures here. When I look out of my day room, which I used to could look out of my day room. Now I look out of my day room and all I have is Ms. Brown's house to look at because it extends the whole backyard.

Now, the front of her house was built that way --

CHAIRPERSON GRIFFIS: Were you aware of the application in 2002?

MS. NESBITT: I was aware of the application in 2002. Granted I can't replant and granted the permit that's even issued still says a three-story, single-family dwelling --

CHAIRPERSON GRIFFIS: right.

MS. NESBITT: -- at that time.

And we like Joyce says, we weren't in objection to her building a house. When she presented her ideas to build this house --

CHAIRPERSON GRIFFIS: How did she present her idea?

MS. NESBITT: Her ideas to build this house was to build this house so that it was in

compliance to the other homes in the neighborhood. If you look at this house, that is way out of compliance of any norm of any house in our neighborhood.

CHAIRPERSON GRIFFIS: Right.

MS. NESBITT: I mean, it didn't matter if she built it up a little bit, if she came out a little bit. She could have even come out a little farther than the normal house on our block. That would not have been an issue. The fact of the matter that this house goes all the way to the back, almost to the fence at the end of the yard. You'd have less than 12 feet between the end of her house and the fence. And you can measure that off.

CHAIRPERSON GRIFFIS: But I guess to put it in perspective --

MS. NESBITT: It's in the picture there.

CHAIRPERSON GRIFFIS: No. I understand that.

But to put it in perspective and I understand what the two testimonies that we've heard is that you were under the understanding that it was going to be in character with the existing buildings.

MS. NESBITT: Absolutely. And these --

CHAIRPERSON GRIFFIS: And that's fine, but --

CHAIRPERSON GRIFFIS: And even the permit called for that.

CHAIRPERSON GRIFFIS: Well, no. The permit doesn't say build in existing character. And my problem is that our jurisdiction goes not to some of the existing character, but specifically to all the aspects of which we regulate.

MS. NESBITT: Right.

CHAIRPERSON GRIFFIS: You describe -- you find it objectionable that it fills up so much of the lot and goes so deep.

CHAIRPERSON GRIFFIS: Right.

CHAIRPERSON GRIFFIS: Is that correct?

But according to our regulation, lot occupancy is allowed to be 40 percent and I don't see anything, unless I'm mistaken here, I don't see anything that shows that it actually is not compliant with that.

Does that make sense to you?

MS. NESBITT: It does, but if you look at -- if you're talking lot occupancy from the front of the yard to the back of the yard is what you're saying? The entire?

CHAIRPERSON GRIFFIS: The entire site.

MS. NESBITT: The area which she says that

is her property, because her intention to us at our ANC meeting, was the reason her house had to be built so far back was because her lot did not start until the mid-line of our properties. Now, that's what her answer was in.

If that if in fact the case, then she exceeds 40 percent of that property. Because she had told us at our meeting that her lot itself started at further back. Like it four be where her house begins at is where her lot itself starts at.

Now, if her lot in fact starts there, then she is more than 40 feet of her home is more than 40 feet of the lot.

CHAIRPERSON GRIFFIS: Yes. But it's kind of like your discussions with her, it's a lot of words. What I need to know is, if you really and actually this is the wrong forum, because what you really are --

MS. NESBITT: This is just the forum they told us to come to.

CHAIRPERSON GRIFFIS: No. I know.

MS. NESBITT: Which is why we ended up here.

CHAIRPERSON GRIFFIS: And it's fine. And I don't mind it. The difficulty is there will be a

line in which our jurisdiction stops --

MS. NESBITT: Right.

CHAIRPERSON GRIFFIS: -- in which we can do anything. And so the worst thing I always felt when I was sitting on that side table presenting to Boards like this, and when I'm here is to raise expectations that we might be able to do anything.

So, what I want to do is just establish quickly what your concerns are and then I want to assess the fact of whether we can do anything about it or not.

MS. NESBITT: Right.

CHAIRPERSON GRIFFIS: And it sounds to me more like you're voicing and creating an appeal of the permit that was issued, rather than --

MS. NESBITT: Okay.

CHAIRPERSON GRIFFIS: -- being able for us to assess in terms of the modification of our previous order. And that's what I want to be careful with and not -- well, and not raise our -- so we can go back and revisit so many things.

Let me -- is there any other direct comments at this time on that?

Ms. Miller, you seem befuddled? Questions?

VICE CHAIR MILLER: Well, I think what's before us is we granted three variances in the last order.

MS. NESBITT: We didn't know -- I didn't even know anything about any of the variances. Period.

VICE CHAIR MILLER: Right.

MS. NESBITT: They were never brought to our attention that there was a variance except for this last one.

VICE CHAIR MILLER: The last order basically --

MS. NESBITT: Except for this last one.

VICE CHAIR MILLER: Okay. But the last order, as our orders usually do, have plans attached and they were supposed to build in accordance with those plans. And so I haven't see -- I want to look at the plans that support this.

MS. NESBITT: That you see, okay.

VICE CHAIR MILLER: They're seeking a modification from what was approved before.

MS. NESBITT: Right.

VICE CHAIR MILLER: Related to the variances that this Board gave it, it didn't give any height variances. We gave variances to side yard and

things like that.

CHAIRPERSON GRIFFIS: Right. And not any variance for lot occupancy either.

VICE CHAIR MILLER: Right. So, my own concern is, did the Board approve a mezzanine or an attic or was it looking at, did that effect our previous order.

So, that's what I'm thinking right now.

CHAIRPERSON GRIFFIS: Even -- and I understand. And it's an excellent point to bring up.

But even if -- I'm assuming this was a self-certified application before, although maybe it wasn't. It was referred by DCRA and they referred it -- I have that -- those letters are actually in the file here.

VICE CHAIR MILLER: January 10th, 2002.

CHAIRPERSON GRIFFIS: I'm sorry. I just had it front of me.

Okay. 2002 and the BZA had reviewed the plans and proposed three story, single-family dwelling above such premises. The variance relief from 401.3405 for non-conforming minimum lot area, minimum side yard requirements are expected with the single-family dwelling in R1B.

So, even if there were plans attached that

showed something that was above the height or anything like that, it wouldn't mean that we granted approval for it. It probably means, I would say definitively, that we didn't necessarily look at it, but we looked at what it was referred to and what the relief sought was before the Board. And that was for not conforming to the minimum lot area and the side yard requirement.

So, none of this was ever discussed before the Board.

VICE CHAIR MILLER: But it says that it was for three stories. Is that correct?

CHAIRPERSON GRIFFIS: Can you turn off those mikes? We're getting some feedback.

Pardon me?

VICE CHAIR MILLER: But the Board looked at it as three stories. And it sounds like the DCRA looked at it and said, maybe this is not three stories. Maybe it's four stories because you have an attic and a mezzanine would make it four stories.

CHAIRPERSON GRIFFIS: But not in 2002.

VICE CHAIR MILLER: Right.

CHAIRPERSON GRIFFIS: They did that in 2004. Is that correct? 2004. So, two years after our hearing. Permits are already pulled. And DCRA re-reviews. I don't know. There's probably nothing

wrong with that. And says that they actually have an additional story.

Mr. Moy is the voice of wisdom today.

Mr. Moy?

MR. MOY: I don't know about that.

I just want to support the Chairs' chronology on the history from the Board's approval of this case in 2002, that you're correct. The application before the Board at that time was a variance relief on lot area and lot width requirements under 401 and a variance on the side yard requirements under 405.

I think it's gone through the process through DCRA and the permitting process and that's why we're seeing this back with the DCRA and the Applicant's filing of the application to where we are today.

So, as far as the staff is concerned, obviously making sense at least in terms of the procedure and process.

CHAIRPERSON GRIFFIS: Yes.

MS. BROWN: Can I make a few comments?

CHAIRPERSON GRIFFIS: At the end.

MS. BROWN: Okay. Because it was going to clear up something. You see the sheet of paper here?

CHAIRPERSON GRIFFIS: Good. That's why you get the last word. You get all the conclusions and summations.

MS. BROWN: Okay. Okay.

CHAIRPERSON GRIFFIS: Okay. Is there anything else that -- right. Okay. Yes, I know. I just wanted to make sure.

And you didn't have any cross examination?

MS. BROWN: Yes. I do.

CHAIRPERSON GRIFFIS: Excellent. Cross examination questions?

MS. BROWN: Yes. The first thing she talks about an attorney. I was never aware of an attorney. The letter that she talks about --

CHAIRPERSON GRIFFIS: This is a statement.

MS. BROWN: The statement.

CHAIRPERSON GRIFFIS: No. What I need you to do is -- cross examination is the vehicle on which if there is a case presented in opposition, it's your time to --

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: -- poke holes in the case that's presented. So, all you're doing is asking your questions to either clarify for the Board

her testimony or refute her testimony through questions. It's a very cleaver, kind of legal maneuvering stuff.

MS. BROWN: Oh, okay.

I wasn't aware of a lawyer. I wasn't aware of these letters that they received from DCRA.

CHAIRPERSON GRIFFIS: It's still a statement though. I need you to ask her questions.

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: You don't have to.

MS. BROWN: Excuse me. Tell me how is my house so different from everyone else's house? It is no two houses on this block that look alike?

CHAIRPERSON GRIFFIS: Right. Okay.

The question is, how is it?

MS. BROWN: How is it --

CHAIRPERSON GRIFFIS: Why do you think this is so different than all the others?

MS. NESBITT: No two houses on our block look alike.

CHAIRPERSON GRIFFIS: Okay. Quick questions, quick answers. If you would just turn your microphone back on.

MS. NESBITT: No other house on our block completely obstructs every house backyard on our

block.

CHAIRPERSON GRIFFIS: Okay. It sits back farther than the other.

MS. NESBITT: That's one. Not only sits farther back, but right on the other side of the end of her little patio, which wasn't even there when this picture was taken, is a little shed house, which has -- probably you can just jump over to the step to get there.

On the other side of that shed house which sits -- the diameter of that shed house is less -- pretty much less than the width of your table going this way, is the fence for the next neighbor's yard to go down to the next block.

Now, prior to that and no other house -- her house -- the next house to her house it's almost a whole roof, not even a roof, a whole level plus a roof over the top of that.

The houses on our block run in succinct. You know, because it goes up a hill. So, her house being where it is, basically has another huge house sitting right in the middle of the block versus being level with the rest of the houses going up. But that's really so much the issue as the issue that she has now taken this house and built it to take our

whole backyards.

CHAIRPERSON GRIFFIS: Okay.

MS. NESBITT: No other house on our block takes up the whole backyard as far as looking at a house though.

CHAIRPERSON GRIFFIS: Another question?

MS. BROWN: My house, lot occupancy, is less than 40 percent. My neighbors were not aware --

CHAIRPERSON GRIFFIS: Questions?

MS. BROWN: Questions. Questions.

Well, I have to make this statement because there's a lot I have to say.

CHAIRPERSON GRIFFIS: Excellent.

MS. BROWN: Okay?

CHAIRPERSON GRIFFIS: Okay. Good. Thank you very much.

MS. BROWN: You're welcome.

MS. BAILEY: Mr. Chairman, would the last speaker please identify herself?

MS. NESBITT: Deborah Nesbitt.

MS. BAILEY: Thank you.

CHAIRPERSON GRIFFIS: And your address?

MS. NESBITT: 3144 Pennsylvania Avenue.

CHAIRPERSON GRIFFIS: Excellent. Thank you very much.

Good morning.

MS. WILSON: Good morning. I'm Ethel Wilson and I live at 3130 Pennsylvania Avenue, SE. And I'm here this morning to voice -- to voice my concern and to make a comment.

When Ms. Brown told me that she was going to build a house, I was excited about it and we were walking up the street and I was just very excited. She says, and I'm going to build it similar to the ones in the neighborhood. For me, fine. It's okay. And I even told her about the one that was built right behind my house on the next street. And directed her, because she said she was having a difficulty getting a builder.

I said, well, look. Go talk to this guy who just built a new house and he blended well with the neighborhood. Really did a good job.

Well, I didn't have no reason to go to any hearings because she told me what she was going to do. I didn't see any blueprints. I wouldn't have known what I was looking at if I had seen them. I got to be honest with you all. I wouldn't have known what I was looking at. I mean, because I don't do maps well, so I know I wouldn't have understood her blueprints.

But I took her word that it would be

similar to the houses in the neighborhood.

What I really expecting was a house that was similar to the ones in the neighborhood. Not necessarily and I mean the height is the thing that concerns me. And I got to be honest. I would be lying if I told you that the fact that she moved it all the way through the backyard didn't bother me. It does.

As a matter of fact, when I saw the four walls go up, I got sick. I really got sick. I couldn't eat when I realized that this was going to be permanent. It was going to be permanent. I would not eat that week, for about two or three weeks. And I'm not lying about this.

CHAIRPERSON GRIFFIS: Okay.

MS. WILSON: It really bothered me because it was a shock. I never expected the house to go through the whole back of our backyards. I really didn't. And I got to be honest. I really didn't. That is what really threw me, that threw me, plus the height. I watched the four floors go up and that was when we started making some phone calls.

It's like look. This thing, I don't know how high it's going to go. But it's right completely through the backyard. It did bother me.

CHAIRPERSON GRIFFIS: Okay.

MS. WILSON: But once the house -- and I started -- once they got it up, I said, okay. Let me go see if I can look out my attic window and see anything. I can't. I see the roof of her house.

I looked for the trees down Pennsylvania Avenue. I see no trees anymore. We used to be able to see those before that fourth floor roof, you know, that's attached there. It hurts because this is my home. It has been my home. I'm retired. I don't -- I hadn't expected to move. But it does hurt and I mean, I'm not angry. But it hurts.

CHAIRPERSON GRIFFIS: Right.

MS. WILSON: Because I never, ever expected to wake up one morning and find that the wall that I have to face every day I go out in my backyard, the wall side of her house is so high. I even have been thinking if I could drive well, I would never -- not ever probably use my backyard. I would just back out to go because it's upsetting. It is upsetting. I'm not going to lie to you and say it does not upset me and it hurts.

CHAIRPERSON GRIFFIS: Okay.

MS. WILSON: But it's the height is what I was concerned about.

Elizabeth Carter called me in September and said that she had truly had violated her permit because of the height structure and that they were ordering a stop work order on the house because of the height.

It does -- it does not look like the rest of the houses. It's a very small lot for a very tall house. It does throw things out of sync.

I am like very sorry about all of this, but it does -- it does hurt. And I'm just here to say that it has changed my life in terms of my environment for what my living has to be from now on.

CHAIRPERSON GRIFFIS: Indeed.

MS. WILSON: It has.

CHAIRPERSON GRIFFIS: Good. Well, thank you, Ms. Wilson. We appreciate you bringing that to the Board's attention.

Obviously, it is very personal as it is for you being adjacent to anything new in the construction and the concern over the height and also the lot occupancy you've discussed.

So, we appreciate you being here and being a participant in this public hearing.

We're going to see where we go with this and how we can deal with this, as I've indicated in

terms of our appropriate response and also our appropriate jurisdiction.

Let me see if there are any questions from the Board, Ms. Wilson.

VICE CHAIR MILLER: I have a question about the stop work order. I don't know who has that answer. I just wanted to pin down when that was issued and at what stage is it?

CHAIRPERSON GRIFFIS: Well, why don't we finish then with Ms. Wilson --

VICE CHAIR MILLER: Okay.

CHAIRPERSON GRIFFIS: -- and if there's not direct questions, as she's not the one to answer anything about the stop work order.

VICE CHAIR MILLER: Okay.

CHAIRPERSON GRIFFIS: Is there a cross examination, Ms. Wilson?

MS. WILSON: No.

CHAIRPERSON GRIFFIS: No questions. Okay. Then, thank you very much, Ms. Wilson.

You want to know the date of the stop order -- work order? The issuance?

VICE CHAIR MILLER: And also what stage the construction was in when the stop work order was issued.

MEMBER ETHERLY: Perhaps, Mr. Chair, as a little bit of -- I might want to suggest, Mr. Chair, perhaps, as a little bit of context for Mrs. Miller's question, but also perhaps for some of the testimony that we've been hearing. And, perhaps, the additional testimony that we will hear from the final witness.

I think we're at a little bit of an interesting place. Clearly the testimony that we're hearing is taking us, I think, to a scope that's a little wider and larger than what's before us in terms of the modification question.

I'm not suggesting that that's a bad thing, but I think as you heard the Chair indicate, and I'm speaking both to the Applicant as well as to our witnesses, I think there are some questions about what kind of posture we are in today inasmuch as what we can do with some of the concerns that are being raised.

So, perhaps, as just a little bit of context, Mr. Chair, I might be willing to suggest if there is an opportunity maybe for a brief recess to talk a little bit in Executive Session about how we want to proceed, because I think we're --

CHAIRPERSON GRIFFIS: Right. Mr. Etherly brings up an excellent point.

I mean, I think, this is a difficult situation in that we have a variance and as this has come before us, there may be other sections in which actually should be before us in terms of modification of plans.

Why don't we do that. Let's take -- the Board will just 10 minutes. We'll be back out.

What I want to do is leave your conclusion and remarks until after we return and figure out where we're going and how we deal with this.

Is there others -- oh, present to give testimony?

Yes, you sir. Is there anyone else that's going to provide testimony today? Okay. Why don't we finish up then with persons to provide testimony and then we'll take a short break.

You had indicated you wanted to submit something?

MS. NESBITT: No. She was asking about the stop work order. I was going to give you the letter we had received.

CHAIRPERSON GRIFFIS: I see. Okay. All right. We'll see if we need into the record. Very well.

Good morning.

MR. HARTISAN: Good morning. My name is Curtis Hartisan of 3100 Pennsylvania Avenue, SE.

I don't know Miranda. She came to me and said that she wanted to build a house and that it would conform to the neighborhood. I said, great.

Construction started on the house and in August of last year, or the permit said basically three floor, a basement and two floors, I think it was.

In August when it was apparent they were adding a fourth floor to the building of 2004, we began communicating with DCRA. And the attorney wrote a letter defining a basement according to D.C. regulations. It begins that portion of a building below ground. There is no portion of this building below ground.

At that point, DCRA had an opportunity to do something about it, an opportunity missed. They did not return phone calls. I sat on hold for about 45 minutes one day and finally spoke to, I think his name was Mr. Clark, explained to him what was happening.

He said, well, maybe that is some kind of mezzanine or something. And my response was, then you should define mezzanine because once again D.C.

regulations says that a mezzanine cannot occupy more than one-third of the floor space. And it had height restrictions.

From that point on, we never received anymore communication. He would not return phone calls.

CHAIRPERSON GRIFFIS: I'm sorry. And who is "he"?

MR. HARTISAN: His name was Mr. Clark, I think.

CHAIRPERSON GRIFFIS: Mr. Clark?

MR. HARTISAN: Uh-huh.

CHAIRPERSON GRIFFIS: Okay.

MR. HARTISAN: Now, from that point, the construction -- the tempo of the construction increase.

We didn't hear anything until the day after the last shingle was placed on the roof. Then they came out and issued a stop work order.

A week later, they reissued the permit just to give you a time line. The second permit called for a basement, two floors and the mezzanine. There is still no basement.

As I understand it, apartment buildings, the basement can be above ground. It is my

understanding in a residential building, a basement is defined as that portion of a building below ground.

My issue is the way that it's been handled by DCRA. Now, her house doesn't impact me at all. Well, she takes a real hour of my morning sunlight. It bothers people to the west -- to the east of her because they can't see anything.

My view of the District from my attic goes from -- in the winter, from National Airport over to South Dakota and Rhode Island Avenue. I get a fairly decent panoramic view of the city.

The -- if DCRA had acted in August when we brought it to their attention, they could have corrected the situation at that time. But they didn't. They sat and they did nothing. And everything proceeded. And that's why we are here today and maybe that answers your question about where the construction was at the time of the stop work order.

CHAIRPERSON GRIFFIS: Right.

MR. HARTISAN: They were still constructing. They had finished putting up -- they had finished building the fourth floor, the walls of the fourth floor and they had finished the roof.

CHAIRPERSON GRIFFIS: Good.

MR. HARTISAN: And they day after the roof was finished, was when they came and issued the stop work order.

CHAIRPERSON GRIFFIS: Okay. We appreciate that.

Anything else you'd like to tell us?

You bring up some excellent points of the definition, of course, the basement is that story that is partly below grade of which the ceiling is above four feet of the adjacent. But here's the situation. And I did cut off Ms. Miller's question and didn't allow a lot of answers until the history of all this stuff, because what we're to look at is only a modification from an attic to a mezzanine. And that approval of that modification.

Now, there obviously a whole lot of other issues here, all being within a whole different iteration and form which would come before the Board. Maybe. I don't know if it can. I don't know if it's timely. I don't know, obviously, it's not before us.

And it goes to more of an appeal process than an Applicant provided a variance.

But let me open it up to any other questions.

Does anyone has any questions of this

gentleman?

Excellent. Is there cross examination? Cross questions?

MS. BROWN: I just have one question.

CHAIRPERSON GRIFFIS: Okay. But you don't have any cross, do you?

MS. BROWN: Yes. I have one question.

CHAIRPERSON GRIFFIS: Okay. Good. Okay. Good.

MS. BROWN: Have you ever been in my house?

MR. HARTISAN: No.

MS. BROWN: Okay. So, how can you say it's totally above grade -- above the ground? It is not.

MR. HARTISAN: I watched them prepare the slab. I watched them pour the slab. I watched them build the footing on the slab.

MS. BROWN: Okay.

MR. HARTISAN: And unless I'm mistaken --

MS. BROWN: Excuse me. Parts of my house is below grade. It's below grade.

All of my house is not.

CHAIRPERSON GRIFFIS: Okay. But your question is not testimony.

MS. BROWN: Okay. I'm just asking if he --

CHAIRPERSON GRIFFIS: Okay. If both sides --

MS. BROWN: That he's saying --

CHAIRPERSON GRIFFIS: Understood. I understood your question. I understood the answer.

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: Good. Any other questions?

MS. BROWN: No.

CHAIRPERSON GRIFFIS: Thank you very much. Appreciate you being down here this morning.

We're going to take 10 minutes. We'll be right back.

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: Do you want to ask some procedural question? Okay. We'll get to it. Right. And we have that. You're showing us the Zoning Administrator's matrix calculation.

(Whereupon, off the record from 11:27 a.m. to 12:01 a.m.)

CHAIRPERSON GRIFFIS: Very well. Let's presume.

We did take into the record, I just want

to take note the September 23rd, 2004, letter from Denzel Nobel who was the Acting Zoning Administrator at the time, addressed to Mr. Ward. And I believe you have this letter also.

MS. BROWN: No. I never received a copy.

CHAIRPERSON GRIFFIS: Can you turn your mike on?

MS. BROWN: No. I never received a copy.

CHAIRPERSON GRIFFIS: Do you have one now?

MS. BROWN: No. I do not. I still do not have a copy of it.

CHAIRPERSON GRIFFIS: Who provided -- do you have an extra copy? Okay. One is coming out.

MS. BROWN: Okay.

CHAIRPERSON GRIFFIS: This letters responds to the September 10, 2004, letter DCRA Director David Clark, regarding neighborhood concerns about a house under construction at the above-captioned property.

We have reviewed the plans and variance order from the Board of Zoning Adjustment that allowed the property owner to deviate from the normal lot, side yard size requirements of the R1B residential zone. However, in our review of the plan, the BZA

order, we found no evidence of the Board's intent to allow relief to build the fourth floor at the property. For this reason, we have issued a stop work order until we can finalize research to determine if the added fourth floor is legally constructed.

Any additional work performed at the work site, subject to the impending case, etcetera.

That was the point of the letter. And this goes directly to the questions of not only requesting the stop work order, just trying to get another idea of again, going to my first question as we started this, how are we here when clearly we didn't grant height variance before or an additional story variance and that's really not what is at issue before us today.

What is at issue before us today has been presented and I think it's correctly put is, our review of a modification from an attic to a mezzanine. And so the criterion for us to assess that and either approve it or deny it, would be whether this modification of the plan, this interior modification, would substantively impact or change the previous order and the issues in deliberation in the previous order.

So, that's where we are at this point.

I think we're ready to move to conclusions from the Applicant or quick questions or clarifications or anything else.

Good. In which case, why don't we turn it over to for any closing remarks.

MS. BROWN: Okay. My closing remarks.

I have built an ADA compliant home in accordance with all of DCRA's requirements. I have met the -- my house does not exceed 40 feet. It does not exceed the lot occupancy. It does not exceed the rear yard. It meets all of DCRA's requirements.

The stop work order that you were referring to, that stop work order, that same individual, Denzel Noble, gave the approval for permit number B466265 to be issued. And that was issued on 9/29/04. This letter was dated September the 23rd, 2004.

Noble is the one that actually changed the stop work order to a valid building permit.

That's all I have to say.

CHAIRPERSON GRIFFIS: Okay. Thank you very much.

Comments? Yes. Mr. Etherly?

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

I think it would be appropriate to move forward on the motion. It would be my motion to approve Application Number 17284 for modification of plans. And I invite a second.

CHAIRPERSON GRIFFIS: Second.

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

I think we've had very, very full and adequate discussion. I think it's very important. I've used the term before without necessarily being too legalistic in referring to it. But let me just first speak to the testimony that's been brought forth by the neighbors, because they have a number of very excellent and valid points were raised. And I want the neighbors to understand and the residents of the community to understand at least from my perspective of where I think we are.

I think you heard us struggling with what exactly do we do with the comments that you brought forward. And they were, indeed, valid questions to be raised.

I think in all honestly we found ourselves in a situation where unfortunately a number of those questions would have been more appropriate at the earlier proceeding.

That being said, of course, I think a number of the neighbors and residents noting that, in fact, in their testimony, that perhaps had they had a greater understanding or a deeper understanding of what was before them, they might have found their way down her back in 2002. And I understand that and I appreciate your willingness to acknowledge that.

I think this Board clearly takes your testimony and I'm fairly hopeful that Mrs. Brown takes your testimony, of course, is not as many of you said, not opposing the resident, but opposing concerns about the height. And I understand where you're coming from. But as was noted by the Chair once we came back out, I think clearly what we have in front of us is a very narrow, very simple question and that is a modification of the existing plans that were in front of back in 2002.

And based on that criteria, which is fairly straightforward, inasmuch as are there any material changes to the plans that we saw in front of back in 2002, that answer from my standpoint and the reason why I move forward with the motion, is that with respect to looking at the issue of the mezzanine level of this property.

I'll pause there, Mr. Chair.

CHAIRPERSON GRIFFIS: Good. Thank you very much and very well said. I absolutely agree in terms of setting the stage for which we have a decision before us. And I think that's important.

I'm going to be succinct and just refer to Office of Planning's analysis in this and read their second to last paragraph which says, OP has no objection to the modification to permit the completion of the residence approved by the Board in October 2002.

The interior modification does not affect the side yard variance or any other previously granted variances.

Really, that's the test of which we're looking at here. This is an interior modification.

In addition, no other relief to the mezzanine would be required. Section 199 states the mezzanine shall not be considered a story in determining the maximum stories permitted for us.

That was somewhat the beginning and the end and I believe for me in terms of deliberation. And I agree with you, there's always a concern as to, you know, how this all fits in. And as I had said in the beginning, and I know Mr. Etherly agreed with this, but for our purposes we have to -- we have a

very strict framework of which we look at things and can decide things. And unless there are other avenues that were approached, we really can't go beyond what we have exactly before us now.

Ms. Miller?

VICE CHAIR MILLER: I just want to make a few comments because I had to sort this out and maybe it will become clearer. I don't know if I expressed how I got to this point.

But basically when this application was before the Board previously they looked at three variances dealing with side yards and other things, not dealing with the attic or the mezzanine in question. And when DCRA looked at it, they saw an attic on the plan and it appeared that an attic brings a different connotation such as that can be counted as a story, in which case it wouldn't be legal. However, mezzanine is a legal use of that floor.

So, the question before us is could we grant a modification changing the plan from attic to mezzanine without affecting the relief that was granted and in a way that also is obviously legal in accordance with the law.

So, I felt upon that we absolutely can do that.

CHAIRPERSON GRIFFIS: Very well.

Anything else?

I think that -- yes, Mr. Etherly.

MEMBER ETHERLY: Thank you, Mr. Chair. I'll just note finally because I think it is important often times to state, I know I share the Board's sentiments and I want to thank the members of the community and neighbors for taking their time to come forward and provide their testimony today. You did what any civic resident, citizen is required to do and that is, you gave up your time to come down and share some concerns and expressed them on the record.

Granted, the outcome may not be the one that you would desire, but hopefully you feel and you understand that you brought some questions forth that we had to give some consideration to. I trust that you understand how we resolved those questions as we've moved forward. And I appreciate you for taking time out of your busy day along with as the Chairman has noted, the beautiful 60 degree day in the middle of February.

But all that being said, Mr. Chair, I'm prepared to move forward.

CHAIRPERSON GRIFFIS: Thank you. Thank you very much, Mr. Etherly. I appreciate that.

We do have a motion before us that has been seconded. I'd ask for all in favor do so by saying aye.

(AYES)

CHAIRPERSON GRIFFIS: And opposed? Abstaining?

Very well, Ms. Bailey, if you have a moment.

MS. BAILEY: The vote is being recorded as four, zero, one, to approve the application. Mr. Etherly made the motion, Mr. Griffis second. Mr. Mann and Mrs. Miller are in in support and Mr. Jeffries is not with us at this moment.

CHAIRPERSON GRIFFIS: Good. Then, unless there's any objection from the Board, I'd suggest that we waive our regulation and issue a summary order on this?

MEMBER ETHERLY: No objection, Mr. Chair.

CHAIRPERSON GRIFFIS: Excellent.

MS. BAILEY: Thank you, sir.

CHAIRPERSON GRIFFIS: Thank you, Ms. Bailey.

Thank you very much. We appreciate everybody's patience with us in figuring this all out and getting through this morning and this application.

Ms. Bailey, is there any other business for the Board this morning?

MS. BAILEY: Not for the morning, Mr. Chair.

CHAIRPERSON GRIFFIS: Very well. Then I will adjourn the morning session of the 15th of February.

(Whereupon, the above matter was adjourned to resume again at 1:33 p.m.)

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

1:33 p.m.

CHAIRPERSON GRIFFIS: Let me call to order on the 15th of February 2005 afternoon Public Hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Geoff Griffis, Chairperson. Joining me today is the Vice Chair, Ms. Miller and also our member, Mr. Etherly. Representing the National Capital Planning Commission is Mr. Mann and representing the Zoning Commission with us this afternoon is Mr. Parsons.

