Before the Board of Zoning Adjustment
For The District of Columbia

RECEIVED
D.C. OFFICE OF ZONING
2002 JUN 27 AM 11:08

ALL SOULS MEMORIAL EPISCOPAL CHURCH 2300 Cathedral Ave., N.W. Washington, D.C. 20008 *Application for Special Exception*	Docket No. 16875 Decision Date: 7/2/02

REPLY TO PARTY OPPONENT CHOHARIS' RESPONSE TO MANAGEMENT PLAN

The All Souls Memorial Episcopal Church (the "Church"), through its counsel, hereby replies to the Response filed by Party Opponent Peter Choharis ("Mr. Choharis") to its Management Plan ("Response"). With this reply, the Church corrects an alarming number of material misrepresentations Mr. Choharis makes in his Response, objects to his immediate request for an extension of time, and responds to Mr. Choharis' effort to expand the scope of his party status. Regarding other issues raised in his Response, and as discussed further below, the Management Plan filed by the Church June 17, 2002 adequately addresses his claims and concerns.

This Board Should Adhere To Its Established Schedule

The public hearing in this matter was held May 29, 2002. Thereafter, the record was closed and no further submissions permitted, except as specifically requested by the Board of Zoning Adjustment (the "Board").

BZA
Case No. 16875
Exhibit No. 40

Board of Zoning Adjustment
District of Columbia
CASE NO.16875
EXHIBIT NO.40

As acknowledged by Mr. Choharis, this Board established a specific post-hearing schedule, including that Mr. Choharis file a response, if at all, to the Church's Management Plan by June 24.

Because this Board established specific filing deadlines, these dates are not subject to the Title 11 regulations which otherwise permit additional time for service by mail, particularly when the Board had prescribed no special delivery method of the Management Plan. Accordingly, this Board should not recognize any further or supplemental response by Mr. Choharis, particularly since it would be made subsequent to the filing of Statements Of Fact and Conclusions Of Law, which have been filed.

Contrary to Mr. Choharis' accusation that the Church refused to serve him a copy of its Management Plan by hand, Mr. Choharis had actually declined an offer of personal serve made by this counsel.

The Management Plan was served on Mr. Choharis by mail on June 17, in the ordinary manner. In the early afternoon of the following day, the undersigned received a phone call from Mr. Choharis advising that he had not yet received a copy of the Plan. When asked whether his mail had arrived, Mr. Choharis answered that he was uncertain. At that time, the undersigned offered to arrange for hand delivery of a copy of the Plan to him should he not receive it in the mail that day. Mr. Choharis did not call back.

Mr. Choharis should not be allowed to circumvent this Board's scheduling order under a shroud of procedural correctness, particularly when the rule relied on by Mr. Choharis is inapplicable.

Further to this position, additional time is unwarranted, because none of the issues addressed in the Management Plan come as a surprise to Mr. Choharis. The Management Plan was prepared directly in response to issues he himself had raised at the May 29 hearing on this matter. Therefore, the performance by Mr. Choharis of an independent lighting study (*see*, Response, page 2) should have been in progress at least since the May 29 hearing date, if at all. This Board should not permit extra time to compensate for a lack of foresight on Mr. Choharis' part.

Request For New Hearing Is Premised On Untruths

In his Response, Mr. Choharis alerts this Board that he intends to seek a new hearing. However, the initial reasons Mr. Choharis provides for this request are based completely on untruths.

Untruth #1

Mr. Choharis asserts that the Church perpetrated a fraud on the Advisory Neighborhood Commission ("ANC") and the Woodley Park Community Association ("WPCA") in securing their support and favorable recommendation for its Application by failing to inform them that the Church sought to lease up to 17 of its 21 parking spaces during the week. This is entirely untrue.

Both organizations received copies of the Application, which clearly states the Church's intended scope of use, including the lease of up to 17 parking spaces. This is evidenced by the fact that both the ANC Resolution and the letter of the WPCA President expressly acknowledge and reference the Application (*see* Attachment A). The Management Plan introduced no change to the Parking Lot proposal from what was described in the Application.

Untruth #2

Mr. Choharis claims that neither the ANC nor the WPCA were advised "that the neighborhood overwhelmingly opposes" the Application (*see*, Response, page 2). In truth, there is no overwhelming opposition to the Parking Lot proposal.

To state otherwise is mere conjecture on Mr. Choharis' part. Moreover, inasmuch as the scope Mr. Choharis' party status is limited to himself and does not extend to the neighborhood, he has no standing to make such an assertion on their behalf.

