

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

SEPTEMBER 25, 2012

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Lloyd J. Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
NICOLE SORG, Vice-Chairperson
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER[S] PRESENT:

ANTHONY HOOD, Chairman
PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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SHERRY GLAZER, ESQ.
MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
PAUL GOLDSTEIN

The transcript constitutes the minutes from the Public Hearing held on September 25, 2012.

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

(9:49 a.m.)

CHAIRPERSON JORDAN: Good morning.

Would this hearing please come to order? Good morning, ladies and gentlemen. We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, NW. Today's date is September 25th, 2012.

We're here for the public hearing of the Board of Zoning Adjustment and my name is Lloyd Jordan, Chairperson of the Board, to my left is Nicole Sorg, Vice Chair, to her left is Mr. Anthony Hood, the Chairman of the Zoning Commission, and to my right, Jeffrey Hinkle, Board Member.

Please be advised that this proceeding is being recorded by a court reporter and also being webcast live. Therefore, may I ask that you refrain from any disruptive noises and ask that you turn off any cellphones while we're having the hearing today.

The Board's hearing procedures and

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1 how we process applications and appeals can be
2 found at the back door. So let's begin today's
3 hearing agenda. All those who are going to
4 testify in any hearing today, I would like for
5 you to rise and take the oath or affirmation
6 from the Board's Secretary, and after you do
7 so, I would like for you, before you testify,
8 to complete two witness cards.

9 Each person must complete two
10 witness cards and give it to the court reporter
11 who's sitting to my right. With that, Mr. Moy.

12 MR. MOY: Thank you, Mr. Chairman.
13 Do you solemnly swear or affirm that the
14 testimony you are about to present at this
15 proceeding is the truth, the whole truth, and
16 nothing but the truth? Ladies and gentlemen,
17 you may consider yourself under oath.

18 CHAIRPERSON JORDAN: Mr. Moy, is
19 there any other announcements that you have this
20 morning?

21 MR. MOY: Yes, sir. Good morning,
22 Mr. Chairman and Members of the Board. Staff

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1 would suggest that if there are any preliminary
2 matters that the Board take them up on a
3 case-by-case basis. Secondly, if the Board has
4 any concerns regarding the filling up of all
5 the seats in the hearing chamber, we have with
6 us our guests this morning, architecture
7 students from the architecture department at
8 Catholic University, Mr. Chairman.

9 CHAIRPERSON JORDAN: Well,
10 welcome. Some of my fellow Board Members were
11 just concerned if you all were here to testify.
12 We've had audiences like that in this room,
13 like this, that everybody wanted to testify.
14 And so after, you know, midnight, you kind of
15 get tired of it.

16 Mr. Mor, would you call the first
17 case, please.

18 MR. MOY: Yes, sir. Again, good
19 morning. The first application before the
20 Board in the morning session is application of
21 18381. This is the application of Lawal
22 Abdulganiya, pursuant to 11 DCMR 3103.2. This

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1 is for a variance from the lot with requirements
2 under Section 401, variance from side yard
3 requirements under Section 405, and a variance
4 from the use provisions under Section 201.1.

5 This is to construct a semi-detached
6 dwelling in the R-1-B District at premises 4336
7 Douglas Street, NE. Property located at Square
8 5116 Lot 115. In your case folders, Mr.
9 Chairman, I believe there should be revised
10 plans. This is a continued case from the
11 hearing where this case was scheduled,
12 originally, on July 17th, 2012.

13 These revised plans, I believe, is
14 under cover as Exhibit 29 as well as their letter
15 of authorization identified under Exhibit 29
16 also. That completes this briefing, Mr.
17 Chairman.

18 CHAIRPERSON JORDAN: Thank you, Mr.
19 Moy. Would the parties please come to the
20 witness table, please?

21 MR. MOY: Yes, there's an easel.

22 CHAIRPERSON JORDAN: Is anyone here

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1 from Office of Planning that -- who's case is
2 this from Planning?

3 MS. GLAZER: Mr. Chair, I believe
4 Steve Cochran testified at the hearing
5 previously.

6 CHAIRPERSON JORDAN: Okay. Is he
7 here?

8 MR. MOY: I don't see him in the
9 audience. I see shaking of heads from the
10 Office of Planning Section, Mr. Chairman.

11 CHAIRPERSON JORDAN: Well, that's
12 not a good position to be in. Does anyone know
13 if he's coming?

14 MR. MOY: I believe the OP
15 representative here this morning is making a
16 phone call, Mr. Chairman.

17 CHAIRPERSON JORDAN: All right.
18 Thank you. Are you ready for your case? Could
19 you please introduce yourself?

20 MR. MOY: Excuse me, sir. I'm
21 sorry to interrupt. Could you turn your
22 microphone on?

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1 CHAIRPERSON JORDAN: Yes, I need to
2 be sure. Anyone that's testifying that your
3 microphone is turned on by pushing the
4 microphone button that says push. You'll see
5 a bright green light in front of you. Could
6 you identify yourself, please?

7 MR. MOBLEY: Yes. My name is
8 Clarence Mobley. I'm an architect for the firm
9 that I'm representing here today of the owner
10 of the property that we reviewed about a month
11 and a half ago, and I was given the privilege
12 to come to this meeting today, and on behalf
13 of the owner. I'm representing the owner today
14 in this case.

15 As you know, this is a case where
16 the complaint was primarily that the building
17 that we are about to design and build, the
18 windows were facing the windows on the adjacent
19 property, although our buildings --

20 CHAIRPERSON JORDAN: If I could.
21 Let me take it back from the beginning. I
22 understand there's been some revised plans

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1 submitted.

2 MR. MOBLEY: Yes.

3 CHAIRPERSON JORDAN: And I'm going
4 to assume that there's a need for some
5 alternative relief other than what you requested
6 before.

7 MR. MOBLEY: Yes.

8 CHAIRPERSON JORDAN: I have not
9 seen that placed before us. So before you go
10 further, I would like to know what relief you're
11 seeking from the Board and then we can talk about
12 the changes that you made.

13 MR. MOBLEY: The Board advised me
14 to contact the owner of the property adjacent
15 to this property and I tried on three attempts
16 to contact the owner. I was not able to contact
17 the owner. I tried Friday, Saturday, and
18 Sunday, and no response of any kind. And
19 finally, the owner called me, I think it was
20 the day before yesterday, and expressed certain
21 things to me --

22 CHAIRPERSON JORDAN: If I could

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1 start at another spot. Let me try to help get
2 you to where I need you to be.

3 MR. MOBLEY: Yes, okay.

4 CHAIRPERSON JORDAN: Your plans
5 were for a semi-detached dwelling. You were
6 asking for a relief from Section 401, a variance
7 from the lot width; Section 405, variance from
8 side yard requirements; and from 201, use
9 provisions. Your plans have changed, it's my
10 understanding, right or wrong?

11 MR. MOBLEY: Yes.

12 CHAIRPERSON JORDAN: Are you still
13 requesting the same relief?

14 MR. MOBLEY: What is that, sir?
15 I'm sorry.

16 CHAIRPERSON JORDAN: What you need
17 the Board to grant you in order for this project
18 to go forward.

19 MR. MOBLEY: Yes.

20 CHAIRPERSON JORDAN: Have you had
21 discussion with Office of Planning since you
22 revised your plans?

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1 MR. MOBLEY: No, sir.

2 CHAIRPERSON JORDAN: Mr. Mobley,
3 let me say this, I think that you need to have
4 a conversation with Office of Planning. I think
5 we might have instructed that before. We did
6 instruct you to talk to the neighbor, but at
7 that time, we also said that you should have
8 a conversation with the Office of Planning, and
9 especially in regards to any revised plans, and
10 Office of Planning, I think, indicated that time
11 to you that if the plans changed in some way.

12 And I know you came in kind of
13 hurriedly, the last minute, this thing has been,
14 honestly, different from the word go. And so
15 we then instructed that you should meet with
16 Office of Planning, and everyone should meet
17 with Office of Planning in the process to kind
18 of head off any issues, find out exactly that
19 we're on the same page with relief, that the
20 two of you may or may not agree on.

21 And I suspect, since you now have
22 a single detached dwelling, that you may not

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1 need this same type of relief that's been already
2 granted, I mean, not granted, applied for, and
3 that relief standard is a lot higher than that
4 which you probably need.

5 MR. MOBLEY: Yes.

6 CHAIRPERSON JORDAN: Okay. So
7 that's why I'm asking these questions so that
8 we will know what we're supposed to be reviewing
9 in regards to this project. Am I clear?

10 MR. MOBLEY: Yes.

11 CHAIRPERSON JORDAN: Mr. Mobley,
12 I'm going to do this.

13 MR. MOBLEY: Please.

14 CHAIRPERSON JORDAN: I'm going to
15 roll this over and continue this hearing, and
16 going to instruct you to meet with Office of
17 Planning and find out the relief that's
18 necessary to be granted, and I'm going to ask
19 in the interim that you also contact the Office
20 of Zoning and ask Mr. Moy that he reviews the
21 process and procedures so that you're up on what
22 we do here at the Board of Zoning Adjustment.

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1 It would help out an awful lot.

2 We have a self-study. You can go
3 online and see how we process the requirements
4 of this -- of how matters are supposed to be
5 presented to the Board of Zoning Adjustment,
6 but it really would help you. And I'm going
7 to do that instead of us sitting here holding
8 a hearing and probably doing some things that
9 might not be advantageous to you.

10 MR. MOBLEY: Yes.

11 CHAIRPERSON JORDAN: So, Mr. Moy,
12 can we have a date? If that's okay with you?

13 MR. MOBLEY: That's okay.

14 MR. EGBAIYELO: Excuse me, sir.

15 CHAIRPERSON JORDAN: Yes.

16 MR. EGBAIYELO: Can I talk, sir?

17 CHAIRPERSON JORDAN: And you are?

18 MR. EGBAIYELO: My name is Raphael
19 Egbaiyelo. I'm the designing and I work and
20 I practice on that end, and I talked to Mr. Steve,
21 the guy that's in the zoning. I talked to Steve.
22 His name is Steve. And he told me what to do

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1 for me to revise that plan. In that site plan,
2 he told me that from the far big alley, I need
3 to step back 30 feet, which I already did.

4 CHAIRPERSON JORDAN: What
5 amendment to your request for relief are you
6 making? I hear you. In the conversation --
7 I'm glad you met with Planning. Meet with them
8 again, please. I'm going to continue this
9 matter, okay? Mr. Moy.

10 MR. MOY: Yes, Mr. Chairman, given
11 the circumstances, I hope the Board desires to
12 allow the applicant sufficient time to repackage
13 filing their application. Would one month do
14 it? Because if we do, then the staff would
15 suggest a rescheduled hearing on this
16 application for Tuesday, October the 30th,
17 either in the morning or the afternoon.

18 The Board does have five cases in
19 the morning with an appeal in the afternoon,
20 but certainly, my suggestion to you, you could
21 either slide it in the morning or slide it as
22 the first case that afternoon.

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1 MR. MOBLEY: Which day, Mr. Moy?

2 MR. MOY: Tuesday, October the
3 30th. That'd be almost one month from today.

4 CHAIRPERSON JORDAN: That's the day
5 where we've kind of stacked up a few things?

6 MR. MOY: Well, yes, but the Board's
7 pretty efficient.

8 CHAIRPERSON JORDAN: So you're
9 talking about doing it, I know we've been pretty
10 expedient about these hearings, so you said move
11 it to 1:00 p.m.?

12 MR. MOY: Yes, possibly, and then
13 handle the appeal case right after this
14 application.

15 CHAIRPERSON JORDAN: Yes, we could
16 do that.

17 MR. MOY: And then, would the Board
18 want to set a deadline for any filings from the
19 applicant, possibly, a week before the 30th,
20 which would be October the 23rd; submission;
21 any submissions? Would you like an earlier
22 submission date?

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1 CHAIRPERSON JORDAN: Yes, that's
2 what I'm thinking.

3 MR. MOY: Okay.

4 CHAIRPERSON JORDAN: Will it give
5 staff sufficient time to distribute with its
6 normal distribution process?

7 MR. MOY: Let's make it Monday,
8 October 22nd.

9 CHAIRPERSON JORDAN: Let's make it
10 the Friday before.

11 MR. MOY: That'd be terrific, sir.
12 That would be October the 26th; Friday.

13 CHAIRPERSON JORDAN: Okay. Mr.
14 Mobley -- so we're moving this, Mr. Mobley, to
15 our October 30th hearing date at 1:00 p.m. And
16 so you need to submit to us, by October -- what
17 is the date now? The date of submission?

18 MR. MOY: Oh, I see. Well, okay,
19 let me rephrase this again. The Board will
20 reschedule this case to Tuesday, October the
21 30th -- I see, so then any refiling would be
22 October the 19th.

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1 CHAIRPERSON JORDAN: You know,
2 we're going to make this real easy because we're
3 going to be a very consistent Board for
4 everybody. Our rule says 14 days before a
5 hearing and 14 days before the October 30th you
6 will do the submission, okay?

7 MR. MOBLEY: Okay.

8 CHAIRPERSON JORDAN: So that means
9 you need to meet with Office of Planning, discuss
10 the change of plans, the type of relief, then
11 we're going to need from you to submit the
12 revised plan, a request for leave to amend your
13 initial application, and in that request for
14 application amendment you're going to say the
15 new additional relief that you need.

16 MR. MOBLEY: Okay. Do you have
17 anybody you recommend at the Department of
18 Planning or could we --

19 CHAIRPERSON JORDAN: There is a
20 planner already on this application, I believe,
21 and I think Mr. Jesie Cochran is the planner.

22 MR. EGBAIYELO: Yes, Steve, yes.

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1 CHAIRPERSON JORDAN: Is there
2 anything else the Board believes that they need
3 to have from the applicant?

4 MR. MOY: Once again, Mr. Chairman,
5 so that it's clear to the applicant, the
6 reschedule date is Tuesday, October 30th, and
7 any filings from you then should be submitted
8 to the office two weeks prior, which would be
9 October the 16th, which is a Tuesday, okay?

10 MR. MOBLEY: Okay.

11 CHAIRPERSON JORDAN: Does that make
12 sense? And -- yes.

13 VICE CHAIRPERSON SORG: Mr.
14 Chairman, thank you. We just may want to put
15 on the record that we'll request -- I believe
16 you would want to request Office of Planning
17 to submit an updated report as well?

18 CHAIRPERSON JORDAN: And all
19 agencies, sure.

20 MR. MOBLEY: Is there any way
21 possible that I could meet with one of the
22 Members of the Board before that time?

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1 CHAIRPERSON JORDAN: No.

2 MR. MOBLEY: No? Okay.

3 CHAIRPERSON JORDAN: Can't do that.

4 We can't have ex parte communications with the
5 Board and you can talk to the Office of Zoning
6 and they will give you some guidance as to where
7 to go, but Office of Planning will, kind of,
8 step you through a lot. Office of Planning will
9 step you through a lot.

10 But there is a self-taught video and
11 there is also things online in regards to how
12 to process matters with the Board of Zoning
13 Adjustment, and I would suggest that you take
14 a look at it. It'll really help you out.

15 ZONING CHAIRMAN HOOD: And, Mr.
16 Chairman, if I can just add. Mr. Richard Nero
17 is a great asset, so to the Office of Zoning.

18 He could really help you. The other tools,
19 as the Chairman has mentioned, are available,
20 but also Mr. Nero in this office, Office of
21 Zoning, will be able to help you through this.

22 CHAIRPERSON JORDAN: He's the

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1 Deputy Director of the Office of Zoning.

2 MR. MOBLEY: Okay. Thank you very
3 much.

4 CHAIRPERSON JORDAN: Thank you.

5 MR. EGBAIYELO: Thank you.

6 MR. MOY: Okay. With that, the
7 next application before the Board is Application
8 Number 18401. This is the application of SLS
9 Carriage House Enterprise, LLC, pursuant to 11
10 DCMR 3104.1. This is for a special exception
11 under Section 508 to permit the conversion of
12 an existing building to office use in the DC/SP-1
13 District.

14 This is at premises 1749 and 1751
15 St. Matthews Court, NW. Property located at
16 Square 159 Lots 46 and 47.

17 CHAIRPERSON JORDAN: Okay. Moving
18 right along. I don't think we're going to need
19 that, not unless you just like putting things
20 up. Please introduce yourselves, please.

21 MR. FREEMAN: Good morning, Mr.
22 Chairman. For the record, my name is Kyrus

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1 Freeman. I'm a partner with the law firm of
2 Holland & Knight. I'm here on behalf of the
3 applicant. As the Board knows, I think our
4 relief has already been described.

5 CHAIRPERSON JORDAN: I just need
6 you to introduce who's sitting at the table with
7 you.

8 MR. SCHRAM: I'm Steve Schram,
9 property owner of 1749, 1751 St. Matthews Court,
10 NW.

11 MR. BRUCKWICK: Michael Bruckwick,
12 architect, principle Katinas Bruckwick
13 Architecture.

14 CHAIRPERSON JORDAN: Mr. Freeman,
15 as usual, your application process and documents
16 submitted are very thorough. And I think that
17 we're not going to need a lot from you, if
18 anything, so let me just take a second and find
19 out if there's something that the Board needs
20 to hear anything in particular from you, because
21 I believe this might be one which we can stand
22 on the record. Anyone need anything

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1 additional?

2 Let me then see if there's anything
3 that Planning has to say that needs to be said
4 on this.

5 MR. GOLDSTEIN: Hi. This is Paul
6 Goldstein with the Office of Planning. I've
7 got nothing to add beyond the report as submitted
8 in support of the application. Thank you.

9 CHAIRPERSON JORDAN: So, Mr.
10 Freeman, you can, if you want to, do a
11 presentation, but you don't have to do a
12 presentation. And as you know, many people who
13 don't have to do presentations sometimes do
14 presentations and get themselves in trouble.
15 So it's up to you to make a decision how you
16 want to handle it.

17 MR. FREEMAN: We're prepared to
18 rest on the record. Thank you, Mr. Chairman.

19 CHAIRPERSON JORDAN: We have the
20 Department of Transportation's reporting a
21 file. Are they here? Do they need to add
22 anything to this record? Is anyone here from

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1 ANC 2B? If not, we have a letter from ANC 2B
2 who recommends approval, to which we will give
3 great weight. Is there any other agency -- no,
4 there isn't.

5 Is anyone in the audience wishing
6 to testify in support of this application?
7 Anyone in the audience wishing to testify in
8 opposition? Do you feel a need to rebut
9 anything that did not happen?

10 MR. FREEMAN: No, Mr. Chairman.

11 CHAIRPERSON JORDAN: Okay. With
12 that, I think we'll bring this hearing to a close
13 and ask the Board are they ready to deliberate?

14 I would move that the Board grant the relief
15 requested in Application 18401. Is there a
16 second?

17 VICE CHAIRPERSON SORG: Second.

18 CHAIRPERSON JORDAN: Motion made
19 and seconded that the relief requested in Case
20 18401 be granted. Any unreadiness? Seeing
21 none, all those in favor signify by saying aye.

22 (Multiple Ayes)

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1 CHAIRPERSON JORDAN: Those
2 opposed, nay. The motion carries. Mr. Moy.

3 MR. MOY: Yes, sir. Staff would
4 record the vote as 4 to 0 to 1. This is on the
5 move to Chairman Jordan to approve the
6 application requesting relief with special
7 exception under Section 508, second the motion,
8 Vice Chairperson Sorg, also supporting the
9 motion, Mr. Hood and Mr. Hinkle. No other Board
10 Members participating this morning. So again,
11 the final vote is 4 to 0 to 1. The motion
12 carries.

13 CHAIRPERSON JORDAN: Mr. Moy, can
14 we have a summary order in this?

15 MR. MOY: Yes, sir. Very much.

16 CHAIRPERSON JORDAN: I think Mr.
17 Freeman would like that.

18 MR. FREEMAN: Thank you, sir.

19 CHAIRPERSON JORDAN: Thank you.
20 We appreciate it. As I said, if you want to
21 show your board, you could show it. Thank you.

22 MR. MOY: The next application

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1 before the Board is Application Number 18399.

2 This is the application of the Jewish Primary
3 Day School of the Nation's Capital, Inc.,
4 pursuant to 11 DCMR 3103.2 and 3104.1 for a
5 variance from the off-street parking
6 requirements under Subsection 2101.1 and a
7 special exception under Section 206.

8 CHAIRPERSON JORDAN: Mr. Moy, I'm
9 going to ask that you also -- I'm going to
10 consolidate Case 18399 and 18400. Would you
11 please call that case also, please?

12 MR. MOY: Yes, sir. Okay. Let me
13 reread this. This is pursuant to 11 DCMR 3103.2
14 and 3104.1 for a variance from the off-street
15 parking requirements under Subsection 2101.1
16 and a special exception under Section 206 to
17 increase the private school student enrollment
18 cap from 125 to 130 students, and to increase
19 the faculty and staff cap from 15 to 26 persons.

20 This is in the R1B District at
21 premises 4715 16th Street, NW. Property
22 located in Square 2707 Lot 33. The second case,

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1 as the Chair mentioned to consolidate, this is
2 Application Number 18400, the application of
3 Jewish Primary Day School of the Nation's
4 Capital, Inc., pursuant to 11 DCMR 3103.2 and
5 3104.1 for a variance from the off-street
6 parking requirements under Subsection 2101.1
7 and a special exception under Section 206, to
8 increase the student enrollment cap from 275
9 to 300 students and to increase the faculty and
10 staff cap from 56 to 72 persons, and to extend
11 the private school campus boundaries to include
12 additional property in the R-1-B and R-5-A
13 Districts at premises 6045 16th Street, NW,
14 property located in Square 2726 Lots 825 and
15 831.

16 Now, just for a quick note from the
17 staff, Mr. Chairman, just for the Board's note,
18 that the DDOT report in both of these
19 applications is the same report that applies
20 to both of these two cases. And that concludes
21 the staff's briefing, Mr. Chairman.

22 CHAIRPERSON JORDAN: And

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1 similarly, that's one of the reasons why I've
2 consolidated, also, the standard of proof and
3 the presented evidence. It's the same in both
4 cases. I think the only thing that we kind of
5 have different here, we have two different
6 requests for party status being submitted; being
7 requested. This is something we already have?

