GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 15, 2000

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
RODNEY L. MOULDEN	Board Member
ANNE RENSHAW	Board Member
ROBERT SOCKWELL	Board Member

ZONING COMMISSION MEMBER PRESENT:

JOHN PARSONS	Commissioner

COMMISSION STAFF PRESENT:

Sheri Pruitt, Secretary, BZA
Beverly Bailey, Office of Zoning
Paul Hart, Office of Zoning
John Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Ellen McCarthy, Office of Planning
David Colby, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

(9:40 a.m.)

CHAIRPERSON CROSS REID: Good morning. The hearing will please come to order.

Ladies and gentlemen, this is the March 15th public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Shield Cross Reid, Chairperson. Joining me to day is Robert Sockwell, Anne Renshaw. Representing the National Capitol Planning Commission is Rodney Moulden, and representing the Zoning Commission is John Parsons.

The topic of today's hearing is available. They're located to my left near the door.

All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us.

Upon coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right.

The order of procedure for special exception in variances is, one, statement of witnesses of the Applicant; two, government reports, including Office of Planning, Department of Public Works, et

cetera; for the Advisory Neighborhood Commission, the ANC; parties or persons in support; parties or persons in opposition; closing remarks by the Applicant.

Cross examination of witnesses is permitted by the Applicant or parties. The ANC on which the property is located is automatically a party in the case.

The record will be closed at the conclusion of each case, except for the materials specifically requested by the Board, and the staff will specify at the end of the hearing exactly what is expected.

The decision of the Board in these contested cases must be based exclusively on the public record. To avoid any appearance to the contrary, the Board requests that persons present not engage member of the Board in conversation.

Please turn off all beepers and cell phones at this time so as not to disrupt these proceedings.

The Board will now consider any preliminary matters. Preliminary matters are those which relate to whether a case will or should be heard today, such as requests for postponement, continuance or withdrawal, or whether proper and adequate notice of the hearing ha been given.

If you're not prepared to go forward with a

case today, or if you believe that the Board should not proceed, now is the time to raise such a matter.

Let me first take the preliminary matters from the staff, and then I will take it from the floor.

Thank you.

MS. PRUITT: Good morning, Madame Chair. Yes, we have several preliminary matters.

The first one is a letter from the attorneys of George Washington University, Foggy Bottom, concerning the campus plan, a letter dated March 14th, year 2000, requesting a continuance.

As you know, they are tentatively scheduled for the first hearing for March 29th, which is two weeks from today, and I believe their attorney is here.

MS. DWYER: Yes. Madame Chair and members of the Board, my name is Maureen Dwyer with the law firm of Wilkes, Artis, Hedrick & Lane, Chartered. The reason we wanted to be here this morning to address our postponement request is really two reasons.

One is to allow staff and the Board to schedule other cases on that hearing date if that can be done.

And, secondly, to receive your approval of the postponement request because otherwise our

prehearing statement would be due today. So we wanted to make certain we brought this to your attention.

As you know, in the record there was a request by ANC-2A for postponement of the case, and initially the university opposed that request, and we filed a letter in the record indicating our reasons for not supporting any continuance.

However, on the basis of further discussions with the Office of Planning, we have been asked to reconsider postponing the case until the April hearing date, and we have also received the assurances of the community that they will be sitting down at the table and meeting with the university and the Office of Planning over the next several weeks.

All parties are doing this with the goal of either reaching agreement on issues or narrowing the issues so that hopefully we can have a very streamlined and focused hearing when we do meet on April 26th.

In the event for some reason we are not able to complete the hearing on that date, we also asked staff to reserve us a second hearing date, and they have advised us that we would have a second hearing date in May if needed.

At this time we are very pleased to and hopeful to have the opportunity to sit down and

seriously discuss these issues over the next several weeks, and we will do our best, as I said, to come to you with a case that is hopefully focused and streamlined when we come before you on the 26th, and we will be filing our prehearing submission two weeks in advance of that date.

CHAIRPERSON CROSS REID: We'd appreciate that, and you discussed it with the other attorney?

MS. DWYER: There is no other attorney for the community, but the Office of Planning has discussed it with the community and the chair of the ANC-2A, and they are supportive of this.

CHAIRPERSON CROSS REID: Okay. All right.

Come forward, please, Ms. Miller.

MS. MILLER: I'm Dorothy Miller, ANC --

MS. PRUITT: Ms. Miller, the mic, please.

MS. MILLER: Oh, okay. I'm Dorothy Miller, ANC-2A-05. Our ANC meeting is tonight to be able to choose an attorney, and that's on our agenda, and we understand that we get a day as well. They get one day and we get one day, and the way they have written it, they want them both, and I'd appreciate at least the opportunity for the community to be heard.

CHAIRPERSON CROSS REID: Ms. Miller, you all are in agreement to the postponement?

MS. MILLER: That's right.

CHAIRPERSON CROSS REID: Okay.

MS. MILLER: We requested it first because it's simply not possible. They have not filed anything, and we cannot --

CHAIRPERSON CROSS REID: Sure.

MS. MILLER: -- consider what they haven't filed.

CHAIRPERSON CROSS REID: Sure.

MS. MILLER: And we don't know what their plans are, and what they have filed is not very clear.

CHAIRPERSON CROSS REID: We have your letter. We have the letter from the ANC.

MS. MILLER: That's right.

CHAIRPERSON CROSS REID: And that spoke to your position.

MS. MILLER: That's correct.

CHAIRPERSON CROSS REID: Nonetheless I just wanted you to put it on the record.

MS. MILLER: I appreciate you reading it.

CHAIRPERSON CROSS REID: Thank you very much.

MS. MILLER: Thank you.

CHAIRPERSON CROSS REID: All right. Board members, do you have any objection to the request for

the postponement to -- what date was it?

MS. PRUITT: The second hearing date was already scheduled for -- excuse me -- April 26th. So we can maintain that hearing date of the 26th and then basically drop a month like we had done previously.

CHAIRPERSON CROSS REID: Okay, all right.

MS. PRUITT: Now, that puts us though -- I just want to let you know -- on May 31st. That's the weekend after Memorial Day. I don't know if that causes problems for anybody, but I did want to at least indicate that.

CHAIRPERSON CROSS REID: I have no problem.

MS. PRUITT: And that's the first available full day we have because we have a very full schedule in May.

MS. DWYER: If I could just clarify that, we had a second hearing date of May 24th.

MS. PRUITT: Fourth, right. That's right. It was scheduled for the 24th.

MS. DWYER: Right.

MS. PRUITT: And we've added a case onto it. So it would be if it is not a problem for the university since we are changing, if we could do it one week later it would probably be easier on everybody, but if not, we can accommodate two cases that day.

MS. DWYER: Well, the understanding the university had was that it would be May 24th, and I think we'd like to keep that date if possible. We really, again, are hoping that the entire case, including hearing from the community could be accomplished on the 26th. So we would hope that the second hearing date would be more limited in time, and if possible we'd like to keep the 24th.

I know that date has been cleared with the witnesses and the university representatives.

MS. PRUITT: Okay. Well, we certainly will accommodate you that way.

CHAIRPERSON CROSS REID: All right. Thanks.

MS. PRUITT: And that would be at 9:30.

MS. DWYER: All right. Thank you.

MS. PRUITT: And we will not re-notice anybody. So this is your official notice that the first hearing date will be March 29th, with the follow-up date as --

MS. DWYER: No, the first hearing date is April 26th.

MS. PRUITT: I'm sorry. Excuse me. I'm sorry. First is April 26th, with the follow-up on March, I mean -- excuse me -- May 24th.

MS. DWYER: Great.

MS. PRUITT: So let me go over that again because I've confused myself.

April 26th for the first part of the hearing for GW master plan, with the second one, if needed, on May 24th.

MS. DWYER: Great. Thank you very much.

CHAIRPERSON CROSS REID: All right. Thank you.

All right. The next preliminary matter.

MS. PRUITT: Okay. The next preliminary matter is request on Application 16555, a request for a continuance of the application of the trustees for Harvard University/Dumbarton Oaks. I believe they're represented here.

MR. GLASGOW: Yes. Madame Chair, for the record, my name is Norman M. Glasgow, Jr., of the law firm of Wilkes, Artis, Hedrick & Lane.

The trustees of Harvard have requested and filed a postponement request with the Board. There have been a number of issues raised both internally and externally with respect to the proposed development plan, and the University is in the process of reviewing that plan.

That does not necessarily mean that we will

make changes, but there is an internal review and external review process ongoing.

We went to the Advisory Neighborhood Commission. They support the request for the postponement.

CHAIRPERSON CROSS REID: You're asking for postponement to a date certain or just any, the next available date?

MR. GLASGOW: I believe that there was a date that I discussed with staff, with Ms. Pruitt, in June.

MS. PRUITT: Correct. June 20th.

MR. GLASGOW: June 20th.

MS. PRUITT: That seemed to be amenable to them.

CHAIRPERSON CROSS REID: I have no problem. Board members, are there any objections?

Okay, Mr. Glasgow. By consensus, we would grant that request.

MR. GLASGOW: Thank you.

MS. RENSHAW: Question, Madame Chair.

CHAIRPERSON CROSS REID: Question?

MS. RENSHAW: Is the June 20th date agreeable to the ANC?

MR. GLASGOW: There was no date -- there's

no date until we come down here today.

MS. RENSHAW: But did they speak about June as being an acceptable month?

MR. GLASGOW: We can contact them. No, that was not discussed one way or the other. They supported the postponement request.

MS. RENSHAW: Right. I see that in the letter.

CHAIRPERSON CROSS REID: Okay? All right.

MS. PRUITT: Okay. Madame Chair, the third item that we have as staff is that given that we've had a continuation or, rather, with Georgetown we've opened up the freeing of a day in March as a result of the GW campus plan moving, I would like to make the suggestion that maybe we move the Field School, which is the case we had in the afternoon, to that day, given the number of people we have who are interested in both cases, Jewish Primary Day School and the field School.

I think it would be a little difficult for us to go through both of them today and do justice to both parties or to both cases. If we move it to that day, Field School could be the only case on that day, and then you can present -- you have more time for the Jewish Primary Day School today.

CHAIRPERSON CROSS REID: Okay. Well, that

makes a lot of sense.

MS. PRUITT: I believe we do have attorneys and the parties who are with the Field School here today, just to confirm if they have any other issues.

MR. FEOLA: Madame Chair, members of the Board, my name is Phil Feola with Wilkes, Artis on behalf of the Applicant, the Field School.

MR. OGULIA: Richard Ogulia on behalf of Neighbors Against Foxhall Gridlock.

MR. FEOLA: The Applicant has no opposition to the change in the date, and this was announced to the ANC at its meeting on Monday night, the 13th, and I don't think the ANC took a vote whether they supported it or not, but it was announced that the hearing was going to be moved to the 29th.

I also can represent one of the other -- two of the other requests for parties, Mr. and Mrs. Boliton, we've talked to them yesterday, and they had no problem and authorized us to represent that as well as Ms. Sylvia Shigru, who has requested party status through her council, and he didn't have a problem with the delay.

MR. OGULIA: And we agree.

CHAIRPERSON CROSS REID: Okay. That's fine.

Board members, is that satisfactory?

Okay. Then we have no problem with it, and by consensus, we would amend that request.

MR. FEOLA: Thank you very much.

MS. PRUITT: So if there's any one --

CHAIRPERSON CROSS REID: Go ahead.

MS. PRUITT: If there's anyone here for the Field School that was to be heard this afternoon, it will be heard on March 29th, starting at 9:30. We will announce this again at one in case additional people come in since it's scheduled at one.

CHAIRPERSON CROSS REID: Right. Be sure we do re-announce that, Mr. Pruitt. Okay.

MS. PRUITT: That concludes staff's issues on preliminary matters.

CHAIRPERSON CROSS REID: Does anyone else here have any preliminary matter?

All right. Please come forward, sir.

MR. BARDONILLE: Good morning, Madame Chairman.

CHAIRPERSON CROSS REID: Good morning. Speak into the mic, sir.

MR. BARDONILLE: My name is --

CHAIRPERSON CROSS REID: Push the button right in front.

MR. BARDONILLE: This is an IQ test, huh?

My name is Harold Bardonille. I'm here, and I'm a -- I have applied for party status, and you have not --

CHAIRPERSON CROSS REID: Which case?

MR. BARDONILLE: One, six, five, five, six.

CHAIRPERSON CROSS REID: Which one is that?

MR. BARDONILLE: The Primary Day School.

CHAIRPERSON CROSS REID: Okay.

MS. PRUITT: And I have a motion to dismiss for failure to comply with Chapter 31 of the DCMR.

CHAIRPERSON CROSS REID: Okay. Now, first of all, sir, you're requesting party status.

MR. BARDONILLE: Yes.

CHAIRPERSON CROSS REID: That has not been -- you don't have party status yet, but --

MR. BARDONILLE: That is exactly right.

CHAIRPERSON CROSS REID: -- what else is -- are you an attorney? Are you representing any special interest groups, or are you just representing yourself?

MR. BARDONILLE: I'm representing myself, yes.

CHAIRPERSON CROSS REID: And the reason why I'm asking you is before you can be granted -- before you can entertain a motion, it has to be a person who

is a party to the case, and that has to be first established that you are party, and we haven't done that yet.

MR. BARDONILLE: I was just responding to your request for preliminary matters. Does this mean that I will have another opportunity after you have determined the party --

CHAIRPERSON CROSS REID: I'm going -- I'm going to handle that next, but did you submit a -- within the time frame that was allowed, I think it was 14 days prior to the hearing -- information germane to the basis for your party status?

MR. BARDONILLE: I did, indeed.

CHAIRPERSON CROSS REID: And your name is?

MR. BARDONILLE: Harold Bardonille.

CHAIRPERSON CROSS REID: Bardonille, and did you give your address?

MR. BARDONILLE: 1623 Juniper Street, N.W.

CHAIRPERSON CROSS REID: Okay. All right. Did you submit your letter on the form letter that was circulated that quite a few people sent in here today?

MR. BARDONILLE: I prepared a guided by -- what form letter are you -- I don't know what form letter you're referring to, but I prepared my request based on the regulation and the letter that you sent

me.

I hand delivered my letter.

CHAIRPERSON CROSS REID: All right. Let me take a look at that particular letter.

MR. BARDONILLE: It's Exhibit 59.

CHAIRPERSON CROSS REID: Just wait one second.

Okay. Thank you.

Mr. Bardonille, in the last paragraph you refer to that "we respectfully request to appear." Who is the "we"?

MR. BARDONILLE: Well, I supposed it was an editorial "we." The request was for me.

CHAIRPERSON CROSS REID: All right. Well, part of the criteria for being granted party status is that you demonstrate how you are more aggrieved or more affected by the granting of the application than anyone else.

MR. BARDONILLE: And the state --

CHAIRPERSON CROSS REID: That's similarly located there in the community or the neighborhood or the abutting property.

MR. BARDONILLE: You're asking me to demonstrate that now?

CHAIRPERSON CROSS REID: Well, I didn't see

it in your letter. You mean the -- thank you.

I'm a little bit nonplussed because I thought I had indicated that in my letter. The various factors associated with the location of the two private schools would impact my quiet enjoyment of my property by the additional parking that would be generated because of the absence of adequate parking at both of the locations.

The additional traffic --

CHAIRPERSON CROSS REID: Okay, but I understand that, but the point I'm making is we have before us in excess of 40 or 50 letters, form letters, that for the most part specify the same aspects of adverse impact, the traffic, the parking, the concern about the traffic management plan, and what I'm saying is that for you to get party status, then you need to specify to us, to convince us that your particular property or your situation makes you more aggrieved than the other property owners that are similarly situated. That's the point I'm making. Are you following me?

MR. BARDONILLE: I am following you, and if I understand you, is it the number of applicants or any applicant for party status? Because I don't know that any of us would have any more --

CHAIRPERSON CROSS REID: Okay.

MR. BARDONILLE: -- impacts --

CHAIRPERSON CROSS REID: Okay, okay.

MR. BARDONILLE: -- than the ones that we have indicated.

CHAIRPERSON CROSS REID: Okay.

MR. BARDONILLE: Nothing is going to fall out of the sky.

CHAIRPERSON CROSS REID: Let me give you an example. Like in a given neighborhood perhaps everyone may have a problem with an application being approved because of parking or because of traffic, but then perhaps your house is located right next door, and if -- this is just for an example -- if an addition is built, it will block your light. Then that would make you more uniquely aggrieved than everyone else that would be similarly affected if the application -- this is the point I was trying to drive home to you.

MR. BARDONILLE: Well, I do understand that point, Madame Chair, and I live within 150 feet of this --

CHAIRPERSON CROSS REID: I understand.

MR. BARDONILLE: -- site, and to the extent that parking is not available --

CHAIRPERSON CROSS REID: Okay, but now --

MR. BARDONILLE: -- the parking will be in front of my house and deprive me of that parking.

CHAIRPERSON CROSS REID: I understand. I understand, and before you go any further, let me just point out a couple of things that I was going to address.

In regard to this particular application, the Jewish Primary Day School, we do have several, an unprecedented amount of -- almost unprecedented amount of requests for party status, and that was predicated upon the fact that there was a form letter that was sent in by various people who specified to us the manner in which they would be adversely impacted.

One, they enumerated it, all in the form letter. The form letter is basically the same, and then they asked for party status, but typically, as I just explained, party status is given in certain instances, and what we'd like to do is this.

First of all, let me announce that because of the schedule that we have today, there is no way we can anticipate ahead of time how much opposition or how long a case is going to take because our schedules have to be developed. The agendas are 40 days, at least 40 days ahead of time because of the noticing and making sure that everyone gets their communications and what

have you.

So today we have a bit of a problem in that we have a very ambitious schedule, and what we don't want is to have people sitting here unnecessarily for a long period of time. So what we're going to do is re-sequence, re-sequence the schedule this morning, and to have the smaller applications go first so that we can then devote the remainder of the time to the Jewish Primary Day School, which we feel the bulk of our day will basically be comprised of that particular application.

So as such, we're going to first take Application 16557, which is Rochelle K. Green Trust, and then we're going to take Application No. 16558, Clare Parmalee, and the third case of the day is going to be the Case No. 16561, which is the application of Archdiocese of Washington, the Shrine of the Blessed Sacrament, which means that the Jewish Primary Day School will not be heard for at least two hours.

Now, usually you would have no choice but to sit here and to wait for the two hours, but I'm allowing you the benefit of the information regarding the scheduling so that you have options if you'd like.

Also, getting back to the issue of party status, because of the fact that in the Jewish Primary

Day School case we're talking about right here we have numerous requests for party status, we don't feel that the information that's been given to us addresses the criteria of being uniquely aggrieved. So, therefore, we will not be giving individual party status to 30 or 40 people per se.

However, we will recommend or suggest that this time you take the next hour, and those of you who were granted the party status can then caucus outside of this room and determine what your particular areas of adverse impact or your grievances are, and have one or two people who would then represent.

You don't have an attorney representing you. This is what's typically done with an attorney, but since there is no attorney, then you can then delegate a spokesperson who would represent the concerns of this group of people, and they would then cross examine and ask, you know, questions, and basically be granted the party status.

Other than that, we would have a virtual zoo here today.

MR. HARRISTON: Madame Chairman.

CHAIRPERSON CROSS REID: Yes.

MR. HARRISTON: May I be heard?

I'm Joe Harriston, the Chairman of ANC-4A.

CHAIRPERSON CROSS REID: Okay. Now, you --

MR. HARRISTON: And I want to speak with respect to him.

CHAIRPERSON CROSS REID: All right, sir. First, turn on your mic and give us your --

MR. HARRISTON: I'm Joe Harriston, the Chairman of ANC-4A, and in our preparation for this case, we had depended on Mr. Bardonille as being one of the parties to the case as a part of our preparation.

He was at our several hearings, and he was -- his presentation at the ANC hearings is part of the basis for our action. So we heavily relied on his being here as a party.

So we request that the Board seriously consider Mr. Bardonille because he lives close by; he's done considerable research on behalf of the overall case; and he's very helpful to our case; and we depended on that.

CHAIRPERSON CROSS REID: I thank you. Thank you very much for that input, and we're not disallowing him. My statement was we're going to allow the parties who are affected to caucus and then determine who would be the one or two people who would be granted the party status to represent the group, and if Mr. Bartin -- Bartin --

MR. BARDONILLE: Bardonille.

CHAIRPERSON CROSS REID: Bardonille specifically was coming from the ANC specially requesting that he be granted party status, I have no problem with that.

The only thing I'm trying to avert is a zoo with several people granted party status and our cross examination -- we'll be here until Saturday.

So a more efficient way of handling that is to ask, you know, people to talk and caucus and just give us your list of grievances and have a couple of people who would then be granted party status, representing the whole group, unless there is someone specifically who has some particular problem or issue that is not a general issue of the community and of the neighborhood.

And we will do that. We will grant the party status when we take the case up, not at this time. At the time before, the preliminary matter before the case, at that point come back and then we will make the determination as to party station.

MR. BARDONILLE: So at the point of determination of the party status, is that the time that you would also take up --

CHAIRPERSON CROSS REID: The motion?

MR. BARDONILLE: -- the preliminary -- the motion?

CHAIRPERSON CROSS REID: Yes, sir, because understanding you have to have standing --

MR. BARDONILLE: Absolutely.

CHAIRPERSON CROSS REID: -- to make the motion on the floor.

MR. BARDONILLE: I was responding to the request of the dais. That's all.

CHAIRPERSON CROSS REID: And then we will do that. If, in fact, you are proffered to us as a person who would be granted the party status, then your motion will be entertained.

MR. BARDONILLE: On that same point, Madame Chair, is it the position of the Board that uniqueness is measured in exclusivity, that is, only one person would have -

CHAIRPERSON CROSS REID: Mr. Bardonille, sir, we cannot get into the merits of the case at this time.

MR. BARDONILLE: That's not a merit. It's a -- you've made the statement that we did not have unique -- we were not impacted uniquely because --

CHAIRPERSON CROSS REID: Oh, I'm sorry. I'm sorry. You're referring -- go ahead. I'm sorry.

You're talking about uniquely aggrieved or uniquely impacted. Un-huh.

MR. BARDONILLE: Exactly, and your statement was predicated on the fact that the several people who applied for party status stated the same reasons.

CHAIRPERSON CROSS REID: Yes, the same several reasons.

MR. BARDONILLE: The same several reasons, but all of those people are within the 200 foot radius of the property, and they all -- and I suppose rather than being a disability, it would suggest to me that they are all being impacted by the same thing, and you seem to imply that because all of those people were stating the same thing on what you call a form letter, that it somehow or another did not apply to them specifically.

CHAIRPERSON CROSS REID: I didn't say that.

MR. BARDONILLE: But that it applied to the community at large.

CHAIRPERSON CROSS REID: I did not say that, and we need to move past this juncture.

MR. BARDONILLE: All right.

CHAIRPERSON CROSS REID: And, again, you have two hours, those people who are -- who had

requested party status, do you know each other?

MR. BARDONILLE: Yes, we do.

CHAIRPERSON CROSS REID: Okay. Then --

MR. BARDONILLE: One last --

CHAIRPERSON CROSS REID: Then this gives you an opportunity, you know, to address the things that I had just --

MR. BARDONILLE: Given that --

CHAIRPERSON CROSS REID: -- referred to in the remarks that I just made.

MR. BARDONILLE: Given that, Madame Chair, we would also like to, therefore, more for a continuance so --

CHAIRPERSON CROSS REID: You can do that once you're granted party status.

MR. BARDONILLE: So all of the preliminary matters for this case would be at the time that we are --

CHAIRPERSON CROSS REID: Exactly.

MR. BARDONILLE: Thank you.

CHAIRPERSON CROSS REID: Okay. Thank you.

MR. HARRISTON: Madame Chairman, is it a proper preliminary matter with respect to the supplemental report the ANC filed late?

CHAIRPERSON CROSS REID: Yes. Submit that

at the time we call the case, and then you're asking for a waiver?

MR. HARRISTON: Yes.

CHAIRPERSON CROSS REID: And then we'll take that up at that time. That's never a problem. I don't think we'll have any objection to that at all.

Any other preliminary -- Ms. Dobbins, did you have a preliminary matter?

MS. DOBBINS: Not at this time, Madame Chair.

CHAIRPERSON CROSS REID: Okay. Thank you.

MS. GREY: Madame Chair, I just --

CHAIRPERSON CROSS REID: You cannot speak from the floor. You have to come up to the mic.

MS. GREY: Excuse me, Madame Chairman. My name if Jean Grey, and I live at 1650 Jonquil Street, and I would just like to note to the Board that all of those letters are not form letters.

I, for one used -- I'm the one with all of the pictured attached and an addendum attached, and so sometimes if you go through the letters, they're not -- even though they may look the same on the front, my letter is four pages long with lots of handwriting filled in. So --

CHAIRPERSON CROSS REID: Ms. Grey, thank

you very much.

MS. GREY: I just wanted to let you --

CHAIRPERSON CROSS REID: I appreciate that, and as a matter of fact, we have your letter on top because your letter is a unique and different letter. I said most all of the letters.

MS. GREY: Okay.

CHAIRPERSON CROSS REID: And there are -- there were -- not to preclude the fact that there were a few letters that were somewhat different, and that's why I said at the time when we called the case, we will then take up preliminary matters, and if you feel, anyone, that you are more aggrieved than everyone else, then that's the time you have the opportunity to come up, and with the basis of your letter, I would think that you would have been one of the people who would do that because of the fact that you did -- and you had pictures, too, incidentally. So we are very much aware of your letter.

MS. GREY: Thank you, Madame Chair.

CHAIRPERSON CROSS REID: Thank you.

All right. I said two hours. So now I would come back with an hour and a half just to be on the safe side, but at least I know for sure it will be at least an hour and a half for those of you who are

here for the Jewish Primary Day School. So you can sit here if you like or you can use the time however you want and come back.

All right. As you leave -- excuse me. We still have our proceedings ongoing. So therefore, if you leave, please leave with respect and consideration of those who are still here. You can speak outside in the outer lobby.

Thank you very much.

We'll give you a couple of minutes to clear the room, those of you who want to leave.

A two-minute recess.

(Whereupon, the foregoing matter went off the record at 10:13 a.m. and went back on the record at 10:20 a.m.)

CHAIRPERSON CROSS REID: Okay. The hearing will come back to order.

The first case that I mentioned, Ms. Green has not gotten here yet. So we're going to take the second case that I had mentioned, Clare Parmalee, 16558.

Are the Applicants here and ready to go? They're not?

MS. PRUITT: The Applicant's here, Madame Chair. The Applicant is here.

CHAIRPERSON CROSS REID: Who is not here?

MS. PARMALEE: The architect just went next door to Xerox something, but he should be back in just a minute.

CHAIRPERSON CROSS REID: Okay. All right. Well --

MS. PARMALEE: Can we --

CHAIRPERSON CROSS REID: Yeah, sure, sure. You can do that.

MS. PARMALEE: I'm Clare Parmalee --

MS. PRUITT: Actually, Ms. Parmalee, we will wait for your architect because we need to swear you both in.

MS. PARMALEE: Okay, but I should hand out the papers?

MS. PRUITT: You can hand them to staff, and we'll hand them out.

MS. PARMALEE: Okay.

(Pause in proceedings.)

MR. MATHEWS: My name is Craig Mathews. We shall be appearing in opposition.

I have submitted a request for party status as the immediately adjoining land owner. As a preliminary matter, I assume it's appropriate to request that status at this time.

CHAIRPERSON CROSS REID: All right.

MS. PRUITT: Madame Chair, could we actually open up the case formally and swear everyone in and then -- that's how we normally do, if you don't mind.

CHAIRPERSON CROSS REID: Yes, but with a preliminary matter? We don't take preliminary matters prior to --

MS. PRUITT: Usually we call the case, which is reading it and then --

CHAIRPERSON CROSS REID: Well, Ms. --

MS. PRUITT: So however you like.

CHAIRPERSON CROSS REID: Yeah, Ms. Pruitt.

MS. PRUITT: I just don't want us to lose the sequence or forget.

CHAIRPERSON CROSS REID: Typically before even the first case is called, we do preliminary matters, and since we're waiting -- are you here? Is the architect here? Everyone is here now?

PARTICIPANTS: Yeah.

CHAIRPERSON CROSS REID: Okay. Well, why do you just go ahead and do the swearing in and then call the case, and we'll just do it like that. It doesn't matter.

MS. PRUITT: I misunderstood you. I

thought we'd do --

CHAIRPERSON CROSS REID: The swearing in.

MS. PRUITT: I'm sorry. Application 16558, application of Clare Parmalee, pursuant to 11 DCMR 3103.2, for a variance from Section 2001.3(b) and (c) to allow a proposed addition to an existing nonconforming structure, and from Section 404.1, the minimum allowable rear yard setback requirements in an R-1-B district at 5308 39th Street, N.W., Square 1751, Lot 14.

All those planning to testify, could you please stand and raise your right hand?

(The witnesses were sworn.)

MS. PRUITT: Please seated, and we'll start the preliminary matters, sir.

MR. MATHEWS: I might add that there is another neighbor who will be speaking in this case. Would you like him to be sworn at this time?

CHAIRPERSON CROSS REID: No. Anyone who is going to be speaking or anyone who is going to testify in this case, everyone has to be sworn in at the same time. So is there someone who did not?

MR. MATHEWS: Un-huh.

MS. PRUITT: I'll ask you.

(The witness was sworn.)

MS. PRUITT: Thank you. Please be seated.

MS. RENSHAW: Madame Chairman, before we proceed, I want to say that I am the Chairman of ANC-3G, and this case came before ANC-3G on February 28th, 2000, and I recused myself from any discussion and vote on this case, and it has not affected my impartiality, and I will be voting on the case as it comes before the BZA today.

CHAIRPERSON CROSS REID: Unless there is any objection from anyone here.

Thank you very much, Ms. Renshaw, for your disclosure.

Okay. Proceed.

MR. MATHEWS: Excuse me. Do I have a ruling on my request for party status?

CHAIRPERSON CROSS REID: Oh, I'm sorry. I'm sorry. Yes. The request has been submitted.

MR. MATHEWS: On February 24th.

CHAIRPERSON CROSS REID: Un-huh. It's because you feel that you are the -- that you're more affected than the other people there?

MR. MATHEWS: We are the abutting land owner. The construction would come within eight feet of our --

CHAIRPERSON CROSS REID: All right, and

then also you were the only one who requested party status, I think. I have no problem with granting party status, unless there are any objections. Any Board members?

So, sure, we'll grant it for you.

MR. MATHEWS: Thank you.

CHAIRPERSON CROSS REID: And as such, you know that you do have the right to cross examine.

MR. MATHEWS: Yes.

CHAIRPERSON CROSS REID: Okay. Now you have to sit back while they make their -- put on their case.

MS. PARMALEE: My name is Clare Parmalee. I'm the homeowner at 5308 39th Street, N.W., and I'm requesting to have a variance to put a kitchen addition on the back of my house.

It's on a nonconforming lot at this point, and I'm going to speak to the issue of the uniqueness of the lot. My architect, Steve Roethke, is going to speak to the question of practical difficulty of situating the kitchen any other place, and then I'll come back and speak about adverse impact in the neighborhood or the appearance of adverse impact.

I presented a wish to do this to my neighbors many months ago, and they were in strong

opposition to it at the time, and I felt like I had good cause to be doing it, that I had a good argument for doing this, and I really wanted an objective observer to come in and comment on the situation because I felt that we had two different points of view, and there was a fairness issue involved.

I didn't just want to give in, and in fact, this was presented before the ANC, and they decided five to one that I did have a good case here, and they made that decision based on, first of all, spending, I think, practically an hour and a half at our houses going through the neighbors' yard, looking at what the neighbors' view would be, talking about the neighbors' concern, looking out the window the neighbors were afraid would have affected by my addition, then looking at my lot and talking about the alternatives on my lot, and looking inside my house at the internal circulation of my house.

After that Mr. Mathews, my next door neighbor, submitted a letter to them, which they reviewed prior to the meeting. So at the meeting where this decision was made, I had made a presentation. They had looked at the lot. They had reviewed the letter, and they heard the presentation from the Mathews.

And on the basis of that information, they made the decision that this seemed appropriate, and I was impressed that when they came to the site and looked at the situation, they could see the situation, and I wanted to try to recreate that for you, and I did it with photographs.

This obviously is a conflict between me and the Mathews living next door, which I'm very sorry about because we used to be friends, and I hope some time in the future we will be again, but they've lived in the neighborhood a long time. Particularly, Ruth has lived there for 30 years and has a lot of neighborhood contacts, and she had a lot of friends that she called on for support.

I think we presented our case with the ability we have. She's more political, and she went out and talked to neighbors about it, and I took photographs because that's what I can do. So we'll each present our side from that point of view.

I don't have letters of support. I do have a petition, which was signed by some people. Many people in the neighborhood didn't want to take sides one way or the other. They didn't want to feel that this would be affecting their relationships in the future, which I could understand.

I don't know who I should give this petition to, but --

MS. PRUITT: Staff here.

CHAIRPERSON CROSS REID: Well, I think we have it.

MS. PARMALEE: No, this is something that has not been turned in before. This is from --

CHAIRPERSON CROSS REID: Okay.

MS. PARMALEE: Okay?

CHAIRPERSON CROSS REID: Give it to staff.

MS. PRUITT: Thank you.

MS. PARMALEE: The first page of what I gave you, there's a ton of writing here. I'm just going to try to explain it to you. I didn't expect you to sit there and read everything, but I thought in case you took these with you and made a decision later, you might need the explanation to remember what the pictures referred to.

I live --

CHAIRPERSON CROSS REID: One second, please. Mr. Sockwell wanted to speak to your application.

MR. SOCKWELL: Ms. Parmalee.

MS. PARMALEE: Yes.

MR. SOCKWELL: In coming directly before

the Board of Zoning Adjustment, you did not pass your request through Zoning for any confirmation of the relief needed, did you?

MS. PARMALEE: Excuse me?

MR. SOCKWELL: Essentially this is a self-certified case, even though I did not see the self-certification form in the file, because I did not see either that or a letter from the zoning office certifying the relief needed from the zoning ordinance. It is my assumption --

CHAIRPERSON CROSS REID: No, no. There's a letter.

MR. SOCKWELL: Is there? Oh, there is? I did not see it. I'm sorry.

CHAIRPERSON CROSS REID: Yes, un-huh.

MR. SOCKWELL: Okay. Then let me find it. It may have been missing from my file.

All right.

MS. PARMALEE: Okay?

MR. SOCKWELL: What was -- let me ask you this question. Under the nonconforming structure provisions of Chapter 20, it is my understanding that any addition to a nonconforming structure would have to be made up to, but not exceeding a previously existing projection of that nonconforming structure into the

rear yard that would be the basis for an addition to your structure, that addition not exceeding the projection of the original structure, but that this section does not respond to creating a new nonconforming projection into the rear yard.

In other words, what it says in 2001.3 specifically is that enlargements or additions made be made to the structure provided that the following requirement shall be met.

You cited B. "The addition or enlargement itself shall conform to use and structure requirements," and C, "the addition or enlargement itself shall not increase or extend any existing nonconforming aspect of the structure and shall not create any new nonconformity of structure and addition combined."

There are other aspects of the code that would come into play, and in particular, Chapter 25, miscellaneous zoning requirements, I believe, states here -- let's see, and let me double check that. I had another section referenced here, but okay.

Structured and required open spaces. Let me see if I have this correct here.

I'm going to hold on that second point of this, but it seems that your projection is extending a

building that may be nonconforming because the rear yard is less than 25 feet, but it is extending the nonconformity rather than perhaps matching a previous nonconformity in its extent or projection into the rear yard, and I think that that is where you may not be coming to us appropriately on the section.

And I looked at it, but we've had a lot of things to do here, and I may have misplaced one section I wanted to add in there. But I am concerned that you may not be in conformance with 2001.3(c).

MS. PARMALEE: I guess my question to that would be I'm not a lawyer. So I don't understand exactly how these things work, but I'm asking for relief from a hardship, and I think maybe what I'm doing is asking for relief from the requirements of that statute, is specifically what I'm requesting.

Does that makes sense in terms of what's happening? I mean I can proceed to explain why I thought this was appropriate.

MR. SOCKWELL: Yes, why don't you? Yes, please proceed, but I'm going to try to come to grips with this.

CHAIRPERSON CROSS REID: Go ahead.

MR. SOCKWELL: I'm trying to wrap myself around it.

MS. PARMALEE: Okay. You see, I guess like the area map was sent around, and you can see I live on a corner of Jocelyn and 39th, and the houses which I am thinking about, in particular, for my house being unique from them, well, there are two different kinds of houses here.

The houses on my side of Jocelyn have 90 foot deep lots until it gets towards the end of the block, where it narrows down to Reno.

The houses on the other side of the street have very deep lots because that block is two blocks long.

My house sits on the corner, and it is the only house facing 39th Street in that block. So if you look at the first picture, you can see that my house, which was built after the two houses on the side of it, the front of my house extends the same distance forward as the side porch of the house that abuts my side yard. My side yard is next to their back yard.

And then if you look at picture two, which shows the Jocelyn Street line, my house was also placed in such a way that it does not project further forward than the fronts of the houses going up Jocelyn Street, and I think it was part of the original zoning plan to have it fit into the street front that way.

And the effect of that was to push my house way back on the lot line. So I have a nonconforming back yard. But I actually have a substantially larger lot than I could use. It's like a 6,700 foot square lot, and my house covers less than 18 percent of that lot at this point.

And we'll talk more about practical difficulty, but certainly one of the things about the zoning plan is the street view. An important thing about the zoning plan is the street view, and it seems to me that it's important to maintain that feeling of not having a structure sticking out in front of the other structures on the house -- on the street.

CHAIRPERSON CROSS REID: Excuse me. Are you saying that your house is the only house that faces 39th Street, and the other houses on 39th Street, that you see on 39th Street only have their rear yard?

MS. PARMALEE: Well, there's one house next to me on that block, and it doesn't face 39th. It faces Jennifer.

CHAIRPERSON CROSS REID: Okay. What picture?

MS. PARMALEE: You can see it --

CHAIRPERSON CROSS REID: What picture is that?

MS. PARMALEE: That's picture one.

You can see its porch in that picture, and you can see that it comes the same distance forward as the front of my house does.

CHAIRPERSON CROSS REID: No.

MS. PARMALEE: No?

CHAIRPERSON CROSS REID: I don't see it.

MS. PARMALEE: May I point it out to you?

CHAIRPERSON CROSS REID: I don't see that. I see the picture number one, but it looks like if it comes out the same distance, it looks like that one that's to the right or to the left --

MS. PARMALEE: The house to the left is --

CHAIRPERSON CROSS REID: It looks like it comes out further than your house.

MS. PARMALEE: It doesn't actually. I'm sorry that we --

CHAIRPERSON CROSS REID: But the angle of this looks like it does.

MS. PARMALEE: Okay.

CHAIRPERSON CROSS REID: Considerably. It looks like the porch itself juts out from the house further than your house, further than the footprint of your house.

MS. PARMALEE: I'm sorry we were not able

to get an area map. I thought we could get one next door, but what we got was the zoning plan instead there.

CHAIRPERSON CROSS REID: This picture does not do it for you.

MS. PARMALEE: Well, I'm sorry about that, but --

CHAIRPERSON CROSS REID: Yeah.

MS. PARMALEE: -- at any rate --

CHAIRPERSON CROSS REID: My question was that your house and this house are the two houses that face 39th Street, the only two.

MS. PARMALEE: Right.

CHAIRPERSON CROSS REID: The other houses on that block, you only see their rear yards, the rear of their yards?

MS. PARMALEE: On 39th Street there are only those two houses in that block --

CHAIRPERSON CROSS REID: Oh, oh.

MS. PARMALEE: -- between Jennifer and Jocelyn. There are only two houses there.

CHAIRPERSON CROSS REID: Oh, okay.

MS. PARMALEE: Okay? And the second picture, the picture on the right shows the street front, and the corner of my sun porch is on the left

side of that picture, and then the houses continue on up the block.

CHAIRPERSON CROSS REID: Wait one second. Wait.

MR. SOCKWELL: We're referring to this right now.

CHAIRPERSON CROSS REID: Okay. I'm asking. Your house is the only one that faces 39th Street.

MS. PARMALEE: Right.

CHAIRPERSON CROSS REID: The other house faces what street?

MS. PARMALEE: The houses on the left face Jocelyn Street.

CHAIRPERSON CROSS REID: Okay.

MS. PARMALEE: That's the corner I'm on.

CHAIRPERSON CROSS REID: Okay. Well, okay. So your house is the only house on the block that faces that street.

MS. PARMALEE: Yeah. That's right, yeah.

MR. MATHEWS: Madame Chairman, since we don't have the benefit of any of these pictures, may I have permission to look over her shoulder?

CHAIRPERSON CROSS REID: Absolutely.

MS. PARMALEE: No, I have some I can give you, Craig.

MR. SOCKWELL: Ms. Parmalee, it is apparent that your house appears to set back farther. The adjacent house is probably pushed all the way up to the building restriction line, which is the 15 foot line that runs along both 39th Street and Jocelyn Street.

MS. PARMALEE: You know, realizing as I do that the photograph does not convey what I needed to convey with it, but knowing also what it looks like when I'm there --

CHAIRPERSON CROSS REID: Well, we can see it.

MS. PARMALEE: -- if this becomes the point on which this case exists, can I return again with the area plan or --

CHAIRPERSON CROSS REID: No, we're able to ascertain what we need to see --

MS. PARMALEE: Okay.

CHAIRPERSON CROSS REID: -- basically other than the map. That's not what we're relying on entirely.

MS. PARMALEE: Okay.

CHAIRPERSON CROSS REID: We have other -- we have the Sanborn map, and we have -- oh, do you have this, the Sanborn map?

MR. SOCKWELL: You need to see what we're

looking at now.

MS. PARMALEE: I think I just handed that out to you, right?

CHAIRPERSON CROSS REID: Mr. Moulden?

MR. SOCKWELL: Is this what you gave us?

MS. PARMALEE: Okay. You may have something different than I do then.

CHAIRPERSON CROSS REID: No, staff provided us with a copy of it.

MS. PARMALEE: Okay.

MR. MOULDEN: Madame Chair, I'm just a little confused about what is the real hardship.

MS. PARMALEE: Okay.

MR. MOULDEN: That's not real clear. I'm looking at the site plan for the map, and the lot appears to be a regular shaped lot to me. The house is really pushed back, you know, and is it really the lot or is it the style of the house that was built that creates the hardship? I'm not really clear on that. Could you explain that to me a little bit more?

MS. PARMALEE: I would say that the uniqueness comes from the location of the house on the lot, which means that -- let me put it this way. This house was built a long time before the zoning code was passed. On that lot, if it had been built after the

zoning code was passed, it would have -- there's enough room on that lot that the house could have been positioned facing Jocelyn Street, in which case I'd have had plenty of room in the back yard to build the kind of addition that the Mathews, my next door neighbors have built behind their house or it could have been pull further forward on the lot, as is true with the house just across Jocelyn.

It's another corner house, and it's the one I have two pictures of below, and that house is 15 feet closer to the sidewalk than mine is, and they have put an addition on the back of their house, and it's because of the position the house was set on that lot that it's hard to put the particular addition that I'm looking for, which is the kitchen, in the spaces which I could build into.

And the other thing I'm saying in connection with that is I think either building in front of the house, where I would have room to build, or building out in front of the sun porch, which you see on the left-hand top picture, either of those locations would be an eyesore in the neighborhood because it's really clearly the case, to me at least, that this house was positioned in such a way to fit in with the street line of the other houses.

The question of the hardship of locating a kitchen, and along with that, you can see on the plan here the place I've colored in green is what I'm asking for the variance for. It's a kitchen, and then at the end of the kitchen is a deck. The deck I don't need a variance for.

What I'm trying to do is enlarge my house in a way where I can have a kitchen and then a deck and a place to sit in the kitchen to look over the deck, and this incidently is very consistent with what people on my block have done.

I think one of the letters that was written said that eight out of the 12 people on my block have already increased the side of their house and made additions on them. The letters complain that those additions were made without the need of a variance, but their lot configuration is very different from mine.

I actually have a larger lot than the people going down the street from me, but I can't use it effectively because of the restrictions set up long after the house was built.

And in terms of the problem of using the available buildable space, it's really like I have two front yards, one facing 39th and one Jocelyn. I think the architect is going to speak to that, but part of

that, of course, is because I'm putting a deck on. You wouldn't put a deck on in front of your house facing the street. The obvious place for a deck is the back corner of the lot, which is most private.

But maybe Mr. Roethke can also speak to the practical difficulty.

MR. ROETHKE: I think this is a good time for me to chime in, if that's okay, just to discuss some of the issues regarding why we chose to --

CHAIRPERSON CROSS REID: Your name.

MR. ROETHKE: For the record, my name is Steve Roethke. I'm the senior project designer at Carnemark Systems & Design, located in Bethesda. We're a design-build company.

To address the issues of why we selected to seek the variance to place the kitchen where we are showing it here today, as with any design program that we evaluate initially, we looked to see what makes the most sense in terms of placement for kitchen expansions and remodels. A lot of that information is collected during an initial site visit where we evaluate the existing house.

There is some potential from a lot standpoint for expansion for the kitchen in other directions that do not make sense for the good of this

house and also for the flow of the house, given that the existing kitchen presently occupies the rear corner of the house. That would be the corner sort of close to Jocelyn Street towards the back of the house, essentially directly in front of the hatched proposed area that we're showing now.

Those issues quickly turn to what I consider to be practical difficulties in terms of how we could go about placing or expanding the kitchen outside of this area. For example, the practical difficulties of moving all the plumbing and relocating it to another area in the house does not make sense certainly from a cost standpoint, but also in terms of what makes sense for the rest of the house.

The homeowner has already completed a remodeling project to the sun room, which was noted on the plan. That sun room presently has a very nice series of windows that come down to about 20 inches off the floor. They're actually too low for us to consider putting the kitchen in there for the obvious reason that a kitchen counter needs to be at 36 inches high and the window sill is 20 inches high.

CHAIRPERSON CROSS REID: Okay. Where is the sun room?

MR. ROETHKE: The sun room located on the

plat, which is the cover sheet of the packeted drawings, you'll see that it says "existing sun room." It's to the right and a bit forward towards 39th Street.

CHAIRPERSON CROSS REID: Oh, yes, yes.

MR. ROETHKE: Okay? Another issue with evolving that space into a kitchen area is that that room is heated by radiant floor heating. That is to say that there are tubes that circulate hot water throughout the floor, beneath the floor tile in that room.

Those by trade are installed in a sort of after the face, what you could consider rather haphazard manner in the sense that it's hard to say where they are. In extending plumbing out into that room, we invariably would have to tear up that floor whereby circumventing the heating system that Ms. Parmalee has already installed in that room.

Those I consider to be hardships from the standpoint of construction methodology, for considering to put the kitchen in a position other than where we're proposing.

It's natural. We do a lot of kitchen remodels and renovations and additions. It's natural for us to attempt to sort of side up next to the

existing kitchen for the reasons of cost savings, for extending the systems out, such as plumbing, waste lines, heating, and I think it's a strong case in this scenario to put the addition where we've located it.

MS. PARMALEE: Okay.

CHAIRPERSON CROSS REID: All right.

MS. PARMALEE: Should I continue or do you have questions?

CHAIRPERSON CROSS REID: Continue.

MS. PARMALEE: Okay. The other question that was raised about the setback of my front yard, the same consideration that Mr. Roethke mentioned in terms of relocating the plumbing and so forth would apply if I were told that I could build the kitchen off the front of my house.

The next page, I wanted to speak now to adverse impact because I think that that's the thing that the letters address principally, and I wanted to have some -- I don't know if there's more besides what was written in the letters because I've heard some various things in the neighborhood that weren't actually mentioned in the letters, like concern that I would be cutting down my pine tree, seems to be something that worries people.

I have on the second page the issue of the

street view. The first picture, the left-hand house is mine and the right-hand house is the Mathews house, and between the houses is the area where the addition would go. It would go to within 8.6 feet of my property line.

The bottom picture I did. This is not like something I'm guaranteeing. It's not an architect's work. It did this with, you know, cutting out paper and so forth, but I glued in what the addition would look like. Essentially I think I got it pretty close. I started it where it needed to start at the roof line and ended at the floor line and so forth.

It fills -- it's set back further, I think you can see in the picture. It's set back further than eight the front of the Mathews house or the front of my glassed in porch. It's actually 47 feet back from the property line, and it's hidden by -- this is the worse case scenario in terms of its appearance from the street because this picture was taken in winter. When the leaves are on the trees, that's actually a lot of screening in there.

On the second page, I have as the street view -- I've shown the other houses and the spacing between those houses, and you can see that this block, in fact, is full of houses that come pretty close to

the eight feet distance from their property line. It's not like on the average there's a lot of space in the appearance that you see when you're looking up and down the street.

And several of the houses do have wings coming off the side with different shaped roofs, and as I mentioned before, the house on the corner, the one that's across Jocelyn Street from me has, in face, an addition off the back of it with a shed roof.

It seems to me that far from being out of character with the neighborhood, which is what the complaint letters said, that the appearance of this addition would be very much in character of the neighborhood. I mean, it seems like it's just exactly what the other houses do. In terms of street appearance, there's nothing odd about it.

The page, and after that is the drawing of what the addition would look like from different angles, and I guess I'm assuming that if you have questions of what I'm talking about that you'll ask me as we go along.

This shows the view, and the first one is the view as it would face the Mathews house. The second is the view that would face the house --

MR. ROETHKE: Jocelyn.

MS. PARMALEE: Jocelyn Street. That's right.

CHAIRPERSON CROSS REID: Now, where are you looking? Is that page 2?

MS. PARMALEE: Okay. We're now onto page 3, I think.

MR. ROETHKE: Titled Sheet A-2.

MS. PARMALEE: Okay? In all of these, the places that I've colored in green are the part I'm asking for the addition for. Okay? I know this is a little cumbersome, but it was was the best way I could think of to try to present the information to you.

CHAIRPERSON CROSS REID: Un-huh, un-huh.

MS. PARMALEE: The first one is the view facing the Mathews house.

CHAIRPERSON CROSS REID: Okay.

MS. PARMALEE: The second one is the view facing Jocelyn Street with the addition set back behind the level where the sun porch is.

CHAIRPERSON CROSS REID: Okay.

MS. PARMALEE: And the bottom one shows the floor plan and the addition with the floor plan, and then the deck behind the addition.

And the fourth one down here on the bottom is the view from the house that's up the hill from me,

the one where their back yard abuts on my side yard, and there is effectively an eight foot fence there and then shrubbery along the fence, and it's really just not visible to them, and those neighbors wanted not to be involved in this. They didn't want to take sides in this issue.

On the next page, I'm going to talk about the relationship, and I think this is the real heart of the matter. In the letters which were written there was talk about a concern about granting variances in general, but I think that, of course, each variance is considered individually, and the heart of the concern, I think, has to do with the impact of this addition on my neighbors' yard. Okay?

They've had the sort of accidental good fortune of having their side yard face somebody's back yard, and that's what they're very used to, and I think they feel that this is their right, and they feel very angry at the thought that this might be threatened, and I appreciate that concern.

But what I want to say to you and to them is that I think that effect on their yard will be a lot less than their feelings represent.

For one thing, you see, you've got both a plan here and photographs. The plan shows the

relationship of my house with the proposed addition, and then it shows the neighbors' house. Now, we didn't go into their yard and measure, but we figured out the size, the massing of their house in accordance with where it stuck out in relationship to my house. Okay?

The further forward part, the part that would be closest to my property line, has no windows in it. It's a two and a half story wall. You can see on the picture number one -- do you see that?

CHAIRPERSON CROSS REID: Un-huh.

MS. PARMALEE: Okay. Well, looking at that, then the wall jogs back, and then there's another wall, which is represented by a horizontal line on the picture, and there's one window in that wall, and that's about a 28 or 30 foot distance from that window to the addition I'm talking about putting up, and you can see in the picture that there's a Leiland Cypress hedge there. This is all in the first picture. Okay?

That Leiland Cypress hedge is currently about 12 feet high, but it's not very thick. This photograph was taken at the level at which a kitchen window would be looking in that direction.

The reason that Leiland Cypress hedge has not grown very thick is indicated by the picture below, which shows a very large pine tree. Okay? My

intention is to cut down that pine tree, and the pine tree is indicated with the red circles on the diagram, and with that pine tree gone, I feel confident those Leiland Cypresses are going to form a really dense screen.

Now, the final picture -- the Mathews also have a Leiland Cypress hedge along the south side of their property line, and that is not screened. It's not -- there isn't any pine tree there to shade it. Okay?

The final picture shows the Leiland Cypress hedge along the south side of their property line, and to give you a sense of scale, the fence down at the bottom is seven feet high. So that hedge by my estimation is probably 18 feet high at this point. It's taken from outside their yard. I wasn't going to go into their yard and photograph what things looked like, but their house, which is more than three stories high, is behind that hedge, and you can see you can't really see the house. You can see the chimney sticking up, but that hedge grew.

You probably hear about Leiland Cypresses all the time when people ask for variances because this is people's solution to screening problems, right? They grow fast.

My contention is I have every reason to believe with the pine down that the Leiland Cypresses between our two yards will grow thicker and form a good screen.

Now, one of the features of this situation, if you look at the plan, you can see that the fence was put up in the wrong place. At an earlier time before I owned the house, my neighbors put up a fence with the previous owner of my house, and I guess nobody checked the property line because the fence was put inside my property so that part of my property is contained on the other side of the Mathews' fence.

At the back section there, there aren't Leiland Cypresses. There are three deciduous trees. What I am offering to do if the Mathews wish is to replace those deciduous trees with Leiland Cypresses at my expense so that that screen would be completed.