Copies of today's hearing agenda are available for you. They are located at the wall where you entered the hearing room. If you're here for the second case in the afternoon, check the date on that schedule.

There are several very important things that I go through in my openings. The most being -- yes. We'll make it the most important thing to say today.

All proceedings before the Board of Zoning Adjustment are recorded. They are recorded in two fashions. The first, the Court Reporter sitting on

the floor to my right is creating the official transcript.

Secondly, we are being broadcast live on the Office of Zoning's website.

Attendant to both of those, there are several things.

First, I would ask the people to turn off their cell phone and beepers at this time so that you don't disrupt those giving testimony and our transmission for this hearing.

Secondly, when coming forward to speak to the Board prior to having a seat and making yourself comfortable, you're going to need to fill out two witness cards. Witness cards are available on the table you entered into the hearing room. They are also available where you will provide testimony to the Board.

Those two cards go to the Recorder prior to sitting down. This is, of course, for the purposes of spelling your name correctly on the transcript, but also making sure that all those important pieces of the fact that you will testify to are given credit to you in the transcript.

The transcript, of course, is the official document and is part of the official record.

When coming forward to speak to the Board, I'm going to need you to turn the microphone on and state your name and address for the record. You only need to do this once setting it up for your testimony and then you can proceed.

The order of special exceptions and variances is as follows:

First, we hear the case presentation by the Applicant.

Second, we will her from all Government agencies that have responded to the application. Department of Transportation, Office of Planning, such as those.

Third, we will hear from the Advisory Neighborhood Commission.

Fourth, would be persons and/or parties in support of the application.

Fifth, would be persons and/or parties in opposition to the application.

And, sixth, finally, we would have rebuttal witnesses by the Applicant and closing remarks by the Applicant.

So, make it know if you are presenting a case or testimony. You will begin it and you will end it all in the time of which we will give you.

The Applicant is given two opportunities. They present their case and then they present a closing or rebuttal testimony and closing.

Just to make in your mind on how you will proceed in the hearings this afternoon.

Pursuant to our regulations, 3117 and 31.4 and .5, there are all sorts of complexities of timing and requirements and all these great powers that we have on this Board. I'm not going to run through all those, but be it mindful and I will tell you this. We are going to set time for all participants in this case.

Persons providing testimony are afforded three minutes and I will watch the clock on that as we go forward.

What I will do is assess the Applicant's proposed amount of time for a presentation of the case. Every party that will be presenting a case will be afforded an equal amount of time.

We are to establish a judicial division of time and I assure you that we will provide an equal amount of time.

Cross examination and Board question of Applicant's or parties do not count toward any time as you assess how you're putting together your case.

Cross examination of witnesses is allowed by the Applicant, of course, parties either in support or opposition in the case and the ANC, which is automatically a party in the case.

Nothing prohibits this Board from setting time limits on cross examination, directing those asking the questions to be on point or to establish how it might be germane to the application that's before us. And I will get to those specifics if we need to and at the appropriate time.

The record will be closed at the conclusion of the hearing on this case, except for any material that this Board specifically requests and we will be very specific of what is to be submitted and when it is to be submitted into the Office of Zoning.

After all the hearings are done and all the additional submissions are put into the record, the record will be finally closed and nothing outside of what we requested will be accepted into it. So, it's very important to understand that you put what you think the Board is going to deliberate on into the record, so that we actually will.

The Sunshine Act requires that this Board conduct all its hearings in the open and before the public. This Board may enter into Executive Session

both during or after a hearing on a case and that would be for purposes of reviewing records or deliberating on a case. This would be in accordance with the Sunshine Act and it is also in accordance with our rule, regulations and procedures.

At this time, I would like to say a very good afternoon to Ms. Bailey with the Office of Zoning. Also, Mr. Moy, who is sitting on my right with the Office of Zoning.

Ms. Bailey, I would ask -- actually, I would ask everyone here present today that is thinking about or going to provide testimony if you would please stand and give your attention to Ms. Bailey. She is going to swear you in.

MS. BAILEY: Please raise your right hand.

Do you solemnly swear or affirm that the testimony you will be giving today will be the truth, the whole truth and nothing but the truth?

CHAIRPERSON GRIFFIS: Good. Thank you all very much. Thank you, Ms. Bailey.

Ms. Bailey, at this time, I think the Board can entertain any preliminary matters. Preliminary matters are those which relate to whether a case will or should be heard today. Requests for postponements, withdrawals or whether you believe

there was adequate notice of the application and other issues of that sort are preliminary matters.

If you have a preliminary matter for the Board's attention in this afternoon's schedule, I would ask that you come forward, have a seat at the table in front of us as an indicating. And I will ask Ms. Bailey if you are aware of any preliminary matters for the Board's attention at this time?

MS. BAILEY: Mr. Chairman, good afternoon and to everyone good afternoon, as well.

There are preliminary matters. However, we only have one case this afternoon, Mr. Chairman, and it is case specific. So, staff would be recommending to perhaps call the case and then we can discuss any preliminary matters.

CHAIRPERSON GRIFFIS: Good. Thank you, Ms. Bailey. I think that's appropriate.

Does anyone present have any preliminary matters before we call the case in the afternoon?

Not seeing an indication of that, Ms. Bailey, why don't we call the first case in the afternoon.

MS. BAILEY: Thank you, sir.

I will begin by saying the application was advertised one way and we understand that it has

changed. The name has changed. So, I will call both names and it was advertised as First Capital Trust, LLC and T.M. Visnic Custom Home Builders, LLC. I understand the name has been changed to Phillips Park, LLC. And the Applicant is requesting a special exception to allow theoretical lots for 35 single-family detached dwellings under Section 2516.

The project also includes 12 single family, detached dwellings as a matter of right.

The property is located in the R18 District of premises 2101 Foxhall Road, NW, Square 1346, Lot 822.

And there are several requests for party status, Mr. Chairman.

CHAIRPERSON GRIFFIS: Indeed. Thank you very much.

I think it's absolutely appropriate we need to establish parties in this case are there are to be any.

Let me have -- Mr. Nettler, if you wouldn't mind introducing yourself for the record so that we can have discourse.

MR. NETTLER: Good afternoon. My name is Richard Nettler with the law firm of Robins, Kaplan, Miller and Surecee and we're here on behalf of

Phillips Park, LLC.

CHAIRPERSON GRIFFIS: Excellent.

Is there a representative from Friends of White Haven representing the party application?

Yes, sir. Oh, if you gentlemen wouldn't mind coming forward and just having a seat.

And then we have also Mrs. Hardy is present.

Ms. Hardy. How are you? You can, I think, stay there for the time being.

I have a quick question for Friends of White Haven. If you gentlemen, wouldn't mind introducing yourself for the record, just name and address please.

MR. SNAPE: My name is William Snape, S-N-A-P-E. 5268 Watson Street, NW. 20016.

MR. SLOWINSKI: My name is Kent Slowinski, S-L-O-W-I-N-S-K-I. My address is 4505 Dexter Street, NW.

CHAIRPERSON GRIFFIS: Good. My quick question and I think the Board share this.

Can you summarize your request for party status in that the filings that we have. I thought it was just my copy and we've looked at the original and they're not legible. So, if are prepared, if you

wouldn't mind, just summarizing the answers to the questions on the application?

MR. SNAPE: Absolutely.

I don't have the application immediately in front of me, but we are requesting party status as I look for the application, because we are an association -- we believe we have standing under juris prudence as high as the Supreme Court where we have viewed, enjoyed, gone to White Haven National Parkland, which is at issue, at least party in this case.

We believe, therefore, that we do deserve party status as a result of our long-standing interest in the White Haven National Parkland and that there are no other interests that we are aware of that are speaking on behalf of the Parkland at this particular hearing.

CHAIRPERSON GRIFFIS: Right. Two things.

What do you see as the environmental, economic or social impacts that are likely to be affected if this was approved and also how -- you've just touched on it, but how are you more distinctly or uniquely affected than the general public?

MR. SNAPE: We are an association dedicated to protecting White Haven National Park.

That is our whole race on DETRA is to protect and preserve Friends of White Haven Park for future generations and present generations.

The most significant environmental impact that we are concerned about are the impacts this development would have on the wetlands that occur on the National Park. There are sediment and storm water and tree issues related, but our number one environmental concern is the health of those wetlands on the actual National Park itself.

CHAIRPERSON GRIFFIS: Okay. And you don't think anyone is representing the National Park's interest?

MR. SNAPE: To date, Ms. Griffis, no. We have not seen the Park Service publicly engaged on this project. And even if the Park Service were publicly engaged, we think it's pretty clear that we have a unique interest in the health and long-term vitality of this parkland and, therefore --

CHAIRPERSON GRIFFIS: Are there users?

MR. SNAPE: We are users.

CHAIRPERSON GRIFFIS: I see. Okay.

And, you know, just -- well. Where is White Haven Park and how is it adjacent to this land?

MR. SNAPE: White Haven Park is a narrow

four --

CHAIRPERSON GRIFFIS: Do you have anything graphic to show? I'm a very visual person.

MR. SNAPE: As Kent is looking for exactly where it is on that graphic, it's the green?

MR. SLOWINSKI: Oh, below the green.

MR. SNAPE: It is a strip of parkland, Mr. Griffis, that on one side is bounded by Foxhall Road. Four acres later on a narrow strip it abuts Grover Archibald Park. To the north is the old Brady Estate. To the south -- excuse me, to the south is the old Brady Estate. To the north is the property that is at issue here this afternoon.

CHAIRPERSON GRIFFIS: So, White Haven actually connects into the other park that runs north/south?

MR. SNAPE: That is correct.

CHAIRPERSON GRIFFIS: It's that little armature?

MR. SNAPE: That is correct.

CHAIRPERSON GRIFFIS: Okay. Good.

Any other questions from the Board?

VICE CHAIR MILLER: I'm just curious a little bit more about your group.

Are you a 501 C3 organization?

MR. SNAPE: No. We are not. We are an association established under the law of the District of Columbia. We have not established ourselves as a 501 C3. We are an association.

VICE CHAIR MILLER: And how many people are in your association?

MR. SNAPE: 15-20.

VICE CHAIR MILLER: And your mission is all about White Haven --

MR. SNAPE: It's completely dedicated to the preservation and protection of this parkland. We were formed about three years ago during the mayor's mansion debate.

VICE CHAIR MILLER: Very good. Thank you.

MR. PARSONS: Mr. Chairman, I do have one question.

Mr. Snape, although the application is generally illegible, which may be of no fault of yours, it appears you've checks two boxes here, that you would be a proponent and an opponent. Where does that rest at the moment in that you signed this the first of this month?

MR. SNAPE: Thank you, Mr. Parsons.

We actually could be a proponent of this project if certain conditions are met and we are

prepared either as a party hopefully or as witnesses to explain what those conditions would be, but we are not necessarily opposed to this project. We are only opposed if certain conditions that we think are reasonable are not met.

MR. PARSONS: Thank you.

MR. SNAPE: Or made a part of the conditions of the order.

CHAIRPERSON GRIFFIS: So, if granted, it would be for party down the middle?

MR. SNAPE: Yes. It would be. Neutral party.

CHAIRPERSON GRIFFIS: Indeed. Any other questions? Follow up?

How do you become a member of your association?

MR. SNAPE: You can contact our chair who is immediately to my left, Kent Slowinski or myself.

CHAIRPERSON GRIFFIS: Are their dues involved?

MR. SNAPE: There are no dues involved. We met regularly however.

CHAIRPERSON GRIFFIS: Just showing up.

MR. SNAPE: That's right.

CHAIRPERSON GRIFFIS: Okay.

MR. SNAPE: First amendment.

CHAIRPERSON GRIFFIS: Okay.

MR. SNAPE: Also participating in a park clean-up in April would improve your chances of joining.

CHAIRPERSON GRIFFIS: Okay. So, there is an initiation there.

MR. SNAPE: Okay. Mr. Griffis, I do have a copy. I think the problem lies with the fact that my computer had a hard time printing out the party status application that was printing out in blue. I have not a completely legible but a more legible version of our party status application if you would want me to bring that to the clerk or to anyone else?

CHAIRPERSON GRIFFIS: Yes. I think we can at the appropriate time bring it into the record and we'll just attach it to or put in another exhibit number.

Ms. Miller has a follow-up question.

MR. SNAPE: Okay.

VICE CHAIR MILLER: I just wanted to follow up on your statement that you clearly have standing based on the Supreme Court case and -

MR. SNAPE: Yes.

VICE CHAIR MILLER: -- and if could just

elaborate what you meant by that?

MR. SNAPE: Right. Under Supreme Court juris prudence, you can have associational standing. This is particularly true in environmental cases what I am most familiar with. And there are many cases that deal with this. The one that I cited in our party status application was a 1992 Supreme Court case called Lou Hans v. Defenders of Wildlife.

And this case has actually become a sort of black letter law explanation of how you achieve associational standing in Federal Courts. And in all bodies that could appeal to the Federal Court system and this, of course, would be one of them.

The party must be injured by the proposed action or potentially imminently to be injured. The injury must be potentially caused by a party that is in the action itself. And that, third, the relief asked for by the association must be able to be redressed by the Court or by this body in terms of what we are asking for. It's a three-part standing test. And we believe we meet all three prongs of that test.

VICE CHAIR MILLER: Thank you.

CHAIRPERSON GRIFFIS: Mr. Nettler, comments, as representative of the Applicant on the

request for party status?

MR. NETTLER: My only comment is although the Supreme Court and the D.C. Court of Appeals have altered the associational standing criteria since 1992 limiting it at this time. I'm not going to object nor do I support their application for party status.

I'm not objecting to it. I'm leaving it to your discretion.

CHAIRPERSON GRIFFIS: It kind of fits in the mantra of their own --

MR. NETTLER: It's sort of their proponent situation. That's correct.

CHAIRPERSON GRIFFIS: We're for and we're against.

MR. NETTLER: That's right.

CHAIRPERSON GRIFFIS: Good. Well, we decided to go no where so far.

Okay. Yes.

Is the ANC present? ANC member? Indeed. Do you have an opinion on the request for party status of Friends of White Haven at this time?

MS. GATES: I would support it.

CHAIRPERSON GRIFFIS: Okay. And the ANC has indicated that they support, ANC 3D, the request for party status in the Friends of White Haven.

Board members, comments?

MEMBER ETHERLY: Mr. Chair, I would have no objection to the application. I would just perhaps, ask one final question of either representatives.

Do noted that there are a number -- couple of conditions that if they were accepted that would perhaps sway your position, your posture towards supporting the application.

Do you feel that a party -- a party status or status as a party participant in this case would help you best address some of those conditions or do you feel that testimony would enable you to still bring some of those conditions forward for consideration by the Board?

MR. SNAPE: I believe and we believe that the party status would help us achieve our ends to protect the White Haven Park more fully because it allows us to fully participant in this hearing in a way as a witness we are not. Obviously, relating to the cross examination of the witnesses potentially.

MEMBER ETHERLY: Okay.

MR. SNAPE: I want to emphasize, we are not seeking to -- we'll get to the substance of our conditions later, but we are not seeking to add a

boat=load of conditions. We just have some thoughts and concerns that as a party we think we're better able to articulate and protect.

MEMBER ETHERLY: Mr. Chair, I would have no objection. I'd be comfortable moving approval of moving to grant party status to Friends of White Haven.

CHAIRPERSON GRIFFIS: So moved. Is there a second?

MR. MANN: Second.

CHAIRPERSON GRIFFIS: I would assume that in that motion in the second that we are actually looking to grant party in opposition. If that position changed during the course of the hearing, obviously, the record could reflect that. But I think for clarity, that would be appropriate at this time.

Is that in agreement?

MEMBER ETHERLY: That's in agreement.

CHAIRPERSON GRIFFIS: Okay. Very well.

We got a motion of course to grant party status to the White Haven Friends.

All those in favor say aye.

(AYE)

CHAIRPERSON GRIFFIS: And opposed? Abstaining?

Very well. And just for clarity also during cross examination, of course, you'll have one representative that will conduct the cross and then we'll move on from there. Your case presentation we'll let you guys figure out how you want to do that.

Okay. Let's go to the next then.

We do have Ms. Hardy. Is that correct?

If you wouldn't mind if you could come forward. Just introduce yourself for the record.

A very good afternoon, Ms. Hardy.

MS. HARDY: You too.

CHAIRPERSON GRIFFIS: If you wouldn't just mind saying your name and address for the record.

MS. HARDY: My name is Chandra Hardy. I live an 2001 Foxhall road.

CHAIRPERSON GRIFFIS: Excellent. And you've indicated that, in fact, that you uniquely and distinctly affected based on the high ground on which your house is located and the impact that this development might have on it. Is that correct?

MS. HARDY: Yes.

CHAIRPERSON GRIFFIS: Good. Is there any other questions or clarification from the Board?

Mr. Nettler? Position?

MR. NETTLER: No objection.

CHAIRPERSON GRIFFIS: No objection. Does the ANC have any objections? The ANC has indicated no objection visually from the back of the room, so we don't her walking up constantly.

Very well. Is there a motion?

MEMBER ETHERLY: Mr. Chair, I would move approval of the party's application of Ms. Chandra Hardy and as a party in opposition. I invite a second.

CHAIRPERSON GRIFFIS: I would second the motion. Let's bring it up for any further deliberation.

MEMBER ETHERLY: I'll just note for the record, Mr. Chair, that I think the application adequately states and satisfies the grounds for the party status application and would be sufficient for meeting the requirements of our party status.

CHAIRPERSON GRIFFIS: Good. Thank you very much. I would tend to agree.

Therefore, we have a motion before us to grant party status to Ms. Hardy in opposition and seconded. All those in favor state so by saying aye.

(AYES)

CHAIRPERSON GRIFFIS: And opposed? Abstaining?

Let's move ahead then.

Ms. Hardy, of course, we will call you up at a time to present your entire case. You will have the same responsibilities as the Applicant does for any filings that the Board requests. And you, of course, will be able to conduct cross examination of all the witnesses that are presented.

So, we will get into that very quickly.

We have a last request for party status which is from Capital C Certain residents of 4400 block of W Street, NW, and Foxboro Place, NW.

Margaret Brady is represented the group? Yes? Indeed.

Mr. Nettler, are you in receipt of this?

MR. NETTLER: Just this afternoon.

CHAIRPERSON GRIFFIS: Indeed, as with us.

Very well. Ms. Brady, first of all, it is not timely filed.

Can you give us some background on the fact of why this is coming in today?

MS. BRADY: Yes. I can.

First of all, I represent -- our group is comprised of 11 homes that if you'll give me just a second, I'll show where we are since it's a visual.

CHAIRPERSON GRIFFIS: Are they adjacent?

MS. BRADY: Yes. They are right along the street -- W Street which dead ends. We're on the north side of the property. It dead ends, and then there's a cul de sac at the end of the dead end, which is Foxboro Place. So, our 11 homes are along W Street which dead ends and into the cul de sac.

And the reason we did not file a timely request for party status is that quite honestly we weren't aware of the need to have party status.

The notice arrived in December, late December, and again quite honestly, a lot of us were taken up with holiday things and let it slip. And at the time, we were in discussions with the Vin Developer and we were quite pleased with the progress that we were making in conjunction with the developer as to issues that we had.

It was then -- and we talked about party status and we didn't feel like that we needed it. We didn't recognize what party status gave us. I mean, we're not --

CHAIRPERSON GRIFFIS: Okay. You weren't aware. You became aware and now you're submitted in.

So, tell us why you are uniquely impacted.

MS. BRADY: We are uniquely impacted because our access to and from our neighborhood is

only through the intersection of W Street and Foxhall Road, which has to be one of the most danger intersections that currently exists in the city. And it's dangerous with the number of residents that are there right now. We can't see having anymore residents there without an overall solution to the traffic on Foxhall Road, so as not to cause safety issues for the new residents, as well as increase the problems that we have.

CHAIRPERSON GRIFFIS: Right. Okay. Understood.

MS. BRADY: And I would like to say, there were two things that changed from the time that the developer went to the ANC the first time and then their last presentation which we were unaware of.

CHAIRPERSON GRIFFIS: Okay. Right.

MS. BRADY: Okay.

CHAIRPERSON GRIFFIS: Okay. Before we get into testimony in case presentation.

First of all, is there any objection to waiving this in before we go further in reviewing this from the Board?

Mr. Nettler, do you have any objection?

MR. NETTLER: Yes. I do.

CHAIRPERSON GRIFFIS: Indeed.

MR. NETTLER: I do object on the timeliness issue as well as the fact that it purports to be on behalf of 11 -- either 11 or certain residents of the 4400 block of W Street, since we did receive both e-mails and information from some of the residents along that 4400 block that they were supportive of the project and this doesn't --

CHAIRPERSON GRIFFIS: Just to keep it all procedurally correct. If we're going to discuss it more and hear your objection, why don't we waive it in so it's actually in the record for us to discuss. And then we can get to the timeliness and it may be that it is denied based on the timeliness of it, but and unless you see a problem in dealing with it that way.

MR. NETTLER: I don't have any problem dealing with it that way.

CHAIRPERSON GRIFFIS: Okay. Let's just take that -- unless the Board members have any major objection, let's just move ahead and take it in. Obviously, it's an exhibit now in the record and we'll continue with you, Mr. Nettler.

You have concerns in the fact that it purports to represent residents but you're not sure how many or whether it actually represents a substantial amount?

MR. NETTLER: Or anyone other than those who might be here today. But it's unclear from here since it doesn't list the specific residents who are the certain residents of the 4400 block who are trying to appear as a party through Ms. Brady.

CHAIRPERSON GRIFFIS: Indeed.

MR. NETTLER: And I think that would be certainly necessary for you to be able to even consider whether to give party status to a group that calls itself as certain residents of the 4400 block of W Street.

CHAIRPERSON GRIFFIS: Ms. Brady, do you have a list and addresses of people?

MS. BRADY: I do. Yes. I do.

CHAIRPERSON GRIFFIS: If you wouldn't mind, you can present it to Ms. Bailey.

MR. NETTLER: And may I have a copy as well?

CHAIRPERSON GRIFFIS: Indeed.

MR. PARSONS: While we're getting that, Mr. Nettler, do you have letters from some of these residents that you wanted to enter into the record?

MR. NETTLER: No. I don't.

MR. PARSONS: Thank you.

CHAIRPERSON GRIFFIS: Ms. Brady, do you

have duplicate copies of this list?

MS. BRADY: Yes.

CHAIRPERSON GRIFFIS: Can you give one to Mr. Nettler?

MR. NETTLER: Since we were not aware that there was going to be a party representing anybody on W Street that was opposed to this thing and our last discussion with some of those residents was in support of, it wasn't felt necessary that we needed to have something that would deal with whether there were 11 residents who were opposed to the project.

MS. BRADY: Mr. Griffis, am I able to make a comment now?

CHAIRPERSON GRIFFIS: Not until I figure out what I'm going with --

MS. BAILEY: Do you have any more copies?

MS. BRADY: Yes. I've got other copies.

MEMBER ETHERLY: As we're perhaps considering the application and getting some of our materials in order, Mr. Chair, I might broach the question of whether or not there might be some utility gained in perhaps consideration of keeping Mr. Nettler's objection in my mind for a moment. But might there be some consideration of combining or consolidating the Hardy application with the -- with

this particular application, just from the standpoint of expediency sake?

There is some similarity in that there is a reference in Ms. Hardy's application, two concerns about travel --

MS. BRADY: Right.

MEMBER ETHERLY: -- albeit traffic from a somewhat different perspective in terms of where it impacts her property.

MS. BRADY: Right.

MEMBER ETHERLY: But I'm just kind of thinking through to help keep us moving forward with this very wonderful interview that we've gotten, Mr. Chair, in terms of facilitating these party applications.

CHAIRPERSON GRIFFIS: Are there any comments on that?

MEMBER ETHERLY: And I guess as you consider that question, the operative issue would be, of course, if you feel that there's a very distinct --

MS. BRADY: There is one distinction that I think needs to be made which is Ms. Hardy's property faces Foxhall Road. Our properties have to go through the intersection of W and Foxhall to gain -- to get onto the city road system. I mean, we're -- you know,

we're locked in. And it is the traffic consideration that is our main objection and to the entire project.

We say in our testimony that I hope we'll have the opportunity to give that, you know, we've recognized that this piece of land was going to be developed and we were very pleased with the discussion that we had had with Mr. Visnic who was the then developer. And we saw the hearing notice that listed -- that the people preparing were LL whatever and Visnic Custom Homes, and it was for 37 houses.

And then all of sudden, we discovered that there's an additional house and that Mr. Visnic is not involved anymore. This was when we realized we might need party status, because our concern is that the traffic issues be resolved on Foxhall Road.

MEMBER ETHERLY: Okay. So, it would be your testimony that there is probably a distinction between your property and Ms. Hardy's property?

MS. BRADY: I think there is mainly because of that one difference in the location.

MEMBER ETHERLY: Okay. And I'll note for the record that Mrs. Hardy was also indicating in the affirmative that there would be a distinction between her concerns and your concerns. So, I'll withdraw that suggestion but needed something to facilitate the

discussion.

CHAIRPERSON GRIFFIS: Excellent point.

Ms. Brady, for clarification, you have a three-page letter?

MS. BRADY: I shortened it for the testimony.

CHAIRPERSON GRIFFIS: Right. And the two pages of signatures on the back, they're signing -- these are basically the signatures to this letter?

MS. BRADY: To the letter and to the party status.

CHAIRPERSON GRIFFIS: Right. Okay.

MS. BRADY: Yes.

CHAIRPERSON GRIFFIS: For clarification. Okay.

Mr. Nettler?

MR. NETTLER: Well, I now have a list of those who were there, so resolves that issue, which is -- that leaves us with the timeliness issue. And we would object because of it being untimely.

CHAIRPERSON GRIFFIS: Okay. And the basis of how it might impact your case or proceedings today or might -- the Applicant?

MR. NETTLER: It won't impact the presentation of our case.

CHAIRPERSON GRIFFIS: And it is prejudicial in some way? I mean, what would be the basis of us denying --

MR. NETTLER: Only prejudicial to the extent that as I was commenting on Mr. Parsons' question in terms of us having been able to either discuss this further with those who sought to be a party at a time when there was that opportunity or with those who live -- the other individuals who live on Foxboro and W Street who are not represented by this letter of which there are others, I see by looking at it who might have participated in this matter.

CHAIRPERSON GRIFFIS: Okay. So, if you knew this was coming, you would have countered it with your own letters?

MR. NETTLER: Not necessarily. It would have been an opportunity to first of all explain that one of the houses -- the one house that she's talking on Foxhall is not a part of this application. There are other things in here that we could clarify that would have allowed us to address the issues that are being raised here, which aren't even before the Board.

CHAIRPERSON GRIFFIS: Right.

MR. NETTLER: And we'll get to them, I

guess, if you grant them party status -- whether you grant them party status of not. But we will obviously get to them.

CHAIRPERSON GRIFFIS: Okay. And there it is.

And, yes, Mr. Parsons?

MR. PARSONS: There are, as I grasp it eight addresses.

MS. BRADY: That's correct. And can speak to the other three if you would like.

MR. PARSONS: That's exactly where I was going.

MS. BRADY: Oh, good. Okay.

One of the addresses that's not signed off is Senator Ted Stevens. And Senator Stevens is always very careful about putting his name on a document like this is my understanding. And so I cannot say that he is -- that he -- that he is part of this, but I will tell you that he has been represented at every meeting we've had and he is certainly not against this.

The two remaining residents --

MR. PARSONS: He's not against this?

MS. BRADY: Yes. He is not against what we have asked for.

CHAIRPERSON GRIFFIS: Okay. I think we

can eliminate a lot of the representations of people that aren't name and signed under your letter because it just opens up a whole --

MS. BRADY: Okay.

CHAIRPERSON GRIFFIS: -- cluster of problems in which we can't resolve.

MS. BRADY: All right.

CHAIRPERSON GRIFFIS: As Mr. Nettler is about to object strongly and you can't say what did he say. So, we might as well --

MS. BRADY: Okay. So, all right. He's one -- he's one --

MR. PARSONS: That wasn't where I was going.

MS. BRADY: Oh, I'm sorry.

MR. PARSONS: Are you still soliciting people to become certain residents as far as this goes?

MS. BRADY: The remaining two. One is out of the country and when and if she's back in the country. You know, I've e-mailed her. She's on our e-mail list and whatever. And, yes. We would love to have her and don't anticipate any problem.

The last one is a owner of a home that's a rental property who we've always had difficulty

getting hold of.

MR. PARSONS: Thank you.

MS. BRADY: You know, the thing that we have felt the most is that this little, we will refer to as a fragmented neighborhood originally, our little fragmented neighborhood is really together on our feeling about this. We've been able to --

CHAIRPERSON GRIFFIS: Okay. We're going to have plenty of time for testimony.

MEMBER ETHERLY: And it would be your sense, Mrs. Brady, I want to just get you to clarify your response to Mr. Parson's question, that the list of our neighbors is fairly set. You wouldn't anticipate this list expanding?

MS. BRADY: We might get one more. The woman I mentioned who is out of the country, if she returns during the process.

MEMBER ETHERLY: Mr. Chair, I would just, I mean, I don't want to predispose to that, I don't think we've reached out to the ANC yet to ascertain whether or not they would have an objection.

So, perhaps I'll hold my comment before.

CHAIRPERSON GRIFFIS: Good. Great. I'm not sure -- yes. Let's hear the ANC for comment.

MS. GATES: The ANC would absolutely

support this application. Ms. Brady is correct when she says that there was a last-minute switch. The ANC experienced the same last-minute switch.

CHAIRPERSON GRIFFIS: Okay.

MS. GATES: And I will address that in my testimony, but I agree that these neighbors deserve every, every, every piece of attention and special consideration that the Board can give them.

CHAIRPERSON GRIFFIS: Excellent.

And if you wouldn't mind giving us your name and address for the record, Ms. Gates.

MS. GATES: It's Alma Gates, G-A-T-E-S. 4911 Ashby Street, NW, 20007.

CHAIRPERSON GRIFFIS: Thanks a lot. Thank you. And you are, obviously, the representative of --

MS. GATES: I am the Chair of ANC 3D.

CHAIRPERSON GRIFFIS: Good. Indeed.

And have an opportunity to present to the Board. Can I ask you just specifically.

Did the ANC take up with an official action the review of any of these party status applications?

MS. GATES: No.

CHAIRPERSON GRIFFIS: Okay.

Ms. Miller, any questions?

