GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

NOVEMBER 4, 2003

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice, at 1:00 p.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE MILLER	Board Member
DAVID ZAIDAIN	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD	Commissioner
CAROL MITTEN	Commissioner

BOARD STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLY BAILEY	Office of Zoning

OTHER AGENCY STAFF PRESENT:

JOHN NYARKU	Office of Zoning
SHERRY GLAZER	Office of Zoning
ARTHUR JACKSON	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

LORI MONROE, ESQ.
MARY NAGELHOUT, ESQ.

C-O-N-T-E-N-T-S

AGENDA ITEM	PAGE
PRELIMINARY MATTERS	17
APPLICATION OF NATIONAL CHILD RESEARCH CENTER 16970 ANC-3C:	7

On Behalf of the Applicant:

MAUREEN E. DWYER, ESQ.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037

On Behalf of The Cleveland Park Neighbors:

RICHARD B. NETTLER, ESQ.

1801 K Street, Suite 1200
Washington, D.C. 20006

WITNESSES

STEVE HUNSICKER	19
LINDA BADAMI	40
HENRY LITTLE	78
PAMELA PELLETREAU	107
PAT MURPHY SHEEHY	108
JONATHAN MORENO	111
LEILA AFZAL	113
ANDREW HAMILTON	116
ANA EVANS	121
WILLIAM NEWLIN	124
ROBERT PELLETREAU	125
DICKSON CARROLL	126
JOHN COONLEY	127
GEORGE IDELSON	138
LESLIE OBERDORFER	140
PETER ESPICEED	142
REEVE VANNEMAN	145
CLIFFORD FELDMAN	147
COUNCIL MEMBER MENDLESON	152
VIRGINIA STERN	171
MARC FETTERMAN	173
DI STOVALL	175
DEBRA VOTH	176

R.B. OWEN 180
ANNE HATFIELD WEIR 183

WITNESSES CONTINUED

DERRY NOYES CRAIG 187
NANCY HARTER. 189
ANNE SHELBURNE 193
CHERYL TENNILE. 195
CAROL BOSCO 200
JOHN THOOLE 203
JOANE MCLAUGHLIN 205
PAULA ATKESON 208
ROBERT STERN 209
DANDRIDGE INCE 213
ESTHER NAMIAN 215
BARBARA HAAS 219
LINDSLEY WILLIAMS 221

P R O C E E D I N G S

(1:27 p.m.)

CHAIRPERSON GRIFFIS: Is there any other business for the Board in the morning session?

MS. BAILEY: No, Mr. Chairman.

CHAIRPERSON GRIFFIS: Thank you very much.

Then I would like to conclude the morning session of November 4th, 2003, and also call to order the afternoon session of the Board of Zoning Adjustment of the District of Columbia.

My name is Geoff Griffis. I am Chairperson.

With me today is Mr. Hood, representing the Zoning Commission, and Mr. Zaidain, representing the National Capital Planning Commission. They have decided to give me lots of elbow room today so that we can get a lot done.

That being said, let me run through -- indeed. I will be very brief in the openings, but there's some important pieces obviously attendant to any public hearing before the Board of Zoning Adjustment.

I will skip all of the procedures and order of procedures for the first case in the afternoon. I will then go when we call the second

case of the afternoon, which is an appeal, and run through the appeal process.

I would anticipate calling the second case of the afternoon no earlier than 3:30 today. If people are here for that, they can perhaps enjoy a little bit of additional sunshine out and about.

Cross examination of witnesses, of course, in any case is permitted by the applicant or parties within a case. The ANC is automatically a party in the case and, therefore, can conduct cross examination. That is the ANC within which the property is located.

Our record will be closed, which may be pertinent for today's session; it will be closed at the conclusion of the presentation of the entire case, except for any material that the Board specifically requests, and that material will be very specific and the date of which it should be submitted will also be identified.

After that material is received by the Office of Zoning, no other information would be accepted into the record, and that's a very important aspect. So I hope all understand that.

The Sunshine Act requires that the public hearing in each case be held in the open and before

the public. However, this Board, consistent with its rules of procedure and the Sunshine Act, can enter executive session. Executive Session would be for the purposes of reviewing the record or deliberating on the case.

The decision of the Board in contested cases must be based exclusively on the record that is created before us, and therefore, we ask that people present today not engage Board members in any conversation so as not to give the appearance of receiving information outside of the record.

I would ask that people turn off all of their cell phones and beepers so that we don't have disruption of the proceedings. We will make every effort to conclude this case today, and why don't we get into the specifics of it at this time?

Ms. Bailey, if you wouldn't mind calling the first case in the afternoon.

MS. BAILEY: And that is Application No. 16970 of the National Child Research Center, pursuant to 11 DCMR 3104.1, for a special exception approval to continue an existing child development center, last approved by BZA Order No. 16307, with morning and afternoon programs for 120 children at any one time, ages two and a half to five years, and 38 full-time

equivalent staff on all floors of the existing and proposed buildings on the site, and for new construction of an addition and new building pursuant to Section 205; and pursuant to 11 DCMR 3103.2, for variance relief from 3202.3, in order to allow the construction of an additional principal structure and the use of an additional principal structure such that more than one principal structure shall exist on a record lot; and for relief from 2100.6, which requires the provision of parking spaces for the proposed additional principal structure on the NCRC property at premises 3209 Highland Place, N.W.

The property is located in an R-1-B district, and it is also located in Square 2072 on Lots 30, also known as Lot 855 and 866.

Is there anyone here today who has not been sworn in who will be testifying, who has not been sworn in previously?

(Show of hands.)

MS. BAILEY: Please stand to take the oath.

(Whereupon, the witnesses were duly sworn.)

MS. BAILEY: Thank you.

Mr. Chairman, there are two brief matters

before the hearing starts, one of which is Ms. Badami has requested an additional length of time for the parties to present testimony, and I believe also Mr. Williams may also have a preliminary matter as well.

MR. HUNSICKER: Your Honor, Steve Hunsicker.

Last week I filed and served on behalf of myself, Gaylor Neeley, Linda Badami, and Henry Little a motion or a request for additional time, a modest amount of additional time. What we have requested --

CHAIRPERSON GRIFFIS: Do you have another issue?

MR. HUNSICKER: No.

CHAIRPERSON GRIFFIS: So there's one issue, additional time for the presentation of the case in opposition; is that correct?

MR. HUNSICKER: That's correct, for the three remaining party witnesses.

CHAIRPERSON GRIFFIS: Okay. Let me ask you. Was it unclear when I set up the total amount of time presentation that that needed to be coordinated with all of the parties in opposition?

MR. HUNSICKER: No, Mr. Chair. I understood your instructions. The request is filed pursuant to Section 3117.5 of the regs.

CHAIRPERSON GRIFFIS: Indeed. I understand that. Thirty-one, seventeen, point, four, I believe it is, sets up that what we should do is base our beginning times on 60 minutes, in applications, appeals, in anything before us. Sixty minutes goes for the case presentation and 60 minutes for the total opposition case. It's an equal amount of time.

It seems to me that this Board should get back to that type of requirement of time and have the buzzer ring and move on. We have not done that. We have actually left it very open to a case presentation of the applicant or depending on the participants in an appeal, and then given equal time.

I have not been moved by, first of all, your submission -- and I'll hear from other Board members -- that there is not an equity of time presentation for a case presentation. Counting pages in the transcript is beyond me as a measurable of extent that more time was given for the applicant.

MR. HUNSICKER: Well, Mr. Chair, that was only one of the bases for the estimate of the time.

CHAIRPERSON GRIFFIS: I understand.

MR. HUNSICKER: My recollection is that the clock was not precisely kept during the beginning

of the applicant's presentation, and so the basis of the request is that even with the modest amount of time that we're requesting, an additional 20 minutes or so, and I don't think we'll use all of that, still we would be well short of the amount of time that --

CHAIRPERSON GRIFFIS: Because you believe that the Board hasn't heard the issues that you need to present in more than 18 minutes.

MR. HUNSICKER: The three witnesses -- that's correct in this sense, Mr. Chair. The three witnesses that remain are directly affected and uniquely affected by the expansion. Two of the neighbors that remain adjoin, one on Ordway Street, one on Highland, and I am directly across from the slope down to Ordway Street. The NCRC property --

CHAIRPERSON GRIFFIS: All of this is known so far. I understand that. So there are issues that you're going to bring up today that we haven't heard?

MR. HUNSICKER: I believe so.

And the final point I would like to make is that Henry Little, who is perhaps most directly affected, is here from California. He's been here from California several times before prepared to testify, and because of his --

CHAIRPERSON GRIFFIS: He's prepared to

present a case.

MR. HUNSICKER: That's correct.

CHAIRPERSON GRIFFIS: Okay.

MR. HUNSICKER: That's what I meant, prepared to present a case. And he's here today again and I don't believe should be unfairly curtailed.

CHAIRPERSON GRIFFIS: And I don't believe he will be.

Yes.

MS. BADAMI: Oh, I just wanted to affirm that in my oral testimony I do plan to say things that haven't been said before. I just wanted to affirm what Mr. Hunsicker said.

CHAIRPERSON GRIFFIS: Well, that's what we're looking forward to. I'm just not sure we need an additional 20 minutes to do it.

Other Board members' comments?

MR. ZAIDAIN: I think we're dealing with a fundamental fairness issue here. I mean, the way we handle the clocks is the applicant puts on a case presentation for a certain amount of time, and the opposition has that same amount of time to respond. Just because there's one party or 15 parties, I don't see why allowing additional time.

And just out of curiosity, and I hope I

can do this without getting into testimony, what issues are going to be raised that we have not heard? Can you give me a one word?

MR. HUNSICKER: In my case, I would like to talk about, among other things, the drainage problems that I foresee if the construction, extensive construction, goes forward as a result of my living directly downstream, if you will, immediately downstream, if you will.

MR. ZAIDAIN: Okay. We've got drainage.

MR. HUNSICKER: Pardon?

MR. ZAIDAIN: Drainage is one.

MR. HUNSICKER: Yes.

MR. ZAIDAIN: Okay. What's another one.

MR. HUNSICKER: The particular traffic impacts that I have observed.

MR. ZAIDAIN: And we haven't heard anything about the traffic impacts?

MR. HUNSICKER: That I have observed myself from my house, located directly across the street from the NCRC street entrance on Ordway.

The other impacts that I would address that I don't believe have been addressed are the noise and lighting pollution issues that I see from the NCRC's own -

MR. ZAIDAIN: Okay. Just noise and lighting issues.

MR. HUNSICKER: Okay.

MR. ZAIDAIN: And what else?

MR. HUNSICKER: The fallacies of the traffic mitigation plan, two particular features.

MR. ZAIDAIN: Okay. So you want to address traffic.

I mean, it seems like a lot of that is issues that we've heard. I mean, it's got his angle on it, which should be done in his portion of the case presentation.

MS. BADAMI: And, Mr. Zaidain, I'd like to add that I'm not speaking about traffic. I'm speaking direct impact to my property.

MR. ZAIDAIN: Okay. Which is adjacent.

MS. BADAMI: Indeed.

MR. ZAIDAIN: We've heard so much testimony on all of these issues that, I mean, there were a couple of issues that we've heard limited testimony on that Mr. Hunsicker has brought up that I don't know why cannot be encapsulated in 18 minutes.

So I mean --

MS. BADAMI: I asked 15 minutes in the beginning, and I've cut it down to 12, and because Mr.

Nettler's party went over, I don't know why --

CHAIRPERSON GRIFFIS: Ah, now we're getting to the problem.

MR. ZAIDAIN: That's not our fault.

CHAIRPERSON GRIFFIS: Mr. Nettler's fault.

MS. BADAMI: Well, and I believe NCRC's five days of testimony also went past the day of testimony that we had last week.

CHAIRPERSON GRIFFIS: Yeah, okay.

COMMISSIONER HOOD: Mr. Chairman, I also think we also asked questions like we have a right to of the applicant.

CHAIRPERSON GRIFFIS: Right.

COMMISSIONER HOOD: So that prolonged it. Maybe you can get into talking about days, but I think you made it very clear early on, and I be quiet long enough, Ms. Badami will answer the concern. I think that's where she was going. So I will let her just tell it from her perspective because obviously they used more time than they should have, and I think you were very clear early on as far as dividing up the time among those in opposition.

So I'm not in favor of retracting.

CHAIRPERSON GRIFFIS: Good. Let's move ahead. We'll set the clock for 18 minutes, and when

you're prepared, let's start a presentation of the case.

Of course that time goes only for your presentation. It doesn't account for any cross examination, Board questions, and I think that's about it. But I think I agree with the Board that we have been very fair and even in allotting time, and I do believe that we will hear enough substance in the presentation of the next cases in order to inform the Board, and if not, we will ask questions in order to get that information, which, of course, won't be counted towards that time.

That being said, are we going to have presentations -- can you put that to staff, please?

We're going to do one at a time; is that correct? And you're going to have witnesses?

MR. HUNSICKER: I am my sole witness.

CHAIRPERSON GRIFFIS: Okay. Well, tell me how you want me to orchestrate this because I can set the clock for your amount of time and it will end and then you can move off or we can run down the clock and hear complaints when the time is gone. That would be -- okay. You're not on the record. So I'm going to repeat what he said.

He wants to divide it up into three

minutes. So take a minute, go talk to the rest of the people, and tell me what the time is.

(Pause in proceedings.)

CHAIRPERSON GRIFFIS: Mr. Williams.

MR. WILLIAMS: Mr. Chairman, my name is Lindsley Williams. Joining me at the table today are Barbara Haas and Esther Namian, two of my neighbors. We were three of the four individuals that testified in the 1998 case, 16307. We've noted Mr. Watson's letter in the record of this case at Exhibit 104, and based on that, we have prepared an affidavit of sorts describing our interpretation of that hearing. It's in the form of a document. We do not plan to testify. We simply wanted to say we're here. We want to deliver it to you, and we have sworn to the accuracy of it.

The fourth person that testified last time, Mary G. Peters, moved out of the area in 2001. She has also signed this document, and the question is whether we should introduce this letter now or at some other point downstream.

Staff advised me to bring this up as a preliminary matter.

CHAIRPERSON GRIFFIS: I still don't know what it is.

MR. ZAIDAIN: It sounds like he said it's a response to an exhibit.

MR. WILLIAMS: It's a response to the commentary offered by Mr. Watson in Exhibit 104 on the meaning of "occupancy" and the meaning of 120 in that case number that is still floating around in this case as an issue.

CHAIRPERSON GRIFFIS: I see. What exhibit number are we up to?

MR. WILLIAMS: Probably about 250, sir.

CHAIRPERSON GRIFFIS: One, oh, four. Okay. We're clicked at 300 actually.

Yeah, let's bring it in. Have you served it on all of the parties?

MR. WILLIAMS: I'm serving it now.

Thank you, Mr. Chairman.

CHAIRPERSON GRIFFIS: Okay. And it brings up an interesting point, which is part of my opening statement, of course. After this is concluded the record would then be closed, except for anything we accept, meaning something of this nature would not be accepted into the record.

Okay. What are we doing? Six minutes, did I understand?

MR. HUNSICKER: That's correct. Is it

understood though if I don't use my entire six minutes that it can be allocated to the others?

CHAIRPERSON GRIFFIS: Absolutely.

MR. HUNSICKER: Okay.

CHAIRPERSON GRIFFIS: Yeah.

MR. HUNSICKER: Okay.

CHAIRPERSON GRIFFIS: Okay. Mr. Moy, would you mind putting six minutes on?

And what I'm going to do I'm not -- and, of course, we'll just add the time in that's there, but I'm also going to ask that you be very disciplined. Once that buzzes, I'm not going to try and interrupt you. It's over. So we need to move on.

MR. HUNSICKER: Understood.

CHAIRPERSON GRIFFIS: Okay. Thank you.

Whenever you're ready.

MR. HUNSICKER: Good afternoon. My name is Steve Hunsicker. I've lived at 3083 Ordway Street direct across the street from NCRC for approximately 15 years.

My first subject is traffic impacts. I agree with the testimony of Lieutenant Roch. The adverse traffic impacts shown by the Beckner's video are typical of those routinely experienced by the neighborhood around NCRC in general and Ordway Street

in particular.

Now, against this evidence, NCRC claims that it has faithfully implemented an effective traffic mitigation plan as required by the 1998 special exception. I can tell you that that is not correct.

NCRC virtually ignored traffic requirements of the 1998 order with respect to Ordway Street until NCRC recognized it would be back before the BZA in this proceeding.

Since 1998 those conditions have gotten worse, not better. I know of many traffic accident that have caused property damage and injury, even injury to neighbors' pets in the immediate vicinity of NCRC's Ordway Street entrance.

Fortunately I have not observed a traffic accident involving a child, but I must tell you that I myself have come within an eyelash of pulling an unattended child from the path of moving rush hour traffic.

Surely recognition of an existing dangerous condition as cited by the Department of Transportation and others should defeat a misguided application expansion proposal. Certainly NCRC does not carry its burden by the claim that to date the

fear of a serious accident involving a child has not occurred.

To now hear NCRC's representatives characterizing its existing traffic congestion in children in the street as, quote, traffic calming, end quote, strikes me as both hypocritical and irresponsible.

In fact, NCRC's traffic consultant seems to have gone to length to avoid an assessment of significant problems that do, in fact, already exist. He avoided and did not evaluate the dramatic increase in street parking on Ordway Street that occurs during NCRC's peak morning drop-off period, and he avoided and did not consider vehicles in line on Highland during NCRC's peak mid-day pick-up and drop-off periods.

Now, in the interest of time, I would like to just refer you to the pictures I've appended to my testimony as characterizing the typical adverse impacts in addition to those represented by the Beckner's video that I see all the time.

I would like to particularly draw your attention to the first picture which shows an example occurring on March 18th, 2003, an example of the same type of double parking that the Department of

Transportation addressed with respect to Highland, this time on busy Ordway Street. And I can tell you that that is an example of something that I routinely observe. In fact, I observed similar occurrences of double parking on Ordway as recently as October of this month.

Similarly, the type of illegal and dangerous parking illustrated on the second picture I observed as recently as the week of October 27th.

My second subject addresses two elements of NCRC's traffic mitigation plan that NCRC claims will remedy existing problems of traffic congestion. The first is the proposal to use the Highland Place frontage solely for NCRC related traffic. As you know from others, that would eliminate needed parking of Highland residents.

Second, NCRC proposes to direct additional traffic to Ordway after its expansion. That's no solution. The Department of Transportation's February 5th report noted significant physical limitations to what can be done, given the situation on the slope of the Ordway Street. There are no sidewalks along the southern boundary of the NCRC frontage all the way west to 34th Street. Consequently, every day children continually walk in and across busy Ordway Street to

and from parked vehicles and the NCRC entrance. This is very dangerous due to the heavy commuter traffic during rush hour periods and because parked cars block the views of children and traffic from neighbors as they exit their driveways. This situation would only be made worse by directing more traffic onto Ordway.

NCRC cites the mere prospect of improvements to Ordway Street. That cannot be relied on for the reasons I've stated in my written statement.

The third subject are adverse impacts that are not traffic related, and I will only refer to two in the interest of time.

The extensive construction now proposed by NCRC on its steeply sloped site down to Ordway likely will result in damage to nearby houses and exacerbate muddy runoff following heavy rainfall. These problems have been experienced on Ordway since NCRC's unauthorized construction project in 1994. Indeed, our street is sometimes referred to by residents as "Rio Ordway," and often features miniature mud bars and small piles of driftwood after rainfalls.

Based on our experience following the NCRC's construction project in 1994, I fully expect that these problems will reappear in a more serious

state caused by the extensive construction in soil displacement contemplated by NCRC on its steeply sloped site.

Second, I also expect noise and lightly pollution and traffic congestion associated with NCRC's proposed expansion.

Thank you very much.

CHAIRPERSON GRIFFIS: Thank you very much.

Yes?

MR. ZAIDAIN: I have a question. You've mentioned or you were just finishing up your point on the storm water and the runoff issue. Was this something that was a bigger issue in '94 or has it been a consistent issue all the way up to today?

MR. HUNSICKER: To my recollection, following the construction in 1994 was the first time that there was really a problem, a significant problem experience where water washed off the site and literally down my driveway into my garage.

MR. ZAIDAIN: Mud.

MR. HUNSICKER: I'm sorry?

MR. ZAIDAIN: It was mud and water?

MR. HUNSICKER: Yes, yes, yes. And since that time, I have noticed after periods of heavy rainfall similar occurrences of, you know, water just

washing off that slope, along with debris. I mentioned somewhat factiously driftwood on the street, but really there are piles, miniature piles of mulch, if you will, some of which I suppose -- much of which I suppose comes from the NCRC site, some of which I suppose comes from other sites on that hillside.

MR. ZAIDAIN: Okay, but none of that is to the degree of what happened around the time of the construction in '94?

MR. HUNSICKER: I think it's correct to say that the worst experience I had was shortly after the 1994 construction, although it continues to be certainly better than you would want to experience in your home.

MR. ZAIDAIN: Okay. Thank you.

CHAIRPERSON GRIFFIS: Are you aware of any other review agencies or process for storm water management or runoff or any sort of landscaping aspects of this?

MR. HUNSICKER: I am not.

MR. ZAIDAIN: Your question was review of that?

CHAIRPERSON GRIFFIS: Yes. I can understand how it comes in in this case, in your presentation in terms of an adverse impact if one was

to say that the actual construction created a runoff problem, but I hesitate to say, but I would hope that in the permitting review process that that was significantly addressed. I'm certain that the architect would do it or the landscape architect.

Essentially it's out of our jurisdiction to get into the specifics of that, but we hear clearly the fact that it could be a problem if not done correctly.

MR. HUNSICKER: Well, and again, my testimony is not that of a landscape engineer.

CHAIRPERSON GRIFFIS: Right.

MR. HUNSICKER: It is based on the experience I've already had with the NCRC site.

CHAIRPERSON GRIFFIS: Indeed, indeed. Now, you also talked about the noise, lighting, and other types of what you call "pollution," which is a significant word to put on it, but it's talking to unlimited school related events.

MR. HUNSICKER: Yes.

CHAIRPERSON GRIFFIS: So from my understanding what you're talking about is obvious there's noise there. There are people outside. Lighting is when they bring in lights, temporary lights?

MR. HUNSICKER: Chair Griffis, what I have in particular reference to is NCRC's proposed traffic mitigation plan conditions, which I believe is appended to their January 23rd submission, if memory services, Exhibit M. Proposed condition number 18, in particular, talks about school events. It's not a defined term, and there's no limitations on the number of school events that will occur, but they specifically talk about operation until 11 o'clock at night.

The lighting that would be associated with that, the noise from the commercial air conditioning that would be associated with that, that has been previously addressed, would be certainly very disruptive in a very real adverse impact on the neighborhood, and the lighting --

CHAIRPERSON GRIFFIS: So you're saying it's the lighting of the building itself.

MR. HUNSICKER: That's correct.

CHAIRPERSON GRIFFIS: So the lights are on inside the structure.

MR. HUNSICKER: That's correct, and I would not expect all of the lighting to go off at the end of the event at 11:00 p.m.

CHAIRPERSON GRIFFIS: How would that be

different than an adjacent house that was home and stayed up late?

MR. HUNSICKER: Well, my house, I do not host school related events or conferences --

CHAIRPERSON GRIFFIS: Just in terms of the lighting issue.

MR. HUNSICKER: Well, I can think of at least a couple.

CHAIRPERSON GRIFFIS: Okay.

MR. HUNSICKER: First, volume of lighting.

CHAIRPERSON GRIFFIS: Okay.

MR. HUNSICKER: Second, nature of lighting. I would expect this would be the fluorescent type of lighting that was commonly experienced and not the commercial type of fluorescent lighting commonly experienced from these types of buildings, and not the type of incandescent, if that's the right word, lighting usually used by residential houses.

And I would also point out that I am confident that it's the case that the lighting on the NCRC site does not extinguish at the end of their events on any given day. They continue to light their buildings in some respects throughout the night or way late into the night, and so --

CHAIRPERSON GRIFFIS: So exterior lighting?

MR. HUNSICKER: Correct.

CHAIRPERSON GRIFFIS: Where do they have exterior lighting on the structure now?

MR. HUNSICKER: At least from my vantage point what I'm aware of is the carriage house, the existing older carriage house.

CHAIRPERSON GRIFFIS: And where is it? Is it an existing floodlight? Is it a down light?

MR. HUNSICKER: It looks to me to be a floodlight focused down on the --

CHAIRPERSON GRIFFIS: Is it a halogen?

MR. HUNSICKER: I don't know.

CHAIRPERSON GRIFFIS: What color light is it?

MR. HUNSICKER: It's white.

CHAIRPERSON GRIFFIS: It's white. Okay. That's a good description. Okay.

And you find that objectionable currently or you're anticipating that there will be a whole host of those?

MR. HUNSICKER: I am not here objecting to that current light. I anticipate that lighting pollution, as I characterize it, will be much worse if

this expansion proposal is adopted.

CHAIRPERSON GRIFFIS: Right, okay, and so it's a good thing that I clarify, and so what is being proposed is the functioning within the structure, not outside events is what I was reading it for. Perhaps it's residue of a morning case.

But in any case, I fully understand now, and it goes directly to condition number 18, which was talking about the number of events, and you have made the statement that you are concerned about the commercial type of lighting that would be emanating from the building.

Okay. Other questions from the Board?

MR. HUNSICKER: I guess my other concern that I would add, with your indulgence, is that I'm not, based on my experience with NCRC, this is the type of thing that cannot be effectively addressed by conditions.

CHAIRPERSON GRIFFIS: Very well. I think that's somewhat implicit in your statements, but we appreciate you saying that.

Then cross examination.

MS. DWYER: I have none.

CHAIRPERSON GRIFFIS: No cross? Any of the parties? ANC? Oh, Mr. Nettler.

MR. NETTLER: I'll let the ANC.

CHAIRPERSON GRIFFIS: Does the ANC have any cross examination?

