

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 15, 2000

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

JOHN PARSONS	Commissioner
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COMMISSION STAFF PRESENT:

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

OTHER AGENCY STAFF PRESENT:

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

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D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

(9:40 a.m.)

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

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

My name is Shield Cross Reid, Chairperson.

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

The topic of today's hearing is available.

They're located to my left near the door.

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

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

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

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

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

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

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

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

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

25 If you're not prepared to go forward with a

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

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

5 Thank you.

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

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

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

15  
16 MS. DWYER: Yes. Madame Chair and members  
17 of the Board, my name is Maureen Dwyer with the law  
18 firm of Wilkes, Artis, Hedrick & Lane, Chartered. The  
19 reason we wanted to be here this morning to address our  
20 postponement request is really two reasons.

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

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

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

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

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

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

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

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

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

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

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

13 CHAIRPERSON CROSS REID: Okay. All right.

14 Come forward, please, Ms. Miller.

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

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

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

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

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1 MS. MILLER: That's right.

2 CHAIRPERSON CROSS REID: Okay.

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

6 CHAIRPERSON CROSS REID: Sure.

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

9 CHAIRPERSON CROSS REID: Sure.

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

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

14 MS. MILLER: That's right.

15 CHAIRPERSON CROSS REID: And that spoke to  
16 your position.

17 MS. MILLER: That's correct.

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

20 MS. MILLER: I appreciate you reading it.

21 CHAIRPERSON CROSS REID: Thank you very  
22 much.

23 MS. MILLER: Thank you.

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

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1 the postponement to -- what date was it?

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

6 CHAIRPERSON CROSS REID: Okay, all right.

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

12 CHAIRPERSON CROSS REID: I have no problem.

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

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

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

20 MS. DWYER: Right.

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

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

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

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

13 CHAIRPERSON CROSS REID: All right.  
14 Thanks.

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

16 MS. DWYER: All right. Thank you.

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

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

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

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1 MS. DWYER: Great.

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

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

7 MS. DWYER: Great. Thank you very much.

8 CHAIRPERSON CROSS REID: All right. Thank  
9 you.

10 All right. The next preliminary matter.

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

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

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

25 That does not necessarily mean that we will

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

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

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

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

12 MS. PRUITT: Correct. June 20th.

13 MR. GLASGOW: June 20th.

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

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

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

20 MR. GLASGOW: Thank you.

21 MS. RENSHAW: Question, Madame Chair.

22 CHAIRPERSON CROSS REID: Question?

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

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

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1 no date until we come down here today.

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

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

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

9 CHAIRPERSON CROSS REID: Okay? All right.

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

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

25 CHAIRPERSON CROSS REID: Okay. Well, that

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1 makes a lot of sense.

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

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

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

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

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

23 MR. OGULIA: And we agree.

24 CHAIRPERSON CROSS REID: Okay. That's  
25 fine.

1 Board members, is that satisfactory?

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

4 MR. FEOLA: Thank you very much.

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

6 CHAIRPERSON CROSS REID: Go ahead.

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

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

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

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

18 All right. Please come forward, sir.

19 MR. BARDONILLE: Good morning, Madame  
20 Chairman.

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

23 MR. BARDONILLE: My name is --

24 CHAIRPERSON CROSS REID: Push the button  
25 right in front.

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

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

5 CHAIRPERSON CROSS REID: Which case?

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

7 CHAIRPERSON CROSS REID: Which one is that?

8 MR. BARDONILLE: The Primary Day School.

9 CHAIRPERSON CROSS REID: Okay.

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

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

14 MR. BARDONILLE: Yes.

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

17 MR. BARDONILLE: That is exactly right.

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

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

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

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

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

8 CHAIRPERSON CROSS REID: I'm going -- I'm  
9 going to handle that next, but did you submit a --  
10 within the time frame that was allowed, I think it was  
11 14 days prior to the hearing -- information germane to  
12 the basis for your party status?

13 MR. BARDONILLE: I did, indeed.

14 CHAIRPERSON CROSS REID: And your name is?

15 MR. BARDONILLE: Harold Bardonille.

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

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

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

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

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1 me.

2 I hand delivered my letter.

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

5 MR. BARDONILLE: It's Exhibit 59.

6 CHAIRPERSON CROSS REID: Just wait one  
7 second.

8 Okay. Thank you.

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

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

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

19 MR. BARDONILLE: And the state --

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

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

25 CHAIRPERSON CROSS REID: Well, I didn't see

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

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

9 The additional traffic --

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

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

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1 CHAIRPERSON CROSS REID: Okay.

2 MR. BARDONILLE: -- impacts --

3 CHAIRPERSON CROSS REID: Okay, okay.

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

6 CHAIRPERSON CROSS REID: Okay.

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

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

19 MR. BARDONILLE: Well, I do understand that  
20 point, Madame Chair, and I live within 150 feet of this  
21 --

22 CHAIRPERSON CROSS REID: I understand.

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

25 CHAIRPERSON CROSS REID: Okay, but now --

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

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

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

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

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

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1 have you.

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

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

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

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

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1 Day School case we're talking about right here we have  
2 numerous requests for party status, we don't feel that  
3 the information that's been given to us addresses the  
4 criteria of being uniquely aggrieved. So, therefore,  
5 we will not be giving individual party status to 30 or  
6 40 people per se.

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

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

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

22           MR. HARRISTON: Madame Chairman.

23           CHAIRPERSON CROSS REID: Yes.

24           MR. HARRISTON: May I be heard?

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

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1 CHAIRPERSON CROSS REID: Okay. Now, you --

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

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

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

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

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

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

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1 MR. BARDONILLE: Bardonille.

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

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

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

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

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

25 CHAIRPERSON CROSS REID: The motion?

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

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

5 MR. BARDONILLE: Absolutely.

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

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

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

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

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

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

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

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

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

7 CHAIRPERSON CROSS REID: Yes, the same  
8 several reasons.

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

18 CHAIRPERSON CROSS REID: I didn't say that.

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

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

23 MR. BARDONILLE: All right.

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

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1 requested party status, do you know each other?

2 MR. BARDONILLE: Yes, we do.

3 CHAIRPERSON CROSS REID: Okay. Then --

4 MR. BARDONILLE: One last --

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

8 MR. BARDONILLE: Given that --

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

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

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

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

19 CHAIRPERSON CROSS REID: Exactly.

20 MR. BARDONILLE: Thank you.

21 CHAIRPERSON CROSS REID: Okay. Thank you.

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

25 CHAIRPERSON CROSS REID: Yes. Submit that

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

3 MR. HARRISTON: Yes.

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

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

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

11 CHAIRPERSON CROSS REID: Okay. Thank you.

12 MS. GREY: Madame Chair, I just --

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

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

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

25 CHAIRPERSON CROSS REID: Ms. Grey, thank

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1 you very much.

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

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

7 MS. GREY: Okay.

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

20 MS. GREY: Thank you, Madame Chair.

21 CHAIRPERSON CROSS REID: Thank you.

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

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

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

9 Thank you very much.

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

12 A two-minute recess.

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

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

18 The first case that I mentioned, Ms. Green  
19 has not gotten here yet. So we're going to take the  
20 second case that I had mentioned, Clare Parmalee,  
21 16558.

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

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

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1 CHAIRPERSON CROSS REID: Who is not here?

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

5 CHAIRPERSON CROSS REID: Okay. All right.

6 Well --

7 MS. PARMALEE: Can we --

8 CHAIRPERSON CROSS REID: Yeah, sure, sure.

9 You can do that.

10 MS. PARMALEE: I'm Clare Parmalee --

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

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

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

18 MS. PARMALEE: Okay.

19 (Pause in proceedings.)

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

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

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1 CHAIRPERSON CROSS REID: All right.

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

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

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

11 CHAIRPERSON CROSS REID: Well, Ms. --

12 MS. PRUITT: So however you like.

13 CHAIRPERSON CROSS REID: Yeah, Ms. Pruitt.

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

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

20 PARTICIPANTS: Yeah.

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

25 MS. PRUITT: I misunderstood you. I

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1 thought we'd do --

2 CHAIRPERSON CROSS REID: The swearing in.

3 MS. PRUITT: I'm sorry. Application 16558,  
4 application of Clare Parmalee, pursuant to 11 DCMR  
5 3103.2, for a variance from Section 2001.3(b) and (c)  
6 to allow a proposed addition to an existing  
7 nonconforming structure, and from Section 404.1, the  
8 minimum allowable rear yard setback requirements in an  
9 R-1-B district at 5308 39th Street, N.W., Square 1751,  
10 Lot 14.

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

13 (The witnesses were sworn.)

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

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

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

23 MR. MATHEWS: Un-huh.

24 MS. PRUITT: I'll ask you.

25 (The witness was sworn.)

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1 MS. PRUITT: Thank you. Please be seated.

2 MS. RENSHAW: Madame Chairman, before we  
3 proceed, I want to say that I am the Chairman of ANC-  
4 3G, and this case came before ANC-3G on February 28th,  
5 2000, and I recused myself from any discussion and vote  
6 on this case, and it has not affected my impartiality,  
7 and I will be voting on the case as it comes before the  
8 BZA today.

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

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

13 Okay. Proceed.

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

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

18 MR. MATHEWS: On February 24th.

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

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

25 CHAIRPERSON CROSS REID: All right, and

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

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

6 MR. MATHEWS: Thank you.

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

9 MR. MATHEWS: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

3 MS. PRUITT: Staff here.

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

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

8 CHAIRPERSON CROSS REID: Okay.

9 MS. PARMALEE: Okay?

10 CHAIRPERSON CROSS REID: Give it to staff.

11 MS. PRUITT: Thank you.

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

19 I live --

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

23 MR. SOCKWELL: Ms. Parmalee.

24 MS. PARMALEE: Yes.

25 MR. SOCKWELL: In coming directly before

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

4 MS. PARMALEE: Excuse me?

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

10 It is my assumption --

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

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

15 CHAIRPERSON CROSS REID: Yes, un-huh.

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

18 All right.

19 MS. PARMALEE: Okay?

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

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

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

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

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

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

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

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

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

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

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

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

23 CHAIRPERSON CROSS REID: Go ahead.

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

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

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

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

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

19 My side yard is next to their back yard.

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

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

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

14           CHAIRPERSON CROSS REID: Excuse me. Are  
15 you saying that your house is the only house that faces  
16 39th Street, and the other houses on 39th Street, that  
17 you see on 39th Street only have their rear yard?

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

21           CHAIRPERSON CROSS REID: Okay. What  
22 picture?

23           MS. PARMALEE: You can see it --

24           CHAIRPERSON CROSS REID: What picture is  
25 that?

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1 MS. PARMALEE: That's picture one.

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

5 CHAIRPERSON CROSS REID: No.

6 MS. PARMALEE: No?

7 CHAIRPERSON CROSS REID: I don't see it.

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

9 CHAIRPERSON CROSS REID: I don't see that.

10 I see the picture number one, but it looks like if it  
11 comes out the same distance, it looks like that one  
12 that's to the right or to the left --

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

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

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

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

20 MS. PARMALEE: Okay.

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

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

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

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

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

8 CHAIRPERSON CROSS REID: Yeah.

9 MS. PARMALEE: -- at any rate --

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

13 MS. PARMALEE: Right.

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

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

19 CHAIRPERSON CROSS REID: Oh, oh.

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

22 CHAIRPERSON CROSS REID: Oh, okay.

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

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

3 CHAIRPERSON CROSS REID: Wait one second.  
4 Wait.

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

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

9 MS. PARMALEE: Right.

10 CHAIRPERSON CROSS REID: The other house  
11 faces what street?

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

14 CHAIRPERSON CROSS REID: Okay.

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

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

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

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

23 CHAIRPERSON CROSS REID: Absolutely.

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

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

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

10 CHAIRPERSON CROSS REID: Well, we can see  
11 it.

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

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

17 MS. PARMALEE: Okay.

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

21 MS. PARMALEE: Okay.

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

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

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1 looking at now.

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

4 CHAIRPERSON CROSS REID: Mr. Moulden?

5 MR. SOCKWELL: Is this what you gave us?

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

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

10 MS. PARMALEE: Okay.

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

13 MS. PARMALEE: Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

10 CHAIRPERSON CROSS REID: Your name.

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

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

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

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

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

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

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

25 MR. ROETHKE: The sun room located on the

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1 plat, which is the cover sheet of the packeted  
2 drawings, you'll see that it says "existing sun room."

3 It's to the right and a bit forward towards 39th  
4 Street.

5 CHAIRPERSON CROSS REID: Oh, yes, yes.

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

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

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

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

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

5 MS. PARMALEE: Okay.

6 CHAIRPERSON CROSS REID: All right.

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

9 CHAIRPERSON CROSS REID: Continue.

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

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

25 I have on the second page the issue of the

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

6 The bottom picture I did. This is not like  
7 something I'm guaranteeing. It's not an architect's  
8 work. It did this with, you know, cutting out paper  
9 and so forth, but I glued in what the addition would  
10 look like. Essentially I think I got it pretty close.

11 I started it where it needed to start at the roof line  
12 and ended at the floor line and so forth.

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

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

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

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

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

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

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

25 MR. ROETHKE: Jocelyn.

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

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

5 MS. PARMALEE: Okay. We're now onto page  
6 3, I think.

7 MR. ROETHKE: Titled Sheet A-2.

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

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

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

16 CHAIRPERSON CROSS REID: Okay.

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

20 CHAIRPERSON CROSS REID: Okay.

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

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

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

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

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

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

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

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

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

10 CHAIRPERSON CROSS REID: Un-huh.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 beef was, you know.

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

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

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

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

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

4           What people do with these old houses, I am  
5 sure -- it happened with mine -- what you do to improve  
6 a house, you nibble away parts of the storage space,  
7 and they get turned into living space. So in the '60s  
8 the pantry was absorbed into the kitchen. In the '80s,  
9 the coat room was turned into a powder room, and in the  
10 '90s, I turned the broom closet into a cupboard for  
11 food.

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

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

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

8 I have rheumatoid arthritis, which is  
9 currently totally controlled with medication, but  
10 before it was I had trouble walking up and down stairs.

11 At this point with my current kitchen size, I store  
12 cleaning supplies, canned goods, dishes, things in the  
13 basement, and I lug them up the basement stairs. More  
14 than half of my storage space in my kitchen I have to  
15 climb up on a step stool to get to.

16 I don't want to be living in this house  
17 when I'm 70 lugging dishes up from the basement, and I  
18 don't want to be climbing up on a step stool when I'm  
19 75 to get things down from high storage spaces, and I  
20 don't think that's an unreasonable thing, you know. I  
21 don't feel like the imposition which this addition  
22 would impose would be so great that it would offset the  
23 personal need I have for this.

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

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

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

15 So that's it.

16 CHAIRPERSON CROSS REID: Thank you very  
17 much.

18 MS. PARMALEE: Okay.

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

21 MR. MATHEWS: May I cross examine?

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

24 MR. MATHEWS: I am a party.

25 CHAIRPERSON CROSS REID: You want -- okay,

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1 sure.

2 MR. MATHEWS: Thank you.

3 And of course, I preface my questions by --

4 CHAIRPERSON CROSS REID: Give your name.

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

7 CHAIRPERSON CROSS REID: Un-huh.

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

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

13 MR. MATHEWS: Fair enough.

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

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

19 MS. PARMALEE: Four years ago.

20 CHAIRPERSON CROSS REID: Turn your mic on.

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

25 MS. PARMALEE: Yes.

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

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

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

11 CHAIRPERSON CROSS REID: No testifying.

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

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

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

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

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

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

5 MR. MATHEWS: Right.

6 CHAIRPERSON CROSS REID: Mr. Mathews.

7 MR. MATHEWS: Yes.

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

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

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

23 MR. MATHEWS: I'm laying a --

24 CHAIRPERSON CROSS REID: Do you have  
25 anymore questions?

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

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

8 MR. MATHEWS: Well, first I was --

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

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

15 CHAIRPERSON CROSS REID: Sure, sure.

16 MR. MATHEWS: -- the rooms are.

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

19 MR. MATHEWS: Right.

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

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

25 MS. PARMALEE: There was a screen porch.

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

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

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

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

14 MR. MATHEWS: So your priorities have now  
15 changed?

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

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

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

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

3 MS. PARMALEE: If I used the --

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

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

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

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

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

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

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

17 MS. PARMALEE: Oh, I don't.

18 MR. ROETHKE: Bigger than what?

19 MS. PARMALEE: Yes, bigger than what?

20 MR. MATHEWS: Than the existing kitchen.

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

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

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

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

8 MR. MATHEWS: Would you accept 14 feet?

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

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

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

15 MR. ROETHKE: Plus or minus.

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

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

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

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

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

5 MR. MATHEWS: Right.

6 MS. PARMALEE: Yes.

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

10 MS. PARMALEE: Absolutely.

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

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

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

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

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1 is save time here.

2 MS. PARMALEE: Okay.

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

8 CHAIRPERSON CROSS REID: No.

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

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

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

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

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

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

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

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

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

9 MS. PARMALEE: No. I think the seven foot  
10 fence would help to provide privacy when we're both in  
11 our back yards until the Leiland Cypresses get fuller.

12 At this point already I think the Leiland Cypresses  
13 are 12 feet high. You can see from the picture --

14 MR. MATHEWS: I'm asking --

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

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

21 MS. PARMALEE: No.

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

25 MS. PARMALEE: I consider myself an expert

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

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

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

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

13 MS. PARMALEE: Okay.

14 MR. MATHEWS: You were suggesting that we  
15 could achieve the kind of screening we want with a  
16 fence seven feet high and Leiland Cypresses at four or  
17 \$500 a tree. Is that your position?

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

25 This is something that it's up to you to

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

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

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

12 MR. MATHEWS: No, I mean --

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

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

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

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

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

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1 visible through them.

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

6 MS. PARMALEE: Okay.

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

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

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

21 MS. PARMALEE: Do I need to answer that?

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

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

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

3 MR. MATHEWS: I have no further questions.

4 CHAIRPERSON CROSS REID: Okay. Thank you.

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

11 MS. PARMALEE: Okay.

12 CHAIRPERSON CROSS REID: That's one thing.

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

20 So it's very important to have that  
21 clarification.

22 MS. PARMALEE: Okay.

23 CHAIRPERSON CROSS REID: Okay. Thank you.

24 Now, ANC -- yeah?

25 MR. MATHEWS: Excuse me. May I request a

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

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

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

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

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

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

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

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

25 The site was visited previously by the ANC

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

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

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

10 MS. RENSHAW: Thank you for clarifying  
11 that.

12 MR. MATHEWS: That's correct.

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

15 CHAIRPERSON CROSS REID: Thank you very  
16 much.

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

19 Okay. Persons or parties in support of the  
20 application?

21 Persons or parties in opposition to the  
22 application?

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

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1 I figure that was the only -- okay.

2 Now, persons and parties in opposition.

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

5 CHAIRPERSON CROSS REID: Question?

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

11 Do you follow me on that?

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

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

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

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1 overall look of the house as viewed from Jocelyn  
2 Street.

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

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

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

14 MR. PARSONS: Fine.

15 MS. PARMALEE: Okay?

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

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

25 We also do evaluate these kinds of

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

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

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

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

13 MR. PARSONS: So what was your point.

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

15 MR. PARSONS: That the program --

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

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

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

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1 clearance if the kitchen came forward.

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

8 MR. PARSONS: All right. Thank you.

9 CHAIRPERSON CROSS REID: Okay. Mr.  
10 Mathews.

11 MR. MATHEWS: Yes. First of all, since the  
12 --

13 CHAIRPERSON CROSS REID: Give your name  
14 again.

15 MR. MATHEWS: Again? Craig Mathews.

16 CHAIRPERSON CROSS REID: Right.

17 MR. MATHEWS: Adjoining property owner.

18 CHAIRPERSON CROSS REID: Give your address.

19 MR. MATHEWS: 3902 Jocelyn Street.

20 CHAIRPERSON CROSS REID: Okay.

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

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

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

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

9 CHAIRPERSON CROSS REID: That's great.

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

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

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

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

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

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

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

8 MR. MATHEWS: Yes.

9 CHAIRPERSON CROSS REID: Who is the letter  
10 from?

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

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

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

20 CHAIRPERSON CROSS REID: Okay.

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

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

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

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

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

23           CHAIRPERSON CROSS REID: It would do that?

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

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

7           Secondly, I don't know quite how to address  
8 this issue of her health, which we all sympathize with.

9           She did rely very heavily on that point before the  
10 ANC. There was some conversation about it.

11           CHAIRPERSON CROSS REID: All right. Now --

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

14           CHAIRPERSON CROSS REID: We eliminated  
15 that. Remember?

16           MR. MATHEWS: Okay.

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

19           MR. MATHEWS: Okay.

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

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

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

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1 money. Now I have enough money."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 So it matters a lot in this neighborhood.

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

5 She makes the point that the other houses  
6 on Jocelyn Street are side by side. These are all side  
7 yards, therefore, eight plus eight. There may be only  
8 16 feet of different space between them.

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

16 It happens that this is a rear yard.

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

19 MR. MATHEWS: I am --

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

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

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

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

3 Thank you.

4 CHAIRPERSON CROSS REID: Thank you.

5 MR. PARSONS: Mr. Mathews.

6 MR. MATHEWS: Yes.

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

10 MR. MATHEWS: Because a deck would be --

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

13 MR. MATHEWS: Yes, I was only --

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

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

19 MR. PARSONS: The same --

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

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

3 MR. MATHEWS: Yes.

4 MR. PARSONS: And express these same views?

5 MR. MATHEWS: Yes.

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

8 MR. MATHEWS: That's correct.

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

11 MR. MATHEWS: She and I both were there.

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

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

17 MR. PARSONS: I understand.

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

20 MR. PARSONS: All right. Thank you.

21 CHAIRPERSON CROSS REID: Okay. Thank you.

22 All right. The next witness, please.

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

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

6 MR. TAYLOR: I won't take long.

7 CHAIRPERSON CROSS REID: Okay.

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

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

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

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

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

16                   Thank you.

17                   CHAIRPERSON CROSS REID: Thank you.

18                   Ms. Parmalee.

19                   MS. PARMALEE: Parmalee.

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

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

25                   CHAIRPERSON CROSS REID: Okay. Then you

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1 certainly may ask that.

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

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

5 MS. PARMALEE: First, first things first.  
6 Ron, you're saying that you would have a -- first of  
7 all, you're saying you live across the street from me.

8 Would you clarify? Actually you're across the street  
9 from the Mathews, right? You're at the corner house,  
10 which is across from me.

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

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

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

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

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

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

3 CHAIRPERSON CROSS REID: Is that a  
4 question?

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

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

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

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

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

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

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

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

9 MS. PARMALEE: Okay.

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

12 All right. Closing remarks? Ms. Parmalee.

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

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

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

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

9 CHAIRPERSON CROSS REID: Thank you.

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

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

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

19 MR. SOCKWELL: On the decision.

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

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

25 CHAIRPERSON CROSS REID: No, no, no.

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1 His --

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

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

7 MR. PARSONS: I'd rather hear it.

8 CHAIRPERSON CROSS REID: Okay.

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

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

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

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

21 Other than that then you're going into  
22 deliberations.

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

25 CHAIRPERSON CROSS REID: All right. Make a

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

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

4 CHAIRPERSON CROSS REID: No, no.

5 MR. SOCKWELL: What do you think?

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

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

10 MS. RENSHAW: Second.

11 CHAIRPERSON CROSS REID: All right. Now.

12 MR. SOCKWELL: All right. This house is  
13 the only house on Jocelyn Street with two restriction  
14 lines. It has a restriction line of 15 feet along  
15 Jocelyn. It has a restriction line of 15 feet along  
16 39th.

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

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1 line.

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

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

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

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

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

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

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

5 CHAIRPERSON CROSS REID: All right. Any  
6 other comments?

7 All in favor?

8 (Chorus of ayes.)

9 CHAIRPERSON CROSS REID: All opposed?

10 I abstain. I abstain, yes.

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

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

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

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

22 MS. PARMALEE: Thank you.

23 CHAIRPERSON CROSS REID: The next case.

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

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1 MS. PRUITT: The next case before the Board  
2 this morning is Application 16557, application of  
3 Rochelle K. Green Trust, pursuant to 11 DCMR 3103.2,  
4 for a variance from the side yard setback requirements  
5 under Sections 405.9 and 406.1 to allow a proposed  
6 addition to a minimum court width requirements to a  
7 single family detached dwelling in an R-1-B district at  
8 2947 Macomb Street, N.W., Square 2082, Lot 840.

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

13 MR. PRINCE: Oh, just us.

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

16 (The witness was sworn.)

17 MS. PRUITT: Thank you.

18 Please proceed.

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

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

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

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

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

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

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

3           I'd be happy to take any questions.

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

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

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

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

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

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

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1 line than the existing house is.

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

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

5 MR. SOCKWELL: All right.

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

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

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

14 CHAIRPERSON CROSS REID: The Sanborn map.

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

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

21 Go ahead.

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

25 CHAIRPERSON CROSS REID: All right. Okay.

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1 We'll look at it.

2 MS. GREEN: Okay.

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

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

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

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

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

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1 addition would have required removing the garage.

2 CHAIRPERSON CROSS REID: Oh, okay. I see.

3 That's your practical difficulty. Okay.

4 And what about adverse impact?

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

8 CHAIRPERSON CROSS REID: No complaint?

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

11 CHAIRPERSON CROSS REID: No opposition?

12 MS. GREEN: No.

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

19 CHAIRPERSON CROSS REID: Thank you.

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

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

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

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

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

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

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

14 So unanimous vote to approve?

15 MS. RENSHAW: To approve.

16 CHAIRPERSON CROSS REID: Quorum present?

17 MS. RENSHAW: Quorum present.

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

21 MS. RENSHAW: Yes.

22 CHAIRPERSON CROSS REID: -- are entitled.

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

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1                   Would you like an answer today?

2                   MS. GREEN:    Huh?

3                   CHAIRPERSON CROSS REID:    Would you like an  
4 answer today?

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

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

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

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

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

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

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

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

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

5 MR. PRINCE: I can give you this.

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

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

10 MR. SOCKWELL: I guess.

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

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

16 MR. PARSONS: Second.

17 CHAIRPERSON CROSS REID: All right. Any  
18 discussion?

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

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

25 CHAIRPERSON CROSS REID: And there's no

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1 adverse impact?

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

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

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

10 CHAIRPERSON CROSS REID: All right. All in  
11 favor?

12 (Chorus of ayes.)

13 MS. RENSHAW: Opposed?

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

16 Mr. Parsons. Thank you.

17 CHAIRPERSON CROSS REID: All right.

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

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

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

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

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1 CHAIRPERSON CROSS REID: All right.

2 MS. PRUITT: And a summary order.

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

5 MS. GREEN: Thank you very much.

6 CHAIRPERSON CROSS REID: Good luck.

7 All right. Next case.

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

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

17 (The witnesses were duly sworn.)

18 MS. PRUITT: Please be seated and proceed.

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

21 MR. WELLBORNE: Madame Chairman, I --

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

24 MR. WELLBORNE: My name is Clay Wellborne.

25 CHAIRPERSON CROSS REID: Into the mic.

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

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

10 I had not originally --

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

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

20 CHAIRPERSON CROSS REID: Are you more  
21 affected?

22 MR. WELLBORNE: I live right next door.

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

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

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

3 CHAIRPERSON CROSS REID: And how are you  
4 impacted?

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

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

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

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

15 We can grant you party status.

16 MR. WELLBORNE: Thank you very much.

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

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

25 MS. RENSHAW: And if there is --

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

3 MS. RENSHAW: Thank you.

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

6 All right.

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

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

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

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

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

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

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1 discussions now with Mr. Wellborne.

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

13 MR. GLASGOW: Sure.

14 CHAIRPERSON CROSS REID: Okay. Thank you.

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

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

25 Just very briefly, the property is located

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

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

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

17 MR. GLASGOW: Yes, we did.

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

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

22 CHAIRPERSON CROSS REID: A 1963 order.

23 MR. GLASGOW: That's correct.

24 CHAIRPERSON CROSS REID: Okay.

25 MR. GLASGOW: All right. Also what I want

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

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

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

17 CHAIRPERSON CROSS REID: Where is it?

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

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

22 MR. GLASGOW: That's correct.

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

25 MR. GLASGOW: That's correct. That letter

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

3 CHAIRPERSON CROSS REID: Okay, okay.

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

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

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

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

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

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

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

21 All right.

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

25 MR. GLASGOW: That's correct.

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

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

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

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

10 CHAIRPERSON CROSS REID: Yes.

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

12 CHAIRPERSON CROSS REID: No written -- all  
13 right.

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

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

21 MR. GLASGOW: All right. Thank you.

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

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

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

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

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

20           CHAIRPERSON   CROSS   REID:       I have no  
21 questions.

22           Any Board members?

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

25           MS. RENSHAW: All right, Madame Chair. I

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 MR. GLASGOW: Well, I think that decibel  
17 levels also are not -- I'm trying to think of my math  
18 terms. It's like for each ten decibels, I believe, it  
19 doubles the volume that you hear. It's not -- it's not  
20 --

21 MR. GRAAE: It's a geometric relationship.

22 MR. GLASGOW: A geometric relationship,  
23 yeah.

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

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

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

7 I think when you're technically looking at  
8 this, because we are proceeding as best we can to  
9 address the concerns of the neighbors, if you were  
10 strictly looking at the special exception application  
11 and what's going on with the school, we can say the  
12 nighttime school noise has nothing to do with this  
13 application because the school doesn't run any of those  
14 activities. That is run through the parish as part of  
15 the church, and the church has a right of use.

16 We're stepping back from that and saying,  
17 forgetting about the zoning regulations for a minute,  
18 we want to be as good neighbors as we possibly can, and  
19 we don't want that issue to hold up a decision on this  
20 application, where we have not seen anything in the  
21 record where there's any objection to the operation of  
22 the school.

23 We want to work with the neighbors, and we  
24 want to make a significant difference in the noise  
25 level, but we also don't want to get off track as to

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1 what the technical requirements are with the  
2 regulations either.

3 CHAIRPERSON CROSS REID: Well, Mr. Glasgow,  
4 even notwithstanding the fact that what you're saying  
5 is absolutely true, we have one application before us  
6 and the parish is an altogether different story  
7 nonetheless.

8 Given the fact that as a part of this  
9 application your Applicant has proffered to us the  
10 partial mitigation of some of the other problem, then  
11 if that is going to be a part of this, even though not  
12 required -- it's not required, but if it's going to be  
13 a part of it, then the Board members are concerned that  
14 it be done appropriately. That's the only thing.

15 MR. GLASGOW: Sure. We would like to  
16 submit that for the record, and I think that what we  
17 have done in a couple of cases is that we have gotten  
18 our decision and submitted that type of information for  
19 the record.

20 CHAIRPERSON CROSS REID: Wait a minute.  
21 You've got your decision, and then before you got your  
22 order.

23 MR. GLASGOW: That's correct.

24 CHAIRPERSON CROSS REID: Yes. Okay.

25 MR. GLASGOW: That's right.

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1 CHAIRPERSON CROSS REID: I have no problem  
2 with that.

3 MR. SOCKWELL: And just to close that, the  
4 frequencies of the various sounds are as important as  
5 anything. So they have to study the various  
6 frequencies that are propagating from the site.

7 CHAIRPERSON CROSS REID: Okay. Thank you.  
8 Proceed.

9 MR. GLASGOW: All right. Please proceed.

10 MONSIGNOR DUFFY: Good afternoon, Madame  
11 Chair, members of the Board, I am Monsignor Thomas  
12 Duffy, pastor of the Shrine of the Most Blessed  
13 Sacrament. I am pleased to be here on behalf of  
14 Blessed Sacrament School, which is located at 5831  
15 Chevy Chase Parkway, N.W.

16 The special exception application presented  
17 to you today is necessary for the school to continue to  
18 provide the most appropriate and stimulating learning  
19 environment to meet the educational needs of our  
20 current and future students.

21 Our architect will discuss the actual  
22 additions and renovations that will be made to the  
23 buildings on the site and the principal of the school,  
24 Fran Scango, will discuss the present and future  
25 operations of the school on the site.

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1 I hope to give you some background  
2 regarding the school and its relationship with the  
3 neighbors, the surrounding community.

4 The Archdiocese of Washington and the  
5 Shrine of the Most Blessed Sacrament has operated a  
6 school on this property since approximately 1923. The  
7 last time the school brought an application before the  
8 Board was in 1963, as Mr. Glasgow mentioned, when this  
9 Board approved continued school use on this site for  
10 1,015 students. How they did it I don't know.

11 But the school current has 500 students.  
12 In reviewing the current and future educational goals  
13 of the parish and the school, the parish is amenable to  
14 reducing the maximum number of students in the school  
15 to 600.

16 Throughout this school's history, the  
17 parish and the school have interacted with the  
18 surrounding community. This relationship is evidenced  
19 by the unanimous resolution of the Advisory  
20 Neighborhood Commission 3G to support this application.

21 It is the intent and desire of the school  
22 to continue the strong collegial relationship with the  
23 community into the future.

24 In accordance with this goal, I personally  
25 initiated contacts with the immediate neighbors of the

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1 parish and school in December of 1999. These contacts  
2 were followed up with letters and meetings between the  
3 representatives of the parish, school, and neighbors.  
4 It was through this process of dialogue that we became  
5 aware of some concerns of the immediate neighbors  
6 regarding the amount of noise generated by nighttime  
7 activities at the Roache Center multi-purpose room and  
8 gym.

9 In fact, along with members of the  
10 development team, I met with Mr. and Mrs. Wellborne  
11 this past weekend to continue to inform them of our  
12 plans and to address some of their concerns regarding  
13 this issue, through specific actions to be undertake  
14 during the construction.

15 I would like to take this opportunity to  
16 state, as Mr. Glasgow has already, that all nighttime  
17 activities at the Roache Center are parish rather than  
18 school related activities, at least those that are  
19 objectionable. Specifically, the dances, athletic  
20 events, and other activities that take place at night  
21 are parish activities.

22 While these parish activities are  
23 technically not part of this special exemption  
24 application, we have taken great steps in the design of  
25 the renovation of the Roache Center to ameliorate the

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1 impact of noise on neighboring properties.

2 As our architect will explain in greater  
3 detail, the HVAC system in the Roache Center will be  
4 updated. This will allow the parish and the school to  
5 commit that the east windows in the multi-purpose room  
6 and gym will remain closed at all times during those  
7 activities that are held in the Roache Center.

8 In addition, our architect will explain the  
9 steps that are being taken based upon the  
10 recommendations of the acoustic engineering firm to  
11 make sure that nighttime activities in the multi-  
12 purpose room gym will not cause objectionable noise to  
13 emanate from the Roache Center.

14 As a result of these actions, I believe  
15 that the proposed additions to and renovations of the  
16 existing buildings on the site will not cause any  
17 objectionable impacts on neighboring properties.

18 Once again, I want to thank you for the  
19 opportunity to speak to you today, and I look forward  
20 to your expedited approval of this application.

21 Fran Scango, the principal of the school,  
22 will now address the operational issues regarding the  
23 school's use of the property.

24 MS. SCANGO: Thank you, Monsignor.

25 My name is Fran Scango. I'm a principal of

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1 Blessed Sacrament School.

2 As Monsignor stated, our school has been a  
3 part of the Northwest Chevy Chase, D.C. community for  
4 75 years. Our basic mission is to serve the needs of  
5 our parishioners.

6 About 90 percent of our students registered  
7 currently are registered parishioners, and most live  
8 within about a mile and a half of the school. We are  
9 about equally Maryland and D.C. residents.

10 Our current exact enrollment is 494  
11 students. We welcome students outside of our parish  
12 when space is available.

13 Demand for our school currently exceeds  
14 capacity, particularly at our lower school entrance  
15 levels. Our combination of full and part-time faculty  
16 and staff on a given day is about 35 people.

17 Our building is old and in need of repair.

18 Part of the building is 75 years old. The remainder  
19 is 50 years old. All mechanical, heating and  
20 electrical need to be updated. There's a need for air  
21 conditioning, and in today's educational needs for  
22 technology, significant accommodations have to be made.

23 Currently our middle school functions in  
24 several parts of our building. Our goal would be to  
25 unify our middle school into one building.

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1 We would like to lower the class size,  
2 which is a national trend, in our primary grades from  
3 25 to 20 students, while slightly increasing the  
4 enrollment of that grade from 54 to 60 students.

5 Currently in Grades 4 through 8, we have a  
6 capacity of 60 students.

7 We'd also like to better utilize our space  
8 by grouping our students more developmentally so that  
9 we can individualize instruction. We would be placing  
10 our kindergarten in the lower level of the Roache  
11 Building. Grades 1 and 2 would be on the lower level  
12 of our building, 3, 4 and 5 on the first floor, and we  
13 would locate our middle school on the upper floor in  
14 one area.

15 Some enhancements that we would hope to  
16 happen from this renovation would be to increase our  
17 library space, which would meet the recommendations of  
18 our accrediting board. This would allow for  
19 technology, a lower school reading room, a middle  
20 school instructional space, and increased stacks for an  
21 increased collection.

22 We would like to expand our science labs to  
23 accommodate our lower school and current educational  
24 trends for hands on strategies.

25 We would like to expand our computer lab

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1 also to meet current educational trends.

2 With regard to compliance of Section 206,  
3 we do not expect any additional noise or additional  
4 outside use of the building to what we are currently  
5 doing. Overall space will continue to comply.

6 Our orchestrated traffic plan will be  
7 presented by the consultants. We have been  
8 investigating a traffic plan for almost two years at  
9 the school, and we welcome these recommendations of the  
10 consultant.

11 Our current situation is less than optimum.

12 I am confident that this new plan will enhance safety  
13 not only for the school, but the community as well.

14 After evaluation and consultation with the  
15 neighborhood committee that we hope to have set up  
16 during this renovation, we would like to continue this  
17 traffic plan after the renovation, which we think,  
18 again, will enhance safety in the community.

19 As a result of the ANC meeting, we were  
20 very pleased by the unanimous support. I was  
21 particularly gratified by the comment of one of the  
22 members who complimented us on the association that the  
23 school has had with the community for many, many years.

24 A second individual at that ANC meeting  
25 also said he was surprised that we weren't expanding

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1 our enrollment more because of the great demand there,  
2 and obviously we don't have intentions of doing that.

3 We have also looked very closely at a  
4 construction management plan that I think will be very  
5 helpful not only to the school safety, but the  
6 community as well, and as you can imagine, as a school  
7 principal, safety for my children is tantamount. So I  
8 am welcoming that, and our architect, Chris Graae, will  
9 address that a little bit further.

10 Thank you for your time.

11 CHAIRPERSON CROSS REID: Thank you.

12 MR. GLASGOW: Thank you.

13 For the next witness I'd like to call Chris  
14 Graae, architect of the project.

15 MR. GRAAE: Good afternoon. My name is  
16 Chris Graae. I'm a principal with Cress, Cox  
17 Architects.

18 Is this mic one that I can pick up and walk  
19 over to the drawings or --

20 CHAIRPERSON CROSS REID: No.

21 MR. GRAAE: Can everybody see these  
22 reasonably well?

23 Just a quick orientation of the site.  
24 Chevy Chase, and Connecticut Avenue is going north-  
25 south here, and this is Chevy Chase Parkway, and

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1 Western Avenue, and then Quesada.

2 So the site is bounded by Western Avenue,  
3 Chevy Chase Parkway, and Quesada, as well as, in fact,  
4 a public alley on the east side. The apartment  
5 building, you probably all know, is a lovely historic  
6 building. That is not part of the subject property  
7 we're proposing today.

8 The site, as I said, is basically then  
9 contained around public streets or alleys. This is a  
10 view of the school from Chevy Chase Parkway and just  
11 captures a piece of Roache Center, which we were  
12 talking about earlier.

13 This is the other, the rest of the end of  
14 Roache Center, which is located on that alley there,  
15 which is immediately adjacent to the Wellborne's  
16 property.

17 And this is a view of the courtyard, which  
18 is in the center of the whole property. Other  
19 buildings basically surround the courtyard. This is  
20 the church from the early '20s located here, a very  
21 find structure by a well known architect, beautifully  
22 built, sort of the anchor of the whole campus.

23 And further down from the church is the  
24 current parish house.

25 I'll start with a site plan. The primary

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1 buildings on the property are the church, as I  
2 mentioned, the parish house. There's a convent that  
3 was built about the same time as the church, which is  
4 also a lovely period piece.

5 The yellow indicates on these plans the  
6 proposed additions. So as you can imagine, without the  
7 addition there, there is a gap between the convent and  
8 the basic part of the school. This piece of the school  
9 was originally built in the '20s. This was added in  
10 the '50s, and then the Roache Center, which we've been  
11 referring to, was added in the mid-'60s.

12 The Wellborne property is immediately here  
13 on the other side of that alley, and so this site plan  
14 really shows the essence of what we're doing from an  
15 addition point of view. It's a really very modest  
16 addition. The school is approximately 67,000 square  
17 feet. We are adding about under nine percent of that  
18 amount. Approximately five and a half thousand square  
19 feet is, in fact, being added. The lot occupancy that  
20 we're adding is actually only about 1,700 square feet.

21 And the reason is because there's a one  
22 story connector between Roache and the school, which  
23 you can hopefully just catch it here. There's a gap  
24 between the school and the Roache building that's about  
25 two stories high, and in order to impact the site as

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1 little as we could because, of course, the courtyard is  
2 used for kids to play in and for the parking  
3 requirements for staff over here, we wanted to impact  
4 the courtyard as minimally as we could, and a logical  
5 place to provide new square footage without impacting  
6 the site was, in fact, to infill between the school and  
7 the Roache Center.

8 So this addition is two stories sitting on  
9 top of the existing one story, essentially extending  
10 the volume of the school into that slot, and then the  
11 other portion, as I mentioned, is there's a one story  
12 porch entrance that we're proposing, and then a three  
13 story infill that will, once it's built, will in fact  
14 connect the convent to the school.

15 And this is an enlarged plan of the main  
16 floor of the school, which is at the upper courtyard  
17 level. This site falls away fairly dramatically almost  
18 one whole floor so that the basement level underneath  
19 this first floor is, in fact, out of grade on the Chevy  
20 Chase side.

21 So we'll be adding this porch. We'll be  
22 adding a two story with basement connector between the  
23 buildings. That will provide us the accessibility that  
24 we need to get to the convent, which currently is not  
25 accessible. It will also provide us a stair to mediate

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1 between the different levels between buildings.

2 And then as I mentioned earlier, we'll be  
3 putting a two story addition in the slot between Roache  
4 and the school, and that will give the school very,  
5 very necessary, very useful additional classroom space.

6 The next floor up from the first floor,  
7 being the second floor, two stories above grade in the  
8 courtyard, again, that infill will continue on up and  
9 provide program space for the school, and we'll have  
10 that second floor for additional classrooms.

11 As Fran Scango mentioned, the real key to  
12 this project is not to accommodate more students. It's  
13 to accommodate the students primarily that they have  
14 with better facilities.

15 I'd also add in addition to Fran Scango's  
16 very detailed and important observations about what  
17 things we're trying to do with this school  
18 programmatically another part of this project is to  
19 significantly improve the life safety of the facility,  
20 and those will be along the lines of new fire  
21 detection, smoke detection, alarm, and enunciation  
22 systems, and we will be installing fire suppression  
23 throughout the school formal, which is not currently  
24 suppressed.

25 So there are a lot of life safety things

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1 that we think will improve the safety of the students  
2 and the integrity of the property.

3 And then I'll just very quickly go through  
4 these. These are also in the submission, that couple  
5 of building sections to illustrate further the --  
6 actually this is probably not a terribly meaningful  
7 one, but we've taken a section through the convent and  
8 looking at the addition between the convent and the  
9 school, probably a more salient elevation is the main  
10 courtyard.

11 This is a view of the additions that I was  
12 mentioning. This elevation here is on the courtyard  
13 side as if we're standing in this main courtyard, and  
14 we're looking at the north side of the -- we're looking  
15 at the north side of the school here.

16 This is the Roache Center, which has been  
17 referenced earlier. This is where the multi-purpose  
18 room is and the issue of the sound mitigation that  
19 we're going to incorporate into the project.

20 And then this is that two story addition  
21 which is essentially an extension of the school, and if  
22 you were to flip to the other side on Chevy Chase, the  
23 opposite side of the addition, that, again, is the  
24 other end of it, and if you were to look at the  
25 content building from looking at the west elevation,

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1 this is that infill, again, that we're filling in  
2 between the two buildings, just a relatively modest  
3 square foot change, but while we're doing this, we are  
4 playing a considerable musical chairs, if you will,  
5 with various program and teaching spaces to best  
6 utilize the building for today's program requirements.

7 The gym, I will just very briefly talk  
8 about the gym floor plan. The gym, I have a more  
9 detailed plan if you wish to see more information on  
10 it. I'll let you ask that if you want.

11 The east side of the gym is the main side  
12 that is affected by the -- it affects the sound issues  
13 for the Wellbornes, and we're proposing that the  
14 windows along this side get the most work done in terms  
15 of the shutters and gaskets and so on. This exposure  
16 has a lot less window, the south facing exposure, which  
17 is 90 degrees to the Wellbornes. That has less  
18 windows. We will be gasketing those.

19 The north side has virtually no windows.  
20 So really our major issue is to work on this in  
21 addition to the operational moves that were mentioned  
22 earlier that will be taken in terms of lowering the  
23 sound of the horns and the whistles and things like  
24 that.

25 That's primarily the presentation of what

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1 we're proposing to do for the school portions. If you  
2 have any questions, I'd be happy to answer them.

3 MS. RENSHAW: Yes. I'd like to, Madame  
4 Chair, I'd like to know how they are going to route the  
5 students during construction, in other words, to have a  
6 safe and easy entry into the school.

7 MR. GRAAE: Do you wish me to address this?

8 MR. GLASGOW: either you or Mr. Slade,  
9 either one.

10 MR. GRAAE: Well, briefly I can address, I  
11 think, the construction area. I don't have a detailed  
12 plan to show you yet, but we have a very -- we've  
13 developed, I think, a very clear way of handling and  
14 separating construction from children.

15 Lou will talk about the issue of how  
16 traffic is handled, but from a construction point of  
17 view, currently the school is entered here off the  
18 courtyard. During the construction, we will have the  
19 main entrance to the school completely from Chevy Chase  
20 so that this area can be secured during construction.

21 There will be a portion of it that will be  
22 cordoned off for play, but the basic construction will  
23 be completely separated from the in and out traffic of  
24 the children who will be dropped off and picked up on  
25 the Chevy Chase side. That's probably the single

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1 biggest move we're making to physically separate by  
2 simply the mass of the building and the actual site  
3 conditions.

4 MS. RENSHAW: And where are the children  
5 going to play during the construction period? Because  
6 when they are around the school in the mornings and the  
7 weather is good, they like to be outside, kind of, you  
8 know, horsing around, as we call it, and I'm just  
9 wondering where along Chevy Chase Parkway they are  
10 going to.

11 MR. GRAAE: There are some existing  
12 playground pieces on Chevy Chase. There is a sandbox.  
13 Then there's a gym, a jungle gym thing here that the  
14 kids will continue to use.

15 There will be a portion of the site for the  
16 duration of construction that will be positioned in  
17 such a way where there will be a secure play area for  
18 the kids. It won't be clearly as big as it is now  
19 because during the -- for the interim construction  
20 period that's physically impossible to do, but as soon  
21 as -- of course, as soon as construction is complete,  
22 the courtyard will be conveyed back for its permanent  
23 use of daytime play for the children.

24 MS. RENSHAW: What is the duration of  
25 construction? How long?

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1 MR. GRAAE: We estimate about 16 to 18  
2 months, and the intention is the project would be  
3 completed by September of 2001.

4 MS. SCANGO: I would also anticipate that  
5 the children are going to be dropped off in a much more  
6 formal fashion than the are now. So I would anticipate  
7 there will probably be less informal play outside prior  
8 to school and after school because --

9 MS. RENSHAW: What do you mean a more  
10 formal?

11 MS. SCANGO: People queuing up and dropping  
12 children off as opposed to in several locations now  
13 children are dropped off, and there will be a very  
14 formal way and only one way to be dropping the children  
15 off every day. So there's not going to be as much  
16 opportunity for them to be on several areas of the  
17 compound to be playing. They're only going to enter  
18 from Chevy Chase Parkway.

19 So my hope would be as principal they're  
20 going to be dropped off with staff out there on the  
21 street and encouraged to come into the building.

22 CHAIRPERSON CROSS REID: All right. I'm  
23 sorry?

24 MS. RENSHAW: Just to ask if you have  
25 looked into the environmental effects of having cars

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1 idling, since you're going to be queuing cars rather  
2 than having the children just kind of hop out of the  
3 car and run over to the school.

4 I'm very familiar with this area and have  
5 watched the children up there. It's on my running  
6 route, and I notice how some of the parents just kind  
7 of drop them off and the kids kind of wander over or  
8 run over, and that's that

9 But if we have a queue in effect, you're  
10 going to have cars idling around the neighborhood, and  
11 I'm just wondering what the environmental effect of  
12 that is going to be.

13 MS. SCANGO: I guess maybe Mr. Slade could  
14 address that, but my hope would be currently I feel,  
15 frankly, we don't have a real safe situation, and  
16 that's why I've been investigating this for two years,  
17 where people double park and sort of randomly drop  
18 their children. I haven't been comfortable with the  
19 current situation for a safety perspective.

20 I do appreciate what you're talking about  
21 in terms of cars idling, but I think what we're  
22 proposing in the investigations we've done is a far  
23 more typical drop-off and pick-up plan for children  
24 than what we currently have.

25 MS. RENSHAW: What I do remember is that

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1 cars not carrying children to the school, but in  
2 transit are often too impatient to wait patiently  
3 behind any car discharging a student, and it had been  
4 the case with Blessed Sacrament where extra crossing  
5 guards had to be requested of the Second District  
6 Police because either you didn't have a crossing guard  
7 there or the crossing guard was ill or whatever, but  
8 additional manpower had to help the students get across  
9 the street.

10 And I can remember a couple of times when  
11 it was just very dangerous, outright dangerous. So I'm  
12 glad to hear about an improved method. I just wonder  
13 what has kept you for two years not acting on this  
14 sooner. That's all.

15 MS. SCANGO: Part of our issue has been  
16 we've been trying to work with the D.C. Police to  
17 create something that doesn't cause issues for Chevy  
18 Chase Circle, and they have been starting to come in to  
19 talk with us a little bit more and involved, and we've  
20 gotten engaged with them a little bit more on how to  
21 handle the situation generally for traffic in the area,  
22 and I'm hoping that the consultants we brought in with  
23 this project will address that.

24 MS. RENSHAW: And I hope to bring that back  
25 to the ANC because it's a question I think the ANC

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1 should address also.