VICE CHAIR MILLER: Yes.

Ms. Brady, if I'm reading your application correctly that the only concern you have with respect to the traffic.

MR. GODWIN: The major concern. To us that's the show-stopper, that the traffic situation is so bad on Foxhall Road that we feel like this is the final opportunity the city has to make a -- to find a solution that works for Foxhall Road.

VICE CHAIR MILLER: So, it's broader -- Foxhall Road is -- the issue is broader than just hoe it affects your street, or you would just be concerned --

MS. BRADY: Well, at first -- I think, yes.

I do think it is, but it comes home to us every time we have to leave our homes and try and get out onto Foxhall Road. So, it's -- but I think you'll hear from other people that it really spans the area from Whitehaven Parkway where it intersects Foxhall Road all the way up past north of the Field School. That's the segment of Foxhall Road that in the last five years has had the addition of George Washington University at Mount Vernon College. The Field School,

bought the Cafritts Estate and converted it to a school. Both of those -- both of those new constructions were major issues for the area and now we're adding on top of it a new development without substantial changes in how the traffic is dealt with on Foxhall Road.

VICE CHAIR MILLER: Okay. I guess I'd like to ask the ANC also.

Is that the same issue that you would also be addressing in respect to traffic?

MS. GATES: Yes, Ms. Miller. It is.

VICE CHAIR MILLER: So, will your presentation be --

MS. GATES: I believe these neighbors have much greater concern than just traffic. They are going to be impacted by years of construction.

CHAIRPERSON GRIFFIS: I guess what Ms. Miller is directly asking is, how is their position different than your position?

MS. GATES: I don't know how their position is different from ours. I know their concern is safety. Our concern is safety, but the way we solve that may be different, that's all.

CHAIRPERSON GRIFFIS: But don't you represent those residents?

MS. GATES: Yes, sir.

CHAIRPERSON GRIFFIS: But you're saying in the larger population that you represent, the issues are perhaps dealt with differently?

MS. GATES: Yes.

CHAIRPERSON GRIFFIS: Follow up?

MS. GATES: I am also focusing on Mr. Slade's traffic report and that put in my DDOT.

CHAIRPERSON GRIFFIS: Honing in on that.

VICE CHAIR MILLER: I guess what I'm trying to get at --

MS. GATES: But I don't want to give away any secrets.

CHAIRPERSON GRIFFIS: No, don't.

VICE CHAIR MILLER: It sounds like you're going to be addressing the same issues although your residents may be more immediately impacted in that one specific street. And I think what we try to avoid is redundancy and long cross examination and I don't know if we were to grant you party status, perhaps, the solution would be that you could coordinate on the issues that are the same for those, you know.

MS. BRADY: We know we've had a difference of opinion with the ANC on the possible solution to this traffic issue, so we would have concern there.

And I should not overplay the traffic to the -- to underplay the two other recommendations that we would like to make in the Board which is in our -- and we do have other --

CHAIRPERSON GRIFFIS: What are the issues, not the recommendations?

MS. BRADY: It's either that the -- things that the developer has agreed to would be scrupulously adhered to if, in fact, the development goes forward, if it's approved.

There have been, as I said, we had had --

CHAIRPERSON GRIFFIS: Okay. That's the second issue.

What's the third issue?

MS. BRADY: Okay. And then third issue is really the -- the elimination of the ninth house on the south side of W Street --

CHAIRPERSON GRIFFIS: Okay. So, a reconfiguration --

MS. BRADY: -- which becomes the 13th --

CHAIRPERSON GRIFFIS: -- of the master plan?

MS. BRADY: Right.

CHAIRPERSON GRIFFIS: Okay. Excellent.

I'm aware of all the issues.

Mr. Etherly?

MEMBER ETHERLY: Mr. Chair, based on what I've heard and taking into consideration Mr. Nettler's objection, I would nevertheless be comfortable with granting party status to what would be essentially the 4400 block of W Street and Foxboro Place residents, as I think there's been enough stated with respect to distinction in terms of some of the concerns that have been raised from a traffic standpoint and also impacts them.

MS. BRADY: Right.

MEMBER ETHERLY: My biggest concern was whether or not there was just too much of a commonality between some of the concerns that you had raised versus some of those that might come from Mrs. Miller's questioning the ANC or Mrs. Hardy's application. But I think there's enough of a distinction there. I would just simply note that I think it will be very critical to, as we, you know -- should the application for your party status be granted, that as we discuss traffic, that we're all very clear and distinct in keeping that conversation focused.

But I would be comfortable making a motion, Mr. Chair, to move forward with granting the

party status application of certain residents of the 4400 block of W Street and Foxboro Place. And invite a second.

MR. PARSONS: Second.

MEMBER ETHERLY: Thank you very much.

Thank you, Mr. Chair.

CHAIRPERSON GRIFFIS: Good. We have the motion before us. They said it all.

Yes?

MEMBER ETHERLY: I'll just also note for the record, Mr. Chair, because there was an objection leveled.

I think clearly there's been enough of a conversation already with regard to concerns about traffic in the broad sense. And I think also in somewhat of a specific sense through the ANC and through, perhaps, some of the back and forth that's already happened between some of the affected members of the community such that I don't think there's going to be any prejudice that would be place upon the Applicant or the party status application of certain residents of the 4400 block of W Street be granted. So, I wanted to be sure to speak to Mr. Nettler's objection.

I heard his concerns, but I just didn't --

I just don't see the prejudice there if the application were granted.

CHAIRPERSON GRIFFIS: Well said. The record does reflect the opposition.

Yes, Ms. Miller?

VICE CHAIR MILLER: I just would like to follow up on that as well because I appreciate what Mr. Nettler has said. At least as I understand it. I think he said that if he had known that these individuals were feeling like they had to oppose the application, that they would have made more of an efforts to bring to their attention some information or work it out or whatever.

But in any event, I would think that a granting of party status wouldn't preclude that in the future and that party status application have been amended and can be amended to drop out people if circumstances change.

CHAIRPERSON GRIFFIS: Good. Very well.

We have a motion before us that has been seconded.

I would ask that all in favor signal by saying aye.

(AYES)

CHAIRPERSON GRIFFIS: Opposed?

Abstaining?

Very well, we've granted party status to three parties in the case. We're about to move forward.

Mr. Nettler, I'm going to ask you preliminarily your assessment of how much time you will need to present your case?

MR. NETTLER: Probably about 45 minutes.

CHAIRPERSON GRIFFIS: Good. Forty-five minutes.

For clarity and all, we now have three parties in opposition. All three parties will have the same amount of time as the Applicant cumulative. Meaning, you all will split the amount of time that Mr. Nettler gets. So, if he uses 44 minutes and 30 seconds, 44 minutes and 30 seconds will be split three ways and you all need to coordinate that and how you break up that time. How you break it up is up to you.

If the first party goes on for 44 minutes, then the last two have 30 seconds each.

I am going to run the clock just to show that we don't get into major arguments to deal with that take up too much of our time about whether I fairly appropriately watched the clock or not. And I don't think we'll get to that point at this juncture.

With that said, Mr. Nettler, I believe we're ready to proceed, unless the Board has any other comments, concerns. Oh, I'm sorry, is Mr. -- out there.

Ms. Bailey that would be tremendous.

Mr. Nettler, are you ready to go?

MR. NETTLER: I'm ready to go.

CHAIRPERSON GRIFFIS: Let's go.

MR. NETTLER: Thank you very much.

This is the application of Phillips Park, LLC, which as I said in the preheating statement, successor to First Capital Trust, LLC.

First Capital Trust was the -- First Capital Trust is the contract purchaser of the property going back to June. It created a limited liability company for the purpose of acquiring the property, which the owner of the property, RAHA 3, Inc., is authorized as a successor to First Capital Trust to go forward with the application.

As in the letter that was submitted back when our application was submitted by, again, by the owner of the property who is under your rules, the only one legitimately authorized to pursue an application. He did authorize First Capital Trust, LLC and us to appear as agents for the owner to pursue

this application. And he submitted with our -- allowed us to submit with our preheating statement, a letter authorizing the change from First Capital Trust to Phillips Park, LLC.

So, in that sense, there has been a continuity in terms of the contract purchaser from the time this thing was submitted until the time that we are here today.

This matter is here before you for a Special Exception to approve 33 single-family homes that are proposed to be developed on the former Phillips Estate site, a site that was previously owned by Duncan and Margerie Phillips, the creators of the Phillips Gallery and to, I think, had owned the site from either the early 1900s or late 1890s, but certainly had had a home on the site. The home was demolished some years ago.

There had been a number of plans over the last 20 years actually for development of the site, beginning in the 1980s with a planned development that would have developed a significant portion of the site with both town homes and single-family homes up through the late `80s and into the `90s with a project that was proposed and that was reviewed under large tract review for a development project -- a

development that would have been also a significant number of homes, not using the entire site.

This site is subject to the theoretical subdivision regulations. Probably Mr. Parsons might remember back in 1988 those regulations were adopted by the Zoning Commission in response to a number of development projects -- response to a number of development projects that were going forward on large estates. The Rockefeller Estate which had just been completed, but which actually had its last component that was being considered.

There was a development by WC&AM Miller that was being completed at the same time. This one was in somewhat of a large tract review process that obviously never got completed. But I had proposed to the Zoning Commission a change in the zoning regulations to take theoretical subdivisions out from matter of right development and to create a Special Exception process for the purpose of addressing precisely those issues that we are going to hear today.

And when I was confronted with this proposal back in June by First Capital Trust, my advice to them and I think as you will hear, the advice that what had to be followed through with any

theoretical subdivision of this type of property, is you got to address its impact on the park. You've got to address the landscape, the trees that are on the site. You have to address density issues and you certainly have to address the traffic that may be generated.

With this particular project we are confronted with a project that, as I said, is 33 homes. If you look at the site plans that have been provided to you, there are a number of homes along W Street and Foxhall Road which are themselves matter of right -- project of matter of right sites. They are not, I repeat, they are not the subject of this application because they can be constructed as a matter of right, including a home that was referenced earlier by these certain residents of W Street. Those are not part of this application. We're dealing with -- the site.

CHAIRPERSON GRIFFIS: Briefly, you bring up the site plan. Looking at the site plan and, I believe, one site plan is on your Exhibit Number 3 of your submission.

There's been some question actually. The Office of Planning had indicated that they weren't ready to make a recommendation when they wrote their -

- is this the current site plan?

MR. NETTLER: No. We're going to get into that.

CHAIRPERSON GRIFFIS: Okay.

MR. NETTLER: In fact, there were a number of recommendations that were made to us, both by the Friends of White Haven and by the -- we've had discussions from a number of different neighbors --

CHAIRPERSON GRIFFIS: Right.

MR. NETTLER: -- in the area.

CHAIRPERSON GRIFFIS: That's understood.

MR. NETTLER: And we've had discussion with the Park Service and we will be presenting you --

CHAIRPERSON GRIFFIS: Okay.

MR. NETTLER: -- with a variation on that --

CHAIRPERSON GRIFFIS: So, we don't have the current --

MR. NETTLER: -- presentation.

CHAIRPERSON GRIFFIS: -- right now?

MR. NETTLER: That's correct.

And you will see that coming up.

CHAIRPERSON GRIFFIS: Okay. More surprises.

MR. NETTLER: There's not that much of a

surprise. There really is, as you will see, an attempt to deal even further with environmental issues in a way that's even more complete, I think, from our perspective.

The criteria is pretty well settled in terms o your authority in terms of granting a special exception. There haven't been that many in terms of special exceptions for -- under the theoretical subdivision provision, since it was adopted in 1989. I think there's probably been about three or four of them. Only one which is somewhat comparable to this in terms of size, but this does present an opportunity, which I think we feel has adequately addressed the issues that I looked at and raised with out clients -- our clients back in June.

And I think to further enhance the ability to address those issues, we suggested and that was adopted in part, a sort of a peer review process as you will hear a little bit about to go through and evaluate the project as it was going forward. In particular, know that traffic was a significant issue and is always a significant issue whenever there is development.

We have brought in Steve Peterson to -- as a peer reviewer of the traffic plan, traffic review,

the traffic study had been done by Garrow & Slade.

We brought in arborists to look at the tree issues that has resulted in a number of different changes and protections for some of those trees. And we have with us Greenhorne & O'Mana as well today as we said in our application which have looked at a variety of issues that you're going to hear.

And without going into those specific issues, I'd like to turn it over to Mr. Pryor who is the First Capital Trust and Phillips Park, LLC.

CHAIRPERSON GRIFFIS: Excellent.

Before you introduce yourself, just for clarification. In your written submission you indicated there was peer review of your traffic study and also the arborists and you stated that again.

MR. NETTLER: Yes.

CHAIRPERSON GRIFFIS: Am I correct?

MR. NETTLER: Yes.

CHAIRPERSON GRIFFIS: That's the only two -- those are the two peer reviews that you received then?

MR. NETTLER: Well, we've actually brought in Greenhorne & O'Mana too to look at a number of issues that were still outstanding in terms of the grading, in terms of --

CHAIRPERSON GRIFFIS: Okay.

MR. NETTLER: -- other landscaping issues. In terms of storm water management issues and they will be testifying about that today.

CHAIRPERSON GRIFFIS: Okay. Excellent. Good.

Good afternoon.

MR. WILLIAMS: Good morning.

My name is William Pryor, 700 West 51st Street in Miami, Florida.

I'm here as the managing member of Phillips Park, LLC, who is the Applicant before this Board this morning -- this afternoon.

I had asked Mr. Nettler to allow me a few moment of this hearing so as to allow me the opportunity to elaborating on who we are and what our intentions are.

On this first point, I would like to bring in front of you or I could bring in front of you a litany of different project that my associates and I have accomplished over the last 22 years in the residential real estate business. And also mention to you several projects which are the similar larger or smaller in scope, but it suffices to say that whatever projects we have done, we have always done project

with the intent of being residential and a residential which is a -- to the community a plus and never a negative, meaning we try to accomplish a community's -- development within a community which will be assimilated into a project. Never be a statement in itself.

Over the years, I've accomplished many of these projects. And I've been able to do, whether it's a planned urban development, land improvement project and, of course, build our projects itself.

Whatever the case is, the underlying issue is residential integration to the project. And my utmost recommendation to all the consultants whenever I do give those initial directives, I try to remain hands-off is, please work with the community and try to find the best solution to their problems.

As to our intentions, allow me to regress one moment.

When I first moved here to the District of Columbia back in `74 after college, I fell in love with the city. I loved the way its politics, its peoples and most importantly the organization. The different areas not only in Northwest, but in Southeast, Capital, etcetera.

But there was one place when I left five

years later that I kept in my mind, which I was always fascinated by and that was the Foxhall area. So much so that several years later in the mid `80s, I even came down from New York where I was at the time doing development, and had looked at the property, which I believed to be the Brady Estate, but unfortunately, it brought to nothing because the amounts they were asking for it or complexity was not up to the caliper of what I could do then.

Today now which we are talking 20 -- 15 years later, I've been given the opportunity of doing the Phillips Park property.

It came about by chance. We came here over a year ago. When I heard the name Foxhall my ears said, let's go. Let's try it. And I've been committed for one year to try to work out this project, first with a KC and put it through an unsuccessful application, unsuccessful bid for the auction. And then I proceeded to ask for the possibility of the adjourning properties which was, in this case, the property that became know -- was the Dunmarlin Estate, ex Phillips Estate.

I do not consider myself to be an outsider. This project for me represents what I consider to be a calling card to the community. I

have given Ms. Gates after the ANC meeting last time, my proven commitment to work with the community. I've been talked to Mr. Nettler on how best to proceed with this type of process.

Through the ANC we tried to meet their requirements. We tried to meet the demands both in the hearings and outside of the hearings, so much so that one of the people -- one of the associations who has standing now came to us after the second meeting of after the first formal meeting. Excuse me, second meeting which would first be the formal, informal and had requested certain changes.

Those changes were addressed and actually you will hear about them later on. And we tried to incorporate the best we could, keeping in mind W Street Associations' concerns and that's when this whole issue of which began because of issues of two exit means of egress from the property on W Street. One disappeared. They thought that we had done it unbeknownst to them. Instead it was just a process of listening to the comments of the neighborhood.

But without going on to the details as I mentioned, I'm sure the consultants will get into that and are more qualified to do. I would just like to mention that I have great confidence in the team we

put together. That team is being spearheaded by Mr. Nettler and his firm. But more importantly, to this commitment that I have is BZA and a team of Mr. Anthony Barnes' team that he has here. And I believe that both of them with following through in the commitment that I have, will see a project through that if you were to visit it five, ten years, I fervently hope will not be recognizable as being other than part of W Street to the North or to the South.

Thank you very much.

CHAIRPERSON GRIFFIS: Good. Thank you very much.

Very quick question just for my clarification. You obviously are in for a theoretical subdivision with a number of matter of right of lots.

Are you going to be building all these houses?

MR. WILLIAMS: We intend on doing the first phase which is the lot improvement phase at which time with the coordinations of Mr. Barnes, we are working on guidelines and we would like to bring in several builders who would meet those criterias to be able to build out.

CHAIRPERSON GRIFFIS: Okay. Good.

Anything else right now? Excellent.

Let's continue.

Thank you very much.

MR. WILLIAMS: Thank you all.

MR. NETTLER: Our next witness is Mr. Barnes. I'd like to proffer him as an expert in architecture. He's been before this Board before and has been accepted as an expert as well. And I believe his CV is part of the pre-hearing --

CHAIRPERSON GRIFFIS: Yes.

MR. NETTLER: -- application or statement?

CHAIRPERSON GRIFFIS: Yes. It's Appendix 15. Do all the parties in opposition have this? Do you have copies? I don't think we need responses by everybody.

Board members, any comments you would like to give me as I assess the granting of expert status?

One comment off the record.

Yes, Ms. Miller?

VICE CHAIR MILLER: I would support it.

CHAIRPERSON GRIFFIS: Indeed. I have no difficulty and I don't see any reason we wouldn't -- to -- we have three, four. No, we have three. For Vance and Barnes. We're looking at all of them or --

MR. NETTLER: Just one.

CHAIRPERSON GRIFFIS: Indeed. Good. I

have no difficulty. Why don't we continue them.

A very good afternoon.

MR. BARNES: Good afternoon.

MR. NETTLER: And before he does continue, I have -- I passed out to you copies of the presentation that we're doing.

CHAIRPERSON GRIFFIS: Oh, the PowerPoint that's about to go?

MR. NETTLER: So, you now have before you the plan that you were asking about before.

CHAIRPERSON GRIFFIS: Great. And, of course, copies have been distributed to the parties --

MR. NETTLER: Yes.

CHAIRPERSON GRIFFIS: -- and the ANC? Excellent.

I think we're all ready.

MR. BARNES: Good afternoon, Mr. Griffis, members of the Board.

My name is Anthony Barnes. Barnes & Vanze Architects. 1238 Wisconsin Avenue, NW, Washington D.C. 20007.

Our firm is based in the practice of high and residential architecture. I live very close to the site in Wesley Heights. I consider myself a neighbor. And I've been building houses in Washington

for roughly 20 years.

I want to bring you through the process that we engaged in studying and then developing the designs for the layout of this property. And then the recommendations we have under the architectural guidelines, etcetera.

CHAIRPERSON GRIFFIS: Good. You just indicated that you've been building houses for some time. Have you been designing them too?

MR. BARNES: I've been designing them. I've built none of them.

CHAIRPERSON GRIFFIS: Okay. Good.

MR. BARNES: Forgive me. I'm sorry.

CHAIRPERSON GRIFFIS: Expert.

MR. BARNES: I ask you to bring your attention to the Power Point now.

The property in question is the green that you see there below. Grover Archibald Park is our neighbor to the immediate east. The White Haven Park is our neighbor to the immediate south. This is also the Potomac River and this is the reservoir.

The red circles, orange circles that you see are neighborhood near by that we studied in some detail to learn sort of appropriate precedent because we felt that there were some terrific established

near by neighborhood that had the kind of characteristics that we thought be appropriate in a development here.

And one of the reasons we agreed to join this team was that from the beginning, the owner had expressed a willingness to try and do the right thing about neighborhood development, rather than just maximizing what was possible on the site. And if that had been the case, we would not have been involved.

CHAIRPERSON GRIFFIS: So, you had a lot of impact then in the actual master plan and the land planning?

MR. BARNES: Yes, indeed.

CHAIRPERSON GRIFFIS: Okay.

MR. BARNES: We had a lot to do with that --

CHAIRPERSON GRIFFIS: Great.

MR. BARNES: -- from the beginning.

MR. NETTLER: Let me just ask you a question.

When you were looking -- when you were deciding on which sites to look at, were you also focusing on sites that were subject to other overlays?

MR. BARNES: No. We were looking at, I believe, R1A, possible R1B neighborhoods as well, what

we considered to be appropriate models in the immediate, you know, within a mile's radius of where we are.

MR. NETTLER: Okay. And some of these were in Wesley Park?

MR. BARNES: Wesley heights, Spring Valley, W Street, both to the east and west of Foxhall Road because they were very adjacent to the property and Colony Hills which is immediately south. I'll actually go back and just point out which they are.

The site is right here. The W Street neighbors that you've heard of are there. There's a little finger of Wesley Heights on 44th Street, which dead ends by the Field School, which we look at as well.

There are some houses that rundown the west side of Foxhall Road on W. We looked at those there. This is Colony Hill, which is the neighborhood immediately south of the Brady Estate. It's our next neighborhood immediately to the south. This portion of Wesley Heights and all these different areas in Spring Valley.

One of the characteristics that was significant about this site is its terrain. I don't now if any of the Board members have visited it, but

this site forges through a 100 feet or so. It's got some forest that remains from the garde that existed when the Dunmarlin Estate was there. It is bordered by parks. So, it is very much potentially a garden neighborhood, as are the ones we are looking at.

And the areas that we've studied are all the areas where there are challenging terrain and we looked at the way in which the town planners and city planners addressed that.

If we go now to the area of Wesley Heights, which is this Foxhall Road here. This is Garfield Street. And this is New Mexico Avenue. The grid of Washington, which is very evident through much of Wesley Heights is broken by this one little diagonal street, which recognizes that it runs down a rather steep little water shed at the end of what is now probably a buried stream.

But in the departure from the grid, the town planners saw that was an appropriate way to work with the grade rather than against it and put homes down in there that actually followed the contour of the land, creating some sort of unique and attractive characteristics.

Spring Valley is even more challenged in nits terrain. And you see that the Washington grid is

almost non-existent once you move away from -- this is the American University campus here on the right. Once you move south and west of that area -- this is Lotford Road down here which heads down towards Sibley Hospital and you can see that the streets wind dramatically.

This is really disbarring the natural contours when the WC&AN and Miller Companies developed Wesley Heights and right after it Spring Valley, they actually made a point of recognizing the contours and then one of the two partners -- I don't know if it was WC or AN, spent the rest of his career sort of forwarding a method of town planning all over the country as a way to both save trees, save cost in development and actually produce a better looking neighborhood. So, instead just built those into the grid across the terrain, that was really his point.

So, for example, down here on Rockwood Parkway, it follows an old natural stream bed. There is also this rather delightful little neighborhood park created in a teardrop there where there is this little boulevard action that happens in the road. Which is something we took note of.

As we look through these neighborhoods as well, we were also looking at lot size and density.

And I will bring you lastly in this particular presentation to Colony Hill which is 30 some houses immediately south of the Brady Estate. It is probably the most integrated neighborhood, obviously, other than the W Street neighbors, which is very close to the site.

Colony Hill again has tremendous fall of land, probably a little more than 100 feet and, again, the roads in the middle of Colony Hill tend to recognize that and solve their zoning problems that way, their lay-out problems.

CHAIRPERSON GRIFFIS: Wait a minute. Just for clarification. You're going through an awful lot of information and it's very important. You're at the right speed.

MR. BARNES: Yes.

CHAIRPERSON GRIFFIS: Now, when I look at number 10 in that area that is not of a grid shape --

MR. BARNES: Yes.

CHAIRPERSON GRIFFIS: -- in the road that leads around, there are segments of gray that come off it. What are those segments?

MR. BARNES: The gray that you see there?

CHAIRPERSON GRIFFIS: I understand that there's a street there. A driveway?

MR. BARNES: It's a driveway. Yes.

CHAIRPERSON GRIFFIS: So, there's a driveway and the yellow is a footprint of a house or a structure. Is that correct?

MR. BARNES: The yellow is a footprint of a house.

CHAIRPERSON GRIFFIS: Okay. Good.

When you go back to 6 in the diagonal road that you were talking about that was following the grade on that, on the north side of that, that are showing there are structures. Are there access to residences on the south side or --

MR. BARNES: Yes. There are access on both side of that street on the north, east and the southwest side.

CHAIRPERSON GRIFFIS: Okay. And it's just not large enough to show a driveway or a paved access?

MR. BARNES: Or this map that we downloaded is not as accurate .

CHAIRPERSON GRIFFIS: Not as accurate. Right. Just want to make sure we're all understanding the same thing with that map.

MR. NETTLER: Mr. Griffis.

CHAIRPERSON GRIFFIS: Yes.

MR. NETTLER: I noticed both in the

questioning of Mr. Pryor and Mr. Barnes the clock didn't stop, so if you might take that into account.

CHAIRPERSON GRIFFIS: I do. I have them all down in my notes here.

MR. NETTLER: Okay.

CHAIRPERSON GRIFFIS: Three questions of mine, three minutes extra.

Okay. Let's go ahead.

MR. BARNES: Thank you.

I just want to spend a moment on the density of the development and lot size.

As we look through these particular area in the Wesley Heights that I showed you, everything south of Kindell, the average lot size including bigger and smaller lots, and there is some variety to the credit of the variety, is around about 11,000 square feet. And the areas of Spring Valley that we focused on particularly following those grades as well, there are a couple of exceptionally lots that I didn't use to again come to an average very close to 11,000 feet.

The Colony Hill neighborhood that you see right here, there is one enormous house where there's an old log cabin preserved there, which skews the numbers a bit, but it's about an 8,300, 8,400 square

foot average lot size in that development.

That size is very similar to what you find on W Street and Foxboro Place immediately adjacent to the property. There's one bigger property. Many of those are actually even less than 8,000 feet.

So, we settled as a recommendation to the owners on a lot size that we would target of a density that would equal about 11,000 square feet. Some of the lots would be bigger, some of the lots would be smaller based on the terrain and the needs of the planners that moved round.

I'd now like to speak a little bit to the character of these neighborhoods as you visit them.

These series of slides are taken in these neighborhoods that we focused on and the characteristics of them that are clearly significant, somewhat obvious as the streets follow down the terrain and following the curve. There's a very pleasing consistency in the front yard development because the developers have lined up the houses pretty much in line with each other, a little bit of adjustment due to the local design of each house, but there's a front yard setback that's relatively generous. These are not typically divided by fences. In fact, private land is demarcated by hedges.

There's landscaping, trees, parking and so on.

So, there's a very attractive street scape that is created by the consistency of the scale of the houses, the planer lining up along the streets and the ability to have this sort of green front yard that becomes part of the typical character of these neighborhoods as you move through them.

And some of the houses -- some of the areas the lots are a little bigger and the houses a bit further apart and it actually allows for a more natural transition of grade where the grade is steeper. There are also views that are created across the roof of the neighboring house because of the grade.

The steeper grade also offers opportunities if, indeed, for example, the garage has to face the street and we're discouraging that in every case. The grade allows that to happen in a more elegant manner.

The changes in grade are also obviously accomplished by retaining walls and stairs, which add to the character of the neighborhoods as you go through them.

CHAIRPERSON GRIFFIS: So, you're discouraging the garage facing the streets?

MR. BARNES: Yes. We are.

CHAIRPERSON GRIFFIS: Okay.

MR. BARNES: It's in the architectural guidelines.

There are also signature houses that help give some specific character to these neighborhood on street corners or aligning with the access of a street. As you see, these are memorable things for people that visit the neighborhoods.

This is the little tear drop park that I mentioned earlier that's on Rockwood Parkway in Spring Valley and it's an area that has attracted the attention of the immediate neighbors who formed a little club and maintain it, you might imagine.

So, essentially, it's the character of those neighborhoods that we were really after.

This is now the plan that we brought to the last ANC hearing that included where we were voted. We got a positive vote and it shows the intended plan of the development. So, running you through it quickly.

W Street is on the north here. This is Foxboro Place there. You can see the footprint of the houses of the neighbors who you heard from earlier. This is Foxhall Road. This is Mrs. Sandra Hardy's

property right here immediately on the left. This used to be the mother-in-law's house for Mr. Phillips, I believe and this is the frontage onto the White Haven Park down here. This is all apparently Grover Archibald Park, but there is, in fact, a paved street, 44th Street has never been improved, but exists there which fronts our property.

CHAIRPERSON GRIFFIS: What would it connect to if it continued?

MR. BARNES: I don't know. I've never that plan where it connected through to anything.

CHAIRPERSON GRIFFIS: Okay.

MR. BARNES: It is also -- discontinues up here where it would have connected to 44th Street, which is paved and improved north of the Field School and has never run south of that to my knowledge.

CHAIRPERSON GRIFFIS: Okay.

MR. BARNES: There are some sewers and other things that show an intention to improve it but I don't believe it was ever paved.

The principal arrangement of our lots. You can see the matter of right houses are run along Foxhall and along W Street.

Once you get into the development, we realize very early on that because of the very

difficult traffic situation at W and Foxhall, that we really needed to have another entrance to the main street grid. This is of significant improvement in our mind because the distance between a light that exists at White Haven and out at the field School and the site lines are a whole lot clearer than at W, which really is difficult. There will be more detail on traffic later. So, I won't go into that much.

We created a boulevard down, running through the steepest part of the terrain. This is a high point on the north and the west and the bold runs down toward the southeast.

The one significant natural feature on the site was, in fact, a wetland here. It's not all a big pool, but our blue draws your attention to it. The Army Corps of Engineers was brought in to study the site to determine where the wetland was and wasn't. And they have claimed jurisdiction and with a 25-foot buffer around it, that is being preserved within the development.

There was an artificial wetland right through the middle of this that was determined to be caused by a water main that's been running for around about 12 years since the house was demolished because it ran to an out building and was never identified and

turned off. So, there is fluoride in the water and other things that made this a non-official wetland and the Army Corps being involved in.

CHAIRPERSON GRIFFIS: Did anyone on the south ever complain about water pressures?

UNIDENTIFIED SPEAKER: Well, it's 12 years we've lived with it.

CHAIRPERSON GRIFFIS: Okay. Go ahead.

