

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING AND ADJUSTMENT

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PUBLIC HEARING  
(Continued from February 15, 2005)

+ + + + +

Tuesday, February 22, 2005

+ + + + +

The Public Hearing was convened in the Office of Zoning Hearing Room, Suite 200 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:00 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

JOHN G. PARSONS              Zoning Commission

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY                  Acting Secretary  
BEVERLY BAILEY              Zoning Specialist  
JOHN K. A. NYARKU          Zoning Specialist

OFFICE OF THE ATTORNEY GENERAL:

SHERRY GLAZER, Esq.

OFFICE OF PLANNING:

JENNIFER STEINGASSER

This transcript constitutes the minutes from the special hearing held on February 22, 2005

A-G-E-N-D-A

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WARD THREE

PHILLIPS PARK, LLC, 2101 FOXHALL ROAD, N.W.  
APPLICATION NO. 17276 - ANC 3-D . . . . .7

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

9:09 a.m.

CHAIRMAN GRIFFIS: Take a seat and let me call to order the 22nd of February, 2005 special public hearing of the Board of Zoning Adjustments to the District of Columbia. My name is Geoff Griffis, chairperson. Joining me today is Vice-chair, Ms. Miller and also representing the National Capital Planning Commission is Mr. Mann. Representing the Zoning Commission with us is Mr. Parsons. Mr. Etherly will be with us shortly.

Copies of today's hearing agenda are available for you. I'm going to abbreviate some of my openings because we all know what we're here for this morning in this special meeting, but there are very important aspects that need to be understood by those who have been here and are just here for the first time this morning.

All proceedings before the Board of Zoning Adjustment are recorded. They're recorded in two fashions. The most important of course is a court reporter sitting to my right. I would ask anyone that's going to address the Board today that has not previously done, to fill out two witness cards prior to coming forward to speak to the Board. Those two

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1 witness cards go to the reporter prior to having a  
2 seat and making yourselves comfortable.

3 When you first address the Board, I'd ask  
4 that you state your name and address for the record.  
5 That way of course we can tie all the important  
6 testimony you will provide to you in the transcripts.

7 The order of procedure I am going to skip  
8 as we have set that already. We've started this  
9 application. We have taken a few things out of order  
10 and we need to get right to it.

11 Cross examination is of course going to be  
12 conducted by the applicant of this case, also by the  
13 parties and the ANC. We have established three  
14 parties in this case, all of which are able to conduct  
15 cross examination.

16 The record will be closed at the  
17 conclusion, I would anticipate, of today's hearing  
18 except for any additional material that the Board  
19 would request. We had started a short list and we'll  
20 review all that to make sure that everyone is  
21 absolutely understanding specifically that material  
22 which will be submitted into the Office of Zoning.  
23 After that is received of course the record would be  
24 closed and no other information will be accepted into  
25 the record.

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1           The Sunshine Act requires that this Board  
2           conduct all its proceedings in the open and before the  
3           public. This Board may, consistent with its rules of  
4           procedure, regulations and the Sunshine Act, enter  
5           into executive session both during or after a hearing  
6           on a case. That would be utilized for the purposes of  
7           reviewing the record and/or deliberating on a specific  
8           case.

9           The decision of this Board in contested  
10          cases must be based exclusively on the record that's  
11          created before us. That's why it's so important to  
12          get everything in that we request and that you want us  
13          to know. But also we would ask that people please  
14          refrain from engaging Board members in conversation  
15          today while the hearing goes on so that we do not give  
16          the appearance of receiving information outside of the  
17          record.

18          Let me just ask everyone to please turn  
19          off cell phones and beepers at this time so that our  
20          transmission is not interrupted or people providing  
21          testimony are not abruptly distracted.

22          That being said, a very good morning. Ms.  
23          Bailey with the Office of Zoning is with us on my very  
24          far right and welcome quickly back from hopefully a  
25          wonderful afternoon.

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1 Ms. Bailey, are you aware of any  
2 preliminary matters for the Board's attention?

3 MS. BAILEY: Mr. Chairman, good morning.  
4 To everyone, good morning. The only preliminary  
5 matter, Mr. Chairman, perhaps, if there's anyone here  
6 today who was not sworn in previously who would be  
7 testifying today, perhaps this is a good time to swear  
8 them in.

9 CHAIRMAN GRIFFIS: I absolutely agree.  
10 People that are going to provide testimony that  
11 weren't here previously, if you would please stand and  
12 give your attention to Ms. Bailey. She is going to  
13 administer the oath.

14 (The witnesses were sworn.)

15 CHAIRMAN GRIFFIS: Good. Thank you very  
16 much. Does anyone else present today as a part of  
17 this case, application 17276, have any preliminary  
18 matters or anything before us?

19 (No audible response.)

20 CHAIRMAN GRIFFIS: Very well. Ms. Bailey,  
21 why don't we call the first case?

22 MS. BAILEY: Thank you, sir. And that is  
23 application No. 17276 of Phillips Park, LLC for a  
24 special exception to allow theoretical lots for 35  
25 single-family detached dwellings under Section 25-16.

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1 The property is located in the R-1-A District. The  
2 project also includes construction of 13 single-family  
3 detached dwellings as a matter of right. The property  
4 is located 2101 Foxhall Road, N.W., Square 1346, Lot  
5 822.

6 CHAIRMAN GRIFFIS: Good. Thank you very  
7 much.

8 As we had left off, Ms. Gates, a very good  
9 morning to you. We are taking the ANC next and then  
10 moving on to Government agency reports and then we'll  
11 wing it from there. Good morning.

12 MS. GATES: Thank you, Chairman Griffis.  
13 Good morning.

14 My name is Alma Gates. I'm chair of ANC  
15 3-D. I reside at 4911 Ashby Street, N.W. My home  
16 where I've lived for over 50 years is located just  
17 west of the proposed Dunmarlin site.

18 On the evening of February 1st, the night  
19 before ANC 3-D's monthly meeting, a new application  
20 was delivered to the doors of ANC 3-D Commission  
21 members. Twenty-four hours is insufficient time to  
22 fully review a new application. But based on the  
23 development team of M.B. Visnic, Inc. and Vance Barnes  
24 Architect, with whom we had met at two previous  
25 meetings, the Commission embraced this application

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1 with conditions. The Visnic-led team offered  
2 integrity, a level of sensitivity and reputable  
3 assurance that the community would have a development  
4 that reflects the quality workmanship of surrounding  
5 areas; Wesley Heights, Spring Valley and Colony Hill.

6 Missing from two lengthy applications or  
7 the three presentations before the Commission were a  
8 grading plan, a storm water management plan and a  
9 construction management plan. On Tuesday, February  
10 15, 2005, still new material was distributed and  
11 presented to the Board which may be a function of the  
12 evolving nature of the project and its evolving  
13 partners.

14 Mr. Prior spoke publicly for the first  
15 time. There was no mention of Ted Visnic. New.  
16 consulting members were introduced and we've learned  
17 that Messrs. Barnes, Lynn and Pitchford do not have  
18 signed contracts. Still the Board was assured that  
19 this is well because a peer review process has been  
20 put in place.

21 The subject property is located along  
22 Foxhall Road and is surrounded on two sides by federal  
23 park land, Glover-Archbold Park and Whitehaven Park.  
24 As you have heard, it is an unusual property with 16  
25 acres of steep slopes, rolling hills, wooded areas,

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1 wetlands and a dramatic view of Glover-Archbold Park  
2 120 feet below. The height at Foxhall Road is 280  
3 feet above sea level. So you get an idea of the  
4 steepness. Mindful that this parcel is one of two  
5 large desirable tracts of land in the city, the  
6 Commission conditioned approval of this application on  
7 the assurance that its future development is directed,  
8 determined and destined by more than a zoning change.  
9 Therefore, the final order issued by the Board of  
10 Zoning Adjustment for application 17276 must ensure  
11 guidance supported by enforceable conditions.

12 On Sunday, I walked up to the site of the  
13 proposed new access drive into Dunmarlin. I stood at  
14 the edge of Foxhall Road and imagined that I was in a  
15 car attempting to exit the property. Directly ahead  
16 of me is a residential dormitory belonging to GW Mount  
17 Vernon. To my right, looking north, I could see the  
18 traffic light at Field School and the steeply sloping  
19 hill that curves in front of the school's entrance.  
20 To the south, I could only see an earthen berm, a  
21 number of trees and utility poles. I could not see  
22 the oncoming traffic, nor could it see me until I  
23 leaned into the road. Moving the new drive 50 feet  
24 further north would provide a line of sight greater  
25 than the current 250 feet and provide less impact to

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1 the trees lining Foxhall Road.

2 The current absence of a builder/developer  
3 who can address the overall time frame, phasing and  
4 management of this development project places a  
5 special responsibility on the Board and requires  
6 measures to be put in place to ensure that impacts to  
7 the immediate neighbors, especially Chandra Hardy, the  
8 only adjoining residential neighbor, and to the  
9 Dunmarlin property are kept to a minimum.

10 The proposed new entrance is not an  
11 acceptable location for construction vehicles. In  
12 earlier conversations between the ANC And Mr. Visnic,  
13 his vision was to begin staging the existing entrance  
14 at 2101 Foxhall Road where there is an established  
15 road and a spacious open field area for parking and  
16 construction vehicles. There is sufficient space to  
17 store equipment and building materials. This is the  
18 site of the former Phillips home and the proper place  
19 for the project to begin its operations. A  
20 surrounding canvas-covered chain link fence would hide  
21 the site from view of residents on W Street and not  
22 require the immediate removal of interior trees that  
23 would be required further south on the property. It  
24 would also permit utility poles on Foxhall Road to  
25 remain in place. A George Washington University

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1 residential building is immediately opposite the  
2 proposed new access drive. Residents would be  
3 separated from noise, dirt, construction equipment,  
4 workmen and their parked vehicles. Establishment of  
5 a construction entrance at 2101 Foxhall Road, the  
6 current entrance to the property, is a necessary  
7 condition.

8 A construction management plan thoroughly  
9 reviewed and monitored by DDOT must be a condition of  
10 approval. The gate of the project opens at 7:00 a.m.  
11 and closes at 5:00 p.m. during weekdays and no permits  
12 issued for weekend work will be issued. Hours of  
13 operation need to be noted and conditioned. A 24-hour  
14 hotline needs to be implemented and conditioned. A  
15 DDOT-approved heavy construction truck protocol and  
16 route needs to be established, implemented and  
17 conditioned.

18 The Board heard that Foxhall Road is  
19 slated to be improved and resurfaced beginning this  
20 spring. Given its current condition, Foxhall Road  
21 cannot wait to be resurfaced until this development is  
22 complete. Foxhall Road must be returned to the same  
23 condition or better when project-related utility work  
24 is complete.

25 Phasing of the project needs to be

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1 established and conditioned and must include a  
2 contingency plan should the current owners not  
3 complete the entire development project. It would  
4 include directives on how any unfinished work and open  
5 land will be addressed.

6 A condition needs to be put in place to  
7 ensure that trees are properly safeguarded and that  
8 drip lines are not intruded upon during construction.  
9 Tree maintenance, protection of specimen trees and  
10 replacement requirements need to be overseen by a  
11 registered arborist and conditioned to ensure that all  
12 provisions of the Urban Preservation Act of 2002, the  
13 Tree Bill, are implemented, if not exceeded. The  
14 Board was informed by Mr. Pitchford that it can take  
15 years for a tree to die. The condition should include  
16 a time frame for specimen trees especially addressed  
17 in the Tree Bill.

18 Throughout the construction phase and  
19 beyond, the wetlands that lie at the low point on the  
20 property will need special monitoring by all  
21 appropriate agencies, Army Corp., National Park  
22 Service and D.C. Health. Harmful chemicals, road  
23 salts and herbicides must not be used during the  
24 construction phase or thereafter. The continued life  
25 and health of the wetlands area must be guaranteed as

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1 a condition of approval.

2 Monthly meetings between the  
3 contractor/builder, the immediate neighbors,  
4 interested parties and a representative of the ANC at  
5 the Palisades Library must be a condition of approval.

6 A representative of the National Park  
7 Service has termed the storm water management plan for  
8 the Field School the standard for large projects,  
9 including this one. He said that he has been assured  
10 that the Dunmarlin proponents will exceed the Field  
11 School's measures. Immediate neighbors of Field  
12 School and those who live downstream on Hutchins Place  
13 might not concur with the choice of the Park Service.  
14 One immediate neighbor of the Field School has spent  
15 \$40,000 on attorney's fees and still has a front yard  
16 with standing water. Another neighbor has had a  
17 constantly damp basement since the school was built.  
18 Water cascading down Foxhall Road has eroded its  
19 boundaries and now cascades down Whitehaven Parkway  
20 and ends in the yards of residents on Hutchins Place  
21 one block below McArthur Boulevard.

22 The Park Service staff member also  
23 commented that his agency participates in conservation  
24 easements with private land owners and organizations  
25 such as the Nature Conservancy and the Potomac

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1 Conservancy. A look at the site plan for Dunmarlin  
2 shows that several houses at the low end of the lot  
3 are very close to the wetlands that are only protected  
4 by a 20-foot wide buffer. Increasing the buffer from  
5 the minimum requirement of 25 feet to 100 feet to  
6 prevent the urbanization of this now-vegetated  
7 property needs to be a condition of approval.

8 The plan now is for catch basins to  
9 collect water, filter it through sand and discharge it  
10 into the wetlands for further processing. The  
11 wetlands drain into Glover-Archbold Park's boundary  
12 branch and then go on to the Potomac River and the  
13 Chesapeake Bay. Mr. Lynn addressed some innovative on  
14 site water treatments that characterize low impact  
15 development placing rain gardens on every property  
16 appears to meet that goal, but the plan is only one  
17 week old and its implementation remains unknown. It  
18 would be easier and less expensive to treat water on  
19 site than let someone else do it by moving the problem  
20 downstream. That approach also speaks to  
21 responsibility. Water that is captured for on-site  
22 irrigation treats water as a resource.

23 A biologist, Julie Moore, who toured the  
24 site in January, commented, "The interesting existing  
25 attributes of the property have been largely ignored

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1 in planning the residential development. The natural  
2 topographic variation will be reshaped if the current  
3 plan is followed, whereas it may be feasible to keep  
4 the terrace effect of the contours, at least in the  
5 northwestern sector on the steep slope south of the  
6 old mansion site. Plans show that existing cover of  
7 many mature trees will be removed and scattered  
8 individual trees retained. Most of the existing trees  
9 are species that are susceptible to impact if care is  
10 not taken to maintain their root systems. They  
11 currently function as a stand rather than individual  
12 trees and thus will be susceptible to wind-throw if  
13 they are reduced to isolated representatives. A  
14 considerable amount of earth moving will be needed if  
15 the property is reshaped to follow current development  
16 plans. The high, nearly-level, ridge at the corner of  
17 Foxhall Road and W Street will be cut down and  
18 material pushed south to make the site more level for  
19 homes. Considerable erosion is probable and sediment  
20 will quickly impact the wetlands and probably move  
21 through the drain into the adjacent parkland. The  
22 wetlands will be impacted by both the earth moving and  
23 the proposed road system."

24 Julie Moore recommended minimizing the  
25 topographic alterations by using a road lay out that

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1 does not require considerable cut and fill; remove  
2 roads from steep slopes; protecting wetlands and using  
3 them as an amenity for the development; protect the  
4 steep slope at head of drainage north of Whitehaven  
5 Parkway, springs may originate there at the old  
6 cistern; buffer the wetlands with water tolerant  
7 species such as Sweet Bay Magnolia; maintaining groups  
8 or groves of trees such as the ones on the southwest-  
9 facing slopes of the eastern sector rather than trying  
10 to select specimen trees that are easily damaged  
11 during construction and are susceptible to wind-throw  
12 if isolated as individual trees after having been part  
13 of a forest or grove; retain stands of trees as wooded  
14 areas that give character to the site and prevent the  
15 need for lawns and their maintenance requirements and  
16 runoff issues.

17           This morning we were presented with  
18 another grading plan with another set of refinements.  
19 While its intention is directed toward tree-saving  
20 objectives, it will only save 62 specimen trees, a  
21 couple less than before. If the goal of the new  
22 grading plan is to save more specimen trees, it has  
23 failed. Sixty-two trees on over 16 acres is not a  
24 serious goal.

25           In conclusion, in its February 4, 2005

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1 letter, ANC 3-D submitted a number of conditions based  
2 on information that was available at the time of its  
3 vote. These conditions were met with approval by  
4 those representing the development team and its  
5 attorney. I have included them in this testimony and  
6 will read them into the record.

7 Applicant agrees to relinquish all  
8 rights/claims to the undeveloped portion of 44th  
9 Street, the paper road that abuts the property at 2101  
10 Foxhall Road, remove the concrete slabs and other  
11 remnants of the old road bed and work in collaboration  
12 with the National Park Service to ensure that the  
13 District of Columbia transfers jurisdiction of that  
14 portion of 44th Street to the National Park Service.

15 Applicant agrees to place covenants on the  
16 deeds of sale of properties that border the federal  
17 parkland that prohibit the placement of structures  
18 within the rear yard setback.

19 Applicant agrees to require that all  
20 swimming pools are constructed within the allowable  
21 lot foot print.

22 Applicant agrees to require the Dunmarlin  
23 Homeowners Association to institute a policy that  
24 would prohibit the use of harmful chemicals,  
25 pesticides on properties within the development to

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1 ensure further protection of the natural wetlands.

2 Applicant agrees to work with DDOT to  
3 maintain or improve the natural earthen berm fronting  
4 on 2001 Foxhall Road; that's Chandra Hardy's property,  
5 and ensure that it is minimally disturbed at Foxhall  
6 Road, is reconfigured for the purpose of installing  
7 traffic improvement including a traffic signal, an  
8 additional traffic lane and a sidewalk.

9 Applicant agrees not to recommend to DDOT  
10 a right-turn only policy from the east side of W  
11 Street.

12 Applicant agrees not to request that DDOT  
13 fully signalize the traffic light on Foxhall Road at  
14 Field School in accordance with BZA Order No. 16559.

15 Applicant agrees to work closely with DDOT  
16 and assume all costs related to the installation of a  
17 new on-demand traffic light at the proposed new  
18 Dunmarlin entrance on Foxhall Road.

19 Given the complexity of this ever-changing  
20 application, a bench decision is inappropriate. When  
21 conditions are written, ANC 3-D requests that their  
22 submissions are given the great weight to which they  
23 are entitled under D.C. law. Further, ANC 3-D will  
24 work cooperatively with the developer in a peer review  
25 of final submissions and the Board in drafting the

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1 final condition for this order. Thank you.

2 CHAIRMAN GRIFFIS: Good. Thank you very  
3 much. I appreciate the testimony today and also the  
4 written submission of it.

5 You noted that you were in receipt of a  
6 new site plan? Is that correct?

7 MS. GATES: Something was e-mailed to us  
8 late last night.

9 CHAIRMAN GRIFFIS: Okay. And I imagine we  
10 may see that at some point also.

11 That being said, appreciate it. You've  
12 gone through an awful lot of very substantive things,  
13 starting with of course the moving of the new drive,  
14 the time frame, the design team, the importance of  
15 knowing what this will be in the end and then how long  
16 it might take in terms of phasing. Certainly there  
17 are some construction issues that relate to I think  
18 some temporary aspects, but also clearly long term  
19 aspects and that is of course the effects of the  
20 wetlands.

21 You listed the conditions as you had  
22 previously at your conclusions. There were the  
23 conditions at the beginning or aspects that -- well,  
24 they were proposed as conditions. Was that also  
25 agreed upon from the overall ANC?

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1 (No audible response.)

2 CHAIRMAN GRIFFIS: Okay. Just to bring --

3 MS. GATES: No.

4 CHAIRMAN GRIFFIS: Very well. Let me take  
5 any Board questions at this time. Ms. Miller?

6 VICE-CHAIR MILLER: I just have a couple,  
7 Ms. Gates. I'm just wondering, the 24-hour hotline,  
8 what type of problems are you anticipating that would  
9 require a 24-hour hotline?

10 MS. GATES: I honestly hope there won't be  
11 any problems, Ms. Miller, but I know that in  
12 construction projects such as the Field School at GW,  
13 the Board did implement a condition that required a  
14 24-hour hotline just in case something happens. I  
15 mean, kids could get into the property or something  
16 like that, so you want to be able to notify the  
17 appropriate person that there's a problem.

18 I think it's also useful when construction  
19 schedules change because they're pouring concrete or  
20 that kind of thing. We had a situation recently where  
21 a pour was still going on at 10:30 at night.

22 VICE-CHAIR MILLER: And my other question  
23 goes to, we had a discussion, I think a little bit  
24 last week, about this buffer zone being increased from  
25 25 feet to 100 and I was just wondering if you have

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1 some basis for that 100-foot buffer amount.

2 MS. GATES: Well, I think I would really  
3 prefer to use the word "setback" to "buffer." Buffer  
4 sort of implies that there are just going to be a lot  
5 of trees around there, but the trees could be in  
6 someone's back yard. Whereas a setback really sets  
7 property aside. This is a wetlands. It's a very  
8 special area and it should not be encroached upon. It  
9 needs to be set off from the other properties.

10 VICE-CHAIR MILLER: I was just curious if  
11 there's some --

12 MS. GATES: I also think I heard Mr.  
13 Parsons make a comment that he would favor a wider  
14 setback than was being proposed.

15 VICE-CHAIR MILLER: That's right. I know  
16 there was discussion last week and I was just curious  
17 from your point of view whether there was something  
18 about 100 feet versus 75 feet, or where that 100-foot  
19 figure was coming from. Okay. Thank you.

20 MS. GATES: Thank you.

21 CHAIRMAN GRIFFIS: Mr. Mann?

22 MR. MANN: I have just a couple of  
23 questions. You noted in your testimony that you'd  
24 like to move the new drive 50 feet further north.  
25 That's 50 feet further north than the proposal that we

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1 saw last Tuesday?

2 MS. GATES: Yes, I actually have the DDOT  
3 road plans. I have not put them up because they're in  
4 a big roll, but the line of sight is -- I think the  
5 traffic light, if it's agreed to, will solve the  
6 problem. But should there be any question about that,  
7 the line of sight where it is is very dangerous.

8 MR. MANN: So the plans that you're  
9 talking about you used in determining the 50 feet?

10 MS. GATES: Was the DDOT drawing.

11 MR. MANN: Okay.

12 MS. GATES: And I'm happy to put it out on  
13 the table for you to look at.

14 CHAIRMAN GRIFFIS: Is that something that  
15 we have in the record?

16 MS. GATES: No, I don't think so.

17 CHAIRMAN GRIFFIS: What is it?

18 MS. GATES: These are the plans that DDOT  
19 is using for their proposed improvements. So these  
20 were released in January of this year. They're very  
21 current and they show that segment.

22 CHAIRMAN GRIFFIS: How much are they? I  
23 mean, how big are they? How many papers are you  
24 talking about? Oh, my. No.

25 MS. GATES: But, it's really only one

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1 page.

2 CHAIRMAN GRIFFIS: Indeed. Okay. Well,  
3 we're going to need copies of it. How do the Board  
4 members feel? I mean, now we're talking about it, we  
5 probably ought to look at what we're talking about.  
6 So, let's get copies distributed at some point.  
7 However you want to facilitate that, we'll put it in  
8 as part of your testimony. Applicant and the parties  
9 of course are going to need it and I think we need  
10 what, 150-200 copies? No, make it 15 and then -- so,  
11 and if we can get them reduced, that would be perfect.  
12 It looks like those are about what, 24 by 36 sheets?

13 MS. GATES: Yes.

14 CHAIRMAN GRIFFIS: Okay.

15 MS. GATES: At least.

16 CHAIRMAN GRIFFIS: Good.

17 MR. MANN: I just had one brief other  
18 question. You noted that a biologist Julie Moore  
19 toured the site in January. Who is Julie Moore?

20 MS. GATES: To be honest with you, Mr.  
21 Mann, Ann Haas, who was to be with me today, is the  
22 Julie Moore contact. I only know here as a biologist.

23 MR. MANN: Was she there at the request of  
24 the ANC?

25 MS. GATES: As a single-member district,

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1 yes.

2 MR. MANN: Was Julie Moore touring the  
3 site at the request of the ANC?

4 MS. GATES: Yes.

5 MR. MANN: Okay. Thank you. One  
6 additional question. There was entered into the  
7 record last week some information regarding an  
8 alternative entrance to the site that was originally  
9 proposed I guess during discussions of the development  
10 of the --

11 MS. GATES: The one on W Street that was  
12 removed?

13 MR. MANN: No, the information that was  
14 entered into the record last week concerned extending  
15 Whitehaven Parkway east of Foxhall and accessing the  
16 property through --

17 MS. GATES: Through the park?

18 MR. MANN: That's correct.

19 MS. GATES: Across the park?

20 MR. MANN: That's correct. There was a  
21 written submission last week that addressed that. And  
22 I was wondering --

23 CHAIRMAN GRIFFIS: To be clear, it's by  
24 one of the parties in the application. I believe it's  
25 the certain residence for --

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1 MR. MANN: That's correct. And I was  
2 wondering whether or not you had an opinion regarding  
3 the idea of accessing the property, accessing the  
4 subdivision through an extension of Whitehaven  
5 Parkway.

6 MS. GATES: I have a very strong personal  
7 opinion. I'm very much against that. The Commission,  
8 when this piece of parkland was proposed as a drive to  
9 the Mayor's Mansion, they were going to use some of  
10 it. The Commission took a very strong stand against  
11 the use of that parkland for anything other than  
12 parkland. So I think it would be fair to say putting  
13 a road across it would also be opposed.

14 CHAIRMAN GRIFFIS: Good. Thank you.

15 MR. MANN: Thank you.

16 CHAIRMAN GRIFFIS: Excellent question.

17 Any others? Any other questions?

18 (No audible response.)

19 CHAIRMAN GRIFFIS: Just briefly, you had  
20 talked about how to deal with the water on site, the  
21 storm water management, and you seem to leave it a  
22 little bit open.

23 MS. GATES: I had to leave it a little bit  
24 open because frankly I really --

25 CHAIRMAN GRIFFIS: So you're not aware of

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1 any sort of options that you would actually propose or  
2 have us look at?

3 MS. GATES: Not at this point, no.

4 CHAIRMAN GRIFFIS: Okay. No, and that was  
5 just to clarity. It's a very complex issue that  
6 experts will deal with, but I think it's a good point  
7 to bring up in terms of our exploration of what other  
8 options there are in dealing with that and also in  
9 terms of maintaining the adjacent areas in terms of  
10 water runoff.

11 MS. GATES: I do think that the runoff to  
12 adjacent areas is going to be critical in your  
13 decision making and Mrs. Hardy especially could  
14 potentially be very impacted and I think that should  
15 not happen.

16 CHAIRMAN GRIFFIS: Okay.

17 MS. GATES: Nor do I think the people, as  
18 I mention in my testimony, downstream should be  
19 impacted by this.

20 CHAIRMAN GRIFFIS: Right. Right. Very  
21 quickly revisiting the aspect of this setback or  
22 buffer, what have you, if it was a dimension off of  
23 the property line, in your view, what would happen in  
24 that area? So if it's a setback, obviously the  
25 building would not encroach on that, but what else

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1 would be possible to have happen?

2 MS. GATES: A road could be put there.

3 CHAIRMAN GRIFFIS: On the individual lots.  
4 I mean, the lots that we were talking about. Would  
5 you see a pool being proposed in that area?

6 MS. GATES: If the pools are to be kept  
7 within the setback area, or the footprint area that --

8 CHAIRMAN GRIFFIS: I guess that's what I'm  
9 getting at. You're envisioning this setback from the  
10 park or the property line as then defining the  
11 building footprint area. So everything would have to  
12 occur outside of the setback then.

13 MS. GATES: Yes. I hope so.

14 CHAIRMAN GRIFFIS: Okay.

15 MS. GATES: I mean, I would like to see a  
16 nice open -- I would like to see it planted so that it  
17 does appear to be a buffer, but it's actually a  
18 setback as well.

19 CHAIRMAN GRIFFIS: Right. But would you  
20 see anything precluding a property owner from putting  
21 up a private putting green with beautiful grass that's  
22 totally open and has a good view to the house, or is  
23 it really buffer element that you don't want to see  
24 anything?

25 MS. GATES: The putting green is an

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1 interesting proposal. I suppose --

2 CHAIRMAN GRIFFIS: A lot of maintenance.

3 MS. GATES: -- if it were a putting green  
4 and it were really a putting green that didn't have a  
5 lot of chemical pesticides, etcetera --

6 CHAIRMAN GRIFFIS: Right.

7 MS. GATES: -- I wouldn't object.

8 CHAIRMAN GRIFFIS: I see.

9 MS. GATES: If it were an open space.

10 CHAIRMAN GRIFFIS: I see.

11 CHAIRMAN GRIFFIS: Yes, because they'd  
12 have a water --

13 MS. GATES: People could walk on the  
14 putting green?

15 CHAIRMAN GRIFFIS: -- trap with their, you  
16 know, their attention on site. They'd have a little  
17 water trap, chip and putt. All right. I'm  
18 digressing. Okay. I just wanted to get clarity what  
19 your picture is. I mean, we get this -- you know, the  
20 words are thrown around all the time, but I think we  
21 need a little bit of detail on --

22 MS. GATES: I really want to see this area  
23 separate.

24 CHAIRMAN GRIFFIS: Right. Okay.

25 Excellent.

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1 Okay. Anything else from the Board?

2 (No audible response.)

3 CHAIRMAN GRIFFIS: Very well. Let's move  
4 ahead then. Does the applicant have any cross  
5 examination of the ANC?

6 MR. NETTLER: Good morning. Richard  
7 Nettler for the applicant. Good morning, Ms. Gates.

8 MS. GATES: Good morning.

9 MR. NETTLER: Let me just I guess go back  
10 to the first question that Mr. Griffis asked you.

11 Essentially the last page of the statement  
12 that you read this morning, that's what the ANC voted  
13 on at their meeting in February, correct?

14 MS. GATES: Yes, sir.

15 MR. NETTLER: Okay. So the ANC didn't  
16 vote on the preceding pages, correct, or the  
17 conditions in those pages?

18 MS. GATES: That's right.

19 MR. NETTLER: Okay. And is it correct to  
20 say that a lot of the conditions that you put in the  
21 preceding pages were conditions that Ms. Hardy asked  
22 you to put in?

23 MS. GATES: Absolutely not.

24 MR. NETTLER: Okay.

25 MS. GATES: I considered these conditions

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1 based on additional information that came in. Mrs.  
2 Hardy has not asked me to do this. I am very aware of  
3 her property. I have been to her property, yes. But  
4 she did not ask me to put these in.

5 MR. NETTLER: Okay. Let's turn to some  
6 initial comments that you've made. If you recall back  
7 in November when you first met with the contract  
8 purchasers of the property, that was a Mr. Vance  
9 Barnes' office, correct?

10 MS. GATES: Yes.

11 MR. NETTLER: Okay. And I was there and  
12 Anky Barnes was there and Philippe Perot was there as  
13 well, correct?

14 MS. GATES: Yes.

15 MR. NETTLER: Okay. And Mr. Perot, do you  
16 know who Mr. Perot is?

17 MS. GATES: Yes.

18 MR. NETTLER: Okay. And Mr. Perot is part  
19 of the contract purchasers for this site, correct?

20 MS. GATES: I guess so, yes.

21 MR. NETTLER: Okay. He explained that at  
22 the time that we met, didn't he?

23 MS. GATES: I don't remember.

24 MR. NETTLER: Okay. And he's been at  
25 every ANC meeting since then with either me and Mr.

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1 Barnes or someone else from my office?

2 MS. GATES: Yes.

3 MR. NETTLER: Okay.

4 MS. GATES: But he has never spoken.

5 MR. NETTLER: At the ANC meetings?

6 MS. GATES: Right.

7 MR. NETTLER: And when you say that on the  
8 evening of February 1st you received a new  
9 application, isn't what you received the prehearing  
10 statement for this matter? Isn't that what was  
11 delivered to you, the prehearing statement?

12 MS. GATES: Yes, but I consider that an  
13 application.

14 MR. NETTLER: You consider the prehearing  
15 statement an application? Okay. And that prehearing  
16 statement or application that you say it is, it had a  
17 site plan in it that was slightly different from the  
18 one that was presented before, did it not, because as  
19 was explained, it was responding to comments that were  
20 made at the prior ANC meeting. Isn't that correct?

21 MS. GATES: Are you speaking about the one  
22 that was bound in the book, or the one that you  
23 delivered as we were talking during --

24 MR. NETTLER: Well, let's talk first about  
25 the one that was bound in the book.

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1 MS. GATES: Okay. Yes.