2 Thank you.

3 CHAIRPERSON CROSS REID: All right. Thank  
4 you.

5 MR. GLASGOW: The next witness is Mr.  
6 Slade.

7 CHAIRPERSON CROSS REID: He's the last one?

8 MR. GLASGOW: Yes, he is.

9 MR. SLADE: Madame Chair and members of the  
10 Board, my name is Louis Slade. I reside at 3500  
11 Quesada Street.

12 My firm and I were engaged by Blessed  
13 Sacrament to work with this team on the traffic  
14 operations plan that Fran has been alluding to, and  
15 I'll be very brief.

16 As I said, my address is 3500 Quesada. I  
17 live one block from the school, and I've waived my  
18 normal policy to avoid projects where there could be  
19 neighborhood controversy because I know I've been in  
20 the neighborhood for 26 years. I know the school and  
21 the church to be a wonderful neighbor. One of the  
22 reasons we moved in the neighborhood, and I was pleased  
23 to be part of this team, to help.

24 As Fran said, at the present time, there  
25 are some problems, particularly in the morning during

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1 the drop-off period, and it's because the school has  
2 not created a regulated or formal approach to the  
3 carpool, and I'm sure some of you are very familiar  
4 with it.

5 Chevy Chase Parkway is a block that you  
6 just learn to avoid during that time of the morning.  
7 Fortunately we have a very extensive grid of streets.  
8 So there are lots of ways to get where you're going  
9 without having to use this block.

10 But the issue predominant in the school's  
11 concern is student safety, and then given that the  
12 construction will take place and it will restrict where  
13 students can be dropped off and picked up, it really  
14 brought this issue to the forefront, and that's part of  
15 the reason we were brought in to help.

16 In very simple terms, the problem today is  
17 focused on Chevy Chase Parkway because parents come to  
18 the school from both directions on Chevy Chase Parkway,  
19 drop off children on both sides of the street. The  
20 children have to cross the street. We've estimated  
21 that about 20 percent of the children do walk to  
22 school, which is wonderful, but they have to cross the  
23 street, too, from whatever direction they're coming,  
24 and that relates to problems all around the school that  
25 have been addressed through traffic officers at the

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1 crossings.

2 But one of the focuses of our solution is  
3 to not allow the parents to drop off somewhat randomly,  
4 but to get them in a regulated pattern around the  
5 school and not allow them to drop off on both sides of  
6 any street.

7 The ideal solution is to go around the  
8 school in a clockwise pattern so that the children can  
9 get off on the school side, on the passenger side of  
10 the vehicle and walk directly to the school without  
11 having to cross the street, and that's what we will  
12 have both during the construction period and then after  
13 the construction period.

14 And the chart you see before you shows in  
15 red the construction vehicle traffic from start of  
16 construction day through about 2:30 in the afternoon,  
17 which uses Quesada Street to approach, which is an  
18 eastbound only street. It's one way from Western  
19 Avenue, and then would use the alley to come in with  
20 deliveries of material for construction.

21 So we won't use Quesada Street and we won't  
22 use the alley in the morning because it will be devoted  
23 to construction access. So in the morning the green  
24 line on Chevy Chase Parkway represents how parents will  
25 be directed to bring children to school and they'll be

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1 dropped off there.

2 And with parking restricted on the north  
3 curb of Chevy Chase Parkway, there is more than  
4 adequate space for the vehicles to approach, stop, drop  
5 off the children and continue, and this is the more  
6 conventional way to handle a drop-off. In the morning  
7 it's always very efficient because the parents arrive,  
8 the doors are open, the school will have a couple of  
9 staff members out here just to make sure everything is  
10 going efficiently, and that traffic will move on to  
11 Chevy Chase Circle and then be able to use the circle  
12 to go in any direction they want.

13 In the afternoons our deliveries of  
14 construction materials will stop around 2:30 in the  
15 afternoon before school ends so that the alley will be  
16 available. So the blue line represents the pattern  
17 that will be available and will have more queuing area  
18 for the parents to wait to pick up. So there will be  
19 adequate queuing in the afternoon, which is inherently  
20 a little less efficient operation because the parents  
21 arrive and have to wait for the children.

22 We've looked at what will happen if the  
23 school does expand to the 600 cap. It will be about a  
24 20 percent increase in activity, and this plan will  
25 work well. Things will actually be better in the

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1 future even with the largest school population because  
2 of a more regimented and formal approach to carpooling  
3 and drop-off and pick-up.

4 Finally, with regard to parking, there are  
5 about 70 parking spaces on site, which is more than  
6 adequate. Some of that parking area is used as a play  
7 area, but there's always ample space to satisfy zoning  
8 requirement for parking.

9 So in my professional opinion and as a  
10 person who knows the area personally quite well, I can  
11 testify that the traffic and parking impacts of this  
12 application will not be significant.

13 Thank you.

14 CHAIRPERSON CROSS REID: Mr. Slade, when  
15 you say that some of the parking area will be used as a  
16 play area, can you elaborate a little bit more on that?

17 MR. SLADE: I think maybe Fran can answer  
18 that question a little bit better about how that's  
19 organized during the day.

20 MS. SCANGO: If you look to the right-hand  
21 side of the courtyard there, the larger one is really  
22 better, closer to the alley. That's the parking area  
23 that we would use. To the left side is the play area.

24 CHAIRPERSON CROSS REID: So there's no  
25 screening from the parking area to the play area?

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1 MS. SCANGO: Pardon me?

2 CHAIRPERSON CROSS REID: There is no  
3 barrier, no buffering?

4 MS. SCANGO: There isn't right now, no.

5 CHAIRPERSON CROSS REID: How come?

6 MS. SCANGO: It's never been established  
7 other than wooden barriers. There's no walls, no  
8 concrete walls.

9 CHAIRPERSON CROSS REID: So what type of  
10 mechanism do you have in place to protect the children  
11 from the cars on the parking lot?

12 MS. SCANGO: Well, the cars aren't moving.  
13 The cars are stable and parked.

14 CHAIRPERSON CROSS REID: Aren't they moving  
15 at some point?

16 MS. SCANGO: Well, I mean they come in at  
17 7:30 in the morning. They don't leave until four  
18 o'clock in the afternoon. It's not like people are  
19 coming --

20 CHAIRPERSON CROSS REID: The cars never are  
21 moved during the day?

22 MS. SCANGO: Well, they're not coming and  
23 going through the day. The staff comes in. The staff  
24 is there for the day.

25 CHAIRPERSON CROSS REID: And then they park

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1 in this area here, and then this area over here is  
2 where you allocate -- in other words it's not  
3 exclusively for a play area. You use it for both?

4 MS. SCANGO: The left-hand side is  
5 exclusively play area during a school day. On a  
6 Saturday --

7 CHAIRPERSON CROSS REID: That's what I'm  
8 trying to ascertain. This area here is play area or  
9 parking area?

10 MS. SCANGO: Which? Chris, maybe can you  
11 show?

12 MR. GRAAE: This area currently is all  
13 paved, and this area here is currently striped for  
14 staff parking, and the only way they get to that space  
15 is from this alley in and back out and down that alley.  
16 There's no way they can come through here. This is  
17 blocked off during the day.

18 So there's a heart striped line here where  
19 staff know not to pass that, and they access it on the  
20 other side, and then this area here is reserved for  
21 children's play.

22 CHAIRPERSON CROSS REID: All that area?

23 MR. GRAAE: Correct.

24 CHAIRPERSON CROSS REID: Oh, okay. I see.

25 MR. GRAAE: And then after school or during

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1 parish activities, this whole space is, in fact,  
2 utilized as needed for parking, for mass. And of  
3 course, the kids aren't there anymore.

4 CHAIRPERSON CROSS REID: So, yes, so it's  
5 used for parking during the time when the children  
6 aren't there at the school.

7 MR. GRAAE: Correct.

8 CHAIRPERSON CROSS REID: And during the  
9 day, the staff parks on this side, and the play area is  
10 on the other side.

11 MR. GRAAE: In a very clearly demarked  
12 manner, yes.

13 CHAIRPERSON CROSS REID: Okay, all right.  
14 Thank you.

15 Questions?

16 All right. Does that conclude your  
17 presentation?

18 MR. GLASGOW: That concludes the  
19 Applicant's direct presentation.

20 MS. RENSHAW: Madame Chair, I have some  
21 questions for the parking-traffic consultant.

22 If you would put the board up -- there we  
23 go, and I want to focus in on the red line, which is  
24 the route of the construction vehicles. And, first of  
25 all, who wrote the construction management policy that

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1 -- policies that were included in the submission  
2 document?

3 MR. GLASGOW: Tom Gallagher.

4 MR. GRAAE: He's the project manager.

5 MS. RENSHAW: Yes, and he presented the  
6 case before the ANC.

7 I want to ask about the width and the  
8 surfacing of the alley. You're directing all of these  
9 construction trucks through a public alley, and do you  
10 have any count right now? Do you estimate; can you  
11 estimate for us how many construction trucks you're  
12 going to be routing through a public alley and whether  
13 that alley can tolerate the weight of those trucks?

14 MR. GRAAE: I'll field that question. At  
15 this point we don't exactly have figures to tell you  
16 the size and number of trucks, but the primary load  
17 will be when the excavation is done and the demolition  
18 and excavation is done, and that is probably going to  
19 be in a three -- we think in a three to four week  
20 maximum time frame.

21 So it's a fairly confined period where  
22 you'll have, let's say, dump trucks, for example.

23 MS. RENSHAW: It's very confined, but it's  
24 very heavy use.

25 MR. GRAAE: Correct.

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1 MS. RENSHAW: And on the other side of the  
2 school and the church, there are residential  
3 properties, correct?

4 MR. GRAAE: Yes, that's correct.

5 MS. RENSHAW: All right, and the residences  
6 have agreed to the routing of these dump trucks through  
7 the alley?

8 MR. GRAAE: Well, this plan, I believe --  
9 was this presented to ANC? I believe it was.

10 I think just to elucidate a little more on  
11 the traffic pattern, beyond those two to four weeks  
12 where there'll be sizable vehicles taking that route,  
13 the other traffic is going to be relatively modest, and  
14 smaller scale. They are concrete paved alleys.  
15 They're not asphalt. Concrete is certainly a lot more  
16 durable and stronger than asphalt.

17 MS. RENSHAW: Well, the condition of a lot  
18 of our alleys in the city is not good at all.

19 MR. GRAAE: These happen to be in fairly  
20 good shape.

21 MS. RENSHAW: Well, that's fine.

22 MR. GRAAE: This alley here is much smaller  
23 and is not in as good shape, and there are about 17, I  
24 believe, or roughly 17 feet wide. So they're a little  
25 more generous than most.

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1 MS. RENSHAW: And are you going to have  
2 during this three to four week period, are you going to  
3 have trucks queuing up in the alley or are you going to  
4 have a foreman routing one truck through at a time  
5 because we have to keep in mind that allies must remain  
6 open for emergency vehicles.

7 MR. GRAAE: I would say we would attempt to  
8 do the latter, to --

9 MS. RENSHAW: You attempt or will?

10 MR. GRAAE: I think we'd have to let the  
11 contractor, you know, get into the kind of detail that  
12 I don't have to give you at this point, but I think  
13 they're going to be fully supervised and --

14 MS. RENSHAW: Well, I just want to press  
15 this issue because we want to make very sure that the  
16 use of this alley is in agreement with the neighbors,  
17 and that the Board understands that the neighbors have  
18 agreed to this, and that there will be someone making  
19 sure that this alley is kept open during the  
20 construction phase and afterwards for emergency  
21 vehicles.

22 So, therefore, you're going to have to have  
23 this monitored.

24 MR. GRAAE: Surely. It's a public alley  
25 and it needs to be --

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1 MS. RENSHAW: It's very important.

2 MR. GRAAE: It's a public alley, and it  
3 needs to be kept free.

4 MS. RENSHAW: Right. And also I wanted to  
5 ask whether or not you had thought in terms of -- and I  
6 would suggest to this, the Board here that we require  
7 fines to be imposed on construction vehicles who are,  
8 shall we say, in violation of the agreements.

9 Now, this is not something that was talked  
10 about publicly at our public meetings, but it has been  
11 in effect with another construction project in the  
12 Chevy Chase area and has worked very successfully in  
13 that --

14 CHAIRPERSON CROSS REID: Ms. Renshaw,  
15 excuse me for cutting you off, but --

16 MS. RENSHAW: I am just suggesting that it  
17 be considered. We don't have to go into it in any  
18 further detail --

19 CHAIRPERSON CROSS REID: Well --

20 MS. RENSHAW: -- at this moment, and there  
21 is one other --

22 CHAIRPERSON CROSS REID: Excuse me. The  
23 imposition of the fine, who are you suggesting would do  
24 that?

25 MS. RENSHAW: That is done by the

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1 construction company, and it's written --

2 CHAIRPERSON CROSS REID: Oh, okay.

3 MS. RENSHAW: -- into the construction  
4 policy that is signed on by the church and with the  
5 neighbors, and that if anything untoward happens, you  
6 have a series of fines, and maybe the maximum is  
7 \$1,000.

8 And in a construction site near my home,  
9 the maximum was -- shall we say the maximum violation  
10 happened, and we imposed a fine, and that fine is going  
11 to be distributed to nonprofit entities in that  
12 community. So it worked very well, and I would say  
13 it's important.

14 CHAIRPERSON CROSS REID: The Board, just  
15 for the record, this Board does not have the authority  
16 to impose a fine. Nonetheless, within the scope of the  
17 management plan and the construction --

18 MS. RENSHAW: Construction plan.

19 CHAIRPERSON CROSS REID: -- construction  
20 company that is hired, then perhaps they would be  
21 amenable to working out some type of penalty for any  
22 violation of the management plan that is being -- I  
23 would think that this management plan would be a part  
24 of the order by the commission -- of the order so that  
25 they've have to be concerned about them complying

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1 thereto.

2 And it's a suggestion. It is not anything  
3 that we're making -- the plan itself could be  
4 conditioned, but not the fine aspect of it. It's just  
5 a suggestion to help you to be a good neighbor.

6 MS. RENSHAW: One other aspect or another  
7 aspect is there is nothing in this construction  
8 management policy having to do with the parking of  
9 construction workers, and I think that the neighborhood  
10 is owed a very definitive plan as to where construction  
11 workers are going to park because they will be -- and I  
12 say this from experience -- all over the neighborhood  
13 unless you have a confined area for them to park in.

14 CHAIRPERSON CROSS REID: All right. Often  
15 there's a staging area or an area that is away from the  
16 actual site where the construction vehicles park their  
17 cars. You don't have anything set up like that?

18 MS. SCANGO: It's my recollection that we  
19 discussed this at the ANC meeting. It was brought up  
20 and the question asked where they could park, and they  
21 indicated that there wasn't a plan. We at the time  
22 didn't have a plan, and one of the Board members at  
23 that time said that there were some unrestricted areas  
24 in the neighborhood. He was going to talk to those  
25 neighborhoods as to whether they wanted to get those

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1 areas restricted so that people couldn't park in there.

2 So it was addressed at the ANC meeting, and  
3 we didn't get any further indication from them at that  
4 time.

5 MS. RENSHAW: No, but you must come up with  
6 a plan for the parking of construction vehicles in the  
7 neighborhood or the ANC or the individual ANC  
8 commissioner for that area is going to be entertaining  
9 a great number of calls.

10 So we have to know where these workers on  
11 your project are going to park so that you can minimize  
12 the disruption of the neighborhood.

13 MS. SCANGO: I guess the point I was just  
14 trying to make --

15 MR. GLASGOW: We will coordinate with the  
16 ANC single member district representative.

17 MS. RENSHAW: And then another question  
18 that was not addressed is of the routing of the trucks  
19 after they leave your property. Where are they going  
20 to go?

21 Now, you know that this is an extremely  
22 sensitive issue in the Chevy Chase area, construction  
23 vehicles, and so we need to have more than a red arrow  
24 that stops almost at Chevy Chase Parkway or Chevy Chase  
25 Circle, rather. Where are they going to go?

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1                   And so that is something that you owe the  
2 community.

3                   MR. GLASGOW: Do you want to address that,  
4 Mr. Slade?

5                   MR. SLADE: Yes. Ms. Renshaw, the intent  
6 is to route the trucks so that they have minimum impact  
7 on the residential community so that they'll come in  
8 and go out as that red line indicates, back from and  
9 back toward Connecticut Avenue.

10                   Some of this traffic will be oriented to  
11 the north and some to the south. So they'll use the  
12 circle to arrive in the area and leave the area.

13                   MS. RENSRAW: And you know that there is a  
14 truck weight restriction on Connecticut Avenue from the  
15 circle up to the Beltway?

16                   MR. SLADE: Yes.

17                   MS. RENSRAW: And so they're going to be  
18 going over to Wisconsin Avenue and out?

19                   MR. SLADE: They'll have to follow the  
20 truck routing the Montgomery County and the District  
21 of Columbia imposes.

22                   MS. RENSRAW: And you know of the very  
23 sensitive issue about routing trucks down Military  
24 Road.

25                   MR. SLADE: Certainly, a safety issue.

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1 MS. RENSHAW: Yes.

2 MR. SOCKWELL: Mr. Graae, just a couple of  
3 quick questions.

4 CHAIRPERSON CROSS REID: Slade.

5 MR. SOCKWELL: No, Mr. Graae.

6 CHAIRPERSON CROSS REID: Oh, the architect.

7 MR. SOCKWELL: Yes. Will there be any  
8 underpinning?

9 MR. GRAAE: Yes, there will be some limited  
10 underpinning. There will be a limited amount of  
11 underpinning associated with this exposure underneath  
12 the Roache building, nothing that really will be  
13 impacted, you know, from the standpoint of outside  
14 construction. It's going to be underpinned from  
15 inside, underneath the existing first floor which is  
16 now unexcavated.

17 It's a suspended floor slab, but there's a  
18 crawl space under it.

19 MR. SOCKWELL: There won't be any cross-  
20 traffic between students at the school and construction  
21 workers?

22 MR. GRAAE: The construction plan is set up  
23 to separate, completely separate the in-going and  
24 outgoing construction from the incoming and outgoing  
25 student population.

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1 MR. SOCKWELL: And the proposed structural  
2 system for the additions will be steel?

3 MR. GRAAE: Yes, primarily a steel  
4 building. The portion over the Roache Center will be a  
5 steel structure. The infill between the convent and  
6 the school will be a combination of steel and masonry  
7 load bearing walls.

8 I would say that I think the current  
9 schedule calls for much of the nastiest construction,  
10 if you will, to happen during the summer period when,  
11 in fact, school is not in session. So we're hoping to  
12 get a lot of that out of the way.

13 MR. SOCKWELL: All right. The issue that I  
14 was going to bring forth with that was the staging of  
15 trucks in the alley means that there's a likelihood  
16 that you're going to have some tractor trailer traffic  
17 through that alley as opposed to just dumptrucks, and  
18 there's a significant difference in the maneuverability  
19 of such vehicles and the impact of such vehicles on  
20 maintaining the alley open to other traffic.

21 So hopefully those things can be staged so  
22 that they don't impede or use the alley.

23 MR. GRAAE: I think that that information,  
24 along with some of the other details that have been  
25 brought up here, that we may not have as definitive

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1 answers for right now I think we'll come back to the  
2 ANC and give them a very thorough walk-through or ride-  
3 through, if you will, on how the sequence of  
4 construction will be handled and how to assure public  
5 access to public streets and alleys.

6 MR. SOCKWELL: All right. Because, as  
7 well, those are going to impact Quesada Street because  
8 of the turning radii of such vehicles being quite  
9 significant and, as well, Chevy Chase.

10 So I just wanted to bring those up.

11 CHAIRPERSON CROSS REID: Okay. Thank you.

12 That concludes your presentation?

13 MR. GLASGOW: It concludes the direct  
14 presentation.

15 CHAIRPERSON CROSS REID: All right.

16 MR. GLASGOW: Thank you.

17 CHAIRPERSON CROSS REID: Was there more  
18 than one person that asked for party status?

19 Okay. Did you wish to cross examine any of  
20 these witnesses?

21 MR. WELLBORNE: No.

22 CHAIRPERSON CROSS REID: Just if it's no,  
23 then --

24 MR. WELLBORNE: No.

25 CHAIRPERSON CROSS REID: Okay. Thank you.

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1           ANC? Is the ANC represented here today?

2           All right. Any other government reports?

3           MS. RENSHAW: We can say that we have in  
4 our file, Madame Chair, a letter from the ANC-3G Vice  
5 Chair, Jeffrey Norman, dated March the 3rd, 2000. It  
6 was publicly announced. A quorum was present, The  
7 correct vote is actually six to zero to one. I want to  
8 point that out.

9           There was no opposition. The Commissioners  
10 decided unanimously to support with modifications that  
11 the starting time be 7:00 a.m. rather than 6:00 a.m.,  
12 and that the construction foreman will make and save  
13 photocopies of all truck driver permits for all  
14 delivery, trash, and hauling activity, which is a very  
15 significant request and a very important one.

16           And with those, the vote was taken, and it  
17 was, again, six to zero to one.

18           CHAIRPERSON CROSS REID: Ms. Renshaw, do  
19 you know whether or not there was any agreement germane  
20 to these particular requests coming to the ANC?

21           MS. RENSHAW: I believe, yes, there was  
22 agreement that those two would be met.

23           CHAIRPERSON CROSS REID: Were these  
24 proffered as conditions perhaps?

25           MS. RENSHAW: Yes, they are.

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1 CHAIRPERSON CROSS REID: And that would be  
2 the starting time?

3 MS. RENSRAW: Would be 7:00 a.m. rather  
4 than 6:00 a.m., and that the construction foreman is to  
5 make and save copies of all truck driver permits for  
6 delivery, trash, and hauling activity.

7 MR. GLASGOW: and I believe those are  
8 reflected in Exhibit K on page 2 under Paragraph D  
9 where it talks about work hours. This document was, I  
10 think, filed the day after the ANC hearing, the public  
11 meeting.

12 And then in Paragraph G --

13 CHAIRPERSON CROSS REID: Wait a minute.  
14 Under K.

15 MR. GLASGOW: Yes.

16 CHAIRPERSON CROSS REID: In the management  
17 plan, management policies.

18 MR. GLASGOW: That's correct.

19 CHAIRPERSON CROSS REID: Under hours, you  
20 say?

21 MR. GLASGOW: That's correct.

22 CHAIRPERSON CROSS REID: Where is that?  
23 Number D? Okay.

24 MR. GLASGOW: Okay. Paragraph D.

25 CHAIRPERSON CROSS REID: All right, now --

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1 MR. GLASGOW: "Work Hours. Construction  
2 shall be limited to the hours 7:00 a.m. to 5:00 p.m."

3 CHAIRPERSON CROSS REID: Okay.

4 MR. GLASGOW: So that was --

5 CHAIRPERSON CROSS REID: Does it refer to  
6 the photocopies?

7 MR. GLASGOW: Yes. That's in Paragraph G,  
8 the last sentence.

9 CHAIRPERSON CROSS REID: I see. Okay. Got  
10 you.

11 All right. Thank you. Thank you, Ms.  
12 Renshaw.

13 They will be afforded the great weight to  
14 which they're entitled.

15 Persons and parties in support? Now you're  
16 in support, right?

17 MR. WELLBORNE: Well, that may --

18 CHAIRPERSON CROSS REID: A qualified  
19 support?

20 MR. WELLBORNE: A qualified support.

21 CHAIRPERSON CROSS REID: Okay. Then we ask  
22 that you come up now.

23 And if you will allow him, rather than your  
24 trying to go back with so many people in here, just  
25 allow him to come up and give his testimony, and then

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1 we'll go to opposition. I don't think there's anyone  
2 here in opposition, and then closing remarks.

3 MR. WELLBORNE: Thank you, Madame Chairman.

4 I'm going to be very brief.

5 Just a couple of preliminary --

6 CHAIRPERSON CROSS REID: First give your  
7 name.

8 MR. WELLBORNE: Yes. I'm sorry.

9 CHAIRPERSON CROSS REID: And your address.

10 MR. WELLBORNE: My name is Clay Wellborne.

11 I live at 5829 Chevy Chase Parkway, N.W., across the  
12 alley from the Roache Center. In fact, you can see a  
13 picture of my house in one of those photographs, I  
14 believe, if I looked at it correctly.

15 I'm separated from the Roache building by a  
16 16 or 17 foot alley.

17 I've come to express concern primarily  
18 about the nighttime noise problem. As my letter  
19 mentioned, which you have in your file, back in 1963,  
20 when the Roache Center received the permit to proceed,  
21 the Board found that they did not anticipate any  
22 objectionable problems from that particular facility.

23 Over the years, there have been times when  
24 there have not been objectionable activities, but it's  
25 been our experience that things change from time to

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1 time, and in fact, from time to time there have been  
2 intensely objectionable nighttime noises from the  
3 Roache building.

4 It varies. It varies depending on who's in  
5 charge. Monsignor, I think, has been very good, I  
6 think, in making a strong effort to be a good neighbor  
7 with regard to the immediate circumstances by agreeing  
8 to acoustical treatment of the gym, the multi-purpose  
9 room in the Roache building, and I'm grateful to him  
10 for that, and to the people who have been working with  
11 him.

12 We have worked closely together. We've  
13 discussed various treatments that can improve the  
14 situation, and the things that they propose in their  
15 statement, I think, will be a serious step toward  
16 overcoming much of the problem, and I'm grateful to  
17 them for that.

18 I do have to express a bit of concern for  
19 some of my other neighbors. I live along that long  
20 wall that has all of those windows in it, and those are  
21 the ones that they're proposing putting gaskets on and  
22 putting some additional panels on to reduce the  
23 transmission of sound through those rather thin  
24 membranes.

25 I know there's an issue about cost

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1 involved. I do want to express for the record my  
2 concern for the neighbors across Chevy Chase Parkway,  
3 and I wonder if it would be appropriate to have the  
4 acoustical panels that can be closed over that side of  
5 the room as well. I raise that as an issue.

6 I think probably my own individual case  
7 will be ameliorated considerably by the panels and the  
8 other treatments along that long wall, but I did want  
9 to mention that on behalf of other neighbors.

10 The concern that I have is not so much with  
11 regard to the immediate management of Blessed  
12 Sacrament. They have recently behaved as some very  
13 good neighbors, and I'm grateful to them for that.

14 Monsignor did come to us. He did talk to  
15 us about the project. He has been responsive to  
16 concerns that my wife and I raised about the nighttime  
17 noise problem.

18 Over the long haul, I think it's important  
19 to think about changes, and for that reason, I think  
20 it's important that the Board establish as a condition  
21 the carrying out of the steps that, in fact, have been  
22 proposed by the Applicants. But I did want to  
23 register my concern about that.

24 I'd also like to comment with thanks to the  
25 comments raised by Mr. Sockwell about how you quantify

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1 effectiveness. I know a little bit about acoustics,  
2 but not very much, but I do feel some concern about,  
3 you know, how do we know that we're doing what needs to  
4 be done.

5 I don't have the technical expertise to  
6 respond to that, but I do thank you, Mr. Sockwell, for  
7 raising that issue.

8 With regards to some other questions that  
9 have been raised during the presentation today, I had  
10 not really addressed any concern about the construction  
11 noise and the problem of trucks coming up the  
12 particular alley, which is right next to my house.  
13 This was an issue that Monsignor and I had not  
14 discussed. So, again, I'm grateful for the questions  
15 that the Board has raised about those because they are  
16 important.

17 I'm stressing the nighttime noise problem  
18 because that's a long term problem. The construction  
19 noise is going to last for a while, but it will go away  
20 eventually. It will be serious while it's there, but  
21 it will go away.

22 So my stress today is with regard to  
23 dealing with that long term problem of nighttime noise  
24 from the Roache building.

25 CHAIRPERSON CROSS REID: When you had your

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1 discussions with the Applicant, I think I heard you say  
2 that you were satisfied with the discussions that  
3 resulted in some mitigation of the adverse impact to a  
4 certain extent.

5 MR. WELLBORNE: Well, that's correct. I  
6 mean, the things that they're proposing seem to me to  
7 be entirely reasonable.

8 CHAIRPERSON CROSS REID: Okay.

9 MR. WELLBORNE: Entirely reasonable.

10 CHAIRPERSON CROSS REID: All right.

11 MR. WELLBORNE: The proof of the pudding  
12 though, as you know, is in the tasting, and I don't  
13 have the technical knowledge to say that the specifics  
14 that they're proposing are, in fact, going to reduce  
15 the noise by 50 percent or even if 50 percent is the  
16 appropriate amount.

17 CHAIRPERSON CROSS REID: Well, they have  
18 agreed to provide this Board with, I guess, some  
19 analytical studies that would then reflect the extent  
20 of the mitigation compared to the existing problem and  
21 in comparison to the mitigation that they had proposed  
22 to see if, in fact, that would be adequate.

23 MR. WELLBORNE: Well, I'm confident that  
24 they have been and will continue to deal in serious  
25 good faith.

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1 CHAIRPERSON CROSS REID: Okay.

2 MR. WELLBORNE: I see every evidence of  
3 that. I can't raise any question about that at all,  
4 and I'm sure that as we continue to discuss the  
5 problem, we'll be able to work out something that  
6 certainly makes a significant improvement in the  
7 situation.

8 CHAIRPERSON CROSS REID: And you have it on  
9 record.

10 MR. WELLBORNE: And I have it on record.

11 CHAIRPERSON CROSS REID: Okay.

12 MR. WELLBORNE: But, as I said at the  
13 outset, Blessed Sacrament has not always been a good  
14 neighbor, but I think they're trying to be --

15 CHAIRPERSON CROSS REID: But they're trying  
16 now.

17 MR. WELLBORNE: I think they're trying to  
18 be a good neighbor right now, and I really -- I thank  
19 them for that.

20 CHAIRPERSON CROSS REID: We appreciate  
21 that, too.

22 All right. Thank you very much for your  
23 testimony.

24 There's no one here in opposition?

25 All right. Closing remarks.

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1 MR. GLASGOW: Just very briefly --

2 CHAIRPERSON CROSS REID: Excuse me. I  
3 didn't mean to -- determine if the Board members had  
4 any questions before you did your closing remarks.

5 Okay. Go ahead, Mr. Glasgow.

6 MR. GLASGOW: Just very briefly we believe  
7 that we have met our burden of proof. We appreciate  
8 the spirit in which Mr. Wellborne has participated with  
9 us in discussions to address his concerns about the  
10 nighttime noise.

11 We would like to get an approval as soon as  
12 possible so that we can take advantage of the time  
13 frames that we have for completing the construction and  
14 moving forward with the building addition.

15 And we have agreed that we would reduce the  
16 Board approved 1,015 students to 600 in connection with  
17 this application, and you've heard the other five  
18 conditions that we were agreeable to with Mr. Wellborne  
19 and have been put in the record.

20 With that I'd like to conclude my statement  
21 and request that the Board act on this case today if  
22 it's able to.

23 Thank you.

24 CHAIRPERSON CROSS REID: Board members?

25 MS. RENSHAW: Madame Chair, are you looking

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1 for a motion? Is that --

2 CHAIRPERSON CROSS REID: Yes.

3 MS. RENSHAW: It is?

4 CHAIRPERSON CROSS REID: If, in fact, we  
5 feel we want to act on this, are we prepared for a  
6 motion today?

7 MS. RENSHAW: Well, I can make a motion,  
8 but I have a motion with conditions.

9 CHAIRPERSON CROSS REID: Well, it's with  
10 exception. So --

11 MS. RENSHAW: Right, but I can outline the  
12 conditions for you and --

13 CHAIRPERSON CROSS REID: Well, let's first  
14 of all make a motion, and then we can add the  
15 conditions.

16 MR. PARSONS: I move we approve the  
17 application.

18 MR. MOULDEN: I second.

19 MS. RENSHAW: All right. I'd like to add  
20 to the approval of this application the following  
21 conditions:

22 That, number one, the Polysonics  
23 Corporation letter, dated March 10, 2000, be entered as  
24 part of the record and be a part of the conditions, and  
25 that the Board of Zoning Adjustment will receive the

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1 sound data that it has requested in advance of the  
2 order being written.

3 CHAIRPERSON CROSS REID: Excuse me. I  
4 don't know if --

5 MS. RENSHAW: Can we do that?

6 CHAIRPERSON CROSS REID: No. That is  
7 germane to a different -- to the parish. That's not  
8 germane to this particular application. That is  
9 something that they have agreed to do, you know, with  
10 the community.

11 MS. RENSHAW: That's right.

12 CHAIRPERSON CROSS REID: But --

13 MS. RENSHAW: But there are student  
14 activities in the Roache Center.

15 MS. SCANGO: Not as students.

16 MS. RENSHAW: But there are parish  
17 activities.

18 MS. SCANGO: The children function as  
19 parish activities in the evening.

20 MS. RENSHAW: But the school hours can  
21 extend into the evening.

22 MS. SCANGO: No, they're not school  
23 sponsored.

24 MS. PRUITT: Would you turn your mic on,  
25 please?

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1 CHAIRPERSON CROSS REID: What we need to do  
2 is establish the hours of operation, condition it to  
3 the hours of operation, the days of operation, things  
4 like that that you may be able to --

5 MS. PRUITT: And you mean hours of  
6 operation for school use, but then --

7 CHAIRPERSON CROSS REID: For the school.

8 MS. PRUITT: -- the church has as a matter  
9 of right whatever else is left over.

10 CHAIRPERSON CROSS REID: Yes.

11 MS. RENSRAW: But I just want to point out  
12 that while the church has a matter of right, the church  
13 doesn't have a matter of right for the extension of  
14 noise into the neighborhood, and I know that Monsignor  
15 Duffy and the officials of the school understand that.

16 And so we are just --

17 CHAIRPERSON CROSS REID: But we can't  
18 regulate the church, Ms. Renshaw. That is not within  
19 our purview. The church is a matter of right, and they  
20 would have to be regulated using other methods than the  
21 BZA.

22 MS. RENSRAW: But the Board has heard the  
23 complaint of a neighbor about the nighttime noise, and  
24 we have that as part of the testimony today, even  
25 though it's not part of, germane to this case.

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1 We are reflecting on this.

2 CHAIRPERSON CROSS REID: No, but still, the  
3 fact remains that what we have before us is this  
4 particular application, and whatever decisions we make  
5 have to be germane to this application.

6 MS. RENSCHAW: Understood.

7 CHAIRPERSON CROSS REID: And if the church,  
8 on the other hand, the parish -- there is some adverse  
9 impact with the matter of right use, that's beyond our  
10 purview, and there are other means and methodologies  
11 that they would have to utilize to address that.

12 They have, however, on record agreed that  
13 they would mitigate or use the Polysonics Corporation,  
14 that they would -- maybe some of the adverse impact in  
15 regards to the noise. However, that's not, again,  
16 something that we could put in an order. They have  
17 just publicly stated and gone on record with that, but  
18 we can't have a condition in the order with that.

19 MS. RENSCHAW: Well, we can just state that  
20 the noise be conditioned for the school hours, which  
21 are from 7:00 a.m. until 4:00 p.m. in the afternoon, or  
22 is it 5:00 p.m. in the afternoon?

23 CHAIRPERSON CROSS REID: Well, what noise  
24 are you referring to? From the school or the parents?

25 MS. RENSCHAW: The school noise and now

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1 construction noise, noise during construction.

2 CHAIRPERSON CROSS REID: All right. Now,  
3 the construction noise is something that is germane to  
4 this application, but that's a different condition,  
5 isn't it? The construction plan -- does the  
6 construction plan refer to the noise, Mr. Glasgow,  
7 noise mitigation?

8 MR. GLASGOW: No, it does not.

9 CHAIRPERSON CROSS REID: Well, I guess, on  
10 the other hand, too, I guess to what extent can you  
11 because there is some noise that is just given with  
12 construction.

13 MS. PRUITT: Madame Chair, as long as  
14 they're within what's allowed by DCRA --

15 CHAIRPERSON CROSS REID: Yeah.

16 MS. PRUITT: -- within those decibels, the  
17 Board really has no jurisdiction over that.

18 CHAIRPERSON CROSS REID: You can't really  
19 regulate that.

20 MR. PARSONS: Madame Chair, may I jump in  
21 here? It seems to me that what's in this Polysonics  
22 Corp. letter, which we could condition, which are  
23 architectural treatments, that that gets to the issue  
24 of noise whether it's two o'clock in the morning or  
25 three o'clock in the afternoon, and that's as far as we

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1 can go, and that's the appropriate thing to condition  
2 our approval on.

3 MS. RENSHAW: All right.

4 MR. PARSONS: But not hours of operation of  
5 a church.

6 CHAIRPERSON CROSS REID: No, we can't do  
7 that. It's just that we can condition hours of  
8 operation of the school, but not the church, and we  
9 have to be very clear that we don't overstep our  
10 boundaries, but at the same time we try to be as fair  
11 as we can.

12 Yes?

13 MR. PARSONS: And let's not lose fact of  
14 this offer to reduce the -- to put a muffler on the  
15 horn. It's one of the most obnoxious sounds in the  
16 world is the horn in a gymnasium.

17 MS. RENSHAW: And also the air conditioning  
18 unit on the top of the building because that is an  
19 annoyance and can be heard blocks away. So we're glad  
20 that that is going to be muffled.

21 A further condition that, of course, the  
22 ANC-3G letter be given great weight regarding the  
23 modification of the start time, 7:00 a.m., and the  
24 photo --

25 CHAIRPERSON CROSS REID: That's in the

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1 management plan.

2 MS. RENSHAW: Okay, and the photocopying of  
3 the license of truck drivers.

4 CHAIRPERSON CROSS REID: So do you want to  
5 include the condition that that include the management  
6 plan?

7 MS. RENSHAW: Yes. And then to make sure  
8 that there is no staging of any trucks in the alley,  
9 and that any renovation of the alley will be -- which  
10 is torn up during construction, is going to be at the  
11 Applicant's expense; that construction vehicles and  
12 other vehicles are not to impede the alley; that it has  
13 to be open for emergency vehicles and public access;  
14 that we recommend a series of fines to be considered as  
15 part of the construction agreement.

16 CHAIRPERSON CROSS REID: We can't do that.

17 MS. RENSHAW: Well, we can recommend that.  
18 We cannot impose.

19 CHAIRPERSON CROSS REID: Not as part of the  
20 order. We already did, but we can't put it in an  
21 order.

22 MS. RENSHAW: We can't strongly recommend?

23 CHAIRPERSON CROSS REID: In order for us to  
24 do that, then it would -- it would have to have a  
25 reinforcement aspect, which we don't have, and also we

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1 don't have the authority to fine.

2 MS. RENSHAW: Well, we look to the  
3 applicant to include it, with the hope that the  
4 Applicant will enforce.

5 CHAIRPERSON CROSS REID: Well, we can  
6 suggest something to them.

7 MS. RENSHAW: I'm suggesting it to them.

8 CHAIRPERSON CROSS REID: I'm just saying  
9 that it can't go in the order.

10 MS. RENSHAW: Right. That truck traffic be  
11 staggered, and that they monitor the staggering of  
12 truck traffic; that half of the traffic goes via  
13 Wisconsin Avenue from Western Avenue to minimize the  
14 use of Military Road as the shortcut to the dumps in  
15 Prince George's County; that a project manager be  
16 available by phone in the evenings, too; and that it is  
17 suggested that there be no Saturday, Sunday or holiday  
18 work in consideration of the residential nature, aspect  
19 of this site.

20 CHAIRPERSON CROSS REID: Is that the  
21 management plan?

22 MS. RENSHAW: That is not in the management  
23 plan about no Saturday, Sunday, and holiday work.

24 CHAIRPERSON CROSS REID: Okay. Is that --

25 MS. RENSHAW: That Blessed Sacrament find

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1 reasonable staging area for the staging of trucks and  
2 parking of construction workers' vehicles.

3 And then one final thing that I would  
4 strongly urge us to put into the condition, if we can,  
5 that blasting be removed from the construction policies  
6 because it is really extremely risky for a residential  
7 area, and especially risky for the church.

8 CHAIRPERSON CROSS REID: The blasting  
9 aspect of it, Ms. Pruitt, is that permissible?

10 MS. RENSHAW: It's in here. They may.

11 MS. PRUITT: I mean, I don't think the  
12 Board -- I mean in absence of a lot of information or  
13 the expertise, I don't think the Board really can make  
14 the judgment. That wasn't presented.

15 CHAIRPERSON CROSS REID: Oh, okay. Well,  
16 it's in the construction management plan that that  
17 would be from 8:30 to three o'clock, and I --

18 MS. RENSHAW: It says --

19 CHAIRPERSON CROSS REID: -- say that you  
20 want it to be eliminated?

21 MS. RENSHAW: Yes. It says on page 2 of  
22 the construction policies, number F, "Blasting. If  
23 required by soil conditions, blasting shall be limited  
24 to the hours of 8:30 a.m. to 3:00 p.m. All blasting  
25 shall follow the regulation of D.C. on blasting in a

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1 residential zone."

2 But I have looked into this in a previous  
3 case, and I would not recommend that blasting be  
4 considered in this residential area.

5 CHAIRPERSON CROSS REID: The city, District  
6 of Columbia, is the authority that has the -- that that  
7 would basically be responsible for the --

8 MS. PRUITT: Monitoring.

9 CHAIRPERSON CROSS REID: -- monitoring, I  
10 guess, or if there's a violation of blasting. We  
11 don't. We can't.

12 MR. SOCKWELL: Madame Chair, if I might  
13 interrupt, the Fire Department controls the blasting  
14 where it takes place. I have no idea whether there's a  
15 rock formation that would affect the foundations of  
16 this project.

17 CHAIRPERSON CROSS REID: Yeah, you can't --

18 MS. RENSHAW: Oh, it's not only the Fire  
19 Department, but the Police Department get in on this,  
20 too, and DCRA, and I would just again recommend that it  
21 is not appropriate for this residential area --

22 MR. SOCKWELL: There would --

23 MS. RENSHAW: -- and so, therefore, say it.

24 MR. SOCKWELL: Ms. Renshaw, there would  
25 probably be no real option to blasting that would not

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1 produce loud noises if there were such a soil anomaly,  
2 but I don't know that there is.

3 But I would like to change your condition  
4 regarding noise producing activities to state that no  
5 loud noise producing activities be allowed on Saturdays  
6 or Sundays as opposed to eliminating construction  
7 because at the time that the building is closed in, the  
8 contractors may wish to do work inside of the building  
9 that would be virtually unobtrusive to any neighbors,  
10 and that should be allowed.

11 MS. RENSHAW: This is the exterior that  
12 we're talking about. That's fine, but --

13 CHAIRPERSON CROSS REID: Okay. So dealing  
14 with the exterior.

15 MR. SOCKWELL: Yeah, so make it exterior.

16 MS. RENSHAW: But no Saturdays, Sundays,  
17 and holidays, please.

18 CHAIRPERSON CROSS REID: All right. Now,  
19 the previous order was the 13, and you're reducing that  
20 to 16 -- I mean to 600 students. So we're conditioning  
21 it on 600 students, and your hours of operation are?

22 MS. SCANGO: I guess the earliest would be  
23 seven o'clock. The earliest people who would be there  
24 would be staff. So seven to four is probably --

25 CHAIRPERSON CROSS REID: Seven to four,

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1 Monday through Friday.

2 MS. SCANGO: Yes.

3 CHAIRPERSON CROSS REID: All right, and  
4 what are the ages?

5 MS. SCANGO: Kindergarten through eighth  
6 grade.

7 CHAIRPERSON CROSS REID: What are the ages?

8 MS. SCANGO: Of children?

9 CHAIRPERSON CROSS REID: Well, I guess it  
10 varies.

11 MS. SCANGO: Five to 14 maybe.

12 CHAIRPERSON CROSS REID: That's fine.  
13 Grades: kindergarten to eighth.

14 And we've talked about including a  
15 construction management plan.

16 Parking is not a problem because you have  
17 more than adequate parking space.

18 There is any other condition?

19 All right. I'd just like to mention that I  
20 also think that the Applicant has met its burden of  
21 proof in regard to Section 206 in the zoning  
22 regulations, and that the adverse impact -- there has  
23 been an attempt on the part of the Applicant to  
24 mitigate the adverse impact as we know it and as has  
25 been presented to us, and that I don't think the

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1 granting of the application will impair the integrity  
2 or intent of the zoning regulations or map.

3 All in favor?

4 (Chorus of ayes.)

5 CHAIRPERSON CROSS REID: Opposed?

6 (No response.)

7 MS. PRUITT: Staff would record the vote as  
8 five to zero to approve, motion made by Mr. Parsons and  
9 seconded by Mr. Moulden.

10 CHAIRPERSON CROSS REID: And we also had  
11 asked for -- well, did we include that in the  
12 conditions regarding the staging area or a plan for --

13 MS. RENSHAW: I did in mine.

14 CHAIRPERSON CROSS REID: Okay. The  
15 conditions and the analyses of the noise management or  
16 the noise mitigation, that will be given to staff prior  
17 to the order being issued.

18 MS. RENSHAW: Could staff read back the  
19 conditions, Madame Chair?

20 CHAIRPERSON CROSS REID: She's going to.  
21 Yeah, she's going to read it back. She's going to  
22 record the vote and read it back.

23 MS. RENSHAW: Thanks.

24 CHAIRPERSON CROSS REID: Read all of the  
25 conditions back. All right.

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1 MS. PRUITT: The conditions that I have are  
2 hours of operation from 7:00 a.m. to 4:00 p.m.; a  
3 maximum of 600 students. All architectural abatement  
4 proposed by Polycystic Corporation shall be  
5 incorporated. The traffic management plan shall be  
6 incorporated in the order as a condition. No staging  
7 of trucks in the alley. Allies to remain open at all  
8 times for vehicles. There should --

9 CHAIRPERSON CROSS REID: Emergency  
10 vehicles.

11 MS. PRUITT: Emergency vehicles.

12 Monitoring of truck traffic. No outside  
13 construction Saturday, Sundays, and holidays, and no --  
14 yes. I'm sorry. That's what I've gotten.

15 MR. SOCKWELL: May I get a clarification of  
16 something, please? Staging of trucks in the alley  
17 versus obstructing the alley with trucks are two  
18 different things, and I want to be very clear that  
19 we're not forcing the trucks out into the street where  
20 they will cause a much greater impact.

21 I believe that that condition was intended  
22 to be no obstructing the alley with trucks.

23 MS. RENSHAW: Well, actually I did say no  
24 staging of trucks in the alley because I did not feel  
25 that that is going to be a suitable area for staging of

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1 trucks.

2 CHAIRPERSON CROSS REID: All right.

3 MR. SOCKWELL: The question is one of  
4 management of the alley operation, and I think that in  
5 this case to force the trucks out in the street will  
6 cause more havoc on traffic flows than will the proper  
7 staging of trucks using the alley as required.

8 And it's an important thing.

9 MS. RENSHAW: I think we have to keep in  
10 mind, again, where this alley is located, and I do not  
11 want to put the burden on the residents of having the  
12 noise generating from a very narrow area in an alley,  
13 and I think that it is better staged on the street.  
14 We're going to have to accommodate those trucks on the  
15 street, but they should not be staged or parked or any  
16 way causing that alley to be blocked off.

17 MR. WELLBORNE: May I make a statement?

18 CHAIRPERSON CROSS REID: Nope. I'm sorry.  
19 We cannot. That segment for testimony has now passed,  
20 and we are about to wrap this.

21 Any other comments?

22 MS. PRUITT: Madame Chair, I'm still  
23 unclear as to exactly which condition the Board is  
24 requesting.

25 CHAIRPERSON CROSS REID: Which?

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1 MS. PRUITT: Well, one was no staging of  
2 trucks in the alley. Then I got it amended to say no  
3 obstructing of trucks in the alley; is that correct? I  
4 want to be sure I have it correct.

5 CHAIRPERSON CROSS REID: Staging or  
6 obstruction?

7 MS. RENSHAW: It's not staging and no  
8 obstructing, both.

9 CHAIRPERSON CROSS REID: All right.

10 MS. PRUITT: Okay. I just wanted to be --

11 CHAIRPERSON CROSS REID: That covers it  
12 all.

13 MS. PRUITT: Thank you.

14 MS. RENSHAW: And also the project manager  
15 available by phone, do we have that? Because it's not  
16 clear that he's going to be available by phone in the  
17 evening.

18 CHAIRPERSON CROSS REID: By phone to?

19 MS. RENSHAW: To the residents because --

20 CHAIRPERSON CROSS REID: I don't know if we  
21 can do that. Perhaps --

22 MS. RENSHAW: In the construction  
23 agreement, in the construction agreement --

24 MS. PRUITT: A liaison person --

25 CHAIRPERSON CROSS REID: I'm sorry.

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1 MS. PRUITT: -- who could then get in touch  
2 with the project managers as necessary.

3 CHAIRPERSON CROSS REID: Yeah. We don't  
4 want to have the whole community calling the --

5 MS. RENSHAW: There has to be a way to  
6 reach the church officials and the construction manager  
7 should anything be amiss.

8 CHAIRPERSON CROSS REID: Okay. Was that in  
9 the management plan? Because if it i in the management  
10 --

11 MS. PRUITT: No, I was just suggesting that  
12 a liaison be established who would handle --

13 CHAIRPERSON CROSS REID: Yes.

14 MS. PRUITT: -- any community concerns,  
15 whether they go to the parish --

16 CHAIRPERSON CROSS REID: Okay.

17 MS. PRUITT: -- or to construction.

18 CHAIRPERSON CROSS REID: Yes, let's do  
19 that.

20 MS. PRUITT: As opposed to having --

21 CHAIRPERSON CROSS REID: Yeah. Then if  
22 they have any concerns, Ms. Renshaw, it could be  
23 funneled through that liaison.

24 MS. RENSHAW: That's right.

25 MS. PRUITT: It is in the plan, Madame

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1 Chair.

2 CHAIRPERSON CROSS REID: It is? Okay.

3 MS. RENSHAW: It does not say evenings.  
4 It's not specific.

5 MR. SOCKWELL: What would be --

6 MS. PRUITT: You could make it say -- I'm  
7 sorry.

8 MR. SOCKWELL: Let me ask. What would the  
9 concern be for the evening specifically, aside from --

10 MS. RENSHAW: Generator noise, for one  
11 thing.

12 CHAIRPERSON CROSS REID: It could be any  
13 number of things, but we don't know.

14 MR. SOCKWELL: I mean my question would be  
15 you said 24 hours, did you say, or what did you say?

16 MS. RENSHAW: It should be in the evenings.  
17 Someone needs to be available to the community in the  
18 evenings through a liaison.

19 CHAIRPERSON CROSS REID: Did it say?

20 MR. SOCKWELL: As opposed to at all times  
21 from --

22 CHAIRPERSON CROSS REID: Did it specify as  
23 to hours?

24 MR. SOCKWELL: -- the construction --

25 MS. RENSHAW: It's just construction.

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1 MR. SOCKWELL: No, I mean as opposed to all  
2 times when construction is underway?

3 In other words, when the site is shut down  
4 for the night, need there be anyone other than a guard  
5 present on the site for community liaison?