MR. BARNES: Not to my knowledge.

This loop road that runs through earlier on used to have another entrance onto W which I'll discuss with you and there have been a number of changes to the plan, but the lots that are being developed that are the reason we are here before you today, are on these building footprints that you see lightly shaded in this area here.

Because of the terrain being so steep down here, we have kept apiece of the Washington grid to service the back of these houses here and then we are following sort of a natural contour to address those issues with grading.

I'm going go now to a sketch that we brought to the neighbors on W Street in our discussions with them and they were pointing out their concerns to us. And this is something that we acted

on.

Initially, there used to be a second road that connected on W Street that made little more sense of this loop. They are specifically, if we would try and reduce the number of connections to the street, we felt that for safety in the neighborhood, we needed at least two ways to get in, so we kept the one further to the east, aligned it with Foxboro at an angle, put all the houses so that they would face neighbor front door to front door. But in deference to their request, that a green buffer that they had been used to all the years that they've lived down there without development on the site, that we provide a naturalistic planted strip with a similar setback of these houses voluntarily to that that they have on the north side.

This planted strip would be provided by the developers and contain a mix of approved deciduous and evergreen trees.

We have also set aside a small corner area here so that it wouldn't be buildable. There's one significant tree we're saving and this would create a little green corner that is so reminiscent of what's there right now.

The other thing we did, which we felt was

significant and the neighbors seem to appreciate it is we've done our best to line up our houses so that when people look out of their front doors or step out of their front doors on W, they have a view shared between the houses, rather than at the houses.

Another thing that was significant for them is there's a lot of terrain along the Phillips' site here at the moment, most of it much higher than W Street, whereas W follows a fairly even grade all the way down there.

Many neighbors here were concerned that when they looked out of their doors if a new house we built, it would start a story and a half higher than their first floors. So, we agreed and it suits our grading to grade this down so that the south side of the street follows the contour of W.

To go back to our development now. The change that the neighbors mentioned, I will refer to at this point here.

Consistently throughout the programs, we've been trying to improve environmental issues related to the impact of the development and one of the in-house moves in that regard was with the arborist, Mr. Pitchford who you will meet later.

We ascertained that if we rearranged the

lot lines on the east side of the property against the 44th paved street, and actually shifted one more house to a matter of right location on W without changing the number of lots in the entire development, we were actually able to save some other substantial trees that were terrific. So, we just thought in the end, the environmental improvement by doing that was sort of winning the day.

This did happen late in the proceedings. There were other things happening right before the ANC meeting. Discussion with the Friends of White Haven Park, which were forcing other changes in our development but did not allow us to go back and make the appropriate presentation to the W Street neighbors, which I would have liked to have done.

We had many discussions with them, spent time in their homes, e-mail, called, had them in our office and so that was something that I regret and I apologize to them.

The other significant change in the development that you should now about which resulted from our discussions with Ms. Hardy and a letter that was written by the Friends of the White Haven Park, where they were explaining various concerns that they had, was to take a loop road that used to exist right

against the park out here with a bridge that went over the wetland, shorten it substantially and turn the lots that used to be on the north side of that road to be on the south side of that road.

We've also reduced the amount of land that we were going to sell and develop. This spur at the edge of the wetland and opening onto White Haven Park, we've voluntarily, because there's some great trees there which we're saving, we've voluntarily moved the property line back so that there's -- that would not be on, but that, in fact, would be part of an easement arrangement or a covenant that we would be offering to the Park Service when the development is done.

So, this loop rood removes the paved surface from the edge of the park which was a great concern for Ms. Hardy who is looking down here. She's been concerned about light pollution, about looking at a lot of asphalt and so that was another change that we made.

The other significant change is that we are going to offer to the Park Service a covenant that is favoring all the lots that back up to the park here. The rear yards, 25 feet, so that they can help control what grows there. We're going to have the homeowners association make a survey of that area

every six months to make sure no invasive species are being, you know, planted there or growing there and controlled with the right kind of herbicides or products that can used to eradicate those things.

I just wanted to see if there are any other things that were significant there.

I think those are really the issues related there to the development.

This is a little bit hard for you to see, but I'm just going to read through our thrust on tree preservation.

We obviously want to try and preserve the forest nature of the property. It's existing. We respect it. It adds value to the property. We're interested in doing as much as possible.

We want to maintain and protect the most desirable trees on the property, plant a lot of new indigenous trees. Sixty five of 107 trees that are being determined by the arborists to be in good condition are now slated for preservation. So, around 61 percent.

There are 356 new native trees of significant caliber to be planted. More detail on that later.

Over 400 healthy, good indigenous trees

existing and new trees, which is more than the existing number of healthy trees, will result at the end of the development.

Retention of a certified arborist to oversee the grading and the construction phases to insure every effort is exhausted towards preserving these trees will be part of this development.

So, the owners have committed that an arborist will be through all of the site development and, you know, the development of these houses. In our architectural guidelines, that arborist is a member of the architectural committee.

Provisions for theoretical lots that are being met that are a requirement here. The density of the development is around 40 percent less than is allowed. We're not going for the 7,500 square foot minimum that's allowed. We have bigger lots, as you know. The maximum 40 percent lot occupancy will definitely be less than that.

Height, setback and lot requirements we will comply with. The grading of driveways no steeper than 12 percent. The minimum width of them at seven. Front yard setbacks are 25 feet throughout the development.

Rear yard setbacks are also 25 feet and as

I mentioned, the reapportion is going to be given over in a covenant where it abuts the parkland.

All the dedicated right of ways or the private roads are at least 25 feet wide.

Two entrances are provided into the development, so no 60 foot diameter or dead end is required at all.

Just to run through some of the environmental initiatives again.

The larger lot size allows us to accomplish more of the grading naturally between house platforms by having a larger site, so there's less impact in the grading.

The southern loop that I mentioned that has been much reduced reduces the amount of asphalt and saves a number of more valuable trees in that area and, of course, removes any construction from the wetland. We originally had a bridge there.

Now tree preservation. As I mentioned, we're saving more trees. These late initiatives saved about 10 more valuable trees. And all small trees, of course, that are of value within the wetland and in the area of big trees, even though they don't appear on everyone's maps, are clearly going to be saved as well. We're interested in saving clumps of trees for

character.

We tried to be as environmentally sensitive as we possibly can in this. It is a private site but we've tried to preserve the most valuable areas on the site, which are the wetlands and the opening of the wetland into the parkland really forever and forever. So, the parkland is essentially invited into the neighborhood through our offering of this voluntary sort of green park there. This lawn below, which would be our storm water management and then the wetland area and its wide mouth out into the park.

So, we've offer a green swath right through the heart of the development that connects us to the parkland. So, essentially, the developed area is almost like a horseshoe that is surrounded on two sides at least by green land, by green and this we see as a great advantage here.

When Friends of White Haven wrote their letter and pointed out their concerns to us, these are our responses to the main issues they raised as we saw them.

The road was placed immediately adjacent to he park initially. We revised the road and moved it from the edge of the park. They were concerned

that the wetlands would be damaged due to the road and were not going to have the road next to us.

The wetlands will be fed by water of the quality and quantity and velocity unchanged from the existing. You will hear about storm water management later, which we've taken very seriously and the whole point is that the outflow from a storm water containment and treatment facility is not going to be beyond that in the thing right now.

There was a comment in their letter about the demise of bird bearing trees. We're going to every effort to save existing tree canopy that we can. We're adding an enormous number of trees and, of course, our site is really a fragment of a large existing tree area in the surrounding parks that provide plenty of environment for these birds.

The conservation easement which requested and we're offering covenants that are, in fact, more restrictive of the homeowners, so it's better than the requested covenant.

And, finally, there is a stream that runs underneath on the east side of the lot under the paper street, 44th Street. And since we're not increasing the velocity in the stream in the wetland, we see that there should be no damage to that.

Quickly, the architectural guidelines that we have proposed that in your document, the purpose is really to maintain the feel of the neighborhood to enhance and preserve the natural features and the environment. There were many issues that addressed that, and to insure the quality of both design and construction.

The neighbors immediately adjacent wanted to be sure this is quality development. It's absolutely our intention to make sure that that's the case.

It regulates the siting of houses, the arrangement, the orientation where the front door is, the alignment of facades, vehicular access, the FAR and coverage.

Environmental protection fencing, preservation of existing trees and wetlands. We have a 25 foot rear yard buffers we mentioned before. And then it also addresses architectural elements such as exterior materials, walls, roof, windows, exterior door, lighting and garage orientation.

CHAIRPERSON GRIFFIS: And we don't have those actual guidelines in the record now. Is that correct?

MR. BARNES: I believe they were in a

packet given to you today. Well, there is an outline -- about a three-page outline of those.

CHAIRPERSON GRIFFIS: Was that in the hand-out of this presentation or no?

MR. NETTLER: Yes. I believe

CHAIRPERSON GRIFFIS: I believe it's coming now.

MR. NETTLER: It was distributed to you.

CHAIRPERSON GRIFFIS: It was already?

MR. NETTLER: It's being distributed. I think it was just --

CHAIRPERSON GRIFFIS: Just --

MR. NETTLER: Yes.

CHAIRPERSON GRIFFIS: Okay. Look at there.

MR. BARNES: There is one more significant thing I'll just mention about the arrangement of the houses here in our discussions with the neighbors is that we are only going to have pedestrian access north onto W Street out of recognition of the neighbors on that side having grown used to this green facade that they faced across the road. All of the lots on W Street, all the vehicular access, including the last house that was essentially pushed up from the area on the east to preserve more tress, this house will have

a dogleg driveway, exclusive and right of way exclusive in the neighborhood so that all of these only offer a pathway for pedestrian access to W.

So, we're doing everything we can to try and keep cars off of W, and garages and driveways.

CHAIRPERSON GRIFFIS: And there's sidewalks on the interior street?

MR. BARNES: Excuse me. Thank you for mentioning.

We are providing a sidewalk on at least one side of every interior street, because this is really a very open pedestrian-friendly neighborhood. And we hope that our W Street neighbors will eventually, you know, be part of our neighborhood when it's built out. They don't have sidewalks now. We are providing one on the south side of W.

So, it will e safe and conducive to people walking with their kids and dogs and so on.

I'm not going to turn it over to my colleague, Louis Slade to address the issues relating to the traffic.

MR. NETTLER: And before he does that, I've got two comments. One is, just a correction in terms of the way in which the covenants were described.

The covenants are being placed on the property. Covenants are not given to the Park Service. They are covenants that we've agreed to in terms of that provide certain restrictions that will be part of, not just the covenants themselves, but part of the homeowner's association that would be placed with restrictions on the property prior to the first unit ever being transferred. And those were provided to you in the documents that you've got.

And the second thing is, I obviously misjudged the time in which our initial and most important part of the presentation. We've given the, I think, the community's interest and certainly your interest --

CHAIRPERSON GRIFFIS: Right. Let me make it clear.

I asked you for estimate. The clock's going to run. It's going to flip at zero and then we'll assess. If you get close to 60, you got an additional six minutes of my time on this. If we get close to 60, we're going to have reassess just in terms of that. But let's not worry too much about that.

MR. NETTLER: Mr. Slade has been accepted before here as an expert in traffic.

CHAIRPERSON GRIFFIS: Indeed. And I don't see any difficulty in doing so again, unless others have objections. He does his documentation also as part of the record.

Let's move ahead, Mr. Slade as an expert witness.

MR. SLADE: Thank you, Mr. Griffis and members of the Board.

My name is Louis Slade. My firm and I were members of this team. We worked with Mr. Barnes' office on the development of the site plan and we did the traffic impact study in accordance with District COT guidelines and standards.

This has been a very intense traffic analysis that we did for this project. We initially met with DDOT. We did an initial study where we looked at all of the alternatives possible for access to the site directly onto W as is -- directly onto Foxhall as is current proposed. Directly onto W alone and this combination of both W and Foxhall.

And in an initial study we determined that the plan that you're seeing before you produces the best traffic situation that's possible for this property and for our neighbors on W Street.

DDOT was very involved in that. We met

with the community on one occasion in Mr. Barnes' office. We went to the ANC a couple of times. DDOT is in concurrence. And as was mentioned we had a peer reviewer on this project who is here today. He objectively reviewed our work. We never met with him. He simply reviewed our study. Went to the site on his own, so forth, and I'm not sure if he is testifying today, but he can confirm that.

I want to go right to a summary first of what we found.

This project will generate a relatively small amount of traffic that it puts onto Foxhall Road and so the impacts on this section of Foxhall Road are essentially negligible of the project.

What the project does do, which is a positive effect, is it creates a new means of access to Foxhall Road for existing W Street. That portion of W Street that's east of Foxhall Road.

And wen I look at that site plan that Mr. Barnes just presented, I think of it as becoming a single neighborhood, with the homes that are being proposed today as well as the existing homes, using the same street network and having really two points of access. The existing one where W intersects Foxhall and the new one that is proposed. So, this

will work in this neighborhood.

CHAIRPERSON GRIFFIS: Let me see if I understand that correctly, because I know it's the -- I didn't understand it then and I don't understand it now.

You're saying that residents, current residents on W Street would actually enter into this site as another alternative to Foxhall?

MR. SLADE: They would certainly be able to. Yes. They certainly would be able to.

CHAIRPERSON GRIFFIS: They would be able to because it's a private road, but it's not going to be gated?

MR. SLADE: Correct.

CHAIRPERSON GRIFFIS: Does it make sense that they actually would meander through all of that?

MR. SLADE: I'm going to provide you with some evidence why we believe they will prefer to use it over their existing entrance to Foxhall Road, which is -- has difficulties.

CHAIRPERSON GRIFFIS: Interesting. Okay.

MR. SLADE: And if you think about that, Mr. Griffis, I don't know where you live, but I know where I live there is many ways into the neighborhood. I'm sure they were developed in separate segments and,

you know, I prefer to come in a way into my neighborhood that's safer and gets me more most efficiently in both safety and time-wise.

CHAIRPERSON GRIFFIS: Well, to that, aren't more alternatives advantageous in terms of traffic management?

MR. SLADE: Yes. Because it disperses the traffic and provides alternatives.

CHAIRPERSON GRIFFIS: So, even on Foxhall, and your sitting on one north/south road, but it disburses the traffic as it enters and exits if you have obviously more streets that connect to it?

MR. SLADE: yes.

CHAIRPERSON GRIFFIS: But here you've limited the number of accesses to and from this, but you're also saying that it might be used by the adjacent residents to access other areas onto Foxhall?

MR. SLADE: Yes. And as in professional football, if I caught this pass and you pushed me out of bounds, this time is credited to me, I assume -- the clocked has stopped, is that right?

CHAIRPERSON GRIFFIS: I'm the one who is terribly concerns about time. So, I'll monitor. Okay.

So, all right. Well, just to put it in as

we go through this. I think I have some concern about limiting all the accesses and egressing -- ingress.

MR. SLADE: Well, let me continue one other point about this.

Notwithstanding the fact that it's desirable to have two points of access into a residential area, for life safety reasons, if there's a car crash and there's burning vehicles blocking one point of access, it's good to have another point of access. So, that was, of course, one of the reasons why was have created a site plan with two points of access.

CHAIRPERSON GRIFFIS: Sure. I was say minimum two.

MR. SLADE: Which, of course, it works for existing W Street as well.

These photographs that were projected here show you a little bit of existing conditions.

Right here it says, traffic looking north. We are at the frontage of the site looking toward W Street and this is a portion of Foxhall road that's plunging down the hillside fairly steeply in the upper part of the photo.

W Street is right in here. There's actually a street sign and I can't quite see it. I

don't now if you can. It says W Street right there. So, W Street is in that little corner. You can see Foxhall is curving away to the left and it's widening out as you approach the Field School entrance, which is just up the hill at this point. So, we're standing at the entrance looking north.

This is at W Street. This is W Street right here. The lower right-hand corner of this photo looking north and there's that curve and that steep hillside.

Here we are looking south. I'll go to this photo first. This is the frontage of the Field School and we're looking south. This is traffic heading northbound on Foxhall Road. I wanted to show this one just because it shows the sidewalk.

There's a pedestrian safety issue along Foxhall Road because the sidewalks aren't continuous. I don't think Mr. Barnes mentioned that the sidewalk would be developed across the frontage on Foxhall Road and would pick up this sidewalk. There would be a gap at the end of this sidewalk before you get down to W, but we pick it up and carry it further south.

CHAIRPERSON GRIFFIS: So that required sidewalk a policy of the previous order would actually connect to something?

MR. SLADE: Begin to. I'm not sure it gets us all the way because there's --

CHAIRPERSON GRIFFIS: Okay. So, part of it --

MR. SLADE: -- individual homes --

CHAIRPERSON GRIFFIS: Part of the proposed development would not necessarily bring a sidewalk up off the -- well, it's on public property, but it wouldn't connect all the way up to this area?

MR. SLADE: Correct.

CHAIRPERSON GRIFFIS: Okay.

MR. SLADE: There would be short gaps. Relatively short gaps.

CHAIRPERSON GRIFFIS: That's going south in the middle of the street and then back to the sidewalk. Okay.

MR. SLADE: I'm standing here taking standing at approximately where the entrance on Foxhall will be into Dunmarlin looking south. This is the location of the White Haven Parkway signalized intersection with Foxhall Road.

And looking southward here, you can see that the site distance. You can see a great distance looking down Foxhall Road, which you cannot see when you're --as you go further up the more curved and

steeper portions of Foxhall Road where W is located.

MR. MANN: And where is Ms. Hardy's house on that, if it is?

MR. SLADE: This is Ms. Hardy's driveway right there.

MR. MANN: All right. Thank you.

MR. SLADE: This is on W Street. This is the approach to Foxhall Road on the eastern portion of W Street. It's a single lane to the stop sign where you stop and then you got to look down that portion, but especially up that curve portion to your right.

So, this is -- one of the issues here is the safety of being able to get out onto Foxhall Road from W Street directly.

Now, we've summarized the findings of the report in these graphics. I can go through this rather quickly.

This summarizes existing conditions. There's the traffic signal at the Field School and a traffic signal at White Haven Parkway. There are stop signs on W Street for the approach onto Foxhall Road. You can see the curve beginning to the left here. This is the steeper section.

Dunmarlin is in this location. There is Was it is today with the cul de sac on Foxboro Place.

What our traffic analysis of existing conditions found that the delays at the signals at Field School and at White Haven are within a very acceptable range, good levels of service. But delays at W Street are significant for W Street traffic trying to get out on Foxhall Road. This is during the morning and afternoon peak periods. And it's very difficult to get onto Foxhall because there is a lot of traffic moving up and down Foxhall and it's moving at a speed exceeding the speed limit and the site distance is very limited. So, you have to sit there and wait for what looks like an acceptable and safe gap and turn out into a dangerous condition.

This is intended to display what the matter of right situation would be without Dunmarlin, if a dozen or more homes were built along here.

When we did this study, the number of homes that we assume could be on these fronting two street with driveways directly onto W and driveways directly onto Foxhall, there's a dozen. I think that number is now 13? Is that correct?

And if that were the case, then traffic conditions would get worse at W because we would be adding cars that were coming out. And every car has a significant delay effect on the residents that are

already there, because if someone is turning left, you can't turn right because they're in the way, because it's a single lane out there. The one who is turning left is waiting for a long period of time. And the delay gets longer and longer, even though the amount of traffic is a very -- a very small amount but the delays can be excessive.

The advantage of Dunmarlin is that, we've talked about this already a little bit. It provides a second point, so even for the residents on W Street who would backtrack a little bit to come out here, it would find site distances to be greater. They can see further up and down the road, so they can make the decision when they have a safe gap to turn out more safely.

They are not facing another street across the way as they are today. When that safe gap arrives today at W Street, you have to compete with the person who is across the street from you. And if he's turning right and you want to turn left, he'll beat you into that gap and you got a wait. Whereas, here you don't have that competition.

We're closer to this signal. This signal does create gaps in the traffic stream and while as the traffic moves up the hill from White Haven, it

turns left and goes up a hill and kind of spreads out and the gaps disappear. When we're closer, that spreading effect is not as pronounced.

So, for a number of reasons, this will be a more attractive place to get out onto Foxhall Road for all the homes that can use it on the east side of the street.

And I'll just repeat our findings of our studies that DDOT concurred with that the impact on traffic conditions on Foxhall itself of these additional homes and the traffic they generate, is negligible but the effect of having a second point of access in creating this little piece of street network, is beneficial.

Thank you.

CHAIRPERSON GRIFFIS: Thank you very much.

Do you have a question?

VICE CHAIR MILLER: Yes. I do have a question.

I'm not sure if I remember correctly, but I think that initially there was another street that exited out of the development to Foxhall. Is that correct? To W Street?

MR. SLADE: To W Street.

VICE CHAIR MILLER: And that was eliminated in response to the wishes of some parts of the community. Is that correct?

MR. SLADE: Yes.

VICE CHAIR MILLER: Can you just explain briefly that this is the better plan or the previous one was better or what is that about?

MR. SLADE: As Mr. Barnes indicated, that connection finished a portion of the looping of the interior streets from a plan design standpoint. From a traffic standpoint it wasn't necessarily. It wasn't undesirable, but it wasn't necessary.

VICE CHAIR MILLER: Okay. And my other question.

Mr. Barnes raised it, but I'm sure you can answer it. He was talking about having one sidewalk for every street in the development and I'm just curious. How do you decide whether you should have a sidewalk on one side of the street or on both sides of the street?

MR. SLADE: I think Mr. Barnes should answer that.

VICE CHAIR MILLER: Okay.

MR. SLADE: I mean, it has more to do with the grading issues on a steep site than really

providing for pedestrian traffic.

VICE CHAIR MILLER: So, it wasn't -- you don't see a pedestrian safety concern with respect to that issue?

MR. SLADE: Well, the traffic lines within Dunmarlin are very, very low and moving at slow speeds because of the curved linear streets and so forth. So, no. I don't see a traffic safety issue. I do not see it.

VICE CHAIR MILLER: Thank you.

CHAIRPERSON GRIFFIS: Is there an anticipated parking lane in this development that you studied?

MR. SLADE: Well, each house, of course, will have its own driveway.

CHAIRPERSON GRIFFIS: Right.

MR. SLADE: The street will be 22 feet wide. That would permit enough width for parking on the curb on one side or the other. I think most people will park in their driveways.

CHAIRPERSON GRIFFIS: 22 feet for parking land and two-way traffic?

MR. SLADE: Yes.

CHAIRPERSON GRIFFIS: Okay.

MR. NETTLER: Excuse me, Mr. Slade.

Some of the interior roadways are even wider than that, aren't they?

MR. SLADE: Yes. As you get closer to the exit points, they will be wider.

MR. NETTLER: Do you know the width of the one that has the island that goes down the middle of it? No. All right.

MR. SLADE: I'm hearing from -- that it's 16 feet on either side of the island, so two 16 foot roadways on either side of the median island.

CHAIRPERSON GRIFFIS: Okay. That's the widest portion of that section. Is that right?

MR. SLADE: Yes.

CHAIRPERSON GRIFFIS: Those are one way, I imagine as it splits the island.

MR. SLADE: Correct.

CHAIRPERSON GRIFFIS: Okay. I still don't get your math on it. Two-way street, 22 feet and a park lane. How much your drive line? Eight feet?

MR. SLADE: The street will be -- the paved parkway will be 22 feet. If a car is parked there, you'll pass that automobile. If there's an automobile approaching you, you'll wait and allow him to pass and then you'll pass that parked automobile.

CHAIRPERSON GRIFFIS: Thank you. Okay.

There it is.

MR. NETTLER: The widths of the interior streets are what are provided for in the zoning regulations. It was intended that before a fire vehicle was adopted into the rationale, behind them was fire vehicles and for other purposes, you wanted to try to replicate as best as possible residential street. And so you've got a 25-foot right of way of which 22 feet is the width of the street.

There used to be prior to the adoption of the theoretical subdivision regulations, I believe, they were generally around 18 feet.

CHAIRPERSON GRIFFIS: Right.

MR. NETTLER: So, they were increased in width.

CHAIRPERSON GRIFFIS: Right. Yes. I understand. I'm not -- I'm just trying to get fuller understanding of how it's going to be actually utilized in the program. I have firmly in my mind that these are private street. And also it's an interesting point that you bring up in the zoning regulations in terms of the amount of right of way openings. Where frankly speaking, in your submission you've already indicated that you're going to bring it up to D.C. street standards, with all those

implications.

MR. NETTLER: Right.

CHAIRPERSON GRIFFIS: Because we wouldn't normally be going through to issue what are the standards for streets, because obviously it's in the public right of way. I was just interested in terms of now we're talking about the circulation of adjacent properties through this site that may access Foxhall and just trying to get a picture.

You have driveways that are actually cutting into those and that's fine. Are there anticipated parking on the street and then with that somehow -- well, it's a traffic counting device obviously if you have to slow down to pass by someone. So, I'm just wondering what the actual circulation pattern would be. Okay.

So, that's enough said. Let's move ahead. Maybe not enough said.

Yes?

VICE CHAIR MILLER: I was just wondering if Mr. Barnes would like to come up and answer my question about the sidewalks, why they are only on one side of the street?

MR. BARNES: Sure. We're trying to provide the right amount of paved streets for the safe

passage of cars on a parked vehicle and then having sidewalks on the one side will certainly, we think, address the need for sidewalks adequately without having to have them on both sides. It's more paving. It creates more run off. It complicates the storm water management and so on. And we have cited these sidewalks on the sides of the street where they make the most sense in terms of pedestrian safety to cross over to get to the little public park or south of the W Street houses where we have all the driveways on the north side of our road, this sidewalk is on the south side, so that you're crossing hardly any driveways. Again, just trying to address the safety issue.

VICE CHAIR MILLER: Thank you.

MR. NETTLER: Our next witness is Mr. Pitchford, who actually has been before you recently and accepted as an expert -- an arborist. And his resume is also a part of your record.

CHAIRPERSON GRIFFIS: When did we see you last? Knollwood. All right. Some of have good memories. Okay.

MR. PITCHFORD: Thank you very much.

My name is Keith Pitchford, 2213 40th Place, NW, Washington, D.C.

I was brought onto this project in

November to help with the tree protection efforts on this site. I did a survey of the trees at that time. Before me, two other surveys had been done by other foresters or other arborists and they have assembled a list of what they called specimen preservation candidate trees of which there were 107 in total on the site.

At that time, they had come up with a number somewhere I think it was 55 or 60 trees to be preserved. I did a rather exhaustive survey of their trees. I kicked a few of them out and added a few others and now we're up to about 65 trees as Mr. Barnes mentioned earlier.

It is a wonderful site for trees. There's really two major areas of big trees on the site. On the eastern part of the site and also on the southern part of the site and I'm sure most people that live in the area of this property know that these are very nice trees. They are large. They are in what I would call the sub-climax or climax stage or forest succession. They're really near the end of the life of the forest, but still have a lot of life in them. But it's a site that's characterized by large diameter trees, generally big spacing between the trees and some regeneration between them and this is some

pictures of a few of the specimens that we picked out. It's hard to see, but the specimens have orange ribbons around them. And this is from -- these two photos are from the eastern side of the property.

And when I went into this side, I really looked at it from a stance of tree protection and there really are two zones that I look at. And it's really fairly methodological approval that I take during tree protection. It's certainly not haphazard or arbitrary. I look at trees that are going to be candidates for long-term survival on the property.

I have to calculate two distinct zones around each tree. And it's very important to calculate that, because it goes into the site planning. One is what I call the minimum clearance zone and that is a zone that's equal to half a foot away from the tree, on all sides for every inch of tree diameter. So, if you have a 20-inch diameter tree, you're looking at a ten-foot limit around the tree that you really do not want to encroach on at all, because that's where you have the big scaffold roots that keep the tree upright and you have the big woody roots from which the feeder roots emanate.

It's really the heart of the tree and you really can't get inside that.

Outside of that, there's another zone that we call the critical root zone, which encompasses the feeder roots that are important for feeding the tree with water and nutrients and so forth. But the difference is that critical root zone has a little bit of flexibility. It is not always a perfect circle around the tree like these minimum clearance zones are. And that's important, because when you're trying to houses in around these large trees, you really have to keep the foot print out of that minimum clearance zone, but you can work a little bit with the critical root zone, because we know that roots go two to three times beyond the drip line of the tree. It's quite a large area.

So, as long as you can maintain that critical root zone in some shape, and keep that volume of critical root zone, then we know we can keep the tree with a strong sense of certainty.

So, that's what I've done. I've worked with Mr. Barnes and his staff on manipulating the site plan a little bit as was mentioned earlier. We moved a few lot lines to collect a few more of these minimum clearance zones and I think we've done a really, really good job of integrating these big trees into the site.

Okay. This is a picture of one of the big trees that actually was included in the first go around. I kicked it out because of the large defect that you see down the side of it. It's a nice big black oak, but unfortunately it looks like it was hit by lightening some years ago. I has a big scar. Chances are it's probably got a large area of decay inside, probably some trunk rot working in that tree. It's just not a good candidate, even though it's a big tree.

And that's sort of the unfortunate part of these mature stands is that you will get these big trees that might look pretty good, but they do have structural defects and you don't want to put a house next to a tree like that with a big structural defect. So, I do eliminate those. It's unfortunate, but it happens.

This is a map that is showing you the minimum clearing zones for all these trees. Now take -- remember that the critical root zone is going to be larger than these circles and the critical root zone is going to have a different shape. It is not as I said, always a perfect circle. I can work it around a building, but the really important is that these are the minimum clearance zones from these zones on these

lots. And as you can see, there are spaces on each one of these squares where they've defined a lot to put a house without getting into these minimum clearance zones.

And that's what's critical. As you can see at the top of the map there on the right, where you have that row of circles, it looks like little bubbles up there on the top at A29, it looks like. We moved that lot line to go right down the middle of those trees, so that we could get clearance from all those minimum clearance zones.

I hope that's making sense to you. But there is a methodology to this and that's why I want to talk about it.

The other thing that's important is I've been focusing on groupings of trees. As you can see a lot of these preservation candidates are in groups, which is real nice because I can often times save more trees with the same critical root zone. I can get two or three tree saved in the same critical root zone as I would with one big tree. So, I get the advantage of getting more trees in the same protection effort.

I also get more advantage as far as soil chemistry. It's better for reducing soil erosion, better of wildlife. A lot of advantages to collecting

these trees.

And also during the grading process, it's easier for me to protect these groups of trees during the grading process, because we'll put fencing around these groupings and keep the big machinery out. And then if there's fine grading that takes place inside that, it will be with much small equipment under my supervision and that's how we make this work.