MS. MACWOOD: No.

MR. NETTLER: I have just a few. I just wanted to ask you a couple of questions about the runoff that you mentioned.

What you characterized as the unauthorized construction in 1994, was that the creation of greater impervious surfaces on the site?

MR. HUNSICKER: Yes. That involved additional decking, windows and doors that NCRC now --

CHAIRPERSON GRIFFIS: We're going to go quickly to something that we need, right?

MR. HUNSICKER: -- NCRC now cites as one of the reasons it needs this expansion, as well as significant paving of the playground area.

MR. NETTLER: Now, with regard to the plans that you've seen for the new construction that's proposed, is the same concern the creation of more impervious surfaces?

MR. HUNSICKER: My primary concern, that would be a concern. I'm not specifically aware of the creation of pavement, if you will, but my primary concern is the plan cutting into the slope and I guess

the building of the substantial new building into the slope, which, of course, would be an impervious surface, I guess. So in that sense the answer to your question is yes.

MR. NETTLER: Okay. Have you seen anything from the plans which would give you an idea of what measures they're seeking to utilize to control the sediment or runoff or anything?

MR. HUNSICKER: No, I've seen nothing of that sort.

CHAIRPERSON GRIFFIS: Would you know it if you saw it?

MR. HUNSICKER: I hope so.

CHAIRPERSON GRIFFIS: What would you look for?

MR. HUNSICKER: Well, I would look for at a minimum barriers, for example, that I've seen around.

CHAIRPERSON GRIFFIS: What type of -- what's a barrier?

MR. HUNSICKER: Well, in some construction locations you'll see bales of hay used to --

CHAIRPERSON GRIFFIS: Oh, dear. You're talking about actual construction mitigation?

MR. HUNSICKER: I'm just saying that if I

knew about these sorts of things --

CHAIRPERSON GRIFFIS: Right. It goes to the point of the question I asked you before. First of all, you stated that you weren't a landscape engineer and you didn't know how to manage these things and you weren't aware of anything else in the city review process that would actually address this.

So getting into specific questions much further than this I don't see as fruitful.

MR. NETTLER: Well, did you see any document that is titled a storm water management plan?

MR. HUNSICKER: No.

MR. NETTLER: Okay. Did you raise these issues of concern prior to today with NCRC or at any public hearings, public meetings on this project?

MR. HUNSICKER: I believe either I did or someone that I had been working with raised them on behalf of neighbors generally.

MR. NETTLER: Okay.

MR. HUNSICKER: And so I know that the subject has been raised with NCRC.

MR. NETTLER: Okay, and in response to those being raised, did you see anything that was being provided to you or to the neighbors about addressing that concern?

MR. HUNSICKER: No.

MR. NETTLER: Okay. You had made reference to the number of events that are proposed in the order. Are you familiar with the 1998 order?

MR. HUNSICKER: Yes.

MR. NETTLER: Do you know how many after school events were permitted by the 1998 order?

MR. HUNSICKER: I have to say I don't recall that.

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

CHAIRPERSON GRIFFIS: Thank you.

MS. BADAMI: I have a question to you.

First, for the record, Linda Badami.

I have a question first to you. Can I --

CHAIRPERSON GRIFFIS: Who? Me?

MS. BADAMI: You, Mr. Griffis.

CHAIRPERSON GRIFFIS: Oh, dear. Well, why don't we finish with --

MS. BADAMI: No, it's a procedural question.

CHAIRPERSON GRIFFIS: Okay.

MS. BADAMI: Because he didn't read all of his testimony, but he did submit it. Can I ask questions of the text rather than what he said?

CHAIRPERSON GRIFFIS: Yes.

MS. BADAMI: That's okay.

(Laughter.)

MS. BADAMI: In your statement you said since NCRC didn't increase enrollment in '98. I'm sorry. Since NCRC didn't increase enrollment in '98. I'm wondering how you could have the statement that traffic conditions have gotten worse since 1998.

MR. HUNSICKER: Well, just a point of clarification. I don't think I say in here that they didn't increase student enrollment, at least to my knowledge, in 1998, but I did say that I think it has gotten worse. It's just based on my observation, and I think I know that, for example, in 1998 NCRC first proposed 108 as the number for its special exception and then increased that to 120, and I believe I've seen in the documents submitted in this case that NCRC has increased the different programs it offers during the course of the day in 2000-2001, which of course brings additional traffic to the area.

And then there's factors that may not be properly blamed on NCRC, just as the increased size of SUV vehicles that are more commonly used now by caregivers and the fact that people in my sense are just busier. All of these factors have contributed,

I think, to my observation that the traffic related to NCRC on Ordway Street at their entrance has become worse since 1998, not better.

MS. BADAMI: And then on page 7, you said that DDOT's report make the sidewalk infeasible along Ordway's frontage at least without unobtrusive and inexpensive retaining wall. Since my property shares that steep hill elevation, are you saying that that impact would be from my property also?

MR. HUNSICKER: Really all I'm saying is that it's a steel slope from Highland down the NCRC property and your property to Ordway. Given that slope, I don't think it would be feasible to put any sidewalk there absent some sort of a significant, obtrusive, and expensive retaining wall. Whether that's an adverse impact on you, I just don't know. That would depend on whether the city has the right to insist that it be built.

CHAIRPERSON GRIFFIS: Okay.

MR. HUNSICKER: Who would pay for it, that sort of thing.

MS. BADAMI: And then on page 9 -- no, sorry -- 7, again, you said that NCRC largely uses that parking across the street on Ordway by their school property, that the staff and faculty use it.

And since there's a Metro down the street, since there are houses there, how do you know that it's NCRC staff?

MR. HUNSICKER: I live right across the street from there, and I observe staff day after day, the same individuals parking there and using the NCRC frontage, which is not restricted to Zone 3 residents for parking.

MS. BADAMI: Great.

MR. HUNSICKER: It's just a common experience.

MS. BADAMI: Very good. Thank you.

CHAIRPERSON GRIFFIS: Questions from the Board? Anything additionally?

(No response.)

CHAIRPERSON GRIFFIS: Okay. Good.

MR. HUNSICKER: Thank you.

CHAIRPERSON GRIFFIS: And just in -- oh, boy. Yes, let's go.

MR. BECKNER: Thank you, Mr. Chairman.

Bruce Beckner, 3225 Highland Place.

Mr. Hunsicker, you mention on page 4 of your written testimony an example of an NCRC staff member car being parked blocking your driveway. Did you contact the school about that?

MR. HUNSICKER: My partner, Anne Shelburne, did after the car was parked in our driveway for some amount of time.

CHAIRPERSON GRIFFIS: Okay. You reported it.

MR. BECKNER: And did the school take any action in response to that?

MR. HUNSICKER: Yes, after we called over there, they moved the car or the staff member moved the car.

MR. BECKNER: You also mentioned in your oral testimony that there had been accidents on Ordway Street in the area of your house. Has any member of your household suffered any personal or property damage from such an accident?

MR. HUNSICKER: Yes, Anne's car has been struck repeatedly, yes.

MR. BECKNER: And was this car struck while it was parked on the street?

MR. HUNSICKER: Yes.

MR. BECKNER: Okay. No further questions.

Thank you, Mr. Chairman.

CHAIRPERSON GRIFFIS: When was the last time it was hit? Do you know?

MR. HUNSICKER: It was during this

proceeding, but I don't know more precisely than that.

CHAIRPERSON GRIFFIS: What time of day?

MR. HUNSICKER: I don't know.

CHAIRPERSON GRIFFIS: Do you know if it was in the middle of the night?

MR. HUNSICKER: No, it was not in the middle of the night.

CHAIRPERSON GRIFFIS: Was it after eight o'clock or you're not aware of it at all?

MR. HUNSICKER: I'm not aware of it.

CHAIRPERSON GRIFFIS: I see.

MR. HUNSICKER: I think she's going to make a statement. You may want to ask her these questions.

CHAIRPERSON GRIFFIS: Indeed. Okay, and less use for the storm water management, water runoff and all of that, there are other requirements for that to be addressed. This obviously wouldn't be the Board that would address all of that, but as I've stated, we take it under advisement from your statement of an adverse impact.

In terms of bale of hay, I need to address that just a little bit because that's more of a construction mitigation problem of soil runoff and such, and believe me, that is absolutely required. I

have seen permits where the first page of the permit documents or second might be the requirements of which the District of Columbia has for any sort of construction management.

So that being said, we thank you very much, and let's move on.

Okay. We're going to let you start talking, and then we're going to ease into starting the clock because we can't for some reason get three seconds on it, which is the remainder of the time of the first, and then we'll start it rolling.

MS. BADAMI: Excellent. So just for the record, I'd like to object to being limited to six minutes.

CHAIRPERSON GRIFFIS: You weren't. You were limited to an hour and 45 minutes.

MS. BADAMI: Good afternoon. My name is Linda Badami. I live at 3207 Highland Place. The property is owned by Gaylord Neeley, who has resided there since 1992.

I'm speaking both as a next door neighbor and as a carpenter and contractor who is familiar with what the construction process will entail.

Here's our house, and here's NCRC. The black and white photo was taken in 1910. The color

photo was taken in the fall of 2002. Both houses sit on uncommonly large lots even for this neighborhood, and each house sits on the very edge of their lots right next to each other.

Today I'm submitting additional testimony which you'll be able to look at at your convenience, and today I'd like to focus my presentation on a few of the most important points.

First of all, what our neighbors have said about traffic is true, but more specifically to us, we have a unique perspective because our property adjoins the NCRC property, because our house is located so close to the NCRC property line, and because the NCRC main building is located so close to our property line, we will experience unique harm that is directly attributable to the proposed expansion.

Let me summarize the nature of this unique harm that we will experience if NCRC's proposed expansion is approved.

First, the NCRC's proposed expansion to the main building will create a maintenance corridor between that building and our residence which will substantially increase for traffic and noise in a location right next to our house. Constructing a maintenance structure where a small shed is currently

located will concentrate new noise and new traffic into a corridor that runs adjacent to our property and right next to our house property line.

Workers engaged in any maintenance related undertakings will walk between the two houses. Any worker that needs a machine, a blower, a lawn mower, a chain saw, a ladder must come down the corridor.

The construction of this new building, which until now has received little attention, will inevitably draw more people into a location right next to our house. Because they are replacing an existing one-level structure with a two level structure, I do not believe it's legal. You'll see more of that in my written testimony -- my oral present -- you know what I'm saying.

Thus, continuing with impact, NCRC's proposed addition to the main building will cut off light and eliminate sight lines from various rooms of our house. This is a certainty.

This is the back of NCRC's main building, and this is our house. The addition, the wrap-around addition planned for the main building will bring the building east eight to ten feet towards my house. From the north it will bring this part of the main house 19 feet out and this part of the main building

at least 43 feet out.

The addition to the back will increase the height of the building next to our house. It will have the impact of two and a half stories. The peaked roof that will be at the west of the addition will be even with the top of NCRC's bottom sash of their second floor window, which is parallel to the top of the bottom sash of our windows.

My stepson's basement bedroom currently has good natural light. With the proposed addition, much of this light will be blocked.

The addition will also block light from the west and the view towards the west for all of the windows on my second, first, and ground floors. The impact on the kitchen, the breakfast area, the bedroom, the hallway, as well as the second floor sunroom, which is designed to shed light on our first floor, will be blocked and those images can be seen in the testimony I've submitted dated June 10th.

As you can see for yourselves, those rooms will lose natural light and they will lose a view.

Third, NCRC's proposed construction to the main building and on the proposed new maintenance building will destabilize the hill that we share. The excavation that is contemplated beginning at the

property line will sheer off the top of the hill, promote soil erosion, and threaten the foundation of my garage.

Finally, among the many other trees on our property that will be adversely affected, NCRC's proposed construction will destroy an historic old growth oak over 100 years old that stands between the buildings. Even if the wrap-around addition could be magically lowered in place, it will severely damage the roots of our trees.

You'll find in Appendix I an arborist's testament of that and in the June 26th submission.

The main building's eastern footprint expansion, the sidewalk relocation and enlargement will increase the impervious surface area directly over our roots and also to gain appropriate access to the new elevator and maintenance corridor on the east side of the main building. The sharp grade from the south of the property at Highland heading north will need to be sheered off further damaging the roots of our holly, chestnut, and oak trees.

The elimination of buffer trees between NCRC and Henry Little's house will negatively impact our house also. Please consider these photos. The top is an aerial photo of the NCRC property taken in

1985 and the bottom is from the NCRC 2002 submission. To orient yourselves, this is NCRC's lot. This is Highland. This is Ordway. This is my house. This is NCRC. This is the Beckners. This is Henry Little.

You can see that the tree removal affected the west of the property, but more specifically, it thoroughly impacted the back. This means that all that is left to buffer my house from Henry Little's and all the other houses up Ordway, up to 34th Street and Reno Road are the small stand of trees that remain and they will all be removed with this proposed construction.

Please consider these photos. They were taken in 2002, and you can read the rest.

CHAIRPERSON GRIFFIS: You just made a statement, looking at that aerial photograph, that if certain trees were removed on the Little property that it would remove the last buffer that you have, your property has from --

MS. BADAMI: Correct.

CHAIRPERSON GRIFFIS: -- those across Ordway and Mr. Little's?

MS. BADAMI: You can take that one down. These images are in your submission.

This is the picture from the reverse angle

of those top two photos. This is taken from 34th Street and Reno Road.

CHAIRPERSON GRIFFIS: But my question is what are you trying to buffer? You don't want to see anything? You don't want to see the house?

MS. BADAMI: The privacy of my house, which you can see --

CHAIRPERSON GRIFFIS: You're saying that without those trees, Mr. Little somehow encroaches on your property?

MS. BADAMI: No, I said that Mr. Little -- all of the houses on Ordway Street up until 34th Street and Reno Road will see my house and I will see them all year round. If you look at this picture, which is taken from 34th --

CHAIRPERSON GRIFFIS: That's what I'm trying to get at.

MS. BADAMI: -- and Reno Road --

CHAIRPERSON GRIFFIS: Is that a problem?

MS. BADAMI: Yeah. This image shows the bulk of the --

CHAIRPERSON GRIFFIS: How far back is your house from Ordway?

MS. BADAMI: As you can see from this picture standing at --

CHAIRPERSON GRIFFIS: No, what's the dimension?

MS. BADAMI: -- 34th Street and Reno Road --

CHAIRPERSON GRIFFIS: What's the dimension of your back property, your sun room to Ordway Street?

MS. BADAMI: I would estimate 60 feet.

CHAIRPERSON GRIFFIS: Sixty feet from the street.

MS. BADAMI: Yes.

CHAIRPERSON GRIFFIS: What's the distance to Mr. Little's house?

MS. BADAMI: I don't know the lot size of NCRC off the top of my head. I believe it's about 200 feet.

CHAIRPERSON GRIFFIS: Probably more than 60 feet though. Is NCRC wider than your rear yard?

MS. BADAMI: Yes.

CHAIRPERSON GRIFFIS: And so what you're saying is it's problematic if you don't have a tree buffer when you have that much space for --

MS. BADAMI: I'm saying that in 1994 when they cut down the trees, they cut off almost the entirety of the buffer trees between me, NCRC, Mr. Little, and all of the houses on Ordway.

CHAIRPERSON GRIFFIS: I understand that part.

MS. BADAMI: And all that remains now is that last stand. If they remove that last stand, all year round all of my neighbors up until 34th Street and Reno Road will be able to see my house and NCRC's building and all of their expansions year round. That's not in line with the historic district, and it eliminates the privacy of my house.

CHAIRPERSON GRIFFIS: Okay. Questions?

COMMISSIONER HOOD: Ms. Badami, you mentioned I think you said your stepson's bedroom currently has a good natural light.

MS. BADAMI: Yes.

COMMISSIONER HOOD: And then you go on to say that a portion of the light will be blocked. What percentage?

Right now you're getting what, 100 percent, 90 percent?

MS. BADAMI: From his bedroom --

COMMISSIONER HOOD: From what you're getting right now, what percentage would you not be getting?

MS. BADAMI: Let me try to answer it out loud so that I can figure it out loud.

COMMISSIONER HOOD: Okay.

MS. BADAMI: From his bedroom, it goes about 12 feet to our property line, and if I'm wrong I can submit something saying otherwise, and then there's a six or seven foot fence. Then above that on NCRC's property is a porch that is open that does allow light to come through, although it has a roof. With their addition, they'll push that part of the building out 19 feet. So that will be solid, won't allow the light through. Plus it will be two and a half stories. So on the west side it will also have that peaked roof.

So I don't know how much light. I think it will be a lot.

COMMISSIONER HOOD: And what time does the light show into your stepson's room? Is it morning or evening?

MS. BADAMI: Well, this on the second floor is my office. So I can speak from my experience of what time the light is there. I mean I can watch the sunset out of my window, you know. I imagine he has light until the sun goes down.

COMMISSIONER HOOD: Okay. Now, do we have that picture there? Because that's the one you referenced. Do we have that in our packet? Did you

submit it to us?

MS. BADAMI: I believe so, but I'd have to look again, and I can submit them if I don't have them in there.

COMMISSIONER HOOD: Okay. Thank you.

CHAIRPERSON GRIFFIS: Now, you referred to the maintenance shed that was being proposed and that that would increase traffic, and I understood that was more of foot traffic; is that correct? You don't anticipate vehicles driving down this thing, do you?

MS. BADAMI: No.

CHAIRPERSON GRIFFIS: Okay. So when you're talking about increased traffic and noise attendant to that, you're meaning all of the people going down to get the maintenance equipment and --

MS. BADAMI: Right, because they have --

CHAIRPERSON GRIFFIS: -- you said the blowers, lawn cutters, other types of equipment like that.

MS. BADAMI: Because the shed is so small and right now primarily just holds the kids' bicycles and scooters.

CHAIRPERSON GRIFFIS: I see.

MS. BADAMI: The maintenance equipment as it's now stored is stored in -- as I've watched -- is

now stored in the basement and is stored in a shed that's right here. So all of this equipment and whatever they're getting from the basement would be removed and put in the maintenance building, as I'm reading the plans.

CHAIRPERSON GRIFFIS: How often have you noticed maintenance happening that was disturbing?

MS. BADAMI: That was disturbing.

CHAIRPERSON GRIFFIS: Yeah. I mean, you're saying it's an objectionable condition to have this piece because the maintenance folks are going in, getting this equipment and causing noise, one, getting it out and also using it, I'm assuming; is that correct?

MS. BADAMI: Well, yeah, I do find it disturbing having the two dumpsters --

CHAIRPERSON GRIFFIS: No, I'm not questioning that. Okay. So --

MS. BADAMI: -- the two metal dumpsters that are rolled twice a week outside my bedroom window that are not on the trash days for the rest of the neighborhood.

CHAIRPERSON GRIFFIS: Okay.

MS. BADAMI: And the sidewalk on that side will have to be relocated and put even closer to my

property line.

CHAIRPERSON GRIFFIS: Okay. That's going off the top --

MS. BADAMI: I don't know the percentage.

CHAIRPERSON GRIFFIS: I'm just trying to get -- I'm just trying to understand what you're presenting, and so what you're saying is this maintenance shed will increase the noise and the activity --

MS. BADAMI: Indeed.

CHAIRPERSON GRIFFIS: -- on the properties.

MS. BADAMI: Right.

COMMISSIONER HOOD: And so what I'm trying to assess is just to gauge how your complaint is coming to us. What currently is the activity that you've seen that's objectionable?

You may not have seen any.

MS. BADAMI: Well, they have a full-time maintenance person. I see him every day. He uses the leaf blower to blow the sand off the sidewalks of the playground. I've seen him use a chain saw when things need to be cut.

CHAIRPERSON GRIFFIS: Let me just understand. Is that any different than your other

adjacent neighbors?

MS. BADAMI: I have never witnessed a neighbor using a leaf blower to blow sand from their property on a regular basis.

CHAIRPERSON GRIFFIS: How about using a leaf blower?

MS. BADAMI: Yeah, a lot of us use leaf blowers --

CHAIRPERSON GRIFFIS: Okay.

MS. BADAMI: -- once a week and during the fall, but not year round.

CHAIRPERSON GRIFFIS: Okay. Okay. And you said your house is approximately 12 feet from your property line or is that from the adjacent structure?

MS. BADAMI: Property line.

CHAIRPERSON GRIFFIS: Okay.

MS. BADAMI: And that's off the top of my head.

CHAIRPERSON GRIFFIS: Right. No, no, no, I'm just trying to scale actually your Exhibit E to get me a little --

MS. BADAMI: Exhibit E in which one?

CHAIRPERSON GRIFFIS: In that notebook that just came in that looks familiar. Indeed, I guess we were provided additional copies. You've

submitted this?

MS. BADAMI: I submitted one dated June 10th and one submitted June 24th.

CHAIRPERSON GRIFFIS: Four. Okay.

MS. BADAMI: And this is Xerox. This is to scale.

CHAIRPERSON GRIFFIS: Right. My last question, I think, then looking at F, you have indicated, which I think corresponds to the aerial photograph you were showing us to try and evidence the changes; you have crossed out trees; is that it, that were removed?

MS. BADAMI: Yes.

CHAIRPERSON GRIFFIS: And that's what this is showing us?

MS. BADAMI: Yes. The arborist that I hired, besides assessing the damage that would be done to my trees from the edge of my property using the maps provided by NCRC, observed all of the trees that were removed.

CHAIRPERSON GRIFFIS: Okay, and when your arborist looked at it and assessed that there would be damage if the proposed construction went forward, did they give you an advice of how that damage might be mitigated?

MS. BADAMI: How it might be mitigated?

CHAIRPERSON GRIFFIS: Did he talk to you about foundation locations or piers, piles, anything mapping out the roots?

MS. BADAMI: Well, I can answer that in two ways, one through my experience and one through what we talked about.

CHAIRPERSON GRIFFIS: How about did he tell you anything?

MS. BADAMI: What he said is that the construction that occurs now is so different than the construction that occurred when these houses were built because of the machinery rather than things being built by hand. So that regardless of the equipment that they use, they're going to sever it and the weight of the machines are going to impact the roots because they're so condensed because the trees have been there so long and the houses have not moved.

CHAIRPERSON GRIFFIS: So he thought it was a foregone conclusion that construction would destroy the trees.

MS. BADAMI: He -- he intentionally, as I recall, didn't include impact of construction because he's not seen a construction plan. All he was considering in his letter was if the addition was

lowered right into place what would be the impact.

CHAIRPERSON GRIFFIS: Okay. So he didn't talk about the foundation location or anything of that nature.

MS. BADAMI: I don't understand your question. I mean, he looked at the plans and he looked at where it would be and --

CHAIRPERSON GRIFFIS: Okay.

MS. BADAMI: -- from talking with Mr. Anthony, I know the approximate depth of the foundation and--

CHAIRPERSON GRIFFIS: Right.

MS. BADAMI: -- the depth of the basement.

CHAIRPERSON GRIFFIS: What kind of foundation is it? Is it a poured in place foundation?

MS. BADAMI: It's a poured with a 12 inch footer.

CHAIRPERSON GRIFFIS: So it's a solid piece that goes around the entire building?

MS. BADAMI: He was talking about the side because I was asking about the elevator.

CHAIRPERSON GRIFFIS: Okay. Anything else?

(No response.)

CHAIRPERSON GRIFFIS: Cross examination?

MS. DWYER: I just have a couple of questions. One, I wanted clarification, Ms. Badami, of your side yard because on the plat that you filed as part of your submission, it shows that your existing house has a side yard of less than six feet.

MS. BADAMI: I said it was off the top of my head. Thank you for the correction. I'll go with the plat.

MS. DWYER: And in looking at the plat, I was just trying to identify where your stepson's bedroom is. Is it in the courtyard area here?

MS. BADAMI: Yes, that's about where. The number is 5.45. His would be at the five.

MS. DWYER: All right, and does it --

PARTICIPANT: Objection. It's going to be difficult to understand in the transcript --

MS. DWYER: I'm going to ask her to identify it on the map.

I'm going to ask you just to identify where the bedroom would be located on that photograph in the upper right-hand corner of that exhibit.

MS. BADAMI: The upper right-hand corner.

MS. DWYER: No, on the right-hand side, that photograph on the right.

MS. BADAMI: Right, oh, this right. This

is the courtyard that you had referred to, and this is where his bedroom is, and this is the fence that I said is there, and then this is the open porch that allows light to come through, and the light that is able to come from above the porch.

MS. DWYER: All right. So on that photograph, he's at the lower level of the house.

MS. BADAMI: Correct, in the basement.

MS. DWYER: Right, and your position is that the existing light and air is not impacted by the fence that's there or the existing structure that's there, but would be by the new addition.

MS. BADAMI: Well, I actually didn't say that it's not affected. I was putting it in the context of how much light it can get in because of the existing conditions. I can compare it to his bedroom -- I'm sorry -- his bathroom, which is located over here (indicating), which does have the height of the building next to it and the amount of light in there is significantly less.

MS. DWYER: And the photograph that we're looking at, is that essentially the back of your house? Is the front of the house on the other side?

MS. BADAMI: No, this is the side of my house. Mr. Anthony did say since the front door of my

house was at the side that my back would effectively be to NCRC's main building at all times, and does not make sense to me. I don't have long skinny rooms in my house.

I come in through the side, and that's actually one of the attributes of my house that makes it unique, as I've heard through the tours that come through the neighborhood. I'm the only house on the block that has a side entrance as their main entrance.

MS. DWYER: But the side entrance is on the other side of the building --

MS. BADAMI: Correct.

MS. DWYER: -- that we're looking at in that photograph.

You mentioned that there would be creation of some kind of maintenance corridor along the side of the NCRC property with this new shed. Can you tell me what do you have in the side yard of your property right there? Is that where you have your air conditioning equipment?

MS. BADAMI: Yes. I have two residential air conditioning pieces as opposed to your three commercial grade air conditioning units.

CHAIRPERSON GRIFFIS: Okay. Appreciate it.

