

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY

DECEMBER 3, 2002

+ + + + +

The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

PRESENT:

GEOFFREY H. GRIFFIS, Chairperson
ANNE MOHNKERN RENSHAW, Vice Chairperson
DAVID ZAIDAIN, Board Member
CAROL J. MITTEN, Zoning Commission

STAFF PRESENT:

SHERI M. PRUITT, Secretary, BZA
BEVERLEY BAILEY, Office of Zoning
CLIFFORD MOY, Office of Zoning
JOHN NYARKU, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

MARY NAGELHOUT, ESQ.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

<u>AGENDA ITEM</u>	<u>PAGE</u>
MOTIONS:	
Application No. 16710-B of Vinay Pande. .	3
Application No. 16915 of Barbara Schriever Allan	6
BOARD ACTION	
Application No. 16852 of St. Patrick's Episcopal Day School.	8
ADJOURN	161

P R O C E E D I N G S

9:56 A.M.

CHAIRMAN GRIFFIS: Good morning. I will call to order the public meeting of December 3, 2002 of the Board of Zoning Adjustment for the District of Columbia. My name is Geoff Griffis. I am Chairperson. With me today is Vice Chair, Ms. Anne Renshaw, also representing the National Capital Planning Commission is Mr. David Zaidain and representing the Zoning Commission with us on several cases this morning is Ms. Mitten.

Able staffing the Board is the Office of Zoning and we are engaged with Ms. Pruitt, Ms. Bailey and Mr. Moy and Mr. Nyaku will be coming through.

With that, I think we can jump right in.

SECRETARY PRUITT: Good morning, Mr. Chair. First, I have on the agenda the public minutes. Would you like to hold off and do those at the end?

CHAIRMAN GRIFFIS: Yes, let's do the minutes at the end of the morning session.

SECRETARY PRUITT: Okay. Then the first item is a motion. Application No. 16710-B of Vinay Pande, pursuant to 11 DCMR 3104.1 for a special exception under section 223, to allow the construction

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of a canopy over a driveway and stairway leading to
2 one-family dwelling that does not comply with the side
3 yard requirements under section 405, in an R-1-B
4 District located at 5210 Klinge Street, N.W., Square
5 1438, Lot 44.

6 The hearing dates were July 10th and
7 October 16th.

8 Decision dates were December 4, May 14th
9 and May 21.

10 Participating Members included Mr.
11 Griffis, Ms. Renshaw, Mr. Etherly, David Levy and Mr.
12 Hannaham.

13 A motion for reconsideration in letters
14 from Mr. Finney, Chairman of the ANC, dated November
15 5th and Mr. John Kennedy, dated November 6th,
16 requesting that the Board reconsider its Final Order
17 dated October 28th and the reconsideration is based on
18 alleged factual errors contained in the Findings of
19 Fact.

20 Associated with this is there are sort of
21 two issues you have to deal with, first, whether or
22 not there were errors and if the errors are
23 significant enough for you to reconsider or rather to
24 have affected your decision.

25 CHAIRMAN GRIFFIS: Indeed. Let me first

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 get a clarification. Do we have proxies from Board
2 Members that participated in this?

3 SECRETARY PRUITT: You have one from Mr.
4 Etherly.

5 CHAIRMAN GRIFFIS: And that's it?

6 SECRETARY PRUITT: Right.

7 CHAIRMAN GRIFFIS: It has come to my
8 attention that Mr. Zaidain nor Ms. Mitten
9 participated.

10 SECRETARY PRUITT: We just got Mr.
11 Hannaham's.

12 CHAIRMAN GRIFFIS: Indeed, we're ready to
13 proceeding.

14 I would move to open the record for
15 reconsideration on this case.

16 VICE CHAIRPERSON RENSHAW: Second.

17 CHAIRMAN GRIFFIS: And I would ask all
18 those in favor signify by saying aye.

19 (Ayes.)

20 SECRETARY PRUITT: Sorry, I got the first
21 and second. I didn't get the votes.

22 CHAIRMAN GRIFFIS: Two votes.

23 SECRETARY PRUITT: The proxy from Mr.
24 Hannaham is to deny and also from Mr. Etherly.

25 CHAIRMAN GRIFFIS: Well, this is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 particularly difficult, as I cannot persuade my fellow
2 Board Members to do the right thing as they're not
3 present. However, I guess then it does fail for lack
4 of majority, so we will not open the record for
5 reconsideration.

6 Let me just add some substance and
7 background to this. Clearly, there has been a
8 submission that has evidenced an incorrect statement
9 that was listed in the findings of fact. I do not
10 think we're precluded from taking this up again and
11 making right of a situation that is, I think, very
12 simple.

13 I do not believe that any of the Board
14 Members were under misconception of the residency or
15 of the special exception case that was before us and
16 so at perhaps at a further time we can take it up to
17 correct one of the findings of fact and we will do so
18 if we can.

19 That being said, let's move on.

20 SECRETARY PRUITT: The next case on your
21 agenda is Application No. 16915 of Barbara Schriever
22 Allan, pursuant to 11 DCMR, 3104.1, for a special
23 exception to continue operation of a child development
24 center having 23 children and 3 staff as last
25 authorized in BZA Order No. 15713 under section 205,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in an R-1B District located at 2828 Hurst Terrace,
2 N.W., Square 1420, Lot 12.

3 Hearing date was September 24th. Decision
4 date, November 12th.

5 Participating Board Members included Mr.
6 Griffis, Ms. Renshaw, Mr. Etherly, Mr. Zaidain and Ms.
7 Mitten.

8 CHAIRMAN GRIFFIS: Indeed, action on this
9 is actually from the Board itself and I would put to
10 the Board today that in fact this would not be the
11 proper time to take up action, but rather, excuse me,
12 we wait for an order to be issued and then proceed as
13 we feel is proper. Unless there's any objections to
14 that?

15 COMMISSIONER MITTEN: I agree with you,
16 Mr. Chairman. I think that the appropriate time for
17 reconsideration is when we have an order in front of
18 us.

19 VICE CHAIRPERSON RENSHAW: I concur.

20 MEMBER ZAIDAIN: I agree as well.

21 CHAIRMAN GRIFFIS: Very well.

22 SECRETARY PRUITT: Staff would record the
23 vote as 4-0-1.

24 CHAIRMAN GRIFFIS: There's no vote. To be
25 articulate, we're out of consensus postponing any

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 action on this to a date to be decided.

2 SECRETARY PRUITT: The last case on the
3 agenda for this morning is Application No. 16852 of
4 St. Patrick's Episcopal Day School, pursuant to 11
5 DCMR 3104.1 for a special exception to allow a private
6 school having 60 students, grades 7 through 9, under
7 section 206 at premises 4925 MacArthur Boulevard,
8 N.W., Square 1393, Lot 823.

9 Hearing dates were April 16, May 21, July
10 2, July 9 and October 8.

11 Just a little bit of background, the
12 proposal calls for the conversion of the Washington
13 Psychoanalytical Society into a private middle school
14 for grades 7 through 9 for 60 students, 8 full-time
15 and 4 part-time faculty and staff, with a minimum of
16 15 parking spaces on site. The existing lower school
17 campus is located at 4700 Whitehaven Parkway. The
18 Whitehaven campus currently has 440 students, pre-
19 school through 6th grade. The school currently leases
20 another building on MacArthur Boulevard to house 16
21 students who are in the 7th grade.

22 At the original meeting, the Board granted
23 party status to Cathy Wright and Lawrence Skrivseth,
24 Michael and Meleva Lovendusky and Neighbors United
25 Trust and of course, the ANC is automatically a party.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 At the October meeting the Board requested
2 some additional information be submitted. From the
3 Office of Planning they required a supplemental
4 report, including proposed conditions and a report on
5 the process and effectiveness of community liaison
6 process used in previous BZA orders.

7 From the Advisory Neighborhood Committee
8 3-D, they asked them to provide documentation
9 demonstrating that residential homes located in close
10 proximity to facilities have lower property values.

11 Mr. Lovendusky was asked to provide
12 information about property devaluation due to the
13 location of the school.

14 Cathy Wright was requested to provide
15 written documentation from the District Assessor's
16 Office confirming that the location of the
17 institutional facility adjacent to her property would
18 lower her property value.

19 And finally, the Applicant's traffic
20 expert was to provide clarification of the method of
21 measurement and define the difference of methodology
22 used, synchro versus highway capacity manual.

23 All of these submissions were submitted
24 except for the one from Cathy Wright. They were
25 submitted timely. Also the findings of facts and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 responses were timely.

2 This is now before you for decision, sir.

3 CHAIRMAN GRIFFIS: Thank you very much.

4 Well, noting on the amount of information we had to
5 bring in today and noting on the number of hearings
6 we've actually had, clearly we have quite a bit of
7 information and I know very well that the Board has
8 taken great time in going through all of it.

9 What I would like to do -- yes, Mr.
10 Zaidain?

11 MEMBER ZAIDAIN: While you're on that, I
12 would just like to reiterate that I was not on the
13 Board when this began although I was on the dais
14 sitting and I have read the transcripts and got myself
15 up to speed and I'm ready to keep continuing. I just
16 want to make sure that's on the record.

17 CHAIRMAN GRIFFIS: Excellent. And you've
18 been provided the full record?

19 MEMBER ZAIDAIN: Absolutely.

20 CHAIRMAN GRIFFIS: That being said, what
21 I'd like to do is first of all have brief questions or
22 discussion from the Board of any of the substance or
23 facts in the case that may need clarification. I
24 would then like to go into our deliberation and I
25 think we can have a fairly logical order in keeping

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this together and hopefully, we will, and I know we
2 will work together on getting through this.

3 Well, here it is. Let me turn it over to
4 Members if there's any issues of clarification that we
5 can provide.

6 VICE CHAIRPERSON RENSHAW: I'll start it
7 off with a question for the Board. There was the
8 issue about traffic stopping for the school buses, the
9 shuttle buses that would be pulled over on MacArthur
10 Boulevard in front of the school and has it been
11 determined that yes, a school bus would, of course,
12 stop all traffic on MacArthur Boulevard headed in that
13 direction?

14 COMMISSIONER MITTEN: Headed in the same
15 direction as the bus?

16 VICE CHAIRPERSON RENSHAW: Headed in the
17 same direction as the bus?

18 COMMISSIONER MITTEN: That's my
19 understanding. I don't know -- I think so.

20 CHAIRMAN GRIFFIS: Well, I think the
21 analogy in the record was that it would be much like a
22 Metro bus stopping.

23 COMMISSIONER MITTEN: You know how a
24 school bus has the flashers and the stop sign comes
25 out?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: I see.

2 COMMISSIONER MITTEN: I think the analogy
3 was that it would be no different than a signalized
4 intersection.

5 CHAIRMAN GRIFFIS: Indeed. That went to
6 the timing or any sort of delay it might cause.

7 COMMISSIONER MITTEN: Right.

8 CHAIRMAN GRIFFIS: If I'm not mistaken
9 also there is some applicable code or regulation that
10 would designate how that bus was to take on children
11 or disembark.

12 Anything else?

13 MEMBER ZAIDAIN: Mr. Chairman, you're
14 looking for questions on --

15 CHAIRMAN GRIFFIS: Just clarification,
16 indeed.

17 MEMBER ZAIDAIN: My whole -- I wouldn't
18 say focus, but the big issues here revolved around
19 traffic and getting the students circulated between
20 the campuses and I thought we heard an enormous amount
21 of testimony on that. That was cross examined and
22 debated. So I'm fairly clear on what I heard.

23 CHAIRMAN GRIFFIS: Okay. Very well, I
24 think, Mr. Zaidain, as you comment has indicated that
25 there was quite a bit of testimony. Just based on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 fact of the pages of letters that were submitted to
2 the Board of which we have read each and every one of
3 them several, several times. It shows that there was
4 an awful lot of participation, but also within the
5 cases that were presented from the parties and the
6 Applicant, an extensive amount of information. And
7 clearly that is also evident in the amount of extra
8 witnesses that were presented on both sides.

9 I think it would be most advantageous and
10 efficient for us to make a motion at this time and
11 discuss the motion. Before voting on that motion, I'd
12 like to go through any conditions that might be
13 attached to the motion and take each condition
14 separately with their own motion as they are then --
15 will accumulate into one single and articulated
16 direction that the Board will take.

17 So I would open the floor for Members.

18 COMMISSIONER MITTEN: All right, I'll do
19 it. I will make a motion and then I will give a
20 detailed explanation of the motion.

21 I would move approval of the application
22 subject to conditions to be brief about it. And my --
23 one of my huge concerns is that what we have is a
24 situation where certain members of the community and
25 they're justified in their concerns, have -- what's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 been presented to us is that under no circumstances
2 can this school exist without creating adverse
3 conditions at this location. The zoning ordinance and
4 the special exception process basically precludes us
5 from drawing that conclusion. There has to be a set
6 of conditions, almost by definition that will allow
7 this school to be located at this site. And it's our
8 job to figure out what those conditions are.

9 So that's why I move approval, subject to
10 conditions that we will flesh out.

11 A concern that I have and it's, I believe
12 it's shared by the other Members of the Board because
13 of the number of private school cases that we've had
14 in front of us and I haven't sat on nearly the
15 majority of the,m so you have a more profound
16 experience with this than I do, but there are problems
17 with the enforceability of the conditions, the clarity
18 of the conditions and I think we need to decide how we
19 will protect the community.

20 The endorsements that we've gotten from
21 DDOT and the Office of Planning for the proposal have
22 all said if these conditions are fully and effectively
23 implemented, this will work. So then it's up to us to
24 figure out a way to make sure that these conditions
25 are fully and effectively implemented. And that means

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that -- that's a standard that we have always had for
2 applicants that are subject to orders with conditions,
3 but it doesn't -- it's not working well. So to my
4 mind because these conditions that have been proposed
5 and that will flesh out are detailed and required --
6 they're quantitative as well as qualitative in nature.

7 We need to figure out a way that we can protect this
8 community if this doesn't work. And to me there's two
9 ways we can do that and I'll just put the two ways out
10 there. This will be another condition that we can
11 talk about.

12 We either have to have a condition that
13 the term is short enough that the Applicant will be
14 back in front of us in not an extended period of time
15 so we can see how this is working, or we have to have
16 a condition that in the event that there is chronic
17 noncompliance that they are required to come back to
18 us for a modification of the order. One or the other,
19 because we can't tolerate, we can't subject this
20 community to a situation where despite everyone's best
21 efforts, the conditions don't work.

22 So I think we have to have a condition
23 that protects the community in that way and perhaps
24 that will be the incentive necessary to make certain
25 conditions are fully and effectively implemented.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 That's all I have, Mr. Chairman.

2 CHAIRMAN GRIFFIS: Good. Thank you very
3 much, Ms. Mitten, and I would second that motion and
4 would encourage a very substantive discussion on the
5 conditions that follow.

6 I do want to say to the motion, I
7 absolutely agree with what you're saying. In fact,
8 Section 206 sets out the certain things that we are to
9 look at for a private school in this zone that will,
10 in fact, protect the community. I don't think anyone
11 would be -- or is an objection to making this a
12 successful endeavor for both the school and for the
13 community.

14 One note that comes to my mind as I was
15 looking through this also is if you looked at the
16 zoning and that, in fact, public schools, and in fact,
17 Mr. Lovendusky's October 11th submission talks about
18 it, the fact that public schools are permitted, as a
19 matter of right, in this, which puts into perspective
20 of what is the difference and what is the quantifiable
21 difference in these elements that is being noise,
22 number of students, traffic or other objectionable
23 elements, what are the differences between the private
24 and the public school? And I think if we take that in
25 mind, levels of objectionable elements, it will be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 fruitful for us.

2 With that, I would also emphasize the fact
3 and I think this Board on every case we do now is
4 looking at how conditions are well articulated as you
5 have said, and that articulation goes to how they are,
6 in fact, measurable and therefore enforceable. And so
7 I would also ask that we focus very, very clearly on
8 any conditions that we propose so that they meet that
9 test that we have put before us.

10 There were quite a few other issues that
11 were brought up in terms of -- and actually conditions
12 that were offered and perhaps -- and I do know the
13 Board in reading the record and in hearing the
14 testimony crafts their own conditions as they are
15 based on the elements of interest that are brought up.

16 And what I'd like to do is touch on a few that quite
17 frankly in my opinion we would be able to dispense
18 with.

19 Yes, Mr. Zaidain?

20 MEMBER ZAIDAIN: Before the conversation
21 moved into the conditions aspect, I just wanted to say
22 that I agree with the Chair and Ms. Mitten. I did
23 find it interesting in reading the zoning that a
24 public school could locate in this area as a matter of
25 right, without this kind of a process to establish

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 mitigation and conditions and I encourage the District
2 of Columbia Zoning Commission to look at possibly
3 changing that, but that's what the special exception
4 process is laid out for is uses that are normally
5 appropriate for this kind of -- for these types of
6 areas in terms of having community uses and
7 neighborhoods need to have a public hearing process to
8 determine if they are going to be overly impacted and
9 I'm referring to the community.

10 And if there are impacts, let the public
11 hearing process work it out and develop conditions and
12 mitigation measures to make the use work and I think
13 that's something that we can do here as we go through
14 and establish conditions.

15 So I'm in support of the motion.

16 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I
17 will wait until we get through all of the conditions,
18 shaping all of the conditions and then indicate the
19 vote, but I did want to say that in reviewing the
20 record, I came away with an impression that with all
21 of the difficulty with this particular application,
22 the best thing for the school to do because we need to
23 come up with some answers here is to expand near its
24 present location. That would be ideal. The school as
25 the record shows owns property on Whitehaven Parkway.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 One piece of the property the school has for several
2 years and maintains it as a rental. There are two
3 other properties on either side and all three should
4 be available in the near term for any such expansion
5 as is contemplated here on Ashby Street.

6 But before the school expands anywhere,
7 the school should clean up its very serious traffic
8 problems on Whitehaven Parkway because Whitehaven
9 Parkway is very important to the success of any
10 traffic condition that we shape for Ashby Street
11 should we move ahead on that.

12 There are a couple of things that has to
13 be done in regard to the traffic situation on
14 Whitehaven and that is they've got to control and
15 manage a carpool plan. They've got to put teeth into
16 enforcement. They've got to get the headmaster out on
17 the street directing traffic. The faculty and the
18 staff has got to use parking lots and we have heard
19 that there is not a strong culture here for the
20 faculty and staff to use parking lots. They like to
21 park in the street. And we have to maintain a control
22 of the school that they keep within their enrollment
23 both on the student side, but they also keep within
24 the faculty and staff cap.

25 The school should have to prove that it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 can handle the mechanics of carpooling and shuttle bus
2 arrangements before we launch into a new program where
3 the situation is very tight. The circumstances with
4 Ashby Street is that it is a very low impact area,
5 very tightly knit community with Ashby Street being a
6 very small and narrow street with parking on both
7 sides.

8 But if the majority of the BZA votes to
9 approve the Ashby Street location over the objections
10 of the 31 or 33 abutters within 200 feet, and even
11 over the objections of the ANC over such issues as
12 noise and privacy, parking and traffic and the number
13 of students, it would be best to keep the impact,
14 i.e., the number of students as low as possible until
15 the BZA can measure how well the carpooling, the bus,
16 the parking issues have been managed.

17 The school here has got to earn a place in
18 the residential community. We are here to uphold the
19 zoning that's in place now and that is the R-1 zoning
20 that speaks to protecting the quiet residential areas
21 now developed. The provisions of Chapter 200 are
22 intended to stabilize the residential areas and we
23 have to think of who comes first here and who comes
24 first, because of the zoning are the residents and we
25 cannot let an exception overwhelm the residential

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 neighborhoods, so it's with those thoughts that I'm
2 proceeding on the debate in this case.

3 CHAIRMAN GRIFFIS: Very well said. And I
4 do appreciate that input.

5 COMMISSIONER MITTEN: Could I just respond
6 to a couple of things that Ms. Renshaw said?

7 CHAIRMAN GRIFFIS: Yes. If you give me
8 just a second, I want to make one point because I
9 think certainly in statements like that it is very
10 important to set the context of the entire
11 application, but I think it is fairly incorrect to say
12 that the community is opposed as we can show in the
13 record and in fact, other associations have actually
14 talked about how this was moved to B zone so that it
15 could accept a school. But clearly balance and that's
16 what we're here to deliberate on.

17 Ms. Mitten?

18 COMMISSIONER MITTEN: I'll start with the
19 last point that Ms. Renshaw made first which is about
20 the R-1 zoning and that the -- one of the purposes of
21 the R-1 zoning is to protect the existing housing
22 stock in the residential environment and one thing
23 that we cannot get bogged down in is whether or not
24 allowing private schools as a special exception in the
25 R-1 zone is appropriate because that's for the Zoning

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commission to decide and it's clearly an issue that we
2 need to address because of the numerous cases and the
3 problems that have arisen and the consternation in the
4 communities that these schools are located in. So we
5 need to examine that, but as the BZA, we have to
6 accept that it is appropriate for private schools
7 under certain conditions to be located in the R-1
8 zone. We just have to accept that, whether we agree
9 with it or not. So that's one of the ground rules.

10 Another ground rule is relating to another
11 point that Ms. Renshaw made which is we are to
12 evaluate the request before us whether or not we think
13 there's a better course of action for the school,
14 that's not for us to debate and that can't enter into
15 our decision making. We evaluate the proposal that's
16 in front of us.