8 I know we received a document that
9 was late in filing by the applicant, which I'm
10 not going to accept in the record. It wasn't
11 timely. But, Mr. Moy, I see that we already
12 have given this document an exhibit number.
13 And I think, let's talk, procedurally, about
14 what we put in the record if it comes in after
15 submissions as being late.

16 I'm looking at what's been marked
17 as Exhibit 30. As we said, documents that are
18 filed by parties need to be in by 14 days advance.

19 We are getting battered and beaten by
20 last-minute submissions. Sometimes completely
21 changing request for relief. It doesn't give
22 the Board an opportunity to review them,

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1 especially the morning or night before the
2 hearings.

3 It just becomes unconscionable for
4 us to have to go through that. Last week, or
5 the week before that, we got 6 inches worth of
6 materials before we came out to this bench and
7 it's not fair to anyone to receive documents
8 late.

9 It doesn't give Planning the
10 opportunity to do analysis, the Office of the
11 Attorney General to do analysis, or anyone, or
12 citizens, to have the opportunity to review
13 these documents. So as we said for a couple
14 of months now, that we're adhering very closely
15 to the 14-day rule, unless good cause can be
16 shown why something is late.

17 And we're certainly not accepting
18 it without a motion for leave to file out of
19 time. So I just want to put that on the record.

20 And so, Mr. Moy, we need to talk about,
21 procedurally, how we deal with that from a
22 standpoint of putting exhibit numbers on those

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1 documents.

2 MR. MOY: Absolutely.

3 CHAIRPERSON JORDAN: We also had a
4 late submission from the Department of
5 Transportation, or did we? Did it come in seven
6 days or a late submission? They did request
7 leave?

8 MR. MOY: It's date-stamped
9 September 21st.

10 CHAIRPERSON JORDAN: We will accept
11 this. They've made a request for, and some
12 aspect of showing cause, why it was late, and
13 we will do that. We give some deference to
14 agency filing late as long as it's reasonable,
15 so we'll accept that.

16 Let's deal now with the -- there is
17 a request for party status by the Carter Barron
18 East Neighborhood Association in Case 18399.
19 Is there a representative from the Association?

20 And did you take the oath or affirmation and
21 provide the court reporter with your witness
22 card? And can you give me your name, please?

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1 Doreen Thompson?

2 Yes, just make sure that the green
3 button is glaring at you and if you could move
4 the mic just a little bit closer to you and maybe
5 that'll help us. Okay. Thank you. Ms.
6 Thompson, we understand the request for party
7 status by the Carter Barron East Neighborhood
8 Association, and what is your relationship to
9 the Carter Barron Neighborhood Association?

10 It's still not on or something.
11 It's not working.

12 MS. THOMPSON: Ah, there we go.
13 Thank you.

14 CHAIRPERSON JORDAN: And do you
15 have anything indicating that the Association
16 authorized you to represent it?

17 MS. THOMPSON: We don't have the
18 minutes. We do have our last meeting where we,
19 essentially, got a sense and an acknowledgment
20 that we should appear at this hearing, or
21 meeting, on September -- I'm sorry. I just want
22 to get the date. September 10th.

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1 CHAIRPERSON JORDAN: I didn't
2 understand what you said you had. Not minutes,
3 but you had something?

4 MS. THOMPSON: Essentially, we had
5 a public discussion and we got a sense of the
6 persons in attendance, and I have the attendance
7 sheet, that we should appear to represent the
8 interests at this hearing.

9 CHAIRPERSON JORDAN: Was that by
10 way of a vote of the Association?

11 MS. THOMPSON: Yes. It wasn't a
12 formal vote in the sense that people raised their
13 hands. The question was, should we appear at
14 this hearing and everyone is supportive, you
15 know, or if someone doesn't support it, say no,
16 and so there was none.

17 CHAIRPERSON JORDAN: Okay. All
18 right. Let me say this. The normal process
19 is that we have to have, one, the authorization
20 letter from your Association and the minutes,
21 or the record, indicating that that was granted.
22 However, you are the President and, generally,

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1 Presidents can speak for the organization.

2 I'm going to waive it as this
3 particular point and certainly ask that you
4 supplement the file --

5 MS. THOMPSON: Will do.

6 CHAIRPERSON JORDAN: -- this week
7 with the proper authorization letter for our
8 file, and I'm going to grant party status to
9 the Cater Barren East, thanks, Jeff,
10 Neighborhood Association. We have another
11 party status in the second part of the case from
12 Dr. Welsing. And I understand that you are the
13 owner of the property immediately adjacent, is
14 that correct? Okay. And we'll grant party
15 status to Dr. Welsing.

16 Okay. So now turning to the
17 applicant, now that we've got all the
18 preliminary matters dealt with, please
19 introduce yourself.

20 MS. RODDY: Thank you. My name is
21 Christine Roddy and I am the attorney
22 representing the Jewish Primary Day School.

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1 I'm with Goulston & Storrs. And with me today
2 is Janine Goodman, she is the current President
3 of the Board of Trustees of JPDS, as well as
4 Nicole White, who is are expert in traffic
5 engineering, who will be proffering today as
6 an expert.

7 CHAIRPERSON JORDAN: Did we get
8 everyone?

9 MS. RODDY: And I'm sorry, Naomi
10 Reem is also at the table with us, and she's
11 the head of school. I'm sorry for overlooking
12 her.

13 CHAIRPERSON JORDAN: I thought we
14 might have missed somebody. And that's Reem?
15 Well, there is one man sitting at the table
16 with me. That's who I was just looking up.
17 And we will accept Ms. White as an expert and
18 let's make sure, Mr. Moy, that we enter her into
19 our record, our book, of experts, please.

20 MR. MOY: Absolutely; with
21 pleasure.

22 CHAIRPERSON JORDAN: Ms. Roddy,

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1 we're very clear on the record here. The Board
2 may have some questions they may want to hit
3 specifically as we move through this. One
4 question was, did we receive an ANC letter in
5 regards to 18400 or is it the same letter?

6 MS. RODDY: There are two separate
7 letters.

8 CHAIRPERSON JORDAN: Okay. All
9 right.

10 MR. MOY: Mr. Chairman, I believe
11 it's Exhibit 28 in your case folder.

12 CHAIRPERSON JORDAN: Got it. Yes,
13 I'm good. Thank you. I was looking at the
14 staff report and it didn't indicate that we had
15 one, but we do have one. Is there anything
16 specific that the Board Members want to hear
17 that can help expedite the testimony of the
18 applicant?

19 VICE CHAIRPERSON SORG: Thank you,
20 Mr. Chairman. One of the things that seems to
21 have come up as disparate in the package and
22 the OP report is the number of spaces requested.

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1 I think one says seven and one says four. So
2 I think clarifying that as well as just
3 indicating, overall, since the application is
4 being consolidated, the request for parking and,
5 you know, what those are particularly for.

6 CHAIRPERSON JORDAN: Before we
7 proceed, if I can ask, as we go to my right,
8 from this point to the right on the table, to
9 identify yourself. Dr. Welsing, you don't have
10 to, nor does Ms. Thompson have to, but you are,
11 sir?

12 CHAIRPERSON JORDAN: John --

13 MR. MOY: I don't think your
14 microphone was -- I'm sorry.

15 CHAIRPERSON JORDAN: John Davis.
16 Do we have an authorization letter, although,
17 you can simply just give it to us here, but you
18 can supplement it.

19 MS. RODDY: Sir, I don't think your
20 microphone is on.

21 CHAIRPERSON JORDAN: Yes,
22 everyone, before you speak, be sure that you're

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1 glowing green there.

2 MR. DAVIS: Okay.

3 CHAIRPERSON JORDAN: Okay.

4 MR. DAVIS: In the request for party
5 status, I was listed as Dr. Welsing's attorney
6 and that she would appear through her counsel.

7 CHAIRPERSON JORDAN: Okay. Next,
8 ma'am.

9 MS. MEYERS: Good morning. My name
10 is Janet Meyers and I am the ANC Commissioner
11 for 4C. I'm also the Vice Chair, so I'm here
12 representing the 4C Commission.

13 CHAIRPERSON JORDAN: Thank you.
14 Ms. Sorg, you asked about parking space,
15 particularly, what relief was necessary and how
16 many spaces there's going to be. Mr. Hinkle,
17 anything, specifically, that you need? Mr.
18 Hood, anything, specifically, you need?

19 ZONING CHAIRMAN HOOD: Not at this
20 point, Mr. Chairman. Thank you.

21 CHAIRPERSON JORDAN: As I said
22 before, we believe that the record is pretty

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1 full here. We've all examined the documents
2 in the record. Is there anything in particular
3 that you want to provide us today?

4 MS. RODDY: We're happy to go
5 through the transportation aspect of the
6 presentation if that is really what you have
7 the questions on and we can truncate the
8 presentation greatly in doing that.

9 CHAIRPERSON JORDAN: And I would
10 also, especially those issues raised by anyone
11 in opposition, we would like to hear.

12 MS. RODDY: Yes. I would like to
13 clarify, when you consolidate the cases, I
14 understand for the purposes of this
15 presentation, that does make sense, but we would
16 like to keep separate records for each case.
17 And I want it to be clear if separate records
18 would still be maintained?

19 CHAIRPERSON JORDAN: Yes. That's
20 the law.

21 MS. RODDY: Thank you.

22 CHAIRPERSON JORDAN: Let me ask

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1 you, have you had a chance to meet with those
2 in opposition, the opposition parties, and have
3 discussions?

4 MS. RODDY: Our representatives can
5 speak better to that, but they have had
6 opportunities to speak to both of the parties.

7 There have been multiple community meetings
8 with respect to the lower school campus and they
9 have attended the Cater Barren East Neighborhood
10 Association meetings that have discussed the
11 application, as well as the ANC meetings.

12 CHAIRPERSON JORDAN: Okay. You
13 can proceed, please.

14 MS. RODDY: So with that, I'll turn
15 to Ms. White and we can walk through the
16 transportation issues that have been raised by
17 the opposition, as well as Commissioner Sorg's
18 question.

19 MS. WHITE: Hi. Good morning. My
20 name is Nicole White. I'm a principle with
21 Symmetra Design. Our firm specializes in
22 traffic engineering and transportation

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1 planning, and we've worked on a number of school
2 projects in the District. We worked with Jewish
3 Primary Day School five years ago on their
4 application back in 2007.

5 So I'll skip ahead. Let me start
6 with an overview of our coordination efforts
7 with DDOT. We've participated in three
8 meetings with DDOT. We submitted a scoping form
9 back in March, a transportation impact study
10 in April, received comments from DDOT, and
11 submitted an updated transportation study in
12 September; on September 11th

13 And we are being asked by DDOT to
14 also enter in the record traffic counts and
15 analysis at one additional intersection, the
16 intersection of 16th Street and Crittenden.
17 Based on observations, what we've seen so far,
18 we don't expect there to be any operational
19 issues, and DDOT noted the same in its September
20 21st report.

21 So we will enter into the record,
22 within 30 days, our updated analysis. We'll

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1 also provide additional information about
2 parking management. I can provide just a quick
3 context, so you can see the proximity of the
4 campuses and the distance, just over a mile
5 apart. This shows the JPDS existing site, the
6 Phillips property, and the early childhood
7 campus in red to the south.

8 I mentioned that I started working
9 with JPDS back in 2007 and when we first started
10 working with the school they did not have a
11 school bus program, and they came to BZA with
12 an application to increase enrollment at that
13 time, and we talked about an opportunity to
14 minimize impact.

15 So they subsidized a very successful
16 bus program and when we came back and did traffic
17 counts we saw a significant decrease in traffic
18 associated with this school bus program. So
19 I'm just highlighting the great efforts and this
20 has been an ongoing successful school bus
21 program over the past five years, with decreases
22 in traffic of 50 percent during the school pickup

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1 time period.

2 So the main campus, they obviously
3 have the operations here down to a science, since
4 they've been working here successfully for
5 years. We have just a single point of access
6 from Rock Creek Ford Road. They use the rear
7 lot for pickup and drop-off, and the process
8 lasts about 20 minutes.

9 And you can see on 16th Street, this
10 is the area where the school bus makes its
11 drop-offs and pickups. This table shows the
12 trip generation. What we've done for this
13 application is, because there is a 9 percent
14 increase projected for student population, we
15 increased the traffic that we counted at the
16 school driveway by 9 percent to understand what
17 the new trips would look like.

18 And even when we compare that number
19 to the counts that we did five years ago, the
20 future projected increases are still
21 significantly lower than where we started 2007
22 before the school bus program.

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1 So I'll highlight also that with
2 this 9 percent increase in student population,
3 there's a very small amount of traffic increase
4 that we're expecting; 12 new trips in the
5 morning, 9 during the afternoon period around
6 3:30 time period, and then 2 during the commuter
7 peak hour.

8 For the early childhood campus,
9 there is a requested increase of five students
10 and nine teachers. And so when we look at the
11 traffic associated with that, that equates to
12 six additional trips during the a.m., 17 during
13 the school p.m., and a decrease of traffic during
14 the commuter p.m. peak hour.

15 I will note that -- let me just
16 backup. We met with the community and talked
17 about this plan for circulation, and I'll just
18 note that we heard concerns because there was,
19 previously, a elementary school in this
20 location. Currently, there is a high school
21 that's there now.

22 And so I think the community had

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1 genuine concerns in understanding the
2 differences to go from, maybe, a high school
3 to a primary school. There would be slightly
4 different transportation characteristics and
5 they recalled, not everyone, but we did hear
6 comments about concerns of going to the lower
7 grades.

8 So the two big differences between
9 JPDS and the elementary school that functioned
10 previously is, JPDS has a school bus program,
11 and I mentioned how successful that is, and so
12 we're looking at significantly reduced traffic
13 just associated with this school bus program.

14 And the other thing has to do with
15 this one-way circulation that we proposed that
16 the previous school didn't have. So we're
17 really trying to focus traffic on Decatur
18 Street; get them into the driveway on Decatur
19 and get them out.

20 So this shows the circulation here.
21 I don't have a pointer, but you can see, we
22 propose that traffic all approach from 16th

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1 Street, either in the northbound or southbound
2 direction, turn on to Decatur with this one-way
3 circulation, and then traffic would exit back
4 towards 16th Street so that there are not impacts
5 to the neighborhood.

6 In conjunction with this
7 circulation plan that we proposed, we spoke to
8 DDOT about restricting parking on Decatur Street
9 during the drop-off and pickup time period so
10 that we could assist with the smooth operations.

11 And we understood from DDOT and the Safe Routes
12 to School Coordinator that this is actually law,
13 that parking is restricted here, so this works
14 out well with the plan.

15 And then also, this diagram shows
16 the bus drop-off point on 16th Street, similar
17 to what happens today at the main campus. To
18 talk a little bit about parking management, the
19 school has secured a parking lot in Silver
20 Springs so that teachers can meet there and car
21 pool to the main campus, and they'd also be able
22 to car pool to the lower campus.

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1 The school is in negotiation now,
2 and very close to securing an agreement with
3 Mosaic Church of the Nazarene. That has not
4 been finalized, but the school has committed
5 to providing spaces at some place in close
6 proximity to the lower campus to help support
7 the parking needs.

8 One of the things that we talked
9 about doing, in addition to providing adequate
10 parking to support the needs of the school, is
11 to actually lower the demand, and so the school
12 is proposing a transportation management plan
13 which would include allocating four of the seven
14 spaces that are on the campus as designated for
15 carpoolers only, and so this would help to
16 encourage carpooling, because if you are not
17 a registered carpooler, you would not be able
18 to park on the campus.

19 So there are a number of other
20 transportation demand management practices,
21 including having a school bus that connects the
22 two campuses together so that parents can just,

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1 if they have sibling in both schools, they could
2 drop-off both children at one school and the
3 other child could take the school bus to, let's
4 say, the main campus.

5 There are shower facilities,
6 increased bus program throughout the life of
7 -- or as we continue, the school would look to
8 add a fourth bus as the demand for a school bus
9 continues to grow. And the school has committed
10 to a monitoring performance plan where they
11 would conduct traffic counts at the driveways
12 of the lower campus to monitor the success of
13 their transportation management plan.

14 And this is something they would do
15 for two years to show the success of the program
16 and they would submit this report to both DDOT
17 and the ANC.

18 Oh, okay. And I've been asked to
19 clarify the spaces on the lower campus. There
20 are seven spaces that are currently on the lower
21 campus that count toward the requirement.
22 Initially, the application said four, but

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1 there's been a clarification that three
2 additional spaces are on the campus property,
3 so we're able to count seven spaces.

4 MS. RODDY: And I think with that,
5 that concludes our presentation. We would like
6 to include Ms. Goodman's testimony into the
7 record, as she did spend some time preparing
8 it and would hate for it to go to waste.

9 CHAIRPERSON JORDAN: Any questions
10 from the Board? No, let's just do
11 transportation.

12 VICE CHAIRPERSON SORG: Thank you,
13 Mr. Chairman. I have just a couple of
14 questions. So just in general, and maybe this
15 was in the file and I missed it, what's the
16 percentage of the teachers and staff that drive
17 to campus now?

18 MS. WHITE: 84 percent of the staff
19 drives alone to campus. So when we looked at
20 what that meant, that meant that there would
21 be a need for 22 parking spaces at the lower
22 campus at the current levels. And so with the

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1 7 spaces plus the 15, that gets to the 22, and
2 then we talked about, also, further reducing
3 that demand.

4 VICE CHAIRPERSON SORG: The 15 is
5 on the offsite Church of the Nazarene site that
6 is being --

7 MS. WHITE: Currently pursued, yes.

8 VICE CHAIRPERSON SORG: Being
9 pursued? Okay. And then how long has the
10 parking lot in Silver Spring for the teachers
11 been in operation or been organized?

12 MS. WHITE: This will be the first
13 year.

14 VICE CHAIRPERSON SORG: And can you
15 describe, for whomever, how that's being used?
16 Are there a lot of people taking advantage of
17 it?

18 MS. WHITE: Yes, it's just going
19 into operation --

20 VICE CHAIRPERSON SORG: Oh, right
21 now. Okay.

22 MS. WHITE: -- so the idea is that

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1 teachers would --

2 VICE CHAIRPERSON SORG: Should be
3 on the microphone. It's okay to answer it.

4 CHAIRPERSON JORDAN: She's going to
5 answer, but whoever is going to give us the
6 answer needs to be on the microphone.

7 MS. REEM: Okay. Well, one thing
8 is that we don't have yet the number of staff
9 that we are requesting relief for.

10 VICE CHAIRPERSON SORG: So you're
11 just starting this new parking lot and there's
12 no data yet. Okay. I think those are all of
13 my questions right now. Thank you.

14 CHAIRPERSON JORDAN: Mr. Hinkle?
15 Mr. Hood.

16 ZONING CHAIRMAN HOOD: Yes, Mr.
17 Chairman. Ms. White, on the proposed early
18 childhood campus circulation, you mentioned
19 we're going to make a right in, the parents will
20 make a right turn in and the parents will make
21 a left turn out. Was that a recommendation from
22 DDOT or how did we come to that conclusion?

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1 MS. WHITE: We submitted this as a
2 proposal to DDOT. Let me start with, the school
3 heard feedback from the community about what
4 they would and wouldn't want to see with the
5 circulation, and so we talked about this plan
6 and presented it to DDOT, and in the report it
7 outlined the Safe Routes to School and the
8 pedestrian bicycle coordinator all believe this
9 is a safe means.

10 ZONING CHAIRMAN HOOD: So what
11 precludes me from coming out and making a right
12 turn on Decatur?

13 MS. WHITE: They would have staff.
14 Are you going to --

15 MS. RODDY: Right. We plan to
16 have, like, a -- pardon?

17 MS. REEM: We have staff monitoring
18 the arrivals. And our staff is very good about
19 making sure the parents don't take a right turn
20 when they need to. We have been doing a lot
21 of control of the traffic in our current --

22 ZONING CHAIRMAN HOOD: So you have

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1 a traffic controller.

2 MS. REEM: Yes, absolutely.

3 ZONING CHAIRMAN HOOD: You have
4 somebody that's going to be -- okay. And what
5 happens if I just make the right anyway?

6 MS. RODDY: It doesn't happen. No,
7 no, I mean, we don't have penalty associated
8 with --

9 ZONING CHAIRMAN HOOD: And that's
10 the issue.

11 MS. REEM: And we do contact the
12 parents if they don't -- like, if they park in
13 the wrong place or if they do something that
14 they shouldn't be doing, and we are notified,
15 we take corrective action, talk to the parents,
16 and hopefully, it's not repeated.

17 ZONING CHAIRMAN HOOD: Okay. I'm
18 just curious because I noticed that in the
19 submission for party status, one of the issues
20 was Piney Branch. So I see you trying to
21 mitigate that, but I just wanted to know what
22 were the repercussions if you do it. That's

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1 something we may need to look at, okay? Thank
2 you.

3 CHAIRPERSON JORDAN: Ms. Roddy, you
4 can proceed, then --

5 MS. RODDY: I think that that
6 concluded our presentation, unless you'd like
7 us to go through the operations of the school
8 and how the two schools will interact with each
9 other since there's the two campuses.

10 CHAIRPERSON JORDAN: No, that's not
11 necessary. Oh, yes, please. You said Ms.
12 Goodman needs to speak; wants to?

13 MS. RODDY: Oh, no. I'm sorry. I
14 was under the impression you wanted us to
15 truncate our presentation, so we were happy to
16 streamline that.

17 CHAIRPERSON JORDAN: I want you to
18 present what you think you need to present, but
19 we are quite aware of the record, and so we
20 preceded your presentation by having you address
21 concerns of the Board where there's an issue
22 with the Board.

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1 MS. RODDY: Okay.

2 CHAIRPERSON JORDAN: And also
3 requested that you address any issues that were
4 raised by parties that are in opposition.

5 MS. RODDY: Okay.

6 CHAIRPERSON JORDAN: So it's
7 completely up to you to give your presentation,
8 however, just trying to get you --

9 MS. GOODMAN: Thank you. I will
10 truncate my presentation, but hopefully provide
11 you a little bit of background of why we're here
12 today. My name is Janine Goodman. I'm the
13 President of the Board of Trustees for the Jewish
14 Primary Day School of the Nation's Capital.

15 JPDS is a co-educational elementary
16 school and we provide a Jewish and general
17 studies education to grades pre-Kindergarten
18 through 6th grade, all currently at 6045 16th
19 Street in the Brightwood Neighborhood. We're
20 the only Jewish day school in the District of
21 Columbia.

