In re: Application 16875
All Souls Church
Before the Board of Zoning Adjustment

# PARTY OPPONENT CHOHARIS'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

## Findings of Fact

### Background

1. All Souls Memorial Episcopal Church ("All Souls") has applied for a special exception pursuant to Zoning Regulations Sec. 3104 and 213 "for the weekday use of up to 17 available parking spaces by contract" out of a total of 21 spaces that will be newly created by All Souls. See Application (Case file Ex. 1).

2. All Souls is located at 2300 Cathedral Ave., NW, in an R-4 zoning district, in the Woodley Park neighborhood. See Application (Case file Ex. 1).

3. The parking lot is more than 1,200 feet from the northern most border of the business district in Woodley Park. See attached Ex. 1.

4. The Woodley Park / National Zoo Metro Station is located in the middle of the Woodley Park business district and runs along the Red Line.

RECEIVED
D.C. OFFICE OF ZONING
2002 JUN 26 PM 4:46

5. All Souls proposes to restrict entrance and exit to its parking lot to the 2700 block of Woodley Place, N.W. The 2700 block of Woodley Place is a quiet, one-way street running north to south parallel to Connecticut Avenue between Cathedral Avenue and Woodley Road. See Ex 2.

6. According to All Souls, it has submitted its application for a special exception in order to satisfy the community's purported request, as allegedly expressed by the Woodley Park Community Association, to lease the Church's parking spaces. See Tr. 32-33, 60-61. In the testimony before the Board, All Souls did not identify any other purpose or reason for its Application. See generally Tr. The Church's financial objectives or conditions are not relevant to this Board's assessment of the Application. See Tr. 59-60; 98.

### 1,000 + parking spaces already available

7. It is undisputed that there are currently **four other parking facilities** in the Woodley Park area. See Management Plan at 15; Exs. 1 and 2.

BZA
Case No. 16875
Exhibit No. 38

Board of Zoning Adjustment
District of Columbia
CASE NO.16875
EXHIBIT NO.38

8. Specifically, the four parking facilities located near the Woodley Park business district are:

(i) Marriott-Wardman Hotel
2660 Woodley Road, N.W.
202-328-2976
**capacity: 600+ parking spaces**

(ii) Omni Shoreham Hotel
2500 Calvert Street, N.W.
202-234-0700 and 202-756-5098
**capacity: 300+**

(iii) Calvert Street Garage
2519 Connecticut Avenue
**capacity: 75 spaces**

(iv) Standard Parking
2639 Connecticut Avenue
483-0412
**capacity: 52 spaces** (daily parking)

9. It is undisputed that **each of these four commercial parking facilities is closer to the business district** than is the All Souls parking lot. See Ex. 2.

10. **There is no shortage of parking spaces available for <u>lease</u> on a monthly or daily basis in the Woodley Park area**. The above four parking garages provide **more than 1,000 spaces** available on a daily basis and nearly 1,000 spaces available on a monthly basis.

11. All Souls proposal to offer 17 additional parking spaces for lease in the Woodley Park area will increase the available parking spaces for lease by less than 1.7 %.

12. The only parking shortage in Woodley Park is **free** parking.

13. All Souls does not propose to provide free parking. See Ex. E to Management Plan. According to All Souls, the only difference between its parking lot and the four current commercial lots is that it will charge less money in exchange for greater inconvenience for the parking tenants. See Management Plan 15-16 (All Souls will charge a "discounted market rate" that reflects "the preemptive authority retained by the Church to temporarily suspend parking privileges, the restricted weekday use, and because the parking lot is outside.") All Souls has not disclosed what its "discounted market rate" will be. (See pp. 1, 5 of Ex. E attached to Management Plan). All Souls concedes

that parking rates vary considerably among the four parking garages and that there is no "market rate." See Management Plan at 15 ("The monthly parking rate charged at each of the nearby hotels is $300, and at the two local private parking facilities is $145 and $150.").

14. An increase of less than 1.7 % in parking spaces for rent will be negligible, when more than 1,000 spaces are already available for lease in the Woodley Park area. Thus, the special exemption will not in any meaningful way increase the availability of parking spaces for lease in Woodley Park.

15. The Church currently uses its parking lot for numerous meetings, activities and services during weekdays and evenings – the period when All Souls proposes to lease 17 out of 21 parking spaces. See Ex. 3; Choharis Declaration.

16. Currently, participants in these meetings park in the All Souls parking lot. Without access to the All Souls parking lot, those who drive to the meeting have no other option than to park on Woodley Place and the surrounding streets. As a result, leasing the All Souls parking lot will **exacerbate the shortage of free parking in the neighborhood.** See Choharis Declaration in Support of Motion to Re-Open Hearing.

17. All Souls proposes to solve this problem by requiring the parking tenants "to vacate the Parking Lot temporarily" for such meetings and events (see Management Plan at 15) provides no solution since the displaced parking tenants will then have no other option than to park on Woodley Place and the surrounding streets. Again, the result will be to **reduce the availability of street parking for** neighborhood residents, since some of the parking tenants displaced from the All Souls lot might not have otherwise parked in the neighborhood.

