

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :
: :
American University : Case No. 20-31A
Further processing of Campus :
Plan, construct acoustical :
Barrier wall at Jacobs Field :
& replace scoreboard adjacent :
to Reeves Field (Sq. 1600, :
Lots 801 & 816 - Ward 3 :
-----:

MONDAY

JANUARY 9, 2023

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The Public Hearing of Case No. 20-31A by the District of Columbia Zoning Commission convened via videoconference, pursuant to notice, at 4:00 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice Chair
PETER MAY, Commissioner

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OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING PRESENT:

MAXINE BROWN-ROBERTS, Project Manager
JENNIFER STEINGASSER, Deputy Director
JOEL LAWSON, Associate Director

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

DENNIS LIU, ESQUIRE

The transcript constitutes the minutes from the Public
Hearing held on January 9, 2023.

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(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is January 9th, 2023, and if my wife watches this, I want to wish her a happy birthday. I don't want to have to stay at home, so I don't want to get in trouble.

We are convening and broadcasting this public hearing by video conferencing. And also, I want to wish my (indiscernible) a happy birthday. I think it was a couple of days ago, that I know of. And if I have missed anybody else's, let me know.

VICE CHAIR MILLER: My daughter Joanie's birthday is actually today.

CHAIRPERSON HOOD: Well, we wish Joanie a happy birthday.

VICE CHAIR MILLER: You got it right; it was a couple days ago.

CHAIRPERSON HOOD: Well, let's do birthdays. Tell Joanie, (indiscernible), and Camille. Who else's birthday is it?

(No audible response.)

CHAIRPERSON HOOD: Okay. So we'll go with that. All right.

My name is Anthony Hood, and I'm joined by Vice Chair Miller, and Commissioner May and Commissioner Imamura. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin

1 and Mr. Paul Young who will be handling all of our virtual
2 operations. I will ask all others -- oh, also, from the Office
3 of Zoning Legal Division, Mr. Dennis Liu. I will ask all others
4 to introduce themselves at the appropriate time.

5 The virtual public hearing notice is available on the
6 Office of Zoning's website, and this proceeding is being recorded
7 by a court reporter and the platforms used are Webex and YouTube
8 Live. The video will be available on the Office of Zoning's
9 website after the hearing.

10 All persons planning to testify should have signed up
11 in advance and will be called by name at the appropriate time.
12 At the time of sign-up, all participants will complete the oath
13 or affirmation required by Subtitle Z, 408.7.

14 Accordingly, all those listening on Webex or by phone
15 will be muted during the hearing, and only those who have signed
16 up to participate or testify will be unmuted at the appropriate
17 time. When called, please state your name -- when called, please
18 state your name before providing your testimony. When you are
19 finished speaking, please mute your audio. If you are -- if you
20 experience difficulty accessing Webex or with your telephone
21 call-in, or have not signed up, then please call our OZ Hotline
22 number at 202-727-0789. If you wish to file written testimony
23 or additional supporting documents during the hearing, then
24 please be prepared to describe and discuss it at the time of your
25 testimony.

1 The subject of this evening's hearing is Zoning
2 Commission Case No. 20-31A. This is the 2021 Campus Plan further
3 processing improvement to construct acoustical barrier -- an
4 acoustical barrier wall at Jacobs Field and replace scoreboard
5 adjacent to Reeves Field at Square 1600, Lots 801 and 816 at 3700
6 O Street, N.W. Again, today's date is January 9th, 2023.

7 The hearing will be conducted in accordance with
8 provisions of 11Z, DCMR, Chapter 4 as follows:

9 Preliminary matters; Applicant's case. The Applicant
10 has up to 60 minutes. I don't think you'll need approximately
11 60 minutes, but I will let them proceed as they see fit. The
12 report of any government agencies; the report of the Department
13 of Transportation and the Office of Planning. And then we'll
14 have the report of the ANC. I have noticed on my sheet there
15 were a number of ANCs. I know that Chairman -- Chairperson
16 Elkins' ANC, I think it's 3D, I may have that incorrect -- is
17 one of the main ANCs, but I think there was like four or five of
18 them that are within this jurisdiction, but we'll sort that out
19 as we go through.

20 Testimony of organizations and individuals:
21 organizations five minutes and individuals three minutes. And
22 we will hear in the following order from those who are in support,
23 opposition, and undeclared. And then we will have rebuttal and
24 closing by the Applicant.

25 Again, the OZ Hotline number is 202-727-0789 for any

1 concerns during these proceedings.

2 Again, the ANCs, the way I see it on my sheet are ANC
3 3D, 3E, 3C and 3F, and Commissioner Elkins has been permitted to
4 testify, I believe on his ANC, or all the A -- I'm not sure,
5 I'm sure it's his ANC. So at this time, the Commission -- and
6 I'm sure we'll straighten that out when we get to there -- get
7 to that point.

8 At this time, the Commission will consider any
9 preliminary matters. Does the staff have any preliminary
10 matters?

11 MS. SCHELLIN: Yes, sir. Just a couple. And as far
12 as the ANCs, my understanding is that 3D and 3E were the only
13 ones who participated. The other two, 3C and 3F, they are
14 affected ANCs because they are now across the street from the
15 main Campus Plan, which is quite a ways from this portion that
16 is before the Commission this evening, and they did not
17 participate, if that clarifies anything.

18 And we have two party status requests. The first one,
19 they're both in support. The first one is Jessica Herzstein and
20 Elliot Gerson, and they are represented by Laurie Horvitz. The
21 Commission would consider that one first. Their submission is
22 at Exhibits 15 and 15A.

23 CHAIRPERSON HOOD: So the first party status request,
24 Commissioner May.

25 COMMISSIONER MAY: Yeah, Mr. Chairman. I'm just -- got

1 a little bit confused. It was slightly tuning out during your
2 opening statement, but did you read out the address of the
3 University in that statement?

4 CHAIRPERSON HOOD: Yeah, the address that's -- that's
5 not -- I read it out on the sheet. The address is 3700 O Street,
6 Northwest.

7 COMMISSIONER MAY: Right. That's not the address of
8 American University. That's Georgetown University.

9 CHAIRPERSON HOOD: Well, that's what I have here on my
10 cheat sheet, so let's get the correct address. I just read it
11 out, I don't --

12 COMMISSIONER MAY: I know. I know.

13 CHAIRPERSON HOOD: I look at it and say it, but I
14 apologize.

15 COMMISSIONER MAY: In all honestly, I don't -- I don't
16 listen that carefully, but I just happened to hear that address
17 and it just --

18 CHAIRPERSON HOOD: Well, if you're not listening
19 carefully, I'm going to stop reading it. But anyway, Ms.
20 Schellin, let's get the address straightened out. I just read
21 what was written. Make sure I have the squares and the lots
22 correct too. And I'm sure Mr. Tummonds, when he comes up, he'll
23 correct us.

24 Why don't we do that? Okay. Why don't we do that? I
25 don't want to put that on Mr. Liu or anybody. Let's just do that

1 when we get to that point.

2 Thank you, Commissioner May for -- because when I saw
3 O Street, I said, "Oh, okay." So I just left it alone and kept
4 on reading.

5 All right. Ms. Schellin, let's -- let's go back to
6 party status. We have parties in support. And we'll correct
7 that Commissioner May.

8 COMMISSIONER MAY: Okay.

9 CHAIRPERSON HOOD: We'll correct it on the record
10 actually. So let's go back to party status. And I'm going to
11 tell you, when I saw the support, even though I noticed there
12 are some outstanding issues, but at least we have the same report
13 and I'm very happy after 20 some-odd years, at least we're at
14 this point.

15 So let's take up the first, Ms. Herzstein. I'm sure
16 we are going to call their party and then Ms. Horvitz's party,
17 or Ms. Herzstein and Mr. Gerson, their party -- party status is
18 in support, and understanding there's still some outstanding
19 issues. So any objections?

20 COMMISSIONER MAY: No.

21 CHAIRPERSON HOOD: No objections. So we will consider
22 them the Herzstein-Gerson party. Hopefully, I'm pronouncing his
23 name correct.

24 MS. SCHELLIN: Okay.

25 CHAIRPERSON HOOD: Okay.

1 MS. SCHELLIN: The next party in support is the American
2 University Neighborhood Partnership, and I will say that their
3 Exhibit is 17. I'll let you guys go ahead and decide that first.

4 CHAIRPERSON HOOD: Okay. I get confused about these
5 partnerships, but I know that we've had this discussion. I know
6 the Vice Chair and I specifically have had this conversation, so
7 I don't have any objections. I would like to know where is the
8 partnership that we put in place, but if it's working for them,
9 and maybe we can discuss that as we go along, but let me open
10 up.

11 Any objections?

12 (No audible response.)

13 CHAIRPERSON HOOD: So, let me ask, am I going in and
14 out?

15 MR. YOUNG: (No audible response).

16 CHAIRPERSON HOOD: I'm not. Okay. I thought I was
17 going in and out. Okay. All right. So, no objections. So,
18 Ms. Schellin, we give the American University Neighbor
19 Partnership --

20 MS. SCHELLIN: Party status.

21 CHAIRPERSON HOOD: And so, they're listening. I do
22 want them to update me on this, because I thought we had another
23 partnership more on (indiscernible), but everything has changed,
24 and I'm confused. So anyway.

25 Anything else Ms. Schellin?

1 MS. SCHELLIN: With regard to this party, they tried
2 to submit their testimony today. And as you know, the Regs
3 require submissions 24 hours prior to the hearing, so I would
4 just ask if staff is allowed to go ahead and put their testimony
5 in the record?

6 CHAIRPERSON HOOD: I think, certainly, and I'm looking
7 at my colleagues now. I think, certainly, the more information
8 we get, the better we can make our informed decision, unless I
9 hear some objections. I don't think anyone's prejudiced through
10 this proceeding, especially since they are proponents, correct,
11 Ms. Schellin?

12 MS. SCHELLIN: I'm sorry. Since they're?

13 CHAIRPERSON HOOD: They are proponents.

14 MS. SCHELLIN: Yes, they are in support.

15 CHAIRPERSON HOOD: Okay. Any objections from anybody?

16 COMMISSIONER MAY: I'm all right.

17 CHAIRPERSON HOOD: So we will actually allow that as
18 well.

19 MS. SCHELLIN: Okay. So there's only one proffering
20 expert from the Applicant, and that is Kevin Miller in acoustics.
21 My staff could not find them in the list as previously being
22 accepted. He's with Miller, Beam and Paganelli, Exhibit 16C.

23 CHAIRPERSON HOOD: Okay. So, we -- we have a request
24 for Mr. Miller. Is it Mr. Kevin Miller?

25 MR. MILLER: Yes.

1 CHAIRPERSON HOOD: Exhibit 16C in acoustics. I don't
2 ever remember doing that, but it's always --- we always get
3 something new. So anyway, I don't have any objections. Let me
4 see what others -- and his resume is in, as Ms. Schellin has
5 mentioned, Exhibit 16C.

6 COMMISSIONER MAY: So last time around, we qualified
7 as an expert somebody else from the same firm, and he is a
8 principal of that firm, so it certainly makes sense to qualify
9 him as an expert in acoustics.

10 CHAIRPERSON HOOD: Okay. Thank you, Commissioner May.
11 You take great notes and you have a good memory.

12 COMMISSIONER MAY: There was an attendance record.

13 CHAIRPERSON HOOD: Oh, okay. I didn't see that. So
14 anyway -- all right. All right. So we'll do that as well.

15 Ms. Schellin, anything else?

16 MS. SCHELLIN: Yeah, there is -- the Herzstein-Gerson
17 party has an expert they want to proffer when it's time for them
18 to present. You guys will take that up.

19 CHAIRPERSON HOOD: Okay. We'll do it at that time.
20 Okay?

21 MS. SCHELLIN: Right. And that's it.

22 CHAIRPERSON HOOD: So let's do --

23 MS. SCHELLIN: Oh, I forgot. The Applicant is only
24 planning to take ten minutes.

25 CHAIRPERSON HOOD: Okay. So let's bring Mr. Tummonds

1 up. And if we can get the address correct and get all that stuff
2 corrected and make sure I've got the lot and stuff corrected.
3 And I would ask our legal counsel to make sure we correct it in
4 our record as well. So we'll let Mr. Tummonds correct us.