6 MS. RENSCHAW: A guard is fine, but what I'm  
7 saying is that after hours, there needs to be a way to  
8 reach the officials in case something happens, such as  
9 the generator malfunctions and you need --

10 CHAIRPERSON CROSS REID: Some emergency.

11 MS. RENSCHAW: Some emergency, and it  
12 happens.

13 CHAIRPERSON CROSS REID: Well, that can be  
14 handled through the liaison.

15 MS. RENSCHAW: Exactly.

16 CHAIRPERSON CROSS REID: If, in fact,  
17 that's necessary.

18 All right. Mr. Glasgow, you were going to  
19 say something?

20 MR. GLASGOW: Just we had agreed with Mr.  
21 Wellborne to have five conditions in the order, and I  
22 want to make sure just that --

23 CHAIRPERSON CROSS REID: All right. Make  
24 sure that --

25 MR. GLASGOW: -- that those five that I --

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1 CHAIRPERSON CROSS REID: Okay, and they  
2 are?

3 MR. GLASGOW: -- that I read earlier into  
4 the record, and I can coordinate that with Ms. Pruitt.

5 CHAIRPERSON CROSS REID: Okay.

6 MR. GLASGOW: Those are already read into  
7 the record.

8 CHAIRPERSON CROSS REID: All right.

9 MR. GLASGOW: And I want to make sure,  
10 pursuant to our agreement --

11 CHAIRPERSON CROSS REID: Right.

12 MR. GLASGOW: -- that those five are there.

13 CHAIRPERSON CROSS REID: Okay. All right.

14 Thank you.

15 Can we now? All right. Then your summary  
16 order should be forthcoming in a couple of weeks. All  
17 right?

18 Thank you very much. That will then  
19 conclude this morning's hearing.

20 All right. Now, yeah, for the afternoon,  
21 those of you who are here for the Jewish Day School,  
22 obviously we just finished this morning. So it's a  
23 good thing that you did get a chance to leave and some  
24 back. At least you got some relief.

25 And I just wanted to make sure that we

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1 indicated for those who have come for the Field School,  
2 that that has been postponed. So the only thing we'll  
3 have this afternoon is the Jewish Day School and --  
4 Primary Day School, and we will reconvene at two  
5 o'clock.

6 MS. PRUITT: Madame Chair, just if there is  
7 somebody here for the Field School, that's been  
8 continued to March 29th.

9 CHAIRPERSON CROSS REID: All right. Is  
10 there anyone here for the Field School? That has been  
11 continued.

12 MS. PRUITT: To March 29th at 9:30.

13 CHAIRPERSON CROSS REID: All right. Thank  
14 you very much. Two o'clock.

15 (Whereupon, at 1:44 p.m., the hearing was  
16 recessed for lunch, to reconvene at 2:00 p.m.)

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(2:14 p.m.)

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

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

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

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

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

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

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

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1 Advisory Neighborhood Commission, ANC; parties or  
2 persons in support; parties or persons in opposition;  
3 closing remarks by the Applicant.

4 Cross examination of witnesses is permitted  
5 by the Applicant or parties. The ANC within which the  
6 property is located is automatically a party in the  
7 case.

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

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

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

19 The Board will make every effort to  
20 conclude the hearing by six o'clock p.m. If the  
21 Applicant's case is not completed by six o'clock p.m.,  
22 the Board will set when they can complete the pending  
23 case or cases remaining on the agenda.

24 At this time, the Board will now consider  
25 any preliminary matters. Preliminary matters are those

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1 which relate to whether a case will or should be heard  
2 today, such as requests for postponement, continuance  
3 or withdrawal, or whether proper and adequate notice of  
4 the hearing ha been given.

5 If you're not prepared to go forward with a  
6 case today, or if you believe that the Board should not  
7 proceed, now is the time to raise such a matter. That  
8 includes the issues of party status.

9 Staff, do you have any preliminary matters  
10 before we proceed?

11 MS. PRUITT: No preliminary matters except  
12 for the party status that has been requested that's in  
13 your folder, unless you would like to deal with the  
14 timing.

15 CHAIRPERSON CROSS REID: I would.

16 MS. PRUITT: Okay. The Board has, under  
17 its new regulations, has imposed time limits, and just  
18 to give you a quick overview -- and of course, the  
19 Board has the right to waive or change the time limits  
20 as it deems necessary -- the Applicant should get 60  
21 minutes. Parties, all parties in opposition get a  
22 total of 60 minutes. It is for the parties to  
23 determine how they will divvy up that 60 minutes.  
24 Groups will get three -- excuse me -- ten minutes,  
25 individuals three minutes.

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1           We will be timing. If you look in both  
2 corners, there will be a clock, and it will tick down,  
3 and there will be a little buzzer to help remind you.

4           CHAIRPERSON CROSS REID: In regard to cross  
5 examination, we ask that you limit your questions to  
6 the issues that are germane to the testimony that was  
7 presented here today, and that you not ramble and use a  
8 series of questions to get to your point.

9           This is not a regular courtroom where -- a  
10 court proceeding where you see -- you don't have to act  
11 as if it's "Perry Mason" and you have to ask all of  
12 these lead questions to get to your main question.  
13 What you want to do is just cut straight to the chase  
14 and ask whatever you want to ask specifically.

15           You cannot testify during your cross  
16 examination, meaning that you don't give us any  
17 information. Save that for the time that you will be  
18 given, and that is either in opposition or in support.

19           You will have an opportunity to speak, but the cross  
20 examination questions are only to be specifically for  
21 that particular segment when you are addressing  
22 questions to the witness predicated upon their  
23 testimony.

24           Okay? All right. Now, preliminary  
25 matters.

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1 MR. HARRISTON: We need to know parties  
2 first.

3 CHAIRPERSON CROSS REID: All right. You  
4 were to tell me, remember?

5 MR. HARRISTON: No.

6 CHAIRPERSON CROSS REID: You all were to go  
7 and discuss among yourselves.

8 MR. HARRISTON: Let me repeat then.

9 CHAIRPERSON CROSS REID: Okay.

10 MR. HARRISTON: Madame Chairman, I'm Joe  
11 Harriston, Chairman of the ANC-4A.

12 Per your instructions, we discussed the  
13 matter. It is our position that all of the persons  
14 requesting parties are unique. This matter is  
15 presented to us in the most horrible fashion. We have  
16 two synagogues on either side of the street which are  
17 separate parties in and of themselves, and we have a  
18 school. There are really three parties.

19 So the position of the parties in  
20 opposition will vary according to which party is being  
21 presented. At this point, we are very confused as to  
22 who the parties are on the application. The  
23 application was signed by a representative of Wilkes,  
24 Artis initially, and now we have another attorney in  
25 the area. I'm not sure how that got in there.

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1 We don't know who the parties are in the  
2 application.

3 CHAIRPERSON CROSS REID: You mean you don't  
4 know who the applicant is.

5 MR. HARRISTON: That's right.

6 CHAIRPERSON CROSS REID: All right. So you  
7 want that to be clarified.

8 MR. HARRISTON: Well, I want that to be  
9 clarified, but we're requesting party status for all  
10 that have requested it because there are really three  
11 parties here, and you can't really -- you can't --

12 CHAIRPERSON CROSS REID: Well, what three  
13 parties are you referring to, sir? Do you mean three  
14 Applicants?

15 MR. HARRISTON: The parties on the  
16 Applicant's side are each of the synagogues and the  
17 school. Now, the parties in opposition have a right to  
18 oppose each of those severally and collectively.

19 CHAIRPERSON CROSS REID: Okay. Wait one  
20 second. Let me get a clarification of this. Okay?

21 Could you please respond?

22 MS. DOBBINS: Madame Chair, Madeliene  
23 Dobbins responding.

24 Your application process requires that the  
25 owners of property sign the application. Those

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1 applications have been signed on behalf of the Jewish  
2 Primary Day School.

3 The Jewish Primary Day School has stepped  
4 in the shoes of both synagogues today, and the Jewish  
5 Primary Day School is the only applicant for purposes  
6 of this application.

7 CHAIRPERSON CROSS REID: And the Applicant  
8 -- the relief that's requested is for?

9 MS. DOBBINS: A private school.

10 CHAIRPERSON CROSS REID: And that consists  
11 of two synagogues?

12 MS. DOBBINS: The location would be two  
13 synagogues that are across the street from each other  
14 on 16th Street.

15 CHAIRPERSON CROSS REID: But it's one  
16 application?

17 MS. DOBBINS: One school.

18 CHAIRPERSON CROSS REID: All right.

19 MS. DOBBINS: A portion of the school would  
20 be housed at one synagogue, K through three, and the  
21 other portion of the school, four to six, would be  
22 housed at another synagogue, but it's only one school,  
23 the Jewish Primary Day School.

24 CHAIRPERSON CROSS REID: Two sites.

25 MS. DOBBINS: In two sites.

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1 CHAIRPERSON CROSS REID: And the sites are  
2 across the street from each other?

3 MS. DOBBINS: That's correct.

4 CHAIRPERSON CROSS REID: All right. Now,  
5 that being the case --

6 MR. HARRISTON: But let me --

7 CHAIRPERSON CROSS REID: -- it's in the  
8 same community.

9 MR. HARRISTON: No, let me clarify  
10 something else.

11 CHAIRPERSON CROSS REID: All right.

12 MR. HARRISTON: The site of one of those  
13 schools is in R-1-A and the other one is R-1-B.

14 CHAIRPERSON CROSS REID: No, that's not  
15 uncommon.

16 MR. HARRISTON: But it is for us.

17 CHAIRPERSON CROSS REID: It's not uncommon.

18 MR. HARRISTON: It is for the parties in  
19 opposition.

20 CHAIRPERSON CROSS REID: Okay, but that  
21 doesn't -- but what you want to -- what you are here  
22 for is to oppose the application. All right? It  
23 matters not how many sites the application consists of,  
24 but you want -- you're opposing the application, and  
25 that is what this particular hearing is going to be

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1       germane to today.

2                   MR. HARRISTON:   We take exception to your  
3       point.   Now, you tell us who you've declared has party  
4       status.

5                   CHAIRPERSON CROSS REID:   Now --

6                   MR. HARRISTON:   Then we will apply next.

7                   CHAIRPERSON CROSS REID:   Now, again, we are  
8       getting a little confused with the terminology.   We  
9       have an   Applicant.

10                   MR. HARRISTON:   Right.

11                   CHAIRPERSON CROSS REID:   And then we have  
12       those that oppose.

13                   MR. HARRISTON:   Right.

14                   CHAIRPERSON CROSS REID:   Now, the people  
15       who are here to oppose will have the opportunity to  
16       testify in opposition.   Those people who receive party  
17       status is a special category of persons who are  
18       uniquely affected by the property, unlike the other  
19       people in the community or the neighborhood, and these  
20       people also have the right to cross examine.

21                   MR. HARRISTON:   Yes, we understand that.

22                   CHAIRPERSON CROSS REID:   Now, we just  
23       cannot have 30 people cross examining.

24                   MR. HARRISTON:   I don't believe --

25                   CHAIRPERSON CROSS REID:   So I ask --

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1 MR. HARRISTON: I don't believe we have 30  
2 people that have asked for party status.

3 CHAIRPERSON CROSS REID: Well, quite a few,  
4 and I ask that since -- and in looking at the  
5 submission, there were several formal letters from the  
6 various people who basically had the same concerns, and  
7 I asked that they be condensed and have one  
8 spokesperson speak for that group.

9 MR. HARRISTON: We heard you, and now I'm  
10 putting the ball back in your court. Who, based on the  
11 Board's determination, who have you granted party  
12 status?

13 CHAIRPERSON CROSS REID: We haven't done it  
14 yet, and you didn't --

15 MR. HARRISTON: But we're asking you to do  
16 that.

17 CHAIRPERSON CROSS REID: Okay.

18 MR. HARRISTON: And then I'll have a next  
19 point.

20 CHAIRPERSON CROSS REID: All right. You  
21 did not -- you did not caucus?

22 MR. HARRISTON: We did.

23 CHAIRPERSON CROSS REID: And you did not  
24 come up with a spokesperson?

25 MR. HARRISTON: I want a ruling first.

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1 CHAIRPERSON CROSS REID: No.

2 MR. HARRISTON: What's your ruling?

3 CHAIRPERSON CROSS REID: I cannot --

4 MR. HARRISTON: Madame Chair --

5 CHAIRPERSON CROSS REID: -- do that until I  
6 know what, in fact, you did.

7 MR. HARRISTON: -- here's my point. Here's  
8 my point. As you well know, the ANC cannot appeal.  
9 Only the party, only the persons granted party status  
10 can appeal. It's important to the parties, and they  
11 all in our discussion indicate from their perspective  
12 they have a unique point.

13 Now, your judgment and their judgment  
14 differ.

15 CHAIRPERSON CROSS REID: Right.

16 MR. HARRISTON: So to preserve the record,  
17 we are requesting that those on the opposition side  
18 requesting party status be granted party status.

19 CHAIRPERSON CROSS REID: All right, and --

20 MR. HARRISTON: And when we get a ruling on  
21 that, then I'll have something else.

22 CHAIRPERSON CROSS REID: But I've already  
23 given you a ruling on that earlier today. I said that  
24 we're not going to grant all those people party status.

25 MR. HARRISTON: Who will you grant party

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1 status to?

2 CHAIRPERSON CROSS REID: Well, we come to  
3 that juncture now, and now that you have not designated  
4 those persons who you have decided among yourselves you  
5 wanted to be granted party status to speak on behalf of  
6 the group --

7 MR. HARRISTON: Let me just --

8 CHAIRPERSON CROSS REID: -- if you don't  
9 have anyone like that --

10 MR. HARRISTON: Let me consult with my co-  
11 counsel here for a minute.

12 (Pause in proceedings.)

13 MR. HARRISTON: We are prepared to state  
14 that who we will want to be party spokesmen, three  
15 individuals now.

16 CHAIRPERSON CROSS REID: All right.

17 MR. HARRISTON: We're not going away from  
18 our matter for the record, namely, that we request  
19 party status for all who have filed for party status on  
20 the basis their positions are unique.

21 Now, for the spokesmen, we are suggesting  
22 Mr. Humphries, who the ANC has already included in  
23 their filing.

24 CHAIRPERSON CROSS REID: Who is Mr.  
25 Humphries?

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1 MR. HARRISTON: Right here.

2 CHAIRPERSON CROSS REID: Okay.

3 MR. HUMPHRIES: Derrick Humphries.

4 CHAIRPERSON CROSS REID: And, Mr.  
5 Humphries, you have applied for the party status  
6 through an application?

7 MR. HARRISTON: As an individual.

8 MR. HUMPHRIES: As an individual.

9 CHAIRPERSON CROSS REID: And you have  
10 submitted a letter?

11 MR. HUMPHRIES: Yes, I have. It was  
12 submitted, and I live at 1428 Juniper Street, N.W.

13 CHAIRPERSON CROSS REID: All right.

14 MR. HARRISTON: Now, he's also included --

15 CHAIRPERSON CROSS REID: Wait.

16 MR. HARRISTON: -- in the ANC application.

17 CHAIRPERSON CROSS REID: Wait, wait, wait.

18 MR. PARSONS: The ANC response.

19 CHAIRPERSON CROSS REID: Wait a second,  
20 please.

21 Sir, give me your name again.

22 MR. HUMPHRIES: Humphries, H-u-m-p-h --

23 CHAIRPERSON CROSS REID: What's your first  
24 name?

25 MR. HUMPHRIES: -- r-i-e-s. Derrick.

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1 CHAIRPERSON CROSS REID: Derrick Humphries.

2 MR. HUMPHRIES: D-e-r-r-i-c-k.

3 CHAIRPERSON CROSS REID: Okay. Do we have  
4 a letter from Derrick Humphries?

5 MS. PRUITT: Yes, we do, Madame Chairman.

6 CHAIRPERSON CROSS REID: All right, okay.

7 PARTICIPANT: Number 75.

8 CHAIRPERSON CROSS REID: All right, and  
9 then --

10 MR. HARRISTON: The next is Philip Hampton.

11 Is it Philip? Right here.

12 MR. HAMPTON: Phil Hampton.

13 CHAIRPERSON CROSS REID: Okay.

14 MR. HARRISTON: Phil Hampton.

15 CHAIRPERSON CROSS REID: Hampton and Audrey  
16 Little?

17 MR. HAMPTON: Yes.

18 CHAIRPERSON CROSS REID: All right.

19 MR. HARRISTON: And the last person is  
20 Harold Bardonille.

21 CHAIRPERSON CROSS REID: Okay. Now, three  
22 persons that you have decided upon, have you all agreed  
23 among yourselves are -- are they representing  
24 themselves as individuals or are they speaking on  
25 behalf of a group?

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1 MR. HARRISTON: They are --

2 CHAIRPERSON CROSS REID: Any one of them.

3 MR. HARRISTON: They are speaking on behalf  
4 of a group.

5 CHAIRPERSON CROSS REID: The group being?

6 MR. HARRISTON: The various people that you  
7 have not accepted as party status, which we think you  
8 should.

9 CHAIRPERSON CROSS REID: I think we're  
10 pretty clear on that.

11 MR. HARRISTON: Well, I want to make sure  
12 the record says it.

13 CHAIRPERSON CROSS REID: I'm sure it'll say  
14 it about five or six times now.

15 Okay, all right. So all three of you are  
16 going to speak on behalf of the group, right?

17 MR. HARRISTON: Well, they're -- Mr.  
18 Humphries and I will be speaking on behalf of the ANC.

19 CHAIRPERSON CROSS REID: Sure. The ANC as  
20 you know is automatically. I mean the ANC --

21 MR. HARRISTON: Right, but I want to make  
22 sure you understand that he really has a dual status.

23 CHAIRPERSON CROSS REID: That's all right.  
24 If he's going to be -- if you're going to be cross  
25 examining on the part of the -- on behalf of the ANC,

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1 then --

2 MR. HARRISTON: He will, too. We will  
3 share that role. If you'll notice in the ANC filing, I  
4 listed Harriston, Sloan, Jones, Brown, and Humphries.

5 CHAIRPERSON CROSS REID: As what?

6 MR. HARRISTON: In that paragraph where you  
7 say, "Who will be speaking on behalf of the ANC?"  
8 That's --

9 CHAIRPERSON CROSS REID: Oh, you mean  
10 testifying.

11 MR. HARRISTON: Yes.

12 CHAIRPERSON CROSS REID: During your  
13 segment. Okay. Well, the ANC has --

14 MR. HARRISTON: We will be presenting the  
15 ANC's case.

16 CHAIRPERSON CROSS REID: Okay. How long  
17 does the ANC have?

18 MS. PRUITT: All government agencies, and  
19 the ANC is considered like a government agency, has no  
20 time limit. No time limit.

21 CHAIRPERSON CROSS REID: Okay.

22 MR. HARRISTON: We understand that.

23 CHAIRPERSON CROSS REID: Okay. So --

24 MS. PRUITT: Just reasonableness.

25 MR. HARRISTON: We're reasonable.

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1 CHAIRPERSON CROSS REID: All right. So you  
2 don't have a time limit. So --

3 MR. HARRISTON: We're infinitely  
4 reasonable.

5 CHAIRPERSON CROSS REID: Okay, okay.  
6 That's fine. All right.

7 So now is there anyone else who --

8 MS. DOBBINS: Madame Chairperson, I have a  
9 question.

10 CHAIRPERSON CROSS REID: All right.

11 MS. DOBBINS: About the discussion. It's  
12 Madeliene Dobbins.

13 It's my understanding that parties so far  
14 will be the Applicant, a group that's an opposition  
15 group, one party with three representatives or three  
16 spokespersons.

17 CHAIRPERSON CROSS REID: Well, it's not  
18 quite that simple.

19 MR. HARRISTON: No, it is not.

20 CHAIRPERSON CROSS REID: It appears it is  
21 three people who have elected to speak on behalf of the  
22 other persons who are not going to be granted party  
23 status, and how that's going to be divvied up, I'm not  
24 really sure. We'll see.

25 MS. DOBBINS: But are they considered a

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1 party?

2 CHAIRPERSON CROSS REID: The opposition --  
3 no. Oh, I see, individual party status.

4 MS. DOBBINS: Yes.

5 CHAIRPERSON CROSS REID: No. No, no, no.  
6 Excuse me. You're asking for party status for each  
7 person. Yes.

8 MR. HARRISTON: Right.

9 CHAIRPERSON CROSS REID: I correct myself.

10 MR. HARRISTON: That's right.

11 CHAIRPERSON CROSS REID: They have asked  
12 for individual party status, and each of them are going  
13 to be representing, I guess, a segment of the group.

14 MR. HARRISTON: Right.

15 CHAIRPERSON CROSS REID: I suppose.

16 MR. HARRISTON: Yes.

17 CHAIRPERSON CROSS REID: Okay?

18 MS. DOBBINS: So we have three parties in  
19 opposition so far.

20 CHAIRPERSON CROSS REID: Three parties in  
21 opposition so far. The ANC is also a party.

22 MS. DOBBINS: Well, four.

23 CHAIRPERSON CROSS REID: Who's the fourth  
24 one?

25 MS. DOBBINS: The ANC.

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1 MR. HARRISTON: The ANC.

2 CHAIRPERSON CROSS REID: Well, the ANC.

3 All right.

4 Now, what I'm trying to find out, does that  
5 answer your question?

6 MS. DOBBINS: I think. I may have to --

7 CHAIRPERSON CROSS REID: Come back?

8 MS. DOBBINS: Yes.

9 CHAIRPERSON CROSS REID: Okay. Once you  
10 digest it.

11 MS. DOBBINS: After we finish with this.

12 CHAIRPERSON CROSS REID: Okay. Now, the  
13 other thing is is there anyone else who does not fall  
14 in that special letter of party status request that was  
15 submitted to us in the form letter, who is not being  
16 represented by these three parties that requested  
17 status, like the young lady who came up earlier and had  
18 -- she had a special -- what was her name?

19 PARTICIPANT: Jan.

20 CHAIRPERSON CROSS REID: Jan Grey?

21 PARTICIPANTS: John Grey.

22 CHAIRPERSON CROSS REID: No, it was --

23 MR. HUMPHRIES: John Grey (phonetic).

24 MS. PRUITT: Jan Grey.

25 CHAIRPERSON CROSS REID: Jan.

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1 MR. HUMPHRIES: It's spelled J-a-n and it  
2 is pronounced "John."

3 CHAIRPERSON CROSS REID: Oh, all right.  
4 Jan Grey, is she still here?

5 MS. GREY: Yes.

6 CHAIRPERSON CROSS REID: All right. Now,  
7 are you being represented now by one of these  
8 gentlemen?

9 All right. Come forward. Are you still  
10 requesting party status?

11 MS. GREY: Well --

12 CHAIRPERSON CROSS REID: Speak into the  
13 mic. Speak into the mic.

14 MS. GREY: I'm sorry. I'm sorry, Madame  
15 Chairman. I'm not well versed on the BZA matters.

16 CHAIRPERSON CROSS REID: That's okay.

17 MS. GREY: If I am granted party status,  
18 does that affect the 60 minute requirement? I mean I  
19 thought you said that the three spokespersons would  
20 have to speak within the 60 minutes. So I would be  
21 taking time away from those three members, correct?

22 CHAIRPERSON CROSS REID: Then they would  
23 have to take, you know, 15 minutes a piece, wouldn't  
24 they?

25 MS. GREY: I guess my concern is -- and I

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1 think this is the concern of the residents -- is that  
2 we want the ability to be able to take further action  
3 in the event that there's an adverse decision.

4 CHAIRPERSON CROSS REID: Okay, but my  
5 question then is --

6 MS. GREY: And we want our names to be able  
7 to be listed on a filing saying, "I'm" --

8 CHAIRPERSON CROSS REID: Your names are  
9 going to be listed as a party in this proceeding as  
10 persons in opposition, anyone who has submitted a  
11 letter or come to testify here today. It will become a  
12 matter of record of this particular application, but  
13 excuse me.

14 My question to you is: do you feel that  
15 your concerns can be adequately represented by one of  
16 the three persons who have applied for party status so  
17 far? I'm sure you all talked.

18 MS. GREY: No, I do not.

19 CHAIRPERSON CROSS REID: So then you want  
20 to have --

21 MS. GREY: But I feel that there's other  
22 members here also that unfortunately that same thing  
23 applies to. I know of one or two in particular.

24 MR. HAMPTON: Excuse me, Madame Chair. You  
25 want to cut to the chase, right?

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1 CHAIRPERSON CROSS REID: Un-huh.

2 MR. HAMPTON: You want to cut to the chase.  
3 What we have proposed as neighbors is that every  
4 neighbor who has submitted a letter and requested party  
5 status be granted party status, and that Mr. Humphries,  
6 myself, and Mr. Bardonille would be the only three  
7 people allowed to cross examine, but that within our  
8 hour, we would be able to call like Ms. Grey, and she  
9 could speak for three minutes, and then they could  
10 cross examine her, et cetera, so that there would be  
11 some management to this whole procedure.

12 I mean your concern is that if you had 11  
13 or 15 people with party status, that 15 people would  
14 get up and cross examine.

15 CHAIRPERSON CROSS REID: Un-huh.

16 MR. HAMPTON: But we have decided that  
17 because -- to try to help you out, that there would  
18 only be three what we call spokes people or managers.

19 CHAIRPERSON CROSS REID: Yeah.

20 MR. HAMPTON: But that everyone still has  
21 party status on the record. So let's say that at the  
22 end of the day I don't want to appeal, but Ms. Grey  
23 does. Ms. Grey should have the ability to appeal  
24 whatever decision to the Court of Appeals of the  
25 District of Columbia.

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1           So, again, we're requesting that everyone  
2 be granted party status, but that the people who have  
3 been granted party status in opposition agree to three  
4 spokes people that will be the ones to do all of the  
5 cross examining.

6           CHAIRPERSON CROSS REID:     Well, let me  
7 understand this.   The only reason -- are you saying  
8 that primarily the reason why you're asking for party  
9 status is so that you can have the right to appeal?

10          MR. HAMPTON:   Yes.

11          MS. GREY:    Individually.

12          CHAIRPERSON CROSS REID:   Well, yeah.   Cross  
13 examination is a given, but it seems to me that the  
14 overriding concern is the ability to appeal.

15          Well, even if you appeal, you're not going  
16 to have 30 people appealing.

17          MR. HAMPTON:   But let's say you only have -  
18 - that Mr. Humphries and I are the only named parties,  
19 people with party status.

20          CHAIRPERSON CROSS REID:   Okay, but --

21          MR. HAMPTON:   And we decide not to appeal,  
22 but there are other neighbors, such as Ms. Grey, who  
23 wanted to appeal for whatever reason.   Because she had  
24 party status she could appeal, but Derrick and I might  
25 not want to appeal.   So she does not --

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1 CHAIRPERSON CROSS REID: All right.

2 MR. HAMPTON: -- want her right precluded.

3 CHAIRPERSON CROSS REID: Okay.

4 MS. DOBBINS: And, Madame Chair, we would  
5 object to that because that means the Board would need  
6 to, in fact, go through each request and determine  
7 whether that request is unique and meets the criteria  
8 for party status.

9 CHAIRPERSON CROSS REID: Yes.

10 MR. HAMPTON: Which you should have done  
11 that.

12 CHAIRPERSON CROSS REID: Ms. Pruitt, were  
13 you saying something?

14 MS. PRUITT: I did, for the record, pass  
15 out what was mailed to everybody, which is the new  
16 Section 3106.3, which delineates, and I believe  
17 everybody should have gotten this if you received a  
18 mail notice.

19 MS. GREY: Madame, I received a mail  
20 notice. In fact, that's how I found out about the  
21 whole application, is from your guy's mail notice.

22 CHAIRPERSON CROSS REID: All right.

23 MS. GREY: And I did not receive that. The  
24 reason I received that is because I came down on March  
25 1st and personally filed my application, my letter of

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1 opposition. At the time I got that from Linda, I  
2 remember her -- I can't remember her last name.

3 MS. PRUITT: Ms. Keltzer.

4 MS. GREY: Ms. Keltzer, and I filed my  
5 letter of opposition at approximately 4:51, stayed here  
6 until five o'clock, which, you know, I don't mean to  
7 dismay you, but I stayed until the office closed, the  
8 BZA office closed on March 1st. So it's pretty  
9 surprising to me to see a further letter filed on 6:45  
10 that day on March 1st, but I did not get that in my  
11 mailing. I only received that because I actually  
12 walked my letter in.

13 MS. PRUITT: Well, we do apologize, but it  
14 is the office's policy, and with a mailing this large  
15 we may have missed somebody, but it is the office's  
16 policy, and this has been regulation since October of  
17 last year. So I just wanted to, you know --

18 MS. GREY: Ma'am, I'm sorry. It may be the  
19 office's policy, and it may have been regulation, but I  
20 would like to speak on behalf of my neighbors. When I  
21 found out, I called everybody, and I said, "Are you  
22 aware that there's this little thing?"

23 And they said, "No, no, no." None of my  
24 neighbors were aware of that little form.

25 But then when I looked in the form letter,

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1 and I know quite a few of them were actually adjusted,  
2 like for example, I know Rose's letter, she changed one  
3 paragraph. Now, maybe the whole section of it is  
4 different, but people did make little adjustments in  
5 what you're counting as the form letter.

6 CHAIRPERSON CROSS REID: Yeah.

7 MS. GREY: So I sort of said, well, a lot  
8 of these are -- they did actually meeting which is  
9 really the last criteria, which I think is the only  
10 one, which is the one where I put that big addendum on  
11 and everything like that, but I just did want to make  
12 that clear.

13 CHAIRPERSON CROSS REID: Okay. Well, at  
14 this juncture, to determine -- what I'm hearing is that  
15 you want to be granted party status so that you can  
16 appeal, but you don't want -- you're not asking to  
17 cross examine.

18 MS. GREY: Exactly, ma'am.

19 CHAIRPERSON CROSS REID: Or to object.

20 MS. GREY: Exactly, ma'am.

21 CHAIRPERSON CROSS REID: Or -- and whatever  
22 questions that you have, that you all have decided that  
23 you're going to proffer to us through these three  
24 people; is that my understanding?

25 MS. GREY: Yes, ma'am. Yes, that's exactly

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1 it.

2 MR. MATHEWS: Okay.

3 MS. DOBBINS: Madame Chairperson, we still  
4 object to that. If persons are to be granted party  
5 status, they need to have met the criteria, not just to  
6 make a --

7 CHAIRPERSON CROSS REID: The -- the --  
8 everyone who's --

9 MS. DOBBINS: Whether they reserve their  
10 rights or waive their rights to cross examine or  
11 whatever --

12 CHAIRPERSON CROSS REID: I'm not saying  
13 that. What I'm saying is that the persons that we're  
14 referring to have submitted to the record the  
15 documentation.

16 MS. DOBBINS: Or requests.

17 CHAIRPERSON CROSS REID: Or requests. In a  
18 timely fashion?

19 Okay. Now, what's the down side to that,  
20 to them being granted the party status if they're not  
21 going to take the time to cross examine?

22 MS. PRUITT: Well, I guess my other --  
23 well, the major issue is that in requesting party  
24 status or it being granted, the caveat is that the  
25 Applicant has to clearly demonstrate that his interest

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1 will be more significantly or distinctly or uniquely  
2 affected by the proposed actions than the general  
3 public.

4 CHAIRPERSON CROSS REID: I understand that,  
5 but I'm not referring to just those general people.  
6 This --

7 MS. PRUITT: All of the people in the  
8 surrounding community --

9 CHAIRPERSON CROSS REID: Wait, wait, wait.  
10 Ms. Grey said she and some other people who are in a  
11 unique situation who would like to be able to appeal.  
12 I am not referring to everybody, but she and a few  
13 others, she said, a few neighbors who they have  
14 discussed this with, and they feel that they have been  
15 uniquely -- who have submitted letters --

16 MS. PRUITT: Yes.

17 CHAIRPERSON CROSS REID: -- that were not  
18 within just your general form letter, but that specify  
19 some particular uniqueness for those persons to receive  
20 party status so that they can appeal, but they will not  
21 cross examine.

22 MR. HAMPTON: Excuse me, Madame Chair.

23 MS. PRUITT: I'm sorry, but I'm not sure I  
24 understand your question.

25 MR. HAMPTON: But I think that many of the

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1 neighbors were -- and, again, maybe it's the way the  
2 form is written -- were under the misconception that if  
3 you lived 50 feet or 75 feet from a proposed -- a  
4 tremendously different proposed use of a site, that  
5 that in and of itself showed that you would be uniquely  
6 and diversely --

7 CHAIRPERSON CROSS REID: No.

8 MR. HAMPTON: -- affected.

9 CHAIRPERSON CROSS REID: That's why there's  
10 so much confusion, sir, and that's why this is  
11 unprecedented, that we had a letter of this nature to  
12 come in, because apparently there had been some  
13 miscommunication. As a property owner within 200 feet  
14 of these particular sites, you have the right to come  
15 down and testify and to let us know if you're, you  
16 know, against it or for it. So that is not -- that  
17 does not automatically give you party status.

18 So whoever circulated that letter did not  
19 clearly understand what our procedures are as a result  
20 of that. That's why we have so much confusion here  
21 today. There's been miscommunication.

22 MR. BARDONILLE: But, Madame Chair --

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

25 MR. BARDONILLE: My name is Harold

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1 Bardonille. I live at 1623 Juniper Street.

2 The rules and the rule that you're  
3 referring to speaks to obtaining party status, all of  
4 which are required. Part of the qualification is being  
5 within 200 feet and have -- well, okay. And,  
6 therefore, also having to demonstrate how you will  
7 uniquely be impacted by the conditions that are under  
8 consideration.

9 CHAIRPERSON CROSS REID: Right.

10 MR. BARDONILLE: Not that you have to come  
11 up with a unique circumstance.

12 CHAIRPERSON CROSS REID: But you do --

13 MR. BARDONILLE: It has to show how you --  
14 how you will be uniquely impacted as opposed to the  
15 general public.

16 CHAIRPERSON CROSS REID: That's right.

17 MR. BARDONILLE: So while all of those  
18 people can be impacted by the same things, they do not  
19 have to show a special uniqueness. An elephant doesn't  
20 have to fall out the -- and the only things we are  
21 considering is traffic, noise, parking, and other  
22 objectionable circumstances.

23 CHAIRPERSON CROSS REID: Well, now, Mr.  
24 Bardonille, I've already -- we've already been here,  
25 and I've already explained to you that you do. You

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1 have to show a uniqueness, and if you don't, you do not  
2 get party status. I don't know how many ways I can say  
3 that.

4 MR. HARRISTON: Well, we're asking for your  
5 ruling. It will be a matter of record, and we'll move  
6 on to the next point.

7 CHAIRPERSON CROSS REID: Yeah, no. In  
8 regard to your letter, I think that you would be in the  
9 category of being granted party status, and you're  
10 going to let your questions be asked through these  
11 three guys, these three gentlemen, right? Correct?

12 MS. GREY: Yes, yes, ma'am.

13 CHAIRPERSON CROSS REID: All right. Now,  
14 the other thing is is there anyone else. You said  
15 there's someone else who was uniquely --

16 MS. GREY: Yes, Ms. Helen --

17 MR. HARRISTON: Harris.

18 MS. GREY: Harris.

19 CHAIRPERSON CROSS REID: Wait. That person  
20 -- that person has the --

21 MS. GREY: She's 11 feet from the property,  
22 ma'am.

23 CHAIRPERSON CROSS REID: -- ought to come  
24 up herself.

25 MS. GREY: She's next door.

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1 CHAIRPERSON CROSS REID: Okay.

2 MS. GREY: She's exactly next door.

3 CHAIRPERSON CROSS REID: And if she doesn't  
4 come up, that's something different.

5 MS. HARRIS: My name is Helen Harris. I  
6 live at 1443 Juniper Street, N.W.

7 I live, well, I think it's 11 feet from the  
8 synagogue.

9 CHAIRPERSON CROSS REID: Helen Harris?

10 MS. HARRIS: Yes.

11 CHAIRPERSON CROSS REID: Okay, and we do  
12 have your letter, un-huh. Now, go ahead, Ms. Harris.  
13 Tell us what is it about -- is there something uniquely  
14 unusual about your property?

15 MS. HARRIS: Yes, that I'm 11 feet from  
16 where they are proposing the school. I think that's a  
17 unique circumstance, and that there would be many, many  
18 problems.

19 CHAIRPERSON CROSS REID: No, that would not  
20 be unique.

21 MR. HARRISTON: Madame, may I suggest when  
22 you're 11 feet away, you can smell the chitlings  
23 cooking.

24 MS. DOBBINS: Madame Chairperson.

25 CHAIRPERSON CROSS REID: That's different

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1 from someone who lives right next door to you? I mean,  
2 you know.

3 MS. HARRIS: I have photographs.

4 MS. DOBBINS: Madame Chairperson, we would  
5 ask that each person who's requested party status be  
6 able to articulate their specific reason for requesting  
7 that.

8 CHAIRPERSON CROSS REID: Well, she just  
9 did.

10 MS. HARRIS: I have photographs of things  
11 that are already occurring at this site, and with an  
12 additional --

13 MS. DOBBINS: Madame Chairperson --

14 MS. HARRIS: -- business there at --

15 MS. DOBBINS: -- this is not related to the  
16 request for party status.

17 MR. HARRISTON: It shows her uniqueness,  
18 status of uniqueness. You want everyone to establish  
19 uniqueness.

20 CHAIRPERSON CROSS REID: Okay.

21 MR. HARRISTON: She was establishing  
22 uniqueness.

23 CHAIRPERSON CROSS REID: All right.

24 MS. HARRIS: I'm speaking to the Board.

25 CHAIRPERSON CROSS REID: What is the

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1 uniqueness? You're 11 feet away and what? Okay.  
2 Pictures just of themselves -- I need you to tell me  
3 what those pictures are trying to say to us. What is  
4 it?

5 MS. HARRIS: They are trying to tell you  
6 that there is a congestion there already in the area.  
7 We don't need anymore cars or trucks or rentals to come  
8 into --

9 MS. DOBBINS: Madame Chairperson --

10 MS. HARRIS: -- the area.

11 MS. DOBBINS: -- I object. That is  
12 substantive testimony --

13 MS. HARRIS: -- that are blocking --

14 MS. DOBBINS: -- associated with the case.

15 CHAIRPERSON CROSS REID: All right. Thank  
16 you very much.

17 She still is just telling us why she feels  
18 that she is aggrieved more than anyone else.

19 Thank you.

20 MR. PARSONS: Madame Chairman, I think it's  
21 time for the Board to discuss this rather than the  
22 audience.

23 MS. HARRIS: The alleys are constantly  
24 blocked --

25 MR. PARSONS: Madame Chairman -- excuse me.

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1 MS. HARRIS: -- as it is.

2 MR. PARSONS: Excuse me, Ms. Harris. I  
3 think it's time that the Board discuss this.

4 CHAIRPERSON CROSS REID: Okay.

5 MR. PARSONS: You got this out of the  
6 audience.

7 CHAIRPERSON CROSS REID: Okay. All right.

8 MR. PARSONS: In my judgment, there is  
9 nobody who has written us a letter for party status  
10 that has identified their uniqueness, not Ms. Grey,  
11 nobody. The danger in what we're doing is to set a  
12 precedent that anybody who writes us a letter in the  
13 future within 200 feet is going to be granted party  
14 status before this Board.

15 Ms. Harris is the first one that has come  
16 forward that I feel rests in that category. Anybody  
17 who lives adjacent to this property is certainly more  
18 affected than her neighbors down the street. Light and  
19 air issues, it's obvious.

20 CHAIRPERSON CROSS REID: Thank you.

21 You think --

22 MR. PARSONS: And we're groping for one  
23 party. We can let the community put the burden on her.

24 To grant party status to 15 or 20 people --

25 CHAIRPERSON CROSS REID: You think that Ms.

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1 Harris, because of where she lives?

2 MR. PARSONS: We're beginning to get there.

3 CHAIRPERSON CROSS REID: Okay, all right.

4 Well, then --

5 MR. SOCKWELL: If I may, Madame Chair --

6 CHAIRPERSON CROSS REID: This is -- yes.

7 MR. SOCKWELL: Just to add to Mr. Parsons,  
8 I agree wholeheartedly with what he said because being  
9 the adjacent neighbor directly across the alley, which  
10 is a circulation thing, is a fact that no other  
11 property, other than probably two, one at one street,  
12 one at the other, would have.

13 CHAIRPERSON CROSS REID: Okay. That's been  
14 made.

15 MR. SOCKWELL: It's reinforcement.

16 CHAIRPERSON CROSS REID: Thank you.

17 MS. HARRIS: Thank you.

18 CHAIRPERSON CROSS REID: All right. Now --

19 MR. HAMPTON: Faye and Art Lewis.

20 MR. LEWIS: Madame Chairman, I'm Arthur  
21 Lewis, and my wife, Faye, is also present here. We  
22 live adjacent also to the temple. We are ten feet away  
23 from the back of the temple. Our property abuts with  
24 about ten feet between us and the temple.

25 We are on the alley. We are subject to the

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1 problems of traffic, of noise, and of refuse.

2 CHAIRPERSON CROSS REID: As much as anyone  
3 else?

4 MR. LEWIS: As much as anyone else.

5 MS. PRUITT: Madame Chair, your mic.

6 CHAIRPERSON CROSS REID: I said more than.

7 MR. LEWIS: I believe so, yes.

8 CHAIRPERSON CROSS REID: You're more  
9 aggrieved. You're uniquely situated more so than  
10 anyone else in the community.

11 MR. LEWIS: I am uniquely situated and more  
12 aggrieved.

13 CHAIRPERSON CROSS REID: Okay. What is  
14 your name?

15 MR. LEWIS: Arthur W. Lewis.

16 CHAIRPERSON CROSS REID: Okay. All right.  
17 Thank you.

18 MS. DOBBINS: And your address, Mr. Lewis?

19 MR. LEWIS: 1446 Jonquil Street.

20 CHAIRPERSON CROSS REID: Okay. Now, Ms.  
21 Grey.

22 MS. GREY: Right.

23 CHAIRPERSON CROSS REID: Will you come and  
24 give us -- even though we have your letter, give us  
25 how you're uniquely aggrieved.

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1 MR. HAMPTON: Jean Johnson also.

2 MS. DOBBINS: Madame Chairperson, are you  
3 making determinations at this point --

4 CHAIRPERSON CROSS REID: No.

5 MS. DOBBINS: -- or are you just hearing --

6 CHAIRPERSON CROSS REID: The Board asked  
7 that --

8 MS. DOBBINS: You're hearing what the  
9 witnesses --

10 CHAIRPERSON CROSS REID: Right, right.

11 MS. GREY: Madame Chairperson, I'm uniquely  
12 aggrieved for a couple of reasons. Number one, I live  
13 on Jonquil, Juniper, and 17th Street at the location of  
14 1650 Jonquil Street, is the address, but it is a corner  
15 property at the location of all three of those areas.

16 The proposed traffic plan is proposing to  
17 use both Jonquil and Juniper Street. They also are  
18 proposing to probably be coming up on 17th Street.

19 I live at the corner of a five intersection  
20 stop sign. There are five streets that intersect, and  
21 they all have stop signs.

22 CHAIRPERSON CROSS REID: Are you the only  
23 person on that corner?

24 MS. GREY: I am the only person within 200  
25 feet on that corner, yes. Yes. I'm not the only

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1 person on -- I'm the only person on my corner, yes.

2 CHAIRPERSON CROSS REID: Okay.

3 MS. GREY: Because I take up the whole  
4 corner.

5 CHAIRPERSON CROSS REID: All right.

6 MS. GREY: I can continue.

7 CHAIRPERSON CROSS REID: No, no.

8 MS. GREY: My traffic, I mean, our trash is  
9 affected.

10 CHAIRPERSON CROSS REID: All right. You  
11 told us.

12 MS. DOBBINS: Madame Chairperson, do we get  
13 to speak about objections to each one based on what  
14 they've presented?

15 CHAIRPERSON CROSS REID: Un-huh.

16 MS. DOBBINS: Yeah.

17 CHAIRPERSON CROSS REID: All right. Go  
18 ahead.

19 MS. GREY: Because I was going to say I can  
20 continue my presenting all my unique qualifications.

21 CHAIRPERSON CROSS REID: Well, you told us  
22 about five intersection corner and what else?

23 MS. GREY: The five intersection corner. I  
24 drive up Jonquil Street every day. It is a one lane  
25 street. Unfortunately it does not have restricted

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1 parking. Unlike the page 4 --

2 CHAIRPERSON CROSS REID: Unique to you.  
3 That is the whole street. So what is unique to you?  
4 Do you have anything else that's unique to you  
5 specifically?

6 MS. GREY: Well, it affects me getting out  
7 of my --

8 CHAIRPERSON CROSS REID: As well as  
9 everyone else on that street, the parking, and the one  
10 lane street.

11 MS. GREY: Yes, and the trash.

12 CHAIRPERSON CROSS REID: Yeah, that's what  
13 I'm asking.

14 MS. GREY: But, no, unique to me is the  
15 fact that I'm the one that's subject to all five  
16 intersections at one time.

17 CHAIRPERSON CROSS REID: We have that.  
18 Okay.

19 MS. RENSHAW: Madame Chair.

20 CHAIRPERSON CROSS REID: Thank you.

21 MS. RENSHAW: I would like to ask do we  
22 have a map of the area so that as these properties --

23 MS. PRUITT: We're getting that.

24 MS. RENSHAW: -- are being discussed we  
25 could see it on a map?

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1 MS. PRUITT: Madame Chair, staff is pulling  
2 the Sanborn maps right now for you.

3 CHAIRPERSON CROSS REID: Okay. Now, these  
4 are the people who have requested -- let's now make a  
5 determination on who's going to get party status.

6 Order please.

7 MR. HUMPHRIES: Madame Chair.

8 CHAIRPERSON CROSS REID: There's too much  
9 confusion.

10 MR. HUMPHRIES: Madame Chair, we have Jean  
11 Johnson.

12 CHAIRPERSON CROSS REID: How many more  
13 people are you going to do this with because now we're  
14 getting into the afternoon, and I had asked earlier  
15 that during that two or three hour break that you all  
16 take care of this because now we're getting into a long  
17 and protracted process.

18 MR. HUMPHRIES: Sure, Madame Chair. With  
19 your indulgence, the application, the one application  
20 involves --

21 CHAIRPERSON CROSS REID: Excuse me. You  
22 have who?

23 MR. HUMPHRIES: The one application --

24 CHAIRPERSON CROSS REID: No, no. Who is it  
25 that you have?

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1 MR. HUMPHRIES: -- involves two sites.

2 CHAIRPERSON CROSS REID: I'm sorry. Who is  
3 it that you have?

4 MR. HUMPHRIES: Jean Johnson.

5 CHAIRPERSON CROSS REID: Then whoever it is  
6 has to come forward and speak for themselves, please.

7 MR. HUMPHRIES: As a matter of  
8 clarification, the application involves two different  
9 sites.

10 CHAIRPERSON CROSS REID: We know that.

11 MR. HUMPHRIES: And as a result, there are  
12 two different traffic patterns which are included.

13 CHAIRPERSON CROSS REID: Well, they're  
14 right across the street from each other.

15 MR. HUMPHRIES: No. Unfortunately that's  
16 not the issue. The issue is that the impact of the two  
17 sites affects different neighbors in different ways.

18 CHAIRPERSON CROSS REID: Okay.

19 MR. HUMPHRIES: We have, in essence, here  
20 two different applications which have -- the  
21 consideration of which have been consolidated under the  
22 name of one applicant. So, for instance, for the site  
23 which is located on 16th Street, the west side, we have  
24 Jonquil West and Juniper West, as well as the alley  
25 which runs directly behind that site.

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1 For the site which is located on the east  
2 side of 16th Street, we have the neighbors who are on  
3 Juniper East and Jonquil East, as well as a separate  
4 alley which runs behind the site on the east side of  
5 16th Street.

6 So, Madame Chair and members of the  
7 Commission, what we have here is essentially two sites  
8 which have been collapsed into one application. That  
9 does not diminish the impact and the unique impact that  
10 it has on different sets of neighbors who live at the  
11 two different sites.

12 CHAIRPERSON CROSS REID: Okay.

13 MS. DOBBINS: And, Madame Chair --

14 CHAIRPERSON CROSS REID: But still --

15 MS. DOBBINS: -- we would add --

16 CHAIRPERSON CROSS REID: Still, if you're  
17 impacted any way or anywhere around those two sites,  
18 you still have the right to come in and speak to that  
19 particular issue.

20 I can't -- you have to speak into a mic.

21 MR. HAMPTON: Excuse me. I have marked on  
22 this map the neighborhood.

23 CHAIRPERSON CROSS REID: Now, how do we say  
24 --

25 MR. HAMPTON: I have marked on the map of

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1 the neighborhood so far the people who have discussed  
2 having party status. Ms. Grey, as she said, there are  
3 five streets coming into that intersection.

4 This is Ms. Harris right here by Tifereth.

5 This is Mr. and Mrs. Lewis. Again, they're  
6 that close to Tifereth on the alley.

7 You know, I am speaking as one of the  
8 people for the group, but I'm one house in from Ms.  
9 Harris, and this is where Mr. Bardonille lives, this  
10 one.

11 CHAIRPERSON CROSS REID: Okay, but still  
12 the point I was making was no matter where you live in  
13 proximity to either one of those sites, if you are  
14 uniquely aggrieved, then you fall into that category.

15 All right. Ms. Dobbins.

16 MS. DOBBINS: Yes. Madame Chair, I just  
17 wanted to indicate that your rules require that persons  
18 request party status and provide this information to  
19 the Board so that the Board can make your determination  
20 prior to the hearing.

21 CHAIRPERSON CROSS REID: Correct.

22 MS. DOBBINS: And based on what has been  
23 presented to the Board in writing. That was one of the  
24 reasons the Board's regulations were changed, so that  
25 the information would be before the Board 14 days with

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1 everything included. The regulations are a matter of  
2 public record. Persons requesting party status would  
3 have been required to have met the criteria in your  
4 regulations within their reports or requests within  
5 that 14 day period.

6 We understand the Board typically will  
7 listen to and make some concessions related to that,  
8 but we are expecting that the Board needs to deal with  
9 this so that there are not an excessive number of  
10 parties in this case and so that those persons who are  
11 not uniquely affected, which are five blocks away or  
12 further on streets of which the traffic plan does not  
13 even mention or manage those streets would not be  
14 uniquely affected by this application.

15 MR. HUMPHRIES: Madame Chair, in regard to  
16 the statement by counsel, we have just received today  
17 copies of letters from counsel for the Applicant which  
18 clarify who the parties are in the application, and  
19 it's dated March 14th, 2000.

20 Indeed, Madame Chair, members of the  
21 Commission, if we had been notified 14 days before this  
22 hearing, as is required by the rules and regulations of  
23 this Commission, we would have had an opportunity to  
24 respond in a timely manner consistent with the rules  
25 and regulations.