18. Whether nor leasing the All Souls lot will decrease the availability of free parking in the neighborhood, there is no evidence that leasing the lot will alleviate the shortage of free parking. As noted above, there are already more than 1,000 parking spaces available for lease in the Woodley Park area. If these have not reduced the shortage of free parking, increasing the amount of leased parking spaces by less than 1.7% can hardly be expected to do so.

Neighborhood Opposition

19. The neighbors living on the surrounding streets -- and thus who are most directly affected by the application -- overwhelmingly oppose the Church's plan to lease its parking lot. See Petition, letters, and e-mails attached to Choharis Declaration identifying more than sixty residents opposing the application. Those neighbors opposing the application include all of the neighbors across the street from the entrance to the All Souls parking lot; the

president and a number of residents of the Woodley Park Condominium Association, of which 20 of its 35 units directly face the All Souls parking lot; and an officer of the Woodley Park Community Association ("WPCA"). See Choharis Declaration and accompanying exhibits.

20. The Metropolitan Police Department reported 52 incidents of auto thefts or attempted thefts in the neighborhood surrounding All Souls ("Reporting Area 238") during the past year alone, June 13, 2001 to June 13, 2002. See Ex. 1 attached to Opponent Choharis's Response to Management Plan. This amounts to an average of one stolen car or attempted car theft per week in the neighborhood during the past year. All Souls Management Plan rejects increasing lighting to deter criminals, a guard or security service to patrol the parking lot, a gate with key access; or any other measures to mitigate the danger that 17 additional cars in an unlocked, unmonitored parking lot will pose.

21. Speeding is already a concern in the neighborhood. Woodley Place residents are currently circulating a petition for the city to install speed bumps to try to reduce the speeding that regularly occurs. See copy of petition attached as an exhibit to Choharis Declaration. In addition, cars exiting the alley opposite the All Souls parking lot, as well as cars exiting from the All Souls parking lot, sometimes speed up Woodley Place in the wrong direction (north). Seventeen additional cars will add to this traffic and increase the danger.

22. As noted above, Woodley Place is a one-way street. Seventeen additional cars going down this one-way street will inevitably increase traffic as well as pollution and noise. The neighborhood's quiet character will be disturbed.

23. The metropolitan area of the District of Columbia is in violation of federal National Ambient Air Quality Standards. The Washington, D.C. area frequently suffers from condition Red days, indicating the worst air quality, during the summer months. Although seventeen additional cars in the neighborhood may not exacerbate this problem substantially, there is no need to entice more vehicles into the area when there is a Metro station in the heart of Woodley Park.

24. It is undisputed that the All Souls parking lot is bordered on the west by tall apartment buildings, on the south by a three-story tall row house, and on the north by the Church building. See Management Plan Exs. F & G. As a result, noises are amplified and projected toward the nearby homes on Woodley Place. See Tr. 102. The Management Plan does not include any obligations on the part of All Souls to monitor and redress "unruly and disruptive" parking tenants (MP at 18) other than the potential "loss of parking privileges" (MP 16). Instead, the Management Plan (at 18) imposes exclusively upon the surrounding neighbors the burden of "contact[ing] the police and report[ing]

the nuisance or effect[ing] an arrest of the offending party" no matter what time of night.

25. It is undisputed that a residential rowhouse, currently serving as the rectory, is adjacent to the parking lot on the south. Tr. 37-38. It is also undisputed that the only thing separating the rowhouse and the parking lot are a short fence, a taller wooden fence and narrow foot path. *Id.*

Inaccurate and Incomplete Testimony and Submissions by All Souls

26. Although all four All Souls witnesses failed to inform the Board of the fact, and one witness failed to answer the question when directly asked of him (Tr. 68), All Souls had previously illegally leased the parking lot. See excerpt of All Souls 2001 Annual Report, attached as an exhibit to Choharis Declaration., at 8 ("Our efforts to secure a zoning exception that will enable us once again to use our parking lot for commercial purposes is proceeding . . . "). Indeed, despite writing this section of the 2001 Annual Report, All Souls witness and Senior Warden Michael McGee did not see fit to inform this Board that the Church had previously and illegally leased its parking lot. See also *id* at 14 ("As most parishioners know, rental of the parking lot was curtailed until a zoning variance is received from the city."); *id.* at 16 (reporting actual revenue from parking lot of $5,185 versus budgeted amount of $14,000 as of December 31, 2001).

27. It was not until a neighbor, Deb Gross, discovered that All Souls was illegally leasing cars, reported the violation to the City, and the City warned All Souls that it would be fined if it continued to lease illegally parking spaces that All Souls sought legal permission to lease its parking spaces. See Choharis Declaration setting forth conversation with Deb Gross.

28. Representatives of All Souls repeatedly gave sworn testimony that the Woodley Park Community Association approached All Souls asking the Church to lease parking spaces. Tr. 32 (""the Woodley Park Community Association approached the church and asked that it ease some of the parking congestion in the neighborhood by opening its lot to residents and to some of these business owners and business employees in the area during the week"); Tr. 33 ("So the proposal that the church has made, on the recommendation of the Woodley Park Community Association, is for weekday parking in the lot . . ."); Tr. 61 ("The church has been approached by the Woodley Park Community Association which adopted a resolution in April 2001 asking the church to put to use its otherwise vacant parking lot during the week."). This sworn testimony was false. The Church approached the WPCA for support of its application. See Minutes of WPCA Executive Committee meeting of April 21, 2001; Choharis Declaration setting forth conversation with Martin Murray, 2001 WPCA president.