MS. DWYER: Okay, and beyond the addition that you have there in white, between that and your garage, is there a skateboard ramp that you have?

MS. BADAMI: Wait, wait, wait. My addition?

MS. DWYER: The white, the white portion of the building that is shown in that photograph.

MS. BADAMI: Okay.

MS. DWYER: From the end of your house to the garage is there a skateboard ramp that also is placed in that side yard area?

MS. BADAMI: I'm wondering the relevance of that to this application.

CHAIRPERSON GRIFFIS: It goes to you brought up the point that there's so much noise coming down this corridor that's created. She's asking you just questions of what does it actually impact on your side of the fence. I see some relevance.

MS. BADAMI: Yeah, my stepson and I built that for his 16th birthday. He uses it about --

CHAIRPERSON GRIFFIS: It's just yes or no. It's a really simple question. In fact, I think we have a photograph of it in the record.

MS. BADAMI: Indeed. I was quite surprised but pleased that you could look at my work.

So what is --

CHAIRPERSON GRIFFIS: I think you submitted the picture, but okay.

MS. BADAMI: No, no. It was through NCRC.

CHAIRPERSON GRIFFIS: I see.

MS. DWYER: One final question. In that photograph, the height of the rear of your house --

MS. BADAMI: Yes.

MS. DWYER: -- compared with the height of NCRC's rear, even with the proposed addition, isn't your rear about ten feet taller than what NCRC's is and will be with the addition?

MS. BADAMI: Well, that's a compound question because NCRC's roof line and my roof line have different heights even in the rear. So --

MS. DWYER: But that white portion of your house --

MS. BADAMI: Right.

MS. DWYER: -- today, is that approximately ten feet taller than the rear of NCRC's property?

MS. BADAMI: No.

MS. DWYER: How much taller would you say that is? The rear -- the rear --

MS. BADAMI: I believe there are --

MS. DWYER: The end portion of NCRC's property is the open porch that is going to be enclosed and extended.

MS. BADAMI: No.

MS. DWYER: And my question --

MS. BADAMI: The end of the main building is here. This doesn't count as a square footage area for tax purposes. So I'm not counting it.

CHAIRPERSON GRIFFIS: I think her question is from that portion of the roof line; is that correct?

MS. DWYER: Yes, that's correct.

CHAIRPERSON GRIFFIS: How much higher is the back portion of that from --

MS. BADAMI: From this?

MS. DWYER: Yes.

CHAIRPERSON GRIFFIS: Yes.

MS. BADAMI: I don't have a number, but when Mr. Anthony and I shot my laser level to get the comparison of the heights, these are even. So I'm imagining they're parallel.

MS. DWYER: Your statement on the record is that the height at the rear of your property is the same height as the rear of NCRC's even with their addition?

MS. BADAMI: No. I'm saying that our windows are parallel, and that I can't speak to the height of the roof.

MS. DWYER: All right.

CHAIRPERSON GRIFFIS: So the brick portion of the main building, Ms. Badami, is equal to the height of the rear portion of your structure; is that correct?

MS. BADAMI: I'm basing that because we --

CHAIRPERSON GRIFFIS: I'm just trying to get --

MS. BADAMI: -- shot a band board. The band board -- so, yes, to the best of my knowledge --

CHAIRPERSON GRIFFIS: So you're saying --

MS. BADAMI: -- the windows are parallel.

CHAIRPERSON GRIFFIS: -- essentially the window lines are parallel on the second floor.

MS. BADAMI: Yes, and when I look out my windows, I see directly in theirs, and I imagine they see directly in mine.

MS. DWYER: So if the brick lines are essentially parallel, then what is shown there as the back porch would be significantly lower.

MS. BADAMI: Lower than what?

MS. DWYER: Than the upper roof line of

the building by approximately a story.

MS. BADAMI: Well, it is now, but it won't be when you're done because you have a peaked roof over here on the west side that goes up halfway.

MS. DWYER: And your testimony is that the peak roof is going to essentially match the height of the rear of your building.

MS. BADAMI: No. I said that the peaked roof will match the top of the bottom sash of the second floor windows of NCRC's main building, which are parallel to mine.

MS. DWYER: Which means it would be lower than the top of your building.

MS. BADAMI: Yeah.

MS. DWYER: Okay. Thank you.

CHAIRPERSON GRIFFIS: Anything else? Does the ANC have any cross examination?

MS. MACWOOD: Hello, Ms. Badami. I just have a couple of questions.

Have you -- you shared your concerns regarding the impact of the proposed addition on the east side of the NCRC building, to the west side of your home with NCRC.

MS. BADAMI: Yes.

MS. MACWOOD: Did they make any

adjustments to their plans to mitigate or lessen the loss of light and/or sight lines from your home?

MS. BADAMI: No, I didn't talk to them specifically about this. This was early in the meetings when the proposal was to put three cars in a driveway right there. So, no, I wasn't speaking about sight lines. I spoke about noise, and I talked about the impact of cars.

MS. MACWOOD: And what was the result of raising those issues? Was there any -- were there changes in the plans?

MS. BADAMI: I don't know that it was specifically from my conversation because other conversations occurred, but as I understand it, they've applied for a waiver for an exemption from parking on the street.

MS. MACWOOD: Okay, and this is a follow-up on the question that the Chairman asked. The arborist that you contracted with, did he or she explain to you how many feet of protection from construction equipment or construction activities would be necessary in order to protect the old growth trees?

MS. BADAMI: No, but he did say that especially oak trees are sensitive to construction,

and so whatever they would do, they'd have to be really careful with it.

MS. MACWOOD: Okay. No further questions.

CHAIRPERSON GRIFFIS: Any other? Mr. Nettler?

MR. NETTLER: Just a couple. You testified that you're a contractor. Could you explain what type of development projects are you a contractor for?

MS. BADAMI: I started in 1990, and I started as --

MR. NETTLER: Just generally.

MS. BADAMI: Sorry. Okay.

MR. NETTLER: I'm sorry to interrupt you.

CHAIRPERSON GRIFFIS: When did -- I don't understand the question.

MR. NETTLER: I want to ask her a question about something in her testimony. I want to see whether she has the ability to answer the question. So I'm trying to get an idea of --

CHAIRPERSON GRIFFIS: When did she say she was a contractor?

MS. BADAMI: In the --

MR. NETTLER: When she introduced herself she said she was a --

CHAIRPERSON GRIFFIS: Oh, I see.

MS. BADAMI: I've said it in my written, and it's in my introduction.

CHAIRPERSON GRIFFIS: Good. Okay. So what does that mean?

MR. NETTLER: Generally today or over time what type of projects have you been contractor --

MS. BADAMI: I primarily do residential renovation. I've done a few commercial jobs.

MR. NETTLER: Okay. Do you have any -- in doing that, do you have any responsibility for overseeing excavation plans or storm water management plans or anything of that nature?

MS. BADAMI: On the jobs that are comparable to this size, I haven't been the contractor. I've been a carpenter on them. So I haven't been in charge of them, but I've witnessed them.

MR. NETTLER: But in any of the plans that you have been essentially this size, have you had responsibility for overseeing excavation or storm water management plans?

MS. BADAMI: Yes.

MR. NETTLER: Okay. You said in your testimony that the excavation as contemplated will

promote soil erosion and threaten the foundation of your garage. Could you explain the basis for that statement?

MS. BADAMI: Sure. If you look here, the basement as it is now, eyeballing it, it looks about five feet to six feet out of the ground, and their new addition is going to come out 19 feet from that location and 43 feet from this location, and though it's an eight foot interior space in there now, they're going to step it down and make it nine feet.

So to accommodate this, they're going to have to just sheer off the top of the hill, as well as for the maintenance building they're going to completely redo the foundation that exists and then take a 90 degree turn and cut down.

So even to provide stabilization for that 90 degree turn, they're going to have to cut further back towards my property line. So even though the 90 degree turn isn't at the property line, they'll have to remove more for it, plus the footings for the other thing.

So it starts at the property line and goes about 80 feet into their other building that's there now, and that excavation, because you wouldn't want the grade to slant towards the main house, will have

to be level, and so that means especially on the cusp of the hill that's going to have an amazing impact because that hill is especially fragile. You know, you can have a construction plan that deals with the erosion short term, but in my experience sod or planting trees is not going to solve the long-term problem.

MR. NETTLER: Okay. You're aware that the District requires, when anybody comes in for construction, they require them to provide a storm water management plan as part of the review --

MS. BADAMI: Right. It often say provide silt fence, yeah.

MR. NETTLER: Just let me finish.

-- as part of the review that's done by some other agency. You understand that.

MS. BADAMI: Right.

MR. NETTLER: Okay. Is it your -- what you're saying is that form your experience that whatever plan that they're proposing will still result in erosion that will have an adverse impact?

MS. BADAMI: Oh, yeah.

MR. NETTLER: And why is that?

MS. BADAMI: Because you can't take away the trees and the growth that has been there for so

long, and you can't take away -- the soil is more compacted now. You'll be getting something else, especially because it will be turned up and because the amount of concrete back there is going to be completely taken out and redone.

So besides just the measure of getting down to nine feet, they're going to disturb the soil underneath that. So it's going to be a huge deal for the people on Ordway, and I'm concerned about my garage's foundation.

MR. NETTLER: No other questions.

CHAIRPERSON GRIFFIS: I mean, is there a special review for you to remove a certain amount of soil from a piece of property in the District of Columbia?

MS. BADAMI: I'm sorry. What?

CHAIRPERSON GRIFFIS: Is there any additional requirements that come into play if a certain amount or above a certain amount of soil or earth is removed from a piece of property?

MS. BADAMI: I read on line -- are you --

CHAIRPERSON GRIFFIS: You're not familiar in your contracting experience with that then?

MS. BADAMI: Because I have not been in charge of a --

CHAIRPERSON GRIFFIS: When you said you are a contractor, are you a general contractor?

MS. BADAMI: I was licensed for D.C. as a subcontractor because I didn't want all of the --

CHAIRPERSON GRIFFIS: Okay. So it's subcontractor --

MS. BADAMI: -- general responsibility.

CHAIRPERSON GRIFFIS: -- as carpentry.

MS. BADAMI: Indeed.

CHAIRPERSON GRIFFIS: Okay. So when Mr. Nettler asked you if you had overseen any sort of other site construction, in what capacity did you oversee that?

MS. BADAMI: One of my work partners at one point was licensed in Maryland and in D.C. --

CHAIRPERSON GRIFFIS: As a?

MS. BADAMI: Contractor.

CHAIRPERSON GRIFFIS: General contractor.

MS. BADAMI: Right. And though I didn't carry the license, he and I worked as partners. So I was --

CHAIRPERSON GRIFFIS: So you were present when certain things were happening.

MS. BADAMI: Right, and I was --

CHAIRPERSON GRIFFIS: Were you liable for

any sort of mistakes that were made or responsible for scheduling any of that work?

MS. BADAMI: I believe so. I'm liable to my partner, yes. If we happened to get sued, no, it would be his name, but that doesn't take away my responsibility as I see it.

CHAIRPERSON GRIFFIS: I understand. Okay.

Any other questions? Cross?

MR. HUNSICKER: Steve Hunsicker, 3083 Ordway Street.

Ms. Badami, I believe you showed a picture and made reference to a buffer of trees that would be lost, I think, near by Henry Little's house.

MS. BADAMI: Yes.

MR. HUNSICKER: And my question is: can those pictures be used to depict the change in the view that will be experienced by the neighborhood more generally, and particularly neighbors traveling or living on Ordway Street?

MS. BADAMI: Right. That's what the second image was. I used a Photo Shop program to insert the buildings, given the drawings by Mr. Anthony.

MR. HUNSICKER: Can you identify for the record which picture you're particularly referring to?

MS. BADAMI: This one. It's handed in as a single sheet to the Board. This is my house, and you can see that it's blocked by trees right now. This is NCRC's main building here, and the top of the main building that will remain will be clearly visible.

This is the main building's addition. This would be the carriage playhouse and then the wall, the tunnel, whatever it's called, to connect them, and then this is the shed that they plan as compared to the shed here.

MR. HUNSICKER: Okay. Could you put yourself in the position of a neighbor walking or driving down Ordway Street, and using those pictures, just characterize how the view now experienced by the neighborhood will change?

MS. BADAMI: Oh, sure. Each of these buildings --

CHAIRPERSON GRIFFIS: Wait a minute. Why is that a cross examination question, to explain further her case?

MR. HUNSICKER: It seems --

CHAIRPERSON GRIFFIS: Of course, you know cross examination is a perfect opportunity for you to ask questions, to poke holes in her case, although

this is interesting that we have all of the opposition crossing the opposition, continuing the case presentation. But if you want to bring pertinent points out, you know, obviously I'm letting that happen, but just to go back and reiterate or expand on testimony is inappropriate at this point.

MR. HUNSICKER: I didn't believe that this point was adequately addressed in her testimony, and that's why I'm attempting to question her on it. This is the last question I have.

CHAIRPERSON GRIFFIS: Okay.

MS. BADAMI: The addition that they have planned is longer and wider than any of the houses that are on Ordway. So just the addition itself is out of the rhythm of the street.

Plus when you combine it with the tunnel or whatever -- I don't know what it's called -- walkway, which connects it to this building, the facade will be all three units, and it will be tremendously out of character for Ordway.

MR. HUNSICKER: Thank you, Ms. Badami.

CHAIRPERSON GRIFFIS: So your statement is what you're showing in the lower photograph is out of character with the neighborhood.

MS. BADAMI: Correct. There is nothing

else --

CHAIRPERSON GRIFFIS: Because?

MS. BADAMI: -- that is as wide as this, this, and this.

CHAIRPERSON GRIFFIS: Well, something unique doesn't necessarily mean it's out of character.

MS. BADAMI: It does on Ordway Street.

CHAIRPERSON GRIFFIS: Oh, it does? Okay.

MR. HUNSICKER: My question, and I took her answer, went to what was proposed to be added to this picture of what now exists.

CHAIRPERSON GRIFFIS: Right, which is the bottom photo.

MR. HUNSICKER: Correct.

MS. BADAMI: All of this --

CHAIRPERSON GRIFFIS: I'm with you.

MR. HUNSICKER: Okay.

CHAIRPERSON GRIFFIS: Now, least you think I'm being impatient for some unknown reason, let me just make a statement. First of all, this is not the first case of this nature. So the Board is very familiar with what we're looking at and what we're discussing.

So when I try and move people along, I move you along not because I don't want to hear you.

It's because I know this Board and I know that they can quickly pick up on what is important and what is being seen, and then we will spend additional time to do it.

So we don't need to hit home a lot of things. Now, the other thing that I think we will question an awful lot of these from everybody are these huge statements that need to have a little bit more substance to it. So without going further and wasting everybody's time perhaps, let's move on.

Is there any other cross examination?

(No response.)

CHAIRPERSON GRIFFIS: All set? Great.

Thank you very much.

And just to be clear, I think that in this you have submitted, again, the June 24, but also additionally one, two, three, four, five, I believe six other pieces. So if you want to just make sure the record is complete to make sure that all of that has made it in and I'm counting correctly, that would be a good move.

Okay. Where are we next? Set it for six minutes?

MS. BADAMI: And I submitted 18 copies of each to the Board.

CHAIRPERSON GRIFFIS: I'm sorry. What?

MS. BADAMI: I submitted 18 copies of each to the Board. Is that appropriate?

CHAIRPERSON GRIFFIS: Oh, yes. Thank you very much.

Is that snacks?

(Laughter.)

PARTICIPANT: Just potato chips. No water.

CHAIRPERSON GRIFFIS: Also, if you wouldn't mind Ms. Badami, for any photographs that you showed today, of course, those all to be in the record. I know a lot of them are in other iterations, but if you would just verify to make sure.

MS. BADAMI: Sure, and if Ms. Bailey at the end of the proceedings could give me a date.

CHAIRPERSON GRIFFIS: Okay. Good.

MR. CRAIG: Mr. Chairman.

CHAIRPERSON GRIFFIS: Yes.

MR. CRAIG: My name is Gregory Craig. I'm a lawyer in the District of Columbia.

CHAIRPERSON GRIFFIS: Indeed.

MR. CRAIG: And I have been asked to assist Mr. Little in the presentation of his case. I would seek the leave of the panel to allow me just for this purpose to assist Mr. Little in the presentation

of his case.

CHAIRPERSON GRIFFIS: Fine by me. Anyone have a problem?

(No response.)

CHAIRPERSON GRIFFIS: You have six minutes of assistance.

MR. CRAIG: Thank you.

Mr. Little, please tell the panel what your address is and where you live with respect to the NCRC property.

And could we have that aerial photograph, please, Linda, so he could point to that location?

MR. LITTLE: My wife and I own a house at 322 Ordway Street, which is immediately adjacent to on the west of NCRC, and shares a 75 foot long boundary on the western side of NCRC.

MR. CRAIG: Let the record reflect that Mr. --

CHAIRPERSON GRIFFIS: I see. You don't need to bring it in. We know where he lives. It's in the record.

MR. CRAIG: Okay, cool.

CHAIRPERSON GRIFFIS: Just get to the substance.

MR. CRAIG: And how long have you owned

this property?

MR. LITTLE: Nineteen years just about.

MR. CRAIG: And are you familiar with the proposal from NCRC to build a new structure?

MR. LITTLE: Yes.

CHAIRPERSON GRIFFIS: I would cut right to the chase. We know all of this.

MR. CRAIG: Okay. Have you seen the -- I'm establishing that he has done a little research. Okay?

CHAIRPERSON GRIFFIS: He's a party in opposition. If you're establishing more than that, you're wasting your own time. Let's move in.

MR. CRAIG: In your view, will this new structure have an adverse impact on your property?

MR. LITTLE: Yes.

MR. CRAIG: Can you describe for the panel what the adverse impact will be?

MR. LITTLE: Yes. I want to direct my testimony to the dramatic, irreparable, adverse impacts that my family and I and our property will suffer as a result of the proposed new carriage house structure. From our vantage point, this structure, if BZA allows the NCRC to build it, will be nothing more than a huge, towering wall running along my property

line 15 feet from my house in the principal portion of the house that we use about 90 percent of the time when we're not sleeping, and some 27 feet high. The building will be twice the square footage of my current house.

It will cut off the view from the whole one side of my house in its entirety, not only the patio and the side garden where we spend a lot of time in the spring, summer, and fall months, but also an addition that we added on that's the principal kind of family room, kitchen, TV room that we spend the lion's share of our time in.

No longer would we be able to look at on the hillsides, the trees, the flowers. We won't have rooms lit with sunshine. In fact, the addition that we added on in about 1987 was specifically to take advantage of the light that we would get coming in from the south, but we'll lose both our view and that light. We'll be living in the shadow of this new structure.

It's about from here, I believe, to Ms. Bentley away from us or some distance like that and, as I said, 27 feet high.

Right now we're bathed in light from the sky. The sunlight, when it's clear out, we get lots

of light. Even when it's not clear, we don't get very much -- we get a good bit of light. But with a wall like this next to use, we'll be living in what I consider to be kind of perpetual shade.

MR. CRAIG: Now, Mr. Little, I understand that you've got two photographs that you'd like to show the panel, but you've also prepared a videotape that shows what this property is like before and after.

MR. LITTLE: Yeah.

MR. CRAIG: Would you show us the photographs, please?

MR. LITTLE: Yeah, and I sent a packet out for all. There's a packet out for all. There's a packet for all of the parties in this and all of the members of the Board.

So I'll just show this photograph which is in the package, but this is the view from the back of my house, and this is the addition we put on on your left and my right, and essentially we'll lose all of that, but about this panel over here, and the addition is higher than this telephone pole. We measured it. It's 27 feet high. It's about ten feet higher than this telephone pole. It's not something that's far away. It's right up next to it, and you can look at

this in the packet when you examine it.

I tried somewhat imperfectly to just show you what it would be like without that view and what an impact it will have on the light and the quality of life in my house.

MR. CRAIG: And you have prepared a videotape that you've also submitted to the panel?

MR. LITTLE: Yes. It's about a seven minute tape, and I encourage you all to please look at it. It shows you in a way that's hard to demonstrate with still photos and quick testimony.

MR. CRAIG: Now, members of the panel, Mr. Little has asked me to read a brief statement on his behalf which I will do right now to conclude his testimony.

CHAIRPERSON GRIFFIS: This Mr. Little?

MR. CRAIG: This Mr. Little, yes.

CHAIRPERSON GRIFFIS: Why are you reading his statement?

MR. LITTLE: Because he's -- he's representing me.

MR. CRAIG: He asked me to read it, Mr. Chairman.

MR. LITTLE: Yeah.

CHAIRPERSON GRIFFIS: Let's stop the clock

for a second. It's your statement.

MR. LITTLE: I have a right to be represented by counsel if I wish at any time, and I've --

CHAIRPERSON GRIFFIS: I'm just wondering why.

MR. CRAIG: Well, actually if you would like, if you would prefer to have Mr. Little read it, I'd be happy to turn it over --

CHAIRPERSON GRIFFIS: Well, if he's not going to read it, just put it into the evidence. We'll read it.

MR. CRAIG: We'd actually like to address this to you because --

MR. LITTLE: I flew 3,000 miles to listen to Mr. Craig.

CHAIRPERSON GRIFFIS: I want you to say it.

MR. CRAIG: Go ahead then.

MR. LITTLE: I'll read this on behalf of Mr. Little.

(Laughter.)

MR. LITTLE: To keep this a little light, each of the three parties who own property directly adjoining NCRC has testified against the proposal and

described material adverse impacts that the proposed construction will have on each of them. Virtually all of the neighbors in the immediate vicinity of the school have either testified against the proposed expansion or signed petitions opposing the proposed expansion.

There's an outpouring of feeling on this issue, and there is unanimity in the neighborhood. Every civic organization that has taken up the issue of NCRC's proposed expansion has considered the proposal, discussed the proposal, heard both sides of the argument and gone on record opposing the proposal. This would include the ANC, the Cleveland Park Civil Association, the Cleveland Park Historical Society. The wards represented are the council. Ms. Kathy Patterson has registered her opposition to NCRC's proposal, as has our councilman-at-large, Phil Mendelson.

With respect to the traffic issues, the Department of Transportation has found the current traffic conditions unsafe because of the volume of traffic generated by the school. The department has recommended reducing the volume of traffic going to and from the school as one way of handling the situation. No such outcome is possible if the

application to increase the population of the school is granted.

The Metropolitan Police Department has testified that the traffic conditions on Highland Place are currently unsafe because of the traffic generated by the school.

Residents of the neighborhood and a transportation expert have provided the panel with quantities of evidence to support DOT's conclusions and the police department's opinions. That evidence has taken the form of studies, photographic evidence, video tape and direct testimony.

In addition, residents have submitted other evidence showing that the school's traffic management plan has failed to alleviate the hardships on the neighbors resulting from the current population. In the view of the neighbors, despite every good faith effort to implement the plan, NCRC cannot realistically be expected to resolve a problem that is caused by NCRC's location.

There are two additional points to make that are of some important technical significance, I think, to the issue of the variance. Denying the application does not prevent NCRC from continuing to use its property effectively and successfully. In

fact, the neighborhood enthusiastically supports the continued use of the school as it is in its current state.

On the contrary, there is no crisis at NCRC that is required to launch such an ambitious plan for expansions. Whatever space problems the school does have can be handled with more modest renovations. The school will not experience any significant hardship if the plan to be expanded is rejected.

The proposed expansion is totally inconsistent with the comprehensive planning zone for the city which provides for -- you can read the rest later.

CHAIRPERSON GRIFFIS: Good, and you have that written; is that correct?

MR. LITTLE: Yes, thank you.

CHAIRPERSON GRIFFIS: You're going to submit that in?

MR. CRAIG: Yes, sir.

CHAIRPERSON GRIFFIS: Okay. Mr. Little, can you explain to me what this tape is?

MR. LITTLE: It's a seven minute -- I didn't think I -- I knew I wasn't going to be here --

CHAIRPERSON GRIFFIS: Did you make it?

MR. LITTLE: Sallie Beckner took it of me

and Sallie lives right behind our house.

CHAIRPERSON GRIFFIS: And what does it show?

MR. LITTLE: What? And it shows me because I thought I wasn't going to be here for the October 28th meeting, which I wasn't here for.

CHAIRPERSON GRIFFIS: So this is your case basically?

MR. LITTLE: It was going to be my testimony.

CHAIRPERSON GRIFFIS: I see.

MR. LITTLE: And essentially it visually shows you --

CHAIRPERSON GRIFFIS: -- the light is good and it's just you?

MR. LITTLE: What?

CHAIRPERSON GRIFFIS: Exactly. It pays to pay attention to me.

It's you sitting behind a desk giving testimony?

MR. LITTLE: No. It's me out in the back yard showing you the visual impact on location.

CHAIRPERSON GRIFFIS: On your property?

MR. LITTLE: On my property looking at NCRC.

CHAIRPERSON GRIFFIS: And you're walking around?

MR. LITTLE: Looking at it from the back yard, looking at it from the front.

CHAIRPERSON GRIFFIS: I see.

MR. LITTLE: I'm trying to give you a visual impact that, as I said earlier, is hard to give with kind of still photos and stale testimony.

CHAIRPERSON GRIFFIS: Right. It's also hard to cross examine a tape of information like that. It's also hard to understand oftentimes the points, the references, the other things.

MR. LITTLE: Right.

CHAIRPERSON GRIFFIS: Is it edited at all?

MR. LITTLE: Yes.

CHAIRPERSON GRIFFIS: How is it edited?

MR. LITTLE: I'd have to ask Sallie who did it professionally. Bruce? May I ask Bruce, her husband?

MR. CRAIG: Well, let me suggest, Mr. Chairman, if you have questions about the tape that you play the tape and he can respond to the questions that you might have of the tape because he's available.

CHAIRPERSON GRIFFIS: Not in four seconds.

MR. ZAIDAIN: That's my question. It seems like this is an extension of the case presentation. I mean, we're trying to --

CHAIRPERSON GRIFFIS: No, I agree with you.

