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BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

SUPPLEMENTAL INFORMATION

In Re: Application of Amazing Life Games Pre-School Incorporated for special exception pursuant to Section 205 to operate a Child Development Center within the R-1-B Zoning District.

Subject Property:

Lot 76, Square 2806
1309 Farragut Street, N.W.

JORDAN & KEYS, LLP
George R. Keys, Jr.
1400 16th Street, N.W., Suite 520
Washington, D.C. 20036-2217

Dated: May 24, 2004

BZA Application No. 17163

BZA
Case No. 17163
Exhibit No. 31

Board of Zoning Adjustment
District of Columbia
CASE NO. 17163
EXHIBIT NO. 31

Supplemental Information of the Applicant

Pursuant to § 3113.8 of the Board of Zoning Adjustment Supplemental Rules of Practice and Procedure, the Applicant herewith submits the enclosed information as a supplement to its application for a special exception pursuant to Section 205 to operate a Child Development Center within the R-1-B Zoning District. In this supplemental filing, the Applicant wishes to address several issues that bear directly on the standards by which its special exception application must be evaluated: (i) local street conditions; (ii) the location and suitability of the off-site play area; (iii) whether or not any other child development center or adult center exists within a 1000-foot radius of the subject property; and (iv) the Applicant's interaction with the Advisory Neighborhood Commission 4C and the community.

1. Absence of Objectionable Traffic Conditions - § 205.3

The Applicant contends that the traffic conditions on the 1300-block of Farragut Street, N.W. will not be exacerbated by the operation of the child development center. There are two aspects to existing traffic conditions which are relevant to the special exception application: (1) the volume of traffic on Farragut Street at times critical to the operation of the child

development center, i.e., drop-off and pick-up times; and (2) the availability of parking spaces in the close vicinity of the subject property. For the Applicant's proposed facility, the critical times during the day will be: 8:30 - 9:30 a.m. when staff arrives and most children are brought to the existing ALG facility after 8:45 a.m.; 12:45 - 1:15 pm when seven (7) children leave the ALG facility; and 2:45 - 3:15 p.m. when thirteen (13) children leave. The current ALG facility has 24 children daily, nine (9) of whom are either walked to the ALG facility by their parents or arrive on public transportation.[1]

To understand traffic volumes in the immediate neighborhood, the Applicant's director counted the number of vehicles east-bound and west-bound on Farragut Street, N.W. from the vantage point of the subject property at the times indicated in the table set out below.

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[1]The data referenced in this paragraph relates to the experience of the Applicant's current facility at 1844 Mintwood Street, N.W. which serves 24 children, of whom, no more than 20 are present at any one time. Naturally, there will be some variation in the number of children in each mode of travel and as full-time or part-time enrollees, which cannot be known with exactness. Also some variation will arise because of the increase in enrollment with the addition of 8 more children to the ceiling capacity of ALG at the subject property. However, since some current parents reside in the same neighborhood as the subject property and it is reasonable to assume that some number of future enrollees will come from the neighborhood, we still expect that a number of children will be walked to the subject property from their homes and a number will continue to car-pool.

Vehicles Traveling on 1300-block of Farragut Street, N.W.

Date	8:30-9:30 am	12:45-1:15 pm	2:45-3:15 pm
Wednesday, 3/17[2]	33	17	18
Monday, 3/29	60		
Monday, 4/19	52	22	22

The results of the observations demonstrate the moderate traffic demand on the 1300-block Farragut Street.[3] At the peak period of usage, which appears to be during the morning rush-hour, the traffic volume was one vehicle per minute and less than half as much during the other critical time periods for the operation of the child development center.

The Applicant also took photographs of the 1300-block of Farragut Street, N.W. during the critical periods on the same days reflected in the table set forth above, which fairly depict the availability of on-street parking. Each photograph identifies the time it was taken, the direction (either looking from or toward 13th Street) and locates with subject property within the photograph. These photographs are appended hereto.

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[2]On this particular Monday, West Elementary School was closed which may account for reduced vehicles numbers in the morning count.

[3]It is possible that the explanation for the light traffic on Farragut Street is due to the fact that the street is not a "through street", but ends at 14th Street, N.W. This circumstance makes it more likely that most street traffic is either local residential traffic or vehicles destined to one of the neighborhood educational institutions, West Elementary or the Kingsbury School.