5 And Mr. Tummonds when you get situated and straight,
6 you all may begin. I'll relieve myself.

7 MR. TUMMONDS: Wonderful. Thank you. For the record,
8 Paul Tummonds with Goulston and Storrs on behalf of the Applicant,
9 American University. 4400 Massachusetts Avenue, Northwest is the
10 correct address for American University's Main Campus. And the
11 lots and squares that you noted in your preamble are correct.
12 Okay. Good afternoon --

13 CHAIRPERSON HOOD: Yeah. But let me say this Mr.
14 Tummonds. Apparently, they moved. They must have two sets of
15 lots, because they got some on O Street, as well. So no, I'm
16 just playing, but thank you. Thank you for correcting that.

17 MR. TUMMONDS: I think Commissioner May was correct
18 about there may have been a little transposition of things there.

19 So as I mentioned, I'm Paul Tummonds, Goulston and
20 Storrs, land use counsel on behalf of American -- of the
21 Applicant, American University.

22 We are here seeking further processing approval of the
23 construction of a sound barrier wall adjacent to Jacobs Field,
24 and the installation of a replacement scoreboard adjacent to
25 Reeves Field. Both of these projects were identified in American

1 University's 2021 Campus Plan.

2 This is a very straightforward and rather simple case.
3 This application has the support ANC 3D, 3E, OP, DDOT, the AU
4 Neighborhood Partnership, and the owners of 4710 Woodway Lane.
5 We will have one witness present testimony this afternoon.
6 Jonathan McCann, Assistant Vice President of Planning and Project
7 Management at American University.

8 Our acoustical engineering expert, Mr. Miller, will be
9 available to answer any questions that you may have, but based
10 on the submissions in the record so far, we don't believe that
11 it'll be necessary to present Mr. Miller's testimony in chief.

12 Before Mr. McCann presents his testimony, I would like
13 to note that the Applicant has thoroughly reviewed the proposed
14 testimony of Dr. Herzstein and Mr. Gerson. In particular, Dr.
15 Herzstein recommends that the parties could submit a joint
16 condition for inclusion in the written order in this application
17 that addresses the monitoring and the reporting of sound levels
18 during amplified noise events.

19 The Applicant believes that these five elements are
20 generally consistent with the extensive dialogue that has
21 occurred to date with Dr. Herzstein and Mr. Gerson.

22 The Applicant hereby requests that the Zoning
23 Commission leave the record open after the conclusion of this
24 hearing to allow Dr. -- AU, Dr. Herzstein, and Mr. Gerson to
25 finalize negotiations regarding such a condition.

1 AU believes that it will only need a week or two to
2 conclude those negotiations and submit this post-hearing
3 submission.

4 Similarly, the Applicant will also include a
5 construction management agreement in the post-hearing submission.
6 The construction management agreement will be consistent with the
7 seven elements noted in Dr. Hersztein's proposed testimony.

8 With that introduction, I'd now like to have Mr. McCann
9 present his testimony.

10 And, Mr. Young, if you could pull up our PowerPoint
11 presentation.

12 MR. McCANN: Good afternoon, everyone. Jonathan
13 McCann, Assistant Vice President, Planning and Project
14 Management, American University. Thank you for the opportunity
15 to present, to give this summary presentation for our further
16 processing application.

17 Next slide, please.

18 So this is one of two items in our further processing
19 application. The first will be the sound barrier. The second
20 will be the scoreboard.

21 Next slide, please.

22 So this is taken from the 2021 Campus Plan. Many folks
23 have probably already seen this, but I just want to start by
24 grounding people in what was described in the Campus Plan as it
25 relates to these two items.

1 Here, we have an acoustical sound barrier wall. It's
2 described as approximately 15-feet in height and 360-feet in
3 length, located in the buffer area between our property and the
4 property at 4710.

5 Next slide, please.

6 So, I'll talk about engagement. Many people here are
7 familiar with the required engagement in the Zoning order, and
8 the first section really covers that. We've shared a variety of
9 information: design, modeling, data, and other information.
10 We've had joint consultation on multiple occasions with respect
11 to settings of equipment and, you know, a lot of correspondence
12 associated with all of that. In addition to that, so, you know,
13 distinguishing between share-and-consult as opposed to
14 collaboration or, you know, seeking advice versus working
15 jointly, that's really what the next section is for further
16 engagement.

17 So with respect to the buffer area, with the impact on
18 trees and all the planning around that, we took it as an
19 opportunity to collaborate as opposed to just share-and-consult.
20 And, you know, collaborate with Dr. Herzstein and Mr. Gerson on
21 the actual plan and all the details. A lot of which I'll share
22 with you.

23 So we've had extensive collaboration with them, and
24 also with their designated arborist representative, along with
25 multiple meetings. In addition to that, we've had multiple

1 meetings with respect to sound monitoring equipment.

2 With all of this engagement, there will be more
3 engagement, and AU looks forward to having that and continuing
4 to collaborate with Jessica and Elliot moving forward.

5 Next slide, please.

6 So some of what I'll show here is taken from the
7 materials that were submitted as part of our FPA. So this is
8 one image or a snippet. The difference is I added this red line
9 to really make the path of the barrier pop out for people, so
10 that they can see it. So again, Campus Plan, approximately, 360-
11 feet in length, approximately, 15-feet high. What do we have?
12 We have a barrier of -- of that, that meets that description.

13 The barrier and the location of the barrier as proposed
14 minimizes impact to the buffer area, and I can talk more about
15 that on the next slide. And it uses an absorptive sound barrier
16 technology, and is also supported by modeling that was done by
17 Miller, Beam, and Paganelli.

18 Next slide, please.

19 So a little bit more specificity with respect to the
20 impact on the buffering area. We've submitted detailed tree
21 preservation, protection, and restoration plans for the barrier.
22 That all was developed in collaboration with Jessica and Elliot,
23 and their designated arborist. Also, with DDOT/Urban Forestry
24 as well, throughout the process.

25 So I think what's most notable here is we've laid the

1 wall (indiscernible). We're planning to avoid all structural root
2 zones for the special trees along the route with the placement
3 of the wall. The yellow dots are special trees that are proposed
4 to be removed, but outside of that, we've got a location for the
5 wall that avoids all of those structural root -- root zones. So
6 we think that that was a real success in terms of minimizing the
7 impact to the buffer area.

8 The other thing to note here, is we've got these tree
9 protection notes. The reason I'm showing those is there was a
10 request for clarification by Urban Forestry in terms of showing
11 those notes. These notes were added based on an infield meeting
12 with Urban Forestry in November. In addition to that, they also
13 inquired about payment for the special tree permit associated
14 with the four trees being removed, and I can confirm that we've
15 made that payment. We actually have the special tree permit in
16 hand. It was issued to us.

17 Next slide, please.

18 This is the planting -- the proposed planting. So lots
19 of green dots, that's a good thing. It's a little difficult to
20 see with the table here, but this shows the species and then some
21 of the other characteristics of what those are proposed to be.
22 So we've got all kinds of things. Some photos here to give those
23 of us who are fluent in Latin, a sense of what these actually
24 look like, and what they are, which is helpful.

25 And then, you know, noting at the bottom here. Again,

1 | you know, it's not -- there's meeting what's required on paper,
2 | like the Zoning order, and then there's an opportunity to go a
3 | little bit above and beyond to the benefit of a relationship with
4 | our neighbors that extends beyond just this project and into the
5 | future.

6 | We are proposing three trees at the bottom that we'll
7 | field locate with -- with Jessica and Elliot once the barrier is
8 | built, so we'll see what gaps perhaps we have in this Plan, and
9 | if there's an opportunity to add additional trees to fill those
10 | gaps, to min -- help reduce the aesthetic impact, we're going to
11 | do that.

12 | Next slide, please.

13 | We generated multiple renderings to help folks
14 | visualize what this was going to look like. On the right, this
15 | is the system that we're proposing. So these are some examples
16 | of what it looks like. So, you know, much more aesthetically
17 | pleasing than what you might see on the side of a highway, for
18 | example. So that's the system.

19 | And then we had -- these are two examples of renderings.
20 | They are many more in the documents we submitted. We generated
21 | renderings, and then we were requested to generate additional
22 | renderings by Jessica, and so we responded with that one at the
23 | top, for example, but we were requested to generate some more,
24 | which we did. And also show -- to give a better realistic sense
25 | of what the trees might look like when they're initially planted,

1 | given what the specimens are and the size, and then what they'll
2 | look like after some years of growth, so we've attempted --
3 | attempted to portray that in the renderings as well.

4 | Next slide, please.

5 | And I will shift gears to the second piece of the
6 | application, which is the Reeves Field scoreboard.

7 | Next slide, please.

8 | Again, grounding ourselves in the Campus Plan. We've
9 | got the barrier wall. We've got the scoreboard, and, of course,
10 | I've noted at the bottom there the other things that you can see
11 | on this slide are part of our application.

12 | Next slide, please.

13 | Hopefully, this is relatively straightforward. We've
14 | got our existing scoreboard, which is captured in the left image,
15 | and we've got an image/rendering of the new scoreboard. These
16 | are proposed to be the same dimensions, so roughly 15-feet high,
17 | and 25-feet wide. It's going to be mounted, you know, on the
18 | same structural steel that's out there now. So the location will
19 | be the same. The orientation will be the same. The size will
20 | be the same. The only sound that will be generated will be for
21 | the clock starts and stops substitutions, and then the path, as
22 | is the case now.

23 | And then Office of Planning had inquired with us taller
24 | -- if it was taller or larger? The answer is no, as I've just
25 | explained. And then if it's visible from University Avenue.

1 So the existing scoreboard -- I verified this myself
2 last week -- is visible at certain locations along that stretch
3 of University Avenue, whether, you know, on the sidewalk and up
4 in the buffer, so you can -- and a lot of leaves have fallen off
5 of the vegetation in that buffer area, so I think it's a good
6 time to understand what you can see, right? And you can see the
7 existing. So you'll be able to see the new one once we put it
8 up in the same location. We don't anticipate that the visual
9 impact is going to be any different, but, technically, you will
10 be able to see the new one as you are currently able to see the
11 existing one as well.

12 Next. Next slide, please.

13 And that is the end of my presentation. Thank you,
14 again.

15 MR. TUMMONDS: As I mentioned, Mr. McCann, is our only
16 witness this afternoon, and so we are here to answer any questions
17 that you may have.

18 CHAIRPERSON HOOD: Well, let me thank you all, first
19 of all, for your presentation. And, also, thank you for the work
20 that we've done to get here. Having been around for 20-some odd
21 years of dealing with the field and other issues, to get to this
22 point, I really appreciate it.

23 Mr. Tummonds, I want to commend you, along with
24 American University, because I know, I believe, I put a tall
25 order on you, and as far as I see, and from the record I read,

1 | you have delivered, so, thank you. And this is not the first
2 | time you've done that, so I wanted to say that publicly.

3 | Now, my other ask is -- some people may say it's
4 | inappropriate, but I don't think so. What are you all going to
5 | do with the old scoreboard? And I'm vying for other residents
6 | in this City who -- other neighborhoods and other communities and
7 | other schools here in this City you probably use. What's
8 | happening with the other score -- the old scoreboard?

9 | MR. TUMMONDS: Mr. McCann.

10 | MR. McCANN: Yeah, great question. I'm not aware of a
11 | definitive plan for that. So, I can check into whether there is
12 | an existing plan for that, but assuming not, I think, you know,
13 | it would be great to hear some ideas about how we might use that
14 | as an opportunity.

15 | CHAIRPERSON HOOD: Well, I'm going to put -- and I'm
16 | sure other Wards are going to put, but I know D.C. Public Schools
17 | would love some, because we have a lot of sports organizations
18 | in this City. Some are less fortunate than others, and I know
19 | that they would love to have that old scoreboard. So I would
20 | hope that you all at American University will continue to do the
21 | work you've done and maybe reach back to our D.C. Public Schools
22 | and see. We have high schools who could use it, I'm sure, and
23 | junior highs. And then we have our recreation centers, and our
24 | (indiscernible) and the rec centers. So I would encourage
25 | American University to do that. And, yes, so I'll leave it at

1 that. So, hopefully, you all can reach out and help others who
2 may need that assistance. The scoreboard looks fine to me see,
3 so thank you.

4 I don't necessarily have any questions. Again, I think
5 we've come a long way. I'd be more interested in hearing where
6 others are, but thank you for all the hard work you all have
7 done, and with that, I'll go to Commissioner May.