MR. ZAIDAIN: We're trying to get the playing field level here --

CHAIRPERSON GRIFFIS: Yeah.

MR. ZAIDAIN: -- between the parties.

MS. DWYER: Yes. Mr. Chairman, I mean, either he plays the tape or he presents testimony, but he can't do both because otherwise it extends the time and requires all of us to either give up our rights to cross examination or to give him additional time, and I think in this case he has presented his testimony. He's here in person. He has made the trip, and I don't think the tape should be admitted into the record. So we would object.

CHAIRPERSON GRIFFIS: Okay. We have an objection of accepting the tape. Any other Board members' comments?

MR. ZAIDAIN: I agree.

CHAIRPERSON GRIFFIS: A quick comment, Mr. Little?

MR. LITTLE: Pardon me?

CHAIRPERSON GRIFFIS: Address the objection or your representative?

MR. CRAIG: Yes. Could I have the basis for the denial of this tape going into evidence because he has authenticated the tape? He's perfectly happy to testify --

MR. ZAIDAIN: the problem is tha the has just said that this is his testimony and he just gave testimony. So now we're getting two levels of testimony from him. He is -- do you understand?

MR. CRAIG: There's all sorts of different kinds of evidence that people have given here as part of their testimony, including written statements, including documents that you --

MR. ZAIDAIN: Right.

MR. CRAIG: -- study afterwards, including photographs that you look at afterwards. This is of that nature.

CHAIRPERSON GRIFFIS: Yes, but all of them were presented right here and now.

MR. CRAIG: And he's prepared to answer questions about it if you want. He has authenticated this evidence.

CHAIRPERSON GRIFFIS: He doesn't have time to present that tape.

MR. CRAIG: Well, you have time to ask him questions about it if you have any questions.

CHAIRPERSON GRIFFIS: I've asked questions, and it has already raised more questions and my doubt that we can accept this into evidence. There's two points to it.

One, the information that's on this can't be crossed. That's the basis of the objection.

Secondly, it's an extenuation of the time presentation for his case presentation in opposition.

I have a third problem which I have in all of these tapes. First of all, he's stated that it's edited. We're not sure how that means. We have seen tapes that are speeded up, slowed down. We have adds and subtractions taken out of it.

I'm wondering what the value will actually be. I'm wondering whether the Board members will actually be able to assess what is real, not real, or what is pertinent information.

So my problem has always been with these tapes, which we now are in this new era -- I feel so old when I say that, you know -- that taking these tapes in because it raises more questions and doubt. And in fact, what we need to do if we accept this tape is we need to leave the record open for a rebuttal

tape, and we need a rebuttal tape of the applicant and all the parties, and you know, at some point maybe we'll just watch tapes and not all meet like this.

However, I have difficulty accepting it in at this point also, but let me hear from others and then I will have you last note.

Any other parties want to speak to this?

COMMISSIONER HOOD: Mr. Chairman, let me just say I would agree with both of my colleagues. He has given his presentation and we have our tapes. Maybe we need to just pass them back down and move forward.

CHAIRPERSON GRIFFIS: Okay. Mr. Nettler?

MR. NETTLER: Yeah, I just wanted to respond to a couple of comments that were made because they're somewhat generalized in terms of all tapes from what the Chairman has said, but from what I understand Mr. Little is stating it is that what this tape is doing is showing -- forget what he says on the thing -- it's showing a visual --

CHAIRPERSON GRIFFIS: Right.

MR. NETTLER: -- just visually what you can see of the pictures that are represented here in terms of walking across --

CHAIRPERSON GRIFFIS: A perfect point, Mr.

Nettler. It will be redundant evidence. As you have just stated, we have numerous photographs, and you've just stated that the tape will show us what we have seen.

MR. NETTLER: Could I just finish before --

CHAIRPERSON GRIFFIS: Maybe, but I think it will be, and I think if it isn't redundant, in fact, it just will raise questions, and who is to address those questions to the Board if we finish and the record is closed?

MR. NETTLER: All right. I don't think it's redundant, and I'll get back to what I was saying in support of this tape or the general comments about the tapes.

I don't think it's redundant because visually seeing a moving tape of conditions is always going to be somewhat different than seeing something that's from a photograph, whether it's an aerial photograph or whether it's just a picture taken at one particular time, or moving along a property line seeing whether it's cars that are moving it in one particular pace or whether it's seeing that.

It's not redundant. It's --

CHAIRPERSON GRIFFIS: It's different.

I'll grant you that. It's different.

MR. NETTLER: But in terms of saying that tapes present problems, you know, any type of --

CHAIRPERSON GRIFFIS: Let's not talk generally.

MR. NETTLER: Okay. In regard to this tape, in particular, I think that when this issue was raised before in terms of this being, if you recall -- when there was an issue raised about Mr. Little not being here and him wishing to present the tape, I had myself the same concerns about having a tape that is submitted that can't be cross examined as opposed to him being here and being able to provide testimony.

My concern at this point is that he's here. He is providing testimony. He has provided the tape. I don't know whether he has provided copies to somebody else, to the other parties or not, but in a sense, just from the perspective of what is being observed as you move along the property line, the property, I don't think it's unfair to try and ask questions of him now just to give yourselves an understanding of whether the tape is worth viewing or not worth viewing.

And I think certainly the parties, Ms. Dwyer and the other parties who are in support of the

applicant can ask questions that will give you a basis on which to understand whether to utilize the tape or not, and I just don't think that has been sufficiently made clear or not at this point.

CHAIRPERSON GRIFFIS: How long is this tape, seven minutes you said?

MR. LITTLE: Seven minutes.

CHAIRPERSON GRIFFIS: Okay. We've got two more minutes to talk about this. Go ahead.

MS. BADAMI: There are two things about the tape. One is the text and one is the image, and I can agree with what you're saying about not submitting anymore verbal text. Mr. Anthony has provided ample illustrations and descriptions of what NCRC is proposing to do, and using my experience as a builder, I've been able to interpret his drawings and create a Photo Shop image of the impact from 34th Street, Ordway --

CHAIRPERSON GRIFFIS: Where are we going with this?

MS. BADAMI: That Mr. Little is not an architect and he is not a builder. So he does not have the capacity to interpret the drawings. All he can do is show what his house looks like and show you what's going to happen to it.

CHAIRPERSON GRIFFIS: I still don't see why that has anything to do with --

MR. BADAMI: Because there has been no documentation that has showed his back yard, his house, and what the impact will be.

CHAIRPERSON GRIFFIS: I just got it. He just presented his case.

Okay.

MR. CRAY: Mr. Chairman.

CHAIRPERSON GRIFFIS: Hold on. I'll give you the last word.

MR. CRAY: Thank you, sir.

MS. MACWOOD: I just wanted to say, Mr. Chairman, on behalf of the ANC, that we don't have any objections to the tape. It seems that a lot of exhibits have been provided in this particular case to augment the testimony. This seems to be of the same type.

We have other tapes that have been submitted. I think we've already established these kinds of things are going to be admitted in this case. So I don't see any reason this one shouldn't be as well.

CHAIRPERSON GRIFFIS: Okay. So this is a seven minute, eight minute tape. You don't have any

objection to giving the applicant eight more minutes, all of the parties eight more minutes for presentation of their side? Does the ANC have a comment to that? Was it addressed to them?

MS. MACWOOD: I'm sorry. I didn't realize you were asking me that.

You asked if the ANC would have any objection to extending the time to all parties?

CHAIRPERSON GRIFFIS: Right. One of the objections to accepting this tape is the extension of the presentation of the case in opposition. Do you have any objection to extending now? We'll give it ten to round it off. So that would be another 60 minutes for presentation this afternoon. That would be in addition to cross examining and questions from the Board.

MS. MACWOOD: In order to allow the tape to come in as evidence?

CHAIRPERSON GRIFFIS: That's what it would be.

MS. MACWOOD: We wouldn't have any objections, and I don't say that lightly. I'm not anxious to sit here for hours and hours longer, but I do think it's fair to submit it.

CHAIRPERSON GRIFFIS: Anyone else?

MR. HUNSICKER: For what it's worth, I would --

CHAIRPERSON GRIFFIS: You have to speak into the microphone if you're going to be on the record.

MR. HUNSICKER: Steve Hunsicker, 3083 Ordway Street.

For what it's worth, I would have no objection to that procedure as well, and frankly and further, I would waive my right to the additional time that you mentioned.

CHAIRPERSON GRIFFIS: Okay. I shouldn't be facetious.

Anybody else?

MR. BECKNER: Bruce Beckner, 3225 Highland Place.

I just want to say, first off, I support the application to have the tape done. I think my understanding is these proceedings are governed by the D.C. Administrative Procedure Act, and this tape or any tape properly authenticated by a witness would be admissible in any court in the United States and in the District of Columbia.

The second point is that when Mr. Little says the tape is edited, he only says that because I

saw the raw footage, and what he did is he did multiple takes of narrations.

CHAIRPERSON GRIFFIS: I understand.

MR. BECKNER: And Sallie, my wife, selected the one, but the tape is continuously narrated by Mr. Little so that there's no opportunity for anybody to doctor anything unless, you know, you want to see Mr. Little make a mistake and have to start over. That's what's been eliminated in the editing process.

CHAIRPERSON GRIFFIS: I understand.

MR. BECKNER: Nothing further, Mr. Chairman. Thank you.

MR. CRAIG: My last word?

CHAIRPERSON GRIFFIS: Yeah.

MR. CRAIG: The best solution, Mr. Chairman, would be to just play the tape and have it over with and allow the extension of time that was requested at the beginning. If the panel decides not to do that, I would respectfully suggest that he is offering this tape into evidence for the sole purpose of just showing a picture that happens to be on video, a picture of what the view is from his property that he would lose in the event this proposal is --

CHAIRPERSON GRIFFIS: How do you show

that? How do you show a picture of your property, the view that's lost?

MR. LITTLE: Well, as I said, we share a common 75 foot property line.

CHAIRPERSON GRIFFIS: No, I understand that. How do you show it in the video that you have a lost view?

MR. LITTLE: The camera, the camera focuses from my yard looking at the current view, and then --

CHAIRPERSON GRIFFIS: And you say, "This view will be lost."

MR. LITTLE: -- showing this view will be lost and it gives you a sense from different perspectives that one can't gain from a single still photo.

CHAIRPERSON GRIFFIS: Done. It seems like you've said it.

Anything else? Questions from the Board? Clarifications?

MR. CRAIG: I haven't completed, Your Honor.

CHAIRPERSON GRIFFIS: Okay.

MR. CRAIG: Mr. Chairman.

CHAIRPERSON GRIFFIS: Go ahead.

MR. CRAIG: And I would say that it would be perfectly acceptable to us if you ignored and ruled out of order and inadmissible the audio portion of the tape because that is, of course, not needed at all. The only purpose of the tape is for the limited purpose of showing that part of his property that fronts on NCRC and what would happen to him if the proposal is built.

CHAIRPERSON GRIFFIS: Okay.

MR. CRAIG: That's all.

CHAIRPERSON GRIFFIS: And I appreciate that, and I fully understand your view and, believe me, I didn't want to take more time than the tape actually is.

I think it will be, in fact, not useful for the Board to accept the tape. I think it does set up the fact of then we are looking at extending the time, then rebalancing the time on it.

I think the amount of information that's actually in the record, and I know you've just become involved in this, but I can share the official record with you, and the amount of photographic and written documents, it goes back to my earlier statement. The Board is well aware of the issues and knows how to view these things, even as unscientific, Mr. Little,

as your photograph is.

MR. LITTLE: I take those myself.

CHAIRPERSON GRIFFIS: As unscientific as it is to say that the extension of the addition will be beyond this telephone pole that happens to be cut off.

MR. LITTLE: No, we measured that.

CHAIRPERSON GRIFFIS: I know you measured it. Is this a scaled photograph?

MR. LITTLE: It is a photograph. I just took it with a --

CHAIRPERSON GRIFFIS: Exactly my point.

MR. LITTLE: But we actually measured --

CHAIRPERSON GRIFFIS: Moving beyond that --

MR. LITTLE: -- we measured --

CHAIRPERSON GRIFFIS: Mr. Little, let me get to my point, please. My point is the Board understands your position and understands the basis of which you are in opposition, and I do not believe that we need an additional tape of you looking out the back saying, "This is here now and this may well disappear."

So that being said, let's move on.

MR. CRAIG: We have four more seconds, Mr.

chairman.

CHAIRPERSON GRIFFIS: Indeed.

MR. CRAIG: I would like to ask Mr. Little does he have any information as to the impact on the value of his property in the event this particular proposal is approved.

MR. LITTLE: Yeah, my wife and I are a modest --

CHAIRPERSON GRIFFIS: That's it.

MR. LITTLE: -- you know, both work for nonprofit organizations, always have, and this is our principal asset, and we will suffer a great financial hardship because we will lose a diminution of value that's unquestionable to anybody who knows the appraisal business.

I've worked in real state in the conservation field for 30 years, and I know what appraisals do. When you live next to a great big, big box wall-like structure --

CHAIRPERSON GRIFFIS: Okay.

MR. LITTLE: -- your property is going to lose value.

CHAIRPERSON GRIFFIS: Thank you, Mr. Little.

Did you have a study done on that?

MR. LITTLE: No, I didn't.

CHAIRPERSON GRIFFIS: Okay.

MR. LITTLE: Thank you.

MS. BAILEY: Mr. Little, your statement, sir.

MR. LITTLE: Yes? Yes, we will give it to you.

CHAIRPERSON GRIFFIS: Good, and you have enough copies today or are you having copies made?

MR. LITTLE: We'll have copies made.

CHAIRPERSON GRIFFIS: Okay. Good. We'll get that in.

Here we are. What's next?

COMMISSIONER HOOD: Cross examination.

CHAIRPERSON GRIFFIS: Okay. A quick four seconds.

MR. CRAIG: I'll cede that.

CHAIRPERSON GRIFFIS: Cross examination? Cross? No cross examination, ANC, parties?

(No response.)

CHAIRPERSON GRIFFIS: Very well. I'm glad you could make it here today.

Is the applicant ready for closings?

MR. NETTLER: Excuse me.

CHAIRPERSON GRIFFIS: Yes.

MR. NETTLER: I understand there are persons in opposition here.

CHAIRPERSON GRIFFIS: I thought we went through persons.

MR. NETTLER: No.

PARTICIPANTS: No.

CHAIRPERSON GRIFFIS: Boy, oh, boy.

MR. NETTLER: But somebody has asked me to ask you to ask them. There are people apparently who want to go first because they know you've got time constraints.

CHAIRPERSON GRIFFIS: Oh, good. Before we stay here too much, last week we were here for 13 and half hours. This morning we started at eight o'clock and had about a 20 minute lunch. So do forgive me if I lose perspective of where we are in all of this. I do guarantee you that I will read all 16 inches of this file again, as I have reviewed everything that's coming in.

So let's line up. How many people in opposition do we have? If I could get a show of hands just to get an estimation.

Two, four, six, eight, ten, 12, 14, 16, 18, 20. Indeed. So we're going to start with panels of five. One, two, three, four. I'm going to need an

extra chair here.

I'm going to ask as people come forward, of course, they're going to need to state their name and their address for the record and then start speaking, and what I'm going to also ask, which is a very important piece, first of all, you will see three minutes on the clock. It will click down. You've heard the sound that will go off, and you are to stop speaking when that happens, and we will move on.

After a full panel is done, the panel will stay seated and you'll have questions from the Board, and then we will go to cross examination, after which you can have a seat again.

Now, an important aspect to it, of course, is if you have given testimony or, rather, if you have heard testimony and you're about to give your testimony, but you agree with those that have already gone before, there is no reason not to adopt the testimony that you've heard. We will certainly take written submissions and review those, and we will make note of the adoption of the additional testimony so that we don't have a lot of redundancy.

That being said, I only have three folks up here. Who are the other two? Okay. We have to dispense with the shyness. We just have to keep this

rolling.

After this panel we're going to finish cross examination and then we're going to take a short break, and then we'll go back to the next.

Which side do we want to start on? You? Very well.

And you're going to need to touch -- there's a small button on the bottom. The light will come on. Perfect. Thank you.

Oh, I'm sorry. Before you take up your time, after you're finished if you wouldn't mind turning off your microphone, otherwise if all of these go on you're going to get feedback and it will, you know, interfere with those at the end.

MS. PELLETREAU: My name is Pamela Pelletreau. I live at 3220 Highland Place, directly across the street from the school.

My husband and I have owned the house since 1971, and we have had three children at NCRC.

An architect neighbor and I, Dickson Carroll, visited the school about nine months ago. At that point we made some alternate suggestions for how the school could deal with an evident overcrowding problem. We regret that the school has not gotten back, in particular, to the architect to follow up on

this.

Secondly, the primary impact on our property comes from the pollution issues which have been mentioned. I would like to stress the vehicular pollution, the litter pollution, noise, extended use of facilities, and full stop.

And then the third point is that we believe and we have -- we live in a finite space in our neighborhood which we share with NCRC, and in the last five years we have felt a growing impact from the presence of the school at the expense of our pleasure in our house and in our neighborhood. We are opposed to any expansion to NCRC -- of the NCRC population as it can but have an adverse impact on us.

Thank you.

CHAIRPERSON GRIFFIS: Thank you very much.

What was the third item that you mentioned?

MS. PELLETREAU: Architect, pollution, finite space.

CHAIRPERSON GRIFFIS: Finite space. Thank you.

Okay. Yes.

MS. SHEEHY: I am Pat Murphy Sheehy.

I have been a taxpaying resident of our

city for 30 years, living at 2941 Newark Street.

As producing artistic source director of Source Theater Company, a 25 year old professional theater on 14th Street, I have worked in the old residential Shaw community to help revitalize a once riot corridor into a safe urban neighborhood with services and cultural opportunities.

As commissioner and later chair of the D.C. Commission on the Arts, I served on the Pennsylvania Avenue Development Corporation Board and guided the Arts Commission on many projects to support neighborhood communities through the arts.

I share this background with you to inform you of my long time commitment to this city. My husband and I were early supporters of the school by allowing our home to be one of their first fund raising house tours. We have watched it grow from a small neighborhood nursery school to a perplexingly unneighborly institution generating significant traffic congestion.

Venturing out midday, just trying to get out of my street toward Wisconsin Avenue, I often find myself behind a line of oversized SUVs that have turned on to Newark Street from NCRC.

And returning from 34th Street back onto

Newark can even be more dangerous because of the large and numerous cars that are blocking in the opposite direction lane.

NCRC sits on a neighborhood yard, on a one block street smack in the middle of a residential setting. This is a matter of a small day care center which received several variances through the goodwill and trust of the community, disregarding their agreements and becoming a major institution.

NCRC has outgrown its location in both mission and population. If NCRC is determined to expand, it would be more appropriate this time for the school to sell the house back to its original family home purpose in keeping with the residential character of the neighborhood and look for space where it could construct all of the buildings that will house its continuous expansion.

Mayor Williams in his inaugural address rightly cited the necessity of addressing the center vitality of our city, our neighborhoods. Taxpaying residents are this city's economic base, and it is essential for the District's economic health that better neighborhood concerns be addressed.

Is anyone in the government going to give redress to the citizen outcry about the impact of this

three to four story building and institutional expansion will have on the visual integrity and residential character of this area?

As a taxpaying citizen, I hope you, as the Board of Zoning Adjustment, will have the courage to deal with the central issue here and address the catastrophic and irreversible impact of a yard on a street of family homes being filled with institutional buildings and increased traffic congestion.

Thank you.

CHAIRPERSON GRIFFIS: Thank you.

MR. MORENO: Mr. Chairman, Honorable members, my name is Jonathan Moreno of 3079 Ordway Street. Our house is located directly across the street from the back door drop-off point for NCRC.

And since I don't make an honest living -- I'm a professor -- I often work at home. As an educator, I regretfully have come to the conclusion that the current situation does not justify an expansion of the school.

The traffic problems alone that I have observed and, indeed, observed only this morning are significant. At least several times a day the street is clogged, happily in one sense, of course, with cars, parents, nannies and children making an

understandably hectic scene going to and from the school.

On a number of occasions I have seen, for example driver's side doors left open in the street while children are retrieved and placed in the car, obliging passing vehicles to serve frighteningly close to parked cars, oncoming traffic and pedestrians.

Frequent U turns aggravate the problem. It is remarkable that there has been no fatality, especially as vehicles traveling east on Ordway often barrel down the hill from Reno well over the speed limit.

Surely this residential street was never intended to handle the burden of this much human and vehicular activity.

A separate concern has to do with the quality of life on the street, which will be significantly affected by the plant construction, from my lay point of view at least. The quaint appearance of the current school structures will be replaced by what will appear to be institutional structures. Sunlight on the street will be diminished.

Perhaps the greatest concern to those of us who live on Ordway, aside from the traffic, is the constant noise that will be created by air handlers

and other air conditioning equipment at the top of the new building.

I urge the Board to recognize the evident burden the proposed construction would have on the character of the street and the lives of its residents, aggravating the situation that is already apparently incompatible with rational planning.

Thank you.

CHAIRPERSON GRIFFIS: Thank you very much.

MS. AFZAL: Good afternoon. my name is Leila Afzal. I live at 3006 Ordway Street just down the hill from NCRC.

My son attended the public elementary school, John Eaton, at the corner of Lowell and 34th Streets, approximately four blocks from our home. For the seven years my son attended the school -- he graduated the sixth grade this past June -- we were not comfortable letting him walk alone to school even when he was older because of the dangerous traffic situation relating to NCRC.

Ordway Street becomes a speedway and is too dangerous to cross during school hours. We were also afraid to let him walk along Highland Place because of the dangerous traffic situation there as well.

As it was, my husband I would walk our son to school dodging moving traffic and inhaling fumes from idling cars. On a related point and one that might not occur to anyone who has not walked along Highland Place, even the sidewalks are unsafe. Large SUVs regularly impinge on the sidewalks with big bumpers as they try to get near the sidewalk or to park. We regularly had to stop walking as someone would fling open a door and block the sidewalk, often nearly hitting us. It had a very disruptive effect.

Finally, in the last months of sixth grade, my son did walk home alone from school. He told me he preferred to walk down Macomb and walk along Connecticut Avenue and back up Ordway because it was easier. I drew the conclusion that he did not like having to dodge and duck cars coming to and from NCRC.

It is also my understanding that NCRC and DDOT are seriously considering a plan to eliminate parking along Ordway Street frontage to NCRC to accommodate student drop-off and teacher parking. This would have a serious adverse impact on those of us who live on the hilly part of Ordway. During inclement weather, we need to park on the flat part of Ordway to protect our parked cars from the slipping

and sliding cars going east on 34th Street. Our cars are regularly sideswiped during snowy, icy weather.

Further limiting parking during certain hours also will have the effect of forcing residents to get up early in the morning to move their cars to accommodate an institution that is neither taxpaying nor operating as a matter of right.

Finally, parking is regularly fairly tight, and residents need those spaces during all hours, including during special events by establishment such as the movie theater.

One Friday in February last year when I was walking my son to school, I realized there was virtually no traffic on Highland. I quipped to my son that NCRC must be filing their drop-off. Sure enough, as soon as we got closer we saw Mr. Thoren filming the road.

My son looked at me in awe and said, "Mom, how did you know?"

During testimony on September 7, 2003, reference was made to the great cooperative behavior of parents during Hurricane Isabel. When Highland was blocked, parents used Ordway Street to access the school. Several times I was blocked from proceeding on Ordway because cars, one going east, one going

west, would stop with their blinkers waiting for parking to open up.

Often the cars were side by side or nose to nose and you could not scoot around them. When I looked to the rent-a-cop to do something about the blocked road, he glared at me, turned his back, and walked away. He did nothing to keep the traffic moving.

Testimony last week questioned the traffic study conducted on behalf of Cleveland Park Neighbors. It occurred in the spring of 2002. I believe that Mr. Thoren's children were not enrolled in NCRC until the fall of 2002, which accounts for the fact that they are not included in the study.

CHAIRPERSON GRIFFIS: Thank you.

MR. HAMILTON: Mr. Chairman, my name is Andrew Hamilton. I live at 3430 34th Place, which is identified in my testimony in a little map there with an arrow. It's on the other side of 34th Street from NCRC.

I'm here today to address the growth of traffic from the National Child Research Center and its effect on my neighborhood. I want to make three points, and I'd like you to look first at the chart which is on page 3 of my testimony, the table that

follows it, and there are some notes on the methodology behind that.

CHAIRPERSON GRIFFIS: Did you submit that up?

MR. HAMILTON: It's submitted. You should have a copy there. I distributed it a little while ago. It's headed "3430 34th Place."

CHAIRPERSON GRIFFIS: That was an interesting effect.

MR. HAMILTON: Thank you.

All right. When you're ready.

CHAIRPERSON GRIFFIS: Which one? Got it. Okay.

MR. HAMILTON: Information contained in BZA records of the 1963 hearing and testimony presented during this case demonstrate that unregulated traffic impacts of NCRC have more than tripled in the past 40 years, although the capacity of neighboring streets has not changed.

This has come about principally because the school has increasingly interpreted the certificate of occupancy as controlling only the number of students present at any one time. Daily traffic is generated, however, by the total number of visits to the school by drivers dropping off and

picking up students, by staff, including part-time workers, and by visitors.

The evidence is unmistakable that daily traffic is increased by a much greater factor than the increase in the certificate of occupancy.

The second point I'd like to make is the traffic impacts of the school have implications for the neighborhood beyond Highland Place and the corresponding block of Ordway. Police have testified that the intersections of Ordway and Newark with 34th Street are among the most dangerous in this part of Washington.

My street connects with Ordway and Newark west of 34th Street. If I wish to go east, Ordway and Newark are my most direct routes. Traffic count data collected by the vehicle volume recording company in 20902 and submitted last week in testimony here show the added traffic on Highland trips in and out generated by the school is 525 trips daily, and that's just on Highland Place, which is clearly additive to normal traffic on Newark as well because Highland connects Newark at both ends on one side from 33rd Place.