These photographs evidence the fact that the 1300-block of Farragut Street, N.W. affords ample on-street parking in the vicinity of the subject property at all relevant times of the day. The Applicant's hours of operation run exactly counter to the commuting pattern of neighborhood residents, so that there is no competition for on-street parking and no congestion which would make unsafe the drop-off and pick-up of children from the subject property.

2. Location of Off-site Play Area - § 205.7

One of the decisive factors in the Applicant's selection of the subject property was its proximity to the Hamilton Street playground which is maintained by the D.C. Department of Recreation. In the opinion of the Applicant, the playground is superbly equipped for the recreational needs of the children using the subject property. It is also within two blocks of the subject property, which is a distance over which it is both reasonable and safe to escort small children. The Applicant's director has over thirty years of experience with child development centers and she deems the distance and route to the designated off-site play area to be appropriate for her enrollment and safe, if properly supervised (as would be true for any group activity involving younger children).

There has been some concern in the neighborhood that because of the lack of use the Hamilton Street playground has become a

place where teenagers loiter. The regular use of the playground by children supervised by adults will have a role as a catalyst in transforming how the playground is used and perceived.

3. Other Neighborhood Non-residential Uses - § 205.8

Section 205.8 establishes a presumption that the ideal circumstance is for no other child/elderly development center should be located within 1000 feet of the subject property, and that, if such is not the case, the Board must assess whether the cumulative impact of these facilities will have an adverse effect on the neighborhood due to traffic, noise, operations or other similar factors. At this stage, it is important to set out the definition of "child/elderly development center" set forth in § 199 of the Zoning Regulations:

> **Child/Elderly development center** - a building or part of a building, other than a child development home or elderly day care home, used for the licensed care, education, counseling or training of individuals fifteen (15) years of age or less and/or for care of elderly individuals, totaling six (6) or more person, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours a day. This definition encompasses facilities generally known as child care centers, pre-schools, nursery schools, before-and-after school programs, senior care centers, elder care programs, and similar programs and facilities. (emphasis added)

The Applicant has diligently searched out the existence of other child/elderly development centers by reviewing the past case records of the Board of Zoning Adjustment, by making inquiries at the Department of Health (the agency which licenses

child development centers) and by listening, observing and asking questions in the community. From these sources, the Applicant cannot identify any other "child/elderly development center" within 1000 feet of the subject property.[4]

To provide the Board with a more accurate picture of the neighborhood, the Applicant has obtained an aerial map from the Office of Planning, centered on the subject property with a circle having a 1000-foot radius superimposed (the "Aerial Map"). The Applicant has annotated the Aerial Map to identify the non-residential uses in the neighborhood. The closest child/elderly development center is the Academy for Ideal Education, which is licensed (CDC # 908091) for forty (40) children between the hours of 7:00 a.m. - 6:00 p.m. and is located at 1501 Gallatin Street, N.W., outside of the 1000-foot radius.

From a recent discussion with the John Moore of the D.C. Office of Planning ("OP"), who was assigned to draft the staff report on the instant application, OP was taking the position that, because West Elementary School contains grades Pre-K through 6th, it constitutes a "child development center." This is a careless and studied misreading of the intent of § 205 of the Zoning Regulations and of the definition of "child

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[4]We note that Beatrice Ward, 1236 Hamilton Street, N.W. is licensed (CHD #907920) as a "child development home" and enrolls no more than five children between the hours of 7:00 a.m.-6:00 p.m. Her home is located within 1000-feet of the subject property and is identified on the aerial map attached hereto.

development center." If the Zoning Commission had wished to include "public schools" in the definition of "child development center" it could easily have done so, but it did not. Moreover, a pre-school program in the D.C. Public Schools serves a different population of children than does the Applicant's proposed facility which is limited to children aged 2½ to 4½.

4. Contacts with Advisory Neighborhood Commission 4C/Community

Prior to the ANC 4C regular monthly meeting on February 10, 2004 at 801 Shepherd Street, N.W., the Applicant met with local residents and solicited their support for its proposed facility. A number of residents living within 200-feet of the subject property, have confirmed their support for the Applicant's pre-school by signing the petition attached hereto.[5] The Applicant then attended the ANC 4C meeting with the intention of introducing its plan to apply for a special exception to operate a child development center at the subject property. Because the Applicant was not on the agenda, the matter waited until the "community business" portion of the meeting. At that time several residents of the community, clearly anticipating the Applicant's purpose in attending the ANC 4C meeting, indicated their objections to having another non-profit on Farragut Street.