29. All Souls' Application for Special Exception Statement of Existing and Intended Use (Case file Ex. 3) states: "The Church has been approached by a number of business owners and their employees who drive in from other neighborhoods to open its available parking spaces for weekday parking for non-Church purposes."

30. The District of Columbia Office of Planning ("OP") Memorandum at 6 (Case file No. 25) relied upon this statement in the All Souls's Application when the OP justified its support of the application despite the parking lot's failure to meet the requirements of Zoning Regulation Sections 213.2 and 213.3: "Neither of the commercial districts is within 200 feet of the Church, nor is the parking lot separated from either of the commercial district [sic] only by an alley. However, it is the owners of some of the businesses in the two referenced commercial districts, and their employees, who are seeking to contract parking arrangements with the Church, because the Woodley Park neighborhood lacks sufficient parking to accommodate the demand for parking spaces." See also *id.* at 4 ("Area business owners, on behalf of employees, have approached the church about the possibility of using portions of the Church's parking lot for employee parking.")

31. By failing to inform the Board that it had previously and illegally leased its parking lot, All Souls denied both the Board and Choharis a full and fair opportunity to explore whether the "business owners" -- upon whom All Souls based its Application and upon whom the OP based its support -- were those businesses and employees who previously leased parking spaces illegally and whether All Souls was attempting to use those with whom it had conducted prior illegal business dealings to support its Application.

32. As quoted above, All Souls's repeatedly testified that the WPCA approached the Church and asked it to lease parking spaces (Tr. 32, 33, 61). This testimony directly contradicts All Souls's Application, which states that "[t]he Church has been approached by a number of business owners and their employees . . . to open its available parking spaces for weekday parking." (Case file No. 3). Indeed, a witness for All Souls adamantly denied that the business community approached the Church and instead insisted that it was "the Woodley Park Community Association, and that is a body of neighbors, your neighbors" that did so. Tr. 61. When further pressed, the witness explained that her testimony that "[w]e've been approached by business owners and business employees from the commercial area down the street interested in renting or you know, parking in our lot during the week" was not meant to suggest that the business community was included in the Woodley Park Community Association's alleged overture to the Church asking it to rent spaces. Tr. 61. The witness explained, "What I mean to say is that we've been approached by some business owners asking that they be able to use our lot . . . ." Tr. 62. To emphasize that business owners were not included when the WPCA allegedly asked the Church to lease parking spaces, another

witness interjected, "I do know that the Woodley Park Community Association meets in the church . . . . I know no businesses represented there." Tr. 62. Neither of All Souls's other two witnesses testified otherwise or corrected or modified these statements in any way.

33. In sum, All Souls' repeated testimony disavows that the business community asked the Church to lease its parking spaces. (A plausible disavowal since there are already more than 1,000 parking spaces located considerably closer to the business district than the All Souls lot.) But the records of the WPCA April 19, 2001 Executive Committee meeting (as well as the comments of the 2001 president of the WPCA, Martin Murray) demonstrate that the Woodley Park Community Association also did not ask the Church to lease its parking spaces. Moreover, the attached petition, letters and e-mails to the Choharis Declaration indicate that the neighbors in the surrounding streets oppose the Church's leasing its lot commercially. Thus, **the record is devoid of any evidence that any sector of the community has asked the Church to lease its parking lot.** As a result, **All Souls's parking proposal** – allegedly submitted in response to the community's desire, as expressed by the WPCA, to lease its parking spaces (Tr. 32-33, 60-61) – **lacks any support or basis in the record**.

Tainted Record or Changed Circumstances

34. The WPCA resolution supporting All Souls' application was premised on All Souls' representation to the WPCA that the operation of the parking lot "would be in line with its existing practice of renting out a limited number of parking spaces to area residents and merchants . . . ." Minutes of WPCA April 19, 2001 Executive Committee Meeting attached as an exhibit to Choharis Declaration; see also Choharis Declaration setting forth conversation with Martin Murray.

35. At no time did All Souls lease 17 out of 21 parking spaces, illegally or otherwise, to area merchants and residents. Indeed, the parking lot currently does not have 21 parking spaces. It will have to be repainted and reconfigured to accommodate such spaces. See Tr. 37 and All Souls' proposed parking plan.

36. Because All Souls never revealed to the Board or Choharis that it had previously leased parking spaces even when an All Souls witness was directly asked, "you haven't rented [the parking lot] like this before, have you?" (Tr. 68), the record does not contain information about the exact nature of All Souls' prior, illegal "practice of renting out a limited number of parking spaces." Minutes of WPCA meeting. However, the evidence does show that All Souls never rented 17 parking spaces between midnight, Sunday to midnight, Friday as it now proposes. See Declaration of Choharis.