DWP data submitted to the BZA showed that 65 percent of the accidents reported at Newark and

34th Street of the period from January 1, 1999, to December 31st, 2001, occurred at times coinciding with peak traffic to and from NCRC as measured by the VVRC.

The traffic from NCRC also poses another additional adverse threat to the neighborhood which arises as follows. If, as has been suggested, the Department of Transportation decides to abate risks at Newark and 34th by installing a traffic signal, Newark Street on both sides of the intersection will pick up additional traffic that it is not designed for, and this will inevitably spill over onto 34th place where I live, which is a very narrow street.

We already get commuter traffic seeking to get around bottlenecks on 34th Street during rush hour. We would inevitably get more if a light were installed.

CHAIRPERSON GRIFFIS: Thank you, Mr. Hamilton.

Questions from the Board of the panel?

(No response.)

CHAIRPERSON GRIFFIS: Any cross examination? ANC, any of the parties, no cross examination?

(No response.)

CHAIRPERSON GRIFFIS: Very well. Thank

you all very much, Ms. Pelletreau, Ms. Sheehy --

MS. SHEEHY: Sir.

CHAIRPERSON GRIFFIS: Yes.

MS. SHEEHY: Could I just ask a question, procedural question?

CHAIRPERSON GRIFFIS: Of course.

Thank you, Mr. Moreno. Thank you, Mr. Hamilton.

MS. SHEEHY: How will our testimony be given to the person who is not here, Mr. Etherly?

CHAIRPERSON GRIFFIS: Did you submit written?

MS. SHEEHY: I did.

CHAIRPERSON GRIFFIS: That's the way it will be given.

MS. SHEEHY: Will he receive one? Thank you.

CHAIRPERSON GRIFFIS: Oh, you'd better believe it.

MS. SHEEHY: Good.

CHAIRPERSON GRIFFIS: We're going to make him read everything we do, and that's exactly right. Mr. Zaidain brings up a pertinent point. In addition to Mr. Etherly, Ms. Sheehy, in addressing your question, in addition to Mr. Etherly getting

everything that's submitted today, he also gets a gift from the Board of the entire transcript and will read the entire transcript of today's proceeding. So speak slowly. It spreads out the words.

Okay. If there's no additional -- do you want to do another panel or do you want to take a quick break?

COMMISSIONER HOOD: I'm fine.

CHAIRPERSON GRIFFIS: Okay. That's an exhibit that's already in the record; is that correct?

PARTICIPANT: Yes.

CHAIRPERSON GRIFFIS: Okay. I just wanted to make sure. Very well.

Do you want to start?

MS. EVANS: Yes.

CHAIRPERSON GRIFFIS: Okay.

MS. EVANS: My name is Ana Evans. I live at 3428 Ashley Terrace with my husband and 12 year old daughters. We have lived there since 1992, and before that we lived in Adams Morgan.

My testimony relates to the map that we have used in presentations before you on this in the record that shows the school in the context of its neighbors on Ordway, Highland, Newark and Ashley Terrace.

Our original intent was to let the ANC know the neighborhood sentiment about this project. To that end, I drafted a petition addressed to Nancy Macwood, Chair of ANC-3. The petition contained the general description of the project, using the information available to us at the time.

The people who signed the petition also provided us with contact information so that we could keep them informed of any developments, and this we have done both formally an informally.

Beyond the first purpose, we decided to use the list of names in the petition as the basis for a visual aid. We colored in red the lot owned by each resident who had informed us of their position to the school's plan, and we retained their signatures on the petition as documentation.

The ranks of opponents of NCRC's expansion have grown. Residents who wish to remain neutral initially changed their position once the DOT released their report acknowledging the danger in the current traffic situation and proposing to solve it by turning Highland into a one-way street and/or eliminating residential parking places.

You notice that the map is limited to the area immediately surrounding the school. We only

approached people who lived in the affected area. We did not conduct a popularity contest. We did not ask friends from other parts of the city to write letters of support for our cause. They are not relevant here.

We do not doubt that the residents of Mount Pleasant and Georgetown would support the school's expansion project. They have nothing to lose.

We were interested in demonstrating the local residents' opinion of the expansion project. No one who signed the petition has requested that we remove his house from our map. I will submit two letters from neighbors who signed letters of support for the school, but who do not support the expansion.

From what I observed in canvassing my neighbors, I noted that it was not easy or pleasant for anyone to have to take this stand in opposition to NCRC. A number of people are professionally involved in education, and many of us have children who attend schools in other parts of the city both public and private. So we know we may inconvenience other residents.

But that does not mean that all situations are equivalent. MacArthur Boulevard, Wisconsin Avenue, and 16th Street do not compare with Highland

Place and Ordway. We are not asking that our streets receive special treatment. What we are saying is this. These particular streets are narrow and winding. Highland does not have the proper sidewalk so that people walk on the street. Ordway is likewise narrow and winding. Newark and Ordway become treacherous in wet and cold weather.

CHAIRPERSON GRIFFIS: Thank you very much, Ms. Evans.

MR. NEWLIN: Mr. Chairman, my name is William Newlin. I live at 3026 Newark Street, right down the hill from NCRC.

I bought that house in 1961, which is one of the reasons I feel I can speak to this issue. I have watched the change. My daughter used to walk up to the local neighborhood nursery school with the pretentious name, NCRC. I loved it then. I still am very fond of it, but there is no doubt in the world that the existence of that institution in that little idyllic neighborhood which is precisely what managers of cities try to be replicating all over has seriously degraded the quality of life in the neighborhood.

I avoid it now. I used to think that the only nicer place to live than where I lived might be up on Highland Place because it was quieter and didn't

have the through traffic that Newark Street has.

Now, however, five times a day Highland Place is a bit of a zoo and it is stressful. It's stressful being up there. It would be stressful living up there. Institutions should not be allowed to seriously degrade the quality of life of beautiful residential areas, and that is what has happened here, and it is going to get worse before it gets better.

I think I'll just leave it there.

CHAIRPERSON GRIFFIS: Thank you very much, Mr. Newlin.

MR. PELLETREAU: Mr. Chairman, I'm Robert Pelletreau, living at 3220 Highland Place, presenting this statement on behalf of my neighbor, Dr. Dorothy Rich, founder and president of the Nonprofit Home and School Institute, who could not be here today.

Dr. Rich states:

I have been a resident of D.C. since 1958.

CHAIRPERSON GRIFFIS: I'm sorry to interrupt you.

MR. PELLETREAU: Yes, please.

CHAIRPERSON GRIFFIS: Is the entire statement written?

MR. PELLETREAU: Yes, it is.

CHAIRPERSON GRIFFIS: Why don't we just

put it into the record then?

MR. PELLETREAU: All right. Hard to cross, but sure.

CHAIRPERSON GRIFFIS: It's hard to cross a letter here or not. But you're not going to answer cross examination questions, are you?

MR. PELLETREAU: No.

CHAIRPERSON GRIFFIS: Okay.

MR. CARROLL: I'm Dickson Carroll. I live at 3405 Ashley Terrace, N.W., and I've lived there for ten years. I'm an architect, and I work at home.

And early on I visited the school at the invitation of Ms. Piggott, and it was clear the school is cramped and it does need some remodeling and perhaps some expansion, and that was what Pam Pelletreau referred to, that meeting.

I think the school is an asset to the neighborhood, but I think the big question is the size of the school, and doubling the size of the school, which, in fact, would allow them legally to occupy with more students -- they have the square footage to have a higher occupancy than they're asking for -- poses a real question and a problem for us.

I think as an architect there's a solution, which is not to have a third building; to

have an addition to the playhouse, which would be on the basement level of the playhouse, which is exposed to the north and to the west, extending back under that terrace which could be removed and basically the building would have very low impact on Henry Little or the lot. They would get about half of the square footage, I estimate, of the new building.

And it would also mean that they wouldn't be building as larger a structure and be a future threat for expansion, which is sort of the fearful thing that is underlying all of this. This isn't the end.

So that's all.

CHAIRPERSON GRIFFIS: Thank you, Mr. Carroll.

MR. COONLEY: My name is John Coonley. I live at the corner of 34th and Newark Street, and I'm speaking on behalf of my neighbors who also share the intersection.

I've been there for about 30 years. We had one child at NCRC.

We've already had people speak to the issues about aesthetics, privacy, loss of monetary value, health and pollution, but I'd like to speak to you briefly about the safety of the children, of the

commuters, and of all the neighbors.

I've been involved in the question of traffic at this intersection for about 30 years now. I warrant that I'm more familiar with this intersection than anybody in the room, maybe anybody in the city. We have lived there through din and carnage for 30 years.

You'll be interested. I've been involved with attempts to try to regulate traffic on this secondary artery, which by the District's own admission is the only purely residential secondary artery in the city, but by DOT's own count, 34th Street carries more traffic per lane than Wisconsin or Connecticut, which are primary arteries, and the 34th and Newark Street intersection has recorded more accidents than any other purely residential intersection in the city.

And as a result, most of the traffic that comes from NCRC as you expand it, it's going to be funnelled into this guillotine. These streets were not designed for this, and as you add traffic to it, you're going to increase the accident rate.

And I think simple rationality dictates some measure of proportion in this.

CHAIRPERSON GRIFFIS: That's all?

Excellent. Thank you very much.

Let's start with you, Mr. Coonley. A quick question. You just threw out two statistics, and they were based on DDOT numbers; is that correct?

I need you to speak into a mic.

MR. COONLEY: When we first got involved in this there was a Reno Road Street Coalition in the late '70s, early '80s which were trying to deal with this. At that point it was an alternating third middle lane, which was kind of there was a suicide hill there just below Ordway as the traffic lanes would change during rush hour traffic.

CHAIRPERSON GRIFFIS: Okay, but specifically to your statement that 34th carries more traffic than a lane on --

MR. COONLEY: That my DOT figures that were provided to us in the '80s, and it has only increased.

CHAIRPERSON GRIFFIS: So if I go out today and look at Connecticut Avenue and the volume of traffic there and then I go to 34th, I'll see more volume of traffic on 34th?

MR. COONLEY: Per lane, per lane. You've got one lane in each direction on 34th. You've four lanes, three and alternating four lanes on Connecticut

and Wisconsin.

CHAIRPERSON GRIFFIS: Okay. Do you have those numbers at all?

MR. COONLEY: No, but I can easily get those, and I'd be glad to provide those. And this was a matter of record and accepted when we were dealing with DOT early on.

CHAIRPERSON GRIFFIS: Okay.

MR. COONLEY: And the same thing applies to the accident statistics that both the police department and DOT --

CHAIRPERSON GRIFFIS: At 34th and Reno?

MR. COONLEY: Thirty-fourth and Newark.

CHAIRPERSON GRIFFIS: Oh, 34th and Newark.

MR. COONLEY: Right.

PARTICIPANT: Thirty-fourth is the same as Reno.

MR. COONLEY: Thirty-fourth becomes Reno further out.

CHAIRPERSON GRIFFIS: Indeed.

MR. COONLEY: So at this point until you get to Van Ness it's 34th Street.

CHAIRPERSON GRIFFIS: I understand what you're talking about.

You're getting beat up by the peanut

gallery today, huh?

Okay. Very well. Other questions from the Board?

(No response.)

CHAIRPERSON GRIFFIS: Oh, let me understand, Mr. Carroll. You made a statement in terms of, first of all, you walked the property. Obviously you did some studies and possibly looked at the existing drawings. Be that as it may, you said that in addition to the playhouse, it could be more below grade.

Be that as it may, but you said that they could get half of the square footage?

MR. CARROLL: Well, they would have to build under the playhouse and under that existing terrace and back further into the hill, and you would have only exposures on the west and in the playhouse on the Ordway Street side, plus possibly skylights or light wells.

I didn't do an --

CHAIRPERSON GRIFFIS: No, I understand.

MR. CARROLL: -- exact study of it. It's a concept in line with --

CHAIRPERSON GRIFFIS: But you concept is 50 percent of the square footage that's now being

proposed?

MR. CARROLL: Or less, or whatever.

CHAIRPERSON GRIFFIS: Or less.

MR. CARROLL: In other words --

CHAIRPERSON GRIFFIS: Okay. Don't you see an inherent problem --

MR. CARROLL: -- there is a way to expand the --

CHAIRPERSON GRIFFIS: -- if the applicant is saying they need a certain amount of expansion? You're saying, no, you have an alternative that involves a lot less?

MR. CARROLL: I'm proposing they build less.

CHAIRPERSON GRIFFIS: I see, right. And that's clear. Okay.

Cross examination? Questions? ANC, parties?

(No response.)

CHAIRPERSON GRIFFIS: Excellent. Thank you all very much. I do appreciate it.

Let's take ten minutes and stretch our legs and then come back.

(Whereupon, the foregoing matter went off the record at 3:44 p.m. and went back on

the record at 4:07 p.m.)

CHAIRPERSON GRIFFIS: If I could have the people here representing the appeal of Stanton Park Neighborhood Association 17043? If they would just come forward.

Is anyone here representing Stanton Park? If you could have a seat at the table, please.

I'm sorry to disrupt the opposition. I need two minutes of your time in order to make it more comfortable for you.

Is the Appellant here, Stanton Park Neighborhood Association?

Mr. Edwards, would you come forward, please?

Mr. Talent.

Who else do I need? Mr. Tummins, you're here, is that correct?

MR. TUMMINS: That's correct.

CHAIRPERSON GRIFFIS: And you're representing Capitol Hill Group?

MR. TUMMINS: Yes.

CHAIRPERSON GRIFFIS: Okay, Mr. Edwards, Mr. Talent was also -- if I could have you introduce yourself, sir, on my right?

MR. TALENT: My name is Drury Talent with Monte Edwards. I co-chair the Stanton Park Land Use Committee.

CHAIRPERSON GRIFFIS: Indeed, good afternoon.

MR. EDWARDS: Good afternoon. My name is Monte Edwards. I have a prepared statement, copies of which I've provided to Mr. Moy.

CHAIRPERSON GRIFFIS: No, we're not getting into that. Just need your name.

Yes?

MR. TUMMINS: My name is Paul Tummins. I'm with the law firm of Shaw, Pittman, here on behalf of the property owner, Capitol Hill Group.

CHAIRPERSON GRIFFIS: Okay.

MR. TUMMINS: It's my understanding that the representative of the Office of Corporation Counsel is planning on being here at approximately 4:30.

CHAIRPERSON GRIFFIS: Ms. Gilbert.

MR. TUMMINS: Correct.

CHAIRPERSON GRIFFIS: Okay. That may not happen. You have 30 seconds to present your case -- no, I'm not kidding.

This is the issue and forgive me,

obviously, the afternoon is getting away from us and I've reviewed the schedule in a brief recess and I think it would be more advantageous for everyone involved in this application if we take up what we had blocked out for the continuation of the NCRC hearing of which we are in the middle of and we'll finish today, meaning we have the afternoon first case on the 18th to take up the appeal.

So what I'm asking you is that if there is no outrageous objections, I would anticipate that we could not hear it today only because of the fact that we'll lose our dwindling quorum on or about 6:30 which may give us a little bit of time for yours, but wouldn't be better if we're all fresh and able to pay attention more clearly.

Any difficulties with the afternoon? It would be 1 o'clock on the 18th?

MR. EDWARDS: Yes, Mr. Griffis. Stanton Park Neighborhood Association is a voluntary civic association. This is a continuance from the July hearing. We've had people take off work and be here all day. Up until we came in today, we were the only case on the afternoon schedule and I would suggest an accommodation to take us ahead of the case --

CHAIRPERSON GRIFFIS: Go ahead, finish.

Take you ahead of the case --

MR. EDWARDS: Consider the possibility of reversing the order of the two cases on the P.M. schedule.

CHAIRPERSON GRIFFIS: On the 18th?

MR. EDWARDS: No, for today.

CHAIRPERSON GRIFFIS: Oh, reverse the schedule. We're already three hours into it.

The point being on the 18th you will be the first in the afternoon.

MR. EDWARDS: We will be the first? Thank you very much.

CHAIRPERSON GRIFFIS: At 1 o'clock. And we will get very far into it, if not finish it that day.

Any other scheduling problems, difficulties?

Mr. Talent?

MR. TALENT: That is the 18th of November, not the 18th of December, correct?

CHAIRPERSON GRIFFIS: I didn't say the year.

(Laughter.)

MR. TALENT: Just making sure it's 10 days hence or 14 days.

CHAIRPERSON GRIFFIS: Believe me, it doesn't serve the Board if we keep pushing this off. We've read this. We're prepared for it twice now. We will re-prepare for the 18th. I'm not anticipating any additional submissions, so we can hold the record as it is and see you at 1 o'clock on the 18th.

Mr. Tummins, objections?

MR. TUMMINS: No objections.

CHAIRPERSON GRIFFIS: Okay. I believe we'll clear it with DCRA their availability, but frankly, we'll make them come anyway.

That being said, again, I apologize for having you down here this afternoon and I guarantee you that we will call and hear a good portion, if not the entire portion, on the 18th. So thank you very much. We look forward to seeing you then.

That being said, let's get back to the case in the afternoon. We are filling panels of five. Let me make just another quick note and wish a very good afternoon to Council Member Mendelson. Are you here to present testimony today in opposition? Indeed.

Are you prepared to go now or are you wanting to sit and listen? Okay, after this panel then, we'll put you on when you want. You have to be

aggressive with this crowd and grab a chair because they get up here fast.

Okay, very well, let's start on my left. If you wouldn't mind, of course, giving me your name and address for the record and then continue speaking.

MR. IDELSON: I'm George Idelson. I'm president of the Cleveland Park Citizens Association. I live on Newark Street just below Highland.

The National Child Research Center. From the name, you might expect a cluster of buildings sprawled on a campus on Rockville Pike. Perhaps some day it will achieve that ambition. For now, it is a small pre-school nestled on a tiny cul-de-sac in an historic residential district in D.C. There, by sufferance of a special exception, it has for many happy years lived in a symbiotic relationship with its neighbors. You nurture our kids. We nurture you.

But lately that warm, neighborly relationship has soured. In part, it was the increased number of students from Virginia and Maryland and the growing traffic jams they incur and more recently the idea of turning Highland Place into a one-way street to accommodate the traffic flow and probably exacerbate that 34th and Newark Street problem.

One of the word games the school played with their enrollment figure were simply the deep apprehension of the neighbors that say what you will, doubling the footprint of the school and adding still more students and staff was an inevitable prelude to further step by step expansion. We're not naive. How could it be otherwise?

For me, as president of the Cleveland Park Citizens Association, it came together on that fateful Saturday in February when the space shuttle blew apart. Our association was meeting that morning to listen to the arguments for and against the expansion. Surely, the meeting would be a bust, I thought. Yet, the neighbors left their TV sets to sit through several hours of debate. Instead of an empty, almost every seat was filled and when it came time to vote, the message was loud and clear. The citizens of Cleveland Park want you to reject this application for expansion.

So here I am to tell you, to plead with you to listen to the community, to listen to our Council Member Kathy Patterson, and At-Large Member Phil Mendelson, who have direct knowledge of this situation and have come to the same conclusion: reject this application.

While the homes, the trees, the lack of sidewalks in Cleveland Park reflect the past, we are not against change. This, however, is not Rockville Pike. We love this school and want it to succeed, but we don't want the tail to wag the dog. In my judgment, the best way to help NCRC achieve its goals is to reject this application. Then and perhaps only then will the school sit down with its neighbors and work out a modus vivendi.

Next to the school is Cleveland Park Club with potentially rentable space, perhaps giving neighborhood children, especially those who could walk to school a clear priority in registration, would ease the situation.

Testifying against a neighbor is not easy for me. Saying no may not be easy for you. If I can do it, you can do it.

CHAIRPERSON GRIFFIS: Indeed. Thank you very much, Mr. Idelson.

MS. OBERDORFER: My name is Leslie Oberdorfer. Our family has lived at 3415 Ashley Terrace since 1979. We are former NCRC parents and current NCRC neighbors.

These past five years have brought an enormous increase in school traffic and congestion

such that it has dominated and made dangerous pedestrian and vehicular traffic on Highland Place and upper Ordway Streets.

We on Ashley Terrace are required to proceed very cautiously to navigate our only exit from Ashley Terrace, whether on foot or in the car. I'll also add that most of us have to back out of Ashley Terrace because there is no turn around there, so it's even more dangerous.

Passage on Highland Place becomes almost prohibitive as cars clog the street during the four and sometimes five pick-up and drop-off periods. The proposal to make Highland Place one way going west will only increase the danger for us as we must currently back out of Ashley Terrace, as I mentioned, in order to access all roads. We will be forced onto Highland at all times further congesting that narrow, winding residential street and making our lives and those who service the street difficult.

The school's plans for development portend a business too large for its location. It will dominate the neighborhood. I support the neighbor's suggestion that NCRC pursue upgrading their present facilities for current enrollment, not including construction which adds capacity for more students now

and in the future.

There is no reason that we, as residents, need bear all of the burdens of the school's inappropriate expansion.

Thank you.

CHAIRPERSON GRIFFIS: Thank you very much.

MR. ESPICEED: I'm Peter Espiceed, 3400 block of Newark Street, vice president of the Cleveland Park Citizens Association and a member of the Planning and Zoning Committee of ANC 3C. Both CPCA and the ANC have urged you to deny NCRC's application for expansion.

I want to add two specific observations. First on the traffic congestion problem. From the elements that have been contributed by several witnesses, including the Department of Transportation, there is available a simple two-part solution which the BZA can impose that would resolve the present imbroglio. (A), dismiss the application without prejudice until such time as the school reduces by attrition to the population that was authorized by the existing order both students and staff. (B), require as a condition of any further special exception that the school alter its admissions policy to reflect a return to its function as a neighborhood school. For

example, by requiring that it give absolute admissions preference at each grade level to children whose parents provide a written guarantee that their child will be brought to school without the use of a motor vehicle, for example, at least 80 percent of the time.

It is quite possible that this change in admission policy would by itself solve the existing problem without imposing any significant difficulty on the school and would actually reduce its difficulties and responsibilities in dealing with traffic congestion.

Requiring such a change should certainly precede the imposing of harsh and disruptive changes upon the neighborhood, such as making Highland Place into a one-way street.

Public policy, as expressed in Section 3108.1 of the zoning regulations, requires that the holder of the special exception must not tend to adversely the use of neighboring property. The special exemption holder's operations must be kept below the level at which they become abuse of the neighborhood. It would be a travesty of public policy and of common sense to make alterations of the neighborhood in order to facilitate the abuse.

This applicant is already way out of

bounds. The situation is unacceptable as it is and it should be unthinkable to allow it to become even worse.

Secondly, on the variance. The recommendation from the Office of Planning that a variance be granted is based on a patently wrong reading of section 424(g)(3) of the D.C. Code. The statute authorizes the granting of a variance if there would otherwise be peculiar and exceptional practical difficulties or exceptional and undue hardship for the owner of the property.

In the Carl Liner and Rumell cases, among others, the Court has laid down that an area variance can only be granted if the peculiar and exceptional practical difficulties are caused by the land's unique characteristics as to size, shape or other extraordinary condition. Here, there are no such unique characteristics, but in fact, even if the property were unique as to size and shape, that condition would be ameliorative, not causative of any zoning difficulty since here the property is large enough to be susceptible of subdivision into two buildable lots.

Therefore, the requirements for an area variance cannot even remotely be met in the present

case. The possibility for use variance is even more clearly nonexistent. In Palmer, the Court barred the granting of use variances unless the level of hardship is such that no reasonable use can be made of the property.

CHAIRPERSON GRIFFIS: Do you have that all written in your submission?

MR. ESPICEED: Yes, I have just two more sentences.

CHAIRPERSON GRIFFIS: Quickly.

MR. ESPICEED: There is no basis for granting a variance simply because the owner desires to make a new and different use or a more extensive use instead of the use it is already making and therefore for the Board to grant a variance to this applicant would be plainly erroneous. The Board need not reach the otherwise inescapable conclusion that NCRC's application for a special exception must also be denied.

Thank you.

CHAIRPERSON GRIFFIS: Thank you.

MR. VANNEMAN: My name is Reeve Vanneman. I live at 3071 Ordway Street. We've been there for over 10 years. I want to speak to the two issues that will have an adverse impact on us, the traffic and the

visuals.

I like my neighbor, Jonathan. I'm an academic and like him and like many of my colleagues that means I work at home quite a bit. That puts me in a position to both observe the increased traffic that's happened in the last 10 years as well as being especially negatively impacted by that increased traffic.

Yesterday, for instance, just as a perfect example, in the middle of this controversy, was the perfect example of this kind of negative impact. I work at home in the morning. Left to do an errand down on Connecticut Avenue. Had to drive because I was bringing more stuff with me than I usually do, drove back, come up the hill and as I approach my house about three doors down from my house which is about four or five doors down from the rear entrance to NCRC, a parent has just parked because that's the only parking -- that is the closest parking to NCRC, about five doors down and is shepherding her child to NCRC in the middle of the street. She sees me coming. She steps between two cars. I pass. She goes back in the middle of the street. That's not an unusual occurrence. Ten years ago that was a very unusual occurrence. Ten years ago there was plenty of parking

on Ordway Street in the middle of the day.

The second issue I wanted to speak to is visuals. Because we are right behind the main building at NCRC and right behind what I call the fourth structure the want to put on the property which is the workshop, which is seated above us, during the day, especially this time of year, we will lose a considerable amount of sunlight. When you're working at home, that makes a difference when your house is in shade or rather than in the sun as it is now.

The workshop especially seems to me a gratuitous, egregious example of adding property that is not necessarily and it will negative impact on our quality of life.

So therefore, I urge the Board not to grant this exception variance.

CHAIRPERSON GRIFFIS: Thank you very much.

MR. FELDMAN: Good afternoon. My name is Clifford Feldman. I live at 3135 Highland Place. I've been a resident there for nine years.