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[5]One of the next door neighbors (Jean Holliday at 1307 Farragut Street) has signed the Applicant's petition and the other (James P. Sondel at 1311 Farragut Street) has offered verbal support.

The Applicant's representatives were allowed to describe their plan for the subject property and responded to several questions. The ANC Commissioner for SMD 4C-02, in which the subject property is located, Jacqueline Mitchell, then moved for a resolution opposing the child development center on Farragut Street, which was promptly adopted by the ANC on a 6-1-2 vote.

On March 5, 2004, the Applicant filed its application with the Board of Zoning Adjustment. Believing from conversations with ANC members that the Applicant's request for a special exception would be on the agenda for the March 8, 2004 meeting, the Applicant and several parents of children attending Amazing Life Games Pre-School (some of them neighborhood residents) attended the meeting. Prior to the meeting, the Applicant sent each member of the ANC a detailed statement of the operating philosophy and procedures for the pre-school and its plans for the subject property. The Applicant discovered that it was not on the agenda and was not able to present the substance of its BZA application.

The Applicant then contacted Kristen Barden, the ANC secretary, to ensure that the Applicant would be on the agenda for the April 13, 2004 regular meeting. The day before the ANC meeting, the Applicant called to confirm its place on the agenda and was informed that Ms. Barden had resigned from the ANC because she had moved out of the area and that the agenda did not

include the Applicant's case. The ANC chairman, Timothy Jones informed the Applicant that if it wished to be on the agenda for the May 11, 2004 meeting that it should contact Ms. Mitchell.

The Applicant attended the May 11, 2004 meeting of ANC 4C and presented the basis for its special exception application. When the Applicant requested a vote on its application, it was informed that the ANC had already voted on the matter in February and the ANC could not act because only three of the ten ANC commissioners were present and the meeting lacked a *quorum*.

We have examined the ANC 4C resolution adopted on February 10, 2004, which states as the sole reason for its opposition: "there is a proliferation of schools and other day care facilities in that block". Although the ANC resolution is not specific as to the objectionable conditions arise from the alleged proliferation, we are aware of a neighborhood petition signed by at least 19 households which cites "issues of parking and in our overburdened community." The Applicant believes that there is no reasonable basis to conclude that the pressure on parking due to the Applicant's proposed facility is a valid concern.

5. Conclusion

The Applicant intends by this supplemental filing to provide more specific and detailed information to the Board regarding its satisfaction of the certain conditions set forth in § 205 of the

Zoning Regulations. This evidence will also be referred to more fully in the public hearing. The Applicant believes that it can make a strong showing that it complies in all respects with the applicable standards for the special exception and, as such, it should be granted the requested relief. Baker's Local Union No. 118 v. D.C. Board of Zoning Adjustment, 437 A.2 176, 178 (D.C. App. 1981). In that case, the Court of Appeals reasoned that "[i]f the prerequisites set out in the particular regulations are met, the [Board] must ordinarily grant the [special exception] application."

We believe that entire record to date, as will be further supplemented by testimony at the public hearing, supports the conclusion that a special exception can be granted to the Applicant to operate a child development center (for not more than 28 children) pursuant to the standards of § 205 of the Zoning Regulations without any adverse impact on the community.