37. Accordingly, the WPCA approval of All Souls' proposal to rent parking spaces was based upon conditions that All Souls' Management Plan did not meet. At an executive committee meeting of the WPCA held on June 20, 2002, at which All Souls' legal counsel was present, the WPCA chairperson, Ron David, opined that it was the consensus of the executive committee that it would like to have additional time for the WPCA to consider the Church's proposal to lease its lot in light of the new substantive terms set forth in the Management Plan. See Choharis Response to Management Plan at 3. Mr. David asked All Souls' legal counsel to ask All Souls to agree to a delay of the hearing process before this Board until the WPCA could consider the Management Plan. All Souls refused the WPCA executive committee's request for such a delay. See *id.*[1]

38. The ANC Resolution 2002-009 (Case file Ex. No. 26) ("ANC Resolution") was also based on All Souls' representations to the Commissioners that its proposed leasing of its parking lot "would be a return to the status quo." See Choharis Declaration setting forth conversation with ANC-3 Commissioner Kurt Vorndran; see also Choharis Declaration setting forth conversation with Commissioner Cheryl Opacinch. As previously noted, All Souls' actual proposal departs substantially from its prior practice. Because the ANC's support was predicated on unmet conditions, that support has been cast in doubt.

39. Further undermining the ANC's current support is that the ANC Resolution expressly relied in part upon "the full support of the Woodley Park Community Association," (Case file No. 26). As noted above, the WPCA resolution was itself premised on unmet promises and the most recent Executive Committee meeting demonstrates that the WPCA wished to reexamine the Church's proposal in light of new information contained in the Management Plan.

40. WPCA and ANC support are further undermined by the fact that more than sixty neighbors within the immediate vicinity of the parking lot have indicated

---

[1] **On the 12:55 p.m. on June 26, 2002, the day on which this filing was due, Choharis received a facsimile from WPCA's legal counsel, Tony Nuland, of a June 25, 2002 letter authored by Mr. David (attached as Ex. 4). In that letter, Mr. David seems to disagree with some portions of Choharis's recollection of David's comments after the meeting. Choharis's Declaration in Support of his Motion to Re-Open the hearing will include Choharis's contemporaneous notes at the hearing, his e-mail correspondence with Mr. David during which Choharis presented his understanding of Mr. David's comments and Mr. David never corrected or denied Choharis's understanding, as well as the recollections of others attending the meeting of what Mr. David said. In any event, the differences in recollection are not material, and Mr. David's letter confirms that he did make a request of the Church – although the nature of that request is in dispute.**

that they were never informed by All Souls that it planned to seek support for its application from either the WPCA or the ANC. See Choharis Declaration and accompanying exhibits. None of these neighbors were thus able to present their views to either the WPCA or the ANC.

41. The ANC Resolution is not a "report" as set forth by Zoning Regulation 11-3115.1 and does not contain any information required by four of the nine subsections of 11-3115.1. Namely, it does not indicate "whether the proper notice of [the ANC meeting to consider the application] was given by the ANC." 11-3115.1(c). It does not indicate the "number of the members of the ANC that constitute a quorum and the number of members present at the meeting." 11-3115.1(d). It does not set forth "the issues and concerns of the ANC about the . . . application as related to the standards of the Zoning Regulations and against which the . . . application must be judged." 11-3115.1(e). Finally, it does not "name the person who is authorized by the ANC to present the report." 11-3115(h).

42. The ANC-3 was specifically notified of the requirements of Section 11-3115.1 See Case file No. 17. Nonetheless, the ANC-3 declined to submit a "report" pursuant to 11-3115.1 and 11-3115.2.

43. As noted above, District of Columbia Office of Planning Memorandum at 6 (Case file No. 25) relied upon the All Souls's Application's Statement of Existing and Intended Use (Case file No. 3) when the OP justified its support of the Application despite the parking lot's failure to meet the requirements of Zoning Regulation Sections 213.2 and 213.3. Because All Souls' completely disavowed in its testimony the information contained in its Statement of Existing and Intended Use that was relied upon by the OP, the OP's support of the proposal has also been negated.

## Conclusions of Law

### Failure to satisfy Zoning Regulations requirements

1. Pursuant to 11-3119.2, the burden of proof rests with the Applicant, All Souls.

2. Section 11-3104.1 requires Alls Souls to prove that the special exception meets two criteria. First the Applicant must prove that the special exception will be in harmony with the general purpose and intent of the Zoning Regulations." R-4 Districts are residential, comprised of rowhouses and some multi-residential apartment buildings. As discussed below, the multiple applicable Zoning Regulations are meant to protect communities from the noise, traffic and other problems posed by commercial parking lots. All Souls's Application fails multiple specific zoning regulations, which individually and collectively are designed to protect residential communities.

3. Moreover, Woodley Place is a quiet, one-way street. There are numerous families raising small children and pet owners located throughout the streets surrounding the parking lot. See Tr. 102-105. Operating a commercial parking lot for 17 additional cars at all times day and night from midnight, Sunday through midnight, Fridays in no way is in "harmony with the general purpose and intent of the Zoning Regulations" to preserve the residential character of the neighborhood and protect it from the noise, crime, traffic, and pollution posed by a commercial parking lot.

4. Section 11-3104 also requires that the special exception "will **not tend to affect adversely the use of neighboring property** Zoning Regulations and Zoning Maps." (emphasis added). The "not tend to affect adversely" standard is quite high for the Applicant. Written in the negative, it does not require that there be an adverse effect or even a likelihood of an adverse effect. Where there is record evidence that the special exception may "tend" to have an adverse effect on the neighboring property, the application must fail.