My property is right on the curve, as parents come into Highland Place. I believe you've all had this map here.

CHAIRPERSON GRIFFIS: You're on Highland?

MR. FELDMAN: I'm on Highland, right at

the corner of Ashley Terrace.

It has been my experience, two observations. Number one, a lot of attention has been paid to the traffic at 33rd Place and 34th and Newark. The interaction at Highland, Ashley Terrace and Newark does not have a school crossing supervisor. The only time we've ever had anyone there was during Hurricane Isabel when the street was blocked off because of a tree that was down. It is not uncommon for cars coming onto Highland Place, cars that have child seats in the rear and children in them to run the traffic light at 33rd and Newark. They come around the curve at a very excessive rate of speed as we are backing out of our driveway, on more than one occasions, the cars parked along the north side curb of Highland Place, these cars have come close to hitting us on several occasions, one a very large black -- I believe it was a Lincoln Navigator came within inches of impacting the side of the car where my daughter was sitting.

I have a couple of other examples of things that have happened where people have pulled onto Highland Place, the queue to let their children off is extended down so far that it is in front of my home, the last home on the block. People pull up.

They don't allow for folks to come out of their driveway. When you toot on your horn to get them to back up, they go through what's kind of common here in Washington, they pretend you're not there. And this again has happened on more than one occasion.

We also had an incident where a car, when I finally did get out, a car in front of the school threw open the driver's side door right in front of NCRC. There was a school guard in front who proceeded to just shrug her shoulders. That same car then proceeded down Highland onto 33rd. Did not stop at 33rd. Did not stop at 33rd and Newark and was pulled over by a police officer who happened to be there that day. Again, this is just anecdotal information about what goes on there, but it is not uncommon. If I'm seeing it once or I'm seeing it twice, it's going on many other times.

There has been talk about making Highland one way. That will only add to the increased traffic.

CHAIRPERSON GRIFFIS: And I take it you're not in agreement with making it one way?

MR. FELDMAN: Not at all.

CHAIRPERSON GRIFFIS: Thank you very much, Mr. Feldman. I thank you all very much. If you would not mind staying seated and taking Board questions and

then we'll have quick cross examination. I think you've brought up several things, obviously, that we've been hearing throughout this, but one of course is the traffic and as Mr. Vanneman elegantly put it, the visuals, which is a fascinating piece. Your property, I'm sorry, I didn't catch the actual address is where on --

MR. VANNEMAN: 3071 Ordway. It's directly behind the main building of the school and directly behind where the workshop -- between the main building and the playhouse.

CHAIRPERSON GRIFFIS: I see, okay. Very well. Of course, we had the two options. One was to dismiss until the reduced population. The other also was an interesting piece which is already in the record which is to have altered admissions, giving preference to those that don't drive to the school which I'm intrigued with by a bit.

Let's hear from the Board if there are any further questions, any questions of those who have given testimony. Mr. Hood, do you have any?

MR. HOOD: On your last comment, i was going to ask Mr. Espiceed about that last piece because he was saying a neighborhood -- did you submit anything in writing to us?

MR. ESPICEED: I have it in writing. I will submit it.

MR. HOOD: I'd rather read it later. Okay, thank you.

CHAIRPERSON GRIFFIS: Anything else? All right, cross examination.

MR. VANNEMAN: Mr. Chairman, I'd like to submit the testimony of my next door neighbor who has been at most of these meetings, but has been too ill to come today, just written testimony.

CHAIRPERSON GRIFFIS: I'm sure it says something brand new, correct?

MR. VANNEMAN: Everybody's perspective is a little different.

CHAIRPERSON GRIFFIS: That's true, not always directed to a special exception or variance test, however, cross examination?

Cross examination, ANC?

(No response.)

Parties in opposition? Mr. Netler? Ms. Badami?

MS. BADAMI: Just one, Mr. Feldman. You said a stop light on 33rd. Did you mean stop sign?

MR. FELDMAN: Stop sign.

CHAIRPERSON GRIFFIS: The question was for

those who didn't hear in the entire hearing room, he had indicated a stop light, which actually I'm glad she brought that up, I wasn't familiar with where that was and you meant the stop sign.

MR. FELDMAN: Stop sign.

CHAIRPERSON GRIFFIS: Indeed. Okay. Nothing else then? Great, thank you all very much. Why don't we have Mr. Mendelson come up. I'm sorry, Council Member Mendelson.

Ms. Bailey, will you do the honors?

MS. BAILEY: Mr. Mendelson, do you solemnly swear or affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth and nothing but the truth?

MR. MENDELSON: I do.

CHAIRPERSON GRIFFIS: It's a pleasure to have you here.

MR. MENDELSON: It's a pleasure to be back.

CHAIRPERSON GRIFFIS: I'm sure.

MR. MENDELSON: And good afternoon. I do not have a prepared statement today. As I think you know, I was here five and a half years ago before the Board on this issue and I wrote to the Board regarding this issue and my views on February 25th of this year

and my letter was one in opposition to the application and I note that my colleague, the Ward 3 Council Member, Kathy Patterson, has also written an opposition.

I want to emphasize first that a point that I made in my letter was that in my view this is not about the school or being angry at the school. In fact, what I said in my letter and I will read, I regret that I cannot support the application at this time.

The National Child Research Center is a long-standing, well-regarded institution in the Cleveland Park neighborhood. Many neighborhood kids have received their preschool education at NCRC and it has become so popular that families from around the city seek to enroll their children there. It is the policy of the District to encourage the presence of quality schools and I feel the District benefits from the presence of many fine private schools such as NCRC. However, their location should be appropriate.

The issue is not whether a preschool or more particularly, NCRC, is good or is an asset to the District. It is. Rather, the issue is whether the site remains appropriate under the special exception criteria for an increase in enrollment and expansion

of the facility. It does not.

The second point that I want to make is that I'm aware of the issue about what the ANC understood in 1998 when this matter was before you. And I was the chair of the ANC then and I've looked at documents that the ANC had that I had at that time to refresh my recollection. And I'm clear that what was before us, before the ANC and I'm speaking about my prior public official hat, what was before us was a total enrollment of the school of 120. It was represented to us that the enrollment was 108.

The idea that we were talking about, 108 or 120 at any one time was -- and I say this with complete clarity, was not before us. It was not discussed. It was not our understanding. There was no way that we thought of it as being attendance at any one time.

Basically that's what I want to say. That's my testimony here today.

CHAIRPERSON GRIFFIS: Good. Well, thank you very much and I appreciate you being here, as I've said.

In regards to the any one time enrollment, the 1998 ANC understanding, was that understanding then not reflected in the condition of the order or do

you find that the order condition wasn't clear or why would we be in a situation like this?

Let me ask directly. Is the condition as written parallel to the ANC's position?

MR. MENDELSON: The condition as written in 1998, we assumed, everybody assumed that it was the total number of students, the total enrollment and not at any one time.

CHAIRPERSON GRIFFIS: Okay.

MR. MENDELSON: Since that issue wasn't discussed, it wasn't understood, it wasn't contemplated, it wasn't in anybody's imagination. It was not a point to be clarified. There was no confusion about it.

C H A I R P E R S O N G R I F F I S :

And I know in your extensive involvement and I know in your tracking of this Board's work and in previous cases, that this has been an issue of how one defines enrollment.

How are you so clear in 1998 and yet we haven't had clarity, it seems in my short time on this, of what enrollment is in universities and private schools and daycares and hospital beds. It seems like this is a very difficult thing to pin down.

MR. MENDELSON: Well, I think, I'm not

sure that I can answer that. I think that when the meaning of enrollment was questioned this year, then people began to focus on that and think oh, well, maybe it could mean this, maybe it could mean that. But it was a parsing of meanings that had never been contemplated before by the ANC or by the community.

CHAIRPERSON GRIFFIS: Okay.

MR. MENDELSON: I think that's the best way I can answer that.

CHAIRPERSON GRIFFIS: There was a purity at one point and somehow it's been corrupted. Not your words, of course, but -- you know, it's a fascinating piece and again I hope you don't object to me a little bit expanding while I have you here to answer a few questions, but you bring up the point of location and certainly you would be an advocate for schools and neighborhood facilities of all, but oftentimes we run into the point of as you've said appropriate location. How does one solve that?

I mean how do you say that you need to go find other locations? Certainly not the basis for the case particular or in the cases that we need to find, but how do you answer that? It's easy to say.

MR. MENDELSON: I think if there was an easy answer, it would have been set forth a long time

ago and I don't speak to just NCRC. This is an issue which I think I have written to the Board about in the past. There are a lot of good schools that have come in asking to expand and in some cases the Board has granted the requests and some cases the Board has said no.

I think my own view and I'm sort of getting beyond this case a little bit, is that I think the zoning regulations were written at a time with regard to school use in an R district when neighborhood orientation was stronger and we didn't see the kind of demand for the private schools that we see now and perhaps, I'm not sure, the level of driving to the schools that we see now. Things have changed since the 1950s.

And so what we fall back on is this standard in the zoning regulations that says not an adverse impact.

CHAIRPERSON GRIFFIS: But then do we have a zoning area that it's appropriate or do we have an area in the city where all these can be located or are we actually effectively saying perhaps it's time that most move out of the city?

MR. MENDELSON: I would not want to say move out of the city and I would hope that NCRC

wouldn't move out of the city if this application was denied. In a way, the issue here and with the other schools is that they're so successful that the demand for them increases and then they want to expand. And it's a balancing act. And these institutions, some of these institutions, many of them fine in their neighborhoods, until they expand beyond that tipping point.

What we found in 1998 that there was an adverse impact, but we felt, the ANC felt that we could negotiate that and that was why there were a number of conditions, not that I remember them specifically now, but a number of conditions and the school worked closed and Matt Watson was the attorney. I remember we had a good working relationship with him and the school at that time. And we thought that we could use their enrollment, total number of students was 108. Their license was 120 and we thought we could use their need to come before the BZA to fix some of these adverse impact problems.

CHAIRPERSON GRIFFIS: Understandable. And I think you've said it well in terms of there's a balance and you've indicated that neighborhoods have changed and I think that from the applications that we've heard, we've also noticed that schools have

changed and it is that balance of how one looks at both and sees how they might co-exist or not.

MR. MENDELSON: If I may, I would note though the standard is the same. That has not changed, but in my letter of February 25th --

CHAIRPERSON GRIFFIS: The standard for the special exception or the --

MR. MENDELSON: It's still adverse impact, that's what I mean.

In my letter of February 25th in the second to the last paragraph, I note that I think the Zoning Commission needs to review the regulations with regard to schools. I think that there needs to be maybe a re-look at the 1956 thinking.

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

Yes, Mr. Hood?

MR. HOOD: Thank you, Mr. Chairman. Council Member Mendelson, I just wanted to ask you, your last statement about the Zoning Commission reviewing the zoning regulations regarding schools located in residential areas, not putting you on the spot would you say that maybe the Zoning Commission may need to rethink it and maybe exempt it or what kind of direction would you be going in?

And I know this is not just germane to this case.

MR. MENDELSON: And I appreciate while you're interested in this. I don't know what the answer is. There has to be -- I would say conceptually I think it's fine that schools are located in R Districts, but we have to deal with this adverse impact problem and the success of the schools and I'm not sure what the answer is other than a closer look, a focus on whether the regulations can be updated.

MR. HOOD: Another question, also in your letter you stated in 1998 at the time you knew there were adverse impacts, but I guess the ANC and the community being good neighbors wanted to try to make everything work along with NCRC.

Was there a lot of community opposition at that time or was it everybody trying -- let's work it out together and make it work?

MR. MENDELSON: My recollection was when the ANC met and took this up, now this was five and a half years ago, that the room was pretty full and that time in those days when ANC 3C met the room wasn't always full. And so there was concern and I think there were a number of neighbors who were not happy

with the position of the ANC. It wasn't that we wanted to be good neighbors. It was that we felt we could work out the adverse impacts through a number of conditions. And that was again, for an enrollment that would not be more than 120, but was 108 at that time.

MR. HOOD: All right, thank you. I appreciate your taking time to come down and testify.

MR. MENDELSON: Thank you.

CHAIRPERSON GRIFFIS: Cross examination?

MR. MENDELSON: Good afternoon.

MS. BERGER: Good afternoon, Council Member. Just a couple of questions and I know this is going back in time. My understanding from the review of the 1998 record was that the conditions that the BZA included in their order were the exact conditions proposed by the ANC, that you met with the opposition, NCRC, and the ANC came up with a set of conditions that it submitted to the BZA in a letter and it was those conditions which the BZA adopted?

MR. MENDELSON: I would say pretty close. I don't remember exactly.

MS. BERGER: None of those conditions references an enrollment number. They all deal with traffic. Not one of them, not one of the conditions

of the BZA order says anything about number of children at any one time or enrollment. They're all directed at traffic.

If enrollment was an issue at that point in time or the number of children, don't you think you would have put it in the order as a condition?

MR. MENDELSON: No. For one thing we're talking about it today after months of a lot of attention to the issue of enrollment. At that time there wasn't. And what the school was saying was our license is one thing, our enrollment is something else. And so we viewed this as a status quo, not a change, not an increase.

But there was no question at that level of students, there was an adverse traffic impact and we were trying to deal with the adverse traffic impact. That's why we focused on traffic.

MS. BERGER: Right, but I think the record, both the information filed in this record by the opposition as well as NCRC shows that at point of fact, NCRC had 168-169-170, around the same number of children then as it has today. So regardless of what the number was, whether it was 170 or you thought it was 120, what you were saying at that point is what is the impact from the use and how do we deal with it in

terms of traffic conditions.

MR. MENDELSON: We were saying yes, what is the impact from the use and how can we deal with it, but I can say that unless you can show me a document that says 168, there was no way that the Commission, the ANC thought at that time that the enrollment was higher than 108.

MS. BERGER: I realize that you're saying that, but if you at that point in time, you and the neighbors went out and you observe NCRC traffic conditions back in 1998, what you were observing, whether you thought it or not was the impact of 170 children, the same as today and you were coming up with conditions to deal with that impact.

I wanted to ask you, today, are you saying that there is no set of conditions that this Board can come up with that can deal with 10 additional children?

MR. MENDELSON: Actually, that's a compound question.

I have not seen conditions that I think deal satisfactorily with the adverse impact, particularly given the last 5 and a half years with the complaints that we hear, that I hear about the traffic.

With regard to the part of your question of 10 additional students, I mean that goes at what was the enrollment, what was our understanding in 1998.

MS. BERGER: Let me ask you, if you had gotten calls from your constituents over the last year and a half, raising questions about NCRC, have you first of all, gotten any calls from any residents in this neighborhood about this project?

MR. MENDELSON: Yes.

MS. BADAMI: And during that period of time, did you say to the ANC or the neighbors, why don't you do what we did in 1998 and sit down and come up with some conditions?

MR. MENDELSON: Probably not, but that would be because that wasn't what was being discussed.

MS. BADAMI: All right, thank you.

CHAIRPERSON GRIFFIS: Does the ANC have any questions for cross examination?

(No response.)

Parties in opposition? Mr. Netler?

MR. NETLER: Just a few questions. I know it was five and a half years ago and I'm not going to belabor the issue about what was happening then, but do you remember how the ANC got involved in the case

five and a half years ago?

MR. MENDELSON: Somewhat. My collection was that that the Board took the matter up at a hearing, made a bench decision which tells me that the ANC was not involved and then we found out and got involved.

MR. NETLER: Let me show you that -- what was the first order. And if you look, this is the first page of the order. This is the second page.

Was there a condition on the first page of the order that dealt with the number of students?

MR. MENDELSON: Yes.

MR. NETLER: Okay, when you got involved in the second proceeding, it was still your understanding that there was, as you've testified, that it was 120 was the total students, correct?

MR. MENDELSON: Correct.

MR. NETLER: Was it your understanding that when you then proposed conditions to the Board as part of the second order that was issued that it would supersede the first order?

MR. MENDELSON: I'm a little distracted because my phone just went off.

MR. NETLER: You're supposed to turn those off. Did you tell him?

(Laughter.)

MR. MENDELSON: There, I'm not compliant.

MR. NETLER: Did you understand that the conditions in that first order were nullified by the second order which had conditions that dealt with traffic issues?

MR. MENDELSON: I'd have to read the second order more carefully. I'd have to read it carefully to be able to answer that.

MR. NETLER: This was the -- I'm showing you the second order which is part of the record here. And ask you first to note what the application has been notified as.

MR. MENDELSON: The first paragraph, application of NCRC?

MR. NETLER: If you could just read it to yourself.

MR. MENDELSON: Okay.

(Pause.)

MR. MENDELSON: Okay.

MR. NETLER: And then if you could look at the -- I think it's only two pages, two or three pages.

(Pause.)

MR. MENDELSON: You're asking me to just

look at this -- peruse it quickly.

(Pause.)

CHAIRPERSON GRIFFIS: What orders is he looking at, Mr. Netler?

MR. NETLER: This was the second order that was issued in 1998.

CHAIRPERSON GRIFFIS: 1998?

MR. NETLER: 1998, following the request by the ANC that the matter be reopened.

MR. MENDELSON: The final date of the order is March 3, 1999.

MR. NETLER: So did you understand that this was intended to remove any restriction on 120 students that were to be enrolled?

MR. MENDELSON: No, and I say that because I see here, I'm reminded that the application itself is for 120 students.

MR. NETLER: There were very good questions that were posed to you by the Chair and by Mr. Hood about how to deal with schools. You recognize that this is not a -- under the zoning regulations, this is not a school as much as it's a nursery school, do you not?

MR. MENDELSON: Yes.

MR. NETLER: And do you also -- have you

had a lot of experience when you were on the ANC in dealing with schools in this particular ANC?

MR. MENDELSON: Yes, the ANC at the time and I think still does has a number of schools, St. Thomas Church, Maret, Sidwell Friends.

MR. NETLER: Did you ever deal with a nursery school of this size?

MR. MENDELSON: I don't know if it was of this size, Washington Hebrew Congregation comes to mind immediately.

MR. NETLER: Where was that located?

MR. MENDELSON: That's located at 39th and Macomb.

MR. NETLER: You don't know what the size was of that?

MR. MENDELSON: No. My daughter goes there and I would venture it's 100 plus or minus.

MR. NETLER: In responding to the Chair and Mr. Hood in terms of what recommendations you might or might not make in dealing with the schools, do you understand the underpinnings as to why private schools are accepted in residential districts as special exceptions?

MR. MENDELSON: Are you saying private schools as opposed to public schools?

MR. NETLER: Correct, public schools are permitted as a matter of right, are they not?

MR. MENDELSON: I don't know. Public schools until about 10 years ago, because they were public were not subject to zoning.

MR. NETLER: Okay. Do you understand the underpinnings as to why private schools were permitted by special exception?

MR. MENDELSON: My understanding -- I don't know if my understanding is the same as yours. My understanding is there's a feeling that we should promote neighborhood schools. That was the feeling in the 1950s and that we should allow schools as a special exception in a residential district.

MR. NETLER: And so your understanding, I gather then that your belief is that the situations have changed, particularly in this particular neighborhood to require some reticence in terms of approving the special exception that's being applied for for this particular applicant?

MR. MENDELSON: Conditions have changed in the sense that the school has gotten larger and in the sense of the school has gotten larger. I also, in more general questions and answers, with the Chairman, was saying that I think also that as a society, at

least in Washington, D.C., conditions have changed I think since the 1956 plan.

MR. NETLER: I have no other questions.

CHAIRPERSON GRIFFIS: Ms. Badami?

MS. BADAMI: Thank you. Good afternoon, Council Member.

MR. MENDELSON: Good afternoon.

MS. BADAMI: Even if we assume what Maureen Dwyer was saying was correct about the enrollment number being the same now as in 1998, when you compare the two periods, are you aware of any changes or additions in NCRC's programming that would create or extend adverse traffic conditions between then and now?

MR. MENDELSON: I can say I am.

MS. BADAMI: Thank you.

CHAIRPERSON GRIFFIS: Anything else? Any other parties in opposition cross examination questions for the Council Member?

Very well, thank you very much. Good to see you.

MR. MENDELSON: Thank you very much.

CHAIRPERSON GRIFFIS: Ok, let's continue. Let's call our next panel up then, the next five.

(Pause.)

Good, and that does remind me that anyone coming to testify of course you do have to state your name and address in the microphone. The microphone should be on, but you should have filled out two witness cards and give them to the recorder sitting to my right.

Very well. Let's start. It's on.

MS. STERN: Good afternoon. My name is Virginia Stern. I have lived with my husband Robert Stern at 3218 Newark Street, N.W. since 1976. But in fact, we moved into Cleveland Park to 3312 Highland Place a little more than 40 years ago in August 1963. We have raised our four children in the neighborhood and continue to be involved in community activities.

Every weekday morning I walk to the Cleveland Park Metro via 33rd Place, Highland Place, Ashley Terrace, the 30th Street stairs and Ordway Street, dodging the cars of NCRC parents and drivers. No matter what traffic plan, NCRC attempts to impose and no matter how many red-vested traffic guards they hire, Highland Place looks and feels like a moving car dealership.

In fact, yesterday was just one of the days where their hired guard in a rest vest parked illegally on 33rd Place between the sign and the

corner, therefore blocking the vision for anybody who was coming up Newark and wanted to turn.

If I chose to drive to work, it is impossible now to back our own car out of our own driveway during any of the five daily NCRC drop off and pick up times because of the parade of cars turning from 33rd Place.

The drivers want to bypass the neighbors, drive away as fast as possible and have their way no matter what the neighbors think. But we live here, maintain our property and pay taxes to the District.

Thirty-six years ago, our 3-year-old son Mark, who is profoundly deaf, attended NCRC. He attended Children's Hospital Hearing and Speech Center in the mornings and NCRC in the afternoons. Of course, I supported the school. I direct a national program for students with disabilities and I know how important it is that young children with disabilities be included in preschool programs. In those years, and through the 1980s, I could back out of our driveway, go on errands, and never consider the traffic.

I oppose the proposal to expand the school which would only result in more drivers and more congestion.

The school can enhance its program in many fine directions without more cars.

NCRC calls itself a world-class model, suggesting that the cognitive development of its students would be enhanced by an indoor motor center. My concept of a truly world class institution is one that is based on honesty. If the motor center is also envisioned as a professional development and conference center, it should not have been disguised as a tricycle track.

Our experience as neighbors has been that honesty has not been a characteristic of this institution and we are seriously concerned on the uses of their proposed expansion.

CHAIRPERSON GRIFFIS: Thank you very much, Ms. Stern.

MR. FETTERMAN: Thank you very much. My name is Marc Fetterman. My family and I have resided at 3318 Ordway, five houses west of NCRC since 1983. From 1963 to 1968, I lived just up the street at 3407 Ordway. I'm an architect and among those neighbors with a positive association with NCRC. Our son was admitted to the school, but did not attend.

My family and I respect the school as a city resource, but feel that it has become less and

less of a good neighbor in recent years. I am one of those NCRC neighbors who accepted an offer to meet with a small group of NCRC representatives to discuss their project. But during our meeting, there appeared to be very little acknowledgement of the problems that NCRC brings to our historic neighborhood daily.

We have three problems. Number one, congestion; number two, our declining trust in the school; and number three, the new buildings.

Congestion. Over the past 20 years, the traffic and safety on Ordway Street has deteriorated as you have heard from countless people. The Beckner's video accurately reflects events on Ordway Street and this year, Mr. Chairman, it's worse than it was last year.

Number two, our trust in the school has declined in the past decade. It started with the 1994 tree removal and was followed by the 1998 commitments made to the neighborhood and BZA.

It has culminated this year in these proceedings when we have learned of the possible misrepresentations of population to the city and to our community.

Number three, the buildings. The new buildings, Mr. Chairman, are enormous. When is the

last time a preschool came before this Board and proposed to double the size of their facilities and only increase their population by 6 percent?

The neighborhood and surrounding streets cannot support the current school, let alone its expansion. Please do not approve this application.

CHAIRPERSON GRIFFIS: Good. Thank you very much Mr. Fetterman. Correct?

MR. FETTERMAN: Yes sir.

MS. STOVALL: Hi, I'm Di Stovall. I live at 3145 Newark Street and I have lived there for 30 years.

Unlike most schools, NCRC is very deep in the heart of a neighborhood. It's not close to any major artery. And the only access for Highland Place is Newark Street which runs where there are not cuts on Newark Street. From the 2900 block at Connecticut Avenue all to 34th Street, there's no street to go in. I don't see how Highland Place could ever be one way because of the fact that there's no cut through on Newark Street.

CHAIRPERSON GRIFFIS: And we're not deciding one way or not.

MS. STOVALL: The dip in Newark Street during any kind of bad weather, usually ends up as an

ice field and cars are just parked there sometimes for two or three days because tow trucks cannot even get into the dip.

So the only way anyone, police, firemen, people in the neighborhood can get around is to go around Highland Place. And unless you're going to totally change the geography in the neighborhood, there's just no other answer for that that I can see. And a lot of people have spoken about how the cars bunch up on 34th Street and one of the things that happens when they bunch up trying to get onto 34th Street is that it makes it impossible for cars to then get onto Newark Street and that's where some of the accidents happen. And the police are always talking about what a bad intersection it is.

I think most of the people's understanding in 1998 that NCRC was not that busy in the afternoon sessions, so as a neighborhood, we dealt with just the drop off and the pick up time and it has just slowly increased, so now we have four between the two sessions of the school.

Thank you.

CHAIRPERSON GRIFFIS: Thank you very much.

MS. VOTH: Good afternoon. My name is Debra Voth. I live with my husband and children at

3411 33rd Place, N.W., since October 1978. Between 1980 and 1985, our two children happily attended NCRC. During those five years, my husband and I both served consecutively on the board of NCRC. We considered then and still do today, we are great fans and supporter of the school and its presence in our neighborhood.