17 And I also just want to comment that while
18 I was disturbed by the traffic situation on Whitehaven
19 Parkway that I saw even though it looked like it was
20 running relatively smoothly, that doesn't look like
21 clear flow of traffic, but that's not the point of
22 examining -- we're not here to examine the school that
23 exists on Whitehaven Parkway and all of the traffic
24 considerations that go with that. What we have to
25 examine is that there is a component of the traffic

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 plan to deal with the subject property that relates to
2 Whitehaven and what the concern should be that any
3 traffic that's generated by a school on the subject
4 property will not exacerbate the situation on
5 Whitehaven Parkway. We can't say that we shouldn't do
6 anything until the situation is solved on Whitehaven
7 Parkway because that goes beyond the scope of what is
8 before us.

9 So I just wanted to --

10 VICE CHAIRPERSON RENSHAW: But you have to
11 look at a track record and we base a lot of our
12 discussion on past experience and that has been
13 brought to the Board's attention by the opponents in
14 the case. And we know that what goes on at
15 Whitehaven, vis-a-vis traffic, is very important to
16 the success of the traffic situation over on Ashby
17 Street because they're going to be staging from
18 Whitehaven Parkway. They're not going to be bringing
19 cars, hopefully, to the Ashby Street location. So if
20 it doesn't move on Whitehaven, if there is such a
21 congestion over on Whitehaven that the buses aren't
22 going to get off in time, that the carpooling
23 arrangement is not going to work, then that is going
24 to impact and it may lead to private cars leaving
25 students off at Ashby Street which, of course, is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 going to be a no-no.

2 COMMISSIONER MITTEN: I think that's why
3 the order for this case has to be very clear about
4 what may go on at the subject property and during what
5 hours and so forth. And if the problem is being
6 generated on Whitehaven Parkway, then they have to
7 solve that problem, because they're going to have time
8 constraints and so forth when they can make deliveries
9 and pick up of students on Ashby or on MacArthur
10 Boulevard. So I don't think -- I don't pretend to
11 understand fully why the situation exists on
12 Whitehaven Parkway. I don't know what the conditions
13 are of the order that permits St. Patrick's to exist
14 at their main campus. I don't know how vis-a-vis that
15 order that traffic situation exists. That's not for
16 us to decide. We just have to determine, given the
17 situation as it exists on Whitehaven, will this -- if
18 we grant the permission for the school, will it
19 exacerbate that condition, whatever it is and can it
20 work to mitigate or not create adverse impacts for the
21 subject -- at the subject site. That's the way I see
22 the standard.

23 CHAIRMAN GRIFFIS: Indeed. Clearly, we'll
24 get further into the property itself.

25 Let's go through some of the issues that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 came up in the case that will then perhaps lead to
2 conditions or not and I will give my opinion and
3 obviously hear from others.

4 First of all, there was the issue of a
5 storm water management plan. That's attendant to the
6 paved surface in the parking. I believe that it is in
7 the record that there is going to be action taken by
8 the Applicant to mitigate that, but more importantly
9 and pertinently, I do not believe that this Board
10 actually has jurisdiction to require action outside of
11 what's in the zoning in terms of the surface that is
12 to be provided for the parking lot. So I think
13 exhaustive discussion or conditions on that will not
14 be fruitful.

15 VICE CHAIRPERSON RENSHAW: Well, it's my
16 understanding, Mr. Chairman, that that is a
17 requirement of being a homeowner or a property owner,
18 so that the school in owning the property has to take
19 care of that and it is hoped that it is by a date
20 certain, so I just put that out because it's not a
21 condition. It's a must.

22 MEMBER ZAIDAIN: Well, it's my
23 understanding from Zoning codes that before they were
24 to get a full certificate of occupancy, they would
25 have to go through the DPW review and that's when

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 storm water would be -- so we're not negating that
2 issue.

3 CHAIRMAN GRIFFIS: Indeed.

4 MEMBER ZAIDAIN: It's going to be
5 addressed.

6 CHAIRMAN GRIFFIS: Well said. That's
7 exactly my understanding that there are other
8 regulatory agencies that will deal with that and that
9 it will not be possible for us to delve into that
10 aspect. All right, that's the easy one.

11 The other issue that came up was property
12 devaluation and there was several submissions to that
13 respect from both sides, one substantiating that
14 values of residential property adjacent to schools is
15 reduced and rebutted that, in fact, that does not
16 happen.

17 Frankly, my opinion, the record does not
18 show sufficient information for us to deliberate on
19 the impact of real estate, short term and long term.
20 The impact of residential real estate adjacent to
21 property -- to schools, be it public or private, and
22 so I would, in fact, ask the Board whether their
23 opinion is the same that we would address this as
24 needed, but move on from it.

25 MEMBER ZAIDAIN: We hear testimony on this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in a lot of cases and I just don't -- it's never
2 beneficial for me, once you get into the discussion of
3 property values because it's very subjective. And Ms.
4 Mitten may have a different point of view, given her
5 profession, but that's not really a basis for
6 determining the appropriateness of use, especially
7 under the zoning. I don't see anything under the R-1
8 in terms of special exception whether or not property
9 values are one of the specific criteria of locating
10 the use. And furthermore, it's such a subjective,
11 well, it's such an abstract maybe is the right word
12 I'm looking for way of looking at things that you
13 can't really -- it's unclear. You can't get a
14 determination of whether or not something is going to
15 help you get a better price for your house. There may
16 be a family out there that would love to live next to
17 St. Patrick's and may pay an enormous amount of money
18 to get that site. So it's just to me, when we hear
19 that kind of testimony in cases, it really doesn't do
20 a lot for me in terms of my decision making. I would
21 be in favor of moving on from that.

22 CHAIRMAN GRIFFIS: Ms. Mitten.

23 COMMISSIONER MITTEN: I agree with you up
24 to a point. I mean when you get anecdotal
25 information, it is very subjective. And if there were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a legitimate reduction in property value that people
2 could actually quantify which we don't have anything
3 in the record that quantifies it one way or the other,
4 even though we have data in the record, then that
5 would be a legitimate thing for us to consider. If
6 someone said look, here I have studied house sales in
7 proximity to these five public schools or schools, and
8 I can document they are relatively -- they sell at
9 relatively lower prices than competitive properties a
10 block or two away, that would be data that we should
11 consider.

12 MEMBER ZAIDAIN: Then we would have to get
13 into whether that was the actual school that caused
14 the property value to decrease as opposed to the
15 surrounding -- other variables surrounding the
16 property.

17 COMMISSIONER MITTEN: True.

18 MEMBER ZAIDAIN: That's kind of a slippery
19 slope.

20 COMMISSIONER MITTEN: If someone were to
21 present legitimate data to at least assert that there
22 was a reduction in property values, I think that that
23 is something, that is an adverse condition that we
24 could look at. And as Mr. Griffis says, we don't have
25 that kind of information in this case.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MEMBER ZAIDAIN: Right. And that's where
2 I am.

3 VICE CHAIRPERSON RENSHAW: Nor did we --
4 Mr. Chairman, nor did we have that much of a
5 discussion on the matter during the proceedings. And
6 so I would want to, if we ever got into property
7 devaluation, have all of the information well ahead of
8 time to study and then have a thorough hearing on that
9 point.

10 CHAIRMAN GRIFFIS: Good. I think I'm
11 hearing from the Board a consensus that an argument
12 could be made and established and has not been in this
13 record for this particular application.

14 I think we ought to look at the big issues
15 and the big issues that go into Section 206 and that
16 is, and I think it would be advantageous to start with
17 parking. Clearly, it's outlined in the parking
18 requirement under the section for the special
19 exception for private schools that the Board will
20 establish the amount that is required and it can be no
21 less than as established in Section 2100, I believe,
22 of the zoning regulations. Meaning we can't diminish
23 the actual zoning requirements for parking, but we can
24 establish a number higher.

25 It is in the record and there has been

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 substantial documentation and the fact that 15 are
2 being proposed to be provided. There is concern about
3 the loss of green space, about the actual parking and
4 the use, the spaces. There is also some discussion
5 about how that parking lot is utilized, meaning is it
6 stacked or is it tandem and I'd like to get into some
7 of those issues.

8 I am of the opinion that we did not have
9 sufficient testimony based on the fact that there is a
10 huge requirement for parking on this and I think it is
11 logical to establish our base discussion on the
12 required parking spaces in the regulations that go and
13 are based on for this age group of school faculty and
14 employees. That would give us a requirement of eight
15 spaces.

16 As indicated by the Applicant, they are
17 able to provide 15. I think it is of legitimate and
18 quality concern and that is to maintain as much green
19 space as possible. I think this is also beneficial to
20 the community and to the school. I think testimony on
21 both sides indicates the Applicant and the parties and
22 the community want it maintained and so I would have a
23 secure feeling that the parking lot can be laid out as
24 shown in the site plan submitted, but would also be
25 laid out in order to maximize green space.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 I am concerned that we overstep our
2 jurisdiction and allow or even articulate -- let me
3 say nonlegal spaces or any sort of parking that are
4 not actually outlined within the regulations.

5 So in sum, in my opinion, it is clearly
6 able to provide the required parking and that is the
7 eight spaces. I think the fact that they have shown
8 there's enough room is advantageous to the use of the
9 school, but I do not see the burden of this Board to
10 go beyond that.

11 Yes?

12 COMMISSIONER MITTEN: I agree with
13 everything you just said and I think what we do need
14 to confront in terms of parking is in the event that
15 there are functions held at the school and the
16 proposed conditions at least suggest there would be no
17 more than two evening events and we need to address
18 whether or not there would be daytime events, that
19 those would be occasions where it would be atypical.
20 And you were addressing the day to day demands for
21 parking and --

22 CHAIRMAN GRIFFIS: Exactly.

23 COMMISSIONER MITTEN: And have you given
24 any thought to the approach that should be taken for
25 these special events in whatever quantity they would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 occur?

2 CHAIRMAN GRIFFIS: First of all, I don't
3 think the regulations take into account, in fact, if
4 you look at the regulations for parking for schools
5 and you go to high school, it goes to account based on
6 -- and I'm just recalling this from memory, but based
7 on the number of seats in the largest auditorium is
8 one of the specifics and that goes to anticipating
9 large events.

10 That being said, I think the regulations
11 take into account the age and the use of the school in
12 order to establish its requirement for parking based
13 on the atypical events.

14 COMMISSIONER MITTEN: But that's not how
15 the requirement for a private school with this age
16 group is established. It's established, just as you
17 articulated, it's based on who's likely to use it,
18 which is the staff and the teachers. And so it
19 doesn't really address congregating -- what do I want
20 to say, what's the word, a large group of people in
21 that same way.

22 CHAIRMAN GRIFFIS: Indeed. I think it's
23 an excellent point. Where I was going was the fact
24 that I am very hesitant to require a parking lot,
25 surface parking, especially in the city, to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 accommodate the worse case scenario or the maximum
2 amount of cars that are anticipated, but you bring up
3 an excellent point that we should address if we have
4 the ability and the facts to how those might be
5 accommodated.

6 Clearly, it would not be the Board's
7 opinion, I think I can say, that on a large event,
8 that they would park all over the street and inundate
9 a neighborhood. And so if there are ideas and
10 elements that we can address that with, I'm perfectly
11 open to discussing it.

12 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
13 one thing that I don't want to see is any tampering
14 with the residential parking restrictions on Ashby
15 Street. And it may be the case with large events,
16 such as what Ms. Mitten has just discussed, daytime
17 and evening, that there be an arrangement to park at
18 the main campus on Whitehaven Parkway and bus people
19 to the site. To me, it would be the only way to
20 handle it because there cannot be any parking in the
21 residential neighborhood.

22 CHAIRMAN GRIFFIS: I think that makes some
23 logical sense, not to mention if we look at this in in
24 the common sense fashion. The testimony that we've
25 heard about, the school is set up for smaller

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 classrooms, studio like. There is no large assembly
2 space here. And so I think the events that had
3 hundreds of people -- I don't know factually that they
4 wouldn't have, but I would anticipate that they
5 probably would not. And in fact, if you have that
6 amount of population, common sense would also tell you
7 that the larger facility would be able to handle that.

8 Others? Mr. Zaidain?

9 MEMBER ZAIDAIN: Going back to the parking
10 spaces, I agree with the philosophical discussion here
11 about how much parking is required. I guess what I'm
12 unclear about is what is the specific condition you're
13 aiming for, just limiting it to what is allowed under
14 zoning?

15 CHAIRMAN GRIFFIS: Right. My condition
16 would be as proposed for discussion. The discussion
17 would be that the Applicant provide the required
18 number of eight spaces on the surface parking lot as
19 shown in their site plan. It doesn't preclude them
20 from adding more in terms of legal parking spaces, but
21 I think there's twofold, one, from our decision, it is
22 eight and that it goes to the site plan which also
23 goes to the other aspects, but to the green space, so
24 that we would ensure an area that would be black
25 topped. We would require that the parking regulations

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 be adhered to.

2 MEMBER ZAIDAIN: Yes, it would have to
3 meet all the other --

4 CHAIRMAN GRIFFIS: Right.

5 MEMBER ZAIDAIN: But I'm saying if -- it
6 seems to me if the condition is warranted, as
7 submitted on the site plan, that would preclude them
8 from expanding.

9 CHAIRMAN GRIFFIS: I think it would be
10 important for me for the site plan is that it defines
11 the boundary of the paved area.

12 MEMBER ZAIDAIN: Okay.

13 VICE CHAIRPERSON RENSHAW: And therefore,
14 there would be no loss of trees.

15 CHAIRMAN GRIFFIS: Well, we did have
16 substantial discussion on that. I'm hesitant to say
17 that we would condition there would be no loss of
18 trees barring a lightning strike that takes a tree
19 down.

20 VICE CHAIRPERSON RENSHAW: I don't mean in
21 acts of God, as they say.

22 CHAIRMAN GRIFFIS: Indeed. But I think in
23 our discussion, first of all, the Applicant did
24 indicate and I believe it was their architect's
25 testimony that -- said that they did not anticipate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that that tree would be lost. I would -- I'm open to
2 the fact, the discussion on the condition that if the
3 tree is lost, that it's replaced. There has to be
4 some flexibility and there has to be a level of
5 separation from micromanaging an awful lot of --

6 VICE CHAIRPERSON RENSHAW: Well, we have
7 often on this Board been very particular about
8 buffering and about trees and the need for guaranty
9 and also the need for an arborist to be involved.

10 CHAIRMAN GRIFFIS: I totally agree.

11 VICE CHAIRPERSON RENSHAW: I suggest that
12 be part of the condition.

13 CHAIRMAN GRIFFIS: Most often those trees
14 are, as you said, buffers. They usually are on or are
15 close to property lines. My recollection and I'll
16 pull the site plan out for specific recollection, it
17 is in essentially the center of the rear yard of the
18 property itself.

19 Always, I don't think we are -- would
20 never advocate removal of trees if they can, in fact,
21 be maintained. Whether it warrants a level of
22 condition is my only question.

23 COMMISSIONER MITTEN: On the issue of the
24 number of parking spaces, on the site plan they're
25 proffering 17 parking spaces. And given that you're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 advocating, requiring a minimum that is less than what
2 has been proffered and that what has been proffered
3 fits well within the paving that's been proposed on
4 the site plan without encroaching significantly on
5 green space and so forth, can you explain why you're
6 suggesting that we require something less than what is
7 being proffered?

8 CHAIRMAN GRIFFIS: Indeed. And I will be
9 very clear. I'm not requiring that they only provide
10 eight. I am stating the fact that the requirement
11 from this Board would be no less than eight.

12 COMMISSIONER MITTEN: But here's the
13 thing. They say that the community -- look, this is
14 what we're going to do and some people say we don't
15 care, we don't like it and other people go, oh, that
16 looks good.

17 CHAIRMAN GRIFFIS: Right.

18 COMMISSIONER MITTEN: And then if you say
19 well, you only have to have eight, then a few years go
20 by and they say oh well, maybe we want to do something
21 else, I don't know what they would want to do, and
22 then they only end up with eight and everybody said
23 well, we thought that you were going to have 17
24 because that's what you promised. I mean aren't we
25 supposed to -- isn't there supposed to be some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 relationship between ensuring that what has been
2 proffered, given that we don't endorse having less
3 than 17 because that's part of what makes this
4 acceptable.

5 CHAIRMAN GRIFFIS: What I'm trying to do
6 is strike a balance with maximizing the amount of
7 green space and open space with that of the surface
8 parking. I think that the Applicant not necessarily
9 proffered, but planned to have 17 because perhaps in
10 their calculations that's what they think they need,
11 is fine. But I don't think the Board necessarily
12 needs to go to the maximum of the use to provide the
13 parking. I would rather err on the side, in my
14 opinion, is always provide less parking than more,
15 especially and specifically in this site itself. And
16 with the amount of concern for the green space and the
17 outdoor space.

18 COMMISSIONER MITTEN: When we get to the
19 condition about the minimal number of parking spaces,
20 I'd like that to be voted up or down separately since
21 we are not going to have a consensus about that.

22 CHAIRMAN GRIFFIS: Well, what are you
23 offering?

24 COMMISSIONER MITTEN: I think we have 17
25 on the site plan. Office of Planning is suggesting 15

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 which gives a little flexibility. I think 15 as a
2 minimum is appropriate.

3 CHAIRMAN GRIFFIS: Okay.

4 MEMBER ZAIDAIN: I agree with Ms. Mitten
5 on that.

6 VICE CHAIRPERSON RENSHAW: What we want to
7 avoid is --

8 COMMISSIONER MITTEN: As shown on the
9 site.

10 VICE CHAIRPERSON RENSHAW: What we want to
11 avoid are cars being parked on the street. There must
12 be a requirement that the faculty and staff park in
13 the lot and not on the street.

14 CHAIRMAN GRIFFIS: Can we require that?
15 Is there a lawyer in the house?

16 Whether we can require that -- basically
17 Ms. Renshaw, and I think it's an excellent -- it's a
18 point and that's what we're actually trying to get to,
19 that we would prohibit, if I can turn it the other
20 way, we would prohibit faculty and staff from parking
21 on the street.

22 COMMISSIONER MITTEN: You can't do that.

23 CHAIRMAN GRIFFIS: Indeed.

24 COMMISSIONER MITTEN: Ms. Nagelhout is
25 going to tell you something.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. NAGELHOUT: It depends on the -- I
2 don't know what the -- if there's residential parking
3 requirement on Ashby Street, but if they can meet
4 whatever requirements are already in place on Ashby
5 Street, I don't think the Board --

6 CHAIRMAN GRIFFIS: Indeed, so they have to
7 obey the posted parking on that street.

8 MS. NAGELHOUT: Yes.

9 CHAIRMAN GRIFFIS: Indeed. Okay.

10 MEMBER ZAIDAIN: Well, without getting
11 into the discussion about faculty which I think we'll
12 get into eventually, it seems to me that with the
13 minimum we're discussing they should have plenty of
14 parking to allow the faculty to get in there. So I
15 don't see why they'd want to park on the street.

16 CHAIRMAN GRIFFIS: Let's take a motion.
17 Ms. Mitten, did you want to form one on the parking?

18 COMMISSIONER MITTEN: I would move that
19 one of the conditions be that the site shall contain a
20 minimum of 15 parking spaces as shown on the site plan
21 and exhibit number whatever.

22 CHAIRMAN GRIFFIS: Excellent. SP1 is the
23 drawing that the site plan is listed on.

24 MEMBER ZAIDAIN: I'll second.

25 CHAIRMAN GRIFFIS: Very well, thank you,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Mr. Zaidain. Any discussion?

2 All in favor?

3 (Ayes.)

4 Opposed?

5 (No response.)

6 COMMISSIONER MITTEN: That's one.

7 CHAIRMAN GRIFFIS: The next large issue
8 that -- the testimony addressed is noise. I bring
9 this up because I think we can have discussion on the
10 information and our points of deliberation regarding
11 noise, but noise leads us to perhaps conditions that
12 will be -- well, conditions that can address any
13 potential for a foreseeable possible problem and that
14 is it really goes to use. And there are several
15 aspects of that. There's the creation of noise as the
16 students are outside during the day. There is the --
17 actually this goes to an awful lot.

18 Let me ask for a discussion on general and
19 that is use. And take up the -- well, shoot. I'll
20 lay it all out because these are the issues that I
21 have seen and certainly encourage others to get into
22 it. But it's used during the day. Kids' outside
23 time. It's summer use. It's events and it also goes
24 to the actual time of the use for the facility.

25 COMMISSIONER MITTEN: I now have a fact

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 question that I should have asked earlier, but I
2 didn't know I was going to have it.

3 I thought and maybe it's in there and I
4 just didn't focus on it, that we were going to get
5 some parameters for the times of day that the students
6 would be outside?

7 CHAIRMAN GRIFFIS: It was submitted and I
8 will give that to you. You perhaps didn't see it in
9 the plethora of papers that were submitted.

10 COMMISSIONER MITTEN: Just point me to the
11 --

12 SECRETARY PRUITT: Mr. Chair, just for
13 clarification, and so that everybody is on the same
14 page, in reference to your parking, the vote was --
15 well, first of all, your condition was the property
16 shall contain a minimum of 15 spaces. Would that also
17 include tandem parking?

18 COMMISSIONER MITTEN: No.

19 SECRETARY PRUITT: Okay, so the motion was
20 made by --

21 COMMISSIONER MITTEN: But it was more than
22 that. It was as shown on the site plan which is
23 exhibit whatever of the record.