5. The record contains evidence that the introduction of 17 additional cars into the All Souls parking lot will likely – and most definitely "tend" – to have an adverse effect on the crime, noise, safety, traffic, and character of the neighborhood. See Tr. 102-105; Party Opponent Choharis's Response to Management Plan. Indeed, in less than a week, more than sixty people have signed a petition, written letters, or sent e-mails. See Petition opposing All Souls's Parking proposal as set forth in its Management Plan, e-mails, and letters attached as exhibits to Choharis declaration.

6. Indeed, in its Management Plan at 18, All Souls concedes that "a parking tenant [may] become unruly and disruptive." But All Souls does not adopt any obligation to respond to this problem (and potential danger) or to mitigate the problem. Instead it imposes on the neighbors alone the burden of "contact[ing] the police and report[ing] the nuisance or effect[ing] an arrest of the offending party, as necessary" – even in the middle of the night. Management Plan at 18. This additional burden alone will definitely – let alone "tend to"-- adversely affect the use of neighboring property. Added to the increased traffic and pollution and the negative effect on the quiet character of the neighborhood, All Souls's Application for special exception fails Section 11-3104.

7. In order to preserve residential neighborhoods – especially ones such as Woodley Place which is a quiet, one-way street – the zoning regulations include a pair of requirements to ensure that commercial parking lots are located **very near** commercial districts. Section 1-213.2 requires that a "parking lot **shall be located in its entirety** within two hundred (200 ft.) of an existing Commercial or Industrial district." (emphasis added). The All Souls parking lot fails to meet this requirement by more than a factor of at least four. See OP Memorandum (Case file No. 25 at p. 5) and perhaps as much as six times. See Ex. 2. In contrast to the

All Souls parking lot, all four currently available commercial parking areas in Woodley Park easily satisfy this requirement. See Exs. 1 & 2.

8. Similarly, Section 213.3 requires that a "parking lot shall be contiguous to or separated only by an alley from a Commercial or Industrial district." The All Souls parking lot is separated by many rowhouses and apartment buildings from the commercial district of Woodley Park. Once again, the parking lot does not meet this regulation, which is intended to protect and preserve neighborhoods.

9. The Management Plan (at Ex. E) also fails to satisfy Section 213.7, which requires that "[a] majority of the parking spaces shall serve residential uses or short-term parking needs of retail, service and public facility uses in the vicinity." See Tr. at 52. Nor is there any prohibition against parking tenants using the lot as a park-n-ride.

10. Section 11-333.3 requires that the use of the parking lot "not be likely to become objectionable because of noise, traffic, or number of employees." As noted above, the introduction of 17 new cars at all hours of the day and night into a dimly lit, unguarded parking lot surrounded by tall buildings that project noise to toward the street cannot help but increase the noise and traffic on Woodley Place.

11. Section 11-333.5 requires that the "hours of active operation shall be arranged so a not to prove disturbing or otherwise objectionable to persons residing around the perimeter of the square in which located." As the Management Plan states, the parking spaces will be operated at all times, day and night, from midnight Sunday through midnight, Friday, except when the Church is in need of spaces for events or functions. All Souls has refused to limit the hours of operation of the parking lot even to extended business hours. See Choharis's Response to Management Plan at 3; see also Management Plan at 7.

12. Finally, Title 11, Section 2303.2 requires that a parking lot located in a R-4 District "shall be screened from all contiguous residential property located in . . . R-4 District by a solid brick or stone wall at least twelve inches (12in.) thick and forty-two inches (42 in.) high or by evergreen hedges and/or evergreen growing trees which are thickly planted and maintained and are at least forty-two inches (42 in. in height when planted." The Application also fails because no such wall or evergreen hedges or trees currently exist between the parking lot and the contiguous residential property and the Management Plan proposes none.

ANC Resolution not entitled to any deference

13. As set forth above, the ANC Resolution (Case file Ex. 26) does not meet four out of the nine requirements necessary to be eligible for consideration by this Board. These multiple deficiencies are neither technical nor immaterial. To the contrary, these requirements are meant to ensure that the ANC notified concerned citizens and that they had a chance to appear in a public meeting to voice their concerns.

As the petition attached to the Choharis Declaration in Support of Motion to Re-Open the hearing indicates, dozens of citizens in the immediate vicinity of the subject parking lot did not receive notice about the ANC's intention to consider the application. Nor is there any evidence that proper notice was provided. Moreover, these subsections require the ANC to report what issues it considered and what concerns it had regarding the application in light of the applicable zoning standards. The ANC Resolution lacks any reference to these substantive issues because it is not a "report," but merely a resolution.

14. Furthermore, there is evidence that the ANC Resolution was passed based upon an inaccurate understanding of All Souls' plan of operation of its parking lot. Moreover, the evidence indicates that the ANC-3 might reach a very different conclusion regarding the proposal given the substantial change in All Souls' plans from those previously presented to the ANC during its meeting and the outpouring of neighborhood opposition to the application.
15. For all of the above reasons, there is no ANC-3 report submitted pursuant to 11-3115.1 that is eligible for any "great weight" as called for in 11-3115.2.

16. At the May 29, 2002 Board hearing, the Board admitted the ANC "report" into the record. Party Opponent Choharis did not object to its admission into the record, despite it being submitted late by the ANC. Tr. 95. Not objecting to a document's admission does not waive objections to the document's inadequacies and does not estop a party from pointing out the legal infirmities of a submission.