Respectfully submitted,

George R. Keys, Jr.
Counsel for the Applicant



3/17/2004 8:35:40 AM

Farragut Street from 13th toward 14



3/17/2004 8:36:59 AM

Farragut Street from 13th toward 14th



Farragut Street from 13th toward 14th

3/17/2004 12:47:04 PM



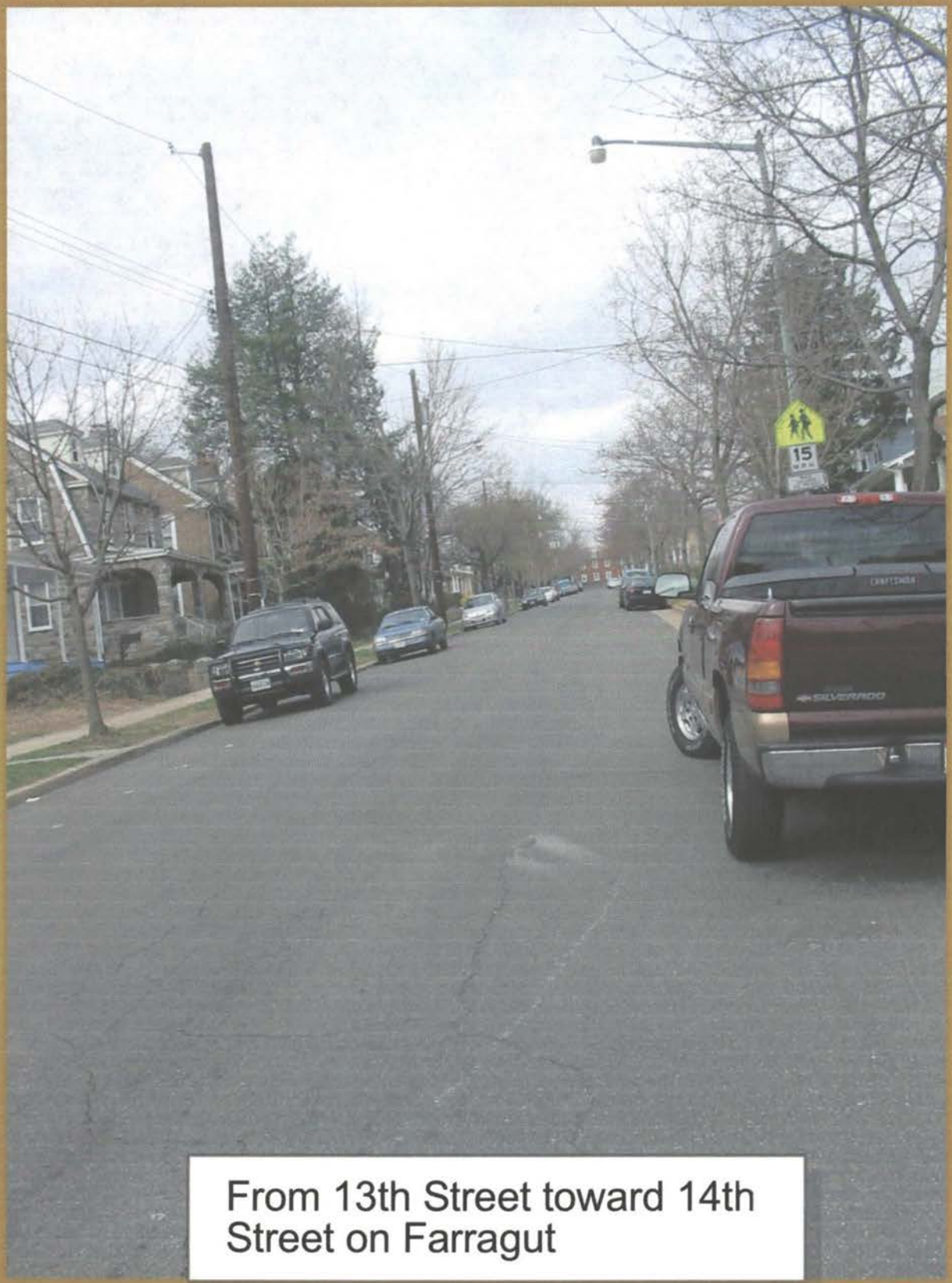
3/17/2004 2:47:47 PM

Farragut looking toward 13th Street



Looking from 13th Street toward 14th Street