24 SECRETARY PRUITT: Okay. And motion was
25 made by Ms. Mitten; seconded by Mr. Zaidain. I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 believe we have a proxy from Mr. Etherly, is that
2 correct, sir, Mr. Griffis, in support?

3 CHAIRMAN GRIFFIS: You're asking me if we
4 have a proxy?

5 SECRETARY PRUITT: He's delegated to you
6 his --

7 CHAIRMAN GRIFFIS: Indeed, I was not
8 aware. Then yes, we do have a proxy in the
9 affirmative.

10 SECRETARY PRUITT: So that would be 5-0-0
11 on the parking condition.

12 CHAIRMAN GRIFFIS: Okay, and that still
13 didn't buy me enough time to find this.

14 COMMISSIONER MITTEN: Or just tell me what
15 it is.

16 CHAIRMAN GRIFFIS: Yes, there's a one
17 sheet submission that actually indicates the classes
18 and the amount of time they'd be outside. There's a
19 break in the morning from 9:30 to 10:00 for 30
20 minutes. There's another break from 11:45 to 12:04
21 for 20 minutes. There's a break at 12:10, rather not
22 a break, but these are the lunch hours and I've put my
23 finger on it. Of course, it was nicely tabbed.

24 And let me preface this by it was actually
25 my strong opinion and the Applicant has indicated at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the bottom note, and what they are saying is that this
2 is presented to provide a general sense of the timing
3 and essentially they're asking that we not be so
4 restrictive and I would concur. I'm not sure how we
5 could -- I think we can set parameters, if needed, but
6 clearly outdoor time is needed to be somewhat
7 flexible. For goodness sakes, if it's raining in the
8 morning and then it's afternoon and it's nice,
9 everyone needs a little fresh air.

10 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
11 I'd like to review that material also.

12 CHAIRMAN GRIFFIS: Okay, it's the November
13 8 submission.

14 (Pause.)

15 COMMISSIONER MITTEN: Well, we could set a
16 total time and then how they fill the total time would
17 be up to them.

18 CHAIRMAN GRIFFIS: Let me take time while
19 people can read this and then we'll have a discussion.
20 But let's look at this again logically. The students
21 are not there to be outside and play. It isn't a
22 daycare. They're there to be in class. And so
23 clearly the majority of the time is going to be inside
24 studying. Otherwise, the school is not functioning as
25 its reputation would say it does.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 So I first of all, I have a fundamental
2 problem in looking at the noise that students make as
3 being unduly burdensome or objectionable. I think
4 there could be cases where if this, in fact, was I
5 believe in the testimony there was -- well, I don't
6 know if there was, but in terms of amplified noise, if
7 this was the rock and roll stars of the future, that
8 dates me, doesn't it? I've already been told that.

9 Clearly, we're looking at a program around
10 the creation of loud noises, but to begin with a basic
11 thought and the basis that just the noise of kids is
12 an objectionable situation, I do not agree with. So
13 --

14 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
15 that's your personal comment. This is subjective.

16 CHAIRMAN GRIFFIS: It is indeed. Well,
17 it's not --

18 VICE CHAIRPERSON RENSHAW: Yes, it is.

19 CHAIRMAN GRIFFIS: Thank you. However, we
20 do have the noise consultant that has indicated that
21 the level of noise that's actually created and that's
22 actually what I go to.

23 VICE CHAIRPERSON RENSHAW: Indeed, but
24 when you get a number of young people going in and out
25 of school or released from a class for a brief period

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 outside, they are not going to be whispering. And
2 this is to be again a quiet residential area.

3 CHAIRMAN GRIFFIS: Right, and clearly we
4 disagree because I don't think they should be
5 whispering.

6 VICE CHAIRPERSON RENSHAW: Well, it is the
7 case that they have to keep the voices down so that
8 they do not -- their voices collectively do not impact
9 on the quite enjoyment of the neighbors' property.
10 Now we have one neighbor within four feet of the
11 school. The other neighbor is the direct abutter,
12 about 11 feet. Their property is going to be, as the
13 reports have shown, they are going to be able to hear
14 the noise from the school, the noise being the
15 students out and about in groups of perhaps 15 or 20.

16 CHAIRMAN GRIFFIS: I don't think anyone
17 disagrees that they'll be heard.

18 VICE CHAIRPERSON RENSHAW: So my
19 suggestion would be that there be a staff member with
20 the young people when they are out so that if there is
21 a problem, these students are reminded to keep their
22 voices down and if they want to listen to radios
23 outside, during a break period, they do so with
24 earphones.

25 CHAIRMAN GRIFFIS: Okay, interesting

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 thoughts.

2 MEMBER ZAIDAIN: Hopefully, being a good
3 strict Catholic school, they'll do that anyway, or
4 Episcopal, I'm sorry.

5 VICE CHAIRPERSON RENSHAW: There might be
6 a difference.

7 MEMBER ZAIDAIN: We'll discuss my
8 punishment for that slip later on.

9 My whole take on the noise thing was we
10 had significant testimony from somebody we accepted as
11 an expert on sound who did a study, an extensive study
12 on the noise impacts and the conclusion was it was not
13 going to increase the noise any higher than what's
14 already there, with the airplanes flying over Reagan
15 and the noise from MacArthur Boulevard and I did not
16 hear any testimony that would lead me to not agree
17 with that conclusion, unless other Board Members
18 remember hearing some substantial testimony besides
19 somebody saying he's wrong.

20 CHAIRMAN GRIFFIS: And for total
21 clarification, it was not said that you could not hear
22 them, but that it was a different noise, it was a
23 different sound, but it is not higher than the current
24 condition, that is traffic and the airplanes.

25 COMMISSIONER MITTEN: I think that what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Ms. Renshaw has suggested though in terms of having
2 some kind of supervision out there would -- there is
3 sort of the typical kind of playing and what you would
4 expect and then there's the occasional, people get --
5 kids get wild or whatever. And that's what someone
6 who is supervising would be there to say oh, come on,
7 come back to a normal level of conversation or
8 playing. I don't think that would be overly
9 burdensome to suggest that there would be supervision.

10 It could also make sure that the kids, when they're
11 out there playing, are not throwing something that's
12 likely to go into a neighbor's yard. It's just
13 someone there to be mindful of the fact that this
14 could be, has the potential, under certain
15 circumstances to cause a problem.

16 So I would be in favor of supervision
17 versus limiting the time outside. You make a good
18 point which is that if they're outside a lot, then
19 they're not educating them as they should be.

20 CHAIRMAN GRIFFIS: Good.

21 MEMBER ZAIDAIN: Are you suggesting that
22 as a condition?

23 COMMISSIONER MITTEN: That when the kids
24 are outside that there be adult supervision.

25 CHAIRMAN GRIFFIS: So moved?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MEMBER ZAIDAIN: Well, wait -- I don't
2 necessarily disagree with that concept, but I would
3 hope that the Applicant, given the situation, a lot of
4 the testimony we've heard from the neighbors and the
5 fact that it's a school and they're to educate and
6 supervise children, that they would not do that.

7 CHAIRMAN GRIFFIS: Right.

8 MEMBER ZAIDAIN: I mean I guess if you
9 want to put in as a condition, I'll support it.

10 COMMISSIONER MITTEN: This is, I think,
11 what you just articulated. It is perhaps what has
12 gone on in the past with some of the other schools and
13 people say well, I would hope that such and such would
14 happen and they don't make it a condition and we need
15 to make sure that what we hope will happen, we ensure
16 that it, in fact, will happen.

17 MEMBER ZAIDAIN: Okay.

18 COMMISSIONER MITTEN: So that's why I
19 think it's appropriately a condition.

20 CHAIRMAN GRIFFIS: And I think it also
21 adds a level of security too.

22 COMMISSIONER MITTEN: Yes.

23 CHAIRMAN GRIFFIS: In case something
24 happens on the --

25 VICE CHAIRPERSON RENSHAW: Another level

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of security would be to have a hotline or a definite
2 way that residents can get in touch with the
3 headmaster of this school if the noise is getting out
4 of control because it may be the case that a child or
5 a resident is ill and they would prefer quiet or they
6 need quiet and as part of the student's training that
7 I'm sure that they would be instructed to cool it for
8 a period while these people are recuperating or what
9 have you.

10 But an hour and a half, we've got an hour
11 and a half of outdoor time in the morning, from 9:30
12 to 10 and then from approximately 11:25 to 12:30, plus
13 the comings and goings, plus the afternoon. That's a
14 lot of outdoor activity for a residential neighborhood
15 when you have 15 to 20 kids at a time.

16 CHAIRMAN GRIFFIS: Okay.

17 COMMISSIONER MITTEN: One thing that I
18 think we have to just be mindful of is the word
19 "tranquility" was used quite frequently. I mean
20 tranquility is a little bit of a stretch when you are
21 on MacArthur Boulevard. I don't think that if there's
22 someone who's recuperating from an illness that they
23 have a reasonable expectation that they should be able
24 to call the school and say I need you to keep the kids
25 inside because it's just too much for me, when you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have planes flying overhead, periodically and we have
2 trucks going out on MacArthur Boulevard.

3 VICE CHAIRPERSON RENSHAW: But this is
4 additional noise, on top of.

5 COMMISSIONER MITTEN: But we want to make
6 sure that kind of expectation we're setting up --

7 VICE CHAIRPERSON RENSHAW: Again, we are
8 protecting the quiet residential areas and even though
9 they are living on a very noisy street, there must be
10 a room in the house which is quiet, but if indeed,
11 noise penetrates that area of the house, then it's too
12 much. So we have to have a way of neighbors getting a
13 hold of the headmaster to say it's out of control or
14 it's really too much or please, could you not have
15 outdoor activity on such and such a day and I hope
16 that's built in.

17 CHAIRMAN GRIFFIS: Two points to that. I
18 think we need to revisit how we started this. The
19 use, and what happens with schools is predicted in the
20 regulation and is allowable.

21 Ms. Renshaw, I totally agree. I would
22 love in my own neighborhood, I think we'd all like to
23 have control enough to know when we're having a dinner
24 party that we could clear the streets so all our
25 guests could park, when we wanted to take a nap in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 afternoon, which I'm a big fan of, I just don't get
2 the opportunity, that we could quiet the entire
3 surrounding and make sure that we, in fact, ensured
4 that our environment within our house was perfectly
5 defined as we wanted it to be.

6 VICE CHAIRPERSON RENSHAW: But --

7 CHAIRMAN GRIFFIS: My concern goes to how
8 do we even condition that? I mean what is that
9 condition? How is it measurable? We could give a
10 line, a telephone -- I doubt it's unpublished and a
11 neighbor could call in and complain and want the
12 school shut down for the afternoon, but how do we
13 condition that and what happens if it doesn't happen?

14 VICE CHAIRPERSON RENSHAW: I think you say
15 that there is a hotline. You have to set up some
16 system whereby the residents can get in touch with the
17 school at a moment's notice if conditions are out of
18 hand. And that is a protection for the school also
19 because this would carry over to times when the school
20 is not in use and the ones looking out on the property
21 would be able to call if there's a fire or if there is
22 any other untoward activity.

23 CHAIRMAN GRIFFIS: Let's that up as an
24 element as has been offered or discussed in terms of a
25 community liaison community and probe that. Perhaps

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that's one of the issues they look at. Certainly that
2 is, in fact, defined to be the communication source
3 and I think long term, midterm and short term as
4 you're bringing up. But I believe we had something of
5 an articulation of a motion dealing with outside use.

6 COMMISSIONER MITTEN: I'll go there. I'm
7 going to build on one of the conditions that was
8 proffered, both by the Office of Planning and the
9 Applicant. There will be no organized sports
10 conducted on the property. Outdoor activity on the
11 property shall be limited to casual recreational use.

12 At all times when students are outside, there -- this
13 might not be the most artfully worded thing, but there
14 will be adult supervision, but they will be supervised
15 by an adult.

16 I have one more. I just want to write
17 this down.

18 (Pause.)

19 And I also wanted to add that the students
20 will not be allowed -- I don't know how to word this
21 exactly, but basically they have to stay on the
22 subject property and not wander into the neighborhood
23 while they're supposed to be playing on site. I don't
24 know how to quite capture that.

25 CHAIRMAN GRIFFIS: Perhaps it's --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MEMBER ZAIDAIN: On site and adequately
2 supervised, I think is where you're going.

3 When you say "casual recreational use",
4 can you clarify that a little bit.

5 CHAIRMAN GRIFFIS: No suit and tie.

6 (Laughter.)

7 COMMISSIONER MITTEN: Well, it's sort of
8 what's understood by that? It's something that's not
9 organized. As opposed to a baseball game, a couple of
10 kids could throw a baseball to each other is the way I
11 look at it. But if you have something --

12 MEMBER ZAIDAIN: Well, one of the things
13 we keep getting into is making sure it's something
14 with teeth and something that's easily enforced.

15 CHAIRMAN GRIFFIS: Excellent point.

16 MEMBER ZAIDAIN: I think if you -- that's
17 kind of an open ended statement. You're going to get
18 into a big -- we're going to end up having another
19 hearing with what the definition of "casual" is which
20 would probably be interesting, but not really
21 productive.

22 VICE CHAIRPERSON RENSHAW: Well, it's no
23 organized sports.

24 CHAIRMAN GRIFFIS: Well, we can take that
25 out. There's no organized sports taken on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 property.

2 MEMBER ZAIDAIN: Right, we heard testimony
3 on that, if I remember the transcript and hearing
4 correctly. So why don't you in your motion add that
5 as one of the conditions of no organized sports and
6 the two outdoor activities would be on site,
7 adequately supervised, adult supervised and would
8 consist of recreational activities.

9 COMMISSIONER MITTEN: That sounds good.
10 Ms. Pruitt wants you to repeat that.

11 MEMBER ZAIDAIN: I didn't write it down.

12 COMMISSIONER MITTEN: It was better than
13 what I had. It's something like there will be no
14 organized sports conducted on the property. All
15 outdoor activities will be on-site, supervised and
16 recreational in nature.

17 VICE CHAIRPERSON RENSHAW: And any radios
18 with headphones only.

19 CHAIRMAN GRIFFIS: I think -- is that -- I
20 think that falls under supervision.

21 VICE CHAIRPERSON RENSHAW: Not
22 necessarily.

23 COMMISSIONER MITTEN: How about there will
24 be no amplified --

25 VICE CHAIRPERSON RENSHAW: No

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 announcements or bells.

2 MEMBER ZAIDAIN: If we can get a general
3 way to state that, that's fine.

4 CHAIRMAN GRIFFIS: Ms. Mitten, your motion

5 --

6 MEMBER ZAIDAIN: No amplified music or
7 announcements. I think we all know and again I hope
8 this is -- I agree with Ms. Mitten that we have to
9 articulate the stuff and I hope that this is something
10 that people at St. Patrick's would not allow to happen
11 anyway, but --

12 CHAIRMAN GRIFFIS: Is that acceptable, Ms.
13 Mitten?

14 COMMISSIONER MITTEN: Certainly.

15 CHAIRMAN GRIFFIS: Did you second the
16 motion, Mr. Zaidain?

17 MEMBER ZAIDAIN: I'll second the motion.

18 CHAIRMAN GRIFFIS: Indeed, any other
19 further discussion?

20 All in favor, signify by saying aye?

21 (Ayes.)

22 Opposed?

23 (No response.)

24 Very well.

25 SECRETARY PRUITT: Staff would record the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 vote as -- and Mr. Etherly?

2 CHAIRMAN GRIFFIS: Is also in favor.

3 SECRETARY PRUITT: 5-0-1 to approve.

4 There will be no organized sports conducted on the
5 property. All outdoor activities on the site shall be
6 supervised and the children shall remain on the
7 property.

8 COMMISSIONER MITTEN: All outdoor
9 activities will be on site.

10 SECRETARY PRUITT: Will be on site.

11 COMMISSIONER MITTEN: Supervised by an
12 adult and recreational in nature.

13 CHAIRMAN GRIFFIS: Okay, there is another
14 issue related to noise and that is with deliveries. I
15 think it would be advantages to have a condition that
16 indicated that all deliveries would be scheduled to
17 take place during the operation of the school.

18 VICE CHAIRPERSON RENSHAW: I was never
19 clear whether how the food situation is going to be
20 handled. Are they brown bagging it?

21 CHAIRMAN GRIFFIS: There is no cafeteria
22 there, I understand. I thought they would bring their
23 lunches.

24 VICE CHAIRPERSON RENSHAW: Weekly or daily
25 deliveries of pizza?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: I know a lot of schools
2 that get pizza deliveries.

3 VICE CHAIRPERSON RENSHAW: It's a big
4 thing.

5 CHAIRMAN GRIFFIS: It is. Indeed, I've
6 got to get back to school.

7 VICE CHAIRPERSON RENSHAW: It's not on
8 your diet.

9 COMMISSIONER MITTEN: But delivery, as
10 long as it takes place between the hours that we care
11 about, isn't that -- do we care if they're delivering
12 apples or pizza?

13 VICE CHAIRPERSON RENSHAW: Well, here we
14 have to make sure that the Applicant coordinates
15 deliveries with the delivery companies. In other
16 words, there has to be some system by which the
17 deliveries are made. Does a pizza delivery truck pull
18 up, double park in front of the school and run in with
19 15 pizzas?

20 COMMISSIONER MITTEN: So you're speaking
21 more to where the delivery occurs.

22 VICE CHAIRPERSON RENSHAW: yes.

23 COMMISSIONER MITTEN: Not that they need
24 to coordinate. We just need to make sure we focus on
25 where they make the delivery.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: Well, let's take one
2 issue at a time. Is the time of deliveries an issue
3 for you, Ms. Renshaw, because frankly it wasn't an
4 issue in the testimony and that is there was concern,
5 although limited, because it was discussed by the
6 Applicant that there will not be deliveries at 5
7 o'clock in the morning or anything that would be
8 controllable by the Applicant.

9 I believe the Applicant has offered a
10 condition that limits deliveries from 9:30 to 4 Monday
11 through Friday.

12 So why don't we take up, is for the Board
13 an important issue based on the record the time of
14 deliveries?

15 VICE CHAIRPERSON RENSHAW: To stay out of
16 rush hour, so 9:30, 10 o'clock to 4 would be suitable.

17 CHAIRMAN GRIFFIS: 9:30 to 4. Mr.
18 Zaidain? Very well. Let's add that as a condition.

19 I would so move. Is there a second?

20 COMMISSIONER MITTEN: Second.

21 CHAIRMAN GRIFFIS: All those in favor,
22 signify by saying aye.

23 (Ayes.)

24 Opposed.

25 (No response.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Very well.

2 SECRETARY PRUITT: Staff would record the
3 vote as 5-0-0. Motion made by Mr. Griffis, seconded
4 by Ms. Mitten and Mr. Etherly by proxy. All
5 deliveries will be made between 9:30 and 4:00 p.m.
6 Monday through Friday.

7 COMMISSIONER MITTEN: Just to be a little
8 more precise, I think that the language is the
9 Applicant shall schedule all deliveries to take place
10 because we have to have the responsibilities, place
11 the responsibility some place, to take place from 9:30
12 a.m. to 4:p.m. Monday through Friday.

13 CHAIRMAN GRIFFIS: And that also goes
14 directly to the fact that they have control only of
15 those that they can schedule, so that it's those
16 deliveries that they have contracts for.

17 COMMISSIONER MITTEN: So if the UPS guy
18 comes at 5 o'clock they can't help it, right?

19 CHAIRMAN GRIFFIS: Conceivably, yes.

20 COMMISSIONER MITTEN: So then the issue of
21 the where.

22 CHAIRMAN GRIFFIS: Again, there's a
23 surface parking lot that can be used and probably
24 should be used. Other than that, it's appropriate and
25 legal use by the delivery people on public streets.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 VICE CHAIRPERSON RENSHAW: I would say for
2 delivery trucks to pull up in front of the building
3 and access the stairway from MacArthur and go into the
4 building with whatever their delivery.

5 COMMISSIONER MITTEN: So then you're
6 advocating that you mandate that they park illegal on
7 MacArthur Boulevard?

8 VICE CHAIRPERSON RENSHAW: Rather than
9 pull on to Ashby Street and --

10 COMMISSIONER MITTEN: We can't mandate
11 that they park illegally. You can't do that because
12 that's what it would be. It's one thing for a bus to
13 stop. It's another thing for the guy to actually get
14 out.

15 VICE CHAIRPERSON RENSHAW: Well, indeed,
16 these deliveries hopefully they're not going to be
17 frequent deliveries, but if there is such a thing as a
18 daily food delivery, we can't have trucks impacting
19 Ashby Street. If the parking lot is full, that means
20 the trucks are going to be parking on Ashby Street and
21 off-loading.

22 CHAIRMAN GRIFFIS: Do you recall in the
23 testimony that we're talking about large trucks? I
24 don't recall the issue coming up.

25 VICE CHAIRPERSON RENSHAW: It was just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 deliveries.

2 CHAIRMAN GRIFFIS: Indeed.

3 COMMISSIONER MITTEN: That were
4 characterized as being limited deliveries.

5 CHAIRMAN GRIFFIS: I think the absolute
6 appropriate way to use the on-site surface parking.
7 And I don't feel strongly that we need to condition
8 how that happens. I think it goes without saying
9 they'll have to obey the public roads and the traffic
10 laws.