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1           In addition, Madame Chair, we note that the  
2 application of -- the statement of the Applicant was  
3 filed 14 days before and accepted by this office at six  
4 o'clock, 6:45, and we wonder, Madame Chair, and perhaps  
5 this is something the Commission may want to take up,  
6 if there is a rule which allows filing of applications  
7 by an Applicant after the close of business.

8           Now --

9           CHAIRPERSON CROSS REID:     That's another  
10 issue.

11          MR. HUMPHRIES:   No, no, Madame Chair. We  
12 want this on the record because it is a procedural  
13 issue regarding the timeliness of the filing of parties  
14 for party status and demonstrating the uniqueness.

15          CHAIRPERSON CROSS REID:   Wait, wait, wait,  
16 wait, wait. First of all, what are you referring to  
17 when you say that the Applicant filed parties? Are you  
18 saying witnesses to testify?

19          MS. DOBBINS:   Madame Chair, he's indicating  
20 that the prehearing submission filed by the Applicant  
21 was filed at 6:45 p.m., which was still in advance, as  
22 required by your regs.

23          CHAIRPERSON CROSS REID:   What parties?

24          MS. DOBBINS:     No, the Applicant's  
25 prehearing submission.

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1 CHAIRPERSON CROSS REID: But you said that  
2 you -- and you specified parties. What parties are  
3 there?

4 MS. DOBBINS: We did not specify any  
5 parties. Mr. Humphries was talking about parties.

6 CHAIRPERSON CROSS REID: Okay, all right.  
7 Let's move on.

8 MR. HUMPHRIES: So procedural --

9 CHAIRPERSON CROSS REID: Let's move on.

10 MR. PARSONS: I have a motion to deny all  
11 party status -- the individual whose name I cannot  
12 remember at the other end of the alley and let's get on  
13 with this. Could you identify that property on the  
14 alley?

15 MR. HAMPTON: Arthur and Faye Lewis.

16 MR. PARSONS: All right.

17 MS. GREY: And Ms. Johnson, whose garage is  
18 right on the alley behind here.

19 MR. PARSONS: Arthur and Faye Lewis and Ms.  
20 Helen Harris are my nominees for party status.

21 (Simultaneous conversation.)

22 MR. HAMPTON: She has a whole unique --

23 MR. HUMPHRIES: Commissioner Parsons --

24 MR. HAMPTON: -- because her alley backs  
25 into the synagogue that they claim they're going to use

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1 for a thoroughfare, right? So I mean she is uniquely  
2 qualified.

3 MR. HUMPHRIES: Madame Chair, we have Ms.  
4 Johnson here.

5 CHAIRPERSON CROSS REID: The witness is  
6 Johnson.

7 MS. JOHNSON: Okay. My name is Jane  
8 Johnson. I live at 1630 Jonquil Street, N.W.

9 My garage and driveway are located on the  
10 alley that will be used for the carpooling, and because  
11 there's no parking on my side of the street, we are  
12 forced to use our driveway and garage.

13 My husband leaves for his office between  
14 8:10 and 8:30, which is the time that the carpool would  
15 be operating, and that's just one of the  
16 inconveniences.

17 CHAIRPERSON CROSS REID: Okay. Now, we  
18 have a recommendation to accept -- repeat that again,  
19 Mr. Parsons. Helen Harris?

20 MR. PARSONS: Well, I need to understand.  
21 Your garage backs out into the alley?

22 MS. HARRIS: Yes.

23 MR. PARSONS: So --

24 CHAIRPERSON CROSS REID: That's right  
25 there.

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1 MR. HAMPTON: This is the synagogue.

2 MR. HUMPHRIES: For that site.

3 MR. HAMPTON: And they're here for one  
4 site, not -- this is a whole different --

5 MR. PARSONS: I understand, I understand, I  
6 understand.

7 MS. JOHNSON: And this is the alley, and  
8 that's my garage.

9 MR. PARSONS: So you believe that when  
10 trying to get out of your garage, people won't let you  
11 get out of your garage. They will be queuing up.

12 MS. JOHNSON: Exactly.

13 MR. PARSONS: And you'll never get out of  
14 there or have difficulty getting out.

15 MS. JOHNSON: Yes, difficulty.

16 CHAIRPERSON CROSS REID: All right. Where  
17 are the people --

18 MR. PARSONS: That's unique.

19 CHAIRPERSON CROSS REID: Oh, yeah. I  
20 agree.

21 MS. JOHNSON: Excuse me. I've got one more  
22 thing to say.

23 MR. PARSONS: That's unique enough.

24 CHAIRPERSON CROSS REID: You got it, you  
25 got it, you got it.

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1 MS. JOHNSON: Oh.

2 CHAIRPERSON CROSS REID: Jean Harris, Helen  
3 Harris. Who's Arthur Lewis?

4 (Simultaneous conversation.)

5 CHAIRPERSON CROSS REID: Okay. He was on  
6 the alley, and Jan Grey. Mr. Parsons, okay, now.

7 MR. PARSONS: I don't agree with Ms. Grey  
8 at all.

9 CHAIRPERSON CROSS REID: You don't agree  
10 with Ms. Grey?

11 MR. PARSONS: No.

12 CHAIRPERSON CROSS REID: All right.

13 MS. DOBBINS: We would object to Ms. Grey.

14 CHAIRPERSON CROSS REID: All right. Wait  
15 one second. Wait one second. Wait one second.

16 MR. HAMPTON: I would like the opportunity  
17 to speak. I'm the second house in from the --

18 MR. PARSONS: No.

19 MR. HAMPTON: -- synagogue.

20 MR. PARSONS: I disagree.

21 MR. HAMPTON: And my issues are somewhat  
22 different. Firstly, Ms. Harris does not have any young  
23 children. I have two young children who use the  
24 alleys, who ride bikes, et cetera.

25 CHAIRPERSON CROSS REID: What's your name?

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1 MR. HAMPTON: Philip Hampton.

2 So I think that my circumstance is, again,  
3 different from both Mr. and Mrs. Lewis and --

4 CHAIRPERSON CROSS REID: And where do you  
5 live?

6 MR. HAMPTON: 1439 -- no, no, no. It's  
7 already penned, right next to Ms. Harris.

8 And because I have young children and  
9 neither one of these two applicants who live exactly on  
10 the alley at either side did not, I believe that my  
11 wife and I have unique circumstances and a unique  
12 situation.

13 MS. DOBBINS: We would object, Madame  
14 Chairman.

15 CHAIRPERSON CROSS REID: Okay. Next to  
16 Harris.

17 Okay. Now, Board members, let's just kind  
18 of take a query on these different individuals. The  
19 persons that Mr. Parsons had recommended, Helen Harris,  
20 Arthur Lewis, and Jean Johnson, I think this is three.

21 Is there any -- are you familiar with them or do you  
22 need me to address this?

23 MR. PARSONS: No, we're okay.

24 CHAIRPERSON CROSS REID: Okay. So if  
25 there's no objection, is there any objection to any of

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1 these three?

2 MS. RENSHAW: And we're voting just on  
3 these three?

4 CHAIRPERSON CROSS REID: We're going to go  
5 further. I want to get these three first.

6 MS. RENSHAW: Okay.

7 CHAIRPERSON CROSS REID: All right. Is  
8 there any objection to these three?

9 MS. RENSHAW: Does he need a second?

10 CHAIRPERSON CROSS REID: Well --

11 MS. RENSHAW: Has he moved?

12 CHAIRPERSON CROSS REID: He recommended.  
13 We're just going to do it by consensus if there was a  
14 problem, unless there was a problem.

15 Okay. Now, Ms. Dobbins, do you have an  
16 objection to any of those three?

17 MS. DOBBINS: No, Madame Chair, but I don't  
18 know whether you -- well, we actually need you to  
19 revisit your first decision when it was initially  
20 assumed that there would be three representatives.

21 CHAIRPERSON CROSS REID: I'm coming back to  
22 that. Okay.

23 MS. DOBBINS: Thank you.

24 MS. RENSHAW: Now, in addition to that, Jan  
25 Grey, who is the lady who is on the corner of five

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1 intersections, who was granted party status, what is  
2 your pleasure as far as she's concerned?

3 MS. RENSHAW: I have no trouble with that.

4 MR. SOCKWELL: I disagree that Ms. Grey by  
5 her specific location is particularly aggrieved. While  
6 there's an additional intersection in her midst, her  
7 proximity to the most affected traffic patterns is  
8 quite distant from neighbors closer to the property.

9 CHAIRPERSON CROSS REID: Okay. Mr.  
10 Moulden?

11 MR. MOULDEN: Is one of the criteria a  
12 specific amount of footage, 200 feet?

13 CHAIRPERSON CROSS REID: No, no, no.  
14 Everybody is 200 feet, but unique.

15 MR. GRIFFIN: Excuse me. Madame  
16 Chairperson, I am Ms. Grey's husband, and I live at  
17 1650 Jonquil, and I object to your objection that my  
18 situation is not unique.

19 First of all, I live at an intersection. I  
20 have property there that I purchased. I use my  
21 property as a residence. I also use those  
22 intersections to walk my dog and also to jog.

23 Right now, I have to each morning make sure  
24 that the traffic pattern -- and I have to go out and  
25 personally patrol that intersection to get people to

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1 stop, and when I tell them to please stop because this  
2 is a neighborhood, they give me signs that I will not  
3 show to you today.

4 And so my situation is unique in that there  
5 is traffic situations there.

6 CHAIRPERSON CROSS REID: Okay, all right.  
7 Thank you.

8 MR. SOCKWELL: Mr. Grey, the fact that you  
9 patrol the intersection --

10 MR. GRIFFIN: Mr. Griffin.

11 MR. SOCKWELL: I mean, I'm sorry. What is  
12 it?

13 MR. GRIFFIN: Griffin.

14 MR. SOCKWELL: Mr. Griffin, the fact that  
15 you patrol the intersection is irrelevant because  
16 you're not licensed to do so by the city. The fact  
17 that people object to you standing out in the street is  
18 probably logical. If you were in New York, you  
19 probably wouldn't be here now.

20 (Laughter.)

21 MR. GRIFFIN: Sir, well, first of all, I am  
22 not in New York. I am in Washington, D.C.

23 CHAIRPERSON CROSS REID: All right.  
24 Please, please. I don't -- let's not get into that kind  
25 of exchange, sir. You made your point.

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1           Mr. Sockwell, can you please stay -- I'd  
2 ask if you can please stay relevant to the issue.  
3 There's enough confusion as there is.

4           Now, who else?

5           MR. MOULDEN: I think all of the people who  
6 spoke so far are impacted, some to a lesser degree than  
7 others. I think Ms. Grey probably will be impacted,  
8 but probably to a lesser degree. So the decision is  
9 what is the degree of impact that we are basing this  
10 on.

11           CHAIRPERSON CROSS REID: Well, it's not  
12 degrees. It's just if you were more uniquely impacted  
13 than anyone else, than other people who were similarly  
14 situated.

15           MS. RENSHAW: Madame Chair, I might point  
16 out that Ms. Grey and is it Mr. Griffin? Mr. Griffin  
17 will bear the brunt of traffic coming down Jonquil  
18 Street and making U turns at that intersection because  
19 Jonquil Street is now -- it pitches downhill, and  
20 traffic is going to get down there and not perhaps know  
21 that they could go Juniper Street back to 16th, but  
22 they are going to be turning, U-turning right at that  
23 corner.

24           So I would suggest that Ms. Grey be allowed  
25 to testify.

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1 MS. DOBBINS: Madame --

2 MS. RENSHAW: I think she has a positioned  
3 property that is unique.

4 MS. DOBBINS: Madame Chair, we would object  
5 in that you have not yet had the opportunity to hear  
6 the traffic management plan associated with this. That  
7 will not be a route that will be taken or used by the  
8 school.

9 MR. HAMPTON: But we object, again, because  
10 we haven't seen that plan and we're the neighbors  
11 within two --

12 MS. DOBBINS: No, the Board has --

13 MR. PARSONS: Ms. Chairman, this is turning  
14 into a free-for-all.

15 MS. DOBBINS: Yes, it is.

16 MR. PARSONS: We're voting on this matter  
17 and you stay out of it.

18 I object to Ms. Grey on the grounds that  
19 have already been expressed.

20 MR. HARRISTON: Madame Chairman.

21 MR. PARSONS: Next.

22 MR. HARRISTON: Madame Chairman.

23 CHAIRPERSON CROSS REID: Yes.

24 MR. HARRISTON: The Board, as you well  
25 know, are required to act in a reasonable fashion, not

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1 in an arbitrary and capricious fashion. Now, what  
2 we're suggesting is reasonable.

3 The objection you just heard from the other  
4 side was wait until you get to the traffic plan or  
5 something like that.

6 You have said up front we have to decide  
7 status now.

8 CHAIRPERSON CROSS REID: Okay. I --

9 MR. HARRISTON: We cannot wait until we get  
10 to a plan.

11 MR. PARSONS: We have decided that.

12 CHAIRPERSON CROSS REID: Okay. I will -- I  
13 would also think that Ms. Grey should get party status,  
14 but nonetheless, that's -- that -- that still -- I  
15 think the majority of us felt otherwise. So we would  
16 have to deny Ms. Grey.

17 All right. Now, the three members who had  
18 been recommended by the group --

19 MR. BARDONILLE: Before you go forward,  
20 Madame Chair, does that mean that you're also denying -  
21 - I'm Harold Bardonille again -- are you specifically  
22 denying my request for the record?

23 CHAIRPERSON CROSS REID: No. No, I was  
24 not.

25 MS. DOBBINS: We're getting to it.

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1 CHAIRPERSON CROSS REID: I was not.

2 MR. PARSONS: We have denied all of the  
3 others that have written us a letter request party  
4 status.

5 CHAIRPERSON CROSS REID: No. No, no, that  
6 not what I said. Earlier on --

7 MR. PARSONS: That's the motion I made half  
8 an hour ago.

9 CHAIRPERSON CROSS REID: All right. What  
10 I'm saying is in the very beginning we asked that they  
11 recommend two or three people who will be given party  
12 status to represent all the other 30 people who have  
13 sent letters in, and these are the three people that  
14 they had recommended, and I don't want to go back on  
15 that.

16 MS. DOBBINS: Except that now you made  
17 individual determinations of party status.

18 CHAIRPERSON CROSS REID: No, because we  
19 then determined that in addition to those three that  
20 were representing a group of people, there were other  
21 people who were individually more aggrieved, and that's  
22 why we went through this whole exercise, but that --

23 MR. PARSONS: Madame Chairman, the only one  
24 that can make the decision as to who their spokesmen  
25 should be are the three parties we just established.

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1 If those three parties agree to these three individuals  
2 to question on their behalf, we're in business.

3 CHAIRPERSON CROSS REID: They have done  
4 that. They all --

5 MR. PARSONS: No, not these three.

6 CHAIRPERSON CROSS REID: My understanding -  
7 - my understanding was that all people had agreed that  
8 even if they are granted party status so that they can  
9 appeal, that these three would be the only three that  
10 would do the cross examination.

11 MR. PARSONS: I think you need to reaffirm  
12 that --

13 CHAIRPERSON CROSS REID: Okay.

14 MR. PARSONS: -- now that we have the three  
15 people as parties.

16 CHAIRPERSON CROSS REID: All right.

17 MS. DOBBINS: But, Madame Chairperson, the  
18 three that will be designated do not have to be parties  
19 --

20 MR. PARSONS: That's correct.

21 MS. DOBBINS: -- to be their  
22 representatives. That is what I -- they do not.

23 MR. PARSONS: That's right. They will not  
24 be parties.

25 MR. BARDONILLE: May question still stands,

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1 Madame Chair. Have you specifically denied my request  
2 for party status? I'm Harold Bardonille.

3 CHAIRPERSON CROSS REID: No. No, I have  
4 not.

5 MS. DOBBINS: Yes, you have.

6 CHAIRPERSON CROSS REID: All right. Now --

7 MR. BARDONILLE: Is that pending?

8 CHAIRPERSON CROSS REID: Those persons who  
9 we have agreed to grant party status to this afternoon  
10 are those person who will not cross examine. They're  
11 only being, in effect, granted party status so they can  
12 appeal.

13 The three people who had requested party  
14 status, my understanding was the first three, Derrick  
15 Humphries, Philip Hampton, and Harold Bardonille, are  
16 the three who will have party status who will have the  
17 ability to cross examine only. That is my  
18 understanding.

19 MS. DOBBINS: Madame Chair, because you  
20 have determined individual parties, we would object to  
21 Derrick Humphries, Phil Hampton, and Harold Bardonille  
22 as parties because the Board made that determination  
23 initially that they would be parties because they would  
24 be able to represent a group.

25 At this time the Board has entertained

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1 individual party status for other persons.

2 CHAIRPERSON CROSS REID: They're  
3 representing a group other than -- other than the ones  
4 who had specific grievances, and that's what my  
5 understanding was for the ones who came up  
6 individually, but there are also the other 30 people  
7 who are not being represented.

8 MS. DOBBINS: But if you're going to grant  
9 them party status, then they still have to meet the  
10 criteria.

11 MR. PARSONS: They have.

12 CHAIRPERSON CROSS REID: They have already  
13 met the criteria.

14 MS. DOBBINS: Mr. Humphries, Mr. Hampton  
15 and Mr. Bardonille?

16 CHAIRPERSON CROSS REID: We established  
17 that earlier this morning.

18 MS. DOBBINS: I don't think so.

19 MS. PRUITT: Madame Chair, just so I can be  
20 clear on the record, the three men that were just  
21 mentioned, who exactly are they representing? Are they  
22 representing the three people, Ms. Harris, Mr. Lewis,  
23 and Ms. Johnson?

24 CHAIRPERSON CROSS REID: They are  
25 representing everyone. They're, in effect,

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1 representing everyone, but the other ones have been  
2 given -- asked for party status so that they can appeal  
3 if they wanted to.

4 MS. PRUITT: So they are representing Ms.  
5 Harris, Lewis and Johnson.

6 CHAIRPERSON CROSS REID: That's correct.

7 MS. PRUITT: Only as --

8 MS. DOBBINS: Representatives, not parties.

9 CHAIRPERSON CROSS REID: The three of you -  
10 - the three of you --

11 MS. PRUITT: Correct.

12 CHAIRPERSON CROSS REID: Hello.

13 MR. HARRISTON: I'm sorry.

14 CHAIRPERSON CROSS REID: The three of you  
15 are representing everyone else.

16 MS. PRUITT: Only -- let's be clear -- only  
17 three people, and that's --

18 CHAIRPERSON CROSS REID: No.

19 MS. PRUITT: -- what I want to be clear  
20 because I think there's some confusion here.

21 CHAIRPERSON CROSS REID: No, they're  
22 representing the community.

23 MS. PRUITT: Right now the Board in my  
24 understanding has only granted party status to Ms.  
25 Harris, Lewis, and Johnson.

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1 MR. HARRISTON: And the other three.

2 MS. PRUITT: But then my question becomes:  
3 who are they representing? And you've not -- they are  
4 representing the whole group --

5 MR. HARRISTON: They are representing  
6 themselves.

7 MS. PRUITT: -- you've given party status  
8 to them.

9 MR. HARRISTON: They are representing  
10 themselves because they individually request party  
11 status.

12 MS. PRUITT: See.

13 MR. HARRISTON: And they met the  
14 criteria --

15 MS. PRUITT: I suggest that you would take  
16 them through the exact same criteria --

17 MS. DOBBINS: Process.

18 MS. PRUITT: -- as you did this because  
19 that didn't happen.

20 MR. HARRISTON: And we have agreed with the  
21 last individuals listed that they will not cross  
22 examination. The cross examination will come through  
23 the first three.

24 MS. PRUITT: Mr. Harriston, with all due  
25 respect, I understand exactly what you're saying, but

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1 the Board, I think, should actually take -- since they  
2 did the three individuals that way, we need to do you  
3 the same way so that there's a sense of equity.

4 CHAIRPERSON CROSS REID: Okay. What did  
5 you say, Ms. Renshaw?

6 MS. RENSHAW: I'm saying that we asked the  
7 opposition to come up with three, some spokespersons,  
8 and they have come back to the Board with three  
9 spokespersons, and so they have identified these  
10 people, and I say move on. Accept them and move on.

11 MR. PARSONS: But they're not parties.  
12 They are agents.

13 MR. HARRISTON: No, we say they're parties.

14 MR. PARSONS: We disagree. Let's move on.

15 MR. HARRISTON: Well, we disagreed with  
16 you.

17 CHAIRPERSON CROSS REID: No, some of us  
18 agreed.

19 MR. HARRISTON: We say -- we say that  
20 you're being --

21 MR. PARSONS: -- in the best public  
22 interest to move on?

23 MR. HARRISTON: -- arbitrary and  
24 capricious.

25 CHAIRPERSON CROSS REID: No, some of us --

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1 MR. PARSONS: No, we're not.

2 CHAIRPERSON CROSS REID: -- disagree.  
3 Let's just come to a consensus about this one way or  
4 the other. My understanding was that these three were  
5 being represented -- were representing themselves as  
6 parties, asking for party status. They would be given  
7 party status, and they would then represent the other  
8 people, and they would funnel questions through them.

9 No one else is going to cross examine.

10 MS. DOBBINS: We don't have a problem with  
11 that, but we have a problem with the grant of party  
12 status to them if they have not met the individual  
13 criteria as parties. You have granted party --

14 CHAIRPERSON CROSS REID: All right, okay.

15 MS. DOBBINS: -- status to three  
16 individuals who met the criteria.

17 CHAIRPERSON CROSS REID: Okay, all right.  
18 No problem with that. I was under the impression that  
19 the community had designated them as the spokes people  
20 and as such they met the criteria. However, if you  
21 wish for us to query them to determine what is their  
22 uniqueness, then we can do that.

23 MS. DOBBINS: Yes, Madame Chair, and they  
24 can still -- even if you determine that they are not  
25 parties in this application, they can still represent

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1 parties.

2 CHAIRPERSON CROSS REID: Okay. I think  
3 they know that.

4 All right. Let's talk with Mr. Derrick  
5 Humphries.

6 MR. HUMPHRIES: Sure. Madame Chair, I'm  
7 Derrick Humphries, and --

8 CHAIRPERSON CROSS REID: How are you  
9 uniquely aggrieved?

10 MR. HUMPHRIES: I look forward to --

11 CHAIRPERSON CROSS REID: We have your  
12 letter, you know, that form letter, but if you want to  
13 add, go ahead.

14 MR. HUMPHRIES: I live at 1428. I have  
15 been involved with proceedings involving the Tifereth  
16 site since 1992 and have four children who are in the  
17 neighborhood who are involved in activities and whose  
18 safety is endangered from the traffic which exists  
19 there and will be endangered more by the cumulative  
20 impact of the traffic that goes through the  
21 neighborhood as well as the safety.

22 CHAIRPERSON CROSS REID: Okay. I don't  
23 think that you would then -- I think that you would be  
24 an agent, but I don't think that you really should  
25 receive party status. So that's not unique to other

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1 people.

2 All right. So you can be an agent. You  
3 can speak for the other people, but I don't think  
4 there's any objection to or does anyone --

5 MS. RENSHAW: Yes. I do object. I feel  
6 that he should have party status. He was a  
7 representative of the group. They have identified Mr.  
8 Humphries as the one -- one of the two other people  
9 whom they would like to have speak for them.

10 CHAIRPERSON CROSS REID: Okay.

11 MS. RENSHAW: And I believe he deserves it.

12 CHAIRPERSON CROSS REID: Okay. Sockwell?

13 MS. DOBBINS: Madame Chair, we would object  
14 to Mr. Humphries.

15 CHAIRPERSON CROSS REID: Okay. I  
16 understand that.

17 MR. PARSONS: I disagree.

18 CHAIRPERSON CROSS REID: No, no, no?

19 Okay. The majority of the Board and also  
20 the Applicant don't agree with that. So you can be a  
21 spokesperson, but not a party.

22 Okay. Now, the next one, Philip Hampton.

23 MR. HAMPTON: Yes. As I stated before, I  
24 live at 1439 Juniper Street with my wife, Audrey B.  
25 Little. We do have two young children. We are

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1 adversely impacted because we are so close to the  
2 synagogues.

3                   Moreover --

4                   CHAIRPERSON CROSS REID: How close?

5                   MR. HAMPTON: We are one lot over from Ms.  
6 Harris.

7                   CHAIRPERSON CROSS REID: Oh, you're the one  
8 right next to Ms. Harris?

9                   MR. HAMPTON: We're right next to Ms.  
10 Harris. Moreover --

11                   CHAIRPERSON CROSS REID: Oh, no, I'm sorry.  
12 We already gave you -- we've already voted on you.  
13 You're okay.

14                   MS. PRUITT: No, you denied him party  
15 status, Ms. Reid.

16                   CHAIRPERSON CROSS REID: I thought that you  
17 just said that we did.

18                   MS. PRUITT: Yes.

19                   MR. PARSONS: Already voted to deny him.

20                   CHAIRPERSON CROSS REID: Oh, to deny him.

21                   MS. PRUITT: Yes.

22                   CHAIRPERSON CROSS REID: Oh, okay.

23                   MS. RENSHAW: We did?

24                   MS. PRUITT: Yes.

25                   CHAIRPERSON CROSS REID: All right. So you

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1 can be a spokesperson.

2 MS. RENSHAW: Madame Chair, I didn't vote  
3 to deny. I didn't vote to deny.

4 MR. PARSONS: We did not vote.

5 MS. PRUITT: You had a consensus.

6 CHAIRPERSON CROSS REID: We did it by  
7 consensus. I forgot. We did not feel that he was more  
8 aggrieved than anyone else.

9 Ms. Harris is that -- the red dot right  
10 there by the alley, but he's right beside her. So Ms.  
11 Harris, yes, but him we said he could be a  
12 spokesperson, but not the party status.

13 MR. HAMPTON: None of the people that you  
14 have granted party status have any young children, and  
15 I think that those of us with young children,  
16 especially those of us who are active in the PTA and  
17 Shepherd Elementary --

18 CHAIRPERSON CROSS REID: We understand all  
19 of that.

20 MR. HAMPTON: -- et cetera, have a whole  
21 different --

22 CHAIRPERSON CROSS REID: Mr. Hampton, Mr.  
23 Hampton.

24 MR. HAMPTON: -- set of circumstances.

25 CHAIRPERSON CROSS REID: We understand

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1 that, and we empathize with you. Nonetheless, you're  
2 not going to get party status.

3 All right.

4 MR. BARDONILLE: I'm the third person.

5 CHAIRPERSON CROSS REID: All right.

6 MR. BARDONILLE: Madame Chair, in the  
7 interest of time, I will rely -- my letter was not a  
8 form letter, and I will rely on the contents of my  
9 letter, and I also would want to put on the record that  
10 I certainly object to your characterization or at least  
11 interpretation of the uniqueness requirement.

12 CHAIRPERSON CROSS REID: We understand  
13 that. Now, can you move on? Do you want to tell us  
14 how you're uniquely aggrieved?

15 MR. BARDONILLE: I stand on the contents of  
16 my letter which was timely filed.

17 CHAIRPERSON CROSS REID: Okay, but rather  
18 than for us to fish that out, do you want to tell us  
19 why you feel that you are uniquely aggrieved?

20 MR. BARDONILLE: The reason it was filed 14  
21 days in advance was to give you an opportunity to do  
22 your due diligence. I will stand on the contents of my  
23 letters.

24 MR. PARSONS: I do not believe he meets the  
25 status of a party.

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1 CHAIRPERSON CROSS REID: Your letter --  
2 sir, I was trying to give you an opportunity to --

3 MR. BARDONILLE: I appreciate that.

4 CHAIRPERSON CROSS REID: -- specify how  
5 your letter differs from any of the other form letters,  
6 and I cannot see it in any great degree of difference  
7 in that, and you have been given an opportunity and for  
8 all intents and purposes you passed on that  
9 opportunity. So let's just move forward.

10 Now, the persons who we have specified as  
11 being parties are the only ones who are going to be  
12 parties. Now, the only other thing that comes to mind  
13 -- excuse me, Ms. Renshaw -- is that if these three  
14 people who had been designated by their community to  
15 speak on their behalf can do so, but as such, Ms.  
16 Dobbins, as such, if they're not granted party status,  
17 any of the three of them, they can't cross examine.

18 MS. DOBBINS: If they operate as the  
19 representative for the party, they can. The party  
20 would not cross examine because someone would be doing  
21 it for them.

22 CHAIRPERSON CROSS REID: Okay. All right.  
23 So they can. All right.

24 So you three will not have party status,  
25 but you can as a representative of the parties cross

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1 examine, is my understanding. Okay. All right.

2 MS. DOBBINS: And what this --

3 CHAIRPERSON CROSS REID: And these are the  
4 only three people who will be cross examining, and the  
5 other people have party status only -- only for the  
6 ability to be able to appeal, and that --

7 MR. HARRISTON: You said three.

8 CHAIRPERSON CROSS REID: Is it four?

9 MR. HARRISTON: I'm kind of big and fat,  
10 and I'm here.

11 CHAIRPERSON CROSS REID: No, you're ANC.

12 MS. DOBBINS: Separate from the ANC.

13 CHAIRPERSON CROSS REID: You're ANC.  
14 That's not -- you're not in the same category. So we  
15 have three parties and three agents who are going to  
16 actually be the ones to cross examine.

17 MS. RENSHAW: And, Madame Chair, would you  
18 clarify for us the time limits for the agents and the  
19 parties so that we are clear?

20 CHAIRPERSON CROSS REID: For cross  
21 examination?

22 MS. RENSHAW: For cross examination.

23 CHAIRPERSON CROSS REID: We don't have time  
24 limits per se. We just have to try to keep --

25 MS. RENSHAW: When the agents testify, how

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1 much time do they have?

2 CHAIRPERSON CROSS REID: Well, they have an  
3 hour for the total parties in opposition, an hour for  
4 the Applicant. Do you all want her to read the time  
5 lines -- segments again?

6 Okay. All right. Let's move forward.

7 MR. HARRISTON: I have another motion.

8 CHAIRPERSON CROSS REID: What's this for?  
9 All right.

10 MR. HARRISTON: We have another motion.

11 CHAIRPERSON CROSS REID: Oh, okay.

12 MR. HARRISTON: Madame Chairman, in light  
13 of the time that it's going to take to hear all of  
14 these matters and to save the time of the Board,  
15 notwithstanding your order of procedure which is  
16 published in the regulations, we ask that after the  
17 Applicant has presented their case, and the government,  
18 whoever follows them, that the parties in opposition  
19 precede the ANC.

20 MS. DOBBINS: We would object, Madame  
21 Chair. That would put the parties and persons in  
22 support in an alternate order.

23 CHAIRPERSON CROSS REID: Before the parties  
24 in opposition. We can't do that.

25 MR. HARRISTON: We're suggesting as a way

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1 to save time because then we won't --

2 CHAIRPERSON CROSS REID: Well --

3 MR. HARRISTON: -- we won't walk over the  
4 same territory with more than -- with the same  
5 witnesses. Otherwise there will be repetition.

6 MS. DOBBINS: Madame Chair.

7 CHAIRPERSON CROSS REID: Well, yes and no.  
8 It may -- it very well --

9 MR. HARRISTON: We're trying to make your  
10 life easy, Madame Chair.

11 CHAIRPERSON CROSS REID: That's the ANC's.  
12 Only the issues of ANC may be somewhat different from  
13 some of the people from the community who may be in  
14 opposition. So that wouldn't necessarily work as well.  
15 Okay.

16 MR. BARDONILLE: I have a motion, Madame  
17 Chair.

18 CHAIRPERSON CROSS REID: No, you can't make  
19 a motion because you're not a party, remember?

20 MR. BARDONILLE: I am representing those  
21 parties that --

22 CHAIRPERSON CROSS REID: As a -- okay, all  
23 right. Come on.

24 MR. BARDONILLE: Give him my card now or  
25 this is not for this time, these cards?

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1 CHAIRPERSON CROSS REID: Well, you're just  
2 going to make a motion. So you can go ahead and make a  
3 motion as the agent for --

4 MS. DOBBINS: For which party, Madame  
5 Chair.

6 CHAIRPERSON CROSS REID: Which party?

7 MR. BARDONILLE: For all the parties you  
8 just designated.

9 CHAIRPERSON CROSS REID: Just specify, just  
10 specify.

11 MR. HARRISTON: We're speaking in a group.  
12 You asked us to. Now we're doing it.

13 CHAIRPERSON CROSS REID: Okay. All right.

14 MR. PARSONS: What we've done is just  
15 established a new law firm in this city.

16 (Laughter.)

17 MR. PARSONS: Three partners who are going  
18 to represent these parties. Well, let's get on with  
19 it.

20 MR. BARDONILLE: There would be no  
21 difference if we had appeared as counsel, but in any  
22 case, Madame Chair, I am moving to dismiss this  
23 application for failure to comply with Rule -- with  
24 Chapter 31 of Title 11 of the DCMR, 1999.

25 And the basis of the objection is failure

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1 to file the prehearing statement timely; failure to  
2 file an appropriate application; failure to pay the  
3 appropriate fee; and failure to verify the agency of  
4 those people appearing on behalf of the Applicants.

5 CHAIRPERSON CROSS REID: Repeat those  
6 again.

7 MR. BARDONILLE: The very counsel that has  
8 been objecting.

9 CHAIRPERSON CROSS REID: Repeat those  
10 things again, please.

11 MR. BARDONILLE: Failure to file a timely  
12 prehearing statement as required by Section 3113.8;  
13 failure to file a proper application as required by  
14 Section 1313.3; and failure to pay the relevant -- pay  
15 the appropriate fee, which is a fee that is paid by  
16 each applicant, each applicant; and failure to verify  
17 agency of the parties appearing on behalf of the owners  
18 of the two properties. The party filing the statement  
19 is the Jewish Primary Day School.

20 As per your most recent discussion, the  
21 best that they can be is agent, are agents of the  
22 owners. They're not parties. The owners of the -- the  
23 owners of the property by your own rules are the  
24 Applicant.

25 The form was twisted in order to include

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1 two separate properties and, therefore, pay only one  
2 fee. These are two separate and distinct entities with  
3 separate boards of directors and separate operational  
4 practices and so on. They are in two different R-1  
5 districts. They're two different squares. They're not  
6 contiguous, and for all practical purposes and by their  
7 own statement they are establishing two private  
8 schools.

9 The application states that for the  
10 establishment of a private school at each of those  
11 sites. The fact that they may have a common operator  
12 does not go to the fact as to who should be the  
13 appropriate Applicant.

14 On the issue of failing to file timely the  
15 prehearing statement of the Applicant, and if you  
16 accept the first representation as to who should be the  
17 Applicant, then you should have (a) two numbers should  
18 have been assigned to this case and that they should  
19 have been the same. All of the requirements of notice  
20 and response has to apply to all of the applicants.

21 So if you were to accept the notion of who  
22 is the proper Applicant, then they would have had to  
23 have filed -- another Applicant would have had to have  
24 filed 14 days prior to this hearing.

25 This Applicant filed at six. Assuming that

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1 this Applicant has an agency authorization, the Jewish  
2 Primary Day School filed their statement at 6:45 on  
3 March 1, after the close of business of the office.

4 There's a line of cases that have pointed  
5 out that once when you have regular published hours,  
6 that at the time of the closing of the office any  
7 filing therefore after received should be registered as  
8 of the next business day.

9 This filing was accepted, we believe,  
10 because of the special status of counsel as a former  
11 staff person of this office.

12 CHAIRPERSON CROSS REID: Okay. Let's now  
13 cut to the reasons why you're asking for the case to be  
14 dismissed and not get into all of the merits because  
15 this is -- we're still in preliminary matters. So we'd  
16 like to get into the case.

17 Now, let's just take it one by one. You  
18 contend that there was a failure to pay a fee?

19 MR. BARDONILLE: Yes. Yes, ma'am. There  
20 is a fee associated with the filing of each  
21 application.

22 CHAIRPERSON CROSS REID: All right. Okay.  
23 Was the fee filed, Ms. Dobbins?

24 MS. DOBBINS: The appropriate fees were  
25 filed, Madame Chair. The fees in Section 3180 indicate

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1 that for an application for a special exception for a  
2 child development center or private school, \$25 for  
3 each full-time or part-time student based on the  
4 maximum capacity requested with a maximum of \$2,500.  
5 The Applicant paid \$2,500 in this case.

6 CHAIRPERSON CROSS REID: I have a copy of  
7 the check for \$2,500.

8 MR. BARDONILLE: But there are two schools.

9 CHAIRPERSON CROSS REID: Okay. Now, that's  
10 what you contend. Nonetheless --

11 MR. BARDONILLE: The record contends that,  
12 not me, Madame --

13 MS. DOBBINS: Madame Chair, just to respond  
14 to that --

15 CHAIRPERSON CROSS REID: There's one  
16 application. There's one application, and for the  
17 application, the fees were submitted.

18 Go ahead.

19 MS. DOBBINS: That was my point. The fees  
20 were submitted for one school. There is only one  
21 Jewish Primary Day School.

22 CHAIRPERSON CROSS REID: Okay. You already  
23 said that.

24 MS. DOBBINS: Okay.

25 CHAIRPERSON CROSS REID: Okay. Now,

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1 failure to file a timely prehearing --

2 MR. BARDONILLE: Have we disposed of the  
3 Applicant issue? Is that what you're telling me?

4 CHAIRPERSON CROSS REID: The what?

5 MR. BARDONILLE: The fact that there are  
6 two separate properties is irrelevant?

7 CHAIRPERSON CROSS REID: You already told -  
8 - no, no.

9 MR. BARDONILLE: I've already said that.

10 CHAIRPERSON CROSS REID: What we keep  
11 telling you is that there's one applicant and one  
12 school. Even though the school maybe on two sites,  
13 still it's one school. So we can't keep beating that  
14 to death. I mean, we don't make those rules. It's one  
15 school.

16 MR. BARDONILLE: But it's a rule based --  
17 these are rule based proceedings.

18 CHAIRPERSON CROSS REID: Okay, okay. Well,  
19 nonetheless, whether you agree or disagree, the fact  
20 still remains it's one school, sir. Now, can we move  
21 on to the next one?

22 All right.

23 MR. SOCKWELL: If I may read two sentences  
24 from the Applicant's statement in the background  
25 Section 3. If I pronounce it incorrectly, I apologize.

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1           "The Ohev Shalom Synagogue is proposed as  
2 the temporary home for grades kindergarten through  
3 three of the Jewish Primary Day School of the Nation's  
4 Capitol. The Tifereth Israel Synagogue is proposed as  
5 the temporary home for grades four, five, and six of  
6 the Jewish Primary Day School of the Nation's Capitol,"  
7 which in most people's understanding of an entity would  
8 be parts of the whole being housed in two separate  
9 buildings as opposed to two independent schools being  
10 housed in two separate buildings, sir.

11           MR. HAMPTON: Excuse me, but I think that  
12 even the BZA now is going far afield. Whether or not  
13 it's one school or 50 schools, this is not an education  
14 committee. What this is is a land use. You are  
15 dealing with two parcels of land in two discrete,  
16 different zoning areas, et cetera.

17           So they can hide the ball or do whatever  
18 they want to, but, again, this is a land use issue, and  
19 we have a major thoroughfare separating these parcels  
20 of land. So, again, we implore that this application,  
21 again, is faulty on its face because, again, they're  
22 talking about two different parcels of land.

23           CHAIRPERSON CROSS REID: Okay. All right.  
24 Now, let's move to the next one.

25           Failure to file in a timely manner the

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1 prehearing statement.

2 MR. BARDONILLE: Yes.

3 CHAIRPERSON CROSS REID: Was it filed  
4 timely?

5 MS. DOBBINS: It was filed on March 1st at  
6 6:45. The office doors were still open, and the office  
7 traditionally takes any materials that come in as long  
8 as there's someone to accept them.

9 CHAIRPERSON CROSS REID: Okay.

10 MS. DOBBINS: There is nothing in the  
11 regulations that says "close of business."

12 MR. HAMPTON: Excuse me. We object to that  
13 characterization that the office was open because as  
14 you already heard from Ms. Grey, she was at the office  
15 at five o'clock and was asked to leave because they  
16 were closing.

17 So to say that, yes, it was open because  
18 somebody came back and opened the doors up, and as  
19 members of the public, would we be given that same  
20 opportunity? If I show up at 5:15 --

21 CHAIRPERSON CROSS REID: Well -- well --  
22 well, wait a minute, sir. I think that the contention  
23 is that if it's on that day up until 12 o'clock  
24 midnight --

25 MR. HAMPTON: No, that's not the rule.

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1 MR. BARDONILLE: Whose contention --

2 CHAIRPERSON CROSS REID: If it not --

3 MS. DOBBINS: Yes.

4 CHAIRPERSON CROSS REID: -- you can't say  
5 by close of business.

6 MR. BARDONILLE: Whose contention are you  
7 representing, Madame Chairman?

8 CHAIRPERSON CROSS REID: The regulation.  
9 The regulations don't say --

10 MS. DOBBINS: Madame Chairperson.

11 MR. BARDONILLE: The regulations are --

12 CHAIRPERSON CROSS REID: Let me finish.  
13 Let me finish.

14 MS. DOBBINS: I have a solution to this.

15 CHAIRPERSON CROSS REID: Let me finish.  
16 The regulations don't say they have to be by close of  
17 business.

18 MS. DOBBINS: They do not.

19 CHAIRPERSON CROSS REID: It doesn't  
20 specify. So as long as it's accepted in the office,  
21 then that has traditionally been satisfactory.

22 MS. DOBBINS: And that has been the  
23 standard for everyone. Madame Chair, if it's an issue  
24 or if it continues to be an issue, I would put on the  
25 record a request to waive the rules to accept the

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1 prehearing submission of the Applicant.

2 CHAIRPERSON CROSS REID: All right.

3 MR. HARRISTON: Madame Chairman, Madame  
4 Chairman.

5 CHAIRPERSON CROSS REID: Who's speaking?

6 MR. HARRISTON: Me.

7 CHAIRPERSON CROSS REID: Oh, okay.

8 MR. HARRISTON: Madame Chairman, the board  
9 has a responsibility to be fair to all citizens.

10 CHAIRPERSON CROSS REID: Right.

11 MR. HARRISTON: Now, if one of the citizens  
12 in the community can't -- is chased out of the office  
13 at closing time, five o'clock --

14 CHAIRPERSON CROSS REID: Oh, but look --  
15 but don't go into all of that because we have a request  
16 to waive the rules and accept it late. So --

17 MR. HARRISTON: No, but -- no, but we still  
18 have to -- you see, then what you're doing is saying  
19 that if an Applicant is late, then we'll waive the  
20 rules and let the Applicant in. Then you've bothered  
21 all of us --

22 CHAIRPERSON CROSS REID: What is late?

23 MR. BARDONILLE: But it has to be for good  
24 cause shown.

25 MR. HARRISTON: After closing.

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1 MR. BARDONILLE: Madame Chairman, it's not  
2 arbitrary and capricious.

3 MR. HARRISTON: You see, if my -- if --

4 CHAIRPERSON CROSS REID: Okay. Look.  
5 Let's not go into all of that.

6 MR. HARRISTON: I know, but this is  
7 extremely --

8 CHAIRPERSON CROSS REID: Let's not go --  
9 let's not go into all of that.

10 MR. HARRISTON: It's extremely important to  
11 our point of view.

12 CHAIRPERSON CROSS REID: The fact of the  
13 matter is --

14 MR. HARRISTON: We have brought all of  
15 course citizens --

16 CHAIRPERSON CROSS REID: Can I finish?

17 The fact of the matter is if, in fact,  
18 anything comes to this Board that's late, we have  
19 prerogatives of waiving the rules and allowing it to  
20 come into the record. We can do that.

21 MR. HARRISTON: For good cause shown.

22 CHAIRPERSON CROSS REID: For whatever we  
23 -- for whatever reasonably we so desire.

24 MR. BARDONILLE: Well, Madame Chair, you  
25 keep sliding over those rules that don't seem to --

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1 CHAIRPERSON CROSS REID: Whether or not you  
2 agree --

3 MR. BARDONILLE: -- that you don't like.

4 CHAIRPERSON CROSS REID: -- or don't agree  
5 with what the regulations are here is really moot, sir.  
6 Now, you've been given the answer. So let's move on  
7 to the next.

8 And with regard to the request for waiving  
9 so that the late submission can be -- waive the rules  
10 to accept late submission, is there any objection by  
11 any Board member to that?

12 MS. RENSHAW: I would like to know, Madame  
13 Chair, if in the material that was passed out to the  
14 Applicant and also to the community, was there any time  
15 line, any office hours down on a piece of paper that  
16 the material had to be submitted by the close of  
17 business at a particular time?

18 CHAIRPERSON CROSS REID: No. The question  
19 is --

20 MS. RENSHAW: Is there anything in writing?

21 CHAIRPERSON CROSS REID: Well, I don't  
22 think so. I'm almost certain it's not, but we can  
23 check with Corp. Counsel, but the question right now is  
24 --

25 MS. PRUITT: Madame Chair.

1 CHAIRPERSON CROSS REID: -- do you have any  
2 objection to waiving the rules to accept it if, in  
3 fact, it was late.

4 MS. RENSHAW: I think the neighborhood has  
5 a strong argument, and they have advanced that.

6 CHAIRPERSON CROSS REID: Yes? Yes? Could  
7 you say yes or no, Ms. Renshaw, please?

8 MS. RENSHAW: And I would say, yes, they  
9 have a strong argument.

10 CHAIRPERSON CROSS REID: Do you object to  
11 it being -- waiving the rules to accept the --

12 MS. RENSHAW: In this case, yes.

13 CHAIRPERSON CROSS REID: Okay. Anyone  
14 else?

15 MS. PRUITT: Madame Chair, for the record,  
16 I just want --

17 CHAIRPERSON CROSS REID: Is there anyone  
18 else that objects?

19 Okay. All right. Then we would accept it  
20 into the record as having been waived -- we waive the  
21 rules as to allowing it to come in late.

22 Yes, Ms. Pruitt.

23 MS. PRUITT: I was just going to indicate  
24 there is not in the record -- I mean in the regs. or in  
25 our policies that give time frames for the office.

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1 CHAIRPERSON CROSS REID: All right.

2 MS. PRUITT: And also that it just says 14  
3 days in advance. It does not say close of business or  
4 by five or by six or whatever.

5 CHAIRPERSON CROSS REID: Okay. Now, the  
6 next issue, sir?

7 MR. HARRISTON: Pardon me, Madame Chair.  
8 Are we understanding correctly that the Applicant is  
9 admitting that it was late?

10 MS. DOBBINS: No.

11 CHAIRPERSON CROSS REID: No. What the  
12 Applicant asked was if, in fact, it was late, would we  
13 waive the rules, and --

14 MS. DOBBINS: The Applicant contends that  
15 it was not.

16 CHAIRPERSON CROSS REID: Can we move  
17 forward, please, sir?

18 MR. BARDONILLE: Did you rule on the issue  
19 of the fee, therefore, also? Are you ruling on these  
20 one by one?

21 CHAIRPERSON CROSS REID: No, we've already  
22 -- we've already -- yes.

23 MR. BARDONILLE: I don't know how to  
24 proceed.

25 CHAIRPERSON CROSS REID: We have ruled on

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1 the fee.

2 MR. BARDONILLE: And that rule was?

3 CHAIRPERSON CROSS REID: Well, we have a  
4 check for \$2,500 for the application, which was  
5 required, and if, in fact, you don't agree with that  
6 again you can take it up elsewhere, but we have already  
7 ruled that it is one application.

8 MR. BARDONILLE: I was just seeking a  
9 clarification --

10 CHAIRPERSON CROSS REID: Okay, all right.

11 MR. BARDONILLE: -- that you have ruled  
12 that only one fee was due and it has been paid. That  
13 is, in fact, your ruling.

14 CHAIRPERSON CROSS REID: That is our  
15 understanding.

16 MR. BARDONILLE: Just want the record to  
17 reflect --

18 CHAIRPERSON CROSS REID: That's our  
19 understanding.

20 MR. BARDONILLE: -- what you're saying.

21 Now, on the last point is that as of the  
22 close of business, although at that point I don't know  
23 if I can rely on your record, as of the close of  
24 business yesterday, there was no verification of agency  
25 on behalf of the Jewish Day School in the record.

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1 CHAIRPERSON CROSS REID: Okay. Ms.  
2 Dobbins?

3 MS. DOBBINS: It was submitted today.  
4 There's nothing that's required at any time in advance.  
5 Your advanced agency has to be filed along with an  
6 application. I did not file the initial application.

7 CHAIRPERSON CROSS REID: Okay. All right.  
8 Now --

9 MR. BARDONILLE: Are you asking me if  
10 that's okay?

11 MR. HARRISTON: Oh, no, it's not okay.

12 CHAIRPERSON CROSS REID: No.

13 MR. BARDONILLE: It's not okay.

14 CHAIRPERSON CROSS REID: I'm asking you  
15 if --

16 MR. BARDONILLE: Oh, I'm sorry. I didn't  
17 know what you had said.

18 CHAIRPERSON CROSS REID: -- you had heard  
19 what she said.

20 MR. BARDONILLE: Oh, yeah, I heard her.

21 CHAIRPERSON CROSS REID: Okay. Now, with  
22 regard to your request for this application to be  
23 dismissed, Board members, I see no reason for us to  
24 dismiss this application unless there is any objection  
25 by anyone else.

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1 Okay?

2 MR. SOCKWELL: Madame Chair, absent any  
3 statutory --

4 CHAIRPERSON CROSS REID: Well, let's take a  
5 vote.

6 MR. SOCKWELL: -- statements that would --

7 CHAIRPERSON CROSS REID: I think we should  
8 take a vote because it's a motion, right? On the floor  
9 we have a motion to dismiss.

10 MS. PRUITT: Madame Chair, who --

11 CHAIRPERSON CROSS REID: I would move that  
12 we not dismiss the application. I moved.

13 Mr. Bardonille, as an agent for a party.

14 MR. PARSONS: Second.

15 CHAIRPERSON CROSS REID: Mr. Parsons.

16 All in favor?

17 (Chorus of ayes.)

18 CHAIRPERSON CROSS REID: All right.

19 Opposed?

20 (No response.)

21 CHAIRPERSON CROSS REID: All right. Now --

22 MR. HARRISTON: Who didn't vote?

23 MS. PRUITT: Just to be --

24 CHAIRPERSON CROSS REID: Huh?

25 MR. HARRISTON: I don't know which way you

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1 voted. I couldn't hear what --

2 MS. PRUITT: Excuse me. I was getting  
3 ready to repeat the vote right now if you'd give me a  
4 minute.

5 CHAIRPERSON CROSS REID: Right.

6 MS. PRUITT: Staff would record the vote as  
7 five to zero not to dismiss the case or to deny the  
8 motion by Mr. Blondell (phonetic).