3/29/2004 8:33:08 AM



From 13th Street toward 14th Street on Farragut

3/29/2004 9:41:38 AM



4/19/2004 7:30:07 AM

8:30:07 Daylight savings

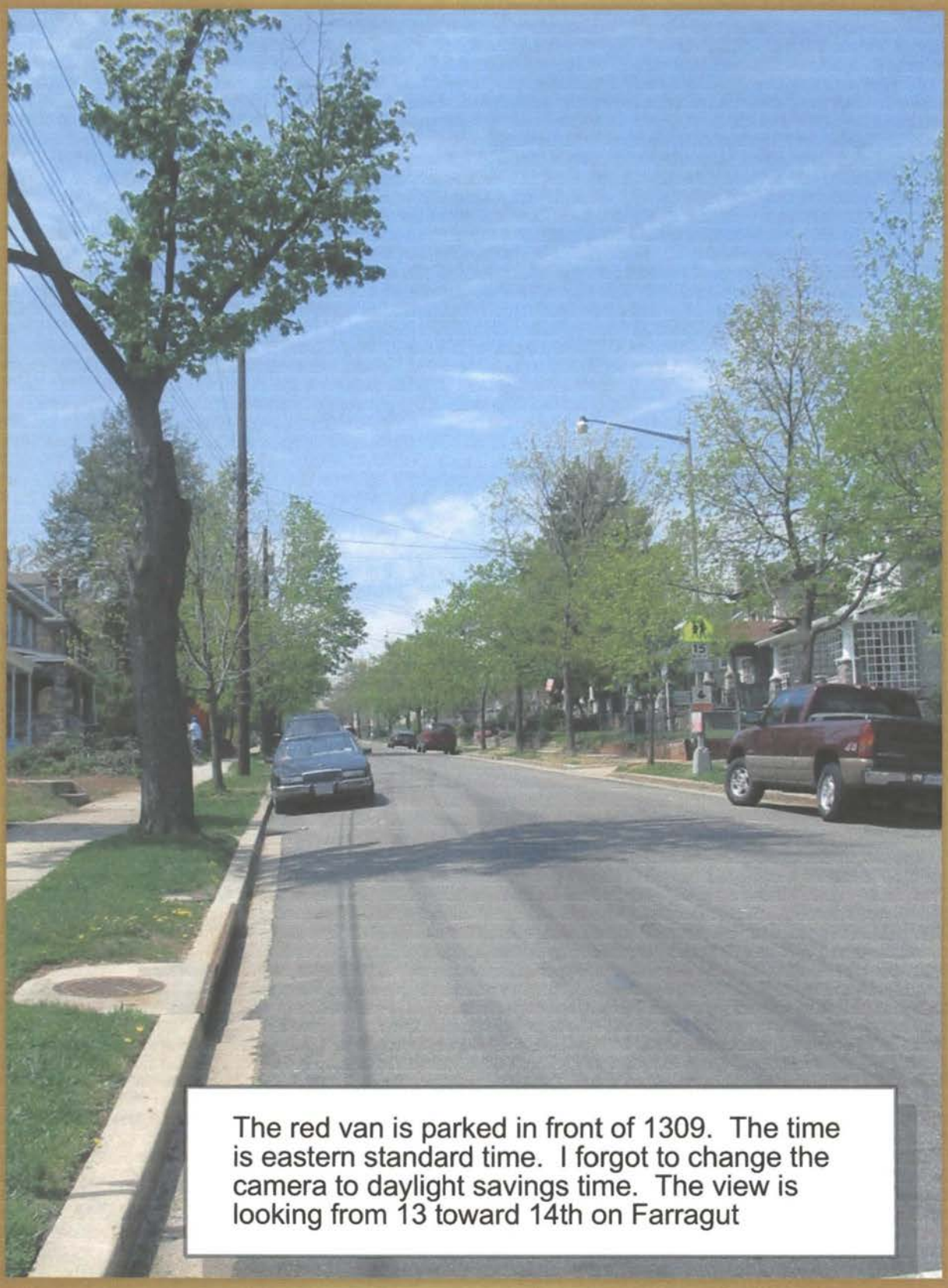
Farragut Street from 13th toward 14th. The time is eastern standard time. I forgot to change the camera to daylight savings. 1309 is between the pink flowers and the van which was picking up the neighbor in a wheelchair.