11 VICE CHAIRPERSON RENSHAW: And not block
12 any driveways.

13 CHAIRMAN GRIFFIS: And exactly, that would
14 go directly to DDOT.

15 Okay, next let's go to and I think we can
16 lump perhaps three issues or three items together that
17 have been and were discussed in the hearing. That's
18 the use during the summer. It's also events and then
19 it's daily operation.

20 I would suggest that a good starting point
21 for discussion is that the building school be opened
22 from 7:30 to 4. That coincides clearly with the
23 functioning of the school hours, one, teachers to get
24 there in time to set up and open the school and be
25 prepared for teaching so that they're not outside

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 making noise. And 4 o'clock for closing and leaving
2 out permitted in the event -- well, there's that --

3 VICE CHAIRPERSON RENSHAW: So 7:30 to 4
4 Mondays through Fridays.

5 CHAIRMAN GRIFFIS: Correct.

6 COMMISSIONER MITTEN: Now what exactly
7 does school use mean? Does that mean occupancy by the
8 students as opposed to teachers who may -- I think
9 there was some discussion about the fact that teachers
10 would come earlier.

11 CHAIRMAN GRIFFIS: Right, I think it's all
12 use attendant to running of the academic program,
13 running the school.

14 COMMISSIONER MITTEN: Well, doesn't
15 getting the teachers there and preparing the classroom
16 would come into that, but that's not what you mean to
17 include.

18 CHAIRMAN GRIFFIS: It is what I mean to
19 include.

20 COMMISSIONER MITTEN: Starting at 7:30?

21 CHAIRMAN GRIFFIS: Yes.

22 COMMISSIONER MITTEN: Then you've got to
23 get the teachers in there earlier.

24 VICE CHAIRPERSON RENSHAW: Well, the
25 students don't arrive until -- they're going to be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 bussed over starting at what time?

2 CHAIRMAN GRIFFIS: So you're suggesting
3 this be earlier?

4 COMMISSIONER MITTEN: Well, I'm suggesting
5 you need to define what you mean by school use.

6 MEMBER ZAIDAIN: My suggestion would be to
7 craft the condition to deal with when the students are
8 there and when the main activity of school is. I
9 think if we get to a point where we're trying to
10 regulate if a teacher stays late, if they have
11 somebody to come in and clean, you know.

12 COMMISSIONER MITTEN: This is what I would
13 suggest. The building shall be open for occupancy by
14 students from 7:30 a.m. to 4:30 p.m., Monday through
15 Friday. And then what had been proffered and I don't
16 fully understand this, but in no event shall they,
17 unnamed "they" be permitted on the premises after 6
18 p.m. I don't know if that was meant to include or
19 exclude all human beings or students who shouldn't be
20 there after 4 p.m. anyway.

21 I'll tell you what I thought was that the
22 students would be gone by 4 and that the faculty and
23 staff would be gone by 6 and that there would be -- we
24 wouldn't be too -- we wouldn't define what hour in the
25 morning the faculty could come, just because they're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 unlikely to show up at 4 o'clock in the morning, so I
2 don't think that's going to be problematic.

3 CHAIRMAN GRIFFIS: Okay.

4 MEMBER ZAIDAIN: Well, I still think
5 getting into the aspects of regulating the nonstudent
6 presence there is really going to be difficult. What
7 if you have a teacher that wants to stay late to get
8 work done or come in on Saturday to pick something up.
9 That could really be problematic.

10 The faculty, we haven't discussed -- we
11 haven't gotten into capping the faculty or something
12 like that which I'm not sure we're going to go there.

13 It's been proffered that there's going to
14 be eight full-time, four part-time, so to me, I can't
15 imagine that segment of the population having that big
16 of an impact. What we're dealing with is the students
17 and the bussing and all that. That is where the real
18 impact is.

19 CHAIRMAN GRIFFIS: That's an excellent
20 point and all of our conditions should go directly to
21 addressing what we perceive may be an impact on the
22 area. And that would be the students. I think Ms.
23 Mitten is articulate in saying that. That's really
24 what we're concerned about in looking at this.

25 COMMISSIONER MITTEN: So then the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 condition should read the building shall be opened for
2 occupancy by students from 7:30 a.m. to 4:30 p.m.,
3 Monday through Friday. There will be no limitations
4 on the hours of use by faculty and staff.

5 VICE CHAIRPERSON RENSHAW: Well, I think
6 there should be.

7 COMMISSIONER MITTEN: Why?

8 VICE CHAIRPERSON RENSHAW: Well, the
9 Applicant itself said that one of their conditions was
10 that the building shall be open for school use from
11 7:30 to 4:00, and no one may be permitted on the
12 premises after 6.

13 CHAIRMAN GRIFFIS: Well, we didn't know
14 the definition of "they".

15 VICE CHAIRPERSON RENSHAW: They, the
16 students. The students, faculty and staff, Monday
17 through Friday. And I think it's reasonable again for
18 the community to know that the building is going to be
19 open at a certain time and it's going to be closed at
20 a certain time.

21 COMMISSIONER MITTEN: But we don't know
22 what time it's going to open because unless you want
23 to say that the faculty can arrive before a certain
24 hour. Here's what you're going to get into. Let's
25 say, I was just reading about this public school that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 needs somebody to turn on the boiler to make it get
2 warn before the kids -- after the weekend is over.
3 Like what if they have an engineer that needs to come
4 in and he has to get there at 5 o'clock in the morning
5 to do some kind of thing and we've restricted the
6 hours to the point where that causes a problem.
7 That's really not intended.

8 VICE CHAIRPERSON RENSHAW: Yes, but the
9 Applicant has articulated the provision or the
10 condition this way and obviously the Applicant is not
11 concerned about that.

12 CHAIRMAN GRIFFIS: Well, Ms. Renshaw, I
13 think we need to take -- I mean, you're not suggesting
14 that we just adopt the Applicant's -- all the proposed
15 --

16 VICE CHAIRPERSON RENSHAW: No, I'm looking
17 at this one condition.

18 CHAIRMAN GRIFFIS: It is for ours to
19 discuss and I think we've had valuable discussion. I
20 think you should speak to the why or how you would
21 change the motion because what I'm hearing is now
22 essentially establishing a time of use for the student
23 body and that is from 7:30 to 4:30 as Ms. Mitten has
24 stated.

25 VICE CHAIRPERSON RENSHAW: or from 7:30 to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 4.

2 CHAIRMAN GRIFFIS: Is that what you'd like
3 to change?

4 VICE CHAIRPERSON RENSHAW: Yes.

5 CHAIRMAN GRIFFIS: Ms. Mitten?

6 COMMISSIONER MITTEN: I thought it was
7 7:30 to 4.

8 CHAIRMAN GRIFFIS: You originally said
9 7:30 to 4:30.

10 COMMISSIONER MITTEN: If I did, I'm sorry.
11 I misspoke then. Sorry.

12 CHAIRMAN GRIFFIS: And I just take you at
13 your word.

14 Very well, is there agreement that that's
15 the motion?

16 VICE CHAIRPERSON RENSHAW: Monday through
17 Friday.

18 MEMBER ZAIDAIN: Well, are we clear on who
19 we're regulating?

20 CHAIRMAN GRIFFIS: Right.

21 MEMBER ZAIDAIN: Students, okay. Was
22 there a motion made?

23 CHAIRMAN GRIFFIS: There is about to be.
24 Ms. Mitten?

25 COMMISSIONER MITTEN: Okay, I move there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 be a condition. The building shall be open for
2 occupancy by students from 7:30 a.m. to 4 p.m., Monday
3 through Friday.

4 VICE CHAIRPERSON RENSHAW: Second.

5 CHAIRMAN GRIFFIS: Thank you. All in
6 favor.

7 (Ayes.)

8 Opposed?

9 (No response.)

10 SECRETARY PRUITT: Staff will record the
11 vote 5-0-1. Motion made by Ms. Mitten, seconded by
12 Ms. Renshaw. Mr. Etherly by proxy.

13 CHAIRMAN GRIFFIS: Thank you. The summer
14 program. The Applicant has indicated there is no
15 summer school there, so I think that's a fairly
16 straight forward issue.

17 COMMISSIONER MITTEN: Let's focus on it
18 though.

19 CHAIRMAN GRIFFIS: I know, you want to
20 define what summer is and when it starts and when it
21 ends.

22 COMMISSIONER MITTEN: No, summer school.

23 CHAIRMAN GRIFFIS: Indeed. Let me
24 interject something that I've been thinking a little
25 bit about in terms of this particular facility and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 use. A lot of the testimony that we were coming up
2 with that this wasn't appropriate in a residential
3 neighborhood, it kind of sat as an island, it was
4 isolated, it was going to cause all these difficult
5 problems for the neighborhood. Again, we go back to
6 the regulations where it is a proper use and in fact,
7 it is part of a residential fabric. I'm talking about
8 schools, generally, public and private, whichever it
9 is. Clearly, they're part of our life and part of
10 residential neighborhoods because people live and they
11 send their kids to school.

12 My problem in going and being so rigid as
13 we step into next the evening's events, the use, the
14 time and all that is how is this building, how is this
15 facility supposed to further integrate into the
16 neighborhood? How is it going to play a part and
17 actually grow as part of the neighborhood which I
18 think would be appropriate to do. And that to me says
19 shouldn't the neighbors be able to ask the school if
20 they could throw a party on their lawn and through our
21 conditions, the direction we're going, that will be
22 illegal to do. So I want us to keep in mind how we
23 actually see this growing and frankly maturing as the
24 neighborhood grows and changes.

25 MEMBER ZAIDAIN: When you say grow and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 mature, are you talking more of a philosophical stance
2 and not an expansion?

3 CHAIRMAN GRIFFIS: Clearly, I'm not
4 talking about an increase in student population. I'm
5 talking about as all neighborhoods, if urban
6 neighborhoods aren't changing, then they're dying. So
7 what direction these change and how. What I don't
8 want to do is stifle and limit so much that we
9 actually, we actually create a condition that the
10 residential neighborhood doesn't mature in a positive
11 way.

12 VICE CHAIRPERSON RENSHAW: You're saying
13 that this is, if you restrict the use of the building
14 the neighborhood is not going to mature?

15 CHAIRMAN GRIFFIS: Yes. I think this --

16 VICE CHAIRPERSON RENSHAW: Or the school
17 is not going to mature.

18 CHAIRMAN GRIFFIS: Well, both. I think it
19 will be, if this is approved, it's one and the same.

20 VICE CHAIRPERSON RENSHAW: And what does
21 mature mean to you?

22 CHAIRMAN GRIFFIS: That's a good point. I
23 can't -- I will not project or predict what the future
24 will be in terms of how this area changes. My point
25 is shouldn't this be looked at as an opportunity for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the area and for the residents of that area. And that
2 opportunity may go to the use of the building itself
3 or the use of the grounds itself.

4 COMMISSIONER MITTEN: Let me just say that
5 at this point in time, this is an unknown quantity in
6 this area and there's a fair amount of concern about
7 the potential for adverse impacts. And so if we -- if
8 we sort of lean heavily on the protective conditions
9 at this point, it doesn't mean they're cast in stone
10 forever. If they mature and decide, you know, we
11 really would like -- it's in the school's best
12 interest and the community's best interest that we
13 modify a condition five years down the road, ten years
14 down the road because we find that we really do want
15 to interact in a new way. There are certainly
16 opportunity for that, but I think it's premature to
17 plan on that at this point.

18 CHAIRMAN GRIFFIS: Okay.

19 VICE CHAIRPERSON RENSHAW: I would agree.

20 CHAIRMAN GRIFFIS: I throw that out there
21 setting a change to regulatory process again in five
22 years doesn't scream to me very great flexibility, but
23 I understand your point. I just wanted to make it
24 clear one of the aspects of my thinking in looking at
25 this, schools should be of a rather public nature, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 believe, and that means that there is the
2 accessibility from the community in the surrounding
3 neighborhood and I put that in private or public.
4 That is not what I mean when I say public. It has to
5 be and should be an amenity that is usable by the
6 people that live in the surrounding area.

7 VICE CHAIRPERSON RENSHAW: Yes, but we
8 need to keep in mind that residents like the
9 neighborhood, like to be able to use their
10 neighborhood certainly on weekends and they want to
11 have the extra space for gatherings that they might
12 have and we can't build a situation whereby there's
13 going to be a lot of activity on weekends at the
14 school that may conflict with the use -- that the
15 neighbors would like to put their property to on the
16 weekend. We have to balance it out and I think Ms.
17 Mitten is very correct in saying that there can be an
18 amendment to a condition, it can be an alteration of a
19 condition down the pike. Let's see how it goes.
20 WE're not there yet.

21 CHAIRMAN GRIFFIS: Okay. So clearly if --
22 well, there it is.

23 Let's move on.

24 COMMISSIONER MITTEN: Okay, what does
25 summer school mean to you?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: Summer school? It
2 means trouble, you didn't do well during the year.

3 COMMISSIONER MITTEN: Did you spend a lot
4 of time in summer school?

5 CHAIRMAN GRIFFIS: Every summer.

6 COMMISSIONER MITTEN: What are the months?

7 CHAIRMAN GRIFFIS: Can't there be some
8 language that there certainly is an academic year and
9 an academic schedule and it's just averaged by the
10 school that will correspond with others and then --
11 well, it shouldn't be that difficult to figure out,
12 right, others have done it.

13 COMMISSIONER MITTEN: Well, I guess
14 there's a couple of things. One is you said there
15 will be an academic year.

16 CHAIRMAN GRIFFIS: Right.

17 COMMISSIONER MITTEN: I guess there's a
18 what if they decide to have school all year round,
19 which I don't know, so their academic year would be
20 all year round. It wouldn't be summer school. It
21 would just be school. That's point number one and I
22 hadn't even thought about that until just now.

23 So then the other -- I think what the
24 expectation is and what they proffered this to address
25 was use of the school in the summer months by

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 students. Not that the school would be completely
2 unoccupied, but they don't want to have the same level
3 of intensity during the summer.

4 CHAIRMAN GRIFFIS: Okay.

5 COMMISSIONER MITTEN: So then it becomes a
6 question of --

7 CHAIRMAN GRIFFIS: Defining "summer."

8 COMMISSIONER MITTEN: Or a minimum amount
9 of time, giving them some flexibility. I don't know
10 what the regular school year is supposed to look like.

11 I would think it should be something like -- there
12 should be no occupancy of the school by students for a
13 minimum of two months during the summer season or
14 something like that so at least they have a two-month
15 window when there won't be any students at the school.

16 It could be longer and it's in the general time of
17 summer.

18 CHAIRMAN GRIFFIS: I think that's well
19 said. Any additions?

20 I take it as moved. Is there a second?

21 MEMBER ZAIDAIN: Second.

22 CHAIRMAN GRIFFIS: Thank you, Mr. Zaidain.
23 Any further discussion on the motion?

24 Okay, all those in favor signify by saying
25 aye.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (Ayes.)

2 Opposed?

3 (No response.)

4 SECRETARY PRUITT: Could you -- I was
5 trying to write the conditions. Could you go over the
6 -- who moved?

7 VICE CHAIRPERSON RENSHAW: I moved.

8 SECRETARY PRUITT: And Mr. Zaidain
9 seconded?

10 CHAIRMAN GRIFFIS: Yes.

11 SECRETARY PRUITT: And it was 5-0-0 to
12 approve. Mr. Etherly by proxy.

13 CHAIRMAN GRIFFIS: Okay, then let's go
14 into events. If the Board feels strongly that events
15 need to be defined and regulated and let's add into
16 events any other users, groups or persons, renters,
17 lessees, let's touch on it all if we can combine those
18 two, if that's clear.

19 You know if we get to a community liaison
20 that meets several months where are they going to
21 meet?

22 VICE CHAIRPERSON RENSHAW: That's part of
23 the school.

24 CHAIRMAN GRIFFIS: I see. Is that an
25 event?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 VICE CHAIRPERSON RENSHAW: They meet
2 before 6. We'll get to that. Good question.

3 COMMISSIONER MITTEN: Okay, well, the
4 condition that's been proffered is no more than two
5 evening school events such as Back to School Night
6 shall be held after 4 p.m. during the school year.
7 Before I go to your other issue about outside groups,
8 there's two thing that are not addressed there, if, in
9 fact, we agree with the proffered condition. It's
10 what about daytime events and the parking
11 accommodation for these evening school events.

12 CHAIRMAN GRIFFIS: Well, I think our
13 language is there in terms of -- I don't know if we
14 want to -- one aspect is that as we've done on other
15 conditions, define events by numbers, you know,
16 attendants and all that and then have a threshold at
17 which we have some sort of parking provision
18 requirement. I'm throwing it out there for
19 discussion, but I think we can attach to events, if we
20 get to a fact where we're limiting or defining the
21 events. Within those events, parking accommodations
22 off-site are provided with shuttle bus service to the
23 property.

24 COMMISSIONER MITTEN: So the parking plan
25 what you would suggest is that parking shall be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 provided let's say off site with shuttle bus service
2 to the subject property. Okay.

3 CHAIRMAN GRIFFIS: What kind of events are
4 we requiring that for?

5 COMMISSIONER MITTEN: The evening events.

6 VICE CHAIRPERSON RENSHAW: And even the
7 day events.

8 COMMISSIONER MITTEN: Well, what about the
9 day events? Are we silent on them? Do we have a
10 limit on them?

11 VICE CHAIRPERSON RENSHAW: We have a
12 limit, two evening events and two day events, but
13 again the parking has to be at the main campus and
14 everyone has to be bussed up.

15 CHAIRMAN GRIFFIS: I'm unclear as to what
16 an event is.

17 VICE CHAIRPERSON RENSHAW: Like an open
18 house.

19 CHAIRMAN GRIFFIS: What about teacher
20 conference days?

21 VICE CHAIRPERSON RENSHAW: That's an
22 event.

23 CHAIRMAN GRIFFIS: That's an event.

24 VICE CHAIRPERSON RENSHAW: I would think.

25 CHAIRMAN GRIFFIS: I see.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MEMBER ZAIDAIN: Wouldn't that be during
2 the day though?

3 VICE CHAIRPERSON RENSHAW: I don't know
4 how it works.

5 CHAIRMAN GRIFFIS: What about a PTA
6 meeting or a parent conference?

7 VICE CHAIRPERSON RENSHAW: I think some of
8 these things are going to have to be held on the main
9 campus.

10 CHAIRMAN GRIFFIS: What about a visiting
11 lecturer?

12 VICE CHAIRPERSON RENSHAW: That comes
13 within the school day.

14 CHAIRMAN GRIFFIS: Is it an event?

15 VICE CHAIRPERSON RENSHAW: No. It's just
16 part of their class work.

17 MEMBER ZAIDAIN: So we're defining events
18 as something that occurs outside of the normal 7:30 to
19 4 parameters?

20 VICE CHAIRPERSON RENSHAW: And also it
21 generates a fair amount of --

22 CHAIRMAN GRIFFIS: Let's be clear. Ms.
23 Renshaw has indicated that she wants a limitation on
24 two day events and two evening events. But what are
25 the day events?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON RENSHAW: Something like
2 an open house for new students, prospective students
3 that will be held during the day between 10 and 4 in
4 the afternoon.

5 SECRETARY PRUITT: Excuse me, Mr. Chair,
6 if you look at Condition 4 on both OP and the
7 Applicant, it says no evening events shall be held
8 after 4 p.m.

9 CHAIRMAN GRIFFIS: The Board is very clear
10 on that.

11 SECRETARY PRUITT: So it's very early.

12 COMMISSIONER MITTEN: No more than two
13 after, but we're struggling with what is an event.

14 CHAIRMAN GRIFFIS: There has to be some
15 definition that if we're putting it evenings and day
16 that when something happens it fits within the
17 parameter of definition of an event. We can throw
18 anecdotal stuff out, but we'll be here all day.

19 VICE CHAIRPERSON RENSHAW: Have you got
20 anything?

21 CHAIRMAN GRIFFIS: No, I don't think it's
22 appropriate.

23 MEMBER ZAIDAIN: Well, would the day
24 events apply to the nonschool years? I imagine that
25 an open house would occur in the off year, in the off

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 part of the year.

2 VICE CHAIRPERSON RENSHAW: Not
3 necessarily.

4 MEMBER ZAIDAIN: Would they have an open
5 house when the school is in session?

6 CHAIRMAN GRIFFIS: I think if we look at
7 it logically. For events to happen during the day it
8 would mean that the school day was totally disrupted
9 in order for the impact of so many people to be
10 showing up to give it the nature of event, meaning the
11 kids wouldn't be in class.

12 VICE CHAIRPERSON RENSHAW: They could. I
13 mean you could have a parents day where students then
14 do some kind of a formal presentation of a classroom
15 assignment for parents or for prospective students, so
16 there could be visitors to the site of the subject
17 property during the day and we just need to say that
18 as we have for evening events that no more than two
19 day events where the school is open to nonstudents and
20 parents shall be held between 10 and 4 and no more
21 than 2 evening programs shall be held after 4 during
22 the school year.

23 CHAIRMAN GRIFFIS: What's getting into
24 two?

25 VICE CHAIRPERSON RENSHAW: Well, we've got

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 no more than two evening school events, so I just
2 piggybacked on that and said no more than two day.