That area is actually not opposite the addition I've proposed. It's opposite the deck, but my personal feeling is that the issue of privacy is not really such a one of the house, but rather the question of us being outdoors at the same time on the deck, and the deck doesn't require -- it doesn't require a variance. What it requires is neighbors cooperating with each other.

The other thing that I'm going to do actually is to put in a seven foot fence. I'm sure that at this point because tempers are running high that the Mathews are concerned I'm going to take down the fence that's on my property, and I know it would be very obnoxious to them to have to put a fence up on their side of the Leiland Cypresses, and they do have to have a fence because they have a dog that runs in their yard.

But I wouldn't do that. I think, first of all, we're goth gardeners. I understand the importance of having your garden look as nice as possible and be your sanctuary. What I'm planning to do is take the burden of looking at the fence and put it on my side of the Leiland Cypresses, and for a seven foot fence, that's going to be a lot to look at in a shallow yard.

And furthermore, although I know they're worried I'll take it down, I think with my paying -- I've got an estimate on it. It would cost $1,400 -- I know they must believe if I spent $1,400 to put a fence in I'm not going to turn around and tear it out again to spite them, you know.

It also means that the Leiland Cypresses, the portion of the Leiland Cypresses which have been planted on my property will be protected because I'm

not going to go in and take out the Leiland Cypresses.

There's another feature of this though. I mean there are things that can be done with variances and things that can be done without variances. Part of what I'm saying here is that there will be an increase in light to them because my pine tree will be coming down.

Without a variance they put in a Leiland Cypress hedge which actually is partly on my property and partly on theirs. When that hedge gets big at the end of my shallow yard, that's going to have a big impact on the light in my yard.

And the $1,400 fence is probably not such a large expense compared to the burden which will be placed on me permanently of keeping that part of the Leiland Cypress hedge pruned once or twice a year in order to keep it from kind of overwhelming my yard.

So it does seem to me that I am making some gestures here to try to reassure my neighbors that I'm going to continue to try to be a good neighbor and also to provide more privacy for them, and all along, in fact, I think I have been behaving in a neighborly fashion.

And really, I mean, this is kind of beside the point here, but I'll say it anyway. They have a

lovely back yard. Craig landscaped it himself. They often use it. Summer evenings people sit out there and talk.

I look out my second story windows. I see the back yard. I think it's beautiful. It's a nice feature to have next door to me. I don't want to damage that, you know. I mean at this point they probably don't know it, but I don't want to be part of their garden parties. If they're talking in their back yard and my windows are open, I shut them. I mean it's uncomfortable to overhear people's conversations.

We live in close proximity to each other. I'm going to use my back yard one way or the other. If it's all used as a deck, which I could do, I don't see that has less impact on their privacy than if I have an enclosed structure.

And furthermore, it would be a huge addition to the quality of life in my house because I have a very old kitchen.

And that's the privacy issue. Okay? And it's also the light issue. I may be sounding like I'm talking out of both sides of my mouth here. Sooner or later the pine tree will come down anyway. It's not like it's coming down only because of this. I've lived in that house four years. I think it's grown 20 more

feet in the four years I've been there, and I live next door to somebody who had a big chunk of a white pine come through her guest room ceiling one night. They are weak limbed trees. They scare me. It shouldn't be that close to my house and that tall.

I think big trees in a residential neighborhood are a responsibility, not just a pleasure, you know. So it will create more light in their yard when it comes down.

But okay. Now, a couple of issues about the letters that were written in concern about my doing this. I've seen five of them. I don't know if there are more there since I checked the record last Friday.

A large part of the concern had to do with the impact on the neighborhood and stating that there hadn't been variances on our block. There have certainly been variances in the near neighborhood. I will take the word of the person who wrote the letter that there haven't been construction variances right on our block.

The Taylors, who were one of the people who wrote saying they didn't want there to be a variance, have a huge back yard. They're one of the people on the other side of the street who have a yard that's like a block deep, and they built a very large

extension on their house, and they got a variance to put a five foot fence around their front yard.

So I mean, you know, so I mean, it's obviously variances look good if you don't need them, but they don't -- you know. You know what I'm saying.

I was concerned that of these five letters three of the people who wrote them never spoke to me, and I don't know what they were basing their decisions on.

One of the letters said that they opposed Ms. Parmalee putting an addition eight feet from the Mathews' house. Clearly either they misunderstood or they were misinformed. They had the idea that this addition was going to be much closer than it was.

And if that was what other people were told, you know, I just -- I sent around the plan, but I didn't send it to the people who wrote that letter, and I said with it in a note I gave to neighbors saying that if people had concerns, I wish they would talk with me, and nobody did call me, but three people wrote letters of complaints.

One of them using rather strong language said an addition of this type has no place in our neighborhood, and then when I made that little drawing of what it would look like, I couldn't see what the

beef was, you know.

The issues raised by the Mathews seem to me to be the ones of greatest concern. Obviously this is between my yard and their yard. The people who wrote the letters, as far as I know, are all people who have known the Mathews at least 11 years. They're good friends with the Mathews, and I'm sure they feel a lot of concern for the Mathews because the Mathews have been very upset about this.

I feel like what I'm proposing here, it's going to have some impact on their yard. I think a deck would have, if anything, from my point of view, a deck would probably have more impact on their yard, and if you consider that within the zoning code, I could put this at a place which would be much less satisfactory for me and would have much more impact on the view of the neighborhood, this seems to be the lesser of two evils, if you will.

Now, one of the letters, maybe a couple of them -- and this is the final thing I'm going to say -- a couple of them said things like, "All she wants is a kitchen," or, "there's no personal hardship here," or something along that line.

Improving your kitchen is a huge part of modernizing an old house. This house is 76 years old,

and it's a lovely old house, as older houses in our neighborhood are, but it's not a lovely kitchen. It's a small kitchen.

What people do with these old houses, I am sure -- it happened with mine -- what you do to improve a house, you nibble away parts of the storage space, and they get turned into living space. So in the '60s the pantry was absorbed into the kitchen. In the '80s, the coat room was turned into a powder room, and in the '90s, I turned the broom closet into a cupboard for food.

What I'm trying to do is modernize my house where I have good first floor storage. I want the coat room back. I want the broom closet back. I want the pantry back. I want a nice kitchen, and I want a place to sit in the kitchen where I can look over my deck, and this is actually less of an addition than three out of the four people who wrote letters of complaint about my doing it made in their own houses.

And if there's any particular reason why I think I as an individual need this, I would say I am a middle aged single woman with no children. This is the fourth house I've owned in D.C., and I want to be able to continue living here until I have to go someplace where I can't live independently anymore.

I have bad eyesight because of a childhood disease which makes it impossible for me to drive. You try to construct your life around a system where you accommodate for not driving. Okay? What you need, practically speaking, is good storage space. You buy things in quantity, and you store them. You aren't in a position to go out and go shopping every day.

I have rheumatoid arthritis, which is currently totally controlled with medication, but before it was I had trouble walking up and down stairs. At this point with my current kitchen size, I store cleaning supplies, canned goods, dishes, things in the basement, and I lug them up the basement stairs. More than half of my storage space in my kitchen I have to climb up on a step stool to get to.

I don't want to be living in this house when I'm 70 lugging dishes up from the basement, and I don't want to be climbing up on a step stool when I'm 75 to get things down from high storage spaces, and I don't think that's an unreasonable thing, you know. I don't feel like the imposition which this addition would impose would be so great that it would offset the personal need I have for this.

And I know Mr. Mathews came up to me the other day and said that there was a good bit of

negative feeling about this in the neighborhood, and I should be aware of that if I planned to continue with this, and I am very sorry that's true. I feel like it would, in a sense, vindicate me if this were done and people could go in the Mathews' yard and see it didn't have that much impact.

But along with that, I'd have to say that it would also impact the way I felt in the neighborhood if I were to continue living there, but over the years found it progressively harder to deal with this sort of storage problem and I felt that I was prohibited from making improvements because my neighbors didn't want to see the top of my roof line through the trees, you know.

So that's it.

CHAIRPERSON CROSS REID: Thank you very much.

MS. PARMALEE: Okay.

CHAIRPERSON CROSS REID: Do you have any questions? No questions? Okay. Good.

MR. MATHEWS: May I cross examine?

CHAIRPERSON CROSS REID: Well, first we need to have the ANC -- oh, I'm sorry. You're a party.

MR. MATHEWS: I am a party.

CHAIRPERSON CROSS REID: You want -- okay,

sure.

MR. MATHEWS: Thank you.

And of course, I preface my questions by --

CHAIRPERSON CROSS REID: Give your name.

MR. MATHEWS: Craig Mathews. You just admitted us.

CHAIRPERSON CROSS REID: Un-huh.

MR. MATHEWS: I preface my questions with a shared regret that this is a matter that has reached the point where --

CHAIRPERSON CROSS REID: At this point you can only ask questions.

MR. MATHEWS: Fair enough.

CHAIRPERSON CROSS REID: If you'd like to testify, you can do that, but at this point you can only ask questions.

MR. MATHEWS: How long ago did you buy the house, Clare?

MS. PARMALEE: Four years ago.

CHAIRPERSON CROSS REID: Turn your mic on.

MR. MATHEWS: And you, I'm sure, had examined the property before hand. You knew the size of the kitchen. You looked at the shape of the lot. You knew where the house was located on the property.

MS. PARMALEE: Yes.

MR. MATHEWS: So you bought the house having in mind all of the constraints that you now wish to be released from?

MS. PARMALEE: I had the assumption when I bought the house that I could never have the financial ability to correct these problems, and as you know, Craig, that's changed because of a death in my family, which is unfortunate, but that's how it worked.

MR. MATHEWS: I realize you have more money than you did, but you were --

CHAIRPERSON CROSS REID: No testifying.

MR. MATHEWS: Did you know the prior owner of the house?

MS. PARMALEE: Yes, and I had been in the house two or three times.

MR. MATHEWS: Do you know the size of the family that occupied the house before?

MS. PARMALEE: There were two children and two adults.

MR. MATHEWS: Right. Just for the record, I think you've made it clear, but the dining room is on the north side of your house, except for the sun porch which is beyond it, but excepting the sun porch, the dining room is on the north side of the house and the kitchen is on the northwest side of the house?

MS. PARMALEE: The dining room is on the northeast side, and the kitchen is on the northwest side. So the dining room is -- you know, the kitchen leads into the dining room obviously.

MR. MATHEWS: Right.

CHAIRPERSON CROSS REID: Mr. Mathews.

MR. MATHEWS: Yes.

CHAIRPERSON CROSS REID: The nature of you questioning should be so that you're illuminating or you are allowing additional information to come to us as to, you know, we have a better understanding of what has happened with this particular application. So your questioning -- I don't -- I'm not following how where the living room is and dining room and all of that is germane to -- where are you going with this?

MR. MATHEWS: I am going -- where I'm going to it is to cross examine with respect to their assertion that they have no choice but to extend the kitchen in the direction of the back yard. I'm headed to a line of questioning that will indicate --

CHAIRPERSON CROSS REID: You are headed to a line of questioning.

MR. MATHEWS: I'm laying a --

CHAIRPERSON CROSS REID: Do you have anymore questions?

MR. MATHEWS: Yeah, I'm laying a foundation for questions that will show whether they could have -- whether she could have chosen to build the kitchen -- extend the kitchen to the north side of her house toward Jocelyn Street.

CHAIRPERSON CROSS REID: Well, ask her that, Mr. Mathews.

MR. MATHEWS: Well, first I was --

CHAIRPERSON CROSS REID: Just ask direct questions. Don't build up because that takes -- I mean, we don't want to know. Just go straight to the chase.

MR. MATHEWS: Okay. I just wasn't sure that we knew where --

CHAIRPERSON CROSS REID: Sure, sure.

MR. MATHEWS: -- the rooms are.

CHAIRPERSON CROSS REID: We have floor plans. We have plans and drawings.

MR. MATHEWS: Right.

CHAIRPERSON CROSS REID: We have more than enough information here as far as the house is concerned. So just ask her what you want to know.

MR. MATHEWS: When you bought the house, what structure was on the north side?

MS. PARMALEE: There was a screen porch.

MR. MATHEWS: And did you make a renovation to that porch?

MS. PARMALEE: I turned it into a studio essentially. It's the sun porch. It's the room I use as a studio.

MR. MATHEWS: Could you have extended the kitchen in the direction in which you choose to build the sun porch?

MS. PARMALEE: I deemed that the most important thing for me to be able to live in that house was a studio. It would have been an option also to use it as a kitchen. My priorities were that the studio was more important.

MR. MATHEWS: So your priorities have now changed?

MS. PARMALEE: No. My priority is that now I have the ability to add a kitchen, which I never expected would be a possibility. If I had known I was going to have more money, I would have bought a different house in the first place.

MR. MATHEWS: If you had extended the kitchen to the north side, have you measured how much more kitchen you would have had?

MS. PARMALEE: If I had extended it to the north side, and by that you mean --

MR. MATHEWS: No farther than the existing footprint of the house, but if you had --

MS. PARMALEE: If I used the --

MR. MATHEWS: -- chosen to go north --

MS. PARMALEE: If I had used the screen porch as a kitchen rather than a studio?

MR. MATHEWS: The west end of the screen porch only.

MS. PARMALEE: The west end of the screen porch I haven't measured today.

MR. MATHEWS: Just projected your kitchen to the north instead of --

MS. PARMALEE: See, you're suggesting that I divided the screen porch in half or --

MR. MATHEWS: I'm only asking whether you know how much bigger kitchen you would have had.

MS. PARMALEE: Oh, I don't.

MR. ROETHKE: Bigger than what?

MS. PARMALEE: Yes, bigger than what?

MR. MATHEWS: Than the existing kitchen.

MS. PARMALEE: I have a long, narrow kitchen. It would have made it longer, but not less narrow, if I'm understanding what you're talking about.

MR. MATHEWS: If you chose to do so even now, you would have had to change some windows, I

understand, but if you had done what I was suggesting before, if you were to do now what I was suggesting before, to extend the existing kitchen into that end of the sun porch, you would still have a sun porch left, would you?

MS. PARMALEE: I would have about a part of it. I'd have about half left.

MR. MATHEWS: Would you accept 14 feet?

MS. PARMALEE: Would I accept 14 feet? Eleven by 14 would be --

MR. MATHEWS: I'm not an architect, but I'm scaling it off your plan.

MS. PARMALEE: Steve's looking at the plan. What do you say? Fourteen, okay?

MR. ROETHKE: Plus or minus.

MR. MATHEWS: And you would have had the -- you could still have a substantially larger kitchen.

MS. PARMALEE: It would make a kitchen that was eight and a half feet wide and 15 plus -- and 26 feet long, which would be a pretty weird kitchen, and we have talked about the inability of putting water and gas lines through the floor in the porch area because now they have the in floor heating.

MR. MATHEWS: Which you put in. Am I right?

MS. PARMALEE: I put it in with no expectation of ever being able to do a kitchen.

MR. ROETHKE: And under the premise that it was a sun room, not a kitchen.

MR. MATHEWS: Right.

MS. PARMALEE: Yes.

MR. MATHEWS: I'm merely asking whether this -- these are choices that you made after you bought the house.

MS. PARMALEE: Absolutely.

MR. MATHEWS: Let me get to this question of hardship. Are you -- to what extent are you basing the assertion of hardship on your anticipation as to what your future health may be?

MS. PARMALEE: I think as we understand hardship, in talking about presenting this, hardship has to do with architectural hardship.

My comments about my health had to do with a response to a letter from a neighbor that said they didn't think that there was any personal reason why this would matter to me; that there was no personal hardship involved, and I do think that it's a relative thing. I mean obviously I'm not in a wheelchair, you know.

MR. MATHEWS: Well, what I'm trying to do

is save time here.

MS. PARMALEE: Okay.

MR. MATHEWS: If you're asserting and if the Board is prepared to hear that your medical condition could be a basis for granting a variance, then I would like to cross examine on your medical condition.

CHAIRPERSON CROSS REID: No.

MR. MATHEWS: If you're not making that assertion, then I can save the time.

CHAIRPERSON CROSS REID: It is not and she cannot. So proceed.

MR. MATHEWS: Good. That would be my -- that would be also my view.

As to the question of the screening that you were suggesting might mitigate the impact on our property, you were suggesting a seven foot fence. How high is the structure that you're proposing to add? Will you accept 17 feet?

As I said, I'm not an architect, but I ruled it off on the plans that you provided. Would you accept 17 feet above grade, not including a sloping roof, which would carry it up in the 20s somewhere?

MS. PARMALEE: I mean, you've added up the numbers? I can't say one way or the other until Steve

adds up the numbers, but I presume you can add, so you know.

MR. MATHEWS: I hope I can measure. Architect rules are not something I'm comfortable with, but I think I did it right.

If my numbers are correct, is it your contention that a seven foot fence would provide screening for a 17 foot structure?

MS. PARMALEE: No. I think the seven foot fence would help to provide privacy when we're both in our back yards until the Leiland Cypresses get fuller. At this point already I think the Leiland Cypresses are 12 feet high. You can see from the picture --

MR. MATHEWS: I'm asking --

MS. PARMALEE: -- that they come up to both the window height at this point.

MR. MATHEWS: I just would like a response to the question. You are not contending that a seven foot fence would provide any privacy to a 17-plus foot addition.

MS. PARMALEE: No.

MR. MATHEWS: No. The trees that you are suggesting you and I might in some form share the burden of, have you priced Leiland Cypresses recently?

MS. PARMALEE: I consider myself an expert

on Leiland Cypresses because I've planted them other places, but I haven't priced them recently.

MR. MATHEWS: Would you accept that a Leiland Cypress bought and installed today, that would run somewhere in the range of ten feet at the tip, which as you know is not a wide tree down below, is in the range of $4,500 per tree?

MS. PARMALEE: I'd do some comparison shopping. When I bought large Leiland Cypresses, they were lot less expensive than that.

MR. MATHEWS: So did I when I bought them some years ago.

MS. PARMALEE: Okay.

MR. MATHEWS: You were suggesting that we could achieve the kind of screening we want with a fence seven feet high and Leiland Cypresses at four or $500 a tree. Is that your position?

MS. PARMALEE: Craig, as you know, your Leiland Cypress hedge already exists, and the three deciduous trees I'm talking about offering to replace aren't even opposite the addition. We're talking about my planting three Leiland Cypresses in your yard or fewer if the spacing seems to call for it and you agree with that.

This is something that it's up to you to

agree with, but we are not talking about building a huge, long line of Leiland Cypresses because you've already planted them, and you planted some of them on my property.

MR. MATHEWS: I am asking about the additional Leilands that would be required to provide a reasonable amount of screening, not just in the rear where you'd be putting your deck, but also where you'd be putting a 17 foot addition where it would have --

MS. PARMALEE: Do you mean opposite where you have a blank wall with no windows in it?

MR. MATHEWS: No, I mean --

MS. PARMALEE: And where you currently have a pergola?

MR. MATHEWS: No, I mean where we currently have three Leiland Cypress that can very easily been seen through and which would have to be doubled for privacy.

MS. PARMALEE: Do you have double Leiland Cypresses along your back wall?

MR. MATHEWS: Do we have anything eight feet away?

MS. PARMALEE: Do you have double Leiland -- well, I think the picture was here to show whether you could see through those, and your house was not

visible through them.

MR. MATHEWS: The fence is clearly visible through the big Leiland Cypress hedge at the rear. I'm not supposed to be testifying, but because you raised it.

MS. PARMALEE: Okay.

MR. MATHEWS: Returning to the matter of hardship, I'm still reaching for what the grounds of hardship is. The ground for hardship is that this is a smaller kitchen than you would prefer to have.

MS. PARMALEE: No, the grounds for hardship is that in order to modernize and improve this house by adding a better kitchen, there is no architecturally sensible way of doing it that would not provide real practical difficulties and also be out of character with the original zoning plan, which was to have a setback that was the same amount as the setback of the other houses.

MR. MATHEWS: So the hardship consists of the fact that you wish to modernize the house?

MS. PARMALEE: Do I need to answer that?

MR. MATHEWS: No, but you used that word in your answer.

MS. PARMALEE: The hardship is that, given that I want to modernize the house, the hardship is

that there is no architecturally sensible way of doing this that doesn't present practical difficulties.

MR. MATHEWS: I have no further questions.

CHAIRPERSON CROSS REID: Okay. Thank you.

Just for a point of clarification, the hardship, the concept of -- well, this is something that often causes confusion. First of all, you're applying for an area variance. So your test is a practical difficulty. Hardship only comes in -- under hardship, pertains to a use variance only.

MS. PARMALEE: Okay.

CHAIRPERSON CROSS REID: That's one thing.

The other thing is with the practical difficulty or hardship, it is typically something that is inherent in the land itself, the property, unusual size, slope, topography that is germane to the property, the siting, the land, not an architectural practical difficulty necessary because some of those -- sometimes that can be self-imposed.

So it's very important to have that clarification.

MS. PARMALEE: Okay.

CHAIRPERSON CROSS REID: Okay. Thank you.

Now, ANC -- yeah?

MR. MATHEWS: Excuse me. May I request a

copy of -- you filed with the Board a petition, I think, which I have not ever seen. Do you have --

CHAIRPERSON CROSS REID: You can ask staff. Staff will make sure you receive a copy because as a party, you are entitled to.

All right. The ANC. Is there an ANC representative here? We do have an ANC report?

MS. PARMALEE: The ANC was represented by their report.

CHAIRPERSON CROSS REID: Okay, all right. We do have a report, but this is the segment for the ANC reports or government reports. Any other government reports other than the ANC report?

Okay. Ms. Renshaw, do you have that letter?

MS. RENSHAW: Yes, I do. The letter is dated March the 3rd, and it is signed by Jeff Norman, our Vice Chair of ANC-3G, on which I sit, and as I have previously testified, I recused myself from any participation and vote.

The vote was five to one. I believe that would be five to zero to one. A quorum is four. The meeting was duly noticed. It was a unanimous vote of those voting.

The site was visited previously by the ANC

Commissioners. They have -- they list in the letter five factors on which they judged warranted the vote of five to zero to one in favor of Ms. Parmalee.

It does not say in this letter, however, whether or not their site visit, when they did a site visit, whether or not a neighbor accompanied the ANC representatives; is that correct?

MS. PARMALEE: Both Mr. Mathews and I accompanied them in both yards and both houses.

MS. RENSHAW: Thank you for clarifying that.

MR. MATHEWS: That's correct.

MS. RENSHAW: And that is the ANC's report, and so they voted to support the Application 16558.

CHAIRPERSON CROSS REID: Thank you very much.

And so, therefore, they will be afforded the great weight to which they are entitled.

Okay. Persons or parties in support of the application?

Persons or parties in opposition to the application?

I think let's just note for the record that we did have a petition signed by eight people in support of the application, neighboring properties, and

I figure that was the only -- okay.

Now, persons and parties in opposition.

MR. PARSONS: Madame Chairman, I have a question.

CHAIRPERSON CROSS REID: Question?

MR. PARSONS: Ms. Parmalee, would it be possible to slide this structure along the side of the house towards the -- to line up with the end of the sun room, resulting in an edge of the kitchen essentially lining up with the edge of Mr. Mathews' house?

Do you follow me on that?

MR. ROETHKE: If I could field that question, it is something that we had considered or evaluated initially, and it was determined it does not make practical sense from the standpoint of the massing on the house.

One of the issues that we looked towards, and we do do a lot of these kitchen expansions and home additions is how consistent can we be with the house in terms of different roof line that are required.

To fill in that area on that part of the house would require doing what's commonly known as a hip roof, which would serve a new roof line to introduce into the house and also, I think, would contribute negatively for the massing standpoint to the

overall look of the house as viewed from Jocelyn Street.

My opinion as an architectural designer is that we would find that that would not be a very sightly addition. In fact, I believe it would be rather unsightly.

MR. PARSONS: Well, I'm looking at the photograph that's submitted, the before and after photograph. Okay? With the blue addition, which I assume will not be the color of the addition, but is there for emphasis.

MS. PARMALEE: That was the color of the construction paper I had.

MR. PARSONS: Fine.

MS. PARMALEE: Okay?

MR. PARSONS: I was trying to imagine this sun room type architecture wrapping around to infill that hole, and what you're saying is that in your professional opinion a hip roof and continuing that glass facade around the corner would not be compatible with the neighborhood or the structure?

MR. ROETHKE: It is my opinion, yes, from an architectural standpoint it would not be a desirable addition to have.

We also do evaluate these kinds of

decisions from strictly the standpoint of program. That is to say: is there a reason to do that? Is there a need for the additional square footage or floor area?

And that is not something that we have heard from our client, Clare Parmalee, that it was even necessary.

MR. PARSONS: I'm not sure I understood your point. I think this would result in a larger kitchen.

MR. ROETHKE: Actually the kitchen doesn't need to be any larger than what we have designed.

MR. PARSONS: So what was your point.

MR. ROETHKE: The point is that we don't --

MR. PARSONS: That the program --

MR. ROETHKE: Not only -- my point, my primary point is that it's not architecturally a desirable thing to do.

My secondary point was that there was not a programmatic reason to do it either.

MS. PARMALEE: I'd like to add in connection to that that the entrance to the basement is in the bottom story where the sun room is. I suppose there's a way of getting a variance for this, but I think probably it wouldn't give the required head

clearance if the kitchen came forward.

Do you see what I'm talking about? It would mean that the kitchen -- the floor of the kitchen would extend out over the area which is currently the entrance into the basement, and it's the only entrance into the basement. So it's probably important to keep it unblocked.

MR. PARSONS: All right. Thank you.

CHAIRPERSON CROSS REID: Okay. Mr. Mathews.

MR. MATHEWS: Yes. First of all, since the --

CHAIRPERSON CROSS REID: Give your name again.

MR. MATHEWS: Again? Craig Mathews.

CHAIRPERSON CROSS REID: Right.

MR. MATHEWS: Adjoining property owner.

CHAIRPERSON CROSS REID: Give your address.

MR. MATHEWS: 3902 Jocelyn Street.

CHAIRPERSON CROSS REID: Okay.

MR. MATHEWS: Immediately abutting Ms. Parmalee's rear yard.

Since there appears to be an issue regarding the size of the kitchen and the convenience or inconvenience of a small kitchen for Clare's use, I

would like to present evidence in whatever form the Board wishes to show that for at least 30 years prior to her occupancy of the house, the house was continuously occupied by families of four people who made no effort to enlarge the kitchen.

I can do that by affidavit from my wife, who has lived in the house for that many years, or if you prefer I can call her and --

CHAIRPERSON CROSS REID: That's great.

MR. MATHEWS: Can I just have this accepted in the record?

CHAIRPERSON CROSS REID: Un-huh. Give it to staff please.

MR. MATHEWS: This affidavit, I think, will speak for itself in the terms that I've described. There have always been, prior to Ms. Parmalee, there have always been -- "always," for the last 30-plus years -- families of four in that house using the existing kitchen with never any -- with a lot of entertaining and no suggestion that the kitchen should be enlarged.

Secondly, I'm not clear since I don't know the procedures here. I'm not clear how recently letters in opposition in this case can be filed and still be before you. I know that there are several

letters that were filed in opposition within the last couple of days.

If those are already before you, I will not offer them. If they --

CHAIRPERSON CROSS REID: What letters do you have, sir? Because we do have letters that came into the file. The record was open.

MR. MATHEWS: Yes.

CHAIRPERSON CROSS REID: Who is the letter from?

MR. MATHEWS: One is from Elizabeth Bruce and Mark Stumph. They live directly across the street from Ms. Parmalee on 39th Street.

CHAIRPERSON CROSS REID: I'll tell you who I have it from. Mr. Miller, Mr. Bruce and Stumph, Earlman Matthews, Travis Hepner, five letters altogether.

MR. MATHEWS: Then I don't need to introduce these.

CHAIRPERSON CROSS REID: Okay.

MR. MATHEWS: The file should show, therefore, that there are ten families in opposition, including not merely ourselves, but the people directly across the street from Ms. Parmalee on 39th and the people across the street from her on Jocelyn Street.

The Taylors across the street from her on Jocelyn Street are represented here by Mr. Taylor, and he will be speaking after me.

Our position is very clear. We do not see the kind of exceptional and undue hardship that is required by Section 3107.2 of the regulations. We see no basis under Section 2002 to enlarge an already existing nonconformity, and we call attention to the strong neighborhood opposition, not a petition simply signed, but ten different letters individually written and submitted, expressing concern about the substantial detriment that this proposal would provide to the neighborhood, also filed under 3107.2.

There is no showing here that we can find of hardship. It seems clear to us that to say that the siting of the house on the property itself constitutes a hardship, and the siting of the house on the property was one of the five grounds given by the ANC in its recommendation.

To say that the siting of the house on the property in itself constitutes a hardship would, of course, behoove to vitiate the setback requirements.

CHAIRPERSON CROSS REID: It would do that?

MR. MATHEWS: It would undermine the setback requirements altogether because it is the fact

of the siting of the house on the property that generates the nonconformity which she then wishes to extend. So it can't be that a hardship arises simply from the fact that the house is built closer to a property line than the regulations would otherwise provide.

Secondly, I don't know quite how to address this issue of her health, which we all sympathize with. She did rely very heavily on that point before the ANC. There was some conversation about it.

CHAIRPERSON CROSS REID: All right. Now --

MR. MATHEWS: And she has mentioned it here, and I --

CHAIRPERSON CROSS REID: We eliminated that. Remember?

MR. MATHEWS: Okay.

CHAIRPERSON CROSS REID: So you don't have to go into that.

MR. MATHEWS: Okay.

CHAIRPERSON CROSS REID: Because we already took the position that it was not relevant.

MR. MATHEWS: Good, good. Needless to say that would be our position also.

She knew the circumstances when she bought the property. She says, "Well, I didn't have enough

money. Now I have enough money."

The fact remains that she was aware of the size of the kitchen. She was aware of the location of the house on the property. She bought the property nonetheless.

She could have extended the kitchen, the existing kitchen into one end, the west end of what was then simply an outdoor porch. It had no underground -- no under floor plumbing. It had no low windows. It had nothing. It was just an outdoor screen porch. Without altering the footprint of the house in any way, she could have extended the kitchen to the north and no farther than the present porch and had, if my calculation is right, about two-thirds larger kitchen than she presently has.

She could have done that without a variance. She chose not to do that. Instead of that, she chose to put in a structure, the sun porch, even though it's on the north side of the house; a sun porch that does have low windows and does have under floor plumbing, and as a result of that, she now takes the position that she has to build a kitchen toward us and obtain a variance.

She didn't need to have done that. She could have gone the other way.

She suggests, and the ANC agrees -- was another one of their five grounds -- that screening will be adequate to relieve us of any hardship as a result of what she has chosen to do.

I think it was made clear in the cross examination that a seven foot fence is not an adequate screen against a structure 17 feet high plus a sloping roof, which is eight feet away from our property line and would directly, almost directly, overlook our garden.

It would also overlook the living room window which is situated right near the fireplace where we have a little circle of chairs. That window looks out directly to where the addition would be.

Secondly, we've talked about -- in cross examination we've talked about the expense of putting in trees. Yes, we have three Leiland Cypress now. It is certainly true that if she takes out the pine, I hope it is true they will grow more vigorously.

There is, however, a limit to how dense Leiland Cypress can be. As I probably improperly stated during cross examination, the Leiland Cypress hedge that we have across the back of the property, which is very nice and tall, is nevertheless -- even then which gets a lot of light -- is nevertheless so

open that we had to put a seven foot wood fence behind it so that we would not see neighbors who are, in fact, probably 20, 35 feet away because of their back yard.

Otherwise we would still through the Leiland Cypress -- you really have to have a double hedge of Leiland Cypress to achieve this kind of screening that Ms. Parmalee is talking about. To do that at four or $500 per tree is a major expense, which I assume she is only proposing to share some small part of.

Furthermore, it would require us, having built this garden as a kind of oasis, a tranquil place to be, over a period of a good many years it would require us to remove a lot of the existing planting that is in front of the Leiland Cypress on her side in order to make room to put this second row of Leiland Cypress. A whole array of plants would have to come out and be put elsewhere or disposed of.

We think that because she wants, as she said in cross examination, to modernize her kitchen that is hardly an adequate reason to impose this kind of expense and dislocation on us.

Furthermore, the kind of screening which she's speaking of, which is between our two properties would have no benefit to the rest of the neighborhood.

The rest of the neighborhood that walks up and down the street, the Taylors who live across the street, that screening, which would be edge onto them, obviously isn't going to do anything, anything at all to soften the impact, the visual impact, and the light and air impact on the neighbors.

The sense of open space, the sense of light and air is at a premium in a residential community. We don't have that much of it. We cherish what we have, and we want to keep it.

This is an area that is now very pleasantly green. The photographs that she has provided make that point very clearly. It would be not -- obviously not denuded, but a good deal of the vegetation would have to come out. We're not just talking about the pine tree. There is other vegetation in there that I would assume to provide access for construction and because of the consequences of construction.

You know, when we did our addition in our rear yard, which we very carefully held within the building setback requirements so we would not have to ask for a variance, we killed a lot of planting that was adjacent. We didn't want to, but we couldn't help it, and we had to replant.

So it matters a lot in this neighborhood.

The reason we have ten families objecting, there's nothing personal about it, and I hope you understand that, but the reason we are doing it is that we do cherish the space that we have.

She makes the point that the other houses on Jocelyn Street are side by side. These are all side yards, therefore, eight plus eight. There may be only 16 feet of different space between them.

Yes, of course, that's right because they are side yards. There is a reason why the zoning regulations specify that even corner lots have rear yards. If it were intended that side by side by side extended all the way to the corner, then corner lots could have two side yards. That's not what the regulations provide.

It happens that this is a rear yard.

CHAIRPERSON CROSS REID: Mr. Mathews, are you wrapping? Because --

MR. MATHEWS: I am --

CHAIRPERSON CROSS REID: -- we're running out of time.

MR. MATHEWS: I am practically there. In fact, I will say that I am there.

The reasons why we feel that the ANC's recommendation is inadequate and should not govern --

affect your decision is because exactly these questions were not taken into account.

Thank you.

CHAIRPERSON CROSS REID: Thank you.

MR. PARSONS: Mr. Mathews.

MR. MATHEWS: Yes.

MR. PARSONS: I understand from your letter you'd have no objection to the same massing of a deck at this location?

MR. MATHEWS: Because a deck would be --

MR. PARSONS: No, I just wanted to get that in the record because it's in your letter.

MR. MATHEWS: Yes, I was only --

MR. PARSONS: You don't need to explain that.

MR. MATHEWS: I was only responding to the word "mass" because it's a horizontal structure, of course, not a vertical structure.

MR. PARSONS: The same --

MR. MATHEWS: And presumably if it's held to a four foot level, you know, if it's within the zoning regulations, it would not deprive us of the light and air to our planting, and it would not give us the sense of propinquity of a neighbor, all of those factors that the trouble is here.

MR. PARSONS: All right. Did you appear before the ANC?

MR. MATHEWS: Yes.

MR. PARSONS: And express these same views?

MR. MATHEWS: Yes.

MR. PARSONS: We're led to believe, I think, that the ANC made a visit to the site.

MR. MATHEWS: That's correct.

MR. PARSONS: Were you accompanying them when they made that visit?

MR. MATHEWS: She and I both were there.

MR. PARSONS: All right. So your entire -- the points that you made here today were made to the ANC then.

MR. MATHEWS: I tried to make them to the ANC.

MR. PARSONS: I understand.

MR. MATHEWS: They were not -- they told me not to talk about the law, for example.

MR. PARSONS: All right. Thank you.

CHAIRPERSON CROSS REID: Okay. Thank you.

All right. The next witness, please.

MR. TAYLOR: My name is Ronald Taylor. I live at 3903 Jocelyn Street, pretty much directly across the street from Clare Parmalee.

CHAIRPERSON CROSS REID: Mr. Taylor, you know that -- I don't know if you are aware it -- we said that for people testifying to get three minutes. Persons testifying, either opposition or support, get three minutes. Parties get 15 minutes.

MR. TAYLOR: I won't take long.

CHAIRPERSON CROSS REID: Okay.

MR. TAYLOR: Clare was kind and polite enough to share her plans with us before, some time ago, and we expressed to her and will express here two principal concerns. The first is that we believe in zoning, the philosophy of zoning, and also that there always is -- must be considerations for exceptions,a nd you've articulated very well what those exceptions are and what the definition of hardship is, and we didn't -- we believe that if you don't, as expressed to Clare, don't stick with the principles of zoning, then it becomes a thin edge of the wedge, and over time exceptions are piled on top of exceptions and lead to slow deterioration in the neighborhood and in the city.

The second thing that we expressed to her was the look of this and that we're across the street and look across. This has got nothing to do with the zoning, but it's a visual thing, whether it looks poor or enhances the neighborhood or not.

Unfortunately, the drawing, the second drawing with the computer enhancement of putting the addition in fails to take out the pine tree and all the other foliage which is there, which distorts the view, and I would suggest that probably the birch tree in front of it that shows in that photograph would also end up going.

I grew up in the prairies, and taking out a pine tree this size is almost against the law, and I would think in this case it's kind of criminal taking out a tree like that even in Washington.

So in conclusion, I would hope that the Board will take the emotion out of this, rule on the basis of the zoning requirements and the actual exceptions considered a hardship properly interpreted.

Thank you.

CHAIRPERSON CROSS REID: Thank you.

Ms. Parmalee.

MS. PARMALEE: Parmalee.

CHAIRPERSON CROSS REID: Parmalee. I didn't ask you if you had any questions of the opposition.

MS. PARMALEE: Yes, I did have a couple of questions.

CHAIRPERSON CROSS REID: Okay. Then you

certainly may ask that.

MS. PARMALEE: And can I ask them of --

CHAIRPERSON CROSS REID: Have both of them come up. Mr. Taylor, if you could both come up.

MS. PARMALEE: First, first things first. Ron, you're saying that you would have a -- first of all, you're saying you live across the street from me. Would you clarify? Actually you're across the street from the Mathews, right? You're at the corner house, which is across from me.

MR. TAYLOR: We're not the corner house.

MS. PARMALEE: Okay. You do have a view into the back yard here, and you have seen that I put a lot of work into the garden area, which is going to be guarded ferociously by me if the construction goes on behind the house.

Now, the vegetation behind the house would come out whether there was a deck there or a structure built. That greenery, if there's a deck -- I mean I don't see your argument. If there's a deck, it's going to go also. So --

MR. TAYLOR: I believe the application is for the addition, not the deck. I mean if you're --

MS. PARMALEE: That's right. No, no. I'm saying the alternative to putting a kitchen here is

for me to put a deck all the way across the back of the house. There's not going to be vegetation --

CHAIRPERSON CROSS REID: Is that a question?

MS. PARMALEE: No, it's not a question. It's a comment.

CHAIRPERSON CROSS REID: All right. You can't testify.

MS. PARMALEE: All right. Okay. Then I have a couple of questions for Mr. Mathews.

You have mentioned that there was -- that there would be substantial detriment to the neighborhood. When you asked people to write letters to state that, did you ask in any way if they had heard what my plans were from me?

MR. MATHEWS: In most instances we didn't ask. A lot of those letters were volunteered by people who had heard what your proposal was and came to us and said, "We are very upset about this because of the impact on us as we walk through the neighborhood and what it might imply for the future of this neighborhood," and so they wrote the letters.

MS. PARMALEE: Did you know, for example, that the Lynns, who you had asked to write a letter, when I spoke to them and asked if you had mentioned

that there would be the hedge between the properties, that they hadn't realized that was true when they wrote the letter?

MR. MATHEWS: I have no specific recollection of the conversation with the Lynns. I do know that I had said something to them about you had proposed a certain amount of screening. That's what I recall.

MS. PARMALEE: Okay.

CHAIRPERSON CROSS REID: All right? Okay. Thank you very much.

All right. Closing remarks? Ms. Parmalee.

MS. PARMALEE: I've done an awful lot of talking already. I guess just to sum this up, what I want to do is improve my house, which is one of the smaller houses in the block.

Many of the people who have written letters in complaint have already made very substantial additions to their houses.

I think that the placing is the least detrimental to the neighborhood of the options that I see for putting the kitchen there, and it seems to me that because it's 47 feet back from the street and there is shrubbery in front of it and will continue to be, that it's not going to be very visible from the

street, nor is it very different from what you see going down the street, and that I am proposing to be as careful as possible about the impact to the Matthews house because of the screening and because a large portion of -- either they have a wall with no windows or the wall which is practically 30 feet away has one window, but has the Leiland Cypress screen in between it.

CHAIRPERSON CROSS REID: Thank you.

Okay. Board members, what is your pleasure on this particular application? Did you -- are you prepared for making a decision today or do you want to defer it to our first meeting April the 5th, is it?

MR. SOCKWELL: Madame Chair, I have to raise some questions before I believe the Board would be prepared to make a decision.

CHAIRPERSON CROSS REID: Well, let me -- okay, all right.

MR. SOCKWELL: On the decision.

CHAIRPERSON CROSS REID: Okay, but let's see if, in fact, there would be an action taken today of -- Mr. Parsons, did you have a position?

MR. PARSONS: Well, I think we should defer to him if he's got a concern.

CHAIRPERSON CROSS REID: No, no, no.

His --

MR. PARSONS: That's what I want to do.

CHAIRPERSON CROSS REID: No, his concern is in regard to deliberations, if we are going to deliberate today or not. That's what I wanted to find out.

MR. PARSONS: I'd rather hear it.

CHAIRPERSON CROSS REID: Okay.

MR. SOCKWELL: First, I want to make it clear that from the information that the Board has this house is the only house on the south side of Jocelyn Street, although it fronts on 39th, that has double restriction lines. Every other house has only one restriction line.

CHAIRPERSON CROSS REID: Mr. Sockwell, are you going to make a motion? That's what I'm trying to find out, if you are going to take a position --

MR. SOCKWELL: Well, what I'm trying --

CHAIRPERSON CROSS REID: -- or are you going to make a motion or not make a motion today?

Other than that then you're going into deliberations.

MR. SOCKWELL: Oh, I believe that we can vote on this today.

CHAIRPERSON CROSS REID: All right. Make a

motion if you'd like, and then get --

MR. SOCKWELL: I move -- I move that we vote on this case today.

CHAIRPERSON CROSS REID: No, no.

MR. SOCKWELL: What do you think?

CHAIRPERSON CROSS REID: Make a motion to approve or not to approve.

MR. SOCKWELL: Oh. I make a motion to approve the case.

MS. RENSHAW: Second.

CHAIRPERSON CROSS REID: All right. Now.

MR. SOCKWELL: All right. This house is the only house on Jocelyn Street with two restriction lines. It has a restriction line of 15 feet along Jocelyn. It has a restriction line of 15 feet along 39th.

And so for a corner lot, this negates the benefit of the side yard elimination, which is allowed corner lots, regardless of what the square footage of this lot is. If you were granted a variance to the rear yard setback, of course, you'd still have a percentage of lot occupancy of 22 percent with what you're proposing. You're allowed 40. You could by right extend your house an additional 12 and a half feet on the Jocelyn Street side to the restriction

line.

By right, you could also extend the house by an additional eight feet on the 39th Street neighbor's side, and you could extend the front of the house an additional 15 feet to the front.

Given all of that, with the restriction lines, you would still be able to only achieve 38 percent of your lot occupancy, where the matter of right occupancy is 40 percent. That means that you would be able to produce 2,593 and a half feet of floor plan as opposed to 2,700, which would be allowed by code.

Also, because of the restriction lines, your placement of additions is severely limited because you have a 15 foot restriction line on the side, Jocelyn Street side, where you would have the freedom to go all the way to the property line.

On the double restriction line, there are significant negatives to the use of your property as you would choose, and those are, in fact, very significant hardships.

CHAIRPERSON CROSS REID: Okay. Any other questions? Any other comments?

MR. SOCKWELL: Also, let me say that if you didn't have the restriction lines, you could -- you'd

have 45 percent of your lot area buildable even though you're allowed only 40 percent. As it is, you have only 38 percent of your lot buildable regardless of zoning.

CHAIRPERSON CROSS REID: All right. Any other comments?

All in favor?

(Chorus of ayes.)

CHAIRPERSON CROSS REID: All opposed?

I abstain. I abstain, yes.

MS. PRUITT: Staff would record the vote as four to zero to one to approve, motion made by Mr. Sockwell, seconded by Ms. Renshaw, and abstention by Ms. Reid.

CHAIRPERSON CROSS REID: Okay. You'll have your order in approximately two weeks.

MS. PRUITT: This is to be a full order, not a summary order?

CHAIRPERSON CROSS REID: Oh, I'm sorry. It will be a little longer than that. It will be a full order, but it will be a little longer. Okay.

MS. PARMALEE: Thank you.

CHAIRPERSON CROSS REID: The next case.

Did the first case person come in? Ms. Pruitt?

MS. PRUITT: The next case before the Board this morning is Application 16557, application of Rochelle K. Green Trust, pursuant to 11 DCMR 3103.2, for a variance from the side yard setback requirements under Sections 405.9 and 406.1 to allow a proposed addition to a minimum court width requirements to a single family detached dwelling in an R-1-B district at 2947 Macomb Street, N.W., Square 2082, Lot 840.

All those planning to testify, please stand and raise your right hand. Anyone planning to testify on this project, please stand and raise your right hand.

MR. PRINCE: Oh, just us.

MS. PRUITT: Yeah, you're it, huh? Raise your right hand.

(The witness was sworn.)

MS. PRUITT: Thank you.

Please proceed.

CHAIRPERSON CROSS REID: Since you don't have any opposition, then basically we have read your submission, and in this case just give us the salient points of your particular application, and then we can expedite your case.

MS. GREEN: Okay. This request is before the Board so that I may add a small addition to my

kitchen update and update my kitchen, and it would be an addition of just approximately 200 square feet.

I originally attempted to achieve this without a variance and which would have required knocking down my garage so that I would not be in conflict with the setback requirements, and that actually would have been a larger addition, and it would have involved much more costly regrading, retaining walls, and elimination of a garage, which I ultimately decided not to do after talking also with several neighbors, and instead decided to pursue this smaller addition, but because of the extreme narrowness of my lot and the fact that there is a garage abutting the lot, it would make any addition very, very narrow and impractical to do without some relief from the setback requirements.

Just to summarize I have shown all of the plans to all of my neighbors. I have a petition, which should be in your file, from those neighbors, two behind me and on either side of me, that they have no objection to this variance.

In addition, my neighbor to the east, Phil Renfro (phonetic), who actually is the one who would be impacted the most, has also sent in a separate letter of support for the application.

And the ANC has unanimously supported it as well, and I believe that is in your file.

I'd be happy to take any questions.

CHAIRPERSON CROSS REID: Yes. Seeing that the first test of the variance in regard to uniqueness is that you're saying that your lot has an exceptional narrowness?

MS. GREEN: Yes. Partly because the garage takes up some of the -- I showed it. I'll let my architect, Martin Prince, maybe address that question.

CHAIRPERSON CROSS REID: Okay. All right. Go ahead. I'm sorry. I was just asking a question.

MR. PRINCE: Well, I would just add the following: that in order to get the relief we need for what we feel now is going to be a minimum sized addition to the rear of the house, we're simply looking for a reduction of the courtyard, allowable courtyard width, which is six feet to reduce to five feet, which is a one foot reduction.

And we're asking for a reduction on the side yard setback from eight feet to 4.5 feet, a reduction of three and a half feet.

I should point out that the existing house currently sits three feet from the property line. So the addition will actually be further from the property

line than the existing house is.

MR. SOCKWELL: Is that from the chimney point or from the wall?

MR. PRINCE: Oh, no, it's from the wall.

MR. SOCKWELL: All right.

CHAIRPERSON CROSS REID: And is your house, your property unique in comparison to the other properties that are on your block? Are all the properties around the same lot size?

I didn't see a copy of the Sanborn lot which gives a perspective.

MS. GREEN: No, I can't speak for every single --

CHAIRPERSON CROSS REID: The Sanborn map.

MS. GREEN: I can't speak for every single one, but the ones that I know of on several sides of me are wider lots.

CHAIRPERSON CROSS REID: Okay. Ms. Pruitt, could you please ask staff to give us a copy of the Sanborn because I can't -- okay.

Go ahead.

MS. GREEN: I believe it is narrower than the other lots that I'm aware of on my side of the block.

CHAIRPERSON CROSS REID: All right. Okay.

We'll look at it.

MS. GREEN: Okay.

CHAIRPERSON CROSS REID: Did you have anything else to add to the Applicant's presentation?

MR. PRINCE: All I can add is that in consultation with the neighbors, everyone agreed that they would prefer for sake of the attractiveness of the neighborhood that the existing garage remain, and that what we were originally planning to do for a screen was to do a much larger size addition, which would still be as of right, but it would have suited her needs a lot better.

We've brought down the addition to about the minimum size that we can possibly recommend to her and still come up with a functioning floor plan, which would correct problems of, you know, quite an old house, and we wanted to accomplish both adding on space, which she needed, and bringing up modernizing the kitchen at the same time.

CHAIRPERSON CROSS REID: Would you speak to practical difficulty? What is it that would cause a practical difficulty for you to be able to comply with the existing zoning regulations?

MR. PRINCE: Well, again, to comply with the existing zoning regulations to do an as of right

addition would have required removing the garage.

CHAIRPERSON CROSS REID: Oh, okay. I see. That's your practical difficulty. Okay.

And what about adverse impact?

MR. PRINCE: Well, very clearly, the neighbors on both sides and behind the house feel there's going to be no adverse impact, and the ANC --

CHAIRPERSON CROSS REID: No complaint?

MR. PRINCE: No, we have letters from all the neighbors in your file there.

CHAIRPERSON CROSS REID: No opposition?

MS. GREEN: No.

MR. PRINCE: No opposition, but particularly the neighbor -- the addition is going to be set off on the right-hand side or the east side of Ms. Green's house, and the neighbor who lives adjacent to her on that side has submitted his own individual letter to you saying he has no opposition.

CHAIRPERSON CROSS REID: Thank you.

Then we will go now to the ANC. Is there an ANC representative here?

If not, let's look at the letter from the ANC, which was a little confusing to me. Ms. Renshaw, did you --

MS. RENSHAW: The letter from ANC-3C,

signed by Ruth Ann Miller, the Chair, is dated March the 8th. It states that they had notice that the ANC unanimously approved the resolution, stating that it supports the application of Rochelle Green for the variance from the side yard setback and court width requirements, and it was unanimous vote.

CHAIRPERSON CROSS REID: Okay. What do you have? Because what I have -- let me see what I have.

MS. RENSHAW: I have this, and then I have a resolution.

CHAIRPERSON CROSS REID: Oh, okay. I have the resolution. I didn't have the letter. All right. Thank you.

So unanimous vote to approve?

MS. RENSHAW: To approve.

CHAIRPERSON CROSS REID: Quorum present?

MS. RENSHAW: Quorum present.

CHAIRPERSON CROSS REID: All right. Then they would be afforded the great weight to which they --

MS. RENSHAW: Yes.

CHAIRPERSON CROSS REID: -- are entitled.

Persons and parties in support of the application, persons and parties in opposition to the application, closing remarks by the applicant.

Would you like an answer today?

MS. GREEN: Huh?

CHAIRPERSON CROSS REID: Would you like an answer today?

MS. GREEN: I would love to have an answer today, yes. Thank you.

CHAIRPERSON CROSS REID: Okay. Then that's a bench decision summary order.

MR. SOCKWELL: On your drawing you stated that the existing side yard for the garage was nonconforming. An existing garage is not beside the house. So I believe that it does not provide a nonconforming condition until you add the addition.

MR. PRINCE: Actually that's not correct because the Zoning Office and the offices that we spoke with concluded with us that there's an existing courtyard created by the combination of what is actually an addition that is permitted for the house approximately 19 or 20 years ago, the raised deck connecting that addition, and the existing garage.

MR. SOCKWELL: Where is that addition, the existing addition?

MR. PRINCE: I'm not certain it's --

MR. SOCKWELL: Are you saying it's all connected now?

MR. PRINCE: Well, it's been connected since it was permitted, again, 19 or 20 years ago.

MR. SOCKWELL: All right. I guess I can't see it from this drawing effectively.

MR. PRINCE: I can give you this.

MR. SOCKWELL: Okay. Pass it through staff, please.

CHAIRPERSON CROSS REID: Okay. Did you receive your answer, Mr. --

MR. SOCKWELL: I guess.

CHAIRPERSON CROSS REID: All right. Then a motion? I asked for questions. Are there any questions?

MS. RENSHAW: I make a motion to approve this application.

MR. PARSONS: Second.

CHAIRPERSON CROSS REID: All right. Any discussion?

All right. Ms. Renshaw, can you basically defend your motion?

MS. RENSHAW: I believe that the case as presented is reasonable for a variance from the side yard setback in the court with requirements per the zoning regulations.

CHAIRPERSON CROSS REID: And there's no

adverse impact?

MS. RENSHAW: And no adverse impact and no opposition to this application.

CHAIRPERSON CROSS REID: It does appear to impair the integrity or intent of the zoning regulations or map, and you feel that it has met that three-prong test?

MS. RENSHAW: Yes, they have met their three-prong test.

CHAIRPERSON CROSS REID: All right. All in favor?

(Chorus of ayes.)

MS. RENSHAW: Opposed?

MS. PRUITT: I'm sorry, Madame Chair. I didn't get the second.

Mr. Parsons. Thank you.

CHAIRPERSON CROSS REID: All right.

MS. PRUITT: Staff would record the vote as five to zero to approve, motion made by Ms. Renshaw.

MR. SOCKWELL: That's four to zero, one abstention.

MS. PRUITT: Sorry. I didn't hear that.

Four to zero to one, motion made by Ms. Renshaw, seconded by Mr. Parsons, and abstention by Mr. Sockwell.

CHAIRPERSON CROSS REID: All right.

MS. PRUITT: And a summary order.