In fact, the opposite is true. There is proven, overwhelming *support* for the Application. The ANC voted unanimously to request Board approval of the Application. The WPCA voted unanimously at its General Meeting to support the Church's Parking Lot proposal, at which more that a hundred community residents attended. Jim Graham, Councilmember for the entire Ward, endorsed the current plans.

Untruth #3

Mr. Choharis states in his Response that, at its June 20 meeting, a consensus of the WPCA executive committee requested additional time to consider the Management Plan. He states further that its current President, Mr. Ron David, had specifically asked the Church to "agree to a delay of the hearing process...." (see, Response, page 3)

This information is also completely false. Both the WPCA executive committee and Mr. David remained intentionally neutral in response to a challenge made by Mr. Choharis at the June 20 WPCA meeting to the Church to consent to a postponement of its Application proceeding.

After reading the misrepresentation of these facts made by Mr. Choharis, Mr. David issued a statement (Attachment B) and provided a copy of the minutes of its June 20 meeting (Attachment C) to clarify to the Board that the WPCA had taken no position regarding Mr. Choharis' request for postponement of these proceedings. Therefore, while the Church subsequently declined Mr. Choharis' request for consent to suspend its Application, the decision was not a refusal of any WPCA request. The knowing misrepresentation by Mr. Choharis of these facts constitutes blatant disrespect for the Board and these proceedings.

In view of the false premises on which Mr. Choharis bases his request for a new hearing, in addition to the scheduling reasons stated above, this Board should decline consideration of any request to stay or repeat this Application process.

Scope Of Representation

Throughout his Response, Mr. Choharis purports to represent the interests of an unidentified group of neighbors. Such representation is entirely outside of the scope of Mr. Choharis' authorization and should be ignored.

Mr. Choharis represents himself alone in this matter, and can speak only to his concerns, observations and interests. Because he does not live in the neighborhood, Mr. Choharis is understandably disadvantaged by this limitation. Nevertheless, this Board did not appoint Mr. Choharis for any purpose other than self-representation, and has received no letter of authorization from "neighbors," as Mr. Choharis has described his constituency.

Response To Management Plan

Mr. Choharis fails to demonstrate in his Response how the addition of up to 17 new parking spaces would "drastically increase" crime, noise and pollution. Mr. Choharis sites no incidents involving the Parking Lot which logically could lead to such a conclusion. Expressions of alarm by Mr. Choharis are simply unfounded. Statements such as "muggings and other violent crimes are also more likely to take place in a parking lot" (Response, page 6) are not based on science or expert knowledge. As explained in the Management Plan, the availability of up to 17 additional parking spaces during the week will mathematically decrease traffic to some extent in the area.

Whether the rate of crime in the area is low, as the Church believes the facts reflect, or high, as Mr. Choharis asserts, is neither caused nor cured by the proposed additional use of the Parking Lot. At this point, the incidence of crime is neutral relative to this Application.

The Church has set forth steps in its Management Plan to maintain a neutral relationship between the crime rate and its Parking Lot by requiring parking tenants to obey all laws, by notifying the Second District Police Station of the additional weekday Parking Lot use, and by maintaining the adequate lighting which currently exists. By comparison, on Woodley Place, where Mr. Choharis owns property, and where cars are currently parked night and day, the lighting is dim and lurking. The Church's lights provide a bright beacon to the area.

According to the crime statistics, employment of a 24-hour guard to watch over the 17 spaces in the Parking Lot will do nothing to curb crime, as Mr. Choharis suggests, since all but one crime involving an automobile occurred during the daytime.

While Mr. Choharis implies in his Response that the Church Parking Lot will introduce new sounds to the neighborhood, he has no basis upon which to make this claim. Mr. Choharis does not live in the neighborhood. He simply owns property there. There is no specific objection raised in the record to the increase in noise. In fact, the letter filed by the owners of 2738 Woodley Place states that the street on which the Parking Lot is located was quiet at one time. The fact that circumstances have changed in the neighborhood so that its streets are no longer quiet is relevant to this analysis, favoring the view that the Parking Lot will not contribute substantially to a noise nuisance. Accordingly, this Board should find that the additional use of the Parking Lot will not materially add new noises to the neighborhood.

Again, Mr. Choharis conjectures that vehicles using the Parking Lot will have alarms sounding off and car doors slamming. This would occur whether these cars are parked on the street outside his property or in the Parking Lot. The Parking Lot does not itself create a circumstance where such noises would occur where they would not otherwise. Notwithstanding the foregoing, in its Management Plan, the Church sets forth various provisions which are included in its proposed parking lease agreement which deter parking tenants from causing offensive conditions as described by Mr. Choharis. These provisions adequately address his concerns.