17. Because the Application fails to satisfy the above regulations, which individually and collectively are intended to preserve and protect residential neighborhoods such as the one surrounding the All Souls parking lot; and because the addition of 17 parking spaces for leasing will not increase to any appreciable extent the availability of parking in Woodley Park, which already has more than a 1,000 parking spaces available for lease, the All Souls's Application is denied.

Sanction for Material Omissions of Fact and Misstatements of Fact

18. Alls Souls's failed to inform the Board, even when asked directly by Party Opponent Choharis, that it had previously, illegally leased its parking lot deprived the Board of relevant information and deprived Choharis of a full and fair opportunity to develop his case in rebuttal. As just one example of the latter, Choharis was unable to bring out the fact that a neighbors' specific concern about valet parking was because the Church had previously permitted valet parking in its parking lot, which resulted in cars speeding down the narrow alley west of the parking lot and running parallel between Woodley Place and Connecticut Avenue. See Choharis Declaration.

19. Alls Souls' repeated false testimony that the Woodley Park Community Association approached the Church and asked it to lease its parking spaces

misrepresented the very reason for the Church's Application; created the false impression of wide community support; and may have influenced the Board's decision not to keep the hearing open. See Tr. 126, 127, 131-132.

20. All Souls' waited until this Board's May 29, 2002 hearing to disavow the reason it identified in its Statement of Intended Use for why it was seeking a special exception to lease its parking lot, even though All Souls new that the District of Columbia Office of Planning had relied upon All Souls's Statement for OP's support of the Application and even though it knew that other City agencies may have done so as well. All Souls presented no evidence that it attempted to correct the record with the OP or any other agency and no reason for its failure to do so.

21. Choharis has incurred deep and substantial prejudice as a result of these omissions of fact and inaccurate statements, including unable to obtain a fair hearing and develop his case in opposition; incurring the time and expense of dozens of hours investigating the truth; additional hours collecting and organizing substantial evidence of neighborhood opposition to the proposal; and drafting a Motion to Re-Open the Hearing along with an accompanying Declaration and Exhibits in Support. This effort has amounted to more than $10,000 of attorney time and considerable out of pocket expenses.

22. It is fitting and proper as a sanction and to maintain the integrity of the hearings of this Board to deny the Application of All Souls.

Respectfully submitted,



Peter C. Choharis
2771 Woodley Place, N.W.
Washington, D.C. 20008

Currently residing at:
3101 New Mexico Ave., NW
Washington, D.C. 20016

Certificate of Service

I, Peter C. Choharis, do hereby affirm under penalty of perjury that I caused the aforementioned Proposed Findings of Fact and Conclusions of Law to be served upon Brigitte L. Adams, 2800 Wisconsin Ave., N.W., # 208, Washington, D.C. 20007 via

First-class, prepaid postage, US Mail /
Hand delivery

on June 26, 2002.

Peter C. Choharis

Peter C. Choharis

Ex. 1

Home | Help

MAPQUEST

MAPS | DRIVING DIRECTIONS | ROAD TRIP PLANNER | YELLOW PAGES

maps

- **Address**
- **Airport**
- **ZIP Code**
- **City**
- **Area Code**
- **Lat / Long**
- **Road Atlas Key**
- **Saved Maps**

All Souls's Parking Lot

4 commercial parking lots

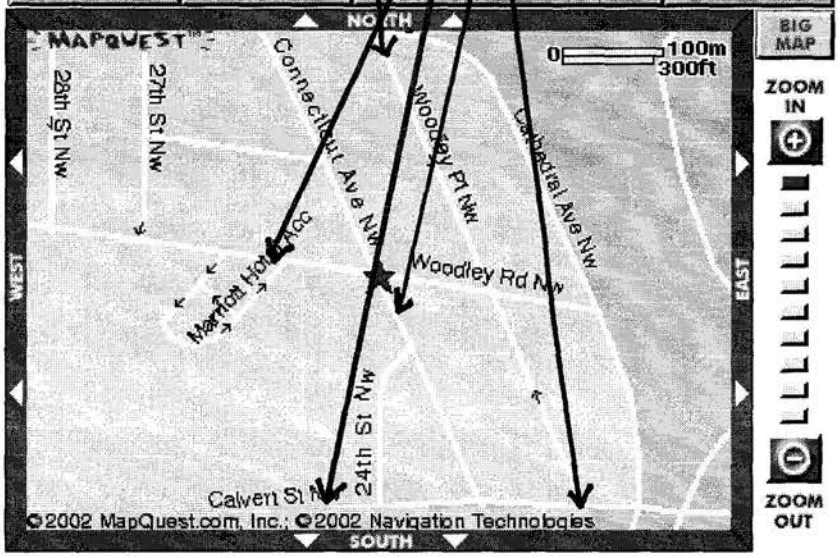
**Location:**

**Connecticut Ave Nw At Woodley Rd Nw**
**Washington, DC**
**20008, US**

STREET MAP | AERIAL PHOTO

Map a New Location | Get Directions To This Location

PRINT MAP | SAVE MAP | DOWNLOAD MAP TO PDA | E-MAIL MAP




CLICKING ON MAP WILL: Zoom In | Re-center | Move Location

ADDITIONAL MAP FEATURES: Customize Map | Add A Location

All rights reserved. Use Subject to License/Copyright

Map Legend | NAVTECH ON BOARD

This map is informational only. No representation is made or warranty given as to its content. User assumes all risk of use. MapQuest and its suppliers assume no responsibility for any loss or delay resulting from such use.