22 And our mission, among other things,

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1 is to provide a strong foundation in Jewish and
2 secular learning. One of the reasons we are
3 here, or the main reason we're here today, is
4 because of our growth, especially since we came
5 before you in 2008. And it is these factors,
6 our growth, the fact that families are moving
7 into the District, and anecdotal evidence shows
8 us that a lot of Jewish families are moving into
9 the neighborhood because of a quality Jewish
10 education that we can provide.

11 And it is because of our rising
12 application numbers and our minimal attrition
13 that we determined that we could accommodate
14 enrollment of up to three classes per grade
15 instead of two classes per grade, and that
16 growing the school is really a prerequisite to
17 having our school operate in a financially
18 sustainable way, and to keep tuition at a rate
19 that will continue to promote the economic
20 diversity that is core to our mission.

21 And that's what prompted our search
22 for a second campus and our good fortune to find

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1 the building at 4715 16th Street. I would note
2 that one of the reasons that we really felt,
3 kind of, an urgent need to come before the Board
4 is because the second campus does house the
5 Washington Latin Public Charter School,
6 pursuant to a lease through December 2013 that
7 was entered into by the prior owner, the British
8 School.

9 And as a result, we were unable to
10 seamlessly transition to our second campus
11 before feeling the negative effects of growth.

12 And we actually had to close our
13 pre-Kindergarten this year, which was a very
14 difficult decision because it provides a unique
15 program for children who have outgrown their
16 preschool class, but aren't quite ready for
17 Kindergarten, but the Board of Trustees
18 determined that this was really what we needed
19 to do.

20 And it was in the best interest of
21 the school because it allowed us to open a third
22 Kindergarten class instead. And then we

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1 determined, as part of that, that if we did not
2 come before the BZA and request an increase in
3 our certificate of occupancy for 2013-14, not
4 only would we need to continue to close the
5 pre-Kindergarten, but we would actually have
6 only room for two Kindergarten classes instead
7 of three Kindergarten classes.

8 And all told, this would result in
9 our, basically, closing our Kindergarten to
10 mostly just siblings and a very small handful
11 of new families, which the Board of Trustees
12 was concerned would actually be devastating to
13 the school from an economic perspective, as well
14 as, honestly, a complete failure of our mission
15 to serve the Jewish community.

16 With regard to our site, as we have,
17 I think, in our original application, our main
18 campus was constructed for the Hebrew Academy
19 in 1950 and was designed for and occupied by
20 more than 350 students at that time, so from
21 a facilities standpoint, we have no doubt that
22 we can accommodate the maximum enrollment that

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1 we are seeking of 300.

2 With regard to what Nicole White
3 already testified to, all of the efforts that
4 we have made to respond to the community. We
5 really, really take our responsibilities
6 seriously. When I came on the Board, I was the
7 person who was charged with developing
8 relationships with the ANC 4A community.

9 And as a result, we have tried to
10 make sure that our students are involved in the
11 community. We have cleanups. We have sandwich
12 brigades. We have book drives. We have things
13 to make sure that we are responsible for our
14 community and working with our community, and
15 one of them is in the traffic area.

16 And in addition to some of what Ms.
17 White talked about with regard to the buses,
18 I should note that, in the evenings when we have
19 events, we often put no parking signs on 16th
20 Street. We have a shuttle running from the
21 Carter Barron parking lot. We stagger the times
22 of our events. We sometimes have parents'

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1 night, that used to be on one night, is now on
2 two nights.

3 And that is all to accommodate
4 concerns in the neighborhood of traffic. And
5 I think the last thing I wanted to point out
6 is that, with regard to our location, we are,
7 obviously, kind of abut at 16th Street; Fort
8 Stevens Drive; Rock Creek Drive.

9 Our property is set back from an
10 apartment complex to the south and there's a
11 buffer between the school and our only neighbor.

12 With regard to the space between our school
13 and the neighbor, there is a play field which
14 JPDS was permitted to build pursuant to an order
15 issued by the BZA back in 2008.

16 It requires a buffer between the
17 play space and our neighbor's property that's
18 an average of 15 feet from the south property
19 line and landscaped in accordance with the
20 landscaping plan approved by the Board. We're
21 required to have no more than 65 children on
22 the playing field at one time.

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1 And the field can only be used
2 between the hours of 10:00 a.m. to 2:30 p.m.,
3 and 3:30 p.m. and 4:30 p.m. Monday through
4 Friday, and we are requesting no changes to those
5 conditions, even with the increase in students
6 that we're requesting with regard to certificate
7 of occupancy.

8 And as a result, we do not anticipate
9 any increase in noise on that playing field.
10 And I think that concludes my testimony.

11 CHAIRPERSON JORDAN: Okay.
12 Anything further? Any questions for Ms.
13 Goodman?

14 VICE CHAIRPERSON SORG: I just one
15 question, Mr. Chairman. I think I saw -- I was
16 just looking for it. Are you also, in addition,
17 wishing to grow the cap on the students at the
18 main campus school, are you also including more
19 grades? I thought I read somewhere that you
20 wanted to try to go to 8th grade?

21 MS. GOODMAN: No, that was an error.
22 We are keeping the same number of grades.

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1 VICE CHAIRPERSON SORG: Okay. So
2 you're stopping at 6th grade without plans under
3 this request.

4 MS. GOODMAN: Right. Exactly.

5 VICE CHAIRPERSON SORG: Okay. I
6 just wanted to clarify. Thank you.

7 CHAIRPERSON JORDAN: Anything
8 further?

9 MS. RODDY: No, that concludes our
10 presentation.

11 CHAIRPERSON JORDAN: Okay. I'm
12 going to ask, is it Mr. Davis, if you have any
13 cross-examination of the applicant?

14 MR. DAVIS: I do have some, Your
15 Honor. There's been an issue ongoing with Dr.
16 Welsing and as you will recall, when this matter
17 --

18 CHAIRPERSON JORDAN: This is
19 cross-examination, not for your presentation,
20 cross-examination of the applicant.

21 MR. DAVIS: And my question, I just
22 want to set a preface for it, but my question

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1 would be that, in the application that you
2 submitted in 2007 in Case Number 17700, there
3 was an issue that came before the Board and the
4 school made certain assurances to the Board with
5 respect to the noise buffer, and part of that
6 had to do with the fact that Dr. Welsing had
7 requested a wall.

8 The assurances given to the Board
9 that the wall was not necessary because there
10 was some mature 40-foot tall pine trees that
11 were on the north borderline of Dr. Welsing's
12 property that would, therefore, be between the
13 playground and Dr. Welsing's property. Those
14 trees were razed and since those trees were to
15 be the original buffer, from my understanding,
16 and from what we've done to investigate, there's
17 been nothing to replace those trees of the same
18 magnitude.

19 If there are going to be more
20 students at the school, even though there are
21 not going to be more students on the playground,
22 what is going to be done about the noise that

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1 Dr. Welsing has brought to your attention that
2 has been a disturbance for her?

3 MS. RODDY: If I may. I believe
4 that we should be keeping any reference, I think,
5 to Case Number 17700, you know, separate from
6 the issue before the Board today, which is the
7 increase --

8 CHAIRPERSON JORDAN: Are you going
9 to have different witnesses sitting at the table
10 with you today?

11 MS. RODDY: I'm sorry?

12 CHAIRPERSON JORDAN: Are you going
13 to have different witnesses?

14 MS. RODDY: No, this is the previous
15 case several years ago.

16 CHAIRPERSON JORDAN: I understand,
17 but still, the noise is the overall question
18 that's put under cross and is one of the
19 requirements to get relief.

20 MS. RODDY: I understand. We are
21 not increasing the number of children that will
22 be playing on the field. The field is in

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1 compliance. It's been found in compliance with
2 the approval that was granted by the Board.

3 CHAIRPERSON JORDAN: So I think the
4 question is more in a general way. How is the
5 noise going to be buffered or what are you
6 putting in place, anything new or different,
7 that's going to help with noise? I think that's
8 the more, kind of, general aspect of the
9 question.

10 MS. RODDY: And I think the fact of
11 the matter is, there are plantings along the
12 southern property line of the school and the
13 school has tried to work with the neighboring
14 property owner to reach out to her and to
15 accommodate her concerns, and there has been
16 some trouble in doing that.

17 But the fact of the matter is that
18 children are going to make noise. You know,
19 the expectation of silence on that property
20 isn't going to happen. The property is, with
21 or without the school, along a very busy
22 thoroughfare, 16th Street, which produces its

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1 own noise in its own right.

2 And the school is not going to be
3 increasing the burden on that play area and they
4 already are limiting the number of children that
5 are on the play area at any given time, and have
6 also limited the number of hours that the
7 children are permitted on that play area.

8 CHAIRPERSON JORDAN: When you use
9 the term planting, you mean what?

10 MS. GOODMAN: When the trees that
11 were on the property were taken down, we planted,
12 I don't how many, it was something like 12 new
13 trees that were actually of this particular
14 variety, that we had agreed with Dr. Welsing,
15 that any new trees would be -- I can't remember
16 the name of it, but it was a particular planting
17 and that's what we put up.

18 And in fact, there are more trees
19 that were planted there than had been there,
20 and they have been growing very nicely, and they
21 border the area. And even at the time that we
22 planted those trees, at one point Dr. Welsing

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1 wanted us to move one of the trees over to a
2 different area, and we immediately did that.

3 CHAIRPERSON JORDAN: So all the
4 trees that were there before weren't removed,
5 were they?

6 MS. REEM: The ones that were deemed
7 to be not able to withstand the construction
8 were removed and new ones were planted instead.

9 CHAIRPERSON JORDAN: So all of them
10 weren't removed, some were removed, and then
11 those that were removed, they were replaced.

12 MS. REEM: The large majority were
13 removed. There were some in the front area that
14 were not removed, but for the most part, they
15 were removed, yes; and replaced.

16 CHAIRPERSON JORDAN: Mr. Hood?

17 ZONING CHAIRMAN HOOD: I was just
18 going to say, Mr. Chairman, I appreciate you
19 going in that line. Whether it was 2007, or
20 whenever, if there was a promise made, the
21 promise should be kept, and I'm looking here
22 trying to see exactly what was a condition back

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1 then.

2 I guess I kind of want to go down
3 the same line as the Chairman, what are we going
4 to do to remedy the problem?

5 MS. RODDY: If I may. I'm sorry.
6 I don't mean to imply that a promise should
7 not be kept, this is something that was brought
8 before the zoning administrator to make sure
9 that the school did keep in compliance with the
10 promise that was made.

11 CHAIRPERSON JORDAN: Ms. Roddy, let
12 me help you get clear of what we need from you
13 in this hearing that we're controlling, the
14 question is, tell us what you're going to do
15 to mitigate noise. That's what we're talking
16 about. As we sit here today, just tell us what
17 you're going to do so we can hear from you.

18 MS. RODDY: The school has tried to
19 do the plantings. They have tried to limit the
20 number of children. There is going to be noise
21 on the play area.

22 MS. GOODMAN: If I could, also, back

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1 at the time before we completed the play field,
2 which is back in 2010, I believe, Dr. Welsing,
3 and a representative at the time, did approach
4 us to have a discussion on the landscaping and
5 whether there was anything we could do to improve
6 the field area.

7 And at that point, in March of 2010,
8 Dr. Welsing met with her attorney and two
9 landscape architects that she had hired, and
10 met with our attorney, Phil Feola, and our
11 landscape architect, so that they could discuss
12 a solution before we had actually finalized all
13 of the landscaping.

14 And we invited Dr. Welsing to come
15 back to us with a proposal on what they thought
16 could help resolve the issue and she never came
17 back with a proposal. We reached out to her
18 attorney to find out what had happened, and
19 again, we never heard anything. And I think
20 then the next time we heard from Dr. Welsing
21 she had filed something with the Office of Zoning
22 Administration, you know, about the buffer.

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1 So we feel like we have, in every
2 instance she has approached us, tried to meet
3 with her, sometimes meetings have been canceled,
4 or even if they haven't been canceled, when we
5 invited her to discuss solutions, we have not
6 heard anything back, and at some point we had
7 to refinish the field.

8 ZONING CHAIRMAN HOOD: Mr.
9 Chairman, can I ask another question?

10 CHAIRPERSON JORDAN: Sure.

11 ZONING CHAIRMAN HOOD: Okay. The
12 condition says, "The play area shall be set back
13 15 feet from the south property line and
14 landscaped in accordance with the attached
15 landscape plan," which at that time was Exhibit
16 40B, "that includes an open lawn at 4-foot grade
17 change between the play area and adjacent
18 property, and a buffer of evergreen trees
19 between the play area and the adjacent
20 property."

21 Is that being done? Is that done?

22 Yes or no.

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1 MS. RODDY: Yes. And I have a
2 letter here from Matt Le Grant that confirms
3 that that is in compliance.

4 ZONING CHAIRMAN HOOD: And, Ms.
5 Roddy, we all up here, and everybody in this
6 room, was a child at one time and I'm sure we
7 weren't quiet, so we understand that, okay?
8 So we're not unrealistic.

9 MS. RODDY: I understand.

10 ZONING CHAIRMAN HOOD: Okay.
11 Thank you, Mr. Chairman.

12 VICE CHAIRPERSON SORG: I'd like to
13 ask one follow-up question on the line of Mr.
14 Hood's question, I want to clarify what Ms.
15 Goodman's statement just now, so in your
16 indication of when the field was being finished
17 in 2010, are you indicating that you were looking
18 to go beyond the scope of the condition in the
19 previous order or had you already had plans to,
20 you know, fulfill the evergreens, and the
21 buffer, and the grade change, and the 4-foot
22 and the 15-feet?

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1 MS. GOODMAN: Right. So we had
2 done all of that. There was no question that
3 we were going to comply with that, but we knew
4 that Dr. Welsing was unhappy and that she was
5 seeking to have something more done. And when
6 we had conversations, we couldn't seem to --
7 we hadn't had any formal discussions.

8 And so we were open, I guess I would
9 say, to finding a solution, and that's where
10 things were left at that time.

11 VICE CHAIRPERSON SORG: Okay.
12 Thank you.

13 CHAIRPERSON JORDAN: Okay.
14 Continue, please. I don't know if we kind of
15 took your question over, but go ahead.

16 MR. DAVIS: No, that was my
17 question. I mean, there were some 40-foot
18 evergreen trees, approximately six of them,
19 along the north property line of Dr. Welsing's
20 property. Those trees were proposed as the
21 noise and sound buffer by the JPDS at the time
22 it made its application in 2007.

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1 In fact, when they proposed their
2 proposed findings of fact and conclusions of
3 law to the Board, they specifically stated that
4 those trees would not only be left there, but
5 there would be additional trees planted to
6 supplement them to ensure, because although
7 they're 40-foot tall and probably 15, 20 feet
8 in diameter, in point of fact, at the base of
9 the trees there would be some spacing.

10 Those trees were razed and what was
11 put in their place --

12 CHAIRPERSON JORDAN: I'm going to
13 ask again, to instruct rather, that this is
14 cross-examination. It's not your
15 presentation. You will have an opportunity to
16 do that.

17 MR. DAVIS: Well, I'll save it for
18 my presentation because I think we've answered
19 the question.

20 CHAIRPERSON JORDAN: Okay. Any
21 other questions you wanted to ask of the
22 applicant?

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1 MR. DAVIS: Not at this time, no.

2 CHAIRPERSON JORDAN: Okay. Ms.
3 Thompson, any questions you would like to ask
4 of the applicant?

5 MS. THOMPSON: Yes, regarding the
6 way the buses access the lower campus, could
7 you explain, we asked that the buses should only
8 travel along bus routes; routes that are already
9 identified for buses. Could JPDS explain why
10 their proposal has the buses going back through
11 the community? I don't know if this a proper
12 way to phrase the question.

13 MS. WHITE: I think the -- and I can
14 show the bus route if that would help, so if
15 a bus is heading south -- or this is actually
16 the northbound direction, if a bus is heading
17 north from the lower campus to the main campus,
18 it just, you know, stays straight on 16th Street.

19 This shows the route when the bus
20 leaves the main campus and would travel to the
21 lower campus down on 14th Street, and this shows
22 it coming across Buchanan and then up 16th

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1 Street. So obviously, I guess the question is
2 about not 14th.

3 And the school selected this route
4 to minimize the amount of time that the children
5 are in the school bus. They come from far away
6 and their goal is to keep the time that the
7 children are in the school bus, to make this
8 attractive means, down to, I believe, it's no
9 more than 45 minutes.

10 And so they're looking to minimize
11 travel time for the children.

12 CHAIRPERSON JORDAN: Between the
13 two campuses?

14 MS. WHITE: Well, no, for the entire
15 route. Some children that are coming from the
16 north, let's say Silver Spring and north of this
17 area, the bus would stop at the main campus first
18 and then have to proceed down to the south
19 campus. So there are some children that would
20 have to make a stop before coming to the lower
21 campus.

22 CHAIRPERSON JORDAN: And there's

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1 how much additional -- what's being saved? How
2 much time is being saved by that; between the
3 two campuses? Maybe I'm not understanding you
4 because it sounded like you said between the
5 two campuses, that's why the route was chosen
6 to minimize the time, and that that going, what's
7 that distance, a mile?

8 MS. WHITE: I think it adds another
9 couple miles, or so, on to the route to go all
10 the way down to Arkansas.

11 CHAIRPERSON JORDAN: Ms. Sorg.

12 VICE CHAIRPERSON SORG: I think I
13 might know what you're getting at, so I'll just
14 ask, it sounds like the question that Ms.
15 Thompson is bringing up has to do with the
16 southbound route, clearly, because that's the
17 only time that the bus goes into the
18 neighborhood.

19 And so is the reason why you don't
20 go southbound on 16th Street because you would
21 have to make a U-turn?

22 MS. WHITE: Right. There would be

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1 some way to have to make a U-turn. And so we
2 want to, obviously, drop the children off on
3 the side of the school.

4 VICE CHAIRPERSON SORG: So you're
5 not able to go southbound on 16th Street without
6 --

7 MS. WHITE: Well, they'd have to
8 turn around at the main campus and then turn
9 around again at the lower campus instead of just
10 a circulation where there's just right turns,
11 which is shown here.

12 CHAIRPERSON JORDAN: And how would
13 the turnaround happen if they had to do that?

14 MS. WHITE: We didn't consider two
15 U-turns, because it would require two. It would
16 require one at the main campus because the bus
17 would be facing north.

18 CHAIRPERSON JORDAN: Okay.

19 VICE CHAIRPERSON SORG: And this is
20 16th Street, I mean --

21 CHAIRPERSON JORDAN: It's okay.
22 Got it. All right.

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1 MS. THOMPSON: Can I continue?

2 CHAIRPERSON JORDAN: Yes, please.

3 MS. THOMPSON: I'm not sure that my
4 question was answered. I think we've veered
5 off into difficultly of turning on 16th Street.
6 We're basically asking the question about why
7 the buses will continue to come through tight
8 residential streets going south and how many
9 minutes, what was the saving that balanced
10 against the impact on the community for the buses
11 to not go down Arkansas and return up 16th
12 Street?

13 CHAIRPERSON JORDAN: I think she
14 answered the first part of your question, but
15 the timing is the second part of the question
16 that needs to be addressed, please.

17 MS. REEM: If I may, in my mind, it
18 will add quite a long commute for the children
19 to go all the way down to Arkansas and then come
20 back all the way up again on 16th. I just want
21 to point out that the only place that we're
22 actually going through the neighborhood street

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1 is in Buchanan for one block, and two buses in
2 the morning, and two buses in the afternoon.

3 We want to balance that with as many
4 as 50 kids in the bus that are four and five
5 years old that we don't want to spend any more
6 of the absolutely needed time on the bus.

7 CHAIRPERSON JORDAN: Yes, and the
8 question was, what's the time difference if the
9 routes were changed?

10 MS. WHITE: I can try to determine
11 that. I don't remember the number. I know we
12 looked at the number previously, but I don't
13 know the number off the top of my head.

14 CHAIRPERSON JORDAN: All right.

15 VICE CHAIRPERSON SORG: Ms. White,
16 do we have this diagram in your transportation
17 study? I don't think it's in the PowerPoint
18 that we were given this morning.

19 MS. WHITE: No, it is not.

20 VICE CHAIRPERSON SORG: Okay. Is
21 it in your transportation study? No.

22 MS. WHITE: In the slide, no.

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1 VICE CHAIRPERSON SORG: Oh.

2 MS. RODDY: We can submit it into
3 the record though.

4 CHAIRPERSON JORDAN: So, Ms.
5 Thompson, the answer is, they don't have the
6 answer to that question.

7 MS. THOMPSON: That's the only
8 question on the transportation. On the lower
9 campus -- I think it may have to wait until we
10 testify.

11 CHAIRPERSON JORDAN: If it's not a
12 question, you can do it through your testimony.

13 MS. THOMPSON: Yes, because it's a
14 question, but it comes after giving you some
15 background, and so I'm not quite sure how to
16 handle it.

17 CHAIRPERSON JORDAN: If it's a
18 question, you need to ask the question, and then
19 I'll give you some leeway. Why don't you ask
20 the question and we'll see.

21 MS. THOMPSON: On the lower campus,
22 the BZA case that converted that structure to

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1 a private school required a buffer on the south
2 end on the playground, it wasn't put in place
3 for 20-plus years. We brought this to JPDS'
4 attention and they are placing a buffer there,
5 and I'm just curious as to exactly what the
6 extent, the number of feet, of that buffer.

7 It doesn't say. It just has, sort
8 of, a green shrubbery on the drawings.

9 CHAIRPERSON JORDAN: Okay. So
10 your question is, what's the dimensions of the
11 buffer.

12 MS. THOMPSON: Right.

13 CHAIRPERSON JORDAN: And one, what
14 is the buffer and what is the dimension of the
15 buffer?

16 MS. RODDY: We can provide that
17 information. The order that the conditions
18 that do apply to that property don't have any
19 specifics for the buffer requirement, just that
20 the buffer be provided. So they are proposing
21 some shrubs, and bushes, and trees, and we can
22 get you the specific width of what the buffer

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1 that they are putting in.