3 CHAIRMAN GRIFFIS: What about no more than
4 one per month?

5 VICE CHAIRPERSON RENSHAW: No.

6 CHAIRMAN GRIFFIS: Why?

7 VICE CHAIRPERSON RENSHAW: I think that
8 with good scheduling you can do it with two daytime
9 events and two evening events.

10 The Applicant was agreeable to no more
11 than two evening school events.

12 CHAIRMAN GRIFFIS: I understand what the
13 Applicant is -- I'm trying to understand your thought
14 process of --

15 VICE CHAIRPERSON RENSHAW: Again, it's
16 impact on the neighborhood and this is going to
17 require some coordination, additional bus trips to the
18 school, additional noise of people going in and out of
19 the school. There may be some kind of a tent set up
20 on the subject property on a warm April day and a
21 little reception held out there, so we have to again
22 maintain as much of the residential aspect, as much of
23 the quiet of the neighborhood as we possibly can.

24 CHAIRMAN GRIFFIS: What kind of garden
25 party isn't residential?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON RENSHAW: Pardon me?

2 CHAIRMAN GRIFFIS: I'm trying to
3 understand what --

4 VICE CHAIRPERSON RENSHAW: I'm just saying
5 from an impact point of view that we need to limit it
6 rather than keep it open ended.

7 CHAIRMAN GRIFFIS: I think the Board will
8 concur that there will be an impact if 30 to 50 cars
9 descended on the school during the day during normal
10 course of business. So I would suggest that we look
11 at having no more than two evening events that are
12 held after 4 p.m. and that any -- for the evening
13 events and any daytime events, parking is provided
14 offset with a shuttle bus service to the school.

15 VICE CHAIRPERSON RENSHAW: We need to
16 limit the number of daytime events. I would not keep
17 it open ended.

18 CHAIRMAN GRIFFIS: Okay.

19 VICE CHAIRPERSON RENSHAW: And I would
20 recommend two.

21 CHAIRMAN GRIFFIS: Okay.

22 MEMBER ZAIDAIN: I remember we heard
23 testimony about the evening events. What was the --
24 I'm trying to recall what kind of testimony we heard
25 about what would happen during the day. I don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 recall any.

2 VICE CHAIRPERSON RENSHAW: We're bringing
3 it up as a condition because it was the thought of Ms.
4 Mitten and I think it's very valuable to make sure
5 that we don't have unlimited daytime events impacting
6 the neighborhood.

7 CHAIRMAN GRIFFIS: Good, others?

8 COMMISSIONER MITTEN: I think, I guess now
9 that I've listened to everything I can sort of go
10 either way on the limitation because as Mr. Griffis
11 said earlier about when we were discussing the time
12 they spend outside. There's an inherent limit because
13 they're not in the business of having events. They're
14 in the business of educating the kids and I think
15 there's probably going to be a natural limit on it.
16 So I could go either way. But we do need a parking
17 plan.

18 VICE CHAIRPERSON RENSHAW: I would suggest
19 that it be limited, if indeed it goes well and the
20 Advisory Committee, the Liaison Committee gets a
21 request from the school that this be eliminated or
22 changed in any way, that they are certainly welcome to
23 come back and say we don't need this restriction any
24 more, things are working beautifully.

25 CHAIRMAN GRIFFIS: You mean a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 modification? Well, they can do it on any of these.

2 VICE CHAIRPERSON RENSHAW: I think that at
3 the start that we would be -- it would be well to
4 limit it for daytime events.

5 CHAIRMAN GRIFFIS: Okay.

6 MEMBER ZAIDAIN: From the testimony we
7 heard, I don't remember hearing anything about whether
8 or not they would or would not have daytime events. I
9 am of the suspicion that daytime events are probably
10 not something that this operation is going to be
11 getting into. That being said, I'm amenable to what
12 Ms. Renshaw is advocating limiting it to two in case
13 they do decide to have some sort of daytime event.

14 I would move that no more than two evening
15 school events be held after 4 p.m. and that any
16 daytime events and for evening events offsite parking
17 be provided with shuttlebus service to the school.

18 VICE CHAIRPERSON RENSHAW: I'd like to
19 amend that.

20 COMMISSIONER MITTEN: We've got to get it
21 on the table first.

22 CHAIRMAN GRIFFIS: Is there a second? Did
23 Mr. Etherly proxy this?

24 It seems to have failed for a lack of a
25 second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Is there another motion?

2 VICE CHAIRPERSON RENSHAW: I move that we
3 -- the building shall be open for no more than two
4 evening events after 4, during the school year and no
5 more than two daytime events between the hours of 10
6 a.m. to 4 p.m. and that all parking for daytime or
7 evening events, special events, be held at the
8 Whitehaven campus with participants to be bussed to
9 the school.

10 CHAIRMAN GRIFFIS: Is there a second?

11 COMMISSIONER MITTEN: I'll second it and
12 I'll just propose one small modification which I would
13 suggest that we just say off site, so that we don't
14 tie them to wherever they can accommodate the parking,
15 just that they find an offsite location.

16 VICE CHAIRPERSON RENSHAW: It could be a
17 church parking lot or something like that.

18 COMMISSIONER MITTEN: Right.

19 VICE CHAIRPERSON RENSHAW: Fine.

20 MEMBER ZAIDAIN: Can you reiterate that
21 motion? Can you say it one more time because some
22 things got thrown in there that we were discussing,
23 but I don't know where the 10 o'clock came from.

24 VICE CHAIRPERSON RENSHAW: I stuck it in.

25 MEMBER ZAIDAIN: I knew you stuck it in.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 That's why I want to talk about it.

2 (Laughter.)

3 VICE CHAIRPERSON RENSHAW: All right, that
4 the building shall be open for special event, a
5 special evening event no more than two times during
6 the school year between the hours of 4 to what? We
7 don't have a -- from 4 until what time? 8:30, 9
8 o'clock? 4 until 8. And that there be no more than
9 two daytime events -- special events, between the
10 hours of 10 and 4 and that all parking for special
11 events, the two daytime and the two evening events
12 shall be offsite. That that be parking off site at a
13 lot either at the campus, the main campus or a
14 suitable site in the vicinity?

15 COMMISSIONER MITTEN: Why can't we say
16 offsite. This is getting torturous.

17 VICE CHAIRPERSON RENSHAW: It is getting
18 torturous, but offsite, we don't want to mean the
19 streets, the neighborhood streets. I'm trying to get
20 the traffic directed to a parking lot, either a church
21 parking lot, another school parking lot, the main
22 campus.

23 (Pause.)

24 I think the easiest would be the
25 Whitehaven campus.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MITTEN: I would suggest that
2 it say off street parking for the events shall be
3 accommodated off site so then that carries with it
4 that it's not on the street.

5 And 8 o'clock is too early.

6 VICE CHAIRPERSON RENSHAW: Nine o'clock?

7 COMMISSIONER MITTEN: This is two times a
8 year. I think 10 is a good outside time.

9 (Pause.)

10 CHAIRMAN GRIFFIS: Is there a second?

11 VICE CHAIRPERSON RENSHAW: Well, as long
12 as everything is out of there by 10 o'clock, if you
13 have anything catered, that can shift for clean up
14 until 10:30, 11 o'clock at night and I think that the
15 residents should know that the building will be closed
16 and everything will be off the site say 10 o'clock if
17 that's the time.

18 So however the school adjusts the
19 scheduling. It's up to them as long as the event is
20 really over at 10 o'clock. That's fine.

21 (Pause.)

22 COMMISSIONER MITTEN: Ten o'clock. Is
23 that where we're at?

24 MEMBER ZAIDAIN: I think he was looking
25 for a second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I move to support it because I was in
2 agreement with you for a while, but I think we're
3 getting to a point where we're micromanaging an event
4 here. I mean an event is an event. It's a special
5 occasion. There's going to be -- that's why we're
6 limiting it because it's going to be something that's
7 going to be a little bit more intense than what the
8 normal day to day use is and I think we're getting to
9 a point where we're going to get into something that's
10 going to be almost micromanaging what they're doing
11 there.

12 VICE CHAIRPERSON RENSHAW: But it's not
13 uncommon for a community to ask for an end period to
14 an event and that everyone knows the parameters, so
15 it's going to be up until 10 o'clock and therefore,
16 that's it. It's not micromanaging.

17 MEMBER ZAIDAIN: Well, we're telling them
18 where they need to park and everything for the day
19 event and I know where this is going to go, but we're
20 telling them where to park with the day event, but
21 then we're going through the same thing for the
22 evening. It doesn't make sense for me.

23 VICE CHAIRPERSON RENSHAW: No, it's for
24 the day and the evening.

25 MEMBER ZAIDAIN: Well, that's one thing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that I missed.

2 VICE CHAIRPERSON RENSHAW: Off street
3 parking must be accommodated off site. That was the
4 language that Ms. Mitten suggested.

5 (Pause.)

6 COMMISSIONER MITTEN: So where are we?

7 CHAIRMAN GRIFFIS: The motion needs a
8 second.

9 COMMISSIONER MITTEN: Does the motion
10 include 10 p.m.?

11 VICE CHAIRPERSON RENSHAW: Ten p.m. that
12 it be concluded?

13 MEMBER ZAIDAIN: It's my understanding
14 that we've got, we're limiting to two day events
15 within school hours, two evening events. An evening
16 event cannot be later than 10 o'clock, in between the
17 hours of 4 and 10 and all parking must be off-site.

18 VICE CHAIRPERSON RENSHAW: Off-street
19 parking must be accommodated off-site.

20 CHAIRMAN GRIFFIS: Is there a second?

21 COMMISSIONER MITTEN: I'll second.

22 CHAIRMAN GRIFFIS: Very well, any further
23 discussion?

24 All in favor signify by saying aye.

25 (Ayes.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And opposed? I will be opposed. I voted
2 in opposition to the motion.

3 Mr. Etherly will go with the majority.

4 (Laughter.)

5 COMMISSIONER MITTEN: He's a wise man.

6 SECRETARY PRUITT: Staff would record the
7 vote as 4-1-0 to approve no more than two day events
8 that shall be held between the hours of 10 and 4
9 during the school year and no more than two evening
10 events held between the hours of 4 p.m. and 10 p.m.
11 And parking for all events shall be held off-site.

12 COMMISSIONER MITTEN: Off-street parking
13 for all events shall be accommodated off-site.

14 Okay, I've got a quick one.

15 CHAIRMAN GRIFFIS: Excellent.

16 COMMISSIONER MITTEN: Outside groups that
17 you had mentioned.

18 CHAIRMAN GRIFFIS: Okay.

19 COMMISSIONER MITTEN: I move that we make
20 the following condition. The school may not allow any
21 outside groups or persons to use any portion of the
22 building or grounds at any time.

23 VICE CHAIRPERSON RENSHAW: Second.

24 (Pause.)

25 MEMBER ZAIDAIN: Does that include the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 liaison organization that has been proffered.

2 CHAIRMAN GRIFFIS: That's the reading of
3 it.

4 VICE CHAIRPERSON RENSHAW: That's not an
5 outside group.

6 MEMBER ZAIDAIN: Okay, well, let's just
7 clarify that.

8 CHAIRMAN GRIFFIS: My understanding of
9 what outside group would be anything outside of the
10 school.

11 MEMBER ZAIDAIN: Well, we're making a
12 determination now.

13 VICE CHAIRPERSON RENSHAW: School-related
14 group. The Liaison Committee is affiliated with the
15 school.

16 COMMISSIONER MITTEN: It was supposed to
17 be simple.

18 CHAIRMAN GRIFFIS: It is simple. We just
19 clarified.

20 COMMISSIONER MITTEN: Okay, non-school
21 related. Do you prefer it, non-school related?

22 CHAIRMAN GRIFFIS: I thought the fact that
23 you just said it does not include the Liaison Group
24 and the Liaison Group can meet there, period.

25 VICE CHAIRPERSON RENSHAW: It's related to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the school.

2 COMMISSIONER MITTEN: Are we going with
3 non-school related or outside?

4 Non-school related. Okay, the school may
5 not allow any non-school related groups or persons to
6 use any portion of the building or grounds at any
7 time.

8 MEMBER ZAIDAIN: Second.

9 CHAIRMAN GRIFFIS: Thank you, Mr. Zaidain.
10 Discussion?

11 All those in favor of the motion?

12 (Ayes.)

13 And opposition in which I will be voting.

14 As stated before, I think it is the wrong direction
15 for this Board to try and limit a facility for its
16 flexibility to actually be part and a larger part of a
17 residential neighborhood and thereby being able to
18 open its doors for use as might be requested by the
19 surrounding residents.

20 So all in favor of the motion?

21 (Ayes.)

22 And opposed? I will be opposed.

23 VICE CHAIRPERSON RENSHAW: And Mr.
24 Etherly?

25 He's going to go with the majority?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRMAN GRIFFIS: Mr. Etherly will be
2 voting with the majority, yes.

3 SECRETARY PRUITT: Excuse me, staff would
4 record the vote as 4-1-0.

5 CHAIRMAN GRIFFIS: Okay, that was the easy
6 one. This is what I have last in my mind. Three
7 pieces, and they go to the site -- rather four. The
8 site which I think we can take up quickly in terms of
9 there are a lot of issues in terms of lighting and
10 trash cans, there was greening, there was sound
11 buffering, there's fencing. Let's lump them all
12 together and get through this.

13 The other piece is going to be the
14 discussion of well, I think we take next the number of
15 students. And then after that how those students get
16 to the school.

17 And then finally, right, transportation is
18 an excellent title and then finally, any issue of
19 communication with the community and on-going
20 monitoring, and I think that will develop on its own.

21 So we have the issue of the lighting.
22 There was some concern that the community in adjacent
23 areas wouldn't be able to review or have input on the
24 lighting that was provided. I think we can, in fact,
25 rely on our own regulations with regards to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 requirements for the provision of lighting. And that
2 is Section 2303.1(e) which states that any lighting
3 used to illuminate a parking lot or its accessory
4 building shall be arranged so that all direct rays of
5 lighting are confined to the surface of the parking
6 lot. That obviously will clearly go to the direction
7 of the fixture and also the height of the fixture.
8 This is not some huge surface mall parking lot. I
9 would anticipate in order to accommodate that
10 regulation that the lighting fixtures on poles would
11 not be beyond a certain height so that clearly it will
12 provide the fact that it won't illuminate. So my
13 point being I'm not sure we need to put a condition on
14 that unless others feel differently.

15 COMMISSIONER MITTEN: The provisions of
16 2303.1 apply to parking lots that are sort of stand
17 alone parking lots.

18 CHAIRMAN GRIFFIS: I see.

19 COMMISSIONER MITTEN: So I don't know that
20 that necessarily kicks in. Why don't we just take the
21 language and put it in the condition?

22 CHAIRMAN GRIFFIS: Done.

23 MEMBER ZAIDAIN: Is that a motion?

24 CHAIRMAN GRIFFIS: That was moved.

25 MEMBER ZAIDAIN: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: Thank you. All in
2 favor?

3 (Ayes.)

4 Opposed.

5 (No response.)

6 SECRETARY PRUITT: Staff would record the
7 vote as 5-0-0 to approve. And including as stated in
8 Section 2303.1 subsection e.

9 CHAIRMAN GRIFFIS: There's an issue and
10 actually a proffer of conditions by the Applicant
11 regarding large commercial trash dumpsters which will
12 be prohibited. I guess in my recollection that went
13 to more of the unsightly appearance. Is that
14 everyone's recollection?

15 COMMISSIONER MITTEN: Well, it's the noise
16 of dumping the thing, emptying the thing.

17 CHAIRMAN GRIFFIS: All right, that's why I
18 bring it up. That we don't have a commercial trash
19 dumpster doesn't stop the fact that there's going to
20 be a commercial trash pick up.

21 You're still going to have a trash truck
22 come through.

23 COMMISSIONER MITTEN: Well, actually what
24 was -- what the Applicant said was that it would be
25 removed by a cleaning crew.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: I see.

2 COMMISSIONER MITTEN: In the p.m. I mean
3 dumpster that you get one of those big clunker trucks
4 that comes and makes a lot of noise. So if you don't
5 have the dumpster, you don't have the clunker truck.

6 CHAIRMAN GRIFFIS: Okay. Then you want to
7 adopt the condition as stated by the Applicant, large
8 commercial trash dumpsters are prohibited?

9 COMMISSIONER MITTEN: Yes.

10 CHAIRMAN GRIFFIS: Second?

11 MEMBER ZAIDAIN: Second.

12 CHAIRMAN GRIFFIS: Thank you. All in
13 favor?

14 (Ayes.)

15 Opposed?

16 (No response.)

17 SECRETARY PRUITT: Sorry, who was the
18 maker of that motion, please?

19 CHAIRMAN GRIFFIS: I was.

20 SECRETARY PRUITT: Motion made by Mr.
21 Griffis, seconded by Mr. Zaidain. Mr. Etherly by
22 proxy and the vote is 5-0-0.

23 CHAIRMAN GRIFFIS: Okay. Fencing.
24 Fencing was a big issue in terms of the noise
25 buffering, site buffering. I think an important

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 aspect. There is a fence, the schematic plan shown
2 for location and also an indication of size on the
3 site plan submitted by the Applicant.

4 My concern is again going back to our
5 fundamental mission of making conditions that are
6 actually enforceable.

7 I would throw that into discussion about
8 whether we require this fence, whether we require the
9 adjacent property approve the fence and how we set
10 about to do that. I'm perfectly inclined to have that
11 put in, but let's hear from others.

12 MEMBER ZAIDAIN: Let me make sure I
13 understand. You're talking about -- what was
14 represented on the site plan?

15 CHAIRMAN GRIFFIS: I'll pull it out again.

16 MEMBER ZAIDAIN: I don't have it in front
17 of me.

18 CHAIRMAN GRIFFIS: Let me find the color
19 copy for you.

20 (Pause.)

21 MEMBER ZAIDAIN: Are you advocating
22 holding them to what they represented to the site
23 plan?

24 CHAIRMAN GRIFFIS: I think the issue was
25 there was some question about whether the adjacent

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 neighbor wanted that, in my mind, whether they wanted
2 that to happen or not happen. It seemed to be
3 inconclusive and I think the Applicant has offered to
4 build it if the adjacent property owner wants it.

5 VICE CHAIRPERSON RENSHAW: I think it
6 should be done in coordination with the neighboring
7 property.

8 CHAIRMAN GRIFFIS: I totally agree.

9 VICE CHAIRPERSON RENSHAW: Which is what
10 was proffered.

11 CHAIRMAN GRIFFIS: Now what does
12 coordination mean?

13 VICE CHAIRPERSON RENSHAW: Discussion.

14 CHAIRMAN GRIFFIS: So if they come back
15 and they want a gold-plated relief fence, is that what
16 has to be built?

17 VICE CHAIRPERSON RENSHAW: Very stylish.

18 CHAIRMAN GRIFFIS: That's part of the
19 coordination?

20 VICE CHAIRPERSON RENSHAW: Coordination.

21 CHAIRMAN GRIFFIS: Or does the Applicant
22 just have to show them a plan of a fence and build it,
23 and that's coordination?

24 VICE CHAIRPERSON RENSHAW: I think that
25 they need to discuss with the abutting property owner

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 whether or not the fence that is proposed by the
2 Applicant is agreeable to the neighbor and the
3 materials to be used are agreeable.

4 CHAIRMAN GRIFFIS: And if they're not
5 agreeable?

6 VICE CHAIRPERSON RENSCHAW: Then like two
7 intelligent people, bodies they just discuss it.

8 COMMISSIONER MITTEN: That's not an
9 enforceable condition.

10 CHAIRMAN GRIFFIS: Right.

11 VICE CHAIRPERSON RENSCHAW: Reach an
12 accommodation.

13 CHAIRMAN GRIFFIS: If we do that, and I
14 totally agree. I think that's what can happen, then
15 we shouldn't condition it. It's on their own. They
16 will have the negotiation, the discussion, whether
17 it's built or it's not built and that's part of the
18 neighborly relationship.

19 MEMBER ZAIDAIN: Just to make sure I'm
20 clear, this is the fence that will be on the adjoining
21 property?

22 CHAIRMAN GRIFFIS: No, it's on the
23 Applicant's --

24 MEMBER ZAIDAIN: It's on the school
25 property, okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MITTEN: This is what I would
2 like to suggest is --

3 CHAIRMAN GRIFFIS: We'd like to hear it.

4 COMMISSIONER MITTEN: That we have a
5 condition that reads as follows. Fencing, as shown on
6 the site plan, Exhibit No. blank, along the southern
7 property line, will be provided at the Applicant's
8 expense, if requested by the abutting property owner.

9 So it's a choice. You want this fence or
10 not? Not that you want any fence, you know, that you
11 can think of.

12 CHAIRMAN GRIFFIS: Do you put a time on
13 it?

14 COMMISSIONER MITTEN: And if they want to
15 negotiate something else, that's fine.

16 CHAIRMAN GRIFFIS: I think it's reasonable
17 to say within a year or so, so in 10 years when a new
18 property owner adjacent comes in they don't require
19 the fence and life has changed. This is for the
20 immediate neighbor. Or is that not important?

21 COMMISSIONER MITTEN: I don't think that's
22 important.

23 CHAIRMAN GRIFFIS: Okay, very well. Is
24 there a second on that?

25 VICE CHAIRPERSON RENSHAW: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: Any further discussion,
2 clarification, restating of the motion?

3 All in favor signify by saying aye.

4 (Ayes.)

5 Opposed?

6 (No response.)