2 MR. NETTLER: Okay. And then at that  
3 meeting did Mr. Barnes not say that in response to  
4 comments made by the Friends of Whitehaven that they  
5 had made some additional alterations which they were  
6 presenting as well?

7 MS. GATES: I suppose he did, however, I  
8 don't remember us every advocating for a 13th house on  
9 W Street.

10 MR. NETTLER: You don't remember one of  
11 the W Street neighbors commenting on the 13th house  
12 being on that plan at that --

13 MS. GATES: No, no. No, no. They  
14 commented on it, but I don't remember us every  
15 requesting that to be added.

16 MR. NETTLER: Well, it wasn't made as a  
17 request, but it was on the plan, wasn't it?

18 MS. GATES: Yes, it was on the plan.

19 MR. NETTLER: Okay. And there was a  
20 discussion about that house and the majority of the  
21 ANC members recognized that that house was not covered  
22 by this application, correct?

23 MS. GATES: Yes, and that's referenced in  
24 the letter as 12 houses.

25 MR. NETTLER: Okay. No, not covered by

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1 this application because the application the  
2 applicant, as the majority of the ANC members --

3 MS. GATES: No, that's not what you --

4 MR. NETTLER: -- because the applicant  
5 said that this was a matter -- that those 13 houses  
6 together with the houses that bordered on Foxhall were  
7 matter-of-right houses as distinct from the houses  
8 that required special exception approval.

9 MS. GATES: That's right. We understand  
10 their matter of right.

11 MR. NETTLER: Okay. Thank you. All  
12 right. Now with regard to your comment about the  
13 traffic and the exiting, from what I understand from  
14 your testimony, if a light is placed at where we're  
15 suggesting the entrance be on Foxhall, that that might  
16 solve the problems that you've commented upon in your  
17 testimony. Correct?

18 MS. GATES: Correct.

19 MR. NETTLER: Okay. And you're aware, I  
20 believe, from an e-mail that was sent to you by my  
21 firm that the Department of Transportation has agreed  
22 with us to have that light there?

23 MS. GATES: That's right.

24 MR. NETTLER: Okay.

25 MS. GATES: But we haven't heard that from

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1 DDOT yet.

2 MR. NETTLER: I know, I don't see anybody  
3 from DDOT, but that's certainly our representation  
4 that we would do that and we've consistently  
5 represented that, correct?

6 CHAIRMAN GRIFFIS: DDOT is present.

7 MR. NETTLER: Excuse me?

8 CHAIRMAN GRIFFIS: They're ready to go  
9 when you guys are ready.

10 MR. NETTLER: Oh, good. That's nice.  
11 With regard to the movement of the entrance for  
12 construction purposes, you're aware, are you not, that  
13 if we were to move the exit up closer to W Street,  
14 further along Foxhall, that that would preclude us  
15 from building the one or two houses on W Street that  
16 we had promised to the W Street neighbors would be  
17 built first?

18 MS. GATES: No, I don't know that.

19 MR. NETTLER: Okay. And you're aware  
20 that --

21 MS. GATES: And I'm not sure I really  
22 believe that, but go ahead.

23 MR. NETTLER: Okay. You don't believe  
24 that because you developed a construction plan  
25 yourself for the project?

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1 CHAIRMAN GRIFFIS: Okay. Let's move on.

2 MR. NETTLER: You've suggested, at least  
3 personally suggested, not the ANC, a condition  
4 regarding the hours of construction that should be  
5 utilized for the site. Do you know what the District  
6 of Columbia building code --

7 MS. GATES: 7:00 a.m. to 7:00 p.m.

8 MR. NETTLER: Okay. There was a  
9 discussion of construction staging at the ANC meeting  
10 in December by the applicants. Do you recall that?

11 MS. GATES: No.

12 MR. NETTLER: Okay. Do you recall in  
13 January the discussion about construction staging?

14 MS. GATES: No, I don't.

15 MR. NETTLER: Okay.

16 MS. GATES: I don't think we really  
17 focused on that in January.

18 MR. NETTLER: Do you know what the D.C.  
19 Regulations provide for in terms of a buffer between  
20 a wetlands area and any development?

21 MS. GATES: No, I don't. I thought this  
22 project was being overseen really by the Army Corp of  
23 Engineers.

24 MR. NETTLER: Well, I understand the Army  
25 Corp of Engineers oversees the wetlands area and has

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1 jurisdiction over that wetlands area.

2 MS. GATES: Correct.

3 MR. NETTLER: Okay. But do you understand  
4 what type of -- under either federal or district  
5 regulations what the buffer area --

6 MS. GATES: No.

7 MR. NETTLER: Okay. With regard to Ms.  
8 Moore --

9 MS. GATES: Mr. Nettler, I explained Ms.  
10 Moore is not my contact. Ann Haas is not here today.  
11 I'm sorry, I don't think I can answer that.

12 MR. NETTLER: Well, there may be something  
13 you can answer. The comments that Ms. Moore provided  
14 to Ms. Haas, which were subsequently provided to the  
15 applicant at that time in January, weren't they?

16 MS. GATES: I don't know.

17 MR. NETTLER: You don't recall receiving  
18 an e-mail from us responding to Ms. Moore's comments?

19 MS. GATES: No.

20 MR. NETTLER: Okay. Do you recall --

21 MS. GATES: Was it just an e-mail, or was  
22 it in the --

23 MR. NETTLER: It was both a letter and an  
24 e-mail.

25 MS. GATES: I don't think I have it.

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1 MR. NETTLER: Okay. And do you recall Ms.  
2 Moore's comments being mentioned at the ANC meeting in  
3 February at all?

4 MS. GATES: Ann Haas wasn't there, so no,  
5 I don't remember.

6 MR. NETTLER: So neither you nor any of  
7 the other ANC members raised any of Ms. Moore's  
8 comments at that meeting?

9 MS. GATES: No.

10 MR. NETTLER: Do you recall with regard to  
11 your comments about the chemicals being used, do you  
12 recall the testimony that was given by the applicant  
13 in terms of what restrictions will be placed in terms  
14 of the treatment of any lawns on the site?

15 MS. GATES: I don't believe any was given.  
16 I think I'm the one who raised the issue of  
17 prohibiting that.

18 MR. NETTLER: You didn't hear any  
19 testimony on that last week at the hearing here?

20 MS. GATES: Who would have given it?

21 MR. NETTLER: You didn't hear that from  
22 Mr. Barnes or anybody else?

23 MS. GATES: I don't think so.

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

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1                   CHAIRMAN GRIFFIS: Thank you. Friends of  
2 Whitehaven Park, cross? Any cross?

3                   (No audible response.)

4                   CHAIRMAN GRIFFIS: No cross? Ms. Hardy,  
5 cross examination?

6                   (No audible response.)

7                   CHAIRMAN GRIFFIS: And Certain Residents  
8 of 4400 Block? Excellent. Can we call you CR?  
9 CR4400?

10                  MS. BRADY: That's great. I love that.  
11 Mrs. Gates, I just would ask, when you were asked  
12 about the Whitehaven solution, the extension, you said  
13 a strong personal opinion. Was there a final ANC  
14 opinion?

15                  MS. GATES: I don't believe the issue of  
16 putting a road across the parkland was actually  
17 addressed by the ANC during this course of  
18 discussions. However, as I explained, we did take  
19 this issue up earlier when Mrs. Casey wanted park land  
20 and we had a very strong opinion on it.

21                  MS. BRADY: Are you aware that at the end  
22 of the contentious debate over the access to Foxhall  
23 Road for the Mayoral Mansion that all parties reached  
24 an agreement on extending Whitehaven that in fact the  
25 National Park Service transferred jurisdiction but not

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1 ownership of 1.8 acres to the District government and  
2 the District had agreed to lease the land to the Casey  
3 Mansion for a second access, but this was never  
4 implemented because the property was abruptly sold to  
5 another party?

6 CHAIRMAN GRIFFIS: Are you aware of that  
7 long history?

8 MS. GATES: Yes, I'm very aware of that.

9 MS. BRADY: Okay.

10 MS. GATES: I believe I testified against  
11 it at every opportunity.

12 CHAIRMAN GRIFFIS: Okay.

13 MS. GATES: Including the National Capital  
14 Planning Commission.

15 CHAIRMAN GRIFFIS: Okay. Good. And I  
16 think we need to move --

17 MS. BRADY: Thank you very much.

18 CHAIRMAN GRIFFIS: Well no, I'm not  
19 rushing you, but let me just as, Ms. Brady, you asked  
20 in your first question about whether the ANC had taken  
21 action and you meant pertaining to this particular  
22 application and not access, is that correct?

23 MS. BRADY: Actually, either historically  
24 or currently.

25 CHAIRMAN GRIFFIS: Okay.

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1 MS. GATES: During our first meeting I  
2 believe when this came up I remember raising the issue  
3 with Mr. Barnes and saying, "Don't go there."

4 CHAIRMAN GRIFFIS: Okay. But it seems  
5 like a lot --

6 MS. GATES: That this was not going to be  
7 something that the Commission would consider.

8 CHAIRMAN GRIFFIS: Okay. Ms. Brady, just  
9 for clarification on your last small question and  
10 large testimony, let me get clarification. Are you  
11 going to be speaking more on this in your case  
12 presentation?

13 MS. BRADY: I will.

14 CHAIRMAN GRIFFIS: Good. We'll leave at  
15 that then. Any other questions?

16 MS. BRADY: No more questions.

17 CHAIRMAN GRIFFIS: Good. Thank you very  
18 much. Any other cross?

19 (No audible response.)

20 CHAIRMAN GRIFFIS: I think that's it.  
21 Then, Ms. Gates, thank you very much. We appreciate  
22 you making time in the schedule this morning and I  
23 imagine you're off to your next.

24 Let's continue then. Let's go to agency  
25 reports. I think it best to start with the Office of

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1 Planning at this time. Ms. Steingasser, a very good  
2 morning and welcome.

3 MS. STEINGASSER: Mr. Chair and members of  
4 the Board, my name is Jennifer Steingasser. I'm with  
5 the D.C. Office of Planning.

6 I understand the Board was hoping that OP  
7 would supply a supplemental report. Unfortunately we  
8 did not receive any supplemental information until  
9 this morning when the offices opened and so we've been  
10 unable to provide that information to the Board.

11 I do know that Mr. Lawson had contacted  
12 the District Department of Transportation and  
13 Department of Health and arranged for a representative  
14 from each of those agencies to be present to address  
15 any of the Board's concerns and questions on their  
16 reports.

17 The Office of Planning is supportive of  
18 the overall form and character of the development and  
19 the applicant's efforts to integrate this project into  
20 the broader neighborhood context. Although the  
21 project is not part of a trans-slope overlay, the  
22 Office of Planning is also very supportive of the  
23 applicant's efforts to save the on-site trees and  
24 clusters of trees and work with the Park Service to  
25 preserve that natural edge. The zoning regulations

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1 Section 2513.3 requires submission of final plans for  
2 road, lot locations, landscaping and grading plans.  
3 The applicant may elect to submit these final  
4 landscape and road plans at a later date, in which  
5 case the Office of Planning would recommend  
6 conditional approval subject to a later public hearing  
7 required by Section 2516.3 and a final decision on the  
8 project as a whole.

9 The Office of Planning also recommends a  
10 condition be added, if the Board agrees, that the  
11 street system remain open and accessible to the public  
12 and that no form of gate or other deterrent be  
13 permitted. We're concerned about any future  
14 possibility for this to become a gated community.

15 We will also encourage the applicant to  
16 ensure that development on each side of the conforming  
17 lots along Foxhall and W Street provide a pedestrian  
18 access along those streets in a way that maintains the  
19 existing berm that the ANC has stated concerns about.

20 We've also asked conditions about minimum  
21 soil erosion and that would be subject to approval of  
22 the Department of Health.

23 And then there is also a condition in our  
24 report that asks that the homeowner's association be  
25 conditioned to ensure adequate maintenance of public

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1 open space, roads and the storm water management  
2 system in perpetuity.

3 At this point, that is our final  
4 recommendation.

5 CHAIRMAN GRIFFIS: Excellent. Thank you  
6 very much. And we appreciate you taking the time  
7 stepping in for Mr. Lawson. Excellent report. Very  
8 comprehensive.

9 Board members, questions of the Office of  
10 Planning?

11 (No audible response.)

12 CHAIRMAN GRIFFIS: Indeed. Fresh coffee.  
13 Okay. Let's move ahead then. Does the applicant --  
14 oh, yes. Mr. Parsons.

15 MR. PARSONS: Can I just follow up on Ms.  
16 Steingasser's comment about the supplemental report?

17 You do then feel that when this new  
18 material comes in that we've asked for at our hearing  
19 last week that you would provide us with a revised  
20 report?

21 MS. STEINGASSER: Yes, sir, we would.

22 MR. PARSONS: All right.

23 MS. STEINGASSER: We would like that  
24 opportunity.

25 MR. PARSONS: So I assume that would take

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1 a couple of weeks or so. I don't want to close the  
2 record without that report in.

3 MS. STEINGASSER: Yes, we would ask for a  
4 couple of weeks to coordinate with DDOT, Department of  
5 Health and a theoretical lot sub-division.

6 MR. PARSONS: Okay.

7 MS. STEINGASSER: We do coordinate with  
8 the other agencies before we make a final  
9 recommendation. So we would ask for that and then  
10 just to be able to analyze the original application  
11 against what's come through. So at least two weeks  
12 would be helpful.

13 MR. PARSONS: Okay. Thank you.

14 CHAIRMAN GRIFFIS: Good. Anything else?  
15 Not immediately? Very well.

16 Mr. Nettler, no cross?

17 MR. NETTLER: I understand that there's a  
18 representative of the Department of Health here who  
19 has to leave at 10:30; I was passed a note, so I think  
20 at this point you're probably going to get to him  
21 anyway, but I just wanted you to be aware of that.

22 CHAIRMAN GRIFFIS: Oh, excellent. Thank  
23 you. Any other parties in opposition have any cross  
24 examination, questions of the Office of Planning?

25 (No audible response.)

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1 CHAIRMAN GRIFFIS: I hear we were up for  
2 rigorous back and forth on this. Very well.

3 Ms. Miller, questions?

4 VICE-CHAIR MILLER: Good morning. I just  
5 guess I'll ask you about your opinion on the setback  
6 question, the point being extending it from 25 feet to  
7 100 feet that's been proposed?

8 MS. STEINGASSER: At this time I'm not in  
9 a position to make a recommendation. I would have to  
10 see what that does to the overall lot configuration  
11 and to how those lots would be useable, how that area  
12 would be useable.

13 VICE-CHAIR MILLER: Thank you.

14 CHAIRMAN GRIFFIS: Excellent. If there's  
15 nothing else then, none or the parties in opposition  
16 have any cross examination of the Office of Planning?

17 UNIDENTIFIED SPEAKER: ANC --

18 CHAIRMAN GRIFFIS: Indeed. I'm sorry.  
19 And the ANC? Lumped altogether.

20 MS. GATES: Ms. Steingasser, you mentioned  
21 the efforts made to preserve trees. Do you feel that  
22 the efforts are adequate given they're only preserving  
23 62 specimen trees?

24 MS. STEINGASSER: Within the criteria of  
25 the zoning regulations against which we reviewed the

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1 project, yes.

2 MS. GATES: Thank you.

3 CHAIRMAN GRIFFIS: Very well. If there's  
4 nothing further, Ms. Steingasser, thank you again.

5 Let's move ahead. Why don't we go to --  
6 Ms. Miller's indicated the Department of Health  
7 representative is here. Is that correct?

8 MR. KARIKARI: Yes, sir. Tim Karikari.

9 CHAIRMAN GRIFFIS: If you wouldn't mind  
10 coming forward? How are you this morning? Have a  
11 seat. I don't know whether you filled out witness  
12 cards yet, but we can get to that after you're  
13 finished. Someone will hand that to you. If you  
14 wouldn't mind just touching the base of that mike to  
15 turn it on and stating your name and address for the  
16 record.

17 MR. KARIKARI: Good morning, ladies and  
18 gentlemen. My name is Tim Karikari and I'm the chief  
19 of technical review for Erosion and Sediment Control.

20 CHAIRMAN GRIFFIS: Excellent.

21 MR. KARIKARI: And the Storm water  
22 Management and Flatland Management. I'm with the  
23 Department of Health.

24 CHAIRMAN GRIFFIS: Good. And you have a  
25 report to provide today?

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1 MR. KARIKARI: I actually was on the site  
2 on Friday. I don't have a comprehensive report, but  
3 I'm pretty much aware of what's going on.

4 CHAIRMAN GRIFFIS: Okay. What's going on?

5 MR. KARIKARI: One of my engineers, senior  
6 engineers has been working with I believe the design  
7 engineer Mr. Frank from Greenhorn & O'Mara.

8 CHAIRMAN GRIFFIS: Yes.

9 MR. KARIKARI: Unfortunately he's out in  
10 training in Texas.

11 CHAIRMAN GRIFFIS: I see.

12 MR. KARIKARI: So I had to come in today  
13 to fill in for him. But I was responsible for the  
14 overall review of another project right on Field  
15 School with the storm water management and the whole  
16 comprehensive erosion and sediment control system and  
17 I have seen the conceptual plan for this new  
18 development. And I discussed with Frank that even  
19 though we are in agreement with the concept, I would  
20 like for them to revisit the issue and see if they can  
21 tie in some sort of low-impact development storm water  
22 management systems together with what they are doing.  
23 In other words, they can look at the whole range of  
24 options for storm water management to satisfy our  
25 needs. And Frank has indicated that he doesn't have

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1 any problem looking at the whole holistic -- you know,  
2 looking at storm water management.

3 CHAIRMAN GRIFFIS: So what are some of the  
4 elements of that? What's missing?

5 MR. KARIKARI: Some of the elements are  
6 that currently the concept shows a comprehensive  
7 underground detention piping system.

8 CHAIRMAN GRIFFIS: Right.

9 MR. KARIKARI: And then it shows a bay  
10 saver, which is more for hydrodynamic structure to  
11 actually take care of hydrocarbons, oil and greases.  
12 I would love to see, you know, incorporated into the  
13 whole site design some sort of swale, you know, as  
14 part of the landscaping in addition to what they are  
15 doing.

16 CHAIRMAN GRIFFIS: And the swale would do  
17 what?

18 MR. KARIKARI: The swale will normally be  
19 a vegetative control grass, convey water, you know, so  
20 that it's possible probably to eliminate some of the  
21 piping system because that can be very expensive.

22 CHAIRMAN GRIFFIS: I understanding you're  
23 saying the swale would actually be somewhat of a  
24 catchment area of rain water that would sit there and  
25 then naturally filtrate?

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1 MR. KARIKARI: Naturally will filtrate and  
2 then when the soil gets so saturated, it can come into  
3 an inlet and go into the underground detention system.

4 CHAIRMAN GRIFFIS: I see. But how is that  
5 not accomplished in the applicant's mission of having  
6 these rain gardens in every property?

7 MR. KARIKARI: Well, we look -- rain  
8 gardens are not really feasible for every site,  
9 especially where you have high water table, because  
10 the whole purpose of the rain garden --

11 CHAIRMAN GRIFFIS: Are they feasible in  
12 this site, or are you saying that on each individual  
13 lot on this proposed development may not work well for  
14 rain gardens?

15 MR. KARIKARI: It may not really work  
16 well, because I believe, you know, the area looks as  
17 if it has a high water table.

18 CHAIRMAN GRIFFIS: I see.

19 MR. KARIKARI: We're still waiting for a  
20 geotechnical report.

21 CHAIRMAN GRIFFIS: Okay. So you don't  
22 know definitively whether it will work or not, but you  
23 have your thought that it probably will not?

24 MR. KARIKARI: Yes.

25 CHAIRMAN GRIFFIS: Okay. What else? What

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1 other aspects and elements that might be positive or  
2 -- well, what other elements are there out there that  
3 the Board might have for an understanding of  
4 comparison or contrast?

5 MR. KARIKARI: I think the way I look at  
6 this site, for instance, as part of the concept, if  
7 they go in and use perforated pipes, see, they will  
8 have to recharge the ground water and charge the  
9 wetlands that are further downstream and that is good  
10 for the environment.

11 What in terms of comparisons, at the  
12 moment the whole topography flows, kind of slopes  
13 towards Foxhall and based on our storm water  
14 requirements each developer has to control all the  
15 water of their property. So the developer understands  
16 that all runoff will have to be contained within the  
17 property.

18 CHAIRMAN GRIFFIS: Right.

19 MR. KARIKARI: No runoff should be allowed  
20 to cross property boundaries, adjacent property  
21 boundaries.

22 CHAIRMAN GRIFFIS: And that's something,  
23 as you've indicated, of a requirement in the District,  
24 is that correct?

25 MR. KARIKARI: That's part of the --

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1 CHAIRMAN GRIFFIS: As part of its mission  
2 of a storm water management plan in which you would be  
3 a part of reviewing?

4 MR. KARIKARI: Right.

5 CHAIRMAN GRIFFIS: Okay. And has that  
6 happened in the other developments that we've been  
7 hearing about in the surrounding area?

8 MR. KARIKARI: Yes.

9 CHAIRMAN GRIFFIS: It has?

10 MR. KARIKARI: Yes.

11 CHAIRMAN GRIFFIS: Okay. I don't have any  
12 other questions. Mr. Parsons?

13 MR. KARIKARI: There is another issue that  
14 I think I need to bring to the attention too. Since  
15 this is 16 acres, there is a federal requirement  
16 called MPDS for storm water construction greater than  
17 an acre. This is an additional permit that the  
18 developer will have to get from EPA in addition to the  
19 local storm water permit.

20 CHAIRMAN GRIFFIS: So it's an additional  
21 review and approval from EPA?

22 MR. KARIKARI: No, from DOH.

23 CHAIRMAN GRIFFIS: From DOH?

24 MR. KARIKARI: We review all the plans and  
25 then coordinate with EPA.

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1                   CHAIRMAN GRIFFIS: I see. So let me see  
2 if I understand you correctly. There's an awful lot  
3 of control on this?

4                   MR. KARIKARI: Could you repeat it?

5                   CHAIRMAN GRIFFIS: I'll let it go. Mr.  
6 Parsons?

7                   MR. PARSONS: As I understand, the  
8 standard on a project like this is retain the 15-year  
9 storm. Is that the standard in the District?

10                  MR. KARIKARI: The standard is to retain  
11 the two-year flow to the pre-development level and the  
12 15-year flow to the pre-development level. So, there  
13 are two standards. In other words, when you develop,  
14 you have to make sure that your runoff is controlled  
15 to the pristine condition, the matter condition or the  
16 grass condition. So it's not just a 15-year. The 15-  
17 year is mostly for flat control, or what we call  
18 quantity control.

19                  MR. PARSONS: Well, is that what this  
20 underground retention system would address?

21                  MR. KARIKARI: Yes.

22                  MR. PARSONS: Now, as I recall on the  
23 Field School project, you said you were familiar with  
24 that.

25                  MR. KARIKARI: Yes.

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1 MR. PARSONS: There was a much higher  
2 standard applied there.

3 MR. KARIKARI: I need to go back and look  
4 at the plans that I approved, but we have two huge  
5 storm underground sand filters. Those were designed  
6 based on the 15-year storm. The District normally  
7 will design based on the 15-year storm except say if  
8 you're downstream of a major water body. That's when  
9 we request designs based on the 100-year storm to  
10 ensure that downstream properties are not impacted.  
11 But essentially, you know, basically 15-year storms  
12 are what -- 15-year is for detention, two-year is more  
13 or less for quality control.

14 MR. PARSONS: Thank you.

15 CHAIRMAN GRIFFIS: Mr. Etherly?

16 MR. ETHERLY: Thank you very much, Mr.  
17 Chair.

18 Let me come back to a question that the  
19 Chair asked you kind of broadly and then perhaps kind  
20 of drill down a little further.

21 The broad question is, what concerns you  
22 about this particular parcel when you take a look at  
23 this project, but even more broadly, when you take a  
24 look at this particular parcel of land, what is it  
25 that concerns you? You indicated that you may believe

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1 that there is a high water table. There's still a  
2 technical report that needs to be done to adequately  
3 assess that. And as part of that concern, you talked  
4 about the swale. So I want to kind of go through that  
5 as little bit, but I want to just start a little  
6 broadly with the issue of what concerns you. What  
7 problems emerge when you take a look or based on your  
8 recollection of your colleague when a look was taken  
9 at this parcel, what concerned you about it?

10 MR. KARIKARI: What concerns me is that  
11 all the runoff coming off in impervious area be  
12 adequately contained and released in a manner say that  
13 it will not cause any adverse impact downstream and to  
14 the wetlands.

15 Another thing that concerns me, that I  
16 believe the concept plan addresses, is actually making  
17 sure that as -- when it rains, any drops of oil or  
18 hydrocarbons are collected in an adequate system  
19 treated before this is discharged downstream.

20 MR. ETHERLY: Okay. And with respect to  
21 the issue of the high water table in the swale, do you  
22 have any particular thoughts about where the swale  
23 would be located on the subject property?

24 MR. KARIKARI: That is something that I  
25 wouldn't be able to answer that I need to see

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1 something beyond the concept plan.

2 MR. ETHERLY: And is your opinion that if  
3 a swale were incorporated into the design of the  
4 subject property that that would replace some of the  
5 piping that you spoke of earlier?

6 MR. KARIKARI: If it is done right, yes,  
7 it will probably just eliminate a few lines of piping,  
8 but at the same time perform the storm water  
9 management function that we would like to have, we  
10 would like to see, in terms of not impacting water  
11 quality.

12 MR. ETHERLY: Okay. And without getting,  
13 I realize that the answer to this probably could be a  
14 highly technical one, so without necessarily getting  
15 into the full technical aspect of it, you noted that  
16 if it were done right. How would you, broadly  
17 speaking, incorporate a swale into this project?

18 MR. KARIKARI: I would like to see swales  
19 as usual, you know, behind back yards, you know, where  
20 there is green space. As a matter of fact, it's all  
21 part of the landscaping system, you know, so if you  
22 can just grade your property and channel stuff into  
23 swale and bring it into an inlet, you're doing two  
24 things. You have grass, you have infiltration, but  
25 you design your swale such that you can collect

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1 whatever is coming in there, you know, and bring it  
2 into an underground system. The swale serves as some  
3 sort of a pretreatment vegetative system.

4 MR. ETHERLY: Okay. And if you do in fact  
5 then incorporate it to an extent in back yards with  
6 respect to essentially the southern border of the  
7 property, would that necessarily dictate a certain  
8 size of back yard that would need to be maintained,  
9 once again based on your familiarity with the design  
10 of the project at this point?

11 MR. KARIKARI: Well, based on my  
12 familiarity, I couldn't really give you a definitive  
13 answer, but I will say this. Yes, if you put in a  
14 swale, it depends where you want to put it. There  
15 should be some sort of an impact, yes, so that will  
16 impact.

17 MR. ETHERLY: Okay. Is there a minimum  
18 size that you would be able to note or identify?

19 MR. KARIKARI: No, not right now.

20 MR. ETHERLY: Okay.

21 MR. KARIKARI: Not until I get into my  
22 design manuals and see what designs they have to  
23 offer.

24 MR. ETHERLY: Okay. I appreciate that.

25 One final question. You noted that there

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1 is a technical report that will be done on the water  
2 table. Is that something that DOH is undertaking?

3 MR. KARIKARI: No, this is normally  
4 requested from the developer. It's a geotechnical  
5 report. It allows us to know the depth of the water  
6 table and to really advise the developer as to whether  
7 there's BMPs like bioretention.

8 MR. ETHERLY: Okay.

9 MR. KARIKARI: Will it be feasible.

10 MR. ETHERLY: Okay. With respect to the  
11 coordination, my apologies for noting last question,  
12 but with respect to the coordination that you spoke of  
13 with EPA, could you give a little bit of insight, once  
14 again it's probably a complicated process, but I just  
15 want to get a sense of what do you coordinate with  
16 EPA? What will EPA be reviewing with respect to this?

17 MR. KARIKARI: EPA reviews what you call  
18 a Notice of Intent form. In other words, any project  
19 that involves land disturbance of an acre or greater,  
20 one has to fill a Notice of Intent form, send it to  
21 EPA and EPA then acknowledges that they've received  
22 that Notice of Intent. What the form does is it kind  
23 of lets the developer know that they have to provide  
24 something called a water pollution control, I would  
25 say, storm water pollution prevention plan. That's

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1 what it's called.

2 MR. ETHERLY: Okay.

3 MR. KARIKARI: In other words, when you do  
4 your development you should make sure that all of  
5 those little chores like not leaving a lot of dirt on-  
6 site, making sure that, you know, as you move along  
7 your construction is done in accordance with approved  
8 plans, you know, those types of things.

9 MR. ETHERLY: Okay.

10 MR. KARIKARI: Is what EPA will review.  
11 But, the plans are not approved by the District until  
12 we've consulted with EPA and indicated to EPA that the  
13 developer has met all the storm water and erosion and  
14 sediment control plans.

15 MR. ETHERLY: Okay. And once again, at  
16 this point the major concerns that would emerge for  
17 you tend to be the hydrocarbons and oils that you  
18 spoke of and the issue of water flow.

19 MR. KARIKARI: Yes.

20 MR. ETHERLY: Okay. Thank you, sir.

21 Thank you, Mr. Chair.

22 CHAIRMAN GRIFFIS: Good. Thank you very  
23 much. Any other questions from the Board?

24 MR. MANN: Yes.

25 MR. MANN: Yes, Mr. Mann.

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1 MR. MANN: Does your evaluation of this  
2 project take into consideration the proposed  
3 improvements to Foxhall Road?

4 MR. KARIKARI: No, I haven't seen that.

5 MR. MANN: Okay. Thank you.

6 MR. PARSONS: Last week we talked about  
7 rain gardens. Are the swales you speak about, is that  
8 another name for a swale is a rain garden?

9 MR. KARIKARI: No, a rain garden is  
10 basically a bioretention system which consists of you  
11 do your excavation and then you have a layer of sand,  
12 you know, which is basically beneath a photo fiber and  
13 then on top you have a soil medium and then you have  
14 your plant media. But a swale is basically just a  
15 grass channel, grass way that you allow water to --  
16 you allow it to convey this water. Water just comes  
17 into an inlet and then from the inlet the water can be  
18 allowed to either go into an underground detention  
19 system, you know, where it is stored and then  
20 discharged at what we would refer to as a reasonable  
21 rate which will not cause erosion on property  
22 downstream.

23 MR. PARSONS: So is the rain garden  
24 something that occurs on the private property, say as  
25 capturing runoff from the roof system?

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1 MR. KARIKARI: Yes, it can occur anywhere.  
2 It can capture runoff off parking lots, from the  
3 roofs, from other impervious areas and what it does is  
4 is it's an effect basically a plant media system. So,  
5 you know, it's the landscaping system.

6 MR. PARSONS: So is that something you  
7 would require or urge, or --

8 MR. KARIKARI: We would normally --  
9 depending on the topography, depending on the nature  
10 of the development, you know, we would normally  
11 recommend that to the developer and where it's  
12 feasible we strongly actually prefer the designer to  
13 put in that sort of system. It's cheaper, you know,  
14 it's biological in nature and it basically gives you  
15 improved water quality.

16 MR. PARSONS: Okay. At this stage of this  
17 development, there is no architecture, there are no  
18 ways to evaluate how much asphalt there will be on a  
19 driveway, if it is asphalt; it could be some other  
20 material, how big the roofs are going to be. How do  
21 you calculate the storm water runoff that comes off of  
22 a -- which is essentially a site plan at this point?

23 MR. KARIKARI: Normally what we do is we  
24 basically are more interested in storm water coming  
25 off what we would call the impervious interconnected

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1 areas. So you come from your roof down your probably  
2 downspout, what's coming off your driveway and the way  
3 we compute this is that we normally would take the  
4 first half inch of runoff which we consider the first  
5 flush because with that we probably are able to catch  
6 about 80 to 90 percent of the pollutants, initial  
7 pollutants, and that is for water quality treatment.  
8 So we do a separate design based on your first half  
9 inch of runoff.

10 Then where we anticipate that we will have  
11 volume problems or quantity problems, we tack on  
12 additional computations for quantity control. And  
13 what we normally do is we take the 15-year storm, the  
14 difference between the 15-year storm and the two-year  
15 pre-development storm, which is basically your matter  
16 condition and we use all kinds of engineering  
17 principles, we use what you call the Resnick Formula.  
18 We have TR-55, we have TR-20, all kinds of models that  
19 we can plug numbers in to come up with the volume that  
20 needs to be controlled and then the design is done  
21 accordingly to meet those requirements.

22 MR. PARSONS: Thank you.

23 CHAIRMAN GRIFFIS: Good. Anything else  
24 from the Board?

25 (No audible response.)