CHAIRPERSON CROSS REID: You should have your order in about two weeks. It is a summary order.

MS. GREEN: Thank you very much.

CHAIRPERSON CROSS REID: Good luck.

All right. Next case.

MS. PRUITT: Case No. 16561, application of the Archdiocese of Washington, the Shrine of the Blessed Sacrament, pursuant to 11 DCMR 3104.1, for a special exception under Section 206 for the approval of an addition to an existing private school for 600 students in the R-1-B district at 5831 Chevy Chase Parkway, N.W., Square 1863, Lots 821 and 822.

All those planning to testify, could you please stand and raise your right hand?

(The witnesses were duly sworn.)

MS. PRUITT: Please be seated and proceed.

CHAIRPERSON CROSS REID: Is there anyone here in opposition, testifying in opposition?

MR. WELLBORNE: Madame Chairman, I --

MS. PRUITT: You have to speak from the mic directly, please, so we can get you on the record.

MR. WELLBORNE: My name is Clay Wellborne.

CHAIRPERSON CROSS REID: Into the mic.

MR. WELLBORNE: My name is Clay Wellborne. I live at 5829 Chevy Chase Parkway next door to the Roache Center of Blessed Sacrament School.

I was prepared to testify against the application. As a result of conversations that I've had with Monsignor and with his architect and his attorney and project manager, we have had some discussions that I think satisfy my concerns, but I would like to make a statement.

I had not originally --

CHAIRPERSON CROSS REID: You will have an opportunity to make a statement.

MR. WELLBORNE: Not here, but as a preliminary matter, I have not applied for party status. However, given the discussions I've heard in the room today and given the fact that I do live right next door to the school, I would like to request party status just to make sure that if there are discussions that we can have them more freely.

CHAIRPERSON CROSS REID: Are you more affected?

MR. WELLBORNE: I live right next door.

MR. SOCKWELL: Are you more aggrieved than anyone else?

MR. WELLBORNE: Yes, I have been. I think

that we're in the process of solving that, and I would like --

CHAIRPERSON CROSS REID: And how are you impacted?

MR. WELLBORNE: By nighttime noise from the school building.

CHAIRPERSON CROSS REID: Okay, all right. I have no problem with --

MS. PRUITT: Madame Chair, you'd have to waive your rules for filing of party status request.

CHAIRPERSON CROSS REID: I forgot that we had -- you have to have applied for that in advance. I have no problem with it unless there's an objection with the Board members.

We can grant you party status.

MR. WELLBORNE: Thank you very much.

MS. RENSHAW: Madame Chair, I want to point out for the record that I recused myself when Blessed Sacrament came before ANC-3G to present its case. I did not participate in the sessions, and I did not vote on this case, and it has not affected my impartiality on this case.

CHAIRPERSON CROSS REID: If there's no objection --

MS. RENSHAW: And if there is --

CHAIRPERSON CROSS REID: -- anyone here, then you certainly --

MS. RENSHAW: Thank you.

CHAIRPERSON CROSS REID: -- have no objection from the Board members I don't think. Okay?

All right.

MR. GLASGOW: Good afternoon, Madame Chair, members of the Board.

For the record, my name is Norman M. Glasgow, Jr. of the law firm of Wilkes, Artis, Hedrick & Lane, representing the Applicant, the Archdiocese of Washington, on behalf of the Shrine of the Most Blessed Sacrament.

CHAIRPERSON CROSS REID: Mr. Glasgow, just let me ask you something. One is that initially it was believed that you didn't have any opposition, and then a petition came in. Are you familiar with the petition?

MR. GLASGOW: Yes, I'm familiar now with the petition.

CHAIRPERSON CROSS REID: Okay, and have you talked to anyone that was in opposition to try to reconcile or whatever?

MR. GLASGOW: Oh, yes. We've had -- Monsignor Duffy and ourselves have had extensive

discussions now with Mr. Wellborne.

CHAIRPERSON CROSS REID: Well, especially because no one else is appearing in opposition. That's why I was -- and it's along those lines I was simply going to say that you have in your submission given us ample information and material which we've already read, and you can basically truncate much of your submission and give us the salient points so that we can basically expedite that, and then when we get to the portion for opposition, give us information as to what you've done to try to reconcile and mitigate any adverse impact or any concern.

MR. GLASGOW: Sure.

CHAIRPERSON CROSS REID: Okay. Thank you.

MR. GLASGOW: All right. I'll introduce the panel very quickly. Mr. Thomas is here with me today from the same law firm; Monsignor Duffy, the pastor of the parish, is here; Fran Scango, the principal of the school; Chris Graae, architect for the project; and Lou Slade, of Grove, Slade Associates, the traffic engineer. Mr. Graae and Mr. Slade will be submitted as expert witnesses.

I believe you have the traffic report as part of the file.

Just very briefly, the property is located

at Chevy Chase, near Chevy Chase Circle, Western Avenue, Quesada Street, and Chevy Chase Parkway, and it's outlined in yellow on the board in front of you.

I believe that all the Board members have received a copy of the statement of the applicant previously submitted for the record. We believe that in that statement of applicant we state how it is that we meet the burden of proof for the school addition, and this case has a unique quality to it in that the Board had previously -- and this would be under Tab C -- I'm sorry -- D -- is previously the Board had noted an enrollment of 1,015 students, and that's in Paragraph 2, and in this application we are amenable to the Board reducing our student population to 600.

CHAIRPERSON CROSS REID: Boy, you went to the archives to dig this one up, didn't you?

MR. GLASGOW: Yes, we did.

CHAIRPERSON CROSS REID: I haven't seen anything to look like this. I had to look at it three or four times to determine what in the world it was.

MR. GLASGOW: Yes, that's the way --

CHAIRPERSON CROSS REID: A 1963 order.

MR. GLASGOW: That's correct.

CHAIRPERSON CROSS REID: Okay.

MR. GLASGOW: All right. Also what I want

to do, I want to jump forward here a little bit in order to save time and introduce to the record a letter from Polysonics Corporation, dated March 10th, 2000, which was issued -- yes, well, it was updated, but the date on the letter is March 10th that you'll see in the record, and that was to address certain of the concerns that were raised at meeting with Monsignor Duffy and Mr. and Mrs. Wellborne, who are here in the audience.

So I want to introduce that to the record and then discuss how it is that we have worked with them to address their concerns.

So, one, I want to introduce that letter into the record, and that the Applicant agrees that the items listed in that letter should be conditions to the Board order as follows, should the Board determine to grant this application.

CHAIRPERSON CROSS REID: Where is it?

MR. GLASGOW: That letter was just issued within the past few days, and we --

CHAIRPERSON CROSS REID: Oh, we don't have it.

MR. GLASGOW: That's correct.

CHAIRPERSON CROSS REID: Okay. All right, and you want it to be conditions to the order?

MR. GLASGOW: That's correct. That letter

outlines actions that should be taken to mitigate the nighttime noise issue.

CHAIRPERSON CROSS REID: Okay, okay.

MR. GLASGOW: And as a technical matter, the nighttime noise doesn't have anything to do with the school operation, as Ms. Scango will testify. The school operates from eight to four, but in working with the neighbors and with the immediately affected neighbor, what came out of that is that it's a nighttime noise from activities in the Roache Center, which are parish activities and which are permitted as a matter of right, which are the issue.

And so what we want to do is address the concerns that they have, and in the context of this case, deal with those.

Also, we would note that we do have a unanimous support letter from the Advisory Neighborhood Commission in support of the application. One is that it was determined that there was a leaky condition with respect to the windows and noise in the Roache Center, and we have agreed to install gaskets to seal those windows on the east and south frontages. That's condition one.

Secondly, the windows are to remain closed, the ones on the south side -- I'm sorry -- on the east

side; that that would be in conjunction with we are going to be putting in a new HVAC system, and so there will not be need to open those windows.

That there will be shutters installed inside the building covering the windows on the east side, and depending upon further recommendation of Polysonics, curtains over those windows, and we will be discussing with Polysonics placement of potentially any additional acoustic panels, and we have agreed to muffle the horns for the games, the horns for the referees' desks, when players are coming like in and out of a basketball game where they hit the horn. We're going to muffle the sound of the horns for the games.

And fifthly, baffle the HVAC system on the roof of the school. We will locate that system as far west as reasonably possible, and that is on the Chevy Chase Circle side of the property, and no less than 125 feet from the east property line of Blessed Sacrament, which is the east wall of the Roache Center.

All right.

CHAIRPERSON CROSS REID: So that's what you're proffering to mitigate the adverse impact of the noise.

MR. GLASGOW: That's correct.

CHAIRPERSON CROSS REID: All right. Is that the same thing as outlined in this letter?

MR. GLASGOW: This is in a little bit more detail than the letter.

CHAIRPERSON CROSS REID: Okay, and you're going to submit that for the record?

MR. GLASGOW: Yes, we're going to submit that for the record. It's on the record now through the proffer.

CHAIRPERSON CROSS REID: Yes.

MR. GLASGOW: And we will make sure that --

CHAIRPERSON CROSS REID: No written -- all right.

MR. GLASGOW: When we submit, we can work with staff because we would like to obtain a decision today, a summary order, and what we can do is we can work with staff to make absolutely sure that all of those conditions are reflected in the order.

CHAIRPERSON CROSS REID: Okay, all right. All right. Continue.

MR. GLASGOW: All right. Thank you.

I think in the interest of time that's already been taken and the progress that's been made within the past few days with the neighbors, I believe that the evidence of record in the statement of

Applicant shows how it is that we meet the burden of proof with respect to noise, number of students.

There has been no complaint with respect to the operation of the school itself from its hours of operation from eight to four. We have an improved traffic plan. That will be discussed briefly by Mr. Lou Slade, the traffic consultant, and Mr. Graae will be able to discuss the actual additions themselves to the school.

So normally when the school comes in, we're talking about how it is that we want to increase the number of students. Here we're going to significantly reduce the number of students, but we're going to be making some modernizations to the school building, which increase FAR so that that's why we're here for the special exception application.

And if there are no preliminary questions on that, I'd like to call Mr. Duffy, Monsignor Duffy, as the first witness.

CHAIRPERSON CROSS REID: I have no questions.

Any Board members?

All right. Then continue, and what we'll do is we'll --

MS. RENSHAW: All right, Madame Chair. I

had a question on this Polysonics Corporation. I can hold that until later if you would prefer.

CHAIRPERSON CROSS REID: Not unless you feel you want to ask it now. Is that the letter in opposition?

MS. RENSHAW: No. This is the letter of conditions that Mr. Glasgow is saying is going to be entered as conditions to the order.

CHAIRPERSON CROSS REID: Well, do you want to ask it now or do you want to do that at the end?

MS. RENSHAW: I might as well. Why don't I ask it now and just get it out on the table?

And that is if you could tell us what the decibel level is of the existing sound and of the proposed sound with these corrections.

MR. GLASGOW: Mr. Graae, are you able to answer the question?

MR. GRAAE: We've not done testing currently on the existing conditions, but Mr. Spawn's (phonetic) letter does address in his estimation that if we take the actions proposed, that there will be a very significant, potentially by half reduction of sound emanating from the --

MS. RENSHAW: Well, he said that these acts should reduce noise emissions by half, but we wonder

what's left over and what can be done with the leftover noise because obviously that's still going to be a factor to the neighbors.

So hence the question as to what is the level now and what is it going to be after these corrections are made.

MR. GRAAE: I don't have testing data to --

MS. RENSHAW: Could you get back to us with that testing data?

MR. SOCKWELL: If I might add, it would seem that without testing it would be difficult for Polysonics, as good as they are, to determine that 50 percent of an unquantifiable number is possible.

CHAIRPERSON CROSS REID: That's like the question is is half acceptable.

MR. GLASGOW: Well, I think that decibel levels also are not -- I'm trying to think of my math terms. It's like for each ten decibels, I believe, it doubles the volume that you hear. It's not -- it's not --

MR. GRAAE: It's a geometric relationship.

MR. GLASGOW: A geometric relationship, yeah.

MR. SOCKWELL: And geometric or not, if 50 percent of a number that hasn't been tested is being

proposed, the 50 percent may or may not be the significant change that's expected or at least 50 percent of a tremendously high number would not give you an acceptable level of reduction. That's all.

MR. GLASGOW: Mr. Sockwell, we understand that. We can submit the evidence.

I think when you're technically looking at this, because we are proceeding as best we can to address the concerns of the neighbors, if you were strictly looking at the special exception application and what's going on with the school, we can say the nighttime school noise has nothing to do with this application because the school doesn't run any of those activities. That is run through the parish as part of the church, and the church has a might of right use.

We're stepping back from that and saying, forgetting about the zoning regulations for a minute, we want to be as good neighbors as we possibly can, and we don't want that issue to hold up a decision on this application, where we have not seen anything in the record where there's any objection to the operation of the school.

We want to work with the neighbors, and we want to make a significant difference in the noise level, but we also don't want to get off track as to

what the technical requirements are with the regulations either.

CHAIRPERSON CROSS REID: Well, Mr. Glasgow, even notwithstanding the fact that what you're saying is absolutely true, we have one application before us and the parish is an altogether different story nonetheless.

Given the fact that as a part of this application your Applicant has proffered to us the partial mitigation of some of the other problem, then if that is going to be a part of this, even though not required -- it's not required, but if it's going to be a part of it, then the Board members are concerned that it be done appropriately. That's the only thing.

MR. GLASGOW: Sure. We would like to submit that for the record, and I think that what we have done in a couple of cases is that we have gotten our decision and submitted that type of information for the record.

CHAIRPERSON CROSS REID: Wait a minute. You've got your decision, and then before you got your order.

MR. GLASGOW: That's correct.

CHAIRPERSON CROSS REID: Yes. Okay.

MR. GLASGOW: That's right.

CHAIRPERSON CROSS REID: I have no problem with that.

MR. SOCKWELL: And just to close that, the frequencies of the various sounds are as important as anything. So they have to study the various frequencies that are propagating from the site.

CHAIRPERSON CROSS REID: Okay. Thank you. Proceed.

MR. GLASGOW: All right. Please proceed.

MONSIGNOR DUFFY: Good afternoon, Madame Chair, members of the Board, I am Monsignor Thomas Duffy, pastor of the Shrine of the Most Blessed Sacrament. I am pleased to be here on behalf of Blessed Sacrament School, which is located at 5831 Chevy Chase Parkway, N.W.

The special exception application presented to you today is necessary for the school to continue to provide the most appropriate and stimulating learning environment to meet the educational needs of our current and future students.

Our architect will discuss the actual additions and renovations that will be made to the buildings on the site and the principal of the school, Fran Scango, will discuss the present and future operations of the school on the site.

I hope to give you some background regarding the school and its relationship with the neighbors, the surrounding community.

The Archdiocese of Washington and the Shrine of the Most Blessed Sacrament has operated a school on this property since approximately 1923. The last time the school brought an application before the Board was in 1963, as Mr. Glasgow mentioned, when this Board approved continued school use on this site for 1,015 students. How they did it I don't know.

But the school current has 500 students. In reviewing the current and future educational goals of the parish and the school, the parish is amenable to reducing the maximum number of students in the school to 600.

Throughout this school's history, the parish and the school have interacted with the surrounding community. This relationship is evidenced by the unanimous resolution of the Advisory Neighborhood Commission 3G to support this application.

It is the intent and desire of the school to continue the strong collegial relationship with the community into the future.

In accordance with this goal, I personally initiated contacts with the immediate neighbors of the

parish and school in December of 1999. These contacts were followed up with letters and meetings between the representatives of the parish, school, and neighbors. It was through this process of dialogue that we became aware of some concerns of the immediate neighbors regarding the amount of noise generated by nighttime activities at the Roache Center multi-purpose room and gym.

In fact, along with members of the development team, I met with Mr. and Mrs. Wellborne this past weekend to continue to inform them of our plans and to address some of their concerns regarding this issue, through specific actions to be undertake during the construction.

I would like to take this opportunity to state, as Mr. Glasgow has already, that all nighttime activities at the Roache Center are parish rather than school related activities, at least those that are objectionable. Specifically, the dances, athletic events, and other activities that take place at night are parish activities.

While these parish activities are technically not part of this special exemption application, we have taken great steps in the design of the renovation of the Roache Center to ameliorate the

impact of noise on neighboring properties.

As our architect will explain in greater detail, the HVAC system in the Roache Center will be updated. This will allow the parish and the school to commit that the east windows in the multi-purpose room and gym will remain closed at all times during those activities that are held in the Roache Center.

In addition, our architect will explain the steps that are being taken based upon the recommendations of the acoustic engineering firm to make sure that nighttime activities in the multi-purpose room gym will not cause objectionable noise to emanate from the Roache Center.

As a result of these actions, I believe that the proposed additions to and renovations of the existing buildings on the site will not cause any objectionable impacts on neighboring properties.

Once again, I want to thank you for the opportunity to speak to you today, and I look forward to your expedited approval of this application.

Fran Scango, the principal of the school, will now address the operational issues regarding the school's use of the property.

MS. SCANGO: Thank you, Monsignor.

My name is Fran Scango. I'm a principal of

Blessed Sacrament School.

As Monsignor stated, our school has been a part of the Northwest Chevy Chase, D.C. community for 75 years. Our basic mission is to serve the needs of our parishioners.

About 90 percent of our students registered currently are registered parishioners, and most live within about a mile and a half of the school. We are about equally Maryland and D.C. residents.

Our current exact enrollment is 494 students. We welcome students outside of our parish when space is available.

Demand for our school currently exceeds capacity, particularly at our lower school entrance levels. Our combination of full and part-time faculty and staff on a given day is about 35 people.

Our building is old and in need of repair. Part of the building is 75 years old. The remainder is 50 years old. All mechanical, heating and electrical need to be updated. There's a need for air conditioning, and in today's educational needs for technology, significant accommodations have to be made.

Currently our middle school functions in several parts of our building. Our goal would be to unify our middle school into one building.

We would like to lower the class size, which is a national trend, in our primary grades from 25 to 20 students, while slightly increasing the enrollment of that grade from 54 to 60 students.

Currently in Grades 4 through 8, we have a capacity of 60 students.

We'd also like to better utilize our space by grouping our students more developmentally so that we can individualize instruction. We would be placing our kindergarten in the lower level of the Roache Building. Grades 1 and 2 would be on the lower level of our building, 3, 4 and 5 on the first floor, and we would locate our middle school on the upper floor in one area.

Some enhancements that we would hope to happen from this renovation would be to increase our library space, which would meet the recommendations of our accrediting board. This would allow for technology, a lower school reading room, a middle school instructional space, and increased stacks for an increased collection.

We would like to expand our science labs to accommodate our lower school and current educational trends for hands on strategies.

We would like to expand our computer lab

also to meet current educational trends.

With regard to compliance of Section 206, we do not expect any additional noise or additional outside use of the building to what we are currently doing. Overall space will continue to comply.

Our orchestrated traffic plan will be presented by the consultants. We have been investigating a traffic plan for almost two years at the school, and we welcome these recommendations of the consultant.

Our current situation is less than optimum. I am confident that this new plan will enhance safety not only for the school, but the community as well.

After evaluation and consultation with the neighborhood committee that we hope to have set up during this renovation, we would like to continue this traffic plan after the renovation, which we think, again, will enhance safety in the community.

As a result of the ANC meeting, we were very pleased by the unanimous support. I was particularly gratified by the comment of one of the members who complimented us on the association that the school has had with the community for many, many years.

A second individual at that ANC meeting also said he was surprised that we weren't expanding

our enrollment more because of the great demand there, and obviously we don't have intentions of doing that.

We have also looked very closely at a construction management plan that I think will be very helpful not only to the school safety, but the community as well, and as you can imagine, as a school principal, safety for my children is tantamount. So I am welcoming that, and our architect, Chris Graae, will address that a little bit further.

Thank you for your time.

CHAIRPERSON CROSS REID: Thank you.

MR. GLASGOW: Thank you.

For the next witness I'd like to call Chris Graae, architect of the project.

MR. GRAAE: Good afternoon. My name is Chris Graae. I'm a principal with Cress, Cox Architects.

Is this mic one that I can pick up and walk over to the drawings or --

CHAIRPERSON CROSS REID: No.

MR. GRAAE: Can everybody see these reasonably well?

Just a quick orientation of the site. Chevy Chase, and Connecticut Avenue is going north-south here, and this is Chevy Chase Parkway, and

Western Avenue, and then Quesada.

So the site is bounded by Western Avenue, Chevy Chase Parkway, and Quesada, as well as, in fact, a public alley on the east side. The apartment building, you probably all know, is a lovely historic building. That is not part of the subject property we're proposing today.

The site, as I said, is basically then contained around public streets or alleys. This is a view of the school from Chevy Chase Parkway and just captures a piece of Roache Center, which we were talking about earlier.

This is the other, the rest of the end of Roache Center, which is located on that alley there, which is immediately adjacent to the Wellborne's property.

And this is a view of the courtyard, which is in the center of the whole property. Other buildings basically surround the courtyard. This is the church from the early '20s located here, a very find structure by a well known architect, beautifully built, sort of the anchor of the whole campus.

And further down from the church is the current parish house.

I'll start with a site plan. The primary

buildings on the property are the church, as I mentioned, the parish house. There's a convent that was built about the same time as the church, which is also a lovely period piece.

The yellow indicates on these plans the proposed additions. So as you can imagine, without the addition there, there is a gap between the convent and the basic part of the school. This piece of the school was originally built in the '20s. This was added in the '50s, and then the Roache Center, which we've been referring to, was added in the mid-'60s.

The Wellborne property is immediately here on the other side of that alley, and so this site plan really shows the essence of what we're doing from an addition point of view. It's a really very modest addition. The school is approximately 67,000 square feet. We are adding about under nine percent of that amount. Approximately five and a half thousand square feet is, in fact, being added. The lot occupancy that we're adding is actually only about 1,700 square feet.

And the reason is because there's a one story connector between Roache and the school, which you can hopefully just catch it here. There's a gap between the school and the Roache building that's about two stories high, and in order to impact the site as

little as we could because, of course, the courtyard is used for kids to play in and for the parking requirements for staff over here, we wanted to impact the courtyard as minimally as we could, and a logical place to provide new square footage without impacting the site was, in fact, to infill between the school and the Roache Center.

So this addition is two stories sitting on top of the existing one story, essentially extending the volume of the school into that slot, and then the other portion, as I mentioned, is there's a one story porch entrance that we're proposing, and then a three story infill that will, once it's built, will in fact connect the convent to the school.

And this is an enlarged plan of the main floor of the school, which is at the upper courtyard level. This site falls away fairly dramatically almost one whole floor so that the basement level underneath this first floor is, in fact, out of grade on the Chevy Chase side.

So we'll be adding this porch. We'll be adding a two story with basement connector between the buildings. That will provide us the accessibility that we need to get to the convent, which currently is not accessible. It will also provide us a stair to mediate

between the different levels between buildings.

And then as I mentioned earlier, we'll be putting a two story addition in the slot between Roache and the school, and that will give the school very, very necessary, very useful additional classroom space.

The next floor up from the first floor, being the second floor, two stories above grade in the courtyard, again, that infill will continue on up and provide program space for the school, and we'll have that second floor for additional classrooms.

As Fran Scango mentioned, the real key to this project is not to accommodate more students. It's to accommodate the students primarily that they have with better facilities.

I'd also add in addition to Fran Scango's very detailed and important observations about what things we're trying to do with this school programmatically another part of this project is to significantly improve the life safety of the facility, and those will be along the lines of new fire detection, smoke detection, alarm, and enunciation systems, and we will be installing fire suppression throughout the school formal, which is not currently suppressed.

So there are a lot of life safety things

that we think will improve the safety of the students and the integrity of the property.

And then I'll just very quickly go through these. These are also in the submission, that couple of building sections to illustrate further the -- actually this is probably not a terribly meaningful one, but we've taken a section through the convent and looking at the addition between the convent and the school, probably a more salient elevation is the main courtyard.

This is a view of the additions that I was mentioning. This elevation here is on the courtyard side as if we're standing in this main courtyard, and we're looking at the north side of the -- we're looking at the north side of the school here.

This is the Roache Center, which has been referenced earlier. This is where the multi-purpose room is and the issue of the sound mitigation that we're going to incorporate into the project.

And then this is that two story addition which is essentially an extension of the school, and if you were to flip to the other side on Chevy Chase, the opposite side of the addition, that, again, is the other end of it, and if you were to look at the content building from looking at the west elevation,

this is that infill, again, that we're filling in between the two buildings, just a relatively modest square foot change, but while we're doing this, we are playing a considerable musical chairs, if you will, with various program and teaching spaces to best utilize the building for today's program requirements.

The gym, I will just very briefly talk about the gym floor plan. The gym, I have a more detailed plan if you wish to see more information on it. I'll let you ask that if you want.

The east side of the gym is the main side that is affected by the -- it affects the sound issues for the Wellbornes, and we're proposing that the windows along this side get the most work done in terms of the shutters and gaskets and so on. This exposure has a lot less window, the south facing exposure, which is 90 degrees to the Wellbornes. That has less windows. We will be gasketing those.

The north side has virtually no windows. So really our major issue is to work on this in addition to the operational moves that were mentioned earlier that will be taken in terms of lowering the sound of the horns and the whistles and things like that.

That's primarily the presentation of what

we're proposing to do for the school portions. If you have any questions, I'd be happy to answer them.

MS. RENSHAW: Yes. I'd like to, Madame Chair, I'd like to know how they are going to route the students during construction, in other words, to have a safe and easy entry into the school.

MR. GRAAE: Do you wish me to address this?

MR. GLASGOW: either you or Mr. Slade, either one.

MR. GRAAE: Well, briefly I can address, I think, the construction area. I don't have a detailed plan to show you yet, but we have a very -- we've developed, I think, a very clear way of handling and separating construction from children.

Lou will talk about the issue of how traffic is handled, but from a construction point of view, currently the school is entered here off the courtyard. During the construction, we will have the main entrance to the school completely from Chevy Chase so that this area can be secured during construction.

There will be a portion of it that will be cordoned off for play, but the basic construction will be completely separated from the in and out traffic of the children who will be dropped off and picked up on the Chevy Chase side. That's probably the single

biggest move we're making to physically separate by simply the mass of the building and the actual site conditions.

MS. RENSHAW: And where are the children going to play during the construction period? Because when they are around the school in the mornings and the weather is good, they like to be outside, kind of, you know, horsing around, as we call it, and I'm just wondering where along Chevy Chase Parkway they are going to.

MR. GRAAE: There are some existing playground pieces on Chevy Chase. There is a sandbox. Then there's a gym, a jungle gym thing here that the kids will continue to use.

There will be a portion of the site for the duration of construction that will be positioned in such a way where there will be a secure play area for the kids. It won't be clearly as big as it is now because during the -- for the interim construction period that's physically impossible to do, but as soon as -- of course, as soon as construction is complete, the courtyard will be conveyed back for its permanent use of daytime play for the children.

MS. RENSHAW: What is the duration of construction? How long?

MR. GRAAE: We estimate about 16 to 18 months, and the intention is the project would be completed by September of 2001.

MS. SCANGO: I would also anticipate that the children are going to be dropped off in a much more formal fashion than the are now. So I would anticipate there will probably be less informal play outside prior to school and after school because --

MS. RENSHAW: What do you mean a more formal?

MS. SCANGO: People queuing up and dropping children off as opposed to in several locations now children are dropped off, and there will be a very formal way and only one way to be dropping the children off every day. So there's not going to be as much opportunity for them to be on several areas of the compound to be playing. They're only going to enter from Chevy Chase Parkway.

So my hope would be as principal they're going to be dropped off with staff out there on the street and encouraged to come into the building.

CHAIRPERSON CROSS REID: All right. I'm sorry?

MS. RENSHAW: Just to ask if you have looked into the environmental effects of having cars

idling, since you're going to be queuing cars rather than having the children just kind of hop out of the car and run over to the school.

I'm very familiar with this area and have watched the children up there. It's on my running route, and I notice how some of the parents just kind of drop them off and the kids kind of wander over or run over, and that's that

But if we have a queue in effect, you're going to have cars idling around the neighborhood, and I'm just wondering what the environmental effect of that is going to be.

MS. SCANGO: I guess maybe Mr. Slade could address that, but my hope would be currently I feel, frankly, we don't have a real safe situation, and that's why I've been investigating this for two years, where people double park and sort of randomly drop their children. I haven't been comfortable with the current situation for a safety perspective.

I do appreciate what you're talking about in terms of cars idling, but I think what we're proposing in the investigations we've done is a far more typical drop-off and pick-up plan for children than what we currently have.

MS. RENSHAW: What I do remember is that

cars not carrying children to the school, but in transit are often too impatient to wait patiently behind any car discharging a student, and it had been the case with Blessed Sacrament where extra crossing guards had to be requested of the Second District Police because either you didn't have a crossing guard there or the crossing guard was ill or whatever, but additional manpower had to help the students get across the street.

And I can remember a couple of times when it was just very dangerous, outright dangerous. So I'm glad to hear about an improved method. I just wonder what has kept you for two years not acting on this sooner. That's all.

MS. SCANGO: Part of our issue has been we've been trying to work with the D.C. Police to create something that doesn't cause issues for Chevy Chase Circle, and they have been starting to come in to talk with us a little bit more and involved, and we've gotten engaged with them a little bit more on how to handle the situation generally for traffic in the area, and I'm hoping that the consultants we brought in with this project will address that.

MS. RENSHAW: And I hope to bring that back to the ANC because it's a question I think the ANC

should address also.

Thank you.

CHAIRPERSON CROSS REID: All right. Thank you.

MR. GLASGOW: The next witness is Mr. Slade.

CHAIRPERSON CROSS REID: He's the last one?

MR. GLASGOW: Yes, he is.

MR. SLADE: Madame Chair and members of the Board, my name is Louis Slade. I reside at 3500 Quesada Street.

My firm and I were engaged by Blessed Sacrament to work with this team on the traffic operations plan that Fran has been alluding to, and I'll be very brief.

As I said, my address is 3500 Quesada. I live one block from the school, and I've waived my normal policy to avoid projects where there could be neighborhood controversy because I know I've been in the neighborhood for 26 years. I know the school and the church to be a wonderful neighbor. One of the reasons we moved in the neighborhood, and I was pleased to be part of this team, to help.

As Fran said, at the present time, there are some problems, particularly in the morning during

the drop-off period, and it's because the school has not created a regulated or formal approach to the carpool, and I'm sure some of you are very familiar with it.

Chevy Chase Parkway is a block that you just learn to avoid during that time of the morning. Fortunately we have a very extensive grid of streets. So there are lots of ways to get where you're going without having to use this block.

But the issue predominant in the school's concern is student safety, and then given that the construction will take place and it will restrict where students can be dropped off and picked up, it really brought this issue to the forefront, and that's part of the reason we were brought in to help.

In very simple terms, the problem today is focused on Chevy Chase Parkway because parents come to the school from both directions on Chevy Chase Parkway, drop off children on both sides of the street. The children have to cross the street. We've estimated that about 20 percent of the children do walk to school, which is wonderful, but they have to cross the street, too, from whatever direction they're coming, and that relates to problems all around the school that have been addressed through traffic officers at the

crossings.

But one of the focuses of our solution is to not allow the parents to drop off somewhat randomly, but to get them in a regulated pattern around the school and not allow them to drop off on both sides of any street.

The ideal solution is to go around the school in a clockwise pattern so that the children can get off on the school side, on the passenger side of the vehicle and walk directly to the school without having to cross the street, and that's what we will have both during the construction period and then after the construction period.

And the chart you see before you shows in red the construction vehicle traffic from start of construction day through about 2:30 in the afternoon, which uses Quesada Street to approach, which is an eastbound only street. It's one way from Western Avenue, and then would use the alley to come in with deliveries of material for construction.

So we won't use Quesada Street and we won't use the alley in the morning because it will be devoted to construction access. So in the morning the green line on Chevy Chase Parkway represents how parents will be directed to bring children to school and they'll be

dropped off there.

And with parking restricted on the north curb of Chevy Chase Parkway, there is more than adequate space for the vehicles to approach, stop, drop off the children and continue, and this is the more conventional way to handle a drop-off. In the morning it's always very efficient because the parents arrive, the doors are open, the school will have a couple of staff members out here just to make sure everything is going efficiently, and that traffic will move on to Chevy Chase Circle and then be able to use the circle to go in any direction they want.

In the afternoons our deliveries of construction materials will stop around 2:30 in the afternoon before school ends so that the alley will be available. So the blue line represents the pattern that will be available and will have more queuing area for the parents to wait to pick up. So there will be adequate queuing in the afternoon, which is inherently a little less efficient operation because the parents arrive and have to wait for the children.

We've looked at what will happen if the school does expand to the 600 cap. It will be about a 20 percent increase in activity, and this plan will work well. Things will actually be better in the

future even with the largest school population because of a more regimented and formal approach to carpooling and drop-off and pick-up.

Finally, with regard to parking, there are about 70 parking spaces on site, which is more than adequate. Some of that parking area is used as a play area, but there's always ample space to satisfy zoning requirement for parking.

So in my professional opinion and as a person who knows the area personally quite well, I can testify that the traffic and parking impacts of this application will not be significant.

Thank you.

CHAIRPERSON CROSS REID: Mr. Slade, when you say that some of the parking area will be used as a play area, can you elaborate a little bit more on that?

MR. SLADE: I think maybe Fran can answer that question a little bit better about how that's organized during the day.

MS. SCANGO: If you look to the right-hand side of the courtyard there, the larger one is really better, closer to the alley. That's the parking area that we would use. To the left side is the play area.

CHAIRPERSON CROSS REID: So there's no screening from the parking area to the play area?

MS. SCANGO: Pardon me?

CHAIRPERSON CROSS REID: There is no barrier, no buffering?

MS. SCANGO: There isn't right now, no.

CHAIRPERSON CROSS REID: How come?

MS. SCANGO: It's never been established other than wooden barriers. There's no walls, no concrete walls.

CHAIRPERSON CROSS REID: So what type of mechanism do you have in place to protect the children from the cars on the parking lot?

MS. SCANGO: Well, the cars aren't moving. The cars are stable and parked.

CHAIRPERSON CROSS REID: Aren't they moving at some point?

MS. SCANGO: Well, I mean they come in at 7:30 in the morning. They don't leave until four o'clock in the afternoon. It's not like people are coming --

CHAIRPERSON CROSS REID: The cars never are moved during the day?

MS. SCANGO: Well, they're not coming and going through the day. The staff comes in. The staff is there for the day.

CHAIRPERSON CROSS REID: And then they park

in this area here, and then this area over here is where you allocate -- in other words it's not exclusively for a play area. You use it for both?

MS. SCANGO: The left-hand side is exclusively play area during a school day. On a Saturday --

CHAIRPERSON CROSS REID: That's what I'm trying to ascertain. This area here is play area or parking area?

MS. SCANGO: Which? Chris, maybe can you show?

MR. GRAAE: This area currently is all paved, and this area here is currently striped for staff parking, and the only way they get to that space is from this alley in and back out and down that alley. There's no way they can come through here. This is blocked off during the day.

So there's a heart striped line here where staff know not to pass that, and they access it on the other side, and then this area here is reserved for children's play.

CHAIRPERSON CROSS REID: All that area?

MR. GRAAE: Correct.

CHAIRPERSON CROSS REID: Oh, okay. I see.

MR. GRAAE: And then after school or during

parish activities, this whole space is, in fact, utilized as needed for parking, for mass. And of course, the kids aren't there anymore.

CHAIRPERSON CROSS REID: So, yes, so it's used for parking during the time when the children aren't there at the school.

MR. GRAAE: Correct.

CHAIRPERSON CROSS REID: And during the day, the staff parks on this side, and the play area is on the other side.

MR. GRAAE: In a very clearly demarked manner, yes.

CHAIRPERSON CROSS REID: Okay, all right. Thank you.

Questions?

All right. Does that conclude your presentation?

MR. GLASGOW: That concludes the Applicant's direct presentation.

MS. RENSHAW: Madame Chair, I have some questions for the parking-traffic consultant.

If you would put the board up -- there we go, and I want to focus in on the red line, which is the route of the construction vehicles. And, first of all, who wrote the construction management policy that

-- policies that were included in the submission document?

MR. GLASGOW: Tom Gallagher.

MR. GRAAE: He's the project manager.

MS. RENSHAW: Yes, and he presented the case before the ANC.

I want to ask about the width and the surfacing of the alley. You're directing all of these construction trucks through a public alley, and do you have any count right now? Do you estimate; can you estimate for us how many construction trucks you're going to be routing through a public alley and whether that alley can tolerate the weight of those trucks?

MR. GRAAE: I'll field that question. At this point we don't exactly have figures to tell you the size and number of trucks, but the primary load will be when the excavation is done and the demolition and excavation is done, and that is probably going to be in a three -- we think in a three to four week maximum time frame.

So it's a fairly confined period where you'll have, let's say, dump trucks, for example.

MS. RENSHAW: It's very confined, but it's very heavy use.

MR. GRAAE: Correct.

MS. RENSHAW: And on the other side of the school and the church, there are residential properties, correct?

MR. GRAAE: Yes, that's correct.

MS. RENSHAW: All right, and the residences have agreed to the routing of these dump trucks through the alley?

MR. GRAAE: Well, this plan, I believe -- was this presented to ANC? I believe it was.

I think just to elucidate a little more on the traffic pattern, beyond those two to four weeks where there'll be sizable vehicles taking that route, the other traffic is going to be relatively modest, and smaller scale. They are concrete paved alleys. They're not asphalt. Concrete is certainly a lot more durable and stronger than asphalt.

MS. RENSHAW: Well, the condition of a lot of our alleys in the city is not good at all.

MR. GRAAE: These happen to be in fairly good shape.

MS. RENSHAW: Well, that's fine.

MR. GRAAE: This alley here is much smaller and is not in as good shape, and there are about 17, I believe, or roughly 17 feet wide. So they're a little more generous than most.

MS. RENSHAW: And are you going to have during this three to four week period, are you going to have trucks queuing up in the alley or are you going to have a foreman routing one truck through at a time because we have to keep in mind that allies must remain open for emergency vehicles.

MR. GRAAE: I would say we would attempt to do the latter, to --

MS. RENSHAW: You attempt or will?

MR. GRAAE: I think we'd have to let the contractor, you know, get into the kind of detail that I don't have to give you at this point, but I think they're going to be fully supervised and --

MS. RENSHAW: Well, I just want to press this issue because we want to make very sure that the use of this alley is in agreement with the neighbors, and that the Board understands that the neighbors have agreed to this, and that there will be someone making sure that this alley is kept open during the construction phase and afterwards for emergency vehicles.

So, therefore, you're going to have to have this monitored.

MR. GRAAE: Surely. It's a public alley and it needs to be --

MS. RENSHAW: It's very important.

MR. GRAAE: It's a public alley, and it needs to be kept free.

MS. RENSHAW: Right. And also I wanted to ask whether or not you had thought in terms of -- and I would suggest to this, the Board here that we require fines to be imposed on construction vehicles who are, shall we say, in violation of the agreements.

Now, this is not something that was talked about publicly at our public meetings, but it has been in effect with another construction project in the Chevy Chase area and has worked very successfully in that --

CHAIRPERSON CROSS REID: Ms. Renshaw, excuse me for cutting you off, but --

MS. RENSHAW: I am just suggesting that it be considered. We don't have to go into it in any further detail --

CHAIRPERSON CROSS REID: Well --

MS. RENSHAW: -- at this moment, and there is one other --

CHAIRPERSON CROSS REID: Excuse me. The imposition of the fine, who are you suggesting would do that?

MS. RENSHAW: That is done by the

construction company, and it's written --

CHAIRPERSON CROSS REID: Oh, okay.

MS. RENSHAW: -- into the construction policy that is signed on by the church and with the neighbors, and that if anything untoward happens, you have a series of fines, and maybe the maximum is $1,000.

And in a construction site near my home, the maximum was -- shall we say the maximum violation happened, and we imposed a fine, and that fine is going to be distributed to nonprofit entities in that community. So it worked very well, and I would say it's important.

CHAIRPERSON CROSS REID: The Board, just for the record, this Board does not have the authority to impose a fine. Nonetheless, within the scope of the management plan and the construction --

MS. RENSHAW: Construction plan.

CHAIRPERSON CROSS REID: -- construction company that is hired, then perhaps they would be amenable to working out some type of penalty for any violation of the management plan that is being -- I would think that this management plan would be a part of the order by the commission -- of the order so that they've have to be concerned about them complying

thereto.

And it's a suggestion. It is not anything that we're making -- the plan itself could be conditioned, but not the fine aspect of it. It's just a suggestion to help you to be a good neighbor.

MS. RENSHAW: One other aspect or another aspect is there is nothing in this construction management policy having to do with the parking of construction workers, and I think that the neighborhood is owed a very definitive plan as to where construction workers are going to park because they will be -- and I say this from experience -- all over the neighborhood unless you have a confined area for them to park in.

CHAIRPERSON CROSS REID: All right. Often there's a staging area or an area that is away from the actual site where the construction vehicles park their cars. You don't have anything set up like that?

MS. SCANGO: It's my recollection that we discussed this at the ANC meeting. It was brought up and the question asked where they could park, and they indicated that there wasn't a plan. We at the time didn't have a plan, and one of the Board members at that time said that there were some unrestricted areas in the neighborhood. He was going to talk to those neighborhoods as to whether they wanted to get those

areas restricted so that people couldn't park in there.

So it was addressed at the ANC meeting, and we didn't get any further indication from them at that time.

MS. RENSHAW: No, but you must come up with a plan for the parking of construction vehicles in the neighborhood or the ANC or the individual ANC commissioner for that area is going to be entertaining a great number of calls.

So we have to know where these workers on your project are going to park so that you can minimize the disruption of the neighborhood.

MS. SCANGO: I guess the point I was just trying to make --

MR. GLASGOW: We will coordinate with the ANC single member district representative.

MS. RENSHAW: And then another question that was not addressed is of the routing of the trucks after they leave your property. Where are they going to go?

Now, you know that this is an extremely sensitive issue in the Chevy Chase area, construction vehicles, and so we need to have more than a red arrow that stops almost at Chevy Chase Parkway or Chevy Chase Circle, rather. Where are they going to go?

And so that is something that you owe the community.

MR. GLASGOW: Do you want to address that, Mr. Slade?

MR. SLADE: Yes. Ms. Renshaw, the intent is to route the trucks so that they have minimum impact on the residential community so that they'll come in and go out as that red line indicates, back from and back toward Connecticut Avenue.

Some of this traffic will be oriented to the north and some to the south. So they'll use the circle to arrive in the area and leave the area.

MS. RENSHAW: And you know that there is a truck weight restriction on Connecticut Avenue from the circle up to the Beltway?

MR. SLADE: Yes.

MS. RENSHAW: And so they're going to be going over to Wisconsin Avenue and out?

MR. SLADE: They'll have to follow the truck routing the Montgomery County and the District of Columbia imposes.

MS. RENSHAW: And you know of the very sensitive issue about routing trucks down Military Road.

MR. SLADE: Certainly, a safety issue.

MS. RENSHAW: Yes.

MR. SOCKWELL: Mr. Graae, just a couple of quick questions.

CHAIRPERSON CROSS REID: Slade.

MR. SOCKWELL: No, Mr. Graae.

CHAIRPERSON CROSS REID: Oh, the architect.

MR. SOCKWELL: Yes. Will there be any underpinning?

MR. GRAAE: Yes, there will be some limited underpinning. There will be a limited amount of underpinning associated with this exposure underneath the Roache building, nothing that really will be impacted, you know, from the standpoint of outside construction. It's going to be underpinned from inside, underneath the existing first floor which is now unexcavated.

It's a suspended floor slab, but there's a crawl space under it.

MR. SOCKWELL: There won't be any cross-traffic between students at the school and construction workers?

MR. GRAAE: The construction plan is set up to separate, completely separate the in-going and outgoing construction from the incoming and outgoing student population.

MR. SOCKWELL: And the proposed structural system for the additions will be steel?

MR. GRAAE: Yes, primarily a steel building. The portion over the Roache Center will be a steel structure. The infill between the convent and the school will be a combination of steel and masonry load bearing walls.

I would say that I think the current schedule calls for much of the nastiest construction, if you will, to happen during the summer period when, in fact, school is not in session. So we're hoping to get a lot of that out of the way.

MR. SOCKWELL: All right. The issue that I was going to bring forth with that was the staging of trucks in the alley means that there's a likelihood that you're going to have some tractor trailer traffic through that alley as opposed to just dumptrucks, and there's a significant difference in the maneuverability of such vehicles and the impact of such vehicles on maintaining the alley open to other traffic.

So hopefully those things can be staged so that they don't impede or use the alley.

MR. GRAAE: I think that that information, along with some of the other details that have been brought up here, that we may not have as definitive

answers for right now I think we'll come back to the ANC and give them a very thorough walk-through or ride-through, if you will, on how the sequence of construction will be handled and how to assure public access to public streets and alleys.

MR. SOCKWELL: All right. Because, as well, those are going to impact Quesada Street because of the turning radii of such vehicles being quite significant and, as well, Chevy Chase.

So I just wanted to bring those up.

CHAIRPERSON CROSS REID: Okay. Thank you.

That concludes your presentation?

MR. GLASGOW: It concludes the direct presentation.

CHAIRPERSON CROSS REID: All right.

MR. GLASGOW: Thank you.

CHAIRPERSON CROSS REID: Was there more than one person that asked for party status?

Okay. Did you wish to cross examine any of these witnesses?

MR. WELLBORNE: No.

CHAIRPERSON CROSS REID: Just if it's no, then --

MR. WELLBORNE: No.

CHAIRPERSON CROSS REID: Okay. Thank you.

ANC? Is the ANC represented here today?

All right. Any other government reports?

MS. RENSHAW: We can say that we have in our file, Madame Chair, a letter from the ANC-3G Vice Chair, Jeffrey Norman, dated March the 3rd, 2000. It was publicly announced. A quorum was present, The correct vote is actually six to zero to one. I want to point that out.

There was no opposition. The Commissioners decided unanimously to support with modifications that the starting time be 7:00 a.m. rather than 6:00 a.m., and that the construction foreman will make and save photocopies of all truck driver permits for all delivery, trash, and hauling activity, which is a very significant request and a very important one.

And with those, the vote was taken, and it was, again, six to zero to one.

CHAIRPERSON CROSS REID: Ms. Renshaw, do you know whether or not there was any agreement germane to these particular requests coming to the ANC?

MS. RENSHAW: I believe, yes, there was agreement that those two would be met.

CHAIRPERSON CROSS REID: Were these proffered as conditions perhaps?

MS. RENSHAW: Yes, they are.

CHAIRPERSON CROSS REID: And that would be the starting time?

MS. RENSHAW: Would be 7:00 a.m. rather than 6:00 a.m., and that the construction foreman is to make and save copies of all truck driver permits for delivery, trash, and hauling activity.

MR. GLASGOW: and I believe those are reflected in Exhibit K on page 2 under Paragraph D where it talks about work hours. This document was, I think, filed the day after the ANC hearing, the public meeting.

And then in Paragraph G --

CHAIRPERSON CROSS REID: Wait a minute. Under K.

MR. GLASGOW: Yes.

CHAIRPERSON CROSS REID: In the management plan, management policies.

MR. GLASGOW: That's correct.

CHAIRPERSON CROSS REID: Under hours, you say?

MR. GLASGOW: That's correct.

CHAIRPERSON CROSS REID: Where is that? Number D? Okay.

MR. GLASGOW: Okay. Paragraph D.

CHAIRPERSON CROSS REID: All right, now --

MR. GLASGOW: "Work Hours. Construction shall be limited to the hours 7:00 a.m. to 5:00 p.m."

CHAIRPERSON CROSS REID: Okay.

MR. GLASGOW: So that was --

CHAIRPERSON CROSS REID: Does it refer to the photocopies?

MR. GLASGOW: Yes. That's in Paragraph G, the last sentence.

CHAIRPERSON CROSS REID: I see. Okay. Got you.

All right. Thank you. Thank you, Ms. Renshaw.

They will be afforded the great weight to which they're entitled.

Persons and parties in support? Now you're in support, right?

MR. WELLBORNE: Well, that may --

CHAIRPERSON CROSS REID: A qualified support?

MR. WELLBORNE: A qualified support.

CHAIRPERSON CROSS REID: Okay. Then we ask that you come up now.

And if you will allow him, rather than your trying to go back with so many people in here, just allow him to come up and give his testimony, and then

we'll go to opposition. I don't think there's anyone here in opposition, and then closing remarks.

MR. WELLBORNE: Thank you, Madame Chairman. I'm going to be very brief.

Just a couple of preliminary --

CHAIRPERSON CROSS REID: First give your name.

MR. WELLBORNE: Yes. I'm sorry.

CHAIRPERSON CROSS REID: And your address.

MR. WELLBORNE: My name is Clay Wellborne. I live at 5829 Chevy Chase Parkway, N.W., across the alley from the Roache Center. In fact, you can see a picture of my house in one of those photographs, I believe, if I looked at it correctly.

I'm separated from the Roache building by a 16 or 17 foot alley.

I've come to express concern primarily about the nighttime noise problem. As my letter mentioned, which you have in your file, back in 1963, when the Roache Center received the permit to proceed, the Board found that they did not anticipate any objectionable problems from that particular facility.

Over the years, there have been times when there have not been objectionable activities, but it's been our experience that things change from time to

time, and in fact, from time to time there have been intensely objectionable nighttime noises from the Roache building.

It varies. It varies depending on who's in charge. Monsignor, I think, has been very good, I think, in making a strong effort to be a good neighbor with regard to the immediate circumstances by agreeing to acoustical treatment of the gym, the multi-purpose room in the Roache building, and I'm grateful to him for that, and to the people who have been working with him.

We have worked closely together. We've discussed various treatments that can improve the situation, and the things that they propose in their statement, I think, will be a serious step toward overcoming much of the problem, and I'm grateful to them for that.

I do have to express a bit of concern for some of my other neighbors. I live along that long wall that has all of those windows in it, and those are the ones that they're proposing putting gaskets on and putting some additional panels on to reduce the transmission of sound through those rather thin membranes.

I know there's an issue about cost

involved. I do want to express for the record my concern for the neighbors across Chevy Chase Parkway, and I wonder if it would be appropriate to have the acoustical panels that can be closed over that side of the room as well. I raise that as an issue.

I think probably my own individual case will be ameliorated considerably by the panels and the other treatments along that long wall, but I did want to mention that on behalf of other neighbors.

The concern that I have is not so much with regard to the immediate management of Blessed Sacrament. They have recently behaved as some very good neighbors, and I'm grateful to them for that.

Monsignor did come to us. He did talk to us about the project. He has been responsive to concerns that my wife and I raised about the nighttime noise problem.

Over the long haul, I think it's important to think about changes, and for that reason, I think it's important that the Board establish as a condition the carrying out of the steps that, in fact, have been proposed by the Applicants. But I did want to register my concern about that.

I'd also like to comment with thanks to the comments raised by Mr. Sockwell about how you quantify

effectiveness. I know a little bit about acoustics, but not very much, but I do feel some concern about, you know, how do we know that we're doing what needs to be done.

I don't have the technical expertise to respond to that, but I do thank you, Mr. Sockwell, for raising that issue.

With regards to some other questions that have been raised during the presentation today, I had not really addressed any concern about the construction noise and the problem of trucks coming up the particular alley, which is right next to my house. This was an issue that Monsignor and I had not discussed. So, again, I'm grateful for the questions that the Board has raised about those because they are important.

I'm stressing the nighttime noise problem because that's a long term problem. The construction noise is going to last for a while, but it will go away eventually. It will be serious while it's there, but it will go away.

So my stress today is with regard to dealing with that long term problem of nighttime noise from the Roache building.

CHAIRPERSON CROSS REID: When you had your

discussions with the Applicant, I think I heard you say that you were satisfied with the discussions that resulted in some mitigation of the adverse impact to a certain extent.

MR. WELLBORNE: Well, that's correct. I mean, the things that they're proposing seem to me to be entirely reasonable.

CHAIRPERSON CROSS REID: Okay.

MR. WELLBORNE: Entirely reasonable.

CHAIRPERSON CROSS REID: All right.

MR. WELLBORNE: The proof of the pudding though, as you know, is in the tasting, and I don't have the technical knowledge to say that the specifics that they're proposing are, in fact, going to reduce the noise by 50 percent or even if 50 percent is the appropriate amount.

CHAIRPERSON CROSS REID: Well, they have agreed to provide this Board with, I guess, some analytical studies that would then reflect the extent of the mitigation compared to the existing problem and in comparison to the mitigation that they had proposed to see if, in fact, that would be adequate.

MR. WELLBORNE: Well, I'm confident that they have been and will continue to deal in serious good faith.

CHAIRPERSON CROSS REID: Okay.

MR. WELLBORNE: I see every evidence of that. I can't raise any question about that at all, and I'm sure that as we continue to discuss the problem, we'll be able to work out something that certainly makes a significant improvement in the situation.

CHAIRPERSON CROSS REID: And you have it on record.

MR. WELLBORNE: And I have it on record.

CHAIRPERSON CROSS REID: Okay.

MR. WELLBORNE: But, as I said at the outset, Blessed Sacrament has not always been a good neighbor, but I think they're trying to be --

CHAIRPERSON CROSS REID: But they're trying now.

MR. WELLBORNE: I think they're trying to be a good neighbor right now, and I really -- I thank them for that.

CHAIRPERSON CROSS REID: We appreciate that, too.

All right. Thank you very much for your testimony.

There's no one here in opposition?

All right. Closing remarks.

MR. GLASGOW: Just very briefly --

CHAIRPERSON CROSS REID: Excuse me. I didn't mean to -- determine if the Board members had any questions before you did your closing remarks.

Okay. Go ahead, Mr. Glasgow.