9 MR. SOCKWELL: I believe that's not five to  
10 zero. I abstained.

11 MS. PRUITT: I'm sorry. I did not hear  
12 you. So it will be four to zero to one.

13 MS. RENSHAW: And I abstain also.

14 MS. PRUITT: Okay. Three to zero to one.  
15 Two. I'm sorry. Two.

16 CHAIRPERSON CROSS REID: All right. So --

17 MS. PRUITT: I would request that Board  
18 members --

19 CHAIRPERSON CROSS REID: Wait, wait.

20 MS. PRUITT: -- speak up louder so that we  
21 can hear you down here.

22 CHAIRPERSON CROSS REID: Wait one second.  
23 Then that motion fails. So --

24 MS. DOBBINS: Madame Chair.

25 CHAIRPERSON CROSS REID: Yes.

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1 MS. DOBBINS: Three votes is all you need.

2 CHAIRPERSON CROSS REID: I move --

3 MS. DOBBINS: Three, zero, two.

4 CHAIRPERSON CROSS REID: Oh, I'm sorry.

5 Okay. I'm sorry. I thought that -- I thought we had  
6 another.

7 All right. So we will not dismiss. Let's  
8 move forward.

9 All right. Now can we have the case  
10 called?

11 MR. HARRISTON: Did you rule on my motion  
12 earlier about the ANC filing late on the supplemental?

13 CHAIRPERSON CROSS REID: No, we said that  
14 we would take it up at this time.

15 MR. HARRISTON: All right. Then I move  
16 that the ANC be granted permission to file late on the  
17 supplemental because the Applicant delayed us.

18 CHAIRPERSON CROSS REID: Well, I have no  
19 problem with waiving the rules to allow the ANC's  
20 report to come in late unless there's any objection.

21 Okay. Thank you.

22 MS. DOBBINS: Madame Chair, we would like  
23 to have a copy of that report, please.

24 MR. HARRISTON: It's in the file.

25 CHAIRPERSON CROSS REID: You all can --

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1 MR. HARRISTON: No, we filed it, and at the  
2 time I filed it I asked that it be placed in the file.

3 They said they wouldn't put it in the file until you  
4 ruled on it.

5 CHAIRPERSON CROSS REID: All right. Okay.  
6 She'll be given a copy of it.

7 Okay. Now, can you call the case?

8 MS. PRUITT: Certainly.

9 CHAIRPERSON CROSS REID: And let's get on  
10 with it.

11 MR. HUMPHRIES: Madame Chair.

12 MS. PRUITT: The last case of the day.

13 MR. HUMPHRIES: Your indulgence, if I might  
14 consult with counsel.

15 CHAIRPERSON CROSS REID: We're calling the  
16 case. Can we do that? Before we call the case?

17 MR. HUMPHRIES: Yes. There may be another  
18 preliminary issue.

19 (Pause in proceedings.)

20 MR. HUMPHRIES: Madame Chair, we have one  
21 other preliminary motion. The motion concerns the  
22 filing of the application. We would seek clarification  
23 regarding the Applicant's representative. On the  
24 original application, it indicated that one law firm  
25 was representing the Applicant and that that person

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1 indicated that I think it was Allison Prince --  
2 indicated that her -- law firm and that she is legal  
3 counsel licensed in the District of Columbia, would be  
4 representing the Applicant.

5 And then when the prehearing statement was  
6 filed, we see another law firm, and we see another  
7 signature on the statement, and so we would like  
8 clarification with regard to which lawyer licensed in  
9 the District of Columbia is representing the Applicant.

10 And I state that, and I would ask my co-  
11 counsel to serve as a witness with regard to this  
12 because a matter of legal representation in the District  
13 of Columbia has come up.

14 CHAIRPERSON CROSS REID: All right. Just a  
15 moment.

16 Ms. Pruitt, do you want to speak to this?

17 MS. PRUITT: Yeah, I would just point out  
18 some clarification. There is no requirement that  
19 anyone who represents an Applicant before the Board be  
20 a Barred attorney or a registered architect or  
21 anything. So anyone can represent anyone before the  
22 Board as long as they have authorization from that  
23 Applicant.

24 And it's my understanding that we received  
25 today a copy and authorization for the current person

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1 to represent this Applicant.

2 MR. HAMPTON: Now, is that application from  
3 the Jewish Primary -- I'm sorry -- that authorization  
4 is from the Jewish Primary Day School, is what I saw.

5 MS. PRUITT: I need to pull it out in front  
6 of me because I don't have it directly.

7 MS. DOBBINS: Madame Chair, you have three  
8 authorizations that were submitted to you today  
9 anticipating this. You have authorizations from both  
10 synagogues authorizing the Jewish Primary Day School  
11 to represent them before the Board, and then you have  
12 an authorization from the Jewish Primary Day School for  
13 Arter & Hadden to represent them before the Board  
14 today.

15 CHAIRPERSON CROSS REID: Okay.

16 MS. DOBBINS: I am the designated  
17 representative from Arter & Hadden. I am not Barred in  
18 the District of Columbia, and I am not required to be  
19 Barred in the District of Columbia to appear before  
20 this Board.

21 CHAIRPERSON CROSS REID: All right. Okay.

22 MS. DOBBINS: I have with me today  
23 Alexandria Zelickson (phonetic) of our firm, who is, in  
24 fact, Barred by the District of Columbia.

25 CHAIRPERSON CROSS REID: All right. Okay.

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1 Now, can we call the case, this case this afternoon,  
2 please?

3 MR. BARDONILLE: There's a motion on the  
4 floor, Madame Chair.

5 MR. HARRISTON: We have raised the issue.  
6 The Board needs to rule.

7 CHAIRPERSON CROSS REID: It was not a  
8 motion.

9 MR. HARRISTON: No, we've raised the issue.  
10 The issue is whether the representative for the day  
11 school or for the primary school is properly before  
12 this Board.

13 CHAIRPERSON CROSS REID: Yes, yes.

14 MR. HARRISTON: This --

15 CHAIRPERSON CROSS REID: My understanding  
16 is --

17 MR. HARRISTON: I haven't finished yet.

18 CHAIRPERSON CROSS REID: Okay.

19 MR. HARRISTON: Now, when you look at the  
20 signature on the report, you see the signature of an  
21 attorney with the law firm below it. Now, usually in  
22 circles that I'm familiar with, when you see a law firm  
23 and a signature above that, that person is representing  
24 in a legal fashion. We are concerned with the practice  
25 of law. That is a matter of issue in the District of

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1 Columbia.

2 Now, the fact that you say that you don't  
3 have to be a lawyer to be before this Board, I don't  
4 have any problem with that, but when you sign your name  
5 as a part of the law firm, you are representing  
6 yourself as a lawyer. That's a distinction. We think  
7 the Board has to rule on that.

8 CHAIRPERSON CROSS REID: To rule on what?

9 MR. HARRISTON: On whether --

10 CHAIRPERSON CROSS REID: -- we are  
11 confused.

12 MR. HARRISTON: -- on whether counsel is  
13 properly before you.

14 CHAIRPERSON CROSS REID: I think that for  
15 all intents and purposes as far as this Board is  
16 concerned, we have no objection to the representative  
17 agent --

18 MR. HARRISTON: That's all we were saying,  
19 that we --

20 CHAIRPERSON CROSS REID: -- that is  
21 representing --

22 MR. HARRISTON: -- want you to rule because  
23 --

24 CHAIRPERSON CROSS REID: -- the Jewish Day  
25 School. I have no --

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1 MR. HARRISTON: -- that becomes an issue  
2 for the record.

3 CHAIRPERSON CROSS REID: -- objection.

4 MR. HARRISTON: That's all we're trying to  
5 do is make a record.

6 CHAIRPERSON CROSS REID: All right. We're  
7 ruling that we have no objection. Okay.

8 MR. HUMPHRIES: Thank you, Madame Chair.

9 CHAIRPERSON CROSS REID: Thank you.

10 Okay. Now we would like to call the case.

11 MS. PRUITT: Application 16556, application  
12 of Jewish Primary Day School of the Nation's Capitol,  
13 pursuant to 11 DCMR 3104.1, for a special exception  
14 under Section 206 to establish a private school for 215  
15 students and 32 teachers and staff in an R-1 district  
16 at 7712 16th Street, N.W., Square 2745-D, Lot 802, and  
17 in an R-1-B district at 7701 16th Street, N.W., Suite  
18 2739, Lot 804. The Applicant seeks approval on a  
19 temporary basis for a three year term.

20 Al those people planning to testify in  
21 support or opposition, please stand or raise your hand  
22 and any agent.

23 Could you stand, Mr. Harriston? Thank you.

24 (Whereupon, the witnesses were duly sworn.)

25 MS. PRUITT: Please be seated.

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1 (Pause in proceedings.)

2 CHAIRPERSON CROSS REID: Just one second.  
3 That's what we're talking about now, sir. Just one  
4 second.

5 (Pause in proceedings.)

6 CHAIRPERSON CROSS REID: All right. How  
7 many people are here in support of the application,  
8 wants to speak in support of the application?

9 (Show of hands.)

10 CHAIRPERSON CROSS REID: All right, and I  
11 guess everyone else is in opposition. How many people  
12 are in opposition to the application?

13 (Show of hands.)

14 CHAIRPERSON CROSS REID: Okay. All right.  
15 Now, there's no way we're going to be able to finish  
16 this case today because it has take so much time with  
17 the preliminary matters and also the fact that everyone  
18 will be afforded the time that they need to be able to  
19 speak, and if the Applicant has an hour, and then  
20 there's cross examination, and then there are people,  
21 persons and parties, in support, that's going to take a  
22 considerable amount of time.

23 And then we have the ANC report and Office  
24 of Planning report. That will also take some time. So  
25 my thinking is that we truncate this somehow and have

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1 the -- take the first part up through the ANC reports.

2 I don't know if we'll have time to -- if we try to do  
3 persons in support, then that's going to go for some  
4 time. We can try to go up until that amount.

5 I know I have one Board member who has to  
6 leave at six, okay, and another Board member has to  
7 leave shortly thereafter.

8 So my thinking is that we can try to do as  
9 much as we can today and then take the opposition, the  
10 second part up on an alternate day, which would give  
11 you ample time to be able to put on your case because  
12 other than that, if we try to, you know, get everything  
13 in today, then I don't think that you've going have to  
14 have to be able to put on your case as sufficiently as  
15 you'd like to. That would be my suggestion.

16 MS. DOBBINS: Madame Chair, I'd just like  
17 to indicate that we have a severe time constraint. We  
18 are hoping that the Board will be able to decide this  
19 case the very first of April. That's when the day  
20 school needs to provide information to its parents that  
21 they will have a school and a location for the next  
22 year.

23 So we're working with a severe deadline.

24 CHAIRPERSON CROSS REID: Okay. So how do  
25 we do that?

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1 MS. PRUITT: I can give you dates that we  
2 have tentatively that I believe would be or are  
3 available because the Board does have a very full  
4 schedule as it is.

5 CHAIRPERSON CROSS REID: Yes.

6 MS. PRUITT: Between now and the 5th of  
7 April, you have the 21st because you're starting --  
8 just for general information, BZA is starting to move  
9 all of its meetings to Tuesday. So eventually we will  
10 always be on Tuesday. So new meetings we're scheduling  
11 will be on Tuesday.

12 So the 21st next week, next Tuesday is  
13 available. I'm just giving you -- then the following  
14 one would be the 28th, which is the day before the  
15 Field School. So that would give you two really big  
16 meetings back to back. Those are the only two days  
17 available in March.

18 When we move to April, we have the 11th.

19 (Pause in proceedings.)

20 MR. BARDONILLE: Madame Chair, I'd just  
21 like to put on the record that we object to any request  
22 for expedited consideration of this case in that  
23 whatever time considerations are impacting the  
24 Applicant are of their own making and choosing. So  
25 that we should in any way be further burdened because

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1 of the exigencies of this Board doing its lawful  
2 business I think would be inappropriate.

3 MR. HARRISTON: Moreover --

4 CHAIRPERSON CROSS REID: Wait, wait, wait.

5 First, we wanted to see what the calendar tells us  
6 because it's going to be driven by our calendar anyway.

7 Before you all object, let's see what date is being  
8 proffered and then you can object if you'd like to.  
9 Okay?

10 MS. DOBBINS: Okay. Madame Chair, we are  
11 not objecting to the 21st though it is a Jewish  
12 holiday. We will be prepared to -- the 21st.

13 MS. PRUITT: Of March. That's the first  
14 available date.

15 MR. HAMPTON: Excuse me, Your Honor. One  
16 of the people that you granted party status with Mr.  
17 Arthur Lewis is unavailable on the 21st.

18 CHAIRPERSON CROSS REID: Okay. Wait a  
19 minute. The 21st, you mean next week?

20 MS. PRUITT: Next Tuesday, correct, because  
21 the following week you have the Field School on the  
22 29th. Now, if you'd like, another option is to do it  
23 on the 28th, and then have Field School right again on  
24 the 29th. I don't know if the Board is willing to do -  
25 - I'm just trying -- that's why I'm saying that's -- in

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1 my opinion, that's the first available date, the 21st.

2 Then after that we go to the 11th of April.

3 MS. DOBBINS: Madame Chairperson, the 11th  
4 would be beyond the date that parents who have students  
5 in the Jewish Primary Day school would have to register  
6 their children in other schools.

7 MR. HUMPHRIES: Madame Chair, we object to  
8 this, and we object because of the fact that we have  
9 witnesses who we have to prepare, and we have to check  
10 with them to determine their availability for a  
11 rescheduled date within the proper procedure --

12 MS. PRUITT: This is very typical.

13 MR. HUMPHRIES: -- as you determine a date.  
14 You know, we have to check. We don't want to  
15 represent to you that they're available and they're not  
16 available.

17 CHAIRPERSON CROSS REID: Okay. Just give  
18 us a second.

19 (The Board conferred.)

20 MS. DOBBINS: May the Director of the Board  
21 of Directors or the Chairperson of the Board of  
22 Directors for the Jewish Day School please speak to  
23 this issue?

24 CHAIRPERSON CROSS REID: All right.

25 DR. SCALDINI: Madame Chairman, I'm Dick

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1 Scaldini. I'm the President of the Board of Directors  
2 of the Jewish Primary Day School.

3 The most important point we can make at  
4 this time is that the exigencies of time that we face  
5 are in no way of our making. You'll see that in the  
6 case that we will eventually present.

7 We suffer the jeopardy of the school, a  
8 threat to the continuation of the school if we cannot  
9 move the process along at the earliest possible time.

10 We are prepared on a major Jewish holiday,  
11 which we would normally observe in our homes and  
12 synagogues, to come here and present the case.

13 CHAIRPERSON CROSS REID: What about the  
14 11th?

15 DR. SCALDINI: We will be beyond the date  
16 at which time our parents will have to register their  
17 kids in school for the coming year. We will lose the  
18 school.

19 Now, we are at this late point today  
20 because of all of the issues that these gentlemen  
21 raised. We --

22 CHAIRPERSON CROSS REID: Okay.

23 MR. HAMPTON: We object to that  
24 characterization.

25 CHAIRPERSON CROSS REID: Whatever.

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1 MR. SOCKWELL: Gentlemen, one person at the  
2 microphone at a time, please.

3 CHAIRPERSON CROSS REID: Let me just say  
4 this. Let us discuss this. That's number one.

5 Number two is going to be next to  
6 impossible to conduct this case with all three of you  
7 jumping to the mic to object to everything that we do.  
8 We'd like to try to move this along.

9 We're going to try to do it as fairly as we  
10 possibly can, but we have a lot of different things to  
11 consider. We have the staff's schedule. We have the  
12 Board members' schedule. We have the sentiments of the  
13 Applicant and also your objection. So just give us a  
14 couple of seconds to just see what we can best do.

15 MR. HARRISTON: May I put one thing -- you  
16 see, you heard one part of the record. Let me put the  
17 other side to Mr. Scaldini's point before you do this.

18 Now, we in the community, we didn't choose  
19 this case at this time.

20 CHAIRPERSON CROSS REID: Yes, we know that.

21 MR. HARRISTON: This was placed on us, and  
22 we have all of these people who have jobs and other  
23 things to do. Part of the contest in this case will be  
24 that this is their own doing. If they shot themselves  
25 in the foot, that's their problem.

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1 CHAIRPERSON CROSS REID: All right.

2 MR. BARDONILLE: Including this point,  
3 Madame Chair. Let me just point out that counsel for  
4 Applicant represents to the staff of the Board the  
5 nature of the case that is before them and thus that  
6 affects how you schedule the case. That's what I was -  
7 - I mean that's --

8 MR. HARRISTON: That's what we were told.

9 MR. BARDONILLE: We were told that. The  
10 reason why the Field School --

11 CHAIRPERSON CROSS REID: Do you mean to  
12 tell me -- wait, wait, wait. You mean to tell me that  
13 you asked for additional time for you to say that?

14 MR. BARDONILLE: No, no, no, no. We asked  
15 why there were four cases --

16 CHAIRPERSON CROSS REID: No, no, no, no,  
17 no, no, no.

18 MR. BARDONILLE: -- in the morning.

19 CHAIRPERSON CROSS REID: No, no, no, no.  
20 That is just an assertion that you just cannot make.

21 MR. BARDONILLE: And we were miss -- we  
22 were misled.

23 CHAIRPERSON CROSS REID: And further,  
24 hereafter we don't want to take up unnecessary time  
25 with any conjecture, with any claims, with any

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1 accusations. Let's leave all of that aside and get to  
2 the case and just try to hear the case as fairly as  
3 possible, and all extraneous information, please, let's  
4 leave it out.

5 Thank you.

6 All right. Now okay.

7 MS. LEWIS: Madame Chairman, I've been  
8 advised that --

9 MS. PRUITT: Excuse me, ma'am. You're not  
10 on the record and no one can hear you. So you need to  
11 come forward.

12 MS. LEWIS: I was told by a member of your  
13 staff -- my name is Frances Lewis, 1446 Jonquil Street,  
14 N.W. -- I was told by a member of your staff yesterday  
15 that when asked specifically when the Applicant filed  
16 this appeal, they asked if there would be any  
17 opposition, if it would be a lengthy day, knowing that  
18 there was already another issue on, and they were told  
19 flat out, no, there would be no opposition.

20 CHAIRPERSON CROSS REID: What sense did  
21 that make? Even if a staff member did tell you that,  
22 they were wrong. So, I mean, we can't control what  
23 happens. If you answer a phone, it could have been a  
24 cleaning person that answered that phone at that  
25 moment. We don't know who answered the phone.

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1 MS. LEWIS: She identified herself.

2 MS. DOBBINS: Madame Chairperson, I would  
3 just like to say that the Applicant in this case will  
4 coordinate the persons in support to truncate as much  
5 as we possibly can.

6 CHAIRPERSON CROSS REID: Okay. Thank you.  
7 Thank you.

8 Please I don't want to go into all of that  
9 extraneous who said. That's not germane right now.  
10 Let's just try to get this case on as quick and as  
11 efficiently as we possibly can.

12 MR. HARRISTON: We have a suggested date.

13 CHAIRPERSON CROSS REID: What is that?

14 MR. HARRISTON: The 11th. We can make it.

15 CHAIRPERSON CROSS REID: All right. We  
16 have to recess for about two minutes.

17 (Whereupon, the foregoing matter went off  
18 the record at 4:00 p.m. and went back on  
19 the record at 4:18 p.m.)

20 CHAIRPERSON CROSS REID: What we have  
21 decided is Tuesday, next Tuesday, which is the 21st --

22 MS. PRUITT: Correct.

23 CHAIRPERSON CROSS REID: -- appears to be  
24 the date that the Board members have available and  
25 staff to be able to reconvene to finish this case, and

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1 we can start at 9:30 in the morning, and hopefully  
2 we'll be done on that same day, and hopefully that will  
3 gel with most of your schedules.

4 No matter what date we choose, there's  
5 going to be a problem with someone. So all things  
6 considered, that was the date that we felt would be the  
7 most accommodating.

8 Okay. Now, so today we're going to try to  
9 get through -- just a moment, please.

10 MR. HARRISTON: Before we go, may we  
11 caucus? We need to respond to your -- we may not be  
12 able to be here.

13 (Simultaneous conversation.)

14 CHAIRPERSON CROSS REID: Sir, well, that's  
15 the date that we're going to have the hearing. So, you  
16 know, I don't know what else to say. Any date that we  
17 choose someone may not be able to make it, but that's  
18 the day we're going to have the hearing.

19 MR. BARDONILLE: But, Madame Chair, in the  
20 previous deliberations with respect to rescheduling,  
21 you worked with the parties. You did that today.

22 CHAIRPERSON CROSS REID: Yeah, we did.

23 MR. HARRISTON: Our parties say that we can  
24 be here on the 11th.

25 CHAIRPERSON CROSS REID: But we can't.

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1 MR. HARRISTON: Well, but that's one of the  
2 dates we were told.

3 CHAIRPERSON CROSS REID: And we have to be  
4 here.

5 MS. PRUITT: That was one of the dates that  
6 was available prior to checking with the Board.

7 MR. BARDONILLE: Well, what are the dates  
8 now?

9 MR. HARRISTON: Is there any other possible  
10 date that may --

11 CHAIRPERSON CROSS REID: Not between now  
12 and next week. No, I don't think so. The other Board  
13 members can't meet.

14 Anyway, listen. The 21st is the date. We  
15 have to be able to move on past that. If you cannot be  
16 here, then you can read the record or you can request -  
17 - you can submit testimony or whatever, but that is  
18 going to be the date that we're going to set.

19 Okay. Now --

20 MR. HARRISTON: What date are you saying?

21 CHAIRPERSON CROSS REID: Is that the 21st?

22 MS. PRUITT: Yes. Next Tuesday, the 21st  
23 at 9:30 in the room.

24 CHAIRPERSON CROSS REID: A.m. Now, for  
25 today, what we're going to do is we want to get through

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1 the Applicant's. I think that's all we're going to be  
2 able to do before we lose our quorum, is have the  
3 applicant put on their case, and with the cross  
4 examination of the Applicant today.

5 And then we will reconvene on Tuesday and  
6 take up with the ANC and the Office of Planning report.

7 Hopefully, hopefully we will have gotten that far.

8 Yes.

9 MR. HUMPHRIES: Madame Chair, then I  
10 respectfully request in light of the short notice of  
11 the 21st date that the record be kept open then for  
12 another 45 days to allow the individuals who cannot  
13 make it next week to provide testimony and make  
14 submissions to this Board.

15 MS. DOBBINS: Madame Chair, the record is  
16 open from now until the 21st continuously so that those  
17 persons who can't make it could submit their testimony  
18 by the 21st.

19 MR. HUMPHRIES: Yeah, Madame Chair, when  
20 the Applicant puts on its case, those who oppose must  
21 have an adequate opportunity to respond to the  
22 Applicant's case, and that's all we're asking.

23 MS. PRUITT: The Applicant's case will be  
24 done today, sir.

25 MR. HUMPHRIES: That the Board -- that the

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1 Board be reasonable.

2 CHAIRPERSON CROSS REID: Yeah. We're doing  
3 it today. The Applicant is putting on its case today.

4 The Applicant is putting on its case today, and you  
5 have until the 21st to prepare.

6 As a matter of fact, I'm assuming --

7 MS. PRUITT: Mic, mic.

8 MR. HUMPHRIES: But at the --

9 CHAIRPERSON CROSS REID: I'm assuming  
10 you're prepared today.

11 MR. HUMPHRIES: Right. At the same time we  
12 are prepared to go forward, but there's no guarantee,  
13 Madame Chair, that we're going to be finished with this  
14 today, with the Applicant's case and the cross  
15 examination.

16 CHAIRPERSON CROSS REID: Well, we're going  
17 to try. If we can just get into it.

18 MR. HUMPHRIES: And that's -- that's why  
19 we're trying to work with you.

20 CHAIRPERSON CROSS REID: Okay.

21 MR. HUMPHRIES: In order to allow the  
22 adequate opportunity for all parties to present  
23 testimony and data to this Commission.

24 CHAIRPERSON CROSS REID: All right.  
25 Well, --

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1 MR. HARRISTON: We don't have a ruling.

2 CHAIRPERSON CROSS REID: 21st is the  
3 motion.

4 MR. HARRISTON: Another motion for keeping  
5 the record open for 45 days.

6 CHAIRPERSON CROSS REID: And --

7 MR. HARRISTON: That's our motion.

8 MS. PRUITT: You can make a decision at the  
9 end of this proceeding because you don't know how far  
10 you're going to get.

11 CHAIRPERSON CROSS REID: Okay. Now, have  
12 you called the case?

13 MR. HARRISTON: What have you ruled?

14 CHAIRPERSON CROSS REID: That we will not  
15 rule. We have decided we will not rule until after the  
16 end of this day, this proceeding today, and then we can  
17 determine where we are and what decisions we have to  
18 make accordingly.

19 Ms. Pruitt?

20 MS. PRUITT: I'm sorry.

21 CHAIRPERSON CROSS REID: Are we ready to  
22 proceed?

23 MS. PRUITT: They've all been sworn in.

24 CHAIRPERSON CROSS REID: Okay. Ms.  
25 Dobbins.

1 MS. DOBBINS: Are we ready to proceed,  
2 Madame Chair?

3 CHAIRPERSON CROSS REID: We're ready.

4 MS. DOBBINS: Good afternoon, Madame  
5 Chairperson and members of the Board. I'm Madeliene  
6 Dobbins of the law firm of Arter & Hadden. With me  
7 today is Alexandria Zelickson (phonetic), also of Arter  
8 & Hadden.

9 Arter & Hadden serves as the land use  
10 counsel to the Jewish Primary Day School of the  
11 Nation's Capitol, the Applicant before you today.

12 Application No. 16556 requests special  
13 exception relief pursuant to Sections 3104.1 and 206 of  
14 the zoning regulations to establish a private school  
15 for 215 students and 32 full-time staff in the R-1-A  
16 district at 7712 16th Street, N.W., and in the R-1-B  
17 district at 7701 16th Street.

18 The Applicant notes that it has agreed to  
19 cap its enrollment at 205.

20 The Applicant --

21 CHAIRPERSON CROSS REID: Is this mine?

22 I'm sorry. Go ahead, Ms. Dobbins.

23 MS. DOBBINS: Okay. At 205, and requests  
24 approval on a temporary basis for a three-year period.

25 The Jewish Primary Day School came before

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1 this Board in 1987 and was granted approval to  
2 establish the school at Adas Israel Synagog where the  
3 school currently is housed and where it will remain  
4 until June 2000 when its lease will expire.

5 JPDS, or the Jewish Primary Day School,  
6 seeks approval from the Board today so that it can  
7 locate on a temporary basis to the sites on 16th Street  
8 until its permanent building is approved and  
9 constructed.

10 Section 206 of the zoning regulations  
11 permit a private school use in an R-1-A and R-1-B  
12 district if approved by the Board in accordance with  
13 the provisions of Subsection 3104.1. The private  
14 school use must be located so as not to become  
15 objectionable to adjoining and nearby property because  
16 of noise, traffic, number of students, or other  
17 objectionable conditions.

18 The special exception requested under  
19 Section 206 is in harmony with the general purpose and  
20 intent of the zoning regulations and map and will not  
21 adversely affect the use of neighboring property.

22 In this case, the Applicant has addressed  
23 the criteria for approval of the special exception.  
24 There will be little or no noise on the sites that will  
25 be objectionable to the neighboring property. The

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1 Applicant's traffic and transportation consultant has  
2 developed a transportation management plan that  
3 mitigates any traffic and transportation impact of the  
4 school on the neighboring property and streets.

5 The Applicant is providing adequate parking  
6 on the sites, has provided for a cap on the number of  
7 students at the sites, has provided for adequate trash  
8 collection, and has considered the safety of students  
9 and neighborhood children by providing play areas and  
10 using monitors extensively to facilitate drop-off and  
11 pick-up of students and oversee outdoor recreation.

12 Despite the Applicant's best efforts to  
13 gain unanimous support for this application, you will  
14 hear opposition today. However, there is also very  
15 strong support for this application, and you will hear  
16 that support, as well.

17 The Applicant has spent many hours with the  
18 community presenting its proposal and refining its  
19 transportation plan based on specific community input.

20 The plan is so much the better for the community  
21 input.

22 However, the Applicant has still been  
23 unable to gain unanimous support. The Applicant is  
24 committed to continuing its efforts in the community.  
25 The Board is no stranger to controversy and has on many

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1 occasions sorted through the testimony and documents  
2 presented to ascertain the relevant zoning criteria  
3 with which to judge the merits of the application  
4 presented.

5 Testimony today will show that the  
6 Applicant has gathered the evidence and necessary  
7 support to present a substantial and convincing case.  
8 We are hopeful that your decision in this case will be  
9 made easier by the support of documents and evidence  
10 that have already been submitted.

11 The written record in this case will be  
12 supplemented and highlighted by the testimony and the  
13 exhibits that you will hear and see today.

14 Experts in their respective fields will  
15 present the technical evidence. I ask that you  
16 recognize Ms. Susan Koss as an expert in school  
17 operations; Ms. Sharon Robinson as an expert in public  
18 relations and community outreach; and Mr. Lou Slade and  
19 Mr. Osborne George as experts in traffic and  
20 transportation as you have in the past.

21 The resumes are in the prehearing  
22 submission at Tab J. Would the Board like to take that  
23 up at this time?

24 CHAIRPERSON CROSS REID: Yes. Ms. Susan  
25 Koss.

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1 MS. DOBBINS: Yes, Susan Koss.

2 CHAIRPERSON CROSS REID: Okay. I have no  
3 objection to accepting her as an expert witness in  
4 education only. Is that what she's speaking to?

5 MS. DOBBINS: School operations.

6 CHAIRPERSON CROSS REID: And school  
7 operations.

8 MR. BARDONILLE: What is the basis of her  
9 expertise?

10 MR. HUMPHRIES: Objection.

11 CHAIRPERSON CROSS REID: Well, the basis  
12 was submitted in a resume within the application and  
13 the information was there. So I don't know if you've  
14 had a chance to look at it, but the Board will make the  
15 decision and determination as to whether or not it  
16 should be accepted as an expert witness, and I don't  
17 have a problem with it.

18 MR. BARDONILLE: Madame Chair, the proffer  
19 of a resume is not a specific qualification for her  
20 expertise. I mean, the resume indicates where she has  
21 worked and how long.

22 CHAIRPERSON CROSS REID: Okay. Well, you  
23 have -- you're objecting. I asked the Board members if  
24 they had any problem with her being accepted.

25 Do you? Is there any objection?

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1 MR. PARSONS: No. She has proper  
2 education, 20 years of experience in this field. Let's  
3 get on with it.

4 CHAIRPERSON CROSS REID: Okay.

5 MR. PARSONS: Lou Slade has been certified  
6 before this Board many times.

7 CHAIRPERSON CROSS REID: We know Mr. Slade.

8 MR. PARSONS: I have no objection to him.

9 Mr. George has been certified before us  
10 many times, and I have no objection to him.

11 And I see no objection to the public  
12 relations specialist.

13 CHAIRPERSON CROSS REID: Robinson.

14 MR. BARDONILLE: Madame Chairwoman.

15 CHAIRPERSON CROSS REID: Just one second  
16 please.

17 All right.

18 MS. DOBBINS: Madame Chair.

19 CHAIRPERSON CROSS REID: Sharon Robinson  
20 for public relations or community outreach?

21 MS. DOBBINS: Yes, public relations and  
22 community outreach.

23 CHAIRPERSON CROSS REID: Okay. I have no  
24 problem with her. Just one second. I have no problem  
25 with her.

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1 MS. RENSHAW: I would question whether it's  
2 really necessary to get into PR in this hearing. I  
3 really do.

4 MS. DOBBINS: Well, then community  
5 outreach, Ms. Renshaw.

6 MS. RENSHAW: I think that this is more a  
7 PR, this kind of background. All right?

8 CHAIRPERSON CROSS REID: Again, I have no  
9 objection to accepting her as expert witness.

10 MS. RENSHAW: I'm objecting.

11 (The Board conferred.)

12 CHAIRPERSON CROSS REID: Okay. All right.

13 MR. HAMPTON: We would respectfully request  
14 the Board, although you have made a decision without  
15 hearing the cross examination that we proposed to give  
16 these people, that they're experts, but we would like  
17 the record to reflect that we will come back after you  
18 hear each witness and again object to their expertise.

19 CHAIRPERSON CROSS REID: All right.

20 MR. PARSONS: And which experts do you --

21 MR. HARRISTON: And also as to the  
22 relevance of this first witness.

23 CHAIRPERSON CROSS REID: I'm sorry?

24 MR. HARRISTON: The relevance to this case.  
25 We're talking about land use. What's the relevance of

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1 her expertise as an educator?

2 CHAIRPERSON CROSS REID: It wasn't an  
3 educator. I said that, and I was corrected. It is for  
4 the school operations.

5 MS. DOBBINS: School operations.

6 MR. HARRISTON: What's the relevance of  
7 school operations? We're talking about land use.

8 MS. DOBBINS: School operations --

9 THE REPORTER: Unless you speak into a mic,  
10 you're not on the record.

11 CHAIRPERSON CROSS REID: Each time you  
12 speak, you have to speak into a mic.

13 Ms. Dobbins.

14 MS. DOBBINS: School operations are  
15 relevant in terms of addressing the impacts associated  
16 with the location of the school at the sites.

17 MR. HARRISTON: The location of the school  
18 has to do with locating a private school in a  
19 residential area. What's the relevance of her  
20 expertise as an educator?

21 MS. DOBBINS: It has to do with how the  
22 school operates at those sites and will operate at  
23 those sites and what the adverse impacts may or may not  
24 be.

25 CHAIRPERSON CROSS REID: We need to --

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1 MR. SOCKWELL: Sir, typically, typically  
2 this Board has to be able to determine that a facility  
3 is going to operate as stated in the Applicant's  
4 presentation. It is impossible to determine that a  
5 building is going to do anything since it is inanimate.

6 MR. HARRISTON: That's our point.

7 CHAIRPERSON CROSS REID: Okay.

8 MR. SOCKWELL: Therefore, she is necessary.  
9 That's my point.

10 CHAIRPERSON CROSS REID: All right. Now,  
11 was there any further objection? So can we move on?

12 MR. BARDONILLE: Madame --

13 CHAIRPERSON CROSS REID: Are you all going  
14 to --

15 MR. BARDONILLE: Madame Chair.

16 CHAIRPERSON CROSS REID: Are you all going  
17 to come up here and object to every single thing that  
18 we do this afternoon?

19 MR. SOCKWELL: Sir.

20 MR. BARDONILLE: Madame --

21 CHAIRPERSON CROSS REID: We can't move  
22 forward like that, and I'm going -- what I'm going to  
23 have to do is I'm going to have to overrule your  
24 objections because your objections are excessive.

25 MR. BARDONILLE: I haven't made an

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1 objection yet.

2 CHAIRPERSON CROSS REID: And they are now  
3 becoming deleterious to these proceedings, and I cannot  
4 continue to allow it. I'm sorry.

5 If you have something legitimate, fine.

6 MR. BARDONILLE: I do.

7 CHAIRPERSON CROSS REID: But everything --  
8 you jump up every two minutes. We will never get out  
9 of here.

10 All right. Let's move forward. The expert  
11 witnesses we have accepted, and we have heard the  
12 objections, and we feel that we want to hear from these  
13 expert witnesses.

14 Thank you.

15 MS. DOBBINS: Thank you, Madame Chair.

16 We have organized our presentation in a  
17 logical and efficient manner. We trust that you will  
18 find our evidence to be substantial, efficiently  
19 presented, and persuasive.

20 First I would like to call Dr. Richard  
21 Scaldini to provide testimony on the history of the  
22 Jewish Primary Day School and the educational vision.

23 DR. SCALDINI: Thank you, Ms. Dobbins.

24 Good afternoon, Chairperson Reid and  
25 members of the Board. I'm Dick Scaldini. I'm

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1 president of the board of directors of the Jewish  
2 Primary Day School of the Nation's Capitol. I am an  
3 educator by profession, and I'm the father of Ben  
4 Scaldini, a student in the fifth grade at JPDSNC.

5 I'm very pleased to appear before you to  
6 present the Jewish Primary Day School's application to  
7 locate our school temporarily at the Ohev Shalom and  
8 Tifereth Israel Synagogues.

9 I'm not pleased to have to say that if our  
10 application is not approved, as I said earlier, the  
11 future of our school will be in serious jeopardy.

12 For a school with 13 years of distinguished  
13 service in the District of Columbia to face extinction  
14 for lack of a temporary space is tragic, especially  
15 when suitable and desirable space is ready to hand.

16 However, I know that the BZA's obligation  
17 is not to act only with its heart, but also with its  
18 mind on the basis of the zoning laws of the District of  
19 Columbia. So we are here to make that case today, and  
20 it is a very strong one.

21 The Jewish Primary Day School of the  
22 Nation's Capitol is a kindergarten through sixth grade  
23 elementary school open to all and founded in 1987. We  
24 are known as a community school serving the broad range  
25 of the Jewish community.

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1 We offer a dual curriculum comprised of  
2 strong and integrated programs in Judaic and secular  
3 studies. JPDSNC prides itself on bringing together in  
4 a nurturing environment students and families of  
5 distinctly different religious and cultural  
6 backgrounds.

7 Our head of school, Susan Koss, and I am a  
8 professional educator, and I can vouch to you for her  
9 credentials and their very high quality. She will tell  
10 you more about our program, but I want to emphasize our  
11 mission as an institution in this community.

12 We are committed to serving the District of  
13 Columbia and to holding up a model of American Jewish  
14 life and learning in the nation's capitol. We are the  
15 only Jewish day school in the District of Columbia.  
16 Our mission statement speaks, in particular, about our  
17 role not only in the Jewish community, but in the  
18 greater community of Washington, D.C. as a whole.

19 To quote it, we foster social consciousness  
20 and a sense of responsibility for "tikkun olam," the  
21 expression meaning perfecting the world.

22 We are not an elite or an elitist  
23 institution. Our tuition for 2000-2001 has been set at  
24 approximately \$8,000. This is slightly above the  
25 amount that the District of Columbia spends per

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1 student. In fact, it represents about 75 percent of  
2 the amount that we spend per student, the rest being  
3 covered through donations.

4 Our tuition, therefore, places us in the  
5 middle of the range for private Jewish schools in the  
6 greater metropolitan area and very low in the range of  
7 all private schools.

8 Why? This is because the Jewish Primary  
9 Day School has for years sought to keep its cost  
10 affordable in order to exclude no one from the benefits  
11 of its program for financial reasons. To this end,  
12 unlike many private schools that are forced to restrict  
13 the availability of financial aid in the face of rising  
14 costs, JPDSNC has set itself the goal of more than  
15 doubling its financial aid from its present level to be  
16 on a par with the national average for Jewish day  
17 schools.

18 Our commitment to the Washington community  
19 is not just talk. Susan Koss will tell you about the  
20 many JPDS activities in the community, but I want to  
21 show you a few highlights.

22 CHAIRPERSON CROSS REID: Okay. Now, I  
23 think that in the interest of time you want for us to  
24 look at the slides?

25 DR. SCALDINI: There's only four.

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1 CHAIRPERSON CROSS REID: Okay, but  
2 nonetheless, we see what the slides are of, and I  
3 really don't think that that's really germane to this  
4 particular application.

5 DR. SCALDINI: Well --

6 CHAIRPERSON CROSS REID: So I would not --  
7 I would not --

8 DR. SCALDINI: Do you want me to skip them?

9 CHAIRPERSON CROSS REID: Skip the slides.  
10 I mean --

11 DR. SCALDINI: Okay. Can I tell people  
12 what they are?

13 CHAIRPERSON CROSS REID: You can tell  
14 people what they are very briefly.

15 DR. SCALDINI: That's fine, happy to do so.

16 CHAIRPERSON CROSS REID: But quickly  
17 because we want the stage to remain to the application,  
18 and the slides, while they're very laudable and very  
19 nice, nonetheless, let's just keep it moving.

20 DR. SCALDINI: Right, and the reason these  
21 slides are here is because our opponents have stated  
22 that we add no value to the community.

23 CHAIRPERSON CROSS REID: Well, tell us  
24 about it real quickly.

25 DR. SCALDINI: And we're showing about it.

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1 Okay?

2 MR. BARDONILLE: Are the slides in  
3 evidence, Madame Chair?

4 CHAIRPERSON CROSS REID: Do you know what?  
5 If you -- you know what? If you continue to do this,  
6 I really -- I hate to do it, but I have no choice but  
7 to ask you to leave because I cannot allow you to keep  
8 disrupting these proceedings.

9 Thank you.

10 DR. SCALDINI: What we were going to show  
11 you were our students meeting with A.J. Wood of D.C.  
12 United. He came to visit the school to congratulate  
13 our kids because they raised almost \$9,000 in 1999 for  
14 the multiple sclerosis read-a-thon, and they led all  
15 schools in the District of Columbia, and one of our  
16 kids, Ian Epler, was the top reader of all D.C.  
17 students with 246 books, and he came out to me with the  
18 kids.

19 The next slide shows JPDS students in the  
20 Oval Office of the White House lighting the Menorah  
21 with the President of the United States in celebration  
22 of Hanukkah.

23 The next slide shows the Vice President of  
24 the United States visiting JPDS just before he makes a  
25 trip to Israel, and the students were briefing him on

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1 the geopolitical situation.

2 (Laughter.)

3 DR. SCALDINI: And apparently --

4 CHAIRPERSON CROSS REID: Order, please.

5 DR. SCALDINI: And apparently it kept them  
6 out of trouble. So it worked pretty well.

7 Okay. To make a long story short, we're  
8 the only Jewish day school in the District of Columbia,  
9 and our departure would leave a significant gap in the  
10 community and the range of education available to  
11 citizens of the District.

12 The Jewish Primary Day School of the  
13 Nation's Capitol is a small school. We have 180  
14 students representing 135 families of which half are  
15 resident in the District and almost half of the rest  
16 live near or very nearby, many of them working or  
17 running businesses in the District.

18 We were created precisely to remedy the  
19 absence of a Jewish elementary school day school in the  
20 District. The only alternatives are located in  
21 Rockville and would not be viable for most of our  
22 parents who, as I said, are largely living and working  
23 in the District.

24 Our impact on the Shepherd Park  
25 neighborhood will, therefore, be small. As our parents

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1 bring their children to school and pick them up, we are  
2 talking about 20 minutes in the morning with 40 cars on  
3 one side of 16th Street and 28 cars on the other, and  
4 then 25 minutes in the afternoon with 22 cars on one  
5 side of the street and 15 cars on the other.

6 We had a long and successful history of  
7 traffic management at the Porter and Quebec Street site  
8 of the Adas Israel Synagogue where we're currently  
9 located. This bodes well for our ability to manage a  
10 far less difficult traffic situation in Shepherd Park.

11  
12 You may ask why is the school locating at  
13 Ohev Shalom and Tifereth Israel so urgent for us, and  
14 this goes to the question of our timing.

15 JPDSNC became an independent institution in  
16 1999, and by prior agreement with Adas Israel  
17 congregation is scheduled to relocate from its present  
18 home in June of 2000.

19 Beginning in June 1998, JPDSNC launched an  
20 exhaustive search for a new home, either permanent or  
21 temporary, in the District.

22 Then in June 1999, in recognition of our  
23 outstanding track record and great potential, we were  
24 made a partial gift of a wonderful property in the  
25 Forest Hills neighborhood of the District. Subject to

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1 this Board's approval, it will become our permanent  
2 home in three years after we have complete the  
3 application development and construction process.

4 The need, therefore, arose to find an  
5 interim home for the three years of the development  
6 period. This search proved to be the most difficult of  
7 all since, as we, you, and our opponents well know,  
8 suitable space for an elementary school is scarce in  
9 the District.

10 Our efforts included contacting all of the  
11 appropriate city agencies regarding available city  
12 properties, both schools and others, and following up  
13 diligently; contacting all synagogues, churches and  
14 schools that would be feasible locations, including  
15 discussing extension of our lease with Adas Israel; and  
16 then working with real estate agents to look for  
17 property to build or lease, including commercial space.

18 The following are a few of the sites we  
19 considered and pursued unsuccessfully: a land site on  
20 Wisconsin Avenue in Friendship Heights. The developer  
21 ended up buying it.

22 The Hardy School. We bid and lost out to  
23 the Rock Creek International.

24 The Owl School. They raised the money to  
25 buy the property.

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1           The Dixon Mansion, it was only available  
2 for sale and only available for development as a  
3 permanent site.

4           The original Georgetown Day School,  
5 renovated office space available for sale only and too  
6 small for a permanent site.

7           And then a variety of potential sites in  
8 Maryland, none of which proved available in time or  
9 sufficient size.

10           At the end of 1999, having pursued without  
11 success a variety of alternatives, we were able to work  
12 out with Tifereth Israel and Ohev Shalom a way to  
13 accommodate our school and their spaces and schedules.

14           Substantial renovation would be required at Ohev  
15 Shalom. Consequently we were under extreme time  
16 pressure, and this goes to the question raised earlier;  
17 extreme time pressure to file our application with the  
18 BZA in order to have a response, hopefully favorable,  
19 in time to do the necessary construction for the start  
20 of the coming school year.

21           Adding to the time pressure, our parents  
22 need to know by early April, early April if we have a  
23 place to go in order to register their children for  
24 school somewhere, preferably with us.

25           The need to move quickly led to a situation

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1 that we deeply regret and for which we have apologized  
2 on a variety of occasions to the neighbors of Shepherd  
3 Park. We were able to notify the neighbors of our  
4 intention to locate the school at the two synagogues  
5 only shortly before we filed and before we were able to  
6 have a completed traffic plan ready to present.

7 As I said, we've apologized to the  
8 neighbors in Shepherd Park for this situation. That  
9 represents the constraints of circumstance and not an  
10 attempt to deceive or impose a stealth school, as it's  
11 been said on the neighborhood.

12 I've attempted to demonstrate the  
13 importance of JPDSNC to the District of Columbia. Let  
14 me close with examples of the efforts we're making to  
15 enrich the Shepherd Park community by our presence.

16 The board of directors of JPDSNC has  
17 authorized the following community initiatives: one,  
18 creation of a community liaison committee comprised of  
19 representatives of the neighborhood and from the boards  
20 of JPDSNC, Tifereth Israel, and Ohev Shalom.

21 Our board of directors has further resolved  
22 that the neighborhood representative to this liaison  
23 committee would have the right to put items on the  
24 agenda of the monthly meetings of the JPDSNC board of  
25 directors and to present those items.

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1 Two, a cap, as has already been mentioned,  
2 a cap of 205 students at the school during the three  
3 years we are at Tifereth Israel and Ohev Shalom.

4 Three, an adult education free to Shepherd  
5 Park residents and JPDSNC parents.

6 Four, cultural exchange programs to be  
7 developed with Shepherd Elementary School.

8 Of course, we will continue the existing  
9 JPDSNC community outreach programs that Susan Koss will  
10 tell you about, and one of our parents, Sandy Colter,  
11 will tell you about a very long track record of success  
12 in working with other D.C. organizations.

13 Over its 13 year history, the Jewish  
14 Primary Day School has established itself as an asset  
15 to the District of Columbia. As the only Jewish day  
16 school in the capitol, it's crucial that we have your  
17 support to survive.

18 Ladies and gentlemen, our small school has  
19 been welcomed at the White House. Please find it in  
20 your hearts to welcome us in Shepherd Park.

21 Thank you.

22 CHAIRPERSON CROSS REID: Thank you.

23 MS. DOBBINS: Madame Chairperson, is the  
24 Board intending to hold questions until all witnesses  
25 have testified?

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1 CHAIRPERSON CROSS REID: Yes.

2 MS. DOBBINS: Then we would call Brenda  
3 Krieger. She's the co-chair of the facilities  
4 committee for the Jewish Primary Day School. She will  
5 speak to the building layouts.

6 CHAIRPERSON CROSS REID: All right. Excuse  
7 me one second. Ms. Dobbins, we are going to hold cross  
8 examination until after everyone has spoken. However,  
9 if the Board members have any questions that you don't  
10 wish to hold, then at any time you can jump in.

11 Okay. Thank you.

12 MS. DOBBINS: Thank you, Madame Chair.

13 MR. HARRISTON: Madame Chair, the normal  
14 procedure is that you cross examine while it's fresh.  
15 Now, if we're forced to wait over --

16 CHAIRPERSON CROSS REID: We can --

17 MR. HARRISTON: We would like to cross  
18 examine while it's fresh.

19 CHAIRPERSON CROSS REID: There is no -- no  
20 -- no specified manner in which cross examination takes  
21 place in these proceedings. If, in fact, we elect to  
22 hold it until after --

23 MR. HARRISTON: I'm asking you to elect --

24 CHAIRPERSON CROSS REID: -- all the  
25 witnesses -- I'm not finished -- all the witnesses have

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1 finished --

2 MR. HARRISTON: Yes.

3 CHAIRPERSON CROSS REID: -- we can do that  
4 or we can do it after each witness. In this instance,  
5 because of the huge case that we're dealing with here  
6 and the voluminous amount of information and all of the  
7 people who are involved, we have elected to do it  
8 differently, and that is at the end of all witnesses  
9 testifying.

10 MR. HARRISTON: So then we have to take it.

11 CHAIRPERSON CROSS REID: You can take your  
12 notes and ask your questions after all of the witnesses  
13 have testified. Other than that, we would not be able  
14 to get out of here and get all of the witnesses in as  
15 we are intending.

16 Thank you.

17 Yes, next.

18 MS. DOBBINS: Yes, Brenda Krieger will talk  
19 about the building layout for the schools.

20 Have Lou put the boards up.

21 MS. KRIEGER: My paper says good morning,  
22 but I guess it's good afternoon.

23 CHAIRPERSON CROSS REID: Good night.

24 MS. KRIEGER: Good afternoon, Chairman Reid  
25 and members of the Board. My name is Brenda Krieger.

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1 I live in the District of Columbia in the Mt. Pleasant  
2 neighborhood.

3 I am the parent of a fourth grade student  
4 at JPDS, and I am the co-chair of the facilities  
5 committee in a volunteer capacity.

6 I have lived in the District of Columbia  
7 for almost 30 years, and I am thankful and proud that I  
8 have the choice to send my child to a Jewish day school  
9 here.

10 I bring to my task 25 years of experience  
11 as a commercial interior designer and planner. Over  
12 the last three years, I have played an integral part in  
13 the school's analysis of its long range space needs and  
14 in its search for a permanent and a temporary location.

15 In this capacity I have worked closely with  
16 the architects hired to develop a program for the  
17 school. I have been able to apply the knowledge gained  
18 in these exercises to the analysis of the use of the  
19 two sites before us.

20 Although neither synagogue was adequate to  
21 house the entire school population by itself, the  
22 spaces made available to us at the two sites work  
23 exceedingly well.

24 In addition, the use of these spaces for  
25 educational purposes is a natural and traditional

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1 auxiliary use of a synagogue. At Ohev Shalom, we plan  
2 to house grades K through three. All renovation in  
3 this building will be interior.