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1 CHAIRMAN GRIFFIS: Are you anticipating  
2 submitting something of a report into the record, or  
3 this is what we have?

4 MR. KARIKARI: This is what you have.

5 CHAIRMAN GRIFFIS: Indeed. Very well.

6 Let's move ahead. Mr. Nettler, cross  
7 examination?

8 MR. NETTLER: Thank you. You had  
9 mentioned that you had been on the site last Friday  
10 and that there was another individual who was working  
11 with you, correct?

12 MR. KARIKARI: Yes.

13 MR. NETTLER: All right.

14 MR. KARIKARI: A design engineer who is --

15 MR. NETTLER: Did he show you a  
16 geotechnical report that had already been prepared?

17 MR. KARIKARI: No.

18 MR. NETTLER: Okay. And so if one had  
19 been provided to him, he would have been working off  
20 of that in terms of whatever review he was giving to  
21 the storm water management plan?

22 MR. KARIKARI: Yes.

23 MR. NETTLER: Okay. The swale that you  
24 mentioned, you couldn't put a swale on a steep slope,  
25 correct?

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1 MR. KARIKARI: No, you couldn't.

2 MR. NETTLER: Okay. And if you had a  
3 swale, it would change the way in which the road  
4 system within the project is constructed also,  
5 correct?

6 MR. KARIKARI: Yes.

7 MR. NETTLER: Okay. Having been on the  
8 site, is it possible that swales could be accommodated  
9 on the rear yards in the areas to the south of the  
10 project? Do you recall the areas to the south?

11 MR. KARIKARI: South coming down Foxhall,  
12 it was McArthur Boulevard or south going on W Street?

13 MR. NETTLER: South near where the  
14 wetlands are. You know, there are the lots that are  
15 going to be on the other sides of the wetlands. Is  
16 that an appropriate --

17 MR. KARIKARI: That's a pretty steep area  
18 when you get to the back there.

19 MR. NETTLER: Right.

20 MR. KARIKARI: But I was thinking more  
21 about incorporating, if it's feasible --

22 MR. NETTLER: Right.

23 MR. KARIKARI: -- incorporating that in  
24 the back where you slope it --

25 MR. NETTLER: Right. Right.

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1 MR. KARIKARI: -- towards --

2 MR. NETTLER: But not on the slope, right?

3 MR. KARIKARI: No, not on the slope.

4 MR. NETTLER: Okay. Okay. And the water  
5 flow and the hydrocarbon issues that said that had to  
6 be addressed, from what you were able to determine  
7 from the system that was being developed, that's  
8 exactly what that system is doing, correct?

9 MR. KARIKARI: Yes, bay savers are  
10 basically for that type of control.

11 MR. NETTLER: Okay. And the bioretention  
12 facilities that were being suggested around the site  
13 both on individual properties and I believe also on  
14 the median, the teardrops in the rows, those are  
15 additional support systems for that storm water  
16 management program, correct?

17 MR. KARIKARI: Yes, but let me just make  
18 a point here. Now, if you have what, 47 units? Now,  
19 you don't want to put in a bioretention system for  
20 each unit because --

21 MR. NETTLER: I'm not talking about each  
22 one, right.

23 MR. KARIKARI: Okay.

24 MR. NETTLER: Obviously some don't need it  
25 and some should have them on there, right, and it

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1 isn't a question of how large the roof is, it's a  
2 question of how good the facility is in terms of  
3 whether it takes that -- whatever runoff is being  
4 coming off of a house or a road is dependent on  
5 whether the facility works, not necessarily the size  
6 of the roof.

7 MR. KARIKARI: I would say that, but you  
8 need the roof area to compute your runoff.

9 MR. NETTLER: Right.

10 MR. KARIKARI: And design your system so  
11 that it can handle that runoff.

12 MR. NETTLER: Right. So if you have --

13 MR. KARIKARI: So they're kind of  
14 interrelated.

15 MR. NETTLER: Sorry. Okay. So if you  
16 have a minimum development area and you have  
17 architectural guidelines that provide for where the  
18 building could be on the site, you could use that as  
19 a basis for doing calculations to determine what your  
20 maximum roof or minimum roof would be so that you can  
21 develop a system along those lines?

22 MR. KARIKARI: Yes.

23 MR. NETTLER: Right. Okay. I don't have  
24 any other questions.

25 CHAIRMAN GRIFFIS: Good. Thank you. Is

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1 the ANC have any cross?

2 MS. GATES: Good morning, Mr. Karikari.

3 MR. KARIKARI: Good morning.

4 MS. GATES: You mentioned that you are

5 familiar with Field School.

6 MR. KARIKARI: Yes.

7 MS. GATES: Have you been working with

8 Field School recently?

9 MR. KARIKARI: No.

10 MS. GATES: Has someone from D.C. Health

11 been working with them?

12 MR. KARIKARI: I know that an inspector,

13 Peter Wilder, you know, is the one who was on site

14 several times from the Department.

15 MS. GATES: And why was that?

16 MR. KARIKARI: He was there to make sure

17 that the contractor was doing what was right, you

18 know, building according to those plans that I had

19 approved.

20 MS. GATES: And did that happen?

21 MR. KARIKARI: A couple of times that

22 didn't happen, so he cited, he wrote violations

23 against the contractor to make sure that the site

24 would be stipulized, you know, that each time they

25 would be going according to the approved plan.

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1 MS. GATES: And are you aware that the  
2 homeowner immediately south of Field School is still  
3 having problems even though one of these swales has  
4 been put in?

5 MR. KARIKARI: I am not aware of that, but  
6 we did -- I know that -- I can't remember the lady's  
7 name, but we went back and forth and --

8 MS. GATES: Mrs. Shagrew.

9 MR. KARIKARI: Yes. We decided in fact to  
10 put in what I will call an infiltration system right  
11 by a retaining wall to make sure that water coming off  
12 the field would go through that sand, you know, and  
13 not really get onto her property. So, I'm not aware  
14 that she is still having any problem.

15 MS. GATES: I believe she is and I believe  
16 another neighbor who's also here today has had a very  
17 wet basement as a result of this system.

18 CHAIRMAN GRIFFIS: Question, Ms. Gates?

19 MS. GATES: Oh, thank you. Are you aware  
20 that another neighbor has also had problems and a wet  
21 basement?

22 MR. KARIKARI: No, I'm not.

23 MS. GATES: Okay. Once this system is  
24 approved by you and we've heard a lot of discussion  
25 now about different options, how do you ensure that it

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1 is going to work, and what steps do you take when it  
2 isn't working?

3 MR. KARIKARI: The steps we take is that  
4 any storm water management plan that we approve from  
5 our office has got a maintenance agreement on it. The  
6 maintenance of the system is in perpetuity. So any  
7 time we get reports that the system is not working, it  
8 is incumbent on the developer of the property or  
9 whoever signed the maintenance agreement to make sure  
10 that they go in there and ensure that the system is  
11 working. Normally we have an inspector on site while  
12 the construction is going on and so if it happens to  
13 be some sort of a modification that needs to be made  
14 in the field, again the inspector has a right to  
15 ensure that that change is made. But once it's built,  
16 it is the responsibility of whoever has signed that  
17 maintenance agreement to ensure that the system is  
18 well-maintained so that it can perform its function.

19 MS. GATES: And what happens when the  
20 person who has signed that agreement is no longer in  
21 the area?

22 MR. KARIKARI: Whether this is, whether  
23 they are selling the property, we have covenants,  
24 storm water covenants, that are deeded so, you know,  
25 the new owner --

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1 MS. GATES: So they're on the properties  
2 themselves, not just in the hands of the developer?

3 MR. KARIKARI: Right. The new owner,  
4 whoever comes to purchase that property has that  
5 responsibility. It's transferrable.

6 CHAIRMAN GRIFFIS: So the storm water  
7 management plan runs with the land, is what you're  
8 saying?

9 MR. KARIKARI: Yes, it does.

10 CHAIRMAN GRIFFIS: Okay. Next question?

11 MS. GATES: In this particular case, it  
12 appears that some of the water will be directed toward  
13 Foxhall Road. Is that correct?

14 MR. KARIKARI: I need to see the entire  
15 design.

16 MS. GATES: Well, we have talked about the  
17 improvements plan for Foxhall, but there is a  
18 homeowner who is currently living right there on  
19 Foxhall Road whose property stands to be impacted by  
20 this. What measures will you take to ensure that  
21 doesn't happen?

22 MR. KARIKARI: Technically or by law, by  
23 our regulations, the developer is not allowed to allow  
24 water to cross property boundaries.

25 MS. GATES: But we've seen that happen in

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1 the Field School case.

2 MR. KARIKARI: Again, I'm not aware of  
3 that, but if that's happened, that should have been  
4 brought to our attention during the --

5 MS. GATES: I think it's been brought to  
6 your attention several times.

7 CHAIRMAN GRIFFIS: Okay. But we're  
8 talking about this application. So you're saying  
9 that --

10 MS. GATES: I'm just trying to ensure  
11 that --

12 CHAIRMAN GRIFFIS: Right, I understand.

13 MS. GATES: Thank you.

14 CHAIRMAN GRIFFIS: But just for clarity,  
15 the answer to your question is, as I understand it --

16 MR. KARIKARI: The answer to my question  
17 is that --

18 CHAIRMAN GRIFFIS: Let me --

19 MR. KARIKARI: -- the developer should not  
20 allow water to cross property boundaries. So if that  
21 happens --

22 CHAIRMAN GRIFFIS: Should not allow, or  
23 isn't allowed?

24 MR. KARIKARI: Must not allow. The law  
25 says you cannot --

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1 CHAIRMAN GRIFFIS: So it's not a  
2 possibility.

3 MR. KARIKARI: That's not a possibility.

4 CHAIRMAN GRIFFIS: They have to maintain  
5 the water on the property?

6 MR. KARIKARI: Yes, you have to  
7 maintain --

8 CHAIRMAN GRIFFIS: That's what the  
9 regulations are?

10 MR. KARIKARI: That's what the  
11 regulations --

12 CHAIRMAN GRIFFIS: Okay.

13 MR. KARIKARI: Runoff cannot cross  
14 property boundaries.

15 CHAIRMAN GRIFFIS: And what means do you  
16 have if that doesn't, if -- you know, water is a fluid  
17 thing, as they say. No, that's not --

18 MS. GATES: It seeks its own level.

19 CHAIRMAN GRIFFIS: But, you know, this is  
20 a science, but it's not always exact.

21 MR. KARIKARI: Right.

22 CHAIRMAN GRIFFIS: So, you run into  
23 situations. What remedies do you have? I think  
24 that's what Ms. Gates is trying to get to. So what  
25 can you do? You have a perfect plan and then the

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1 perfect storm comes and water runs somewhere  
2 differently. What do you do?

3 MR. KARIKARI: What we do is that is why  
4 you can't design for a 1,000-year storm.

5 CHAIRMAN GRIFFIS: Right.

6 MR. KARIKARI: That's why you design --

7 CHAIRMAN GRIFFIS: Okay. But, I'm sorry,  
8 but --

9 MR. KARIKARI: But what we do is if water  
10 is crossing property boundaries --

11 CHAIRMAN GRIFFIS: Right.

12 MR. KARIKARI: -- and the issue is brought  
13 to our attention, we have an inspections and  
14 enforcement time that makes sure that the developer  
15 goes back and corrects the file.

16 CHAIRMAN GRIFFIS: Okay. And that, I  
17 think you did say this morning that you can issue  
18 fines. Is that correct?

19 MR. KARIKARI: Yes, there are several  
20 infractions.

21 CHAIRMAN GRIFFIS: Okay.

22 MR. KARIKARI: You know, there are kinds  
23 of violations.

24 CHAIRMAN GRIFFIS: And part of the  
25 inspection process is obviously to maintain and to

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1 ensure that it was built as designed?

2 MR. KARIKARI: As designed?

3 CHAIRMAN GRIFFIS: And if it wasn't,  
4 there's ramifications?

5 MR. KARIKARI: Right.

6 CHAIRMAN GRIFFIS: Okay. I'm clear.

7 MS. GATES: Thank you.

8 CHAIRMAN GRIFFIS: Certainly. Anything  
9 else?

10 (No audible response.)

11 CHAIRMAN GRIFFIS: Good. Any other cross  
12 from parties? Yes, Friends of Whitehaven?

13 MR. SNAPE: Good morning.

14 MR. KARIKARI: Good morning.

15 MR. SNAPE: You mentioned earlier your  
16 concerns about hydrocarbons and Mr. Etherly repeated  
17 them. Do you have similar concerns about salt runoff  
18 or lawn chemical runoff as you do as the hydrocarbons?

19 MR. KARIKARI: We do, but unfortunately we  
20 do have best management practices now, you know, I  
21 mean, there's a limit of technology. So, you know,  
22 you don't have something that can control that sort of  
23 situation.

24 MR. SNAPE: So is it fair to say that the  
25 type of filter that you have, at least the filter

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1 proposal that you have seen with the current proposal,  
2 would not capture salts or lawn chemicals? Can you  
3 answer that?

4 MR. KARIKARI: I can answer that. I can  
5 see if the bioretention system were feasible, you come  
6 in, you know, salt, dependent on the whatever  
7 chemistry, the chemistry is, I believe the  
8 bioretention system being the living biological  
9 system, you know, can really help because it can even  
10 work on oils and greases, break them down, because you  
11 have active microorganisms in the system.

12 MR. SNAPE: Right.

13 MR. KARIKARI: If you went into say an  
14 underground sand filter where we have sand and photo  
15 fabric and stone, that I couldn't tell you whether it  
16 will work 80 or 90 percent. I couldn't tell you that.

17 MR. SNAPE: That helps me. Let me just  
18 ask that one aspect more specifically. Would the  
19 biological system you're talking about capture  
20 chlorine-based pesticides? Is it capable of doing  
21 that, in your opinion?

22 MR. KARIKARI: Chlorine-based pesticides?  
23 I couldn't really answer that unless I saw some  
24 figures, research data on that.

25 MR. SNAPE: Is it your opinion that salts

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1 and lawn chemicals if not properly filtered could  
2 adversely impact the wetlands on the parkland and in  
3 the adjacent property?

4 MR. KARIKARI: I would think so.

5 CHAIRMAN GRIFFIS: That's a pretty broad  
6 question, isn't it?

7 MR. SNAPE: Well, I was trying to get at,  
8 and he answered in the affirmative, that --

9 CHAIRMAN GRIFFIS: Right. I can't imagine  
10 how he wouldn't.

11 MR. SNAPE: Right. I mean, I just wanted  
12 to confirm. That's all.

13 CHAIRMAN GRIFFIS: Okay. But are we  
14 talking about different levels? I mean, I think it's  
15 an important aspect and what you're getting to is  
16 well, oh, you know, what can be treated, how could it  
17 be treated and what's going to be the possibility.  
18 But your question to me raises some concern because  
19 yes, if you dumped, you know, all of Morton's factory  
20 into this stream, then there's going to be an adverse  
21 impact.

22 MR. SNAPE: Right.

23 CHAIRMAN GRIFFIS: But what are we  
24 talking? We're talking about 16 acres. What levels  
25 are we really dealing with in terms of the salt, the

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1 chemicals? You're talking about road treatment and  
2 foul weather and things like that.

3 MR. SNAPE: That's right.

4 MR. KARIKARI: And to my knowledge, if you  
5 were talking about what were to be the composition of  
6 that salt that is put on the road, calcium something,  
7 that breaks down. We know that if you're going that  
8 way, calcium is a heavy metal and like bioretention  
9 systems are excellent at really working on heavy  
10 metals, heavy metal removals, for some reason.

11 CHAIRMAN GRIFFIS: So it would take that  
12 out, it would separate it from that which is applied  
13 to the road before it got into the water flow?

14 MR. KARIKARI: Right. I'm looking at  
15 mostly, if you're talking about salt on Foxhall  
16 Road --

17 CHAIRMAN GRIFFIS: Right.

18 MR. KARIKARI: -- where I don't know in  
19 terms of magnitude how much would homeowners would put  
20 on the sidewalk or anything, but I would think that if  
21 you were come into -- I mean, if you drove right down  
22 your path, driving path, and your sidewalk and you're  
23 going to put salt in there, I didn't know how much  
24 quantity and I couldn't tell you the dilution rate so  
25 that if they came into a storm water system maybe they

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1 would be so diluted that their impact further  
2 downstream may be negligible.

3 CHAIRMAN GRIFFIS: Understood. But  
4 wouldn't that be part of your review of the storm  
5 water management plan here in this application or any  
6 other applications? Wouldn't you have to look at what  
7 it's taking out? Or what you're saying is that it  
8 would not -- not following, I think your phraseology  
9 was best practices --

10 MR. KARIKARI: Yes.

11 CHAIRMAN GRIFFIS: -- at this point, is  
12 that not a level that you get to in terms of your  
13 analysis?

14 MR. KARIKARI: Yes, we do that and we have  
15 BMP storm water management systems that show a certain  
16 percentage removal rate, you know, of heavy metals.  
17 We look at these things as heavy metals, hydrocarbons.  
18 We look at nutrients, nitrogen, phosphorus from  
19 fertilizer, you know.

20 CHAIRMAN GRIFFIS: Okay.

21 MR. KARIKARI: But in terms of specific  
22 salts, I'm not sure this is actually going and I'm not  
23 sure that I can really give you a definitive answer as  
24 to, you know, the impacts downstream because it  
25 depends on the concentrations that are being applied.

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1                   CHAIRMAN GRIFFIS: Understood. And that's  
2 different than your original answer then. But it then  
3 goes to, just a last follow-up, what I think Mr.  
4 Parsons was -- excellent question of well, you're  
5 saying you have to look at the levels in order to  
6 understand whether the system will take them out or  
7 what impact it is down the way, down river.

8                   So what is it that starts -- how do you  
9 establish what those levels are? I mean, Mr. Parsons  
10 was getting into what's the total water, you know, off  
11 the impermeable.

12                  MR. KARIKARI: Right.

13                  CHAIRMAN GRIFFIS: But then how do you  
14 calculate out that water how much is it grabbing of  
15 chemicals that would need to be treated? I guess the  
16 direct question is, is there a formula which you  
17 establish that?

18                  MR. KARIKARI: I believe that we don't  
19 have formula, but I believe that, you know, based on  
20 data for monitoring of some of these BMPs, if you're  
21 looking at calcium as a component of that, we know  
22 that some of our BMPs are pretty good at removing  
23 calcium and heavy metals.

24                  CHAIRMAN GRIFFIS: Okay. And this would  
25 be specifically looked at in terms of this plan?

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1 MR. KARIKARI: Yes, we can look at this  
2 and -- yes, we can look at -- we will --

3 CHAIRMAN GRIFFIS: Yes, but the question  
4 is --

5 MR. KARIKARI: Yes, but we can --

6 CHAIRMAN GRIFFIS: I know you can, but the  
7 question is, is it part of your review process to look  
8 at these types of aspects of salt on the street or  
9 lawn care products? Is that your analysis or is that  
10 an element that you look at in your review?

11 MR. KARIKARI: Yes, that's an element.

12 CHAIRMAN GRIFFIS: Okay.

13 MR. KARIKARI: When you talk about lawn  
14 care, you're looking at -- we look at it from  
15 nutrients.

16 CHAIRMAN GRIFFIS: Right.

17 MR. KARIKARI: Nitrogen, phosphorus.

18 CHAIRMAN GRIFFIS: Okay.

19 MR. KARIKARI: So we advise on BMPs that  
20 have a capability.

21 CHAIRMAN GRIFFIS: Okay. Can I be very  
22 elementary, as we're not all storm water managements  
23 up here; I don't think we're any, but there may an  
24 expert or two, but let me just elementarily, is that  
25 a word, simplified here. What you're doing is you're

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1 looking at this aspect and all this rain is coming  
2 down. As it comes down as a volume of water that's  
3 created and what you look at in terms of your analysis  
4 of the storm water management plan is where all that  
5 goes and then how it exits the site and what is it  
6 when it exits?

7 MR. KARIKARI: Right.

8 CHAIRMAN GRIFFIS: Is that correct?

9 MR. KARIKARI: Yes.

10 CHAIRMAN GRIFFIS: Okay. So you have to  
11 take in all these aspects. I mean, conceivably you're  
12 assuming that there is a few cars that are leaking a  
13 little bit of motor oil here, salts going down once in  
14 awhile, all those factor into what you look at in  
15 terms of how the water is treated before it leaves the  
16 site.

17 MR. KARIKARI: Right.

18 CHAIRMAN GRIFFIS: Okay.

19 MR. SNAPE: Thank you, Mr. Chair. Just to  
20 close this loop, Mr. Chair, would it be fair to say on  
21 your behalf or your office's behalf that you need more  
22 information before you to make these determinations  
23 about salt, lawn chemicals and hydrocarbons? Is that  
24 what you're saying?

25 MR. KARIKARI: What I'm saying is as for

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1 hydrocarbons, for instance, based on research, in our  
2 regulations it says hydrocarbons should be maintained  
3 at 10 milligrams per liter. So there's a definite cut  
4 right there, you know, but there is nothing in our  
5 regulations that says, "Okay. Salt should be  
6 maintained at maybe 2 milligrams per liter." We look  
7 at it from a broad perspective that salt may be part  
8 of -- may contain heavy metals.

9 MR. SNAPE: Right.

10 MR. KARIKARI: And therefore we normally  
11 would advocate BMPs that are good at removing heavy  
12 metals.

13 MR. SNAPE: Okay. I may be dense, but  
14 I just don't understand. Do you have enough  
15 information to make these determinations that you  
16 described?

17 MR. KARIKARI: No, I do not have  
18 information on the salt concentrations that you're  
19 talking right now.

20 MR. SNAPE: Does your office have this  
21 information to the best of your knowledge?

22 MR. KARIKARI: To the best of my  
23 knowledge, I would have to check on that, on our water  
24 quality standards probably.

25 CHAIRMAN GRIFFIS: Okay. All right.

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1 Anything else?

2 MR. SNAPE: Yes.

3 CHAIRMAN GRIFFIS: I'm sorry, then let me  
4 interrupt.

5 Let's get down to the heart of this  
6 because this isn't going to go away, this question  
7 that you just opened up. What is your schedule of  
8 review in a normal project, but specifically in this  
9 project?

10 MR. KARIKARI: Our schedule of review is  
11 that once we get a plan --

12 CHAIRMAN GRIFFIS: Right.

13 MR. KARIKARI: -- you know, we have  
14 standard operating procedures, we have things we are  
15 looking for.

16 CHAIRMAN GRIFFIS: Right.

17 MR. KARIKARI: We're looking essentially  
18 at hydrology, hydraulics.

19 CHAIRMAN GRIFFIS: But the point is at  
20 what stage -- I mean, it would seem like it would  
21 almost be ready for permit stage that you would start  
22 reviewing an awful lot of this information. Is that  
23 correct?

24 MR. KARIKARI: Yes, during -- once we get  
25 a concept plan, you know, as -- we go through the

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1 review, 10 to 30 working days. We look at a lot of  
2 stuff.

3 CHAIRMAN GRIFFIS: Okay. Because it has  
4 to be fairly final?

5 MR. KARIKARI: Not necessarily, because we  
6 might find that things are not being done to our  
7 liking, therefore, we can have several reviews of a  
8 particular project.

9 CHAIRMAN GRIFFIS: Okay. Okay. Good.  
10 Sorry.

11 MR. SNAPE: I'm going to change gears  
12 slightly, Mr. Chairman. Thank you.

13 I believe you were here when we had some  
14 discussion on setbacks from the wetland. Do you or  
15 your office have an opinion on this 25-foot, 50-foot,  
16 75-foot, 100-foot setback discussion we've been  
17 having? Do you have an opinion on what is an  
18 appropriate setback at this point in time?

19 MR. KARIKARI: No, I'm not wetlands  
20 expert, but I can get to wetlands experts and they can  
21 give you an opinion on that.

22 MR. SNAPE: Thank you. And when would  
23 that occur? Is that a part of the process Mr. Griffis  
24 was -- I mean, is that later as well, or does that  
25 happen relatively soon?

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1 MR. KARIKARI: No, that will come as if  
2 the developer files what you call an EISF, an  
3 environmental impact survey form. You know, as part  
4 of that, certain questions about wetlands come in so  
5 if setbacks need to be considered, that is the time  
6 when these things are considered.

7 MR. SNAPE: Okay. Okay. Last two  
8 questions relating to wildlife. Are you aware that  
9 there is a fox den abutting sort of almost on both the  
10 national park property, the Whitehaven property, and  
11 this proposed private development? Are you aware of  
12 that fox den?

13 MR. KARIKARI: No, I'm not.

14 MR. SNAPE: Last question. Are you aware  
15 that there was a cerulean warbler, which is a  
16 migratory bird species, identified on the Whitehaven  
17 Park property that's a proposed species for the  
18 endangered species list? Were you aware that there  
19 was a cerulean warbler spotted on that Whitehaven  
20 property in the last several years?

21 MR. KARIKARI: No.

22 MR. SNAPE: Okay. I have no further  
23 questions, Mr. Chair.

24 CHAIRMAN GRIFFIS: What's it look like?

25 MR. SNAPE: It's a beautiful small blue

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1 bird with white and black bars on its wings.

2 CHAIRMAN GRIFFIS: Okay. Ms. Miller?

3 VICE-CHAIR MILLER: I did have two  
4 questions. The first one goes to, I think you made  
5 some kind of statement about some assessment of yours  
6 depended on the concentrations applied and I'm  
7 wondering when you do your assessments do you consider  
8 recommending any limitations on the quantity or the  
9 type of chemicals that are used for instance on the  
10 lawn?

11 MR. KARIKARI: That's difficult for me to  
12 answer. We look at it from storm water. We look at  
13 it mostly from fertilizer, from nutrients. But I  
14 believe that water quality people, you know, the water  
15 quality standards, there are certain chemicals that  
16 they would not allow to be used on the lawn.

17 VICE-CHAIR MILLER: And that's in the  
18 regulations, in the guidelines?

19 MR. KARIKARI: Yes, in the water quality  
20 standards.

21 VICE-CHAIR MILLER: Also, is the applicant  
22 required to do an EIS in this case?

23 MR. KARIKARI: I believe so. That  
24 information can definitely be gotten from DCRA because  
25 they know the zones, you know, and the areas which --

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1 CHAIRMAN GRIFFIS: But here's the  
2 question. Is there a federal level of environmental  
3 impact study that has to be done? You mentioned the  
4 ISF -- or whatever it is, survey form.

5 MR. KARIKARI: Are you talking about NEPA?

6 CHAIRMAN GRIFFIS: I don't know.

7 MR. KARIKARI: NEPA, the National  
8 Environmental Policy?

9 CHAIRMAN GRIFFIS: You're talking about a  
10 federal level, not local. Is that correct?

11 VICE-CHAIR MILLER: Right. The  
12 environmental impact statement.

13 MR. KARIKARI: Well, it wouldn't be the  
14 federal component if this private property. If this  
15 is private property, the environmental impact  
16 screening form is what the District normally requires.

17 CHAIRMAN GRIFFIS: Right.

18 MR. KARIKARI: And once that is reviewed,  
19 if there is a need to do a full blown environmental  
20 assessment --

21 CHAIRMAN GRIFFIS: Right. So that's an  
22 additional step to your review of this storm water  
23 management plan, right?

24 MR. KARIKARI: Yes.

25 CHAIRMAN GRIFFIS: And your agency reviews

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1 it. How many other agencies review that?

2 MR. KARIKARI: I believe WASA does. I  
3 believe DDOT. I'm not sure whether the Office of  
4 Planning probably reviews EISF.

5 CHAIRMAN GRIFFIS: Ms. Steingasser, do you  
6 review those forms?

7 MS. STEINGASSER: Yes, sir, we do.

8 CHAIRMAN GRIFFIS: Wow. Okay. So we're  
9 now up to four. How many other agencies do you know  
10 of?

11 MR. KARIKARI: These are the ones that  
12 come to mind.

13 CHAIRMAN GRIFFIS: Okay. So if my  
14 understanding is correct, then numerous agencies look  
15 at this information that's submitted?

16 MR. KARIKARI: Yes. Yes.

17 CHAIRMAN GRIFFIS: Okay. Anything else?  
18 Mr. Nettler?

19 MR. NETTLER: Just a few follow-up  
20 questions.

21 CHAIRMAN GRIFFIS: Yes, are we finished  
22 with everyone's rounds? Does any other party in  
23 opposition have any cross examination?

24 (No audible response.)

25 CHAIRMAN GRIFFIS: Okay. That's good.

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1 MR. NETTLER: Just some quick questions.  
2 When you visited the property on Friday,  
3 you talked about before about it being a sloping  
4 property. There is a house on a lot next to the  
5 property. Did you notice that?

6 MR. KARIKARI: I didn't actually take note  
7 of that.

8 MR. NETTLER: Okay. But if a house is up  
9 here and the property entrance is up here and the  
10 wetlands area is down here, the water flows this way,  
11 doesn't it?

12 MR. KARIKARI: Right.

13 MR. NETTLER: It doesn't flow that way,  
14 right? It flows south or flows to a lower level, not  
15 to the same level, right?

16 MR. KARIKARI: Right.

17 MR. NETTLER: Okay. And getting back to  
18 this whole permitting issue, you look at a concept  
19 storm water management plan initially to see whether  
20 it meets the requirements that you're looking for for  
21 a site like this, correct?

22 MR. KARIKARI: Yes.

23 MR. NETTLER: And then when it comes to  
24 permitting, you look to see whether the permit plans,  
25 the building plans, are consistent with that concept

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1 that you've gone through, is that correct?

2 MR. KARIKARI: Right.

3 MR. NETTLER: Okay. Thank you. That's  
4 it.

5 CHAIRMAN GRIFFIS: All set? Very well.  
6 Any other follow-ups from the Board?

7 (No audible response.)

8 CHAIRMAN GRIFFIS: Good. Thank you very  
9 much. We appreciate you taking the time. Oh, I'm  
10 sorry.

11 MR. SNAPE: I have a question simply  
12 relating to that question.

13 CHAIRMAN GRIFFIS: Yes, let's go.

14 MR. SNAPE: On water flow.

15 CHAIRMAN GRIFFIS: On the water flow?  
16 Okay.

17 MR. SNAPE: On the question Mr. Nettler  
18 asked, specifically related to that.

19 CHAIRMAN GRIFFIS: Excellent.

20 MR. SNAPE: Would it be possible, we all  
21 know water does not naturally flow down hill. I think  
22 that is common sense. But would it be possible to  
23 design a storm water management system where the water  
24 flowing on the top part of the property of Foxhall  
25 could be diverted south down Whitehaven? Is that a

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1 possible engineering design in your opinion here?

2 In other words, so the water wouldn't  
3 naturally flow down. Is it possible to direct the  
4 water so it goes across, then down the other way, not  
5 east, but west down Whitehaven? Is that possible to  
6 do, in your opinion?

7 MR. KARIKARI: Well, I believe engineering  
8 wise a lot of things are possible, but cost wise and  
9 whether they are even feasible to do, that's a whole  
10 other situation.

11 MR. SNAPE: So you're not aware of a  
12 proposal to do that in this particular instance?

13 MR. KARIKARI: No, I'm not aware of that.

14 MR. SNAPE: Thank you, Mr. Chair.

15 CHAIRMAN GRIFFIS: Thank you.

16 MR. ETHERLY: One quick follow-up, Mr.  
17 Chair, just very briefly.

18 In your opinion, is the issue of the  
19 swales a deal breaker here?

20 MR. KARIKARI: No. No, it's not.

21 MR. ETHERLY: Okay.

22 MR. KARIKARI: It's just a suggestion --

23 MR. ETHERLY: Got you.

24 MR. KARIKARI: -- that I threw out there  
25 that, you know, if you're doing site design, this is

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1 one of those options you could consider, you know --

2 MR. ETHERLY: Okay.

3 MR. KARIKARI: -- so that you have a  
4 holistic design.

5 MR. ETHERLY: Okay. And just as a quick  
6 follow up, we are of course in possession of an  
7 environmental assessment that was done for the  
8 applicant which runs through all of the obligatory  
9 items, underground storage tanks, different  
10 environmental actions that may have happened either on  
11 the site or in the vicinity of the site. Nothing  
12 major was identified. I just wanted to make sure if  
13 you were aware of any conditions adjacent to the site  
14 or in the vicinity of the site that might be of  
15 concern here with respect to storm water runoff or  
16 anything. I think it was indicated that there might  
17 have been a UST on the Mount Vernon site. There's a  
18 Chevron site somewhat adjacent, but none of them  
19 appear to raise any issues for the subject site here.