MR. GLASGOW: Just very briefly we believe that we have met our burden of proof. We appreciate the spirit in which Mr. Wellborne has participated with us in discussions to address his concerns about the nighttime noise.

We would like to get an approval as soon as possible so that we can take advantage of the time frames that we have for completing the construction and moving forward with the building addition.

And we have agreed that we would reduce the Board approved 1,015 students to 600 in connection with this application, and you've heard the other five conditions that we were agreeable to with Mr. Wellborne and have been put in the record.

With that I'd like to conclude my statement and request that the Board act on this case today if it's able to.

Thank you.

CHAIRPERSON CROSS REID: Board members?

MS. RENSHAW: Madame Chair, are you looking

for a motion? Is that --

CHAIRPERSON CROSS REID: Yes.

MS. RENSHAW: It is?

CHAIRPERSON CROSS REID: If, in fact, we feel we want to act on this, are we prepared for a motion today?

MS. RENSHAW: Well, I can make a motion, but I have a motion with conditions.

CHAIRPERSON CROSS REID: Well, it's with exception. So --

MS. RENSHAW: Right, but I can outline the conditions for you and --

CHAIRPERSON CROSS REID: Well, let's first of all make a motion, and then we can add the conditions.

MR. PARSONS: I move we approve the application.

MR. MOULDEN: I second.

MS. RENSHAW: All right. I'd like to add to the approval of this application the following conditions:

That, number one, the Polysonics Corporation letter, dated March 10, 2000, be entered as part of the record and be a part of the conditions, and that the Board of Zoning Adjustment will receive the

sound data that it has requested in advance of the order being written.

CHAIRPERSON CROSS REID: Excuse me. I don't know if --

MS. RENSHAW: Can we do that?

CHAIRPERSON CROSS REID: No. That is germane to a different -- to the parish. That's not germane to this particular application. That is something that they have agreed to do, you know, with the community.

MS. RENSHAW: That's right.

CHAIRPERSON CROSS REID: But --

MS. RENSHAW: But there are student activities in the Roache Center.

MS. SCANGO: Not as students.

MS. RENSHAW: But there are parish activities.

MS. SCANGO: The children function as parish activities in the evening.

MS. RENSHAW: But the school hours can extend into the evening.

MS. SCANGO: No, they're not school sponsored.

MS. PRUITT: Would you turn your mic on, please?

CHAIRPERSON CROSS REID: What we need to do is establish the hours of operation, condition it to the hours of operation, the days of operation, things like that that you may be able to --

MS. PRUITT: And you mean hours of operation for school use, but then --

CHAIRPERSON CROSS REID: For the school.

MS. PRUITT: -- the church has as a matter of right whatever else is left over.

CHAIRPERSON CROSS REID: Yes.

MS. RENSHAW: But I just want to point out that while the church has a matter of right, the church doesn't have a matter of right for the extension of noise into the neighborhood, and I know that Monsignor Duffy and the officials of the school understand that.

And so we are just --

CHAIRPERSON CROSS REID: But we can't regulate the church, Ms. Renshaw. That is not within our purview. The church is a matter of right, and they would have to be regulated using other methods than the BZA.

MS. RENSHAW: But the Board has heard the complaint of a neighbor about the nighttime noise, and we have that as part of the testimony today, even though it's not part of, germane to this case.

We are reflecting on this.

CHAIRPERSON CROSS REID: No, but still, the fact remains that what we have before us is this particular application, and whatever decisions we make have to be germane to this application.

MS. RENSHAW: Understood.

CHAIRPERSON CROSS REID: And if the church, on the other hand, the parish -- there is some adverse impact with the matter of right use, that's beyond our purview, and there are other means and methodologies that they would have to utilize to address that.

They have, however, on record agreed that they would mitigate or use the Polysonics Corporation, that they would -- maybe some of the adverse impact in regards to the noise. However, that's not, again, something that we could put in an order. They have just publicly stated and gone on record with that, but we can't have a condition in the order with that.

MS. RENSHAW: Well, we can just state that the noise be conditioned for the school hours, which are from 7:00 a.m. until 4:00 p.m. in the afternoon, or is it 5:00 p.m. in the afternoon?

CHAIRPERSON CROSS REID: Well, what noise are you referring to? From the school or the parents?

MS. RENSHAW: The school noise and now

construction noise, noise during construction.

CHAIRPERSON CROSS REID: All right. Now, the construction noise is something that is germane to this application, but that's a different condition, isn't it? The construction plan -- does the construction plan refer to the noise, Mr. Glasgow, noise mitigation?

MR. GLASGOW: No, it does not.

CHAIRPERSON CROSS REID: Well, I guess, on the other hand, too, I guess to what extent can you because there is some noise that is just given with construction.

MS. PRUITT: Madame Chair, as long as they're within what's allowed by DCRA --

CHAIRPERSON CROSS REID: Yeah.

MS. PRUITT: -- within those decibels, the Board really has no jurisdiction over that.

CHAIRPERSON CROSS REID: You can't really regulate that.

MR. PARSONS: Madame Chair, may I jump in here? It seems to me that what's in this Polysonics Corp. letter, which we could condition, which are architectural treatments, that that gets to the issue of noise whether it's two o'clock in the morning or three o'clock in the afternoon, and that's as far as we

can go, and that's the appropriate thing to condition our approval on.

MS. RENSHAW: All right.

MR. PARSONS: But not hours of operation of a church.

CHAIRPERSON CROSS REID: No, we can't do that. It's just that we can condition hours of operation of the school, but not the church, and we have to be very clear that we don't overstep our boundaries, but at the same time we try to be as fair as we can.

Yes?

MR. PARSONS: And let's not lose fact of this offer to reduce the -- to put a muffler on the horn. It's one of the most obnoxious sounds in the world is the horn in a gymnasium.

MS. RENSHAW: And also the air conditioning unit on the top of the building because that is an annoyance and can be heard blocks away. So we're glad that that is going to be muffled.

A further condition that, of course, the ANC-3G letter be given great weight regarding the modification of the start time, 7:00 a.m., and the photo --

CHAIRPERSON CROSS REID: That's in the

management plan.

MS. RENSHAW: Okay, and the photocopying of the license of truck drivers.

CHAIRPERSON CROSS REID: So do you want to include the condition that that include the management plan?

MS. RENSHAW: Yes. And then to make sure that there is no staging of any trucks in the alley, and that any renovation of the alley will be -- which is torn up during construction, is going to be at the Applicant's expense; that construction vehicles and other vehicles are not to impede the alley; that it has to be open for emergency vehicles and public access; that we recommend a series of fines to be considered as part of the construction agreement.

CHAIRPERSON CROSS REID: We can't do that.

MS. RENSHAW: Well, we can recommend that. We cannot impose.

CHAIRPERSON CROSS REID: Not as part of the order. We already did, but we can't put it in an order.

MS. RENSHAW: We can't strongly recommend?

CHAIRPERSON CROSS REID: In order for us to do that, then it would -- it would have to have a reinforcement aspect, which we don't have, and also we

don't have the authority to fine.

MS. RENSHAW: Well, we look to the applicant to include it, with the hope that the Applicant will enforce.

CHAIRPERSON CROSS REID: Well, we can suggest something to them.

MS. RENSHAW: I'm suggesting it to them.

CHAIRPERSON CROSS REID: I'm just saying that it can't go in the order.

MS. RENSHAW: Right. That truck traffic be staggered, and that they monitor the staggering of truck traffic; that half of the traffic goes via Wisconsin Avenue from Western Avenue to minimize the use of Military Road as the shortcut to the dumps in Prince George's County; that a project manager be available by phone in the evenings, too; and that it is suggested that there be no Saturday, Sunday or holiday work in consideration of the residential nature, aspect of this site.

CHAIRPERSON CROSS REID: Is that the management plan?

MS. RENSHAW: That is not in the management plan about no Saturday, Sunday, and holiday work.

CHAIRPERSON CROSS REID: Okay. Is that --

MS. RENSHAW: That Blessed Sacrament find

reasonable staging area for the staging of trucks and parking of construction workers' vehicles.

And then one final thing that I would strongly urge us to put into the condition, if we can, that blasting be removed from the construction policies because it is really extremely risky for a residential area, and especially risky for the church.

CHAIRPERSON CROSS REID: The blasting aspect of it, Ms. Pruitt, is that permissible?

MS. RENSHAW: It's in here. They may.

MS. PRUITT: I mean, I don't think the Board -- I mean in absence of a lot of information or the expertise, I don't think the Board really can make the judgment. That wasn't presented.

CHAIRPERSON CROSS REID: Oh, okay. Well, it's in the construction management plan that that would be from 8:30 to three o'clock, and I --

MS. RENSHAW: It says --

CHAIRPERSON CROSS REID: -- say that you want it to be eliminated?

MS. RENSHAW: Yes. It says on page 2 of the construction policies, number F, "Blasting. If required by soil conditions, blasting shall be limited to the hours of 8:30 a.m. to 3:00 p.m. All blasting shall follow the regulation of D.C. on blasting in a

residential zone."

But I have looked into this in a previous case, and I would not recommend that blasting be considered in this residential area.

CHAIRPERSON CROSS REID: The city, District of Columbia, is the authority that has the -- that that would basically be responsible for the --

MS. PRUITT: Monitoring.

CHAIRPERSON CROSS REID: -- monitoring, I guess, or if there's a violation of blasting. We don't. We can't.

MR. SOCKWELL: Madame Chair, if I might interrupt, the Fire Department controls the blasting where it takes place. I have no idea whether there's a rock formation that would affect the foundations of this project.

CHAIRPERSON CROSS REID: Yeah, you can't --

MS. RENSHAW: Oh, it's not only the Fire Department, but the Police Department get in on this, too, and DCRA, and I would just again recommend that it is not appropriate for this residential area --

MR. SOCKWELL: There would --

MS. RENSHAW: -- and so, therefore, say it.

MR. SOCKWELL: Ms. Renshaw, there would probably be no real option to blasting that would not

produce loud noises if there were such a soil anomaly, but I don't know that there is.

But I would like to change your condition regarding noise producing activities to state that no loud noise producing activities be allowed on Saturdays or Sundays as opposed to eliminating construction because at the time that the building is closed in, the contractors may wish to do work inside of the building that would be virtually unobtrusive to any neighbors, and that should be allowed.

MS. RENSHAW: This is the exterior that we're talking about. That's fine, but --

CHAIRPERSON CROSS REID: Okay. So dealing with the exterior.

MR. SOCKWELL: Yeah, so make it exterior.

MS. RENSHAW: But no Saturdays, Sundays, and holidays, please.

CHAIRPERSON CROSS REID: All right. Now, the previous order was the 13, and you're reducing that to 16 -- I mean to 600 students. So we're conditioning it on 600 students, and your hours of operation are?

MS. SCANGO: I guess the earliest would be seven o'clock. The earliest people who would be there would be staff. So seven to four is probably --

CHAIRPERSON CROSS REID: Seven to four,

Monday through Friday.

MS. SCANGO: Yes.

CHAIRPERSON CROSS REID: All right, and what are the ages?

MS. SCANGO: Kindergarten through eighth grade.

CHAIRPERSON CROSS REID: What are the ages?

MS. SCANGO: Of children?

CHAIRPERSON CROSS REID: Well, I guess it varies.

MS. SCANGO: Five to 14 maybe.

CHAIRPERSON CROSS REID: That's fine. Grades: kindergarten to eighth.

And we've talked about including a construction management plan.

Parking is not a problem because you have more than adequate parking space.

There is any other condition?

All right. I'd just like to mention that I also think that the Applicant has met its burden of proof in regard to Section 206 in the zoning regulations, and that the adverse impact -- there has been an attempt on the part of the Applicant to mitigate the adverse impact as we know it and as has been presented to us, and that I don't think the

granting of the application will impair the integrity or intent of the zoning regulations or map.

All in favor?

(Chorus of ayes.)

CHAIRPERSON CROSS REID: Opposed?

(No response.)

MS. PRUITT: Staff would record the vote as five to zero to approve, motion made by Mr. Parsons and seconded by Mr. Moulden.

CHAIRPERSON CROSS REID: And we also had asked for -- well, did we include that in the conditions regarding the staging area or a plan for --

MS. RENSHAW: I did in mine.

CHAIRPERSON CROSS REID: Okay. The conditions and the analyses of the noise management or the noise mitigation, that will be given to staff prior to the order being issued.

MS. RENSHAW: Could staff read back the conditions, Madame Chair?

CHAIRPERSON CROSS REID: She's going to. Yeah, she's going to read it back. She's going to record the vote and read it back.

MS. RENSHAW: Thanks.

CHAIRPERSON CROSS REID: Read all of the conditions back. All right.

MS. PRUITT: The conditions that I have are hours of operation from 7:00 a.m. to 4:00 p.m.; a maximum of 600 students. All architectural abatement proposed by Polycystic Corporation shall be incorporated. The traffic management plan shall be incorporated in the order as a condition. No staging of trucks in the alley. Allies to remain open at all times for vehicles. There should --

CHAIRPERSON CROSS REID: Emergency vehicles.

MS. PRUITT: Emergency vehicles.

Monitoring of truck traffic. No outside construction Saturday, Sundays, and holidays, and no -- yes. I'm sorry. That's what I've gotten.

MR. SOCKWELL: May I get a clarification of something, please? Staging of trucks in the alley versus obstructing the alley with trucks are two different things, and I want to be very clear that we're not forcing the trucks out into the street where they will cause a much greater impact.

I believe that that condition was intended to be no obstructing the alley with trucks.

MS. RENSHAW: Well, actually I did say no staging of trucks in the alley because I did not feel that that is going to be a suitable area for staging of

trucks.

CHAIRPERSON CROSS REID: All right.

MR. SOCKWELL: The question is one of management of the alley operation, and I think that in this case to force the trucks out in the street will cause more havoc on traffic flows than will the proper staging of trucks using the alley as required.

And it's an important thing.

MS. RENSHAW: I think we have to keep in mind, again, where this alley is located, and I do not want to put the burden on the residents of having the noise generating from a very narrow area in an alley, and I think that it is better staged on the street. We're going to have to accommodate those trucks on the street, but they should not be staged or parked or any way causing that alley to be blocked off.

MR. WELLBORNE: May I make a statement?

CHAIRPERSON CROSS REID: Nope. I'm sorry. We cannot. That segment for testimony has now passed, and we are about to wrap this.

Any other comments?

MS. PRUITT: Madame Chair, I'm still unclear as to exactly which condition the Board is requesting.

CHAIRPERSON CROSS REID: Which?

MS. PRUITT: Well, one was no staging of trucks in the alley. Then I got it amended to say no obstructing of trucks in the alley; is that correct? I want to be sure I have it correct.

CHAIRPERSON CROSS REID: Staging or obstruction?

MS. RENSHAW: It's not staging and no obstructing, both.

CHAIRPERSON CROSS REID: All right.

MS. PRUITT: Okay. I just wanted to be --

CHAIRPERSON CROSS REID: That covers it all.

MS. PRUITT: Thank you.

MS. RENSHAW: And also the project manager available by phone, do we have that? Because it's not clear that he's going to be available by phone in the evening.

CHAIRPERSON CROSS REID: By phone to?

MS. RENSHAW: To the residents because --

CHAIRPERSON CROSS REID: I don't know if we can do that. Perhaps --

MS. RENSHAW: In the construction agreement, in the construction agreement --

MS. PRUITT: A liaison person --

CHAIRPERSON CROSS REID: I'm sorry.

MS. PRUITT: -- who could then get in touch with the project managers as necessary.

CHAIRPERSON CROSS REID: Yeah. We don't want to have the whole community calling the --

MS. RENSHAW: There has to be a way to reach the church officials and the construction manager should anything be amiss.

CHAIRPERSON CROSS REID: Okay. Was that in the management plan? Because if it i in the management --

MS. PRUITT: No, I was just suggesting that a liaison be established who would handle --

CHAIRPERSON CROSS REID: Yes.

MS. PRUITT: -- any community concerns, whether they go to the parish --

CHAIRPERSON CROSS REID: Okay.

MS. PRUITT: -- or to construction.

CHAIRPERSON CROSS REID: Yes, let's do that.

MS. PRUITT: As opposed to having --

CHAIRPERSON CROSS REID: Yeah. Then if they have any concerns, Ms. Renshaw, it could be funneled through that liaison.

MS. RENSHAW: That's right.

MS. PRUITT: It is in the plan, Madame

Chair.

CHAIRPERSON CROSS REID: It is? Okay.

MS. RENSHAW: It does not say evenings. It's not specific.

MR. SOCKWELL: What would be --

MS. PRUITT: You could make it say -- I'm sorry.

MR. SOCKWELL: Let me ask. What would the concern be for the evening specifically, aside from --

MS. RENSHAW: Generator noise, for one thing.

CHAIRPERSON CROSS REID: It could be any number of things, but we don't know.

MR. SOCKWELL: I mean my question would be you said 24 hours, did you say, or what did you say?

MS. RENSHAW: It should be in the evenings. Someone needs to be available to the community in the evenings through a liaison.

CHAIRPERSON CROSS REID: Did it say?

MR. SOCKWELL: As opposed to at all times from --

CHAIRPERSON CROSS REID: Did it specify as to hours?

MR. SOCKWELL: -- the construction --

MS. RENSHAW: It's just construction.

MR. SOCKWELL: No, I mean as opposed to all times when construction is underway?

In other words, when the site is shut down for the night, need there be anyone other than a guard present on the site for community liaison?

MS. RENSHAW: A guard is fine, but what I'm saying is that after hours, there needs to be a way to reach the officials in case something happens, such as the generator malfunctions and you need --

CHAIRPERSON CROSS REID: Some emergency.

MS. RENSHAW: Some emergency, and it happens.

CHAIRPERSON CROSS REID: Well, that can be handled through the liaison.

MS. RENSHAW: Exactly.

CHAIRPERSON CROSS REID: If, in fact, that's necessary.

All right. Mr. Glasgow, you were going to say something?

MR. GLASGOW: Just we had agreed with Mr. Wellborne to have five conditions in the order, and I want to make sure just that --

CHAIRPERSON CROSS REID: All right. Make sure that --

MR. GLASGOW: -- that those five that I --

CHAIRPERSON CROSS REID: Okay, and they are?

MR. GLASGOW: -- that I read earlier into the record, and I can coordinate that with Ms. Pruitt.

CHAIRPERSON CROSS REID: Okay.

MR. GLASGOW: Those are already read into the record.

CHAIRPERSON CROSS REID: All right.

MR. GLASGOW: And I want to make sure, pursuant to our agreement --

CHAIRPERSON CROSS REID: Right.

MR. GLASGOW: -- that those five are there.

CHAIRPERSON CROSS REID: Okay. All right. Thank you.

Can we now? All right. Then your summary order should be forthcoming in a couple of weeks. All right?

Thank you very much. That will then conclude this morning's hearing.

All right. Now, yeah, for the afternoon, those of you who are here for the Jewish Day School, obviously we just finished this morning. So it's a good thing that you did get a chance to leave and some back. At least you got some relief.

And I just wanted to make sure that we

indicated for those who have come for the Field School, that that has been postponed. So the only thing we'll have this afternoon is the Jewish Day School and -- Primary Day School, and we will reconvene at two o'clock.

MS. PRUITT: Madame Chair, just if there is somebody here for the Field School, that's been continued to March 29th.

CHAIRPERSON CROSS REID: All right. Is there anyone here for the Field School? That has been continued.

MS. PRUITT: To March 29th at 9:30.

CHAIRPERSON CROSS REID: All right. Thank you very much. Two o'clock.

(Whereupon, at 1:44 p.m., the hearing was recessed for lunch, to reconvene at 2:00 p.m.)

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

(2:14 p.m.)

CHAIRPERSON CROSS REID: Good afternoon. The hearing will please come to order.

Ladies and gentlemen, this is the March 15th public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Shield Cross Reid, Chairperson. Joining me to day is Robert Sockwell and Anne Renshaw. Representing the National Capitol Planning Commission is Rodney Moulden, and representing the Zoning Commission is Mr. John Parsons.

The topic of today's hearing is available. They're located to my left near the door.

All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us.

Upon coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right.

The order of procedure for special exception in variances is statement of witnesses of the Applicant; government reports, including Office of Planning, Department of Public Works; before the

Advisory Neighborhood Commission, ANC; parties or persons in support; parties or persons in opposition; closing remarks by the Applicant.

Cross examination of witnesses is permitted by the Applicant or parties. The ANC within which the property is located is automatically a party in the case.

The record will be closed at the conclusion of each case, except for the materials specifically requested by the Board, and the staff will specify at the end of the hearing exactly what is expected.

The decision of the Board in these contested cases must be based exclusively on the public record. To avoid any appearance to the contrary, the Board requests that persons present not engage member of the Board in conversation.

Please turn off all beepers and cell phones at this time so as not to disrupt these proceedings.

The Board will make every effort to conclude the hearing by six o'clock p.m. If the Applicant's case is not completed by six o'clock p.m., the Board will set when they can complete the pending case or cases remaining on the agenda.

At this time, the Board will now consider any preliminary matters. Preliminary matters are those

which relate to whether a case will or should be heard today, such as requests for postponement, continuance or withdrawal, or whether proper and adequate notice of the hearing ha been given.

If you're not prepared to go forward with a case today, or if you believe that the Board should not proceed, now is the time to raise such a matter. That includes the issues of party status.

Staff, do you have any preliminary matters before we proceed?

MS. PRUITT: No preliminary matters except for the party status that has been requested that's in your folder, unless you would like to deal with the timing.

CHAIRPERSON CROSS REID: I would.

MS. PRUITT: Okay. The Board has, under its new regulations, has imposed time limits, and just to give you a quick overview -- and of course, the Board has the right to waive or change the time limits as it deems necessary -- the Applicant should get 60 minutes. Parties, all parties in opposition get a total of 60 minutes. It is for the parties to determine how they will divvy up that 60 minutes. Groups will get three -- excuse me -- ten minutes, individuals three minutes.

We will be timing. If you look in both corners, there will be a clock, and it will tick down, and there will be a little buzzer to help remind you.

CHAIRPERSON CROSS REID: In regard to cross examination, we ask that you limit your questions to the issues that are germane to the testimony that was presented here today, and that you not ramble and use a series of questions to get to your point.

This is not a regular courtroom where -- a court proceeding where you see -- you don't have to act as if it's "Perry Mason" and you have to ask all of these lead questions to get to your main question. What you want to do is just cut straight to the chase and ask whatever you want to ask specifically.

You cannot testify during your cross examination, meaning that you don't give us any information. Save that for the time that you will be given, and that is either in opposition or in support. You will have an opportunity to speak, but the cross examination questions are only to be specifically for that particular segment when you are addressing questions to the witness predicated upon their testimony.

Okay? All right. Now, preliminary matters.

MR. HARRISTON: We need to know parties first.

CHAIRPERSON CROSS REID: All right. You were to tell me, remember?

MR. HARRISTON: No.

CHAIRPERSON CROSS REID: You all were to go and discuss among yourselves.

MR. HARRISTON: Let me repeat then.

CHAIRPERSON CROSS REID: Okay.

MR. HARRISTON: Madame Chairman, I'm Joe Harriston, Chairman of the ANC-4A.

Per your instructions, we discussed the matter. It is our position that all of the persons requesting parties are unique. This matter is presented to us in the most horrible fashion. We have two synagogues on either side of the street which are separate parties in and of themselves, and we have a school. There are really three parties.

So the position of the parties in opposition will vary according to which party is being presented. At this point, we are very confused as to who the parties are on the application. The application was signed by a representative of Wilkes, Artis initially, and now we have another attorney in the area. I'm not sure how that got in there.

We don't know who the parties are in the application.

CHAIRPERSON CROSS REID: You mean you don't know who the applicant is.

MR. HARRISTON: That's right.

CHAIRPERSON CROSS REID: All right. So you want that to be clarified.

MR. HARRISTON: Well, I want that to be clarified, but we're requesting party status for all that have requested it because there are really three parties here, and you can't really -- you can't --

CHAIRPERSON CROSS REID: Well, what three parties are you referring to, sir? Do you mean three Applicants?

MR. HARRISTON: The parties on the Applicant's side are each of the synagogues and the school. Now, the parties in opposition have a right to oppose each of those severally and collectively.

CHAIRPERSON CROSS REID: Okay. Wait one second. Let me get a clarification of this. Okay?

Could you please respond?

MS. DOBBINS: Madame Chair, Madeliene Dobbins responding.

Your application process requires that the owners of property sign the application. Those

applications have been signed on behalf of the Jewish Primary Day School.

The Jewish Primary Day School has stepped in the shoes of both synagogues today, and the Jewish Primary Day School is the only applicant for purposes of this application.

CHAIRPERSON CROSS REID: And the Applicant -- the relief that's requested is for?

MS. DOBBINS: A private school.

CHAIRPERSON CROSS REID: And that consists of two synagogues?

MS. DOBBINS: The location would be two synagogues that are across the street from each other on 16th Street.

CHAIRPERSON CROSS REID: But it's one application?

MS. DOBBINS: One school.

CHAIRPERSON CROSS REID: All right.

MS. DOBBINS: A portion of the school would be housed at one synagogue, K through three, and the other portion of the school, four to six, would be housed at another synagogue, but it's only one school, the Jewish Primary Day School.

CHAIRPERSON CROSS REID: Two sites.

MS. DOBBINS: In two sites.

CHAIRPERSON CROSS REID: And the sites are across the street from each other?

MS. DOBBINS: That's correct.

CHAIRPERSON CROSS REID: All right. Now, that being the case --

MR. HARRISTON: But let me --

CHAIRPERSON CROSS REID: -- it's in the same community.

MR. HARRISTON: No, let me clarify something else.

CHAIRPERSON CROSS REID: All right.

MR. HARRISTON: The site of one of those schools is in R-1-A and the other one is R-1-B.

CHAIRPERSON CROSS REID: No, that's not uncommon.

MR. HARRISTON: But it is for us.

CHAIRPERSON CROSS REID: It's not uncommon.

MR. HARRISTON: It is for the parties in opposition.

CHAIRPERSON CROSS REID: Okay, but that doesn't -- but what you want to -- what you are here for is to oppose the application. All right? It matters not how many sites the application consists of, but you want -- you're opposing the application, and that is what this particular hearing is going to be

germane to today.

MR. HARRISTON: We take exception to your point. Now, you tell us who you've declared has party status.

CHAIRPERSON CROSS REID: Now --

MR. HARRISTON: Then we will apply next.

CHAIRPERSON CROSS REID: Now, again, we are getting a little confused with the terminology. We have an Applicant.

MR. HARRISTON: Right.

CHAIRPERSON CROSS REID: And then we have those that oppose.

MR. HARRISTON: Right.

CHAIRPERSON CROSS REID: Now, the people who are here to oppose will have the opportunity to testify in opposition. Those people who receive party status is a special category of persons who are uniquely affected by the property, unlike the other people in the community or the neighborhood, and these people also have the right to cross examine.

MR. HARRISTON: Yes, we understand that.

CHAIRPERSON CROSS REID: Now, we just cannot have 30 people cross examining.

MR. HARRISTON: I don't believe --

CHAIRPERSON CROSS REID: So I ask --

MR. HARRISTON: I don't believe we have 30 people that have asked for party status.

CHAIRPERSON CROSS REID: Well, quite a few, and I ask that since -- and in looking at the submission, there were several formal letters from the various people who basically had the same concerns, and I asked that they be condensed and have one spokesperson speak for that group.

MR. HARRISTON: We heard you, and now I'm putting the ball back in your court. Who, based on the Board's determination, who have you granted party status?

CHAIRPERSON CROSS REID: We haven't done it yet, and you didn't --

MR. HARRISTON: But we're asking you to do that.

CHAIRPERSON CROSS REID: Okay.

MR. HARRISTON: And then I'll have a next point.

CHAIRPERSON CROSS REID: All right. You did not -- you did not caucus?

MR. HARRISTON: We did.

CHAIRPERSON CROSS REID: And you did not come up with a spokesperson?

MR. HARRISTON: I want a ruling first.

CHAIRPERSON CROSS REID: No.

MR. HARRISTON: What's your ruling?

CHAIRPERSON CROSS REID: I cannot --

MR. HARRISTON: Madame Chair --

CHAIRPERSON CROSS REID: -- do that until I know what, in fact, you did.

MR. HARRISTON: -- here's my point. Here's my point. As you well know, the ANC cannot appeal. Only the party, only the persons granted party status can appeal. It's important to the parties, and they all in our discussion indicate from their perspective they have a unique point.

Now, your judgment and their judgment differ.

CHAIRPERSON CROSS REID: Right.

MR. HARRISTON: So to preserve the record, we are requesting that those on the opposition side requesting party status be granted party status.

CHAIRPERSON CROSS REID: All right, and --

MR. HARRISTON: And when we get a ruling on that, then I'll have something else.

CHAIRPERSON CROSS REID: But I've already given you a ruling on that earlier today. I said that we're not going to grant all those people party status.

MR. HARRISTON: Who will you grant party

status to?

CHAIRPERSON CROSS REID: Well, we come to that juncture now, and now that you have not designated those persons who you have decided among yourselves you wanted to be granted party status to speak on behalf of the group --

MR. HARRISTON: Let me just --

CHAIRPERSON CROSS REID: -- if you don't have anyone like that --

MR. HARRISTON: Let me consult with my co-counsel here for a minute.

(Pause in proceedings.)

MR. HARRISTON: We are prepared to state that who we will want to be party spokesmen, three individuals now.

CHAIRPERSON CROSS REID: All right.

MR. HARRISTON: We're not going away from our matter for the record, namely, that we request party status for all who have filed for party status on the basis their positions are unique.

Now, for the spokesmen, we are suggesting Mr. Humphries, who the ANC has already included in their filing.

CHAIRPERSON CROSS REID: Who is Mr. Humphries?

MR. HARRISTON: Right here.

CHAIRPERSON CROSS REID: Okay.

MR. HUMPHRIES: Derrick Humphries.

CHAIRPERSON CROSS REID: And, Mr. Humphries, you have applied for the party status through an application?

MR. HARRISTON: As an individual.

MR. HUMPHRIES: As an individual.

CHAIRPERSON CROSS REID: And you have submitted a letter?

MR. HUMPHRIES: Yes, I have. It was submitted, and I live at 1428 Juniper Street, N.W.

CHAIRPERSON CROSS REID: All right.

MR. HARRISTON: Now, he's also included --

CHAIRPERSON CROSS REID: Wait.

MR. HARRISTON: -- in the ANC application.

CHAIRPERSON CROSS REID: Wait, wait, wait.

MR. PARSONS: The ANC response.

CHAIRPERSON CROSS REID: Wait a second, please.

Sir, give me your name again.

MR. HUMPHRIES: Humphries, H-u-m-p-h --

CHAIRPERSON CROSS REID: What's your first name?

MR. HUMPHRIES: -- r-i-e-s. Derrick.

CHAIRPERSON CROSS REID: Derrick Humphries.

MR. HUMPHRIES: D-e-r-r-i-c-k.

CHAIRPERSON CROSS REID: Okay. Do we have a letter from Derrick Humphries?

MS. PRUITT: Yes, we do, Madame Chairman.

CHAIRPERSON CROSS REID: All right, okay.

PARTICIPANT: Number 75.

CHAIRPERSON CROSS REID: All right, and then --

MR. HARRISTON: The next is Philip Hampton. Is it Philip? Right here.

MR. HAMPTON: Phil Hampton.

CHAIRPERSON CROSS REID: Okay.

MR. HARRISTON: Phil Hampton.

CHAIRPERSON CROSS REID: Hampton and Audrey Little?

MR. HAMPTON: Yes.

CHAIRPERSON CROSS REID: All right.

MR. HARRISTON: And the last person is Harold Bardonille.

CHAIRPERSON CROSS REID: Okay. Now, three persons that you have decided upon, have you all agreed among yourselves are -- are they representing themselves as individuals or are they speaking on behalf of a group?

MR. HARRISTON: They are --

CHAIRPERSON CROSS REID: Any one of them.

MR. HARRISTON: They are speaking on behalf of a group.

CHAIRPERSON CROSS REID: The group being?

MR. HARRISTON: The various people that you have not accepted as party status, which we think you should.

CHAIRPERSON CROSS REID: I think we're pretty clear on that.

MR. HARRISTON: Well, I want to make sure the record says it.

CHAIRPERSON CROSS REID: I'm sure it'll say it about five or six times now.

Okay, all right. So all three of you are going to speak on behalf of the group, right?

MR. HARRISTON: Well, they're -- Mr. Humphries and I will be speaking on behalf of the ANC.

CHAIRPERSON CROSS REID: Sure. The ANC as you know is automatically. I mean the ANC --

MR. HARRISTON: Right, but I want to make sure you understand that he really has a dual status.

CHAIRPERSON CROSS REID: That's all right. If he's going to be -- if you're going to be cross examining on the part of the -- on behalf of the ANC,

then --

MR. HARRISTON: He will, too. We will share that role. If you'll notice in the ANC filing, I listed Harriston, Sloan, Jones, Brown, and Humphries.

CHAIRPERSON CROSS REID: As what?

MR. HARRISTON: In that paragraph where you say, "Who will be speaking on behalf of the ANC?" That's --

CHAIRPERSON CROSS REID: Oh, you mean testifying.

MR. HARRISTON: Yes.

CHAIRPERSON CROSS REID: During your segment. Okay. Well, the ANC has --

MR. HARRISTON: We will be presenting the ANC's case.

CHAIRPERSON CROSS REID: Okay. How long does the ANC have?

MS. PRUITT: All government agencies, and the ANC is considered like a government agency, has no time limit. No time limit.

CHAIRPERSON CROSS REID: Okay.

MR. HARRISTON: We understand that.

CHAIRPERSON CROSS REID: Okay. So --

MS. PRUITT: Just reasonableness.

MR. HARRISTON: We're reasonable.

CHAIRPERSON CROSS REID: All right. So you don't have a time limit. So --

MR. HARRISTON: We're infinitely reasonable.

CHAIRPERSON CROSS REID: Okay, okay. That's fine. All right.

So now is there anyone else who --

MS. DOBBINS: Madame Chairperson, I have a question.

CHAIRPERSON CROSS REID: All right.

MS. DOBBINS: About the discussion. It's Madeliene Dobbins.

It's my understanding that parties so far will be the Applicant, a group that's an opposition group, one party with three representatives or three spokespersons.

CHAIRPERSON CROSS REID: Well, it's not quite that simple.

MR. HARRISTON: No, it is not.

CHAIRPERSON CROSS REID: It appears it is three people who have elected to speak on behalf of the other persons who are not going to be granted party status, and how that's going to be divvied up, I'm not really sure. We'll see.

MS. DOBBINS: But are they considered a

party?

CHAIRPERSON CROSS REID: The opposition -- no. Oh, I see, individual party status.

MS. DOBBINS: Yes.

CHAIRPERSON CROSS REID: No. No, no, no. Excuse me. You're asking for party status for each person. Yes.

MR. HARRISTON: Right.

CHAIRPERSON CROSS REID: I correct myself.

MR. HARRISTON: That's right.

CHAIRPERSON CROSS REID: They have asked for individual party status, and each of them are going to be representing, I guess, a segment of the group.

MR. HARRISTON: Right.

CHAIRPERSON CROSS REID: I suppose.

MR. HARRISTON: Yes.

CHAIRPERSON CROSS REID: Okay?

MS. DOBBINS: So we have three parties in opposition so far.

CHAIRPERSON CROSS REID: Three parties in opposition so far. The ANC is also a party.

MS. DOBBINS: Well, four.

CHAIRPERSON CROSS REID: Who's the fourth one?

MS. DOBBINS: The ANC.

MR. HARRISTON: The ANC.

CHAIRPERSON CROSS REID: Well, the ANC. All right.

Now, what I'm trying to find out, does that answer your question?

MS. DOBBINS: I think. I may have to --

CHAIRPERSON CROSS REID: Come back?

MS. DOBBINS: Yes.

CHAIRPERSON CROSS REID: Okay. Once you digest it.

MS. DOBBINS: After we finish with this.

CHAIRPERSON CROSS REID: Okay. Now, the other thing is is there anyone else who does not fall in that special letter of party status request that was submitted to us in the form letter, who is not being represented by these three parties that requested status, like the young lady who came up earlier and had -- she had a special -- what was her name?

PARTICIPANT: Jan.

CHAIRPERSON CROSS REID: Jan Grey?

PARTICIPANTS: John Grey.

CHAIRPERSON CROSS REID: No, it was --

MR. HUMPHRIES: John Grey (phonetic).

MS. PRUITT: Jan Grey.

CHAIRPERSON CROSS REID: Jan.

MR. HUMPHRIES: It's spelled J-a-n and it is pronounced "John."

CHAIRPERSON CROSS REID: Oh, all right. Jan Grey, is she still here?

MS. GREY: Yes.

CHAIRPERSON CROSS REID: All right. Now, are you being represented now by one of these gentlemen?

All right. Come forward. Are you still requesting party status?

MS. GREY: Well --

CHAIRPERSON CROSS REID: Speak into the mic. Speak into the mic.

MS. GREY: I'm sorry. I'm sorry, Madame Chairman. I'm not well versed on the BZA matters.

CHAIRPERSON CROSS REID: That's okay.

MS. GREY: If I am granted party status, does that affect the 60 minute requirement? I mean I thought you said that the three spokespersons would have to speak within the 60 minutes. So I would be taking time away from those three members, correct?

CHAIRPERSON CROSS REID: Then they would have to take, you know, 15 minutes a piece, wouldn't they?

MS. GREY: I guess my concern is -- and I

think this is the concern of the residents -- is that we want the ability to be able to take further action in the event that there's an adverse decision.

CHAIRPERSON CROSS REID: Okay, but my question then is --

MS. GREY: And we want our names to be able to be listed on a filing saying, "I'm" --

CHAIRPERSON CROSS REID: Your names are going to be listed as a party in this proceeding as persons in opposition, anyone who has submitted a letter or come to testify here today. It will become a matter of record of this particular application, but excuse me.

My question to you is: do you feel that your concerns can be adequately represented by one of the three persons who have applied for party status so far? I'm sure you all talked.

MS. GREY: No, I do not.

CHAIRPERSON CROSS REID: So then you want to have --

MS. GREY: But I feel that there's other members here also that unfortunately that same thing applies to. I know of one or two in particular.

MR. HAMPTON: Excuse me, Madame Chair. You want to cut to the chase, right?

CHAIRPERSON CROSS REID: Un-huh.

MR. HAMPTON: You want to cut to the chase. What we have proposed as neighbors is that every neighbor who has submitted a letter and requested party status be granted party status, and that Mr. Humphries, myself, and Mr. Bardonille would be the only three people allowed to cross examine, but that within our hour, we would be able to call like Ms. Grey, and she could speak for three minutes, and then they could cross examine her, et cetera, so that there would be some management to this whole procedure.

I mean your concern is that if you had 11 or 15 people with party status, that 15 people would get up and cross examine.

CHAIRPERSON CROSS REID: Un-huh.

MR. HAMPTON: But we have decided that because -- to try to help you out, that there would only be three what we call spokes people or managers.

CHAIRPERSON CROSS REID: Yeah.

MR. HAMPTON: But that everyone still has party status on the record. So let's say that at the end of the day I don't want to appeal, but Ms. Grey does. Ms. Grey should have the ability to appeal whatever decision to the Court of Appeals of the District of Columbia.

So, again, we're requesting that everyone be granted party status, but that the people who have been granted party status in opposition agree to three spokes people that will be the ones to do all of the cross examining.

CHAIRPERSON CROSS REID: Well, let me understand this. The only reason -- are you saying that primarily the reason why you're asking for party status is so that you can have the right to appeal?

MR. HAMPTON: Yes.

MS. GREY: Individually.

CHAIRPERSON CROSS REID: Well, yeah. Cross examination is a given, but it seems to me that the overriding concern is the ability to appeal.

Well, even if you appeal, you're not going to have 30 people appealing.

MR. HAMPTON: But let's say you only have -- that Mr. Humphries and I are the only named parties, people with party status.

CHAIRPERSON CROSS REID: Okay, but --

MR. HAMPTON: And we decide not to appeal, but there are other neighbors, such as Ms. Grey, who wanted to appeal for whatever reason. Because she had party status she could appeal, but Derrick and I might not want to appeal. So she does not --

CHAIRPERSON CROSS REID: All right.

MR. HAMPTON: -- want her right precluded.

CHAIRPERSON CROSS REID: Okay.

MS. DOBBINS: And, Madame Chair, we would object to that because that means the Board would need to, in fact, go through each request and determine whether that request is unique and meets the criteria for party status.

CHAIRPERSON CROSS REID: Yes.

MR. HAMPTON: Which you should have done that.

CHAIRPERSON CROSS REID: Ms. Pruitt, were you saying something?

MS. PRUITT: I did, for the record, pass out what was mailed to everybody, which is the new Section 3106.3, which delineates, and I believe everybody should have gotten this if you received a mail notice.

MS. GREY: Madame, I received a mail notice. In fact, that's how I found out about the whole application, is from your guy's mail notice.

CHAIRPERSON CROSS REID: All right.

MS. GREY: And I did not receive that. The reason I received that is because I came down on March 1st and personally filed my application, my letter of

opposition. At the time I got that from Linda, I remember her -- I can't remember her last name.

MS. PRUITT: Ms. Keltzer.

MS. GREY: Ms. Keltzer, and I filed my letter of opposition at approximately 4:51, stayed here until five o'clock, which, you know, I don't mean to dismay you, but I stayed until the office closed, the BZA office closed on March 1st. So it's pretty surprising to me to see a further letter filed on 6:45 that day on March 1st, but I did not get that in my mailing. I only received that because I actually walked my letter in.

MS. PRUITT: Well, we do apologize, but it is the office's policy, and with a mailing this large we may have missed somebody, but it is the office's policy, and this has been regulation since October of last year. So I just wanted to, you know --

MS. GREY: Ma'am, I'm sorry. It may be the office's policy, and it may have been regulation, but I would like to speak on behalf of my neighbors. When I found out, I called everybody, and I said, "Are you aware that there's this little thing?"

And they said, "No, no, no." None of my neighbors were aware of that little form.

But then when I looked in the form letter,

and I know quite a few of them were actually adjusted, like for example, I know Rose's letter, she changed one paragraph. Now, maybe the whole section of it is different, but people did make little adjustments in what you're counting as the form letter.

CHAIRPERSON CROSS REID: Yeah.

MS. GREY: So I sort of said, well, a lot of these are -- they did actually meeting which is really the last criteria, which I think is the only one, which is the one where I put that big addendum on and everything like that, but I just did want to make that clear.

CHAIRPERSON CROSS REID: Okay. Well, at this juncture, to determine -- what I'm hearing is that you want to be granted party status so that you can appeal, but you don't want -- you're not asking to cross examine.

MS. GREY: Exactly, ma'am.

CHAIRPERSON CROSS REID: Or to object.

MS. GREY: Exactly, ma'am.

CHAIRPERSON CROSS REID: Or -- and whatever questions that you have, that you all have decided that you're going to proffer to us through these three people; is that my understanding?

MS. GREY: Yes, ma'am. Yes, that's exactly

it.

MR. MATHEWS: Okay.

MS. DOBBINS: Madame Chairperson, we still object to that. If persons are to be granted party status, they need to have met the criteria, not just to make a --

CHAIRPERSON CROSS REID: The -- the -- everyone who's --

MS. DOBBINS: Whether they reserve their rights or waive their rights to cross examine or whatever --

CHAIRPERSON CROSS REID: I'm not saying that. What I'm saying is that the persons that we're referring to have submitted to the record the documentation.

MS. DOBBINS: Or requests.

CHAIRPERSON CROSS REID: Or requests. In a timely fashion?

Okay. Now, what's the down side to that, to them being granted the party status if they're not going to take the time to cross examine?

MS. PRUITT: Well, I guess my other -- well, the major issue is that in requesting party status or it being granted, the caveat is that the Applicant has to clearly demonstrate that his interest

will be more significantly or distinctly or uniquely affected by the proposed actions than the general public.

CHAIRPERSON CROSS REID: I understand that, but I'm not referring to just those general people. This --

MS. PRUITT: All of the people in the surrounding community --

CHAIRPERSON CROSS REID: Wait, wait, wait. Ms. Grey said she and some other people who are in a unique situation who would like to be able to appeal. I am not referring to everybody, but she and a few others, she said, a few neighbors who they have discussed this with, and they feel that they have been uniquely -- who have submitted letters --

MS. PRUITT: Yes.

CHAIRPERSON CROSS REID: -- that were not within just your general form letter, but that specify some particular uniqueness for those persons to receive party status so that they can appeal, but they will not cross examine.

MR. HAMPTON: Excuse me, Madame Chair.

MS. PRUITT: I'm sorry, but I'm not sure I understand your question.

MR. HAMPTON: But I think that many of the

neighbors were -- and, again, maybe it's the way the form is written -- were under the misconception that if you lived 50 feet or 75 feet from a proposed -- a tremendously different proposed use of a site, that that in and of itself showed that you would be uniquely and diversely --

CHAIRPERSON CROSS REID: No.

MR. HAMPTON: -- affected.

CHAIRPERSON CROSS REID: That's why there's so much confusion, sir, and that's why this is unprecedented, that we had a letter of this nature to come in, because apparently there had been some miscommunication. As a property owner within 200 feet of these particular sites, you have the right to come down and testify and to let us know if you're, you know, against it or for it. So that is not -- that does not automatically give you party status.

So whoever circulated that letter did not clearly understand what our procedures are as a result of that. That's why we have so much confusion here today. There's been miscommunication.

MR. BARDONILLE: But, Madame Chair --

MS. PRUITT: You have to speak from the mic so that we can get you on record, please.

MR. BARDONILLE: My name is Harold

Bardonille. I live at 1623 Juniper Street.

The rules and the rule that you're referring to speaks to obtaining party status, all of which are required. Part of the qualification is being within 200 feet and have -- well, okay. And, therefore, also having to demonstrate how you will uniquely be impacted by the conditions that are under consideration.

CHAIRPERSON CROSS REID: Right.

MR. BARDONILLE: Not that you have to come up with a unique circumstance.

CHAIRPERSON CROSS REID: But you do --

MR. BARDONILLE: It has to show how you -- how you will be uniquely impacted as opposed to the general public.

CHAIRPERSON CROSS REID: That's right.

MR. BARDONILLE: So while all of those people can be impacted by the same things, they do not have to show a special uniqueness. An elephant doesn't have to fall out the -- and the only things we are considering is traffic, noise, parking, and other objectionable circumstances.

CHAIRPERSON CROSS REID: Well, now, Mr. Bardonille, I've already -- we've already been here, and I've already explained to you that you do. You

have to show a uniqueness, and if you don't, you do not get party status. I don't know how many ways I can say that.

MR. HARRISTON: Well, we're asking for your ruling. It will be a matter of record, and we'll move on to the next point.

CHAIRPERSON CROSS REID: Yeah, no. In regard to your letter, I think that you would be in the category of being granted party status, and you're going to let your questions be asked through these three guys, these three gentlemen, right? Correct?

MS. GREY: Yes, yes, ma'am.

CHAIRPERSON CROSS REID: All right. Now, the other thing is is there anyone else. You said there's someone else who was uniquely --

MS. GREY: Yes, Ms. Helen --

MR. HARRISTON: Harris.

MS. GREY: Harris.

CHAIRPERSON CROSS REID: Wait. That person -- that person has the --

MS. GREY: She's 11 feet from the property, ma'am.

CHAIRPERSON CROSS REID: -- ought to come up herself.

MS. GREY: She's next door.

CHAIRPERSON CROSS REID: Okay.

MS. GREY: She's exactly next door.

CHAIRPERSON CROSS REID: And if she doesn't come up, that's something different.

MS. HARRIS: My name is Helen Harris. I live at 1443 Juniper Street, N.W.

I live, well, I think it's 11 feet from the synagogue.

CHAIRPERSON CROSS REID: Helen Harris?

MS. HARRIS: Yes.

CHAIRPERSON CROSS REID: Okay, and we do have your letter, un-huh. Now, go ahead, Ms. Harris. Tell us what is it about -- is there something uniquely unusual about your property?

MS. HARRIS: Yes, that I'm 11 feet from where they are proposing the school. I think that's a unique circumstance, and that there would be many, many problems.

CHAIRPERSON CROSS REID: No, that would not be unique.

MR. HARRISTON: Madame, may I suggest when you're 11 feet away, you can smell the chitlings cooking.

MS. DOBBINS: Madame Chairperson.

CHAIRPERSON CROSS REID: That's different

from someone who lives right next door to you? I mean, you know.

MS. HARRIS: I have photographs.

MS. DOBBINS: Madame Chairperson, we would ask that each person who's requested party status be able to articulate their specific reason for requesting that.

CHAIRPERSON CROSS REID: Well, she just did.

MS. HARRIS: I have photographs of things that are already occurring at this site, and with an additional --

MS. DOBBINS: Madame Chairperson --

MS. HARRIS: -- business there at --

MS. DOBBINS: -- this is not related to the request for party status.

MR. HARRISTON: It shows her uniqueness, status of uniqueness. You want everyone to establish uniqueness.

CHAIRPERSON CROSS REID: Okay.

MR. HARRISTON: She was establishing uniqueness.

CHAIRPERSON CROSS REID: All right.

MS. HARRIS: I'm speaking to the Board.

CHAIRPERSON CROSS REID: What is the

uniqueness? You're 11 feet away and what? Okay. Pictures just of themselves -- I need you to tell me what those pictures are trying to say to us. What is it?

MS. HARRIS: They are trying to tell you that there is a congestion there already in the area. We don't need anymore cars or trucks or rentals to come into --

MS. DOBBINS: Madame Chairperson --

MS. HARRIS: -- the area.

MS. DOBBINS: -- I object. That is substantive testimony --

MS. HARRIS: -- that are blocking --

MS. DOBBINS: -- associated with the case.

CHAIRPERSON CROSS REID: All right. Thank you very much.

She still is just telling us why she feels that she is aggrieved more than anyone else.

Thank you.

MR. PARSONS: Madame Chairman, I think it's time for the Board to discuss this rather than the audience.

MS. HARRIS: The alleys are constantly blocked --

MR. PARSONS: Madame Chairman -- excuse me.

MS. HARRIS: -- as it is.

MR. PARSONS: Excuse me, Ms. Harris. I think it's time that the Board discuss this.

CHAIRPERSON CROSS REID: Okay.

MR. PARSONS: You got this out of the audience.

CHAIRPERSON CROSS REID: Okay. All right.

MR. PARSONS: In my judgment, there is nobody who has written us a letter for party status that has identified their uniqueness, not Ms. Grey, nobody. The danger in what we're doing is to set a precedent that anybody who writes us a letter in the future within 200 feet is going to be granted party status before this Board.

Ms. Harris is the first one that has come forward that I feel rests in that category. Anybody who lives adjacent to this property is certainly more affected than her neighbors down the street. Light and air issues, it's obvious.

CHAIRPERSON CROSS REID: Thank you.

You think --

MR. PARSONS: And we're groping for one party. We can let the community put the burden on her. To grant party status to 15 or 20 people --

CHAIRPERSON CROSS REID: You think that Ms.

Harris, because of where she lives?

MR. PARSONS: We're beginning to get there.

CHAIRPERSON CROSS REID: Okay, all right. Well, then --

MR. SOCKWELL: If I may, Madame Chair --

CHAIRPERSON CROSS REID: This is -- yes.

MR. SOCKWELL: Just to add to Mr. Parsons, I agree wholeheartedly with what he said because being the adjacent neighbor directly across the alley, which is a circulation thing, is a fact that no other property, other than probably two, one at one street, one at the other, would have.

CHAIRPERSON CROSS REID: Okay. That's been made.

MR. SOCKWELL: It's reinforcement.

CHAIRPERSON CROSS REID: Thank you.

MS. HARRIS: Thank you.

CHAIRPERSON CROSS REID: All right. Now --

MR. HAMPTON: Faye and Art Lewis.

MR. LEWIS: Madame Chairman, I'm Arthur Lewis, and my wife, Faye, is also present here. We live adjacent also to the temple. We are ten feet away from the back of the temple. Our property abuts with about ten feet between us and the temple.

We are on the alley. We are subject to the

problems of traffic, of noise, and of refuse.

CHAIRPERSON CROSS REID: As much as anyone else?

MR. LEWIS: As much as anyone else.

MS. PRUITT: Madame Chair, your mic.

CHAIRPERSON CROSS REID: I said more than.

MR. LEWIS: I believe so, yes.

CHAIRPERSON CROSS REID: You're more aggrieved. You're uniquely situated more so than anyone else in the community.

MR. LEWIS: I am uniquely situated and more aggrieved.

CHAIRPERSON CROSS REID: Okay. What is your name?

MR. LEWIS: Arthur W. Lewis.

CHAIRPERSON CROSS REID: Okay. All right. Thank you.

MS. DOBBINS: And your address, Mr. Lewis?

MR. LEWIS: 1446 Jonquil Street.

CHAIRPERSON CROSS REID: Okay. Now, Ms. Grey.

MS. GREY: Right.

CHAIRPERSON CROSS REID: Will you come and give us -- even thought we have your letter, give us how you're uniquely aggrieved.

MR. HAMPTON: Jean Johnson also.

MS. DOBBINS: Madame Chairperson, are you making determinations at this point --

CHAIRPERSON CROSS REID: No.

MS. DOBBINS: -- or are you just hearing --

CHAIRPERSON CROSS REID: The Board asked that --

MS. DOBBINS: You're hearing what the witnesses --

CHAIRPERSON CROSS REID: Right, right.

MS. GREY: Madame Chairperson, I'm uniquely aggrieved for a couple of reasons. Number one, I live on Jonquil, Juniper, and 17th Street at the location of 1650 Jonquil Street, is the address, but it is a corner property at the location of all three of those areas.

The proposed traffic plan is proposing to use both Jonquil and Juniper Street. They also are proposing to probably be coming up on 17th Street.