8 COMMISSIONER MAY: One thing that I didn't see in the
9 record, maybe it was there, but I didn't see it, is there a
10 diagram of some sort that shows the expected sound propagation?
11 So this is a question, I think, for your expert where, you know,
12 we can see if the sound is generated what the -- like a section
13 through the site that shows the relative heights of the field,
14 the fence, the property, the Herzstein-Gerson property beyond it,
15 and the expected drop-off of sound? I mean, I remember seeing
16 things like this at some point, maybe in past cases here. But
17 has that sort of analysis been done so we have a sense of how
18 the sound will travel and what might reach the property?

19 MR. TUMMONDS: Go ahead, Jonathan.

20 MR. McCANN: Okay. Yeah, absolutely. Miller, Beam,
21 and Paganelli, and I'll refer to them as MBP, if that's all right.
22 MBP generated -- they put -- made a model. They did modeling.
23 They generated a narrative report associated with that modeling
24 in support of the design that we've submitted for the wall. That
25 was shared with Jessica and Elliot on July 13th.

1 COMMISSIONER MAY: Okay. So I don't necessarily want
2 to see an entire report, but if there's a diagram -- I mean, in
3 particular, I'm interested in seeing that section drawing that
4 shows, you know, where there -- how this sound is expected to
5 travel, and, you know, whether we're really going to get the
6 kind of protection that we think should happen with a 15-foot
7 wall at that -- you know, in the location where you've shown it.
8 So if that's possible. If the record is going to be left open
9 after this hearing today, it might be good to have that in the
10 record. But then, again, just the simplest information, right?
11 We don't need to have everything in great detail. We're not
12 acoustic experts either, but, you know, I can read a section
13 drawing with -- and a sound propagation diagram.

14 So with regard to the monitoring plan, I'm sure this
15 is part of what you're still trying to work out. What's the --
16 what happens if it doesn't work or it doesn't work as well as
17 you expected? I'm sure it's going to work to some extent, but
18 what happens if it doesn't work as well as expected? What are
19 the options at that point? Is it, you know, further controls
20 over the sounds that come out of the field, or is there actually
21 -- you know, is there an option to somehow extend the height of
22 the wall, if that's appropriate? What's are the options?

23 MR. TUMMONDS: I can take a stab, Jonathan, if you want
24 me to address this.

25 MR. McCANN: Sure, Paul.

1 MR. TUMMONDS: Yeah. So, I mean, at this point, we do
2 not envision that we would add on to the top of the wall. I
3 think we are comfortable with the analysis that Miller, Beam has
4 proposed and Phoenix Acoustics, the engineering firm for the
5 owners of 4710 Woodway Lane.

6 So I think we would address it through the operational
7 side, which is, you know, continue the conditions that we have
8 now, and operations of the amplified sound events and look to
9 address it that way. So I guess (indiscernible) we don't envision
10 that we come back at some point and add five, ten more feet to
11 the wall -- in the future.

12 COMMISSIONER MAY: Okay. So you've answered that you
13 don't envision it. I guess, I was asking, is it even possible?
14 But I -- maybe, you don't even know that answer, if you didn't
15 envision it.

16 MR. TUMMONDS: I think it's (indiscernible) getting
17 into like the -- you know, obviously, we spent a lot of time on
18 the landscape buffer to mitigate the visual impacts of that from
19 both the AU side, as well as the 4710 Woodway Lane side. So
20 yeah.

21 COMMISSIONER MAY: Okay. All right. I appreciate the
22 answers about OP's questions. Just to clarify, though, the video
23 -- I mean, live-action video screens are a lot more intrusive
24 than just a static scoreboard, and so, I can appreciate the fact
25 that you've actually looked at it, and you say, "Well, you know,

1 the existing scoreboard is visible."

2 I guess, the question I have is, the time of operation
3 of that video. It's going to be limited to when, you know, when
4 there are events and the events are only going to be during
5 daylight hours, right?

6 MR. TUMMONDS: Correct.

7 And Mr. Young, perhaps, if you could pull up slide 10.
8 I can start to answer this question and Mr. McCann can help us
9 as well.

10 I would say -- so, you know, most importantly, I know
11 that Mr. McCann went out to the site today - or I should say in
12 December, and took a look at its appearance and obviously that's
13 when all the leaves are down.

14 COMMISSIONER MAY: Right.

15 MR. TUMMONDS: This scoreboard is only used during the
16 spring when it's soccer season. So, again, whole leaf cover. So
17 I think that the visual appearance is significantly mitigated by
18 the actual leaves on -- in the buffer area when it would be used.

19 Mr. McCann, could you also, like, maybe highlight too
20 the areas and give the orientation of the scoreboard, the actual
21 houses along University Ave that can see the scoreboard?

22 MR. McCANN: I can. How do you want me to demonstrate
23 that for the rest of the group?

24 MR. TUMMONDS: Would (indiscernible) field?

25 COMMISSIONER MAY: You know, what? You know, what?

1 | Actually I don't think I need more information. I mean, the fact
2 | that it's only used. I really just wanted to know when it was
3 | going to be used.

4 | MR. TUMMONDS: Yes.

5 | COMMISSIONER MAY: And if it's only going to be in the
6 | daylight and in the spring when there are leaves on the trees,
7 | I think it's, you know --

8 | MR. TUMMONDS: There you go.

9 | COMMISSIONER MAY: -- it's negligible.

10 | And the last thing is that there, you know, there were
11 | many, many conditions relating to this, this particular issue
12 | that were in the order, and a lot of them have to do with
13 | monitoring going forward and there are a whole lot of statements
14 | -- your statements in your submission that, basically, we will
15 | comply, we will comply, we will comply.

16 | But a number of those actually seem like things where,
17 | you know, because, you know, the field has been in operation
18 | even, you know, what I mean, up to this point, and will be for a
19 | while. I don't know how quickly this sound wall will be built,
20 | but it seems like some of those conditions are things that you
21 | should have been complying with up to this point. And I just
22 | want to make sure that you are complying with all the conditions
23 | and, you know, to the extent that you can while this gets done,
24 | right? Some of them are going to be put dependent on the wall,
25 | I guess, but other ones are not. So you have been complying,

1 right?

2 MR. TUMMONDS: Yes. Mr. McCann?

3 MR. McCANN: We are good. Yes.

4 COMMISSIONER MAY: All right. That's good. That's it
5 for me. Thank you.

6 CHAIRPERSON HOOD: All right. Thank you. Commissioner
7 Imamura.

8 COMMISSIONER IMAMURA: Thank you, Mr. Chairman, Mr.
9 Tummonds, Mr. McCann. My questions will be a little easier.

10 Just a couple comments. Appreciate your work with the
11 adjacent property owners, so thank you for that. I think that's
12 what's going to make this project successful.

13 I share a similar question to Chairman Hood about the
14 reuse, recycle or repurpose of this scoreboard. So, certainly,
15 there's somebody out there that can benefit from it at the very
16 least will want to see this (audio interference) -- what the
17 recycle plan would be, but I'm almost certain there's somebody
18 that would welcome that scoreboard and repurpose it.

19 Commissioner May's comment about the section. That
20 certainly makes sense from MBP, only to see, especially, his
21 comment about the height of the wall, because there is a formula
22 for the height of the wall, and just that the sound carries past
23 the wall, so. Mr. Tummonds, your comment that we don't anticipate
24 it not working, right. Obviously, I think it's been designed
25 structurally. It means just for the 15-feet, for the high wall,

1 | probably no more than that, but certainly you want to go back
2 | and take another look and see if it can accommodate that, if you
3 | can make some adjustments (audio interference) or different
4 | plans, such that structurally it could increase in height, have
5 | the option. Otherwise, then you're just -- you're left without
6 | that option.

7 | So I want to say thank you for the renderings, the
8 | initial and -- versus the establishment. The initial planting,
9 | and what it will look like after establishment. That was very
10 | helpful. Generally, I'm optimistic, but I'm not sure that it'll
11 | be that dense or look that good. So, hopefully, I think, I saw
12 | somewhere that your plan is to increase planting by 25 percent;
13 | is that right? You will replace -- for every one that you permit,
14 | you will replace it and upwards of 25 percent; is that right?

15 | MR. McCANN: So we are removing -- the current plan
16 | shows 23 total trees scheduled to be removed, four of which are
17 | special, and 19 of which are not. We're planting 34 new trees.
18 | So that's -- that's, you know, 40. That's greater than 40 percent
19 | more than we're taking out.

20 | COMMISSIONER IMAMURA: Okay. That's good.

21 | MR. McCANN: We're putting in a sizable number more
22 | than we're taking out is our plan.

23 | COMMISSIONER IMAMURA: Which is good, because we--you
24 | may lose them. I think it's inevitable that you will lose some
25 | of those. But I appreciate the density that you're adding back.

1 The level of detail in your tree preservation plan, I can
2 appreciate the fact that you included that.

3 I think those are my comments, Mr. Chairman. I yield
4 back and thank the Applicant, Mr. Chairman. Mr. Tummonds, I'm
5 hopeful that this wall works. It's an incredibly big wall --
6 sound barrier.

7 CHAIRPERSON HOOD: Okay. All right. Thank you.

8 Vice Chair Miller.

9 VICE CHAIR MILLER: Thank you, Mr. Chairman. And
10 thank you American University, Mr. McCann, Mr. Tummonds, the
11 Applicant's team for all of your collaboration with the
12 Herzstein-Gerson party neighbor.

13 This has been a long-time discussion and it looks like
14 we are finally getting to a resolution that hopefully will work,
15 and that will have the -- after your further collaboration and
16 negotiation, will have the monitoring protocol and remedies in
17 place for us in a couple of weeks, so that we can include that
18 protocol condition in an order.

19 I concur with all the comments that the Chairman and
20 each of my colleagues has made, and they've covered really any
21 question that I might have asked. The only question that occurred
22 to me as you were making your presentation, Mr. Tummonds, was I
23 think on that first -- one of the first slides, you said that
24 the -- the filming tower and the turf replacement project are not
25 part of this further -- there's a note that says it's not a part

1 of this further processing application. I assume, that's what
2 FPA means. It took me a few seconds to figure that out. But
3 are they part of some future further processing, or we've --
4 they've already been approved? Can you just clarify since that
5 jumped out at me.

6 MR. TUMMONDS: Right. I -- they have not been approved,
7 and I think it's the idea of, if in fact AU does decide that they
8 want to move forward with either of those, they would need to be
9 part of a future FPA, further processing application.

10 And a bit more, we wanted to make sure -- so this
11 information in the Campus Plan that when we put it up there, we
12 didn't want to raise concerns at all. We didn't even talk about
13 the turf replacement, or the filming tower. If we want to do
14 that, that will be a future application.

15 VICE CHAIR MILLER: Which would also involve, I assume,
16 collaboration with the neighbor party, and the party in support
17 here, and the ANC, I assume as well.

18 MR. TUMMONDS: Absolutely.

19 VICE CHAIR MILLER: Okay. Thank you.

20 Thank you for all the work that's gone into getting us
21 to this point.

22 Thank you, Mr. Chairman.

23 CHAIRPERSON HOOD: Thank you.

24 Okay. Let's keep right on moving.

25 Ms. Schellin, do we have anyone from the two ANCs?

1 Well, ANC 3D, and I think 3C were the two that were involved.

2 Anyone who's here that want to cross?

3 MS. SCHELLIN: I believe, Mr. Elkins is on. Let me
4 check. I thought I saw him earlier.

5 CHAIRPERSON HOOD: And all I want is -- all we want is
6 the cross from the ANCs, since we only have two.

7 MS. SCHELLIN: Well, I thought I saw Mr. Elkins earlier,
8 but I do not see him now.

9 MR. YOUNG: He's on. I just brought him in.

10 MS. SCHELLIN: Oh, he -- okay, you've got him. I'm
11 sorry. You already brought him in. I'll check and see who --
12 Mr. Tummonds, do you know who the representative was from 3E? I
13 don't see anyone, but --

14 MR. TUMMONDS: If there is a representative from 3E,
15 it would be Matthew Cohen, but truthfully, I don't expect him to
16 participate.

17 MS. SCHELLIN: Yeah, I didn't see him.

18 CHAIRPERSON HOOD: So, Mr. -- Tummonds, let me ask you.
19 Is Chairperson Elkins -- I think he's still a Chair -- is he
20 pretty much the only person we're going to hear from, as far as
21 from the ANCs?