4/19/2004 8:30:52 AM

9:30:52 Daylight savings

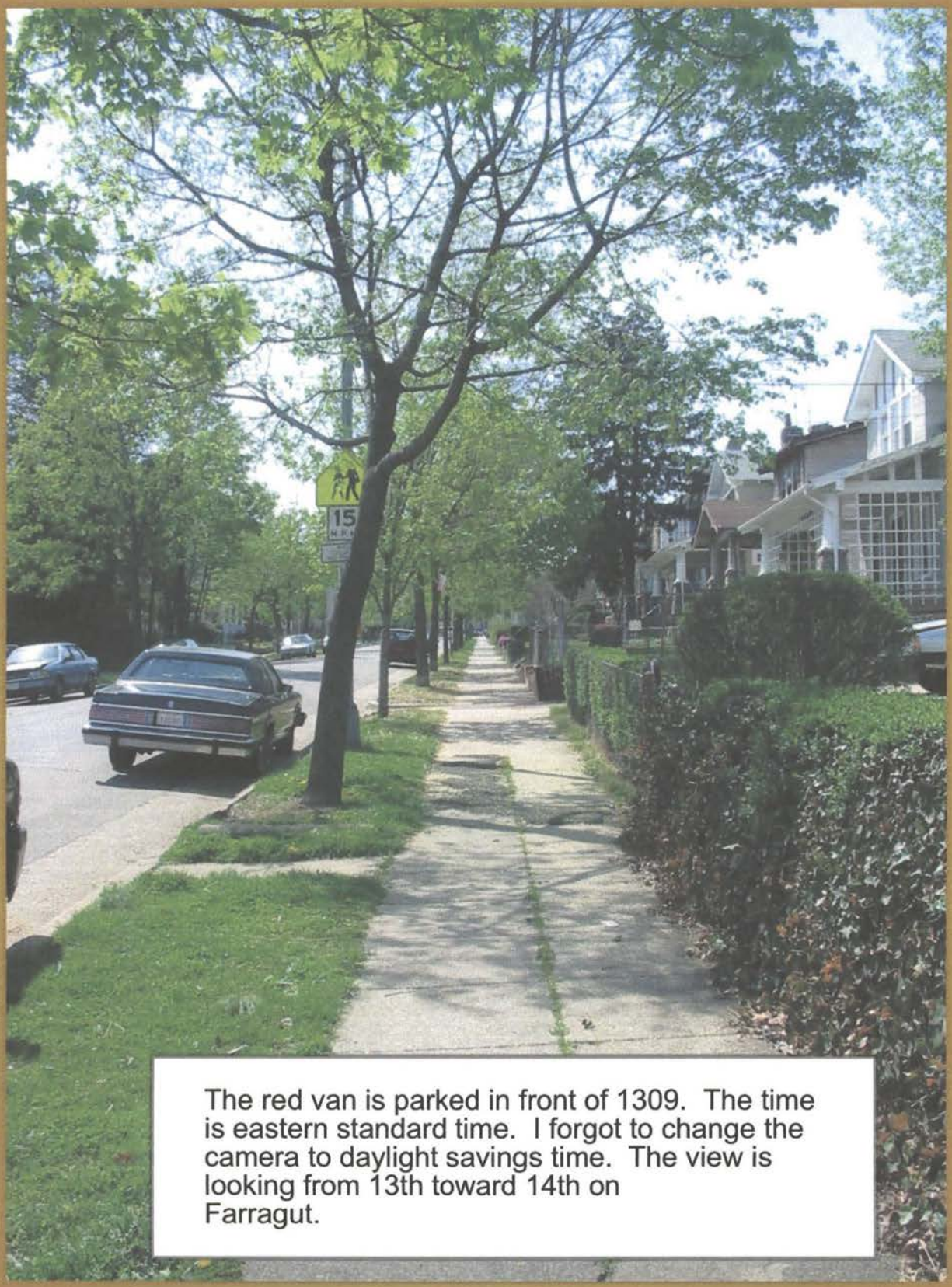
The time is eastern standard time. I forgot to change the time on the camera to daylight savings time. Farragut from 1309 towards 13th Street. 1309 Farragut is on the left between the pink flowers and the ramp.



The red van is parked in front of 1309. The time is eastern standard time. I forgot to change the camera to daylight savings time. The view is looking from 13 toward 14th on Farragut

4/19/2004 11:48:33 AM

12:48:33 DAYLIGHT SAVINGS



The red van is parked in front of 1309. The time is eastern standard time. I forgot to change the camera to daylight savings time. The view is looking from 13th toward 14th on Farragut.