Atlases & Mor

Hurric Sea
A Special
CNN.com

Samsung DVD
CLICK HE

What's Nearby

Search for the nearest:

KOA

SixFlags

Dairy Queen

Search

Orbitz Travel Deals

- **Flights:** Find the lowest fares to Washington DC and surrounding area!
- **Rental Cars:** Find special offers on rental prices now!
- **Lodging:** Find discounted rates on premier hotels in your destination city!

ORBITZ

City Guide

- Washington, DC Dining
- Washington, DC News
- Washington, DC Movies
- Washington, DC Entertainment

Yellow Pages

Home | Help

MAPQUEST

MAPS | DRIVING DIRECTIONS | ROAD TRIP PLANNER | YELLOW PAGES

## maps

- **Address**
- **Airport**
- **ZIP Code**
- **City**
- **Area Code**
- **Lat / Long**
- **Road Atlas Key**
- **Saved Maps**

### What's Nearby

Search for the nearest:

Search

### Orbitz Travel Deals

- **Flights:** Find the lowest fares to Washington DC and surrounding area!
- **Rental Cars:** Find special offers on rental prices now!
- **Lodging:** Find discounted rates on premier hotels in your destination city!

ORBITZ

### City Guide

- Washington, DC Dining
- Washington, DC News
- Washington, DC Movies
- Washington, DC Entertainment

### Yellow Pages

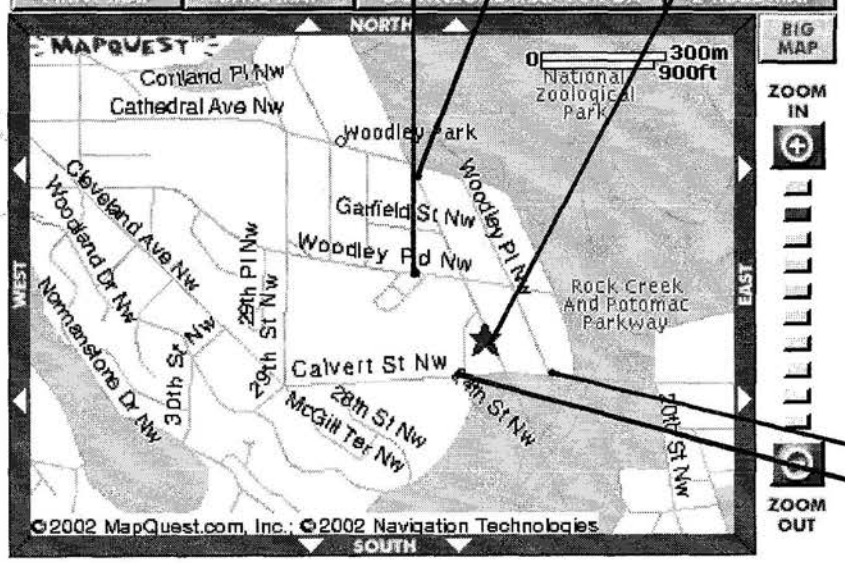
**Location:**

**2650 Connecticut Ave Nw**
**Washington, DC**
**20008-1521, US**

STREET MAP | AERIAL PHOTO

Map a New Location | Get Directions To This Location

PRINT MAP | SAVE MAP | DOWNLOAD MAP TO PDA | E-MAIL MAP




BIG MAP | ZOOM IN | ZOOM OUT

CLICKING ON MAP WILL: (•) Zoom In ( ) Re-center ( ) Move Location

ADDITIONAL MAP FEATURES: Customize Map | Add A Location

All rights reserved. Use Subject to License/Copyright

Map Legend | NAVTECH ON BOARD

This map is informational only. No representation is made or warranty given as to its content. User assumes all risk of use. MapQuest and its suppliers assume no responsibility for any loss or delay resulting from such use.

Commercial lot

Commercial lot

All Souls' Lot

Atlases & Mor



Samsung DVC



CLICK HER

★ indicates heart of Woodley Park business district

commercial lots

All Souls

Home

About the Church
+ History of All Souls
+ Music & The Choir
+ The Annual Report

Announcements
+ The Message
+ Photos of Recent Events
+ Parish Bulletin
+ Special Events

Schedules
+ Mass Schedule
+ Weekly Events Schedule
+ Service Roster

Parish Programs
+ Parish Programs Brochure (pdf)
+ Christian Education
+ Fellowship
+ Garden Guild
+ Outreach Opportunities
+ Pastoral Care
+ Worship

