

October 30, 2024

Via JZIS

Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210S
Washington, DC 20001

Re: Post Hearing Submission - BZA Case No. 21101 – 245 Peabody Street, NW

Dear Chairperson Hill and Members of the Board:

The Board's memo dated October 3, 2024, requested the following information from the Applicant: (1) Supplemental information on proposed conditions; and (2) Clarification on how the alley will be used and how the proposed bike racks impact use of the alley.

The Board also requested this information from the Office of Planning: Clarification on whether the charter school is a Child Development Center and triggers the 1000 ft. provision of Subtitle U §204.1(h)(4). If yes, provide a supplemental report and outreach to DDOT on whether additional traffic information is needed.

Conditions and Alley Usage

Regarding the supplemental information on proposed conditions and information on the alley use, the Applicant is providing an updated list of conditions in **Exhibit A – Conditions List**. The proposal also includes addendums for both the student handbook (**Exhibit A1**) and the employee handbook (**Exhibit A2**) detailing the penalties for violating the respective student and employee policies related to parking. These addendums will need to be signed separately from the handbook to ensure the policies are well-known to all parents, guardians, and staff. More details regarding the formulation and reasoning behind the stated conditions are included in Exhibit A.

Additionally, the Applicant has provided photos of the alley in **Exhibit B- Photos of the Alley** – to assist with context for questions about alley use. As demonstrated in the alley, both parties in opposition have alley access and parking on site. The goal is to avoid conflicts with their respective vehicles. As noted in all documentation previously submitted, as well as Exhibits A-A1, children will not be dropped off nor picked up in the alley in any manner. Detailed PUDO policies are listed in Exhibit A1. As coordinated with DDOT, bicycle parking spaces are planned to be installed on the west side of the front porch with access from the public alley. This would minimize conflicts with sidewalk and vehicle pickup/drop-off operations. This shall minimize conflicts between all parties.

Charter School and CDC Licensing

Regarding the request to the Office of Planning, as requested by OP, the Applicant assisted in finding information about the Charter School in order to inform DDOT and OP's review of the applicable zoning regulations.

The program information has been included in **Exhibit C – EagleCare Information**. The Applicant reached out to Mr. LeBoo, director of the EagleCare program. He confirmed that the EagleCare at Cap City is only for the Cap City Students, and they have had these care programs for over 12 years. The document highlights that the program has been in full session since for 12 years and was therefore considered in the September 19, 2024, Transportation Statement.

As noted in the EagleCare information packet, the school was simply waiting on the license, which would allow reimbursement for eligible families, but operated the program prior to having said license. Again, the program operates for the Cap City students and is therefore covered under the C of O that has been validly issued for many years. And the program has operated for over 12 years. Regarding the specifics of the current program, based on the license, the program covers primarily children older than those who would attend Estrellitas, with the only overlap in student population being 24 children ages 3-5 enrolled in EagleCare. It does not have spaces for children younger than three.

The fourth special exception requirement governing CDC approval states: More than one (1) child development center in a square or within one thousand feet (1,000 ft.) of another child development may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors. This is not a traditional CDC—it is aftercare at an existing PK3-12th school. The Board is only required to consider the cumulative impacts from the other **child development center** – not an entire charter school which is PK3-12th grade. Regardless, the transportation study goes further than the regulations require with respect to considering cumulative impacts.

The Office of Planning also asked the Applicant to assist in finding information about pick-up and drop-off for the charter school. On Monday October 28, 2024, Applicant's counsel emailed the ANC secretary who has children attending the school. She confirmed that pick-up and drop-off occurs in front of the school and not on the block where Estrellitas is proposed. Unsolicited, she shared photos of the street and available spaces on the 200 block of Peabody in front of the subject property. The photos, included as **Exhibit D**, were taken during school days on September 25th at 8:28am and October 16th at 8:18am. These photos were shared with the Office of Planning and therefore also uploaded to the record.

Transportation Statement Supplemental

A supplemental transportation memo is being included as **Exhibit E**. The memo includes the

results of an additional observation during the 7am-8am hour to consider conditions during the CCPCS CDC drop-off period. It is also noted that drop off signage and zone for the charter school occurs on the block directly in front of the school (on Peabody between 2nd and Blair) and not on the block in which the subject property is located.

Time Limit

The Board also requested that the Applicant discuss any potential time limits. After researching CDCs, the Applicant found that time limits are generally not imposed on CDCs under these circumstances. In researching recent CDCs, only two cases with time limits were found: Cases 20111 and 18079B. Those operators were leasing the respective buildings; in both cases the primary use was going to remain a church with some daycare use (i.e., daycare was not the primary use and there was limited risk). Further in 18079B, the Applicant requested an increase in the number of children to 74. These circumstances do not apply in this case. Here, the Applicant owns the building and is making significant investment into the building and property for this specific use. This is not a use variance which often has stricter conditions and time limits. It is a CDC, which is permitted in this zone, subject to these requirements. The proposal meets these requirements, and the strict conditions imposed and proposed monitoring (see conditions 13-14) shall provide the same level of oversight as a time limit without the uncertainty of a time limit.

Respectfully Submitted,

Alexandra Wilson

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2024, an electronic copy of this submission was served to the following:

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