As stated in the Application and Management Plan, the primary use of the Church's Parking Lot is, and will remain, to accommodate the parking needs of the Church and its parishioners. Speculation on the part of Mr. Choharis that Church traffic will necessarily impinge on residential parking is, therefore, unfounded. Moreover, Mr. Choharis fails to consider that street parking is public parking and not reserved

exclusively for residents. By accommodating up to 17 vehicles that would otherwise seek long-term parking on the streets of Woodley Park, the Church will be relieving, albeit to a small extent, parking congestion in the area. This was also the conclusion reached by both the Office of Planning and the District Division of Transportation, as presented in their respective reports to the Board in connection with this Application.

THEREFORE, based on the foregoing, this Board should reject any request by Mr. Choharis for an extension of time or for postponement of these proceedings. Instead, approval of this Application is respectfully requested.

June 26, 2002

Respectfully submitted,

Brigitte L. Adams

Brigitte L. Adams
2800 Wisconsin Ave., N.W. #208
Washington, D.C. 20007
(202) 363-8190

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Reply To Party Opponent Choharis' Response To Management Plan was mailed, first-class, postage prepaid, to party opponent Mr. Peter Choharis at his residence at 3108 New Mexico Ave., Apt. #531, Washington, D.C. 20016, and to his property located at 2771 Woodley Place., N.W., Washington, D.C. 20008 on this 26th day of June, 2002.

Brigitte L. Adams

Brigitte L. Adams

ATTACHMENT A

ADVISORY NEIGHBORHOOD COMMISSION 3C
GOVERNMENT OF THE DISTRICT OF COLUMBIA
CATHEDRAL HEIGHTS • CLEVELAND PARK • MASSACHUSETTS AVE. HEIGHTS
MCLEAN GARDENS • WOODLEY PARK

Single Member District Commissioners
01-Cheryl A. Opacinch; 02-Kurt Vorndran; 03-Robert Martin (Secretary)
04-Richard C. Bartel (Vice Chair); 05-John Welsh; 06-(vacant)
07-Lars Hydle (Treasurer); 08-Rosalyn P. Doggett; 09-Nancy MacWood (Chair)

2737 DEVONSHIRE PLACE, NW
WASHINGTON, DC 20008
TEL 202/232-2232 • FAX 202/232-2232
Email anc3c@aol.com
Website http://groups.yahoo.com/group/anc3c

ANC3C RESOLUTION 2002-009

RESOLUTION TO SUPPORT ALL SOULS CHURCH SPECIAL EXCEPTION REQUEST

I. WHEREAS All Souls Memorial Episcopal Church ("All Souls") applied for a special exception to the Board of Zoning Adjustment in order to provide weekday use of their parking lot by neighborhood/businesses; and

II. WHEREAS the extremely limited street parking in Woodley Park is frequently further stressed by events at local businesses, residents are often forced to search for street parking and to park far from their residences; and

III. WHEREAS the additional parking proposed by All Souls will help alleviate the neighborhood parking shortage; and

IV. WHEREAS the All Souls request for a special exception has the full support of the Woodley Park Community Association:

V. THEREFORE, BE IT RESOLVED that ANC3C fully support the application of All Souls Memorial Episcopal Church for a special exception (#16875) to allow weekday use of their parking lot by neighborhood/businesses.

This resolution was approved by the ANC 3C by a unanimous vote at its regular public meeting on April 22, 2002, at which a quorum was present.

Attested by Nancy J. MacWood, Chair, on April 22, 2002 Date

RECEIVED
D.C. OFFICE OF ZONING
2002 MAY 20 AM 1:34

Woodley Park
Community Association

April 15, 2002

RECEIVED
D.C. OFFICE OF ZONING
2002 APR 18 AM 11:18

Office of Zoning
Board of Zoning Adjustment
441 Fourth Street, N.W.
Room 210, South
Washington, D.C. 20001

BY HAND DELIVERY

Re: BZA Case No. 16875
Special Exception, 2300 Cathedral Ave., N.W.

Dear Board Members:

Please be advised that the Woodley Park Community Association supports the referenced application of All Souls Episcopal Church for a special exception to expand the use of its existing parking lot.

In this regard, the Association unanimously adopted a Resolution last year memorializing its approval. The Resolution, copy attached, remains in effect.

Sincerely yours,

Martin G. Murray

Martin G. Murray
President

Attachment

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

ATTACHMENT B

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

ATTACHMENT C

Minutes of the Executive Committee Meeting
Woodley Park Community Association
June 20, 2002

Meeting Convened: The meeting was opened at 7:10 pm by the president, Ron David, in the parish hall of All Souls Church. A quorum of the executive committee was present.