I live at the corner of a five intersection stop sign. There are five streets that intersect, and they all have stop signs.

CHAIRPERSON CROSS REID: Are you the only person on that corner?

MS. GREY: I am the only person within 200 feet on that corner, yes. Yes. I'm not the only

person on -- I'm the only person on my corner, yes.

CHAIRPERSON CROSS REID: Okay.

MS. GREY: Because I take up the whole corner.

CHAIRPERSON CROSS REID: All right.

MS. GREY: I can continue.

CHAIRPERSON CROSS REID: No, no.

MS. GREY: My traffic, I mean, our trash is affected.

CHAIRPERSON CROSS REID: All right. You told us.

MS. DOBBINS: Madame Chairperson, do we get to speak about objections to each one based on what they've presented?

CHAIRPERSON CROSS REID: Un-huh.

MS. DOBBINS: Yeah.

CHAIRPERSON CROSS REID: All right. Go ahead.

MS. GREY: Because I was going to say I can continue my presenting all my unique qualifications.

CHAIRPERSON CROSS REID: Well, you told us about five intersection corner and what else?

MS. GREY: The five intersection corner. I drive up Jonquil Street every day. It is a one lane street. Unfortunately it does not have restricted

parking. Unlike the page 4 --

CHAIRPERSON CROSS REID: Unique to you. That is the whole street. So what is unique to you? Do you have anything else that's unique to you specifically?

MS. GREY: Well, it affects me getting out of my --

CHAIRPERSON CROSS REID: As well as everyone else on that street, the parking, and the one lane street.

MS. GREY: Yes, and the trash.

CHAIRPERSON CROSS REID: Yeah, that's what I'm asking.

MS. GREY: But, no, unique to me is the fact that I'm the one that's subject to all five intersections at one time.

CHAIRPERSON CROSS REID: We have that. Okay.

MS. RENSHAW: Madame Chair.

CHAIRPERSON CROSS REID: Thank you.

MS. RENSHAW: I would like to ask do we have a map of the area so that as these properties --

MS. PRUITT: We're getting that.

MS. RENSHAW: -- are being discussed we could see it on a map?

MS. PRUITT: Madame Chair, staff is pulling the Sanborn maps right now for you.

CHAIRPERSON CROSS REID: Okay. Now, these are the people who have requested -- let's now make a determination on who's going to get party status.

Order please.

MR. HUMPHRIES: Madame Chair.

CHAIRPERSON CROSS REID: There's too much confusion.

MR. HUMPHRIES: Madame Chair, we have Jean Johnson.

CHAIRPERSON CROSS REID: How many more people are you going to do this with because now we're getting into the afternoon, and I had asked earlier that during that two or three hour break that you all take care of this because now we're getting into a long and protracted process.

MR. HUMPHRIES: Sure, Madame Chair. With your indulgence, the application, the one application involves --

CHAIRPERSON CROSS REID: Excuse me. You have who?

MR. HUMPHRIES: The one application --

CHAIRPERSON CROSS REID: No, no. Who is it that you have?

MR. HUMPHRIES: -- involves two sites.

CHAIRPERSON CROSS REID: I'm sorry. Who is it that you have?

MR. HUMPHRIES: Jean Johnson.

CHAIRPERSON CROSS REID: Then whoever it is has to come forward and speak for themselves, please.

MR. HUMPHRIES: As a matter of clarification, the application involves two different sites.

CHAIRPERSON CROSS REID: We know that.

MR. HUMPHRIES: And as a result, there are two different traffic patterns which are included.

CHAIRPERSON CROSS REID: Well, they're right across the street from each other.

MR. HUMPHRIES: No. Unfortunately that's not the issue. The issue is that the impact of the two sites affects different neighbors in different ways.

CHAIRPERSON CROSS REID: Okay.

MR. HUMPHRIES: We have, in essence, here two different applications which have -- the consideration of which have been consolidated under the name of one applicant. So, for instance, for the site which is located on 16th Street, the west side, we have Jonquil West and Juniper West, as well as the alley which runs directly behind that site.

For the site which is located on the east side of 16th Street, we have the neighbors who are on Juniper East and Jonquil East, as well as a separate alley which runs behind the site on the east side of 16th Street.

So, Madame Chair and members of the Commission, what we have here is essentially two sites which have been collapsed into one application. That does not diminish the impact and the unique impact that it has on different sets of neighbors who live at the two different sites.

CHAIRPERSON CROSS REID: Okay.

MS. DOBBINS: And, Madame Chair --

CHAIRPERSON CROSS REID: But still --

MS. DOBBINS: -- we would add --

CHAIRPERSON CROSS REID: Still, if you're impacted any way or anywhere around those two sites, you still have the right to come in and speak to that particular issue.

I can't -- you have to speak into a mic.

MR. HAMPTON: Excuse me. I have marked on this map the neighborhood.

CHAIRPERSON CROSS REID: Now, how do we say --

MR. HAMPTON: I have marked on the map of

the neighborhood so far the people who have discussed having party status. Ms. Grey, as she said, there are five streets coming into that intersection.

This is Ms. Harris right here by Tifereth.

This is Mr. and Mrs. Lewis. Again, they're that close to Tifereth on the alley.

You know, I am speaking as one of the people for the group, but I'm one house in from Ms. Harris, and this is where Mr. Bardonille lives, this one.

CHAIRPERSON CROSS REID: Okay, but still the point I was making was no matter where you live in proximity to either one of those sites, if you are uniquely aggrieved, then you fall into that category.

All right. Ms. Dobbins.

MS. DOBBINS: Yes. Madame Chair, I just wanted to indicate that your rules require that persons request party status and provide this information to the Board so that the Board can make your determination prior to the hearing.

CHAIRPERSON CROSS REID: Correct.

MS. DOBBINS: And based on what has been presented to the Board in writing. That was one of the reasons the Board's regulations were changed, so that the information would be before the Board 14 days with

everything included. The regulations are a matter of public record. Persons requesting party status would have been required to have met the criteria in your regulations within their reports or requests within that 14 day period.

We understand the Board typically will listen to and make some concessions related to that, but we are expecting that the Board needs to deal with this so that there are not an excessive number of parties in this case and so that those persons who are not uniquely affected, which are five blocks away or further on streets of which the traffic plan does not even mention or manage those streets would not be uniquely affected by this application.

MR. HUMPHRIES: Madame Chair, in regard to the statement by counsel, we have just received today copies of letters from counsel for the Applicant which clarify who the parties are in the application, and it's dated March 14th, 2000.

Indeed, Madame Chair, members of the Commission, if we had been notified 14 days before this hearing, as is required by the rules and regulations of this Commission, we would have had an opportunity to respond in a timely manner consistent with the rules and regulations.

In addition, Madame Chair, we note that the application of -- the statement of the Applicant was filed 14 days before and accepted by this office at six o'clock, 6:45, and we wonder, Madame Chair, and perhaps this is something the Commission may want to take up, if there is a rule which allows filing of applications by an Applicant after the close of business.

Now --

CHAIRPERSON CROSS REID: That's another issue.

MR. HUMPHRIES: No, no, Madame Chair. We want this on the record because it is a procedural issue regarding the timeliness of the filing of parties for party status and demonstrating the uniqueness.

CHAIRPERSON CROSS REID: Wait, wait, wait, wait, wait. First of all, what are you referring to when you say that the Applicant filed parties? Are you saying witnesses to testify?

MS. DOBBINS: Madame Chair, he's indicating that the prehearing submission filed by the Applicant was filed at 6:45 p.m., which was still in advance, as required by your regs.

CHAIRPERSON CROSS REID: What parties?

MS. DOBBINS: No, the Applicant's prehearing submission.

CHAIRPERSON CROSS REID: But you said that you -- and you specified parties. What parties are there?

MS. DOBBINS: We did not specify any parties. Mr. Humphries was talking about parties.

CHAIRPERSON CROSS REID: Okay, all right. Let's move on.

MR. HUMPHRIES: So procedural --

CHAIRPERSON CROSS REID: Let's move on.

MR. PARSONS: I have a motion to deny all party status -- the individual whose name I cannot remember at the other end of the alley and let's get on with this. Could you identify that property on the alley?

MR. HAMPTON: Arthur and Faye Lewis.

MR. PARSONS: All right.

MS. GREY: And Ms. Johnson, whose garage is right on the alley behind here.

MR. PARSONS: Arthur and Faye Lewis and Ms. Helen Harris are my nominees for party status.

(Simultaneous conversation.)

MR. HAMPTON: She has a whole unique --

MR. HUMPHRIES: Commissioner Parsons --

MR. HAMPTON: -- because her alley backs into the synagogue that they claim they're going to use

for a thoroughfare, right? So I mean she is uniquely qualified.

MR. HUMPHRIES: Madame Chair, we have Ms. Johnson here.

CHAIRPERSON CROSS REID: The witness is Johnson.

MS. JOHNSON: Okay. My name is Jane Johnson. I live at 1630 Jonquil Street, N.W.

My garage and driveway are located on the alley that will be used for the carpooling, and because there's no parking on my side of the street, we are forced to use our driveway and garage.

My husband leaves for his office between 8:10 and 8:30, which is the time that the carpool would be operating, and that's just one of the inconveniences.

CHAIRPERSON CROSS REID: Okay. Now, we have a recommendation to accept -- repeat that again, Mr. Parsons. Helen Harris?

MR. PARSONS: Well, I need to understand. Your garage backs out into the alley?

MS. HARRIS: Yes.

MR. PARSONS: So --

CHAIRPERSON CROSS REID: That's right there.

MR. HAMPTON: This is the synagogue.

MR. HUMPHRIES: For that site.

MR. HAMPTON: And they're here for one site, not -- this is a whole different --

MR. PARSONS: I understand, I understand, I understand.

MS. JOHNSON: And this is the alley, and that's my garage.

MR. PARSONS: So you believe that when trying to get out of your garage, people won't let you get out of your garage. They will be queuing up.

MS. JOHNSON: Exactly.

MR. PARSONS: And you'll never get out of there or have difficulty getting out.

MS. JOHNSON: Yes, difficulty.

CHAIRPERSON CROSS REID: All right. Where are the people --

MR. PARSONS: That's unique.

CHAIRPERSON CROSS REID: Oh, yeah. I agree.

MS. JOHNSON: Excuse me. I've got one more thing to say.

MR. PARSONS: That's unique enough.

CHAIRPERSON CROSS REID: You got it, you got it, you got it.

MS. JOHNSON: Oh.

CHAIRPERSON CROSS REID: Jean Harris, Helen Harris. Who's Arthur Lewis?

(Simultaneous conversation.)

CHAIRPERSON CROSS REID: Okay. He was on the alley, and Jan Grey. Mr. Parsons, okay, now.

MR. PARSONS: I don't agree with Ms. Grey at all.

CHAIRPERSON CROSS REID: You don't agree with Ms. Grey?

MR. PARSONS: No.

CHAIRPERSON CROSS REID: All right.

MS. DOBBINS: We would object to Ms. Grey.

CHAIRPERSON CROSS REID: All right. Wait one second. Wait one second. Wait one second.

MR. HAMPTON: I would like the opportunity to speak. I'm the second house in from the --

MR. PARSONS: No.

MR. HAMPTON: -- synagogue.

MR. PARSONS: I disagree.

MR. HAMPTON: And my issues are somewhat different. Firstly, Ms. Harris does not have any young children. I have two young children who use the alleys, who ride bikes, et cetera.

CHAIRPERSON CROSS REID: What's your name?

MR. HAMPTON: Philip Hampton.

So I think that my circumstance is, again, different from both Mr. and Mrs. Lewis and --

CHAIRPERSON CROSS REID: And where do you live?

MR. HAMPTON: 1439 -- no, no, no. It's already penned, right next to Ms. Harris.

And because I have young children and neither one of these two applicants who live exactly on the alley at either side did not, I believe that my wife and I have unique circumstances and a unique situation.

MS. DOBBINS: We would object, Madame Chairman.

CHAIRPERSON CROSS REID: Okay. Next to Harris.

Okay. Now, Board members, let's just kind of take a query on these different individuals. The persons that Mr. Parsons had recommended, Helen Harris, Arthur Lewis, and Jean Johnson, I think this is three. Is there any -- are you familiar with them or do you need me to address this?

MR. PARSONS: No, we're okay.

CHAIRPERSON CROSS REID: Okay. So if there's no objection, is there any objection to any of

these three?

MS. RENSHAW: And we're voting just on these three?

CHAIRPERSON CROSS REID: We're going to go further. I want to get these three first.

MS. RENSHAW: Okay.

CHAIRPERSON CROSS REID: All right. Is there any objection to these three?

MS. RENSHAW: Does he need a second?

CHAIRPERSON CROSS REID: Well --

MS. RENSHAW: Has he moved?

CHAIRPERSON CROSS REID: He recommended. We're just going to do it by consensus if there was a problem, unless there was a problem.

Okay. Now, Ms. Dobbins, do you have an objection to any of those three?

MS. DOBBINS: No, Madame Chair, but I don't know whether you -- well, we actually need you to revisit your first decision when it was initially assumed that there would be three representatives.

CHAIRPERSON CROSS REID: I'm coming back to that. Okay.

MS. DOBBINS: Thank you.

MS. RENSHAW: Now, in addition to that, Jan Grey, who is the lady who is on the corner of five

intersections, who was granted party status, what is your pleasure as far as she's concerned?

MS. RENSHAW: I have no trouble with that.

MR. SOCKWELL: I disagree that Ms. Grey by her specific location is particularly aggrieved. While there's an additional intersection in her midst, her proximity to the most affected traffic patterns is quite distant from neighbors closer to the property.

CHAIRPERSON CROSS REID: Okay. Mr. Moulden?

MR. MOULDEN: Is one of the criteria a specific amount of footage, 200 feet?

CHAIRPERSON CROSS REID: No, no, no. Everybody is 200 feet, but unique.

MR. GRIFFIN: Excuse me. Madame Chairperson, I am Ms. Grey's husband, and I live at 1650 Jonquil, and I object to your objection that my situation is not unique.

First of all, I live at an intersection. I have property there that I purchased. I use my property as a residence. I also use those intersections to walk my dog and also to jog.

Right now, I have to each morning make sure that the traffic pattern -- and I have to go out and personally patrol that intersection to get people to

stop, and when I tell them to please stop because this is a neighborhood, they give me signs that I will not show to you today.

And so my situation is unique in that there is traffic situations there.

CHAIRPERSON CROSS REID: Okay, all right. Thank you.

MR. SOCKWELL: Mr. Grey, the fact that you patrol the intersection --

MR. GRIFFIN: Mr. Griffin.

MR. SOCKWELL: I mean, I'm sorry. What is it?

MR. GRIFFIN: Griffin.

MR. SOCKWELL: Mr. Griffin, the fact that you patrol the intersection is irrelevant because you're not licensed to do so by the city. The fact that people object to you standing out in the street is probably logical. If you were in New York, you probably wouldn't be here now.

(Laughter.)

MR. GRIFFIN: Sir, well, first of all, I am not in New York. I am in Washington, D.C.

CHAIRPERSON CROSS REID: All right. Please, please. I don't -- let's not get into that kind of exchange, sir. You made your point.

Mr. Sockwell, can you please stay -- I'd ask if you can please stay relevant to the issue. There's enough confusion as there is.

Now, who else?

MR. MOULDEN: I think all of the people who spoke so far are impacted, some to a lesser degree than others. I think Ms. Grey probably will be impacted, but probably to a lesser degree. So the decision is what is the degree of impact that we are basing this on.

CHAIRPERSON CROSS REID: Well, it's not degrees. It's just if you were more uniquely impacted than anyone else, than other people who were similarly situated.

MS. RENSHAW: Madame Chair, I might point out that Ms. Grey and is it Mr. Griffin? Mr. Griffin will bear the brunt of traffic coming down Jonquil Street and making U turns at that intersection because Jonquil Street is now -- it pitches downhill, and traffic is going to get down there and not perhaps know that they could go Juniper Street back to 16th, but they are going to be turning, U-turning right at that corner.

So I would suggest that Ms. Grey be allowed to testify.

MS. DOBBINS: Madame --

MS. RENSHAW: I think she has a positioned property that is unique.

MS. DOBBINS: Madame Chair, we would object in that you have not yet had the opportunity to hear the traffic management plan associated with this. That will not be a route that will be taken or used by the school.

MR. HAMPTON: But we object, again, because we haven't seen that plan and we're the neighbors within two --

MS. DOBBINS: No, the Board has --

MR. PARSONS: Ms. Chairman, this is turning into a free-for-all.

MS. DOBBINS: Yes, it is.

MR. PARSONS: We're voting on this matter and you stay out of it.

I object to Ms. Grey on the grounds that have already been expressed.

MR. HARRISTON: Madame Chairman.

MR. PARSONS: Next.

MR. HARRISTON: Madame Chairman.

CHAIRPERSON CROSS REID: Yes.

MR. HARRISTON: The Board, as you well know, are required to act in a reasonable fashion, not

in an arbitrary and capricious fashion. Now, what we're suggesting is reasonable.

The objection you just heard from the other side was wait until you get to the traffic plan or something like that.

You have said up front we have to decide status now.

CHAIRPERSON CROSS REID: Okay. I --

MR. HARRISTON: We cannot wait until we get to a plan.

MR. PARSONS: We have decided that.

CHAIRPERSON CROSS REID: Okay. I will -- I would also think that Ms. Grey should get party status, but nonetheless, that's -- that -- that still -- I think the majority of us felt otherwise. So we would have to deny Ms. Grey.

All right. Now, the three members who had been recommended by the group --

MR. BARDONILLE: Before you go forward, Madame Chair, does that mean that you're also denying -- I'm Harold Bardonille again -- are you specifically denying my request for the record?

CHAIRPERSON CROSS REID: No. No, I was not.

MS. DOBBINS: We're getting to it.

CHAIRPERSON CROSS REID: I was not.

MR. PARSONS: We have denied all of the others that have written us a letter request party status.

CHAIRPERSON CROSS REID: No. No, no, that not what I said. Earlier on --

MR. PARSONS: That's the motion I made half an hour ago.

CHAIRPERSON CROSS REID: All right. What I'm saying is in the very beginning we asked that they recommend two or three people who will be given party status to represent all the other 30 people who have sent letters in, and these are the three people that they had recommended, and I don't want to go back on that.

MS. DOBBINS: Except that now you made individual determinations of party status.

CHAIRPERSON CROSS REID: No, because we then determined that in addition to those three that were representing a group of people, there were other people who were individually more aggrieved, and that's why we went through this whole exercise, but that --

MR. PARSONS: Madame Chairman, the only one that can make the decision as to who their spokesmen should be are the three parties we just established.

If those three parties agree to these three individuals to question on their behalf, we're in business.

CHAIRPERSON CROSS REID: They have done that. They all --

MR. PARSONS: No, not these three.

CHAIRPERSON CROSS REID: My understanding -- my understanding was that all people had agreed that even if they are granted party status so that they can appeal, that these three would be the only three that would do the cross examination.

MR. PARSONS: I think you need to reaffirm that --

CHAIRPERSON CROSS REID: Okay.

MR. PARSONS: -- now that we have the three people as parties.

CHAIRPERSON CROSS REID: All right.

MS. DOBBINS: But, Madame Chairperson, the three that will be designated do not have to be parties --

MR. PARSONS: That's correct.

MS. DOBBINS: -- to be their representatives. That is what I -- they do not.

MR. PARSONS: That's right. They will not be parties.

MR. BARDONILLE: May question still stands,

Madame Chair. Have you specifically denied my request for party status? I'm Harold Bardonille.

CHAIRPERSON CROSS REID: No. No, I have not.

MS. DOBBINS: Yes, you have.

CHAIRPERSON CROSS REID: All right. Now --

MR. BARDONILLE: Is that pending?

CHAIRPERSON CROSS REID: Those persons who we have agreed to grant party status to this afternoon are those person who will not cross examine. They're only being, in effect, granted party status so they can appeal.

The three people who had requested party status, my understanding was the first three, Derrick Humphries, Philip Hampton, and Harold Bardonille, are the three who will have party status who will have the ability to cross examine only. That is my understanding.

MS. DOBBINS: Madame Chair, because you have determined individual parties, we would object to Derrick Humphries, Phil Hampton, and Harold Bardonille as parties because the Board made that determination initially that they would be parties because they would be able to represent a group.

At this time the Board has entertained

individual party status for other persons.

CHAIRPERSON CROSS REID: They're representing a group other than -- other than the ones who had specific grievances, and that's what my understanding was for the ones who came up individually, but there are also the other 30 people who are not being represented.

MS. DOBBINS: But if you're going to grant them party status, then they still have to meet the criteria.l

MR. PARSONS: They have.

CHAIRPERSON CROSS REID: They have already met the criteria.

MS. DOBBINS: Mr. Humphries, Mr. Hampton and Mr. Bardonille?

CHAIRPERSON CROSS REID: We established that earlier this morning.

MS. DOBBINS: I don't think so.

MS. PRUITT: Madame Chair, just so I can be clear on the record, the three men that were just mentioned, who exactly are they representing? Are they representing the three people, Ms. Harris, Mr. Lewis, and Ms. Johnson?

CHAIRPERSON CROSS REID: They are representing everyone. They're, in effect,

representing everyone, but the other ones have been given -- asked for party status so that they can appeal if they wanted to.

MS. PRUITT: So they are representing Ms. Harris, Lewis and Johnson.

CHAIRPERSON CROSS REID: That's correct.

MS. PRUITT: Only as --

MS. DOBBINS: Representatives, not parties.

CHAIRPERSON CROSS REID: The three of you -- the three of you --

MS. PRUITT: Correct.

CHAIRPERSON CROSS REID: Hello.

MR. HARRISTON: I'm sorry.

CHAIRPERSON CROSS REID: The three of you are representing everyone else.

MS. PRUITT: Only -- let's be clear -- only three people, and that's --

CHAIRPERSON CROSS REID: No.

MS. PRUITT: -- what I want to be clear because I think there's some confusion here.

CHAIRPERSON CROSS REID: No, they're representing the community.

MS. PRUITT: Right now the Board in my understanding has only granted party status to Ms. Harris, Lewis, and Johnson.

MR. HARRISTON: And the other three.

MS. PRUITT: But then my question becomes: who are they representing? And you've not -- they are representing the whole group --

MR. HARRISTON: They are representing themselves.

MS. PRUITT: -- you've given party status to them.

MR. HARRISTON: They are representing themselves because they individually request party status.

MS. PRUITT: See.

MR. HARRISTON: And they met the criteria --

MS. PRUITT: I suggest that you would take them through the exact same criteria --

MS. DOBBINS: Process.

MS. PRUITT: -- as you did this because that didn't happen.

MR. HARRISTON: And we have agreed with the last individuals listed that they will not cross examination. The cross examination will come through the first three.

MS. PRUITT: Mr. Harriston, with all due respect, I understand exactly what you're saying, but

the Board, I think, should actually take -- since they did the three individuals that way, we need to do you the same way so that there's a sense of equity.

CHAIRPERSON CROSS REID: Okay. What did you say, Ms. Renshaw?

MS. RENSHAW: I'm saying that we asked the opposition to come up with three, some spokespersons, and they have come back to the Board with three spokespersons, and so they have identified these people, and I say move on. Accept them and move on.

MR. PARSONS: But they're not parties. They are agents.

MR. HARRISTON: No, we say they're parties.

MR. PARSONS: We disagree. Let's move on.

MR. HARRISTON: Well, we disagreed with you.

CHAIRPERSON CROSS REID: No, some of us agreed.

MR. HARRISTON: We say -- we say that you're being --

MR. PARSONS: -- in the best public interest to move on?

MR. HARRISTON: -- arbitrary and capricious.

CHAIRPERSON CROSS REID: No, some of us --

MR. PARSONS: No, we're not.

CHAIRPERSON CROSS REID: -- disagree. Let's just come to a consensus about this one way or the other. My understanding was that these three were being represented -- were representing themselves as parties, asking for party status. They would be given party status, and they would then represent the other people, and they would funnel questions through them.

No one else is going to cross examine.

MS. DOBBINS: We don't have a problem with that,b ut we have a problem with the grant of party status to them if they have not met the individual criteria as parties. You have granted party --

CHAIRPERSON CROSS REID: All right, okay.

MS. DOBBINS: -- status to three individuals who met the criteria.

CHAIRPERSON CROSS REID: Okay, all right. No problem with that. I was under the impression that the community had designated them as the spokes people and as such they met the criteria. However, if you wish for us to query them to determine what is their uniqueness, then we can do that.

MS. DOBBINS: Yes, Madame Chair, and they can still -- even if you determine that they are not parties in this application, they can still represent

parties.

CHAIRPERSON CROSS REID: Okay. I think they know that.

All right. Let's talk with Mr. Derrick Humphries.

MR. HUMPHRIES: Sure. Madame Chair, I'm Derrick Humphries, and --

CHAIRPERSON CROSS REID: How are you uniquely aggrieved?

MR. HUMPHRIES: I look forward to --

CHAIRPERSON CROSS REID: We have your letter, you know, that form letter, but if you want to add, go ahead.

MR. HUMPHRIES: I live at 1428. I have been involved with proceedings involving the Tifereth site since 1992 and have four children who are in the neighborhood who are involved in activities and whose safety is endangered from the traffic which exists there and will be endangered more by the cumulative impact of the traffic that goes through the neighborhood as well as the safety.

CHAIRPERSON CROSS REID: Okay. I don't think that you would then -- I think that you would be an agent, but I don't think that you really should receive party status. So that's not unique to other

people.

All right. So you can be an agent. You can speak for the other people, but I don't think there's any objection to or does anyone --

MS. RENSHAW: Yes. I do object. I feel that he should have party status. He was a representative of the group. They have identified Mr. Humphries as the one -- one of the two other people whom they would like to have speak for them.

CHAIRPERSON CROSS REID: Okay.

MS. RENSHAW: And I believe he deserves it.

CHAIRPERSON CROSS REID: Okay. Sockwell?

MS. DOBBINS: Madame Chair, we would object to Mr. Humphries.

CHAIRPERSON CROSS REID: Okay. I understand that.

MR. PARSONS: I disagree.

CHAIRPERSON CROSS REID: No, no, no?

Okay. The majority of the Board and also the Applicant don't agree with that. So you can be a spokesperson, but not a party.

Okay. Now, the next one, Philip Hampton.

MR. HAMPTON: Yes. As I stated before, I live at 1439 Juniper Street with my wife, Audrey B. Little. We do have two young children. We are

adversely impacted because we are so close to the synagogues.

Moreover --

CHAIRPERSON CROSS REID: How close?

MR. HAMPTON: We are one lot over from Ms. Harris.

CHAIRPERSON CROSS REID: Oh, you're the one right next to Ms. Harris?

MR. HAMPTON: We're right next to Ms. Harris. Moreover --

CHAIRPERSON CROSS REID: Oh, no, I'm sorry. We already gave you -- we've already voted on you. You're okay.

MS. PRUITT: No, you denied him party status, Ms. Reid.

CHAIRPERSON CROSS REID: I thought that you just said that we did.

MS. PRUITT: Yes.

MR. PARSONS: Already voted to deny him.

CHAIRPERSON CROSS REID: Oh, to deny him.

MS. PRUITT: Yes.

CHAIRPERSON CROSS REID: Oh, okay.

MS. RENSHAW: We did?

MS. PRUITT: Yes.

CHAIRPERSON CROSS REID: All right. So you

can be a spokesperson.

MS. RENSHAW: Madame Chair, I didn't vote to deny. I didn't vote to deny.

MR. PARSONS: We did not vote.

MS. PRUITT: You had a consensus.

CHAIRPERSON CROSS REID: We did it by consensus. I forgot. We did not feel that he was more aggrieved than anyone else.

Ms. Harris is that -- the red dot right there by the alley, but he's right beside her. So Ms. Harris, yes, but him we said he could be a spokesperson, but not the party status.

MR. HAMPTON: None of the people that you have granted party status have any young children, and I think that those of us with young children, especially those of us who are active in the PTA and Shepherd Elementary --

CHAIRPERSON CROSS REID: We understand all of that.

MR. HAMPTON: -- et cetera, have a whole different --

CHAIRPERSON CROSS REID: Mr. Hampton, Mr. Hampton.

MR. HAMPTON: -- set of circumstances.

CHAIRPERSON CROSS REID: We understand

that, and we empathize with you. Nonetheless, you're not going to get party status.

All right.

MR. BARDONILLE: I'm the third person.

CHAIRPERSON CROSS REID: All right.

MR. BARDONILLE: Madame Chair, in the interest of time, I will rely -- my letter was not a form letter, and I will rely on the contents of my letter, and I also would want to put on the record that I certainly object to your characterization or at least interpretation of the uniqueness requirement.

CHAIRPERSON CROSS REID: We understand that. Now, can you move on? Do you want to tell us how you're uniquely aggrieved?

MR. BARDONILLE: I stand on the contents of my letter which was timely filed.

CHAIRPERSON CROSS REID: Okay, but rather than for us to fish that out, do you want to tell us why you feel that you are uniquely aggrieved?

MR. BARDONILLE: The reason it was filed 14 days in advance was to give you an opportunity to do your due diligence. I will stand on the contents of my letters.

MR. PARSONS: I do not believe he meets the status of a party.

CHAIRPERSON CROSS REID: Your letter -- sir, I was trying to give you an opportunity to --

MR. BARDONILLE: I appreciate that.

CHAIRPERSON CROSS REID: -- specify how your letter differs from any of the other form letters, and I cannot see it in any great degree of difference in that, and you have been given an opportunity and for all intents and purposes you passed on that opportunity. So let's just move forward.

Now, the persons who we have specified as being parties are the only ones who are going to be parties. Now, the only other thing that comes to mind -- excuse me, Ms. Renshaw -- is that if these three people who had been designated by their community to speak on their behalf can do so, but as such, Ms. Dobbins, as such, if they're not granted party status, any of the three of them, they can't cross examine.

MS. DOBBINS: If they operate as the representative for the party, they can. The party would not cross examine because someone would be doing it for them.

CHAIRPERSON CROSS REID: Okay. All right. So they can. All right.

So you three will not have party status, but you can as a representative of the parties cross

examine, is my understanding. Okay. All right.

MS. DOBBINS: And what this --

CHAIRPERSON CROSS REID: And these are the only three people who will be cross examining, and the other people have party status only -- only for the ability to be able to appeal, and that --

MR. HARRISTON: You said three.

CHAIRPERSON CROSS REID: Is it four?

MR. HARRISTON: I'm kind of big and fat, and I'm here.

CHAIRPERSON CROSS REID: No, you're ANC.

MS. DOBBINS: Separate from the ANC.

CHAIRPERSON CROSS REID: You're ANC. That's not -- you're not in the same category. So we have three parties and three agents who are going to actually be the ones to cross examine.

MS. RENSHAW: And, Madame Chair, would you clarify for us the time limits for the agents and the parties so that we are clear?

CHAIRPERSON CROSS REID: For cross examination?

MS. RENSHAW: For cross examination.

CHAIRPERSON CROSS REID: We don't have time limits per se. We just have to try to keep --

MS. RENSHAW: When the agents testify, how

much time do they have?

CHAIRPERSON CROSS REID: Well, they have an hour for the total parties in opposition, an hour for the Applicant. Do you all want her to read the time lines -- segments again?

Okay. All right. Let's move forward.

MR. HARRISTON: I have another motion.

CHAIRPERSON CROSS REID: What's this for? All right.

MR. HARRISTON: We have another motion.

CHAIRPERSON CROSS REID: Oh, okay.

MR. HARRISTON: Madame Chairman, in light of the time that it's going to take to hear all of these matters and to save the time of the Board, notwithstanding your order of procedure which is published in the regulations, we ask that after the Applicant has presented their case, and the government, whoever follows them, that the parties in opposition precede the ANC.

MS. DOBBINS: We would object, Madame Chair. That would put the parties and persons in support in an alternate order.

CHAIRPERSON CROSS REID: Before the parties in opposition. We can't do that.

MR. HARRISTON: We're suggesting as a way

to save time because then we won't --

CHAIRPERSON CROSS REID: Well --

MR. HARRISTON: -- we won't walk over the same territory with more than -- with the same witnesses. Otherwise there will be repetition.

MS. DOBBINS: Madame Chair.

CHAIRPERSON CROSS REID: Well, yes and no. It may -- it very well --

MR. HARRISTON: We're trying to make your life easy, Madame Chair.

CHAIRPERSON CROSS REID: That's the ANC's. Only the issues of ANC may be somewhat different from some of the people from the community who may be in opposition. So that wouldn't necessarily work as well. Okay.

MR. BARDONILLE: I have a motion, Madame Chair.

CHAIRPERSON CROSS REID: No, you can't make a motion because you're not a party, remember?

MR. BARDONILLE: I am representing those parties that --

CHAIRPERSON CROSS REID: As a -- okay, all right. Come on.

MR. BARDONILLE: Give him my card now or this is not for this time, these cards?

CHAIRPERSON CROSS REID: Well, you're just going to make a motion. So you can go ahead and make a motion as the agent for --

MS. DOBBINS: For which party, Madame Chair.

CHAIRPERSON CROSS REID: Which party?

MR. BARDONILLE: For all the parties you just designated.

CHAIRPERSON CROSS REID: Just specify, just specify.

MR. HARRISTON: We're speaking in a group. You asked us to. Now we're doing it.

CHAIRPERSON CROSS REID: Okay. All right.

MR. PARSONS: What we've done is just established a new law firm in this city.

(Laughter.)

MR. PARSONS: Three partners who are going to represent these parties. Well, let's get on with it.

MR. BARDONILLE: There would be no difference if we had appeared as counsel, but in any case, Madame Chair, I am moving to dismiss this application for failure to comply with Rule -- with Chapter 31 of Title 11 of the DCMR, 1999.

And the basis of the objection is failure

to file the prehearing statement timely; failure to file an appropriate application; failure to pay the appropriate fee; and failure to verify the agency of those people appearing on behalf of the Applicants.

CHAIRPERSON CROSS REID: Repeat those again.

MR. BARDONILLE: The very counsel that has been objecting.

CHAIRPERSON CROSS REID: Repeat those things again, please.

MR. BARDONILLE: Failure to file a timely prehearing statement as required by Section 3113.8; failure to file a proper application as required by Section 1313.3; and failure to pay the relevant -- pay the appropriate fee, which is a fee that is paid by each applicant, each applicant; and failure to verify agency of the parties appearing on behalf of the owners of the two properties. The party filing the statement is the Jewish Primary Day School.

As per your most recent discussion, the best that they can be is agent, are agents of the owners. They're not parties. The owners of the -- the owners of the property by your own rules are the Applicant.

The form was twisted in order to include

two separate properties and, therefore, pay only one fee. These are two separate and distinct entities with separate boards of directors and separate operational practices and so on. They are in two different R-1 districts. They're two different squares. They're not contiguous, and for all practical purposes and by their own statement they are establishing two private schools.

The application states that for the establishment of a private school at each of those sites. The fact that they may have a common operator does not go to the fact as to who should be the appropriate Applicant.

On the issue of failing to file timely the prehearing statement of the Applicant, and if you accept the first representation as to who should be the Applicant, then you should have (a) two numbers should have been assigned to this case and that they should have been the same. All of the requirements of notice and response has to apply to all of the applicants.

So if you were to accept the notion of who is the proper Applicant, then they would have had to have filed -- another Applicant would have had to have filed 14 days prior to this hearing.

This Applicant filed at six. Assuming that

this Applicant has an agency authorization, the Jewish Primary Day School filed their statement at 6:45 on March 1, after the close of business of the office.

There's a line of cases that have pointed out that once when you have regular published hours, that at the time of the closing of the office any filing therefore after received should be registered as of the next business day.

This filing was accepted, we believe, because of the special status of counsel as a former staff person of this office.

CHAIRPERSON CROSS REID: Okay. Let's now cut to the reasons why you're asking for the case to be dismissed and not get into all of the merits because this is -- we're still in preliminary matters. So we'd like to get into the case.

Now, let's just take it one by one. You contend that there was a failure to pay a fee?

MR. BARDONILLE: Yes. Yes, ma'am. There is a fee associated with the filing of each application.

CHAIRPERSON CROSS REID: All right. Okay. Was the fee filed, Ms. Dobbins?

MS. DOBBINS: The appropriate fees were filed, Madame Chair. The fees in Section 3180 indicate

that for an application for a special exception for a child development center or private school, $25 for each full-time or part-time student based on the maximum capacity requested with a maximum of $2,500. The Applicant paid $2,500 in this case.

CHAIRPERSON CROSS REID: I have a copy of the check for $2,500.

MR. BARDONILLE: But there are two schools.

CHAIRPERSON CROSS REID: Okay. Now, that's what you contend. Nonetheless --

MR. BARDONILLE: The record contends that, not me, Madame --

MS. DOBBINS: Madame Chair, just to respond to that --

CHAIRPERSON CROSS REID: There's one application. There's one application, and for the application, the fees were submitted.

Go ahead.

MS. DOBBINS: That was my point. The fees were submitted for one school. There is only one Jewish Primary Day School.

CHAIRPERSON CROSS REID: Okay. You already said that.

MS. DOBBINS: Okay.

CHAIRPERSON CROSS REID: Okay. Now,

failure to file a timely prehearing --

MR. BARDONILLE: Have we disposed of the Applicant issue? Is that what you're telling me?

CHAIRPERSON CROSS REID: The what?

MR. BARDONILLE: The fact that there are two separate properties is irrelevant?

CHAIRPERSON CROSS REID: You already told -- no, no.

MR. BARDONILLE: I've already said that.

CHAIRPERSON CROSS REID: What we keep telling you is that there's one applicant and one school. Even though the school maybe on two sites, still it's one school. So we can't keep beating that to death. I mean, we don't make those rules. It's one school.

MR. BARDONILLE: But it's a rule based -- these are rule based proceedings.

CHAIRPERSON CROSS REID: Okay, okay. Well, nonetheless, whether you agree or disagree, the fact still remains it's one school, sir. Now, can we move on to the next one?

All right.

MR. SOCKWELL: If I may read two sentences from the Applicant's statement in the background Section 3. If I pronounce it incorrectly, I apologize.

"The Ohev Shalom Synagogue is proposed as the temporary home for grades kindergarten through three of the Jewish Primary Day School of the Nation's Capitol. The Tifereth Israel Synagogue is proposed as the temporary home for grades four, five, and six of the Jewish Primary Day School of the Nation's Capitol," which in most people's understanding of an entity would be parts of the whole being housed in two separate buildings as opposed to two independent schools being housed in two separate buildings, sir.

MR. HAMPTON: Excuse me, but I think that even the BZA now is going far afield. Whether or not it's one school or 50 schools, this is not an education committee. What this is is a land use. You are dealing with two parcels of land in two discrete, different zoning areas, et cetera.

So they can hide the ball or do whatever they want to, but, again, this is a land use issue, and we have a major thoroughfare separating these parcels of land. So, again, we implore that this application, again, is faulty on its face because, again,they're talking about two different parcels of land.

CHAIRPERSON CROSS REID: Okay. All right. Now, let's move to the next one.

Failure to file in a timely manner the

prehearing statement.

MR. BARDONILLE: Yes.

CHAIRPERSON CROSS REID: Was it filed timely?

MS. DOBBINS: It was filed on March 1st at 6:45. The office doors were still open, and the office traditionally takes any materials that come in as long as there's someone to accept them.

CHAIRPERSON CROSS REID: Okay.

MS. DOBBINS: There is nothing in the regulations that says "close of business."

MR. HAMPTON: Excuse me. We object to that characterization that the office was open because as you already heard from Ms. Grey, she was at the office at five o'clock and was asked to leave because they were closing.

So to say that, yes, it was open because somebody came back and opened the doors up, and as members of the public, would we be given that same opportunity? If I show up at 5:15 --

CHAIRPERSON CROSS REID: Well -- well -- well, wait a minute, sir. I think that the contention is that if it's on that day up until 12 o'clock midnight --

MR. HAMPTON: No, that's not the rule.

MR. BARDONILLE: Whose contention --

CHAIRPERSON CROSS REID: If it not --

MS. DOBBINS: Yes.

CHAIRPERSON CROSS REID: -- you can't say by close of business.

MR. BARDONILLE: Whose contention are you representing, Madame Chairman?

CHAIRPERSON CROSS REID: The regulation. The regulations don't say --

MS. DOBBINS: Madame Chairperson.

MR. BARDONILLE: The regulations are --

CHAIRPERSON CROSS REID: Let me finish. Let me finish.

MS. DOBBINS: I have a solution to this.

CHAIRPERSON CROSS REID: Let me finish. The regulations don't say they have to be by close of business.

MS. DOBBINS: They do not.

CHAIRPERSON CROSS REID: It doesn't specify. So as long as it's accepted in the office, then that has traditionally been satisfactory.

MS. DOBBINS: And that has been the standard for everyone. Madame Chair, if it's an issue or if it continues to be an issue, I would put on the record a request to waive the rules to accept the

prehearing submission of the Applicant.

CHAIRPERSON CROSS REID: All right.

MR. HARRISTON: Madame Chairman, Madame Chairman.

CHAIRPERSON CROSS REID: Who's speaking?

MR. HARRISTON: Me.

CHAIRPERSON CROSS REID: Oh, okay.

MR. HARRISTON: Madame Chairman, the board has a responsibility to be fair to all citizens.

CHAIRPERSON CROSS REID: Right.

MR. HARRISTON: Now, if one of the citizens in the community can't -- is chased out of the office at closing time, five o'clock --

CHAIRPERSON CROSS REID: Oh, but look -- but don't go into all of that because we have a request to waive the rules and accept it late. So --

MR. HARRISTON: No, but -- no, but we still have to -- you see, then what you're doing is saying that if an Applicant is late, then we'll waive the rules and let the Applicant in. Then you've bothered all of us --

CHAIRPERSON CROSS REID: What is late?

MR. BARDONILLE: But it has to be for good cause shown.

MR. HARRISTON: After closing.

MR. BARDONILLE: Madame Chairman, it's not arbitrary and capricious.

MR. HARRISTON: You see, if my -- if --

CHAIRPERSON CROSS REID: Okay. Look. Let's not go into all of that.

MR. HARRISTON: I know, but this is extremely --

CHAIRPERSON CROSS REID: Let's not go -- let's not go into all of that.

MR. HARRISTON: It's extremely important to our point of view.

CHAIRPERSON CROSS REID: The fact of the matter is --

MR. HARRISTON: We have brought all of course citizens --

CHAIRPERSON CROSS REID: Can I finish?

The fact of the matter is if, in fact, anything comes to this Board that's late, we have prerogatives of waiving the rules and allowing it to come into the record. We can do that.

MR. HARRISTON: For good cause shown.

CHAIRPERSON CROSS REID: For whatever we -- for whatever reasonably we so desire.

MR. BARDONILLE: Well, Madame Chair, you keep sliding over those rules that don't seem to --

CHAIRPERSON CROSS REID: Whether or not you agree --

MR. BARDONILLE: -- that you don't like.

CHAIRPERSON CROSS REID: -- or don't agree with what the regulations are here is really moot, sir. Now, you've been given the answer. So let's move on to the next.

And with regard to the request for waiving so that the late submission can be -- waive the rules to accept late submission, is there any objection by any Board member to that?

MS. RENSHAW: I would like to know, Madame Chair, if in the material that was passed out to the Applicant and also to the community, was there any time line, any office hours down on a piece of paper that the material had to be submitted by the close of business at a particular time?

CHAIRPERSON CROSS REID: No. The question is --

MS. RENSHAW: Is there anything in writing?

CHAIRPERSON CROSS REID: Well, I don't think so. I'm almost certain it's not, but we can check with Corp. Counsel, but the question right now is --

MS. PRUITT: Madame Chair.

CHAIRPERSON CROSS REID: -- do you have any objection to waiving the rules to accept it if, in fact, it was late.

MS. RENSHAW: I think the neighborhood has a strong argument, and they have advanced that.

CHAIRPERSON CROSS REID: Yes? Yes? Could you say yes or no, Ms. Renshaw, please?

MS. RENSHAW: And I would say, yes, they have a strong argument.

CHAIRPERSON CROSS REID: Do you object to it being -- waiving the rules to accept the --

MS. RENSHAW: In this case, yes.

CHAIRPERSON CROSS REID: Okay. Anyone else?

MS. PRUITT: Madame Chair, for the record, I just want --

CHAIRPERSON CROSS REID: Is there anyone else that objects?

Okay. All right. Then we would accept it into the record as having been waived -- we waive the rules as to allowing it to come in late.

Yes, Ms. Pruitt.

MS. PRUITT: I was just going to indicate there is not in the record -- I mean in the regs. or in our policies that give time frames for the office.

CHAIRPERSON CROSS REID: All right.

MS. PRUITT: And also that it just says 14 days in advance. It does not say close of business or by five or by six or whatever.

CHAIRPERSON CROSS REID: Okay. Now, the next issue, sir?

MR. HARRISTON: Pardon me, Madame Chair. Are we understanding correctly that the Applicant is admitting that it was late?

MS. DOBBINS: No.

CHAIRPERSON CROSS REID: No. What the Applicant asked was if, in fact, it was late, would we waive the rules, and --

MS. DOBBINS: The Applicant contends that it was not.

CHAIRPERSON CROSS REID: Can we move forward, please, sir?

MR. BARDONILLE: Did you rule on the issue of the fee, therefore, also? Are you ruling on these one by one?

CHAIRPERSON CROSS REID: No, we've already -- we've already -- yes.

MR. BARDONILLE: I don't know how to proceed.

CHAIRPERSON CROSS REID: We have ruled on

the fee.

MR. BARDONILLE: And that rule was?

CHAIRPERSON CROSS REID: Well, we have a check for $2,500 for the application, which was required, and if, in fact, you don't agree with that again you can take it up elsewhere, but we have already ruled that it is one application.

MR. BARDONILLE: I was just seeking a clarification --

CHAIRPERSON CROSS REID: Okay, all right.

MR. BARDONILLE: -- that you have ruled that only one fee was due and it has been paid. That is, in fact, your ruling.

CHAIRPERSON CROSS REID: That is our understanding.

MR. BARDONILLE: Just want the record to reflect --

CHAIRPERSON CROSS REID: That's our understanding.

MR. BARDONILLE: -- what you're saying.

Now, on the last point is that as of the close of business, although at that point I don't know if I can rely on your record, as of the close of business yesterday, there was no verification of agency on behalf of the Jewish Day School in the record.

CHAIRPERSON CROSS REID: Okay. Ms. Dobbins?

MS. DOBBINS: It was submitted today. There's nothing that's required at any time in advance. Your advanced agency has to be filed along with an application. I did not file the initial application.

CHAIRPERSON CROSS REID: Okay. All right. Now --

MR. BARDONILLE: Are you asking me if that's okay?

MR. HARRISTON: Oh, no, it's not okay.

CHAIRPERSON CROSS REID: No.

MR. BARDONILLE: It's not okay.

CHAIRPERSON CROSS REID: I'm asking you if --

MR. BARDONILLE: Oh, I'm sorry. I didn't know what you had said.

CHAIRPERSON CROSS REID: -- you had heard what she said.

MR. BARDONILLE: Oh, yeah, I heard her.

CHAIRPERSON CROSS REID: Okay. Now, with regard to your request for this application to be dismissed, Board members, I see no reason for us to dismiss this application unless there is any objection by anyone else.

Okay?

MR. SOCKWELL: Madame Chair, absent any statutory --

CHAIRPERSON CROSS REID: Well, let's take a vote.

MR. SOCKWELL: -- statements that would --

CHAIRPERSON CROSS REID: I think we should take a vote because it's a motion, right? On the floor we have a motion to dismiss.

MS. PRUITT: Madame Chair, who --

CHAIRPERSON CROSS REID: I would move that we not dismiss the application. I moved.

Mr. Bardonille, as an agent for a party.

MR. PARSONS: Second.

CHAIRPERSON CROSS REID: Mr. Parsons.

All in favor?

(Chorus of ayes.)

CHAIRPERSON CROSS REID: All right. Opposed?

(No response.)

CHAIRPERSON CROSS REID: All right. Now --

MR. HARRISTON: Who didn't vote?

MS. PRUITT: Just to be --

CHAIRPERSON CROSS REID: Huh?

MR. HARRISTON: I don't know which way you

voted. I couldn't hear what --

MS. PRUITT: Excuse me. I was getting ready to repeat the vote right now if you'd give me a minute.

CHAIRPERSON CROSS REID: Right.

MS. PRUITT: Staff would record the vote as five to zero not to dismiss the case or to deny the motion by Mr. Blondell (phonetic).

MR. SOCKWELL: I believe that's not five to zero. I abstained.

MS. PRUITT: I'm sorry. I did not hear you. So it will be four to zero to one.

MS. RENSHAW: And I abstain also.

MS. PRUITT: Okay. Three to zero to one. Two. I'm sorry. Two.

CHAIRPERSON CROSS REID: All right. So --

MS. PRUITT: I would request that Board members --

CHAIRPERSON CROSS REID: Wait, wait.

MS. PRUITT: -- speak up louder so that we can hear you down here.

CHAIRPERSON CROSS REID: Wait one second. Then that motion fails. So --

MS. DOBBINS: Madame Chair.

CHAIRPERSON CROSS REID: Yes.

MS. DOBBINS: Three votes is all you need.

CHAIRPERSON CROSS REID: I move --

MS. DOBBINS: Three, zero, two.

CHAIRPERSON CROSS REID: Oh, I'm sorry. Okay. I'm sorry. I thought that -- I thought we had another.

All right. So we will not dismiss. Let's move forward.

All right. Now can we have the case called?

MR. HARRISTON: Did you rule on my motion earlier about the ANC filing late on the supplemental?

CHAIRPERSON CROSS REID: No, we said that we would take it up at this time.

MR. HARRISTON: All right. Then I move that the ANC be granted permission to file late on the supplemental because the Applicant delayed us.

CHAIRPERSON CROSS REID: Well, I have no problem with waiving the rules to allow the ANC's report to come in late unless there's any objection.

Okay. Thank you.

MS. DOBBINS: Madame Chair, we would like to have a copy of that report, please.

MR. HARRISTON: It's in the file.

CHAIRPERSON CROSS REID: You all can --

MR. HARRISTON: No, we filed it, and at the time I filed it I asked that it be placed in the file. They said they wouldn't put it in the file until you ruled on it.

CHAIRPERSON CROSS REID: All right. Okay. She'll be given a copy of it.

Okay. Now, can you call the case?

MS. PRUITT: Certainly.

CHAIRPERSON CROSS REID: And let's get on with it.

MR. HUMPHRIES: Madame Chair.

MS. PRUITT: The last case of the day.

MR. HUMPHRIES: Your indulgence, if I might consult with counsel.

CHAIRPERSON CROSS REID: We're calling the case. Can we do that? Before we call the case?

MR. HUMPHRIES: Yes. There may be another preliminary issue.

(Pause in proceedings.)

MR. HUMPHRIES: Madame Chair, we have one other preliminary motion. The motion concerns the filing of the application. We would seek clarification regarding the Applicant's representative. On the original application, it indicated that one law firm was representing the Applicant and that that person

indicated that I think it was Allison Prince -- indicated that her -- law firm and that she is legal counsel licensed in the District of Columbia, would be representing the Applicant.

And then when the prehearing statement was filed, we see another law firm, and we see another signature on the statement, and so we would like clarification with regard to which lawyer licensed in the District of Columbia is representing the Applicant.

And I state that, and I would ask my co-counsel to serve as a witness with regard to this because a matte of legal representation in the District of Columbia has come up.

CHAIRPERSON CROSS REID: All right. Just a moment.

Ms. Pruitt, do you want to speak to this?

MS. PRUITT: Yeah, I would just point out some clarification. There is no requirement that anyone who represents an Applicant before the Board be a Barred attorney or a registered architect or anything. So anyone can represent anyone before the Board as long as they have authorization from that Applicant.

And it's my understanding that we received today a copy and authorization for the current person

to represent this Applicant.

MR. HAMPTON: Now, is that application from the Jewish Primary -- I'm sorry -- that authorization is from the Jewish Primary Day School, is what I saw.

MS. PRUITT: I need to pull it out in front of me because I don't have it directly.

MS. DOBBINS: Madame Chair, you have three authorizations that were submitted to you today anticipating this. You have authorizations from both synagogues authorizing the Jewish Primary Day School to represent them before the Board, and then you have an authorization from the Jewish Primary Day School for Arter & Hadden to represent them before the Board today.

CHAIRPERSON CROSS REID: Okay.

MS. DOBBINS: I am the designated representative from Arter & Hadden. I am not Barred in the District of Columbia, and I am not required to be Barred in the District of Columbia to appear before this Board.

CHAIRPERSON CROSS REID: All right. Okay.

MS. DOBBINS: I have with me today Alexandria Zelickson (phonetic) of our firm, who is, in fact, Barred by the District of Columbia.

CHAIRPERSON CROSS REID: All right. Okay.

Now, can we call the case, this case this afternoon, please?

MR. BARDONILLE: There's a motion on the floor, Madame Chair.

MR. HARRISTON: We have raised the issue. The Board needs to rule.

CHAIRPERSON CROSS REID: It was not a motion.

MR. HARRISTON: No, we've raised the issue. The issue is whether the representative for the day school or for the primary school is properly before this Board.

CHAIRPERSON CROSS REID: Yes, yes.

MR. HARRISTON: This --

CHAIRPERSON CROSS REID: My understanding is --

MR. HARRISTON: I haven't finished yet.

CHAIRPERSON CROSS REID: Okay.

MR. HARRISTON: Now, when you look at the signature on the report, you see the signature of an attorney with the law firm below it. Now, usually in circles that I'm familiar with, when you see a law firm and a signature above that, that person is representing in a legal fashion. We are concerned with the practice of law. That is a matter of issue in the District of

Columbia.