This is a project that I did up in Annapolis recently. We actually won an award from the Historical Commission on this preservation effort, but it was two trees. A big willow oak and a Norway spruce but it's not in this photo. But there were a number of houses around this tree and the BB&T Bank bought it and it's made a branch bank out of it. And they wanted to keep these two big trees. So, you can see the tree production fencing around that big tree at the top and all the activity that's going on around it.

And then at the bottom is the finished product with that tree looking very nice. But the important thing is right here, this pavement here, is actually a permeable pavement. It's an interlocking permeable paver that I bridged over the root system so that we could integrate the parking lot and maintain

the root system. So, there's a slight rise in this level right there of about eight or ten inches where the road goes over the root system. And that's a big, big part of this tree protection effort. And will be a part of this effort on the Dunmarlin project as well.

Here is some of the guidelines that we've been working up. It is very important to put guidelines out there for the community to designate tree protection measures and landscaping measures that we are using to maintain the trees and maintain the natural character of the site. I talked a little bit about them.

Just pick out a few of them here.

We had some plant lists that we'll talk here in a second that will be avoiding any kind of invasive, exotic and basic materials that could get into the surrounding parks. I know that's very important to the Park Service.

I'll be working with the Park Service horticulturist to refine the list, if they feel I've missed some plants from my list. But it is very important to get these guidelines out there.

I've worked with other communities in the D.C. areas that have similar kind of guidelines and

they do work quite well.

Here are some of the prohibitive plants that we're going to eliminate. Some that you probably know of in the landscape that we have found over time that are not naturalized. They are getting out of the, you know, their normal habitat and getting into rock Creek Park and particularly Norway Maple, Lampus, the Tree of Heaven, Sycamore Maple, Polonia, Silver Maple. A bunch of them.

Shrubs. The Burning Bush, unfortunately, that nice bright red -- now you want them as scrub. It is very invasive. I would not be recommending that. One I don't have on here is Rose of Sharon. Hibiscus, which is also fairly invasive.

But as I said, I will working with the Park Service to refine this. But certain we do not want to encourage plants or shrubs or vines or ground covers like English Ivy, which you'll see in second is just unfortunately very, very invasive in our landscape.

These are some of the vines that are existing in the center of this site. Most of the nice trees are around the perimeter of the site and that's because this land was open in the center. I'm sure for the Phillips Estate landscape. But over time

these invasive vines, Porcelain Berry, Bittersweet and Multiple Rose have moved in and it's really suffocated any new tree regeneration in the middle of that site. And you can in the bottom, the English Ivy is climbing up some of these big trees. That will have to be cut out because it does smother the foliage and can kill the trees.

So, we are very, very concerned about invasive vines and actually the interior development of the site will remove a lot of the source of this invasive material that is a problem to the Park. So, there is a big positive on that end.

And these are just some of the evergreens that I would like to see plants. I like to get away from the tried and true stuff and integrate some other trees that I know that are very good in this landscape. They might not be as widely used, but will be very elegant.

Norway Spruce is used quite a bit. The California Incense Cedar is a nice tree around here. Not used quite that much. The Fall Cyprus, Cryptomeria we use quite a bit. There's some nice cultivars of that.

Oriental Spruce, the Pycia Orientalis is a very nice tree. Just a lot of good evergreens that we

could integrate into the site that are not invasive, but naturalized.

And here are some of the shade trees. The Sugar Maples obviously, the European Beech is wonderful, Tulip Poplars, Kentucky Coffee Tree. Sour Wood, a beautiful tree. Scarlet Oak, which by the way is the D.C. State tree.

But anyways there's a little pallet of some of the trees we'll recommend.

And finally here just some of the small trees. The Sweet Bay Magnolia, two of which -- they are onsite right now. Beautiful trees, but we'd like to see more of those. Some of the Service Berry, the Witch Hazel, which is really nice. This Tea Crab, a nice one. A French tree. So, a lot of nice flowering trees that will show year round interest, not invasive, low maintenance, very nice trees. And that's the kind of thing we would be including in the planting guidelines.

And I think that's it for me.

CHAIRPERSON GRIFFIS: Thank you.

I have just one quick clarification question.

You're using the terminology invasive and naturalized and all that stuff. Are you talking about

the impact on the park in terms of invasiveness of what's in the park or can you just quickly define those terms?

MR. PITCHFORD: Well, there's both what are called exotics and native invasive. Greenbrier is actually a native vine, but it is rather invasive. It spreads very rapidly. Birds and so forth spread it and it takes over. And the problem is that it smothers the other plants on the site, whether it's ground covers or small trees, in particular. And it's just very hard to control. It just gets out of its--

CHAIRPERSON GRIFFIS: How invasive is this species of plants that have successful.

MR. PITCHFORD: Migrates. It migrates.

CHAIRPERSON GRIFFIS: It migrates. In five years it may take over everything and --

MR. PITCHFORD: That's right. The Park Service, I've worked with the Park Service. I've worked with Sue Salmons over there and talked to her about projects that I have on invasive plant management. And I know it's a big, big project for the Park Service and I'm, very aware of the plants that cause problems for the parks.

CHAIRPERSON GRIFFIS: Okay. And so naturalized, they're more friendly species. They

like --

MR. PITCHFORD: Native or naturalized. Naturalized means they didn't grow up here in the States. They came in, but they didn't get out of control.

CHAIRPERSON GRIFFIS: I see. Excellent. Okay.

MR. PITCHFORD: Okay. Thank you.

Who do we have left?

MR. NETTLER: Yes. Our last witness is Frank Lin who will talk about storm water management and grading issues and you have his C.V. as well. He's with Greenhorne O'Mara. We'd also pose him as an expert in engineering.

MR. LIN: Good afternoon, Mr. Chairman and members of the Board.

I'm Frank Lin with Greenhorne O'Mara at 9001 -- Road, Greenbelt 20770.

I'd like to talk about storm water management that we had previously to you provided storm water proposal is in accordance with the D.C. Government guidelines. And on top of that, we'd like to propose some water quality -- the water quality will be better than before.

We tried to use to provide the rain garden

on each lot for the great extent that the terrain permits, so the water quality will be better. And also I would like to take this opportunity to respond to the issue that was -- that has not been addressed before.

Okay. That is regarding the drainage problem on Foxhall Road that Mrs. Hardy has raise up. We will divert the water to a storm drain system that is on White Haven Parkway. That is to the southwest corner from our site. And it's --

And also we have done a couple of few visits and it was downstream of our property and it's going to be very close to a failure. So, we will study and provide proposal to improve this problem.

That is here.

And also we will offer -- study for the dumpster area from outside to compress with the midstream at the L4 and come up with a proposal regarding -- to prevent further erosion.

And also on the 44th Street, that's an existing center sewer line. Somebody said it was leaking. So, we have sent a crew out there to do -- the existing center sewer line and send it to us for confirmation. If there's a leak, then WASA would repair it. So, there be no more leak to the river.

CHAIRPERSON GRIFFIS: Within 12 years?

MR. LIN: No. -- has been done.

CHAIRPERSON GRIFFIS: Oh, okay.

MR. LIN: And most times the tech can't review it.

CHAIRPERSON GRIFFIS: Okay.

MR. LIN: There's one more issue about the road has been paved on the W Street. Storm placed there. Somebody be question about like the storm-water management has not been provided. So, will do the investigation on that and provide to D.C. DOT so we can come up with that to solve this problem.

MR. NETTLER: These are existing problems. Correct? That we're --

MR. LIN: That's issues. Not the problems.

MR. NETTLER: With regard to the site, however, you want to explain the two methods of storm-water management that we're proposing for the site?

MR. LIN: Okay. The storm management we have to talk about one of water quantity and one of water quality.

Water quality the premise engineer has provide underground -- structure to the water quality. But on top of that, we would like to promote using

rain garden on each lot if terrain permit. So, that way you can have infiltration to the system and it provide better quality for the roof top area and the driveway.

For the rural area, you will be going into the center of the structure for water quality control. And also if the terrain does not provide enough space for that, then a base saver system will provide the same water quality control.

For the quality control, we will provide the same system that has been used in this Field School is regarding underground oversize pipe storage to attenuate -- out to -- storm and back to a two year pre-development storm. So, the erosion -- there shouldn't be anymore erosion than it has before.

Okay. Next I want to talk about the grading. The roads that we had designed, this one will be no more than 12 percent and we will work around and this encounter and also the architect will provide the building design to work with the existing terrain. So, that way we can minimize the impact and the balance of the current view -- earth work.

MR. NETTLER: You want to explain what this slide represents?

MR. LIN: This slide, it is the layout for

storm water, center sewer and also the water line. Okay. We have talked to WASA regarding the water supply for this development. The only thing we can connect to is this existing -- line over here. And that has been looked. So, we provide a water line cut into the existing -- line.

And meanwhile, earlier we talk about the water leak because of prior demolition. We have talked to WASA and the WASA has decided this is the landowners responsibility. So we will take this time to correct this problem so there will be no more water leak over here.

And regarding the -- sewer, there's an existing 10 inch center sewer that I have mentioned before only previous proposals there was two connections into the 10 inch center sewer. We have modified that to have only one connection to the existing center sewer. And we will be obliged to avoid disturbing more trees.

MR. NETTLER: Thank you.

That concludes that presentation. Thank you.

CHAIRPERSON GRIFFIS: Good. Thank you. Let's start -- yes, sir?

OFFICER McELWEE: Excuse me, Mr. Chairman.

CHAIRPERSON GRIFFIS: There's an officer with him. You're going to have to come up and be on a microphone if you don't mind.

I'm sorry to interrupt you. I'm Officer McElwee. Second District. At the request of Mr. Larson, we were asked to conduct a traffic survey along Foxhall Road. And I have some brief testimony. I was wondering if I could offer it due to the fact that I have to attend another group proceeding at 4:00 p.m.

CHAIRPERSON GRIFFIS: Another group. I actually wanted you out in the street. Okay.

Mr. Nettler, any difficulty with that?

MR. NETTLER: No. I think actually -- I think it's actually already part of the record. At least, I saw it -- thought that it was, but that's fine.

CHAIRPERSON GRIFFIS: Right. The radar gun report --

OFFICER McELWEE: Yes.

CHAIRPERSON GRIFFIS: -- where you caught all those suburbanites?

OFFICER McELWEE: Yes, sir.

CHAIRPERSON GRIFFIS: Okay. I saw that. Okay.

I think it's no problems any of the parties in opposition object.

Let's do this now. I'm going to take Board questions and then we're going to take a quick break and then we'll do cross examination of all the witnesses.

Okay.

OFFICER McELWEE: All right.

Good afternoon, Chairman Griffis and members of the Board of the Zoning Adjustment.

My name is Anthony McElwee and I'm assigned as a traffic officer at the second district of the Metropolitan Police Department.

At the beginning of January 2005, I was assigned by my lieutenant to conduct a traffic study along the 2100 block of Foxhall Road. I have spent time observing and enforcing speeds along Foxhall Road in the 2100 block over the past several months.

Through the survey that I conducted, the average speed there I found to be 30 to 35 miles per hours, depending on the volume of traffic. The speed limit if clearly marked 25 miles per hour and the area between is two school zones that are a quarter of a mile apart.

I specifically posted along the 2100 block

of Foxhall Road during morning rush hours between 7:30 and 8:30 a.m. on January 7, 2005, as well as the evening rush hour between 5:30 and 6:30 p.m. on January 10th, 2005. This location is at the proposed new access road into the Dunmarlin Development. You will find my reports for dates attached to the letter in your file, which was submitted by Lieutenant Genie Sullivan. However, the average violator that I issued the tickets to who were stopped, the average speed was 41 miles per hour for violators.

It is my opinion due to the heavy volume of traffic combined with pedestrian traffic, that makes Foxhall Road more dangerous than other roads in the area. The road itself in the 2100 block of Foxhall Road is much narrower due to fact there is no shoulder in this area of the roadway. This area is prone to accidents.

It should be noted that on January 13, 2005, while conducting this survey, there were two separate motor vehicle accidents that occurred when I was in this area within 41 minutes of each other. One of these was a head-on collision directly in front of the proposed new entrance to the Dunmarlin Development. This involved injuries and also it involved an arrest of the subject that was under the

influence of a controlled substance or alcohol.

That's all that I have.

CHAIRPERSON GRIFFIS: Good. Thank you very much. We appreciate you spending the time with this this afternoon.

Do we have any Board questions?

Ms. Miller?

VICE CHAIR MILLER: I'm just wondering before you go if you have any recommendations that you wanted us to consider in the context of this development as far as traffic?

OFFICER McELWEE: My only recommendation would be, as I said, there is a heavy volume of traffic during rush hour, morning and in the P.M. And I think my recommendation through my opinion would be that a traffic light at the entrance to Dunmarlin right there at Foxhall Road would be appropriate.

I know there's two other traffic lights, however, this would be a traffic light that could be set off as a vehicle approached it. It trips a recorder that activates the lights. So, if there's no traffic coming out, the light will stay green.

CHAIRPERSON GRIFFIS: I see. So, an on demand signal.

OFFICER McELWEE: Yes.

CHAIRPERSON GRIFFIS: Ingress and egress from the development.

Good. Thank you. Any other more questions?

VICE CHAIR MILLER: I was just wondering as a follow up if you had raised that with DDOT?

OFFICER McELWEE: No. I have not.

VICE CHAIR MILLER: Okay. Thank you.

CHAIRPERSON GRIFFIS: Anybody else here?

Oh, before you go, Mr. Etherly, any cross examination?

MEMBER ETHERLY: No.

CHAIRPERSON GRIFFIS: The ANC have any cross to the officer? Parties certain -- yes. Residents?

Just to be absolutely clear, anything stated in this room has to be on a microphone. So, you got to come up and make yourself comfortable. Everything takes a little bit more time. But this way it all is official.

MS. BRADY: We just wondered why the traffic -- the rush hours were selected from 7:30 to 8:30 and 5:30 to 6:30, because we find that the rush is --

CHAIRPERSON GRIFFIS: Okay. That's the

question, rather than a statement.

Yes. Why did you select those times?

MS. BRADY: Thank you.

OFFICER McELWEE: That was what my lieutenant asked me to be out there during those times. I believe it came down through Mr. Joel Larson through that survey.

CHAIRPERSON GRIFFIS: Okay.

OFFICER McELWEE: That was what --

CHAIRPERSON GRIFFIS: That wasn't the lieutenant's problems, it was Mr. Larson's fault. Okay.

OFFICER McELWEE: But I was also out there during other periods of the time.

MS. BRADY: Did you notice if the traffic continued heavy beyond these hours that you were --the stated hours?

OFFICER McELWEE: Yes. No doubt there is -- there's heavy periods of traffic. There's also a school that lets out during the noontime hours and generally there's some commuting that goes through there and the traffic is heavy volume. Yes.

MS. BRADY: Thank you.

CHAIRPERSON GRIFFIS: Okay. So, you wouldn't classify this as 7:30 t 8:30, whatever the

hours were in the morning and the afternoon as -- they're specific examples of that time, but not necessarily a derivative of any other time during the day. The volume may be as high or lower? Is that - -

OFFICER McELWEE: The rush hour is extremely high on volume of traffic. Very busy. And the rest of the day, the volume is still high, not as high as rush hour, but it's congested.

CHAIRPERSON GRIFFIS: Okay. Excellent. Thank you.

MS. BRADY: But rush hour, would you agree that rush hour is longer than the periods that you there observing?

OFFICER McELWEE: Yes. It is.

MS. BRADY: Okay. I don't have anything further.

CHAIRPERSON GRIFFIS: Good. Ms. Case you now have a question? Oh, no. This is cross examination of the officer.

If there is any other cross? I'm sorry, Ms. Taylor.

Any other parties in opposition?

No other cross?

Very well. Thank you very much.

OFFICER McELWEE: Thank you.

CHAIRPERSON GRIFFIS: Appreciate it again and we do, as indicated, we have the entire report in written form in the record, Exhibit Number 27.

Let's move ahead then. Where were we?

Questions? Indeed. Okay.

Why don't we start, if the Board's okay, why don't we start in reverse of the witnesses and move up to the front.

I have a quick question in terms of storm water management. Actually, just a couple just for clarification.

On the exhibit list, our Exhibit Number 8, which I'm not sure of the chronology of all this stuff, Tab M, is a Storm Water Management Plan, that I believe graphically indicates what you indicated was going to be present and that is a pipe array and that's a storage or is that a filtering?

Great. And that's all below grade. Correct? That's feet of piping?

MR. LIN: Right. That is underground.

CHAIRPERSON GRIFFIS: Indeed. And it's fed from the street, so basically the street drains and all that.

MR. LIN: Right.

CHAIRPERSON GRIFFIS: And it goes into

that?

MR. LIN: Right.

CHAIRPERSON GRIFFIS: Filters and -- okay.

You indicated that -- that you -- as you started, I wasn't really clear. You were bringing up a lot of existing problems that are off the site.

MR. LIN: Right.

CHAIRPERSON GRIFFIS: Okay.

MR. LIN: That was raised by other parties.

CHAIRPERSON GRIFFIS: Okay. And were you suggesting that by this development and the remedies of storm water management that you will successfully cure those issues?

MR. LIN: Oh, we will -- what was the agency regarding the D.C. DOT, because that is the public property. We cannot touch that. We can offer another suggestion to them -- come out with them and then if there's anybody going change that, had to work with D.C. DOT regarding those issues. Talking about efficiency of the -- storm management.

CHAIRPERSON GRIFFIS: Okay. Right.

So, you acknowledge the fact there are problems outside of your control, but you're happy to

give recommendations on what DDOT should do --

MR. LIN: Right.

CHAIRPERSON GRIFFIS: -- or whoever is management of that.

You mentioned a couple of aspects of great technical and precise --

You indicated that the individual residents might be worked with in terms of using rain gardens.

MR. LIN: Rain garden. Yes.

CHAIRPERSON GRIFFIS: Okay. We need to discuss a little more of what that means and also this base saver system and how they're all going to integrate together with this pipe storage and the sand filtration and why do we have a pool on the bottom.

MR. LIN: Sure. The rain garden is --

CHAIRPERSON GRIFFIS: For non-storm water management engineers?

MR. LIN: Sure. Rain garden is kind of like a -- retention. It has a depression to depend the first flush of the water from the roof and the driveway of each lot. So, if we collect it at the depression and then using the existing soil conditions that has infiltration rate high enough for infiltration. Then beyond exceed that required volume

for the under drain to connect into the storm water system that we provide.

And then from that go into this underground oversized pipe for part of the control.

CHAIRPERSON GRIFFIS: Okay. But this depression that you're talking about, that's what we're seeing in terms of the pond or element on the bottom. Correct?

MR. LIN: No.

CHAIRPERSON GRIFFIS: You're saying it's on every individual --

MR. LIN: Of every lot.

CHAIRPERSON GRIFFIS: Interesting.

MR. LIN: If the terrain permits.

CHAIRPERSON GRIFFIS: And you're saying that is in fact you will create that depression, hopefully it will be maintained and then it will be analyzed so that it has enough infiltration of the water to handle -- essentially to handle, so you don't have a swamp every time it rains on all the properties.

MR. LIN: Right.

CHAIRPERSON GRIFFIS: But you can filter individual roof water on site without having to get it off onto pavements and things like that?

MR. LIN: Right. That's correct.

CHAIRPERSON GRIFFIS: Okay.

MR. LIN: And will do -- basically, the site is -- the soil is caused by speed it has good infiltration rate and we will provide some of -- analysis regarding infiltration rate.

CHAIRPERSON GRIFFIS: Okay. How do you stop someone from grading their property and doing away with your dimple in the soil?

MR. LIN: Can you repeat that again?

MR. NETTLER: It's going to be part of the homeowners' association covenants based on your --

CHAIRPERSON GRIFFIS: So, they would be well aware that --

MR. NETTLER: Right.

CHAIRPERSON GRIFFIS: -- look, this is not where you put your stone patio because this is where we're filtering water.

MR. NETTLER: Right.

CHAIRPERSON GRIFFIS: Okay. Indeed. Good.

Mr. Parsons?

MR. PARSONS: Mr. Lin, there's an exhibit which is -- I'm just going to hold it up because I'm not sure you've seen it before.

Is this your work?

CHAIRPERSON GRIFFIS: Right. In fact, that's the one I was just referring to. It's Exhibit M on the first --

MR. PARSONS: Exhibit M in the --

CHAIRPERSON GRIFFIS: Right. In the exhibit list, our Exhibit 8.

MR. PARSONS: Exhibit list. Yes.

MR. NETTLER: That's been -- you have an update to that. I think that was just presented today.

CHAIRPERSON GRIFFIS: Right.

MR. NETTLER: Which you should have as part of the packet that we have given out.

CHAIRPERSON GRIFFIS: Good. Which didn't show the pipe flow.

MR. PARSONS: It did not show --

MR. NETTLER: No. It does have --

Excuse me, I'm sorry. It does.

CHAIRPERSON GRIFFIS: I didn't see it.

But that's not where Mr. Parsons I going anyway.

MR. NETTLER: Okay.

MR. PARSONS: I know what you gave us today does not include this -- this retention --

MR. NETTLER: It doesn't include that one.

MR. LIN: It doesn't include that because in here it says storm in facility area. So, those facility will buried in this area.

CHAIRPERSON GRIFFIS: Okay. Good.

MR. PARSONS: So, did you design this facility?

MR. LIN: Yes.

MR. PARSONS: And what -- tell us about it, if you will. What does it accomplish?

MR. LIN: Okay. Well, we're going to do it this way.

The storm water coming will be collected and then conveyed through the proposed storm drain system. First through the water quality structure, that is same filter structure.

Then overflow through the underground oversized pipe for storage. So, that will attenuate the water so control the rate of the discharge through 12 hours period.

So, the discharge of the water from the development, will be no more than two-year pre-development rate.

MR. PARSONS: So, that only accommodates a two-year storm?

MR. LIN: Right. That is in accordance with -- no. It's controlled -- or storm.

MR. PARSONS: All right.

MR. LIN: And then only -- two-year storm pre-development rate.

MR. PARSONS: Okay. This diagram doesn't show a sand filter at the beginning of this system. It seems to show one at the end.

MR. NETTLER: The diagram that you're looking at is not this diagram. This is a modification of that.

MR. PARSONS: But there's no modification, Mr. Nettler. I mean, there's no current drawing of what's proposed.

MR. LIN: No. I didn't show it there. But this will be combined within this storm water management area.

MR. PARSONS: I mean the grading plan that was submitted today shows very steep slopes over this.

MR. LIN: Okay. This area is not -- it's not a depression. This --

MR. PARSONS: Understand. And your grading diagram shows a great deal of fill and a steep slope down to the wetlands on top of this.

MR. LIN: Right. The facility will be

beyond the buffer, 25-foot buffer from the well end and, of course, there's fill in there too. But the storage is inside this oversized pipe, not above the pipe.

MR. PARSONS: This say 60 inch pipe array.

MR. LIN: Right.

MR. PARSONS: So, it's a series of 60 inch pipes.

MR. LIN: Right. It could be 84 inch. It depends on also we have to accommodate -- the irrigation we have to do. That is shown over here.

MR. PARSONS: Let me say. I think it would be helpful if you have a new diagram that relates to this which shows the design of this and calculations of the storm water run-off --

MR. LIN: We'll provide that. Yes.

MR. PARSONS: -- that's coming off of these streets.

MR. LIN: We have done --

MR. PARSONS: Are you taking any water off of Foxhall Road?

MR. LIN: No. Originally, it was suggested to divert to our site and then a couple of day ago it will change saying we have to divert to the White Haven Parkway storm drain system. So, we will

work -- actually, we have discovered D.C. DOT has planned to improve Foxhall Road. We don't know the schedule yet. And we check into that.

So, we will coordinate with them regarding how to divert this water into White Haven Parkway storm water system.

If we do the improvement first, we will do that diversion. If it's not, then we will coordinate with D.C. DOT.

MR. PARSONS: And that would be White Haven Parkway to the west?

MR. LIN: Yes. It's over here.

MR. PARSONS: Not to the east?

MR. LIN: Right. On this one is a utility map from WASA. Okay. This is White Haven Parkway. Over here is a storm drain system over here.

MR. PARSONS: Thank you. Okay.

Now, I'll talk to you and Mr. Barnes at the same time and maybe the tree people at the same time.

We were just handed this site plan which I think is the fourth one I've seen today and I appreciate it's a moving target, I guess, as various sub-consultants come togther. I'm not sure. But the specimen trees keep moving about, where you're ones

you're going to save are moving about on these illustration.

And the grading diagram also shows, I think, significant grading on the trees that you're trying to protect and I'm not sure we can do it verbally as much as maybe we can reconcile these two plans.

MR. NETTLER: Let me first, before I turn it over Mr. Pitchford, is just explain what we -- what you're seen is a number of things coming together, which are, we had responded to the Friends of White Haven request at the ANC meeting with, as Mr. Barnes had shown you, which was a rougher design. And what we've been trying to do over the last two weeks after meeting with the ANC is to continuously refine that so that the trees and the tree, storm water management program and the grading get finalized as much as possible given what did you say, it was a moving target in terms of the changes in the design.

What I think is important to understand here is that our expectation is that the lot lines -- this is the closest we've gotten to the lot line that we're going to get in the conceptual stage that we are today, because our expectations as we try to preserve those trees, those lot lines within a very small

degree are probably going to move so that we don't have construction and grading on those and maybe Mr. Pitchford can explain that a little bit more.

MR. PARSONS: Well, let me get very specific, rather than general.

Take a look at Lot 813. Lot 813 in Barnes' diagram shows a cluster -- a significant cluster of trees on it.

MR. PITCHFORD: Yes.

MR. PARSONS: The next plan, called the Current Site Plan, shows a completely different configuration of trees on Lot 813. I don't know if that's yours, Mr. Pitchford, or somebody else's.

And then Mr. Lin's plan shows extensive grading over those trees, whichever if they're Mr. Barnes' trees or your trees. So, what I'm suggesting is that you get this together and repackage it and come on back and say, are we really saving 65 trees or not?

I'm very concerned about Lot 813 anyway for other reasons. But, it seems to me to be a very problematic coordination between the three of you.

MR. PITCHFORD: Right. Let me just address both of your questions.

One was, is it a moving target? It really

hasn't been as fluid as you might think, except that we are gaining trees. I mean, we have worked very hard to pick up a few nice trees, rather than lose them and that was the effort of that small loop road at the bottom of the property.

You know, and we really do have a very nice collection of trees right now to work with. And it is going to take some work with regard to the grading plan and I've made that very clear to the engineers and the site plan people. And they seem very willing to make these adjustments.

The reason why I talked a little bit about the critical root zones being a bit malleable is that they are. I mean, we can move them around a little bit as long as we save that volume of critical root zone that I feel is important to keep the tree healthy and they stay out of that minimum clearance zone.

So, it is a -- once we get down to the final site plan and grading, it is going to be a very detailed process. There's no question. We're going to have sit down and really look at the need for some retaining walls or some pier footings or raised grade beam features or bridges over some of these root zones. But if the commitment is there by the owners to keep these trees, and I believe it is, then we will

work around them and keep them there. I'm quite certain we can.

But we've ended up picking up more trees than we did before -- than we had before.

MR. BARNES: Mr. Parsons, can I address the question as well?

This is a preliminary grade plan which you will notice has no retaining walls shown in it. Sort of a first pass of grading without taking into account some of these other tree-saving issues. You're absolutely right. There's more coordination that's needed. There will need to be some retaining walls and some of the grading that's shown won't be able to take place in the areas where the trees are.

It needs to be -- it obviously needs to be worked out in more detail.

MR. PARSONS: Well, how are we going to do that? I mean, one of the main proffers of this is to save 65 trees? By the way, I only count 50 on this. It may not be your diagram, but --

MR. PITCHFORD: Yes. That is not mine. It does not have all --

MR. PARSONS: I think we have to reconcile this, because that's one of the major proffers of your -- of your project here. And certainly Lots 824 --

824, 813, very problematic. To retain the trees that you're testifying you're going to retain.

I think we need -- I don't know how you're going to get a driveway down to 813. If that's the pad you're proposing to build on, I guess that's what these grading diagrams show, each one of these lots has a potential pad as shown by Mr. Lin.

Is that correct?

MR. PITCHFORD: That's what I understand.

MR. PARSONS: Yes.

MR. NETTLER: It has a potential pad, but the entire pad is not going to be developed.

What -- this is -- the pad represents what under the zoning regulations is permissible in terms of side yards, rear yards and front yards which are required under the theoretical subdivision regulations. They are not the -- the development will not encompass the entire pad.

MR. PARSONS: No. I'm talking of Mr. Lin's plan. It's the ones that shows that.

MR. NETTLER: Right. I understand.

MR. PARSONS: Not this one.

MR. NETTLER: Okay. I understand that.

CHAIRPERSON GRIFFIS: Wait.

But, Mr. Parsons, your -- of 813, the more

level area at the top as a pad for the building footprint or are you talking about the entire --

MR. BARNES: The grades don't need to be moved much on 813 to be able to put a house on it. It's shown that there is some grading on here. There should probably be almost no grading on 813. And you can put a house there and preserve the trees.

MR. PARSONS: Well, that's not what the drawing shows. It shows the entire contours of the site pushed from where it say A13 toward the --

MR. BARNES: I'm so sorry. I was looking at Lot 113. Excuse me. I was looking at --

MR. PARSONS: Anyway, I guess what I would ask is, without spending the afternoon on this, is to take a look at this grading plan in the context of what you, Mr. Pitchford, and say --

MR. PITCHFORD: I agree.

MR. PARSONS: Show us that this site is really buildable, because I don't think it is. I don't think you can get a driveway to it. I don't think you can build there without destroying this cox of trees that has been on all of the drawings so far today, maybe in different configurations.

MR. PITCHFORD: That would be one of the more difficult sensitive sites. There's no question.

You pointed out the two most difficult on the property. But that's no bad given the number of sites we have to have just two or even three problematic sites.

CHAIRPERSON GRIFFIS: Right. Okay.

I think it's clear what he's asking for. I mean, obviously, if we're getting, and you guys keep now saying it's preliminarily conceptual, but by the time we get to an order approved, it's going to be very specific and it will be conditioned.

And Mr. Parsons bring up the specific point of we're talking about exact account of the trees that are preserved, is that something will actually be conditioned. If this is an actual reality , great trees should preserved, but won't be, we don't want to have that written into an order that would then have complications down the road or just not be done.