Clergy & Staff

Links

Contact All Souls
+ Contact Information
+ Directions

## Weekly Events Schedu

| | |
|---|---|
| **Today -- 6/23** | *Pentecost Fifth Sunday after Pentecost*<br>Baptism of Emily Nicole Lopatki<br>11:00<br>Holy Eucharist, 8:30 and 11:00 a.<br>Childcare, 10:00 a.m.<br>No Choir until September<br>No Adult Forum until Septembe<br>No Sunday School until Septemb<br>AA Meeting, Conference room, 3:00 p.m |
| **Monday** | AA Meeting, conference room, 8:30 pm |
| **Tuesday** | Staff meeting, 9:30 a.m.<br>Vestry meeting, conference room |
| **Wednesday** | Christ House Breakfast, 7:00 a.m.<br>Low Mass at noon<br>Centering Prayer, 6:45 p.m. |
| **Thursday** | Matins, 7:15 a.m.<br>Low Mass, 7:30 a.m. |
| **Friday** | |
| **Saturday** | Farmer's Market, 9:00 a.m.-1:00 p |
| **Next Sunday -- 6/30** | *Pentecost 6--Sixth Sunday after Pentec*<br>Baptism of James Alexander Brac<br>Sophie Grace Murdock at 11:00<br>Holy Eucharist, 8:30 a.m. & 11:0(<br>Childcare, 10:00 a.m.<br>No Choir until September<br>No Adult Forum until Septembe<br>No Sunday School until Septemb<br>AA Meeting, Conference room, 3<br>Cole/Blair wedding, 3:30 p.m. |

### Liturgical ministers for June 23rd

| | | |
|---|---|---|
| **Acoyltes:** | 8:30 | Nancy Charlton, Kevin LeGra<br>Minos, Nicolas Cueter, Gary C |
| | 11:00 | *CR1*--Bill Glew, *T1*--John Willi<br>*T1*--Chuck Helman, *T2*--Not A<br>*T2*--Not Assigned, *Book*--Gary<br>*CR2*--Paul Carter, *Thur*--Heidi I |
| **Lectors:** | 8:30 | (OT) Cynthia Evans (NT) Alii<br>Kinabrew, (PP) John Kinabrew |
| | 11:00 | (OT) Jennifer Johnston, (NT)<br>Suggs, (PP) George Barnum |

All Souls

Home

About the Church
+ History of All Souls
+ Music & The Choir
+ The Annual Report

Announcements
+ The Message
+ Photos of Recent Events
+ Parish Bulletin
+ Special Events

Schedules
+ Mass Schedule
+ Weekly Events Schedule
+ Service Roster

Parish Programs
+ Parish Programs Brochure (pdf)
+ Christian Education
+ Fellowship
+ Garden Guild
+ Outreach Opportunities
+ Pastoral Care
+ Worship

Clergy & Staff

Links

Contact All Souls
+ Contact Information
+ Directions

## Weekly Events Sched

| | |
|---|---|
| **Today -- 5/26** | *Pentecost 2--Second Sunday after Pe* |
| | Guest Celebrant: the Rev. Dr. F Carlyle Cato |
| | Holy Eucharist, 8:30 and 11:00 |
| | Childcare, 10:00 a.m. |
| | Endowment Fund Board meeti a.m. |
| | No Choir until September |
| | No Adult Forum until Septemb |
| | No Sunday School until Septem |
| | AA Meeting, Conference room, |
| **Monday** | AA Meeting, conference room, |
| **Tuesday** | Staff meeting, 9:30 a.m. |
| **Wednesday** | Christ House Breakfast, 7:00 a.r |
| | Low Mass at noon |
| | Christ House dinner, 4:00 p.m. |
| | Centering Prayer, 6:45 p.m. |
| **Thursday** | Matins, 7:15 a.m. |
| | Low Mass, 7:30 a.m. |
| | St. Mary's Court, 7:00 p.m. |
| **Friday** | |
| **Saturday** | Farmer's Market, 9:00 a.m.-1:00 |
| | Mariotti & Woodall Wedding, 2 |
| **Next Sunday -- 6/9** | *Pentecost 3--Third Sunday after Pen* |
| | Holy Eucharist, 8:30 a.m. & 11: |
| | Childcare, 10:00 a.m. |
| | No Choir until September |
| | No Adult Forum until Septemb |
| | No Sunday School until Septem |
| | Blackwelder Funeral, 2:00 p.m. |
| | AA Meeting, Conference room, |

### Liturgical ministers for June 2nd

| | | |
|---|---|---|
| **Acoyltes:** | 8:30 | Nancy Charlton, Kevin LeGra Minos, Nicolas Cueter, Gary C |
| | 11:00 | *CR1*--Joe Howell, *T1*--Travis R *T1*--Mat Moten, *T2*--Not Assig *T2*--Not Assigned, *Book*--Landi *CR2*--Mike McGee, *Thur*--Paul *BB*--Victoria Woodall |
| **Lectors:** | 8:30 | (OT) Kevin LeGrand, (NT) N: |

Ex. #4

# Woodley Park
## Community Association

June 25th, 2002

To Whom it may concern:

At our June 19th, meeting of the WPCA Mr. Peter Coharis, representing himself as an attorney at law, asked our Executive Committee to rescind an earlier resolution regarding a parking issue at All Souls Church. He was given the opportunity to present his objections. I suggested to the All Souls Attorney present that the objections might be considered by the Church hierarchy and we ended the meeting.

At no time was there either a consensus of the Board, or a vote by the Board to support Mr. Coharis' position.

Signed,

Ron David, President
Woodley Park Community Association

P. O. Box 4852 Washington, DC 20008
wpcadc@hotmail.com