Now, the fact that you say that you don't have to be a lawyer to be before this Board, I don't have any problem with that, but when you sign your name as a part of the law firm, you are representing yourself as a lawyer. That's a distinction. We think the Board has to rule on that.

CHAIRPERSON CROSS REID: To rule on what?

MR. HARRISTON: On whether --

CHAIRPERSON CROSS REID: -- we are confused.

MR. HARRISTON: -- on whether counsel is properly before you.

CHAIRPERSON CROSS REID: I think that for all intents and purposes as far as this Board is concerned, we have no objection to the representative agent --

MR. HARRISTON: That's all we were saying, that we --

CHAIRPERSON CROSS REID: -- that is representing --

MR. HARRISTON: -- want you to rule because --

CHAIRPERSON CROSS REID: -- the Jewish Day School. I have no --

MR. HARRISTON: -- that becomes an issue for the record.

CHAIRPERSON CROSS REID: -- objection.

MR. HARRISTON: That's all we're trying to do is make a record.

CHAIRPERSON CROSS REID: All right. We're ruling that we have no objection. Okay.

MR. HUMPHRIES: Thank you, Madame Chair.

CHAIRPERSON CROSS REID: Thank you.

Okay. Now we would like to call the case.

MS. PRUITT: Application 16556, application of Jewish Primary Day School of the Nation's Capitol, pursuant to 11 DCMR 3104.1, for a special exception under Section 206 to establish a private school for 215 students and 32 teachers and staff in an R-1 district at 7712 16th Street, N.W., Square 2745-D, Lot 802, and in an R-1-B district at 7701 16th Street, N.W., Suite 2739, Lot 804. The Applicant seeks approval on a temporary basis for a three year term.

Al those people planning to testify in support or opposition, please stand or raise your hand and any agent.

Could you stand, Mr. Harriston? Thank you.

(Whereupon, the witnesses were duly sworn.)

MS. PRUITT: Please be seated.

(Pause in proceedings.)

CHAIRPERSON CROSS REID: Just one second. That's what we're talking about now, sir. Just one second.

(Pause in proceedings.)

CHAIRPERSON CROSS REID: All right. How many people are here in support of the application, wants to speak in support of the application?

(Show of hands.)

CHAIRPERSON CROSS REID: All right, and I guess everyone else is in opposition. How many people are in opposition to the application?

(Show of hands.)

CHAIRPERSON CROSS REID: Okay. All right. Now, there's no way we're going to be able to finish this case today because it has take so much time with the preliminary matters and also the fact that everyone will be afforded the time that they need to be able to speak, and if the Applicant has an hour, and then there's cross examination, and then there are people, persons and parties, in support, that's going to take a considerable amount of time.

And then we have the ANC report and Office of Planning report. That will also take some time. So my thinking is that we truncate this somehow and have

the -- take the first part up through the ANC reports. I don't know if we'll have time to -- if we try to do persons in support, then that's going to go for some time. We can try to go up until that amount.

I know I have one Board member who has to leave at six, okay, and another Board member has to leave shortly thereafter.

So my thinking is that we can try to do as much as we can today and then take the opposition, the second part up on an alternate day, which would give you ample time to be able to put on your case because other than that, if we try to, you know, get everything in today, then I don't think that you've going have to have to be able to put on your case as sufficiently as you'd like to. That would be my suggestion.

MS. DOBBINS: Madame Chair, I'd just like to indicate that we have a severe time constraint. We are hoping that the Board will be able to decide this case the very first of April. That's when the day school needs to provide information to its parents that they will have a school and a location for the next year.

So we're working with a severe deadline.

CHAIRPERSON CROSS REID: Okay. So how do we do that?

MS. PRUITT: I can give you dates that we have tentatively that I believe would be or are available because the Board does have a very full schedule as it is.

CHAIRPERSON CROSS REID: Yes.

MS. PRUITT: Between now and the 5th of April, you have the 21st because you're starting -- just for general information, BZA is starting to move all of its meetings to Tuesday. So eventually we will always be on Tuesday. So new meetings we're scheduling will be on Tuesday.

So the 21st next week, next Tuesday is available. I'm just giving you -- then the following one would be the 28th, which is the day before the Field School. So that would give you two really big meetings back to back. Those are the only two days available in March.

When we move to April, we have the 11th.

(Pause in proceedings.)

MR. BARDONILLE: Madame Chair, I'd just like to put on the record that we object to any request for expedited consideration of this case in that whatever time considerations are impacting the Applicant are of their own making and choosing. So that we should in any way be further burdened because

of the exigencies of this Board doing its lawful business I think would be inappropriate.

MR. HARRISTON: Moreover --

CHAIRPERSON CROSS REID: Wait, wait, wait. First, we wanted to see what the calendar tells us because it's going to be driven by our calendar anyway. Before you all object, let's see what date is being proffered and then you can object if you'd like to. Okay?

MS. DOBBINS: Okay. Madame Chair, we are not objecting to the 21st though it is a Jewish holiday. We will be prepared to -- the 21st.

MS. PRUITT: Of March. That's the first available date.

MR. HAMPTON: Excuse me, Your Honor. One of the people that you granted party status with Mr. Arthur Lewis is unavailable on the 21st.

CHAIRPERSON CROSS REID: Okay. Wait a minute. The 21st, you mean next week?

MS. PRUITT: Next Tuesday, correct, because the following week you have the Field School on the 29th. Now, if you'd like, another option is to do it on the 28th, and then have Field School right again on the 29th. I don't know if the Board is willing to do -- I'm just trying -- that's why I'm saying that's -- in

my opinion, that's the first available date, the 21st.

Then after that we go to the 11th of April.

MS. DOBBINS: Madame Chairperson, the 11th would be beyond the date that parents who have students in the Jewish Primary Day school would have to register their children in other schools.

MR. HUMPHRIES: Madame Chair, we object to this, and we object because of the fact that we have witnesses who we have to prepare, and we have to check with them to determine their availability for a rescheduled date within the proper procedure --

MS. PRUITT: This is very typical.

MR. HUMPHRIES: -- as you determine a date. You know, we have to check. We don't want to represent to you that they're available and they're not available.

CHAIRPERSON CROSS REID: Okay. Just give us a second.

(The Board conferred.)

MS. DOBBINS: May the Director of the Board of Directors or the Chairperson of the Board of Directors for the Jewish Day School please speak to this issue?

CHAIRPERSON CROSS REID: All right.

DR. SCALDINI: Madame Chairman, I'm Dick

Scaldini. I'm the President of the Board of Directors of the Jewish Primary Day School.

The most important point we can make at this time is that the exigencies of time that we face are in no way of our making. You'll see that in the case that we will eventually present.

We suffer the jeopardy of the school, a threat to the continuation of the school if we cannot move the process along at the earliest possible time.

We are prepared on a major Jewish holiday, which we would normally observe in our homes and synagogues, to come here and present the case.

CHAIRPERSON CROSS REID: What about the 11th?

DR. SCALDINI: We will be beyond the date at which time our parents will have to register their kids in school for the coming year. We will lose the school.

Now, we are at this late point today because of all of the issues that these gentlemen raised. We --

CHAIRPERSON CROSS REID: Okay.

MR. HAMPTON: We object to that characterization.

CHAIRPERSON CROSS REID: Whatever.

MR. SOCKWELL: Gentlemen, one person at the microphone at a time, please.

CHAIRPERSON CROSS REID: Let me just say this. Let us discuss this. That's number one.

Number two is going to be next to impossible to conduct this case with all three of you jumping to the mic to object to everything that we do. We'd like to try to move this along.

We're going to try to do it as fairly as we possibly can, but we have a lot of different things to consider. We have the staff's schedule. We have the Board members' schedule. We have the sentiments of the Applicant and also your objection. So just give us a couple of seconds to just see what we can best do.

MR. HARRISTON: May I put one thing -- you see, you heard one part of the record. Let me put the other side to Mr. Scaldini's point before you do this.

Now, we in the community, we didn't choose this case at this time.

CHAIRPERSON CROSS REID: Yes, we know that.

MR. HARRISTON: This was placed on us, and we have all of these people who have jobs and other things to do. Part of the contest in this case will be that this is their own doing. If they shot themselves in the foot, that's their problem.

CHAIRPERSON CROSS REID: All right.

MR. BARDONILLE: Including this point, Madame Chair. Let me just point out that counsel for Applicant represents to the staff of the Board the nature of the case that is before them and thus that affects how you schedule the case. That's what I was -- I mean that's --

MR. HARRISTON: That's what we were told.

MR. BARDONILLE: We were told that. The reason why the Field School --

CHAIRPERSON CROSS REID: Do you mean to tell me -- wait, wait, wait. You mean to tell me that you asked for additional time for you to say that?

MR. BARDONILLE: No, no, no, no. We asked why there were four cases --

CHAIRPERSON CROSS REID: No, no, no, no, no, no, no.

MR. BARDONILLE: -- in the morning.

CHAIRPERSON CROSS REID: No, no, no, no. That is just an assertion that you just cannot make.

MR. BARDONILLE: And we were miss -- we were misled.

CHAIRPERSON CROSS REID: And further, hereafter we don't want to take up unnecessary time with any conjecture, with any claims, with any

accusations. Let's leave all of that aside and get to the case and just try to hear the case as fairly as possible, and all extraneous information, please, let's leave it out.

Thank you.

All right. Now okay.

MS. LEWIS: Madame Chairman, I've been advised that --

MS. PRUITT: Excuse me, ma'am. You're not on the record and no one can hear you. So you need to come forward.

MS. LEWIS: I was told by a member of your staff -- my name is Frances Lewis, 1446 Jonquil Street, N.W. -- I was told by a member of your staff yesterday that when asked specifically when the Applicant filed this appeal, they asked if there would be any opposition, if it would be a lengthy day, knowing that there was already another issue on, and they were told flat out, no, there would be no opposition.

CHAIRPERSON CROSS REID: What sense did that make? Even if a staff member did tell you that, they were wrong. So, I mean, we can't control what happens. If you answer a phone, it could have been a cleaning person that answered that phone at that moment. We don't know who answered the phone.

MS. LEWIS: She identified herself.

MS. DOBBINS: Madame Chairperson, I would just like to say that the Applicant in this case will coordinate the persons in support to truncate as much as we possibly can.

CHAIRPERSON CROSS REID: Okay. Thank you. Thank you.

Please I don't want to go into all of that extraneous who said. That's not germane right now. Let's just try to get this case on as quick and as efficiently as we possibly can.

MR. HARRISTON: We have a suggested date.

CHAIRPERSON CROSS REID: What is that?

MR. HARRISTON: The 11th. We can make it.

CHAIRPERSON CROSS REID: All right. We have to recess for about two minutes.

(Whereupon, the foregoing matter went off the record at 4:00 p.m. and went back on the record at 4:18 p.m.)

CHAIRPERSON CROSS REID: What we have decided is Tuesday, next Tuesday, which is the 21st --

MS. PRUITT: Correct.

CHAIRPERSON CROSS REID: -- appears to be the date that the Board members have available and staff to be able to reconvene to finish this case, and

we can start at 9:30 in the morning, and hopefully we'll be done on that same day, and hopefully that will gel with most of your schedules.

No matter what date we choose, there's going to be a problem with someone. So all things considered, that was the date that we felt would be the most accommodating.

Okay. Now, so today we're going to try to get through -- just a moment, please.

MR. HARRISTON: Before we go, may we caucus? We need to respond to your -- we may not be able to be here.

(Simultaneous conversation.)

CHAIRPERSON CROSS REID: Sir, well, that's the date that we're going to have the hearing. So, you know, I don't know what else to say. Any date that we choose someone may not be able to make it, but that's the day we're going to have the hearing.

MR. BARDONILLE: But, Madame Chair, in the previous deliberations with respect to rescheduling, you worked with the parties. You did that today.

CHAIRPERSON CROSS REID: Yeah, we did.

MR. HARRISTON: Our parties say that we can be here on the 11th.

CHAIRPERSON CROSS REID: But we can't.

MR. HARRISTON: Well, but that's one of the dates we were told.

CHAIRPERSON CROSS REID: And we have to be here.

MS. PRUITT: That was one of the dates that was available prior to checking with the Board.

MR. BARDONILLE: Well, what are the dates now?

MR. HARRISTON: Is there any other possible date that may --

CHAIRPERSON CROSS REID: Not between now and next week. No, I don't think so. The other Board members can't meet.

Anyway, listen. The 21st is the date. We have to be able to move on past that. If you cannot be here, then you can read the record or you can request -- you can submit testimony or whatever, but that is going to be the date that we're going to set.

Okay. Now --

MR. HARRISTON: What date are you saying?

CHAIRPERSON CROSS REID: Is that the 21st?

MS. PRUITT: Yes. Next Tuesday, the 21st at 9:30 in the room.

CHAIRPERSON CROSS REID: A.m. Now, for today, what we're going to do is we want to get through

the Applicant's. I think that's all we're going to be able to do before we lose our quorum, is have the applicant put on their case, and with the cross examination of the Applicant today.

And then we will reconvene on Tuesday and take up with the ANC and the Office of Planning report. Hopefully, hopefully we will have gotten that far.

Yes.

MR. HUMPHRIES: Madame Chair, then I respectfully request in light of the short notice of the 21st date that the record be kept open then for another 45 days to allow the individuals who cannot make it next week to provide testimony and make submissions to this Board.

MS. DOBBINS: Madame Chair, the record is open from now until the 21st continuously so that those persons who can't make it could submit their testimony by the 21st.

MR. HUMPHRIES: Yeah, Madame Chair, when the Applicant puts on its case, those who oppose must have an adequate opportunity to respond to the Applicant's case, and that's all we're asking.

MS. PRUITT: The Applicant's case will be done today, sir.

MR. HUMPHRIES: That the Board -- that the

Board be reasonable.

CHAIRPERSON CROSS REID: Yeah. We're doing it today. The Applicant is putting on its case today. The Applicant is putting on its case today, and you have until the 21st to prepare.

As a matter of fact, I'm assuming --

MS. PRUITT: Mic, mic.

MR. HUMPHRIES: But at the --

CHAIRPERSON CROSS REID: I'm assuming you're prepared today.

MR. HUMPHRIES: Right. At the same time we are prepared to go forward, but there's no guarantee, Madame Chair, that we're going to be finished with this today, with the Applicant's case and the cross examination.

CHAIRPERSON CROSS REID: Well, we're going to try. If we can just get into it.

MR. HUMPHRIES: And that's -- that's why we're trying to work with you.

CHAIRPERSON CROSS REID: Okay.

MR. HUMPHRIES: In order to allow the adequate opportunity for all parties to present testimony and data to this Commission.

CHAIRPERSON CROSS REID: All right. Well, --

MR. HARRISTON: We don't have a ruling.

CHAIRPERSON CROSS REID: 21st is the motion.

MR. HARRISTON: Another motion for keeping the record open for 45 days.

CHAIRPERSON CROSS REID: And --

MR. HARRISTON: That's our motion.

MS. PRUITT: You can make a decision at the end of this proceeding because you don't know how far you're going to get.

CHAIRPERSON CROSS REID: Okay. Now, have you called the case?

MR. HARRISTON: What have you ruled?

CHAIRPERSON CROSS REID: That we will not rule. We have decided we will not rule until after the end of this day, this proceeding today, and then we can determine where we are and what decisions we have to make accordingly.

Ms. Pruitt?

MS. PRUITT: I'm sorry.

CHAIRPERSON CROSS REID: Are we ready to proceed?

MS. PRUITT: They've all been sworn in.

CHAIRPERSON CROSS REID: Okay. Ms. Dobbins.

MS. DOBBINS: Are we ready to proceed, Madame Chair?

CHAIRPERSON CROSS REID: We're ready.

MS. DOBBINS: Good afternoon, Madame Chairperson and members of the Board. I'm Madeliene Dobbins of the law firm of Arter & Hadden. With me today is Alexandria Zelickson (phonetic), also of Arter & Hadden.

Arter & Hadden serves as the land use counsel to the Jewish Primary Day School of the Nation's Capitol, the Applicant before you today.

Application No. 16556 requests special exception relief pursuant to Sections 3104.1 and 206 of the zoning regulations to establish a private school for 215 students and 32 full-time staff in the R-1-A district at 7712 16th Street, N.W., and in the R-1-B district at 7701 16th Street.

The Applicant notes that it has agreed to cap its enrollment at 205.

The Applicant --

CHAIRPERSON CROSS REID: Is this mine?

I'm sorry. Go ahead, Ms. Dobbins.

MS. DOBBINS: Okay. At 205, and requests approval on a temporary basis for a three-year period.

The Jewish Primary Day School came before

this Board in 1987 and was granted approval to establish the school at Adas Israel Synagog where the school currently is housed and where it will remain until June 2000 when its lease will expire.

JPDS, or the Jewish Primary Day School, seeks approval from the Board today so that it can locate on a temporary basis to the sites on 16th Street until its permanent building is approved and constructed.

Section 206 of the zoning regulations permit a private school use in an R-1-A and R-1-B district if approved by the Board in accordance with the provisions of Subsection 3104.1. The private school use must be located so as not to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or other objectionable conditions.

The special exception requested under Section 206 is in harmony with the general purpose and intent of the zoning regulations and map and will not adversely affect the use of neighboring property.

In this case, the Applicant has addressed the criteria for approval of the special exception. There will be little or no noise on the sites that will be objectionable to the neighboring property. The

Applicant's traffic and transportation consultant has developed a transportation management plan that mitigates any traffic and transportation impact of the school on the neighboring property and streets.

The Applicant is providing adequate parking on the sites, has provided for a cap on the number of students at the sites, has provided for adequate trash collection, and has considered the safety of students and neighborhood children by providing play areas and using monitors extensively to facilitate drop-off and pick-up of students and oversee outdoor recreation.

Despite the Applicant's best efforts to gain unanimous support for this application, you will hear opposition today. However, there is also very strong support for this application, and you will hear that support, as well.

The Applicant has spent many hours with the community presenting its proposal and refining its transportation plan based on specific community input. The plan is so much the better for the community input.

However, the Applicant has still been unable to gain unanimous support. The Applicant is committed to continuing its efforts in the community. The Board is no stranger to controversy and has on many

occasions sorted through the testimony and documents presented to ascertain the relevant zoning criteria with which to judge the merits of the application presented.

Testimony today will show that the Applicant has gathered the evidence and necessary support to present a substantial and convincing case. We are hopeful that your decision in this case will be made easier by the support of documents and evidence that have already been submitted.

The written record in this case will be supplemented and highlighted by the testimony and the exhibits that you will hear and see today.

Experts in their respective fields will present the technical evidence. I ask that you recognize Ms. Susan Koss as an expert in school operations; Ms. Sharon Robinson as an expert in public relations and community outreach; and Mr. Lou Slade and Mr. Osborne George as experts in traffic and transportation as you have in the past.

The resumes are in the prehearing submission at Tab J. Would the Board like to take that up at this time?

CHAIRPERSON CROSS REID: Yes. Ms. Susan Koss.

MS. DOBBINS: Yes, Susan Koss.

CHAIRPERSON CROSS REID: Okay. I have no objection to accepting her as an expert witness in education only. Is that what she's speaking to?

MS. DOBBINS: School operations.

CHAIRPERSON CROSS REID: And school operations.

MR. BARDONILLE: What is the basis of her expertise?

MR. HUMPHRIES: Objection.

CHAIRPERSON CROSS REID: Well, the basis was submitted in a resume within the application and the information was there. So I don't know if you've had a chance to look at it, but the Board will make the decision and determination as to whether or not it should be accepted as an expert witness, and I don't have a problem with it.

MR. BARDONILLE: Madame Chair, the proffer of a resume is not a specific qualification for her expertise. I mean, the resume indicates where she has worked and how long.

CHAIRPERSON CROSS REID: Okay. Well, you have -- you're objecting. I asked the Board members if they had any problem with her being accepted.

Do you? Is there any objection?

MR. PARSONS: No. She has proper education, 20 years of experience in this field. Let's get on with it.

CHAIRPERSON CROSS REID: Okay.

MR. PARSONS: Lou Slade has been certified before this Board many times.

CHAIRPERSON CROSS REID: We know Mr. Slade.

MR. PARSONS: I have no objection to him.

Mr. George has been certified before us many times, and I have no objection to him.

And I see no objection to the public relations specialist.

CHAIRPERSON CROSS REID: Robinson.

MR. BARDONILLE: Madame Chairwoman.

CHAIRPERSON CROSS REID: Just one second please.

All right.

MS. DOBBINS: Madame Chair.

CHAIRPERSON CROSS REID: Sharon Robinson for public relations or community outreach?

MS. DOBBINS: Yes, public relations and community outreach.

CHAIRPERSON CROSS REID: Okay. I have no problem with her. Just one second. I have no problem with her.

MS. RENSHAW: I would question whether it's really necessary to get into PR in this hearing. I really do.

MS. DOBBINS: Well, then community outreach, Ms. Renshaw.

MS. RENSHAW: I think that this is more a PR, this kind of background. All right?

CHAIRPERSON CROSS REID: Again, I have no objection to accepting her as expert witness.

MS. RENSHAW: I'm objecting.

(The Board conferred.)

CHAIRPERSON CROSS REID: Okay. All right.

MR. HAMPTON: We would respectfully request the Board, although you have made a decision without hearing the cross examination that we proposed to give these people, that they're experts, but we would like the record to reflect that we will come back after you hear each witness and again object to their expertise.

CHAIRPERSON CROSS REID: All right.

MR. PARSONS: And which experts do you --

MR. HARRISTON: And also as to the relevance of this first witness.

CHAIRPERSON CROSS REID: I'm sorry?

MR. HARRISTON: The relevance to this case. We're talking about land use. What's the relevance of

her expertise as an educator?

CHAIRPERSON CROSS REID: It wasn't an educator. I said that, and I was corrected. It is for the school operations.

MS. DOBBINS: School operations.

MR. HARRISTON: What's the relevance of school operations? We're talking about land use.

MS. DOBBINS: School operations --

THE REPORTER: Unless you speak into a mic, you're not on the record.

CHAIRPERSON CROSS REID: Each time you speak, you have to speak into a mic.

Ms. Dobbins.

MS. DOBBINS: School operations are relevant in terms of addressing the impacts associated with the location of the school at the sites.

MR. HARRISTON: The location of the school has to do with locating a private school in a residential area. What's the relevance of her expertise as an educator?

MS. DOBBINS: It has to do with how the school operates at those sites and will operate at those sites and what the adverse impacts may or may not be.

CHAIRPERSON CROSS REID: We need to --

MR. SOCKWELL: Sir, typically, typically this Board has to be able to determine that a facility is going to operate as stated in the Applicant's presentation. It is impossible to determine that a building is going to do anything since it is inanimate.

MR. HARRISTON: That's our point.

CHAIRPERSON CROSS REID: Okay.

MR. SOCKWELL: Therefore, she is necessary. That's my point.

CHAIRPERSON CROSS REID: All right. Now, was there any further objection? So can we move on?

MR. BARDONILLE: Madame --

CHAIRPERSON CROSS REID: Are you all going to --

MR. BARDONILLE: Madame Chair.

CHAIRPERSON CROSS REID: Are you all going to come up here and object to every single thing that we do this afternoon?

MR. SOCKWELL: Sir.

MR. BARDONILLE: Madame --

CHAIRPERSON CROSS REID: We can't move forward like that, and I'm going -- what I'm going to have to do is I'm going to have to overrule your objections because your objections are excessive.

MR. BARDONILLE: I haven't made an

objection yet.

CHAIRPERSON CROSS REID: And they are now becoming deleterious to these proceedings, and I cannot continue to allow it. I'm sorry.

If you have something legitimate, fine.

MR. BARDONILLE: I do.

CHAIRPERSON CROSS REID: But everything -- you jump up every two minutes. We will never get out of here.

All right. Let's move forward. The expert witnesses we have accepted, and we have heard the objections, and we feel that we want to hear from these expert witnesses.

Thank you.

MS. DOBBINS: Thank you, Madame Chair.

We have organized our presentation in a logical and efficient manner. We trust that you will find our evidence to be substantial, efficiently presented, and persuasive.

First I would like to call Dr. Richard Scaldini to provide testimony on the history of the Jewish Primary Day School and the educational vision.

DR. SCALDINI: Thank you, Ms. Dobbins.

Good afternoon, Chairperson Reid and members of the Board. I'm Dick Scaldini. I'm

president of the board of directors of the Jewish Primary Day School of the Nation's Capitol. I am an educator by profession, and I'm the father of Ben Scaldini, a student in the fifth grade at JPDSNC.

I'm very pleased to appear before you to present the Jewish Primary Day School's application to locate our school temporarily at the Ohev Shalom and Tifereth Israel Synagogues.

I'm not pleased to have to say that if our application is not approved, as I said earlier, the future of our school will be in serious jeopardy.

For a school with 13 years of distinguished service in the District of Columbia to face extinction for lack of a temporary space is tragic, especially when suitable and desirable space is ready to hand.

However, I know that the BZA's obligation is not to act only with its heart, but also with its mind on the basis of the zoning laws of the District of Columbia. So we are here to make that case today, and it is a very strong one.

The Jewish Primary Day School of the Nation's Capitol is a kindergarten through sixth grade elementary school open to all and founded in 1987. We are known as a community school serving the broad range of the Jewish community.

We offer a dual curriculum comprised of strong and integrated programs in Judaic and secular studies. JPDSNC prides itself on bringing together in a nurturing environment students and families of distinctly different religious and cultural backgrounds.

Our head of school, Susan Koss, and I am a professional educator, and I can vouch to you for her credentials and their very high quality. She will tell you more about our program, but I want to emphasize our mission as an institution in this community.

We are committed to serving the District of Columbia and to holding up a model of American Jewish life and learning in the nation's capitol. We are the only Jewish day school in the District of Columbia. Our mission statement speaks, in particular, about our role not only in the Jewish community, but in the greater community of Washington, D.C. as a whole.

To quote it, we foster social consciousness and a sense of responsibility for "tikkun olam," the expression meaning perfecting the world.

We are not an elite or an elitist institution. Our tuition for 2000-2001 has been set at approximately $8,000. This is slightly above the amount that the District of Columbia spends per

student. In fact, it represents about 75 percent of the amount that we spend per student, the rest being covered through donations.

Our tuition, therefore, places us in the middle of the range for private Jewish schools in the greater metropolitan area and very low in the range of all private schools.

Why? This is because the Jewish Primary Day School has for years sought to keep its cost affordable in order to exclude no one from the benefits of its program for financial reasons. To this end, unlike many private schools that are forced to restrict the availability of financial aid in the face of rising costs, JPDSNC has set itself the goal of more than doubling its financial aid from its present level to be on a par with the national average for Jewish day schools.

Our commitment to the Washington community is not just talk. Susan Koss will tell you about the many JPDS activities in the community, but I want to show you a few highlights.

CHAIRPERSON CROSS REID: Okay. Now, I think that in the interest of time you want for us to look at the slides?

DR. SCALDINI: There's only four.

CHAIRPERSON CROSS REID: Okay, but nonetheless, we see what the slides are of, and I really don't think that that's really germane to this particular application.

DR. SCALDINI: Well --

CHAIRPERSON CROSS REID: So I would not -- I would not --

DR. SCALDINI: Do you want me to skip them?

CHAIRPERSON CROSS REID: Skip the slides. I mean --

DR. SCALDINI: Okay. Can I tell people what they are?

CHAIRPERSON CROSS REID: You can tell people what they are very briefly.

DR. SCALDINI: That's fine, happy to do so.

CHAIRPERSON CROSS REID: But quickly because we want the stage to remain to the application, and the slides, while they're very laudable and very nice, nonetheless, let's just keep it moving.

DR. SCALDINI: Right, and the reason these slides are here is because our opponents have stated that we add no value to the community.

CHAIRPERSON CROSS REID: Well, tell us about it real quickly.

DR. SCALDINI: And we're showing about it.

Okay?

MR. BARDONILLE: Are the slides in evidence, Madame Chair?

CHAIRPERSON CROSS REID: Do you know what? If you -- you know what? If you continue to do this, I really -- I hate to do it, but I have no choice but to ask you to leave because I cannot allow you to keep disrupting these proceedings.

Thank you.

DR. SCALDINI: What we were going to show you were our students meeting with A.J. Wood of D.C. United. He came to visit the school to congratulate our kids because they raised almost $9,000 in 1999 for the multiple sclerosis read-a-thon, and they led all schools in the District of Columbia, and one of our kids, Ian Epler, was the top reader of all D.C. students with 246 books, and he came out to me with the kids.

The next slide shows JPDS students in the Oval Office of the White House lighting the Menorah with the President of the United States in celebration of Hanukkah.

The next slide shows the Vice President of the United States visiting JPDS just before he makes a trip to Israel, and the students were briefing him on

the geopolitical situation.

(Laughter.)

DR. SCALDINI: And apparently --

CHAIRPERSON CROSS REID: Order, please.

DR. SCALDINI: And apparently it kept them out of trouble. So it worked pretty well.

Okay. To make a long story short, we're the only Jewish day school in the District of Columbia, and our departure would leave a significant gap in the community and the range of education available to citizens of the District.

The Jewish Primary Day School of the Nation's Capitol is a small school. We have 180 students representing 135 families of which half are resident in the District and almost half of the rest live near or very nearby, many of them working or running businesses in the District.

We were created precisely to remedy the absence of a Jewish elementary school day school in the District. The only alternatives are located in Rockville and would not be viable for most of our parents who, as I said, are largely living and working in the District.

Our impact on the Shepherd Park neighborhood will, therefore, be small. As our parents

bring their children to school and pick them up, we are talking about 20 minutes in the morning with 40 cars on one side of 16th Street and 28 cars on the other, and then 25 minutes in the afternoon with 22 cars on one side of the street and 15 cars on the other.

We had a long and successful history of traffic management at the Porter and Quebec Street site of the Adas Israel Synagogue where we're currently located. This bodes well for our ability to manage a far less difficult traffic situation in Shepherd Park.

You may ask why is the school locating at Ohev Shalom and Tifereth Israel so urgent for us, and this goes to the question of our timing.

JPDSNC became an independent institution in 1999, and by prior agreement with Adas Israel congregation is scheduled to relocate from its present home in June of 2000.

Beginning in June 1998, JPDSNC launched an exhaustive search for a new home, either permanent or temporary, in the District.

Then in June 1999, in recognition of our outstanding track record and great potential, we were made a partial gift of a wonderful property in the Forest Hills neighborhood of the District. Subject to

this Board's approval, it will become our permanent home in three years after we have complete the application development and construction process.

The need, therefore, arose to find an interim home for the three years of the development period. This search proved to be the most difficult of all since, as we, you, and our opponents well know, suitable space for an elementary school is scarce in the District.

Our efforts included contacting all of the appropriate city agencies regarding available city properties, both schools and others, and following up diligently; contacting all synagogues, churches and schools that would be feasible locations, including discussing extension of our lease with Adas Israel; and then working with real estate agents to look for property to build or lease, including commercial space.

The following are a few of the sites we considered and pursued unsuccessfully: a land site on Wisconsin Avenue in Friendship Heights. The developer ended up buying it.

The Hardy School. We bid and lost out to the Rock Creek International.

The Owl School. They raised the money to buy the property.

The Dixon Mansion, it was only available for sale and only available for development as a permanent site.

The original Georgetown Day School, renovated office space available for sale only and too small for a permanent site.

And then a variety of potential sites in Maryland, none of which proved available in time or sufficient size.

At the end of 1999, having pursued without success a variety of alternatives, we were able to work out with Tifereth Israel and Ohev Shalom a way to accommodate our school and their spaces and schedules. Substantial renovation would be required at Ohev Shalom. Consequently we were under extreme time pressure, and this goes to the question raised earlier; extreme time pressure to file our application with the BZA in order to have a response, hopefully favorable, in time to do the necessary construction for the start of the coming school year.

Adding to the time pressure, our parents need to know by early April, early April if we have a place to go in order to register their children for school somewhere, preferably with us.

The need to move quickly led to a situation

that we deeply regret and for which we have apologized on a variety of occasions to the neighbors of Shepherd Park. We were able to notify the neighbors of our intention to locate the school at the two synagogues only shortly before we filed and before we were able to have a completed traffic plan ready to present.

As I said, we've apologized to the neighbors in Shepherd Park for this situation. That represents the constraints of circumstance and not an attempt to deceive or impose a stealth school, as it's been said on the neighborhood.

I've attempted to demonstrate the importance of JPDSNC to the District of Columbia. Let me close with examples of the efforts we're making to enrich the Shepherd Park community by our presence.

The board of directors of JPDSNC has authorized the following community initiatives: one, creation of a community liaison committee comprised of representatives of the neighborhood and from the boards of JPDSNC, Tifereth Israel, and Ohev Shalom.

Our board of directors has further resolved that the neighborhood representative to this liaison committee would have the right to put items on the agenda of the monthly meetings of the JPDSNC board of directors and to present those items.

Two, a cap, as has already been mentioned, a cap of 205 students at the school during the three years we are at Tifereth Israel and Ohev Shalom.

Three, an adult education free to Shepherd Park residents and JPDSNC parents.

Four, cultural exchange programs to be developed with Shepherd Elementary School.

Of course, we will continue the existing JPDSNC community outreach programs that Susan Koss will tell you about, and one of our parents, Sandy Colter, will tell you about a very long rack record of success in working with other D.C. organizations.

Over its 13 year history, the Jewish Primary Day School has established itself as an asset to the District of Columbia. As the only Jewish day school in the capitol, it's crucial that we have your support to survive.

Ladies and gentlemen, our small school has been welcomed at the White House. Please find it in your hearts to welcome us in Shepherd Park.

Thank you.

CHAIRPERSON CROSS REID: Thank you.

MS. DOBBINS: Madame Chairperson, is the Board intending to hold questions until all witnesses have testified?

CHAIRPERSON CROSS REID: Yes.

MS. DOBBINS: Then we would call Brenda Krieger. She's the co-chair of the facilities committee for the Jewish Primary Day School. She will speak to the building layouts.

CHAIRPERSON CROSS REID: All right. Excuse me one second. Ms. Dobbins, we are going to hold cross examination until after everyone has spoken. However, if the Board members have any questions that you don't wish to hold, then at any time you can jump in.

Okay. Thank you.

MS. DOBBINS: Thank you, Madame Chair.

MR. HARRISTON: Madame Chair, the normal procedure is that you cross examine while it's fresh. Now, if we're forced to wait over --

CHAIRPERSON CROSS REID: We can --

MR. HARRISTON: We would like to cross examine while it's fresh.

CHAIRPERSON CROSS REID: There is no -- no -- no specified manner in which cross examination takes place in these proceedings. If, in fact, we elect to hold it until after --

MR. HARRISTON: I'm asking you to elect --

CHAIRPERSON CROSS REID: -- all the witnesses -- I'm not finished -- all the witnesses have

finished --

MR. HARRISTON: Yes.

CHAIRPERSON CROSS REID: -- we can do that or we can do it after each witness. In this instance, because of the huge case that we're dealing with here and the voluminous amount of information and all of the people who are involved, we have elected to do it differently, and that is at the end of all witnesses testifying.

MR. HARRISTON: So then we have to take it.

CHAIRPERSON CROSS REID: You can take your notes and ask your questions after all of the witnesses have testified. Other than that, we would not be able to get out of here and get all of the witnesses in as we are intending.

Thank you.

Yes, next.

MS. DOBBINS: Yes, Brenda Krieger will talk about the building layout for the schools.

Have Lou put the boards up.

MS. KRIEGER: My paper says good morning, but I guess it's good afternoon.

CHAIRPERSON CROSS REID: Good night.

MS. KRIEGER: Good afternoon, Chairman Reid and members of the Board. My name is Brenda Krieger.

I live in the District of Columbia in the Mt. Pleasant neighborhood.

I am the parent of a fourth grade student at JPDS, and I am the co-chair of the facilities committee in a volunteer capacity.

I have lived in the District of Columbia for almost 30 years, and I am thankful and proud that I have the choice to send my child to a Jewish day school here.

I bring to my task 25 years of experience as a commercial interior designer and planner. Over the last three years, I have played an integral part in the school's analysis of its long range space needs and in its search for a permanent and a temporary location.

In this capacity I have worked closely with the architects hired to develop a program for the school. I have been able to apply the knowledge gained in these exercises to the analysis of the use of the two sites before us.

Although neither synagogue was adequate to house the entire school population by itself, the spaces made available to us at the two sites work exceedingly well.

In addition, the use of these spaces for educational purposes is a natural and traditional

auxiliary use of a synagogue. At Ohev Shalom, we plan to house grades K through three. All renovation in this building will be interior.

To accommodate the eight classes with a potential growth of up to 120 students, we will build out eight new, well sized classrooms on the lower level.

In addition, on that level we will have space for a large teacher work room/lounge, as well as indoor activity space.

The upper level is already structured into usable spaces having been originally built to accommodate classrooms in addition to the sanctuary. These existing rooms will be painted and upgraded and will house school offices, science room, and library. We will also make use of the small chapel and the large sanctuary.

With our dual curriculum and academic emphasis, athletics play a minor role at JPDS. There are no team sports. We do have a P.E. program that now and in a temporary location will be held indoors for the most part.

There is a small, enclosed and paved outdoor play area adjacent to the building similar to the area we now use at our present location. This will

be used for recess.

In addition, again in keeping with our present practices, we will take advantage of our closeness to the park for nature walks and exercise.

We are presently working with an architectural firm for the final development of this site. They have reviewed our preliminary layouts and the building itself. These architects will be drawing up construction documents for our work at this site in accordance with all building and life safety codes, as well as ADA requirements.

Tifereth Israel has been undergoing its own renovation and upgrade for the past two years. They have completed phase one and plan to complete phase two by this summer. This phase includes the upgrading of their existing classrooms in addition to other spaces in the building.

They will be installing an elevator with access to all floors. We will be housing grades four through six at Tifereth Israel, with a potential growth over the three years to 85 students. The classrooms for these grades already exist on the second floor of the building.

We will also be making use of the library, the chapel and the social hall. When we will be using

these spaces, there are no primary synagogue functions scheduled. The preschool presently located at the synagogue will no longer operate at this location. Religious school takes place late Wednesday afternoons and on Sunday.

We presently share our classroom use with the religious school at Adas Israel and will continue this practice at Tifereth Israel. We have contacted the Department of Recreation to look into some use of the adjacent public fields and our head of school has already met with the principal of Shepherd Elementary and, among other things, discussed the use of the fields only at times that would not conflict with their present use by that school.

Because I have become very familiar with both buildings and with the operations of JPDS, I am very confident that we can fulfill the educational mission of the school at these sites for the next three years.

Although not an ideal location for the long term needs of the school, these sites are workable and very satisfactory solution for our temporary needs.

Thank you.

CHAIRPERSON CROSS REID: Thank you.

MS. DOBBINS: Okay. Next, Susan Koss, the

head of school for the Jewish Primary Day School, will speak to the school's operations.

MS. KOSS: Good evening, Madame Chair and members of the Board. I am Susan Koss, head of the Jewish Primary Day School of the Nation's Capitol, known affectionately as JPDS.

I was an Army wife for 20 years, and in that time in locations in Germany and across the United States I helped start several schools, Jewish and non-Jewish, a day care, and a teen center.

Even after that I helped start a preschool and another day school, but there is none about which I feel the passion that I do for JPDS. This is my tenth year here. I started with 29 students in kindergarten, first, and second grades. I saw JPDS, through its expansion from a K to three school, to one that serves seven grades, K to six.

I engineered JPDS' moves from occupying just one hallway of a large building to two and then three and now four hallways. I oversaw the creation of a science lab and enlarged classrooms.

In all that time and through all the change, JPDS has remained the same. Our mission has not changed, nor has our dedication to our students. What has changed is our size.

Our community has grown considerably. JPDS is dedicated to furthering Jewish education and identity amongst its students. We believe in hands on developmental education and a small class size. We believe in the individual worth of each student and the importance of treating each other with respect.

We are a proven entity with an excellent track record. Our graduates shine and bring us much pride, as does our current student body. We are conscientious about every facet of the school day, and we frequently revisit our plans and policies to secure student safety and security.

Our arrival and dismissal policies insure this. Whenever we cross the street, whether to our play space, the community library or fire station, or downtown on a field trip, our teachers serve as crossing guards. We travel frequently on the Metro, and our students and faculty are well aware of the necessity to be alert and secure.

We utilize adequate staffing to maintain a safe environment, no matter the situation, and if we are insecure about it, we change our plans. Our teachers are equipped with walkie-talkies so that they may call the office for assistance. Office personnel have been trained as to how to respond in an emergency,

as well as to the everyday situations that arise with children.

Our program, as you have heard, is bilingual, Hebrew and English. By the middle of second grade, most of our students fluently read Hebrew. At the end of second grade, they study biblical text in Hebrew, and in the third grade they are introduced to another form of Hebrew used by a great biblical commentator of the 11th Century. They are also taught modern Hebrew, read newspapers and stories, write poetry, and keep journals, all in Hebrew.

They are conversant in modern Hebrew and conduct many classes and some lunches all in Hebrew. They study the land of Israel as a modern state, as well sa the ancient land. They learn Jewish history, customs, and ceremonies, as well as Jewish law and practices.

Prayer occurs every day led by students, all in Hebrew. They learn what prayers mean, and they practice until they can say them fluidly.

They learn the origins of the Jewish holidays, of which there are many, and they learn how these holidays are celebrated around the world and by different Jews.

They make ceremonial objects to use at

home, decorations, and food to enhance their celebrations and often have holiday parties.

They learn about the commandments, from giving money to those less fortunate to visiting the sick and feeding the poor. They collect one clothing to help others, and at Hanukkah forego some presents and instead send them to patients at Children's Hospital.

Last year we also collected and shipped toys and toiletries to Honduras. This year we gathered canned food to ship to Venezuela, but when the embassy could take no more, we sent it to the D.C. Central Kitchen.

On Christmas, not a Jewish holiday, many of our families go to the Salvation Army Harbor Light Center, a drug rehabilitation center in D.C., to help prepare and serve meals and sing holiday songs.

On the Jewish festival of Purim coming up next week, our students visit nursing homes or people confined to their own homes bringing gifts of food and their cherry demeanor, singing songs and telling stories to help spread the holiday feeling.

Every week our children bring in "tzedaka" money, loosely translated as charity, to be sent to organizations, Jewish and non-Jewish, which help people

all over the world.

Every month when the Hebrew month changes -- we have a lunar calendar -- they are taught "anumeda" (phonetic), a positive value such as respecting elders, taking care of the environment, truthfulness, patience, welcoming strangers, and they are taught how to practice these values.

They also learn Jewish songs and Israeli dances, and on Fridays the whole school gets together for an assembly which closes the week, but more importantly, prepares us all for the coming Sabbath.

All of this can only occur in a Jewish day school program, and all this happens in 40 percent of the school time each week. The other 60 percent is spent in general studies where our students learn to read and write in English, do math, science, and social studies, write poetry, learn American history, world geography, explorers, ancient history, where the sign on the bulletin board says Homer without the "Simpson."

They have book reports and research papers. They learn to work on computers. They study about dinosaurs, as well as the Civil War. They learn about the Constitution and Native Americans. They do a unit on Washington, D.C., and study the architecture of our country's capitol, their home. They take field trips

on the Metro and know the ins and outs of the Smithsonian.

We are fortunate to have speakers from various fields come to our school. In a few weeks we'll be privileged to have Congressman John Lewis come to help us commemorate the anniversary of the assassination of Dr. Martin Luther King, Jr.

We also take our students to plays and concerts at the Kennedy Center and Discovery Theater. They visit the Capitol and the D.C. water purification plant. They even compare tap water and bottled water at science night, and D.C. tap water comes out the favorite.

They have specialty classes in art, science, music, physical education, and library. They have recess on a small part of the parking lot known as "the cage," or on a small piece of fenced in land across the street known as "the slope."

We celebrate the American holidays with flair. This year on Veterans Day, we had plebes accompanied by their chaplain from Annapolis as our guests, as well as veterans from World War II, the Korean War, Vietnam, and the Gulf War. Each grade had a part, and many in the audience were moved to tears by the beauty and poignancy of this annual event.

Many of our students are preparing for next week's women's history assembly, and last month we had an outstanding black history assembly. These are yearly celebrations.

Twice a month we have a hot lunch program with the food brought in already cooked. Our students eat these meals together. We plan to hold these events at Tifereth Israel in the social hall.

Once a month this will be our birthday hot lunch, a wonderful JPDS tradition at which we honor all the students who have birthdays that month. For this our K to three students will cross 16th Street, and we will develop a plan which will make safety its first consideration.

We have three whole school evening programs a year. In September we host a back-to-school night when parents come to meet their children's teachers and learn about the curriculum.

In December, we host a school-wide family Hanukkah party.

And in June, we have an art and science night when students show off their work in these areas for their families.

Our three major daytime programs would be held at those times when parents could park on 16th

Street. We understand neighborhood concerns about traffic, parking, and noise, and promise to keep them at the top of our plans.

We will maintain an efficient operation to benefit both our students and our neighbors. Our students will be taught through our actions and theirs how to be good neighbors.

Outdoor play time, lunch recess will last from approximately 11:30 to 1:30 each day if there's not inclement weather. Recess is only half an hour for each class and will be limited to 32 students at a time so that there will not be overcrowding of people or noise.

Of course, all recesses will be staffed by an adequate number of teachers as all JPDS activities currently are and will continue to be. Our students are consistently monitored as students this age need appropriate adult supervision at all times. Our in class student-teacher ratio is no more than 16 to one and often eight to one.

We use instructional assistants to help us carry out our curriculum and meet individual needs. Our students are taught to be good Americans, as well as to understand their Jewish heritage.

What is so unique about JPDS is that we

teach our children about Judaism in the broad sense, and that there is no one right way. I liken it to an orchestra. Each instrument is important. Each has a role. You may have a favorite and feel that this is the one for you, but your neighbor has his or her favorite, and that's the one for him or her.

We don't have the right to criticize the choice or the sound. We expect each of our students to respect the choices others have made. No one is better.

This carries over to other phases of our lives. We all are different and shine in various ways. Some draw artistically. Some sing melodiously. Some read or write prolifically. Others do math astronomically. Some read speedily. Success in any area doesn't make any of us better.

We respect each other because of who we are as individuals inside, not what we are. Success is not gained by belittling others or using them as stepping stones. Success is gained by working together. Helping others only strengthens us, and it all works.

Our students are wonderful people. They work hard and love to have fun. They are kind and considerable, and very normal. We have the same issues faced by other schools and deal with them.

There is no magic, but there is the idea that they are responsible for each other, that they must help each other and respect each other; that Jews and non-Jews are responsible for one another.

How does this all fit in today? JPDS needs a home. Two synagogues understand this responsibility. In Hebrew, it says (speaking Hebrew) all Jews are responsible one for another. We are grateful to them for their openness and would like to be able to accept their hospitality.

That also means that it would give us a chance to take our community into another community because that's what JPDS is, a community, a community of learners, a community of caring and skilled teachers, a community of parents. This is felt in so many ways.

JPDS has had a rough year. Several times our hopes have been raised about a home for the next few years. It has really been a roller coaster, but our community has stayed strong. The number of parent volunteers is greater than ever. Our registration for next year is solid up until a point.

The caring of our parents is palpable. They want the school to work for their children and for themselves. They are passionate about JPDS because

they believe in its mission. They see that it works.

They understand that sacrifices might have to be made, that different rules and regulations might need to be followed so that we may continue, but they are willing. They want this school to endure, and they will work diligently with me to see that it does.

We would like very much to be a part of Shepherd Park, albeit temporarily. I believe that we can make a contribution to this neighborhood. I have already spoke to the principal of Shepherd Elementary School, and we discussed the possibility of sharing cultural and sporting events, as well as school programs.

I believe that our JPDS community will be a positive asset to the Shepherd Park community, anticipate that when we have our intergenerational art program, we will both benefit from this shared experience, and that when it's time for us to move on to our permanent home, we will both be a little sad. We will have made new friends and Shepherd Park will have become an integral part of JPDS.

It's my privilege now to call up two JPDS sixth graders who have been here all day, Helen Grove and Ezra Marcus.

MS. GROVE: The facilities coordinator

testimony, but where is she? Ms. Krieger, did she have written testimony?

MS. KRIEGER: Yes, I have at least one copy.

CHAIRPERSON CROSS REID: Okay.

MS. KRIEGER: You'd like to have it for the record?

CHAIRPERSON CROSS REID: Please, for our -- our records because we don't have one.

MS. KRIEGER: Okay.

MS. GROVE: Good afternoon, Chairman Reid and members of the Board. My name is Helen Grove. I'm 11 years old and a sixth grader at JPDS.

I'll be graduating very school. Looking back at the experiences I had at JPDS, I realize now that nothing could have compared to the way I was brought up and the values I learned there.

I can't help thinking about the other children at my school who aren't graduating and going to a new school next year. They have to worry about where to go and what to do.

If I school has to move out to somewhere far away, many of the children will not be able to continue going to the school. I was lucky enough to go to JPDS for seven years without having to move from

school to school, and because of that, I have friends who will last a lifetime and morals I will remember forever more.

Because JPDS is located in the District, if there is ever an emergency, I'll be able to make it to my own doctor or hospital as quickly as possible, and my family would be able to get to where I am.

Because JPDS is located in the District, we can take advantage of the many opportunities available to us for field trips and visits to cultural events and exhibits.

Also, many children walk home from school, take the bus or even the Metro. This is possible because we are located in the city near where we live.

Next year I'll be going to JDS, which is located in Rockville. Because I'm older, going a long ways home is much more appropriate. If I were just seven or eight, my parents probably wouldn't want me to go such a long way home.

Other parents will have this concern, I'm sure. If our school has to move out to somewhere far away, many of the children may stop going to JPDS and they will not have the advantage I had of going to a school so important to their moral and intellectual education, and the District would lose a wonderful

asset.

Next week we do celebrate the holiday of Purim when brave Queen Esther went to the king to plead with him to save the Jews of Persia from death at the hands of wicked Hermon. My name is not Esther and we're not asking you for our lives, just for the life of a very wonderful and special school.

CHAIRPERSON CROSS REID: Thank you.

MR. MARCUS: Good afternoon, Chairman Reid and members of the Board. My name is Ezra Marcus, and I'll be graduating from the sixth grade at JPDSNC this year.

These seven years since kindergarten have been the best years of my life. JPDS is the kind of warm place that all kids wish for.

One of the most important things that we learn there is (speaking Hebrew). In English this means the way of the land is even more important than the Bible. The way of the land means to respect people, to do good deeds without recognition, and simply to be a good person.

I think that if JPDS comes to Shepherd Park, everybody at the school practices acts of kindness as they always have done. I have a friend who graduated last year. He told me that he thinks JPDS is

the best school there is, but he only found that out when he went somewhere else.

I don't want any of the younger kids at JPDS, including my sister Sarah in third grade, to have to find that out any earlier than they have to. If this school can't make a home in Shepherd Park, they may be forced to.

Jews are one of the major minorities in the District and our school is the only Jewish day school here. So who's left when we're gone? Well, if you said there will be no Jewish day school, then it looks like you're right.

If our school dies, the 180 kids going there now and the many kids who want to come in the future will either have to go out of Washington or to a non-Jewish school.

There have been three things that have helped me to live through life. One of those is my family. My family has, without a doubt, helped me the most, but both of the other two, my friends and teachers, can be found at JPDSNC.

I can never say enough about all of the things I've learned and all the friends I've made at JPDS, but future kids will never be able to say this if the school does not exist.

CHAIRPERSON CROSS REID: Thank you very much, both of you, for coming down here and being brave enough to appear before us, and you did a wonderful job.

(Applause.)

MS. DOBBINS: Madame Chair, next Lou Slade will provide the traffic and transportation portion.

MR. SLADE: Good afternoon, Madame Chair, members of the Board. My name is Louis Slade. I reside at 3500 Quesada Street. I'm a principal with Grove, Slade. We're the transportation consultants to Jewish Primary Day School.

I think we have an unusual opportunity here to make a comparison in our minds, and I always think that the best lesson for any one of us regarding traffic issues is to have an example that we can go out and see and touch and feel.

Whenever we get an assignment like this, and I counted up 25 schools I had worked on over the last five years, most within the District of Columbia, I look for comparables, and the ones that came to mind were Washington International School. The lower and middle school had moved to Burlithe (phonetic) two years ago as a result of the Board's action. National Cathedral School, which expanded a few years back,

because they are city schools in an urban setting, cheek to jowl with a residential neighborhood with a number of institutions nearby.

But the one that's most apparent is Blessed Sacrament that we talked about this morning. Blessed Sacrament is in my neighborhood. It's two and a half times bigger than Jewish Primary Day School. It's all in one location. It uses one alley, and all of these schools have to use public space. They simply do not have sites large enough to have a large circulation driveway where they can get their traffic operations off the street. They are using the public streets and the public alleys.

So I know all of you live in different parts of the city and know the city well, and I think if you bring those to mind, all of those schools are considerably bigger and generate more traffic than Jewish Primary Day School.

Four parts to this testimony. I'm going to try to do this within our time frame and leave some time for the other speakers.

As you've heard, the school currently has 180 students at its current location. The carpool operation there works very well. There's only 92 cars that come in the morning to drop off those 180

students.

The operation is very efficient. The back-up is a maximum of five cars. Cars pull in, doors open, the children are helped out by monitors into the school. It's very safe and efficient.

The parents are asked to follow a route, and they do so, and we'll come back to that later because we're going to ask the parents to follow a route here.

In the afternoon, due to the inherent longer time it takes to pick up children at the current site, the back-up is about 24 cars, 25 cars. The cars arrive; the parents are waiting for the children to get organized and then finally out to their parents and into the cars, but in the afternoon there's only a total of 50 cars arriving because the school has an afternoon program which about 25 children participate in, and carpooling is more extensive in the afternoon because parents are at work.