I also have been personally involved in issues concerning the future and welfare of the children of the District for most of my professional life. I am Vice Chair of D.C. Action for Children, an advocacy organization here in the District. I worked at the Children's Defense Fund, the National Forum for the Future of Children and Families. And I've served on NCRC's board and the Georgetown Day School's board. Our house is the only house that faces on to 33rd Place which is the short connector street between Highland Place and between Newark. Consequently, every single vehicle that visits NCRC must pass in front of our residence.

I will not reiterate the testimony that you have heard already, often, regarding the adverse impact that NCRC's traffic already has on the neighborhood. I would note, however, how difficult it is for us to leave at any time during the week at drop

off or pick up time.

I would also tell you that regularly, our side mirrors on our cars are struck by vehicles passing in our narrow street and the fence in front of our house has been repeatedly hit by cars, NCRC cars turning around. And in fact, the NCRC staff has helped us locate these parents to help pay for the damage.

A few years ago, because of the intolerable parking conditions that were caused by the school personnel parking all day on 33rd Place, we petitioned and obtained the residential zone parking restriction on this small street. This itself has created a burden on our friends and others who cannot park there for any extended period of time.

I appear before you not to complain, but to offer several alternatives that could be explored by NCRC to alleviate its needs without further affecting the neighborhood in such a significant and detrimental way.

Between 1980 and 1985 when I served on the board of NCRC, we confronted very similar issues relating to facilities, pressure for increased enrollments, increased demand from applicants, etcetera.

CHAIRPERSON GRIFFIS: Do you have alternatives?

MS. VOTH: Yes, I do have alternatives and I will get to them. But I want to say first of all that I first of all think that there is -- we are all here today because the Board has changed significantly. There is not the neighborhood representation that there was. In fact, I believe there's only one who lives in proximate, not in close proximation to the school. And there's no longer sort of the balance of concern between neighborhood and school.

I urge you today not to grant a special exception to NCRC -- oops, I've got to hurry -- I urge you today to use the facility that already exists which is the Cleveland Park Club where we always, all of us, use and have our classes and parties and it's a huge room that's a wonderful facility they could use. They recently had a conference for area teachers and educators. In 1985, we had the same conference.

CHAIRPERSON GRIFFIS: Why don't you list your alternatives?

MS. VOTH: I'm offering that they use other facilities.

CHAIRPERSON GRIFFIS: So off-site

facilities.

MS. VOTH: Off-site facilities. One hundred yards from NCRC, for the motor room. Churches and other places --

CHAIRPERSON GRIFFIS: You're saying that will accomplish all their space needs that they're now proposing?

MS. VOTH: For the motor room yes, for meetings, yes. There are lots of churches and other places.

CHAIRPERSON GRIFFIS: Do you have other alternatives?

MS. VOTH: My third alternative and I will finish is that I think they should find satellite schools. Council Member Mendelson talked about it. Many schools find satellite schools. Most of their students are not from our neighborhood, are not from the -- many are not from the District. They can set up satellite schools.

CHAIRPERSON GRIFFIS: Satellite schools. Okay, thank you.

MR. OWEN: I am R.B. Owen. I live at 3122 Newark Street, N.W. My family and I have lived around the corner from NCRC for 37 years and have watched the serious deterioration in traffic conditions in the

neighborhood as a result of NCRC's increasing traffic.

Our children and now our grandchildren are clearly less safe in the neighborhood than they have been in the past. One question that many neighbors have asked is why should the interests of NCRC as an institution and the interests of its parent group be given priority over the interests of the neighborhood's residents?

We trust that the Board will, in fact, protect the residents' interests. Thank you.

CHAIRPERSON GRIFFIS: Thank you very much. Board questions?

MR. ZAIDAIN: I have a quick one for Ms. Voth? And this is just out of somewhat curiosity. And it's not entirely relevant to the zoning test, but I think I should ask it.

You just listed some alternatives in terms of satellite schools or whatever, was this discussed when you were on the board?

MS. VOTH: No, we had smaller enrollment and I believe at the time, I'd have to check, it was 20 plus years ago, but we limited enrollment is what we did. We just didn't take any new students.

MR. ZAIDAIN: So you had a whole set of other issues back then?

MS. VOTH: Yes, but we had the same pressures.

MR. ZAIDAIN: Same pressures from the neighborhood?

MS. VOTH: No, we had the same pressures from the school. I was speaking as a board member and I'm saying we had increased -- everybody wanted to come to NCRC. We had increased pressures for enrollment. We had our facilities and we knew we had to live within those facilities. And we used other facilities. We had Berry Brazelton come and speak at a church. He spoke for NCRC under its auspices, but we used a church. It worked just fine.

MR. ZAIDAIN: So your solution to the problem is keeping the enrollment low.

MS. VOTH: Keeping the enrollment low and using other facilities. Yes.

MR. ZAIDAIN: Okay, thank you.

CHAIRPERSON GRIFFIS: Okay, anything else? Thank you all very much.

Cross examination? Don't go anywhere.

ANC? Parties in opposition? No questions? You guys did very well. Thank you all very much.

Let's get the next panel up and then while

they're coming up, can I just show -- see a show of hands of who else is here to testify as persons in opposition?

(Pause.)

Okay, let's begin.

MS. WEIR: Hi. My name is Anne Hatfield Weir. I live at the corner of 33rd and Newark, 3239 Newark. And I would like to say I love the idea of the priority for walking distance applicants to the school, I think as solving multiple problems.

The thing that I would like to talk about though is in my capacity as a real estate agent. I've been selling real estate in the District of Columbia for 17 years and have sold a lot of houses in this neighborhood. Have had over the years many, many people asking to live -- asking me to help them find houses in this exact neighborhood that we are discussing, many NCRC families in this group. And what I found very interesting and this is observational, anecdotal, because there are not enough houses in that immediate area to talk about this statistically, but I found it very interesting that the NCRC people who have asked this question, when I've called them on those rare occasions that houses have come up, Mrs. Marshall's house has been here, for

example, when her house came up, directly across the street from the school, called people to come and look at it. They would say things like I've been in that NCRC car pool line long enough. I don't want to have to look at it now because it is only going to get worse. Would not even want to darken the door of the house. I thought that was scary as someone who lives in the neighborhood and who wants to promote property values and good healthy real estate sales in that neighborhood.

CHAIRPERSON GRIFFIS: Have you seen the real estate values drop?

MS. WEIR: You know, I have seen things steadily continue. Recently sold a house at the corner of 33rd --

CHAIRPERSON GRIFFIS: In the last 10 years, what have they gone --

MS. WEIR: They've been going very well.

CHAIRPERSON GRIFFIS: How far is the real estate cycle in residential, would you say, to take a good glimpse of it. Would you look at a 2-year cycle or would you look at a 10-year cycle?

MS. WEIR: This last cycle has been going very well. This is anecdotal, as I said.

CHAIRPERSON GRIFFIS: Indeed.

MS. WEIR: Not statistical for the neighborhood.

CHAIRPERSON GRIFFIS: Okay.

MS. WEIR: But I would just like to say that having a dozen people come through this house at the corner of 33rd --

CHAIRPERSON GRIFFIS: I think we need to move on. If we keep saying anecdotal, there's first of all not going to be a lot of value for the case.

MS. WEIR: There are not enough houses there.

CHAIRPERSON GRIFFIS: I understand that, but I can guarantee you if you tell me one story about someone who said I'm not buying that house because that's across the street. I'm going to have five more people that will tell me they bought that house because that's across the street.

MS. WEIR: I sold the house. But for substantially less than what a dozen people had said.

CHAIRPERSON GRIFFIS: Okay, we'll keep the record open for you to submit the documentation that shows that it was substantially less than it would have been if NCRC wasn't there.

MS. WEIR: No, no, no. I think NCRC is not a negative to the neighborhood. In its current

way, you can't even tell it's a school when you walk by. Once it's expanded, I think that changes. And it changes the character of the neighborhood.

So that was what I was trying to get to.

CHAIRPERSON GRIFFIS: Okay.

MS. WEIR: Because these people are hearing things, half of them on the NCRC campus.

CHAIRPERSON GRIFFIS: So it's the expansion of the existing housing which is of concern.

MS. WEIR: I think it has people alarmed for that particular little section.

CHAIRPERSON GRIFFIS: Very well. Anything else? Don't let me rush you.

MS. WEIR: I think a neighborhood emphasis in the application thing, I would like to second that, third it, whatever.

CHAIRPERSON GRIFFIS: Good. I think that's important.

I can tell you it's a very big issue for this Board. We have people come in that are for or against application and start talking about real estate properties, either the jump or the devaluation of it and for you to make statements like that which is why I essentially jumped in a little bit, we need to have great clarity on that because you can throw it

out there, and there will be an impression that the Board can do something with it. And unless we have substantiation, I can guarantee you, we ask for an amazing amount of documentation that would prove economic hardship or change of real estate values. It's a very difficult issue. I think the Board is well enough of the common sense aspect of this and that's what we're weighing holistically, but I do thank you very much, it was Hatfield Weir, is that correct?

MS. WEIR: Yes.

MS. CRAIG: My name is Derry Noyes Craig and I live with my husband and five children at 3155 Highland Place. Our house is on the same side of the street as NCRC and we are one house down from NCRC. We've lived in this house for 13 years.

I just have two simple points to make. I know how congested the traffic is on Highland Place and Newark Street because I have to get out and in it every day. We have kids in school all over the District of Columbia which means that I spend most of every afternoon picking up, dropping off all over the city, at soccer games, piano practice, after school events, play dates and so forth. So I am leaving my house and returning to my house every afternoon as I

pick up and deliver my children.

NCRC's pick up times in the afternoon overlap with the times that I have to leave my house to pick up my kids. It is frequently the case like almost daily that I am caught in the traffic jam that is inevitably there in the afternoons on Highland Place and in the long line that forms thereafter on Newark Street at the corner of 34th Street.

I know how crowded it gets because I'm in it every day.

My second point has to do with traffic as well. And I've taken a number of photographs that I will submit to you in my testimony to make this point. This too is a simple point. Given the objective conditions of Highland Place, it is very narrow. It is not a through street. It has that blind curve in it. There is only so much at NCRC can do.

Two examples. First, no matter how hard it might try NCRC cannot control the weather. When the weather is bad, the traffic on the street is worse. No one parks and walks anymore. Everyone lines up in the drop off and pick up line. The street is overwhelmed.

Second, no matter how much NCRC might try to control the conduct of those parents and care

givers who pick up and drop off children at the school, NCRC cannot control the conduct of vendors and workmen and commercial delivery trucks that need to come onto Highland Place to do their work.

The residents on the street require the presence of these individuals, but because the street is so narrow and because there is rarely any available parking, the tradesmen pay no attention to the rules and park where they have to to do their jobs. This goes for vendors that service NCRC as well. They all contribute to the mess and there is absolutely nothing that NCRC can do about it except maybe to call the police to come patrol Highland Place.

CHAIRPERSON GRIFFIS: Thank you very much.

MS. HARTER: Good afternoon. I am Nancy Harter. Our house is at 3028 Newark Street and we've owned it since 1970. I have an Early Childhood degree, a master's in education. I've worked with children, families and teachers all my professional life. Among the professional positions I've held over the years I was director of a cooperative nursery school across from Maret School for five years. My daughter, Alexa, went to NCRC for two years, 1992 and 1993. I substitute taught at NCRC and for four years, 1973 to 1977, I served on the board of directors. And

I've served on the boards of directors and volunteered for other youth organizations across the city.

From NCRC's 2002-2003 annual report, Susan Piggot wrote, "2002-2003 was a banner year. The school became accredited for the first time by the National Academy of Early Childhood Programs, a division of the National Association of the Education of Young Children, NAEYC, for having demonstrated substantial compliance of the nationally recognized criteria for high quality early childhood programs." They wrote in the report a goal was to keep tuition affordable. It is now $12,000 a year with tuition and fees. Revenue is at $1,587,497.

Tuition assistance is $133,200 to 23 families equalling 9 percent of tuition income and 13 percent of the student body. One hundred seventy-one students are enrolled.

NCRC is recognized both by accrediting boards and many in the metropolitan area, it's a very good preschool. I will venture to say that most of their children leaving NCRC are then accepted by the premiere private based schools in the metropolitan area. Yet, the NCRC strategic plan of 2000 and the board say we want more. The board's strategic plan is to grow student and faculty populations and build more

classroom space. They set a mission of maintaining a good model preschool program and finding significant funding beyond tuition.

They've made a wish list regarding the site they have in the neighborhood in which they are located and they are ignoring safety factors that their children, their parents coming to and from school and all neighbors who have daily during the week encounter crowded roads and unsafe situations. And they are trying yet again as they did in 1998 to get the District of Columbia to change the zoning and regulations to meet their desires.

NCRC in growing from a total morning and afternoon population of 87 students in 1977 when I was on the board, back then NCRC, as we've heard, was licensed for 108 a day which is the figure the Health Department now uses for them still and in which NCRC says are the number of students allows on campus at a time, a session, morning, and then also in the afternoon.

To the 171 students they have now daily, it's caused me and others and Cleveland Park neighbors driving through the neighborhood to adapt our lives to the chaos of traffic that NCRC generates. Drop off and pick up times five times a day translates into the

time of about two and a half to three hours a day, total. There is also the after school and weekend traffic which generates many cars and more chaos as has already been mentioned in other testimony and elaborated in the video Sally Beckner showed this Board.

Neighbors similar in the District of Columbia have had to adapt to what NCRC has done over the years. As D.C. is changing its regulations for the school and being inconsistent -- the Health Board says 108 students on campus at a time, but zoning allows NCRC 120 at a time.

I understand that D.C. health regulations supersede zoning, so NCRC still is only allowed to have 108 on campus at a time, but it's striving to reach the 120 figure.

I've had to change my daily living patterns to go to and fro from work and routes that I would have taken and alter my daily activities.

Trying to turn from 34th into Newark Street is impossible.

CHAIRPERSON GRIFFIS: Thank you very much.

MS. HARTER: There's traffic on both sides, no room for two cars to go down the street.

CHAIRPERSON GRIFFIS: You're welcome to

submit that.

MS. HARTER: Pardon?

CHAIRPERSON GRIFFIS: You're welcome to submit that.

MS. HARTER: Okay.

CHAIRPERSON GRIFFIS: Thank you.

MS. SHELBURNE: Thank you. Anne Shelburne. I have lived on 3083 Ordway, directly across from NCRC for five years. I see every day I'm home and just to emphasize with my own eyes conditions on Ordway that are dangerous, chaotic and congested.

I can tell you from what I see that the treacherous conditions on Ordway are caused in major part by NCRC related traffic.

The street is simply too narrow to permit two lanes of traffic. Cars parked on both sides. But without a lot of jockeying for all the cars, trucks and buses to get down Ordway.

I see commonly cars swiping other cars. My own car has been struck three times in the front of the house in the last year and a half. One time the entire front taken off.

Add to all this people jockeying for scarce parking spaces, doors opening onto the street, people popping out of cars, cars backing out of

driveways and you cannot see backing out of most of these driveways.

I cannot see on-coming traffic or people in the road when cars are parked on both sides of my driveway when I'm backing out and that's perilous.

I cannot over-emphasize the perils and the chaos from the number and the effect of people walking in the street.

The school's proposal to dump more cars, more people onto Ordway to improve conditions is in my view reckless.

Have the monitors made a difference? From what I see, no. One, they're rarely there. Two, even when they're there, they're ineffective. I continue to see dangerous conditions, illegal activity, children without an adult hand in the middle of the street, sometimes in front of the monitor.

Finally, the proposed building directly across the street, in addition to the other complaints of adverse impact, it will be like putting an all night filling station in the middle of this residential area. The school already has many evening events and that building will be lit not only for those and we can certainly anticipate that those will increase, but a significant lighting, I would predict,

all night long as well and that will very much change the character and the pleasure of living in this neighborhood.

Thank you.

CHAIRPERSON GRIFFIS: Thank you very much.

MS. TENNILLE: Cheryl Tennile at 2950 Newark Street and formerly at Highland and Newark for 24 years.

Our three children spent 7 years at NCRC. My husband and I were on the board, gave our house for the NCRC house tour twice and I chaired the scholarship fund and outreach committee. I have spent a large part of my life in education. I speak as an educator. This is not about education. NCRC is accredited. It added four children in 2002. It is important.

They may consider themselves a model school, but if a model school causes danger around it, if anything else, it works against being a model school.

I speak from the land of no traffic management plan, that is, the area beyond the view of NCRC. At the bottom of Newark and Connecticut, there is a no left turn sign from 7 to 9:30 and 4 to 6:30 in the afternoon. All Highland, all Ashley, all Newark

between 34th and Connecticut, therefore, are hemmed in and must go to 34th and Newark when NCRC is coming and going.

While walking last May at Highland at 9:05 a.m., five SUVs coming from east and west ran the stop sign, careened at high speed onto and up Highland, only to be outdone by a speeding Bowie waste management truck following them.

On May 22nd, coming home at 6:55 p.m., I found the remnants of a 4:50 p.m. accident and NCRC parents walking and driving on 33rd Place and upper Newark. The school had notified nearly neighbors of a 5 to 7 p.m. all parent traffic management meeting which was just letting out. Notice doesn't help because employers don't change their behavior for NCRC notices.

If NCRC is concerned about safety, they would be more concerned about the no traffic management plan area. Over their third floor where my children spent three years, safe and happy, just as they lived at home on the third floor. The harm is here now. We don't want to expand on harm.

Ten new children, six faculty, current admission activity, I pass on to you the numbers. It brings up trips to 1478 with new children to 1630.

These numbers say adding 10 children, 6 faculty make a bad situation worse. Numbers translate to safety. There is a history of elastic numbers expanding as if new math, a moving target. At some point the elastic is pulled until it snaps. That could be an accident. Look at the pool of risk. My doorstep is 16 steps from the street. It all depends on what is a priority. Safety.

Safety is not optional. Risk is even there for the children. The only people for whom this is about, education, are 10 unnamed families.

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

Cross examination?

MS. BERGER: I just have a couple of questions and these are you, Ms. Craig. I wanted to ask you what year did your children or child attend NCRC?

MS. CRAIG: I think it was 1991. I was trying to remember that. We moved in December 1990 to Highland Place and she was two. I think it had to be 1991, 1992.

MS. BERGER: All right, and do you know whether the enrollment at that time was 168?

MS. CRAIG: I have no idea.

MS. BERGER: You have no idea what the enrollment was at the school that your child was in?

MS. CRAIG: No idea. We were in the afternoon sunshine program.

MS. BERGER: But you were aware, at least, since your child was in the afternoon session, that there was a morning and an afternoon program?

MS. CRAIG: Oh yes.

MS. BERGER: And you said you have five children now that go to other schools in the District of Columbia? What schools are they?

MS. CRAIG: Maret, the Lab School and one is at boarding school.

MS. BERGER: The ones that go to the other schools, Lab School --

MS. CRAIG: Actually, it was Beauvoir until just this September.

MS. BERGER: Do those schools also have carpool operations and TMPs that you follow as a parent when you take your children there?

MS. CRAIG: Yes, but they are in very different streets. Maret is on Cathedral Avenue which is quite a bit larger. It's a thoroughfare. Beauvoir lines up -- I walk to Beauvoir, I'm not one of the carpool line. But that's mostly inside their own

property.

MS. BERGER: And the Lab School?

MS. CRAIG: The Lab School, that has many more buses that bus those children around. It's also a major thoroughfare.

MS. BERGER: But is it fair to say that each of these schools has a TMP that parents abide by, rules and regulations, not unlike what NCRC is doing here?

MS. CRAIG: Correct. But I would just say that the nature of the street and NCRC is so completely different that I wouldn't compare them.

MS. BERGER: But it wasn't different for you when your child was there?

MS. CRAIG: Well, we talked, obviously, and I have to say, I don't know why, but it's definitely worse, in the past five years, it's gotten worse.

MS. BERGER: Thank you.

CHAIRPERSON GRIFFIS: ANC have any cross? Parties in opposition? No questions?

Yes, Ms. Badami.

MS. BADAMI: Yes, to Ms. Hatfield Weir. You said you cannot tell it's a school when you walk by, is that because of the nature of the building or

is it because of the traffic?

MS. WEIR: It's a house and except at carpool times, of course, then you can tell. If you just walk down the street or drive down the street, it is a house and if you have a big addition, it will not look like a house any more.

MS. BADAMI: Very good, thank you.

CHAIRPERSON GRIFFIS: Nothing else? Thank you all very much.

(Pause.)

CHAIRPERSON GRIFFIS: Who else is here to testify today? One, two, three, four, five.

Yes.

MS. BOSCO: Good afternoon, Mr. Chairman, Members of the Board. I am Carol Bosco. I live at 3121 Newark Street and I have lived there with my family and five children for 28 years. We're almost next to the intersection of Newark and Highland and I would mostly like to speak about that because other neighbors have eloquently spoken about other issues.

That is a very tight intersection. I assume that you are familiar with the topography of Newark Street, but that is a very tight T kind of intersection. And very often people illegally park on the south side of Newark Street and I have witnessed

fire trucks that have come up and have been unable to make a turn -- this is speaking mainly about the hook and ladder -- not be able to make the turn onto Highland Place.

I'm very concerned about the safety of the school because I feel that the traffic congestion is so bad in our neighborhood that it is possible that all routes to that school in case of a gas leak or a fire could actually be blocked.

On the way down to this hearing, I saw the bottom of Ordway blocked. I've seen the top of Newark and 34th blocked. I've seen the bottom of Newark blocked, not that the fire truck wouldn't eventually get through, but their response time would be much slower. And this is a danger when you have a school and it's a danger to the residents of the neighborhood.

I think people should think very seriously about increasing any kind of enrollment. Actually, I think the situation we have there already is a problem.

The other thing I would like to speak about is the fact that I've listened to Mayor Williams several times say that he would like to increase the population of D.C. by 100,000 people. They just had

a fair last week about it. There are a number of factors that are involved. You have to reduce crime. You have to have affordable housing. But it's very important that the city listen to its citizens, its tax-paying citizens and I think you can see by the number of people who have come to the number of hearings we've had on this issue who have spoken eloquently about their positions, who have given up days of work, who have spent countless hours working on preparation and so forth that they care very deeply and I hope that the city will listen to them very carefully.

Thank you.

CHAIRPERSON GRIFFIS: Thank you very much. Let me make this one note, in the record, which I'm not sure you've reviewed the entire thing, Exhibit 102 happens to be the letter from the Fire Department and the Fire Emergency Medical Services which is recommending approval of this application.

MS. BOSCO: Well, that may be the case, but I'm telling you from my own observation that this is a problem.

I have witnessed fire trucks come up the street and had problems.

CHAIRPERSON GRIFFIS: What do you think

they would have evaluated a recommendation of approval on then?

MS. BOSCO: I don't know. I don't know, but I think from my own eye observation this is a problem.

CHAIRPERSON GRIFFIS: Thank you.

MS. BOSCO: And I've seen cars parked on the south side of Newark Street that -- which is illegal, and fire trucks are not able to go up Newark Street. They cannot get through. There's a very narrow throat there.

CHAIRPERSON GRIFFIS: Right. Okay, very well, thank you.

MR. THOOLE: My name is John Thoole. My wife and I have lived for 34 years at 3125 Newark Street, next to the Bosco's, just around the corner from the NCRC. Our two children attended NCRC, and I served on its Board for several years, one year as President. We oppose NCR's expansion proposal.

I will confine myself to one point. It is that the Department of Transportation's plan to resolve the traffic and safety problems now existing on Highland Place by making it a one-way street westbound would have a substantial adverse impact not just on people living on Highland Place but people

like us who part on the north side of Newark.

Soon after we moved into the neighborhood in 1968 my wife and I figured out that the most convenient and safest route for the vast majority of our trips by car was to avoid Connecticut Avenue, go west on Newark, connect with 34th and returning by turning off 34th and going east on Highland Place to Newark. The alternative way of returning was to go east on Newark Street from 34th. That would require us to make a u-turn either in a driveway or at the three-way intersection of Newark and Highland Place. That is cumbersome and dangerous. The drivers' view at the Newark-Highland intersection are at least partly obscured in every direction, and I believe it's illegal.

If the DOT plan is imposed, our legal alternative would be to go all the way around on McComer Ordway down to Connecticut, then drive back up Newark Street. Newark from Connecticut Avenue winds up a steep hill. Too many drivers already take that winding road too fast. Forcing us to take a long detour just to get home would tempt us to do that also. In short, implementation of DOT's one-way street proposal would require us to make a substantial and burdensome change in a long-established driving

pattern and I believe encourage riskier and possibly illegal driving in the neighborhood.

CHAIRMAN GRIFFIS: Thank you very much, Mr. Thoole. Let me ask you a quick question. Do you anticipate this Board is going to make a decision that would impact the approval or denial implementation of the one-way alternative?

MR. THOOLE: I must assume that the Board would take into account in making its ruling on the matter before you whether or not or how easy to solve the traffic problems on Highland Place. I think the Department of Transportation is unduly optimistic in suggesting that the one-way solution would meliorate the problem. I think it would simply spread the mess further out.

CHAIRMAN GRIFFIS: So you think in fact that we do have some control that something like that might be implemented.

MR. THOOLE: As I say, I think -- I assume that you take into account whether or not the traffic problem that has been identified can be solved or at least meliorated by the DOT proposal --

CHAIRMAN GRIFFIS: And that's correct.

MR. THOOLE: -- and my testimony is confined to that.

CHAIRMAN GRIFFIS: Indeed. Thank you. There's a button on the base.

MS. McLAUGHLIN: I'm sorry. My name is Joane McLaughlin. I live at 35th Street Ordway Street. Since 1942, I have lived on Ordway Street, a couple of houses down and across the street from the eastern boundary of NCRC. When I was quite young, maybe late '40s or early '50s, I remember my father being upset by an NCRC special event one weekend. Someone had parked across our driveway and my father couldn't find a place to park all the way down to the corner of Connecticut and Ordway.

More recently, during the 1990s, I had to walk over to NCR special event to find the driver of a car blocking our driveway, so I could drive my stepmother to be with my father for a special event at the nursing home where he was staying.