20 MR. KARIKARI: I'm not even aware of that.

21 MR. ETHERLY: Okay. Excellent.

22 Excellent. Thank you, sir. Appreciate it.

23 Thank you, Mr. Chair.

24 CHAIRMAN GRIFFIS: Good. Follow up from  
25 the ANC?

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1 MS. GATES: Mr. Etherly asked it. Thank  
2 you.

3 CHAIRMAN GRIFFIS: Oh, very well. Good  
4 job. Excellent. If there's nothing else, no other  
5 cross?

6 (No audible response.)

7 CHAIRMAN GRIFFIS: Very well. Thank you  
8 very much.

9 MR. KARIKARI: Right.

10 CHAIRMAN GRIFFIS: Appreciate you coming  
11 down and providing this important information for us.

12 As I have noted, we have gone through the  
13 police department. DDOT is here, is that correct?  
14 And are there other government agencies that are  
15 requesting to give testimony?

16 (No audible response.)

17 CHAIRMAN GRIFFIS: Okay. Good. We're  
18 just going to take a 10-minute and then we'll start  
19 with Department of Transportation and then we'll get  
20 to the Park Service.

21 (Whereupon, at 10:50 a.m. off the record  
22 until 11:09 a.m.)

23 CHAIRMAN GRIFFIS: Very well. Let's  
24 resume. Let me ask if those folks present that came  
25 in after the swearing in, if you haven't been sworn

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1 in, administered the oath, if you wouldn't mind  
2 standing at this time and giving your attention to Ms.  
3 Bailey on my far right.

4 (The witnesses were sworn.)

5 CHAIRMAN GRIFFIS: Good and I think we're  
6 ready. Department of Transportation we'll start with.  
7 Then we'll go to the Park Service.

8 Is there a representative from DHCD here  
9 today? Department of Housing and Community  
10 Development?

11 (No audible response.)

12 CHAIRMAN GRIFFIS: Not noting any. Very  
13 well.

14 MS. SIMPSON-MASON: Good morning, Mr.  
15 Chair and --

16 CHAIRMAN GRIFFIS: If you wouldn't mind,  
17 you just need to turn that on. There's a button on  
18 the base. Perfect. Thank you.

19 MS. SIMPSON-MASON: Okay. Good morning,  
20 Mr. Chairman, members of the Zoning Commission. My  
21 name is Ann Simpson-Mason and I manage the  
22 Neighborhood Transportation Planning Program for the  
23 Department of Transportation.

24 MR. BULLOCK: Good morning. My name is  
25 John Bullock and I'm also with the Department of

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1 Transportation, the Ward 3 transportation planner.

2 Okay. I know that you have our testimony,  
3 our analysis of the project on your record already and  
4 we're here to answer any questions if there are any.

5 CHAIRMAN GRIFFIS: Excellent. We have in  
6 position, it's Exhibit 24. It's dated January 31st.  
7 Is that your most recent?

8 MS. SIMPSON-MASON: That's right.

9 CHAIRMAN GRIFFIS: Okay. You'd just like  
10 to stand on the record then. We have it before us.  
11 If there are any questions from the Board?

12 (No audible response.)

13 CHAIRMAN GRIFFIS: I know there are, but  
14 we're going to give them a moment to get ready.

15 MR. BULLOCK: Sure.

16 CHAIRMAN GRIFFIS: Let's start first of  
17 all, in terms of, there's been an awful lot of  
18 testimony, obviously a project of this size goes  
19 through numerous iterations, how much time did you  
20 spend on looking at some of the iterations  
21 specifically looking at the ingress and egress with  
22 the traffic flow and the impact to the surrounding  
23 area and then on this particular site?

24 MR. BULLOCK: Well, our first knowledge of  
25 the project in our discussions with the transportation

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1 consultant actually began in October, so we have seen  
2 it go from the draft stage to the stage that it is  
3 now.

4 CHAIRMAN GRIFFIS: Okay. And is there an  
5 official position or any sort of analysis that was  
6 done in terms of the positives or negatives of having  
7 -- well, how would you compare numerous accesses in  
8 and out of the site compared to what we're looking at  
9 now, which is it seems to be getting less and less?

10 MR. BULLOCK: I think the number of access  
11 points that you have now is probably the best view  
12 that we've seen as of yet because you do you have one  
13 access on W and you also have another one on Foxhall  
14 and it's not overburdening one street versus another.

15 CHAIRMAN GRIFFIS: I see. Okay. So the  
16 variety and the options of leaving out on W or Foxhall  
17 is what you think is a positive aspect to the traffic  
18 flow for the surrounding area and also for the  
19 particular site?

20 MR. BULLOCK: Yes, in addition to the  
21 signalization of the --

22 CHAIRMAN GRIFFIS: Okay.

23 MR. BULLOCK: -- entrance on Foxhall.

24 CHAIRMAN GRIFFIS: It came up earlier in  
25 Mr. Mann's question, I don't know if you wanted to

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1 address that, Mr. Mann, in terms of an additional  
2 access on the Foxhall across the park land. Was that  
3 something that was looked at all going to the  
4 signalized intersection at that point?

5 MR. BULLOCK: That was not something that  
6 was looked at. What we had in front of us was the  
7 access point for W, but we didn't look at the access  
8 for Whitehaven.

9 CHAIRMAN GRIFFIS: Okay. Good. Yes, Mr.  
10 Parsons?

11 MR. PARSONS: There's been some discussion  
12 before you arrived or at last week's hearing that  
13 there's some proposal to improve or repave, or do  
14 something to Foxhall Road. Do you have any knowledge  
15 of that?

16 MR. BULLOCK: That's correct. Yes, the  
17 repaving project actually is slated to begin in the  
18 spring of this year, most likely around May. And what  
19 that would entail for this section of Foxhall is  
20 pretty much just, as I mentioned, just a regular  
21 resurfacing.

22 MR. PARSONS: So there's no proposal at  
23 this point to coordinate, if you will, the idea of a  
24 turning lane and so forth into this facility with what  
25 you're doing or will be doing this spring?

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1 MR. BULLOCK: I know that that was  
2 mentioned as something that the developer wanted to  
3 look into as making that left turn lane and we're fine  
4 with that. We think that actually may be a beneficial  
5 thing to include.

6 MR. PARSONS: So the trouble is  
7 synchronizing two projects --

8 MR. BULLOCK: Right.

9 MR. PARSONS: -- so one doesn't tear up  
10 the other's work, huh?

11 MR. BULLOCK: Exactly.

12 MR. PARSONS: Are you going to be doing  
13 anything with the drainage on Foxhall, or is this  
14 simply a milling and paving job?

15 MR. BULLOCK: It pretty much is a milling  
16 and paving job, yes.

17 MR. PARSONS: Okay. So capturing some of  
18 the water off Foxhall and diverting it to another  
19 watershed, if you will, headed to the west is not  
20 something that is proposed as part of this project?

21 MR. BULLOCK: Not to my knowledge.

22 MR. PARSONS: Thank you.

23 MR. MANN: There's been some discussion of  
24 a proposal to install an on-demand stop light at the  
25 entrance to this project.

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1 MR. BULLOCK: That's correct.

2 MR. MANN: Can you comment on that?

3 MR. BULLOCK: Yes, we're also in  
4 concurrence with the idea to put that traffic signal  
5 there and as we know that would be approximately 300-  
6 400 feet south of the intersection at W and Foxhall.  
7 This was something that we've been looking at for a  
8 while, particularly having a traffic signal at the  
9 intersection of W of Foxhall.

10 MR. MANN: How does an on-demand stop  
11 light work?

12 MR. BULLOCK: Well, what we're looking at  
13 now is actually having a fully-actuated system. What  
14 we'd like to do for that traffic signal there, have it  
15 fully-actuated so it has detection signals coming  
16 from, or detection systems coming from both directions  
17 on Foxhall and come from W. That would be Foxhall, or  
18 coming from the Dunmarlin site.

19 MR. MANN: Is there a difference then  
20 between on-demand versus the fully-actuated service,  
21 or is it the same thing? The use of on-demand was  
22 floated last week, but I don't know if there's  
23 actually any technical difference between an on-demand  
24 stop light and a fully-actuated stop light. Is there?

25 MR. BULLOCK: Not to my knowledge.

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1 MS. SIMPSON-MASON: I believe there is.  
2 The fully-actuated is a detection from all approaches  
3 and it's my understanding that our traffic services  
4 administration plans to move in that direction on all  
5 our traffic operations within the next four years.

6 MR. MANN: Is the installation of a fully-  
7 actuated stop light anticipated at that intersection?

8 MS. SIMPSON-MASON: We are going to  
9 recommend it.

10 MR. MANN: If this development moves  
11 forward as proposed, then your recommendation would be  
12 to install a fully-actuated?

13 MS. SIMPSON-MASON: Fully-actuated.

14 MR. MANN: And would you have any  
15 recommendation as to when that traffic light should be  
16 installed?

17 MR. BULLOCK: I would think, I mean,  
18 beginning of the project. I mean, that's something  
19 that we think would benefit. I mean, also with the  
20 construction that's going on, that would be beneficial  
21 to have that at the outset.

22 MR. MANN: At the commencement of the  
23 project?

24 MR. BULLOCK: Yes.

25 MR. MANN: Okay. Thank you.

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1 CHAIRMAN GRIFFIS: Good. Excellent  
2 information. Let me just review, see if I understand.  
3 What's happening, proposed or perhaps DDOT's  
4 recommendation for the intersection of W and Foxhall,  
5 that's signalized?

6 MR. BULLOCK: I'm sorry. Could you repeat  
7 that? I'm sorry.

8 CHAIRMAN GRIFFIS: What did you state as  
9 the recommendation for W and Foxhall?

10 MR. BULLOCK: Well, previously there was  
11 a traffic study that was conducted for the Palisades  
12 area and in that area there was a warrant conducted  
13 for the intersection of W and Foxhall. And actually  
14 that intersection warrants a signal. Now, with the  
15 traffic signal positioned 300 feet south of that W  
16 Street intersection, we feel it does do a service in  
17 that area and it actually helps the flow of traffic in  
18 that area and also the ingress and egress from the  
19 site.

20 CHAIRMAN GRIFFIS: I see. So as opposed  
21 to putting a signal, a light at W, you would put at  
22 the entrance to the proposed development?

23 MR. BULLOCK: That's correct.

24 CHAIRMAN GRIFFIS: And then there would be  
25 one down south of that and then north of that?

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1 MR. BULLOCK: That's correct.

2 CHAIRMAN GRIFFIS: And what would be  
3 proposed for W Street, just a stop sign or anything  
4 that would deal with the traffic on Foxhall, or would  
5 that just be a flow-through intersection for Foxhall  
6 traveling north and south?

7 MR. BULLOCK: I don't believe we have  
8 any --

9 MS. SIMPSON-MASON: There is a stop sign.

10 MR. BULLOCK: There is already stop sign  
11 on --

12 CHAIRMAN GRIFFIS: Stop sign on W.

13 MR. BULLOCK: Yes.

14 CHAIRMAN GRIFFIS: Right. Entering  
15 Foxhall. But Foxhall wouldn't be impeded at that  
16 intersection then?

17 MR. BULLOCK: No, I don't believe so.

18 CHAIRMAN GRIFFIS: Okay. And, I'm sorry,  
19 Mr. Mann was getting to an interesting question, but  
20 maybe it's just terminology, but on-demand signal?  
21 What is that?

22 MR. BULLOCK: You know, I must say, I'm  
23 more familiar with the fully-actuated system and I  
24 haven't used the terminology of on-demand.

25 CHAIRMAN GRIFFIS: So conceivably they're

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1 the exact same thing, but maybe we'll get some  
2 clarification otherwise. I don't think it's  
3 absolutely critical, but it's a fascinating piece to  
4 try and understand.

5 Okay. Anything else? Mr. Etherly?

6 MR. ETHERLY: Thank you very much, Mr.  
7 Chair.

8 If we could, let's take a virtual walk of  
9 Foxhall or down Foxhall on the direction.

10 MR. BULLOCK: Okay.

11 MR. ETHERLY: Let's start north of the  
12 subject property at the Field School light. That  
13 intersection currently is signalized and that would be  
14 what we would refer to as a actualized, actuated  
15 signal?

16 MR. BULLOCK: Actuated, yes.

17 MR. ETHERLY: First of all, let me confirm  
18 what you've taken a look at. We received an  
19 additional submission last week which has kind of in  
20 the middle of the packet, this is kind of the hard  
21 copy of a PowerPoint presentation, and there is a  
22 diagram of the subject property and the road network,  
23 future condition summary with Dunmarlin. Have you  
24 seen this?

25 MS. SIMPSON-MASON: Yes.

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1 MR. BULLOCK: Okay. Yes, we have.

2 MR. ETHERLY: Okay. At the top dealing  
3 with the Field School intersection first, the caption  
4 for that particular intersection notes that traffic  
5 signal located at Field School driveway continues to  
6 operate with low overall delays. Would you agree with  
7 that statement --

8 MR. BULLOCK: Yes.

9 MR. ETHERLY: -- based on your experience?

10 MR. BULLOCK: Yes.

11 MR. ETHERLY: Okay. As we move south  
12 along Foxhall and we come to W Street, to somewhat  
13 confirm what you just shared with the Chairman, that  
14 intersection is currently regulated by stop signs.

15 MR. BULLOCK: That's correct.

16 MR. ETHERLY: And is that a four-way stop?

17 MR. BULLOCK: Two-way.

18 MS. SIMPSON-MASON: Two-way.

19 MR. ETHERLY: Just a two-way? Along W  
20 Street?

21 MR. BULLOCK: Yes.

22 MR. ETHERLY: So Foxhall traffic has the  
23 right-of-way?

24 MR. BULLOCK: Yes.

25 MR. ETHERLY: With respect to, first,

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1 there was some testimony from the ANC which spoke to  
2 site lines as you look south along Foxhall and even as  
3 you look north looking towards the W Street  
4 intersection and also looking toward the W Street  
5 intersection north of it and then south at W Street on  
6 Foxhall looking up. Does DDOT have any concern with  
7 regard to sight lines and feels that in addition to  
8 whatever other measures may be implemented at the W  
9 and Foxhall intersection that there might need to be  
10 some mitigation measures with respect to sight lines;  
11 i.e., tree trimming or other types of things to ensure  
12 adequate visibility for motorists?

13 MR. BULLOCK: Well actually, on our visit  
14 out there we did recognize that there are sight line  
15 issues. We feel that the signal will help with the  
16 lane of traffic in giving motorists an opportunity,  
17 for traffic to stop for them to make that turn. So we  
18 think that may help. But, possible trimming may also  
19 be something that could assist in this.

20 MR. ETHERLY: Okay. As you move towards,  
21 let me come down Foxhall and come to Whitehaven  
22 Parkway, which presently is signalized, correct?

23 MR. BULLOCK: Yes.

24 MR. ETHERLY: The caption on the  
25 particular presentation display that I pointed to you

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1 notes there that traffic signal located at Field  
2 School, and I can't quite see what that next piece of  
3 text is, but it continues to operate with low overall  
4 delays. You would also agree with that statement as  
5 well?

6 MR. BULLOCK: Yes.

7 MR. ETHERLY: Based on your experience or  
8 based on your site visit, any sight line issues with  
9 respect to that intersection?

10 MR. BULLOCK: At W?

11 MR. ETHERLY: Yes. No, at Whitehaven  
12 Parkway.

13 MR. BULLOCK: At Whitehaven?

14 MR. ETHERLY: Whitehaven and Foxhall.

15 MR. BULLOCK: Not particularly.

16 MS. SIMPSON-MASON: No.

17 MR. BULLOCK: No.

18 MR. ETHERLY: Okay. Okay. Now, with  
19 respect to traffic that would be exiting the proposed  
20 development, and we're talking once again about that  
21 newly created intersection that would have an on-  
22 demand signal apparatus, if you will, it's your sense  
23 that an introduction of an access point to Foxhall at  
24 that particular point will not compromise or in any  
25 way further complicate what you already see at W and

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1 Foxhall or at Whitehaven and Foxhall?

2 MR. BULLOCK: No, I don't think it would  
3 complicate it. In fact, I think it may make things a  
4 little bit safer on that stretch of road.

5 MR. ETHERLY: Okay. Okay. I think that  
6 covers it for the moment for me, Mr. Chair. Thank  
7 you.

8 CHAIRMAN GRIFFIS: Good. Thank you.  
9 Anything else? Yes, Ms. Miller?

10 VICE-CHAIR MILLER: I'm pretty sure you've  
11 been saying that the additional access road from the  
12 site to Foxhall makes the traffic situation safer.  
13 Would more roads make it even more safer, or not  
14 necessarily, meaning additional roads from the project  
15 to Foxhall?

16 MR. BULLOCK: You'd be thinking on  
17 Foxhall?

18 VICE-CHAIR MILLER: Exiting to Foxhall or  
19 W, but as of now they're having that one additional  
20 road, is my understanding.

21 MR. BULLOCK: We hadn't really considered  
22 that, but I don't necessarily see that it's something  
23 that may be beneficial. I think that it might be sort  
24 of problematic to have too many entrance and exit  
25 points on Foxhall.

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1 VICE-CHAIR MILLER: Okay. And as I  
2 understand it, this traffic light is going to be paid  
3 for by the applicant, is that correct?

4 MR. BULLOCK: Fortunately yes, that's  
5 correct.

6 VICE-CHAIR MILLER: So what they do need  
7 though would be your approval, DDOT's approval?

8 MR. BULLOCK: That's correct.

9 VICE-CHAIR MILLER: And then you're saying  
10 you support it?

11 MR. BULLOCK: And also, yes, and sign off  
12 on design, yes.

13 VICE-CHAIR MILLER: Okay. And in general,  
14 how is that going to be incorporated with the Foxhall  
15 Road improvements, or any of the construction here?  
16 Are they being integrated, coordinated in any way?

17 MR. BULLOCK: I think once we get  
18 approval, we definitely will coordinate both projects.

19 VICE-CHAIR MILLER: And when are the  
20 Foxhall improvements going to begin?

21 MR. BULLOCK: That's scheduled for this  
22 spring, approximately May.

23 VICE-CHAIR MILLER: Okay. That's all my  
24 questions. Thank you.

25 MR. MANN: I'd like to follow up, if I

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1 could about the Foxhall improvements again.

2 What is the purpose of the improvements to  
3 Foxhall?

4 MR. BULLOCK: Well, it covers a wide  
5 section of Foxhall there of several intersections.  
6 Some are safety improvements that were also outlined  
7 in the Palisades transportation study and some are  
8 just improving the roadway being that it's worn down  
9 in some areas.

10 MR. MANN: Improving the quality of the  
11 road?

12 MR. BULLOCK: Yes, that's correct.

13 MR. MANN: But it's not the purpose of the  
14 improvements to increase capacity?

15 MR. BULLOCK: Not at this particular  
16 location, no.

17 MR. MANN: Okay. Thank you.

18 CHAIRMAN GRIFFIS: Excellent. Anything  
19 else from the Board?

20 (No audible response.)

21 CHAIRMAN GRIFFIS: Very well. Mr.  
22 Nettler, cross?

23 MR. NETTLER: Good morning.

24 CHAIRMAN GRIFFIS: Actually I'm going to  
25 have you, if you wouldn't mind, we're going to get

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1 feedback on those two microphones. If you could just  
2 separate them a little bit and then possibly turn --

3 MR. NETTLER: I just have one question.  
4 Mr. Parsons had asked you about the storm water runoff  
5 on Foxhall and about whether it was part of the  
6 project and when you said it was not part of the  
7 project, you meant it was not part of your project,  
8 correct?

9 MR. BULLOCK: That's correct. Yes.

10 MR. NETTLER: But do you have an  
11 understanding that is something that we are working on  
12 alleviating?

13 MR. BULLOCK: Yes, I believe the  
14 responsibility of the developer. Yes.

15 MR. NETTLER: Okay. And your  
16 understanding is that the mere fact that you're paving  
17 Foxhall is not going to preclude us from dealing with  
18 the storm water runoff on Foxhall that we've committed  
19 ourselves to doing?

20 MR. BULLOCK: That's correct.

21 MR. NETTLER: Okay. Thank you.

22 CHAIRMAN GRIFFIS: Good. Thank you. Does  
23 the ANC have any cross?

24 MS. GATES: Good morning.

25 MR. BULLOCK: Good morning.

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1 MS. GATES: Mr. Slate has very nicely let  
2 me borrow the sheet so we're all on the same page.

3 And currently the plan is -- maybe I have  
4 this too loud. Currently the plan is for residents  
5 who live on Foxboro Place to come into the Dunmarlin  
6 development and exit onto Foxhall because W Street is  
7 so dangerous. And on this diagram you can see the  
8 relationship of the light at Field School to the  
9 proposed development entrance, as well as W Street.

10 Mr. Bullock, I know that you're fairly new  
11 to DDOT and you're probably not aware that when George  
12 Washington University expanded, one of the agreements  
13 that was signed off on by the mayor --

14 MR. NETTLER: I think I have an objection.

15 CHAIRMAN GRIFFIS: Relevancy.

16 MR. NETTLER: Well, relevancy is one,  
17 but --

18 MS. GATES: I'm getting there, Mr.  
19 Nettler.

20 CHAIRMAN GRIFFIS: Okay. Hold on. Let's  
21 hear the objection.

22 MR. NETTLER: I think she's going to ask  
23 a question are you aware of --

24 MS. GATES: All right. I will rephrase.

25 CHAIRMAN GRIFFIS: Wait, wait. I can't

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1 hear both at once.

2 MS. GATES: I will rephrase.

3 CHAIRMAN GRIFFIS: I can actually, but the  
4 transcript can't. The objection is?

5 MR. NETTLER: Well, Ms. Gates can't ask  
6 the witness if he's -- preface it that he's not aware  
7 of something and then ask a question about something  
8 that she's assuming he's not aware of.

9 CHAIRMAN GRIFFIS: I see.

10 MR. NETTLER: First, she has to establish  
11 whether he's aware of something before she can ask a  
12 question about it.

13 CHAIRMAN GRIFFIS: Good. Excellent point.  
14 Ms. Gates, did you want to establish that?

15 MS. GATES: Yes, thank you.

16 Are you aware that when GW expanded the  
17 mayor, Mr. Trachtenburg, Foxhall Citizens Association  
18 and the Palisades Citizens Association signed an  
19 agreement that there would be no traffic light placed  
20 at W Street?

21 MR. BULLOCK: Yes, through your  
22 communication from the ANC to the Board I was made  
23 aware of that agreement. Yes.

24 MS. GATES: And yet you are still  
25 proposing that a new light -- wouldn't the warrants

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1 that exist for W Street also exist for the new  
2 Dunmarlin site?

3 MR. BULLOCK: As I think it's applicable,  
4 yes.

5 MS. GATES: Given the fact there is  
6 probably going to be considerable concern expressed at  
7 this proposal to put a light there, would you consider  
8 moving it to the Dunmarlin entrance?

9 MR. BULLOCK: I think that's what we  
10 already have proposed, that it is at the Dunmarlin  
11 entrance rather than at the W Street entrance.

12 MS. GATES: Did I misunderstand?

13 MR. BULLOCK: Yes.

14 MS. GATES: I thought you said you were  
15 going to put it at W Street.

16 MR. BULLOCK: No, it's actually 400 feet  
17 south from W Street.

18 MS. GATES: Oh, I'm sorry.

19 MR. BULLOCK: So it's at the Dunmarlin --

20 MS. GATES: Thank you for tolerating.

21 CHAIRMAN GRIFFIS: I had to ask the same  
22 question.

23 MS. GATES: I thought I understood you  
24 were putting at W Street.

25 Then I really don't have any more

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1 questions.

2 CHAIRMAN GRIFFIS: Very well. Thank you,  
3 Ms. Gates.

4 Friends of Whitehaven?

5 MR. SNAPE: No, Mr. Chair.

6 CHAIRMAN GRIFFIS: No? Ms. Hardy, any  
7 cross?

8 (No audible response.)

9 CHAIRMAN GRIFFIS: Certain residents?

10 MS. BRADY: CR44.

11 CHAIRMAN GRIFFIS: CR44. Front and  
12 center.

13 MS. BRADY: Good morning.

14 MR. BULLOCK: Good morning again.

15 MS. BRADY: Mr. Bullock, I believe you  
16 both responded that DDOT did not consider an egress  
17 onto an extension of Whitehaven Parkway?

18 MR. BULLOCK: Correct.

19 MS. BRADY: Are you aware of any other  
20 government agency that might have looked at this  
21 alternative for this particular project?

22 MR. BULLOCK: I'm not aware of that.

23 MS. BRADY: If that project, if that  
24 alternative were to be considered, are you aware of  
25 what stakeholders, what parties, what groups would

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1 have to be involved in that decision?

2 MR. BULLOCK: Well, I think that  
3 necessarily would have to be the Park Service, the ANC  
4 and the protected community residents in that area.

5 MS. BRADY: If in fact it were decided  
6 that a more elegant solution to the Phillips egress  
7 could be offered by the use of a Whitehaven solution,  
8 do you think that DDOT would be willing to host a  
9 meeting, a group meeting of the parties that might be  
10 interested in this solution or might have stakes in  
11 this solution?

12 MR. BULLOCK: As you mentioned, it wasn't  
13 something that was on the table previously, but it  
14 would be something we would be open to listening to.

15 MS. BRADY: Okay. Thank you very much.

16 CHAIRMAN GRIFFIS: Good. Thank you.  
17 Anything else then? Any others? Follow-ups? Follow-  
18 up from the Board? Questions?

19 (No audible response.)

20 CHAIRMAN GRIFFIS: Good. Thank you, all,  
21 very much. We appreciate you being here. It's  
22 obviously very important to hear from you personally  
23 and get through some of the detailed questions that we  
24 have and we appreciate always receiving your reports  
25 into these applications.

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1                   Let's move ahead then to the Park Service.  
2 I believe Mr. Murphy is here.

3                   MR. MURPHY: Good morning, Mr. Chairman,  
4 members of the Board. My name is David Murphy and I  
5 am speaking today for the National Park Service and  
6 specifically Rock Creek Park which has administration  
7 over the portion of Glover-Archbold Parkway and  
8 Whitehaven Parkway, which is adjoining the subject  
9 development proposal.

10                   Primarily my comments will be dealing with  
11 storm water management, both on this site and in the  
12 surrounding area.

13                   Foxhall Road is an interesting road  
14 because historically it was called Ridge Road. In  
15 fact it was called Ridge Road until about the 1920s  
16 and because it unusually is right on the spine of a  
17 ridge separating the two watersheds, one going to the  
18 Potomac and one going indirectly to the Potomac via  
19 what is now Glover-Archbold Parkway. That was called  
20 Foundry Branch. At the bottom of Foundry Branch of  
21 course was Mr. Foxhall's foundry, so thus it all comes  
22 to full circle.

23                   I brought an aerial photo and I provided  
24 two copies for you and a larger panel. One is to show  
25 that the three developable tracts, one already being

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1 developed, being the Field School, separated by  
2 housing and W Street from Phillips and then on down  
3 the St. Patrick's property separated by a portion of  
4 the Whitehaven Parkway corridor.

5 The Field School was subject to an  
6 extensive design consideration and to the extent that  
7 nearly two pages of stipulations were provided under  
8 the Board of Zoning Adjustment decision dated November  
9 8th, year 2000. Those conditions were very specific  
10 and rather notable in that they dealt with storm water  
11 management in a very exact way.

12 The previous testimony you heard a good  
13 deal of discussion about Field School, but I wanted to  
14 point out, and that's why the second photo you have  
15 has the topographic lines and those are on 10-foot  
16 contour intervals, but what I also did on the panel to  
17 the right over here is highlighted basically the  
18 drainage corridors for Field, for Phillips and for St.  
19 Patrick's to point out that there are a number of  
20 drain ways that were historically on the sites.  
21 Fields, that design dealt with the gross drainages,  
22 one being toward 44th Street and then another  
23 generally down obliquely and down toward W.

24 After hearing testimony last week about  
25 the difficulties with the adjoining properties in here

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1 and apparently in here, I did give a field survey of  
2 that area and the surrounding embankments and as far  
3 as myself and our hydrologist could tell, what it  
4 appears to be is that the bulk of the water coming out  
5 of Fields and draining into Whitehaven, or into  
6 Glover-Archbold is handled very well by the storm  
7 water system. What appears to be a difficulty is some  
8 grading anomalies in this vicinity here and on the  
9 back of the ball field, which is there, that did  
10 actually not get addressed in the storm water  
11 management plan because the reliance was that the  
12 water from the fields would go into the management  
13 system, the structures.

14           Recapping the concept of Field School is  
15 that there are the roof top drainages from the  
16 buildings and the ball field drainages were going into  
17 storm water receiving structures that dealt with the  
18 oil and grit from that as well as from the parking lot  
19 going into that and then they were placed into large  
20 tanks that were basically along the ball fields and  
21 then that water was released by pipe down into the  
22 44th Street corridor, which was a very large  
23 horizontal tank, which again had oil grit separation  
24 structures to be maintained by Field and then it would  
25 be released down into Glover-Archbold Park. The whole

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1 idea of this was to retain, according to the District  
2 standard, the 15-year storm event, however, there was  
3 an oversize of the pipes and so essentially it handles  
4 the 25-year storm event. So it deals with the first  
5 flush, the first two-year flow, which is highly  
6 erosive, but also highly contaminated and then on up  
7 to the 25-year storm event. And that, as I  
8 understand, is about the five-inch rainfall in 24  
9 hours. So we're dealing with a very -- not the  
10 perfect storm, Mr. Chairman, but it's pretty  
11 memorable.

12           So what we said, and in fact it's ironic,  
13 when Fields started and approached the Park Service,  
14 we said there were three issues. There was storm  
15 water, storm water and storm water. And I use that  
16 facetiously, but it is exactly what the issue was. So  
17 that when I was contacted by Phillips, the proponents,  
18 I said, "Look at Field, look what they did, because  
19 that is the issue again." And I think that the  
20 developer has started a design. You've heard many  
21 variables and design nuances, whether there should be  
22 swales, whether that water should be modulated before  
23 it goes into underground tanks, should it be cleaned  
24 before it goes into the underground tanks, should it  
25 be cleaned after it comes out of the underground tank

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1 before it goes into the wetland and should it be  
2 monitored and managed and released at a very  
3 controlled level before it goes into the park? And  
4 the answer is yes.

5 So, I won't go into all the details. We  
6 look forward to seeing the storm water management  
7 plan. We will spend a great deal of time considering  
8 it, pointing out where it could be possibly either  
9 tweaked or improved, but the goal is to have the storm  
10 water released into the park at no greater a rate, no  
11 greater a concentration than it is now.

12 Why is that important? Because Phillips,  
13 unlike Field, Phillips basically releases all of its  
14 water -- all the water drains out of this corner here.  
15 It runs down into a creek that's in Whitehaven, goes  
16 under a berm that apparently was the unbuilt section  
17 of 44th Street here and then on into the drainage area  
18 down into the main stem of Glover-Archbold Park. As  
19 a comparison, with that single point of release there,  
20 St. Patrick's has possibly one, two and three and you  
21 can see on the topographic lines how those come out.  
22 But basically, St. Patrick's will drain into  
23 Whitehaven or does into Whitehaven, but it also drains  
24 directly into Glover-Archbold to the south.

25 Another piece is the drainage off of Ridge

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1 Road, which is why I will continue to say Ridge Road.  
2 Ridge Road is an anomaly in that because the rainwater  
3 hitting it can go to either watershed. And so it  
4 isn't a question. We have strongly and we will  
5 continue to oppose transferring water from one  
6 watershed into another. This one is -- it's on the  
7 back of the turtle, as it were, which way it goes is  
8 which way the turtle's heading at the time.

9           So we are suggesting that this water from  
10 -- and I'm a little bit confused because I don't have  
11 these drawings -- they're -- it's the same photo, so  
12 if you look at the one with the topography, in front  
13 of you will see that there is a drainage down or  
14 there's Whitehaven Street as built. We have reviewed  
15 the desk and counter maps that the District of  
16 Columbia has for the storm water and the sewer system  
17 and we find that there's a 30-inch pipe down  
18 Whitehaven Street and then that goes down to McArthur  
19 Boulevard tying into a I think a 60-inch, four-foot-  
20 five-inch pipe. It does not go down, according to  
21 their drawings, into Hutchings. And you've heard  
22 comments that there is a property owner on Hutchings  
23 Place that was adversely affected by the drainage on  
24 Whitehaven. It is our opinion in drive by that many  
25 of the storm inlets are not maintained or have clogged

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1 on Whitehaven Street and the grade and crown of  
2 McArthur Boulevard probably means that there's over  
3 wash across McArthur and then I can see how there  
4 would be water ending up in front lawns down on  
5 Hutchings. There's two low properties that don't seem  
6 to be much higher than the pavement. So perhaps this  
7 is an issue that the District needs to look at as far  
8 as curb gutter drains, cleaning drains and so on. How  
9 much the applicant gets involved, I don't know.