22 MR. TUMMONDS: Yes.

23 CHAIRPERSON HOOD: Okay.

24 MS. SCHELLIN: Yeah.

25 CHAIRPERSON HOOD: All right. Well, let's go to

1 Chairperson Elkins. First of all, congratulations on being sworn
2 in last week. I just want to -- I just wanted to find out from
3 you, did you have any cross-examine? We're going to come back
4 for you -- your case. I mean, for your presentation shortly.

5 Do you have any cross?

6 COMMISSIONER ELKINS: (Negative head shake.)

7 CHAIRPERSON HOOD: I believe he said no, but you're on
8 mute. So, we -- you're still on mute. I'm not hearing you. If
9 -- if -- if it's no, just shake your head. Oh. Now, you're on
10 mute. Unmute. Okay. Okay.

11 So by the time we come back -- hopefully, you can work
12 on that, and you'll have that straight, so we'll be back to you
13 shortly. He said, "no." Let the record reflect that he shook
14 his head no. Thank you, Chairperson Elkins.

15 Let's go to -- Ms. Schellin, do we have any other
16 government agencies?

17 MS. SCHELLIN: I don't have anyone registered from any
18 other agency except for OP.

19 CHAIRPERSON HOOD: So we don't see DDOT, or nobody.
20 Okay. All right. Let's go to the Office of Planning. And we
21 have Ms. Brown-Roberts.

22 MS. SCHELLIN: And, also, I believe Jennifer and Joel.
23 Yes.

24 CHAIRPERSON HOOD: Okay. Let's bring everybody up from
25 the Office of Planning.

1 Ms. Brown-Roberts, you may begin.

2 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman, and
3 members of the Commission. This is Maxine Brown-Roberts,
4 representing the Office of Planning on Case No. 20-31A for further
5 processing regarding the construction of an acoustical sound
6 barrier wall between the William T. Jacobs Recreational Complex
7 and 4710 Woodway Lane, Northwest, and a replacement of the
8 existing scoreboard adjacent to Reeves Field at the American
9 University.

10 Subtitle X, Subsection 101 outlines the requirements
11 for further processing of campus plans, one of which is to meet
12 the conditions of the approved order. As outlined in the OP
13 report, the proposal was reviewed for compliance with Zoning
14 Commission Order 20-31, Conditions 18 through 40.

15 The proposal is in compliance with the conditions to
16 minimize noise and visual impacts on the adjacent 4710 Woodway
17 Lane, and other residences along University Avenue to non-
18 objectionable levels through the use of an approximately, 15-
19 feet high, 360-foot long acoustical sound barrier wall and
20 landscaping as described by the University.

21 The construction of the wall would entail removal and
22 replacement of trees. The D.C. Urban Forestry Division has
23 approved a permit for the removal and replacement of the trees.
24 The proposal also continues to not be inconsistent with the
25 Comprehensive Plan Maps, Policies, and the Rock Creek West Area

1 Element.

2 There continues to be some concerns expressed by the
3 residents of 4701 -- I'm sorry, 4710 Woodway Lane. However, OP
4 recommends approval of the requested further processing and
5 continued dialogue between the University and the owners of the
6 adjacent property regarding any areas of concern.

7 Regarding our recommendation concerning the height and
8 size of the new scoreboard, the University has confirmed that the
9 size and height would remain the same.

10 Thank you, Mr. Chairman, and I'm available for
11 questions.

12 CHAIRPERSON HOOD: Thank you, as well, Ms. Brown-
13 Roberts for all the work that you and OP have done to get us to
14 this point. I'm sure there are concerns. I believe those --
15 because if we've got to this point, I'm sure those concerns can
16 be worked out.

17 Let's see if we have any questions or comments, and I
18 did see concerns. Let me see if we have any questions or
19 comments.

20 Commissioner May.

21 COMMISSIONER MAY: No comments.

22 CHAIRPERSON HOOD: Okay.

23 Commissioner Imamura.

24 COMMISSIONER IMAMURA: No comments. Thank you, Ms.
25 Brown-Roberts for your report as always.

1 MS. BROWN-ROBERTS: Thanks.

2 CHAIRPERSON HOOD: And Vice Chair Miller.

3 VICE CHAIR MILLER: No comments. Thank you, Ms. Brown-

4 Roberts.

5 MS. BROWN-ROBERTS: You're welcome.

6 CHAIRPERSON HOOD: Thank you, Ms. Brown-Roberts.

7 Let's see who -- let me see if the Applicant -- Mr.

8 Tummonds, do you have any questions of the Office of the Planning?

9 MR. TUMMONDS: No questions.

10 CHAIRPERSON HOOD: Okay. And, Chairman Elkins, do you

11 have any questions of the Office of Planning?

12 COMMISSIONER ELKINS: No, Mr. Chairman.

13 CHAIRPERSON HOOD: All right. We got the sound

14 together. Great. Because you're very -- you're coming right up,

15 right after this.

16 Thank you, Ms. Brown-Roberts.

17 MS. BROWN-ROBERTS: You're welcome.

18 CHAIRPERSON HOOD: I appreciate all your work on that.

19 Let's go to Chairperson Elkins for the ANC.

20 MS. SCHELLIN: Parties. I'm sorry, did you ask the

21 parties if they have any cross?

22 CHAIRPERSON HOOD: Oh, that's right. We haven't had

23 parties. Ms. Horvitz, let me go -- the Horvitz -- not Horvitz

24 -- the --

25 MS. SCHELLIN: Laurie Horvitz is --

1 CHAIRPERSON HOOD: Horvitz for the?

2 MS. SCHELLIN: -- is the representative. Yes.

3 CHAIRPERSON HOOD: Okay. Ms. Horvitz, the
4 representative of the Herzstein-Gerson party, I mean, do you have
5 any questions? I'm sorry, Ms. Horvitz.

6 MS. HORVITZ: Good evening or good afternoon, everyone.
7 I have a couple questions. Can you hear me?

8 CHAIRPERSON HOOD: Yes, we can hear you.

9 MS. HORVITZ: Okay. Just a couple questions for the
10 Applicant. No questions for the Office of Planning.

11 CHAIRPERSON HOOD: Yeah, let's go back to the
12 Applicant. That's right. You're right. Let's go back.

13 MS. HORVITZ: With respect to the landscaping, just a
14 couple of questions to clarify on the record, please. About how
15 many of the trees to be destroyed will be 14-inches or more in
16 diameter?

17 MR. TUMMONDS: So -- we have -- we're currently planning
18 for 23 total trees to be removed, four of which are special, and
19 19 of which are not. So those 19 will be less than a 14-inch
20 caliper.

21 MS. HORVITZ: And how many of the trees to be destroyed
22 are going to be on the Herzstein-Gerson side of the acoustic
23 barrier?

24 MR. TUMMONDS: I don't have that information in front
25 of me, but that's something that I could certainly find out and

1 follow up.

2 MS. HORVITZ: It's most of them, is it not?

3 MR. TUMMONDS: I don't have that information in front
4 of me, but I could easily find that out for follow up.

5 MS. HORVITZ: And do you know approximately how big the
6 replacement trees will be when planted?

7 MR. TUMMONDS: We have provided that in a schedule of
8 plantings. There should be some information about what those,
9 you know, what we're proposing there.

10 MS. HORVITZ: Much smaller than the trees that are
11 being removed, correct?

12 MR. TUMMONDS: I don't know the exact comparison for all
13 of the plantings that are going in and how those compare to what's
14 existing.

15 MS. HORVITZ: Okay. That's all I have.

16 CHAIRPERSON HOOD: Thank you, Ms. Horvitz.

17 Again, I apologize for not getting you for the
18 Applicant and the Office of Planning, especially I missed it, but
19 I'm glad we circled back. So thank you very much.

20 Let's go to the AU Neighborhood Partnership.

21 MS. SCHELLIN: That's Mr. Clarkson.

22 CHAIRPERSON HOOD: Mr. Clarkson. And I have a question
23 for you, Mr. Clarkson, before you start asking questions.

24 Mr. Clarkson.

25 MS. SCHELLIN: He's still on mute and his camera's not

1 on.

2 CHAIRPERSON HOOD: Still on mute?

3 MS. SCHELLIN: Yeah.

4 CHAIRPERSON HOOD: He's off of mute. Mr. Clarkson.

5 MR. CLARKSON: You got me?

6 CHAIRPERSON HOOD: Yeah. There you go. There you go.

7 Okay.

8 MR. CLARKSON: Sorry about that. Thank you.

9 CHAIRPERSON HOOD: All right. No problem. I just --
10 I just have a question. Thank you, Mr. Clarkson. You and Ms.
11 Horvitz were asking questions. But let me ask you, what was the
12 name or the original name of what the Zoning Commission -- this
13 partnership, it seems like it's changed. It has like two or
14 three different names. The Zoning Commission, we had one name.
15 Unless, I'm getting confused, and now I see another. The Vice
16 Chair and I had this discussion, and I remember that
17 wholeheartedly, and now it seems like we've got another name. So
18 is this the same -- are all of those -- do you have three groups,
19 and I know this is not necessarily germane. I probably can bring
20 this up at another time, but I'm just curious. Is this the new
21 functioning group here now, this, the Neighborhood AU
22 Neighborhood Partnership?

23 MR. CLARKSON: Yes. This is -- the AU Neighborhood
24 Partnership is described and discussed in detail in the Campus
25 Plan Order of 20-31, and it -- yeah, and it - it was discussed

1 and we were a party to the Campus Planning Case 20-31. We were
2 a party in support.

3 CHAIRPERSON HOOD: So, you know, then about 20 years
4 ago, we came -- the Zoning Commission came up with a name.
5 Whatever happened to that group?

6 MR. CLARKSON: Which? Are you referring to --

7 CHAIRPERSON HOOD: (Indiscernible.)

8 MR. CLARKSON: -- to the Community Liaison Committee?

9 CHAIRPERSON HOOD: Yeah. Maybe, that was it. Yeah,
10 maybe that was it. Liaison, that sounds more like it. Yeah.

11 MR. CLARKSON: Yeah. That's still in existence.

12 CHAIRPERSON HOOD: The reason why I'm really concerned
13 about it, because I helped name that, so I'm just curious.

14 MR. CLARKSON: It's still there. It's still there.

15 CHAIRPERSON HOOD: Well, I guess, we'll -- I'll wait
16 for another case and find out what they're doing, because I really
17 want to know. Do you all work together? Well, you know, what?
18 This is not the case. Things seem to be going well here. I
19 don't like to mess up things when they're going well, so I will
20 withdraw my comments. But thank you for that information, and
21 I'll follow through at a later time with this information, but
22 know that it's coming. All right.

23 MR. CLARKSON: Great.

24 CHAIRPERSON HOOD: Okay. So, thank you, Mr. Clarkson.
25 I will turn it over to you. Do you have any cross-examination

1 of either the Office of Planning or the Applicant?

2 MR. CLARKSON: No cross for either.

3 CHAIRPERSON HOOD: So we'll be back to you for your
4 testimony shortly.

5 MR. CLARKSON: Sir, thank you.

6 CHAIRPERSON HOOD: All right.

7 Ms. Schellin, did I miss anybody else? I think we're
8 good. Right?

9 MS. SCHELLIN: You're good.

10 CHAIRPERSON HOOD: Okay. All right. Let's go to
11 Chairperson Elkins for his -- for the ANC report, and let -- and
12 we might as well just leave Ms. Horvitz and Mr. Clarkson -- let's
13 leave everybody up.

14 Mr. Elkins, you may begin.

15 COMMISSIONER ELKINS: Mr. Chairman, thank you for
16 calling me "Mr. Chairman." I am not the chairman of ANC 3D at
17 this time. I appreciate the honor, however, but before I -- I
18 am Chuck Elkins. I'm the ANC Commissioner for Wesley Heights,
19 which is adjacent to American University.

20 Before I turn to my submitted testimony on behalf of
21 ANC 3D, I did want to address the fact that the boundaries, as
22 you know, of many of the ANCs have changed and that is true of
23 ANC 3D, as well.

24 And as of January 2nd, the students of American
25 University will no longer be represented by Commissioners in ANC

1 3D. Instead, their Commissioners will be part of ANC 3E, but
2 this does not change the jurisdiction of ANC 3D, as we understand
3 it, however, with regard to the Campus Plan. ANC 3D will continue
4 to be an automatic party, we believe with regard to the current
5 Campus Plan through at least the year 2030 when a new census is
6 taken, and this is because, as I think you probably realized, the
7 residents of ANC 3D, we do have residents whose property directly
8 abuts the campus, Ms. Herzstein is an example, and we have many
9 residents who live directly across the street from the University
10 property line. And so, in fact, we do surround 3 -- the ANC 3D
11 does surround three sides of the University campus. So we will
12 continue to be here despite all this redistricting confusion.