7 SECRETARY PRUITT: Staff records the vote
8 as 5-0-0. Fencing as shown on site plan, Exhibit
9 Blank, along the southern property line will be
10 provided at the Applicant's expense, if requested by
11 the property owner.

12 COMMISSIONER MITTEN: By the abutting
13 property owner, so we're identify which property owner
14 can ask.

15 MEMBER ZAIDAIN: Southern abutting
16 property owner.

17 COMMISSIONER MITTEN: Southern abutting
18 property owner.

19 I would move a condition as follows,
20 expansion of the building will be limited to the area
21 necessary for access as shown in the site plan, again,
22 Exhibit number blank.

23 MEMBER ZAIDAIN: Second.

24 CHAIRMAN GRIFFIS: Any discussion? All in
25 favor.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (Ayes.)

2 Opposed?

3 (No response.)

4 SECRETARY PRUITT: Staff will record the
5 vote as 5-0-0 to approve.

6 CHAIRMAN GRIFFIS: Okay, do we have a
7 count on the number of conditions?

8 SECRETARY PRUITT: Eighteen or 19.

9 COMMISSIONER MITTEN: No, we don't have
10 that many yet.

11 MS. BAILEY: I have nine, Mr. Chairman.

12 CHAIRMAN GRIFFIS: You have nine?

13 MS. BAILEY: Yes.

14 CHAIRMAN GRIFFIS: Okay. I think in our
15 regulations it says that nine conditions we can take a
16 10-minute recess.

17 COMMISSIONER MITTEN: I have 11.

18 CHAIRMAN GRIFFIS: Then we've missed our
19 opportunity. So that being said, let's take 10
20 minutes. We were going to resume.

21 From my calculations, we have probably two
22 large issues left to go through and so our time will
23 be limited when we return. So that being said, we'll
24 be back in 10.

25 (Off the record.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: Let's resume. I think
2 it would be appropriate to look at the issue of
3 whether a condition is warranted for the number of
4 students and I'll open it up for discussion. In the
5 application there was talk about an enrollment cap at
6 40 and that is for grades 7 and 8 for the first year
7 and that would be, in fact, increased within a year,
8 depending on the compliance with any conditions.

9 There is also some testimony in the record
10 on an additional grade, 9th. It would be my judgment
11 that perhaps for our discussion we perhaps establish
12 an assumption that we look at the student body and
13 that assumption would be that it would be 7, 8 and 9
14 and the limiting factor that I think is of more
15 importance is the number of students, not necessarily,
16 7th, 8th or 9th grade. There was some discussion and
17 testimony from this Board of what is the difference
18 between an 8th and a 9th grader in terms of how we
19 view this application and I didn't feel that there was
20 substance in order for us to make that
21 differentiation. So again, I would say we focus on
22 numbers and we'd open it up for discussion at this
23 time.

24 MEMBER ZAIDAIN: I agree, Mr. Chair. I
25 think the real issue that is going to -- the real

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 issue is impact and I don't see how differentiating
2 between 7th, 8th and 9th graders is going to --

3 VICE CHAIRPERSON RENSHAW: Except that in
4 9th grade, you're in high school and this is a middle
5 school arrangement.

6 CHAIRMAN GRIFFIS: True.

7 VICE CHAIRPERSON RENSHAW: And the
8 Applicant is talking about some kind of a high school.
9 The neighbors do not have or do not want, it seems a
10 high school at that location. They want less of an
11 impact at that location.

12 MEMBER ZAIDAIN: Are you saying adding 9th
13 grade makes it a high school?

14 VICE CHAIRPERSON RENSHAW: Well, it's on
15 its way.

16 MEMBER ZAIDAIN: But to me, that's
17 nomenclature. We're talking about in terms of like
18 traffic impact, how is the difference between 7th or
19 9th graders.

20 VICE CHAIRPERSON RENSHAW: If you control
21 the number of students.

22 MEMBER ZAIDAIN: I'm all for discussing
23 the number of students, but we're not there to that
24 point yet, I didn't think. I think I was just
25 agreeing with the Chair in terms of not getting into

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 saying it can only be 7th, 8th and 9th or 7th and 8th.

2 I think we need to look at what is tied to the impact
3 and that is the number of students.

4 VICE CHAIRPERSON RENSHAW: This is again
5 an application for a middle school, so 7th and 8th are
6 middle school grades.

7 MEMBER ZAIDAIN: To me, it's just a name.
8 If it's called -- I don't see the connection between
9 whether or not it's a middle school or junior high,
10 given the parameters that we looked at and any
11 impacts.

12 CHAIRMAN GRIFFIS: Right, Mr. Zaidain,
13 your point is that a ninth grader in terms of the
14 issues that we're talking about in this application,
15 there is no difference between those issues, a ninth
16 grader and an eighth grader.

17 MEMBER ZAIDAIN: Right. Exactly. That's
18 exactly what I'm saying.

19 VICE CHAIRPERSON RENSHAW: I would
20 disagree.

21 CHAIRMAN GRIFFIS: Okay. Before us being
22 a proposed condition is 40 students with an increase
23 to 60 in a year. Discussion? Motion?

24 MEMBER ZAIDAIN: Well, what's -- let's
25 discuss that for a second. In terms of what's going

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to trigger the increase to 60?

2 CHAIRMAN GRIFFIS: That's an excellent
3 point. Right now I think what's before us is -- well,
4 frankly, it's for us to craft, certainly within our
5 jurisdiction, if we decide to go that route.

6 What is being proposed was that there
7 would be a submission of a report to establish
8 compliance with an order and its conditions and that
9 reporting would go through the Office of Zoning and
10 also representatives from the Office of Planning,
11 Department of Transportation and the established
12 neighborhood representatives. That would obviously
13 include the parties in this case, the ANC and any
14 other representatives that were established.

15 MEMBER ZAIDAIN: Looking at OP's report or
16 memo, dated November 8th, they discuss the time limit
17 and reading their expectations of the operation and
18 their analysis, I would have to concur with their
19 recommendation that it just be capped at 40.

20 CHAIRMAN GRIFFIS: Okay.

21 MEMBER ZAIDAIN: I'm not sure, but I think
22 having it go to 60 in a year with a mechanism, I don't
23 think I can support that.

24 CHAIRMAN GRIFFIS: Your difficulty is with
25 the --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MEMBER ZAIDAIN: Well, for one thing, I
2 think a year is too short.

3 CHAIRMAN GRIFFIS: Okay.

4 MEMBER ZAIDAIN: First of all. And
5 secondly, every other condition we've talked about
6 we've reiterated the fact that they can always come
7 back to this Board for a modification.

8 CHAIRMAN GRIFFIS: Okay.

9 MEMBER ZAIDAIN: Where we would go through
10 a hearing process to get testimony on impacts and I
11 think in terms of increasing enrollment from 40 to 60,
12 that's the crux of impact level we're dealing with.
13 And I wouldn't want to just kind of waive the process
14 to deal with that important issue.

15 CHAIRMAN GRIFFIS: Okay, so your point is
16 that you agree with the Office of Planning's analysis
17 and that would be for a cap of 40 students if an
18 increase in enrollment was to be anticipated, they
19 could come through for modification in the order?

20 MEMBER ZAIDAIN: Yes, yes.

21 CHAIRMAN GRIFFIS: Okay. Ms. Mitten?

22 COMMISSIONER MITTEN: I agree with Mr.
23 Zaidain on that. I think that we need to have -- we
24 would need to have a showing of sort of long-standing
25 compliance, not one year's worth of compliance because

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the school probably isn't going to be fully populated
2 for the first year with students because they're --
3 it's possible that they wouldn't have reached their
4 full complement at that point. So just for one year's
5 experience, I don't think it's sufficient and I think
6 we're confronting this in another case that's in front
7 of the Zoning Commission right now where it suggests
8 that your reward for compliance is to increase
9 intensity of use. Instead of saying, you know what?
10 Those conditions are working just fine as things are
11 and saying we did a good job and sort of let well
12 enough alone for some period of time. So I'm in favor
13 of a maximum of 40 students.

14 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I
15 would suggest or recommend that the full complement be
16 less than 40 due to the fact that this is a new
17 location, that the school will be trying to implement
18 an unproven, untested transportation plan. It is a
19 greater intense use on the neighborhood. We are
20 reminded that back in some years ago, 1962, the BZA
21 denied the request by the German School to increase
22 from 25 to 75 in that same building and I would
23 suggest that it would be much more sensible to go with
24 not more than 30 in the school.

25 CHAIRMAN GRIFFIS: Okay. Speaking to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 previous denial, I don't think any of us sat on that,
2 but that is good information.

3 My difficulty in taking that beyond some
4 of the initial stages that you just made is not
5 knowing all the facts of the case and not to mention
6 talking about even a larger population, 75 and I'm not
7 sure how they -- what the operations or programs are.

8 I agree with the fact that unless -- in my
9 mind there are two ways to go if we wanted to look at
10 having an enrollment increase and that is spending
11 quite an amount of time today actually creating the
12 system by which the Applicant could have that relief.

13 I do not strongly advocate doing that and think that,
14 in fact, 40, based upon the issues that we have
15 addressed is appropriate for an enrollment cap.

16 VICE CHAIRPERSON RENSHAW: How so?

17 COMMISSIONER MITTEN: Mr. Chairman, I
18 would move that the maximum enrollment shall be
19 limited to 40 students in grades 7 through 9.

20 VICE CHAIRPERSON RENSHAW: I had asked the
21 Chair who stated that 40, based on the issues, was an
22 appropriate number and I asked him how so and I think
23 it got lost.

24 COMMISSIONER MITTEN: Sorry.

25 CHAIRMAN GRIFFIS: An excellent question.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Let me give Ms. Mitten an opportunity to speak to the
2 motion and then I will address that.

3 COMMISSIONER MITTEN: The question being
4 how is 40 an appropriate number?

5 CHAIRMAN GRIFFIS: No, no. You don't need
6 to speak to that. Speak to your motion.

7 COMMISSIONER MITTEN: I already did. Mr.
8 Zaidain spoke about -- he gave his reasoning and I
9 supported it and I don't want to belabor this any
10 more.

11 CHAIRMAN GRIFFIS: In terms of answering
12 that question for the Vice Chair in terms of how so,
13 first of all, the application is for 40 students. I
14 have deliberated and looked at the entire record based
15 on that and also based on 60. I think fundamentally
16 if we were to decide that in a year the school could
17 increase with compliance, then actually we have an
18 application for an enrollment of 60 students. That,
19 to me, was getting to a level of -- that I could not
20 start to measure the overall impact in terms of the
21 issues that are important to us and that's the noise
22 and the traffic. With the 40 students, it felt very
23 comfortable in terms of addressing those issues. The
24 plan that's been put by the Applicant -- it's a fine
25 line, as you start to add 10 or subtract 10 in terms

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of the monumentality of the use of this. I think the
2 previous and established use and the timing of the
3 use, the population that was in there set a beginning
4 stage for me to appropriately deliberate on the number
5 of students. And I feel very comfortable with what
6 we're doing in terms of conditioning this order and
7 addressing the issues that have come up in the
8 testimony based on the 40 students.

9 VICE CHAIRPERSON RENSHAW: I would feel
10 much more comfortable starting with a lower number and
11 having the Applicant prove to the Board that it can
12 accommodate 10 more and then work up to whatever the
13 community feels is acceptable, but I think that this
14 whole application has given us time to pause. We
15 needed to pause over these issues. The issues are
16 still there and have not been resolved. The issues
17 are still there. They have not been resolved. They
18 have yet to be proven, so I feel that 30 would be a
19 much more responsible place to start from.

20 CHAIRMAN GRIFFIS: Very well. Others on
21 the motion?

22 If not, then I would ask all those in
23 favor of the condition of maximum enrollment limited
24 to 40 students in grades 7 through 9 signify by saying
25 aye.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (Ayes.)

2 Opposed?

3 VICE CHAIRPERSON RENSHAW: Opposed.

4 MEMBER ZAIDAIN: I voted in favor. I
5 wanted to clarify my vote. I was a little slow there.

6 CHAIRMAN GRIFFIS: For our purposes now,
7 let's record Mr. Etherly's vote in favor with the
8 majority.

9 SECRETARY PRUITT: Staff would record the
10 vote 4:1 to approve the maximum enrollment shall be
11 limited to 40 students, grades 7 through 9.

12 CHAIRMAN GRIFFIS: Can we give that vote
13 again?

14 SECRETARY PRUITT: 4-1-0.

15 CHAIRMAN GRIFFIS: Four in support, one
16 opposed.

17 COMMISSIONER MITTEN: Are we ready to move
18 on?

19 (Pause.)

20 All right, Mr. Chairman, I would move the
21 following condition. The number of faculty and staff
22 combined shall not exceed 8 full-time and 4 part-time
23 persons.

24 CHAIRMAN GRIFFIS: Second. Discussion?
25 Did you say faculty?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 COMMISSIONER MITTEN: Faculty and staff.

2 CHAIRMAN GRIFFIS: Faculty and staff.

3 COMMISSIONER MITTEN: Yes.

4 VICE CHAIRPERSON RENSHAW: So it's eight
5 full-time and what was the rest of it?

6 CHAIRMAN GRIFFIS: Four part-time.

7 VICE CHAIRPERSON RENSHAW: Four part-time.

8 So it's faculty and staff --

9 MEMBER ZAIDAIN: That includes all
10 employees.

11 CHAIRMAN GRIFFIS: That includes
12 employees.

13 MEMBER ZAIDAIN: Of the operation.

14 CHAIRMAN GRIFFIS: Correct.

15 MEMBER ZAIDAIN: Okay.

16 VICE CHAIRPERSON RENSHAW: Now is that in
17 total or on any one day that there be no more than 8
18 and 4 on site?

19 COMMISSIONER MITTEN: That's total.

20 CHAIRMAN GRIFFIS: Clarification? Any
21 other questions? Motion has been made and seconded.
22 All those in favor?

23 (Ayes.)

24 Opposed?

25 (No response.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 SECRETARY PRUITT: Mr. Etherly, I assume
2 is affirmative?

3 CHAIRMAN GRIFFIS: I think for the record
4 today, we will have Mr. Etherly voting with the
5 majority. Mr. Etherly's proxy vote will not decide a
6 split vote.

7 SECRETARY PRUITT: Okay. The vote is 5-0-
8 0. Motion made by Ms. Mitten and seconded by Mr.
9 Griffis.

10 CHAIRMAN GRIFFIS: Thank you. Okay, the
11 last I had on my list of issues to address is that of
12 communication which also goes to compliance and it
13 goes to that overall neighborliness that we're talking
14 about. There has been a proposed condition for our
15 deliberations by the Applicant to create a community
16 liaison group that would have scheduled meetings
17 throughout the year and that the end of a year or at a
18 decided time would, in fact, produce a report on
19 compliance.

20 Discussion on that aspect?

21 COMMISSIONER MITTEN: Well, wasn't the
22 report on compliance, that role for the group, that
23 would have been part of the automatic increase, so
24 that role -- I don't know has to exist. I think that
25 the condition that was proffered by the -- I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 it's similar to what was proffered by the Applicant,
2 but the condition proffered by OP, I think, pretty
3 much gets the job done. I'll read it and then I'm
4 adding something at the end.

5 "The Applicant shall establish and
6 maintain a community liaison committee to address
7 community concerns. The committee shall include
8 representatives of ANC-3-D and the Palisades Citizens
9 Association. The Applicant shall conduct meetings of
10 the community liaison committee at least quarterly.
11 Notice of the meetings shall be given to the liaison
12 committee members and the owners of all property
13 within 200 feet of the site. Detailed minutes of
14 quarterly meetings will be maintained."

15 VICE CHAIRPERSON RENSHAW: And circulated.

16 And also, on this committee should be the neighbors,
17 the abutters to this property.

18 COMMISSIONER MITTEN: What I would suggest
19 is shall include, but not be limited to and then if
20 you're notifying the neighbors -- I mean this
21 committee doesn't take any action necessarily, so
22 you're circulating notice to people that are nearby.
23 So if we say include, but would not be limited to.

24 CHAIRMAN GRIFFIS: I think that would be
25 sufficient.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON RENSHAW: You said that
2 this is a committee that doesn't take any action?

3 COMMISSIONER MITTEN: Right.

4 VICE CHAIRPERSON RENSHAW: I thought the
5 purpose of this committee was to not just sit and spin
6 stories, but to take action on a problem that might
7 come before the committee.

8 COMMISSIONER MITTEN: It's an opportunity
9 to have an exchange, but they don't take votes that
10 then -- what are they going to vote to do?

11 VICE CHAIRPERSON RENSHAW: They're going
12 to take a vote to perhaps bring something before the
13 ANC, even though the ANC is represented on this
14 committee. They can vote to bring something to the
15 BZA.

16 COMMISSIONER MITTEN: But isn't the
17 purpose -- can I just finish?

18 VICE CHAIRPERSON RENSHAW: Sure.

19 COMMISSIONER MITTEN: Isn't it an
20 information exchange forum and then any entity
21 represented can take action. They can file a
22 complaint with the Office of Zoning. They can bring
23 something to the ANC for action. They can file for a
24 modification of a condition if they feel it doesn't
25 work. This committee isn't meant to take action on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 things unless they can agree. But if there were some
2 contentious issue, I don't see them agreeing.

3 CHAIRMAN GRIFFIS: My understanding for
4 the importance of the committee liaison, one, would be
5 that to be able to have communication and mitigate any
6 smaller problems that may be beyond this order and
7 these conditions and things that come up. Second, it
8 would be to monitor compliance with the conditions and
9 I think as you're saying if that was evidence, then
10 the participants in this would have already in place a
11 system by which they could pursue and that could be
12 talking to the Office of Zoning and the compliance
13 officer and that would, in fact, there's a form that
14 is to be filled out and I believe it's Form 300 that
15 would go to a notice of noncompliance. That would
16 then start the ball rolling in terms of going to DCRA
17 for action and it would take its own process, rather
18 than us establishing a process by which we would
19 essentially enforce noncompliance which although maybe
20 something we get into some day is not something we do
21 at this point.

22 So I think it's well stated in terms of
23 the edits as written by Ms. Mitten and I think it will
24 accomplish its stated purpose.

25 VICE CHAIRPERSON RENSHAW: And are we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 going to insert the hotline idea?

2 CHAIRMAN GRIFFIS: Oh. I mean --

3 VICE CHAIRPERSON RENSHAW: There should be
4 for the school's safety and for the neighbors a 24-
5 hour hotline where someone can call.

6 MEMBER ZAIDAIN: When you say a hotline, I
7 mean obviously the school can be contacted. I don't
8 know if sending out a separate phone line --

9 VICE CHAIRPERSON RENSHAW: How are they
10 going to contact the school off hours, if something is
11 amiss? And I don't want to create a situation, but I
12 think there's the need. It would be a comfort factor
13 for the school to have a number where a neighbor can
14 call if there is something to report.

15 MEMBER ZAIDAIN: I think it's an important
16 issue, Ms. Mitten, forgive me, Vice Chair Renshaw, as
17 part of that neighborhood, that there ought to be an
18 establishment of contact, but I think we should leave
19 that up to the appropriate means. There may be
20 several. There may be a number that's called 24
21 hours. There may be some other means and that should
22 come out of this committee, rather than prescribing
23 the very specific things that have to be established.
24 Let's let this committee work and establish that.

25 VICE CHAIRPERSON RENSHAW: Right, but the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 committee may not be called into session for a number
2 of months, after the school is in operation.

3 MEMBER ZAIDAIN: Okay.

4 VICE CHAIRPERSON RENSHAW: I feel that
5 there should be a number circulated, perhaps given to
6 the ANC and the ANC circulates it or to the Neighbors
7 United Trust. Here is a number where we can reach a
8 school official, perhaps the headmaster, if there is
9 anything to report.

10 MEMBER ZAIDAIN: I completely agree with
11 what you want to do, but I just don't see how them
12 calling the school does not achieve what you'd want.
13 If they have a 24-hour hotline, they're not going to
14 be -- we're getting into a semantical argument about
15 telecommunications here. But they're not going to
16 hire somebody to man a phone 24 hours a day. I'm
17 saying they can call the school, if nobody is at the
18 school they can leave a voice mail.

19 VICE CHAIRPERSON RENSHAW: I'm saying a
20 hotline in that there should be a number where
21 emergencies or their requests are recorded and dealt
22 with in a timely fashion. And something that is not
23 just going to wait until six months down the road, the
24 liaison committee meets.

25 MEMBER ZAIDAIN: I'm not even talking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 about the liaison committee.

2 VICE CHAIRPERSON RENSHAW: How do they get
3 in touch with the school?

4 MEMBER ZAIDAIN: Why can't they call them
5 directly?

6 VICE CHAIRPERSON RENSHAW: All right, but
7 I am saying that whatever number it is, and whoever is
8 the contact person, that information should be shared
9 with the neighbors so they have it on hand just in
10 case. Easy as pie.

11 MEMBER ZAIDAIN: I agree with what you're
12 saying, I just think the word "hotline" is what scares
13 me.

14 COMMISSIONER MITTEN: Well, a 24 hour. I
15 think they can either call information or look in the
16 telephone book, get the telephone number, make a
17 telephone call. If there's a true emergency, they
18 should call the police or the fire department or
19 something like this and having -- being able to leave
20 a message with someone at 1 o'clock in the morning
21 doesn't guarantee action either. We can't guarantee
22 anything in terms of responsiveness. If they violate
23 a condition, it's going to have to go through a
24 certain procedure. If there's a true emergency, then
25 somebody else besides the people at the school

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 probably need to get the call.