10 But we stand by our desire to have the  
11 water from Foxhall put into the existing Whitehaven  
12 Street 30-inch storm sewer because that then does not  
13 direct the storm water down into the natural landscape  
14 of Whitehaven Parkway to the east. It also addresses,  
15 either it can be directly or indirectly, the issue of  
16 the private property in this corner and the water  
17 coming down Foxhall as it does now and will when they  
18 repave it with no curb and gutter. When the District  
19 does that it will continue to come down here and then  
20 right now because of the way the temporary structures  
21 have been built, it's sloughs off and down into  
22 Whitehaven Parkway and is causing a continuing pattern  
23 of erosion down in this general area which then drops  
24 back onto the applicant's property. The solution in  
25 our opinion is to put it into Whitehaven and manage it

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1 as a storm system.

2 The other piece is on storm water. W  
3 Street has a newly-built curb, gutter and drain which  
4 times into outfall that we had worked with the  
5 District and with Field School and it drops in here.  
6 We are adamant in not wanting anymore unregulated  
7 water going into that W Street water system because it  
8 would then basically potentially reverse the efforts  
9 that we've accomplished with Fields. The developer  
10 has indicated that the storm water from the roofs and  
11 the driveways and other impervious surfaces would be  
12 directed within Phillips.

13 There is some minor erosion on the 44th  
14 Street roadway as built. It does not look like it  
15 will be any worse. One side comment was that there is  
16 a commitment and we applaud it to not oppose and to in  
17 fact support the transfer of jurisdiction of this  
18 section of 44th Street to the park for park purposes.  
19 That area has a good deal of fill, pieces of pavement  
20 that are probably 70 years old the size of these desks  
21 combined. It looks pretty rough, but all that fill  
22 has not impacted the reforestation of the area. So  
23 while we applaud the idea of cleaning it up for a  
24 visual event, we are extremely concerned that cleaning  
25 it up could damage the trees, which is really what the

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1 value of the forest next to Glover-Archbold.

2           Glover-Archbold is a continuous seamless  
3 crown essentially. There are very breaks in the crown  
4 of trees, therefore the interior dwelling species,  
5 migratory birds, wetland area, despite the combined  
6 sewer that runs down the middle of this, the old  
7 Arizona Avenue corridor, it is a very high-quality  
8 forestland, very high-quality park and it certainly  
9 fulfills the interests of Mr. Glover who gave in 1923  
10 the 77 acres to the District for park and playground  
11 purpose and Mrs. Archbold who gave essentially by 1933  
12 another approximately 20 acres and thus you have this  
13 hyphenated name for the park. A little quick history  
14 on that. Their intent was to have park and playground  
15 and children's playground. That is a very broad  
16 stipulation and that is how it's managed. If you are  
17 aware, Arizona Avenue was a corridor that was closed  
18 and transferred for park purposes and that occurred  
19 about the time of the termination of the desire to  
20 build the Three Sisters Bridge. This would have been  
21 the ramp to go up across the river and up to  
22 Tenleytown.

23           Again, we are anticipating the receipt of  
24 the storm water management, the new grading plan,  
25 minor improvements or minor changes, I presume, to the

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1 site plan and we look to those and we'll basically  
2 hold comment on that. I would like to point out there  
3 was a discussion and testimony earlier that talked  
4 about park service wanting a three-foot fence along  
5 the boundary and what that is is that was a truncated  
6 discussion, if you will. The original proposal had a  
7 border road along Whitehaven and that was modified.  
8 But what our concern was that the border road would  
9 act as an adequate barrier. And so psychologically  
10 and physically there would be a separation between  
11 park and development. This is something that all  
12 through the city there are many border roads that  
13 basically the properties face the park and there is an  
14 emotional and psychological separation between park.  
15 This goes back to Mr. Olmsted articulating it in the  
16 50s and he pointed out that this was the safest that  
17 he could see to protect the parks.

18 The problem that he articulated, Frederick  
19 L. Olmsted, was that if you have back yards abut a  
20 park they tend to grow, they tend to expand into the  
21 park. Now that could be somebody wanted to expand  
22 their tennis court, encroach just a little bit, go  
23 over and help the park help by maintenance, throw  
24 their dead leaves over, all of them are deleterious to  
25 the park and all of them in a hundred-fold instances,

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1 we've got problems in the city. If we can avoid that,  
2 that's fine. We've heard it wasn't a gated community,  
3 but we understand that in one of the drawings it says  
4 there's a fence. There should be a substantial five  
5 or six-foot fence, it should be architectural, if the  
6 property lots back up on parkland.

7 One of the things you've heard is that  
8 structures will not be built in a buffer or the  
9 setback or hasn't been identified. One of the  
10 problems we've had very recently is that the -- or  
11 itemization of structures in rear lots is then  
12 modified into zoning code to allow fences and  
13 retaining walls and we're saying emphatically we do  
14 not want to see any kind of building, grading,  
15 retaining wall structure in any buffer no matter how  
16 deep it is, or the setback.

17 So I think that the applicant has  
18 indicated, or I understand will present conceptual  
19 cross sections to show how they anticipate the setback  
20 from the edge of the park, or the edge of their  
21 property onto rear yard developments such as swimming  
22 pools and patios and to the buildings themselves and  
23 we will look for that with great interest.

24 The buffer around the wetland is  
25 stipulated by the Corp of Engineers to be minimally 25

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1 feet. The wetland had a good deal of opportunity to  
2 expand when you're talking about swales and so on. So  
3 we're not, at this point, ready to comment on that  
4 other than to say we are aware that the Corp of  
5 Engineers by regulation stipulates a minimum of 25  
6 feet.

7 The soils on the site. I understand now  
8 there's a geotechnical survey. We've not seen it. We  
9 look forward to seeing that because one of the issues  
10 will be will the soil be capable of handling  
11 infiltration, returning of the ground water into the  
12 ground. We've also heard that there's possibly a high  
13 water table, which is sort of counter indicative of  
14 soils that will allow infiltration. So there may be  
15 some design issues that we're not aware of, but I'm  
16 not sure anyone else has articulated.

17 Also, getting into soils, there's various  
18 proposals for fill and grading. It looks to be a cut  
19 and fill exercise to a point where the soils that are  
20 moved from one point within the site will be used as  
21 structure. We're not sure, having our experience in  
22 this stream valley, and other sites, including Field,  
23 which had failures, whether that soil has the  
24 structural capability of supporting either buildings  
25 or houses. So it remains to be seen on that. That

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1 isn't to say that it isn't, but I'd say a soil  
2 scientist needs to work at it.

3 That is the essence of my comments. We  
4 look forward to future opportunities to either comment  
5 on subsequent site plans that are provided on this  
6 project. If you have any questions, I'd be happy to  
7 answer them.

8 CHAIRMAN GRIFFIS: Good. Thank you very  
9 much. Questions from the Board?

10 MR. MANN: Yes.

11 CHAIRMAN GRIFFIS: Mr. Mann?

12 MR. MANN: Whitehaven Parkway and Glover-  
13 Archbold Park in the vicinity of this property. How  
14 are they used today?

15 MR. MURPHY: Glover-Archbold Park has an  
16 extensive trail system through it. There are vest-  
17 pocket parks or nodes with some open fields, meadows  
18 and so on. Primarily it's a natural area. It's  
19 heavily impacted by the almost 90-year-old combined  
20 sewer system. That has been separated to an extent,  
21 but storm water in this valley is an extreme problem  
22 because of the continuing incremental hardening of the  
23 surrounding areas.

24 Whitehaven Parkway, as you may be aware,  
25 extends all the way over to the vicinity of the

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1 Observatory Circle. It was envisioned as a connecting  
2 link. There are trails in portions of it. Right now,  
3 this section between Foxhall and the stream valley,  
4 it's basically a natural area.

5 MR. MANN: But it sounds like the only use  
6 of it in this vicinity then is trails, that people  
7 utilize the park mostly on trails.

8 MR. MURPHY: Trails and habitat.

9 MR. MANN: Yes. Okay. And are there any  
10 access points to these trails from the vicinity of  
11 this property?

12 MR. MURPHY: There is a trailhead on what  
13 is now the 44th Street right of way. It is marked.  
14 It is on the trail map brochure for Rock Creek so that  
15 the access down into Glover-Archbold is via the W  
16 Street terminus. The problem is the deeply incised  
17 stream valleys, the rather sensitive soils, and those  
18 are areas that aren't deeply incised, so we have  
19 numerous volunteer trails, a operated maintained low-  
20 impact trail, but cross the creek, crossing Foundry  
21 Branch is the difficult point. And so finding those  
22 crossings and working them out where they don't damage  
23 the park is a key.

24 MR. MANN: And there's something that I  
25 didn't quite understand regarding the fence. The

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1 fence, as we've stated in the application, was three  
2 feet tall. But are you saying that your preference  
3 would be that it be five to six-feet?

4 MR. MURPHY: Well, what's happened is that  
5 from the discussion point where we were talking three  
6 foot, which would be a psychological fence.

7 MR. MANN: Yes.

8 MR. MURPHY: It's now become back yards,  
9 the edge of what the homeowners association or the  
10 homeowners would be required to maintain and we found  
11 that a five or six-foot fence ranging from a black  
12 vinyl coated chain link or a wrought iron picket,  
13 depending on what the desire of the developer is,  
14 really would set the point. Right now there is a  
15 fence, an old chain link fence that doesn't truly  
16 follow the boundary between Whitehaven and the  
17 Phillips estate. We're not even sure who put it up.  
18 But basically because the area has some problems with  
19 invasive species; it is heavily vine covered, so it's  
20 a maintenance problem to keep it for another 40 years.  
21 So if we are left to manage it, we will leave it as it  
22 is because it does little harm, though it does little  
23 good either. But then again, there's nobody wanting  
24 to go across that border anyway, so it's sort of an  
25 interesting anomaly.

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1 MR. MANN: So a fence along the property  
2 would prohibit any access to the park land from those  
3 properties?

4 MR. MURPHY: Yes.

5 MR. MANN: Okay. And finally, regarding  
6 the potential transfer of the 44th Street corridor to  
7 the Park Service, if I understand, you endorse that  
8 proposal but have some reluctance because of the cost  
9 associated with removing the crumbling road and  
10 maintaining the tree cover?

11 MR. MURPHY: Well, this is not a road.  
12 It's fill.

13 MR. MANN: Right.

14 MR. MURPHY: And it was pavement from  
15 points unknown. By the ages of trees, this would --

16 MR. MANN: Oh, I see. This is not  
17 crumbling pavement. It was fill material that --

18 MR. MURPHY: This is fill material.

19 MR. MANN: I see.

20 MR. MURPHY: Large panels of pavement.  
21 Concrete. It's almost a collection of historic paving  
22 types of the District because most of it, in fact all  
23 of it, predates 1930 as far as we can tell and given  
24 the age of the trees, that's pretty good.

25 MR. MANN: Interesting.

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1 MR. MURPHY: The difficulty is it looks  
2 like a pile of rubble. The good thing is that that  
3 rubble has supported some very substantial trees. So  
4 they found a way in there. Our concern is that if  
5 we're directed, or the applicant is directed, or  
6 anyone's directed to clean it all out, unless it's  
7 done by hand, it probably will do more harm than good.  
8 We have no evidence on our initial survey of that of  
9 any contaminants other than very old asphalt, which is  
10 not truly a contaminant by EPA standards, so we are  
11 looking at it as something that we can accept without  
12 the reservations unless it's stipulated that somebody  
13 has to clean it up to a point of making it very  
14 hostile to the trees that are there.

15 MR. MANN: But it's only an aesthetic  
16 concern.

17 MR. MURPHY: It's only an aesthetic  
18 concern.

19 MR. MANN: I see. Thank you.

20 CHAIRMAN GRIFFIS: Yes.

21 VICE-CHAIR MILLER: There's been some  
22 suggestion in these proceedings that the setback for  
23 the homes abutting the park be increased from 25 feet  
24 to 100 feet and I'm wondering if you have an opinion  
25 on that. Whitehaven

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1 MR. MURPHY: Well, at this time, we had  
2 asked for cross sections to describe what would be in  
3 the various portions of the setback. I'd rather hold  
4 and actually have an opportunity to see how that is  
5 being presented with the existing proposed setback and  
6 then see how that relates. One of the difficulties is  
7 that rear lots can have many things depending on the  
8 owner of the lot over each five or seven-year cycle,  
9 or 10-year cycle. We have watched very natural  
10 backyards evolve into tennis courts. We found a rear  
11 yard that -- well, you don't want to have the storage  
12 shed in the yard, so you put it over in the park  
13 because nobody will notice. So those are the kinds of  
14 things. It keeps our patrol rangers very busy and it  
15 is a constant effort on our part to protect the parks  
16 from well-meaning and perhaps unknowing adjoining  
17 owners.

18 So in answer to your question on what is  
19 the setback, the setback or what should be the  
20 setback, the setback really relates to what is put in  
21 that setback or what isn't, if it's as indicated by  
22 Chairman Griffis, a putting course, we would have some  
23 concern because if you're walking down the park and  
24 you look over and you see a putting course, well there  
25 must be something, there must be some setback, there

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1 must be some distance. In previous hearings on other  
2 issues we've talked about how people perceive where  
3 the park is or where private property is almost by the  
4 bulk and looming of the buildings and structures. So,  
5 it's a psychological issue as much as an ecological  
6 issue.

7 And so I'd say that we're very sensitive  
8 to it, but we haven't seen what is being proposed to  
9 a point we can comment.

10 VICE-CHAIR MILLER: And my other questions  
11 go to the fence which called a psychological fence,  
12 and I'm not exactly sure what you meant by that, but  
13 one of my questions, is it possible to have any access  
14 through that fence, or does the whole thing have to be  
15 solid?

16 MR. MURPHY: Well, as I said, the original  
17 proposal was for a border and one of the questions  
18 was, well would people come from the park into the  
19 community and how. And at that time, there was no  
20 discussion of a fence. So, our reaction is well  
21 perhaps there should be something low that you could  
22 step over but it would still point out where the  
23 boundary was. Then the whole site plan changed so  
24 that there is a change there.

25 The topography along the 44th Street right

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1 of way probably lends itself to an ornamental fence  
2 along that back and then on Whitehaven there is a need  
3 for a fence, if that is rear lot. As far as providing  
4 access, well providing access could mean an exclusive  
5 access for the community versus public access. We are  
6 not inclined to the point of being downright opposed  
7 to providing exclusive access to parkland from a  
8 particular development. So if it were access for the  
9 public, then that would be one issue. If it were not,  
10 then it's basically we can deal with the homeowners  
11 association as a unit and deal with that accordingly.  
12 But as far as access and there's probably not a need  
13 for it because it's a very low area in that corner  
14 where that drainage is and where the downfall of the  
15 wetland is.

16 Probably the best idea would be to have  
17 any trails or any access for -- to skirt that and if  
18 people wanted to be there, they'd be there to watch  
19 birds or for the real values of the park rather than  
20 just to get through it as a corridor.

21 VICE-CHAIR MILLER: Thank you.

22 CHAIRMAN GRIFFIS: Anything else?

23 MR. ETHERLY: Yes, Mr. Chair, very  
24 briefly.

25 We've talked quite a bit, Mr. Murphy, and

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1 I think rightfully so about kind of the psychological  
2 and emotional importance of the park and perhaps to an  
3 extent the psychological and emotional importance of  
4 -- for those of us who are tennis players and golfers  
5 making sure our games continue to stay somewhat at a  
6 decent level, but I won't even talk about the girth of  
7 my handicap.

8 Be that as it may, I want to kind of push  
9 a little bit on your thinking or perhaps the Park  
10 Service's thinking about that buffer because I think  
11 part of what I'm hearing is I think you have a clear  
12 sense, maybe you're not saying it, but I think you  
13 have a clear sense about how close you want structures  
14 to encroach or not to encroach on the park. And so I  
15 wanted to talk a little bit about that because there  
16 was a little bit of an exchange with Mrs. Miller  
17 regarding that buffer zone. I mean, in your mind is  
18 there a minimum distance at which you want to keep  
19 structures away from the boundary of the park?

20 MR. MURPHY: I think in fairness buffer  
21 can be -- well, Baltimore-Washington Parkway, we're  
22 striving for a 600-foot buffer. In other areas a 20-  
23 foot buffer is adequate. The difficulty in this one  
24 is that this is in the bottom of a drainage and that  
25 everything on this side and also on the St. Patrick's

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1 side of this valley will, if built out, 25-foot, if  
2 the edge of building 40-foot tall were put within 25  
3 feet, it would loom and overwhelm the sense of space.  
4 Now, what is the actual angle of sight line and  
5 setback? I don't know. Right now I'd say it even  
6 varies within this because there's 100-foot elevation  
7 change within this tract.

8 MR. ETHERLY: Yes.

9 MR. MURPHY: There is almost a 70-foot  
10 elevation change between Foxhall next to Mrs. Brady's  
11 house and where it drains out at the bottom of the  
12 hill. But it's an increasing drainage. If you look  
13 at the topography, you'll see it's almost a harmonic  
14 flow rather than a very steep cut. But it would seem  
15 that there would be a need to have more setback, more  
16 buffer, more on the slope. The thing that our earlier  
17 pieces that -- if you notice that's an odd notch. It  
18 looks like an upside-down shotgun stock. That's about  
19 the only way I can describe it, but if you'll -- that  
20 Whitehaven corridor is very wide at Foxhall and then  
21 there's a corner down there and so the issue is if a  
22 house was put there and the house was put 25 feet  
23 back, you'd look down Whitehaven corridor and you'd  
24 see that house rather than see the corridor, rather  
25 than see the woods. So there is a problem there, but

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1 as far as quantification, I leave that to the  
2 applicant to --

3 MR. ETHERLY: And I appreciate that  
4 because there clearly is perhaps going to be a unique  
5 impact on the part of each of the residential  
6 developments on the park and so there might not  
7 necessarily be one cookie cutter approach to take with  
8 respect to the overall piece. But I at least wanted  
9 to kind of pursue that a little further.

10 MR. MURPHY: Well, let me just say, I  
11 think 25 feet, if you hewed to that line exactly, I  
12 think that would be very short-sighted on this tract  
13 and there needs to be that variation, just as you're  
14 describing.

15 MR. ETHERLY: Okay.

16 MR. MURPHY: There needs to be a  
17 consideration on how to do that. Now, I think that in  
18 some areas 100 feet would be clearly in order, but in  
19 some areas not and I think it would be presumptuous on  
20 my part to paint a picture without seeing the drawing.

21 MR. ETHERLY: Okay. Final question with  
22 respect to the water and very simply I want to be sure  
23 I understand where you want the water to go.

24 Based on the topography of the subject  
25 site, the water wants to go southeast, correct?

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1 MR. MURPHY: And that's going to go there.

2 MR. ETHERLY: And it's going to go there?

3 MR. MURPHY: Yes.

4 MR. ETHERLY: But you referenced the  
5 piping along Whitehaven. Was that a 30-inch pipe?

6 MR. MURPHY: There's a 30-inch pipe under  
7 the -- I guess it's in the center of Whitehaven that  
8 starts at the signal at Whitehaven and Foxhall and it  
9 runs down, and i wish I'd brought all the drawings I  
10 have.

11 MR. ETHERLY: That's okay.

12 MR. MURPHY: The counter maps that the  
13 District has provided me, and I'll share those with  
14 you, which shows and I think it goes all the way down.  
15 It includes the storm drains down at Hutchings and I  
16 think there would be a value in having that in the  
17 record.

18 CHAIRMAN GRIFFIS: So let's get to his  
19 question first before we look at that.

20 MR. ETHERLY: But the question is, for  
21 whatever the ultimate storm water plan is, whatever  
22 the management plan is ultimately, you would like a  
23 linkage with that pipe?

24 MR. MURPHY: For that bit of drainage that  
25 is neither in one watershed or the other because it's

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1 on the old Ridge Road.

2 MR. ETHERLY: I see.

3 MR. MURPHY: The old Foxhall Road.

4 MR. ETHERLY: I see.

5 MR. MURPHY: So it's about a two-and-a-  
6 half-acre impervious surface that right now is running  
7 down uncontrolled, as you heard the DOT say. They're  
8 just going to do a paving. They're not going to put  
9 in a storm system, which in a way is good news for  
10 most of Foxhall, but a little tough here.

11 MR. ETHERLY: Okay.

12 MR. MURPHY: So this is an opportunity to  
13 solve that.

14 MR. ETHERLY: Okay. Understood. Is that  
15 part of the problem though, that you do have this  
16 little bit that's not accounted for and does this  
17 exacerbate that?

18 MR. MURPHY: It will have an effect on the  
19 capacity of the storm water system within Phillips.  
20 But all that would just to have mean is that their  
21 system would have to be larger. But the other thing  
22 is, as pointed out on road salt, right now Glover-  
23 Archbold gets obviously road salt from some areas, but  
24 here would be an opportunity on one section of the  
25 stream to be able to control that amount of salt

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1 that's coming off of Foxhall. Now within the  
2 development, there are other ways to manage salt.

3 MR. ETHERLY: Okay.

4 MR. MURPHY: I mean, just by restricting  
5 the types, unlike the District.

6 MR. ETHERLY: Okay. Final question.  
7 Soil. We've talked about water. We've talked about  
8 my high golf handicap. And I'm going to have a tennis  
9 player also as well, but that's not here nor there.  
10 With respect to soil, you talked about a geotechnical  
11 survey and you were aware that one was being done?

12 MR. MURPHY: I had heard that in testimony  
13 earlier today.

14 MR. ETHERLY: Okay. Okay. What do you  
15 need to see or not see with respect to that type of  
16 study? I mean, what kind of question will that study  
17 answer for you?

18 MR. MURPHY: Well, I think that as the  
19 record -- if the soils are not capable of structural  
20 support, then they would not be usable if there was  
21 mass grading and then that's fairly easy. That's a  
22 civil engineering issue and we would rely on that to  
23 be dealt with. But if there is a reliance on the  
24 soils to be -- for percolation for the surface water  
25 to go in or there is modifications to the headwaters

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1 around the spring, which this pond is spring-fed; and  
2 it's hardly a pond, it's a marshy area, there's always  
3 a possibility that a decision will be made that  
4 doesn't recognize the limitations of the soil types or  
5 recognize the inability of the soil to either take the  
6 water or to retain the water.

7 MR. ETHERLY: We have as part of the  
8 exhibit list I believe that was submitted by the  
9 applicant and I am looking at what is Tab Q, which is  
10 labeled, "Phillips Estate Wetland/Waters  
11 Jurisdictional Determination." It might have been  
12 prepared by Environmental Systems Analysis. But I  
13 want to take a look at a component of that and it's  
14 this map here that I'm looking at.

15 MR. MURPHY: I don't have it with me.

16 MR. ETHERLY: The portion of the text that  
17 refers, under the site description, and particularly  
18 the flagged wetland delineation, reads as follows.  
19 And that is, "That Phillips Estates is comprised of  
20 three soil types, all of which are considered highly  
21 erodible, but without hydric wetland soil or hydric  
22 inclusions, a wetland source within ditches. The most  
23 dominant soil is mapped as Manner-Irving land with 15  
24 percent plus slopes then followed by Chillums silt  
25 loam." I won't read the parenthetical. "All the

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1 soils are acidic and shallow with rock within a few  
2 feet of the surface."

3 Is that getting us in the direction of  
4 what a geotechnical study or survey would answer, or  
5 does that description in any way begin to answer the  
6 question that you're asking, whether or not the soil  
7 can handle the water?

8 MR. MURPHY: That's probably a quote from  
9 the soil map of the District of Columbia.

10 MR. ETHERLY: Okay.

11 MR. MURPHY: And what we have understood  
12 is that that's the first flag. You look at that and  
13 determine what questions to ask.

14 MR. ETHERLY: Okay.

15 MR. MURPHY: And then --

16 MR. ETHERLY: And the geotech survey will  
17 answer those questions?

18 MR. MURPHY: That's correct.

19 MR. ETHERLY: Okay. Thank you.

20 MR. MURPHY: That's what we rely on.

21 CHAIRMAN GRIFFIS: Good point. Okay.

22 Anything else from the Board?

23 (No audible response.)

24 CHAIRMAN GRIFFIS: Oh, you're going to put  
25 those maps in? Do you have extra copies also for the

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1 parties and the applicant?

2 MR. MURPHY: Mr. Chair, I'll make copies  
3 available of the extra drawings.

4 CHAIRMAN GRIFFIS: Okay. But does the  
5 applicant have a copy in front of them now?

6 MR. MURPHY: They have the reenlarged  
7 prints. They're on the easel.

8 CHAIRMAN GRIFFIS: Okay. But not the  
9 maps?

10 MR. MURPHY: But not in hand.

11 CHAIRMAN GRIFFIS: Okay. Mr. Nettler, you  
12 ready for cross?

13 MR. NETTLER: Yes. Good afternoon. Mr.  
14 Murphy, do you recall getting a copy of a geotechnical  
15 report that was done last fall by Schnabel  
16 Engineering?

17 MR. MURPHY: No, I don't recall it.

18 MR. NETTLER: Do you recall getting a copy  
19 of the application that was filed with the Board in  
20 November?

21 MR. MURPHY: Yes.

22 MR. NETTLER: Okay. Do you recall the  
23 environmental impact statement that was submitted as  
24 one of the exhibits to it?

25 MR. MURPHY: Is that in the EISF? In the

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1 District --

2 MR. NETTLER: The District. Well,  
3 actually it was just an environmental assessment that  
4 was done. Do you recall?

5 MR. MURPHY: I recall a document that had  
6 that sort of title, yes.

7 MR. NETTLER: Do you recall reading the  
8 reference to the soils analysis that was done in that  
9 document?

10 MR. MURPHY: No, I don't.

11 MR. NETTLER: I believe we have it as a  
12 part of the application, but let's move on.

13 CHAIRMAN GRIFFIS: It's Tab T, I believe.

14 MR. NETTLER: I think it was T, is that  
15 correct?

16 CHAIRMAN GRIFFIS: Right. It's your Phase  
17 I Environmental.

18 MR. NETTLER: Right, which makes reference  
19 to the geotechnical report that was done at the time  
20 and the conclusions from that geotechnical report,  
21 which are the questions that were asked with regard to  
22 Q, which were then on the wetlands map that was -- I  
23 shouldn't be testifying. Sorry.

24 I know you've talked about the problem  
25 with the storm water runoff on Foxhall. You

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1 understand that the applicant has offered to take that  
2 storm water runoff and connect it into Whitehaven?

3 MR. MURPHY: Yes, I am.

4 MR. NETTLER: Okay. Let's deal instead  
5 with the buffer area. When the first proposal that  
6 the applicant did, I think, as you mentioned, had a  
7 road running around a portion of the site that came  
8 around from Whitehaven Parkway over to Glover-  
9 Archbold, correct?

10 MR. MURPHY: Yes.

11 MR. NETTLER: Not around the entire border  
12 of the site, correct?

13 MR. MURPHY: That's correct.

14 MR. NETTLER: Okay. And that in a sense  
15 acted as a psychological buffer, correct?

16 MR. MURPHY: It provides in many areas in  
17 the city a very effective separation between  
18 residential activities and park activities.

19 MR. NETTLER: Okay. And the applicant  
20 then proposed to you as well a landscaping plan for  
21 landscaping along the border of the park also,  
22 correct? Do you recall that? A number of trees that  
23 were going to be put in around the border of the park?

24 MR. MURPHY: In the context of the edge of  
25 the roadway, how to separate the roadway because there

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1 was, I think -- I don't recall the dimension, but it  
2 was approximately 20 feet from the edge of the park to  
3 the edge of the pavement, there was a landscape plan  
4 proposed.

5 MR. NETTLER: Okay. Again to enhance the  
6 psychological buffer between the park and the  
7 development that was going on on the other side of  
8 both the road and the trees, correct?

9 MR. MURPHY: Sure.

10 MR. NETTLER: Okay. And the applicant in  
11 response to the concerns by Friends of Whitehaven then  
12 altered that road system to provide for a number of  
13 houses that would back up, and I think that's in your  
14 hand, to back up into, that have rear yards that back  
15 up against the park, correct?

16 MR. MURPHY: That's correct.

17 MR. NETTLER: And it still provided for  
18 that landscaping component, correct?

19 MR. MURPHY: I didn't know it was the same  
20 landscaping, whether it was as a stylized illustration  
21 or if it was the same.

22 MR. NETTLER: Okay.

23 MR. MURPHY: But, yes.

24 MR. NETTLER: Okay. And also I understand  
25 your suggestion is to have fences along that area,

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1 whether they're wrought iron or whatever, again to  
2 provide that understanding that there's an aesthetic  
3 break between where the park starts and where this  
4 development project is, correct?

5 MR. MURPHY: As this plans shows and as  
6 the indication by the application was that it was a  
7 fence, then we would support that.

8 MR. NETTLER: Okay. And so the question  
9 I'm going to ask of you is about this 25-foot buffer.  
10 If you have the fence and you have the trees, and you  
11 have 25-foot buffer, at least as what you were seeing,  
12 and you have these covenants that are placed on the  
13 property that preclude anybody from doing anything, a  
14 fair amount of the things that you've identified that  
15 you have concerns about in the rear of those  
16 properties, where is there houses then becoming part  
17 of the park? Isn't that buffer still existing because  
18 it's got the fence, got the trees and it's got that  
19 covenant over it that precludes anybody from putting  
20 anything in there?

21 MR. MURPHY: Well, when I first saw this  
22 drawing, which was in the field, I did ask  
23 specifically to see a presentation and analysis of how  
24 the buffer, the fence, the edge, the setbacks and so  
25 on, which I've already testified this morning, without

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1 understanding it in a way that anyone can look at it  
2 and understand what the concept is, I think it's  
3 unfair to say 25 feet here and this will have --  
4 there's a better way to present what the concept is  
5 than black letter.

6 MR. NETTLER: Well, but your concern is  
7 that somebody gets the impression that they could do  
8 anything in their back yard and essentially becomes  
9 then doing something in the park, either from the side  
10 of the private property owners or from the side of the  
11 people who are enjoying the park, correct?

12 MR. MURPHY: I think you lost me.

13 MR. NETTLER: Your concern is that people,  
14 from an aesthetic prospective or from an encroachment  
15 perspective, damage the park because there's either  
16 something that's going on on their side of the  
17 property that is a concern because it's encroaching  
18 onto the park and become -- and you lose the  
19 definition between the park and that private property,  
20 or because when you look at it from the private  
21 property's perspective, you've lost any definition  
22 between somebody's rear yard and the park.

23 MR. MURPHY: Well, nature, and I think  
24 human sensitivity, abhor straight hard lines and a  
25 hard separation between any ecological function is not

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1 a natural part of the landscape and I recall, not at  
2 this site, but at others, I've had children perceive  
3 that the adjoining property extends far into the park  
4 because of the way it's built out and that is part of  
5 the concern and I think that's from my personal  
6 experience, but I think good design says that you want  
7 to blend and make the separation lines indistinct.

8 MR. NETTLER: Okay. So there's a tension  
9 there between having a fence up that has a hard  
10 boundary and the idea of having open space which at  
11 least gives you the perception that the park is  
12 broader than it may actually be, or unaffected as you  
13 may want it not to be?

14 MR. MURPHY: Well --

15 MR. NETTLER: Obviously a fence -- I'm  
16 sorry. Is that correct?

17 MR. MURPHY: In a perfect world, you don't  
18 need fences. But I'd say for the last 1,000 years  
19 we've been putting fences up. The original proposal  
20 had no fence. The proposal now has one. We are not  
21 at the point of knowing whether a fence is absolutely  
22 necessary.

23 MR. NETTLER: Well, wait a minute. The  
24 proposal, the prospect of a putting a fence in there  
25 is not our suggestion. The prospect of putting a

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1 fence in there was your suggestion. Isn't that  
2 correct?

3 MR. MURPHY: No, actually it was -- no.  
4 No. I left it in the field as an open issue. I  
5 pointed out that there were some contradictions in use  
6 patterns between park and the community and I was  
7 surprised at the first site meeting to find that there  
8 was no fence at all and I said, "Well, you should  
9 think about that and provide some sort of presentation  
10 that indicates how the park and the development would  
11 interface and if a fence was needed, that's fine." I  
12 have to date not seen an articulation of that that  
13 makes me particularly comfortable in saying I know  
14 what is being proposed.