13 So now turning to this particular case, Mr. Chairman
14 and Members of the Commission, the Advisory Neighborhood
15 Commission 3D recommends that the Zoning Commission approve the
16 University's application to build the sound barrier wall for
17 Jacobs Field, as well as to implement certain measures on Jacobs
18 Field to control the level of sound that's generated from the
19 field.

20 As this Zoning Commission has recognized, activities
21 conducted on Jacobs Field have long imposed an adverse impact on
22 the neighborhood, specifically, the residents of 4710 Woodway
23 Lane. And your Commission's recent Campus Plan order directed
24 the University to fix this problem before proceeding to construct
25 any other facilities under the Campus Plan, and we thank you for

1 taking this action.

2 The noise impacts from the field on the residents of
3 4710 Woodway are a serious matter and this objectionable
4 condition needs to be resolved and the University has proposed
5 to do so.

6 Now, it happens that during part of my professional
7 career with the U.S. Environmental Protection Agency, I was the
8 Director of the National Noise Control Program, and at that time
9 had expert knowledge of the scientific literature on the effects
10 of noise and how to control it. I'm no longer as active in this
11 field of noise control as I was then, and therefore, do not
12 present myself as an expert in the field. However, as
13 publications of both the Environmental Protection Agency and the
14 American Public Health Association indicate, and they have
15 assessed the relevant scientific literature, it's a very serious
16 misconception that noise constitutes only an annoyance to those
17 who are subjected to it. Because we humans can perceive noise
18 with our senses, in contrast, of course, to many pollutants we
19 are exposed to, we incorrectly conclude often that we are also
20 therefore able to be aware of any adverse impact the noise is
21 having on us. But in fact, noise can pose serious health effects
22 that we're not aware of at relatively low levels. And these
23 effects include a number of health effects, most notably, adverse
24 cardiovascular effects.

25 Now, I mention this because it's easy to conclude that

1 | someone who lives next to a university athletic field should be
2 | prepared to put up with a little annoyance, but this conclusion
3 | ignores a large body of peer-reviewed scientific literature, and
4 | it shows that the effects of noise at these levels can constitute
5 | a much more objectionable and serious impact on the residents,
6 | and therefore, these impacts of Jacobs Field should be dealt with
7 | and the most straightforward way to do that is to build a sound
8 | wall -- barrier wall and to control the generation of noise at
9 | Jacobs Field, just as American University now proposes to do, and
10 | we commend the University for taking this important action.

11 | Now, turning to the review process, American University
12 | conducted a serious review of its proposal within the Facilities
13 | Working Group of the University's American University
14 | Neighborhood Partnership. Membership of this work group was open
15 | to participation by neighbors, and, in fact, Ms. Jessica
16 | Herzstein did participate. I also served on that work group and
17 | therefore represented ANC 3D.

18 | And then as a separate and independent process, the
19 | full ANC 3D Commission held University presentations and
20 | discussions of their further processing proposal at four of our
21 | monthly meetings, at which comments from the community were
22 | solicited. And a vote was taken by our Commission at our December
23 | meeting, resulting in the letter of approval, which appears as
24 | Exhibit 14 in this proceeding.

25 | Now, as you would expect, both the Neighborhood

1 Partnership Facilities Work Group and ANC 3D focused during this
2 review process on whether or not the current objectionable impact
3 of the University's use of Jacobs Field on the residents at 4710
4 Woodway Lane would likely be resolved by the building of the
5 proposed sound barrier and barrier wall and the noise mitigation
6 actions by the University, including the electronic dampening of
7 such sounds as the shot clock, as proposed by the University.

8 We concluded that the University has made a good faith
9 effort to deal with these noise problems in this further
10 processing application. However, we also concluded that it is
11 impossible to say until the wall is built and tested under real
12 world conditions, whether the noise reaching the Woodway property
13 will be satisfactorily reduced and therefore the objectionable
14 impact fully resolved.

15 Now, I hasten to add that this same uncertainty that I
16 just spoke of about the outcome would exist no matter what kind
17 of sound wall the University chose to construct. This uncertainty
18 flows from the engineering challenge of abating the noise from
19 the field and the inherent limitation of the tools the University
20 and its professional acoustical engineers have in predicting the
21 actual real world results of these proposed actions.

22 Specifically, the amount of noise reaching 4710 Woodway
23 will be determined by both the loudness and nature of the noise
24 generated on the field and the actual effectiveness of the sound
25 barrier wall in mitigating the loudness of the noise reaching the

1 Woodway premises.

2 The University's contractor, Miller-Beam, ran a
3 sophisticated model to estimate the amount of sound that would
4 be prevented from reaching the Woodway premises. The results are
5 governed by the specific characteristics of the proposed wall,
6 that includes the wall's height and the sound-absorbing
7 characteristics, and also by the assumptions entered into the
8 model about the nature and volume of the noise that will be
9 generated on Jacobs Field in the future.

10 We have every reason to believe that the model can
11 fairly accurately assess the mitigating characteristics of the
12 wall itself. So then if the noise levels from Jacobs Field that
13 Miller-Beam entered into the model are representative of the
14 noise we can expect to be generated on the field in the future,
15 which Miller-Beam and the University have stated they believe
16 they are, then the total effect is likely to be successful in
17 very significantly reducing the noise levels reaching the
18 property at 4710 Woodway.

19 So will these results actually materialize once the
20 wall is built and the University controls the generation of noise
21 on its side of the wall? We certainly hope and expect that this
22 will be the case. However, this small, but important uncertainty
23 highlights the need for a thorough and objective evaluation of
24 the noise reaching 4710 Woodway after the wall is built.

25 What is important here is not just that American

1 University has addressed this need for noise mitigation in good
2 faith, which we believe they have, but also that the residents
3 of 4710 Woodway are no longer subjected to an objectionable impact
4 from the activities on the field.

5 In our letter, we emphasize the importance of deciding
6 what data the University and the residents of 4710 Woodway will
7 need to have collected in order to analyze the performance of the
8 wall after it's built and the effects of the conditions on the
9 field, so that there -- so that if there is any remaining problem,
10 it will be possible to understand it scientifically and hopefully
11 then fashion additional steps to mitigate it.

12 Now, we were happy to hear that the University and the
13 residents of 4710 have been in active discussions of what these
14 key data are and how to obtain them, and we hope the Zoning
15 Commission will encourage this collaborative process to continue
16 to an amicable resolution so that if there is a dispute, which
17 we hope there will not be, the objective data, collected in a
18 scientifically sound manner, about the facts on the ground are
19 available to whatever forum, including the Zoning Commission, is
20 charged with resolving such a dispute.

21 And here I might deviate from my testimony, just to
22 elaborate, based on what was said earlier in this hearing, Mr.
23 Chairman, I understand that the record would be held open so that
24 the five conditions that Ms. Herzstein indicated would -- that
25 they could enter that into the record. I believe that her

1 conditions that she is speaking of there in her testimony deal
2 with Condition No. 25, which has to do with the monitoring of
3 acoustic -- of acoustical amplified sound during events and the
4 field. And, of course, I -- you know, we certainly agree that
5 is important, but our testimony in the letter that I'm testifying
6 hereto just a minute ago is focused more on Condition No. 23,
7 that is, how will the sound be measured after the wall -- how
8 will the sound be measured after the wall is built and the
9 effectiveness of the abatement of the wall and the conditions on
10 the field, how effective they are in preventing an objectionable
11 impact.

12 And I -- and so, what we're -- our testimony is that,
13 in addition, to having an agreement with -- between the University
14 and the residents of 4710 Woodway, with regard to Condition No.
15 5, we think that collaboration with regard to Condition No. 23,
16 and here -- and I'm talking not if -- not just if the University
17 wants to do additional things on the field, that's part of what
18 Condition No. 23 deals with, but, it -- you know, Condition 23
19 also speaks to testing of the effectiveness of the wall, and I
20 think that we're testifying that we believe that those
21 specifications need to be agreed to, at least, in basic form.

22 So just to -- continuing and finishing with my
23 testimony, addressing myself to the condition -- compliance for
24 the conditions, all the other conditions in the Campus Plan order,
25 we addressed these other conditions in our December 7th, and our

1 November 2nd letters, and I'm happy to answer any questions about
2 those matters, but I hope we adequately covered those in our
3 letters, and therefore, I won't elaborate on them further.

4 So, in conclusion, ANC 3D strongly supports the
5 approval of the building of the sound barrier wall and the
6 implementation of the control measures on the field, including
7 the electronic dampening of the shot clock and the related sounds,
8 and we look forward to the promised scientific evaluation of the
9 effectiveness of these measures and eliminating any objectionable
10 impacts on Jacobs Field on our neighborhood and neighbors in the
11 future.

12 Thank you, Mr. Chairman.

13 CHAIRPERSON HOOD: Thank you, Commissioner Elkins. We
14 appreciate your testimony. And you were the Chair there at one
15 time, weren't you?

16 COMMISSIONER ELKINS: I was, Mr. Chairman, but we have
17 term limits --

18 CHAIRPERSON HOOD: Oh, yeah. I forgot that.

19 COMMISSIONER ELKINS: -- which is a good thing.

20 CHAIRPERSON HOOD: I thought maybe it was a lifetime
21 position. Okay. All right. So thank you for your exam. While
22 Commissioner Elkins mentioned in his testimony, let me just
23 mention that ANC 3E, and I know redistricting, that's why I want
24 to make sure that all those who were involved and those who will
25 be involved had some say so. So I'm glad to see that ANC 3E has

1 provided testimony, I mean, their submission, and it says,
2 "Resolution passed by a vote of 5-0-0 to a properly noticed
3 meeting being held December 15th, 2022." So they also have
4 supported this project as well. So let's see if we have any --
5 and there's a lot of more "whereases" in there, and I'm not
6 going to read through all of those, because I think they are
7 consistent with what's going on and where we're moving forward.

8 So let me -- let me just open it up and see if anybody
9 has any questions of Commissioner Elkins.

10 Commissioner May.

11 COMMISSIONER MAY: I do not. Thank you.

12 CHAIRPERSON HOOD: Commissioner Imamura?

13 COMMISSIONER IMAMURA: I do not. Thank you,
14 Commissioner Elkins, and if you're looking for a second career,
15 I think you could do voice-overs.

16 CHAIRPERSON HOOD: And Vice Chair Miller?

17 VICE CHAIR MILLER: No questions. Thank you for all
18 your work on this project, Mr. Elkins -- Commissioner Elkins.

19 CHAIRPERSON HOOD: I, too, want to thank you
20 Commissioner Elkins. By working at the Environmental Protection
21 Agency myself, I do know of your previous work, which has been
22 very beneficial, and I will tell you that the work that you've
23 done will last a while, because some years ago, you still hear
24 your name down there, so I'll just leave it at that. But thank
25 you for all the work you're doing now in your other job life. So

1 | thank you.

2 | Let's see if -- Mr. Tummonds, do you have any questions
3 | of Commissioner Elkins?

4 | MR. TUMMONDS: No questions.

5 | CHAIRPERSON HOOD: And, Ms. Horvitz, do you have any
6 | questions of Commissioner Elkins?

7 | MS. HORVITZ: I have no questions for Mr. Elkins --
8 | Commissioner Elkins.

9 | CHAIRPERSON HOOD: And Mr. Clarkson?

10 | MR. CLARKSON: No. No questions, Mr. Chairman.

11 | CHAIRPERSON HOOD: Okay. Thank you, Commissioner
12 | Elkins, and please keep up the good work. Thank you.

13 | COMMISSIONER ELKINS: Thank you, Mr. Chairman.

14 | CHAIRPERSON HOOD: Okay. All right.

15 | Let's see, Ms. Schellin, let's go to the -- I wrote
16 | it down, so I won't -- AU Neighborhood Partnership. Mr. Clarkson,
17 | you're on.

18 | MR. CLARKSON: Chairman Hood and Commissioners, thank
19 | you for allowing me to testify today as the Community Co-chair
20 | of the American University Neighborhood Partnership.

21 | MS. SCHELLIN: I'm sorry, Chairman Hood, if I could
22 | interrupt him? He did not sign up, so we need to give him the
23 | -- I need to give him the oath, please.