2 VICE CHAIRPERSON RENSHAW: I am saying
3 that the school should provide a number and a contact
4 for the neighbors to call and whatever the message is,
5 whatever time of day, somebody or something will pick
6 up the message. And that's the way it should be.
7 That relationship between the school and the
8 neighbors. There should be that contact.

9 COMMISSIONER MITTEN: And I think there
10 will be. This is a -- we're trying to create an
11 enforceable order that relates to land use principles
12 and we can micromanage this thing until the cows come
13 home and this is what you're suggesting just goes a
14 little bit too far and what I would like to suggest is
15 that we take the vote on the motion that I put
16 forward. If you'd like to put forward an alternative
17 motion for an additional condition, we'll see if that
18 makes it up or down, just to move things along.

19 CHAIRMAN GRIFFIS: Good. So the motion
20 before us --

21 MEMBER ZAIDAIN: Can you restate the
22 motion? Forgive me --

23 COMMISSIONER MITTEN: The condition reads
24 as follows: "The Applicant shall establish and
25 maintain a community liaison committee to address

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 community concerns. The committee shall include, but
2 not be limited to representatives of ANC-3-D and the
3 Palisades Citizens Association. The Applicant shall
4 conduct meetings of the community liaison committee at
5 least quarterly. Notice of the meeting shall be
6 given to the liaison committee members and the owners
7 of all property within 200 feet of the site. Detailed
8 minutes of quarterly meetings will be maintained and
9 circulated among the members."

10 MEMBER ZAIDAIN: I'll second the motion.

11 CHAIRMAN GRIFFIS: Thank you, Mr. Zaidain.

12 VICE CHAIRPERSON RENSHAW: Discussion?

13 CHAIRMAN GRIFFIS: Yes.

14 VICE CHAIRPERSON RENSHAW: Who is going to
15 decide whether or not the neighbors can play an active
16 part in this committee?

17 MEMBER ZAIDAIN: We're not precluding them
18 from -- it's established that they can.

19 VICE CHAIRPERSON RENSHAW: But the
20 neighbors are invited to participate on this
21 committee?

22 MEMBER ZAIDAIN: Absolutely.

23 COMMISSIONER MITTEN: Anybody can
24 participate.

25 MEMBER ZAIDAIN: And if I understand the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 motion, she stated that everybody within 200 feet
2 would be notified.

3 VICE CHAIRPERSON RENSHAW: They get
4 special notice.

5 COMMISSIONER MITTEN: It does not preclude
6 anyone from participating.

7 VICE CHAIRPERSON RENSHAW: Thank you.

8 CHAIRMAN GRIFFIS: Further discussion?
9 All in favor?

10 (Ayes.)

11 Any opposed?

12 VICE CHAIRPERSON RENSHAW: I'm in favor.
13 And an additional motion that --

14 SECRETARY PRUITT: Excuse me, Ms. Renshaw.
15 Was that one dissent?

16 MEMBER ZAIDAIN: No, she voted in favor.

17 SECRETARY PRUITT: Staff would record the
18 vote as 5-0-0 then to approve, as modified.

19 VICE CHAIRPERSON RENSHAW: All right, an
20 additional motion that the school shall circulate a
21 contact and a telephone number to the immediate
22 abutters and residents of Ashby Street in order to
23 receive any communiques necessary for school
24 attention.

25 CHAIRMAN GRIFFIS: Is there a second?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Very well. It appears the motion has failed for lack
2 of a second.

3 I think one thing we can honestly say in
4 the process is that we have now gone through in this
5 is that contact numbers, e-mails and addresses are
6 probably very well known and I hope that they
7 continue to be used. As I stated, I think that the
8 community liaison group is the appropriate forum for
9 which to establish how short-term emergencies, midterm
10 and long term problems are addressed and solved.

11 VICE CHAIRPERSON RENSHAW: I hope that's
12 not just wishful thinking.

13 CHAIRMAN GRIFFIS: Lastly -- do we have
14 anything else?

15 COMMISSIONER MITTEN: We have the
16 transportation issue.

17 CHAIRMAN GRIFFIS: Let us go to
18 transportation and that is -- the Applicant has laid
19 out generally that students will be dropped off at the
20 main campus. The main campus will have the busses
21 that will then transport them over to the MacArthur
22 site and they will drop them in front of the building.
23 There's an establishment of a new walkup up from
24 MacArthur that may be utilized for entering the school
25 that will keep them immediately on the site and off of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MacArthur.

2 There's also the issue of whether there's
3 the possibility of a certain number in a carpool would
4 be able to drop off at the MacArthur site. Those are
5 the issues as I have them outlined in my mind for
6 discussion.

7 I'd gladly hear others.

8 COMMISSIONER MITTEN: There are a couple
9 of things that haven't been addressed in the
10 conditions that had been proffered. We have hours for
11 drop off at the main campus. We don't have hours for
12 the shuttle bus to be at the subject property. I
13 think we need to establish a window of time beyond
14 which they won't be dropping off students, consistent
15 with what they suggested would be the operation and
16 the same thing for the pick up in the afternoon.

17 CHAIRMAN GRIFFIS: I don't have a problem
18 with that. I think I have a lack of understanding.
19 The program to drop the students off is to get them on
20 time for start of school, and to pick up at the end of
21 school.

22 COMMISSIONER MITTEN: Right.

23 CHAIRMAN GRIFFIS: Are you anticipating
24 that there's a problem that they may be dropping off
25 students all day long?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MITTEN: Well, just to
2 anticipate that and we're dealing with finite windows
3 of time.

4 CHAIRMAN GRIFFIS: Okay.

5 COMMISSIONER MITTEN: So that it's not
6 this dribble drabble thing that happens over the
7 entire morning. I mean I don't know, but I think to
8 add predictability and enforceability, we need to
9 establish the hours.

10 CHAIRMAN GRIFFIS: How do we establish
11 events that students are transferred off MacArthur to
12 other areas?

13 COMMISSIONER MITTEN: I'm sorry, what do
14 you mean?

15 CHAIRMAN GRIFFIS: If there's -- I think
16 --

17 COMMISSIONER MITTEN: Oh, a midday thing
18 like a field trip or something?

19 CHAIRMAN GRIFFIS: Right.

20 COMMISSIONER MITTEN: Oh, I see what
21 you're saying.

22 CHAIRMAN GRIFFIS: My understanding of
23 this and of the school itself is that the buses will
24 run at a very finite time and frankly, if you miss the
25 bus, you're late for school. And so I didn't see that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 as a huge item that needed to be regulated in a
2 window, but I don't have a problem with it. I think
3 it will be redundant.

4 COMMISSIONER MITTEN: Okay. I can go
5 along with that. I think the approved shuttle route,
6 we have to have the exhibit number that the shuttle
7 route is articulated in because it is the approved
8 shuttle route as proffered to us not as changes from
9 time to time. And I think there needs to be
10 supervision. There was testimony about how efficient
11 this process was going to be and I don't think it's
12 going to be efficient without supervision.

13 VICE CHAIRPERSON RENSHAW: Supervision?

14 CHAIRMAN GRIFFIS: Unloading?

15 COMMISSIONER MITTEN: Yes.

16 CHAIRMAN GRIFFIS: Indeed.

17 VICE CHAIRPERSON RENSHAW: And that will
18 also, hopefully, keep the noise down.

19 CHAIRMAN GRIFFIS: Indeed. And keep
20 everyone safe.

21 My issue with -- I think we do need to
22 understand and have a specific route for the busses,
23 but I think it's also going to be important that,
24 first of all, that DDOT weighs in as they have
25 somewhat on this, but there needs to be flexibility

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and I'm not sure how we got there to do that in that
2 if this bus route doesn't work for the community or
3 isn't working for the school, both conceivably, we
4 have to have some sort of relief valve so that it can
5 change.

6 COMMISSIONER MITTEN: Right, that's called
7 modification, request for modification.

8 CHAIRMAN GRIFFIS: You're saying they
9 would come back to this Board for modification in
10 order to change the bus route?

11 COMMISSIONER MITTEN: Yes. There's been
12 public testimony about the route and we've taken all
13 that into consideration in saying yes, that route, we
14 will accept that route. And I know from experience
15 that there's often the sort of side agreements that
16 take place with DDOT or DCRA to say okay, well, that's
17 not working. Let's just change something and the
18 public doesn't get to participate in that process.

19 CHAIRMAN GRIFFIS: I see.

20 COMMISSIONER MITTEN: That's again
21 something that shouldn't happen because if there's a
22 specific route approved in an order, but that's all
23 the more reason why we have to call it out in the
24 exhibit number and say if this isn't working, come
25 back to us because we're the ones who said it's this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 series of conditions that make this acceptable and
2 those conditions don't get to change. You can't
3 change one in a vacuum. And we're the ones who have
4 the -- presumably have the whole picture, whereas
5 DDOT, DDOT's looking at one aspect of it when they
6 decide how to change the route. That's why I think we
7 should be specific.

8 CHAIRMAN GRIFFIS: I won't push it but I
9 somehow disagree in terms of that's a very finite
10 piece and that DDOT actually may have a better
11 understanding. But that being said, I would agree
12 with that. Do you form that in a motion?

13 COMMISSIONER MITTEN: Okay. This may
14 require a little bit of modification.

15 CHAIRMAN GRIFFIS: Sure.

16 COMMISSIONER MITTEN: But we'll just start
17 with this. Students who do not walk to school from
18 home or arrive by public transportation, shall be
19 dropped off at the gym on Whitehaven Parkway between
20 the hours of 7:30 a.m. and 7:55 a.m. The students
21 will then be shuttled by bus to the subject property.

22 The shuttle vehicle will arrive at the site by
23 traveling on MacArthur Boulevard. The vehicle will
24 stop and discharge students, I want to say along
25 MacArthur Boulevard in front of the building without

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 talking about the bus stop. The shuttle will return
2 to Whitehaven Parkway via the approved shuttle route
3 (see Exhibit No. blank). The pickup of the students
4 in the afternoon shall be from the gym on Whitehaven
5 Parkway. Parents will not be permitted to drop off or
6 pick up children at the subject property at arrival
7 and dismissal times, except in such special
8 circumstances as when a child is late due to a
9 doctor's appointment.

10 VICE CHAIRPERSON RENSHAW: And how is that
11 handled?

12 COMMISSIONER MITTEN: I would say
13 something like parental drop off in these special
14 circumstances shall be to the Ashby Street parking
15 lot.

16 (Pause.)

17 CHAIRMAN GRIFFIS: Ms. Mitten, you had
18 others?

19 COMMISSIONER MITTEN: What this condition
20 doesn't address and I just haven't crafted the right
21 language is we have the special circumstance when a
22 kid has to go to the doctor, okay, fine. It happens
23 infrequently and is not going to be that big of a
24 problem. But what if you have a parent who is
25 chronically late getting the kid to the shuttle bus?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 That's probably the most significant concern. What I
2 don't know is how to address that.

3 CHAIRMAN GRIFFIS: I think it will be
4 addressed and I think other Board Members share that
5 concern. I think it will be addressed in the academic
6 program. I mean students cannot be -- it is not
7 acceptable, my understanding of schools, with my
8 little recollection, is that you cannot be chronically
9 late or disciplinary actions will be taken.

10 COMMISSIONER MITTEN: I know that part,
11 but what if the parent -- I don't know how the hours
12 of school, the child misses the shuttle bus and so
13 before school officially starts, the parent manages to
14 get into the Ashby Street parking lot and drop the kid
15 off and does this routinely. So how is that going to
16 be addressed?

17 VICE CHAIRPERSON RENSHAW: Somebody has
18 got to be in charge of this shuttle bus program.
19 Somebody has got to be keeping score and it shouldn't
20 have to be the neighbors keeping score of a car that
21 keeps showing up in the parking lot.

22 COMMISSIONER MITTEN: Well, that's right
23 and I think maybe the way to do it is that we would
24 add to the condition something like the special
25 circumstance where you could come late is established

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 in advance because you know that the child has the
2 doctor's appointment in advance so that that child
3 would then -- it would be known that they wouldn't be
4 taking the shuttle bus, so they would be permitted on
5 that particular day to be dropped off by the parent,
6 but any other day they would be required. We could
7 say all students are otherwise required and will be
8 monitored by the Applicant for taking the shuttle bus.
9 Something like that.

10 CHAIRMAN GRIFFIS: I understand your
11 intent. I think it's good.

12 VICE CHAIRPERSON RENSCHAW: And the reports
13 are available to the liaison committee.

14 COMMISSIONER MITTEN: Okay.

15 VICE CHAIRPERSON RENSCHAW: Now do I
16 understand, Ms. Mitten, that this is shuttle bus only
17 or is this carpool and shuttle bus?

18 COMMISSIONER MITTEN: I didn't include the
19 carpooling part.

20 VICE CHAIRPERSON RENSCHAW: Because we're
21 trying to keep the numbers of vehicles to Ashby Street
22 to a minimum.

23 COMMISSIONER MITTEN: Right. Not only
24 that, but I think the issue about carpooling parents,
25 being able to drop off at the subject property, it's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 -- what we're striving for is something that's
2 enforceable and when you start having, when you give
3 the opportunity to certain parents to drop off at the
4 property, then you have well, I saw a car and how many
5 kids got out and all that and it's better to just
6 eliminate that possibility entirely. If in the future
7 we find that they have very effective carpooling
8 program and a look at what would actually be more
9 efficient if that could be a modification. But I
10 think at this point it's shuttle buses dropping off
11 kids, exclusively and that carpooling parents can make
12 the trek the rest of the way to Whitehaven.

13 CHAIRMAN GRIFFIS: Excellent. Do we need
14 that restated? The Board has an understanding of it?

15 COMMISSIONER MITTEN: I'm trying to work
16 on a sentence to capture what I had mentioned about
17 the monitoring of the students on the shuttle bus.

18 (Pause.)

19 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I
20 have two points. Or perhaps I should wait until Ms.
21 Mitten is --

22 COMMISSIONER MITTEN: Okay, I think I have
23 it.

24 VICE CHAIRPERSON RENSHAW: Well, one thing
25 I wanted to bring up is that the shuttle buses should

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 not be allowed to idle in front of the school. This
2 -- and I'm concerned about buses arriving at the
3 school for the afternoon pickup, for instance, and
4 sitting there with their motors running. One, it's
5 pollution and two, it's noise. And if they arrive
6 early that they're going to have to park in front of
7 the school, even though that's a bus zone, because
8 what we don't want to have are early buses parking
9 somewhere else in the neighborhood waiting for the
10 appropriate hour to appear before the school.

11 COMMISSIONER MITTEN: Okay. I'll add
12 something for that.

13 VICE CHAIRPERSON RENSHAW: And I have one
14 other point to make.

15 CHAIRMAN GRIFFIS: She's scribing. Keep
16 it rolling.

17 COMMISSIONER MITTEN: Okay, go ahead.

18 VICE CHAIRPERSON RENSHAW: We received a
19 copy of the enrollment contract back in July and this
20 was proffered to us as an example of how the parents
21 will be signing on to the new transportation
22 arrangement. However, drop off and pick up is buried
23 on page 2 under No. 6 of the contract. And it's just
24 a sentence further "I agree to adhere, without
25 exception, to the regulations governing drop off and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 pick up of students in grades 7 and 8" -- no mention
2 of 9 -- "I recognize that the failure to do so may" --
3 not will -- "result in my child's exclusion from the
4 school." I mean it's very tentative. It's very
5 buried. And it is my hope that the Applicant blow up
6 the shall we say the type size in this contract so
7 that it is well noted by the parents that this is what
8 they're signing on to do.

9 CHAIRMAN GRIFFIS: Excellent point. I
10 think clearly any sort of contract they have with
11 their parents should be understood and signed on to.
12 I don't think it warrants --

13 VICE CHAIRPERSON RENSHAW: And
14 highlighted.

15 CHAIRMAN GRIFFIS: Highlighted.

16 VICE CHAIRPERSON RENSHAW: Highlighted in
17 the contract.

18 CHAIRMAN GRIFFIS: And I think we can
19 leave that as an direction to the Applicant.

20 Ms. Mitten, are you finished drafting?

21 COMMISSIONER MITTEN: Yes. I'll just read
22 sort of the tail end of this -- of what I had read
23 earlier. "The pick up of students in the afternoon
24 shall be from the gym on Whitehaven Parkway. All
25 students will be required to take the shuttle bus both

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 to and from the Whitehaven campus. The Applicant
2 shall monitor such compliance daily and make such
3 compliance a condition of enrollment. Parents will
4 not be permitted to drop off or pick up children at
5 the subject property at arrival and dismissal times
6 except in pre-arranged special circumstances such as
7 when a child is late due to a doctor's appointment.
8 Parental drop off in these special circumstances shall
9 be to the Ashby Street parking lot. There shall be no
10 staging of shuttle buses at the subject property."

11 CHAIRMAN GRIFFIS: Very well. Is there a
12 second?

13 VICE CHAIRPERSON RENSHAW: If there's no
14 staging of buses at the subject property, again, in
15 the afternoon where are those buses going to -- we're
16 hoping that those buses are not released from the
17 Whitehaven site until it is time to move to the front
18 door of Ashby Street. However, if those buses are
19 early, and are released from Whitehaven early because
20 of traffic circumstances, where are they going to go
21 because they are not going to be idling or staging in
22 front of the school?

23 COMMISSIONER MITTEN: I don't think we can
24 -- I mean don't know that we can address that, really.
25 I mean we can't address a lot of things that go on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 elsewhere. We can only address what's going on here.

2 VICE CHAIRPERSON RENSHAW: Well, that they
3 cannot idle or stage on a neighborhood residential
4 street.

5 COMMISSIONER MITTEN: But there's other
6 laws that govern that. We're trying to protect this
7 property in an adverse impact that we think might be
8 concentrated here. If they go driving around and go
9 idle someplace else, they're allowed to idle for 3
10 minutes or whatever it is and then they're supposed to
11 go some place else. We can't, again, we can't
12 micromanage to that degree, I don't think.

13 VICE CHAIRPERSON RENSHAW: But we need to
14 also protect the community and the community should
15 know that this is not going to be allowed to idle or
16 just kind of wait for the time when the students are
17 leaving the school to pull up in front of the school.

18 COMMISSIONER MITTEN: What would you
19 suggest?

20 VICE CHAIRPERSON RENSHAW: I would say
21 that the buses must be held at the Whitehaven site
22 until such time as they are -- the appropriate hour
23 for them to arrive at the Ashby Street school. In
24 other words, they can't be sent off early.

25 CHAIRMAN GRIFFIS: Right. I think it's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 clear. Ms. Mitten, I somewhat agree if we push them,
2 I think we ought to limit and focus on the exact site
3 that is under application, but there is a request for
4 amendment to your motion. Are you accepting it?

5 COMMISSIONER MITTEN: That's fine. I mean
6 that's what they're going to do anyway. But that's
7 fine.

8 CHAIRMAN GRIFFIS: Okay, so we'll include
9 --

10 COMMISSIONER MITTEN: There's no incentive
11 to have the bus go sit and idle.

12 CHAIRMAN GRIFFIS: We'll include language
13 that addresses the intent of buses will be stored on
14 the main campus and then released in time or in a
15 timely fashion to make it to the MacArthur Boulevard
16 site for pick up and drop off.

17 Is there a second to the motion?

18 VICE CHAIRPERSON RENSHAW: Second.

19 CHAIRMAN GRIFFIS: Thank you very much.
20 Any further discussion?

21 All those in favor, signify by saying aye.

22 (Ayes.)

23 Opposed?

24 (No response.)

25 SECRETARY PRUITT: Staff will record the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 vote as 5-0-0. Motion made by Ms. Mitten. Seconded
2 by Ms. Renshaw.

3 CHAIRMAN GRIFFIS: Excellent. That's all
4 I have in terms of the --

5 COMMISSIONER MITTEN: We have another one.

6 CHAIRMAN GRIFFIS: That's all I have. If
7 there are others, I will gladly hear.

8 COMMISSIONER MITTEN: All right, I would
9 propose a motion, propose a condition as follows: A
10 carpool program shall be established, instituted and
11 monitored by the school and approved by DDOT prior to
12 the issuance of the certificate of occupancy for the
13 subject property. The Applicant shall submit an
14 evaluation and progress report to DDOT for its written
15 evaluation of the program on a yearly basis. The
16 progress report and the DDOT response shall be
17 forwarded to the community liaison committee.

18 VICE CHAIRPERSON RENSHAW: This is a
19 carpool program?

20 COMMISSIONER MITTEN: Yes.

21 VICE CHAIRPERSON RENSHAW: I thought we
22 were not having a carpool program.

23 COMMISSIONER MITTEN: The carpool program
24 relates to people coming to the Whitehaven campus and
25 trying to get that average vehicle occupancy rate up.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON RENSHAW: Okay.

2 COMMISSIONER MITTEN: Which is an integral
3 part --

4 CHAIRMAN GRIFFIS: I'm sorry -- I
5 absolutely agree with that. It's an excellent point,
6 but it goes to the students who are at MacArthur are
7 also encouraged and we're anticipating, are carpooling
8 as part of the overall program, but they are part and
9 parcel to this plan.

