COZEN O'CONNOR

October 16, 2026

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VIA IZIS & Email

Chairperson Michelle Pourciau
Board of Zoning Adjustment
441 4th Street NW, Suite 200S
Washington, DC 20001

Re: BZA Case No. 21510 –Response to Applicant's Opposition to Postponement Request

Chairperson Pourciau and Honorable Members of the Board:

Joseph Sellers and Laurie Davis (the "Neighbors"), through counsel, respectfully submit this brief response to the Applicant's October 13, 2026 Opposition (Exhibit 95) to the Neighbors' October 7, 2026 Postponement Request. The Neighbors present good cause under Subtitle Y § 400.5 for a postponement.

1. **The Zoning Administrator Has Declined to Take a Position; the Neighbors Must Now Prepare Their Case on the Special Exception**

On October 15, 2026, two days after the Opposition was filed, the Zoning Administrator declined to issue a determination on the use classification, explaining that because the application was self-certified and is pending before the Board, "[t]he BZA will consider the self-certified application and make a determination as to the proposed use." The Zoning Administrator expressly stated that the response "should not be construed as expressing any opinion regarding the merits of the application." The Neighbors accept that outcome and will proceed before the Board on the self-certified relief. The Zoning Administrator's response does not, however, moot the Postponement Request.

The Neighbors have awaited a decision on the use classification through the appropriate administrative channel, the Zoning Administrator, since learning of the proposed use. However, now the Zoning Administrator has declined to take a position[1], the Neighbors must prepare their position on the special exception criteria of Subtitle U § 203.1(d) and Subtitle X, Chapter 9. The postponement will allow time to prepare this analysis and share those positions with the Office of Planning ("OP") and DDOT before those agencies finalize their reports. The Neighbors respectfully request reasonable time to do so.

2. **The Applicant's Record Remains Incomplete and Continues to Change**

The Opposition itself illustrates why more time is warranted. In it, the Applicant offers a new "comprehensive description" of the proposed activities and attaches updated proposed conditions reflecting further refinements, following updated site and building plans filed October 5. The Neighbors have had only days to review these materials. In addition, the Neighbors' transportation engineers, Symmetra Design, reviewed the Applicant's October 5, 2026 Transportation Statement and concluded that additional information and revised analysis are needed before the transportation impacts of the proposed use can be fully evaluated.

[1] The Neighbors acknowledge that the Board has consistently held that arguments asserting the need for additional or different zoning relief are irrelevant to its consideration of a self-certified application. See, e.g., Application No. 19689-A (MIC9 Owner, LLC; order on remand issued January 18, 2023). The Neighbors do not intent to engage in the use classification discussion before the Board. The Board has recognized that it "cannot make a final determination to resolve allegations challenging the nature of a proposed use in the context of an application for special exception relief, in advance of a determination by the Zoning Administrator" (BZA Order 20643, citing Application Nos. 19689-A, 12045, and 15984). The Neighbors reserve the right to challenge the use when ripe.

Board of Zoning Adjustment
District of Columbia
CASE NO. 21510
EXHIBIT NO. 106

Among other things, the Neighbors request information and review of:

- the number of staff on site, shift changes and maximum load capacity for the Property, facilities and services;
- the hours, maximum participants per year and capacity for the programming, swimming clinics, swimming lessons, tennis clinics, tennis lessons, padel clinics, padel lessons, yoga classes, or fitness programs;
- special-event transportation demand estimates, the traffic plan for special events is identified as "TBD";
- the pickup/drop-off operations specified for all events, programming and use, parking accumulation, evening parking conditions, and delivery and trash operations; and
- the analysis of how one-way or two-way traffic, pedestrians, and 28-foot delivery trucks would safely use the approximately 800-foot, 12- to 16-foot-wide shared gravel road, and the truck diagrams depict movements within the existing gravel way.

These gaps bear directly on the special exception criteria, including whether the use will adversely affect neighboring property.

3. **The Survey of the Private Road Is Underway**

As the Applicant is aware, the Neighbors are obtaining a survey of the shared private gravel road, which provides the only vehicular and pedestrian access to the residences along it. The survey is not yet complete. It is necessary to establish the road's actual physical dimensions and constraints.

The additional time would allow this information to be obtained, so that the Board has accurate information on the shared private gravel road, which is one of the critical issues of concern in this case.

4. **This Is a First Request and Will Not Prejudice the Applicant**

This is the Neighbors' first request for a postponement in this case. The Applicant filed in June 2026 and was aware of the Neighbors' classification concerns before it closed on the Property. A postponement will not deprive the Applicant of its opportunity to be heard; it will simply ensure that the hearing proceeds on a complete and stable record, that OP and DDOT can account for the Applicant's latest revisions and the issues identified above, and that all parties can address the Board meaningfully. By contrast, proceeding on November 4 would prejudice the Neighbors, who had a reasonable basis to await the Zoning Administrator and now have less than three weeks to prepare.

Conclusion

For these reasons, the Neighbors respectfully request that the November 4, 2026 public hearing be postponed. Thank you for your consideration.

Respectfully submitted,

COZEN O'CONNOR



Meridith H. Moldenhauer
Counsel for Joseph Sellers and Laurie Davis

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Certificate of Service

I hereby certify that on this 16th day of October, 2026, a copy of this Response was served, via email, as follows:

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