2 CHAIRPERSON JORDAN: From the 207
3 case?

4 MS. RODDY: From the Lowell case
5 from 1989.

6 CHAIRPERSON JORDAN: So from 1989
7 --

8 MS. RODDY: Those conditions still
9 apply to the private school use of that property.

10 CHAIRPERSON JORDAN: Right.

11 MS. RODDY: And the condition was
12 just that a buffer be put in place.

13 CHAIRPERSON JORDAN: And no buffer
14 has been put in place since that time?

15 MS. RODDY: To my knowledge, Lowell
16 did not put a buffer in and the subsequent
17 schools did not either. JPDS will put the
18 buffer in and they have committed to doing that,
19 and they have submitted --

20 CHAIRPERSON JORDAN: Okay. All
21 right. Any additional questions?

22 MS. THOMPSON: Yes. There are four

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1 parking spaces on the side on Decatur, and three
2 parking spaces were determined, I guess, because
3 there was some drawings. I'm not sure. One
4 of the things with the 1989 case, initially,
5 we were not sure where the other three parking
6 spaces were on that property.

7 The three that have been determined
8 to be on the front of the property, one is
9 immediately adjacent to the residents --

10 CHAIRPERSON JORDAN: If I could,
11 let's kind of keep us centered on to the relief
12 that's requested here in regards to parking.
13 And do you need to know where the parking spaces
14 are that are going to be in the relief that's
15 requested?

16 MS. THOMPSON: I think I understand
17 where it is now.

18 CHAIRPERSON JORDAN: Okay.

19 MS. THOMPSON: My question really
20 had to do with the fact that the spaces were,
21 essentially, blocking the gate. It's another
22 issue on the front of the property, but when

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1 we testify, we'll talk about why we're seeking
2 the relief we're seeking.

3 CHAIRPERSON JORDAN: Okay. Any
4 other questions you have?

5 MS. THOMPSON: No.

6 CHAIRPERSON JORDAN: Let's turn now
7 to Office of Planning.

8 MR. MORDFIN: Good morning. I'm
9 Steven Mordfin with the Office of Planning and
10 these are two separate cases which I would like
11 to just discuss separately.

12 CHAIRPERSON JORDAN: Go ahead.

13 MR. MORDFIN: So for 18400, 6045
14 16th Street, the northern campus or the main
15 campus, so the Office of Planning did find that
16 the subject application conforms with the
17 criteria for a private school to increase
18 enrollment, faculty, and staff, and to expand
19 the campus because the additional students would
20 be housed within the existing building and would
21 not have access to the expanded campus.

22 No changes to the existing

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1 playground are proposed. The applicant would
2 continue to make available bus service to bring
3 students to and from school, and run a shuttle
4 between the two campuses for students, to allow
5 parents to drop-off students at one or the other
6 campus, and shower facilities will be made
7 available to teachers that choose to bike to
8 work.

9 OP also found the application to be
10 in conformance with the criteria to permit a
11 variance to off-street parking because the
12 school was constructed prior to the adoption
13 of the zoning regulations and is not of
14 sufficient size or shape to accommodate
15 additional parking. Due to topographical
16 constraints, the applicants are unable to expand
17 the parking lot on to the additional lots.

18 And there would be no substantial
19 detriment to the public good. The traffic
20 impact study concluded that the increase in
21 trips is negligible and that the number of trips
22 generated currently is less than when the

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1 enrollment was capped at 225.

2 There would be no substantial harm
3 to the zoning regulations because alternatives
4 to the use of the private automobile are proposed
5 by the applicant, reducing the need for parking.

6 Therefore, the Office of Planning recommends
7 approval of the application subject to the
8 conditions listed within the staff report.

9 For the second application, 18399
10 at 4715 16th Street, the Office of Planning found
11 that the subject application is in conformance
12 with the criteria for a private school to
13 increase enrollment, faculty, and staff, and
14 to reduce parking because the proposed increase
15 in students, faculty, and staff is minor, and
16 shrubbery is proposed to be installed along the
17 southern lot line, and Piney Branch Road, to
18 aid in the absorption of sound from the outdoor
19 play area.

20 And a shuttle would be operated
21 between the two campuses, student bus service
22 would be available, and the transportation

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1 impact study concluded that the increase in the
2 number of trips to and from the campus would
3 be negligible.

4 OP does recommend annual DDOT review
5 of the transportation plan to ensure its
6 adequacy as recommended by DDOT. The
7 application is in conformance with the granting
8 of a variance to reduce off-street parking
9 because the property was originally developed
10 as a one-family dwelling and not designed to
11 accommodate the parking required today for a
12 school.

13 The bus system would be continued
14 to include the subject property, shower
15 facilities would be provided for those that
16 choose to bike, and the transportation impact
17 study indicated that the increase in trips is
18 negligible, and satellite parking is proposed
19 by the applicant.

20 Therefore, the Office of Planning
21 recommends the Board approve the application
22 subject to the conditions contained within the

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1 staff report and to address concerns expressed
2 by some members of the community to OP.

3 The Office of Planning also
4 recommends that the applicant provide an annual
5 post-completion TDM monitoring program report
6 to DDOT, the applicant provide the location of
7 the proposed satellite parking, the site plan
8 be included as a part of the order to document
9 the required plantings, and that the approval
10 then be for a period of ten years. Thank you.

11 CHAIRPERSON JORDAN: Does the Board
12 have any questions for the Office of Planning?

13 MEMBER HINKLE: Yes, thank you, Mr.
14 Chairman. I'm sorry.

15 CHAIRPERSON JORDAN: Mr. Hinkle, go
16 ahead.

17 MEMBER HINKLE: Just a quick
18 question in terms of the proposed condition
19 related to events, there's no additional
20 requirement for parking for those events, is
21 there?

22 MR. MORDFIN: You mean for after

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1 school events? No, there's no additional
2 parking required. The parking requirement is,
3 as is stated, for the school in the zoning
4 regulations. That would just provide
5 additional parking when more people would, most
6 likely, be driving to the school.

7 MEMBER HINKLE: Great. Thank you.

8 CHAIRPERSON JORDAN: Anyone else;
9 questions for Planning? Good. Does the
10 applicant have questions for Office of Planning?

11 VICE CHAIRPERSON SORG: I don't.

12 CHAIRPERSON JORDAN: Okay. Mr.
13 Davis, do you have a question for Office of
14 Planning?

15 MR. DAVIS: We do not, Your Honor.

16 CHAIRPERSON JORDAN: Okay. Ms.
17 Thompson, do you have a question for Office of
18 Planning?

19 MS. THOMPSON: No.

20 CHAIRPERSON JORDAN: Okay. Then
21 let's turn to the Department of Transportation
22 for their report.

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1 MR. OMAI: Good morning. My name
2 is Murat Omai. I work for the Department of
3 Transportation Policy and Planning
4 Administration, and I don't want to repeat
5 everything that was talked before, but I just
6 wanted to highlight that we did go through a
7 rigorous scope and agreement process with the
8 applicant.

9 And where their scope of work,
10 number of intersections, and the roadway
11 network, along with the number of trips and the
12 methodology to generate the trips, and the
13 parking requirements were discussed.

14 And because of the discussions that
15 were ended to finalize the scope and agreement
16 was August 10th, the applicant couldn't actually
17 provide the operational analysis at one of the
18 intersections and we reported that in our
19 document, that they need to provide that in order
20 for us to make a decision if that intersection
21 operates adequately or not, which is the 16th
22 Street and Crittenden intersection.

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1 And besides that, we did look at the
2 trips that are expected to be generated by the
3 increase in the student and staff enrollment
4 on the main campus, and at the south campus,
5 and we found that the numbers were calculated
6 appropriately.

7 And based on the testimony from
8 Office of Planning and from the applicant, we
9 do agree that there's going to be insignificant
10 number of a.m. peak and p.m. peak hour traffic
11 generated by the school proposed increase.

12 And as far as the operational
13 analysis, we did see, in the submitted
14 preliminary traffic impact study, that there
15 is not going to be any significant operational
16 impact of the proposed increase on both campuses
17 along the study area intersections.

18 And I would like to also say that,
19 in these type of studies, as DDOT, we look at
20 the safety aspects more than the operational
21 aspects because the number of trips are
22 insignificant, and the applicant provided a

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1 comparence of safety analysis at the study area
2 intersections, including the
3 pedestrian/bicycle facilities, parking
4 circulation access, and we did actually see that
5 the effort showed that the intersections are
6 considered safe at this point.

7 And the addition of the school's
8 students, faculty, and staff is not going to
9 impact the safety of the area roadway network
10 or the intersections adversely. And the only,
11 I would call it an issue, was the parking that
12 we did actually look at the number of existing
13 spaces that are provided, which, on the northern
14 campus, is 41, and then we calculated the
15 approximate demand to be 61 for the northern
16 campus.

17 And for the southern campus, the
18 existing number of spaces provided were seven,
19 and we calculated that as 22. And at the time
20 when the applicant submitted their study, there
21 was no comprehensive analysis for parking, and
22 I understand that there is some additional

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1 information they provided during this
2 presentation, and we would actually ask the
3 applicant to provide us a comparence of analysis
4 regarding the parking.

5 And with that said, I think we are
6 in general support of the application with the
7 conditions actually outlined in our report
8 submitted to you on September 21st. Thank you.

9 CHAIRPERSON JORDAN: Okay. Does
10 the Board have any questions for Transportation?

11 Does the applicant have questions for
12 Transportation?

13 MS. RODDY: No.

14 CHAIRPERSON JORDAN: Mr. Davis,
15 questions for Transportation?

16 MR. DAVIS: No. Thank you.

17 CHAIRPERSON JORDAN: Ms. Thompson,
18 questions for Transportation?

19 MS. THOMPSON: I just want to make
20 sure that I do understand what DDOT is saying,
21 are the plans that JPDS has submitted, and our
22 concern, obviously, is how to get the traffic

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1 out of the community, and that is, you are now
2 satisfied with what's been presented?

3 MR. OMAI: We have to look at it more
4 in detail because this is new information to
5 us, what's been presented, as far as the bus
6 routing, but our condition in our report
7 outlines that the buses should be kept to, what
8 I call, the main line, and not encroach the
9 neighborhood streets.

10 So we have to actually look at it
11 and see what they're proposing. The slide that
12 they showed was not included in the report and
13 it's the first time that I saw that. So the
14 short answer would be, we have to look at it
15 more in detail to understand what they're
16 proposing and the rationale behind why they're
17 proposing the 14th Street for the bus route.

18 MS. THOMPSON: Okay.

19 CHAIRPERSON JORDAN: Any other
20 questions? But you have seen the study that
21 was done to date and you have no objections to
22 that which they've already submitted, is that

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1 correct?

2 MR. OMAI: That's correct.

3 CHAIRPERSON JORDAN: How
4 contingent upon seeing this additional
5 information is your previous statement that you
6 have no objections? Does this enhance?

7 MR. OMAI: Based on what we
8 reported, it was based on our discussions with
9 the community members as well that, there's one
10 aspect that we did not consider, which was that
11 the southern campus is not the only school in
12 that neighborhood, so their concern was not the
13 number of two buses generated by JPDS, but, you
14 know, overall, the buses there are actually --
15 you know, the bus traffic that's generated by
16 the other campuses as well.

17 And like I mentioned, we were not
18 aware that the school buses were going to use
19 the 14th Street up until today, so that was not
20 included in the study.

21 CHAIRPERSON JORDAN: Okay. I'm
22 clear about that. So you didn't have any of

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1 that on the buses, the bus routes, or any of
2 those things.

3 MR. OMAI: Yes, we didn't have that.

4 That's why it's in our report saying that that
5 needs to be clarified and then they need to have
6 an active management plan to show if the buses
7 are using the designated routes.

8 CHAIRPERSON JORDAN: Any other
9 questions? Any other agency? Let's move along
10 to ANC, is it ANC 4C or 4A?

11 MS. MEYERS: 4C.

12 CHAIRPERSON JORDAN: 4C. Do you
13 have both campuses?

14 MS. MEYERS: No.

15 CHAIRPERSON JORDAN: You don't.
16 4A has one.

17 MS. MEYERS: I believe Dave Wilson
18 has 4A, that's the other ANC Commissioner.

19 CHAIRPERSON JORDAN: Okay. Let's
20 start with 4C then.

21 MS. MEYERS: Okay. Good morning.

22 CHAIRPERSON JORDAN: Good morning.

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1 MS. MEYERS: 4C, I want to say, upon
2 receiving the application from the Office of
3 Zoning informing us that the JPDS had actually
4 bought the campus where the Washington Latin
5 School currently resides, once I received that
6 application, I immediately notified the
7 community that I had received the application
8 and that I wanted to setup a community meeting.

9 I also contacted the JPDS
10 administrative staff to let them know that I
11 had received their application and that there
12 were going to be concerns with the community
13 as far as transportation and the buses coming
14 into the community because, in the 4C, actually,
15 I have five schools that are actually inundated
16 with buses.

17 So I did inform them and let them
18 know that I would like to host a meeting to bring
19 the community and JPDS together to start a dialog
20 about the transition. And so I hosted a meeting
21 and Councilman Bowser was there. I contacted
22 Ms. Thompson from Zabena, and she was present.

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1 I invited members of the community and JPDS.

2 And so the dialog began back in, I
3 believe that the first meeting was in May.
4 Since then, I've been trying to engage both the
5 community and JPDS, along with the ANC, on trying
6 to resolve the parking issues as well as the
7 transportation issues, and I understand, later
8 on down the line, there will be some construction
9 taking place at the school as well.

10 So my role, essentially, is just
11 trying to keep the dialog going, engaging the
12 community, in fact, JPDS, Ms. Thompson, hosted
13 a Zabena meeting, an initial meeting, I did
14 attend that meeting as well, when JPDS came and
15 actually introduced, again, to the community,
16 their wishes and what was going to take place
17 at the school.

18 In turn, I also sent a letter, once
19 I received all of the residents that were going
20 to be impacted within 200 feet, which were 44
21 residents that I received from the listing from,
22 I believe, Zoning or Planning.

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1 I sent a letter to each of the
2 residents with a return envelop to, essentially,
3 explain to them what was going to be occurring
4 with the school and to give them an opportunity
5 to either object or oppose -- I mean, to be in
6 favor or object to it.

7 I did receive responses. I sent out
8 44 letters. I received responses back from only
9 12 residents; five object to it, seven were in
10 favor. Two of those returned responses I
11 received back were via email and the other five
12 were from the returned envelope that I provided
13 for them to send the responses.

14 I did share with Ms. Thompson that
15 I had received the responses and it was kind
16 of, you know, 50/50. And Ms. Thompson did
17 express to me that she wanted notification to
18 go beyond the 200 feet that I was supposed to
19 get in contact with, and I did express to her
20 if she felt -- you know, I shared my letter to
21 her, and that if she felt that she wanted Zabena
22 to go beyond that, that I didn't have a problem

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1 wit that.

2 And so she did do that. It was
3 provided to residents beyond the 200 feet. I
4 don't know from Ms. Thompson how many people
5 have responded beyond that, but I do have in
6 the record, you know, from our perspective of
7 who we contacted. On August 8th, we hosted a
8 community meeting, our 4C community meeting.

9 We invited JPDS and the community
10 to come to that meeting as well to share with
11 the wide community of what was going to take
12 place at the school and also to allow any other
13 community members that had issues or concerns
14 to bring that before the Commission as a whole.

15 I also invited Mr. Wilson, Dave
16 Wilson, who is the Commissioner for 4A, where
17 the upper campus is currently located, to come
18 also and to share with the community any concerns
19 or issues they may have. And so he did come
20 and speak as well.

21 Upon all of the presentations, we
22 did take a vote and there were nine Commissioners

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1 present, one was absent, of the vote, we had
2 seven yes' and one no. At that point, the motion
3 carried and we approved, from our perspective,
4 to support the application.

5 CHAIRPERSON JORDAN: Thank you.
6 Does the Board have any questions of ANC 4C?

7 ZONING CHAIRMAN HOOD: Yes, Mr.
8 Chairman. Vice Chair Meyers, in our submission
9 we have the letters, but it doesn't say do not
10 object. I guess your point was to show us that
11 you sent these to these folks.

12 MS. MEYERS: Yes.

13 ZONING CHAIRMAN HOOD: Regardless
14 of their position.

15 MS. MEYERS: Yes.

16 ZONING CHAIRMAN HOOD: Okay.

17 MS. MEYERS: I did talk to Mr. Nero
18 because he did call and say -- because what I
19 wanted to show was that we had actually did our
20 due diligence to send out the letters, and so
21 what we did was, we submitted all the letters
22 along with our letter of support.

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1 ZONING CHAIRMAN HOOD: Okay.
2 Great. Thank you.

3 CHAIRPERSON JORDAN: Any other
4 questions, anyone? The applicant, any
5 questions?

6 MS. RODDY: No.

7 CHAIRPERSON JORDAN: Mr. Davis?

8 MR. DAVIS: No, Your Honor.

9 CHAIRPERSON JORDAN: Just call me
10 Chair, just Mr. Jordan.

11 MR. DAVIS: No, Mr. Chair.

12 CHAIRPERSON JORDAN: Thank you.
13 Ms. Thompson?

14 MS. THOMPSON: Yes, I do have a
15 number of questions.

16 CHAIRPERSON JORDAN: Sure.

17 MS. THOMPSON: First of all, Rule
18 3115 says that, "The ANC report must indicate
19 the issues and concerns of the ANC about the
20 appeal or application as related to the
21 standards of the zoning regs, against which the
22 appeal or application must be judged."

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1 Now, that's a very important
2 provision.

3 CHAIRPERSON JORDAN: Are you asking
4 a question, please? I need you to ask a question
5 not do a presentation.

6 MS. THOMPSON: Oh, sorry.

7 CHAIRPERSON JORDAN: If you have a
8 question?

9 MS. THOMPSON: So the question is,
10 to Commissioner Meyers, why does the letter not
11 indicate those provisions?

12 CHAIRPERSON JORDAN: Can you
13 rephrase the question, because otherwise, I'm
14 going to --

15 MS. THOMPSON: Then I'll bring it
16 up with my testimony then.

17 CHAIRPERSON JORDAN: Okay. ANC
18 4A, please.

19 MS. THOMPSON: I'm sorry. I do
20 have another question. You testified that
21 seven yes, two no, are these the 200 --

22 MS. MEYERS: No, I sent out, from

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1 the list of residents that I received from --

2 MS. THOMPSON: Oh, I'm sorry. My
3 mistake. I'm reading, actually, the motion.

4 MS. MEYERS: Okay.

5 MS. THOMPSON: The letters that you
6 received back, were those only the ones within
7 200 feet?

8 MS. MEYERS: That was the only
9 people that I submitted documentation to.
10 According to the list of residents that I
11 received from the zoning, I sent letters to each
12 one of those residents. Out of those residents,
13 I received 12 responses.

14 MS. THOMPSON: Okay. Did you
15 receive any responses from people who live
16 beyond 200 feet?

17 MS. MEYERS: I did not, because I
18 was expecting that from you because you
19 indicated that you were going to reach out to
20 those residents that went beyond 200 feet. What
21 I indicated to you was, I was only going to send
22 notification to the residents that I received

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1 from.

2 MS. THOMPSON: The question I asked
3 was --

4 CHAIRPERSON JORDAN: Well, let me
5 stop all of that, did your ANC, did you have
6 a quorum of your ANC?

7 MS. MEYERS: Yes, we did.

8 CHAIRPERSON JORDAN: And you voted
9 in favor of the application.

10 MS. MEYERS: Yes, we did.

11 CHAIRPERSON JORDAN: Any other
12 questions about, did John Smith get it, or how
13 far it went around, she had a quorum of her ANC,
14 then that's what we need to move forward.

15 MS. THOMPSON: That's fine. I'll
16 -- on the testimony.

17 CHAIRPERSON JORDAN: Okay. ANC
18 4A, please. You need a spot. Can we --

19 MR. WILSON: Sure. I can squeeze
20 in here. Good morning.

21 CHAIRPERSON JORDAN: Good morning.

22 MR. WILSON: I'm Dave Wilson.

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1 CHAIRPERSON JORDAN: Mr. Wilson,
2 were you here earlier to get sworn in or to
3 provide --

4 MR. WILSON: No, I haven't been
5 sworn in.

6 CHAIRPERSON JORDAN: Please, Mr.
7 Moy.

8 MR. MOY: Do you solemnly swear or
9 affirm that the testimony you're about to
10 present in this proceeding is the truth, the
11 whole truth, and nothing but the truth?

12 MR. WILSON: Yes.

13 MR. MOY: Thank you.

14 CHAIRPERSON JORDAN: And I'm going
15 to need you, when you're finished giving your
16 testimony, to complete two witness cards and
17 give them to the court reporter, please.

18 MR. WILSON: Thank you. My name is
19 Dave Wilson. My single-member district, which
20 was in 4A07, contains the upper campus of the
21 applicant. And the applicant is well-know to
22 the ANC over the years. We found it to be a

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1 good neighbor. We were particularly impressed
2 with the efforts they took to minimize car
3 traffic by parents dropping off and picking up
4 kids.

5 Specifically what they did, which
6 I thought was very clever, is they subsidized
7 the cost of having kids come by bus, which is
8 to say that the school reached into its own
9 pocket and subsidized its parents. As a result,
10 there was a rather dramatic decrease in the
11 number of parents who were bringing kids by car.

12 Unfortunately, I don't have the
13 exact statistic, but I know they're available.

14 In terms of this matter, we filed a letter after
15 we had a debate at our ANC meeting. There were
16 several members of the public that were there
17 who spoke in favor of the changes.

18 And after hearing those folks and
19 the ANC members had read the documents, the ANC
20 voted unanimously in favor of the changes that
21 the applicant seeks.

22 CHAIRPERSON JORDAN: All right.

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1 Thank you. Do you have anything additional?
2 We appreciate you both coming down.

3 MR. WILSON: Oh, I'm sorry. There
4 is one additional thing. For some time, there
5 had been some unhappiness between Dr. Welsing
6 and the school, and in June, Dr. Keith Hunter,
7 an old friend of Dr. Welsing, contacted me and
8 said, could we have lunch? We had lunch. The
9 idea was, what efforts could be made to diminish
10 the friction that there was between Dr. Welsing
11 and the school?

12 We met. I informed the school that
13 I would love to arrange a meeting.
14 Unfortunately, Dr. Hunter was never able to get
15 the go ahead from Dr. Welsing for me to arrange
16 that meeting. So those efforts, in June of this
17 year, went nowhere.