24 | CHAIRPERSON HOOD: Actually -- actually, I'm going to
25 | let him go, but I shouldn't -- I don't know why. I was so busy

1 | trying to figure out this name issue. I really should have went
2 | to Ms. Horvitz, so I am going to ask Ms. Horvitz if you mind that
3 | Mr. Clarkson go first?

4 | MS. HORVITZ: I have no objection.

5 | CHAIRPERSON HOOD: Okay. Thank you.

6 | MS. SCHELLIN: Mr. --

7 | CHAIRPERSON HOOD: I should have went --

8 | MS. SCHELLIN: Mr. Clarkson, could you please raise
9 | your right hand?

10 | Do you solemnly swear or affirm the testimony you'll
11 | give this evening will be the truth, the whole truth, and nothing
12 | but the truth?

13 | MR. CLARKSON: I do.

14 | MS. SCHELLIN: Thank you.

15 | MR. CLARKSON: Thank you.

16 | Chairman Hood and Commissioners, thank you for allowing
17 | me to testify today as the Community Co-chair of the American
18 | University Neighborhood Partnership. The Partnership had the
19 | privilege of participating as a party in support of the recent
20 | Campus Plan, Case 20-31, so we greatly appreciate the opportunity
21 | to participate in this important proceeding.

22 | Under the Zoning Commission's order in 20-31, I'll
23 | quote, "The University shall continue to work with the American
24 | University Neighborhood Partnership," and I'm pleased to report
25 | the partnership has been actively engaged in the acoustical sound

1 barrier wall project and related noise mitigation and prevention
2 efforts at Jacobs Field.

3 Since March 2021, the Partnership's Facilities Planning
4 Working Group and its Steering Committee have held nine meetings
5 related to the various aspects of this project, including the
6 proposed sound barrier wall design, the likely impacts of the
7 landscape -- on the landscape buffer area, as well as sound
8 monitoring activities.

9 The working group, in particular, has worked in close
10 collaboration with the various stakeholders to understand the
11 acoustical environment of Jacobs Field and their proposed changes
12 that are designed to mitigate exterior noise levels reaching
13 certain portions of the 4710 Woodway Lane property.

14 On November 4, 2022, the working group submitted a
15 report on its findings to the Steering Committee, which I've
16 enclosed as part of my testimony. Consistent with the working
17 group's report, the Partnership believes that the further
18 processing application before the Zoning Commission today is an
19 important step to resolving this longstanding matter and should
20 be approved.

21 Moving forward, the existing Campus Plan conditions
22 related to future sound wall monitoring will also play an
23 essential role in evaluating the effectiveness of the sound
24 barrier wall in mitigating objectionable exterior noise impacting
25 the 4710 Woodway Lane property.

1 In closing, the Partnership continues to play an
2 important role in ensuring that AU follows through on its
3 commitments to mitigate any adverse impacts from the Campus Plan,
4 and we look forward to continued collaboration with the
5 University, the 4710 Woodway Lane property owners, and the
6 affected ANCs. Thank you.

7 CHAIRPERSON HOOD: Thank you, Mr. Clarkson, and also
8 to the AU Neighborhood Partnership. Let's see if we have any
9 questions.

10 Commissioner May. I don't have any questions.
11 Commissioner May, you have any questions?

12 COMMISSIONER MAY: No, I do not. Thank you.

13 CHAIRPERSON HOOD: Commissioner Imamura, do you have
14 any questions?

15 COMMISSIONER IMAMURA: (Negative head shake.)

16 CHAIRPERSON HOOD: Vice Chair Miller, do you have any
17 questions?

18 VICE CHAIR MILLER: Sorry. No. No questions. Thank
19 you, Mr. Clarkson, for your testimony.

20 CHAIRPERSON HOOD: Okay. And Mr. Tummonds, do you
21 have any questions?

22 MR. TUMMONDS: No questions.

23 CHAIRPERSON HOOD: Okay. And Ms. Horvitz, do you have
24 any questions?

25 MS. HORVITZ: No questions.

1 CHAIRPERSON HOOD: Okay. Thank you, Mr. Clarkson. We
2 appreciate you all taking the time and providing your testimony.

3 Ms. Horvitz, we'll now hear from you.

4 MS. HORVITZ: Thank you very much.

5 Mostly, I will just introduce my two clients and they
6 are going to testify about this matter, but I did want to ask
7 about Scott Harvey. He admitted as an expert. He is with Phoenix
8 Noise Vibrations. He's actually not on, and I don't intend to
9 offer him as a witness today, so it may be unnecessary. The
10 reason I'm going through the process is that I would anticipate
11 that he may participate in the post-hearing submissions, and it
12 would be helpful if he's been qualified as an expert, so that
13 his credentials are recognized for that purpose.

14 CHAIRPERSON HOOD: Okay. I haven't had that asked
15 before, but I don't -- what's the Exhibit? Phoenix? What Exhibit
16 was it, Ms. Schellin, right off?

17 MS. SCHELLIN: I believe it was 17. I believe. Let
18 me check. No, 15. I'm sorry, 15.

19 CHAIRPERSON HOOD: Okay. So, I don't know -- I guess,
20 I would have to ask -- the only thing is (audio interference).
21 I'm getting a lot of background noise. Is everybody muted?

22 MS. SCHELLIN: Everyone else needs to mute.

23 Ms. Horvitz, if you could mute when you're not
24 speaking.

25 CHAIRPERSON HOOD: Yeah. Okay, let me see. Okay,

1 great. So, yeah, everybody needs to -- the only concern I have,
2 Ms. Horvitz, from a legal perspective it's -- we can't cross
3 this. We can't -- we can't ask him any questions, so I'm trying
4 to figure out, how do we get there? I mean, I'm -- I don't want
5 to put my legal counsel on the spot, but he can't be crossed.

6 So I -- I don't -- I'm trying to understand the
7 dynamics. Are you trying to do something for later? You're
8 trying to qualify him now. He's not going to testify now, but
9 when if -- he needs to be available for cross-examination or
10 questions. Help me understand what the mission is.

11 MS. HORVITZ: Yes, thank you. I know it's a little
12 bit irregular. I mean, I know that the Commission has qualified
13 the Applicant's expert, and yet the Applicant's expert may not
14 testify at all. And the same is likely here with respect to our
15 expert. However, the outstanding issues with respect to noise
16 modeling, which will be the subject of the post-hearing
17 submissions, will benefit from the expertise of both of these
18 very well-qualified sound engineers, and I might add that Scott
19 has -- is affiliated with the same firm, Phoenix Noise and
20 Vibration that qualifies as an expert in the Campus Plan
21 proceeding. This is the boss of Kody Snow who testified
22 previously.

23 So as to just the issue of whether he is a qualified
24 expert, that's all I'm asking for now, and we did submit his
25 resume with our party status application. So I would think that

1 the Commission has sufficient basis just to qualify him, so that
2 if his views would be constructed in the post-hearing submission,
3 the Commission recognizes that he's an expert in the topic.

4 CHAIRPERSON HOOD: Ms. Horvitz, let me ask you. Is he
5 available now? Like, if I had a question for him now.

6 MS. HORVITZ: I might -- I might be able to get him on
7 the line. It's --

8 CHAIRPERSON HOOD: I think -- I think that would be
9 -- if you could, I would take five minutes for you to do that,
10 because I think it's cleaner. I noticed you mentioned the
11 Applicant. We haven't heard from him, but they are available
12 now.

13 MS. HORVITZ: Very good. I will --

14 CHAIRPERSON HOOD: Do you see what I'm --

15 MS. HORVITZ: I'll send --

16 CHAIRPERSON HOOD: Do you see what I'm saying? Yeah.

17 MS. HORVITZ: Yes.

18 CHAIRPERSON HOOD: Let's take five minutes to give Ms.
19 Horvitz the time to make them -- to see if he's available. It
20 looks like the Applicant's the person that's available -- because
21 if you have questions, even if you do not have questions, but I
22 think it's cleaner for the record if I do it that way.

23 MS. HORVITZ: Might I suggest that my clients can
24 proceed with their testimony while I try to reach him, and then
25 we could take this up? Maybe, I will have reached him in the

1 next few minutes while they're testifying?

2 CHAIRPERSON HOOD: Well, I was going to take a five
3 minute break anyway, Ms. Horvitz.

4 MS. HORVITZ: Oh, very good.

5 CHAIRPERSON HOOD: So that all works out. Yeah, let's
6 take a five minute break, and we'll come back --

7 MS. HORVITZ: All right.

8 CHAIRPERSON HOOD: -- with your clients and whatever.
9 Okay.

10 MS. HORVITZ: Very good.

11 CHAIRPERSON HOOD: Thank you.

12 MS. HORVITZ: Thank you.

13 CHAIRPERSON HOOD: Okay. It's been five minutes by my
14 clock. Ms. Horvitz, are you back? Is everybody else back who
15 needs to have -- I think everybody who needs to be here right
16 now are here. All right, so Ms. Horvitz, what do you have?

17 MS. HORVITZ: I had left Mr. Harvey a voicemail, and I
18 sent him an email, but I have not reached him yet.

19 CHAIRPERSON HOOD: So let me tell you what happens.

20 MS. HORVITZ: So that is where I am.

21 CHAIRPERSON HOOD: Let me tell you after legal counsel
22 with my office, what my options are. We would either have to
23 continue the hearing, because he needs to be available to be
24 crossed, or he -- first of all, he needs to provide testimony
25 and I'm advised that he needs to be available, even if we don't

1 call on him, so that's why I wanted to try to at least get him
2 on the phone for a few minutes, or we would have to continue the
3 hearing, but we can go forward with what you have and let's see
4 where our questions go. If they go to something that he needs
5 to join in to present, then we will bring that up, but right now
6 because of the dynamics of him not even being here, the legal
7 counsel is basically telling me absolutely not. I can't. We
8 cannot -- this Commission cannot move in that fashion. The words
9 were "absolutely not."

10 MS. HORVITZ: Thank you for explaining it.

11 CHAIRPERSON HOOD: And I've never been told,
12 "absolutely not."

13 MS. HORVITZ: I won't -- under those circumstances,
14 let's move on.

15 CHAIRPERSON HOOD: Okay.

16 MS. HORVITZ: I appreciate the explanation, and I would
17 like to ask my clients, Elliot Gerson and Jessica Herzstein to
18 provide testimony. They did submit written testimony that is
19 already in the record. And so I'm anticipating that their oral
20 testimony will be briefer than that, but I did want to direct
21 the Commission to the fact that there is more expansive, written
22 testimony already in the record. The first to speak will be Mr.
23 Gerson.

24 MR. GERSON: Thank you, Commissioners and neighbors.
25 My wife, Jessica Herzstein, and I are the owners of 4710 Woodway

1 Lane. The entire length of Jacobs Field is immediately adjacent
2 to our property.

3 I submitted short written testimony, but this will be
4 an even shorter version of that submission. We participated, of
5 course, in the most recent Campus Plan proceeding, Case 20-31 in
6 order to raise serious concerns regarding objectionable noise
7 from Jacobs Field.

8 We explained the severity of the longstanding problem,
9 including the different size -- different kinds and types of
10 sound that inundate our otherwise quiet residential property
11 every day.

12 For decades, the owner of our property have been asking
13 the University for relief from noise associated with its
14 increasing use of the field. Our and most of our neighbors'
15 houses were there before the University started using that
16 portion of its property for athletic purposes, uses that have
17 increased exponentially over time.

18 As we explained during the last Campus Plan proceeding,
19 we've been subjected to unacceptable noise, including yelling by
20 large crowds and athletes, amplified its sound -- sound and
21 announcements, shot clocks that can be startling, jarring air
22 horns, shrill whistles and more. Recently, we have heard
23 extremely loud equipment that grooms and maintains the field for
24 many hours at a time.

25 During the last Campus Plan proceeding, the Commission

1 expressed concerns regarding noise from Jacobs Field and the
2 University resumed negotiations with us. We greatly appreciated
3 the Commission's willingness to address our noise problem.

4 In the pending further processing request, the
5 University is asking permission to build and contemplate the
6 acoustical -- acoustical sound barrier. We very much support the
7 University's application because the sound wall will, we think,
8 finally provide us with some of the relief that the past and
9 present owners of our property have been seeking for decades.

10 The location, height, and length of the wall are
11 consistent with the University's obligations in the Campus Plan
12 order. We've also studied available information regarding the
13 sound barrier with the assistance of our own sound engineers, as
14 you've heard from our Counsel. At this point, and has been said
15 already, no one can accurately predict with precision the actual
16 mitigating benefits of the barrier.