So, what we're looking at specifically is one, the tree plan which is excellent information overlaid onto the proposed grading plan. Obviously, we see a little bit more realistic aspect of where those are occurring and then, Mr. Parsons, you wanted to actually see how one might access the site, perhaps, through a footprint building, footprint and

driveway or an indication or that?

MR. PARSONS: Yes. Similar to what Mr. Barnes did.

CHAIRPERSON GRIFFIS: Right. Exactly.

MR. PARSONS: I can't remember what exhibit it is, but he did have typical landscape plan and siting plan on a particular lot.

MR. NETTLER: Well, we actually have -- we did three of them. But we can do one on this as well.

CHAIRPERSON GRIFFIS: Right. It was Exhibit -- or Tab 3 of the submission and there's actually four sites that we're looking at. Plan a, Plan B, the typical Plan D and B Plan, C House.

MR. NETTLER: Okay.

MR. PARSONS: Now, I think I miss spoke earlier when I said A24. I meant 35 and 34. I couldn't read that print.

CHAIRPERSON GRIFFIS: Regarding what?

MR. PARSONS: This study for 35 and 34 and 13.

CHAIRPERSON GRIFFIS: I'm sorry. Now I'm confused.

MR. PARSONS: 813 is the one we spoke -

CHAIRPERSON GRIFFIS: Right. You're talking about lots. Those are numbers.

MR. PARSONS: And than there's 835 --

CHAIRPERSON GRIFFIS: Corresponding to lots. Exactly. Now, good. Okay.

Anything else on that?

Are there other questions?

MR. PARSONS: Yes. Will Mr. Barnes be the architect of this project or will you be bringing in -- each lot owner bringing in their own architect?

MR. BARNES: Our expectation is that there will other architects that would be pre-qualified to come work on the sites. We plan to design a number of the houses on the sites, but certainly not all of them. And we are within us to chair the Architectural Review Committee and enforce the standards through the initial development of the lots.

MR. PARSONS: So, the homeowner's association if that's what it's going to be called. Is that correct?

MR. BARNES: Yes.

MR. PARSONS: Will have an Architectural Review Committee?

MR. BARNES: Yes, indeed. Indeed.

MR. PARSONS: And you will be chairman of that? I'm kidding. Okay. It would be difficult to practice and be chairman of the review board I

suppose.

MR. BARNES: I can always abstain.

MR. PARSONS: It's often my experience in homeowners' associations, the expertise to deal with these issues is not there.

MR. BARNES: The make up of the Architectural review Board, which is noted in the guidelines that you've handed out today, would include at least one other peer architect, representation of the owners of the properties, a landscape architect or civil engineer, an arborist, as well as someone from our office.

MR. PARSONS: So, these are people the homeowners' association or initially the developer, I suppose, would retain?

MR. BARNES: Exactly.

MR. PARSONS: To serve on this committee?

MR. BARNES: Exactly. Exactly.

MR. PARSONS: Is that written inhere anywhere?

MR. BARNES: Yes, sir.

MR. PARSONS: Where do I find that? Tab what?

MR. BARNES: What's in the architectural review. It's in the architectural guidelines which I

think were only recently refined -- handed out today.

MR. PARSONS: Oh, you just passed them out.

MR. NETTLER: Right. You did.

MR. PARSONS: I haven't had a chance to read them. Thank you.

Mr. Nettler, you've been kind enough to include the zoning of 1981. A case I remember very well. And not that it guides us. It's obsolete. It was a different project and so forth, but we worked very hard to get setbacks of 30 feet from the parks. And I'm wondering why you came to a different conclusion here?

MR. NETTLER: In terms of the setbacks on the park?

MR. PARSONS: Correct.

MR. NETTLER: Well, the setbacks from the park aren't as we said. That we have an initial setback that's part of the rear yard, but the houses aren't built up to that rear portion of the lot.

The expectation is that those pads that then back up to those rear yards are then open space behind those houses. So, in most cases here, and maybe I'll give over to -- afterwards, but I think you're talking about more than 30 feet from the edge

of the park to where those houses would be built.

MR. PARSONS: How do we know that?

MR. BARNES: May I answer that?

MR. NETTLER: Yes. Sure.

MR. BARNES: May I answer that question?

In the architectural guideline, there is a requirement that the front of the house be on or within I think three or five feet of the front yard, building restriction line. So, to help create the consistent street scape like you saw in the other neighborhoods that we focused on this, appropriate models, the houses have to start at the street scape. So, unless someone builds the house, you know, eight feet wide and 40 or 50 feet long, they're not going to reach all the way to the backyard.

So, because that is a requirement, each house has to start right at the front of the lot. So, with the exception of perhaps the narrowest side on the east side where the loop road goes, it's probably impossible not to cross the 40 percent or 35 percent building footprint and get there.

MR. PARSONS: Well, then I don't know what diagram to hold up. Let's try this one. It's called the Current Site Plan.

MR. BARNES: Okay.

MR. PARSONS: And I'm not sure that's the one that's on the wall or the same information as the one on the wall. But--

MR. BARNES: I believe it's the one you're holding.

MR. PARSONS: This shows dashed lines up to within 25 feet of the parks as I grasp it.

MR. BARNES: Right. And --

MR. PARSONS: I'm not sure what they mean. That's why Mr. Lin's grading plan was instructive, but how is it we can push the line back from the park a little farther to make sure that these massive structure, and certainly on a 20,000 square foot lot here, you're going to have the largest structures in the subdivision facing the park.

MR. NETTLER: let me, if I might.

MR. PARSONS: I'm trying to push that line down --

MR. NETTLER: I'm sorry. Those are not -- those are not the --

MR. PARSONS: -- to get some reality.

MR. NETTLER: Those lines that you see there are only there because they reflect the 25 foot -- the 25 foot portion adjacent to the park that's set off. That's not the building line for those lots.

MR. PARSONS: I'm encouraging you to do that.

MR. NETTLER: Right. Which is what --

MR. PARSONS: To give a building line. A true setback for all of these lots going along the park. And not to say, well, we'll set back 25 feet, because that's why --

MR. NETTLER: We're talking about the same thing and, I guess, maybe I'm not making myself clear.

MR. PARSONS: I want a 100 foot setback to be specific.

MR. NETTLER: I can't give a 100 foot setback. I understand what you're saying.

MR. PARSONS: Well, it's easier to talk specifics than it is generalities.

MR. NETTLER: Right. And maybe Mr. Barnes can answer this better than I.

What I thought Mr. Barnes was trying to explain to you was, by putting the requirement that the house be built within a certain feet from the front, we were pushing it off of what could conceivably be a rear building line, if the house was built was all the way off of the front of the lot.

So, we've got a 25 foot yard -- front yard that's required, because these are theoretical lots.

You then have a requirement on the architectural guidelines that it has to be built, was it three or four feet? Is that --

MR. BARNES: I can't remember that.

MR. NETTLER: Three or four feet off of that line. That doesn't allow you to then go all the way back, because we then have other covenants that are restricting in all the -- which we provided to you as well, in all of the parcels that back up onto the park of what you can do in the rear of those houses that are then built.

And in addition to that, is beyond that area that you can -- whether you can put in a pool or not put in a pool because you put restriction on that, then the additional buffer that's then provided.

So, they're actually way beyond 30 feet as you notice in the other order in terms of development for those houses, away from the park. Because you can build back that far, given where you have to start on it.

If you want us to add something that makes it somewhat more -- makes it clearer, then we can certainly do that, but that's what I thought Mr. Barnes was trying to explain in addressing your concern, which I think is one that we share about how

close anything gets to the park.

MR. BARNES: May I add something, Mr. Parsons?

MR. PARSONS: Please.

MR. BARNES: If the houses start -- because there's a 40 percent in this Zone R1A, there's a 40 percent restriction on lot coverage. If the houses just in terms of geometry of the houses start at the front yard restriction line that we're requiring of them, the possibility any of them could be that long to get all the way back there, I think you're going to run into 40 percent with useable rooms and not get there.

We don't have a specific line anywhere that says, a building may not go any closer than 25 feet. What is possible and likely is that there might be other improvements. There might be a swimming pool. There might be a terrace that would be in the backyard that you cannot come any closer than the 25 foot setback from the park.

If you're asking if the developers would consider a larger distance than 25 feet, that's something for the clients to answer.

MR. PARSONS: Well, I would certain ask you to consider that. I think these lots are

inordinately large. And will just result in massive houses that require swimming pools, tennis courts, retaining walls to make sure that they -- they can fill the backyard to accommodate those needs.

MR. BARNES: I don't believe any of these lots are big enough.

MR. PARSONS: And that's the vandalism, if you will, that I'm trying to see if we can pin it down, because it's not in your interest as developer in a first-grade community --

MR. BARNES: Right.

MR. PARSONS: -- to allow that to happen.

MR. BARNES: I don't believe any to these lots could accommodate a tennis court for what it's worth. But pools. Yes. There will be pools.

MR. PARSONS: Maybe a combination.

MR. BARNES: --

MR. PARSONS: I beat that to death. I want to go to this issue of the road that you moved.

MR. NETTLER: Excuse me.

MR. PARSONS: The road that was moved?

MR. BARNES: Yes.

MR. PARSONS: The road then as originally proposed would solve some of the problems I was just sharing with you. That is, the road is definitive.

The front doors of the houses are --

MR. BARNES: Right.

MR. PARSONS: -- are alongside the road. And whatever they do in their backyard is away from the park.

And I applaud you for taking that approach. Now, that puts you squarely between friends and others.

MR. BARNES: Indeed.

MR. PARSONS: Why did you choose that approach in the beginning? I'm not asking you to defend it, but you certainly took that approach.

MR. BARNES: Two reasons, specifically.

It had been our intention the design the road system that each road go through and be a continuous loop that would allow someone driving through the neighborhood or lost in the neighborhood a way through, not into a dead end.

The way that the terrain is arranged on that lower spur between the wetland and the White Haven Park, certainly lends itself to development with the road that would follow the grade going down there and provide access best back the other way.

We also were aware in earlier discussions with the Park Service, we were under the impression

that they preferred a road at the southern boundary than they would the rear yards.

When we ran into I thought a very -- the well put and, you know, environmental strong reasons that the White Haven folks did not like the road there, and so Mrs. Hardy had similar reservations, it seems to us that in the environmental balance would probably be best served by tightening up the loop by putting restrictions in the rear yards that backed onto the park so that things couldn't get out of hand against the park to create the green buffer. And then in the end, not having a roadway right up against the park made more sense from an environmental point here. So, we were to balance the two competing notions and came around to that being what we thought was best.

MR. PARSONS: What, again, is the environmental point of view?

MR. BARNES: Well, they might be able to articulate it if invited better than myself, but they were concerned, I believe, that a road right next to the park was an attractive nuisance, would bring cars right next to the park rather than gardens and it would bring paving and run off right next to the park as opposed to yards, which would be, you know, have perkable soils and so on.

MR. NETTLER: It is also, is it not correct, that it -- it resulted by moving the road, it resulted in the preservation of more trees?

MR. BARNES: There were some more trees saved and also in the end not building a bridge, although there are approved manners to build a bridge through a wetland, which would have been an attractive feature here, you're still leaping over the wetlands and some construction would be in there during that process.

This loop meant that we kept all construction roads out of the wetland altogether and that seemed to be a benefit as well as the tree savings.

MR. PARSONS: So, the bridge which isn't shown in this exhibit I keep picking up. Maybe it's for a good --

MR. BARNES: I'll show it where it was.

MR. PARSONS: It isn't really shown, but it was a bridge over the wetlands?

MR. BARNES: There was a bridge that was going to connect the road. This loop road previously shown ran along the edge of the park.

MR. PARSONS: Yes.

MR. BARNES: Went over the wetland and

connected up right there.

CHAIRPERSON GRIFFIS: He's got it.

MR. PARSONS: So, is the bridge the entire wetland?

MR. BARNES: I believe it needed to bridge the entire wetland. Yes.

MR. PARSONS: Now, what is the appearance of that wetland today?

MR. BARNES: There's a small stream. There are some cattails. There are trees around it. It's not --

MR. PARSONS: No other construction? I mean, it's just pure wetland? Nothing else?

MR. BARNES: It's a small narrow wetland, because there is existing grade around it, but it's a pretty -- it's essentially a pretty stream with, you know, a wetland vegetation around it.

MR. PARSONS: So, hasn't there been some filling on this property prior to your involvement?

MR. BARNES: Oh, yes. I think there has been. There is an old well or what looks like an old well here right at the beginning of the wetland, where there's an old structure that was probably where the Phillips Estate, we believe, got its water from initially before there was city water.

And there's certainly evidence of fill along W and in the whole area where the pad of the main house and probably the original terrace and gardens were.

MR. PARSONS: So, none of that fill got down in here into the wetlands?

MR. BARNES: Not to my knowledge. I've walked it and I haven't seen anything to suggest that.

MR. PARSONS: Now, how do we know -- Mr. Lin just mentioned that Foxhall Road would be rebuilt. Is that something -- I guess we ought to ask the Office of Planning about that rather than --

MR. LIN: I have checked -- I called D.C. DOT and talked to a Mr. Patrick and he is looking at that now for me so I'll follow up with that.

MR. BARNES: There is some history to an initiative to improve Foxhall road because of its condition and so on. And there is some sort of plan in the library nearby and I had heard that there a schedule that would have some of this work be started this spring. There's been an ongoing Foxhall improvement initiative with DDOT. Maybe Joe Osborne.

CHAIRPERSON GRIFFIS: You can -- that scope or schedule or both?

MR. PARSONS: Well, their site plan.

Well, a site plan. We'll pick this one. The third ANC submittal shows, you know, some reconfiguration of Foxhall Road --

CHAIRPERSON GRIFFIS: Right.

MR. PARSONS: It's beyond our jurisdiction, but I wondered whether --

MR. BARNES: The recent configuration you're seeing there, is we're taking out of our property an entrance lane -- create an entrance land into the site off of Foxhall.

CHAIRPERSON GRIFFIS: Right.

MR. BARNES: So, that you --

CHAIRPERSON GRIFFIS: The point though is, what he's looking at and even the other, any aspect on Foxhall Road is within the scope of this development. It's actually going to happen irregardless of whether the city is redoing the entire street. Hopefully, the schedules coincide so that you don't rip it up twice.

MR. NETTLER: well, that's what we've talked to them about. That's right.

CHAIRPERSON GRIFFIS: Right. Okay. So, that's what we're looking at.

So, the critical aspect of this schedule for our understanding but irregardless that scopes

going to be done.

MR. NETTLER: Right. We understood it was supposed to start in the spring. That may not happen, but we've told them we wanted to coordinate with them. Because the houses that would be built first, are the matter of right houses which are the ones that sit directly on Foxhall.

MR. PARSONS: Oh. I'm glad you brought that up. That's my last question.

MR. BARNES: All right. Can I make a correction?

Some of the matter of right lots were in the first plan. The matter of right lots that we plan to build first were along W Street so that the W Street neighbors had the shortest concentrated period of construction. And then these new houses would provide a buffer for them for noise and disturbance for the rest of the construction of the building.

MR. PARSONS: I thought I had a pretty good hint on the regulations, but this is a new one to me.

The matter of right houses are matter of right only because they have frontage on W Street and Foxhall? They don't have access?

MR. NETTLER: Well, they do have access.

MR. PARSONS: Theoretical access.

MR. NETTLER: No. They have access that we've agreed that we will provide as an easement through the property. But we could as Mr. Slade demonstrated, we could, as a matter of right, take each individual lot and have a driveway off of it. We're essentially giving it access off of the easement that we're creating off of that lot that -- off of the entrance to the remaining part of the larger lot.

MR. PARSONS: So, I'm having trouble understanding why if it's so dependent on -- if they're so dependent on the proposal before us, how is it that they are matter or fight?

MR. NETTLER: Well, they're not dependent. We're willing to take that away from -- we're willing to take away from them the driveways. They individually -- each lot can go in separately with a house on it for approval by the Zoning Administrator, because it meets all of the zoning regulations, including it would have a driveway that could be provided off of Foxhall. Each one of them separately and the way the zoning Administrator looks at them is, he doesn't look at it as 13 lots. He takes each lot separately to see whether it meets the zoning requirement that has street frontage.

And what we're saying is, we're willing to forego having a driveway for each one of them and simply come in through the lot in the back. Come in through the larger -- the larger lot that would be -- the larger record lot that would be created separate and apart from the 13 record lots.

MR. PARSONS: So, why is it that they're not part of this proposal?

MR. NETTLER: Because they are matter of right lots. They can be constructed without us having to get any zoning relief.

MR. BARNES: We've been trying to present an integrated plan of the lots that could be developed as a matter of right without asking for any privileges, together with the ones that we're here for, because we're trying to plan this as an integrated neighborhood and we're trying to respond to the concerns of neighbors over all new changes including matter or right lots.

So, we are willingly placing some restrictions, organizational matters over lots which would just be -- allowed to them to build their houses the way they wanted to better serve the neighborhood plan as a whole and some of the concerns of the neighbors.

MR. NETTLER: The way it would work in the Zoning Administrator's office is, you'd have 13 record lot numbers and the interior would be number 14. The number 14 can be a access point, if we simply weren't going to anything, but we were going to commit ourselves not to have driveways on Foxhall or W. Number 14 itself can be an access point for each of those lots in the back and that's the way it would be presented to the zoning Administrator. And each one of those without regard to what's going on with the other 33 theoretical lots at all. Let's say there was no 33 theoretical lots, each one of those lots would then go forward as a separate buildable lot, because it has that access to it.

It's not access from a --that the individual lot has to have the access, you know, as a driveway on Foxhall, it has to have the street frontage and it has to have the parking space and you have to be able to get to the parking space.

MR. PARSONS: I guess I still don't understand why you didn't include it. I mean, I cannot believe you get four curb cuts onto Foxhall Road from the Department of Transportation. I just can't believe it.

It may be theoretically possible, but I

just can't imagine that.

CHAIRPERSON GRIFFIS: I think we can -- why don't we just have you brief it and we can have just a small thing. I think in terms of -- and we'll look at the regulations. Because the whole point of the fact is that it's street frontage access, not necessary that you are required to put a driveway with a garage frontage on that street, but rather the lot is a matter of right in terms of that aspect of the regulations. And because it fronts a street.

Additionally, you said if you laid them out in terms of the required dimensions for all the regulations, so that there is no relief in terms of that subdivision.

MR. NETTLER: Correct.

CHAIRPERSON GRIFFIS: Okay. So, we can get -- if we can't answer that ourselves, we'll ask for further information on that.

MR. PARSONS: Thank you for your patience, Mr. Chairman and other members.

CHAIRPERSON GRIFFIS: I have tons of it.

MR. PARSONS: Thank you.

CHAIRPERSON GRIFFIS: Good anything else?

That's all the questions for all the witnesses?

MR. PARSONS: Yes.

CHAIRPERSON GRIFFIS: Excellent.

Any other questions by the Board members?

Yes. Mr. Mann.

MR. MANN: Just a couple.

There are several places in the application where you indicate that there's a lot of coordination and discussion with the National Park Service, but I was wondering if we should -- should we expect -- is there going to be -- when will these things -- when will the agreements come to completion and should we expect to see further documentation regarding -- I don't know -- well, a lot of the aspects that Mr. Parsons was discussing, particularly regarding trees and the edge treatments and a three-foot fence on the eastern southern borders.

Will there be any other information that we should be made aware of regarding this coordination with the NPS?

MR. NETTLER: We have provided to the people that we've been working with a letter indicating the coordination that we see going forward with the project and I can talk to Mr. Murphy. He's sitting in the back of the room and see if he has any problem with my providing you with a copy of the

letter. But, it lays out the issues that we've talked about and how -- and we believe it requires that coordination because it is a work in progress in terms of making sure that these issues are addressed. And I will talk to him and see if he has a problem with my providing it to you.

MR. MANN: Okay. The three-foot fence that is going to be built on the eastern southern border. On the eastern border, is that going to be between the property that we're talking about today and 44th Street? Or is going to be between 44th Street and the NPS land?

MR. NETTLER: I'm sorry. Let me go back to the question right before that because Mr. Murphy says I can provide you with the letter that we have provided to him, except if I make it clear that there was a quote in the first paragraph of the letter about the Park Service being on board with our project, which that maybe a little bit -- about him being on board with maybe a little bit too broad, in terms -- what I was trying to get across was the fact that we have identified a number -- well, he has identified a number of issues. We are willing to resolve those issues. We've discussed in the letter how we're going to resolve those and things that we've already done in

terms of it so, please take that with a grain of salt.

MR. MANN: Okay. The fence that's proposed --

MR. NETTLER: I'm sorry about that.

MR. MANN: That's all right.

The fence that's proposed on the eastern edge of the property, is that being proposed between the subject property and 44th Street or between 44th Street and the NPS land?

MR. BARNES: It would be at the edge of the property so that the 44th Street paper street appears to be and feels like parkland.

MR. MANN: Okay. Will this proposal require submission to other agencies, such as Commission on Fine Arts?

As people were to develop -- as the lots are developed, would they require submission to CFA?

MR. NETTLER: Not that I'm aware of. No.

MR. MAY: Okay.

MR. NETTLER: The -- it does obviously require other D.C. agencies to review it throughout the permitting process, but it does not -- it does not sit adjacent to Rock Creek Park, so it's not governed by -- it's out within the Commission of Fine Arts jurisdiction as far as I understand.

MR. MANN: Okay. Thank you.

CHAIRPERSON GRIFFIS: Any other questions? Question of the Board?

Good. I think we'll have more last piece -- if I recall correctly in the written submission, there was some detail of burying and sort of the power, phone and all this high internet stuff and connections and then there was an agreement with adjacent properties also to deal with their situation. Is that right?

MR. BARNES: Right. At the moment there are above-ground power lines and low voltage improvements on W Street. We have made a commitment to the W Street neighbors that the owner said they would agree to bury those provisions on the south side of W Street. And all the new services are intended to be provided below grade within the development.

CHAIRPERSON GRIFFIS: Okay. And the south side is the property side. Is that correct?

MR. BARNES: The south side is our property side. Yes.

CHAIRPERSON GRIFFIS: Good. Any other questions by the Board at this time?

Excellent. We're going to take a short break. Let everyone stand up and stretch their

muscles, get the blood flowing.

When we return, what we're going to do is we're going to have the witnesses at panel here and we're going to start with the cross examination and then we'll go to however you want to decide the cross questions and we'll have cross of all of the witnesses.

I imagine we're going to get through cross and probably some of the --

CHAIRPERSON GRIFFIS: Okay. Agencies this evening, we are going to try and hit a schedule of ending at 6:00. We may go a little bit over, but we're certainly not going to 10:00 or 11:00 tonight, unless I change my mind and be persuaded.

But, indeed, there it is. Okay. We'll see you in 10 minutes.

(Whereupon, off the record from 4:28 p.m. to 4:49 p.m.)

CHAIRPERSON GRIFFIS: Do we have our witness panel up?

Pardon me?

Very well. Does the ANC have anymore questions?

While we have this time when the panel is getting assembled for cross examination, we're going

to get through all cross.

At a point where we get close to 6:00, it looks like depending on how much cross examination there is, of course, that's untimed and it's always a little bit unpredictable, although I will be on top of everyone to keep direct and not repeat questions, of course. There's no purpose for repeating questions.

Let me say two things.

First of all, cross examination is now the opportunity for those parties involved in the case to question witnesses that essentially poke holes in their case or investigate further information that you feel supports your case presentation and your issues and may not have come out in the testimony of the Applicant's case.

So, I ask a couple of things in direction. First of all that the questions are short, succinct and clear and the answer are the same. As much questions can be poised in a yes, no answer format, the better.

In the end result, all of these questions are for the benefit of the Board. We are the ones that are trying to evaluate where you're going in the investigation and, therefore look at weaknesses of a case presentation or vice versa.

So, that being said.

The second piece that I know there is going to be concern about how far we get along and then what do we do after this?

The issue is going to be, it looks like we'll just get through cross examination tonight. We will at that point set a new schedule, a new schedule date to continue this and we will announce it in public and that will be the only formal announcement of the next date in a continuation of this hearing.

As we are speaking, dates are being assessed. I will make that everyone can be relatively accommodated with such a large group, of course, it is going to be difficult, but we will try and do our best to do it.

With that, I think we're already to roll.

Do we have everybody here? Three, yes. Mr. Nettler?

MR. NETTLER: Not that there were --

CHAIRPERSON GRIFFIS: Okay. So, we're waiting on one person.

Mr. Nettler, while we give 30 more seconds to that, can I ask you a quick question on the follow up of a statement you made that there were similar applications to this theoretical lot application. Did

I understand that correctly?

MR. NETTLER: Not that there were theoretical lot applications for this site.

CHAIRPERSON GRIFFIS: No.

MR. NETTLER: That since that regulation was adopted, I think there's only been about four cases really that have been --

CHAIRPERSON GRIFFIS: That utilized the section of theoretical lots.

MR. NETTLER: Correct.

CHAIRPERSON GRIFFIS: Okay. And do you recall any of those? Were any of them fairly current?

MR. NETTLER: There's one that is which I'm not sure -- I might have provided it, but I'll g look and check. The other three were very, very small situations. And really weren't analogous to this.

That hasn't come up yet but --

VICE CHAIR MILLER: No. But it's --

CHAIRPERSON GRIFFIS: Okay.

MR. NETTLER: So, in terms of there being actual decisions, there's only been about three or four or them. One of them is for a site -- one of them is for a site that is not that far from this one, but I'll give you the application and we'll all sit down and just -- I've got a witness so --

CHAIRPERSON GRIFFIS: Okay. That's all we need.

Very well. Let's go ahead then. We can address the cross examination of those witnesses that are here now and when the fourth one comes back in, we can move on to that one.

MS. HAAS: I'm Ann Haas, H-A-A-S. And I'm the ANC Commissioner who is a single member district goes from Foxhall Village to the Firsttown Reservoir area and up Foxhall Road to the Phillips Estate.

My address is 1601 45th Street.

Okay. I guess this is Anthony Barnes.

Do you have a site contract that will keep you on the project throughout its duration?

MR. BARNES: I have a contract with agreed terms, not signed, but it addresses the plan that I've gathered here on the project.

MS. HAAS: Okay. Do you think it will be signed soon or --

CHAIRPERSON GRIFFIS: I'm going to ask you. You are very soft spoken, which is amazing.

However, for our purposes, you need to be soft spoken directly into a microphone.

MS. HAAS: Okay. All right. Okay.

Do you anticipate its being signed in the

near future?

MR. BARNES: Imminently.

MS. HAAS: Okay. Let's see.

Page 28 of the February application makes mention that the W Street matter of right houses shall be completed first. How many houses are you proposing to place on W Street?

MR. BARNES: As part of the current plan, there are 10 shown and that's what we prefer to build.

MS. HAAS: Okay. And so many by right then will be have altogether?

MR. BARNES: By moving the one lot that was shown initially on the east side up into the matter of right lots, the total in the whole development has changed, but the number of matter of right lots has increased by one, from 13 to 14, I believe, it is.

MS. HAAS: I thought it was five and seven and that would be 12. Right? Is that right?

MR. BARNES: Sorry. It went from 12 to 13.

MS. HAAS: Nine. Okay. One, two, three, four, five.

CHAIRPERSON GRIFFIS: Wait. And how many are fronting W Street?

MR. BARNES: Twelve or thirteen.

CHAIRPERSON GRIFFIS: Nine count no the image that's right behind you.

MR. BARNES: Yes.

CHAIRPERSON GRIFFIS: So, it's nine that you -- the answer to the question.

MR. BARNES: Nine. Nine on W Street.

CHAIRPERSON GRIFFIS: Okay.

MS. HAAS: Okay. Page 32 of the application refers to minimal site lines in either direction at W Street. Aren't the current site lines to the south of proposed Dunmarlin access stripe even more restrictive and would an on-demand traffic light be a good idea there?

MR. BARNES: I think the slides that were shown with the testimony of the traffic engineer, show that because there is actually a high point close to -- on Foxhall Road or at least a level point right opposite the entrance, the site lines are much better both up and down Foxhall Road, so there's increased safety already.

However, I do agree that an on-demand light would increase the safety enormously for anyone trying to enter or leave the development.

MS. HAAS: Okay.

MS. GATES: When you met with the ANC earlier this month, there was an agreement that you proposed that you would relinquish al rights to 44th Street. And would work with the developer to have jurisdiction transferred back to the District. That has not been mentioned today and it was one of the conditions the ANC put forward. Can you tell us what the current thinking is?

MR. BARNES: My understanding, the offer is still open to do that from our side. I believe that the Park Service is not sure that it necessarily wants the jurisdiction overall of the land.

You might ask Mr. Nettler if he can clarify. I don't know.

CHAIRPERSON GRIFFIS: Well, let's go.

As far as your understanding is, you don't have an agreement but you're amenable as

MR. BARNES: We remain amenable to turn those rights over.

CHAIRPERSON GRIFFIS: You're amenable to do that?

MR. BARNES: Yes.

CHAIRPERSON GRIFFIS: Okay.

MR. BARNES: Our position has not changed.

MS. GATES: At which point will this

Architectural Review Board kick in?

MR. BARNES: It's going to be active as soon as any lots come up for development. As soon as anyone is, you know, any site is ready and graded. The formal tribunal will be convened, I guess, but the same members of that group are being retained by the developer to advise all the way through the development of the lots.

We do have more grading and tree reconciliation to do as Mr. Parsons pointed out. And the same team is going to be doing all of that work until such point as it then starts to address the needs of new perspective homeowners.

MS. GATES: How many of the matter of right houses -- my impression from your testimony was that you have really contributed the design concept for this development.

So, how many of those houses, matter of right houses, are you actually planning to design?

MR. BARNES: As many as I can, but it's not tied down anywhere.

MS. GATES: So that, I take it is part of the unsigned contract?

MR. BARNES: A certain number of houses -- a third is what we are talking about doing that I our

firm would design. It doesn't say where they would be in the development.

MS. GATES: So, it's a third of 47 scattered about?

MR. BARNES: It could be that way or it could be all one place. Just a third that we discussed.

MS. GATES: And as a well-respected practicing architect in the city, how do you deal with your colleagues when you absolutely hate what is being proposed?

Now, I'm speaking as Mr. Barnes, head of this Architectural Review Board.

(Whereupon, at 5:00 p.m., the hearing continued into the evening session.)

E-V-E-N-I-N-G S-E-S-S-I-O-N

5:00 p.m.

CHAIRPERSON GRIFFIS: He's been sworn in as in the public record.