18 CHAIRPERSON JORDAN: Okay. Great.
19 Does the Board have any questions of ANC 4A?
20 Does the applicant have any questions?

21 MS. RODDY: I would just like to
22 clarify, Mr. Wilson, when you were trying to

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1 arrange the meetings, was JPDS amenable to
2 meeting with their neighbor?

3 MR. WILSON: Yes, they were at the
4 meeting. They offered an explanation of the
5 documents that are before this BZA.

6 MS. RODDY: Thank you.

7 CHAIRPERSON JORDAN: Mr. Davis?

8 MR. DAVIS: Yes, I have a couple of
9 questions. Mr. Wilson, you testified that, in
10 June, Dr. Keith Hunter contacted you about
11 arranging a meeting, is that correct?

12 MR. WILSON: Yes, sir.

13 MR. DAVIS: But in fact, wasn't
14 there an ANC meeting that was conducted on May
15 21st and that was the meeting at which Dr. Keith
16 Hunter appeared and first met you and members
17 of the JPDS staff and Board?

18 MR. WILSON: It may have been the
19 first time. It was the first time I met him.

20 MR. DAVIS: Oh, okay. And in fact,
21 subsequent to that meeting, I think you
22 contacted him about having lunch, is that

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1 correct?

2 MR. WILSON: That may be. I mean,
3 there was an attempt to reach out to try to
4 arrange a meeting to try to deal with the
5 friction.

6 MR. DAVIS: Well, and at that
7 meeting on May 21st, wasn't it Dr. Hunter's
8 primary concern that he was there representing
9 Dr. Welsing because he was an old friend and
10 as a physician, he knew that she was going
11 through some stress because of the noise on the
12 playground, and he was concerned about her
13 health?

14 MS. RODDY: I would like to object
15 since he's not here to testify what his concerns
16 were for himself.

17 CHAIRPERSON JORDAN: Okay.
18 Continue. Overruled. Continue. The basis of
19 why he had the meeting, I think, is that what
20 you're asking?

21 MR. DAVIS: Right. I mean, isn't
22 it true that Dr. Hunter presented at that meeting

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1 that he was there because he was concerned about
2 Dr. Welsing's health and he, himself, wanted
3 to reach out to the JPDS Board and staff to see
4 if there wasn't something that could be done
5 to accommodate Dr. Welsing?

6 MR. WILSON: He said he wanted to
7 reach out, and yet, when I took him up on it,
8 he was unable to get a positive response from
9 his client to setup such a meeting.

10 MR. DAVIS: From his client or from
11 his friend?

12 MR. WILSON: I'm sorry. I didn't
13 mean his client, but his old friend.

14 MR. DAVIS: Okay. I just wanted
15 the record to be clear because --

16 MR. WILSON: There were two or three
17 occasions in which Dr. Hunter and I spoke and
18 the next step was to be, he was to get in touch
19 with Dr. Welsing and then we would arrange a
20 meeting, but he was never able to get in touch
21 with Dr. Welsing.

22 CHAIRPERSON JORDAN: We just know

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1 that the meeting didn't happen.

2 MR. DAVIS: Right.

3 MR. WILSON: That's right.

4 CHAIRPERSON JORDAN: Allegedly,
5 the meeting didn't happen. Okay. Any other
6 questions?

7 MR. DAVIS: No, that's it, Your
8 Honor. Dr. Welsing has a question.

9 DR. WELSING: Dr. Hunter reported
10 to me after his attendance, I asked him to attend
11 for me because I had office hours, and he said
12 that after he discussed the fact that there was
13 noise and how the noise was impacting me, that
14 the decision made by the Jewish Primary Day
15 School attendance was that they were in
16 compliance.

17 CHAIRPERSON JORDAN: Excuse me, Dr.
18 Welsing, is this going to be a question?

19 DR. WELSING: I'm asking, was that
20 not the case, that the Jewish Primary Day School
21 said that they were in compliance with what BZA
22 had said that they should do?

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1 MR. WILSON: Well, as I recall it,
2 Dr. Hunter asked me for some of the documentation
3 that the BZA had created in considering the
4 compliance issue and claimed that Dr. Welsing
5 had never seen the documentation. I made copies
6 of them, gave them to Dr. Hunter, and who, in
7 turn, gave it to Dr. Welsing. Dr. Hunter said
8 that she found that information helpful.

9 DR. WELSING: And did that
10 information that he gave where Jewish Primary
11 Day School had been told they were not in
12 compliance.

13 CHAIRPERSON JORDAN: I'm missing
14 where you're going with this question. The
15 basis of his testimony, and we're getting way
16 beyond the scope, is that there had been a
17 request for a meeting by an alleged friend; a
18 meeting was attempted; the meeting didn't
19 happen. That's where we are. All the other
20 stuff, I'm not going to have us continue to add
21 testimony and statements in in trying to
22 exacerbate the issue.

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1 The issue, what was testified on
2 direct examination, which will become the scope
3 of the cross-examination, was, a meeting was
4 requested; a meeting didn't happen. That's
5 where we are.

6 DR. WELSING: Because I had legal
7 representation.

8 CHAIRPERSON JORDAN: Well, in that
9 regard, because legal representation, I also
10 let you go beyond and let you ask a question,
11 but we don't tag-team our questions in people
12 representing one another. Mr. Davis has
13 represented that he's your representative, and
14 so I was going to stop it then, but I gave you
15 the courtesy to allow you to go ahead and ask
16 the question, okay?

17 Where are we? Are there persons in
18 the audience in support of the application?
19 Persons in opposition? We'll turn back to the
20 applicant for rebuttal and closing.

21 MS. RODDY: Thank you. And
22 actually, I believe that we are -- we have

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1 presentations to be made by the parties.

2 CHAIRPERSON JORDAN: Right. See,
3 I got all discombobulated. Thank you so very
4 much. Then let's go to -- who was first? Let's
5 go to Mr. Carter, please; Davis. See how that
6 line just took me. Mr. Davis, please, your
7 presentation.

8 MR. DAVIS: Yes. The Members of
9 the Board, I'm John Davis and I'm representing
10 Dr. Welsing. And I do need to give you some
11 historical context on this because I think it's
12 critical, but --

13 CHAIRPERSON JORDAN: Excuse me one
14 second. Is the clock on? Oh, just one second,
15 please. All right. So it's 20 minutes and
16 you're on.

17 MR. DAVIS: Thank you. As I said,
18 by way of historical context, in 2007, the Jewish
19 Primary Day School made an application for some
20 zoning relief to increase the number of students
21 at the school and to also build a playground.

22 The playground was going to be built on property

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1 that they had acquired when the resident -- and
2 let me set it.

3 The Jewish Primary Day School is on
4 the north side, on the north corner, of the 6000
5 Block 16th Street. Dr. Welsing is south of the
6 school and there was a residence and property
7 that was between Dr. Welsing's property and the
8 school.

9 The school acquired the
10 intermediate property and proposed to build a
11 playground on that property by razing the
12 residence that was on the property, and then
13 having leveled the structure and cleared the
14 ground to build a playground.

15 Dr. Welsing appeared. She
16 attempted to get party status, but I don't think,
17 at that time, she -- well, at any rate. She
18 attempted to get party status, she did not get
19 party status, but throughout the meetings that
20 were held by the ANC and by the Jewish Primary
21 Day School, Dr. Welsing stated one concern.

22 She never opposed the relief, her

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1 concern was that, if the relief was granted that
2 there be a wall, similar to the walls that you
3 see on the highway that separate residences from
4 the traffic noise, erected between the school,
5 between the playground area, and her property
6 line.

7 That idea was rejected by the Jewish
8 Primary Day School, but what it proposed instead
9 was, because there were these huge evergreen
10 trees along Dr. Welsing's property line, some
11 40 feet in height, that these trees be left in
12 that spot along the property line.

13 And that these trees, because of
14 their height and their width, that they would
15 act as a noise and a sound buffer between Dr.
16 Welsing's property and the playground, and that
17 that would, in fact, protect Dr. Welsing.

18 The Jewish Primary Day School
19 proposed additionally that, in addition to
20 leaving those trees in place, that they would
21 plant additional trees to augment the natural
22 structure of the trees, to augment the noise

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1 and the sound buffer that was there.

2 Unfortunately, for whatever reason,
3 and it's not clear, there was a decision made
4 at the very beginning that once the structure,
5 once the house had been razed on the property
6 -- now, the relief that was granted by the Board
7 mentions specifically that the landscaping plan
8 that was in place, and the landscaping plan that
9 was in place didn't mention the trees.

10 The Jewish Primary Day School
11 brought the trees up and proposed in its proposed
12 findings of fact and conclusions of law that
13 there did not need to be a wall, that Dr.
14 Welsing's concerns about the noise could be met
15 by the non-disturbance of the existing trees
16 and some additional trees be augmented, which
17 they were doing, they thought, as a gratuity.

18 In point of fact, at the time that
19 the construction was begun in 2008, actually,
20 the trees were knocked down right after the house
21 was knocked down, so that, at the time the
22 playground was built, and the playground itself

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1 is a structure of several feet of concrete, on
2 top of which is some artificial turf, but at
3 the time that the playground was built,
4 therefore, the trees were gone, and at that
5 point, there was no protection, either noise
6 or sound, between Dr. Welsing's home and the
7 playground.

8 Subsequently, as a result of Dr.
9 Welsing calling this to the attention of the
10 Jewish Primary Day School, and some meetings
11 that were held, it was agreed that some trees
12 would be planted, but the trees that were
13 planted, and there were eight trees planted,
14 were of the same variety, but these trees at
15 the time that they were planted were 8, or 10,
16 12 feet tall, and now I think they're around
17 15 feet tall.

18 But if you understand evergreens,
19 you know that a 10-foot tall tree is like you
20 might have in your home at Christmas. It's not
21 going to take up that much space. And along
22 a span of a 100 and some odd feet, a tree that

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1 may be 2 or 3 feet in diameter is not going to
2 take up much space, such that, there is now no
3 natural sound or sight buffer to protect Dr.
4 Welsing from the noise.

5 And this is something that -- this
6 was her only concern because there had been a
7 school. Now, understanding, prior to the
8 Jewish Primary Day School taking over that
9 property, the Owl School was there, which is
10 kind of a little school that went up to, like,
11 I think, 3rd grade; 2nd or 3rd grade.

12 But the trees were there and at that
13 point in time the trees existed to at least
14 protect some of the noise. With the trees gone,
15 there was no protection, either sight or sound,
16 to protect Dr. Welsing.

17 The result of it is, is that, she's
18 had some problems with the noise. She's brought
19 that to the attention of the Jewish Primary Day
20 School on several occasions, and through several
21 ways; through writing letters herself, through
22 making phone calls, through hiring attorneys

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1 and having those attorneys communicate, and
2 ultimately, to filing a complaint with the
3 Zoning Administrator's Office.

4 And the Zoning Administrator's
5 Office subsequently, in September of 2011, after
6 completing an investigation that lasted for
7 several months, did conclude that there was a
8 problem with the noise and with the buffer.

9 Now, when the Board issued its order
10 in Case Number 17700, allowing for the zoning
11 relief, one of the things that it provided for
12 was a 15-foot setback. Now, Unfortunately,
13 there was never a determination of whether that
14 15-foot setback was to be consistent all along
15 the property line or whether or not it was to
16 be an average.

17 And of course, as you know, if it's
18 going to be an average, it has occurred as it
19 has now. And that is, at the western end,
20 closest to Dr. Welsing's house, there's only,
21 like, a 5 or 6-foot setback, and at the eastern
22 end, where it's farther away, there is, like,

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1 a 20-foot setback.

2 So you have an average of 15 feet
3 all along, but closer to her home, the buffer
4 zone is much narrower in scope than it is at
5 the farthest end of her property, farthest away
6 from her home.

7 But the bottom-line is, is that, Dr.
8 Welsing has had problems with the noise. There
9 is no barrier. The natural barrier of the trees
10 that provided a sight and a sound buffer is gone.

11 And so as a result, she not only has to deal
12 with the noise, which has become very
13 disconcerting for her, and as she will testify,
14 has caused her some physical problems, but she
15 has a situation where there are all kinds of
16 objects coming from the playground into her
17 yard; baseballs, soccer balls, a baseball bat,
18 those kind of objects.

19 And of course, if you're sitting in
20 your backyard and you notice that these objects
21 are in your yard, I mean, it may cause you to
22 be somewhat anxious about the fact that, is it

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1 going to come into your yard at a time when you're
2 sitting back there trying to read or enjoy
3 yourself.

4 But of course, her situation is that
5 she really can't go outside her house at the
6 time that the students are on the lot because
7 of the noise itself. No matter how you look
8 at it, she has alleged from the very beginning
9 that her only concern was noise and that the
10 very thing that was to protect her from the
11 noise, which was these mature trees, have been
12 destroyed. They were destroyed ab initio, from
13 the very onset, of the construction.

14 And as a result, she has had no
15 protection in over the period of two years now
16 that this has been going on. It has caused her
17 some serious health problems. We differ with
18 the school's contention that it is in compliance
19 with the Board order, because the way we read
20 the September 26th, 2011 report of investigation
21 is that the issue of noise has not been, in fact,
22 resolved.

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1 And that the issue of the buffer area
2 is inconclusive because the fact that the
3 architectural plan that was approved by the
4 Board, really, does not show the dimensions of
5 the buffer zone.

6 And I think that's the essence of
7 the presentation. Dr. Hunter was to be here
8 to testify, but because of a commitment that
9 he has to his practice, he cannot be here, but
10 we had put into evidence at the time that Dr.
11 Welsing made her complaint, and that matter has
12 not been resolved because your office, the
13 Office of Zoning, has referred the matter to
14 the Department of Consumer and Regulatory
15 Affairs over the issue of enforcement.

16 And from my understanding, the
17 Office of Consumer and Regulatory Affairs, the
18 Office of Zoning Administrator within the
19 Department of Consumer and Regulatory Affairs,
20 has had a number of staff meetings in an effort
21 to determine what exactly to do, and for whatever
22 reason, we've had no report that anything has

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1 been done.

2 The last thing that we heard was in,
3 approximately, May or June of this year when
4 they stated they had taken the matter under
5 advisement, but your staff, Mr. Nero and a woman
6 named Tracy Rhodes Whitten, they, in fact, came
7 out to Dr. Welsing's property to investigate
8 the complaint, and the report that they issued
9 did say that there was an issue with the noise
10 and with the buffer zone.

11 And on the basis of that, that was
12 referred to DCRA for enforcement. If you have
13 any questions, I'll be happy to answer them.

14 CHAIRPERSON JORDAN: All right.
15 Any questions of Mr. Davis from the Board?

16 MR. DAVIS: There's one thing I did
17 leave out and that is, is that, the current
18 application is predicated upon the fact that
19 the Jewish Primary Day School has acquired the
20 property immediately to the south of Dr. Welsing
21 so that she is now the only neighbor left on
22 that block.

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1 And the configuration of the
2 property is, although the house is technically
3 on the corner, and I think Dr. Phillips owned
4 that house, which was at the corner of 16th and
5 Military Road, the configuration of the property
6 is that, in fact, that property's backyard wraps
7 behind Dr. Welsing's property, so that it
8 actually borders Dr. Welsing's property on both
9 the south and on the east.

10 And there is now a playground area
11 to the south of her property also.

12 CHAIRPERSON JORDAN: Kind of
13 V-shapes it.

14 MR. DAVIS: Yes. I'm sorry,
15 there's a playground area to the east and to
16 the north, so that she's kind of boxed in.

17 CHAIRPERSON JORDAN: Okay. Does
18 the Board have any questions of --

19 VICE CHAIRPERSON SORG: Thank you,
20 Mr. Chairman, just one question, I'm trying to
21 get the lay of the land here with the property.

22 Mr. Davis, does Dr. Welsing have a fence

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1 surrounding her property?

2 MR. DAVIS: She has a fence on the
3 north border, yes.

4 VICE CHAIRPERSON SORG: And can you
5 describe the type of fence?

6 MR. DAVIS: Yes, it's a long wood
7 8-foot tall fence.

8 VICE CHAIRPERSON SORG: Okay.
9 Thank you.

10 CHAIRPERSON JORDAN: Any other
11 questions? I turn to the applicant for
12 questions.

13 MS. RODDY: I have none.

14 CHAIRPERSON JORDAN: Ms. Thompson,
15 do you have any questions that you'd like to
16 ask of --

17 MS. THOMPSON: No.

18 CHAIRPERSON JORDAN: So let's now
19 turn to Ms. Thompson.

20 MR. DAVIS: Yes, I was going to ask,
21 Mr. Chair, if -- Dr. Welsing had wanted to make
22 some specific statements. Should we save that?

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1 CHAIRPERSON JORDAN: No, you can
2 make it still within part of your case. Go
3 ahead.

4 DR. WELSING: I would just like to
5 say I have lived at 6025 16th for 40 years and
6 this is going into the third year that I have
7 been bombarded with the playground noise. I
8 know that, when there's a playground, children
9 are yelling and shouting. That's normal.

10 However, the noise comes over on to
11 my property just as though my backyard, my porch,
12 is a part of the playground area. I can't open
13 my windows. I can't open the door. I can't
14 go out on the porch without being bombarded by
15 the noise. I can hear all of the children's
16 voices. I can hear the teacher's voices.

17 If they blow a sports whistle, I hear
18 all of that. If everything is closed, the noise
19 is still inside of my home because there's no
20 buffer for noise whatsoever. And I wrote to
21 the school when the playground opened and I said
22 that the noise was causing me to have physical

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1 symptoms and they wrote back, the second
2 response from them, I wrote in 2009, 2010, again
3 in 2011, and the response was, I'm sorry you're
4 sick, but we're in compliance.

5 I have been caused to have increased
6 heart rate, high blood pressure, headaches every
7 single day. I even have to rush away from my
8 house to get away from the noise and go to my
9 office, and I can't describe how horrible it
10 is to have noise every day.

11 I'm certain that in the school, they
12 have to have quiet so that their children can
13 study. I'm a psychiatrist. I am a writer.
14 And I depend on quiet in my home and that has
15 been completely destroyed. And it's sort of
16 a callousness of attitude. And so to say I
17 hadn't tried to reach out.

18 When I woke up one morning and heard
19 bulldozers and I went to the window and saw that
20 these big huge trees were being bulldozed, I
21 immediately called the school and was told that
22 wasn't supposed to happen, but they were gone.

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1 And so I have made efforts. I had
2 three attorneys in the process. One of the
3 attorneys told me that the school's attorney
4 said, see if you can persuade her to move because
5 of the noise that is going to be in the area.

6 I'm 77 years old. Move? Just even the thought
7 of being forced to move in order to preserve
8 my health.

9 The doctor referred me to have a
10 cardiology consultation. They determined that
11 I had atrial fibrillation, was warned that this
12 could cause me to have a heart attack or a stroke,
13 so this is what I am confronted with five days
14 a week; multiple hours per day.

15 MR. DAVIS: And, Your Honor, if I
16 may. I don't want to turn this into a --

17 CHAIRPERSON JORDAN: Is your mic
18 on?

19 MR. DAVIS: Once the issue of Dr.
20 Welsing's health has been raised, I mean, she's
21 suffering from some -- she's been diagnosed with
22 some medical conditions that are classified as

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1 disabilities under both the Americans with
2 Disabilities Act and the District of Columbia
3 Human Rights Act.

4 At this point in time, what we're
5 asking for is an accommodation. And the
6 accommodation that Dr. Welsing initially asked
7 for before she was diagnosed with the condition
8 was a wall.

9 And we don't think that it would be
10 a hardship imposed on the applicant for a
11 fiberglass wall, similar to the kind of wall
12 that is built on the highways to protect the
13 residents on the other side of the wall from
14 the noise or the traffic.

15 We don't think that it would impose
16 a hardship on the applicant if that kind of
17 relief were provided for Dr. Welsing. That is
18 absolutely a reasonable accommodation.

19 CHAIRPERSON JORDAN: Let me stop
20 you just one second, please. Mary. I'm sorry.
21 Would you please proceed.

22 MR. DAVIS: That was the gist of it.

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1 I mean, what we are asking for is a reasonable
2 accommodation at this point. I mean, before
3 it was a concern, but now it's just a request
4 for a reasonable accommodation as part of the
5 relief that the Board would grant to the
6 applicant.

7 I mean, because in the initial
8 application in 2007 for 17700, the issue was,
9 how the parties, how the JPDS, was going to work
10 to ensure that the concerns of Dr. Welsing were
11 met. And, you know, three years later, we're
12 still looking at the same concerns, except now,
13 they have created a medical problem for Dr.
14 Welsing.

15 CHAIRPERSON JORDAN: Thank you.
16 Is there any cross-examination -- or excuse me,
17 let me ask, does the Board have any other
18 questions you need to ask?

19 ZONING CHAIRMAN HOOD: Mr.
20 Chairman, I wanted to, and this may have been
21 -- excuse me, I had to run out, this may have
22 been answered. I want to talk about the buffer

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1 with the trees. What was there previously was
2 suitable. It was okay. It was agreeable.

3 MR. DAVIS: I mean, the question
4 was, did JPDS propose that as opposed to building
5 a wall --

6 ZONING CHAIRMAN HOOD: I understand
7 that, but there were some trees there at one
8 time and it seems like those were amenable.

9 MR. DAVIS: Well, if I can answer
10 your question in this way, that issue was still
11 in the air because the playground had not been
12 built. The question was, would the trees
13 suffice once the playground was built? That
14 question became moot because the trees were
15 knocked down before the playground was built.

16 ZONING CHAIRMAN HOOD: Oh, so you
17 never really had a chance to --

18 MR. DAVIS: Exactly.

19 ZONING CHAIRMAN HOOD: Okay.
20 Well, I misunderstood that as we went along.
21 I thought that maybe they needed to plant some
22 more mature trees. I'm not an arborist, but

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1 I thought there was something already
2 satisfactory there. But okay, that's a moot
3 point.

4 So the wall, obviously, is a no
5 starter, right?

6 MR. DAVIS: Well, I think at this
7 point it becomes almost indispensable to
8 accommodate Dr. Welsing's medical condition.
9 You may have been out of the room, but what I
10 was saying was that, at this point in time, Dr.
11 Welsing has been diagnosed with several medical
12 conditions that her physician has attributed
13 to the stress created by the noise.