4 To accommodate the eight classes with a  
5 potential growth of up to 120 students, we will build  
6 out eight new, well sized classrooms on the lower  
7 level.

8 In addition, on that level we will have  
9 space for a large teacher work room/lounge, as well as  
10 indoor activity space.

11 The upper level is already structured into  
12 usable spaces having been originally built to  
13 accommodate classrooms in addition to the sanctuary.  
14 These existing rooms will be painted and upgraded and  
15 will house school offices, science room, and library.  
16 We will also make use of the small chapel and the large  
17 sanctuary.

18 With our dual curriculum and academic  
19 emphasis, athletics play a minor role at JPDS. There  
20 are no team sports. We do have a P.E. program that now  
21 and in a temporary location will be held indoors for  
22 the most part.

23 There is a small, enclosed and paved  
24 outdoor play area adjacent to the building similar to  
25 the area we now use at our present location. This will

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1 be used for recess.

2 In addition, again in keeping with our  
3 present practices, we will take advantage of our  
4 closeness to the park for nature walks and exercise.

5 We are presently working with an  
6 architectural firm for the final development of this  
7 site. They have reviewed our preliminary layouts and  
8 the building itself. These architects will be drawing  
9 up construction documents for our work at this site in  
10 accordance with all building and life safety codes, as  
11 well as ADA requirements.

12 Tifereth Israel has been undergoing its own  
13 renovation and upgrade for the past two years. They  
14 have completed phase one and plan to complete phase two  
15 by this summer. This phase includes the upgrading of  
16 their existing classrooms in addition to other spaces  
17 in the building.

18 They will be installing an elevator with  
19 access to all floors. We will be housing grades four  
20 through six at Tifereth Israel, with a potential growth  
21 over the three years to 85 students. The classrooms  
22 for these grades already exist on the second floor of  
23 the building.

24 We will also be making use of the library,  
25 the chapel and the social hall. When we will be using

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1 these spaces, there are no primary synagogue functions  
2 scheduled. The preschool presently located at the  
3 synagogue will no longer operate at this location.  
4 Religious school takes place late Wednesday afternoons  
5 and on Sunday.

6 We presently share our classroom use with  
7 the religious school at Adas Israel and will continue  
8 this practice at Tifereth Israel. We have contacted  
9 the Department of Recreation to look into some use of  
10 the adjacent public fields and our head of school has  
11 already met with the principal of Shepherd Elementary  
12 and, among other things, discussed the use of the  
13 fields only at times that would not conflict with their  
14 present use by that school.

15 Because I have become very familiar with  
16 both buildings and with the operations of JPDS, I am  
17 very confident that we can fulfill the educational  
18 mission of the school at these sites for the next three  
19 years.

20 Although not an ideal location for the long  
21 term needs of the school, these sites are workable and  
22 very satisfactory solution for our temporary needs.

23 Thank you.

24 CHAIRPERSON CROSS REID: Thank you.

25 MS. DOBBINS: Okay. Next, Susan Koss, the

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1 head of school for the Jewish Primary Day School, will  
2 speak to the school's operations.

3 MS. KOSS: Good evening, Madame Chair and  
4 members of the Board. I am Susan Koss, head of the  
5 Jewish Primary Day School of the Nation's Capitol,  
6 known affectionately as JPDS.

7 I was an Army wife for 20 years, and in  
8 that time in locations in Germany and across the United  
9 States I helped start several schools, Jewish and non-  
10 Jewish, a day care, and a teen center.

11 Even after that I helped start a preschool  
12 and another day school, but there is none about which I  
13 feel the passion that I do for JPDS. This is my tenth  
14 year here. I started with 29 students in kindergarten,  
15 first, and second grades. I saw JPDS, through its  
16 expansion from a K to three school, to one that serves  
17 seven grades, K to six.

18 I engineered JPDS' moves from occupying  
19 just one hallway of a large building to two and then  
20 three and now four hallways. I oversaw the creation of  
21 a science lab and enlarged classrooms.

22 In all that time and through all the  
23 change, JPDS has remained the same. Our mission has  
24 not changed, nor has our dedication to our students.  
25 What has changed is our size.

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1 Our community has grown considerably. JPDS  
2 is dedicated to furthering Jewish education and  
3 identity amongst its students. We believe in hands on  
4 developmental education and a small class size. We  
5 believe in the individual worth of each student and the  
6 importance of treating each other with respect.

7 We are a proven entity with an excellent  
8 track record. Our graduates shine and bring us much  
9 pride, as does our current student body. We are  
10 conscientious about every facet of the school day, and  
11 we frequently revisit our plans and policies to secure  
12 student safety and security.

13 Our arrival and dismissal policies insure  
14 this. Whenever we cross the street, whether to our  
15 play space, the community library or fire station, or  
16 downtown on a field trip, our teachers serve as  
17 crossing guards. We travel frequently on the Metro,  
18 and our students and faculty are well aware of the  
19 necessity to be alert and secure.

20 We utilize adequate staffing to maintain a  
21 safe environment, no matter the situation, and if we  
22 are insecure about it, we change our plans. Our  
23 teachers are equipped with walkie-talkies so that they  
24 may call the office for assistance. Office personnel  
25 have been trained as to how to respond in an emergency,

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1 as well as to the everyday situations that arise with  
2 children.

3 Our program, as you have heard, is  
4 bilingual, Hebrew and English. By the middle of second  
5 grade, most of our students fluently read Hebrew. At  
6 the end of second grade, they study biblical text in  
7 Hebrew, and in the third grade they are introduced to  
8 another form of Hebrew used by a great biblical  
9 commentator of the 11th Century. They are also taught  
10 modern Hebrew, read newspapers and stories, write  
11 poetry, and keep journals, all in Hebrew.

12 They are conversant in modern Hebrew and  
13 conduct many classes and some lunches all in Hebrew.  
14 They study the land of Israel as a modern state, as  
15 well as the ancient land. They learn Jewish history,  
16 customs, and ceremonies, as well as Jewish law and  
17 practices.

18 Prayer occurs every day led by students,  
19 all in Hebrew. They learn what prayers mean, and they  
20 practice until they can say them fluidly.

21 They learn the origins of the Jewish  
22 holidays, of which there are many, and they learn how  
23 these holidays are celebrated around the world and by  
24 different Jews.

25 They make ceremonial objects to use at

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1 home, decorations, and food to enhance their  
2 celebrations and often have holiday parties.

3 They learn about the commandments, from  
4 giving money to those less fortunate to visiting the  
5 sick and feeding the poor. They collect one clothing  
6 to help others, and at Hanukkah forego some presents  
7 and instead send them to patients at Children's  
8 Hospital.

9 Last year we also collected and shipped  
10 toys and toiletries to Honduras. This year we gathered  
11 canned food to ship to Venezuela, but when the embassy  
12 could take no more, we sent it to the D.C. Central  
13 Kitchen.

14 On Christmas, not a Jewish holiday, many of  
15 our families go to the Salvation Army Harbor Light  
16 Center, a drug rehabilitation center in D.C., to help  
17 prepare and serve meals and sing holiday songs.

18 On the Jewish festival of Purim coming up  
19 next week, our students visit nursing homes or people  
20 confined to their own homes bringing gifts of food and  
21 their cherry demeanor, singing songs and telling  
22 stories to help spread the holiday feeling.

23 Every week our children bring in "tzedaka"  
24 money, loosely translated as charity, to be sent to  
25 organizations, Jewish and non-Jewish, which help people

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1 all over the world.

2           Every month when the Hebrew month changes -  
3 - we have a lunar calendar -- they are taught "anumeda"  
4 (phonetic), a positive value such as respecting elders,  
5 taking care of the environment, truthfulness, patience,  
6 welcoming strangers, and they are taught how to  
7 practice these values.

8           They also learn Jewish songs and Israeli  
9 dances, and on Fridays the whole school gets together  
10 for an assembly which closes the week, but more  
11 importantly, prepares us all for the coming Sabbath.

12           All of this can only occur in a Jewish day  
13 school program, and all this happens in 40 percent of  
14 the school time each week. The other 60 percent is  
15 spent in general studies where our students learn to  
16 read and write in English, do math, science, and social  
17 studies, write poetry, learn American history, world  
18 geography, explorers, ancient history, where the sign  
19 on the bulletin board says Homer without the "Simpson."

20           They have book reports and research papers.  
21 They learn to work on computers. They study about  
22 dinosaurs, as well as the Civil War. They learn about  
23 the Constitution and Native Americans. They do a unit  
24 on Washington, D.C., and study the architecture of our  
25 country's capitol, their home. They take field trips

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1 on the Metro and know the ins and outs of the  
2 Smithsonian.

3 We are fortunate to have speakers from  
4 various fields come to our school. In a few weeks  
5 we'll be privileged to have Congressman John Lewis come  
6 to help us commemorate the anniversary of the  
7 assassination of Dr. Martin Luther King, Jr.

8 We also take our students to plays and  
9 concerts at the Kennedy Center and Discovery Theater.  
10 They visit the Capitol and the D.C. water purification  
11 plant. They even compare tap water and bottled water  
12 at science night, and D.C. tap water comes out the  
13 favorite.

14 They have specialty classes in art,  
15 science, music, physical education, and library. They  
16 have recess on a small part of the parking lot known as  
17 "the cage," or on a small piece of fenced in land  
18 across the street known as "the slope."

19 We celebrate the American holidays with  
20 flair. This year on Veterans Day, we had plebes  
21 accompanied by their chaplain from Annapolis as our  
22 guests, as well as veterans from World War II, the  
23 Korean War, Vietnam, and the Gulf War. Each grade had  
24 a part, and many in the audience were moved to tears by  
25 the beauty and poignancy of this annual event.

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1 Many of our students are preparing for next  
2 week's women's history assembly, and last month we had  
3 an outstanding black history assembly. These are  
4 yearly celebrations.

5 Twice a month we have a hot lunch program  
6 with the food brought in already cooked. Our students  
7 eat these meals together. We plan to hold these events  
8 at Tifereth Israel in the social hall.

9 Once a month this will be our birthday hot  
10 lunch, a wonderful JPDS tradition at which we honor all  
11 the students who have birthdays that month. For this  
12 our K to three students will cross 16th Street, and we  
13 will develop a plan which will make safety its first  
14 consideration.

15 We have three whole school evening programs  
16 a year. In September we host a back-to-school night  
17 when parents come to meet their children's teachers and  
18 learn about the curriculum.

19 In December, we host a school-wide family  
20 Hanukkah party.

21 And in June, we have an art and science  
22 night when students show off their work in these areas  
23 for their families.

24 Our three major daytime programs would be  
25 held at those times when parents could park on 16th

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1 Street. We understand neighborhood concerns about  
2 traffic, parking, and noise, and promise to keep them  
3 at the top of our plans.

4 We will maintain an efficient operation to  
5 benefit both our students and our neighbors. Our  
6 students will be taught through our actions and theirs  
7 how to be good neighbors.

8 Outdoor play time, lunch recess will last  
9 from approximately 11:30 to 1:30 each day if there's  
10 not inclement weather. Recess is only half an hour for  
11 each class and will be limited to 32 students at a time  
12 so that there will not be overcrowding of people or  
13 noise.

14 Of course, all recesses will be staffed by  
15 an adequate number of teachers as all JPDS activities  
16 currently are and will continue to be. Our students  
17 are consistently monitored as students this age need  
18 appropriate adult supervision at all times. Our in  
19 class student-teacher ratio is no more than 16 to one  
20 and often eight to one.

21 We use instructional assistants to help us  
22 carry out our curriculum and meet individual needs.  
23 Our students are taught to be good Americans, as well  
24 as to understand their Jewish heritage.

25 What is so unique about JPDS is that we

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1 teach our children about Judaism in the broad sense,  
2 and that there is no one right way. I liken it to an  
3 orchestra. Each instrument is important. Each has a  
4 role. You may have a favorite and feel that this is  
5 the one for you, but your neighbor has his or her  
6 favorite, and that's the one for him or her.

7 We don't have the right to criticize the  
8 choice or the sound. We expect each of our students to  
9 respect the choices others have made. No one is  
10 better.

11 This carries over to other phases of our  
12 lives. We all are different and shine in various ways.

13 Some draw artistically. Some sing melodiously. Some  
14 read or write prolifically. Others do math  
15 astronomically. Some read speedily. Success in any  
16 area doesn't make any of us better.

17 We respect each other because of who we are  
18 as individuals inside, not what we are. Success is not  
19 gained by belittling others or using them as stepping  
20 stones. Success is gained by working together.  
21 Helping others only strengthens us, and it all works.

22 Our students are wonderful people. They  
23 work hard and love to have fun. They are kind and  
24 considerable, and very normal. We have the same issues  
25 faced by other schools and deal with them.

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1           There is no magic, but there is the idea that  
2 they are responsible for each other, that they must  
3 help each other and respect each other; that Jews and  
4 non-Jews are responsible for one another.

5           How does this all fit in today? JPDS needs  
6 a home. Two synagogues understand this responsibility.

7           In Hebrew, it says (speaking Hebrew) all Jews are  
8 responsible one for another. We are grateful to them  
9 for their openness and would like to be able to accept  
10 their hospitality.

11           That also means that it would give us a  
12 chance to take our community into another community  
13 because that's what JPDS is, a community, a community  
14 of learners, a community of caring and skilled  
15 teachers, a community of parents. This is felt in so  
16 many ways.

17           JPDS has had a rough year. Several times  
18 our hopes have been raised about a home for the next  
19 few years. It has really been a roller coaster, but  
20 our community has stayed strong. The number of parent  
21 volunteers is greater than ever. Our registration for  
22 next year is solid up until a point.

23           The caring of our parents is palpable.  
24 They want the school to work for their children and for  
25 themselves. They are passionate about JPDS because

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1 they believe in its mission. They see that it works.

2 They understand that sacrifices might have  
3 to be made, that different rules and regulations might  
4 need to be followed so that we may continue, but they  
5 are willing. They want this school to endure, and they  
6 will work diligently with me to see that it does.

7 We would like very much to be a part of  
8 Shepherd Park, albeit temporarily. I believe that we  
9 can make a contribution to this neighborhood. I have  
10 already spoke to the principal of Shepherd Elementary  
11 School, and we discussed the possibility of sharing  
12 cultural and sporting events, as well as school  
13 programs.

14 I believe that our JPDS community will be a  
15 positive asset to the Shepherd Park community,  
16 anticipate that when we have our intergenerational art  
17 program, we will both benefit from this shared  
18 experience, and that when it's time for us to move on  
19 to our permanent home, we will both be a little sad.  
20 We will have made new friends and Shepherd Park will  
21 have become an integral part of JPDS.

22 It's my privilege now to call up two JPDS  
23 sixth graders who have been here all day, Helen Grove  
24 and Ezra Marcus.

25 MS. GROVE: The facilities coordinator

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1 testimony, but where is she? Ms. Krieger, did she have  
2 written testimony?

3 MS. KRIEGER: Yes, I have at least one  
4 copy.

5 CHAIRPERSON CROSS REID: Okay.

6 MS. KRIEGER: You'd like to have it for the  
7 record?

8 CHAIRPERSON CROSS REID: Please, for our --  
9 our records because we don't have one.

10 MS. KRIEGER: Okay.

11 MS. GROVE: Good afternoon, Chairman Reid  
12 and members of the Board. My name is Helen Grove. I'm  
13 11 years old and a sixth grader at JPDS.

14 I'll be graduating very school. Looking  
15 back at the experiences I had at JPDS, I realize now  
16 that nothing could have compared to the way I was  
17 brought up and the values I learned there.

18 I can't help thinking about the other  
19 children at my school who aren't graduating and going  
20 to a new school next year. They have to worry about  
21 where to go and what to do.

22 If I school has to move out to somewhere  
23 far away, many of the children will not be able to  
24 continue going to the school. I was lucky enough to go  
25 to JPDS for seven years without having to move from

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1 school to school, and because of that, I have friends  
2 who will last a lifetime and morals I will remember  
3 forever more.

4 Because JPDS is located in the District, if  
5 there is ever an emergency, I'll be able to make it to  
6 my own doctor or hospital as quickly as possible, and  
7 my family would be able to get to where I am.

8 Because JPDS is located in the District, we  
9 can take advantage of the many opportunities available  
10 to us for field trips and visits to cultural events and  
11 exhibits.

12 Also, many children walk home from school,  
13 take the bus or even the Metro. This is possible  
14 because we are located in the city near where we live.

15 Next year I'll be going to JDS, which is  
16 located in Rockville. Because I'm older, going a long  
17 ways home is much more appropriate. If I were just  
18 seven or eight, my parents probably wouldn't want me to  
19 go such a long way home.

20 Other parents will have this concern, I'm  
21 sure. If our school has to move out to somewhere far  
22 away, many of the children may stop going to JPDS and  
23 they will not have the advantage I had of going to a  
24 school so important to their moral and intellectual  
25 education, and the District would lose a wonderful

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1 asset.

2 Next week we do celebrate the holiday of  
3 Purim when brave Queen Esther went to the king to plead  
4 with him to save the Jews of Persia from death at the  
5 hands of wicked Hermon. My name is not Esther and  
6 we're not asking you for our lives, just for the life  
7 of a very wonderful and special school.

8 CHAIRPERSON CROSS REID: Thank you.

9 MR. MARCUS: Good afternoon, Chairman Reid  
10 and members of the Board. My name is Ezra Marcus, and  
11 I'll be graduating from the sixth grade at JPDSNC this  
12 year.

13 These seven years since kindergarten have  
14 been the best years of my life. JPDS is the kind of  
15 warm place that all kids wish for.

16 One of the most important things that we  
17 learn there is (speaking Hebrew). In English this  
18 means the way of the land is even more important than  
19 the Bible. The way of the land means to respect  
20 people, to do good deeds without recognition, and  
21 simply to be a good person.

22 I think that if JPDS comes to Shepherd  
23 Park, everybody at the school practices acts of  
24 kindness as they always have done. I have a friend who  
25 graduated last year. He told me that he thinks JPDS is

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1 the best school there is, but he only found that out  
2 when he went somewhere else.

3 I don't want any of the younger kids at  
4 JPDS, including my sister Sarah in third grade, to have  
5 to find that out any earlier than they have to. If  
6 this school can't make a home in Shepherd Park, they  
7 may be forced to.

8 Jews are one of the major minorities in the  
9 District and our school is the only Jewish day school  
10 here. So who's left when we're gone? Well, if you  
11 said there will be no Jewish day school, then it looks  
12 like you're right.

13 If our school dies, the 180 kids going  
14 there now and the many kids who want to come in the  
15 future will either have to go out of Washington or to a  
16 non-Jewish school.

17 There have been three things that have  
18 helped me to live through life. One of those is my  
19 family. My family has, without a doubt, helped me the  
20 most, but both of the other two, my friends and  
21 teachers, can be found at JPDSNC.

22 I can never say enough about all of the  
23 things I've learned and all the friends I've made at  
24 JPDS, but future kids will never be able to say this if  
25 the school does not exist.

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1 CHAIRPERSON CROSS REID: Thank you very  
2 much, both of you, for coming down here and being brave  
3 enough to appear before us, and you did a wonderful  
4 job.

5 (Applause.)

6 MS. DOBBINS: Madame Chair, next Lou Slade  
7 will provide the traffic and transportation portion.

8 MR. SLADE: Good afternoon, Madame Chair,  
9 members of the Board. My name is Louis Slade. I  
10 reside at 3500 Quesada Street. I'm a principal with  
11 Grove, Slade. We're the transportation consultants to  
12 Jewish Primary Day School.

13 I think we have an unusual opportunity here  
14 to make a comparison in our minds, and I always think  
15 that the best lesson for any one of us regarding  
16 traffic issues is to have an example that we can go out  
17 and see and touch and feel.

18 Whenever we get an assignment like this,  
19 and I counted up 25 schools I had worked on over the  
20 last five years, most within the District of Columbia,  
21 I look for comparables, and the ones that came to mind  
22 were Washington International School. The lower and  
23 middle school had moved to Burlithe (phonetic) two  
24 years ago as a result of the Board's action. National  
25 Cathedral School, which expanded a few years back,

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1 because they are city schools in an urban setting,  
2 cheek to jowl with a residential neighborhood with a  
3 number of institutions nearby.

4 But the one that's most apparent is Blessed  
5 Sacrament that we talked about this morning. Blessed  
6 Sacrament is in my neighborhood. It's two and a half  
7 times bigger than Jewish Primary Day School. It's all  
8 in one location. It uses one alley, and all of these  
9 schools have to use public space. They simply do not  
10 have sites large enough to have a large circulation  
11 driveway where they can get their traffic operations  
12 off the street. They are using the public streets and  
13 the public alleys.

14 So I know all of you live in different  
15 parts of the city and know the city well, and I think  
16 if you bring those to mind, all of those schools are  
17 considerably bigger and generate more traffic than  
18 Jewish Primary Day School.

19 Four parts to this testimony. I'm going to  
20 try to do this within our time frame and leave some  
21 time for the other speakers.

22 As you've heard, the school currently has  
23 180 students at its current location. The carpool  
24 operation there works very well. There's only 92 cars  
25 that come in the morning to drop off those 180

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1 students.

2 The operation is very efficient. The back-  
3 up is a maximum of five cars. Cars pull in, doors  
4 open, the children are helped out by monitors into the  
5 school. It's very safe and efficient.

6 The parents are asked to follow a route,  
7 and they do so, and we'll come back to that later  
8 because we're going to ask the parents to follow a  
9 route here.

10 In the afternoon, due to the inherent  
11 longer time it takes to pick up children at the current  
12 site, the back-up is about 24 cars, 25 cars. The cars  
13 arrive; the parents are waiting for the children to get  
14 organized and then finally out to their parents and  
15 into the cars, but in the afternoon there's only a  
16 total of 50 cars arriving because the school has an  
17 afternoon program which about 25 children participate  
18 in, and carpooling is more extensive in the afternoon  
19 because parents are at work.

20 So the school serves 180 students today at  
21 its current location with 90 cars in the morning and 50  
22 in the afternoon, and parents are asked to follow a  
23 fixed route in a clockwise pattern around the school  
24 using the streets around the school and to drop off in  
25 the parking lot behind the school.

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1           The school has staff monitoring that  
2 operation for safety and efficiency, and the staff  
3 communicates with each other with walkie-talkies and  
4 with a carpool manager, and that's what we'll be doing  
5 at these synagogues, pending our move there.

6           I do want to note that there are other  
7 schools using the space at the current location of the  
8 school, Adas Israel Synagogue. There are other schools  
9 there that are drop-off and pick-up operations, and you  
10 may hear some testimony from the opposition, from the  
11 concerned neighbors about confusion and traffic  
12 problems at Adas Israel.

13           That's not the Jewish Primary Day School.  
14 We were able to isolate the Jewish Primary Day School  
15 traffic when we did our surveys there, and were able to  
16 observe their operation. So I just wanted to make that  
17 clear that there are other schools operating at Adas  
18 Israel, along with Jewish Primary Day School.

19           Now, the characteristics at the two  
20 synagogues, and I've put this chart on the left up just  
21 to give you the location, Ohev Shalom is in green on  
22 the left and Tifereth Israel is in red on the right.  
23 In the middle of the chart roughly is 16th Street,  
24 Juniper Street on the south, and Jonquil Street on the  
25 north. This is Kalmiah. There's a traffic signal at

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1 Kalmiah, and there's a traffic signal at Holly just off  
2 the chart to the south. There's a second portion of  
3 Holly Street where I'm showing with my laser.

4 So there's traffic signals one block to the  
5 north and about three blocks to the south. These other  
6 streets are unsignalized. Sixteenth Street is a four-  
7 lane, divided major arterial, carries a lot of traffic,  
8 36,000 cars a day, mostly commuters from the northern  
9 part of the District and Maryland down into downtown  
10 Washington.

11 The cross streets carry moderate amounts of  
12 traffic, although Juniper in the west portion seems to  
13 carry cut-through traffic coming out of the park to the  
14 west, cutting over to 16th Street and down to Walter  
15 Reed, and traffic also making left turns off of 16th  
16 Street heading over to the Lowell School, which is in  
17 this location.

18 The neighborhood is predominantly  
19 residential, as you know, but there are several  
20 institutions. These two synagogues, the Lowell School,  
21 which I mentioned, Shepherd Elementary is here. The  
22 Washington Ethical Society, I don't know exactly where  
23 that is. It's one of these buildings on the west side  
24 of 16th, and there are other institutions up and down  
25 the avenue, as you know, if you're familiar with 16th

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1 Street.

2 The Ethical Society houses an independent  
3 school as well. So there's an existing school at the  
4 Ethical Society. It's important to note that the  
5 independent school at the Ethical Society, which I've  
6 just mentioned, and the preschool -- there's currently  
7 a preschool at Tifereth Israel -- are leaving  
8 concurrent with the arrival of Jewish Primary Day  
9 School, assuming it does arrive at these two  
10 synagogues.

11 So there will be a net reduction as a  
12 result of those two schools leaving. Then, of course,  
13 the addition of our traffic into the area.

14 Now, let me tell you about the traffic  
15 characteristics of our proposal. First of all, you've  
16 heard the school proposes to increase its cap to 205  
17 students. There will be 120, a cap of 120, K through  
18 three, at Ohev Shalom and 85 fourth through sixth at  
19 Tifereth Israel.

20 By the way, I just wanted to mention there  
21 is an advantage of being in the two locations from a  
22 traffic standpoint in that the traffic is dispersed to  
23 the two locations rather than concentrated at one.

24 The synagogues are able to provide 20  
25 parking spaces, 20 legal parking spaces, as well as

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1 additional parking. The 20 spaces though will be  
2 provided for faculty and staff of Jewish Primary Day  
3 School. They are on site, accessible from the alleys  
4 behind the two schools.

5 And I should back up a little bit and  
6 mention the alleys. The cross streets are connected by  
7 alleys. You can see them continuous through the area  
8 on both the west and east parallel to 16th Street. The  
9 alleys are 15 feet wide in the blocks that we're  
10 talking about, and of course, they provide service to  
11 the synagogues and to the residents at about those  
12 alleys.

13 There are several components to the  
14 school's transportation management plan. I'm going to  
15 go through that now.

16 First of all, the school has contacted the  
17 nearby schools and found out the time that they start  
18 and end and tried to fit itself into that time so that  
19 there's not as much an overlap of traffic.

20 Second, the school has three traffic  
21 reduction initiatives, measures that they are going to  
22 put in place that are new. The first one will be that  
23 the school will operate one or more vans to one or more  
24 locations off site for faculty, staff, and students to  
25 take advantage of.

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1           Many faculty and staff current take public  
2 transportation. They'll be able to continue to do so  
3 and transfer to the van and come over to the schools.  
4 They won't have to rely on their automobile.

5           Parents will find the off-site van  
6 locations convenient to their commute so that they'll  
7 be able to drop their children off safely as a site  
8 where the van will be. The children will take the van  
9 into the school and will reduce traffic that way.

10          The school will incorporate a managed  
11 carpool program where it will computerize and map all  
12 of the addresses and help parents find carpools. The  
13 school has a very good carpool system now, but it's a  
14 matter of the parents finding each other to set up  
15 carpools. The school will have volunteers and staff  
16 make phone calls at the beginning of the year to put  
17 these carpools together. Many schools have done that  
18 and found it to be very effective to reduce traffic.

19          Then the school will provide a metro check  
20 subsidy to faculty and staff. That's the fare card  
21 that's provided tax fee as an encouragement. Many  
22 employers are doing that throughout the city in the  
23 metropolitan area.

24          Dick Scaldini mentioned the amount of  
25 traffic. This school will generate a very small amount

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1 of traffic. In the morning 40 automobiles will come  
2 plus one or two van trips, bringing students to Ohev  
3 Shalom and 28 to Tifereth Israel, 28 vehicles to  
4 Tifereth Israel to drop off children.

5 Faculty and staff will arrive earlier.  
6 Then the parents will begin to arrive and drop off  
7 those children, and that morning typically -- the drop-  
8 off period typically only is concentrated into 20  
9 minutes. Kindergarten starts a little later, but  
10 that's a very small amount of traffic coming to  
11 kindergarten that's included in that 40 and 28.

12 In the afternoon, the numbers are smaller  
13 because carpooling is more effective in the after  
14 school program, and we only would have 22 on the west  
15 side and 15 vehicles on the east side, very small  
16 amounts of traffic.

17 This represents about one percent of the  
18 traffic on a daily basis on 16th Street, and during the  
19 peak hour maybe five percent of all the traffic on 16th  
20 Street, certainly no more than that.

21 I mentioned parking. Parking will be  
22 provided for faculty and staff on site. There is  
23 abundant parking on 16th Street itself between 9:30  
24 a.m. and 4:00 p.m. outside of the peak periods, and  
25 parents will be encouraged to set up their time for

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1 school visits between those hours and park on 16th  
2 Street so that they won't have to use the local  
3 neighborhood streets.

4 Now, the traffic routing system. The ideal  
5 way for traffic to drop off students is to make a  
6 clockwise pattern around the school, dropping off on  
7 the passenger side of the car. The students can then  
8 walk directly to the school. They don't have to cross  
9 the street.

10 And if the world was an ideal place,  
11 everyone would arrive so they can make right turns off  
12 of 16th Street and make right turns back onto 16th  
13 Street so that we wouldn't have any left turns.

14 Well, we're going to try to reach that  
15 ideal here, and I must say that this plan was the  
16 result of a number of meetings with the community,  
17 meetings with DPW and Metropolitan Police Department,  
18 and the school brought on a co-consultant who worked  
19 with us, who had worked with Lowell School and had  
20 other projects in the neighborhood. So that O.R.  
21 George was that other consultant. He was very helpful  
22 to us.

23 First of all at the core would be this  
24 right turn pattern around the two schools, which I've  
25 shown with the green and red arrows around each of

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1 those two sites. Parents dropping off at Ohev Shalom  
2 would drop off in the alley behind Ohev Shalom.  
3 Parents dropping off at Tifereth would drop off at the  
4 north side of Juniper Street where there's curb space  
5 available to do that, but the majority of traffic would  
6 come and make right turns around the block and continue  
7 with right turns back out onto 16th Street and would  
8 not approach the school through the neighborhood  
9 streets.

10 Now, how do we manage that? The school  
11 will provide parents with a set of routes that they  
12 will ask them to take, and I've given you one example  
13 here. This is the morning traffic to and from Ohev  
14 Shalom and the chart on the right. You see the  
15 District of Columbia, 16th Street here.

16 The blue is the arriving traffic, and the  
17 large numbers are the volume of traffic. So 24 and 16  
18 is that 40 cars arriving at Ohev Shalom in the morning.

19 Parents will be asked to take streets  
20 through Rock Creek Park if they're coming from the  
21 south or up 16th Street from the south, these three  
22 routes from the southwest and south, or if they're  
23 coming from the north to come down from the north, and  
24 the numbers are our estimates based on where students  
25 currently live and the current student body of where

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1 they'd be approaching from and how many would be  
2 approaching.

3 So we'd have 24 coming from these three  
4 routes, perhaps split evenly eight, eight, and eight,  
5 and we would ask them, those coming through the park to  
6 go up to North Portal Drive and come through the circle  
7 and down 16th Street so that they can make that right  
8 turn pattern around the school.

9 Of course, these people would already be in  
10 the position to do that. Traffic coming from the south  
11 on 16th, maybe eight or ten cars, we'd ask them to go  
12 all the way up to the circle, circulate around the  
13 circle and come back to the property and turn in, again  
14 making that right turn.

15 When leaving, everyone would be asked to  
16 make a right turn, and those who have to go back north  
17 could turn on Sherill Drive and go back through the  
18 park to go north or turn left on Aspen, south of Walter  
19 Reed, and go north on Georgia Avenue if they're heading  
20 back north. Otherwise they'll continue south into the  
21 city.

22 I'll let that sink in for a second and give  
23 myself -- the final part of my presentation is about  
24 the impacts of this traffic.

25 We concur with the DPW report that impacts

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1 will be minimal, but we, at the suggestion of one of  
2 the opponents who's here today, which was an excellent  
3 suggestion, we did a simulation of actual traffic at  
4 Ohev Shalom. The most critical time will be the  
5 morning when Ohev Shalom has to leave that heavy  
6 southbound traffic stream and join back in. There's  
7 1,700 cars southbound on 16th Street and only about 700  
8 northbound on 16th Street.

9 We got eight drivers in eight different  
10 vehicles to come to the school during the 25 minute  
11 period when the school will open its doors and start  
12 classes, 8:00 to 8:25 a.m., to circulate around the  
13 school using that route, simulated drop-off in the  
14 alley by stopping for 20 seconds or so, and then  
15 continue.

16 We found minimal delays getting back out  
17 onto 16th Street because the signal at Camille would  
18 create gaps, and that the back-up on Jonquil was one or  
19 two cars, three at most, which only occurred on one or  
20 two occasions in that 25 minute period.

21 This system works. We had a back-up on  
22 16th Street, which was a problem. It backed up all the  
23 way past Jonquil, but southbound traffic was courteous  
24 enough to let our traffic in at all times and, again,  
25 the back-up did not exceed three cars.

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1           There is traffic on Juniper that I  
2 mentioned earlier, and it's a tight fit on a narrow  
3 street, as we all know, in the narrow streets in the  
4 District of Columbia, but it worked. We had two  
5 neighbors who wanted to come out of the alley, and I've  
6 got to talk about our alley operation very quickly.

7           We're going to put monitors in the alley.  
8 We're going to make sure parents when they're stopping  
9 to pick up or drop off their children do not block  
10 driveways, and that if anyone needs to get in or out of  
11 the alley other than school parents, the monitors will  
12 adjust our traffic to make sure that they can get in  
13 and out.

14           If we encounter a trash truck on Monday  
15 mornings, we'll get out of the way of the trash truck  
16 to make sure he's not delayed.

17           I want to conclude by saying that in my  
18 professional opinion the impacts of this project from a  
19 traffic standpoint will be minimal. The parking will  
20 be adequate, and there will be no negative impacts on  
21 the community.

22           Thank you.

23           CHAIRPERSON CROSS REID: Thank you, Mr.  
24 Slade.

25           Any questions, Board members, of Mr. Slade?

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1 MS. DOBBINS: Madame, we have one last  
2 witness.

3 CHAIRPERSON CROSS REID: One last witness.

4 MS. DOBBINS: Yes, Ms. Sharon Robinson will  
5 talk about community outreach efforts.

6 MS. RENSHAW: Madame Chair, Madame Chair,  
7 in the six minutes that are left, I'd like to state  
8 that I respectfully object to the Robinson Associates  
9 presentation. I have examined the credentials, and I  
10 charted up out of 19 clients served, on six of them are  
11 in community relations. One of them is the Jewish  
12 Primary Day School listed, where it said that the  
13 outcome was generating goodwill.

14 "We developed and implemented strategies  
15 that helped the school secure community support, host  
16 neighborhood dialogues, and generate goodwill."

17 Now, perhaps this resume is being written  
18 with the future in mind, but I would state to the Board  
19 that this is not the case today.

20 And there is also another community  
21 relations client that was served, and I have direct  
22 knowledge of the campaign, and I would say that it was  
23 not successful at all. So I would respectfully object  
24 to this witness.

25 CHAIRPERSON CROSS REID: Thank you, Ms.

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1 Renshaw.

2 Of course, as you all know, we've already  
3 accepted her. So --

4 MS. RENSHAW: I didn't know that.

5 CHAIRPERSON CROSS REID: -- for the record.

6 MS. RENSHAW: I didn't know that you had.

7 CHAIRPERSON CROSS REID: Well, you objected  
8 while we were discussing her.

9 MS. RENSHAW: Yes, and I didn't know that  
10 you had accepted her.

11 CHAIRPERSON CROSS REID: Well --

12 MS. RENSHAW: It was not clear at all.

13 CHAIRPERSON CROSS REID: Okay. Well --

14 MS. RENSHAW: So I objected again.

15 CHAIRPERSON CROSS REID: All right. Well,  
16 by consensus we had -- there was no objection other  
17 than your objection when her name came up, but thank  
18 you for noting for the record what the nature of your  
19 objection is.

20 MS. RENSHAW: Un-huh.

21 CHAIRPERSON CROSS REID: thank you.

22 MR. HARRISTON: Madame Chairman, we would  
23 object for the record as well.

24 CHAIRPERSON CROSS REID: You already did  
25 that.

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1 MR. HARRISTON: I know, and --

2 CHAIRPERSON CROSS REID: And so why take up  
3 additional time to do it again.

4 MS. RENSHAW: He just. He said it.

5 CHAIRPERSON CROSS REID: He already did.

6 Thank you.

7 Okay. Now can we continue?

8 All right. Ms. Robinson.

9 MS. ROBINSON: Good afternoon, Chairman  
10 Reid and members of the Board of Zoning Adjustment. My  
11 name is Sharon Robinson. I'm the President of Robinson  
12 Associates, LLC, a public relations and community  
13 relations firm located 1613 Crittenden Street, N.E.,  
14 here in the District of Columbia.

15 Thank you for hearing our presentation this  
16 afternoon.

17 I want to share with you some of the Jewish  
18 Primary Day School's outreach efforts. The school has  
19 worked in good faith to satisfy the legitimate concerns  
20 of neighbors in Shepherd Park. JPDS clearly wants to  
21 be a good neighbor and really does want to be a  
22 contributing part of this respected community.

23 The school conducted extensive community  
24 outreach to educate the Shepherd Park community about  
25 its application for temporary occupancy of Tifereth

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1 Israel and Ohev Shalom Synagogues, and to give  
2 community input on issues such as traffic management.

3 JPDS' community outreach journey begins in  
4 the late part of 1999 before the school filed this BZA  
5 application, and as soon as the school succeeded in  
6 negotiating agreeable terms with the two synagogues.

7 In December, before the ink was dry on the  
8 lease agreements, each synagogue dispatched their  
9 community liaisons to contact key community leaders.  
10 They spoke with ANC-4A Chair Joseph Harriston, ANC  
11 Commissioner Jordenia Brown, Joe Mambrino, President of  
12 Shepherd Park Citizens Association, Dr. Catherine  
13 James, the principal of Shepherd Elementary School, and  
14 neighbors Derrick Humphries and Faye Lewis.

15 Aware of the time constraints it faced in  
16 securing a BZA hearing in time to meet its parents  
17 requirements to register their children by April, JPDS  
18 submitted its application to the BZA before holding  
19 community meetings. JPDS hand delivered more than 25  
20 copies of its application to neighbors and community  
21 leaders. The most that could be done was to notify  
22 community organizational leaders, and this was, in  
23 fact, done.

24 JPDS worked assiduously to engage neighbors  
25 in dialogues about the application. In January the

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1 school secured approval to submit at the February 2nd  
2 ANC-4A meeting.

3 Prior to the meeting, single member  
4 district Commissioner Jordinia Brown indicated that  
5 since there were two ANC meetings prior to the BZA  
6 hearing, no action would be taken at the February  
7 meeting, and JPDS did not present its traffic  
8 management plan.

9 Unfortunately, the ANC did, in fact, decide  
10 to take a vote at the February meeting and voted not to  
11 support JPDS application even though a complete  
12 presentation was not given. While this was  
13 unfortunate, ANC-4A did allow JPDS their opportunity to  
14 present at its March 7th meeting so the school could  
15 present its traffic management plan. However, from a  
16 community relations perspective, much of the damage had  
17 already been done.

18 During the month between ANC meetings, JPDS  
19 and its diligent parents launched one of the most  
20 intensive community outreach efforts consisting of  
21 face-to-face meetings, daily Internet town hall  
22 dialogues, four community meetings, individual meetings  
23 with ANC commissioners, and three flyer/letter  
24 distributions, and two direct mail distributions.

25 In addition, the traffic management plan

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1 was hand delivered to neighbors within a 200 foot  
2 radius of the synagogues. We spoke to the leaders of  
3 every major community organization in Shepherd Park,  
4 including Neighbors, Inc., Shepherd Park Citizens  
5 Association, the principals of Lowell and Shepherd Park  
6 Elementary Schools, and of course, the ANC  
7 commissioners.

8           Supporters of the Jewish Primary Day School  
9 who live in Shepherd Park went door to door to meet  
10 with the 56 neighbors who live within a 200 foot radius  
11 of the synagogue. In February, Rabbi Evan Seidel  
12 (phonetic) of Tifereth Synagogue distributed a letter  
13 inviting neighbors to come to Ohev Shalom and Tifereth  
14 Israel for a series of community dialogues. He was at  
15 every household and rang each bell.

16           In addition, we mailed more than 150 copies  
17 of the rabbi's invitational letter to major community  
18 organizations, Neighbors, Inc. Nearly 60 people  
19 attended community dialogues JPDS hosted at the  
20 synagogues on three occasions, February 16th, 17th, and  
21 23rd.

22           After securing community input on the  
23 traffic management plan, JPDS' traffic management  
24 consultant and community representative met with  
25 Lieutenant Judith Anderson and Sergeant Edwards of the

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1 Fourth District precinct to review the proposed traffic  
2 management plan. The feedback gleaned in these  
3 meetings was used to further refine the plan.

4 Shepherd Park neighbors who support the  
5 application conducted telephone calls with neighbors to  
6 discuss the application. Over 500 people in Shepherd  
7 Park received some form of communications materials,  
8 and direct mail materials.

9 This was a quite expansive community  
10 outreach and dialogue effort, and it produced results.

11 Some neighbors expressed concerns, and JPS worked  
12 diligently to address these concerns. Many neighbors  
13 let us know that they support the school, but that they  
14 felt reticent to get involved in the controversy.  
15 However, they were willing to express their voices in  
16 letters to the BZA.

17 More than 200 people called and/or sent  
18 letters to Council Member Jarvis and the BZA in support  
19 of the school. Letters came from neighbors who live in  
20 Shepherd Park. More than 50 people in Shepherd Park  
21 wrote letters, and I'd like to read just a segment of a  
22 couple letters.

23 "It is essential that the District retain  
24 diverse educational institutions and that we support a  
25 variety of co-educational elementary programs for our

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1 residents."

2 CHAIRPERSON CROSS REID: Okay. Ms.  
3 Robinson.

4 MS. ROBINSON: Yes?

5 CHAIRPERSON CROSS REID: We have those  
6 letters, and we have had the opportunity to read them.  
7 So it's not necessary for you --

8 MS. ROBINSON: This one -- this one is from  
9 Council Member Harold Brazil.

10 CHAIRPERSON CROSS REID: We have his  
11 letter.

12 MS. ROBINSON: The second one is from the  
13 Mayor.

14 CHAIRPERSON CROSS REID: We do have that  
15 letter.

16 MS. ROBINSON: And also from David Ketany,  
17 Council Member David Ketany.

18 CHAIRPERSON CROSS REID: Okay, and those  
19 letters, you can note for the record what the nature of  
20 them were.

21 MS. ROBINSON: All three of them have  
22 offered their support for retaining JPDS in the  
23 District of Columbia.

24 CHAIRPERSON CROSS REID: Thank you.

25 MS. ROBINSON: This is one of Washington's

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1 finest neighborhoods, Shepherd Park, and JPDS wants to  
2 be an asset to the neighborhood. To this end, the  
3 school's community outreach would not conclude with  
4 this BZA hearing. The JPDS board voted a couple of  
5 weeks ago to establish a community liaison committee  
6 with representatives from the neighborhood and both  
7 synagogues to continue community outreach.

8 The schools all embracing community  
9 outreach attest to JPDS' commitment to be a good  
10 neighbor in the Shepherd Park community.

11 (Laughter.)

12 CHAIRPERSON CROSS REID: That's pretty  
13 good.

14 (Laughter.)

15 MS. DOBBINS: Madame Chairman, that  
16 concludes our presentation.

17 CHAIRPERSON CROSS REID: I'll say.

18 Thank you, and that's amazing. You were  
19 just so timely with your presentation. We greatly  
20 appreciate. There's a lot of information to be  
21 compressed into a little bit of time, but nonetheless,  
22 I think that we adequately were given the information  
23 that we needed for us to be able to make a decision.

24 Board members, do you have questions at  
25 this time or do you want to allow the cross examination

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1 to occur?

2 MS. RENSHAW: I think the cross I would  
3 prefer.

4 CHAIRPERSON CROSS REID: Okay. Then why  
5 not? We'll go straight to cross, and then we -- do you  
6 want to add something now?

7 MR. PARSONS: Yes. Yes, I do.

8 CHAIRPERSON CROSS REID: I asked you if  
9 you'd like to.

10 MR. PARSONS: Mr. Scaldini, what assurance  
11 do we have that this is a three year temporary use?

12 None of your testimony went to the real  
13 future.

14 DR. SCALDINI: That is the time line we've  
15 established for the application process, development,  
16 and construction process on the permanent site that was  
17 partially donated to us in June of last year, and we  
18 are still on that time line.

19 A second consideration, I would have you  
20 think back on the layout of the school. We have found  
21 a way to allocate classroom space in the school, but if  
22 you were to observe our present operation and the  
23 amount of classroom space we have available to the  
24 students and staff and what we have found a way to work  
25 with in order to fit into the two synagogues, you'll

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1 see that we severely constrained how we normally  
2 operate.

3 Plus, a third consideration, we have capped  
4 our growth at 205 in order -- as a gesture to the  
5 community. We could grow much bigger than that.

6 MR. PARSONS: My question is: how can we  
7 be assured that this use is three years and you won't  
8 be back here in three years saying you need two more  
9 and then five years saying you need two more --

10 DR. SCALDINI: Right.

11 MR. PARSONS: -- because things didn't work  
12 out at the other location?

13 DR. SCALDINI: Because the reason I  
14 enumerated the things I did is they are extraordinarily  
15 strong incentives for us.

16 MR. PARSONS: Is the money at hand to build  
17 this new facility?

18 DR. SCALDINI: The money is in hand to  
19 acquire it, and we're fund raising to build it, yes,  
20 and we have every reason to believe that will be  
21 successful over this period of time.

22 MR. PARSONS: And will you need approvals  
23 from this Board to do that?

24 DR. SCALDINI: We will be coming to this  
25 Board for approval for the other site, yes. We have

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1 not yet filed for that.

2 MR. PARSONS: So you will go through three  
3 school years --

4 DR. SCALDINI: Right.

5 MR. PARSONS: -- in this fashion starting  
6 this September?

7 DR. SCALDINI: Yes.

8 MR. PARSONS: And then you will be  
9 completed with the new facility in 2004; is that right?

10 DR. SCALDINI: That's what we would hope,  
11 subject to the approval of this Board, and we have from  
12 all of our experts, architects, legal counsel been  
13 given reason to believe that that's a perfectly  
14 conservative, reasonable estimate of time.

15 MR. PARSONS: Thank you.

16 DR. SCALDINI: Thank you.

17 MR. SOCKWELL: Mr. Scaldini, you said that  
18 your new building, proposed school would be coming  
19 before the Board of Zoning Adjustment.

20 DR. SCALDINI: Yes.

21 MR. SOCKWELL: Do you have great certainty  
22 in your mind that the relief sought under this Board's  
23 authority would be acceptable and that there would be  
24 alternatives if it was not successful?

25 DR. SCALDINI: I wish I could tell you I

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1 had certainty. We don't. It's the nature of the  
2 process that I could not, but I know that at this stage  
3 of our architectural work, at this stage of our traffic  
4 management work, and we are still at the early stage of  
5 talking with the neighbors in Forest Hills and  
6 educating them about the school, that we can place the  
7 school on that site and manage its impact very, very  
8 effectively.

9 And in fact, the site is such it's a  
10 beautiful property. We can place the building on  
11 there, have a grade school, and blend it right into the  
12 neighborhood.

13 MR. SOCKWELL: Okay. Well, I think --

14 DR. SCALDINI: So I think you'll see  
15 eventually a very good plan for the school.

16 MR. SOCKWELL: All right, and one other  
17 question, which Mr. Slade is somewhat involved with,  
18 but which you would probably have more direct control  
19 over is the transportation plan requires a certain  
20 amount of voluntary management on the part of the  
21 parents and relatives and friends of the students who  
22 will be dropped off and picked up from the school.

23 It's been proposed that the streets to be  
24 most burdened would be other than the neighborhood,  
25 non-high volume streets as much as possible; that the

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1 alley and returns to 16th Street would be utilized as  
2 much as possible; and that those people coming from out  
3 of the area would be prompted to use streets other than  
4 the neighborhood streets for their circulation.

5 What can you tell me historically has given  
6 rise to your belief that you can manage such a program  
7 effectively?

8 DR. SCALDINI: Okay. If you look at -- Mr.  
9 Slade made reference to the fact it's a very important  
10 thing to know about our current location. We are there  
11 with two other schools who are not under our  
12 operational control. They are independent of us, and  
13 we have the ability to mark the JPDS cars for purposes  
14 of our study do that we can see exactly how JPDS is  
15 functioning in that neighborhood, and it's a  
16 complicated traffic pattern there at the convergence of  
17 Quebec and Porter with Connecticut.

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

(6:00 p.m.)

1  
2  
3 DR. SCALDINI: Okay? Our parents play by  
4 the rules. That's the long and the short of it, and we  
5 have teachers with walkie-talkies monitoring the pick-  
6 up process, in particular, keeping it moving, keeping  
7 it on the path it's supposed to take, and the parents  
8 follow the rules in terms of the traffic routes they're  
9 allowed to take.

10 For example, there's a prohibited left turn  
11 coming out in the property, and the parents stick to  
12 the rules. In the case of this neighborhood, you know  
13 how from what we've said to you earlier how much we  
14 have at stake in this site, and our parents and we are  
15 exploring all of the measures that all private schools  
16 take in terms of fines, in terms of agreements that  
17 people have to sign, and all of that, and we are  
18 perfectly prepared to take all of those steps to insure  
19 that our parents drive the routes that they're supposed  
20 to drive, and this school is important enough to them  
21 that they will do that.

22 MR. SOCKWELL: So you're at least confident  
23 that a carrot and/or a stick mentality will be  
24 acceptable to the parents?

25 DR. SCALDINI: Yes, and we will also -- for

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1 example, in the contracts that the parents sign, we  
2 will introduce --

3 MR. SOCKWELL: And you would be willing to  
4 put in your contracts that the parking and/or  
5 transportation management plan must be strictly adhered  
6 to?

7 DR. SCALDINI: Yes. And, by the way, in  
8 terms of the community liaison, the committee that we  
9 set up and that we set up with access to our board of  
10 directors' agenda, that's the bridge from performance  
11 to monitoring where people in the neighborhood who see  
12 a violation of the traffic plan can put it on the table  
13 for the board of directors of the school.

14 And I'm not sure. I don't have that  
15 extensive experience, but I don't think there are too  
16 many schools that give the community access to the  
17 board and its agenda.

18 MR. SOCKWELL: Thank you.

19 MS. RENSHAW: Madame Chair.

20 CHAIRPERSON CROSS REID: Ms. Renshaw and  
21 then Mr. Moulden.

22 MS. RENSHAW: All right. Would you, Mr.  
23 Slade, and you pointer show us where the traffic  
24 signals are on 16th Street?