17 The University sound engineers developed the sound
18 model in order to determine the height, length, and placement of
19 the wall. Their engineers generated the model, decided which
20 assumptions to use in the model and gathered the data upon which
21 they relied. AU also decided which events and sounds to measure.

22 Although the sound model is based upon data gathered
23 by AU sound engineers at several sporting events, we simply do
24 not know if future noise levels and sources will be consistent
25 with that historical data. We do not know if average or peak

1 noises from future events at Jacobs Field will depart
2 significantly from the modeled noise levels.

3 In addition, we do not know if the wall will actually
4 reduce noise in accordance with Miller-Beam's professional
5 analysis. We already know, for example, that some noise will
6 necessarily pass over the top of the wall simply due to the
7 topography of the two properties. But despite these limitations,
8 the barrier is likely to reduce noise at our property in a
9 meaningful and substantial manner if the University does not
10 increase noise levels after the wall is built.

11 Obviously, the success of this important noise
12 mitigation project is dependent, at least in part, upon the
13 sources, character, and level of future noises from the field.
14 After the wall is built, future noise levels on our property will
15 depend upon the University's activities on Jacobs Field, and the
16 effectiveness of the wall to reduce sound.

17 As Counsel for the University said in response to
18 Commissioner's excellent question, in the very unlikely case that
19 the sound wall proves inadequate, the University should easily
20 be able to mitigate through the management of sound, especially
21 given its recent and extremely collaborative spirit working with
22 us.

23 Over the last few years, we've also advocated for
24 certain mitigation measures that address particularly jarring and
25 disturbing noises, such as things like shot clocks, air horns,

1 amplified music, lower bass noises, and grooming machines. AU
2 has agreed to several very important changes relating to some of
3 these noise sources.

4 There's only one way to determine in the future if AU
5 is generating objectionable noise from the field. The noise
6 should be monitored in a manner that is supervised and reviewed
7 by their sound engineers. All data should be shared with us,
8 the CLC, and the Partnership, we think, on a quarterly basis.

9 In sum, I think that the sound barrier will
10 meaningfully mitigate objectionable noise. We don't know if the
11 barrier will be sufficient to address all noise concerns. We
12 support the further processing request. My wife, Jessica
13 Herzstein, will briefly address some additional issues, which
14 indeed, Mr. Tummonds has already addressed.

15 DR. HERZSTEIN: Hi. Good afternoon. I'm also an owner
16 at 4710 Woodway Lane, and I'll briefly address our efforts to
17 collaborate with the University on the sound wall, the
18 landscaping, and the noise monitoring issues.

19 We have made a lot of progress in recent months,
20 particularly with the University's proposed landscaping at the
21 site. A few issues remain unresolved, and I have suggested
22 several conditions for inclusion in any further processing order.

23 When I first saw AU's plans for the sound wall, I was
24 disappointed by the significant number of trees that would be
25 destroyed on our side of the future wall and the landscaping

1 plan. I did not have complete confidence in some of the initial
2 views that AU generated regarding the future wall and
3 landscaping.

4 At my request, they generated additional plans that
5 depict my property and the future sound wall during the winter
6 months and from an additional vantage point. The University
7 submitted those additional views to the Commission as part of
8 Exhibit 16. I note that AU's views are still highly optimistic
9 about the effectiveness of the refurbished landscape buffer to
10 block our views of the sizable wall. All of the views seem to
11 assume substantial tree growth within five to seven years,
12 including growth in shady areas, which has not been my experience.
13 I doubt the wall will be nearly invisible, as OP suggested in
14 its report. Nonetheless, I support construction of the sound
15 wall and expect ongoing conversations regarding the exact
16 placement and selection of new trees and shrubs that are most
17 likely to survive and grow.

18 I expect that AU will follow the highest and best
19 protocols to minimize unnecessary damage or loss of undergrowth,
20 shrubs, and additional trees. Good landscaping and attentive
21 planting -- post planting care will be very important to shield
22 our views of the sound barrier.

23 And I appreciate Commissioner Imamura's note that great
24 ongoing care is required to maintain those new plantings. I
25 still have some unresolved concerns about monitoring noise and

1 about construction management, and I've submitted recommended
2 conditions in my testimony today, including testing the
3 effectiveness of the wall as Mr. Elkins' very helpful comments
4 referred to.

5 We appreciate what Mr. Tummonds said at the start of
6 his testimony. And given what he stated about conditions
7 regarding monitoring and recording of sound levels and
8 construction management, I will not go further into details about
9 those conditions.

10 So I just want to say in closing that we so greatly
11 appreciate the continued patience and perseverance and concern
12 that the Zoning Commission and Commissioner May have shown who
13 have followed the serious noise impacts for many years. We are
14 encouraged by much improved collaboration with the University and
15 we're very optimistic about the outcome.

16 CHAIRPERSON HOOD: Okay. Thank you, Ms. Horvitz. Do
17 you have anything else, or is that it for yours?

18 MS. HORVITZ: That concludes our presentation.

19 CHAIRPERSON HOOD: Okay. All right. Thank you, Ms.
20 Horvitz, and Ms. Herzstein and Mr. Gerson. We appreciate your
21 providing us with the status update.

22 And let me just say as someone too, who's been around,
23 when Mr. Herzstein was living, he would come in front of this
24 Commission. I was just hoping that this issue, and I'm still
25 hoping that this issue won't be here when I leave. So I've been

1 here now for 24 years, and my goal is, I hate to leave something
2 undone. And I do share, and I appreciate Commissioner Elkins
3 testimony, and I'm taking -- I'm hoping that the Applicant -- AU,
4 the Applicant, and Mr. Tummonds, who I have a lot of confidence
5 in, and he's got us to this point, will always -- and I always
6 say, "I agree," but they will get us and make sure that we follow
7 -- continue to have that collaboration with you -- with Ms.
8 Herzstein, Mr. Gerson, as well as with the University. You all
9 can continue to collaborate, even once the wall is built. Let's
10 see what we can do to keep it going, because I really would like
11 for this to be resolved with tweaking, before I leave the Zoning
12 Commission. So I have about another three-and-a-half years, and
13 who knows, I may not leave then. But the point is, at some point,
14 this needs to be resolved. So and I think that -- I don't want
15 this to be my -- our last meeting, so I think it needs to -- we
16 need to resolve it.

17 So I'm looking -- I think what I've heard, the
18 continued concerns, what's going to happen after it's built --
19 is built -- I think from what my colleagues and we have talked
20 about over the years, numerous colleagues, not just the
21 colleagues you hear and see here today -- there have been numerous
22 of colleagues who've have been involved in this. And at some
23 point, they're probably like I am, those who still stay in tune,
24 want it eventually to get resolved, and I believe we're going to
25 get there.

1 So let me go to Commissioner May, who's been -- been
2 around for most of this as well. Commissioner May, any questions
3 or comments?

4 COMMISSIONER MAY: No, I don't have any questions or
5 comments, but I am pleased to hear Ms. Herzstein state some
6 optimism that this might actually resolve the issue once and for
7 all. We know it needs to be monitored and further actions might
8 need to be taken, but it's a good feeling to feel some optimism
9 coming from the Herzstein property after so many years. So thank
10 you very much for everyone's work to make that possible.

11 CHAIRPERSON HOOD: Okay. Commissioner Imamura.

12 COMMISSIONER IMAMURA: No comments, Mr. Chairman.
13 Thank you, Ms. Herzstein, and Mr. Gerson for your
14 testimony.

15 CHAIRPERSON HOOD: Vice Chair Miller.

16 VICE CHAIR MILLER: Thank you, Chairman.

17 Thank you, Dr. Herzstein and Mr. Gerson, and Ms.
18 Horvitz for all of your patience and your perseverance, and your
19 collaboration with American University and the ANC 3D on trying
20 to get a resolution that everybody can live with. Thank you.

21 CHAIRPERSON HOOD: Okay. Let's see. Mr. Tummonds, any
22 questions of the -- I'm going to call her, the Horvitz party?

23 MR. TUMMONDS: No questions. Thank you.

24 CHAIRPERSON HOOD: Okay. Commissioner Elkins. There
25 you go.

1 COMMISSIONER ELKINS: No questions, Mr. Chairman.
2 Thank you.

3 CHAIRPERSON HOOD: Thank you. And AU Neighborhood
4 Partnership?

5 MR. CLARKSON: No questions. Thank you.

6 CHAIRPERSON HOOD: Okay. All right. Thank you, very
7 much. So, thank you. Thank you, the Horvitz, Herzstein and
8 Gerson party. We appreciate it, and Ms. Herzstein, I'm sure --
9 I mean, Ms. Horvitz, I'm sure that we will be hearing some
10 additional as we move along through this process. So thank you
11 all very much. And let's continue to do that collaboration which
12 Ms. Herzstein mentioned. I think that's very important, very
13 important. All right. Thank you all very much.

14 All right, Ms. Schellin, do we have anybody who's here,
15 and let's keep everybody up.

16 Do we have anybody here who's in support, opposition
17 or undeclared?

18 MS. SCHELLIN: No witnesses --

19 CHAIRPERSON HOOD: No witnesses.

20 MS. SCHELLIN: -- in any category.

21 CHAIRPERSON HOOD: So we have everyone here.

22 Okay. So, Mr. Tummonds, would you like to do a -- do
23 you have any rebuttal or do you have any closing? I'll just
24 leave it like that.

25 COMMISSIONER MAY: You're muted.

1 MR. TUMMONDS: Thank you. Quick question.

2 In response to Commissioner May's question about the
3 appearance of the Reeves scoreboard. The statement said that the
4 Reeves Field was only used in the spring. It's also used in the
5 fall. The same answer to the question. There are leaves on the
6 trees in the fall as well. I just wanted to (audio interference).

7 COMMISSIONER MAY: Yeah.

8 MR. TUMMONDS: I was told to correct that for the
9 record.

10 COMMISSIONER MAY: I'm glad you did. I almost
11 questioned that because I know that, you know, soccer is played
12 in the fall.

13 MR. TUMMONDS: Yes.

14 COMMISSIONER MAY: But, yeah, okay. Regardless, I
15 think it's -- the daytime question was the key question from my
16 perspective. So, thank you, Paul.

17 MR. TUMMONDS: Okay. And so, again, in conclusion,
18 we believe that the information provided in the record of this
19 case fully satisfies the requirements for approval of a further
20 processing application.

21 As noted in my introductory comments, we request the
22 opportunity to continue to work with Dr. Herzstein and Mr. Gerson
23 to finalize the condition related to the monitoring and the
24 reporting of the sound levels during the amplified noise events.
25 And then along with that information, we will also submit the

1 Construction Management Agreement, as well as the information
2 requested by Commissioner May with regards to the modeling that
3 was done by Miller, Beam, and Paganelli. And also, we will
4 provide the information that Ms. Horvitz requested of AU, with
5 regards to the tree preservation plan on the 4710 Woodway Lane
6 side of the wall, including the size of trees to be removed and
7 the replacement trees.

8 With that, we will work with the Office of Zoning staff
9 to talk about potential dates for the submissions, but more
10 importantly, we look forward to the continued collaboration with
11 all the parties in this case, and to the Commission's ultimate
12 approval of this application. Thank you very much. We look
13 forward to your ultimate approval.

14 CHAIRPERSON HOOD: Thank you, Mr. Tummonds.

15 Ms. Schellin, is this a two-vote case or one vote?
16 It's one vote.

17 MS. SCHELLIN: This is one.

18 CHAIRPERSON HOOD: Oh, okay. All right.

19 All right. Ms. Horvitz, you were getting ready to say
20 something?

21 MS. HORVITZ: (Indiscernible.)

22 CHAIRPERSON HOOD: Yes.

23 MS. HORVITZ: Commissioner May, my expert has signed
24 on.

25 CHAIRPERSON HOOD: Commissioner May, did you have some

1 | questions for her expert?

2 | COMMISSIONER MAY: I don't have any specific questions.
3 | No. I think it was just a matter of if we were going to qualify
4 | him as an expert, he needed to be here.

5 | CHAIRPERSON HOOD: Well, I'm going to hold it true to
6 | my word, and I know my counsel told me if he wasn't here,
7 | "absolutely not." Let's review that now.

8 | COMMISSIONER MAY: Okay.

9 | CHAIRPERSON HOOD: Ms. Schellin, can you tell me which
10 | -- which exhibit it is again, so I can turn to it? I might have
11 | a question.

12 | MS. SCHELLIN: 15.