14 MS. RODDY: I would just like to
15 object since we don't have a physician present
16 to provide the testimony to link the noise with
17 her conditions.

18 CHAIRPERSON JORDAN: And I'm going
19 to overrule it.

20 ZONING CHAIRMAN HOOD: I think --
21 that's all right. No.

22 CHAIRPERSON JORDAN: We're going to

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1 take another break. Yes. Let's take a
2 five-minute break and come back, please.

3 (Whereupon, the foregoing matter
4 went off the record at 12:12 p.m. and went back
5 on the record at 12:19 p.m.)

6 CHAIRPERSON JORDAN: Mr. Davis.

7 MS. THOMPSON: I think he's
8 finished.

9 CHAIRPERSON JORDAN: He's still
10 with us somewhere. I see his papers. Somebody
11 call for Mr. Davis somewhere in the hallway or
12 whatever?

13 MR. DAVIS: Mr. Wilson, did you give
14 them the witness cards?

15 CHAIRPERSON JORDAN: Mr. Davis, did
16 you have anything else you want to say to us
17 in 50 seconds?

18 MR. DAVIS: Your Honor, I mean, Mr.
19 Chairman --

20 CHAIRPERSON JORDAN: I try to be
21 honorable.

22 MR. DAVIS: Mr. Honorable Chair

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1 Jordan, I think Dr. Welsing does want to say
2 one other thing just as adjunct to a couple of
3 the remarks that I made.

4 CHAIRPERSON JORDAN: Fifty
5 seconds, please.

6 DR. WELSING: I just wanted to
7 comment that I did have several meetings at the
8 school, at the Jewish Primary Day School, with
9 the ANC person, Habieba Snow-Israel, and at the
10 last meeting that we had, we walked off the 15
11 feet from my property line and that that was
12 the distance that -- the trees were there, and
13 we walked off the distance from those large
14 trees, and that that was to be the buffer space
15 that other trees to be planted.

16 But I'm just saying, we physically
17 walked off that distance all along my entire
18 fence line. So that was my understanding,
19 initially, as to that was what was going to
20 happen to give me the protection from the noise,
21 which never happened.

22 CHAIRPERSON JORDAN: All right.

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1 Thank you. Appreciate it. Board, any
2 questions of the report? No; yes? Yes. Go
3 ahead.

4 VICE CHAIRPERSON SORG: Just to
5 clarify. So what, in your mind, happened
6 instead? What, in your opinion, happened
7 instead?

8 DR. WELSING: Well, the trees were
9 bulldozed down that were supposed to be there.

10 And as I said, I called immediately when the
11 bulldozers were there, but the trees were gone.

12 And I think the person's name was Marshall that
13 I spoke to at the school and he was the one who
14 said, wow, that wasn't supposed to happen.

15 And so then subsequently, very small
16 trees were put up, but the trees are spaced
17 widely apart. And so for you to have a noise
18 buffer, I even had a person come out, a person
19 who writes for the Washington Post, and discuss
20 with me what would constitute an architectural
21 landscape buffer.

22 And you can't have any spaces

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1 in-between. It has to be a solid configuration
2 like you have along on a highway. If you have
3 spaces, the noise just comes in through those
4 spaces, and that's exactly what exists now.
5 There are eight trees that are small, but
6 they're, like, you know, 3, 4, 5-foot spaces
7 in-between. That's just on my north, their
8 south, property line.

9 And they are almost right up on my
10 fence, so there's no 15 feet, and that's why
11 footballs, I must have seven footballs, seven
12 soccer balls, frisbees, baseball bats that have
13 come over into my yard; volleyballs, because
14 there's space. There's no barrier.

15 CHAIRPERSON JORDAN: Thank you.

16 VICE CHAIRPERSON SORG: Okay.
17 Thank you.

18 CHAIRPERSON JORDAN: Any other
19 questions? Does the applicant have questions?

20 MS. RODDY: I do. Thank you. Just
21 so that JPDS can be clear, I understand that
22 you are requesting a wall to be put between the

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1 two properties, can you tell me how tall the
2 wall that you're requesting is?

3 DR. WELSING: Well, let's say 40
4 feet, but I would say that what seems to be
5 required at this point is to have architectural
6 noise people come and look and see what would
7 be the recommendation. I regret this wasn't
8 done initially, but at this point, and I'm just
9 looking at in terms of you know what's happening
10 with me physically.

11 My doctor said, don't let them kill
12 you. So something that blocks the noise --

13 CHAIRPERSON JORDAN: So your
14 response is, you really don't know exactly what
15 you need, but you want something that's going
16 to deal with the impact of the noise that should
17 be done by a professional study or something.

18 DR. WELSING: And I've said in the
19 beginning with the discussions sitting in the
20 Jewish Primary Day School that, put up a wall.

21 No, we're not going to put up a wall. But I
22 know a wall would block the noise.

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1 CHAIRPERSON JORDAN: Any
2 additional questions?

3 MS. RODDY: No.

4 CHAIRPERSON JORDAN: Okay. I
5 don't know if, Ms. Thompson, you had any
6 questions you want to ask of Dr. Welsing. Okay.
7 Then let's now go to Ms. Thompson regarding
8 your presentation. You have 20 minutes.

9 MS. THOMPSON: Thank you. I think
10 it's really important to talk about the
11 community that I represent. And also, I should
12 say at the outset that we're not here to oppose
13 the grant. What we're here for is to say that
14 this grant should be conditional, that there
15 are enough conditions around this exception and
16 variance that warrants that it should have
17 conditions placed on it.

18 I first want to tell you a little
19 bit about our community. This is not -- while
20 we are one residential community, this community
21 has -- the last time we, sort of, did an informal
22 survey, approximately 45 institutions in this

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1 community. There is almost an institution on
2 each block.

3 In fact, it's the exception if you
4 cannot find an institution on a block. The
5 result of this is that this is not your quiet,
6 secluded R-1 community. We have, in addition
7 to the institutions, pretty much all the major
8 traffic arteries, which in other cities would
9 have been considered the highways.

10 We've got 16th Street. We've got
11 14th Street. We've got 13th Street. And we
12 border up against Georgia Avenue. And the
13 importance of all of this is that, for example,
14 if there is a problem on Georgia Avenue, the
15 traffic comes through to access whatever point
16 it needs to access to get out of the city, to
17 Silver Spring or wherever.

18 The institutions in our community
19 are not small institutions. They're major.
20 You've got the bus barn, the northern bus barn,
21 that housed, and probably continues to, I'm not
22 sure how many buses, but at one time, 350 buses,

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1 and of course, the bus drivers. We've got the
2 Carter Barron amphitheater. We've got the
3 tennis stadium and the impacts on the community.

4 So it's that setting that causes us
5 to say that when there is a request for a variance
6 and a special exception, it should be viewed
7 very carefully. It cannot be viewed in
8 isolation from the community and the cumulative
9 impacts of the community.

10 And so the other point I'd like to
11 make today is, the result of living in this
12 community with all these institutions gives us
13 a certain level of experience with what happens
14 at these schools. So the location, for example,
15 that JPDS has purchased, we were able to observe
16 what happens there for 23 years.

17 It went from a pre-K, to a pre-K
18 plus, to a high school, to where it's going back
19 into a pre-K scenario. So we know all the
20 various traffic impacts and how it's affected
21 our quality of life in that community. And so
22 were essentially saying, this exception is

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1 coming up where JPDS is asking for a 65 percent
2 relief from the requirement parking.

3 We have experience in that community
4 where another school, Parkmont, sought relief.

5 They were seeking 62 percent relief. And what
6 the BZA did was, it, essentially, granted it
7 to Parkmont but said it was conditional, because
8 you've got to take a look at the traffic impacts.

9 We see no reason that JPDS should
10 be treated differently. And in fact, we're very
11 concerned about, if they're granted the variance
12 without someone observing what happens over
13 time. One of the concerns is, we've got four
14 private schools within a block of each other.

15 We've got JPDS on one end. We've
16 got Parkmont. We've got the Kingsbury School.

17 We've got the Ideal Schools. These schools
18 are all within a block of each other. Our
19 concern is, at some point, the zoning regs,
20 essentially, get trashed. No one has to meet
21 the onsite requirements.

22 As we move down the road with this

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1 kind of thinking that an applicant just has to
2 show up and pretty much say, listen, we've got
3 a different school formula. We have more staff
4 than the school before, and so therefore, we
5 should be granted a variance free of anyone
6 subsequently taking a look at our operations.

7 And we're saying, what prevents all
8 the schools that are in our area when they come
9 up, to raise the exact same argument? No, we
10 don't have to meet your onsite parking
11 requirements. The same argument could be used
12 by Ideal. Next year when Parkmont School comes
13 up for its renewal, the same argument, why should
14 you continue to pay attention to our operations?

15 And so that's what we're here today
16 to say, is that, this is unfair to the community,
17 to the extent the BZA allows private schools,
18 in particular this one, in a narrow piece of
19 land, there ought to be continued oversight.
20 What is reasonable?

21 Parkmont started with five years and
22 after a number of years, and there was an

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1 observation that the community was satisfied
2 with what they were doing, it was extended to
3 ten years. We're basically saying, this is the
4 same treatment that should be accorded in this
5 scenario.

6 To do otherwise, essentially, is to,
7 as far as I'm concerned, trash the whole notion
8 of the zoning regulations, private schools, and
9 the requirement for onsite parking.

10 In fact, one of the things that I
11 found very interesting today was that, while
12 JPDS is in negotiations with one of the churches
13 down the street to locate parking, the
14 information went over the listserv, which then
15 caused the people who were down at the other
16 end to be concerned about traffic.

17 And, obviously, when the zoning regs
18 were put in place and it said onsite parking,
19 that was what it was trying to alleviate. You
20 start to say it's fine, you don't have to provide
21 the onsite parking. This standard can be met
22 in another location and in that location, the

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1 residents there start to, you know, scream,
2 essentially, because this is what we're
3 beginning to look at.

4 And so we're saying, what is
5 reasonable here is that, if this variance is
6 to be granted, it should be conditional. It
7 should have oversight by the Office of Zoning
8 periodically. What we found that occurred at
9 that site at 4715 16th Street is, that location
10 first started with the Lowell School, our
11 community, essentially, was inundated with
12 traffic stacked up around our homes.

13 Buses, and I want to certainly
14 correct that because someone said that Lowell
15 School did not operate buses, going back and
16 forth between the campuses of the school.
17 Similarly, then it was changed over to the
18 British School. We had the exact same issues.

19 So what starts to happen is that the
20 burden is placed on the community to constantly
21 monitor who has purchased the school; what
22 operations are now taking place at the location.

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1 We commend the Jewish School for showing up
2 for asking for a variance and bringing this issue
3 to the table because, we certainly had the
4 British School there that did not seek a
5 variance, but expanded the number of students
6 and changed the operations, and even ran a bus
7 depot on the site.

8 We're also saying to the British
9 School, yes, you've indicated that the buses
10 will take longer if the children -- I'm sorry,
11 that it's unacceptable to you that the buses
12 circumvent the area and come back on to 16th
13 Street when they're headed south.

14 But we have to understand that this
15 community is inundated with the impacts of the
16 churches. There are 45 institutions in that
17 community. This is not some, you know,
18 neighbors who are just, you know, we want to
19 live this idyllic existence. We can't help it
20 at this point. We are constantly bombarded by
21 traffic.

22 And we've gotten, essentially, no

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1 relief from our government agencies and this
2 is an opportunity to, essentially, set that
3 right. You know, so this is our major concern
4 about this zoning variance.

5 CHAIRPERSON JORDAN: Okay. Thank
6 you very much. And I believe we understand what
7 you're talking about. Any questions from the
8 Board for Ms. Thompson? Any questions from the
9 applicant?

10 MS. RODDY: No.

11 CHAIRPERSON JORDAN: Okay. Now we
12 will turn to the applicant for any rebuttal if
13 it feels necessary in closing.

14 MS. RODDY: Thank you. I do have
15 a few rebuttal witnesses. I will ask Ms. White
16 as well as Mr. Goodman to re-testify or to submit
17 additional testimony. With respect to the
18 lower campus, Ms. White, have you had an
19 opportunity to review what the implications of
20 altering the proposed bus route, what those
21 would be?

22 MS. WHITE: Yes, I have. So we

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1 looked at the impacts. The bus route that the
2 WMATA buses use would be Columbia Road, which
3 would add three miles on to the trip, which would
4 be nine minutes in an ideal situation if you're
5 in a car, but in a bus, and if there's traffic
6 on 14th Street that could, you know, obviously
7 increase significantly.

8 MS. RODDY: And with the increased
9 length of the trip, would that make the bus
10 program less attractive?

11 MS. WHITE: Yes. The school is
12 concerned that adding more time would make it
13 a less attractive option for students and for
14 parents.

15 MS. RODDY: Thank you. And also
16 with respect to --

17 CHAIRPERSON JORDAN: Let's go back
18 though before you can move from that. You're
19 saying that if we use the alternative route it
20 adds nine minutes to the travel, and therefore,
21 has a consequence on the number of people who
22 will be involved in the bus program? Is that

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1 what I'm understanding?

2 MS. WHITE: The school is concerned
3 that -- well, one of the things that we've heard
4 is the attractiveness of the program is because
5 it's subsidized, and then also, the school is
6 concerned that by adding -- and nine minutes,
7 I think, is the low mark.

8 Like I said, if you're in a school
9 bus and run into traffic on 14th Street, that
10 could be a longer time, but by having these
11 pre-K-age students, you know, five years old
12 in the bus, and it's not just the nine minutes,
13 it's adding that on to the 40-minute, or
14 whatever, trip that they've already experienced
15 to go down to Columbia, which is that bus route.

16 I did, if I can just show this
17 figure, this is a DDOT figure that shows its
18 bus and truck routes. I'll point out that there
19 are two areas with the number 1 next to it, one
20 on Decatur and one on Emerson, for a block
21 between 14th and 15th Street. These are the
22 only segments, those with 1, where there are

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1 no buses permitted.

2 The area that are noted with 3, those
3 are buses only. But other than that, Buchanan
4 is what the school is proposing, and there is
5 no restriction, according to this DDOT plan for
6 trucks and buses, that would preclude that from
7 happening.

8 CHAIRPERSON JORDAN: Okay. Yes,
9 go ahead, please.

10 VICE CHAIRPERSON SORG: I just have
11 one question about the bus route and the children
12 riding the bus. Can you give me an idea of the
13 proportion -- from what I understand, the
14 organization of the bus system to be, it sounds
15 like there will be some proportion of kids who
16 have been picked up from their neighborhoods
17 in Maryland, or elsewhere in D.C., or wherever,
18 and brought, and there will be some proportion
19 of kids who have been dropped of by their parents
20 at the northern campus.

21 And then join those kids that are
22 already on the bus to be taken down to the early

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1 childhood campus, correct? So can you give me
2 an idea of what are the proportions of those
3 two types of student riders? I'm looking at
4 you, but I --

5 MS. WHITE: Well, we do know that
6 40 percent of the student population takes the
7 bus, so that is a statistic I can provide to
8 you. And --

9 VICE CHAIRPERSON SORG: I'm sorry
10 to interrupt you, but by takes the bus you mean
11 from their home.

12 MS. WHITE: From their residential
13 location, yes.

14 VICE CHAIRPERSON SORG: Okay.

15 MS. WHITE: That's not the
16 transfer. And I think we heard something that
17 43 of 70 students, or so, I think we said, would
18 be sibling students that could --

19 MS. REEM: Yes, and in the lower
20 campus, we will have a large number of siblings
21 of the children that are in the upper campus,
22 so those children, most of them will be coming

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1 on the bus with their siblings and they will
2 be dropped of, consequently, to the staff in
3 the main campus.

4 The buses coming from the south will
5 do it the other way, but then it's less
6 problematic because we're going on 16th Street.

7 I really can't tell you how many are going to
8 be dropped off by their parents in the upper
9 campus and then come down to the lower campus,
10 but I'm assuming there will be some number of
11 those.

12 The parents will not want to do two
13 trips and we don't want them to do two trips,
14 actually. Just to give you a proportion, if
15 we are talking about a 130 children when we're
16 fully enrolled and let's say 40 percent of them,
17 or 45 percent of them, take the bus, all
18 together, there will be about 60, 70 kids dropped
19 off at either one of the locations.

20 CHAIRPERSON JORDAN: Okay.

21 MS. RODDY: And, Ms. Goodman, is a
22 ten-year term something that the Jewish Primary

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1 Day School would consider agreeing to on the
2 lower school campus?

3 MS. GOODMAN: No. I mean, in turn,
4 we're seeking approvals and variances today that
5 will allow us to operate our school with the
6 grades and faculty we believe we need to serve
7 the demands of the Jewish community and also
8 provide the kind of quality of education we want.

9 And we can't design a program and
10 plan for growth, and we have been growing
11 steadily, and that's part of why we bought a
12 second campus, is to plan for our growth and
13 be assured that we can accommodate that growth
14 long term.

15 We can't invest in the future of the
16 early childhood campus if we don't know that
17 there is going to be that same future because
18 all of a sudden we'll lose our BZA approvals
19 in terms of the number of faculty that we can
20 have or the number of children.

21 The requests we're making are
22 specifically to allow us to have the program

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1 that we want on that campus, which is the three
2 Kindergartens, three 1st grades, and one
3 preschool. In addition, and I noted at the
4 beginning during my prior testimony that the
5 very financial sustainability of our school
6 depends on the growth and the faculty needed
7 to support that growth.

8 And also, as another note, we are
9 restoring the property. We're putting
10 substantial investment. Our plans are to put
11 substantial investment into restoring the
12 property and we believe that, you know, these
13 improvements will be difficult, if not
14 impossible, to achieve without financing, and
15 having lenders, and donors who believe that we
16 have a future at the school and have long-term
17 stability at that school in terms of our growth.

18 MS. RODDY: And with moving to the
19 northern campus, have you engaged or made an
20 attempt to engage in -- I'm sorry, has the Jewish
21 Primary Day School made an attempt to engage
22 Dr. Welsing and to address her concerns with

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1 the noise?

2 MS. GOODMAN: Yes. On numerous
3 occasions, I guess, starting with the razing
4 of the trees back in, I believe it was, October
5 2009. Dr. Welsing did, in fact, immediately
6 contact the school when the trees were razed
7 and she also sent us a note indicating her
8 concerns. And at that time, we offered to meet
9 with her.

10 I guess one thing I should, that we
11 are limited in our abilities to interact with
12 Dr. Welsing because she sends us notes or faxes.

13 She does not talk to us. In fact, even when
14 we notified her of this application, Mr. Green
15 contacted her by phone. She said, put it in
16 writing and hung up.

17 So we are unable to have, kind of,
18 a communication with her. And usually we find
19 out about things, either from letters or because
20 she's taken some type of action. So in terms
21 of the situation that's been described with the
22 trees, she did reach out to us. We said we'd

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1 be happy to talk with her further about it.

2 The next thing we heard is that she
3 had complained at the Brightwood Community
4 Association about the trees and we were informed
5 of this by one of the ANC representatives, who
6 then, they wanted us to present, generally, on
7 our plans before the ANC at a December meeting
8 in 2009.

9 And at that point we went to that
10 meeting and it became about the trees. We
11 thought we were making a whole presentation
12 about our plans and it became an issue about
13 what we had done with the trees. After that
14 meeting, the Commissioner at the time, Habieba
15 Snow-Israel, did reach out to us. She was, kind
16 of, Dr. Welsing's representative at that time
17 who was communicating with us and wanted to setup
18 the meeting so that we could talk to Dr. Welsing
19 about solutions.

20 And Dr. Welsing canceled the meeting
21 because we learned that she had hired an
22 attorney. Then we setup another meeting with

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1 her in March, which is the meeting I described
2 earlier, which was attended by our counsel, Phil
3 Feola, her counsel at the time, and landscape
4 architects for both parties.

5 At that time, there were three items
6 that were takeaways. One was that there were
7 construction materials on one of the public tree
8 boxes that she wanted to have us remove, and
9 we did that immediately. Also, she was
10 concerned about the health of her trees on her
11 property at the time caused by the construction,
12 and we hired the arborist that she had
13 recommended to come and evaluate the trees, and
14 they found that there was no damage to the trees
15 by the construction.

16 And the third point was that she was
17 going to come back, or at least her landscape
18 architects were going to come back, to make any
19 proposals with how we could resolve the
20 situations, her concerns, with regard to the
21 field, and that was where we never received any
22 response.

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1 And I believe Mr. Feola did reach
2 out one time to her attorney to find out, because
3 we hadn't heard anything back, we never heard
4 anything after that. And then we heard nothing.

5 We completed the field in May or June of 2010
6 and we heard no complaints from Dr. Welsing.

7 I would say that this is the first
8 time at the hearing that we're hearing about
9 all of the complaints of all the footballs and
10 the baseballs that are coming onto the property.

11 We have not heard of that. I'm not saying it's
12 not happening, but she never complained to us
13 about that.

14 Then the next time we heard from her
15 was, about a year later, she did send us a letter
16 complaining about her health. And then we found
17 out that she had filed a complaint with, I
18 believe, the Zoning Board in terms of
19 challenging whether we were in compliance with
20 our zoning order, which is what there's been
21 discussion about that.

22 And we did recently receive a letter

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1 from the Office of the Zoning Administrator just
2 a week ago, this is kind of the outcome of all
3 of that, saying that, yes, we are in compliance.

4 Thereafter, again, I think we might
5 have received another letter from her regarding
6 her health, but the next communication I recall
7 having was, the meeting that Mr. Wilson referred
8 to was a May meeting that we were having for
9 the community with regard to this application.

10 So we announced a community meeting
11 at the school. About two people showed up.
12 We actually didn't even realize until about
13 halfway through the meeting that one of the
14 people that had shown up was Dr. Hunter as a
15 representative of Dr. Welsing. He did not
16 immediately introduce himself in that capacity.

17 And I realize, I believe, Dr.
18 Welsing's attorney was also there, but I didn't
19 realize that until today when I saw him. And
20 at that meeting, we did talk about the concerns
21 that Dr. Welsing has and Dr. Hunter did express
22 to us the concerns and we made very clear to

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1 him that we were very willing to talk to Dr.
2 Welsing.