Mr. Barnes, how do you deal with these errant architects?

MR. BARNES: With care and respect.

The guidelines have been written to try and -- not to exclude any styles but to try and focus the designs in ways that are derivative of the traditional styles seen on the East Coast, most of which arrived originally from Europe, but modified by planet and traditions on the eastern seaboard.

There are proportions of windows and roof slopes and materials that help guide that, but it doesn't specifically mention a style that's been forbidden or required in any point.

MS. GATES: So, it would limit building material --

MR. BARNES: Yes.

MS. GATES: Okay. Thank you.

MR. BARNES: Yes. So, by building materials. Yes. That's how we go.

MS. GATES: I have no more questions.

Thank you.

MS. HAAS: Okay. Now, do you have a signed contract for this project?

MR. PITCHFORD: Do I have a signed contract?

MS. HAAS: For the duration. Right.

MR. PITCHFORD: For the duration? Not as of yet. I fully anticipate one. Yes.

MS. HAAS: In the near future?

MR. PITCHFORD: I hope so in the next week.

MS. HAAS: Okay.

MR. PITCHFORD: By the end of tonight would be nice.

MS. HAAS: How long does it take root damage to manifest itself?

MR. PITCHFORD: Wow. We could run a workshop on that, but it can take a long time, if the tree is healthy. The tree can compartmentalize pathogens and keep them at bay for quite a while.

If the tree is weaken, if the system is weakened, the pathogen can move in rather quickly, within a matter of a few years.

MS. HAAS: And are there particular trees that are especially sensitive to being disturbed

during construction and, if so, how do you plan to protect the?

MR. PITCHFORD: Well, this question was asked at the ANC meeting too, which was the tool popper and, you know, those of us in the industry know that they are sensitive to root damage. My experience, and I've been doing this awhile, is that if you can maintain that minimum clearance zone around those trees that you're a whole lot further ahead of the game and if you can maintain a good large critical root zone, then I always apportion the largest critical root zone a foot and a half per diameter inch for those trees because of their sensitivity. But it does take some extra work, there's no doubt.

MS. HAAS: What about beech trees?

MR. BARNES: Beech trees are very sensitive as well.

MS. HAAS: How many big beech trees does this site have?

MR. BARNES: Numbers, I mean, right off the top of my head, probably a good dozen large beech trees.

MS. HAAS: And how do you protect them?

MR. BARNES: The Beech trees. Well, they get a foot and a half of critical root zone for

every --

MS. HAAS: I mean for a fence or, you know?

MR. BARNES: Oh, yes. They get, as I showed in that one slide, they get a very high, six-foot tall wire mesh fence. I like to set them in the ground rather than on blocks so they can't be moved.

I've been to sites where I've had wire mesh fence that was set in concrete and I come to it and it's stacked in a pile over to the side. So, it has to be really very well anchored in order to be permanent.

But the big thing with beech trees is to keep their roots covered. They don't like to have their roots sun scalded. That's when they get very sensitive. So, you have to mulch them and all sort of irrigation techniques and soil moisture monitoring that would go into it as well.

MS. HAAS: Let's see. I guess those are my main tree questions.

Alma, do you have any?

MS. GATES: I really just have one more and it is not a silly question. It sounds silly.

You're well aware of the deer herd that live in this area. When I was there Sunday, they were

right at Foxhall Road.

Are there species of trees, the shrubs, etcetera, that you are recommending on the list that are considered deer food?

MR. PITCHFORD: Well, I don't think so, but the deer seem to expand their pallet every year it seems. You know, certainly they like the arborvitae, the yews. I don't have those on my list. They are very hard to control as you know, but I don't have any on the list that I would are primary food for the deer.

MS. GATES: So, we wouldn't see any Leland Cyprus?

MR. PITCHFORD: I don't like the Lelands. All sorts of Pseridim Canker problems with that tree right now. It's not one that I'm really recommending. It's not invasive, but it just has a lot of inherent problems right now.

MS. GATES: will you have a role with the Architectural Review Board as far as once a house is designed, accepted by the Board. Will you have a role as far as landscaping?

MR. PITCHFORD: I would be happy to do that if I were asked.

MS. GATES: But will you oversee what is

being proposed?

MR. PITCHFORD: Well, I will certainly probably write the majority of the tree protection -- I will definitely write the tree protection guidelines, but certainly the landscape guidelines, I think I would have a say in it as well. Sure.

MS. GATES: Thank you. I have no more questions.

MS. HAAS: Would that include the wetlands?

MR. PITCHFORD: I'm not really as trained in the wetland science as I would to be to serve that function, so I think -- I have a friend that I work with who works with me occasionally on wetland issues and I might recommend him or others that I know, but I probably would not do myself. No.

MS. HAAS: Okay. I think enough.

MS. GATES: Actually, I'm going to turn to Mr. Slade, I think.

I'm going to the book for the Board that has numbers. Number tabs.

CHAIRPERSON GRIFFIS: The Book. Capital T, Capital B. Good. You mean the Applicant's submission?

MS. GATES: Yes.

CHAIRPERSON GRIFFIS: Indeed.

MS. GATES: And I'm behind tab 7, which is this plan.

Do we have a slide of this?

CHAIRPERSON GRIFFIS: Which is the up close entrance on Foxhall. Is that correct?

MS. GATES: Yes. It's this one. But we don't have a slide.

Mr. Slade, your proposal is to create an interior lane. Correct?

MR. SLADE: When you say interior lane, which are you referring to?

MS. GATES: I'm talking about your removing some of -- I'm referring to this as your own property here that would allow cars coming north to simply fold into the development and cars wanting to go north out of the development would use this sort of interior access lane to feed into Foxhall.

MR. SLADE: Yes.

MS. GATES: Okay. Where is the stop sign for anyone coming out of the development?

MR. SLADE: We're proposing a sidewalk and the cars would be stopped on the east side of the sidewalk inside the property. So, if you imagine the sidewalk reaching this -- our entrance on either side,

north and south of the entrance, and there would be a handicap ramp down to the entrance with a crosswalk painted on the entrance. And behind that crosswalk to the east side, there would be a stop bar and the stop sign would be at that location.

So, the cars would stop. The first car in line would have its front bumper just inside the crosswalk.

MS. GATES: So, I've come here on this interior road and I'm here. Can you tell the Board what's here please?

MR. SLADE: Well, there would be a lot there.

MS. GATES: No. What currently exists right -- if you come out of this --

MR. SLADE: Well, there's just the wooded open space that's part of the property.

MS. GATES: Isn't it a six-foot high berm?

MR. SLADE: Yes. There's --

MS. GATES: And it totally blocks the line of site for anyone coming out of here?

MR. SLADE: Yes.

MS. GATES: Okay.

MR. SLADE: Well, you can't come out of there now. There's no road.

MS. GATES: I understand, but this is your proposal. So, how can it possibly be safer for anyone stopped back here at a stop sign to make a left turn here?

MR. SLADE: Well, first of all that corner, that -- the southwest parcel. And that intersection is exactly where you're finger is, is a lot where there will be a home will be built, so that will be regraded to accommodate that lot.

MS. GATES: But this belongs to Mrs. Hardy, doesn't it?

MR. SLADE: That piece down there is Mrs. Hardy's piece. Yes.

MR. BARNES: Can I also answer the question for a minute.

The first 100 feet or so of the area to the left of that stop sign is part -- is the first lot of our development. And the berm that Ms. Gates refers to begins to rise in that area, not immediately, but it does more toward Mrs. Hardy's property line which is probably there.

Obviously, we would grade that out and remove any trees that are in that area. We don't have control of Mrs. Hardy's property and if it were clearer, it would be better.

The grades on Foxhall Road help the site lines be substantially better once you get there. Those cars may need to inch forward to see better right now. We've been discussing with Mrs. Hardy who is open to the notion of a sidewalk and some grading and dealing with the berm in front of her property, but she also has legitimate concerns about sound and screening from Foxhall Road. And we believe both issues can be address adequately, but some of that is part of the future.

MS. GATES: Wouldn't this whole problem be solved though if an on-demand light were placed there?

MR. SLADE: The site distance issue is solved by the presence of a traffic signal. Yes.

MS. GATES: Thank you. I realize traffic isn't going to improve on Foxhall Road, but that isn't being -- that isn't a consideration for this development. But I think the safety of the residents on W Street, if they are being allowed to -- I'm sorry, I'm testifying.

CHAIRPERSON GRIFFIS: You felt my wrath coming down on you.

Any other questions?

MS. GATES: No. Thank you.

CHAIRPERSON GRIFFIS: Any other

witnesses?

MS. GATES: Yes. Mr. Lin.

What is your working relationship with Steven Crom?

MR. LIN: Steven Crom is a previous engineer.

MS. GATES: And when did you join this project?

MR. LIN: It was a couple of weeks ago.

MS. GATES: You talked about DDOT making improvements to Foxhall Road.

MR. LIN: Okay. Mr. Slade, mentioned about, Foxhall improvements. So, I make a phone call to Mr. O'Valley of PCPOP and he's checked into that.

MS. GATES: In previous presentations, we have seen a large catchment basin and I believe this was mentioned before. I just want to make sure I understood it.

The catchment basin that was above the wetlands no longer exists.

MR. LIN: It's still there. It going to be -- we have calculated that. It will be 60 foot by 2000 feet.

MS. GATES: So, that will remains and in addition to that we have ecologically sensitive rain

gardens.

MR. LIN: It possible if terrain permit.

MS. GATES: Do rain gardens -- would the rain gardens that you're proposing require residents, homeowners to maintain them? Is it something that just takes care of itself?

MR. LIN: It's typically -- yes. Just like a regular lawn mowing. That's all.

MS. GATES: Like regular lawn moving?

MR. LIN: Yes. It's essentially -- but it specify for the area and that's it.

MS. GATES: So, each yard has some grading in it that creates this rain garden and from the day the people move in in perpetuity, the rain garden takes care of itself?

MR. LIN: Right. You cannot plant tree there though.

MS. GATES: Okay.

MR. BARNES: If I may address something.

The homeowners' association will clearly need to administer and monitor these the same way that they are committed to the rear yards that would be the buffer onto the park. It clearly needs some maintenance and oversight.

MS. GATES: I see these homeowners really

having quite a list of -- a checklist to deal with.

Mr. Lin, are you aware that there's already -- I think you alluded to this, a serious drainage problem on Foxhall Road?

MR. LIN: It's not serious because I went there a couple of times wherever the drainage that was divert to a culvert south of Mrs. Hardy's residence, the -- is only starting from south of the -- at the high points. So, from the high point, the most that are going to -- of the street during this catch basin. And south of that going to that culvert -- existing culvert beyond the stream it will be going eastward and westward. So, actually it's very minimum drainage going to that culvert.

MS. GATES: Where is the watershed for this area?

MR. LIN: The watershed would go -- again, it -- go to the park.

MS. GATES: No. Where is the watershed located for this area?

MR. BARNES: Are you specifically referring to the water on Foxhall?

MS. GATES: Yes.

MR. BARNES: I believe the watershed is exclusively south from the intersection of W, because

there are storm water devices to catch water from --

MS. GATES: The watershed? The watershed?

MR. BARNES: The high point of the watershed is Foxhall Road as far as I know.

MS. GATES: It is at Field School.

MR. BARNES: Okay.

MS. GATES: There has been ongoing, as you are aware no doubt, there is --

CHAIRPERSON GRIFFIS: Or are you aware?

MS. GATES: Are you aware -- thank you, Chairman.

Are you aware there is an ongoing problem between Field School and the contract, because their storm water system that you're referring to in here has failed?

MR. LIN: I didn't know about that issue.

MS. GATES: Well, are you aware that the people that live below McArthur Boulevard on Hutchins Place, which is a slight dogleg from where White Haven crosses McArthur are flooded on a regular basis from water running down White Haven Parkway where you are proposing to put this water?

MR. LIN: I heard about that.

MR. BARNES: So, how will adding more water, regrading Foxhall Road according to your plan

mitigate the problems the people on Hutchins Place are having before the regrading takes place?

MR. LIN: Okay. What's going to happen is, we will coordinate with DDOT. If our development come first, we will include the -- we will provide the catch basin. That will include all the -- and that going to be better to the system when White Haven Parkway. That way the drainage is reduced going downstream to -- the -- you're talking about.

MS. GATES: So, you're proposing putting in a new storm drain at White Haven and Foxhall?

MR. LIN: No. We connected the existing system over there from Foxhall road.

MS. GATES: I got it. I got it.

I'm sorry. I've sort of lost my train of thought here.

Are you aware that the plans for improvements to Foxhall Road are sitting in the Palisades Library? Are you aware the deadline for comments February 25th?

MR. LIN: No. Because I just heard of the improvement from Mr. Slade. That's why I start --

MS. GATES: Are you aware, Mr. Slade, of those plans in the library?

MR. SLADE: I learned that at your ANC

meeting.

MS. GATES: And have you gone to see them?

MR. SLADE: No, but I have left Voicemail with Mr. Kaleed and DDOT who will be -- have some level of involvement in that project.

MS. GATES: Are you planning to ask him to postpone those improvements?

MR. SLADE: No. Pending -- we're going to inform him of this project and pending, of course, the action of the BZA, is the timing works. I've worked with Mr. Kaleed in the past in situations like this. He will look for opportunities to integrate any changes that this project might foster in a timely way that would not delay the Foxhall Road -- DDOT Foxhall Road improvements.

MS. GATES: And what kind of changes are you talking about right now?

MR. SLADE: Well, we talked about this storm water connection as one possibility.

If this project -- if Dunmarlin had reached -- if Dunmarlin reaches a point where the developers of Dunmarlin are confident that they are going to be able to go ahead, and then Mr. Kaleed to say to them, I'm speculating totally.

I can include your required connection as

an add-on to my contract, but of course I'll need you to pay for that. I'll need the developers of Dunmarlin to pay for it.

MS. GATES: I think you've lost me there on your contract.

MR. SLADE: DDOT looks for opportunities to avoid what Mr. Griffis referred to earlier which is just fix the street and now we come back and tear it up.

MS. GATES: Exactly.

MR. SLADE: So, one of Mr. Kaleed's objectives is to be aware of everything that might be happening that could cause that to happen and incorporate changes to the design so he doesn't have to come back and tear it up for our storm drain connection.

MS. GATES: So --

MR. SLADE: So, we would, you know, we already are trying to contact them to make sure they are aware of the kinds of things that Dunmarlin would need to do in the public right of way on Foxhall Road, so Mr. Kaleed can decide whether he wants to try to do some of them concurrent with the -- their project.

MS. GATES: If the long-awaited improvements are to begin in April and I believe that

they are, how will these improvements be incorporated? How will you have time to get them incorporated when we may still be here in April?

MR. SLADE: Well, I don't know if it's going to be possible, but starting in April doesn't mean that he's excavating to do the storm water connection, for example, until perhaps August. So, depending on the staging of his project, there's always a possibility.

MS. GATES: And, Mr. Barnes, have you applied for any permits yet?

MR. BARNES: No. No. It's premature.

MS. GATES: Thank you. I have no more questions.

MS. HAAS: I have a question about the Field School.

Will you be talking with them about their drainage system in anticipation of this project?

MR. LIN: Well, actually, Park Service has just show me a set of plan that were designed for this Field Service storm water facility. And he will share with me a copy. I promise him starting that and see if there's a problem there, it can be construction problem, it can be a design problem.

MS. HAAS: Because I understand that there

are a couple of neighbors who are still experiencing water problems now and we're hearing that the Field School System is the standard and that's kind of scary.

MR. LIN: Well, it's not --

CHAIRPERSON GRIFFIS: Wouldn't you agree?

MS. HAAS: Don't you agree?

MR. LIN: It's not only that. Because sometimes you have a design drawing. You may not build to that. So, we have to look at as built one too.

CHAIRPERSON GRIFFIS: Okay. Anything else?

I thank you all very much.

Just have a quick follow up questions of the Board.

Mr. Mann.

MR. MANN: Ms. Gates brought our attention to the attachment behind Tab 7. I'd like to just ask a question to clarify that. I don't really quite understand precisely what I'm looking at, although it says Option 1, it looks like it might actually be more than one option.

To start with, are the hatched marked areas medians or areas deleted as medians which --

MR. SLADE: It would probably be. This is not a design, it's a sketch, but it would probably be pinstriping.

MR. MANN: Okay. And so we have appear to have two southbound lanes, one of which is the dedicated left hand turn lane.

MR. SLADE: Correct.

THE COURT: And then it narrows back to one lane. Then one northbound lane which is a through land and a right turn lane. And then as you're heading west, you would turn right into a northbound lane.

But what I don't understand is, and maybe there are two options actually being depicted. Doesn't that right hand turn lane take you right onto the sidewalk?

MR. BARNES: I think what's being shown is the property line of the subject property would need to be -- it would need volunteer land to make that second land occur, which they're prepared to do because there's not enough right of way that's under city control right now. So, that's what --

CHAIRPERSON GRIFFIS: Are you preserving sidewalks across that entrance in whatever option you propose?

MR. BARNES: Yes. The idea is to try and suggest that pedestrian safety crossing, that there would be a stripped walk or something.

CHAIRPERSON GRIFFIS: No. I'm saying. It brings up an interesting point. Your drive lanes do cross into the sidewalk. And my point is, as you're indicating and the property line would have to be moved back or an easement be granted.

You're preserving sidewalks all the way through on Foxhall, so they wouldn't be interrupted. Is that correct?

MR. BARNES: Yes.

CHAIRPERSON GRIFFIS: Okay. And they would turn into the site also?

MR. BARNES: Yes.

CHAIRPERSON GRIFFIS: Okay. So, that's a critical aspect because obviously that's not showing on the options in this diagram. But it's worth understanding.

MR. BARNES: It's small, but it's shown on our bigger site plan. It's hard to read.

CHAIRPERSON GRIFFIS: Okay. And so following up then, is the definitive -- well, how do you go about getting this definitive in terms of the impact on the property. Meaning, you're going to have

coordinate this with DDOT, correct, in terms of changing the drive lanes and the turn lanes? What's the anticipated schedule for that? Or are you going ahead -- are we looking at on the property line, which is all our jurisdiction really goes to, are we then to look at a site plan that shows the property line set back accommodating a sidewalk that would also accommodate an anticipated turn lane?

MR. BARNES: The plan that was at the end of this development -- the very last -- oops. The sidewalks are actually shown there and they would be created in a right of way that would end up being partly in Foxhall Road. There would be some sort of right of way deeded to the city to create the turn lane and the sidewalk would be on our side of Foxhall before the useable property that could be sold to someone would actually -- that new property line for sale would be created to allow the sidewalk on Foxhall and the turn lane to exist within the current property line.

CHAIRPERSON GRIFFIS: Okay. Understood.

However, it's only the north side that you set it back. On the south side it still would have to overlap, because your sidewalk stays aligned with what looks like would be in alignment with Foxhall with no

turn lane.

MR. BARNES: Clearly, it needs to align in such a way that it makes sense.

CHAIRPERSON GRIFFIS: Okay. Okay. And that's all --

MR. BARNES: But I recognize it needs to.

CHAIRPERSON GRIFFIS: So, I think an excellent question, Mr. Mann.

Let's continue with a quick follow up.

Ms. Miller?

VICE CHAIR MILLER: Mr. Slade, we heard from various people today that an on-demand light would increase safety. Is that under consideration by DDOT in connection with the improvements to Foxhall Road?

MR. SLADE: It is not yet.

The ANC attached it as a condition to their approval and we agreed that we would talk to DDOT as soon as it was appropriate, which would be after BZA's assumed approval of the project.

MS. GATES: Mr. Slade, wasn't the attachment or the agreement that the developer would cover the expenses involved in the installation of this light, that we never intended -- I do not believe we intended this to be DDOT's nickle.

MR. SLADE : As I remember your resolution, your resolution said it would be the developer's nickle. And I can't speak for them as to how they are going to respond to that condition.

MS. GATES: Well, I believe, wasn't the agreement -- I thought we got a thumbs up head nods, either from Mr. Nettler or the developer sitting there that, yes, they agreed to this? Is that your recollection?

MR. SLADE: that was my -- that is exactly what I remember. I don't remember whether it was verbal, nodding, thumbs or whatever. But that's my understanding.

CHAIRPERSON GRIFFIS: But there were no high five's involved?

MS. GATES: No.

CHAIRPERSON GRIFFIS: Okay. Just nickels.

MS. GATES: Thank you.

CHAIRPERSON GRIFFIS: Of course.

Just to be clear, of course, I'm not sure how much control this Board would have over this in this particular Special Exception of conditioning the provision of a signalized light. But clearly we're are looking at traffic impact. And I think it's an important aspect to have a discussion on.

MS. GATES: May I ask you to refer to the Field School case please?

CHAIRPERSON GRIFFIS: When the --

MS. GATES: Where signalized intersection was required.

CHAIRPERSON GRIFFIS: All right. Very well. Let's move ahead. Let's get the next cross.

Who would like to go next in the party in opposition. The Friends? Excellent.

MR. SNAPE: Good evening now, I think.

Mr. Lin, I'll start with you.

Has the storm water plan been peer reviewed yet?

MR. LIN: My or --

MR. SNAPE: Yes. Well, the current -- the current storm water plant for the project?

MR. LIN: By whom?

MR. SNAPE: I'm just asking, has it been peer reviewed by anybody?

MR. LIN: No.

MR. SNAPE: Well, do you expect that it will be?

MR. LIN: Yes.

MR. SNAPE: Do you know when?

MR. LIN: After this meeting.

MR. SNAPE: After this meeting?

MR. SNAPE: After this meeting.

MR. LIN: Yes.

MR. SNAPE: Okay.

CHAIRPERSON GRIFFIS: There's a whole great future after this meeting.

MR. SNAPE: It appear that way.

CHAIRPERSON GRIFFIS: You said you have more clarification on that? You were getting out of your chair.

MR. LIN: Because were have the same. Because I start this project a couple more two weeks ago.

CHAIRPERSON GRIFFIS: If you don't know, you don't know.

MR. LIN: Yes.

CHAIRPERSON GRIFFIS: That's the better answer. I don't know.

MR. SNAPE: Was there someone else who was going to add something?

CHAIRPERSON GRIFFIS: I don't know.

MR. NETTLER: Are you here --

MR. LIN: For the previous?

MR. NETTLER: Right. Or --

MR. LIN: Proposal. Yes.

CHAIRPERSON GRIFFIS: Okay. So clarification is brought that we're actually talking to the peer reviewer of the original storm water management.

MR. SNAPE: So, you wrote the plan and were the peer reviewer for the plan? Or there was another person, a previous person wrote it and you peer -- Was this person from the same firm of is it different?

MR. LIN: Same firm.

MR. SNAPE: All right. Same set of questions with regard to the grading plan, which I think was just released today for the first time. Is that correct, this grading plan? Will this grading plan be peer reviewed?

MR. NETTLER: It's the exact same thing. They are the peer review for the prior plans that had been --

CHAIRPERSON GRIFFIS: Okay. They are the peer review for the prior plans, Mr. Nettler is saying. But was there a prior grading plan that was reviewed by you? So, there's an original -- let's call it the original grading plan --

MR. LIN: Yes.

CHAIRPERSON GRIFFIS: -- and you have

looked at that and also created a new grading plan which you submitted today?

MR. LIN: Right.

CHAIRPERSON GRIFFIS: Okay.

MR. SNAPE: Thank you, Mr. Nettler.

MR. BARNES: May I add that we plan to review it obviously for the needed integration, the tree saving, the design of the lots and the roadways.

MR. SNAPE: Terrific. Thank you.

I want turn our attention to the filter catchment system. I'm not sure I'm talking about that precisely.

But will this filter system, is it currently designed to filter salt?

MR. LIN: Salt. This is designed to filter what it specifies in the storm management guidelines for by the first -- water quality control.

MR. SNAPE: So, salt that would be put down on these roads, if these roads or road system was to be built during the winter, if there was a snow storm, this filter would not be able to catch that salt from the system you now created? It would not catch the salt? Would not filter the salt?

MR. LIN: Right.

MR. SNAPE: Is it your best opinion and

expert understanding that that salt then would very possibly go into the wetland that's there?

MR. LIN: It's possible, but we -- we didn't create more.

MR. SNAPE: You didn't create more what?

MR. LIN: More like a salt going to the wetlands.

MR. SNAPE: Okay. My question --

MR. LIN: Actually, if I can say, the salt portion of the check against the guidelines say there's some different facility that provides kind of water quality control -- that.

MR. SNAPE: Okay. Just so we're clear on my question. My assumption was that there will be more -- my question is assuming there would be more salt as a result of a new road that will have more snow on it at some point that will have salt applied to it. That was the assumption of my question.

MR. LIN: Well, I will say it this way. With the rain garden system, the salt or the -- through the grand, not through by pass through the wetland.

MR. SNAPE: Okay. I'll get to the rain garden system again in a second.

I have the same set of questions with

regard to chlorine. There was a mention that there will be some pools in this development.

Would this filter system filter through the chlorine?

MR. LIN: Okay. Actually, the pool water is going through the waste water line not through the storm drain.

MR. SNAPE: Okay.

MR. LIN: So, it shouldn't be an issue.

MR. SNAPE: Okay. Okay.

MR. BARNES: That's a D.C. requirement.

MR. SNAPE: Thank you. Since you mentioned the rain gardens, let me turn to that. I was going to do that near the end, but it's relevant.

What percentage of the property, about 16 acres of the property, will be dedicated to rain gardens?

MR. LIN: Like I said probably --

MR. SNAPE: I didn't catch the exact amount.

MR. LIN: Okay. What I say is if the terrain permits to provide that.

MR. SNAPE: So, what will be the general percentage of the property that will have -- I'm not sure I know how big this will be, is what I'm trying

to get at. How big this rain garden apparatus will be.

MR. LIN: Well, this is a conceptual. What we propose to do is we provide with this extent the grading permits. Because rain garden is required in a flood area to have a depression. If it's deep slope, it won't work.

MR. SNAPE: Okay.

MR. LIN: So, it be somewhere you can create a -- build a pad and build within that -- provide that kind of facility.

MR. SNAPE: Okay. Thank you. I think I understand that.

Will -- for the properties, the lots that will have these rain gardens, and this may not be for Mr. Lin. This maybe for Mr. Nettler or someone else.

Will this be a covenant condition on the deed for these properties? Is that the expectation?

Mr. Nettler.

MR. BARNES: Thank you. I would believe so, yes. We do have other covenant controlled buffer areas around the edge of the property and I think this about be appropriate to be included and for maintenance the same manner.

MR. SNAPE: That makes sense.

And, Mr. Barnes, approximately when do you think we will see the rain garden design? What's a reasonable time?

MR. BARNES: After this meeting?

CHAIRPERSON GRIFFIS: As soon as we know what plans. Right?

MR. BARNES: Not to be factious, as soon as the grading plan is much more resolved than wherever these things can be provided, we'll put down on the grading plan -- detailed grading plan.

MR. SNAPE: I'm going to go back to Mr. Lin again.

You had talked about a two-year storm capacity and a 15-year storm capacity and I'm frankly not familiar with whatever the regulations may require. I don't know if it's two year or 15 year. But assuming it's the more, maybe someone knows that, but assuming --

MR. LIN: Let me put it this way.

MR. SNAPE: Yes, please.

MR. LIN: We have done a calculation based on the current conditions, the two year -- three CFS down through the well end. That's our calculation of the 15-year development site, you will produce 15-year storm. So, we have to provide attenuation storage so

we can slow down the flow rate so there's no more than 2 CFS.

MR. SNAPE: Okay. Does anyone know? I do not know the answer to this and it may not be fair to ask Mr. Lin this question. But, does anyone know how many 15-year storms we've had in the last 15 years? It's a serious question.

MR. LIN: Well, USDS should have that.

MR. SNAPE: Okay. I'd like the Board to know that it's possible there have been a lot of these, by no one here knows the answer to that.

I'm going to turn to grading now.

And I think, Mr. Lin, again, it's for you but any of you can chime in.

What is the slope of the fill area leading down to the wetland?

MR. LIN: Slope area that we have now is lie 3:1, but this is real sort of conceptual, because right now we don't have advantage of using retaining wall to reduce the grade. So, our -- will have more detail and the steep slope condition will be reduced.

MR. SNAPE: Okay. Well, I don't want to offend Mr. Nettler, because I'm a lawyer too, but I am just a lawyer and I always thought that slop grades were expressed in percentages. Is there a number

grade --

MR. LIN: 33 percent.

MR. SNAPE: Say that again?

MR. LIN: 33 percent.

MR. SNAPE: 33 percent. Okay.

How high is the fill going to be on that grade? Do we know how much fill? How high the fill is going to be?

Any of you? Mr. Barnes? Mr. Lin?

MR. BARNES: It looks like 10 feet to me. Excuse me. It looks like about 10 feet of fill to me. But it's preliminary.

MR. SNAPE: Okay. Mr. Barnes, I think this is a question for you, but any of you can, again, chime in.

What was the reason that you did not seek a 100 foot setback from the wetlands? What was the rationale behind that design? I believe, we are at 25 feet right now?

MR. BARNES: Well, this is a private development. Twenty-five feet is, I believe, what's required as agreed to -- excuse me. What is required. It was agreed to by the Army Corps of Engineers and so we were obviously happy to respect that, because they are -- the owners are trying to develop the land.

MR. SNAPE: A lot of answers in the audience, but thank you. I appreciate that.

Has the Park Service -- does anyone know whether the Park Service or any D.C. environmental agency has taken a look at that 25 foot figure?

MR. BARNES: Well, I know that representatives of the Park Service has walked the land with several of the consultants and the owners along the way. So, they are certainly familiar with it and I presume they are content with it or we would have heard otherwise.

MR. SNAPE: Okay. I have a question for Mr. Pitchford.

MR. PITCHFORD: Good evening.

MR. SNAPE: Approximately how many trees are on the entire property right now?

MR. PITCHFORD: I believe the first survey I saw was, of all the tree, 250 were surveyed, but of all diameter sizes.

MR. SNAPE: Okay. And is it right. I heard you correctly say that the majority of these trees are in the eastern, southern portion of the property?

MR. PITCHFORD: Correct.

MR. SNAPE: Is that correct?

MR. PITCHFORD: Well, there's up some along Foxhall but, yes. Primarily east and south.

MR. SNAPE: And in those wooded areas, what is the density of trees per acre roughly? Do you know the answer to that?

MR. PITCHFORD: Basal area, probably 90 square feet per acre. Ten, twelve trees per acre. Ten count. Something like that.