10 Is that correct, Ms. Mitten?

11 CHAIRMAN GRIFFIS: Very well. Any other
12 questions?

13 VICE CHAIRPERSON RENSHAW: So it's
14 carpooling program to the Whitehaven -- to and from
15 the Whitehaven campus?

16 CHAIRMAN GRIFFIS: Yes.

17 COMMISSIONER MITTEN: Why don't we say
18 this. A carpool program will be established,
19 instituted and monitored by the Applicant instead of
20 "the school." Because the Applicant is bigger than
21 this subject. It's not confining it to the subject.
22 So if we say by the Applicant, then it includes --
23 it's inclusive of both.

24 VICE CHAIRPERSON RENSHAW: But you are
25 adding the language that this is a carpool program to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and from the Whitehaven campus.

2 COMMISSIONER MITTEN: Okay, carpool
3 program to and from the Whitehaven campus.

4 MEMBER ZAIDAIN: And the progress reports
5 have to be sent to DDOT and the community liaison
6 committee?

7 COMMISSIONER MITTEN: Right.

8 CHAIRMAN GRIFFIS: I'll second the motion.
9 Is there any other discussion, clarification on the
10 motion?

11 Then all those in favor, signify by saying
12 aye.

13 (Ayes.)

14 Opposed?

15 (No response.)

16 SECRETARY PRUITT: Staff will record the
17 vote as 5-0-0. I do have a question of clarification.

18 The Applicant shall submit -- shall get approval from
19 DDOT and then shall submit progress reports to DDOT
20 and the community or does it need to get approval from
21 the community also?

22 COMMISSIONER MITTEN: No, the Applicant
23 shall submit an evaluation and progress report to DDOT
24 for its written evaluation of the program on a yearly
25 basis. The progress report and the DDOT response

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 shall be forward to the community liaison committee.
2 It's only to share, not to --

3 SECRETARY PRUITT: Thank you.

4 CHAIRMAN GRIFFIS: Okay then.

5 COMMISSIONER MITTEN: We have the issue of
6 the term. When I first made the big motion to
7 approve, I said that there's two ways that we could
8 approach this in terms of guaranteeing that if either
9 the conditions are insufficient or that the conditions
10 are not being adequately enforced, that the community
11 would not have to just live with that for however long
12 or indefinitely or whatever it is. And the ways to
13 approach that are the term or another condition. So
14 before we talk about term in isolation, I'd like to
15 propose the alternative condition that might inform --
16 well, it might decide how we want to approach it.

17 CHAIRMAN GRIFFIS: Very well.

18 COMMISSIONER MITTEN: I could do that. I
19 would propose that in the alternative something along
20 these lines. The special exception shall be valid for
21 a period of let's say 10 years, just for argument's
22 sake, for the purposes of articulating this, except
23 the special exception shall terminate and require --
24 and this order will require modification upon receipt
25 of evidence that the Applicant has either admitted

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 violating, paid a fine for violating or has been found
2 by DCRA after hearing to have violated either specific
3 conditions or the same condition on three or more
4 occasions. So that if there is chronic noncompliance
5 with a condition that is established, not if it's
6 alleged and it's disputed, but it's been established
7 that that means you come back to the BZA. Something
8 is obviously not working.

9 CHAIRMAN GRIFFIS: Right, and the
10 operative agency for that is DCRA, is that correct?

11 COMMISSIONER MITTEN: Well, DCRA would be
12 the one to issue the citation.

13 CHAIRMAN GRIFFIS: Exactly. That would be
14 the establishment of a noncompliance.

15 COMMISSIONER MITTEN: Right.

16 CHAIRMAN GRIFFIS: What you're proposing,
17 if I understand you correctly is actually a level that
18 is quantifiable, that there has been a series of
19 noncompliance and is it your understanding that it
20 would be -- I think you indicated three issuance of
21 noncompliance be defined and that's for the single
22 issue or is it three total?

23 COMMISSIONER MITTEN: I would suggest that
24 it would be if they have chronic noncompliance with a
25 particular condition, so it would have to be a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 violation of the same condition, maybe not in exactly
2 the same way, but the same condition three times, they
3 have to come back to us.

4 CHAIRMAN GRIFFIS: Okay. And is there a
5 time period involved in terms of is it 3 in a year or
6 3 within 10 years?

7 COMMISSIONER MITTEN: I hadn't thought
8 about that. I guess it depends upon -- the time frame
9 could be if you decide that you will have a term for
10 the overall approval, it could just be within the time
11 frame or it could be a shorter period if you decide
12 you don't want a time frame for the approval and this
13 is going to substitute for having a term.

14 CHAIRMAN GRIFFIS: Right. I guess that
15 does bring up the next question. Is a term period for
16 the order tied directly to this system that you have
17 in place for understanding noncompliance, if it
18 exists? Include that in your system and/or is what
19 you're saying, correct?

20 COMMISSIONER MITTEN: Right.

21 CHAIRMAN GRIFFIS: Okay. In which case if
22 you took off 10 years, you've thrown out there and
23 indicated, for instance, that 3 issuances of fine for
24 noncompliance for a single condition within a frame,
25 time frame of 3 years, that would be sufficient?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MITTEN: Something like that.

2 CHAIRMAN GRIFFIS: Others?

3 VICE CHAIRPERSON RENSHAW: I think I'd
4 like to hear it in full and then discuss this time
5 frame because are you sticking with 10 years or did
6 you just put that in for --

7 COMMISSIONER MITTEN: I just was trying to
8 put it all out there for discussion, any part of it
9 can be --

10 VICE CHAIRPERSON RENSHAW: So a term to be
11 filled in --

12 COMMISSIONER MITTEN: Right. To be filled
13 in or to have no term, just depending on what
14 direction the Board wants to go in or if you want to
15 just not have that at all and just have a term.

16 CHAIRMAN GRIFFIS: I think we're looking
17 at one or the other, frankly.

18 VICE CHAIRPERSON RENSHAW: No, not
19 necessarily.

20 CHAIRMAN GRIFFIS: There's a system that
21 you're establishing, actually is more flexible in
22 terms of the timely reporting.

23 We've talked numerous times about if there
24 are modifications made they can come back and I think
25 the whole point of the time limit and if we set it up

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 for 10 years, then we could have 10 years of
2 noncompliance and then hear it and a new application
3 or not -- I hear you setting up an interesting system,
4 by which it is not specifically time constrained, but
5 floating for its entirety and it all goes back to the
6 fact that what's of utmost importance is making sure
7 this runs effectively and efficiently and in
8 compliance with our order.

9 COMMISSIONER MITTEN: Right. Let's just
10 say there was a problem and I don't know what the
11 problem might be, but let's say the violation was of
12 something like -- oh, let's say, what could the
13 violation be? Let's say it just got to be untenable
14 -- there were too many kids outside at one time, just
15 because sheer volume of kids. Then let's say they
16 were determined to have violated the order regarding
17 outside activities, but the real thing is there's too
18 many kids. So when they come back to us, we look at
19 the totality and we don't just say oh, you have a
20 problem with outside activities. We say we really
21 need to scale back the number of students. But that's
22 why they need to come to us because there has to be a
23 sort of holistic approach to dealing with this, still
24 in the mode that there would have to be certain
25 circumstances under which this school can exist, at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 least under the regs that we have now. So I think
2 this could actually be happening more frequently, but
3 people aren't aware of the fact that they should come
4 to us. If conditions aren't working, even someone in
5 the community can come and say this order requires
6 modification.

7 CHAIRMAN GRIFFIS: Okay. I think for
8 direct discussion why don't you craft it as you want
9 it, as a motion and we'll have it seconded and move
10 ahead with it that way.

11 COMMISSIONER MITTEN: Okay. The special
12 exception shall be valid, except that the special
13 exception shall terminate and this order will require
14 modification upon receipt of evidence that the
15 Applicant has either admitted violating, paid a fine
16 for violating or has been found by DCRA after hearing
17 to have violated the same condition on three or more
18 occasions.

19 VICE CHAIRPERSON RENSHAW: So it has to be
20 the same thing. It's not --

21 COMMISSIONER MITTEN: The same condition.
22 Not the same thing, but the same condition. They
23 repeatedly -- the conditions the way they're crafted,
24 it's sort of thematic, you know. You got one about
25 parking. You have one about traffic. You have one

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 about carpool plan. You have one about a fence. So
2 if there's a thematic problem, an issue-related
3 problem, it's going to show up with a violation of the
4 same condition.

5 CHAIRMAN GRIFFIS: I'd just like to make a
6 friendly amendment, I hope to that motion and that is
7 to add three or more times on one condition within 5
8 years.

9 COMMISSIONER MITTEN: I'm sorry, you said
10 that before, yes.

11 CHAIRMAN GRIFFIS: Okay.

12 COMMISSIONER MITTEN: Within five years?

13 CHAIRMAN GRIFFIS: Yes. I would second
14 the motion. Discussion on the motion?

15 VICE CHAIRPERSON RENSHAW: I would like to
16 shorten the term. I think that 5 years --

17 COMMISSIONER MITTEN: There's no term in
18 what I proposed.

19 VICE CHAIRPERSON RENSHAW: We got the one
20 the Chairman has just said within 5 years.

21 COMMISSIONER MITTEN: I see. I'm sorry.

22 VICE CHAIRPERSON RENSHAW: So the special
23 exception is valid for 5 years, except that.

24 CHAIRMAN GRIFFIS: Ms. Renshaw, if you
25 shorten the term that I've just given, I think it goes

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the direction that you are not advocating.

2 VICE CHAIRPERSON RENSHAW: All right, so
3 it reads now that the special exception shall be valid
4 for five years --

5 COMMISSIONER MITTEN: No, no.

6 MEMBER ZAIDAIN: No, violations. They can
7 have this whole threshold of violations be 3 in 5
8 years.

9 CHAIRMAN GRIFFIS: Right, the time frame
10 in which the three violations occur is in a 5-year
11 time frame. So what it allows is in 10 years, in the
12 first year if they had two violations, and 10 years
13 that third one, after having no violations for that
14 condition. It starts over. And that's the first
15 violation. And I think that's a more realistic
16 assessment of whether there is compliance or not
17 compliance, rather than having always a black mark on
18 your academic record, it is actually -- starts over at
19 five years.

20 And clearly, if we're looking for
21 consistent, noncompliance and that's what this is
22 about, consistent noncompliance, then we're going to
23 see things very close together and at numerous times
24 and I think within five years that would address it.

25 VICE CHAIRPERSON RENSHAW: So you are not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 advocating any term?

2 CHAIRMAN GRIFFIS: That's correct.

3 VICE CHAIRPERSON RENSCHAW: I am not in
4 support of having an unlimited term.

5 CHAIRMAN GRIFFIS: Okay.

6 VICE CHAIRPERSON RENSCHAW: I would much
7 rather give the neighbors the handle that within 5
8 years this has to be come back for reassessment.

9 CHAIRMAN GRIFFIS: Okay, let's take this
10 motion and it doesn't preclude you from making an
11 additional motion.

12 Any other discussion on this motion?

13 Is there full understanding? Very well.
14 Then I'd ask all those in favor signify by saying aye.

15 (Ayes.)

16 Opposed?

17 VICE CHAIRPERSON RENSCHAW: I'm going to
18 abstain on this one.

19 CHAIRMAN GRIFFIS: Very well.

20 SECRETARY PRUITT: The staff would record
21 the vote as 4-0-1 with Ms. Renschaw abstaining.

22 Mr. Chairman, I just want to make sure
23 I've got this motion clear. You're saying that three
24 or more infractions within five years from the date of
25 the order issued, at the end of the five years, they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 start over with a clean slate?

2 COMMISSIONER MITTEN: No, because it's not
3 like okay, it has to happen within the first five
4 years. It's a running thing. When you get a ticket
5 or you get a citation --

6 SECRETARY PRUITT: I'm trying to figure
7 out when the five years --

8 CHAIRMAN GRIFFIS: The first citation for
9 condition 1 will then start the clock for condition 1
10 and there will be a 5-year time frame. And so if
11 there are three violations of condition 1, whatever
12 that is, within 5 years, then it kicks into the next
13 step.

14 VICE CHAIRPERSON RENSHAW: Is it the fact
15 that the established parties bring these to the
16 attention of DCRA and to the BZA or is it that anybody
17 can bring it back to the BZA or DCRA?

18 COMMISSIONER MITTEN: I think anybody has
19 the ability to bring any -- in any order, any
20 condition that they feel isn't working because
21 circumstances have changed or because it's
22 unenforceable or whatever. I honestly believe that
23 anybody can bring that to the attention of the BZA and
24 make a petition.

25 CHAIRMAN GRIFFIS: But let's be very clear

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on what we've established. We're actually creating a
2 bit of -- it's a small first step, Ms. Renshaw, and
3 then we're relying on a system that's already in
4 place.

5 VICE CHAIRPERSON RENSHAW: Right.

6 CHAIRMAN GRIFFIS: And that is for the
7 regulation of noncompliance through DCRA. We're not
8 creating that system. It is already available to us
9 and the community and the city at large.

10 VICE CHAIRPERSON RENSHAW: But it would
11 come back to the Board through DCRA.

12 CHAIRMAN GRIFFIS: Correct.

13 COMMISSIONER MITTEN: Well, I don't know
14 that DCRA is going to make the petition. I think the
15 burden is on the Applicant because it says the special
16 exception shall terminate and the order will require
17 modification.

18 So if they don't bring a modification back
19 to us, then they don't have a special exception.

20 CHAIRMAN GRIFFIS: Yes, it could just
21 disband.

22 MEMBER ZAIDAIN: But the violations
23 themselves, one violation would go through DCRA.
24 That's who determines whether or not it's a violation
25 or not.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 COMMISSIONER MITTEN: DCRA, they're
2 keeping score and when the score gets to -- well,
3 they're the umpire and when it gets to three strikes,
4 then other steps will be taken and it's incumbent on
5 the Applicant to make the application, but anybody
6 can.

7 CHAIRMAN GRIFFIS: Right.

8 VICE CHAIRPERSON RENSHAW: DCRA doesn't
9 know that it's the umpire, does it?

10 COMMISSIONER MITTEN: In fact, this
11 doesn't preclude -- if somebody wants to make a case
12 for -- well, there is compliance with the condition,
13 but the condition in practice doesn't work. Somebody
14 can make application to us to say that and say there
15 is an adverse impact. You thought this condition
16 would address it. It's not. They can make
17 application and we take that up. There's nothing
18 stopping them.

19 VICE CHAIRPERSON RENSHAW: I feel that the
20 Applicant should be back before the Board in a
21 specific amount of time.

22 CHAIRMAN GRIFFIS: Okay.

23 VICE CHAIRPERSON RENSHAW: In addition to
24 the ability of this system to go forward as has been
25 articulated.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: And that's why we've
2 separated them out, so I think --

3 VICE CHAIRPERSON RENSHAW: So I would make
4 a motion that the term be five years.

5 Do I have a second?

6 CHAIRMAN GRIFFIS: Is there a second to
7 the motion to limit the term of the special exception
8 for five years?

9 It appears that that motion fails for lack
10 of a second.

11 Okay, other issues to be addressed in any
12 condition. Not seeing any indication of that, I think
13 we've fulfilled it. Let me take this opportunity --
14 well --

15 COMMISSIONER MITTEN: I think we need to
16 vote. There was an original motion.

17 CHAIRMAN GRIFFIS: No, I understand.
18 We're not losing the fact that we have the motion to
19 -- clearly, we're getting to lunch time and people are
20 aggressively trying to monitor this, so I will move
21 on.

22 Let me take the motion first and then I
23 would like to give an opportunity for all Board
24 Members to take any sort of time they need to speak to
25 the whole process, to the motion itself, but it has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 been moved and seconded that there be an approval for
2 Application 16852 with the established conditions and
3 we have now established all those conditions.

4 I will give you an opportunity to speak to
5 that motion.

6 COMMISSIONER MITTEN: I spoke to it
7 earlier, but I guess I'd like to just make a comment
8 on what we've just gone through.

9 CHAIRMAN GRIFFIS: Okay, excellent.

10 COMMISSIONER MITTEN: This reminded me
11 very much of the campus plan deliberation that we've
12 just had and I think part of the reason why we have
13 had this arduous process is because not unlike the
14 campus plan regulations which the Zoning Commission
15 has determined don't work very well any more and we're
16 waiting -- we're awaiting new regulations to be
17 proposed by the Office of Planning. We had a round
18 table on this subject a while ago, the subject of
19 private schools in residential zones, particularly the
20 R-1 zones is an area that deserves new consideration
21 because the regulations were written back in 1958 that
22 permitted this. There's been a big evolution in the
23 number of private schools, the size, the way that they
24 interact with their neighborhood.

25 Mr. Griffis, you were talking about having

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 them become more integrated. When the original
2 regulations were written that kind of relationship
3 wasn't typical and so it wasn't contemplated. So I
4 would after having gone through this and having heard
5 the issues raised in other private school cases, I
6 will just pledge that in 2003, the Zoning Commission
7 will have a round table on the subject of private
8 schools in residential zones and hopefully we'll make
9 the regulations more workable for everyone involved,
10 so that we don't have to have these very -- we've
11 learned a lot about how to make conditions
12 enforceable, but this has been a little bit beyond the
13 pale.

14 MEMBER ZAIDAIN: Just to speak briefly to
15 what Ms. Mitten is saying, I completely agree. It's a
16 tough situation that we've been in, going through this
17 case because it's a use that the zoning somewhat
18 endorses in terms of being compatible with residential
19 areas, but it needs to be mitigated. But there's not
20 a whole lot of guidance given by the zoning
21 regulations. And that's unfortunate because here you
22 see us struggling with trying to get through something
23 that's got to balance the interest of the neighbors
24 and of the school's operation, so I would strongly
25 encourage the Zoning Commission to do that and also

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 deal with public schools because as, and you may have
2 mentioned this a second ago and I didn't hear it, but
3 the way the zoning is now, public schools can go in
4 these areas as a matter of right with no public
5 hearing process and if this were a public school, we'd
6 be in a much different situation, so I hope that gets
7 corrected.

8 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
9 first of all I would like to compliment both the
10 Applicant and the neighbors on their presentations
11 before the Board. It has been a trying period for
12 everyone. The difficulty of this application, I think
13 is spelled out in the number of conditions that we
14 have had to discuss the morning and fine tune. This
15 application is asking a great deal of the neighbors
16 who never expected that in addition to living in a
17 neighborhood and raising families and participating in
18 civil life, that they would have to monitor what is to
19 them a commercial operation in a residential zone.

20 Now the business of institutional
21 expansion and here it's a private school into
22 residential neighborhoods is a very sensitive issue
23 and it requires an enormous balancing act between the
24 parties, here, the private school and at the other
25 end, the neighbors, who are involved in this case and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 who live in the area.

2 And it's going to mean that we are asking
3 of them a great deal of good faith in trying to make
4 it work, but again, the Board has given direction as
5 far as if it's not going to work, then it behooves the
6 residents to come before the Board, file an
7 application to let us know that something isn't
8 working, but hopefully in the liaison committee which
9 again is one more, you might say, burden to the
10 neighborhood to have to contend with, but it is an
11 avenue for you to try to work things out and if that
12 fails, to come back before the Board and request a
13 change.

14 So it is our hope that it will work. it
15 is very difficult. I have my reservations about this.

16 I've expressed them at this meeting. I am
17 disappointed that we don't have a definite term where
18 we can say that the school will be back before us
19 within five years which was a reasonable amount of
20 time, to see whether or not this is really as good as
21 it has been proffered to us.

22 In any case, that is what we are advancing
23 today. I'm going to be voting with the majority on
24 this for one reason and that is to give an opportunity
25 to me to bring it back under reconsideration which

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 goes with the majority so that is the reason that I
2 will be voting in the affirmative. So that if
3 anything is going on that I feel should be
4 reconsidered, I will have the opportunity to bring
5 that back before the Board.

6 CHAIRMAN GRIFFIS: Thank you. Very well,
7 I thank you all. Frankly, this has been an excellent
8 process and I am proud to be on the Board with the
9 amount of difference of opinions and the amount of
10 work that went in in terms of deliberation and I agree
11 with you, Ms. Renshaw, that I also give thanks to the
12 Applicant and the participants in this in putting
13 together an excellent case for our deliberation.

14 Clearly, our actions today and the motion
15 before us goes to which arguments were persuasive and
16 which were not. I think we have exhausted all the
17 issues that go to the direct -- tying to the
18 regulation and I think that all of us hope that, in
19 fact, the implementation of these conditions and the
20 order work to the success of the residential
21 neighborhood and the school.

22 So with that, I would ask for all those in
23 favor of the motion to signify by saying aye.

24 (Ayes.)

25 And opposed?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (No response.)

2 SECRETARY PRUITT: Staff will record the
3 vote as 5-0-0. Motion made by Ms. Mitten to approve
4 the application with the conditions as modified,
5 seconded by Mr. Griffis.

6 CHAIRMAN GRIFFIS: Good. Thank you very
7 much. What I'm going to do is release everybody into
8 this gorgeous day for the morning session and adjourn
9 the public meeting of the 3rd of December 2002. I am
10 postponing action on our minutes until the afternoon
11 session after we've heard all the cases so that we
12 don't keep folks here longer than absolutely
13 necessary.

14 I thank you all for your participation and
15 wish you a good day.

16 (Whereupon, at 1:40 p.m., the public
17 meeting was concluded.)

18
19
20
21
22
23

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com