4/19/2004 2:09:26 PM

3:09:26 Daylight Savings

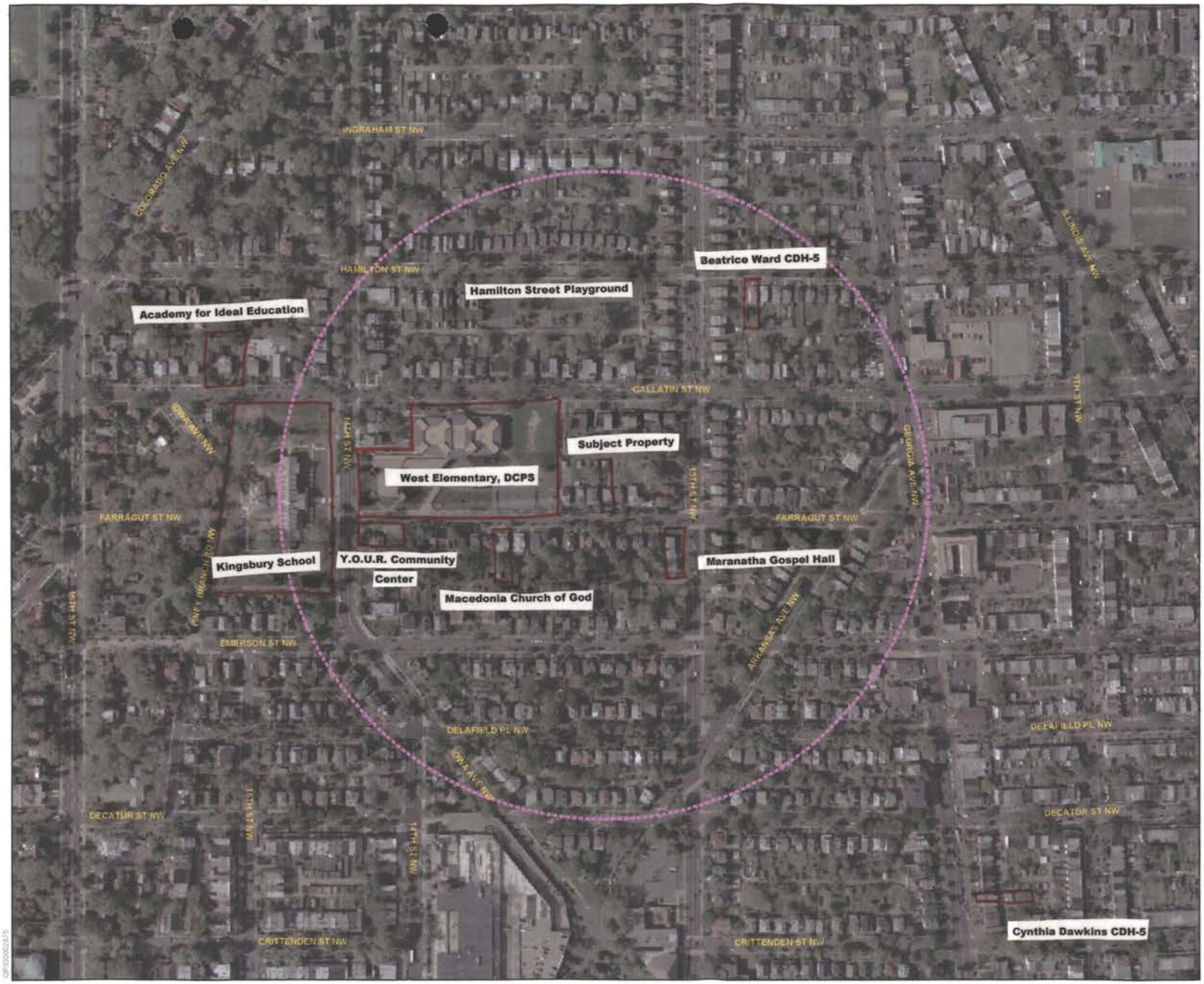
Amazing Life Games Preschool
1309 Farragut St. NW
Washington, DC 20011
202-265-0114

original

We, the residents of Carter Barron East Neighborhood, living within 200 feet of 1309 Farragut NW, understand that Amazing Life Games has purchased the property of 1309 Farragut St. NW with hopes to operate a preschool program on the premises.

We support the use of 1309 Farragut St. NW for this purpose.

Date	Signature	Address	Phone
2-01-04	M. G. Barge	5610 - 13th St NW	(202) 723-3289
2-01-04	Ms. Montessori	1300 Gallatin NW	(202) 722-4352
2-01-04	Mary Huff	1314 Gallatin	202 723 4962
2-01-04	[illegible]	1313 Gallatin	
2/4/04	[illegible]	1302 Farragut St,	202-829-5683
2/4/04	Kelli Powers	1302 Gallatin St NW	202-882-5133
2/10/04	Jean Holliday	1703 Farragut St NW Washington DC 20011	202-722-1420
2/10/04	[illegible]	1308 farragut St	
2-14-04	Paula Free	1314 Gallatin St, NW	202-723-4962
2-14-04	Billie Johnson	1310 Gallatin St NW	202-3786
2/14/04	[illegible]	1312-GALLATIN ST NW	202-882-4229



Square 2806 Lot 76 Vicinity
2002 Aerial Photograph



1000 Foot Radius

N

Feet

0 285 570

★ ★ ★ Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ May 19, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.