So the school serves 180 students today at its current location with 90 cars in the morning and 50 in the afternoon, and parents are asked to follow a fixed route in a clockwise pattern around the school using the streets around the school and to drop off in the parking lot behind the school.

The school has staff monitoring that operation for safety and efficiency, and the staff communicates with each other with walkie-talkies and with a carpool manager, and that's what we'll be doing at these synagogues, pending our move there.

I do want to note that there are other schools using the space at the current location of the school, Adas Israel Synagogue. There are other schools there that are drop-off and pick-up operations, and you may hear some testimony from the opposition, from the concerned neighbors about confusion and traffic problems at Adas Israel.

That's not the Jewish Primary Day School. We were able to isolate the Jewish Primary Day School traffic when we did our surveys there, and were able to observe their operation. So I just wanted to make that clear that there are other schools operating at Adas Israel, along with Jewish Primary Day School.

Now, the characteristics at the two synagogues, and I've put this chart on the left up just to give you the location, Ohev Shalom is in green on the left and Tifereth Israel is in red on the right. In the middle of the chart roughly is 16th Street, Juniper Street on the south, and Jonquil Street on the north. This is Kalmiah. There's a traffic signal at

Kalmiah, and there's a traffic signal at Holly just off the chart to the south. There's a second portion of Holly Street where I'm showing with my laser.

So there's traffic signals one block to the north and about three blocks to the south. These other streets are unsignalized. Sixteenth Street is a four-lane, divided major arterial, carries a lot of traffic, 36,000 cars a day, mostly commuters from the northern part of the District and Maryland down into downtown Washington.

The cross streets carry moderate amounts of traffic, although Juniper in the west portion seems to carry cut-through traffic coming out of the park to the west, cutting over to 16th Street and down to Walter Reed, and traffic also making left turns off of 16th Street heading over to the Lowell School, which is in this location.

The neighborhood is predominantly residential, as you know, but there are several institutions. These two synagogues, the Lowell School, which I mentioned, Shepherd Elementary is here. The Washington Ethical Society, I don't know exactly where that is. It's one of these buildings on the west side of 16th, and there are other institutions up and down the avenue, as you know, if you're familiar with 16th

Street.

The Ethical Society houses an independent school as well. So there's an existing school at the Ethical Society. It's important to note that the independent school at the Ethical Society, which I've just mentioned, and the preschool -- there's currently a preschool at Tifereth Israel -- are leaving concurrent with the arrival of Jewish Primary Day School, assuming it does arrive at these two synagogues.

So there will be a net reduction as a result of those two schools leaving. Then, of course, the addition of our traffic into the area.

Now, let me tell you about the traffic characteristics of our proposal. First of all, you've heard the school proposes to increase its cap to 205 students. There will be 120, a cap of 120, K through three, at Ohev Shalom and 85 fourth through sixth at Tifereth Israel.

By the way, I just wanted to mention there is an advantage of being in the two locations from a traffic standpoint in that the traffic is dispersed to the two locations rather than concentrated at one.

The synagogues are able to provide 20 parking spaces, 20 legal parking spaces, as well as

additional parking. The 20 spaces though will be provided for faculty and staff of Jewish Primary Day School. They are on site, accessible from the alleys behind the two schools.

And I should back up a little bit and mention the alleys. The cross streets are connected by alleys. You can see them continuous through the area on both the west and east parallel to 16th Street. The alleys are 15 feet wide in the blocks that we're talking about, and of course, they provide service to the synagogues and to the residents at about those alleys.

There are several components to the school's transportation management plan. I'm going to go through that now.

First of all, the school has contacted the nearby schools and found out the time that they start and end and tried to fit itself into that time so that there's not as much an overlap of traffic.

Second, the school has three traffic reduction initiatives, measures that they are going to put in place that are new. The first one will be that the school will operate one or more vans to one or more locations off site for faculty, staff, and students to take advantage of.

Many faculty and staff current take public transportation. They'll be able to continue to do so and transfer to the van and come over to the schools. They won't have to rely on their automobile.

Parents will find the off-site van locations convenient to their commute so that they'll be able to drop their children off safely as a site where the van will be. The children will take the van into the school and will reduce traffic that way.

The school will incorporate a managed carpool program where it will computerize and map all of the addresses and help parents find carpools. The school has a very good carpool system now, but it's a matter of the parents finding each other to set up carpools. The school will have volunteers and staff make phone calls at the beginning of the year to put these carpools together. Many schools have done that and found it to be very effective to reduce traffic.

Then the school will provide a metro check subsidy to faculty and staff. That's the fare card that's provided tax fee as an encouragement. Many employers are doing that throughout the city in the metropolitan area.

Dick Scaldini mentioned the amount of traffic. This school will generate a very small amount

of traffic. In the morning 40 automobiles will come plus one or two van trips, bringing students to Ohev Shalom and 28 to Tifereth Israel, 28 vehicles to Tifereth Israel to drop off children.

Faculty and staff will arrive earlier. Then the parents will begin to arrive and drop off those children, and that morning typically -- the drop-off period typically only is concentrated into 20 minutes. Kindergarten starts a little later, but that's a very small amount of traffic coming to kindergarten that's included in that 40 and 28.

In the afternoon, the numbers are smaller because carpooling is more effective in the after school program, and we only would have 22 on the west side and 15 vehicles on the east side, very small amounts of traffic.

This represents about one percent of the traffic on a daily basis on 16th Street, and during the peak hour maybe five percent of all the traffic on 16th Street, certainly no more than that.

I mentioned parking. Parking will be provided for faculty and staff on site. There is abundant parking on 16th Street itself between 9:30 a.m. and 4:00 p.m. outside of the peak periods, and parents will be encouraged to set up their time for

school visits between those hours and park on 16th Street so that they won't have to use the local neighborhood streets.

Now, the traffic routing system. The ideal way for traffic to drop off students is to make a clockwise pattern around the school, dropping off on the passenger side of the car. The students can then walk directly to the school. They don't have to cross the street.

And if the world was an ideal place, everyone would arrive so they can make right turns off of 16th Street and make right turns back onto 16th Street so that we wouldn't have any left turns.

Well, we're going to try to reach that ideal here, and I must say that this plan was the result of a number of meetings with the community, meetings with DPW and Metropolitan Police Department, and the school brought on a co-consultant who worked with us, who had worked with Lowell School and had other projects in the neighborhood. So that O.R. George was that other consultant. He was very helpful to us.

First of all at the core would be this right turn pattern around the two schools, which I've shown with the green and red arrows around each of

those two sites. Parents dropping off at Ohev Shalom would drop off in the alley behind Ohev Shalom. Parents dropping off at Tifereth would drop off at the north side of Juniper Street where there's curb space available to do that, but the majority of traffic would come and make right turns around the block and continue with right turns back out onto 16th Street and would not approach the school through the neighborhood streets.

Now, how do we manage that? The school will provide parents with a set of routes that they will ask them to take, and I've given you one example here. This is the morning traffic to and from Ohev Shalom and the chart on the right. You see the District of Columbia, 16th Street here.

The blue is the arriving traffic, and the large numbers are the volume of traffic. So 24 and 16 is that 40 cars arriving at Ohev Shalom in the morning.

Parents will be asked to take streets through Rock Creek Park if they're coming from the south or up 16th Street from the south, these three routes from the southwest and south, or if they're coming from the north to come down from the north, and the numbers are our estimates based on where students currently live and the current student body of where

they'd be approaching from and how many would be approaching.

So we'd have 24 coming from these three routes, perhaps split evenly eight, eight, and eight, and we would ask them, those coming through the park to go up to North Portal Drive and come through the circle and down 16th Street so that they can make that right turn pattern around the school.

Of course, these people would already be in the position to do that. Traffic coming from the south on 16th, maybe eight or ten cars, we'd ask them to go all the way up to the circle, circulate around the circle and come back to the property and turn in, again making that right turn.

When leaving, everyone would be asked to make a right turn, and those who have to go back north could turn on Sherill Drive and go back through the park to go north or turn left on Aspen, south of Walter Reed, and go north on Georgia Avenue if they're heading back north. Otherwise they'll continue south into the city.

I'll let that sink in for a second and give myself -- the final part of my presentation is about the impacts of this traffic.

We concur with the DPW report that impacts

will be minimal, but we, at the suggestion of one of the opponents who's here today, which was an excellent suggestion, we did a simulation of actual traffic at Ohev Shalom. The most critical time will be the morning when Ohev Shalom has to leave that heavy southbound traffic stream and join back in. There's 1,700 cars southbound on 16th Street and only about 700 northbound on 16th Street.

We got eight drivers in eight different vehicles to come to the school during the 25 minute period when the school will open its doors and start classes, 8:00 to 8:25 a.m., to circulate around the school using that route, simulated drop-off in the alley by stopping for 20 seconds or so, and then continue.

We found minimal delays getting back out onto 16th Street because the signal at Camille would create gaps, and that the back-up on Jonquil was one or two cars, three at most, which only occurred on one or two occasions in that 25 minute period.

This system works. We had a back-up on 16th Street, which was a problem. It backed up all the way past Jonquil, but southbound traffic was courteous enough to let our traffic in at all times and, again, the back-up did not exceed three cars.

There is traffic on Juniper that I mentioned earlier, and it's a tight fit on a narrow street, as we all know, in the narrow streets in the District of Columbia, but it worked. We had two neighbors who wanted to come out of the alley, and I've got to talk about our alley operation very quickly.

We're going to put monitors in the alley. We're going to make sure parents when they're stopping to pick up or drop off their children do not block driveways, and that if anyone needs to get in or out of the alley other than school parents, the monitors will adjust our traffic to make sure that they can get in and out.

If we encounter a trash truck on Monday mornings, we'll get out of the way of the trash truck to make sure he's not delayed.

I want to conclude by saying that in my professional opinion the impacts of this project from a traffic standpoint will be minimal. The parking will be adequate, and there will be no negative impacts on the community.

Thank you.

CHAIRPERSON CROSS REID: Thank you, Mr. Slade.

Any questions, Board members, of Mr. Slade?

MS. DOBBINS: Madame, we have one last witness.

CHAIRPERSON CROSS REID: One last witness.

MS. DOBBINS: Yes, Ms. Sharon Robinson will talk about community outreach efforts.

MS. RENSHAW: Madame Chair, Madame Chair, in the six minutes that are left, I'd like to state that I respectfully object to the Robinson Associates presentation. I have examined the credentials, and I charted up out of 19 clients served, on six of them are in community relations. One of them is the Jewish Primary Day School listed, where it said that the outcome was generating goodwill.

"We developed and implemented strategies that helped the school secure community support, host neighborhood dialogues, and generate goodwill."

Now, perhaps this resume is being written with the future in mind, but I would state to the Board that this is not the case today.

And there is also another community relations client that was served, and I have direct knowledge of the campaign, and I would say that it was not successful at all. So I would respectfully object to this witness.

CHAIRPERSON CROSS REID: Thank you, Ms.

Renshaw.

Of course, as you all know, we've already accepted her. So --

MS. RENSHAW: I didn't know that.

CHAIRPERSON CROSS REID: -- for the record.

MS. RENSHAW: I didn't know that you had.

CHAIRPERSON CROSS REID: Well, you objected while we were discussing her.

MS. RENSHAW: Yes, and I didn't know that you had accepted her.

CHAIRPERSON CROSS REID: Well --

MS. RENSHAW: It was not clear at all.

CHAIRPERSON CROSS REID: Okay. Well --

MS. RENSHAW: So I objected again.

CHAIRPERSON CROSS REID: All right. Well, by consensus we had -- there was no objection other than your objection when her name came up, but thank you for noting for the record what the nature of your objection is.

MS. RENSHAW: Un-huh.

CHAIRPERSON CROSS REID: thank you.

MR. HARRISTON: Madame Chairman, we would object for the record as well.

CHAIRPERSON CROSS REID: You already did that.

MR. HARRISTON: I know, and --

CHAIRPERSON CROSS REID: And so why take up additional time to do it again.

MS. RENSHAW: He just. He said it.

CHAIRPERSON CROSS REID: He already did. Thank you.

Okay. Now can we continue?

All right. Ms. Robinson.

MS. ROBINSON: Good afternoon, Chairman Reid and members of the Board of Zoning Adjustment. My name is Sharon Robinson. I'm the President of Robinson Associates, LLC, a public relations and community relations firm located 1613 Crittenden Street, N.E., here in the District of Columbia.

Thank you for hearing our presentation this afternoon.

I want to share with you some of the Jewish Primary Day School's outreach efforts. The school has worked in good faith to satisfy the legitimate concerns of neighbors in Shepherd Park. JPDS clearly wants to be a good neighbor and really does want to be a contributing part of this respected community.

The school conducted extensive community outreach to educate the Shepherd Park community about its application for temporary occupancy of Tifereth

Israel and Ohev Shalom Synagogues, and to give community input on issues such as traffic management.

JPDS' community outreach journey begins in the late part of 1999 before the school filed this BZA application, and as soon as the school succeeded in negotiating agreeable terms with the two synagogues.

In December, before the ink was dry on the lease agreements, each synagogue dispatched their community liaisons to contact key community leaders. They spoke with ANC-4A Chair Joseph Harriston, ANC Commissioner Jordenia Brown, Joe Mambrino, President of Shepherd Park Citizens Association, Dr. Catherine James, the principal of Shepherd Elementary School, and neighbors Derrick Humphries and Faye Lewis.

Aware of the time constraints it faced in securing a BZA hearing in time to meet its parents requirements to register their children by April, JPDS submitted its application to the BZA before holding community meetings. JPDS hand delivered more than 25 copies of its application to neighbors and community leaders. The most that could be done was to notify community organizational leaders, and this was, in fact, done.

JPDS worked assiduously to engage neighbors in dialogues about the application. In January the

school secured approval to submit at the February 2nd ANC-4A meeting.

Prior to the meeting, single member district Commissioner Jordinia Brown indicated that since there were two ANC meetings prior to the BZA hearing, no action would be taken at the February meeting, and JPDS did not present its traffic management plan.

Unfortunately, the ANC did, in fact, decide to take a vote at the February meeting and voted not to support JPDS application even though a complete presentation was not given. While this was unfortunate, ANC-4A did allow JPDS their opportunity to present at its March 7th meeting so the school could present its traffic management plan. However, from a community relations perspective, much of the damage had already been done.

During the month between ANC meetings, JPDS and its diligent parents launched one of the most intensive community outreach efforts consisting of face-to-face meetings, daily Internet town hall dialogues, four community meetings, individual meetings with ANC commissioners, and three flyer/letter distributions, and two direct mail distributions.

In addition, the traffic management plan

was hand delivered to neighbors within a 200 foot radius of the synagogues. We spoke to the leaders of every major community organization in Shepherd Park, including Neighbors, Inc., Shepherd Park Citizens Association, the principals of Lowell and Shepherd Park Elementary Schools, and of course, the ANC commissioners.

Supporters of the Jewish Primary Day School who live in Shepherd Park went door to door to meet with the 56 neighbors who live within a 200 foot radius of the synagogue. In February, Rabbi Evan Seidel (phonetic) of Tifereth Synagogue distributed a letter inviting neighbors to come to Ohev Shalom and Tifereth Israel for a series of community dialogues. He was at every household and rang each bell.

In addition, we mailed more than 150 copies of the rabbi's invitational letter to major community organizations, Neighbors, Inc. Nearly 60 people attended community dialogues JPDS hosted at the synagogues on three occasions, February 16th, 17th, and 23rd.

After securing community input on the traffic management plan, JPDS' traffic management consultant and community representative met with Lieutenant Judith Anderson and Sergeant Edwards of the

Fourth District precinct to review the proposed traffic management plan. The feedback gleaned in these meetings was used to further refine the plan.

Shepherd Park neighbors who support the application conducted telephone calls with neighbors to discuss the application. Over 500 people in Shepherd Park received some form of communications materials, and direct mail materials.

This was a quite expansive community outreach and dialogue effort, and it produced results. Some neighbors expressed concerns, and JPS worked diligently to address these concerns. Many neighbors let us know that they support the school, but that they felt reticent to get involved in the controversy. However, they were willing to express their voices in letters to the BZA.

More than 200 people called and/or sent letters to Council Member Jarvis and the BZA in support of the school. Letters came from neighbors who live in Shepherd Park. More than 50 people in Shepherd Park wrote letters, and I'd like to read just a segment of a couple letters.

"It is essential that the District retain diverse educational institutions and that we support a variety of co-educational elementary programs for our

residents."

CHAIRPERSON CROSS REID: Okay. Ms. Robinson.

MS. ROBINSON: Yes?

CHAIRPERSON CROSS REID: We have those letters, and we have had the opportunity to read them. So it's not necessary for you --

MS. ROBINSON: This one -- this one is from Council Member Harold Brazil.

CHAIRPERSON CROSS REID: We have his letter.

MS. ROBINSON: The second one is from the Mayor.

CHAIRPERSON CROSS REID: We do have that letter.

MS. ROBINSON: And also from David Ketany, Council Member David Ketany.

CHAIRPERSON CROSS REID: Okay, and those letters, you can note for the record what the nature of them were.

MS. ROBINSON: All three of them have offered their support for retaining JPDS in the District of Columbia.

CHAIRPERSON CROSS REID: Thank you.

MS. ROBINSON: This is one of Washington's

finest neighborhoods, Shepherd Park, and JPDS wants to be an asset to the neighborhood. To this end, the school's community outreach would not conclude with this BZA hearing. The JPDS board voted a couple of weeks ago to establish a community liaison committee with representatives from the neighborhood and both synagogues to continue community outreach.

The schools all embracing community outreach attest to JPDS' commitment to be a good neighbor in the Shepherd Park community.

(Laughter.)

CHAIRPERSON CROSS REID: That's pretty good.

(Laughter.)

MS. DOBBINS: Madame Chairman, that concludes our presentation.

CHAIRPERSON CROSS REID: I'll say.

Thank you, and that's amazing. You were just so timely with your presentation. We greatly appreciate. There's a lot of information to be compressed into a little bit of time, but nonetheless, I think that we adequately were given the information that we needed for us to be able to make a decision.

Board members, do you have questions at this time or do you want to allow the cross examination

to occur?

MS. RENSHAW: I think the cross I would prefer.

CHAIRPERSON CROSS REID: Okay. Then why not? We'll go straight to cross, and then we -- do you want to add something now?

MR. PARSONS: Yes. Yes, I do.

CHAIRPERSON CROSS REID: I asked you if you'd like to.

MR. PARSONS: Mr. Scaldini, what assurance do we have that this is a three year temporary use?

None of your testimony went to the real future.

DR. SCALDINI: That is the time line we've established for the application process, development, and construction process on the permanent site that was partially donated to us in June of last year, and we are still on that time line.

A second consideration, I would have you think back on the layout of the school. We have found a way to allocate classroom space in the school, but if you were to observe our present operation and the amount of classroom space we have available to the students and staff and what we have found a way to work with in order to fit into the two synagogues, you'll

see that we severely constrained how we normally operate.

Plus, a third consideration, we have capped our growth at 205 in order -- as a gesture to the community. We could grow much bigger than that.

MR. PARSONS: My question is: how can we be assured that this use is three years and you won't be back here in three years saying you need two more and then five years saying you need two more --

DR. SCALDINI: Right.

MR. PARSONS: -- because things didn't work out at the other location?

DR. SCALDINI: Because the reason I enumerated the things I did is they are extraordinarily strong incentives for us.

MR. PARSONS: Is the money at hand to build this new facility?

DR. SCALDINI: The money is in hand to acquire it, and we're fund raising to build it, yes, and we have every reason to believe that will be successful over this period of time.

MR. PARSONS: And will you need approvals from this Board to do that?

DR. SCALDINI: We will be coming to this Board for approval for the other site, yes. We have

not yet filed for that.

MR. PARSONS: So you will go through three school years --

DR. SCALDINI: Right.

MR. PARSONS: -- in this fashion starting this September?

DR. SCALDINI: Yes.

MR. PARSONS: And then you will be completed with the new facility in 2004; is that right?

DR. SCALDINI: That's what we would hope, subject to the approval of this Board, and we have from all of our experts, architects, legal counsel been given reason to believe that that's a perfectly conservative, reasonable estimate of time.

MR. PARSONS: Thank you.

DR. SCALDINI: Thank you.

MR. SOCKWELL: Mr. Scaldini, you said that your new building, proposed school would be coming before the Board of Zoning Adjustment.

DR. SCALDINI: Yes.

MR. SOCKWELL: Do you have great certainty in your mind that the relief sought under this Board's authority would be acceptable and that there would be alternatives if it was not successful?

DR. SCALDINI: I wish I could tell you I

had certainty. We don't. It's the nature of the process that I could not, but I know that at this stage of our architectural work, at this stage of our traffic management work, and we are still at the early stage of talking with the neighbors in Forest Hills and educating them about the school, that we can place the school on that site and manage its impact very, very effectively.

And in fact, the site is such it's a beautiful property. We can place the building on there, have a grade school, and blend it right into the neighborhood.

MR. SOCKWELL: Okay. Well, I think --

DR. SCALDINI: So I think you'll see eventually a very good plan for the school.

MR. SOCKWELL: All right, and one other question, which Mr. Slade is somewhat involved with, but which you would probably have more direct control over is the transportation plan requires a certain amount of voluntary management on the part of the parents and relatives and friends of the students who will be dropped off and picked up from the school.

It's been proposed that the streets to be most burdened would be other than the neighborhood, non-high volume streets as much as possible; that the

alley and returns to 16th Street would be utilized as much as possible; and that those people coming from out of the area would be prompted to use streets other than the neighborhood streets for their circulation.

What can you tell me historically has given rise to your belief that you can manage such a program effectively?

DR. SCALDINI: Okay. If you look at -- Mr. Slade made reference to the fact it's a very important thing to know about our current location. We are there with two other schools who are not under our operational control. They are independent of us, and we have the ability to mark the JPDS cars for purposes of our study do that we can see exactly how JPDS is functioning in that neighborhood, and it's a complicated traffic pattern there at the convergence of Quebec and Porter with Connecticut.

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

(6:00 p.m.)

DR. SCALDINI: Okay? Our parents play by the rules. That's the long and the short of it, and we have teachers with walkie-talkies monitoring the pick-up process, in particular, keeping it moving, keeping it on the path it's supposed to take, and the parents follow the rules in terms of the traffic routes they're allowed to take.

For example, there's a prohibited left turn coming out in the property, and the parents stick to the rules. In the case of this neighborhood, you know how from what we've said to you earlier how much we have at stake in this site, and our parents and we are exploring all of the measures that all private schools take in terms of fines, in terms of agreements that people have to sign, and all of that, and we are perfectly prepared to take all of those steps to insure that our parents drive the routes that they're supposed to drive, and this school is important enough to them that they will do that.

MR. SOCKWELL: So you're at least confident that a carrot and/or a stick mentality will be acceptable to the parents?

DR. SCALDINI: Yes, and we will also -- for

example, in the contracts that the parents sign, we will introduce --

MR. SOCKWELL: And you would be willing to put in your contracts that the parking and/or transportation management plan must be strictly adhered to?

DR. SCALDINI: Yes. And, by the way, in terms of the community liaison, the committee that we set up and that we set up with access to our board of directors' agenda, that's the bridge from performance to monitoring where people in the neighborhood who see a violation of the traffic plan can put it on the table for the board of directors of the school.

And I'm not sure. I don't have that extensive experience, but I don't think there are too many schools that give the community access to the board and its agenda.

MR. SOCKWELL: Thank you.

MS. RENSHAW: Madame Chair.

CHAIRPERSON CROSS REID: Ms. Renshaw and then Mr. Moulden.

MS. RENSHAW: All right. Would you, Mr. Slade, and you pointer show us where the traffic signals are on 16th Street?

MR. SLADE: Yes, Ms. Renshaw. The two

nearest signals are at Kalmiah, which is right here.

MS. RENSHAW: Which is a long block away from the school.

MR. SLADE: Correct.

MS. RENSHAW: Okay, and where's the next one?

MR. SLADE: The next one is at the Holly East, which is there's a jog in Holly in this location.

MS. RENSHAW: All right.

MR. SLADE: And it's this part of Holly that --

MS. RENSHAW: So we have a long stretch going past these two synagogues where there is no traffic control via a traffic signal.

MR. SLADE: Correct.

MS. RENSHAW: How do you factor that into your planning? In other words, it's very risky crossing the street in those locations. So how are you going to handle --

MR. SLADE: That's correct, and it's something that the community pointed out to us, and we went out and drove it ourselves to see the nature of the safety environment that you're in and came to the conclusion that we should establish a fixed routing plan that would, to the extent we can eliminate the

need for anyone accessing the school, eliminate left turns.

MS. RENSHAW: But you might have, for instance, a family coming down from the north heading south on 16th Street, and their child belongs over on Juniper Street. So, therefore, they're going to make a left-hand turn at Jonquil in order to go around the block. Do you see what I mean?

They're coming down on the green arrow, and --

MR. SLADE: Yes.

MS. RENSHAW: -- they're turning left?

MR. SLADE: But their destination is here?

MS. RENSHAW: Yep.

MR. SLADE: Yes. We've looked at this extensively, and I'm glad you asked the question because I was running out of time and breath when I was trying to do it before the clock hit.

We have looked at a number of routing schemes to make sure that all traffic stays on arterials and doesn't use the neighborhood streets, number one.

And, number two, to the extent that we can, have no left turns or minimize the number of left turns as you've just noted as a concern, and I'm going to

move another chart up here.

I'm going to respond to the particular movement that you mentioned, and I'd like to talk about another one as well, another pattern --

MS. RENSHAW: Me, too.

MR. SLADE: -- that -- we would -- we're estimating that there will be between ten and 15 cars coming from the north, and the blue traffic is inbound. This is the morning traffic to Tifereth Israel, which is the spot here.

When we began looking at routes, we said, "Let's not have those people have to make a left turn to Tifereth Israel as you just described, but rather, let's take them through on the arterials and back to Tifereth Israel from the south."

This particular movement, 13 cars having to turn left across the northbound traffic is feasible and safe. There are left turn bays in the median at the unsignalized cross streets, Jonquil, Kalmiah and so forth, which would enable that traffic to turn left safely because the northbound traffic in the morning is a lighter flow.

Now, the afternoon is another story. In the afternoon, we would be concerned about that, but while I've got this chart up let's -- I'm sorry?

PARTICIPANT: Northbound to Ohev Shalom.

MR. SLADE: Northbound to Ohev Shalom, the red -- the blue line here. We don't want those parents to have to turn left across 1,700 southbound peak hour cars with no signal. So the fixed route for traffic coming north on 16th is to go up to the circle, to use the circle and come back south. That's why we put that little circle symbol there. Come back south and make right turns instead of left.

MS. RENSHAW: Well, I think that's --

MR. SLADE: Now, I know you know the city very well, and I think I do, too. I think if I lived to the south I would use another route, come up through the park, light traffic on Beech Drive in the morning, if Beech Drive stays open and the Park Service doesn't close it on us, and go to North Portal Street and come down that way.

But there would be options that would be provided to parents in a book of rules and regulations, and these routes would be indicated to them with the admonition that "do not turn left off of 16th Street to go to Ohev," and there will be a monitor, a school monitor standing here, and if anybody comes up and makes that left turn at least we'll be able to say to them, "Don't ever do that again."

MS. RENSHAW: So a family member, having dropped off a youngster on Juniper Street, will not be allowed to go south even though Mommy and Daddy have to get into town and their schedule is tight.

MR. SLADE: That's correct.

MS. RENSHAW: They're going to have to go north?

MR. SLADE: We'd ask them to go north.

MS. RENSHAW: Realistically are they going to do it?

PARTICIPANTS: No.

CHAIRPERSON CROSS REID: Order.

MS. RENSHAW: I just bring this up. That's it for now.

CHAIRPERSON CROSS REID: Okay, because Mr. Moulden has to leave, and he has a question.

MR. MOULDEN: This question is to Ms. Robinson, the community liaison.

I notice in your report you indicated that the TMP was basically I won't say approved, but refined based on community meetings and so forth. From some of the comments I heard from some of the people in opposition, it sounds like there's some things that need to be worked out.

Do you feel that there's further work that

needs to be done with the community on the TMP?

MS. ROBINSON: I'm not a traffic engineer or a traffic management company, but certainly the dialogue that we had with the community helped to refine the existing plan. So I can't really comment on where the status is. I'm not a professional in that field.

MR. MOULDEN: Okay. Well, maybe another representative could answer that question for me.

MR. SLADE: I think almost all the aspects of this plan are designed to minimize the impact on a community, and as you've learned today, the community is not shy about telling us about their concerns.

We had a number of meetings. Those concerns were raised, and as Sharon indicated, we've met with the police. We've met with DPW, and this plan goes to extraordinary levels to not intrude on the community, not use local streets, and to make turns and access 16th Street in a way that minimized impedance to traffic and safety issues.

So all those things that I've gone through really don't help the school that much. Being safe certainly does.

MR. MOULDEN: My question was just to insure that you had met with all the community representatives

and just individual residents to be sure that you did hear all of their concerns because according to this letter it sounds like they have been addressed, but the opposition this morning sounded different than that.

DR. SCALDINI: No, we held a series of meetings, three meetings prior to the ANC presentation to present traffic management plans, take feedback, adjusted the plans, and we had a series of those meetings, dissemination of literature, dissemination of updates where we had new ideas, and we had four meetings. I'm sorry. So we had four.

We presented each time, took feedback at each time, and that's reflected in the plans. You know, some had said, "Your plan keeps changing."

Yes, in response to what we're hearing, or there are substantive differences here, and so there was quite a bit of that back and forth.

MS. DOBBINS: Mr. Moulden, we're also not opposed to it to continue changing as we find new information that comes in from the community and how the actual process works either.

CHAIRPERSON CROSS REID: Okay. Now, as we approach six o'clock, what we'd like to do is we still have additional questions for the Applicant. However, we'll hold that until once we get more into the case

and have cross examination.

And the Board will have a quorum until around seven. So in that time frame hopefully that's adequate for the opposition to question the witnesses. All right.

MS. RENSHAW: Madame Chair.

CHAIRPERSON CROSS REID: If you want to do so -- huh?

MS. DOBBINS: I would have one request of the opposition representatives, is that they not cross examine the children that presented testimony this evening.

CHAIRPERSON CROSS REID: Yes.

MS. DOBBINS: I just wanted -- yeah.

MR. HARRISTON: Madame Chairman, I had not intended to cross examine the children, but I had intended to complain of what the proponents did. They paraded children out here knowing that in good conscience we would not cross examine.

CHAIRPERSON CROSS REID: Okay. Well, that's -- that's neither here nor there, Ms. Dobbins. As a practical matter we would not allow that. We just wouldn't do it just as a matter of prudence.

MS. DOBBINS: I asked because it was asked of me.

CHAIRPERSON CROSS REID: All right.

MS. DOBBINS: Thank you.

CHAIRPERSON CROSS REID: Okay. Well, just as a matter of prudence, we would not do that.

MR. SOCKWELL: And, Mr. Harriston, remember that we would afford you the same courtesy and not let the children cross examine you.

(Laughter.)

CHAIRPERSON CROSS REID: Okay, all right. Now, are the three people who are agents who are going to cross examine -- let's see. I think the best thing to do perhaps is can you speak into this mic right here.

MR. HARRISTON: I can try.

CHAIRPERSON CROSS REID: Okay. Wait a minute. Are you -- you're representing the ANC at this time? Okay. All right.

MR. HARRISTON: I'm not going to represent anybody at this point. We have agreed by and large for the individuals to cross examine a specific person with one or two exceptions where one of us has particular data which we want to cross examine.

I will start with Mr. Scaldini.

Mr. Scaldini, I want to follow up on Mr. Carson's statement. You indicated temporarily on 16th

Street on the basis of the move to the other site. Have you had other conversations with the people at the other site?

DR. SCALDINI: We've had a meeting with the neighborhood there.

MR. HARRISTON: Now, have you visited the neighborhood?

DR. SCALDINI: Yes, we're in the process of visiting the neighborhood.

MR. HARRISTON: Isn't it true that --

MS. DOBBINS: Madame Chair, I would object to them -- to testimony related to the other neighborhood. That's a case that may come before this Board at some other point.

CHAIRPERSON CROSS REID: Wait, wait. I'm not sure we were clear. I was under the impression he was referring to the other site.

DR. SCALDINI: No, no.

MS. DOBBINS: When he says "other site," he's referring to Forest Hills.

CHAIRPERSON CROSS REID: Okay. Let's clarify that.

MR. HARRISTON: Well, let me --

CHAIRPERSON CROSS REID: We can only --

MR. HARRISTON: I hear you --

CHAIRPERSON CROSS REID: -- refer to --

MR. HARRISTON: -- but they raised it. Once they open the door, they can't shut it.

CHAIRPERSON CROSS REID: Well --

MR. SOCKWELL: They didn't open that door that way, Mr. Harriston.

MR. HARRISTON: Yes, they did.

MR. SOCKWELL: No, they did not.

CHAIRPERSON CROSS REID: They had to --

MR. SOCKWELL: They did not.

CHAIRPERSON CROSS REID: They had to in their submission to us, in requesting only three years -- they also proffered the fact that they have another site in Forest Hills that they were moving into that would -- is going through the development process, and that's the end of that. What we're talking about is specifically this site that is reflected right there on that particular map as well as the site that is referred to in the application.

So don't have us keep --

MR. HARRISTON: Look. But you have to -- you see, if you make the thing bound one way and don't make it open, you put us in a bind.

MR. SOCKWELL: I think, Mr. Harriston.

CHAIRPERSON CROSS REID: But what did I --

MR. HARRISTON: Let me make the point. Mr. Parsons specifically asked the question about their temporariness. See, part of the application that you have before you --

MS. PRUITT: Mr. Harriston, you're giving testimony now. You need a direct question. If the Board has overruled you --

MR. HARRISTON: I'm responding --

MS. PRUITT: -- please move on.

MR. HARRISTON: -- to the Chairman.

CHAIRPERSON CROSS REID: Yes.

MR. HARRISTON: I'm responding to the relevancy of my question. Now, Mr. Parsons specifically asked the question because he put it in evidence when he mentioned temporary. That's also a part of the filing.

CHAIRPERSON CROSS REID: Okay.

MR. HARRISTON: Now, we have to be -- see, part of what Mr. Parsons asked was are we going to be back here with this community over and over again because of a temporary. Temporary is a basis issue.

CHAIRPERSON CROSS REID: Okay, okay.

MR. HARRISTON: I want to follow that.

CHAIRPERSON CROSS REID: All right. So what is your question?

MR. HARRISTON: My question is: are you aware that there are more than 200 signs in that community saying --

MS. DOBBINS: Madame Chairperson --

MR. HARRISTON: -- no community school in this district?

MS. DOBBINS: -- I would object to that again.

MR. HARRISTON: That's an issue because that goes to the temporary. You see if that --

CHAIRPERSON CROSS REID: Okay, okay.

MR. HARRISTON: -- community is saying no --

CHAIRPERSON CROSS REID: Overruled. Next question.

MR. HARRISTON: Next question. You've testified it's the only Jewish day care center --

DR. SCALDINI: It's not a day care center.

MR. HARRISTON: I'm sorry.

-- primary school in the district. What bearing does that have on the quiet enjoyment of the residents of Shepherd Park in their R-1-A and R-1-B community?

DR. SCALDINI: Because the quiet enjoyment of the neighborhood, the concept that you raised and

that we spoke about the other evening very eloquently includes the community, and the community includes the District of Columbia, and so it's very relevant that this school remain in the District because by mission, it is a District of Columbia school, and that accrues to the value of the total environment, including Shepherd Park.

MR. HARRISTON: But, in truth, isn't that the personal choice of the parent of the student as to where they want to send their child?

DR. SCALDINI: Yes.

MR. HARRISTON: And that has no bearing on the owner of a property in the assigned area, does it?

DR. SCALDINI: The school has as a matter of its mission and its policies for 13 years to be a valued --

MR. HARRISTON: I'm sorry. You're not answering my question.

DR. SCALDINI: I am. I'm -- you're saying the bearing on the neighbor.

MR. HARRISTON: I asked you what's the bearing on the neighbor that lives behind Ohev Shalom?

DR. SCALDINI: The fact that you can read the mission statement of the Jewish Primary Day School and see its commitment to enhancing the community,

meaning including the neighbors by which it resides as part of it and part of what they educate their children to do, and we do it in spades and in a host of ways.

MR. HARRISTON: So --

DR. SCALDINI: So it's therefore our conviction, as I've said to you privately and publicly --

MR. HARRISTON: Only on the record.

DR. SCALDINI: -- that we will be very, very -- you will be very, very happy to have us there.

MR. HARRISTON: So that with respect to the gentleman whose garage backs up on the parking lot to the west of Ohev Shalom, the Jewish Day Care Center -- I mean --

CHAIRPERSON CROSS REID: Primary.

MR. HARRISTON: -- I'm sorry -- the Jewish Primary School is a good thing for him?

DR. SCALDINI: Because he will find in us people who have traffic monitors. Our teachers in the morning, as has been presented to you --

MR. HARRISTON: I think you've answered the question.

DR. SCALDINI: -- who will stop our traffic to let that person out.

MR. HARRISTON: I think you've answered the

question.

DR. SCALDINI: Which was demonstrated the other day.

CHAIRPERSON CROSS REID: Okay.

DR. SCALDINI: That's a commitment you have before you, sir.

CHAIRPERSON CROSS REID: Let's go to the next question.

MR. HARRISTON: Now, you indicated, among other things, that you're going to have adult education programs to benefit the community. Do you know anything about the Shepherd Park community?

DR. SCALDINI: The perception I have from the four meetings we've had is that it's a community of highly educated people, very successful people, you know, in material terms, and --

MR. HARRISTON: And you --

DR. SCALDINI: -- very astute.

MR. HARRISTON: And you propose to come in and give those educated people the benefit of your superior education?

CHAIRPERSON CROSS REID: Wait.

MR. SOCKWELL: Mr. Harriston --

CHAIRPERSON CROSS REID: Let --

MR. SOCKWELL: Excuse me, Madame Chair.

CHAIRPERSON CROSS REID: Okay.

MR. SOCKWELL: Mr. Harriston, absent a description of the program that is called an adult education program, your question -- your statement is completely out of line, and you know it.

MR. HARRISTON: What's your name again?

MR. SOCKWELL: My name is irrelevant to the fact --

MR. HARRISTON: Well, I want to respond to you.

MR. SOCKWELL: -- that I stated this, and let me explain why. My parents are very well educated, and they go to adult education programs to learn computer skills that they don't have and other things that they don't know, and the term "adult" should not be considered to be remedial, and if that is the insinuation that you're making, withdraw the statement, sir.

MR. HARRISTON: The insinuation is that --

MR. SOCKWELL: There should have been no insinuation at all. That's the problem.

MR. HARRISTON: The insinuation is it's demeaning.

CHAIRPERSON CROSS REID: All right. Now --

MR. SOCKWELL: It's demeaning to you. It's

personal. Withdraw it.

CHAIRPERSON CROSS REID: Mr. Sockwell.

MR. HARRISTON: It's not personal.

MR. SOCKWELL: It is personal.

MR. HARRISTON: It's demeaning to me.

CHAIRPERSON CROSS REID: At this point --

MR. SOCKWELL: Well, then it should be demeaning to you because you don't understand --

MR. HARRISTON: Next question.

MR. SOCKWELL: -- the term.

CHAIRPERSON CROSS REID: At this point --

MR. HARRISTON: Next question.

CHAIRPERSON CROSS REID: -- let us establish some ground rules, and that is let us not get involved in any disparaging remarks, and understandably, sir, you have concerns about your community --

MR. HARRISTON: Very much so.

CHAIRPERSON CROSS REID: -- as everyone who comes before us, you know, has their concerns, and we have opposition, and we have people -- we have the Applicant.

However, we have to maintain a degree of decorum and protocol and --

MR. HARRISTON: Naturally.

CHAIRPERSON CROSS REID: -- mutual respect.

MR. HARRISTON: I agree.

CHAIRPERSON CROSS REID: And no matter how deeply imbedded your --

MR. HARRISTON: I haven't disrespected --

CHAIRPERSON CROSS REID: -- community is --

MR. HARRISTON: -- anybody.

CHAIRPERSON CROSS REID: I'm not finished.

-- then, please, do not air any of those types of negativities in this particular hearing room and state clearly on the record -- do not ask now -- let me just further state that if your questioning continues alone that line, then we'll have to cut you off and go to the next person who will --

MR. HARRISTON: Thank you, Madame. The truth shall set us free.

CHAIRPERSON CROSS REID: Well, again --

MR. HARRISTON: Next question.

CHAIRPERSON CROSS REID: -- that's testifying.

MR. HARRISTON: The next question.

CHAIRPERSON CROSS REID: You're not supposed to testify, and you know that.

MR. HARRISTON: I'm responding to you.

CHAIRPERSON CROSS REID: But you don't have

to respond to me.

MR. HARRISTON: Well, yes, I do.

CHAIRPERSON CROSS REID: Move to the next question.

MR. HARRISTON: Next question.

DR. SCALDINI: Excuse me, Chairman --

MR. HARRISTON: Mr. Scaldini --

DR. SCALDINI: Excuse me just a second. Could I respond in one fashion to his question? The last thing in the world I'd want --

CHAIRPERSON CROSS REID: Don't even go there.

DR. SCALDINI: Okay.

MR. SOCKWELL: It is not necessary, sir.

CHAIRPERSON CROSS REID: I think that --

MR. SOCKWELL: You don't -- you don't want to go there.

CHAIRPERSON CROSS REID: All right. Please, I think that --

DR. SCALDINI: I would not want to leave that impression.

MR. HARRISTON: You don't want to go there.

CHAIRPERSON CROSS REID: -- it's apparently that --

MR. HARRISTON: Mr. Scaldini --

CHAIRPERSON CROSS REID: -- it was not a proper question. So let's leave it at that.

MR. HARRISTON: -- you have stated with respect to the operation of the school that you have certain rules that will insure that things are kept under control; is that correct?

DR. SCALDINI: Yes.

MR. HARRISTON: And one of the partners in this affair is Tifereth Israel; is that correct?

DR. SCALDINI: Yes.

MR. HARRISTON: And they're an intimate party to what you're trying to do.

DR. SCALDINI: We will be located in part of the school.

MR. HARRISTON: Are you aware that Tifereth Israel has violated a number of rules with respect to their current BZA exception?

CHAIRPERSON CROSS REID: Is that germane to this particular --

MS. DOBBINS: Mr. Scaldini did not even testify to that.

DR. SCALDINI: I can't really --

CHAIRPERSON CROSS REID: Is that germane to this particular application?

MS. DOBBINS: No, it is not.

CHAIRPERSON CROSS REID: All right.

MR. HARRISTON: No, I asked him a question.

CHAIRPERSON CROSS REID: It has to be german. Okay.

MR. HAMPTON: They put it in the record.

MR. HARRISTON: They put it in the record. It's in your record.

MR. HAMPTON: It's in the record.

MR. HARRISTON: If you'll look at your record --

CHAIRPERSON CROSS REID: What is?

MR. HARRISTON: -- their -- their --

MR. HAMPTON: Their previous BZA orders are in the record.

MR. HARRISTON: With respect to the day care center that is now at Tifereth Israel. It's in your record. I'm asking about what's in your record.

MS. DOBBINS: The BZA orders are there because of the location, but the BZA orders do not talk about any enforcement related to any orders.

MR. HARRISTON: They -- they -- I have to bring it out on --

MS. DOBBINS: Mr. Scaldini did not testify --

CHAIRPERSON CROSS REID: Wait a minute.

I'm not -- let me understand this. I'm a little confused.

MS. DOBBINS: There is --

CHAIRPERSON CROSS REID: Let me --

MS. DOBBINS: There is a day care facility at Tifereth Israel at this point.

(The Board conferred.)

CHAIRPERSON CROSS REID: Okay. The orders are in the application, but the testimony --

MS. DOBBINS: But there was no testimony.

MR. HARRISTON: He has affirmatively testified about what they're going to do.

CHAIRPERSON CROSS REID: Okay, but --

MR. HARRISTON: We'll move on.

CHAIRPERSON CROSS REID: Yes. You have to stay within the testimony.

MR. HARRISTON: I did --

CHAIRPERSON CROSS REID: Even at --

MR. HARRISTON: -- because he mentioned what they're going to do.

CHAIRPERSON CROSS REID: But -- but he did not mention the BZA order. So --

MR. HARRISTON: Next question. Mr. Scaldini, how many students live within 100 feet of the two synagogues?

DR. SCALDINI: I don't know.

MR. HARRISTON: How many live within 200 feet?

DR. SCALDINI: No, I don't know.

MR. HARRISTON: How many live within Shepherd Park.

DR. SCALDINI: Well, we have those figures. Could someone -- let me have someone help me on it. I don't have the figures.

MR. HARRISTON: Three, four?

MS. DOBBINS: Mr. Scaldini can't answer the question.

CHAIRPERSON CROSS REID: If you know -- if you know, then just tell him and then ask your question.

MR. HARRISTON: No. That's what I'm asking him.

CHAIRPERSON CROSS REID: No, if you don't -- if you know what schools are there, the two schools that are there, just state what schools are there and then ask the question.

MR. HARRISTON: Well, he indicated in his direct testimony that half of the students are in the District of Columbia and half are elsewhere. Now, with those in the District of Columbia, how many are in the

community that they want to go to?

DR. SCALDINI: Four.

MR. HARRISTON: That's a relevant question.

CHAIRPERSON CROSS REID: That's a relevant question. All right.

MR. HARRISTON: That's what I'm getting at.

CHAIRPERSON CROSS REID: All right. Well, just ask --

MR. HARRISTON: I have to ask it in my way, you know.

CHAIRPERSON CROSS REID: But please don't go --

DR. SCALDINI: Could I answer it?

CHAIRPERSON CROSS REID: -- through all those questions to lead up to it. Just ask the question straightforward.

DR. SCALDINI: Would you like to have the answer? It's four.

CHAIRPERSON CROSS REID: The question -- let me understand. The question was how many of the children --

MR. HARRISTON: How many of the students --

CHAIRPERSON CROSS REID: -- that go to the school are from the neighboring community.

MR. HARRISTON: That's right.

CHAIRPERSON CROSS REID: And the answer is four?

DR. SCALDINI: Yes.

MR. HARRISTON: Okay.

CHAIRPERSON CROSS REID: Next question.

MR. HARRISTON: Now, you determined that this was an emergency situation, which is the reason you requested the temporary three years.

DR. SCALDINI: Well, we require a three year temporary space because our permanent location will require that before we can occupy it. So --

MR. HARRISTON: Yeah. Now, the history of the school, it started out as a part of Adas Israel?

DR. SCALDINI: Yes.

MR. HARRISTON: And then later incorporated separately?

DR. SCALDINI: Yes.

MR. HARRISTON: And then was there some disagreement within the old community as to what should be there?

DR. SCALDINI: We entered into an agreement with Adas Israel to become an independent institution, and there's a letter in the -- in the record from Adas Israel to this effect. I'm going to summarize what it says and what occurred.

We agreed with Adas Israel that we would become a separate institution because our growth objectives for the school could not be accommodated within that building. Adas Israel, among other things, did not want to have an off site school; had a different idea of the direction in which they wanted the school to go.

MR. HARRISTON: The direction which they wanted to go.

DR. SCALDINI: Yes, and we agreed to separate, and that we would relocate in June of 2000.

MR. HARRISTON: So as a result of an internal disagreement at the site --

DR. SCALDINI: No, as a result of an agreement.

MR. HARRISTON: Of an internal disagreement.

DR. SCALDINI: "Disagreement" is your term. Agreement is my term.

MR. HARRISTON: Okay. Then you decided to come to Shepherd Park.

DR. SCALDINI: No. We proceeded to do a very, very thorough search for space, which I've already described in my paper, and I don't need to repeat it, and listed a number of the places we looked

at, and it was only late in 1999 that we came to the conclusion with Tifereth Israel and Ohev Shalom that we could place the school in those two sites and make it work, hence the exigency of our time frame right now.

MR. HARRISTON: Now, one last question. With respect to the question from Mr. Parsons, you expect to be gone in three years --

DR. SCALDINI: Yes.

MR. HARRISTON: -- and not back here for an extension to stay in our community.

DR. SCALDINI: That's our expectation. Absolutely right.

CHAIRPERSON CROSS REID: Thank you.

MR. HAMPTON: I just have a couple of follow-up questions. You've stated that you talked to Dr. James at Shepherd Elementary School, correct?

DR. SCALDINI: Our head of schools, Susan Koss met with --

MR. HAMPTON: Have you talked with the PTA at Shepherd Elementary School?

DR. SCALDINI: I have not, no.

MR. HAMPTON: As far as you know, has any of your members talked to the president of the PTA?

DR. SCALDINI: No, not that I know.

MR. HAMPTON: Do you even know who the

president of the PTA is?

DR. SCALDINI: I encountered him the other evening at the ANC meeting.

MR. HAMPTON: And his name is?

DR. SCALDINI: I don't recall.

MR. HAMPTON: Okay,. Do you know who the vice president is?

DR. SCALDINI: No, don't remember.

MR. HAMPTON: Okay.

DR. SCALDINI: Do you know the names --

MR. HAMPTON: That's not --

DR. SCALDINI: -- of our Parent-Teachers Association?

MR. HAMPTON: -- relevant because we're not moving to your neighborhood.

CHAIRPERSON CROSS REID: Excuse me. Just go and ask questions.

MR. HAMPTON: Yes, ma'am. Yes, ma'am.

About this adult education that you propose, has that been vetted with the neighbors? Have the neighbors had an overwhelming demand for this?

DR. SCALDINI: Some suggested topics I have been shared with the neighbors. The idea for it arose out of one of the meetings that we had when several people in the room said they would react favorably to

that kind of offering. Some of the suggestions were -- and I'll use the examples that I was prepared to provide -- two seminars that would be provided, one on global finance and the phenomenon of globalization that would be based on a seminar that I teach in the graduate school at George Washington University.

And the second that I would also teach because I have a Ph.D. in literary studies on modern fiction. So I trust that -- and this was the comment I had hoped to make -- that Mr. Harriston, whom I would not dream of demeaning, would not be demeaned by seminars that I've offered at Dartmouth and Yale.

MR. HAMPTON: Okay, fine. Thank you.

Were any of the neighbors marked in those red diamonds, which are within 500 feet -- have they asked you for these sorts of --

CHAIRPERSON CROSS REID: Do you mean red diamonds or red stars?

MR. HAMPTON: Red stars. Excuse me. Within the red stars.

MS. DOBBINS: If you don't know, say you don't know.

DR. SCALDINI: I don't know.

MR. HAMPTON: Okay. You -- you -- you don't --

DR. SCALDINI: These were -- as I said, this came up at a meeting.

MR. HAMPTON: Okay.

DR. SCALDINI: As I said, this came up at a meeting.

MR. HAMPTON: Okay, fine. You don't know.

DR. SCALDINI: Excuse me.

MR. HAMPTON: You don't know.

DR. SCALDINI: And we responded with some ideas of what we might do.

MR. HAMPTON: Okay, and you said there would be a cap of 205 people.

DR. SCALDINI: Yeah.

MR. HAMPTON: Two hundred and five students. So you're willing to change your request from 215 to 205?

DR. SCALDINI: Yes.

MR. HAMPTON: Okay. That's fine. Also, do you or anyone else know how many square feet either synagogue is?

DR. SCALDINI: Others on our team would be better prepared to speak.

MR. HAMPTON: Could you answer that? That may lead to some additional questions for you.

MS. KRIEGER: The gross square footage,

according to the plans for Ohev Shalom, between 30 and 35,000 square feet. I'm not as sure of the gross square footage at Tifereth Israel, but it's similar.

MR. HAMPTON: Okay.

CHAIRPERSON CROSS REID: Is that it?

MR. BARDONILLE: Just a couple of follow up questions.

CHAIRPERSON CROSS REID: All right.

MR. BARDONILLE: Dr. Scaldini, have you had any complaints --

CHAIRPERSON CROSS REID: Speak into the mic.

MR. BARDONILLE: Oh, sorry.

Have you had any complaints as to conformity to your plans over at your present location?

DR. SCALDINI: I'm not sure I understand you.

MR. BARDONILLE: Has anyone ever complained to the school or to the synagogue about traffic or any of the conditions affecting the neighbors over at the school where you are presently located?

DR. SCALDINI: Okay. For our school, I don't know about the other schools that operate there, they're not under our control. For our school, no. I understand that there have not been.

CHAIRPERSON CROSS REID: And, again, we're referring to this particular -- the Applicant.

MR. BARDONILLE: I'm referring to the Jewish Primary Day School, and they have used --

CHAIRPERSON CROSS REID: Where?

MR. BARDONILLE: At Adas Israel, which is their present location.

CHAIRPERSON CROSS REID: Where is that?

MR. BARDONILLE: Oh, Adas Israel is at the conjunction of Porter and Quebec Street.

CHAIRPERSON CROSS REID: Okay. Is that at this intersection where this site is located that the application is germane to? And that's what you have to keep it to.

MR. BARDONILLE: Well --

CHAIRPERSON CROSS REID: You cannot go over there.

MR. BARDONILLE: Well, and here is the point.

CHAIRPERSON CROSS REID: No, no, no.

MR. BARDONILLE: May I just explain the basis of my question?

CHAIRPERSON CROSS REID: No. Ask your question.

MR. BARDONILLE: I did. I asked if he's

had any complaint from any residents.

DR. SCALDINI: I answered you.

CHAIRPERSON CROSS REID: And I said you cannot --

MR. BARDONILLE: I can't ask that?

CHAIRPERSON CROSS REID: -- go over to that particular -- this is -- the case before us is site specific. You cannot use anything that's germane to another site to make a point about this particular application.

MR. BARDONILLE: But that's the basis of this whole plan.