3 We did not want to have an unhappy
4 neighbor and we were happy to reach out to her.

5 And then he left the meeting. The next thing
6 we heard is that, I thought it was also Dr. Hunter
7 reaching out to Mr. Wilson, that was my
8 understanding, to talk about the situation.
9 I know that there were because Mr. Wilson shared
10 with us some of the email correspondences that
11 he had with Dr. Hunter.

12 And Mr. Wilson asked us whether or
13 not we were willing to meet with Dr. Welsing
14 and we were emphatically, no question that we
15 were willing to meet with her, and then we heard
16 that Dr. Hunter was going to check with Dr.
17 Welsing to see if she would authorize that
18 meeting, and then nothing came of that.

19 And the next communication was, we
20 received a complaint and a motion for
21 preliminary injunction by Dr. Welsing, by her
22 attorney, requesting a 40-foot wall and punitive

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1 damages due to nuisance for \$25 million. And
2 so that is something we are currently also
3 involved with.

4 And so, you know, in our opinion,
5 we have, numerous times, told Dr. Welsing that
6 we were willing to communicate with her. She
7 has not indicated that she wants to communicate
8 with us.

9 CHAIRPERSON JORDAN: Let's begin to
10 wrap it up. We didn't have the clock on the
11 rebuttal time, but we're getting close.

12 MS. RODDY: I think that I've
13 completed my rebuttal and prepared to offer our
14 closing.

15 CHAIRPERSON JORDAN: Okay. Go
16 ahead. Please. You got three minutes.

17 MS. RODDY: Okay. Just to recap,
18 on the lower campus, it is a very modest request.

19 The school is asking to increase the current
20 certificate of occupancy for five students.
21 We would like approval for five additional
22 students. They are seeking, also, an

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1 additional 11 faculty and staff members.

2 And we are seeking the parking
3 relief, as has been mentioned. The school is
4 willing to commit, as the Office of Planning
5 and DDOT had in their reports, to a condition
6 that they provide 15 spaces offsite to mitigate
7 the impacts of that parking.

8 And I think that, also, the school
9 is willing, DDOT had mentioned that they would
10 like to have the numbers for Crittenden, and
11 the school is happy to provide those within 30
12 days to DDOT.

13 Finally, I think that the monitoring
14 program that the school has proposed for the
15 lower campus really speaks to the most of the
16 community concerns because they're going to have
17 to meet each of those benchmarks on an annual
18 basis and report them to both the community and
19 DDOT to confirm that the parking is working as
20 it should, as well as the trip generation and
21 the drop-off/pickup maneuvers are working as
22 they should.

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1 So I think that there is a mechanism
2 in place and I would just like to reiterate that,
3 imposing a ten-year term really hamstrings the
4 school because it makes it very difficult to,
5 you know, get any investment in the program.
6 They will make financing difficult for the
7 renovations of the school and it will just really
8 won't make the program attractive to parents
9 if they don't have any knowledge that the program
10 will exist beyond that ten-year mark.

11 It just is a very hard condition to
12 live with. I do believe that there are other
13 mechanisms in place that can address the
14 community. And above all, there is also an
15 enforcement mechanism to ensure that they comply
16 with the conditions of the order.

17 And then finally, I would say that
18 for the northern campus, we've heard a lot of
19 testimony today, and the back and forth of the
20 relationship, and I think JPDS has made every
21 effort to work with their neighbor. I do have
22 the letter from the Zoning Administrator that

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1 was issued last week that I would like to enter
2 into the record that confirms the compliance
3 with the order. If I may submit this.

4 CHAIRPERSON JORDAN: No. We don't
5 need it.

6 MS. RODDY: Okay. It has been
7 confirmed that the school has complied with the
8 order, so JPDS has been willing in the past,
9 and they will be willing in the future, to
10 continue to work with their neighbor, but there
11 have been challenges to doing that.

12 And with that, we would just like
13 to reiterate that, although there is opposition
14 in the case today, we have the support of ANC
15 4A and we have the support of ANC 4C. And I
16 would also just like to also say that the ANC
17 4C motion in support actually was specifically
18 worded to say unconditional.

19 So again, we would strongly request
20 that you reconsider any sort of term on the lower
21 campus, but we appreciate your time today and
22 I know it's been a long morning, so thank you.

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1 CHAIRPERSON JORDAN: Good. Thank
2 you. We will conclude the hearing portion of
3 this. I'm leaving the record open for a couple
4 of things. We're not going to take this for
5 decision today because I would like to see a
6 noise mitigation plan from the applicant and
7 we need to submit that plan to Dr. Welsing, and
8 to OP for their analysis and submission.

9 And I would like to see that as well
10 as the bus route plan and traffic issue that
11 we talked about for the Department of
12 Transportation be submitted for their analysis
13 and review. And that should also go to,
14 certainly, everything should come here to the
15 Board in conjunction with Planning and
16 Transportation.

17 I would like to see those filings
18 by October 30th. Yes, we got a couple other
19 things. Yes, go ahead. Is there anything else
20 the Board wants to say?

21 VICE CHAIRPERSON SORG: Thank you,
22 Mr. Chairman. A couple of other documents that

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1 I thought might be useful in our continued
2 analysis. Since we're not going to be doing
3 a decision today, I would imagine that the school
4 would have enough time to have their agreements
5 in place with the church, for the offsite parking
6 with the church, and the lot in Silver Spring,
7 whatever that agreement is.

8 I think seeing those agreements
9 could be useful. Also, I think in addition to
10 the noise mitigation that you're discussing,
11 a landscape plan, which wasn't included in these
12 submissions, I think would be --

13 CHAIRPERSON JORDAN: Or if it can
14 be also part of the mitigation plan, yes.

15 VICE CHAIRPERSON SORG: As part of
16 that, you know, to be submitted --

17 CHAIRPERSON JORDAN: And the noise
18 study could be part of that.

19 VICE CHAIRPERSON SORG: -- as a
20 talking point. Exactly. And I think regarding
21 your request to DDOT, I think that they also,
22 in their recommendations, felt that they would

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1 require additional documentation of the parking
2 impact, and so I definitely would like to see
3 that submitted along with the impact of the bus
4 routes to DDOT, and then DDOT give us an updated
5 rendition of their recommendations.

6 CHAIRPERSON JORDAN: Certainly.
7 Yes. Both with Planning and DDOT, we need
8 supplemental reports on these submissions. Mr.
9 Hinkle, anything? Mr. Hood, anything else you
10 would like to see?

11 ZONING CHAIRMAN HOOD: Mr.
12 Chairman, I am trying to remember. They keep
13 referencing the term. You do not want a
14 ten-year term. What are you looking for? And
15 it may be here and I just --

16 MS. RODDY: Well, typically, with
17 private schools there is no term because of the
18 difficulty.

19 CHAIRPERSON JORDAN: Well, I won't
20 comment on that. I keep hearing that throughout
21 the hearing, but we take, within our authority,
22 to propose conditions if we feel it's necessary.

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1 And we've proposed conditions and terms on many
2 different type of uses, so I just want to let
3 you know that is within our realm to issue, and
4 if we feel as though that it's necessary, we
5 will do so.

6 ZONING CHAIRMAN HOOD: But let me
7 say this, Mr. Chairman, right, but I can tell
8 you that I'm pretty hard-pressed not to have
9 a term from what I'm seeing and hearing. I just
10 wanted them to know that upfront, so anything
11 you can do to help me change the way I feel.
12 That's why I wanted to put it out there now.

13 Anything you can do to help me
14 understand where you're going without a term
15 right now.

16 CHAIRPERSON JORDAN: Yes, I just
17 don't want anymore additional testimony.

18 ZONING CHAIRMAN HOOD: Right, but
19 I wanted to let them know, at least, where this
20 Commissioner is.

21 CHAIRPERSON JORDAN: No, I've been
22 there a while ago. I agree with you. And so

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1 I would like to see these additional submissions
2 by October 30th, responses by any of the parties
3 by the 16th, and by the following week, proposed
4 findings and facts and conclusions of law, I
5 would like to see them by a week before the
6 decision date, and the decision date would be
7 November 27th.

8 And I'm going to suggest that it's
9 better to have the mitigation plan worked out
10 in conjunction with opposition and any other
11 changes that are going to be made with regards
12 to opposition because, you know, I think they've
13 made some impressive statements here that we're
14 not just taking in the air.

15 And these things work out better
16 being worked out. So that's where we are on
17 concluding this particular hearing. The
18 record's only staying open in regards to those
19 things which I've requested and that we've
20 requested here today, and the responses, I said,
21 was due November 16th, okay? With that, we will
22 conclude this particular hearing. Thank you

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1 all for taking the time and being here.

2 MS. MEYERS: Can I ask some more
3 questions. I'm sorry.

4 CHAIRPERSON JORDAN: Go ahead.

5 MS. MEYERS: And this may be out of
6 line, but as the attorney mentioned, and we did
7 not conclude this and put this into our letter
8 of submission, and I don't know if you want us
9 to resubmit it, but at our October community
10 meeting we did vote not to have any conditions.

11 I don't know if you want us to resubmit
12 anything.

13 CHAIRPERSON JORDAN: You don't have
14 to do that.

15 MS. MEYERS: Okay.

16 CHAIRPERSON JORDAN: We do give
17 great weight to the ANC and we have your
18 testimony here today, but we will take it into
19 consideration.

20 MS. THOMPSON: Well, then I have a
21 question.

22 CHAIRPERSON JORDAN: Yes.

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1 MS. THOMPSON: Because we don't
2 believe the ANC's --

3 CHAIRPERSON JORDAN: I'm not taking
4 that as -- we're not accepting that statement,
5 the question, then this hearing is adjourned.

6 MS. THOMPSON: Okay.

7 CHAIRPERSON JORDAN: We're not
8 going to do that.

9 MS. THOMPSON: Okay.

10 (Whereupon, the foregoing matter
11 went off the record at 1:04 p.m. and went back
12 on the record at 1:05 p.m.)

13 CHAIRPERSON JORDAN: We're not
14 taking anymore breaks in many more years. We
15 missed our groove. Mr. Moy? I tell you what,
16 anybody who's on the docket for this afternoon,
17 except for -- we can do 18428, yes, we can do
18 that. We can do that now, but now we'd have
19 to come out of -- that's a public meeting.

20 All right. Let's call 18321 and --
21 wow.

22 MR. MOY: Yes, sir. That would be

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1 Application Number 18321. This is the
2 application, or rather --

3 CHAIRPERSON JORDAN: Mr. Moy, let
4 me save those for afternoon. What time is it
5 now? Our afternoon is not going to -- it's 1
6 o'clock; five after 1:00? Our afternoon docket
7 is not going to start till 2 o'clock, say 2:10.
8 So the afternoon docket won't start until 2:10
9 if you don't need to sit here if you don't want
10 to. So okay, you want to call 18321?

11 MR. MOY: Yes, sir. That would be
12 Appeal Number 18321 of the Citizen's Association
13 of Georgetown, pursuant to 11 DCMR 3100 and 3101
14 from an August 26th, 2011 decision by the Zoning
15 Administrator Department of Consumer and
16 Regulatory Affairs to issue a building permit,
17 building permit number B1010202, for
18 construction of a new two-story rear building
19 in the C-2-A District at premises 1525 Wisconsin
20 Avenue, NW, property located in Square 1271 Lot
21 813.

22 And as the Board will recall, this

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1 appeal was previously scheduled from May 15th,
2 2012.

3 CHAIRPERSON JORDAN: Someone needs
4 to bring me up to date of the status of this.

5 Where are we in regards to the revocation of
6 the building permit and the August 31st to date?

7 You going say it again?

8 MR. SURABIAN: Sure. After we had
9 a hearing here in May, that the notice of
10 revocation that I presented to the Board, an
11 appeal of that notice was filed by the property
12 owner and that's currently pending.

13 CHAIRPERSON JORDAN: But was there
14 a compliance with DCRA's order?

15 MR. SURABIAN: There was not
16 compliance.

17 CHAIRPERSON JORDAN: There was no
18 compliance.

19 MR. SURABIAN: There was no
20 compliance. With respect to the August 31st
21 date, an appeal was filed. Under the
22 regulations, when an appeal is filed, the

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1 revocation decision does not become final until
2 the appeal has been adjudicated. So the permit,
3 in other words, was not revoked on the 31st;
4 in light of the appeal.

5 CHAIRPERSON JORDAN: Didn't we have
6 a request to reschedule this hearing in terms
7 of trying to make this compliant within this
8 period of time? Am I correct? Is that what
9 this is about?

10 VICE CHAIRPERSON SORG: If I may,
11 Mr. Chairman.

12 CHAIRPERSON JORDAN: Yes, go ahead.

13 VICE CHAIRPERSON SORG: I recall
14 that at the last time that we met with these
15 folks, we had been presented, by Mr. Surabian,
16 the notice of the intent to revoke the permit
17 and we scheduled the case according to the
18 effective date of that notice, which is today.

19 CHAIRPERSON JORDAN: And there had
20 been a motion to reschedule the hearing. That
21 was made by the applicant at the time, isn't
22 that correct?

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1 MR. SURABIAN: Yes, sir.

2 CHAIRPERSON JORDAN: And so during
3 that period of time, they were trying to see
4 if there was going to be compliance.

5 MR. SURABIAN: That was the purpose
6 of the deadline was to allow the property owner
7 to obtain a revised permit to come into
8 compliance.

9 CHAIRPERSON JORDAN: And that did
10 not happen.

11 MR. SURABIAN: It did not happen.

12 CHAIRPERSON JORDAN: Okay. All
13 right. Then this is how we're going to proceed.

14 The applicant -- the appellant, excuse me, will
15 have 15 minutes. You can do it whichever way
16 you want to do it. You can do ten on, five for
17 reserve, and then the appellee will have the
18 same 15 minutes, okay? So let's go ahead and
19 -- did we have everyone sworn in that's going
20 to testify from this morning? Okay. Witness
21 cards over to the court reporter? Then let's
22 proceed.

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1 MR. HORSEY: Good morning, Mr.
2 Chairman. Members of the Board, good
3 afternoon. I'm Outerbridge Horsey with the
4 Citizen's Association of Georgetown.

5 CHAIRPERSON JORDAN: Let me ask
6 you, Mr. Horsey. Are we going to do ten and
7 five or do you want to do a straight 15?

8 MR. HORSEY: Ten and five, I think,
9 will be sufficient.

10 CHAIRPERSON JORDAN: Okay.
11 Thanks.

12 MR. HORSEY: Thank you.

13 CHAIRPERSON JORDAN: Mr. Moy, can
14 we set the clock for ten, please; or could I
15 ask Chairman Hood to do it since he's closer?

16 ZONING CHAIRMAN HOOD: Whatever you
17 need, Mr. Chairman. If you want me to operate
18 the clock, I can do that too.

19 CHAIRPERSON JORDAN: Okay.
20 Proceed, please.

21 MR. HORSEY: The first order of
22 business, Mr. Chairman, is to respectfully

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1 request that the Board waive its requirements
2 under Section 3112.0, which requires 14 days
3 for an appellant to submit new information, in
4 order for us to allow us to submit, into the
5 record, a statement that I will actually read,
6 and two additional drawings that are referred
7 to in that statement.

8 The reason we didn't get this to you
9 earlier is because, following the deadline for
10 the notice to revoke, we inquired of DCRA the
11 following week. There was a question as to what
12 had happened. We found out that the revocation
13 notice had been appealed and that, essentially,
14 the notice to revoke had been postponed
15 indefinitely until that resolved.

16 Inquiries to the Office of
17 Administrative Hearings indicated that there
18 would be no outcome that would change the
19 existing conditions of the project with respect
20 to the zoning ordinance and that only the BZA
21 could alter that.

22 So we feel that it's time now to

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1 present our conclusions and ask the Board for
2 action on the original permit that we appealed.

3 CHAIRPERSON JORDAN: And when did
4 you say you found out that an appeal had been
5 filed?

6 MR. HORSEY: Pardon me?

7 CHAIRPERSON JORDAN: When did you
8 say you found out that an appeal had been filed?

9 MR. HORSEY: Oh, we found out, I
10 think, September 7th or so.

11 CHAIRPERSON JORDAN: And when was
12 the appeal filed?

13 MR. HORSEY: The appeal was filed,
14 I believe, it was May 17th we were told. We
15 weren't informed of that.

16 CHAIRPERSON JORDAN: May 17th?

17 MR. HORSEY: Yes.

18 CHAIRPERSON JORDAN: You were
19 informed of the appeal?

20 MR. HORSEY: Oh, no, we were not.

21 CHAIRPERSON JORDAN: But you found
22 out September 7th.

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1 MR. HORSEY: Right.

2 CHAIRPERSON JORDAN: And what is
3 this that you're submitting exactly?

4 MR. HORSEY: It's just a copy of a
5 statement that I will read into the record and
6 these two drawings that have been marked up from
7 the permit set that I've annotated to make our
8 points more clear to you.

9 CHAIRPERSON JORDAN: Have you
10 already submitted this to the appellee?

11 MR. HORSEY: No, I just gave DCRA
12 and the property owner a copy just now.

13 CHAIRPERSON JORDAN: I'm not going
14 to accept it into the record. We should have
15 had it, and at least gotten it to the other party
16 so they could have taken a look at it and reviewed
17 it. You can talk about whatever you want to
18 read, but I'm not going to accept this and it
19 should have been done before that.

20 This thing has been pending and,
21 more importantly, even at that time frame, at
22 least get it to the opponent so that they can

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1 peruse it. Whether or not we accept it here
2 or not today is a different issue, but go ahead,
3 proceed because we're down to --

4 MR. HORSEY: Take the boards down
5 then.

6 CHAIRPERSON JORDAN: You can talk
7 from it. You can talk from it if you want.

8 MR. HORSEY: Very good. All right.
9 I'll just pick up. I'll skip the first few
10 paragraphs, since we've already covered the
11 subject matter there, and concur with the DCRA
12 counsel's statement that, to my knowledge, and
13 based on a visual inspection of the premises
14 from the adjoining properties, none of the
15 corrective measures required by the notice to
16 revoke have been implemented. That inspection
17 was done around the beginning of September as
18 well.

19 At this point, it's fairly clear
20 that the owner has little interest to bring the
21 property into compliance with both the building
22 code and the zoning regulations. This is not

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1 an isolated occurrence, but the property owner's
2 pattern and practice of ignoring governmental
3 requirements for the property.

4 Despite clear instructions from the
5 old Georgetown Board and the Commissioner of
6 Fine Arts, the owner demolished historically
7 significant portions of the building.
8 Accordingly, we are now asking the Board to
9 revoke the building permit due to the original
10 error by the Zoning Administrator in approving
11 the permit.

12 I'll briefly review the error, which
13 we believe resulted from an inconsistent set
14 of drawings initially submitted by the owner.

15 As has been indicated before, numerous permits
16 have been issued on this project and none of
17 the permits contained a set of drawings that
18 fully described the entire building.

19 The original set of drawings
20 submitted for the building --

21 CHAIRPERSON JORDAN: Let me ask you
22 just to give us one second. Mr. Moy, please

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1 stop the clock. Okay. We called the play in
2 a huddle and we're going to try not to be the
3 replacement referees here. We need your help,
4 because as we sit here and see this, we believe
5 that this issue is moot.

6 You want this DCRA to issue a
7 revocation, which they've done, correct?

8 MR. HORSEY: They've issued a
9 revocation for -- yes, that's correct.

10 CHAIRPERSON JORDAN: Okay. So
11 that which you ask for has happened. They found
12 that this property was in violation, correct?

13 MR. HORSEY: Not in the way that we
14 describe, but they found other violations.

15 CHAIRPERSON JORDAN: But the
16 revocation is in place.

17 MR. HORSEY: That remains to be
18 seen.

19 CHAIRPERSON JORDAN: What relief
20 can we grant you; a revocation?

21 MR. HORSEY: Right, or instructions
22 to the property owner to come before you for

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1 a variance to seek relief for the building that's
2 already been built that requires a smaller
3 percentage of lot occupancy.

4 CHAIRPERSON JORDAN: We can't do
5 that. That's a process. Okay. I think you're
6 were we are also. What's your response to that
7 Mr. Surabian?

8 MR. SURABIAN: Well, I think you're
9 right, in theory, but I just want to make clear
10 that, because the notice was the intent to revoke
11 and that action doesn't become final until the
12 --

13 CHAIRPERSON JORDAN: 31st.

14 MR. SURABIAN: -- Office of
15 Administrative Hearings adjudicates that
16 appeal. So technically, the permit is active
17 today.

18 CHAIRPERSON JORDAN: But you did
19 issue --

20 MR. SURABIAN: We issued the
21 notice, right. And that appeal will go through
22 its process.

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1 CHAIRPERSON JORDAN: Right. So
2 you did that which the appellant asked you to
3 do.

4 MR. SURABIAN: Correct.

5 CHAIRPERSON JORDAN: It's only on
6 hold because of the fact that, in response to
7 you doing what the appellant asked you to do,
8 there's another ability for the property owner
9 to avail of another relief, which they did.

10 MR. SURABIAN: Correct.

11 CHAIRPERSON JORDAN: So there's
12 nothing that this Board can grant regarding the
13 appeal that's been filed.

14 MR. SURABIAN: Well, you might be
15 right.

16 CHAIRPERSON JORDAN: But then we
17 can tell you to do what you did --

18 MR. SURABIAN: I mean, this is a
19 motion I made --

20 CHAIRPERSON JORDAN: I understand
21 where you are on that.

22 MR. SURABIAN: But what I'm saying

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1 is that, I don't know if the Board can still
2 revoke on whatever issue that Mr. Horsey may
3 raise.

4 CHAIRPERSON JORDAN: Well --

5 MR. HORSEY: And, Mr. Chairman, is
6 there a chance that the notice to revoke under
7 appeal could be, itself, turned down, in which
8 case, our appeal would then become active again?

9 CHAIRPERSON JORDAN: No, it
10 doesn't, because the revocation would be in
11 place. A revocation is a revocation. Whoever
12 the property owner is is going to have to come
13 back and make sure they're good on all aspects
14 of getting the permit put in place.

15 MR. HORSEY: Well, in the notice to
16 revoke it says, the main issue we have to do
17 is the percentage of lot occupancy, and in the
18 notice to revoke it says that there is an
19 inconsistency in the drawing and it is,
20 therefore, not possible to determine if the
21 approved plans exceed the allowable lot
22 occupancy.

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1 And I guess we would disagree with
2 that. We think there's a preponderance of
3 evidence that shows that the 2nd floor contains
4 residential and that the percentage of lot
5 occupancy is clearly in excess of what's
6 allowed.