Approval of Minutes: Minutes of the Association's General Meeting of April 19, 2002 were approved following Judith Waxman's request that the minutes be amended in the History Committee report to show that Martin Murray was also involved in conducting the walking tour of Woodley Park that was held on May 5, 2002.

Committee Reports:

Treasurer's Report: The report was waived due to the recent death of a family member of the newly elected treasurer, Maribeth Handsman.

Call Boxes: Camille Kurtz reported that work is progressing in researching paints, colors, and appropriate plaques for the call boxes. The content of the information for each call box will stress the historical significance of the immediate area of the box. At the next meeting on July 9th, the group will begin reviewing initial write-ups for the 8 boxes. The contractor charged with priming the boxes citywide has begun its work.

Historic District Brochure Project: Paul Williams of the DC talked about WPCA requesting a $ 20, 000 grant from the D.C Historical Preservation Committee to support the production a brochure about the neighborhood. Woodley Park is one of the few neighborhoods with an historic district which does not yet have a brochure. Williams will be available to provide technical support to WPCA for preparation of a grant request and to do the research and design for the brochure. A motion to establish a committee, chaired by Judith Waxman, to have oversight on this project and to work with Williams was approved. Maribeth Handsman will be a member of the committee to insure that all financial responsibilities under this project are considered and adhered to.

New Meeting Site: Ron David announced that a meeting was held with a representative of the Marriott Wardman Park Hotel regarding a meeting space at the hotel for the WPCA. There will be a written agreement covering WPCA's use of the meeting space, including a provision that space assignment is subject to change depending on the room availability. The agreement will also state that WPCA will continue to have the right to raise issues and complaints with the hotel management. Barbara Ioanes objected to the agreement because of past history with the hotel over the years, both as a Sheraton and a Marriott hotel. She also said past arrangements over meeting space were unsatisfactory because of frequent changes of room assignments. The committee, with one exception, approved a motion to accept the agreement with the Marriott.

Emergency Preparedness: Sally MacDonald reported that plans are underway to present a 4-hour training program on emergency preparedness at a site in the neighborhood. She also announced that information about the "Go Kit" – how to prepare yourself and family for emergencies – will be posted on the Woodley Park website.

D.C. Metro Police - PSA 204 Report: Officer Fleming and Officer ???? provided information about robberies in the area and discussed precautions to take when walking in the area after dark. Sally MacDonald mentioned that the Zoo Police are expanding their patrol area to include outside the Zoo. In addition, the Wardman Park Hotel security force is also patrolling the area.

Announcements:

Wayfinders and City Parking Commission. Martin Murray announced that Ron David, Jim Listorti and he met with DC-DPW about the placement of directional signs for pedestrians, i.e. to the Zoo, the Cathedral and other areas of interest for visitors to the neighborhood. The City Parking Commission is looking into the issue of either expanding or constricting the areas for residential parking stickers.

Fall Festival: There is a need for volunteers for the Community Fall Festival to be held in the early Fall. Martin Murray and Ron David will be calling for a meeting of interested volunteers in the next two weeks.

New Business:

Parking Lot at All Souls Episcopal Church: All Souls Church is seeking a special exception from the D. C. Board of Zoning Appeals in order to lease some of the spaces in its parking lot adjacent to the church. A hearing on the matter is scheduled before the BZA on July 7, 2002. On April 19, 2001, at a General Meeting of the Association, a resolution was adopted supporting the church's application.

Several neighbors from Woodley Place and their spokesman, Peter Coharis, registered their opposition to the church's application. They cited the fact that they were not present at the April 2001 meeting and therefore they did not have the opportunity to discuss their issues with the application; i.e. crime, traffic, pollution, noise, or other concerns. The spokesman stated that the neighbors did not have adequate notice of the April 2001 meeting. This opinion was countered by Sally MacDonald who noted that meetings of WPCA for more than 4 years have been publicized through door-to-door distribution of *The Acorn* and publishing in the *Northwest Current.*

Mr. Coharis presented a draft resolution in which the WPCA would withdraw its support for the application, and amend its by-laws to prohibit it from considering proposals for variances or special exceptions of zoning regulation in deference to those living in the immediate area who are most affected by such proposals. Martin Murray made a motion to table the issue in order to provide for further discussion; however, no vote was taken because the early departure of a committee member meant there was no quorum for a vote.

Brigette Adams, attorney for the church passed out copies of the management plan for the parking lot which the church has given to the BZA. The president of the 2801 Connecticut condominium board asked for an opportunity to review the plan. Mr. Coharis asked Ms. Adams to seek a deferral of the hearing in order to provide more time for discussion.

Meeting Adjourned: Ron David adjourned the meeting at 8:45 pm.