Earlier this year, our neighbor Leonard Chain, asked if he could park in our driveway during a special NCRC event since someone was blocking his driveway. I held my breath because I knew my friend Charles was coming back soon and would need our driveway, and I could see no other place to park around. The driver of the illegally parked car came across from NCRC just in time for Leonard to move out

of our driveway, right before Charles returned.

A couple of weeks ago, Leonard's wife Jackie found a car parked in front of their driveway when she had to go and pick up her own children from another school. While she debated what to do, a parent came back with children from NCRC.

These situations were annoying, none turned out to have serious consequences. However, my fear is that if NCRC continues to expand enrollment as well as space, which could hold greater enrollment, and then directs more cars to Ordway Street, that this growing number of illegally parked cars may have more serious consequences for someone with more urgent needs.

I feel there are other types of incidents that I've seen recently that if more people were doing the same, which I guess they are that I haven't seen, could cause serious congestion and safety problems. Someone sat and waited in their car parked across my driveway for someone else to come back and get into the car with a child from NCRC. Another day I observed a person waiting in front of the Ordway Street entrance to the school. Instead of parking, they drove back and forth, hovering in the middle of the street. There have been other incidents in the

last week of two different cars parking in front of my driveway, and I called the police to ticket them.

In these cases, I don't know where they came from, but it is another sign to me that the situation on Ordway is already serious enough that additional traffic such as from an increase in NCRC enrollment should not be allowed.

CHAIRMAN GRIFFIS: Thank you.

E-V-E-N-I-N-G S-E-S-S-I-O-N

(6:00 p.m)

MS. ATKESON: My name is Paula Atkeson, and I have lived for 34 years at 3141 Highland Place with my eight children, several doors down on the same side of the street as the National Child Research Center. My three youngest children attended NCRC and had a wonderful educational experience there. I served on the Board of NCRC during that time. Later, very recently, two of my grandchildren attended both the winter session and the summer camp at NCRC, again, having an excellent experience. I love and support NCRC and have always welcomed having NCRC as a neighbor, but I believe that NCRC has reached its limits of growth.

Traffic conditions over the last several years have worsened beyond the tolerable point. The larger size of the vehicles, the limits the larger car seats place on the number of children carpooling per car resulting in more cars on the street and the parking on Highland Place while children are walked to school create dangerous conditions.

This situation specifically affects me in

the following way: It is unsafe for me to back out of my driveway due to the SUVs parked at the driveway line or sometimes into it, because it is impossible to see the ongoing street traffic through them. The bulk and height of these vehicles block the view to the street. The second effect is that as the cars turn into Highland Place from Newark Street, they frequently drive faster than is safe so that as I try to enter Highland Place from my driveway, I run the risk of being hit or hitting an oncoming car. Several drivers do not stop to let me enter the street.

My second comment stems from my present involvement in developing a new nursery school, the Jenny Wilder Hall Nursery School. In arranging for a location for our school at the Capitol Memorial Church of Seventh Day Adventists, we have offered to make a binding commitment that states that if we wish to increase our enrollment beyond an agreed upon number, we are committed to relocating to another site. We think that setting a binding cap on enrollment is essential to positive and productive neighborhood relationships. Thank you.

CHAIRMAN GRIFFIS: Thank you very much.

MR. STERN: I'm Robert Stern. I have lived at 3212 Highland Place from 1963 to 1971 and

have come back to 3218 Newark Street from 1976 to the present. Hence, I have 35 years of combined experience of both using NCRC as a parent in the early period, we had one of our children in a very satisfactory situation from 1967 to 1970, and we admire, in general, what the school does. However, we strongly oppose the expansion. I think the school has simply reached its reasonable limit size in the location where it is.

The school does not serve Cleveland Park, per se; it serves the City as a whole, and that's fine, and it's delightful that they will get that kind of education. But meeting the expansion needs I think can equally well be met elsewhere. NCRC has never presented to the community any plan of growth other than expanding it at its present site. I think this is unnecessary. They can well come up with other alternatives. Many other schools do the same thing in the District of Columbia. They have satellite operations that take care of expansion.

For example, the idea of constructing this 150-room capacity hall for supposedly parent meetings but also useful for outside activity does not need to be on the existing campus. It can well be elsewhere. There are places that can be rented in the

neighborhood if it has to be in the neighborhood. It does not have to be on the existing campus.

In addition, I bring forward three photos that I took from my window. I face directly down 33rd Place, so I have pictures of a sequence on the 31st of January at basically three o'clock in the afternoon showing the kind of traffic there is, both of exiting NCRC parents and an incoming Federal Express truck, for example, going the opposite direction. It's an inescapable activity. You can't ask Fed Ex to observe NCRC rules.

Secondly, just yesterday morning, I took a picture, which I have not yet developed, of the guard that is at the intersection of 33rd Place and Newark Street who had his car parked outside the permissible parking area. He has done this numerous times. I think he's been spoken to. But this to me is another example of how NCRC management cannot control either the activities of its parents or the activities of its employees.

Thirdly, with regard to the guards, I think it's reasonable to assume that there are certain measures being taken by NCRC right now to try to calm the neighborhood, such things as posting these guards. I think they will be removed once the, quote, "threat"

is removed. Thank you.

CHAIRMAN GRIFFIS: Thank you. Okay. Any Board questions? Cross examination? ANC? Parties in opposition? Ms. Badami?

MS. BADAMI: Hi. This question is to Joane. You've lived since the '40s on Ordway, so in the last five years, since '98, do you see staff and hired guards daily to mitigate traffic conditions?

MS. McLAUGHLIN: When I look I do see them up there but not always, as long as they're needed.

MS. BADAMI: So not always and as long as they're needed. And have they helped mitigate the traffic problems that are specifically yours?

MS. McLAUGHLIN: I don't remember driving that way myself at a time they're there, to tell you the truth.

MS. BADAMI: Great. Thank you. And to Ms. Atkeson, in the traffic problems that you described about trying to get out of your driveway, does their time management plan or do their staff or hired guards help alleviate that problem for you?

MS. ATKESON: No, because the guards are not down at the end of the street. There's no guard that I've observed at the corner of where Newark meets Highland, so the cars come around sometimes not

stopping at the stop signs, but they come quite fast, and there's nobody down at my end of the street.

MS. BADAMI: Thank you.

CHAIRMAN GRIFFIS: Nothing further? Very well. Thank you all very much. Is this the last panel? Do we have everyone that wants to testify? We have one more cheap seat and then one of the expensive ones, so we have alternatives. Yes? We're ready?

MS. INCE: Hi. My name is Dandridge Ince. I live at 3224 Highland Place, and I may be a little disjointed because I'm going to try to not read the testimony that repeats what everyone else has said --

CHAIRMAN GRIFFIS: Excellent.

MS. INCE: -- and kind of skip around in some parts. I've lived across the street with my husband and three children for 29 years. Two went to NCRC, and we've always liked having the children and their cheery voices across the street. I was going to talk about three things, the current parking, future parking and safety, and I've crossed out the safety and will talk about the current parking.

I've been conditioned by 29 years of traffic on -- NCRC traffic on the street, and as a result, in the morning, if I have to do any errands, I ask myself, now, do I have to go out before 8 a.m.

and then when I come home find that a day teacher has taken a parking spot I've vacated or can I wait until 8:30, giving me a shot at finding a parking place if I plan well enough to get home between one of NCRC's five traffic bulges when many parents park to drop off and pick up their children? But then, again, if I leave at 8:30, will I be late because of the backup at 34th and Newark? Now, this doesn't sound like much but this happens every school day that I go out, so it accumulates.

Now, as far as the future parking goes, if NCRC succeeds in coopting the street parking across the street from me with the dubious result of shortening the pick-up line, our troubles will only be magnified. Skipping to another part here. In the '90s, when the rest of Highland Place was being put under restricted residential parking, NCRC's neighbors granted its request to leave this strip in front of its playground unrestricted so that teachers could share these places with the neighbors. We have very few off-street parking places, and as it turns out, most of these are needed for the neighbors. NCRC now contends that taking those four spaces will reduce the double parking at the east end of the street by four cars.

As far as I can tell, this is just continuing the shell game now underway to shift parkers' cars around different spots in the neighborhood, and I don't think it would be efficacious to their traffic management plan because they need a lot more personnel to sort of take care of eight cars in a carpool line. It is not efficacious, it is not fair to deprive the neighbors of their parking to make what would at best be a questionable improvement in their situation.

One thing that hasn't been said is the nature of -- oh, I've run out of time. Thank you for bearing with us. I realize that some of this testimony should have been allowed under other agency jurisdictions, but since it has not been, we are particularly -- we particularly want to thank you for letting us bring these facts to your attention.

CHAIRMAN GRIFFIS: Thank you.

MS. NAMIAN: My name is Esther Namian. My husband, Doug, and I have lived at 3312 Newark Street, Northwest for 36 years. Our house is located on the south side of Newark where 33rd Place meets Newark. Day in and day out through the late '90s and at the present time I've witnessed the following, and I will try to edit out the -- I was going to describe Newark

Street from 33rd Place to 34th Street, but you all know it's very dangerous. I don't think anyone has mentioned that there are three stop signs at 33rd Place and Newark. Usually traffic stops on 33rd Place, but often the traffic only slows and rolls through the stop signs on Newark.

At Newark and 33rd Place, there are spaces for five vehicles to park illegally. They frequently have been used by NCRC vehicles. The children are unloaded. This particularly happens when guards are not present or there is a nursery school event with all the families attending or meetings and conferences. Some families come in two cars. At one of the daytime events, the NCRC guard had his picture taken next to his illegally parked van. One morning a few weeks ago, another guard had his car parked illegally on 33rd Place between the no parking sign and Newark. I also remember the time that Ms. Piggot came out with a guard and gave him instructions. A few minutes after she left the guard went up the street to his parked car, removed it from the space and then drove it back and parked it in an illegal space, closer to where he was working.

At the NCRC, at the anniversary party, a man drove his vehicle onto 33rd Place and parked in an

illegal space. It took the guard a good while to convince the man that he could not park there. The man turned the vehicle around and parked in front of the house, our house, but facing in the wrong direction, towards 34th Street on the left side of Newark. The guard did nothing. I went out and talked to the man. He finally came back, turned the vehicle around and parked legally facing Connecticut. At the same party, a van was parked at the edge of our driveway. Our view was obstructed so we could not use the driveway. When the man and his child returned from the party I asked him to please be more considerate next time. To summarize, the guards are ineffective. They have no legal police power. NCRC is just not able to enforce traffic effectively.

In the '90s, there was a change in NCR's time schedule. The number of vehicles increased and the frequency of traffic increased. There were more activities and visitors. In the middle of the 1990s, I started walking to Connecticut Avenue two or three times a week, and I walk on 33rd Place and Highland, passing NCR during drop-off times, around 8:45 to 9:00. Believe me it's an adventure. Cars travel in both directions. Neighbors have to go to work too. I find it very dangerous. I dodge traffic, car doors,

strollers, little children on bicycles, people and children crossing and walking in the street, cars u-turn and turn around in driveways, sidewalk is used for unloading.

Both of our children attended NCRC. I also attended the BZA hearing in 1998. Both of our children attended NCRC in the late '60 and '70s. In 1970, we received a letter from the President of the Board of Trustees of NCRC. It described NCRC's relationship to the community. This is the quote --

CHAIRMAN GRIFFIS: Thank you very much.

MS. NAMIAN: "You're all familiar --

CHAIRMAN GRIFFIS: Do you have it in written form?

MS. NAMIAN: Yes. "You are all familiar with what we are --

CHAIRMAN GRIFFIS: You can -- no, actually, I'm going to have you submit in the record, and we'll be able to review it.

MS. NAMIAN: Oh, okay. Today, this proposed -- we oppose.

CHAIRMAN GRIFFIS: If I could have you -- we need to move on. Thank you very much.

MS. NAMIAN: We oppose.

MS. HAAS: My name is Barbara Haas.

CHAIRMAN GRIFFIS: Could you turn on your microphone for me? Perfect.

MS. HAAS: My name is Barbara Haas. We have lived at 3200 Highland Place for 18 years. We have four children and two grandchildren. Our house is 200 feet from NCRC on the blind curve where the carpool line starts. I testified before this Board in 1998 in conditional support of NCRC's application to increase its Certificate of Occupancy, but I am here today in opposition to the proposed expansion.

In 1997, I was part of a group of neighbors who initiated a dialogue with NCRC to address potential safety problems resulting from the escalating traffic on Highland Place, 33rd, Newark and Ordway. We were repeatedly assured that our concerns would be fully addressed. Then in January of 1998, we discovered NCRC had appeared before the BZA requesting a special exception to increase its Certificate of Occupancy. We also learned that the BZA had approved the application for a period of 15 years.

I wrote a letter requesting that the BZA hold a new public hearing as a result of the inadequate notice that was given to the neighbors. The rehearing was held in April of '98. In its May 6 decision hearing, BZA members were openly skeptical

about NCRC's ability to, quote, "ameliorate," unquote its traffic problem and control, quote, "rogue parents," unquote, and therefore reduced the number of years for this special exception from 15 to eight.

During the current hearings, Ms. Piggot has testified that NCRC is in full compliance with the 1998 order. In support of what Phil Mendelson said earlier this afternoon, we were assured that there would be a maximum 120 students enrolled. Total enrollment today is 171. NCRC promised to implement a traffic management plan. As you have heard from others, we now have orange cones marking driveway entrances, occasional use of walkie talkies and some staff members on the street, but there is little consistency, and the staff is often involved in conversations with parents, drivers and each other, ignoring enforcement of their own traffic rules.

We have a dangerous, congested, disruptive traffic pattern on Highland Place. We are told that making it a one-way street will cure the safety problem, but it will only add another layer of inconvenience to residents on Newark Street, 33rd and Highland Place in order to accommodate NCRC and will further stress the already overwhelmed infrastructure of this historic neighborhood.

I continue to witness traffic violations by NCRC drivers, an example of which is in the handout that you just received. The black car was illegally parked on the south side of Highland Place, facing east, right across from the school on the blind curve. The driver had just exited his car and was walking up the street, and I'll make this short. He saw me, went back to his car, tried to make a u-turn, drove up on the sidewalk, there were children everywhere, parents, teachers out, it was dismissal time. He couldn't make the turn so he went back to where he'd been and went rapidly down Highland Place. If the school is unable to control existing conditions, how can they justify an application to increase enrollment? How can more traffic improve the situation? Please reject this application.

CHAIRMAN GRIFFIS: Thank you very much.

MR. WARECK: Good evening, Chairman Griffis, Mr. Zaidain, Mr. Hood and Mr. Etherly when you read the record. My name is Lindsley Williams, and I have some good news. The good news is I do not have a videotape. I do have a document which I have submitted to you, which I'm sure you'll go through at your relative leisure. I know you guys really work very hard, and I appreciate the toil you do on behalf

of the citizens of the District.

I bring to you a document which gives you several perspectives: that as a person that resides in the immediate neighborhood that's affected by NCRC, which I detail in the letter; that of a professional land use planner being involved in the Zoning Commission when the current standards for this particular section were developed and revised following the period when there were private schools that had a specific clause in them relating to neighborhood use, which was dropped during that era. That may have contributed to some of the problems that we have today, but that's part of the history of this case.

I was a neighbor with these two ladies and with Mary Peters who came down and testified in 1998, and I will not duplicate their testimony but simply affirm that you have our report which I submitted earlier on behalf of -- which we all submitted together and swear to. And I'm an active practicing land use professional that is seen before you from time to time, and I just trust you'll give my opinions today whatever weight you deem appropriate to the situation.

My property owner issues are cited on Page

1. I give you a little history on Pages 3 and 4 of the document. I'd simply note that the Child Development Center facilities are one of the few that are singled out for special exception tests that go beyond the usual when there are more than one in a give radius. Now, there's not one here in the 1,000 feet or elsewhere on the square, but the fact is the size of the increase that's being sought here is double the size of a case that you dealt with earlier, the Barbara Allen facility, also located in a residential district, in this case near McArthur Boulevard. You dealt with that case carefully and thoughtfully and deliberated and gave a decision.

Here we have an addition that is twice the size of their facility. They're dealing with 23 students; we have here a situation where I believe the numbers are not what Ms. Wire is claiming. If you'll turn to the back of the document, you'll see that I've put together a chart which outlines the existing classrooms and areas and proposed classrooms and areas, doing as best as I can, Mr. Chairman, to use the terms that are in use in the documents that you have in front of you.

And in the 35 seconds that I have left what I will tell you is that we see a way that the

current facility is licensed to have 108, that they actually have 103, the C of O says they have 120. This means that they have unaccounted classroom space of over 420 square feet. More critically, the facility, as proposed, would allow for a total of 160 students to be present at any one time under licensing standards, and there is no way that I can believe that when you provide capacity like that, as the pressures on institutions come and go, that they won't be back down here saying, "We need to go to that, and of course we'll have more enrollment. This is just the occupancy at any one time." Mr. Chairman, this sets dangerous precedent and I believe you should also look at the chart on variances that I've prepared on Page 7. I believe you're in very dangerous territory considering any of the variances under the standards that prevail. Thank you very much.

CHAIRMAN GRIFFIS: Thank you very much. Questions from the Board? Cross examination? ANC? Any parties in opposition? Thank you all very much. Do we have anyone else here to give testimony as a person in opposition? How about neutral? No, we don't have time for that.

(Laughter.)

CHAIRMAN GRIFFIS: Very well. We're going

to take a short break, but before we do that and before I have people leave, I have just a couple of questions, and of the Applicant's representative, Ms. Dryer, if you have just a brief moment. And let me also say, clearly, we heard a lot of testimony from persons today, and we will read all this, and we have heard a great extent of it. The issues are very clear. I don't think this Board advocates, supports or would do anything that would in fact have illegal parking, driving or unsafe conditions somehow become legalized. There's going to be a certain amount of control that we have over that, which I'm sure we will take into account in looking at this whole thing.

But I guess my comment goes to -- well, perhaps I'm getting too tired and getting too loose with it, but I don't want to set up any sort of false ability of this Board to go beyond its jurisdiction on numerous things. I mean running stop signs and running traffic lights is not something that we would be able to say they could get away with or anyone could away with. And so that being said, what I'd like to figure out, Ms. Dwyer, is how long you need for your closings and how many rebuttal witnesses you might be calling.

MS. DWYER: We have prepared probably 20

minutes of rebuttal testimony, which includes rebuttal by Osborne George, Chuck Anthony and Susan Piggot. And with Susan would be two individuals who on a daily basis monitor the carpool operation. Obviously, that 20 minutes would be followed by cross examination, and then I had a five-minute closing statement.

CHAIRMAN GRIFFIS: All right. We're going to take a 15-minute break. To update the schedule, I think we're probably looking at close to another hour. Very well. Thank you. Let's be back in ten minutes -- 15.

(Whereupon, the foregoing matter went off the record at 6:04 p.m. and went back on the record at 6:19 p.m.)

CHAIRMAN GRIFFIS: Okay. If I could have people take their seats; let's reconvene, please.

Okay. We're going to need to be expeditious with this. As things happen during recesses, a lot of information has come in. However, the most pertinent is we will lose a quorum at ten of seven. So we're going to utilize the time we have, and the I don't know what's going to happen.

MS. DWYER: All right. It doesn't make sense to just start fresh on another hearing date rather than begin and break? I mean if we only really

have half an hour, we know that there's no way we're going to get through the rebuttal and the cross and the closing statement.

MR. NETLER: It may be a surprise but I probably agree with Ms. Dwyer. I just don't think it's --

PARTICIPANT: Can't hear.

MR. NETLER: I said it may be a surprise but I agree with Ms. Dwyer. It doesn't make sense to do that when you're in the midst of somebody giving testimony.

CHAIRMAN GRIFFIS: Indeed.

MR. HUNSICKER: Mr. Chairman, as another party, I find myself in agreement with Ms. Dwyer on this one as well.

CHAIRMAN GRIFFIS: It figures the one thing I don't agree with you all agree with.

MR. HUNSICKER: Well, we're ganging up on you.

CHAIRMAN GRIFFIS: And that is okay. We're better to have an agreement, so let's get calendars out.

MS. BADAMI: Oh, no. Well, I disagree. We all have been taking off from our lives for so long, and the last meeting you did say we were going

to get through this.

CHAIRMAN GRIFFIS: Believe me, I tried.

MS. BADAMI: And NCRC -- in a sense of equity, NCRC's had five days to present, we've had two days to present, and if we extend it, they'll have yet another day.

CHAIRMAN GRIFFIS: Okay. Without going too far into that, there is no inequity in that. Gosh, we are in a difficult situation now.

MS. DWYER: We previously had the date of the 18th as our absolute, absolute fallback.

CHAIRMAN GRIFFIS: That was true. It is no longer.

MS. MACWOOD: Mr. Chairman?

CHAIRMAN GRIFFIS: Yes.

MS. MACWOOD: Is it not possible to just get through as much of this as we can and perhaps this will go faster than everyone anticipates rather than postponing this yet again?

CHAIRMAN GRIFFIS: No. I think it is wise. The difficulty is if we get into the middle of the testimony and then the cross doesn't happen, it's going to be more difficult and actually won't be that equitable if we have to pick up cross examination later. We have about half an hour.

All right. What I propose is we set this for the November 18 at eight in the morning. Why don't we all take a moment to write that down?

MS. BADAMI: In a sense of equity then, will we have that amount of time to look at their rebuttals from now or whatever the heck this is called so that we can have those weeks to look it over and --

CHAIRMAN GRIFFIS: I don't understand. You want additional time?

MS. BADAMI: We get to submit in writing rebuttals to what they're saying now, right?

CHAIRMAN GRIFFIS: Not necessarily.

MS. BADAMI: Any findings of fact.

CHAIRMAN GRIFFIS: You have cross examination.

MS. BADAMI: Do I have any findings of fact?

CHAIRMAN GRIFFIS: Yes.

MS. BADAMI: Right. So what I'm asking is --

CHAIRMAN GRIFFIS: Finding of facts aren't rebuttal, but go ahead.

MS. BADAMI: Well, right. Forgive me for not being a lawyer right now.

CHAIRMAN GRIFFIS: Nor am I.

MS. BADAMI: Indeed, but you have a lot more experience with this stuff.

CHAIRMAN GRIFFIS: Okay.

MS. BADAMI: So if they're going to get several weeks to look at what we just said today and come up with rebuttal questions and finding of facts, I'm asking if we're going to have several weeks to look at what they've said at the next meeting to submit it? Are we going to have that sense of time?

CHAIRMAN GRIFFIS: Yes. I'll clarify everything.

PARTICIPANT: Eight o'clock is fine with me.

CHAIRMAN GRIFFIS: Any difficulties? Eight o'clock. Excellent. And we will then get through. And here's what will happen: We have rebuttal testimony; this is, new testimony. Cross examination will be allowed on that testimony, that testimony only. It doesn't open up the entire record for questions of what these witnesses have previously said. So anything new that they come in with we will cross on that. After that we will have closing. Closing remarks are done by the Applicant, and that will finish the public process of this case presentation. After that, I will lay out all the

submissions that are due and when they are due. The final submission are findings of facts, conclusions of law. Those will be set probably a week before -- due a week before our decision-making on this. We will set a decision-making after we conclude on the 18th. So in that sense, our full process will be done on the 18th, in the morning, and then submissions will come in. Any questions, clarifications, procedural, substantive? Yes?

MR. HUNSICKER: I have a question.

CHAIRMAN GRIFFIS: Of course.

MR. HUNSICKER: Steve Hunsicker, 3083 Ordway Street. You may recall in preparation for our traffic expert, Steve Peterson's testimony, Ms. Dwyer requested and received the right to receive materials from our expert prior to this testimony. Now, I would expect that Mr. George is going to offer materials in his rebuttal and I would request the same right that we see the exhibits or whatnot that he is going to be offering in advance so that we can prepare an expeditious cross examination, just as was done with Mr. Peterson.

CHAIRMAN GRIFFIS: I see. Is there any new submissions?

MS. DWYER: No. Mr. George is relying on

information that's already in the record, and his testimony is really verbal in response to issues that were brought up. So there's no new traffic report.

CHAIRMAN GRIFFIS: Okay. So you're not anticipating any new exhibits or any sort of new --

MS. DWYER: No.

CHAIRMAN GRIFFIS: -- evidence that's being put in. Okay.

MR. HUNSICKER: Is that also true of your architect?

MS. DWYER: Again, he's working with existing drawings, and that's information already in the record.

MR. HUNSICKER: Thank you.

MS. BADAMI: There will be no new drawings submitted?

MS. DWYER: He will have marked up one of the existing drawings in the record, yes.

MS. BADAMI: So can we get that ahead of time?

MS. DWYER: We can provide you with that ahead of time. It's a one-page site plan that we can show you.

CHAIRMAN GRIFFIS: Okay. Anything else? Any other questions? Additional pieces? Very well

then. Let me just reiterate the fact that the stuff that was put in today I'm not sure all the testimony is being served on all the parties, so you should certainly check the record to make sure you have that. Obviously, anything else that's submitted, which I don't anticipate anything because we haven't asked for anything at this point, but that would clearly go to all the parties and to the Office of Zoning. If there is the drawing that's put in, of course you can put it in. The Board will have it and the parties can have it. Okay. Anything further?

MR. ZAIDAIN: Mr. Chair, you did reiterate the fact that the cross examination of these rebuttal witnesses are only on the new testimony they present.

CHAIRMAN GRIFFIS: That's correct.

MR. ZAIDAIN: I mean redundancy has become a big theme on a lot of this stuff, and I would hate to keep it dragging out because of that.

CHAIRMAN GRIFFIS: Well said. Okay. If there's nothing further, then I do apologize we didn't get through all of this, but I will adjourn the afternoon session for November 2003.

(Whereupon, at 6:28 p.m., the Board of Zoning Adjustment hearing was concluded.)

1