7 VICE CHAIRPERSON SORG: Can I say
8 something? Sorry.

9 CHAIRPERSON JORDAN: What do you
10 have. Okay. All right. Let me do this. Does
11 the Board have a feel of what we should do with
12 this matter because the Chair entertain a motion
13 that we dismiss this as moot. That would be
14 my concern, yes.

15 VICE CHAIRPERSON SORG: I would
16 second that motion.

17 CHAIRPERSON JORDAN: Motion made
18 and seconded that this appeal be dismissed as
19 moot for the reasons stated. Any unreadiness?
20 Mr. Hood?

21 ZONING CHAIRMAN HOOD: No.

22 CHAIRPERSON JORDAN: Mr. Hinkle?

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1 Then all those in favor of the motion to dismiss
2 this as moot signify by saying aye.

3 (Multiple Ayes)

4 CHAIRPERSON JORDAN: Those
5 opposed, nay. The motion carries. Mr. Moy.

6 MR. MOY: Yes, sir. Staff would
7 record the vote as 4 to 0 to 1 on the motion
8 of Chairman Jordan to dismiss the appeal as a
9 moot. Second to the motion is Vice Chair Sorg.

10 Cause and support of the motion, Mr. Hood and
11 Mr. Hinkle, and we have no other sitting Board
12 Members today. So again, the final vote is 4
13 to 0 to 1.

14 CHAIRPERSON JORDAN: Thank you.

15 MR. SURABIAN: Thank you.

16 CHAIRPERSON JORDAN: Is 18428 here?

17 But they're here. Yes, you don't have to be
18 here. That's the other thing. You don't have
19 to be here for this. It's expedited. There's
20 not even going to be any questions. Unless
21 somebody is in opposition. I'm trying to get
22 this thing straight. Larry, we're going to call

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1 it right now.

2 We're going to move into public
3 hearing for the sake of dealing with this one
4 case, 18428; the expedited review. All parties
5 and persons who are going to testify in this
6 regard, please come forward. This your case?
7 Come forward. All right.

8 We recessed our morning hearing and
9 we are -- no, I guess we concluded our morning
10 hearing.

11 MR. MOY: We adjourned the morning.

12 CHAIRPERSON JORDAN: Yes, we
13 adjourned our morning hearing and we're now
14 opening for today's date is September 25th,
15 2012. We have a quorum of the Board here for
16 the public meeting set for today on the cases
17 that have been already advertised on the docket.
18 Our first case called is?

19 MR. MOY: Yes, sir. The first item
20 for the Board's afternoon session is the
21 expedited review calendar. Now, on the
22 calendar there's one application and that

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1 application is Application Number 18428 of
2 Stuart and Mary Farrell, pursuant to 11 DCMR
3 3104.1 for a special exception for a rear deck
4 addition to an existing one-family row dwelling
5 under Section 223, not meeting the lot occupancy
6 requirements under Section 403, and rear yard
7 requirements under Section 404 in the R-3
8 District at premises 2432 39th Place, NW,
9 property located in Square 1810 Lot 213.

10 CHAIRPERSON JORDAN: Okay. And
11 this is the house where the parties want to have
12 a deck like everybody else in the neighborhood
13 has a deck. Would you state your name's for
14 the record, please?

15 MS. FARRELL: I'm Mary Farrell.

16 MR. HOLDEN: And I'm her father,
17 Jack Holden.

18 CHAIRPERSON JORDAN: Okay. We
19 believe the record here is very clear. In fact,
20 on the expedited reviews, there's something that
21 we can do summarily. And so it would be my
22 motion that the Board grant the -- well, let

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1 me say this.

2 We have a report from the Office of
3 Planning in support. We have a report from the
4 Department of Transportation with no
5 objections. We have support from ANC 3B in
6 support, or we can give them great weight.
7 Anybody here in opposition? Anybody here in
8 support? We're good.

9 So let me make this motion, unless
10 you want to say something, which we don't think
11 is necessary, I move that we grant the requested
12 relief and to include Section 403, from lot
13 occupancy; Section 404, from rear yard
14 requirement; 2001.3, for the enlargement of a
15 non-conforming rear yard; Section 401, from lot
16 width and lot area. Need a second.

17 ZONING CHAIRMAN HOOD: Second.

18 CHAIRPERSON JORDAN: Motion made
19 and seconded that the relief as I've stated be
20 granted and all those in favor signify by saying
21 aye.

22 (Multiple Ayes)

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1 CHAIRPERSON JORDAN: Those
2 opposed, nay. The motion carries. Thank you.

3 MR. HOLDEN: Thank you very much.

4 MR. MOY: For the record, Mr.
5 Chairman, the vote was 4 to 0 to 1 on the motion
6 of Chairman Jordan to approve the special
7 exception and relief on their 223. Seconded
8 the motion, Mr. Hood. Also in support of the
9 motion, Ms. Sorg and Mr. Hinkle. No other Board
10 Members sitting. Again, 4 to 0 to 1.

11 Would that be a summary order, Mr.
12 Chairman? Thank you so much.

13 (Whereupon, the foregoing matter
14 went off the record at 1:28 p.m. and went back
15 on the record at 2:17 p.m.)

16 CHAIRPERSON JORDAN: We'll come
17 back from recess and reconvene on today's public
18 meeting. Joining us for Case 18385 is Peter
19 May from the Zoning Commission.

20 MR. MOY: Yes, sir. Good
21 afternoon, Mr. Chairman and Members of the
22 Board.

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1 CHAIRPERSON JORDAN: I like thought
2 honorable again. No.

3 MR. MOY: Well, I could do that too.
4 Again, that would be Application Number 18385.
5 This is of Otis and Angela Ray, pursuant to
6 11 DCMR 3103.2 for a variance from the lot
7 occupancy requirements under Section 403, and
8 a variance from the non-conforming structure
9 provisions under Subsection 2001.3, to allow
10 the construction of a pergola serving a
11 one-family row dwelling in the R-4 District at
12 premises 2100 1st Street, NW, property located
13 in Square 3119 Lot 28.

14 The Board will recall, on July 31st,
15 2012, the Board completed public testimony,
16 closed the record, and scheduled its decision
17 on September 25th. The Board requested
18 additional information to supplement the record
19 from the applicant. That filing was submitted
20 into the record, Mr. Chairman, from the
21 applicant, dated September 10th, 2012, and is
22 identified in your case folders as Exhibit 33.

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1 Other than that, the Board is to act
2 on the merits of the variance, zoning request
3 for relief, and that completes the staff's
4 briefing, Mr. Chairman.

5 CHAIRPERSON JORDAN: Thank you, Mr.
6 Moy. I think we've already had -- we closed
7 the record on this matter or did we get any
8 additional documents?

9 MR. MOY: Yes.

10 CHAIRPERSON JORDAN: Mr. Moy?

11 MR. MOY: Sir.

12 CHAIRPERSON JORDAN: We did get
13 some additional documents.

14 MR. MOY: Yes, yes, yes, the
15 applicant filed and that filing is in your case
16 folder. It's identified as Exhibit 33. It was
17 received in the office on September 12th, 2012.

18 CHAIRPERSON JORDAN: I'm going to
19 catch up with myself. Just one second.

20 MR. MOY: No, that's all right.

21 CHAIRPERSON JORDAN: Okay. Is the
22 Board prepared to deliberate on 18385? All

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1 right. Let's do so. Does any Member of the
2 Board have a feeling one way or the other about
3 this particular application which they wish to
4 express their opinion about? It's my
5 understanding that relief is still required for
6 this matter under 401, lot area; 404, rear year;
7 and 406, court, is that correct?

8 MR. MOY: That's my understanding,
9 sir.

10 CHAIRPERSON JORDAN: Because I
11 thought there was some questions, initially,
12 with OP on this matter. I'm trying to find my
13 additional notes here. Here we are trying to
14 find additional notes on the right where the
15 documents are. Did we receive a supplemental
16 report from OP?

17 MR. MOY: No, sir.

18 CHAIRPERSON JORDAN: Thank you.
19 We did receive, from the applicant, additional
20 information showing that there would be a
21 hardship for them to remove the structure. They
22 claim that the original cost of the structure

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1 was \$14,700 and that they've attached a
2 construction cost of \$10,000 to remove it.

3 This is a matter where we had
4 received, I guess, every neighbor's support for
5 this structure and that there is a difference
6 of -- the difference in spacing of the board
7 of 6 inches? Is it 8 inches? Yes, 8 inches,
8 that, one way or the other, makes it within a
9 matter of right structure.

10 And so we have to decide here today
11 whether or not we will grant the relief -- oh,
12 the other part of this is that the structure
13 has already been built. We requested the last
14 time that they provide us information of the
15 exceptional conditions and to support the
16 variance test, and I think, Mr. Hinkle, you did
17 ask for the information about the cost the state
18 submitted.

19 They indicate, additionally, that
20 they're willing to sign an affidavit, or be
21 imposed with the conditions that this structure
22 will not have any other additions to it, and

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1 et cetera, that it had be limited in its use.

2 They also cite additional hardships in regards
3 of employment and income, the ability to make
4 the change if they're required to remove the
5 structure.

6 OP recommended the approval of the
7 structure and there were 44 signatures from
8 neighbors, and et cetera, as well as, I think
9 the ANC supported it. So anybody else, anything
10 to add to this file? Well with that, I would
11 move that we grant the applicant's request for
12 relief as defined, seeing that, because of the
13 exceptional circumstances that exist, and how
14 close they are to what the zoning regulations
15 are, and the hardship that this thing would
16 commit for them to have to remove it, it was
17 something that was not done, I can use the word
18 intentionally, but with knowledge of the zoning
19 regulations.

20 All the neighbors says it's very
21 much contributing to the neighborhood. In
22 fact, it brings beauty and we had some very,

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1 very tearful kind of conversations about this,
2 so that would be my motion.

3 MEMBER HINKLE: Yes, Mr. Chair,
4 this was a somewhat difficult case for me because
5 I think, you know, it's always difficult when
6 something is built and I know we're not supposed
7 to consider that, really, but, you know, the
8 applicant has brought in a bit of the hardship
9 issue in terms of tearing it down and rebuilding
10 it so that it does fit within the lot occupancy
11 requirements would be a bit of a hardship.

12 And I'm not sure if tearing it down,
13 necessarily, gets everybody anything. And
14 whereas, you are looking at some roofing slats
15 that, you know, if they were 8 inches apart
16 further from each other, it would also fit within
17 the lot occupancy requirements.

18 So I just am struggling with this,
19 but I think there's enough of an exceptional
20 situation, at least in this case, because it
21 is built and doing any sort of modification to
22 it would be a bit of a hardship that I can second

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1 the motion.

2 CHAIRPERSON JORDAN: Motion made
3 and seconded to approve the application.
4 Unreadiness?

5 ZC COMMISSIONER MAY: Yes, I'd just
6 like to talk a little bit about it. You know,
7 if we just look at this strictly of what's on
8 paper and how things came to pass, it's hard
9 to say that the case has been strongly made.
10 You know, the lesson to be learned here is that,
11 you know, you need to understand the
12 requirements for building permits before you
13 start building and, you know, if you don't, there
14 can be consequences.

15 Now, in this circumstance, you know,
16 is it really worth the, you know, going back
17 and having to fix it at this stage for the sake
18 of the spacing of the members of the trellis
19 structure for the sake of 8 inches? It seems
20 a little bit silly for us to insist on that in
21 this circumstance.

22 I am not persuaded by the issue of

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1 the cost. I mean, I do believe it's a hardship,
2 but I just have a very hard time believing that
3 it would cost \$10,000 to fix this. I think that
4 it could be done for far less than that, but
5 I don't even think that's the real point.

6 The point is that, it would be a
7 hardship to fix it. It would be a pain in the
8 neck to tear off part of it, and salvage part
9 of it, and put it back together, you know, even
10 if it only costs \$5000. So, I mean, I can't
11 say that I'm enthusiastically supportive of
12 this, but I think that I'm willing to go along
13 for the sake of not causing any more trouble.

14 I think that if we had even a smidgen
15 of resistance from the neighbors, I would be
16 in a different place, but I think since there's
17 been such strong support, I'm okay with it.
18 I may not like it, but I'm okay.

19 CHAIRPERSON JORDAN: Yes, they had
20 44 signatures from neighbors. They had ANC
21 support unanimously, and they really seemed like
22 they were extremely innocent. So with that,

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1 all those in favor of the motion signify by
2 saying aye.

3 (Multiple Ayes)

4 CHAIRPERSON JORDAN: Those
5 opposed, nay. The motion carries. Mr. Moy.

6 MR. MOY: Yes, sir. Staff would
7 record the vote as 3 to 0 to 2. This is on the
8 motion of Chairman Jordan to approve the
9 application for variance relief under lot
10 occupancy and non-conforming structure
11 requirements. Second to the motion, Mr.
12 Hinkle. Also in support of the motion, Mr.
13 Peter May. We have one Board Member not present
14 and another Board Member not participating.

15 So again, the final vote is 3 to 0
16 to 2. The motion carries.

17 CHAIRPERSON JORDAN: I'm thinking,
18 can we have a summary order, please, Mr. May?

19 MR. MOY: Yes, sir.

20 CHAIRPERSON JORDAN: Mr. Moy.

21 MR. MOY: It's close, by one letter.

22 CHAIRPERSON JORDAN: I thank Mr.

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1 May for spending the time and sorry I couldn't
2 get to you earlier.

3 ZC COMMISSIONER MAY: I'm happy to
4 put in my five minutes here.

5 CHAIRPERSON JORDAN: No, you were
6 here for all the rest. It was a heck of a day
7 this morning. Thank you.

8 MR. MOY: The next item for the
9 Board is a motion of a request for
10 reconsideration of Appeal Number 18257 of Walter
11 Pars et al, pursuant to Section 3126 of the
12 zoning regulations. The original appeal, for
13 the record, was denied on December 6th, 2011.

14 The order was issued on July 17th, 2012.

15 And in that order, the appeal was
16 pursuant to 11 DCMR 3100 and 3101 from an April
17 8th, 2011 decision by the Zoning Administrator
18 Department of Consumer and Regulatory Affairs
19 to issue a building permit allowing the
20 construction of an elevator or material lift
21 in the C-2-A District in the rear of premises
22 3307 M Street, NW, property located in Square

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1 1205 Lot 79.

2 On July 30th, 2012, the appellant
3 filed a motion for reconsideration pursuant to
4 the requirements of Section 3126. That
5 document, Mr. Chairman, is under cover in your
6 case folders as Exhibit 39. Subsequent to the
7 appellant's filing, there are two response
8 filings in the record.

9 The first is from the intervener,
10 represented by Holland & Knight. That document
11 is identified as Exhibit 40. The second filing
12 in response is from the appellee, DCRA, and that
13 document is identified under Exhibit 41.

14 The Board is to act on the merits
15 of the motion for reconsideration pursuant to
16 the requirements under Subsection 3126.4 and
17 3126.6. And that completes the staff's
18 briefing, Mr. Chairman.

19 CHAIRPERSON JORDAN: Thank you, Mr.
20 Moy. And we will open the Board up for
21 deliberations. Does anyone have anything they
22 want to say about 18257? No? Okay. This is

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1 a matter that's before us for reconsideration
2 of the order and the standard of reconsideration
3 under 3126.6, no request for rehearing shall
4 be considered, or reconsideration, by the Board
5 unless the evidence is submitted that could not
6 reasonably have been presented at the original
7 hearing.

8 There are, generally, two points
9 made here by the applicant that the Board erred
10 in upholding the Zoning Administrator's zoning
11 determination, that the property had been
12 characterized one way for the building permit,
13 and then later on, another way for a second
14 building permit.

15 And this matter, although raises a
16 little different issue, but I don't see where
17 -- and there was not an argument made in the
18 briefings, how and why it could not have been
19 raised during the initial hearing. And then
20 the second point that's raised was that,
21 basically, a question of interpretation and what
22 was a definition of exterior walls, and we kind

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1 of went around and around that during the
2 hearing.

3 And to me, it becomes an argument
4 and the challenge of our interpretation, but
5 does not present new evidence or something that
6 could not have been presented before. That's
7 just my thought on it. Anyone else?

8 VICE CHAIRPERSON SORG: Thank you,
9 Mr. Chairman. I first wanted to say that I think
10 all of us felt like this was a pretty tricky
11 case in the first hearing of the appeal.

12 You know, when you're dealing with
13 these kinds of cases that require interpretation
14 that are not necessarily provided in the zoning
15 regulations, I think that we, during the hearing
16 of the original appeal itself, and with the
17 submissions that were made there, you know, I
18 did, and I think we all took great care, with
19 regard to the arguments that were made on all
20 sides.

21 And while I think that, of the two
22 points in the motion for rehearing, the first

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1 argument does shed a little bit of light on a
2 topic that was heard in the original appeal.
3 I agree with your assessment of the second pretty
4 closely on a point that's made.

5 So in the end, while, you know, we
6 want to, obviously, take great care in these
7 kinds of, you know, decisions regarding these,
8 sort of, definitional issues, and we certainly
9 don't want to lose sight of how it's affecting
10 the population and property owners surrounding,
11 but agree, in the end, that the issues that are
12 brought up in the motion have been heard or could
13 have been heard in the original appeal. Thank
14 you.

15 CHAIRPERSON JORDAN: Mr. Hinkle,
16 anything? No? Then I would move that we deny
17 the request for reconsideration of Board Order
18 Number 18257. Don't all jump up at the same
19 time.

20 VICE CHAIRPERSON SORG: Second.

21 CHAIRPERSON JORDAN: A motion made
22 and seconded to deny the motion for

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1 reconsideration. Any unreadiness? Seeing
2 none, all those in favor signify by saying aye.

3 (Multiple Ayes)

4 CHAIRPERSON JORDAN: Those
5 opposed, nay. And I believe Mr. Turnbull has
6 voted?

7 MR. MOY: Yes, sir. Before I give
8 the final vote, Mr. Turnbull did submit an
9 absentee ballot and his absentee vote is to deny
10 the appeal. So, sir, that would give a final
11 vote of 4 to 0 to 1, the motion on Chairman Jordan
12 to deny the appeal. Second the motion, Vice
13 Chairperson Sorg.

14 Also in support of the motion, in
15 addition to Mr. Turnbull's absentee vote, Mr.
16 Hinkle, and no other Board Member present nor
17 participating. So again, the final vote is 4
18 to 0 to 1. The motion carries.

19 CHAIRPERSON JORDAN: All right.
20 Thank you.

21 MR. MOY: The next item before the
22 Board is the motion, or request, for a two-year

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1 time extension of Application Number 18064 of
2 HAI Real Estate Holding, PLLC, pursuant to
3 Section 3130 and a waiver of Section 3130.9,
4 which was the 30-day filing of the application
5 prior to the expiration of the order, which the
6 Board, I believe, addressed in earlier decision
7 dates.

8 The original application, which was
9 approved on May 18th, 2010, was pursuant to 11
10 DCMR 3104.1 for a special exception on the rear
11 year requirements under Subsection 774.5, and
12 a special exception from the parking
13 requirements under Subsection 2120.6, to allow
14 an addition to an existing office building in
15 the DC/C-3-C District at premises 1820 through
16 1822 Jefferson Place, NW, property located in
17 Square 139 Lot 75.

18 As the Board is aware, on July 31st,
19 2012, the Board convened this request,
20 deliberated, and rescheduled its decision
21 September 25th. The applicant made another
22 filing and that document is dated September

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1 14th, 2012 and is identified as Exhibit 37 in
2 your case folders.

3 So with that, then, the Board can
4 move forward and act on the merits of the request
5 to extend the validity of Order 18064. That
6 concludes the staff's briefing, Mr. Chairman.

7 CHAIRPERSON JORDAN: Thank you, Mr.
8 Moy. I believe the Board is ready to deliberate
9 in this matter. Does anyone have anything in
10 particular you wanted to say about 18064? Ms.
11 Sorg?

12 VICE CHAIRPERSON SORG: Sure.
13 Thank you, Mr. Chairman. Based on the
14 submissions that were received in advance of
15 the second hearing, particularly the affidavit
16 and the information related to efforts at
17 gaining financing and marketing the property,
18 I think that I would move to approve the
19 application for the relief that's stated.

20 CHAIRPERSON JORDAN: And I would
21 second that. Motion made and seconded to
22 approve the application for the extension as

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1 requested; the two-year time extension. Any
2 unreadiness? All those in favor signify by
3 saying aye.

4 (Multiple Ayes)

5 CHAIRPERSON JORDAN: Those
6 opposed, nay. The motion carries.

7 MR. MOY: Staff would record the
8 vote as 3 to 0 to 2. This is on the motion of
9 Vice Chair Sorg to approve the request for a
10 time extension. Second the motion, Chairman
11 Jordan. Also in support of the motion, Mr.
12 Hinkle. We have two other Members not
13 participating and not voting. So again, the
14 final vote is 3 to 0 to 2.

15 CHAIRPERSON JORDAN: Thank you.
16 Then that would conclude this afternoon's
17 meetings. I've got another item of business,
18 in accordance with Section 405 of the Open
19 Meetings Act of the D.C. Code, I move that the
20 Board of Zoning Adjustments hold closed meetings
21 on Mondays of October 1st, 15th, 22nd, and
22 October 29th.

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1 This will begin at 4:00 p.m. for the
2 purpose of obtaining legal advice from our
3 counsel and to deliberate on, but not to vote
4 on the cases scheduled to be publicly heard or
5 decided by the Board on the day after each sets
6 closed meeting.

7 Those cases are identified in the
8 Board's public agenda for October 2nd, October
9 16th, October 23rd, and October 30th. Is there
10 a second? Motion made and seconded. Will the
11 Secretary please take the roll call vote?

12 MR. MOY: Yes, sir, with pleasure.
13 When I call Board Member saying if you could
14 reply with a yes or nay?

15 (Roll Call Vote)

16 MR. MOY: So again, the motion would
17 carry, Mr. Chairman.

18 CHAIRPERSON JORDAN: Thank you.
19 Is there any other business coming before us
20 this afternoon?

21 MR. MOY: No, sir.

22 CHAIRPERSON JORDAN: Then we stand

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1 adjourned. Thank you.

2 (Whereupon, the meeting in the
3 above-mentioned matter was adjourned at 2:40
4 p.m.)

5