MR. SNAPE: A theoretical question for either Mr. Barnes or Mr. Pitchford. I think I'm butchering your name and I apologize.

MR. PITCHFORD: That's all right. It gets butchered all the time.

MR. SNAPE: You can butcher mine too.

Had the design roads --it's my understanding -- the assumption of my question is that the road design has not necessarily followed the topography of the grade. That may be an assumption that Mr. Barnes or others challenge and the assumption of my question. But, is it true, would you agree that we could save more trees if the roads did follows the topography of the land? Is that a fair question?

MR. PITCHFORD: My perception -- I have not seen the road flagged out on the landscape so I can't really say. It seems to me like it's following

the contours pretty well.

MR. SNAPE: Mr. Barnes?

MR. BARNES: I'd be happy to address that.

There is a -- there's a maximum amount of steepness of 12 percent allows on a public road. With that as a constraint, these roads will be laid out to follow the terrain heading down the bowls and so on and in the most sympathetic way possible to allow the least amount of fill. But that does not mean that in a given area that you want me to have some fill below that road to maintain the 12 percent. But it's still true to say that it's following the grade.

If you try to bulldoze a grid across this, much, much, much more fill would be required so it's been the intent all along to follow the grade.

MR. SNAPE: Thank you, Mr. Barnes.

MR. BARNES: We just can't match the grades of the --

MR. SNAPE: Thank you. That is all my questions.

Thank you very much.

CHAIRPERSON GRIFFIS: Who would like to be next? Yes. Ms. Hardy.

MS. HARDY: Chairman, quick questions.

Mr. Barnes might want to answer it.

One of the privileges of living on this property for maybe 30 years is that I know a lot about it. And I've been concerned is that no one has talked about security.

In one of these folders that was submitted to the Board shows many of the 6,000 homeless people in D.C. live in the park. Actually have lived on the Phillips property. And I've been concerned that when the land is cleared, these people will move into White Haven Park. And yet the developers have not provided any information on how they are going to secure this development.

CHAIRPERSON GRIFFIS: Good. So, your question is, how are you going to secure it from -- I'm sorry, did you say a homeless population that's living in the park that might be displaced by a development like this?

MS. HARDY: Yes. Yes.

CHAIRPERSON GRIFFIS: Okay.

MS. HARDY: Plus, how would they provide adequate security given the gave that --

CHAIRPERSON GRIFFIS: What type of security are you looking for?

MS. HARDY: Well, a fence, basically. Or any other kind of security.

CHAIRPERSON GRIFFIS: So, security against trespassing on private property?

MS. HARDY: Yes. Yes. Yes.

Or in Georgetown, they have a 24-hour security systems in developments.

CHAIRPERSON GRIFFIS: Indeed.

MS. HARDY: But the --

CHAIRPERSON GRIFFIS: Understood. Question?

MS. HARDY: What have they done about security?

MR. BARNES: In our discussions with Ms. Hardy, we've agreed to place a fence of mutually agreed upon design between her property and our ours so that her property wouldn't be directly affected we were are.

We have also offered to share the cost of a fence between her property and the White Haven Park on the side -- on the south side.

We plan to fence the property lines to the park on the south and the east with a three-foot fence. That's what we're currently proposing.

MS. HARDY: Mr. Chair, with all respect, the three-foot fence is no security.

CHAIRPERSON GRIFFIS: I know. But just

ask him questions and we'll figure out the details.

MS. HARDY: Okay. So, that's the answer on security? A three-foot fence around the park?

MR. BARNES: If I can say that, you know, the White Haven Park right now provide cover in the tangle of vines that are there now, but it's not treed and wooded the way that the Grover Archibald Park is concerned. I'm no expert on where homeless people would choose to live, but I would imagine they would have a much safer and easier time living on the -- further east and southern reaches of the park than they would right in White Haven. But this is speculation.

MS. HARDY: This is security --

My next question is probably for Mr. Pitchford about trees.

This one, I don't know where in the pictures, but it's on my property line. It's this nice big bunch of red things down there.

As you can see it's -- it's got some very nice popular trees down there. And the road --

MR. PITCHFORD: Sycamore.

MR. PITCHFORD: And sycamore. I'm concerned, it doesn't show there, but there is a retaining wall.

Could you please tell me what are the precautions that you have in mind to assure me that that road which I thought should be 60 feet away from those trees to protect them, maybe more like 30 feet away from the root system.

And also while you're commenting on that, could you please elaborate on the retaining wall and its likely impact on those trees.

MR. PITCHFORD: Yes. I am familiar with three that, I believe, strattle the property line right there and they are a concern of the owners for sure. They are pretty nice trees.

One of the advantages of having this road and this configuration versus running that way as we basically steer the road away from those trees a little sooner. There's also a little strip of green space there that's not going to be developed that's right in the critical root zone of those trees.

MS. HARDY: There's a retaining wall that is not currently being shown that this is available in here.

MR. PITCHFORD: I'm not --

MS. HARDY: That picture doesn't show a retaining wall, but this one shows a retaining --

MR. PITCHFORD: I'm not familiar with the

retaining wall.

CHAIRPERSON GRIFFIS: Is there a proposed retaining wall?

MS. HARDY: There is a retaining wall in there in one of the drawings.

MR. BARNES: The retaining wall has been planned all along right here between the edge of the road and Mrs. Hardy's property. And clearly the location and the design and the techniques for installing the wall need to coordinated with Mr. Pitchford.

CHAIRPERSON GRIFFIS: Okay.

MR. BARNES: To make sure they --

CHAIRPERSON GRIFFIS: For clarity sake, there is a proposed retaining wall there?

MR. BARNES: Yes, indeed.

MR. PITCHFORD: Right.

CHAIRPERSON GRIFFIS: Somewhat parallel to the property line.

MR. PITCHFORD: As I mentioned, the minimum clearance zones earlier, that's what's really critical to me is to keep that --

MS. HARDY: Well, my question was specifically whether you thought, given the size of the size of the trees that that -- the location of

that road, which according to my calculations, should be 60 feet away and it looks more like 30 feet away?

MR. PITCHFORD: I'm not as concerned about the road as I would be about --

MS. HARDY: No. I am.

MR. PITCHFORD: Yes. But you asked me the question, so I'm telling you.

MS. HARDY: Okay.

MR. PITCHFORD: I mean my concern would be more for the retaining wall and any continuous footer that might have to be installed for that. So, I would work with the engineers to move that certainly out of that minimum clearance zone of those trees, that's for sure.

But you have all this root zone up here that we can capture and keep these trees healthy. And we can work over this root zone area here in some way. We can span that without digging down into the root zone. But it's going to take a little work.

CHAIRPERSON GRIFFIS: When you talk about the critical zone for the place that has the retaining wall, look at this graphic that she's pointing your attention to which is labeled, the Current Site Plan on the one I have.

If those are correctly represented, the

trees, do you think that that retaining wall can be placed where it's being proposed?

MR. PITCHFORD: I don't know how far away it is from the tree. But if it's as close as it looks like here, it could be a problem. No question. But I don't know. I've never seen any figures.

MR. BARNES: this plan shows the most critical portion of the root zones of those trees in relation to the road layout.

MR. PITCHFORD: That's the minimum clearance zone of the trees.

CHAIRPERSON GRIFFIS: But not to the retaining wall?

MS. HARDY: That doesn't even show the retaining wall.

CHAIRPERSON GRIFFIS: Oh, I'm sorry. You're putting another plan that's up there. Okay. Let's all look at that one.

MR. PITCHFORD: That shows the critical tree root area.

CHAIRPERSON GRIFFIS: Which is --

MR. BARNES: And the retaining wall is shown and it clearly needs to be moved closer to the road.

CHAIRPERSON GRIFFIS: Okay. There it is.

MR. PITCHFORD: That would have to be changed to satisfy me. Yes.

CHAIRPERSON GRIFFIS: Excellent cross examination question which happens in that area. We'll look for that to be accommodated in new form there.

Okay. Yes?

MS. BRADY: First, I would ask Mr. Pitchford.

I don't have the application, so I haven't seen your name in writing. I apologize.

MR. PITCHFORD: That's no problem.

MS. BRADY: Why are you planning to use so many trees that are not native to the northeast when there are plenty available that would be non-invasive?

MR. PITCHFORD: Well, interestingly, there aren't a whole lot of native trees in our area. Most of the trees we have here are European or Asian introductions. We have very, very, very few truly native trees in this area. And I think that's a bit of a misnomer but we really don't have a large number of natives.

But all the trees that I would use would be either native, like some of the oaks, but not all the oaks, but some of them. And those that are

naturalized that I know have not shown invasive characteristics.

MS. BRADY: I think, Mr. Barnes, maybe these questions go to you.

On the restrictions and/or the covenants that would have to agreed to for the development, will there be a restriction from someone purchasing more than one lot and building a combined lots?

MR. BARNES: I think that's an excellent question.

The way in which it's worded is that this would be discouraged. We'd spoken to the owners about that. We have the same concern that there are not being sort of mansification. It's this new word in development circles, and it is certainly our intention that large groups can't be assembled for that reason. We said actively discourage, I believe, was the phrasing.

MS. BRADY: Will there be a covenant that would prevent the loop road that continues into Foxhall Place being -- us being denied access at some point, since that is a private road?

MR. BARNES: I'm sure they would be happy to provide it, because it's certainly our intention to keep the neighborhood open and offer you access should

you choose to have it.

MS. BRADY: Okay. Is the construction area -- where is the construction area and access to the construction area going to be staged?

MR. BARNES: This is not a good question.

The way in which the development is planned to be developed, so the construction entrance would be located somewhere in the area where the final roadway is planned to come in off of Foxhall. There would be a wash down stand and there would be rock in the way that the codes require.

We then plan to have a staging area for construction substantially in this area here which would be quite a bit down from Foxhall and quite a bit down from W when the grading is done. And the houses would plan to be developed initially along W Street and down around in here. Then in the middle here. Probably down here. And the second last area and then backing out of the site in that area. That's the plan for the way the development would proceed.

MS. BRADY: And so all the access to and from the construction area is off of Foxhall Road?

MR. BARNES: Right. That's a commitment we made to W Street neighbors is that we plan to access all the construction activity -- there may be a case

where a crane has to park there for a day. There may be a few exceptions, but it is our plan to do all the construction inside the site and not burden W Street with traffic and access.

MS. BRADY: If you are not -- if you and Mrs. Hardy are not able to agree on the grading of the berm on her property, without the grading of the berm on her property, is there still a line of site problem with your proposed entrance and exist on Foxhall Road?

MR. BARNES: It's a hard question to answer exactly without standing there. I believe that it's better if we can agree with Mrs. Hardy and put the sidewalk there, but it's not unsafe without it.

MS. BRADY: Let's see. I now have some questions for Mr. Slade.

Could be put the slide up that has the traffic diagram, probably the very last one. The proposed one. Yes.

Are you aware that the language in the bottom right box, I think, is incorrect?

MR. SLADE: No. I'm not aware of that but I'll look right now and we can correct it.

CHAIRPERSON GRIFFIS: Let's get the question correct. The question is the fact that it references Field School. Is that it?

MS. BRADY: Correct.

CHAIRPERSON GRIFFIS: Okay. What should it say?

MR. SLADE: I think on the others it says -- oh, my goodness, it says that on all of them. It should say -- thank you.

MS. BRADY: You're welcome.

MR. SLADE: I've looked at this so many times.

MS. BRADY: Yes. Mr. Slade, were you the traffic consultant for the George Washington University project at Mount Vernon?

MR. SLADE: Yes.

MS. BRADY: And what was your conclusion about the safety of Foxhall Road when you presented your traffic study?

MR. SLADE: I don't remember.

MS. BRADY: Were you the traffic consultant for the Field School?

MR. SLADE: Yes.

MS. BRADY: And what was your conclusion about the safety of Foxhall Road at the conclusion of that study?

MR. SLADE: I did look at that recently and there was a statement in our report that said with

this signal at Field School. I'm not quoting, but I'm trying to get the content or the intent of the statement.

With the signal at Field School, safety conditions should improve at W and Foxhall Road.

MS. BRADY: Are you planning on being the consultant for the Brady Estate project?

MR. SLADE: Yes.

MS. BRADY: Okay. Are you aware that accidents have continued to occur at Field School even with the addition of the bump-out lane and the on-demand traffic light?

MS. BRADY: Are you aware that at White Haven Parkway where the box was incorrectly noted, there is a three lane, so it has a middle turn lane there and are you aware the traffic continues to come up at that left turn lane and not turn left. And as the road narrows to two lanes at that point, disregard the fact that they've now lost a lane of traffic and that there have been accidents there?

MR. SLADE: I have experienced that personally. Not an accident, but --

MS. BRADY: But being forced to slam on brakes. Exactly.

MR. SLADE: Be cut off.

MS. BRADY: And it is still your recommendation that a middle turn lane coming out of Foxhall Road at that point would be a safe solution?

MR. SLADE: Yes.

MS. BRADY: Okay.

MR. BARNES: Can I comment on that?

MS. BRADY: Certainly.

MR. BARNES: The left turn on Foxhall Road coming to White Haven, I don't believe it's a protected left turn lane. It's two lanes and then there are arrows in the roadway, but there's no striping that make it a protected left turn lane the way it is --

MS. BRADY: There is striping there.

MR. BARNES: Well, people just move on and off that.

MS. BRADY: Yes. Exactly.

MR. BARNES: You point out issues on safety on Foxhall Road which we recognize and, of course, have no control.

MS. BRADY: I understand.

Mr. Slade, over what period of time does your traffic study come up with the number of 46 a.m. cars that would have to turn onto Foxhall Road?

MR. SLADE: The analysis is for the single

hour in the morning, single hour in the evening where traffic is at its peak.

MS. BRADY: All right. And you heard the testimony earlier from the policeman that the peak morning rush hour is longer than this period of time?

MR. SLADE: Yes. And I agree with that.

MS. BRADY: Let's see. And given these number of cars that you estimate would be turning out, how long, given the amount of traffic that there is on Foxhall Road, would each car have to wait before they're able to turn onto Foxhall Road?

MR. SLADE: Well, I need a moment to look at our estimates.

I'm sorry. I picked up one of our reports and it's an older report. So, it will take me a little longer than I would like to. Rob, do you have it there? Great.

I'm looking at page 13 of our report, which is one of the tabs in the application document. And at our site driveway, this is for the morning peak hour, which is the more difficult time period than the evening peak hour.

The average -- our estimate of the average delay time would be 24 seconds for someone leaving at the Dunmarlin driveway to get onto Foxhall Road.

MS. BRADY: And turning south onto Foxhall Road?

MR. SLADE: This is an overall average of all the vehicle that come out there.

MS. BRADY: Okay. So, your numbers are an average of a car turning north that has to wait for there to be clearance to turn and a car turning -- I'm sorry. A car turning south who would have to wait for clearance in both lanes -- in all three lanes perhaps if they're the same lane. And a car turning right or north that only has to wait for the traffic going north?

MR. SLADE: That's correct.

MS. BRADY: Let's see how can I put this into a question? I guess I can't.

And then one last question for Mr. Barnes.

Given that we do want the two neighborhoods to come together, would you consider putting on your Architectural Review Board someone from our neighborhood?

MR. BARNES: The contention is, I think, it's something like 60 or 70 percent build out of the property. Then one of the representative homeowners from the development would be on that board. That's contained in there. I'm not sure if our owners could

agree that someone from off site should actually have say over what gets built on this site since none of them have ever had a say over what was built on your sites.

I understand the reason for the question. I would instead ask that the lines of communication that have been open, continue to be open. We'd make commitment to have quarterly updates, to have a website, to have a hotline. I think the flow of information backwards and forwards and hearing your concerns and responding to them is just an ongoing process. I don't think one can ask the owners to put one of your members on that group. I understand why you ask, but I don't think so.

MS. BRADY: I'm sorry. I do have one last question, Mr. Slade.

I believe that your conclusion in your traffic study was that this development would not add to the dangerous situation on Foxhall Road. Am I paraphrasing that well or would you like to paraphrase it differently please?

MR. BARNES: How about if I read it?

MS. BRADY: Sure. Thank you.

MR. BARNES: Well, we referred in the conclusions to the capacity analysis which addresses

how the intersections will operate and the delay and congestion at the intersection. We didn't specifically talk about safety.

MS. BRADY: I'm sorry. It doesn't address safety?

MR. BARNES: Right.

MS. BRADY: What does it address?

MR. BARNES: The study and all traffic studies in the District address the ability of the offset intersection to handle the additional traffic load in terms of capacity of the intersections.

MS. BRADY: May I ask --

MR. BARNES: Now, we did address safety in that we said that by providing this second access point for W Street, east traffic for your neighborhood, it would provide an alternative to the existing W Street that was safer than the existing W Street. So, it was our view that this was a benefit, at least to your population of the whole traffic population.

MS. BRADY: Maybe I should ask you what the definition of "handle" is and when an intersection can handle. What does that mean?

MR. BARNES: It means that delays at that intersection are within an acceptable limits.

MS. BRADY: And it does not speak to the safety of the intersection?

MR. BARNES: This particular test does not speak to the safety of the intersection.

MS. BRADY: Thank you very much.

CHAIRPERSON GRIFFIS: Redirect?

MR. NETTLER: Mr. Slade, when you concluded your analysis of the traffic impacts of this development, am I correct that you had concluded that the traffic generated by this development would be negligible in terms of its impact on the street scape. Is that correct? The street system?

MR. SLADE: Yes.

MR. NETTLER: Okay. That conclusion, as well as your recommendation for the access off of W Street through the project and out onto Foxhall was also reviewed by Mr. Peterson. Correct?

MR. SLADE: Yes.

MR. NETTLER: Okay. Mr. Peterson was not the traffic expert for the Field School or for Mount Vernon, was he?

MR. SLADE: Correct.

MR. NETTLER: All right. So, he independently reviewed your conclusions and he ultimately concurred with them, did he not?

MR. SLADE: Yes.

MR. NETTLER: Okay.

CHAIRPERSON GRIFFIS: Anything else?

MR. NETTLER: No.

CHAIRPERSON GRIFFIS: Any recross on that redirect testimony?

Okay. Trying to follow procedure.

Very well. I think we're all set then.

Yes, Ms. Miller? Follow up question?

VICE CHAIR MILLER: I just have one question for Mr. Barnes.

How do you intend to discourage building on combined lots?

MR. BARNES: On which lots? Combined lots?

VICE CHAIR MILLER: Combined lots. You made a remark that you intend to discourage it.

MR. BARNES: I would ask that the developers consider limiting the number of lots that could be gathered together in one parcel. The word that I've been allowed to use when I address the issue so far is discouraged. But I think probably there should be something written into the agreements that limits say no more than two or three lots that are adjacent could be funneled together and so on. I know

of no other device.

VICE CHAIR MILLER: So, is it your opinion that it would be okay if two or three lots were combined?

MR. BARNES: Certainly in my opinion, two lots.

VICE CHAIR MILLER: Two lots.

MR. BARNES: My own personal opinion, two lots would be a descent minimum or maximum, excuse me. A descent maximum.

VICE CHAIR MILLER: And it doesn't matter how many of those there might be?

MR. BARNES: You raise an interesting point. I do think that the variety of size of houses in any one given neighborhood given the depth and our people in different income groups to be able to settle there.

There are some smaller lots here that are, you know, 8,000, 8,500 square feet. There are some other lots that are maybe approaching 20. The neighborhoods that spoke to that we have researched all contain at least one or two much larger lots at least with, you know, a substantially bigger house. I mean, it's not so much that the house if 25,000 feet, it's a house with a much bigger yard. And so we

actually have included a FAR limiting calculation modeled after those that exist over in Wesley Heights. There's a zoning overlay called the Wesley Heights Overlay District that limits FAR which substantially controls the bulk of the house. And this would be triggered by any house that is bigger than or taller than a story and a half in height. Then it would limit the buildable footprint from 40 percent to 35 percent. And the FAR calculation, which is, I think, 2,000 square feet plus 40 percent of the area of the lot, would govern the total amount of finished house that can be build.

So, you can't build an enormous mansion on these lots. I think the Wesley Heights regulation is very cleverly written and we've worded ours based on that.

VICE CHAIR MILLER: Thank you.

CHAIRPERSON GRIFFIS: Any follow up from the Board?

MR. NETTLER: Yes. I have a follow up from that question.

CHAIRPERSON GRIFFIS: Indeed.

MR. NETTLER: Ms. Miller asked, following that.

CHAIRPERSON GRIFFIS: Good.

MR. NETTLER: Mr. Barnes, isn't it instead feasible to -- instead of putting limitations on someone purchasing more than one lot, focus instead in on the architectural guidelines for that situation, since wouldn't that be a way of actually providing for more green space by focusing on -- if someone was to combine the lot into two, but you still limited the development on the lot, you then would save more space and have less of impermeable surfaces?

MR. BARNES: I think it's a good point. I think that in the same way that we've started an FAR and coverage program that limits coverage, I think one can --

MR. NETTLER: Well, FAR coverage because that's going to exist regardless. It's a -- it's really a -- it's really architectural restrictions that allow you to deal with what the size of a lot and what's built on the lot and the rear yard and how you deal with lots that are adjacent to the park. Not necessarily combining one lot of another.

MR. BARNES: Yes. But I think the devices that would most -- could be written in such a way that they would be easy to respect and check would be using FAR and coverage, if more than one lot is purchased. Then you reduce the amount of coverage more. Maybe

the coverage is restricted to 15 or 20 percent and the FAR is not allowed. Then it drops to 20 percent plus 2,000 square feet of the combined lot size.

I think there's a way you could develop the form and it's a good idea.

VICE CHAIR MILLER: This is a follow up.

Would this be something that you would add to your guidelines that you've already --

MR. BARNES: Yes. It's not addressed other than the term to discourage, but I think it's a fine idea. I'd be happy to try and write such languages.

VICE CHAIR MILLER: Thank you.

CHAIRPERSON GRIFFIS: Follow up to the follow up to the redirect?

MR. NETTLER: I was just going to respond.

I think that's a way of -- you've asked us, Mr. Parsons, and you've asked us to come back and address how the houses back up and I think that's another way of addressing that same issue.

CHAIRPERSON GRIFFIS: Good. It goes to this question, of course.

We were submitted the architectural standards and I suppose a lot of this has now been evident as preliminary or conceptual. Is that

correct?

MR. BARNES: It is an outline, you know, that in the end when those documents are done, it's probably a 30 page document right now.

CHAIRPERSON GRIFFIS: Okay. And it gets to an interesting point. You can assume that we understand nor do any of the Board members necessarily written this. But this is an outline of the architectural standards. So, there is substance or much more detail in terms of all the outline guidelines, almost like a -- like an outline specification. Right?

MR. BARNES: Yes.

CHAIRPERSON GRIFFIS: Actual talking of materials, specifics, architectural details. I mean you picked up on some of these in terms of windows and doors.

So --

MR. BARNES: Yes. Exactly.

CHAIRPERSON GRIFFIS: I'm sorry. But then the schedule of that being complete would be when? Anticipated?

MR. BARNES: After this meeting.

It could be --

CHAIRPERSON GRIFFIS: You know, that's --

day.

MR. BARNES: Probably just --

CHAIRPERSON GRIFFIS: I'm going to write that down somewhere. Okay.

I mean just in the milestone of the schedule of this entire project, that's telling me it's going to be obviously be in the association documents. Right?

MR. BARNES: Yes. And it would be prior to the sale of any lots, because it --

CHAIRPERSON GRIFFIS: Right.

MR. BARNES: -- needs to be incorporated into the homeowner's document.

CHAIRPERSON GRIFFIS: Okay.

MR. BARNES: How quick it could be writed, it's probably a month out before it would be --

CHAIRPERSON GRIFFIS: Okay. But -- and then the other direct question is on schedule.

You would anticipate that it would be finished for submission here or would you?

MR. NETTLER: No. Because what we're trying to do is provide some very basic restrictions that address the type of concerns that we would expect --

CHAIRPERSON GRIFFIS: Okay.

MR. NETTLER: -- that you would have had and the neighbors have and address those and them and the flushing out of them in terms of additional things -- go beyond those themselves.

CHAIRPERSON GRIFFIS: So, it goes directly then to the substance of the way the Board looks at this and clearly we have a vehicle in order to condition aspects --

MR. NETTLER: Right.

CHAIRPERSON GRIFFIS: -- and that we could condition certain specifics that would be incorporated into the architectural design guidelines.

MR. NETTLER: Right.

CHAIRPERSON GRIFFIS: Like pink. It's one of my favorite colors of which front doors could be. Is my mike still on? Okay. There it is.

What else do we have? Any other follow ups? Any other cross? Anything else for today?

Nothing from the Board either?

Very well. Then I thank you all for being here, but before anyone moves, let us get down to a quick schedule here and I would propose this.

Very well. We're going to set this for the 22nd of February, first case in the morning.

MR. LAWSON: Mr. Chair, if I may. Sorry.

It's me over here.

I just thought I should let you know that I would not be able to attend the meeting on the 22nd, so think that's a great date that you've chosen.

No. I actually will be out of town on the 22nd. Sorry.

CHAIRPERSON GRIFFIS: Oh, that's is --

MR. LAWSON: We can have somebody else from the Office of Planning representing the Office of Planning, but I wouldn't be able to be here.

CHAIRPERSON GRIFFIS:

MR. PARSONS: Do you think -- your existing report dated, I guess, the 8th, says that you would have a more complete review of the new proposal in time for the hearing.

Is that something you're preparing in writing that would be able to be available to us?

MR. LAWSON: The Office of Planning could certain prepare something in writing that would include additional comments based on the information that was presented at the meeting today. I guess -- I think there would be no opportunity for questions. That's all.

CHAIRPERSON GRIFFIS: Okay. Well, we have two choices. We can continue to have someone else

from the Office of Planning present obviously the report from Office of Planning.

Let me hear any objections for doing that from the parties and the Applicant as Mr. Lawson will not be cross examined here.

His report will obviously represent the agency in which he is employed and the person he deems responsible enough to take his place would be open to cross examination.

Any of the parties in opposition or the ANC have difficult with that proceeding?

Okay. If you're going to say more than that, you have to get up here.

MS. GATES: Given the fact the DDOT representative will not be here, we've heard so much about traffic. Mr. Lawson will not be here. There will be no opportunity for cross examination, I think we're missing a big piece of information.

I also will be at a two-day, all day meeting with the Army Corps of Engineers discussing munitions for mediation in Spring Valley on the 22nd. So, I cannot be here.

CHAIRPERSON GRIFFIS: In the morning? All? You have two meetings?

MS. GATES: It starts at 10:00 and it ends

about 4:30.

CHAIRPERSON GRIFFIS: Okay.

MS. GATES: Both days.

CHAIRPERSON GRIFFIS: Okay. Any other problems with the 22nd on the parties, Applicant's or the problems with the Office of Planning?

Okay. I fully understand, Ms. Gates. However, according to our schedule, which I'm trying to get this wherever I can as close as I can, we wouldn't be until the end of April if we don't pick the 22nd. We're not supposed to be meeting on the 22nd for numerous reasons. So, this is actually a special hearing date for us.

The only other time, unless I'm incorrect, I see at this point would be a month and a half, almost two months away.

MS. GATES: well, maybe by the end of that time we would have the reports in that we need to see.

CHAIRPERSON GRIFFIS: Ms. Gates, is there anyone from the ANC that could represent you on the 22nd?

MS. GATES: Well, I presented a report as well as Ms. Haas has presented a report. I think I would like to deliver my report. I feel I have a responsibility to do that and would appreciate the

Board's consideration.

CHAIRPERSON GRIFFIS: Ms. Brady, your case presentation is going to take how long? All right.

MS. GATES: Would you permit someone to read my testimony?

CHAIRPERSON GRIFFIS: Of course. You could put it in writing and just submit it.

MS. GATES: I just don't think it's quite the same, but I would appreciate your understanding on this.

CHAIRPERSON GRIFFIS: Believe me, I'm trying to accommodate --

MS. GATES: Thank you.

MR. PARSONS: well, we always accept other members of the ANC. If we get a letter from the chairman saying this member will represent us. So, she's got live testimony. I can see your point.

CHAIRPERSON GRIFFIS: Here's the other alternative.

We won't have a lot of executive session that morning as we're coming in. We don't have a full slate.

Is it possible for you to be down here first. We could start with your presentation. We

could do that first thing in the morning as we get here. We could set it for 9:00 conceivably. I'll get here -- we're here usually --

MS. GATES: That would be agreeable.

CHAIRPERSON GRIFFIS: We'd have an hour before you had to leave.

If there's no objection to that, we could hear the ANC presentation first and then we'd go to the substitute for Mr. Lawson, of which I want to talk about briefly. And then move on from there.

MS. GATES: Thank you.

CHAIRPERSON GRIFFIS: Okay. Now, the ANC is presenting one case. Is that correct? So, you're presenting it?

MS. GATES: Yes. Although I think Ms. Haas may have some components of this. We've sort of divided into sections.

If you only want one part.

CHAIRPERSON GRIFFIS: No. I'm trying to just get an assessment of time here.

So, both of you. You will lead -- however, you arrange it, but we're going to have two ANC members presenting the ANC's case.

MS. GATES: I believe so.

CHAIRPERSON GRIFFIS: Okay. There it is.

Complications? Questions? Any problems with that?

9:00. We're on the 22nd of February.

Let me just get clarification.

Mr. Lawson, do you believe that you could, in fact, have someone here to present the report. Is that correct?

MR. LAWSON: Yes. Just clarify two quick points.

First of all, Office of Planning wouldn't address DDOT issues regardless.

CHAIRPERSON GRIFFIS: Right.

MR. LAWSON: Secondly, I will contact DDOT and suggest that they have a representative here at the meeting and I can try to find somebody who is available to attend.

I'll make sure that somebody can attend the meeting and hopefully it will be somebody who is already familiar with this case.

CHAIRPERSON GRIFFIS: Excellent.

In which case, we will do the same actually and we'll contact Office of Planning to reiterate that support of Mr. Lawson. We'll also be contacting the Department of Transportation from the Office of Zoning, so that they might be able to

present their own analysis.

All right.

Then, anything else?

Procedure, everyone clear on it? Any questions on procedure or schedule?

Very well then. We'll see you all at 9:00 on the 22nd of February in the a.m. We will only conduct the hearing in the morning. We will look to conclude that by 12:00 or 1:00. But that should be ample time to get through the substitutive.

Ms. Bailey, is there anything additional business for the Board?

No other business, then let's adjourn the afternoon session.

Thank you.

(Whereupon, the above matter was concluded at 6:20 p.m.)