25 MR. SLADE: Yes, Ms. Renshaw. The two

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1 nearest signals are at Kalmiah, which is right here.

2 MS. RENSRAW: Which is a long block away  
3 from the school.

4 MR. SLADE: Correct.

5 MS. RENSRAW: Okay, and where's the next  
6 one?

7 MR. SLADE: The next one is at the Holly  
8 East, which is there's a jog in Holly in this location.

9 MS. RENSRAW: All right.

10 MR. SLADE: And it's this part of Holly  
11 that --

12 MS. RENSRAW: So we have a long stretch  
13 going past these two synagogues where there is no  
14 traffic control via a traffic signal.

15 MR. SLADE: Correct.

16 MS. RENSRAW: How do you factor that into  
17 your planning? In other words, it's very risky  
18 crossing the street in those locations. So how are you  
19 going to handle --

20 MR. SLADE: That's correct, and it's  
21 something that the community pointed out to us, and we  
22 went out and drove it ourselves to see the nature of  
23 the safety environment that you're in and came to the  
24 conclusion that we should establish a fixed routing  
25 plan that would, to the extent we can eliminate the

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1 need for anyone accessing the school, eliminate left  
2 turns.

3 MS. RENSHAW: But you might have, for  
4 instance, a family coming down from the north heading  
5 south on 16th Street, and their child belongs over on  
6 Juniper Street. So, therefore, they're going to make a  
7 left-hand turn at Jonquil in order to go around the  
8 block. Do you see what I mean?

9 They're coming down on the green arrow, and  
10 --

11 MR. SLADE: Yes.

12 MS. RENSHAW: -- they're turning left?

13 MR. SLADE: But their destination is here?

14 MS. RENSHAW: Yep.

15 MR. SLADE: Yes. We've looked at this  
16 extensively, and I'm glad you asked the question  
17 because I was running out of time and breath when I was  
18 trying to do it before the clock hit.

19 We have looked at a number of routing  
20 schemes to make sure that all traffic stays on  
21 arterials and doesn't use the neighborhood streets,  
22 number one.

23 And, number two, to the extent that we can,  
24 have no left turns or minimize the number of left turns  
25 as you've just noted as a concern, and I'm going to

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1 move another chart up here.

2 I'm going to respond to the particular  
3 movement that you mentioned, and I'd like to talk about  
4 another one as well, another pattern --

5 MS. RENSHAW: Me, too.

6 MR. SLADE: -- that -- we would -- we're  
7 estimating that there will be between ten and 15 cars  
8 coming from the north, and the blue traffic is inbound.

9 This is the morning traffic to Tifereth Israel, which  
10 is the spot here.

11 When we began looking at routes, we said,  
12 "Let's not have those people have to make a left turn  
13 to Tifereth Israel as you just described, but rather,  
14 let's take them through on the arterials and back to  
15 Tifereth Israel from the south."

16 This particular movement, 13 cars having to  
17 turn left across the northbound traffic is feasible and  
18 safe. There are left turn bays in the median at the  
19 unsignalized cross streets, Jonquil, Kalmiah and so  
20 forth, which would enable that traffic to turn left  
21 safely because the northbound traffic in the morning is  
22 a lighter flow.

23 Now, the afternoon is another story. In  
24 the afternoon, we would be concerned about that, but  
25 while I've got this chart up let's -- I'm sorry?

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1 PARTICIPANT: Northbound to Ohev Shalom.

2 MR. SLADE: Northbound to Ohev Shalom, the  
3 red -- the blue line here. We don't want those parents  
4 to have to turn left across 1,700 southbound peak hour  
5 cars with no signal. So the fixed route for traffic  
6 coming north on 16th is to go up to the circle, to use  
7 the circle and come back south. That's why we put that  
8 little circle symbol there. Come back south and make  
9 right turns instead of left.

10 MS. RENSHAW: Well, I think that's --

11 MR. SLADE: Now, I know you know the city  
12 very well, and I think I do, too. I think if I lived  
13 to the south I would use another route, come up through  
14 the park, light traffic on Beech Drive in the morning,  
15 if Beech Drive stays open and the Park Service doesn't  
16 close it on us, and go to North Portal Street and come  
17 down that way.

18 But there would be options that would be  
19 provided to parents in a book of rules and regulations,  
20 and these routes would be indicated to them with the  
21 admonition that "do not turn left off of 16th Street to  
22 go to Ohev," and there will be a monitor, a school  
23 monitor standing here, and if anybody comes up and  
24 makes that left turn at least we'll be able to say to  
25 them, "Don't ever do that again."

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1 MS. RENSHAW: So a family member, having  
2 dropped off a youngster on Juniper Street, will not be  
3 allowed to go south even though Mommy and Daddy have to  
4 get into town and their schedule is tight.

5 MR. SLADE: That's correct.

6 MS. RENSHAW: They're going to have to go  
7 north?

8 MR. SLADE: We'd ask them to go north.

9 MS. RENSHAW: Realistically are they going  
10 to do it?

11 PARTICIPANTS: No.

12 CHAIRPERSON CROSS REID: Order.

13 MS. RENSHAW: I just bring this up. That's  
14 it for now.

15 CHAIRPERSON CROSS REID: Okay, because Mr.  
16 Moulden has to leave, and he has a question.

17 MR. MOULDEN: This question is to Ms.  
18 Robinson, the community liaison.

19 I notice in your report you indicated that  
20 the TMP was basically I won't say approved, but refined  
21 based on community meetings and so forth. From some of  
22 the comments I heard from some of the people in  
23 opposition, it sounds like there's some things that  
24 need to be worked out.

25 Do you feel that there's further work that

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1 needs to be done with the community on the TMP?

2 MS. ROBINSON: I'm not a traffic engineer  
3 or a traffic management company, but certainly the  
4 dialogue that we had with the community helped to  
5 refine the existing plan. So I can't really comment on  
6 where the status is. I'm not a professional in that  
7 field.

8 MR. MOULDEN: Okay. Well, maybe another  
9 representative could answer that question for me.

10 MR. SLADE: I think almost all the aspects  
11 of this plan are designed to minimize the impact on a  
12 community, and as you've learned today, the community  
13 is not shy about telling us about their concerns.

14 We had a number of meetings. Those  
15 concerns were raised, and as Sharon indicated, we've  
16 met with the police. We've met with DPW, and this plan  
17 goes to extraordinary levels to not intrude on the  
18 community, not use local streets, and to make turns and  
19 access 16th Street in a way that minimized impedance to  
20 traffic and safety issues.

21 So all those things that I've gone through  
22 really don't help the school that much. Being safe  
23 certainly does.

24 MR. MOULDEN: My question was just to insure  
25 that you had met with all the community representatives

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1 and just individual residents to be sure that you did  
2 hear all of their concerns because according to this  
3 letter it sounds like they have been addressed, but the  
4 opposition this morning sounded different than that.

5 DR. SCALDINI: No, we held a series of  
6 meetings, three meetings prior to the ANC presentation  
7 to present traffic management plans, take feedback,  
8 adjusted the plans, and we had a series of those  
9 meetings, dissemination of literature, dissemination of  
10 updates where we had new ideas, and we had four  
11 meetings. I'm sorry. So we had four.

12 We presented each time, took feedback at  
13 each time, and that's reflected in the plans. You  
14 know, some had said, "Your plan keeps changing."

15 Yes, in response to what we're hearing, or  
16 there are substantive differences here, and so there  
17 was quite a bit of that back and forth.

18 MS. DOBBINS: Mr. Moulden, we're also not  
19 opposed to it to continue changing as we find new  
20 information that comes in from the community and how  
21 the actual process works either.

22 CHAIRPERSON CROSS REID: Okay. Now, as we  
23 approach six o'clock, what we'd like to do is we still  
24 have additional questions for the Applicant. However,  
25 we'll hold that until once we get more into the case

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1 and have cross examination.

2 And the Board will have a quorum until  
3 around seven. So in that time frame hopefully that's  
4 adequate for the opposition to question the witnesses.

5 All right.

6 MS. RENSHAW: Madame Chair.

7 CHAIRPERSON CROSS REID: If you want to do  
8 so -- huh?

9 MS. DOBBINS: I would have one request of  
10 the opposition representatives, is that they not cross  
11 examine the children that presented testimony this  
12 evening.

13 CHAIRPERSON CROSS REID: Yes.

14 MS. DOBBINS: I just wanted -- yeah.

15 MR. HARRISTON: Madame Chairman, I had not  
16 intended to cross examine the children, but I had  
17 intended to complain of what the proponents did. They  
18 paraded children out here knowing that in good  
19 conscience we would not cross examine.

20 CHAIRPERSON CROSS REID: Okay. Well,  
21 that's -- that's neither here nor there, Ms. Dobbins.  
22 As a practical matter we would not allow that. We just  
23 wouldn't do it just as a matter of prudence.

24 MS. DOBBINS: I asked because it was asked  
25 of me.

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1 CHAIRPERSON CROSS REID: All right.

2 MS. DOBBINS: Thank you.

3 CHAIRPERSON CROSS REID: Okay. Well, just  
4 as a matter of prudence, we would not do that.

5 MR. SOCKWELL: And, Mr. Harriston, remember  
6 that we would afford you the same courtesy and not let  
7 the children cross examine you.

8 (Laughter.)

9 CHAIRPERSON CROSS REID: Okay, all right.  
10 Now, are the three people who are agents who are going  
11 to cross examine -- let's see. I think the best thing  
12 to do perhaps is can you speak into this mic right  
13 here.

14 MR. HARRISTON: I can try.

15 CHAIRPERSON CROSS REID: Okay. Wait a  
16 minute. Are you -- you're representing the ANC at this  
17 time? Okay. All right.

18 MR. HARRISTON: I'm not going to represent  
19 anybody at this point. We have agreed by and large for  
20 the individuals to cross examine a specific person with  
21 one or two exceptions where one of us has particular  
22 data which we want to cross examine.

23 I will start with Mr. Scaldini.

24 Mr. Scaldini, I want to follow up on Mr.  
25 Carson's statement. You indicated temporarily on 16th

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1 Street on the basis of the move to the other site.  
2 Have you had other conversations with the people at the  
3 other site?

4 DR. SCALDINI: We've had a meeting with the  
5 neighborhood there.

6 MR. HARRISTON: Now, have you visited the  
7 neighborhood?

8 DR. SCALDINI: Yes, we're in the process of  
9 visiting the neighborhood.

10 MR. HARRISTON: Isn't it true that --

11 MS. DOBBINS: Madame Chair, I would object  
12 to them -- to testimony related to the other  
13 neighborhood. That's a case that may come before this  
14 Board at some other point.

15 CHAIRPERSON CROSS REID: Wait, wait. I'm  
16 not sure we were clear. I was under the impression he  
17 was referring to the other site.

18 DR. SCALDINI: No, no.

19 MS. DOBBINS: When he says "other site,"  
20 he's referring to Forest Hills.

21 CHAIRPERSON CROSS REID: Okay. Let's  
22 clarify that.

23 MR. HARRISTON: Well, let me --

24 CHAIRPERSON CROSS REID: We can only --

25 MR. HARRISTON: I hear you --

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1 CHAIRPERSON CROSS REID: -- refer to --

2 MR. HARRISTON: -- but they raised it.

3 Once they open the door, they can't shut it.

4 CHAIRPERSON CROSS REID: Well --

5 MR. SOCKWELL: They didn't open that door

6 that way, Mr. Harriston.

7 MR. HARRISTON: Yes, they did.

8 MR. SOCKWELL: No, they did not.

9 CHAIRPERSON CROSS REID: They had to --

10 MR. SOCKWELL: They did not.

11 CHAIRPERSON CROSS REID: They had to in

12 their submission to us, in requesting only three years

13 -- they also proffered the fact that they have another

14 site in Forest Hills that they were moving into that

15 would -- is going through the development process, and

16 that's the end of that. What we're talking about is

17 specifically this site that is reflected right there on

18 that particular map as well as the site that is

19 referred to in the application.

20 So don't have us keep --

21 MR. HARRISTON: Look. But you have to --

22 you see, if you make the thing bound one way and don't

23 make it open, you put us in a bind.

24 MR. SOCKWELL: I think, Mr. Harriston.

25 CHAIRPERSON CROSS REID: But what did I --

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1 MR. HARRISTON: Let me make the point. Mr.  
2 Parsons specifically asked the question about their  
3 temporariness. See, part of the application that you  
4 have before you --

5 MS. PRUITT: Mr. Harriston, you're giving  
6 testimony now. You need a direct question. If the  
7 Board has overruled you --

8 MR. HARRISTON: I'm responding --

9 MS. PRUITT: -- please move on.

10 MR. HARRISTON: -- to the Chairman.

11 CHAIRPERSON CROSS REID: Yes.

12 MR. HARRISTON: I'm responding to the  
13 relevancy of my question. Now, Mr. Parsons  
14 specifically asked the question because he put it in  
15 evidence when he mentioned temporary. That's also a  
16 part of the filing.

17 CHAIRPERSON CROSS REID: Okay.

18 MR. HARRISTON: Now, we have to be -- see,  
19 part of what Mr. Parsons asked was are we going to be  
20 back here with this community over and over again  
21 because of a temporary. Temporary is a basis issue.

22 CHAIRPERSON CROSS REID: Okay, okay.

23 MR. HARRISTON: I want to follow that.

24 CHAIRPERSON CROSS REID: All right. So  
25 what is your question?

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1 MR. HARRISTON: My question is: are you  
2 aware that there are more than 200 signs in that  
3 community saying --

4 MS. DOBBINS: Madame Chairperson --

5 MR. HARRISTON: -- no community school in  
6 this district?

7 MS. DOBBINS: -- I would object to that  
8 again.

9 MR. HARRISTON: That's an issue because  
10 that goes to the temporary. You see if that --

11 CHAIRPERSON CROSS REID: Okay, okay.

12 MR. HARRISTON: -- community is saying  
13 no --

14 CHAIRPERSON CROSS REID: Overruled. Next  
15 question.

16 MR. HARRISTON: Next question. You've  
17 testified it's the only Jewish day care center --

18 DR. SCALDINI: It's not a day care center.

19 MR. HARRISTON: I'm sorry.

20 -- primary school in the district. What  
21 bearing does that have on the quiet enjoyment of the  
22 residents of Shepherd Park in their R-1-A and R-1-B  
23 community?

24 DR. SCALDINI: Because the quiet enjoyment  
25 of the neighborhood, the concept that you raised and

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1 that we spoke about the other evening very eloquently  
2 includes the community, and the community includes the  
3 District of Columbia, and so it's very relevant that  
4 this school remain in the District because by mission,  
5 it is a District of Columbia school, and that accrues  
6 to the value of the total environment, including  
7 Shepherd Park.

8 MR. HARRISTON: But, in truth, isn't that  
9 the personal choice of the parent of the student as to  
10 where they want to send their child?

11 DR. SCALDINI: Yes.

12 MR. HARRISTON: And that has no bearing on  
13 the owner of a property in the assigned area, does it?

14 DR. SCALDINI: The school has as a matter  
15 of its mission and its policies for 13 years to be a  
16 valued --

17 MR. HARRISTON: I'm sorry. You're not  
18 answering my question.

19 DR. SCALDINI: I am. I'm -- you're saying  
20 the bearing on the neighbor.

21 MR. HARRISTON: I asked you what's the  
22 bearing on the neighbor that lives behind Ohev Shalom?

23 DR. SCALDINI: The fact that you can read  
24 the mission statement of the Jewish Primary Day School  
25 and see its commitment to enhancing the community,

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1 meaning including the neighbors by which it resides as  
2 part of it and part of what they educate their children  
3 to do, and we do it in spades and in a host of ways.

4 MR. HARRISTON: So --

5 DR. SCALDINI: So it's therefore our  
6 conviction, as I've said to you privately and  
7 publicly --

8 MR. HARRISTON: Only on the record.

9 DR. SCALDINI: -- that we will be very,  
10 very -- you will be very, very happy to have us there.

11 MR. HARRISTON: So that with respect to the  
12 gentleman whose garage backs up on the parking lot to  
13 the west of Ohev Shalom, the Jewish Day Care Center --  
14 I mean --

15 CHAIRPERSON CROSS REID: Primary.

16 MR. HARRISTON: -- I'm sorry -- the Jewish  
17 Primary School is a good thing for him?

18 DR. SCALDINI: Because he will find in us  
19 people who have traffic monitors. Our teachers in the  
20 morning, as has been presented to you --

21 MR. HARRISTON: I think you've answered the  
22 question.

23 DR. SCALDINI: -- who will stop our traffic  
24 to let that person out.

25 MR. HARRISTON: I think you've answered the

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1 question.

2 DR. SCALDINI: Which was demonstrated the  
3 other day.

4 CHAIRPERSON CROSS REID: Okay.

5 DR. SCALDINI: That's a commitment you have  
6 before you, sir.

7 CHAIRPERSON CROSS REID: Let's go to the  
8 next question.

9 MR. HARRISTON: Now, you indicated, among  
10 other things, that you're going to have adult education  
11 programs to benefit the community. Do you know  
12 anything about the Shepherd Park community?

13 DR. SCALDINI: The perception I have from  
14 the four meetings we've had is that it's a community of  
15 highly educated people, very successful people, you  
16 know, in material terms, and --

17 MR. HARRISTON: And you --

18 DR. SCALDINI: -- very astute.

19 MR. HARRISTON: And you propose to come in  
20 and give those educated people the benefit of your  
21 superior education?

22 CHAIRPERSON CROSS REID: Wait.

23 MR. SOCKWELL: Mr. Harriston --

24 CHAIRPERSON CROSS REID: Let --

25 MR. SOCKWELL: Excuse me, Madame Chair.

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1 CHAIRPERSON CROSS REID: Okay.

2 MR. SOCKWELL: Mr. Harriston, absent a  
3 description of the program that is called an adult  
4 education program, your question -- your statement is  
5 completely out of line, and you know it.

6 MR. HARRISTON: What's your name again?

7 MR. SOCKWELL: My name is irrelevant to the  
8 fact --

9 MR. HARRISTON: Well, I want to respond to  
10 you.

11 MR. SOCKWELL: -- that I stated this, and  
12 let me explain why. My parents are very well educated,  
13 and they go to adult education programs to learn  
14 computer skills that they don't have and other things  
15 that they don't know, and the term "adult" should not  
16 be considered to be remedial, and if that is the  
17 insinuation that you're making, withdraw the statement,  
18 sir.

19 MR. HARRISTON: The insinuation is that --

20 MR. SOCKWELL: There should have been no  
21 insinuation at all. That's the problem.

22 MR. HARRISTON: The insinuation is it's  
23 demeaning.

24 CHAIRPERSON CROSS REID: All right. Now --

25 MR. SOCKWELL: It's demeaning to you. It's

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1 personal. Withdraw it.

2 CHAIRPERSON CROSS REID: Mr. Sockwell.

3 MR. HARRISTON: It's not personal.

4 MR. SOCKWELL: It is personal.

5 MR. HARRISTON: It's demeaning to me.

6 CHAIRPERSON CROSS REID: At this point --

7 MR. SOCKWELL: Well, then it should be  
8 demeaning to you because you don't understand --

9 MR. HARRISTON: Next question.

10 MR. SOCKWELL: -- the term.

11 CHAIRPERSON CROSS REID: At this point --

12 MR. HARRISTON: Next question.

13 CHAIRPERSON CROSS REID: -- let us  
14 establish some ground rules, and that is let us not get  
15 involved in any disparaging remarks, and  
16 understandably, sir, you have concerns about your  
17 community --

18 MR. HARRISTON: Very much so.

19 CHAIRPERSON CROSS REID: -- as everyone who  
20 comes before us, you know, has their concerns, and we  
21 have opposition, and we have people -- we have the  
22 Applicant.

23 However, we have to maintain a degree of  
24 decorum and protocol and --

25 MR. HARRISTON: Naturally.

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1 CHAIRPERSON CROSS REID: -- mutual respect.

2 MR. HARRISTON: I agree.

3 CHAIRPERSON CROSS REID: And no matter how  
4 deeply imbedded your --

5 MR. HARRISTON: I haven't disrespected --

6 CHAIRPERSON CROSS REID: -- community is --

7 MR. HARRISTON: -- anybody.

8 CHAIRPERSON CROSS REID: I'm not finished.

9 -- then, please, do not air any of those  
10 types of negativities in this particular hearing room  
11 and state clearly on the record -- do not ask now --  
12 let me just further state that if your questioning  
13 continues alone that line, then we'll have to cut you  
14 off and go to the next person who will --

15 MR. HARRISTON: Thank you, Madame. The  
16 truth shall set us free.

17 CHAIRPERSON CROSS REID: Well, again --

18 MR. HARRISTON: Next question.

19 CHAIRPERSON CROSS REID: -- that's  
20 testifying.

21 MR. HARRISTON: The next question.

22 CHAIRPERSON CROSS REID: You're not  
23 supposed to testify, and you know that.

24 MR. HARRISTON: I'm responding to you.

25 CHAIRPERSON CROSS REID: But you don't have

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1 to respond to me.

2 MR. HARRISTON: Well, yes, I do.

3 CHAIRPERSON CROSS REID: Move to the next  
4 question.

5 MR. HARRISTON: Next question.

6 DR. SCALDINI: Excuse me, Chairman --

7 MR. HARRISTON: Mr. Scaldini --

8 DR. SCALDINI: Excuse me just a second.  
9 Could I respond in one fashion to his question? The  
10 last thing in the world I'd want --

11 CHAIRPERSON CROSS REID: Don't even go  
12 there.

13 DR. SCALDINI: Okay.

14 MR. SOCKWELL: It is not necessary, sir.

15 CHAIRPERSON CROSS REID: I think that --

16 MR. SOCKWELL: You don't -- you don't want  
17 to go there.

18 CHAIRPERSON CROSS REID: All right.  
19 Please, I think that --

20 DR. SCALDINI: I would not want to leave  
21 that impression.

22 MR. HARRISTON: You don't want to go there.

23 CHAIRPERSON CROSS REID: -- it's apparently  
24 that --

25 MR. HARRISTON: Mr. Scaldini --

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1 CHAIRPERSON CROSS REID: -- it was not a  
2 proper question. So let's leave it at that.

3 MR. HARRISTON: -- you have stated with  
4 respect to the operation of the school that you have  
5 certain rules that will insure that things are kept  
6 under control; is that correct?

7 DR. SCALDINI: Yes.

8 MR. HARRISTON: And one of the partners in  
9 this affair is Tifereth Israel; is that correct?

10 DR. SCALDINI: Yes.

11 MR. HARRISTON: And they're an intimate  
12 party to what you're trying to do.

13 DR. SCALDINI: We will be located in part  
14 of the school.

15 MR. HARRISTON: Are you aware that Tifereth  
16 Israel has violated a number of rules with respect to  
17 their current BZA exception?

18 CHAIRPERSON CROSS REID: Is that germane to  
19 this particular --

20 MS. DOBBINS: Mr. Scaldini did not even  
21 testify to that.

22 DR. SCALDINI: I can't really --

23 CHAIRPERSON CROSS REID: Is that germane to  
24 this particular application?

25 MS. DOBBINS: No, it is not.

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1 CHAIRPERSON CROSS REID: All right.

2 MR. HARRISTON: No, I asked him a question.

3 CHAIRPERSON CROSS REID: It has to be  
4 german. Okay.

5 MR. HAMPTON: They put it in the record.

6 MR. HARRISTON: They put it in the record.  
7 It's in your record.

8 MR. HAMPTON: It's in the record.

9 MR. HARRISTON: If you'll look at your  
10 record --

11 CHAIRPERSON CROSS REID: What is?

12 MR. HARRISTON: -- their -- their --

13 MR. HAMPTON: Their previous BZA orders are  
14 in the record.

15 MR. HARRISTON: With respect to the day  
16 care center that is now at Tifereth Israel. It's in  
17 your record. I'm asking about what's in your record.

18 MS. DOBBINS: The BZA orders are there  
19 because of the location, but the BZA orders do not talk  
20 about any enforcement related to any orders.

21 MR. HARRISTON: They -- they -- I have to  
22 bring it out on --

23 MS. DOBBINS: Mr. Scaldini did not  
24 testify --

25 CHAIRPERSON CROSS REID: Wait a minute.

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1 I'm not -- let me understand this. I'm a little  
2 confused.

3 MS. DOBBINS: There is --

4 CHAIRPERSON CROSS REID: Let me --

5 MS. DOBBINS: There is a day care facility  
6 at Tifereth Israel at this point.

7 (The Board conferred.)

8 CHAIRPERSON CROSS REID: Okay. The orders  
9 are in the application, but the testimony --

10 MS. DOBBINS: But there was no testimony.

11 MR. HARRISTON: He has affirmatively  
12 testified about what they're going to do.

13 CHAIRPERSON CROSS REID: Okay, but --

14 MR. HARRISTON: We'll move on.

15 CHAIRPERSON CROSS REID: Yes. You have to  
16 stay within the testimony.

17 MR. HARRISTON: I did --

18 CHAIRPERSON CROSS REID: Even at --

19 MR. HARRISTON: -- because he mentioned  
20 what they're going to do.

21 CHAIRPERSON CROSS REID: But -- but he did  
22 not mention the BZA order. So --

23 MR. HARRISTON: Next question. Mr.  
24 Scaldini, how many students live within 100 feet of the  
25 two synagogues?

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1 DR. SCALDINI: I don't know.

2 MR. HARRISTON: How many live within 200  
3 feet?

4 DR. SCALDINI: No, I don't know.

5 MR. HARRISTON: How many live within  
6 Shepherd Park.

7 DR. SCALDINI: Well, we have those figures.  
8 Could someone -- let me have someone help me on it. I  
9 don't have the figures.

10 MR. HARRISTON: Three, four?

11 MS. DOBBINS: Mr. Scaldini can't answer the  
12 question.

13 CHAIRPERSON CROSS REID: If you know -- if  
14 you know, then just tell him and then ask your  
15 question.

16 MR. HARRISTON: No. That's what I'm asking  
17 him.

18 CHAIRPERSON CROSS REID: No, if you don't -  
19 - if you know what schools are there, the two schools  
20 that are there, just state what schools are there and  
21 then ask the question.

22 MR. HARRISTON: Well, he indicated in his  
23 direct testimony that half of the students are in the  
24 District of Columbia and half are elsewhere. Now, with  
25 those in the District of Columbia, how many are in the

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1 community that they want to go to?

2 DR. SCALDINI: Four.

3 MR. HARRISTON: That's a relevant question.

4 CHAIRPERSON CROSS REID: That's a relevant  
5 question. All right.

6 MR. HARRISTON: That's what I'm getting at.

7 CHAIRPERSON CROSS REID: All right. Well,  
8 just ask --

9 MR. HARRISTON: I have to ask it in my way,  
10 you know.

11 CHAIRPERSON CROSS REID: But please don't  
12 go --

13 DR. SCALDINI: Could I answer it?

14 CHAIRPERSON CROSS REID: -- through all  
15 those questions to lead up to it. Just ask the  
16 question straightforward.

17 DR. SCALDINI: Would you like to have the  
18 answer? It's four.

19 CHAIRPERSON CROSS REID: The question --  
20 let me understand. The question was how many of the  
21 children --

22 MR. HARRISTON: How many of the students --

23 CHAIRPERSON CROSS REID: -- that go to the  
24 school are from the neighboring community.

25 MR. HARRISTON: That's right.

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1 CHAIRPERSON CROSS REID: And the answer is  
2 four?

3 DR. SCALDINI: Yes.

4 MR. HARRISTON: Okay.

5 CHAIRPERSON CROSS REID: Next question.

6 MR. HARRISTON: Now, you determined that  
7 this was an emergency situation, which is the reason  
8 you requested the temporary three years.

9 DR. SCALDINI: Well, we require a three  
10 year temporary space because our permanent location  
11 will require that before we can occupy it. So --

12 MR. HARRISTON: Yeah. Now, the history of  
13 the school, it started out as a part of Adas Israel?

14 DR. SCALDINI: Yes.

15 MR. HARRISTON: And then later incorporated  
16 separately?

17 DR. SCALDINI: Yes.

18 MR. HARRISTON: And then was there some  
19 disagreement within the old community as to what should  
20 be there?

21 DR. SCALDINI: We entered into an agreement  
22 with Adas Israel to become an independent institution,  
23 and there's a letter in the -- in the record from Adas  
24 Israel to this effect. I'm going to summarize what it  
25 says and what occurred.

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1           We agreed with Adas Israel that we would  
2 become a separate institution because our growth  
3 objectives for the school could not be accommodated  
4 within that building. Adas Israel, among other things,  
5 did not want to have an off site school; had a  
6 different idea of the direction in which they wanted  
7 the school to go.

8           MR. HARRISTON: The direction which they  
9 wanted to go.

10          DR. SCALDINI: Yes, and we agreed to  
11 separate, and that we would relocate in June of 2000.

12          MR. HARRISTON: So as a result of an  
13 internal disagreement at the site --

14          DR. SCALDINI: No, as a result of an  
15 agreement.

16          MR. HARRISTON: Of an internal  
17 disagreement.

18          DR. SCALDINI: "Disagreement" is your  
19 term. Agreement is my term.

20          MR. HARRISTON: Okay. Then you decided to  
21 come to Shepherd Park.

22          DR. SCALDINI: No. We proceeded to do a  
23 very, very thorough search for space, which I've  
24 already described in my paper, and I don't need to  
25 repeat it, and listed a number of the places we looked

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1 at, and it was only late in 1999 that we came to the  
2 conclusion with Tifereth Israel and Ohev Shalom that we  
3 could place the school in those two sites and make it  
4 work, hence the exigency of our time frame right now.

5 MR. HARRISTON: Now, one last question.  
6 With respect to the question from Mr. Parsons, you  
7 expect to be gone in three years --

8 DR. SCALDINI: Yes.

9 MR. HARRISTON: -- and not back here for an  
10 extension to stay in our community.

11 DR. SCALDINI: That's our expectation.  
12 Absolutely right.

13 CHAIRPERSON CROSS REID: Thank you.

14 MR. HAMPTON: I just have a couple of  
15 follow-up questions. You've stated that you talked to  
16 Dr. James at Shepherd Elementary School, correct?

17 DR. SCALDINI: Our head of schools, Susan  
18 Koss met with --

19 MR. HAMPTON: Have you talked with the PTA  
20 at Shepherd Elementary School?

21 DR. SCALDINI: I have not, no.

22 MR. HAMPTON: As far as you know, has any  
23 of your members talked to the president of the PTA?

24 DR. SCALDINI: No, not that I know.

25 MR. HAMPTON: Do you even know who the

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1 president of the PTA is?

2 DR. SCALDINI: I encountered him the other  
3 evening at the ANC meeting.

4 MR. HAMPTON: And his name is?

5 DR. SCALDINI: I don't recall.

6 MR. HAMPTON: Okay,. Do you know who the  
7 vice president is?

8 DR. SCALDINI: No, don't remember.

9 MR. HAMPTON: Okay.

10 DR. SCALDINI: Do you know the names --

11 MR. HAMPTON: That's not --

12 DR. SCALDINI: -- of our Parent-Teachers  
13 Association?

14 MR. HAMPTON: -- relevant because we're not  
15 moving to your neighborhood.

16 CHAIRPERSON CROSS REID: Excuse me. Just  
17 go and ask questions.

18 MR. HAMPTON: Yes, ma'am. Yes, ma'am.

19 About this adult education that you  
20 propose, has that been vetted with the neighbors? Have  
21 the neighbors had an overwhelming demand for this?

22 DR. SCALDINI: Some suggested topics I have  
23 been shared with the neighbors. The idea for it arose  
24 out of one of the meetings that we had when several  
25 people in the room said they would react favorably to

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1 that kind of offering. Some of the suggestions were --  
2 and I'll use the examples that I was prepared to  
3 provide -- two seminars that would be provided, one on  
4 global finance and the phenomenon of globalization that  
5 would be based on a seminar that I teach in the  
6 graduate school at George Washington University.

7 And the second that I would also teach  
8 because I have a Ph.D. in literary studies on modern  
9 fiction. So I trust that -- and this was the comment I  
10 had hoped to make -- that Mr. Harriston, whom I would  
11 not dream of demeaning, would not be demeaned by  
12 seminars that I've offered at Dartmouth and Yale.

13 MR. HAMPTON: Okay, fine. Thank you.

14 Were any of the neighbors marked in those  
15 red diamonds, which are within 500 feet -- have they  
16 asked you for these sorts of --

17 CHAIRPERSON CROSS REID: Do you mean red  
18 diamonds or red stars?

19 MR. HAMPTON: Red stars. Excuse me.  
20 Within the red stars.

21 MS. DOBBINS: If you don't know, say you  
22 don't know.

23 DR. SCALDINI: I don't know.

24 MR. HAMPTON: Okay. You -- you -- you  
25 don't --

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1 DR. SCALDINI: These were -- as I said,  
2 this came up at a meeting.

3 MR. HAMPTON: Okay.

4 DR. SCALDINI: As I said, this came up at a  
5 meeting.

6 MR. HAMPTON: Okay, fine. You don't know.

7 DR. SCALDINI: Excuse me.

8 MR. HAMPTON: You don't know.

9 DR. SCALDINI: And we responded with some  
10 ideas of what we might do.

11 MR. HAMPTON: Okay, and you said there  
12 would be a cap of 205 people.

13 DR. SCALDINI: Yeah.

14 MR. HAMPTON: Two hundred and five  
15 students. So you're willing to change your request  
16 from 215 to 205?

17 DR. SCALDINI: Yes.

18 MR. HAMPTON: Okay. That's fine. Also, do  
19 you or anyone else know how many square feet either  
20 synagogue is?

21 DR. SCALDINI: Others on our team would be  
22 better prepared to speak.

23 MR. HAMPTON: Could you answer that? That  
24 may lead to some additional questions for you.

25 MS. KRIEGER: The gross square footage,

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1 according to the plans for Ohev Shalom, between 30 and  
2 35,000 square feet. I'm not as sure of the gross  
3 square footage at Tifereth Israel, but it's similar.

4 MR. HAMPTON: Okay.

5 CHAIRPERSON CROSS REID: Is that it?

6 MR. BARDONILLE: Just a couple of follow up  
7 questions.

8 CHAIRPERSON CROSS REID: All right.

9 MR. BARDONILLE: Dr. Scaldini, have you had  
10 any complaints --

11 CHAIRPERSON CROSS REID: Speak into the  
12 mic.

13 MR. BARDONILLE: Oh, sorry.

14 Have you had any complaints as to  
15 conformity to your plans over at your present location?

16 DR. SCALDINI: I'm not sure I understand  
17 you.

18 MR. BARDONILLE: Has anyone ever complained  
19 to the school or to the synagogue about traffic or any  
20 of the conditions affecting the neighbors over at the  
21 school where you are presently located?

22 DR. SCALDINI: Okay. For our school, I  
23 don't know about the other schools that operate there,  
24 they're not under our control. For our school, no. I  
25 understand that there have not been.

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1 CHAIRPERSON CROSS REID: And, again, we're  
2 referring to this particular -- the Applicant.

3 MR. BARDONILLE: I'm referring to the  
4 Jewish Primary Day School, and they have used --

5 CHAIRPERSON CROSS REID: Where?

6 MR. BARDONILLE: At Adas Israel, which is  
7 their present location.

8 CHAIRPERSON CROSS REID: Where is that?

9 MR. BARDONILLE: Oh, Adas Israel is at the  
10 conjunction of Porter and Quebec Street.

11 CHAIRPERSON CROSS REID: Okay. Is that at  
12 this intersection where this site is located that the  
13 application is germane to? And that's what you have to  
14 keep it to.

15 MR. BARDONILLE: Well --

16 CHAIRPERSON CROSS REID: You cannot go over  
17 there.

18 MR. BARDONILLE: Well, and here is the  
19 point.

20 CHAIRPERSON CROSS REID: No, no, no.

21 MR. BARDONILLE: May I just explain the  
22 basis of my question?

23 CHAIRPERSON CROSS REID: No. Ask your  
24 question.

25 MR. BARDONILLE: I did. I asked if he's

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1 had any complaint from any residents.

2 DR. SCALDINI: I answered you.

3 CHAIRPERSON CROSS REID: And I said you  
4 cannot --

5 MR. BARDONILLE: I can't ask that?

6 CHAIRPERSON CROSS REID: -- go over to that  
7 particular -- this is -- the case before us is site  
8 specific. You cannot use anything that's germane to  
9 another site to make a point about this particular  
10 application.

11 MR. BARDONILLE: But that's the basis of  
12 this whole plan.

13 MR. HAMPTON: Excuse me, Madame Chair.  
14 They have raised how well they operate a school, how  
15 well they operate parking and everything else. The  
16 current location is not here. It's at Adas Israel. So  
17 we have to ask at least some questions --

18 MS. PRUITT: Sir, that may be better served  
19 in your testimony as opposed to cross examination.

20 MR. SOCKWELL: If I might just state --

21 CHAIRPERSON CROSS REID: You will be able  
22 to testify.

23 MR. SOCKWELL: I think we understand your  
24 concern. The problem with asking the question here is  
25 that the conditions are dynamic, and the dynamic

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1 conditions at the other site and the dynamic conditions  
2 here are different, and it's impossible for Mr. Slade  
3 or anyone else to respond to those questions  
4 effectively.

5 In your testimony I think that you can  
6 bring that up.

7 MR. BARDONILLE: Very fine. Dr. Scaldini,  
8 you testified that in response to -- is his name  
9 Porter?

10 PARTICIPANTS: Parsons.

11 MR. BARDONILLE: Parsons' question that as  
12 part of assuring compliance on the part of the parents,  
13 that you would have a contract with them.

14 DR. SCALDINI: They have a contract with  
15 the school when they enroll their child.

16 MR. BARDONILLE: Is it fair to ask if the  
17 present school have a contract now?

18 CHAIRPERSON CROSS REID: No, you cannot ask  
19 that.

20 MR. BARDONILLE: Cannot ask that.

21 CHAIRPERSON CROSS REID: I've already  
22 stated that it has to be germane to this particular  
23 application.

24 MR. BARDONILLE: I have no further  
25 questions.

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1 CHAIRPERSON CROSS REID: Thank you.

2 MR. HUMPHRIES: Madame Chair, if I may ask  
3 a question of Mr. Scaldini, Mr. Scaldini, as you  
4 propose to move to the site, could you help us  
5 understand the nature of the governance of the school  
6 that you propose to locate at the sites, i.e., the  
7 governing board and the by-laws that govern the board  
8 and the selection of board members and who is eligible?

9 You've raised that as a bridge between the  
10 neighborhood.

11 DR. SCALDINI: We've raise the fact that we  
12 would create a liaison committee, and that committee  
13 would have the neighborhood representative on that  
14 committee, and it would include also representatives of  
15 the two synagogues, would have a right to put items on  
16 the agenda of the JPDSNC board of directors and to  
17 present them.

18 Our governance, we're a 501(c)(3) not-for-  
19 profit corporation, and we are a member organization  
20 under the District of Columbia. We're incorporated in  
21 the District of Columbia, and --

22 MS. DOBBINS: Madame Chair, there was no  
23 testimony about the board.

24 CHAIRPERSON CROSS REID: Is that what it  
25 is?

1 MS. DOBBINS: About the make-up of the  
2 board, but if the Board chooses, he can continue this.

3 CHAIRPERSON CROSS REID: He answered the  
4 question. So next question.

5 MR. HUMPHRIES: Well, okay. I mean it's --  
6 we're trying to understand in an effort to be good  
7 neighbors, Madame Chair.

8 CHAIRPERSON CROSS REID: Oh, ask questions.

9 MR. HUMPHRIES: Okay. So we'd like to find  
10 out about the governance of the organization so that we  
11 can identify ways in which we can intersect --

12 CHAIRPERSON CROSS REID: Well --

13 MR. HUMPHRIES: -- and be good neighbors.

14 CHAIRPERSON CROSS REID: All right.

15 MR. HUMPHRIES: So I'm asking a question  
16 about the make-up of the board so that we can better  
17 understand that and who are members of the board.

18 And as I recall --

19 CHAIRPERSON CROSS REID: But, you see,  
20 there was no testimony regarding the governance of the  
21 school or the board of directors. However, that does  
22 not preclude you from being able to request that  
23 information from the Applicant subsequent to this  
24 hearing.

25 MS. DOBBINS: And, Madame Chair --

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1 MR. HUMPHRIES: And that's what we're  
2 doing.

3 MS. DOBBINS: -- we have no problems  
4 providing information.

5 CHAIRPERSON CROSS REID: Okay.

6 MR. HUMPHRIES: And that's what we're doing  
7 now to better understand.

8 CHAIRPERSON CROSS REID: But there was no  
9 testimony. So, therefore, you can receive the  
10 information by requesting it. They'll supply you with  
11 all the information you need regarding the governance  
12 of the board of directors --

13 MR. HUMPHRIES: Okay.

14 CHAIRPERSON CROSS REID: -- and who's on  
15 the board of directors and when do they meet.

16 MR. HUMPHRIES: Okay. Then, Madame Chair,  
17 I would like to reserve the right to ask further  
18 questions of this witness at a later date once we've  
19 received that information. Is that fine?

20 MS. DOBBINS: Madame Chair, my indication  
21 of receiving that information would have been outside  
22 the purview of this hearing today. It would be  
23 information on information for the community. That has  
24 not been related to the presentation made today.

25 This would be to provide them the

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1 information as neighbors.

2 MR. HUMPHRIES: Well, clearly, Madame  
3 Chair, let me talk about the relevance. The governing  
4 board is the creator and improver of the contracts with  
5 the appearance, and in the contracts, you propose to  
6 include a provision which would govern the activities  
7 of the parents, including where they're going to drive  
8 and how they're going to drive it.

9 And so with regard to the appropriateness  
10 of the traffic management plan and the credibility of  
11 the proposed monitoring program, we'd like to receive  
12 information about the process that the governing board  
13 will use in deciding the traffic management plan as  
14 well as the enforcement.

15 So if we don't have that information, we  
16 have no way of really coming to a true assessment of  
17 the feasibility of this plan. What we're talking about  
18 and what the --

19 CHAIRPERSON CROSS REID: Well, what you're  
20 requesting, if I hear you correctly, is a copy of the  
21 agreement that the school has for the parents to sign.

22 MR. HUMPHRIES: A copy of the agreement, a  
23 copy of the bylaws, a copy of the mechanisms by which  
24 the governing board is chosen, selected, and approved.

25 CHAIRPERSON CROSS REID: I don't know if we

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1 need to get into all of that. I think that --

2 MR. HUMPHRIES: Well --

3 CHAIRPERSON CROSS REID: Wait, wait. Let  
4 me finish.

5 I think that the agreement and also the  
6 reinforcement aspect of the agreement as put out by the  
7 school that each parent has to sign would --

8 MR. HUMPHRIES: Well, let me ask --

9 CHAIRPERSON CROSS REID: -- answer your  
10 question.

11 MR. HUMPHRIES: Well, let me ask them if  
12 they have any difficulty in providing that information  
13 to us.

14 MR. SOCKWELL: Mr. Humphries, would you be  
15 satisfied if they provided you with the method by which  
16 the governing boards, which come together apparently as  
17 a tribunal or something of that nature -- I mean, you  
18 mentioned in your statement creation of a community  
19 liaison committee comprised of representatives from the  
20 neighborhood and from the boards, and that sounds  
21 multiple, of JPDSNC, Tifereth Israel, and Ohev Shalom,  
22 which sounds like it's a tribunal. I may be wrong, but  
23 you mentioned three separate boards of directors.

24 DR. SCALDINI: Right. What we propose to  
25 have is a committee which would meet periodically --

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1 MR. SOCKWELL: All right.

2 DR. SCALDINI: -- on matters relating to  
3 the site and the school and the site --

4 CHAIRPERSON CROSS REID: Okay. So --

5 DR. SCALDINI: -- including neighborhood  
6 representation.

7 CHAIRPERSON CROSS REID: All right. What  
8 are we --

9 MR. SOCKWELL: So my question is --

10 DR. SCALDINI: A tribunal, I guess.

11 MR. SOCKWELL: -- the method by which  
12 decisions would be made that would affect the contracts  
13 that the parents would sign would be relevant to their  
14 understanding of the potential for this coming to pass.

15 So the process by which you would do  
16 business and establish your contracts would have some  
17 relevance to the community's position.

18 CHAIRPERSON CROSS REID: I'm not sure --  
19 I'm not sure if we have to go to that extent. If, in  
20 fact, the document is presented by the Jewish Primary  
21 Day School, the assumption would be that it would be  
22 that it would be with the approval of the board of  
23 directors because I think there's a general rule --

24 MS. DOBBINS: That's --

25 CHAIRPERSON CROSS REID: -- if I'm not

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1 mistaken, any agreement that's put out publicly has to  
2 go through --

3 MS. DOBBINS: The board.

4 CHAIRPERSON CROSS REID: -- the board.

5 DR. SCALDINI: Yes.

6 CHAIRPERSON CROSS REID: So I don't think  
7 we have to get into --

8 MS. DOBBINS: No, no. Mr. Sockwell, the  
9 three boards would not deal with that. The three  
10 boards and the representatives is a whole different  
11 group. The Jewish Primary Day School's board would  
12 have to approve the contract for the parents.

13 MR. SOCKWELL: Okay. So the community  
14 relations situation is the only one that would bring  
15 the three boards together.

16 MS. DOBBINS: Yes.

17 DR. SCALDINI: Yes.

18 MS. DOBBINS: Yes, yes.

19 MR. SOCKWELL: All right.

20 MS. DOBBINS: So what I'm saying --

21 CHAIRPERSON CROSS REID: Okay. So we can  
22 make available -- we can have them make available to  
23 you so that you could -- now, you're saying that after  
24 you receive this -- you haven't seen it -- you want the  
25 opportunity to be able to ask questions if, in fact,

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1 there's something that you wanted to ask.

2 MR. HUMPHRIES: Correct.

3 MS. DOBBINS: Okay. Madame Chair, there is  
4 no agreement that incorporates any kind of restrictions  
5 like that currently. That agreement would be dealt  
6 with if, in fact, the board conditioned and approved  
7 this application.

8 MR. HUMPHRIES: Madame Chair, let me just  
9 say on the record that we've had representations that  
10 there is a contract that's going to be drawn, that it  
11 has -- and discussion apparently among the governing  
12 board about how to police this traffic management plan.

13 Okay?

14 And it's been suggested strongly that the  
15 plan is in effect and that the contract has been drawn  
16 or at least --

17 PARTICIPANTS: No.

18 MR. HUMPHRIES: Then that's what we want to  
19 know. It's not been drawn.

20 MS. DOBBINS: And it was not said, Mr.  
21 Humphries.

22 DR. SCALDINI: May I speak?

23 CHAIRPERSON CROSS REID: I think that what  
24 I heard was that there was going to be an agreement,  
25 yes.

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1 MR. HUMPHRIES: So then I come back to,  
2 Madame Chair, how can be do either, one, an effective  
3 cross examination with regard to the credibility of the  
4 program if we do not see a basic document that is going  
5 to be put into effect to govern this traffic management  
6 plan? I think we're operating with --

7 CHAIRPERSON CROSS REID: Well, ask him.

8 MR. HUMPHRIES: -- we're operating with  
9 pictures. We're operating --

10 CHAIRPERSON CROSS REID: That's a question  
11 to put to Mr. --

12 MR. HUMPHRIES: It's very amorphous.

13 CHAIRPERSON CROSS REID: Put that to him as  
14 to --

15 MR. HUMPHRIES: It's like --

16 CHAIRPERSON CROSS REID: If your question  
17 is if, in fact, it doesn't exist, how can you assess  
18 it; how do you know that it's going to be effective,  
19 and that kind of thing. So --

20 MR. HUMPHRIES: And that I'd certainly  
21 like.

22 CHAIRPERSON CROSS REID: And --

23 MR. HUMPHRIES: When can we get a copy of  
24 the contract?

25 CHAIRPERSON CROSS REID: Right.

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1 MS. DOBBINS: There is no existing  
2 contract.

3 MR. HUMPHRIES: Well, Madame Chair, now,  
4 again, we --

5 CHAIRPERSON CROSS REID: Wait. I have too  
6 many people talking to me.

7 MR. HUMPHRIES: Can we get a date certain  
8 then?

9 CHAIRPERSON CROSS REID: Now, your first  
10 question is how are you able to ascertain the  
11 effectiveness of this nonexistent document, right?

12 MR. HUMPHRIES: Well, I'd like --

13 CHAIRPERSON CROSS REID: So pose that  
14 question to him to get an answer, not to me, to him. I  
15 can't answer that.

16 MR. HUMPHRIES: Well, but, Madame Chair,  
17 counsel is objecting to the fact that we're requesting  
18 a copy of a nonexistent contract that they've already  
19 indicated is the contract that's going to govern the  
20 policing of the traffic management plan.

21 MS. DOBBINS: Madame Chair, I beg to  
22 differ. Testimony has been presented that says the  
23 board of directors is looking into ways to do that and  
24 was perfectly willing to do it. They have not --

25 MR. SOCKWELL: If I might interrupt, Ms.

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1 Dobbins, from the testimony of Mr. Slade and the  
2 testimony of --

3 MS. DOBBINS: Mr. Scaldini.

4 MR. SOCKWELL: -- Mr. Scaldini, the issue  
5 of contract was made specific enough. The issue of  
6 management was made specific enough, and the issue of  
7 specific conditions of management that would be  
8 contractualized was made specific enough that there  
9 should be a conceptual document at least that could be  
10 developed quickly that would embody the spirit of the  
11 proposed circumstance.

12 And if that could be presented to the  
13 community --

14 MS. DOBBINS: You are asking for a draft of  
15 the proposed --

16 MR. SOCKWELL: Conditions of such contract  
17 if such contract did not yet exist.

18 CHAIRPERSON CROSS REID: And if there are  
19 specific issues that you have that you would like to  
20 have -- like to see included in such a document, then  
21 you can request that any order be conditioned  
22 accordingly.

23 MR. SOCKWELL: And even a draft of a  
24 proposed public statement to be handed out as part of  
25 the management plan if these things can be put together

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1 quickly because we pretty much know what needs to be in  
2 them. It doesn't seem that it would be a major effort  
3 because this is not something being drawn out of the  
4 air.

5 MS. DOBBINS: It's not something that's  
6 being drawn out of the air, and it's something that if  
7 the Board decides to condition something related to  
8 that, the condition is typically such that the  
9 Applicant shall require or that kind of thing. It's  
10 difficult at this time to --

11 MR. SOCKWELL: Well, I think the --

12 MS. DOBBINS: We could put a draft -- we  
13 could put a draft together.

14 MR. SOCKWELL: That's what I'm talking  
15 about because the contract wouldn't exist until the  
16 condition --

17 MS. DOBBINS: Yes.

18 MR. SOCKWELL: -- became part of the order.

19 MS. DOBBINS: That's exactly correct, Mr.  
20 Sockwell.

21 MR. SOCKWELL: But the proposal of elements  
22 to be embodied could be very easily put together and  
23 agreed upon at some point.