15 MR. NETTLER: Okay. So would you rather  
16 us not have a fence then?

17 MR. ETHERLY: Well, Mr. Nettler, let me  
18 ask it this way because I think we're probing around  
19 it, but as part of what I was getting at, let's just  
20 assume that there is a fence there. Is it human  
21 nature that once that fence is there my presumption as  
22 a homeowner, and let's say I'm a fairly aggressive  
23 homeowner, and that fence is there, so perhaps my  
24 presumption is I'm going to be able to do darn well  
25 whatever I want up to the edge of that fence, whether

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1 it's a tennis court, putting green or a swimming pool  
2 with a receding horizon. If you use the boundary of  
3 the park as your black letter line and you work your  
4 way back to the residence, is there a sense on the  
5 Park Service's part that there's a certain distance  
6 within which you don't want to see a swimming pool or  
7 a tennis court or structure come within to the edge of  
8 the fence, if there is a fence there? My sense is  
9 that what you're talking about is there's a visual  
10 impact that you have as you're in the park looking  
11 outside of it and if we're not careful with what you  
12 do relative to those back yards, I could be in the  
13 park enjoying a wonderful day, but at the same time if  
14 I'm right up next to that fence, there could be a  
15 swimming pool or tennis court and there's the base  
16 line two feet from the fence.

17 MR. MURPHY: And I would say that's  
18 exactly our concern.

19 MR. ETHERLY: Okay. And you would be  
20 worried about that?

21 MR. MURPHY: Yes.

22 MR. ETHERLY: Okay.

23 MR. MURPHY: And to have an unknown or to  
24 have it -- and as I understand it, there's an  
25 architectural standard that's drafted, I've seen a

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1 two-page outline as it was described, haven't seen the  
2 details, I've heard of structures, but I'm also  
3 looking at other cases where structures can include a  
4 retaining wall. I don't know. And therefore, I think  
5 it remains for the applicant to show what their idea  
6 is to at least give us an ability to comment,  
7 hopefully it's only constructive, on how that layout  
8 is.

9 MR. ETHERLY: Okay.

10 MR. MURPHY: But I would say going back to  
11 -- it isn't only a 30-foot, it isn't only 100-foot.  
12 There's a great deal of range in here that I think the  
13 design could accommodate very easily.

14 MR. ETHERLY: Thank you. I apologize for  
15 the interruption. Thank you.

16 MR. MURPHY: Thank you.

17 CHAIRMAN GRIFFIS: Good. Mr. Nettler?

18 MR. NETTLER: Okay. You're aware that  
19 there is, at least in the applicant's view, a  
20 component of this project that's being developed as a  
21 matter of right. There's about nine houses on W  
22 Street and I think there's four houses on Foxhall.

23 MR. MURPHY: I'm aware that was the way it  
24 was presented, yes.

25 MR. NETTLER: Okay. Let's take this ninth

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1 house that's on the edge of W Street and near where it  
2 meets 44th Street. If the applicant is correct that  
3 this is a matter of right, there is no opportunity for  
4 you to address the issue of having a fence there or  
5 somebody building into their side yard or whether  
6 that's a rear yard, correct? There's no BZA hearing.  
7 There's no Commission of Fine Arts hearing. There's  
8 no Historic Preservation Review Board hearing. It's  
9 a matter-of-right development?

10 MR. MURPHY: Are you speaking as if, and  
11 this is labeled Building 13, I think.

12 MR. NETTLER: Right. Well, there's 13  
13 houses. There's nine on one and there's four on the  
14 other. That's Nr. 13.

15 MR. MURPHY: If that was an individual  
16 house, single-family, separate from all this  
17 development, the owner would have certain rights. We  
18 would have some objection on the edge where it would  
19 affect tree roots base, but beyond that there would be  
20 very little.

21 MR. NETTLER: Right.

22 MR. MURPHY: In play that we would have.

23 MR. NETTLER: And this is a 16-acre site  
24 and it could be divided up in such a way that you  
25 have, let alone 13, that you had certainly more than

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1 13 matter-of-right sites here, rather than pursuing  
2 this. That's theoretically, correct? Isn't that  
3 true?

4 MR. MURPHY: As I understand it, yes.

5 MR. NETTLER: Okay. So the tension  
6 here --

7 UNIDENTIFIED SPEAKER: -- Park Service,  
8 Mr. Chair?

9 CHAIRMAN GRIFFIS: Right.

10 UNIDENTIFIED SPEAKER: (Off microphone.)

11 CHAIRMAN GRIFFIS: Understood.

12 MR. NETTLER: Well, if I can connect that,  
13 I think we'll see it immediately.

14 So the tension here really is how to both  
15 protect the Park Service on the one side, protect the  
16 park on the one side and accommodate what are private  
17 property rights on the other side, correct?

18 MR. MURPHY: Correct.

19 MR. NETTLER: Okay. And this provides an  
20 opportunity to this hearing here, provides an  
21 opportunity to try to come to some type of, I wouldn't  
22 say accommodation, am I correct, but really to try to  
23 come up with a means of both mitigating impacts of new  
24 development and as providing for ways of dealing with  
25 the litany of issues that are addressed under the

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1 theoretical subdivision regulations, correct?

2 MR. MURPHY: As I understand the process,  
3 yes.

4 MR. NETTLER: Okay. So the idea of how  
5 you separate the park both visually and how you  
6 protect the park aesthetically as well as protect the  
7 park from encroachments and protect the park from  
8 storm water management issues is a function of the  
9 varying plans that are being developed for this site  
10 and how you can to some extent maximize, but certainly  
11 to accommodate both the private interests and the  
12 park's substantial interest in protecting itself,  
13 correct?

14 MR. MURPHY: Well, that seems to  
15 underscore the evolution of the various site plans  
16 that have come forth.

17 MR. NETTLER: Okay. Now with regard to  
18 the storm water management plan that you've seen, from  
19 your perspective, we're going back to I guess the  
20 first part of your testimony, from your perspective,  
21 not including Foxhall, which we've dealt with already,  
22 from your perspective, having a plan that is  
23 consistent in its both in the way in which it's  
24 developed to the extent possible and in its impact  
25 like what's being done at the Field School is what you

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1 would like to see. Is that correct?

2 MR. MURPHY: That's correct.

3 MR. NETTLER: Okay.

4 MR. MURPHY: And I'd like to point out  
5 that this one is slightly different in that the only  
6 downstream owner, with the exception of a portion of  
7 the private property on Foxhall, and I'm not sure  
8 that's rather indirect flow, but the Park Service is  
9 the receiver of all the storm water and there's no  
10 private property that be crossed.

11 MR. NETTLER: Right. Right. And we  
12 understand that. Now let's then deal with the  
13 Whitehaven. You've heard there's been some  
14 submissions to the Board and there's been some cross  
15 examination made of individuals about the concept of  
16 using the Whitehaven Parkway, which borders this site,  
17 as some type of street instead of the traffic plan  
18 that's been proposed, the interior traffic plan that's  
19 proposed by the applicant. Would you like to see  
20 Whitehaven paved?

21 MR. MURPHY: Whitehaven Parkway is part of  
22 the park system of the nation's capital. We are  
23 mandated to preserve the scenery and the environment  
24 within it for the park and so with that as a preface,  
25 no, we wouldn't.

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1 MR. NETTLER: Okay. Thank you.

2 CHAIRMAN GRIFFIS: Very well. Thank you.  
3 The ANC has left? Okay. Friends, cross?

4 MR. SNAPE: Mr. Murphy, when would you  
5 anticipate completing your review of a storm water  
6 management plan? Do you have an idea of when you  
7 might get what you consider a final plan and when you  
8 would finish review of that? I'm confused on timing.

9 MR. MURPHY: Well, we were involved in the  
10 Field School storm water plan right up to its  
11 construction and through its construction because  
12 there's always some modifications that come up. We  
13 were involved in Field, make it very clear, on those  
14 areas that were directly impacting us. And we relied  
15 on Field and the contractors to develop according to  
16 plans that the District had reviewed. So we met, I  
17 don't know how many staff hours, but I would say there  
18 were probably 15 different meetings on it over the  
19 course of the time. And the reason is that it's an  
20 unusual plan. It's certainly state of the art for the  
21 District of Columbia.

22 CHAIRMAN GRIFFIS: Let's cut to the chase  
23 though.

24 MR. MURPHY: Yes.

25 CHAIRMAN GRIFFIS: Aren't you trying to

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1 figure out when and how this review is going to  
2 happen?

3 MR. SNAPE: And relatedly what lessons  
4 have you learned from the Field School that are  
5 applicable here? I mean, what does the Park Service  
6 want out of the storm water management system either  
7 proposed or yet to be proposed by the applicant? That  
8 I think is a direct way of asking.

9 MR. MURPHY: That the greatest level of  
10 water quality can be provided, the protection of the  
11 wetland qualities on parkland and because this water  
12 is in the United States, we would assume the Corp of  
13 Engineers would also require it. So that's quality.  
14 And on quantity, we've already heard that there would  
15 be a release rate of two CFS, cubic feet per second,  
16 into the park.

17 MR. SNAPE: And so you have not seen the  
18 level of detail yet that you need to see to make that  
19 determination?

20 MR. MURPHY: No, we've not.

21 MR. SNAPE: Okay. I want to move to  
22 migratory birds now. Are you aware that the Park  
23 Service has data in its possession back from the 1950s  
24 and the Rachel Carson Society, Shirley Briggs, on  
25 migratory bird observances and bird observances in and

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1 around Whitehaven Parkway and Glover-Archbold Park?

2 Are you aware of that?

3 MR. MURPHY: I'm aware of a substantial  
4 database. I wouldn't be surprised that this area was  
5 included.

6 MR. SNAPE: Have you or anyone in the Park  
7 Service had any discussions with your sister agency at  
8 the Department of Interior, the U.S. Fish and Wildlife  
9 Service, about the migratory bird impacts, either on  
10 this proposal or related proposals as it impacts --

11 MR. NETTLER: I'm going to make an  
12 objection both as to relevancy and it's beyond the  
13 scope of his direct testimony

14 CHAIRMAN GRIFFIS: Indeed. Did you find  
15 in his testimony how it related to other agencies  
16 first that were referred to or actually the specific  
17 impact regarding?

18 MR. SNAPE: Well, Mr. Murphy explicitly  
19 mentioned as an issue and concern the impact on  
20 migratory birds and the concern about the conservation  
21 of migratory birds and the premise of my question was  
22 simply stating a fact that the Fish and Wildlife  
23 Service, its sister agency, is the agency responsible  
24 for migratory bird treaty conservation in this country  
25 as a matter of law.

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1                   CHAIRMAN GRIFFIS:  And in then the  
2 relevancy to the case, would you find that it comes  
3 under 2516?

4                   MR. SNAPE:  I sure do.  I think it does --  
5 the surrounding environment and whether it fits with  
6 surrounding neighbors.  The surrounding neighbors is  
7 the Park Service and they have migratory birds on  
8 their property.

9                   CHAIRMAN GRIFFIS:  2516 goes to the  
10 environment where land or water supply, water  
11 pollution, soil erosion or sediment waste and  
12 management -- and so I think it's appropriate, but  
13 let's get a quick answer on this.  Was there reference  
14 to other agencies regarding the impact of migratory  
15 birds or other animals?

16                  MR. MURPHY:  We manage the park and we  
17 manage the park tree cover to address myriad wildlife  
18 issues, one of them being migratory birds habitat.

19                  CHAIRMAN GRIFFIS:  His direct question is,  
20 did you refer to other agencies for this specific  
21 element?

22                  MR. MURPHY:  No.

23                  CHAIRMAN GRIFFIS:  Okay.

24                  MR. MURPHY:  No, and wouldn't have a  
25 reason to frankly.

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1 CHAIRMAN GRIFFIS: Interesting.

2 MR. SNAPE: Have you, can you access the  
3 Whitehaven parkland from Foxhall Road, Mr. Murphy?

4 MR. MURPHY: Yes.

5 MR. SNAPE: Are you aware that the Friends  
6 of Whitehaven and other concerned citizens have helped  
7 the Park Service with the invasive species problem, on  
8 the exotic species problem on the Whitehaven parkland?  
9 Have you been aware of those efforts?

10 MR. MURPHY: I'm aware of the overall  
11 program.

12 MR. SNAPE: Has the Park Service done any  
13 surveying under the National Historic Preservation Act  
14 including but not limited to things like Native  
15 American artifacts? Has that been done in this  
16 instance?

17 MR. MURPHY: On what site, sir?

18 MR. SNAPE: Has there ever been a survey  
19 of National Historic Preservation Act-type items like  
20 Native American artifacts on the Whitehaven parkland?

21 MR. MURPHY: The Whitehaven Parkway has  
22 been reviewed by our regional archeologist, so I  
23 presume that's what you're referring to.

24 MR. SNAPE: It is and answers my  
25 questions. That completes my questions, Mr. Chair.

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1 Thank you.

2 CHAIRMAN GRIFFIS: Thank you. Others?

3 Yes, Ms. Hardy?

4 MS. HARDY: Thank you. Mr. Murphy, good  
5 afternoon. You said that you would like to see the  
6 water on the ridge taken all the way down to the drain  
7 at Whitehaven and Foxhall.

8 MR. MURPHY: That's correct.

9 MS. HARDY: The developers, there is  
10 currently, as you know, no drain, no storm drain  
11 system between the Field School and that drain at  
12 Whitehaven and Foxhall. Is that correct?

13 MR. MURPHY: There is a drain at the top  
14 of what would be at Foxhall and W. There's an inlet  
15 that was recently put in, so there would be some  
16 management. I don't know how that system completely  
17 works.

18 MS. HARDY: There is none between W and  
19 the one at Whitehaven and Foxhall.

20 MR. MURPHY: That's correct.

21 MS. HARDY: Okay. Now the developers told  
22 me that they were going to have a drain between W and  
23 their access road. But then this apparently was  
24 changed in discussions with you for something new and  
25 the water along what you call the ridge would get

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1 along from W to Whitehaven. Is that correct? That's  
2 the agreement you have made with the developer?

3 MR. MURPHY: Well, the concern we had is  
4 that the water between W and the entrance, the roadway  
5 entrance, would be collected and directed into the  
6 Phillips estate and then on through into the park.  
7 What we suggested is because that is very urbanized  
8 water, it's basically the drainage off of Foxhall,  
9 that it be directed to Whitehaven --

10 MS. HARDY: And you've said they've agreed  
11 to do this.

12 MR. MURPHY: They have indicated in  
13 writing that they would.

14 MS. HARDY: But have they explained  
15 exactly how they would do this since -- will it go  
16 along Foxhall Road and is it included in DDOT's plan,  
17 or will they dig up the road after DDOT has finished  
18 it and put a pipe down the road?

19 MR. MURPHY: I don't know.

20 MS. HARDY: You don't know how they plan  
21 to pipe it down?

22 MR. MURPHY: No, I do not. I haven't seen  
23 the drawings, so I don't know.

24 MS. HARDY: Thank you.

25 CHAIRMAN GRIFFIS: Thank you, Ms. Hardy.

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1 Others? Certain residents? No? Indeed. Very well.  
2 Thank you very much.

3 MR. MURPHY: Thank you.

4 CHAIRMAN GRIFFIS: Oh, hold on. We do  
5 have a few more Board questions.

6 VICE-CHAIR MILLER: Mr. Murphy, I just  
7 have a couple of questions. One is with respect to  
8 the parkland that's abutting where some of the  
9 proposed homes will be, are there certain elements in  
10 the park that these homes would need protection from  
11 and for that reason need a fence such as we heard  
12 there might be homeless people living in the park, or  
13 are there certain animals they need protection from?  
14 I mean, is the fence just for psychological reasons or  
15 is it for other reasons, if there be a fence?

16 MR. MURPHY: Fences keep good neighbors.  
17 I don't know about a questionable legal activities.  
18 Would it be a security fence? No. Would it keep  
19 people from climbing over the fence and going into the  
20 private property or the other way around? No, because  
21 no fence really does that. Would it keep deer out?  
22 Probably not because deer can hop a five-foot fence  
23 very easily. It's rather interesting to watch. Foxes  
24 have a way of getting around them no matter what. The  
25 smaller mammals probably would come and go as they

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1 please, much to the consternation I'm sure of the  
2 landscapers interests and the private development.

3 So the fence is essentially a way 50 years  
4 from now to say that's still parkland and that's  
5 private land.

6 VICE-CHAIR MILLER: Okay. And also what  
7 I seem to be hearing you saying in the cross  
8 examination, or not hearing you saying, was you didn't  
9 have a strong position one way or another on whether  
10 there should be a fence.

11 MR. MURPHY: If no fence is put there,  
12 then you all need to be assured and we will have to be  
13 assured that 50 years from now this thing won't  
14 amoeba-like creep down into the park as it is  
15 elsewhere. And frankly, I don't know of anything more  
16 functional than a fence to keep that from happening.

17 VICE-CHAIR MILLER: Okay. And then my  
18 final question is, with respect to the setback  
19 question, it sounded like you were saying it depends  
20 on the individual lots and sites how much of a setback  
21 should be required or would be a good idea. And then  
22 you said something like so therefore you'd like to  
23 review the applicant's plan. And my question is, do  
24 you have any general guidelines you want to say that  
25 would govern evaluating the setback, in which

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1 situations you might need more, in which situations  
2 you might need less, or is it just looking at their  
3 plans?

4 MR. MURPHY: Well, in walking it with the  
5 applicant and their contractors in the field, it  
6 became obvious that a setback to a hard line would  
7 make the -- then I have to look at it in the worst  
8 possible case and say, "Well, then they'll buildings  
9 and everything right up to that line." And what I  
10 said is that they need to look at this as a tiering  
11 and say, "All right. If there's a border and then  
12 there's a natural buffer area, which they've alluded  
13 to as the landscape plan, and then there's an area in  
14 a back yard that could be a more refined landscape but  
15 would not have any elevations and steps and -- so  
16 let's say 25 feet of one style of landscaping and then  
17 a band of 25 for -- arbitrarily 25 feet of very  
18 restricted use of the land for built structures and  
19 then the next 25 feet may be where the swimming pool  
20 and the tennis court could go and the next 25 feet  
21 would be the building and hopefully the building  
22 wouldn't rise 50 feet straight up, that there would be  
23 a certain amount of stepping back.

24 Now, my feeling is the architectural  
25 standards and the landscape plan will probably answer

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1 that. And if they don't, we'll suggest that they  
2 should.

3 VICE-CHAIR MILLER: Thank you.

4 MR. MURPHY: Thank you.

5 CHAIRMAN GRIFFIS: Great. Any other  
6 questions from the Board?

7 (No audible response.)

8 CHAIRMAN GRIFFIS: Very well. Thank you.  
9 Whoa, we lost him already. No, no, you were finished.

10 Okay. That being said, are there any  
11 other government agencies that are present now? I  
12 named off a few. I think we've heard from all.  
13 They've all been cross examined and presented their  
14 reports, as had the ANC. We are at 12:35-13:40.  
15 We're scheduled to continue this until 12:00. We've  
16 run a little bit over.

17 I'd like to get this scheduled to finalize  
18 our last session where we will all meet, I certainly  
19 anticipate. That would be the first in the afternoon  
20 on the 8th of March. Let me have parties or  
21 applicant, any difficulties in meeting that?

22 Let me also ask as people are checking the  
23 schedule, are there persons present either in support  
24 or in opposition to the application that are here  
25 today that were anticipating giving testimony?

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1 Anybody here, just raise a hand. Persons. You guys  
2 are all parties. You guys have more fun. We got to  
3 schedule a big amount of time. If we have questions,  
4 please, let's bring it all up here. I don't want to  
5 waste anybody's time in terms of getting stuff done  
6 this afternoon. But obviously anything you say has to  
7 be said up here.

8 MS. BRADY: The Colony Hill Citizens  
9 Association which is the homes just south of the Brady  
10 estate were not able to come today. They gave me a  
11 written statement that they wanted read today. So I  
12 think they are a --

13 CHAIRMAN GRIFFIS: Excellent. I think you  
14 can just put it into the record.

15 MS. BRADY: Okay.

16 CHAIRMAN GRIFFIS: That would be great.  
17 And if you wouldn't mind providing all the applicant  
18 and other parties with a copy of that.

19 MS. BRADY: Okay.

20 CHAIRMAN GRIFFIS: While I have you, have  
21 you figured out how you're going to divide the time  
22 with the rest of the parties and the presentation of  
23 your cases? You have no more than 80 minutes.

24 MS. BRADY: No, we haven't discussed that.

25 CHAIRMAN GRIFFIS: Okay.

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1 MS. BRADY: But my take is that we could,  
2 three of us would be happy with a total of 80 minutes  
3 without a problem.

4 CHAIRMAN GRIFFIS: How about 60? Twenty  
5 each?

6 MS. BRADY: Well, maybe. I'm not in a  
7 position to negotiate until I talk with my buddies.

8 CHAIRMAN GRIFFIS: How much time do you  
9 need for your --

10 MS. BRADY: We actually would like a half  
11 an hour. There are two of us that are presenting and  
12 I think we can do it in a half an hour. But I do have  
13 a problem with March 8th. I know, I'm sorry.

14 CHAIRMAN GRIFFIS: Okay. What's the  
15 difficulty?

16 MS. BRADY: I have a corporate board  
17 meeting in North Carolina I must attend.

18 CHAIRMAN GRIFFIS: So you're going to be  
19 out of town?

20 MS. BRADY: Yes. Is there --

21 CHAIRMAN GRIFFIS: Is there what?

22 MS. BRADY: You don't want to start this  
23 afternoon? We're all here. Just get it done.

24 CHAIRMAN GRIFFIS: All right. Is there  
25 any objection to doing that? Does anyone else have

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1 concerns in terms of continuing this afternoon? I  
2 don't think it's a big possibility. I'm going to have  
3 to take three minutes for the Board. Setting this we  
4 had prior commitments that actually have been  
5 rescheduled, but I will assess that. If there's no  
6 major objection, what we might end up doing is getting  
7 through -- you're prepared to go right now, is that  
8 correct?

9 MS. BRADY: Yes.

10 CHAIRMAN GRIFFIS: Is the Friends also  
11 prepared to go immediately?

12 MR. SNAPE: Yes.

13 CHAIRMAN GRIFFIS: Ms. Hardy, you're ready  
14 to go?

15 MS. HARDY: (No audible response.)

16 CHAIRMAN GRIFFIS: Okay. I cannot see  
17 that we'd get through everybody, but let me see how  
18 much time we actually have. Any objection to doing  
19 that, Mr. Nettler?

20 MR. NETTLER: I have no objection.

21 CHAIRMAN GRIFFIS: Okay. Let's take just  
22 two minutes.

23 (Whereupon, at 12:46 p.m. off the record  
24 until 12:48 p.m.)

25 CHAIRMAN GRIFFIS: Okay. Ms. Brady, we'll

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1 take you today. We're going to take seven minutes  
2 right now to get organized. Everyone get on their  
3 phones, if they need to, as we will. I would imagine  
4 we will be leaving out of here no later than 2:30  
5 today. And I don't anticipate getting into the other  
6 case presentations, but, Ms. Brady, as you're not  
7 available on the 8th, we would then hold the 8th in  
8 the afternoon, call this as the first case in the  
9 afternoon and finish it. Good?

10 (No audible response.)

11 CHAIRMAN GRIFFIS: Okay. We'll be back.

12 (Whereupon, at 12:48 p.m. off the record  
13 until 1:05 p.m.)

14 CHAIRMAN GRIFFIS: Good. Let's resume.  
15 Whenever you're ready.

16 MS. BRADY: Mr. Griffis and members of the  
17 Board, we live on W Street and Foxhall Place and are  
18 the neighborhood and neighbors who border the Phillips  
19 estate on the north. We are united in the concerns  
20 expressed in this letter regarding the development of  
21 the Phillips estate.

22 We do not oppose in principle the  
23 development of the Phillips estate. We have realized  
24 for some time that the property would not remain in  
25 its undeveloped state forever. From the first time we

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1 met as a group after hearing rumors of the  
2 development, we have taken a pragmatic approach to our  
3 dealings with the development and the developer. From  
4 the outset we identified three principle concerns and  
5 communicated them to the developer. Traffic safety,  
6 including ingress and egress to and from the  
7 development and traffic on Foxhall Road. That's our  
8 paramount issue. Our second issue was with preserving  
9 the character of our neighborhood. And our third  
10 issue was the density of the development.

11 We have met with the developer and his  
12 team on a number of occasions and we were very  
13 appreciative of the presentations that were made to us  
14 regarding the details of the development and the  
15 apparent willingness of the developer to listen to us  
16 and address our concerns. But we were very distressed  
17 recently to find out that two significant changes had  
18 been made from the first presentation to the ANC until  
19 the final ANC meeting earlier in February when the ANC  
20 conditionally endorsed this project.

21 So our recent concerns were the first  
22 change that we made was the apparent departure of Ted  
23 Visnic as the developer/builder for the project. In  
24 all of our meetings with the developer, the record of  
25 Ted Visnic as the developer/builder of high-quality

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1 projects was extolled and Mr. Visnic presented to us  
2 a development philosophy with which we were generally  
3 comfortable. His departure presents a significant  
4 uncertainty with respect to the assurances that we  
5 have been given regarding the quality of the  
6 development. Given the past failed attempts to  
7 develop this piece of property, we would hope that the  
8 BZA would require more information about the legal  
9 commitment of the key players to deliver this project  
10 as it is currently being described. The  
11 owner/partners in WAHA 3 and Phillips Park LLC are  
12 unknown to us at this time. We would certainly prefer  
13 that the developer/builder have local roots, a local  
14 reputation and a commitment to the local community.

15 Then the second change that came about  
16 recently was this ninth house along the south side of  
17 W Street. And I won't go into that any more. I think  
18 we've all heard over and over again about this, but to  
19 us, to find out that a ninth lot was going to be added  
20 without consulting with us was a breach of commitment  
21 that the developer had made with us in our earlier  
22 discussions. So what that did to us was to raise a  
23 concern that all of the consultation and agreement  
24 that we had had with the developer was only being done  
25 to get BZA approval and that it would not continue in

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1 the continuing relationship with the neighborhood.

2 Now, on with our three principle concerns.  
3 Again, the traffic. Well, let me just note that with  
4 the exception of these two issues raised above, the  
5 leaving of Ted Visnic as the developer/builder and  
6 then the addition of the ninth house on W Street,  
7 other than those two concerns, we feel like that the  
8 character of our neighborhood and the density of the  
9 development have been addressed. So as long as the  
10 plans that were presented to us and show to us are  
11 scrupulously adhered to, then we were okay with those  
12 two concerns. But then the paramount final issue that  
13 we had, which is our major concern, is the traffic  
14 safety and I'd like to spend the rest of my time  
15 talking about that.

16 Number one, just to give you the  
17 environment, current traffic conditions on Foxhall  
18 Road are dangerous. Two lanes, narrow, curvy, hilly  
19 and just dangerous. The DDOT Palisades traffic study  
20 which was dated August 2002, noted that Foxhall Road  
21 carries over 16,000 two-way daily vehicles, which is  
22 a large number for a two-lane road. We know that the  
23 average speed is well in excess of the 25-mile per  
24 hour posted and that was confirmed again by the police  
25 officer who testified last week. The road had become

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1 a major commuter route between Northern Virginia and  
2 Bethesda. GW's purchase of Mount Vernon College and  
3 then the Field School relocation to the Kafritz  
4 estate, both of which were subsequent to the Palisades  
5 traffic study, but these two items have added  
6 significant traffic and congestion to the road.

7 The corner of Foxhall Road and W Street is  
8 one of the most dangerous intersections in the city.  
9 The traffic study projected a level of service  
10 degradation from B to F, which would be a failure, if  
11 no potential improvements were made and this  
12 conclusion was based on data that did not include the  
13 Phillips estate or the Brady estate, except for the  
14 assumption that the mayoral mansion would be there and  
15 the impact would be equal to that of three single-  
16 family homes.

17 And the Metropolitan Police Department did  
18 a survey, I think at the request of the Office of  
19 Planning, and noted that excess speed is common on  
20 Foxhall Road. The police officer who was here  
21 testified that Foxhall Road is more dangerous than  
22 other roads in the area and the fact that he observed  
23 two accidents within 41 minutes of each other while he  
24 was trafficking or giving tickets for speeding on  
25 Foxhall Road. So again, the current traffic

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1 conditions on Foxhall Road are dangerous.

2 Additional development will exacerbate  
3 this traffic problem. This is a total of 32 acres  
4 that's being looked at, not all of it at this hearing,  
5 but the Phillips estate and the Brady estate together,  
6 32 acres, and the problem will increase if it's not  
7 properly provided for, transforming a dangerous  
8 situation into a possible deadly situation. We're  
9 looking at 47 homes on 16 acres on the Phillips estate  
10 and the Brady estate, which is owned by the Friends of  
11 St. Patrick's, have already stated their intention to  
12 put a high school there, possibly part of their middle  
13 school and some private residences going into that 16  
14 and a half acres.

15 The Phillips estate developer has proposed  
16 a new Foxhall Road access 400 feet south of the  
17 intersection of W Street and Foxhall Road, but we feel  
18 that this does not eliminate the hazard. The traffic  
19 impact analysis, their justification for the new  
20 access point on Foxhall Road, was based on, number  
21 one, that it would eliminate the driveways that would  
22 be there if by-right units that were on Foxhall Road  
23 directly accessed Foxhall Road. And also they based  
24 it on that it would be better than using the W Street  
25 intersection. The flaw to us in this traffic argument

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1 is that neither of those solutions, W Street or having  
2 four or five more homes on Foxhall with driveways  
3 going directly into Foxhall, is really a viable  
4 solution to say that this is a better alternative too.  
5 There's going to still be a line of sight problem due  
6 to the berm on the east side of Foxhall Road and also  
7 a similar -- if you stop and think about it, there's  
8 a similar traffic configuration at Whitehaven and  
9 Foxhall as is being recommended at this new  
10 intersection on Foxhall Road; i.e., a traffic light,  
11 a turn lane and accidents have continued to happen at  
12 Whitehaven and Foxhall Road. What happens is that  
13 speeders abusing the turning lane just -- you know,  
14 it's a way to get around the slow car in front of you  
15 and they pull out in that turning lane. Mr. Slade  
16 even said himself that he was nearly run off the road  
17 as someone tried to do that at Whitehaven. The same  
18 thing is more than likely going to happen at the new  
19 egress on Foxhall Road.

20 So we believe that DDOT's approval of this  
21 solution, and we put the solution in quotes, was  
22 hasty. The Palisades traffic study in 2002 supported  
23 a traffic signal at Foxhall Road and W Street, but per  
24 the ANC, and we heard it again this morning, an  
25 agreement between George Washington University Mount

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1 Vernon Campus and the community precluded the  
2 installation of that light. So we had a very  
3 dangerous intersection there, but because certain  
4 citizens were concerned that if you put a light at  
5 Foxhall at W Street, all of a sudden people would use  
6 W Street as a thoroughfare. So the light ended up  
7 going further south at Whitehaven.

8 But now the logic is being applied that  
9 since this new access road is near the W Street  
10 intersection, DDOT should approve an on-demand light  
11 at this new access. Arguably, the new access road is  
12 safer with a traffic signal than without one, but  
13 that, we think, is not the relevant question. The  
14 relevant question is, where should the access road be  
15 located?

16 Let's not answer the question based on the  
17 2002 study which did not assume a development on the  
18 Phillips estate or the placement of a high school and  
19 residences on the Brady estate. Creating another bad  
20 intersection to accompany the one at W Street is not  
21 a solution.

22 Optimal solution. A traffic light was  
23 recently installed at the T intersection where  
24 Whitehaven Park dead ends into Foxhall Road. To  
25 accommodate traffic entering St. Patrick's and George

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1 Washington University Mount Vernon Campus. This  
2 intersection is located directly between the Phillips  
3 estate and the Brady estate at the point where there  
4 is a narrow sliver of property referred to as  
5 Whitehaven Park owned by the U.S. Park Service Lot 804  
6 running from Foxhall Road through to Glover-Archbold  
7 Park. And I've asked the Park Service to leave the  
8 schematic up and, you know, we can see that piece of  
9 Park Service land there. It goes from Foxhall Road  
10 all the way back to Glover-Archbold Park.

11 Fact: the U.S. originally purchased this  
12 land, these four acres that we're talking about, Lot  
13 804, from the Brady estate in 1948 for the very  
14 purpose of extending Whitehaven Parkway across Foxhall  
15 Road to serve as a connector road between Arizona  
16 Avenue and the Rock Creek and Potomac Parkway. Later  
17 the land was deeded to the National Park Service.

18 After months of contentious debate over a  
19 second access to the Foxhall Road for the mayoral  
20 mansion on the Brady estate, all parties reached  
21 agreement on extending Whitehaven across Foxhall onto  
22 NPS parkland. Originally the Casey Mansion Foundation  
23 sought to get the entire National Park Service four  
24 acres for access into the Brady estate. Then the  
25 National Park Service offered an access easement for

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1 a small portion of the four acres in return for a  
2 conservation easement on the mansion property itself.  
3 The final resolution was that NPS transfer  
4 jurisdiction, but not ownership, over 1.8 acres to the  
5 District government. The District would have leased  
6 the land to the Casey Mansion Foundation for a second  
7 access off of Foxhall Road. Keep in mind, it did not  
8 cut all the way back to the park. It was just on the  
9 front area, the 1.8 acres closer to Foxhall Road.