MR. HAMPTON: Excuse me, Madame Chair. They have raised how well they operate a school, how well they operate parking and everything else. The current location is not here. It's at Adas Israel. So we have to ask at least some questions --

MS. PRUITT: Sir, that may be better served in your testimony as opposed to cross examination.

MR. SOCKWELL: If I might just state --

CHAIRPERSON CROSS REID: You will be able to testify.

MR. SOCKWELL: I think we understand your concern. The problem with asking the question here is that the conditions are dynamic, and the dynamic

conditions at the other site and the dynamic conditions here are different, and it's impossible for Mr. Slade or anyone else to respond to those questions effectively.

In your testimony I think that you can bring that up.

MR. BARDONILLE: Very fine. Dr. Scaldini, you testified that in response to -- is his name Porter?

PARTICIPANTS: Parsons.

MR. BARDONILLE: Parsons' question that as part of assuring compliance on the part of the parents, that you would have a contract with them.

DR. SCALDINI: They have a contract with the school when they enroll their child.

MR. BARDONILLE: Is it fair to ask if the present school have a contract now?

CHAIRPERSON CROSS REID: No, you cannot ask that.

MR. BARDONILLE: Cannot ask that.

CHAIRPERSON CROSS REID: I've already stated that it has to be germane to this particular application.

MR. BARDONILLE: I have no further questions.

CHAIRPERSON CROSS REID: Thank you.

MR. HUMPHRIES: Madame Chair, if I may ask a question of Mr. Scaldini, Mr. Scaldini, as you propose to move to the site, could you help us understand the nature of the governance of the school that you propose to locate at the sites, i.e., the governing board and the by-laws that govern the board and the selection of board members and who is eligible?

You've raised that as a bridge between the neighborhood.

DR. SCALDINI: We've raise the fact that we would create a liaison committee, and that committee would have the neighborhood representative on that committee, and it would include also representatives of the two synagogues, would have a right to put items on the agenda of the JPDSNC board of directors and to present them.

Our governance, we're a 501(c)(3) not-for-profit corporation, and we are a member organization under the District of Columbia. We're incorporated in the District of Columbia, and --

MS. DOBBINS: Madame Chair, there was no testimony about the board.

CHAIRPERSON CROSS REID: Is that what it is?

MS. DOBBINS: About the make-up of the board, but if the Board chooses, he can continue this.

CHAIRPERSON CROSS REID: He answered the question. So next question.

MR. HUMPHRIES: Well, okay. I mean it's -- we're trying to understand in an effort to be good neighbors, Madame Chair.

CHAIRPERSON CROSS REID: Oh, ask questions.

MR. HUMPHRIES: Okay. So we'd like to find out about the governance of the organization so that we can identify ways in which we can intersect --

CHAIRPERSON CROSS REID: Well --

MR. HUMPHRIES: -- and be good neighbors.

CHAIRPERSON CROSS REID: All right.

MR. HUMPHRIES: So I'm asking a question about the make-up of the board so that we can better understand that and who are members of the board.

And as I recall --

CHAIRPERSON CROSS REID: But, you see, there was no testimony regarding the governance of the school or the board of directors. However, that does not preclude you from being able to request that information from the Applicant subsequent to this hearing.

MS. DOBBINS: And, Madame Chair --

MR. HUMPHRIES: And that's what we're doing.

MS. DOBBINS: -- we have no problems providing information.

CHAIRPERSON CROSS REID: Okay.

MR. HUMPHRIES: And that's what we're doing now to better understand.

CHAIRPERSON CROSS REID: But there was no testimony. So, therefore, you can receive the information by requesting it. They'll supply you with all the information you need regarding the governance of the board of directors --

MR. HUMPHRIES: Okay.

CHAIRPERSON CROSS REID: -- and who's on the board of directors and when do they meet.

MR. HUMPHRIES: Okay. Then, Madame Chair, I would like to reserve the right to ask further questions of this witness at a later date once we've received that information. Is that fine?

MS. DOBBINS: Madame Chair, my indication of receiving that information would have been outside the purview of this hearing today. It would be information on information for the community. That has not been related to the presentation made today.

This would be to provide them the

information as neighbors.

MR. HUMPHRIES: Well, clearly, Madame Chair, let me talk about the relevance. The governing board is the creator and improver of the contracts with the appearance, and in the contracts, you propose to include a provision which would govern the activities of the parents, including where they're going to drive and how they're going to drive it.

And so with regard to the appropriateness of the traffic management plan and the credibility of the proposed monitoring program, we'd like to receive information about the process that the governing board will use in deciding the traffic management plan as well as the enforcement.

So if we don't have that information, we have no way of really coming to a true assessment of the feasibility of this plan. What we're talking about and what the --

CHAIRPERSON CROSS REID: Well, what you're requesting, if I hear you correctly, is a copy of the agreement that the school has for the parents to sign.

MR. HUMPHRIES: A copy of the agreement, a copy of the bylaws, a copy of the mechanisms by which the governing board is chosen, selected, and approved.

CHAIRPERSON CROSS REID: I don't know if we

need to get into all of that. I think that --

MR. HUMPHRIES: Well --

CHAIRPERSON CROSS REID: Wait, wait. Let me finish.

I think that the agreement and also the reinforcement aspect of the agreement as put out by the school that each parent has to sign would --

MR. HUMPHRIES: Well, let me ask --

CHAIRPERSON CROSS REID: -- answer your question.

MR. HUMPHRIES: Well, let me ask them if they have any difficulty in providing that information to us.

MR. SOCKWELL: Mr. Humphries, would you be satisfied if they provided you with the method by which the governing boards, which come together apparently as a tribunal or something of that nature -- I mean, you mentioned in your statement creation of a community liaison committee comprised of representatives from the neighborhood and from the boards, and that sounds multiple, of JPDSNC, Tifereth Israel, and Ohev Shalom, which sounds like it's a tribunal. I may be wrong, but you mentioned three separate boards of directors.

DR. SCALDINI: Right. What we propose to have is a committee which would meet periodically --

MR. SOCKWELL: All right.

DR. SCALDINI: -- on matters relating to the site and the school and the site --

CHAIRPERSON CROSS REID: Okay. So --

DR. SCALDINI: -- including neighborhood representation.

CHAIRPERSON CROSS REID: All right. What are we --

MR. SOCKWELL: So my question is --

DR. SCALDINI: A tribunal, I guess.

MR. SOCKWELL: -- the method by which decisions would be made that would affect the contracts that the parents would sign would be relevant to their understanding of the potential for this coming to pass.

So the process by which you would do business and establish your contracts would have some relevance to the community's position.

CHAIRPERSON CROSS REID: I'm not sure -- I'm not sure if we have to go to that extent. If, in fact, the document is presented by the Jewish Primary Day School, the assumption would be that it would be that it would be with the approval of the board of directors because I think there's a general rule --

MS. DOBBINS: That's --

CHAIRPERSON CROSS REID: -- if I'm not

mistaken, any agreement that's put out publicly has to go through --

MS. DOBBINS: The board.

CHAIRPERSON CROSS REID: -- the board.

DR. SCALDINI: Yes.

CHAIRPERSON CROSS REID: So I don't think we have to get into --

MS. DOBBINS: No, no. Mr. Sockwell, the three boards would not deal with that. The three boards and the representatives is a whole different group. The Jewish Primary Day School's board would have to approve the contract for the parents.

MR. SOCKWELL: Okay. So the community relations situation is the only one that would bring the three boards together.

MS. DOBBINS: Yes.

DR. SCALDINI: Yes.

MS. DOBBINS: Yes, yes.

MR. SOCKWELL: All right.

MS. DOBBINS: So what I'm saying --

CHAIRPERSON CROSS REID: Okay. So we can make available -- we can have them make available to you so that you could -- now, you're saying that after you receive this -- you haven't seen it -- you want the opportunity to be able to ask questions if, in fact,

there's something that you wanted to ask.

MR. HUMPHRIES: Correct.

MS. DOBBINS: Okay. Madame Chair, there is no agreement that incorporates any kind of restrictions like that currently. That agreement would be dealt with if, in fact, the board conditioned and approved this application.

MR. HUMPHRIES: Madame Chair, let me just say on the record that we've had representations that there is a contract that's going to be drawn, that it has -- and discussion apparently among the governing board about how to police this traffic management plan. Okay?

And it's been suggested strongly that the plan is in effect and that the contract has been drawn or at least --

PARTICIPANTS: No.

MR. HUMPHRIES: Then that's what we want to know. It's not been drawn.

MS. DOBBINS: And it was not said, Mr. Humphries.

DR. SCALDINI: May I speak?

CHAIRPERSON CROSS REID: I think that what I heard was that there was going to be an agreement, yes.

MR. HUMPHRIES: So then I come back to, Madame Chair, how can be do either, one, an effective cross examination with regard to the credibility of the program if we do not see a basic document that is going to be put into effect to govern this traffic management plan? I think we're operating with --

CHAIRPERSON CROSS REID: Well, ask him.

MR. HUMPHRIES: -- we're operating with pictures. We're operating --

CHAIRPERSON CROSS REID: That's a question to put to Mr. --

MR. HUMPHRIES: It's very amorphous.

CHAIRPERSON CROSS REID: Put that to him as to --

MR. HUMPHRIES: It's like --

CHAIRPERSON CROSS REID: If your question is if, in fact, it doesn't exist, how can you assess it; how do you know that it's going to be effective, and that kind of thing. So --

MR. HUMPHRIES: And that I'd certainly like.

CHAIRPERSON CROSS REID: And --

MR. HUMPHRIES: When can we get a copy of the contract?

CHAIRPERSON CROSS REID: Right.

MS. DOBBINS: There is no existing contract.

MR. HUMPHRIES: Well, Madame Chair, now, again, we --

CHAIRPERSON CROSS REID: Wait. I have too many people talking to me.

MR. HUMPHRIES: Can we get a date certain then?

CHAIRPERSON CROSS REID: Now, your first question is how are you able to ascertain the effectiveness of this nonexistent document, right?

MR. HUMPHRIES: Well, I'd like --

CHAIRPERSON CROSS REID: So pose that question to him to get an answer, not to me, to him. I can't answer that.

MR. HUMPHRIES: Well, but, Madame Chair, counsel is objecting to the fact that we're requesting a copy of a nonexistent contract that they've already indicated is the contract that's going to govern the policing of the traffic management plan.

MS. DOBBINS: Madame Chair, I beg to differ. Testimony has been presented that says the board of directors is looking into ways to do that and was perfectly willing to do it. They have not --

MR. SOCKWELL: If I might interrupt, Ms.

Dobbins, from the testimony of Mr. Slade and the testimony of --

MS. DOBBINS: Mr. Scaldini.

MR. SOCKWELL: -- Mr. Scaldini, the issue of contract was made specific enough. The issue of management was made specific enough, and the issue of specific conditions of management that would be contractualized was made specific enough that there should be a conceptual document at least that could be developed quickly that would embody the spirit of the proposed circumstance.

And if that could be presented to the community --

MS. DOBBINS: You are asking for a draft of the proposed --

MR. SOCKWELL: Conditions of such contract if such contract did not yet exist.

CHAIRPERSON CROSS REID: And if there are specific issues that you have that you would like to have -- like to see included in such a document, then you can request that any order be conditioned accordingly.

MR. SOCKWELL: And even a draft of a proposed public statement to be handed out as part of the management plan if these things can be put together

quickly because we pretty much know what needs to be in them. It doesn't seem that it would be a major effort because this is not something being drawn out of the air.

MS. DOBBINS: It's not something that's being drawn out of the air, and it's something that if the Board decides to condition something related to that, the condition is typically such that the Applicant shall require or that kind of thing. It's difficult at this time to --

MR. SOCKWELL: Well, I think the --

MS. DOBBINS: We could put a draft -- we could put a draft together.

MR. SOCKWELL: That's what I'm talking about because the contract wouldn't exist until the condition --

MS. DOBBINS: Yes.

MR. SOCKWELL: -- became part of the order.

MS. DOBBINS: That's exactly correct, Mr. Sockwell.

MR. SOCKWELL: But the proposal of elements to be embodied could be very easily put together and agreed upon at some point.

MS. DOBBINS: You're asking us for a draft of the section that would relate to compliance with the

traffic management plan and the enforcement of the routes.

MR. HUMPHRIES: In the sense of reading good contracts, all contracts are contextual. All contracts are contextual, and so having simply a one provision, one paragraph from the contract does not give us a total understanding of the contract. All contracts are contextual.

CHAIRPERSON CROSS REID: Okay. Let's do this --

MR. HUMPHRIES: So --

MR. SOCKWELL: I think we weren't talking about provisions of the contract in line form. We were talking about elements of the contract.

MS. DOBBINS: That's correct.

MR. HUMPHRIES: If I may, if I may, Madame --

CHAIRPERSON CROSS REID: Continue with your cross examination at this point, and then --

MS. PRUITT: Mic.

CHAIRPERSON CROSS REID: Continue with your cross examination at this point, and then at the point where you have an opportunity to testify, those are the issues that you can then bring up and you can proffer to us what your assessment of it is and what you think

needs to be done, but this is not the time to do that. Just stay with the questions right now.

MR. HUMPHRIES: Okay. Well, we'll try.

CHAIRPERSON CROSS REID: Okay.

MR. HUMPHRIES: We'll try to cooperate.

Mr. Scaldini, I believe you indicated --

CHAIRPERSON CROSS REID: Just kind of lean into it.

MR. HUMPHRIES: You indicate in the example of governing plan, and we turn members of the Commission to the traffic management plan and the green line; I believe you indicated that if a parent came out of this alley and made other than a right turn onto Jonquil, if they, say, made a left turn or they continued up this alley to the intersection here, that you would give them a warning. Am I correct?

Mr. Scaldini?

DR. SCALDINI: I'm thinking. And forgive me, but that occasionally takes a while.

MR. HUMPHRIES: I understand, sir.

DR. SCALDINI: I'll beg you do.

MR. HUMPHRIES: Take your time.

DR. SCALDINI: Well, we have people escorting the children out of the cars and into the school, and those people are also -- staff who are out

there are monitoring the paths of the cars.

MR. HUMPHRIES: Yes, sir.

DR. SCALDINI: And so they would be in a very good position to observe who departed from the routes and issue a warning, as you say.

MR. HUMPHRIES: So where along this line, sir, do you propose to put your monitors?

DR. SCALDINI: We have them at the corner.

MR. HUMPHRIES: I'm sorry, sir. Help guide me. Okay?

CHAIRPERSON CROSS REID: Can you come up and show him?

MR. HUMPHRIES: Help guide me.

CHAIRPERSON CROSS REID: There was testimony to the effect that there would be monitors stationed I thought it was like at the alley. That alley wouldn't be blocked. So show him, please, on the map.

MR. HUMPHRIES: Madame Chair, if we might allow the witness --

CHAIRPERSON CROSS REID: I asked him to come up and show you. He's coming.

MS. DOBBINS: We're trying to determine who's probably the best person to do that.

CHAIRPERSON CROSS REID: Okay.

DR. SCALDINI: Brenda Krieger has come to assist me, and she is on the facilities committee which has been doing this, and I assume --

CHAIRPERSON CROSS REID: Repeat what you just said because you're not being picked up by the reporter.

DR. SCALDINI: Oh, I'm sorry. I'm going to ask Brenda Krieger to assist me. She chair the committee that's doing this work.

CHAIRPERSON CROSS REID: Okay.

DR. SCALDINI: And, you know, presumably we want to get the right answer for you.

MR. HUMPHRIES: If you don't know, just say you don't know.

DR. SCALDINI: I'm trying to get people who are doing the work.

MR. HUMPHRIES: We're cross examining you. If you don't know, say you don't know and then ask that it be referred to somebody else.

CHAIRPERSON CROSS REID: He is. I think Ms. Krieger is coming up.

MS. KRIEGER: Excuse me. I will answer.

MR. HUMPHRIES: Commissioners, if you might help me, because what I'm trying to do is to establish --

MR. KRIEGER: I'm going to answer your question, Mr. Humphries.

MR. HUMPHRIES: -- for us who's in charge.

MS. KRIEGER: I'm going to answer your question, Mr. Humphries.

CHAIRPERSON CROSS REID: All right. Now, if you want to get your question answered, Mr. Scaldini is not the person who would answer. They're going to -- the Applicant is going to answer your question. Would you allow that?

All right, please. Who's answering it?

MR. HUMPHRIES: Who's answering?

MS. DOBBINS: Ms. Krieger.

MS. KRIEGER: The traffic management program at our present location is run by the staff of the school.

CHAIRPERSON CROSS REID: No.

MS. KRIEGER: I understand. I understand, and I -- I'm not talking about the present location. Could I finish my sentence?

CHAIRPERSON CROSS REID: Un-huh.

MS. KRIEGER: And so I'm going to let the head of our school explain how we might work it at this location. I don't think we have worked out every single bit of it.

CHAIRPERSON CROSS REID: Well, if you don't know --

MS. KRIEGER: But I think that Susan can -- I think that Susan can address the issues that Mr. Humphries is raising and seems like he really wants an answer to.

CHAIRPERSON CROSS REID: Who?

MS. KRIEGER: So she can answer.

CHAIRPERSON CROSS REID: Who can answer?

MS. KRIEGER: The head of school.

CHAIRPERSON CROSS REID: Who is that?

MS. DOBBINS: Susan Koss.

CHAIRPERSON CROSS REID: Well, then why isn't Ms. Koss speaking?

MS. KRIEGER: Right here.

CHAIRPERSON CROSS REID: I know who she is, but I don't understand why --

MS. DOBBINS: We're waiting for you to allow us to --

CHAIRPERSON CROSS REID: Why is Ms. Krieger saying --

MS. DOBBINS: Well, she was first going to answer the question.

CHAIRPERSON CROSS REID: -- that Ms. Koss is going to answer the question? Why doesn't Ms. Koss

just answer the question? What's the point of that introduction?

DR. SCALDINI: She will be, but what she was trying to explain was simply that we're going to probably use a model, something like we're using presently. It isn't completely worked up, but we have experience --

CHAIRPERSON CROSS REID: So -- so --

DR. SCALDINI: -- we can illustrate on this now.

CHAIRPERSON CROSS REID: -- the answer is you're not sure. The answer is you're not sure yet how it's going to be implemented.

DR. SCALDINI: We just said that. We did.

CHAIRPERSON CROSS REID: Is that what you're saying?

MS. DOBBINS: We did say that.

DR. SCALDINI: But there are some things we can show you to give you an idea of how we'll do it because we have existing experience, and that's what we can show you on this map.

MR. HUMPHRIES: Members of the Commission.

CHAIRPERSON CROSS REID: All right. Well, do that.

MR. HUMPHRIES: Members of the Commission,

I'd like --

CHAIRPERSON CROSS REID: Ms. Koss, are you going to answer it?

MS. KOSS: Yes, I am.

CHAIRPERSON CROSS REID: All right. Okay.

MR. HUMPHRIES: I'd like as we get the answer, members of the Commission, I'd like to keep in mind that this is an application --

CHAIRPERSON CROSS REID: You cannot testify. Okay? You can do that at the time that you are given to testify. You can, but at this point you can only ask questions.

MR. HUMPHRIES: Okay. Fine.

MS. KRIEGER: Ohev Shalom will house our kindergarten through third graders and --

MR. HUMPHRIES: Perhaps you can come to the --

CHAIRPERSON CROSS REID: I asked you. I asked that someone come to this map and indicate where --

MR. SOCKWELL: You can use the pointer if you'd like.

CHAIRPERSON CROSS REID: -- where on the map the monitor is going to be. I think I asked that three times.

MR. HUMPHRIES: Here. You have to speak in here.

MS. KRIEGER: This takes more education right now on my hands.

Ohev Shalom will house our kindergarten through third graders. Some kindergarten children will be walked in by their parents. First through third graders, by and large, will be dropped off in the alleyway with a staff member opening the door and allowing the students.

Right here is a sidewalk. They will walk into the main door of Ohev Shalom where there will be someone holding the door open because it's heavy for the little kids. So there will be a staff member, at least one, depending on the volume of traffic, time of day; there will be a staff member here in the alley who can monitor the cars and also monitor the children walking onto the sidewalk, and there will be someone standing by the door helping the children come in.

We also plan -- and this is, again, in the planning stages because, you know, we're not there yet, but we plan to have an entrance to the bottom level of Ohev Shalom into which the children can go, and we would then have a staff member at that point. It really depends on the volume of traffic, and we will do

studies. If and when we get the approval, then we will go ahead and totally map out how we work this so that we do secure the safety of the students, the safety of our staff, and the capability of people who live -- who need this alleyway to get their cars to maneuver in and out.

CHAIRPERSON CROSS REID: Okay. All right. Mr. Humphries, are you about ready to wrap it?

MR. HUMPHRIES: No, I'm not.

CHAIRPERSON CROSS REID: How many more questions do you have?

MR. HUMPHRIES: No, I'm not. We want to go over this a little bit so that we understand fully what they're representing --

CHAIRPERSON CROSS REID: My question: how many more questions do you have?

MR. HUMPHRIES: -- in the application.

Perhaps ten more, but the questions are going to go to the governance of this plan and the creation of this plan and how it's going to work here and what are the proposed sanctions and punishment.

CHAIRPERSON CROSS REID: All right. Well, ask the question.

MR. HUMPHRIES: Okay.

CHAIRPERSON CROSS REID: Are you asking the

question?

MR. HUMPHRIES: What is the proposed sanctions and punishment --

CHAIRPERSON CROSS REID: to them.

MR. HUMPHRIES: -- punishment -- and I hate to use the term "punishment" -- but policy --

CHAIRPERSON CROSS REID: Penalty.

MR. HUMPHRIES: Penalty, good term.

-- penalty if an individual does not follow the plan? If, for instance, they careen off here and go back back up 17th and come out Kalmiah or they go straight ahead, I mean, what are the proposed -- what are the proposed penalties?

DR. SCALDINI: Well, I outlined them before in response to a question from the Board. Forgive me. I don't recall from whom.

We are exploring all of the measures, and I'm sure you're all aware of them. There are private schools around the city. This is how we do these things.

We'll look at the conditions that are used by private schools around the District of Columbia. They include things like fines, withholding of documents, things of that sort that matter to people, and moral suasion, you know, and all the rest, warning

people, and then going to things like fines.

And we're looking at all of those, and there are a lot of examples around with private schools that have traffic management plans in the District, and we will develop something along those lines.

You've seen already where the people will be. So to your question about the observation of what goes on, even in what you may think as too preliminary a model, we've got people in a position to see anything that's done, and all our teachers know all our parents. We're not a big school, and so we know who everybody is, and we can identify someone who breaks the rules.

MR. HUMPHRIES: Mr. Scaldini, do you have pictures of this particular site and the roadways that go -- I'm sorry -- the roadways that circle the school, Juniper on the south, the alley to the west, and Jonquil to the north?

DR. SCALDINI: Lou, do we have videos that we've made during the simulation or anything like that?

MR. SLADE: We have some videotape in the photos that we took.

DR. SCALDINI: Okay. We may have some, yeah, because we did the simulation that we mentioned earlier, and we photographed that.

MR. HUMPHRIES: Would you provide copies of

those pictures to the neighbors?

DR. SCALDINI: Okay.

MR. HUMPHRIES: So that we might be able to look at them and ask questions based on the pictures that you've examined so that we're all operating --

DR. SCALDINI: On Tuesday?

MR. HUMPHRIES: -- they're all operating -- well, we'd like to have those before then so that we can form questions on the basis of that.

You would agree with me that we're trying to reach some sort of a mutuality of mind, some sort of meeting of the mines?

I'm asking a question.

DR. SCALDINI: I don't know if I'd agree with that.

MR. HUMPHRIES: You would not? Okay.

DR. SCALDINI: But we are. We are certainly trying. I don't know if you are, but I know I can speak for us.

MR. HUMPHRIES: Do you want me to make the statement?

DR. SCALDINI: Yeah.

MR. HUMPHRIES: We are trying to.

DR. SCALDINI: Ah, good. We're delighted.

MR. HUMPHRIES: To the extent -- to the

extent that you will provide to us the documents on which you base your traffic plan and your monitoring plan and your penalty plan, and to the extent that you will provide to us --

DR. SCALDINI: Well, we said we're exploring the penalty plan.

CHAIRPERSON CROSS REID: Is that a question?

DR. SCALDINI: We've been around that one before.

CHAIRPERSON CROSS REID: Is that a question?

MR. HUMPHRIES: And he's indicated that he would, Madame chair.

CHAIRPERSON CROSS REID: All right.

MR. HUMPHRIES: No, I said that we would make -- excuse me, Madame Chair. I want to be precise about what I said we would provide. I said we would provide the pictures and videos we may have from when we did the simulation. I don't even know for sure what the extent of those are. I said nothing about penalty plans. I said nothing about the other things you just mentioned.

But the pictures, happy to do that.

MR. HUMPHRIES: Dr. Scaldini --

DR. SCALDINI: But, again, because it will come back, I'm sure, on Tuesday, I don't know exactly what we have. So what we have you'll see. Okay?

MR. HUMPHRIES: So you're indicating that there is a lack of ready --

DR. SCALDINI: No, I'm being honest.

MR. HUMPHRIES: -- a lack of readiness at this time.

DR. SCALDINI: No. I told you I don't know exactly what we have from the simulation, and what we have we'll bring.

MR. HUMPHRIES: Okay, fine. Now, Dr. Scaldini, in regard to this situation here, what happens when --

MS. DOBBINS: We can't hear you.

MR. HUMPHRIES: I'm sorry.

What happens when a parent arrives at that site, decides that he or she -- or grandparent decides that he or she -- wants to park and go into the school for whatever reason? Right here. This is the alley drop-off.

DR. SCALDINI: What time of day are you talking about, please?

MR. HUMPHRIES: In the morning.

DR. SCALDINI: What time of the morning are

you talking about, please.

MR. HUMPHRIES: You pick a time.

CHAIRPERSON CROSS REID: Drop-off time.

MR. HUMPHRIES: Drop-off time.

She'll speak to it because she's doing that work.

MR. HUMPHRIES: Maybe I could ask a question because I want to understand a little bit about the trade-off here.

Is it Ms. Krieger?

DR. SCALDINI: Yes.

MR. HUMPHRIES: Ms. Krieger, if you could explain, help me understand your role as the chair of a --

MS. KRIEGER: The facilities committee.

MR. HUMPHRIES: Okay. You're a member of the board?

MS. KRIEGER: I am a member of the board.

MR. HUMPHRIES: Okay, and what is your role as the chair of the facilities committee?

MS. KRIEGER: Helping lead the effort to find us a permanent and a temporary location for the school and all that involves. So that I have been most -- more closely involved with the traffic management firm than -- on a day-to-day basis than Dick has, which

is why he turned that over to me so perhaps I could answer that a little better.

Dick is the president of the board. You know, I think you know that that entails a more generalized oversight.

DR. SCALDINI: And she's smarter than me.

MS. KRIEGER: No.

MR. HUMPHRIES: So with regard to the question here.

MS. KRIEGER: With regard to the question, there are -- Mr. Slade, I think, has a drawing of the parking plan for Ohev Shalom which will show that there are 26 -- 26 parking places behind the synagogue. That is more than we will allot to our teachers. So there will be some spaces behind the synagogue for those few parents who will want to bring their children in.

People who do choose to bring their children in do so in a very short span of time. If they do, they bring the child in and leave them. Maybe they spend five, ten minutes there. That's something that I know from my experience has been encouraged since my child was in kindergarten, in helping the children acclimate to being in school, that parents not stay.

So and I'm sure especially in the beginning

of the year, to be realistic, there will be more parents for a few weeks who do want to park and bring their child into school.

MR. HUMPHRIES: Would it --

MS. KRIEGER: And in the beginning, some of the younger children, primarily in kindergarten, will want to park and bring their child in, especially in the beginning of the year.

And we internally and with the neighbors will try to figure out a way that anyone who cannot find parking in the additional spots behind the building will have a place that does not block anybody's driveway or interfere with anybody going to work for that short span of time when they do bring their child in.

And as the school year goes on, that will even get far, far less. There will, yes, you're right, always be some parents who do need to take their children in or want to.

MR. HUMPHRIES: Do you propose a van -- as one of the options for bringing the children in, can you help us understand how that van is going to travel and how you will accommodate that van in this 15 foot wide alley?

MS. KRIEGER: Lou has more experience with

the vans. We did -- I will tell you that we have contacted and have proposals from several companies around town that provide van service, and I say "van" because they are not buses. They are 15 to 20 person, small scale vans. We have made inquiries. We have proposals, and they work for many schools in the city.

As to how exactly they will be able to function in the driveway is where I will turn it over to Lou, but I will tell you just for -- I'll anticipate another question. No, never mind. I won't.

CHAIRPERSON CROSS REID: Next question.

MR. HUMPHRIES: Why don't we go across the street now to Tifereth Israel? And let's go through the same approach to Tifereth Israel, and that is on the east side of 16th Street.

And what is your plan to monitor the alley, as well as Jonquil, and how many staff people will you have there and at what intervals? How many, the number?

CHAIRPERSON CROSS REID: Are you asking --

MR. HUMPHRIES: I can ask them one at a time or I can ask them in a series, Madame Chair.

CHAIRPERSON CROSS REID: How about one at a time.

MR. HUMPHRIES: Okay. I'll ask it.

What is your plan?

MS. KRIEGER: It would be similar to what we would have at Ohev Shalom, but because the students are older, we would possibly not hold the door open for them. We would make sure -- at the beginning it's very complicated because they're getting used to carrying all of their bags, but as the school year progresses, they are quite adept at it, and the first few weeks are just the trial.

We would definitely have somebody in the alley to control the traffic to monitor the children. No child will be left to walk near any moving vehicles. As we do now, we will continue to monitor that.

We will monitor the parents who drop their children off in the alley to make sure that they -- sorry. All right. Go back. Sorry.

MR. HUMPHRIES: Surely. Perhaps someone could at this point help.

What is the distance from --

CHAIRPERSON CROSS REID: You have to ask the question into the mic.

MR. HUMPHRIES: Okay. I'm sorry.

What is the distance from 16th Street to the alley and from the alley and its intersection with Jonquil and the alley and its intersection with

Juniper?

MR. SLADE: I'm going to have to give you my best recollection of those distances.

MR. HUMPHRIES: Is this an estimate or is this specific measurements?

MR. SLADE: We have measured this, and I can dig through the file if we need to be precise, but I think I can answer it accurately enough for you.

MR. HUMPHRIES: May I ask one question as you do that?

MR. SLADE: Sure.

MR. HUMPHRIES: Did you measure it, Mr. Slade?

MR. SLADE: Me personally?

MR. HUMPHRIES: Yes.

MR. SLADE: No.

MR. HUMPHRIES: Okay.

MR. SLADE: We estimated that six cars and maybe seven can park along Juniper or can stop along Juniper between the alley and about 40 feet back from 16th Street, and we'd allow something like 22 feet per automobile. So, you know, the distance is approximately 150 feet from the street to the alley, curb to curb. The alley --

MR. SOCKWELL: Actually it's more than

that, Mr. Slade. It's 148 feet from the property line to the alley line. So you have to have the sidewalk. So it's going to be closer to 160.

MR. SLADE: All right. Thank you, Mr. Sockwell.

The alley, I don't remember the dimension at all. As I testified, our queue in the morning is going to be short, three cars at the most, we think, and that will all be handled at the curb. So the vehicles will come down the alley to make that right turn onto Juniper.

In the afternoon, we may have seven cars. As I said, we think we can get six, perhaps seven along Juniper Street. So we may have one or two cars who arrive at the point when the back-up is at its maximum that will wait briefly in the alley, and as the children are picked up, they'll proceed on in those cars and move out of the alley.

But just looking at the scale of the map there, it's probably 200 feet from Juniper to Jonquil.

MR. HUMPHRIES: So we say 200 feet from Jonquil to Juniper through the alley. Is that --

MR. SLADE: Approximately.

MR. HUMPHRIES: And then how many feet from the alley to 16th Street either on Jonquil or on

Juniper?

MR. SLADE: Approximately 160.

MR. HUMPHRIES: One hundred and sixty. What are the parking regulations with regard to the distance that a car's rear bumper should be from an alley when it's parked on the street?

MR. SLADE: Twenty-five feet.

MR. HUMPHRIES: Twenty-five feet. Now, sir, I see it's not indicated on here, but there is a stop sign there; is that correct?

MR. SLADE: Yes, yes.

MR. HUMPHRIES: And there's a fire hydrant there; is that correct?

MR. SLADE: Yes.

MR. HUMPHRIES: Now, what is the distance, according to D.C. regulations, that a car must be parked from the fire hydrant to the front bumper?

MR. SLADE: Well, the clearance in front of the fire hydrant is 20 feet, ten on either side.

MR. HUMPHRIES: So it's 20 feet or ten.

MR. SLADE: Yeah.

MR. HUMPHRIES: So you're losing -- help me. Help me understand this -- you're losing ten feet from the fire hydrant back, and 20 feet from the alley up.

MR. SLADE: Well, we --

MR. HUMPHRIES: So a total minimum, you're losing 30 feet out of 160.

MR. SLADE: One hundred sixty.

MR. HUMPHRIES: So now we're down to about 130 feet of usable space.

MR. SLADE: The restriction at the alley end, which you mentioned, really applies to parking there, not sitting there or standing with a motorist in the car.

MR. HUMPHRIES: I see. I see. So my question then: how do you propose for those neighbors who will be moving northbound on 16th or southbound on 16th to make a right or make a left onto Juniper? What is your assessment of the safety situation here if a car or a van is parked there waiting for somebody to get out, for a student to get out or an adult to get out, to go into the school?

I mean, I am -- is it a legitimate concern?

MR. SLADE: It's a definite legitimate concern, and I think we'll take that into account when we do the operations portion of the plan, which answers -- which will answer the details that you're asking, and we should keep some clearance there so that the site distance is adequate.

MR. HUMPHRIES: You're telling me that you've not committed that to your plan so far?

MR. SLADE: Many of your questions, in my terminology, speak to the operations plan, and just to, again, use my terminology, a management plan defines the concept of how the traffic and the parking will be managed. The operations plan is specific to where people will stand, which areas will be zoned for no standing, no parking, and so forth, down to the inches if you will.

MR. HUMPHRIES: So at this point your plan is a conceptual plan.

MR. SLADE: Yes.

CHAIRPERSON CROSS REID: Mr. Humphries?

MR. HUMPHRIES: Yes, ma'am.

CHAIRPERSON CROSS REID: All right. You've been cross examining for almost 25 minutes, if not more. So can you wrap?

MR. HUMPHRIES: I would like to reserve more time.

MS. PRUITT: Your mic has to be turned on, sir.

MR. HUMPHRIES: I'm sorry. I'm sorry. I'd like to reserve more time because we have one, two, three, four witnesses who have testified, and all of

their testimony goes to the heart of this traffic management plan. Actually five witnesses including Ms. Robinson, and their testimony essentially took 60 minutes --

CHAIRPERSON CROSS REID: But you can't --

MR. HUMPHRIES: -- cumulatively.

CHAIRPERSON CROSS REID: -- can't take 60 minutes of cross examination.

MR. HUMPHRIES: Well, as long -- I'm trying to get to some of the relevant --

CHAIRPERSON CROSS REID: But you're making your point --

MR. HUMPHRIES: -- bedrock --

CHAIRPERSON CROSS REID: What we're asking you is can you accelerate. Can you just get your questions in and --

MR. HUMPHRIES: I have some more.

CHAIRPERSON CROSS REID: Okay. Because it is now getting close to seven o'clock, and I'm going to lose a quorum.

MR. HUMPHRIES: Okay, and we don't want you to do that, Madame Chair.

Well, if I could pick this up on Tuesday, that's fine.

CHAIRPERSON CROSS REID: Well, how much

more do you have? I mean how much --

MR. HUMPHRIES: Well, we're going to get some documents, and I'd like the opportunity --

CHAIRPERSON CROSS REID: How much more --

MR. HUMPHRIES: -- to review the documents and then ask --

CHAIRPERSON CROSS REID: How much more time do you think --

MR. HUMPHRIES: -- questions based on the documents.

CHAIRPERSON CROSS REID: -- you need for cross examination?

MR. HUMPHRIES: It could be -- I can't -- I can't say. I would work to keep it to the minimum amount so that we're able -- we obtain the workable information that we need in order to reach the type of meeting of the minds --

CHAIRPERSON CROSS REID: Okay, all right.

MR. HUMPHRIES: -- that I think the parties are trying to reach.

CHAIRPERSON CROSS REID: All right. Now, you have questions for some of the other witnesses as well?

MR. HUMPHRIES: Yes.

CHAIRPERSON CROSS REID: Okay, all right.

Just a minute.

MR. HUMPHRIES: Yes.

(The Board conferred.)

CHAIRPERSON CROSS REID: All right. Then what's been suggested is rather than to continue this evening, since we're going to lose a quorum, then we would allow you to continue when we reconvene on Tuesday.

MR. HUMPHRIES: Thank you, Madame Chair.

CHAIRPERSON CROSS REID: That would -- that might make more sense than to have you to shorten it and not get out the question that you need for you to be able to make proper decisions and also if, in fact, the intent is to try to come to some resolution of some of the issues that you have with the Applicant, then perhaps it would be better to allow it to continue than to truncate it at this point.

MR. HUMPHRIES: Thank you.

We're trying to have a meaningful exchange of information here so that we can ask questions that get really to, as you said very effectively, the heart of the matter.

CHAIRPERSON CROSS REID: Okay.

MR. SOCKWELL: Mr. Humphries, would you promise to try not to forget the ground that you've

covered thus far so that we wouldn't have to remind you of where you've been?

MR. HUMPHRIES: Yes, sir.

MR. SOCKWELL: Just drop some bread crumbs behind you as you walk out.

(Laughter.)

MR. HUMPHRIES: Absolutely, sir.

MS. DOBBINS: Madame Chair.

CHAIRPERSON CROSS REID: What did you say? I missed it.

MS. DOBBINS: We've indicated that we would provide some photographs and some information, and Mr. Humphries has asked that we do that prior to the next hearing date.

CHAIRPERSON CROSS REID: Also -- oh, go ahead. I'm sorry.

MS. DOBBINS: We would submit that for the record, as well, and we would like to be able to ask the opposition if we could submit to one representative.

MR. HUMPHRIES: Surely.

CHAIRPERSON CROSS REID: And who would you designate?

MS. DOBBINS: And who would that be?

MR. HUMPHRIES: Mr. Harriston.

CHAIRPERSON CROSS REID: Okay. And --

MS. DOBBINS: For the ANC. Now, we would have --

MR. HUMPHRIES: Mr. Harriston for the ANC.

MS. DOBBINS: And for the other parties?

MR. HUMPHRIES: And Mr. Humphries.

MS. DOBBINS: Okay. That's what we need to know.

MR. HUMPHRIES: For the parties.

CHAIRPERSON CROSS REID: Okay. Now, on Tuesday --

(The Board conferred.)

CHAIRPERSON CROSS REID: Any information that is going to be submitted, please make sure that it is disseminated to all parties property. That's one thing.

MS. DOBBINS: That's what we were --

CHAIRPERSON CROSS REID: The other thing is --

MS. DOBBINS: -- we were deciding.

CHAIRPERSON CROSS REID: The other thing is in regard to the questions that you have, you may want to, and this is up to you, you may want to submit them to the Applicant in writing so that they could respond to it, all of them, when they return on Tuesday.

MR. HUMPHRIES: Yes, Madame Chair.

CHAIRPERSON CROSS REID: And that might save some time as well.

MR. HUMPHRIES: We will use every means that we can in order to elicit the information that we need in order to arrive at some conclusions.

CHAIRPERSON CROSS REID: Okay.

MR. HUMPHRIES: Some solid interpretations of the information that they provided.

CHAIRPERSON CROSS REID: Okay.

DR. SCALDINI: Can we exchange --

MS. PRUITT: You have to get on the mic, please.

DR. SCALDINI: Could we have the receipt of those questions be at the same time we give them the pictures and video they --

MS. DOBBINS: They may not know at that point.

MR. HUMPHRIES: That's right. I'm not trying to set up a quid pro quo situation here.

MS. DOBBINS: Yeah.

MS. PRUITT: Mr. Humphries.

MR. HUMPHRIES: We're searching -- yes, ma'am?

MS. PRUITT: Of the questions that you had

for tonight, would you be able to put those into question form --

CHAIRPERSON CROSS REID: That's what I was referring to.

MS. PRUITT: -- and give it to the Applicant so that then they can do a written response and you can then have that --

MS. DOBBINS: No.

MS. PRUITT: -- or I'm sorry.

MR. HUMPHRIES: Any questions --

MS. PRUITT: Give it to the Applicant so that then on Tuesday they would already have a prepared response for you, if you were going to ask them tonight.

MR. HUMPHRIES: My commitment to do what we believe is necessary in order to get and obtain the information that we need in order to make meaningful interpretations of the data that they've presented. I mean we'll do what we need. We want to move this --

MS. PRUITT: I'm just -- of some of them now, maybe they can --

MR. SOCKWELL: There may be some fear on the part of your constituents that being forthright and honest would give the Applicant more time to respond, but the reality is that if you want the answers,

regardless of whether they're acceptable, you should put as much information in their hands as possible so that they can respond.

They may not be able to respond to satisfy you anyway, but it would be helpful to the time frames that we have available to us and the time that your people would have to spend, as well as us behind this counter working with you.

MR. HUMPHRIES: Sure. Mr. Sockwell, you have our commitment to do everything that we need to do within our power to get the information.

CHAIRPERSON CROSS REID: All right. Okay. Now, given the fact that we're hearing some interest in trying to come to some resolution of the issues that are basically keeping the opposition and the Applicant apart, as well as some further working together to suggest and to come up with solutions to mitigate some of the adverse impact issues between now and Tuesday would be great if there could be some type of communication between the two sides. It would certainly make our job a lot easier, given the fact that from what I'm hearing is from the opposition, in addition to a lot of other things, is that there has not been adequate communication.

We don't really know what, in fact, or you

don't have adequate enough information to determine what, in fact, is going or what the impact is going to be, how it's going to be mitigated. What is the Applicant willing to do even further once you hear the additional concerns to address them that might go a long way in coming to a meeting of the minds?

And that would be great if that could be done in the interim so that when you come on Tuesday then perhaps we could be able to proceed with a lot more education and a lot less of the adversarial type of atmosphere that we are encountering here today.

We'd appreciate that very much.

MR. HUMPHRIES: Well, Madame Chair, I'd like to state that the information I'm seeking is for informational purposes and evaluation only. I don't want to leave this Commission with the impression that I'm suggesting that there will be a meeting of the minds based on the information that they submit between today and next Tuesday.

This process has occurred over the last -- since December 30th, actually January 21st, when we were notified about the filing of the application, and --

CHAIRPERSON CROSS REID: But excuse me. I think that you did say on the record that you were

getting information because you were interested in perhaps coming to some kind of meeting of the minds. I think I did hear you say that.

MR. HUMPHRIES: No, I'd like to correct that misimpression, Madame Chair.

CHAIRPERSON CROSS REID: Oh, okay.

MR. HUMPHRIES: We are seeking information that the Applicant does not have and has not had, and it's only through this process that we're able to elicit candid and straightforward answers that the Applicant's traffic management program is only in a conceptual stage; that the monitoring plan is only in a conceptual stage; that they've not thought about how to penalize the individual parents or grandparents or uncles or aunts --

CHAIRPERSON CROSS REID: Okay. You're testifying. You're testifying and, as I said before --

MR. HUMPHRIES: No, I would be --

CHAIRPERSON CROSS REID: As I said before --

MR. HUMPHRIES: I want us to have a candid exchange.

CHAIRPERSON CROSS REID: You are one person in that community, and as I said before, what we would like to see is you all to try to come together and to

try to work out your differences, and this is not just your community, sir. This is the same type of suggestions and advice that we give in all instances where we have great opposition.

And if you can, you can. If you can't, you can't. And if you can't, then that's what we are here for. We will make the decision for you.

MR. HUMPHRIES: And we're with you on that, Madame Chair.

CHAIRPERSON CROSS REID: We prefer not to.

MR. HUMPHRIES: We're with you on that.

CHAIRPERSON CROSS REID: You know, and that's why we suggest that you do try to come to some resolution. So it's up to you.

MR. HUMPHRIES: That's right, and we understand that, and that's good. If we can't, we can't.

CHAIRPERSON CROSS REID: Yeah.

MR. HUMPHRIES: And we move forward then to do --

CHAIRPERSON CROSS REID: Absolutely.

MR. HUMPHRIES: -- what we need to do.

CHAIRPERSON CROSS REID: Absolutely. Okay. Now --

MR. HUMPHRIES: Thank you, Madame Chair.

CHAIRPERSON CROSS REID: You're quite welcome.

Now, Ms. Pruitt, for the things that we need for Tuesday, do you have a list?

MS. PRUITT: Actually I have only a couple of things.

CHAIRPERSON CROSS REID: Okay.

MS. PRUITT: I want to be sure that, first of all, the Applicant will submit to Mr. Harriston and Mr. Humphries the following information, which would be information concerning how the traffic plan would be enforced and any sanctions that would go along with it. Is that --

MS. DOBBINS: I don't -- I don't think we would be able -- we didn't agree to that.

MS. PRUITT: Okay.

CHAIRPERSON CROSS REID: Oh.

MS. DOBBINS: Or didn't ask for that.

MS. PRUITT: Well, then how about if you reiterate because that's what I got, and I needed some clarification.

MR. HUMPHRIES: Thank you very much.

MS. DOBBINS: We were asked for photographs. We agreed to give the photographs and the video of the simulation that we did in the alley to

show how it was the simulation.

CHAIRPERSON CROSS REID: And also I think that they asked for a draft of what you're proposing as an agreement --

MR. HUMPHRIES: With the parents.

CHAIRPERSON CROSS REID: -- that the parents would be signing when they enrolled their kids, some indication of the salient points of the agreement that was going to be --

MS. DOBBINS: A very rough.

MR. HUMPHRIES: The penalties which will be imposed.

CHAIRPERSON CROSS REID: And whatever penalties you're advocating imposing for violations thereof.

MR. HUMPHRIES: The monitoring plan and the placement of individual monitors along the section of both allies.

MS. DOBBINS: We cannot do all of that, Ms. Reid.

CHAIRPERSON CROSS REID: All right.

MS. DOBBINS: We cannot do all of that. Many of the things that are being requested are things that still have to be determined by the board of directors.

CHAIRPERSON CROSS REID: Okay. Ms. Dobbins, I think that the monitoring -- the monitoring --

MR. SOCKWELL: The monitors were virtually spelled out by --

CHAIRPERSON CROSS REID: Yeah.

MR. SOCKWELL: -- by your people.

CHAIRPERSON CROSS REID: Yeah, that was --

MR. SOCKWELL: We're asking for multiple items, but some of those items would take ten, 15 minutes to stick pins on a board.

CHAIRPERSON CROSS REID: The monitoring was not an issue.

MS. DOBBINS: The monitoring we can do.

MR. SOCKWELL: Mr. Slade has a lot of information that can be put together in short order in at least a conceptual document, and in terms of penalties, I think you're pretty well aware of the parents and guardians of the students because you have a school that operates. So you know what you can ask them to do. You know what you think you can ask them to do, and you may know what they aren't going to do under any circumstances.

And that's what you have to start thinking about, and this is to get you thinking in that

direction.

CHAIRPERSON CROSS REID: Okay.

DR. SCALDINI: Understood. Could I respond just briefly to that?

The problem I'm concerned about with something like the penalties, that is something that our board would establish as policy, and I'm uncomfortable with the idea that we might, you know, walk through things that we might bring to the board and --

CHAIRPERSON CROSS REID: And if you can't --

DR. SCALDINI: -- then later on have --

MR. SOCKWELL: Yes.

CHAIRPERSON CROSS REID: Excuse me, Mr. Sockwell.

If you're not able to include the penalties, the only thing you can do then under these circumstances is to include suggested penalties or something like that.

MR. SOCKWELL: Yeah, suggested. It's all -- it's all --

CHAIRPERSON CROSS REID: Predicated on --

MR. SOCKWELL: -- draft and concept.

CHAIRPERSON CROSS REID: Predicated upon

the approval of the board.

DR. SCALDINI: I just want to create a good --

CHAIRPERSON CROSS REID: Yeah, yeah.

MR. SOCKWELL: No, no.

CHAIRPERSON CROSS REID: Just do the best that you can.

MR. HUMPHRIES: Madame Chair.

MR. SOCKWELL: You can have a laundry list, and it could be determined that your community doesn't like this, does like those, won't accept any of them, period.

CHAIRPERSON CROSS REID: Mr. Humphries.

MR. HUMPHRIES: We will agree to a continuance to allow them sufficient time for them to finalized the documents.

CHAIRPERSON CROSS REID: Well, whatever we do -- whatever we do on Tuesday, hopefully we can complete the hearing and then before we make our decision --

MR. SOCKWELL: And we certainly appreciate that generous offer.

CHAIRPERSON CROSS REID: -- at that point we can make some requests prior to any order being -- being promulgated.

MS. PRUITT: Madame Chair, just for the record, so that everybody can be clear, I want to verify that they'll provide photos of the simulation of the traffic plan; is that correct?

MS. DOBBINS: Photos.

MR. HUMPHRIES: And photos --

MS. DOBBINS: We would provide photos. There is also a video.

MR. HUMPHRIES: And photos of the synagogue.

CHAIRPERSON CROSS REID: And a video.

MS. DOBBINS: If we provide the video, it needs to be presented to the Board.

MS. PRUITT: Okay. Well, that can be presented actually next time because we do have that capability.

A draft of a contract agreement that the parents may sign; information on the location of monitors; and the suggested penalties if the contract is violated. Is that --

CHAIRPERSON CROSS REID: How long is the video?

MS. PRUITT: I'm sorry?

CHAIRPERSON CROSS REID: How long is the video?

MS. DOBBINS: Mr. --

MR. SLADE: I don't know. There were two videos taken, and they -- at maximum they're 25 minutes each, something like that.

CHAIRPERSON CROSS REID: Oh, oh, oh, oh. That's too long.

MR. SOCKWELL: You have the capability of creating an excerpted version?

MR. SLADE: Yes.

MR. SOCKWELL: Thank you.

CHAIRPERSON CROSS REID: Yeah, yeah. Something that's ten minutes? Ten minutes would be sufficient.

MS. PRUITT: And this will all be submitted to either -- to Mr. Harriston and Mr. Humphries.

MR. SLADE: To both, yes.

MS. PRUITT: Is that correct?

MS. DOBBINS: Both.

MS. PRUITT: I mean to both, yes.

MS. DOBBINS: Mr. Harriston for the ANC and Mr. Humphries for the parties.

MS. PRUITT: For the parties.

MR. HUMPHRIES: Mr. Sockwell, Mr. Sockwell.

CHAIRPERSON CROSS REID: Okay. Now, everyone is aware of the fact that we're going to

reconvene on Tuesday the 21st at 9:30, at which time we will then go to -- just a moment -- we will then go to the ANC reports, Office of Planning reports, and then conclude -- hopefully conclude the remainder of this particular hearing.

MR. HARRISTON: Madame, we haven't finished the cross examination.

MR. HUMPHRIES: That's right. We have not finished yet.

CHAIRPERSON CROSS REID: Well, I had already said -- I -- I didn't --

MR. HUMPHRIES: Oh, okay, fine. Thank you.

MR. HARRISTON: I just wanted to make sure.

MR. HUMPHRIES: Okay, and --

CHAIRPERSON CROSS REID: Excuse me. I had -- I thought that I had made it very clear that we would continue with your line of cross examining. This is the reason why we are going to -- I said that we were stopping now, and we were going to allow you because you said you had questions for some of the other witnesses, and I said I did not want you to truncate your time for cross examination, and you would be given that time when we reconvene.

I'd already said that. Then I was saying that we would then have the Office of Planning report,

the ANC report, and the rest of our hearing on that particular day. Okay?

MR. HUMPHRIES: Fine, and we would like to request a complete copy of the simulation tape.

CHAIRPERSON CROSS REID: You already did, and they already said they would do it.

MR. HUMPHRIES: Well, no.

CHAIRPERSON CROSS REID: To both Humphries, Humphries and Harriston, I think, to both.

MR. HUMPHRIES: Okay, fine.

CHAIRPERSON CROSS REID: They said they would do that.

MR. HUMPHRIES: Thank you.

CHAIRPERSON CROSS REID: All right. There was a question. You have to come up here and speak in the mic, sir.

MS. DOBBINS: Madame Chair, we would submit then, if we are to give them complete tapes, we will submit a complete tape and provide an excerpted version to present at the hearing.

CHAIRPERSON CROSS REID: Thank you. That will work as long as we have it for the record.

MR. KOSS: Is it my understanding that --

CHAIRPERSON CROSS REID: And now who are you?

MR. KOSS: I'm Saul Koss.

CHAIRPERSON CROSS REID: All right. You need to give your name and your address.

MR. KOSS: 11405 Monticello Avenue in Silver Spring.

CHAIRPERSON CROSS REID: Okay.

MR. KOSS: My wife is the head of the school.

CHAIRPERSON CROSS REID: Okay.

MR. KOSS: Is it my understanding also that you requested that the questions that this gentleman was going to ask this evening be put in writing and given to the school?

CHAIRPERSON CROSS REID: As much as he desired -- desired to do that. We offered that as -- we suggested that as a means of perhaps facilitating having the questions answered prior to him coming here. He can do that as well as reserve the rest of the time he would like for the cross examination.

I was not limiting him to having all of his questions put in writing prior to the meeting. That is an option that is made available to him just as a means of expediting. Okay?

All right. I think that that concludes today's hearing, and we will reconvene on Tuesday.

(Whereupon, at 7:11 p.m., the hearing was adjourned, to reconvene on Tuesday, March 21, 2000.)