24 MS. DOBBINS: You're asking us for a draft  
25 of the section that would relate to compliance with the

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1 traffic management plan and the enforcement of the  
2 routes.

3 MR. HUMPHRIES: In the sense of reading  
4 good contracts, all contracts are contextual. All  
5 contracts are contextual, and so having simply a one  
6 provision, one paragraph from the contract does not  
7 give us a total understanding of the contract. All  
8 contracts are contextual.

9 CHAIRPERSON CROSS REID: Okay. Let's do  
10 this --

11 MR. HUMPHRIES: So --

12 MR. SOCKWELL: I think we weren't talking  
13 about provisions of the contract in line form. We were  
14 talking about elements of the contract.

15 MS. DOBBINS: That's correct.

16 MR. HUMPHRIES: If I may, if I may,  
17 Madame --

18 CHAIRPERSON CROSS REID: Continue with your  
19 cross examination at this point, and then --

20 MS. PRUITT: Mic.

21 CHAIRPERSON CROSS REID: Continue with your  
22 cross examination at this point, and then at the point  
23 where you have an opportunity to testify, those are the  
24 issues that you can then bring up and you can proffer  
25 to us what your assessment of it is and what you think

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1 needs to be done, but this is not the time to do that.

2 Just stay with the questions right now.

3 MR. HUMPHRIES: Okay. Well, we'll try.

4 CHAIRPERSON CROSS REID: Okay.

5 MR. HUMPHRIES: We'll try to cooperate.

6 Mr. Scaldini, I believe you indicated --

7 CHAIRPERSON CROSS REID: Just kind of lean  
8 into it.

9 MR. HUMPHRIES: You indicate in the example  
10 of governing plan, and we turn members of the  
11 Commission to the traffic management plan and the green  
12 line; I believe you indicated that if a parent came out  
13 of this alley and made other than a right turn onto  
14 Jonquil, if they, say, made a left turn or they  
15 continued up this alley to the intersection here, that  
16 you would give them a warning. Am I correct?

17 Mr. Scaldini?

18 DR. SCALDINI: I'm thinking. And forgive  
19 me, but that occasionally takes a while.

20 MR. HUMPHRIES: I understand, sir.

21 DR. SCALDINI: I'll beg you do.

22 MR. HUMPHRIES: Take your time.

23 DR. SCALDINI: Well, we have people  
24 escorting the children out of the cars and into the  
25 school, and those people are also -- staff who are out

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1 there are monitoring the paths of the cars.

2 MR. HUMPHRIES: Yes, sir.

3 DR. SCALDINI: And so they would be in a  
4 very good position to observe who departed from the  
5 routes and issue a warning, as you say.

6 MR. HUMPHRIES: So where along this line,  
7 sir, do you propose to put your monitors?

8 DR. SCALDINI: We have them at the corner.

9 MR. HUMPHRIES: I'm sorry, sir. Help guide  
10 me. Okay?

11 CHAIRPERSON CROSS REID: Can you come up  
12 and show him?

13 MR. HUMPHRIES: Help guide me.

14 CHAIRPERSON CROSS REID: There was  
15 testimony to the effect that there would be monitors  
16 stationed I thought it was like at the alley. That  
17 alley wouldn't be blocked. So show him, please, on the  
18 map.

19 MR. HUMPHRIES: Madame Chair, if we might  
20 allow the witness --

21 CHAIRPERSON CROSS REID: I asked him to  
22 come up and show you. He's coming.

23 MS. DOBBINS: We're trying to determine  
24 who's probably the best person to do that.

25 CHAIRPERSON CROSS REID: Okay.

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1 DR. SCALDINI: Brenda Krieger has come to  
2 assist me, and she is on the facilities committee which  
3 has been doing this, and I assume --

4 CHAIRPERSON CROSS REID: Repeat what you  
5 just said because you're not being picked up by the  
6 reporter.

7 DR. SCALDINI: Oh, I'm sorry. I'm going to  
8 ask Brenda Krieger to assist me. She chair the  
9 committee that's doing this work.

10 CHAIRPERSON CROSS REID: Okay.

11 DR. SCALDINI: And, you know, presumably we  
12 want to get the right answer for you.

13 MR. HUMPHRIES: If you don't know, just say  
14 you don't know.

15 DR. SCALDINI: I'm trying to get people who  
16 are doing the work.

17 MR. HUMPHRIES: We're cross examining you.  
18 If you don't know, say you don't know and then ask  
19 that it be referred to somebody else.

20 CHAIRPERSON CROSS REID: He is. I think  
21 Ms. Krieger is coming up.

22 MS. KRIEGER: Excuse me. I will answer.

23 MR. HUMPHRIES: Commissioners, if you might  
24 help me, because what I'm trying to do is to  
25 establish --

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1 MR. KRIEGER: I'm going to answer your  
2 question, Mr. Humphries.

3 MR. HUMPHRIES: -- for us who's in charge.

4 MS. KRIEGER: I'm going to answer your  
5 question, Mr. Humphries.

6 CHAIRPERSON CROSS REID: All right. Now,  
7 if you want to get your question answered, Mr. Scaldini  
8 is not the person who would answer. They're going to -  
9 - the Applicant is going to answer your question.  
10 Would you allow that?

11 All right, please. Who's answering it?

12 MR. HUMPHRIES: Who's answering?

13 MS. DOBBINS: Ms. Krieger.

14 MS. KRIEGER: The traffic management  
15 program at our present location is run by the staff of  
16 the school.

17 CHAIRPERSON CROSS REID: No.

18 MS. KRIEGER: I understand. I understand,  
19 and I -- I'm not talking about the present location.  
20 Could I finish my sentence?

21 CHAIRPERSON CROSS REID: Un-huh.

22 MS. KRIEGER: And so I'm going to let the  
23 head of our school explain how we might work it at this  
24 location. I don't think we have worked out every  
25 single bit of it.

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1 CHAIRPERSON CROSS REID: Well, if you don't  
2 know --

3 MS. KRIEGER: But I think that Susan can --  
4 I think that Susan can address the issues that Mr.  
5 Humphries is raising and seems like he really wants an  
6 answer to.

7 CHAIRPERSON CROSS REID: Who?

8 MS. KRIEGER: So she can answer.

9 CHAIRPERSON CROSS REID: Who can answer?

10 MS. KRIEGER: The head of school.

11 CHAIRPERSON CROSS REID: Who is that?

12 MS. DOBBINS: Susan Koss.

13 CHAIRPERSON CROSS REID: Well, then why  
14 isn't Ms. Koss speaking?

15 MS. KRIEGER: Right here.

16 CHAIRPERSON CROSS REID: I know who she is,  
17 but I don't understand why --

18 MS. DOBBINS: We're waiting for you to  
19 allow us to --

20 CHAIRPERSON CROSS REID: Why is Ms. Krieger  
21 saying --

22 MS. DOBBINS: Well, she was first going to  
23 answer the question.

24 CHAIRPERSON CROSS REID: -- that Ms. Koss  
25 is going to answer the question? Why doesn't Ms. Koss

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1 just answer the question? What's the point of that  
2 introduction?

3 DR. SCALDINI: She will be, but what she  
4 was trying to explain was simply that we're going to  
5 probably use a model, something like we're using  
6 presently. It isn't completely worked up, but we have  
7 experience --

8 CHAIRPERSON CROSS REID: So -- so --

9 DR. SCALDINI: -- we can illustrate on this  
10 now.

11 CHAIRPERSON CROSS REID: -- the answer is  
12 you're not sure. The answer is you're not sure yet how  
13 it's going to be implemented.

14 DR. SCALDINI: We just said that. We did.

15 CHAIRPERSON CROSS REID: Is that what  
16 you're saying?

17 MS. DOBBINS: We did say that.

18 DR. SCALDINI: But there are some things we  
19 can show you to give you an idea of how we'll do it  
20 because we have existing experience, and that's what we  
21 can show you on this map.

22 MR. HUMPHRIES: Members of the Commission.

23 CHAIRPERSON CROSS REID: All right. Well,  
24 do that.

25 MR. HUMPHRIES: Members of the Commission,

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1 I'd like --

2 CHAIRPERSON CROSS REID: Ms. Koss, are you  
3 going to answer it?

4 MS. KOSS: Yes, I am.

5 CHAIRPERSON CROSS REID: All right. Okay.

6 MR. HUMPHRIES: I'd like as we get the  
7 answer, members of the Commission, I'd like to keep in  
8 mind that this is an application --

9 CHAIRPERSON CROSS REID: You cannot  
10 testify. Okay? You can do that at the time that you  
11 are given to testify. You can, but at this point you  
12 can only ask questions.

13 MR. HUMPHRIES: Okay. Fine.

14 MS. KRIEGER: Ohev Shalom will house our  
15 kindergarten through third graders and --

16 MR. HUMPHRIES: Perhaps you can come to the  
17 --

18 CHAIRPERSON CROSS REID: I asked you. I  
19 asked that someone come to this map and indicate  
20 where --

21 MR. SOCKWELL: You can use the pointer if  
22 you'd like.

23 CHAIRPERSON CROSS REID: -- where on the  
24 map the monitor is going to be. I think I asked that  
25 three times.

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1 MR. HUMPHRIES: Here. You have to speak in  
2 here.

3 MS. KRIEGER: This takes more education  
4 right now on my hands.

5 Ohev Shalom will house our kindergarten  
6 through third graders. Some kindergarten children will  
7 be walked in by their parents. First through third  
8 graders, by and large, will be dropped off in the  
9 alleyway with a staff member opening the door and  
10 allowing the students.

11 Right here is a sidewalk. They will walk  
12 into the main door of Ohev Shalom where there will be  
13 someone holding the door open because it's heavy for  
14 the little kids. So there will be a staff member, at  
15 least one, depending on the volume of traffic, time of  
16 day; there will be a staff member here in the alley who  
17 can monitor the cars and also monitor the children  
18 walking onto the sidewalk, and there will be someone  
19 standing by the door helping the children come in.

20 We also plan -- and this is, again, in the  
21 planning stages because, you know, we're not there yet,  
22 but we plan to have an entrance to the bottom level of  
23 Ohev Shalom into which the children can go, and we  
24 would then have a staff member at that point. It  
25 really depends on the volume of traffic, and we will do

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1 studies. If and when we get the approval, then we will  
2 go ahead and totally map out how we work this so that  
3 we do secure the safety of the students, the safety of  
4 our staff, and the capability of people who live -- who  
5 need this alleyway to get their cars to maneuver in and  
6 out.

7 CHAIRPERSON CROSS REID: Okay. All right.  
8 Mr. Humphries, are you about ready to wrap it?

9 MR. HUMPHRIES: No, I'm not.

10 CHAIRPERSON CROSS REID: How many more  
11 questions do you have?

12 MR. HUMPHRIES: No, I'm not. We want to go  
13 over this a little bit so that we understand fully what  
14 they're representing --

15 CHAIRPERSON CROSS REID: My question: how  
16 many more questions do you have?

17 MR. HUMPHRIES: -- in the application.

18 Perhaps ten more, but the questions are  
19 going to go to the governance of this plan and the  
20 creation of this plan and how it's going to work here  
21 and what are the proposed sanctions and punishment.

22 CHAIRPERSON CROSS REID: All right. Well,  
23 ask the question.

24 MR. HUMPHRIES: Okay.

25 CHAIRPERSON CROSS REID: Are you asking the

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1 question?

2 MR. HUMPHRIES: What is the proposed  
3 sanctions and punishment --

4 CHAIRPERSON CROSS REID: to them.

5 MR. HUMPHRIES: -- punishment -- and I hate  
6 to use the term "punishment" -- but policy --

7 CHAIRPERSON CROSS REID: Penalty.

8 MR. HUMPHRIES: Penalty, good term.

9 -- penalty if an individual does not follow  
10 the plan? If, for instance, they careen off here and  
11 go back back up 17th and come out Kalmiah or they go  
12 straight ahead, I mean, what are the proposed -- what  
13 are the proposed penalties?

14 DR. SCALDINI: Well, I outlined them before  
15 in response to a question from the Board. Forgive me.  
16 I don't recall from whom.

17 We are exploring all of the measures, and  
18 I'm sure you're all aware of them. There are private  
19 schools around the city. This is how we do these  
20 things.

21 We'll look at the conditions that are used  
22 by private schools around the District of Columbia.  
23 They include things like fines, withholding of  
24 documents, things of that sort that matter to people,  
25 and moral suasion, you know, and all the rest, warning

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1 people, and then going to things like fines.

2 And we're looking at all of those, and  
3 there are a lot of examples around with private schools  
4 that have traffic management plans in the District, and  
5 we will develop something along those lines.

6 You've seen already where the people will  
7 be. So to your question about the observation of what  
8 goes on, even in what you may think as too preliminary  
9 a model, we've got people in a position to see anything  
10 that's done, and all our teachers know all our parents.

11 We're not a big school, and so we know who everybody  
12 is, and we can identify someone who breaks the rules.

13 MR. HUMPHRIES: Mr. Scaldini, do you have  
14 pictures of this particular site and the roadways that  
15 go -- I'm sorry -- the roadways that circle the school,  
16 Juniper on the south, the alley to the west, and  
17 Jonquil to the north?

18 DR. SCALDINI: Lou, do we have videos that  
19 we've made during the simulation or anything like that?

20 MR. SLADE: We have some videotape in the  
21 photos that we took.

22 DR. SCALDINI: Okay. We may have some,  
23 yeah, because we did the simulation that we mentioned  
24 earlier, and we photographed that.

25 MR. HUMPHRIES: Would you provide copies of

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1 those pictures to the neighbors?

2 DR. SCALDINI: Okay.

3 MR. HUMPHRIES: So that we might be able to  
4 look at them and ask questions based on the pictures  
5 that you've examined so that we're all operating --

6 DR. SCALDINI: On Tuesday?

7 MR. HUMPHRIES: -- they're all operating --  
8 well, we'd like to have those before then so that we  
9 can form questions on the basis of that.

10 You would agree with me that we're trying  
11 to reach some sort of a mutuality of mind, some sort of  
12 meeting of the mines?

13 I'm asking a question.

14 DR. SCALDINI: I don't know if I'd agree  
15 with that.

16 MR. HUMPHRIES: You would not? Okay.

17 DR. SCALDINI: But we are. We are  
18 certainly trying. I don't know if you are, but I know  
19 I can speak for us.

20 MR. HUMPHRIES: Do you want me to make the  
21 statement?

22 DR. SCALDINI: Yeah.

23 MR. HUMPHRIES: We are trying to.

24 DR. SCALDINI: Ah, good. We're delighted.

25 MR. HUMPHRIES: To the extent -- to the

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1 extent that you will provide to us the documents on  
2 which you base your traffic plan and your monitoring  
3 plan and your penalty plan, and to the extent that you  
4 will provide to us --

5 DR. SCALDINI: Well, we said we're  
6 exploring the penalty plan.

7 CHAIRPERSON CROSS REID: Is that a  
8 question?

9 DR. SCALDINI: We've been around that one  
10 before.

11 CHAIRPERSON CROSS REID: Is that a  
12 question?

13 MR. HUMPHRIES: And he's indicated that he  
14 would, Madame chair.

15 CHAIRPERSON CROSS REID: All right.

16 MR. HUMPHRIES: No, I said that we would  
17 make -- excuse me, Madame Chair. I want to be precise  
18 about what I said we would provide. I said we would  
19 provide the pictures and videos we may have from when  
20 we did the simulation. I don't even know for sure what  
21 the extent of those are. I said nothing about penalty  
22 plans. I said nothing about the other things you just  
23 mentioned.

24 But the pictures, happy to do that.

25 MR. HUMPHRIES: Dr. Scaldini --

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1 DR. SCALDINI: But, again, because it will  
2 come back, I'm sure, on Tuesday, I don't know exactly  
3 what we have. So what we have you'll see. Okay?

4 MR. HUMPHRIES: So you're indicating that  
5 there is a lack of ready --

6 DR. SCALDINI: No, I'm being honest.

7 MR. HUMPHRIES: -- a lack of readiness at  
8 this time.

9 DR. SCALDINI: No. I told you I don't know  
10 exactly what we have from the simulation, and what we  
11 have we'll bring.

12 MR. HUMPHRIES: Okay, fine. Now, Dr.  
13 Scaldini, in regard to this situation here, what  
14 happens when --

15 MS. DOBBINS: We can't hear you.

16 MR. HUMPHRIES: I'm sorry.

17 What happens when a parent arrives at that  
18 site, decides that he or she -- or grandparent decides  
19 that he or she -- wants to park and go into the school  
20 for whatever reason? Right here. This is the alley  
21 drop-off.

22 DR. SCALDINI: What time of day are you  
23 talking about, please?

24 MR. HUMPHRIES: In the morning.

25 DR. SCALDINI: What time of the morning are

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1 you talking about, please.

2 MR. HUMPHRIES: You pick a time.

3 CHAIRPERSON CROSS REID: Drop-off time.

4 MR. HUMPHRIES: Drop-off time.

5 She'll speak to it because she's doing that  
6 work.

7 MR. HUMPHRIES: Maybe I could ask a  
8 question because I want to understand a little bit  
9 about the trade-off here.

10 Is it Ms. Krieger?

11 DR. SCALDINI: Yes.

12 MR. HUMPHRIES: Ms. Krieger, if you could  
13 explain, help me understand your role as the chair of a  
14 --

15 MS. KRIEGER: The facilities committee.

16 MR. HUMPHRIES: Okay. You're a member of  
17 the board?

18 MS. KRIEGER: I am a member of the board.

19 MR. HUMPHRIES: Okay, and what is your role  
20 as the chair of the facilities committee?

21 MS. KRIEGER: Helping lead the effort to  
22 find us a permanent and a temporary location for the  
23 school and all that involves. So that I have been most  
24 -- more closely involved with the traffic management  
25 firm than -- on a day-to-day basis than Dick has, which

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1 is why he turned that over to me so perhaps I could  
2 answer that a little better.

3 Dick is the president of the board. You  
4 know, I think you know that that entails a more  
5 generalized oversight.

6 DR. SCALDINI: And she's smarter than me.

7 MS. KRIEGER: No.

8 MR. HUMPHRIES: So with regard to the  
9 question here.

10 MS. KRIEGER: With regard to the question,  
11 there are -- Mr. Slade, I think, has a drawing of the  
12 parking plan for Ohev Shalom which will show that there  
13 are 26 -- 26 parking places behind the synagogue. That  
14 is more than we will allot to our teachers. So there  
15 will be some spaces behind the synagogue for those few  
16 parents who will want to bring their children in.

17 People who do choose to bring their  
18 children in do so in a very short span of time. If  
19 they do, they bring the child in and leave them. Maybe  
20 they spend five, ten minutes there. That's something  
21 that I know from my experience has been encouraged  
22 since my child was in kindergarten, in helping the  
23 children acclimate to being in school, that parents not  
24 stay.

25 So and I'm sure especially in the beginning

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1 of the year, to be realistic, there will be more  
2 parents for a few weeks who do want to park and bring  
3 their child into school.

4 MR. HUMPHRIES: Would it --

5 MS. KRIEGER: And in the beginning, some of  
6 the younger children, primarily in kindergarten, will  
7 want to park and bring their child in, especially in  
8 the beginning of the year.

9 And we internally and with the neighbors  
10 will try to figure out a way that anyone who cannot  
11 find parking in the additional spots behind the  
12 building will have a place that does not block  
13 anybody's driveway or interfere with anybody going to  
14 work for that short span of time when they do bring  
15 their child in.

16 And as the school year goes on, that will  
17 even get far, far less. There will, yes, you're right,  
18 always be some parents who do need to take their  
19 children in or want to.

20 MR. HUMPHRIES: Do you propose a van -- as  
21 one of the options for bringing the children in, can  
22 you help us understand how that van is going to travel  
23 and how you will accommodate that van in this 15 foot  
24 wide alley?

25 MS. KRIEGER: Lou has more experience with

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1 the vans. We did -- I will tell you that we have  
2 contacted and have proposals from several companies  
3 around town that provide van service, and I say "van"  
4 because they are not buses. They are 15 to 20 person,  
5 small scale vans. We have made inquiries. We have  
6 proposals, and they work for many schools in the city.

7 As to how exactly they will be able to  
8 function in the driveway is where I will turn it over  
9 to Lou, but I will tell you just for -- I'll anticipate  
10 another question. No, never mind. I won't.

11 CHAIRPERSON CROSS REID: Next question.

12 MR. HUMPHRIES: Why don't we go across the  
13 street now to Tifereth Israel? And let's go through  
14 the same approach to Tifereth Israel, and that is on  
15 the east side of 16th Street.

16 And what is your plan to monitor the alley,  
17 as well as Jonquil, and how many staff people will you  
18 have there and at what intervals? How many, the  
19 number?

20 CHAIRPERSON CROSS REID: Are you asking --

21 MR. HUMPHRIES: I can ask them one at a  
22 time or I can ask them in a series, Madame Chair.

23 CHAIRPERSON CROSS REID: How about one at a  
24 time.

25 MR. HUMPHRIES: Okay. I'll ask it.

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1                   What is your plan?

2                   MS. KRIEGER: It would be similar to what  
3 we would have at Ohev Shalom, but because the students  
4 are older, we would possibly not hold the door open for  
5 them. We would make sure -- at the beginning it's very  
6 complicated because they're getting used to carrying  
7 all of their bags, but as the school year progresses,  
8 they are quite adept at it, and the first few weeks are  
9 just the trial.

10                   We would definitely have somebody in the  
11 alley to control the traffic to monitor the children.  
12 No child will be left to walk near any moving vehicles.

13                   As we do now, we will continue to monitor that.

14                   We will monitor the parents who drop their  
15 children off in the alley to make sure that they --  
16 sorry. All right. Go back. Sorry.

17                   MR. HUMPHRIES: Surely. Perhaps someone  
18 could at this point help.

19                   What is the distance from --

20                   CHAIRPERSON CROSS REID: You have to ask  
21 the question into the mic.

22                   MR. HUMPHRIES: Okay. I'm sorry.

23                   What is the distance from 16th Street to  
24 the alley and from the alley and its intersection with  
25 Jonquil and the alley and its intersection with

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1 Juniper?

2 MR. SLADE: I'm going to have to give you  
3 my best recollection of those distances.

4 MR. HUMPHRIES: Is this an estimate or is  
5 this specific measurements?

6 MR. SLADE: We have measured this, and I  
7 can dig through the file if we need to be precise, but  
8 I think I can answer it accurately enough for you.

9 MR. HUMPHRIES: May I ask one question as  
10 you do that?

11 MR. SLADE: Sure.

12 MR. HUMPHRIES: Did you measure it, Mr.  
13 Slade?

14 MR. SLADE: Me personally?

15 MR. HUMPHRIES: Yes.

16 MR. SLADE: No.

17 MR. HUMPHRIES: Okay.

18 MR. SLADE: We estimated that six cars and  
19 maybe seven can park along Juniper or can stop along  
20 Juniper between the alley and about 40 feet back from  
21 16th Street, and we'd allow something like 22 feet per  
22 automobile. So, you know, the distance is  
23 approximately 150 feet from the street to the alley,  
24 curb to curb. The alley --

25 MR. SOCKWELL: Actually it's more than

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1 that, Mr. Slade. It's 148 feet from the property line  
2 to the alley line. So you have to have the sidewalk.  
3 So it's going to be closer to 160.

4 MR. SLADE: All right. Thank you, Mr.  
5 Sockwell.

6 The alley, I don't remember the dimension  
7 at all. As I testified, our queue in the morning is  
8 going to be short, three cars at the most, we think,  
9 and that will all be handled at the curb. So the  
10 vehicles will come down the alley to make that right  
11 turn onto Juniper.

12 In the afternoon, we may have seven cars.  
13 As I said, we think we can get six, perhaps seven along  
14 Juniper Street. So we may have one or two cars who  
15 arrive at the point when the back-up is at its maximum  
16 that will wait briefly in the alley, and as the  
17 children are picked up, they'll proceed on in those  
18 cars and move out of the alley.

19 But just looking at the scale of the map  
20 there, it's probably 200 feet from Juniper to Jonquil.

21 MR. HUMPHRIES: So we say 200 feet from  
22 Jonquil to Juniper through the alley. Is that --

23 MR. SLADE: Approximately.

24 MR. HUMPHRIES: And then how many feet from  
25 the alley to 16th Street either on Jonquil or on

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1 Juniper?

2 MR. SLADE: Approximately 160.

3 MR. HUMPHRIES: One hundred and sixty.  
4 What are the parking regulations with regard to the  
5 distance that a car's rear bumper should be from an  
6 alley when it's parked on the street?

7 MR. SLADE: Twenty-five feet.

8 MR. HUMPHRIES: Twenty-five feet. Now,  
9 sir, I see it's not indicated on here, but there is a  
10 stop sign there; is that correct?

11 MR. SLADE: Yes, yes.

12 MR. HUMPHRIES: And there's a fire hydrant  
13 there; is that correct?

14 MR. SLADE: Yes.

15 MR. HUMPHRIES: Now, what is the distance,  
16 according to D.C. regulations, that a car must be  
17 parked from the fire hydrant to the front bumper?

18 MR. SLADE: Well, the clearance in front of  
19 the fire hydrant is 20 feet, ten on either side.

20 MR. HUMPHRIES: So it's 20 feet or ten.

21 MR. SLADE: Yeah.

22 MR. HUMPHRIES: So you're losing -- help  
23 me. Help me understand this -- you're losing ten feet  
24 from the fire hydrant back, and 20 feet from the alley  
25 up.

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1 MR. SLADE: Well, we --

2 MR. HUMPHRIES: So a total minimum, you're  
3 losing 30 feet out of 160.

4 MR. SLADE: One hundred sixty.

5 MR. HUMPHRIES: So now we're down to about  
6 130 feet of usable space.

7 MR. SLADE: The restriction at the alley  
8 end, which you mentioned, really applies to parking  
9 there, not sitting there or standing with a motorist in  
10 the car.

11 MR. HUMPHRIES: I see. I see. So my  
12 question then: how do you propose for those neighbors  
13 who will be moving northbound on 16th or southbound on  
14 16th to make a right or make a left onto Juniper? What  
15 is your assessment of the safety situation here if a  
16 car or a van is parked there waiting for somebody to  
17 get out, for a student to get out or an adult to get  
18 out, to go into the school?

19 I mean, I am -- is it a legitimate concern?

20 MR. SLADE: It's a definite legitimate  
21 concern, and I think we'll take that into account when  
22 we do the operations portion of the plan, which answers  
23 -- which will answer the details that you're asking,  
24 and we should keep some clearance there so that the  
25 site distance is adequate.

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1 MR. HUMPHRIES: You're telling me that  
2 you've not committed that to your plan so far?

3 MR. SLADE: Many of your questions, in my  
4 terminology, speak to the operations plan, and just to,  
5 again, use my terminology, a management plan defines  
6 the concept of how the traffic and the parking will be  
7 managed. The operations plan is specific to where  
8 people will stand, which areas will be zoned for no  
9 standing, no parking, and so forth, down to the inches  
10 if you will.

11 MR. HUMPHRIES: So at this point your plan  
12 is a conceptual plan.

13 MR. SLADE: Yes.

14 CHAIRPERSON CROSS REID: Mr. Humphries?

15 MR. HUMPHRIES: Yes, ma'am.

16 CHAIRPERSON CROSS REID: All right. You've  
17 been cross examining for almost 25 minutes, if not  
18 more. So can you wrap?

19 MR. HUMPHRIES: I would like to reserve  
20 more time.

21 MS. PRUITT: Your mic has to be turned on,  
22 sir.

23 MR. HUMPHRIES: I'm sorry. I'm sorry. I'd  
24 like to reserve more time because we have one, two,  
25 three, four witnesses who have testified, and all of

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1 their testimony goes to the heart of this traffic  
2 management plan. Actually five witnesses including Ms.  
3 Robinson, and their testimony essentially took 60  
4 minutes --

5 CHAIRPERSON CROSS REID: But you can't --

6 MR. HUMPHRIES: -- cumulatively.

7 CHAIRPERSON CROSS REID: -- can't take 60  
8 minutes of cross examination.

9 MR. HUMPHRIES: Well, as long -- I'm trying  
10 to get to some of the relevant --

11 CHAIRPERSON CROSS REID: But you're making  
12 your point --

13 MR. HUMPHRIES: -- bedrock --

14 CHAIRPERSON CROSS REID: What we're asking  
15 you is can you accelerate. Can you just get your  
16 questions in and --

17 MR. HUMPHRIES: I have some more.

18 CHAIRPERSON CROSS REID: Okay. Because it  
19 is now getting close to seven o'clock, and I'm going to  
20 lose a quorum.

21 MR. HUMPHRIES: Okay, and we don't want you  
22 to do that, Madame Chair.

23 Well, if I could pick this up on Tuesday,  
24 that's fine.

25 CHAIRPERSON CROSS REID: Well, how much

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1 more do you have? I mean how much --

2 MR. HUMPHRIES: Well, we're going to get  
3 some documents, and I'd like the opportunity --

4 CHAIRPERSON CROSS REID: How much more --

5 MR. HUMPHRIES: -- to review the documents  
6 and then ask --

7 CHAIRPERSON CROSS REID: How much more time  
8 do you think --

9 MR. HUMPHRIES: -- questions based on the  
10 documents.

11 CHAIRPERSON CROSS REID: -- you need for  
12 cross examination?

13 MR. HUMPHRIES: It could be -- I can't -- I  
14 can't say. I would work to keep it to the minimum  
15 amount so that we're able -- we obtain the workable  
16 information that we need in order to reach the type of  
17 meeting of the minds --

18 CHAIRPERSON CROSS REID: Okay, all right.

19 MR. HUMPHRIES: -- that I think the parties  
20 are trying to reach.

21 CHAIRPERSON CROSS REID: All right. Now,  
22 you have questions for some of the other witnesses as  
23 well?

24 MR. HUMPHRIES: Yes.

25 CHAIRPERSON CROSS REID: Okay, all right.

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1 Just a minute.

2 MR. HUMPHRIES: Yes.

3 (The Board conferred.)

4 CHAIRPERSON CROSS REID: All right. Then  
5 what's been suggested is rather than to continue this  
6 evening, since we're going to lose a quorum, then we  
7 would allow you to continue when we reconvene on  
8 Tuesday.

9 MR. HUMPHRIES: Thank you, Madame Chair.

10 CHAIRPERSON CROSS REID: That would -- that  
11 might make more sense than to have you to shorten it  
12 and not get out the question that you need for you to  
13 be able to make proper decisions and also if, in fact,  
14 the intent is to try to come to some resolution of some  
15 of the issues that you have with the Applicant, then  
16 perhaps it would be better to allow it to continue than  
17 to truncate it at this point.

18 MR. HUMPHRIES: Thank you.

19 We're trying to have a meaningful exchange  
20 of information here so that we can ask questions that  
21 get really to, as you said very effectively, the heart  
22 of the matter.

23 CHAIRPERSON CROSS REID: Okay.

24 MR. SOCKWELL: Mr. Humphries, would you  
25 promise to try not to forget the ground that you've

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1 covered thus far so that we wouldn't have to remind you  
2 of where you've been?

3 MR. HUMPHRIES: Yes, sir.

4 MR. SOCKWELL: Just drop some bread crumbs  
5 behind you as you walk out.

6 (Laughter.)

7 MR. HUMPHRIES: Absolutely, sir.

8 MS. DOBBINS: Madame Chair.

9 CHAIRPERSON CROSS REID: What did you say?  
10 I missed it.

11 MS. DOBBINS: We've indicated that we would  
12 provide some photographs and some information, and Mr.  
13 Humphries has asked that we do that prior to the next  
14 hearing date.

15 CHAIRPERSON CROSS REID: Also -- oh, go  
16 ahead. I'm sorry.

17 MS. DOBBINS: We would submit that for the  
18 record, as well, and we would like to be able to ask  
19 the opposition if we could submit to one  
20 representative.

21 MR. HUMPHRIES: Surely.

22 CHAIRPERSON CROSS REID: And who would you  
23 designate?

24 MS. DOBBINS: And who would that be?

25 MR. HUMPHRIES: Mr. Harriston.

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1 CHAIRPERSON CROSS REID: Okay. And --

2 MS. DOBBINS: For the ANC. Now, we would  
3 have --

4 MR. HUMPHRIES: Mr. Harriston for the ANC.

5 MS. DOBBINS: And for the other parties?

6 MR. HUMPHRIES: And Mr. Humphries.

7 MS. DOBBINS: Okay. That's what we need to  
8 know.

9 MR. HUMPHRIES: For the parties.

10 CHAIRPERSON CROSS REID: Okay. Now, on  
11 Tuesday --

12 (The Board conferred.)

13 CHAIRPERSON CROSS REID: Any information  
14 that is going to be submitted, please make sure that it  
15 is disseminated to all parties property. That's one  
16 thing.

17 MS. DOBBINS: That's what we were --

18 CHAIRPERSON CROSS REID: The other thing is  
19 --

20 MS. DOBBINS: -- we were deciding.

21 CHAIRPERSON CROSS REID: The other thing is  
22 in regard to the questions that you have, you may want  
23 to, and this is up to you, you may want to submit them  
24 to the Applicant in writing so that they could respond  
25 to it, all of them, when they return on Tuesday.

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1 MR. HUMPHRIES: Yes, Madame Chair.

2 CHAIRPERSON CROSS REID: And that might  
3 save some time as well.

4 MR. HUMPHRIES: We will use every means  
5 that we can in order to elicit the information that we  
6 need in order to arrive at some conclusions.

7 CHAIRPERSON CROSS REID: Okay.

8 MR. HUMPHRIES: Some solid interpretations  
9 of the information that they provided.

10 CHAIRPERSON CROSS REID: Okay.

11 DR. SCALDINI: Can we exchange --

12 MS. PRUITT: You have to get on the mic,  
13 please.

14 DR. SCALDINI: Could we have the receipt of  
15 those questions be at the same time we give them the  
16 pictures and video they --

17 MS. DOBBINS: They may not know at that  
18 point.

19 MR. HUMPHRIES: That's right. I'm not  
20 trying to set up a quid pro quo situation here.

21 MS. DOBBINS: Yeah.

22 MS. PRUITT: Mr. Humphries.

23 MR. HUMPHRIES: We're searching -- yes,  
24 ma'am?

25 MS. PRUITT: Of the questions that you had

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1 for tonight, would you be able to put those into  
2 question form --

3 CHAIRPERSON CROSS REID: That's what I was  
4 referring to.

5 MS. PRUITT: -- and give it to the  
6 Applicant so that then they can do a written response  
7 and you can then have that --

8 MS. DOBBINS: No.

9 MS. PRUITT: -- or I'm sorry.

10 MR. HUMPHRIES: Any questions --

11 MS. PRUITT: Give it to the Applicant so  
12 that then on Tuesday they would already have a prepared  
13 response for you, if you were going to ask them  
14 tonight.

15 MR. HUMPHRIES: My commitment to do what we  
16 believe is necessary in order to get and obtain the  
17 information that we need in order to make meaningful  
18 interpretations of the data that they've presented. I  
19 mean we'll do what we need. We want to move this --

20 MS. PRUITT: I'm just -- of some of them  
21 now, maybe they can --

22 MR. SOCKWELL: There may be some fear on  
23 the part of your constituents that being forthright and  
24 honest would give the Applicant more time to respond,  
25 but the reality is that if you want the answers,

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1 regardless of whether they're acceptable, you should  
2 put as much information in their hands as possible so  
3 that they can respond.

4 They may not be able to respond to satisfy  
5 you anyway, but it would be helpful to the time frames  
6 that we have available to us and the time that your  
7 people would have to spend, as well as us behind this  
8 counter working with you.

9 MR. HUMPHRIES: Sure. Mr. Sockwell, you  
10 have our commitment to do everything that we need to do  
11 within our power to get the information.

12 CHAIRPERSON CROSS REID: All right. Okay.  
13 Now, given the fact that we're hearing some interest  
14 in trying to come to some resolution of the issues that  
15 are basically keeping the opposition and the Applicant  
16 apart, as well as some further working together to  
17 suggest and to come up with solutions to mitigate some  
18 of the adverse impact issues between now and Tuesday  
19 would be great if there could be some type of  
20 communication between the two sides. It would  
21 certainly make our job a lot easier, given the fact  
22 that from what I'm hearing is from the opposition, in  
23 addition to a lot of other things, is that there has  
24 not been adequate communication.

25 We don't really know what, in fact, or you

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1 don't have adequate enough information to determine  
2 what, in fact, is going or what the impact is going to  
3 be, how it's going to be mitigated. What is the  
4 Applicant willing to do even further once you hear the  
5 additional concerns to address them that might go a  
6 long way in coming to a meeting of the minds?

7 And that would be great if that could be  
8 done in the interim so that when you come on Tuesday  
9 then perhaps we could be able to proceed with a lot  
10 more education and a lot less of the adversarial type  
11 of atmosphere that we are encountering here today.

12 We'd appreciate that very much.

13 MR. HUMPHRIES: Well, Madame Chair, I'd  
14 like to state that the information I'm seeking is for  
15 informational purposes and evaluation only. I don't  
16 want to leave this Commission with the impression that  
17 I'm suggesting that there will be a meeting of the  
18 minds based on the information that they submit between  
19 today and next Tuesday.

20 This process has occurred over the last --  
21 since December 30th, actually January 21st, when we  
22 were notified about the filing of the application,  
23 and --

24 CHAIRPERSON CROSS REID: But excuse me. I  
25 think that you did say on the record that you were

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1 getting information because you were interested in  
2 perhaps coming to some kind of meeting of the minds. I  
3 think I did hear you say that.

4 MR. HUMPHRIES: No, I'd like to correct  
5 that misimpression, Madame Chair.

6 CHAIRPERSON CROSS REID: Oh, okay.

7 MR. HUMPHRIES: We are seeking information  
8 that the Applicant does not have and has not had, and  
9 it's only through this process that we're able to  
10 elicit candid and straightforward answers that the  
11 Applicant's traffic management program is only in a  
12 conceptual stage; that the monitoring plan is only in a  
13 conceptual stage; that they've not thought about how to  
14 penalize the individual parents or grandparents or  
15 uncles or aunts --

16 CHAIRPERSON CROSS REID: Okay. You're  
17 testifying. You're testifying and, as I said before --

18 MR. HUMPHRIES: No, I would be --

19 CHAIRPERSON CROSS REID: As I said  
20 before --

21 MR. HUMPHRIES: I want us to have a candid  
22 exchange.

23 CHAIRPERSON CROSS REID: You are one person  
24 in that community, and as I said before, what we would  
25 like to see is you all to try to come together and to

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1 try to work out your differences, and this is not just  
2 your community, sir. This is the same type of  
3 suggestions and advice that we give in all instances  
4 where we have great opposition.

5 And if you can, you can. If you can't, you  
6 can't. And if you can't, then that's what we are here  
7 for. We will make the decision for you.

8 MR. HUMPHRIES: And we're with you on that,  
9 Madame Chair.

10 CHAIRPERSON CROSS REID: We prefer not to.

11 MR. HUMPHRIES: We're with you on that.

12 CHAIRPERSON CROSS REID: You know, and  
13 that's why we suggest that you do try to come to some  
14 resolution. So it's up to you.

15 MR. HUMPHRIES: That's right, and we  
16 understand that, and that's good. If we can't, we  
17 can't.

18 CHAIRPERSON CROSS REID: Yeah.

19 MR. HUMPHRIES: And we move forward then to  
20 do --

21 CHAIRPERSON CROSS REID: Absolutely.

22 MR. HUMPHRIES: -- what we need to do.

23 CHAIRPERSON CROSS REID: Absolutely. Okay.

24 Now --

25 MR. HUMPHRIES: Thank you, Madame Chair.

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1 CHAIRPERSON CROSS REID: You're quite  
2 welcome.

3 Now, Ms. Pruitt, for the things that we  
4 need for Tuesday, do you have a list?

5 MS. PRUITT: Actually I have only a couple  
6 of things.

7 CHAIRPERSON CROSS REID: Okay.

8 MS. PRUITT: I want to be sure that, first  
9 of all, the Applicant will submit to Mr. Harriston and  
10 Mr. Humphries the following information, which would be  
11 information concerning how the traffic plan would be  
12 enforced and any sanctions that would go along with it.

13 Is that --

14 MS. DOBBINS: I don't -- I don't think we  
15 would be able -- we didn't agree to that.

16 MS. PRUITT: Okay.

17 CHAIRPERSON CROSS REID: Oh.

18 MS. DOBBINS: Or didn't ask for that.

19 MS. PRUITT: Well, then how about if you  
20 reiterate because that's what I got, and I needed some  
21 clarification.

22 MR. HUMPHRIES: Thank you very much.

23 MS. DOBBINS: We were asked for  
24 photographs. We agreed to give the photographs and the  
25 video of the simulation that we did in the alley to

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1 show how it was the simulation.

2 CHAIRPERSON CROSS REID: And also I think  
3 that they asked for a draft of what you're proposing as  
4 an agreement --

5 MR. HUMPHRIES: With the parents.

6 CHAIRPERSON CROSS REID: -- that the  
7 parents would be signing when they enrolled their kids,  
8 some indication of the salient points of the agreement  
9 that was going to be --

10 MS. DOBBINS: A very rough.

11 MR. HUMPHRIES: The penalties which will be  
12 imposed.

13 CHAIRPERSON CROSS REID: And whatever  
14 penalties you're advocating imposing for violations  
15 thereof.

16 MR. HUMPHRIES: The monitoring plan and the  
17 placement of individual monitors along the section of  
18 both allies.

19 MS. DOBBINS: We cannot do all of that, Ms.  
20 Reid.

21 CHAIRPERSON CROSS REID: All right.

22 MS. DOBBINS: We cannot do all of that.  
23 Many of the things that are being requested are things  
24 that still have to be determined by the board of  
25 directors.

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1 CHAIRPERSON CROSS REID: Okay. Ms.  
2 Dobbins, I think that the monitoring -- the  
3 monitoring --

4 MR. SOCKWELL: The monitors were virtually  
5 spelled out by --

6 CHAIRPERSON CROSS REID: Yeah.

7 MR. SOCKWELL: -- by your people.

8 CHAIRPERSON CROSS REID: Yeah, that was --

9 MR. SOCKWELL: We're asking for multiple  
10 items, but some of those items would take ten, 15  
11 minutes to stick pins on a board.

12 CHAIRPERSON CROSS REID: The monitoring was  
13 not an issue.

14 MS. DOBBINS: The monitoring we can do.

15 MR. SOCKWELL: Mr. Slade has a lot of  
16 information that can be put together in short order in  
17 at least a conceptual document, and in terms of  
18 penalties, I think you're pretty well aware of the  
19 parents and guardians of the students because you have  
20 a school that operates. So you know what you can ask  
21 them to do. You know what you think you can ask them  
22 to do, and you may know what they aren't going to do  
23 under any circumstances.

24 And that's what you have to start thinking  
25 about, and this is to get you thinking in that

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1 direction.

2 CHAIRPERSON CROSS REID: Okay.

3 DR. SCALDINI: Understood. Could I respond  
4 just briefly to that?

5 The problem I'm concerned about with  
6 something like the penalties, that is something that  
7 our board would establish as policy, and I'm  
8 uncomfortable with the idea that we might, you know,  
9 walk through things that we might bring to the board  
10 and --

11 CHAIRPERSON CROSS REID: And if you  
12 can't --

13 DR. SCALDINI: -- then later on have --

14 MR. SOCKWELL: Yes.

15 CHAIRPERSON CROSS REID: Excuse me, Mr.  
16 Sockwell.

17 If you're not able to include the  
18 penalties, the only thing you can do then under these  
19 circumstances is to include suggested penalties or  
20 something like that.

21 MR. SOCKWELL: Yeah, suggested. It's all -  
22 - it's all --

23 CHAIRPERSON CROSS REID: Predicated on --

24 MR. SOCKWELL: -- draft and concept.

25 CHAIRPERSON CROSS REID: Predicated upon

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1 the approval of the board.

2 DR. SCALDINI: I just want to create a  
3 good --

4 CHAIRPERSON CROSS REID: Yeah, yeah.

5 MR. SOCKWELL: No, no.

6 CHAIRPERSON CROSS REID: Just do the best  
7 that you can.

8 MR. HUMPHRIES: Madame Chair.

9 MR. SOCKWELL: You can have a laundry list,  
10 and it could be determined that your community doesn't  
11 like this, does like those, won't accept any of them,  
12 period.

13 CHAIRPERSON CROSS REID: Mr. Humphries.

14 MR. HUMPHRIES: We will agree to a  
15 continuance to allow them sufficient time for them to  
16 finalized the documents.

17 CHAIRPERSON CROSS REID: Well, whatever we  
18 do -- whatever we do on Tuesday, hopefully we can  
19 complete the hearing and then before we make our  
20 decision --

21 MR. SOCKWELL: And we certainly appreciate  
22 that generous offer.

23 CHAIRPERSON CROSS REID: -- at that point  
24 we can make some requests prior to any order being --  
25 being promulgated.

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1 MS. PRUITT: Madame Chair, just for the  
2 record, so that everybody can be clear, I want to  
3 verify that they'll provide photos of the simulation of  
4 the traffic plan; is that correct?

5 MS. DOBBINS: Photos.

6 MR. HUMPHRIES: And photos --

7 MS. DOBBINS: We would provide photos.  
8 There is also a video.

9 MR. HUMPHRIES: And photos of the  
10 synagogue.

11 CHAIRPERSON CROSS REID: And a video.

12 MS. DOBBINS: If we provide the video, it  
13 needs to be presented to the Board.

14 MS. PRUITT: Okay. Well, that can be  
15 presented actually next time because we do have that  
16 capability.

17 A draft of a contract agreement that the  
18 parents may sign; information on the location of  
19 monitors; and the suggested penalties if the contract  
20 is violated. Is that --

21 CHAIRPERSON CROSS REID: How long is the  
22 video?

23 MS. PRUITT: I'm sorry?

24 CHAIRPERSON CROSS REID: How long is the  
25 video?

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1 MS. DOBBINS: Mr. --

2 MR. SLADE: I don't know. There were two  
3 videos taken, and they -- at maximum they're 25 minutes  
4 each, something like that.

5 CHAIRPERSON CROSS REID: Oh, oh, oh, oh.  
6 That's too long.

7 MR. SOCKWELL: You have the capability of  
8 creating an excerpted version?

9 MR. SLADE: Yes.

10 MR. SOCKWELL: Thank you.

11 CHAIRPERSON CROSS REID: Yeah, yeah.  
12 Something that's ten minutes? Ten minutes would be  
13 sufficient.

14 MS. PRUITT: And this will all be submitted  
15 to either -- to Mr. Harriston and Mr. Humphries.

16 MR. SLADE: To both, yes.

17 MS. PRUITT: Is that correct?

18 MS. DOBBINS: Both.

19 MS. PRUITT: I mean to both, yes.

20 MS. DOBBINS: Mr. Harriston for the ANC and  
21 Mr. Humphries for the parties.

22 MS. PRUITT: For the parties.

23 MR. HUMPHRIES: Mr. Sockwell, Mr. Sockwell.

24 CHAIRPERSON CROSS REID: Okay. Now,  
25 everyone is aware of the fact that we're going to

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1 reconvene on Tuesday the 21st at 9:30, at which time we  
2 will then go to -- just a moment -- we will then go to  
3 the ANC reports, Office of Planning reports, and then  
4 conclude -- hopefully conclude the remainder of this  
5 particular hearing.

6 MR. HARRISTON: Madame, we haven't finished  
7 the cross examination.

8 MR. HUMPHRIES: That's right. We have not  
9 finished yet.

10 CHAIRPERSON CROSS REID: Well, I had  
11 already said -- I -- I didn't --

12 MR. HUMPHRIES: Oh, okay, fine. Thank you.

13 MR. HARRISTON: I just wanted to make sure.

14 MR. HUMPHRIES: Okay, and --

15 CHAIRPERSON CROSS REID: Excuse me. I had  
16 -- I thought that I had made it very clear that we  
17 would continue with your line of cross examining. This  
18 is the reason why we are going to -- I said that we  
19 were stopping now, and we were going to allow you  
20 because you said you had questions for some of the  
21 other witnesses, and I said I did not want you to  
22 truncate your time for cross examination, and you would  
23 be given that time when we reconvene.

24 I'd already said that. Then I was saying  
25 that we would then have the Office of Planning report,

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1 the ANC report, and the rest of our hearing on that  
2 particular day. Okay?

3 MR. HUMPHRIES: Fine, and we would like to  
4 request a complete copy of the simulation tape.

5 CHAIRPERSON CROSS REID: You already did,  
6 and they already said they would do it.

7 MR. HUMPHRIES: Well, no.

8 CHAIRPERSON CROSS REID: To both Humphries,  
9 Humphries and Harriston, I think, to both.

10 MR. HUMPHRIES: Okay, fine.

11 CHAIRPERSON CROSS REID: They said they  
12 would do that.

13 MR. HUMPHRIES: Thank you.

14 CHAIRPERSON CROSS REID: All right. There  
15 was a question. You have to come up here and speak in  
16 the mic, sir.

17 MS. DOBBINS: Madame Chair, we would submit  
18 then, if we are to give them complete tapes, we will  
19 submit a complete tape and provide an excerpted version  
20 to present at the hearing.

21 CHAIRPERSON CROSS REID: Thank you. That  
22 will work as long as we have it for the record.

23 MR. KOSS: Is it my understanding that --

24 CHAIRPERSON CROSS REID: And now who are  
25 you?

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1 MR. KOSS: I'm Saul Koss.

2 CHAIRPERSON CROSS REID: All right. You  
3 need to give your name and your address.

4 MR. KOSS: 11405 Monticello Avenue in  
5 Silver Spring.

6 CHAIRPERSON CROSS REID: Okay.

7 MR. KOSS: My wife is the head of the  
8 school.

9 CHAIRPERSON CROSS REID: Okay.

10 MR. KOSS: Is it my understanding also that  
11 you requested that the questions that this gentleman  
12 was going to ask this evening be put in writing and  
13 given to the school?

14 CHAIRPERSON CROSS REID: As much as he  
15 desired -- desired to do that. We offered that as --  
16 we suggested that as a means of perhaps facilitating  
17 having the questions answered prior to him coming here.  
18 He can do that as well as reserve the rest of the time  
19 he would like for the cross examination.

20 I was not limiting him to having all of his  
21 questions put in writing prior to the meeting. That is  
22 an option that is made available to him just as a means  
23 of expediting. Okay?

24 All right. I think that that concludes  
25 today's hearing, and we will reconvene on Tuesday.

**NEAL R. GROSS**

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1 (Whereupon, at 7:11 p.m., the hearing was  
2 adjourned, to reconvene on Tuesday, March 21, 2000.)  
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