10 Step two of this process never was  
11 implemented as the Casey Mansion Foundation abruptly  
12 sold the property to another party. However, what we  
13 take away from looking at this whole situation there  
14 was that the Community Citizens Association, the  
15 Foxhall Community Citizens Association, voted to  
16 support this jurisdiction transfer and three  
17 environmental organizations, Defenders of Wildlife,  
18 Audubon Nature Society and Friends of Whitehaven Park,  
19 eventually supported the solution but asked for a park  
20 on the site saying, "That we believe the achievement  
21 of a large new park may help to balance the loss of  
22 Whitehaven parkland and would be an acceptable  
23 political compromise."

24 So the current situation is a little bit  
25 different than what existed during this mayoral

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1       debacle.

2                   The current situation, you now have two  
3       large parcels of land that we're looking at, that are  
4       being looked at and to us it seems like that there are  
5       some unbuildable wetlands that exist on the Phillips  
6       estate and there is room for exchange and compromise  
7       if some agreement could be reached, if agreement was  
8       reached with the Casey Foundation and the mayoral,  
9       that all the parties could be happy, we can't  
10      understand why the sum agreement can't be reached here  
11      because in fact there's more land in which to try and  
12      make everybody's desired intent met.

13                   The developer of the Phillips estate  
14      apparently recognized that the safest location for the  
15      principle ingress and egress to their development  
16      would be to extend Whitehaven along the south side of  
17      the Phillips estate so that the light at Whitehaven  
18      could be used, however, the developer told us that  
19      they were advised by the Park Service and the ANC  
20      quote/unquote not to go there as it would be too  
21      contentious.

22                   Other groups have also recognized the  
23      natural ingress/egress for the Phillips estate. A  
24      group within the Foxhall Community Citizens  
25      Association which originally opposed the access for

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1 the Brady Estate through the NPS land noted "carving  
2 out parkland for an access road for the mayor's  
3 mansion opens the door to residential construction of  
4 the 15-acre Harare Track." A plan dating from the  
5 mid-80s shows a planned access road across the  
6 parkland to the Harare land at the same point the  
7 foundation proposes a road. So everyone who's looked  
8 at this property from a development point of view or  
9 from a conservation point of view recognizes that it  
10 is the natural ingress/egress to Foxhall Road.

11 The sliver of Park Service property is  
12 overgrown and it's dangerous in its current condition.  
13 Allowing it to be used as a safe point of access for  
14 both the Phillips and the Brady developments would be  
15 in the best interest of traffic safety and would also  
16 provide a safe accessible entry point to Glover-  
17 Archbold Park.

18 Any objective review of this situation  
19 would conclude that this is the only solution that  
20 would not further exacerbate the already-dangerous  
21 traffic condition on this section of Foxhall Road.  
22 But timing is difficult because no plans have been  
23 submitted by the Friends of St. Patrick's regarding  
24 the development of the Brady Estate.

25 This solution that we're proposing has the

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1 support of both the residents of W Street and Foxhall  
2 Road which border the Phillips estate on the north and  
3 the Colony Hill Neighborhood Association, which is  
4 comprised of the residents whose properties border the  
5 Brady estate on the south. And I gave to Ms. Bailey  
6 a copy of the Colony Hill Neighborhood Associations  
7 testimony for the record.

8           Though this solution requires patience and  
9 earnest negotiation on the part of several government  
10 agencies, federal and local, several citizens  
11 associations and at least two developers. We are  
12 asking all the stakeholders to make such an effort for  
13 the safety of the current and future residents as well  
14 as the children who will be attending the neighborhood  
15 schools. Our efforts could be well-rewarded.

16           We also would like to note that in our  
17 cross examination of DDOT this morning we asked DDOT  
18 if they might be willing to coordinate a meeting of  
19 all interested stakeholders to look at other solutions  
20 and their answer was yes.

21           So our recommendations to the BZA are  
22 three. Number one, we urge the BZA to postpone its  
23 decision the Phillips estate in hopes of precluding an  
24 inadequate piecemeal response to the traffic problems  
25 raised by the Phillips estate development, a solution

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1 quote/unquote, which would be very difficult to  
2 reverse in the future. The postponement would provide  
3 time for all concerned parties of the Foxhall Road  
4 area to attempt to find a comprehensive solution which  
5 could provide benefits and safety for all concerned.  
6 A postponement would also give the applicant an  
7 opportunity to complete whatever legal arrangements  
8 need to be made so that the owners and developers can  
9 be more fully introduced to the BZA and the  
10 neighborhood. Additionally, a postponement would also  
11 give the applicant an opportunity to submit their  
12 final plans required under the zoning regulations and  
13 noted by the Office of Planning as not yet available.

14 Second recommendation. We urge the  
15 elimination of the recently proposed ninth house on  
16 the south side of W Street that was in the public  
17 notice as a matter-of-right house. The ninth house on  
18 the W Street increases the total to 13 houses.

19 And then lastly we urge the creation of a  
20 mechanism for formal coordination between our  
21 neighborhood and the developer/builder. Thank you  
22 very much.

23 And now Mr. Lou Nivens, who's also a  
24 resident, he's one of the certain residents as well,  
25 will speak.

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1 MR. NIVENS: There we go. Thank you and  
2 we certainly appreciate the indulgence of the BZA in  
3 accommodating our schedules and the fact that we  
4 couldn't be here on March the 8th.

5 I regret that we have been posed here as  
6 objectors or testifying in opposition to the  
7 development. I don't think we are in opposition to  
8 this development. It's much better than other things  
9 might have been and if anything, I think we would like  
10 to appear here as an amicus curiae or amicus BZA. We  
11 are not opponents of this development, but we do have  
12 some very serious concerns which you've already heard.

13 Essentially we have three points that  
14 we're making. The 13th house you've heard a good deal  
15 about. I think there's already been some movement in  
16 our direction and possibly we heard some discussion  
17 last week that there might be some of these properties  
18 where a single-home buyer would acquire two lots.  
19 That would be a great solution as far as the location  
20 of these last two houses, 12 and 13. Maybe that will  
21 happen. We also understand that the houses that are  
22 directly on W Street are matters-of-right homes and  
23 not technically before the BZA. So that's something  
24 that we hope and are confident that the builder has  
25 already heard our objections and is trying to meet,

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1 and we appreciate that.

2           Secondly, we would like to be ex officio  
3 non-voting members of the design committee. We heard  
4 last week that the developer opposed the idea of  
5 having a representative from our neighborhood on their  
6 design committee. I think the argument was they  
7 wanted our design committee. Our houses were built in  
8 the late 70s and 80s. It's true, we weren't involved  
9 in that either. We are subsequent owners, most of us,  
10 and we would like to take part. They are coming into  
11 our neighborhood and I think have every intention of  
12 being good neighbors and wanting to be solicitous of  
13 our feelings and concerns. And we would urge that a  
14 condition be made in your approval of this application  
15 that one of our people could be an ex officio non-  
16 voting member of their design committee. Maybe this  
17 is something we could reach agreement on.

18           And finally, just to reiterate what Maggie  
19 has already testified to, it is very important, in our  
20 view, that you view this application in connection  
21 with and in conjunction with the application you are  
22 surely going to be receiving for the Brady Estate in  
23 the next year or two. I don't know when they will be  
24 ready to proceed, but we do know that they're talking  
25 about a high school and you're talking about literally

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1 hundreds of people. It's not just these 43 homes, but  
2 literally hundreds of people. If we have a high  
3 school being there, they're going to have to get to  
4 the eastern side of Foxhall Road every day. And today  
5 we have 11 houses. It just is mind boggling and I  
6 think it does cry out for some sort of a comprehensive  
7 solution. We hope and we understand feelings are very  
8 high.

9 Now, we heard from the Park Service  
10 representative today when he testified that asphalt in  
11 and of itself does not violate environmental  
12 standards. So it isn't the building of a road, a 12-  
13 foot road, across this property that creates the  
14 environmental hazard, and we do hope that people can  
15 be open and have an open mind and that perhaps as they  
16 did in the case of trying to build or get the  
17 approvals that they needed for the mayoral estate that  
18 that same willingness to be reasonable and that same  
19 openness might conceivably be demonstrated again here.  
20 We are gratified that DDOT is willing to host such a  
21 meeting. I can't imagine that the developers of both  
22 of these estates wouldn't be very happy with that sort  
23 of a solution. It is much better than the one that is  
24 proposed.

25 And finally, I would like to leave you

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1 with some photographs. You saw a wide expanse  
2 presented to you the other day of this particular  
3 property, or the particularly-proposed access looking  
4 both north and south, but taken from the far side or  
5 the GW side, GW University side of the street. I  
6 wanted to give you this picture and I'll just bring it  
7 up. It gives you an idea of what --

8 CHAIRMAN GRIFFIS: You can just hold it up  
9 there because Ms. Bailey's going to have to take it  
10 and put it into evidence.

11 MR. NIVENS: Okay. All right.

12 CHAIRMAN GRIFFIS: But you can describe  
13 them for us.

14 MR. NIVENS: Well, sure. I am standing  
15 here. This is exactly where the entrance is going to  
16 be. And I don't know whether you can see, there's one  
17 car. It's the only one that you -- you couldn't see  
18 more than this one car. Now, granted there's a light  
19 here. We understand that this is going to be built  
20 with a light, but it's still nice to be able to see  
21 where you're turning in case somebody is still trying  
22 to speed up Foxhall, somebody is trying to get through  
23 the light that's down at Whitehaven, which isn't very  
24 far away from this. But it gives you some idea what  
25 the sight line really is to the left, or looking

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1 southbound on Foxhall. It gives you a much better  
2 view than anything that's been presented so far. This  
3 is why we don't think that this is a very good idea,  
4 that this is not the optimal idea. Sure, it's better  
5 with a light than without a light and if it were only  
6 this development that you were thinking about, this  
7 might indeed be what you will do. But you're going to  
8 be back again looking at access and egress to Foxhall  
9 Road for a high school, however many more houses or  
10 whatever else might be proposed for the development of  
11 the Phillips estate. Do it on a comprehensive basis.  
12 This isn't something that you are not sure is going to  
13 happen. You know it's going to happen. It's already  
14 been announced. And St. Patrick's has already  
15 acquired this land. We'd like to see a comprehensive  
16 solution. If it involves two entrances, so be it, but  
17 we just don't think it will. Thank you.

18 CHAIRMAN GRIFFIS: Good. Thank you both  
19 very much. Let's take more questions. First of all,  
20 I just wanted to make a quick comment on the asphalt.  
21 I believe Mr. Murphy from the Park Service was  
22 commenting on the fill as non-contaminated or non-  
23 specified material in contamination, not necessarily  
24 roads. But I may be mistaken.

25 Let's go to comprehensive plan of the

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1 area. I think this is a critical point that you bring  
2 up, but is there anything in your understanding our  
3 regulations or our process that would allow us to look  
4 at that or to halt an application before us?

5 Certainly, I can assert we don't have the jurisdiction  
6 to launch a comprehensive plan or a master plan of the  
7 whole area, as much as I'd like to be involved in it.

8 I guess my direct question is, what's the  
9 vehicle that you're actually asking us to pursue to  
10 facilitate that concern?

11 MR. NIVENS: I don't know that any of us  
12 are experts on zoning law or even what your  
13 limitations might be. And obviously the solution  
14 can't come from you. It has to come from the city.  
15 It has to come from DDOT and it has to come from the  
16 Office of Planning and so on. I guess what we would  
17 be asking for is an order, if you do have to resolve  
18 this, that is flexible enough to permit a change of  
19 this magnitude to occur, assuming the city and all the  
20 various factions that would have to agree to it are  
21 able to do so. In other words, that you don't walk  
22 into cement. No pun intended.

23 CHAIRMAN GRIFFIS: Right.

24 MR. NIVENS: This particular entrance and  
25 egress, if a better one can be found -- we're

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1 convinced it can be found and that reasonable people  
2 will find it. So I think what we're looking for is  
3 flexibility in terms of your order if that's what  
4 we're dealing with. And you know that better than we  
5 do.

6 CHAIRMAN GRIFFIS: Okay. Good. And I  
7 think that's an excellent point to bring up. Lastly,  
8 on that aspect, have you had conversations with the  
9 Office of Planning, Mr. Lawson, who as doing the  
10 actual analysis?

11 MS. BRADY: No, we've not had an  
12 opportunity to do that yet.

13 CHAIRMAN GRIFFIS: Okay. But you've seen  
14 the report of course?

15 MS. BRADY: Right.

16 CHAIRMAN GRIFFIS: Right. Okay.

17 MS. BRADY: And I will certainly make sure  
18 that they receive a copy of what we submitted today.

19 CHAIRMAN GRIFFIS: Indeed. Let's go to  
20 starting with the conditions that you're proposing.  
21 First of all, of course I assume you understand any  
22 condition that we would put to an order would go to  
23 directly that which relates to the case and directly  
24 go to trying to mitigate or eradicate a potential  
25 problem or potential adverse impact. When looking at

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1 Condition 4, as I've drafted it in here, as an ex  
2 officio member non-voting member of the design review  
3 committee, can you just tell me succinctly what is it  
4 that that would actually tend to mitigate or what are  
5 the problems that you actually are anticipating might  
6 happen?

7 MR. NIVENS: I don't know that we see any  
8 particular problems, but there apparently is going to  
9 be, and I think it's desirable that there be some  
10 latitude with respect to the type of construction, the  
11 style of architecture that might be permitted in this  
12 proposed development. I think that in and of itself  
13 is good. I just think we might have something to  
14 contribute. We're going to be looking at it and I  
15 think it's something where we might have some ideas  
16 that would be of value to the people who are  
17 immediately concerned.

18 CHAIRMAN GRIFFIS: Okay.

19 MR. NIVENS: Suggestions.

20 CHAIRMAN GRIFFIS: So your second concern  
21 in your case presentation is to preserve the character  
22 of the surrounding neighborhood and community. Is  
23 architectural character of these proposed houses an  
24 aspect of that?

25 MR. NIVENS: Of these new homes?

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1                   CHAIRMAN GRIFFIS:  Yes.  I mean, I guess  
2 I'm trying to get to directly, if you want to be on  
3 the design review committee, are you trying to  
4 maintain a certain design that would preserve the  
5 character of the neighborhood and then I need to know,  
6 well what is your perception of the character of the  
7 neighborhood?

8                   MR. NIVENS:  I don't think we have in mind  
9 the preservation of any particular character.  I mean,  
10 our own home is incompatible architecturally with  
11 every other home in the cul-de-sac.  Again, it was  
12 built 15 years before we got there.

13                   CHAIRMAN GRIFFIS:  Right.

14                   MR. NIVENS:  We liked it and we bought it.  
15 I don't think we start with any preconceived notions.  
16 We certainly don't start with any prejudice against  
17 anything.  We'd just like to participate.

18                   CHAIRMAN GRIFFIS:  Okay.  Good.  Which  
19 goes to your third condition of creating a mechanism  
20 of formal coordination between the neighborhood and  
21 developer.  There's two questions that I have  
22 pertaining to both those.  One, going back to the ex  
23 officio, what influence would you actually have if you  
24 were non-voting?  Are you just scheduling another  
25 meeting or do you have an anticipation that you'd

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1 actually be able to influence something?

2 MR. NIVENS: It wouldn't be anything more  
3 than the ability to persuade.

4 CHAIRMAN GRIFFIS: Okay. Persuasive  
5 ability. Excellent.

6 In terms of the creation of a formal  
7 mechanism, are you looking at that during the  
8 construction or until the entire build out of all the  
9 houses, or is it maintaining a communication with the  
10 association that might be set up? What's the time  
11 line?

12 MS. BRADY: Well, I would think it would  
13 be throughout the entire, through the construction and  
14 after the development is set up. I mean, it's part of  
15 the argument from the developer/builder is that they  
16 would like for our little quote/unquote fragmented  
17 neighborhood to become part of theirs and I think we  
18 would too. And I think it would be a good a mechanism  
19 to ensure that. And I think if we can -- you know,  
20 the additional access that their development might  
21 give us to head south on Foxhall Road would be very,  
22 very beneficial, you know, and I see us being very  
23 grateful for that and wanting to be a part of their  
24 neighborhood. So I would see it continuing.

25 CHAIRMAN GRIFFIS: In your mind, on the

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1 information that you've been provided and looked at in  
2 terms of this case presentation or outside, what do  
3 you think the total development time line is?

4 MS. BRADY: Oh, you know, I would say five  
5 years, but that's -- I have no technical basis on  
6 which to make a --

7 CHAIRMAN GRIFFIS: No, I understand.

8 MS. BRADY: Yes.

9 CHAIRMAN GRIFFIS: The direct question is  
10 getting your perception of what --

11 MS. BRADY: Right.

12 CHAIRMAN GRIFFIS: So that's exactly what  
13 I need to know.

14 Let's go then, what I find is -- well, my  
15 last, I guess, item, the access.

16 MS. BRADY: Yes.

17 CHAIRMAN GRIFFIS: And the Whitehaven, the  
18 Foxhall access. Do you have, are you presenting  
19 anything that actually draws out what you've now  
20 described in several iterations?

21 MS. BRADY: No. Because, you know, I see  
22 that as the first step of if these group of  
23 stakeholders would be willing to meet and sit down and  
24 do honest negotiation round the table, I would think  
25 that would -- you know, some of the -- that would be

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1 the first discussion. But if you look at that piece  
2 of property, you know, the four acres that the Park  
3 Service owns, and you know it's shape to me means that  
4 you don't have to get into the back side of that. You  
5 know, we're talking about trying to have access up  
6 closer to Foxhall Road then give the back side of it  
7 the opportunity for us to have some -- a nice access  
8 into Glover-Archbold Park and to clean up the  
9 Whitehaven Park so that people can actually use that  
10 as an entrance to Whitehaven Park as well. I don't  
11 think that's what we've heard. People do come in  
12 there, but it's very overgrown now and, you know, it  
13 just seems that there is an opportunity there.

14 And I think also given some of the contour  
15 of the land and some of the issues that have already  
16 been discussed with the lots on the southeast corner  
17 of the Phillips estate, you know, maybe there's some  
18 room for some negotiation here on some exchanges or  
19 easements or whatever, that land that's not critical  
20 to their development, that the Park Service could make  
21 better use of and exchange or for use of some of the  
22 Park Service land to get out to Foxhall Road.

23 CHAIRMAN GRIFFIS: It's all very  
24 complicated.

25 MS. BRADY: Well, it doesn't have to be.

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1                   CHAIRMAN GRIFFIS:  You're bringing up a  
2 lot of issues and of course on adjacent property, but  
3 I think it's good thinking that you're doing holistic  
4 thinking.  But see, I have difficulty, and I'm not  
5 sure the five people up here are picturing the exact  
6 same thing and I'm not sure they're picturing what  
7 you're describing.  I mean, when you talk about you  
8 having access into the park, what do you mean?  You  
9 mean, walking from your property?  You mean you're  
10 able to --

11                   MS. BRADY:  No, I mean the public.  How do  
12 you turn this on?

13                   CHAIRMAN GRIFFIS:  So how is the public  
14 accessing it?

15                   MS. BRADY:  Well, where is this little  
16 thing going?  Lou, am I shooting you with it?  Oh,  
17 here we go.  I got it up on the wall now.  Where is  
18 it?  I really putt better than this, I promise you.  
19 I did?  Oh, there it is.  Okay.  You have to -- oh,  
20 you have to hold the button.  Engineers.

21                   Okay.  So if you have access off of  
22 Foxhall Road here and then have up into the Phillips  
23 estate in this area, and again, I mean, I'm just, you  
24 know, this is just what comes to my mind and down into  
25 the Brady estate here where the high school would be

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1 and some homes and whatever, and then I don't see the  
2 need to carry that, you know, when we talk about the  
3 Whitehaven solution, some people have made it sound  
4 like you're talking about putting a road all the way  
5 through here. That wouldn't be what I would envision.  
6 You know, I don't think you need to do that. The main  
7 thing you need to do is just have a way for the people  
8 who live on the east side of Foxhall Road to get out  
9 to Foxhall Road because we don't have --

10 CHAIRMAN GRIFFIS: So it's proposed on the  
11 site plane that we're looking on this application  
12 obviously the interior road or roads would have to be  
13 reoriented to connect --

14 MS. BRADY: Yes.

15 CHAIRMAN GRIFFIS: -- down to that  
16 intersection?

17 MS. BRADY: Yes, exactly.

18 CHAIRMAN GRIFFIS: You would remove the  
19 mid portion access onto Foxhall.

20 MS. BRADY: Yes.

21 CHAIRMAN GRIFFIS: And just move it down  
22 to a four-corner --

23 MS. BRADY: Where the line of sight is  
24 much better and a stop light already exists and it  
25 gives a user to the south of it, a future user that's

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1 going to have heavy traffic demands access as well.

2 CHAIRMAN GRIFFIS: Right. It would  
3 coordinate with the adjacent proposed or perhaps  
4 potentially proposed.

5 On the berm, or the line of sight  
6 difficulty --

7 MS. BRADY: Right.

8 CHAIRMAN GRIFFIS: -- was it your  
9 understanding that that was going to be reduced in the  
10 development plan in terms of regrading?

11 MR. NIVENS: I think not enough.  
12 Chandra's property would not be affected. She doesn't  
13 have to consent to any of this.

14 CHAIRMAN GRIFFIS: Okay.

15 MR. NIVENS: I think what if I recall  
16 correctly they were talking about reducing the little  
17 piece that would lead up to Chandra's property by  
18 roughly 50 percent. I think that's what I heard the  
19 developer testify to.

20 CHAIRMAN GRIFFIS: But in your --

21 MR. NIVENS: I think this photograph  
22 speaks for -- I mean, you can almost see that it just  
23 isn't going to be enough. The high point here is  
24 Chandra's property.

25 CHAIRMAN GRIFFIS: Okay. And in your

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1 understanding if a traffic light was going there, I'm  
2 going just to address what's being proposed at this  
3 point, if a traffic was there, would that reduce or --

4 MR. NIVENS: Sure. I mean, people said it  
5 would be safer, but no one has used the word "safe"  
6 yet. Everybody says it's safer. No question that a  
7 traffic light would make it safer.

8 CHAIRMAN GRIFFIS: Well, even the way you  
9 describe it, with all these suburban commuters  
10 speeding down the road and not stopping for --

11 MR. NIVENS: They are rascals.

12 CHAIRMAN GRIFFIS: -- going on the wrong  
13 lanes, I'm not sure what would be safe.

14 MS. BRADY: Well, that's --

15 CHAIRMAN GRIFFIS: Which goes to another  
16 issue. I mean, I understand that you've actually  
17 described the Whitehaven intersection as still  
18 dangerous.

19 MS. BRADY: Yes.

20 CHAIRMAN GRIFFIS: Because of that,  
21 because of -- and we often have, in every application  
22 when we deal with traffic, the testimony comes with,  
23 "Look, how many laws are being broken. It's clearly  
24 not safe." I'm not sure how we have, how we're  
25 empowered to change that condition because what we

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1 look at as the assessment of the traffic and the  
2 roadways as if they were properly utilized --

3 MS. BRADY: Right.

4 CHAIRMAN GRIFFIS: -- and some specifics  
5 of how they are not. But in this whole iteration,  
6 which maybe moves us kind of off point with this  
7 specific application, but do you see anything that  
8 could happen to make that more safe in its existing  
9 condition as it's supposed to be utilized and used?

10 MS. BRADY: Well, I think the issue to  
11 make that more safe is once again reducing the speed  
12 on Foxhall Road. So, you know, how the --

13 CHAIRMAN GRIFFIS: But not the speed  
14 limit. Just the speed the drivers are driving.

15 MS. BRADY: Well, if the speed limit was  
16 adhered to --

17 CHAIRMAN GRIFFIS: Right.

18 MS. BRADY: -- it probably would be safer.  
19 But you still have the mindset of people, and I don't  
20 know how you deal with this, the mindset -- and  
21 because I have been -- I have seen it. You know,  
22 you're in that right lane and you're going to go north  
23 on Foxhall Road and all of a sudden somebody -- and  
24 you're going the 25 miles and hour and the guy behind  
25 you, or gal, doesn't want to go 25, so they zip around

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1 you, get in the left turn lane only --

2 CHAIRMAN GRIFFIS: Right.

3 MS. BRADY: -- and, you know, and beat you  
4 to the light so that they then -- it narrows back down  
5 to two lanes.

6 CHAIRMAN GRIFFIS: How long has that light  
7 been in existence?

8 MR. NIVENS: About a year.

9 MS. BRADY: Yes, maybe a little bit longer  
10 than a year, but not -- that was --

11 CHAIRMAN GRIFFIS: And have you seen a  
12 difference in that intersection or traffic flow?

13 MS. BRADY: No, I think putting the left  
14 turn lane in, and they did stripe it there, not all  
15 the way back up Foxhall, but I think that has helped.  
16 The stop light doesn't help because the stop light  
17 never changes. I mean, I'm being a little bit  
18 facetious, but if you're coming up Whitehaven Road to  
19 Foxhall and want to turn left, you have to wait  
20 through, if you watch the walk and don't walk, you  
21 have to go through three cycles of the walk and don't  
22 walk before it turns. Now, we've talked to DDOT about  
23 that and in fact they're going to try and do something  
24 about the synchronization of that. But, I don't know  
25 that the light has helped.

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1                   CHAIRMAN GRIFFIS:  What kind of light?  Is  
2                   that like a self-centered light?

3                   MR. NIVENS:  It's a light that during rush  
4                   hour does turn and it has greatly facilitated the  
5                   ability of people traveling northbound on Whitehaven  
6                   to do so, or I should say eastbound on Whitehaven.  
7                   They can make left turns now onto Foxhall.

8                   MS. BRADY:  Right.

9                   MR. NIVENS:  They can make right turns.  
10                  That used to be quite a challenge for them.

11                  MS. BRADY:  Yes.

12                  MR. NIVENS:  So I think the major  
13                  beneficiary has been students or parents of the  
14                  students who are dropping kids off at the various  
15                  schools that are on Whitehaven.

16                  MS. BRADY:  And the reason, the final  
17                  reason, I think, that was the push to get that light  
18                  in was that GW agreed to use that intersection for the  
19                  buses that they run up from their downtown campus up  
20                  to the Mount Vernon campus.  Their little buses come  
21                  up the left -- and get in that left turn lane, turn  
22                  left and go down on Whitehaven and then turn right  
23                  into the GW campus.  Those buses do not use W, or are  
24                  not supposed to use W Street intersection for access  
25                  to the campus.

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1                   CHAIRMAN GRIFFIS: I see. Okay. Lastly,  
2 and I'm sorry, one other issue comes up, you talked  
3 about conditioning a legal commitment to have this  
4 developed.

5                   MS. BRADY: Well, it just sounded like  
6 everybody doesn't have a contract yet and we really  
7 felt like when we first met with the developer and Mr.  
8 Visnic was involved, you know, we knew who we were  
9 dealing with, we knew his -- they gave examples of the  
10 two developments in particular that he had done in the  
11 area. We could see them if we wanted to. He clearly  
12 has a reputation that's built on his work here. You  
13 know, we could feel, we could touch, we could -- you  
14 know, and now all of a sudden we don't know who it is.  
15 And when I think it was Ms. Gates when she asked I  
16 believe it was the architect, "Do you have," you know,  
17 "Do you have a legal, are you legally committed, or do  
18 you have your contract," the answer was, "Not yet. In  
19 progress," or whatever.

20                   So, you know, that just makes us wonder  
21 who it is that's going to be taking this development  
22 forward. And we have had experiences in the past with  
23 that piece of property that development started and  
24 didn't finish.

25                   CHAIRMAN GRIFFIS: Okay. I think it's

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1 understood and I think one, I don't want raise  
2 expectations of how much control we could actually  
3 bring to this. Certainly to require developers to do  
4 the project that we look at, I wouldn't mind having  
5 that jurisdiction and power and utilizing it in  
6 several other applications we have. But nonetheless,  
7 clearly the requirements for our regulations have been  
8 met in terms of the authorization for the application  
9 to be brought.

10 In terms of continuing contracts with a  
11 design team, I think it is more safely addressed in  
12 your concern and your recommendations for conditions  
13 and that's the communication aspect that might arise.  
14 Outside of that, I don't see a lot of specificity that  
15 we would get into except for, and very directly, you  
16 indicated that you might have, not necessarily have,  
17 but might have a lack of confidence in the plans or in  
18 agreements that were struck.

19 MS. BRADY: Right.

20 CHAIRMAN GRIFFIS: Certainly our order  
21 would be very specific in whatever direction it goes  
22 and it would have a time frame attached to it.

23 MS. BRADY: Right.

24 CHAIRMAN GRIFFIS: And obviously would be  
25 understandable and enforceable. So, any sort of

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1 agreements or plans would be attached to that as we  
2 would find that they would be germane to the  
3 application itself.

4 Let me open it up to others. Ms. Miller?

5 VICE-CHAIR MILLER: As a follow-up on that  
6 line, I have the impression that the developer has  
7 changed but the design team has not changed and that  
8 certain individuals such as Mr. Barnes and Mr.  
9 Pitchford who has testified here are individuals with  
10 whom the community is very comfortable with. Is that  
11 the case with your neighborhood, or am I mistaken?

12 MS. BRADY: I don't think it is the case.  
13 I mean, Mr. Barnes we met with and he was the one --  
14 but we did meet with Mr. Visnic. I don't think we've  
15 met with the other gentleman that I'm aware of. And  
16 although Mr. Barnes is certainly an architect, what  
17 was pointed out to us was the design of Mr. Visnic's  
18 homes and I don't know if Mr. Barnes in fact was the  
19 architect in these other developments, but the  
20 developments -- you know, we were told, "Go to Great  
21 Falls and look at such and such. Go to Potomac and  
22 look at such and such." You know, those were Visnic  
23 neighborhoods or Visnic developments.

24 VICE-CHAIR MILLER: I heard that then I  
25 believe from the ANC, from Ms. Gates, who was very

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1 concerned that these individuals be given contracts  
2 because she had such confidence in them. But, that's  
3 not your situation. Because that also goes to the  
4 point of whether or not you needed to be represented  
5 on their design committee.

6 MS. BRADY: Right.

7 VICE-CHAIR MILLER: If you felt that there  
8 was somebody there who you had such confidence in, you  
9 might not feel that way.

10 MS. BRADY: Right.

11 CHAIRMAN GRIFFIS: But the main --

12 MR. NIVENS: I think we do. I mean,  
13 certainly with respect to Mr. Barnes, I think we have  
14 supreme confidence as far as that's concerned.

15 VICE-CHAIR MILLER: Okay.

16 MR. NIVENS: It's one of the reasons we  
17 think we could make a contribution to the committee,  
18 I mean, is the fact that we think we could work with  
19 him and we hope he's part of it.

20 MS. BRADY: But I think that's based on  
21 his reputation and not the -- I just don't want to  
22 lose the fact that when Mr. Visnic was involved they  
23 were his developments that were shown us.

24 MR. NIVENS: Right.

25 MS. BRADY: As I say, I don't know who the

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1 architect was. I'm not trying to comment on Mr.  
2 Barnes not being -- either being a good or a not good  
3 architect. Not at all. But when it was held out to  
4 our neighborhood, it was held out as a Visnic  
5 development.

6 VICE-CHAIR MILLER: Okay. With respect to  
7 this other big question I think about having a  
8 comprehensive view of the traffic solutions, which I  
9 think is ideal if it could work. One of my questions  
10 is when you ask for a postponement, what would even  
11 have in mind?

12 MS. BRADY: How much time?

13 VICE-CHAIR MILLER: Time wise, would you  
14 have a few months to bring all the stakeholders  
15 together, or would you be saying, oh, a few years?

16 MS. BRADY: No, I mean, you know, given  
17 the real estate prices in this city, you can't ask  
18 somebody to sit on that piece of land for a long time.  
19 I would think a few months. It should be apparent at  
20 that point whether we could reach some negotiation.  
21 I mean, I think that a lot of the work has been done.  
22 Unfortunately, it brings up such bad images in  
23 everybody's mind and, you know, that's what we just  
24 have got to get past and what we have to realize is  
25 that with all the conflict that there was then, they

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1 still reached agreement and step one of that two-step  
2 arrangement had already been implemented. From  
3 everything I've read on line and with newspaper  
4 sources and public sources, the National Park Service  
5 had already transferred that jurisdiction of that 1.8  
6 acres. So if in fact they were able to, now we've got  
7 two pieces of property that we can help mediate some  
8 of the concerns of the Friends of Whitehaven and some  
9 of the other groups and maybe end up with a solution  
10 that's better for everybody than what's currently  
11 being proposed.