13 | COMMISSIONER MAY: I should say that I mixed up my
14 | acoustic experts the first time around, and I thought it was
15 | Miller who had been qualified or whose person had been qualified,
16 | but it was actually the Phoenix consultants who's -- were -- we
17 | were seeing the principal, but we had previously seen one of his
18 | staff. So it's tough keeping your acoustic consultants straight,
19 | I have to say.

20 | CHAIRPERSON HOOD: Okay. Well, I withdraw my comments
21 | that I gave you about how you were on top of everything, so I'll
22 | withdraw that as well.

23 | COMMISSIONER MAY: And I checked -- I double-checked
24 | my analysis to see if, in fact, we had qualified Mr. Miller
25 | before, because he looks familiar. I have the sense that he had

1 maybe been in prior hearings, but I did not see an indication
2 that Mr. Miller had been qualified as an expert.

3 CHAIRPERSON HOOD: And, Ms. Horvitz, did your person
4 provide some type of report, and if it is, could somebody tell
5 me where it is in the record? Or did they weigh in or did they
6 provide a report? Now, I'm being asked that.

7 MS. HORVITZ: He did not provide a report. He submitted
8 his resume as required in order to be qualified as an expert,
9 just as the Applicant's expert submitted a resume and was
10 qualified.

11 CHAIRPERSON HOOD: All right. Let me -- well, give me
12 a moment then, because this is -- I always think things are going
13 to be easy sometimes and they're not, so give me one moment,
14 please. Don't go anywhere.

15 (Pause.)

16 COMMISSIONER MAY: As it turns out, I think I do have
17 a question for -- it's Mr. Harvey, is that who it is? Yeah. So
18 maybe Paul, we can him into the meeting and -- thank you. And
19 we'll wait for the --

20 CHAIRPERSON HOOD: Hold tight. Commissioner May, I'm
21 trying to work it out with legal counsel --

22 COMMISSIONER MAY: Sure.

23 CHAIRPERSON HOOD: -- about this process. I'm asking
24 some questions, and they're asking some questions of me, so let's
25 hold tight because we have not admitted him as an expert.

1 COMMISSIONER MAY: Right.

2 CHAIRPERSON HOOD: He does not have anything, other
3 than I guess his verbal testimony. He does not have anything
4 written like the Applicant's testimony. I think we did ask the
5 Applicant's person some questions. They did submit, but he does
6 have something -- something for us in the record. Unfortunately,
7 Mr. Harvey -- is it Harvey?

8 MR. HARVEY: That's correct.

9 CHAIRPERSON HOOD: Mr. Harvey has not -- have you
10 submitted something to the record in this case for us?

11 MS. SCHELLIN: Ms. Horvitz, please mute. Yeah, someone
12 needs to mute. Everybody needs to mute.

13 CHAIRPERSON HOOD: So it seems like what I'm getting
14 from Ms. Horvitz is this is an after-the-fact expert witness.
15 She wants to use it later. That's the problem that I'm running
16 into. And I'm actually still trying to work through it with
17 counsel who's -- I'm getting the words, "absolutely not." I've
18 never heard anybody tell the Chairman "absolutely not." So
19 anyway.

20 COMMISSIONER MAY: I've probably said that to you
21 before.

22 CHAIRPERSON HOOD: No. I'm getting that right now,
23 "absolutely not." So, let me try -- let me try to figure this
24 out.

25 COMMISSIONER MAY: Okay. Well, we are going to wait,

1 but I do have questions for Mr. Harvey.

2 (Pause.)

3 CHAIRPERSON HOOD: Ms. Horvitz, again, I'm talking to
4 counsel and trying to figure this out.

5 What -- why are we trying to do Mr. Harvey as an expert
6 after the fact? We're trying to get the wall built and there's
7 some acoustic issues that are going to come after the fact. What
8 are you trying to line him up -- what are we trying to achieve
9 here, which is not really lining up for me or for my counsel?
10 What are we trying to line up?

11 MS. HORVITZ: I'd be happy to explain that. So first
12 of all, just to clarify. We submitted Mr. Harvey as an expert
13 in a timely manner with our party status application and I
14 identified him as a potential witness.

15 The Applicant also identified Mr. Miller as a potential
16 witness, but then he did not testify directly. Based on Mr.
17 Tummonds' request -- and I haven't heard anybody object to this
18 expert being qualified, but Mr. Tummonds has asked that we submit
19 certain materials after the hearing, and Commissioner May has
20 asked for certain data after the hearing is closed.

21 It's -- I believe that Mr. Harvey and Mr. Miller will
22 both be very involved in providing instructions on the best means
23 of monitoring the sound, both the amplified sound that is subject
24 to the existing Condition 25, and the best methodology for
25 monitoring and evaluating the effectiveness of the wall as

1 required in Condition 23.

2 And if the Applicant is going to be submitting any
3 information or analysis of this noise model, the Applicant
4 suggested and requested it may be helpful for Mr. Harvey to
5 provide some context of explanation of that, as well. So those
6 are my objectives.

7 CHAIRPERSON HOOD: Okay. I'm good.

8 Thank you, Ms. Horvitz. Give me a moment, please.

9 (Pause.)

10 Okay. I think we got it resolved. All right.

11 Ms. Horvitz, unless my colleagues -- we do have the
12 resume, which is whatever number it was, 715. Is it 15?

13 MS. HORVITZ: 15.

14 CHAIRPERSON HOOD: So we have the resume. I'm actually
15 inclined, and I'll throw this at my colleagues. I do have some
16 questions before Commissioner May, but I'm inclined to give Mr.
17 Harvey expert status as an acoustics -- as Ms. Horvitz has already
18 mentioned has been done for the Applicant's expert in that matter
19 -- in that subject. So any objections?

20 (No audible response.)

21 Okay. I don't see Vice Chair Miller. Did he drop?

22 MS. SCHELLIN: Yes. Vice Chair Miller sent a message
23 that he had to leave and he would review the rest of the record.

24 CHAIRPERSON HOOD: Okay. Okay. All right.

25 So with that, Ms. Horvitz, we will make Mr. Harvey an

1 expert in acoustics. I believe that's what it is, acoustics.

2 So, Mr. Harvey, before Commissioner May asks any
3 questions, can you tell us what from -- obviously, you have
4 already reviewed the record -- can you tell us what are the
5 attributes that you can add to this scenario right now, as far
6 as the sound goes? What can you add, or is there any -- are
7 there any shortcomings that you may see in your expert opinion
8 that -- that may possibly -- that can be improved as we going
9 forward to build?

10 MR. HARVEY: Sure. I believe that I can help and assist
11 in assuring that the noise measurements that are made, are made
12 accurately and precisely, and are traceable, for instance, to
13 National Institute of Standards and Technology, so that the
14 instrumentation is accurate, so that we're taking measurements
15 according to typical standards. The DCMR, for instance, or
16 according to ANSI standards. I can offer interpretation of the
17 results that are presented, and I can also make recommendations
18 on adjustments that may need to be made to whoever is making the
19 measurements. You know, we are not the ones slated to make the
20 measurements, but we are available to assist.

21 And in the realm of making adjustments, maybe to
22 operating conditions, things like speaker placement or sound
23 system adjustments, that could be made to help control and monitor
24 the noise. I can assist in that.

25 CHAIRPERSON HOOD: Okay. I don't have any other

1 questions. Thank you for that.

2 Commissioner May, you had some questions or comments?

3 COMMISSIONER MAY: Yeah.

4 So I don't think you were in the hearing when I asked
5 questions before about the -- my interest in seeing some sort of
6 a diagram that would, you know, basically a section through the
7 property, so we could see the field and we could see the fence,
8 we could see where the Herzstein-Gerson property is and
9 understanding whether, you know, at 15 feet -- you know, our --
10 you know, the extent to which sound is going to, you know, pass
11 over that wall and affect the residence or the yard. And, you
12 know, it's -- in many ways distance is not their friend, right?
13 The longer distances in some way means that the sound, I think,
14 is going to travel more readily. So I'm just -- I'm just curious
15 about whether -- you know, whether you have a sense -- and I did
16 ask for that sort of a diagram, so we'll - hopefully, we'll see
17 that. But I'm -- I'm wondering if your sense of things at this
18 point is that at 15 feet, is that really going to be enough? Is
19 it, you know, is there some advantage to being higher or being
20 able to go higher in the future? Or are you feeling pretty
21 confident that what they've come up with is a reasonable attempt
22 to mitigate the noise?

23 MR. HARVEY: I think what they've come up with is a
24 reasonable attempt to mitigate the noise. I could verify that.
25 You know, the noise at 15-feet, it is blocking line-of-sight to

1 certain sections of the property, even up -- from what I
2 understand, even up to close to the house on the first floor,
3 and that is minimal of -- that's minimal requirement for a noise
4 barrier to be effective, that it block line-of-sight between the
5 source and the receiver. So on that level, the 15-feet is
6 effective.

7 COMMISSIONER MAY: Okay. All right. Well, I look
8 forward to seeing more on it. Thank you, very much.

9 MR. HARVEY: You're welcome. Thank you.

10 CHAIRPERSON HOOD: Okay. Thank you. Commissioner
11 Imamura, do you have any questions of Mr. Harvey?

12 COMMISSIONER IMAMURA: I do not.

13 CHAIRPERSON HOOD: Okay. Let me go to -- Mr. Tummonds,
14 do you have any questions of what Mr. Harvey just presented to
15 us?

16 MR. TUMMONDS: No questions.

17 CHAIRPERSON HOOD: Okay. Let's see who else. The ANC,
18 Commissioner Elkins, do you have any questions?

19 COMMISSIONER ELKINS: No, I do not, Mr. Chairman.

20 CHAIRPERSON HOOD: Okay. Thank you. And I think the
21 last person I have is Mr. Clarkson. Do you have any questions
22 of Mr. Harvey?

23 MR. CLARKSON: No, I do not, Mr. Chairman. Thank you.

24 CHAIRPERSON HOOD: Okay, thank you.

25 Okay, Ms. Horvitz, we got there. It took a minute, but

1 we got there. Okay. Anything else, Ms. Horvitz?

2 MS. HORVITZ: No. And I do appreciate the Chair's
3 flexibility, given that he was unavailable. I appreciate that.
4 Nothing further from us.

5 CHAIRPERSON HOOD: Okay. And thank you, Mr. Harvey,
6 for joining us. We'll see how it goes from here. Thank you.

7 All right. So, Ms. Schellin, I think we are at -- were
8 we doing closing, Mr. Tummonds, or did -- were we doing rebuttal?

9 MR. TUMMONDS: I think we're finished. I think we're
10 now just scheduling the post-hearing submission.

11 CHAIRPERSON HOOD: Okay. Ms. Schellin, let's -- let's
12 do the scheduling.

13 Thank you, Mr. Tummonds for helping me figure out where
14 I was. Okay, so --

15 MS. SCHELLIN: Mr. Tummonds, how much time do you think
16 you guys need to provide what was requested between the Commission
17 and Ms. Horvitz?

18 MR. TUMMONDS: As I think about it, with some people
19 next weekend being a holiday weekend, two weeks.

20 MS. SCHELLIN: All right. So if the Applicant could
21 provide that information by 3:00 p.m. on January 23rd, and then
22 the parties -- all of the parties would have until 3:00 p.m. on
23 January 30th to provide a response. Draft orders, if you choose
24 to provide them -- of course, the Applicant has to -- you submit
25 them into IZIS, and then send only me a Word version by 3:00

1 p.m., January 30th also. And then we can put this on for final
2 action on February 9th. That's it.

3 CHAIRPERSON HOOD: Okay. Is everyone -- we're all on
4 the same page? All the parties, the Applicant, the
5 organizations, the ANC, we're all on the same page. Okay.

6 I want to thank you. Before I do the thank you in this
7 case, I just want to remind everyone that the Zoning Commission
8 will meet again January 12th, 2023, on these same platforms, and
9 I believe it's going to be -- we have a meeting that night,
10 correct, Ms. Schellin? I think.

11 MS. SCHELLIN: Yes.

12 CHAIRPERSON HOOD: All right. So with that, I want to
13 thank everyone for their participation in this hearing tonight,
14 and all the work that's been put into it. Let's keep going in
15 the right direction. So with that, I'm going to thank you, and
16 this hearing is adjourned. Good night.

17 (Whereupon, the hearing was adjourned at 6:07 p.m.)
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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 01-09-2023

Place: Teleconference

was duly recorded and accurately transcribed under my
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