12 VICE-CHAIR MILLER: And who have you  
13 raised this idea with? DDOT, you said?

14 MS. BRADY: Just this morning, you know,  
15 within the -- we've -- the DDOT rep.

16 VICE-CHAIR MILLER: Have you talked to the  
17 applicant about it?

18 MS. BRADY: No. We started to talk this  
19 morning right before the meeting, but there wasn't  
20 time.

21 VICE-CHAIR MILLER: And you haven't talked  
22 to Office of Planning?

23 MS. BRADY: Have not talked to Office of  
24 Planning.

25 VICE-CHAIR MILLER: Okay.

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1 MS. BRADY: It took us forever just to get  
2 this paper together.

3 VICE-CHAIR MILLER: Okay. Thank you.

4 CHAIRMAN GRIFFIS: Who's next? Mr. Mann?

5 MR. MANN: I just have a brief question.  
6 Under your scenario to provide access of Whitehaven,  
7 does that still allow access to the development from  
8 W?

9 MS. BRADY: We would hope so because we  
10 would love to have safe access to go south on Foxhall.

11 MR. MANN: Okay. So there are no changes  
12 to that portion of their proposal?

13 MS. BRADY: That's right. That's right.

14 MR. MANN: It's simply just to move the  
15 other access south?

16 MS. BRADY: Right.

17 MR. MANN: Okay. Thank you.

18 CHAIRMAN GRIFFIS: Good. Thank you.

19 MR. ETHERLY: Okay. Let's start with  
20 Foxhall and then we'll work our way in.

21 MS. BRADY: Okay.

22 MR. ETHERLY: I just want to be sure I  
23 kind of understand some of the ramifications of what  
24 you're suggesting and make sure to extent you  
25 understand.

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1                   With respect to Foxhall first, it's my  
2 sense then that it's your position that the  
3 Grove/Slade assessment of the traffic conditions or  
4 the level of service along Foxhall are somewhat off  
5 the mark in terms of the actual conditions of Foxhall  
6 going both north and south. Essentially, putting it  
7 bluntly, Foxhall is just a nightmare and your concern  
8 is not adding to that nightmare?

9                   MS. BRADY: This is true.

10                  MR. ETHERLY: Okay. With respect now to  
11 Whitehaven and Foxhall, actually, let me back up a  
12 little bit. With respect to your testimony, there  
13 were two pieces that continue to give you pause about  
14 the introduction of an additional entrance onto  
15 Foxhall. One was the berm and the picture was very  
16 helpful in terms of visualizing that a little bit. I  
17 massaged that issue with some of my earlier questions.

18                  MS. BRADY: Yes.

19                  MR. ETHERLY: Is not that problem  
20 mitigated by simply regrading or eliminating the berm?  
21 I mean, once the berm is gone, you have no line of  
22 sight issue.

23                  MS. BRADY: I think the berm is located on  
24 -- continues on property other than just the Phillips  
25 estate property.

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1 MR. NIVENS: That's the problem, is it --  
2 I mean, Chandra, most of what you see here, as what is  
3 referred to as the berm, belongs to Chandra.

4 MR. ETHERLY: Okay.

5 MR. NIVENS: And is not --

6 MR. ETHERLY: So there might be some  
7 issues in terms of working that out? Okay.

8 MS. BRADY: And what we didn't get into  
9 was, all right, let's say we go ahead and accept that  
10 egress and then let's say two years from now the Brady  
11 estate comes in and you've got to have -- so do you  
12 want three traffic lights now between -- you know, and  
13 in fact, where the traffic light ought to go, if  
14 you're going to have an extra light anywhere, is at W  
15 Street. I mean, DDOT said that in August of 2002.

16 MR. ETHERLY: Okay.

17 MS. BRADY: But the people on the west  
18 side of Foxhall Road made sure that didn't happen.

19 MR. ETHERLY: And that's where your  
20 presentation was very helpful perhaps as one of the  
21 few board members who has, you know, perhaps not as  
22 much familiarity as some of our other, my other  
23 colleagues might have with this. It was very  
24 instructive in terms of giving me a sense of just how  
25 many different slices of this pie there are here.

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1 MS. BRADY: Yes.

2 MR. ETHERLY: With respect to Whitehaven,  
3 and that's put it politically, with respect to  
4 Whitehaven, you noted that you have instances of  
5 people trying to beat --

6 MS. BRADY: yes.

7 MR. ETHERLY: -- northbound traffic by  
8 using that turn lane.

9 MS. BRADY: Yes.

10 MR. ETHERLY: Can you help me visualize  
11 that a little better just so I understand it?

12 MS. BRADY: Oh, yes.

13 MR. ETHERLY: This is the left turn lane  
14 that would take you into --

15 MS. BRADY: Whitehaven.

16 MR. ETHERLY: Exactly. So what you have  
17 happening, what your experience is, is that you have  
18 people who will attempt to use that lane to kind of  
19 skirt in front of the traffic that's --

20 MS. BRADY: Because Foxhall narrows. Just  
21 north of the Whitehaven light Foxhall narrows to two  
22 lanes.

23 MR. ETHERLY: Okay.

24 MS. BRADY: And I mean narrows because  
25 there's not much shoulder there. And so, all of a

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1 sudden, and you're approaching from Reservoir Road  
2 heading north. There's a hill, so you're line of  
3 sight is not clear up to the light at Whitehaven.

4 MR. ETHERLY: Okay.

5 MS. BRADY: And they have put signs there  
6 now that left turn lane only, narrows, you know, but  
7 you have instances where people are going too fast  
8 even read those signs.

9 MR. ETHERLY: Okay.

10 MS. BRADY: And so you start out up that  
11 grade and particularly because you're going uphill  
12 some cars aren't going as fast as the other cars and  
13 you -- you know, somebody who wants to get out, you  
14 know, who's in a hurry, they just get in that left  
15 lane and I have personally -- I've witnessed one  
16 accident and I have personally witnessed at least five  
17 times over a period of five years or so almost  
18 accidents where the car that's in the left turn lane  
19 guns up and then the car in the right lane gets angry  
20 because, you know, hey, this guy's cutting me off, so  
21 they both continue. And so all of a sudden they're  
22 facing the ongoing traffic lane come back.

23 MR. ETHERLY: Okay.

24 MS. BRADY: And there's not room. You  
25 know, there's very little room at that point. There's

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1 a fire hydrant there, as a matter of fact.

2 MR. ETHERLY: Okay. So essentially it's  
3 NASCAR there?

4 MS. BRADY: Yes.

5 MR. ETHERLY: Okay.

6 MS. BRADY: It was kind of like  
7 yesterday's final.

8 MR. ETHERLY: Okay. Let's move inside the  
9 subject property now. So if I understand, perhaps the  
10 question that you responded to from Mrs. Miller  
11 earlier with regard to the current site plan, it  
12 sounds as though you would have a preference for  
13 something a little closer to the previous site plan  
14 where you had a more southward-oriented access road,  
15 if you will, that went around --

16 MS. BRADY: Yes.

17 MR. ETHERLY: -- what would appear to the  
18 rear yards.

19 MS. BRADY: You know, I wouldn't even  
20 venture an opinion on that because I would want to go  
21 to the table and say to the developers and the others,  
22 "Tell us what you think. What can you do that would  
23 help you and help us solve that problem?" So maybe  
24 that is the one, but you know, I'm not even going to  
25 say I would --

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1 MR. ETHERLY: I mean, if you look at the  
2 lay out of the subject property and if the effort is  
3 to move traffic as much as possible away from Foxhall  
4 or to prevent the introduction of an additional  
5 bottleneck from the side, there's going to have to be  
6 some way of accessing the interior, the internal part  
7 of the subject property.

8 MS. BRADY: Right. There is going to have  
9 to be a road coming off of the interior down into --  
10 if there's an extension of Whitehaven.

11 MR. ETHERLY: Yes.

12 MS. BRADY: And we also have our concerns  
13 for our neighbor Ms. Hardy. We wouldn't want whatever  
14 access there to be to affect her property in a  
15 negative way. So, you know, I don't know. But I  
16 can't help but think reasonable people with 16 acres  
17 of land and they only need a very small portion of it  
18 can't figure this out.

19 MR. ETHERLY: Okay. Thank you. Thank  
20 you. Thank you, Mr. Chair.

21 CHAIRMAN GRIFFIS: Mr. Parsons?

22 MR. PARSONS: I wanted to talk briefly  
23 about this unlucky house number 13.

24 MS. BRADY: Okay.

25 MR. PARSONS: You show your opposition to

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1 this, but you don't really say way. It's in the  
2 context of a breach of faith.

3 MS. BRADY: Okay.

4 MR. PARSONS: Is there some other reason?

5 MS. BRADY: Density. Density. Our  
6 discussions with the developer from the get go concern  
7 the density on W Street. And, you know, originally it  
8 was just going to be eight and now in the same amount  
9 of land the ninth house has been squeezed in.

10 MR. PARSONS: So this somehow tips the  
11 balance?

12 MS. BRADY: Yes. Yes, it does.

13 MR. PARSONS: Okay. Now I wanted to talk  
14 about the access issue without beating it to death  
15 although I think my colleagues have done that.

16 What we've been doing, we the BZA have  
17 been doing is we dealt with Field School by putting a  
18 light in there to accommodate the need of that  
19 particular institution.

20 MS. BRADY: Right.

21 MR. PARSONS: We did the same thing at  
22 Whitehaven.

23 MS. BRADY: Yes.

24 MR. PARSONS: And have proposed to do a  
25 similar proposal here. And presumably there would be

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1 one on the Brady estate at St. Patrick's. And why in  
2 your mind wouldn't that introduce a new rhythm, if you  
3 will, to this --

4 MS. BRADY: Right.

5 MR. PARSONS: -- rural road that is  
6 becoming a speedway by having four traffic lights  
7 rather than two?

8 MS. BRADY: Actually, I agree with you.  
9 I think the more traffic lights on Foxhall Road you  
10 lessen the speed of the traffic and I think that's the  
11 culprit. However, when a solution we think exists to  
12 put -- to have the use of the stop light for the  
13 Phillips estate be one where there are three lanes, a  
14 left turn lane already and an existing light and would  
15 also accommodate the traffic coming out of the Brady  
16 estate, to us it seems like a safer alternative and  
17 the line of sight there is much better. If you need  
18 another traffic light on Foxhall, if you find that the  
19 traffic continues to increase such that you really  
20 need it, then put it at W Street. I mean, the  
21 original opposition to that traffic light, as we said  
22 earlier, where the residents on the west side of W  
23 Street who didn't want W Street becoming a  
24 thoroughfare. So they moved the stop light, even  
25 though DDOT said this intersection needs a stop light,

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1 warrants a stop light. The little warrants and the --  
2 I never understood that.

3 But anyway, so they put the stop light  
4 down at Whitehaven and got the bus traffic going into  
5 GW to go in there. Okay. So it's not going to be a  
6 thoroughfare for GW traffic. They've already handled  
7 that. So if you find you then need another stop  
8 light, you know, that the one at Whitehaven after  
9 Brady gets developed, Brady estate, after Phillips  
10 estate, if you need another one, then put it up at W  
11 Street where people coming from both sides are going  
12 up hills, they can't see. You know, what's been lost  
13 in all of this discussion are the poor people who are  
14 coming west on W Street up to Foxhall Road. The  
15 person who wants to turn north there still has a big  
16 problem, you know, even with this solution.

17 MR. PARSONS: So if we were to suggest a  
18 light at W Street and eliminated the access to Foxhall  
19 to this community, that would bring this community's  
20 traffic onto W Street as its entrance.

21 MS. BRADY: I think you can -- I don't  
22 think you want to put a light at W Street without  
23 having access off of the Phillips somewhere else  
24 because if you have all of the traffic from the  
25 Phillips coming to the W Street intersection, even

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1 with a light, the line of sight there is so bad that,  
2 you know, you're going to have a lot of angry people  
3 when the light changes and whatever. I think this  
4 Phillips estate development is big enough that it  
5 deserves to have two access/egress. The one onto --

6 MR. PARSONS: Somehow I thought that would  
7 be your response.

8 MS. BRADY: Surprise.

9 MR. PARSONS: That is, you wouldn't want  
10 all these people using W Street --

11 MS. BRADY: Well, you know --

12 MR. PARSONS: -- access to --

13 MS. BRADY: Hey look, you know, I have a  
14 daughter who's in high school. When she graduates  
15 from high school, we're downsizing, you know? I'm not  
16 going to be around. But, you know, if you've lived at  
17 this intersection and watched your neighbors have  
18 accidents and you watched other people in accidents  
19 and now you're talking about putting two more  
20 developments in, it really doesn't take a mental giant  
21 to figure out that you go to do something here, you  
22 know? I'm sorry, but I really --

23 MR. PARSONS: So I guess in response to my  
24 question --

25 MS. BRADY: Yes, I'm sorry.

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1 MR. PARSONS: -- you don't feel solving  
2 these one at a time, introducing four traffic lights  
3 in this mile-long section --

4 MS. BRADY: Right.

5 MR. PARSONS: -- is a good idea?

6 MS. BRADY: I don't. You know, and my  
7 feeling is that now when you still have your two  
8 parcels of land on which you can help perhaps give  
9 easements to Park Service or to conservationists or to  
10 just plain old good citizens, whatever, while you  
11 still have the two parcels of land to work in this  
12 negotiation, this is the prime time to make this  
13 solution work. Once you lose one of these to being  
14 already developed and already having a quote/unquote  
15 solution, then I think it would be more difficult to  
16 come together and get a solution that makes sense for  
17 everybody.

18 MR. PARSONS: So I guess the real  
19 difficulty, as the chairman has pointed out, is we  
20 have no jurisdiction.

21 MS. BRADY: I understand that.

22 MR. PARSONS: And this development is 18  
23 months or so ahead of the other one in its planning.

24 MS. BRADY: I would guess. But, I would  
25 also think that this could be beneficial enough to the

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1 Friends of St. Patrick's that they might be willing to  
2 sit down and into a binding agreement, you know, or  
3 that when in fact they do come to you, that's already  
4 been worked out. I mean, I don't think that you have  
5 to know exactly what's going on the Brady estate, you  
6 know, to know exact -- to get some type of access  
7 agreement and egress agreement.

8 MR. PARSONS: Now, I know you're not a  
9 traffic expert, but you've already pointed out that  
10 the section to the south is four lanes.

11 MS. BRADY: Right.

12 MR. PARSONS: And the principle access to  
13 the Brady estate is on that four-lane section.

14 MS. BRADY: Yes, it is.

15 MR. PARSONS: Do you think that's an  
16 unsafe --

17 MS. BRADY: I can only say what I've heard  
18 from the people who have been very vocal. The Colony  
19 Hills Neighborhood Association, and you have their  
20 testimony, and they are the neighborhood that's  
21 immediately south on Hoban Road there. I think I have  
22 heard reference that using that exit, that that would  
23 be used as an exit, but it can't handle all of it.  
24 You know, I don't have enough information to say that.  
25 I know what they're most concerned about is that they

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1 do not want that estate exiting onto Hoban Road there  
2 on the paper 45th continuation, you know. So, you  
3 know, they're in support of our recommended solution  
4 that if we could have the egress/ingress up at the  
5 Whitehaven, it would give a second. I think the idea  
6 is to use the existing exit off the Brady estate, but  
7 I'm sure it's going to need more than one.

8 MR. PARSONS: So the problem for us here  
9 today is this idea is 24 hours old?

10 MS. BRADY: No. I'd say it's three weeks  
11 old, two weeks old.

12 MR. PARSONS: But this is the first time  
13 you've described it to anybody?

14 MS. BRADY: Well, the neighbors have been  
15 talking about it. We talked it about with Mr. Barnes'  
16 architect originally and were told, "I'm sorry, but we  
17 were told that the National Park Service and the ANC  
18 said, 'Don't go there. We can't consider it.'" So,  
19 you know, what we ran into when we first started  
20 talking about it, quite honestly, was everyone said  
21 after the contentious debates that went on during the  
22 mayor, this will never happen. And that might be the  
23 case.

24 MR. PARSONS: Okay. Thank you.

25 MS. BRADY: You're welcome.

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1                   CHAIRMAN GRIFFIS:  Excellent.  Thank you.  
2  Any other questions from the Board at this time?

3                   VICE-CHAIR MILLER:  Could you just remind  
4  me, I think there was a reference to an existing  
5  agreement preventing a traffic light at W Street in  
6  connection with George Washington University.

7                   MS. BRADY:  That was an agreement, I think  
8  now, I think Alma Gates has left and she could clarify  
9  this, my -- see, GW signed an agreement with the  
10 neighborhood agreeing a whole bunch of things having  
11 to do with traffic and one of which was to not use the  
12 entrance on W Street as a main entrance, that their  
13 buses and they would encourage their students as well,  
14 the ones are in cars, to use the one over on  
15 Whitehaven.  So I think that was the agreement.  I  
16 think that the W Street residence at that time didn't  
17 want a light at W Street because at the time there was  
18 not a light at Whitehaven.  So if you put the light at  
19 W Street, then people trying to get to GW probably  
20 would go up where there's a light, or the people  
21 trying to get out of GW would go where there's a light  
22 as opposed to where there is not one.

23                   CHAIRMAN GRIFFIS:  So it's your  
24 understanding there was an agreement that was signed  
25 and that it was --

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1 MR. NIVENS: Yes, I think that agreement  
2 was actually part of the BZA order. It was attached  
3 to the BZA order. There's another factor with the  
4 light at W that I think you need to be aware of and  
5 that is that the line of sight coming from the north  
6 proceeding south, as you make a little turn --

7 CHAIRMAN GRIFFIS: Right.

8 MR. NIVENS: -- where the Field School is  
9 now, it just comes on you so suddenly, that even  
10 reasonable people would not be able to stop in time.  
11 And I think that's a factor that makes W Street a less  
12 than desirable candidate for a light and I think it's  
13 the reason that DDOT has never pushed the light at W.

14 CHAIRMAN GRIFFIS: Any other?

15 (No audible response.)

16 CHAIRMAN GRIFFIS: Good, let's go to  
17 cross. Mr. Nettler?

18 (No audible response.)

19 CHAIRMAN GRIFFIS: No cross? Friends?  
20 Yes?

21 MR. SNAPE: I think everyone will be happy  
22 to know I have three yes and no questions for you.

23 MR. NIVENS: What if we differ?

24 MR. SNAPE: Well, you can -- it's my  
25 attempt to have these be yes or no answers.

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1                   These are all for Mrs. Brady. Are you  
2 familiar with National Park law as it relates to road  
3 or any other kind of development on parkland?

4                   MS. BRADY: No.

5                   MR. SNAPE: Okay. Second question, have  
6 you done or commissioned any studies on how a road  
7 would impact the parkland's wetlands or wildlife?

8                   MS. BRADY: No.

9                   MR. SNAPE: Last question. Do you know  
10 why the mayor's mansion proposal to develop part of  
11 the parkland fell apart?

12                   MS. BRADY: It's my understanding that it  
13 didn't fall apart. Part two.

14                   MR. SNAPE: I would like a copy -- my last  
15 question is, could you please provide me with a copy  
16 of the letter that you quoted in your testimony?

17                   MS. BRADY: I'd be happy to.

18                   MR. SNAPE: And I'll address that issue in  
19 my testimony for sure.

20                   MS. BRADY: Very good.

21                   MR. SNAPE: Thank you.

22                   CHAIRMAN GRIFFIS: And what letter were  
23 you referring to?

24                   MR. SNAPE: She quoted a letter in her  
25 testimony today --

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1 CHAIRMAN GRIFFIS: All right. Let's go to  
2 the source. Ms. Brady, do you know what letter he's  
3 speaking of and what is it?

4 MS. BRADY: I think where it says that a  
5 resolution was reached. That?

6 MR. SNAPE: No.

7 MS. BRADY: No?

8 MR. SNAPE: It was a letter that you  
9 quoted from --

10 MS. BRADY: Oh, the three environmental  
11 groups?

12 MR. SNAPE: -- Defenders of Wildlife,  
13 Friends of Whitehaven and Audubon.

14 MS. BRADY: Yes. Yes, I know. Yes, and  
15 I will tell you exactly -- I will get you a copy of  
16 it. If you go to the Foxhall website, Foxhall  
17 Community Citizens Association website and go through  
18 -- who was the commissioner who's passed away? John  
19 Finney?

20 MR. SNAPE: John Finney.

21 MS. BRADY: Yes. It was his quote, I  
22 believe, but that's exactly where I got it and I'd be  
23 glad if you give me your e-mail address, your card,  
24 I'd be glad just to send it to you.

25 CHAIRMAN GRIFFIS: You're going to put

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1 into the record?

2 MS. BRADY: Okay.

3 CHAIRMAN GRIFFIS: So you can just put a  
4 hard copy in that --

5 MR. SNAPE: Mr. Chair, I will not note my  
6 objection yet to that until I see it, but again, we  
7 have the opportunity to do testimony. We'll address  
8 that issue on March 8th.

9 CHAIRMAN GRIFFIS: Okay. Great. Ms.  
10 Hardy, is she still present? Any other cross?

11 (No audible response.)

12 CHAIRMAN GRIFFIS: Very well. Looks like  
13 we got through it.

14 MS. BRADY: Thank you very much.

15 CHAIRMAN GRIFFIS: Good. Thank you both  
16 very much. Do appreciate it.

17 Okay. Let's just review what we need to  
18 do next. We have two other case presentations. We  
19 could conceivably have persons' testimony at the March  
20 8th hearing and then we will go for two -- rather any  
21 rebuttal witnesses and then we'll go to cross of  
22 those, and then closing.

23 In terms of Board members, if you wouldn't  
24 mind focusing on, we've kind of started to generate a  
25 little list. Are you anticipating that anything would

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1 be submitted -- actually, Mr. Nettler, let me ask you  
2 a couple of quick questions because some of the pieces  
3 came up today. There was talk of a section, there was  
4 talk of a new plan that was delivered. Is that coming  
5 into the record prior to the 8th?

6 MR. NETTLER; yes, we were going to submit  
7 it all today, but I think what we'll do is prepare a  
8 book for everyone so you'll have it before the  
9 meeting.

10 CHAIRMAN GRIFFIS: Okay. Is it going to  
11 take anyone by surprise in the parties?

12 MR. NETTLER: I don't think so. No,  
13 because what we've been doing is we've been taking all  
14 of your comments from the last hearing and we've been  
15 responding to them.

16 CHAIRMAN GRIFFIS: Okay.

17 MR. NETTLER: And finalizing the things  
18 that we were asked to finalize.

19 CHAIRMAN GRIFFIS: Good. That's  
20 excellent. What I don't want to do is get too much of  
21 the time of, you know, we didn't see this or when did  
22 get it and all of that.

23 MR. NETTLER: It's not going to be a  
24 surprise.

25 CHAIRMAN GRIFFIS: But let's go to others.

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1 Board members, any other issues to make sure that we  
2 have focused on in terms of submissions? Mr. Parsons?

3 MR. PARSONS: Well, there was a dialogue  
4 between Mr. Nettler and Mr. Murphy earlier about soils  
5 and geology, analysis of the soils and so forth. I  
6 think what Mr. Nettler was trying to point out is that  
7 I guess that you've already done this?

8 MR. NETTLER: Correct.

9 MR. PARSONS: And I refer to that. It's  
10 Tab P and it's an environmental site assessment. And  
11 on page 7 it only says exactly what is on that  
12 following sheet.

13 MR. NETTLER: Right. I think in  
14 reference --

15 MR. PARSONS: It's readily read.

16 MR. NETTLER: Right.

17 MR. PARSONS: And then there's four or  
18 five soil borings maps in the appendix. Is that what  
19 you mean by --

20 MR. NETTLER: No, no. What I thought he  
21 had referenced the report that was done by Schnabel.  
22 I can provide a copy.

23 MR. PARSONS: Because I can't find that in  
24 the material so far.

25 MR. NETTLER: Okay.

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1 CHAIRMAN GRIFFIS: I believe it's in  
2 there. I actually saw that today, so I think you  
3 could --

4 MR. NETTLER: I'll provide a copy of that.

5 CHAIRMAN GRIFFIS: Yes, we might want an  
6 additional copy. I am quite certain I looked at that  
7 today.

8 MR. PARSONS: Well, you saw a fax possibly  
9 from Schnabel.

10 CHAIRMAN GRIFFIS: Is that right?

11 MR. PARSONS: But that's just data of nine  
12 holes drilled in the site.

13 MR. NETTLER: I haven't --

14 CHAIRMAN GRIFFIS: I thought I saw --

15 MR. PARSONS: At Tab --

16 CHAIRMAN GRIFFIS: Do you have that?

17 MR. PARSONS: Right. That's what I got in  
18 my hand. Yes.

19 MR. NETTLER: That's not what I was  
20 referring to.

21 MR. PARSONS: Oh, good. Well, if you're  
22 going to submit that, that's fine. That's exactly  
23 what I had in mind.

24 MR. NETTLER: Yes, it's a multi-page  
25 report.

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1 MR. PARSONS: Good.

2 CHAIRMAN GRIFFIS: Yes, Ms. Miller?

3 VICE-CHAIR MILLER: Mr. Chairman, I just  
4 want to say that if this Board were to even consider  
5 a more comprehensive context for the traffic  
6 solutions, I would think that Ms. Brady would need to  
7 confer with Office of Planning with applicant to see  
8 if there is even a slim possibility of that for us to  
9 even consider, so perhaps you could submit something  
10 on that in the next couple of weeks before the next  
11 hearing. I mean, I'm just throwing it out as a  
12 suggestion. But it seems to me if it's going to be  
13 considered at all, we would --

14 CHAIRMAN GRIFFIS: I'm not sure what  
15 you're asking.

16 VICE-CHAIR MILLER: We were asked to  
17 consider a vague kind of postponement of traffic  
18 solutions in this case so that the stakeholders for  
19 the Brady estate and the Phillips estate could all get  
20 together and see if maybe there's a more logical  
21 solution to the whole area.

22 CHAIRMAN GRIFFIS: But what do you want  
23 Ms. Brady to do?

24 VICE-CHAIR MILLER: Well, to confer with  
25 the other stakeholders and see if this is even

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1 something that's there to be considered. Because if  
2 the applicant's against it, Office of Planning says  
3 it's not realistic, ANC says it's not realistic --

4 CHAIRMAN GRIFFIS: I see.

5 VICE-CHAIR MILLER: -- then we know where  
6 we stand.

7 CHAIRMAN GRIFFIS: Okay. So float the  
8 idea and get back to us.

9 VICE-CHAIR MILLER: Yes.

10 CHAIRMAN GRIFFIS: Good. Okay. Mr.  
11 Nettler, let me ask you directly, there's obviously  
12 been some testimony that was brought up in terms of  
13 changing your entire access in your road in your  
14 interior site. Can you tell me today whether that's  
15 actually something that you will address and could you  
16 do that today, or --

17 MR. NETTLER: We're not going to change  
18 the access.

19 CHAIRMAN GRIFFIS: Okay.

20 MR. NETTLER: It's simply --

21 CHAIRMAN GRIFFIS: Good. In that case --

22 MR. NETTLER: We've been told by the ANC,  
23 Park Service and other community members it's simply  
24 not going to happen and we're not --

25 CHAIRMAN GRIFFIS: Okay. You will address

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1 that also in your closing and in any rebuttal.

2 MR. NETTLER: Okay.

3 CHAIRMAN GRIFFIS: So we'll get some  
4 further information on that. Okay. Good. I think we  
5 all know where we are. Anything else I'm missing?

6 (No audible response.)

7 CHAIRMAN GRIFFIS: Good. Any questions  
8 from the applicant or any of the parties involved in  
9 terms of what we're doing next? Yes?

10 MR. SNAPE: Mr. Chair, this very well is  
11 my ignorance of the BZA procedure. Am I correct in  
12 understanding that Mr. Nettler will present the  
13 revised site plan and the storm water management plan  
14 during his presentation on March 8th and in what  
15 context does that occur? I'm just not familiar with  
16 that process. It would help me understand our role.

17 CHAIRMAN GRIFFIS: Good. Mr. Nettler,  
18 when is he going to get it?

19 MR. NETTLER: He's going to get it when I  
20 submit it here. We're going to put it together for  
21 the parties and for the Board beforehand and then, as  
22 I said, it's responsive to the questions that have  
23 been raised at the last hearing.

24 CHAIRMAN GRIFFIS: Okay.

25 MR. NETTLER: And you'll have it before

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1 that hearing

2 CHAIRMAN GRIFFIS: And how much time do  
3 you need? On the 8th we're obviously going to need it  
4 at 3:00 the Wednesday prior, which is what date, Ms.  
5 Bailey?

6 MS. BAILEY: Mr. Chairman, you caught me  
7 a little bit off guard.

8 CHAIRMAN GRIFFIS: I'm sorry. I knew I  
9 would.

10 MS. BAILEY: Let's see. The Wednesday  
11 before the 8th --

12 MR. ETHERLY: Is the 1st.

13 MS. BAILEY: Yes.

14 CHAIRMAN GRIFFIS: It's the 1st.

15 MR. NETTLER: Yes, it's actually been  
16 completed. And I talked about with Anky and we just  
17 want to put it together in a way that it's easily  
18 readable. I have these papers all over the place.

19 CHAIRMAN GRIFFIS: Indeed. And totally  
20 understood. So, but there's no difficulty in meeting  
21 that deadline?

22 MR. NETTLER: No. No.

23 CHAIRMAN GRIFFIS: Is there an even closer  
24 deadline that you could submit to?

25 MR. NETTLER: Tuesday would probably be

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1 just as well.

2 CHAIRMAN GRIFFIS: So a week from today?

3 MR. NETTLER: Right.

4 CHAIRMAN GRIFFIS: Okay. So look for it  
5 a week from today. Certainly no later than Wednesday  
6 at 3:00 you'll be served. Hopefully you guys have all  
7 figured out how you're being served and what's the  
8 fastest, easiest, most economical way to do that.

9 Okay. Any other procedural questions?

10 MR. SNAPE: Thank you. That --

11 MR. NETTLER: We actually sent copies. I  
12 know you have -- last night you heard reference to the  
13 ANC and other people saying that they had received  
14 something.

15 CHAIRMAN GRIFFIS: They've seen them.

16 MR. NETTLER: Right.

17 CHAIRMAN GRIFFIS: Right.

18 MR. NETTLER: So we'll put it together in  
19 a booklet.

20 CHAIRMAN GRIFFIS: Okay.

21 MR. SNAPE: I appreciate that. Thank you.  
22 My question is a procedural question as it relates to  
23 this hearing. Will Mr. Nettler present this as a part  
24 of their rebuttal, or is it a part -- and will we have  
25 an opportunity to then ask questions about it? I

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1 mean, are we starting the process over again or is  
2 that a part of his rebuttal?

3 CHAIRMAN GRIFFIS: No.

4 MR. SNAPE: I'm confused on how we're  
5 dealing with that new proposal.

6 CHAIRMAN GRIFFIS: Good. That's an  
7 excellent question. First of all, when you present  
8 your case, you will open, give us the heart of it and  
9 then close your case. You'll obviously be cross  
10 examined on it. We will then go to rebuttal  
11 witnesses. They've heard the entire case; the  
12 applicant has, and they are afforded another  
13 opportunity to rebut with their witnesses. You'll be  
14 able to cross examine each of those witnesses and then  
15 you're participation from the hearing standpoint is  
16 concluded. Then we will go to the conclusion  
17 summation remark, which no additional testimony would  
18 be provided. It's a summation of the applicant. And  
19 then the Board will assess any sort of findings,  
20 facts, conclusions or draft orders or anything else  
21 that we might think. So that's where we'd be.

22 MR. SNAPE: Thank you.

23 CHAIRMAN GRIFFIS: So you're certainly  
24 going to cross examine any of the rebuttal witnesses  
25 that are coming in and I'm sure they're going to be

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1 short, succinct and directly to the point, mostly  
2 covered by all the written submissions that they'll  
3 put in so we won't need a lot of testimony and  
4 questions.

5 MR. SNAPE: Thank you for your indulgence.

6 CHAIRMAN GRIFFIS: Did I say that on the  
7 record? Okay. I thought I was thinking it. Good.  
8 Anything else?

9 (No audible response.)

10 CHAIRMAN GRIFFIS: Great. Thank you all  
11 very much. Appreciate your patience. If there's no  
12 other business, Ms. Bailey, for the Board today, I  
13 would adjourn the morning special public hearing.

14 (Whereupon, the hearing was concluded at  
15 2:22 p.m.)

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